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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Assigned Judge: Darrell Scott Fisher, Circuit Court Judge
Disposition Judge: G.D. Morgan, Jr., Circuit Court Judge

Appellate Case No. 2023-000182 and 2023-001149

The State of South Carolina,

Respondent,

v.

Luis Armando Alvarez,

Appellant.

AND

The State of South Carolina,

Respondent,

v.

Juan Carlos Alvarez,

Appellant.

RECORD ON APPEAL
VOLUME II

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1 MR. RICHARDSON: State calls Alaina Armstrong.

2 THE CLERK: Ma'am, if you'll please come
3 forward. If you'd please pause at the end of the
4 bench. Place your left hand on the Bible and raise
5 your right hand.

6 THE WITNESS: (Complying.)

7 THE CLERK: You do solemnly swear or affirm to
8 tell the truth, the whole truth, nothing but the
9 truth so help you God?

10 THE WITNESS: Yes.

11 THE CLERK: Thank you. Please be seated.

12 THE WITNESS: (Complying.)

13 THE CLERK: And if you'd please state your name
14 for the record.

15 THE WITNESS: Alaina Armstrong-King.

16 ALAINA ARMSTRONG-KING,
17 having been produced and first duly sworn as a
18 witness on behalf of the State, testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. RICHARDSON:

22 Q. And, ma'am, just scoop up real close to that
23 microphone so we can hear you.

24 A. (Complying.)

25 Q. Okay. Where are you employed?

1 A. I'm employed with Air Methods.

2 Q. And what is that?

3 A. It is an air ambulance service, critical care.

4 Q. And -- and where are you actually employed with
5 that establishment?

6 A. It's with AirLife Georgia in Blairsville,
7 Georgia.

8 Q. Okay. And that's life flight so-to-speak?

9 A. Correct.

10 Q. Now, however, back in 2018, were you here in
11 Greenville?

12 A. Correct.

13 Q. And where were you employed at that -- that
14 time?

15 A. Greenville County EMS.

16 Q. And what did you do for Greenville County EMS?

17 A. I was a paramedic on the ground service.

18 Q. Okay. And were you working the night of
19 September the 22nd, 2018?

20 A. I was.

21 Q. And were you called to Vibe Club?

22 A. Correct.

23 Q. And do you recall somebody else in the
24 ambulance with you in response?

25 A. Yes. I had my partner, and we also had a

1 medical student.

2 Q. Okay. And who was driving?

3 A. Per my report, it was my partner, Joe Carter.

4 Q. Okay. And did you go -- were you responding
5 full siren and lights?

6 A. Correct.

7 Q. Now, when you arrived at Vibe, did you treat
8 Orlando Lopez at the scene?

9 A. I did.

10 Q. Okay. What did you view about Mr. Lopez at
11 that time?

12 A. Through our report right here, we noticed that
13 he had multiple stab wounds that required direct
14 pressure to control his bleeding.

15 Q. Okay. And did you -- did you know where those
16 stab wounds were located?

17 A. Yes. So as per our report here, there were
18 multiple stab wounds. There was a stab wound on the
19 back of his head. There was a stab wound to his
20 left midaxillary area. There's a stab wound to his
21 right lower abdominal quadrant. There were stab
22 wounds to his back and also his left arm.

23 Q. Do you recall how many stab wounds he had that
24 you were able to note?

25 A. I do not note -- I do not recall the total

1 amount of stab wounds.

2 Q. Okay. And this stab wound on the back of the
3 head, was that a -- was it cat -- categorized as a
4 superficial wound?

5 A. That is what's in our report.

6 Q. Okay. And what exactly does that mean?

7 A. It would not have penetrated through the skull.
8 I didn't see any -- it was not very deep.

9 Q. Okay. And would you -- did you also view a
10 wound to his neck?

11 A. Yes. The left side of his neck.

12 Q. Okay. And how did you -- do you know -- do you
13 remember how you treated that?

14 A. We con -- we controlled the bleeding with
15 direct pressure.

16 Q. And do we have arteries going through our --
17 our necks?

18 A. Yes.

19 Q. And is that a concern for a paramedic?

20 A. It is a concern.

21 Q. And why is that?

22 A. The arteries in the neck provide blood flow to
23 the brain.

24 Q. And if cut?

25 A. If the artery was cut, he could bleed out.

1 Q. Now, we -- we -- did you have any other -- any
2 other concerns about the location of the wounds?

3 A. The location of the wounds would be concerning
4 because of the -- the organs that lie underneath or
5 internally.

6 Q. And at this point in time, what is your job?
7 What do you do to those wounds and how do you handle
8 the situation?

9 A. So we needed to control the bleeding, so we had
10 multiple sites that needed direct pressure and
11 bandaging, and that was our main concern at this
12 point in time.

13 Q. And a wound to any organs, as you stated, would
14 be a life-threatening wound?

15 A. It could be, depending on which organ.

16 Q. And is that -- that's a concern for you?

17 A. It is a concern.

18 Q. And did you take -- did you take Mr. Lopez to
19 the hospital?

20 A. I'm sorry?

21 Q. Did you take him to the hospital?

22 A. We did.

23 Q. And at the hospital, was it Greenville Memorial
24 hospital?

25 A. Yes.

1 Q. Okay. And did you go full lights and siren?

2 A. Yes.

3 Q. And once at the hospital, what are you doing --
4 doing to Mr. Solis?

5 A. Once at the hospital, we take the patient in to
6 meet the trauma services team, the physician
7 services where he can get definitive care.

8 MR. RICHARDSON: Beg the Court's indulgence.

9 (Counsel conferring.) Thank you, ma'am. Please
10 answer any questions defense may have.

11 THE COURT: All right. Cross?

12 CROSS-EXAMINATION

13 BY MR. NEELY:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. You wrote your report on 9/23/2018?

17 A. Yes.

18 Q. So you wrote this when this incident was still
19 fresh in your memory?

20 A. Yes.

21 Q. All right. And you noted all of the injuries
22 that you observed when you responded to Vibe
23 nightclub?

24 A. Correct.

25 Q. And we have stab, stab, stab, stab, stab,

1 correct?

2 A. Correct.

3 Q. All right. You didn't note in your report a
4 broken nose?

5 A. It -- it is not in my report.

6 Q. Okay. And you didn't note in your report any
7 orbital fracturing?

8 A. It is not in my report.

9 Q. All right. You also didn't note in your report
10 any swelling from a contusion or anything like that?

11 A. That does -- that is not in my report.

12 Q. All right. And you also don't note in your
13 report any bruising, correct?

14 A. Correct.

15 Q. All right. Now, what you do note in your
16 report on page 2 is that patient does not appear to
17 be in any obvious distress, correct?

18 A. Correct.

19 Q. All right. And you also note on page 1, again,
20 patient does not appear -- patient appears to be in
21 no obvious distress?

22 A. Correct.

23 Q. And -- sorry. I'm going to take you back to
24 page 2. Patient is not complaining of pain?

25 A. Correct.

1 Q. What you do note is that patient on the first
2 page, patient admits to alcohol use?

3 A. Correct.

4 MR. NEELY: All right. Thank you.

5 THE COURT: Mr. Watson, any cross?

6 MR. WATSON: Nothing further, Your Honor.

7 THE COURT: All right. Any redirect?

8 MR. RICHARDSON: Just briefly.

9 REDIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q. Regarding distress, what do you mean by that?
12 Is that -- explain to the jury what do you mean by
13 that.

14 A. If a patient was in distress, it could indicate
15 that they were having difficulty breathing, that
16 they were unconscious, that they were not able to,
17 you know, look -- make eye contact with you.

18 Q. And you felt it serious enough that y'all went
19 full siren and lights to the hospital?

20 A. Correct.

21 MR. RICHARDSON: That's all I have.

22 THE COURT: All right. Recross?

23 RECROSS-EXAMINATION

24 BY MR. NEELY:

25 Q. Mr. Lopez was not unconscious when you arrived

1 on scene?

2 A. He was not unconscious.

3 Q. And you noted he was not in distress? That's
4 in your report, he was not in distress?

5 A. He is not in distress.

6 MR. NEELY: Thank you.

7 THE COURT: Anything else?

8 MR. RICHARDSON: No, sir.

9 THE COURT: All right. You are may step down.
10 Thank you.

11 THE WITNESS: (Complying.) Thank you.

12 THE COURT: Can she be excused? Any objection?

13 MR. NEELY: No objection.

14 THE COURT: All right. You are excused.

15 (Witness excused.)

16 THE COURT: All right. Next witness.

17 MR. RICHARDSON: Beg the Court's indulgence?

18 THE COURT: Yes, sir.

19 MR. RICHARDSON: Your Honor, at this time the
20 State rests.

21 THE COURT: All right. Ladies and gentlemen,
22 the State has rested. They have put their evidence
23 in. I think this is a good time to take our lunch
24 break. We'll try to get started back at 1:30, so if
25 y'all would maybe try to get back around 1:15 or so

1 and we'll try to get started back around 1:30. So I
2 hope you enjoy your lunch. Please don't discuss the
3 case.

4 (At 12:16 p.m., jury left the courtroom.)

5 THE COURT: All right. Anything -- any motions
6 at this time?

7 MR. NEELY: One moment, Your Honor.

8 THE COURT: All right.

9 MR. NEELY: Your Honor?

10 THE COURT: Yes, sir.

11 MR. NEELY: On behalf of Juan Alvarez, we're
12 going to move for a directed verdict at this time on
13 two grounds. Number one, I do not believe at any
14 point during this trial, and we can check with the
15 court reporter, but I don't believe at any point in
16 time that any witness testified that this event
17 occurred in Greenville County.

18 THE COURT: I believe the first or second
19 witness testified. Let me see. It may have been
20 Mr. Solis, but I'll hear it. Go ahead.

21 MR. NEELY: And, again, I -- I might be
22 mistaken on that, Your Honor, but we can check with
23 the court reporter. To the best of my recollection,
24 I don't recall anyone said this happened in
25 Greenville County.

1 Secondly, if that evidence does exist, I would
2 move to dismiss because there's been no evidence
3 presented of the requisite mens rea on behalf of
4 Juan Alvarez during the course of this trial. *State*
5 *v. Williams* has changed the law where the Court
6 recognizes that the legislature has influenced this
7 to be a specific intent crime, at least as to one of
8 the counts of the indictment.

9 Javier Solis, from the testimony, seems to be
10 that he walked into something that he wasn't a part
11 of and he shoved these individuals and made himself
12 a victim, but he walked in the middle of something
13 and I don't the State has established the mens rea
14 to that.

15 As far as the first witness, Mr. Lopez, all the
16 evidence seems to be about the injuries, and the
17 injuries could've been the cause of what could've
18 been the cause of serious bodily injury and it
19 could've likely resulted in death, but that language
20 is the language of assault and battery high and
21 aggravated.

22 The State certainly could've gone to the Grand
23 Jury and indicted Mr. Alvarez for assault and
24 battery of a high and aggravated nature, but they
25 have chosen to come to court and gone to the Grand

1 Jury on attempted murder. And at this point,
2 they've tried their case based on the nature of the
3 injuries. I don't believe that they have met the
4 mens rea for Juan Alvarez, so I would move for a
5 directed verdict.

6 And even in the light most favorable to the
7 State, I don't believe that they have put that
8 before the Court or the jury. So at this time I
9 would move for directed verdict on behalf of Juan
10 Alvarez.

11 THE COURT: All right. I'll handle that one
12 first, and then I'll come back to you. Solicitor
13 respond -- State respond to the first one about
14 Greenville County.

15 MR. RICHARDSON: Greenville County, Your Honor,
16 it was Angela Solis' testimony and also Officer
17 Cassel. It was real clear. The -- in the light --
18 in the light most favorable to the State, specific
19 intent to kill is established by the wounds
20 themselves. There are nine stab wounds to the back
21 that were on one individual, and multiple stab
22 wounds to the back of another individual.

23 By virtue of the stabbing in and of itself, in
24 the light most favorable to the State, that is an
25 argument for the jury that we would make, and the

1 defense can argue that otherwise to the jury.

2 THE COURT: All right. Anything else,
3 Mr. Neely?

4 MR. NEELY: Again, what the State has to prove
5 evidence of is the attempt to take a life with
6 malice aforethought. The argument that was just
7 brought to the Court was that injuries are evidence
8 of that. Again, that is assault and battery of a
9 high and aggravated nature language, not attempted
10 murder language. The State could've indicted him
11 for ABHAN. They indicted him for attempted murder.
12 He made no argument about the mens rea, but that
13 burden has not been met, and I believe a directed
14 verdict is appropriate at this time.

15 THE COURT: All right. Any response,
16 Mr. Richardson?

17 MR. RICHARDSON: Just, Your Honor, obvious from
18 our standpoint is that when you stab somebody nine
19 times, there is a specific intent to kill that
20 person.

21 THE COURT: All right. I think based on the
22 evidence both as to, number one, as far as
23 Greenville County, I believe there was testimony
24 that it was in Greenville County.

25 And as to the mens rea argument, I believe ---

1 THE INTERPRETER: I'm sorry, Your Honor.

2 THE COURT: I'm sorry. I forgot. I've been
3 telling them to slow down and I forgot.

4 Based on the evidence and viewing it in the
5 light most favorable to the State, I think there is
6 at least evidence that can go to the jury, so I will
7 deny that motion.

8 All right. Mr. Watson?

9 MR. WATSON: My arguments are part in parcel
10 with the argument as to Juan Alvarez as it applied
11 to Luis Alvarez in the light most favorable to the
12 State. They have not shown the requisite of mens
13 rea as required in this case as stated in current
14 law, *State v. King*, about stating that specific
15 intent is required and we're positive that's not
16 been shown and also that venue was not properly
17 shown.

18 THE COURT: All right. Again, I do believe
19 that there was testimony that venue was in
20 Greenville County. And also there is evidence -- as
21 long as there is any evidence to go to the jury,
22 then a directed verdict should be denied. I believe
23 there is evidence of mens rea and specific intent.
24 It is an argument for the jury. I'll note your
25 motions and they are denied at this time.

1 All right. Anything else? Any other motions?

2 MR. NEELY: No further motions.

3 MR. WATSON: Nothing further.

4 THE COURT: All right. Before we go to lunch,
5 I'm going to go ahead and give them their -- my
6 instruction on their right to testify, and I will
7 speak slowly. Raise your hand if I talk fast. If
8 y'all will please rise.

9 THE DEFENDANTS: (Complying.)

10 THE COURT: I'm going to address it to both of
11 you, so this will apply to both of you. At this
12 time I am going to explain to both of you that you
13 have certain rights. If you do not understand
14 anything I say, please let me know. If you want me
15 to explain anything, please let me know. Do you
16 understand?

17 THE DEFENDANTS: (Affirmative responses.)

18 THE COURT: We have now reached the stage of
19 the trial where you may present your defense. You
20 have the right to claim the protections given to you
21 by the Fifth Amendment to the Constitution of the
22 United States. This -- this amendment states in
23 part:

24 No person shall be compelled in any criminal
25 case to be a witness against himself. This means

1 that you cannot be required to testify in this case.
2 You have the right to testify on your own behalf.
3 However, no one can make you testify. This is a
4 personal right, and no one can waive that right
5 except you.

6 If you decide to testify, you will be subject
7 to the same rules that govern other witnesses and
8 you may be examined and cross-examined on any
9 relevant issue in the case.

10 In addition, if you have any convictions
11 involving dishonesty or false statement or for
12 crimes punishable by imprisonment of more than one
13 year and the Court determines that probative value
14 of admitting this evidence outweighs its prejudicial
15 affect to you, the Solicitor will be able to
16 introduce your record to attack your credibility.

17 Is there any evidence the State has they would
18 put forth?

19 MR. RICHARDSON: No, Your Honor. As far as?

20 THE COURT: As far as any 609 or impeachment
21 evidence?

22 MR. RICHARDSON: No, sir.

23 THE COURT: If you decide to testify, this
24 decision on your part must be freely, voluntarily,
25 and intelligently made with knowledge of the

1 protections given to you by the Fifth Amendment and
2 the consequences of your decision to testify.

3 If you decide not to testify, I will instruct
4 the jurors that they cannot give the fact that you
5 did not testify any consideration whatsoever and
6 that there is to be absolutely no prejudice to you
7 because you did not testify. It is left entirely up
8 to you whether or not you testify.

9 You may talk with your attorneys, any family
10 members, any friends, or anyone else, but the final
11 -- the final decision must be left entirely to you
12 and it is left entirely to you. Do each of you
13 understand what I have just explained?

14 THE DEFENDANTS: (Affirmative responses.)

15 THE COURT: Do either of you have any questions
16 as to what I just explained to you?

17 THE DEFENDANTS: (Negative responses.)

18 THE COURT: All right. What I am going to do,
19 we're going to take a lunch break, and so I will
20 give you an opportunity to speak -- if you need to
21 speak more with your lawyers. And then when we
22 return from lunch, I will get your decision on what
23 you decide to do as far as testimony.

24 All right. Let's -- I told them we're going to
25 try to get started back at 1:30, so we'll take a

1 recess lunch -- for lunch. Be back at 1:30.

2 MR. NEELY: Jury charges, Your Honor?

3 THE COURT: Yeah, we're working on those. I've
4 got -- at lunchtime I'll get a copy and let y'all
5 take a look at it.

6 MR. NEELY: We are going to request a
7 self-defense charge.

8 THE COURT: All right.

9 MR. WATSON: And some others.

10 THE COURT: All right. Let me -- I'll get a
11 copy, compile it here over the lunch, and let y'all
12 take a look at it. Either -- either at lunch or at
13 a break maybe this afternoon.

14 Of course, depending on what -- what y'all do,
15 we may be able to go a little bit quicker than we
16 thought. So -- so I'll work on that and get copies
17 for both of you to take a look at.

18 MR. RICHARDSON: Your Honor, the State will
19 request a hand of one is the hand of all charge in
20 this case.

21 THE INTERPRETER: I'm sorry. Can you repeat
22 that?

23 MR. RICHARDSON: The State is requesting the
24 hand of one is the hand of all charge.

25 MR. NEELY: Your Honor, that's inappropriate in

1 this case given *State v. King* and *State v. Williams*.

2 THE COURT: And what's the basis of that,
3 Mr. Neely?

4 MR. NEELY: That the State has alleged
5 attempted murder, which *State v. King* says is a
6 specific intent crime. *State v. Williams*, the Court
7 ruled that the defendant in that case was intending
8 to shoot victim A, shot victim B, and that that
9 intent for victim A could not transfer over to
10 victim B.

11 So if our Court is not going to allow a single
12 person's mens rea to transfer from one victim to
13 another, even though that singular person committed
14 the same act, there's no way that a mens -- that
15 mens rea can travel from Juan Alvarez to Luis
16 Alvarez or vice versa. So a hand of one, hand of
17 all charge is inappropriate in this specific intent
18 case.

19 THE COURT: All right. Anything,
20 Mr. Richardson?

21 MR. RICHARDSON: Well, Your Honor, hand of one
22 is hand of all goes to any particular crime. And in
23 that sense that if an individual is involved with a
24 specific intent to commit a crime and that there is
25 a hand of one, hand of all situation, such as a

1 driver of a vehicle in an armed robbery. Once
2 they're involved with an act and the specific intent
3 of that act by another actor, then the hand of one
4 is the hand of all would come into play.

