

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Greenville County

Honorable Grace Gilchrist Knie, Circuit Court Judge

MARQUAL DEVINE GRIFFIN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000091

AMENDED APPENDIX

JOANNA K. DELANY
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 PETITIONER

W. WALTER WILKINS
Solicitor, Thirteenth Judicial Circuit
305 East North Street, #325
Greenville, SC 29601
(864) 467-8647

ATTORNEYS FOR RESPONDENT

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT: COURT’S
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	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2016GS2302330,
	)	2016GS2302331,
State of South Carolina,	)	2016GS2302332,
	)	2016GS2302333,
Plaintiff,	)	2016GS2302335,
	)	2017GS2302334
-VS-	)	
	)	
Marqual Devine Griffin,	)	TRANSCRIPT OF RECORD
	)	(Volume 1 of 3)
Defendant.	)	
	)	

September 11-13, 2017
Greenville, South Carolina

B E F O R E:

HONORABLE PERRY GRAVELY, Judge.

A P P E A R A N C E S:

ANDREW CULBREATH, Esquire
ELIZABETH GARY, Esquire
Attorneys for the Plaintiff

RANDALL L. CHAMBERS, Esquire
EDWARD H. DAWSON, III, Esquire
Attorneys for the Defendant

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

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P R O C E E D I N G S

(Proceedings begin on the 11th day of September,
2017 at approximately 11:24 a.m.)

(All State exhibits are premarked by State's
counsel.)

THE COURT: All right. Anything before I
bring the jury in? I know we're going to have
motions after lunch.

MR. CULBREATH: Yes, sir. We have motions
afterwards, not at this moment.

THE COURT: All right. And I've got no
voir dire from the State or the defendant?

MR. CULBREATH: That's correct.

THE COURT: Other than standard. I have a
witness list from the State. Anything from the
defendant?

MR. CHAMBERS: No, Your Honor.

THE COURT: All right. All right. You can
see if they have a jury ready.
(There is a pause.)

THE COURT: Ms. Fryar, before you bring
the jury in.

I'm going to read the indictments. I've had
an issue, kind of, with that in a trial
recently. I will just read the indictment as

1 written to the jury in qualification.

2 MR. CULBREATH: Your Honor, just one of
3 the things I'll sort of point out, there was
4 one -- the burglary indictment was amended
5 in --

6 THE COURT: Hold on just a minute,
7 Ms. Fryar. I'm sorry. I changed my mind. Close
8 the door. I thought you were closing the door.

9 I just ran into an issue with the
10 indictments. It's not really an issue, but
11 someone tried to make an issue of it. I'm going
12 to make sure that I read the indictments. You
13 said there was something?

14 MR. CULBREATH: I just wanted to make sure
15 you had the -- there was an amended one from
16 June on the Burglary first.

17 THE COURT: Right. It's an amended
18 indictment, Burglary first.

19 MR. CULBREATH: The address is the same.

20 THE COURT: Right. Okay.

21 MR. CULBREATH: That's all.

22 THE COURT: All right. Anything else?

23 All right. Now, you can bring them in.

24 (Jury panel enters the courtroom at

25 approximately 12:31 p.m.)

1 **THE COURT:** All right. Ladies and
2 Gentlemen, thank y'all for coming up again. I
3 know you didn't have any choice. But anyway, we
4 are now getting ready to do the qualification
5 process for a specific case. This is the case
6 of State of South Carolina versus Marqual
7 Devine Griffin.

8 Am I pronouncing that right?

9 **MR. GRIFFIN:** Yes, sir.

10 **THE COURT:** Marqual Devine Griffin. All
11 right. Now, what I am going to do is I'm going
12 to read to you the indictments, but I will tell
13 of y'all that an indictment is not -- these
14 indictments are just the papers that bring a
15 person into court. These are merely allegations
16 against the defendant in which the defendant
17 has pled not guilty. But these are the
18 allegations and there are several. They also
19 identify victims. I'll ask you in a minute if
20 we're -- if you know any of these individuals.

21 The first indictment is for Attempted Armed
22 Robbery, that Marqual Devine Griffin did on --
23 Greenville County on or about December 27th,
24 2015, while armed with a deadly weapon or while
25 alleging either by action or words he was armed

1 while using the representation of a deadly
2 weapon or any object in which a person present
3 during the commission of the robbery would
4 reasonably believe to be a deadly weapon,
5 attempt to take, by means of force or
6 intimidation, goods or monies, from Nathaniel
7 Crouch and/or April Green.

8 Assault and Battery first degree, that
9 Marqual Devine Griffin did on December the
10 27th, 20015 offer or attempt to injure April
11 Green with the present ability to commit the
12 act. Kidnapping, that Marqual Devine Griffin
13 did in Greenville County on or about December
14 the 27th, 2015, unlawfully seize, abduct,
15 confine, inveigle, decoy or carry away April
16 Green without authority of law.

17 Another Kidnapping, Marqual Devine Griffin
18 did in Greenville County on December the 27th,
19 unlawfully seize, abduct, confine, inveigle,
20 decoy or carry away Shane Barron without
21 authority of law. Burglary first degree, that
22 Marqual Devine Griffin, did on -- in Greenville
23 County on December the 27th, 2015 willfully and
24 unlawfully enter the dwelling of April Green
25 located at [REDACTED] Perry Road, number [REDACTED],

1 Greenville, without consent with the intent to
2 commit a crime therein.

3 Murder, that Marqual Devine Griffin did in
4 Greenville County on December the 27th,
5 unlawfully and with malice aforethought, kill
6 Nathan Crouch by means of shooting him with a
7 handgun and that Nathan Crouch died as a
8 proximate result thereof. Count 2 under this
9 indictment is Possession of a Weapon during the
10 Commission of a Violent Crime, that Marqual
11 Devine Griffin did in Greenville County on
12 December the 27th, 2015, possess or visibly
13 display a handgun during the commission or
14 attempted commission of a violent crime.

15 Ladies and Gentlemen, that's just, again,
16 for informational purposes only. But at this
17 time, I have specific questions. The whole
18 purpose of this jury qualification is to
19 determine whether you can be -- if you are
20 selected, whether you can be fair and impartial
21 in the trial of this case.

22 So first of all, is anyone related by blood
23 or marriage --

24 Mr. Griffin, you can stand and face the
25 jury.

1 (The defendant complies.)

2 **THE COURT:** All right. Thank you. Thank
3 you.

4 Is anyone related by blood or marriage to
5 the defendant, Marqual Devine Griffin, or have
6 a close personal or social relationship with
7 Mr. Griffin? If so, please stand.

8 (No audible response.)

9 All right. No response.

10 The victims in this matter are April Green,
11 Shane Barron and Nathan Crouch. Is anyone
12 related by blood or marriage, ever have a close
13 personal or social relationship with any of the
14 alleged victims? If so, please stand.

15 All right. Please stand and give us your
16 name.

17 **PROSPECTIVE JUROR:** Regina Rabb.

18 **THE COURT:** All right. Hold on. Let me
19 just -- what's your number?

20 **PROSPECTIVE JUROR:** 177.

21 **THE COURT:** All right. And again, what is
22 your -- do you know -- how do you respond to
23 that?

24 **PROSPECTIVE JUROR:** I'm a close friend of
25 Nathan's.

1 **THE COURT:** All right.

2 **PROSPECTIVE JUROR:** I used to know him
3 through a marriage of my uncle.

4 **THE COURT:** All right. And the fact that
5 you knew Mr. Crouch, would that keep you from
6 being able to be fair ---

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** --- and impartial in this
9 trial?

10 **PROSPECTIVE JUROR:** Yes.

11 **THE COURT:** All right. Well, I will excuse
12 you from the trial in this case. Thank you. You
13 may be seated.

14 All right. Anyone else?

15 (No audible response.)

16 All right. I have a quite lengthy list of
17 possible witnesses. This doesn't mean they're
18 all called. These are potential witnesses in
19 the case. Now, again, what I'm going to ask
20 you is do you know any of these individuals and
21 if you know them, if you can still be fair and
22 impartial. So, if you are related by blood or
23 marriage, if you have a social or personal or
24 business relationship with any of these
25 individuals, then you need to stand and I'll

1 ask you further questions.

2 Master Deputy Matthew Metrinko,
3 Investigator Dave -- Okay, he's with the
4 Greenville County Sheriff's Office;
5 Investigator Dave Whitlock from the Greenville
6 County Sheriff's Office; Agent Jared Wingler
7 from the Bureau of Alcohol, Tobacco and
8 Firearms; Mr. Kevin Hoffman; I've already said
9 April Green; Officer Charlie Moore, Greenville
10 County Detention Center; Ms. Rene Beaufort,
11 Greenville County 911; again, Mr. Shane Barron,
12 who I previously indicated; Investigator Riley
13 Hope with the Greenville Department of Public
14 Safety; Investigator Dar Shaw of the Greenville
15 County Department of Public Safety; Dr. James
16 Fulcher; Sergeant Chris Hammett, also the
17 Greenville County Sheriff's Office;
18 Investigator David Picone -- is that right,
19 Picone -- of the Greenville County Sheriff's
20 Office; Ms. Kara Bennick, Greenville Department
21 of Public Safety; Ms. Jennie Coley, Greenville
22 Department of Public Safety; Ms. Cindy
23 Witherspoon, Greenville Department of Public
24 Safety; Melanie Watson, Greenville Department
25 of Public Safety; James Armstrong, Greenville

1 Department of Public Safety; Tim Nafziger,
2 Greenville Department of Public Safety;
3 Dr. Jagannadha Kandala -- did I say that right?

4 **MR. CULBREATH:** I believe so, sir.

5 **THE COURT:** -- Greenville Department of
6 Public Safety; Mr. Clint Nalley and Mr. Terry
7 Harris. All right. Is there anybody who's
8 related by blood or marriage, have a social or
9 personal relationship or business relationship
10 with any of these defendants, please stand --
11 I'm sorry -- any of these potential witnesses,
12 please stand.

13 (No audible response.)

14 No response.

15 All right. At this time, I'm going to ask
16 that the attorneys stand and introduce
17 themselves. State?

18 **MS. GARY:** Good morning, Ladies and
19 Gentlemen. My name is Elizabeth Gary. I'm an
20 assistant solicitor here in Greenville County.

