

Oct 10 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Barnwell County

Honorable Courtney Clyburn Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SAMMIE GERRICK,

APPELLANT

APPELLATE CASE NO. 2023-002012

RECORD ON APPEAL

LARA M. CAUDY
Senior Appellate Defender

ALAN WILSON
Attorney General

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

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

ATTORNEY FOR APPELLANT

BILL WEEKS
Solicitor, Second Judicial Circuit
141 Main Street, Second Floor
Barnwell, SC 29812
(803) 541-1091

ATTORNEYS FOR RESPONDENT

VOLUME II OF II
PAGES 501-798

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED OCTOBER 29, 2013	1
TESTIMONY	
RICHARD FRIERSON (<i>IN-CAMERA</i>)	14
COURT FINDS DEFENDANT COMPETENT TO STAND TRIAL	26
TRIAL TRANSCRIPT DATED NOVEMBER 13, 2013	28
DEFENSE MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW ENFORCEMENT BY MR. WILLIAMS	29
COURT DEFERS RULING	31
DEFENSE MOTION TO EXCLUDE AUTOPSY PHOTOS BY MR. WILLIAMS	33
RESPONSE BY MR. WATERS	33
DEFENSE MOTION TO SUPPRESS EVIDENCE SEIZED FROM TRUCK BY MR. WILLIAMS	36
RESPONSE BY MR. WATERS	38
COURT DEFERS RULING	46
TESTIMONY	
SHAUN HARLEY (<i>IN-CAMERA</i>)	62
CONTINUED DEFENSE MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW ENFORCEMENT BY MR. WILLIAMS	70
RESPONSE BY MR. WATERS	71
COURT DEFERS RULING	76
TRIAL TRANSCRIPT DATED NOVEMBER 18-21, 2013	82
JURY <i>VOIR DIRE</i>	83
JURY SELECTION	109

OPENING STATEMENT BY MR. WATERS	148

OPENING STATEMENT BY MR. WILLIAMS	156

TESTIMONY

SHAUNTA SMITH	160

MAURICE WILLIAMS	175

JOHN RICE	212

TAYLOR WHITE	219

BRADLEY SMITH	228

SHANKEA DELOACH	234

JAMAAL BERRY	241

KELSEA HALLINGQUEST.....	253

JOHN HOLSTON.....	263

XAVIER MCCOY (<i>IN-CAMERA</i>).....	284

CHARLENE GERRICK (<i>IN-CAMERA</i>).....	294

CHARLENE GERRICK.....	302

SHAUN HARLEY.....	310

DEFENSE MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW ENFORCEMENT BY MR. WILLIAMS.....	335

COURT DENIES MOTION TO EXCLUDE STATEMENT OF DEFENDANT TO LAW ENFORCEMENT	337

COURT DENIES MOTION TO SUPPRESS EVIDENCE SEIZED FROM TRUCK	341

TESTIMONY

SHAUN HARLEY (CONTINUED).....	343

JOHN BURNETT	394

DEFENSE MOTION FOR A MISTRIAL BY MR. WILLIAMS 396

COURT DENIES MOTION FOR A MISTRIAL.....399

TESTIMONY

JOHN BURNETT (CONTINUED).....400

MELISSA SKIPPER-WALLACE.....405

DEFENSE MOTION FOR A MISTRIAL BY MR. WILLIAMS 428

COURT DENIES MOTION FOR A MISTRIAL.....428

TESTIMONY

MELISSA SKIPPER-WALLACE (CONTINUED) 429

JANICE ROSS.....436

GREGORY HINES 454

KAREN MILBRODT 470

DANNY ABRAHAM.....485

LANA JOYNER 490

MARYANN BOEHM 503

CARL SHULTZ.....519

DOROTHY CREECH 537

ANGELA COTTON.....549

ANDRE HIGHTOWER.....557

O'SHANE DIXON 564

JOE THOMAS.....573

EARLY GLOVER.....579

JEFF CROFT 591

JOMAR ALBAYALDE.....	610
STATE RESTS.....	617
DEFENSE MOTION FOR A DIRECTED VERDICT BY MR. WILLIAMS.....	618
RESPONSE BY MR. WATERS.....	623
COURT DENIES MOTION FOR A DIRECTED VERDICT	629
TESTIMONY	
DUSTIN WILLIAMSON (<i>IN-CAMERA</i>)	633
SHAUN HARLEY (<i>IN-CAMERA</i>).....	636
DEFENSE MOTION TO ADMIT STATEMENT BY WILLIAMSON INTO EVIDENCE BY MR. WILLIAMS	645
TESTIMONY	
SHAUN HARLEY (CONTINUED) (<i>IN-CAMERA</i>).....	647
RESPONSE BY MR. WATERS.....	656
COURT DENIES MOTION TO ADMIT STATEMENT BY WILLIAMSON INTO EVIDENCE	662
TESTIMONY COLLOQUY	663
CHARGE CONFERENCE	671
STATE WITHDRAWS OBJECTION TO ADMITTING STATEMENT BY WILLIAMSON INTO EVIDENCE.....	675
CLOSING ARGUMENT BY MR. WATERS.....	681
CLOSING ARGUMENT BY MR. WILLIAMS	687
REPLY CLOSING ARGUMENT BY MR. WATERS	696
CHARGE ON THE LAW	745
VERDICT.....	761
SENTENCING	768

MOTION FOR A NEW TRIAL BASED ON AFTER DISCOVERED EVIDENCE FILED JUNE 12, 2023	771
HEARING TRANSCRIPT DATED JULY 20, 2023	773
MOTION FOR A NEW TRIAL BY MR. GERRICK	779
RESPONSE BY MS. ALLARD	790
COURT DEFERS RULING	791
ORDER DENYING DEFENDANT’S MOTION FOR A NEW TRIAL FILED JULY 26, 2023	794
INDICTMENT	795
SENTENCE SHEET	797
CERTIFICATE OF COUNSEL	798

LANA JOYNER - CROSS/WILLIAMS

1 the Piggly Wiggly.

2 Q. Did the police come to look at the car?

3 A. When I got back up there the police was up there and
4 Tyrone's family was up there.

5 Q. And so after that your family took you back, back
6 home?

7 A. Yes. They took me back to my car.

8 Q. Have you ever known Tyrone ever to let anybody to use
9 his bank card?

10 A. No, sir. Never.

11 MR. WATERS: Thank you very much. Please answer any
12 questions the defense has.

13 CROSS-EXAMINATION

14 BY MR. WILLIAMS:

15 Q. Ms. Joyner, what do you know about Mr. Donaldson's
16 finances?

17 A. Nothing.

18 Q. The solicitor keeps bringing this settlement up. Do
19 you know anything about the terms of the settlement?

20 A. No, sir.

21 Q. Do you know he had a Corvette?

22 A. Yes, sir.

23 Q. Do you know how he got that?

24 A. I know he traded in his Camaro.

25 Q. Okay. And he had a Yukon?

1 A. Yes, sir.

2 Q. And he had that little Honda?

3 A. Yes, sir.

4 Q. All right. And otherwise you don't know about his
5 personal business; do you?

6 A. No, sir.

7 MR. WILLIAMS: All right. Thank you.

8 THE COURT: Anything else?

9 REDIRECT EXAMINATION

10 BY MR. WATERS:

11 Q. Do you remember what his ex-wife who was killed, do
12 you remember what her name was?

13 A. Sherell.

14 Q. And did Tyrone have a tattoo with her name on it, on
15 his arm?

16 A. Yes, sir.

17 Q. And it was kind of a cross and it said --

18 MR. WILLIAMS: Your Honor.

19 THE COURT: Sustained.

20 MR. WATERS: I believe he did ask --

21 THE COURT: Sustained. He asked about a settlement.

22 MR. WATERS: Thank you.

23 THE COURT: You may step down.

24 MR. WATERS: Nothing further.

25 THE COURT: Next witness.

MARYANN E. BOEHM - DIRECT/WATERS

1 MR. WATERS: Your Honor, we call Maryann Boehm.

2 THE COURT: Come around, please.

3 MR. WATERS: I believe she's in the hallway, sir.

4 MARYANN E. BOEHM, having been duly sworn, was examined
5 and testified as follows:

6 THE CLERK: State your full name for the record.

7 THE WITNESS: My name is Maryann E. Boehm.

8 DIRECT EXAMINATION

9 BY MR. WATERS:

10 Q. Ms. Boehm, how are you doing today?

11 A. I'm great.

12 THE COURT: Please spell your last name.

13 THE WITNESS: B-O-E-H-M.

14 THE COURT: Thank you.

15 BY MR. WATERS:

16 Q. And if you would, tell us what your profession is and
17 where you work.

18 A. I work at the South Carolina Law Enforcement Division
19 commonly known as SLED.

20 Q. Okay. And what do you do there?

21 A. I am assigned to the DNA casework department.

22 Q. And is that kind of a forensic science-type stuff?

23 A. Yes, sir. It's forensic DNA analysis.

24 Q. And if you would, just tell us a little bit about your
25 education and training as you prepared for your career in

MARYANN E. BOEHM - DIRECT/WATERS

1 this particular field.

2 A. Sure. I received a Bachelor of Science from James
3 Madison University which is in Harrisonburg, Virginia, in
4 integrated science and technology with a concentration in
5 biotechnology.

6 When I was employed at SLED, I went through
7 approximately a year of training by court-qualified
8 analysts in the proper procedures and techniques used in
9 our laboratory. I successfully completed competency tests
10 and mock trials, all sorts of training aspects before I
11 became a full forensic DNA analysis -- analyst.

12 Q. Okay. And how long have you been doing that?

13 A. Approximately eight years.

14 Q. And has all of that been with SLED?

15 A. Yes, sir.

16 Q. And how many DNA analyses have you done over that
17 period of time?

18 A. Thousands.

19 Q. Okay. And have you ever testified in court before on
20 DNA results?

21 A. Yes, I have.

22 Q. Okay. How many time, do you think?

23 A. Approximately 35 times.

24 Q. Would that be in state court? Federal court?

25 A. Just in state, county courts.

MARYANN E. BOEHM - DIRECT/WATERS

1 Q. Okay.

2 MR. WATERS: Your Honor, at this time, I would move to
3 qualify Ms. Boehm in the field of forensic DNA analysis.

4 THE COURT: Any cross-examination on her
5 qualifications?

6 MR. WILLIAMS: Without objection.

7 THE COURT: Thank you. She'll be so admitted.

8 MR. WATERS: Thank you, Your Honor.

9 Q. Ms. Boehm, am I saying that right?

10 A. Boehm.

11 Q. I apologize. Did you review any evidence in this
12 particular case, the case with Sammie Gerrick as the
13 Defendant and Tyrone Donaldson as the victim?

14 A. Yes, sir; I did.

15 Q. Okay. And, did you analyze any evidence?

16 A. Yes, sir; I did.

17 Q. Okay. And if you would, tell us -- just explain to
18 the jury a little bit about how DNA analysis works, how
19 the matches are made.

20 A. Okay. First I'm going to explain what DNA is. It's a
21 chemical found throughout all the cells of our body except
22 for red blood cells. It gives us our physical features
23 like our hair color and height and eye color. It's also
24 responsible for passing on traits from generation to
25 generation. We get half of our DNA from our mother and

MARYANN E. BOEHM - DIRECT/WATERS

1 half from our father. With the exception of identical
2 twins, no two people have the same DNA.

3 In forensic science, we are interested in the portions
4 of DNA that differ from individual to individual. We test
5 15 different locations. The combination of those test
6 results make up what we call a DNA profile.

7 So when I get evidence in, I first screen it. If I'm
8 looking for a body fluid such as blood or saliva, I then
9 will take a portion of that evidence sample and extract
10 the DNA out of it and generate a DNA profile. I will also
11 do that to any known standards submitted in that case.

12 Known standards are usually blood or saliva cells from
13 a known source, a known individual. I will then compare
14 the DNA profile from the evidence to the known standards
15 and either include or exclude those individuals.

16 Q. Okay. And is there any sort of, I guess, statistical
17 analysis that goes along with that in determining -- in
18 making those matches, or how does that work?

19 A. Yes. Whenever we say match, when evidence matches a
20 profile we will give a weight to it by statistics which
21 will say how rare that profile is within the population.

22 Q. Okay. All right. If you would, did you prepare a
23 report in this particular case?

24 A. Yes, I did.

25 Q. And you got it in front of you to refer to?

MARYANN E. BOEHM - DIRECT/WATERS

1 A. Yes, sir.

2 Q. Okay. And were you asked to process some things that
3 were collected from an automobile?

4 A. Yes, I was.

5 Q. Okay. And tell me, what do you -- how do you get
6 evidence to compare that to? I mean, what evidence do you
7 obtain to compare whatever you may collect from, or what
8 may be provided to you that was collected from a
9 particular subject area to persons? How do you go about
10 doing that? I mean, do you get standards or how does that
11 work?

12 A. Yes. The law enforcement agency who is investigating
13 the case will submit the evidence as well as known
14 standards for comparison.

15 Q. All right. And what were the standards -- or, who did
16 you have standards from in this particular case?

17 A. I received standards from Tyrone Donaldson, Charlene
18 Gerrick and Sammie Lee Gerrick.

19 Q. All right. And tell us -- first of all, if you would,
20 tell us the items that you, particularly that you tested,
21 where they were from, where you actually received some
22 sort of result if you would, please.

23 A. Okay. Item 15 which was swabs from a shifter knob.

24 THE COURT: I'm sorry. Fifteen was what?

25 THE WITNESS: Swabs from a shifter knob.

MARYANN E. BOEHM - DIRECT/WATERS

1 THE COURT: Spell that, shifter.

2 MR. WATERS: Shifter.

3 THE WITNESS: S-H-I-F-T-E-R.

4 THE COURT: Shifter. Thank you.

5 THE WITNESS: Swabs -- item 16 was items -- swabs from
6 the left side of the steering wheel.

7 Item 17 was swabs from the right side of the steering
8 wheel.

9 Item 18 was swabs from the driver's door armrest.

10 BY MR. WATERS:

11 Q. Okay. And let's start with item 15, did you have any
12 result from item 15?

13 A. Yes.

14 Q. And tell us what that was.

15 A. The partial DNA profile developed from item 15 which
16 was the swabs from the shifter knob is a mixture of at
17 least two individuals. Tyrone Donaldson cannot be
18 excluded as a possible contributor to this mixture.
19 Charlene Gerrick and Sammie Lee Gerrick can be excluded as
20 possible contributors to this mixture.

21 Q. So the shifter knob in Tyrone's car, he could not be
22 excluded from being in his own car; correct?

23 A. Yes, sir.

24 Q. So at least from what you developed, it didn't have
25 Sammie Gerrick or Charlene Gerrick in there?

MARYANN E. BOEHM - DIRECT/WATERS

1 A. That's correct.

2 Q. All right. Let's go on to 16. And tell me where that
3 was from, and what you found there.

4 A. Item 16 which was the swabs from the left side of the
5 steering wheel. The DNA profile developed from item 16 is
6 a mixture of at least two individuals. Tyrone Donaldson
7 cannot be excluded as a possible contributor to this
8 mixture.

9 Charlene Gerrick and Sammie Lee Gerrick can be
10 excluded as possible contributors to this mixture.

11 Q. So the standard that was developed there, again,
12 Tyrone was, you had -- he could possibly be the subject of
13 what was in his own car, but you didn't get something from
14 Sammie or Charlene; is that correct?

15 A. Right. They were excluded.

16 Q. Okay. And then 17, how about that one?

17 A. Item 17 which was swabs from the right side of the
18 steering wheel. The DNA profile developed from item 17 is
19 mixture of at least two individuals.

20 Tyrone Donaldson cannot be excluded as a possible
21 contributor to this mixture. Charlene Gerrick and Sammie
22 Gerrick can be excluded as possible contributors to this
23 mixture.

24 Q. Okay. So same thing. On those three things in
25 Tyrone's car, he could be a possible contributor but at

MARYANN E. BOEHM - DIRECT/WATERS

1 least from the standard that was developed not Sammie or
2 Charlene; is that correct?

3 A. That's correct.

4 Q. How about 18? Tell me what happened with 18. Where
5 was that from?

6 A. Item 18 was collected from the driver's door armrest.
7 And no DNA profile was developed from this item.

8 Q. Okay. And, what about item 48? What happened with
9 that one? Excuse me; 49.

10 A. Item 49 was a cigarette butt from the southeast
11 quarter of the dig site on the ground. And no DNA profile
12 was developed from this item.

13 Q. And then what about 48? Tell me about that one.

14 A. Item 48 also was a cigarette butt from the center
15 northwest quarter of dig site in the leaves and no human
16 DNA was detected from item 48.

17 Q. All right. Well, let's talk about that. You had --
18 we had three samples from the car where we had Tyrone
19 being in his own car but we couldn't -- or at least the
20 sample that you had didn't show Sammie Gerrick or Charlene
21 Gerrick.

22 And then you had 18 which was also in his car. And
23 you had no DNA profile whatsoever from that; is that
24 correct?

25 A. That's correct.

MARYANN E. BOEHM - DIRECT/WATERS

1 Q. Well, explain to us -- I mean, is it -- explain to us
2 how this works. What particular kind of DNA was being
3 looked for? And explain to us why you might not find DNA
4 in every single instance.

5 A. Sure. What we are looking for is touch DNA. And when
6 we look for touch DNA it's anytime -- there are skin cells
7 are deposited when you touch an item. So if I touch this
8 arm of the chair, I may or may not leave some skin cells
9 behind.

10 There are many factors that go into it, how frequently
11 I touch the object. Like if it was my own car, the
12 steering wheel in my own car, it's more likely that my DNA
13 would be found on it than if I just brush up against this
14 arm of the chair, I may not leave enough DNA behind to be
15 detected.

16 It also depends on how hard or how much force you put
17 on the object. If I just lightly touch the arm of the
18 chair, I may not leave as many cells behind as if I rub
19 the arm of the chair, I'd probably leave more.

20 Also if I'm sweating, sweating you leave -- there's
21 more potential to leave skin cells behind versus if you're
22 not.

23 So, it's very common to find the normal user of an
24 object on an item that they use, you know, every day,
25 multiple times a day. Sometimes though you may not find

MARYANN E. BOEHM - DIRECT/WATERS

1 it just because of how often it was touched or how it was
2 touched.

3 Q. So if you had a normal user it's just likely you might
4 find some, or it's more likely you might you find some
5 touch DNA. If you had somebody who was in there briefly
6 or something like that, it's not necessarily that you're
7 going to find some touch DNA; is that correct?

8 A. That's correct.

9 Q. Okay. And if somebody were to wipe or clean or
10 something like that, that could potentially preclude the
11 possibility of finding touch DNA; is that correct?

12 A. That's correct.

13 Q. So if somebody drove a car and they didn't want to be
14 detected and they wiped some things down, they might
15 remove any DNA that they had?

16 A. Yes. It's possible.

17 Q. And additionally, just because it's touch DNA you're
18 just, you know, and you're getting standards, taking swabs
19 from the car and that sort of thing, it's -- you're just
20 not going to always find it in every case; is that fair to
21 say?

22 A. That's correct.

23 Q. Okay. And have you come across cases where an
24 individual was present somewhere from other evidence but
25 the swabs did not come back with touch DNA?

MARYANN E. BOEHM - DIRECT/WATERS

1 A. Yes. That's happened.

2 Q. Okay. And so, touch DNA is really more of a
3 confirmation that somebody was there at some particular
4 time, it's not a exclusion of somebody necessarily being
5 there?

6 A. That's correct. If I don't find a profile it doesn't
7 mean the person didn't necessarily touch it. It means
8 that they didn't leave enough DNA behind or, you know,
9 they could have had clothing on to protect the skin from
10 that item, or they could have cleaned it.

11 Q. Okay. And that's not an uncommon thing that we find
12 or we don't find it; is that fair to say?

13 A. That's fair to say.

14 Q. In real life, unlike maybe what you see on TV, there's
15 not always some magic piece of evidence in every single
16 case; is that accurate?

17 A. Right. Every case isn't perfect.

18 Q. Okay. All right. And there's not always some magic
19 piece of forensic evidence; is that correct?

20 A. That is correct.

21 Q. Some cases you just need good old regular police work;
22 correct?

23 A. Yes. That's correct.

24 Q. Now you mentioned also and I guess this is along the
25 same lines that we had 18 which was also in his car and

MARYANN E. BOEHM - DIRECT/WATERS

1 you got nothing from that; correct?

2 A. Yes. No DNA profile was developed from that item.

3 Q. Okay. And what exactly does that mean, that it was
4 detected but none, it was insufficient to develop a
5 profile?

6 A. Right. During the laboratory process we first see how
7 much DNA we have. And for this item there was a tiny bit
8 of DNA there, but not enough to generate any test results.

9 Q. Okay. And then on 48. And I believe 48 was a
10 cigarette butt from the dig site; is that correct?

11 A. That's correct.

12 Q. And then you had no DNA detected on that; is that
13 correct?

14 A. That's correct.

15 Q. And so is that another example, I mean, you would
16 expect or there's the possibility of touch DNA from
17 somebody smoking a cigarette or even saliva; is that
18 accurate?

19 A. Yes. Either touch or I would mainly think saliva
20 would on a cigarette butt.

21 Q. And would the fact that something's been outside, been
22 weathered, been subject to the elements and that sort of
23 thing, does that -- would that have a negative effect on,
24 potentially have a negative effect on the ability for
25 detection?

MARYANN E. BOEHM - CROSS/WILLIAMS

1 A. That's correct. Sunlight and extreme heat and
2 moisture can have a damaging effect on DNA.

3 Q. Okay. So if you're at a scene and it's in the
4 summertime and it's really hot and there have been
5 thunderstorms and all the rest of it and you got things
6 laying on the ground, that could severely negatively
7 impact the potential of finding any workable DNA evidence
8 there?

9 A. Yes, sir; that's correct.

10 Q. Okay. All right.

11 MR. WATERS: Nothing further. Please answer any
12 questions the defense has.

13 CROSS-EXAMINATION

14 BY MR. WILLIAMS:

15 Q. Ms. Boehm, you tested several item, places in the car,
16 right and the left hand of the steering wheel; correct?

17 A. That's correct.

18 Q. And the shift lever thingamajigger?

19 A. That's correct.

20 Q. And you found DNA that couldn't be excluded from
21 Tyrone Donaldson but you said you found two or more
22 different types of DNA there?

23 A. Right. Those items were -- make sure that at least
24 two individuals, meaning more than one person, left DNA
25 behind on those items.

MARYANN E. BOEHM - CROSS/WILLIAMS

1 And Tyrone Donaldson could possibly be one of those
2 contributors.

3 Q. And it could be people with DNA there that we just
4 don't know who they are; is that correct?

5 A. Right. They do not -- the known standards that were
6 submitted in the case are the only ones I compared the
7 evidence to.

8 And I included Tyrone Donaldson and I excluded
9 Charlene Gerrick and Sammie Lee Gerrick from those items.

10 Q. Okay. And are you aware that there was a gun, shotgun
11 case taken from that car as part of this criminal
12 investigation?

13 A. No, I'm not aware.

14 Q. Were you asked to do any DNA studies on a shotgun
15 case?

16 A. No, sir.

17 Q. And are you aware that there were shotgun shells found
18 at the scene?

19 A. No, sir.

20 Q. And were you asked to do any DNA studies on shotgun
21 shells?

22 A. No, sir.

23 Q. And I understand what you're telling me that you can't
24 find DNA all the time on something. But when you have a
25 serious case like a murder case, it's important to look;

MARYANN E. BOEHM - CROSS/WILLIAMS

1 isn't it?

2 A. I believe -- that's not up to me to make those
3 decisions of whether DNA analysis is done on certain
4 items.

5 Q. You don't make that decision but, I mean, DNA analysis
6 can crack the case; can't it?

7 A. It's possible.

8 Q. All right. And so, when you got something serious
9 like this going on, you want to look at everything you can
10 even if there's no DNA there just to make sure there's no
11 evidence left behind; correct?

12 A. I would assume so.

13 Q. All right. And when police officers do that good old
14 regular police work, that's what they should do, they
15 should bring you everything that you could possibly find
16 some DNA on so you can check it out and verify it;
17 correct?

18 A. Well at SLED we have a policy. There are guidelines
19 that we have them narrow the evidence down to five items
20 to start with.

21 And then if we want to do more, if they want us to do
22 more DNA analysis on more items, then they can go ahead
23 and request it at that time. But we start with five
24 items.

25 Q. And you've never got that request; did you?

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 A. No, sir.

2 MR. WILLIAMS: Thank you. That's all I have.

3 THE COURT: Redirect.

4 REDIRECT-EXAMINATION

5 BY MR. WATERS:

6 Q. You're mentioning the policy at SLED. And that's
7 because it's up to the officer to determine the items that
8 have evidentiary significance and submit those ones to you
9 for DNA testing, the ones that are most likely to contain
10 potential relevant evidence; is that correct?

11 A. That is correct.

12 MR. WATERS: Okay. Thank you very much. Nothing
13 further.

14 THE COURT: You may step down. May she be released to
15 go back to work?

16 MR. WATERS: Yes, sir, Your Honor.

17 THE COURT: Or go back to SLED.

18 THE WITNESS: Yeah.

19 THE COURT: Be careful. Next witness, please.

20 MR. ANDERS: Thank you. State call Officer Carl
21 Shultz.

22 CARL WAYNE SHULTZ, having been duly sworn, was
23 examined and testified as follows:

24 THE CLERK: If you would, please, sir, have a seat and
25 state your full name for the record.

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 THE WITNESS: Carl Wayne Shultz, S-H-U-L-T-Z.

2 DIRECT EXAMINATION

3 BY MR. ANDERS:

4 Q. Officer Shultz, where are you employed?

5 A. I'm currently a lieutenant with the Orangeburg
6 Department of Public Safety.

7 Q. If you could, just tell the jury a little about your
8 history in law enforcement.

9 A. I've been in law enforcement a little over 21 years.

10 I started with Orangeburg Public Safety. Also worked at
11 the Beaufort Police Department. I went back to Orangeburg
12 in 2007 to help get their crime scene program off the
13 ground.

14 Q. And what are your duties? What do you focus on mainly
15 there?

16 A. Currently I'm the division commander in charge of
17 investigations and forensic services. During the years
18 I've been a crime scene investigator, a latent print
19 examiner. I still do those things. I'm also a certified
20 latent print examiner, certified crime scene investigator,
21 one of 800 in the United States through the International
22 Association of Identification. I also run AFIS which is
23 Automated Fingerprint Identification System.

24 Q. We'll get to AFIS in a little while, but just to get
25 back to your certification and your education. As far as

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 latent prints, can you tell the jury a little bit more
2 about any certification you've received and training.

3 A. Over the years I've had over a thousand hours of
4 training, 200 of that has been in the examination of
5 latent fingerprints. We also do yearly competency testing
6 through the CPS Forensic Services and with SLED. I've
7 been through a SLED internship of over 120 hours.

8 MR. ANDERS: Your Honor, at this time we'd offer
9 Officer Shultz as an expert in latent fingerprint
10 detection.

11 MR. WILLIAMS: Without objection.

12 MR. ANDERS: Thank you, Your Honor.

13 Q. Were you employed with the Orangeburg Department of
14 Public Safety in July of 2011?

15 A. I was.

16 Q. All right. And how did this case -- how did you
17 become involved with the case that we're here today for?

18 A. On July 22nd, I was supervising the crime scene unit
19 at that time. I was contacted and advised that a white
20 Honda had been recovered in a parking lot off John
21 C. Calhoun Drive. At the time we were told it was a
22 missing person's case and that the Blackville Police
23 Department had asked us to process the vehicle since we
24 found it in our jurisdiction and we have a forensic
25 laboratory.

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 MR. ANDERS: May I approach, Your Honor?

2 THE COURT: You may.

3 BY MR. ANDERS:

4 Q. I'm handing you what's been marked as State's Exhibit
5 Number Five. Can you tell me what that is?

6 A. That's a picture of a white Honda parked in the China
7 Express parking lot on John C. Calhoun Drive. It was
8 parked, backed into a parking spot in the rear of the
9 business.

10 Q. Is that the car that you processed --

11 THE COURT: Hold on a second. You all agreed on
12 this?

13 MR. WILLIAMS: I think I'm going to.

14 THE COURT: Well, look at it before we start talking
15 about it.

16 MR. WILLIAMS: (Complies.) Without objection.

17 THE COURT: Without objection, State's Five, photo of
18 car.

19 (State's Exhibit No. 5, photograph, received into
20 evidence.)

21 BY MR. ANDERS:

22 Q. Officer Shultz, is that the vehicle that you processed
23 in July of 2011?

24 A. Correct.

25 Q. Can you tell the jury just a little bit about what you

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 do when you process vehicles?

2 A. We treat a vehicle just like any other crime scene. A
3 crime scene can be anything from a vehicle to an outdoor
4 scene, a room.

5 In this case we took pictures all the way around,
6 360-degree view of the vehicle, inside and out. Prior to
7 that the vehicle was towed to our impound facility so it
8 was secured.

9 We -- once we take pictures of it we start going
10 through it meticulously to see if there's any evidence we
11 can visually see. We'll photograph any evidence we can
12 collect. After that's done, we'll go through and process
13 it for latent fingerprints.

14 And that's what we did on that day.

15 Q. And I believe you were in the courtroom during the
16 testimony of the last witness and she talked about
17 swabs --

18 A. Correct.

19 Q. -- on the shifter knob and some other areas of the
20 car. You performed that; correct?

21 A. Correct. We took the swabs from the vehicle in those
22 areas because those areas stay with the car. We swab them
23 using a wet/dry method. Basically it's just a big Q-tip.
24 We put sterile saline water on it, we swab it. And at the
25 time you don't know if you're getting anything on it or

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 not. That's when the DNA analysis comes in.

2 There were other items collected from the vehicle to
3 be turned in to be processed at the lab.

4 Q. And all those items you collect -- do you recall some
5 of the other items?

6 A. There was a -- I can refer to my notes, but there was
7 a Sunkist bottle, just a strap from a purse, a Hardee's
8 cup and straw, cell phone charger, some CDs, dried
9 tobacco, paper towel, a gold button, and a CD from the
10 front storage compartment.

11 Q. So everything you find that there may be some possible
12 evidentiary value to, you sort of package and send it to
13 SLED?

14 A. Correct.

15 Q. Along with the swabs?

16 A. Correct. And in this particular case since we were
17 just processing the vehicle assisting an agency, we
18 package that stuff and send it to SLED. If it was ours,
19 we would have processed it in the vehicle. We wouldn't
20 have to package --

21 Q. You don't do any of the testing?

22 A. No, none of the tests on DNA.

23 Q. All right. I'd like to get back to the fingerprint.
24 Can you tell the jury the process of fingerprinting, how
25 you collect fingerprints, how you process fingerprints?

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 A. Fingerprints are -- we heard yesterday but they are
2 basically deposits of oily secretions from your fingers
3 along with your perspiration, water, that are left on
4 surfaces. Normally a smooth surface is the best to
5 develop fingerprints off of.

6 What we do is we use a simple brush. Same technique
7 they used for over a hundred years. In fact, we use black
8 volcanic powder. It adheres to the fingerprint, the
9 moisture in the print and develops the black prints like
10 most of us has seen on TV. Once the print is developed we
11 take clear tape, lift it, and put it on a white index
12 card.

13 Q. I believe there was testimony and I believe you just
14 said that fingerprints are fragile.

15 A. They are very fragile.

16 Q. And, the more likely something is going to be touched
17 or has been touched, the more likely fingerprints are
18 going to be found?

19 A. That is correct.

20 Q. Okay. May I approach, Your Honor?

21 THE COURT: You may.

22 BY MR. ANDERS:

23 Q. Officer Shultz, I'm handing you what's been marked as
24 State's Exhibit 63. What is that?

25 A. Sixty-three is a latent lift that contains several

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 latent fingerprints that was taken off of the front right
2 passenger door of the white Honda. And that would have
3 been in that position on the door itself.

4 Q. Okay. But you took these?

5 A. I took these, yes.

6 MR. ANDERS: Your Honor, at this time we would move to
7 enter these into evidence.

8 MR. WILLIAMS: Without objection.

9 (State's Exhibit No. 63, photograph, received into
10 evidence.)

11 BY MR. ANDERS:

12 Q. Officer Shultz, if you would, just tell the jury what
13 that is.

14 A. This is what I described earlier of when the print's
15 on the car, you put the black powder on it. It comes up
16 in a black, it adheres to the moisture and the ridges that
17 are left, it's lifted onto the tap and then placed on this
18 card.

19 And what that is, it was taken off the door frame in
20 just this manner. It was the back -- you have a door, you
21 have the window, back of the door frame and you have the
22 prints on it. Just like this. Like someone had shut the
23 door.

24 Q. What door was that?

25 A. The front right passenger door.

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 Q. Front right passenger?

2 A. Correct.

3 Q. Okay. And whose prints are those?

4 A. They were searched through South Carolina AFIS and
5 came back to Mr. Gerrick.

6 Q. All right. And I see that there's some numbers on
7 there. Is that just 4. --

8 A. What we do is we mark them by item number. This was
9 item number four in our evidence chain. On the card
10 itself there's three individual latents that are
11 identifiable. There's some others on here that are
12 smudges that are not identifiable, but they're identified
13 4.2.1, .2 and .3 which are the three fingers on the card
14 that were lifted from the door.

15 Q. All right. I am now handing you what's been marked as
16 State's Exhibit 64. I believe I've shown this to defense
17 attorney. But can you tell me what that is?

18 A. This is a printout from the AFIS system. Once the
19 print is run through the system and we come back on
20 identification, this is a printout showing the print from
21 the known print from the system, the latent print and its
22 position in the group that it came back in. It came back
23 as number one.

24 MR. ANDERS: Your Honor, at this time we'd move to
25 enter State's Exhibit 64 in evidence.

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 MR. WILLIAMS: Without objection.

2 (State's Exhibit 64, photograph, received into
3 evidence.)

4 BY MR. ANDERS:

5 Q. If you could, just tell the jury what that is again,
6 and whose print is that.

7 A. The print that came back belonged to Mr. Gerrick. It
8 was the number three finger, which is the middle finger,
9 of the right hand.

10 Q. The State is now handing you what's been marked as
11 State's Exhibit 65.

12 A. Same type of fingerprint.

13 Q. What is that?

14 A. This is the latent that was entered into the system.
15 This is the latent that was printed or that it was
16 identified to -- belonging to Mr. Gerrick. It is his
17 number -- this -- I'm sorry. This is a chart --

18 Q. Without saying what it is, let me just -- okay.

19 MR. ANDERS: Your Honor, I did show all of these to
20 defense. We now --

21 THE COURT: Any objection to 65?

22 MR. WILLIAMS: No objection.

23 THE COURT: Without objection.

24 (State's Exhibit No. 65, photograph, received into
25 evidence.)

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 BY MR. ANDERS:

2 Q. I'm going to go ahead and show you 66 and 67.

3 THE COURT: Which is this?

4 MR. ANDERS: Your Honor, this is State's Exhibit 66.

5 THE COURT: Sixty-six is what?

6 THE WITNESS: Sixty-six is the AFIS printout
7 identification.

8 THE COURT: Okay.

9 THE WITNESS: And this is the same that we saw
10 earlier. This is just a different finger. This is the
11 number two finger of Mr. Gerrick. That's the latent that
12 was put in the system, and this is the identified.

13 MR. ANDERS: Your Honor, we'd move to enter this into
14 evidence as well.

15 THE COURT: This being what?

16 MR. ANDERS: This is State's 66, Your Honor.

17 THE COURT: Thank you.

18 (State's Exhibit No. 66, photograph, received into
19 evidence.)

20 MR. ANDERS: Your Honor, we're now handing 67 to the
21 witness.

22 Q. Can you identify that, State's 67?

23 A. This is a chart printout of the last fingerprint that
24 was ran through the system that just shows the
25 identification points.

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 Q. Okay.

2 MR. ANDERS: And, Your Honor, we would now move to
3 enter State's Exhibit 67 into evidence.

4 MR. WILLIAMS: Without objection.

5 (State's Exhibit No. 67, photograph, received into
6 evidence.)

7 BY MR. ANDERS:

8 Q. I'm going to hand these back to you. Just starting
9 with State's Exhibit 64, just tell me what that is, and
10 what the numbers mean. And what -- why does that look
11 like a computer screen? How do you come up with these
12 print identifications?

13 A. The AFIS system is essentially a computer program -- a
14 computer system -- a computer program. It is similar to
15 what you see on TV but very dissimilar in that it requires
16 a lot of human interaction.

17 What we do is, the latent print that you saw earlier,
18 we'll take that, scan it into the system. Once it's
19 scanned into the system, I have to go in and make sure
20 that the points or specific features inside the print is
21 marked correctly.

22 Once it's run through the system it's checked against
23 one of two databases; the FBI database which is a national
24 database, or the state database. These databases hold all
25 offender prints. Anytime someone is arrested, their

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 prints are put into the system.

2 This particular print was searched through the state,
3 SC AFIS, database. Once the print is searched, it comes
4 back. It doesn't tell me who it belongs to. It gives me
5 a SCID number which is your South Carolina inmate
6 identification number, essentially. It's on your criminal
7 history. It doesn't tell me who it belongs to. It
8 doesn't give me any particulars, height, weight, date of
9 birth, anything like that.

10 And it comes up, our system is set to bring back 15
11 potential matches. This one came back. It was in the
12 number one spot. And the reason it gives us 15 is because
13 it doesn't know anything except the measurement. And what
14 it does is when you're plotting these points, it measures
15 the distance between these points.

16 No two fingerprints are the same with the same
17 features, however they may have features that are the same
18 distance apart. So what happens is, it comes back with 15
19 matches and I have to go in and look at this and make sure
20 that the one that it says is number one is essentially the
21 print that I put in. And in this case it was. It came
22 back --

23 Q. And you did that in this case?

24 A. I did that in this case. I do that on every -- every
25 latent I run through the system.

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 Q. And I know you just said this, but there's a database
2 and if you get arrested your fingerprints are there?

3 A. You are in that database if you have been arrested;
4 correct.

5 Q. And then you get 15 potentials and you have to go back
6 and --

7 A. Compare --

8 Q. -- compare.

9 A. -- each one to eliminate them or to confirm
10 identification.

11 MR. ANDERS: May I approach, Your Honor?

12 Q. I'm handing you what's been moved into evidence as
13 State's Exhibit 67. Could you tell the jury what that is?

14 A. This is a chart of the print that was matched through
15 AFIS. When it's run through it comes back with a screen
16 that you just saw. This is, once I determine that it is
17 the same fingerprint, I do have a positive identification,
18 I chart this print and I will mark them one through --
19 this one has, this particular one has one through six on
20 it.

21 And what that is, that is individual specific features
22 of the latent that was lifted and the known print. And I
23 do a comparison too, so you can see that they're all in
24 the same location.

25 Q. All right. So, the prints that you found were the

CARL WAYNE SCHULTZ - DIRECT/ANDERS

1 ones that you ran -- well, let me ask you. How many
2 prints did you collect, total?

3 A. Six, I believe. Let me make sure. Five. There was
4 five all together. Five cards of latents were lifted from
5 the entire vehicle.

6 Q. All right. And so there was one set belonging to the
7 Defendant?

8 A. Correct.

9 Q. And how about the others?

10 A. They were all ran through the AFIS database with no
11 identifications.

12 Q. Okay. So, no matches?

13 A. No matches.

14 Q. And have you been -- okay. So there's nobody in the
15 system that those matched to?

16 A. Correct.

17 Q. And so what can you do with those at that point?

18 A. At that point we can get an individual's rolled
19 fingerprints.

20 Q. Uh-huh.

21 A. And at that particular point we could not get the
22 victim's fingerprints because, like we talked about with
23 DNA, you would assume the victim's fingerprints would be
24 on the car. Mr. Donaldson should have been on there,
25 however we couldn't get his known standard. He was not in

CARL WAYNE SCHULTZ - CROSS/WILLIAMS

1 the system.

2 Q. Okay. And at that point his body was --

3 A. Deteriorated.

4 Q. -- not suitable for that?

5 A. Correct. Correct.

6 MR. ANDERS: Beg the Court's indulgence.

7 Thank you, Officer Shultz. Answer any questions

8 Mr. Williams may have.

9 THE COURT: Mr. Williams?

10 THE WITNESS: Thank you.

11 CROSS-EXAMINATION

12 BY MR. WILLIAMS:

13 Q. Officer Shultz, before you identified a fingerprint
14 from 4.4. I believe that's on the back of trunk of the
15 car; is that correct?

