RECEIVED
Aug 05 2024
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Allendale County

Honorable Roger M. Young, Circuit Court Judge

JAYCOBY TERREAK WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000007

APPENDIX

JOANNA K. DELANY
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

DANIELLE E. DIXON
Assistant Attorney General
PO Box 11549
Columbia, SC 29211
(803)734-3970

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

TRIAL TRANSCRIPT DATED APRIL 3-5, 2017 1

APPLICATION FOR POST-CONVICTION RELIEF 382

RETURN 403

AMENDED APPLICATION FOR PCR 417

PCR HEARING TRANSCRIPT DATED NOVEMBER 27, 2023 424

ORDER OF DISMISSAL 451

INDICTMENT 461

SENTENCE SHEET 463

STATE OF SOUTH CAROLINA
FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF ALLENDALE
COURT OF GENERAL SESSIONS
CASE NUMBER 2015-GS-03-00086

STATE OF SOUTH CAROLINA PLAINTIFF

VERSUS

APRIL 3, 4 AND 5, 2017

TRANSCRIPT OF TRIAL

ALLENDALE, SOUTH CAROLINA

JAYCOBY TERREAK WILLIAMS DEFENDANT

B E F O R E:

HON. PERRY M. BUCKNER, JUDGE

AND A JURY

BECKY HILL AND
WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTERS

APPEARANCES

ON BEHALF OF THE STATE:

HON. KOREY WILLIAMS
kwilliams@bcgov.net
HON. BRIAN HOLLEN
bhollen@bcgov.net
ASSISTANT SOLICITORS
FOURTEENTH JUDICIAL CIRCUIT
POST OFFICE BOX 1880
BLUFFTON, SOUTH CAROLINA 29910-1880
843-255-5880

Also Present: Investigator Donnie Hutto

ON BEHALF OF DEFENDANT
JAYCOBY TERREAK WILLIAMS:

HON. IAN DEYSACH
BEAUFORT COUNTY PUBLIC DEFENDER
1905 DUKE STREET
SECOND FLOOR, ROOM 210
POST OFFICE BOX 525
BEAUFORT, SOUTH CAROLINA 29901-0525
843-255-5805
ideysach@bcgov.net

INDEX

DAY ONE, MONDAY

APRIL 3, 2017

Caption.....1

Appearances.....2

Index.....3

JACKSON VERSUS DENNO HEARING

By the Court.....12

DETECTIVE QUTIQUE MANOR

Direct Examination
By Solicitor Hollen.....13

Cross-examination
By Mr. Deysach.....19

Re-direct Examination
By Solicitor Hollen.....22

AGENT RICHARD JOHNSON

Direct Examination
By Solicitor Hollen.....23

Cross-examination
By Mr. Deysach.....30

TIFFANY LOADHOLT

Direct Examination
By Solicitor Hollen.....34

Cross-examination
By Mr. Deysach.....44

End *Jackson versus Denno Hearing*

Voir Dire.....47

Jury Selection.....65

By the Court.....72

Opening Statement on
Behalf of the State
By Solicitor Hollen.....89

Opening statement on
Behalf of the Defendant
By Mr. Deysach.....94

By the Court.....96

DAY TWO, TUESDAY

APRIL 4, 2017

By the Court.....97

FRANKLIN DALLAS WILLIAMS, JR.

Direct Examination
By Solicitor Hollen.....103

Cross-examination
By Mr. Deysach.....108

DEBENTRIS BREELAND

Direct Examination
By Solicitor Hollen.....112

Cross-examination
By Mr. Deysach.....124

TIFFANY LOADHOLT

Direct Examination
By Solicitor Hollen.....127

Cross-examination
By Mr. Deysach.....134

DR. GABRIEL CHARLES FORNARI, JR.

Direct Examination
By Solicitor Hollen.....136

DEQUINCY BEST

Direct examination
By Solicitor Hollen.....140

Cross-examination
By Mr. Deysach.....156

Re-direct Examination
By Solicitor Hollen.....169

OFF THE RECORD

BACK ON THE RECORD

By the Court.....172

REHEM DEVOE

Direct Examination
By Solicitor Hollen.....177

Cross-examination
By Mr. Deysach.....189

Re-direct Examination
By Solicitor Hollen.....202

DWAIN DEAN

Direct Examination
By Solicitor Hollen.....205

Cross-examination
By Mr. Deysach.....210

DETECTIVE QUTIQUE R. MANOR

Direct Examination
By Solicitor Hollen.....213

Cross-examination
By Mr. Deysach.....223

INVESTIGATOR DONNIE HUTTO

Direct Examination
By Solicitor Hollen.....213

OFF THE RECORD

BACK ON THE RECORD

By the Court.....229

SPECIAL AGENT RICHARD JOHNSON

Direct Examination
By Solicitor Hollen.....232

Cross-examination
By Mr. Deysach.....250

OFF THE RECORD

BACK ON THE RECORD

Continue Cross-examination
by Mr. Deysach.....263

Re-direct Examination
By Solicitor Hollen.....266

Re-cross-examination
By Mr. Deysach.....268

SPECIAL AGENT DAWN MARIE CLAYCOMB

Direct Examination
By Solicitor Hollen.....270

Cross-examination
By Mr. Deysach.....277

AGENT JAMES WILLIAM GREEN

Direct Examination
By Solicitor Hollen.....279

Cross-examination
By Mr. Deysach.....289

DR. JANICE EDWARDSROSS

Direct Examination
By Solicitor Hollen.....292

Cross-examination
By Mr. Deysach.....301

State Rests,
Renewing Motions,
Defendant's Rights.....306

END DAY TWO

TUESDAY, APRIL 4, 2017

BEGIN DAY THREE

WEDNESDAY, APRIL 5, 2017

By the Court.....315

Closing Argument on
Behalf of the State
By Solicitor Hollen.....317

Closing Argument on
Behalf of Defendant
By Mr. Deysach.....330

Jury Charge.....343

Exhibits and Verdict
Form Taken to
Jurors 11:51 a.m.....366

Verdict.....366

Motions.....372

Sentencing.....373

ATTACHMENTS

Certificate of Reporter.....381

EXHIBITS

COURT:

1 Item Identified as *Miranda* Form

2 Item Identified as C.D. of Interview with Mr. Williams

STATE:

1 Item Identified as Photograph

2	Item Identified as Photograph
3	Item Identified as Photograph
4	Item Identified as Photograph
5	Item Identified as Photograph
6	Item Identified as Photograph
8	Item Identified as *Miranda* Rights Form
9	Item Identified as Audio Recording of Interview of Defendant
10	Item Identified as Items Collected During Autopsy and SLED Container L15-06902, Container Number G, a Re-sealed Pouch

10-A	Item Identified as Fired Bullet
10-B	Item Identified as Fired Bullet Jacket Fragment
11	Item Identified as Diagram with Handwritten Notes

DEFENDANT:

No Defendant Exhibits were admitted.

BEGIN DAY ONE, MONDAY, APRIL 3, 2017

DAY ONE OF THIS TRANSCRIPT IS
PREPARED BY COURT REPORTER BECKY HILL;
DAYS TWO AND THREE ARE PREPARED BY
COURT REPORTER WANDA H. ROWE.

BY THE COURT:

THE COURT: Call your case, Solicitor.

SOLICITOR WILLIAMS: Yes, sir, Your Honor, this is the State v. Jaycoby Terreak Williams. Mr. Williams is charged under Indictment Number 2015-GS-03-00086 with murder.

THE COURT: My understanding is that both of you wish to go forward on a *Jackson v. Denno* hearing at this time; is that correct?

SOLICITOR WILLIAMS: Yes, Your Honor.

SOLICITOR HOLLEN: Yes, Your Honor.

THE COURT: Madame Clerk, please swear the witness.

(Whereupon, Det. Qutique "Teddy" Manor is duly sworn.)

THE COURT: Have a seat and make yourself comfortable. Pull the chair up. Adjust the microphone. It's going to amplify your voice. State your full name and spell your last name for the court reporter.

MR. MANOR: Qutique R. Manor, M-A-N-O-R.

THE COURT: Your witness, counsel.

JACKSON V. DENNO

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Det. Manor, who do you work for?

A The Allendale Police Department.

Q And how long have you been with the Allendale Police Department?

A For nine years.

Q Were you involved in the investigation and death of James Spellman?

A Yes, sir, I was.

Q And did you speak with the defendant, Jaycoby Williams, about the death of James Spellman?

A Yes, I did.

Q When did the death occur?

A The shooting?

Q Yes, sir.

A That was May 26th.

Q Of what year?

A 2015.

Q Thank you. Was the defendant at some point arrested on that charge?

A He was arrested three days later on May 29th of 2015.

Q Did you attempt to speak with him at that time?
A Yes, sir. He said he didn't want to speak with law enforcement at that time.
Q All right. So you did not speak with him when he was arrested?
A No, sir.
Q At some point later, did you get word that the defendant wished to speak with you?
A Yes, sir. His mother, Ms. Richardine Williams, made contact with me and stated that her son wanted to speak with law enforcement, but she had to also be present.
Q Okay.
A That was on June 3rd, 2015.
Q Okay. And did you end up speaking with him on June 3rd?
A Correct, yes, sir.
Q Who all was in the room when you spoke with him?
A Myself, Agent Johnson from SLED, him, and his mother.
Q And was he in custody at this time?
A Yes, sir, he was.
Q Where had he been housed previously?
A The detention center.
Q And where did you speak with him?

A At the police department.
Q And when you spoke with him, did you advise him of his rights under Miranda?
A Yes, I did.
Q And how did you advise him of his rights?
A It was read to him. I believe Agent Johnson read him his rights.
Q Did he fill out any kind of Miranda form?
A I'm not sure off the top of my head. I didn't do that part.
SOLICITOR HOLLEN: Your Honor, may I approach the witness?
THE COURT: You may.
Q If I can hand you what's been marked for identification as State's Exhibits Number One. Do you recognize that?
A Yes, sir. It's the same standard Miranda form.
Q I said "State". Court's Exhibit One, excuse me.
A Yes, sir.
Q And do you recognize that Miranda form at this time?
A Yes, sir, I do. It's the same Mirdanda Rights form given and I also witnessed the statement at the bottom.
Q Before we get into what was said, was this

interview with the defendant recorded in any way?
A I used my department-issued body camera.
Q And did it capture audio and video?
A Yes, sir, it did.
Q And was that obtained?
A Yes, sir, it was.
SOLICITOR HOLLEN: Your Honor, may I approach again?
THE COURT: As to Court's Exhibit Number One, show it to Mr. Deysach. Have you already reviewed it?
MR. DEYSACH: I'd like to look at it again.
THE COURT: Show it to him.
SOLICITOR HOLLEN: Yes, Your Honor.
THE COURT: Any objection?
MR. DEYSACH: No, Your Honor.
SOLICITOR HOLLEN: Your Honor, at this time, I'd ask that Court's Exhibit One be admitted for purposes of this hearing.
THE COURT: It is admitted for purposes of this hearing, without objection, Becky, and I have reviewed Court's Exhibit Number One.
SOLICITOR HOLLEN: Thank you, Your Honor.
(Whereupon, Court's Exhibit Number One, Miranda form, is received into evidence.)
SOLICITOR HOLLEN: May I approach the witness?

THE COURT: You may.

Q Detective Manor, I'm going to give you what's been marked for identification as Court's Exhibit Number Two for purposes of this hearing. Do you recognize that?

A Yes, sir. It's a CD of the interview.

Q And how do you recognize that? Did you make any marks on it?

A I signed it. It has the same date on it.

Q And at my request, did you review that disc?

A Yes, I did.

Q And what does it contain?

A The audio and video recording of my interview with Mr. Williams.

Q Thank you. And has that been changed or altered in any way?

A No, sir.

Q Just hold on to that one for a second. When the Miranda rights were read to the defendant, did it appear that he was under the influence of alcohol or drugs or didn't understand?

A No, sir.

Q Was there any mental or physical disability that existed at the time that you were aware of?

A No, sir.

Q Did he appear to know what he was doing?
A Yes, sir.
Q Did you threaten him or coerce him?
A No, sir.
Q Did you deny access to food, drink or bathroom or anything of that sort?
A No, sir.
Q And is the entire interview recorded on that disc?
A At some point, I think towards the end, my camera powered down.
Q Okay. So it cuts off at the end?
A Yes, sir.
Q Is there anything of substance that happens after it cuts off?
A No, sir.
Q Was the interview ended shortly thereafter?
A Within seconds after it went off.
Q Okay. And I'm not going to get into what he said right now.

SOLICITOR HOLLEN: Your Honor, I do intend to publish the video to Your Honor. It's about 20 minutes long.

THE COURT: Has it been pre-marked?

SOLICITOR HOLLEN: It has as Court's Exhibit

Number Two.

THE COURT: Any objection as to Court's Exhibit Number Two?

MR. DEYSACH: No, Your Honor.

THE COURT: All right. Go ahead, counsel.

SOLICITOR HOLLEN: Yes, Your Honor, I would offer it at this time as Court's Exhibit Number Two.

THE COURT: It's admitted without objection from the defendant. You may proceed.

(Whereupon, Court's Exhibit Number Two, CD of interview with Mr. Williams, is received into evidence.)

SOLICITOR HOLLEN: I don't have any further questions for Det. Manor at this time.

THE COURT: Do you want to play it at this time or do you want to wait?

SOLICITOR HOLLEN: I was going to play it during Agent Johnson's testimony.

THE COURT: Very well. Cross-examination.

CROSS-EXAMINATION

BY MR. DEYSACH:

Q Were you present when Mr. Williams initially turned himself in on May 29th?

A Yes, sir, I was.

Q And it was at that time that he told you he did not wish to make any statements? So I guess he asserted

his right to remain silent at that time?
A That's correct, sir.
Q Did he ask for an attorney at that time?
A No, sir, not that I can recall.
Q Was there any written memoranda of the conversations that you had with him at that time?
A SLED Agent Johnson would have that.
Q Was he there at the time?
A Yes, he was.
Q But as a result, you didn't memorialize what happened at his arrest, any reports generated by you?
A No, sir.
Q And so at that time, no conversation takes place between Mr. Williams and law enforcement, correct?
A Correct.
Q So you indicated that my client's mother, Richardine Williams, contacted the police department, is that correct?
A She contacted me directly.
Q And how did she do that?
A By my department issued cell phone.
Q She called you on the phone?
A Yes, sir.
Q Okay. And she told you that Jaycoby wanted to speak with you -- or Mr. Williams wanted to speak with

you?

A That's correct.

Q Did she indicate what he wanted to speak with you about?

A It was in reference to his case.

Q And so at that time, you scheduled a meeting with Mr. Williams?

A Correct, Yes, sir.

Q And that was June 2nd?

A It might have been June 3rd.

Q And it was Mr. Johnson that advised him of his rights?

A Correct.

Q And you were present for that?

A Yes, sir.

Q And so there's no written record of Ms. Williams contacting law enforcement to reinitiate any discussions about the case?

A No, sir.

Q The client was shackled at the time?

A He had handcuffs on, yes, sir.

Q Not free to leave, correct?

A He was in custody, yes, sir.

Q Yeah.

MR. DEYSACH: I don't think I have any further

questions, Your Honor.

THE COURT: Redirect?

SOLICITOR HOLLEN: Just one question, Your Honor.

REDIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q When you first got into the room with the defendant, Mr. Williams, did he say anything to you about wanting to speak with you at that time?

A Yes.

Q So he reiterated what his mother had told you on the phone?

A That's correct.

Q All right.

SOLICITOR HOLLEN: No further questions, Your Honor.

THE COURT: Recross, limited to redirect.

MR. DEYSACH: None, Your Honor.

THE COURT: As to this witness, Solicitor?

SOLICITOR HOLLEN: I'd ask that he be excused, Your Honor. THE COURT: Any objection?

MR. DEYSACH: No, Your Honor.

THE COURT: You want him excused for this hearing or from this case, Solicitor?

SOLICITOR HOLLEN: Just from this hearing, Your

Honor.

THE COURT: You're excused from this hearing. Please step out of the courtroom, but remain with us.

SOLICITOR HOLLEN: Richard Johnson.

THE COURT: Madam Clerk, would you swear the witness, please.

(Whereupon, the witness, Agent Richard Johnson is duly sworn.)

THE COURT: Please have a seat. Pull that chair up. Speak up. State your full name and spell your last name for the court reporter.

AGENT JOHNSON: Richard Johnson, J-O-H-N-S-O-N.

THE COURT: Your witness, counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, Your Honor.

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Agent Johnson, who do you work for?

A South Carolina Law Enforcement Division.

Q How long have you been with them?

A Combined, 27 years, but specifically with SLED, roughly 12 to 13 years.

Q Where were you before you were with SLED?

A South Carolina Department of Corrections.

Q Okay. Did you speak with the defendant, Jaycoby

Williams, about the murder of James Spellman?
A Yes, I did.
Q When did that murder occur; do you remember?
A I think it was May. The incident occurred May 26th.
Q Okay. And when was the defendant arrested?
A The defendant was arrested a few days later on May 29th.
Q And did you speak with him at the time he was arrested?
A I attempted to.
Q You did? And what did he tell you?
A He said he did not want to make a statement without a lawyer present.
Q All right. Did you speak with him at some point later on?
A Yes, sir.
Q And how did that come about?
A His mother, Ms. Richardine Williams, made contact with Det. Manor advising that the defendant wanted to meet with law enforcement, and we subsequently met with him.
Q Okay. And where did you meet with him?
A Allendale Police Department.
Q Who was present when you spoke with him?

A Myself, Det. Manor, Ms. Richardean Williams, who is his mother, and himself.

Q Was his mother present for the entire interview?

A Initially not, because when we initially attempted to do the interview, he did not want to speak unless his mother was with him.

Q So at some point, his mother arrived?

A Yes.

Q Did you advise him of his rights under Miranda?

A Yes, I did.

Q And how did you do that?

A I gave him a copy of the Miranda form, and then I kept a copy and gave him instructions as I read over the Miranda form. I asked him if he agreed, to put his initials by each line and subsequently signing if he wished to speak to us.

SOLICITOR HOLLEN: Your Honor, may I approach the witness? THE COURT: You may.

Q Agent Johnson, I'm going to hand you what's been marked for identification as Court's Exhibit One. Do you recognize that?

A Yes, sir.

Q And what is it?

A It's a Miranda Rights form that I read out to the defendant with his initials and signature.

Q Is that a fair and accurate representation of the Miranda Rights form you had him sign?
A Yes, sir.
Q Has it been changed or altered in any way?
A No, sir.
Q And did he seem to understand his rights when you read them to him?
A Yes, sir.
Q Did he appear to be under the influence of any drugs or alcohol at the time he signed it?
A No, sir.
Q Do you know if he any physical or mental ability at the time that would impair his ability to understand?
A Not that I'm aware of.
Q Did you threaten him, coerce him in any way?
A No, sir.
Q Did you deny him access to the bathroom, food, drink or anything like that?
A No, sir.
Q Do you know about how long the interview lasted?
A Maybe 30 minutes; little more or little less.
Q And did he indicate on that form that he wished to waive his rights and speak with you?
A Yes, sir.
Q All right.

SOLICITOR HOLLEN: Your Honor, may I approach the witness?

THE COURT: You may.

Q I'm going to hand you what's been marked for identification as Court's Exhibit Two; do you recognize that?

A Yes, sir.

Q And how do you recognize that?

A It's a recording that Det. Manor recorded that I subsequently included with my file.

Q And did you make any particular marks on that particular disc?

A Yes, I did.

Q And at my request, did you review that tape in its entirety? A Yes, sir.

Q Is that a fair and accurate depiction of the interview with the defendant?

A Yes, sir.

Q Has it been changed or altered in any way?

A No, sir.

Q And that disc, is it cut off at some point?

A Yes, sir.

Q And what happened, do you know?

A It cut off at the very end of which basically cut off our closing, and that's because the battery went

dead on Det. Manor's recording device.

Q Okay. So is his entire statement that he made on that day captured on that disc?

A Yes, sir.

Q All right.

SOLICITOR HOLLEN: Your Honor, at this time, may I publish to the Court, Court's Exhibit Two?

THE COURT: It's my understanding that there is no objection to Court's Exhibit Two; is that correct, Mr. Deysach?

MR. DEYSACH: Yes, Your Honor.

THE COURT: Court's Exhibit Two is admitted for purposes of this hearing, without objection. You may publish to the Court.

SOLICITOR HOLLEN: Thank you, Your Honor. And for the record, there are three short clips on the body camera. So I may have to take just a second between them but it won't take very long.

THE COURT: Mr. Deysach's, do you want to come around and sit in the end of the jury box so you can view the screen?

MR. DEYSACH: Thank you.

(Court's Exhibit Number Two plays.)

Q Agent Johnson, is that the place where the interview cuts off?

A Yes, that's correct.

Q Is there anything substantive that happens after that or is the interview shortly terminated?

A It terminates shortly.

Q And it's kind of hard to hear, but where did he tell you he was on May 26th, 2015?

A In Columbia.

Q Where?

A I think it was Little Creek Apartment, which is off of St. Andrews Road.

Q Okay.

SOLICITOR HOLLEN: Your Honor, I have no further questions for Agent Johnson.

THE COURT: Mr. Deysach, before you cross examine this defendant, during the course of the playing of Court's Exhibit Number Two, you asked to approach the bench with the solicitor. At your request, you asked the solicitor to edit a portion of Court's Exhibit Number Two, which you felt and the solicitor felt, wasn't necessary for the Court to view for purposes of the Jackson v. Denno hearing, and the solicitor agreed; but it was done at your request to edit a portion of the Court's Exhibit Two, which you both agree had nothing to do with this case; is that correct?

MR. DEYSACH: That is correct, Your Honor.

THE COURT: Is that correct, Solicitor?

SOLICITOR HOLLEN: Yes, Your Honor.

THE COURT: Now, I'm happy to review all of it if you ask me to. Do either of you want me to?

MR. DEYSACH: Not the defense, Your Honor.

SOLICITOR HOLLEN: Not the State, Your Honor.

THE COURT: Proceed with cross-examination.

CROSS-EXAMINATION

BY MR. DEYSACH:

Q Good morning, Agent Johnson, I'm Ian Deysach, attorney for Jaycoby Williams in this case. It's nice to meet you.

A You, too.

Q All right. You were there when Mr. Williams initially turned himself in on the 29th?

A Yes, sir, that's correct.

Q And he asked for an attorney at that time?

A He didn't specifically ask for an attorney. He just said he refused to make a statement until he talked with one.

Q Okay. He didn't want to speak until he spoke with a lawyer?

A Yes.

Q And it was Officer Manor who had received the contact from Mr. Williams' mother; is that correct?

A That's correct.

Q All right.

MR. DEYSACH: I don't have any further questions, Your Honor.

THE COURT: Redirect?

SOLICITOR HOLLEN: Nothing, Your Honor.

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

SOLICITOR HOLLEN: May he be excused for purposes of this hearing.

THE COURT: I'm going to ask you to remain with us, but you are excused from this hearing. You may step out of the courtroom at this time. Call your next witness.

SOLICITOR HOLLEN: Your Honor, I have no further witnesses in this matter.

THE COURT: Mr. Deysach's, does the defendant wish to present any evidence for purposes of this hearing?

MR. DEYSACH: No, Your Honor.

THE COURT: Solicitor, my understanding is that you seek to introduce the statement of the defendant in the trial of this case; is that correct?

SOLICITOR HOLLEN: That's correct, Your Honor.

THE COURT: Mr. Deysach, what is the defendant's

position?

MR. DEYSACH: We ask that it be suppressed, Your Honor, as involuntary. He was shackled during the interview.

THE COURT: Is that it?

MR. DEYSACH: Yes, Your Honor.

THE COURT: Let the record reflect, Becky, that I've reviewed the portion of Court's Exhibit Number Two on the screen and all of Court's Exhibit Number One. I've carefully considered all of the evidence that has been offered by the State. The defendant has chosen not to present any evidence. I'm convinced by a preponderance of the evidence and I so find that before any alleged statement was obtained from the defendant, the defendant was advised of his rights under the Fifth and Sixth Amendments to the Constitution of the United States and the defendant was advised of his constitutional safeguards required by *Miranda v. Arizona*. Court's Exhibit Number One will reflect what the defendant was advised.

I am also of the opinion by a preponderance of the evidence that the defendant knowingly and intelligently waived his rights under the Fifth and Sixth Amendments of the Constitution and the constitutional safeguards required by Miranda that the

alleged statement obtained from the defendant was freely, voluntarily given without duress, without coercion, without undue influence, without reward, without hope of reward, without promise of leniency, without threat of injury, without compulsion or inducement, and that such statement was a voluntary produce of the free and unconstrained will of the defendant. I make all of the foregoing conclusions by a preponderance of the evidence and I therefore find that the statement is admissible into evidence in the trial of this case.

All right, Solicitor, I understand there is one other matter. For the record, the defendant is present along with his attorney and the State. The jury has not been selected in the trial of this case, but both sides agree to go ahead for time purposes to handle some matters involving this case before we even select a jury, and obviously the jury has not been present during this time.

Solicitor, I understand there is another matter you wish to take up; is that correct?

SOLICITOR HOLLEN: Yes, Your Honor.

THE COURT: Call your next witness.

SOLICITOR HOLLEN: The State would call Tiffany Loadholt.

THE COURT: Let the record reflect that I met with counsel in chambers concerning the State's motion in support of introduction of prior altercations. I discussed this with counsel. It was impossible for me to rule on it. I told the Solicitor, so therefore, they wish to call a witness at this time, so that I might have the opportunity in light of the State's motion to rule on the matter if possible. Madam Clerk, would you please swear the witness.

(Whereupon, Tiffany Loadholt is duly sworn.)

THE COURT: Ma'am, I need for you to speak up. State your full name and spell your last name for my court reporter.

MS. LOADHOLT: Tiffany Loadholt, L-O-A-D-H-O-L-T.

THE COURT: Speak up for me, now. Your witness, counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, Your Honor.

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Ms. Loadholt, where are you from?

A Allendale.

Q And how long have you lived in Allendale?

A All my life.

Q All your life. Do you still live in Allendale

now?

A No.

Q Okay. And as some point, did you live in Pinewood Apartments?

A Yes.

Q Do you remember which apartment you were living in May of 2015?

A [redacted]

Q [redacted] in May 2015?

A Uh-huh (affirmative); [redacted].

Q [redacted]; and is that ---

THE COURT: I couldn't hear you.

A [redacted].

Q Did you know the victim in this case, James Spellman?

A Yes.

Q How did you know him?

A I just talk to him.

Q You just talked to him? What do you mean by "talk to him"?

A We just went together.

Q You just went together? Okay. How long did y'all talk? How long did y'all go together?

A Three years.

Q About three years? Okay. And you know the defendant in this case, Mr. Williams?
A Yes.
Q And how do you know him?
A My kid's father.
Q You have kids with him?
A Yes.
Q How many kids?
A Two.
Q All right. Do you remember when James was killed?
A May 26th.
Q Do you remember the year?
A Yes.
Q Okay. Ms. Loadholt, where were you and James on that day that he was killed? Do you remember what y'all did that day?
A I went to the DSS and come back home.
Q You went to the DSS office and came back. Was he with you when you went there?
A Yes.
Q And when you came back home, what happened next? Was James with you?
A No.
Q Where was he?

A He went outside.
Q He went outside? What was he doing outside?
A Talking to his cousin.
Q And do you remember his cousin's name?
A Quincy Best.
Q Quincy Best, all right. He was outside; where were you?
A Inside.
Q All right. And did you hear anything that day?
A Yes.
Q Did somebody tell you they heard something?
A Yes.
Q Why did you go outside?
A I just went outside to look.
Q And was anybody there?
A No, not at first.
Q Not at first. Do you know where they had gone?
A Not at first.
Q Not at first. And did you see someone when you went outside?
A Yes.
Q And who was that?
A A boy across the hall.
Q And do you know his name?
A Booby.

Q Booby? That's what they call him?
A Uh-huh (affirmative).
Q Okay. And what did he tell you?
A To go to the hospital.
MR. DEYSACH: Objection to the hearsay.
THE COURT: Don't elicit hearsay from the witness.
SOLICITOR HOLLEN: Yes, sir, Your Honor. I'll withdraw the question.
Q Did you go somewhere after you spoke to Mr. Breland, Booby?
A Yes.
Q And where was that?
A To the hospital.
Q And what did you find when you got there?
A They really didn't tell me nothing, because they wouldn't let me back.
Q They wouldn't let you back. Did you ask to see James Spellman?
A Yes.
Q And they wouldn't let you back there?
A Unh-unh (negative.) No, sir.
Q At some point, did you learn that James Spellman had died?
A Yes.

Q All right. Now, that day, let's go back a little bit. You had been dating James, you said, for three years about?

A Yes.

Q And during that time, had James and the defendant, Mr. Williams, ever had any altercations or arguments?

A During the three years?

Q During the time that you dated James?

A Yes.

Q And where were you when you saw -- well, I tell you what, let's go back a little bit. Where did you see them have an argument or a fight?

A Pinewood Apartments.

Q All right. And where were you living in Pinewood Apartments at that time?

A [redacted].

Q All right. And do you remember when you lived in Pinewood Apartments [redacted]?

A I don't.

Q All right. What about you said you lived in 43F, right?

A Yes.

Q At the time of the murder. Where did you live before you lived in apartment [redacted]?

A Fairfax.
Q And how long did you live in Fairfax?
A A year.
Q And where did you live before you lived in Fairfax?
A [redacted].
Q So you lived in Apartment [redacted] about a year before you lived in [redacted]?
A Yes.
Q Okay. And do you remember when you were living in [redacted] when you saw them get into an altercation?
A Yes.
Q How did it start?
A I don't know; I was inside.
Q You were inside, but you did see it?
A Yes.
Q So you were inside when it started, but you came out at some point?
A Uh-huh (affirmative).
THE COURT: You have to say yes or no.
A Yes.
Q So you came out and you saw it?
A Yes.
Q What did you see?
A They just was fighting.

Q Like fists? Hitting each other?
A Really pushing each other.
Q Okay. And that's when you were at [redacted]?
A Correct.
Q And at some point, did they get into a fight at your uncle's house?
A No, they didn't got into a fight.
Q They didn't get into a fight? Did they get into an argument?
A Yes.
Q What happened during that argument?
A They was arguing. He came to see my daughter at my uncle's house and then he pull out the gun.
Q He -- you said "he" there twice. Who are you talking about?
A Jaycoby Williams.
Q You said "'He' came to the house." Why did he come there?
A To see my daughter.
Q Is that also his daughter?
A Yes.
Q And you said he pulled out a gun?
A Yes.
Q Did he point it at anyone?
A I can't remember.

Q You can't remember if he pointed it at anyone. Who was Mr. Williams arguing with at that time?

A James Spellman.

Q And do you remember about when that happened?

A I don't remember if it was before I moved to Fairfax or if I was in town.

Q Okay. So it could have been when you were living in [redacted]?

A I know it wasn't when I was living in [redacted].

Q Okay. So was it when you were living in Fairfax?

A I can't remember. I know it wasn't in [redacted].

Q You know it wasn't when you were living in [redacted]; is that what you said?

A Yes.

Q Okay. Do you have any idea about how long it was before the shooting?

A No.

Q You don't have any clue?

A No.

Q Was it ---

MR. DEYSACH: Object to the leading.

THE COURT: Sustained.

MR. HOLLEN: Thank you, Your Honor. I will withdraw that question.

Q Did the defendant ever say anything to you about James Spellman?
A No.
Q He never said anything to you about James Spellman?
A No.
Q Did James ever talk to you about the defendant?
A No.
Q All right. So how many times did you see them get into argument?
A Two times.
Q Two times they got into an argument. How many times did you see them actually fight?
A Two times.
Q Those same two times?
A Different two times.
Q Different two times. So four times total? Two times they got into an argument and two times they fought?
A No. It's two times total.
Q Two times total? Once when you were in [redacted]?
A Uh-huh (affirmative), yes.
Q And then at your uncles?
A Yes.
Q And you didn't see anything that day, did you?

A Not at all.
Q You didn't see anything at all. You just went outside and everybody was gone?
A Correct.
SOLICITOR HOLLEN: Your Honor, I don't have any further questions.
THE COURT: Cross-examination.
MR. DEYSACH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. DEYSACH:
Q Okay, two arguments between Jaycoby -- my name is Ian Deysach, by the way; attorney for Jaycoby Williams. Good morning. I introduced myself before in the courtroom. So there's two incidents -- altercations -- between Jaycoby Williams and James Spellman that you just told us about, correct?
A Correct.
Q And they both happened at Pinewood Apartments, correct?
A One at Pinewood Apartments and one by Family Dollar.
Q Okay. One was not at the apartments. And the one that was at Family Dollar was the one where you are not really sure where you lived at the time when that occurred?

A Correct.
Q And that is the second argument that you spoke of?
A Yes.
Q Okay. That is one in which you alleged that a gun was brandished?
A Yes.
Q Okay. And who else was there?
A Martha Dunn (sic) and my mother.
Q Did anybody report this at all?
A No, sir.
Q But it was out in broad daylight?
A Yes.
Q And we don't know if it was before or after the pushing argument?
A Correct.
Q And the pushing is just both of them are pushing each other? That's what was happening?
A Correct.
Q Anything else?
A That's all.
Q And you didn't see that start, correct?
A Sir?
Q You didn't see the beginning of the pushing, correct?

A No, sir.

Q And so you really don't know what they were pushing each other about, correct?

A No, sir.

MR. DEYSACH: I don't have anything further, Your Honor.

THE COURT: Redirect?

SOLICITOR HOLLEN: No, Your Honor.

THE COURT: As to the witness?

SOLICITOR HOLLEN: I ask that she be excused for purposes of this hearing.

THE COURT: Any objection?

MR. DEYSACH: No, Your Honor.

THE COURT: Ms. Loadholt, you may step down. You are not excused. You're under subpoena. So you've got to remain with me, but you are excused from the courtroom. We are going to take a lunch break, so we aren't going to start back until 2:00. You need to go take lunch and come back because your testimony may be needed in the trial of this case. You are excused from this hearing and you may step down.

Counsel approach.

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

THE COURT: I have conferred with counsel and

the State has advised me that their motion in support of the introduction of prior altercations, in light of the testimony of this past witness, is now withdrawn; is that correct, Solicitor?

SOLICITOR HOLLEN: That is correct, Your Honor.

THE COURT: I think that takes care of all the matters. The jury is coming in at 2:00. The strikes are 10 and 5. The alternates will be 2 and 1. I need to make sure we have enough jurors in light of Mr. Deysach's position under Rule 14 of the Rules of Criminal Procedure. So we are going to start at 2:00 and as soon thereafter, we will qualify the jury. I would also like to try to get opening statement today if we can, depending on how long it takes to select the jury.

Now, we will be focused on the trial of this case that will begin at 2:00. We will be in recess for lunch.

(Whereupon, the Court is in recess at 12:55 p.m. Thereafter, at 2:30 p.m., the following is placed on the record.)

VOIR DIRE:

THE COURT: Call your case, Solicitor.

SOLICITOR HOLLEN: Thank you, Your Honor. This is the State of South Carolina v. Jaycoby Terreak

Williams. He is charged under Indictment 2015-GS-03-00086 with murder.

THE COURT: All right, ladies and gentlemen of my jury panel, if you would, please, give me your attention. The State has called for trial the case of the State of South Carolina v. Jaycoby Williams. Mr. Williams is charged by this piece of paper which I hold in my hand which we call an indictment.

He is charged with the offense of murder. An indictment is not evidence of any of the allegations contained in the indictment. It is simply the formal written instrument by which the case is brought into this Court.

To this indictment, the defendant has pled not guilty. That places the burden on the State of South Carolina to prove the elements of the offense beyond a reasonable doubt. And if you are selected as a juror in the trial of this case, it will be your duty to determine whether the State has met that burden.

Now, ladies and gentlemen, I want you to first meet the lawyers who are going to be trying this case. I'm going to have them stand, face you, introduce themselves and the members of their office who are present with them. Beginning with counsel for the State of South Carolina.

SOLICITOR HOLLEN: Thank you, Your Honor. Good afternoon, my name is Brian Holland and I'm an Assistant Solicitor with the Fourteenth Circuit. I prosecute cases in Hampton and in Allendale Counties. Assisting me with this case is Mr. Korey Williams, who is the Assistant Solicitor here in Allendale County. Mr. Donnie Hutto is my investigator who is assisting me with the case as well. And this is Bruce Davis, who is also an investigator in my office.

THE COURT: All of these individuals, ladies and gentlemen, work for the Fourteenth Judicial Circuit Solicitor's Office and they are here on behalf of the State of South Carolina. Counsel for the defendant.

MR. DEYSACH: May it please the Court? I'm Ian Deysach with the Public Defender's Office here in Allendale, Hampton, and Jasper Counties. This is my investigator, Ms. Tara, and this is my client, Mr. Jaycoby Williams.

THE COURT: Stand up, Mr. Williams. This is the defendant, Jaycoby Williams. Where are you from, sir?

MR. WILLIAMS: Allendale, sir.

THE COURT: From Allendale, South Carolina.

MR. DEYSACH: Thank you, Your Honor.

THE COURT: All right. Ladies and gentlemen, is there any member of my jury panel related by blood,

connected by marriage, or a close personal friend of the defendant, Jaycoby Terreak Williams of Allendale, South Carolina? If so, please stand at this time.

(SEVERAL JURORS STAND.)

THE COURT: All right, sir. Your name and juror number, please.

JUROR: John David Carter, 34 I believe.

THE COURT: Are you related by blood to the defendant?

JUROR: No, sir.

THE COURT: Are you connected by marriage to the defendant?

JUROR: No, sir, he's just ---

THE COURT: Just listen to me now, yes or no. Are you a close personal friend of the defendant?

JUROR: Yes, sir.

THE COURT: Okay. How long have you known the defendant?

JUROR: Maybe about 15 or 20 years.

THE COURT: All right. The fact that you've known him as a close personal friend for that length of time, would that in any way affect your ability to give the State of South Carolina or the defendant a fair and impartial trial?

JUROR: No, sir.

THE COURT: It would not?

JUROR: No, sir.

THE COURT: Thank you. You may be seated. Next.

JUROR: Michael Graham, 81.

THE COURT: Mr. Graham, you've told me that you are related as a first cousin to the victim in this case; is that correct?

JUROR: Yes.

THE COURT: And I told you that would not disqualify you as a juror, but it would for this case. Please be seated. Pass the microphone, please.

JUROR: I am Lolita Patterson and I would like to step

THE COURT: What's her number?

JUROR: 170 I think.

THE COURT: Counsel, this is juror number 170, Lolita Patterson. Ms. Patterson, are you related by blood to the defendant?

JUROR: Yes, sir.

THE COURT: How are you related to him?

JUROR: Cousin.

THE COURT: What cousin? First, second, third degree?

JUROR: Yes, somewhere along in that.

THE COURT: Somewhere along there. Between first and third or first and ten?

JUROR: Somewhere after that.

THE COURT: The fact that you are related as a cousin to the defendant, would that in any way affect your ability to give the State of South Carolina or the defendant a fair and impartial trial?

JUROR: No.

THE COURT: It would not?

JUROR: No.

THE COURT: Very well. Please be seated.

JUROR: I also have another question.

THE COURT: Hold on a minute, ma'am. Come forward.

(Juror comes to the court reporter desk.)

THE COURT:

JUROR: My mother, I can't leave her alone.

THE COURT: If you get me a doctor's excuse that says that you are the only person who can give her the care, I will certainly consider that, but I've already had to turn people down for the same thing. Now, let me ask you this, my question is you stood up because you're a cousin of the defendant.

JUROR: Right.

THE COURT: But the fact that you're related to

him, would that in any way affect your ability to give the State or the defendant a fair and an impartial trial?

JUROR: I don't know.

THE COURT: You don't know? All right, I'm going to excuse you from the trial of this case. Take a seat for me.

All right, anyone else related by blood, connected by marriage, or a close personal friend of the defendant? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. All right, ladies and gentlemen, you've met the lawyers who are going to be trying this case. Mr. Holland and Mr. Williams for the State are the lawyers for the State. Is any member of the jury panel related by blood, connected by marriage or a close personal friend of either Brian Holland or Korey Williams? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Any member of my jury panel ever been represented in the past or currently represented by either Mr. Williams or Mr. Holland? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. You've also met counsel for the defendant, Mr. Ian Deysach. He is an assistant public defender. He is also a contract person for indigent defense in our circuit and he handles more than just one county. He represents the defendant. He lives in Beaufort. Is any member of my jury panel related by blood, connected by marriage, or a close personal friend of counsel for the defendant, Mr. Ian Deysach? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Is any member of my jury panel formerly represented by Mr. Deysach or currently represented by him? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Any member of my jury panel formerly represented by any member of the Fourteenth Judicial Circuit Solicitor's Office? If so, please stand.

(NO RESPONSE.)

THE COURT: Any member of my jury panel currently or formerly represented by the Fourteenth Judicial Circuit Public Defender's Office? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Now, ladies and gentlemen, I told you that what is in the indictment are just allegations. But I need to tell you a little bit about them in order to determine your impartiality to serve as a juror in the trial of this case. As I told you, this indictment charges the defendant, Jaycoby Williams, with the offense of murder. I will explain to you the elements of that offense in my charge to you on the law if you are selected as a juror.

The indictment alleges that it occurred in Allendale County on or about May the 26th, 2015. It is alleged that the defendant, Jaycoby Terreak Williams, did with malice aforethought, kill James Spellman by means of shooting him with a firearm and that James Spellman did die in Allendale County as a proximate result thereof on May 26th, 2015. Those are the allegations in the indictment.

I tell you about the allegations in order to ask you this, has any member of my jury panel read about, heard about, or know anything whatsoever about the facts which are alleged in this case? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one is standing. Now, I'm advised of the following people and it is a long list, and it doesn't mean they are going to testify, but it means they are a potential witness in the case. I'm going to call out the names; if they are present in the courtroom when I call your name, please stand and face my jury panel. If they are not here, I'm going to give you some identifying information so that you will have both a name and place of employment or a place or residence with the name.

Then, I'm going to ask you after I call the names out whether you are related by blood, connected by marriage or a close personal friend of any of the potential witnesses in the trial of this case. Please listen carefully.

Bobby Bancroft, SLED; Jennifer Brown, SLED; Dawn Claycomb, SLED; James Green, SLED; Richard Johnson, standing to my left, your right, ladies and gentlemen, SLED; please be seated.

Qutique Manor, Allendale Police Department, standing to my right. Please be seated. Katie McAlister, SLED, standing to my left, your right, ladies and gentlemen. Thank you, please be seated. Natasha Merrell, SLED; Patrick Olefant, SLED; Dr. Gabriel Fornnari, Allendale County Hospital; Marion Sonny Riley,

Jr., Allendale County Coroner. Dr. Janice Ross, Newberry Pathology Associates. Wilson Chambers, Tracfone -- what is that, Solicitor?

SOLICITOR HOLLEN: Tracfone Company.

THE COURT: That's T-R-A-C-F-O-N-E, Becky. Donnie Hutto, Fourteenth Judicial Circuit Solicitor's Office Investigator, please be seated. Stacy Aldrich, Allendale, South Carolina; Devin Barker, Allendale, South Carolina. DeQuincy Best, Allendale, South Carolina. Jennifer Bowers, Barnwell, South Carolina. Daventrick Breland, Allendale, South Carolina. Lily Breland, Allendale, South Carolina. Dwayne Dean, Allendale, South Carolina. Raheem Davoe, Allendale, South Carolina. Rether Hall, Barnwell, South Carolina. Harry Jones, Allendale, South Carolina. Joseph LaQuintin Loadholt, Allendale, South Carolina. Tiffany Loadholt, Barnwell, South Carolina. Tyrone Moultrie, Allendale, South Carolina. Lakeila Polite, Allendale, South Carolina. Franklin Dallas Williams, Allendale, South Carolina. Richardine Williams, Allendale, South Carolina. Dwayne Dean, Allendale, South Carolina. Jennifer Bowers, Allendale, South Carolina. Any additional witnesses from the State of South Carolina?

SOLICITOR HOLLEN: No, Your Honor.

THE COURT: Any additional witnesses from the

defendant?

MR. DEYSACH: My client, Your Honor.

THE COURT: Jaycoby Williams, Allendale, South Carolina. Please be seated. Any member of my jury panel, related by blood, connected by marriage, or a close personal friend of any of the potential witnesses in the trial of this case whose name I have just called? If so, please stand at this time.

(Jurors stand.)

THE COURT: Name and juror number.

JUROR: Charlie Elmore, I think it's 69.

THE COURT: Counsel, this is juror number 69, Charlie Elmore. Mr. Elmore, yes or no, are you related by blood to any of the potential witnesses?

JUROR: Yes, sir.

THE COURT: How are you related by blood and to who?

JUROR: I'm related by blood to Dwayne Dean and Richardine Williams.

THE COURT: How are you related to Dwayne Dean?

JUROR: They are my cousins.

THE COURT: How are you related to Richardine Williams?

JUROR: Cousin.

THE COURT: What degree of kinship?

JUROR: Degree? First -- first and second.

THE COURT: One of them is your first cousin and one of them is your second cousin?

JUROR: Yes, sir.

THE COURT: The fact that one of these potential witnesses is your first cousin and one is your second cousin, would that in any way affect your ability to give the State of South Carolina and the defendant in this case a fair and an impartial trial?

JUROR: No, sir.

THE COURT: Please be seated. Pass the microphone. Yes, ma'am, your name and juror number, please.

JUROR: My name is Jasmine Price. My jury number is 173. I'm kin to ---

THE COURT: Hold on one second, ma'am. Counsel, this is juror 173, Jasmine Price. Ms. Price, just a yes or no, please ma'am, for reasons involving the other jurors; that's the reason I cut you off. Are you related by blood to any of the potential witnesses?

JUROR: Yes, sir.

THE COURT: And who are you related to and how are you related?

JUROR: Devin Barker and his mother

SOLICITOR HOLLEN: He is number 16 on the State's list, Your Honor.

THE COURT: Devin Barker of Allendale?

JUROR: Yes, sir.

THE COURT: And how are you related to him?

JUROR: We was raised up together. His moma and my moma is first cousins.

THE COURT: You were raised up together?

JUROR: Yeah.

THE COURT: Are you related to him or just friends with him?

JUROR: Related to him.

THE COURT: The fact that you have this relationship with Mr. Barker who is a potential witness in the trial of this case, would that in any way affect your ability to give the State of South Carolina or the defendant a fair and impartial trial?

JUROR: No, sir.

THE COURT: Are you related to anyone else?

JUROR: No, sir.

THE COURT: Are you close personal friends with anyone else? JUROR: No, sir.

THE COURT: Are you related by marriage to any other potential witness?

JUROR: No, sir.

THE COURT: Thank you, you may be seated. Anyone else?

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Is there any member of my jury panel who is related by blood or connected by marriage or a close personal friend of James Spellman, S-P-E-L-L-M-A-N, who is the alleged victim in this case? If so, please stand at this time.

(Juror stands.)

THE COURT: Name and jury number, please ma'am.

JUROR: I don't know my juror number. My name is Gabrielle Jones.

CLERK: She is 130.

THE COURT: Counsel, this is juror number 130, Gabrielle Jones. Ms. Jones, are you related by blood to the victim?

JUROR: No.

THE COURT: Are you connected by marriage to the victim?

JUROR: No.

THE COURT: Are you a formerly close personal friend of the victim?

JUROR: Yes. His sons are my nephews.

THE COURT: The fact that you were friends with

the victim, would that in any way affect your ability to give the State or the defendant in this case a fair and impartial trial?

JUROR: No.

THE COURT: Thank you, ma'am. You may be seated. Anyone else related by blood or connected by marriage or a close personal friend to the victim, James Spellman? If so, please stand at this time.

(NO RESPONSE.)

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

(NO RESPONSE.)

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

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Is any member of my jury panel formed any opinion about the alleged guilt or innocence of the defendant in this case? If so, please stand.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Is any member of my jury panel a member of or a contributor to any group which has as its primary concern the promotion of law enforcement or victim's rights? These groups would include MADD, SADD, CAVE or CADRE. If so, please stand at this time.

(NO RESPONSE.)

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

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Any member of my jury panel currently or previously a member of a law enforcement agency? If so, please stand.

THE COURT: Name and number, please.

JUROR: Catherine L. Russell. I'm the victim advocate for Allendale Sheriff's Office.