21 **MR. CULBREATH:** Good morning. My name is
22 Andrew Culbreath. I'm Deputy Solicitor here in
23 Greenville.

24 **MR. CHAMBERS:** Good morning, everyone. I'm
25 Randy Chambers. I practice law here in private

1 practice in Greenville. I also do some part-
2 time work for the 13th Circuit Public
3 Defender's Office.

4 **MR. DAWSON:** My name is Hood Dawson. I
5 work at the Public Defender's Office.

6 **THE COURT:** All right. A couple of
7 questions as to the attorneys. First of all, is
8 anybody related by blood or marriage or have a
9 close social or personal relationship with any
10 of these attorneys? If so, please stand.

11 (No audible response.)

12 All right. No response.

13 I also need to know has anybody ever been
14 represented by any of these attorneys or have
15 you been on a case where these attorneys were
16 on the other side? If so, please stand.

17 (No audible response.)

18 All right. Thank you. Is anybody related by
19 blood or marriage to anyone that is employed in
20 the 13th Circuit Solicitor's Office or Public
21 Defender's Office? If so, please stand.

22 Yes, your name and number.

23 **PROSPECTIVE JUROR:** Shannon Batson, number
24 15. I have an aunt who is a private
25 investigator for the Solicitor's office.

1 **THE COURT:** Okay. And who is that?

2 **PROSPECTIVE JUROR:** Connie Loewer.

3 **THE COURT:** All right. With that fact,
4 could you still be fair and impartial to both
5 the State and the defendant in this matter?

6 **PROSPECTIVE JUROR:** Yes, sir.

7 **THE COURT:** All right. Thank you.

8 Is anybody related by blood or marriage to
9 anyone who works with the Greenville County
10 Sheriff's Department or Greenville Public
11 Safety? If so, please stand.

12 All right. Your name and number?

13 **PROSPECTIVE JUROR:** Doug Kruzan, number
14 124.

15 **THE COURT:** Okay.

16 **PROSPECTIVE JUROR:** My son-in-law, Greg
17 Owens is his name.

18 **THE COURT:** Gray?

19 **PROSPECTIVE JUROR:** Greg Owens.

20 **THE COURT:** All right. With that fact,
21 could you still be fair and impartial in the
22 trial of this case? Could you be fair to the
23 State and the defendant in this matter?

24 **PROSPECTIVE JUROR:** Yes.

25 **THE COURT:** All right. Thank you.

1 All right. Has any member of the jury panel
2 formed or expressed an opinion about anything
3 involved in this case? If so, please stand. I
4 realize you only have limited information, but
5 if you have expressed an opinion about -- or
6 formed an opinion about this case, then please
7 stand.

8 (No audible response.)

9 All right. And no response.

10 Is any member of the jury panel aware of
11 any bias or prejudice which they would have
12 against the State or the defendant in this
13 matter? If so, please stand.

14 (No audible response.)

15 All right. Is there any member of the jury
16 panel who knows of any reason whatsoever that
17 you do not believe that you could give a fair
18 and impartial trial to both the State and the
19 defendant in this matter? If so, please stand.

20 (No audible response.)

21 All right. No response.

22 Any additional questions from the State?

23 **MR. CULBREATH:** None from the State, Your
24 Honor.

25 **THE COURT:** Any additional questions from

1 the defendant?

2 **MR. CHAMBERS:** No, Your Honor.

3 **THE COURT:** All right. At this point then,
4 we will begin the selection process.

5 **THE CLERK:** Would you like them to stand
6 in place?

7 **THE COURT:** Yeah, stand in place.

8 **THE CLERK:** All right. When I call your
9 name, please stand in place and then wait for
10 further instructions.

11 Juror 28, Matthew Brown.

12 What says the State?

13 **MR. CULBREATH:** Please present this juror.

14 **THE CLERK:** What says the defendant?

15 **MR. CHAMBERS:** Seat Mr. Brown please.

16 **THE CLERK:** Mr. Brown, please, if you
17 will, come bring your things. Have a seat in
18 the jury box.

19 Juror 31, Kimberleah Burgess.

20 What says the State?

21 **MR. CULBREATH:** Please present this juror.

22 **THE CLERK:** What says the defendant?

23 **MR. CHAMBERS:** Seat Ms. Burgess please.

24 **THE CLERK:** Ma'am, please bring your
25 things. Come have a seat in the jury box.

1 Juror 101, Victoria Helmus.

2 What says the State?

3 **MR. CULBREATH:** Please present this juror.

4 **THE CLERK:** What says the defendant?

5 **MR. CHAMBERS:** Seat Ms. Helmus please.

6 **THE CLERK:** Ma'am, please bring your
7 things. Come have a seat in the jury box.

8 Juror 124, Douglas Kruzan. Sir? Mr. Kruzan,
9 please stand. Thank you.

10 What says the State?

11 **MR. CULBREATH:** Please present this juror.

12 **THE CLERK:** What says the defendant?

13 **MR. CHAMBERS:** Excuse Mr. Kruzan from
14 this case, please.

15 **THE CLERK:** All right. You may be seated,
16 sir. You have been excused from this case.

17 Juror 73, Karen Erno.

18 What says the State?

19 **MR. CULBREATH:** Please present this juror.

20 **THE CLERK:** What says the defendant?

21 **MR. CHAMBERS:** Seat Ms. Erno please.

22 **THE CLERK:** Ma'am, please come have a seat
23 in the jury box.

24 Juror 161, Andrew Ollom.

25 What says the State?

1 **MR. CULBREATH:** Please present this juror.

2 **THE CLERK:** What says the defendant?

3 **MR. CHAMBERS:** Seat Mr. Ollom please.

4 **THE CLERK:** Please, sir, have a seat in
5 the jury box.

6 Juror 143, Kimberly Middleton.

7 What says the State?

8 **MR. CULBREATH:** Please present this juror.

9 **THE CLERK:** What says the defendant?

10 **MR. CHAMBERS:** Excuse Ms. Middleton from
11 this case please.

12 **THE CLERK:** All right. Ma'am, you may be
13 seated. You have been excused from this case.

14 Juror 208, Kelly Summer.

15 What says the State?

16 **MR. CULBREATH:** Please present this juror.

17 **THE CLERK:** What says the defendant?

18 **MR. CHAMBERS:** Seat Ms. Summer please.

19 **THE CLERK:** Ma'am, please bring your
20 things. Have a seat in the jury box.

21 Juror 203, Karol Stahl.

22 What says the State?

23 **MR. CULBREATH:** Please present this juror.

24 **THE CLERK:** Thank you.

25 What says the defendant?

1 **MR. CHAMBERS:** Seat Ms. Stahl please.
2 **THE CLERK:** Ma'am, please come have a seat
3 in the jury box.
4 Juror 152, Jeffrey Morris.
5 What says the State?
6 **MR. CULBREATH:** Please present this juror.
7 **THE CLERK:** What says the defendant?
8 **MR. CHAMBERS:** Seat Mr. Morris please.
9 **THE CLERK:** Sir, please come have a seat
10 in the jury box.
11 Juror 63, Haley Davis.
12 What says the State?
13 **MR. CULBREATH:** Please present this juror.
14 **THE CLERK:** What says the defendant?
15 **MR. CHAMBERS:** Seat Ms. Davis please.
16 **THE CLERK:** Ma'am, please come have a seat
17 in the jury box.
18 Juror 172, Leonard Pineau.
19 What says the State?
20 **MR. CULBREATH:** Please present this juror.
21 **THE CLERK:** What says the defendant?
22 **MR. CHAMBERS:** Seat Mr. Pineau please.
23 **THE CLERK:** Please, sir, come have a seat
24 in the jury box.
25 Juror 173, Trevar Pinson.

1 What says the State?

2 **MR. CULBREATH:** Please excuse the juror
3 from this case.

4 **THE CLERK:** You may be seated. You have
5 been excused from this case.

6 Juror 117, Billie Jones.

7 What says the State?

8 **MR. CULBREATH:** One moment. (Pause.)
9 Please excuse the juror from the trial of
10 this case.

11 **THE CLERK:** You may be seated, ma'am. You
12 have been excused from this case.

13 Juror 36, Tracey Butcher.

14 What says the State?

15 **MR. CULBREATH:** Please present this juror.

16 **THE CLERK:** What says the defendant?

17 **MR. CHAMBERS:** Excuse Ms. Butcher from
18 this case please.

19 **THE CLERK:** You may be seated, ma'am.
20 You've been excused from this case.

21 Juror 180, Branden Reeves.

22 What says the State?

23 **MR. CULBREATH:** Please present this juror.

24 **THE CLERK:** What says the defendant?

25 **MR. CHAMBERS:** Seat Mr. Reeves please.

1 **THE CLERK:** Sir, please come have a seat
2 in the jury box.
3 Juror 109, Christopher Hughes.
4 What says the State?
5 **MR. CULBREATH:** Please present this juror.
6 **THE CLERK:** What says the defendant?
7 **MR. CHAMBERS:** Excuse Mr. Hughes from
8 this case, please.
9 **THE CLERK:** You may be seated, sir. You
10 have been excused from this case.
11 Juror 131, Kay Loftis.
12 What says the State?
13 **MR. CULBREATH:** Please present this juror.
14 **THE CLERK:** What says the defendant?
15 **MR. CHAMBERS:** Excuse Ms. Loftis from
16 this case, please.
17 **THE CLERK:** All right. Ma'am, you may be
18 seated.
19 Juror 35, Christian Burton.
20 What says the State?
21 **MR. CULBREATH:** Please present the juror.
22 **THE CLERK:** What says the defendant?
23 **MR. CHAMBERS:** Excuse Mr. Burton from
24 this case, please.
25 **THE CLERK:** All right. Sir, please be

1 seated.

2 Juror 88, Georgia Glackin.

3 What says the State?

4 **MR. CULBREATH:** Please present the juror.

5 **THE CLERK:** What says the defendant?

6 **MR. CHAMBERS:** Excuse Ms. Glackin from
7 this case, please.