5 THE COURT: All right. I'll take a look.
6 Anything else?

7 MR. WATSON: Yes, sir.

8 THE COURT: Mr. Watson.

9 MR. WATSON: I believe -- I'm trying to
10 remember if this is falling under hand of one
11 accomplice liability, if that being the avenue that
12 they've gone down. We're looking at a category of
13 accomplice intent. And I don't know if there's a
14 specific case since *State v. King* or *State v.*
15 *Williams* about transferred intent from one defendant
16 to another vis-a-vis if one had been more of a
17 principal than the other, that the accomplice had
18 something shy of specific intent imputed from the
19 person that was the more immediate principal. From
20 the model penal code, if I recall correctly, the
21 answer is no, but I don't know if South Carolina has
22 ruled on that.

23 THE COURT: Do you have any particular case
24 that has? I'm not aware of any, but do you have any
25 that has ruled one way or the other on that?

1 MR. WATSON: I don't think -- I -- I've -- I've
2 looked. I can look further, but I do not believe
3 so.

4 MR. NEELY: And, Your Honor, there's been only
5 three or four cases that have come out since King
6 was decided. So I don't know if there's case law on
7 that at this point, but it's been decided by the
8 State, those are general intent crimes, armed
9 robbery as well as general intent crimes, and those
10 are specific intent crime. This is a separate
11 category from it.

12 THE COURT: Anything else from the State on
13 that?

14 MR. RICHARDSON: Nothing further, Your Honor.

15 THE COURT: All right. Anything else? I'll
16 take a look. Anything else before we break?

17 MR. NEELY: Nothing, Your Honor. Thank you.

18 THE COURT: All right.

19 MS. HOLLAND: Your Honor, I am sorry. I do
20 have one more thing too so the defense will know at
21 this point. Can we release Ms. Solis from her --
22 she's been in that back room the entire time.

23 MR. NEELY: Yes.

24 THE COURT: All right. Is that okay with you,
25 Asher?

1 MR. WATSON: That's fine.

2 THE COURT: All right. Yes, she's released.

3 MS. HOLLAND: Thank you.

4 (From 12:33 to 2:03 p.m., lunch recess.)

5 THE COURT: Thank you. Please be seated.

6 Mr. Alvarez, Mr. Alvarez, have y'all made a
7 decision as to whether or not you're going to
8 testify?

9 MR. NEELY: They do now.

10 THE COURT: I'll ask you, Mr. Alvarez, Juan
11 Alvarez first. Have you made a decision as to
12 whether or not you're going to testify?
13 (Through the interpreter.)

14 DEFENDANT JUAN ALVAREZ: I will not testify.

15 THE COURT: Okay. Mr. Alvarez.

16 DEFENDANT LUIS ALVAREZ: I'm not going to
17 testify.

18 THE COURT: Okay. All right. Anything else
19 before we bring the jury in?

20 MR. RICHARDSON: Your Honor, are you going to
21 show us the ---

22 THE COURT: Yeah, I am. I'm going to let you
23 see -- yeah, I'm going to -- I've got a copy right
24 here. And what I'll do, depending on what they do,
25 I'll probably send them out. Give y'all the charge.

1 MR. RICHARDSON: Okay.

2 THE COURT: And then let's talk logistics on
3 what we want to do.

4 MR. RICHARDSON: Okay. I'm sorry. I didn't
5 realize you were bringing them back in.

6 THE COURT: Yeah, what I'll do -- were you
7 going to say something?

8 MS. GORSKI: No, Your Honor.

9 THE COURT: All right. What I was going to do
10 was bring them back in, go to their case, and
11 depending on what they do, probably send them back
12 out and give y'all -- let y'all take a little --
13 I've got a copy here and just let y'all take a look
14 at them.

15 THE INTERPRETER: Your Honor, if I may, could
16 the interpreters have a copy of what you're going to
17 read to everyone?

18 THE COURT: Yeah, I've got a -- I've got to
19 talk with the lawyers first and see what they want.
20 Okay?

21 THE INTERPRETER: Okay.

22 THE COURT: All right. Does everybody
23 understand how that works?

24 MR. NEELY: Yes, Your Honor.

25 MR. WATSON: Yes, sir, Your Honor.

1 THE COURT: I mean, we can have a conference on
2 the charge and then we'll talk about the logistics
3 on what we want to do.

4 MR. RICHARDSON: Yes, sir.

5 MS. GORSKI: Very good. Thank you.

6 THE COURT: All right. Let's bring them in.

7 (At 2:06 p.m., jury entered the courtroom.)

8 THE COURT: All right. Ladies and gentlemen, I
9 hope you had a good lunch. I apologize for being a
10 little bit late. Blame me. I've been working on
11 some of the legal issues in the case. I want to
12 make sure I get it right before I give you the case.

13 All right. We are now ready to proceed with
14 the defense.

15 MR. NEELY: Your Honor, at this time Juan
16 Alvarez rests.

17 THE COURT: All right. Mr. Watson?

18 MR. WATSON: At this time Luis Alvarez rests.

19 THE COURT: All right. Ladies and gentlemen,
20 sorry to send you back. I'm going to take up some
21 matters with them. You just don't ever know if any
22 testimony is going to be put up, so I will need to
23 address some matters with them and I'll give you
24 word here in a little bit. Okay. Thank you.

25 (At 2:07 p.m., jury left the courtroom.)

1 THE COURT: All right. First thing, any -- any
2 motions?

3 MR. NEELY: Your Honor, at this time Juan
4 Alvarez would renew his motions -- directed verdict
5 motions.

6 THE COURT: All right. Mr. Watson?

7 MR. WATSON: Likewise, Your Honor.

8 THE COURT: All right. I note your motions.
9 And based on previous rulings at prior motions, the
10 motions are denied at this time.

11 All right. Let me ask you this: Time wise,
12 I'll give you charges and verdict form and let y'all
13 take a look at them, and I'll give y'all the time
14 you need to take a look at them.

15 Is everybody ready to close today, or what --
16 what's your preference? Do you want to do it in the
17 morning? Do you want to do it today? What is your
18 preference?

19 MR. RICHARDSON: I'm ready now, Your Honor, but
20 I'll leave it to the Court's discretion.

21 THE COURT: Okay.

22 MS. GORSKI: I'll also leave it to the Court's
23 discretion, Your Honor. However, a little bit of
24 extra time is always good.

25 THE COURT: Mr. Watson?

1 MR. WATSON: Likewise.

2 THE COURT: Okay. Let's do this: I'm going to
3 let y'all take a look at the charges because we may
4 need to discuss some things. There are a couple of
5 things that I just put in -- put in there and there
6 maybe some edits y'all want to make. So why don't
7 we do this: Let's -- I'm going to let y'all take a
8 look at the charges. I'll give you plenty of time.
9 I'll make one copy and the verdict forms. I will
10 just step out and y'all just let me know after y'all
11 have had a chance to look at them. And then that
12 will give me a little bit of an idea of time wise if
13 we need to take up some matters at the charge
14 conference and that will give me, again, a better
15 idea of whether we need to go forward this afternoon
16 or start in the morning.

17 MR. RICHARDSON: We'll share with defense.

18 THE COURT: Yeah, we'll print another one.
19 We're operating -- Caroline is down here. My
20 printer is upstairs, so we're having -- we just
21 can't print, unless we print up here.

22 We'll stand at ease while she gets those
23 copies. After y'all have an opportunity look at
24 them, just let me know and I'll come back in.

25 MS. GORSKI: Thank you, Your Honor.

1 (From 2:11 to 2:39, a recess was had.)

2 THE COURT: All right. Let me hear from --
3 well, first of all, State on transferred intent. Do
4 you have any -- any argument that that should be
5 included since it's an attempted murder case?

6 MR. RICHARDSON: Well, Judge, we actually just
7 had this conversation. They have provided case law,
8 which I have reviewed. I think the defense does not
9 want it and we would concede with that.

10 THE COURT: You know, there's cases really a
11 few months ago, *State v. Jeter*. It's a Court of
12 Appeals case, but it was -- a hearing was denied --
13 a rehearing was denied in November, that, you know,
14 kind of goes through the jurisprudence of other
15 states and talks about *State v. Williams*.

16 And it indicates, basically, that transferred
17 intent in a footnote says our whole -- our whole --
18 our holding is based wholly on the fact that
19 transferred intent never applies in an attempted
20 murder case.

21 MS. GORSKI: *State v. Jeter*?

22 THE COURT: *State v. Jeter*, yeah. It's a Court
23 of Appeals. Just come to an opinion. And in that
24 opinion, it goes through the different
25 jurisdictions. Some say it is throughout the

1 country and some say it's not, but they have taken
2 the opinion and they sort of cite *State v. Smith* or
3 *State v. Williams*, indicating the Supreme Court
4 would go that way in some of their footnotes. So I
5 don't think transferred intent should be charged in
6 this case, and y'all agree.

7 MR. NEELY: Yes, sir, Your Honor.

8 MS. GORSKI: Yes, sir.

9 THE COURT: Okay. So that will -- we'll take
10 that out.

11 All right. What else?

12 MR. RICHARDSON: Are y'all done with charges?
13 The State's okay with the remainder of the charges
14 as presented by Your Honor.

15 THE COURT: Okay.

16 MR. NEELY: Our only exception that we talked
17 about before the break, Your Honor, was the hand of
18 one, hand of all. I believe Your Honor took our
19 arguments under advisement during the lunch period
20 and included them in the charges. Your Honor has
21 noted our objection for the record. I have no
22 further argument.

23 THE COURT: All right. Anything from the State
24 on that?

25 MR. RICHARDSON: No, sir.

1 THE COURT: I think the evidence is sufficient
2 for a hand of one, hand of all charge. Now, down
3 the street they may tell me I'm wrong, but I think
4 the evidence does support that.

5 All right. Anything else?

6 MR. WATSON: Not on the charges, Your Honor.

7 THE COURT: We'll take the transferred intent
8 out.

9 All right. Any discussion on closing and
10 what -- what are we going to do?

11 MR. NEELY: Yes, sir. We've -- we have had
12 that conversation, and I think the State is in
13 agreement with the defense that we would prefer to
14 close in the morning.

15 THE COURT: Okay. Everybody in agreement?

16 MR. RICHARDSON: Yes, sir.

17 MR. WATSON: Yes, Your Honor.

18 THE COURT: I'm fine with that. Because if you
19 think about it, it's almost 3:00 now and the
20 closing, charges, jury probably doesn't get the case
21 until after four o'clock or later and we've got
22 tomorrow. Give y'all an opportunity to get ready,
23 prepare for your closings. That's always a good
24 thing to have that night before.

25 MS. GORSKI: Thank you.

1 MR. WATSON: Thank you, Your Honor.

2 THE COURT: So let -- let's do that. We'll
3 plan on starting at 9:30.

4 MS. GORSKI: That's fine.

5 THE COURT: Does that work okay?

6 MR. RICHARDSON: Yes, sir.

7 MR. NEELY: Yes, sir.

8 THE COURT: All right. Anything else before we
9 bring them in?

10 MR. RICHARDSON: Nothing from the State.

11 MR. NEELY: Nothing from defense.

12 THE COURT: All right. Let's bring them back
13 in.

14 (At 2:44 p.m., jury entered the courtroom.)

15 THE COURT: All right. Ladies and gentlemen,
16 we have taken care of all the legal issues and it
17 will be ready for you to hear closing arguments,
18 instructions to the jury -- to you, the jury, and
19 then you're deliberations. Because it is almost
20 three o'clock this afternoon, that will take us a
21 number of hours.

22 And so what we're going to do, we're going to
23 start fresh, bright and early, 9:30 in the morning.
24 We're done with the evidence and there's going to be
25 no more testimony, so all we'll have is closing

1 arguments of the lawyers and my instructions to you,
2 and then you will deliberate.

3 So I'm going to excuse you for the rest of the
4 day, and we'll see you back here at -- we'll try to
5 get started at 9:30, so be here at 9:15. I'm sure
6 y'all have been instructed there, so try to get in
7 here at 9:15 and we'll get going at 9:30, and you'll
8 have the case in the morning. So have a great
9 night. Please don't discuss the case until I give
10 it to you tomorrow.

11 (At 2:45 p.m., jury was excused for the day.)

12 THE COURT: All right. Anything else before we
13 adjourn for the day?

14 MR. RICHARDSON: Nothing from the State, Your
15 Honor.

16 THE COURT: All right. Anything?

17 MR. NEELY: Nothing.

18 THE COURT: All right. We'll see y'all at 9:30
19 in the morning.

20 MS. GORSKI: Thank you.

21 (At 2:46 p.m., the proceedings concluded.)

22 May 13, 2022

23 THE COURT: Good morning. It's come to my
24 attention there may be a typo on the name of
25 Mr. Solis. Mary, what is it? Do you have the

1 indictments? S-o-l-i-c-e; is that correct?

2 MR. RICHARDSON: It's i-s, Your Honor.

3 THE COURT: It's i-s?

4 MR. RICHARDSON: Yes, sir.

5 THE COURT: All right. The indictment has it
6 S-o-l-i-c-e. Are there any motions?

7 MR. RICHARDSON: At this time we move under the
8 same provision as I cited before to amend that to
9 the correct spelling.

10 THE COURT: Any objection from the defense?

11 MR. NEELY: None, Your Honor.

12 THE COURT: When trying the case, it would be
13 hard -- hard not to have notice. All right. I will
14 grant the motion, so it's S-o-l-i-s.

15 All right. Anything before we bring the jury
16 in? One thing, I -- I made a couple of grammatical
17 changes on the charges. I moved some sentences
18 around where they're supposed to be. For instance,
19 possession of a weapon was in the intent to murder a
20 couple of sentences, so I moved that to the right.
21 So discard any charge you got, and I will have a
22 copy of the charge for the interpreters, as well.

23 MR. RICHARDSON: Yes, sir. Your Honor, after
24 overnight contemplating this case and looking at my
25 closing argument and then also reevaluating your

1 charges, the charge of self-defense, I -- I do not
2 see where there's anything in the evidence that
3 would require a charge of that nature in this
4 particular case.

5 THE COURT: What -- what about that on the
6 defense side?

7 MR. NEELY: Besides the fact that we've already
8 had the charge conference and Your Honor has ruled
9 on it. Your Honor ---

10 THE COURT: I can still -- before I get -- it's
11 not -- until I charge it, it's not final. And still
12 then, you can object. After that, as well.

13 MR. NEELY: The testimony and evidence taken in
14 the light most favorable to the nonmoving party,
15 which is us, the evidence from their witnesses is
16 that there were three to four individuals in the
17 parking lot gathered around a truck before our --
18 before either of the Alvarez brothers walked
19 outside.

20 There's testimony that one of the people that
21 was outside had a weapon at some point in time
22 during the altercation. And there's evidence in the
23 record that there was a trail of blood going to the
24 van that was covered in the fingerprints of the
25 Alvarez brothers. And there's been no testimony as

1 to that blood being sent off to indicate whose blood
2 it was.

3 So at this point, three to four people in the
4 parking lot before the Alvarez brothers got out
5 there, a weapon, and the trail of blood. The
6 standard in this state is any evidence of
7 self-defense requires a self-defense charge be
8 given, and I believe this more than satisfies that
9 requirement.

10 THE COURT: I'm not persuaded by the trail of
11 blood. Mr. Watson?

12 MR. WATSON: Just to piggyback on that on top
13 of the impeachment testimony that we've put up on
14 the witnesses who do claim what did happen and
15 multiple versions that have come up, calls into
16 question their veracity and doesn't close the
17 loophole -- or not the loophole -- doesn't close the
18 argument of the evidence that we have that a
19 self-defense -- that would support a self-defense.

20 THE COURT: What is the evidence? I mean, I
21 don't think the trail of blood is evidence of
22 self-defense. And just in my opinion, it does not
23 rise to that level, so tell me about what evidence
24 exists.

25 MR. NEELY: Three to four people in the parking

1 lot before the Alvarez brothers got out there and a
2 weapon by one of those people in the parking lot,
3 that is evidence that self-defense was required on
4 the part of the Alvarez brothers.

5 THE COURT: But is possession just simply a
6 weapon being out there? Does that entitle you to a
7 charge of self-defense?

8 MR. NEELY: The self-defense charge does say
9 that they're allowed to act on -- on appearances.

10 THE COURT: Mr. Richardson?

11 MR. RICHARDSON: Your Honor, the only thing
12 that came in that I recall is, there was a stick out
13 there that the individuals were chased off of. That
14 was after the incident had taken place. That's the
15 evidence that's -- that is in the record. There's
16 nothing otherwise. They have to establish each
17 particular of this offense. Of course, it's my
18 burden, but they have to show something on each
19 element of this offense to establish that this be
20 charged. But such as this, their clients were
21 without fault in this, and there's no evidence of
22 any of this.

23 THE COURT: A couple of things. One, even if
24 there was a weapon out there, that doesn't, again,
25 necessarily give them a self-defense unless there

1 was some testimony that that weapon was being used
2 by somebody and they had to defend themselves.

3 And, secondly, I'm not -- I'm looking back
4 through my notes to see what testimony -- who
5 testified there was a weapon out there. The only --
6 there was testimony about Mr. Colorado grabbing a
7 tube or a stick to help Mr. Solis and Mr. Lopez, but
8 as soon as he approached them, the suspects ran
9 away, but that was after the attack had occurred.
10 What -- who -- who testified that there was a weapon
11 out there?

12 MR. WATSON: Deputy Cassel mentioned that he
13 understood it was a club for one.

14 THE COURT: And Mr. Colorado had?

15 MR. WATSON: Yes, Mr. Colorado.

16 THE COURT: Mr. Colorado didn't come out there
17 until after this took place. And when he got out
18 there, he testified ---

19 MR. WATSON: No, sir.

20 MR. NEELY: No, sir, Your Honor.

21 MS. GORSKI: No, Your Honor.

22 THE COURT: I'm talking about as far as the
23 tube. He came out there with a tube. They ran
24 away. There's no testimony in the record that
25 Mr. Colorado got involved in this fight with this

1 tube or stick or club.

2 MS. GORSKI: Your Honor, Mr. Colorado is the
3 one who gave us almost like a broadcast of events as
4 it took place minute by minute. He was actually not
5 only close enough to be able to do that, but part of
6 what was going on.

7 MR. NEELY: I believe there's multiple --
8 there's multiple witnesses that have testified that
9 when this altercation actually took place,
10 Mr. Colorado was standing directly next to
11 Mr. Lopez.

12 THE COURT: I agree with that. He went out
13 there and saw them out there and the defendants were
14 saying insulting things to Mr. Lopez. He testified
15 Mr. Lopez didn't want any problems, and then they
16 started attacking him.

17 So where is the testimony? Where is any
18 evidence that these victims or anybody had a weapon
19 or instigated the fight? Where is the testimony
20 that they instigated the fight?

21 MR. WATSON: This is a credibility question to
22 these witnesses. First off, multiple ---

23 THE COURT: Before you -- before you get to
24 credibility though, you have to have evidence. You
25 know, if you got -- credibility doesn't go to the

1 evidentiary part of it. Where is the evidence?