THE COURT: All right, ma'am, you told us that earlier, Ms. Dunbar and I've excused you earlier from the trial of this case. You can be seated. You still with me but not for this case. Anyone else?

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else

is standing. Any member of my jury panel know of any bias or prejudice they may have about the facts which are alleged in this case, any of the attorneys or offices involved therein, or any of the potential witnesses involved therein? If so, please stand at this time.

(NO RESPONSE.)

THE COURT: Let the record reflect, no one else is standing. Any member of my jury panel know of any reason whatsoever why they can't give the State of South Carolina or the defendant a fair and an impartial trial? If so, please stand at this time.

(NO RESPONSE.)

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

SOLICITOR HOLLEN: None from the State, Your Honor.

THE COURT: From the defendant?

MR. DEYSACH: None, Your Honor, but I do have an issue to bring to the Court's attention.

THE COURT: Counsel approach.

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

THE COURT: Juror number 219, Linda Sullivan,

please come forward.

(Juror comes forward.)

THE COURT: Becky, this is juror 219, Linda Sullivan. Ms. Sullivan, when you stood up, you identified yourself as being the spouse of the Chief of the Allendale Police Department.

MS. SULLIVAN: I am.

THE COURT: All right. Obviously, there are some potential witnesses from the Allendale Police Department in this case, would that in any way affect your ability to give the State of South Carolina or the defendant in this case a fair and an impartial trial?

MS. SULLIVAN: I'll try.

THE COURT: You have to give me a yes or no.

MS. SULLIVAN: Yes.

THE COURT: It would affect you?

MS. SULLIVAN: Yes.

THE COURT: Then I will excuse you from service in the trial of this case only. Thank you. You may return to your seat.

Any additional voir dire from the defendant?

MR. DEYSACH: No, Your Honor.

JURY SELECTION:

THE COURT: All right. The strikes are 10 and 5. Madame Clerk, we will be drawing two alternates.

Two and one on the alternates, ten and five on the jury. Would you give us a jury, please, ma'am.

Ladies and gentlemen, what is happening right now, so you will know, she is using the computer. The computer draws the people. She will then print out a list.

She will hand a list to me, my court reporter and law clerk. The clerk will then come to the rostrum and call out the names in the random order drawn by the computer. You will bring your belongings, like your pocketbook or jacket with you, come down the middle aisle, come through the gate, come to the clerk's bench, turn around and face the direction that I am seated in right now. Each side will then have the opportunity to exercise their preemptory strikes for the jury so they can see you when they exercise their strikes.

(Brief pause in the courtroom while Clerk operates computer to generate a witness list.)

THE COURT: Please come forward when I call your name and turn. Ronald Hubert, what says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAM CLERK: What says the defense?

MR. DEYSACH: Please excuse this juror.

MADAM CLERK: Franklin Youmans. What says the State?

SOLICITOR HOLLEN: Please present this juror.
CLERK: What says the defense?
MR. DEYSACH: Please seat this juror.
CLERK: Emmanuel Roberts. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please seat the juror.
MADAME CLERK: Charlie Elmore. What says the State?
SOLICITOR HOLLEN: Please excuse the juror from the trial of this case.
MADAME CLERK: You can have a seat back in the panel. Elizabeth Duncan. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please excuse this juror.
MADAME CLERK: Dwayne Young. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please seat the juror.
MADAME CLERK: Gabrielle Jones. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?

MR. DEYSACH: Please excuse this juror.
MADAME CLERK: Dennis Davis. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please seat the juror.
MADAME CLERK: Timothy Varner. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please excuse this juror.
MADAME CLERK: Jeff Hammond. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please seat the juror.
MADAME CLERK: Mary Platt. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please seat the juror.
MADAME CLERK: Willie Davis. What says the State?
SOLICITOR HOLLEN: Please present this juror.
MADAME CLERK: What says the defense?
MR. DEYSACH: Please seat the juror.

MADAME CLERK: Christy Sullivan. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please excuse this juror.

MADAME CLERK: John David Carter. What says the State?

SOLICITOR HOLLEN: Please excuse this juror from the trial of this case.

MADAME CLERK: Todd Blankenship. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please excuse this juror.

MADAME CLERK: Iesha Fredericks. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please seat the juror.

MADAME CLERK: Sharon Miller. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please excuse this juror.

MADAME CLERK: Patricia Whosendove. What says

the State?

SOLICITOR HOLLEN: Please excuse this juror from the trial of this case.

MADAME CLERK: Michelle Gabriel. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please excuse this juror.

MADAME CLERK: Brenda Jones. What says the State?

SOLICITOR HOLLEN: Please excuse this juror from the trial of this case.

MADAME CLERK: Iesha Flowers. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please seat the juror.

MADAME CLERK: Lashonda Robinson. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please seat the juror.

MADAME CLERK: Annette Flowers. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please seat the juror.

MADAME CLERK: Alternate number one.

THE COURT: All right, counsel, alternate number one. Two and one on the alternates.

MADAME CLERK: Ella Garvin) (juror 87. What says the State?

THE COURT: Counsel approach.

MADAME CLERK: James Allen. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please seat the juror.

MADAME CLERK: Charles Gilbert. What says the State?

SOLICITOR HOLLEN: Please excuse the juror from the trial of this case.

MADAME CLERK: Mary Washington. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please seat the juror.

THE COURT: Alternate number one is seated.

MADAME CLERK: William Ritter. What says the State?

SOLICITOR HOLLEN: Please present this juror.

MADAME CLERK: What says the defense?

MR. DEYSACH: Please seat the juror.

BY THE COURT:

THE COURT: Alternate number two is seated. Are there any matters of law pertaining to the selection of the jury that need to be decided before the jury is sworn, by the State?

SOLICITOR HOLLEN: Nothing from the State, Your Honor.

THE COURT: From the defendant?

MR. DEYSACH: No, Your Honor.

THE COURT: Let the record reflect that counsel agreed to excuse for a medical situation juror number 87. It was done at the bench and was not placed on the record after her name was called because of a situation involving medical problems.

Anything further from the State before I swear the jury?

SOLICITOR HOLLEN: No, Your Honor.

THE COURT: From the defendant?

MR. DEYSACH: No, Your Honor.

THE COURT: Counsel approach.

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

THE COURT: Ms. Annette Flowers, would you raise your hand for me?

(Ms. Flowers complies.)

THE COURT: Ms. Flowers, I'm going to appoint you to be foreperson of the jury. Let me explain some of your duties. It will be your job to see that each and every member of my jury has a full and a fair opportunity to voice their opinions in the jury room once deliberations begin, just like a chairperson of a committee. You will see that everybody gets to have an opportunity to speak their feelings. It will also be your job to write the jury's verdict. You will also be the jury spokesperson out here in the courtroom should the need arise. Now, my alternate jurors, ma'am, sir? You're just as important as any member of the jury. If for some reason a member of the jury cannot continue to serve, you would take their place on the jury. You are to be with the jury at all times.

Now, ladies and gentlemen, we are going to start this trial with a brief opening statement, but before we do, I'm going to deal with the issue of the remaining jurors.

Ladies and gentlemen, the weather outside is a little bit stormy and we have some bad weather coming in later this evening or later tonight, so please be

careful on the road. Each of you should have a card with the number to the courthouse. I'm going to ask you to call the number on that card after 6:00 tonight.

I don't know whether I will see you again or not. There may a message on the number telling you when, if at all, I might ask you to return. If I do ask you to return, please come to the area of the courtroom you are seated in now. You may leave the courtroom at this time.

(Jurors exit the courtroom.)

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

(Whereupon, the jury is duly sworn.)

THE COURT: Ladies and gentlemen, a couple of housekeeping matters for you. First of all, I'm going to ask you not to discuss this case with anybody else, amongst yourselves, or with anybody else. I'm going to ask you not to read or listen to any news report about the case. And please, I'm going to ask you not to use a computer or a cell phone or any other electronic devise with communication capability while in attendance at trial, and certainly not in any deliberations.

Sometimes I have jurors that think that will help them. That the parties don't provide them with the information they want. It is improper for you to use a

computer, cell phone, or any other electronic device with communication capability to obtain or disclose information about the case. That would include information about a party, a witness, a lawyer, a court officer, a news account of the case, any information collected through any juror research on any topic raised or testimony offered by a witness, any information collected through any type of research on any topic, even if you think that that information would be helpful to you in deciding the case.

Please, while you're on the jury, just follow those simple instructions. You may not communicate with anyone about the case on your cell phone, through e-mail, on your Blackberry, your I-phone, text messaging, on Twitter, through any blog, or website, through any internet chat room or by way of any social networking website such as Facebook, MySpace, LinkedIn, or Youtube. Please if you would, follow those instructions. It's very important that you do so.

Now, ladies and gentlemen, before we begin this trial, I want to tell you that this trial is probably going to be different from what many of you might expect. You know, most people do not have the chance to attend an actual Court session as each of you are doing now. Most people think from watching television or

going to a movie or reading in a book that trials are always full of high drama and intense action and riveting and entertaining circumstances.

While all of those things may be true at times, a trial, ladies and gentlemen, an actual trial, unlike a television program, or movie, or book, it's not for entertainment. An actual trial is a fundamental part of our democracy. It is a search for the truth in an effort to make sure that justice is done between the parties and before the Court.

Searching for the truth and trying to make sure that justice is done is often slow, often deliberate, often repetitive. It is the exact opposite of what you may have seen on television or read in a book or seen in a movie.

This courtroom, ladies and gentlemen, is a place of honor. It is dedicated to the protection and the preservation of rights of our citizens through what many people have called the greatest justice system in the world. The attorneys that are going to be appearing before you are advocates of the parties they represent. But first and foremost, the attorneys are officers of this Court, and as officers of this Court, the attorneys took an oath just as I took one and now you've taken one. And in the oath the attorneys took, they swore

they would uphold the integrity, they swore they would uphold the fairness of our judicial system. You should expect the attorneys to be professional, to be competent, and to be ethical in the discharge of their duties.

Now, remember also that just a moment ago from the Clerk of Court, each of you took an oath, and you swore, just like the attorneys and I swore, that you would try this case and you would reach a fair and a just verdict. So you also, ladies and gentlemen of the jury, are expected to be professional, to be reasonable, and to be ethical in the discharge of your duty as a juror.

Before we begin the trial, I want to thank each and every one of you for accepting this important responsibility of jury service. I want to thank you, ladies and gentlemen, before we start for your contribution to our justice system. Without you, ladies and gentlemen of the jury, justice cannot be accomplished in the courtroom, and I thank you for that service.

Now, ladies and gentlemen, I hold in my hand a piece of paper which we call an indictment. I told you that the indictment is not evidence of any of the allegations contained in the indictment. This

indictment is entitled the State of South Carolina v. Jaycoby Williams. Mr. Williams is seated at defense counsel table with Mr. Deysach. This indictment charges the defendant with the offense of murder. The elements of that criminal offense I'll explain to you in my charge to you on the law at the conclusion of the case.

Now, the defendant is charged by this indictment, which is filed with this Court, with the crime of murder. But you should understand that the indictment, this piece of paper, is simply the formal, written instrument, by which the case is brought into this Court, and it's simply the charge by which the case is brought into the Court and it's not in any sense evidence of any of the allegations it contains.

As I told you when I was asking you questions about your impartiality to serve as a juror, the indictment alleges that this offense occurred in Allendale County on or about It is alleged that the defendant, Jaycoby Williams, did kill and murder James Spellman, on May 26, 2015, by means of shooting him, and that James Spellman did die in Allendale County as a proximate result thereof.

Now, to this indictment and those allegations in the indictment, the defendant in this case, Jaycoby Williams, he has entered a plea of not guilty to the

indictment. The State, therefore, has the burden of proving the defendant guilty beyond a reasonable doubt, and it will be your duty, ladies and gentlemen, to decide whether the State has met that burden.

It is your solemn responsibility as a juror to determine the guilt or the innocence of the defendant, and your verdict as to guilt or innocence must be based solely and only on the evidence as it is presented to you during this trial and on the law as I instruct it to you to be during this trial and at the conclusion of the trial in my charge to you on the law.

Now, in just a minute, the Solicitor will make what is called an opening statement in which he will explain to you the issues in this case, or at least what he contends as an advocate for the State of South Carolina to be the issues in this case. And following that, the attorney for the defendant will make an opening statement.

Now, what the attorneys tell you in opening statement, what the attorneys argue to you in their closing argument, what the attorneys suggest to you by the questions they ask is not evidence. The attorneys have worked hard to prepare the case, but they're advocates for either the defendant or the State. They're advocates for their client. And what they tell

you is not evidence, and you must base your decision solely and only on the evidence that will be presented during the trial of this case.

Now, I told you I would explain to you, "What is evidence?" "What is it, Judge, that you're asking me to base my decision on?" The evidence in this case is going to be presented to you by sworn witnesses who are going to take this witness stand under oath and testify before you.

It also could be that evidence can take the form of an exhibit, such as a photograph. As to an exhibit, so you'll know, you can't see it until I rule as a matter of law that it's admissible into evidence. That's part of my job is to rule on the admissibility of evidence, and the court reporter will mark it. It will become a part of the record in this case.

Evidence might also take the form of a stipulation, an agreement that a fact is true, and therefore, not necessary to be proved during the trial of the case.

So evidence can be sworn testimony, it can be some exhibit, like a photograph, or a model, or it can be a stipulation between the parties that they agree that a fact is true.

Now, in the consideration of this evidence, you

as a juror should remember that under the Constitution of the State of South Carolina, you, and you alone, are going to be the sole judges of the facts and the evidence in this case.

No one else but you is going to be permitted to consider the evidence, to weigh the evidence, and the same law that makes you the judges of the facts in this case, based on the evidence, and makes me the sole judge of the law in this case.

I cannot invade your province, ladies and gentlemen, and tell you or suggest to you or comment to you about what the facts are, or what the evidence shows. And you should not invade my province, ladies and gentlemen, as a juror and differ with me about what the law is.

Everything that I say during the course of this trial is being taken down by my court reporter, Becky Hill, and if I make a mistake as to the law, either party can appeal the case to an appellate court, and if the appellate court agrees that I've made a mistake on the law, the appellate court will reverse the case and send it back for a new trial. So don't any of you on this jury worry about whether or not I have told you the law correctly. That is not your concern. That is somebody else's worry.

Your job is to take the law as I give it to you and apply it to the facts as you find them to be, based on evidence introduced during the trial of the case. After doing that, you will render your verdict at the conclusion of the case a true and just verdict under that oath that each of you just swore from the Clerk of Court that you would try this case and render a true and just verdict in this case.

Now, from time to time during the trial of this case, you may hear one of the lawyers say something like, "Your Honor, I believe we have a question of law," or “May we approach the bench?” or I, myself, might say, “Mr. Foreman, ladies and gentlemen of the jury, please step into the jury room." We are not trying to hide anything from you. You notice we take up things to decide why we are doing that. The reason for this is exactly what I've just told you. You, the jury, are the sole judges of the facts; I'm the sole judge of the law.

Sometimes when I'm discussing a matter of law with the attorneys, it may be necessary for me to make some comment to the attorneys as to the facts of the case in connection with ruling whether or not a particular piece of law applies to this case.

So the custom in this state is to excuse you

from the courtroom. I first try to do it at the bench. I'll bring the lawyers to a sidebar outside of your hearing if I have to make a comment to them so you won't be influence by anything that I might say or do in ruling on whether or not a particular piece of law applies to this case. I might even have to ask you to step to your jury room so that I can take up a matter of law.

And in that connection, let me tell you again, you, ladies and gentlemen of the jury are the sole judges of the facts in this matter based on evidence introduced during the trial of this case, and if you should gather from anything that I might say or do during the course of this trial, that I have any opinion as to the facts in this case, or if you should gather that I have some opinion from any ruling I might make on an objection in this case, please erase that from your mind, because as I've said, you and you alone are the sole judges of the facts.

Now, I'm asked frequently by jurors, "Judge Buckner, you tell me to base my decision on the evidence. You tell me that I should determine from listening what the true facts are from the evidence. How will I know what the true facts are in this case?" Well, ladies and gentlemen, part of your job, you will

have to, by necessity, you will have to pass upon the credibility, or the believability, of the witnesses who will take this witness stand during the trial of this case.

It will be my responsibility to rule as a matter of law as to whether or not certain testimony is admissible at all or not, but once I've allowed testimony to be admitted, whether or not you as a jury believe the testimony is solely a matter for you, the jury, to determine.

And in passing upon the credibility or the believability of the witnesses who will testify to you, the jury, you have the right to take into consideration the interest of any witness, the bias of any witness, the prejudice of any witness, any opportunity that the witness may have had to observe the matters about which he or she might testify.

You may even take into consideration what we call the demeanor of the witness, the appearance of the witness while the witness is on the witness stand, which is why the witness stand is located closest in proximity to you.

The appearance of the witness while the witness is on the witness stand, the demeanor, anything in evidence, you, as a jury, have the right to consider

that you feel will aid and assist you in evaluating the testimonies of the witnesses that will testify in this case. And that means, Mr. Foreman, and ladies and gentlemen of the jury, that you should, under your sworn obligation as jurors, pay close attention to the witnesses, listen to the witnesses.

Don't let your thoughts wander, but give strict attention to the testimony of the witnesses so that at the conclusion of all the testimony and after the final arguments of the attorneys and my charge to you on the law after I hear the evidence, that I believe as a judge applies to this case. You will, because you have listened, put yourself in a position to determine from listening, what you believe to be the true facts, and thus to apply the law as I charge it to you to the evidence, or to the facts as you find them to be, and thus render a true and just verdict.

Now, you must not consider anything that you may have read or heard about this case outside of this courtroom, whether before or during this trial. And until this case is submitted to you, you must not discuss it with anyone, as I have told you, not even your fellow jurors, or member of your own family. And after I submit the case to you, you must discuss it only in your jury room with your fellow jurors.

It's very important, ladies and gentlemen, that each of you keep an open mind and not decide the case until the entire matter has been submitted to you under my instructions. Why? Because it might be the very last thing in this trial that makes a difference to you. But it is very important that you listen. That you observe. Give the witnesses and the evidence in this case your strict attention.

It will be your added duty, Ms. Forelady, to preside in the jury room and to be the jury spokesperson out here in the courtroom should that need arise during the trial of the case. It will also be your duty to write the jury's verdict, but I will give you a verdict form and explain to you what to do on the verdict form in my charge to you on the law at the conclusion of the case.

Now, a couple of housekeeping matters and we are ready to start. I've shot a shotgun all my life and I'm deaf in the right ear from it. I wear a hearing aid in this ear. It's very important that you be able to hear. I told you how important it was for Becky. Becky loves me as a judge because I talk loud. Deaf people talk loud. Plus, I'm used to projecting my voice. But we have a lot of lawyers that like to do this. They got their little files in front of them; you see all the

paper they have in front of them on the desk. And they will whisper, and Becky is going to look at me, as she is doing now, to say, "What in the world did that person say?" It's very important that we be able to hear. If you can't hear or you don't understand something, just raise your hand.

I will be watching all of you throughout the trial of the case. I want you to be able to hear at all times. You notice she can also watch the witness where she is sitting. She can also watch both attorneys from where she is sitting; all she has to do is turn. But lawyers like to bring witnesses down with photographs and things in front of that witness box. Now, everybody's got their back to her. And she's got to be able to hear just like you've got to be able to hear. She will let me know. She's not timid about it, believe me. But I expect you also to let me know if you can't hear.

If an exhibit is introduced into evidence and you can't see it, you won't be able to see it until you hear me say, "It's in evidence," and Becky has marked it and we've given it an exhibit number. But if you can't see an exhibit, raise your hand. I want my jurors to be able to see and to hear at all times throughout the trial of the case.

Now, we do not allow jurors normally to ask questions in the courtroom. If at any time, a member of the jury has a question, here's the procedure we have to follow. If you're not already in your jury room, you'll retire to your jury room. You will write the question on a piece of paper. You'll knock on the jury room door, give it to my bailiff. He will bring it out to me. I then have to rule as a matter of law whether or not the question can or cannot be answered; just as I would any question asked by either one of the attorneys during the trial of the case.

I've tried it both ways. I ask that you do not take notes. Why? Because I've found that the written notes can be harmful rather than helpful in your jury room once deliberations begin if you make a mistake in the notes. The time-tested system is for each of you to listen and listen carefully.

I don't intend that what I've just said to you should be construed by any of you as a charge on the law, because it hasn't been that. What I've tried to do is give you some idea of the procedure we're going to follow in the courtroom so you'll have a better idea of what may be happening from time to time.

Nevertheless, in order to preserve everyone's rights, I will give the parties in this case an

opportunity to accept or object to anything that I've said to you, if they have any such objections.

Any exceptions or objections from the State of South Carolina?

SOLICITOR HOLLEN: No, Your Honor.

THE COURT: From the defendant?

MR. DEYSACH: No, Your Honor.

THE COURT: Ladies and gentlemen of the jury, we will now begin the trial of the case. Please give the lawyers your attention. I remind you that they are advocates of the party that they represent.

SOLICITOR HOLLEN: May it please the Court, Your Honor?

THE COURT: Yes, sir, Mr. HOLLAND.

OPENING STATEMENT

BY SOLICITOR HOLLEN:

The defendant in this case, Jaycoby Williams, you will hear a lot of people call him Terreak in this case. On May 26, 2015, he was a killer who saw an opportunity to get rid of the victim, James Spellman. He took that opportunity, and as a result, James is no longer here. There he sits.

So what happens? May 26th, 2015 was a Tuesday about 5:30 in the afternoon, James sat on the steps of the Building F of Pinewood Apartments, not even a mile

from here. I know a lot of you know exactly where it is. He sat there speaking to his cousin and his friend, Quincy Best. They were just hanging out when a blue car with dark tinted windows pulls up. Just not necessarily in a parking spot, but right in front of the building.

The first person who gets out of that car, Quinton is going to tell you, you will hear from him, is a gentleman named Davoe. Mr. Davoe comes up and he speaks to both Quincy and James Spellman, says hello, and he starts to go up the stairs to see somebody in an apartment. James and Quincy are still outside, still sitting on the steps. The next person who gets out of the car, and again, you're going to hear this not from me, but from witnesses, is the defendant.

He walks up, says hello to Quincy, shakes his hand; he doesn't say a word to James. And in his waistband, Quincy sees a gun. He doesn't think much of it. He turns to say something to Raheem who is walking up the stairs, and at that time, Quincy is gonna tell you that James starts to stand up and when he turns he sees that man with a gun pointed at James. Not a word was said, but a shot was fired.

Almost immediately, James falls over. At that point, the defendant stands over him, acts like he is going to shoot him again, except the two people who are

standing right there yelling at him to stop. No, no, no, no, no, that's my cousin. That's my friend. Whatever. Don't shoot him again. And at that point, he gets back into the car and they speed off.

James is put in Quincy Best's car, a silver crown Vic and taken to Allendale County Hospital, but at that point, there is nothing they can do.

Now, ladies and gentlemen, the judge has already told you that this is not about a relationship. James was a real person who is no longer with us and the defendant is right there. I don't want you to think that because things are different than they are on television that this is not important. This isn't going to be a six-week trial where you see in California and places like that, you're going to be out of here this week, but it's important.

The other thing is, it isn't like on television, you're not going to see all this fancy science and this is not a case where we are going to provide you with DNA and all that kind of stuff. I wish we could, but it doesn't exist. We can't give you what's not there.

The evidence is going to show that the defendant didn't hang out, he didn't smoke a cigarette, he didn't drink water. He walked up and shot James and left. There was really no physical evidence but blood at the

scene.

You're going to hear from the witnesses. Those witnesses that were standing, one of them, just mere feet from when it took place. Eyewitnesses, one of whom who had just been in the car with the defendant. These are not strangers. These are people that know each other. This happened in broad daylight, 5:30 p.m. on a May afternoon in 2015. He had no regards for James Spellman that day. He walked up and with one shot, he ended his life.

Now, the judge has already told you that he's going to talk to you about the law, and I don't want to get too far into it, but the defendant charged with murder. Jaycoby Terreak Williams is charged with the murder of James Spellman. In South Carolina, murder is the killing of another with malice aforethought, and again, the judge is the judge of the law. Whatever he tells you is what you should listen to. I don't want you to get caught up on the aforethought part. It sounds like there might have to be premeditation or planning. This was not a crime like that. This was a crime of opportunity. Terreak Williams saw an opportunity to get rid of James and he took it. That's what this is about. A split second decision and he pulled that trigger and James is gone.

The other thing the judge told you is that the State has the burden of proof. So I have the burden of proof. I have the burden of proof to prove every single element of that crime beyond a reasonable doubt. All I'm going to ask y'all to do is listen to the evidence, look at the witnesses, decide whether you think they are telling the truth. And at the end of this case, the question you will be asking yourself is not "if" the defendant did this; you're going to know. The question might be "why?"

I'm going to try to show you a little bit of that of why he might have done it or why he chose that day at that time with multiple witnesses around. That is the question you're going to ask yourselves for the rest of your life. So all I ask is you pay attention. I know you will. I know you will bring your common sense with you and you all have. Listen to what is presented, the testimony, look at the evidence, and at the end of the case, you will find that the State has met its burden. I'm confident in that. After you've heard everything, we will come back and ask you to find the defendant guilty for the murder of James Spellman. Thank you.

THE COURT: Mr. Deysach.

MR. DEYSACH: Thank you, Your Honor. May it

please the Court?

OPENING STATEMENT

BY MR. DEYSACH:

Good afternoon. A long afternoon. I don't want to take long, so I want to focus on what I think is the most important thing the State said in opening statement. I don't believe it's my job to tell you the story of what has supposedly happened at Pinewood Apartments, because what Mr. Holland told you was just that, it was a story. And if he said anything in his opening statement that doesn't match up with what comes from that witness stand, then you will know that it was all just a story.

He took the opportunity, maybe it didn't sound like this to you, to explain why there is no physical evidence in this case. He actually took that step during his opening to telegraph to you that there is not anything that corroborates what people say to add to this case and he knows that. That's why he brought it up right at the beginning, because he knows the weakness in his case. Nobody knows exactly what everybody is going to say when they get on the witness stand. He doesn't know what they are going to say when they get on that witness stand, but in order for their case to work, you have to believe him.

I submit that if this was a case about something less serious, that nobody would even bother to believe these people. So whenever you got a case that relies on strange people that you don't know, you're having to trust them to tell you what happened, you're already know there is no proof beyond a reasonable doubt unless you've gotten something to corroborate that; and that's what I want you to look for is something that corroborates what any of these people have said. This is the greatest -- I haven't practiced in other places that have great court systems, so I don't really know, but if this is the greatest court system in the world, then it is because of the jury. It is because we have the jury that can stand between this state and a person like Jaycoby. And so you alone can apply that proof beyond a reasonable doubt.

In this case, there is so little information beyond what just a few people say that there is not much information to work with, to figure out that there is proof beyond a reasonable doubt. So lawyers can sit and talk to jurors all day long about what is truth beyond a reasonable doubt and it's not easy to define. So what I talk about is why we have proof beyond a reasonable doubt and the answer is because we don't want wrongful convictions. If we don't honor that burden, it's going

to result in wrongful convictions. And it is the roadmap to avoid wrongful conviction. The description of how to understand the burden of proof and proof beyond a reasonable doubt. What is a wrongful conviction? A wrongful conviction is when somebody is convicted, and in this case we have the ultimate crime, convicted of a crime they didn't do, and Jaycoby didn't do it. Thank you.

BY THE COURT:

THE COURT: Madame Foreperson, ladies and gentlemen of the jury, we are going to stop at this point. We will start back in the morning at 9:30. John is going to take you in a moment to jury room so everybody will know where to report in the morning. I'm going to ask you to be on time. Over the overnight recess, please do not discuss this case with anybody.

When you come back in the morning, don't come to the courtroom, I want you to report to your jury room. Don't leave tonight without John showing you where the jury room is and you will know where to come. Please be on time. If you're not on time, we can't start on time. I promised you I would get you home early this week. I intend to do that. Please do not discuss the case. Don't do any juror research about the case. Be here in the morning. I promise you we will keep the train on

the track and we will have something for you to drink and snack on.

I hope everybody has a good evening. I will see you in the morning. You may leave the courtroom at this time.

(6:00 p.m., WHEREUPON THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Anything on the record outside the presence of the jury from the State of South Carolina before we adjourn for the evening?

SOLICITOR HOLLEN: No, Your Honor.

THE COURT: From the defendant?

MR. DEYSACH: No, Your Honor.

THE COURT: All right, counsel be here ready to go prior to 9:30 in the morning. We are going to start at 9:30 in the morning. Court's in recess until 9:30 in the morning.

END DAY ONE, MONDAY,

APRIL 3, 2017

BEGIN DAY TWO, TUESDAY

APRIL 4, 2017, 9:35 P.M.

BY THE COURT:

THE COURT: Is the State ready to proceed?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: Is the defendant ready to proceed?

MR. DEYSACH: We are, your Honor. We need our defendant and also sequestration of the witnesses. I would move that the witnesses be sequestered. I've taken Richardine Williams --

THE COURT: Hold on right there. Solicitor, you don't object to sequestration?

SOLICITOR HOLLEN: No, sir, I don't.

THE COURT: It will apply equally. The defendant will remain in here. Who's your case manager? Designate it, Solicitor.

SOLICITOR HOLLEN: Do I have to choose between my office investigator and a SLED agent, or can I have them both?

MR. DEYSACH: He can have them both.

SOLICITOR HOLLEN: Okay.

THE COURT: Mr. Hutto normally stays in here because he runs the video equipment, but he is also a potential witness, so I need to know how you feel. Your witnesses are going to be sequestered, too. And we're not going on an Easter egg hunt for witnesses.

SOLICITOR HOLLEN: Yes, sir.

THE COURT: So you designate a room, and they better be in that room, because we're not going to run around the courthouse looking for them when it's time to call them, both sides.

SOLICITOR HOLLEN: Yes, sir.

THE COURT: You will be responsible for your witnesses. And Solicitor, you're going to be responsible for yours.

SOLICITOR HOLLEN: Yes, sir.

THE COURT: How about Mr. Hutto? You object to him being in here, or are you going to let him stay in?

MR. DEYSACH: I'm willing to let him stay in.

THE COURT: All right. He's a potential witness, but I'll let him stay in.

Now, do you want someone else in?

SOLICITOR HOLLEN: Well, Agent Johnson with SLED, your Honor. I'd ask that he be able to stay as well.

THE COURT: Any objection?

MR. DEYSACH: No, your Honor.

THE COURT: Agent Johnson stays in; Mr. Hutto stays in; the defendant stays in. Under the *Victim's Bill of Rights*, members of the victim's family get to stay in. Other than that, both of you turn around, look at the courtroom, and certify to me that your witnesses are not in the courtroom and because sequestration will apply equally.

SOLICITOR HOLLEN: Your Honor, and I have one addition to that. Agent McCallister was on my witness list.

THE COURT: Whoa. We're not finished with this subject yet. Turn around and do what I'm asking you to do before you move to another matter.

SOLICITOR HOLLEN: This is the same matter, your Honor.

THE COURT: All your witnesses -- you're certifying to me all your witnesses are out.

SOLICITOR HOLLEN: Yes, sir.

THE COURT: How about you?

MR. DEYSACH: I have Richardine Williams here in the courtroom. I do not plan to call her, and I would ask that she be allowed to stay.

THE COURT: Any objection, Solicitor?

SOLICITOR HOLLEN: No, your Honor.

THE COURT: Very well. Are all your witnesses out?

MR. DEYSACH: Yes, your Honor.

THE COURT: All right. Now you want to bring up another matter.

SOLICITOR HOLLEN: No, your Honor. I was just going to --

THE COURT: Finish the one you start first, before you jump to another one.

SOLICITOR HOLLEN: Your Honor, Agent McCallister was on my witness list. Katie McCallister with SLED. I am not going to call her, so I ask that she be allowed

to stay in the courtroom.

THE COURT: In light of the fact that they're not being called, do you have any objection?

MR. DEYSACH: Only if she's called, your Honor.

THE COURT: She's on the list, right?

SOLICITOR HOLLEN: Yes, sir. I will not call her.

THE COURT: I assume there's no objection.

MR. DEYSACH: Correct, your Honor.

THE COURT: All right. Defendant ready to proceed?

MR. DEYSACH: Yes, your Honor.

THE COURT: All right. I understand the jury's here. Bring us the jury.

We're waiting on the restroom. Hurry up and wait.

Now, each of you are going to be responsible, particularly because of possible reply testimony. Solicitor, you're responsible for your witnesses. You don't allow the witness to remain in this courtroom, because of the potential to call the witnesses in reply, under mutual sequestration. Do you understand?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: You are also, Mr. Deysach, you're responsible for your witnesses, and your witnesses are not allowed to come into the courtroom until they are called, and only once you certify you don't intend to recall a witness are you allowed to ask that the witness

remain in the courtroom. You understand? And you are to instruct them they can't discuss their testimony with anyone else. You understand that?

MR. DEYSACH: I do understand, your Honor.

THE COURT: You understand that as well, Solicitor?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: Very well.

JURORS ENTER COURTROOM 9:44 A.M.

THE COURT: You don’t have to sit in the same seat; just the foreperson. Just slide down so the people don’t have to crawl all over you. Just move all the way down to the end.

Good morning, Madam Foreperson. Good morning, ladies and gentlemen of the jury.

RESPONSES FROM JURORS.

THE COURT: Thank you for being here on time. I intend to keep the train on the track. We will now begin the testimony in the trial of this case. I ask that you give the witnesses your careful consideration.

Call your first witness, Solicitor.

SOLICITOR HOLLEN: Franklin Williams.

THE COURT: Elaine, would you swear him, please.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

FRANKLIN DALLAS WILLIAMS, JR.: I do.

THE COURT: Have a seat for me. Adjust that chair to the microphone. You don't have to get right on top of it. The court reporter is putting a device up there that will help her audio record your testimony.

I'll remind you, sir, that the sound in this courtroom goes straight up, so you will have to speak up so that my two ladies that are on the end of the jury box can hear what you say. I also want the people in the courtroom to hear what you say.

Counsel, I expect you to come up to the clerk's bench and not stand where you're standing.

SOLICITOR HOLLEN: Yes, sir.

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

FRANKLIN DALLAS WILLIAMS, JR.: Franklin Dallas Williams, Jr. Last name spelled out, W/i/l/l/i/a/m/s.

THE COURT: Speak up for me now, Mr. Williams. Your witness, Counsel, direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

FRANKLIN DALLAS WILLIAMS, JR.

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Good morning, Mr. Williams.

A Good morning.

Q Where are you from?
A Bamburg, South Carolina.
Q How long have you lived in Allendale?
A About nine years.
Q Nine years. Okay. And what do you do for a living?
A Meat cutter at IGA.
Q At the IGA right here in Allendale?
A Yeah.
Q And Mr. Williams, where did you live in May of 2015?
A Pinewood Apartments.
Q What apartment number were you in?
A [redacted].
Q Mr. Williams, do you remember the day the shooting happened at Pinewood Apartments?
A Yes, sir.
Q What were you doing on that day? Around -- let's narrow it down. Around the time the shooting was happening, what were you doing?
A I was on the phone with my grandmother and uncle.
Q Okay. And shortly before that, had you done something else? Had you gone outside for some reason?
A I took the trash out.
Q Took the trash out. And did you see some people

when you took the trash out?
A I took the people on the breezeway, but I didn't recognize any of them.
Q Okay. And you were on the phone with your grandmother?
A Yeah.
Q And your uncle, you said?
A Yeah.
Q What happened next? Did you hear something while you were on the phone with them?
A I heard a gunshot.
Q And what did you do then?
A Paused for a minute.
Q How many shots did you hear?
A One.
Q One shot. You paused for a minute, you said. And what did you do after you paused?
A I went to look out the window.
Q And when you looked out the window, what did you see?
A I seen a blue car pulling off.
Q Okay. Do you remember what kind of car it was?
A It was a small car.
Q A small car?
A Blue.

Q It was blue? Anything else about it you remember?
A That's about it.
Q All right. Did you see -- did you keep watching after you saw the blue car pull off?
A Back and forth from the window to the window, yeah.
Q What did you see next? Did you see anyone on the ground, anything like that?
A No.
Q Okay. Did you at some point see another car leave the building? Do you remember? If you don't remember, that's okay.
A I can't remember.
Q All right. How long had you lived at Pinewood Apartments when this took place?
A Maybe six or seven -- seven -- seven years.
Q Seven years. So, a long time?
A Yeah.
Q Did you ever hear gunshots before that day?
A Yeah.
Q All right. Frank, I'm going to -- did you see any people in the blue car? Were you able to see if there were people in it when it was pulling off?
A People was in the car.
Q People was in the car.
A Yeah.

Q Did you speak to law enforcement about this? About the shooting?
A Yeah.
Q Did they ask if you recognized anyone or were able to identify anyone?
A Yes.
Q And were you?
A No.
Q Were you able to -- to this day, right now, can you say who was in the car?
A No.
Q Frank, are you familiar with the defendant in this case?
A I've seen him around.
Q Seen him around. And are you able to say that he was one of the people you saw?
A I can't say that.
Q Were you able to say that he wasn't one of the people that you saw?
A Yeah.
Q You are able to say that he was not there? He was not one of the people you saw?
A I can't say he wasn't there. I didn't see him.
Q You did not see him?
A I didn't see him.

Q Okay. Did you see anybody get in the car, or did you just see it pulling off?
A I seen the car pulling off.
Q You just seen the car pull away?
A Yeah.
Q So, you don't know who was in the car?
A No.
Q You just saw the blue car?
A I just saw the blue car.
SOLICITOR HOLLEN: All right. I have no further questions for you.
Thank you, your Honor.
MR. DEYSACH: May it please the Court?
THE COURT: Cross-examination. Come up to the clerk.
MR. DEYSACH: Yes, your Honor.

FRANKLIN DALLAS WILLIAMS, JR.

CROSS-EXAMINATION

BY MR. DEYSACH:

Q Good morning, Mr. Williams.
A Good morning.
Q I'm Ian Deysach, Jaycoby Williams' attorney.
Okay. I'm going to go, all right, straight to talking about the day this all happened. Is it true that, at about 4:30, you went to take out the trash?

A Yeah. I can't remember the exact time.
Q Okay.
A I went and took out the trash.
Q Did you tell the police that it was at 4:30?
A If that's what I had in my statement, yes, sir.
Q And when you took off -- you took out the trash, I assume that requires leaving your apartment and going to a dumpster that's somewhere in the parking lot. Is that correct?
A Correct.
Q And when you did that, you saw four or five people in the breezeway. Is that correct?
A I don't know how many. I assume, if I said that in my statement, that's what it is.
Q Do you want to review the statement? I mean, I want you -- do you trust me that that's what's in the statement, or do you want to look at it for yourself?
A If that's what I said, that's what it is.
Q Okay. And that you saw four to five people in the breezeway and you spoke to them?
A Yes.
Q Okay. And so, of those four to five people, Mr. Williams wasn't one of those people, was he?
A I can't say that. I don't know who it was. I didn't -- I didn't -- I didn't recognize nobody.

Q Okay. But you said that you were familiar with my client?
A Yes.
Q Okay. Was Mr. Spellman there?
A I don't know who was there.
Q Okay. Are you familiar with Mr. Spellman?
A Yes.
Q Okay. And so, if he had been there, wouldn't you have been able to recognize him?
A Yeah.
Q Okay. But you didn't recognize anybody there?
A I didn't recognize anybody.
Q You heard, I think you've already testified to this, one shot.
THE COURT: You have to say yes or no. Don't nod your head, for the court reporter.
BY MR. DEYSACH:
A Yes.
Q And you're positive about that?
A Yes.
Q That, after you heard the shot, you saw a blue, four-door car, and three to four people got in it and took off. Is that correct?
A Yes.
Q Didn't recognize anyone in the car?

A No.

Q Do you know if the blue car was there when you took out the trash?

A Yes, it was.

Q Okay. Do you know when the blue car pulled up?

A No.

Q Okay.

MR. DEYSACH: Begging the Court's indulgence. Nothing further, your Honor.

THE COURT: Re-direct.

SOLICITOR HOLLEN: Nothing, your Honor.

THE COURT: As to this witness, Solicitor?

SOLICITOR HOLLEN: I would ask that he be excused, your Honor.

THE COURT: From the trial?

SOLICITOR HOLLEN: From the trial.

THE COURT: Any objection, Counsel?

MR. DEYSACH: No, your Honor.

THE COURT: You may step down, Mr. Williams. You are excused from the trial of this case, and you may leave the courtroom. Thank you.

Call your next witness.

SOLICITOR HOLLEN: Debentris Breeland.

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

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DEBENTRIS BREELAND: Yes, ma'am.

THE COURT: Have a seat for me. Adjust that chair. Adjust the microphone to your height. I need you to speak up, now, so everybody can hear you, because it's difficult in this courtroom. Begin by stating your full name slowly, spelling your last name for the court reporter.

DEBENTRIS BREELAND: My name is Debentris Breeland.

THE COURT: Don't get right on top of that microphone. Speak up. It'll blur your voice if you get right on top of it. Spell your last name.

DEBENTRIS BREELAND: My name is -- last name B/r/e/e/l/a/n/d.

THE COURT: Your witness, Counsel, direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

DEBENTRIS BREELAND

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Mr. Breeland, good morning.

A Good morning.

Q Where are you from?

A Allendale.
Q Allendale? Born and raised?
THE COURT: You have to say yes or no.
A Yes.
THE COURT: And speak up, Mr. Breeland.
A Yes.
BY SOLICITOR HOLLEN:
Q And where do you work?
A Cullums Lumber Mill.
Q Mr. Breeland, where did you live in May of 2015?
A Pinewood Apartments.
Q And do you -- are you familiar with the defendant in this case, Mr. Williams?
A Yes, sir.
Q And are you familiar with the victim in this case, Mr. Spellman? Were you familiar with him?
A Yes.
Q Do you recall, Mr. Breeland, the day that Mr. Spellman was shot?
A Yes, sir.
Q Okay. Let's back up a little bit. You say you lived in Pinewood Apartments. What apartment number were you in?
A [redacted].
Q [redacted]. All right.

SOLICITOR HOLLEN: Court's indulgence, your Honor. Your Honor, may I approach the witness?

THE COURT: You may.

BY SOLICITOR HOLLEN:

Q Mr. Breeland, I'm going to hand you what's been marked for identification State's Exhibit 1. Do you recognize that picture? Would you take that for me?

A Uh-huh.

THE COURT: You have to say yes or no, sir.

BY SOLICITOR HOLLEN:

Q Do you recognize this picture?

A (No answer.)

Q What is that?

THE COURT: You have to say yes or no.

A Yes, sir.

Q What is it?

A When I was -- when I was living building. Where I lived.

Q Where you were living. And what building was that at Pinewood?

A [redacted].

Q It's [redacted]?

A Yeah.

Q So, is it -- the whole building is [redacted], or is it?

A That's F building.

Q F Building. Got it. Okay. And is that a fair and accurate depiction of Building F?

A Yes.

Q Has it been changed or altered in any way?

A No.

Q All right.

SOLICITOR HOLLEN: Your Honor, I'd ask to admit State's 1 into evidence at this time.

THE COURT: Has it been pre-marked?

SOLICITOR HOLLEN: It has, your Honor.

THE COURT: As to State's Exhibit Number 1, Counsel?

MR. DEYSACH: No objection.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number 1 will be admitted into evidence in the trial of this case without objection. State's 1 in evidence. You may now publish.

SOLICITOR HOLLEN: Thank you, your Honor.

ITEM IDENTIFIED AS PHOTOGRAPH
MARKED STATE'S EXHIBIT NUMBER 1
ADMITTED AS EVIDENCE.
BY SOLICITOR HOLLEN:

Q Mr. Breeland --

THE COURT: Mr. Deysach, if you want to come around back behind all the officers where you can see the

board, you may do so.

MR. DEYSACH: Thank you, your Honor.

THE COURT: Do not block the witness's view or the jury's view.

MR. DEYSACH: Yes, your Honor.

THE COURT: Proceed.

SOLICITOR HOLLEN: Thank you, your Honor.

BY SOLICITOR HOLLEN:

Q Mr. Breeland, up on the screen there is that picture you have?

A Yes.

Q Are you able to see which apartment is yours?

A Yes.

Q Which one is it?

A Up top, on the left.

Q Up top, on the left. So, right here?

A Yes.

Q And that's where you were living at the time of the shooting of James Spellman?

A Yes.

Q Okay. Mr. Breeland, before the shooting happened, where were you?

A In the house.

Q In the house. What about before that? Were you outside at some point?

A Yes.
Q And what were you doing outside?
A Sitting on the steps.
Q Were you talking to anybody?
A Yes.
Q Who were you talking to?
A DeQuincy and James.
Q Okay. And then, you said you went inside?
A Yeah.
Q Why'd you do that?
A Almost time for me to go to work.
Q All right. Where were you working at the time?
A Four-Star in Allendale.
Q Four-Star in Allendale?
THE COURT: Speak up a little bit for the jury.
BY SOLICITOR HOLLEN:
Q Mr. Breeland, as you were getting ready for work, did you hear anything?
A Yes, I heard a shot.
Q You heard a shot. A gunshot?
COURT REPORTER: I'm sorry.
Q How many gunshots did you.
THE COURT: Hold on a second. Let her get by.
SOLICITOR HOLLEN: I apologize.
BY SOLICITOR HOLLEN:

Q And Mr. Breeland, I'm going to slow down a little bit for Madam Court Reporter. How many gunshots did you hear?

A Just one.

Q Just one gunshot. What did you do when you heard the gunshot?

A Came to look outside. I didn't see nobody.

Q Didn't see anybody?

A No.

Q Did you, at some point, go outside and go down the stairs?

A Yeah.

Q And what did you find when you got there?

A I saw DeQuincy trying to pick James up off the ground.

Q And what condition was James in?

A He was laying face first on the ground.

Q And do you know what happened to him?

A It looked like he was shot. There was blood.

COURT REPORTER: *There was blood*?

A Yes.

THE COURT: Speak up, please. It's important that the court reporter be able to hear you and the people on the jury and the parties.

BY SOLICITOR HOLLEN:

Q Mr. Breeland, what did you do after you saw that James was shot?
A I ran back upstairs, finished putting my clothes on. I came back down and opened the door so Quincy could put him in the car.
Q Um-hmm. And what did you do after that?
A I left.
Q You left. Did you go to the hospital?
A No.
Q Where did you go?
A I just left. I went my mom.
Q And at some point, did you have to be at work?
A Yes.
Q So, you left the apartment. Did you go back at some point?
A Yes. I left, went down the road, came right back, because I left my wallet.
Q Oh, you left your wallet in the apartment.
A Yes.
Q Okay. And when you went back to the apartment, did you see anyone there?
A Nobody but Tiff came out of the door.
Q All right. So, let's -- who's Tiff?
A Tiffany, who was staying at the apartment across.
Q Tiffany stayed in the apartment across.

A Yeah.
Q So, did she also live in Pinewood Apartments?
A Yes.
Q And do you know what number apartment she lived in?
A [redacted].
COURT REPORTER: You need to speak up.
A I think it was [redacted].
Q Mr. Breeland –
A Looking at the one across on the right. I don't know exactly which number.
Q So, looking at the picture, is it the top floor?
A Yes.
Q On the right?
A Yes.
Q Okay. Did you tell Tiff, Tiffany, what had happened?
A No. I just told her to go to the hospital.
Q You just told her to go to the hospital. And did you see anything else that day?
A No.
Q All right. Let's back up a little bit more, Mr. Breeland. You said you knew James.
A Yeah.
Q Did you all ever talk?
A Yeah.

Q Did James ever tell you that he was scared of anyone?

MR. DEYSACH: I would object, your Honor.

THE COURT: Counsel, approach.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, MR. HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Objection overruled. Proceed.

SOLICITOR HOLLEN: Thank you, your Honor.

BY SOLICITOR HOLLEN:

Q Mr. Breeland, back to that question. Did James ever tell you that he was scared of anyone?

A No.

Q James never told you he was scared of anyone?

A No.

Q All right. Did you and James talk a few days prior to the shooting?

A Yeah.

Q And what did you all talk about?

A Just talk.

MR. DEYSACH: I'll object to the hearsay.

SOLICITOR HOLLEN: I'm --

THE COURT: Sustained. Re-phrase your question.

SOLICITOR HOLLEN: Yes, sir, your Honor.

Your Honor, may we approach briefly?