8 **THE CLERK:** All right. You may be seated,
9 ma'am.

10 Juror 67, Daniel Dorriety.

11 What says the State?

12 **MR. CULBREATH:** Please present the juror.

13 **THE CLERK:** What says the defendant?

14 **MR. CHAMBERS:** Seat Mr. Dorriety please.

15 **THE CLERK:** Sir, please come have a seat
16 in the jury box.

17 **THE COURT:** All right. We'll have two
18 alternates.

19 **THE CLERK:** Juror 15, Shannon Batson.

20 What says the State?

21 **MR. CULBREATH:** Please present this juror.

22 **THE CLERK:** What says the defendant?

23 **MR. CHAMBERS:** Excuse Ms. Batson from
24 this case, please.

25 **THE CLERK:** All right. Ma'am, you may be

1 seated.

2 Juror 226, Kamran Zafar.

3 What says the State?

4 **MR. CULBREATH:** Please present this juror.

5 **THE CLERK:** What says the defendant?

6 **MR. CHAMBERS:** Seat Dr. Zafar please.

7 **THE CLERK:** All right. Sir, seat in the
8 jury box.

9 **THE COURT:** And Alternate Number 2.

10 **THE CLERK:** Juror 56, Torrey Crosby.

11 What says the State?

12 **MR. CULBREATH:** Please present this juror.

13 **THE CLERK:** What says the defendant?

14 **MR. CHAMBERS:** Seat Mr. Crosby please.

15 **THE CLERK:** Mr. Crosby, please come have a
16 seat in the jury box.

17 **THE COURT:** All right. Any objection or
18 exception to the selection process by the
19 State?

20 **MR. CULBREATH:** None from the State.

21 **THE COURT:** Anything from the defendant?

22 **MR. CHAMBERS:** None, Your Honor.

23 **THE COURT:** All right. All right. I've got
24 two panels here. Let me talk to this one first.

25 Ladies and Gentlemen --

1 All right. Let's see here. 1:45? 1:45? Let
2 them come back at 1:45? 1:30? 1:45. I was
3 thinking about 1:30.

4 All right. Ladies and Gentlemen, you've
5 been selected for this jury. Now, we're not
6 going to start because we have a couple of
7 motions we have to go over. We want to make
8 sure everybody has sufficient time for lunch.

9 I'm going to give you a couple of rules
10 that I'm going to tell you every time we break.
11 One, do not discuss the case. I know y'all have
12 very limited information, but you are not to
13 discuss the case in any way amongst yourself or
14 with anyone else.

15 You are not to do any type of independent
16 research whatsoever. All the information you
17 need to get, you'll get from this courtroom.
18 Number 3, you do not need to pay any attention
19 -- I'm not aware of any media coverage, but if
20 there's any media coverage that can get through
21 all the hurricane stuff, then you are not to be
22 paying any attention to that, social media,
23 radio, television or newspaper.

24 And finally, I don't expect -- you
25 shouldn't be contacted by anybody other than

1 the Clerk's office. If you are contacted by
2 anyone, then please give as much information to
3 the bailiffs as you can. The bailiff will show
4 you where you need to come back in. I'm going
5 to have y'all be back in your jury room at 1:45
6 and we'll begin to start the trial at that
7 point. Other than that, please have a good
8 lunch and we'll see you this afternoon.

9 (Jury exits at approximately 12:01 p.m.)

10 **THE COURT:** All right. To my remaining
11 panel, I'm going to ask that y'all return
12 downstairs to the big room and they will give
13 you further instructions about what you need to
14 do from there. Don't worry. You will get a
15 lunch. Anyway, if you will, return back down to
16 the main jury room. Thank you for your
17 attention.

18 (Jury panel exits at approximately 12:02 p.m.)

19 **THE COURT:** All right. Do y'all need a
20 minute?

21 **MR. CHAMBERS:** No.

22 **THE COURT:** All right.

23 **MR. CULBREATH:** No, Your Honor. I think
24 we're ready.

25 **THE COURT:** All right. It's my

1 understanding that the only motion that's to be
2 had is a Jackson v. Denno; is that correct?

3 **MR. CULBREATH:** I have one brief motion in
4 limine.

5 **THE COURT:** Oh, okay.

6 **MR. CULBREATH:** Very briefly, Your Honor,
7 this involves -- to give you some context,
8 there is a piece of evidence that's a jail call
9 between one of the victims and a friend of
10 hers, or a boyfriend, who is in jail at the
11 time. He's actually in jail. They are on the
12 phone when the defendant comes through the
13 door. So, we captured that on recording. That
14 individual that was jailed at the time is now
15 deceased. I understand he was deceased as a
16 part of another violent crime.

17 We're going to talk about Gerald White as
18 far as being the person who placed the call.
19 She will indicate, as well, that he's deceased.
20 But anything beyond the fact that he's deceased
21 and not available wouldn't be in any way
22 related to this case. Our concern is that there
23 would be an argument that that would be used
24 against her or to impugn her credibility
25 because Ms. Green was either present or in some

1 way familiar with that second incident as well.

2 **THE COURT:** All right. Mr. Chambers.

3 **MR. CHAMBERS:** That's not really an area
4 that I was necessarily planning on getting
5 into. It may not ever be available. But perhaps
6 as the trial goes and testimony comes in, there
7 may be a door opened that I need to get into
8 that. But I don't anticipate that. At this
9 point, I would agree that it's probably not
10 relevant. It doesn't have anything to do with
11 the offense that occurred that day.

12 **THE COURT:** Let's do this, I mean, from
13 what you're saying, I don't -- I think it
14 clearly falls within hearsay and would not be
15 admissible. But I don't -- I will revisit that
16 if you indicate otherwise. So I'm granting your
17 motion with the understanding that if something
18 should open the door or change or something
19 like that, I'll be glad to hear from Mr.
20 Chambers on that line.

21 **MR. CHAMBERS:** Yes, sir.

22 **MR. CULBREATH:** We have a brief Jackson
23 v. Denno. We have also talked through some of
24 the pieces of evidence. We've premarked at
25 least a few of them. I've coordinated with the

1 clerk on those. We have some maps, overhead
2 maps, and a sketched drawing. We don't intend
3 to put the maps in as evidence. We just let the
4 witnesses refer to them at the beginning to
5 kind of orient the jury. Then, there's a sketch
6 of the living room area where this occurred
7 where one or more witnesses may come down. We
8 can premark that with a number for the record.

9 **THE COURT:** All right. Any objection to
10 those, as far as you know?

11 **MR. CHAMBERS:** No. No, Your Honor, not
12 right now.

13 **THE COURT:** All right then, and then the
14 Jackson v. Denno?

15 **MR. CULBREATH:** Yes, sir. We would call
16 Sergeant Chris Hammett.

17 **THE CLERK:** Sir, please place your left
18 hand on the Bible and raise your right hand.

19 **CHRIS HAMMETT**
20 having first been duly sworn, testifies as follows:

21 **THE CLERK:** Thank you. Please be seated
22 and please state your name for the record.

23 **THE WITNESS:** Henry Christopher Hammett.

24 **DIRECT EXAMINATION**

25 **BY MR. CULBREATH:**

1 Q Sergeant Hammett, good morning.

2 A Good morning, sir.

3 Q Who are you currently employed with?

4 A Greenville County Sheriff's Office.

5 Q How long have you been employed there?

6 A Approximately 20 years.

7 Q You currently -- what is the -- what's your
8 position?

9 A Currently, I'm a sergeant with the Office
10 of Professional Responsibility, which is commonly
11 referred to as Internal Affairs.

12 Q Okay. All right. Let me take you back a
13 little bit to January 4th, 2016. Do you recall what
14 capacity you were working with the Sheriff's Office
15 then?

16 A I do. I was a master deputy assigned to the
17 Violent Crimes Unit with the homicide rotation.

18 Q All right. As far as the homicide rotation,
19 what were some of your typical duties at any given
20 time when you were on a shift?

21 A Be on call for violent crimes that
22 occurred, to respond to the scene, to handle complex
23 investigations in violent crime-type investigations.

24 Q Okay. All right. I'm going to take you a
25 little bit further back than that, December 27th,

1 2015. Do you recall that particular day?

2 A I do.

3 Q Tell the Court a little bit about how you
4 got involved with the case involving Mr. Griffin, who
5 we're here for today.

6 A I was the on-call homicide investigator for
7 after-hours and received a phone call from the
8 uniform patrol sergeant, Sergeant Robinson, who
9 advised me that there had been a home invasion-type
10 crime in which there was one victim who had been shot
11 and was deceased and two other victims are witnesses
12 that were on the scene. Of course, due to that, I
13 responded to the scene and notified our on-call
14 supervisor to get extra manpower to come out and
15 handle witness interviews and assist with getting
16 search warrants and so forth.

17 Q Okay. And as the on-call homicide
18 investigator, does that become, kind of, your case or
19 your scene at that point?

20 A Yes, sir.

21 Q Okay. All right. And where you responded
22 out to, is that in Greenville County?

23 A It is, yes, sir.

24 Q You remember the address?

25 A I believe it was [REDACTED] Perry Road, I

1 believe.

2 Q Okay. All right. So you were the on-scene
3 investigator for this particular case?

4 A That's correct. Yes, sir.

5 Q Did you, over the course of a period of
6 hours or days continue investigating this case?

7 A I did.

8 Q All right. And then on January 4th, 2016,
9 did you receive information or come to learn that
10 Defendant Marqual Griffin was identified as a
11 possible suspect in this case?

12 A I did, yes, sir.

13 Q Okay. Did you have a chance to interview
14 this defendant?

15 A I did on that same day.

16 Q Okay. Now, was he in custody at the time of
17 your interview?

18 A He was, for -- but not for this incident.

19 Q All right. Did he have any other prior
20 charges or convictions?

21 A Yes, sir. He had a bench warrant, which is
22 what he was in custody for -- at that time for, I
23 believe it was a park -- excuse me -- a traffic
24 violation for not showing up in court. There were
25 some prior burglary convictions also.