2 MR. NEELY: Your Honor, I believe the fact that
3 in Mr. Lopez's testimony there's an acquaintance
4 that arrived home which who would be directly next
5 to him, which he testified was a different person
6 than Mr. Colorado. And Mr. Col -- and -- and
7 there's evidence that Mr. Colorado was also standing
8 next Mr. Lopez. That makes the numbers at -- at
9 minimum three on two when the Alvarez brothers come
10 outside. That makes it an unfair fight, which
11 requires self-defense.

12 And then we get into the credibility of the
13 state -- of the witness's statements about what
14 actually took place that night, but a three on two
15 fight would absolutely necessitate self-defense.

16 THE COURT: But a three on two fight has to
17 begin with the victim starting the fight. Just
18 because there are three on two out there, there's no
19 testimony in the record that the victim started the
20 fight, is there?

21 MR. NEELY: I believe that's a question for the
22 jury at this point.

23 THE COURT: No. The question for the jury at
24 least has to have some evidentiary basis for it.

25 MS. GORSKI: Your Honor, we did hear testimony

1 that there was words exchanged inside. We also
2 heard there was words exchanged outside, but those
3 words inside that there was physical contact between
4 them inside, not to go into detail, but there was
5 definitely some difficulty starting a -- not a
6 physical altercation of an actual stabbing or any of
7 that business inside, but there was a disagreement
8 that started right from when he started talking to
9 Mr. Lopez and he went into the event, how they
10 happened, and how there were some slurs. There
11 was ---

12 THE COURT: Inside the bar.

13 MS. GORSKI: Yes.

14 THE COURT: Nothing outside. Here's the --
15 here's the problem I think you've got is the slur --
16 alleged slurs occurred inside the bar, and the
17 evidence is, is that Mr. Lopez walked out first,
18 correct?

19 MR. NEELY: I think that's the point, Your
20 Honor.

21 MS. GORSKI: I think that's the point.
22 There's -- there was -- there was no actual physical
23 altercation inside because without going, again,
24 into detail, this that was building -- the tension
25 that was building. Then there's decisions made by

1 individuals to step outside. Those individuals did
2 not leave, but they were there. Time passed before
3 both Mr. Alvarez and Mr. Alvarez, then -- then they
4 made their exit.

5 So whatever is going on inside has definitely
6 built some degree because it's not -- don't shake
7 hands when they leave. There was still things that
8 were left out of the tension that built. That we
9 got from the stand that it all had begun starting
10 with Mr. Lopez.

11 Mr. Lopez was the one that was sitting at the
12 bar close enough to Mr. Alvarez that there were
13 words exchanged. Those words, part of whatever
14 started, continued. And that we got from different
15 witnesses, different -- in different ways, but there
16 was definitely some interaction.

17 THE COURT: I don't -- is there any evidence
18 that the victims continued this? I didn't see any
19 evidence that they continued this. What's the
20 evidence that the victims continued this tension?

21 MR. WATSON: They had left before our clients
22 did. Our clients only left ---

23 THE COURT: Wait a minute. Leaving the bar is
24 evidence that the victims call -- continued the
25 tension?

1 MS. GORSKI: Well, they may have left the bar,
2 but they did not leave where -- the parking lot
3 where everything took place. They were actually in
4 that immediate area. If they're grouped together
5 there and two others come out, what the two walk
6 into and the other ones react because, okay, they're
7 outside now, is much different than anything that
8 took place inside, but it spilled over.

9 There's action on part of the victims that
10 whether we have an exact version, which we don't.
11 There's a reason that they're out there and they
12 don't leave. They don't ---

13 THE COURT: What is the evidence of eminent
14 danger? You know the law itself requires that one
15 of the elements, of course the State has the burden,
16 but one of the elements is that the defendants were
17 in eminent danger or even -- it can go that they
18 felt that they were in eminent danger, but where is
19 the evidence of even that?

20 MR. NEELY: Three on two, Your Honor.

21 THE COURT: Three on two, but you're skipping a
22 step. I understand that there's testimony about
23 three on two, but even though you have three on two
24 out in the parking lot, that -- where is the
25 evidence of any fight or insulting words out there

1 that three on two put them in eminent danger?

2 MR. NEELY: Insulting words, Your Honor.

3 THE COURT: No insulting words outside now.

4 There's no testimony of that.

5 MR. NEELY: Mr. Colorado testified about the
6 conversation between Mr. Lopez and the Alvarez
7 brothers, that the argument continued outside.

8 THE COURT: All right. Let's assume that's
9 true. Where is the testimony in evidence that your
10 clients felt they were in eminent danger? And it
11 can be a subjective basis. I recognize that, but I
12 don't see any objective evidence ---

13 MR. NEELY: Three on two ---

14 THE COURT: --- but tell me where's it
15 subjective at.

16 MR. NEELY: Three on two I think is subjective
17 of eminent danger when one of those three is having
18 and exchanging heated words with --- we're assuming
19 that testimony is true.

20 Three on two. I believe being outnumbered in a
21 parking lot fight that spilled over from inside by
22 comments made by Mr. Lopez first inside the bar,
23 that is subjectively eminent danger. Three on two,
24 you don't have the numbers in that fight.

25 MS. GORSKI: The element of surprise, Your

1 Honor, also comes into play. The two individuals,
2 Mr. Alvarez and Mr. Alvarez, leave the bar for the
3 reason it's closed. It's done. There's --
4 there's -- there's nothing left. They don't leave
5 because they invite something else outside. They
6 actually are the ones who come out because they're
7 asked to leave. It's time to close. They are
8 leaving to exit and go. They are caught by the
9 element of surprise when there are individuals right
10 there within that immediate area from where they
11 exit. They don't have that advantage to know that
12 there's people out there waiting.

13 THE COURT: But where is the evidence? Just
14 because you go outside and there are people out
15 there, that doesn't give you the right to make the
16 argument of self-defense if there's no evidence that
17 other than there's three people out there and we're
18 two people out in a parking lot.

19 MR. NEELY: I believe your charge -- the charge
20 says hostile words with an action. I mean, three on
21 two and you have hostile words being spoken by
22 Mr. Lopez. I think that gets us there to eminent
23 danger. Words accompanied by hostile acts ---

24 THE COURT: That's key there, accompanied by
25 hostile acts. What was the evidence of hostile

1 acts? Other than words now, words accompanied by
2 hostile acts. What are the hostile acts?

3 MR. NEELY: Heated exchange in the bar.
4 Heated. Mr. Lopez announces that he is leaving. He
5 goes outside. He's got at least two people waiting
6 with him and he reengages the Alvarez brothers as
7 soon as they walk out of the bar. That's the
8 testimony that's ---

9 THE COURT: Who testified that the victims
10 reengaged the suspect -- the defendant?

11 MR. NEELY: Mr. Colorado's testimony is that
12 they engaged each other. There's no testimony about
13 what order that happened in. And that -- and that
14 is -- I think that is a jury question, but
15 nevertheless, we've got three on two in the parking
16 lot after heated words inside. Three on two is a
17 hostile act, and we've got words being exchanged.

18 THE COURT: Mr. Richardson?

19 MR. RICHARDSON: Your Honor, there's -- there
20 is no evidence in the record of any attack against
21 their clients in the parking lot where this entire
22 event took place. They refer to three on -- on two.
23 Javier entered the fray after Mr. Orlando was
24 attacked. That's the evidence that's in the record.

25 And they keep arguing things that they want to

1 go to the jury with, but these are things that are
2 not specifically in evidence. There's no evidence
3 that their clients were in eminent danger in the
4 record. There is no evidence that their clients
5 were -- that the victims attacked their clients.
6 There's absolutely no evidence of that in the
7 record. In fact, there's no evidence of hostile
8 words in the parking lot in the record. The
9 testimony was -- I -- I believe was that Mr. Orlando
10 said, "I don't want to have any problems."

11 THE COURT: Yeah, Mr. Colorado testified he did
12 not -- Mr. Colorado did not testify that they were
13 insulting back and forth. In fact, his testimony
14 was that he heard the defendants say things to
15 Orlando. They started insulting him and Orlando
16 said he didn't want any problems, and then they
17 started attacking him.

18 *State v. Williams* says the law requires this
19 self-defense charge, however, only -- only when
20 there is evidence in the record that supports the
21 right of the defendant, and here are the key words,
22 "to use deadly force." What evidence is in the
23 record that that gave these defendants or whomever
24 the right to use deadly force? Where is that
25 evidence? Not three and two. Not some insulting

1 words. Where is the evidence in the record that
2 supports the rights of the defendants to use deadly
3 force?

4 MR. NEELY: Here's the problem that we have,
5 Your Honor, is that the State is perfectly okay
6 putting witnesses on the stand who have lied with
7 impunity over the last four years. They have
8 holes ---

9 THE COURT: I recognize that. And that's
10 certainly something you can argue to the jury, but
11 that's not evidence.

12 MR. NEELY: But then the -- but then the
13 problem -- but then the problem is, on top of
14 witnesses lying with impunity, you have a
15 quote/unquote lead investigator who determined that
16 he had suspects and victims upon arriving on the
17 scene so that none of -- so that the determination
18 that these people were victims was made within the
19 first two minutes upon arriving there.

20 And so all of the evidence is that -- again, I
21 know Your Honor said three on two isn't it, but it
22 is it. Three on two. Those numbers are deadly in a
23 bar fight, especially when the evidence is that the
24 victims were intoxicated.

25 THE COURT: Where's the evidence though that

1 the three on two -- that the victims attacked them
2 and put them in -- in the situation where they could
3 use deadly force? Do you have any evidence that the
4 victims had any weapons? Is there any evidence?

5 MR. NEELY: Yes. Jhefrey Colorado testified
6 that he had a pole or a tube.

7 THE COURT: No. No, he didn't testify that the
8 victims had that. That's not correct. He testified
9 he went with a pole. He testified that he went with
10 a pole. "I grabbed a tube" and I put slash/stick
11 "to help Javier. And when the defendants saw me,
12 they ran away and got" -- I can't read my own
13 writing. It says that they ran away. So where is
14 the evidence -- where is the evidence that the
15 victims had any kind of weapon?

16 MR. NEELY: Again, that is a man with test --
17 that there's testimony he was standing directly next
18 to Orlando Lopez when this started. And that is a
19 man who had lied with impunity throughout this
20 trial.

21 THE COURT: But his -- where -- where did the
22 test -- where's the evidence? He didn't testify
23 that the victims had a weapon, did he? Is there --
24 if y'all can point me to any testimony, I'll be glad
25 to take a look at it.

1 MR. WATSON: He's been lying this whole time.

2 MS. GORSKI: Right.

3 THE COURT: That's a credibility argument and
4 that's certainly something you can argue all day
5 long to the jury, but where is the evidence to
6 charge a self-defense charge because there has to be
7 evidence ---

8 MS. GORSKI: Your Honor ---

9 THE COURT: --- that put them in eminent fear.

10 MS. GORSKI: --- if I may? The fact that there
11 are so many versions of the same period of time,
12 limited period of time. There was also testimony
13 from Mr. Solis that there was some bumping going on
14 as he sat near the bathroom -- a table near the
15 bathroom, so there is some conflict that begins to
16 rise. That conflict, according to what Mr. Solis
17 tells us in one part of his testimony, is that there
18 is -- it's now -- it's starting to escalate.

19 However, when it starts to escalate, they are
20 within an establishment. We know that. So they are
21 going to do whatever they are going to do. We know
22 that Mr. Lopez leaves first immediately after
23 Mr. Colorado leaves. As this is happening, this is
24 where the build up, where the setup, where the
25 beginning steps to set the scene for when

1 Mr. Alvarez and Mr. Alvarez leaves. They know that
2 they are going to come out after them. They know
3 that they're going to be able with using the element
4 of surprise on their -- to their benefit.

5 THE COURT: I'm still though -- I want to hear
6 where is the evidence that, one, the victims had a
7 weapon; and two, that they started the fight and
8 they attacked the defendants? The only evidence in
9 the record is that the defendants attacked the
10 victims, physically attacked the victims. There's
11 no evidence in the record, unless you can point me
12 otherwise, that the defendants attacked them first
13 to then put them in eminent fear to where they could
14 use, and the keyword, *State v. Williams*, "deadly
15 force." Where is that evidence?

16 MS. GORSKI: Your Honor, whatever particular
17 evidence, there's also an underlying bias of the
18 victims. There was -- at the time they gave this
19 testimony and the time they gave another sworn
20 testimony, there was an open lawsuit. That lawsuit
21 itself would motivate whatever version -- different
22 version. There is no testimony, particularly to a
23 certain ---

24 THE COURT: A lawsuit -- the lawsuit doesn't --
25 doesn't give you the self-defense charge.

1 MS. GORSKI: Right. But what it does, it spins
2 the events in a different light. The reason to spin
3 them in a different light.

4 THE COURT: All right. Anything else?

5 MR. NEELY: The first comment was made in the
6 bar by Orlando Lopez, not by either of them, by
7 Orlando Lopez.

8 THE COURT: A derogatory mark -- remark about
9 the song.

10 MR. NEELY: Yes, sir.

11 THE COURT: That's not -- that's not to put you
12 in fear of eminent danger the way you can use -- I
13 mean, I've said a lot of things through the years
14 about people's taste in music. That doesn't give me
15 a right -- them the right to come up and do anything
16 to me.

17 MR. NEELY: Understood, but it was heated in
18 the bar, and then Mr. Lopez went outside. And then
19 Mr. Colorado went outside. And then Mr. Lopez
20 testified that another individual was outside.

21 Again, I know Your Honor doesn't like three on
22 two, but those numbers, when you don't know the
23 individuals ---

24 THE COURT: Let me ask you this: Where is
25 the -- who approached who? Where is the evidence

1 that the victims approached the defendants first?
2 Where is that evidence? There's no evidence that
3 the victims made any approach to the defendants.

4 MS. GORSKI: At the same time, Your Honor, the
5 two Alvarez are walking anywhere. I mean, we're not
6 talking about a huge space. This is a very confined
7 area where that front door is, because as we
8 understand even Mr. Solis' wife tells him, "Don't go
9 outside. Don't go outside," but she didn't tell
10 him, "Don't go outside because ---

11 THE COURT: That's just a wife looking to help
12 her husband because she knows based on what has
13 happened that she's fearful.

14 MR. NEELY: Your Honor, the problem I believe
15 with your question is that we don't know because
16 we've had so many different versions of how the
17 Alvarez brothers interacted.

18 THE COURT: But they're not -- out of all of
19 the versions you say there are, there's not a single
20 version though that says the victims attacked the
21 defendants first, is there? Or is there a version
22 that has the victims with a weapon? Is there any
23 version of that? Out of all these versions that
24 you're talking about, is there any version that says
25 that the victims attacked the defendants first,

1 number one. Is there any version that has evidence
2 that the victims had a weapon?

3 MR. NEELY: Of course not because they're all
4 lying about what happened.

5 THE COURT: That -- that's -- that's a
6 credibility argument that I will charge to the jury
7 and that you're entitled to argue all day long, but
8 that's not -- that's a different -- that's a
9 separate analysis for charges. That -- credibility
10 is a different -- is a different issue.

11 For self-defense or for any charge that I've
12 got to give to the jury, it's got to be based on the
13 evidence and the law. You can argue credibility,
14 but even in your versions there, Mr. Neely, you
15 haven't -- you haven't pointed to me a single
16 version that has the victims attacking the
17 defendants first, nor have you provided any version
18 that the -- that the victims had a weapon.

19 MR. NEELY: Well ---

20 THE COURT: Nor have you provided out of the
21 versions that they were in eminent fear of eminent
22 harm.

23 MR. NEELY: Your Honor, we don't have to show
24 that they had a weapon. The -- the charge ---

25 THE COURT: You -- you have a -- you can only

1 get that charge when there is evidence.

2 MR. NEELY: The charge ---

3 THE COURT: Hold on. Hold on.

4 MR. NEELY: I'm sorry, Your Honor.

5 THE COURT: You can only get that charge when
6 the evidence shows or gives the defendant the right
7 to use deadly force.

8 MR. NEELY: Agreed.

9 THE COURT: And I don't think there's evidence
10 in the case.

11 MR. NEELY: To address the weapon thing, Your
12 Honor. Right to act on occasion. It doesn't --
13 that law doesn't say you have to show that they had
14 a weapon. It's just the right to act on occasion.
15 Again, and I understand I'm now fighting a losing
16 battle, but ---

17 THE COURT: You're making good arguments.
18 Anything else?

19 MR. NEELY: But, again, three on two, Your
20 Honor, when you don't know the people that you are
21 fighting in the club and you exchange heated words
22 with you inside the bar and you walk outside because
23 you're asked to leave and they are in the parking
24 lot waiting. Again, the standard for self -- to get
25 a self-defense charge is any evidence, and I believe

1 three on two is evidence that deadly force was
2 needed.

3 THE COURT: I don't think self-defense -- I
4 don't think three on two by itself wins any
5 substantial arguments for self-defense, unless you
6 had something that accompanied that and -- and there
7 was any evidence -- any evidence that the victims
8 attacked them or that the victims had a weapon or
9 any evidence that put the defendants in the position
10 where they felt they could use or needed to use
11 deadly force. And that's an important word in *State*
12 *v. Williams* is deadly force, which is what happened
13 here.

14 So I -- I -- I hear your arguments. You made
15 good arguments, but I -- I'm going -- I'm not going
16 to charge self-defense. I don't think the evidence
17 supports self-defense in this case and so I am not
18 going to charge that. I note your objections to it
19 and can accept it, but that's going to be the ruling
20 of the Court.

21 MR. NEELY: Thank you, Your Honor.

22 THE COURT: All right. Anything else?

23 MR. NEELY: Yes, sir. Can we have about five
24 minutes now ---

25 THE COURT: Yeah. Sure.

1 (From 10:05 to 10:16 a.m., a recess was had.)

2 THE COURT: Anything else before we bring the
3 jury in?

4 MR. RICHARDSON: Nothing from the State, Your
5 Honor.

6 THE COURT: All right. Anything from the
7 defense?

8 MR. WATSON: Just our earlier objections, Your
9 Honor.

10 THE COURT: So noted. All right. Let's bring
11 them in.

12 (At 10:18 a.m., jury entered the courtroom.)

13 THE COURT: All right. Good morning, ladies
14 and gentlemen. I apologize for getting a little bit
15 late started. We were working after y'all left
16 yesterday and we have been working this morning.
17 And this case is important to both sides. And these
18 lawyers are -- you've gotten a chance to see a good
19 set of lawyers representing their clients as they're
20 supposed to do, and so we've had some legal issues
21 to make sure that we got it right and I believe we
22 do. So we are ready to proceed to the closing
23 arguments, and I will recognize the State.

24 MR. RICHARDSON: Thank you, Your Honor. May it
25 please the Court?

1 Good morning, ladies and gentlemen. I have to
2 say, I've been trying cases for a long time. I've
3 noticed your attention in this trial and attention
4 to the witnesses and the evidence that's come forth,
5 the evidence that you're going to have to look at
6 and make a decision in this case. And on behalf of
7 not only myself, but also on behalf of the victims
8 and the State of South Carolina, we appreciate that
9 attention.