16 A. From 4.4?

17 Q. Right.

18 THE COURT: Mr. Williams, hold on.

19 BY MR. WILLIAMS:

20 Q. And I just -- while we were marking some items I
21 showed you some prints lifted from the trunk.

22 A. Correct. It was lifted from there. It was not
23 identified.

24 Q. Okay. They were prints that you could identify, you
25 just don't know who they belonged to?

CARL WAYNE SCHULTZ - CROSS/WILLIAMS

1 A. Correct, correct.

2 Q. All right. And of course you photographed the best
3 you could these prints also?

4 A. Correct.

5 Q. I'm showing what we've marked just for identification
6 as three pictures of the trunk.

7 THE COURT: Number, please?

8 MR. WILLIAMS: They're Numbers Three, Four and Five,
9 Your Honor, Defendant's Exhibits.

10 THE COURT: And you're asking him to identify them?

11 MR. WILLIAMS: Yes.

12 THE COURT: Can you identify Three, Four and Five?

13 THE WITNESS: Yes, sir. This is Three, Four and Five
14 are all photographs --

15 THE COURT: Just, can you or can't you?

16 THE WITNESS: Yes.

17 THE COURT: Mr. Williams.

18 MR. WILLIAMS: Your Honor, I'd offer these into
19 evidence.

20 THE COURT: Any objection?

21 MR. ANDERS: No objection.

22 (Defendant's Exhibit Nos. 3, 4 and 5, photographs,
23 received into evidence.)

24 BY MR. WILLIAMS:

25 Q. Let me show you again Defendant's Exhibits Three, Four

CARL WAYNE SCHULTZ - CROSS/WILLIAMS

1 and Five. Those were taken by you from the trunk of the
2 car; correct?

3 A. Correct.

4 Q. And you ran that through the AFIS system also?

5 A. That's correct.

6 Q. And they're not Sammie Gerrick's?

7 A. They are not.

8 Q. All right. And we don't know whether they're Tyrone
9 Donaldson's or not?

10 A. We do not.

11 Q. And we don't know whose they are?

12 A. At this time we do not.

13 Q. And those are dirty fingerprints on the back of the
14 trunk of the car; correct?

15 A. They were fingerprints on the back of the trunk; yes,
16 sir.

17 Q. And you processed the car and there was a shotgun case
18 found in the car?

19 A. In the trunk, yes.

20 Q. In the trunk. And, once again, Sammie Gerrick's
21 fingerprints, they were found on the passenger door;
22 correct?

23 A. Correct.

24 Q. On the front?

25 A. Correct.

CARL WAYNE SCHULTZ - REDIRECT/ANDERS

1 Q. And did you process the shotgun shell case -- the
2 shotgun case in any way?

3 A. No.

4 Q. You sent that to SLED to be processed?

5 A. Everything that was collected out of the vehicle was
6 send to SLED.

7 MR. WILLIAMS: No further questions.

8 THE COURT: Redirect?

9 REDIRECT EXAMINATION

10 BY MR. ANDERS:

11 Q. The defense attorney brings up the prints on the
12 trunk. We don't know whose they were.

13 A. I do not.

14 Q. You ran them?

15 A. I did.

16 Q. All you know whoever's prints those are, they weren't
17 in the system.

18 A. They were not in the system.

19 Q. And there was a shotgun case that belonged to the
20 victim in the trunk?

21 A. Correct.

22 Q. And that's where it was found?

23 A. Correct.

24 MR. ANDERS: No further questions.

25 THE COURT: You may step down. May he be released

DOROTHY CREECH - DIRECT/ANDERS

1 from his subpoena?

2 MR. ANDERS: Yes, sir, Your Honor.

3 MR. WATERS: Yes, Your Honor.

4 THE COURT: Thank you. Next witness. Hold on a
5 second. Everybody okay? We'll do one more.

6 Next witness.

7 MR. ANDERS: Your Honor, the State calls Ms. Dorothy
8 Creech.

9 DOROTHY CREECH, having been duly sworn, was examined
10 and testified as follows:

11 THE CLERK: If you would, please, ma'am, be seated and
12 state your full name for the record. Okay?

13 THE WITNESS: Dorothy Creech.

14 DIRECT EXAMINATION

15 BY MR. ANDERS:

16 Q. Mrs. Creech, where do you work?

17 A. Enterprise Bank in Blackville.

18 Q. How long have you worked there?

19 A. Twelve and a half years.

20 Q. What are your duties at the bank?

21 A. I'm branch manager.

22 Q. I believe you just told me. Where is that bank
23 located?

24 A. On Main Street in Blackville.

25 Q. Okay. In July of 2011, did you have any contact with

DOROTHY CREECH - DIRECT/ANDERS

1 Chief Holston of the Blackville Police Department?

2 A. Yes, I did.

3 Q. And what was -- why did y'all get together?

4 A. He brought in a subpoena.

5 Q. Okay. And did he ask for something specifically?

6 A. Yes.

7 Q. Okay. And what did he ask for?

8 A. He asked for any pictures or documents from an ATM
9 card that was used at our ATM.

10 Q. Okay. Do you have security cameras --

11 A. Yes, sir, we do.

12 Q. -- at the bank? Are they regularly maintained?

13 A. Yes, sir.

14 Q. And watched?

15 A. Yes, sir.

16 MR. ANDERS: Your Honor, may I approach?

17 THE COURT: You may.

18 BY MR. ANDERS:

19 Q. All right. I'm handing you what's been marked as
20 State's Exhibit 52.

21 A. Yes, sir.

22 Q. What is that?

23 A. This is the actual pictures that we received from our
24 home office from the ATM machine and the cameras out front
25 from the subpoena.

DOROTHY CREECH - DIRECT/ANDERS

1 Q. Okay. And did you give this to Chief Holston?

2 A. Yes, I did.

3 MR. ANDERS: Your Honor, at this time --

4 MR. WILLIAMS: No objection.

5 THE COURT: Without objection.

6 (State's Exhibit No. 52, CD, received into evidence.)

7 BY MR. ANDERS:

8 Q. I'm going to show you what's been marked as State's

9 53.

10 A. Yes.

11 Q. Can you tell us what that is?

12 A. This is the same. It's the same picture basically,
13 different angle.

14 Q. Right.

15 MR. ANDERS: Your Honor, at this time we --

16 THE COURT: Any objection to 53?

17 MR. WILLIAMS: No objection.

18 (State's Exhibit No. 53, CD, received into evidence.)

19 BY MR. ANDERS:

20 Q. So, Mrs. Creech, this is security footage from your
21 bank?

22 A. Yes, sir.

23 Q. In Blackville?

24 A. Yes, sir.

25 MR. ANDERS: Your Honor, permission to publish this to

DOROTHY CREECH - DIRECT/ANDERS

1 the jury?

2 THE COURT: Yes, sir.

3 MR. WATERS: Your Honor, I apologize. I'm having
4 technical difficulty here.

5 THE COURT: Do you need some help?

6 MR. WATERS: I may. Give me one second. I've got it.

7 THE COURT: I'm going to get you some help.

8 MR. WATERS: I think I've got it.

9 THE COURT: Doesn't sound like it. We don't have any
10 children in the audience?

11 MR. WATERS: Right. If I had my son here we'd be in
12 business.

13 (Pause. Video played for the jury.)

14 BY MR. ANDERS:

15 Q. Mrs. Creech, where is this located at your bank?

16 A. At the front.

17 Q. This is at the front?

18 A. Yes, sir.

19 THE COURT: Can you identify the date?

20 MR. ANDERS: I'm sorry. Let me ask you that.

21 Q. Can you see this date?

22 A. Yes, sir. It's July 21st, 2011.

23 Q. All right. And the time? It's military. It's 1451?

24 A. So it would be two, 2:54.

25 Q. That's correct. And then this says? Can you -- I

DOROTHY CREECH - DIRECT/ANDERS

1 know that's a long way away. East front?

2 A. Yes, sir.

3 Q. That's what you just testified to. Thank you.

4 THE COURT: Can you make it bigger?

5 MR. WATERS: I think that's as big as we can make it,
6 Your Honor.

7 THE COURT: Okay. No problem.

8 MR. ANDERS: Are you ready?

9 MR. WATERS: Yep.

10 (Video played for the jury.)

11 BY MR. ANDERS:

12 Q. All right. Stop.

13 Ms. Creech, you just saw this vehicle come into the
14 screen?

15 A. Yes, sir.

16 Q. And do you know what kind of vehicle that might be?

17 A. It's a Honda Accord.

18 Q. And what color is it?

19 A. White.

20 MR. ANDERS: Yep.

21 MR. WATERS: Yep.

22 (Video played for the jury.)

23 BY MR. ANDERS:

24 Q. All right. And you saw a vehicle come around from
25 this direction; correct?

DOROTHY CREECH - DIRECT/ANDERS

1 A. Yes, sir.

2 Q. And what kind of vehicle does that appear to be?

3 A. A pickup truck.

4 Q. Can you make out the color from there?

5 A. No, sir. Not really.

6 Q. Okay.

7 MR. WATERS: Back it up a bit.

8 (Video played for the jury.)

9 BY MR. ANDERS:

10 Q. What color does that appear to you?

11 A. Burgundy.

12 Q. Burgundy. All right. Play.

13 MR. WATERS: All right.

14 MR. ANDERS: All right. And keep playing.

15 MR. WATERS: It's coming.

16 (Video played for the jury.)

17 BY MR. ANDERS:

18 Q. As they leave, can you describe what happens in that
19 video?

20 A. The truck pulls out from the side of the bank and the
21 white Honda pulls out behind the truck and follows it.

22 THE COURT: What number was that, please, 52 or 53?

23 MR. ANDERS: That was 52, Your Honor.

24 MR. WATERS: Fifty-two.

25 MR. ANDERS: May I approach, Your Honor?

DOROTHY CREECH - DIRECT/ANDERS

1 THE COURT: You may.

2 BY MR. ANDERS:

3 Q. Ms. Creech, I'm handing you what's been marked State's
4 Exhibit 49.

5 (Shown to defense counsel.)

6 THE COURT: Let me have some lights, please.

7 BY MR. ANDERS:

8 Q. Can you tell me what that's a picture of?

9 A. This is the picture of the truck that came by the side
10 of the bank.

11 Q. Okay. And what is the time and date on that?

12 A. It is 7-21-2011 at 12:54.

13 Q. Okay.

14 THE COURT: 12?

15 MR. ANDERS: Roughly this time; correct?

16 THE WITNESS: I mean 2:54. I'm sorry. 2:54.

17 THE COURT: Is that a still of what's going on here?

18 MR. ANDERS: This is a still, Your Honor.

19 THE COURT: Okay.

20 MR. WILLIAMS: No objection.

21 MR. ANDERS: We'd enter this into evidence.

22 THE COURT: Still of Number 52.

23 (State's Exhibit No. 49, photograph, received into
24 evidence.)

25 BY MR. ANDERS:

DOROTHY CREECH - DIRECT/ANDERS

1 Q. Ms. Creech, now I'm going to show you --

2 Your Honor, permission to publish State's 53?

3 THE COURT: That's the other video of the different
4 angle?

5 MR. ANDERS: Yes, Your Honor.

6 THE COURT: Different camera?

7 MR. ANDERS: Yes, Your Honor.

8 (Video played for the jury.)

9 BY MR. ANDERS:

10 Q. Ms. Creech, can you tell the jury if -- what point of
11 view -- where is this camera located and what is it
12 showing?

13 A. It's the side of the bank parking lot by the ATM.

14 Q. Can you make out the date and time on that?

15 A. It is 7-21-2011 at 1454.

16 Q. Which is?

17 A. 2:54.

18 Q. Thank you. Can you describe that truck for the jury?

19 A. Burgundy Dodge Ram truck.

20 Q. Thank you. And he would be coming from where?

21 A. From around the bank.

22 Q. Okay.

23 MR. ANDERS: Having some problems with State's Exhibit
24 53, the remainder of the clips. If I may --

25 THE COURT: Turn the lights on for me.

DOROTHY CREECH - DIRECT/ANDERS

1 MR. ANDERS: -- approach the witness?

2 THE COURT: You may.

3 MR. ANDERS: Never mind. I think he got it. Thank
4 you.

5 MR. WATERS: Sorry everybody.

6 (Video played for the jury.)

7 BY MR. ANDERS:

8 Q. Can you make out that date and time?

9 A. It is 7-21-2011 at 20 -- well, it's eight o'clock at
10 night.

11 Q. P.M.?

12 A. Yes, sir.

13 Q. And describe that vehicle for the jury.

14 A. Burgundy Dodge Ram.

15 THE COURT: This is still part of 53, just later in
16 the day?

17 MR. ANDERS: Yes, Your Honor. It's 53, it's on the
18 same video.

19 THE COURT: Thank you.

20 BY MR. ANDERS:

21 Q. All right. What is this person doing?

22 A. They're at our ATM.

23 Q. Can you identify that person in the vehicle?

24 A. No, sir.

25 Q. Okay.

DOROTHY CREECH - DIRECT/ANDERS

1 MR. ANDERS: Permission to approach, Your Honor?

2 MR. WATERS: Lights.

3 BY MR. ANDERS:

4 Q. I'm going to hand you what's been marked as State's
5 Exhibit 50. Is that a view from -- or, what is that?

6 A. This is the same picture from the ATM for the same
7 day.

8 Q. That's a still of the eight o'clock --

9 A. Yes, sir.

10 Q. -- security footage?

11 A. Yes, sir. It is.

12 Q. Thank you.

13 THE COURT: Fifty is the still of the video at eight
14 o'clock?

15 MR. ANDERS: Yes, Your Honor.

16 MR. WILLIAMS: No objection.

17 (State's Exhibit No. 50, photograph, received into
18 evidence.)

19 BY MR. ANDERS:

20 Q. All right. And I'm going to hand this picture back to
21 you. And what is that person doing in the vehicle?

22 THE COURT: Fifty?

23 MR. ANDERS: Yes, Your Honor.

24 THE WITNESS: ATM card in their hand to use in the
25 ATM.

DOROTHY CREECH - CROSS/WILLIAMS

1 BY MR. ANDERS:

2 Q. Okay. And that is July 21st, 2011, at eight o'clock
3 P.M.?

4 A. Yes, sir. Yes, sir.

5 MR. ANDERS: Thank you, Ms. Creech. Please answer any
6 questions defense has.

7 THE COURT: Cross.

8 MR. WILLIAMS: Just one.

9 CROSS-EXAMINATION

10 BY MR. WILLIAMS:

11 Q. Let me show you again, Ms. Creech, State's Exhibit
12 50.

13 A. Yes.

14 Q. And you recognize that there's a person there and he's
15 wearing a shirt?

16 A. Yes.

17 Q. Describe the shirt for me.

18 A. It looks like a striped shirt.

19 Q. Brown and white? Brown and beige?

20 A. (Nods head). White, burgundy. It looks like got a
21 black stripe in it.

22 MR. WILLIAMS: Okay. No further questions.

23 THE WITNESS: Okay.

24 THE COURT: May Ms. Creech be released from her
25 subpoena?

DOROTHY CREECH - CROSS/WILLIAMS

1 MR. ANDERS: She may, Your Honor.

2 THE COURT: Thank you, Ms. Creech.

3 THE WITNESS: Thank you.

4 THE COURT: All right. Mr. Foreman, ladies and
5 gentlemen, we're going to take our morning break, about 15
6 minutes. Please don't discuss the case, don't
7 deliberate.

8 I'll have the clerk step back and y'all can decide on
9 your lunch. Anything but Little Howie's. Thank you.

10 Everybody else remain seated.

11 (Jury exits courtroom at 11:01 A.M.)

12 THE COURT: Let me see you gentlemen in chambers,
13 please.

14 (Break taken at 11:02 a.m. At 11:28 A.M., the trial
15 resumed:)

16 THE COURT: Anything from State before we start back?

17 MR. WATERS: No, sir, Your Honor.

18 THE COURT: Mr. Williams?

19 MR. WILLIAMS: No, sir, Your Honor.

20 (Jury enters courtroom at 11:29 A.M.)

21 THE COURT: You may call your next witness.

22 MR. ANDERS: Thank you, Your Honor. The State calls
23 Angela Cotton.

24 THE COURT: Ms. Cotton.

25 ANGELA COTTON, having been duly sworn, was examined

ANGELA COTTON - DIRECT/ANDERS

1 and testified as follows:

2 THE CLERK: If you would, please, ma'am, have a seat.
3 State your full name for the record.

4 THE WITNESS: Angela Cotton. C-O-T-T-O-N.

5 DIRECT EXAMINATION

6 BY MR. ANDERS:

7 Q. Ms. Cotton, where do you work?

8 A. I'm employed with SRP Federal Credit Union here in
9 Barnwell.

10 Q. How long have you worked there?

11 A. Twenty-three years.

12 Q. And what are your duties there?

13 A. I'm the assistant branch manager.

14 Q. Okay. And you worked there in July of 2011?

15 A. I did.

16 MR. ANDERS: May I approach, Your Honor?

17 THE COURT: You may.

18 BY MR. ANDERS:

19 Q. I'm handing you what's been marked as State's Exhibit
20 54.

21 THE COURT: Five-four?

22 MR. ANDERS: Yes, Your Honor.

23 Q. What are those? Without saying whose they are.

24 A. ATM dialog reports.

25 Q. Okay.

ANGELA COTTON - DIRECT/ANDERS

1 A. They're transactions that have taken place on an
2 account.

3 Q. Are those records that your business keeps?

4 A. Yes, they are.

5 Q. Thank you.

6 MR. WILLIAMS: Without objection.

7 THE COURT: Fifty-four, without objection.

8 MR. ANDERS: Thank you, Your Honor.

9 (State's Exhibit No. 54, SRP records, received into
10 evidence.)

11 BY MR. ANDERS:

12 Q. What's the account number on those, Ms. Cotton?

13 A. The account number is Member Number [REDACTED].

14 Q. Okay. And how about the card number?

15 A. The card number is [REDACTED]-034.

16 Q. And whose account is that?

17 A. This account is Tyrone Donaldson's account.

18 Q. And if you could, tell me the dates that these banks
19 records cover.

20 A. July 24th, July 22nd, July 21st.

21 THE COURT: Twenty-one, 22, and 24; is that correct?

22 THE WITNESS: Yes, sir.

23 THE COURT: Thank you.

24 BY MR. ANDERS:

25 Q. Ms. Cotton, if you could, let's start at the top. I

ANGELA COTTON - DIRECT/ANDERS

1 believe it says acquire date. What does that mean?

2 A. The acquire date is the date of the transaction, when
3 the card was presented.

4 Q. And you gave these records to law enforcement?

5 A. Yes, I did.

6 Q. Okay. And is that your arrow that you put down on
7 your records?

8 A. Yes, it is.

9 Q. What is that arrow used to signify?

10 A. That is either the date that the transaction took
11 place or the date that the transaction cleared the
12 member's account.

13 Q. And let's go through the first one. On page one at
14 the top, what's the acquire date and time?

15 A. The acquired time is July 22nd, and it's at 8:30.

16 Q. All right. And --

17 THE COURT: A.M. or P.M.?

18 THE WITNESS: P.M., 2030 is the military time.

19 BY MR. ANDERS:

20 Q. All right. What does that transaction, what is it
21 showing us? What is that record showing us of this
22 transaction?

23 A. That transaction is showing when it cleared the
24 account, Mr. Donaldson's account, from Palm Pantry. It
25 was a \$35 charge.

ANGELA COTTON - DIRECT/ANDERS

1 Q. And that was July 22nd at eight o'clock?

2 A. Correct.

3 THE COURT: P-A-L-M Pantry?

4 THE WITNESS: P-A-L-M Pantry One.

5 BY MR. ANDERS:

6 Q. And where was the Palm Pantry located or where is it
7 located?

8 A. This indicates Bamberg, South Carolina.

9 Q. And let's go to the next transaction. What's the
10 acquire date and time on that transaction?

11 A. July 22nd, 1950 is the time.

12 Q. All right. So, in civilian time that would be 7:50?

13 A. 7:50.

14 Q. Okay. And what is that transaction? Tell the jury
15 what that transaction is of.

16 A. This transaction is for Bamberg Auto Parts for \$36.36.

17 Q. All right. And the -- where was -- where did the
18 transaction take place?

19 A. Bamberg, South Carolina.

20 Q. All right. If we could go to page two. Would you
21 tell the jury the next acquire date and time?

22 A. The acquire date in time is July 22nd the time is 8:37

23 A.M. This is actually when the card was presented at the
24 business. It shows a signature authorization at Bamberg
25 Auto Parts for \$36.36.

ANGELA COTTON - DIRECT/ANDERS

1 Q. All right. If we can go to page number three at the
2 top. Can you describe the transaction at the top, please?
3 When it took place, where it took place.

4 A. July 22nd at 8:25 A.M. This transaction is when the
5 card was presented at Palm Pantry for \$35.

6 Q. And that's Bamberg?

7 A. In Bamberg, South Carolina.

8 Q. And the next transaction, please?

9 A. The next transaction is an ATM withdrawal. And it's
10 July 22nd at 8:22 A.M. It's at Palm Pantry One ATM in
11 Bamberg.

12 Q. All right. And so this is an in-store ATM that you
13 see in convenience stores?

14 A. Yes, it is.

15 Q. And what was the amount of that transaction?

16 A. The amount of the transaction is \$102, \$100 would be
17 the amount of transaction and then a \$2 fee.

18 Q. All right. And if you would, please, turn the page to
19 page number four. Could you tell the jury the date and
20 time and the transaction?

21 A. This is again an ATM transaction on July 22nd at 8:21
22 A.M., at Palm Pantry in Bamberg, South Carolina. And it
23 is for \$202.

24 Q. All right. So it was \$200 and I imagine the other --

25 A. A \$2 fee.

ANGELA COTTON - DIRECT/ANDERS

1 Q. -- \$2 fee?

2 A. For a foreign transaction.

3 Q. And that was Bamberg?

4 A. Yes, sir; 2859 Main Highway is the address, yes.

5 Q. All right. And that was the same as the previous Palm
6 Pantry ATM transaction; correct?

7 A. Yes, sir.

8 Q. All right. And the next transaction, I believe you
9 made a notation about that transaction when you gave these
10 records to law enforcement.

11 May I approach, Your Honor?

12 A. Yes, sir. This is an ATM withdrawal. It's on July
13 22nd, at 8:17 A.M. It was for \$403 at Bank and Trust, 317
14 North Main Street, Bamberg.

15 Q. Okay. Is there anything different about this
16 transaction than the rest of them?

17 A. This transaction was a withdrawal from his savings
18 account, not his checking account.

19 Q. Out of Mr. Donaldson's savings account?

20 A. Correct.

21 Q. And, again, I apologize, the transaction date and time
22 was, when?

23 A. July 22nd, 8:17 A.M.

24 Q. If you could go to page five. If you could just tell
25 jury the date and time of that transaction, please, and

ANGELA COTTON - DIRECT/ANDERS

1 the amount.

2 A. The first transaction is a bill payment transaction.

3 At -- on July 22nd at 8:34 -- no, excuse me. That's --

4 that would be 34, so that would be --

5 Q. That would be 12:34?

6 A. -- 12:34 in morning. And it's for SCANA Energy,

7 Columbia, South Carolina. And the amount of the

8 transaction is \$103.50.

9 Q. So somebody was paying bills at 12:30 A.M.?

10 A. Correct.

11 Q. And the next transaction?

12 A. The next transaction is also a bill pay transaction on

13 7-22 at 12:31 A.M. It's also for SCANA Energy out of

14 Columbia, South Carolina, for \$603.50.

15 Q. All right. And if you would turn to page six for me,

16 please. The second transaction.

17 A. The second transaction is an ATM withdrawal from

18 checking on July 21st. The time is 2001 which would be

19 8:01 P.M. It's for \$302.50 at Enterprise Bank, 227 Main

20 Street, Blackville.

21 Q. And you were here earlier during the testimony of

22 Ms. Creech?

23 A. I was.

24 Q. And there was somebody who made an ATM withdrawal at

25 approximately that time; correct?

ANDRE HIGHTOWER - DIRECT/ANDERS

1 A. Correct.

2 Q. At that same bank?

3 A. Correct.

4 MR. ANDERS: Beg the Court's indulgence.

5 (Pause.) No further questions, Your Honor.

6 THE COURT: Mr. Williams.

7 CROSS-EXAMINATION

8 BY MR. WILLIAMS:

9 Q. Ms. Cotton, to make these ATM withdrawals you have to
10 have a PIN number; is that correct?

11 A. That is correct.

12 Q. Is it the same PIN number for the savings account and
13 the checking account or are they different?

14 A. No, it's the same number.

15 MR. WILLIAMS: Thank you, ma'am. That's all I have.

16 THE COURT: You may step down.

17 MR. ANDERS: State calls Andre Hightower.

18 ANDRE HIGHTOWER, having been duly sworn, was examined
19 and testified as follows:

20 THE CLERK: State your full name for the record.

21 THE WITNESS: Andre Hightower.

22 THE COURT: Speak up for me, please.

23 THE WITNESS: Andre Hightower.

24

25

ANDRE HIGHTOWER - DIRECT/ANDERS

DIRECT EXAMINATION

BY MR. ANDERS:

Q. Good morning, Mr. Hightower, how are you?

A. All right.

Q. Mr. Hightower, tell the jury a little bit about yourself. Where are you from, and where were you raised?

A. I'm from Denmark, South Carolina. I was raised in Denmark, South Carolina.

Q. And what's your present occupation?

A. I run a vending route, vending machine.

Q. Okay. And how about schooling? Did you receive any schooling?

A. Yes, I'm in WIA.

Q. You're nervous, I can tell?

A. Yeah, I'm nervous. I ain't never did this before.

Q. Just slow down. It will be all right.

All right. So you -- so you got a vending machine route; correct?

A. Yes, sir.

Q. All right. And, ironically, do you have the vending -- what is your route, where do you place these vending machines?

A. My route run from Barnwell County all the way to Orangeburg County.

Q. All right. And what kind of -- where do you have

ANDRE HIGHTOWER - DIRECT/ANDERS

1 vending machines?

2 A. One is in the courtroom (verbatim) downstairs. I got
3 several. One is at the fire station. One is at B&B Ford,
4 at the Medical Center and Barnwell Disability Center.

5 Q. All right. And now are these your vending machines?
6 Are you in business with somebody?

7 A. They're my machines. I buy used machines and fix them
8 and then put them in places.

9 Q. All right. So you refurbish machines and put them in
10 and do it that way?

11 A. Yes. I do my own work.

12 Q. Let me ask you a question. Let me take you back. Do
13 you know the Defendant?

14 A. Just saying hey, bye. That's it.

15 Q. Okay. How did Tyrone Donaldson -- did you know
16 Tyrone?

17 A. The same situation; speak, keep going.

18 Q. All right. So it sounds like you didn't know them
19 very well, either of them?

20 A. No.

21 Q. All right. Do you recall July 21st, 2011?

22 A. Yeah. I was in Greenville and my -- Crystal was at
23 her sister house.

24 Q. Let me just back up. Who's Crystal?

25 A. Crystal's my girlfriend.

ANDRE HIGHTOWER - CROSS/WILLILAMS

1 Q. All right. Was --

2 A. Uh-huh.

3 Q. So where were you on that date?

4 A. Greenville.

5 Q. All right. Do you have kids together? Does she have
6 kids?

7 A. She got a son.

8 Q. All right. Was the son with you in Greenville?

9 A. Yes.

10 Q. Were you ever with Sammie Gerrick that day?

11 A. No.

12 Q. Were you ever with Tyrone Donaldson that day?

13 A. No.

14 Q. And, again, how about Big Joe? Does that name ring a
15 bell?

16 A. I don't even know who that is.

17 Q. Okay.

18 MR. ANDERS: No further questions, Your Honor.

19 THE COURT: Cross.

20 CROSS-EXAMINATION

21 BY MR. WILLIAMS:

22 Q. Mr. Hightower, how long have you been in the used
23 vending machine business?

24 A. Now for about a year and a half.

25 Q. How did you get in that business?

ANDRE HIGHTOWER - CROSS/WILLILAMS

1 A. Just learning about the machines once they break,
2 knowing what's next. Costs more in the vending machine
3 than it do if you just buy it out of the store.

4 Q. How did you buy your machines?

5 A. How did I buy them? They scrap machines. They don't
6 cost much, probably 50, \$60 and then you go and fix them
7 yourself.

8 Q. And what other kind of work have you done?

9 A. I worked at Holland Hitch. I worked at SCANA. I
10 worked at Okonite and I worked at a place in Blackville, I
11 done forgot the name of it. Right there -- Climax Global.

12 Q. How do you remember being in Greenville specifically
13 on July 21st?

14 A. I'm not specifically sure of the date because how long
15 it been, but once -- I was in Greenville, me and Crystal,
16 and her brother called and said that Tyrone was missing.
17 And I ain't thought nothing else about it.

18 Q. Okay.

19 A. All right. And then we came back, I think the
20 following day or whatever. And Jeffrey Corley little boy
21 came to the house. His mama dropped him off. And he was
22 telling me that the family of Bill DeLoach and the family
23 was calling my name at their house. So I called Chief
24 Holston and I was, like, what's this about my name in this
25 altercation.

ANDRE HIGHTOWER - CROSS/WILLILAMS

1 Q. Well now, hold on a second. Somebody called you
2 from -- while you were in Greenville and told you about
3 Tyrone?

4 A. Yes.

5 Q. You didn't know Tyrone, I didn't think.

6 A. I didn't. Just telling the family. Crystal is from
7 Blackville.

8 Q. Yeah. You're from Denmark?

9 A. Right.

10 Q. All right.

11 A. So...

12 Q. You didn't know Tyrone?

13 A. They didn't call me. They called Crystal.

14 Q. How are you related to Charlene Gerrick?

15 A. Charlene Gerrick?

16 Q. Yeah.

17 A. Who is Charlene Gerrick?

18 Q. You don't know Charlene Gerrick?

19 A. No.

20 Q. Is your father and her stepfather related in some way?

21 A. I don't know.

22 Q. Okay.

23 A. My father and her stepfather? I don't know. I don't
24 know.

25 Q. How do you know O'Shane Dixon?

ANDRE HIGHTOWER - CROSS/WILLILAMS

- 1 A. I don't know him.
- 2 Q. Do you have dogs?
- 3 A. No.
- 4 Q. You ever own dogs?
- 5 A. Yes.
- 6 Q. What kinds of dogs?
- 7 A. Pit bulls.
- 8 Q. Pit bulls. When did you own pit bulls?
- 9 A. That was years ago.
- 10 Q. Okay. And let's go back to Bill DeLoach.
- 11 A. Uh-huh.
- 12 Q. Bill DeLoach was talking about you?
- 13 A. Yeah. From what the little boy say.
- 14 Q. Okay. And why was you concerned about that?
- 15 A. You hear your named called in something, you're going
- 16 to call and talk to whoever.
- 17 Q. But -- are you sure you were in Greenville on the 21st
- 18 when you get this call about Tyrone, or you don't know?
- 19 A. I just, I just can say that I was in Greenville when
- 20 the call came through. I didn't get the call, again.
- 21 Q. Okay. But that could have been on the 22nd or 23rd;
- 22 right?
- 23 A. I mean, you can ask Chief Holston what date it was I
- 24 called him.
- 25 Q. All right. And you went from the Blackville-Denmark

O'SHANE DIXON - DIRECT/ANDERS

1 area to Greenville; right?

2 A. Yes, I left Blackville and went to Greenville.

3 Q. Right after the 21st; right?

4 A. No, I'm not saying it was right after the 21st.

5 Q. How long were you in Greenville?

6 A. I think two days.

7 Q. Okay. All right. And who went with to you
8 Greenville?

9 A. Crystal and her boy.

10 Q. Does she still live in the Blackville area?

11 A. No, she don't.

12 Q. Where is she at?

13 A. Columbia.

14 Q. And how old are you?

15 A. Thirty-two.

16 MR. WILLIAMS: That's all I have, Your Honor.

17 MR. ANDERS: Nothing further, Your Honor.

18 THE COURT: All right. Mr. Hightower, you may step
19 down. You're free to go.

20 THE WITNESS: All right.

21 THE COURT: Next witness?

22 MR. ANDERS: The State calls O'Shane Dixon.

23 O'SHANE DIXON, having been duly sworn, was examined
24 and testified as follows:

25 THE CLERK: If you would, please, sir, be seated and

O'SHANE DIXON - DIRECT/ANDERS

1 state your full name for the record. Okay?

2 THE WITNESS: O'Shane Dixon.

3 DIRECT EXAMINATION

4 BY MR. ANDERS:

5 Q. Mr. Dixon, where are you from?

6 A. Blackville.

7 Q. Blackville?

8 A. (Nods head.)

9 Q. You been there all your life?

10 A. That's right.

11 Q. What do you do for a living?

12 A. I'm unemployed right now.

13 Q. Okay. How did you know -- how do you know the
14 Defendant?

15 A. We used to go fishing, whatnot, probably like once a
16 week, sometimes twice a week. And, you know, that's as
17 far as it went.

18 Q. Did y'all hang out?

19 A. No, not really.

20 Q. Fishing buddies?

21 A. That's it.

22 Q. All right. Have you been in trouble with the law in
23 the past?

24 A. Couple years back.

25 Q. All right. Do you recall when it was and what you

O'SHANE DIXON - DIRECT/ANDERS

1 did?

2 A. I really couldn't -- I really couldn't recall, you
3 know, like, how far, like, how many years back, but I did
4 have a charge one time though.

5 Q. All right. If I told you burglary second
6 non-violent --

7 A. Right.

8 Q. -- and you pled guilty --

9 A. Right.

10 Q. -- in 2010 --

11 A. That's right.

12 Q. -- and got probation?

13 A. Right.

14 Q. You've been in trouble ever since?

15 A. No.

16 Q. All right. Do you recall July 2011?

17 A. Right.

18 Q. All right. Can you tell the jury what you recall from
19 July of 2011, specifically the 21st?

20 A. I received, it was, like, say about 6:30, seven
21 o'clock, I received -- well before that, you know, I found
22 out that, you know, that Tyrone been missing. And this
23 was like about 4:30, five. And about seven, 7:30, then I
24 started getting phone calls from, you know, from
25 Mr. Gerrick stating that, you know, did I know that he was

O'SHANE DIXON - DIRECT/ANDERS

1 missing and I was, like, yeah, I heard about it. And then
2 after that, you know, I started receiving more phone calls
3 over and over and over, asking me, you know, what else did
4 I hear about the situation about Tyrone.

5 Q. All right. Let me just interject. When you said more
6 phone calls, who were those phone calls from; do you
7 recall?

8 A. Sam, Sammie.

9 Q. Sammie?

10 A. Uh-huh.

11 Q. So when you say more phone calls, you know, can you
12 describe? Every couple minutes? Every 10 minutes?

13 A. Like, I'd say, like, about every 10, 15 minutes.

14 Q. What was he wanting to know?

15 A. He wanting to know, you know, what else did I hear
16 whatnot, you know, about the Tyrone situation.

17 Q. All right. And what did you tell him?

18 A. I told him I didn't hear nothing else about it. The
19 only thing I told him, you know, was, they still said, you
20 know, they still haven't found him or whatnot.

21 Q. That was on Thursday the 31st?

22 A. Right.

23 Q. All right. Did you talk about anything else with
24 Mr. Gerrick?

25 A. No, just that.

O'SHANE DIXON - DIRECT/ANDERS

1 Q. Had y'all planned on going fishing at some point that
2 day or the next day?

3 A. It was the next day.

4 Q. And what conversation did you have with the Defendant?

5 A. He was, like, you know, you know, whether we still
6 going fishing the next day. And I was, like, you know,
7 you know, now that he came up missing or whatnot and, you
8 know, and he kept calling me over and over and over like
9 that, you know, I kind of like, you know, kind of like
10 postponed the fishing trip and whatnot.

11 And then after, you know, then he kept calling or
12 whatnot but I still didn't answer the phone, you know.
13 And that was the end of that though.

14 Q. And you gave a statement to law enforcement?

15 A. Right.

16 Q. All right. And what was the reason the Defendant gave
17 you for not going fishing?

18 A. Say that again.

19 Q. Did the Defendant give you a reason for him not
20 calling you to go fishing or for y'all not to go fishing?

21 A. No, he didn't.

22 Q. Okay. Did you ever speak with the Defendant on the
23 23rd?

24 A. No.

25 Q. All right. Did you speak with the Defendant -- was

O'SHANE DIXON - DIRECT/ANDERS

1 there a point in time, without stating any reason why, but
2 was there a point in time when you cut off communication
3 from the Defendant?

4 A. Right.

5 Q. When was that?

6 A. That was, that was on the same day, you know, the same
7 day actually, you know, he went missing, whatnot.

8 Q. All right. Do you know where you were July 21st, that
9 Thursday, 2011?

10 A. When he was doing the calling?

11 Q. Well, where were you? What were you doing on that
12 day?

13 A. Oh.

14 Q. Do you recall?

15 A. I was at the house. I was at, you know, where I was
16 living at, [REDACTED] Jones Bridge Road.

17 Q. Okay. And what were you doing at the house?

18 A. I was watching my kids.

19 Q. How many kids do you have?

20 A. Three.

21 Q. And from what time -- how long were you at your house
22 watching your children?

23 A. From that morning all the way up until about, I'd say
24 between 4:30, five.

25 Q. What happened at 4:30 or five?

O'SHANE DIXON - DIRECT/ANDERS

- 1 A. Then I went out to my sister house.
- 2 Q. Did you go there with anybody?
- 3 A. Say that again.
- 4 Q. Did you go there with anybody?
- 5 A. With my kids.
- 6 Q. Okay. Were you dating anybody at the time?
- 7 A. My kids' mother.
- 8 Q. Okay. And so, where's your sister live?
- 9 A. Hampton Apartment.
- 10 Q. Were you ever with the Defendant at any time on July
- 11 21st, 2011?
- 12 A. No.
- 13 Q. Were you with him any date on July 22nd, 2011?
- 14 A. No.
- 15 Q. How about the 23rd?
- 16 A. No.
- 17 Q. How did you find out that Tyrone Donaldson was
- 18 missing?
- 19 A. Because after I got, when I left from the house and
- 20 then when I went to my sister house it was a friend I went
- 21 to school with, he came in and, you know --
- 22 Q. What's his name?
- 23 A. Reginald Eady.
- 24 Q. Okay. What did he say?
- 25 A. He came in and, you know, he asked me did I hear

O'SHANE DIXON - CROSS/WILLIAMS

1 anything about, you know, Tyrone went missing. I was like
2 no. And then, you know, he started telling me about he
3 went missing and that's where I got it from.

4 Q. Okay. And about what time was that?

5 A. That was like, between, say about 4:30, five.

6 MR. ANDERS: Beg the Court's indulgence.

7 (Pause.)

8 MR. ANDERS: No further questions, Your Honor.

9 THE COURT: Mr. Williams?

10 CROSS-EXAMINATION

11 BY MR. WILLIAMS:

12 Q. Mr. Dixon, at 4:30 or five o'clock on July 25th (sic),
13 you already knew that Mr. Donaldson was missing?

14 A. No.

15 Q. Am I wrong about that?

16 A. Right. You're wrong about that.

17 Q. Huh?

18 A. You're wrong about that.

19 Q. What time did you tell me? Correct me.

20 A. When I left from the house it was like, it was like
21 between 4:30, five and when I found out he was missing
22 when I got out to my sister house. That's when I found
23 out he was missing, when a friend came and told me that he
24 was missing.

25 Q. So what time was that?

O'SHANE DIXON - CROSS/WILLIAMS

1 A. I'd say about 4:45.

2 Q. 4:45?

3 A. Right. By the time I got to my sister house it's
4 still between 4:30 and five.

5 Q. Okay. So early that afternoon -- well, in the middle
6 of the afternoon you knew he was missing; right?

7 A. Yeah.

8 Q. All right. And you live on Jones Bridge Road;
9 correct?

10 A. Yeah, at the time I did.

11 Q. All right. And you're not working anywhere now?

12 A. That's right. That's right.

13 Q. When's the last time you worked?

14 A. It's been some years, probably about four, five years
15 ago.

16 Q. Four or five years ago?

17 A. Right.

18 Q. And you know Andre; don't you?

19 A. No.

20 Q. You don't know Andre?

21 A. No.

22 Q. All right. Have you ever seen him around?

23 A. I seen him around, but I don't know-him-know-him.

24 Q. And you take care of your kids every day during this
25 period of time?

O'SHANE DIXON - CROSS/WILLIAMS

1 A. Right.

2 Q. Is that what you're doing?

3 A. Right.

4 Q. Was anybody else staying at home with you?

5 A. Beside their, you know, beside their mother.

6 Q. Okay. Do you own pit bulls also?

7 A. No, sir.

8 Q. Any kinds of dogs like that?

9 A. No.

10 MR. ANDERS: Objection, Your Honor. It's not
11 relevant.

12 THE COURT: That he owns a pit bull? I'll let him
13 answer it.

14 MR. WILLIAMS: He already did.

15 THE COURT: He already has.

16 BY MR. WILLIAMS:

17 Q. At 4:45 July 21st, you already knew that Tyrone was
18 missing; right?

19 A. Yeah, between that time.

20 MR. WILLIAMS: All right. No further questions.

21 MR. ANDERS: No further questions

22 THE COURT: You may step down, Mr. Dixon. Next
23 witness.

24 MR. ANDERS: Your Honor, the State calls Joe Thomas.

25 JOE THOMAS, having been duly sworn, was examined and

JOE THOMAS - DIRECT/ANDERS

1 testified as follows:

2 THE CLERK: If you would, sir, please be seated and
3 state your name for the record. Okay?

4 THE WITNESS: My name is Joe Thomas.

5 DIRECT EXAMINATION

6 BY MR. ANDERS:

7 Q. How are you doing, Mr. Thomas?

8 A. Good.

9 Q. Mr. Thomas, do you know the Defendant?

10 A. Yes.

11 Q. How do you know the Defendant?

12 A. Pretty much all my life since childhood.

13 Q. Okay. And do you know Tyrone Donaldson?

14 A. Yes, sir. Since childhood.

15 Q. So y'all grew up together?

16 A. Yes.

17 Q. Did you go to school with him?

18 A. No, sir.

19 Q. Can you tell the jury where you live?

20 A. Blackville, South Carolina.

21 Q. What's your physical address?

22 A. [REDACTED] Izlar Street.

23 Q. I'm sorry?

24 A. [REDACTED] Izlar Street.

25 Q. Is that Isar (sic) Street Extension?

JOE THOMAS - DIRECT/ANDERS

1 A. Yes.

2 Q. Can you tell the jury what you recall from July 21st,
3 2011?

4 A. I was off that day and I stepped on the porch and
5 Sammie Gerrick came through speeding. I gave him a call
6 asking him why he was speeding. He said he was kind of
7 busy. And I asked him about the Bamberg case, about the
8 deputy in Bamberg. He said, he puts his hands on him so
9 he had to get him off. He said he would call me back, he
10 was kind of busy.