1 Q Okay. All right. Now, where did this
2 interview take place?

3 A At the Law Enforcement Center in the
4 interview room for the Criminal Investigation
5 Division.

6 Q Do you remember roughly what time it was
7 during the day?

8 A The exact time, I don't. It was during the
9 afternoon. During working hours, but I'm not sure of
10 the exact time.

11 Q Was this interview audio or video recorded?

12 A It was, yes.

13 Q Okay. Who was present with you when you
14 interviewed the defendant?

15 A It was myself and Investigator Picone, who
16 was assigned to that unit also.

17 Q Okay. You still have to work in tandem and
18 trade off when asking questions and maybe leave the
19 room to take care of something?

20 A Yes, sir.

21 Q Okay. Was that any different in this
22 particular case?

23 A No.

24 Q How do you begin your interviews -- or,
25 specifically, how did you begin your interview with

1 Mr. Griffin?

2 A Typically, you go in -- in this particular
3 case, introduced myself. Spoke to him. Verified his
4 identity. Went through some generic questions about
5 his background as far as education and can read and
6 write, that type-thing, to verify all that
7 information before we went any further with the
8 actual interview.

9 Q Okay. Why do you do that as far as asking
10 those kinds of questions?

11 A To make sure they understand basically what
12 we're going through as far as their rights with the
13 Miranda procedures and that they are, you know,
14 capable of talking to us, understanding what we're
15 talking about, describe the crime so we know what
16 we're talking about and just go through that
17 background information before we start with the
18 actual facts of the case.

19 Q Okay. And that's pretty standard?

20 A Yes, sir.

21 MR. CULBREATH: All right. Let me, if I
22 may, approach, Your Honor.

23 THE COURT: Yes.

24 BY MR. CULBREATH:

25 Q I'm going to show you what's been marked as

1 -- premarked as State's Exhibit 1. Do you recognize
2 that document?

3 A Yes, sir. I do.

4 Q What is that document?

5 A This is -- basically, it's a standard form
6 that we use in investigations. At the top, it says
7 your rights. It goes through your Miranda rights as
8 well as a waiver of those rights, if you're willing
9 to speak with investigators at that time. It's just
10 basically a standard form we use for all of those.

11 Q Okay. How did you recognize that specific
12 document?

13 A Basically, with my signature and the date
14 and the defendant's signature on it.

15 Q Would that have been the form that you used
16 when you interviewed Marqual Griffin?

17 A Yes, sir. It is.

18 Q Does it have any other signatures on it?

19 A It also has a witness signature which is
20 Investigator Picone, who was present.

21 Q Okay. Did the defendant sign that as well?

22 A Yes, sir. He did.

23 Q Does it appear to be in the same condition,
24 or substantially the same condition, as it was when
25 you completed it?

1 **A** Yes, sir.

2 **MR. CULBREATH:** All right. At this time,
3 I'd like to move this into evidence, Your Honor,
4 as State's 1.

5 **THE COURT:** All right. Any objection?

6 **MR. CHAMBERS:** No objection, Your Honor.

7 **THE COURT:** All right.

8 (State's Exhibit 1 is admitted into the record.)

9 **BY MR. CULBREATH:**

10 **Q** All right. So did you and the defendant
11 have any difficulty communicating while you were
12 interviewing him?

13 **A** No, sir.

14 **Q** Okay. Did he appear to be under the
15 influence of any drugs or intoxicated?

16 **A** No, sir.

17 **Q** Did he ask you any questions about his
18 rights or need to get any further clarification?

19 **A** No, sir.

20 **Q** Did he say or do anything to you to make
21 you think that he didn't fully understand his rights
22 as you were explaining them to him?

23 **A** No, sir. He did not.

24 **Q** All right. As you are now reviewing that
25 form, does it -- does it have all the different

1 Miranda rights that you gave him on the audio and
2 video recording?

3 A Yes, sir. It does.

4 Q All right. And as far as the date, you
5 mentioned or we talked about January 4th, 2016, what
6 is the date on that?

7 A The date on this one, actually, is January
8 4th -- 1/4 of '15.

9 Q All right. So can you explain that?

10 A Yes, sir. Of course, it just changed to the
11 new year. I was still in the habit of doing '15, but
12 it was actually 2016.

13 Q Okay. All right. So January 4th, 2016?

14 A Yes, sir.

15 Q As you started, or throughout the course of
16 your questioning of him, did you ever threaten him?

17 A No, sir.

18 Q Did you ever promise him any leniency in
19 any way?

20 A No, sir.

21 Q About roughly how long was this interview?

22 A If I remember, around -- I believe it was
23 about 65 minutes.

24 Q Okay.

25 A A little over an hour.

1 **Q** The defendant's demeanor during the time
2 that you were talking with him, can you describe it?
3 Was he open or --

4 **A** Yes, sir. He was open, very well-spoken,
5 articulate and was very cooperative.

6 **Q** All right. How did he -- did you go over
7 his rights with him? Tell us from the form how you
8 went over them.

9 **A** Initially, what I did with this particular
10 one, which is kind of what I do on most of them, is
11 went through and I read each of the individual rights
12 aloud to Mr. Griffin. Upon completion of that, I
13 asked if there were any questions about any of those
14 individual rights or if he needed them clarified any
15 further, which he said no, that he understood. Once
16 that's said, then I asked him to initial each blank
17 beside those to verify that he did understand it and
18 that we went through all of those. That was for that
19 part.

20 The waiver, I actually had Mr. Griffin read
21 aloud to me, paying particular attention to the word
22 "coercion." We explained that so that he understood
23 what coercion meant, that I wasn't forcing him or
24 trying to trick him. He was speaking to me freely and
25 voluntarily, to which he initialed that area. Then, I

1 said, if you're still in agreement to speak with me
2 after going through all your rights, just go ahead
3 and sign the form and initial by the waiver section,
4 which he did.

5 Q And he did do that?

6 A He did, yes, sir.

7 Q Did he have any questions for you?

8 A No, sir.

9 Q You said you -- let me back up just a
10 little bit. You mentioned coercion. Was there some
11 discussion with him about coercion?

12 A Yes, sir.

13 Q Okay. And then just to ensure that he
14 understands and can read and write, do you have him
15 read out a particular sentence?

16 A Yes, sir. What I usually do is just say,
17 pick one of the rights that I had gone through with
18 you and just read it aloud to me. Once that's read
19 aloud, sign your name by whichever statement it is
20 that you read out, which he read, before we ask you
21 any questions, you must understand your rights, and
22 then sign his name by that.

23 Q Okay. All right. Then as far as the
24 initials, did you explain to him the significance of
25 what it meant when he put his initials on it?

1 A I did. That meant that we had gone through
2 each one of those statements and that he understood
3 those.

4 Q Okay. And was Investigator Picone in the
5 room when you did this?

6 A I believe so, yes, sir.

7 Q Did he ask any questions of Mr. Picone?

8 A No, sir. He did not.

9 Q Did he ever ask for a lawyer?

10 A No, sir. He did not.

11 Q Did he ever attempt to invoke his right to
12 remain silent?

13 A No, sir.

14 Q Okay. Was he restrained at the time of the
15 interview?

16 A He was. He was in a waist belt with his
17 left wrist secured in a handcuff, and the right wrist
18 was unsecured so he could initial and write on the
19 form.

20 Q Is that fairly standard practice?

21 A It is, yes, sir.

22 Q And why is that done?

23 A At that point, he was in custody. It's an
24 officer safety issue. They have to be able to sign
25 these forms, so we do allow them one hand free to do

1 that, either right or left, whichever.

2 Q If he did ask for any breaks, would you
3 have had any problem giving him a break?

4 A No, sir.

5 Q Did you promise him anything or offer him
6 anything in exchange for him to talk to you?

7 A No, sir.

8 Q Again, any coercion or threats from you or
9 Investigator Picone ---

10 A No, sir.

11 Q --- as far as questioning? All right. Let
12 me show you -- let me show you that and ask you if
13 you recognize that.

14 A Yes, sir.

15 Q All right. And what is that?

16 A This is a DVD recording of the audio and
17 video interview of the defendant.

18 Q Okay. Have you had a chance to review the
19 defendant's statement to you?

20 A Yes, sir.

21 Q Okay. All right. Does that appear to be --
22 based on what you observed in watching it, did you
23 watch it from start to finish?

24 A Yes, sir. I did.

25 Q Okay. Was that a fair and accurate

1 representation of what you saw while you were
2 conducting the interview?

3 A Yes, sir. It is.

4 MR. CULBREATH: Okay. Your Honor, I would
5 like to go ahead and mark that.

6 THE COURT: Okay.

7 MR. CULBREATH: This, Your Honor, is an
8 unredacted version. If I may, I'd like to mark
9 this as Court's Exhibit 1.

10 THE COURT: Okay. I believe that y'all are
11 going to redact it and have a chance to review
12 it before --

13 MR. CHAMBERS: He already has a redacted
14 copy, I think.

15 THE COURT: Okay.

16 MR. CHAMBERS: I have a copy of it.

17 MR. CULBREATH: I do, Your Honor. I want to
18 give him a copy right as we break before lunch.

19 MR. CHAMBERS: I'm sorry. I thought you had
20 a redacted copy.

21 MR. CULBREATH: There is. And there's a
22 subsequent one that's got a little bit more
23 testimony on it. I want to give him a chance to
24 take a look at it.

25 THE COURT: All right. Okay.

1 **MR. CULBREATH:** Okay. Thank you.

2 (Court's Exhibit 1 is marked for identification
3 purposes.)

4 **THE COURT:** So this is entered subject to
5 your review and objection at that point, I
6 assume?

7 **MR. CHAMBERS:** Yes, sir. I think it's just
8 in as a ---

9 **THE COURT:** For identification.

10 **MR. CHAMBERS:** --- Court's Exhibit.

11 **BY MR. CULBREATH:**

12 **Q** All right. Aside from the -- that we
13 redacted, anything that appeared to be altered, based
14 on your recollection in watching that video?

15 **A** No, sir.

16 **Q** Okay. Did the defendant speak with you
17 freely and voluntarily?

18 **A** Yes, sir. He did.

19 **Q** Was he fully aware of all of his rights?

20 **A** Yes, sir. He was.

21 **Q** Did he waive those rights knowingly and
22 voluntarily?

23 **A** Yes, sir. He did.