10 Now, ladies and gentlemen, the judge is going
11 to charge you as to what the law is in this case.
12 He -- that's his duty. He tells you what the law
13 is. At the beginning of this case in opening, I
14 told you what the elements of attempted murder are,
15 and he's going to go over that with you.

16 Basically, the elements are a specific intent
17 by the defendants to kill the victims and there must
18 be malice aforethought. And malice is a hatred, a
19 depraved heart. In deciding this case, you have to
20 decide if what I showed you is malice. I
21 maintain -- I'm going to get to that part of it with
22 the injuries later in my closing argument, but I
23 maintain to you that in and of itself, when you see
24 the multiple injuries to these victims, is malice.

25 As I said, the judge is going to charge you as

1 to all of the law in this case and part of that is
2 reasonable doubt. Now, reasonable doubt is a doubt
3 that causes a reasonable -- reasonable person to
4 hesitate to act, but I will tell you in that sense
5 is to combine in that is that reasonable doubt is
6 simply using your common sense. There's always
7 going to be things that are nit-picked and pulled
8 out to try to say, oh, that's reasonable doubt.

9 If I'm out in a field with somebody, another
10 individual, and I raised a gun up and I shoot a deer
11 off in the distance and I say, wow, that was a great
12 shot. I killed that deer. Well, defense may say,
13 well, no, you didn't have reasonable doubt because
14 we're not at the deer and we don't see the shot.
15 You have reasonable doubt. Maybe the deer died from
16 a heart attack, but what does your common sense tell
17 you? Your common sense tells you that I fired that
18 gun, and the deer fell, and the deer died from that
19 gunshot.

20 That's what I'm asking today that you do, is
21 use simply your common sense in this case. You will
22 not hear any type of charge to you on the law of
23 self-defense.

24 MR. NEELY: Objection, Your Honor. From our
25 pretrial -- from our preclosing.

1 THE COURT: Noted. Overruled.

2 MR. RICHARDSON: You will not hear anything
3 about that from the judge who charges you on the
4 law. You may hear a claim from the defense on that.
5 I have first argument because they put up no
6 evidence, which is their right. I will not be able
7 to come back and talk to you after they talk to you,
8 so I need to anticipate and point out things that I
9 think they're going to argue.

10 Somehow or another, I anticipate that they're
11 going to bring to you and say that these two
12 individuals, Javier and Mr. Colorado, Orlando, had
13 some kind of fault in this.

14 Now, in this case, what does the evidence show?
15 What was presented to you? There's absolutely
16 nothing in the case that is presented to you that
17 establishes that these two individuals had any
18 attack, any weapon, any -- anything towards the
19 defendants. There's nothing there. They can argue
20 all they want. There is nothing in the record to
21 that effect. And the reason why is because it's not
22 a valid claim, and that's what y'all are deciding on
23 the evidence that's in the record and what you've
24 seen so far.

25 Now, Officer Cassel got on the stand and he was

1 the initial officer on the scene and ultimately
2 became the investigating officer. And they have
3 nit-picked certain points in his testimony. It's
4 basically what I call a spitball defense. It's
5 where, well, I heard in opening, they did it.
6 Mr. Neely said they did it.

7 And the reason why they have to say that is
8 because I've ID'd them on multiple ways --
9 fingerprints. Remember the forensics officer?
10 Fingerprints on their van. I've ID'd them. They
11 know that. They know they can't get by with that.
12 The defendants tried to get by with that before
13 this. They know they cannot say we did not do it
14 because the State brought evidence to you that
15 establishes they did it, so now spitball defense.
16 Throw the spitball on the wall and see what sticks
17 for you guys. Now we have to go to a different
18 level.

19 Officer Cassel, and it's not just fingerprints.
20 It's also photographic ID and it's also the passport
21 that was found in the car. You've heard all the
22 evidence. You know how they were ID'd. So let's
23 move on from ID because that's not going to be
24 talked to about -- they're not going to talk about
25 that. Remember, he said they did it.

1 Officer Cassel arrived at the scene. You saw
2 some video on body cam of certain parts of that
3 scene. That is interesting that they played a very
4 short piece of that and not the entire thing and how
5 chaotic it was out there.

6 And there was an officer out there that spoke
7 Spanish and he was relaying information to the
8 officers as best he could. And I believe the
9 evidence came out. I think the defense actually
10 asked this, that he spoke sporadic Spanish.

11 So the evidence that was being presented out
12 there to Cassel led Officer Cassel to go down the
13 paths that he did, and those paths were to look for
14 cameras. Boy, I'd love to have a camera in this
15 case, but we're not perfect. There's not cameras
16 everywhere and there were no cameras out there that
17 day. I would love to have a camera. I would love
18 to put that up there and show you what happened, but
19 I don't have that evidence. We don't always have
20 every single piece of evidence that could be out
21 there.

22 The forensics officer came out and there's
23 blood everywhere. There's been some mention of a
24 blood trail going to the van. There's no blood on
25 the van, but there's blood all around the parking

1 lot and around the van where the victims are running
2 around after they've been cut. They're all over the
3 place, but there's no blood on the van.

4 Now -- and -- and what we get, once again, the
5 spitball defense is, he asked the forensics officer,
6 "Didn't you talk to somebody?" Well, four years ago
7 and every little thing being picked out. He had
8 forgotten that somebody had mentioned to him, and
9 it's interesting that that came out, that there was
10 a box cutter involved. Somebody saw a box cutter,
11 but that's it. They want to divert your attention
12 away from the facts of the case, which I'm going to
13 get to in a minute, but Officer Cassel goes through
14 this investigation based upon who is at the scene.
15 He talks to witnesses at the scene.

16 Now, these witnesses, the response was
17 immediate. They got there. These witnesses are
18 victims. There was also Javier's wife, Angela
19 and -- and Jhefrey. These witnesses had no chance
20 to get together and put their stories together or do
21 anything like that. He talks to them at the scene,
22 as he should have done, and as he did.

23 And you heard from those witnesses. The
24 people -- and that -- and that led to his
25 investigation. And he went back to the hospital and

1 talked to them. Got some identification. Once
2 again, goes back and follows through with that and
3 gets a warrant out for the arrest of Luis after that
4 when we find his fingerprints and arrest him.

5 The warrant for the arrest of Javier was when
6 we find his -- he's identified through his passport
7 and also other investigation. That's when the
8 warrants were gotten, and after that -- after the
9 stories are told from the people who were there and
10 who saw this incident and who got knifed multiple
11 times in this incident, and that led the officer to
12 the defendants.

13 Now, who was not there? The defendants. They
14 did not stay. They did not sit there and say, "Wait
15 a second. These guys did this to me." And by the
16 way, even if they had, the evidence would show
17 otherwise and I'm going to get to that at the end of
18 my closing argument. They're gone. They're running
19 through the woods. They think they have killed
20 somebody. I've got to get out of here. I'm not
21 going to stick around and talk to the police.

22 What they're going to say, Oh, they're illegal,
23 so they -- they ran. They're illegal, so they ran.
24 And ladies and gentlemen, if something happened to
25 you, your status in this country is beside the

1 point. That has nothing to do when you are a victim
2 of a crime. Of course, they're not the victim of a
3 crime. That's why they ran. And I'm going to get a
4 little bit more into that.

5 So what -- what -- what is the evidence? And
6 I'll say this, you see things about things being
7 interpreted and other things being said. Ladies and
8 gentlemen, the interpreters are not perfect. These
9 interpretations are going person, the interpreter,
10 to the person, back to the interpreter. And you
11 even saw in this courtroom these certified court
12 reporters have to say, "Wait. Wait. Hold on. I
13 need to correct this. I need to do this." They
14 were absolute. That happens. Things are
15 misinterpreted. They had talks about depositions
16 that the victims were involved with. They never got
17 to read their depositions. They never got to
18 correct it. The interpreters are interpreting that
19 their way, but we do not know how that was
20 interpreted, but nit-pick once again. Spitball
21 defense. I used to do it when I was a kid. Throw
22 it up against the wall and see what sticks.
23 Spitball defense.

24 Javier said, "Well, I had two drinks." He said
25 that on the stand. Best they got is, "Oh, no, you

1 didn't say two drinks in your deposition. You said
2 two to three drinks." I mean, is that where we are?
3 Who's talking about the facts? Who's talking about
4 the cutting from their standpoint? No. We're --
5 we're -- we're saying after two years later, oh,
6 well, I may have had two. I may have had three
7 drinks.

8 Now, what are the facts? What are the facts
9 that Doug Richardson and the State of South Carolina
10 put forth for you to convince you that these two
11 individuals committed this horrific crime?

12 And I'll start with Jhefrey. Jhefrey --
13 Jhefrey's here. He's sitting over here. Jhefrey
14 has no dog in this. Jhefrey was outside. Never got
15 harmed. Did, in fact, do a good samaritan act and
16 chased them off eventually after the cutting, but he
17 was never harmed. Nothing happened to Jhefrey
18 himself.

19 Ladies and gentlemen, he stayed. He stayed and
20 waited for the police to get there. If Jhefrey was
21 involved with anything whatsoever, why did he not do
22 what these two guys did and take off to Florida? He
23 stayed. He gave a statement. He has come here to
24 this courtroom today to testify as to what he saw
25 happen. Jhefrey is an independent witness with no

1 dog in this.

2 And what does Jeffrey say? And by the way,
3 what Jeffrey says is corroborated by the other
4 witnesses too. Jeffrey says that -- that Orlando
5 came outside. That Orlando was alone. That there
6 was a conversation. And by the way, let me just say
7 real quick on that. When I was questioning him, it
8 was my fault. I questioned him about where Javier
9 was. That was part of the translation. I had to
10 get back up and say, "My mistake. He was actually
11 walking away from -- towards the car, and there was
12 a conversation, but they had a conversation." They
13 didn't know each other, but had a conversation.

14 And Jeffrey says that these two individuals
15 come out of the bar. Granted, the bar they were
16 kicked out of. The bar where they were causing
17 problems. The testimony has shown that. They were
18 causing problems with the bartender. The bar that
19 they went into -- it's very important. The bar that
20 they went into after work, had been drinking from
21 six o'clock on. The bar they went to drinking,
22 causing problems, and what did they bring into that
23 bar? A knife. They came outside. They had knives
24 in their pocket. They had been ready for problems
25 the entire night.

1 Now, is that something the victims did? They
2 didn't bring any knives into the bar. Javier is
3 there for his 25th anniversary. He's there with --
4 with his wife celebrating.

5 Orlando testified and the testimony was
6 corroborated throughout. Orlando comes in through
7 the back door. I don't -- I don't know why that
8 matters, but the owner let him in through the back
9 door. And he's sitting at the bar, and one key
10 thing on this. He wasn't there very long.
11 They're -- I can only anticipate that somehow or
12 another, they're going to say this whole thing was
13 gotten together by everybody and that the victims
14 did something wrong. He wasn't there very long. He
15 had a couple of drinks. He admitted this.

16 And what happens at the bar? He makes a
17 comment. A comment that people will hear every day.
18 People say every day. "That's a nasty song."
19 People who had been drinking all day, people with
20 knives in their pocket took offense to that and said
21 something to him. And this is not really where it
22 started. That thing was stopped right there after,
23 but they said something to Orlando because he said,
24 "I don't want any problems here. I'm getting out of
25 here." He paid his tab and he left.

1 I believe the testimony was that he was there
2 for 20 or 30 minutes and he left. And he and the
3 testimony that came through is that he left alone.
4 Defense may get up here and say something about him
5 coming in the door with other people, so I asked the
6 witnesses, and I believe it was Angela. But asked
7 the witness, "Did Orlando come in alone?"

8 Well, he came in with other people, but he went
9 to the bar and he sat alone. He didn't sit there
10 with these other people. I do not understand why
11 that matters, other than we're back to the spitball
12 defense. Let's see what sticks. He sits there for
13 20, 30 minutes whatever his testimony was, and he
14 leaves immediately and he leaves alone, as Jhefrey
15 also attended to. He said the same thing.

16 Now, the issue becomes when they -- these guys
17 leave the bar and they are mad. They are mad
18 because of this comment. They are mad. I believe
19 the comment had something to do with his
20 nationality. We have two guys from Honduras. We
21 have Orlando who is from Columbia and they said
22 something about his nationality, so they're mad
23 about those two things.

24 And it may not sound like much to us sitting in
25 this courtroom who have not been drinking all night.

1 But to somebody who is drinking and does not have
2 their wits about them, that says a lot. They're in
3 there with knives. And I will say the law, ladies
4 and gentlemen, that alcohol consumption is not an
5 excuse. You cannot get out there and go to a bar
6 and get drunk and commit a crime and come in and
7 say, "I was drunk, so let me go." No, sir. It does
8 not work.

9 The testimony by Angela, very important. She
10 saw the belligerent nature of these two. She saw
11 the confrontation and how they were getting at the
12 bar. Now, Angela, she's here. Right here. His
13 wife, you know, very easily, credibility comes into
14 play here. Very easily. What could've Angela done
15 to protect her husband?

16 She could've said -- come up here and told you
17 guys, hey, I saw the whole thing. I saw the
18 slashing. I saw this. I saw that. I saw -- these
19 guys are awful, blah, blah, blah. No. What she did
20 is, she came in and told you the truth and the truth
21 was, and she admitted it, she did not see this
22 crime. She did not see it happen. However, her
23 testimony is real important.

24 She testified that Orlando here -- and like I
25 said, this was corroborating. What Orlando said, he

1 was there for a very short period of time. She said
2 he left. And that shortly thereafter, the
3 defendants left.

4 Now, at that point in time, Javier -- Javier
5 says, "Well, I'm a little worried because Jhefrey's
6 outside." Now, Javier and Jhefrey know each other,
7 as what was testified to, so he's going to go
8 outside. Because of how these defendants are acting
9 in the bar, he's going to go outside and tell
10 Jhefrey to come back inside. That -- this is very
11 important.

12 He walks out and everything starts going down
13 right then. He is not out there and I believe -- I
14 can't remember how long Angela said, it was a very
15 short period of time that he was out there and
16 comes -- her next thing that she saw just seconds,
17 minutes, whatever, later is that Javier is coming
18 screaming, beating on the door because the door is
19 locked. Beating on the door, "Call 911. I am
20 dying." This happens just seconds after he walks
21 out.

22 If the defense wants to come up here and allege
23 to y'all that this was some kind of ambush between
24 these guys, please remember that. He came back
25 immediately. All Javier was that night -- that

1 night was a hero because he saved Orlando's life.
2 He saved the life of a man he did not know. These
3 two did not know each other. These two did not get
4 together and go after these defendants. And there's
5 no evidence of that. There's absolutely no evidence
6 of that. I suspect it's going to be argued to you,
7 a spitball defense. There's no evidence of that.

8 And I asked when those two are testifying and
9 they're on the stand testifying, these grown men,
10 Orlando and Javier, did you see their reaction from
11 the stand? They started crying.

12 MR. NEELY: Objection, Your Honor.

13 THE COURT: What's the basis?

14 MR. NEELY: Attempting to elicit the sympathy
15 of the jury at this point. You have a charge on
16 that I believe.

17 THE COURT: I'll hear from you.

18 MR. RICHARDSON: It goes -- well, it goes to
19 the credibility of the witness, and they have to
20 make that decision on the credibility of those two
21 victims and ---

22 THE COURT: I'll let you talk about
23 credibility. Stay away from sympathy. Sustained.

24 MR. NEELY: Thank you, Your Honor.

25 MR. RICHARDSON: Y'all saw them on the stand.

1 You saw what happened on the stand. You -- you --
2 that's part of it. You judge credibility based upon
3 what is said and how they are on the stand. I'll
4 leave it at that.

5 Now, after he yells, "Call 911. I'm dying,"
6 right after this happens, Angela does it. She calls
7 911, and there is an immediate response. You heard
8 the EMS workers talk about that they came full
9 lights and sirens, the seriousness of the situation.

10 Now, Javier, if there's going to be a claim,
11 started this or caused a problem, I would say common
12 sense. He is there with his wife on their
13 anniversary, 25th anniversary, celebrating. The
14 claim would have to be that he and Orlando got
15 together and said, hey, we're going to go outside
16 and wait for these guys to come out, and then we're
17 going to attack them. Mind you, there's no evidence
18 of that, but there's a spitball defense. There's no
19 evidence of any of that.

20 The only evidence of anybody having a weapon in
21 this case are the defendants, that they carried into
22 a bar at six o'clock at night.

23 MR. NEELY: Objection, Your Honor. That has
24 not been testified to at all.

25 MR. RICHARDSON: Your Honor ---

1 THE COURT: The jury will hear what the
2 evidence is. They'll know what the evidence is.
3 Overruled.

4 MR. RICHARDSON: I'm going to talk about the
5 employer here in a little bit, but the employer said
6 they worked until six o'clock at night. And we know
7 they had knives on them in the bar regardless,
8 because they came outside and they attacked
9 immediately. And that's evidence through Angela's
10 testimony regarding when Javier left and when he
11 came back in screaming that he was going to die,
12 call 911.

13 If you are a problem, if you've done something,
14 that is wrong, you do not come back in screaming,
15 "Call 911." You do not do that. "I'm dying." You
16 do not do that. Just like if you don't -- if you've
17 done something wrong, like they claim Jhefrey, you
18 don't stay on the scene and say, "This is what
19 happened." You run, like the defendants do.

20 And to further that with Javier, 50-plus years
21 old. In there with his wife. Are we really led to
22 believe that in 30 seconds he went out there and
23 caused this problem with the defendants who had left
24 before him? Are we really led to believe that?

25 So as I stated, the defendants weren't there to

1 give any type of leads or anything to the police.
2 They left. They said they left because they were
3 illegals, and I believe that's what the defense has
4 alluded to, but it's interesting. Let's go with
5 that.

6 They left because they were illegals. Well, we
7 had testimony that they called their employer. Now,
8 why'd they call their employer? Got to get this.
9 Got to get to this. Why do they want that so bad?
10 We can ID them with that, number one. But they call
11 their employer. At no time did they tell their
12 employer -- you heard him testify what happened.
13 They didn't tell him what happened. They didn't
14 have him call the police and say, look, you need to
15 call the police and tell them, blah, blah, blah,
16 blah, blah, this is what happened. That these --
17 these victims who have been cut multiple times are
18 the ones that started this, that they did something.

19 MR. NEELY: Objection, Your Honor. This is
20 also not in evidence.

21 THE COURT: The jury's heard the evidence and
22 you can make that argument in closing. They've
23 heard the evidence. Overruled.

24 MR. RICHARDSON: So at no point in time did the
25 employer call -- have -- they have the employer call

1 and give this information. Can't get arrested over
2 the telephone. Did they call the police? No.
3 Nobody contacted the police from their standpoint at
4 all.

5 And when they left, they -- one of them -- I
6 can't remember which one them had a wife there. He
7 left the wife behind. He went to Florida. Now, she
8 called. She called and talked to the employer, but
9 did she ever call the police? No. No. At no time
10 was any type of story from them given that we and
11 the State of South Carolina could investigate. At
12 no time. They could have gotten an attorney. They
13 were down in Florida, they could've gotten an
14 attorney to call and say, this is -- this is the
15 deal. Here's what we got.