THE COURT: Counsel, approach.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, MR. HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Step back and let's proceed.

SOLICITOR HOLLEN: All right.

THE COURT: The objection after the last question asked of this witness was sustained. Proceed, Solicitor.

SOLICITOR HOLLEN: Thank you, your Honor.

BY SOLICITOR HOLLEN:

Q Mr. Breeland, did you meet with law enforcement about this case?

A Yes.

Q I'm sorry, yes?

A Yes.

Q And did you give a statement to law enforcement about this case?

A No.

Q Did you speak with someone?

A Yeah.

Q You didn't write a statement, did you?

A No.

Q Okay. Did you meet with Agent Richard Johnson?
A I guess that's his name.
Q Do you see him in the courtroom?
A Yeah.
Q Okay. So, you met with a SLED agent named Richard Johnson. Do you remember meeting with Agent Johnson at the Allendale Police Department on May 27th of 2015?
A Yeah.
Q Mr. Breeland, in that statement, when you met with Agent Johnson, did you tell him that, a few days before this incident, you and James talked about how James was afraid of the defendant, Mr. Williams?
A No.
Q You didn’t say that?
A Not like that.
Q Not like that? Well, what did you say?
A I was saying he was scared of him. I knew he didn't want no problems or nothing with him.
Q So, you didn’t -- repeat that. I’m sorry, I didn't hear you. Can you speak up?
A I didn’t say he was scared of him. I just said he didn’t want no problems with him.
Q He didn’t want no problems with him.
A No, he didn't want no problems with him.
Q All right. Mr. Williams, do you recall meeting

here in the Allendale courthouse on Tuesday, March 21st with myself and Investigator Hutto?

A Yeah.

Q And do you recall in that meeting that we asked you if James used the word *scared* to describe how he felt about Mr. Williams. Do you remember that?

A No.

Q You don't remember that?

A I don't remember that today.

Q You don't remember me asking you if he specifically used the word *scared* to describe how he felt about Mr. Williams?

A No.

Q You do not? All right.

SOLICITOR HOLLEN: Your Honor, I have no further questions for Mr. Breeland.

THE COURT: Cross-examination.

MR. DEYSACH: Thank you, your Honor.

DEBENTRIS BREELAND

CROSS-EXAMINATION

BY MR. DEYSACH:

Q Good morning, Mr. Breeland. I'm Ian Deysach, attorney for Jaycoby Williams.

When we're talking about the day this all happened, when you were sitting outside, did you see Mr. Williams

come by to take out the trash?
A No.
Q Do you know who I'm talking about by Mr. Williams? Downstairs neighbor? Does he have -- possibly has a nickname Big Sexy. Do you know who I'm talking about? No.
A (Witness did not answer.)
Q Did you see anybody come out and take the trash out?
A No.
THE COURT: You've got to say yes or no. Don't shake your head. Speak up for me now so people can hear you.
BY MR. DEYSACH:
Q Was there anybody else besides DeQuincy Best and James out there at that time?
A Not while I was out there.
Q One shot is all you heard?
A Yes, sir.
Q You're sure about that?
A Yes, sir.
MR. DEYSACH: Court's indulgence.
BY MR. DEYSACH:
Q Did you see a blue car out there? I'm sorry. Mr. Breeland, did you see a blue car out there when you were

outside?

A No.

MR. DEYSACH: I don't have anything further, your Honor.

THE COURT: Re-direct.

SOLICITOR HOLLEN: Nothing for this witness, your Honor.

THE COURT: As to the witness?

SOLICITOR HOLLEN: I would ask that he be excused from this trial.

THE COURT: Any objection?

MR. DEYSACH: No, your Honor.

THE COURT: You may step down, Mr. Breeland. You're excused from the trial of this case. You may leave the courtroom.

Call your next witness.

SOLICITOR HOLLEN: Tiffany Loadholt.

THE COURT: Ladies and gentlemen of the jury, anybody having any difficulty hearing? Please let me know by raising your hand if you can't hear.

Ma'am, she's going to swear you in. You stay right there. Left hand on the *Bible.* Raise your right.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

TIFFANY LOADHOLT: Yes.

THE COURT: Ms. Loadholt, I need you to -- you know how to sound.

TIFFANY LOADHOLT: Okay.

THE COURT: You have to speak up for me so everybody and the jury can hear you and the people out here can hear you. Begin by stating your full name, and spelling your last name.

TIFFANY LOADHOLT: Tiffany Loadholt, L/o/a/d/h/o/l/t.

THE COURT: Very good. Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

TIFFANY LOADHOLT

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Good morning, Ms. Loadholt.

A Good morning.

Q Where are you from?

A Allendale.

Q So, you were born and raised here?

A Yes.

Q Where do you live now?

A In Varnville.

Q And how long have you lived in Varnville?

A A year.
Q Ms. Loadholt, where did you live in May of 2015?
A Apartment [redacted].
Q Where is that? What --
A Pinewood Apartments.
Q Pinewood Apartments.
A Yes.
Q It's Pinewood Apartments here in Allendale?
A Yes, sir.
Q Ms. Loadholt, do you know the defendant in this case, Jaycoby Terreak Williams?
A Yes.
Q How do you know Mr. Williams?
A He's my kids' father.
Q He's your kids' father.
A Yes.
Q How many children do you have with him?
A Two.
Q And how old are they?
A Four and eight.
Q Four and eight. Ms. Loadholt, how did you know -- or did you know the victim in this case, James Spellman?
A I used to go with him once upon a time.
Q So, you knew him?
A Yes.

Q You used to -- you said you used to go with him?
A I dated him.
Q You dated him?
A Yes.
Q How long did you date Mr. Spellman?
A Three years.
Q Three years. Was that the whole time? Did you guys date on-and-off?
A On-and-off.
Q Were you dating Mr. Spellman at the time he was killed?
A Yes.
Q Did he stay with you at that time?
A Yes.
Q Okay. So, you guys lived together at that time?
A Yes.
Q Okay. Let's talk -- you don't remember the date. Do you remember the date that Mr. Spellman was killed?
A May 26.
Q Of what year?
A I forgot the year.
Q Okay. Thank you. Ms. Loadholt, where was James working at the time he was killed?
A Olen, South Carolina.
Q I'm sorry?

A Olen, South Carolina.
Q That's where he worked?
A Yes.
Q And where did you work?
A Olen, South Carolina.
Q Same place. The day he was killed, what was that day like for you? Do you remember what you all did?
A We went to the DSS office, and then came back home.
Q Did you work on that day?
A No.
Q Were you scheduled to work that day?
A We was off that day.
Q Say that one more time.
A We was off that day.
Q Okay. Why were you off that day?
A The machines were down.
Q The machines were down. So, you say you went to the DSS Office?
A Yes.
Q And James went with you?
A Yes.
Q And after that, did you all go back to the apartment?
A Yes.
Q Who was in the apartment with you when you all went

back, after you went in the DSS office?
A Me and my mother and my two kids.
Q Was James in the apartment with you?
A No.
Q Where was he?
A Outside.
Q Outside. What was he doing outside?
A Talking to his cousin DeQuincy Best.
Q He was talking to his cousin DeQuincy Best. And what were you doing when you were inside the house? Do you remember?
A Yes. Washing dishes and cooking cupcakes.
Q You were baking cupcakes. All right. Ms. Loadholt, do you remember about what time it was that the shooting occurred?
A I don't remember the time.
Q Don't remember the time. Did you hear anything out of the ordinary on that day?
A No, sir.
Q Okay. You did not hear a gunshot?
A Nothing at all.
Q At some point, did you go outside of your apartment?
A Yes.
Q And what did you find when you got outside your

apartment?
A Nothing.
Q Nothing. Was there anybody out there?
A No, not when I went to the door the first time.
Q Not when you went to door the first time. Did you eventually see someone out there?
A Yes.
Q And who was that, that you saw?
A Boobie.
Q And after you saw Boobie, what did you do next?
A He told me to go to the hospital.
Q Well, okay. Who is Boobie?
A Debentris Breeland.
Q Okay. And everybody calls him Boobie.
COURT REPORTER: I'm sorry.
THE COURT: You got to speak up.
COURT REPORTER: I didn't hear. *Who is Boobie*?
A Debentris Breeland.
A Debentris Breeland.
THE COURT: You can't testify, Counsel.
SOLICITOR HOLLEN: Yes, sir.
THE COURT: Let the witness talk to the court reporter, not you.
SOLICITOR HOLLEN: Yes, your Honor.
THE COURT: Proceed.

BY SOLICITOR HOLLEN:

Q So, you went to the hospital. What did you do with your kids?

A My kids stayed with my mother.

Q Okay. They stayed with your mother. When you got to the hospital, what did you find? Were you able to see James?

A No.

Q And what did you find out about James when you got there?

A He was –

MR. DEYSACH: I would object to the hearsay. The *what did you find out*. I assume it was something that was told to her.

THE COURT: Don't testify to what someone else told you, but if you sensed it with your own senses, your eyesight, your sense of smell, you can tell -- you can answer the question that way, without testifying as to what someone else said.

Rephrase your question, Counsel, and proceed.

SOLICITOR HOLLEN: Yes, sir.

BY SOLICITOR HOLLEN:

Q Were you able to see James?

A No.

Q Did you get to see him at any point after that?

A No.
Q Is there a reason for that?
A No.
Q Was James still living when you got to the hospital?
A I don't know because they told me what they just told me that we're working on him; I couldn't see him.
Q All right. And at some point, did you become aware that James had passed away?
A Yes, once everybody stopped hollering, I could see that.

SOLICITOR HOLLEN: All right. Thank you, Ms. Loadholt. I have no further questions for you.

THE COURT: Cross-examination.

MR. DEYSACH: Thank you, your Honor.

TIFFANY LOADHOLT

CROSS-EXAMINATION

BY MR. DEYSACH:

Q Good morning, Ms. Loadholt.
A Good morning.
Q We met yesterday.
Q Yes.
Q When you arrived back home from the DSS office, was Mr. Best already outside?
A Yes.

Q Did you see the blue car?
A No.
Q And you testified you didn't hear any shots?
A Anything.
Q Okay. No shots, no arguing, no nothing?
A No.
MR. DEYSACH: Nothing further, your Honor.
THE COURT: Re-direct.
SOLICITOR HOLLEN: Nothing, your Honor.
THE COURT: As to the witness?
SOLICITOR HOLLEN: I would ask that she be excused from the trial.
THE COURT: Any objections?
MR. DEYSACH: No, your Honor.
THE COURT: Ms. Loadholt, you may step down, and you are excused from the trial of this case.
Call your next witness, Mr. Hollen.
SOLICITOR HOLLEN: Thank you, your Honor. Dr. Gabriel Fornari.
THE COURT: Who, Solicitor?
SOLICITOR HOLLEN: Dr. Gabriel Fornari.
THE COURT: Would you raise your right hand. Put your hand on the *Bible* the clerk's handing to you.
MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so

help you God?

DR. GABRIEL CHARLES FORNARI, JR.: Yes.

THE COURT: Have a seat. Make yourself comfortable.

DR. GABRIEL CHARLES FORNARI, JR.: Thank you.

THE COURT: The microphone's going to amplify your voice, but unfortunately, in this courtroom, all sound goes straight to the ceiling. And so, you will have to speak up for me. My court reporter is right in front of you, but I've got jurors down on the end that are going to have to be able to hear you, so, please speak up. You don't have to get right on top of the microphone, or you'll get a blurry voice, but speak up for me. Begin by stating your full name and spelling your last name for the court reporter.

DR. GABRIEL CHARLES FORNARI, JR.: My name is Gabriel Charles Fornari, Jr. F/o/r/n/a/r/i.

THE COURT: Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

DR. GABRIEL CHARLES FORNARI, JR.

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Good morning, Dr. Fornari.

A Good morning.

Q Thank you for being here. I've already called you Doctor. What do you do?
A I'm an emergency room physician.
Q Where do you work as an emergency room physician?
A Allendale County Hospital.
Q And do you work anywhere else as an emergency room physician?
A Yes, Coastal Carolina Emergency Department.
Q You're wearing your work outfit. Did you just come off of a shift?
A That's correct.
Q Okay. Dr. Fornari, were you working at the Allendale County Hospital on May 26th of 2015?
A Yes.
Q And some point, was a victim brought in? Did you treat a victim named James Spellman?
A Yes.
Q What wounds did Mr. Spellman have when he was brought in?
A I do not have the records, but from my recollection he had two wounds, one to the chest and one to the arm.
Q Okay. And do you have a time that Mr. Spellman was brought in?
A I believe it was at 1734, 5:34 in the afternoon.
Q And what date was that?

A That was -- I didn't write the date down on that.
Q Okay.
A On my notes. On 5 -- wait a minute. It was 5-26.
Q So, May 26?
A Yeah, of 2015.
A 2015.
A I'm sorry about that.
Q That's All right. And when Mr. Spellman was brought in, did you attempt to re -- were you the doctor that treated him, or attempted to?
A That is correct.
Q Did you try to do any lifesaving procedures on Mr. Spellman?
A Yes, we did.
Q What was the result of that? The ultimate result of that? Were you able to --
A We were not able to revive him.
Q So, was Mr. Spellman pronounced dead at some point?
A That is correct.
Q And who did that?
A I did.
Q What time did you pronounce Mr. Spellman deceased?
A At 1752, or 5:52 p.m.
Q Dr. Fornari, this might be a silly question. Is Allendale County Hospital in Allendale County?

A That's correct.
Q So, Mr. Spellman was pronounced deceased in Allendale County?
A That is correct.
Q Dr. Fornari, you don't have -- do you have any information about who shot James Spellman?
A No.
Q Do you have any information about how many times he was shot?
A No.
Q Do you have any information about how he got to the hospital?
A He was -- I note that he arrived by personal vehicle.
Q So, he was not brought in an ambulance?
A That is correct.

SOLICITOR HOLLEN: Dr. Fornari, thank you. I don't have any further questions.

THE COURT: Cross-examination.

MR. DEYSACH: No questions, your Honor.

THE COURT: As to this witness, Solicitor?

SOLICITOR HOLLEN: I would ask that he be excused, your Honor.

THE COURT: Any objection, Mr. Deysach?

MR. DEYSACH: No, your Honor.

THE COURT: Dr. Fornari, you may step down. You're excused from the trial of this case. Drive carefully. Get some sleep.

Call your next witness.

SOLICITOR HOLLEN: DeQuincy Best.

THE COURT: Left hand on the *Bible*, and raise your right hand.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DEQUINCY BEST: Yes, ma'am.

THE COURT: Have a seat for me in the witness stand. The microphone is going to amplify your voice. You don't have to get right on top of it. You've got to speak up like I'm doing right now, so the court reporter, who's right below you, can understand, and the two ladies on the end of the jury box can understand what you're saying. So speak up. Begin by stating your full name and spelling your last name for the court reporter.

DEQUINCY BEST: DeQuincy Best, B/e/s/t.

THE COURT: Your witness, Solicitor. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

DEQUINCY BEST

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Good morning, Mr. Best.

A Good morning.

Q Mr. Best, where are you from?

A Allendale.

Q From Allendale?

A Yes, sir.

Q Have you been born and raised in Allendale?

A Yes, sir.

Q Are you working currently?

A No, sir.

COURT REPORTER: It's the speaker. It's the speaker here. I believe it's the speaker, not the microphones.

THE COURT: It might be. It won't stay on.

BY SOLICITOR HOLLEN:

Q Mr. Best, can you tap that microphone for me? Is that one on? Okay.

THE COURT: This, for some reason, isn't picking up right now. You'll have to speak up for me. I'm trying to turn it up, but apparently, yours is not coming up like the other microphones are picking up. But just speak up for me. You don't have to get right on top of it. Just speak in a tone that I'm speaking now.

A Okay.

THE COURT: All right, Solicitor. Direct examination, proceed.

SOLICITOR HOLLEN: Thank you, your Honor.

BY SOLICITOR HOLLEN:

Q Mr. Best, are you working currently?

A No, sir, not at the time right now.

Q Do you know the defendant in this case, Mr. Williams?

A Yes, I do.

Q How do you know him?

A I just know of him.

Q Okay. Is he somebody that you've had seen around and would recognized?

A Yes.

Q What about the victim in this case, James Spellman?

A He's my first cousin.

Q He's your first cousin.

A Yes, sir.

Q Mr. Best, do you remember the day that James Spellman was killed?

A Yes, I do.

Q What were you doing on that day?

A Me and him was just cooling, chilling on -- in Pinewood Apartments, just basically talking about

things.
Q And what were you -- did you live in Pinewood Apartments at the time?
A No, sir.
Q Was James staying at Pinewood Apartments at the time?
A Yes, he was.
Q Who was he staying with?
A A girl named Tiffany. I don't know her last name.
Q That's okay.
SOLICITOR HOLLEN: Your Honor, may I approach the witness?
THE COURT: You may.
BY SOLICITOR HOLLEN:
Q Mr. Best, I'm going to show you what has already been entered into evidence as State's Exhibit 1.
A Right.
Q Would you take that from me? Thank you. Is that Pinewood Apartments where you were hanging out with James Spellman?
A Yes, sir.
Q And where were you in that picture with James?
A In this picture right here, I was on the left-hand side, going towards one of my childhood friends, Debentris Breeland, he's standing on the left-hand side.

Tiffany's on the right-hand side. I was in the left-hand stairwell.

Q And where was James?

A On the right-hand side.

Q Okay.

SOLICITOR HOLLEN: Your Honor, may I approach the witness?

THE COURT: You may.

BY SOLICITOR HOLLEN:

Q Mr. Best, I'm going to hand you a few things that have been marked for identification as State's 2, 3, 4, 5, and 6. And we'll take those one at a time. Okay? Hold those for me. Okay?

Mr. Best, State's Exhibit 2, do you recognize it?

A Yes, I do.

Q What is it a picture of?

A The stairwell at Pinewood Apartment where me and my cousin James was at.

Q How about State's Exhibit 3?

A Same stairwell.

Q Is it just a different angle?

A Yeah, just a different angle.

THE COURT: Speak up, now.

A Just a different angle.

THE COURT: You're getting too far from the mic.

You've got to come up a little bit for me.

BY SOLICITOR HOLLEN:

Q Mr. Best, are those two pictures fair and accurate depictions of the stairwell at Pinewood Apartments as they were on that day in 2015?

A Yes, they are.

Q Have they been changed or altered in any way?

A No, sir.

SOLICITOR HOLLEN: Your Honor, at this time I'd ask that State's 2 and 3 be admitted, for purposes.

THE COURT: As to State's 2 and 3, Mr. Deysach?

MR. DEYSACH: No objection, your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Numbers 2 and 3 will be admitted into evidence in the trial of this case, without objection. 2 and 3 are in evidence. You may now publish to the jury.

ITEM IDENTIFIED AS PHOTOGRAPH

MARKED STATE'S EXHIBIT NUMBER 2

ADMITTED AS EVIDENCE.

ITEM IDENTIFIED AS PHOTOGRAPH

MARKED STATE'S EXHIBIT NUMBER 3

ADMITTED AS EVIDENCE.

SOLICITOR HOLLEN: Thank you, your Honor. May I ask the witness to step down, your Honor? Is that okay?

THE COURT: Give me the portable microphone,

please, Madam Clerk.

Now, Mr. Best, you're going to have your back to my court reporter at request of the Solicitor. It's very difficult for the court reporter. She can't see your mouth to pick up what you say. You're going to have to use this microphone and speak up.

SOLICITOR HOLLEN: All right.

THE COURT: No, Solicitor. Back up a little bit, so the court reporter will be able to pick both of all of you all up.

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: Can everybody on the jury see the screen?

RESPONSES FROM JURORS.

THE COURT: All Right. Can you see it, Mr. Deysach?

MR. DEYSACH: Yes, your Honor.

THE COURT: Can you see it, Mr. Best?

A Yes, sir.

THE COURT: All right. All right, Solicitor, direct examination. Speak up.

SOLICITOR HOLLEN: Thank you, your Honor.

BY SOLICITOR HOLLEN:

Q Mr. Best, On that picture, where were you seated on --

THE COURT: Refer to the exhibit number for the record.

BY SOLICITOR HOLLEN:

Q 2, in this picture in State Exhibit 2, where were you seated on that day?

A On the left-hand side.

Q On the left-hand side of the steps?

A Yes, sir.

Q Where were James seated?

A On the right-hand side.

Q Right-hand side on the steps. State's 3. Same picture, same –

A Correct.

Q Okay.

THE COURT: Refer to the exhibit number for the record.

BY SOLICITOR HOLLEN:

Q State's 3, where were you seated in that picture?

A Left-hand side. My cousin James was on the right-hand side.

Q All right. Thank you. Mr. Best, go ahead and have a seat back up on the stand, if you don't mind. I'll take that.

Mr. Best, at some point, did a vehicle pull up to Pinewood Apartments?

A Yes, it -- yes, it did.
Q And what kind of vehicle was it?
A It was a blue Ford Focus.
Q A blue Ford Focus.
A Correct.
Q Did you notice anything else about it when it pulled up? Anything that stood out?
A Not really.
Q Okay. When that car pulled up, did anybody get out of it?
A Yes.
Q Who was the first person that got out of the car?
A The defendant, Mr. Williams, and Rahem Devoe.
Q. Who was the first one to get out?
A Rahem Devoe.
Q All right. And what did Mr. Devoe do when he came up?
A He came on the stairwell; shook my hand. Following him was Mr. Williams. Also came and shook my hand. Rahem repeated going up the stairwells to Debentris Breeland apartment.
Q All right. Hold on a second. Let's back up. Let's slow down just a little.
Did Mr. Devoe -- you said Mr. Devoe greeted you. He said hi to you?

A Correct.
Q Did he speak with James?
A Correct.
Q And then, he started to do what after that? You say he went upstairs?
A Went upstairs on the left-hand side of Pinewood where I was staying at. Went toward the Quincy Breeland apartment. Following him was Mr. Williams.
Q Okay. Hold on. Sorry, I'm going to stop you right there. So Mr. Devoe walked by you to go up the left-hand stairs?
A Correct.
Q The next person that came up was who?
A Mr. Williams, the defendant.
Q And what did he do?
A Also shake my hand.
Q And did you -- when he shook your hand, did you notice anything?
A Yes, he had a pistol tucked on the side of his shoulder, on the side of his pants.
Q On the side of his pants?
A Correct.
Q Did he speak with James?
A No, sir.
Q So, he shook your hand. What did he do next?

A Turned -- turned around and walked down -- back the stairs.

Q All right. So, he was on the stairs, and he turned around and went back down?

A Correct.

Q And what did you do next, when he started going down the stairs?

A Well, I turned my -- I turned my back going towards the upstairs. I was going to go get ready to go upstairs, too, to Debentris' apartment. By the time I turned around, a gunshot. So I reached down over James Spellman.

Q Okay.

A When the gun off, I yell, Rahem Devoe also yell, stop, don't shoot my cousin. Terreak Williams was over him with the gun, getting ready to shoot him again.

Q Okay. All right. So you turned to go up the stairs to the Debentris Breeland's apartment. That's what you said, right?

A Correct.

Q And Mr. Devoe was at the top of the stairs?

A Correct.

Q And did you see James doing anything when you turned to go upstairs?

A James -- I said, James, he was -- he was sitting

down on the right-hand side on the steps. He must have -- Mr. Williams pulled the gun out, and James stand up against the wall right here on State Evidence 2.

Q All right. Pull up 2, please.

He was sitting on the -

THE COURT: Just a moment.

SOLICITOR HOLLEN: Sorry.

THE COURT: Refer to the exhibit number for the record.

BY SOLICITOR HOLLEN:

Q On State's 2, Mr. Best, you say he was sitting on the steps?

A Correct.

Q And he stood up against the wall?

A Correct.

Q And at that point you turned; then Mr. Williams had the gun pointed at James?

A Correct.

Q And how many gunshots did you hear?

A One.

Q And what did James do when you heard that gunshot?

A He tried to run. He tried to run up the stairwell. Where you see the blood on Exhibit 2, he land right there on his stomach.

Q Okay. Will you bring up State's Exhibit 3, please,

Mr. Hutto.

So, in this picture, in State's 3, Mr. Best, James, you said, tried to run and he --

THE COURT: Turn around and face the witness and ask the question, Counselor.

BY SOLICITOR HOLLEN:

Q When he tried to run, you said fell face-first?

A Correct.

Q You said he landed about where the blood was.

A Correct.

Q And what happened next after that? You said you were yelling.

A Terreak was standing over him with the gun, getting ready to shoot him again. Me and my cousin, Rahem Devoe, tell him to stop; don't do that; that our cousin, our family. And he start running, wherever he went. I don't know where he went.

Q Okay.

A I don't know if he got back in the car or what.

Q Do you remember what happened next?

COURT REPORTER: I'm so sorry.

BY SOLICITOR HOLLEN:

Q Speak up just a little bit.

A No, not really, no, sir.

Q Mr. Best, did you attempt to help James?

A Yes, sir.
Q How did you do that?
A Well, see if he was still breathing. Pick him up and throw him in my car on Exhibit 4.
Q Hold on, hold on. Let's not get there. We're not there quite yet. We'll get to those in just a second. But you tried to help him, you tried to pick him up?
A Correct.
Q Mr. Best, do you remember the gun that you saw Mr. Williams use on that day?
A It was probably a .40 Glock .40.
Q Okay. Was it an automatic or a revolver? Do you know the difference?
A No, it was automatic.
Q It was an automatic.
A Yes, sir.
Q So, it didn't have a dial?
A No, sir.
Q Now, Mr. Best, I'm going to ask you to look at State's 4, 5, and 6. Do you recognize those pictures?
A Yes, I do.
Q What are they?
A Pictures of my Crown Vic, Victoria, my vehicle.
Q Your vehicle?
A Yes, sir.

Q What kind of vehicle is it?
A Ford Crown Victoria.
Q So, after James got shot, you said tried to help him. What did you do with him?
A I put him in the back seat on Exhibit -- State Evidence Exhibit 5.
Q All right. Are those pictures a fair and accurate depiction of your vehicle as it was on that day?
A Correct.
SOLICITOR HOLLEN: Your Honor, I'd ask at this time that State's 4, 5, and 6 be admitted into evidence.
THE COURT: As to State's 4, 5, and 6, Counsel?
MR. DEYSACH: No objection.
THE COURT: Ladies and gentlemen of the jury, State's Exhibits 4, 5, and 6 will be admitted into evidence in the trial of this case without objection. You may now publish to the jury, Counsel.
SOLICITOR HOLLEN: Thank you, your Honor.
ITEM IDENTIFIED AS PHOTOGRAPH
MARKED STATE'S EXHIBIT NUMBER 4
ADMITTED AS EVIDENCE.
ITEM IDENTIFIED AS PHOTOGRAPH
MARKED STATE'S EXHIBIT NUMBER 5
ADMITTED AS EVIDENCE.
ITEM IDENTIFIED AS PHOTOGRAPH

MARKED STATE'S EXHIBIT NUMBER 6
ADMITTED AS EVIDENCE.
BY SOLICITOR HOLLEN:

Q Mr. Best, State's Exhibit 4, can you describe that for us?
A It's a picture of my vehicle.
Q It's a picture of your vehicle. What kind of vehicle is it again?
A It's a Ford Crown Victoria.
Q State's Exhibit 5. What's that a picture of, Mr. Best?
A Picture of my back seat.
Q Picture of your back seat. What is that on the back seat?
A Blood.
Q State's Exhibit 6. Mr. Best, what is that?
A A picture of my vehicle, back door, left-hand side.
Q And what's on the back door, left-hand side?
A Also blood.
Q Mr. Best, after you got James in the car, what did you do with him?
A Rushed him to Allendale/Fairfax Hospital.
Q And during that drive, did James say anything to you?
A No, sir.

Q Did he say anything at all after he was shot?
A No, sir.
Q Do you remember about what time the shooting took place, Mr. Best? Roughly the time of day?
A About 5:30 or 6:00 o'clock, somewhere around that time.
Q Do you remember exactly?
A No, I don't.
Q Okay. Mr. Best, I'm going to ask you if you see the person in the courtroom today that you saw fire the shot at James Spellman.
A Yes, I do.
Q And where is he?
A Right here, defendant.
Q Can you describe -- can you describe what he's wearing?
A Blue and red shirt.

SOLICITOR HOLLEN: Your Honor, let the record reflect that he's identified the defendant.

THE COURT: Proceed.

SOLICITOR HOLLEN: Mr. Best, I have no further questions for you at this time. Thank you.

THE COURT: Cross-examination.

MR. DEYSACH: Thank you very much, your Honor.

DEQUINCY BEST

CROSS-EXAMINATION

BY MR. DEYSACH:

Q Good morning, Mr. Best. My name is Ian Deysach. I'm the attorney for Mr. Williams.

I'm going to go straight to the day that this happened. Can you tell me when you arrived at Pinewood Apartments?

A I was out there early. Probably about 1:00 o'clock. 1:00, 2:00 o'clock.

Q But you don't live there. Is that correct?

A No, sir.

Q So, were you there when Ms. Loadholt and James arrived back from the DSS office?

A Yes, sir. Yes, sir.

Q And what car were they driving?

A I'm thinking she was driving an Explorer or something like that.

Q What did Mr. Spellman do then? Did he go to the apartment, or did he stay with you?

A He went to the apartment for a little bit. Then, he came back downstairs.

Q Who else was with you all?

A During the time we were on the steps?

Q Yes, sir.

A It was just me, him, and Debentris Breeland.

Q Okay. So, were you there when Mr. Williams came to take out the trash?
A Mr. Williams? No, sir.
Q Did you see anyone take out the trash?
A No, sir.
Q All right. Now, when you -- all right. You testified that, after this happened, you did not -- well, you took Mr. Spellman to the hospital in your personal vehicle. Is that correct?
A Correct.
Q You did not call 911, correct?
A No, sir. My phone was dead.
Q Your phone was dead.
A Correct.
Q Was there anyone there that had a phone that could work?
A I -- I -- no, sir.
Q Let me ask you this. When the -- when the blue car arrived, are you testifying today that Rahem Devoe got out of that blue car?
A Yes, he did.
Q All right. Have you ever spoken to law enforcement about this case?
A On that same night?
Q Yes.

A SLED, yes, sir, I did.
Q SLED? Did you speak to Detective Manor In the hospital?
A I don't even recall. I talked to a lot of people that night.
Q Okay. So, maybe you did, and maybe you didn’t?
A Maybe I did, maybe I didn't, yes, sir.
Q Okay. And you did a written statement for Mr. Johnson?
A Yes, I did.
Q At any point did you tell Mr. Johnson that Rahem Devoe got out of that blue car?
A I might have. I might not. It was -- everything happened so fast, so, no.
Q Well, and you got an opportunity to write out a statement, didn’t you?
A Yes, I did.
Q And you had all the time that you needed to write that statement out, didn’t you?
A Yes, sir, I did.
Q Okay. And this is, of course -- I mean, you know why you're writing out this statement, correct? For law enforcement purposes, correct?
A Yes.
Q All right. And so, the reason that they’ve asked

you to write this statement is so that they can investigate this shooting, correct?

THE COURT: Ask the question, Counselor.

Q Correct?

A Correct.

Q And so, what they've asked you to do is write down everything that's important that happened that night, correct?

A It was what I could remember at that when police -- it was what I could remember at the time, yes.

Q Okay. Now, you made this statement at May 26th, the day of the shooting, at 8:00 p.m., correct?

A Correct.

Q So, the shooting had just happened a couple hours ago, correct?

A Yeah.

Q And we're not talking about some stranger that was walking out of this blue car, correct?

A No.

Q Correct?

A Correct.

Q I mean, Rahem Devoe is not a stranger to you, correct?

A Correct.

Q In fact, he's your cousin, correct?

A Correct.
Q And nowhere in your written statement did you tell law enforcement that your cousin got out of the same car that Mr. Williams arrived in, correct?
A I may have; I may not, correct.
Q Okay. So, the first time that you spoke to law enforcement regarding Rahem Devoe was just a couple of weeks ago in preparation for this trial, correct?
A Correct.
Q All right. Because you haven't spoken to law enforcement since May 26th of 2015, until just a few weeks ago, getting ready for this trial, correct?
A Correct.
Q Okay. So, if you didn't tell them about Rahem Devoe in the first place, then, a few weeks ago would have been the first time you would have mentioned his name, correct?
A I may -- yes, I guess. Yes, sir.
Q Were you able to describe the clothes of the person who shot Mr. Spellman?
A No, I do not --
COURT REPORTER: I'm sorry, *I do not* what?
A I do not remember all that.
THE COURT: I'm sorry. You couldn't what?
A Do not remember all that.

BY MR. DEYSACH:

Q Did you remember back on May 26 what kind of clothes the person was wearing?

A No, I do not.

Q So, at no time have you been able to tell law enforcement a clothing description of the person who shot James?

A No, I do not.

Q All right. And I can assume certainly not a clothing description of Mr. Devoe, correct?

A No, sir.

Q Not after two years, correct?

A No, sir.

Q And at no time until trial preparation for this case did you say anything about Mr. Williams walking up toward Mr. Breeland's apartment. Isn't that true?

A Repeat that, please.

Q Okay. On May 26th, did you ever tell the police that Mr. Williams had walked up towards Mr. Breeland's apartment?

A Yes, I -- yes, I did.

Q Okay.

THE COURT: Show him a copy of the statement, Counselor.

You may approach the witness, Counselor.

MR. DEYSACH: Thank you.

THE COURT: Hand him the statement and proceed with cross-examination.

BY MR. DEYSACH:

Q I'm handing you a copy of your written statement, dated May 26, 2015. Is there anywhere in that statement where you tell police that Mr. Williams walked up towards Debentris Breeland's apartment?

A That what he did, he did walk up toward -- I was sitting on the bench on the stairwell. So, that was where he was going.

Q I understand that's what you're telling the jury today. What I'm asking you is whether that's what you told the police in your written statement on May 26th.

A Yes.

Q Can you show me where you say that? Just point it out. I'm, I think, basically -- I would direct you to the bottom of the first page, and then, the second page.

A Where you been at? You talking about --

Q Well, I mean, I'm asking you if --

THE COURT: Hold on a second. Let him have an opportunity to review the statement, Counselor.

MR. DEYSACH: Sure. Yes, your Honor.

BY MR. DEYSACH:

A I don't really say --

Q You got to speak up.
A Okay. In the statement, it doesn't say it.
THE COURT: You got to speak up for me.
A Okay. On the statement, it doesn't say Terreak was going up the stairwell.
THE COURT: Step back, Counselor. You're blocking the jury's view.
Are you finished reviewing your statement?
A Correct. Yes.
THE COURT: Ask the question, Counselor.
BY MR. DEYSACH:
Q Is there anywhere in that statement where you tell police that Mr. Williams walked up towards Debentris Breeland's apartment upstairs?
A No, I didn't put Debentris Breeland's name in the statement.
Q You did?
A I didn't.
Q Okay. Go ahead. All right.
MR. DEYSACH: Your Honor, may I approach the witness?
THE COURT: You may.
MR. DEYSACH: Thank you.
BY MR. DEYSACH:
Q Okay. And finally, did you tell the jury when you

were testifying that you did or didn't see Mr. Williams shoot James Spellman?
A I did.
Q You told them that you saw it?
A Yes, I did.
Q Okay. Do you remember speaking to Detective Qutique Manor at the hospital on his body mic, or on his body cam?
A Like I say, I talked to a lot of cops that night. I don't recall talking to a Manor. I do not.
Q Okay. Do you remember telling him that, when asked if you saw anybody shoot Mr. Spellman, that your back was turned?
A I told him my back was turned when -- when James -- my back was turned when I was going up the stairs. But when Terreak went back down the stairs, I heard James got up.
Q Okay.
A When he got up, he's standing against the wall, that's where I think he shot the boy. He began -- he's standing against the wall.
Q So, when Mr. Manor asked you, had you seen him pull the trigger?
A Yes.
Q Your answer to him was no, my back was turned. Did

you say that or not?

A I don't recall. Probably so. I think so.

Q I'm sorry. Did you say it, or not? I need a firm answer.

A I don't know.

Q Okay.

MR. DEYSACH: I may need a microphone for this, your Honor.

THE COURT: I don't know what this is. Counsel approach. See Counsel for a minute. Come on, Counselor, chop-chop.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, MR. HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Step back and proceed.

MR. DEYSACH: Your Honor, I probably need a little bit of guidance on how to you'd like me to introduce this into or in any type of evidence.

THE COURT: Well, first of all, you're going to have to authenticate it, Mr. Deysach.

MR. DEYSACH: So I carry the video up to Mr. Best and let him --

THE COURT: Any objections, Solicitor?

SOLICITOR HOLLEN: No, your Honor.

THE COURT: He wants to take his computer to the witness.

SOLICITOR HOLLEN: I have no objection to that.

THE COURT: You may approach the witness and hand him the computer, Mr. Deysach.

Approach the witness. You're blocking the jury's view.

MR. DEYSACH: I'm not going to enter this.

THE COURT: All right. Proceed with cross-examination, Mr. Deysach.

BY MR DEYSACH:

Q All right. This is where I left off. You see any trigger here.

THE COURT: Hold it, Mr. Deysach. Ask a question. Don't make a statement.

MR. DEYSACH: Okay.

BY MR DEYSACH:

Q Do you remember Mr. Manor asking you if you seen him pull the trigger on that night the hospital?

A I don't recall.

Q Okay. Do you remember telling him, no, my back was turned?

A Yes, I did see that.

Q Okay. In response to that question?

A No.

Q Did you ever tell the police anything about Mr. Spellman trying to run off when this happened?
A Yes.
Q Did you ever -- let me ask you this? Did Rahem Devoe help you put Mr. Spellman in the car?
A No.
Q Let me ask you this. Did Rahem Devoe tell you to call 911?
A No.
Q Did you guys wait ten or fifteen minutes for an ambulance to come after 911 was called?
A I ain't going to wait for nobody to call. I throwed my cousin in the back seat of my car and rushed him to the hospital myself.
Q So, no 911 call and no waiting for fifteen minutes for an ambulance to come, correct?
A No.
Q There was, you said, an automatic. Is that correct?
A Yes.
Q And that, after this happened, Mr. Williams, who you say did this, left, correct?
A Correct.
Q And you tell the police that anybody picked up any shell casings or anything like that?

A No.
Q Cause that didn't happen, did it?
A I do not know.
Q Did you see it?
A No.
MR. DEYSACH: No further questions.
THE COURT: Re-direct.
SOLICITOR HOLLEN: Thank you, your Honor.

DEQUINCY BEST

RE-DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Mr. Best, how long before you saw your first cousin shot in front of people before you spoke to police? Do you have any idea?
A It was late.
THE COURT: Speak up for me.
A It was late. Three or four hours later. I don't have a slight idea.
Q And do you remember -- you remember speaking to him.
A Correct.
Q Do you remember writing a statement?
A Correct.
Q Did anyone ask you to put every single detail in that statement?

A No, they did not.
Q Did anyone ask you about Rahem Devoe being there?
A No, they did not.
Q Has anyone ask you who shot your cousin?
A No, they did not.
Q They didn't ask you who shot your cousin?
A I don't think. I told them.
Q You told them.
A Yeah, before they ever ask me.
Q And did you give them a name?
A Correct.
Q And what was the name again?
A Terreak Williams.
Q And is Mr. Williams someone that's known to you?
A I know of him. I know him.
Q He wasn't a stranger.
A No, he wasn't a stranger.
Q You told them then who it was.
A Correct.
Q And once you gave them a name, did anything ask you about the clothes that person was wearing?
A No, they did not.
Q Mr. Best, do you remember when you spoke -- and I'm just asking. Do you remember when you spoke to Detective Manor? Was it at the hospital? Do you know?

A I haven't the slightest idea.
Q Have you ever had a family member killed in front of you before?
A No, sir.
Q Is that the only time?
A First time.
Q How did it make you feel?
MR. DEYSACH: Objection. Relevance, your Honor.
THE COURT: Objection what?
MR. DEYSACH: Relevance. *How'd it make you feel*.
THE COURT: Overruled. I'll allow him to answer that question if he can.
BY SOLICITOR HOLLEN:
A Devastated. He was shot. Shocked me, you know. It was something new.
SOLICITOR HOLLEN: Thank you, Mr. Best. No further questions, your Honor.
THE COURT: Re-cross, limited to re-direct.
MR. DEYSACH: None, your Honor.
THE COURT: As to this witness, Solicitor?
SOLICITOR HOLLEN: I would ask that he be excused, your Honor.
THE COURT: Mr. Deysach, any objection? Mr. Deysach, any objection?
MR. DEYSACH: No objection, your Honor.

THE COURT: Mr. Best, you may step down from the witness stand. You are to leave my photographs there. You are excused from the trial of this case and you may leave the courtroom. Thank you.

Madam Foreperson, ladies and gentlemen of the jury, I'm going to take my mid-morning break at this point. Let you stretch your legs, use the restroom. Please do not discuss the case. You have not heard all the evidence in the case. I'll be back with you after you've had a chance to stretch your legs and take a break this morning. You may retire to your jury rm at this time.

JURORS LEAVE COURTROOM 11:03 A.M.

THE COURT: All right, Counselors, I want you all to get a break, as well as the people in the courtroom. I need to see my two lawyers briefly. And Donnie, I need to see you briefly in my chambers. We'll take ten minutes.

OFF THE RECORD 11:04 A.M.

BACK ON THE RECORD 11:18 A.M.

BY THE COURT:

BAILIFF: All rise. Court's back in session.

THE COURT: Thank you. Please be seated. State ready to proceed?

SOLICITOR HOLLEN: yes, your Honor.

THE COURT: Defendant ready to proceed?

MR. DEYSACH: We are, your Honor. We believe there were going to be some matters regarding the next witness that we might want to take up outside the presence of the jury.

SOLICITOR HOLLEN: Briefly, it's regarding impeachment, your Honor.

THE COURT: Counsel approach.

OFF-THE-RECORD BENCH CONFERENCE,

OUT OF HEARING OF JURORS. PRESENT:

THE COURT, SOLICITOR HOLLEN, MR.

DEYSACH.

END BENCH CONFERENCE.

THE COURT: Step back.

BENCH CONFERENCE CONTINUES.

END BENCH CONFERENCE.

THE COURT: Do you have the dates?

MR. DEYSACH: I don't have the date. I believe it's a few months before the events we're here on today.

THE COURT: Check on it.

SOLICITOR HOLLEN: Your Honor, that's November 18 of 2015.

THE COURT: That was of what year? 2015.

SOLICITOR HOLLEN: 2015. That's seven or eight months after this incident.

CONTINUE BENCH CONFERENCE.

END BENCH CONFERENCE.

THE COURT: All right. Let the record reflect Counsel approached me about the next witness who is on the witness list, Rahem Devoe. He's Number 22 on the State's witness list. Mr. Deysach has informed the Court that he is aware of a charge, not a conviction yet, on this witness of the offense of armed robbery. The Solicitor tells me this charge occurred in November of 2015.

SOLICITOR HOLLEN: Your Honor, I just looked at the warrant. I apologize. This occurred before that, so it was on April 1, 2015, and he was arrested on April 9.

THE COURT: I'm going to allow Mr. Deysach to ask the witness on cross whether he's been charged with armed robbery. He's also been and that's it. And not anything concerning the penalty, under *Rule 608*. I'm also going to permit, under *Rule 609*, that this next witness has been convicted of a crime of failing to stop for a blue light for purposes of Mr. Deysach attempting to attack the witness's credibility or believability. I believe that accurately states what occurred at the Bench as far as my ruling is concerned. But Mr. Deysach wishes to place on the record his request.

MR. DEYSACH: Thank you very much, your Honor. The

request I would make that I made at the bench conference was to impeach Mr. Devoe under *Rule 608*© under evidence of bias on a May 7, 2015 -- I'm sorry -- September 15, 2015 drug charges, which are still pending.

THE COURT: And *Rule 608* deals with evidence of instances of conduct involving truthfulness or untruthfulness, and my ruling on that is that drug charges do not affect truthfulness or untruthfulness or therefore that request is denied.

MR. DEYSACH: Thank you, your Honor. I also requested to be able to get into the penalties, the potential penalties for these offenses.

THE COURT: And I felt that the penalty was a matter for the Court, and therefore, not a matter -- other than I'm going to allow you to ask about charges to attack his credibility, but I'm not allowing you to ask anything about penalty. Anything else?

MR. DEYSACH: Making it clear that the penalty as to both the drug charges, which I won't be able to get into; the armed robbery, which I will, but not the penalty. Request to ask the penalty -- be able to ask about the penalty, and the grounds is *Rule 608*©.

THE COURT: Yes, sir. You pointed that out to me at the Bench that evidence applies to prejudice or other motive. Bias, prejudice or any other motive to

misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced. I'm allowing you to put in evidence of a charge and of a previous conviction. However, I do not think that necessarily means that you can put in evidence through the witness of the penalty for the charge, and I deny your request.

Let's proceed. Call your next witness.

SOLICITOR HOLLEN: I think we'll get the jury. We need a jury. But I'll go ahead and –

THE COURT: I understand. Bring the jury, but call your witness.

SOLICITOR HOLLEN: Rahem Devoe, your Honor.

THE COURT: Rahem Devoe.

You stand right there, Mr. Devoe. We'll get the jury, and the clerk's going to come over and swear you in the presence of the jury once the jury comes in.

You got to speak up in here, Mr. Devoe, like I'm talking right now. You got to talk right now in a tone, sir, so everybody will hear you.

JURORS ENTER COURTROOM 11:35 A.M.

THE COURT: Call your witness in the presence of the jury.

SOLICITOR HOLLEN: Thank you, your Honor. Rahem Devoe.

THE COURT: Madam Clerk, would you swear the witness, please.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole, and nothing but the truth, so help you God?

MR. RAHEM DEVOE: Yes, ma'am.

THE COURT: Mr. Devoe, I'm going to ask you, that microphone will amplify your voice. Just don't get too close to it. Just speak up. And if you get right on top of it, it blurs your voice. State your full name and spell your last name for the court reporter.

MR. RAHEM DEVOE: Rahem Devoe, D/e/v/o/e.

THE COURT: Can you hear better now?

COURT REPORTER: I can.

THE COURT: Your witness, Counsel.

SOLICITOR HOLLEN: Thank you, your Honor. Thank you, Elaine.

RAHEM DEVOE

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Good morning, Mr. Devoe. How you doing?

A Good. Thank you.

Q Mr. Devoe, where are you from?

A Allendale.

Q Born and raised here?

A Yes, sir.
Q Do you know the defendant in this case, Mr. Williams?
A Yeah.
Q And how do you know him? Is he somebody you saw around on a regular basis?
A Yes, sir.
Q Do you know the victim in this case, James Spellman?
A Yes, sir.
Q How do you know James?
A Kin to me. My cousin.
Q He was kin to you. Mr. Devor, do you remember the day James was killed?
A Yeah.
Q Where were you on the day James Spellman was shot and killed?
A I was at Pinewood.
Q You were at Pinewood, all right. Were you in Allendale that whole day, and did you come from somewhere else?
A No, sir, I wasn't in Allendale.
Q You weren't in Allendale? Where were you?
A I was in Columbia. Atlanta. I went to Columbia.
Q You were in Atlanta, and you went to Columbia, and

then you came down here?
A Yes, sir.
Q Before you went to Pinewood, where were you?
A In the Pond.
Q In the Pond?
A Yeah.
Q And where is that?
A Up the street. My uncle house.
Q You were at your uncle's house. Did anybody call you on that day?
A Yeah. I talked to Mr. Williams. And basically, that was it who called me.
Q You talked to the defendant?
A Yes, sir.
Q All right. And at some point, did you see the defendant?
A Yeah.
Q And where were you when you saw him?
A They came to my uncles's house.
Q They came to your uncle's house. Who's they?
A It was Jaycoby, PC, and one other guy.
Q And one more. Okay. Jaycoby, you're talking about the defendant?
A Yeah.
Q PC, who's that?