24 **Q** Did he speak with you thereafter?

25 **A** He did. Yes, sir.

1 **MR. CULBREATH:** That's all from the State,
2 Your Honor.

3 **THE COURT:** All right. Any questions from
4 the defense?

5 **CROSS-EXAMINATION**

6 **BY MR. CHAMBERS:**

7 **Q** Yeah, so this is just as to the first -- he
8 gave two statements, is that correct, on two
9 different dates?

10 **A** Yes, sir. That is correct, yes, sir.

11 **Q** So this is just for the first statement?

12 **A** This is correct, yes, sir.

13 **Q** And that is the one you took with Picone
14 present?

15 **A** Correct, yes, sir.

16 **Q** And that's the statement -- I want to make
17 sure -- where he indicated -- he, being the
18 defendant, indicated that he'd gone there to that
19 residence of [REDACTED] Perry because he bought some drugs
20 earlier in the day and he was going back to get his
21 money back because they sold him bad drugs. Is that
22 the statement?

23 **A** That's correct, yes, sir.

24 **Q** And you say that this date where they show
25 the year as 2015, it's a clerical error on your part?

1 **A** It is, yes, sir.

2 **Q** Did you read those to Mr. Griffin while the
3 video camera was rolling? Is that part of the tape?

4 **A** It is, yes, sir.

5 **Q** Okay. So when we watch it, it's there and
6 we can see it?

7 **A** Yes, sir.

8 **Q** All right. Thank you. That's all the
9 questions I have.

10 **THE COURT:** All right. Any redirect?

11 **MR. CULBREATH:** None, Your Honor.

12 **THE COURT:** All right. Anything else?

13 **MR. CULBREATH:** At this point, with this
14 witness, no, sir. We would just ask that the
15 Court makes a finding under Jackson v. Denno
16 that the statement was voluntarily and freely
17 given.

18 **THE COURT:** All right. I'll be glad to
19 hear from you. Anything from the defense?

20 **MR. CHAMBERS:** Only that, Your Honor, I
21 realize that there was testimony that maybe the
22 year 2015 was a clerical error, but it does call
23 into question whether or not this particular
24 document actually relates to the incident that
25 we're talking about. For that reason, I would

1 object. There's nothing in the record that my
2 client was properly advised of his rights and
3 that the statement should not come in.

4 **THE COURT:** I believe that based on the
5 explanation and the inclination that many of us
6 do very similar things that I will go and -- I
7 will allow it. I find that it has met all the
8 factors of being voluntary under State versus
9 Miller, the one I used to look at. So I do find
10 that it was voluntary and will be admissible
11 subject to further review of the video.

12 All right. Thank you. You may step down.

13 All right. Anything else from the State?

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

16 **THE COURT:** Anything else from the
17 defense?

18 **MR. CHAMBERS:** That's the only statement
19 that my client made that they intend to offer,
20 Your Honor?

21 **THE COURT:** I mean, I don't know.

22 **MR. CULBREATH:** We may need to have a very
23 brief one if circumstances dictate. He's given a
24 separate statement to federal investigators that
25 had a county deputy in the room as well. We're

1 going to wait to decide on that one, if we can,
2 Your Honor. If the circumstances lead us to
3 where we need that, we may ask to take a quick
4 break and do a Jackson v. Denno on that one, as
5 well.

6 **THE COURT:** All right. Does that answer
7 your question?

8 **MR. CHAMBERS:** It does. I mean, I've never
9 done it that way. It's always been pretrial. I
10 kind of like to know before I get started with
11 the trial whether or not it's --

12 **THE COURT:** I mean, I can't -- it sounds
13 like at this point, they have to decide if
14 they're going to put that in. We'll address it
15 at another point if you decide you need to.

16 **MR. CHAMBERS:** Thank you.

17 **THE COURT:** All right. Anything else
18 before we break for lunch?

19 **MR. CULBREATH:** No, Your Honor.

20 **THE COURT:** All right. 1:45. That gives
21 you an hour and 20 minutes. All right. We'll be
22 at ease until lunch -- until 1:45.

23 (The Court goes off the record at approximately
24 12:24 p.m.)

25 (The Court goes on the record at approximately

1 1:47 p.m.)

2 THE COURT: Let me see counsel up here.

3 MR. CULBREATH: Yes, sir.

4 (Bench conference is held off the record.)

5 THE COURT: All right. Just for the
6 record, in light of kind of some of the
7 advisories you there, and I'll tell the jury
8 this, we're going to have a short after --
9 shorter afternoon, probably until about 3:30.
10 All right. Anything before we bring the jury in?

11 MR. CULBREATH: None from the State, Your
12 Honor.

13 MR. CHAMBERS: I'm sorry, Your Honor.

14 THE COURT: That's fine. Anything before
15 we bring the jury in?

16 MR. CHAMBERS: No, Your Honor.

17 THE COURT: All right. And you're ready
18 for the oath?

19 THE CLERK: Yes, sir.

20 THE COURT: All right.

21 THE CLERK: I am.

22 THE COURT: We'll do some opening charge
23 and then shoot to go until about 3:30.

24 (Jury enters at approximately 1:49 p.m.)

25 THE COURT: All right. Ladies and

1 Gentlemen, I hope everybody had a good lunch.
2 Before I ask the clerk to swear you in, I'm
3 going to tell you that we're aware of the
4 weather, some of the advisories here, so we're
5 going to have a shorter afternoon. Our goal is
6 to shoot until about 3:30. I know the wind is
7 going to start picking up a little bit later.
8 Normally, we go a little bit later, but that's
9 kind of what we're going to do today, just so
10 nobody has any problems there. All right. If you
11 will, administer the oath please.

12 **THE CLERK:** Okay. If you will, please
13 stand and raise your right hand for the oath.
14 The proper response is "I will." You shall well
15 and truly try the case 2016-GS-23-2335, the
16 State versus Marqual Devine Griffith -- Griffin
17 -- excuse me -- indicted for Murder and
18 Possession of a Weapon during the Commission of
19 a Violent Crime; 2334 for Burglary in the first
20 degree; 2332 and 2333 for Kidnapping; 2331 for
21 Assault and Battery first degree; and 2330 for
22 Attempted Armed Robbery and a true verdict
23 render, according the law and the evidence, so
24 help you God. I will?
25 (Each juror responds.)

1 **THE COURT:** All right. Ladies and
2 Gentlemen, I'm going to give you some
3 preliminary remarks about -- kind of an
4 introductory, so maybe a roadmap of what to
5 expect and what you're looking for. First of
6 all, I always like to tell the jury a little bit
7 about some of the people in the courtroom so you
8 don't have to sit here and wonder who are those
9 people.

10 In addition to the parties and the
11 witnesses, the most important people, as far as
12 you are concerned, are the bailiffs. Those are
13 the very nice looking individuals in the red
14 jackets. The reason they are so important to you
15 is because that's your main persons you'll be
16 communicating with. If you have any questions,
17 those are the people you need to ask. If they --
18 if it's something the Court needs to address,
19 then they'll bring that question to me. So
20 that's just your -- if you have any questions,
21 please let them know.

22 Here, you have the Clerk of Court. She's
23 the person in charge of all the records. Seated
24 directly in front of me is the Court Reporter.
25 She's the one who keeps up with the entire

1 record of the case. That's what makes this a
2 court of record. To my right is my law clerk,
3 who is a law school grad who does research and
4 assists me throughout the trial. That's kind of
5 some of the individuals as far as staff goes.

6 As indicated, in this matter, Mr. Griffin
7 is -- you may hear the words defendant. The
8 other side in this case is the State. The State
9 of South Carolina or the Solicitor's office,
10 they are the people prosecuting the case.

11 I want to remind you it's very important
12 that everyone that comes into a courtroom and
13 has pled not guilty, they keep that presumption
14 of innocence until you, the jury, has found them
15 guilty beyond a reasonable doubt. That's the
16 standard. It's a very high standard. We'll talk
17 more about that at the close of the case, but
18 the burden is on the State in this matter.

19 A defendant comes in here presumed
20 innocent. Even though you may hear reference to
21 an arrest and there are charges brought and
22 there are indictments as I previously mentioned
23 to you, those are merely the charging papers.
24 They are not -- they will not be anything that
25 you can consider when you begin deliberation.

1 Those are merely allegations. Those are the
2 allegations which the State has the burden of
3 proof. The defendant in this matter and in any
4 trial has no burden of proof whatsoever.

5 You, as jurors, y'all are the -- you are
6 the sole body to determine what the facts of
7 this case are. I, as the judge, am to rule on
8 the law and the admissibility of evidence and
9 determine what the law of the case is. Okay. So
10 if you think I have an opinion or I make any
11 comments or any inference that I have an opinion
12 on the facts, please disregard that. That's your
13 job and your job only.

14 I've seen one individual already -- I don't
15 like for jurors to take notes. I'm going to ask
16 that you not take notes. They will present
17 everything. You'll have evidence. The reason
18 that I don't think notes, sometimes, I think if
19 you're taking notes, you may miss something. You
20 may miss how a witness is responding to
21 questions and so forth. Then, it becomes a
22 little confusing when, I think, you're in
23 deliberations about this person's notes says
24 this and stuff like that. Different people take
25 notes. I'm going to ask you, especially on a

1 case of this nature, I think that y'all will be
2 fine without taking notes.

3 The procedure of the trial is we will start
4 off with opening statements by the lawyers.
5 Again, this is not evidence. This is just their
6 summary of what they expect the case to show.
7 Then we'll go into evidence. That's by way of
8 documents or stipulations and primarily by way
9 of testimony from the witness stand. As I told
10 you before, you are not to do any type of
11 research whatsoever about the parties, about the
12 law or anything like that because everything
13 that you need and everything you're supposed to
14 consider when you deliberate is what you get in
15 this courtroom. That's by way of either evidence
16 -- and only evidence that's admissible -- and,
17 at the conclusion of the trial, the law that I
18 charge you on it.