11 Q. And so you saw -- you saw the Defendant speeding by
12 your house on that day?

13 A. Yes, sir.

14 Q. And when you say speeding, how fast approximately?

15 A. Forty-five, 50.

16 Q. Okay.

17 A. He just pull off from the stop sign and the motor
18 roar.

19 Q. And how did you know it was him?

20 A. I looked at him and called him.

21 Q. What was he driving?

22 A. Chrysler truck.

23 Q. Do you recall the color?

24 A. I think it was gray and burgundy, like, if I'm not
25 mistaken.

JOE THOMAS - DIRECT/ANDERS

1 Q. All right. Do you recall another car behind his
2 truck?

3 A. Yes.

4 Q. Do you recall what that car was?

5 A. I kind of glanced because I was in the process of
6 calling Sam.

7 Q. Okay. Any idea about the color?

8 A. I kind of glanced. I'm not sure.

9 Q. Okay. But there was car behind him, you can testify
10 to that?

11 A. Yes.

12 Q. All right. And so when you saw him speeding, what did
13 you do?

14 A. That's when I called him.

15 Q. Okay. And did you call him and say, hey, why didn't
16 you stop or what you up to?

17 A. No, I called him really messing with him, jiving and
18 asking him about the case in Bamberg.

19 Q. Okay. Was it -- did he stop with two shovels at that
20 point and get sand from your house?

21 A. No, sir.

22 Q. Did he stop with two shovels at any point and get sand
23 from your house?

24 A. No, sir.

25 Q. Do you have sand at your house to give away?

JOE THOMAS - DIRECT/ANDERS

1 A. No, sir.

2 Q. Do you keep sand by yourself, dirt?

3 A. No, sir.

4 Q. Okay. Do you know where Sunshine Road is?

5 A. Yes, sir.

6 Q. Where is it in relation to where your house is?

7 A. Probably about a mile from my house going north.

8 Q. Is it north?

9 A. Yes.

10 Q. And what time do you recall seeing Mr. Gerrick and
11 another car go by your house?

12 A. I think it was around three or four P.M.

13 Q. Okay. And which way were they traveling?

14 A. North.

15 Q. Towards Sunshine Road?

16 A. Yes.

17 MR. ANDERS: Beg the Court's indulgence. (Pause.)

18 Q. Mr. Thomas, what was your phone number in 2011; do you
19 recall.

20 A. I have two phones. I'm thinking it was ■■■-2147. I
21 have two numbers. It could have been the ■■■-0763.

22 MR. ANDERS: Your Honor, may I approach?

23 THE COURT: Hold on one second. Are you okay, ma'am?

24 UNIDENTIFIED SPEAKER: Yeah.

25 THE COURT: All right. Go ahead.

JOE THOMAS - DIRECT/ANDERS

1 MR. ANDERS: May I approach, Your Honor?

2 BY MR. ANDERS:

3 Q. Let me show you this.

4 THE COURT: What is this?

5 MR. ANDERS: Your Honor, this is State's 15.

6 THE COURT: Fifteen?

7 MR. ANDERS: Yes, Your Honor.

8 BY MR. ANDERS:

9 Q. All right. Is that your number?

10 A. Yes, sir.

11 Q. That's your phone number?

12 A. Yes.

13 Q. Can you read it, please?

14 A. [REDACTED]-0763.

15 Q. All right. And do you recall, do you recognize that
16 phone number?

17 A. I'm not sure that's it because I have the number
18 programmed.

19 Q. Okay. Can you read the number for me?

20 A. [REDACTED]-9453.

21 Q. And what is that date that this call was made?

22 A. 7-21st-2011.

23 Q. And what time was this call made?

24 A. 1505.

25 Q. Which would be 3:05, right, civilian time?

JOE THOMAS - CROSS/WILLIAMS

1 A. Right.

2 Q. Who did you say you called?

3 A. Sammie Gerrick.

4 Q. Is that Sammie Gerrick's number?

5 A. Yeah.

6 Q. All right.

7 MR. ANDERS: Nothing further, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. WILLIAMS:

10 Q. Mr. Thomas, Izlar Extension extends from Izlar Street
11 on out to Sunshine Road; correct?

12 A. Yes, yes, sir.

13 Q. And that's a fairly long street; isn't it?

14 A. Right.

15 Q. And you live about a mile from Sunshine Road, so
16 that's, what, a couple miles from town, do you think, or a
17 mile from town?

18 A. Do I live --

19 Q. Yeah.

20 A. -- from Sunshine?

21 Q. Right.

22 A. Probably about a mile, mile and a half.

23 Q. How far from town?

24 A. Say again.

25 Q. How far do you live from town?

EARLY JEROME GLOVER - DIRECT/WATERS

1 A. About a mile.

2 Q. There is a fellow name Alloset (phonetically) lives on
3 that road, pile of dirt backed in to his house, near his
4 house; do you remember?

5 A. No, sir.

6 MR. WILLIAMS: Thank you. That's all the questions I
7 have.

8 MR. ANDERS: Nothing further, Your Honor.

9 THE COURT: All right. Mr. Thomas, good to see you.
10 You may step down.

11 THE WITNESS: Uh-huh.

12 THE COURT: Next witness?

13 MR. WATERS: Thank you, Judge. we call Early Glover.

14 EARLY JEROME GLOVER, having been duly sworn, was
15 examined and testified as follows:

16 THE CLERK: If you would be seated and state your full
17 name for the record.

18 THE WITNESS: Early Jerome Glover.

19 DIRECT EXAMINATION

20 BY MR. WATERS:

21 Q. Mr. Glover, how are you doing today?

22 A. All right.

23 Q. I see you got your handcuffs on. Are you incarcerated
24 right now?

25 A. Well, I'm in the county; yes, sir.

EARLY JEROME GLOVER - DIRECT/WATERS

1 Q. You're in county?

2 A. Yes, sir.

3 Q. What county are you in?

4 A. Orangeburg Detention Center.

5 Q. And do you have pending charges in the county? I
6 don't want you to talk any about your case. Just, do you
7 have pending charges?

8 A. Yes, sir.

9 Q. Okay. And have you ever been in trouble before?

10 A. Yes, sir.

11 Q. I believe you had a criminal domestic violence high
12 and aggravated nature; is that right?

13 A. Yes, sir.

14 Q. And you also had burglary third?

15 A. Yes, sir.

16 Q. Is that right?

17 A. Uh-huh.

18 Q. Okay. And you got probation for the burglary and then
19 you had a probation revocation and you went and did a
20 little time; is that correct?

21 A. Yes, yes, sir.

22 Q. And you got the pending charge now; is that correct?

23 A. Yes, sir.

24 Q. All right. I want to take you back to October 2011.
25 Where were you staying in October 2011?

EARLY JEROME GLOVER - DIRECT/WATERS

- 1 A. You say, where was I staying?
- 2 Q. Yeah. Were you incarcerated then, too?
- 3 A. Yes, sir.
- 4 Q. And where were you at that time?
- 5 A. At R&E.
- 6 Q. Is that Kirkland?
- 7 A. Yes, sir.
- 8 Q. And is Kirkland R&E, that's where you kind of go when
- 9 you first get sentenced and they kind of figure out what
- 10 you're like and what's the best place for you in the
- 11 system?
- 12 A. Yes, sir.
- 13 Q. Okay. So you were there; is that correct?
- 14 A. Yes, sir.
- 15 Q. Did you meet Mr. Gerrick there?
- 16 A. Yes, sir.
- 17 Q. Do you see him in the courtroom?
- 18 A. Yes, sir.
- 19 Q. Can you point him out?
- 20 A. (Complying). Right over there.
- 21 Q. Did you know him prior to that?
- 22 A. No, sir.
- 23 Q. Ever met him before?
- 24 A. No, sir.
- 25 Q. But he was in there, too; is that correct?

EARLY JEROME GLOVER - DIRECT/WATERS

1 A. Yes, sir.

2 Q. At Kirkland R&E?

3 A. Yes, sir.

4 Q. And did you, you guys start to talk a little bit and
5 strike up conversations?

6 A. Yes, sir.

7 Q. And how did you all start to strike up conversation?
8 What did you talk about?

9 A. Basically just, you know, being in the penitentiary
10 and, you know, how the system work, and basically, you
11 know, just one thing just led to another.

12 Q. So you just kind of struck up a friendship with him;
13 is that right?

14 A. Yes, sir. Yes, sir. Uh-huh.

15 Q. All right. You knew some of the same people in prison
16 and that sort of thing?

17 A. Yes, sir.

18 Q. But you had never met him prior to going prison?

19 A. Never, never.

20 Q. Okay. Where are you from?

21 A. Saint Matthews, Calhoun County.

22 Q. Okay. What did Mr. Gerrick say about his case? Did
23 he ask you to do anything?

24 A. Well, basically after -- when I first met him, like I
25 say, we just started talking and, and a few days pass and

EARLY JEROME GLOVER - DIRECT/WATERS

1 then he was, like, you know, he was in a bind, you know.
2 Q. So that's what he said to you?
3 A. Yes, sir.
4 Q. I'm in a bind?
5 A. Yeah, he was in a bind.
6 Q. And did he ask you to do anything, or what did he say?
7 A. Well, at first, you know, he say he needed two guys.
8 He needed two people.
9 Q. Uh-huh.
10 A. And, you know, after that he was, like, you know, he
11 was willing to look out for them and he, you know, like I
12 say, he was in that bind. I said, well, hey, I'll help,
13 you know.
14 Q. So he said he'd look out for them. What do you mean,
15 look out for them in the prison?
16 A. Yes, sir.
17 Q. Kind of watch out for them, make sure nothing --
18 A. Well, you know, what he was referring to as that, when
19 he say he would look out, we was, we was talking about
20 money then.
21 Q. Okay.
22 A. Yeah.
23 Q. And what exactly did y'all discuss about that?
24 A. Well, he was saying about a statement, he needed a
25 statement.

EARLY JEROME GLOVER - DIRECT/WATERS

1 Q. Uh-huh.

2 A. You know, and he said he would get back with me on
3 that. So, you know, a few days pass and he had end up
4 writing a statement which was about three or four pages.

5 Q. Uh-huh.

6 A. And then that's when I --

7 Q. Who wrote it? Sammie Gerrick wrote it?

8 A. Yes, sir.

9 Q. And what was it written on; do you recall?

10 A. A plain white piece of paper, what they give you
11 there.

12 Q. Uh-huh.

13 A. When you come there to, like, write family and friends
14 with.

15 Q. So the prison gives you writing paper to use?

16 A. Yes, sir. Yes, sir.

17 Q. And he had written it on that?

18 A. Yes, sir.

19 Q. And so he gave it to you. What happened? What did he
20 say to you?

21 A. Well, he, you know, he gave it to me and told me this
22 is how it need to be written.

23 Q. Uh-huh.

24 A. And so at that point, you know, I took it to my cell,
25 you know, because we was in different cells. And, you

EARLY JEROME GLOVER - DIRECT/WATERS

1 know, it took me a few days, you know, to write it, you
2 know, how he wanted me to write it and be more Pacific
3 (sic) about certain things and be more, you know,
4 name-wise anyway on that, you know. He said, be sure to
5 say these right words, you know, these names. So I, you
6 know, I wrote the thing out and --

7 Q. Well, did he say he would -- what did he say he would
8 do for you if you wrote this statement?

9 A. He'd give me a thousand dollars.

10 Q. He told you he'd give you a thousand dollars?

11 A. A thousand dollars; yes, sir. Yes, sir.

12 Q. And so you agreed to do it?

13 A. Yes, sir. Yes, sir.

14 Q. And he brought you sort of a script for you to write
15 in your own hand?

16 A. Yes. Exactly.

17 Q. And that's what you did?

18 A. That's exactly what I did.

19 Q. I'm going to show you what's been marked as State's
20 Exhibit 68 --

21 MR. WILLIAMS: Without objection.

22 (State's Exhibit No. 68, statement, received into
23 evidence.)

24 BY MR. WATERS:

25 Q. -- and see if you recognize that. I know it's not the

EARLY JEROME GLOVER - DIRECT/WATERS

1 best copy in the world but...

2 First of all, let me take you to the back page. Is
3 that your signature right there?

4 A. Yes, sir.

5 Q. Okay. And then this, this right here, is that your
6 writing?

7 A. Yeah. I can recall some of the names, especially that
8 Tyrone.

9 Q. Uh-huh.

10 A. Uh-huh. Yes, sir. That's it.

11 Q. So that's the one that you wrote out?

12 A. Yes, sir.

13 Q. Where did you get the information to write out that
14 statement? Did it come from your own head or where did it
15 come from?

16 A. No, sir. Mr. Gerrick.

17 Q. Mr. Gerrick gave you something and you recopied it; is
18 that right?

19 A. Exactly. Yes, sir.

20 Q. Okay. And I look at this and it's pretty long; right?

21 A. Yes, sir; it is.

22 Q. And it's just perfectly written without any
23 scratch-outs really or anything like that or not very
24 many; is that right?

25 A. Yes, sir.

EARLY JEROME GLOVER - DIRECT/WATERS

1 Q. Is that because you were copying what he had already
2 written out for you?

3 A. Yes, sir. Yes, sir.

4 Q. All right. Did you know anything about this?

5 A. No, not at all.

6 Q. Do you remember what it said?

7 A. Some of it.

8 Q. Well, tell us. Do you remember -- do you remember any
9 of it?

10 A. Well, I remember Tyrone because he, he was supposed to
11 be the main man, you know. I was -- stuck that in my
12 head. And I remember one where we was supposed to meet
13 two guys in the back.

14 Q. Uh-huh.

15 A. In the woods somewhere.

16 Q. Uh-huh.

17 A. And, you know, they started arguing, Sammie and one of
18 the guys started arguing.

19 Q. Uh-huh.

20 A. You know, and I was, was told to stay in the car, you
21 know, and --

22 Q. And this is all what Sammie had already written for
23 you?

24 A. Yes, sir. Yes, sir.

25 Q. None of that ever happened?

EARLY JEROME GLOVER - DIRECT/WATERS

1 A. No, none of it never happened. Never happened.

2 Q. Okay. So, Sammie promised you a thousand dollars;
3 right?

4 A. Yes, sir.

5 Q. Did he ever pay you the thousand dollars?

6 A. Never got it.

7 Q. Never got a thousand dollars?

8 A. Never got it.

9 Q. When was he supposed to pay it to you?

10 A. Well, I was looking for it as soon as I did that, went
11 and got that paper notarized. I was going to get paid
12 then.

13 THE COURT: Let me have order. Yes, sir.

14 BY MR. WATERS:

15 Q. Well, what did he say when you asked him for the
16 money?

17 A. Well, he said he was waiting on his wife. And, you
18 know, a couple days pass and I asked him again, I said,
19 hey man, what's up, you know. And I just never got it and
20 after I went, went to where I went, to my camp, I just
21 knew I wasn't going to get it then.

22 Q. Do you recall a couple months after that in December
23 of 2011 -- where did you go? You said you went to your
24 camp. Where did you go after you left Kirkland R&E?

25 A. Ridgeland.

EARLY JEROME GLOVER - DIRECT/WATERS

1 Q. You went to Ridgeland?

2 A. Yes, sir.

3 MR. WATERS: And -- Court's indulgence. Let me get
4 something marked.

5 (State's Exhibit No. 69, statement, marked for
6 identification.)

7 BY MR. WATERS:

8 Q. And do you recall -- you were at Ridgeland; right?

9 A. Yes, sir.

10 Q. And do you recall Lieutenant Harley over there, do you
11 recall him coming to see you?

12 A. Yes, sir.

13 Q. And do you recall him asking you about this letter?

14 A. Yes, sir.

15 Q. And what did you tell him?

16 A. That I knew right then when I saw him, I knew what it
17 was, you know, basically what it was about.

18 Q. Uh-huh.

19 A. And we, we started talking and, you know, I just told
20 him, hey man, I don't know what's, you know, I have no
21 recollection of what happened. All I knew I was asked to
22 do this and I did that.

23 You know, at the time I was needing some money and,
24 you know, I did that not realizing that it was going to
25 come back at me on this, so --

EARLY JEROME GLOVER - CROSS/WILLIAMS

1 Q. Uh-huh.

2 A. -- I told him the truth.

3 Q. So you told the officers that Sammie Gerrick asked you
4 to write that statement?

5 A. Yes, sir.

6 Q. And you agreed to do it for money?

7 A. Yes, sir. Yes, sir. Yes, sir. Yes, sir.

8 Q. And that none of it was true?

9 A. None of it.

10 Q. He had just asked you to do it?

11 A. None of it was true.

12 Q. Sammie put you up to it; right?

13 A. Yeah.

14 Q. And promised you money?

15 A. Yes, sir.

16 MR. ANDERS: Nothing further, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. WILLIAMS:

19 Q. Mr. Glover, did you keep a copy of this script?

20 A. No, I gave it back to Mr. Gerrick.

21 Q. You gave it back to him?

22 A. Yes, sir. He asked for it and I gave it back to him.

23 Q. All right. And, there's no question you signed this
24 statement; right?

25 A. Yes, sir.

JEFF CROFT - DIRECT/ANDERS

1 Q. And you knew he was going to do something with this
2 statement; correct?

3 A. Yeah. Like I say, yeah, he was going to do something
4 but what, you know.

5 Q. All right.

6 MR. WILLIAMS: No further questions.

7 MR. WATERS: Nothing further, Your Honor.

8 THE COURT: All right. Mr. Glover, are you going to
9 go back? Thank you.

10 THE WITNESS: You're welcome.

11 MR. WATERS: Your Honor, can we approach briefly?
12 (Off-the-record discussion.)

13 THE COURT: Next witness, please.

14 MR. ANDERS: Thank you, Your Honor. State calls
15 Investigator Jeff Croft, sorry, Special Agent Jeff Croft.

16 JEFF CROFT, having been duly sworn, was examined and
17 testified as follows:

18 THE CLERK: Have a seat and state your full name for
19 the record.

20 THE WITNESS: Jeff Croft.

21 DIRECT EXAMINATION

22 BY MR. ANDERS:

23 Q. Agent Croft, where are you currently employed?

24 A. I'm currently employed with the South Carolina Law
25 Enforcement Division commonly known as SLED.

JEFF CROFT - DIRECT/ANDERS

1 Q. If you could, tell the jury a little bit about
2 yourself, where you're from and your experience in law
3 enforcement.

4 A. I was born and raised here in Barnwell County. I have
5 approximately 10 years experience with law enforcement. I
6 was employed with the Barnwell County Sheriff's Office for
7 about nine years. And I have about a year, year and a
8 half with SLED.

9 Q. And while you were with Barnwell County Sheriff's
10 Department, what were some of your duties?

11 A. I was an investigator for the Barnwell County
12 Sheriff's Office. I worked narcotics, I worked criminal
13 investigations.

14 Q. Can you tell the jury your involvement with this case?

15 A. I assisted with the interviews. I assisted with the
16 recovery of the body. Basically helped out in any ways
17 that were needed.

18 Q. At that point it was Blackville case and y'all are
19 involved at some point but then SLED came in?

20 A. That's correct.

21 Q. And they assisted everybody?

22 A. Yes, sir.

23 Q. Do you recall interviewing the Defendant?

24 A. I do.

25 Q. Do you recall when that was?

JEFF CROFT - DIRECT/ANDERS

1 A. The first time I interviewed the Defendant was on the
2 21st. The second time -- I'm sorry. The first time was
3 on the 17th. The second time was on the 18th.

4 THE COURT: 18th of what?

5 THE WITNESS: Of August.

6 THE COURT: Do that again. First time was August
7 what?

8 THE WITNESS: 17th. It was following Lieutenant
9 Harley and Jomar Albayalde's interview and then on the
10 18th I was requested to meet back with Sammie Gerrick and
11 he wanted to talk with me.

12 BY MR. ANDERS:

13 Q. All right. So on August 18th, 2011, that was a
14 requested interview?

15 A. That is correct. I received a call, if I remember
16 correctly, it was a little after 12, maybe 12:30, 12:45,
17 from Ms. Deloris Charlton who is the head administrator
18 for Barnwell County. And she stated that Sammie Gerrick
19 had requested to see me personally. I had First Sergeant
20 Robbie Sanders escort Mr. Sammie Gerrick over to the
21 Barnwell County Sheriff's Office where I conducted the
22 interview.

23 Q. And you mentioned August 17th. You were with
24 Investigator -- Agent Harley at some point during that
25 interview as well?

JEFF CROFT - DIRECT/ANDERS

1 A. Toward the end of that interview, yes, sir. As Jomar
2 Albayalde -- they were finishing up their interview.
3 Jomar Albayalde who is also an agent with South Carolina
4 Law Enforcement Division, he was exiting the room and
5 Mr. Gerrick asked, he said, is Mr. Jeff out there and Joe
6 told him he would check if I was out there. I then went
7 in the room and sat down and talked to him.

8 Q. All right. We'll get into the substance of that.

9 A. Okay.

10 Q. But you've been here all week?

11 A. Yes, sir.

12 Q. You've been involved with this case since 2011?

13 A. Yes, sir.

14 Q. So you have a pretty good idea of the progression --

15 A. Yes, sir.

16 Q. -- of Mr. Gerrick's stories; do you not?

17 A. Yes, sir.

18 Q. Okay. May I approach, Your Honor?

19 And on August 18th, 2011, did you Mirandize the
20 Defendant?

21 A. I did.

22 Q. And have you -- was that interviewed record?

23 A. Yes, it was.

24 Q. Have you reviewed that --

25 A. I have.

JEFF CROFT - DIRECT/ANDERS

1 Q. -- recording?

2 A. Yes, sir; I have.

3 Q. Is that a fair and accurate depiction of what took
4 place on August 18th?

5 A. Yes, sir; it is.

6 MR. ANDERS: Your Honor, at this time we'd like to
7 publish that to the jury, Court's Exhibit Two, Your
8 Honor.

9 THE COURT: Court's Exhibit Two. That was without
10 objection.

11 (Court's Exhibit No. 2, CD of Gerrick interview,
12 received into evidence.)

13 THE COURT: We're playing a portion of that interview;
14 is that correct?

15 MR. ANDERS: Correct, Your Honor.

16 THE COURT: How long is the portion?

17 MR. ANDERS: I believe it's about 25 minutes.

18 THE COURT: Go ahead.

19 MR. WATERS: Thank you.

20 THE COURT: Mr. Waters, the lunch people were
21 expecting them at 12:30. So let's just break right now
22 and we'll come back and play that interview after we get
23 back from lunch.

24 All right. Mr. Foreman, I think the restaurant's
25 expecting y'all around 12:30 and this takes about 20

JEFF CROFT - DIRECT/ANDERS

1 minutes. That puts us a little bit out of the time
2 frame.

3 So we're going to break now and come back. We'll
4 start court back at two o'clock like we did yesterday. If
5 you get through with lunch a little early and want to
6 enjoy the -- I don't know what's going on outside, but get
7 some fresh air, you're welcome to do that.

8 Please do not discuss the case with anyone. Do not
9 let anyone discuss it with you. Have a wonderful lunch.

10 Where are they going?

11 THE CLERK: Mr. B's.

12 THE COURT: I think they've got fried chicken today.

13 We especially ordered -- somebody had a problem
14 yesterday. We especially ordered it.

15 Seriously, y'all have a wonderful lunch and if you
16 don't like what's on the buffet, you're certainly welcome
17 to order a sandwich or whatever they have there. We'll
18 see you back at two o'clock.

19 And at two o'clock I can tell you sort of where we
20 are. Thank you.

21 Everybody else remain seated.

22 (Jury exits courtroom at 12:27 P.M.)

23 THE COURT: Agent Croft, you're right in the middle of
24 your testimony. So, please, do not discuss it with anyone
25 at the lunch break.

JEFF CROFT - DIRECT/ANDERS

1 We'll stand at ease until two o'clock.

2 MR. WATERS: We may have one more witness but, yes,
3 sir, we're --

4 THE COURT: All right. Mr. Williams, this looks like
5 it would be the last witness, so be ready for your expert
6 and we'll deal with the Williamson issue.

7 MR. WILLIAMS: Yes, sir.

8 THE COURT: And then we'll go after that.

9 MR. WATERS: Thank you.

10 THE COURT: Thank you.

11 MR. WATERS: Thank you.

12 THE COURT: Two o'clock.

13 (Lunch break taken at 1:13 P.M. At 2:08 P.M., the
14 trial resumed:)

15 THE COURT: State ready to proceed?

16 MR. WATERS: Yes, sir, Your Honor.

17 THE COURT: Defense?

18 MR. WILLIAMS: Yes, sir, Your Honor.

19 THE COURT: Anything for the record before we bring
20 the jury in from the State?

21 MR. WATERS: I don't believe so, Your Honor.

22 THE COURT: Mr. Williams?

23 MR. WILLIAMS: They're transporting Mr. Williamson
24 now, just for your information.

25 THE COURT: Where's is he coming from?

JEFF CROFT - DIRECT/ANDERS

1 MR. WILLIAMS: He's in Bamberg now but he's on the
2 way, so...

3 THE COURT: By the time we finish this witness and the
4 next witness and do the motions.

5 (Jury enters courtroom at 2:10 P.M.)

6 THE COURT: You may proceed

7 MR. ANDERS: Thank you, Your Honor.

8 DIRECT EXAMINATION (CONTINUED)

9 BY MR. ANDERS:

10 Q. Agent Croft, just to recap a little bit about your
11 earlier testimony. You're now an agent with SLED;
12 correct?

13 A. That is correct; yes, sir.

14 Q. In 2011, you were with Barnwell County Sheriff's
15 Department?

16 A. That is correct; yes, sir.

17 Q. And I think when we left off we were in the process of
18 showing an interview that you conducted on August 18th,
19 2011?

20 A. Yes, sir. That is correct.

21 Q. With the Defendant?

22 A. With Sammie Gerrick; yes, sir.

23 Q. Where was that interview taken?

24 A. At the Barnwell County Sheriff's Office.

25 THE COURT: Ms. Peeples, do you need a chair? Are you

JEFF CROFT - DIRECT/ANDERS

1 okay?

2 THE JUROR: I'm okay.

3 (Video played for the jury from 2:11 P.M., until 2:33
4 P.M.)

5 BY MR. ANDERS:

6 Q. Officer Croft, you were there for the interview the
7 previous evening?

8 A. Yes, sir; I was.

9 Q. All right. And I believe we heard from Investigator
10 Harley that he conducted that interview and at that point
11 he said there was no -- Sammie said his truck was not
12 there?

13 A. That is correct; yes, sir.

14 Q. And I believe Investigator Harley said he bluffed?

15 A. Yes, sir; he did.

16 Q. And so what happened during this interview?

17 A. During this interview Sammie began to explain how his
18 truck could have possibly been found or seen in the area.
19 He, he understood that we had witnesses that had seen his
20 truck in there. And now he come up with a reason that his
21 truck could have been seen.

22 Q. All right. So now he's putting himself at the crime
23 scene?

24 A. That is correct; yes, sir.

25 Q. And really the basis of this interview, his, Sammie's

JEFF CROFT - DIRECT/ANDERS

1 new explanation is a drug deal gone bad?

2 A. That's correct; yes, sir.

3 Q. And could you just explain what he tells you in the
4 interview about the package and who owes who and sort of
5 what happened?

6 A. Yes, sir. According to what he told me in the
7 interview, there was a package that had been messed up.

8 Q. And let me just stop you. When you say package, what
9 do you mean?

10 A. Cocaine. A kilo of cocaine that had been messed up.
11 The money was never received by the person who supplied
12 the cocaine which he named a gentleman by the name of Big
13 Joe.

14 Q. And let me just stop you. Did the Defendant ever tell
15 you who -- is this the same Big Joe that we heard about
16 from Edisto Gardens or is this a different Big Joe?

17 A. According to the Defendant, Mr. Gerrick, this Big Joe
18 was from Georgia.

19 Q. And did he ever give you any information on this Big
20 Joe?

21 A. No, he did not.

22 Q. Okay. Continue, please.

23 A. He said that when Mr. Donaldson had gotten him out of
24 jail they had discussed about the package being messed up
25 and that Mr. Donaldson had between eight- and \$9,000 that

JEFF CROFT - DIRECT/ANDERS

1 he was going to take out there and make things right.

2 He initially said he was supposed to take him out
3 there but he couldn't take him out there. He said that
4 when they did arrive to Andre's house that Andre actually
5 lured them, got them into the woods which is directly
6 behind the house, pretty good way between the house.

7 And at that point they made contact with Big Joe,
8 Andre, and O'Shane were all in the black Denali. He said
9 when they exited the -- when he and Tyrone exited the
10 vehicle he spoke up and said, hey, I thought everything
11 was going to be all right. He was told to shut up.

12 And at that point is when he says Tyrone and -- I
13 mean, I'm sorry. Tyrone was there and Andre and O'Shane
14 grabbed Tyrone and Big Joe began to hit him.

15 Q. All right. And as Tyrone is being hit by O'Shane and
16 Andre, according to the Defendant, where is the Defendant
17 at this point?

18 A. He's right there.

19 Q. He's right there. Is he in the process of leaving or
20 is he watching this?

21 A. He says he sees what's going on. He has been told to
22 go get the money. So, at that point he gets into his
23 vehicle and says he leaves to go see if he can go find the
24 money.

25 Q. All right. And you were in here earlier when

JEFF CROFT - DIRECT/ANDERS

1 Mr. Glover testified?

2 A. Yes, sir.

3 Q. And Mr. Glover touched on the letter that he wrote and
4 the contents of that for the Defendant?

5 A. Yes, sir; I was.

6 Q. And that was the -- that was sort of a drug-deal-gone-
7 bad scenario?

8 A. That's correct; yes, sir.

9 Q. Did the Defendant ever mention in this interview Early
10 Glover?

11 A. No, he did not.

12 Q. Did he ever mention Early Glover being there?

13 A. No, he did not.

14 Q. Riding with him out --

15 A. No, he did not.

16 Q. The Defendant said in the interview he was going to
17 try to get some money and he went to his dad's house?

18 A. Correct.

19 Q. His dad. From the video that dad said you need to
20 contact the family.

21 A. Yes, sir.

22 Q. The Defendant contacted Chief Holston; correct?

23 A. That's correct; yes, sir.

24 Q. Were you present in the courtroom when Chief Holston
25 testified?

JEFF CROFT - DIRECT/ANDERS

1 A. Yes, I was.

2 Q. Was it his testimony that Chief Holston actually
3 requested to talk with the Defendant?

4 A. I'm sorry. Say that again.

5 Q. The initial interview of Chief Holston, it was Chief
6 Holston who requested to interview the Defendant?

7 A. I don't recall who requested the interview.

8 Q. All right. And I believe that you asked the question
9 during the interview why he went to go get the car later.
10 Well, let me just back up.

11 During the interview the Defendant refers to the
12 victim as classmate?

13 A. Yes, sir.

14 Q. Do you know why that is?

15 A. He said they went to school together. They were very
16 good friends.

17 Q. Okay. And that's how he referred to him?

18 A. Yes, sir.

19 Q. And the Defendant at some point, he gets pretty
20 emotional during the interview; correct?

21 A. Yes, sir; he does.

22 Q. And what was his explanation for why he never went to
23 the police?

24 A. He said he was -- he said he was scared, he didn't
25 know what to do.

JEFF CROFT - DIRECT/ANDERS

1 Q. Okay. But he came out and got that Honda?

2 A. That's correct.

3 Q. And in his interview, who does he say held the victim?

4 A. Andre and O'Shane held the victim while Big Joe struck
5 the victim.

6 Q. All right. At any time in your investigation to your
7 knowledge, is there any evidence tending to show that
8 Andre and O'Shane were with Sammie on July 21st, 2011?

9 A. Absolutely not.

10 Q. And Big Joe was hitting him with what, per the
11 Defendant?

12 A. He said a pipe or a gun. He couldn't tell. He
13 said -- he named a pipe and a gun.

14 Q. And I think I touched on this earlier when we first
15 started before lunch but you've had, you've been in a
16 position to sort of watch the progression of the
17 Defendant's statements?

18 A. Yes, sir; I have.

19 Q. Okay. And do you recall what the first statement was
20 or the first explanation was from the Defendant?

21 A. The initial contact was Tyrone had gotten him out of
22 jail over in Bamberg. He had been at Enterprise Bank, I
23 think it is in Blackville. From there to Junior Food Mart
24 and had not seen him since.

25 Q. And this is probably the last explanation, this is

JEFF CROFT - DIRECT/ANDERS

1 your interview?

2 A. I'm sorry?

3 Q. This is the last explanation from the Defendant during
4 your interview of what happened that --

5 A. The one we just watched is the last one.

6 Q. Correct. And that he was there and he watched the
7 murder?

8 A. That's correct.

9 Q. And it seems throughout this investigation that the
10 Defendant requested to talk to law enforcement several
11 times; is that correct?

12 A. Yes, sir. He reached out to law enforcement.

13 Q. Okay. And does it seem to you that every time he
14 would reach out there would be something new, something --
15 an explanation for something that occurred during the last
16 interview?

17 A. Following new information which we received, each time
18 faced with that, shortly after he would reach out to us
19 and there would be a new story which would explain the new
20 information which we had.

21 Q. When the Defendant moved the car to Orangeburg, what
22 did he tell you he did with the keys? Was somebody
23 supposed to pick up the car?

24 A. He said that Tyrone was supposed to pick up the car, I
25 think it was. I don't remember where he said he put the

JEFF CROFT - CROSS/WILLIAMS

1 keys, but I remember the hand motion he made. He stuck
2 the keys somewhere.

3 Q. All right. From there, his explanation about when he
4 moved the car, he told you that Tyrone was supposed to
5 come pick the car up later?

6 A. That's correct.

7 Q. Did that make any sense to you?

8 A. No, sir; it did not.

9 Q. Does it make any sense to you now?

10 A. No, it does not.

11 MR. ANDERS: May I approach, Your Honor?

12 Q. I'm going to hand you what's been marked State's
13 Exhibit 28. Can you tell me what that is?

14 A. This is the map that was created showing some cell
15 phone towers.

16 Q. And if you could, please, sir, take my pen and just
17 show me the area of Sunshine Road where Tyrone Donaldson's
18 body was recovered.

19 A. Okay. Sunshine Road is not actually shown on here,
20 but the general area does show Healing Springs. Sunshine
21 Road would be right in this area.

22 Q. All right.

23 MR. ANDERS: No further questions, Your Honor.

24 THE COURT: Mr. Williams.

25 CROSS-EXAMINATION

JEFF CROFT - CROSS/WILLIAMS

1 BY MR. WILLIAMS:

2 Q. Agent Croft, you were here in Barnwell for nine years;
3 correct?

4 A. Somewhere in that neighborhood; yes, sir.

5 Q. And you worked narcotics?

6 A. Narcotics, criminal investigation; yes, sir.

7 Q. And that's a scary business those who deal in that;
8 correct?

9 A. It's enjoyable. I enjoyed working narcotics.

10 Q. I'm not talking about you enjoyed the work, but people
11 who work with drug dealers, that's a scary kind of thing?

12 A. I can't speak for them, sir.

13 Q. All right. But unfortunately people do get threatened
14 over drugs and over money and losing money and not getting
15 their packages and all. That happens; doesn't it?

16 A. It does happen; yes, sir.

17 Q. All right. And Sammie was visibly upset when he
18 talked to you that day; correct?

19 A. Yes, sir; he did show emotion. He was visibly upset.

20 Q. Right. And it's not inconsistent for someone telling
21 of their involvement in a drug transaction gone bad to be
22 scared and upset; correct?

23 A. I don't understand what you're asking me on that.

24 Q. Well, he's -- when he's in front of you that day he's
25 implicating himself in a drug deal gone bad and witnessing

JEFF CROFT - CROSS/WILLIAMS

1 his friend getting beat up; isn't that correct?

2 A. Yes.

3 Q. And he's directed to leave, according to what he says,
4 and to go get the money; correct?

5 A. Yes, sir.

6 Q. And in fact if he is scared and doesn't turn these
7 people in to the police right away, that's a reason for
8 him to be guilty and upset; correct?

9 A. That's a reason for him to be upset; yes, sir.

10 Q. And does -- did you locate where Andre lives at?

11 A. I do know where Andre lives.

12 Q. Does he live back there on Sunshine Road?

13 A. He does.

14 Q. All right. And so that I'm clear. Sammie told you
15 that he saw this going down, he left and attempted to get
16 money for Big Joe, Andre and O'Shane?

17 A. He said he left knowing that he didn't have any money,
18 and went to his father for advice to see what to do.

19 Q. And when he left, according to you, what did the
20 testimony -- the statement he gave you, Tyrone was still
21 alive; correct?

22 A. When he left Tyrone was being -- at the time being
23 beat amongst his shoulder and back of his neck.

24 MR. WILLIAMS: Thank you. That's all the questions I
25 have.

JEFF CROFT - REDIRECT/ANDERS

1 THE COURT: Yes, sir. Redirect.

2 MR. ANDERS: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. ANDERS:

5 Q. You were present when Mr. Williams brought up Andre
6 Hightower and you were present when he gave testimony
7 today?

8 A. Yes, sir; I was.

9 Q. His testimony was that he didn't even know Sammie
10 Gerrick.

11 A. Yes, sir; it was.

12 Q. You did just -- Mr. Williams asked you about where the
13 Defendant told you that Big Joe was hitting the victim and
14 that was about the back and the shoulder?

15 A. That's correct.

16 Q. Not the head?

17 A. That's correct.

18 MR. ANDERS: No further questions.

19 THE COURT: All right. You may step down. Next
20 witness?

21 MR. WATERS: Thank you. We call Special Agent Jomar
22 Albayalde.

23 JOMAR ALBAYALDE, having been duly sworn, was examined
24 and testified as follows:

25 THE CLERK: If you would, please have a seat and state

JOMAR ALBAYALDE - DIRECT/WATERS

1 your name for the record.

2 THE WITNESS: Jomar Albayalde, known also by Joe.

3 MR. WATERS: I apologize, Your Honor, for not getting
4 these pre-marked.

5 (Pause.)

6 DIRECT EXAMINATION

7 BY MR. WATERS:

8 Q. All right. Agent Albayalde, am I saying that right?

9 A. Yes, sir.

10 Q. Can you tell us where you work and how long you've
11 been there?

12 A. I currently work for the South Carolina Law
13 Enforcement Division also known as SLED. I am assigned to
14 the investigative services division of the agency. I've
15 been in law enforcement for almost 16 years. I initially
16 started my law enforcement career with the City of
17 Charleston before leaving for SLED in September of 2008.

18 Q. And, you were involved in the investigation of this
19 case; is that correct?

20 A. That is correct, sir.

21 Q. And one of the things that you were involved in
22 getting is some phone records; is that accurate?

23 A. That is correct, sir.

24 Q. And they've already been admitted into evidence but
25 the first one was State's Exhibit 13 and these were the,

JOMAR ALBAYALDE - DIRECT/WATERS

1 those were an AT&T track phone; is that accurate?

2 A. That is correct, sir.

3 Q. And that's some records that we got or that you
4 gathered in the course of the investigation; is that
5 correct?

6 A. That's correct, sir.

7 Q. And I want to show you what's been marked as State's
8 Exhibit 73. Is that just a copy of the last page of that
9 particular exhibit?

10 A. Yes, it is.

11 MR. WATERS: Your Honor, at this time I'd move State's
12 73 into evidence.

13 MR. WILLIAMS: Without objection.

14 (State's Exhibit No. 73, telephone records, received
15 into evidence.)

16 BY MR. WATERS:

17 Q. Let's see. This was a track phone; is that correct?

18 A. That's correct, sir.

19 Q. Now I'm going to show you what's been marked as
20 State's Exhibit 16. And is that a set of records that we
21 received as well; is that correct?

22 A. Yes, sir; it is.

23 Q. And those are from Alltel?

24 A. These are from Alltel.

25 Q. Can you tell me which number that is on the front page

JOMAR ALBAYALDE - DIRECT/WATERS

1 there?

