

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Beaufort County
Honorable Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEVANTE LAMONT WHITE,

APPELLANT

APPELLATE CASE NO. 2022-001793

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 38 (DVD)

1 MS. CAMPBELL: And, again, for the record, if
2 the analogy to the Defendant's statement, it wasn't
3 taken in violation of Miranda. If the Defendant
4 testifies, that doesn't matter, you are still -- the
5 statement is still available to you to be used to
6 impeach him.

7 THE COURT: This evidence has already been ruled
8 on and has been suppressed, and if you could hand me
9 a case in the morning that would change my mind,
10 I'll look at it.

11 MS. CAMPBELL: Okay.

12 MS. CORNWELL: And, Your Honor, I should be able
13 to let you know first thing in the morning.

14 THE COURT: Okay.

15 MS. CORNWELL: I'll speak with my client this
16 evening and go over his pros and cons and what he
17 wants to do.

18 THE COURT: Let's just suppose, hypothetically,
19 that he decides not to testify, and further that the
20 defense does not offer any evidence in the case, all
21 right, any specific -- I'm gonna say out of the
22 ordinary charges that either side seeks in this
23 case?

24 MS. CAMPBELL: Your Honor --

25 MS. CORNWELL: We're -- I'm sorry.

1 MS. CAMPBELL: No, no, you're fine. I just
2 don't have copies yet. I did put together a hand of
3 one charge, but more specifically, it includes a
4 portion from State v. Cannon, State v. Crowe, Norris
5 and essentially, would be the felony murder language
6 in South Carolina. You know, killing someone during
7 the commission of a felony language. I can send
8 those to counsel, and to Your Honor tonight, I just
9 haven't had a chance to make copies of them yet.

10 THE COURT: All right, anything else?

11 MS. CORNWELL: And, Your Honor, we'd certainly
12 bring up objections to any felony language. You
13 know, they're indicating that my client is the one
14 who pulled the trigger, so there's no hand of one
15 involved; and based off of that the felony murder
16 language of South Carolina doesn't have a felony
17 murder statute, so I think that that's improper. We
18 are likely going to ask for voluntary/involuntary
19 charges.

20 THE COURT: I'm sorry, say that last part again?

21 MS. CORNWELL: Voluntary and involuntary
22 charges, and probably the arrest charge as well.

23 THE COURT: Give me one second. Now, I have a
24 felony murder charge.

25 MS. CORNWELL: Uh-huh.

1 THE COURT: Real briefly, and I don't know if
2 this is the same language being sought by the
3 Solicitor or not, but "If one intentionally kills
4 another during the commission of a felony, the
5 inference of malice may arise.

6 If facts are proved beyond a reasonable doubt,
7 that raise an inference of malice to your
8 satisfaction, this inference would simply be an
9 evidentiary fact to be taken into consideration by
10 you, along with all the other evidence in this
11 case." Now is that different than what you have,
12 Solicitor?

13 MS. CAMPBELL: That's included in what I have
14 put together, and that is -- that covers what the
15 State would ask.

16 THE COURT: And then the other -- I cut you off
17 a minute ago, you said something about wanting --

18 MS. CAMPBELL: Well, I'm sorry, Your Honor, I
19 would just say that I further charge you that
20 kidnapping is classified as a violent offense in
21 South Carolina is an appropriate part of that charge
22 as well, so that they're clear on that. Because
23 you're charging them during the commission of a
24 felony, they need to know that kidnapping is a
25 felony.

1 THE COURT: Yeah. You started asking about
2 voluntary or involuntary?

3 MS. CORNWELL: Your Honor, I'm probably going to
4 put in a request for charges of
5 voluntary/involuntary and a charge on arrest, and I
6 can get those submitted to Your Honor this evening,
7 as well as supporting case law.

8 As far as the additional language to Your Honor,
9 the felony murder charge, I would object to that,
10 indicating it makes a statement on the facts. I
11 think kidnapping, when you read that statute,
12 obviously, with the possession of a weapon during
13 the commission of a violent crime, I think that Your
14 Honor would inform the jury during that charge, that
15 the murder and kidnapping are considered violent
16 felonies, and so I think it can go better if that
17 charge than adding it into the felony murder
18 statute. So I think that kind of gives more of an
19 inference for the facts, as opposed to just stating
20 in possession of a weapon.

21 THE COURT: All right, one thing that I hate to
22 admit that I don't have, and, therefore, I'm gonna
23 ask somebody to provide it to me. My computer
24 crashed a few months ago, and I lost, I'm gonna say
25 my stuff, and a couple years ago there was a case

1 that changed the standard language of voluntary
2 manslaughter.

3 Does anybody have a current voluntary
4 manslaughter charge? Let me look at this and see.
5 I may be able to get it from Judge Mullens Law
6 Clerk.

7 MS. CORNWELL: Your Honor, I believe I have one
8 about the standard charges.

9 THE COURT: I'm sorry?

10 MS. CORNWELL: Unless it's changed within the
11 last four or five years, I should be able to give
12 you one, but I will certainly look up case law, and
13 make sure that what I have is concurrent with what
14 I'm providing to you.

15 MS. CAMPBELL: And, Your Honor, are we having
16 argument on the request from the defense at this
17 moment? Because --

18 THE COURT: I didn't hear any objection to the
19 Defendant talking about that.

20 MS. CAMPBELL: Then I would need a moment to put
21 my objections on the record, if this is the
22 juncture, where you would like to do that.

23 THE COURT: Well, it'll probably be a good as
24 time now as any.

25 MS. CAMPBELL: Okay, Your Honor, if I take

1 voluntary manslaughter first, the State's position
2 is that in order for the Court to charge voluntary
3 manslaughter, the evidence and facts in the case
4 would have to be that the killing was in a sudden
5 heat of passion --

6 THE COURT: right.

7 MS. CAMPBELL: -- after legally sufficient
8 provocation. And if there's no evidence that heat
9 of passion or legal provocation, voluntary -- excuse
10 me, a voluntary manslaughter charge is not proper in
11 South Carolina, and that's State v. Cole. This is
12 not a situation where -- and based upon the
13 testimony and evidence, that the victim in this case
14 had done anything, or was acting in any manner that
15 would warrant considering that the Defendant had
16 some legal provocation in that scenario.

17 THE COURT: I agree, I did say -- pardon me, I
18 did say assuming that the Defendant didn't testify,
19 and did not present any evidence, so at this stage
20 you're right, there is no evidence in my mind, but
21 I'll be glad to hear from defense counsel.

22 MS. CORNWELL: And, Your Honor, I think more to
23 deal with the voluntary, and this is where I got to
24 look at the difference charges is, when State v.
25 Burdette came out in 2019, that was, you know, where

1 the Court indicated that regardless of the evidence
2 presented at trial, the trial court shall no longer
3 instruct a jury that malice may be inferred, use of
4 a deadly weapon.

5 THE COURT: Right.

6 MS. CORNWELL: Obviously, I think along those
7 case lines and what the Court is considering is,
8 voluntary manslaughter is the killing of another,
9 without malice of forethought.

10 And I understand that it says, you know, upon
11 provocation and heat of passion, but I think the way
12 the case law has been going is, that it's murder
13 with malice of forethought, whereas, a jury could
14 find voluntary with malice not being present. I
15 think that there is certainly a heat of passion in
16 this instance, and as far as legal provocation,
17 again, I think the testimony has been that Mr.
18 Oakley had the firearm the whole time, pointed the
19 firearm at this Defendant. There's some testimony
20 from Mr. Mahaffey that, you know, Mr. Milliken had
21 nude photographs of a young lady on his phone that
22 he was sending out.

23 Certainly she was under the age of 18 at that
24 time, that would have been for dissemination of
25 child pornography. In that instance, if they were

1 aware of that, I think that there is provocation of
2 that wrongdoing. And so I would ask the voluntary,
3 particularly, based on the malice element be
4 allowed; but, again, I will follow-up on the
5 Burdette case, and make sure that the citation
6 created on that follows properly, and make all of
7 our appropriate motions and arguments with case law
8 in the morning.

9 THE COURT: Okay. At this stage in the
10 proceeding, I would not be inclined to charge
11 voluntary manslaughter.

12 MS. CORNWELL: Thank you, Your Honor.

13 MS. CAMPBELL: And that's also not involuntary
14 manslaughter.

15 THE COURT: Or involuntary manslaughter.

16 MS. CAMPBELL: Both of them. And for the
17 record, if we could just settle this matter right
18 now, duress is not a defense in South Carolina to an
19 indictment for a murder.

20 THE COURT: Okay.

21 MS. CORNWELL: And I'll make my case arguments
22 on that as well. Duress is certainly a defense, and
23 there can certainly be a charge on duress for
24 kidnapping. So I think the defense of kidnapping, I
25 think that it's appropriate to put in a charge for

1 an arrest.

2 As far as an involuntary manslaughter, State v.
3 Chatham, indicates that where the unintentional
4 killing resulted from an unlawful assault and
5 battery, it can be involuntary manslaughter, if the
6 battery was not extrinsically at a level of
7 severity, but fatal. We've got testimony from
8 pathologists that there were no other injuries on
9 this victim, other than the bullet wound to the leg.
10 Based on the fact when the video that the only other
11 indication of any sort of physical nature is simply
12 the holding of his arms, which does not raise to a
13 level of anything other than a matter of assault and
14 battery.

15 I believe that the unintentional killing, we've
16 got testimony from State's witness that my client
17 indicate he didn't mean to do the shooting.
18 Certainly, the pathologist has indicated the shot
19 was done at a downward angle, not point at him, not
20 an intentional way. And based on the fact that the
21 only other evidence of any sort of wrongdoing, that
22 the jury could possibly find, was maybe an assault
23 and battery, and based on that in the Chapman case,
24 since it's an unintentional killing, resulting from
25 an unlawful assault and battery, it can be charged

1 as involuntary, subject to the jury, to decide
2 whether or not kidnapping is -- they should be able
3 to consider all the charges in that, and I should be
4 able to argue all the charges in that.

5 THE COURT: Well, maybe I'm interjecting
6 something inappropriate here, but what if there's
7 evidence that the -- upon arrival at the home, that
8 I think it was your client told the deceased that he
9 was under arrest, and then grabbed him and forced
10 him down the driveway?

11 MS. CORNWELL: I believe that allegation has
12 been made, yes, Your Honor.

13 THE COURT: Okay. All right, I'll guess we'll
14 talk about it again in the morning.

15 What else?

16 MS. CAMPBELL: I think that's all for today,
17 Your Honor. I think that's all for today until we
18 have a determination of whether or not --

19 THE COURT: Right.

20 MS. CAMPBELL: -- there will be a presentation
21 of a defense.

22 THE COURT: All right, let's try at 9:15 in the
23 morning.

24 MS. CAMPBELL: Yes, Your Honor.

25 THE COURT: The Court's adjourned until 9:15

1 tomorrow morning.

2 (At 4:58 p.m. the proceedings were continued
3 until the following day without interruption.)

4 ***

5 END OF VOLUME III

6

7

8

STATE OF SOUTH CAROLINA	IN THE CIRCUIT COURT
	2021-GS-07-00101
COUNTY OF BEAUFORT	2021-GS-07-00111
-----)	
State of South Carolina)	
	)
Plaintiff,	)
vs.	)
	)
Devante L. White,	)
	)
Defendant.	)

TRANSCRIPT OF HEARING
VOLUME IV
PAGES 512 - 675

December 15 - 16, 2022
Beaufort, South Carolina

B E F O R E:

The Honorable Brooks Goldsmith, Judge Presiding

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EXHIBIT LIST

(NONE OFFERED IN VOLUME IV)

1 PROCEEDINGS

2 THURSDAY, DECEMBER 15, 2022

3 BEAUFORT, SOUTH CAROLINA

4 ***

5 (The following proceedings were held in open
6 court. All parties were present.)

7 ***

8 THE COURT: Good morning, ladies and gentlemen,
9 it would seem to me that the appropriate first thing
10 this morning to determine if the Defendant has had
11 an opportunity to make a decision about testifying.
12 Do you know whether your client has had a -- made a
13 decision?14 MS. CORNWELL: Your Honor, I spoke with my
15 client basically last night. I believe that he has
16 made the decision that he does wish to testify on
17 his own behalf, but if Your Honor would like to
18 readvise him of his right to remain silent, and the
19 fact the jury cannot hold that against him, and just
20 make sure on record that after thinking about it
21 overnight he would still like to testify.22 THE COURT: I'm sorry, I'll make sure I
23 understood you. You said you believe he does wish
24 to testify?

25 MS. CORNWELL: I believe he does, but if Your

1 Honor would just advise him one more time, and make
2 sure that --

3 THE COURT: I'll do that.

4 MS. CORNWELL: -- this morning?

5 THE COURT: I'll be glad to do that.

6 BY THE COURT:

7 Q. Do you recall the statements I made to you
8 yesterday about your right to testify?

9 A. Yes, sir.

10 Q. I'll tell you once again though, that you
11 have the right not to testify. You have the right
12 to claim the protections give to you by the Fifth
13 Amendment of the Constitution of the United States
14 of America that states, in part, as follows: and
15 that is, "That no person shall be compelled in any
16 criminal case to be a witness against themselves,"
17 and this means you cannot be required to testify.

18 You have the right to testify, however, no one
19 can make you testify. And this is a personal right
20 that you have, and no one can waive this right
21 except you. If you decide to testify, you would be
22 subject to the same rules that govern other
23 witnesses, and you may be examined and cross-
24 examined on any relevant issue in this case.

25 In addition, if you have any convictions

1 involving dishonesty or for false statement, or for
2 crimes punishable by imprisonment for more than one
3 year, and this Court determines that the probative
4 value of admitting this evidence outweighs its
5 prejudicial effect to you, the Solicitor would be
6 able to introduce your record to attack your
7 credibility. And you were here yesterday, when the
8 Court ruled that a conviction for breach of trust
9 from 2011 would be admissible. I'm sorry.

10 A. Yes, sir.

11 Q. You're saying yes, sir? Okay. If you
12 decide to testify, the decision on your part must be
13 freely and voluntarily and intelligently made with
14 the knowledge of the protections given to you by the
15 Fifth Amendment and the consequences of your
16 decision to testify.

17 If you decide not to testify, I will instruct
18 the jurors that they cannot give that fact, the fact
19 that you did not testify any consideration
20 whatsoever, and there's to be absolutely no
21 prejudice to you because you did not testify. It is
22 left entirely up to you whether or not you testify,
23 and you may talk with your attorney, family,
24 friends, or anyone else, but you must make the final
25 decision. Do you understand?

1 A. Yes, sir.

2 Q. Do you have any questions about this?

3 A. No, sir.

4 Q. Your attorney said she believed that you
5 have made a decision on this issue, and that the
6 decision is you wish to testify; is that correct?

7 A. Yes, sir.

8 Q. All right, sir, thank you.

9 A. Thank you.

10 THE COURT: I guess we could still go through a
11 few of the charges, not all, but a few.

12 MS. CAMPBELL: Your Honor, if I may? Have we
13 delayed any consideration in regard to Denno until
14 this decision was made?

15 And so I just wanted to bring that up at this
16 time, and inquire as to defense counsel and Your
17 Honor, and the manner in which you would like to
18 proceed on that. The Defendant's statement given to
19 law enforcement in custody after Miranda, as an
20 audio/video tape. It is one hour and 47 minutes
21 long. There is only about five minutes of that
22 statement that the State would use, upon cross-
23 examination or for impeachment purposes of the
24 Defendant, and that is the extent of what we would
25 intend to use. That's where we stand right now in

1 terms of his statement he gave to law enforcement.

2 THE COURT: All right, and what say the defense?

3 MS. CORNWELL: Your Honor, after reviewing the
4 video of the interview, he probably was in custody,
5 I think he was advised of his rights, and so I don't
6 believe that there is any reason for us to -- a
7 legal justification for us to keep his statement to
8 law enforcement out at this point. So we understand
9 that it may be used for impeachment purposes. My
10 only argument would be that it only be used for
11 impeachment purposes.

12 That I think it's a self-serving statement,
13 where he denies his involvement. So based on that
14 it's not a statement against interest, but since he
15 is taking the stand, I think any statement that he's
16 made he can be cross-examined on, so I don't think
17 any further hearing is necessary.

18 THE COURT: All right.

19 MS. CAMPBELL: Agreed. And just, if you would
20 like to, Your Honor, we could make the Defendant's
21 Miranda warning form a Court's exhibit --

22 THE COURT: I think so.

23 MS. CAMPBELL: -- for the record in this case.
24 And then, again, the section that we're dealing with
25 is about five minutes, so that we're working on

1 getting that cut down now.

2 THE COURT: Any objection to the Miranda
3 warning?

4 MS. CORNWELL: No, Your Honor.

5 THE COURT: We may have a few more minutes.

6 MS. CAMPBELL: Additionally, for the record,
7 Your Honor, my office is working on making a copy of
8 the entire statement, an hour and 47 minute
9 statement for the record.

10 We'll also put that in with Your Honor, but,
11 again, the only section that will be played is the
12 five-minute section, or the part where he, again, is
13 denying that he was there.

14 MS. CORNWELL: And, Your Honor, I know this is
15 that his statement can only be used for impeachment
16 purposes. Therefore, if he indicates, you know,
17 that, yes, he said this, or, no, he didn't say that,
18 and that is factual, I don't think that they're
19 allowed to bring in extrinsic evidence. I think
20 that they're only allowed to bring that in for
21 impeachment to -- as a prior inconsistent statement.

22 As long as his statement -- his testimony is
23 consistent to what he makes in that statement, then
24 the State cannot be allowed to introduce the video
25 on top of his testimony.

1 THE COURT: All right, what says the State?

2 MS. CAMPBELL: I think that's an accurate
3 statement of the law.

4 THE COURT: Okay, I think we have an
5 understanding. We don't know, or they're not here?

6 THE BAILIFF: They're not here.

7 THE COURT: The jurors aren't here yet. Let's
8 take a moment to look at State's request to charge
9 number one. I take it the State would request this
10 charge, regardless of what testimony may be offered
11 by the defense in the case?

12 MS. CAMPBELL: Did Your Honor take up the
13 question of the jury charges now, I think I would
14 renew that.

15 THE COURT: I just thought we'd go ahead and try
16 at least to get through some of them, if we could.

17 MS. CAMPBELL: Your Honor, the State also handed
18 up and provided to the defense copies of proposed
19 jury instruction to the defense. I see on the
20 defense's proposed jury charge of involuntary
21 manslaughter.

22 They point the Court to State v. Morton,
23 381SC209 2009 South Carolina Supreme Court case. In
24 that case, the defendant was convicted of voluntary
25 manslaughter. The Court said, in reviewing the

1 charge involuntary manslaughter, they said, even
2 assuming Morton had not intentionally fired the gun
3 by pointing the gun and waving it in the air, Morton
4 committed an unlawful act, that would naturally tend
5 to cause death or great bodily harm. In the case
6 present in front of Your Honor, the Defendant's
7 testimony of the record is, that the Defendant was
8 handling a loaded gun, waving it around, and no
9 safety on that weapon, and the likely, natural
10 consequences of that behavior would be that someone
11 would get shot. It's not appropriate to charge
12 involuntary manslaughter under the facts in this
13 case, just as it was not appropriate in the Morton
14 case. Thank you, and that's one point.

15 THE COURT: I'm sorry, go ahead. What does the
16 defense say?

17 MS. CORNWELL: Your Honor, it's our position
18 that the -- it's up to the jury, as a finder of
19 fact, to determine whether or not my client was
20 committing an offense that rises to the level of an
21 inherent assumption. That in this case we believe
22 that there is no kidnapping. That if the jury wants
23 to take that position, they are entitled to consider
24 involuntary manslaughter, and whether or not my
25 client intentionally or unintentionally fired that

1 weapon.

2 That it could have been as a result of a simple
3 assault and battery, or some other misdemeanor
4 offense, so that it would fit the charge and
5 unlawful manslaughter that it was the unintentional
6 killing of a person during the commission of an
7 unlawful act, but it not considered a violent
8 felony.

9 And based on that, we would ask that the jury be
10 allowed to consider involuntary manslaughter, as
11 they consider the facts of all of the case,
12 determining whether or not my client acted with
13 malice of forethought, acted in the commission of a
14 felony, of this was, as the defense has stated, an
15 unlawful and unintentional act.

16 THE COURT: A I missing something? Don't we
17 need to wait to see what the Defendant says about
18 this?

19 MS. CAMPBELL: And, you know, Your Honor, the
20 State would be happy to wait until after the defense
21 rests to take up all the matters in reference to
22 jury charges.

23 THE COURT: Yeah.

24 MS. CAMPBELL: I'm certain that would be
25 appropriate.

1 THE COURT: Okay, let's do that then. I thought
2 maybe we could take up the State's number one,
3 but --

4 MS. CAMPBELL: Did you want to discuss anything
5 to do with jury charges now? The charges that the
6 State proposes, Your Honor, or should we just wait
7 until the defense rests?

8 THE COURT: Well, let me just ask the defense,
9 if they have an objection to State's request to
10 charge number one?

11 MS. CORNWELL: I have a strenuous objection to
12 that charge, Your Honor.

13 THE COURT: Okay.

14 MS. CORNWELL: And I think that counsel on the
15 State v. Brown case, that is a Court of Appeals
16 case, it was actually just decided on November 30th
17 of this year, so it was just decided about a week or
18 two ago. And in that case, the defense and the
19 Defendant appealed the trial judge's decision to
20 charge felony murder.

21 The case State v. Brown is distinctive from this
22 case, because in Brown there was an issue of
23 identity. And so that was kind of part of what the
24 defense was, was, you know, what the identity was.
25 In this case we don't have that. In this case the

1 defense has not in any way argued that it's not my
2 client, and in that video that my client is not the
3 person that was holding the weapon when it
4 discharged.

5 And based on that, you know, when the Court was
6 considering the Brown case, they caution and they
7 took into consideration the case law and with some
8 of the other findings recently are hearing Court's
9 comments on the facts of the case and reflect the
10 comment on the facts of the case.

11 In Belcher it was decided that, you know, to
12 give a charge that the use of a weapon can be
13 inferred as malice. The Court, basically --
14 eventually, overturned that conviction, stating that
15 it was an inadmissible charge, because it improperly
16 commented on the facts. That the State was allowed
17 to argue the inference in their closing, but it
18 should not be charged by the Court.