16 So, of course, Officer Cassel goes with the
17 evidence that he has, and that evidence leads to the
18 defendants. And the reason why that evidence leads
19 to the defendants, is because they are guilty. They
20 knew they were guilty. They thought they killed
21 somebody, and that's why they ran through the woods
22 for a lengthy distance. The dog track was for over
23 an hour. They tracked -- they tracked through the
24 woods, down through the apartments, all the way up
25 through Mitchell Road for an hour. They ran a long

1 way.

2 And it's interesting because they have been
3 here working, and what do they leave behind? They
4 left something very important behind, their
5 passport, but they also left behind a job. One of
6 them had been at that job for two years, and they
7 never came back to that job. They left that job
8 because they were guilty. You don't just up and
9 leave a good job if you're not guilty of something.
10 They had a wife, and a place to live, and your
11 possessions.

12 I'm sorry. I can't remember everything about
13 this night. There's no evidence in this case. You
14 will not see any evidence presented that the victims
15 had any type of weapons. There will be no evidence
16 presented in this case of that simply because there
17 was no weapon. We do have evidence -- we do have
18 evidence that there was a weapon by the defense.
19 You had people testify to that. They saw the
20 weapons. They saw their faces. They saw them stab
21 them. And there's more evidence than that.

22 And, ladies and gentlemen, I will say that in
23 this instance, the EMS worker talks about an injury
24 to the back of Orlando's head. And that -- that's
25 very important because back here on his head, you

1 remember he fell to the ground and he was knocked
2 unconscious. And the testimony established from all
3 the witnesses that Orlando was attacked unprovoked
4 and said, "I don't -- I do not want any problems."
5 It was unprovoked and immediately he did not provoke
6 them in any way. He said, "I do not want any
7 problems," and the defendants immediately were on
8 him.

9 And remember the testimony of Javier. Once
10 again, Javier didn't know Orlando, but what did he
11 say? He said, "Well, I came outside and I looked
12 and Orlando was on the ground and they were kicking
13 his head like a soccer ball." Kicking his head like
14 a soccer ball. Kicking him in the ribs like a
15 soccer ball. Can you imagine it? Can you picture
16 it? We're not even talking about the stabbing.

17 So what -- what does Javier do? He admitted --
18 he -- he said he did not see the knives. He did not
19 see the weapons. He intervened just to push them
20 off to keep from kicking his head like a soccer ball
21 because he thought they were going to kill him. And
22 I commend him. This 50-plus-year-old man who's
23 five-foot nothing involved -- getting involved with
24 two individuals, not one, two trying to stop this.
25 He's a hero.

1 The evidence then was that Javier then became
2 the next victim. He was a problem to them because
3 he was stopping them, and they continued to turn
4 around and cut him. It's very important. These
5 injuries speak so loud in this case. It's very
6 important. They start attacking him.

7 And I remind you, ladies and gentlemen, what
8 was the testimony of the injuries to both of these
9 individuals? The cut marks, the vast majority, if
10 not all, were on the backside. Not the front. Were
11 not cuts on the face. Orlando did have a cut on his
12 neck, but backside.

13 Now, where do you need to try to defend
14 yourself by cutting somebody on the backside nine
15 times? And the injuries are very tough. As I show
16 you this one, I'm referring to State's Exhibit 6.
17 Ladies and gentlemen, notice on his arm. I believe
18 this is Orlando. Notice on his arm, ladies and
19 gentlemen, the cut mark on his arm. Why is that
20 important? It's a defensive wound. He was trying
21 to stop it. It's a defensive wound.

22 State's Exhibit 14, on the backside. Horrible
23 wound. Horrible cut. Can you imagine the
24 defendants coming and slashing them like this? Look
25 at the wound. It's long. It's deep. You heard EMS

1 workers talk about how deep they were. That's a
2 mean cut on the backside. And what happens when you
3 get cuts on the backside? Somebody is attacking
4 you. The injuries are very telling.

5 State's Exhibit 9. Once again, backside. Long
6 gashing wound. These are not -- these are wounds to
7 the backside. These are not wounds that, hey, I got
8 stabbed one time to get away. Let's stab and run.
9 No. These are angry, mad, malice, hatred slashes.
10 Deep and long.

11 State's Exhibit 4. A wound to the neck. Once
12 again, ladies and gentlemen, slashing the neck. I
13 think there's testimony came out that this was the
14 first wound that Orlando suffered. And he went down
15 and Orlando told you, he said, "Once that first hit
16 happened to me, I don't remember anything else." He
17 was trying to tell some kind of story here to y'all.
18 He could've come in and embellished that, but he
19 said, "No. I don't remember anything else," until
20 he woke up and was taken to the hospital.

21 State's Exhibit 5. Long -- two of them. Long,
22 gashing wounds to the backside.

23 State's Exhibit 10. Same. These injuries are
24 very important. These establish the malice of it.
25 The maliciousness of it. This establishes the

1 hatred. This establishes the intent to kill Javier
2 and Orlando.

3 And you can see here where he's being worked
4 on, backside. That's State's 13.

5 You know, ladies and gentlemen, I could keep
6 going with this. There's so many pictures and so
7 many wounds, but I think I've made my point. The
8 wounds are tell-tell in this.

9 What happened that night was that they made --
10 Orlando made a comment about a song. These two guys
11 got mad, were probably intoxicated, and he left.
12 Orlando tried to rid himself of the situation.

13 The defendants never tried to rid themselves of
14 the situation. They had an opportunity. There's
15 some kind of claim that these guys did anything?
16 They had an opportunity to get out of there. They
17 had a van. They ran, in fact. They ran. And they
18 came out and saw Orlando in the parking lot and said
19 this is our chance and went after him.

20 You even heard him say that the testimony that
21 he said, "I don't want any problems." And Orlando's
22 testimony said he sees a raised arm, and that's the
23 last thing he remembers is an arm coming down and
24 that's it.

25 You hear the testimony of Jhefrey, which

1 corroborates that, and also of Javier who got
2 involved. And Jhefrey told you exactly what Javier
3 said happened when he tried to go over and help them
4 out. Once that took place, these individuals fled,
5 fled the state, fled to Florida.

6 The injuries are very, very telling. They want
7 to come in here and argue to you self-defense. Let
8 me tell you, self-defense, there's no evidence of
9 that mind you, but that's a blatant act. And for
10 that to be the case that you guys would have to say
11 these defendants have no blame.

12 Ladies and gentlemen, I ask that you pay
13 attention to the evidence when you go back and
14 discuss this, and look at the evidence that you have
15 in hand. And after that and after you using your
16 common sense, the only verdict in this case is
17 guilty of attempted murder on two counts on Javier
18 Lo -- Javier -- excuse me -- the defendant and two
19 counts of attempted murder on the other defendant,
20 along with the possession of a weapon during a
21 violent offense. I thank you for your time and
22 attention. Thank you.

23 MR. WATSON: Ladies and gentlemen, what we
24 heard in this trial was an attempt to fill the voids
25 that we talked about before, the spaces in between

1 that are largely ignored by the State in this case.
2 We heard it try to be filled in by lie after lie
3 after lie with impunity.

4 You heard Mr. Lopez gave in deposition
5 testimony sworn under oath with his attorney
6 present, and then he gives a totally inconsistent
7 story here saying that the Alvarez brothers came out
8 immediately and just started stabbing.

9 Then we find out about things that happened in
10 between. No, actually, I went out for a smoke.
11 Actually, they were sitting in this car and then
12 sitting in that car. And then how long passes in
13 between -- 1, 2, 3, 4, 5 minutes -- is this idea of
14 this immediacy that happened, and even mentions that
15 there's a possible fourth person that's out there in
16 this involvement.

17 Mr. Solis gave sworn testimony under oath
18 wholly inconsistent with what he -- the State's
19 version that they rely on. All these different
20 versions are what's being used to try to fill in
21 those voids. And he said that he doesn't look for
22 trouble. He's a man of peace. "I mind my own
23 business."

24 Did you see how mad he got just on cross?
25 Really mad. Just gritting through his teeth

1 seething mad, and presumably he's sober today. Can
2 you imagine after loading yourself up with a bottle
3 of tequila all night what that's going to do to a
4 man like that? And EMS even said so, that he reeked
5 of alcohol and that it was their opinion that he was
6 incomprehensible due to intoxication.

7 So we don't really need to spitball on how much
8 he had, because their own witnesses -- their own
9 witness testified at how intoxicated he actually
10 was. And he says he's a man of peace. He doesn't
11 look for a fight. He didn't need to look for a
12 fight because he created it. And then he jumped in
13 to an altercation that is three on two at best, at
14 best.

15 And Mr. Colorado was armed. He was also
16 outside before the melee began. And he gives a
17 detailed story, a play-by-play, of all that he's
18 seen of this stabbing -- of this altercation. And
19 we're just talking about what happened outside.
20 Okay. And he's giving this detailed play-by-play.
21 And what is he doing that entire time? Nothing?
22 He's just standing there watching it happen? We're
23 to believe that nothing happened to the most
24 imposing figure in this entire melee of all the
25 people that we know who were involved, and he did

1 nothing. But he also wants us to believe, and this
2 is a version the State does not want to rely on is
3 that -- and this is what he's saying on scene, is,
4 "Oh, they jumped out. They got out of the van.
5 They started hollering at the women using sexual
6 talk, grabbing them, and then they started
7 stabbing." But we're also supposed to believe that
8 they went out for a cigarette, came out, and I just
9 watched and said -- and did nothing.

10 The story the State relies on is all from these
11 witnesses, purported victims, after they had gone to
12 the hospital and were able to get their story
13 straight. That's the version that the State wants
14 you to believe, and they're lying. Small stuff;
15 larger stuff. But even just the small stuff, if
16 you're willing to lie about the small stuff, what
17 won't you lie about?

18 And the State only addressed this deposition
19 testimony briefly in a quick passing half sentence.
20 During the trial, none of that was brought up
21 because he was just -- he didn't think it existed or
22 that you would know about it. How did it get asked
23 about -- how did it get revealed about in trial? We
24 did.

25 The EMS workers testified the individuals were

1 not unconscious when they arrived, not in distress.
2 That bleeding was controlled or bleeding had
3 stopped. There was no reports of bruising or
4 swelling on either. And there was no testimony of
5 any concussion protocol or even suspected concussion
6 after Doug so illustriously demonstrated that they
7 were kicked in the head -- that Orlando was kicked
8 in the head like a soccer ball, yet there was no
9 look to see if there was any concussion. There's no
10 testimony about that.

11 And they testified, again, that the people
12 involved here were intoxicated. Orlando, who admits
13 to drinking, and Mr. Solis, who was incomprehensible
14 due to his intoxication. And it's important to say
15 he was incomprehensible because there's one person
16 through this entire investigation that night who is
17 the closest to be able to intermediate and translate
18 that, and the State didn't put him up either. He --
19 he didn't -- he didn't show up today, and that was
20 Deputy Nunez.

21 And so let's get into the investigation. This
22 investigation was knee jerk, reactionary, quick to
23 point the finger, just like my colleague, Mr. Neely,
24 spoke at the beginning about two different types of
25 investigations. This is the one we don't want. The

1 one where you get there. You think you've figured
2 it out within minutes. You think you've figured out
3 what happened, who's to blame, and everything that
4 is collected afterwards or omitted, which were many
5 omissions, is all to be in conformity with this
6 narrative, this thought, this conclusion, this knee
7 jerk, quick to point the finger, reactionary
8 conclusion.

9 They made the decision on who the suspects were
10 and what happened on the front end, trying to make
11 everything fit on the back end. Who was the lead
12 investigator? Was it Investigator Hempell, who
13 claimed he didn't talk to witnesses that night and
14 then, in fact, did and was, like, trying to get
15 their version conforming and look like what they
16 think happened or injecting their own beliefs as
17 evidence?

18 Was it Sergeant McCoy, who also didn't testify,
19 but who made the decision to not send this up to the
20 investigation division, which, in part, tells you
21 that they didn't really care about this case all
22 that much?

23 Was it Deputy Nunez, the integral person who
24 would be translating all of this information, who we
25 don't how well he translated at all?

1 Or was it the K-9 that Deputy Cassel followed
2 for three hours in the woods after initially coming
3 here and figuring out within just a matter of
4 minutes? Deputy Cassel says he was "volun-told" to
5 do this job, which you can read that, he didn't care
6 that much about this ---

7 MR. RICHARDSON: Your Honor, I'm going to have
8 to object to him saying he didn't care in a sense
9 that he's saying things that absolutely are not in
10 evidence of that type.

11 THE COURT: Yeah, overruled.

12 MR. WATSON: Thank you, Your Honor.

13 THE COURT: They've heard the evidence. Make
14 sure you don't characterize it in that manner.

15 MR. WATSON: Understood. He also said under
16 oath here in a proceeding beforehand on this case in
17 this courtroom, that he always follows body-camera
18 procedure. And that when he was at the hospital
19 interviewing witnesses, he had his body camera on
20 and that he was certain that he had uploaded it.

21 And then, and it's revealed, that that is not
22 true. He's got a day to talk it over with the
23 Solicitor, and then said, "Actually, no, that it was
24 just a mistake. So at best, he's incompetent, more
25 appropriately, and no liar. And the State decided

1 to put up someone that he know -- they know to be a
2 liar. And that's not even the worst part.

3 And what's not being missed is Cassel's own
4 testimony about the scope of his duty and nature of
5 his job, what he is supposed to do, and how far he's
6 supposed to go in order to have done his job. He
7 said on cross-examination when clarifying what the
8 scope of his job was, he said, "Took warrants out
9 after gathering evidence in the forensic
10 investigation. Then I swore out a warrant." And he
11 clarified even further, "I just gathered evidence
12 sufficient enough for probable cause for a warrant."
13 Sufficient enough for probable cause, we're here.
14 Probable cause for a warrant.

15 These are the different burdens of proof in our
16 American jurisprudence. He swore out warrants two
17 and a half to three days after this was over and no
18 investigation was done afterwards because he had
19 probable cause. Reasonable, trustworthy information
20 that a particular crime has been -- has occurred by
21 a particular person. This is shy of what we see in
22 civil cases and preponderance of the evidence,
23 weighing the greater weight of the amount of
24 evidence. So it's in civil cases, we often see it
25 as just a little bit more than 50/50, depending on

1 which way it's going, and that's preponderance of
2 the evidence.

3 Clear and convincing evidence, that is not
4 sufficient in this case. Clear and convincing
5 evidence is the standard the Courts use on
6 determining whether to take away your children.
7 We're here today. The State has the burden of proof
8 to prove that our clients committed these crimes
9 beyond a reasonable doubt. And they say that they
10 welcome that burden today, but I really, really
11 wonder about that, especially when Cassel, who his
12 understanding is, that he had probable cause and he
13 was finished. And that's who the State's put up as
14 the lead investigator, only one other investigator
15 was placed on the stand who was there that night,
16 Investigator Hempell, and that's it.

17 This is America. The whole reason the Founding
18 Fathers jumped over the pond over here so we could
19 have the country that we have today is to avoid
20 kangaroo court, to have trials conducted where
21 competent evidence is put up, competent
22 investigations, and where they have to prove, if
23 they want to meet their burden, each element of
24 every offense beyond a reasonable doubt. And that
25 is something that would give you reason to hesitate.

1 The State doesn't take this case seriously, and
2 they don't take their burden seriously. Deputy
3 Cassel and the State forgot how big that jar was in
4 the first place. They filled it up with ping-pong
5 balls and they may have tried to fill it up with
6 other things. That's how far they got. At best,
7 probable cause. Got a long way to go and we're not
8 even close. And this compels a verdict of not
9 guilty for Luis Alvarez and Juan Alvarez.

10 MS. GORSKI: Good morning, ladies and
11 gentlemen. You can't be the instigator and the
12 victim. You can't. The chief accusers that are
13 here had a job. That job was to provide the factual
14 evidence with reliable evidence, and the evidence
15 that would answer all your questions, eliminate any
16 reasonable doubt, and they failed to reach that
17 burden. They failed.

18 There's more reasonable doubt about what
19 happened that night at the end of the trial than
20 there was at any other point because there are a lot
21 of excuses that you have heard. The State has made
22 those excuses, but excuses don't work. Excuses are
23 not enough, and they are not acceptable. They had
24 to keep that job they had and meet that burden.

25 Every witness that sat here raised their hand

1 where that Bible is, didn't say, I promise I'll
2 kinda sorta maybe try as much as I think I can
3 answer some of them partially truthfully. No. The
4 oath is very clear. We have to remember -- take you
5 back to Wednesday morning -- where co-counsel,
6 Mr. Neely, told you a story about how he got in
7 trouble. A lot of the times that that happens is
8 when the story is told one way and the story is told
9 another way. Even if it's about the same set of
10 events, it's going to be different because you can't
11 tell a lie exactly the same way twice. Something is
12 not going to fit. Something is not going to make
13 sense. Something is just off.

14 Mr. Neely's case was a cute little bunny versus
15 a big furry squirrel, but he can't tell that story
16 twice and it stay the same. Excuses don't work to
17 make it any different, to change the lie. When you
18 give a version that does not fit, you can't just
19 make up another one that may sound better.

20 Then those are excuses that we heard. We've
21 heard excuses made by the State where they failed to
22 give you what you needed -- the reliable facts, the
23 consistent statements, the things that would make
24 your job, as important as it is, that's what they
25 owe.

1 Part of the most interesting part happened
2 right at the beginning of the trial, and that was
3 when Mr. Orlando Lopez sat up here and he started to
4 answer questions that the State asked him about the
5 events of that night. And he gave those answers
6 very easily. Unfortunately, they were all prepared
7 to fit one version, but then came time to ask more
8 details when I came up here and I started to ask the
9 same questions. When I got the same questions
10 asked, all of a sudden different versions came out
11 because of a deposition.

12 You heard a little bit about that deposition.
13 The deposition was taken about a year after what
14 happened at Vibe. You heard about the deposition
15 through sworn testimony taken when Mr. Lopez had his
16 attorney present. And there was an interpreter
17 there in the room that did all the translating. He
18 had the opportunity to discuss it. It his case for
19 his lawsuit where he gave that deposition.

20 And the answers that he gave when asked the
21 same questions before were different. Changes.
22 Additions. Some things were deleted. That's what
23 different versions do. That's what lies do. So you
24 can make excuses. It doesn't change. It's not
25 going to be told the same way. The State didn't

1 tell you about the deposition. They didn't want you
2 to know. They didn't want that to be part of this
3 trial because it would show inconsistent statements,
4 but it came out.

5 Because that's what the truth does. The truth
6 shows. The truth is what you need for the facts,
7 and that's what you need. The consistent
8 statements. That's what you look for. Not
9 additions and deletions, different varieties, and
10 then you get to pick one? No. Not -- not enough.
11 Not acceptable.

12 On the stand, very important. You saw a
13 picture that did include Mr. Lopez's hands. He
14 happened to be wearing white jeans that night. And
15 on those jeans in the picture, you do see the hand.
16 You see where there had been some blood. It's
17 there. It was in the picture. He was injured.