A Ty.
Q Do you know his full name?
A Moultrie.
Q Ty Moultrie. They came to your uncle's house. Were they driving?
A Yeah.
Q What kind of car were they in?
A It was a blue car.
Q A blue car? Do you remember what type or anything?
A I think an Escort.
Q An Escort?
A Yeah.
Q Okay. And so, who all was in the car? You were in the car?
A Yeah. I got in the car.
Q All right. Who else?
A Jaycoby and PC and one other person.
Q One other person? Did you know the other person?
A No, I didn't.
Q Did you get a name or any nickname or anything? No?
A No.
Q You don't remember?
A I don't remember a nickname like that.
Q So you got in the car with them. What did you all

do? Did you just ride around?
A Rode around smoking.
Q All right. At some point when you were in the car with the defendant and Ty Moultrie, did you all end up at Pinewood?
A Yes, sir, we end up at Pinewood.
Q Did you all talk about going to Pinewood or did you just show up?
A No, we took a ride.
Q What made you stop there?
A It was a lot of people out there, and basically, I was going to talk to my cousin, Boobie.
Q Cousin Boobie?
A Debentris.
Q Debentris Breeland?
A Yes, sir.
SOLICITOR HOLLEN: Your Honor, may I approach the witness?
THE COURT: You may.
BY SOLICITOR HOLLEN:
Q Mr. Devoe, I'm going to show you what's been marked for identification and already admitted into evidence, I should say, as State's 1. Let's do 1 and 3. Will you take a look at those for me. Do you recognize those?
A Yeah.

Q On State's Exhibit 1, what is that?
A Pinewood.
Q That's Pinewood? Does anybody live in that building that you know?
A Yeah.
Q Who lived there?
A I know Debentris stay right upstairs. And my other cousin stay across from him.
Q Okay. Which side did Debentris stay on?
A Left-hand side.
Q On the left.
A Yeah.
Q You say Tiff?
A Yeah.
Q Where is she stay?
A Right-hand side.
Q Rahem, when you all got to the apartment, what did you do?
A I jumped out.
Q You jumped out of the car?
A Yeah.
Q And where were you headed?
A I was going toward Debentris.
Q And did you see anybody when you got out of the car?

A Yeah, I seen Quincy Best and I seen my cousin James. They was a few more people out there, but I ain't know who they was.
Q There were more people out there? Where were they?
A They go like three of them standing right there where the tree's at. And the rest of the people just out and about.
Q Where was Quincy? Do you remember where Quincy was sitting?
A I really -- I think he was standing up, if I ain't mistaken.
Q He was standing up when you got there?
A Yeah.
Q And did you speak with DeQuincy or James or both?
A Yeah, I spoke to everybody out there.
Q Everybody out there. And what did you do after that?
A I walked up the stairs.
Q All right. At some point -- now you had been in the car, you said. You were in the car. You've got to say yes or no.
A Yes, sir.
Q You were in the car with the defendant.
A Yes, sir.
Q At some point, did he get out of the car?

A Basically, I -- I ain't never see him. All I heard the door shut. When I heard the door shut, I was basically upstairs.
Q You were basically upstairs. Okay.
A Yes, sir.
Q So you didn't actually see him get out of the car.
A I ain't seen him got out.
Q When you were at the top of the stairs, were you able to get into the apartment? Did you go in?
A No, I couldn't even get in the apartment. Soon as I got to the top of the stairs, I heard gunshot.
Q All right. You heard a gunshot.
A Yeah.
Q How many gunshots?
A It was one.
Q And at that point, what did you do?
A I ducked.
Q You ducked?
A Yeah.
Q And did you turn and see where the gunshot came from at any time?
MR. DEYSACH: I object to the leading.
THE COURT: Sustained. Rephrase the question.
BY SOLICITOR HOLLEN:
Q After you ducked, what did you do?

A I ducked for the gunshot. Basically, I didn't hear no more shots. So I turned back around. I seen Jaycoby over my cousin James. I be like my grandma nephew; what are you doing.

Q Okay.

A He be like, don't say nothing to him. So I ain't say nothing.

Q All right. So you turned and you saw what? Say that again.

A I saw Jaycoby over -- over James Spellman.

Q And did you say anything at that time?

A Yeah, I say that my grandma nephew.

Q Did you say anything else?

A Nah, I ain't say nothing else.

Q Okay. Did you hear anybody else yelling anything else?

A Basically, after I say that, Jaycoby say nobody say nothing to him, so I ain't say nothing.

Q All right. You say you were at the top of the stairs?

A Yes, sir.

Q Where was James when you turned to look?

A On the ground.

Q On the ground. In State's Exhibit 3 that you have in front of you, Mr. Devoe -

A Yeah.
Q -- where was James laying when you turned?
A Right there in the dirt.
Q Do you remember how he was laying?
A No, sir.
Q And what did you do after you turned and saw Jaycoby Williams standing over James?
A I told him that my grandma nephew.
Q Okay. And what did he do?
A He say ain't nobody say nothing to him.
Q He said what, now?
A Nobody not say nothing.
Q The defendant said that?
A Yeah.
Q What did you take that to mean?
A I guess nobody say nothing to him.
Q Do you know what he meant by that?
A No, sir.
Q Okay. Did you see the gun that the defendant had?
A Yeah, basically.
Q Basically.
A I tell you –
Q Can you describe it? You know, what kind of gun?
A I know -- I know it was a handgun.
Q Okay. Was it an automatic or a revolver?

A It was automatic.
Q It was an automatic. Do you remember the color or anything?
COURT REPORTER: Was that no?
A No, sir.
Q After James got shot, what did you do after -- what did the defendant do?
A I told -- I told Quincy Best to put him in the car and take him to the hospital.
Q Okay. And did Quincy do that?
A Yeah, basically. I ain't stay there long enough. I just caught a ride.
Q What did you do?
A I caught a ride.
Q You caught a ride? Did you go to the hospital?
A No. I basically went to my cousin house. I had to go.
Q All right. You say you went to your cousin's house?
A Yes, sir.
Q How long did you stay around after James was shot?
A Not too long, because I was basically ain't know what to do.
Q Mr. Devoe, how long were you -- how long were you riding around in the car before -

A Riding around, not too long.
Q Not too long? How long have you known the defendant, Mr. Williams?
A Basically, all my life.
Q Basically, all your life. And how long have you known James?
A All my life. He my cousin.
Q Mr. Devoe, I'm going to ask you, do you have any current pending charges on you?
A Yeah. Like two.
Q Couple?
A Yeah, two.
Q Do you know what they are?
A Yeah.
Q What are they?
A Sale undercover and attempt to, I think, robbery or something.
Q And at some point –
SOLICITOR HOLLEN: I'll tell you what, I'll withdraw that question, your Honor.
BY SOLICITOR HOLLEN:
Q Mr. Devoe, I'm going to ask you, do you see in the courtroom today the person that you saw standing over James Spellman with the gun pointed at him?
A Yes, sir.

Q And can you point him out for us?
A He over there.
Q Can you describe what he's wearing?
A I don't even remember.
Q I mean right now.
A Collar shirt?
Q Collar shirt.
A Red. Red.

SOLICITOR HOLLEN: Your Honor, may the record reflect he's identified the defendant?

Mr. Devoe, I don't have any further questions at this point. Please answer anything Mr. Deysach has.

A Yes, sir.

THE COURT: Cross-examination?

MR. DEYSACH: Thank you, your Honor. May it please the Court.

RAHEM DEVOE

CROSS-EXAMINATION

BY MR DEYSACH:

Q Good morning, Mr. Devoe. My name's Ian Deysach. I represent Mr. Williams in this case.

I guess I want to kind of clarify some of the things that you said on direct examination. I guess I'll start with, I guess, how the Solicitor talked about trouble that you might have. Now, you do have a

conviction on your record for failure to stop for a blue light, correct?

A Yeah, it was over.

Q Okay. Not pending anymore. That was over 2014, correct.

A Um-hmm.

Q Okay. But now, I think you testified in response to the Solicitor's question that you have a charge for sale to an undercover?

A Yeah.

Q And do you know what substance it is that you were supposed to have sold?

A Marijuana.

Q Marijuana or methamphetamine?

A Marijuana, methamphetamine, whatever it is. I don't know.

Q Okay. And that you also have a pending charge for armed robbery.

A Yeah.

Q Okay. And those cases are in Allendale County?

A Yeah.

Q And they're going to be prosecuted in this very same courthouse, correct?

A Yeah.

Q By this very same Solicitor's Office.

A Yes, sir.
Q And those cases involve the very same police departments, don't they?
A I guess so.
Q Now, Mr. Devoe, you said today that you were coming from Atlanta, but then you went to Columbia to come to Allendale, correct?
A Yeah.
Q And certainly, Columbia is not on the way back from Atlanta to Allendale, correct?
A My daughter was in Columbia at the time.
Q Okay. So what you're telling the jury today is that you drove from Atlanta to Columbia to see or pick up your daughter. Is that correct?
A I spent some time with my daughter.
Q But you spent the time with your daughter in Columbia. You didn't bring her back to Allendale, correct?
A She came back down here with her mother.
Q And you at the same time, or just with the mother?
A With her mother.
Q Okay. So did you see her mother in Columbia, also?
A Yeah.
Q Okay. So do you remember filling out a statement to police on June 2nd of 2015? Making a written

statement?
A I don't recall.
Q You don't recall? I guess I'll ask you first, do you remember meeting with law enforcement on June 2nd of 2015?
A I met with law -- I met with SLED agent.
Q SLED agent. Okay.
A Yeah.
Q Would you agree that SLED is law enforcement, The State Law Enforcement Division? Isn't that right?
A Yeah, it's the same.
Q All right. And that's Mr. Johnson that you met with?
A Yeah.
Q And you -- at this time, you're not sure whether or not you made a written statement?
A I know I made -- if I -- by Mr. Johnson wrote one.
Q Okay. Do you remember the first line in that statement was: *I came from Atlanta to Allendale, and went and check on my people*?
A Did that, too.
Q Okay. Did you leave out the part about Columbia?
A Probably did.
Q Okay. And you told them at that time that you were coming to see your daughter and your daughter's mother

in Allendale?
A Naw. In Columbia.
Q That's what you're telling us now, but is that what you told police at the time?
A When it got out there, I meant it Allendale, too.
Q So you went to Columbia -- I'm not asking you what you're telling the jury.
A She was in Columbia.
Q I understand.
A Therefore, when I went to Atlanta –
THE COURT: Whoa. Whoa. One person speaks at a time. You don't talk over him. You don't talk over the lawyer.
A Yes, sir.
THE COURT: Finish your answer; then ask the question, Mr. Deysach.
MR. DEYSACH: Yes, your Honor.
BY MR DEYSACH:
Q Are you ready for a question?
THE COURT: Ask a question, Counselor.
MR. DEYSACH: Okay.
BY MR DEYSACH:
Q The question is not whether or not you visited your daughter in Columbia and then traveled separately to Allendale. The question is whether or not you told the

police that on June 2nd of 2015.
A Yeah, I probably did.
Q Probably did?
A I don't recall that, June 15. I can't remember that far sometimes. I remember writing a statement, though.
Q Do you remember writing that in your statement?
A No.
Q Okay. All right. All right, so you testified on direct examination just a few minutes ago that you were at the -- I guess your aunt's house.
A No.
Q I'm sorry. Your uncle's house? It was a place called the Pond.
A Yeah.
Q And that you told them that my client called you, correct?
A Yeah.
Q And you told them that he's the only one that called you.
A Yeah, basically, that day, he's the only one I -- only person I could remember calling that day.
Q Okay. Do you -- so that means that -- okay. Was he calling you a lot or calling you a little?
A He was calling me. He call me -- he call me every

day.
Q Okay. Okay. Do you remember telling the police, Mr. Johnson, when he came for not only a written statement, but a recorded statement, do you remember telling him that PC kept calling you?
A I don't remember that.
Q So you don't remember Mr. Johnson asking you: *PC the one that called you and said what you were doing*. And your response was: *PC kept calling me*. His response was --
A Yeah.
Q Okay. Do you remember saying that?
A Yeah. Basically, somebody -- I –
Q Okay. Okay. But now you're telling the jury today that's not what happened.
A I ain't told the jury that.
Q Did you not just testify that Mr. --
A I said Jaycoby called me. I ain't never say PC didn't call me.
Q Did you say that Jaycoby was the only one that called you that day?
A I probably did.
Q Okay. But so, now your testimony is that PC called you also.
A I get a lot of calls. Like, I don't remember to be

honest with you.
Q Now, when you got picked up, you said it was small, blue Ford that picked you up. Is that correct?
A Yeah.
Q And that, inside the car, was the person you referred to as PC, correct?
A Yeah.
Q That person is Tyrone Moultrie, correct?
A Yeah.
Q That you said the driver of the car was somebody named Gummie.
A I never met him. That my first time meeting him.
Q Okay. But you met him that day, correct?
A Yeah.
Q And you told the police that his name was Gummie or something like that.
A It's Gummie. Something like that. I don't know. Gummie, Gum, Gum, whatever his name.
Q And you told them that he was about 6-8 or 6-9.
A He was tall.
Q And you were never able to give the police any other information besides that about Gummie.
A Yeah. Like I tell you, I never let that my first day meeting him.
Q And he was driving the car, correct?

A Yeah.
Q And you knew whose car it was, didn't you?
A No, I don't know whose car it was.
Q You didn't know then, correct?
A I don't know.
Q But do you know now?
A Yeah.
Q I mean, I'm not asking whose it was.
THE COURT: One at a time. Proceed.
MR. DEYSACH: All right.
BY MR. DEYSACH:
Q I'm not asking whose car it was, but you're saying you do know now whose car that was.
A Yeah, after everything I explained to you.
Q All right. Now, after the shooting, you told the police that you asked Quincy to call 911.
A Yeah.
Q Correct? And that you waited ten or fifteen minutes for an ambulance to come.
A I ain't wait. I ain't wait for no ambulance.
Q Okay.
A I told my cousin to call the police. After he did that, I make sure he be straight, I left.
Q All right. Do you remember telling the police, *if the ambulance don't come, take him to the hospital. I*

know we been out there at least ten to fifteen minutes; ambulance ain't come; the police don't come. Correct?
A It took them forever. I don't know how long it been. It took them forever, because I stand there for -- I stand there for a minute.
Q Okay.
A For about two minutes, then I left.
Q You stood with him after he called 911.
A No.
Q Okay.
A When the situation happened.
Q Okay. So you remember telling police that you asked him to call 911.
A I don't remember. I don't recall.
Q Okay. Do you remember telling Mr. Johnson during your recorded interview: *Then I told my cousin; I walk back around to my cousin Quincy; put him in the car; call the ambulance; so Quincy called the ambulance. Ambulance didn't never come. It took them forever to come. They ain't came; they ain't showed up.*
A No.
Q Okay. Can you tell us -- all right. Didn't you tell the police the reason you didn't call was because your phone was broken?
A I ain't even have my phone, I don't think.

Q Okay.
A I don't know.
Q All right. But you just said you were getting calls from Terreak.
A Like I said, I don't remember having my phone. I don't know.
Q Okay. And PC was calling you.
A That was -- that was before we got we were going at.
Q Okay. And you don't remember saying like my -- when asked, did anybody call during your recorded statement with Mr. Johnson: *like, my cousin Quincy called. I was like call now, because my phone -- my phone been broke. My phone here is broke.*
A Why I tell Quincy that for?
Q What's that?
A He ain't had to call me if he was with me.
Q No. The statement that I was asking you about says: *that's why I told Quincy, if the ambulance don't come* -- I'm at the wrong spot. Sorry.

Did anybody call? Your response was, *like, my cousin Quincy call. I was like call now, because my phone broke. My phone -- my phone been broke. My phone here is broke.* That's what you told the police at the time.

A I don't -- I don't remember that.
Q Okay. So your phone wasn't broken at the time.
A I don't remember.
Q You don't remember if it was broken or not?
A I know I use the phone. I had basically two phones.
Q Okay.
A So I used the phone.
Q Okay. You had two phones. And one of them might have been broken or both of them were broken?
A I ain’t said that.
Q What can you say?
A I can't recall both my phones being broken at one time.
Q You don't think they were both broken at one time.
A I know that one of them was messed up for a fact.
Q Okay. Now, when you came in on June 2nd to speak with the police, you had your phone with you then, didn't you?
A I don't even understand.
Q I'm sorry. I’ll back up. Do you remember speaking to SLED Agent Johnson?
A Yes, sir.
Q All right. And do you remember if that was on June 2nd? That would have been about, I guess a week or so

after May 26, 2015.
A I remember going to see Mr. Johnson.
Q Right. And I guess that would have been, I guess, a few weeks after you were charged with the armed robbery.
A To be honest with you, I can't -- I can't even recall that. I don't think I had a phone. He had called my nephew to get in contact with me.
Q So you don't remember getting a call from your sister while you were in the interview?
A No, sir.
Q You don't remember your phone going off during the interview?
A I ain't had -- I don't even think I had a phone, cause I was using my daddy phone at the time.
Q Okay. Did Mr. Johnson ask you what your phone number was?
A Yeah, and I give him my daddy number.
Q Did he tell you, no, he wanted your number?
A I ain't had no phone. How could I give him my number? I ain't had no phone.
Q But you just said you had two phones.
A That way like before that occurred I had two phones.
Q You said your back was turned when you heard the

gunshot?
A Yeah.
Q You never said that Mr. Williams followed you up the steps to Mr. Breeland's apartment?
A Ain't nobody followed me upstairs.
Q Okay.
MR. DEYSACH: Begging the Court's indulgence. Nothing further, your Honor.
THE COURT: Re-direct?
SOLICITOR HOLLEN: Thank you, your Honor.

RAHEM DEVOE

RE-DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Mr. Devoe, you remember speaking to the Solicitor's Office, myself and Mr. Hutto, about this case?
A Yes, sir.
Q Were you promised anything; told your charges would go away?
A No, sir.
Q Okay. Back to your statement and the day of this going on, anybody ask you about your travel itinerary for that day, where all you'd gone?
A No. No, sir.
Q Did you feel like it was important to put in there that you went to Columbia?

A No, sir, because, basically, I was with my daughter.

Q So you came to Allendale. When you riding around in the car with the defendant before you got to Pinewood, did he say anything to you about James Spellman?

A No, I didn't -- No. Me and him, he ain't never mentioned James to me. Like, he ain't never said nothing.

Q And when you got to Pinewood, you said you were at the top of the stairs when you heard the shot.

A Yes, I was at the top of the stairs. Basically, about the turn the doorknob walking out.

Q Did you hear anyone argue, fight, anything?

A I ain't heard arguing, no fighting. Basically, what I tell you, I turned around, I said what I said, and that was it.

Q And you -- after the shot, did you -- you said you did not ever go in the apartment?

A No, I ain't never went inside the apartment. I couldn't make it inside. The gunshot went off.

Q All right.

SOLICITOR HOLLEN: Court's indulgence, your Honor.

Your Honor, I have no further questions for this witness.

THE COURT: Re-cross limited to re-direct.

MR. DEYSACH: No, your Honor.

THE COURT: As to the witness, Solicitor?

SOLICITOR HOLLEN: Your Honor, I'd ask that he be allowed to step down.

THE COURT: subject to my previous order in this case. You've instructed the witness, Mr. Hollen?

SOLICITOR HOLLEN: Yes, sir.

THE COURT: Very well. You may step down, Mr. Devoe.

A Sir?

THE COURT: You are not excused from the trial of this case. Please remain with us.

A Yes, sir.

THE COURT: Call your next witness.

SOLICITOR HOLLEN: Dwain Dean.

Your Honor, I'm just going to send Mr. Hutto to make perfectly clear what your Honor ruled earlier. We did discuss it about not discussing testimony.

THE COURT: Ian?

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. KOREY WILLIAMS, MR. DEYSACH.

END BENCH CONFERENCE.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DWAIN DEAN: Yes, ma'am.

THE COURT: I'm going to ask you to state your full name and spell your last name for the court reporter. Speak up like I'm doing right now so everybody can hear you on that jury and in this courtroom. You understand?

DWAIN DEAN: Spell my last name?

THE COURT: State your full name, spell your last name.

DWAIN DEAN: All right. Name Dwain Dean. Last name spelled D/e/a/n.

THE COURT: Speak up. Now, you don't have to get right on top of the microphone. Just speak up.

Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

DWAIN DEAN

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Good afternoon, Mr. Dean.

A All right.

Q Where are you from?

A Allendale.

THE COURT: Speak up.

BY SOLICITOR HOLLEN:

A Allendale, South Carolina.

Q Thank you. You lived here all your life?

A Yes, sir.

Q And your family from here?

A Yes, sir.

Q All right. Speak up a little bit for us. You currently live in Allendale?

A Yes.

Q And Mr. Dean, do you know the defendant in this case, Jaycoby Terreak Williams?

A Yeah.

Q How do you know him?

A Related.

THE COURT: Speak up.

BY SOLICITOR HOLLEN:

A Related.

Q How are you related to him?

A Me and him cousins.

Q You're cousins. Okay. Now, Mr. Dean, were you present at Pinewood Apartments when James Spellman was shot?

A No, sir.

Q Okay. At some point, did you become aware of the shooting of James Spellman?

A I was -- somebody called me and told me.
Q Okay.
A Yeah, but I wasn't there.
Q After you heard about James Spellman being shot, what did you do? Do you remember?
A Yes.
Q What was it? What did you do?
A I rode past Pinewood when I heard on the shooting.
Q Did you see anybody out there?
A No, sir.
Q So what did you do after you went to Pinewood?
A Went to Fairfax.
Q Where did you go in Fairfax?
A Drop my girlfriend off her house.
Q And in taking your girlfriend to Fairfax, did you ride by the hospital?
A Yes.
Q Did you see anything at the hospital?
A Police, like the ambulance police.
Q Did you stop at the hospital?
A No, sir.
Q After you went to the hospital, did you go anywhere else?
A I rode around, and then I went to my grandma house.
Q Went to your grandma's house.

A Uh-huh.
Q Where does she live?
A On Flowers Lane.
Q On Flowers Lane. And is that here in Allendale?
A Yeah.
Q And when you got to your grandma's house, who all was there?
A Family.
Q Family.
A Yeah.
Q All right. Did you see the defendant, Mr. Williams?
A Yes.
Q Did you speak with him?
A Not really. Hey and bye. I didn't say bye, but we spoke.
Q You spoke. And did he ask you to do anything for you?
A Besides hey, said take him home. That's all.
Q All right. So he asked you for a ride?
A Um-hmm.
Q And where did you give him a ride to?
A Columbia.
Q Do you know where in Columbia.
A I ain't know, but it have to be either Briar River

or Saint Andrews, one of the two. I don't know.
Q Okay. It's all right. But you took the defendant to Columbia.
A Yeah.
Q Do you remember what time you left to go to Columbia?
A No. I know it was evening, night, though.
Q Was it dark?
A It was evening, about to be dark. Might as well say dark.
Q It was about to be dark when you took him to Columbia.
A Yeah.
Q And this was the same day that James Spellman was killed?
A Yeah.
Q Did you guys talk about anything on the ride to Columbia?
A No.
Q Did you see a gun or anything on the defendant?
A No, sir.
Q How long does it take to get to Columbia from Allendale? Do you know?
A Maybe an hour and thirty minutes, forty-five. I don't know.

Q Anybody with you when you took him to Columbia besides the two of you all?
A My girlfriend, that's all.
Q And did you come back from Columbia the same night?
A Yes.
Q Mr. Dean, you said you're related to the defendant, right?
A Yes, sir.
Q Do you see the person in the courtroom that you took to Columbia on the day James Spellman was killed?
A Yes.
Q Can you point him out for us?

WITNESS COMPLIES.

Q Can you describe what he's wearing?
A Red and blue collar shirt.

SOLICITOR HOLLEN: Your Honor, may the record reflect he's identified the defendant. And I have no further questions for this witness.

THE COURT: Cross-examination?

MR. DEYSACH: Thank you, your Honor.

DWAIN DEAN

CROSS-EXAMINATION

BY MR DEYSACH:

Q Good afternoon, Mr. Dean. My name's Ian Deysach. I represent Mr. Williams in this case. So I guess you

just testified that you gave Mr. Williams a ride to Columbia, correct?

A Correct.

Q And you said you didn't see a gun, correct?

A Correct.

Q And he told you he didn't do it, correct?

A I never said that.

Q Okay. Did he want a ride back to Allendale a day later?

THE COURT: You have to answer yes or no. Don't shake your head.

BY MR DEYSACH:

A He ain’t said that to me.

Q Did he say to you that he wanted to turn himself in because he said he didn't do it?

A No, sir.

Q Did you give him a ride back to Allendale?

A No, sir.

Q Okay. Did you make a written statement to police on June 5th of 2015?

A I don't know the date, but I made a statement.

MR. DEYSACH: May I approach, your Honor. May I approach the witness, your Honor?

THE COURT: You may.

BY MR DEYSACH:

Q Is that a copy of your written statement?
A Yes, sir.
Q Did you write -- it's kind of down near the -- it's in about the middle of the statement. Did you write: *he wanted a ride back to Allendale to turn himself in because he said he didn't do it*? Did you write that in your statement?
A No, sir. I don't see that.
Q Okay.
MR. DEYSACH: May I approach the witness?
THE COURT: You may.
BY MR DEYSACH:
Q I made a blue mark on the copy of the statement. Do you mind to start reading right where I made the blue mark?
COURT REPORTER: I'm sorry.
THE COURT: You have to speak up.
A *He wanted a ride back to Allendale to turn himself in because he said he didn't do it*.
MR. DEYSACH: Thank you. Nothing further. May I approach the witness?
THE COURT: Re-direct?
SOLICITOR HOLLEN: No re-direct, your Honor.
THE COURT: As to the witness, Mr. Hollen?
SOLICITOR HOLLEN: I'd ask he be excused.

THE COURT: Any objection, Mr. Deysach?

MR. DEYSACH: No, your Honor.

THE COURT: You may step down from the stand. You're excused from the trial of this case. Call your next witness.

SOLICITOR HOLLEN: Detective Qutique Manor.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DETECTIVE QUTIQUE R. MANOR: Yes, ma'am.

THE COURT: Good afternoon. Have a seat. State your full name and spell your last for the court reporter.

DETECTIVE QUTIQUE R. MANOR: Qutique R. Manor. Last name M/a/n/o/r.

THE COURT: your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

DETECTIVE QUTIQUE R. MANOR

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Detective Manor, who do you work for?

A Allendale Police Department.

Q And how long have you been with Allendale?

A Nine years.

Q You work anywhere in law enforcement before that?
A No, sir.
Q How long you been a detective with Allendale?
A Going on four years now.
Q And before that, did you work in Allendale in some capacity?
A I was sergeant, yes, sir.
Q Detective Manor, did you receive some information about a murder at Pinewood Apartments in May of 2015?
A Yes, sir, I did.
Q And do you remember the specific date?
A It was May 26, yes, sir.
Q Who was the victim in that case?
A Mr. James Spellman.
Q Where did that shooting occur?
A Pinewood Apartments off of Barton Road.
Q And is Pinewood Apartments inside the city limits of Allendale?
A Yes, sir, it is.
Q Is it in Allendale County?
A Yes, sir, it is.
Q All right. When you -- first of all, did Allendale Police Department exclusively investigate this case?
A No, sir.
Q Who else was involved as far as law enforcement?

A South Carolina Law Enforcement Division.
Q And did you assist the South Carolina Law Enforcement in its investigation?
A Yes, sir, I did.
Q Who was the officer -- or the agent -- excuse me -- who was assigned to this case?
A The Agent Richard Johnson.
Q Richard Johnson. So he was the lead investigator?
A Correct.
Q What did you do as far as helping out?
A Initially, when I was called, I arrived at the hospital; made contact with the physician inside, who stated that Mr. Spellman had passed. I walked outside pretty much to gather myself and figure out what, you know, direction I was going next. And that's when I observed Mr. Best at that time.
Q All right. You said you saw Mr. Best. That's Quincy Best?
A Yes, sir.
Q Mr. Quincy Best, where was he when you observed him?
A I'd walked outside on the porch of the hospital, by the emergency room. And what struck me so hard is he had blood on his shirt. He had a white t-shirt on and he had blood on it.

Q Regarding the shirt, Detective Manor, did you ask Mr. Best anything about that shirt?
A I asked him where the blood came from.
Q And after asking him about that, was that shirt collected for evidence? Do you recall? If you don't recall, that's all right.
A I don't recall if it was done by South Carolina Law Enforcement Division.
Q All right. So in an investigation of this type, after speaking with Mr. Best at the hospital, what was the next thing, or few things, that you did? At some point -- when did Mr. Johnson get there, Agent Johnson?
A Probably an hour and a half or so later, after the incident.
Q And at that point, what did you two do next? Do you recall?
A We actually excused Mr. Best again, cause, initially, he -- he -- I had my department-issued body cam on, he initially told me what happened.
Q And at some point, did you respond to Pinewood Apartments?
A Yes, sir, I did.
Q Did you interview anyone at Pinewood Apartments? Did you remember?
A I may. I'm pretty sure I was there during the

majority of the interviews, yes, sir.
Q But your job in this investigation, since you weren't the lead investigator, what was your main task?
A Initially, we are supposed to maintain the crime scene until SLED gets there. And then any evidence that we -- we make sure that we, you know, secure all the evidence, you know, around the area.
Q At some point, did crime scene technicians from SLED arrive?
A Yes, sir, they did.
Q Did they process the scene?
A Yes, sir, they did.
Q Did they process anywhere else besides Building F, Pinewood Apartments; do you know?
A It may have been a vehicle. I'm not a hundred percent sure on that.
Q Detective Manor, was a gun or murder weapon ever found in this case?
A No, sir.
Q At some point, did you interview the defendant in this case, Jaycoby Terreak Williams?
A Yes, sir.
Q When and where did that occur? Do you recall?
A It was three days later, after the incident, on May 29th. He arrived at Allendale Police Department, at

which time, myself and Agent Johnson made contact with him.

Q All right. Let me stop you right there.

A Yes, sir.

Q On May 29th, was that the day you interviewed him, or is that the day he was arrested?

A That was the day he was arrested.

Q Okay. Did he give any statements at the time he was arrested?

A At that time, he did not give any statements.

Q So --

A My actual interview -- I'm sorry.

Q Okay.

A My actual interview was on June 3rd. His mother made contact with me via by a department-issued cell phone and stated that her -- she -- her -- she wanted us to speak with her son, but she also wanted to be present.

Q So you got a call from --

A Ms. Richardine Williams.

Q Richardine Williams, who is the defendant's mother.

A Yes.

Q And what did she inform you?

A She stated that her son, Terreak, wanted to speak with us.

Q And did you go about arranging that?
A Yes, I did.
Q Where did you meet the defendant?
A He was picked up, and he was in Allendale Detention Center. He was brought to Allendale Police Department on Flat Street at that time.
Q Who was present for the interview of the defendant?
A It was Agent Johnson, Ms. Richardine Williams, Mr. Jaycoby Williams, and myself.
SOLICITOR HOLLEN: Your Honor, may I approach the witness?
THE COURT: You may.
BY SOLICITOR HOLLEN:
Q Detective Manor, I'm going to hand you what's been marked as State's Exhibit Number 8.
A Yes, sir.
Q Do you recognize that?
A Yes, sir.
Q What is it?
A It's a -- it's a state *Miranda* form.
Q Are there any signatures on that form?
A Yes, sir. It's initialed by Mr. Jaycoby Williams; my signature as a witness at the bottom; and also Agent Johnson; and also Richardine Williams, his mother.
Q And did the defendant sign it?

A Yes, sir.
Q Did you read him his rights, or did someone else?
A Agent Johnson.
Q And when he was reading the defendant his rights, did he seem to understand them?
A Yes, sir.
Q While he was in the room, did he appear to have any physical or mental infirmities that might have precluded him from understanding?
A No, sir.
Q Did he appear to be under the influence of alcohol or drugs?
A No, sir.
Q Did you threaten him or coerce him in any way to make a statement?
A No, sir.
Q Did you deny him access to the bathroom or food or drink or anything?
A No, sir.
Q And about how long did the interview last?
A It might have been around thirty minutes.
SOLICITOR HOLLEN: Your Honor, may I approach again to take that back from him?
BY SOLICITOR HOLLEN:
Q So, after reading him his *Miranda* rights, what

happened next?
A During the interview, which was also recorded, Mr. Jaycoby Williams spoke with us about -- really, about other incidents; not about his case.
Q Okay. Hold on one second.
SOLICITOR HOLLEN: Your Honor, may we approach?
THE COURT: Counsel approach.
OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.
END BENCH CONFERENCE.
THE COURT: Step back. Let's move along.
BY SOLICITOR HOLLEN:
Q All right. Detective Manor, in speaking to you about the case in which he's a defendant, what did the defendant tell you? Do you recall?
A In reference to the actual murder itself?
Q In reference to the murder. I mean -- let me get a little more specific.
A Yes, sir.
Q Did he tell you where he was at the time of the murder?
A He stated he wasn't in Allendale.
Q He stated he was not in Allendale. Did he tell you where he was?

A No. I want to say he -- he stated he was in Columbia.

Q Okay. But you're not -- never mind. He stated he was not in Allendale. Did he tell you who he was with?

A Not as I can recall.

Q Did he -- I'll withdraw the question, your Honor.

Mr. Manor, do you see the person in the courtroom today that you interviewed as a result of this investigation?

A Yes, sir, I do.

Q And can you point him out for the Court, please.

A Mr. Jaycoby Williams.

Q Can you describe what he's wearing for the record.

A He's got on a red and blue polo shirt.

SOLICITOR HOLLEN: Your Honor, may the record reflect he's identified the defendant.

Detective Manor, I have no further questions for you right now. Please answer anything Mr. Deysach asks.

THE COURT: Just a moment. Counsel approach.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Cross-examination, Mr. Deysach?

MR. DEYSACH: Thank you, your Honor.

DETECTIVE QUTIQUE R. MANOR

CROSS-EXAMINATION

BY MR. DEYSACH:

Q Good afternoon. Detective Manor?

A Yes, sir.

Q Okay. So you responded to the Allendale County Hospital in reference to this case?

A Yes, sir.

Q And that was because a call had come from the hospital, not through 911. Isn't that correct?

A I was informed via the officers on the scene.

Q Okay. So officers were already at the hospital.

A Yes, sir.

Q And when you arrived, I think you said you saw Mr. Best.

A Correct. Yes, sir.

Q And you saw his car?

A Yes, sir.

Q And you made arrangements to process his car, correct?

A Yes, sir.

Q Okay. For any possible evidence that might be able to be obtained from his car. Is that correct?

A Yes, sir.

Q Okay. And you had your -- you say department-

issued body camera on.
A Yes, sir.
Q Is that what you call it?
A Yes, sir.
Q And while you were talking to Mr. Best, that was on, correct?
A Correct.
Q And you did have the opportunity to speak with him about why he was at the hospital, correct?
A Yes, sir.
Q And you asked him, *you seen him pull the trigger.* And Mr. Best's response was, *no, my back was turned*. Correct?
A His complete statement at that time, I'll answer yes.
Q Okay.
A Yes, sir.
Q All right. Now, on May 29th, Mr. Williams turned himself in to the police, correct?
A Yes, sir, that's correct.
Q And then, only a few days later, sits down for a conversation with the police, correct?
A June 3rd, correct, yes, sir.
Q June 3rd. And at that time, he told you he didn't do it, correct?

A Yes, sir. At some point, yes, sir.
Q Now, was it your job to secure the scene at Pinewood Apartments?
A Myself and officers from Allendale Police Department.
Q And when were you able to arrive at Pinewood Apartments?
A I arrived at Pinewood Apartments probably within 35, 40 minutes of the initial call of the incident.
Q So the incident occurs, correct?
A Yes, sir.
Q There's transport through a private vehicle to the hospital, correct?
A Yes, sir.
Q And then, you're saying from the time that the -- you said Dispatch calls you?
A No, sir.
Q What is the 35 minutes? That's where I got confused.
THE COURT: Hold on a second. Let him answer his question before you ask another. Finish your answer.
BY MR DEYSACH:
A I live in Hampton, South Carolina.
Q Um-hmm.
A I received a phone call. I came back to work. I

arrived, in my notes, I have at 8 -- excuse me -- at 6:20.

Q 6:20 is when you arrived at the hospital?

A That's correct.

Q And do you know when you arrived at Pinewood Apartments?

A It would have been in fifteen, twenty minutes of that.

Q Of the 6:20?

A Yes, sir.

Q And was anybody there when you got there?

A Yes, sir, officers from Allendale Police Department and Sheriff's Department.

Q Do you know when they had gotten there?

A They were there initially upon the call about the incident.

Q Okay. Well, how -

MR. DEYSACH: Court's indulgence. Nothing further, your Honor.

THE COURT: Re-direct?

SOLICITOR HOLLEN: Nothing, your Honor.

THE COURT: As to this witness?

SOLICITOR HOLLEN: I would ask that Detective Manor be excused.

THE COURT: Mr. Manor, if you will remain with us

outside the courtroom. Please don't leave. You're excused at this time, not to leave.

Call your next witness.

SOLICITOR HOLLEN: Your Honor, may we approach regarding scheduling?

THE COURT: Counsel approach.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Call your next witness.

SOLICITOR HOLLEN: State calls Investigator Donnie Hutto.

THE COURT: Mr. Hutto, please come around and please be sworn by the clerk.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

INVESTIGATOR DONNIE HUTTO: Yes, I do.

THE COURT: Spell your name for the record.

INVESTIGATOR DONNIE HUTTO: Yes, sir. Donnie Hutto, H/u/t/t/o.

THE COURT: Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

DONNIE HUTTO

DIRECT EXAMINATION

SOLICITOR HOLLEN:

Q Investigator Hutto, who do you work for?

A Currently work for the Fourteenth Circuit Solicitor's Office.

Q And what do you do for the Solicitor's Office?

A I'm an investigator.

Q Which counties do you work in?

A Right now, I'm assigned to Allendale and Hampton Counties.

Q Investigator Hutto, in preparation for this case, did you meet, along with me, with a witness named Debentris Breeland?

A Yes, I did.

Q Where did that take place?

A Upstairs in the courthouse in my office.

Q And in speaking with Debentris Breeland, do you recall a conversation about the statement that he gave to an Agent Johnson in this case?

A Yes, I do.

Q Do you recall him being asked whether or not the victim, James Spellman, used the word *scared* to describe his state of mind in reference to the defendant, Jaycoby Williams?

A Yes, I do recall that.
Q And what was his answer to the question?
A He said James told him he was scared.
SOLICITOR HOLLEN: All right. Investigator Hutto, I have no further questions for you. Thank you.
THE COURT: Cross-examination.
MR. DEYSACH: None, your Honor.
THE COURT: You may step down.
A Thank you, Judge.
BY THE COURT:
SOLICITOR HOLLEN: Your Honor, --
THE COURT: Counsel approach.
OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.
END BENCH CONFERENCE.
THE COURT: Madam Foreperson, ladies and gentlemen of the jury, we're going to stop at this point for our lunch break. We have to do some work on some technical equipment in order to be able to proceed, so we're stopping a little earlier than I wanted to. Your lunch should be here shortly. Start at 1:00 o'clock. It's 12:30 now. We will start back probably at 2:00 o'clock in order to keep the train on the track.
During the lunch break, feel free to talk about

weather, many things, sports, anything, just don't discuss this case amongst yourself or with anybody else.

I hope everybody has a pleasant lunch. You may retire to your jury room where we'll serve you lunch at this time.

JURORS LEAVE COURTROOM 12:35 P.M.

THE COURT: All right, Counsel, you wanted time to let Mr. Johnson review the redacted exhibit that you intend to introduce, do it now, so that we aren't delayed once we come back from lunch. You understand?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: Court's in recess until 2:00 o'clock.

OFF THE RECORD 12:36 P.M.

BACK ON THE RECORD 2:00 P.M.

BAILIFF: All rise. Come to order. Court is back in session.

THE COURT: Thank you. Please be seated. State ready to proceed?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: Defendant ready to proceed?

MR. DEYSACH: Yes, your Honor.

THE COURT: Very well. Bring us the jury, please. My understanding is that you have reviewed the redacted video, and that both of you are satisfied with the redaction. Is that correct, from the State?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: From the defendant?

MR. DEYSACH: That's correct, your Honor.

JURORS ENTER COURTROOM 2:01 P.M.

THE COURT: All right. Ladies and gentlemen, the jury will now continue with the testimony in the trial of this case. Call your next witness.

SOLICITOR HOLLEN: Richard Johnson.

THE COURT: Mr. Johnson, will you come around and be sworn by the clerk, please.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

RICHARD JOHNSON: I do.

THE COURT: Have a seat for me, please, sir. State your first name and spell your last name for the court reporter.

RICHARD JOHNSON: Richard Johnson, J/o/h/n/s/o/n.

THE COURT: Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

SOLICITOR HOLLEN: Thank you, your Honor.

SPECIAL AGENT RICHARD JOHNSON

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Agent Johnson, who do you work for?
A South Carolina Law Enforcement Division.
Q And how long have you been with the South Carolina Law Enforcement Division?
A A combined twenty-seven years.
Q Twenty-seven years. And what is your title?
A Special Agent.
Q Did you work anywhere in law enforcement before you worked for SLED?
A I worked Internal Affairs for the South Carolina Department of Corrections, and several years at South Carolina State University.
Q Okay. Agent Johnson, did you receive a request to investigate a murder at Pinewood Apartments on May 26, 2015?
A Yes, I did.
Q Who did that request come from?
A If memory serves correct, it came from my main office out of Columbia. Out of Columbia, which was as a result of the Allendale P.D. request assistance on it.
Q And I already said this. Pinewood Apartments, is that where the murder took place?
A Yes, sir.
Q Is that inside the city limits of Allendale?
A Yes, sir.

Q Is it in Allendale County?
A Yes, sir.
Q When you were dispatched or sent to Allendale for this murder, what was the first thing that you started to do as an investigator?
A As soon as I get on the scene, I meet with someone from the local law enforcement agency to try to get some idea what took place or what have they uncovered in their initial, in their preliminary investigation. That gives us some idea, some direction of where we need to go.
Q And who was that person with local law enforcement that you met with?
A I believe it was Detective Manor.
Q During you investigation, were there other agents from SLED called in?
A Yes, sir.
Q What was their responsibility?
A They were primarily canvassing the neighborhood, which is no more than walking the neighborhood, checking with different people to see if they had some information, if they saw something, if they witnessed something. Just trying to get information.
Q And were they successful in drumming up witnesses for this crime?

A I think they came across one witness who -- not necessarily a witness, but someone who may have known somebody was there prior to the shooting that kind of pointed us in the direction of where we needed to go.
Q What about crime scene technicians? Were they dispatched in this case?
A Yes, they were.
Q And when would they have arrived in Allendale; do you know?
A It varies. I can't -- I don't quite recall if they made it there before I did or after I did. It all depends on where they're coming from at the time.
Q Agent Johnson, you've been in the courtroom. Were you able to determine the vehicle that was used by a group of people in this case?
A Yes, I did.
Q What kind of vehicle was it?
A It was the -- it was a Ford Focus.
Q As a result of your investigation, were you able to determine who that car belonged to?
A Yes, I did.
Q And who was that?
A It was -- I need to look back at my note, get her name correct.
Q That's fine. Take all the time you need.

A One second. What was her name? Jennifer --
Jennifer Bowers.
Q Were you able to determine where Ms. Bowers was at
the time of the shooting?
A At work at Hardees.
Q Is that Hardees right here in Allendale?
A Yes, sir.
Q When Crime Scene came in, were there any items
collected from the scene?
A I don't recall any items of evidentiary value being
collected, not from the scene itself.
Q Okay. So we'll get into the crime scene. Were you
ever able to locate the gun that was used in this
murder?
A No, sir.
SOLICITOR HOLLEN: Your Honor, may I approach?
THE COURT: You may.
BY SOLICITOR HOLLEN:
Q Agent Johnson, I'm going to hand you what's been
marked for identification as State's Exhibit 8 and 9.
Can you take a look at those for me.
A Um-hmm.
Q Do you recognize them? Let's start with Exhibit 8
first.
A Okay.

Q What is that?
A It's a *Miranda* rights form.
Q And is your signature on that *Miranda* rights form?
A Yes, sir.
Q Any other signatures on that *Miranda* rights form?
A The defendant, Jaycoby Williams; his mother, Richardine Williams; and Detective Manor.
Q All right. Agent Johnson, during the investigation, you spoke with the defendant. Is that correct?
A Yes.
Q Do you remember the date that you spoke with the defendant?
A I think the first time I attempted to speak with him was on the same date that he was arrested, which would have been, I think, May 29th.
Q Did he speak with you at that time?
A Other than just that he would -- didn't want to provide -- make a statement until he spoke with a lawyer.
Q Okay. At some point, was Detective Manor contacted and notified that the defendant wished to speak with law enforcement?
A Yes, sir.
Q Do you know who he was contacted by?

A The defendant's mother, Richardine Williams.
Q And as a result of that, did you meet with the defendant?
A Yes, sir.
Q What was the date of that?
A That was June 3rd. June 3rd of 2015.
Q That *Miranda* rights form you have, has it been changed or altered in any way?
A No, sir.
Q Is that a fair and accurate copy of the *Miranda* rights form that was provided to the defendant?
A Yes, sir.

SOLICITOR HOLLEN: Your Honor, at this time I'd ask that State's Exhibit 8 be entered into evidence.

THE COURT: As to State's 8?

MR. DEYSACH: No objection, your Honor.

THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number 8 will be admitted into evidence in the trial of this case without objection. State's 8 is in evidence. You may publish to the jury.

SOLICITOR HOLLEN: Thank you, your Honor.

ITEM IDENTIFIED AS *MIRANDA* RIGHTS FORM
MARKED STATE'S EXHIBIT NUMBER 8
ADMITTED AS EVIDENCE.
BY SOLICITOR HOLLEN:

Q Agent Johnson, did you inform the defendant of his *Miranda* rights?

A Yes, I did.

Q And how did you do that?

A I provided him with a copy of this same form. I gave him instruction, as I read over each line, I wanted him to place his initial on each line if he understood what was being said.

Q Agent Johnson, can you read that *Miranda* rights form for us, please.

A Yes. It said:

> *Before we ask you any -- before we ask you questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court as evidence against you. You are entitled to talk to a lawyer now and have him present now or at any time during the questioning.*
>
> *If you cannot afford an attorney, one will be appointed for you without cost. If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.*

Do you understand these rights? Do you wish to talk to us at this time?

The waiver of rights section reads:

I have read this statement of my rights and I understand what my rights are. I am willing to talk now without a lawyer present. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Q After reading that *Miranda* rights form and having the defendant sign it, did he agree to speak with you?

A Yes, he did.

Q Before he signed that, did you threaten him in any way to get him to talk?

A No, sir.

Q Did you keep him from going to the bathroom, giving him food, water, anything like that?

A No, sir.

Q Did he appear to be under the influence of drugs or alcohol?

A No, sir.

Q Did he have any physical or mental disability that would keep him from understanding, to your knowledge?

A No, sir, to my knowledge.

Q And he agreed to speak with you?
A That's correct.
Q Agent Johnson, what did he tell you about the day that James Spellman was murdered?
A He said he didn't know anything about it; that he was in Columbia.
Q He was in Columbia. Did he tell you where he was?
A Yes. He gave me an apartment. I think it was Willow Creek Apartment off the Saint Andrews Road. He said he at a fellow's house by the name of Poochie Man.
Q Did you attempt to speak with Poochie Man?
A I attempted to locate the -- if any occupant was in that -- still at the apartment, and tried to get some information that I could help that a prosecutor could make a call and get in touch with him.
Q And were you ever able to track down the occupant?
A No, sir.
Q Is there a reason why you weren't able to track down the occupant?
A He was no longer living at the apartment, for one thing.
Q Did he give you, the defendant, any names of the people he was with at the time of the shooting?
A No clear name. He said he was at Poochie Man's apartment in Columbia. This person could have been

there; that one could have been there. There was no specific name as to who -- who he was with.

Q Agent Johnson, was the interview with the defendant recorded in any way?

A Yes, it was.

Q How was it recorded?

A Detective Manor utilized his department-issued body cam to record the interview.

Q And I have, I believe, what's been marked for identification as State's Exhibit Number 9.

A Yes, sir.

Q Do you recognize that?

A Yes, I do.

Q What is it?

A It's a audio -- it's a C.D. of the audio-recorded interview that Detective Manor and myself did in the presence of the defendant's mother, Ms. Richardine Williams.

Q And did you make any marks or identifying information on that?

A I signed my name and put the date on it.

Q And at my request, did you review that disc?

A Yes, I did.

Q Is that a fair and accurate depiction of the interview that you did with the defendant in this case?

A Yes, it is.
Q Was it changed or altered in any way?
A No, sir, other than from the -- okay.
Q The relevant portion of it, was it changed?
A Oh, yes, the relevant portion, there's nothing changed about it.