19 As I also told you at the beginning, if
20 there is any media coverage on this, please
21 disregard that. That's not something for you to
22 consider. Again, it's just stuff that you get
23 from this courtroom. Also, I know it's very
24 difficult because y'all are -- I don't think
25 anybody probably doesn't know each other on the

1 jury panel, therefore, the only thing you have
2 in common is this case. It's very important that
3 you not discuss the case in any way amongst
4 yourselves before I tell you to. I'm going to
5 tell you to after you've heard all of this
6 evidence and you've heard all of the law. The
7 reason is you're supposed to keep an open mind
8 and hear everything before you begin making a
9 decision. Not only do you not discuss the
10 subjects among yourselves, you must also not
11 discuss it when you get home. I know that's
12 difficult with your spouses, friends, family or
13 whatever.

14 We will take breaks, again, generally, I
15 like to take breaks about an hour to every hour
16 and a half. That will kind of depend on where --
17 sometimes, where a witness is. Normally, again,
18 I told you they'll be a little bit exception for
19 today. We'll probably break closer to 5:00 or
20 maybe 5:30, again. Sometimes, that depends on
21 where we are with witnesses.

22 From based on what I've been told, this
23 case will last possibly three days. You're not
24 looking at something into next week. If we need
25 to carry -- if, for some reason, we have to go

1 beyond 5:00 or something, I will let y'all know
2 so that you can make any arrangements and
3 discuss that with you before we get to that
4 point. You know, the same with -- we try to
5 start about 9:30 in the mornings. Lunchtime is a
6 general -- about that time again. It's dictated
7 by how our witnesses are going. But, if any
8 point, anybody needs to take a break, y'all just
9 need to let us know. We realize this is an
10 inconvenience to you. We want to make sure
11 you're as convenient as possible. But if anybody
12 needs to take a break, then just, please, try to
13 get the bailiff's attention or my attention and
14 we'll break as quick as possible when we need
15 to.

16 All right. As you -- one of the things that
17 you'll need to do is when you ultimately begin
18 deliberating, we use the 12, your common
19 experience and the common sense of the 12
20 jurors. One of the things that you'll need to
21 look at is the believability or the credibility
22 of the witnesses. That's why it's very important
23 to pay attention during the testimony.

24 Finally, I'm going to appoint -- Mr. Ollom,
25 I'm going to ask that you be the foreman of the

1 jury. You don't get any more pay. It doesn't
2 look any better on your resume, but you are to
3 lead the discussions or any questions or
4 communications with the Court. That will be your
5 duty at that point.

6 So any exceptions from the State?

7 **MR. CULBREATH:** None.

8 **THE COURT:** The defense?

9 **MR. CHAMBERS:** No, Your Honor.

10 **THE COURT:** All right. At this time, we
11 will have opening statements.

12 **MR. CULBREATH:** Please the Court.
13 Counsel.

14 Ladies and Gentlemen of the jury, good
15 afternoon. On December 27th, 2015, April Green
16 was a heroin dealer. Kevin Hoffman was a heroin
17 user. There's really no other way to put it.
18 Back then, that was the life they led. On that
19 day, it was a Sunday, that afternoon, Kevin, who
20 had already been over there once to buy heroin,
21 was contacted by a friend to go over to April's
22 house again and buy heroin. This is [REDACTED] Perry
23 Avenue, or Perry Road, here in Greenville. It
24 was near Cherrydale. We'll have a map. I'll get
25 to show you, but it's just off from Cherrydale a

1 little bit.

2 So Kevin and his friend Clint head over to
3 April's house, as he's done many times before.
4 Pull up in front. April knows he's coming.
5 They've done this before. They pull up in front.
6 He goes to the door and he knocks. They know
7 she's got the heroin because he was there
8 earlier that day. He was there and he knows how
9 much it costs. What he doesn't know is that the
10 defendant is hiding around the corner.

11 So Kevin comes to the door and knocks like
12 he does. April knows he's there. The door opens.
13 The transaction begins. Only this time, Kevin
14 feels a push from behind. In he goes. In behind
15 him comes this defendant armed with a pistol,
16 who takes it out, starts yelling for everybody
17 to get down because he means business.

18 He comes into the house. April's in the
19 house. He knew April was there. He didn't know
20 her brother was there, Shane, who was seated on
21 the couch. He also didn't know her friend Nathan
22 was there, who was in the back room. So in he
23 comes, telling people to get down, showing that
24 he means business, demanding money, demanding
25 drugs. Out comes Nathan. The one thing he didn't

1 know is Nathan was there. Out comes Nathan. He
2 intervenes. April was his girlfriend. He steps
3 up. He sees what's happening. He hears the
4 commotion. He gets shot three times and killed.
5 You will hear from April. You will hear from
6 Kevin. You'll hear from Shane. But you're not
7 going to hear from Nathan.

8 My name is Andrew Culbreath. I introduced
9 myself earlier. Along with Elizabeth Gary, we're
10 going to present this case to you on behalf of
11 the State. It's our pleasure to do so. We're
12 proud to do it. I know the conditions are a
13 little bit challenging and jury service is not
14 convenient in any way, but we appreciate your
15 service here today.

16 We're going to prove this case to you over
17 the next few days providing evidence in the form
18 of testimony, photographs, recordings, forensics
19 and science. Our goal is provide you with more
20 than enough evidence in this case to convict
21 this defendant of every crime charged, beyond a
22 reasonable doubt. That's our standard. Again, we
23 welcome the standard. We have the evidence that
24 you'll hear today, tomorrow. You are the finder
25 of fact. We're going to present you with the

1 evidence. When we're finished, we are confident
2 that you'll have enough to rule for a conviction
3 for all these charges.

4 I'll get to come back up at the end of this
5 case and we'll do what is called a closing
6 argument. We're going to summarize some of the
7 evidence that's been -- this case has got a lot
8 of people in it. You'll hear a lot of names.
9 You'll really, honestly, see a lot of evidence.
10 This is just a brief opening statement. I give
11 you a brief overview. At the end, we'll come in
12 and we'll summarize it and provide you with what
13 you with what you need.

14 We appreciate your presence. Understand
15 that we will take every effort to respect your
16 time here while you're here. Thank you.

17 **THE COURT:** Mr. Chambers.

18 **MR. CHAMBERS:** May it please the Court,
19 Your Honor, Solicitor, and Ladies and Gentlemen.

20 This is Marqual Griffin. He was introduced
21 to you a little bit earlier. You've already
22 heard him referred to as the defendant. In some
23 courts, he would be referred to as the accused.
24 To me, that's a better term because there have
25 been some really serious accusations made

1 against Marqual in this case.

2 You heard the Solicitor stand up and sort
3 of lay out a roadmap for you of what he intends
4 to prove and what his theory of the case is. I
5 would ask that you remember that -- remember it
6 as well and see if he lives up to the obligation
7 he's already told you that he has to prove each
8 and every element of each one of these very
9 serious offenses beyond a reasonable doubt to
10 you, the triers of fact, the people that are
11 going to decide what the facts are in this case.

12 As we go into this case, you're going to
13 hear about a world that most of you, I would
14 imagine, are really not familiar with. It's the
15 kind of thing you only see on TV and in the
16 movies. It involves junkies, drug users, drug
17 dealers and the sort of inherent crime that goes
18 with that sort of thing.

19 You're going to hear that this happened
20 back on December 27th, 2015 at [REDACTED] Perry Road
21 here in Greenville. If you're not familiar with
22 that, it's over in the area of town that's known
23 as Sans Souci. It's one of the older
24 neighborhoods here. It is out in the Cherrydale
25 area. In fact, off Perry Road, just probably

1 less than a block away is Cherrydale Elementary
2 School. There at [REDACTED] Perry Road is where April
3 Green, her then boyfriend Gerald Smith and other
4 people like Nathan Crouch stayed and sold drugs
5 to people who came there to buy drugs.

6 That's how all of this came about. At that
7 particular time, Marqual was somebody who used
8 drugs. He was using heroin, in fact, at that the
9 time. He had been to [REDACTED] Perry Road on more
10 than one occasion, as had Kevin Hoffman and all
11 these others that you're going to hear about as
12 this case goes on. He had, in fact, been there
13 earlier on the day on December the 27th. He
14 bought what he thought was heroin, but it wasn't
15 heroin, at least not very good heroin. When he
16 found that out, he went back later.

17 He went back later with other people. These
18 people that you heard about that said they had
19 nothing to do with this, we would submit to you
20 that that will end up not being the case. They
21 did, in fact, know Marqual and they knew Marqual
22 was going there before they took him there.
23 You're going to hear all of that through not
24 only direct examination, cross-examination by me
25 in this case.

1 We believe what you're going to hear, as
2 this case goes on, is that when he went back to
3 █████ Perry because he had been sold something
4 that wasn't what he thought he was getting, he
5 took a .380 little pistol. If you are familiar
6 with it, it's sort of a small semi-automatic
7 pistol. It's got a clip in it. It's not very
8 big. Pulled it back. You got one in the chamber.
9 Every time you squeeze the trigger, a bullet
10 comes out. He had it in his waist band when he
11 came in.

12 You will hear that when he went in, he's
13 upset. He's demanding his money back. That's
14 when basically everybody there in the room
15 rushed him. This is something that as you hear
16 they are going to say he came in with a gun
17 pointed at everybody. But you're also going to
18 hear that over the course of this -- this fight,
19 that was joined in by three people there in the
20 house jumping on Marqual, that he was knocked to
21 the ground.

22 As you heard Nathan Crouch -- as they said,
23 Nathan Crouch came out, but also you'll hear
24 that April Green and her brother who was there
25 all jumped on Marqual. During that time, his gun

1 comes out, there's a struggle over the gun.
2 Shots are fired. Two of those bullets went into
3 the torso of Nathan Crouch. One grazed his head.
4 Marqual actually had a graze wound on his neck.
5 In fact, he lost his shirt that he was wearing
6 during this fight. He was eventually able to get
7 up and run out only to be chased out of there by
8 April's brother. You're going to hear all of
9 this, folks.

10 Now, the prosecution is set to prove beyond
11 a reasonable doubt that this was an armed
12 robbery that resulted in the death of Nathan
13 Crouch. Well, Nathan Crouch did die. Regardless
14 of anything he may have been involved in, that's
15 a tragic thing. He didn't die because Marqual
16 went there to commit an armed robbery. We
17 believe that's what the evidence in this case
18 will show. You get to decide that.