19 When we look at elevating the facts to felony
20 In this case, based on the charge that the State is
21 asking for, I think that it is going to directly be
22 seen as a comment on the facts of this case. Again,
23 this is not a case, where anybody is disputing the
24 who, or the what, it's simply the how or the why.
25 And in that sense the State has the burden of

1 proving that this is a case where malice existed.
2 That my client had malice of forethought in
3 committing these acts.

4 And to now instruct the jury that malice can be
5 inferred by the committing of felony, in the case
6 kidnapping being a felony, I think directly comments
7 to the facts of the case. Again, in Brown they
8 indicated, you know, that they understood that those
9 decisions were driven by a desire to protect the
10 jury's authority. That his particular case in Brown
11 was different, because identity was an issue, and
12 even if the instruction was impermissible, it was
13 harmless, based on the totality of the case.

14 And, again, I know that I actually spoke with
15 the defense last night, in regards to this case, and
16 so I am aware that they have filed, and asked for
17 it, and I do believe that it may be granted, based
18 on some of his concerns that the Court of Appeals
19 had.

20 It has not been granted yet, but, again, this
21 was just a November 30th of 2022 case. It's only
22 been two weeks since this ruling was issued. I
23 think when we look at this case, and the Court of
24 Appeals' concerns, and the comments that they've
25 made, regarding other case law in which malice has

1 been charged by the Court by inference, that this
2 will be one of those instances, where a jury could
3 see being charged for felony murder as a comment on
4 the facts. That, you know, the fact that the
5 State's alleging that there's a kidnapping is enough
6 to infer malice.

7 Again, I think that this is similar to the
8 Burdette case, where it may be permissible for the
9 State to make that argument in their closing and
10 indicate that as part of their argument in closing,
11 but I do not believe that the Court should instruct
12 on that.

13 THE COURT: All right. Solicitor?

14 MS. CAMPBELL: Your Honor, the State's request
15 to charge number one is the state of the current law
16 in South Carolina. It's valid on all parties of the
17 Court, the State, the defense is bound by the state
18 of the current law. What the defense is talking
19 about is a case that has no relevance, in terms of
20 what Your Honor should charge, in terms of felony
21 murder in this courtroom, in this trial, and so we
22 think it is an argument that fails completely.
23 Thank you, Your Honor.

24 THE COURT: All right.

25 MS. CORNWELL: And, Your Honor, just to add to

1 this, again, we would object entirely to the charge
2 being given by the Court, based on our previous
3 arguments.

4 THE COURT: Right.

5 MS. CORNWELL: However, I would indicate that if
6 the Court is inclined to still charge it over our
7 objection, that the charge should be directly from
8 Norris, which specifically states, and I believe
9 it's similar to what you read yesterday. It just
10 indicates if the law says one potentially kills
11 another during the commission of a felony, that an
12 indication of malice may arise.

13 If facts are proven beyond a reasonable doubt
14 sufficient to raise an inference of malice to your
15 satisfaction, this inference would simply be an
16 evidentiary fact to be taken into consideration by
17 you, the jury, along with other evidence in this
18 case, and you may give it such weight as you
19 determine it should receive. That is what Norris
20 said, that is the case where it has been cited by
21 the Supreme Court and the Court of Appeals in
22 affording some of these felony murder charges.

23 I think anything additional to that, again,
24 improperly comments on the facts to view as what the
25 State is asking in that very lengthy charge,

1 particularly, by indicating that the further charge
2 of kidnapping is classified as a felony. That that
3 speaks to the facts of this case, and that goes even
4 further into this inferring malice, and finding
5 kidnapping a felony. It improperly comments on the
6 facts, and that goes back to the concerns in Brown,
7 it goes back directly to what Burdette said.

8 And the Court has indicated previously that the
9 Norris charge is the upper charge, when the Court
10 finds it appropriate to charge felony murder. I
11 don't believe anything other than what is
12 specifically stated in that Norris would be
13 appropriate. And, of course, our position is that
14 the Norris charge is not appropriate in this case
15 either, because specifically applying the law to the
16 facts of this case, and the fact that there is no
17 evidence that my client intentionally fired the shot
18 that killed Mr. Milliken.

19 The fact that the State is wanting them to find
20 malice based purely on kidnapping is not proper. In
21 addition, in considering the Norris charge and, you
22 know, in addition to our objection based on Brown,
23 Norris specifically states that in order for the
24 felony murder charge to even be given, you have to
25 find that the underlying felony is an inherently

1 dangerous felony, that was likely -- or could likely
2 result in death. In this case I don't believe that
3 there's any indication that simply grabbing the
4 victim on-the-scene is something that is inherently
5 dangerous to come to make one assume that death was
6 likely, or that death could likely result. I don't
7 think the facts in this case indicate anything that
8 this would be inherently dangerous or an inherently
9 dangerous felony, and so I do not believe that the
10 appropriate Norris charge, based on the fact that
11 the State hasn't shown the kidnapping, or the
12 allegations of kidnapping that they have in this
13 matter were inherently dangerous, and likely to
14 produce death.

15 So, again, that would be our second, you know,
16 simple objection to the felony murder charge, that
17 in addition to it being a permissible comment on the
18 facts of the case, by charging that inference. That
19 it would also be improper, because there was nothing
20 that was inherently dangerous, the acts that were
21 likely to cause death. So we would have an
22 objection based on that as well.

23 THE COURT: All right.

24 MS. CAMPBELL: Your Honor, as to that
25 specific --

1 THE COURT: Right.

2 MS. CAMPBELL: -- again, argument, from defense
3 counsel, it is the law. It's not -- it's called a
4 jury instruction, because you're instructing the
5 jury on the law. The current state of the law is
6 that the court charged the jury that kidnapping
7 should be classified as a felony. They're not to be
8 left to guess whether or not what we're talking
9 about is a felony or not. And so it's a proper
10 instruction, it's required and the State is
11 requesting it. Thank you, Your Honor.

12 THE COURT: Okay. All right, I'm gonna take it
13 under advisement, and we'll let you know before
14 closing. Are we ready for the jury? The State's
15 ready?

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: Is defense ready?

18 MS. CORNWELL: Yes, Your Honor.

19 THE COURT: Let's bring the jury in.

20 BAILIFF: The jury's entering the courtroom, Your
21 Honor.

22 (Jury enters the courtroom.)

23 BAILIFF: The jury is seated, Your Honor.

24 THE COURT: Welcome back, ladies and gentlemen.
25 If you recall yesterday, the State rested its case.

1 The defense now has the opportunity to present
2 evidence should the defense choose to do so;
3 although I remind you that the Defendant is not
4 required to offer any evidence in the case.

5 What says the Defendant?

6 MS. CORNWELL: Thank you, Your Honor, at this
7 time the State would call Devante White.

8 * * *

9 DEVANTE WHITE

10 * * *

11 being first duly sworn, testified as follows:

12 ***

13 DIRECT EXAMINATION

14 BY MS. CORNWELL:

15 Q. Good morning, Mr. White.

16 A. Good morning.

17 Q. Mr. White, can you please tell the jury a
18 little bit about yourself.

19 A. I'm 28, born South Carolina. I've got a
20 sister and two brothers. I went to Whale Branch
21 High School.

22 COURT REPORTER: I'm sorry, which high school?
23 High?

24 BY WITNESS: Whale Branch, Whale Thomas, yes,
25 ma'am. I like sports. I was working prior to this

1 incident. I was working at a Rent-A-Center and
2 Planet Fitness.

3 Q. And you said you got a sister and two
4 brothers, how old -- are they older or younger?

5 A. Younger. The older of the young -- younger
6 brother is 24, my sister is 16, and my little
7 brother's 15.

8 Q. And when you went Whale Branch High School,
9 did you graduate?

10 A. Yes, ma'am.

11 Q. You said that you were working at Rent-A-
12 Center and the gym and some landscaping prior to
13 this incident?

14 A. Yes, ma'am.

15 Q. Okay. Were you working all three of those
16 jobs at the same time?

17 A. No, I was at Rent-a-Center first, and then I
18 worked at Planet Fitness.

19 Q. And is that because the gym and the Rent-A-
20 Center --

21 A. Yes, ma'am.

22 Q. -- closed?

23 A. Yes, ma'am.

24 Q. Prior to this incident, have you ever been
25 convicted of a crime?

1 A. Yes, ma'am, in 2011, I think or 2012.

2 Q. And what was that for?

3 A. Breach of trust, I was in the eleventh or
4 twelfth grade, and we had --

5 Q. You don't have to tell us what happened.

6 A. Oh, okay.

7 Q. I just needed to know what the charge was.

8 A. Yes, ma'am.

9 Q. Devante, how do you know Malik White?

10 A. We've known each other and we've got the
11 same last name. Maybe we met on social media, you
12 know, we're from the same area.

13 Q. And how long had you been hanging out with
14 Malik White prior to this incident?

15 A. Not sure.

16 Q. Do you know who Malik White by any other
17 names?

18 A. Yes, ma'am, they call him Trilley.

19 Q. Did you call him that as well?

20 A. Yes, ma'am.

21 Q. What about Jamal Coakley, how do you know
22 Jamal Coakley?

23 A. That's Malik's best friend.

24 Q. And do you know him by any nicknames?

25 A. Yes, ma'am, Honcho.

1 Q. All right, and so how long had you known
2 Jamal Coakley prior to this?

3 A. Like February or March, I believe, of 2020,
4 if I'm right.

5 Q. What about Sarah Barr? Do you know her?

6 A. Yes.

7 Q. And we heard somebody referred to as Marcus
8 Pollard or referred to as PI. Do you know who that
9 is?

10 A. Yes, ma'am, we call him Unc.

11 Q. And how do you know Unc?

12 A. That's Trilley's -- that's Trilley's uncle.

13 Q. And what is the relationship other than --
14 do you know if it's an actual familiar relationship?

15 A. Trilley -- Trilley's auntie has a child.

16 Q. Okay.

17 Q. And to your knowledge was Mr. White close
18 with --

19 A. Oh, yeah, they was real close, yes, ma'am.

20 Q. And to your knowledge did Jamal Coakley
21 know --

22 A. Oh, yeah. Yes, ma'am.

23 Q. And how did he know him?

24 A. Through -- through Malik.

25 Q. To your knowledge, did Malik and Jamal know

1 Sarah Barr prior to the night this incident
2 happened?

3 A. I mean we all used to be at the Palms, you
4 know, way before this incident happened, yes, ma'am.

5 Q. Okay. Did you ever have sex with Sarah
6 Barr?

7 A. No, no, ma'am.

8 Q. To your knowledge, did Malik or Jamal ever
9 have sex with Sarah Barr?

10 A. I can't say.

11 Q. Prior to this incident, did you know who
12 Timothy Milliken was?

13 A. No, ma'am.

14 Q. Let's talk about the day that this incident
15 occurred. What were you doing that day?

16 A. The morning time me and Malik we were
17 playing on the basketball game. Yeah, that's what
18 normally we do.

19 Q. Okay. And had you been -- where were
20 you'all playing this game?

21 A. We were just around at Quincie's house.

22 Q. And who all was at Quincie's house that day?

23 A. Me, Malik, Quincie, Quincie's daughter and
24 Jamal.

25 Q. How long had you'all been at Quincie's house

1 prior to this day?

2 A. Two months maybe.

3 Q. Okay, and let me ask you this, were you
4 living there at the time, basically, those two
5 months?

6 A. Yes, ma'am.

7 Q. What made you decide to go live there at
8 that time?

9 A. You know, I'm 28, you know, I didn't know.
10 My little brother and I share a room, and, you know.
11 I didn't want to be a burden no more --

12 Q. Okay.

13 A. -- and I moved out.

14 Q. How did your mom feel about --

15 MS. CAMPBELL: Objection, Your Honor, it calls
16 for speculation and irrelevant.

17 THE COURT: I sustain the objection.

18 BY MS. CORNWELL:

19 Q. Did your mom like Malik?

20 A. My mom she was --

21 MS. CAMPBELL: Objection, Your Honor, same
22 objection.

23 THE COURT: Sustained.

24 BY MS. CORNWELL:

25 Q. Let's go ahead and move on. So you were

1 playing video games.

2 A. Yes, ma'am.

3 Q. And it's you and Jamal and Malik, Quincie
4 and her daughter?

5 A. Yes, ma'am.

6 Q. You had been staying there for about two
7 months. Had Jamal also been staying with y'all?

8 A. Yes, ma'am.

9 Q. To your knowledge, how long had Jamal been
10 staying there?

11 A. I don't know, but when I got there, he was
12 there.

13 Q. So he had been staying there before you
14 stayed there?

15 A. To my knowledge, yes, ma'am.

16 Q. What was your relationship with Jamal prior
17 to this incident?

18 A. We didn't like each other much.

19 Q. Why was that?

20 A. I mean I really don't, because him and --
21 him and Malik they were -- they were close. Then
22 when I came around, you know, Malik never gave me
23 the time, you know. So we all used to all go back
24 and forth.

25 Q. What happened to make you stop playing the

1 video games that day?

2 A. Quincie, you know, they've got the baby with
3 me and Jamal, and he kept on playing the game. When
4 we came back, Jamal told me that Malik didn't want
5 to go.

6 COURT REPORTER: I'm sorry, say that again.

7 BY WITNESS:

8 A. Jamal had told Malik they wanted to ride
9 somewhere.

10 Q. And around what time was that?

11 A. It's been so long ago, I don't -- I know it
12 was nightfall.

13 Q. Okay. Did they tell you what happened, what
14 they wanted to ride for?

15 A. They was going to come along, but we all --
16 the boys at the time.

17 Q. What'd you'all think you were gonna do?

18 MS. CAMPBELL: Objection. He can testify to
19 what he thought he was gonna do, but not what the
20 others were.

21 MS. CORNWELL: I apologize for misspeaking.

22 THE COURT: Sustained.

23 BY MS. CORNWELL:

24 Q. What did you think you were gonna do?

25 A. Ride, going back to Dale.

1 Q. Where did you end up going that night?

2 A. We ended up going to Summerville that night.

3 Q. And who was driving?

4 A. Malik.

5 Q. Where were you sitting?

6 A. Behind Jamal.

7 Q. And where was Jamal sitting?

8 A. In the passenger seat.

9 Q. And when you'all went to Summerville, where
10 did you'all go?

11 A. We pulled into like a big housing complex,
12 like, and we pulled into this big -- this big house.

13 Q. And do you remember whose house it was?

14 A. Not at the moment, but now I know it was
15 Sarah's grandma's house.

16 Q. Okay. And did Sarah come out?

17 A. Yeah. Well, before she came out, Jamal told
18 me to come to the front seat with Malik, and he got
19 in the backseat, and that's when she came out. I
20 didn't know who it was until she got in the car.

21 Q. And where did you'all go after picking up
22 Sarah?

23 A. We just rode.

24 Q. Let me ask you this, when Sarah got in the
25 car, and you saw who it was, what did you think

1 you'all were doing that night?

2 A. Well, at first I thought that, you know, she
3 was about to come back to the house, and either her
4 or Trilley was going to have sex with her, you know.

5 Q. Now, going back and talking about the
6 apartment that you met Sarah at and --

7 A. Yes, ma'am.

8 Q. -- all of that, were you aware of anything
9 that was going on at those apartments with PI and --

10 A. I mean, you know, we all got our girls over
11 there, you know, and Malik used to tell me stories
12 about he was the --

13 COURT REPORTER: I'm sorry, you have to slow
14 down.

15 BY WITNESS:

16 A. Oh, I'm sorry. Malik had told stories about
17 how PI would, you know -- but I -- I'd never seen
18 him.

19 Q. During this time, did you feel like you were
20 making the best decisions for yourself?

21 A. I wasn't, no, ma'am.

22 Q. And during that time when you were with PI,
23 what were some of the things you were doing to make
24 money?

25 A. Sell weed for him.

1 MS. CAMPBELL: I'm sorry, Your Honor, I can't
2 hear Mr. White.

3 WITNESS: I'm sorry, I'm sorry.

4 THE COURT: Your voice is kind of gravelly, and
5 it's a little bit hard to understand.

6 WITNESS: Yes, sir.

7 MS. CAMPBELL: Thank you.

8 WITNESS: Yes, ma'am.

9 BY MS. CORNWELL:

10 Q. So just to make sure everybody heard, what
11 were you doing?

12 A. Selling weed for him.

13 Q. Did you ever have occasion to do anything
14 else to try to make money?

15 A. Yeah.

16 Q. What was that?

17 A. You know, like arranged.

18 Q. And you arranged that through PI?

19 A. Yes, ma'am.

20 Q. So based on your experience with that, did
21 you think he was doing that for other people as
22 well?

23 A. I guess he was doing it for -- I don't know.

24 Q. And were you willing to do those things for
25 money?

1 A. Yes, ma'am.

2 Q. At any point in time, were you forced to do
3 something that you didn't want to do?

4 A. No ma'am.

5 Q. Were you ever mistreated in any of that?

6 A. No, ma'am.

7 Q. And so based on your experience with PI,
8 given that that's where you saw Sarah, that's how
9 you met Sarah and everything, when Sarah got in the
10 car and you'all got to Bluffton, what did you think
11 you'all were doing?

12 A. Like I said, I didn't know we was going, but
13 when we went to Bluffton. Then when we got to where
14 we was going, you know, I started to make sense of
15 it.

16 Q. Okay. And when Sarah got in the car and
17 you'all are driving down, were you'all talking in
18 the car? Was there a conversation in the car?

19 A. Now, Sarah and Jamal was in the backseat
20 having a conversation. Malik was in the front seat.

21 Q. During this car ride did you hear Tim's name
22 mentioned at any point?

23 A. No, ma'am.

24 Q. And then what happened once you got to
25 Bluffton?

1 A. We -- we turned around on a road, and then
2 we pulled into like a neighborhood, where the
3 property was at.

4 Q. When you first pulled into the gated
5 community, did you'all try to get into the gate?

6 A. No. Sarah was on the phone with somebody,
7 and I guess he had decided to come out.

8 Q. When she was on the phone with somebody, and
9 trying to get somebody to come out, why did you'all
10 drive off?

11 A. Because Jamal said, "You know, drive off."
12 And I was told, you know, "Please drive off down the
13 road."

14 Q. Okay. And when you'all went down the road
15 and pulled over, what happened?

16 A. Jamal told me to get out of there and come
17 to the back of the car and we would talk.

18 Q. And what was that conversation?

19 A. He told me he was gonna -- he wanted to
20 either grab somebody, you know, he wanted to get in
21 the trunk.

22 Q. And did you agree to do that?

23 A. Not at first, you know.

24

25 Q. Okay.

1 A. -- get in the back of the trunk, and that's
2 when Malik came up, and he asked what was going on,
3 and Jamal started cursing. He was cursing at me,
4 but also Malik.

5 Q. Did Jamal have anything with him during
6 this?

7 A. Yes, ma'am, he had a gun.

8 Q. And what happened after that?

9 A. Malik pulled me to the side, you know, we
10 all got in the trunk.

11 Q. Okay, you didn't want to do this, why did
12 you change your mind and decide to do it?

13 A. He had a loaded gun. And like I said, he --
14 like he came up there saying, you know, it's time.
15 but Jamal --

16 Q. Would you say you were scared of him?

17 A. Not like -- not only he's got a gun in his
18 hand, but after what he told me I was scared.

19 Q. That night with a gun in his hand, were you
20 afraid he would do something to you --

21 A. Oh, yeah.

22 Q. -- if you didn't comply?

23 A. Yes, ma'am.

24 Q. All right. I understand that you were
25 afraid to see a loaded gun, but why not just walk

1 away, leave, tell him no.

2 A. I mean if somebody's got a loaded gun on
3 you, and you walk away, you're gonna be afraid
4 you'll get shot in the back.

5 Q. So eventually you -- what did you do?

6 A. He got in the trunk, I got in the driver's
7 seat.

8 Q. And where was Sarah during all of this?

9 A. At first she was -- she was in the backseat,
10 and then when I got out, she got in the front seat.

11 Q. And once you got in the driver's seat and
12 Sarah got in the passenger seat, what did you do?

13 A. We went back to the same place that we had
14 been before, the back gate I guess to call him.

15 Q. Okay, and at some point did Mr. Milliken
16 come out?

17 A. Yes, ma'am.

18 Q. Did he get in the car?

19 A. Yes, he did.

20 Q. Did anyone threaten him, or force him to get
21 in the car?

22 A. No, ma'am.

23 Q. Did anyone make him get in the car against
24 his will?

25 A. No, ma'am.

1 Q. At that point, did anybody pull out a gun,
2 or anything like that?

3 A. No, ma'am.

4 Q. Once Tim got in the car, what happened?

5 A. Like I said he had us turn around, and we
6 made a right on the road, and we made another right,
7 and made another right, and we got to his property.

8 Q. Do you eventually get to Tim's house?

9 A. Yes, ma'am.

10 Q. You said you were going around to all these
11 gates. Was someone giving you directions on where
12 you ought to go?

13 A. Yes, ma'am.

14 Q. Who was that?

15 A. It was Malik.

16 Q. And once you pulled into the driveway, what
17 happened?

18 A. We popped the trunk.

19 Q. And what happened when you popped the trunk?

20 A. Got out.

21 Q. What did you do?

22 A. Grabbed Milliken.

23 Q. Why did you grab him?

24 A. 'Cause that's what Jamal told me to do.

25 Q. Did you say anything when you grabbed him?

1 A. Yes, ma'am.

2 Q. What'd you say?

3 A. He was under arrest.

4 Q. For what?

5 A. For prostitution.

6 Q. Why did you tell him he was under arrest for
7 prostitution?

8 A. That's what Jamal told me to say.

9 Q. So after you grabbed him and told him he was
10 under arrest for prostitution, what happened?

11 A. We walked to the back of the house.

12 Q. And what was -- what were the other three
13 doing?

14 A. I didn't see -- I didn't see Sarah or Malik
15 when I was walking this way. Jamal was right there,
16 so I pointed at his head.

17 Q. And at any point, when you grabbed Mr.
18 Milliken, did you ever intend to hurt him?

19 A. No, no. No, ma'am.

20 Q. Did you ever intend for him to be hurt by
21 anybody else?

22 A. No, ma'am.

23 Q. Did you intend for him to be killed?

24 A. Oh, gosh, no -- no, ma'am.

25 Q. You've heard some testimony about zip-ties.

1 At some point did you attempt to put zip-ties on
2 Tim?

3 A. No, ma'am, I didn't know they had zip-ties.

4 Q. What happened after you walked Mr. Milliken
5 back to the back of the house?

6 A. We went to the back porch, and Jamal and I
7 still had him, and Jamal told him to unlock the
8 door.

9 Q. And did he?

10 A. No, ma'am.

11 Q. And what did Jamal do when he refused to
12 open the door?

13 A. Started yelling at him.

14 Q. What did you do during that time?

15 A. I still -- I still had him.. I still was
16 holding him.

17 Q. Okay. Were you doing anything with your body
18 at that time?

19 A. I was kind of -- I was trying to let his
20 hand go, so he could open the door, and at the time
21 Jamal said, "Move to the back door." Open the door.