SOLICITOR HOLLEN: Okay. Your Honor, at this time, I'd ask that State's 9 be admitted into evidence.

THE COURT: As to State's 9?

MR. DEYSACH: Subject to a prior objection, your Honor.

THE COURT: I think I've already -- I think I've already placed that ruling on the record; have I not?

MR. DEYSACH: I don't know.

THE COURT: Counsel approach.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: I've ruled on the matter concerning State's Exhibit 9 with Counsel, which took place in a bench conference. I'll place it on the record at the appropriate time. Other than that objection, which has been re-stated to me at the Bench, is there any other objection to the admissibility of State's Exhibit 9?

MR. DEYSACH: No, your Honor.

THE COURT: State's Exhibit 9 will be admitted into evidence over objection by counsel for the defendant. And I'll make a record at the appropriate time. It is now in evidence. Solicitor?

SOLICITOR HOLLEN: Thank you, your Honor. May I publish State's 9 to the jury?

THE COURT: You may publish State's 9 to the jury.

SOLICITOR HOLLEN: Thank you. May I approach the witness? Thank you.

ITEM IDENTIFIED AS AUDIO RECORDING
OF INTERVIEW OF DEFENDANT
MARKED STATE'S EXHIBIT NUMBER 9
ADMITTED AS EVIDENCE.
BY SOLICITOR HOLLEN:

Q Agent Johnson, while we're waiting on that, what was the approximate amount of time this interview lasted?

A Maybe thirty or forty minutes.

STATE'S EXHIBIT NUMBER 9, AUDIO
RECORDING OF INTERVIEW OF DEFENDANT
PLAYING.
END PLAYING STATE'S EXHIBIT NUMBER 9,
INTERVIEW OF DEFENDANT.
BY SOLICITOR HOLLEN:

Q Mr. Johnson, that video cuts off there. Is there anything substantive that happens after that?
A No. No, sir.
Q Any additional -- is there any additional information that you got from that video?
A No, sir.
Q It's hard to hear. Where did he tell you he -- the defendant, where did he tell you he was on the date in question?
A In Columbia.
Q And did he tell you whose apartment it was? Did you say --
A Poochie Man.
Q Poochie Man. And he mentions a couple other names? Were you able to track any of those people down?
A No. And after we -- he lists his name, and then he backtracked and told us that he wasn't there, or that he was in and out.
Q So was he able to give you the name of any person that he was with?
A Not definitively.
Q Agent Johnson, during your investigation, did you speak with DeQuincy Best?
A Yes, I did.
Q And Mr. Best gave you an interview, I believe.

Were you present for the recorded interview with him?
A Yes.
Q With Detective Manor; is that right?
A Yes, that's correct.
Q And were you present when he wrote a written statement?
A Yes, when he wrote a written statement, yes, I was.
Q During each of those statements that he made, the recorded and the written, was he able to provide you with the name of the person that shot and killed James Spellman?
A Yes, he did.
MR. DEYSACH: I would object to the hearsay.
THE COURT: Counsel approach.
OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH:
END BENCH CONFERENCE.
THE COURT: The objection is withdrawn, Mr. Deysach?
MR. DEYSACH: Yes, your Honor.
THE COURT: Objection withdrawn. Re-phrase the question, Solicitor.
SOLICITOR HOLLEN: Yes. Thank you, your Honor.
BY SOLICITOR HOLLEN:

Q Agent Johnson, after a witness gives you the name of someone, do you typically go back and ask more questions? Specifically, if they give you a name, do you go back and ask what kind of clothes someone was wearing?

MR. DEYSACH: I'd object to the leading.

THE COURT: Sustained. Re-phrase the question, Solicitor. It's direct examination.

SOLICITOR HOLLEN: Yes, sir.

BY SOLICITOR HOLLEN:

Q Agent Johnson, when someone gives you a statement, you ask them -- what do they tell you when they write you a statement?

A Well, it varies, for one thing. And you know, generally, I like to ask them what happened, because, typically, the person that we're talking to know more about the incident than we do. So that prevents us from -- at least it prevents me from having, I guess, prepared questions that I need to ask. I just kind of feed off of what they tell us. So my general question is tell me what happened. And typically, I'll just allow them to go through what they can recollect, what they can recall; ask them to document it; put it on paper or audio record it. And if I feel at the time that like I need to do some follow-up questioning based

on what they've told us, then, I would go back and do so. In this case, with the information that he provided, we knew who the person that committed this crime –

MR. DEYSACH: Objection to -- I believe that's hearsay, your Honor. *The information he provided.*

THE COURT: Counsel, don't refer -- I mean –

SOLICITOR HOLLEN: Yes, sir.

THE COURT: Officer, don't refer to what someone else said. Counsel approach.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Ladies and gentlemen of the jury, the *Rules of Evidence* do not permit a witness to get on the witness stand, unless it is under a certain exception, and testified to what other people said. It is referred to -- I'm sure you've heard the term -- hearsay. In this case, ladies and gentlemen, to the extent that any evidence may be elicited concerning what another person may have said, please disregard that evidence.

The witness is perfectly able to testify, or any witness is able to testify, to what they themselves saw or what they sensed with their own senses, but not

necessarily without court permission as to what someone else said.

To that extent, I have provided, as requested to the jury by counsel for the defendant, an instruction as to hearsay. And let's proceed. Counsel, direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

BY SOLICITOR HOLLEN:

Q Agent Johnson, in this case, during your investigation, did you speak with Rahem Devoe?

A Yes, I did.

Q Did you seek out Mr. Devoe, or was he directed to you? How did you come into contact with him?

A He was directed to me.

Q Okay. Did you know before he was directed to you that he was a witness in this case? If you don't recall, that's fine.

A No, I can't recall.

Q After speaking with Mr. Devoe, Mr. Best, and during your investigation, were you able to develop a suspect in this case?

A Yes.

Q And who is that suspect?

A The defendant, Mr. Jaycoby Williams.

Q And gestured to him. Can you describe for the

court what he's wearing, please.
A Look like a blue and red top. Sitting over to my right.
Q Is that the same person that we just saw on the interview?
A Yes, it is.
Q Agent Johnson, during your investigation, did you speak with a person named Debentris Breeland?
A Yes, I did.
Q Did you write a memorandum of interview after speaking with him?
A Yes, I did.
Q What was the date and time that you spoke with Mr. Breeland?
A May 27 of 2015.
Q That would have been the date after the murder?
A Yes, sir.
Q Did Mr. Breeland provide you with a statement?
A Yes, in the form of a memorandum.
Q During that interview, did he indicate to you that he and James Spellman had had a conversation a few days prior to the shooting?
A Yes, he did.
Q And did he tell you what James told him in that statement?

MR. DEYSACH: I'll object to hearsay, your Honor.

THE COURT: Sustained.

SOLICITOR HOLLEN: Your Honor, may we approach?

THE COURT: You may.

OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Proceed.

BY SOLICITOR HOLLEN:

Q Agent Johnson, in meeting with Debentris Breeland, did he use the word *scared* to describe a conversation that he and James had related to the defendant, or afraid?

A Afraid was his exact words.

Q Okay. He said the word *afraid*?

A Yes.

SOLICITOR HOLLEN: Court's indulgence, your Honor. I have no further questions for Agent Johnson.

THE COURT: Cross-examination?

MR. DEYSACH: Thank you very much, your Honor.

AGENT RICHARD JOHNSON

CROSS-EXAMINATION

BY MR DEYSACH:

Q Good afternoon, Agent Johnson.

A Good afternoon.
Q All right, I'm going to go straight to this. Have you spoke with -- you spoke with Rahem Devoe, correct?
A Correct.
Q And he told you that -- all right, he told you that PC was the one that was calling him the day of May 26, trying to get him on his phone when he was at the Pond, correct?
A I recall him mention PC was calling him. It's not documented in my statement, but probably on the audio-recorded version of it.
Q All right. He said -- did you ask him: *PC's the one that called you and said whatcha doing*? And his response was, *PC kept calling*. And you asking him, *so it was Terreak.* That response, that exchanged occurred, correct?
A I think it did. I'm almost certain it did, if you're reading that from the transcribed of the audio recording, I can't dispute it.
Q Okay. All right. And he also told you that he asked Dequincy Best to call 911, and that they waited fifteen minutes for an ambulance to come before they took Mr. Spellman to the hospital.
A I believe that's correct.
Q Okay. So, now, I kind of want to go a little more

in sequence. The first -- the first thing that you -- you get the call from Columbia to help Allendale with the investigation in this case, correct?

A Correct.

Q And so, what date was that? Was that the day of the shooting?

A Yes.

Q Okay. And so, did you go to the hospital?

A No, sir. I went straight to Pinewood.

Q Pinewood. Okay. And do you know what time you arrived at Pinewood?

A No, sir.

Q Were you the first one to get to Pinewood?

A No, sir, I don't think so. Seem like I think my captain was there first.

Q And was the crime scene secure at that time?

A Yes.

Q Do you know how long it took for them to secure the crime scene?

A No, sir, I do not.

Q Okay. And while there may have been some items there, there were no items there that you identified as being of evidentiary value, correct?

A None that I recall.

Q Okay. There was the -- some blood there. Was a

sample of that blood preserved?
A I would have to look back at the DNA report to confirm that. And I didn't look at it before this trial.
Q To your knowledge, has any testing on any of that blood been done?
A No.
Q Okay. Has any DNA testings been done at all in this case?
A No. We didn't really need to.
Q Okay. Now, let me ask you this, were any shell casings found at the scene?
A I don't recall any shell casings being located, as well.
Q And it was your understanding that -- well, I withdraw that question. And so, I think you spoke with the Solicitor on direct where you indicated that you had identified the blue car, correct?
A Yes.
Q You knew which car that was, correct?
A Yes.
Q And you knew who owned that car, correct?
A We subsequently did.
Q And you spoke to that person, correct?
A That's correct.

Q Certainly, about that car.
A Yes, yes.
Q You talked to her about whether or not she was in that car that night, correct?
A No, I just asked her -- talked to her about who had the car.
Q I guess that -- I think you're answering my question. You wanted to find out -- what you're trying to find out is who had her car.
A Yes.
Q Correct? And she told you that she had it -- well, she had loaned it to somebody.
A Well, she'd left it available for someone to pick it up.
Q Okay.
A She didn't know if that person picked it up or not.
Q And she told you who that person was, correct?
A Correct.
Q Okay. Did you ever talk to that person?
A I talked -- finally got a hold of him a few days before -- actually, a day or so before we started this trial. Monday.
Q Okay. So you hadn't talked to him from May 26 until Monday, correct?
A That's correct.

Q And that wasn't until he actually marched into the courthouse to talk to you, correct?
A No, he didn't come in to talk to me. He came for other reasons.
Q Okay. But until that point, you had never had a conversation with him about this case.
A Never been able to locate him.
Q You knew who his mother was, right?
A That's correct.
Q Okay. And you never -- all right. Never asked him -- you never had the chance to ask him whether or not he was in the car that night.
A Not until Monday.
Q Okay. And this person is Jennifer Bowers' boyfriend, right. Did I already cover that?
A Yes, according to her.
Q Not according to him?
A Not according to him.
Q Now, I'm not talking about the boyfriend, but talking about the car. The car has been identified, correct?
A Correct.
Q The car has been processed, correct?
A Correct.
Q Now, you had information as to where that car was

when possession would have changed. If she would have let somebody hold the car, it would have been while she was at work, correct?

A I don't know if that's normal for them, but according to her, that's what was planned to take place.

Q Correct. And she worked at Hardees, correct?

A Correct.

Q All right. Did you ever get any video from Hardees that might show the parking lot?

A No, I don't recall getting any video from Hardees.

Q Did you ever ask for it?

A No, I did not.

Q Okay. Did you ever check to see whether or not they even had the video?

A No, I did not.

Q But in your investigation, this could have been the location where the blue Focus went from its true owner to another person on May 26.

A Yes, clearly.

Q All right. Now, let me get off of that. One of the things that law enforcement may do when investigating an event is to subpoena phone records, correct?

A That's possible, yes.

Q And in fact, in this case, some phone records were

subpoenaed, correct?
A Correct.
Q And when you're doing that, what you're looking for is the possibility of texts that could have been preserved?
A Possibility.
Q On a person's phone?
A Um-hmm. Correct.
Q Um-hmm. And sometimes a phone can give you location data, correct?
A Correct.
Q You might be able to tell where the phone was at a given time.
A Correct.
Q And so, when Mr. Devoe came in to speak with you just a week after the event, you asked him for his phone number, didn't you?
A More than likely, yes.
Q And he told you during that interview that he'd been getting calls from PC. He may have said he'd gotten a call from Mr. Williams, correct?
A That's possible.
Q All right. And so, on that phone could have been phone numbers that would have been useful, correct?
A Correct.

Q You could have actually verified whether or not he had received these calls that he spoke about, correct?
A Correct.
Q And you didn't do any of it, did you?
A I didn't have probable cause to get his phone records.
Q You need probable cause from Mr. Devoe?
A Not have probable cause to get a search warrant. You mentioned the word *subpoena*.
Q All right.
A We don't use subpoenas. We use search warrants.
Q Okay.
A And we need probable cause in order to get a search warrant for those phone records, and we just didn't have probable cause to get Mr. Devoe's phone record.
Q Okay. The person that said he drove in the car to the scene at Pinewood, you didn't have probable cause to get his phone records.
A I didn't have probable cause just because he was with them.
Q Did you ask him for permission to look at his phone?
A I don't think the phone company would have given me his phone records based on his permission.
Q Okay. But I'm asking you, did you ask him himself

to just look at his phone?
A No.
Q Okay. He had the phone with him when you interviewed him, correct?
A I assume he did.
Q All right.
A I don't recall looking at the phone.
Q Do you recall him getting any phone calls -- getting a phone call during the interview?
A It’s hard to say, but it’s possible.
Q Okay. Okay. Did you ever ask him what phone number Mr. Williams or PC would have been calling him from?
A That’s a good probability I did.
Q Okay. So you don't remember doing it?
A No, I don't -- I conducted numerous interviews, and I just don't recall every detail, every question I asked every person I interviewed.
Q Okay. So did he refuse to give that to you, if you did ask him?
A Mr. Devoe?
Q Yes.
A No. He didn't -- if I’d ask him, he certainly would have given to me.
Q Okay. But you don't know if you got it or not.

A I can't say for certain, not without looking back and listening to the transcript.
Q But you know you didn't do a search warrant for any phone connected to a number he tried to say was Mr. Williams.
A I didn't. That's due to probable cause. Not having probable cause.
Q Not having probable cause to have to search for a phone you might have reason to believe is Mr. Williams'?
A I can search -- can have probable cause to get Mr. Williams' phone records, but I didn't think I had probable cause to get no one else's phone records.
Q Right. Well, I'm just saying I think you indicated you may or may not have gotten the phone number with consent from Mr. Devoe; the phone number by Mr. Williams by consent from Mr. Devoe, correct?
A I already had a witness to Williams' phone number.
Q Okay. And if you had Mr. Williams' phone number, are you able to present any evidence, phone evidence, location data, to say where that phone was?
SOLICITOR HOLLEN: Objection, your Honor. It's hearsay.
THE COURT: Counsel approach.
OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE

COURT, SOLICITOR HOLLEN, MR. DEYSACH.

END BENCH CONFERENCE.

THE COURT: Proceed.

You need to take a break?

JUROR: Yes, sir.

THE COURT: Ladies and gentlemen of the jury, when one takes a break, we all take a break. Would you please retire to your jury room. Please don't discuss the case.

JURORS LEAVE COURTROOM 2:44 P.M.

THE COURT: While the jury's out, first of all, as to State's Exhibit Number 9, Mr. Deysach has objected to the fact that he thinks State's Exhibit 9 -- I could not see it. I've watched the video now twice, once during *Jackson versus Denno*, and again during the trial. But I'll take Mr. Deysach's word that he thinks he can see that there are handcuffs on the defendant, and he objected to that. I overruled the objection. It's clear to the jury the defendant was in custody and that this was custodial interrogation. In light of the admission into evidence of State's Exhibit 8 and the testimony that's been elicited during the trial of the case, that was the objection to State's 9 that I overruled and allowed State's 9 into evidence.

I then had an objection to eliciting. I sustained

Mr. Deysach's objection on hearsay grounds of the statement of Mr. Breeland. However, I allowed the Solicitor to bring out, which is already in evidence, the fact that the issue concerning whether or not the term *scared* had been used. This witness, Mr. Johnson was able to testify that he used the term, I believe, *afraid*, as opposed to scared, which I allowed the Solicitor to do, but I sustained Mr. Deysach's objection to the Solicitor asking a general question of what did he say in regard to Mr. Breeland's statement on hearsay grounds.

Unfortunately, now, we will have to take another break, because I had a juror that needed to break. So, if anybody needs one, this is going to be my one and only afternoon break, take it now.

Mr. Johnson, you're in the middle of your cross. You cannot discuss your testimony with anybody. Feel free to step down, use the restroom, if you'd like to take a break, also. We'll take five minutes. Let me know as soon as the jury is ready.

OFF THE RECORD 2:47 P.M.

BACK ON THE RECORD 2:53 P.M.

THE COURT: You may be seated.

SOLICITOR HOLLEN: Your Honor?

THE COURT: Please be seated. Bring us the jury.

JURORS ENTER COURTROOM 2:54 P.M.

THE COURT: All right, ladies and gentlemen of the jury, we'll now continue with the trial of this case. Cross-examination.

SPECIAL AGENT RICHARD JOHNSON

CONTINUE CROSS-EXAMINATION

BY MR DEYSACH:

Q All right. Agent Johnson, let me ask you this. Did you ever verify the existence of a 6-8 or 6-9, skinny dude named Gummie?

A I could never I.D. that person.

Q Okay. You don't know whether that person is real or not, correct?

A I can't say.

Q Okay. You said that you had checked out Willow Creek Apartments? Did you say that you went to Willow Creek Apartments?

A I don't recall if I went or called Willow Creek, but I'd received information that --

Q Now, I'm not --

A -- he had moved from that location.

Q Well, I want to avoid eliciting hearsay. And so, the question was simply did you go to Willow Creek or did you simply call?

A Seem like I went to Willow Creek. I'm just not a

hundred percent certain.
Q Well, do you have anywhere in any report that you actually went to Willow Creek?
A No, I do not, and that's because we general don't document every -- I guess, every move we make in a report.
Q All right.
A Just -- or every call. It's not documented in our report.
Q Well, in driving up to Columbia to check Willow Creek, would you have documented that?
A Probably not. It would have been written somewhere on my daily report as to what I'd done for that day.
Q Right. But it would never be reduced to an official report for SLED?
A No.
Q As part of your investigation?
A Although, now it will be. We changed our reporting format to where that would be included in there.
Q Okay. So right now, you can't tell this jury whether you did physically or not physically go to Columbia.
A I can't.
Q And so, you can't tell us whether or not you knocked on the Apartment [redacted] or not.

A I can't.
Q When we took a break, I can't -- did you ever apply for a search warrant in which any weapon in this case would have been the descript - the property sought? Do you understand that?
A Can -- say it --
Q Did you ever -- did you ever -
THE COURT: Whoa. Whoa. Let him finish his answer before you ask another question.
MR. DEYSACH: Sorry.
BY MR DEYSACH:
A I was asking can he re-state that. I didn't quite understand what he was saying.
THE COURT: All right. Re-phrase the question, Counsel.
BY MR DEYSACH:
Q Did you ever apply for a search warrant in which the weapon allegedly used in this offense was the property sought?
A Give me a moment to check my file to see. If I had applied for a search warrant, that would have been in this file that it would have had copies of. So, if you'll give me a moment, let me check this and see.
No, sir. No search warrant for the weapon.
Q So no search warrant looking for the gun, correct?

A Correct.

MR. DEYSACH: Nothing further, your Honor.

THE COURT: Re-direct?

SOLICITOR HOLLEN: Thank you, your Honor.

SPECIAL AGENT RICHARD JOHNSON

RE-DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Agent Johnson, was Rahem Devoe a suspect in this case?

A No. No, sir.

Q Let's talk about the car for a second. Why didn't you process the car that belonged to Jennifer Bowers?

A Once we was able to identify who the car belongs to and where it was located at, the car was unsecured. A few days had passed by. Keys was in the car. It was just completely unsecured. There was no need to process it then.

Q So is that standard practice? I'll withdraw that question.

Agent Johnson, do you know how long after this crime you determined who the car belonged to?

THE COURT: Speak up, Counselor.

BY SOLICITOR HOLLEN:

Q Do you know how long after this crime you determined who the car belonged to?

A I can't say for certain, but I believe it may have been within a day or two we started going in that direction.

Q By the time you determined who the car belonged to, do you know how many people could have been in and out of it?

A No.

Q Do you know if the car could have been wiped down?

A It could have been, because it was unsecured. It was abandoned.

Q Where was the car? Where was the car -- I apologize. Where was the car unsecured?

A I believe -- I believe it was Gumm Street here in Allendale. Located on Gumm Street, like in an abandoned parking lot or something.

Q So the car was left abandoned?

A Yes.

Q Agent Johnson, Mr. Deysach asked you about a phone belonging to the defendant, Jaycoby Williams. Did you obtain a search warrant for a phone number that you received information that it belonged to the defendant?

A Yes, I did.

Q All right. Do you have your file with you?

A Yes, sir.

Q How many search warrants did you send and to whom

did you send them?
A I believe it was two -- two search warrants. One initially went to T-Mobile. And T-Mobile replied back that it was a TracFone that was -- that held the information I was requesting. I had to send another search warrant to a TracFone.
Q And did T-Mobile have any information about that phone number?
A No, sir.
Q The TracFone?
A The TracFone had some data on it.
Q Did the TracFone have location data?
A No, sir.
Q All right.
SOLICITOR HOLLEN: Court's indulgence, your Honor.
THE COURT: Mr. Hollen?
SOLICITOR HOLLEN: Court's indulgence, your Honor. I have no further questions.
THE COURT: Re-cross limited to re-direct.
MR. DEYSACH: Yes, your Honor.

SPECIAL AGENT RICHARD JOHNSON

RE-CROSS-EXAMINATION

BY MR DEYSACH:

Q The return on the TracFone subpoena indicated who the account holder was; did it not? And I'm asking

whether it indicated.
A It should have indicated who were the account holder. Just bear with me. It's in here somewhere. Okay.
Q Did it indicate --
A Who were the account holders?
Q I'm asking you did it tell you who it was?
A Yes.
MR. DEYSACH: I don't have any further questions.
THE COURT: As to the witness?
SOLICITOR HOLLEN: I ask that he be allowed to step down, your Honor.
THE COURT: You may step down. Thank you for being with us. Call your next witness.
SOLICITOR HOLLEN: Dawn Claycomb.
Your Honor, may we approach while Ms. Claycomb comes in?
THE COURT: Yes.
OFF-THE-RECORD BENCH CONFERENCE, OUT OF HEARING OF JURORS. PRESENT: THE COURT, SOLICITOR HOLLEN, MR. DEYSACH.
END BENCH CONFERENCE.
MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DAWN MARIE CLAYCOMB: I do.

THE COURT: Have you testified in this courtroom before?

DAWN MARIE CLAYCOMB: Yes, sir, I have.

THE COURT: So you know the sound goes straight to the ceiling.

DAWN MARIE CLAYCOMB: Yes, sir.

THE COURT: I want you to speak just like I'm speaking right now. But sometimes it's difficult to hear some people because these big panels on the wall are acoustical panels. They're supposed to solve the sound problem. It does not.

DAWN MARIE CLAYCOMB: Okay.

THE COURT: So I'm going to ask you to speak up. Please begin by stating your full name and spelling your last name for the court reporter.

DAWN MARIE CLAYCOMB: My full name is Dawn Marie Claycomb. Last name is C/l/a/y/c/o/m/b.

THE COURT: Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

SPECIAL AGENT DAWN MARIE CLAYCOMB

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Is it Agent Claycomb?

A Yes, sir, Special Agent Claycomb.
Q And who do you work for, Agent Claycomb?
A South Carolina Law Enforcement Division, also known as SLED, in the Crime Scene Unit.
Q How long have you been with the Crime Scene Department?
A Approximately four years.
Q Do you have previous law enforcement experience?
A I do. I worked with Richland County Sheriff's Department prior to that, for approximately short of three years.
Q And what is your title at SLED? Crime Scene?
A Crime Scene Agent.
Q As a Crime Scene agent, what are your duties?
A Basically, we respond to crime scenes when we're requested by local agencies or by our agency, and basically respond to a scene. And we photograph, document, collect evidence, and preserve that evidence and transport it back to the lab.
Q In this case, Agent Claycomb, did you take the photographs?
A Yes, sir.
Q Did you collect some items?
A Yes, sir.
Q You were sent to Pinewood Apartments in May 2015

for a crime scene. Is that correct?

A Yes, sir.

Q And do you know the date?

A Yes, sir, it was May 26.

Q Of what year?

A 2015.

Q Thank you. And do you know approximately what time you arrived at the crime scene?

A It was 8:08 p.m.

Q Agent Claycomb, you said you take pictures, collect evidence. Can you take us through the process of a crime scene agent with SLED and how you determine what might be of evidentiary value?

A Sure. Basically, when we arrive, we make contact with the investigators and speak with them and do an initial walk-through of the scene. Basically, once we do that initial walk-through, we see what evidence we have within the scene, and as far as their preliminary investigation, what happened during the incident.

At that time, we identify any evidence at the scene. We will photograph prior to that. And then, once we've figured out what evidence we will collect or might collect, we will mark that with markers. We again photograph after we place the markers down. And after we document with notes and a sketch, we will collect

that evidence; we will pick the evidence up; package it. And that's once -- we transport back to the lab after that.

Q In this case, did you, at the crime scene -- you said you do crime scene sketches. Did you do one here?

A Yes.

Q Did you do swab for DNA fingerprints in this case?

A We did swab blood that was on scene.

Q You swabbed blood that was on scene?

A Yes, sir.

Q Did you have any indication or did you dust for fingerprints or do any kind of swabbing other than the blood?

A No, sir.

Q And why is that?

A Basically, this -- in this incident, being that it was outside an apartment, typically, dusting and fingerprints, if there's anything we can do with that, we will. Usually, that's an inside scene; something that's of value that we can actually swab or dust. In this case, it was an outside scene. There was not much to dust or fingerprint process swab like that as far as the scene itself.

Q After items are collected, who determines what may be tested?

A That's a discussion that we have between the crime scene agents and the investigator. And as far as their investigation and what we found on scene, we discussed the possible signs that we had placed on the evidence.

Q And in this case, as far as the items that were collected at the scene, were any of those items determined to have evidentiary value to be tested?

A There was some swabs of suspected blood that we sent to be tested, and a t-shirt that was sent to be tested, as well. Otherwise, anything else was sent to storage, and it can be sent for processing at a later time, depending on how the investigation unfolds.

Q Agent Claycomb, as part of your duties, do you attend autopsies of victims?

A I do.

Q Did you attend an autopsy in this case?

A Yes, I did.

Q What date did you attend the autopsy?

A It was May 28, 2015.

Q And where were you?

A At the Newberry County Memorial Hospital.

SOLICITOR HOLLEN: Your Honor, may I approach the witness?

THE COURT: You may.

BY SOLICITOR HOLLEN:

Q Agent Claycomb, I'm going to show you what's been pre-marked for identification as State's Exhibit Number 10. Will you take a look at that for me? Do you recognize that?

A I do.

Q And where were those items collected?

A This was collected during the autopsy by the pathologist, and it was then transferred to me after autopsy was completed.

Q Were you present when those were collected?

A I was.

Q Are you the one that collected it from the pathologist?

A Yes.

Q Did you package those items in any certain way?

A I did. When it's transferred to me, they're in small, heat-sealed pouches. Once I receive it, I then write on the lab number that's assigned to the case, the item number that's assigned to it, and also, my initials. And then, I place it within this larger heat-sealed pouch.

Q So you place your initials -- or sealed it and then placed your initials on it?

A Yes, sir. I sealed it and placed my date and initials on top.

Q And that's the condition that it's in when it's transferred to SLED?
A Yes, sir.
A Yes, sir.
Q And where did you take that item?
A This was then transferred to the firearms department, Jamie Green, who was assigned to the case.
Q All right. And what's the date that you transferred it to Mr. Green?
A That, actually, I'm not sure of the date. I just have my seal, and then, when I give it to him, that's -- once he completes his actual examination, it's the date that he does his examination.
Q Got it. Now, what was the date that you sealed that item?
A The date that I sealed it was May 28, 2015.
Q And Agent Claycomb, when Exhibit -- State's Exhibit 10 for identification was in your custody or control, did you change it?
A I did not.
Q Did you alter it?
A No, sir.
Q Did you tamper with it in any way?
A No, sir.
Q All right.

SOLICITOR HOLLEN: Your Honor, may I approach the witness?

THE COURT: You may.

SOLICITOR HOLLEN: Ms. Claycomb, I have no further questions for you at this time. Please answer any questions Mr. Deysach asks.

THE COURT: Cross-examination.

MR. DEYSACH: Thank you, your Honor.

SPECIAL AGENT DAWN MARIE CLAYCOMB

CROSS-EXAMINATION

BY MR. DEYSACH:

Q You processed the crime scene at Pinewood Apartments? Is that correct?

A Yes, sir.

Q And do you know how quickly that scene was able to be secured from when the event is supposed to have happened?

A I can't answer that. I just know as far as when we get to the location for assistance, we respond. So I can't say on how long it takes them to secure the scene from the incident.

Q When you arrived, the scene was already secured?

A It was.

Q Okay. And you did not find any shell casings?

A No, sir.

MR. DEYSACH: Okay. I don't have any further questions, your Honor.

THE COURT: Re-direct?

SOLICITOR HOLLEN: Nothing further, your Honor.

THE COURT: As to this witness?

SOLICITOR HOLLEN: I would ask that Agent Claycomb be excused.

THE COURT: Any objections?

MR. DEYSACH: No, sir.

THE COURT: Ms. Claycomb, you can step down from the trial of this case and you're excused from the trial of this case.

A Thank you, your Honor.

SOLICITOR HOLLEN: James Green.

THE COURT: James Green. Come right on up here. The clerk's going to hand you -- after you get your file down, left hand on the *Bible*, right hand in the air.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God.

AGENT JAMES WILLIAM GREEN: Yes, ma'am.

THE COURT: Have a seat. Make yourself comfortable. Mr. Green, this courtroom has a problem with sound. I'm going to have to ask you to please speak up. The sound goes straight to the ceiling in

here, and it's difficult to ascertain some people's voice in here. Although, that microphone will amplify your voice, if you get too close to it, it's just going to blur your words. Please just state your full name, spell your last name for the court reporter.

AGENT JAMES WILLIAM GREEN: James William Green, G/r/e/e/n.

THE COURT: Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

AGENT JAMES WILLIAM GREEN

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Mr. Green -- or Agent Green, I know that you said you had some hearing loss, so I will try to speak up. If you can't hear, let me know.

THE COURT: Speak up, Counsel.

SOLICITOR HOLLEN: Yes, your Honor.

BY SOLICITOR HOLLEN:

Q Agent Green, who do you work for?

A I'm employed by the South Carolina Law Enforcement Division, commonly referred to as SLED.

Q And how long have you been with SLED?

A Since June of 2005.

Q What about before that? Any previous law

enforcement experience?
A I worked for the Mount Pleasant Police Department for about three-and-a-half years.
Q What is your position inside of SLED?
A I'm a forensic firearms examiner in the Forensic Services Laboratory.
Q Do you have any special education, qualifications, for that title within SLED?
A When I was hired at SLED, I started the SLED fireman tool mark course instruction program. It's roughly a three- to three-and-a-half year course of study, studying to do what I do now, under court-qualified firearm examiners.
Q Agent Green, have you ever been qualified as an expert in firearms in court in South Carolina?
A Yes, sir.
Q Approximately how many times?
A Fifty-four times state, and twice federal.
SOLICITOR HOLLEN: Your Honor, at this time, I'd offer Agent Green as an expert in firearms.
THE COURT: Any objection as to qualifications?
MR. DEYSACH: No, your Honor.
THE COURT: Ladies and gentlemen of the jury, you're about to hear the testimony from a witness who claims to have a special knowledge, skills, experience,

or training or education in the field of firearms, firearms identification. Normally, ladies and gentlemen, the witness does not get give on the witness stand and give opinion testimony or conclusion testimony. An exception to the opinion goes for those witness who we call expert witnesses. If qualified, the witness, as an expert, is permitted to give an opinion as to matters in which the witness claims to be so skilled.

In determining weight to be given to such opinion, you should consider the qualifications, and the credibility or believability of the expert, reasons given for his opinion. You are not bound by such opinion. You give it the weight, if any, to which you deem it should be entitled.

The witness is qualified without objection. You may proceed, Counsel, on direct examination.

SOLICITOR HOLLEN: Thank you, your Honor. May I approach the witness, your Honor?

THE COURT: You may.

BY SOLICITOR HOLLEN:

Q Agent Green, I'm going to hand you what's been marked for identification, State’s Exhibit Number 10. Do you recognize that?

A Yes, sir. State’s Exhibit Number 10 is SLED

container L15-06902, Container Number G, which is a re-sealed pouch that bears my initials and date.

Q Okay. So your initials are on that package.

A Yes, sir.

Q What date did you put on that package?

A 6-3 of '15.

Q All right. Who did you receive that package from?

A Special Agent Dawn Claycomb of the Crime Scene Department.

Q Do you know what date you received it?

A No, sir. It would have been between 5-28 when she sealed it, and when I got it, the date I started my examination in the case would have been on 6-2.

Q When you received that package, what condition was it in?

A It was sealed on both ends.

Q Did it appear to have been tampered with in any way?

A No, sir.

Q Was it altered before you got it?

A No, sir.

Q Why was State's Exhibit 10 transferred to you?

A State's Exhibit 10 was transferred to me so I could examine the evidence found in it; issue a report on it based on my findings.

Q And did you perform analysis on those items?
A Yes, sir.
Q Okay.
SOLICITOR HOLLEN: your Honor, at this time, I'd ask to move State's 10 into evidence.
THE COURT: As to State's 10?
MR. DEYSACH: No, objection, your Honor.
THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number 10 will be admitted into evidence in the trial of this case without objection. State's 10 in evidence. You may now, if you choose, differentiate, Counsel.
SOLICITOR HOLLEN: Thank you, your Honor.
THE COURT: 10 is in evidence.
SOLICITOR HOLLEN: Thank you.
ITEM IDENTIFIED AS SLED CONTAINER
L15-06902, CONTAINER NUMBER G,
A RE-SEALED POUCH
MARKED STATE'S EXHIBIT NUMBER 10
ADMITTED AS EVIDENCE.
SOLICITOR HOLLEN: May I approach the witness, your Honor?
THE COURT: You may.
BY SOLICITOR HOLLEN:
Q Agent Green, I'm going to ask you to open that

package, if you may.

WITNESS COMPLIES.

Q How many items are in that package?

A There are two. There's SLED Item Number 26 and SLED Item Number 27.

Q Agent Green, I'm going to hand you back the other item that's marked and admitted under 10. That's 10-A and 10-B. First of all, can you describe State's 10-A, please.

A 10-A is a fired bullet.

Q All right. What about 10-B?

A 10-B is a very tiny fired bullet jacket fragment.

Q Before we get into the specifics of those items, Agent Green, can you talk about the criteria that you use to examine firearms, bullets, fragments, anything like that.

A Yes, sir. In a case like this where we're given a projectile or projectile or bullets, what we do is, we look at them physically. We weigh them and take their measurements. And then attempt to try to determine the caliber of the specific projectile. I did that in this case.

And then, if we have multiple projectiles, we try to determine if they were fired by the same firearm or different firearms. Once we're able to do that, we can

look at the general characteristics displayed on the bullet or bullets, and give the investigating agency a possible list of suspect firearms that could have fired the bullet.

Q Agent Green, can you describe those items. Talk first, if you don't mind, about the bullet, characteristics of that bullet.

A Yes, sir. State's Exhibit 10-A is a fired bullet. Based on its observable, physical characteristics, it's weight and its diameter, was able to determine that it was most consistent with being a bullet loaded into some .40 S&W caliber cartridges or some 10 millimeter auto caliber cartridges.

Q And were you able to determine what kind of gun, what make of gun those may have been fired from?

A Yes, sir. Based on the information I put into the data based provided to us by the Federal Bureau of Investigation, or the FBI, once I weighed and measured the bullet, got the approximate caliber, I put that information, along with the land and groove widths, which are providing me specifications on the bullets that are put there by the barrel through which was fired.

Took all that information, put in into the database provided to us by the FBI, and the only known

manufacturer currently making firearms with those specifications was Smith & Wesson.

Q So those -- that bullet you believe was fired from a Smith & Wesson firearm?

A Based upon all the information we had, yes, sir.

Q What about other information? Were you able to determine anything else about the firearm that fired that gun?

A Most likely it would be a semi-automatic pistol.

Q Agent Green, what about the bullet, the fragment in this case?

THE COURT: Refer to exhibit number for the record.

BY SOLICITOR HOLLEN:

Q Exhibit 10-B, Agent Green.

A State's Exhibit 10-B was very, very small. It weighed 0.6 grams. A gram is a unit of weight we use in the firearms department. The rough equivalent to that is it weighs less than one-fortieth of what a penny weighs. So it was very lightweight. It had no markings on it that I could use for identification. And it was so torn up, I could not tell you if it was part of State's Exhibit 10-A bullet at some prior time, or if it was part of a separate bullet.

Q So you weren't able to determine whether that fragment came off of -- the fragment that is 10-B came

from 10-A or not?
A Correct, I was unable to tell whether State's Exhibits 10-A and 10-B were the same one at some prior time or not.
Q All right. Were you given a gun to test in this case, Agent Green?
A No, sir.
Q Are you, at times, provided with a firearm to test against fired fragments that are recovered?
A Yes, sir.
Q And if you would have been given a gun in this case, would you have been able to determine that the bullet was fired from that gun?
A Based on the condition of State's Exhibit 10-A, I said the bullet may or may not be suitable, but it was very damaged. If he gave me the gun, I do not know if I could tell you that was the gun or not, based on the condition of State's Exhibit 10-A as I received it.
Q Thank you. Were you provided with a cartridge casing in this case?
A No, sir.
Q You said that you believe that bullet was fired from an automatic weapon. Is that correct?
A Correct.
Q Can you explain to the jury how an automatic weapon

works versus a revolver.
A Yes, sir. A semi-automatic pistol is a firearm that, when you pull the trigger, the gun does the work for you. Once the gun's loaded, you pull the trigger; the firing pin hits the primer; cartridge goes off; the bullet goes down the barrel; the slide will recoil; and when that happens, it extracts and injects the fired cartridge case from the weapon, if the weapon is functioning properly. It loads the next one for you; You keep pulling the trigger, and that cycle repeats until it runs out of ammunition, if the gun is working properly. If you watch the old cowboy movies, a revolver is what they used there. You pull the trigger; the cylinder rotates; and when you pull the trigger and the cylinder rotates, and cartridge casings stay in the revolver.
Q And you were not given a cartridge casing in this case.
A Correct. No, sir, I was not.
Q Wouldn't an automatic firearm automatically eject the cartridge?
A If it was working properly, yes, sir.
Q So do you have any idea or can you provide a reason why they may not have recovered a cartridge?
A There's any number of reasons. The firearm may not

have been functioning properly. Sometimes if you shoot a gun close to your body, you can actually keep the slide from recoiling, which would extract and eject the cartridge casing. And there's a whole bunch of other different reasons.

Q So you don't know if there was a cartridge in this case or not, because you weren't provided with one?

A Correct.

SOLICITOR HOLLEN: Agent Green, I have no further questions for you. Please answer anything Mr. Deysach has.

THE COURT: Cross-examination.

MR. DEYSACH: Thank you, your Honor.

SPECIAL AGENT JAMES WILLIAM GREEN

CROSS-EXAMINATION

BY MR DEYSACH:

Q Good afternoon, Agent Green.

A Good afternoon.

Q I'm Ian Deysach, attorney for Mr. Williams in this case. Okay. So the information that we have from the items you examined is that you've given an opinion as to the caliber of projectile that that is, correct?

A Yes, sir.

Q And you've also given opinion as to the possible maker of the firearm in which this projectile would fit,

correct?
A That would be when it was fired, yes, sir.
Q Okay. And so, you had some rifling marks, I guess, marks on that projectile?
A Yes, sir.
Q Speaking of, I believe we're on 10-A, what you have referred to as Item 26. And that, if you had a weapon to match it up against, the possibility exists that you could say whether or not the projectile was fired from that weapon.
A I think I probably -- yes, sir. Yes, sir.
Q Not artful. I think you've left yourself some room to say we may be able to match it up to the barrel out of which it came, correct?
A Yes, sir, based on the damage and the markings available.
Q But you had enough markings to at least give it a try, correct?
A The markings we looked for through State was fired by this individual gun are very small and microscopic. The markings I used to say -- or to give the GRC list of what a Smith & Wesson is. Their class is they're very large and well pronounced.
Q Okay.
A So I can say this bullet was definitely fired out

of a conventionally rifled barrel with five grooves and a right-hand twist.

Q All right.

A But I don't know that I could say if you gave me the gun, that it was fired from that gun, based on the damage and the limited microscopic marks available left on Exhibit 10-A.

Q Right. You don't know if you could make the match or if you couldn't make the match, correct?

A Correct.

Q And I see you've given a make of the firearm that would be possibly the source of the projectile. Are you able to come up with a model or just the manufacturer?

A There were models listed on there, but there are so many different models meeting that specification that it would be -- it's a lot easier just to say you're looking for a Smith & Wesson in a .40.

Q Okay. Too many models.

A Yes, sir.

Q And as to, I guess, Exhibit 10-B, the information you were able to get from that jacket fragment was very limited, correct?

A I can basically say it's a jacket fragment.

MR. DEYSACH: Okay. That's it. All right. Nothing further, your Honor.

THE COURT: Re-direct?

SOLICITOR HOLLEN: Nothing further, your Honor.

THE COURT: As to this witness.

SOLICITOR HOLLEN: I would ask that he be excused.

THE COURT: Any objection?

MR. DEYSACH: No, your Honor.

THE COURT: Mr. Green, you may step down. Leave my exhibits and my packet with me. Those go to the court reporter.

A Yes, sir. I'm putting them back in there right now.

THE COURT: All right. Drive carefully. You're excused from the trial of this case. I know you'll adhere to the speed limit on your return.

A I always do.

THE COURT: Call your next witness.

SOLICITOR HOLLEN: Dr. Janice Ross.

THE COURT: Come up to the witness stand. She'll come to you right here by the witness stand. Left hand on the *Bible*, raise your right hand.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DR. JANICE ROSS: I do.

THE COURT: How are you? Have a seat. Make

yourself comfortable. Dr. Ross, I know you've been here before.

DR. JANICE ROSS: Yes.

THE COURT: But this courtroom has high ceilings and everybody's sound goes straight up to the ceiling.

DR. JANICE ROSS: Yes, sir.

THE COURT: I'm going to have to ask you to speak up like I'm doing right now. It's very hard for the court reporter to be able to ascertain, even though she's close to you, and the people at the end of the jury box. So I'm going to ask you to speak up. Begin by stating your full name and spelling your last name for the court reporter.

DR. JANICE ROSS: Thank you. Janice Edwards Ross, R/o/s/s.

THE COURT: Your witness, Counsel. Direct examination.

SOLICITOR HOLLEN: Thank you, your Honor.

DR. JANICE EDWARDS ROSS

DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Good afternoon, Dr. Ross.

A Good afternoon.

Q I've called you doctor. Dr. Ross, what do you do?

A I'm a forensic pathologist in Newberry, South

Carolina.

Q What is a forensic pathologist?

A A forensic pathologist, we are doctors, physicians. I went to the University of South Carolina, got a bachelor's degree, and I got my M.D., doctor of medicine, from Upstate Medical Center in Syracuse, New York. And that's where I did my training in pathology. Pathology is a discipline of medicine, as opposed to surgery or pediatrics.

As a pathologist, we learn how to diagnose diseases, how to look at tissue under the microscope and diagnose things like cancer. We also learn how to do an autopsy to find a cause of death.

A forensic pathologist, furthermore, learns how to identify types of injuries, patterns of injuries, collect evidence for the court of law, and collect tissues and fluids for drug analysis, and to document such with photographs.

Q As a part of your job, do you perform autopsies?

A Yes.

Q And what's the reason for performing an autopsy for you?

A We want to find cause the of death and the manner of death.

Q Dr. Ross, have you testified in court before?

A Yes.
Q Approximately how many times?
A In South Carolina, about 240 times.
Q And have you been qualified as an expert?
A Yes.
Q About how many times?
A All of those times.
Q All of those times?

SOLICITOR HOLLEN: Your Honor, at this time, I'd offer Dr. Ross as an expert in forensic pathology.

THE COURT: Any objection to qualifications?

MR. DEYSACH: No, Your Honor.

THE COURT: Ladies and gentlemen, recalling my earlier instruction to you concerning expert testimony, the witness is qualified without objection in the field of forensic pathology.

You may proceed, Counsel, without objection.

SOLICITOR HOLLEN: Thank you, your Honor.

BY SOLICITOR HOLLEN:

Q Dr. Ross, did you perform an autopsy on the victim in this case, James Spellman?
A Yes.
Q What was the date and time that you did that?
A We did this on May 28, 2015, and started the autopsy at 8:30 a.m.

Q And can you describe the wounds Mr. Spellman had when you received the body.
A Yes. He had a few abrasions of the skin, scrapes of the skin, over his nose and left lip and left cheek. He also had three wounds that looked to have been made by a bullet.
Q And did you document these wounds in your report?
A Yes.
Q Dr. Ross, let's talk first about where were these wounds?
A One entrance wound was in the left chest, just near the left nipple. One wound went all the way through the left forearm. And there was a graze wound, which means it just went across the skin of the upper left arm.
Q All right. And out of these wounds, were any of them, based on your expertise, fatal?
A Yes.
Q And which one was that?
A The one that went into the chest.
Q Okay. Dr. Ross, in looking at the wounds James Spellman suffered, were you able to determine how many projectiles caused those wounds?
A No. It could be one, two or three different bullets. The -- the one that went into the chest is the

one that killed the person, having gone through both lungs, the heart, and major blood vessels. But there was one bullet that went all the way through the forearm, and that could have gone in, come out, and gone back in the chest. There was one that grazed the wound -- the upper arm. And that could have just grazed the arm and gone in -- then gone into his chest. Or if his arm was kind of up with the elbow bent, one bullet could have done all three.

SOLICITOR HOLLEN: Court's indulgence, your Honor.

Your Honor, may I approach the witness?

THE COURT: You may.

BY SOLICITOR HOLLEN:

Q Dr. Ross, I'm going to hand you what's been marked for identification as State's Exhibit 11. Do you recognize that?

A Yes.

Q And what is that?

A That is my diagram, a rough draft, basically, of what I witnessed at the autopsy of Mr. Spellman.

Q And is that something that you do for each autopsy, every autopsy that you perform?

A Yes.

Q And does that document the wounds on Mr. Spellman's body?

A Yes, it does.
Q And you marked on that diagram. Is that right?
A Yes, it's my handwriting.
Q Is that a fair and accurate depiction of the diagram that you made?
A Yes.
Q Has it been changed or altered in any way?
A No, sir.
SOLICITOR HOLLEN: Your Honor, I would ask that State's –
THE COURT: As to State's 11, Counsel?
MR. DEYSACH: No objection, your Honor.
THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number 11 will be admitted into evidence in the trial of this case without objection. You may publish to the jury.
SOLICITOR HOLLEN: Thank you, your Honor.
ITEM IDENTIFIED AS DIAGRAM WITH
HANDWRITTEN NOTES
MARKED STATE'S EXHIBIT NUMBER 11
ADMITTED AS EVIDENCE.
BY SOLICITOR HOLLEN:
Q If I may, I'm going to do this the old fashioned way here.
Dr. Ross, there's a lot of writing on this exhibit,

but this is your notes as far as the width, depth, that kind of thing, of the wounds?

A Yes. It's basically where the sounds were located. We measure wounds inches below from the top of the head and inches right or left of the middle body.

Q In this case, Dr. Ross, did you recover any projectiles from the body of James Spellman?

A Yes.

Q How many did you recover?

A One.

Q That's one? Just one bullet?

A One bullet and one tiny little fragment.

Q And one tiny little fragment. And you're not an expert in firearms, so you don't know if those came from multiple shots or one.