2 A. [REDACTED] -6083.

3 Q. Okay. And that's a phone that was registered to
4 Tyrone Donaldson; is that correct?

5 A. That's correct, sir.

6 Q. But that is a phone that was used by Kelsea
7 Hollingquest; is that accurate?

8 A. Yes, sir. His daughter; yes, sir.

9 Q. All right. And I'm going to show you what's been
10 marked as State's Exhibit 70. And is that a copy of this
11 particular page of that record, just as an exact copy of
12 that particular page?

13 A. Yes, it is, sir.

14 THE COURT: Which page?

15 MR. WATERS: Unfortunately, they are not marked --

16 THE COURT: Okay.

17 MR. WATERS: -- Your Honor, but he has verified it's a
18 copy. At this time I'd move State's 70 into evidence.

19 THE COURT: Any objection?

20 MR. WILLIAMS: No objection.

21 (State's Exhibit No. 70, telephone records, received
22 into evidence.)

23 BY MR. WATERS:

24 Q. And another set of records you got was for that
25 particular number from Alltel as well; is that correct?

JOMAR ALBAYALDE - DIRECT/WATERS

1 A. Yes, sir; it is.

2 Q. And could you read that number for us?

3 A. Yes, sir; the number for this record is [REDACTED]-9453.

4 Q. And who's the subscriber information for that
5 particular one?

6 A. These records are for the Defendant.

7 Q. Okay. Sammie Gerrick?

8 A. Yes, sir; that's correct.

9 Q. And I'm going to show you what's been marked as
10 State's Exhibit --

11 THE COURT: Does it have an exhibit number on that
12 last one, [REDACTED]-9453?

13 MR. WATERS: That is State's 15, already in evidence,
14 Your Honor.

15 THE COURT: Fifteen?

16 MR. WATERS: Yes, sir, Your Honor.

17 Q. And I'm going to show you what's been marked as
18 State's 71 and let you hold that for a second. Let's see
19 that first page. All right.

20 And right here, is that an exact copy of this
21 particular page from State's Exhibit 15?

22 A. Yes, sir, it is.

23 Q. And turn to the next page if you would, please. All
24 right. We got a match there?

25 A. Yes, sir; you do have a match.

JOMAR ALBAYALDE - DIRECT/WATERS

1 Q. Okay. And the next page?

2 A. Yes, sir.

3 Q. All right. And then the next page?

4 A. Yes, sir.

5 Q. Okay.

6 MR. WATERS: All right. At this time, Your Honor, I
7 would move State's 71 into evidence.

8 MR. WILLIAMS: Without objection.

9 (State's No. 71, telephone records, received into
10 evidence.)

11 BY MR. WATERS:

12 Q. Okay. And then finally we've got State's Exhibit 14.
13 And is that -- tell us which number that is and who it's
14 registered to.

15 A. Yes, sir; it's phone number [REDACTED]-0064. This number
16 belongs to the victim, Tyrone Donaldson.

17 Q. All right. And let me -- I'm going to hand you what's
18 been marked as State's 72 and let you hold that real
19 quick. And I'm going to let you compare those two pages.

20 Is that an accurate copy of that particular page?

21 A. Yes, sir; it is.

22 Q. If we go to the next page. I'm going to show you the
23 last page of this particular State's Exhibit. Is that an
24 exact copy there -- or excuse me. I'll do that one.

25 Do these appear to be text messages; is that correct?

JOMAR ALBAYALDE - DIRECT/WATERS

1 A. That's correct.

2 Q. Is that an exact copy there?

3 A. It is.

4 Q. And how about the very last page, we got a match?

5 A. Yes, sir; it is a match.

6 Q. Okay.

7 MR. WATERS: At this time, Your Honor, I would move
8 State's 72 into evidence.

9 MR. WILLIAMS: Without objection.

10 MR. WATERS: Okay.

11 (State's Exhibit No. 72, telephone records, received
12 into evidence.)

13 BY MR. WATERS:

14 Q. So essentially we just got some excerpts from those
15 larger phone records; is that correct?

16 A. Yes, sir.

17 Q. I want to ask you this. On August 5th, 2011, were you
18 one of the officers who did a search warrant on an address
19 on Rivers Drive?

20 A. Yes, sir.

21 Q. Okay. And do you recall that address?

22 A. Yes, sir; [REDACTED] Rivers Street in Blackville, South
23 Carolina.

24 Q. And is that the same Rivers Street you heard crime
25 scene Investigator Skipper testify, I guess, yesterday; is

JOMAR ALBAYALDE - DIRECT/WATERS

1 that correct?

2 A. Yes, sir.

3 Q. That's the same search that -- you were part of that
4 search as well?

5 A. Yes, sir.

6 Q. Where the lure and the netting were observed?

7 A. Yes, sir.

8 Q. Can you tell me whose residence is that particular
9 address that y'all searched?

10 A. Yes, sir. I don't know her last name right off the
11 top of my head but Ms. Claudette at the time who was
12 Sammie Gerrick's girlfriend to our knowledge.

13 Q. One final question, if I could.

14 THE COURT: I'm sorry. Whose girlfriend?

15 THE WITNESS: Mr. Sammie Gerrick, sir.

16 BY MR. WATERS:

17 Q. So Claudette's Mr. Sammie Gerrick girlfriend that
18 we've heard testimony about; is that correct?

19 A. Yes, sir.

20 Q. And ONE last thing. You've been out to the scene
21 where Tyrone's body was found?

22 A. Yes, sir; I have.

23 Q. And is there a turkey blind out in that area; do you
24 recall?

25 A. I do not recall, unfortunately, sir.

1 Q. All right.

2 MR. WATERS: No further questions, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. WILLIAMS:

5 Q. We met, I guess, two weeks ago at SLED; correct?

6 A. Yes, sir; we did.

7 Q. And we were going through the evidence of this case?

8 A. Yes, sir.

9 Q. And out of the evidence we pulled a shotgun case. Do
10 you remember that?

11 A. Yes, sir; I do.

12 Q. No shotgun in it; right?

13 A. No shotgun in the case, sir.

14 Q. But nine unspent .12 gauge buckshot shells in that
15 case; correct?

16 A. I don't recall the exact number but there were unspent
17 shell casings inside the bag; yes, sir.

18 MR. WILLIAMS: That's all I have. Thank you.

19 MR. WATERS: Nothing further, Your Honor.

20 THE COURT: You may step down.

21 THE WITNESS: Yes, sir.

22 THE COURT: Next witness.

23 MR. WATERS: Your Honor, at this time the State rests.

24 THE COURT: Thank you. Mr. Foreman, ladies and
25 gentlemen of the jury. That concludes the State's

1 presentation of the evidence.

2 I have just a few minutes I need to spend with the
3 lawyers. Step back to your jury room. Do not discuss the
4 case. I'll have you back out in just a few minutes.

5 (Jury exits courtroom at 2:58 P.M.)

6 THE COURT: Any motions by the State?

7 MR. WATERS: None, Your Honor.

8 THE COURT: Mr. Williams?

9 MR. WILLIAMS: Thank you, Your Honor. If it please
10 the Court.

11 We'd move for a directed verdict in this case based
12 upon the grounds that the evidence submitted by the State
13 is entirely circumstantial. In this case there's no
14 direct evidence that ties -- implicating my client in this
15 case.

16 There's been a recent, some recent law in this state
17 that I think helps to clarify how the State should
18 evaluate this. And we've gone over the circumstantial
19 evidence and the direct evidence as to give it the same
20 weight; however, you have to analyze circumstantial
21 evidence differently.

22 And even though we don't use the old charges as they
23 existed before which said that every fact, circumstantial
24 fact must be proved beyond a reasonable doubt and that
25 every inference to be drawn from that must conclusively

1 point to the fact of his guilt, I think, Your Honor, the
2 law is clear that's how you have to analyze this.

3 And what you have to do, and the cases I've got for
4 that --

5 THE COURT: Well, hand them up to me.

6 MR. WILLIAMS: Give me second, Judge. I'm sorry.
7 Misorganization.

8 State versus Logan which is a recent case; State
9 versus Odems which is a 2011 case; and State versus
10 Bostick which is a 2011 case.

11 And I'm going to start with State versus Odems. And
12 what happens in that case, as in this case, is you have a
13 completely circumstantial set of facts. And the Court
14 goes through, it talks about the fact that circumstantial
15 evidence and direct evidence are to be given the same
16 weight, however you have to analyze the two differently.

17 And it goes on to say that every circumstance relied
18 upon by the State must be --

19 THE COURT: Which one are you reading Odems,
20 O-D-E-M-S?

21 MR. WILLIAMS: Odems.

22 THE COURT: Okay. I'm listening.

23 MR. WILLIAMS: And I'm looking at page seven. Every
24 circumstance relied upon by the State must be proven
25 beyond a reasonable doubt and all the circumstances proven

1 be consistent with each other and taken together point
2 conclusively to the guilt of the accused to the exclusion
3 of every other reasonable hypothesis.

4 THE COURT: Hold on a second. Tell me where you're
5 reading from.

6 MR. WILLIAMS: Page seven, Judge.

7 THE COURT: You do agree there's a wealth of
8 circumstantial evidence in here --

9 MR. WILLIAMS: I agree there's a lot of --

10 THE COURT: -- and for the jury to convict him they
11 must find that those circumstances were proved beyond a
12 reasonable doubt.

13 MR. WILLIAMS: Agree.

14 THE COURT: And doesn't that go to the weight of the
15 evidence as opposed to the existence of it? I mean, we
16 all -- you agree that there's a wealth of circumstantial
17 evidence here. It's up to the jury to determine whether
18 or not the State has proven that circumstantial evidence
19 to a reasonable doubt.

20 I can't direct a verdict if it exists; can I? Or give
21 me something that says I can.

22 MR. WILLIAMS: Well, if you go on and look at the
23 footnote four.

24 THE COURT: In Odems?

25 MR. WILLIAMS: In Odems. Okay.

1 THE COURT: Hold on. Let me find it. Footnote four.
2 In State versus Grippon.

3 MR. WILLIAMS: That's correct. And what it talks
4 about, if I'm not mistaken, Grippon is the case that
5 changed the old jury charge from the State had to prove
6 every inference beyond a reasonable doubt and all the
7 inferences had to connect, to prove one thing if there was
8 any other reasonable hypothesis that could be deduced from
9 the facts then the jury had to acquit.

10 But I believe the standard that you have to analyze
11 this from is if you take all of the facts proven as true,
12 does every inference drawn from that reasonably tend to
13 prove the guilt of Mr. Gerrick beyond each and every other
14 reasonable hypothesis? And if there are other reasonable
15 hypothesis then you need to direct a verdict.

16 THE COURT: Anything else?

17 MR. WILLIAMS: Well, if we go through the evidence
18 using that standard, Judge, briefly we've got the pickup
19 truck, the contents of the pickup truck. And out of that
20 there's the root in the pickup truck, and it's got a note
21 on it. And can you infer guilt from that. Well, maybe
22 it's some evidence of guilt but you can also infer other
23 things from that note. All right.

24 As far as the evidence of the car -- in the car.
25 Clearly Mr. Gerrick's fingerprints are on the car but we

1 knew that they were friends. We knew that he drove it
2 over there. We know that there was a gun in the back and
3 the gun is missing. Can you infer from that that
4 something is awry? Maybe. But can you confer that he was
5 just a passenger in the car at a different time? Yes.

6 In other words, taking the car over there does not
7 necessarily tie him to a murder.

8 If you go to the crime scene there's no DNA evidence.
9 There's no other physical evidence that links him there.
10 There is his statement to Croft which says he was there
11 but that he left.

12 And, finally, if you take the evidence that's been
13 offered in as to guilty conscience, well is it guilty
14 conscience from actually committing a murder or was it
15 guilty conscience from being involved in this drug deal
16 which went bad? And is he trying to exonerate himself
17 just because he thinks that's the way he should be doing
18 this as opposed to doing it the legal way?

19 So when you look at all the evidence together, it
20 doesn't conclusively point to the fact that he committed a
21 murder. There are other inferences which can be drawn and
22 I think the verdict has to be directed in his favor.

23 THE COURT: Thank you. Gentlemen, who's going to
24 argue it?

25 MR. WATERS: Me, Your Honor.

1 Your Honor, I'd, of course, like to begin with
2 obviously when Your Honor's addressing this you look at
3 the evidence in the light most favorable to the State.

4 THE COURT: Everybody agrees with that.

5 MR. WATERS: And there's no question that this is
6 primarily a circumstantial case.

7 THE COURT: No question about that.

8 MR. WATERS: But the fact that Mr. Williams can come
9 up with some alternate hypotheses does not mean in the
10 light most favorable to the State that there's been a
11 failure of proof.

12 He can certainly argue those to the jury and argue to
13 them that there is an alternate reasonable hypothesis but
14 that's not standard I believe that the Court is to apply.

15 And if you look at the case he's provided Your Honor,
16 the recent one, Odems. If you look at what the State had
17 there, all they had was the individual was in the car and
18 the individual ran with everybody else. And the Court
19 held that was not sufficient.

20 Here we presented, as I argued in opening, we've
21 presented extensive evidence, over three days of various
22 circumstances that all point to the guilt of Mr. Sammie
23 Gerrick.

24 But, first of all, we do have some direct evidence
25 that he was present in the case. First of all we have

1 Mr. Gerrick having scratches on his arms which we have
2 presented -- and other scratches, which we presented
3 evidence were consistent with someone, you know,
4 scratching at him as they were being attacked and which
5 we've shown he's offered multiple explanations for that,
6 you know, refutes the validity of those.

7 Secondly, as Mr. Williams pointed out, we have offered
8 the fact that he had his fingerprint on the rear of the
9 victim's car. And also he admits being at the scene.

10 We have of course phone records and multiple evidence
11 from various witnesses showing that the Defendant and the
12 victim were going off together, out to the woods to dig up
13 a safe and that the victim was never heard from again. He
14 was last seen with Mr. Gerrick by multiple people. We've
15 got phone records to that effect. And then he just drops
16 off the face of the earth with Mr. Gerrick.

17 Additionally we have the use of the ATM card over the
18 next few days. We have him and his wife surreptitiously
19 moving the car late that night to the Orangeburg location.
20 We have the fact that he took two shovels and put them in
21 the car before they went off to the woods. And again we
22 have just multiple and multiple and multiple things that
23 show consciousness of guilt which is of course evidence
24 under South Carolina law as we have argued before.

25 We have strong evidence of motive. He didn't have any

1 money. He wanted to get out of jail. He was behind on
2 his bills. He gets this friend to loan him the money.
3 He, the friend then disappears and Mr. Gerrick is using
4 that individual's card to pay off bills that he
5 desperately needed to pay off.

6 We have got the issue of the texts from the track
7 phone where the distinctive use of A-M as opposed to I'm.
8 And we have the victim's text where he used the word I'm,
9 I apostrophe M, as opposed to the way Mr. Gerrick does it,
10 again, which is evidence of guilt.

11 Of course on top of that, we've got the capsule with
12 the note which is -- certainly can be argued to be in the
13 nature of an admission by his possession of that and what
14 it said.

15 We have -- let's see here. We have Early Glover who,
16 he was put up to sign a fake statement for, and had
17 nothing to do with it, again, which is strong evidence of
18 consciousness of guilt.

19 And then as far as his alternate explanation. The
20 only alternate explanation that has been offered is based
21 in one of Sammie Gerrick's statements which we put them
22 all in. And of course the fact that all of them are
23 inconsistent, whether it starts with saying it's Maurice
24 and, oh, Jamaal -- excuse me, Tyrone took off with a
25 \$100,000 or in the statement to Jamaal about the text,

1 maybe that will take the heat off me, through the various
2 statements to police, all of which are lies, Your Honor.
3 Every single one of them is a lie.

4 And then finally we did present the witnesses that he
5 said were supposedly there. And they got up there and
6 said I don't have nothing do with this man, and had
7 nothing to do with that.

8 And the jury can fairly judge that as to whether or
9 not the hypothesis, an alternate hypothesis is
10 reasonable. And the reasonableness, kind of the nature in
11 reasonable doubt. That's ultimately for a jury question.

12 But if you take all of the State's evidence and put it
13 together, it's an extremely strong circumstantial case
14 that's far distinguishable from the very thin, patently
15 thin evidence that was reversed in that particular case.
16 And the jury, I think, is entitled to make their decision
17 based on the evidence presented.

18 Ultimately his arguments today are great for closing
19 argument but they go to the weight of the evidence, not to
20 the necessity of a directed verdict.

21 THE COURT: Mr. Williams.

22 MR. WILLIAMS: In a criminal case when it's entirely
23 circumstantial the Court has to do more than just say,
24 well, the evidence is in and it's up to the jury. The
25 trial court has to analyze the evidence and the Court has

1 to find that every piece of proof -- hold on.

2 THE COURT: Tell me where you're reading from.

3 MR. WILLIAMS: I'm looking at the most recent case of
4 State versus Logan, and this is where the Court has
5 authorized an all new charge to the jury when requested by
6 the defendant regarding circumstantial evidence.

7 THE COURT: Which says that crimes may be proven by
8 circumstantial evidence, page 12.

9 MR. WILLIAMS: That's right.

10 THE COURT: The law makes no distinction between the
11 weight or value to be given to either direct or
12 circumstantial evidence. However to the extent the State
13 relies on circumstantial evidence, all the circumstances
14 must be consistent with each other and when taken together
15 point conclusively to the guilt of the accused beyond a
16 reasonable doubt. If these circumstances merely portray
17 the defendant's behavior as suspicious the proof has
18 failed.

19 MR. WILLIAMS: That's correct.

20 THE COURT: That's what you're relying on?

21 MR. WILLIAMS: Yeah.

22 THE COURT: Okay.

23 MR. WILLIAMS: And I think the Court has to use this
24 type of analysis in weighing the evidence to see if
25 there's another reasonable hypothesis before the

1 question's submitted to the jury.

2 And that's what happened in Odems. They go back and
3 rely on this type of analysis as opposed to what it's done
4 for the last 10 years where you say is there any
5 substantial circumstantial evidence.

6 THE COURT: Well, I mean, that's the charge they're
7 asking us to use henceforth but at this stage of the game
8 where we're talking about a directed verdict, the case law
9 what you gave me is State versus Odems, O-D-E-M-S and
10 State versus Logan.

11 Says on a standard of review from motion for a
12 directed verdict obviously we all know I have to view in
13 the light most favorable to the State and the Defendant is
14 entitled to a directed verdict when the State fails to
15 produce evidence of the charge. However, if there's any
16 direct or substantial circumstantial evidence reasonably
17 tending to prove the guilt of the accused then appellate
18 court must find the case was properly submitted to the
19 jury.

20 A Circuit Court Judge should grant a directed verdict
21 motion when the evidence merely raises a suspicion the
22 accused is guilty.

23 This Court, Supreme Court, has repeatedly affirmed the
24 principal that when the State files produce substantial
25 circumstantial evidence that the Defendant committed a

1 particular crime the Defendant is entitled to a directed
2 verdict. Thus the evidence presented by the State raised
3 at most in that case the mere suspicion. Has to be more
4 than mere suspicion has to be circumstantial evidence and
5 I find in this case there was as I said before a wealth of
6 circumstantial evidence. I find that circumstantial
7 evidence to be substantial which could reasonably tend to
8 prove his guilt.

9 It certainly is way above the level of a mere
10 suspicion. I find that therefore it should be submitted
11 to the jury for the jury to determine whether or not the
12 State has proven beyond a reasonable doubt that the
13 circumstances tend to prove the guilt of the Defendant
14 beyond a reasonable doubt.

15 Respectfully denied for the reasons I set forth.

16 Anything else by the Defendant?

17 MR. WILLIAMS: Your Honor, we have the issue of
18 Mr. Dustin Williamson who I think is on the way over
19 here.

20 THE COURT: You also have an expert.

21 MR. WILLIAMS: I do but depending on your ruling on
22 Mr. Williamson, I may not call him.

23 THE COURT: How long are we going to need to take to
24 do the Williamson proffer et cetera, et cetera, and
25 argument and whatever else we need to do?

1 MR. WILLIAMS: I got a feeling it's going to take 20
2 to 30 minutes.

3 THE COURT: Don't be apologetic, just --

4 MR. WATERS: Your Honor, obviously we have to get
5 through the threshold issue about the letter itself and
6 then as I've expressed to Your Honor, and of course to
7 Mr. Williams we have probably three witnesses that we
8 would submit would be admissible in the event that Your
9 Honor were to allow the statement in but would probably
10 need to be addressed by Your Honor.

11 THE COURT: Outside of the presence of the jury if I
12 rule it's admissible.

13 MR. WATERS: I think that obviously that would
14 probably be the wise way to do it.

15 THE COURT: Well, I understand you. I agree with you.
16 How long will your expert be?

17 MR. WILLIAMS: Twenty minutes, 30 minutes.

18 THE COURT: So if it takes us 45 minutes to hash
19 through this, that takes us to four o'clock and depending
20 on my ruling we ought to be able to finish everything up
21 by five?

22 MR. WILLIAMS: I would think.

23 THE COURT: All right.

24 THE WITNESS: Bring the jury in, please.

25 (Jury enters courtroom at 3:19 P.M.)

1 THE COURT: Mr. Foreman, ladies and gentlemen, let me
2 tell you where we stand.

3 The State has completed their case. Now it's time for
4 the defense to, they have an opportunity to put up their
5 witnesses if they choose.

6 There is a matter that I've got to handle outside of
7 your presence to determine whether or not certain things
8 are allowed or certain things are not allowed. That's
9 going to take us about 45 minutes. That takes us to four
10 o'clock.

11 Depending on how I rule, I would anticipate either way
12 I rule that we'll probably be able to finish up the
13 testimony that last hour from four to five. That gives us
14 40 minutes of downtime. Not for us, but for you.

15 I don't like -- I don't have a lot of patience as
16 y'all have learned. And I don't like to sit back there
17 and twiddle my thumbs for 45 minutes.

18 I can say, let's take a break for 45 minutes. You all
19 go back and stretch your legs and be back in here at four
20 o'clock and try to finish it up by five; or I can say,
21 I'll cut y'all loose until tomorrow. But what that will
22 do for tomorrow is lengthen tomorrow because if I can
23 finish the testimony today when we come in at 9:30 in the
24 morning we can go straight to the arguments, straight to
25 my charge and you'll get it to start deliberating, I'm not

1 going to say mid morning, but certainly before noon.

2 So, what's your pleasure, try to finish it up today?

3 FOREPERSON OF THE JURY: I think we want to get as
4 much done today as we can.

5 THE COURT: Any objection if I let them go out and
6 stretch their legs?

7 MR. WATERS: Not at all, Your Honor.

8 MR. WILLIAMS: None, Your Honor.

9 THE COURT: All right. Getting sort of down to the
10 short rows as -- if any of you are farmers. Somebody's
11 smiling.

12 I'm going to let y'all take a break until four clock.
13 You're welcome to go outside. You're welcome -- please,
14 we got a lot of people out here in the audience. And, you
15 know, they may be outside getting fresh air, too. Don't
16 let anybody discuss this case with you. Stay away from
17 them. And don't discuss it with anybody. If anybody
18 tries to, please get the name.

19 I'll see y'all back at four o'clock. You're welcome
20 to sit back and enjoy the Coca-Colas and all the snacks
21 that we got back there or you're welcome to go out and
22 walk around the block, exercise.

23 Thank you.

24 (Jury exits courtroom at 3:23 P.M.)

25 THE COURT: We've got about 45 minute's worth of

DUSTIN WILLIAMSON - DIRECT/WILLIAMS IN CAMERA

1 work. I'm going to allow those who need to leave to leave
2 now, because once we get cranked up you can't go. So if
3 you need to leave, you're welcome to leave. We'll start
4 back at four o'clock.

5 Please, y'all, do not discuss the case outside with
6 anybody on this jury. If I find out that anybody tries to
7 or attempts to, I'm not saying that you would, but I'm
8 going to hold you in contempt of court. And you're going
9 to -- I can put you in jail. But please don't make me do
10 that, please. Y'all have been great. I'm not suggesting
11 that it would happen, but that's what happens if it
12 happens.

13 Thank you.

14 Any of those want to leave now you can go ahead and
15 leave now so we can go ahead and proceed in an orderly
16 fashion.

17 (People exit courtroom.)

18 THE COURT: All right. Mr. Williams.

19 MR. WILLIAMS: We would call Dustin Williamson to the
20 stand.

21 DUSTIN WILLIAMSON, having been duly sworn, was
22 examined and testified as follows:

23 THE CLERK: If you would, please, sir, be seated and
24 state your full name for the record. Okay.

25 THE WITNESS: My name is Dustin Williamson.

DUSTIN WILLIAMSON - DIRECT/WILLIAMS IN CAMERA

1 THE COURT: Hold on, Mr. Williamson. Ma'am, do you
2 need to leave? Thank you, Mr. Bamberg. Does she need the
3 elevator?

4 MR. BAMBERG: She's fine.

5 THE COURT: Let the record reflect that Dustin --

6 THE WITNESS: Yes, sir.

7 THE COURT: -- Williamson is getting ready to
8 testify. In the courtroom present with him is Adam Ness,
9 attorney-at-law from Bamberg who I have appointed to
10 represent him in connection with his involvement or his
11 participation or lack thereof. And I say lack thereof, if
12 he invokes his right to remain silent, his Fifth Amendment
13 right in these proceedings.

14 And, Mr. Ness, have you had enough time to, do you
15 feel like, to speak to him and to advise your client
16 properly?

17 MR. NESS: I have, Your Honor.

18 THE COURT: And, sir, have you had enough time to
19 speak with Mr. Ness and understand what's going on?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Mr. Williams.

22 MR. WILLIAMS: Thank you, Your Honor.

23

24

25

DUSTIN WILLIAMSON - DIRECT/WILLIAMS IN CAMERA

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q. Mr. Williamson, you've given a statement to law enforcement that implicates you in the murder of Tyrone Donaldson; have you not?

A. I hereby invoke my rights against self-incrimination.

Q. Based upon that...

THE COURT: All right. Based upon that, obviously he has the constitutional right to invoke that privilege. He's done so. He's done so with the advice of counsel and obviously I will not require him to answer any questions in regards to this matter.

Anything else, Mr. Williams?

MR. WILLIAMS: Not from him. I would like to call Agent Shaun Harley to the stand.

THE COURT: Very well. Anything from the State?

MR. WATERS: No, sir, Your Honor.

THE COURT: Thank you very much. Where is he housed?

CORRECTIONAL OFFICER: We transported him from Bamberg. He's going to be housed back in Barnwell.

THE COURT: Adam, thank you for your participation. Do you think we'll need Mr. Ness any more today for this matter?

MR. WATERS: Your Honor, I would like Mr. Williamson to at least stay until we sort out everything.

SHAUN HARLEY - DIRECT/WILLIAMS

1 THE COURT: He's not going to testify. What else is
2 there -- okay. Just hold him back there in the holding
3 cell for a few more minutes.

4 Mr. Ness, stay with us. Thank you.

5 Mr. Harley you're still under oath.

6 THE WITNESS: Yes, sir

7 THE COURT: Mr. Williams.

8 SHAUN HARLEY, previously sworn, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. WILLIAMS:

12 Q. Agent Harley, we briefly in your testimony yesterday
13 talked about the fact that you had contacted a man named
14 Dustin Williamson who was, I think, from the Bamberg Jail
15 now but at one time was in the Barnwell Jail facing
16 pending charges; is that correct?

17 A. Yes, sir.

18 Q. And tell us how you came about to talk to
19 Mr. Williamson.

20 A. I received a phone call. I don't know if it was
21 through the AG's Office or your office in reference to a
22 letter that was found at the Barnwell County Detention
23 Center.

24 Q. Do you have information in your file about where the
25 letter was found?

SHAUN HARLEY - DIRECT/WILLIAMS

1 A. I interviewed several people from the jail.

2 Q. And from that interview, were you able to determine
3 where the letter was found?

4 A. In the cell of Sammie Gerrick.

5 Q. Okay. And from your information, can you tell us how
6 the letter got, I think it got into Ms. Charlton's hand at
7 some point in time?

8 A. Yes, yes, sir.

9 Q. And how did you get the letter?

10 A. I think received it from, through the jail, I'm not
11 sure, or unless it went to the Barnwell County Sheriff's
12 Office.

13 Q. All right.

14 MR. WILLIAMS: Do you want me to mark this as a
15 Court's Exhibit now?

16 THE COURT: Any objection?

17 MR. WATERS: No objection.

18 (Court's Exhibit No. 5, letter of Williamson, received
19 into evidence.)

20 BY MR. WILLIAMS:

21 Q. And, Lieutenant Harley, I'm going to show you what
22 we've marked as Court's Exhibit Number Five. Do you
23 recognize that?

24 A. Yes, sir.

25 Q. What is that?

SHAUN HARLEY - DIRECT/WILLIAMS

1 A. This is a letter that was given to me, reference to
2 the letter found in Sammie Gerrick's cell.

3 Q. And you received that either at the sheriff's
4 office --

5 A. Or the Barnwell County Jail.

6 Q. -- or the Barnwell County jail. And I believe there
7 are also some incident reports indicating the chain of how
8 it was to come into your possession?

9 A. Correct. I took a statement from two of the
10 corrections officers.

11 Q. And do you know who those officers were?

12 A. Sergeant Johnson, who's sitting there, and Officer
13 Jennings.

14 Q. And which one of these officers found it in
15 Mr. Gerrick's cell?

16 A. I believe that Mr. Gerrick, he buzz to the control
17 Office and Officer Jennings was close by. He went to his
18 cell and he got the letter. Sammie Gerrick provided the
19 letter to him through his flap from the cell.

20 Q. And what did Officer Jennings do with the letter?

21 A. He then proceeded to give it to Sergeant Johnson.

22 Q. And then what did Sergeant Johnson do with the letter?

23 A. She then proceeded to give it to Director Charlton
24 over the Barnwell County Detention Center.

25 Q. And did you get it from Ms. Charlton?

SHAUN HARLEY - DIRECT/WILLIAMS

1 A. I think I did or from the sheriff's department, one of
2 the two.

3 Q. All right. And as a result of getting this letter in
4 your ongoing investigation of this case, did you talk to
5 Dustin Williamson?

6 A. Yes, sir. But the thing, we received this letter
7 about two to three weeks ago.

8 Q. And did you Mirandize him before you talked to him?

9 A. Yes, I did; in the presence of his attorney.

10 Q. And his attorney at that time was Jason Price;
11 correct?

12 A. Yes, sir.

13 Q. And he agreed at that point in time to talk to you;
14 correct?

15 A. Yes, sir; in the presence of his attorney.

16 Q. And did you ask him who wrote the letter?

17 A. Yes, sir.

18 Q. What did he tell you?

19 MR. WATERS: Your Honor, just to be clear. I would
20 obviously object at this point. I'd object to this as a
21 whole but I know Your Honor wants to hear the
22 circumstances of everything but I believe --

23 THE COURT: Well, this is a proffer. But you're
24 objecting for what purpose?

25 MR. WATERS: I'm objecting for hearsay at this point;

SHAUN HARLEY - DIRECT/WILLIAMS

1 yes, sir.

2 THE COURT: Well, normally, I would sustain that
3 objection and not allow it, but I think out of an
4 abundance of caution, since we're doing it as a proffer
5 and to make a record of it, I will take it for the
6 proffer.

7 If we were before the jury we'd stop right here.

8 So, with that understanding --

9 MR. WATERS: Yes, sir. As long as I'm protected --

10 THE COURT: -- you are protected.

11 MR. WATERS: -- and they won't hear the
12 circumstances --

13 THE COURT: This is a proffer so I will allow it for
14 the purposes of the proffer, not for introduction
15 obviously in the trial. It's here for the proffer right
16 now and then we'll see where we go.

17 MR. WATERS: At the end of the circumstances then I
18 can make whatever arguments as to admissibility that I
19 need to make.

20 THE COURT: I've already sustained the objection. I'm
21 going to do the proffer right now to protect the record.

22 MR. WATERS: Thank you, Judge.

23 THE COURT: Unless Mr. Williams can show me some
24 reason why I shouldn't take it.

25 BY MR. WILLIAMS:

SHAUN HARLEY - DIRECT/WILLIAMS

1 Q. Let me go back. Clearly when you got the letter you
2 read it?

3 A. Yes, sir.

4 Q. And he makes some admissions in the letter --
5 Mr. Williamson makes some admissions in the letter; does
6 he not?

7 A. Yes, sir.

8 Q. And one of his admissions is that he was involved in
9 killing Tyrone Donaldson; correct?

10 A. According to the letter.

11 Q. All right. And you were in the courtroom today when
12 he indicated that he was not going to testify based upon
13 his Fifth Amendment rights; correct?

14 A. Correct.

15 Q. And, as a result of you receiving these letters and
16 you being involved in the investigation of Tyrone
17 Donaldson's death, you went and spoke with Mr. Williamson
18 at the jail, correct, or at the sheriff's office?

19 A. It was done at the Barnwell County Sheriff's Office
20 with his attorney.

21 Q. And when you talked to him about the admissions in
22 this letter and the contents of the letter, did he admit
23 to you writing the letter?

24 MR. WATERS: Your Honor, I --

25 THE COURT: You're protected throughout on your

SHAUN HARLEY - DIRECT/WILLIAMS

1 objection as hearsay. And unless you -- this is the
2 proffer part and you're protected and unless you got a
3 different type of objection.

4 MR. WATERS: Well, there's a number of issues.
5 Authentication is one of them as well. Authentication and
6 hearsay I think are two things that we absolutely have to
7 get to. And then if we move through those, then there's
8 other issues that arise.

9 THE COURT: I understand that, but this is a proffer
10 and you're protected on your objection.

11 MR. WATERS: Thank you, sir.

12 BY MR. WILLIAMS:

13 Q. And I'm showing you a copy of the letter and not the
14 actual letter; is that correct?

15 A. Correct.

16 Q. And you've got the actual letter?

17 A. The letter is here.

18 Q. Okay. So the actual letter is here and that's not
19 different from the actual letter; is it not?

20 A. No, sir.

21 Q. All right. And you spoke with him regarding whether
22 he wrote the letter; right?

23 A. Yes, sir; about the letter.

24 Q. Did he admit to you that he wrote this letter
25 confessing to killing Tyrone Donaldson?

SHAUN HARLEY - DIRECT/WILLIAMS

1 A. He stated he wrote the letter.

2 Q. All right. And in fact you went, took the letter back
3 to SLED, also; correct?

4 A. Correct.

5 Q. And you had the signature analyzed; correct?

6 A. Correct.

7 Q. And they found that signature at SLED to be his
8 signature on the letter; correct?

9 A. I'd have to read the report again, but I believe so,
10 but I'd have to read the report.

11 Q. Do you have that report?

12 A. Not that report but the writing analyst. I don't have
13 it on me.

14 Q. Okay. But there's no question he owned up and said
15 this letter is one that I wrote?

16 A. Yes, sir.

17 Q. And what did he tell you about the contents of the
18 letter?

19 A. He couldn't provide anything. He said, whatever is in
20 the letter, that's it.

21 Q. Did he say anything --

22 A. He would not -- we, myself and Agent Jeff Croft was at
23 the office interviewing him also with his attorney. Once
24 we asked him specifics in the letter, he could not provide
25 anything. He would not say anything.

SHAUN HARLEY - DIRECT/WILLIAMS

1 Q. And have you talked with anybody else to determine
2 whether anybody else could have written the letter other
3 than him?

4 A. Have I talked to anyone else?

5 Q. Yes. You analyzed the letter to see if Sammie Gerrick
6 wrote it, correct, or had something to do with it?

7 A. Correct.

8 Q. And the strong probability is Sammie Gerrick did not
9 write that letter.

10 A. I have to look at that report again.

11 Q. Okay. And you interviewed him a second time in
12 Bamberg; is that correct?

13 A. Correct; at Attorney Adam Ness office.

14 Q. And in that interview did he still acknowledge
15 authorship of the letter?

16 A. Yes, sir.

17 Q. All right. What else did he tell you about the
18 letter?

19 A. He could not provide anything. When I asked him
20 specifics about the letter or what, about the case itself
21 he wouldn't, he could not provide anything.

22 Q. All right. He couldn't tell you about the facts
23 contained in the letter, but clearly he said I'm the one
24 that wrote the letter?

25 A. He could not provide facts or anything about the case

SHAUN HARLEY - DIRECT/WILLIAMS

1 of Tyrone Donaldson.

2 Q. Right. But as far as the written statement, he
3 acknowledged he wrote it?

4 A. Yes, sir.

5 Q. To you?

6 A. (Nods head.)

7 MR. WILLIAMS: Your Honor, based upon the fact that he
8 acknowledged to this law enforcement officer against his
9 interests with his attorney present that he is the author
10 of the statement, we believe that it is admissible into
11 evidence.

12 THE COURT: Give me some law to support that. Isn't
13 it under Rule 801? I believe.

14 MR. WILLIAMS: Well, Your Honor, it's admissible as an
15 admission against interest under hearsay. And 804, he's
16 an unavailable declarant.

17 THE COURT: 804?

18 MR. WILLIAMS: If I'm not mistaken.

19 THE COURT: Well, the declarant is available.

20 MR. WILLIAMS: Once he takes the Fifth he becomes
21 unavailable.

22 THE COURT: What is the State's position?

23 MR. WATERS: Your Honor, initially I would like to, so
24 I can sort of flesh out my position, would like to examine
25 the witness on some of these circumstances as well,

SHAUN HARLEY - DIRECT/WILLIAMS

1 subject, of course, to my objection.

2 I think Mr. Williams is of course going under
3 804(a)(1) with the claim of privilege and then going under
4 statement against interest. There's, of course, the
5 provision there that provides that a statement in a
6 criminal trial, and I'm speaking off the top of my head,
7 but in a criminal trial tending to expose the declarant to
8 criminal liability and offer the --

9 THE COURT: Well, hold on a second. Don't speak off
10 the top of your head. Direct me to it.

11 MR. WATERS: Okay. You're looking at 804(b)(3) and if
12 you look at the last sentence of that particular exception
13 it has a special rule for evidence offered in a criminal
14 trial to exculpate the accused. And it states that there
15 must be corroborating circumstances that clearly indicate
16 the trustworthiness of the statement.

17 THE COURT: That's 804(b)(3)?

18 MR. WATERS: Yes, sir, Your Honor.

19 Now, that particular provision has been interpreted by
20 our courts as requiring trustworthiness that the statement
21 was actually made, not necessarily evidence that the, what
22 the contents were were actually true. However to flesh
23 out my authentication issue, my issue as to why the
24 803(b)(3), this provision does not apply. And also to
25 flesh out --

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 THE COURT: 804(b)(3); right?

2 MR. WATERS: Yes, sir.

3 THE COURT: You said it 803.

4 MR. WATERS: My apologies. 804(b)(3). -- as to why
5 it does not apply.

6 Additionally to address authentication issues as well
7 as my argument that if Your Honor were to allow the
8 letter, why we would be able to present testimony about
9 the circumstances under which it was taken, I need to
10 examine Agent Harley as well.

11 THE COURT: You may.

12 MR. WATERS: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. WATERS:

15 Q. All right. Lieutenant Harley, and just to kind of
16 shortchange things -- and this is subject to my objection,
17 Your Honor.

18 Just to shortchange things, essentially the statements
19 from Ms. Johnson and Officer Jennings were that Sammie
20 Gerrick called the officers saying that he had found this
21 letter on --

22 A. On his floor.

23 Q. -- on his floor.

24 A. Yes, sir. In his cell.

25 Q. Okay. So it came from Sammie Gerrick, not from Dustin

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 Williamson; is that correct?

2 A. Correct.

3 Q. And you went and interviewed Dustin Williamson in the
4 presence of his attorney on October 30th; is that correct?

5 A. Correct.

6 Q. And at that time you asked him about the specifics and
7 while he said -- well, tell us what he said again.

8 A. Say, whatever's in the letter, that's it.

9 Q. So whatever is in the letter, that's what happened;
10 correct?

11 A. Correct.

12 Q. And could not provide any specifics whatsoever about
13 the contents of that particular letter --

14 A. No, sir.

15 Q. -- is that correct? And then subsequently after
16 Mr. Ness was appointed to represent Mr. Williamson on
17 November 13th, 2013, you went and re-interviewed
18 Mr. Williamson; is that correct?

19 A. Correct.

20 Q. All right. And did he again reiterate when asked
21 about specifics, could offer nothing more than whatever is
22 in the letter?

23 A. That was it. Whatever is in the letter.

24 Q. Okay. And did he ask to be moved somewhere else
25 before he would speak with you?

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 A. Yes, sir.

2 Q. And tell us how -- what happened in that. What
3 happened?

4 A. He asked for, I guess through his attorney, that he
5 could be moved from Barnwell County Detention Center to
6 the Bamberg County Detention Center.

7 Q. Okay. And did he tell you why that he wanted to get
8 out of the Barnwell County Detention Center?

9 A. Yes, sir.

10 Q. And what did he say?

11 A. He felt like he was going to be killed.

12 Q. All right. Would he provide the name of the person he
13 felt was threatening him?

14 A. No, sir.

15 Q. When you asked him if anyone had put him up to this,
16 did he have a response?

17 A. No, sir.

18 Q. And let me provide you if I could -- may I approach
19 Your Honor?

20 THE COURT: You may, sir.

21 Q. I'm going to provide you with a copy of your -- I'm
22 going to get this marked as Court's, whatever's next.

23 (Court's Exhibit No. 6, memorandum of interview of
24 Williamson, received into evidence.)