19 As you consider the evidence in this case,
20 I'm going to ask all of you to do what most of
21 you do everyday. That is when somebody tells you
22 something, you size up whether you believe it.
23 Does this make sense to me? Is this corroborated
24 by other facts? What's the demeanor of the
25 person that's telling me this? Do I believe

1 this? You'll do that. You'll use your common
2 sense and you'll use your collective wisdom.

3 All of you come from different walks of
4 life, different ages, you have different
5 backgrounds. When you get together as a
6 deliberative body, that's when this thing works.
7 You've already heard some platitudes. But you
8 know what? They are deserved, because what
9 you're doing here is important. This is
10 something that's been weighing on my client's
11 head since the day he was arrested. Because
12 you're here, he gets a fair day in court. They
13 have to prove your case beyond a reasonable
14 doubt. You'll decide whether they've done that.

15 As you do that, consider what is reasonable
16 doubt. Now, His Honor will tell you it's the
17 kind of doubt that causes a reasonable person to
18 hesitate to act. He will tell you that it's the
19 kind of evidence that leaves somebody firmly
20 convinced. What does firmly convinced mean?
21 Firmly convinced means that you're definitely
22 sure. It doesn't mean that all doubt has been
23 removed, but it sure does mean that most of it's
24 been removed.

25 As you heard when you were downstairs

1 earlier, the Court of Common Pleas is in session
2 right now. Some very important matters are
3 decided in civil court. You have people that
4 have been killed or disabled for life and
5 millions of dollars can be at stake. Guess what?
6 In that court, the burden of proof is by a mere
7 preponderance of the evidence. We have a
8 metaphorical scale that we start out with. That
9 means the plaintiff bringing that case would
10 only have to tip it ever so slightly in their
11 favor.

12 There are other tribunals where whoever is
13 bringing the case has to prove it by clear and
14 convincing evidence. It's clearly a very high
15 hurdle to get over. But when you come to this
16 court, the Court of General Sessions, the only
17 court where somebody can be deprived of their
18 liberties and the only court where somebody has
19 to carry a criminal conviction like a brand with
20 them for the rest of their lives. That's where
21 the burden is beyond a reasonable doubt.

22 So if we think about that scale, they have
23 to move it almost all the way. You have to ask
24 yourselves, do I believe it? Am I left
25 definitely sure? If I had to bet something that

1 really mattered to me, would I do that? Would I
2 do that at this case or do I have a doubt?

3 Nobody that you're going to hear about in
4 this case has clean hands. None of these people
5 are what you refer to as model citizens, but you
6 need to sort through all of that. You have to
7 ask yourselves, was there a crime here committed
8 by Marqual Griffin? Or was this just an
9 unfortunate incident that came about and
10 resulted in his death but didn't involve any
11 criminal activity on Marqual Griffin's part?

12 Like you, I look forward to hearing the
13 Solicitor's case and hearing what they have to
14 offer. I've got a little bit of an idea,
15 obviously, because they have to -- we have to
16 exchange information and stuff before we start.
17 I don't believe they're going to be able to
18 carry that burden. I believe, at the end of
19 this, you'll come back with a not guilty
20 verdict. I will tell you we really appreciate
21 you being here. I look forward to hearing the
22 Solicitor's case. Thank you.

23 **THE COURT:** All right. Mr. Culbreath, you
24 can call your first witness.

25 **MR. CULBREATH:** Yes, sir. Thank you. May it

1 please the Court. The State would call Master
2 Deputy Matthew Metrisko.

3 **THE CLERK:** Sir, if you would please come
4 up here. Left hand on the Bible please.

5 **MATTHEW METRINKO**

6 having first been duly sworn, testifies as follows:

7 **THE CLERK:** Thank you. Please be seated.
8 Would you please state your name for the record.

9 **THE WITNESS:** Matthew S. Metrisko.

10 **THE CLERK:** Thank you, sir.

11 **DIRECT EXAMINATION**

12 **BY MR. CULBREATH:**

13 **Q** Mr. Metrisko, good afternoon.

14 **A** Good afternoon, sir.

15 **Q** Tell this jury where you're currently
16 working and what your current duties are.

17 **A** I'm a master deputy for Greenville County
18 Sheriff's Office. I'm a bomb technician and K-9
19 handler and an arson investigator in the Special
20 Operations Division.

21 **Q** How long have you been in law enforcement?

22 **A** I started in 2004.

23 **Q** Did they send you to any specialized
24 training to get started in law enforcement?
25 Obviously, to be a bomb tech, they do. But tell us

1 what you had to get as far as training just to get
2 started.

3 A I was a member of the -- what's called
4 Police 4. It's an 18-week basic process, slightly
5 different than the South Carolina Criminal Justice
6 Academy. Excuse me. I've been doing continuing
7 education since then. I also have a bachelor's of
8 arts in criminology.

9 Q Well, that was 2004. We'll jump forward a
10 little bit. I'll take you to December of 2015. What
11 was your job description? What were your duties on
12 December 2015, if you remember?

13 A I was assigned to the Uniform Patrol
14 Division, Echo Platoon. I was a training officer.

15 Q As far as Uniform Patrol Division, what
16 does that entail? What do we need to -- what do we
17 need to understand about Uniform Patrol?

18 A Commonly, it's what you see on a day-to-day
19 basis, a marked patrol car, blue uniform and we
20 respond to calls for service, most of the time issued
21 through dispatch. We also do traffic enforcement and
22 provide patrols.

23 Q Okay. Tell us how you got involved in this
24 case to start with.

25 A I was assigned to my regular beat area,

1 which encompasses the Cherrydale and Sans Souci area
2 in Greenville County. We were approximately four to
3 five hours, I believe, into our shift. I was working
4 with a trainee at the time.

5 Q Okay. And when you get a call for service,
6 how does that work? Where does it come in and how
7 does it get to you?

8 A We receive -- the dispatch center receives
9 the calls. They will prioritize those and then they
10 will dispatch those to the units within that area. At
11 that time, we received a call for a possible armed
12 robbery or burglary in progress.

13 Q Okay. Did they give you an address when
14 they do that?

15 A [REDACTED] Perry Road.

16 Q Okay. Is that in Greenville County?

17 A It is.

18 Q Let me show you something.

19 MR. CULBREATH: Your Honor, may the witness
20 take leave of the stand?

21 THE COURT: Yes.

22 BY MR. CULBREATH:

23 Q Speak up a little bit.

24 A Yes, sir.

25 Q All right. If you could, tell the jury real

1 quickly what you're looking at here.

2 A This is an aerial view of the San Souci and
3 Cherrydale area. This is the Cherrydale intersection
4 area right here. Perry Road extends from -- away from
5 it. I suppose you can say down toward the south of
6 that.

7 Q Okay. And are you patrolling around or are
8 you sitting stationary?

9 A At the time that the call came in, I
10 believe I was stationary. I met with Master Deputy
11 Rob May. But in general, throughout the course of our
12 duties, we're patrolling in the area.

13 Q All right. You can take a seat.

14 A (Returns to witness stand.)

15 Q If you will, describe for this jury what
16 you saw when you arrived at [REDACTED] Perry Road.

17 A We received a call several minutes before
18 six o'clock, I believe. Whenever we were en route, we
19 activate our lights and sirens and proceeded to [REDACTED]
20 Perry Road. At the time, we were fairly close to the
21 location. It was only a limited amount of information
22 dispatch could give us. Whenever Rob May's vehicle
23 and mine arrived on scene, we began to approach the
24 doorway of [REDACTED]. We saw Ms. Green standing in the
25 doorway and screaming toward us, obviously, and near

1 hysterical at that time. There was some confusion as
2 to whether or not the suspect was still within the
3 house. Deputy Oliver, who was my trainee at the time,
4 basically went to Ms. Green and Mr. Barron, who were
5 over to the left-hand side immediately inside the
6 front door of the duplex. The victim, Mr. Crouch, was
7 also laying on the floor in that location.

8 Rob May and I then proceeded to sweep the
9 remainder of the residence to confirm that there was,
10 in fact, no one else in there. Then we moved back
11 over to where the victims were.

12 Q Okay. You mentioned you saw Ms. Green. Did
13 you know her before then?

14 A I'd never met her.

15 Q Okay. She was positioned where again?

16 A Whenever we made our initial approach, she
17 was standing in the doorway screaming at us to get
18 our attention and make sure we knew where we were
19 headed.

20 Q You mentioned you sweep the residence to
21 make sure no one was there.

22 A We did.

23 Q What does that entail? Do you go room to
24 room?

25 A What we'll do in that case is, without the

1 knowledge of whether or not the individual is still
2 in the house, we will basically sweep -- in this case
3 Master Deputy May and myself will go room to room
4 making sure that there's no other bodies that are
5 unaccounted for -- whenever I say bodies, I mean,
6 people -- people that are unaccounted for within the
7 residence that we're not aware of. That's for --
8 mostly for safety purposes. Also, in this case, we
9 weren't sure if the suspect was still on the scene.

10 Q All right. You cleared it and didn't find
11 anyone else there?

12 A Correct.

13 Q What occurred with the witnesses?

14 A Deputy Oliver initially approached
15 Ms. Green and Mr. Barron to move in, kind of tucked
16 them over to the left corner of the residence while
17 we swept the house. Once we confirmed that it was, in
18 fact, clear, he removed them from the residence and
19 tried to keep them separate. Excuse me. I found
20 Mr. Crouch laying on what, I believe, was his left
21 side at the time several feet inside the front --
22 left of the front door. I began to perform CPR.

23 Q For about how long did you do that? What do
24 you recall about whether or not -- what effects, if
25 any, that had?

1 A I -- once I rolled him over, I began
2 performing chest compressions until EMS arrived and
3 relieved me of that duty. I do remember there
4 appeared to be a wound of some kind to the regular
5 portion of his head and also blood around his
6 midsection. I do also recall, as I was performing
7 chest compressions, hearing air escaping from his
8 chest area.