A That's correct.

Q Dr. Ross, you said as part of your duties you determine the cause and the manner of death.

A Yes.

Q Can you explain for the jury what cause and manner are of death and the difference between the two.

A Yes. Cause of death is just what it says, what caused the death of the person. The manner of death is how that caused death came about being. For instance, was it a natural death, like a heart attack? Was it an

accidental death, having a car accident? Was it suicide and person do it to themselves? Or was it a homicide if somebody else did it to that person?

And sometimes we can't tell any of the above, so we call it undetermined. So there are five actual manners of death.

Q And when you're determining manner of death, do you simply rely on what the body tells you, or is there other information that's given to you?

A Oh, it's -- we have to -- it's teamwork. We have to find out what -- what was at the scene, if there were any witnesses. No, we rely heavily on the coroner's investigation and law enforcement.

Q Dr. Ross, in this case, what was the cause of death for James Spellman?

A He bled -- exsanguination, which means to bleed out. And that's because he -- the bullet lacerated the heart, both lungs, and some of the major blood vessels coming off the heart.

Q And what about the manner of death?

A Manner of death is homicide.

Q Dr. Ross, in a wound of this type, is it unusual for the majority of the bleeding to be internal?

A Yes.

Q It is unusual to be --

A Oh, I'm sorry. It's not unusual. Most of the bleeding is -- is kept inside. There's just a single hole in the left chest, and that there wouldn't be a lot of blood coming out of that.

Q So the blood would be inside the body.

A Correct.

Q That was a terrible question I asked. I apologize. Dr. Ross, you were not able to determine or you don't know for certain how many shots were fired.

A Correct.

Q And you don't know anything about the death of James Spellman, about who killed him; do you?

A No. No.

Q You don't have any information about that. All you were able to determine is that he was killed by the bullet.

A That's correct.

SOLICITOR HOLLEN: All right. Thank you, Dr. Ross. I don't have any further questions for you.

A Okay.

THE COURT: Cross-examination.

MR. DEYSACH: Thank you, your Honor.

DR. JANICE EDWARDS ROSS

CROSS-EXAMINATION

BY MR DEYSACH:

Q Good afternoon, Dr. Ross.
A Good afternoon.
Q I'm Ian Deysach. It's nice to see you in person.
Okay. I have a question about the opinion you offered regarding number of, I guess, number of shots that caused these wounds. When -- it was your opinion that these wounds were caused by at least two shots, correct?
A Correct.
Q Okay. And that opinion has changed, correct?
A Well, it could be -- it could be one, two, or three.
Q Okay. And formerly, your opinion was it could be two or three, correct?
A Yes, when I spoke with you before.
Q Right. That was the opinion you told me, correct?
A Yeah, you've got me off guard.
Q I mean, did I convince you to give me an opinion?
A No. No, you did not.
Q Okay. All right. And so, at that time, it's not really about what you told me, but at that time, was it your opinion that it was at least two shots that would have caused these injuries?
A Basically, all I can say is bullets go straight, so there were three different wounds. If you line them up,

you can -- you can have one bullet do it, two bullets, or three. Or one.

Q Okay.

A Or three. I'm sorry.

Q And I understand that's what your opinion is today, but I'm just asking whether or not that opinion has changed?

A Well, when I first talked to you, I was thinking two or -- two or three.

Q And now that opinion has changed, correct?

A Well, when you think about positioning of the wound, the arm, in a certain way

Q Now, let me ask you this. You don't just make a diagram of the person who is the subject of the autopsy. You actually take pictures also, correct?

A Yes.

Q And you took pictures of the arm, correct?

A Yes.

Q And you took pictures of really everything that you thought might be important when it comes to taking this autopsy -- or performing this autopsy, correct?

A Yes.

Q Okay. And so, let me ask you this. We talked about what you told me your opinion was that week. And is it true that that opinion changed after you spoke

with the Solicitor's Office?
A Yes, because we -- I went back and thought about the way that the arm could have been at the time that he was shot.
Q Okay. Okay. How could the arm have been?
A The elbow would have to be bent, and the forearm in front of the gun, basically. Bullets go straight. So, if the bullet went through the forearm, and then grazed the upper arm, and then went back into the chest is one -- is one possibility, yes.
Q And it's your testimony right now that the bullet could go straight and do that.
A That's correct.
MR. DEYSACH: All right. Nothing further.
THE COURT: Re-direct?
SOLICITOR HOLLEN: Briefly, your Honor.

DR. JANICE EDWARDS ROSS

RE-DIRECT EXAMINATION

BY SOLICITOR HOLLEN:

Q Dr. Ross, when we spoke, I asked you if these wounds could have been the result of a single gunshot wound. Is that right?
A Yes.
Q And what was your answer?
A That they could.

Q Okay. And you are making motions with your arm for the jury, and they're going to have the diagram in the jury room, but the bullet went straight through the forearm. Is that correct?

A That's correct.

Q It grazed the left bicep. Is that correct?

A Yes.

Q And a wound -- I say the bullet -- there was a wound going straight through the forearm; there was a wound grazing the left bicep; and there was bullet wound that went into his chest, you said just about the nipple.

A Correct.

Q Was that on the left side of his chest?

A Yes.

Q So, if someone had their armed cocked in a defensive motion, could that have been the result of a single gunshot wound?

A It’s a possibility, yes.

SOLICITOR HOLLEN: Thank you. No further questions.

THE COURT: Re-cross limited to re-direct.

MR. DEYSACH: Nothing, your Honor.

THE COURT: As to this witness, Solicitor?

SOLICITOR HOLLEN: Your Honor, I’d ask that Dr.

Ross be excused.

THE COURT: Any objection.

MR. DEYSACH: No, your Honor.

THE COURT: Ms. Ross,

STATE RESTS; RENEWING MOTIONS;

DEFENDANT'S RIGHTS; DEFENDANT RESTS:

SOLICITOR HOLLEN: Your Honor, at this time, the State rests.

THE COURT: Are there any matters of law that I need to take up at this time?

MR. DEYSACH: Yes, sir.

THE COURT: Madam Foreperson, ladies and gentlemen of the jury, I'm going to ask you to step to your jury room. I need to take up a matter of law. I won't be long. I'll be back with you in just a moment.

Please do not discuss the case.

JURORS LEAVE COURTROOM 3:46 P.M.

THE COURT: Mr. Deysach?

MR. DEYSACH: Your Honor, may it please the Court. Right now, the State would -- or the Defense -- I'm sorry -- would renew all objections made in this trial in this case up to this point, and would also move for a directed verdict in this case. I would submit to the Court that, although there have been witnesses who have identified Mr. Williams who have testified that Mr.

Williams had a gun, there's nobody who actually -- or at least there's been inconsistent testimony as to whether or not the firearm -- or the firing of the bullet was actually witnessed. I don't think there is evidence enough to send it to the jury on the identity issue. I would also say that there's no evidence as to the malice aforethought; that the State has not carried their burden to get the case to the jury in regards to the identity element or the malice aforethought element, your Honor.

THE COURT: Solicitor?

SOLICITOR HOLLEN: Your Honor, whether or not the jury believes the witnesses is a question for them. We have two eyewitnesses that put the defendant at the scene, one of whom says that he saw the defendant pull the trigger and fire at the victim in this case.

As far as the malice aforethought element, there are plenty of circumstantial evidence by defendant firing a weapon at virtually point blank range at the victim that he intended to do this with malice aforethought. And Mr. Spellman is deceased as a result. Respectfully, I believe there is enough to send this to the jury.

THE COURT: Using the standard that I'm required to use at the close of the State's case for a motion for

directed verdict, Mr. Deysach, the motion is respectfully denied. You and your client please come forward to the clerk's station.

Madam Clerk, please swear the defendant.

MADAM CLERK: Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DEFENDANT WILLIAMS: I do.

THE COURT: Come to the microphone.

DEFENDANT WILLIAMS: I do.

THE COURT: Very good. Speak up for me now, because of the sound in here.

DEFENDANT WILLIAMS: Yes, sir.

THE COURT: State your name for the record.

DEFENDANT WILLIAMS: Jaycoby Williams.

THE COURT: Mr. Williams, at this time I'm going to explain to you certain of your rights. If you do not understand anything that I say, please let me know.

DEFENDANT WILLIAMS: Yes, sir.

THE COURT: If you want me to explain anything in further detail, please let me know. You understand?

DEFENDANT WILLIAMS: Yes, sir.

THE COURT: We've now reached the stage in the trial where you may present your defense. You have a right to testify in your own behalf. However, no one,

not your lawyer, not this court, not the State, can make you testify.

DEFENDANT WILLIAMS: Yes, sir.

THE COURT: In the event you have a criminal record for any conviction involving dishonestly or a false statement or for a crime punishable by imprisonment of more than one year, and this Court determines, as a matter of law, that the probative value of admitting this evidence outweighs its prejudicial effect to you, the Solicitor would be able to introduce this record for impeachment purposes to attack your credibility or your believability.

Solicitor, is it the State's position that Mr. Williams has such a record?

SOLICITOR HOLLEN: Yes, your Honor, it is.

THE COURT: All right. You have a copy of his record, Mr. Deysach?

MR. DEYSACH: I do, your Honor.

THE COURT: You're familiar with it and you've been over this with your client. Is that correct?

MR. DEYSACH: That is correct, your Honor.

THE COURT: Now, having not heard that yet, I can tell you that it is the State's intention, because of your previous criminal convictions to attempt to impeach your credibility based on the future finding by this

Court that admitting the evidence -- that the Court determines that the probative value of admitting the evidence outweighs its prejudicial effect to you.

If, however, you elect not to take the witness stand, I will charge the jury that they are not to give the fact that you did not testify any consideration whatsoever. You have the constitutional right to remain silent, and there is to be absolutely no prejudice to you because you because you did not testify.

The decision, however, as to whether you testify in the trial of this case will be left entirely up to you. You can certainly talk with your attorney, but it is not your attorney's decision.

DEFENDANT WILLIAMS: Yes, sir.

THE COURT: It is only your decision. Do you understand what I've just said?

DEFENDANT WILLIAMS: Yes, sir. Yes, sir.

THE COURT: All right. Have you made a decision as to whether or not you wish to testify in the trial of this case?

DEFENDANT WILLIAMS: No, sir.

THE COURT: No, sir, meaning you haven't made a decision, or no, sir, you don't wish to testify?

DEFENDANT WILLIAMS: I don't wish to testify.

THE COURT: And that's your decision?

DEFENDANT WILLIAMS: Yes, sir.

THE COURT: Not anyone else's decision?

DEFENDANT WILLIAMS: No, sir.

THE COURT: No one forced you in to that decision.

DEFENDANT WILLIAMS: No, sir.

THE COURT: You made that decision of your own free will and accord.

DEFENDANT WILLIAMS: Yes, sir.

THE COURT: You may return to your seat.

Mr. Deysach, does the defendant intend to introduce evidence in the trial of this case?

MR. DEYSACH: No, your Honor.

THE COURT: Very well. When I bring the jury back, since the State has rested in the presence of the jury, I will then turn to you, and you will announce that you are resting. I will expect each of you to hand up any requests to charge before I leave the court today. I will expect you to be prepared, since Mr. Deysach tells me he's not presenting evidence under the latest case in December of 2016, *State v Beaty*, Mr. Deysach will have closing argument in the trial of this case since he intends not to present any evidence on behalf of the defendant. However, we will start back with closing arguments and charge in the morning, so that I'm able to complete my charge on the law and consider any requests

to charge that you have handed me before I leave today. Do both of you understand?

MR. DEYSACH: Yes, your Honor.

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: How long do you think you need to argue, Solicitor? Thirty minutes do it?

SOLICITOR HOLLEN: Thirty minutes should do it.

THE COURT: Thirty minutes, Mr. Deysach?

MR. DEYSACH: Certainly not more than forty-five, your Honor.

THE COURT: Well, I will give you thirty, since the State has thirty. Didn't you tell me you could do it in thirty?

SOLICITOR HOLLEN: I certainly hope so, your Honor. I believe I can.

THE COURT: Well, remind me to tell you about my Sunday school class and teaching. It'll be a good lesson for both of you on closing arguments. You can do it in thirty, Mr. Deysach?

MR. DEYSACH: I would like a little bit of leeway on a little bit more than thirty. I don't want to go more than forty-five, your Honor, but I definitely am asking for more than thirty.

THE COURT: Mr. Deysach, jurors don't tend to listen when you become lengthy. However, I will give

you a little leeway.

MR. DEYSACH: Thank you.

THE COURT: All right. Solicitor, you will argue first in the morning. Followed by Mr. Deysach. Once you have reached a reasonable amount of time, both of you will hear a familiar (FOUR TAPS OF GAVEL) to let you know to wrap it up because your time has concluded. You understand, Solicitor?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: You understand, Mr. Deysach?

MR. DEYSACH: Yes, your Honor.

THE COURT: Very well. Bring us the jury.

JURORS ENTER COURTROOM 3:55 P.M.

THE COURT: Madam Foreperson, ladies and gentlemen of the jury, you've now heard the evidence from the State of South Carolina. We will now hear from the defendant.

Counsel, call your first witness.

MR. DEYSACH: Your Honor, at this time, the Defense rests.

THE COURT: Ladies and gentlemen of the jury, you have now heard all the evidence from the State of South Carolina and you've heard from the defendant. Because of the hour, and I promised to get you home in a timely fashion, we will conclude this trial tomorrow morning.

I'm going to let you have thirty more minutes sleep since you were able to complete all the evidence today. Please report back to your jury room prior to 10:00 a.m. in the morning. We will start promptly at 10:00 a.m. in the morning.

Over the overnight recess, please do not discuss this case with anyone, even amongst yourselves. You've not heard closing arguments of the attorneys or received my charge to you on the law. I hope everybody has a pleasant evening.

I want to thank you for being on time this morning. Thank you for your service. Please report to your jury room prior to 10:00 a.m. in the morning. You're now excused for the day, and you may leave the courtroom at this time. Everyone else remain seated while the jury's leaving.

JURORS LEAVE COURTROOM 3:57 P.M.

THE COURT: All right. Does the State have any requests to charge?

SOLICITOR HOLLEN: No, your Honor, nothing beyond the standard.

THE COURT: Does the defendant have ne requests to charge?

MR. DEYSACH: No, your Honor.

THE COURT: All right. I'm going to need to see my

lawyers in chambers. I want you to review the verdict form. I'm going to go over with you what I call my preliminary charge, because I'll be working on it tonight. I'll expect you to be prepared to go forward at 10:00 a.m. in the morning.

Solicitor, you will argue first. Followed by an argument by the Defense. You understand?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: This court stands adjourned until 10:00 a.m. tomorrow morning. I'll see counsel in chambers.

END DAY TWO, TUESDAY, APRIL 4, 2017, 3:59 P.M.

BEGIN DAY THREE, WEDNESDAY, APRIL 5, 2017, 10:20 A.M.

BY THE COURT:

THE COURT: Thank you. Good morning. Please be seated. All right, ladies and gentlemen, we'll keep an eye on the weather. We're probably going to have some rain and some wind.

I met with the attorneys. They tell me they're satisfied with the verdict form, which I've shown them. I've been over my entire charge. In fact, I've provided them with copies of my preliminary charge. They have no additional requests to charge.

Mr. Deysach, it's my understanding you wish to

renew your motion that you made at the close of the State's case at the close of all the evidence. Is that correct?

MR. DEYSACH: That is correct, your Honor. I would like to renew that motion, as well as renew all objections made during the course of the trial.

THE COURT: Well, you didn't have to renew an objection anymore. We stopped having to do that probably thirty-five or forty years ago. But it is encumbent upon you to renew your motion at the close of all evidence. And for reasons, I stated at the close of the State's case, your motion for a directed verdict is respectfully denied.

The parties are aware of the order of argument. I've been over that with them. The Solicitor will argue first. Followed by counsel for the defendant, who will have closing argument since he did not present any evidence, and in my charge to you on the law.

State ready to proceed?

SOLICITOR HOLLEN: Yes, your Honor.

THE COURT: Defendant ready to proceed?

MR. DEYSACH: Yes, your Honor.

THE COURT: Bring us the jury, please.

JURORS ENTER COURTROOM 10:24 A.M.

THE COURT: Good morning, ladies and gentlemen of

the jury. I hope everybody had a pleasant evening. I know we're due for some weather. We're watching it, and I'll be monitoring that with emergency preparedness here. Thank you for being here on time.

We're now going to continue with this trial. We're going to hear the closing arguments first from the State of South Carolina, followed by closing argument for counsel for the defendant, followed by my charge to you on the law. I ask that you give the attorneys your careful consideration.

Counsel.

SOLICITOR HOLLEN: Thank you, your Honor. May it please the Court.

THE COURT: Proceed. Mr. Hollen, Mr. Deysach.

CLOSING ARGUMENT ON BEHALF OF THE STATE, BY SOLICITOR HOLLEN:

SOLICITOR HOLLEN: Good morning.

RESPONSES BY JURORS.

SOLICITOR HOLLEN: A story. That's what you were told that what we gave you in the opening statement was. You were told it was a story. That's what the Defense wants you to believe.

He's right about one thing. The evidence in this case is not what I tell you, it's not what Mr. Deysach tells, you, it's what you heard from that witness stand.

Now, Defense also said that they wanted you to pay close attention to the differences between what I told you the witnesses were going to say and what they told on the stand. Well, you've heard it. What did I tell you they were going to say? We told you pretty much exactly what I thought they would. The reason for that is to defend the truth, defend the truth the whole time. Defend the truth that Mr. Best, when he was first interviewed by law enforcement about an hour after he saw his cousin gunned down right in front of him, when he gave that recorded interview, when he's still wearing the shirt that was covered in his cousin's blood, what did he say? It was Terreak. Terreak killed him. He shot him at Pinewood Apartments. He said he was standing right there. And he was.

Mr. Devoe, first time he came in and voluntarily spoke with law enforcement was three questions I know him, I was in the car with him, he never said anything, he got out, and he killed James Spellman.

So I want you all to remember that as we go through this. This isn't a story. James Spellman's not a fictional character. He's a -- he was a living, breathing, human being with a family, with friends, and he's no longer walking this earth because of the man sitting there.

I appreciate you all paying such close attention to this trial. You can see that I have some notes here just because I don't want to forget anything. I'm not going to bore you with every single detail of the trial. You all have heard it. The purpose of this is just to kind of go back through everything you saw and everything you heard. And I don't want to forget that, so when you all see me looking at my notes, that's the reason.

So let's go back. Start with something easy. You know that on May 26, 2015, James Spellman was taken to the Allendale County Hospital. He was taken in DeQuincy Best's car. He was admitted, according to Dr. Fornari at 1730, 5:34 p.m. He had gunshot wounds. They attempted to revive him. He was pronounced dead at 5:52 p.m. on the same day.

You know, because of what Dr. Ross told you from the stand, that the cause of James' death was a gunshot wound to the chest. It penetrated his heart, it cut through his lungs, and he basically bled to death.

You know that Dr. Ross declared his death a homicide, meaning that he was killed by whoever fired that bullet.

You know that there was a blue car at the scene. You know that the blue car was identified by Franklin

Williams. He told you he saw it speeding away after the shot that he heard.

Mr. Devoe told you he was picked up in a blue car by somebody named Gummie that was never identified. Tyrone Moultrie and the defendant sitting right there were in the car when they picked him up.

Agent Johnson told you he was able to determine that car belonged to Jennifer Bowers. And it was picked up by somebody while she word at Hardees. She wasn't there. And the Defense made a big deal about the car wasn't processed; was that the Crime Scene techs didn't go look through it. And Agent Johnson explained it to you. The car was abandoned in a lot in Allendale with the keys in it. It wasn't found 'til a couple days later. There's no way of knowing who could have been in that car. You could have cleaned that car, who could have put something else in that car. By that time, it's just too not practical to process a car for crime scene tests.

So speaking of processing things, you know that there's not any real any physical evidence in this case. We're going to get to whatever evidence there is, but let's talk about the facts first. There weren't any shell casings found. You know according to Agent Green that the bullet that killed James Spellman was most

likely fired from an automatic weapon. It was most likely a .40 or a .45 Smith & Wesson, which matches exactly what you were told by Quincy Best and Rahem Devoe about what they saw. They described in their statements and on the stand a black automatic weapon. Didn't know the caliber, probably a .9 or a .40.

You know that there were no shell casings found, which isn't consistent with an automatic weapon. Well, let's think about what else you heard. Agent Green let you know that maybe the gun wasn't functioning properly. Sometimes that happens. Sometimes the cartridge doesn't eject all the way like it should.

Quincy and Rahem both told you that after he was shot the first time, James fell. The defendant stood over him like he was going to fire again. And he was. They thought he didn't fire because they were yelling at him, stop, that's my cousin, that's my mama's -- my grandmama's nephew. Rahem. Maybe that wasn't the reason at all. Maybe the cartridge jammed and it's still in the gun. That's why it wasn't at the scene. But you also know that the crime scene sat unsecured for an hour. And that's not the Allendale Police Department's fault; it's not SLED's fault. They went to the hospital where they got called where they spoke to Quincy who told them where to go. They got there as

quickly as they could. By that time, how many people could have walked through that scene, picked up that shell casing, kicked it. I'm not saying anybody hid evidence, but you never know who could have been there.

You know that we don't have the gun that fired the shot that killed James Spellman. I wish we did. We had Agent Green told you he may not be able to match it because of the condition the bullet was in.

But the Defense wanted to make a big deal about the fact that there wasn't a warrant taken out, a search warrant, to look for a gun. Search warrants aren't just pieces of paper that you get out. You have to have probable cause, which is what Agent Johnson told you, the Allendale Police Department, and SLED. I know I don't want them just kicking in every random door looking for a gun that might be there and might not. You have to have somewhere to start. And they have no idea where that gun is. Nobody gave them any indication.

We don't have DNA. This isn't CSI Miami. We can't give you something that's not there. I wish we had it. You heard from Agent Claycomb, who came to the scene. She took pictures. She collected everything. She swabbed what she could swab. She explained that, in an outside crime scene, a lot of times you're not going to

find anything. Lot of times you're not going to find fingerprints. And furthermore, that there's no indication that the defendant sat around or did anything at that scene, but walked up and shot James Spellman. Yeah, he shook Quincy's hand, but you aren't going to get a swab on a hand of DNA.

You know, you know because every single person that said it, and it was a single shot that killed James Spellman. Franklin Williams, Debentris Breeland. And Debentris didn't want to tell you much. He didn't want to admit some things that he'd already said, but he did tell you there was one shot. Rahem Devoe and DeQuincy Best, one shot. That's all there was.

And Dr. Ross, I don't know what was spoken about when she spoke to the Defense, but I certainly have a question, because we know it was one shot. Could all these witness be wrong about one shot? Think about it for a second. Somebody pulls a gun on you, you're not going to stand there with your arms by your side. Makes perfect sense that it was a single shot when you throw your arm up in a defensive motion. Okay. You have through on the forearm and a graze on the bicep, and it enters just above the elbow on the left side of his chest. You know it was a single shot.

We're going to come back to what we heard from the

scene, but What about after the defendant was arrested? Agent Johnson, Detective Manor, told you he didn't make a statement when he was first brought. A little bit later his mother called Detective Manor and said he wants to talk to you all, so they did. You saw the *Miranda* form. He wasn't pressured. He wasn't coerced. He wasn't threatened. He wanted to talk. So they ask, well, what do you know. I don't know nothing; don't know nothing about a gun; I know nothing about a shooting; I wasn't even in Allendale when James Spellman was shot.

And the judge is going to instruct you on the credibility of witnesses, which is just the believability. And that's your job, to judge what people told you on the stand, everything you see with your own eyes, and determine what's true, what the truth is here and what's not.

Well, you can do the same thing with the video you saw. And it's in evidence. You can watch it again. You can watch if fifty times if you want to. It's up to you to determine whether the defendant was telling the truth or not on that video. He says I wasn't in Allendale; I was in Columbia; I was at Poochie Man's house. And Agent Johnson says, well, who was there with you. And I don't even know how many names he gave, but

every name he gives, Agent Johnson starts to track it down, he says, whoa, whoa, whoa, whoa, he wasn't here that day; he was here or he was at the hospital. He doesn't give any names. Nobody that can tell you that he was in Columbia.

There's another big problem with that. You know that he was in Allendale. His family told you he was in Allendale. Dwain Dean, who took the stand, told you he was the defendant's first cousin. Said he remembers the day James Spellman was killed; heard about it. He rode by Pinewood Apartments, then he took his girlfriend to Fairfax, saw law enforcement at the hospital. And he went to his grandmother's house on Flowers Lane, where, lo and behold, he saw the defendant. And yeah, the defendant told him he didn't do it. Okay. And he told Agent Johnson and Detective Manor he wasn't even out there.

Dwain Dean told you that the same night that James Spellman was killed, his cousin asked him for a ride to Columbia. He said it was either just dark or getting dark. You know that James was shot about 5:30, and that he and his girlfriend drove to an apartment off of I think he said either Saint Andrews or Briar River.

Why did this happen? Debentris Breeland, obviously reluctantly, got on that stand, and he didn't want to

tell you what he had told Agent Johnson and Agent Manor before, and then what he confirmed to Agent Hutto, Investigator Hutto. A few days before this happened, he and the victim were sitting at Pinewood Apartments when James told him he was scared of the defendant, Terreak Williams. Well, that doesn't make a lot of sense, but you have a missing piece. Tiffany Loadhold, James was dating, James was staying with Tiffany Loadhold at Pinewood Apartments at the time he was killed. She told you that they were dating, and she told you she has two children with the man sitting over there, ages eight and four. Said she dated James for about three years. May 2015, the child would have been two. Her and James dated on and off. It's not a mystery who else she was dating when she was dating James.

Let's go back and talk about the scene, because that's what this comes down to. Let's talk about the scene. Frank Williams told you about a single shot. Told you about the blue car. He told you he didn't know who was in the car. Couldn't identify anybody. Didn't see them. Didn't see the shot. Just saw the blue car speeding away.

All right. Debentris, as I've already said, clearly did not want to be here. He didn't want to testify, and that, unfortunately, is not an uncommon

problem. Wish we had more witnesses. We suspected there were more people out there. Agent Johnson told you that SLED agents came out, and I think the word he used was *canvassed* the neighborhood. They knocked on doors in Pinewood looking for people that may have seen something else, and they got maybe one witness. I think that was Franklin Williams, but nobody else saw him.

Debentris did tell you that he heard a single shot; that he waited a minute; then he came downstairs and James was on the ground. Quincy put him in the car. Quincy took him to Allendale County Hospital where he died.

So let's talk about Quincy and Rahem Devoe. Quincy is -- or was James' first cousin. I suspect they were pretty close. And you can critique and tear apart the statements all you want about leaving out little things or remembering things like think about the time he gave that statement. I already told you it was about an hour after James was killed. He was still wearing the shirt that is covered in James' blood. And he tells them Terreak, Terreak Williams. So you can make a big deal about whether or not the defendant started to go up the stairs, and he didn't put that in his statement. Is that really what's important there?

And I don't pretend to know what everybody's life

has been like, but I think at one point we've all had something terrible, or at least we felt terrible, catastrophic. Think about how you felt. Do you remember the little tiny details, or do you remember that crushing emotion that you felt when it happened.

Rahem Deveo. Look at Mr. Devoe. We can't pick our witnesses. Mr. Devoe has a record. He has some pending charges in our office. But we didn't go seek him out. He voluntarily came in and spoke with Agent Johnson and he told you exactly what DeQuincy said. He was at the top of the stairs; heard the shot; turned; and he saw the defendant standing over the victim, James Spellman. And they may not have put every single detail in their witnesses statements. It's a whole lot harder to sit and write something out than it is to come in and tell about it. That's why paper can't testify. That's why we require people to come in here and take the stand, so that you can look at them, and you can determine whether or not they're telling the truth.

And this thing about what DeQuincy and Rahem have to gain. Just because they're related to James, they're going to come in and point their finger at the defendant for no reason?

Rahem told you he was friends with the defendant. Probably not anymore, but he was. So what would make

him decide just to point the finger at Terreak Williams if he wasn't the one to kill James Spellman?

The Judge is going to instruct you on the law in this case. And I don't want to step on his toes. But he's going to tell you -- and I told you at the beginning that the murder in South Carolina is the killing of another person with malice aforethought. I want you to pay particular attention to the malice aforethought there. He's going to tell you, and I'm going to read -- and again, if I tell you something wrong, the Judge is the judge of the law. What he tells you, that's how it is.

Malice aforethought is not required that malice exist for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. This wasn't premeditated. There's no evidence of that. He told you that no words were spoken in the car before they got there. Quincy told you that there were no words exchanged between the defendant and James Spellman. He just pulled out the gun and shot him. This was a crime of opportunity. He saw an opportunity to get rid of the man who was dating the mother of his children, and he took it.

Another thing I told you in the opening is that, as

the representative of the State, the burden is on me. Okay? I'm the one that has to prove every element of this crime beyond a reasonable doubt. I told you it's a high burden, and it is.

The Judge is going to tell you that, if you are firmly convinced of the guilt of the defendant in this case, then I've met my burden, and it's your responsibility to find him guilty.

Ladies and gentlemen, we have given you the truth about what happened on May 26, 2015. The witnesses gave you the truth about what they saw, what they heard on May 26, 2015. Now it's up to you. On that day, James Spellman, for no reason other than he was dating the wrong person, paid the ultimate price. So at this point, I'm going to ask you it's time for the defendant to pay his price, and I ask you to find him guilty of murder of James Spellman. Thank you.

THE COURT: Mr. Deysach.

MR. DEYSACH: Thank you, your Honor. May it please the court.

CLOSING ARGUMENT ON BEHALF OF

THE DEFENDANT, BY Mr. DEYSACH:

MR. DEYSACH: Good morning, ladies and gentlemen.

RESPONSES BY JURORS.

MR. DEYSACH: There's a lot to talk about, so I

want to choose my words wisely and not waste time talking about the same things over and over. I'm doing my best to stay organized, but I have a lot of points I want to make. And I think I'm going to start by responding to just a couple of things that were in the State's closing argument.

What I have a problem with was when he tried to tell -- I got a problem with a lot of things and you'll hear it. But the one thing I want to respond to is that they won't tell you that they have no idea what motive anybody who spoke from that witness stand would have to lie when the evidence that they presented to you for motive about why Jaycoby Williams would have done this is so thin. So, if they're worried about motive, why are they trying to emphasize that total almost absence of evidence as to a motive that Jaycoby Williams would have for doing this?

So there's two people that date the same woman. That happens all the time. That doesn't automatically mean that a murder has occurred.

I mentioned this in my opening statement and the State has brought it up, and he told you, I guess, that this isn't like T.V. And what he's talking about is it's not like T.V. where they actually have physical evidence and, you know, they want to think that just

because they don't have CSI-type of evidence to present to you, he wants to let you -- he wants to tell you that's because that evidence doesn't exist. He says this -- this evidence, this DNA that he's talking about, the processing of cars, looking for murder weapons, talking to witnesses, you know, that stuff wasn't possible to do in this case. But the reason it's not before you is because they didn't look for it. Okay?

They have the burden. The Judge will explain to you about presumption of innocence, burden of proof and where that lies. And the State, the State Law Enforcement Division, the Allendale Police, the Solicitor's Office, they're the ones whose job it is to go out and find that evidence.

Common sense. I mean, I'm not a police officer, I'm just a person who has common sense just like all of us. Hey, the blue car was handed off at the Hardees by Jennifer Bowers to somebody who may be involved in this case. Does Hardees have video? Let's check. No.

Processing of the blue car. You know, they -- the State protested so much about how the car couldn't be processed because it was abandoned with the keys in it. That almost says to me, okay, whoever the people who have the car who weren't supposed to got out of the car, they left the keys there, and nobody else has been in

it. Look. Just look. Maybe you won't find something. And if you look and you don't find, then they can come here and tell you, okay, this case just doesn't have that evidence. But when you don't even look? And we know because we've seen sometimes come from SLED, that they do have these scientific abilities and they exist as part of our government for us to use, so that that's what they're there for. And so, when we're not using them for our cases, they're just sitting there and they're being wasted. And that's not the defendant's fault. That's not anybody's fault but the person whose job it is to carry out those tasks.

Not bothering to talk to Devon Barker [sic], the boyfriend of the person who owns the blue Focus, until Monday at 4:00 because you couldn't find him until he walks right into the courthouse. Not bothering to talk to Tyrone Moultrie, otherwise known as PC, a person who was identified as also being in the car. Not even trying to talk to him. Not having a note about trying to talk to him.

I tried to highlight, successfully or unsuccessfully, searching for cell phone data. And I think the State tried to indicate, well, we had looked for cell phone data. Well, none of that was before you. And let me tell you, if they had any cell phone data

that would have backed up anybody's story, they would have shown it to you. That's their job. And I doubt if they would have left that on the table if they had. But they didn't show it to you. And so, I think you can infer that they don't have it. They don't have anything about Mr. Williams' calls to Rahem Devoe.

You know, it's just kind of common sense, because anybody who's ever had an issue where they think maybe their child or maybe even a significant other is lying about something, one of the first things people do is, okay, let me see your phone, let me see your phone. Okay. Let me see your phone. Does your phone back up what you're telling me? Did you really receive these phone calls? Okay, what phone number did you receive them from? And then, every time somebody wants to talk about a phone in this case, it seem's like it's broken. You know, and I'm receiving calls, but now it's broken.

The phone stuff is the easiest stuff to try to look up. And they left so much of that on the table, whether it's Rahem Devoe's phone, whether it was tracking down any phone numbers that could have been connected with any of the participants, the witnesses that they put in front of us. And that would have just been easy. And if they'd have tried and failed, that would be one thing. But not trying, that's on them.

No note as to whether or not he actually -- Agent Johnson went to Columbia to check on Willow Creek. I'm not sure if went to Columbia or not, not even a note in his file.

They brought a ballistics expert that told us -- I don't think he said I definitely could, but he could have tried, if he had had a weapon to match the projectile to a particular weapon. Matched it to a class, I guess, of mates is what he was able to do. But the police didn't even look for a weapon. Didn’t even look for a weapon. I mean, I guess there's an elephant in the room. You can serve -- you can apply for -- okay, what if you ask for a search warrant and the magistrate says no? Well, then, that's on the magistrate. But you tell me if you think that if the police had gotten to the magistrate with a search warrant that says we’re looking for the murder weapon and we’re going to look for it in the place where Mr. Williams lives, check his house. Okay. That's where you're supposed to look for the firearm in one of these cases. It is common sense. It’s done all the time. Wasn’t done in this case. And for the Solicitor’s Office and the police to say, well, the reason we don't have this evidence is because it just doesn't exist. It’s a bad excuse is what it is. It’s an excuse for

giving us excuses for not doing this work.

In that lack of investigation is -- it's not fair to anybody. It's not fair to anybody who's a victim. It's not fair to anybody who's the defendant. It's not fair to anybody who's been asked to decide a serious case beyond a reasonable doubt. It doesn't give them the tools. It's not fair to the community. It's not fair to anyone. Okay? And the reason it's not fair, like I said, is the polices' fault. They have the burden. They're the ones whose job it is to do this. And so, you can't hold it against Mr. Williams that this stuff isn't there.

And the reason we're stuck with just deciding whether or not we believe the witnesses on the stand told the truth, the whole truth, and nothing but the truth beyond a reasonable doubt, that that's the key to the case. Not anything to corroborate, but they said. That's on the police and the Solicitor's Office, too.

So now, now we're stuck in a position where, okay, now we've got to decide to believe people, humans. And with all their imperfections, we've got to rely on humans instead of science, instead of independent evidence. And we've got to decide whether or not they're telling the truth beyond a reasonable doubt, because that's the burden. That's the burden here.

And in order to believe -- I mean, as I understood the evidence, in order to believe Mr. Best and Mr. Devoe, you've got to actually discount some things that Mr. Williams said. Mr. Franklin Williams that they were downstairs from Ms. Loadhold; took out the trash; not part of this group hanging out on the steps; taking out the trash. Says I know of -- I think he called him Terreak. I know of Terreak. He, after all, has his children who live upstairs. He says, when I went out to take out the trash, I didn't see him. I didn't see anybody I recognized there. Okay. But what he said he did see when he took out the trash was the blue car. So, if the blue car is there and Mr. Williams isn't, that's in conflict with what Mr. Best and Mr. Devoe are saying. Okay?

Mr. Williams is one of those witnesses that doesn't have, I would say -- I wouldn't call it doesn't seem to have a dog in the fight. Doesn't have a staked out position of bias. He's independent. He doesn't have anything to do with this. And so, that makes him more reliable than somebody who is more closely associated with one side or the other.

I mean, I'm going to talk about Rahem Devoe and whether his testimony could be believed to be true beyond a reasonable doubt from that person, okay, that

comes to court wearing -- to testify in a serious case wearing a shirt that says, *True OG* on it, out of lack of respect for what's going on here. When somebody does that, I almost feel like they're asking you not to believe them.

One thing that's difficult to sit in here and not comment on, which I'm about to comment on it now, is that this Solicitor's Office today is going to ask you to believe Rahem Devoe is truthful beyond a reasonable doubt. And then, on another day, they're going to call him an armed robber and a drug dealer.

PC. He changes from am I coming to Columbia, am I coming from Atlanta. And I think, you know, did I call 911; did I not call 911? Was my phone broken? I got two phones, one's broken, one's not broken. Should we wait ten or fifteen minutes before going to the hospital or did we not? Those are all things who Agent Johnson, who interviewed him admitted that he had told him in his first interview just a few days after this had happened.

So that truth doesn't change, you know. The truth doesn't change between calling 911 and not calling 911; Waiting ten or fifteen minutes and not waiting ten or fifteen minutes; that truth doesn't change. Lies change when you can't keep your story straight, but that truth doesn't change.

And I'm not going to spend too much more time hammering on Rahem Devoe because you watched him testify. If I haven't been able to convince you from his testimony, or and especially this idea that he's an accused armed robber and accused drug dealer that the Solicitor's Office is going to prosecute, but then is going to ask you to be him beyond a reasonable doubt. I mean, pointing out his vast variances in his story, I don't think that that's going to do very much, but that's there. And that's there because it never was the truth, and it's not the truth now.

Granted, Mr. Best had less baggage. There's no question about that. But what was the biggest head scratcher, or maybe one of the biggest head scratchers is why would Mr. Best, who has the Solicitor explained his, you know, talking to police shortly after this incident occurred, in a situation where the police are trying to gather evidence, trying to start their case, is going to completely leave out the fact that Rahem Devoe emerged from the same vehicle at the same time as a person he's saying shot his cousin. He's not going to tell the police that at all? And we know that's the case. We know there's not some hidden place where he's talked about Rahem Devoe to the police, because they're telling you, hey, Rahem Devoe just kind of showed up at

the police department to tell us what he knew. And of course, the Solicitor's Office pretends that that's some idea of that's an indication that he's reliable, when anybody who would maybe think critically would say, or is that a person with an agenda, is that a person who's reliable, or is that a person with an agenda. And I say that sounds like a person with an agenda to me, not a person who's at all reliable.

But Mr. Best doesn't say anything about him. I mean, if he was really trying to lead the police in the right direction he would have mention that. I think he also probably would have tried to call 911, instead of going straight to the hospital himself. To me -- and I -- I mean, I understand that this is more of a theory than some sort of a hard fact that I have proof of, but when people take victim's directly to the hospital and bypass 911, many times it's because they're trying to hide what's happened at the scene where it happened. Okay? And in the meantime, during this period of time, shell casings possibly disappear. All right? Was it one? Was it two? The Solicitor said we know it was one. Of course there was one shot heard. That was consistent. That was consistent with Mr. Williams' independent witness. The pathologist said it could have been one, two, or three. They have a theory on how the

-- they never really demonstrated how a straight line could have been achieved through these parts of the body, and then into the cavity. And her opinion wasn't strong. She admitted that she had gone back and forth on what her opinion is. I can't sit here and tell you it was one shot; I can't tell you it wasn't three shots. To be honest with you -- I mean, my point is, I mean, it's possible if there was only one shot heard and two shots were fired, I think that that would probably only mean that two shots were fired at the same time. I don't have proof of that. I'm not saying that. But for him to tell you that we know it was just one shot, that doesn't -- that's not what the pathologist said.

I mean, my point is -- I'd gotten a little bit off track there -- but it's possible that there was more than one shell casing that needed to be picked up, cleaned up, by somebody. Somebody stayed behind and tried to sanitize the scene. And nobody, even the people that the Solicitor wants you to believe, would ever say that that was my client.

So, you know, this absence of evidence, you know, this inference that they're drawing is just not the inferences that need to be drawn in a situation where they have the burden of proof. My client has the presumption of innocence, and they've got to prove

beyond a reasonable doubt.

Mr. Best changed from I saw the whole thing, he changed from my back was turned, he changed from Mr. Williams walked partially up the steps too, he changed from Mr. Williams didn't walk up the steps to Mr. Williams did walk up the steps. And the truth doesn't change. Those truths don't change. My back was turned, to I saw the whole thing, is they both can't be true.

And so, the Solicitors -- and the Solicitors are asking you to believe somebody who said something at one point that couldn't be true and change it with something he said from the stand. And so, those changes, the truth doesn't change.

And that's what we're left with. We're left with these two witnesses. And it's not -- we're not left with these two witnesses for any other reason than the police didn't fill in those gaps. We know that when somebody points the finger, when somebody makes an accusation, that's the beginning of the investigation. You find something to back that up, to corroborate that. In this case the same thing that they had a day or two after this happened, nothing more has been added. And now they can't corroborate anything that their witnesses have said, and they're asking you to believe, as I said, people, people who are not perfect, these people who are

not perfect, people that they brought who are not perfect, to believe them on beyond a reasonable doubt, and that's why a conviction cannot stand in this case. That's why they have not proven their case in this case. And that is why you'll have to find Jaycoby Williams not guilty of this murder. Thank you.

JURY CHARGE:

THE COURT: All right, ladies and gentlemen, Madam Foreperson, ladies and gentlemen of the jury, it is now my duty to charge you the law of this case. The State of South Carolina has charged the defendant, Jaycoby Terreak Williams, with murder in the indictment which I'm holding up in my hand, that has a number on it, 2015-GS, which means General Sessions Court, 03, means Allendale County, 00086. That's the number of the indictment and the charge on the indictment.

I remind you of the fact the defendant was arrested the fact the defendant was charged and indicted in this case, is not evidence in this case, nor does it create any presumption or inference of guilt. The indictment, ladies and gentlemen, is simply the formal, written instrument that contains the charge made against the defendant. But it’s a formal document by which the case is brought into this court, the Court of General Sessions.

And to the indictment, the defendant has pled not guilty. And that plea of simply saying I'm not guilty puts the burden on the State of South Carolina to prove the defendant guilty beyond a reasonable doubt. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you, ladies and gentlemen, that it is an important rule of the law that a defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence, ladies and gentlemen, doesn't end when you begin your deliberations, but it accompanies the defendant throughout the trial until you, the jury, reach a verdict of guilt, based on evidence introduced during the trial of the case of that guilt beyond a reasonable doubt.

The presumption of innocence is not just a legal theory. It's not just a legal phrase. It is a substantial right to which every defendant is entitled, unless you, ladies and gentlemen of the jury, are satisfied from the evidence of the defendant's guilty beyond a reasonable doubt.

Now, what is a reasonable doubt in the law? A reasonable doubt, ladies and gentlemen of the jury, is the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served in the past as a juror in civil cases such as a contract case or wreck case. Those are examples of civil cases. In the civil case, the jury is told that it is only necessary to prove that a fact is more likely true than not true. We call that burden of proof in a civil case by the greater weight or the preponderance of the evidence.

In a criminal case, such as this case here, ladies and gentlemen, the State's proof must be more than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt, ladies and gentlemen, is proof that leaves you firmly convinced of the defendant's guilt.

Now, there are very few things in this world that anyone of us know with absolute certainly, and in criminal cases, ladies and gentlemen, the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you, as a jury, are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. On the other hand, if you think there is a real

possibility the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty.

Now, I remind you, ladies and gentlemen, during this trial, you and I have had certain duties to perform. As a trial judge, it has been my responsibility to preside over the trial of this case. And I also have the duty to rule on the admissibility of the evidence that's been offered by the parties during case.

You are, ladies and gentlemen of the jury, to consider only the competent evidence that's been introduced during this trial of the case before you. If I told you to disregard any evidence or testify during the trial, if I ordered anything stricken from the record during this trial as the presiding judge, you must disregard that evidence or testimony. You are to consider only the testimony which has been presented from this witness stand, any exhibits which have been introduced into evidence and made a part of the record in this case, and if any exist, any stipulation of counsel in this case.

I also have the additional duty to charge you the law that applies to this case. And as the presiding judge, I am the sole judge of the law of this case. And

it is my your duty, ladies and gentlemen of the jury, under that oath that you took, to accept the law and apply the law exactly as I now state it to you.

If any of you on this jury already have some idea what you think the law is, or ever what you feel the law ought to be, and it does not agree with what I now tell you the law is, you must abandon any of your preconceived opinions or ideas, because each of you took an oath, and in that oath you sworn or affirmed that you would accept the law and apply the law exactly as I know state it to you.

In every case tried in this courtroom before a jury, the jury becomes the sole and the exclusive judge of the facts in the case, based on evidence introduced during the there of the case. A trial judge, such as myself, cannot state, comment on, intimate, or make any statement to a trial jury like yourselves about the facts of the case or the evidence in the case. Since you, ladies and gentlemen of the jury, are the sole judge of the facts in this case, you are not to infer from what I've said in the progress of this trial in ruling upon any objection or the admissibility of evidence or anything I say now during the course of this instruction to you in my charge on the law that I have any opinion whatsoever about the facts or the evidence

in this case. The law does not allow me to have an opinion about the facts in the case.

The evidence, ladies and gentlemen, and ultimately, what you determine to be the true facts from the evidence, this is a matter solely for you, the jury, to determine. And as jurors, ladies and gentlemen, it becomes your duty, it becomes your responsibility as the jury to determine the we call it the weight, but it is the effect, or if you would, the value, and ultimately, the truth of any evidence that has been presented during the trial of this case.

Now, like many things in the law, we have names for the two types of evidence, which are generally presented during a trial. We call these types of evidence direct evidence and circumstantial evidence. Direct evidence, ladies and gentlemen of the jury, is testimony of a person who claims to have actual knowledge of a fact, such as an eye witness to an event. Direct evidence is evidence which immediately establishes the main fact to be proved.

Circumstantial evidence, as contracted with direct evidence, is proof of a chain of facts and circumstances indicating the existence of a fact. Circumstantial evidence is evidence which establishes collateral facts from which the main fact may or may not be inferred.

Circumstantial evidence, ladies and gentlemen, is based on inference and not on personal observation or personal knowledge. The law makes absolutely no distinction between the weight or the value to be given to either direct evidence or circumstantial evidence. Nor, is a greater degree of certainty required of circumstantial evidence than of direct evidence.

Ladies and gentlemen of the jury, each of you should consider, weight, and analyze all of the evidence in this case, both direct and circumstantial. After considering all the evidence and weighing all the evidence, analyzing all the evidence, both direct and circumstantial in this case, if you aren't convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

On the other hand, after hearing all the evidence in this case, both direct and circumstantial, if you are convinced of the guilty of the defendant beyond a reasonable doubt, you must find the defendant guilty. Necessarily, you're going to have to determine the credibility. Credibility simply means believability of the witnesses who have testified during the trial of this case. It becomes your duty, ladies and gentlemen, as jurors, to analyze, to evaluate the evidence, and determine which evidence convinces you of its truth.

That is why, ladies and gentlemen, in my opening remarks to you, I wanted you to listen to the witnesses, to observe the witnesses, to not let your thoughts wander, ladies and gentlemen, so that you will, by observing, have placed yourself in the position by determining which evidence convinces you of its truth.

In determining the believability of witnesses who have testified in this case, you may believe one witness over several. You may believe the testimony of a part of a witness, and reject the remaining part of the testimony of that same witness. You may believe the testimony of the witness in its entirety, or you may reject the testimony of the witness in its entirety. You may consider whether any witness has exhibited to you any interest, any bias, any prejudice or other motive in this case. And you may, in deciding about the believability or the credibility of the witnesses, you may consider what I told you we call the demeanor of the witness, the appearance, the manner of the witness while the witness is on the witness stand. Anything that is in evidence, ladies and gentlemen of the jury, you, as the jury, have the right to consider in passing upon the credibility or the believability of testified during the trial of this case.