25 THE COURT: Anybody got a case of the State versus

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 McMillan?

2 MR. WATERS: Are you reading from the rule book, Your
3 Honor? What page are you on?

4 THE COURT: 1003, 540 -- Adam, 540 SC Second 464. Can
5 you e-mail me that, please?

6 MR. NESS: Yes, sir.

7 THE COURT: Do you all mind if I let Mr. Ness e-mail
8 me that case?

9 MR. WILLIAMS: No, sir.

10 MR. WATERS: No, sir. Can I ask which section in the
11 notes, Your Honor?

12 THE COURT: The last case on the right, down at the
13 bottom.

14 MR. NESS: 540 SC Second?

15 THE COURT: 464.

16 MR. WATERS: Yes, sir, Your Honor. And that was what
17 I was saying earlier is that --

18 THE COURT: I know, but do you have a copy of the
19 case?

20 MR. WATERS: I unfortunately -- well, I don't know.

21 THE COURT: That's all right. Adam will e-mail me it.

22 BY MR. WATERS:

23 Q. All right. I'm going to provide you with Court's
24 Exhibit Six. Is that a copy of your MOI or memorandum of
25 interview that you prepared after that November 13th

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 interview with Mr. Williamson?

2 A. Yes, sir.

3 Q. All right. And I refer you over to the second page.

4 And starting there when you asked if someone had put him

5 up to this or if he had been threatened in any way, what

6 was his response to you?

7 A. No.

8 Q. Okay.

9 A. Do you want me to read it out?

10 Q. No. I'm talking about right there.

11 A. Oh, I'm sorry.

12 Q. Yeah.

13 A. Yes. When asked if someone put him up to it, he said

14 I'll tell you this, someone is going to die in six days.

15 Q. Okay. Would he provide to you the names of the

16 persons who would be killed or who was supposed to do the

17 killing?

18 A. No, sir.

19 Q. Okay. Did you ask him if the person who was supposed

20 to be killed was a member of his family?

21 A. Yes, sir; I did.

22 Q. And what was his reply to that?

23 A. He replied by asking me to watch over his residence

24 and make sure his mother was safe.

25 Q. All right. And, just continue.

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 A. He stated that everybody else that was in his family
2 could take care of their self.

3 Q. Okay. Did he say anything about this being deeper
4 than you think?

5 A. Yes, sir; he did.

6 Q. And tell us what he said.

7 A. When I asked him was Sammie Gerrick in on it he
8 answered no, but then he went on to state that this thing
9 is deeper than what you think.

10 Q. Okay. And then he went on to say that he needed to
11 get out of Barnwell Detention --

12 A. Because he would be killed.

13 Q. All right. Now this time when you asked him about the
14 specifics of the letter, did he state -- what did he tell
15 you?

16 A. When I went on to ask him about the specifics, he said
17 whatever is in the letter. So I then went on to say,
18 really, you're admitting to murder. He replied, I never
19 said I kill Tyrone.

20 Q. Okay.

21 A. I went on to say, well, by your letter that you wrote,
22 you were a part of it and therefore by confessing you were
23 a part of the murder.

24 Q. Did --

25 A. I think at that point he didn't understand what I was

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 getting at. So I again provided him, told him a quote,
2 well, the hand of one is the hand of all. And he didn't
3 really get, you know, engage on what I was talking about.
4 I told him --

5 Q. Now, let me interrupt you there. Did he have a
6 conversation with his attorney during this time?

7 A. Yes, he did.

8 Q. When you all were talking about the hand of one is the
9 hand of all?

10 A. Yes, sir.

11 Q. And when he kind of started to understand what that
12 meant, what did he do?

13 A. After understanding what time he could receive, he
14 dropped his head down and said, they played me, they
15 played me. I then went on to ask him who -- what was he
16 talking about, they played me. He just kept say -- he
17 said, they played me.

18 Q. Okay. So once -- he had said, I didn't kill anybody.

19 A. Correct.

20 Q. And then once you told him that under South Carolina
21 law that he could potentially face liability if he was
22 part of a group that killed somebody, but didn't actually
23 do it --

24 A. Correct.

25 Q. -- and his attorney actually participated in that

SHAUN HARLEY - CROSS/WATERS IN CAMERA

1 discussion as well --

2 A. Correct.

3 Q. -- and then he said, they played me, they played me?

4 A. He dropped his head down first, and like, you know, he
5 did like, (indicating), they played me, they played me.

6 Q. So it was clear to him from your -- from what he was
7 telling you that he didn't understand that what he was
8 saying would get him in any trouble?

9 A. Correct.

10 Q. Until you all explained it to him?

11 A. Correct.

12 Q. So when the statement was made he didn't understand
13 that he was writing himself into trouble; is that correct?

14 A. Correct.

15 THE COURT: Agent Harley, do you have any doubt in
16 your mind that Williamson made the statement, wrote the
17 statement?

18 THE WITNESS: I don't know. His name never came up in
19 the investigation so.

20 THE COURT: No, no, no, no. The young man, Mr. Ness's
21 client -- Williamson; right? Do you have any doubt that
22 he wrote the statement that we're talking about here,
23 whether it's true or not true, but did he write it?

24 THE WITNESS: I can't say, Your Honor.

25 THE COURT: Do you have any evidence that he didn't

1 write it? And you had his signature --

2 THE WITNESS: His signature was compared by SLED where
3 I guess, I have to review, but they did compare it that he
4 did sign it. But the printed part of it, they could not
5 say. I don't think so.

6 THE COURT: So your understanding -- so your
7 recollection of the SLED analysis is that maybe not the
8 printed part --

9 THE WITNESS: The signature.

10 THE COURT: -- not the body, but the signature that he
11 acknowledged writing it?

12 THE WITNESS: Correct. If I'm reading -- if I'm
13 thinking correct; yes, sir.

14 THE COURT: What else do you want to ask him?

15 MR. WATERS: That is all I have for the present
16 purposes, Your Honor.

17 MR. WILLIAMS: Your Honor, I found my case and I
18 apologize for being clumsy a while ago. And it's actually
19 State versus Staten and it cites the McDonald case. If I
20 could pass it up to you, flipped to that page.

21 THE COURT: Mr. Waters, McDonald is pretty clear. If
22 we find that he's not available, i.e., he's exercised his
23 right to remain silent, then we look to that 804 --

24 MR. WATERS: (b)(3).

25 THE COURT: -- (b)(3), and we talk about the

1 corroboration and it goes to, not to the truthfulness of
2 the statement but to whether or not he actually wrote it.

3 What else do you have that he didn't write it or he
4 didn't acknowledge writing it by signing it?

5 MR. WATERS: Okay. And, Your Honor, again, I've got
6 multiple layers but, yes, sir, as to that particular
7 issue. As Agent Harley, or excuse me, Lieutenant Harley
8 has stated, he acknowledged the signature but could not
9 provide any evidence whatsoever of the contents.

10 But I understand that the law is clear that it is the
11 making of the statement. My argument, my first argument
12 of many, Your Honor --

13 THE COURT: All right.

14 MR. WATERS: -- is that, let's look at what the rule
15 says, the hearsay exception. It states --

16 THE COURT: What rule are you reading from?

17 MR. WATERS: 804(b)(3).

18 THE COURT: 804?

19 MR. WATERS: Right, (b)(3). It states: A statement
20 which was at the time of its making, at the time of its
21 making so far contrary to the declarant's pecuniary or
22 proprietary interest, or so far tended to subject the
23 declarant to civil or criminal liability, or to render
24 invalid a claim by the declarant against another that a
25 reasonable person in the declarant's position would not

1 have made the statement unless believing it to be true.

2 We just heard from Agent -- from Lieutenant Harley
3 that this individual did not understand that this
4 statement being made was going to get him into trouble,
5 that he was making a statement against interest.

6 And so in the first instance it doesn't fall
7 underneath the rule because he was not -- at the time of
8 its making, he found out later and he dropped his head and
9 said they played me, but at the time of its making he did
10 not understand what he said was putting him in criminal
11 liability.

12 Now I run into this all the time because I speak to
13 kids at schools and that's one thing I always try to tell
14 them and they don't understand it. That if you're with a
15 group of people and you all go to knocking off a shop and
16 you're just a getaway guy, you're just as guilty.

17 So it doesn't fall under 804(b)(3) to begin with
18 because he was not making any statement that was contrary
19 to his criminal -- or to his interest at the time of its
20 making which the rule requires.

21 THE COURT: Well, he was making it. You take the
22 position he didn't know it was.

23 MR. WATERS: Well, right. So, I mean, that's the
24 basis of the rule is that --

25 THE COURT: Unless believing it to be true.

1 MR. WATERS: Right. Unless believing it to be true.
2 And that's the basis of the rule.

3 The reason why we have this hearsay exception is
4 because of the idea that we can trust the statement. We
5 can trust the statement because the individual making it
6 wouldn't have said it and putting himself in the frying
7 pan unless he believed -- unless he was saying something
8 true. That's the whole basis of this exception.

9 But we know here that's not the case. That is not the
10 case. So the rule doesn't apply. It blows up the whole
11 reason that this rule developed all the way back from
12 England, all the way back. It was the idea that you don't
13 say things that are going to put you in the frying pan
14 unless you really mean them and they were true. Nobody
15 would do that.

16 Well, we know he wasn't doing that. And so the rule
17 doesn't apply. That's the whole reason for this rule.

18 THE COURT: Anything else?

19 MR. WATERS: Well, yes, sir.

20 I think we also, we have the authentication issue. I
21 don't believe that the letter has been sufficiently
22 authenticated through Agent Harley's testimony. So I
23 think that's an issue as well.

24 Additionally, we have --

25 THE COURT: What do you mean it hasn't been

1 authenticated?

2 MR. WATERS: Well, we haven't had any -- Dustin
3 Williamson took the Fifth. And all Agent Harley could
4 provide was what he said he signed the bottom of it which
5 is hearsay in and of itself.

6 And so I think that there's a failure as far as
7 authentication there, which I guess is before we even get
8 to the 804(b)(3) argument.

9 THE COURT: Well, he's relied on SLED to say that it
10 was his signature; have you not?

11 THE WITNESS: Yes, sir.

12 MR. WATERS: And I'm not going to dispute that he did
13 -- that the signature matched.

14 THE COURT: Well, that doesn't appeal to me a whole
15 lot.

16 MR. WATERS: Yes, sir.

17 THE COURT: What I'm struggling with is this 804(b)(3)
18 and trying to do the right thing, because if you look at
19 the McDonald case obviously it comes in because I think
20 it's corroborating circumstances that the statement was
21 actually made.

22 But now, Mr. Williams, the other side of that coin
23 though is the State has raised the first part of Rule
24 804(b)(3) that a reasonable person in Mr. Williamson's
25 position would not have made the statement unless

1 believing it to be true. And from the totality of the
2 circumstances or from the totality of Agent Harley's
3 interview and subsequent interviews and follow up, I think
4 it's probably not admissible under that portion of the
5 rule.

6 So I'll let you argue that. Argue your position on
7 that. I mean, do we have any cases that talk about that?
8 I didn't see any in the notes.

9 MR. WILLIAMS: There was some conversation, I think,
10 at the beginning of the week about some type of competency
11 evaluation being done for Mr. Williams (verbatim). All
12 right. And I think one is presumed to be competent and
13 one is presumed to know the statement that he made --

14 THE COURT: Well, I don't think it's a competency
15 issue. I think, you know, it's like a reasonable person.
16 Like a negligence-type case. What would a reasonable
17 person in like circumstances do in the same situation.
18 And this guy is doing something that's so unbelievably
19 against his interest that it's -- I don't think he
20 realized what the outcome could possibly be.

21 MR. WILLIAMS: And I'm not certain that's the
22 analysis. I think the analysis is, is it a true and
23 correct statement of his -- a true statement of his or did
24 he make the statement.

25 MR. WATERS: And, Your Honor, this is when I would

1 bring in the second permutation which is Rule 403 and Rule
2 403 talks about unfair prejudice, misleading the jury.

3 And, again, we go back to the issue of this -- the
4 whole reason for this rule doesn't apply here. The whole
5 reason it exists does not apply here. And regardless, I
6 think under 403 since we know the circumstances that exist
7 here it clearly --

8 THE COURT: What circumstances?

9 MR. WATERS: The circumstances described by Mr., or
10 excuse me --

11 THE COURT: Harley.

12 MR. WATERS: -- by Lieutenant Harley that he didn't
13 realize that what he was saying would get him into
14 trouble, that he was actually making a statement against
15 interest.

16 And therefore I think that we bring in 403 as well
17 which talks about the confusion, the danger of unfair
18 prejudice, misleading the jury. And that would be what's
19 the case here is we have a statement coming in against
20 interest which clearly when it was made by the declarant
21 it was not.

22 So I think whether you look at the rule itself or if
23 you look at 403 or if you roll them up together, the
24 outcome is the same. That this would have that very
25 danger because this is not what the rule was intended

1 for. He didn't think he was saying anything wrong that
2 would put himself in danger.

3 MR. WILLIAMS: I don't know that that's the inquiry.
4 I think the inquiry is if you made the statement.

5 THE COURT: I think it's a double inquiry.

6 MR. WILLIAMS: And can you verify that he made that.

7 THE COURT: I'm going to rule that it is inadmissible
8 under the first portion of 804(b)(3) as argued by the
9 State and my comments concerning it.

10 Anything else?

11 MR. WATERS: No, sir, Your Honor.

12 THE COURT: Mr. Williams, you're protected I think as
13 much as you can be.

14 MR. WILLIAMS: Your Honor --

15 THE COURT: I'm not trying to cut you off. If you
16 need to put anything else on the record.

17 MR. WILLIAMS: I don't think so, regarding this.

18 THE COURT: All right. What else do we got?

19 You may step down. You got all of that Court Exhibit
20 so it will be preserved for appeal if necessary?

21 MR. WATERS: Yes, sir.

22 And if we could, Your Honor, before he takes -- he
23 leaves the stand, I would offer in -- I had him testify
24 about it. It's in the record. I think we're good to go.

25 Thank you, Your Honor.

1 THE COURT: All right. Now, Mr. Williams, having
2 ruled that way, do we still got your expert?

3 MR. WILLIAMS: Well, as a matter of strategy, Your
4 Honor, I don't think since you're not going to let me get
5 the letter in that I don't want to call the witness. So
6 I'm going to not call this witness and I'm going to rest
7 my case, being the expert regarding the crime scene, the
8 leaves found.

9 THE COURT: Well, let me ask Mr. Gerrick some
10 questions. Well, strike that.

11 Are you planning on calling any other witnesses?

12 MR. WILLIAMS: No. And thank you for bringing that
13 up.

14 We talked about whether he wants to testify in this
15 case. We talked about, you know, that he would be cross-
16 examined and we talked about the fact that he's got a
17 criminal record and there's some inconsistent statements
18 in here.

19 And he's elected not to testify. And I agree with
20 that decision and if you wish to inquire of him.

21 THE COURT: I think it's incumbent upon me.
22 Mr. Gerrick, just raise your right hand quickly for me.

23 (Defendant placed under oath.)

24 THE COURT: Be seated.

25 Mr. Gerrick, we've reached the stage of the trial now

1 where you can present your own defense, your side of the
2 story.

3 Please stop me at any time if you don't understand
4 what I'm saying. Fair enough?

5 THE DEFENDANT: (Nods head.)

6 THE COURT: By presenting your side of the story or
7 the defense, you have the right to call witnesses. You
8 have the right to introduce relevant exhibits. And you
9 have the right to testify in your own defense, get on the
10 witness stand and testify.

11 If you testify you will be subjected to the same rules
12 as everyone else who testifies. That is, you can be
13 cross-examined on any relevant subject. If you have a
14 record that the State, if I determine that probative value
15 outweighs the prejudicial effect, they can use that record
16 to attack or question your believability or your
17 trustworthiness or your truthfulness. In other words,
18 they can use it to impeach you.

19 If they -- if you testified and your record came up, I
20 would instruct the jury that the only reason that they
21 could consider that record would be when they are deciding
22 your believability or credibility. And it could not be
23 used in deciding guilt or innocence in this case. It has
24 to be limited to that one task that they have in
25 establishing or determining your believability when you

1 testify or your credibility.

2 So if you testify you'll be cross-examined and your
3 record could possibly come up to be used for impeachment.
4 Do you understand all of that?

5 THE DEFENDANT: (Nods head.)

6 THE COURT: And the other side of the coin is you have
7 the constitutional right to remain silent. Under our
8 Constitution of the United States and of the State of
9 South Carolina which basically says that in a criminal
10 trial someone accused of a crime can never ever be made to
11 testify. You have the right to remain silent.

12 If you exercised your right to remain silent, at the
13 close of the case when I instruct the jury I will tell
14 them that you have the absolute right to remain silent,
15 that you have nothing to prove, that the burden is on the
16 State to prove your guilt beyond a reasonable doubt. And
17 I will tell them that the fact that you exercised your
18 constitutional right, they cannot consider that in any
19 manner whatsoever when they deliberate your guilt or
20 innocence.

21 And I will further instruct them that they can't even
22 discuss that, it can't come up, it can't be part of the
23 deliberations, and it can't be used against you when they
24 are making a decision between guilt or not guilty --
25 guilty or not guilty.

1 Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: The privilege is yours to exercise. Yours
4 and yours alone. Obviously you can discuss it with
5 Mr. Williams, but in the end it's got to be your decision.

6 Do you understand all of that?

7 THE DEFENDANT: Uh-huh.

8 THE COURT: Any questions you want to ask me about
9 your constitutional right to remain silent?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you need any additional time with
12 Mr. Williams, because we're going to try to conclude the
13 testimony this afternoon, as to whether or not you wish to
14 testify? Do you need to talk with him any further or have
15 you already had the opportunity to discuss that?

16 THE DEFENDANT: Yeah, we had an opportunity to discuss
17 that.

18 THE COURT: I need to know if you intend to testify.

19 THE DEFENDANT: No, sir.

20 THE COURT: Very well. All right.

21 Mr. Williams, do we have any other -- yes, sir?

22 THE DEFENDANT: Before the jury, I just, I just want
23 to address this to you. I feel you's a fair judge. I got
24 a lot of respect for you.

25 THE COURT: Thank you.

1 THE DEFENDANT: But at the same time when I came and
2 met with you in May 30th of this year.

3 THE COURT: You met with me?

4 THE DEFENDANT: Yes, sir. I had a motion heard.

5 THE COURT: Okay.

6 THE DEFENDANT: About this indictment, State
7 versus Gerrick.

8 THE COURT: Yes, sir.

9 THE DEFENDANT: And there's a great latitude between
10 July the 1st and August the 4th on this indictment that
11 don't support the affidavit that the Agent Jojamal
12 (phonetically) went to Judge Gantt to get it. It said
13 that I allegedly supposed to kill Tyrone 21st and 22nd.
14 Now they got this great latitude. You said before I left
15 there on that day that you would do a direct verdict and
16 you asked Mr. McIntosh (verbatim) to get with you a
17 straight -- I'm sorry, a direct indictment to narrow it
18 down to the date.

19 If I was a juror sitting over there in the way that
20 this indictment was presented, it's a great latitude. And
21 I'm being charged with murder for one day. Now they have
22 extended the day to 14 days and that's, to me, being
23 prejudiced by it because it ain't fair.

24 THE COURT: Okay. And that motion where you were
25 before me and my ruling, that's all a part of the record.

1 And if you're found guilty and if you appeal, that
2 obviously is something that has been preserved.

3 Do you agree with that, Mr. Williams?

4 MR. WILLIAMS: I do.

5 THE COURT: It's been preserved and if I'm wrong
6 they'll send it back.

7 THE DEFENDANT: I'm just, I'm just speaking
8 hypothetically.

9 THE COURT: I understand, but you're protected. You
10 preserved that for an appeal if you lose.

11 THE DEFENDANT: Because what I do I sits down and I
12 listen. That's my job. I listen. And I understand you,
13 you said yesterday Mr. Williams was protected on certain
14 things but at the same time you asked Mr. McIntosh not to
15 get on that, put something on that screen and once it's on
16 that screen it's in their individual head, even though you
17 say disregard that. You might say disregard that, but at
18 the same time it's still in that individual head.

19 THE COURT: What are you referring to about that?

20 THE DEFENDANT: When he got on there and Mr. Williams
21 jumped up and asked for a directed verdict about
22 this can.

23 THE COURT: Asked for a mistrial.

24 THE DEFENDANT: Mistrial. But he knew prior to,
25 before getting here and he made a promise not only to the

1 Court but to you --

2 THE COURT: I understand.

3 THE DEFENDANT: -- and to me, but when these people
4 saying that, he didn't -- whether he care or not it don't
5 matter. He go home everyday. He go home everyday. Here
6 he come back around with this Dustin thing.

7 Even though I respect your position, I don't respect
8 your decision on this --

9 THE COURT: I understand that.

10 THE DEFENDANT: -- because he's back there. And if
11 that young man plead the Fifth and I know the law just as
12 well as anybody else, if they -- if Mr. Harley, he know
13 what he's supposed to bring here for the date. How he
14 gets up here, I don't know.

15 You's a specialist. You know what you're supposed to
16 bring today.

17 THE COURT: I understand.

18 THE DEFENDANT: And at the same time, if you had any
19 doubt about this young man right here, get a piece of
20 paper, man. Send it back there. Let him write it again.

21 THE COURT: I understand. You're protected fully. I
22 stand by my rulings.

23 Any additional witnesses, Mr. Williams?

24 MR. WILLIAMS: None, Your Honor. We have -- we renew
25 our motion.

1 THE COURT: And for the same reason it will be
2 respectfully denied.

3 Now, gentlemen, he has not offered any witnesses. I
4 understand you'll have the last argument.

5 MR. WATERS: I believe he did put in Defendant's
6 Exhibits and under the rule I would get last argument.

7 THE COURT: You're right. And I --

8 MR. WILLIAMS: I know. I know.

9 MR. WATERS: I'm a little older than I was.

10 THE COURT: All right. Bring the jury in for me,
11 please.

12 (Jury enters courtroom at 4:13 P.M.)

13 THE COURT: All right. Mr. Foreman, ladies and
14 gentlemen of the jury. That concludes the testimony. I
15 will see you all back at 9:30 in the morning. We will
16 have final arguments and the charge, and then y'all will
17 be in a position to start your deliberations.

18 What are you going to give them in the morning? They
19 want doughnuts?

20 THE CLERK: Do you want doughnuts or another type of
21 biscuit?

22 FOREPERSON OF THE JURY: I'm looking to see.

23 THE COURT: Who's the decisionmaker on the food?

24 FOREPERSON OF THE JURY: We want biscuits.

25 THE COURT: What do you want on them?

1 (Off-the-record discussion.)

2 THE COURT: Thank y'all. Y'all have a wonderful
3 evening. Don't discuss the case. Don't deliberate.
4 Don't do any kind of Internet research or anything.

5 See you bright and early in the morning. We'll give
6 it to you.

7 (Jury exits courtroom At 4:16 P.M.)

8 THE COURT: Any particular charges by the State? I
9 intend to charge my regular charge: Duties of the trial
10 judge and the jury; presumption of innocence; credibility
11 of witnesses; reasonable doubt, the kind of doubt that
12 causes a person to hesitate, and my regular charge on
13 that; circumstantial evidence charge that is set out in
14 the cases that y'all gave to me today that I basically
15 read, the latest case; expert witness; failure of the
16 Defendant to testify; prior record of a witness; and
17 murder.

18 The verdict, not guilty or guilty.

19 MR. WATERS: I think that's pretty straightforward. I
20 don't see anything.

21 Just again on your reasonable doubt, it's just
22 hesitate to act?

23 THE COURT: No, it's the other part too.

24 MR. WATERS: Firmly convinced?

25 THE COURT: Firmly convinced. Sort of a two-part

1 charge.

2 MR. WATERS: Okay. And I guess as well I'd have a
3 right to open on the law as my option as well?

4 THE COURT: (Nods head.)

5 MR. WILLIAMS: Your Honor, just for the record, I'd
6 move for a manslaughter charge also.

7 MR. WATERS: Your Honor, there's absolutely no
8 evidence in this regard to support a manslaughter charge.

9 THE COURT: I agree. Anything else?

10 MR. WATERS: Nothing from the State, Your Honor.

11 MR. WILLIAMS: No, Your Honor.

12 THE COURT: All right. We'll stand at ease. We'll
13 start at 9:30 in the morning.

14 Let me see you gentlemen in chambers, please.

15 END OF DAY'S PROCEEDINGS: 4:18 P.M.

16

17

18

19

20

21

22

23

24

25

1 ON THURSDAY, NOVEMBER 21, 2013 AT 9:40 A.M.:

2 THE COURT: Let the record reflect that at the
3 conclusion of yesterday's proceedings, I had a lengthy
4 in-chambers discussion with Mr. Williams and Mr. Anders,
5 Mr. Waters, expressing my reservations concerning my
6 ruling on the 804(b)(3) admissibility of the statement of
7 Mr. Williamson.

8 And we sort of candidly discussed the -- I hate to use
9 the word uncertainty, but it's not a real clear road map
10 of some of the rulings in 804(b)(3).

11 We discussed the case of the State versus Staten
12 S-T-A-T-E-N, and also State versus McDonald, and the
13 various interpretations of 804(b)(3) all the way from the
14 rulings that when a defendant seeks a hearsay statement he
15 has a formidable burden of establishing that corroborating
16 circumstances clearly indicate the trustworthiness of the
17 statement, that the exculpatory evidence that is not
18 corroborated with other evidence that surely shows its
19 trustworthiness is excluded, and whether a statement has
20 been sufficiently corroborated is a question left to my
21 discretion considering the totality of the circumstances
22 under which the declaration against penal interest was
23 made.

24 And then we went into the discussion of the opinion
25 written by Justice Pleicones in State versus McDonald that

1 centered on the proposition as to whether or not the
2 statement was corroborated and the trustworthiness issue
3 there, wherein they concluded that neither the making of
4 the statement nor its truth -- corroborated in that case,
5 but went on to say that the Court took the occasion to
6 emphasize that the corroboration requirement contained in
7 804(b)(3) goes not to the truth of the statement's
8 contents but rather to the making of the statement.

9 And in many instances it's not possible to separate
10 those two but goes back to the making and not the
11 truthfulness of the statement.

12 Of course, the State yesterday they argued that
13 notwithstanding that portion of 804(b)(3), that they hung
14 their hat on that no reasonable person in the declarant's
15 position would have made the statement as it was made in
16 this case.

17 We met again this morning. Once again, all of us
18 discussed in chambers my struggle with my ruling. And,
19 quite candidly, the State was also concerned with the
20 facts and the application of the facts to this rule. And
21 I understand from the in-chambers discussion that the
22 State will reconsider the objection to that statement
23 provided that they are allowed under 806.

24 MR. WATERS: Yes, sir, Your Honor.

25 THE COURT: Offer of witnesses which I think that rule

1 clearly allows to attack the credibility of the statement
2 or the declaration.

3 Let me hear from the State on that.

4 MR. WATERS: Yes, sir, Your Honor.

5 We obviously made the arguments yesterday and we
6 believe they are applicable but we all realize that we're
7 kind of in uncharted waters here. And I think everyone
8 wants to ensure that --

9 THE COURT: We want to ensure that Mr. Gerrick gets a
10 fair trial.

11 MR. WATERS: Absolutely.

12 THE COURT: And all the rules apply.

13 MR. WATERS: That's correct.

14 THE COURT: And that's why I'm giving us the
15 opportunity to go back and revisit.

16 MR. WATERS: That's correct.

17 And the State has that concern as well, you know. And
18 we believe in good faith the arguments that we've made but
19 as I've kind of raised throughout the course of this as
20 we've addressed these issues, we believe that if the
21 statement were to be admitted that the manner in which it
22 was obtained and Mr. Williamson's statements about that
23 would be admissible and we would be entitled to bring that
24 out.

25 And that would be under Rule 806 which, again, states

1 that if a hearsay statement is entered into evidence, the
2 credibility of the declarant may be attacked by any
3 evidence that would be admissible for those purposes if
4 the declarant had testified.

5 Which clearly the evidence that we proffered yesterday
6 from Lieutenant Harley, we, of course, had the detention
7 center officers who discovered the statement available.
8 We also have Mr. Williamson's mother who we believe would
9 speak on that issue. We believe all of that would be
10 admissible.

11 And I have identified cases out there in other
12 jurisdictions that have stated that when you're going
13 under Rule 806 it is not then offered for the purposes of
14 the truth of the matter asserted and it's not hearsay in
15 that regard and therefore Crawford would not be
16 implicated.

17 Additionally along those lines, I have a number of
18 cases that talk about when you offer a statement not for
19 the truth of the matter asserted but for the, to show the
20 declarant's state of mind or provide context but that's
21 not hearsay either.

22 So we believe for those reasons the circumstances of
23 the statement would be admissible. And, finally, our just
24 overriding claim in that regard would be just an issue of
25 fundamental fairness given the circumstances that this was

1 under the, contrary to the interests of justice to give
2 the jury a false impression and that kind of goes back to
3 our 403 argument as well.

4 THE COURT: All right, sir.

5 So as I understand, the State will withdraw its
6 objection to the statement providing that the impeaching
7 witnesses for lack of a better term under 806 would be
8 allowed.

9 MR. WATERS: That's correct, Your Honor.

10 THE COURT: Sustained.

11 All right. Mr. Williams, also we discussed in
12 chambers the request, or not the request but the way to
13 handle Williamson's invoking the Fifth Amendment. There's
14 sufficient case law, there's a number of cases that hold
15 that to bring him out to let him invoke the Fifth
16 Amendment in front of the jury is not proper. And we
17 both, we being the Defendant and -- defense counsel, State
18 and me, we all looked at those cases in chambers and I
19 don't think there's any question about that holding. Is
20 that correct, Mr. Williams?

21 MR. WILLIAMS: It is, Your Honor.

22 THE COURT: Okay. Now, having said all of that, do we
23 need to call, recall Agent Harley in front of jury, Mr.
24 Williams, are you going to do that? Or as we discussed in
25 chambers that sometimes when you get what you want you may

1 not want it.

2 It could be construed or it could be perceived by the
3 jury to not be -- it may not be helpful to your client.
4 Obviously that's a strategic -- a strategy that you have
5 to decide. And you and your client may be at odds over
6 that but you, you know, you're the captain of the ship
7 when it comes to strategy. You do what you feel like is
8 in your client's best interests.

9 You have Lieutenant Harley here ready to go.

10 MR. WILLIAMS: Well, Your Honor, as you are aware,
11 there was a gentleman on the stand yesterday named Early
12 Glover who basically testified that he wrote a statement
13 that was false for my client.

14 And while we disagree with that testimony, I'm
15 concerned about the cumulative effect of having another
16 person coming up and being attacked especially in light of
17 the testimony that's come out, that that statement of
18 Mr. Williamson was found by Mr. Gerrick in his cell. And
19 that Mr. Williamson's not going to get up on the stand
20 himself today and testify and that I can't call him to get
21 him to testify.

22 THE COURT: Well, he testified yesterday --

23 MR. WILLIAMS: He did.

24 THE COURT: -- outside the presence of the jury and
25 unequivocally invoked his right of self-incrimination.

1 MR. WILLIAMS: He did. And there's no question about
2 the case law that says I can't call him just to have him
3 do that. So I'm left with the issue of just calling Agent
4 Harley to put that statement in and then it being
5 attacked.

6 THE COURT: Well, that opens to the door to the 806
7 witnesses including Williamson's mother and other people
8 at the jail describing how they found it, where they found
9 it.

10 MR. WILLIAMS: It does.

11 THE COURT: Which could be construed to the jury to be
12 similar to the Early Glover testimony.

13 MR. WILLIAMS: It does. And, you know, I will tell
14 you that it's my belief that it's not in my client's best
15 interests to call Agent Harley back to the stand. So I'm
16 not going to do that.

17 I will also tell you that he does not agree with me.
18 And if you wish to address that or if he wishes to address
19 that I'll let you.

20 THE COURT: That's understandable. That's not unusual
21 in criminal cases.

22 And as the Supreme Court has said, we can't let the
23 tail wag the dog. Obviously you are an experienced trial
24 lawyer. You've been around, not as long as I have but a
25 long time. You've tried many a criminal case and

1 sometimes the advice that we have to give our clients
2 doesn't suit them. That's just the nature of the position
3 you're in. And I respect that.

4 All right. Ready to commence final arguments?

5 MR. WATERS: Yes, sir, Your Honor. As I requested, I
6 just need a moment to get my exhibits in order.

7 THE COURT: Fine. Are you going to open on the law?

8 MR. WATERS: Yes, sir. Just very briefly.

9 And, Mr. Bamberg, could you help me make sure the
10 technology is working?

11 (Pause.)

12 THE COURT: State ready to proceed?

13 MR. WATERS: Yes, sir, Your Honor.

14 THE COURT: Mr. Williams?

15 MR. WILLIAMS: Yes, sir, Your Honor.

16 THE COURT: All right. Bring the jury in, please.

17 Ladies and gentlemen, y'all have been great as an
18 audience. I ask you, please, once again, to remain as you
19 have the whole week, no untoward behavior, please.

20 (Jury enters courtroom at 9:58 a.m.)

21 THE COURT: Good morning.

22 THE JURY (COLLECTIVELY): Good morning.

23 THE COURT: Sorry we're a little bit late getting
24 started. We had some matters, we had a couple other
25 matters that we had to go over and I apologize.

1 All right. Ladies and gentlemen, Mr. Foreman, we're
2 now at the stage of the trial where the lawyers will
3 present their final arguments. Final arguments are akin
4 to the opening statement. It is not evidence in the case.
5 Obviously you've heard all of the evidence. And you will
6 determine what the true facts are from the evidence that
7 you've heard.

8 The lawyers will -- in their final arguments, the
9 State will go first. They will go briefly to open the
10 arguments on the law in the case. That will be followed
11 by the defense counsel, Mr. Williams, and then in rebuttal
12 or response to that the State will be allowed final
13 argument.

14 After the arguments then I will charge or instruct you
15 on the law and then once that is done you'll be sent back
16 to your jury room for commencement of your deliberations.

17 So I ask that you pay close attention to the final
18 arguments and then once we complete that we'll move into
19 the final phase of the trial which is my charge.

20 MR. WATERS: Thank you, Your Honor.

21 Well, here we are. This is the end. And just like
22 the Judge stated, just so y'all know where we're going,
23 the first thing I'm going to do is what's called opening
24 on the law which means right now all I'm going to do is
25 discuss some of the legal issues. I'm not going to talk

1 about the facts.

2 And then after that, Mr. Williams will get to stand up
3 and he'll get to give his entire argument however he sees
4 fit on both law and facts. And then at the conclusion of
5 that, I'm going to get up and address the State's view of
6 the facts in this case. Okay?

7 And the first thing that I want to talk to you about
8 is the concept of murder. And, really, murder is a fairly
9 simple common-law crime in South Carolina. And it's
10 defined as the killing of any person with malice
11 aforethought. The unlawful killing of any person with
12 malice aforethought.

13 So there's really three things. You've got to kill,
14 and then you have to do it with malice. And what is
15 malice? Well, malice is defined under the law as sort of
16 an evil intent, a hostility, a hatred, a bad intent, the
17 intentional doing of a wrongful act without just cause or
18 excuse with the intent to inflict an injury. Okay. So
19 it's just a bad purpose is what malice boils down to.

20 And then there's the concept of aforethought. And
21 aforethought means that that malice, that mental state,
22 that evil intent, that bad intent that somebody has when
23 they kill somebody, the bad reason that they do it for,
24 that it has to at least exist -- it doesn't have to exist,
25 like, a long time before. It doesn't have to be planned.

1 And it does have to exist before and at the time that the
2 Defendant kills the victim.

3 But that could be a fleeting second before. Okay.
4 And certainly if a crime is planned, if someone lures
5 someone out to a location and kills them, certainly that
6 would be aforethought because that plan, that deliberate
7 action clearly existed prior to the actual killing.

8 Now that's really murder in a nutshell.

9 This case is primarily a factual case. It doesn't
10 have extremely complicated legal doctrines to deal with.
11 And that's really the crime that you're going to be asked
12 to decide.

13 And the Judge will instruct you on the law and give
14 you some additional instructions as well. And of course
15 he's the ultimate judge of the law and he will -- he's the
16 one who's the final word. But that's really what it boils
17 down to. That's what you're going to have to address in
18 this case: Was there an unlawful killing; was it done
19 with malice, a bad intent, a bad purpose; and was there
20 aforethought. And, again, something that's planned is
21 malice aforethought.

22 All right. The second concept that I want to talk to
23 you about is the concept of reasonable doubt. And you
24 guys probably have all heard about that. And as you heard
25 from the Judge at the very beginning of this trial, it's

1 the State's obligation to prove the Defendant guilty
2 beyond a reasonable doubt. And that is an important part
3 of our system. It is a fundamental part of our system.
4 It's what makes us Americans. It's something that I
5 believe in very strongly. It is a burden that we accept
6 and we want because it's how the system should work.

7 And we have that burden to prove the Defendant guilty
8 beyond a reasonable doubt. But one thing I want to tell
9 you about reasonable doubt is that the emphasis is on
10 reasonable. Okay. Reasonable doubt. Not any doubt. Not
11 any conception you can create in your mind. Not any
12 fanciful thing, as in the course of human events. There's
13 few things that we can know with absolute certainty. The
14 only doubt you're looking for is a reasonable doubt.
15 Okay. As long as you are firmly convinced that the
16 Defendant is guilty, then you should -- you have to
17 convict him. That is your duty to do that. Okay.

18 And so don't let anybody tell that you a mole hill is
19 a mountain and turn some small questions into something
20 big. You just need to be firmly convinced that the
21 Defendant did it. If you are, then you -- he's been
22 proven guilty beyond a reasonable doubt and he has to be
23 convicted.

24 And that leads me to my last point here which is about
25 duty. And you probably recall when you first got here,

1 you got in here to jury selection and you're like, oh my
2 gosh, what have I gotten myself into. And you're standing
3 out there and maybe some of you were interested, saying
4 I'd like to be selected and others were like, I really
5 would rather be at work or at home or at school or
6 wherever I should be.

7 And one of the first things you did though when you
8 got selected was you raised your hand and you took an
9 oath. And you took an oath to well and truly try this
10 case. You took an oath to do your duty. You took an oath
11 to follow the law as the Judge gives it and to take the
12 facts that have been presented to you and to apply that
13 law and to do your duty and come out with the result that
14 is demanded.

15 And that's interesting because everyone here in this
16 courtroom is essentially a public official. I of course
17 took an oath, Mr. Anders took an oath to become
18 attorneys. We took an oath to become prosecutors.
19 Mr. Williams took an oath to become a lawyer as well. And
20 the Judge took an oath to become a lawyer and took another
21 oath to become a judge. And you guys took an oath as
22 well. And what an oath commands you to do is to do the
23 tough work, is to make the tough call, is to do the right
24 thing. Because you now have that duty. That's a duty
25 that's upon you.

1 And the reason why I bring that out is because nobody
2 ever says when they say I did my duty, they never say that
3 like, well, yeah, I went and I watched pizza (sic) and
4 watched football with my buddies. I did my duty. Nobody
5 ever says that. Oh, I went shopping with my girlfriends.
6 Nobody says that.

7 And everybody says -- if somebody says, I did my duty
8 it was because they did the right thing, they did the
9 tough thing, they did what was required of them and they
10 made that tough call. And that's what we have here in
11 this particular case.

12 Winston Churchill, y'all may remember who he was. He
13 was the leader of England during World War II. And that
14 country, the rest of Europe had fallen and England was
15 about to be overrun by the Nazis. And he rallied that
16 country back from the brink of losing World War II.

17 And one thing that Winston Churchill said was that
18 jury duty is the highest service that a citizen can
19 perform for his or her country aside from military
20 service. Again, we're talking about Winston Churchill who
21 was a leader in World War II. So I think he knows
22 something about public duty.

23 And so while it is an important part of the system
24 that you assess whether or not there's reasonable doubt,
25 that is certainly a part of it and again a burden that we

1 want. But the other half of that is, the other half is
2 that the system depends on people who are willing to make
3 the tough call, who are willing to do their duty and do
4 the right thing and find people guilty and not cop out and
5 do what is necessary to do the right thing and see that
6 justice is done.

7 Okay. All right.

8 I appreciate y'all's attention. I appreciate your
9 attention all week. I'm going to turn it over to
10 Mr. Williams now and then I'll speak to y'all at the end.

11 Thank you.

12 THE COURT: Mr. Williams?

13 MR. WILLIAMS: Thank you, Your Honor.

14 THE COURT: Good morning.

15 THE JURY (COLLECTIVELY): Good morning.

16 MR. WILLIAMS: When I stood in front of y'all Monday
17 and told you there was some things that we were going to
18 agree on and there was some things that we knew had
19 happened, and that there was some things that was unclear,
20 and here we are on Thursday and let's go through some of
21 that.

22 Let's talk about first what I think we can all agree
23 on what happened in this case. It's clear that Tyrone
24 Donaldson and Sammie Gerrick are friends. And it's clear
25 that Tyrone went to help him and went and bailed him out

1 of jail.