22 Q. Okay, and at some point -- at that point did
23 Mr. Milliken get the door open?

24 A. No, because Malik was -- Malik had the gun.
25 But when he wouldn't do it, that's when he got mad.

1 Q. And you said he, who is he?

2 A. Jamal.

3 Q. So I know that Jamal gave Malik the gun.

4 How did the gun end up in your hand?

5 A. Because I snatched it from Malik.

6 Q. Why did you snatch it from Malik.

7 A. Because I really thought he was gonna shoot
8 him at first.

9 Q. Okay, and you didn't want that to happen?

10 A. No. No, ma'am.

11 Q. And when you grabbed the gun what happened?

12 A. That's when it off the first time.

13 Q. Were you scared during -- while this was
14 going on?

15 A. Yes, ma'am.

16 Q. Did you -- who were you scared for? Were
17 you scared for yourself? Were you scared for Tim?

18 A. I was scared for all of us, you know,
19 because like I said, the gun went off.

20 Q. So would it be fair to say that the
21 situation was quickly evolving?

22 A. Yes, ma'am.

23 Q. And you indicate that Jamal went around and
24 started trying to hit Mr. Milliken?

25 A. Yes, ma'am.

1 Q. What were you doing during that time?

2 A. I was trying to move him out of the way, you
3 know, because Jamal told him, "Open the door." He
4 was mad.

5 Q. Okay. So you were trying to keep Jamal from
6 hitting Mr. Milliken?

7 A. Yes, ma'am.

8 Q. Were you doing anything with the gun at that
9 time?

10 A. Yeah, I was trying to figure out the handle
11 it isn't comfortable whenever you're holding it

12 Q. Okay. And how do you -- can you stand up
13 and show the jury how you were trying to do that
14 with the gun and the hammer?

15 A. I was trying to push it up. I was trying to
16 push it up.

17 Q. Okay.

18 A. Yes, ma'am.

19 Q. And you can take a seat, thank you. And
20 while all this was going on, then what happens?

21 A. He finally got -- the door came open, and
22 Jamal says -- that's what Jamal was trying to say,
23 "Push him in, so we can go inside," but he wouldn't
24 go, because he was trying to close the door. You
25 know, he was like, "Close the door."

1 And Jamal he's screaming, you know, there's a
2 lot going on. So I finally let go, and I had the
3 gun, you know, I had the gun like this pointed
4 towards the ground.

5 Q. And at some point, did the gun go off again?

6 A. Yes, ma'am, it did.

7 Q. When was that?

8 A. I think I was in the doorway, the gun went
9 off like -- the gun was pointing towards the house.

10 Q. Did you intentionally fire that weapon?

11 A. Oh, no, ma'am.

12 Q. Did you fire it to try to scare anybody or
13 anything?

14 A. No, ma'am.

15 Q. Why did you fire the gun? How did the gun
16 fire?

17 A. Like I said I was -- at that time I was
18 still trying to get the gun on safety.

19 Q. And so the gun went off, Mr. Milliken's
20 inside, what happened then?

21 A. That's when he dropped, and that's when
22 Jamal was still trying open the door.

23 Q. And then what did you do?

24 A. I told him no, and I closed the door.

25 Q. And then what happened?

1 A. That's when Jamal said to pull the trigger,
2 and that's when I pulled the trigger.

3 A. That's when we were going out.

4 Q. And at that point who was in the driver's
5 seat of the car?

6 A. Malik was driving and I was in the passenger
7 seat, and I -- I don't remember where those two were
8 at.

9 Q. Do you know, at that point, you had shot Mr.
10 Milliken?

11 A. I didn't know for sure, but I had an idea
12 because he dropped.

13 Q. Yeah. Did you see any blood or anything
14 when he dropped?

15 A. No, because I closed the door so fast.

16 Q. And when you'all got in the car and left,
17 what did you do with the gun?

18 A. I gave it back to Jamal, because he was
19 cursing, he was mad, that's what Malik said. I was
20 upset too, you know, and everybody was kind of on
21 edge, because we heard screams.

22 Q. Let me ask you this, if -- you're scared of
23 Jamal, he has a gun. You did this because he was
24 pointing a gun at you. And what you're testifying
25 to now is, he was mad in the car and didn't get

1 along with you. Why would you give him the gun
2 back?

3 A. I gave it to him, I guess because I just
4 shot somebody. You know, I didn't know what to do.
5 And he was asking for it back when we leave. We
6 didn't get nothing. That's when we leave, we drove
7 back to Dale.

8 Q. And when you'all drove to Dale, where did
9 you'all go?

10 A. We went to Malik's grandma's house.

11 Q. And what happened?

12 A. Malik he got out of the car first, and he
13 went in the house.

14 Q. So how long would you say you'all stayed in
15 Dale?

16 A. An hour, maybe like a hour and a half.

17 Q. And in that ride from Bluffton to Dale, what
18 was being said in the car, other than Jamal fussing
19 at everyone?

20 A. Trilley wasn't saying too much, you know,
21 Sarah was acting, you know, somehow, you know.

22 Q. Did you say anything while you were in the
23 car?

24 A. Yes, ma'am.

25 Q. What'd you say?

1 A. I told them -- I was upset, you know.

2 Q. And were you still in fear at this point?

3 A. No, I wouldn't say fear, I was upset more
4 than anything, you know.

5 Q. What were you upset about?

6 A. Possibly me shooting somebody.

7 Q. Did you mean to shoot anybody?

8 A. No, ma'am.

9 Q. Did you ever intend on shooting anybody?

10 A. No, ma'am.

11 Q. Did you ever intend on hurting anyone?

12 A. No, ma'am.

13 Q. Once you got to Dale, why did you stick
14 around?

15 A. I thought we were going to Savannah, and I
16 was gonna stay there.

17 Q. Did you go back to Savannah?

18 A. Yes, ma'am.

19 Q. And when you were in Savannah what happened?

20 A. I came home and Jamal was in the backseat.

21 And I went in the house, took a shower, changed my
22 clothes and I sat down, and I was * Quincie, and
23 Jamal and Sarah was on the back porch.

24 Q. When you changed your clothes, did you do
25 anything to your clothes?

1 A. Well, not at first. You know, because I had
2 those -- I had pants on, you know, but then when I
3 went, I saw something.

4 Q. What did you see?

5 A. Blood.

6 Q. And so what did you end up doing with your
7 clothes and your shoes from that night?

8 A. I ended up putting -- I put my shoes back in
9 my shoe box, you know what I'm saying, and my
10 clothes in the dirty clothes -- dirty clothes.

11 Q. And that was in?

12 A. Quincie's house.

13 Q. In Savannah?

14 A. Yes, ma'am.

15 Q. At some point, did you'all leave Savannah?

16 A. Yes, ma'am.

17 Q. Why did you'all leave Savannah?

18 A. I was sitting on the couch, and that's when
19 Malik came out and said the police went to Quincie's
20 house -- or Quincie's mother's house.

21 You know, at first we thought it was because --
22 I think she's still on probation or something, you
23 know, so that's why me -- Quincie was driving,
24 Trilley was

25 Q. To your knowledge, they should have still

1 been --

2 A. Yes, ma'am.

3 Q. -- in the house?

4 A. Yes, ma'am.

5 Q. When you got out of the shower and changed,
6 what did you put on?

7 A. Some cutoff shorts I had on, a black tee-
8 shirt, socks.

9 Q. Okay, and so when you'all got a phone call
10 and left out, did you'all leave out in a hurry?

11 A. Oh, yes, ma'am.

12 Q. And it was -- and this is November, it was
13 cold, and you've got on shorts and a tee-shirt?

14 A. Yes, ma'am.

15 Q. Is that because you were just hanging out
16 inside at that point?

17 A. I was outside. That's why I had shorts on.

18 Q. When you'all went to -- when you'all left
19 Savannah, where did you'all go?

20 A. Got down the road and I didn't know where we
21 were going, but I believe we drove for a long time.

22 Q. At some point in time when you'all were in
23 the car, did you'all find out that Mr. Milliken had
24 died?

25 A. Yes, ma'am.

1 Q. How did that happen?

2 A. Quincie told us.

3 Q. How did Quincie know about it?

4 A. I don't know, I think her mother told her.

5 Q. And so at that point you knew what --

6 A. Yes, ma'am.

7 Q. -- happened?

8 A. Yes, ma'am.

9 Q. When you found out that Mr. Milliken had
10 died, how did that make you feel?

11 A. I felt bad. I felt -- I felt bad.

12 Q. And once you'all got to Quincie's grandma's
13 house, what happened?

14 A. Quincie got out, and I believe Trilley was
15 in the front seat sleeping, Sarah and Jamal got out
16 of the car, and -- so a patrol car came by and
17 that's when we ran.

18 Q. Why'd you run?

19 A. Well, I was scared.

20 Q. Did you eventually stop running and give
21 yourself over?

22 A. Yes, ma'am.

23 Q. And you were taken to the police station?

24 A. Yes, ma'am.

25 Q. And at some point while you were at the

1 Detention Center did an investigator come talk to
2 you?

3 A. Yes, ma'am.

4 Q. And did he read you your Miranda rights?

5 A. Yes, ma'am, he did.

6 Q. Did you understand those rights?

7 A. Yes, ma'am.

8 Q. And did you agree to talk to him?

9 A. Yes, ma'am.

10 Q. And while you were talking to him that day,
11 did you tell them what you just told this jury?

12 A. No, ma'am.

13 Q. What'd you tell them?

14 A. I didn't know anything about it.

15 Q. So you told them you weren't even there to
16 know anything about it?

17 A. Yes, ma'am.

18 Q. Why did you lie?

19 A. I was scared, and I didn't want to be no
20 rat.

21 Q. And you said -- what was that last sentence.

22 A. I didn't want to be known as a rat.

23 Q. Okay. What happens to people that are known
24 as rats?

25 A. Some people get killed.

1 Q. So at that point you didn't want to rat,
2 because you were scared to get killed?

3 A. Yes, ma'am.

4 Q. Who did you think would kill you?

5 BY MS. CORNWELL:

6 Q. So you admit now that you lied to police
7 when you met with them?

8 A. Yes, ma'am.

9 Q. At any point, after that first meeting, did
10 any officers ever try to come and take another
11 statement from you?

12 A. No, ma'am.

13 Q. Did Ms. Campbell come talk to you and get a
14 statement from you?

15 A. No, ma'am.

16 Q. After you talked to law enforcement and told
17 them you weren't there, what happened?

18 A. Not sure.

19 Q. Did you get brought to Beaufort County?

20 A. Yes, ma'am.

21 Q. And while you were in Beaufort County did
22 anything -- at the time you were arrested did you
23 have an opportunity to talk to Jamal or Malik or
24 Sarah before the police took you off?

25 A. Yes.

1 BY MS. CORNWELL:

2 Q. You can't say what people told you --

3 A. Okay.

4 Q. -- or what other people said. Once you got
5 up to Beaufort County, did you have any interaction
6 with Jamal or Malik or Sarah?

7 A. I was on the phone and he came out. And
8 that's when Jamal came to the door screaming and
9 started yelling, you know, told me I'd better keep
10 my mouth shut, you know, he's gonna beat my ass and
11 all kinds of stuff.

12 Q. And to your knowledge, after that incident,
13 did you and Jamal remain in the same pod?

14 A. No, he -- they actually moved him. They
15 moved him on that same day.

16 Q. At any point, did you ever threaten Jamal
17 during --

18 A. No.

19 Q. -- any of this?

20 A. No, ma'am.

21 Q. At any point did you ever threaten Malik?

22 A. No, ma'am.

23 Q. Did you ever threaten Sarah during any of
24 this?

25 A. No, ma'am.

1 Q. All right. Let me go back and try to get a
2 little bit more clarification on this conversation
3 that you and Jamal had outside the car before this
4 incident happened. You said he said something about
5 a picture. Tell me more about that. What is this
6 picture and what did that have to do with anything,
7 and what you'all were doing.

8 A. You know, a naked picture or something.

9 Q. And so what were you'all planning on doing
10 with that? Were you'all gonna take the picture?

11 A. No.

12 Q. -- what were you'all gonna do?

13 MS. CAMPBELL: Objection, Your Honor, again,
14 this Defendant can talk about what he knew that he
15 was going to do. What Jamal had, you know, planned
16 that was communicated, but not speculation on what
17 they might do or try to do.

18 THE COURT: Sustained.

19 BY MS. CORNWELL:

20 Q. This is what Jamal was telling you you'all
21 were gonna do, correct?

22 A. Yes, ma'am.

23 Q. Okay. So what is Jamal telling you you'all
24 are going to do about this picture?

25 He had a picture and he wanted to get the picture

1 back, because he didn't want to get caught. And,
2 you know, we were just supposed to go get the
3 picture back.

4 Q. Based on that, do you think that anybody
5 would get killed by just doing that?

6 A. No, ma'am.

7 Q. Devante, after you found out Mr. Milliken
8 was dead, did you -- what were your thoughts? I
9 mean were you afraid of police? What -- why would
10 you not just -- I understand the whole rap thing,
11 but once Jamal had been taken away from your pod at
12 this time, you felt bad about. Why would you not
13 decide to talk to law enforcement, tell them what
14 happened and try to help in that?

15 A. Because I had my family.

16 Q. And so why have you decided to testify here
17 today?

18 A. I mean because, you know, did what my mother
19 told me, you know, she told me I should --

20 MS. CAMPBELL: Objection, hearsay.

21 WITNESS: Huh?

22 MS. CORNWELL: It's what she told him directly,
23 Your Honor.

24 MS. CAMPBELL: That's --

25 THE COURT: Ask your question --

1 MS. CAMPBELL: Hearsay.

2 THE COURT: Restate the question to the witness.

3 MS. CAMPBELL: I'm just asking why you decided
4 to testify here today? He's given his reason to
5 testify here today.

6 THE COURT: Overruled, go ahead.

7 BY MS. CORNWELL:

8 Q. You can answer it.

9 A. She told me to tell the truth what I know
10 happened, yes, ma'am.

11 Q. And is that what you've done here today?

12 A. Yes, ma'am.

13 Q. Let me ask you this, you've already admitted
14 that you lied to the police in this.

15 A. Yes, ma'am.

16 Q. Why should this jury believe that you're
17 telling the truth today?

18 A. I'm telling the truth now, you know. I'm
19 sorry I lied before, I just was scared, you know,
20 but like I said my mother -- I don't care what's
21 gonna happen, you know, I'm sorry for what happened
22 to the victim. You know, I didn't mean for it to
23 happen the way it did, I swear I didn't, you know.

24 Q. No matter what the consequences are?

25 A. No, ma'am.

1 MS. CORNWELL: I believe that's all the
2 questions I have, Your Honor.

3 THE COURT: Cross-examination.

4 MS. CAMPBELL: Thank you, Your Honor.

5 ***

6 CROSS-EXAMINATION

7 BY MS. CAMPBELL:

8 Q. Let me get this straight, Devante, did I
9 hear you correctly when you said that you were being
10 prostituted?

11 A. I wasn't being prostituted, I was a male
12 escort.

13 Q. A male escort?

14 A. Yes, ma'am.

15 Q. Okay, so this Uncle PI of yours that was
16 working out of the Shell Pointe Apartments, and he
17 was prostituting Sarah, so you were prostituting
18 yourself; is that what you're telling us?

19 A. I mean if you want to use the word
20 prostitution you can.

21 Q. Okay, the male escorts websites, you're
22 telling us you put yourself on websites to get money
23 for having sex with people; is that what you're
24 saying?

25 A. I mean I guess that's what you could say.

1 Q. No, I'm asking you what you're saying?

2 A. I guess so. It wasn't really about sex most
3 of the time.

4 Q. It wasn't about sex?

5 A. No, ma'am.

6 Q. It wasn't about money though, was it?

7 A. I mean yeah.

8 Q. Okay. Now, let's talk about Tim's backdoor.

9 A. Yes, ma'am.

10 Q. Let's talk about State's 108. Who's in
11 State's 108?

12 A. That's the vehicle.

13 Q. That's Tim Milliken and that's you?

14 A. Yes, ma'am.

15 Q. Okay, and you're looking down at Tim's leg,
16 and you are pointing the gun at him, correct?

17 A. No.

18 Q. You're gonna have to speak more clear.

19 A. I wasn't pointing the gun at Tim, I was
20 pointing it at the ground.

21 Q. Oh, you're not pointing the gun at him,
22 you're pointing it at the ground by his foot?

23 A. The ground.

24 Q. Okay.

25 A. Yes, ma'am.

1 Q. And then let's look at State's 109.

2 A. Yes, ma'am.

3 Q. Now, you got ahold of Tim's color in that
4 photograph; do you not?

5 A. Yes, ma'am, I do.

6 Q. All right. And blood is pouring out of
7 Tim's leg; is it not?

8 A. I can't tell that.

9 Q. Look right down here, Devante.

10 MS. CAMPBELL: If I may, Your Honor?

11 THE COURT: You may.

12 BY MS. CAMPBELL:

13 Q. Right here on his left leg blood pouring out
14 of his leg; do you see it there?

15 A. I mean I can't tell if that's blood, I can't
16 tell.

17 Q. Speak into the microphone.

18 A. Yes, that's blood, I can't tell.

19 Q. Okay, it looks like blood coming out of his
20 leg, doesn't it?

21 A. I don't know what it is.

22 Q. You don't know what it is, okay. And now
23 let's move onto State's 110, and the jury's gonna
24 have these back in the jury room. Now, you've
25 already shot Tim in State's 110A. Blood is pouring

1 out of his leg.

2 A. Yeah.

3 Q. And in State's 110A, you take this gun and
4 you cup it in your hand, and you point it at him
5 again; isn't that what we see in State's 110A?

6 A. I wasn't pointing the gun at Tim.

7 Q. Just to be sure.

8 A. I wasn't pointing the gun at Tim.

9 Q. You're telling us that's not what we're
10 looking at?

11 A. At that moment I was pointing the gun at the
12 ground.

13 Q. You're telling us you didn't come there with
14 zip-ties?

15 A. No, ma'am.

16 Q. Now, let's talk about this scenario that you
17 give us, that Jamal has the gun and he gets in the
18 trunk and with Malik, and all of you are so scared.
19 You're so frightened, you know, it's overcome, oh,
20 you know, I've got to do this, but look at that.
21 The gun that you're so afraid of is now in the
22 trunk. Drive away -- why didn't you drive away then
23 Devante?

24 A. I don't know. Like I said, Jamal knows
25 where my parents live, so --

1 Q. Okay. If you'd driven away while the gun is
2 in the trunk, Tim would be alive today, wouldn't he?

3 A. Yes, ma'am he would have.

4 Q. Now, these clothing items that had blood all
5 over them --

6 A. Yes, ma'am.

7 Q. -- that you hid, and that you put on the
8 pair of shorts. I call them the girlie shorts,
9 because I mean they're cut off way up to here,
10 right?

11 A. No doubt about it.

12 Q. Okay.

13 A. They're definitely short.

14 Q. Your testimony, "I've been living at this
15 house for months," right?

16 A. Yes, ma'am.

17 Q. Your clothes are at that house, aren't they?

18 A. Yes, ma'am.

19 Q. Okay, now, you're gonna tell this jury you
20 don't have a single other pair of pants in that
21 house?

22 A. No.

23 Q. I'm sorry, what?

24 A. I wasn't planning on going anywhere.

25 Q. You didn't plan on going anywhere?

1 A. We left in a hurry.

2 Q. Right, so you're just chilling in the cutoff
3 shorts?

4 A. Yes, ma'am.

5 Q. Okay. All right, and you felt so bad,
6 right?

7 A. Yes, ma'am.

8 Q. You're not a member of the gang, because
9 Malik's a member of the gang, right?

10 A. I --

11 MS. CORNWELL: Objection, Your Honor.

12 BY WITNESS:

13 A. I can't -- I can't speak.

14 Q. You came in here talking about Malik being a
15 member of some gang; is that what you testified to?

16 MS. CORNWELL: Objection, Your Honor.

17 THE COURT: Hold on just one minute.

18 MS. CORNWELL: Your Honor, again, this is
19 inappropriate to go down this avenue, that's why Ms.
20 Campbell objected to it, and we didn't go down it
21 further. For her now to try to come back and start
22 questioning him after she objected to it, I don't
23 think it's proper.

24 MS. CAMPBELL: I did object to it, I was
25 overruled, and she went on, so it would -- the door

1 was opened by the defense.

2 THE COURT: I agree. I agree and overrule the
3 objection.

4 MS. CAMPBELL: Thank you, Your Honor.

5 BY MS. CAMPBELL:

6 Q. Okay, just so I'm clear, when you went to
7 Tim's house you didn't know where you were, right?

8 A. Yes, ma'am.

9 Q. No idea, and you're told that we're on this
10 noble mission, this guy's got a photo of Sarah, and
11 we're gonna grab him, and we're gonna, you know, try
12 to get into his house, so we can complete this noble
13 mission and get back that picture of Sarah; that's
14 what they told you?

15 A. No, that's what Jamal told me.

16 Q. Uh-huh, so that was the plan?

17 A. In the back of the car, yes, ma'am.

18 Q. I'm sorry, what?

19 A. In the back of the car when we was talking,
20 yes, ma'am.

21 Q. Okay, and so there's no planning and
22 plotting to take any money, or guns, or televisions,
23 or computers, or anything like that, that Sarah
24 knows is in the house? That's not even talked
25 about, all the money you'all were gonna make?

1 A. Not to me.

2 Q. Not to you?

3 A. No, ma'am.

4 MS. CAMPBELL: Just one second, Your Honbr.

5 BY MS. CAMPBELL:

6 Q. The rehearsed language, "You're under
7 arrest." "For what?" "Prostitution." You're
8 telling this jury that those rehearsed lines was the
9 first time you'd ever heard them?