Ordinarily, ladies and gentlemen, I told you during

the trial the rules witness take the witness stand, take the oath, sit down and say my opinion about this is this. So we do not allow witnesses to testify about normally opinions or conclusions. An exception to this rule, the opinion rule, exists for those witnesses who we call expert witnesses. A witness who claims, by education, experience, training, claims to have become an expert in some art, science, profession, or calling, if qualified by the court, as a matter of qualifications, they may state opinion as to matters in which the witness claims to be an expert and they may also give the reasons for their opinions. You should consider any expert opinion received in this evidence in this case, and like any other evidence; you give it the weight you, as a jury, think it deserves.

If you decide that the opinion of an expert witness is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's opinion is to be given no greater weight than that of any other witness simply because the witness is an expert. You are not required to accept an expert witness's opinion, even though it is not contradicted.

I charge you, ladies and gentlemen, that the statement alleged to have been made by the defendant has been admitted into evidence in this case. While the Court has determined as a matter of law that the statement is admissible, I instruct you now, ladies and gentlemen of the jury, that you make the ultimate decision of whether or not the defendant made the statement. If the defendant did make the statement, in your opinion or collective judgment, you must determine whether the statement was made by the defendant voluntarily and of his own free will. This means that the statement was not coerced by pressure or force or fear or threats or coercion or intimidation or by hope of promise of leniency or reward of any kind.

In determining whether the statement was voluntary, you, as a jury, should consider the characteristics of the defendant and the details of any questioning that was presented into evidence. Some of the factors presented by the evidence, you, as a jury, may consider are the age of the defendant, the defendant's education, the defendant's mental ability or capacity, based on your view of the evidence; the defendant's intelligence; the defendant's background; the place and length of detention; the nature of the questioning; the advice or lack thereof of the defendant of his constitutional

rights, including but not limited to his right to remain silent, and any statement can be used against him in the court of law; the right to have a lawyer present; and that if he couldn't afford a lawyer, a lawyer would be appointed to represent him without any cost; and that he could stop making the statement at any time.

You must carefully consider from the evidence, ladies and gentlemen of the jury, the surrounding circumstances before you give any weight to any statement that may have been introduced into evidence. The State has the burden of proving beyond a reasonable doubt that any alleged statement was voluntarily. If you determine it was, you, the jury, may give the statement any further consideration or weight that you feel proper. You must decide as a jury what weight must be given to a statement. If you determine the statement was not a voluntary or free statement of the defendant, you should not consider the statement at all.

Now, in order to establish criminal liability, criminal responsibility, criminal intent is normally required. What I'm talking about here -- I'm going to give you examples. We're talking about the mental state that the State is required to prove of a particular crime. Let's give some other examples of criminal intent. It might be purpose, knowledge, intent,

recklessness, criminal negligence. Those are examples of criminal intent. Criminal intend must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation based on evidence introduced during the trial of the case.

Now, ladies and gentlemen, there is no way for the State or anyone to prove intent to a mathematical certainty. There is no way that medical science can dissect a person's brain and determine what that person had in mind. So the law says, ladies and gentlemen, that criminal intent may be inferred from the circumstances shown to have existed based on the evidence introduced during the trial of the case. This, ladies and gentlemen, is how you, as a jury, make a determination of whether or not any element in a crime requiring intend was present.

It is not necessary to establish intent by direct evidence or positive evidence. The intent may be established by inference, in the same way as any other fact, but taking into consideration from your view the acts of the parties and all facts and circumstances of the case based on evidence introduced during the trial of the case.

Criminal intent, ladies and gentlemen, is a mental

state. It is a conscience wrongdoing. It is up to you, ladies and gentlemen of the jury, to determine what the defendant intended to do based on the circumstances shown to have existed from evidence introduced during the trial of the case.

I charge you, ladies and gentlemen, that an issue in this case is the identification of the defendant as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the defendant before you may convict the defendant. I instruct you, ladies and gentlemen, that the burden of proof is on the State of South Carolina. It extends to every element of the crime charged, and this specifically includes the burden of proving beyond a reasonable doubt the identity of the defendant as the person who committed the crime.

If, after examining all the evidence, you have a reasonable doubt as to the accuracy of the identification, you must find the defendant not guilty.

I charge you, ladies and gentlemen, that the fact that the defendant did not testify in this case is not a factor to be considered by you as a jury in any way in your deliberations or in any way and in your consideration of the guilt or innocence of the

defendant. A defendant has a constitutional right to remain silent. So the fact that the defendant did not testify must not be considered by you in any manner whatsoever. And the assertion of a constitutional right to remain silent must not be considered by you in your deliberations. I repeat, you are to draw no conclusions whatsoever from the fact that the defendant in this case did not testify. The fact that the defendant didn't testify should not be discussed in your jury room. The burden of proof, as I've stated to you, is on the State of South Carolina. A defendant is not required to prove his innocence. The burden remains on the State to prove guilty beyond a reasonable doubt.

Now, ladies and gentlemen, I will define the offense for you. The defendant in this case is charged with the offense of murder. For this offense, the State of South Carolina must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought. What is malice? Malice is hatred, ill will. Malice is hostility toward another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury. Malice aforethought, ladies and gentlemen, does not require that malice exist for any particular amount of time before the act is actually committed. Malice

aforethought does require that malice must exist, this hostility, this hatred, this ill will must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the malice or hostility and the evil intend and the act itself.

Malice aforethought may be expressed or it may be implied. Those terms, express and imply, do not mean different kinds of malice, but merely the manner in which malice may be shown to exist. That is, and if by direct evidence or by inference from the facts and circumstances which are proved, based on evidence introduced during the trial of the case.

Express malice is shown when a person speaks words which express hostility, hatred, ill will for another. That's an example of express malice. But malice may also be inferred from any conduct which the evidence convinces you shows a total disregard for human life. If the facts are proved beyond a reasonable doubt sufficiently to raise an inference of malice to your satisfaction, that malice would simply be an evidentiary fact can be considered by you, along with the other evidence in this case, and you give it the weight you decide it should receive.

Now, I remind you, ladies and gentlemen, that the

definition of the offense for which the defendant is charged is the defendant killed another person with malice aforethought. That is the definition of murder, the offense with which the defendant, Jaycoby Williams, is charged.

Now, Madam Foreperson, I told you I would prepare a verdict form for you. I've done so. Pay absolutely no attention to the order in which I wrote the forms of verdict. I, obviously, had to write one before the other, and the order has no significance whatsoever. I put the title and the case at the top. State of South Carolina, County of Allendale, the State versus Jaycoby Terreak Williams, Defendant. I put in the Court of General Sessions, which is this court. I put the indictment number and I wrote the word *verdict*.

There is only one question in this case, and it's delineated as Question 1: *We the jury, by unanimous consent, find the defendant, Jaycoby Terreak Williams, in Indictment Number 2015-GS-03-00086*. And the first form of verdict under Question 1 is guilty of murder.

If that be your form of verdict, Madam Foreperson, you would place a check mark on the line beside that form of verdict for the entire jury.

The second form of verdict under Question 1 is not guilty of murder. If that be your form of verdict,

Madam Foreperson, you would place a check mark beside the line of that form of verdict.

You must find one form of verdict or the other. You cannot find both.

When you have checked the appropriate line on the verdict form, you will then sign your name, Madam Foreperson, on the line where it says *Foreperson*. I have already put in today's date and Allendale on your verdict form. When you reach the verdict, you will knock on your jury room door and tell the bailiff you've reached a verdict. We will bring you back into the courtroom in order to publish your verdict.

Now, ladies and gentlemen, your verdict must be unanimous. And that is, it must be the verdict of each and every one of you. All twelve of you must agree on a verdict.

Now, Madam Foreperson, in addition to whatever you put on the verdict, whatever you check, guilty or not guilty for the entire jury and sign your name, my law clerk will want you to write the exact same words on the indictment. Do not leave the courtroom today without signing the indictment and putting the exact same words that you have on the verdict form on the indictment. He'll be coming to you with a pen to ask you to do that before you leave. You understand?

FOREPERSON: Yes.

THE COURT: All right. Now, Madam Foreperson, ladies and gentlemen of the jury, I've now charged you on the law in order to help guide you to a result on this case. You are the judges of the facts in this case. Based on the evidence and based on your determination of the facts from the evidence and the law as I've explained it to you, you're soon going to begin your deliberations.

Each of you have been selected impartial and fair jurors. You took an oath, and in that oath, you said you would impartially and fairly try and determine the facts of this case from the evidence. And when you comply with that oath, nobody can criticize your verdict.

But you are to decide the case solely on the evidence and not on any outside feelings about anybody or things, not on emotion or on any arbitrary factor; simply the evidence in the case, along with any evidence which includes the exhibits and any stipulations, as well as sworn testimony.

You will have most of the exhibits with you in your jury room, except for the ones that need the equipment out there to play. But if you want to see that, we'll be happy to let you come back and view it in the

courtroom, because you don't have the ability to play it in a jury room.

You must decide the issue in this case without any bias for either party in this case, without prejudice toward either party. You can't allow yourself, as a jury, to be governed by prejudice for or against any person or about public opinion or by any other arbitrary factor that is not in evidence in the trial of this case.

Both the defendant and the State of South Carolina have the absolute right to expect that each of you on this jury will carefully and impartially consider all of the evidence in this case, and that you will follow the law as I've instructed it to you to be in reaching your verdict in this case.

Now, ladies and gentlemen of the jury, I'm going to ask you at this time to retire to your jury room. Do not being your deliberations, because I may need to bring you back for some additional instructions. When it is time for you to begin your deliberation, I will send by the bailiff the verdict form, along with all the exhibits, which do not need equipment to be played, all the exhibits which have been introduced into evidence during the trial of this case into your jury room, and have the bailiff tell you you may then commence your

deliberations.

My alternate jurors, please remain in the courtroom. Would the jury please retire to the jury room.

JURORS LEAVE COURTROOM 11:44 A.M.

THE COURT: First of all, I'm happy nobody became sick or by some valid reason could not continue to serve. Both of you have all of your belongings; you didn't leave anything in the jury room, did you?

ALTERNATE JUROR: Jacket.

ALTERNATE JUROR: Keys.

THE COURT: What?

ALTERNATE JUROR: My jacket. My jacket.

ALTERNATE JUROR: My keys.

THE COURT: Tell him so he can go get it for you. Where is it?

ALTERNATE JUROR: On the table.

THE COURT: On the table. Will you get it for him? Hold it. You've got something, too. So you can listen to them describe the items.

ALTERNATE JUROR: Car keys.

ALTERNATE JUROR: My jacket.

THE COURT: I want to thank you for your service in this case. I can't let you go back in the jury room now. That's why we'll bring things back to you.

However, we are going to be mailing you a check for your service. If either of you need an excuse for your employment, just show Elaine where they want to go. Where do you want them to go?

MADAM CLERK: Just go to my office.

THE COURT: Just go to her office. They'll be happy to provide a work excuse for you.

ALTERNATE JUROR: All right.

THE COURT: If you want to talk about someone about your jury service, how you felt about the case, whatever, I'm happy for you to do it. It’s entirely up to you. If you don't want to discuss the case, just tell them no. If somebody persists, you get their name and give it to me or give it to the clerk, and I'll be happy to take care of that problem. It’s entirely up to you, if you want to take care of the jury service. You understand that?

ALTERNATE JUROR: Yes.

THE COURT: I hope this has been an education experience for you. I hope you've learned a little bit from it, if you listened. Thank you, sir. Now, sir, do you have all of your belongings?

ALTERNATE JUROR: Yes.

THE COURT: Ma’am, do you?

ALTERNATE JUROR: Yes.

THE COURT: You're now going to be exempt from jury service for three years. This concludes your service for the week. I told you I was going to get you home early. On behalf of Allendale County and this Court, I want to thank you. You are now excused. You may leave the courtroom at this time.

ALTERNATE JUROR: All right. Thank you.

ALTERNATE JURORS LEAVE COURTROOM 11:41 A.M.

THE COURT: All right. Shut that door for me. Any exceptions or additions to the charge from the State of South Carolina?

SOLICITOR HOLLEN: No, your Honor.

THE COURT: From the defendant?

MR. DEYSACH: No, your Honor.

I'd ask that counsel come forward with the court reporter, certify that the court reporter has all the exhibits. And with the exception of Exhibit 9, which requires equipment to play, I believe we can send the remaining ones in, but there may be another one that I've missed. So take a look. Certify that she has all the exhibits and that you have no objection to the bailiff taking the verdict form and the exhibits, which they can view in the jury room into the jury room and telling the jury they may now commence their deliberation. Please come forward.

COURT REPORTER, SOLICITOR HOLLEN,
AND MR. DEYSACH REVIEWING EXHIBITS.

THE COURT: Is Exhibit 9 the only one that requires equipment?

SOLICITOR HOLLEN: Yes, sir.

MR. DEYSACH: Yes, your Honor.

THE COURT: You all agree to keep Exhibit 9 -- I'm talking to them just hold on a minute. 'Til I finish, don't come up here.

Is the State satisfied we have all the exhibits?

SOLICITOR HOLLEN: Yes, sir.

THE COURT: Do you have any objection to the bailiff taking the verdict form and all the exhibits, except Exhibit 9, into the jury room and telling the jury they may now commence their deliberations?

SOLICITOR HOLLEN: No, your Honor.

THE COURT: Mr. Deysach, is the defendant satisfied we have all the exhibits?

MR. DEYSACH: Yes, your Honor.

THE COURT: All right. You have no objection to the bailiff taking the verdict form and all the exhibits, except Exhibit 9, into the jury room and telling the jury they may now commence their deliberations?

MR. DEYSACH: I do not, your Honor.

THE COURT: Very well. All right. All right, Counsel, we'll be at ease while we wait for the jury's verdict. Thank you very much. If you leave the courtroom, I expect you to give the cell phone number to my law clerk, Skyler, so that he can reach you in case the jury has a question.

SOLICITOR HOLLEN: Thank you very much, your Honor.

VERDICT FORM AND EXHIBITS, EXCEPT
STATE'S EXHIBIT NUMBER 9, TAKEN TO
JURORS 11:51 A.M.
OFF THE RECORD 11:51 A.M.
BACK ON THE RECORD 12:24 P.M.
VERDICT:

BAILIFF: All rise. Come to order. Court is back in session.

THE COURT: Thank you. Please be seated. Counsel, I understand from the bailiff that the jury's reached a verdict. Anything from the State before we publish the verdict?

SOLICITOR HOLLEN: No, Your Honor.

THE COURT: From the defendant?

MR. DEYSACH: No, your Honor.

THE COURT: Now, ladies and gentlemen, happy for everybody to stay in the courtroom when the verdict's published. I will not tolerate any kind of outburst.

There is to be no comment, favorable or unfavorable, in the presence of this jury. I will enforce that rule with the contempt powers of this Court. If you feel you cannot control your emotions, I ask you to step outside. Do not remain in this courtroom. This jury deserves the respect and dignity of their service.

Very well. All right. Elaine, are you ready?

MADAM CLERK: Yes, sir.

THE COURT: All right. Bring us the jury.

JURORS ENTER COURTROOM 12:26 P.M.

THE COURT: Madam Foreperson, has the jury reached a verdict unanimously?

MADAM FOREPERSON: Yes, they have.

THE COURT: Madam Clerk, you may publish the verdict. Counsel for the defendant and the defendant please rise.

MADAM CLERK: In the Court of General Sessions, Indictment 2015-GS-03-00086, the State of South Carolina versus Jaycoby Terreak Williams, we, the jurors, find -- we, the jury, by unanimous consent, find the defendant, Jaycoby Terreak Williams, Indictment 2015-GS-03-00086, guilty of murder.

THE COURT: Ladies and gentlemen of the jury, is this your verdict?

RESPONSES BY THE JURY.

THE COURT: Please indicate by raising your hand.

MADAM CLERK: Thank you.

THE COURT: Let the record reflect twelve hands were raised.

Mr. Deysach, is there anything further from the defendant before I excuse the jury?

MR. DEYSACH: We would ask that the jury be polled.

THE COURT: Madam Clerk, ladies and gentlemen of the jury, the clerk is going to poll the jury. She will call your name. As your name is called, please stand. She will ask you two questions. She will ask was that your verdict. You will answer yes or no. Is that still your verdict. You will answer yes or no.

Madam Clerk, will you please poll the jury.

MADAM CLERK: Ms. Franklin Youmens. Was that your verdict?

JUROR YOUMENS: Yes.

MADAM CLERK: Is it still your verdict?

JUROR YOUMENS: Yes.

MADAM CLERK: Mr. Emanuel Roberts. Is that your verdict?

JUROR ROBERTS: Yes.

MADAM CLERK: Is it still your verdict?

JUROR ROBERTS: Yes.

MADAM CLERK: Mr. Young. Is that your verdict?

JUROR YOUNG: Yes.
MADAM CLERK: Is it still your verdict?
JUROR YOUNG: Yes.
MADAM CLERK: Mr. Davis. Is that your verdict?
JUROR DAVID: Yes.
MADAM CLERK: Is it still your verdict?
JUROR DAVIS: Yes.
MADAM CLERK: Mr. Jeff Hammond. Is that your verdict?
JUROR HAMMOND: Yes.
MADAM CLERK: Is it still your verdict?
JUROR HAMMOND: Yes.
MADAM CLERK: Ms. Mary Platt. Is that your verdict?
JUROR PLATT: Yes.
MADAM CLERK: Is it still your verdict?
JUROR PLATT: Yes.
MADAM CLERK: Mr. Willie Davis. Yes. Is that your verdict?
JUROR DAVIS: Yes.
MADAM CLERK: Is it still your verdict?
JUROR DAVIS: Yes.
MADAM CLERK: Ms. Fredericks. Is that your verdict?
JUROR FREDERICKS: Yes.

MADAM CLERK: Is it still your verdict?
JUROR FREDERICKS: Yes.
MADAM CLERK: Ms. Flowers. Was that your verdict?
JUROR FLOWERS: Yes, ma'am.
MADAM CLERK: Is it still your verdict?
JUROR FLOWERS: Yes, ma'am.
MADAM CLERK: Ms. Robinson. Was that your verdict?
JUROR ROBINSON: Yes.
MADAM CLERK: Is it still your verdict?
JUROR ROBINSON: Yes.
MADAM CLERK: Ms. Annette Flowers. Was that your verdict?
JUROR FLOWERS: Yes.
MADAM CLERK: Is it still your verdict?
JUROR FLOWERS: Yes.
MADAM CLERK: Mr. Allen. Was that your verdict?
JUROR ALLEN: Yes.
MADAM CLERK: Is it still your verdict?
JUROR ALLEN: Yes.
Thank you.
THE COURT: Counsel, the jury's been polled. Verdict stands. Anything further from the defendant before I excuse the jury?
MR. DEYSACH: No, your Honor.
THE COURT: Madam Foreperson, ladies and gentlemen

of the jury, on behalf of Allendale County and this Court, I want to thank you for your service. I told you I was going to get you home early this week, and I'm going to keep my word. This concludes your service for the entire week on the jury. You will also be exempt from jury service for three years by virtue of your service this week on the jury.

Now, we're going to mail you that big check that we pay you all for jury service at the address that you got your summons. If anybody needs a work excuse for service on the jury this week, if you'll go to Elaine Saab's office, Clerk of Court's Office, we'll be happy to provide you with a work excuse for serving on the jury.

Sometimes, ladies and gentlemen, people, particularly the attorneys, like to talk to jurors about their service. If you want to talk to anyone about your service, you may do so, but it's entirely up to you. If you don't wish to discuss your jury service, tell them you don't want to talk about it. If they persist, get their name, give it to me, I'll handle that problem for you.

Now, sentencing in this case is going to take place in just a couple of minutes. That is the court's province, not yours. I'll be happy if you'd like to

stay for sentencing, you can remain in your jury box or you can remain and come back, have a seat in the courtroom, or you may leave the courtroom, as you so desire. Your service now as a jury has been completed. For any of you that would like to leave, everyone else remain seated.

JURORS LEAVE COURTROOM 12:31 P.M.

MOTIONS:

THE COURT: Any post verdict motions from the defendant?

MR. DEYSACH: Yes, your Honor. Renew my motion for directed verdict. I also ask make a motion for a new trial in this case. Renewing the objections at the same time, even though I don't have to. But I believe those objections should have been granted, and for that reason, I ask for a new trial. My basis for the directed verdict motion is the same as before, as well as my motion for a new trial. I don't believe that there is sufficient evidence in this case for the jury to convict. I ask for a judgment notwithstanding the verdict on that basis as well. So, with that, I think that completes my -

THE COURT: Mr. Deysach, there no such thing as a JNOV in a criminal court, but there is no motion for a new trial and there is a motion for arrest of judgment.

I certainly will entertain both of your motions.

Solicitor, anything you want to add?

SOLICITOR HOLLEN: Your Honor, I would just stand by the jury's verdict. I think there's sufficient evidence to uphold the guilty verdict in this case, and I would ask that your Honor do that. Thank you.

THE COURT: Mr. Deysach, I carefully considered your motions at the closing case and the closing of the evidence and now the post-verdict. I'm very aware -- with the with the exception of overruling an objection concerning admissibility of evidence, I'm very aware of all the issues that you've raised during the course of this trial, most of which, as I recall, were rule -- your objections were sustained, with the exception of just a few. However, I decline to change my rulings, and your motion for a new trial is respectfully denied.

So, Solicitor, I will expect you to fill out a sentencing sheet.

SENTENCING:

THE COURT: Mr. Deysach, you and defendant will come forward for sentencing.

SOLICITOR HOLLEN: Your Honor, I'm getting the sentencing sheet right now. May I step out of the courtroom briefly, your Honor, to grab that? May I slip out of the courtroom to grab the sentencing sheet? Or,

Mr. Williams is getting it. Never mind.

MR. DEYSACH: Your Honor, my client's mother is not in the courtroom. Between the announcement that there was a verdict and the publishing of the verdict, she has been at the grandmother's home. I was wondering if we might be able to –

THE COURT: Hold on a second. Bruce, is she here?

BRUCE DAVIS: Yes, sir.

THE COURT: Bring her on in. Let her take a seat.

Oh, Skyler, he's right out here.

All right. I've asked that anybody that can't control their emotions to leave the courtroom.

All right, Solicitor, I'll be happy to first hear from you, and then the defendant and his counsel. And if any member of the victim's family wishes to address the Court, I'll be happy to hear from them as well.

SOLICITOR HOLLEN: Thank you, your Honor. I'll go ahead. I think the evidence has shown in this case exactly how callous this crime was. I don't think he pre-planned this. I think it was a crime of opportunity, and I think he took that opportunity, and without consideration of the life of anyone else or anyone that was around, in broad daylight, with multiple witnesses, he executed him. I think that speaks for itself. And for that reason, as far as sentencing, I

would ask your Honor to consider a life sentence for Mr. Williams.

THE COURT: What's his prior record, Solicitor?

SOLICITOR HOLLEN: Your Honor, his prior record, I have a juvenile conviction of arson in the first degree in 2003. His adult record is a 2010 fraud charge and false identification. 2010 sale, manufacture, and delivery of a synthetic narcotic. And a 2010 conviction for sale of --

THE COURT: 2010 what?

SOLICITOR HOLLEN: Sale, manufacture, and delivery of a synthetic narcotic. He was sentenced to eleven months, twenty-nine days in county jail for that in Florida. And a 2010 conviction, also for the sale of cocaine. That's the extent of his prior record, your Honor.

THE COURT: Well, it’s all prior drug convictions.

SOLICITOR HOLLEN: With the exception of the arson first degree, yes, sir.

THE COURT: Very well.

SOLICITOR HOLLEN: Would anybody like to address the Court?

Your Honor, the family doesn't wish to speak at this time.

THE COURT: Mr. Deysach, I'll be happy to hear from

you.

MR. DEYSACH: Thank you very much, your Honor. Certainly we disagree with the jury's verdict but, and certainly, my client makes no admissions, but I think when you look at the facts as presented in this case that we are talking about an issue, at least the motive was presented, as one of a romantic rivalry. And we know that, when humans are in situations where their families and their kids and they are -- all those things are involved, break ups of family, loss of family, the mother of your children who is no longer in the relationship with you, that those affairs of the heart, I think the law recognizes, as well as, I think, the human experience shows can result in behaviors that we otherwise wouldn't normally engage in. So it's different.

I take issue crime, of opportunity and execution. We've seen in this courtroom those type of offenses, and what they presented was a crime of the heart is what they presented to the jury. A crime of the heart that had to do with break up of family. And I think -- while I didn't think there was evidence of a sufficient legal provocation presented for the jury in this case, and I don't know that any exists, that heat of passion, that passion may well have been what the -- I mean, that's

the essence of that motive is that it does arise to fashions we're talking about infidelities and break ups of families. So I try and draw a distinction between that and what he would describe as an execution of some sort.

I think the jury -- you know, so I'd ask that your sentence reflect that, as opposed -- you know, you've heard his record. There was the fifteen-year-old as juvenile arson charge. It's a quite remote in time. I'd ask that you give that proper weight, given its remoteness in time. And other than that, some drug charges. So he doesn't have this -- he doesn't have an extensive record. There was not a lot of charges on his record. And so, I would ask --

I think we know how murder is punished, day-for-day; that every day -- you know, the bare minimum is thirty. He's thirty years old now. He would be sixty years old upon his release. He has two children. You know, those children will be, obviously, adults at that time. But I think that, given the facts, his record, and what's been presented, that the minimum of thirty is what's appropriate in this case, your Honor.

THE COURT: Mr. Williams, is there anything you'd like to tell me prior to sentence? I'd by happy to hear from you?

DEFENDANT WILLIAMS: No, sir.

THE COURT: Anything further from the State?

SOLICITOR HOLLEN: No, your Honor.

THE COURT: Anything further from counsel for the defendant?

MR. DEYSACH: No, your Honor.

THE COURT: Now, for the benefit of people here, you've heard lawyers so you understand -- particularly my jurors that came back for sentencing, the minimum sentence is South Carolina for murder is thirty years. And you serve day-for-day from any sentence that's imposed for murder. The maximum sentence is up to life in prison.

Mr. Deysach, I take into consideration your client's prior record. He has convictions of cocaine and also methamphetamine, or just cocaine?

SOLICITOR HOLLEN: It's a different conviction, your Honor. According to the rap sheet it doesn't specify.

THE COURT: It doesn't specify. Mr. Deysach, he does have a prior conviction for arson. I also take into consideration his age. He's thirty years of age. But I have to also take into consideration, regardless of what you characterize, as you and I both know, there is absolutely no evidence of voluntary manslaughter in

this case. It was either a decision for the jury of murder, and I believe there is clear evidence on which the jury could reach their decision as they did. I understand you were respectfully disagree with the verdict, but the verdict stands. I believe there's sufficient evidence for the jury to have found beyond a reasonable doubt your client's guilt.

Taking all of those things in consideration, on Indictment 2015-GS-03-00086, the State versus Jaycoby Terreak Williams, 2015-GS-032-00096, the sentence of the court is defendant is committed to the State Department of Corrections for a term of thirty-five years. Good luck to you, sir.

MR. DEYSACH: Thank you, your Honor.

SOLICITOR HOLLEN: Thank you, your Honor.

THE COURT: Now, for my law enforcement, this concludes this trial. It is over. I'm going to ask the law enforcement see that everybody gets out safely, particularly first of all my jurors here. Please escort them to their cars, so they can return to their homes safely. And then, any members of either family that wish an escort, I'll let law enforcement escort them.

We'll start at 2:00 o'clock. Court's in recess.

END DAY THREE, WEDNESDAY,

APRIL 5, 2017, 12:46 P.M.

CERTIFICATE OF REPORTER

APRIL 4, 2017 TRANSCRIPT OF TRIAL

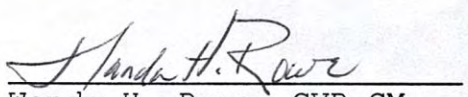
STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing April 4, 2017 Transcript of Trial is a true, accurate, and complete record of the proceedings had and exhibits admitted on said dates, in the case of State versus Jacoby Terreak Williams, Beaufort County, Court of General Sessions, Case Numbers 2015-GS-03-00086; that I am of neither kin, counsel, nor interest to any party hereto.

This Certificate of Reporter contains my original signature and is attached to the original of this transcript requested by SCCID. Pursuant to SCACR 607, requests for copies of this transcript must be made to the court reporter. Unauthorized copying/emailing is prohibited.

Witness my signature July 5, 2017.



Wanda H. Rowe, CVR-CM
Official Court Reporter

ORIGINAL

FORM 5

STATE OF SOUTH CAROLINA)
)
County of Allendale)
#294469
Jaycoby T. Williams)
Full name and prison number (if any) of Applicant)
)
v.)
)
State of South Carolina A.G.O.)
)
)
)

IN THE COURT OF COMMON PLEAS

2021CP03-092

FILED FOR RECORD
2021 MAY 14 A 11:24
ELAINE CABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber Corr Inst 136 Wilborn Ave Ridgeville, SC 29472

2. Name and location of Court which imposed sentence Allendale County Court of General Sessions

3. Name(s) of co-defendant(s) (if any) NA

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

   (a) 2015-GS-03-000816

   (b) _____

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) April 3, 4, And 5, 2017

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty Yes

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

_____

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C.C. Appeal

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Affirmed

ii. _____

iii. _____

(c) the date of each such result:

i. Dec 12, 2019

ii. Filed Jan 13, 2021

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. 5791

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) "see memorandum of Law Support PCR

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) same

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? ND

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N.A

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. NA

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. NA

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. NA

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. NA

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NA

_____

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N.A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. NA

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) ND

(b)

(c)

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea?

(b) your trial, if any? YES

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

ND

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Deysach P.D. 1905 Duke St, Second Floor, Room 210 Post Box 525, Beaufort

ii. S.C. 29901-0525

iii. David Alexander, of Columbia, For Appellant

(b) the proceedings at which each such attorney represented you:

i. Trial

ii.

iii. Appeal

19. State clearly the relief you seek in filing this application:

Newtrial

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of Ridgeville)

I, Jaydoby T Williams #294469, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Jaydoby Williams

SWORN to and subscribed before me this 11th day of May, 2021.

Notary Public (L.S.)

My Commission Expires: 6-20-26

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Jay Coby T Williams #214469, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Applicant

SWORN or affirmed to and subscribed before me this 11th day of May, 2021.

Notary Public

My Commission Expires: 6-20-26

State of South Carolina) In the Court of Common
County of Allendale) Pleas
Jay Coby T. Williams) C/A _____
Applicants)
) AFFIDAVIT OF SERVICE
Vs)
State of South Carolina)
Respondents)

To: Respondents

I Jay Coby T Williams # 294469, Hereby served A True copy of Post-Conviction Relief Application by Placing A true copy in the united states mail listed below.

(1) Hon Elaine clerk of Court
Allendale County
292 Barnwell Rd
Allendale, S. C. 29810

Date 4/16/21 2021

Jay Coby T Williams
#294469
136 Wilson Ave
Ridgeville, S.C. 29472

FILED FOR RECORD
2021 APR 19 A 10:
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

FILED FOR RECORD
2021 MAY 14 A 10: 24
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

State of South Carolina | In The Court of Common Pleas
County of Allendale | C/A
Jaycoby T. Williams | Summons
Applicant |
Vs |
State of South Carolina, |
Respondent's |

FILED FOR RECORD
2021 MAY 14 A 10:24
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

FILED FOR RECORD
2021 APR 16 A 10:31
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

To: Respondent's

YOU ARE ~~Hereby~~ Summoned and required to answer the PCR Herein, A copy of which is herewith served upon you, and to serve a copy of your answer to this PCR upon the Subscriber, at the address shown below, within thirty (30) days after service hereof exclusive of the day of such service, and if you fail to answer the PCR, Judgment by default will be rendered against you for the relief demanded in the PCR.

Date 4/26/21 2021

S.C.

S/ Jaycoby T. Williams
Jaycoby T. Williams
186 Wilson Ave
Ridgeville, S.C. 29472

State of South Carolina) In The Court of Common Pleas
County of Allendale) C/A _____

Jaycoby T. Williams) Memorandum of Law In
Applicants) Support Post-Conviction
) Relief Application
Vs)
State of South Carolina)
Respondents)

To: Respondents:

FILED FOR RECORD
2021 APR 19 A 10:01
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

Now comes the applicant's moves before this Honorable Court pursuant to S.C. Code of Law Ann § 17-27-45 Post-Conviction Relief Application.

I Statement of The Case

FILED FOR RECORD
2021 APR 19 A 10:01
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

On May 26th 2015 shooting occured In Allendale county whereby the applicant was charged with murder for killing one James Spellman with A handgun.

FILED FOR RECORD
2021 MAY 14 A 10:24
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

JayCoby Williams #294469
136 Wilbon Ave
Ridgeville, S.C. 29472

Date 4/25/21 2021

Re/CA _____

Dear Hon- Elaine Clerk of Court of Allendale County:

FILED FOR RECORD
2021 MAY 26 A 10:31
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

Enclosed Please Find A Copy of Post-Conviction Relief Application Along with Summons, and ~~Affidavit~~ of Service; Requesting ~~A clocked-Dated~~ Stamped Copy.

Thanks for your assist with this Matter,

Respectfully Submitted
S/ _____
JayCoby Williams

C.C: J.W: #294469
C:C: H:E.C:C.A; C:

II ARGument

Applicant contends Counsel provide ineffective assistance of counsel by failure Request A Jury instruction on the law of voluntary manslaughter.

Applicant contends that counsel prejudice applicant by failure request for A Jury instruction on law voluntary manslaughter which there is NO evidence of malice aforethought involve in the state case which NO State Witness testify that they heard the applicant impose threat do bodily harm to the decease mr. James Spellman with A handgun.

Defintion

Manslaughter S.C. Code of Law Ann § 16-3-50, A person convicted of manslaughter or the unlawful killing of another without malice, Express or Implied must be imprisoned Not more than thirty years or less than two years.

The applicant must prove that "Counsel conduct so undermined the proper functio-

ning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland V. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 LEd 2d 674, 692 (1984) Butler V State 286 S.C. 441. 334 SE2d 813 (1985).

The applicant must prove that "Counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland V. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed 2d 674, 692 (1984); Butler V State 286 S.C. 441, 334 SE2d 813 (1985).

First, the applicant must prove that counsel's performance was deficient. under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C, at 117, 385 SE2d at 625, citing Strickland. Second, counsel's deficient performance must

have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 SE2d at 625. However, courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The applicant must overcome this presumption to receive relief Cherry v. State, 300 S.C. 115, 386 SE2d 624 (1989)

II ARGument

Trial Counsel provide ineffective assistance of Counsel by failure to conduct Pre-Trial investigation DNA Evidence and shell casing found at the crime scence that was Never tested, and video from Hardees parking lot.

((see cite at applicant trial transc-
ript pg(252) L-(25) okay. There was the
-- some blood there. was a pg(253)L(1)
sample of that blood presented? pg
(253) L-(2) A I would have to look back
at the DNA report to pg(253) L-(3)
confirm that. And I didnt look at
it before this pg 253 L-(4) trial pg(253)
Line(5) Q To your knowledge, has any
testing on any of that pg (253) L-(6)
Blood been done? pg(253) L-(7) A No
pg(253) L-(8) okay. Has any DNA test-
ings been done at all in pg(253) L-(9)
this case? pg(253) L-10 No. pg(253) L-11
okay. Now, let me ask you this,
were any shell pg (253) L-(12) casing
found at the scence? pg(253)L-(13)
A I dont recall any shell casings
being located, as pg 253 L-(14) Well,

Counsel provide ineffective ass-
istance of Counsel failure to conduct
pre-trial investigation pursuent to
Video from Hardee parking lot. "see
trial transcript pg(256) L-(8) Did you
ever get any video from Hardees

pg(255) L-(9) that might show the parking lot? pg(256) L-(10) NO I don't recall getting any video from Hardees. pg(256) L-(11) Did you ever ask for it? pg(256) L-(12) No, I did not. pg(256) Line(13) okay. Did you ever check to see whether or not (14) they even the video? pg(256) L-L-(15) NO, I did not, pg 256 L-(16) But in you investigation, this could have been the pg 256 L-(17) location where the blue focus went from its true owner pg(256) L-(18) to another person on may 26. pg 256 L-(19) yes, clearly.

To establish counsel was inadequately prepared for trial, an applicant must present evidence of what counsel must present evidence of what counsel could have discovered or what other defense could have been pursued

had counsel been more fully prepared. Jackson v State 329 S.C. 345, 495 SE2d 768 (1998); Moorehead v State, 329 496 SE2d 415 (1998) Failure to conduct an independent investigation does Not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result).

The applicant must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct 2052, 2064, 80 L.Ed 2d 674, 692, 1984) Butler V State, 286 S.C. 441, 334 SE2d 813 (1985).

First, the applicant must prove that counsel's performance was deficient under this prong attorney perform-

ance is measured by it's "reasonableness under professional Norm." "Cherry, 300 S.C. at 117. 385 SE2d at 625, citing Strickland, second Counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional Errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 SE2d at 625. However, Courts presume that Counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, id. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 SE2d 624 (1989).

III ARGument

Trial counsel provide ineffective asoistance of Counsel by failure

requesting for a copy of the tested result Report for t-shirt that was sent out for testing.

During applicant jury trial agent Claycomb testify pursuant to evidence that was collected and sent be tested and a t-shirt that was sent to be tested as well. "See at trial transcript pg(274) L-(9)-(10)

The applicant must prove that" Counsel's conduct so undermined the proper functioning of the adversarial process that the cannot be relied upon as having produce a just result." Strickland v Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v State, 286 S.C. 441, 334 S.E. 2d 813 (1985),

First, the applicant must prove that counsel's performance was

deficient under this prong. Attorney performance is measured by its "reasonableness under professional Norm," Cherry 300 S.C. at 117, 385 SE2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that but for counsel's unprofessional errors the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 SE2d at 625. However, Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment, Butter, id. The applicant must overcome the presumption to receive relief. Cherry v State, 300 S.C. 115, 386 SE2d 624 (1989).

Conclusion

The Applicant Requests an Evidentiary hearing to fully resolve this

issue. See Shaper v State, 279 S.C. 264, 265, 305 SE2d 247, 248 (1983).

Respectfully submitted

s/ Jaycoby T. Williams

Jaycoby T. Williams

Date 4/26/21 2021

STATE OF SOUTH CAROLINA COUNTY OF ALLENDALE	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT
Jaycoby T. Williams, SCDC #294469, Applicant, v. State of South Carolina, Respondent.	Case No. 2021-CP-03-0092 **RETURN TO THE APPLICATION FOR POST-CONVICTION RELIEF** (Counsel Already Appointed)

FILED FOR RECORD
2021 OCT 8 A 9:04
CLERK OF COURT
ALLENDALE COUNTY, S.C.

Respondent the State of South Carolina, making its return[1] to the application for post-conviction relief filed by Jaycoby T. Williams[2] (Applicant) on May 14, 2021, and received by the South Carolina Attorney General's office on May 24, 2021, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. During its July 2015 term, the Allendale County Grand Jury indicted Applicant for murder (2015-GS-03-00086). On April 3, 2017, Applicant proceeded to a jury trial before the Honorable Perry M. Buckner. Ian Deysach, Esquire, represented Applicant. Korey Williams and Brian Hollen of the Fourteenth Circuit Solicitor's Office prosecuted the case. Following a three-day trial, the jury

[1] Respondent's return was due to be filed within ninety days of receipt of the instant application. *See* Rule 12(a), SCRCP ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial.") Now, having completed the return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay, Respondent respectfully asks this Court to accept this return as timely filed. *See* S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application."); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court.).

[2] Applicant filed this post-conviction relief application *pro se*. Counsel, James K. Falk, has since been appointed.

returned a verdict of guilty. Judge Buckner sentenced Applicant to thirty-five years' imprisonment for murder.

Applicant filed a timely notice of appeal and was represented on appeal by Appellate Defender David Alexander (Appellate Counsel) from the South Carolina Commission on Indigent Defense – Division of Appellate Defense. Appellate Counsel filed a brief on Applicant's behalf and raised one (1) issue:

> "Whether the trial judge erred in refusing to allow appellant to cross-examine the State's key witness about the potential sentences he faced on pending charges?"

Following briefing and oral argument, the Court of Appeals affirmed Applicant's conviction and sentence, finding the circuit court's error in denying the line of questioning was harmless. State v. Williams, Opinion No. 5791 (Ct. App. filed January 13, 2021). The remittitur was returned to the circuit court on February 3, 2021.

II. Factual Summary

In the Court of Appeals opinion affirming Applicant's conviction and sentence, the facts of the case were summarized as follows:

> In the early evening of May 26, 2015, James Spellman (Victim) was shot outside his Allendale apartment; he later died at the hospital. Williams was subsequently arrested, indicted, and tried for Victim's murder.
>
> Several witnesses from Victim's apartment complex testified at trial. Just before the shooting, Victim's neighbor, Franklin Williams (Franklin), was taking out his trash when he saw people he did not recognize in the apartment complex breezeway. Shortly thereafter, while on the phone with his uncle, Franklin heard a gunshot and looked out the window to see a "blue car pull off." He further described the car as "small." Franklin could not identify who was in the car, he "just saw the blue car."
>
> Debentris Breeland, another of Victim's neighbors, spoke with South Carolina Law Enforcement Division (SLED) Agent Richard Johnson after the shooting. Although Breeland initially denied telling Agent Johnson that Victim was afraid of Williams, he reluctantly admitted "I was saying he was scared of him. I knew he didn't want no problems or nothing with him." Breeland denied seeing the blue car but testified he heard one gunshot while inside his apartment.

Tiffany Loadholt lived with Victim at the time of the shooting. She testified they had been dating on and off for three years. Williams is the father of Loadholt's two children, who were four and eight at the time of trial.

Victim's cousin, Dequincy Best, was with the victim in an outdoor stairwell at the time of the shooting. While Best and Victim were talking, a blue Ford Focus drove up to the complex; Williams and Rehem Devoe exited the vehicle. Devoe shook Best's hand, spoke to Victim, and continued up the stairs. Williams followed Devoe up the stairs and also shook Best's hand. Best testified that when Williams shook his hand he saw "a pistol tucked on the side of his shoulder, on the side of his pants." He identified the weapon as an automatic, "probably a .40 Glock." As Best walked up the stairs, Williams turned to come down. Best then heard a gunshot, turned, and saw Williams pointing the gun at Victim. Best yelled—and he heard Devoe yell—"Stop, don't shoot my cousin" because "Williams was over him with the gun, getting ready to shoot him again." Williams then fled, and Best did not know where he went. When asked to identify the man who shot his cousin, Best identified the defendant, Williams.

Devoe, who was riding with Williams on the day of the shooting, also testified. Prior to this testimony, the circuit court held a bench conference to consider whether Williams could cross-examine Devoe about his pending armed robbery and drug possession charges. The circuit court ruled that under Rule 608, SCRE, Williams could cross-examine Devoe about pending charges, but not any potential penalty because "the penalty was a matter for the court."

On direct examination, Devoe testified that he saw Williams on a regular basis and had known Williams for "[b]asically, all [his] life." Devoe was at his uncle's house when Williams and two other men picked him up in a blue car he identified as a Ford Escort. The group rode around for a while and eventually ended up at the apartment complex. Many people were outside the complex, including Devoe's cousins, Breeland and Victim. Devoe claimed he did not see Williams exit the vehicle, but heard the car door shut behind him. He heard the gunshot as soon as he reached the top of the outdoor stairs. Devoe ducked, turned, and saw Williams standing over Victim, who was on the ground. Williams was holding a handgun, which Devoe described as an automatic. He identified Williams as the man he saw standing over his cousin with a gun.

The solicitor then asked Devoe whether he had "any current pending charges." During his direct examination, Devoe acknowledged his pending "sale undercover" and robbery charges. On cross-examination, when asked about the substance he was charged with selling, Devoe responded, "Marijuana, methamphetamine, whatever it is. I don't know." When asked about the pending armed robbery charge, Devoe admitted both charges were from Allendale County, would be prosecuted by the same Solicitor's office, and were investigated by the same police department. On redirect, Devoe testified the State did not promise anything or tell him his charges would be dropped in exchange for his assistance in the case against Williams.

Williams's cousin, Dwain Dean, testified he gave Williams a ride to Columbia on the night of the shooting. On cross-examination, Dean denied making

a prior statement to police that "[Williams] wanted a ride back to Allendale to turn himself in because he said he didn't do it."

Detective Qutique R. Manor of the Allendale Police Department (APD) testified that when he interviewed Williams following his arrest, Williams claimed he was in Columbia at the time of the shooting. On cross-examination, Manor confirmed Williams turned himself in to law enforcement.

SLED assisted the APD with the investigation of the shooting. At trial, Agent Johnson did not recall "any items of evidentiary value being collected" from the scene, and the gun was never recovered. No shell casings were found at the scene. Agent Dawn Claycomb of SLED's Crime Scene Unit responded to the secured scene, where she marked items of interest, took photographs, and collected evidence. Her work including marking any areas of interest the investigators could swab or dust. She also attended the victim's autopsy at Newberry County Memorial Hospital, where she received sealed evidence from the forensic pathologist.

Agent James William Green, a SLED forensic firearms examiner, received and analyzed the fired bullet and bullet jacket fragment that Agent Claycomb collected from victim's autopsy. He determined the bullet "was most consistent with being a bullet loaded into some .40 S&W caliber cartridges or some 10 millimeter auto caliber cartridges." Based on his analysis and information from the database the FBI provides to SLED, Agent Green determined the bullet was likely fired from a semi-automatic pistol manufactured by Smith and Wesson. On cross-examination, Agent Green noted that while the database provided a number of firearms models meeting the specifications of the bullet, a "Smith & Wesson in a .40" would be the easiest way to describe the firearm sought in connection with this shooting. The jacket fragment provided no useful information.

Dr. Janet Ross, the forensic pathologist who performed the victim's autopsy, was the State's final witness. The jury unanimously found Williams guilty of murder, and the circuit court sentenced him to thirty-five years' imprisonment.

State v. Williams, Opinion No. 5791 (Ct. App. filed January 13, 2021).

III. Allegations Raised and Relief Sought in Post-Conviction Relief Application

Applicant timely commenced this PCR action on May 14, 2021. Applicant alleges he is being held in custody unlawfully based on the following reasons:

1. Ineffective Assistance of Counsel;
    a. Failure to request a jury instruction on voluntary manslaughter;
    b. Failure to investigate and prepare for trial; and
    c. Failure to request a report of evidence.

As requested relief, Applicant states he is seeking "new trial."

Attached herewith and incorporated by reference are the Allendale County Clerk of Court records regarding the subject conviction; Applicant's records from the South Carolina Department of Corrections; the records from Applicant's direct appeal, including the trial transcript; and the records of the current post-conviction relief action. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV. Response to Allegations of Ineffective Assistance of Counsel

Applicant alleges he is entitled to post-conviction relief based on ineffective assistance of trial counsel. Specifically, Applicant asserts trial counsel was ineffective for failing to request a jury instruction on the lesser-included charge of voluntary manslaughter, failing to conduct a pre-trial investigation and prepare for trial, and failing to request an evidence report. Respondent submits these claims of ineffective assistance of counsel are without merit.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to "assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair." *Strickland v. Washington*, 466 U.S. 668, 685 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel's

conduct "was so ineffective as to require reversal" of the applicant's conviction. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense...it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

The first prong—constitutional deficiency—is "necessarily linked to the practice and expectations of the legal community." *Padilla v. Kentucky*, 559 U.S. 356, 366 (2010). An applicant making a claim of ineffective assistance "must identify the acts or omissions of counsel that are alleged *not* to have been the result of reasonable professional judgment." *Strickland*, 466 U.S. at 690 (emphasis added). The reviewing court must then "determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance" demanded of attorneys in criminal cases. *Id.* Due to the difficulties inherent in making such an evaluation, the reviewing court must indulge in a "strong presumption that counsel's conduct falls within the wide range of reasonably professional assistance." *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Review of counsel's actions are hallmarked by deference because "it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is

all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." *Strickland*, 466 U.S. at 689; *see also Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. *Strickland*, 466 U.S.at 688–89; *see id.* at 691 ("Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another."). Thus, a fair assessment of an attorney's performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. *Id.* at 689. The ultimate question is not whether counsel's actions were reasonable, but whether there is any reasonable argument counsel satisfied *Strickland's* deferential standard.