2 And he got \$3,300 of his own money. And he got \$3,300
3 of Maurice Williams' money. And they both agreed that
4 they would bail out Sammie. And he goes on 7-21, July 21,
5 to Bamberg. And he gets him and he brings him home and he
6 takes him to his house. That's clear. That's obvious.

7 It's also clear and obvious that Tyrone leaves him
8 there. Then goes to his house, changes his shoes, gets
9 his shotgun, gets back in his car and goes back to
10 Sammie's house.

11 Now, the shotgun's missing. We don't know where it's
12 at. There was unknown shotgun shells found at the scene.
13 We don't know where they're at. There's no forensic
14 evidence on the unknown shells or on the shotgun case
15 that's found in the car in Bamberg. There are unknown
16 fingerprints on the trunk of the car where that shotgun
17 case was at. We know that.

18 Let me go back to 7-21. Tyrone gets Sammie. Sammie
19 and Tyrone go to the bank. Tyrone cashes a check. Sammie
20 cashes a check. They go to Junior Food Mart. They're
21 seen out, going toward the country. We know that happened
22 from witnesses.

23 That's where it breaks down. That's where there are
24 conflicting stories about what happened.

25 The State would have you believe that Sammie lured

1 Tyrone out into the country. Based upon what Maurice
2 Williams says, they were going to dig up a safe. Remember
3 that? A safe buried in the woods that had between a 160-
4 and a \$190,000 in it. That was the evidence. You've got
5 to decide whether that story makes sense.

6 Now, I don't know Tyrone but he seems like, from
7 talking to his family, he was a reasonably intelligent,
8 sensible person.

9 We know Maurice was. He's college educated. He's a
10 grants accountant at Denmark Tech. Are they going to
11 believe the story, especially in light of the fact that
12 they know Sammie's in jail and he doesn't have the money
13 to get out of jail, especially in light of the fact that
14 they know that he's got bill problems. All right.

15 It's obvious from the evidence that he had bill
16 problems. He's behind on his probation. He's behind on
17 his child support. He was in jail because of child
18 support. All right. He tried to leave child support
19 court. We know that.

20 You've got to decide whether you think that story's
21 believable.

22 And then the story is that Sammie somehow kills
23 Maurice -- kills Tyrone. Remember, there's no marks on
24 Tyrone's body when he's found. That he somehow buries
25 this big man, he's a 270-pound man, out in the country.

1 All right.

2 There's no DNA evidence that connects Sammie to this.
3 There's no other evidence that connects Sammie to this
4 other than the conjecture that the State would have you
5 believe.

6 But remember this. There was also a nurse that
7 testified that Sammie comes back home, at his home at
8 eight o'clock. And she's pretty observant. Ms. Taylor
9 White. She says, Sammie's wearing a brown and a white
10 shirt and jeans. There's a picture in evidence of that
11 shirt when he's at the bank. She says he's clean. He's
12 not dirty. She's observant.

13 This is a man who the State would have you believe
14 just dug a grave on a 90-plus hot degree day in the middle
15 of July in Barnwell County. Yet, there's no dirt all over
16 his body. She doesn't see that. She's observant enough
17 to tell you the exact kind of shirt that he has on but she
18 sees no dirt on it.

19 I don't understand that. I don't understand how that
20 is consistent with the story that the State would have you
21 believe.

22 I've had problems trying to figure out how you have a
23 man who's severely decomposed, yet there are green leaves
24 in the grave. And there's pictures of those in evidence
25 that you can look at.

1 So you've got to ask yourself when you hear all of
2 this, does that story make sense.

3 And Sammie told you a different version of what
4 happened. He told you about going out to Sunshine Road
5 and going to Andre's house. Jeff Croft confirmed that
6 Andre lived out off Sunshine Road. Okay.

7 He tells you that they're out in this wooded area and
8 that Andre and O'Shane grabbed Tyrone and the fellow named
9 Big Joe started hitting him. And then he tells you that
10 he left. And he went back to town and told his daddy
11 about it. And you've got to ask yourself honestly, does
12 that story make sense.

13 And, you know, I would be remiss if I didn't tell you
14 I had about three questions in my mind about that story
15 also. The first question I had in my mind was, you know,
16 he's got this ATM card. All right. How did he get this
17 ATM card?

18 And that question may be going through your mind also.
19 Well, the problem I got with that is he had, he had the
20 PIN number. People don't give their PIN number out unless
21 they want you to use their card.

22 The other problem I got with that is that Sammie, when
23 he's using this ATM card or debit card, he didn't sign
24 Tyrone's name on it or somebody else's name on it. He
25 signs his own name. What person trying to steal money

1 using a debit card is going to sign his own name? So, can
2 you believe that maybe Tyrone gave him the debit card?

3 The second question I have -- and I think maybe you
4 can. The second question I have was about the car, and
5 why he would take the car from the grave to Orangeburg.
6 Well, he said he was scared. And that's what he told you
7 on -- or that's what you got through the testimony of Jeff
8 Croft and through the video that y'all saw. And should he
9 have been scared if a drug deal was going down and if
10 there are drug dealers out there looking for him, who had
11 just harmed his friend? And the answer I think is yes.

12 And that brings you to the third real question.
13 Sammie, as y'all know, told two different stories how this
14 happened. And I guess that's the problem that I've
15 wrestled with in this is why he did that, and how do I
16 communicate to you that at least on his last story he was
17 telling you the truth.

18 So I can understand if y'all struggle with these
19 things. But let me tell you a story that I remember from
20 childhood. And all y'all probably remember it too about
21 the boy who cried wolf. Remember that? A boy's out
22 watching the sheep. He's bored so he yells wolf-wolf.
23 And all the people in town come out to the field. And he
24 laughs and says, ha ha, there's no wolf. A week later he
25 does the same thing and about half the people come out and

1 he says ha ha, no wolf. And third time the wolf really
2 comes. And he's telling the truth, and nobody comes
3 because nobody can believe him.

4 Sammie's got himself in the same predicament as that
5 boy.

6 That's why Jeff Croft got on the stand and why Agent
7 Harley got on the stand and said, you're coming to us now
8 with this thing? Why didn't you tell us up front? You
9 told us all these different stories.

10 He's just like that boy. He's finally telling the
11 truth but nobody wants to believe him because of the
12 inconsistencies before.

13 Now, should you give him the benefit of the doubt this
14 time? Remember what he looked like on that screen that
15 you saw yesterday? How shaken he was, how upset he was.
16 Jeff Croft confirmed that. He was finally facing what had
17 happened on that day.

18 That story makes more sense than the story about a
19 safe buried in the woods. I don't know anyone he would
20 take 160- to \$190,000 in a safe and bury it in somebody
21 else's land. And I don't know too many people, especially
22 people with a college education, who would believe that
23 kind of story. That story makes absolutely no sense.

24 And I honestly think that if Sammie had been straight
25 up, and up front before, you wouldn't believe this story

1 either. But you're faced with those two stories and you
2 don't know whether to believe Sammie now or this other
3 story.

4 Sammie's story makes more sense and it makes sense
5 that he would tell falsehoods to begin with because he was
6 scared also. He was scared he could be harmed. And
7 that's why they found the note in his truck because of
8 that fear.

9 The Judge is going to charge you on the law in a bit.
10 He's going to talk about reasonable doubt. He's going to
11 tell you a reasonable doubt is a doubt that will make you
12 hesitate to act.

13 When you get back into your jury room I would like you
14 to think about those two essential ways that this thing
15 happened. And if you're having the same problem I'm
16 having with this safe story and about whether that's
17 believable, if you would think Sammie Gerrick would
18 actually have all this money hid somewhere yet have all
19 these bills that he's got pay, then maybe that story's not
20 believable.

21 Maybe the State just doesn't have it right. And maybe
22 the reason Sammie's gotten himself in this position is
23 because he just didn't own up to his misdeeds of being
24 involved in this drug transaction to begin with. If he
25 had just come clean to that, maybe he wouldn't be here

1 facing a murder charge.

2 He should have. I can't apologize for him. It was
3 wrong. He shouldn't have done that. What's done is done.

4 But his story, when you weigh it to the safe buried in
5 the woods, it's a lot more believable. When you get back
6 into your jury room, ask yourself what about these green
7 leaves. Ask about the fact that there's, what about the
8 DNA evidence and blood evidence? There's nothing that
9 ties Sammie to killing Tyrone in that regard. No
10 scientific evidence does that.

11 And, ladies and gentlemen, after today if you're not
12 sure about what happened, the one thing worse than a
13 murder is sending somebody to jail for something that
14 you're not sure they did.

15 And, yeah, you got a duty to do your job and find him
16 guilty if you believe beyond a reasonable doubt he did it.
17 But you've also got a duty to find him not guilty if
18 you're not sure beyond a reasonable doubt.

19 I don't get to talk to you again after the prosecution
20 gets up. So, please, when you get back in that jury room,
21 think about what makes more sense. Think about what is
22 most likely true. Think about whether that story shakes
23 out with your own good common sense.

24 Thank you.

25 THE COURT: Ms. Peeples, do you want me to get you a

1 chair down here? It might be a long stand.

2 MR. WATERS: Yes, ma'am.

3 THE JUROR: Okay.

4 (Pause.)

5 THE COURT: Can everybody see?

6 MR. WATERS: Common sense, everybody, common sense.
7 That's the first thing that I want to say to you guys and
8 we'll get to the exhibit. I just wanted to make sure it
9 was working. But that's the first thing I wanted to say
10 to y'all is common sense because that's what we have
11 juries for. That's the beauty of the system that we have
12 is that we get 12 folks out of the community who
13 collectively are going to put their common sense together
14 to make this decision. And that's what we want from
15 juries is we want the exercise of common sense.

16 And this is a particularly important concept in this
17 case as we deal with the many twists and turns of Sammie
18 Gerrick over there.

19 And we've heard a lot of evidence. And I think that
20 the main thing that you can do is do exactly that. When
21 you consider this case is to look at it all with just
22 plain good old common sense. The kind of common sense
23 that you use every day to make decisions and make
24 judgments about things that are in your life. It's no
25 more complicated than that.

1 And really I think the defense pretty much concedes
2 that this was murder. That Tyrone was murdered. And what
3 they say is that he didn't do it. So that's really where
4 the rubber meets the road here. That's what we're here to
5 decide.

6 And when people are looking to solve crimes, when
7 they're looking to determine who done it, they usually
8 look for three things. The first thing is motive. The
9 second thing is opportunity. And then the third thing is
10 guilty acts, guilty conduct, guilty consciousness.

11 And those are three things how you can look and
12 determine whether or not somebody is guilty of what
13 they're charged with.

14 And I'm going to start, first I'm going to talk about
15 motive because we're going to through those. And the
16 first thing is, is motive. Why would someone kill.
17 That's what motive is. Why would someone kill. Why would
18 Sammie Gerrick kill Tyrone? And it goes back to the first
19 thing that I told you on the opening day of trial. Greed,
20 selfishness. Selfishness, the concern for one's own self
21 and one own's problem over anything else. The need for
22 money. The need for money. The oldest motive in the
23 book.

24 And what evidence of motive did you hear? Well, you
25 heard three main things. Number one, you heard that

1 Sammie Gerrick was in jail and he wanted out. He had to
2 pay \$6600 to get out.

3 And you heard from Maurice, the young man, the grants
4 accountant at Denmark Tech who had worked there for years
5 who had saved up his money for a house payment and he was
6 contacted by Sammie and he talked to Tyrone and they
7 agreed to loan the money to get Sammie out. \$3,300
8 apiece.

9 And you also if heard from Johnell Rice who was the
10 officer there who facilitated Sammie getting in contact
11 with these two men. And you heard Maurice say that Sammie
12 promised to pay them back as soon as he got out.

13 And they believed what Sammie said. And it was the
14 worst mistake that Tyrone ever made.

15 So that's the first thing. He's in jail.

16 The second thing for the motive is he needs more
17 money. And that's what this exhibit shows. This is the
18 exhibit from John Burnett, the investigator who
19 interviewed him. And you recall the tape. He was a
20 retired investigator. And he kept asking Sammie about
21 that. Well, Sammie, if you have money, if you had this
22 money, why did you need to borrow money. It doesn't make
23 any sense. And he had Sammie write down that not only did
24 he get the \$6600 to get out of jail but write down the
25 money that he spent with Tyrone Donaldson's credit card or

1 ATM card the next day.

2 And what was he paying? \$700 for the light bill.
3 \$300 for the house note. \$300 for his probation. And
4 then some other items that he needed for his cars. Okay.
5 Over a thousand dollars that he spent to pay his bills to
6 get his bills back. So he not only needed to get out of
7 jail, he had bills he needed to pay. He had bills he
8 needed to pay.

9 And he used Tyrone's ATM card to do that. He used
10 Tyrone's ATM card to do that. We put in, and you heard
11 from Angela Cotton. And she put in all those
12 transactions. Those are in the exhibits as well that you
13 can look. He was using that man's ATM card the day after
14 he disappeared off the face of the earth.

15 And you heard multiple people say Tyrone would never
16 loan out his debit card. He would never do that. And I
17 know the defense says, well, how did he do that? He
18 signed his name on there. He had the PIN. He had the
19 PIN. Well, Sammie Gerrick knew what's up. He can't use
20 that card. He knows everywhere you go there's a camera.
21 Every ATM machine there's a camera. He knew that.

22 And as we hear from the start all the way to the
23 finish Sammie has an answer for everything. When he knows
24 there's something coming, there's evidence discovered that
25 he has to explain, he comes up with answer for it. It

1 might be different than what was before but a classic
2 person who tells falsehoods, a classic liar.

3 He tells this story and then when he finds out, well,
4 you can prove this, well then it moves this way. And then
5 when he finds out you can prove this, then it has to move
6 a little farther. And then when he finds out you can
7 prove that it has to move a little farther. That's what
8 you start to see in this case from start to finish with
9 Sammie Gerrick.

10 Okay. He knew he was not going to be able to use that
11 credit card. They would have him on footage using it so
12 he had to just say, hey, the man gave it to me. He gave
13 me his card and I said, see you later, man, I'll see you
14 later. And then I never saw him again. That was the
15 first thing he said. That's the first thing he told Chief
16 Holston when they asked where, what happened to Tyrone.
17 You know what happened to Tyrone? That's what he said.
18 Yeah, he gave me his ATM card, you know, let me use it and
19 I haven't seen him since. That was his first story.

20 He gets out of jail. He needed some more money to pay
21 bills. We're still on motive. The third thing is he has
22 to pay it back and he can't. If he had any money he
23 wouldn't be using Tyrone's card the next day. And Maurice
24 said that he got a call at one p.m. from Tyrone saying
25 that he had Sammie out of jail and that Sammie said they

1 would be paid. They were going to get the money.

2 At two p.m., he gets a call says, we're going to get
3 the money. And Sammie says, hey man, I'm going to bless
4 you. I'm going to give you a little extra something for
5 helping me out. Okay. He's promised these guys to get
6 out of jail and he had to get out of jail right now. So
7 he told them all whatever they needed to hear.

8 Just like Early Glover got told. I'll give you a
9 thousand dollars if you fake a statement for me. Same
10 thing here. Same thing here. He told them whatever they
11 would hear. Yeah, man, I'll pay you back. I got money.
12 I'll pay you back. And they got him out of jail. So he's
13 got to pay them back today, and that's what he's telling
14 everybody. Okay. He's got to pay them back and he
15 can't. That's your third evidence of motive here.

16 Tyrone doesn't know it but he's on his way out to his
17 death because Sammie can't pay him back and he needs more
18 money as it is. And it's all about Sammie. It's all
19 about just what Sammie needs and Sammie wants. Sammie's
20 selfishness is why Tyrone is dead.

21 The next thing aside from motive is opportunity. And
22 what does opportunity mean? It means you had the ability
23 to commit the crime. You had the opportunity to do it.
24 You were within the area of where the crime occurred and
25 you're one of the people who could have done it.

1 And, you've heard tons of evidence, tons of evidence
2 that Sammie had the opportunity. I'm going to go through
3 all of that right now and it's very important.

4 First of all with Maurice. Had the call at one; I got
5 Sammie, going to get your money. Had the call at two;
6 talked with Tyrone and Sammie, we're on the way out to get
7 your money. Okay.

8 That's the last time anybody ever talked to Tyrone.
9 The last time anyone ever talked to Tyrone. Tyrone and
10 Sammie said, yeah, they were together and they said we're
11 going somewhere together. We're going to get your money.
12 The last time that Tyrone was ever heard from alive he
13 said, I'm going with Sammie Gerrick. That's who I'm going
14 with.

15 But that's just not from Maurice. It's also Bradley
16 Smith, the son of Claudette, Sammie's girlfriend, said
17 that Sammie comes over and gets two shovels. Okay. He
18 gets two shovels. Mr. Williams wants you to believe or
19 Sammie wants you to believe that last story he told, but
20 there's nothing about shovels in that story.

21 He goes and gets two shovels. Well, you know what's
22 out in that woods out there? A hole with a dead body in
23 it. Okay. Bradley Smith says, Sammie Gerrick comes and
24 gets two shovels, gets in his truck, goes off and Tyrone
25 goes off right behind him. Two shovels.

1 You got Shaneka. Shaneka saw them in town about
2 three p.m. Saw them talking together. Saw Sammie waving
3 his arms around and speaking very rapidly. And then
4 Sammie went off and then Tyrone went off. So you got them
5 together.

6 And then you got Joe Thomas. Okay. You got Joe
7 Thomas who was the individual who came up here and he said
8 he called Sammie just to mess with him. And Joe Thomas
9 said, I called him about 3:05. And we had Joe Thomas
10 identify where he called him.

11 Right here. Okay. There's the number that's calling.
12 This is the reception number. Here's the date,
13 7-21-2011. I know you can't see it very well. 1505,
14 3:05. Joe Thomas says, yeah, I called him at 3:04. He
15 called him at 3:05. That's it. He said, I saw Sammie
16 going by and another car right behind him and I called
17 Sammie. And there it is, right there in the phone
18 record.

19 Another thing Sammie later said, oh yeah, I went over
20 to Joe Thomas's. I had the shovels because I wanted to
21 get some sand. And Joe Thomas said, that's a lie. He sat
22 right there and said, that's a lie. That's Sammie's
23 friend. He said, no, there ain't no sand around my
24 house. He didn't come over to get any sand. He came
25 right on by.

1 Another lie by Sammie Gerrick over there.

2 Okay. So you got, you got Bradley seeing him leave
3 with shovels at two. You got Shaneka and Joe Thomas
4 seeing them together about three p.m. and the other thing
5 is that Joe Thomas lived on Izlar Extension. And, you
6 know, that's not too far from the scene. I think he
7 testified it was a couple miles from the scene. And
8 Sammie's going on by, heading that way.

9 But then we have Sammie and Tyrone's phone records.
10 Okay. And I'm going to talk a little bit about these
11 phone records because they're interesting. And I had the
12 people come up. I had Agent Hines come up and testify
13 about how these towers work. I had the lady from Verizon,
14 Alltel, who came up and talked about these records, and
15 about how those towers are marked on these particular
16 records. Okay.

17 And the reason is is that you can't tell exactly where
18 somebody is, but you can tell roughly where they are.
19 And, again, in rural areas you can kind of stretch out
20 farther. When those maps -- as the agent testified, it's
21 not like those maps are a hard area. But it does give you
22 an idea of where somebody is. All right.

23 We've got Tyrone's records here. Sammie's number is
24 [REDACTED]-9453. Tyrone's is [REDACTED]-0064. These are Tyrone's
25 records right here.

1 Give me second to zoom in and see if I can focus to
2 see if you all can see better.

3 All right. These are the last four calls that Tyrone
4 ever makes in his life. [REDACTED]-9453. Sammie. Tyrone.
5 Sammie. Tyrone. Sammie. Tyrone. Sammie. Tyrone.
6 1511. Okay. Those are the last four calls that he makes
7 in his life and after that he drops off the face of the
8 earth, never to be heard from alive again. That's it.
9 Okay. He's gone off with Sammie. The last four calls he
10 makes are with Sammie. And -- right there on those
11 records.

12 And then if you look at Tyrone's records -- I'm
13 sorry. If you look at Sammie's records. We show you
14 Sammie's records now that we can see better. Here's Joe
15 Thomas at 3:05. Okay. These are all Sammie's numbers
16 right here. And we get up to here to 1533 calling Tyrone
17 right there. 1533 is his last call right there and then
18 Sammie goes off the grid for two hours from 1533 on
19 7-21-2011 to 1734. Two hours Sammie goes off the grid.
20 And Tyrone after having those calls is never heard from
21 again.

22 And where are they? Where are they? Let's look at
23 the tower information right here. These calls are 752 --
24 1752, sector one. And you heard from the agent. This is
25 the map of Blackville right here. 1752 sector one is this

1 east section. And you saw where Agent Croft marked the
2 approximate location of the crime scene.

3 Okay. Opportunity. Hard evidence they were together.

4 And also, Sammie likes to make a lot of calls. Look
5 at that. Look at all those calls. Look at all those
6 calls during the afternoon. And then right here, 1533
7 around the last time that Tyrone makes his last call,
8 Sammie's off the grid for two whole hours before he makes
9 another call.

10 What do y'all think Sammie Gerrick was doing during
11 that two hours? He was killing Tyrone is what he was
12 doing.

13 These are Tyrone's texts. And you heard the lady talk
14 about delivered. This is the time it comes into their
15 server, not necessarily the time it goes out there. And
16 then once it comes into their server it tries to send it
17 out to Tyrone's phone. Deliver. Deliver. Deliver.
18 Deliver. Okay.

19 But, if it can't send it out to the phone, then the
20 server keeps trying for a few days and then eventually it
21 declares it undelivered. And why could it not be able to
22 deliver that text message? Well, because the phone is
23 destroyed, the phone is off, or it's out of any service
24 area. And right around the end time of that two-hour
25 period that I just showed you with Sammie, Tyrone's phone

1 goes from delivered text to undelivered forevermore.

2 What was Sammie doing when he was off the grid for two
3 hours? He was killing Tyrone.

4 Opportunity. Motive. They're both here. And they
5 both point conclusively to that man over there, Sammie
6 Gerrick.

7 But that's not it. That's pretty strong as it is.
8 The motive is there. No one else had the motive that day
9 Tyrone disappeared. The opportunity is there. Nobody
10 else had that kind of opportunity. This kind of hard
11 evidence of being together. This time off the grid.
12 Nobody else had that except Sammie Gerrick. We have the
13 strong evidence of motive. We have the strong evidence of
14 opportunity.

15 But that's not enough because we also have the third
16 thing, and it is overwhelming. And this man has so many
17 guilty acts it just adds up. And we're going to go
18 through them all.

19 But you got the motive. You got the opportunity. And
20 now we've got the guilty acts. What are the guilty acts?
21 The acts to conceal, to lie, to cover up, to divert
22 attention, to lie.

23 And it comes back to what I said at the beginning,
24 common sense. Look at this with common sense. What does
25 your common sense tell you happened here?

1 The first -- before we go through all Sammie's guilty
2 acts, let's talk about Tyrone and what you all heard about
3 Tyrone. Tyrone was a family man. He took care of those
4 kids, two young kids and his teenage sister. He cooked
5 for them. He cleaned for them. He did their homework.
6 The family and the friends said Tyrone wasn't doing any
7 drugs. Tyrone was not into any drugs. The officer said,
8 we looked into it. Tyrone wasn't in any drugs. The
9 pathologist stated that she sent out his tissues to be
10 tested for drugs, for intoxicants, and came back with
11 none. That's scientific evidence that Tyrone wasn't into
12 any drugs.

13 His friends say that. His family says that. The
14 officers say that. And the pathologist says that. Tyrone
15 wasn't in any drugs. That's just another lie by Sammie
16 Gerrick to, not only, sully the name of the man he killed.

17 They said that he would not be one because he had
18 those family responsibilities, he would not be one to just
19 disappear and not call, to not let people know where he
20 was going.

21 He was not one to just loan out his debit card. This
22 is the kind of man we're talking about.

23 And Sammie's story doesn't fit with that. It does not
24 fit with that. You haven't heard one person say a bad
25 word about Tyrone except Sammie Gerrick trying to save his

1 own hide.

2 But let's talk. And let's go through all of Sammie's
3 guilty acts. And y'all bear with me. The first one I
4 want to talk about is Maurice. And the defense made a big
5 deal, made a big deal about this story makes no sense that
6 Maurice and Tyrone believed that he had a safe with a
7 \$190,000 in it.

8 But the defense is wrong. The defense has got the
9 evidence wrong because Maurice never said that. What he
10 said was, was that Sammie said he had our money and he was
11 going to pay me back when I got off work. And it wasn't
12 until eight o'clock when I found out Tyrone was missing
13 and I go talk to Sammie.

14 I go talk to Sammie and I say, Sammie, what's up. And
15 Sammie says, me and Tyrone went out in woods and dug up
16 this safe I had that had \$100,000 in it. And I gave the
17 \$100,000 and I took all of it and I put it in Tyrone's car
18 and Tyrone kissed me on the forehead (makes air kiss) and
19 then he drove off.

20 That was what Sammie told Maurice. Maurice hadn't
21 heard that until Sammie said it. The defense has it
22 entirely wrong when they're saying don't believe the
23 State's theory, the State's theory's wrong. But that's
24 not what the evidence was. All Maurice was told was that
25 he was going to get his money back at the end of day. And

1 then when he hadn't got his money and went and asked
2 Sammie Gerrick about it, Sammie Gerrick came up with that
3 story.

4 So I agree with the defense. That story is
5 unbelievable because it was come up with by Sammie
6 Gerrick. And what did Maurice tell you? He knew it
7 wasn't true. He got scared. That's what he sat right
8 there and told you. He heard that story from Sammie
9 Gerrick and Tyrone isn't calling anybody and everybody
10 knows that Tyrone doesn't go off the grid like this. And
11 he got scared and he called his friend Jamaal Berry. And
12 he was scared. He put his gun in his pocket because he
13 was the other guy. Tyrone's already off the grid. He's
14 the other guy. He's the other guy.

15 So the defense has it completely wrong. So when they
16 ask you to go back and say, this is the State's theory,
17 this was Sammie Gerrick's first lie, that makes no sense
18 whatsoever and it made no sense to Maurice and he got
19 scared because he knew something wasn't right right then
20 and there. And then he told you that from the stand. He
21 told you that from the stand.

22 And the interesting thing about Sammie's first story,
23 that he and Tyrone went out into the woods and dug up the
24 safe, is that it does fit with two shovels. And it does
25 fit with what happened to Tyrone.

1 Because you know what Sammie did? That's the story he
2 told Maurice initially. That's the story he told Tyrone,
3 too. That's the story he told Tyrone, is the money's out
4 in the woods. And you know what he did? He made Tyrone
5 go out there and help dig his own grave.

6 And Maurice asks him when he sees him that night, asks
7 him and he tells him that story. And Maurice gets scared
8 because he knows it's not right.

9 Sammie Gerrick's first lie.

10 And then Sammie Gerrick, while Maurice is standing
11 there, gets on the phone like he's a concerned friend and
12 says, where are you classmate.

13 That's who he is. That's what we're going to see from
14 start to finish with this. Constantly trying to
15 manufacture evidence to conceal, to divert, to cover up.
16 And who does that but a guilty man? Does an innocent man
17 do that? No. A guilty man does that.

18 Motive. Opportunity. And guilty acts.

19 Well, the next day Maurice talks to him and Sammie
20 says, oh hey man, you know, I'm working on getting your
21 money back. This is on 7-22. The third lie.

22 We're up to three lies. Let's move on.

23 So, 7-22, the next day. Nobody's heard from Tyrone.
24 They call the police. Chief Holston gets involved. He
25 talks to Sammie Gerrick. And Sammie Gerrick tells his

1 first story to the police which I mentioned before. Oh,
2 yeah, yeah, the victim gave me his ATM card and then I
3 haven't seen him since.

4 And, again, he has to say that. You can't use an --
5 Sammie Gerrick knows that. Think of all the things that
6 he's done in this case to try to throw people off the
7 track. He can't use that card anywhere unless he says he
8 had permission to. He can't do that.

9 And why -- let's go back to the story he told
10 Maurice. Why in the world do you think he told Maurice
11 that I had a safe with \$100,000 in it or \$190,000 in it
12 and I put it all in Tyrone's car and he kissed me on the
13 forehead and drove off? Do you think he took my money?
14 Why do you think he told him that story?

15 He told him that story because he was hoping people
16 would believe that Tyrone said I got 190 grand, I'm going
17 to Mexico. And that his body would never be discovered
18 out in those lonely woods. That's why he told that
19 story. That was the first thing he thought was going to
20 work.

21 And then, oh well, Ty, you know, he gave me his ATM
22 card because he ran off with 190 grand. That's what he
23 thought was going to work. But as we're going to see, as
24 the police discover more and more evidence he has to
25 change his story. He has to move. He has to bob. He has

1 to weave.

2 But he says that -- he tells Chief Holston, yeah,
3 Tyrone gave me his ATM card because he was holding some
4 money for me and I haven't seen him since. Why in the
5 world -- if Tyrone was holding money for Sammie, why in
6 the world would it have taken him so long to get out of
7 jail? And why in the world would they need Maurice to
8 loan money? If Tyrone was holding money for Sammie, why
9 would they need Maurice?

10 It's just lies.

11 Lie number four.

12 Then we get to that evening when we get to the
13 mysterious texts that came in from the track phone. The
14 texts that came in to Kelsea, Tyrone's teenage sister, and
15 came in to Maurice, and it came in to Jamaal. All right.
16 And it came in. And as we'll see, it came in on a track
17 phone which is one of those pre-paid phones that doesn't
18 have any billing subscriber information and I'll show you
19 that in a second.

20 And really, first of all -- and of course the text
21 said something to the effect of, help this is Tyrone Kim's
22 ex got me need help. Something like that. Right? And of
23 course the whole thing of that is ridiculous, that
24 Tyrone's been kidnapped but the kidnapper's or I guess
25 Kim's ex, the kidnapper, gave Tyrone a cell phone which

1 hasn't been used, a track phone and then he set it up and
2 somehow allowed him to then send a message ratting out his
3 kidnapper but with no ransom demand or anything like
4 that. I mean, it was absurd. It was absolutely absurd.

5 But what we can do though in this case is we can show
6 it was Sammie Gerrick over there who did that. And we can
7 do it two ways -- three ways. Three ways.

8 The first way is what you heard from Maurice. You
9 heard Maurice say, I got that text and it occurred to me
10 that the person said am hurt, A-M hurt instead of I'm
11 hurt, I apostrophe M hurt. And normally that wouldn't be
12 a big deal but he got to thinking about it and he looked
13 through his texts and realized there was only one person
14 that he got texts from that did that. And that was Sammie
15 Gerrick. Okay. That was Sammie Gerrick.

16 And he showed you those texts. Here's the texts that
17 he got that he forwarded to Agent Albayalde. That's the
18 mysterious text from the track phone that purports to be
19 from Tyrone but nobody had ever seen Tyrone use this
20 telephone number before. Help me Tyrone am hurt Kim ex
21 got me help please.

22 And then he showed some other texts that he had gotten
23 from Sammie Gerrick. Man am worried. Not, I'm worried.

24 And then this one. Since they playing games with me
25 am meeting. Am again. Those are texts from Sammie

1 Gerrick.

2 But it's not just those texts from Maurice. And here
3 we go. Here's the text from Kim. This is -- from, excuse
4 me, from Kelsea. These are Kelsea's records. Here's the
5 one she got. This Tyrone Kim ex got me am hurt am in
6 Orangeburg help me sister in law.

7 And then we've got Sammie Gerrick's text. These are
8 his records right here. And I'm going to show you some of
9 his texts, okay, because not only do we have the couple
10 that Maurice sent where he used the word am, but I'm going
11 to show you some here because he uses it all the time.
12 That's a Sammie-ism. There's a few Sammie-isms. He uses
13 it all the time. All right. Right here; am out. Am out.
14 I told you my body was down am at Bamberg getting my leg
15 and stuff checked. Man am worried. There's the text that
16 we showed from Maurice. Am worried. Tyrone sister says
17 am to blame, not I'm to blame. Tyrone sister said am to
18 blame because he came and got me. Am good. Not, I'm
19 good; am good. Sammie, Sammie does that.

20 Here's his written statement. Right here. It said,
21 please help me man am down. Am down. Okay. Not even in
22 text. In writing. Okay. You heard the defense ask,
23 well, yeah, people do abbreviations. Yes, they do.
24 Absolutely, they do. He does it all the time. Am, not
25 I'm. Am, not I'm.

1 But, you know, you know who does spell I'm I
2 apostrophe M, the way it's supposed to be done? Here's
3 Tyrone's text. Here's the last text or some of the last
4 texts when he told Kim that he loved her and they talked.
5 This is her. She says am alone must have been no good
6 because I didn't get no good morning phone call. And he
7 responds to her, I'm, I'm sorry you know your loving good
8 at the Unemployment Office my love. I'm sorry. We got a
9 text from Tyrone right there. He doesn't use am. He uses
10 I'm, the way it's supposed to be. And she says, okay baby
11 love you.

12 And then Kim says, might go to the revival tonight at
13 the church do you want to go with me. Doesn't get a
14 response. And then, where you at. She wasn't going to
15 get to talk to him again.

16 All right. So, Sammie, Sammie doing I'm. Sammie.
17 Sammie. Sammie doing I'm -- or am, not I'm. Ty does
18 I'm. All right. So that's one way we know it's him.

19 But we got another way as well. These are the track
20 phone records. Okay. This is the mysterious number from
21 which the text came. Again, a track phone is a pre-paid
22 phone.

23 So, I mean, that's why they have them really. You
24 can't trace who owns them. You can see right here the
25 information's track phone. The billing party's track

1 phone. The user information's track phone. So you can't
2 tell whose records they are.

3 But what we can tell is we can look on this last page
4 here. All right. And these are really the only records
5 that we have on that track phone and we have all these
6 text messages. And let me move it over, and I'll show
7 you.

8 We have some texts to Jamaal starting right here and
9 then these last three are the texts to Jamaal, to Kelsea
10 and to Maurice. Jamaal, Maurice, Kelsea. I had it
11 backwards. Jamaal, Kelsea, Maurice. Those three texts
12 right there. All right. Those are the help-me-am-hurt
13 text that are purporting to be from Tyrone.

14 And what we see here is with these texts, and remember
15 what Agent Hines told you. He told you that these numbers
16 right here are longitude and latitude and then this number
17 right here is the way it's pointing. Because, remember,
18 you know, it's -- 90 degrees would be that way, like a
19 compass. And so all of these are the same up to this
20 point. And then you've got the last three right here.
21 All right. Those last three right there.

22 And what he told you, and he looked, and we saw the
23 map. We saw the map of the AT&T towers because, remember,
24 the phone records for Tyrone, for Kelsea, for Sammie are
25 all on Alltel which used different towers. But the track

1 phone was on AT&T. Remember what Agent Hines said. He's
2 said, I'm at these two towers based on this longitude and
3 latitude. And you can see right here, you can see where
4 he mapped it. Those digits, just like were on the record
5 itself.

6 And what we get -- and what he also told you is
7 there's not an AT&T tower in Blackville. He said, as a
8 matter of fact I was driving through on the way here to
9 testify and I have, my personal cell is AT&T and I lost
10 service. Okay. And then he also told you that because,
11 see, these are not going to connect to AT&T -- or to
12 Alltel towers. He also told you that in rural areas,
13 first of all these circles -- sorry. These circles are
14 not hard lines. He just has them as a radius to indicate
15 the sector, but that in the country where you're not going
16 to have the overlapping tower depending on the terrain and
17 the topography, you can actually stretch out long and long
18 and long before you finally lose the signal because
19 there's no competing towers.

20 And probably all of us have had experience with that
21 as we start to drive down a country road and we got five
22 bars, we got four bars, we got three bars, we got two
23 bars, we got one bar, and then, boom, we're off the grid
24 and then it just says searching. Okay. So that's how
25 that works.

1 So what we see -- and I wish I could -- I'll just hold
2 it up. What we can see right here is we've got the
3 Williston tower and the Denmark tower and Blackville in
4 the middle. All right. And all these texts right here
5 are for these coordinates down to right here, are ping-
6 ing off this sector, this little part of the pie chart, on
7 Denmark.

8 And then the last three texts are ping-
9 ing off of this part of the pie chart on Williston. And, again, because
10 there's no tower in Blackville, if you're closer this way
11 you can pick up Williston. If you're closer that way you
12 can pick up Denmark. All right.

13 Why am I doing all of this? What am I trying to
14 show? Well, I'll tell you. We look right here. And we
15 look at all these Williston texts -- or, excuse me, the
16 Denmark texts. 8:39 down to 8:49, 10 minutes. 8:39 to
17 8:49 and those are all ping-
18 ing off the Denmark tower.

19 Well, let's take a look at Mr. Sammie Gerrick's
20 personal cell. Where is Sammie Gerrick when that track
21 phone is going off? So we had 8:39 to 8:49, ping-
22 ing off the Denmark tower for the track phone.

23 We look right here. We've got 8:12 and 8:55. 1709.
24 1709. 1709. He was, at that particular hour, the
25 eight o'clock hour, the same time the track phone was
pinging off of the Denmark tower, Sammie Gerrick's

1 personal phone was pingging off of 1709. And, ladies and
2 gentlemen -- let me get the right map.

3 Where is Sammie? Where is Sammie when that track
4 phone is pingging off of Denmark? 1709. He's in Denmark.
5 He's in Denmark.

6 So we got the am, not the I'm which Tyrone doesn't do.
7 And we've got him in Denmark at the same time that that
8 track phone is pingging off of Denmark.

9 And if you look at Sammie's records, he's not in
10 Denmark very much. Bunch of 1752s. And then we got 1709
11 right, right when that track phone is pingging there.

12 But the third thing about this. Okay, number one, we
13 got am; number two, we got him at the same place as the
14 track phone was pingging; but number three is what he said
15 when they called -- when Jamaal called -- when Maurice
16 called when they got that text and called Sammie Gerrick
17 over there and they said, man, we just got this text that
18 says, Kim ex got him and he's hurt and he needs help.

19 And what was his response? Was his response, oh my
20 God, we got to do something about that; or oh my God, I
21 can't believe it? No. His response was, see, I told you.
22 Wasn't me. Maybe this will take some of the heat off of
23 me. It was a setup, man. He's just making that up trying
24 to throw people off the track. That was the first thing
25 out of his mouth. His friend's supposedly missing and the

1 first thing out of his mouth is, see, I told you it wasn't
2 me. It'll take the heat off me. Why? He set it up. He
3 knew he just sent those texts. He knew he just sent them.
4 He was waiting for the call to come so he could say, see,
5 I told you it wasn't me. Somebody else. Who does that
6 but a guilty man? Does an innocent man do that? Common
7 sense. Who does that but a guilty man?

8 Motive. Opportunity. Guilty acts.

9 Lies five, six and seven. Each text.

10 Well, SLED gets involved. And now we have his first
11 statement to Lieutenant Harley, 7-23, two days after
12 Tyrone had disappeared. And you've heard the testimony.
13 You've got Sammie's written statement in evidence in which
14 he admits getting Johnell Rice to call Tyrone to get him
15 out of jail.

16 And now though he says something about Tyrone having
17 an \$18,000 check. And says that when Tyrone got him out
18 that he went home and got cleaned up and took a shower,
19 which is interesting. And it brings up another point that
20 the defense raised about Ms. Taylor White. Because Sammie
21 says as soon as he got out of jail about midday, the first
22 thing he did was go home and get cleaned up and take a
23 shower. Makes sense. If I'd get out of jail that's
24 probably the first thing I'd want to do is go take a
25 shower.

1 But, you remember, Taylor White states that later on
2 that evening when she sees Sammie, he comes in, he goes
3 back out, he comes back in with a barrel of clothes. He
4 goes in the area where the washing machine is. He comes
5 back out without the clothes. He goes in the bedroom
6 where the shower is and then he doesn't - and then he
7 changes clothes. He comes out in different clothes.
8 Okay. Now, sure, a man can take a shower. By itself that
9 means nothing. But when you put it together with
10 everything else, what does that tell you?

11 Okay. It's just a, one more circumstance, one more
12 fact that starts to draw that circle around Sammie
13 Gerrick.

14 All right. Why did he need another shower? He
15 already had one that morning or that afternoon, you know,
16 right when he got out of jail. Why did he need to change
17 for?

18 But anyway, he claims that Tyrone left and said
19 something about playing cards later and he never saw him.
20 Again, of course, that's a lie.

21 We have Joe Thomas who already mentioned about the
22 sand. That's what the shovels were for. No. Joe Thomas
23 says no. That's a lie. So now we're up to eight lies.

24 But one thing that they also do and I think this is
25 crucial, and I'm going to come back to this, that at that

1 interview on 7-23, two days after Tyrone disappeared, they
2 photographed those scratches on his arm and on his chest.
3 They photograph those scratches. Remember that? I'm
4 going to come back to that.

5 All right. So next we got the interview with Agent
6 Burnett. That's on July 26. Agent Burnett again was the
7 retired agent up there. And Sammie's story has to change
8 again because they've gathered some more evidence.

9 How much money he spent. So, you remember in the
10 first exhibit I showed you where he wrote down all the
11 bills that he had to pay and all the rest of it. Right
12 there. All of that money.