10 A. When I told him I was just thinking off the
11 top of my head.

12 Q. You were just thinking off the top of your
13 head?

14 A. Yes, ma'am.

15 Q. And go with the flow?

16 A. Yes, ma'am.

17 Q. I'm gonna say this.

18 A. Yes, ma'am.

19 Q. You just told this jury on direct testimony,
20 that Jamal told you to say that. And right now you
21 just said I was just thinking off the top of my
22 head.

23 A. I was going --

24 Q. Thank you.

25 A. -- going with the flow.

1 MS. CAMPBELL: That's all.

2 THE COURT: Redirect?

3 ***

4 REDIRECT EXAMINATION

5 BY MS. CORNWELL:

6 Q. Did Jamal tell you exactly word-for-word
7 what to say?

8 A. No, ma'am.

9 Q. But he told you what he wanted to do and
10 what -- while they were doing it?

11 A. Yes, ma'am.

12 MS. CORNWELL: That's all the questions I have,
13 Your Honor.

14 THE COURT: All right. Thank you, you may step
15 down.

16 MS. CORNWELL: Your Honor, the State would
17 recall Investigator Weich to the stand.

18 THE COURT: Yes, go ahead and administer the
19 oath.

20 WILLIAM WEICH

21 * * *

22 being first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. CORNWELL:

25 Q. Investigator Weich, during the course of

1 your investigation were you -- did you receive
2 information about a photograph that could be
3 involved with this case from somebody in Virginia?

4 A. Yes, I did.

5 Q. Okay, and were you able to obtain that
6 alleged photograph?

7 A. Yes, I was.

8 Q. And can you describe -- can you tell the
9 jury who was in that photograph?

10 A. It appeared to be an image of Sarah Barr.

11 Q. And after examining that photograph, were
12 you able to determine where Ms. Barr was in that
13 photograph?

14 A. Yes, I was.

15 Q. Where was she?

16 A. In Timothy Milliken's bedroom.

17 Q. And in what state was she in?

18 A. She was completely unclothed.

19 Q. Did she look as though she was willing to
20 take that -- or have that photograph taken?

21 MS. CAMPBELL: Objection, Your Honor, that does
22 call for speculation.

23 THE COURT: Yeah.

24 BY MS. CORNWELL:

25 Q. Where was her hand?

1 THE COURT: Sustained.

2 MS. CORNWELL: I'm sorry.

3 BY MS. CORNWELL:

4 Q. Where was her hand in that photograph?

5 A. I believe her left hand was kind of over her
6 face, over her eyes.

7 Q. And were you able to determine how this
8 individual in Virginia came into possession of that
9 photograph?

10 A. I believe it was texted to him.

11 Q. By whom?

12 A. By Timothy Milliken.

13 MS. CORNWELL: Your Honor, that's all the
14 questions I have, thank you.

15 MS. CAMPBELL: Just briefly, Your Honor.

16 THE COURT: Sure.

17 CROSS-EXAMINATION

18 BY MS. CAMPBELL:

19 Q. Investigator Weich, during the course of the
20 investigation, State's 51, if I could have you take
21 a look at that. Sarah Barr had had her photograph
22 taken many times and posted on websites, again, all
23 through the internet in your investigation for how
24 the photographs wound up on the internet; is that
25 correct?

1 A. Yes, ma'am.

2 Q. Okay.

3 MS. CAMPBELL: That's all I have. Thank you.

4 THE COURT: Anything? All right.

5 MS. CORNWELL: No further questions.

6 THE COURT: You may step down. You may call
7 your next witness.

8 MS. CORNWELL: Your Honor, defense would call
9 Officers Smalls. He should be out in the waiting
10 area. I'll have somebody call out for him; he was
11 sequestered.

12 * * *

13 ROBERT SMALLS

14 * * *

15 being first duly sworn, testified as follows:

16 ***

17 DIRECT EXAMINATION

18 BY MS. CORNWELL:

19 Q. Officer Smalls, where do you work?

20 A. At the Beaufort County Detention Center.

21 Q. And how long have you worked there?

22 A. Almost seven years.

23 Q. And during the course of your employment, do
24 you know Devante White?

25 A. Yes, since he's been there, yes, ma'am.

1 Q. Do you know Jamal Coakley?

2 A. Same as the inmates -- as the inmate there,
3 yes, ma'am.

4 Q. What about Malik White and Sarah Barr?

5 A. The same.

6 Q. At any point that you've known them over
7 there, has there been any altercations, or any cause
8 for concern between any of those parties?

9 A. Well, there was one altercation, this was a
10 few years back. They had -- they'd been there --
11 they hadn't been there too long. Mr. White was in
12 one part and Mr. Coakley was in another part, and
13 the two was exchanging not really White per se, but
14 more Mr. Coakley was exchanging words.

15 Q. And just to be clear, when you say White,
16 you're referring to Devante White, correct?

17 A. Devante White, yes, ma'am.

18 Q. Do you recall who was being the more sort of
19 aggressive party in that?

20 A. Yes, ma'am, Mr. Coakley until I got it from
21 that -- from that particular area.

22 Q. Okay. And what was Mr. Coakley saying or
23 doing that he was being aggressive?

24 A. Now --

25 MS. CAMPBELL: Your Honor, again, the rules are

1 clear this is hearsay.

2 THE COURT: Sustained.

3 BY MS. CORNWELL:

4 Q. Did it cause you enough concern to remove
5 Mr. Coakley?

6 A. Oh, yeah, yeah, definitely, yes, ma'am.

7 Q. And was Mr. Coakley ever returned to that
8 area with Mr. White?

9 A. No, ma'am. No, ma'am, but there could be --
10 to be frank, now they wasn't in the same area, there
11 were two different parts. They had no way of
12 getting in contact with each other, or anything like
13 that; but as far as like these two seeing each
14 other, or having a potential chance to see each
15 other again, no, no, ma'am, neve.

16 Q. Okay. Now, you said they weren't in the
17 same area, so they couldn't have contact, you mean
18 they couldn't have physical contact with each other?

19 A. No physical contact, not even able to be
20 with each other.

21 Q. Okay, but obviously they were somehow able
22 to speak to each other on this occasion, which
23 caused you to remove Mr. Coakley?

24 A. Yeah.

25 Q. During the course of your employment, well,

1 while Mr. White's been there, have you ever heard
2 him threaten anybody, or have any problems with
3 anybody?

4 A. No. Whenever I'm in his house, you know,
5 where he's at, no, ma'am.

6 Q. To your knowledge, has Mr. Devante White
7 caused any trouble with anybody?

8 A. Not to my knowledge, no.

9 MS. CORNWELL: Thank you, Your Honor, that's all
10 the questions I have.

11 MS. CAMPBELL: If I may just have a moment, I
12 need to locate something?

13 THE COURT: Sure.

14 MS. CAMPBELL: That'd be great.

15 ***

16 CROSS-EXAMINATION

17 BY MS. CAMPBELL:

18 Q. All right, so Officer Smalls, you've given
19 us the impression that you know a whole lot about
20 Jamal Coakley and Devante White, because they were
21 in the Detention Center; is that right?

22 A. I gave you that impression?

23 Q. You saw an argument --

24 A. You said I gave you that impression?

25 Q. Yes.

1 A. No, ma'am, I didn't give you that impression
2 at all.

3 Q. Okay, all right. You said that you saw an
4 altercation between them. You know that Mr. Devante
5 White never made --

6 A. Yes.

7 Q. -- any threats to anybody.

8 A. Yeah, because Mr. Coakley was -- yeah, he
9 was loud.

10 Q. Okay.

11 A. Yes, ma'am.

12 Q. So if you know all this, I assume then you
13 know all about the statement that Jamal had to
14 write, because he was threatened by Devante White --

15 MS. CORNWELL: Objection, Your Honor.

16 BY MS. CAMPBELL:

17 Q. -- to change his statement.

18 THE COURT: Sustained.

19 MS. CORNWELL: Objection.

20 THE COURT: I sustain the objection.

21 MS. CAMPBELL: Your Honor --

22 BY WITNESS:

23 A. No, ma'am.

24 MS. CORNWELL: The objection was sustained.

25 MS. CAMPBELL: That's all I have.

1 THE COURT: Anything further?

2 MS. CORNWELL: Nothing further, Your Honor.

3 THE COURT: All right, thank you, sir, you may
4 step down.

5 WITNESS: Yes, sir.

6 THE COURT: And you may call your next witness.

7 MS. CORNWELL: Your Honor, at this time defense
8 rests.

9 THE COURT: The defense rests. And anything in
10 reply? Does the State have anything they wish to
11 offer in reply?

12 MS. CAMPBELL: No, your Honor.

13 THE COURT: Ladies and gentlemen, you have
14 heard, received all of the information that you're
15 gonna receive in this case. What remains to be done
16 is for me to have a conference with the attorneys,
17 after which they will make their closing arguments
18 to you, and I will then give you instructions on the
19 law that applies in the case.

20 All right, I'm gonna ask you to please retire to
21 the jury room in the hopes that I can conclude the
22 meeting with the attorneys in not too long a period
23 of time, so that we can move on with this case. So
24 bear with me, but I'm gonna ask you to retire to the
25 jury room, and remind you it's too early to begin

1 discussing the case, so, if you would, please,
2 ladies and gentlemen.

3 (The jury exits the courtroom.)

4 BAILIFF: The jury's clear.

5 THE COURT: Let me hear the attorneys tell me
6 their position on moving forward, as I just
7 indicated to the jury I'd like to do. The State?

8 MS. CAMPBELL: Well, right at this very moment I
9 would just like to know that we'd have an
10 opportunity to have a break here for just five
11 minutes.

12 THE COURT: Oh, sure.

13 MS. CAMPBELL: But --

14 THE COURT: Yeah.

15 MS. CAMPBELL: -- I think that we do need to
16 have -- we need to finish the motions from the
17 defense, and we do need to talk about the jury
18 instructions. That may take us, you know, 45
19 minutes to get all of that concluded, and that puts
20 us at noon.

21 I think that arguing and charging at that point
22 would put us around 1 o'clock, 1:15, and the jury
23 would not have had lunch at that point, unless the
24 Clerk wants to have lunch waiting for them. It's
25 possible I think we could get it done and then send

1 them out with lunch, unless you want to send them to
2 an early lunch now, bring them back, and get it
3 right around 1 o'clock, which you could do also.

4 MS. CORNWELL: Your Honor, my preference I would
5 like to have a few minutes just to kind of gather my
6 thoughts, particularly after we jury charge --

7 THE COURT: Oh.

8 MS. CORNWELL: -- decision and all of that --

9 THE COURT: I'll agree with that.

10 MS. CORNWELL: -- in trying to formulate, and
11 making sure that I'm not inappropriately saying
12 anything, or misspeaking on any points of law that I
13 assume are gonna be in place.

14 So if we could let the jury have an early lunch
15 and then just closing charges as soon as they came
16 back, whether it be 12:15 or 12:30, and that way we
17 can -- I also have an issue with closing and
18 charging, and then saying that. I think once they
19 can charge, they need to remain until a verdict has
20 been reached.

21 THE COURT: Yeah.

22 MS. CORNWELL: And so if we are concerned about
23 lunch, if we haven't ordered them lunch yet, I would
24 assume it can't be delivered here in a short
25 fashion. So my preference would be for us to go

1 ahead and just break for an early lunch and have
2 them come back and close and charge as soon as they
3 come back.

4 THE COURT: Yeah, the Bailiff just indicated to
5 me a minute ago, if we were gonna go with the fast
6 track program, that he would have to order lunch now
7 for the jury. All right, let's let the jury go
8 until 12:30 then. Any objection of me telling the
9 Bailiff to let the jury go, instead of having to
10 come back in the courtroom?

11 MS. CAMPBELL: No objection from the State.

12 MS. CORNWELL: No objection, Your Honor.

13 THE COURT: Would you please be so kind as to
14 advise the jury we're gonna take our lunchbreak
15 until 12:30.

16 BAILIFF: Yes, sir.

17 THE COURT: Thank you. Let's take five --

18 MS. CORNWELL: Thank you, Your Honor.

19 THE COURT: -- before we come back and talk
20 anymore.

21 (Recess.)

22 BAILIFF: All rise, this Court's back in
23 session.

24 ***

25 PROCEEDINGS CONTINUED

1 THE COURT: Please keep your seats, ladies and
2 gentlemen.

3 MS. CAMPBELL: The Defendant's interview in the
4 Denno matter is a Court's exhibit, we made that for
5 the Court.

6 THE COURT: Is that a Court's exhibit or a
7 State's Exhibit?

8 MS. CORNWELL: Your Honor, it would not be a
9 State's Exhibit, because it would go back to the
10 jury. It was never introduced.

11 MS. CAMPBELL: No.

12 THE COURT: A Court's exhibit.

13 MS. CAMPBELL: I think.

14 THE COURT: All right, why don't we go back to I
15 guess where we left off, which is State's request to
16 charge number one.

17 MS. CORNWELL: Your Honor, before we do that,
18 may I just put the standard motions for defense?

19 THE COURT: Oh, I'm sorry, you're right.

20 MS. CORNWELL: Thank you --

21 THE COURT: Go ahead.

22 MS. CORNWELL: -- Your Honor.

23 THE COURT: Thank you for reminding me.

24 MS. CORNWELL: At this time, the State would
25 renew our motion for a directed verdict, again,

1 based on the testimony that's now been presented to
2 the Court. I don't think there's any evidence in
3 the record that my client acted maliciously, that he
4 acted intentionally, and that there was malice of
5 forethought in my client's mind going into this act.
6 I believe there is ample testimony that my client
7 was acting under duress, and that the State has
8 failed to prove any elements of malice, or that this
9 incident was my client's willful act of doing it.

10 Based on that, we would then renew our motion
11 for a directed verdict to dismiss the murder, to
12 dismiss the kidnapping, and dismiss the possession
13 of a weapon during the commission of a violent
14 crime, as we do not feel like the State has
15 sufficiently provided evidence that this jury should
16 consider regarding malice of forethought, that my
17 client acted intentionally.

18 That there was a kidnapping that was an
19 inherently dangerous crime. That my client would
20 have had knowledge -- injured or killed in any way,
21 that he intended on this victim to be injured or
22 killed in any way. We heard testimony that, you
23 know, the State's witnesses that my client did not
24 intend for the gun to go off, or intend to hurt Mr.
25 Milliken, and based on that we would ask for a

1 directed verdict.

2 We would also renew our motions and objections
3 previously made.

4 THE COURT: All right, thank you, Ms. Cornwell.
5 And Solicitor?

6 MS. CAMPBELL: Thank you, Your Honor. Again,
7 Your Honor, the burden that the State has to meet at
8 this stage of the trial, the State has met that
9 burden as required by the law.

10 Your Honor has heard all of the evidence in this
11 case, and, certainly, we take the position that we'd
12 move past directed verdict to the jury to make a
13 determination on this case. Thank you.

14 THE COURT: The Court agrees with the position
15 and argument of the State and would deny defense
16 motions. Anything else before we begin addressing
17 the State's request to charge? Anything else?

18 MS. CORNWELL: Nom Your Honor.

19 THE COURT: Okay. As I understand State's
20 request to charge number one, it is the hand of one
21 is the hand of all charge. I have a charge on that

22 MS. CORNWELL: And, Your Honor, I'm going to
23 object to a hand of one hand of all charge.

24 A hand of one hand of all charges are -- with a
25 question of who fired a shot, or when there is a

1 codefendant who participated in a crime and didn't
2 actually fire the shot, both participated in the
3 crime actively. In this case, you know, there's no
4 argument, there's no allegation that the firearm was
5 in anybody's hand other than my client's when the
6 weapon was fired.

7 I believe the charge of hand of one at this
8 time, while the other co-defendants have testified
9 and indicated they pled guilty. I think the hand of
10 one hand of all charge impermissibly references the
11 facts of this case. They're trying to indicate that
12 if they believed that one of the other co-defendants
13 intentionally acted with malice, that they can still
14 find my client guilty. I don't believe that that is
15 appropriate.

16 Again, there's no question that the firearm was
17 in my client's hand, there's no question that would
18 be in the jury's mind, or anything that's going to
19 argue that, you know, my client -- that anyone other
20 than my client would be the one that caused the
21 death of Mr. Milliken, and, therefore, the hand of
22 one hand of all charge is not necessary.

23 THE COURT: Well, let me just interrupt you a
24 second, just for a second. I realize that the
25 State's request to charge specifically refers to an

1 unlawful killing, or a homicide. My charge on the
2 hand of one does not, it applies to a crime. Would
3 that not be --

4 MS. CAMPBELL: Your Honor, just to be clear, the
5 State handed up State's request to charge two, which
6 is a full and appropriate charge on the hand of one
7 hand of all. I think that the language in the first
8 paragraph of State's requested charge, it is sort of
9 a summation and integration of hand of one, which
10 moves into the felony murder laws in South Carolina,
11 in paragraphs two and three.

12 So the full hand of one charge is contained in
13 request to charge two.

14 THE COURT: All right, and I see now what you're
15 talking about. Request number one combines two
16 different theories.

17 MS. CAMPBELL: Right, it just -- it's a brief
18 combination of the hand of one, followed up by the
19 felony murder, again, to put that all in context,
20 but the full charge, the appropriate charge on the
21 hand of one is contained within State's request to
22 charge two.

23 THE COURT: So I'm not inclined to charge
24 State's Number 1.

25 MS. CAMPBELL: Your Honor, I would ask that if

1 the first paragraph of States request to charge
2 number one, which is included in number two, but we
3 do think that the felony murder law in South
4 Carolina, which is appropriate in this case
5 contained in the second paragraph and the third
6 paragraph be charged to this jury. That is the law
7 that should be charged.

8 THE COURT: I have a -- did I read this
9 yesterday to you, that --

10 MS. CAMPBELL: You did.

11 THE COURT: My standard charge --

12 MS. CAMPBELL: Yes, sir.

13 THE COURT: -- on felony murder inference?

14 MS. CAMPBELL: You did.

15 THE COURT: Okay. Is there a specific problem
16 with mine?

17 MS. CAMPBELL: If Your Honor would just read
18 that one more time for us --

19 THE COURT: Okay, all right.

20 MS. CAMPBELL: -- then I can --

21 THE COURT: Well, I mean I know the defense
22 disagrees with it, "But if one intentionally kills
23 another during the commission of a felony, the
24 inference of malice may arise. If facts are proved
25 beyond a reasonable doubt sufficient to raise an

1 inference of malice to your satisfaction, this
2 inference would simply be an evidentiary fact to be
3 taken into consideration by you, along with all the
4 other evidence in this case, and you may give it the
5 weight that you decide it should receive."

6 MS. CAMPBELL: And, Your Honor, I think, again,
7 that the intentional killing during the commission
8 of a felony, again, with the malice inference there,
9 it needs to be made clear, and the jury needs to be
10 instructed that kidnapping is a felony in South
11 Carolina, and not left to conjecture or confusion to
12 the jury.

13 THE COURT: Okay, well, okay, so that doesn't
14 change my ruling on State's request number one.

15 MS. CORNWELL: And, Your Honor, for the record,
16 while we appreciate this Court's ruling on State's
17 Number 1, we do have an objection still to the
18 Norris charge that you just read out loud. We
19 believe that if Your Honor is going to charge felony
20 murder, that that would be the more appropriate
21 charge.

22 THE COURT: Okay, and the Court is --

23 MS. CORNWELL: And --

24 THE COURT: The Court is going to charge it.

25 MS. CORNWELL: And, again, just surely to make

1 sure I'm protected on the record --

2 THE COURT: Okay.

3 MS. CORNWELL: -- for appellate purposes, we do
4 object to any felony murder reference --

5 THE COURT: I understand.

6 MS. CORNWELL: -- made in my previous argument.

7 THE COURT: All right. And -- all right, let me
8 go back to where I started a moment ago, and that
9 has to do with the hand of one charge. Let's go
10 back to that, because I was reading from State's
11 Number 1, I believe.

12 At any rate, the hand of one charge is not
13 restricted to homicide; isn't that correct? So
14 let's -- excuse me, I dropped my pen. So let's hear
15 from -- the reasons the defense objects to the
16 charge, the hand of one.

17 MS. CORNWELL: Your Honor, my understanding the
18 standard charge does indicate a crime, if you will
19 read the very next sentence, the example that is
20 specifically given for the hand of one of all is,
21 that two people can be guilty of killing another
22 person.

23 I think that in this case, again, you know,
24 where it says, when one person --

25 THE COURT: My --

1 MS. CORNWELL: -- of the two had a gun, they
2 were not going to pull it, and, you know, one of
3 these two acting together in concert, I think that
4 directly speaks to this case, and --

5 THE COURT: I agree, and my charge would not
6 include that.

7 MS. CORNWELL: Okay, all right, sorry.

8 THE COURT: I have that marked out in my charge
9 book.

10 MS. CORNWELL: Okay, thank you, Your Honor.

11 THE COURT: Yeah. Any other objection to the
12 hand of one?

13 MS. CORNWELL: Your Honor, just for my -- do you
14 mind reading the hand of one charge?

15 THE COURT: I'm sorry?

16 MS. CORNWELL: Do you mind just reading your
17 hand of one charge?

18 THE COURT: It is -- I believe it is the same.
19 It is the same as the State's --

20 MS. CORNWELL: Which you're gonna take out.

21 THE COURT: -- with the exception of the
22 example.

23 MS. CORNWELL: Okay, thank you, Your Honor. And
24 for purposes of the record, we just ask that our
25 objection to the charge be noted, but if you've

1 already charged it, we would prefer Your Honor's
2 ruling --

3 THE COURT: Right.

4 MS. CORNWELL: -- versus the State's request.
5 And, Your Honor, we don't have an objection to
6 State's 3, it now charges within the standard
7 charge.

8 THE COURT: Do we have -- hang on one minute.
9 Okay, you don't have an objection to that?

10 MS. CORNWELL: No, Your Honor.

11 THE COURT: Okay. And those are all of the
12 State's requests?

13 MS. CAMPBELL: Yes -- yes, sir.

14 THE COURT: Okay, and before we hear from
15 defense counsel, the Court would also -- the Court
16 is also inclined to charge -- give a charge on
17 expert witnesses, and I ask, is there any objection
18 to the Court charging the law, concerning a prior
19 inconsistent statement?