The second, or "prejudice" prong of *Strickland* is rooted in the very purpose of the Sixth Amendment's guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. 466 U.S. at 691–92. To prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. *See id.* at 695 (Noting that where a defendant challenges his conviction, he must show that there exists "a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt").

Further, in determining prejudice, the reviewing court must consider the totality of the evidence before the jury. *Id.* at 695. It is not sufficient "to show [counsel's] errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to *deprive the defendant of a fair trial.*" *Id.* at 687 (emphasis added). "An error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." *Id.* at 691. Moreover, the South Carolina Supreme Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing to establish prejudice. *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

The *Strickland* standard must be applied with scrupulous care—lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–690. Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant's burden of proving both *Strickland* components is heavy in light of the strong presumption that counsel's conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686; *see Nix v. Whiteside*, 475 U.S. 157, 175 (1986) (noting that under *Strickland*, the "benchmark" of the right to counsel is the "fairness of the adversary proceeding").

A. Failure to Request Jury Instruction on Lesser-Included Charges

Applicant asserts counsel was ineffective for failing to request a jury instruction on the lesser-included charge of voluntary manslaughter. Specifically, Applicant contends there was no evidence of malice aforethought presented at trial, nor were there any witnesses who testified to hearing Applicant threaten victim.

The trial court is required to charge a jury on a lesser included offense only "if there is any evidence from which it could be inferred the lesser, rather than the greater, offense was committed." State v. Gourdine, 322 S.C. 396, 398, 472 S.E.2d 241, 241 (1996). However, the trial court should refuse to charge on a lesser-included offense where there is no evidence that the defendant committed the lesser rather than the greater offense. Suber v. State, 371 S.C. 554, 559, 640 S.E.2d 884, 886 (2007).

Moreover, concerning deficiency, trial counsel must articulate a valid reason for employing a certain strategy, which is measured under an objective standard of reasonableness. *Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1992). Counsel is not ineffective for failing to request a lesser included offense jury instruction when there is no evidence that the defendant committed the lesser, as opposed to the greater offense. *Bozeman v. State*, 307 S.C. 172, 176, 414 S.E.2d 144, 146 (1992).

In determining whether a defendant was prejudiced by improper jury instructions, the court must find that, viewing the charge in its entirety and not in isolation, there is a reasonable likelihood that the jury applied the improper instruction in a way that violates the Constitution. *Battle v. State*, 382 S.C. 197, 203, 675 S.E.2d 736, 740 (2009). This determination is subject to a harmless-error analysis." *Neder v. United States*, 527 U.S. 1, 9 (1999).

Applicant has failed to state what probative evidence supports the lesser-included charge

instruction or how it was unreasonable for trial counsel not to request the instruction. For the above-reasons, Applicant cannot satisfy either requirement of *Strickland*, nor show trial counsel was ineffective. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

B. Failure to Investigate and Prepare for Trial

Applicant further contends trial counsel was ineffective for failing to conduct a pre-trial investigation regarding the DNA evidence presented at trial and the shell casing found at the crime scene. Applicant alleges neither the DNA evidence nor the shell casing were tested. Applicant also alleges trial counsel failed to investigate and/or request a "video from the Hardee's parking lot". Lastly, Applicant alleges trial counsel failed to request a "copy of tested result report for t-shirt that was sent out for testing". The State submits these claims are without merit.

"A criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State." *McKnight v. State*, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). "[W]hile the scope of a reasonable investigation depends on a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." *Ard*, 372 S.C. at 331–32, 642 S.E.2d at 597 (internal quotation marks omitted) (emphasis omitted). However, counsel need only interview potential witnesses "when it is reasonable to do so." *Edwards v. State*, 392 S.C. 449, 457, 710

S.E.2d 60, 65 (2011). "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland*, 466 U.S. at 691.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. *Harris*, 377 S.C. at 75–76, 659 S.E.2d at 145–46 (citing *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. *Harris*, 377 S.C. at 75–76, 659 S.E.2d at 145–46. Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Id.* at 75, 659 S.E.2d at 145 (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Our Supreme Court has cautioned reviewing courts not to lose sight of the reasonableness standard regarding counsel's duty to investigate. *Ard*, 372 S.C. at 331, 642 S.E.2d at 597 (noting that "this duty is limited to a reasonable investigation"). Reviewing courts "should keep in mind that counsel's function, as elaborated in prevailing professional norms, is to make the adversarial testing process work in the particular case." *Strickland*, 466 U.S. at 690. Thus, in applying the *Strickland* standard to a claim of failure to investigate, counsel's decision not to undertake a particular investigation must be evaluated with heavy deference to counsel's judgment. *Bagwell v. State*, 410 S.C. 259, 265, 763 S.E.2d 630, 633–34 (Ct. App. 2014).

For the above-reasons, Applicant cannot satisfy either requirement of *Strickland*, nor show trial counsel was ineffective. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary

hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

V. Any Future Amendments and Invocation of Discovery Process

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.*, 428 S.C. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) ("If, however, the proposed amendment. . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRCP. *See also* Rules 15(a)–(b), SCRCP. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRCP.

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in

advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

VI. Response to Any and All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VII. Conclusion

WHEREFORE, the State respectfully requests an evidentiary hearing be held on the allegations of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

SAMANTHA J. WEIDAUER
Assistant Attorney General

By: Samantha Weidauer
ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

October 22, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ALLENDALE	)	**2021-CP-03-0092**
	)	
Jaycoby Williams, #294469	)	
	)	
Applicant,	)	
	)	
vs	)	CERTIFICATE OF SERVICE BY MAIL
	)	
State of South Carolina,	)	
	)	
Respondent,	)	
	)	

FILED FOR RECORD
2021 OCT 28 A 10:05
ELAINE SABB
CLERK OF COURT
ALLENDALE COUNTY, S.C.

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James K. Falk, Esquire
Falk Law Firm, LLC
Post Office Box 1058
Charleston, SC 29402

DATED this 22nd day of October, 2021.

Vickie Hall

Vickie Hall, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA COUNTY OF ALLENDALE	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT
Jaycoby Williams, #294469, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2021-CP-03-00092 **APPLICANT'S AMENDED APPLICATION**

NOW COMES Applicant, Jaycoby Williams, amending his application filed May 14, 2021. In addition to the allegations raised in his initial application, Mr. Williams, through PCR Counsel, submits the following:

Amended Application Issues

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington.*

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See *also* Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.").

Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant." and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel's strategic decisions are to be afforded "'strong presumption' of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel's performance remains deferential towards defense counsel with a presumption that counsel acted competently. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696.

Mr. Williams submits that Counsel was constitutionally ineffective based upon the following grounds:

1. Counsel was constitutionally ineffective for failure to request a voluntary manslaughter instruction.

Concerning deficiency, Counsel must articulate a valid reason for employing a certain strategy, which is measured under an objective standard of reasonableness. *Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1992). Counsel is not ineffective for failing to request a lesser included offense jury instruction when there is no evidence that the defendant committed the lesser, as opposed to the greater offense. *Bozeman v. State*, 307 S.C. 172, 176, 414 S.E.2d 144, 146 (1992).

In determining whether a defendant was prejudiced by improper jury instructions, the court must find that, viewing the charge in its entirety and not in isolation, there is a reasonable likelihood that the jury applied the improper instruction in a way that violates the Constitution. *Battle v. State*, 382 S.C. 197, 203, 675 S.E.2d 736, 740 (2009). The law to be charged must be determined from the evidence presented at trial. *State v. Knoten*, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001).

"Voluntary manslaughter is the unlawful killing of a human being in the sudden heat of passion upon sufficient legal provocation." *State v. Cooley*, 342 S.C. 63, 67, 536 S.E.2d 666, 668 (2000). "Both heat of passion and sufficient legal provocation must be present at the time of the killing." *Id.* "The provocation must be such as to render the mind of an ordinary person incapable of cool reflection and produce an uncontrollable impulse to do violence." *Id* "[B]oth heat of passion and sufficient legal provocation must be present at the time of the killing." *State v. Starnes*, 388 S.C. 590, 596, 698 S.E.2d 604, 608 (2010).

Counsel did not request a charge of voluntary manslaughter even though there was evidence in the case to support the charge. Mr. Williams submits that this was not based on a reasonable, strategic decision. Additionally, if the jury was charged with voluntary manslaughter,

a different decision likely would have been reached. Thus, Mr. Williams was prejudiced by the deficiency. Accordingly, relief should be granted on this ground.

2. Counsel was constitutionally ineffective for failure to ensure the sequestration motion was applied.

Mr. Williams submits that even though Counsel moved for witness sequestration, all witnesses at trial were housed in the same room for the pendency of the trial. Counsel was deficient for failure to ensure his granted motion was enforced and Mr. Williams was prejudiced by this deficiency. Accordingly, relief should be granted on this ground.

3. Counsel was constitutionally ineffective for failure to conduct pre-trial investigations regarding DNA evidence and shell casings at the scene.

Strickland makes clear that Defense counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim's validity is evaluated for "reasonableness [under] all the circumstances" with "a heavy measure of deference to counsel's judgments" applied. *Id.* However, counsel is required to, at minimum, "interview potential witnesses and make an independent investigation of the facts and circumstances of the case". *Ard v. Catoe*, 372 S.C. 318, 331-32, 642 S.E.2d 590, 597 (2007) (quoting *Troedel v. Wainwright*, 667 F.Supp. 1456, 1461 (S.D.Fla.1986), *aff'd*, 828 F.2d 670 (11th Cir.1987)). including aggressively re-examining all the government's forensic evidence and conducting analyses of all other available forensic evidence." *Id.* (quoting *American Bar Association Guidelines For The Appointment And Performance Of Defense Counsel In Death Penalty Cases*, *reprinted in* 31 Hofstra L.Rev. 913, 1015 (2003) (emphasis added)).

Mr. Williams submits that Counsel was ineffective for failure to conduct an investigation

regarding the DNA evidence and shell casings in the case. This was deficient on Counsel's part and Mr. Williams was prejudiced by the deficiency. Accordingly, relief should be granted on this ground.

4. Counsel was constitutionally ineffective for failure to request a copy of the tested results report for the t-shirt.

Mr. Williams submits that Counsel was ineffective for failure to request a copy of the tested results report for the t-shirt. Mr. Williams believes that this report would be beneficial at trial. He submits Counsel was deficient for failure to procure favorable evidence and that he was prejudiced as a result. Relief should be granted on this ground.

5. Counsel was constitutionally ineffective for failure to adequately prepare for trial.

Mr. Williams submits that Counsel only had several days to prepare for trial, which was insufficient in the case of a murder trial. He submits that this was deficient performance by Counsel and that he was prejudiced by this deficiency. Accordingly, relief should be granted on this ground.

6. Counsel was constitutionally ineffective for failure to effectively cross-examine Rahem Devoe about his criminal history.

Mr. Williams submits that Counsel was constitutionally ineffective for failure to aggressively cross-examine Mr. Devoe regarding his criminal history. Mr. Williams submits that Mr. Devoe was the State's primary witness at trial and is currently serving time on a murder conviction. Mr. Williams alleges that this exhibits significant credibility issues on Mr. Devoe's part, which should have been exploited further by Counsel at trial. Counsel was deficient in not exploiting this further and Mr. Williams was prejudiced as a result. Accordingly, relief should be granted on this ground.

Conclusion

Based upon the above, Mr. Williams requests that this Court grant relief, vacate the convictions, and remand the case to the court of general sessions for a new trial.

Chelsey F. Marto
Bar No. #104191
For Applicant Jaycoby Williams

September 29, 2023

STATE OF SOUTH CAROLINA COUNTY OF ALLENDALE	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT
Jaycoby Williams. #294469. Applicant.	)	Case No.: 2021-CP-03-00092
v. State of South Carolina, Respondent.	)	Affidavit of Service by Mail

1. I am the attorney for Applicant in the above-captioned matter.

2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.

3. I have this day served a copy of the Amended Application on the above-captioned matter on the following person by depositing the same in the United States mail with the proper postage affixed thereto:

Office of the Attorney General
Attn: Danielle Dixon, Esquire
PCR Division
P.O. Box 11549
Columbia, SC, 29211

Attorney for Applicant

September 29, 2023

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
2022-CP-07-01063

Jaycoby Williams,

Plaintiff,

vs.

State of South Carolina,

Defendant.

TRANSCRIPT OF HEARING

November 27, 2023
Colleton, South Carolina

B E F O R E:

The Honorable Roger Young, Judge Presiding

A P E A R A N C E S:

For the Plaintiff -
Chelsey Marto, Esquire
864-404-5583

For the State -
Bryan Hall, Esquire
Attorney General's Office
803-734-3737

Cathy L. Young, CVR-M
Official Circuit Court Reporter
Post Office Box 4604
Beaufort, South Carolina 29903

I N D E X

	PAGES
Proceedings	3
Witnesses:	
Jaycoby Williams	
Direct by Ms. Marto	4
Cross by Mr. Hall	9
Ian Deysach, Esquire	
Direct by Ms. Marto	11
Cross by Mr. Hall	17
Closing Statement by Ms. Marto	24
Closing Statement by Mr. Hall	24
Certificate of Reporter	27

P R O C E E D I N G S

* * * * *

MR. HALL: May it please the Court? Assistant Attorney General Bryan Hall for the State. This is the case of Jaycoby Williams versus State of South Carolina, 2021-CP-03-00092. Mr. Williams was indicted back in July of 2015 by the Allendale County Grand Jury for murder. That indictment number is 2015GS0300086. He proceeded to a jury trial before the Honorable Perry Buckner on April 3rd, 2017. Assistant Solicitors Korey Williams and Brian Hollen prosecuted, and he is represented by Ian Deysach. Mr. Williams was convicted and sentenced to 35 years. He appealed his conviction and was represented by Public Defender David Alexander. The Court of Appeals affirmed the conviction and the sentence and the remittitur was sent on February 3, 2021. Mr. Williams filed this PCR on May 14, 2021. The State filed its return on October 28, 2021. And he filed an amended application through counsel on September 29, 2023. And he’s proceeding on the following allegations: ineffective assistance of counsel, for failure to request a jury charge on voluntary manslaughter, failure to ensure witnesses were sequestered as

consistent with the Court's ruling, failure to investigate DNA and shell casings found at the crime scene, failure to prepare for trial, failure to request a copy of a report or a T-shirt that was sent for testing, and failure to cross-examine Rahem Devoe about his criminal history. Mr. Williams is present and represented by Chelsey Marto. And the State is ready to proceed, Your Honor.

THE COURT: You ready?

MS. MARTO: Yes, Judge. I would call Mr. Jaycoby Williams.

(Witness sworn.)

JAYCOBY WILLIAMS,

having been duly sworn,

testifies as follows:

*** * * * ***

DIRECT EXAMINATION

BY MS. MARTO:

Q. Good evening, sir.

A. Yes, ma'am.

Q. So before we get into your issues, you know that if you're granted relief today, you go back to the position you were in before trial, right?

A. Yes, ma'am.

Q. So you're facing 30 to life since you were charged with murder; do you understand that?
A. Yes, ma'am.
Q. And you could get more time if you went back; do you understand that?
A. Yes, ma'am.
Q. And you still want to go forward today?
A. Yes, ma'am.
Q. Okay. So you were represented by Mr. Deysach, right?
A. Yes, ma'am.
Q. How do you feel like he did representing you?
A. Pretty good.
Q. Pretty good?
A. Yes, ma'am.
Q. Are there things that he could have done better?
A. Yes, ma'am.
Q. So we filed an amendment, right? We talked about this beforehand. The first allegation you have was you wish counsel had requested a voluntary manslaughter instruction, correct?
A. Yes, ma'am.
Q. And why do you feel like that should

have been done?

A. What you say?

Q. Why do you feel like that should have been done?

A. Because -- I couldn’t tell you.

Q. Do you think the jury would have found you guilty of voluntary instead of murder?

A. I wish.

Q. Okay. The second allegation you have is that counsel failed to ensure the motion to sequester witnesses was followed, right?

A. Yes, ma’am.

Q. And so what do you mean by that?

A. The witness -- that most of the witnesses -- they said something else. They changed their whole story. Some of the witnesses they ain’t never questioned.

Q. Okay. So there was a motion, it’s just -- and all the witnesses were kept in the same place?

A. Yes, ma’am.

Q. And you think that changed the whole outcome at trial?

A. Yes, ma’am.

Q. Okay. And third, you said that counsel

was ineffective for failure to conduct pre-trial investigations concerning DNA evidence in shell casings, right?

A. Yes, ma'am.

Q. And what do you think could have been gleaned if counsel had investigated that further?

A. It probably would have changed the whole case.

Q. How do you think it would have changed the whole case?

A. Because they said it was -- the shirt was on the scene.

Q. So that's another allegation you're adding, right? Failure to request a copy of the tested results report from the T-shirt?

A. Yes, ma'am.

Q. Okay. Do you wish counsel had requested that?

A. Yes, ma'am.

Q. And you think that could have changed the outcome at trial?

A. Yes, ma'am.

Q. Now you feel like counsel was prepared to go to trial?

A. What you mean?

Q. Do you feel like counsel was prepared to go to trial?
A. Yes, ma'am.
Q. Okay. And finally, you wanted counsel to effectively cross-examine to know about his criminal history, right?
A. Yes, ma'am.
Q. And what does his criminal history consist of?
A. He was selling undercover, I think armed robbery and he had a pending murder charge.
Q. And what part did he play in your trial?
A. He was an eyewitness.
Q. So you think he should have challenged his credibility?
A. Yes, ma'am.
Q. You think that changed the outcome at trial?
A. Yes, ma'am.
Q. Is there anything else you wish counsel did?
A. No, ma'am.
Q. Okay. No further questions.

* * * * *

CROSS-EXAMINATION BY MR. HALL

BY MR. HALL:

Q. How are you doing, Mr. Williams?

A. How are you doing, sir?

Q. Briefly Mr. Williams, you said the T-shirt was found at the scene. Mr. Williams, you were at the scene, weren't you?

A. No, sir.

Q. You weren't?

A. No, sir.

Q. Well, isn't it true that Rahem Devoe, who is your cousin that you've known all your life testified that you and him arrived at the scene and he saw you pull out a gun and shoot the victim?

A. He said -- he said I didn't get out of the car, none of that.

Q. Well, that's not consistent with his trial testimony.

A. No, he said -- I mean that I was on the scene.

Q. Okay. And isn't it true that Mr. Devoe also testified not only that he saw you with a gun after both of you got out of the car, but after he heard a gunshot, he turned around and saw you standing over the victim? Isn't that true?

A. No, that's not true.
Q. That's what he testified to at trial. And isn't it true that Dequincy Best, who was also the victim's cousin, was also present, and he also testified that you and Mr. Devoe got out of the car and you walked up to the victim and you had a gun. And gunshots were heard, and you were seen standing over the victim; isn't that true?
A. He said Rahem wasn't even there first -- that's not true.
Q. Well, at trial he testified that ---
A. He changed his whole story.
Q. Okay. And last thing, just to reiterate, Mr. Williams, you said that your attorney did a great job -- a pretty good job of representing you?
A. Yes, that I know of.
Q. And you also said that you felt like he was prepared for trial, correct?
A. I think so.
MR. HALL: No further questions, Your Honor.
MS. MARTO: No redirect.
THE COURT: You can step down.
MS. MARTO: We would call Mr. Ian Deysach.

(Witness sworn.)

IAN DEYSACH,

having been duly sworn,

testifies as follows:

*** * * * ***

DIRECT EXAMINATION

BY MS. MARTO:

Q. You represented Mr. Williams, right?

A. I did.

Q. How many times did you meet with him?

A. I don't remember. It -- he was in Allendale. I work in Hampton. I don't know the number.

Q. Okay. Was it at least a few?

A. Yes.

Q. Did you discuss with him the evidence and discovery in the case?

A. I did.

Q. And what was the trial strategy?

A. It was identity. It was pretty much the statement that he gave upon arrest was that it wasn't me, I wasn't there. And so that was -- you've got the wrong guy.

Q. Did you request a voluntary manslaughter instruction?

A. I don't believe I -- I mean there's no -- I looked at the transcript. They said, you know, if you wanted something submitted, submit it in writing. There's no discussion of it. So it's possible that I didn't.

Q. Do you think it's appropriate in this case?

A. It's -- you know, certainly hindsight, but I mean there was, you know, a thought -- I assume there was a thought process that went to it, and I can probably recreate it. But, you know, like I said, if a person's convicted of a murder, you certainly do wish that you had asked for a voluntary manslaughter charge at that time. If they're acquitted of murder and they're convicted of a voluntary manslaughter, you might not feel the same way.

Q. Do you wish you had requested instruction in retrospect?

A. Yeah, in retrospect, knowing what the outcome was, which we didn't obviously at the time know what the outcome was, but yeah, knowing what the outcome was, you know, as his attorney I'd rather have him convicted of voluntary manslaughter than murder.

Q. And what did you think the strength of the State's case was?

A. The eyewitnesses.

Q. Would you say that they were compelling?

A. I mean I don't know, I think the fact that you had one that was -- the fact that -- Dequincy Best, the cousin of the victim, and Rahem Devoe, the -- you know, the cousin of the defendant, the fact that you had two eyewitnesses that were on either side of the case in a way made what they said -- kind of bolstered -- kind of worked together to make it difficult.

Q. So you didn't think that the chance of success was happening?

A. I did. I mean this is Allendale. I mean there's a different expectation, you know, as far as what juries are willing to do over there. I don't know if it has to do with how they see the burden of proof, or if it's just a small-town thing. You know, it's hard to find jurors that don't know witnesses and defendants or anything like that. Everybody kind of at least has the knowledge of who the people are and, you know, there was a thought that if you give them that compromised verdict of

voluntary, they might go for it. I mean Mr. Williams had turned down a voluntary manslaughter plea offer already at that point. So -- but yeah, I mean I was, you know -- and then the jury was out for like a very short period of time and really I did think that there was a possibility, it's the first case I've tried in Allendale, but you know, really when the jury came back fast, I think both the Solicitor and I thought that it could be not guilty.

Q. Do you think he could have guilty of voluntary?

A. I don't -- I don't know where the -- I don't know -- there wasn't any sufficient provocation, there wasn't like -- we stuck with the defense. We didn't argue both, it wasn't him, and if it was him, it was voluntary manslaughter. I haven't really even figured out a way to do that effectively as an attorney. But -- so I'm not sure that there was the evidence to support the charge.

Q. Now you had a motion to sequester the witnesses, right?

A. Yep.

Q. And do you recall whether or not it was honored?

A. I don't recall that it wasn't. I did -- you know, to prep this case with the -- I talked to the AG about it, the Attorney General about it, early today. I think he indicated that one of the sequestered witnesses helped set up the video screen while there was some work on the video screen. Because he was the guy who knew how to work it. And whether or not I objected to him being in there for that might have been what it was, but if there was something more than that, I wouldn't have -- I didn't -- I didn't realize I was letting it go. I mean I may have let it go to the guy who worked on the video screen so that the video could be played.

Q. If there were multiple witnesses being housed in one room, do you think that would have changed the outcome of the trial?

A. Housed in one room? I don't know how -- I don't know that it would.

Q. One of my client's allegations is ineffective assistance of counsel for failure to conduct pre-trial investigations regarding DNA evidence and shell casings. Do you have any recollection of any of that?

A. Not really. I mean I don't know -- I don't remember what the shell casing evidence was.

I don’t remember exactly what the DNA evidence was in the case.

Q. Do you think that any of that evidence would have been helpful to your client?

A. I don’t know.

Q. But you didn’t think it was important to follow up on?

A. Well, I mean the -- the -- I mean whatever report that there was supposed to be, I certainly -- I’m under the impression that I received full discovery, and that if such a report existed, I would have had it. I’m not sure, you know, with this shirt that was being discussed, whether it wasn’t tested and that’s what the problem was, but you definitely have to be careful about digging up your own evidence. What if I figured there was DNA evidence on the shell casing and it comes back to Mr. Williams. Then I’ve just caused harm -- you first do no harm is sort of a thing with doctors as well as lawyers, so as far as like seeing if his DNA was on something, I didn’t do any of that.

Q. I guess what you’re saying is you thought that it could have been equally as hopeful as hurtful?

A. I mean -- well, I mean certainly the last of it -- proof of DNA, I mean if we're talking about burden, if they don't -- if there is no answer, you know, I can argue that it's not there. If there is an answer and it's him, then I'm boxed in. So there is a way of thinking anyway that like, hey, they've got the burden of proving it, his DNA and whether he's present, and I wasn't going to give them anything.

Q. Did you feel like you were prepared to go to trial?

A. Yes.

Q. And do you recall Rahem Devoe testifying at trial?

A. I mean I remember that he testified, yes.

Q. And to the best of your knowledge, does he -- did he have a criminal history?

A. A history and pending issues.

Q. As far as you remember, were those addressed at trial?

A. I think they were.

Q. And then there's another allegation, failure to request a copy of the test results for the T-shirt. Do you recall anything about that?

A. I don't recall anything about a T-shirt other than to say, like I said, that I thought I had everything and if I would have thought I was missing something, it would have been nothing to send an email or pick up the phone or talk to the opposing counsel. She would have given it to me, but I'm not aware of any report that I was missing or if there was, maybe it didn't exist, but I don't have a strong reflection of that whole T-shirt issue.

Q. And do you have any opinions on whether or not it would have been helpful or hurtful?

A. I don't.

MS. MARTO: No further questions, Your Honor.

* * * * *

CROSS-EXAMINATION BY MR. HALL

BY MR. HALL:

Q. Mr. Deysach, how long have you been practicing?

A. Since 2000.

Q. Okay. So about 23 years?

A. Yes. I guess this was 2018, maybe, at the time.

Q. And how much of that practice would have been devoted to criminal law?

A. A lot of it. Because most of it, not all of it, but probably 75 percent, maybe 80 percent of it.

Q. Okay. And you were appointed to represent Mr. Williams?

A. I was.

Q. Mr. Deysach, at trial, you were going to sequester witnesses, and the Court granted a motion and the witnesses were sequestered. The Court, however, made an exception for the State's witness Mr. Hutto because he was assisting the video equipment; is that right?

A. That's my understanding right now.

Q. And that's at transcript page 98 for the record. And the Court also made an exception for Agent Richard Johnson who was the State's lead investigator in that case, correct?

A. Correct.

Q. That's also in the transcript, page 98. And in fact the record -- trial record reflects that there was a point in time when Devoe actually stepped down from the witness stand and the Court told the Solicitor to ensure, because he wasn't excused then, to ensure that he would not go back and to make sure that he was sequestered. Is that

right?

A. If it's in the transcript, it is.

Q. And that's at transcript page 204. Regarding the evidence that was found at the scene, do you recall Rahem Devoe testifying that he was there with the defendant and saw the defendant pull out a gun and shoot the victim as he stood over him?

A. Right. I do, yep, I remember that.

Q. Okay. And do you recall the Court had a bench conference before Mr. Devoe's testimony in which the question of impeachable offenses came up?

A. That does sound -- does ring a bell.

Q. Okay. And the Court essentially allowed you to ask Mr. Devoe about his armed robbery charge and ask about his five convictions for failure to stop? But then the Court did not allow you to ask about pending drug charges, finding that they did not affect treatment; does that ring a bell?

A. Yes.

Q. All right. And that's at transcript page 174 and 175. And isn't it true that you did in fact question Mr. Devoe on his armed robbery charge?

A. If it's in the transcript, I did.

Q. That's at transcript page 90 -- 190,

excuse me. And you also questioned him about his failure to stop for a blue light conviction?

A. I did.

Q. And that's at transcript pages 189 to 190. Regarding the physical evidence in this case, because there were several witnesses that testified that Mr. Williams was actually on the scene and two witnesses testified they saw him shoot the victim and stand over him, isn't it true that Richard Johnson, who was the lead investigator, testified -- let me rephrase it, sorry. The T-shirt, going back to Dequincy Best's testimony, he was one of the eyewitnesses Dequincy Best was the victim's cousin. Do you recall his testimony?

A. Not very clearly.

Q. Briefly, Dequincy Best, the victim's cousin, testified that he was present at the scene, saw the defendant while he was there shoot the victim and stand over the victim. Mr. Best testified that after the victim was shot, Mr. Best picked up the victim and put him in the car and drove him to the hospital. And so Mr. Best's shirt was covered in blood. Do you recall him?

A. Yes.

Q. Okay. And while at the hospital, the

lead investigator, Mr. Johnson, testified that he did see Mr. Best with a shirt that was bloody, but he didn't think the shirt had been tested because as Mr. Johnson stated, they didn't really need to; do you recall that?

A. I do.

Q. Essentially they didn't need to because they had already two eyewitnesses that saw him commit the crime, correct?

A. Right.

Q. And regarding shell cases, do you recall both the investigator Richard Johnson and Dalton Claycomb (Ph) from SLED both testified there were, in fact, no shell casings found at the scene? Do you recall that?

A. I will say I don't. But if it's in the transcript ---

Q. If I tell you it's in the transcript?

A. -- yes, I agree with you.

Q. And that's transcript page 253 and 277. And also SLED investigator Dalton Claycomb testified that they didn't swab for fingerprints or any other DNA evidence at the scene because once the crime occurred outside, but also they had several eyewitnesses that saw the him commit the crime;

isn’t that right?

A. That’s what they said, yeah.

Q. Okay. And that’s at transcript page 273. Regarding the voluntary manslaughter charge, as you put it, there was no evidence here to support voluntary manslaughter charge?

A. I don’t believe there was. I don’t remember being -- there’s no -- that sufficiently and provocationally [sic] stands out as something that was not present in the case.

Q. And Mr. Deysach ---

A. Yes, sir.

Q. Do you feel like you were aptly prepared at trial?

A. I was.

MR. HALL: No further questions, Your Honor.

MS. MARTO: No redirect, and no further witnesses, Your Honor.

THE COURT: Anything from the State?

MR. HALL: No, Your Honor.

THE COURT: All right. Any arguments?

MS. MARTO: Yes, Your Honor, just briefly in closing.

* * * * *

CLOSING STATEMENTS BY MS. MARTO

MS. MARTO: We would just request that you grant relief in this case. Concerning voluntary manslaughter instruction, I think even counsel testified that in retrospect he wishes he would have requested that instruction, and that that could have very well made a difference at trial. Even though my client claims that the witnesses, after the motion to sequester, they were all kept in the same room. We would just argue that that was prejudicial to my client's case. Concerning the T-shirt copy, it shows DNA evidence. It's my client's belief that those would have been exculpatory to him and would have helped him at trial. And finally, my client believes that counsel should have done a better job of cross-examining Mr. Devoe about his criminal history to attack his credibility and impeach him. He being one of the main witnesses for the State. And so for these reasons, we just request you grant relief. Thank you.

* * * * *

CLOSING STATEMENTS BY MR. HALL

MR. HALL: Briefly, Your Honor, may it please the Court? Mr. Deysach testified that he did everything that he could. He prepared for trial.

In this case, he testified regardless of hindsight whether he should request a voluntary manslaughter charge. There was no evidence in this case to support the charge. And to quote a state law, State v. Cole 338 S.C. 97, it states that the law to be charged must be determined from the evidence presented at trial. So regardless of whether a trial due date should or shouldn't have, there was no evidence to support the charge. Regarding the motion to sequester, if the Court made the ruling that the witnesses would be sequestered, and even as I brought out during testimony, ensure that one of the witnesses wouldn't be sent back to the same area as the other witnesses, and so the transcript itself speaks for itself regarding witnesses being sequestered. Regarding DNA evidence found, there was no need to conduct DNA testing in this case. This case came down to two items. 6:12:27 connected at the crime, as well as the T-shirt that Mr. Williams alleged should have been tested here was the victim's cousin's T-shirt from when the victim's blood was on the cousin's shirt. Any testing would have -- just wouldn't have been fruitful, Your Honor. Any regarding Rahem Devoe's testimony, counsel's testified that he did, in fact, cross-

examine Mr. Devoe about his criminal history. And the record itself speaks for itself. Your Honor, we ask that you deny Mr. Williams' application.

THE COURT: All right. Well, I think all of his decisions that counsel made really fall in the category of trial strategy, and you can second guess those but I think all of them have a stated out reason for them. And most importantly, I don't think that there's been any showing that had they been a different decision or course pursued, that there would have been a different outcome. So I'm going to deny the application and have the State prepare an order within two weeks.

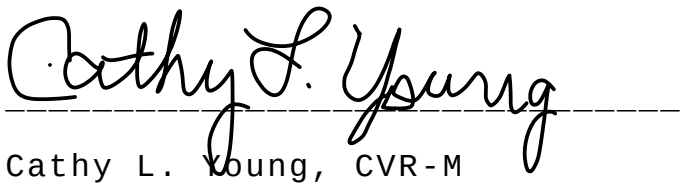
(Whereupon, the hearing was concluded.)

- - -END OF TRANSCRIPT- - -

CERTIFICATE OF REPORTER

I, Cathy L. Young, CVR-M, for the Fourteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of introduced in the hearing of the captioned case, relative to appear, in the Circuit Court for Colleton County, South Carolina, on the 30th day of November, 2023.

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



Cathy L. Young, CVR-M
Court Reporter and Notary
Public in and for South Carolina
My Commission expires: 3-28-2029

STATE OF SOUTH CAROLINA COUNTY OF ALLENDALE	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT
Jaycoby Williams, SCDC #294469, Applicant, v. State of South Carolina, Respondent.	)	Case No. 2021-CP-03-00092 **ORDER OF DISMISSAL**

FILED FOR RECORD
2023 DEC 19 P 12:00
ELAINE S. [illegible]
CLERK OF COURT
ALLENDALE COUNTY, SC

This matter is before the Court pursuant to an application for post-conviction relief (PCR) filed by Jaycoby Williams (Applicant) on May 14, 2021. On November 27, 2023, an evidentiary hearing convened before the Honorable Roger M. Young, Sr. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Bryan Hall represented Respondent. At the hearing, Applicant testified on his own behalf and called as a witness Ian C. Deysach, Esquire (Counsel). Respondent did not call any witnesses. Following a thorough review of the trial transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirty-five (35) year sentence. In July 2015, the Allendale County Grand Jury indicted Applicant for murder (2015-GS-03-00086). This charge arose from a shooting incident involving Applicant and the victim that occurred on or around May 29, 2015, in which Applicant shot the victim in the presence of at least two witnesses.

On April 3-5, 2017, Applicant proceeded to a jury trial before the Honorable Perry Buckner. Ian C. Deysach, represented Applicant, and Assistant Solicitors Korey Williams and Brian Hollen prosecuted the case. Judge Buckner sentenced Applicant to thirty-five (35) years imprisonment. Applicant filed a timely notice of appeal. On January 13, 2021, the Court of Appeals affirmed the Applicant's conviction, finding the trial court's error in limiting Applicant's cross-examination of Raheem Devoe was a harmless error not resulting in prejudice to Applicant.[1] The Remittitur was sent on February 3, 2021.

CURRENT APPLICATION

Applicant timely commenced this PCR action on May 14, 2021, alleging he is being held in custody unlawfully for the following reasons:

Ineffective Assistance of Counsel

a. Failure to request a jury charge on voluntary manslaughter.
b. Failure to investigate DNA evidence and shell casing at the crime scene.
c. Failure to investigate a video from Hardee's parking lot.
d. Failure to adequately prepare for trial.
e. Failure to request a copy of the t-shirt that was sent for testing.

On October 28, 2021, Respondent filed a return requesting an evidentiary hearing. On October 3, 2023, Applicant filed an amended application, raising the following allegations:

Ineffective Assistance of Counsel

a. Failure to request a jury charge on voluntary manslaughter.
b. Failure to ensure sequestration motion was applied.
c. Failure to investigate DNA evidence and shell casings at the crime scene.
d. Failure to request a copy of the analysis report for the t-shirt.
e. Failure to adequately prepare for trial.
f. Failure to effectively cross-examine Rahem Devoe about his criminal history.

[1] *State v. Williams*, Op. No. 5791 (S.C. Ct. App. filed Jan. 13, 2021).

At the evidentiary hearing, Applicant proceeded solely on the allegations contained in his amended application. Before this Court are the Allendale County Clerk of Court records of the subject conviction; Applicant's records from the South Carolina Department of Corrections; the trial transcript; appellate records; and the records of the current PCR action.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified that Counsel represented him "pretty good," and felt like Counsel was prepared for trial. On cross-examination, Applicant denied being present at the scene. Applicant testified Counsel should have investigated DNA evidence and shell casing and should have requested a copy of a report on a T-shirt. Applicant testified he believed an investigation into those items would have changed the outcome of the case. Applicant testified that Counsel should have ensured witnesses complied with sequestration motion at trial, and Applicant believed witnesses were kept in the same room. Applicant also testified that Counsel should have cross-examined Rahem Devoe on Devoe's criminal history. Applicant testified that he was unsure why he thought Counsel should have requested a voluntary manslaughter charge but wishes the jury had convicted him of voluntary manslaughter instead of murder.

Ian C. Deysach (Counsel) testified that he adequately prepared for trial. Counsel testified he received full discovery from the State and reviewed all discovery materials with Applicant. Counsel testified the State's evidence included two (2) eyewitnesses that witnessed Applicant shoot the victim. Regarding DNA evidence, on cross-examination, Counsel did not dispute that the trial transcript reflects shells casings were not found at the scene of the crime, and lead investigator Richard Johnson testified that DNA testing was unnecessary in this case because the crime scene was outside, and Applicant was seen by two (2) eyewitnesses who that Applicant shot the victim. According to Counsel, Applicant's defense was denial of being present at the scene and

denial of being identified as the shooter. Counsel testified he believed being in a small town like Allendale, with juries more favorable for defendants, could possibly help Applicant.

Regarding sequestration of witnesses, Counsel testified the trial court granted Applicant's motion to sequester witnesses but allowed State witnesses Donnie Hutto and Richard Johnson to remain in the courtroom. According to Counsel, the court allowed Hutto to stay to assist with the video equipment, and Johnson was the State's lead investigator. Counsel testified he does not know whether having multiple witnesses kept in the same room would have changed the outcome of Applicant's case. Counsel testified that the trial court limited his cross-examination of Rahem Devoe, Applicant's cousin, to questions relating to Devoe's pending armed robbery charge and conviction for failure to stop for blue lights. Counsel testified that, pursuant to the court's ruling, he cross-examined Rahem Devoe on the armed robbery charge and failure to stop conviction. Regarding a voluntary manslaughter charge, Counsel testified Applicant rejected an offer by the State to plead guilty to voluntary manslaughter. Counsel further testified that although there is no discussion of a voluntary manslaughter charge in the transcript, the evidence presented at trial did not support the charge.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the trial transcript in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony. After a careful review based on the *Strickland* standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989). To establish ineffective assistance of counsel, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland*, 466 U.S. at 687–88; *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

Failure to Request a Voluntary Manslaughter Jury Charge

This Court finds Applicant failed to prove Counsel was ineffective for failing to request a voluntary manslaughter jury charge. The law to be charged must be determined from the evidence presented at trial. *State v. Cole*, 338 S.C. 97, 525 S.E.2d 511 (2000). At the PCR hearing, Counsel testified that Applicant rejected a voluntary manslaughter plea offer from the State. Counsel further testified that there was no evidence presented at trial to support the jury charge of voluntary manslaughter. This Court finds **credible** counsel's testimony and finds the evidence presented at trial did not support a jury charge for voluntary manslaughter. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

Failure to Ensure Witnesses Complied with Sequestration Motion

This Court finds Applicant failed to prove Counsel was ineffective for failing to ensure witnesses complied with the trial court's ruling on witness sequestration. At trial, Counsel moved to sequester witnesses without objection from the State. (Tr. 98). The trial court ruled the sequester will be applied equally. (Tr. 98). Without objection from Counsel, the court allowed state witness Donnie Hutto to remain because he assisted with the video equipment. (Tr. 98-99). Without objection from Counsel, the court also allowed Agent Richard Johnson, the lead investigator, to remain. (Tr. 99). Both the solicitor and Counsel certified that other witnesses were not present in the courtroom, and the court reiterated that the sequestration would apply equally to both sides. (Tr. 99-100). The court further instructed both parties that they would be responsible for their witnesses and must not allow witnesses to remain in courtroom after testimony because of the potential to recall witnesses in reply. (Tr. 101-02).

At the PCR hearing, Counsel testified he was unaware of any violations of the sequester and did not think having multiple witnesses in the same room would have changed the outcome of the case. This Court finds **credible** Counsel's testimony that he was unaware of any violations of the sequester. Further, Applicant has failed to prove a violation of sequester or resulting prejudice thereof. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

Failure to Investigate DNA evidence and Shell Casings

This Court finds Applicant failed to prove Counsel was ineffective for failing to investigate DNA evidence and shell casings. Counsel has a duty to investigate only when it is reasonable to do so. *Edwards v. State*, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011). Applicant must prove prejudice by showing a reasonable probability that the outcome would have been different, but for

counsel's failure to investigate. *Council v. State*, 380 S.C. 159, 670 S.E.2d 356 (2008). At trial, Dawn Claycomb, SLED crime scene agent, testified on cross-examination that no shell casings were found at the scene of the shooting. (Tr. 277). Claycomb testified that investigators did not dust for fingerprints or other DNA swabs at the scene because such swabs are usually done in an indoor crime scene; the shooting occurred outside. (Tr. 273). Claycomb indicated swabs of blood were taken at the scene. (Tr. 273). Richard Johnson, SLED and lead investigator, testified he did not any recall shell casings being located at the scene. (Tr. 253). Johnson further testified he does not recall any items of evidentiary value being taken from the scene. (Tr. 252). According to Johnson, SLED did not conduct DNA testing in this case because they did not really need to. (Tr. 253).

At the PCR hearing, Counsel testified on cross-examination that he does not dispute the transcript reflects SLED did not conduct a DNA investigation or collect evidentiary items because SLED deemed it unnecessary. This Court finds it would not have been reasonable for Counsel to investigate DNA evidence where two (2) eyewitnesses (DeQuincy Best and Rahem Devoe) witnessed Applicant shoot the victim. This Court also finds the trial transcript refutes Applicant's assertion that shell casings were collected from the scene. Further, this Court finds Applicant has failed to prove that but for Counsel's failure to investigate these items, there is a reasonable probability the outcome of the trial would have been different. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient and resulted in prejudice. Accordingly, relief is DENIED.

Failure to Request a Copy of the DNA Report Conducted on a T-Shirt

This Court finds Applicant failed to prove Counsel was ineffective for failing to request a copy of the DNA report conducted on the victim's cousin's bloody t-shirt. At trial, Dequincy Best,

the victim's cousin, testified that Applicant arrived at the scene with Rahem Devoe and got out of a blue car with a gun inside of his pants. (Tr. 148-49). Best testified that Applicant shot the victim and stood over his body preparing to shoot him again before Devoe stopped Applicant from doing so. (Tr. 151-52). Best testified that after Applicant left, Best put the victim in his car and drove him to the hospital. (Tr. 154-55). Detective Qutique Manor, Allendale PD, testified he arrived at the hospital to help with the investigation and observed Best wearing a white t-shirt with blood on it. (Tr. 215). Manor testified he does not recall whether the t-shirt was collected for evidence by SLED. (Tr. 216). Richard Johnson, SLED lead investigator, testified that he did not recall any items of evidentiary value being taken from the scene, and SLED did not conduct DNA analysis in this case because they did not really need to. (Tr. 252-53).

At the PCR hearing, Counsel testified that he received all of the discovery from the State and reviewed it with Applicant. Counsel testified he was unaware of any missing discovery. Counsel also testified that when reviewing discovery and deciding what to investigate, he wanted to be careful about digging up more evidence of the crime. Counsel testified his strategy was to "first, do no harm." This Court finds **credible** Counsel's testimony and finds Counsel exercised reasonable professional judgment and articulated a sound trial strategy for refusing to investigate the t-shirt, which could have resulted in more incriminating evidence against Applicant. This Court further finds Applicant failed to prove Counsel's failure to request a copy of the t-shirt report resulted in prejudice to Applicant because Applicant did not produce any evidence at the PCR hearing of what further investigation into a DNA report of the t-shirt would have uncovered. *Cf. Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Thus, Applicant did not meet his burden of proving Counsel's performance was deficient and resulted in prejudice. Accordingly, relief is DENIED.

Failed to Adequately Prepare for Trial

This Court finds Applicant failed to prove Counsel was ineffective for failing to adequately prepare for trial. Applicant testified that he believed Counsel represented him "pretty good" and was prepared for trial. Counsel testified that he was prepared for trial. This Court finds **credible** both Counsel's and Applicant's testimonies that Counsel adequately prepared for trial. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

Failure to Effectively Cross-Examine Rahem Devoe About his Criminal History

This Court finds Applicant failed to prove Counsel was ineffective for failing to effectively cross-examining Rahem Devoe about his criminal history. At trial, the trial court limited Counsel's use of Rahem Devoe's prior criminal history, allowing Counsel to ask about Devoe's pending armed robbery charge and conviction for failure to stop for blue lights. (Tr. 174). Rahem Devoe, the victim's cousin, testified he rode with Applicant and showed up to the victim's apartment. (Tr. 181). Devoe testified that when he and Applicant got out of the car, Devoe was walking up the stairs to talk to his cousin, Debentris Breelend (a.k.a. Boobie). (Tr. 181). Devoe testified he heard a gunshot, walked down the stairs and saw Applicant holding a gun and standing over the victim. (Tr. 184-86).

Adhering to the trial court's ruling, Counsel cross-examined Devoe regarding his pending armed robbery charge, conviction for failure to stop for blue lights, and prior sale of drugs to an uncover officer. (Tr. 189-90). Counsel further cross-examined Devoe about the pending charges being prosecuted by the same solicitor's office that was trying Applicant. (Tr. 190). This Court finds the trial transcript directly refutes Applicant's allegation that Counsel did not effectively cross-examine Rahem Devoe about his criminal history. Thus, Applicant did not meet his burden

of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. *See* Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

THEREFORE, IT IS ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and

2. Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED ON THIS ___ day of 12/7 **, 2023.**

ROGER M. YOUNG, SR.
Presiding Judge
Fourteenth Judicial Circuit

CAS, South Carolina

04/06/2017 15:40 Clerk of Court (FAX) P.001/002

WITNESSES

S/A Richard Johnson (SLED) ✓

S/A Bobby Bancroft (SLED)

ARREST WARRANT NUMBER

2015A0320100057

Date of Arrest: May 29, 2015

ACTION OF GRAND JURY

True Bill

Paula K. Wall 7-23-15

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Annette W. Howers

Annette W. Howers

Foreperson of Petit Jury

Date: 4/5/2017

INDICT

DOCKET NO. 2015GS0300086

The State of South Carolina

County of Allendale

COURT OF GENERAL SESSIONS

July Term 2015

THE STATE

vs.

Jaycoby Terreak Williams

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 ALLENDALE)

INDICTMENT

2015GS0300086

At a Court of General Sessions, convened on July 23, 2015, the Grand Jurors of Allendale County present upon their oath:

Murder / Murder

That in Allendale County on or about May 26, 2015, the Defendant, Jaycoby Terreak Williams, did, with malice aforethought, express or implied, kill James Spellman by means of shooting him with a firearm, and that James Spellman did die in Allendale County as a proximate result thereof on May 26, 2015; 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.

Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

30 years-Life

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF Allendale)
STATE)
) INDICTMENT/CASE#: 2015 -GS- 03 00086
vs.)
Jayoby Terrak Williams) A/W#: 2015A0320100057
AKA:) Date of Offense: May 26, 2015
Race: B Sex: M Age:) S.C. Code §: 16-3-10; 16-3-20
DOB: [redacted] SS#: [redacted]) CDR Code #: 0116
Address: Flowers Lane)
City, State, Zip: Allendale SC)
DL# * SID#)

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: Murder
In violation of § 16-3-10; 16-3-20 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) ☐ §17-25-45
The charge is: ☑ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: [signature] 101928
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections** ☐ **County Detention Center,**
for a determinate term of 35 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:
☑ 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 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered** **PTUP**

Total: $ plus 20% fee: $ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SCDPPPS

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:

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 61.6 (Public Def/Probation)	$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	$
3% to County (if paid in installments)	$	$ 3.75
TOTAL		$ 128.75

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk Elaine Sabb
Court Reporter: Lilinda H. Rowe
SCCA/217 (07/2016)

Presiding Judge [signature]
Judge Code: 222
Sentence Date 4/5/17
Perry M Buckner