13 Motive. But the most interesting thing about that
14 statement aside from him providing the extra evidence of
15 motive, but not only did he need money to get out of jail
16 but he had to get his bills caught up and pay his
17 probation.

18 The other thing is is that the story changes because
19 more evidence is coming in. And like Sammie has to do,
20 like a classic liar does, they admit to what you know and
21 then create a story around it but then when you find out
22 new stuff you got to change the story to make the facts
23 fit.

24 So what's the change here? What's the change here?

25 He claims now that Tyrone was holding money for him.

1 And actually Tyrone had money in his account that he owed
2 Sammie, \$18,000 that he had received from a backhoe. That
3 is what Sammie's claiming now. And why? Again, he's got
4 to explain why he had the victim's ATM card because from
5 the beginning, from the very beginning he knew that to use
6 it he was going to have to have an explanation for that
7 but now his explanation is, well, he had \$18,000 and he
8 was holding the money for me.

9 And you saw him when he was being interviewed by Agent
10 Burnett. You saw him struggle to come up with answers.
11 You saw him put his head down. You saw him get agitated
12 and jump up. You saw the evidence of a liar.

13 I think it was Mark Twain who once said that it's easy
14 to tell the truth because you don't have to remember
15 anything. And his point was -- or words to that effect.
16 His point was was that when you start telling lies it's a
17 whole tangled web we weave when first we start to
18 deceive. That whole thing.

19 Because it gets bigger and it gets bigger and it gets
20 bigger. And that's what you see Sammie doing. Got this
21 because I know they know that. Okay, they know this so
22 now I got to go here. Now they know this so now I got to
23 go here. And now they know this and now I got to go
24 here. Who does that? Does an innocent man do that? Does
25 an innocent man worried about his friend do that?

1 And again, if he, if Tyrone had \$18,000 in the bank
2 that were Sammie's, why would they need to borrow money
3 from Maurice? I mean, we all know it's a lie because
4 Sammie, you know, goes to a different version by the end.

5 But the point is what he's doing here. It shows his
6 guilty consciousness. It's not about the last story. It
7 shows a desperate man doing anything to try to divert
8 attention away from himself, from faking texts to telling
9 this lie to telling that lie. That's what a guilty man
10 does. Motive. Opportunity. And a string, a string of
11 guilty acts.

12 But it doesn't stop there. All right. That was 7-26,
13 the interview with Agent Burnett. Now we got the \$18,000
14 backhoe story.

15 And then we get to 7-30, July 30th, and that's when he
16 makes that call to Chief Holston. And says, Chief, I just
17 got a call from this guy named Black. And Black's got
18 Tyrone. And he wants \$25,000. And I need some backup.
19 And the Chief's like, where is he. And he's like, uh,
20 they're supposed to call me back and I'll let you know.
21 Does the Chief ever hear anything? No. Of course not.

22 Some other concocted elaborate lie to try to throw
23 people off the trail because he knows the trail's getting
24 warm. He's been interviewed now three times. He knows
25 the trail's getting warm. He knows he's at the center of

1 this. He's tried the desperation text thing. He's tried
2 telling lies. Now he's going to try this other thing. I
3 got this call from people, this ransom. It doesn't even
4 fit with his last story. It was just to try to throw
5 things off.

6 And I think it's important right now to bring up, if
7 y'all remember Taylor. Taylor White also talked about
8 sometime after the crime she was home and a pink car came
9 down the road that she thought was Tyrone's sister's and
10 Sammie Gerrick saw it and says something like I got to
11 take care of this right now and went outside to make a
12 phone call.

13 Think he was calling Chief Holston to try to come up
14 with something else to throw people off the track? I
15 mean, it's silly. It's ridiculous. Chief Holston knew it
16 was ridiculous but Sammie's trying to do whatever he can
17 because the seat's getting warm. Actions of a guilty man.

18 All right. So that was July 30th. And now we get to
19 the big break in the case.

20 August 3rd. Sammie gets bond revoked so he's in jail.
21 He's not out right now. And his own wife, Charlene, even
22 though he's got a girlfriend, Claudette, but his own wife
23 Charlene says on the night Tyrone was killed, late that
24 night with our young child, we drove out to that scene out
25 in the lonely woods, and we got that Honda that was out

1 there. And I followed Sammie Gerrick to the old Chinese
2 restaurant in Orangeburg. And he parked that car there
3 behind there and then we left. And you heard it
4 yourself. She didn't want to be here. She said it. But
5 it's the truth.

6 Who does that? Who does that but a guilty man? Who
7 loads his wife and a young child up in the car at midnight
8 and drives out into the woods to move the car of a man who
9 just happened to be murdered some hours before? Who does
10 that but a guilty man? Conceal. Lie. Cover up.
11 Consistent with everything else. How do you get around
12 that? How do you get around that? You can't.

13 Motive. Opportunity. A string of guilty acts. The
14 most biggest one is moving that car the night he died.

15 And y'all know what happened next. They poked the
16 ground and they find Tyrone in that grave.

17 Motive. Opportunity. The last one seen with him,
18 last phone calls. Tyrone disappears in that two-hour
19 break where Sammie goes off the grid, the same time Tyrone
20 doesn't have any more calls. End of that Tyrone's phone
21 goes from delivered to undelivered.

22 He comes back and tells that silly lie to Maurice that
23 gets him so scared he goes and gets his gun. And then he
24 starts using his ATM card. How do you get around that?
25 You can't. You can't. It's lie, we're up to 11 now.

1 But anyway, let's talk about that car a little bit.
2 And of course we know earlier Lana Joyner had seen that
3 car and told the family and they told the police and they
4 went out and looked at it. And we also know that Sammie
5 Gerrick's fingerprints were on that car.

6 Fingerprint things are right over here. But, I mean,
7 it's not -- he ultimately -- once he knew the police knew
8 that he ultimately had to admit to it, you know, with his
9 stories about, well, yeah, they had my friend and they
10 were killing him but they asked me to move the car and I
11 did it and I took my wife and young child to the place --
12 whatever. Whatever, Sammie. But his fingerprints were in
13 there.

14 But, the defense keeps talking about that shotgun
15 case. They keep talking about fingerprints. But you
16 heard about the decomposition of Ty. And the fingerprints
17 there. And also the shotgun case, it has nothing to do
18 with anything. It has nothing to do with anything.
19 Sammie himself never once has said that the shotgun had to
20 do with anything.

21 And what did the pathologist tell you? The
22 pathologist told you, sat right up here, the doctor, said
23 yes, the decomposition hurts my ability to look at soft
24 tissue injuries so I can't see bruising and things like
25 that. But one thing that I can do is determine whether or

1 not there were any gunshots or any knife wounds. And
2 there weren't any. Particularly a shotgun, the damage
3 that that does. The shotgun has nothing to do with
4 anything. There's no evidence whatsoever it had to do
5 with anything and it doesn't even come out of Sammie's own
6 mouth. He never once mentions that shotgun in any of his
7 versions. What does it have to do with anything? That's
8 a red herring meant to throw you guys off the trail.

9 Then you had Maryann Boehm and she talked to you about
10 the DNA. And the defense mentioned the DNA, too. She
11 talked about touch DNA. Okay. And touch DNA is what she
12 described where you touch something and perhaps you leave
13 some skin cells behind that can be gathered and an
14 analysis that can be made.

15 But one thing that she said was important is that
16 while touch DNA can confirm that you were there, the
17 absence of it doesn't mean that you weren't there.
18 Because touch DNA is fragile and you don't necessarily
19 know that you're going to get it. And in fact this case
20 proves the point because Sammie himself and Charlene
21 admitted he drove the car but the touch DNA wasn't found.

22 So it's just another red herring. Some cases just
23 depend on common sense and good police work.

24 I asked Maryann Boehm about that, about this idea that
25 perhaps some people get from TV that every case has some

1 magic piece of evidence. And she said no, that's just not
2 the case. Just because we don't find touch DNA doesn't
3 mean that somebody wasn't there. And this proves it
4 because we know Sammie drove the car and his DNA wasn't
5 there. So it doesn't mean anything. It doesn't matter.

6 This case was made by piecing together the puzzle, old
7 school, with common sense.

8 Motive. Opportunity. Guilty acts.

9 Just like Crime Scene Investigator Skipper stated.
10 She stated that when investigators are out at the crime
11 scene they gather all kinds of stuff. They gather all
12 kinds of stuff without necessarily determining if it has
13 any evidentiary significance. And the agents make that
14 determination later whether or not there's any evidentiary
15 significance. And that's what happened here. It's
16 routine.

17 It's kind of like that green netting and the fishing
18 lure that Agent Skipper told you about. They noticed it
19 at the grave site but didn't think anything about it. But
20 later when they went and searched Claudette's house where
21 Sammie was living, that's where they found similar green
22 netting and similar lures. The fact that there's green
23 netting in two places by itself, does that mean anything?
24 We're starting to put that circle together all the way
25 around Sammie Gerrick.

1 Let's go back to the scene. What did Tyrone's body
2 tell us? Tyrone gets to tell us a little bit. He's dead,
3 but he gets to testify. His body does. He was buried
4 face down. His hands and feet were bound. Malice, ladies
5 and gentlemen. He had that defensive wound on his
6 forearm. Malice, ladies and gentlemen. Protecting
7 himself. That he was tied up. No evidence of any gunshot
8 or knife wounds. No skull fracture. No drugs in his
9 system. Just like you heard from the family.

10 And he died from suffocation. Choked out. Choked
11 out. And we'll talk about that in a minute. But that's
12 what Ty said the only way he could.

13 So after finding the body the police go and they
14 search Sammie's truck. You know -- one thing before we
15 get to the truck.

16 And I don't -- I don't like throwing these pictures
17 around. I use them very infrequently but you have to look
18 at them, ladies and gentlemen. I'm sorry for that, but
19 the defense is -- said something about some leaves and,
20 you know, I'm not sure where they're going, but if you
21 look at this, it's pretty clear. Just like the
22 pathologist said, that that body was consistent with a
23 person who had been buried in a grave for 10 to 14 days.
24 I mean, look at it. You can use your common sense and
25 look at that. He had been down there. He had been down

1 there.

2 But anyway, they searched the truck. And what do they
3 find? In this console they find what I'll call the little
4 capsule. Right here. And they find a bottle of Law Keep
5 Away. Law Keep Away found in the console of his truck
6 where people tend to keep their personal items in their
7 car where a lot of us spend our time.

8 And, you know, normally, again, by itself, it's not
9 really that significant. And there's the capsule itself.
10 But when you open it up and you know what else is going on
11 in Sammie Gerrick's life and you get this. This is what's
12 in there: Set me Sammie Gerrick free.

13 Let me back it out.

14 Set me Sammie Gerrick free from murder and revoke
15 bonds. Jack Early set me free now. Jack Early set me
16 free now. Jack Early set me free now. Sammie Gerrick,
17 Sr. Sammie Gerrick, Sr. So shall it be. So shall it
18 be. So shall it be.

19 Set me free from murder and revoke bonds. What was
20 going on in Sammie Gerrick's life at that time? He had
21 been questioned by the police multiple times. He knew he
22 was the target of this investigation. He was engaging in
23 all sorts of things to try to throw people off the track,
24 whether it was the story about the ATM, or whether it was
25 the track phone, or the lies, or the claim about the

1 \$25,000 to Chief Holston. He knows he's in the fire.

2 He's in the frying pan right now.

3 Now I don't know what he hoped to accomplish by this
4 but I can say this. It was in his car next to a bottle of
5 Law Keep Away, kept close and personal. And we also know
6 that, as I told you before, a few days prior to that he
7 had had his bond revoked. So I mean, it ties right to
8 this case.

9 He was hoping somehow this plea would keep him out of
10 trouble. Set me Sammie Gerrick free from murder and
11 revoke bonds. Well, guess what. He is facing a bond
12 revocation and he was a target in a murder investigation.
13 Who does that but a guilty man? Who does that?

14 And again by itself, the same thing with the Law Keep
15 Away, Law Stay Away. Excuse me. By itself it's just a
16 novelty item. By itself, it's just a novelty item. It's
17 an incense powder. It says Law Stay Away. And it's got
18 this picture, as you can see, a guy pushing away a police
19 officer who's dropping the billyclub. It's law Stay Away
20 incense powder, and it's found right next to this plea and
21 wrapped up in that capsule. Right there together in his
22 console.

23 He's nervous. He's scared. He knows it's closing in
24 on him. For whatever reason he thought this was going to
25 help him, but who does that but a guilty man?

1 All right. And I've been up for a while and I'm not
2 going to be too much longer. And I appreciate your
3 attention.

4 But we've got to talk about his last statement. The
5 police have found Tyrone. They know Sammie's moved the
6 car. He's already in jail for the bond revocation. So on
7 August 17th they call him over to talk to him. And they
8 talk to him about Orangeburg, that they know he was in
9 Orangeburg.

10 And what does Sammie say? Well, first he's got this
11 story about going to meet Big Joe and getting \$200 Big Joe
12 at Edisto Gardens but of course he can't describe or give
13 them any information about Big Joe. You all heard that on
14 the tape. Got a number? Got a name? Got an address?
15 No, no, no. Of course not.

16 And then he went to Dodge's Convenience Store. Why?
17 Why? Because he knows what the police have now so the
18 story has to change. Just like a classic lawyer who
19 admits -- or, classic liar. That was Freudian; wasn't
20 it?

21 Liar. Classic liar who admits to what you can prove
22 and then creates a story based on that. And then
23 something new comes up and it has to change and then
24 something new comes up and it has to change. It's so
25 transparent, ladies and gentlemen.

1 But that's his story. He doesn't say anything about
2 what he finally says about there being some drug deal. He
3 doesn't even admit being to the scene then. He just says
4 that, yes, I went to Orangeburg but still says, I had
5 nothing do with anything else.

6 But then he gets served with a murder warrant. And
7 now he knows that they know about him moving the car. So
8 he's got to come up with a new lie. And so you heard
9 Agent Harley say at his request he said, can y'all come
10 talk to me. So they come talk to him again. Again, it's
11 transparent. He gets the warrant. He knows now what they
12 know. So he's got to come up with a new story. Okay.
13 Now I'm really going to level with you. And he's got this
14 story about Andre Hightower, O'Shane Dixon, and the
15 mysterious Big Joe except now it's a different Big Joe.
16 It's not the same Big Joe from Edisto Gardens. And he was
17 supposed to get \$7,000 from this deal and that's how he's
18 going to repay the victim. And he last saw the victim at
19 the convenience store and never saw him again.

20 So even then he doesn't admit to being at the scene.
21 After he finds out that they know he moved the car, his
22 only story is is that Andre Hightower called him and said
23 I'll pay you \$400 to move the car. He doesn't say about
24 being at the scene. And this was after he knew that he
25 had the murder warrant. So even -- when he got a little

1 bit more information and he came up with this story but
2 he's still not at the scene.

3 If he was so scared of bob now -- by now. I mean, by
4 now. You got to the tell the truth if that's the case but
5 it's not. It's just a classic progression of a liar. Got
6 to take a step at a time and the web just gets bigger and
7 bigger and bigger.

8 And he said, I don't know what happened to Tyrone. I
9 did move the car but I don't know what happened to Tyrone.
10 And so the officers bluff him a little bit. And they say,
11 yeah, well, we know your truck was out there. We know
12 your truck was out there in those woods.

13 And you heard Lieutenant Harley say that Sammie
14 Gerrick kind of hung his head a little bit and said words
15 to the effect of, oh man, well you got me there. I
16 usually got some funk back at you but you got me there.
17 What a huge admission that is. What a huge admission that
18 is, that this is just all mind games and lies.

19 Yeah, you got me there. I usually got some good stuff
20 to throw back at you but this time you got me.

21 Well now, Sammie knows he's in a real bind because he
22 thinks that they know his truck was out there which
23 matters to him because he knows his truck was out there.
24 An innocent man wouldn't change his story but he knows his
25 truck was out there. So he thinks about it overnight.

1 And that's when he calls and he wants to speak to
2 Mr. Jeff, Jeff Croft.

3 And then we finally get this cockamany last version
4 where he had a chance to sleep on it overnight and analyze
5 all the evidence that they've got and come up with a new
6 version that can account for everything else. And this is
7 the one about the package that went bad and he's out there
8 with Tyrone and Andre Hightower and O'Shane Dixon and Big
9 Joe in his Denali and they want more money so they start
10 beating on Tyrone and they tell Sammie to leave and go get
11 the money. And then later Andre instructs him to go move
12 the car. And that's the story, which is just patently
13 ridiculous on its face.

14 And the defense was wrong, too. When he's telling
15 that story, he said you saw him emotional. I agree. He
16 was emotional. Why was he emotional? Because he had
17 gotten served with a murder warrant the day before. And
18 he knew his goose was cooked. And he had thought up a lie
19 all night long. This is his last shot.

20 Classic liar. Prove this, move the story. Prove
21 that, move the story. Prove that, move the story. And
22 it's just a cockamany thing.

23 You heard from Andre Hightower. You heard from
24 O'Shane Dixon. They didn't have anything to do with
25 this. You heard from the officers. They looked into it.

1 Those guys didn't have anything to do with this. You got
2 this mysterious Big Joe that Sammie identified but can't
3 provide any information on and the officers don't have any
4 information on that.

5 And none of this makes any sense. If that is what was
6 happening, if he was really -- say he was scared of the
7 cops, why wouldn't he have told Maurice, his friend, after
8 he left there, oh man, I went out there to get the money
9 and these guys, they got Tyrone.

10 Instead, he concocts this story about having \$190,000
11 and putting it in a safe in Tyrone's car and then Tyrone
12 kissed him on the forehead. Again, he concocted that
13 story because he wants people to believe that Tyrone ran
14 off. It doesn't fit. It doesn't fit with his last
15 version.

16 He would have told Maurice.

17 But then you saw him getting agitated with Agent
18 Burnett at that next interview, okay, when he was getting
19 asked about the money. And he's getting agitated. You
20 saw him jump up. I didn't kill Tyrone, I didn't -- you're
21 wrong. I didn't kill Tyrone. He's arguing with the
22 police. Again if he's scared, okay, it's one thing to be
23 scared initially but when you're in an interview in the
24 police station with an agent from SLED who's saying, we
25 think you committed a murder, an innocent man would be,

1 look, I'm scared to death, I got to tell you what
2 happened. That's not what he did. He came up with more
3 of these lies. He was arguing with them. He was arguing
4 with Agent Burnett.

5 Moves to the point that the police are accusing you of
6 murder, you're a target of a murder and not only that your
7 friend's supposedly missing. And you know the family out
8 here is worried sick about him. It's not what happened.

9 He just thought that that body was never going to be
10 discovered, and he could continue to tell the story and
11 the police would never be able to prove anything. Because
12 he did it.

13 And then, and then if his cockamany story is true he
14 not only goes from lying to his friends and lying to
15 Tyrone's family and then arguing with Agent Burnett even
16 though now he knows he's a target of a murder and then he
17 goes on to create all this elaborate ruse about the track
18 phone, the fake texts from the track phone and of the
19 \$25,000 story for Black, and then let me get this
20 straight.

21 His story is that they told him to go get some money.
22 They got Tyrone and they told him to go get some money and
23 he's got Tyrone's debit card. He spent a thousand dollars
24 on it the next day. He said he didn't have any money. He
25 had his debit card. He could've -- if he has his debit

1 card he could have gone, gotten the money. Why didn't he
2 take it back if that story was true?

3 Of course it's not. It's ridiculous. I'm just
4 showing you how ridiculous it is. He had the money. And
5 then he says he was instructed to go move the car and so
6 he gets his wife and a young child and goes out to the
7 scene in the middle of the night where supposedly his
8 friend had just been beaten with a gun and a pipe. It's
9 ridiculous.

10 Classic liar.

11 Well, he's arrested now. And he goes to Kirkland R&E.
12 And you heard from Mr. Early Glover right there. Even
13 months after the fact he's still trying to work an angle.
14 He's still trying to work an angle.

15 And you heard what Early Glover said. He promised him
16 a thousand dollars to write a statement saying he can
17 verify that Sammie didn't do it. And Sammie writes a
18 letter and gets to Lieutenant Harley and it says -- and so
19 Lieutenant Harley goes and interviews Sammie and he's
20 like, yeah, I got somebody that can verify my innocence.
21 Go see Early Glover.

22 And so they go see Early Glover in December and by
23 this time he's somewhere else in Ridgeland. And Early
24 tells them the truth. He said, I don't know anything
25 about that. Sammie said he was in a bind and he needed

1 two people to write statements. He promised me he'd pay
2 me a thousand dollars. He wrote it out and I just copied
3 what he wrote.

4 And you saw when it pointed to him, I held it up. You
5 saw. I mean, it was really tight writing. There wasn't,
6 like, a mistake on it. You know, it was, like, five pages
7 of handwritten stuff. Who writes five pages of
8 handwritten stuff, writes out a whole story and doesn't
9 scratch anything out? It was clearly copied, re-copied.
10 He said Sammie wrote it and he just copied it and Sammie
11 promised to pay him a thousand dollars and he doesn't know
12 anything about it.

13 And what's interesting is, what confirms what Early
14 says is that Sammie Gerrick when he told his final story
15 about being out in the woods with Andre and O'Shane and
16 Big Joe, who did he not mention? He never said anything
17 about Early Glover. Never said anything about anybody
18 else being there.

19 Common sense.

20 And the actions of a guilty man trying to manufacture
21 evidence. Just like the track phone. Just like the story
22 about Black. Does an innocent man do that? No. It's
23 what a guilty man does. A desperate man who does -- who
24 knows he's about to get busted. And he's trying anything
25 at this point. It's not an innocent man, it's a guilty

1 man.

2 All right. This time I am almost done. It's about
3 time for you to decide this case.

4 But let's talk about one last thing. Let's let Tyrone
5 have the last word. And I told you before, Tyrone can
6 testify here today. He was found, as I stated before,
7 with -- his hands had been tied. His ankles had been
8 tied. His body face down, suffocated, choked out.

9 There's one more real interesting thing. The
10 scratches on Sammie. Right through here. Y'all will have
11 this back in the jury room. And you heard the pathologist
12 say that those scratches were consistent with fingernail
13 scratches, consistent with someone in an altercation
14 defending themselves.

15 And we also know that Sammie Gerrick told lies about
16 that, too. He said the scratches, the scratches were from
17 a light bulb that fell from the ceiling. But you heard
18 evidence from Johnell Rice that when he left he didn't
19 have any injuries on him. You heard evidence from Danny
20 Abraham, the officer who wrote up the report when he
21 claimed that the light bulb was broken and said he didn't
22 have any injuries, we didn't even send him for medical
23 help. So he told that lie about the scratches.

24 And he also told a lie to Maurice. He also told the
25 lie that the scratches happened when he was tazed. Why

1 would he lie about this, ladies and gentlemen? Why would
2 he lie about this? What does that tell you?

3 Is that Tyrone speaking to you right there? Is that
4 Tyrone speaking to you right there? The man who had the
5 motive. The man who had the opportunity. The man who
6 engaged in all these guilty acts and he's got these
7 scratches on him right after this crime happened.

8 I submit to you that Sammie told Maurice we're going
9 out -- or, excuse me. Sammie told Tyrone we're going out
10 to the woods to get that money. And they got the two
11 shovels because they were going to dig it up. And Sammie
12 went out there and made Tyrone unknowingly help dig his
13 own grave.

14 And then he struck defensive wounds on the arm. I
15 showed you before. And he overpowered him. He tied him
16 up. He made him give up his PIN number so he could later
17 claim he was entitled to use it. And then he choked him
18 out and Tyrone with his hands tied was doing the best he
19 could. And that's where he got the scratches right there
20 on the inside of the elbow and right there on the chest
21 area, because that's all Tyrone could do. But he couldn't
22 win and he died.

23 There's only one man that all these circumstances
24 fit. Only one man. And it's Sammie Gerrick.

25 He's got the motive. He's got the opportunity. He's

1 got the guilty acts. He's got 16 lies, a classic liar who
2 moves his story all the way down. He's got the track
3 phone, the texts, the capsule, the Law Keep Away, the
4 green netting, Bradley Smith saw him staring off into
5 space when the crime happened. He had never did that
6 before.

7 You've got, you got Early Glover faking evidence. You
8 got Charlene taking the car and moving it in the middle of
9 the night. You got using the ATM card, and you got Tyrone
10 speaking to you with these scratches. All of this points
11 to one man; Sammie Gerrick.

12 I got one last thing to say. Tyrone was fooled by
13 Sammie Gerrick's lies and he died for it. Don't y'all be
14 fooled by his lies, too.

15 On behalf of the State of South Carolina, on behalf of
16 all of Tyrone's family and friends out here, I ask you to
17 do your duty, do the right thing and find this man guilty
18 of murdering Tyrone.

19 Thank you.

20 THE COURT: Mr. Foreman, ladies and gentlemen. We've
21 been going now a couple hours. I'm going to take a quick
22 break before I charge you on the law. My charge is about
23 10 or 15 minutes. Let's go get a quick bathroom break.
24 We'll start back at 12 o'clock sharp, and then you'll be
25 in a position to deliberate shortly after that.

1 Thank you. Everybody else remain seated.

2 (Jury exits courtroom at 11:48 a.m. Break taken. At
3 12:04 the trial resumed:)

4 THE COURT: The State, anything for the record before
5 we bring the jury in to charge?

6 MR. WATERS: No, sir, Your Honor.

7 THE COURT: Mr. Williams?

8 MR. WILLIAMS: Nothing, Your Honor.

9 THE COURT: All right. Bring the jury in, please.

10 (Jury enters courtroom at 12:05 p.m.)

11 JUDGE'S CHARGE TO THE JURY

12 THE COURT: Mr. Foreman, ladies and gentlemen of the
13 jury. My instructions are, as they call it, the charge on
14 the law. It's sort of divided into two sections. The
15 first part I will deal with general propositions of law,
16 and then we will go into the specific offense in this
17 matter, the murder charge. And I'll tell you the elements
18 of murder and then some further, after that some further
19 general matters. Will take about 15 minutes maybe, maybe
20 a little bit less.

21 Now, let me remind you, once again, that the fact that
22 the Defendant was charged, arrested and indicted in this
23 case for the offense of murder is not evidence in the case
24 and cannot be considered as evidence by you of guilt in
25 this case, nor does it create any presumption or inference

1 of guilt.

2 The indictment is simply the written instrument which
3 contains the charges against the Defendant. It's the
4 formal document by way this case is brought into the
5 courtroom.

6 Now, to the indictment of guilty -- of murder. To the
7 indictment of murder the Defendant has pled not guilty and
8 that plea puts the burden on the State of South Carolina
9 to prove the Defendant guilty beyond a reasonable doubt.

10 A person charged with committing a criminal offense in
11 South Carolina is never required to prove himself
12 innocent. I charge and instruct you that it is an
13 important rule of constitutional law that a person in a
14 criminal trial, no matter what the seriousness of the
15 charges may be, will always be presumed to be innocent of
16 the crime for which the indictment was issued unless guilt
17 has been proven by evidence satisfying you of that guilt
18 beyond a reasonable doubt.

19 The presumption of innocence does not end when you
20 start your deliberations but it stays with the Defendant
21 throughout the trial until you reach a verdict of guilt
22 based on evidence satisfying you of that guilt beyond a
23 reasonable doubt.

24 The presumption of innocence is not a mere legal
25 theory. It's not just a legal phrase. It is a

1 substantial constitutional right to which every defendant
2 is entitled unless you the jury are satisfied from the
3 evidence of the Defendant's guilt beyond a reasonable
4 doubt.

5 What is a reasonable doubt? Sometimes our courts have
6 said this and held this, that reasonable doubt is the kind
7 of doubt that would cause a reasonable person to hesitate
8 to act. A reasonable doubt is the kind of doubt that
9 would cause a reasonable person to hesitate to act.

10 As I said, the State has the burden of proving the
11 Defendant guilty beyond a reasonable doubt. Proof beyond
12 a reasonable doubt is proof that leaves you firmly
13 convinced of the Defendant's guilt.

14 There are very few things in this world that we know
15 with absolute certainty and in criminal cases the law does
16 not require proof that overcomes every possible doubt.
17 If, based on your consideration of the evidence, you are
18 firmly convinced that the Defendant is guilty of the crime
19 charged, then you must find the Defendant guilty.

20 However, if on the other hand you think there is a
21 real possibility that the Defendant is not guilty, you
22 must give the Defendant the benefit of the doubt and find
23 him not guilty.

24 So that is how our courts define reasonable doubt.

25 Let me remind you, ladies and gentlemen, that you and

1 I have certain duties to perform. As the trial judge it
2 has been my responsibility to preside over the trial of
3 the case. I have ruled on the admissibility of the
4 evidence and have made sure that the lawyers asked their
5 questions pursuant to the rules of evidence. So my job is
6 to rule and conduct the trial and also to charge and
7 instruct you on the law.

8 So as I told you earlier, you must accept the law as I
9 give it to you. If you have a preconceived idea about
10 what the law is and it does not agree with what I say,
11 please set aside any preconceived ideas and accept the law
12 as I give it to you. My position makes me the judge of
13 the law.

14 You are the judges of the facts. It is your sole
15 responsibility to determine what the true facts are in the
16 case and apply those true facts to the law as I give it to
17 you and render a verdict.

18 Now, if at any time during the trial of the case
19 you've seen me smile or frown or roll my eyes or yawn or
20 stretch or do anything that you think that I have an
21 opinion about the facts, disregard that. I cannot and I
22 do not. I try cases all over the State, day in and day
23 out, week in and week out. And my position does not allow
24 me to have any opinion whatsoever about the facts. That
25 is your sole responsibility, your sole duty to determine

1 what the true facts are in the case.

2 Now, in the trial of cases, there are two types of
3 evidence which are generally presented during a trial.
4 It's called direct evidence and circumstantial evidence.

5 Direct evidence directly proves the existence of a
6 fact. It does not require any logical deduction.
7 Circumstantial evidence is proof of a chain of facts and
8 circumstances indicating the existence of a fact.

9 If I go outside and it's raining and I see it raining
10 and I get wet, I can come back in here and testify that
11 it's raining. That's direct evidence that it rained. If
12 I go outside and it's cloudy and mud puddles but I don't
13 see it rain, that's circumstantial evidence that it has
14 rained. So that's sort of the difference. That's a
15 pretty basic example, but that's what it is.

16 Circumstantial evidence is proof of a chain of facts
17 and circumstances indicating the existence of a fact.

18 Direct evidence proves the existence of a fact and
19 does not require any logical deduction.

20 Now, crimes may be proven by circumstantial evidence.
21 The law makes no distinction between the weight or value
22 to be given to either direct or circumstantial evidence.
23 However, to the extent the State relies on circumstantial
24 evidence, all of the circumstances must be consistent with
25 each other and when taken together point conclusively to

1 the guilt of the accused beyond a reasonable doubt.

2 If these circumstances merely portray the Defendant's
3 behavior as suspicious, proof has failed.

4 The State has the burden of proving the Defendant
5 guilty beyond a reasonable doubt. This burden rests with
6 the State regardless of whether the State relies on direct
7 evidence, circumstantial evidence or a combination of the
8 two.

9 So that's the difference between direct and
10 circumstantial evidence and the types of evidence.

11 As the finders of fact and the judges of the facts,
12 you must determine the credibility of the witnesses who
13 have testified in this case. Credibility simply means
14 believability. Who do you believe.

15 It becomes your duty as jurors to analyze and to
16 evaluate the evidence and determine which evidence
17 convinces you of its truth. In determining the
18 believability or the credibility of the witnesses who have
19 testified in this case, you may believe one witness over
20 several, several over one. You can disbelieve everything
21 a witness says. You can believe everything a witness
22 says. You can believe a portion and disregard a portion.
23 So it's up to you to use your common sense and determine
24 what the truth is.

25 As I told you earlier, you spend a lifetime dealing

1 with wives, husbands, children, friends, employees,
2 employers, and you know how to judge when someone is
3 telling the truth. Utilize that experience in fulfilling
4 your duty here today.

5 You also have the right to consider whether any
6 witness has exhibited to you any interest, bias, prejudice
7 or other motive in the case and also you may consider the
8 appearance and manner of a witness while on the stand.

9 We had a couple of witnesses or maybe more that I
10 qualified as experts in certain areas and fields.
11 Normally our rules of evidence do not permit a witness to
12 testify about an opinion or conclusions. An exception to
13 this rule exists for witnesses we call expert witnesses.
14 A witness who by education and experience has become an
15 expert in some art, science, profession or calling may
16 state an opinion as to relevant and material matters in
17 which the witness claims to be an expert and may also
18 state the reasons for the opinion.

19 You should consider any expert opinion received in
20 evidence in this case and like any other evidence give it
21 the weight you think it deserves. If you decide that an
22 opinion of an expert is not based upon sufficient
23 education and experience, or if you conclude that the
24 reasons given in support of the opinion are not sound, or
25 that the opinion is outweighed by other evidence, you can

1 disregard the opinion entirely. An expert witness's
2 opinion is to be given no greater weight than that of any
3 others witness simply because the witness was qualified as
4 an expert. Further you're not required to accepted an
5 expert's opinion even though it is not contradicted.

6 There is another very important constitutional rule of
7 law that exists in our state and nation. I instruct you
8 and emphasize that the fact that the Defendant did not
9 testify is not a factor to be considered by you in any way
10 whatsoever in your deliberation of guilt or innocence and
11 in your consideration of the question of guilt or
12 innocence. The fact that he did not testify must not be
13 considered by you in any manner whatsoever in deciding his
14 guilt or innocence.

15 A defendant has the constitutional right to remain
16 silent and the exercise of this right must not be
17 considered by you in your deliberations. I repeat. Under
18 your oath, you're to draw absolutely no conclusion
19 whatsoever from the fact that the Defendant in this case
20 did not testify. The fact that he did not testify should
21 not be discussed by you at all in the jury room.

22 The burden of proof, as I have stated to you, is on
23 the State. The Defendant is not required to prove his
24 innocence. The burden of proof remains on the State to
25 prove guilt to you beyond a reasonable doubt.

1 At least one witness and perhaps more of the witnesses
2 to testify had a criminal record. A person who has a past
3 criminal record is competent to testify during a trial. A
4 past record does not affect the ability of that witness to
5 testify. The past record may only be considered by you,
6 if at all, in determining the believability or the
7 credibility of the witnesses. You are the sole judges of
8 the facts and the believability of any and all the
9 witnesses is within your domain and duty.

10 In this case a number of statements were alleged to
11 have been made by the Defendant. They've been admitted
12 into evidence. And while I determined that the statements
13 were admissible, I instruct you, you make the ultimate
14 decision of whether or not the Defendant actually made the
15 statements. And if he made the statements, you must
16 consider and determine whether the statement was made by
17 the Defendant voluntarily and of his own free will. This
18 means that the statements were not caused by pressure,
19 force, fear, threats, coercion or intimidation, or by hope
20 or a promise of leniency or a reward of any kind.

21 In determining whether the statements were voluntary
22 you should consider both the characteristics of the
23 Defendant and the details of the questions and whether or
24 not the Defendant has had his constitutional rights
25 advised to him including but not limited to: The right to

1 remain silent; that any statement could be used against
2 him in a court of law; the right to have a lawyer present;
3 that if he or she cannot afford a lawyer, a lawyer would
4 be appointed to represent him without any cost; and that
5 he could stop make a statement at any time.

6 You must carefully consider all of the surrounding
7 circumstances before you give any weight to an alleged
8 statement.

9 The State has the burden of proving beyond a
10 reasonable doubt that the alleged statement was voluntary.
11 If you determine it was then you may give the statement
12 any further consideration that you deem proper. You must
13 decide what weight, if any, should be given to the
14 statements. If you determine these statements were not
15 free and voluntarily, then you should not consider the
16 statement at all.

17 Now, Mr. Foreman, ladies and gentlemen of the jury,
18 that is the general propositions of law that I advise
19 jurors and instruct jurors on in all criminal cases.

20 Now let's turn to the indictment in this case. In
21 this case as I have told you on a number of occasions,
22 Mr. Sammie Lee Gerrick has been indicted by the Barnwell
23 County Grand Jury for the offense of murder.

24 The State must prove to you beyond a reasonable doubt
25 that the Defendant killed another person with malice

1 aforethought. Must prove beyond a reasonable doubt that
2 the Defendant killed another person with malice
3 aforethought.

4 Our courts have defined malice, that is, hatred,
5 ill will or hostility towards another person. It is the
6 intentional doing of a wrongful act without just cause or
7 excuse and with an intent to inflict an injury or under
8 circumstances that the law will infer an evil intent.

9 Malice aforethought does not require that malice exist
10 for any particular time before the act is committed, but
11 malice must exist in the mind of the Defendant just before
12 and at time of the act. Therefore, there must be a
13 combination of the previous evil intent and the act.

14 Malice aforethought may be expressed or inferred. The
15 terms expressed and inferred does not mean different kinds
16 of malice but merely the manner in which malice may be
17 shown to exist. That is, either by direct evidence or by
18 inference from the facts and circumstances which are
19 proved.

20 Express malice is shown when a person speaks words
21 which express hatred or ill will for another, or when the
22 person prepared beforehand to do the act which was later
23 accomplished. Malice may be inferred from conduct showing
24 a total disregard for human life.

25 So, murder is one of our, I guess, the definition of

1 murder and what's to be proved as far as the elements are,
2 even though it's a serious a crime as it is, the elements
3 are more -- are not that long. The State must prove
4 beyond a reasonable doubt that the Defendant killed
5 another person with malice aforethought.

6 Now, Mr. Foreman, ladies and gentlemen of the jury,
7 your verdict must be unanimous. All 12 of you must agree
8 as to the verdict.

9 And obviously we only have one charge so there will be
10 only one charge you'll have to consider and that is
11 whether or not the State has proven to you beyond a
12 reasonable doubt that the Defendant has committed the
13 offense of murder.

14 You will have a verdict form. Simply, we find the
15 Defendant not guilty, or we find the Defendant guilty.
16 Check whichever one you decide your decision is, your
17 verdict is. Sign the verdict form and then knock on the
18 door and tell us that you're ready to give us the verdict
19 and we will receive you back into the courtroom.

20 As I said, your verdict must be unanimous. All 12 of
21 you must agree.

22 Obviously you're not here to reward any friends or to
23 punish any enemies. You're here to give a careful
24 consideration and deliberation of the evidence that has
25 been presented to you, to decide what the true facts are,

1 and apply those facts to the law as I've given it to you.

2 If during your deliberation you have any questions
3 that you need to ask of me, you will have a notepad.
4 Please write out the inquiry, knock on the door, the
5 bailiff will present it to me. Sometimes I can answer it,
6 sometimes I can't. But I'll send you back the best I can
7 do. It just depends on what the question is, obviously.

8 As I said, your decision has to be unanimous.

9 I'm going to ask in just a few minutes that you return
10 to the jury room. Do not start deliberating quite yet. I
11 have to ask the lawyers if I've left anything out or I
12 need to amend anything. That won't take but a second.
13 Then we have to gather up the evidence. That may take
14 more than a second but certainly won't take more than five
15 minutes to make sure we have everything. And then once we
16 have all the exhibits, the bailiff will present to you the
17 exhibits and the verdict form.

18 And then you may start your deliberations. As I
19 understand, lunch is being ordered -- has been ordered.
20 When lunch comes, you can continue to deliberate while
21 eating lunch. You can take a break. You can't leave the
22 jury room though once you start deliberating. You're in
23 charge or y'all are in charge. Handle it however you feel
24 is the most efficient way to do it.

25 And, like I say, once you reach a verdict let us know.

1 I'm going to ask that you step back your jury room,
2 please. Once again, do not start deliberating until I
3 have delivered the verdict form and the evidence.

4 Do we have in evidence some of the CDs? Don't we?

5 MR. WATERS: Court's Exhibit.

6 THE COURT: That was a Court's Exhibit.

7 MR. WATERS: Yes, sir.

8 THE COURT: So you'll have whatever -- the evidence
9 will be sent back to you of what you'll be allowed to look
10 at. Okay. All right.

11 Step back and we'll send everything out to you in just
12 a few minutes. Be sure and separate the alternate.

13 THE BAILIFF: All right.

14 (Jury exits courtroom at 12:28 p.m.)

15 THE COURT: On behalf of the State, are there any
16 objections to the charge, any requested additions or
17 deletions?

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

19 THE COURT: Mr. Williams?

20 MR. WILLIAMS: None, Your Honor.

21 THE COURT: Mr. Williams, Mr. Waters, would you please
22 come forward and review the exhibits to make sure we have
23 everything? And then I will ask you on the record.

24 I thought we had at least one CD that was an exhibit.

25 MR. WATERS: That's correct. I was thinking of the

1 taped statements. I believe there is the Enterprise
2 footage.

3 (Attorneys review exhibits.)

4 THE COURT: Look at the verdict form, please.

5 (Attorneys comply.)

6 MR. WILLIAMS: Good enough.

7 THE COURT: Let the record reflect that the State and
8 defense have reviewed all the exhibits and find them to be
9 in order and accounted for. The verdict form has been
10 reviewed by both sides and both are in agreement to the
11 form.