20 MS. CAMPBELL: No objection from the State.

21 MS. CORNWELL: No, Your Honor.

22 THE COURT: And a limiting charge on the record
23 of the Defendant?

24 MS. CORNWELL: No, Your Honor.

25 THE COURT: Okay. All right, and the defense

1 proposes charges of --

2 MS. CORWNELL: Your Honor, I believe that what
3 we are asking for is a charge of involuntary
4 manslaughter. Again, I think that it is appropriate
5 in letting the jury decide whether or not the
6 unlawful activity was not a felony. If it's
7 determined it wasn't a felony, they should be able
8 to consider the involuntary manslaughter charge,
9 compared to the murder charge.

10 With this offense I think that the jury could
11 find that the killing was unintentional, and that it
12 was not a result of any felony offense, and,
13 therefore, they should be given the involuntary
14 manslaughter charge given that they are finders of
15 facts in this matter. Our second request would be
16 for the duress and coercion charge. While I
17 understand that duress is not permissible for
18 murder, it is permissible for kidnapping. And
19 therefore, I think the duress and coercion offense
20 is appropriate and should be included, particularly,
21 given any testimony from my client, as well as the
22 testimony of Malik White and Sarah Barr, who all
23 indicated that Jamal Coakley brought the gun, and
24 had the gun, and he was in possession of it at all
25 times.

1 You heard my client indicate that he was in
2 fear, that he was in fear prior to this incident
3 occurring, that he thought had no other way to avoid
4 being involved in this, the fear of being shot. And
5 so I think that goes directly to the duress charge,
6 with the kidnapping, and we would ask that Your
7 Honor charge the duress and coercion to the jury.

8 THE COURT: Solicitor? The State's position?

9 MS. CAMPBELL: May it please the Court, Your
10 Honor. Involuntary manslaughter, the two sections
11 of that, Your Honor, it's the unintentional killing
12 of another without malice, while engaged in an
13 unlawful activity. Okay, kidnapping would be
14 unlawful.

15 The kidnapping was being accomplished with a
16 gun, which is an inherently dangerous deadly weapon.
17 The second part of that is the unintentional killing
18 of another without malice, while engaged in an
19 unlawful activity. Well, it's not lawful to be
20 committing a kidnapping. There's nothing in the
21 facts of this case that warrant a charge on
22 involuntary manslaughter.

23 Would you like me to move onto the duress?

24 THE COURT: Yes.

25 MS. CAMPBELL: All right, thank you. Again, the

1 Court has received from the State the State v.
2 Robinson case, that is a case of well established
3 law in South Carolina, that in no manner is duress a
4 defense to murder. And the testimony that the
5 Defendant gave also is, there are periods of time
6 during this event, when he was not under duress.
7 The gun and the person he would like us to present
8 as the source of this duress was locked up in the
9 trunk of the vehicle along with the gun.

10 So in light of the Robinson case, and the
11 testimony that the Defendant gave, defense of duress
12 is not available to the Defendant, and should not be
13 charged to the jury.

14 THE COURT: Well, what we're getting ready to
15 hear from the defense in just a minute is to the
16 issue of the charge of kidnapping. When the -- my
17 recollection is that the Defendant testified that
18 the codefendant is the one who had the weapon, and
19 was requiring him to hold the victim and walk him
20 down the driveway; isn't that correct?

21 MS. CAMPBELL: That is what he testified to.
22 That would be after the Defendant put -- drove with
23 the gun and the source of the duress in the trunk to
24 Tim's house. And upon his testimony, as I
25 indicated, if he had just, you know, driven away at

1 that point, Tim would still be alive today. He
2 engaged in the concerted activity. He was under no
3 duress when he, you know, drove from the side of the
4 road over to pick up the victim, drive the victim
5 around to his home, and so at that point there is no
6 duress. And by further participating, you know, he
7 just puts himself right back in that situation,
8 there's no duress.

9 MS. CORNWELL: Your Honor, he has to open the
10 trunk to let the guy out at some point. He either
11 can do what the guy says, or if he doesn't, risk
12 being shot when the dude does come out of the trunk.
13 I believe that that is clearly a defense.

14 I think he testified as to that. I specifically
15 asked him why he didn't just drive away, and I
16 believe that, again, as Your Honor as indicated,
17 once they were there, there's a gun the entire time
18 by the Defendant in the course of the kidnapping. I
19 think this is directly on point with *Benjamin. I
20 think that obviously we do have testimony, it's up
21 for the jury to determine.

22 And based on the law, based on the testimony
23 that's been presented to the Court, my client
24 indicated that he was in fear, that he felt he had
25 no other way out of it, and that he reacted based on

1 that. He feared for himself, he feared for his
2 family. And, again, for her to indicate that, well,
3 once he's in the trunk, one, there's been testimony
4 that my client didn't -- isn't the one that forced
5 him into the trunk, or put him in the trunk, or
6 anything like that. Mr. Coakley had the gun and got
7 in trunk on his own accord, but, again, at some
8 point he's got to let him out, someone's got to let
9 him out, and so the duress is certainly there one he
10 is out.

11 Obviously, if my client just left him in the
12 trunk and went away, once he gets out, then what is
13 he gonna do to my client, and now my client has
14 pissed him off even more. So I think that's
15 directly in line with the duress defense, and
16 directly in line with the instruction, particularly
17 in Benjamin, and, again, it's clearly element of
18 facts for the jury to decide, and it's a defense
19 that has been presented.

20 MS. CAMPBELL: Your Honor, so in the Benjamin
21 case, coercion is never a defense, if there's any
22 reasonable way, other than committing the crime. I
23 say, again, that Jamal Coakley and the gun, the
24 source of this duress, are locked up in the trunk.
25 You know, the defense argues he has to let Jamal

1 Coakley and the gun out of the trunk, no.

2 Let him out at the police station. There's a
3 reasonable way to avoid all of this, but he didn't
4 do that. He can't then come in here and want to
5 charge the jury on duress, when he had a reasonable
6 way, a means of avoiding all of this, you know. And
7 also if Your Honor looks at the facts of the
8 Benjamin case, the codefendant had a gun in that
9 case, and Benjamin testified he only participated in
10 the robbery because Aiken threatened to shoot him,
11 that's not happening here.

12 There's been no testimony that Jamal Coakley
13 threatened to shoot Devante White, zero evidence of
14 that. The Benjamin case does not apply, and duress
15 should not be charged to the jury.

16 MS. CORNWELL: And, again, Your Honor, to
17 refresh your recollection, in reference to driving
18 to a police station, that question was specifically
19 asked, and he indicated he couldn't be a rat, and he
20 was in fear for his family, and so there were -- he
21 testified specifically that he was in fear, he
22 didn't think there was no other way out, he didn't
23 go to the police because he, you know, rats get, you
24 know, dealt with.

25 You know, there's ample testimony that's been

1 presented in this Court, as to the duress that my
2 client -- certainly he had no idea that this murder
3 was going to happen, or this victim was going to be
4 killed. Those questions I specifically asked him on
5 the stand, "You know, did you think by going along
6 with this, that anybody was gonna get hurt or
7 killed?" He said, "No." "Did you intend by going
8 along with this for anybody to get hurt or killed?"
9 He said, "No," and the only reason he participated
10 in any of it is, because he was in fear of what
11 Jamal Coakley might do to him if he didn't.

12 That Jamal Coakley had a gun as he was
13 instructing my client what to do. I think the
14 standard is whether a reasonable person would feel a
15 sense of duress or impending doom, and in this case,
16 anybody that's being threatened, particularly by
17 somebody who doesn't necessarily like him with a
18 loaded gun, and that person knows the temperament
19 they have, and other things they've done.

20 There's been testimony about this Mr. Honcho,
21 Mr. Coakley being in a gang. I think all of that
22 gives weight and credence to the fact that any
23 reasonable person would be in fear of an individual
24 of this nature and stature with a gun, making
25 demands. And there's been testimony -- ample

1 testimony of that fear, of those concerns, and why
2 he did not see any other reasonable way out, other
3 than to participate as instructed.

4 THE COURT: All right, let me finish reading
5 Benjamin. All right, as to Defendant's request for
6 involuntary manslaughter, the Court agrees with the
7 position and argument made by the State and would
8 deny Defendant's request of charge involuntary
9 manslaughter.

10 As to the requested charge on duress or
11 coercion, the Court will grant that request, but
12 with stating to the jury that it would, as in the
13 case of Benjamin, that it would not apply to a
14 charge of murder. Now, what about the actual charge
15 itself?

16 MS. CORNWELL: And --

17 THE COURT: If the Court's gonna charge duress
18 and coercion, is there any objection to what has
19 been presented by the defense? Which is actually
20 almost the same as contained in Benjamin.

21 MS. CAMPBELL: Your Honor, as the Court is
22 inclined to grant such motion and charge that, I
23 believe that's a correct statement of the law, and
24 we'd have no argument against the portion of it on
25 the proposed jury charge, that start with the

1 Defendant.

2 THE COURT: I'm gonna leave it up to the jury to
3 decide whether or not he would have been -- well now
4 when he had that opportunity to drive off and leave
5 the gun in the trunk, because his failure to do that
6 prohibit him from later being coerced, if as he
7 says, he didn't know what they were getting into, so
8 I'm gonna leave that up to the jury. Counsel can
9 argue to the jury about this.

10 Anything else relating to charges?

11 MS. CORNWELL: Your Honor, given the Court's
12 position on the involuntary manslaughter charge, we
13 would go back to our original request yesterday, and
14 ask for a voluntary charge in this case. And,
15 again, voluntary is, again, without malice, and I
16 think the jury could infer there was no malice in
17 this case, in regard to the heat of passion, and
18 legal provocation.

19 There's been testimony that, you know, Tim was
20 the victim in this case, was not, but Mr. Coakley
21 was telling him what to do, and that that would have
22 been it. And the reason they were there was because
23 of the photograph that had been taken without
24 permission or consent of my client, or of Ms. Barr.
25 And Ms. Barr did testify that she did not give her

1 consent or permission for the victim to take
2 pictures of her or disseminate pictures of her. I
3 think that if the jury believed that that is the
4 purpose they were going over there to get that
5 photograph, that that is sufficient legal
6 provocation and heat of passion, and so would
7 request a voluntary charge.

8 THE COURT: I understand the argument, but I
9 agree with the State's position and argument on this
10 issue. I don't think a reasonable jury could reach
11 that conclusion. What else?

12 MS. CAMPBELL: Your Honor, I'm confident that
13 the Court will be charging all the regular jury
14 charges, that they don't necessarily need to be
15 enumerated. With that said, that would be all from
16 the State.

17 THE COURT: All right, look, now --

18 MS. CORNWELL: And, Your Honor, this is my first
19 trial with you. Could you give us a copy of your
20 jury instruction to follow along with? Okay.

21 THE COURT: No. No. Just -- you're gonna have
22 to rely on your memory.

23 MS. CORNWELL: And I assume, based on that, you
24 also don't give a copy for the jury?

25 THE COURT: No.

1 MS. CORNWELL: Thank you, Your Honor.

2 THE COURT: And how long does the State
3 anticipate or request that they have to argue to the
4 jury?

5 MS. CAMPBELL: It's gonna be 30 minutes. You
6 know, 30 minutes, maybe 40 at the most, but --

7 THE COURT: I'd be surprised if it was less than
8 30.

9 MS. CAMPBELL: Yeah, so 30, 45 at the most.

10 MS. CORNWELL: And, Your Honor, I hope to not go
11 longer than 45 to an hour. If things pop in my
12 head, and I run with it. I'll try to keep it brief.
13 And by brief I mean not more than an hour.

14 THE COURT: Well, let's talk about one more
15 thing. We will actually need the verdict forms,
16 form or forms, because I can't -- because often
17 times I do submit the indictments in this case to
18 the jury, because the indictments don't correctly
19 address the issues here. Who has the where with all
20 the manpower to come up with a verdict form or
21 forms?

22 MS. CAMPBELL: The State will take care of that,
23 Your Honor. We'll start working on it now. And I
24 did just want to address the order of closing. What
25 the defense's position will be on that, since she

1 did put up a case.

2 THE COURT: All right.

3 MS. CORNWELL: Your Honor, I think that what the
4 order is, is that the State can close on the law,
5 the defense has their close, and then the State
6 would redirect on the facts; however, I believe that
7 I can't think of a case that I argued as a
8 prosecutor. I believe there is something now that's
9 changed that and says that the State has to close in
10 full.

11 THE COURT: Right.

12 MS. CORNWELL: Then the defense gets to close in
13 full.

14 THE COURT: That's right.

15 MS. CORNWELL: And --

16 THE COURT: And she can reply.

17 MS. CORNWELL: -- she would be entitled to
18 reply.

19 THE COURT: Reply to --

20 She can reply to new matter.

21 MS. CORNWELL: And I don't know what that is. I
22 feel there was an argument against that when I was a
23 prosecutor was, that that wasn't, you know,
24 established, it was something that was being
25 considered by legislature or whatever, but out of an

1 abundance of caution we did end up doing it that
2 way. My argument at this point would be that it's
3 been that way for a couple of years now. I think
4 most courts have adopted just -- even though it's
5 not

6 Let me ask you this, is anybody gonna use any
7 demonstrative stuff during closing, and do we have
8 it all set up and ready to do, if we do?

9 MS. CAMPBELL: Yes, everything's ready.

10 MS. CORNWELL: Your Honor, I don't anticipate
11 using any technology. I'm not good with technology.

12 THE COURT: And I hate to do this, but our jury
13 is returning at 12:30. We'll be in recess until
14 12:30.

15 MS. CORNWELL: Thank you, Your Honor.

16 (RECESS)

17 BAILIFF: All rise, this Court's back in
18 session.

19 THE COURT: Please keep your seats, ladies and
20 gentlemen. The State has prepared a verdict form
21 and handed it up to me. Does defense counsel agree,
22 or have no objection to it?

23 MS. CORNWELL: No objection, Your Honor.

24 THE COURT: I'm informed all the jurors are
25 present. Is the State ready for the jury?

1 MS. CAMPBELL: Yes, Your Honor.

2 THE COURT: Is the defense ready?

3 MS. CORNWELL: Yes, Your Honor.

4 THE COURT: Let's bring the jury in.

5 BAILIFF: The jury's entering the courtroom,
6 Your Honor.

7 (Jury enters the courtroom.)

8 ***

9 PROCEEDINGS CONTINUED

10 BAILIFF: The jury's seated, Your Honor.

11 THE COURT: Welcome back, ladies and gentlemen.
12 I believe we are ready, or almost ready to have the
13 closing arguments from the attorneys. I'll remind
14 you before they begin speaking with you, that
15 statements made by the attorneys during this closing
16 argument is not evidence. It's merely the
17 attorney's statement as to what the attorney
18 believes evidence might show. You decide what the
19 evidence is, based on what you have seen and heard
20 from the witnesses and other evidence in the case.
21 Beginning with the State.

22 MS. CAMPBELL: Thank you, Your Honor.

23 THE COURT: Solicitor?

24 ***

25

1 CLOSING ARGUMENT BY MS. CAMPBELL

2 MS. CAMPBELL: May it please the Court? You
3 know, back in I believe it was like 1999 Hurricane
4 Floyd came bearing down. I can remember my daddy --
5 he built a bridge over a creek back behind our house
6 up there in North Carolina near the coast. And I
7 remember my mom came out when he was building it,
8 and she was like, "You know, if my kids are gonna be
9 walking over that bridge, you better make that
10 bridge good and safe and sound."

11 Don't you worry, I've got the right materials
12 here, I've got the right tools, and I'm going to
13 build you and the kids a safe, solid bridge, and a
14 bridge to last all time." And you know what? When
15 Hurricane Floyd hit, you've seen bridges washed
16 away, roads were gone, houses were gone literally
17 off their foundation, but that bridge that he built
18 over that creek was still there when the sun came up
19 the following day.

20 I say to you, when you are working on this case,
21 as you have taken up this case, you're going to be
22 building your own bridge. You're going to be
23 putting together a strong, true and lasting bridge.
24 You are the builders of the verdict in this case.
25 In order to meet your oath as jurors, you're gonna

1 need the right tools, and you're gonna need the
2 right materials to build that verdict strong and
3 true. And now the tools are gonna be the law in
4 South Carolina, and our Judge, Judge Goldsmith, is
5 gonna give you that law, the tools. And the
6 materials are the evidence in this case, what you
7 will have in your jury room, what you heard from the
8 witness stand. And in a few moments you're gonna
9 take up those tools and those materials, the
10 evidence, and when you finish your work, the State
11 of South Carolina with the laws and the evidence,
12 we'll have provided for you all that you need,
13 tools, materials, a strong, solid bridge that can
14 carry you, each one of you, from indictment back
15 into this courtroom, walking across the bridge that
16 you built, coming to the other side and returning
17 right here to this courtroom delivering your true
18 verdict, your true deliverance, your verdict of
19 guilty.

20 This was a calculated, this was a targeted, this
21 was an attack set in motion by this Defendant. He
22 is the man who put Jamal Coakley and Malik White in
23 the trunk of the black Nissan. He is the man who
24 reached out to Sarah Barr, talking about, "We're
25 gonna do a little lick. Do a lick on the rich white

1 man." He is the man promising Sarah Barr to split
2 with her whatever they got from the lick. And Sarah
3 Barr made it clear, when she was asked by defense
4 counsel, when she testified, "No, no, no, a lick is
5 a robbery, a play is money for sex," prostitution.
6 And this is the man who grabs the victim from
7 behind, confining him, restraining him, preventing
8 him from getting away. And he goes, "You're under
9 arrest." Now, that action -- that action, that
10 seems rehearsed, that seems like a plan. That seems
11 like you've got this down. Grab the guy, have the
12 gun on him, tell him he's under arrest for
13 prostitution. You know what you're not gonna do in
14 those situations, you're gonna comply, you're
15 certainly not gonna try to think that you can call
16 the law, no. It's an action not without preparation
17 beforehand.

18 He is the man who brought zip-ties with him to
19 the victim's home and tied up this victim. Every
20 bit of this plan, every bit of this plot comes right
21 back to one man, Devante White. But let's not get
22 ahead of ourselves, we're gonna start right over
23 here, starts with the presumption of innocence.
24 Every man and woman that walks into this courtroom
25 under the laws of our country, that's where we all

1 start, and so it's right to follow the law. And so
2 start over here, see if this Defendant as innocent,
3 then you look at the evidence.

4 And when you look at the evidence, carry with
5 you another very important part of our law, which is
6 proof of guilt beyond a reasonable doubt. So you
7 might say to yourself, what is reasonable doubt?
8 And the Judge is gonna give you the law on that.
9 Reasonable doubt, I believe he will tell you, is
10 it's not proof that overcomes every possible doubt.
11 It is proof that leaves you firmly convinced of the
12 Defendant's guilt, and the State of South Carolina
13 has met that burden of proof beyond reasonable
14 doubt.

15 So how did the State meet that burden? This is
16 how. Come with the State now and let's see how
17 you're gonna build that bridge of your verdict.
18 Now, the victim in this case, and you've seen it,
19 goodness, multiple times by now. I'm not gonna show
20 it again, the surveillance video. You have some
21 extremely important still-shots from the
22 surveillance video, and the reason, you know, these
23 are put together for you is, because it's hard to
24 catch every little bit that's happening in those
25 moments, but you have them here, you'll have them in

1 your hands. They will be clocked and submitted into
2 evidence, and you'll have this. And in State's 108
3 you will see the Defendant intentionally looking
4 down with his gun at the defendant's -- at the
5 victim's leg. And then you will see in the next few
6 seconds in State's 109, where the Defendant has shot
7 the victim in the leg, and the Defendant's leg is
8 bleeding out all the blood in his body, severing the
9 femoral artery.

10 And then, importantly, take a look at State's
11 110A. Because, you know, you're gonna have to talk
12 about malice and intent, and what's in the
13 Defendant's mind. And in those moments in State's
14 110A, after the Defendant has already shot Tim and
15 he's bleeding out, he looks at him, he cups that --
16 this gun right here, and trains it on Tim, just to
17 be sure.

18 Now, this Defendant, remember the testimony, he
19 was angry, he was frustrated, he was unsuccessful in
20 getting Jamal Coakley to shoot him, "Hit him, hit
21 him." Jamal Coakley told you that means shoot him,
22 shoot him, I'm done with this, Jamal Coakley. It's
23 intentional, and it's anger, it's frustration, it's
24 malice. Ill-will, the Judge will tell you, remember
25 the tools we talked about, the Judge will tell you

1 that malice is ill-will, hatred, you know, that
2 thinking in your mind, I am upset with you, I want
3 to act. Maybe in the Defendant's mind he wants to
4 shoot Tim, he wants to end the struggling, it goes
5 on forever in the surveillance video, you saw it,
6 you watched it, minutes and minutes go by. And
7 Jamal said he didn't want to shoot him, and Malik
8 takes the gun from Jamal and gives it to the
9 Defendant, who's hitting him up in the head like
10 this when the gun's firing, but you know what? Tim
11 is still defending his home, even after the gun's
12 been fired at him.

13 And you know what, he's defending his home and
14 himself -- he's not armed, he's no threat. He's not
15 posing some risk to the Defendant. The Defendant is
16 the one with the gun. When you look at what's in
17 the Defendant's mind -- I'll plead the Fifth. If
18 you don't open that door, I'll kill your kids, and
19 that's what got Tim to open the door.

20 And the Defendant sneaks in, okay. I'm finally
21 there, the door is opened, everything I planned,
22 everything we're here to do is about to happen. But
23 what happens then? Tim pushes back again, he
24 resists again. He tries to close the door on the
25 Defendant, and it all just comes crashing down.

1 Whatever cash Tim had to pay for the night with
2 Sarah, and whatever else they might find in his
3 home, the money, the computers, the televisions, the
4 guns, the ammo, all of that they thought would be a
5 treasure trove haul out of there is escaping even
6 faster, and it just crashed down around him.

7 Sarah Barr, you saw Sarah, she was part of the
8 plan, she was the face. You know, you can't get
9 behind the gate without Sarah, you've got to have
10 the face. She told you that she was working as a
11 prostitute back in September, 2020. She knew
12 Devante, and she knew Uncle PI, and at the Shell
13 Pointe Apartments, and even while she was there that
14 week or so, she had developed a sexual relationship
15 with Devante. You heard from Sarah that all of this
16 happened to her, and she was working again on
17 November 16th, 2020.