18 But what you don't see -- one, two, even a
19 mark, a scuffle, something from falling on the
20 ground. He's being kicked. He's being punched.
21 All these different things. He's on the ground.
22 When you hit the ground wearing white pants, you are
23 going to, regardless, have some mark. You're going
24 to have something. These are the things that
25 inconsistent statements, the statements that start

1 to clash and make you think, that's right. That
2 makes sense. You would see dirt. You would see
3 scratches. You would see maybe somewhere on there.

4 No. The injuries sustained by Mr. Lopez that
5 night were the injuries that you saw in the
6 pictures, yes, but what you didn't see are any
7 marks, swelling, purple, black, and blue, a broken
8 nose, missing teeth. Something to be reliable
9 because logically that makes sense and that's not an
10 excuse. That -- no. That's not there.

11 And the reason I'm pointing these things out is
12 because we also talk about reasonable doubt. Ladies
13 and gentlemen, reasonable doubt comes from three
14 places. And you really only need one of those
15 places to have it. It comes from the evidence
16 itself. Something's not right. Not evidence.
17 Conflicts in evidence. The evidence here -- the
18 evidence here talks about the same thing, but they
19 can't get pushed together because if they're not the
20 same, if they're different versions, conflict.

21 Third place you can get reasonable doubt, lack
22 of evidence. And, unfortunately, the lack of
23 evidence is that part that we want to see. That
24 part that we want to know. That gap that's left.
25 As Mr. Watson has just said, but we don't get to

1 just fill in the blank.

2 We don't get to use the excuses. We heard a
3 lot of excuses -- why this? Why that? Why this?
4 Why that? But what we didn't hear was reliable
5 evidence. Those facts we need to see. Those things
6 that we can use to determine, to eliminate
7 reasonable doubt. Remember, you only need one. You
8 have a lot from each of the three categories.

9 The State has talked about credibility. I'm
10 going to bring a little bit of credibility right
11 now, because credibility typically is something that
12 you look for in the person who sits here, to put
13 their hand here, to swear they're going to tell the
14 truth. Not kinda, sorta, maybe, well, partially, a
15 little bit. No. No.

16 So when it comes to credibility, think of what
17 the testimony you heard. You determine. You have
18 that job. From where you are, what is given to you
19 by the State, you have that job to determine is this
20 the truth?

21 The job is made more difficult when you have to
22 question it. You are asked the same question, same
23 question, one question twice, you get different
24 answers. Sometimes three answers. You begin to
25 question yourself. Is that -- which one was the

1 truth? The first one? The second one? The third
2 one? Versions that were given were here under oath
3 in the courtroom, as well as at the deposition, as
4 well there were some answers given to those same
5 questions in written statements to the police. They
6 don't line up. They don't line up.

7 Is it possible to begin to have questions about
8 the answers? Yes. They're listed out there. You
9 aren't getting those answers because you don't know
10 which of them to rely on. Unreliable? That's
11 right. That means you didn't get reliable evidence
12 to make your decision.

13 We had inconsistent statements starting with
14 Mr. Lopez. The very first witness, the very
15 beginning. Same questions; different answers.

16 After Mr. Lopez took the stand, Mr. Solis took
17 the stand. Credibility. Let's talk about that one.
18 First, with Mr. Solis because he -- he was very
19 telling without saying a word. He was
20 confrontational. He wasn't visibly confrontational
21 when the State asked him questions, but he certainly
22 was when I got up there to ask him the same
23 questions. And the more answers he gave me, the
24 more confrontational he got.

25 That goes right along with excuses. That is

1 not going to cut it. The State didn't meet their
2 burden. They didn't give you what you need. They
3 spent a lot of time -- fingerprints, pictures.
4 That -- that's here, but that's not enough. Just
5 the more pictures they give you, the more excuses
6 they give you, does not eliminate that they didn't
7 give you what you're supposed to have. And that is
8 what, without you having to question, question of
9 which one. First he said this. Something adds
10 details. How many drinks? What type of liquor?
11 When it's the truth, that's easy to answer. That's
12 easy to answer.

13 Type of liquor? Okay. I'll tell you.

14 Aguardiente is a white, see-through, very high-proof
15 alcohol. That's not a big deal. He said that's
16 what he had. But when he was asked the same
17 question shortly after that actual night, it was
18 whisky and coke. Well, that is very different. Not
19 that that in by itself is what is important, but the
20 fact that if you are asked a simple question and you
21 give the truth, you don't have to worry about being
22 asked a hundred times or a thousand times or even
23 twice. He couldn't answer the same question twice
24 the same. Credibility. Credibility, not excuses.
25 Not excuses.

1 Mr. Colorado. Mr. Colorado was not only there
2 that night, but he was also a storyteller. He told
3 events about the night. He added things that no one
4 had said previous. He deleted things that had been
5 said, so he told stories. And his stories don't
6 make for reliable evidence either. One witness
7 can't make up for what you've already heard from
8 previous witnesses. They try to answer differently,
9 but they can't remember if it's the truth. It
10 doesn't matter how it's asked, where it's asked. It
11 might not be within minutes, but certainly isn't the
12 same answer because they were very simple questions.

13 When Mr. Colorado testified, he told us a lot
14 more information than Mr. Lopez did because not only
15 did he tell us that, yes, he was outside with
16 Mr. Lopez and, yes, he went out immediately after.
17 He told us that he didn't see any kind of
18 altercation in the bar.

19 Later, that changes. On video it changed where
20 we could see it where he tells an officer, knowing
21 that officer is going to rely on his information,
22 what happened. Oh, they were -- they were talking
23 to these women that we were with, and then they even
24 tried to touch them. Well, that's the version he
25 gave here, which we don't have a written statement

1 from him though, so we're missing that evidence.

2 And we don't have that officer here either.

3 The officer that interpreted for this case that
4 night, the officer that was working with Officer
5 Cassel is not here. We're already -- we already
6 have evidence that's not reliable, conflict in the
7 evidence, and now we begin to lack evidence. What
8 we do have is a lot of excuses. A lot of excuses.

9 Mr. Colorado talked about being outside. He
10 talked about being with Mr. Lopez. He talked about
11 cigarettes and how they went from one car to the
12 other car. Do y'all remember that? And then he
13 even added a part about them talking about going to
14 the gas station to get more cigarettes. No one,
15 especially Mr. Lopez who was out there with him,
16 ever talked about that. So one version over here.
17 One version over here. One version now over here.

18 The version that you don't hear is why? Who?
19 Where? When? All of those questions that officers
20 should be able to determine. That is it because the
21 truth is the truth. It's the lies you can change.
22 If you can interchange them, sub them, swap them
23 out, which one fits better, which lie -- which one
24 will I use today? I don't remember because you
25 can't tell that lie twice.

1 Mr. Colorado also tells us about the attack,
2 this attack that happened. When he talks about the
3 attack, he talks about what he sees and he talks
4 about it and he kind of removes himself from it
5 though. He doesn't use any of the, I did this. "I
6 saw this" is all you hear. "I saw this" from the
7 same person who tells a story and adds to that story
8 as he goes along? No. No. Don't accept it. Don't
9 accept it.

10 Because, getting back to the bar inside, yes,
11 there was tension. Yes, there was striking of a
12 match. Something's going to happen. It's going to
13 happen because Mr. Solis told us he sat near the
14 bathroom. And he's getting bumped and that's
15 starting to really bother him. He's been drinking.
16 Couldn't tell us how many, but he told us he had a
17 bottle of tequila and he was very, very intent on
18 letting me know it was a bottle of tequila.

19 Also, they later hear music as almost childish,
20 but not to the people who are involved. And a year
21 later, but not when you're there. Not when you have
22 consumed alcohol. Whether it be whisky and a coke
23 or aguardiente, we don't know, but we know he's
24 drinking. Those are alcoholic drinks. You should
25 be able to answer that question, but what was he

1 drinking? Well, I think I heard this. I think I
2 herds that. No. Reliable evidence does not change.
3 Versions don't change.

4 So the first time he was asked, I asked
5 Mr. Lopez. Well, what was it that was -- that was
6 said? "Oh, watch your mouth, Columbian -- I'm
7 sorry -- son of a bitch." Okay. Son of a bitch. A
8 bad word. A word that is not going to be used in a
9 friendly or even "hey." But when he was asked in
10 the deposition, "Hey, watch your mouth, Columbian."
11 Didn't mention the other part. Didn't mention it.
12 So which is it? Which one do you rely on? Neither.

13 Unfortunately, those lies that are being told,
14 even if one of them is the truth, you would never
15 know because there's so many other ones out there.
16 The smallest detail, remember, you can answer that.
17 When you tell the truth, you can answer it any time.
18 All the time. You don't leave stuff out. Efforts
19 to repair, there have been a lot. Those are the
20 excuses you heard.

21 You heard excuses about interpreters. That's
22 an excuse. Greenville County Sheriff's Office is
23 not a tiny little two or three officer kind of
24 makeshift. No. It's a large organization. It's
25 one that we all rely upon. Well, in order to make

1 sure that whatever was being said, no one pulled out
2 a phone to record it? Hey, let's record this
3 translation so that maybe later we can see if this
4 is exactly what was said, because that's what
5 investigation includes. Things we can rely on. No.
6 It's alright. Not that important. We'll give an
7 excuse for it later.

8 The untruthful officer, untruthful officer
9 unfortunately. Unfortunately because we don't want
10 anyone in that position, but an officer who is
11 untruthful, we know that already.

12 Officer Cassel told us first the importance,
13 everything is important. That, we all heard. And
14 he specified the who, the what, the where, the why,
15 the when, but only when he decides? He is the one
16 who said the importance. That is how every report,
17 regardless of chaos, even more during chaos.

18 He has opportunities. The opportunity from
19 that night all the way until this case was ready to
20 be heard by you, knowing that the investigation, the
21 report that is written is going to be used by you,
22 to be relied upon by you. It's not okay to have
23 anyone sit here and tell you whatever version seems
24 to make a good story. You need those facts. You
25 need not to be missing facts. You need all the

1 things that you were promised, all the things that
2 would make that job that the State has make sense,
3 and it doesn't. It doesn't.

4 Officer Nunez is not here to tell us about the
5 translating issue. Sergeant McCoy, who was the top
6 ranking official who was out there that night, he's
7 not here. You heard about a K-9 unit. That K-9 is
8 not here. But we did hear that the dog and the K-9
9 unit led the investigation because that's where
10 Officer Cassel followed. He followed the dog. He
11 left the scene. And we know he left the scene
12 because another officer in the forensics unit came,
13 and he told us, "Yes. I speak to the officer, the
14 lead officer, who was there to guide me, tell me
15 what to picture, what to collect."

16 But what did Officer Cassel say when he was
17 asked about evidence, potential evidence, being
18 collected? Oh, that's forensics. That's forensics.
19 That's forensics. Well, that could be so, but when
20 you're pointing his job, that's his job, that's his
21 job. Those are called excuses. That is not what
22 you need. That is not what you deserve. That is
23 not enough. That is not going to work. What you
24 are owed, you did not get. You did not get it.

25 Those two types of investigation, now we know

1 which investigation you got. Within five minutes,
2 and I know I've been talking longer than five
3 minutes, so maybe this little bit of time over here
4 at the very beginning. That's how quickly that same
5 officer who went in the woods and let the dog follow
6 or followed the dog, that's the officer who made the
7 determination, oh, these are suspects.

8 He has a name and an address for the owner of
9 this van that's being mentioned over and over and
10 over and over. Who's the registered owner of the
11 van? Pedro Vasquez. Not either of these two
12 gentlemen, but at no time did you ever hear of
13 efforts made of 36 hours later that anyone tried to
14 contact the owner, the registered owner, of this van
15 to find out where was he. Does he have something to
16 do with this? It's his van. It's in the parking
17 lot. Something happened here. Even if it's to
18 eliminate him or maybe to include him. Nobody's on
19 that part of it?

20 So Cassel told you, "I didn't have his phone
21 number." You didn't have a car? Maybe another
22 patrol car? Maybe another officer? Maybe some of
23 those officers in the woods for three hours. Maybe
24 the next day? No. No one spoke to the owner, the
25 registered owner. The registered owner, he called.

1 He knocked on their door and said, hey, hey, hey.
2 Nobody contacted him.

3 So not only has reasonable doubt spun from
4 minute one, there's more now than there has been at
5 any other point. Five minutes. There's a
6 description and some clothing. Those are the
7 suspects. Did these guys stab each other and make
8 up a story? Is that possible? That would be an
9 assumption, but that makes us work harder. So the
10 State doesn't get to use assumptions. The State
11 doesn't get to use ifs and maybes. Don't accept it
12 either. Don't accept it either.

13 You need certain things that you didn't get.
14 You didn't get that extra acquaintance of Mr. Lopez
15 who was already out there and he spoke of. He said
16 it was a different person than Mr. Colorado, so we
17 have even someone else, but no.

18 No lab testing all this blood. There's blood
19 in those pictures. There is blood near this car.
20 There's blood near that. We heard all of that, but
21 no one tested? There's no lab report. The test
22 that was conducted, you heard Officer Hempell say,
23 "Well, I checked to make sure it was blood."

24 Again, the who. Let's hold Greenville County
25 Sheriff's Office accountable. Assumptions don't

1 work. You want to know whose blood. I need those
2 facts. Those facts help me make a determination.
3 Those facts would help determine a good
4 investigation from an incompetent one. An
5 incompetent investigation is not acceptable. There
6 has to be -- there has to be, not a perfect
7 investigation because there's no such thing, but
8 there certainly has to be at a minimum -- at minimal
9 the most basic.

10 Crystal powder substance. Something sent to a
11 lab. Collected on the scene. That was collected.
12 Great. Where's the results? No. We just send it
13 to the lab. No more investigation. Five minutes.
14 We're already decided. Done. Because only gather
15 enough evidence that will support probable cause.
16 Wow. That -- that's not -- that's not okay. That's
17 not sort of okay. That's not kind of okay. That's
18 not let me make it okay by saying this. That's not
19 let me find the excuses. Thank you. Now, it's
20 okay. No. You have not been given anything but
21 excuses. You're not being given facts. You're not
22 being given what you need to uphold the job.

23 Chaotic scene. A chaotic scene would require a
24 little bit more work because you got to separate
25 people. Who's the witnesses? Who are the ones that

1 are responsible? Are they still standing here?
2 Won't know until you get a chance to speak with each
3 one of them, but independent of each other because I
4 have kids. I know that when one comes crying, I am
5 not going to hear what happened. I'm going to hear
6 everything the other one did from day one. And then
7 when I go ask the other one? What? And that's
8 what's happened here. Without taking extra time,
9 we'll just -- doesn't matter. So what's the
10 difference if it's chaotic or not? That's the
11 difference to you. Your job depends on what is
12 presented. And unfortunate here, what you're not
13 given. You get excuses, but you don't get this.

14 Didn't look in witness cars in the parking lot
15 after the witnesses said they arrived separately.
16 Let's look at that. The cars are still parked in
17 the parking lot. Those cars haven't gone anywhere.
18 Take the time to basic investigation -- the who, the
19 what, the when, the where, and the why. Those are
20 questions that were never answered before you
21 because they state, we'll say an excuse covers that.
22 Focus on other stuff. Everywhere you look, it's
23 excuses. Testimony. Inconsistent evidence. Maybe
24 it's here, maybe it's not. But it certainly is not
25 what you need.

1 They didn't meet their burden. Their burden is
2 beyond a reasonable doubt. Reasonable doubts are
3 those doubts that you can determine exist or don't,
4 but you first got to be given the right tools.
5 There's so many reasons to give excuses, because you
6 weren't given anything else.

7 I'm going to end our time together with a
8 little math. Luckily, I'm good in math so we'll
9 keep it simple. You have four actual witnesses that
10 were there at Vibe. That's including Ms. Solis,
11 Javier's wife, who even mentioned that she heard one
12 of the Alvarez brothers take out his driver's
13 license and say, "Okay. Yeah, it doesn't matter if
14 there's a problem, whatever. I'll be up the next
15 day." No one else said that and everyone was asked
16 about what the interaction was. No one else said
17 that. That came from her. The same person who
18 didn't see the fight outside.

19 So we have four witnesses and two to three
20 versions from each of those witnesses. So at
21 minimal, we have eight versions. And at a maximum,
22 we have about 12 or 13. You get to pick. Not what
23 happened, which version. They're all there. None
24 of them matched up within themselves to each other
25 or to anyone else.

1 The State says, "There's excuses. We'll cover
2 that." So we have that many versions, an
3 investigation. And out of those two things
4 together, all these versions, an incompetent
5 investigation, and incomplete, didn't even make the
6 minimum, put that together. That does not equal
7 anything but not guilty because excuses are aren't
8 going to work. Different versions aren't going to
9 work because they didn't know. They didn't meet
10 their burden. They didn't give you the tools that
11 you need.

12 Ladies and gentlemen, we have the Alvarez
13 brothers. Take all of those things into account.
14 Take all of those things into account. And as soon
15 as they continue to add up, you can't eliminate
16 them. That's why. There's more reasonable doubt
17 now than there was at any other point. Remember,
18 reasonable doubt comes from the evidence, conflict
19 in the evidence, lack of evidence. Here we have all
20 three and a lot more now than at any other point.
21 That is not acceptable. That is not a job of the
22 State to provide you with those tools that you need.
23 You got excuses. Thank you.

24 THE COURT: All right.

25 MR. WATSON: Your Honor, sorry. Can we take a

1 bathroom break?

2 THE COURT: Ladies and gentlemen, I'm going to
3 give you -- before I charge you the law, I'm going
4 to give you a short little bathroom break. This is
5 not going to be a regular break like we normally
6 take. Just to give you a little bit of an
7 opportunity to stretch your legs and if anybody
8 needs to use the restroom, and then I'm going to
9 bring you right back in. Okay.

10 (At 11:58 a.m., jury left the courtroom.)

11 THE COURT: All right. Recess.

12 (From 11:59 to 12:14 p.m., a recess was had.)

13 THE COURT: It took a little bit longer because
14 I let the jury order lunch. All right. Anything
15 before we bring the jury back in?

16 MR. NEELY: Waiting on the defendants, Your
17 Honor.

18 THE COURT: All right. Let's bring them in.

19 (At 12:17 p.m., jury entered the courtroom.)

20 THE COURT: All right. Ladies and gentlemen,
21 we have come to the point where I need to charge you
22 the law. First of all, I'm going to tell you, I
23 really appreciate your attentiveness. I've noticed
24 all the trial that you have paid attention, and I
25 really do appreciate that. Fortunately or

1 unfortunately maybe, fortunately for me, but
2 unfortunately for y'all, we've had to look at each
3 other the whole trial. So I get the opportunity to
4 see you, and I appreciate everybody's attention.
5 And if you'll just give me a little bit longer
6 and -- for me to give the charge, and then I'll give
7 you the case to hear.

8 All right. Ladies and gentlemen, as I told you
9 earlier, the indictments -- the defendants have been
10 indicted and charged with attempted murder and
11 possession of a weapon during a violent crime. I'll
12 remind you, the fact that the defendants were
13 arrested, charged, and indicted in this case is not
14 evidence and cannot be considered by you as evidence
15 or guilt in this case, nor does it create any
16 presumption or inference of guilt.