12 Is that correct, Mr. Waters?

13 MR. WATERS: Yes, sir, Your Honor.

14 THE COURT: Mr. Williams?

15 MR. WILLIAMS: Yes, sir; that's correct.

16 THE COURT: All right. You may take that back and
17 tell them they may start their deliberations. According
18 to the clock on the wall it's 12:35.

19 Ladies and gentlemen, we're going to continue on doing
20 business. The jury is deliberating. If you would like to
21 leave, you are welcome to leave now.

22 Once a verdict is rendered, we will announce that the
23 jury is back. We'll announce that on the courthouse steps
24 and if you're outside and mingling around, I'll obviously
25 give you an opportunity to get back into the courtroom.

1 You're more than welcome to stay with us while we conduct
2 additional business. I don't know whether it will be 30
3 minute, three hours, what.

4 I have ordered lunch in, pizza, for the jurors. So I
5 would assume at least they're going to eat their lunch.

6 I can't tell you how long it will be but I'll
7 certainly announce it on the courthouse steps to give you
8 an opportunity to come back in, or you're more than
9 welcome to stay with us as we conduct additional
10 business. However, if you want to leave, you need to
11 leave now because I'm getting ready to do some more stuff.

12 (People exit courtroom at 12:39 p.m. Thereafter other
13 matters were heard by the Court. At 1:38 p.m., the trial
14 resumed:)

15 THE COURT: The Defendant ready to receive the
16 verdict?

17 MR. WILLIAMS: Yes, Your Honor.

18 THE COURT: State ready?

19 MR. WATERS: Yes, Your Honor.

20 THE COURT: Check to see if there's anyone outside.

21 (Pause.)

22 THE OFFICER: It's all clear, Your Honor.

23 THE COURT: Thank you.

24 Ladies and gentlemen, the jury has announced that they
25 have reached a verdict. I have no idea what it may be,

1 but if anyone feels like they cannot control their
2 emotions, I'm pleasantly asking you to leave now.

3 I will not tolerate any outburst of emotions, crying,
4 screaming, crying, whatever, shouting. If you do, I will
5 have you arrested for contempt of court. You have been a
6 wonderful audience all week under the most difficult
7 circumstance and I commend you. Let's let it continue on
8 through the announcement of the verdict.

9 So, fair warning. If anybody doesn't think they can
10 control them self, I'm going to ask that you step out.

11 Fair enough?

12 (Jury enters courtroom at 1:39 p.m.)

13 THE COURT: Mr. Foreman, have y'all reached a
14 verdict?

15 FOREPERSON OF THE JURY: Yes, sir.

16 THE COURT: You passed it up to her?

17 FOREPERSON OF THE JURY: I did; yes, sir.

18 THE COURT: All right. You may publish it. Stand,
19 please.

20 THE DEFENDANT: (Complying.)

21 THE CLERK: In the Court of General Sessions for the
22 Second Judicial Circuit, Indictment Number 2013-GS-
23 06-00465. The State of South Carolina, County of Barnwell
24 versus Sammie Lee Gerrick. As to the offense of murder,
25 we the jury find the Defendant guilty.

1 UNIDENTIFIED SPEAKER: Amen!

2 THE COURT: Ma'am!

3 UNIDENTIFIED SPEAKER: I'm sorry.

4 THE COURT: Any further -- last warning.

5 THE CLERK: We unanimously agree, November 21st, 2013,
6 signed by Foreperson Paul Thomas.

7 THE COURT: Anything further for the jury before I
8 dismiss them, by the State?

9 MR. WATERS: No, sir, Your Honor.

10 THE COURT: Mr. Williams?

11 MR. WILLIAMS: Nothing, Your Honor.

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

13 Mr. Foreman, ladies and gentlemen of the jury. That
14 concludes your service this week.

15 I commend you. You've paid excellent attention.
16 You've done your job well and I thank you on behalf of the
17 State and citizens of Barnwell. It's not an easy task to
18 come in and judge someone but our system is the greatest
19 in the world. When someone is accused of a crime, we take
20 12 citizens from the community to make the decision and I
21 commend you for your service and you exercised your duty
22 well.

23 What we have left is sentencing. You're welcome to
24 stay. That will take us about another 15 minutes, or you
25 are welcome to leave now. So, your choice. If you want

1 to leave, go out the door and we'll go from there. You're
2 welcome to go or welcome to stay. Everybody else remain
3 seated.

4 Just sit tight for me, Mr. Foreman.

5 FOREPERSON OF THE JURY: Okay.

6 (Jury exits courtroom at 1:44 p.m.)

7 THE COURT: Mr. Williams, I'll give you 10 days to file
8 any post-trial motions.

9 MR. WILLIAMS: Thank you.

10 THE COURT: Come forward, please.

11 THE DEFENDANT: (Complies.)

12 THE COURT: Mr. Waters, please give me Mr. Gerrick's
13 prior record.

14 MR. WATERS: Yes, sir, Your Honor.

15 According to the rap sheet I have, we have assault and
16 battery with intent to kill in 1990.

17 THE COURT: Hold on one second, please.

18 MR. WATERS: Yes, sir.

19 THE COURT: Do you know what the disposition of that
20 was?

21 MR. WATERS: It says convicted 20 years suspended to
22 nine years confinement, five probation.

23 THE COURT: 20, nine, five?

24 MR. WATERS: Yes, sir. And that it was accompanied
25 with a concurrent attempted armed robbery.

1 In 1997 we had a burglary third. Five years suspended
2 to five years probation and an accompanying grand larceny,
3 1,000 to 5,000.

4 THE COURT: Is that it?

5 MR. WATERS: No, sir.

6 We also have a 1999 probation revocation on the
7 assault and battery with intent to kill. And we have --

8 THE COURT: Do you know how much was revoked off
9 that?

10 MR. WATERS: One moment, Your Honor. Looks like three
11 years, Your Honor.

12 And we have in 2010, we have a grand, failure to
13 return rented objects greater than 5,000. That was in
14 October 2010.

15 And then I believe he of course was recently served a
16 sentence for escape.

17 THE COURT: That was the sort of the origin of all of
18 this activity?

19 MR. WATERS: Yes, sir.

20 THE COURT: Mr. Williams?

21 MR. WILLIAMS: Thank you, Your Honor. If it please
22 the Court.

23 Sammie is 42. He's from this area. He's married and
24 and has two children. One who's grown. He has a daughter
25 I believe who has cerebral palsy who is six years old and

1 another daughter who's 17 in Orangeburg.

2 We understand the jury's verdict and respect it.

3 And I would like to say that we're sorry for what the
4 Donaldson family's going through in all of this. I know
5 this week has been hard. And I know the last two and a
6 half years have been hard on them.

7 And if there's -- you know, you've got to give him at
8 least 30 years. If you gave him 30 years he's going to be
9 72 when he gets out. There's absolutely no chance of
10 parole under that. You can also give him up to life
11 without ever the possibility of getting out.

12 You know, if he knows he can get out at 72 maybe he's
13 got some hope. Maybe -- based upon what the jury's
14 rendered in their verdict, maybe he doesn't deserve that
15 but I'm asking you to have some kind of mercy on him so
16 that he's got some hope that he can at least be out and
17 enjoy something of his life at some point in time.

18 I do that realizing that Mr. Donaldson is gone and
19 he's not going -- he's not here to enjoy his family. And
20 that would be giving great mercy to Mr. Gerrick but I
21 still ask you to do that.

22 THE COURT: Thank you. Do you have anything you want
23 to tell me?

24 THE DEFENDANT: Yes, sir. If it please the Court.

25 THE COURT: Sir?

1 THE DEFENDANT: If it please the Court.

2 THE COURT: Yes, sir.

3 THE DEFENDANT: It's overwhelming that I've been found
4 guilty. First of all, I want to say that as Mr. Dan say,
5 my grief do go out to the Donaldson family because Tyrone
6 was nothing but a friend to me.

7 THE COURT: That's what makes this case so difficult.

8 THE DEFENDANT: Yes, sir. And at the same time even
9 though there been a lot of inconsistency in statements, I
10 want to address this and address it well. I was out there
11 in the commission of what went on but I can say this to
12 say that, that they -- they are very mad at me.

13 And I understand I'm going up the road. But at the
14 same time you got two individuals that took that stand
15 that know from the bottom of their heart that they injured
16 this man.

17 And I'm going to say it again. Andre Hightower and
18 O'Shane Dixon, you outsmarted me this time but, Tyrone, if
19 you listen, I want to say one thing. You've always been a
20 friend to me and I love you from the heart. But I can say
21 one thing again, they outsmarted me.

22 THE COURT: Who outsmarted you?

23 THE DEFENDANT: Andre Hightower and O'Shane Dixon.
24 Everything revolves around Sammie Gerrick. That's one
25 thing. But I know they can't sleep at night just as

1 well.

2 And I'm going to say it again to the family, I'm
3 sorry.

4 THE COURT: Well, Mr. Gerrick, it appears to me that
5 it's one person that outsmarted you and that's you. You
6 outsmarted yourself.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And I hope and pray --

9 THE DEFENDANT: Yes, sir.

10 THE COURT: -- from the bottom of my heart, that when
11 Tyrone was put into that grave face down, bound, I hope
12 and pray, I hope and pray that he was already dead because
13 I cannot imagine anything worse than being buried alive.

14 And it's easy to infer in this case your best friend
15 was buried alive.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I've been doing this a long time.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I've seen some grisly murders. I've seen
20 some horrible facts.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: But this poor man put into that grave that
23 he apparently helped dig, if he was still alive, may God
24 have mercy on your soul.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Because you'll need it. Anything else you
2 want to tell me?

3 THE DEFENDANT: No, sir.

4 THE COURT: Anything, any member of the family? I'll
5 listen to a couple family members if anybody wants to --

6 MR. WATERS: Yes, sir. And just briefly on behalf of
7 the State, the State feels very strongly that life without
8 parole is the only appropriate sentence given the --

9 THE COURT: I appreciate that, but sentencing is
10 obviously in my hands.

11 MR. WATERS: I have spoken with a number of the
12 members of the family and I've gotten the same sentiment
13 from them as well.

14 I do not know if anybody wants to briefly address the
15 Court, but they have been fairly, I'd say unanimous that
16 life without parole is the only appropriate sentence here.

17 THE COURT: AS TO INDICTMENT 13-GS-06-465, THE JURY
18 HAVING FOUND YOU GUILTY OF THE OFFENSE OF MURDER, THE
19 SENTENCE OF THIS COURT IS THAT YOU BE COMMITTED TO THE
20 STATE DEPARTMENT OF CORRECTIONS FOR THE BALANCE OF YOUR
21 NATURAL LIFE.

22 Good luck to you.

23 MR. WATERS: Thank you, Your Honor.

24 THE COURT: Everybody remain seated. All right. I'm
25 going to ask -- I'm going to ask that the members --

1 family and friends of Mr. Donaldson to please sit tight
2 for one minute.

3 I'm going to ask that the law enforcement officers
4 escort Ms. Gerrick out to her car.

5 I'm likewise going to ask that you please remain
6 seated just for a few more minutes until they're able to
7 transport Mr. Gerrick downstairs and to the officer's
8 vehicles for transport. That should not take more than
9 four or five, 10 minutes at the most. I'm not suggesting
10 anything may happen. I just want to avoid any and all
11 possibilities.

12 And once again, my heart goes out to the Donaldson
13 family. I commend you, but I can't understand your
14 grief. I'm sorry, I just can't. I hope you have some
15 closure with this. And God bless you.

16 Let me know when you get him outside and then I'll let
17 this family leave.

18 Donaldson family. Everybody else not associated with
19 the Donaldson family, please remain seated. Mr. Bamberg,
20 if you'll escort them out, please.

21 END OF CASE: 2:00 P.M.

22 * * *

23

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF SOUTH CAROLINA)

3 COUNTY OF AIKEN)

4 I, Cheri L. Young, Registered Professional Reporter
5 and Official Court Reporter for the State of South
6 Carolina, Second Circuit-At Large, do hereby certify that
7 the foregoing proceedings were written stenographically by
8 me using computer-aided translation; further, that the
9 foregoing is a true, accurate and complete record, to the
10 best of my skill and ability, of all the proceedings had
11 and evidence introduced in the hearing of the captioned
12 case, relative to appeal, in the Court of General Sessions
13 for Bamberg County, on the 29th day of October, 2013, on
14 the 13th day of November 2013, in Aiken, and in Barnwell
15 County on the 18th, 19th, 20th and 21st days of November,
16 2013.

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

19 I have hereunder set my hand this 5th day of June,
20 2014.



21
22
23 Cheri L. Young, RPR
24 Official Court Reporter
25

STATE OF SOUTH CAROLINA
COUNTY OF BARNWELL

IN THE COURT OF GENERAL SESSIONS
FOR THE SECOND JUDICIAL CIRCUIT

Sammie Gerrick # 165940)
Petitioner,)

Docket No. 2013-GS-06-004

v.)

MOTION FOR NEW TRIAL
BASED ON AFTER DISCOVERED EVIDENCE

State of South Carolina)
Respondent's)

S.C. RULES OF CRIMINAL PROCEDURE
RULE - 29(b).

FILED FOR RECORD
2023 JUN 12 PM 4:20
RHONDA D. HICKMAN
CLERK OF COURT
BARNWELL COUNTY, S.C.

Now Comes, the Petitioner, Sammie Gerrick # 165940,
Respectfully moves this court, Pursuant to the South Carolina
Rules of Criminal Procedures, Rule - 29(b).

1. I am currently incarcerated here at the Allendale Correctional Institution, and the issues raised in this motion for new trial is based on after discovered evidence concerning the following:
2. In support of the motion, Petitioner will show the court the following:
3. The facts that is undisputed: The State of South Carolina violated Sammie Gerrick, constitutional rights, state/federal laws, statutes, and due process.
4. The Barnwell County, coroner pronounced Tyrone Donaldson was deceased at 2:30 pm. On July 21, 2011.
5. Petitioner, Sammie Lee Gerrick, and Tyrone Donaldson, was captured by a security camera at the enterprise bank in Blackville, South Carolina at 2:54 pm. on July 21, 2011.

6. Ms. Shaneka Deloach; a relative of Tyrone Donaldson, who knows Sammie Lee Gerrick, from the community, witness Sammie Lee Gerrick, speaking with Donaldson at 3:15 pm. on July 21, 2011.

7. Joe Thomas; a friend of Sammie Gerrick, saw Sammie Gerrick pass his house sometime between 3:00 pm. and 4:00 pm. in a gray and burgundy truck on July 21, 2011. And Tyrone Donaldson was following Sammie Gerrick in a white honda accord

I Sammie Lee Gerrick, asserts that upon information and belief, Indictment No. 2013-GS-06-00465 violates the United States Constitution, The Constitution of the State of South State/Federal statues and Sammie Lee Gerrick, due process rights to a fair trial.

June 5, 2023.

Allendale, South Carolina

Sammie L. Gerrick

Sammie L. Gerrick # 165940

Allendale Corr. Inst.

1057 revolutionary Trail

FairFax, South Carolina

29827

Sworn To And Subscribed Before Me

This 5 day of June 2023.

Ashley Vanacore

Notary Public For South Carolina

My Commission Expires: 9/9/32



STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BARNWELL	)	2013-GS-06-00465
	)	
	)	
	)	
	)	
THE STATE,	)	
	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
SAMMIE L. GERRICK,	)	
	)	
DEFENDANT.	)	
_____	)	

July 20, 2023
Barnwell, South Carolina

B E F O R E:

THE HONORABLE COURTNEY CLYBURN-POPE, JUDGE.

A P P E A R A N C E S:

CHRISTINA ALLARD, ESQ.
Attorney for the Plaintiff

PRO SE DEFENDANT

PENNY M. JOHNSON
Court Reporter III

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

1
2 MR. MILLER: Your Honor, the first matter on the
3 schedule for this morning -- and I would note for the record
4 that Mr. Davis is here, he's in the back. The jury is back
5 deliberating again.

6 We have Ms. Christina Allard from the Attorney
7 General's Office here to handle the matter of Sammie Lee
8 Gerrick. Mr. Gerrick is here from the Department of
9 Corrections. We can proceed when the Court is ready.

10 THE COURT: I am ready.

11 Is it Allred?

12 MS. ALLARD: Allard, Your Honor.

13 THE COURT: Allard, okay.

14 MS. ALLARD: May it please the Court, Your Honor. Mr.
15 Gerrick is present in the courtroom. It's the State's
16 understanding that Mr. Gerrick filed this motion pro se.
17 This is filed under indictment 2013-GS-06-00465.

18 Mr. Gerrick was indicted and convicted of murder back
19 in 2013. He has since gone through the appeal process. He
20 has filed a PCR motion, which was denied. He was
21 represented by counsel throughout that process. He has
22 filed a successive PCR motion, which was also denied. He
23 was represented through that PCR application as well.

24 The most recent successive PCR that was denied by the
25 Court was largely based on newly discovered evidence, that

1 was the allegation. The Court found that that was
2 unfounded. Mr. Gerrick, it's our understanding, has filed
3 this motion for a new trial under the South Carolina Rules
4 of Criminal Procedure Rule 29(b). However, his motion that
5 he has filed, the facts that he is claiming are newly
6 discovered evidence were actually facts that came out in his
7 original trial. So the State would ask Your Honor today to
8 deny this motion because there is no newly discovered
9 evidence.

10 Mr. Gerrick, also, filed a motion for an attorney to
11 represent him at this new trial. Again, the State doesn't
12 believe that there needs to be a new trial since there has
13 been no newly discovered evidence.

14 If Your Honor would like me to go through the entire
15 procedural history and quick facts of the underlying
16 charges, I can, but this is Mr. Gerrick's motion.

17 THE COURT: All right. I just would like a brief
18 synopsis of the background just so I know exactly what Mr.
19 Gerrick is referencing.

20 MS. ALLARD: Sure. Your Honor, in July of 2011, this
21 Defendant was in jail for failing to pay child support. On
22 the morning of July 21st of 2011, the Defendant called the
23 victim in the murder case, Mr. Tyrone Donaldson, through a
24 friend and asked for money for bail. The victim's friend,
25 Maurice Williams, was, also, called by the Defendant and,

1 also, asked for bail money. Mr. Williams and Mr. Donaldson,
2 again, Mr. Donaldson is the victim in this case, they met at
3 the bank. They split the bail money for the Defendant who
4 promised that he would pay them both back that same day.

5 The victim bailed the Defendant out between 11:00 a.m.
6 and noon on July 21st. Between 1:00 and 2:00 p.m., the
7 victim returned home. He picked up a gun and left again to
8 pick the Defendant up from the home where he had been
9 staying. The Defendant put two shovels in the bed of his
10 pickup truck. The two men left that home in separate
11 vehicles with the victim following behind the Defendant's
12 pickup truck and the victim in his own white Honda Accord.

13 The two were seen on security camera footage together
14 at an Enterprise Bank on Main Street at 2:54 p.m. on July
15 21st. At 3:15 p.m., a witness, a Ms. Shenika Deloach, saw
16 the two men together. Sometime between 3:00 and 4:00 p.m.,
17 another witness, Mr. Joe Thomas, saw the two vehicles in
18 tandem, sort of in a caravan drive past his house with the
19 pickup truck in front and the white Honda Accord behind.

20 In the evening, nighttime hours of July 21st, mutual
21 friends saw and spoke with this Defendant, although nobody
22 ever saw or heard from the victim again. So the last person
23 the victim was seen with was Mr. Gerrick.

24 The next day, some friends of the victim got a text
25 from an unknown phone number claiming to be the victim

1 claiming to be in some sort of peril or trouble.

2 Investigators were able to determine that that phone number
3 was associated with a Trac phone and through additional
4 investigation, they were able to determine that that Trac
5 phone remained with the Defendant's phone at the same
6 coordinates every time a text was sent.

7 The victim's Honda Accord was found parked behind the
8 China Express in Orangeburg. The Defendant's wife,
9 actually, testified at trial that on the night of the 21st,
10 the Defendant asked her to drive him to go pick up the Honda
11 Accord from the woods, which she did. The Defendant had a
12 key to the Honda. Drove it to the China Express where it
13 was left and then his wife drove him home.

14 His wife took investigators to the woods where she had
15 picked up the Honda Accord and that's where they,
16 ultimately, found the victim's body.

17 At trial, the pathologist in the case, Dr. Janice Ross,
18 also, testified about the autopsy and her findings. She
19 testified that the victim most likely died of asphyxiation
20 either through strangulation or some other form of
21 obstructed breathing. She determined it was a homicide.
22 There were lacerations consistent with defensive wounds on
23 the body and then there was substantial other evidence that
24 the jury heard in order to convict Mr. Gerrick at trial.

25 Now, in his motion that he filed that is the basis for

1 today's hearing, the things that he alleges are the date and
2 time that the coroner pronounced the victim dead, the fact
3 that they were captured on security camera footage, which,
4 again, was a fact that the jury heard, Ms. Shenika Deloach,
5 who saw them together at 3:15, which, again, the jury heard
6 and then the fact that Mr. Joe Thomas saw them between 3:00
7 and 4:00 p.m., which the jury heard as well.

8 We have the actual transcript from the original trial.
9 I have the page numbers if Your Honor would like them for
10 the record of when these facts came in in the original
11 trial. There's just nothing in this new motion that is
12 newly discovered evidence. So, therefore, there is no claim
13 for a new trial under the rule.

14 THE COURT: All right. Thank you, Ms. Allard.

15 Mr. Gerrick, it's your motion. I want you to tell me
16 what you want to tell in regards to your motion.

17 THE DEFENDANT: First of all, good morning.

18 THE COURT: Let's swear him in.

19 SAMMIE L. GERRICK,

20 after being duly sworn, testified as follows:

21 THE COURT: Yes, sir.

22 THE DEFENDANT: First of all, I'd like to object to
23 what the Attorney General said. Everything she said is an
24 opinion. A lot of stuff in my Rule 5, I never received
25 until after the fact. And due to the fact that I'm locked

1 up, I meet a lot of people in the institution because I have
2 a lead role there as far as a mentor, a liaison, et cetera,
3 et cetera, so you meet multiple people. You meet lawyers.
4 You meet people from the Chamber of Commerce. They ask you
5 what you in here for and I had that conversation like she's
6 having with you.

7 So I blatantly got into my case with a lawyer and they
8 got involved to a certain degree to help me get all my
9 information. And getting my information here, first of all,
10 the coroner pronounced Tyrone dead when Tyrone was alive. I
11 got it right here before the Court that I can introduce to
12 you.

13 Next of all, all the allegations as of Tyrone being
14 suffocated, this and that, the pathologist say at my trial
15 that it was probable suffocation. Then she came back and
16 changed the cause of death. I got right here today it's
17 undetermined. So if it's undetermined, according to the
18 language of undetermined, they don't know how he died, but
19 --

20 THE COURT: Well, let me ask you this.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: I want to be clear that you understand
23 exactly the motion that you have filed. You have filed a
24 motion claiming that there is newly discovered evidence. I
25 want you to tell me what is newly discovered, what the jury

1 did not hear and what was discovered since the time of your
2 conviction.

3 THE DEFENDANT: Okay. The jury did not hear that when
4 the coroner said -- I wrote the coroner. The coroner said
5 that they find the body on 8/14. They pronounced him dead
6 at 2:30. 2:30, as it clearly states, according to my
7 transcript, they find Tyrone's body at 11 o'clock. So 2:30
8 is out the picture.

9 The coroner came back 14 days later. My indictment
10 have 14 days in it. She's speaking upon two days. My
11 indictment have from July 21st to August the 4th. To August
12 the 4th.

13 THE COURT: But tell me what's newly discovered. I
14 don't think I'm following you. I don't think I understand.

15 THE DEFENDANT: I want to make sure that I don't get up
16 here and self-incriminate myself the wrong way.

17 THE COURT: I understand, sir. I'm not trying --

18 THE DEFENDANT: So what I'm saying as a whole, as any
19 individual in here that's charged with murder, that's
20 charged with murder, I understand the elements of murder.
21 It's malice aforethought and such and such, et cetera, et
22 cetera. She keep saying it's asphyxiation and it's not
23 according to the autopsy report. If I --

24 THE COURT: We're not here to get into the facts. I'm
25 only here to determine whether you have -- for example, they

1 exhumed the body and discovered that instead of asphyxiation
2 that he died of poisoning. Is there something new that was
3 discovered since your conviction?

4 THE DEFENDANT: This is new. Again, like I said --

5 THE COURT: You tell me what's new. You said this.
6 You tell me the cause of death is new. When was your new
7 report written? Was it after you were convicted?

8 THE DEFENDANT: Yes, ma'am. Like I say, just for the
9 record, I don't want to get turned down for the wrong
10 reason, if I'm arguing it wrong. That's why I have the
11 paperwork --

12 THE COURT: That's why I'm asking.

13 THE DEFENDANT: I've got the paperwork here to prove --
14 to object to what she's saying --

15 THE COURT: So the cause of death is --

16 THE DEFENDANT: It's undetermined now.

17 THE COURT: It's undetermined as of now. So what's the
18 next thing.

19 THE DEFENDANT: The next thing is I've got a question,
20 can two indictments be active on the same charge?

21 THE COURT: I can't answer that question.

22 THE DEFENDANT: Well, I'm going to argue the double
23 jeopardy clause because on 11/18, my second indictment was
24 dropped on the day of my trial. And it's impossible for
25 them to indict me four days before trial when I have an

1 active indictment. It was nol processed. I never knew
2 this.

3 THE COURT: All right. For your second reason --
4 because I'm going to take a look through the paperwork and
5 the transcript. Your second reason is double jeopardy due
6 to there being two indictments?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: What's your third reason, Mr. Gerrick?

9 THE DEFENDANT: My third presentment is the fact of
10 that I had a second autopsy done through the Knoxville,
11 Tennessee body farm. She disputed the testimony, the theory
12 of the Attorney General as far as Tyrone dying.

13 THE COURT: And did the jury hear this second autopsy?

14 THE DEFENDANT: No, ma'am, they did not.

15 THE COURT: This autopsy was done when?

16 THE DEFENDANT: After I got convicted.

17 THE COURT: Was it done after your appellate process?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Was it done after the PCR?

20 THE DEFENDANT: It was done right during the PCR, but I
21 went to the PCR and I got the ruling back after the PCR.

22 THE COURT: All right. Do you have another cause of
23 action or another newly discovered piece of evidence?

24 THE DEFENDANT: Yes ma'am, there was a letter
25 introduced from Dustin Williamson that I had nothing to do

1 with, that they proclaim that him and I acted together.
2 Even though it was ruled on --

3 THE COURT: Tell me about the letter, what's new.

4 THE DEFENDANT: The letter, he was confessing. And due
5 to the fact that I never introduced the letter to Dr.
6 Manusnik (ph) from Knoxville, Tennessee, everything that
7 Dustin Williamson had to say that she cooperated with and
8 never seen the testimony of him.

9 THE COURT: All right. Let's walk through that.
10 You're saying that Dustin Williamson wrote a letter
11 confessing to the murder?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And that was not presented to the jury?

14 THE DEFENDANT: No, ma'am. He came and he pled to the
15 Fifth out of the presence of the jury. So Judge Early came
16 back after I got convicted in December and he said the
17 letter was inadmissible. If the letter inadmissible, it has
18 no value to it, none whatsoever. But today, as you can see,
19 you can pull it up, the same letter that Dustin wrote is a
20 precedential case in the United States Court of Appeal.

21 THE COURT: So we have this issue of the letter. Do
22 you have another issue, another piece of newly discovered
23 evidence, Mr. Gerrick?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: All right. So Mr. Gerrick, this is what

1 I'm going to do. I'm going to allow the attorney general to
2 respond, all right, but I, also, want you to do, if you're
3 got your paperwork there, I'm going to allow you -- do you
4 have another copy of that paperwork?

5 THE DEFENDANT: I'm willing to leave everything I've
6 got --

7 THE COURT: Well, I'll see if I can get a copy for you
8 so that you can have that and I can have one to read, Mr.
9 Gerrick. Because I can't read it all today. I, also, need
10 to look at the transcript that the Attorney General is going
11 to give me and we'll compare the two and I'll make a
12 decision as to whether or not they have any merit.

13 So you understand, Mr. Gerrick, I'm going to hear her
14 argument and then I'll do my own research and make a finding
15 after that.

16 Can he get this -- I don't know where it is. If he can
17 hand me --

18 Is it all of that, Mr. Gerrick?

19 THE DEFENDANT: Yes, ma'am. Yes, ma'am. But the
20 bigger part is my transcript.

21 THE COURT: What's this big part right here?

22 THE DEFENDANT: Right here, I didn't have a chance
23 because they said --

24 THE COURT: Well, just tell me what it is.

25 THE DEFENDANT: It's one page right here to where when

1 I wrote the coroner, she said -- it's only one page that
2 needs to be copied.

3 THE COURT: What are you looking at?

4 THE DEFENDANT: Right here, the time of death --

5 THE COURT: Tell me what it is. Is it a transcript of
6 your --

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. Well, I'm already going to have the
9 transcript. Why don't you just tell me what page you want
10 me to look at?

11 THE DEFENDANT: I would like for you to start on Page
12 328 to 331, where the time that they find Tyrone's body,
13 which is 11 o'clock. So what I did from that reference
14 right there, I wrote the coroner a letter. I said I wanted
15 to inquire to make sure I'm not looking at this the wrong
16 way.

17 THE COURT: Okay.

18 THE DEFENDANT: So right here, where she said -- the
19 coroner got right here. And what's throwing me is any time
20 you got a date and a time, you can't come up and just say
21 late p.m. somebody died. That don't give me time.

22 THE COURT: So remember now, I'm only here to -- I'm
23 not here to weigh your evidence.

24 THE DEFENDANT: I know that. I'm just leading you
25 where --

1 THE COURT: I'm going to look at that transcript, Mr.
2 Gerrick. I want you to give me the letter that you spoke
3 of, a copy of the letter that you spoke of. I want you to
4 give me a copy of the second autopsy. I'm going to make
5 some copies.

6 THE DEFENDANT: You can have this. I got some -- one
7 thing I don't have is a copy of the --

8 THE COURT: The transcript?

9 THE DEFENDANT: The transcript, ma'am.

10 THE COURT: I don't need it because she's going to give
11 me a transcript.

12 THE DEFENDANT: And I would like to have a copy of this
13 nol process in my public index where they nol processed my
14 charge on the day of --

15 THE COURT: I don't need a copy of that, I can look
16 that up. What did they nol processed?

17 THE DEFENDANT: They nol processed my murder warrant,
18 murder warrant number --

19 THE COURT: I can look it up. I can look up all your
20 information, Mr. Gerrick. We're going to do that, okay? So
21 I don't want you to give me your copies because I don't know
22 if you can get them back.

23 THE DEFENDANT: I got multiple copies of this. The
24 only thing, like I said, I didn't have an extra copy of
25 because I sent out multiple copies to every other entity is

1 this public index and the nol process.

2 THE COURT: Okay, but I can look that up. It's public
3 index. I can look that up, Mr. Gerrick.

4 THE DEFENDANT: One other thing I'd like to be put on
5 the record. I would like to put at this point in time is
6 the cause of death on this death certificate.

7 THE COURT: So that is not the proper place for you to
8 put it on record.

9 THE DEFENDANT: I just wanted to make sure.

10 THE COURT: If a new trial is granted, that's more the
11 forum for that, Mr. Gerrick. But what I'm going to do is
12 read through this transcript and I'm going to pull these
13 documents that you're referencing. You have a copy of that
14 letter that you want me to look at from Dustin Williamson?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Where is it? Tell me where the letter is
17 because I want her to make a copy of it.

18 THE DEFENDANT: You can have it.

19 THE COURT: Okay. You have more copies of it, Mr.
20 Gerrick?

21 THE DEFENDANT: Yes ma'am.

22 THE COURT: Please give my clerk a copy of that, Mr.
23 Gerrick.

24 Now, let me hear back from the Attorney General and
25 then I'm going to do some research, okay, Mr. Gerrick?

1 THE DEFENDANT: And I've got a copy of the autopsy
2 report.

3 THE COURT: You're going to give her that, too?

4 THE DEFENDANT: Yes, ma'am. I've got the autopsy
5 report in there. Let me put on the record what I got here.
6 I've got the autopsy report, I've got two copies of my
7 indictments, I've got a copy of the death certificate, I've
8 got a copy of the p.m., the death -- when they found him
9 from the coroner's office and I've got a probable
10 suffocation --

11 THE COURT: A probable what?

12 THE DEFENDANT: They say it's probable suffocation.
13 And then I've got -- here it is from Janice Ross, without
14 certainty, a medical opinion, she said that she don't know
15 the cause of death. She don't know how he died. She don't
16 know when he died. The evidence ain't there. The cause of
17 death is undetermined. I'm putting this in there as well.
18 I've got Dustin Williamson's, his Fifth Amendment. I've got
19 the Tennessee body farm here, which my family hired. Since
20 then, they say that Dustin's testimony was inadmissible and
21 that it didn't have any weight to it. After that, three or
22 four years later --

23 THE COURT: This is why I keep stopping you, I'm going
24 to tell you why, all of this is stuff that should be
25 presented in a correct forum. Your motion here is only for

1 a new trial, but you're not at a new trial.

2 THE DEFENDANT: Okay.

3 THE COURT: So I don't want you saying anything on the
4 record, so let me guide you through it. Give me all of
5 those papers and I will review them.

6 Now, I'm going to allow the Attorney General to respond
7 because she's entitled to a response to what you say.

8 Ms. Allard.

9 MS. ALLARD: Yes, ma'am, Your Honor. Your Honor, the
10 State's position is that Your Honor should not even consider
11 any of this. Mr. Gerrick has gone through the appellate
12 process. His sentence was upheld, his conviction was
13 upheld. He has gone through the PCR process. His PCR
14 application was denied. He's filed a successive PCR
15 application based largely on these same facts. That has,
16 also, been denied.

17 There's a habeas matter still pending the final ruling
18 of the Court in the most recent successive PCR, but the
19 Court has indicated it is denying that application as well.
20 It has reviewed the letter that Mr. Gerrick has referenced.
21 It has reviewed the new autopsy report. It has reviewed Dr.
22 Janice Ross's testimony from the original trial when she
23 testified, I wasn't there, I don't know exactly how he died.
24 As Your Honor knows, that is typical testimony from a
25 forensic pathologist at trial.

1 All of this has already been litigated. Mr. Gerrick
2 has exhausted his appellate process. He has exhausted his
3 PCR options. He has filed a writ. The Supreme Court has
4 denied that. It has been exhausted.

5 So the State's position at this point is that Your
6 Honor can only determine whether or not Mr. Gerrick is
7 entitled to a new trial under Rule 29, which has specific
8 things that the Defendant has to show in order to be
9 entitled to that new trial.

10 As Your Honor knows, there's five factors. Would it
11 probably change the result if a new trial is had? Has it
12 been discovered since trial? None of it has. Could it have
13 been discovered before trial? It could have if somebody had
14 hired this outside entity to do an additional autopsy
15 report. Is it material to the issue of guilt or innocence?
16 The appellate courts have determined that it is not worth
17 rehashing. They have upheld the conviction. They have
18 upheld the sentencing. PCR has been denied. All of his
19 options have been exhausted but for this Rule 29 motion for
20 a new trial based on newly discovered evidence and none of
21 what Mr. Gerrick has provided to the Court qualifies as
22 newly discovered evidence.

23 THE COURT: All right. Ms. Allard, thank you very
24 much. Let me tell you what I'm going to do. I'm going to
25 give you all a decision on this before this time next week.

1 Mr. Gerrick is going to give me the materials he wishes
2 me to look at and I will do -- I will grant him that and
3 then I will give you my decision.

4 I assume Mr. Gerrick will receive notice from you
5 regarding my decision?

6 MS. ALLARD: He'll probably receive notice from the
7 clerk, Your Honor. He filed this pro se.

8 THE COURT: All right. So Mr. Gerrick, you'll receive
9 notice from Barnwell County Clerk of Court regarding my
10 decision whether or not you meet the elements given in Rule
11 29(b) for a new trial.

12 MS. ALLARD: And, Your Honor, the State doesn't have a
13 copy of what Your Honor has, so if it does not incriminate
14 him further or jeopardize his Constitutional rights, if Your
15 Honor would be willing to provide a copy to the State, that
16 would be great.

17 THE COURT: Yes. Let me look through it to make sure
18 and then we'll scan and e-mail a copy to you. That will be
19 the fastest way to get it to your office.

20 Thank you, Ms. Allard.

21 Thank you, Mr. Gerrick.

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Barnwell County, South Carolina, on the 20th day of July, 2023.

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

August 25, 2024

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

mailed to
Miller
10 mailed to
Prose Dec.
(7/12/23)

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)
State of South Carolina.)
v.)
Sammie Gerrick, 165940.)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

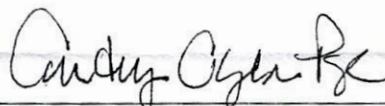
INDICTMENT NO. 2013-GS-06-00465

**ORDER DENYING DEFENDANT'S MOTION
FOR A NEW TRIAL**

THIS ORDER IS ISSUED following a *pro se* motion to for a new trial pursuant to South Carolina Rules of Criminal Procedure 29(b), which was filed by the Defendant on June 12, 2023. An in-person hearing was held on July 20, 2023, where the Defendant appeared *pro se* and Christina Allard, Assistant Attorney General, appeared on behalf of the State. The Defendant was produced from the South Carolina Department of Corrections and attended the hearing in person. The Court heard arguments from all parties.

After consideration of the evidence and arguments presented, this Court finds there is no factual basis to grant the Defendant's motion. Accordingly, Defendant's *pro se* motion to for a new trial is hereby DENIED.

IT IS SO ORDERED.



Hon. Courtney Clyburn Pope
Second Judicial Circuit

July ²⁵, 2023
Barnwell, South Carolina

FILED
2023 JUL 26 AM 11:17
RHENY, U.S. DISTRICT COURT
CLERK OF COURT
BARNWELL COUNTY, S.C.

WITNESSES

DOCKET NO. 2013GS0600465

State Law Enforcement Division
6
Shaun E. Harley

The State of South Carolina
County of Barnwell

Law Enforcement Case #: 311110067

AG

ARREST WARRANT NUMBER

13-DI06-0016

NOVEMBER TERM 2013

THE STATE
VS.

Sammie Lee Gerrick

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: November 14, 2013

CDR #: 0116

Indictment for

VERDICT

Guilty

MURDER

\$ 16-03-0010

[Signature]

Foreperson of Petit Jury
Date: 11-21-13

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)

INDICTMENT FOR
 MURDER

§ 16-03-0010

At a Court of General Sessions, convened on November 18, 2013, the Grand Jurors of Barnwell County present upon their oath:

That **SAMMIE LEE GERRICK** did in Barnwell County on or between July 21, 2011 and August 4, 2011, feloniously, willfully and with malice aforethought, kill Tyrone Donaldson. All in violation of §16-3-10, Code of Laws of South Carolina, (1976, as amended).

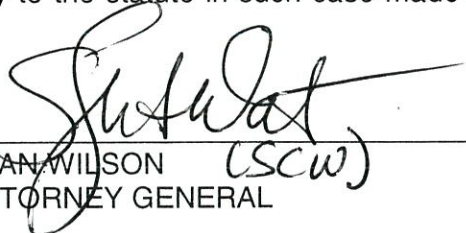
STATE OF SOUTH CAROLINA
 COUNTY OF BARNWELL

I, Rhonda D. McElveen, Clerk of Court for Barnwell County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office.

Rhonda D. McElveen
 Clerk of Court, Barnwell County, SC

By: CBC Date: 6-28-24

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


 ALAN WILSON (SCW)
 ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Barnwell
 STATE VS.
Sammie Lee Gerrick

AKA:

Race: Black Sex: M Age: 42DOB: 1971 SS#: Address: City, State, Zip: BLACKVILLE, SC 29817DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder

INDICTMENT/CASE#: 2013GS0600465A/W#: 13-DI06-0016Date of Offense: 7/21/2011S.C. Code § : 16-03-0010; 16-03-0020CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: S. Creighton Waters 12155 Sammie Lee Gerrick 10233

General Attorney SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp ☐

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/Deputy Clerk Sharon H. RitchieCourt Reporter: Cheri Young

SCCA/217 (03/2011)

Presiding Judge TM EarlyJudge Code: 0136Sentence Date: 10/21/2013

h-16

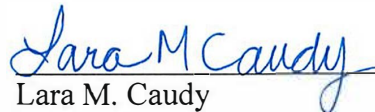
Oct 10 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

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,



Lara M. Caudy
Senior Appellate Defender

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

ATTORNEY FOR APPELLANT

This 10th day of October, 2024.

RECEIVED

Oct 10 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Barnwell County

Honorable Courtney Clyburn Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

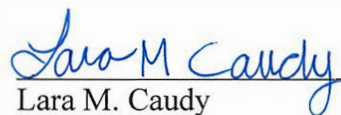
SAMMIE GERRICK,

APPELLANT

APPELLATE CASE NO. 2023-002012

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon Melody J. Brown, Esquire, at her primary email address listed in the Attorney Information System (AIS); and on Sammie L. Gerrick, #165940, at Allendale Correctional Institution, 1057 Revolutionary Trail, Fairfax, SC 29827, this 10th day of October, 2024.



Lara M. Caudy
Senior Appellate Defender

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

ATTORNEY FOR APPELLANT