18 She was working to get the passcodes, but
19 Devante, the Defendant, he goes to the wrong gate.
20 They had fund themselves at a gate that has no kiosk
21 or passcode, and things start to sort of a new mode
22 to them. Because, yeah, they're calling him on the
23 phone coming out. And I suspect what was a rush to
24 door plan has now got to be changed up. So the
25 other gentleman -- okay, so we're gonna put the boys

1 in the trunk, we'll get the guy, we'll get Tim in
2 the car because you know we've got to get past these
3 gates, if we want to get the stuff. So we get Tim,
4 the passcode, get to the house, we're gonna execute
5 Plan B. You're gonna pop out on him, and I'll grab
6 him and it'll work, remember?

7 Defendant -- this Defendant remember he came
8 prepared, he had zip-ties. Zip-ties so he could tie
9 Tim up, take what he wanted, and it completely fell
10 apart, starting at the wrong gate. And when Tim
11 resisted again and again, each passing minute this
12 Defendant is getting angrier and angrier and
13 angrier. Tim making that one last stand in his
14 backdoor threshold, tried to push the Defendant out
15 of his home, and the Defendant held on tight to Tim
16 with his left hand, and the gun trained on him with
17 his right, and you know what he -- so he's holding
18 onto him, he's got the gun trained on him, and all
19 of this is built to the point, where at that point
20 he's, take that you, I am fed up. If I have to drop
21 you right here, I will get over you, I will get in
22 this situation, and he finally lets loose.

23 His anger and his frustration blows up the
24 center point that he shot Tim and he killed him,
25 that's malice. That's malice under the law.

1 Kidnapped him when he grabbed him, told him, "You're
2 under arrest." He held onto him, seized him,
3 confined him, walked him down the driveway and then
4 murdered him, anger, frustration boiling over. You
5 know what? When defense counsel was questioning
6 Jamal Coakley, Jamal said, "No, I'm not afraid of
7 him, your client, but if he don't get his way, don't
8 make him mad especially if he's got a gun,
9 somebody's gonna get shot."

10 Now, let's talk about these three co-defendants.
11 Let's talk about them and their testimony. It did
12 not add up, nor would you expect them to. I mean if
13 they added up, that would be rehearsed. There was
14 nothing rehearsed about what Sarah and Jamal and
15 Malik had to say. They told you they all got
16 attorneys, they all met with their attorneys, they
17 got the advice from their attorneys, and then they
18 came forward, and they pled guilty trying to rob Tim
19 at gunpoint, that's attempted armed robbery, and
20 that's what they all agreed and pled to.

21 And the Defendant who set all of this up, and
22 said, "Hit him, hit him, shoot him, shoot him," he's
23 got the gun, he shot Tim intentionally. The
24 evidence in this case that the State presented
25 through the testimony, and the pieces of evidence

1 that you will have in the jury room it couldn't be
2 more clear. It couldn't be a more calculated
3 concerted plan, to carry out the robbery and the
4 kidnapping, and tie up the victim in this case. You
5 know, malice doesn't have to be a great period of
6 time. The Judge will tell you; it needs to exist in
7 the moment that you're doing the act in, that you're
8 shooting and killing, and in the timeframe that
9 surrounds that by your actions and your words.

10 Now, you heard the forensic firearms expert
11 testify about the revolver, and he told you, "It's a
12 fully functioning revolver. To pull that trigger
13 right there you've got to mean it."

14 It's no hair trigger. I think his testimony was
15 that if it's a single action, it's like picking up a
16 half a gallon of milk with your finger, but if it's
17 in double action that's a gallon and a half, it's
18 not like -- he gave you the example I think of the
19 pencil situation.

20 No, it's an action that moves from your mind to
21 your hand. You know what else we know about the gun
22 found in the trunk of the black Nissan in State's
23 Exhibit 26, this is unfired, unfired, unfired,
24 fired, fired. That's exactly what you see in the
25 surveillance video, two shots, three still remain.

1 Now, what else do we know about that gun? Jamal
2 had the gun, the Defendant had the gun. Jamal's
3 DNA's on the gun, the Defendant's DNA's on the gun.
4 And in the surveillance video when questioned about
5 it, Sarah Barr told you, "No, I had no idea that
6 there were cameras in that house." None of them
7 did. None of them had any idea that the crime they
8 were about to commit was going to be recorded from
9 multiple angles all over the location.

10 And not only was it going to be recorded, but it
11 was gonna have sound, and that you were going to be
12 able to hear it eventually, "You're under arrest."
13 "For what?" "Prostitution." "What are you talking
14 about?" "No, no, no, no, come on, come on. No, no,
15 no, no, come on." You saw it, you heard it. You
16 saw Jamal and Malik jump out of the trunk. You saw
17 the Defendant grab Tim, hold the collar of his
18 sweatshirt, push him down the driveway.

19 Tim's sweatshirt, his bloody sweatshirt from
20 autopsy in this bag, State's 49, let's talk about
21 that sweatshirt. This is the sweatshirt that Tim
22 was wearing the night he was killed, and the DNA
23 expert from Beaufort County, you heard him, Andrew
24 Garinger, testified he swabbed the unstained areas
25 that he could find on the cuffs, and it clearly

1 shows a match. The Defendant's DNA is on Tim's
2 sweatshirt. Let's talk about the shorts that
3 Defendant was wearing when he was taken into custody
4 in Georgia. Well, he's got his version why he had
5 them on. What happened to his pants? Again, where
6 are his shoes? Now, Jamal Coakley told you that he
7 did not tell law enforcement for over a year that in
8 the moments right before they were descended upon by
9 law enforcement, apparently, in Lilburn, that the
10 Defendant was moving things around, and managed to
11 gather up some things in the car, and stuffed them
12 down some sewer or drain pipe up there in Georgia.

13 You know what, he didn't have time, throwing
14 Jamal in the trunk of the black Nissan to find the
15 murder weapon, find the gun that killed Tim and
16 throw that down the sewer too. You're hiding,
17 you're disposing of evidence, and why are you doing
18 that? Why are you getting rid of those pants? Why
19 are you getting rid of those shoes? You're getting
20 rid of those, because in State's 8 and State's 99
21 and State's 97, the blood spatter that came off,
22 that covered the walls and everything that was
23 around got all over the Defendant's hands and shoes.
24 It just wasn't everywhere on the floor; it was like
25 a garden hose.

1 You know when you cut the garden hose in your
2 backyard and it starts spewing out, and everything's
3 splattering up, that's what happened. And the
4 defense attorney said in her opening, you know, we
5 don't say he didn't do it, we're just saying it
6 doesn't match the law well. And the State's
7 response to that angle is, yeah, there is no clear
8 matching of the law.

9 On kidnapping, when you grab someone, confine
10 him, seize him, try to tie him up. Every element of
11 the statute on kidnapping is met by the State of
12 South Carolina. Even on murder, the unlawful
13 killing of another person with malice of
14 forethought. Malice of forethought, you know, a big
15 word and all that, all it means is that he
16 intentionally with ill-will -- remember the anger
17 and frustration that was built up, was there when he
18 pulled the trigger.

19 And, again, the possession of a weapon during
20 the commission of a violent crime, again spot on the
21 law. The State meets every element of the burden of
22 proof on the three indictments. Now, let's talk
23 about the Defendant when he testified. He told you
24 first that Jamal Coakley told him -- that Jamal's
25 telling Devante, "You tell him that he's under

1 arrest for prostitution." And then when I pressed
2 him on those rehearsed words, he forgot the story.
3 He forgot what he had already said, what he'd
4 already testified to. Remember when he swore to
5 tell you the truth, and he said, "Oh, well, I was
6 just going with the flow. I was just thinking off
7 the top of my head." He lied to you right here
8 today in this courtroom. And the Judge will tell
9 you, when you're looking at the credibility of the
10 witnesses, that you can totally disregard everything
11 else he said, he lied to you.

12 And, finally, let's remember the players and the
13 plotters and the planners as we close. You've heard
14 testimony that when Tim was holding onto the railing
15 on the back porch, Jamal's hitting him, but that's
16 as far as Jamal went. Malik told you, "You know, I
17 was really there as a lookout, to keep an eye out,"
18 but he handed that gun to Devante. He took it from
19 Jamal and handed it to Devante.

20 And Sarah Barr picked up those zip-ties and she
21 handed them back up to Devante when he dropped them.
22 They were altogether lock, stock and barrel a part
23 of this. That's the hand of one is the hand of all
24 law in South Carolina, but only one of them planned
25 it out to a T, or so we thought.

1 Practice to perfection, but it all got way off
2 track when they went to the wrong gate, and he got
3 so angry and frustrated. "I'm getting in this
4 house, even if I have to drop you right here." The
5 problem is when he got to that point, and he fired
6 the second time, guess what happened to the other
7 three? They were gone. They had run -- they got
8 back into the car, and now he's standing there, he
9 got -- he got into the house, got all the stuff
10 there, but he's probably thinking to himself, oh,
11 yeah, I've got to either abandon it now, I've got to
12 run now or I'll be stranded, and the police and the
13 neighbors are about to be here, I'm gonna run to.

14 And now listen while Sarah did not actually see
15 Devante fire the second time to shoot and kill Tim,
16 in the way that she described what she heard, she
17 told you, "I thought he shot the washing machine,
18 because I heard something like water pouring out."
19 That's the sound that Tim's blood made as it poured
20 out of his body, that's what Sarah heard, when this
21 Defendant said, "Take that." I had a plan, it's
22 gonna be perfectly executed. Us two in the trunk, I
23 pop out on you, I grab you, we're over here, it's
24 good, you've already agreed to see Sarah for the
25 night, everything is going great, I've got the zip-

1 ties.

2 You're trying to keep me from getting what I
3 want. Now, you've heard from the forensic
4 pathologist, Dr. Virginia Richards, Tim's cause of
5 death was a gunshot wound to his leg, and his manner
6 of death was a homicide. And in South Carolina,
7 this is very important, felony murder rule of law,
8 when you're in the commission of a felony, when
9 you're committing felony like kidnapping someone,
10 you don't get to say, "Oh, I'm sorry, I didn't mean
11 to do it," that's not the way it works. And
12 remember the gun going off twice, he had to cock
13 that handle back, intentional actions. Malice can
14 be inferred when the commission of the crime.

15 You can look at the situation in this case, and
16 here's the thing, you can find the necessary malice
17 for murder in the Defendant's words, in his actions,
18 what he's thinking when he kills Tim, and you can
19 find it also -- the malice from committing the
20 kidnapping on him, and he's killed in the commission
21 of that kidnapping.

22 Now, I suspect when defense counsel has an
23 opportunity to speak to you in just a minute, and
24 I'm also done, she is going to be talking to you
25 about something called duress, which is what the

1 Defendant testified to, that's what it is. "Oh, I
2 did this, because I was afraid for my life. I was
3 afraid of Jamal Coakley and his gun." So I would
4 just say I would not get pulled into that. Again,
5 think about these scenarios. You -- you've got
6 Jamal in the trunk with the gun. And I asked him, I
7 said, "Well, you know, if you had just driven away
8 then." "Would Tim still be alive today?" "Yes,
9 ma'am, that's right."

10 Okay, there is no duress. There can't be duress
11 when the man with the gun is in the trunk. Well,
12 you know, maybe drive back to the house and pop the
13 trunk and start it all over again? Absolutely not.
14 How about drive that car, if you're in so much fear,
15 drive that car down to the police station, drive
16 down there, pop the trunk there, then everybody's
17 fine, and you don't have to be in fear from Jamal
18 Coakley and his gun.

19 The Defendant, Devante White, unlawfully and
20 intentionally, with malice of forethought on
21 November 16th, 2020 killed Tim Milliken, and he
22 kidnapped him on November 16th, 2020, that is
23 guilty. And he did all of that with that gun right
24 there.

25 I'm asking you to honor your oath as jurors, to

1 take the facts and the evidence, take the law from
2 Judge Goldsmith together, and build your verdict a
3 strong verdict, a solid verdict, a true verdict, and
4 come back into this courtroom with your decision,
5 your verdict that states the truth of what happened
6 in this case, and that is guilty. Thank you.

7 THE COURT: Thank you Ms. Campbell. Ms.
8 Cornwell?

9 ***

10 CLOSING ARGUMENT BY MS. CORNWELL

11 MS. CORNWELL: Thank you, Your Honor, may it
12 please the Court? Counsel. If you're on any of the
13 social media sites nowadays, at some point you've
14 probably seen a picture of it.

15 The attorney billboard that says, "Just because
16 you did it, doesn't mean you're guilty," and
17 whatever the attorney's name and number is. And the
18 picture as a joke, something funny for as an
19 indictment on unscrupulous lawyer tricks. But like
20 I told you at the beginning of this case, this case
21 isn't about lawyer tricks, it's about the law. And
22 this case, when you find the law of murder to the
23 facts that you've heard, you will see that the State
24 failed to meet its burden, to prove beyond a
25 reasonable doubt that my client murdered Timothy

1 Milliken.

2 They also failed to meet their burden that this
3 murder happened in the commission of a kidnapping,
4 or an attempted armed robbery, or anything of that
5 nature. For one, my client's not even charged with
6 attempted armed robbery. Why? Because, clearly,
7 there's nothing in this record on anything that they
8 have that shows that my client tried to take or
9 attempted to take anything. You've been hearing
10 from the witnesses.

11 Do you think that they're gonna charge murder,
12 and they're gonna charge kidnapping and not the
13 attempted armed robbery? This attempted armed
14 robbery theory came up as an excuse, as a reason, as
15 a justification, as an inducement, an enticement, to
16 get these three other people to cooperate and
17 testify to the story that they want you to believe,
18 in order for you to find murder, but that's not what
19 the law says.

20 There are instances that the law allows for a
21 person who had committed an act to not plead guilty
22 of the crime that's charged, and that's what we have
23 here. You heard Dr. Richardson -- Dr. Richards
24 explained to you that die from -- I'm gonna say this
25 word wrong, hemorrhagic shock, based on a gunshot

1 wound and that he bled out from that gunshot wound.
2 The gunshot wound in and of itself wasn't fatal, but
3 the fact that he bled out and didn't get medical
4 attention, ultimately, caused his death. You also
5 heard testimony on that stand and in that video,
6 that my client did not intentionally kill Timothy
7 Milliken, you know, did not intentionally shoot him.
8 And so while his death is tragic, it was not murder
9 at least not on the part of Devante White. Jamal
10 Coakley? Maybe.

11 , in other states you may have heard of
12 different degrees of murder, murder in the first
13 degree, murder in the second degree. South Carolina
14 only has one murder charge, and that murder charge
15 is very simple, but it's also very specific. The
16 Judge is going to instruct you, in South Carolina is
17 the unlawful killing of another with malice of
18 forethought. In order to find a person guilty of
19 murder, you must find that they acted with malice.
20 So what is malice? Under the law malice is defined
21 as hatred, as ill-will. It is a depraved spirit,
22 with intent on doing wrongdoing. It is an
23 intentional act.

24 As you've seen and heard in this case, Devante
25 White did not act intentionally when that firearm

1. went off and shot Tim Milliken. He did not act
2 maliciously. The State wants to talk to you about
3 all of the yelling, ranting and the threats that
4 they want to say that my client was making, and that
5 he was gonna kill Mr. Milliken. He didn't open the
6 door and that was anger and malice. That's not what
7 you see in that video. In that video you see my
8 client grab Mr. Milliken but if my client really
9 wanted to hurt Timothy Milliken, he could have done
10 it right then. Tim was down, he could have hit him,
11 he could have beaten him, he could have done
12 anything to overcome and overpower him, inside his
13 house, 'cause that's what he wanted to do. He
14 wanted to go and steal his stuff. He had size on
15 him, and he had three other people with him.

16 He's not the one that had the gun, Jamal Coakley
17 had the gun. Jamal Coakley walks out with the gun.
18 Jamal Coakley points the gun at him. And as they're
19 walking down, what do you see my client doing? He's
20 got somebody trying to put his body between Jamal
21 Coakley and Mr. Milliken.

22 We talked about the struggle on the back porch.
23 And you see in that video it's awfully convenient
24 that in the edited compiling of those surveillance
25 videos the State shows you, they cut out the part

1 where Jamal Coakley is. When you listen to
2 testimony of Malik White, what does he tell you?
3 Malik White never hit Tim Milliken. The only person
4 that ever hit Timothy Milliken, or at least
5 attempted to hit Timothy Milliken. The State wants
6 to talk to you about the that you heard, and how
7 these people didn't know that there was any audio
8 and all that, well, it's also kind of convenient
9 that you don't have the audio, that there is no
10 audio, on the back porch, that would probably be
11 very telling.

12 And you also know that my client was not trying
13 to have -- bring any harm to Mr. Milliken, based on
14 the video on the back porch, because, again,
15 although they kind of throw punches at Mr. Milliken,
16 Devante White putting his body between Jamal Coakley
17 and Timothy Milliken.

18 The only injury on Timothy Milliken that night
19 was a single gunshot wound. There weren't any other
20 injuries, head, to his neck, anywhere else, and you
21 want to know why, because Devante White wouldn't let
22 Jamal Coakley. You've heard testimony, and the
23 State wants you to believe that my client pistol
24 whips the victim in his anger and frustration, and
25 that's what caused the gun to accidentally discharge

1 the first time, is when he strikes him in the head,
2 and he strikes him in the head so hard with this
3 five and a half pounds of pressure, or 11-pound
4 pressure that the gun goes off. Common sense tells
5 you, if that were true, that man would have a mark
6 on his head, he'd have an injury. The State also
7 got up here and tried to say that, you know, "We've
8 proven malice based on his yelling and his pistol
9 whipping and his anger, but just in case you don't
10 believe that here's the felony murder statute.

11 So you want to believe that, you know, you don't
12 believe that he was angry, you know, there's malice
13 and that his actions, you can still find malice
14 based on this felony murder statute. And that's not
15 what the law is, and the Judge is going to instruct
16 you on that as well.

17 Felony murder is something that occurs when two
18 or more people conspire to rob a bank, and in the
19 commission of that robbery someone else
20 intentionally kills another person. And you had no
21 idea someone would get killed, but you would agree
22 to go.

23 The only way that you can use felony murder to
24 infer malice is, if you find that the person
25 intentionally killed another. So you would have to

1 believe Devante White intentionally killed Timothy
2 Milliken for malice to be inferred based on the
3 kidnapping. That's the law, and that's what the
4 Judge is going to instruct you on. In considering
5 the kidnapping charge, the Judge is going to
6 instruct you on. What the State wants you to
7 believe Jamal Coakley was just an innocent player in
8 all this, and that -- and they want you to believe
9 his statement and his facts, but even the co-
10 defendants pointed out how much he was lying. Why?
11 Why would my client be afraid? Why would my client
12 be in duress? Well, one, as the State brought up
13 during my client's testimony, Jamal Coakley, Honcho
14 and Trilley were in a gang. And if you don't do
15 what they say, or do what Honcho says, you're gonna
16 get killed. This man's got a gun. Jamal wants you
17 to believe, "He gave me a gun and put me in the
18 trunk," that's don't make any sense. And we know
19 he's lying, because both Malik White and Sarah Barr
20 both on the stand said, "No, Jamal's the one that
21 had the gun, Jamal brought the gun.

22 That was with Jamal in the car the whole time."
23 They said on the stand, "No, never saw Devante with
24 a gun before the back porch, never saw Devante being
25 attacked." They want you to believe that based on

1 Jamal Coakley's statement that he could be scared.
2 He was under duress, but my client's under duress.
3 In looking at the credibility of witnesses, you have
4 veracity and truthfulness, as you've heard from this
5 stand, and you get to make that judgment call. You
6 get to determine who you think committed this crime.
7 There are reasonable explanations and reasonable
8 facts that go along with everything in this case.
9 They want to talk about zip-ties, you know, that all
10 three witnesses talk about the zip-ties. Do you
11 think if there were zip-ties in this case we
12 wouldn't have them as evidence, and they wouldn't
13 have been shown to you'all up here? There's not any
14 zip-ties found at the house, there's not zip-ties
15 found in the car. Where are these zip-ties that
16 were allegedly magically produced? Because nobody
17 knows where they came from, nobody knows how they
18 got there, but all of a sudden there are zip-ties.
19 It's because it's not true, there were no zip-ties.
20 They want to talk to you and say that he was angry,
21 he was frustrated. There's no testimony or evidence
22 to support that.

23 The only person that there's evidence showing
24 anger and malicious intent is Jamal Coakley.
25 There's no intent to kill, and there's no malice of

1 forethought. Acting the way that he did, as you see
2 on that video, he was trying everything he could not
3 to have this happen, not to bring harm to Mr.
4 Milliken. I want to talk about consciousness of
5 guilt and how it developed. Malik White didn't feel
6 that bad, did he? He was so distraught about what
7 happened, he went and had sex with a girl. Jamal
8 Coakley wasn't distraught. Jamal Coakley went on
9 about why they didn't get anything. And so as long
10 as you uphold your oath as jurors, and you do as the
11 law instructs you, and what you believe the law is,
12 but you feel bad and you want, you know, the
13 victim's family to have peace, those are all noble
14 things, but you have to set those thoughts and those
15 feelings aside. You have to apply the facts of this
16 to the law that's given you by the Judge. And when
17 you do that, and when you uphold your oath as
18 jurors, then you're going to see that the only
19 verdict you can render in this case is not guilty,
20 because under the laws of this state, Devante White
21 is not guilty of murder, he's not guilty of
22 kidnapping, and he's not guilty of possession with a
23 weapon during the commission of a violent crime.

24 THE COURT: Okay, Ms. Cornwell -- Ms. Campbell?

25 MS. CAMPBELL: Nothing, Your Honor.

1 THE COURT: Nothing in reply? Ladies and
2 gentlemen, I'm about to spend some time with you
3 explaining the law. Would you like to stand up and
4 stretch a minute, because it'll take a few minutes
5 for me to do this. I'm gonna stand up.

6 ***

7 JURY CHARGE

8 THE COURT: Ladies and gentlemen, I'll
9 remind you that the fact that the Defendant was
10 indicted for the offenses that we've been discussing
11 here today, the fact that he was arrested, the fact
12 that he was charged is not any evidence in this
13 case, and cannot be considered by you as evidence in
14 this case, nor does the fact that these indictments
15 were issued creating presumption or inference of
16 guilt.
17 These documents are simply the written vehicles that
18 bring the cases into the court. As I told you, the
19 Defendant has pled not guilty to each of these
20 indictments, and that totally puts the burden upon
21 the State to prove the Defendant guilty. A person
22 charged with committing a criminal offense in South
23 Carolina is never required to prove himself
24 innocent.
25 And I tell you it is an important rule of law, that

1 no matter what the seriousness of the crime may be,
2 in a criminal case such as this, the Defendant will
3 always be presumed to be innocent of the crimes for
4 which the indictments were issued, unless guilt has
5 been proven by evidence that satisfies you of that
6 guilt beyond a reasonable doubt. The presumption of
7 innocence does not end when you begin your
8 deliberations, but it accompanies the Defendant
9 throughout the trial until you reach a verdict of
10 guilt, based on evidence that satisfies you of that
11 guilt beyond a reasonable doubt.