17 These documents are simply the formal written
18 instruments which contain the charges made against
19 these defendants. These formal documents by which
20 the cases are brought into this court are solely
21 that, just to bring the case to court. This is also
22 true for any other warrants like the search warrants
23 or arrest warrants which may have been issued in
24 this case.

25 I'll remind you that during the trial, you and

1 I have had certain duties. As the trial judge, it
2 is my responsibility to preside over the trial of
3 this case, which I've done. And I also had the duty
4 to rule on the admissibility of the evidence offered
5 during the trial. You are to consider only the
6 competent evidence before you. Only the testimony
7 that has been provided through the witnesses on the
8 witness stand and any exhibits that have been made a
9 part of the record, and that is it.

10 As I told you when we started, the arguments of
11 the lawyers is not evidence. You are only to
12 consider the evidence that has been admitted in the
13 case and you are not to consider as evidence
14 anything the lawyers have told you, either in their
15 opening statements or in their closing arguments
16 that you just heard.

17 I have the additional duty to charge you the
18 law which is applicable to these cases. As the
19 presiding judge, I am the sole judge of the law in
20 these cases and it is your duty as jurors to accept
21 and apply the law as I now state it to you. If you
22 already had any idea as to what the law is or what
23 the law ought to be and it does not agree with what
24 I tell you now and what the law is, you must abandon
25 this idea because you are sworn to accept the law

1 and apply the law exactly as I state it to you here
2 today.

3 In every case tried in this court before a
4 jury, the jury becomes the sole and exclusive judge
5 of the facts. A trial judge like myself cannot
6 state, comment on, or make any statement to you the
7 jury about the facts in this case. Since you the
8 jury are the sole judges of the facts in this case,
9 you are not to infer from what I may have said
10 during the progress of the trial in ruling upon the
11 admissibility of evidence or otherwise or anything
12 that I say now during the course of this instruction
13 to you that I have any opinion about the facts in
14 this case.

15 The law does not allow me to have an opinion.
16 It is not my job to determine the facts in this
17 case. That is solely for you the jury to determine.
18 As jurors, it is your duty to determine the effect,
19 value, and weight of the evidence presented during
20 this trial.

21 The indictments in this case allege two
22 different offenses against these defendants. The
23 charges are attempted murder and possession of a
24 weapon during a violent crime. You are to consider
25 each charge as a separate and distinct offense.

1 However, if you find the defendants not guilty
2 of attempted murder, you may not consider Count 2,
3 which is the possession of a weapon during the
4 commission of a violent crime.

5 If you find the defendants guilty of attempted
6 murder, you must consider Count 2. You will be
7 asked to write a separate verdict of guilty or not
8 guilty for each count. And I will explain to you
9 the jury verdict at the end of my charge.

10 I charge you there are, and as you know, two
11 defendants in this case. Each of them is charged
12 with attempted murder and possession of a weapon
13 during the commission of a violent crime. The case
14 of each defendant and the evidence and the law
15 concerning that defendant should be considered
16 separately and individually. Your verdict does not
17 have to be the same for both defendants. The fact
18 that you may find one defendant guilty or not guilty
19 should not control your verdict as to the other
20 defendant.

21 Where more than one person is charged with a
22 crime, if the evidence warrants it, you may convict
23 one and acquit the other, or you may acquit --
24 acquit both, or you may convict both. It will
25 depend upon your view of the testimony and the

1 evidence in this case. You must take each defendant
2 and consider the evidence as to that defendant. My
3 instructions to you on the law apply to both of
4 these defendants. You will then write a separate
5 verdict of guilty or not guilty for each individual
6 defendant.

7 The defendants have pled not guilty to these
8 charge -- indictments, and those pleas put the
9 burden on the State to prove the defendants' guilt.
10 A person charged with committing a criminal offense
11 in South Carolina is never required to prove himself
12 innocent. I charge you that it is an important rule
13 of law that the defendants in a criminal trial, no
14 matter what the seriousness of the charge may be,
15 will always be presumed to be innocent of the crime
16 or crimes for which the indictment was issued and
17 unless guilt has been proven beyond a reasonable
18 doubt. This presumption of innocence does not end
19 when you begin deliberations, but it accompanies the
20 defendants throughout the trial and until you reach
21 a verdict of guilt based on evidence satisfying you
22 of that guilt beyond a reasonable doubt.

23 The presumption of innocence is like a robe of
24 righteousness placed about the shoulders of these
25 defendants, which remains with the defendants until

1 it has been stripped from the defendants by evidence
2 satisfying you the jury of the defendants' guilt
3 beyond a reasonable doubt. The presumption of
4 innocence is not mere legal theory. It is not just
5 a legal phrase. It is a substantial right to which
6 every defendant is entitled, unless you the jury are
7 satisfied from the evidence of the defendants' guilt
8 beyond a reasonable doubt.

9 What is a reasonable doubt in the law? A
10 reasonable doubt is the kind of doubt that would
11 cause a reasonable person to hesitate to act. The
12 State has the burden of establishing every fact
13 necessary to prove the defendants' guilty beyond a
14 reasonable doubt. The law presumes every person
15 charged with a crime to be innocent ---

16 THE INTERPRETER: Your Honor, can you slow
17 down? Thank you.

18 THE COURT: The law presumes every person
19 charged with a crime to be innocent, and the burden
20 of establishing guilt is placed solely on the State.
21 Some of you may have served as jurors in civil cases
22 where you were told that it is only necessary to
23 prove that a fact is more likely true than not true,
24 such as by the greater weight or preponderance of
25 the evidence.

1 Other civil cases use the clear and convincing
2 evidence standard. In those cases, it is necessary
3 to prove that a fact is highly probable, but this is
4 a criminal case and the State's proof must also be
5 more powerful than those burdens of proof.

6 In criminal cases, the State's proof must be
7 more powerful than that. It must be beyond a
8 reasonable doubt. Proof beyond a reasonable doubt
9 is proof that leaves you firmly convinced of the
10 defendants' guilt. There are very few things in
11 this world that we know with absolute certainty.
12 And in criminal cases, the law does not require
13 proof that overcomes every possible doubt.

14 If, based on your consideration of the
15 evidence, you are firmly convinced that the
16 defendants are each -- and remember each is treated
17 separately, you have to be firmly convinced that the
18 defendants are guilty of the crimes charged, and
19 then you must find the defendants guilty. The
20 defendants are not required to prove their
21 innocence. If on the other hand, you think there is
22 a real possibility that the defendants are not
23 guilty, you must give the defendants the benefit of
24 every reasonable doubt and find them not guilty.

25 There are two types of evidence which are

1 generally presented during a trial, direct evidence
2 and circumstantial evidence. Direct evidence
3 directly proves the existence of a fact and does not
4 require deduction. Circumstantial evidence is proof
5 of a chain of facts and circumstances indicating the
6 existence of a fact. Crimes may be proven by
7 circumstantial evidence. The law makes no
8 distinction between the weight or the value to be
9 given to either direct or circumstantial evidence.

10 However, to the extent the State relies on
11 circumstantial evidence, circumstances must be
12 consistent with each other. And when taken
13 together, point conclusively to the guilt of the
14 accused beyond a reasonable doubt. If these
15 circumstances merely portray the defendant's
16 behavior as suspicious, the proof has failed.

17 The State has the burden of proving the
18 defendants guilty beyond a reasonable doubt, and
19 this burden rests with the State regardless of
20 whether the State relies on direct evidence,
21 circumstantial evidence, or a combination of the
22 two.

23 Necessarily in this trial, you must determine
24 the credibility of witnesses who have testified in
25 this case. Credibility simply means believability.

1 It becomes your duty as jurors to analyze and to
2 evaluate the evidence.

3 In determining the believability of witnesses
4 who have testified in this case, you may believe one
5 witness over several witnesses or several witnesses
6 over one witness. You may believe a part of the
7 testimony of a witness and reject the remaining part
8 of the testimony of that same witness. You may
9 believe the testimony of a witness in its entirety
10 or reject the testimony of a witness in its
11 entirety. You may consider whether any witness has
12 exhibited to you any interest, bias, prejudice, or
13 other motive in this case. You may also consider
14 the appearance and manner of a witness while on the
15 witness stand.

16 The rules of evidence ordinarily do not permit
17 witnesses to testify to opinions or conclusions. As
18 I told you yesterday, an exception to this rule
19 exists for witnesses we call expert witnesses. A
20 witness who by education and experience has become
21 expert in some art, science, profession, or calling,
22 and they may state an opinion as to the relevant and
23 material matters in which that expert or that
24 witness claims to be an expert and that expert
25 witness may state the reasons for his or her

1 opinion. You can -- you should consider any expert
2 opinion received as evidence in this case, and like
3 any other evidence, give it the weight you think it
4 deserves.

5 If you decide the opinion of an expert witness
6 is not based on sufficient education and experience,
7 or if you conclude that the reasons given in support
8 of the opinion are not sound or that the opinion is
9 outweighed by other evidence, you may disregard the
10 opinion entirely. An expert witness's opinion or
11 testimony is to be given no greater weight than that
12 of other witnesses simply because the witness is an
13 expert. Further, you are not required to accept an
14 expert's opinion, even though it is contradicted or
15 not contradicted.

16 There has been some evidence in this case,
17 ladies and gentlemen, that witnesses have made prior
18 statements which are not consistent with the
19 witness's present testimony. You may use this
20 evidence to decide whether to believe the witness.

21 You may also use evidence of the earlier
22 contradictory statements to determine the truth of
23 those statements. It is up to you to decide whether
24 to believe the earlier statements or the testimony
25 given at trial. If a witness is shown to have

1 knowingly testified untruthfully concerning any
2 material matter, you may consider this in
3 determining whether to trust the witness's testimony
4 as to other matters. You may reject all testimony
5 of that witness or give all or part of the testimony
6 the weight you think it deserves.

7 In order to establish criminal liability,
8 criminal intent is required. For example, the
9 mental state required to be proven by the State in
10 this case for a particular crime might be purpose,
11 intent, knowledge, recklessness, or criminal
12 negligence.

13 Criminal intent must be proven by the State
14 beyond a reasonable doubt. Criminal intent is
15 always a matter that must be determined by the jury
16 from the circumstances surrounding the situation.
17 There is no way to prove intent to a mathematical
18 certainty. There is no way medical science can
19 dissect a person's brain and determine what the
20 person had in mind, so the law says criminal intent
21 may be inferred from the circumstances shown to have
22 existed. This is how you make a determination on
23 whether or not the element requiring intent was
24 present. It is not necessary to establish intent by
25 direct and positive evidence, but intent may be

1 established by inference in the same way as any
2 other fact by taking into consideration the acts of
3 the parties and all the facts and circumstances of
4 this case.

5 Criminal intent is a mental state, a conscious
6 wrongdoing. It is up to you to determine what the
7 defendants entitled to do or intended to do based on
8 the circumstances shown to have existed.

9 Criminal -- criminal intent can arise from action or
10 a failure to act. It may arise from negligence,
11 recklessness, or indifference to duty or to
12 consequence that is considered by the law to be the
13 equivalent criminal intent.

14 The defendants are charged with attempted
15 murder. Attempted murder is the performance of an
16 act or acts which intent -- was intended but fail to
17 kill a human being. In order to prove this crime,
18 the State must prove the defendants had the specific
19 intent to kill and did attempt to kill another
20 person with malice aforethought. Malice is hatred,
21 ill will, or hostility towards another person. It
22 is the intentional doing of a wrongful act without
23 just cause or excuse and with an intent to inflict
24 an injury or death.

25 Malice aforethought does not require malice

1 exists for any particular length of time before the
2 act is committed. Malice must exist in the mind of
3 the defendant just before and at -- at the time the
4 act is committed. Therefore, there must be a
5 combination of the previous evil intent and the act.

6 Express malice is shown when a person speaks
7 words which express hatred or ill will for another
8 or when the person prepared beforehand to do the act
9 which was later accomplished. For example, any acts
10 of preparation willing to show that the deed was
11 within the defendant's mind would be expressed
12 malice.

13 A specific intent to kill is an element of
14 attempted murder. Intent means intending the result
15 which actually occurs, not accidentally or
16 involuntary. To prove attempt, the State must prove
17 that the defendants had the specific intent to
18 commit the underlying offense along with some overt
19 act in furtherance of that intent, and intent may be
20 shown by the acts and the conduct of the defendants.

21 The defendants are also charged with possession
22 of a weapon during the commission of or attempt to
23 commit a violent crime. The State must prove beyond
24 a reasonable doubt that the defendants were in
25 possession of a knife during the commission of a

1 violent crime. A knife means an instrument or tool
2 with a sharp cutting blade, whether or not fastened
3 to handle which can be used to inflict a cut, slash,
4 or wound.

5 In order to find the defendants guilty of
6 possession of a weapon during the commission of a
7 violent crime, you must find the defendants guilty
8 of either committing a violent crime or attempting
9 to commit a violent crime. Attempted murder is a
10 violent crime. If a crime is committed by two or
11 more people who are acting together in committing a
12 crime, the act of one is the act of all. A person
13 who joins with another to commit an unlawful act is
14 criminally responsible for everything done by the
15 other person which happens as a probable or natural
16 consequence of the acts done in carrying out a
17 common plan and purpose.

18 For example, two people can be guilty of
19 killing another person when only one of the two had
20 a gun. There was only one bullet, and only one of
21 the two fired the shot that caused the death. If
22 two or more people are together, acting together,
23 assisting each other in committing the offense, the
24 act of one is the act of all. Or as it is sometimes
25 said, the hand of one is the hand of all.

1 Prior knowledge that a crime is going to be
2 committed without more is not sufficient to make a
3 person guilty of that crime. Mere knowledge that
4 another person is going to commit a crime, even if
5 the defendant is present when the crime is
6 committed, is not sufficient to convict the
7 defendant as a principal.

8 Guilt as a principal is shown by actual or
9 constructed presence at the scene as a result of
10 prior arrangement. Therefore, a finding of a prior
11 arranged plan or common scheme is necessary for a
12 finding of guilt as a principal. The State must
13 prove beyond a reasonable doubt by competent
14 evidence the theory of the hand of one is the hand
15 of all.

16 A principal of a crime is one who actually
17 commits the crime or who is present aiding,
18 abetting, or assisting in the crime. When a person
19 doesn't act in the presence of and with the
20 assistance of another, the act is done by both.
21 Where two or more acting with a common plan or
22 intent are present at the commission of a crime, it
23 does not matter who actually commits the crime. All
24 are guilty. The hand of one is the hand of all.

25 Present at the commission of a crime means to

1 be sufficiently near, to aid and abet and assist in
2 the commission of a crime. Intent is also a
3 necessary element, but there must have been a common
4 design or intent to commit the crime, and the crime
5 must have been committed pursuant thereto a person
6 aiding and abetting some overt act.

7 I charge you, ladies and gentlemen, that a
8 verdict in this case cannot be based upon sympathy,
9 passion, prejudice, or emotion, or some other
10 consideration not found in the evidence. There are
11 two possible verdicts in this case, ladies and
12 gentlemen, guilty or not guilty. You will have a
13 verdict form.

14 Can I get you to give out this form there?

15 All right. Mr. Foreman, it should be
16 self-explanatory and y'all will have plenty of time
17 back there when you get in the jury room, but I just
18 kind of want to go over it with you. And let me
19 state this: The order in which the guilty and not
20 guilty is not to mean anything. You have to put one
21 before the other, and that's just how the order came
22 out so do not take anything from it.

23 So as you'll see the first one, the *State of*
24 *South Carolina v. Juan Carlos Alvarez*, paragraph no.
25 1 there, it says, "As to Count 1 of the

1 indictment" -- it has the indictment number -- "the
2 charge of attempted murder committed upon Orlando
3 Lopez, we the jury find the defendant guilty or not
4 guilty." And you would check one of those places.

5 You'll see the next paragraph. "If" -- in
6 bold -- "you find the defendant guilty of attempted
7 murder, then you must consider Count 2. However, if
8 you find the defendant not guilty of attempted
9 murder, then you must not consider Count 2." But if
10 do find the defendant guilty, then you'll go to
11 paragraph two there.

12 And as to the indictment regarding the charge
13 of possession of a weapon during the commission of a
14 violent crime, it says, "We the jury find the
15 defendant" -- you'll check one of those places.

16 Then you'll go over to number two, page two.
17 And this is the count of attempted murder as to
18 Javier Solis. So the first page is relating to the
19 attempt on Orlando Lopez. The page is the attempt
20 on Javier Lopez -- Javier Solis and it is the same
21 format as page one.

22 Then you will see the other verdict form
23 relates to the case of Luis Armando Alvarez and it's
24 the same question again. Count -- paragraph one
25 says, "As to Count 1 of the indictment regarding the

1 charge of attempted murder committed upon Orlando
2 Lopez, we the jury find the defendant either guilty
3 or not guilty." And, again, it has the same
4 language regarding possession of intent -- of a
5 weapon during the commission of a violent.

6 If you find -- if you find the defendant not
7 guilty, you don't go to the next one. If you do
8 find the defendant guilty, you would then go to
9 determine number two. And then on page two of that
10 verdict form, it relates to the attempt as to Javier
11 Solis.

12 So those are the verdict forms. And, ladies
13 and gentlemen, it has to be unanimous. All 12 of
14 you must be agree. And when you do agree on a
15 verdict, knock on the door and let one of the
16 bailiffs know that you have reached a verdict.

17 Also, if you have any questions during your
18 deliberations, write them on a piece of paper, knock
19 on the door again, and let the bailiff know that you
20 have a question. And then he or she will provide
21 that to me, and I will let the lawyers know about
22 the question and then give you an answer one way or
23 another. I may simply write on the question an
24 answer to it. I may bring you back in and explain
25 an answer to it. If you, by any chance, wanted to

1 hear additional testimony -- or not additional
2 testimony, testimony that you heard, if you wanted
3 to hear some, let me know that as well, and I would
4 bring you back in for that.

5 So I'm going to ask you right now if you would,
6 return to your jury room. We have, as you know,
7 ordered some lunch. I've got to make sure that I
8 have told y'all the right things on the law. The
9 lawyers will let me know, I assure you, if I have
10 not. And then once that is determined, then we will
11 gather up the evidence and the bailiffs will bring
12 it into you and give you the go ahead to start
13 deliberations, so I'll ask you to return to your
14 room. Thank you.

15 (At 12:48 p.m., jury left the courtroom.)

16 THE COURT: All right. Any exceptions to the
17 charges from the State?

18 MR. RICHARDSON: No objection or exceptions.

19 THE COURT: All right. From the defense?

20 MR. NEELY: Yes, sir, Your Honor. As to the
21 hand of one, hand of all charge, we made our
22 objections on the record already, so we would renew
23 those objections.

24 As to the Court not charging self-defense,
25 we've also made those arguments and the Court has

1 heard from us.