12 The presumption of innocence is like a robe of
13 righteousness placed about the shoulders of a
14 defendant, and it remains with the defendant, until
15 it has been stripped away by evidence that satisfies
16 you of the Defendant's guilt beyond a reasonable
17 doubt. The presumption of innocence is not mere
18 legal theory, it is not just a legal phrase, it is a
19 substantial right to which every defendant is
20 entitled, unless you, the jury, are satisfied from
21 the evidence of the Defendant's guilt beyond a
22 reasonable doubt. A reasonable doubt is the kind of
23 doubt that would cause a reasonable person to act.

24 The State has the burden of proving the Defendant's
25 guilt to you beyond a reasonable doubt.

1 Some of you may have served as jurors on civil
2 cases, where you were told it was only necessary to
3 prove that a fact is more likely true than not, such
4 as by the greater weight or the preponderance of the
5 evidence, but in criminal cases the State's proof
6 must be more powerful than that, it must be beyond a
7 reasonable doubt. Proof beyond a reasonable doubt
8 is proof that leaves you firmly convinced of a
9 defendant's guilt. Of course, there are very few
10 things in this world that we know of with absolute
11 certainty, and in criminal cases the law does not
12 require proof that overcomes every possible doubt.
13 If based on your consideration of the evidence, you
14 are firmly convinced that the Defendant is guilty of
15 the crimes charged you must find the Defendant
16 guilty.

17 If on the other hand, you think there's a real
18 possibility that the Defendant is not guilty, you
19 must give the Defendant the benefit of the doubt and
20 find him not guilty. A criminal conviction cannot
21 be based on speculation, conjecture or surmise.

22 During this trial I have had the
23 responsibility to rule on evidence offered during
24 the trial, and you are to consider only the evidence
25 that has been submitted during this trial from the

1 witness stand, and in addition any exhibits, which
2 have been made part of the record in this case. But
3 I also have the additional duty to tell you or
4 charge you the law that applies in this case, and as
5 the presiding judge, I am the sole judge of the
6 facts in this case -- of the law in this case,
7 excuse me. It's your duty as jurors to accept and
8 apply the law, as I now state it to you. And if you
9 already have any idea, as to what the law is, or
10 what the law should be, you need to put that out of
11 your mind, because you must abandon that and accept
12 the law as I tell you it is, exactly as I state it
13 to you.

14 As I've told you before, in every case
15 tried in this court before a jury, the jury becomes
16 the sole and exclusive judge of the facts in a case.
17 And a trial judge, such as myself, cannot intimate,
18 comment on, or make any statement to a trial jury
19 about the facts in the case, since you the jury are
20 the sole judge of the facts in the case. And you
21 are not to infer from anything that I have said
22 during the progress of the trial, concerning my
23 rulings or admissibility of evidence, or anything
24 that I have said that might cause you to have a
25 belief I have an opinion about the facts of this

1 case.

2 As I told you, the law does not allow me to
3 have an opinion about the facts of the case. This
4 is a solely a matter for you.

5 As jurors, it is your duty to determine the
6 effect, the value, the weight and the truth of the
7 evidence presented during this trial. There are two
8 types of evidence generally presented during a
9 trial, direct evidence and circumstantial evidence.
10 And direct evidence is the testimony of a person who
11 claims to have actual knowledge of a fact, such as
12 an eyewitness, and is evidence which immediately
13 establishes the main fact to be proved.
14 Circumstantial evidence is proof of a chain of facts
15 and circumstances, indicating the existence of a
16 fact.

17 It is evidence which immediately
18 establishes collateral facts from which the main
19 fact may be inferred. Circumstantial evidence is
20 based on inference, and not on personal knowledge or
21 observation, because the law makes no distinction
22 between the weight or the value to be given to
23 either direct or circumstantial evidence.

24 Ladies and gentlemen, necessarily, you must
25 determine the credibility of the witnesses who have

1 testified.. This simply means the believability of
2 the witnesses. It becomes your duty as jurors to
3 analyze, to evaluate the evidence, and determine
4 which evidence convinces you of its truth, and
5 determines the believability of the witnesses who
6 have testified. You may believe one witness over
7 several witnesses, or several witnesses over one
8 witness.

9 You may believe part of a testimony of the
10 same witness, and you may believe the testimony in
11 its entirety, or reject the testimony of a witness
12 in its entirety. And you may consider whether any
13 witnesses exhibited to you any interest, bias,
14 prejudice or other motive in the case. And you may
15 also consider the appearance and manner of the
16 witness while on the witness stand. If you recall
17 we had several witnesses who were declared to be
18 expert witnesses, and as I told you the rules of
19 evidence normally do not permit witnesses to testify
20 to their opinions or conclusion, but an exception is
21 made for those witnesses that we call expert
22 witnesses.

23 That is a witness who by some education or
24 experience has become an expert in some art, science
25 or profession, they may say an opinion as to any

1 relevant or material matter and give the reasons for
2 their opinion. You should consider an expert
3 opinion received as evidence in this case, and like
4 other evidence, you give it the weight you think it
5 deserves. If you decide that the opinion of an
6 expert witness is not based on sufficient education
7 and experience, or if you conclude the reasons given
8 in support of the opinion are not sound, or that the
9 opinion is outweighed by other evidence, you may
10 disregard the opinion entirely. An expert witness'
11 testimony needs to be given no greater weight than
12 that of other witnesses, simply because the witness
13 is an expert. Further, you are not required to
14 accept an expert's opinion, even if it is not
15 contradicted.

16 I tell you that if a crime is committed by
17 one or more people who acted together in committing
18 a crime, the act of one is the act of all. A person
19 who joins with another to accomplish an illegal
20 purpose is criminally responsible for everything
21 done by the other person, which occurs as a natural
22 consequence, or the acts done in carrying out the
23 common plan or purpose. If two or more people are
24 together, acting together, assisting each other in
25 committing the offense, the act of one is the act of

1 all, or as is sometimes said the hand of one is the
2 hand of all.

3 Prior knowledge that a crime is going to be
4 committed without more, is not sufficient to make a
5 person guilty of that crime. Mere knowledge that
6 another person is going to commit a crime, even if
7 the defendant is present when the crime is
8 committed, is not sufficient to convict the
9 defendant as a principle. Guilt as a principle is
10 shown by actual or constructive presence at the
11 scene, as a result of a prior arrangement.
12 Therefore, the finding of a prior arranged plan or
13 common scheme is necessary for a finding of guilt as
14 a principle.

15 The State must prove by reasonable doubt,
16 by competent evidence the theory of the hand of one
17 is the hand of all. A principle in a crime is one
18 who either actually commits the crime, or is present
19 or aiding, imbedding or assisting in the committing
20 of a crime. When the person of and with the
21 assistance of another, the act is done by both.
22 Where two or more acting with a common plan or
23 intent are present at the commission of a crime, it
24 does not matter who actually commits the crime, all
25 are guilty. The hand of one is the hand of all.

1 Present at the commission of a crime means to be
2 sufficiently near to aid and embed and assist in the
3 commission of the crime.

4 However, mere presence at the scene of a
5 crime is not sufficient to convict one on the
6 principle on the theory of aiding and embedding.
7 Intent is also a necessary element, where there must
8 have been a common design or intent to commit the
9 crime, and the crime must have been committed
10 pursuant thereto with the person aiding and
11 embedding by some overt act.

12 An intent means intending the result which
13 actually occurs, not accidentally or involuntarily.
14 An intent may be shown by acts and conduct of a
15 defendant and other circumstances. There has been
16 evidence presented that one or more witnesses made
17 prior statements, which are not consistent with the
18 witnesses present testimony. You may use this
19 evidence to decide whether to believe the witness,
20 and you may also use earlier contradictory
21 statements to determine the truth of those
22 statements.

23 It is up to you to decide whether to
24 believe the earlier statements, or the statements
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' testimony
4 as to other matters. You may reject all the
5 testimony of a witness, or give all or part of the
6 testimony the weight that you believe it deserves.

7 You have heard evidence that the Defendant
8 was convicted of a crime, other than the ones which
9 he is now on trial for. This evidence may be
10 considered by you, if you conclude that it's true,
11 but only in deciding whether the Defendant's
12 testimony is believable, and for no other purpose.
13 You may not consider the fact that the Defendant has
14 a prior record is any evidence of the Defendant's
15 guilt of the charges bringing him here today. The
16 Defendant is charged with murder.

17 The State must prove beyond a reasonable
18 doubt that the Defendant killed another person with
19 malice or forethought. I tell you that malice is
20 hatred, ill-will or hostility towards another
21 person. It's the intentional doing of a wrongful
22 act without just cause or excuse, and with an intent
23 to inflict an injury, or under circumstances that
24 the law will infer an evil intent. Malice of
25 forethought does not require malice exists for any

1 particular time before the act is committed, but
2 malice must exist in the mind of the Defendant just
3 before and at the time the act is committed.
4 Therefore, there must be a combination of the
5 previous evil intent and the act. Malice of
6 forethought may be expressed or inferred, and these
7 terms expressed or inferred do not mean different
8 kinds of malice, but merely the manner in which
9 malice may be shown to exist. This is either by
10 direct inference or by inference from the facts and
11 circumstances which are proven. Express malice is
12 shown when a person speaks words that express hatred
13 or ill-will for another, or when the person prepared
14 beforehand to do the act which was later
15 accomplished.

16 For example, lying in wait for the person,
17 preparing to show that the deed was within the
18 defendant's mind would be expressed malice; but
19 malice may be inferred from conduct showing a total
20 disregard for human life. If facts are proved
21 beyond a reasonable doubt sufficient to raise an
22 inference of malice to your satisfaction, this
23 inference would simply be an evidentiary fact to be
24 considered by you, along with all the other evidence
25 in this case, and you may give it the weight you

1 decide it deserves. If I tell you that one
2 intentionally kills another during the commission of
3 a felony, the inference of malice may arise. If
4 facts are proved beyond a reasonable doubt
5 sufficient to raise an inference of malice to your
6 satisfaction, this inference would simply be an
7 evidentiary fact, to be taken into consideration by
8 you, along with all the other evidence in this case,
9 you may give it the weight that you believe it
10 should receive.

11 I tell you that in this state, the crime of
12 kidnapping is considered a felony. And as I stated,
13 the Defendant is charged with the crime of
14 kidnapping, and the State must prove beyond a
15 reasonable doubt that the Defendant knowingly and
16 unlawfully seized, confined, decoyed, kidnapped,
17 abducted, or carried away another person without
18 authority of law. To do a thing unlawfully is to do
19 it willfully and against the law. Knowingly means
20 with knowledge consciously and not accidentally.
21 Seized means to hold or take hold of suddenly or
22 forcibly.

23 Confined means to limit, restrict or
24 enclose within bounds, imprisonment or shut up or
25 keep in. Decoy means to lure, or as if by decoy, a

1 decoy is something to entice a person into a trap.
2 Kidnap is to remove a person against his will by
3 unlawful force or by fraud. And abduct means to
4 carry off secretly or by force for illegal purposes.
5 Carry away means to remove. The State does not have
6 to prove that the Defendant did all of these things,
7 instead, if you find beyond a reasonable doubt that
8 the Defendant did any of these things, you may find
9 the Defendant guilty of kidnapping. Something done
10 without authority of law is something which the law
11 does not sanction, permit, allow, condone or provide
12 justification for. Kidnapping does not have to be
13 for any personal or monetary gain, or for any
14 illegal purpose, but may be for any reason
15 whatsoever. Hold on one second.

16 The Defendant is also charged with
17 possession of a weapon during the commission of or
18 attempt to commit a violent crime. The State must
19 prove beyond a reasonable doubt that the Defendant
20 visibly displayed a weapon during the commission of
21 a violent crime. To find the Defendant guilty of
22 possession of a weapon during the commission of a
23 violent crime, you must first find the Defendant
24 guilty of either committing a violent crime, or
25 attempting to commit a violent crime. And I tell

1 you that the offense of kidnapping is considered a
2 violent crime in this state.

3 The Defendant has raised the defense of
4 duress or coercion. This defense, if you find the
5 Defendant has proven this, applies only to the
6 charge of kidnapping, not to the charge of murder.
7 To establish duress, which will excuse a criminal
8 act, the degree of coercion must be present,
9 imminent and in such a danger, as to induce a well-
10 grounded apprehension of death or serious bodily
11 harm, if the act is not done. Coercion is no
12 defense, if there's any reasonable way, other than
13 committing the crime, to escape the threat of harm.
14 The fear of injury must be reasonable.

15 Ladies and gentlemen, there are three
16 possible verdicts in this case, and you will be
17 given a verdict form to take to the jury room with
18 you. For there to be a verdict, the verdict must be
19 unanimous, meaning all of you must agree. I'm going
20 to ask the jury to -- excuse me, I'm sorry. There
21 are three indictments, and each indictment carries a
22 separate and distinctive offense. And you must
23 decide each indictment separately on the evidence,
24 and the law that applies uninfluenced by your
25 decision, as to any other indictment, the Defendant

1 may be convicted or acquitted, on any or all of the
2 offenses charged, but you will be asked to write a
3 separate verdict of guilty or not guilty for each
4 charge. And when you reach a unanimous verdict, I
5 would ask you to please knock on the jury room door,
6 notify the Bailiff, and we will receive you back in
7 the courtroom. I'm going to ask our Foreperson, if
8 she would, on behalf of the jury to complete the
9 form. It's fairly straightforward and simple, each
10 offense, guilty or not guilty, sign, and sign the
11 second page of the form. Please retire to the jury
12 room, but do not begin deliberations until I send to
13 the jury room the verdict form and the exhibits.
14 Once that is received in the jury room, I'm going to
15 ask the alternate jurors, if they'll step back in
16 the courtroom, and that will be your cue, ladies and
17 gentlemen, to begin your deliberations. So if you
18 would, please retire to the jury room, but not yet
19 begin your deliberations.

20 (Jury exits the courtroom.)

21 BAILIFF: The jury's cleared, Your Honor.

22 THE COURT: All right, exceptions to the
23 charge from the State?

24 MS. CAMPBELL: Not from the State.

25 THE COURT: From the defense?

1 MS. CORNWELL: Yes, Your Honor, during our
2 jury charge conference, when we discussed the charge
3 of felony murder, you indicated that you were gonna
4 give the Norris charge and that alone, and that the
5 State had asked, and you indicated that kidnapping
6 is considered a felony in the State of South
7 Carolina. I objected to that language, saying that
8 I thought it was an inadmissible reference on the
9 facts. My understanding of your ruling is you
10 agreed and you were just gonna give the charge that
11 you were given.

12 During the recitation of that you did
13 indicate that kidnapping is a felony, and I believe
14 that, again, does draw an inadmissible inference to
15 the fact of the case. And then, again, shortly
16 after that with your possession of a weapon during
17 the commission of a violent offense, you singled out
18 the kidnapping charge as, you know, kidnapping is a
19 violent offense, and you were supposed to say
20 kidnapping and murder, and I think that the jury
21 could see that as a reasonable inference. That is a
22 comment on the facts that, you know, if there was a
23 kidnapping, maybe inadvertently kidnapping would
24 still qualify, so those would be our objections and
25 exceptions to the charge.

1 THE COURT: All right, objection noted.

2 MS. CORNWELL: Thank you, Your Honor.

3 THE COURT: Have we got the exhibits ready
4 to go?

5 MS. CAMPBELL: We're doing that right now
6 with defense counsel.

7 MS. CORNWELL: Yes.

8 THE COURT: Certainly.

9 (OFF RECORD)

10 THE COURT: Send the exhibits and the
11 verdict form to the jury room. Let's have our
12 alternate jurors returned.

13 COURT REPORTER: Do you want this on the
14 record when they come back?

15 THE COURT: I don't think so.

16 (Court is in recess.)

17 THE COURT: We may need to gather our
18 people back up for the case that we just sent the
19 jury back on. I'm informed they already have a
20 question.

21 CLERK: Okay, sir.

22 THE COURT: But I'm gonna take a quick
23 break.

24 (Recess)

25 BAILIFF: All rise, the Court's back in

1 session.

2 THE COURT: Please be seated, ladies and
3 gentlemen.

4 BAILIFF: Judge, the Defendant isn't here.

5 THE COURT: He'll be here in a minute,
6 won't he?

7 BAILIFF: Yes.

8 THE COURT: A note from the jury, "Can we
9 watch all videos presented by both sides?" Let's
10 get it ready. Where are our video experts.

11 MS. CAMPBELL: Okay, so we -- as Your Honor
12 may recall, the flash drive is in evidence, all 24
13 hours' worth of videos that the defense had
14 requested, in case they needed to show something, so
15 that is what's in evidence. We are pulling up the
16 combined surveillance video, which is what the
17 jury --

18 THE COURT: Which is what they saw.

19 MS. CAMPBELL: Correct. Without the halo,
20 which was, again, in conjunction with what the
21 defense had requested. The only issue with what we
22 are pulling up is, that we did edit it as the
23 defense requested, and took out that two-minute
24 period of time.

25 THE COURT: Right.

1 MS. CAMPBELL: So we would have to stop it
2 after the victim is shot, and then bring it back up
3 as they're running down the driveway.

4 THE COURT: Okay.

5 MS. CAMPBELL: But he's the expert.

6 THE COURT: We'll get him a chair.

7 MS. CAMPBELL: Ms. Cornwell played a
8 portion of the video, as well, so she will be
9 setting that up as well. She played -- if I
10 understand the question correctly, she played a
11 portion of it.

12 THE COURT: Yeah, it says both -- presented
13 by both sides.

14 MS. CAMPBELL: Yeah, that's correct.

15 THE COURT: Ms. Cornwell, all this is
16 agreeable with you, what we just talked about?

17 MS. CORNWELL: Yes, Your Honor.

18 THE COURT: I guess what the Solicitor just
19 talked about.

20 MS. CAMPBELL: Yes, Your Honor.

21 THE COURT: All right, when we bring them
22 in I'll, you know, you'all tell me if there's any
23 problem with me doing this.

24 MS. CAMPBELL: That's good.

25 THE COURT: The jury probably doesn't know

1 it was put into evidence, all this information.

2 MS. CAMPBELL: Right.

3 THE COURT: I'm just gonna ask them if they
4 want to see the video that was shown to them.

5 MS. CAMPBELL: And by agreement of the
6 parties, the video that was shown during the trial,
7 by agreement at this moment, that is the video
8 that's going to be shown at this time.

9 THE COURT: I believe Ms. Cornwell said she
10 agreed.

11 MS. CORNWELL: Yeah.

12 THE COURT: Let me get this marked as -- I
13 don't know what it is, you know. Let's bring the
14 jury in.

15 BAILIFF: Yes, Your Honor. The jury's
16 entering the courtroom, Your Honor.

17 (Jury enters the courtroom.)

18 BAILIFF: The jury's seated, Your Honor.

19 THE COURT: Welcome back, ladies and
20 gentlemen, I have a note that I believe is asking
21 the Court if the jury can view all of the videos
22 that have been presented to the jury, and that's
23 what you wish to see?

24 FOREPERSON: Yes.

25 THE COURT: I believe we're prepared to do

1 that.

2 Let's close the doors, if you please.

3 (Video being played for the jury.)

4 THE COURT: Is that what you were looking
5 for?

6 FOREPERSON: Yes.

7 THE COURT: Please retire to your jury
8 room.

9 Okay. All right, ladies and gentlemen, if
10 you'll please retire to the jury room and resume
11 your deliberations.

12 (Jury exits the courtroom.)

13 ***

14 PROCEEDINGS CONTINUED

15 THE COURT: We have a note from the jury.

16 "We are at an impasse. Can we break for
17 the evening and come back in the morning?

18 MS. CAMPBELL: I would prefer that they
19 stay, but I will leave it in the Court's discretion.

20 MS. CORNWELL: We will defer to the Court.

21 THE COURT: Let's bring the jury in.

22 (Jury enters courtroom).

23 THE COURT: Welcome back, ladies and
24 gentlemen. I have a note indicating the jury is at
25 an impasse and you are asking if the jury can break

1 for the evening and come back in the morning; is
2 that correct?

3 We had a courtroom full of people dealing
4 with another matter. I need to talk to you for just
5 a minute. You already know you can't talk to
6 anybody about this case. It will be really hard,
7 family, friends, people who know you here. Probably
8 half of them know why you are here.

9 You have been picked on a jury. Some of
10 them may know about what this is about. They will
11 want to know what is going on. Then they are going
12 to tell you what they think.

13 They don't know anything about this case.
14 You all the know what has been happening in case or
15 didn't happen. Tell them you can't talk about it.
16 Tell them the judge told you not to talk about it.
17 You will make a decision tomorrow based on what you
18 have seen and heard in this courtroom.

19 Any problems with anyone doing that?

20 Good. We will see you back at 9:30
21 tomorrow.

22 (Jury exits courtroom.)

23 THE COURT: The court will be in recess
24 until 9:30 tomorrow.

25 (At 5:21 p.m. the trial was continued to

1 the following day without interruption.)

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PROCEEDINGS

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* * *

1 FRIDAY, DECEMBER 16, 2022

2 BEAUFORT, SOUTH CAROLINA

3 (The following proceedings were held in
4 open court. All parties were present.)

5 THE COURT: In Chambers, the attorneys for
6 the State and for the Defendant, Devante White, the
7 attorneys indicated they wish for the Court to bring
8 the jury in before they begin deliberating, and make
9 an inquiry of the jury, and what is it exactly that
10 the State propose that the court do?

11 MS. CAMPBELL: Good morning, Your Honor.
12 Since the Jury has been out overnight during their
13 deliberations, they've been with family and friends,
14 and had access to the media. The State feels that
15 it's appropriate that the Court inquire as to
16 whether or not they discussed the case with anyone,
17 whether they read a newspaper article, saw anything
18 online, in relation to the matter that they're
19 currently in deliberations on with this case.

20 THE COURT: All right Ms. Cornwell?

21 MS. CORNWELL: I have no objection, Your
22 Honor.

23 THE COURT: Well, let me go ahead and ask
24 the next question. Let's just suppose that one of
25 the jurors acknowledges viewing a report about this,

1 then what?