2 THE COURT: All right. I note your objections.
3 Yes, sir.

4 MR. WATSON: Likewise.

5 THE COURT: Likewise. All right. And my
6 rulings will stand that were made prior to that.

7 All right. Let's gather up the evidence and
8 make sure that we've got it all and then we'll send
9 it to them.

10 MR. RICHARDSON: Your Honor, I just -- I don't
11 want to insult the Court's intelligence, but the two
12 alternates.

13 THE COURT: Oh, yeah, I'll get to that.

14 MR. RICHARDSON: Okay.

15 THE COURT: We will do that. I want to make
16 sure y'all get the evidence first and then I'll
17 bring them out.

18 MR. RICHARDSON: Yes, sir.

19 (From 12:50 to 12:52 p.m., brief recess to
20 gather evidence.)

21 THE COURT: Does everybody agree on it?

22 (Affirmative responses.)

23 THE COURT: All right. If you would, go ahead
24 and take that to them and then just bring out the
25 alternates, and tell them they can go ahead and

1 start deliberations.

2 THE BAILIFF: (Complying.)

3 (The Court released the alternate jurors.)

4 THE COURT: All right. We'll stand down --
5 stand down until we get a verdict.

6 (From 12:57 to 2:05 p.m., jury deliberated.)

7 (At 2:05 p.m., notice of a verdict reached.)

8 (Sidebar discussion.)

9 THE COURT: All right. At the bench
10 conference, we had a discussion that the right to --
11 or failure of the defendants to testify should not
12 be held against them, and so let me make a couple of
13 comments.

14 One, I did mention that in the opening charges
15 to the jury as I recall, but the other part of it
16 is, what we're going to do -- what I'm going to do,
17 I'm going to bring them back in. And I'm going to
18 explain to them that that part of the charge was not
19 included, and I am going to charge them that and
20 have them go back to the jury room to deliberate if
21 that makes any difference.

22 Anything from the State on that?

23 MR. RICHARDSON: That's the way we think it
24 should be done.

25 THE COURT: All right. And same from the

1 defense? Anything from the defense?

2 MS. GORSKI: No, thank you, Your Honor.

3 MR. WATSON: That's fine.

4 THE COURT: Let me go get -- let me go get that
5 charge. I'll be right back.

6 (From 2:08 to 2:16 p.m., a recess was had.)

7 THE COURT: All right. Back on the record.
8 Looking at my opening charge, and I did not include
9 that in my opening charge. So, again, what we're
10 going do to is bring the jury back out. I'm going
11 to charge them on the failure -- or on the
12 defendant's right to remain silent. I will send
13 them back to continue. The verdict has not been
14 read and entered, so we're going to receive some
15 notice from them, so that's what we're going to do.
16 Any objection from the State?

17 MR. RICHARDSON: None from the State, Your
18 Honor.

19 THE COURT: Anything from the defense?

20 MS. GORSKI: None, Your Honor.

21 MR. WATSON: None, Your Honor.

22 THE COURT: All right. Let's bring them in.

23 (At 2:18 p.m., jury entered the courtroom.)

24 THE COURT: All right. Ladies and gentlemen, I
25 want to bring your attention to an issue that has

1 arisen. I'm going to ask you to step back when I go
2 over this with you, and then, again, let the
3 bailiffs know when you do reach a verdict. I
4 understand there has been some notice that a verdict
5 has been reached, but one thing that -- that I did
6 not charge you was the defendants' right to remain
7 silent. And as part of the charge, I just want to
8 charge this to you, and then I'll excuse you again
9 just to go back. And you are to consider it any way
10 that you decide to do so in your deliberations. I
11 do need to charge this to you, and then I will send
12 you right back.

13 All right. I want to instruct and emphasize
14 the fact that the defendants did not testify is not
15 a factor to be considered by you in any way in your
16 deliberation and in your consideration on the
17 question of guilt or the innocence of the
18 defendants. It must not be considered by you in any
19 manner whatsoever. A defendant has a constitutional
20 right to remain silent, and the assertion of his
21 right must not be considered by you in your
22 deliberations. I repeat, under your oath, you are
23 to draw no conclusion whatsoever from the fact that
24 the defendants in this case did not testify. The
25 fact that the defendants did not testify should not

1 be -- not even be discussed in the jury room. The
2 burden of proof, as I've stated to you, is on the
3 State, and the defendant is not required to prove
4 his innocence. The burden of proof remains on the
5 State to prove guilt beyond a reasonable doubt.

6 All right. So, again, I wanted to charge you
7 that, instruct you on that, and ask you to step back
8 and continue your deliberations with that charge in
9 mind. And then, whatever decision you reach, knock
10 on the door, let the bailiff know if you got a
11 verdict, and then I'll bring you back in.

12 All right. Thank you.

13 (At 2:20 p.m., jury returned to the jury room
14 to continue their deliberations.)

15 THE COURT: All right. Any exception from the
16 State?

17 MR. RICHARDSON: None from the State, Your
18 Honor.

19 THE COURT: Anything from the defense?

20 MS. GORSKI: No, Your Honor.

21 THE COURT: All right. I think that covers it
22 and it's -- the verdict has not been read, and I've
23 instructed them to go back and consider that in
24 deliberations.

25 MS. GORSKI: Thank you, Your Honor.

1 MR. WATSON: Thank you, Your Honor.

2 THE COURT: We will stand at ease until they
3 come back.

4 (From 2:21 to 2:27, the jury continued their
5 deliberations.)

6 (2:27 p.m., notice of a verdict reached.)

7 THE COURT: All right. I understand we have a
8 verdict. Anything before we bring the jury in?
9 Anything from the State?

10 MR. RICHARDSON: Nothing from the State, Your
11 Honor.

12 THE COURT: All right. Anything from defense?

13 MR. NEELY: No, Your Honor.

14 MR. WATSON: No, Your Honor.

15 THE COURT: All right. Let's bring them in.

16 THE BAILIFF: (Complying.)

17 THE COURT: Ladies and gentlemen, I don't want
18 any reaction from anybody no matter what the verdict
19 is. Does everybody understand that? Or you will be
20 escorted out.

21 (At 2:31 p.m., jury entered the courtroom.)

22 THE COURT: All right. Ladies and gentlemen, I
23 understand you now have a verdict; is that correct?

24 THE FOREMAN: Yes, sir.

25 THE COURT: Is the verdict unanimous?

1 THE FOREMAN: Yes, sir.

2 THE COURT: If you would, hand it to
3 Mr. Cofield right there.

4 THE FOREMAN: (Complying.)

5 THE COURT: All right. Will you publish the
6 verdict, please.

7 THE CLERK: All right. Your Honor, in the case
8 of the *State of South Carolina v. Luis Armando*
9 *Alvarez*, number one, as to Count No. 1 of the
10 Indictment 2019-GS-23-0305, the charge of attempted
11 murder committed upon Orlando Lopez, we the jury
12 find the defendant guilty.

13 Number two, as to the charge of possession of a
14 weapon during the commission of a violent crime, we
15 the jury find the defendant guilty.

16 Number three, as to Count 1 of 2019-GS-23-306,
17 the charge of attempted murder committed upon Javier
18 Solis, we the jury find the defendant guilty.

19 As to Count 2, as to the charge of a weapon
20 during the commission of violent crime, we the jury
21 find the defendant guilty. Signed by our foreman.

22 All right. In the case of 2018-GS-23-9562,
23 -9563, Count 1 of Indictment 2018-GS-23-9562, the
24 charge of attempted murder committed upon Orlando
25 Lopez, we the jury find the defendant guilty.

1 Count 2, as to the charge of possession of a
2 weapon during the commission of violent crime, we
3 the jury find the defendant guilty.

4 Number three, as to the count on the Indictment
5 2018-GS-23-9563, the charge of attempted murder
6 committed upon Javier Solis, we the jury find the
7 defendant guilty.

8 Number four, as to Count 2 of the indictment,
9 possession of a weapon during the commission of a
10 violent crime, we the jury find the defendant
11 guilty. Again, signed by our foreperson.

12 Ladies and gentlemen, if you agree these are
13 the verdicts you reached in your deliberation room,
14 would you please raise your right hand.

15 THE JURORS: (Indicating.)

16 THE CLERK: I thank you.

17 THE COURT: All right. Anything from the State
18 before we let the jury go?

19 MR. RICHARDSON: Nothing further from the
20 State.

21 THE COURT: Anything from the defense?

22 MR. NEELY: Pole the jury, please, Your Honor.

23 THE COURT: All right.

24 THE CLERK: All right. The verdict that was
25 just published was the verdict you reached in your

1 jury room. I ask you, was it your verdict then and
2 is it your verdict now? When I call your name,
3 please answer "yes" or "no." Brian Thompson.

4 THE JUROR: Yes.

5 THE CLERK: Laura Moffatt.

6 THE JUROR: Yes.

7 THE CLERK: Kathleen Garrett.

8 THE JUROR: Yes.

9 THE CLERK: Roger Langefeld.

10 THE JUROR: Yes.

11 THE CLERK: Christine O'Connell.

12 THE JUROR: Yes.

13 THE CLERK: Christopher Todd.

14 THE JUROR: Yes.

15 THE CLERK: Gary Foster.

16 THE JUROR: Yes.

17 THE COURT: Elaine Marshall.

18 THE JUROR: Yes.

19 THE CLERK: Mariann McKenney.

20 THE JUROR: Yes.

21 THE CLERK: Matthew Dillon.

22 THE JUROR: Yes.

23 THE CLERK: Barry Sanders.

24 THE JUROR: Yes.

25 THE CLERK: And Wesley Clark.

1 THE JUROR: Yes.

2 THE CLERK: I thank you.

3 THE COURT: All right. Anything else?

4 MS. GORSKI: No, sir.

5 THE COURT: All right. Ladies and gentlemen, I
6 want to thank you for your service this week. As I
7 told you earlier, I appreciate your attention to
8 this case and I really appreciate it. You are, of
9 course, free for the rest of the week and you're
10 free for three years. If you don't get called
11 again -- if you do get called within that three
12 years, you don't have to serve again. And I've
13 enjoyed working with you this week. I'm going to
14 let you step back in the jury room. I'm going to
15 step back and speak with you a quick minute. And if
16 you will, step on back and I'll see you in a minute.

17 (At 2:36 p.m., jury left the courtroom.)

18 THE COURT: All right. I'm going to step back
19 and speak to the jury for a few minutes. I'll give
20 you some time, and then we will do sentencing when I
21 get back.

22 (From 2:36 to 2:45 p.m., a recess was had.)

23 THE COURT: All right. Let's proceed to
24 sentencing. I'll hear from you. Yes, sir.

25 MR. RICHARDSON: Thank you, Your Honor. Your

1 Honor, before I begin the -- one of the victims
2 would like to address the Court at the appropriate
3 time. Would you like to go ahead and hear from
4 them, and then I'll address sentencing?

5 THE COURT: I'll -- yeah, I'll go ahead and
6 hear from them.

7 MR. RICHARDSON: This is going to be -- this is
8 going to be Angela Solis. This is Javier's wife.

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

10 THE VICTIM: Thank you, Your Honor. And I just
11 want to say these words on behalf of my husband.
12 There is evil. There is no doubt, but there's no
13 difference between a terrorist or a regular person
14 that this has in mind, to hurt innocent people that
15 are minding their own business having fun with
16 friends or loved ones.

17 One was able to attack another human being with
18 a knife or any type of weapon for no reason and then
19 flee with no intention of assuming their
20 responsibility -- the responsibility of their
21 actions can be considered as a criminal, a
22 terrorist, and a threat to society. A person who is
23 capable of such act knowing they have family and
24 children that look up to them are a shame and a
25 disgrace.

1 I for one was only doing what was right, trying
2 to stop a murder. And in that intent, I could have
3 ended in death. I have always shown my kids
4 compassion for others and have tried to set an
5 example. I have always felt safe and free in this
6 great country, but after September 21st of 2018, my
7 life has never been the same. Sadly, I can't trust
8 people. I am always vigilant because -- all because
9 of two heartless brothers who decided to turn my
10 world around.

11 THE COURT: Thank you, ma'am. Any other
12 victims?

13 MR. RICHARDSON: No. Other than I was just
14 going to address the Court.

15 THE COURT: All right. Yes, sir.

16 MR. RICHARDSON: Your Honor, of course you've
17 heard the facts of this case. I'm not going to
18 continue on that end of things, but I will say: Our
19 legislature has established a sentencing range in
20 cases of this nature being zero to 30 years. In --
21 in the not so bad case, zero, one, two years. But
22 the legislature had in mind the worst case, and that
23 worst case is 30 years. And that's what we have
24 here, Your Honor. If it was not for Javier, this
25 would be a murder. I would be trying a murder. And

1 the case arises to the 30-year range because of that
2 fact, because of Javier and because Jhefrey chased
3 these people off. They were going to kill them.

4 This is not a one stabbing. One stabbing, you
5 may be looking at five years, ten years. This is a
6 multiple nine stabs on one, five stabs on the other,
7 all to the backside, Your Honor.

8 Throughout this trial, they have sat there
9 without any remorse whatsoever. No remorse. And
10 these victims are going to have to live with the
11 injuries and those thoughts the rest of their lives.
12 As Javier said, every time he take -- pulls his
13 shirt up or takes his shirt off, he sees those scars
14 and he remembers everything these two individuals
15 did to him, along with his family. He just had a
16 grandchild. That grandchild is going to see those
17 scars on him. Orlando, the same way.

18 Your Honor, I would -- we're looking at two
19 victims. That also should come into play. It's not
20 just one victim. I respectfully ask for at least 30
21 years, at least 30 years, and I think that's the low
22 end on -- in this case. Thank you.

23 THE COURT: All right. Defense?

24 MS. GORSKI: Good afternoon, Judge. There is
25 no lining the tape, doing it again, anything like

1 that. If that were the case, we would do it.
2 Mr. Alvarez has been working here. He held a job
3 steady for two years before everything happened. He
4 is a native of Honduras. He is undocumented. There
5 is currently an ICE hold. I checked yesterday and
6 still, the system shows this. Whatever Your Honor
7 decides, Honduras will likely want him back.
8 Actually, they're involved -- they're already
9 involved.

10 We would ask you to keep in mind all the things
11 that we brought out, that after the jury has made
12 their decision, don't -- doesn't change possibly
13 other things that could have happened and that our
14 client stands by.

15 We do ask Your Honor to take into consideration
16 all the respect to the families because that's
17 something that we absolutely -- and he does -- he
18 understands. I -- I've spoken with him many, many
19 hours. Mr. Neely, we've spent time with him. He
20 did not -- this was not supposed to happen. It was
21 not supposed to end up like this. Most certainly,
22 not when -- like Ms. Solis said, everyone had gone
23 out that night to enjoy the evening. It was not
24 something that was supposed to end up like this.

25 So we do ask Your Honor to take into

1 consideration some of the outside circumstances.
2 Some of the circumstances that really within
3 themselves not mitigating, but you can consider in
4 their place that night what they perceived, how they
5 perceive themselves, so they did not plan to do
6 this. This was nothing that they spoke about. This
7 was definitely something that went out of control.

8 I say that on behalf of Mr. Alvarez because we
9 talked about a lot of different things, but at the
10 beginning of every single one, he always said, this
11 was not supposed to happen. There was not supposed
12 to be victims and knives or fights or any of this.

13 But, yes, this is alcohol involved. It was
14 not -- this was 2:00 to 3:00 in the morning.
15 Everyone had been drinking. This is, you know,
16 truly a night out. So we'd ask you to take some
17 time, some of these smaller circumstances. They've
18 come out and they also contribute to maybe whatever
19 else was going on. We do ask that you take that
20 into consideration, as well.

21 THE COURT: Mr. Watson?

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

24 Mr. Luis Alvarez has been here over two decades
25 now, I believe.

1 (Through the interpreter.)

2 DEFENDANT LUIS ALVAREZ: Yes.

3 THE COURT: Just shy of two decades. He's been
4 working multiple jobs since he's been here. He has
5 no record. He is someone that's -- every
6 interaction that I've had with him with whoever I go
7 with is not something that characterizes him as I
8 have seen him and talked to him. It just -- I can't
9 fit it into my head. And I send my sympathies --
10 send my sympathies to the victim -- the victims, as
11 well.

12 This was something that spiralled out of
13 control. It's not something that he intended to
14 happen. It's not something that, you know, was done
15 with, you know, a lot of preparation, a lot of
16 thought. Obviously, it was a senseless act and that
17 underscores how unthoughtful it was, but
18 unthoughtful nonetheless.

19 He sends all of the money that he earns here --
20 almost all of the money he earns back to his family
21 in Honduras. We don't see this as one of the upper
22 worst of the cases. And I know that the legislature
23 has reserved that top end for this, but we would ask
24 for a sentence southward of what the Solicitor
25 suggests and we'd ask for the mercy of the Court.

1 THE COURT: All right. Anything else from the
2 State?

3 MR. RICHARDSON: Nothing further, Your Honor.

4 THE COURT: All right. The sentence of the
5 Court will be as follows. Please stand.

6 THE DEFENDANTS: (Complying.)

7 THE COURT: As to Juan Carlos Alvarez under
8 Indictment 2018-GS-23-09562, the attempted murder as
9 to Orlando Lopez, the sentence of the Court is the
10 defendant is sentenced to the Department of
11 Corrections for a period of 25 years.

12 As to 2018-GS-23-09562, for possession of a
13 weapon during the commission of a violent crime as
14 to Mr. Lopez, the sentence of the Court is five
15 years in the Department of Corrections.

16 As to Indictment 2018-GS-23-09563 for the
17 attempted murder as to Javier Solis, the sentence of
18 the Court is 25 years.

19 As to 2018-GS-23-09563, possession of a weapon
20 during the commission of a violent crime as to
21 Mr. Solis, the sentence of the Court is five years
22 with the Department of Corrections. And those
23 will -- the sentence -- the sentences will run
24 concurrent.

25 As to Luis Armando Alvarez, Indictment No.

1 2019-GS-23-00305, for attempted murder as to Orlando
2 Lopez, the sentence of the Court is 25 years to the
3 Department of Corrections.

4 As to 2019-GS-23-00305, possession with
5 intent -- excuse me -- possession of a weapon during
6 the commission of a violent crime as to Mr. Lopez,
7 the sentence of the Court is five years with the
8 Department of Corrections.

9 As to Indictment 2019-GS-23-00306, with the
10 attempted murder as to Javier Solis, the sentence of
11 the Court is that you'd be sentenced to a period
12 of -- to the Department of Correction for 25 years.

13 As to 2019-GS-23-00306, possession of a weapon
14 during the commission of a violent crime as to
15 Mr. Solis, the sentence of the Court is five years
16 with the Department of Corrections, and those
17 sentences are to be run concurrent. That is all.
18 Thank you.

19 MR. RICHARDSON: Thank you, Your Honor.

20 MR. NEELY: Thank you, Your Honor.

21 (At 2:56 p.m., the proceedings concluded.)

22 - - -

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned, Lisa Scott, Circuit Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Greenville County, South Carolina, on the 13th day of May, 2023.

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

May 20, 2023

/s/Lisa Scott

Lisa Scott
Circuit Court Reporter

RECEIVED

Aug 26 2024

SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Date: August 23, 2024

s/ Beattie B. Ashmore

Beattie B. Ashmore

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