2 MS. CAMPBELL: Your Honor, if that is the
3 case, then that would require the Court to declare a
4 mistrial, because jurors should not be engaging in
5 that behavior. You directed them not to.

6 MS. CORNWELL: And, Your Honor, I object to
7 that. I would ask whether what they read is going
8 to make them, if they're able to set that aside or
9 what not. I mean, I would object to a mistrial at
10 this point.

11 THE COURT: Okay let's bring the jury in.

12 BAILIFF: The jury is in the courtroom,
13 Your Honor.

14 (Jury enters the courtroom.)

15 BAILIFF: The Jury is seated, Your Honor.

16 THE COURT: Good morning and welcome,
17 ladies and gentlemen. If you recall, when we
18 recessed yesterday, I advised you that it would be
19 inappropriate to discuss the case with anybody or
20 read any reports or news about this case. So let me
21 ask you now, have you discussed this with anyone, or
22 have you read any articles about this, heard any
23 news reports, or otherwise people commenting on this
24 case; and I ask you if that has happened, if you'd
25 please raise your hand. No hands. For the record

1 no hands have been raised. Ladies and gentlemen, I
2 ask you to please retire to the jury room, and
3 please begin -- resume deliberations.

4 BAILIFF: Jury is cleared, Your Honor.

5 THE COURT: All right, we'll be at ease
6 waiting word from the Jury.

7 (Recess)

8 READING OF THE VERDICT

9 ***

10 THE COURT: All right, the Bailiff has
11 indicated the jury has reached a verdict. Is the
12 State ready for the jury?

13 MS. CAMPBELL: Yes, Your Honor.

14 THE COURT: Is the defense ready for the
15 jury?

16 MS. CORNWELL: Yes, Your Honor.

17 THE CUORT: All right let's bring the jury
18 in.

19 BAILIFF: Jury is in the courtroom, Your
20 Honor.

21 (Jury enters the courtroom.)

22 BAILIFF: Jury is seated, Your Honor.

23 THE COURT: Welcome back, ladies and
24 gentlemen, the Bailiff in the case believes the jury
25 has reached a verdict in this case; is that correct?

1 FOREPERSON: Yes, Your Honor.

2 THE COURT: Was it a unanimous verdict?

3 FOREPERSON: Yes.

4 THE COURT: Did you complete the verdict
5 form on behalf of the Jury?

6 FOREPERSON: Yes.

7 THE COURT: Clerk, would you please pass
8 the verdict form forward. Would you please publish
9 the verdict?

10 CLERK: The State of South Carolina v.
11 Devante White, in the charge of murder finds the
12 Defendant guilty. The State of South Carolina v.
13 Devante White in the charge of kidnapping, the jury
14 finds the Defendant guilty, and the charge of
15 possession of a weapon during a violent crime, the
16 jury finds the defendant guilty. Thank you.

17 THE COURT: Anything before the jury is
18 discharged, from the Defendant?

19 MS. CORNWELL: Your Honor, we would just
20 ask to poll the jury, excuse me, to poll the jury.

21 THE COIURT: Madam Clerk, if you would,
22 please?

23 CLERK: All right, Juror number 801. It's
24 on your badge, or 108, I'm sorry. All right, is
25 this your verdict?

1 JUROR 108: Yes.

2 CLERK: Is this still your verdict?

3 JUROR 108: Yes.

4 CLERK: Okay, juror number 94. Is this
5 your verdict?

6 JUROR 94: Yes.

7 CLERK: Is it still your verdict?

8 JUROR 94: Yes.

9 CLERK: Juror number 225, is this your
10 verdict?

11 JUROR 225: Yes.

12 CLERK: Is it still your verdict?

13 JUROR 225: Yes.

14 CLERK: Juror number 207, is this your
15 verdict?

16 JUROR 207: Yes.

17 CLERK: Is it still your verdict?

18 JUROR 207: Yes.

19 CLERK: Juror number 216, is this your
20 verdict?

21 JUROR 216: Yes.

22 CLERK: Is it still your verdict?

23 JUROR 216: Yes.

24 CLERK: Juror number 208, is this your
25 verdict?

1 JUROR 208: Yes.
2 CLERK: Is it still your verdict?
3 JUROR 208: Yes.
4 CLERK: Juror number one, is this your
5 verdict?
6 JUROR 1: Yes.
7 CLERK: Is it still your verdict?
8 JUROR 1: Yes.
9 CLERK: Juror number 169 --
10 JUROR 169: Yes.
11 CLERK: Is this your verdict?
12 JUROR 169: Yes.
13 CLERK: Is it still your verdict?
14 JUROR 169: Yes.
15 CLERK: Juror 238. Is this your verdict?
16 JUROR 238: Yes.
17 CLERK: Is it still your verdict?
18 JUROR 238: Yes.
19 CLERK: Juror number 148. Is this your
20 verdict?
21 JUROR 148: Yes.
22 CLERK: Is it still your verdict?
23 JUROR 148: Yes.
24 CLERK: Juror number 2 -- juror number 46
25 -- no -- is this your verdict?

1 JUROR 46: Yes.

2 CLERK: Is it still your verdict?

3 JUROR 46: Yes.

4 CLERK: Juror number 226.

5 THE COURT: 46.

6 CLERK: Juror number 46 was excused.

7 THE COURT: I'm sorry.

8 CLERK: Juror number 46.

9 MS. CAMPBELL: Was excused.

10 THE COURT: Oh, that's right, we excused.

11 CLERK: Any juror that hasn't stood up yet?

12 Is this your verdict?

13 THE COURT: All right, thank you, Madam
14 Clerk. Anything else from either the State or the
15 defense before the Jury is discharged?

16 MS. CORNWELL: No, Your Honor.

17 THE COURT: Ladies and gentlemen, I want to
18 thank you for your service, and tell you something
19 that we tell every Jury, and that is, you are free
20 to discuss this case including what went on in the
21 jury room, if you want to, but you also have the
22 right not to discuss it, if you don't want to. I
23 don't have any reason to think that anybody is going
24 to bother you or bully you about this case. If they
25 do though, and you don't want to talk about it,

1 tell them you know you don't have a right to talk
2 about it, you don't have an obligation to talk about
3 it, that I told you you didn't have to talk about
4 it, and if they persist, please report them to your
5 Clerk of Court, but, again, I don't have any reason
6 to think that's going to happen. Is there anything
7 we can do for you?

8 Does anybody need anything before we let
9 you go? Okay, we're getting ready to let you go.
10 You are welcome to stay with us, if you wish,
11 although my guess is you are ready to get out of
12 here, but if you wish we have other proceedings
13 going on here today. You're welcome to sit in the
14 back of the courtroom. if you want to watch,
15 otherwise, any questions? You're excused, ladies
16 and gentlemen. I want to thank you for your
17 service.

18 BAILIFF: Jury is clear, and the door is
19 closed, Your Honor.

20 THE COURT: Now --

21 MS. CAMPBELL: Your Honor, at this time we
22 would move for Your Honor to set aside the verdict,
23 and we believe that the Jury, after they went home
24 last night, they came back immediately with a
25 verdict with this case. We want to motion that they

1 didn't have enough time this morning to -- if they
2 were going to come back that quickly, they likely
3 would have decided last night.

4 So we don't believe that they gave the full
5 and detailed thought that was required. I think
6 that, based on the law, the balance of forethought
7 was not there, and I want to motion, and, therefore,
8 we ask, Your Honor, to set the judgement aside, or
9 set the verdict aside and find my client not guilty.

10 THE COURT: All right I understand the
11 motion. Any other motions?

12 MS. CORNWELL: We would also move for a new
13 trial, Your Honor.

14 THE COURT: I'm sorry?

15 MS. CORNWELL: We would move for a new
16 trial, and we raise all of our previous motions and
17 objections.

18 THE COURT: All right, the court
19 understands the motions, and understands the grounds
20 for the motions, but is compelled to deny the
21 motions.

22 MS. CORNWELL: Thank you, Your Honor.

23

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25

1 SENTENCING HEARING

2 THE COURT: Is the State ready to proceed
3 with sentencing?

4 MS. CAMPBELL: Yes, Your Honor, I am
5 currently printing the sentencing sheet. We sent
6 someone downstairs to get the actual sheets
7 themselves, but we can proceed to sentencing at this
8 time.

9 THE COURT: And defense ready?

10 MS. CORNWELL: Yes, Your Honor.

11 THE COURT: All right.

12 MS. CAMPBELL: Your Honor, on behalf of the
13 State of South Carolina, the State would request on
14 the indictment for murder that Devonte White, you've
15 heard the evidence in this case, you've heard what
16 his prior criminal record is, and we would ask that
17 a sentence of 40 years be imposed by the Court. On
18 the indictment for kidnapping, we would ask that a
19 sentence of 30 years be imposed.

20 THE COURT: I'm sorry what was - what --

21 MS. CAMPBELL: On the kidnapping, that a
22 sentence of 30 years be imposed --

23 THE COURT: Okay.

24 MS. CAMPBELL: -- and on the possession of
25 a weapon during the commission of a violent crime,

1 the sentence of five years be imposed.

2 THE COURT: And did anybody wish to speak
3 from the family?

4 MS. CAMPBELL: We do have Mr. Milliken's
5 daughter. There is nothing I think that she would
6 like to say to the Court, but she has been, you
7 know, I'm sure Your Honor has seen her. She's been
8 here all week, and with that I would turn it over to
9 Your Honor.

10 THE COURT: And for the defense?

11 MS. CORNWELL: Thank you, Your Honor may it
12 please the court? I'm not gonna go into the trial
13 again, you sat here just as long as we did and saw
14 everything. Certainly, this was a tragedy, and the
15 loss of Mr. Milliken's life was unintentional. This
16 was an accident, the murder. Nobody wanted anybody
17 to get hurt or killed. My client maintains that,
18 you know, he was not aware of what was going to
19 happen, and he acted under duress; but if you, as
20 far as his prior record goes, his only prior record
21 is a 2011 Magistrate level breach of trust. You
22 know, the fact that this state has allowed three co-
23 defendants in this matter to all plea to faked armed
24 robbery for 0-20, and yet somehow they feel that
25 what my client did was twice as bad. My client did

1 not bring this firearm to this event. Jamal Coakley
2 did, and but for that gun being brought, Mr.
3 Milliken would still be here today. And so for the
4 State to ask for 40 years, which is double the
5 maximum sentence, that Jamal Coakley could get, that
6 Malik White could get, or that Sarah Barr could get,
7 seems more like persecution and not prosecution.
8 And with that said, Your Honor, the legislation has
9 taken into account what the appropriate sentence for
10 murder is, based on prior records, based on facts of
11 the case, they have given a 30-year minimum, and I
12 believe that this is a case that absolutely deserves
13 a minimum sentence. Particularly, given the way the
14 State sees this case, and sees the co-defendants
15 culpability and punishment. Again, I don't think
16 there is anything -- any evidence, based on that
17 video, based on the testimony, that my client
18 intentionally killed, or meant to harm anybody. And
19 I understand the jury's verdict, and I understand
20 the felony aspect of it, again with the felony
21 murder charge that we objected to, but I, at this
22 point I don't see where the State can ask for
23 anything more than the 30 years. We would request
24 the mandatory minimum of 30 years in this, Your
25 Honor. My client's mother and grandmother have been

1 in the courtroom --

2 THE COURT: right.

3 MS. CORNWELL: -- this entire week, and I
4 do believe his mother would like to approach Your
5 Honor.

6 MS. SUMMERS: Good morning Your Honor.

7 THE COURT: Good morning.

8 MS. SUMMERS: The loss of Mr. Milliken is
9 heartbreaking.

10 COURT REPORTER: I'm sorry, ma'am, could
11 you tell me your name, please?

12 MS. SUMEMRS: Sure, Dietra Summers.

13 COURT REPORTER: Could you spell that?

14 MS. SUMMER: S-U-M-M-E-R-S. What happened
15 to Mr. Milliken is very unfortunate. I know within
16 my heart that my son had no intention of going over
17 there that night and killing someone, because that's
18 just not his heart. That's just not the person that
19 he is.

20 The events of that night, I think some of
21 it came to light, but maybe not all of it, but I
22 know the intention of him was not to see Mr.
23 Milliken lose his life that night. So I know the
24 child that I raised, and I did not raise him to be a
25 murderer, and that's just not who he is. You know,

1 this is very unfortunate. My heart goes out to Mr.
2 Milliken's family. I ask the Court that you have
3 mercy on his sentencing today. He had no intention
4 of being a killer, and intentionally going over
5 there, and having that unfortunate incident happen
6 to Mr. Milliken.

7 And I'm sure he is remorseful for his
8 actions that night, but, unfortunately, we can't
9 turn back the hands of time, and I'm sure if he
10 could, he would have done things a whole lot
11 differently that night. Thank you, Your Honor.

12 THE COURT: Thank you. And anything else
13 from the defense at this point?

14 MS. CORNWELL: No, Your Honor.

15 THE COURT: Your client does not wish to
16 speak?

17 MS. CORNWELL: No, Your Honor not at this
18 time.

19 THE COURT: Oh.

20 MS. CORNWELL: I would tell Your Honor that
21 he has expressed his remorse. He's asked if he
22 could apologize to the victim's family. I told him
23 he's not allowed to, but he would like the Court to
24 know how sorry he is, and that's what I have to say.

25 THE COURT: Does the Court wish for the

1 Court to address the issue of credit for time
2 served, specifically?

3 MS. CORNWELL: I don't know the specific
4 number of days, but we would ask that he get credit
5 for the time that he has served.

6 THE COURT: Well, certainly.

7 MS. CORNWELL: Your Honor, I've been
8 informed he's been in for 701 days.

9 THE COURT: Does that sound correct from
10 the State's perspective, 701 days? Mr. White, on
11 the charge of possession of a weapon during a
12 violent crime, the Court agrees with the
13 recommendations of the State, and sentence you to
14 five years in the Department of Corrections. It
15 would be a concurrent sentence, and you get credit
16 for those days of time served. As to the charge of
17 kidnapping, the Court, again, agrees with the
18 recommendations of the State, and sentence you to
19 the Department of Corrections for a period of 30
20 years. That would be concurrent, and you get credit
21 for time served, as indicated. On the charge of
22 murder, the Court, once again, agrees with the
23 recommendations of the State, sentencing you to 40
24 years in the Department of Corrections, to be
25 concurrent, and you get credit for time served.

1 MS. CORNWELL: Thank you, Your Honor.

2 THE COURT: All right.

3 MS. CAMPBELL: Your Honor, may it please
4 the Court? The State is currently in the process of
5 working with the other defendant in this case.
6 We're bringing him in at noon to our custody. One
7 is not, and we anticipate him in that sentencing
8 today as well.

9 THE COURT: All right.

10 MS. CAMPBELL: Thank you.

11 (At 12:11 p.m. the trial was concluded.)

12 ***

13 END OF VOLUME IV

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CERTIFICATE OF REPORTER

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the Circuit Court for Beaufort County, South Carolina on the 12th Day of August, 2021.

I do further certify that I am neither of kin, counsel, or interest to any party hereto.

This, the *** day of September, 2021.

Kymberlee M. Williams, CSR/RPR

CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 12th to 16th Days of December, 2022.

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

This, the 7th day of June, 2023.

Kymberlee M. Williams, CSR/RPR

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WITNESSES

Beaufort County Sheriff's Office

Todd M. Calhoun

ARREST WARRANT NUMBER

2020A0710300442

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: **SEP 16 2021**

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date: **12/16/22**

DOCKET NO. 2021GS0700101

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

September Term 2021

THE STATE

vs.

DEVANTE LAMONT WHITE

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

RECEIVED

Dec 20 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

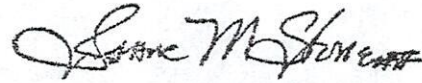
2021GS0700101

At a Court of General Sessions, convened on September 16, 2021, the Grand Jurors of Beaufort County present upon their oath:

Murder

That in Beaufort County, South Carolina, on or about November 16, 2020, the Defendant, DEVANTE LAMONT WHITE, did, with malice aforethought, kill Timothy Milliken and Timothy Milliken did die as a proximate result of defendant's actions, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

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



Solicitor

STATE

DEVANTE LAMONT WHITE

INDICTMENT/CASE#: 2021GS0700101

STATE OF SOUTH CAROLINA

RECEIVED

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

Dec 20 2022

STATE

INDICTMENT/CASE#: 2021GS0700101

VS.

SC Court of Appeals

DEVANTE LAMONT WHITE

A/W#: 2020A0710300442

AKA:

Date of Offense: 11/16/2020

Race:

Sex:

Age:

S.C. Code §: 16-3-10

DOB:

SS#:

CDR Code #: 0116

Address:

City, State, Zip:

SENTENCE SHEET

DL#:

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: MURDERIn violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

 Traci Campbell
 Solicitor

15149

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 40 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.70 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE

DEVANTE LAMONT WHITE

INDICTMENT/CASE#: 2021GS0700101

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ 40.00
	TOTAL	\$ 168.75

 Clerk of Court/Deputy Clerk: Kimberly Williams
 Court Reporter:

 Presiding Judge: [Signature]
 Judge Code: 2139
 Sentence Date: September 16, 2022

WITNESSES

Beaufort County Sheriff's Office

TODD M. CALHOUN

ARREST WARRANT NUMBER

2020A0710300443

ACTION OF GRAND JURY

True Bill*W*
Foreperson of Grand Jury

Date: SEP 16 2021

VERDICT

*Guilty**[Signature]*
Foreperson of Petit Jury

Date: 12/16/22

DOCKET NO. 2021GS0700102

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

September Term 2021

THE STATE

vs.

DEVANTE LAMONT WHITE

Indictment For

Kidnapping

SC Code: 16-3-910

CDR Code: 0095

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

RECEIVED

Dec 20 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

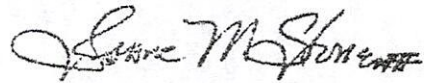
INDICTMENT
2021GS0700102

At a Court of General Sessions, convened on September 16, 2021, the Grand Jurors of Beaufort County present upon their oath:

Kidnapping

That in Beaufort County, South Carolina, on or about November 16, 2020, the Defendant, DEVANTE LAMONT WHITE, did seize, confine, inveigle, decoy, kidnap, abduct or carry away Timothy Milliken without authority of law, all in violation of Section 16-3-910, et al. of the Codes of Law of South Carolina.

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



Solicitor

STATE

DEVANTE LAMONT WHITE

INDICTMENT/CASE#: 2021GS0700102

STATE OF SOUTH CAROLINA

RECEIVED

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

Dec 20 2022

STATE

VS.

INDICTMENT/CASE#: 2021GS0700102

SC Court of Appeals

DEVANTE LAMONT WHITE

A/W#: 2020A0710300443

AKA:

Date of Offense: 11/16/2020

Race:

Sex:

Age:

S.C. Code §: 16-3-910

DOB:

SS#:

CDR Code #: 0095

Address:

City, State, Zip:

DL#*

SID#

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: KIDNAPPINGIn violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☐

As indicted,

☐Lesser Included
Offense,☐

Defendant Waives

Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Traci Campbell
Solicitor

15149

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 30 days/months/years/Time Served☐ Youthful Offender Act not to exceed ____ years

and/or to pay a fine of \$____; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for ____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.701 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE

DEVANTE LAMONT WHITE

INDICTMENT/CASE#: 2021GS0700102

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

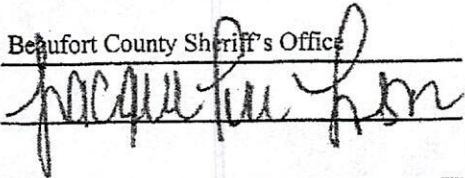
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$25
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
	TOTAL	\$ 128.75

 Clerk of Court/Deputy Clerk: _____
 Court Reporter: _____

 Presiding Judge: _____
 Judge Code: 2139
 Sentence Date: December 16, 2022

WITNESSES

Beaufort County Sheriff's Office



ARREST WARRANT NUMBER

2020A0710300445

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

NOV 04 2021

VERDICT

Guilty

Foreperson of Petit Jury

Date:

12/16/22

DOCKET NO. 2021GS0700111

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

September Term 2021

THE STATE

vs.

DEVANTE LAMONT WHITE

Indictment For

Possession of Weapon During
Violent Crime

SC Code: 16-23-490

CDR Code: 0549

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

RECEIVED

Dec 20 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

)

INDICTMENT

COUNTY OF BEAUFORT

)

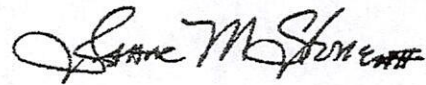
2021GS0700111

At a Court of General Sessions, convened on September 16, 2021, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about November 16, 2020, the Defendant, DEVANTE LAMONT WHITE, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime and DEVANTE LAMONT WHITE was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

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



Solicitor

STATE

DEVANTE LAMONT WHITE

INDICTMENT/CASE#: 2021GS0700111

STATE OF SOUTH CAROLINA

RECEIVED

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

Dec 20 2022

STATE

VS.

SC Court of Appeals

INDICTMENT/CASE#: 2021GS0700111

DEVANTE LAMONT WHITE

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#*

SID#

A/W#:

2020A0710300445

Date of Offense:

11/16/2020

S.C. Code §:

16-23-490

CDR Code #:

0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☒ PLEADSTO: POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIMEIn violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Trasi Campbell
Solicitor

15149

SC Bar #

Defendant

Attorney for Defendant

76577
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SDOC.

701 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE

DEVANTE LAMONT WHITE

INDICTMENT/CASE#: 2021GS0700111

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114 (BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ 40.00
		TOTAL	\$ 168.75

 Clerk of Court/Deputy Clerk: Donna Perry
 Court Reporter: Kimberly Williams
Presiding Judge: [Signature]Judge Code: 2139Sentence Date: December 16, 2022

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 30th day of September, 2024.

RECEIVED

Sep 30 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

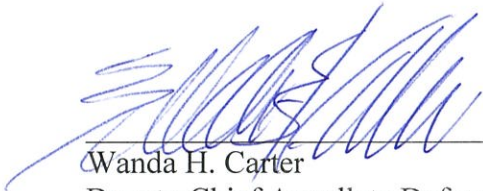
V.

DEVANTE LAMONT WHITE,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon R. Brandon Larrabee Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 30th day of September, 2024.



Wanda H. Carter

Deputy Chief Appellate Defender