9 Q Had EMS arrived yet?

10 A Not at that time.

11 Q Were you able, when you went in and swept
12 the room, to get an idea of what the rooms looked
13 like?

14 A Yes, sir.

15 Q What would you describe the condition in
16 the room, being in that main room?

17 A Initially, as you come through the front
18 door again, Mr. Crouch was on the lefthand side. I
19 recall there being a moped. Also, just to the right
20 of that position, a couch. I believe there was a TV
21 directly in front of the open door. Toward the back,
22 there was a kitchenette area almost directly
23 diagonally toward the front door with the bedroom off
24 to that side. Just beyond the location where
25 Mr. Crouch was laying was a laundry room.

1 **MR. CULBREATH:** Your Honor, may I approach?

2 **THE COURT:** Yes.

3 **BY MR. CULBREATH:**

4 **Q** Master Deputy, I want to show you what's
5 been premarked as State's Exhibits 2 through 7. If
6 you could, take a look at each one of those please.

7 **A** (Reviewing.)

8 **Q** Do you recognize those?

9 **A** I do, sir.

10 **Q** All right. What are they?

11 **A** The initial -- would you like me to --

12 **Q** Just tell us what they are.

13 **A** The initial two pictures are of the
14 exterior of the residence, ■■■ Perry Road. The second
15 picture also --

16 **Q** What was the number?

17 **A** This is State's Exhibit 2, sir. State's
18 Exhibit 3 shows the exterior, again, of the same,
19 this time with crime scene tape, which was used to
20 secure the residence after we had cleared it. State's
21 Exhibit 4 also shows the front door of ■■■. Number 5
22 shows standing in the doorway of the same with the
23 moped, the couch and a TV in view, also the entrance
24 to the kitchen in the back. Number 6 is taken
25 probably from the kitchen door back toward the front

1 door of the same, showing the couches and the upper
2 portion of the moped. Number 7 is taken from the
3 front door toward the laundry room area with the
4 couch, the moped and the victim on the floor visible.

5 Q Okay. And based on your description, it
6 sounds like you recognized those?

7 A Yes, sir.

8 Q Do those photographs fairly and accurately
9 depict the scene, both interior and exterior, that
10 you recall on December 27th --

11 A They do.

12 MR. CULBREATH: Your Honor, at this time,
13 the State would like to move these in as State's
14 2 through 7.

15 MR. CHAMBERS: No objection, Your Honor.

16 THE COURT: All right. In without
17 objection.

18 (State's Exhibits 2 through 7 are admitted into
19 the record.)

20 MR. CULBREATH: And request permission to
21 publish.

22 THE COURT: Yes.

23 BY MR. CULBREATH:

24 Q Describe for me, if you can, Master Deputy,
25 the witnesses. I know you did not spend too much time

1 with them. But describe the demeanor of Ms. Green and
2 Mr. Barron.

3 A Ms. Green was nearly hysterical. I did --
4 was able to hear her as she addressed Deputy Oliver.
5 But emotionally shaken -- shaking, physically
6 shaking, tearing. Also, she appeared to have possibly
7 an injury to her face or head. She had blood on her
8 lower legs.

9 Q Did she appear as though she had been in a
10 fight?

11 A Yes.

12 Q How about her brother?

13 A Mr. Barron was, as I recall, -- appeared to
14 be shocked, almost in awe or possibly just unable to
15 respond to the stress at the scene. I don't recall
16 him saying a whole lot that I heard.

17 Q Okay. Do you recall whether or not a
18 description of the suspect was provided to you or
19 anyone else on the scene at the time?

20 A Deputy Oliver was in charge after I began
21 performing chest compressions. He did receive one --
22 a description from Ms. Green.

23 Q All right. Based on your understanding and
24 being at the scene, what was the description put out
25 for officers to be looking out for?

1 A I was told that it was a smaller-framed
2 black male, approximately 5'6 to 5'8. He was
3 described as being shirtless at the time, thin
4 framed, approximately 140 to 150 pounds with short
5 hair.

6 MR. CULBREATH: Court's indulgence, Your
7 Honor. (Pause.)

8 BY MR. CULBREATH:

9 Q Okay. Master Deputy, this is Number 2,
10 State's Exhibit Number 2. What is that showing?

11 A That is the exterior of [REDACTED] Perry Road.
12 [REDACTED] Perry Road.

13 Q And the residence that was involved is the
14 one on the right?

15 A Correct.

16 Q This will be number 3.

17 A Also the exterior of [REDACTED] with the -- [REDACTED]
18 with Perry on the right, sir.

19 Q And the deputy that's standing off to the
20 right?

21 A That's Deputy Gerald Oliver who was my
22 trainee at the time.

23 Q When you arrived on scene, was it dark?

24 A Yes, sir.

25 Q Okay. What is that?

1 A Another exterior shot. This one is closer
2 to the [REDACTED] side of Perry Road.

3 Q Okay. That is State's Exhibit 4 that we're
4 looking at. Now, showing you State's Exhibit 5. A
5 little dark. What is this showing us?

6 A This appears to be taken from the front
7 doorway pointed towards the rear. What you see here
8 is the opening into the kitchen towards the right and
9 a bedroom on the left, the TV, the back -- the rear
10 portion of a moped and then the couch facing the TV.

11 Q Okay. And if you can orient, it's a just a
12 little bit -- the rooms in the back, do you recall
13 what they are on the back left and on the back right?

14 A The -- as you enter this doorway, toward
15 this side is the kitchen area. The doorway that you
16 can see enters into a bedroom.

17 Q Okay. I'm going to show you State's Exhibit
18 6 now. What is that a view of, if you recall?

19 A This is the living room taken from a
20 different position. It appears to be taken from
21 possibly the kitchen doorway area back toward the
22 front door, which you see here on the left. The
23 doorway on the right is to the laundry room. The
24 couch is here. The top portion of the moped that you
25 saw from the front door.

1 Q Okay. So that door on the top left, that
2 would be the entry point?

3 A Correct.

4 Q This would be State's Exhibit 7. What is
5 that showing?

6 A This is, again, the living room taken from
7 a position close to the front door. As you can see,
8 the entirety of the moped with the couch. This area
9 here is the doorway into the laundry room with
10 Mr. Crouch there.

11 Q Okay. All right. Let me show you what's
12 been premarked as State's Exhibit 21. Do you
13 recognize that?

14 A This is a layout of the living room area of
15 [REDACTED] Perry Road.

16 Q Okay. And you recognize that from the
17 design, the layout ---

18 A Yes, sir.

19 Q --- in relation to the photographs?

20 A From my experience there.

21 Q Okay. All right. Deputy Metrisko, if you
22 could, just come down.

23 A (Exits witness stand.)

24 Q Tell the jury, if you will, what we're
25 looking at and orient them to where you saw the

1 victims and just generally acquaint them with the
2 area.

3 A This would be the front doorway that we saw
4 earlier. The front doorway, the doorway to the
5 kitchen wraps around to the side and then the bedroom
6 to that side there, the laundry room door. I do
7 remember seeing Mr. Crouch laying down there. Once we
8 completed the sweep of the entire residence, I then
9 came back to Mr. Crouch, rolled him onto his back to
10 assess his condition and began performing chest
11 compressions at that time.

12 Q And then when EMS arrived, did you hand him
13 off?

14 A Yes, I did.

15 Q All right. And then once you were, at least
16 initially, able to assess the scene and secure the
17 safety of the victims, the witnesses, did you turn
18 them over to the on-scene investigator?

19 A Yes.

20 Q Thank you. What, if anything, did you do
21 after that?

22 A Uniform Patrol, at that point, will secure
23 the remainder of the scene and attempt to put the
24 information out about the suspect and what direction
25 he's fled to, if he's on foot or in a vehicle, the

1 best description you can get. Also attempt to
2 establish a perimeter in case we need to use K-9s,
3 which in this case, we were going to use, also
4 possible aerial unit and also provide a scene log so
5 that everyone that comes and goes in and out of that
6 scene is logged in and who they are and what time
7 they go in or out.

8 Q Did you do that as part of this case?

9 A Yes.

10 Q All right. You can go back to your seat.

11 A (Returns to witness stand.)

12 Q Master Deputy, thank you. Please answer any
13 questions co-counsel has.

14 A Okay.

15 **CROSS-EXAMINATION**

16 **BY MR. CHAMBERS:**

17 Q You indicated that April Green appeared to
18 have injuries consistent with somebody who had been
19 in a struggle or fight, correct?

20 A Correct.

21 Q What about her brother? I keep forgetting
22 his name. The brother that was there.

23 A Mr. Barron?

24 Q Yeah, Mr. Barron.

25 A That, I don't particularly recall.

1 **Q** Okay. So you -- so you didn't actually look
2 him over as much as Ms. Green; is that correct?

3 **A** At the time, because of Ms. Green's
4 position in the doorway and being -- making first
5 contact with her, I was able to see her a little bit
6 more clearly. Once we were able to complete the sweep
7 of the residence, it appeared that Mr. Crouch was in
8 more need of aid. That's where I positioned myself.

9 **Q** Did it appear, just based on what you could
10 see in the house, that there were lamps knocked off,
11 things turned over, consistent with there having been
12 a struggle in that room?

13 **A** It did appear that that was the case.

14 **Q** That's all the questions I have. Thank you.

15 **THE COURT:** Any redirect?

16 **MR. CULBREATH:** None, Your Honor.

17 **THE COURT:** All right. You may step down.

18 **THE WITNESS:** Yes, sir.

19 **THE COURT:** Thank you.

20 **MR. CULBREATH:** Ask that this witness be
21 excused.

22 **THE COURT:** Any objection?

23 **MR. CHAMBERS:** No, Your Honor.

24 **THE COURT:** All right. You can be excused.

25 **MR. CULBREATH:** Your Honor, the State would

1 call April Green.

2 THE COURT: All right. Ms. Green, if you
3 will, come around.

4 THE CLERK: Ma'am, if you will, please
5 pause at the end of the bench. Please place your
6 left hand on the Bible and raise your right
7 hand.

8 APRIL GREEN

9 having first been duly sworn, testifies as follows:

10 THE CLERK: Thank you. Please be seated.
11 Would you please state your name for the record.

12 THE WITNESS: April Green.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION

15 BY MR. CULBREATH:

16 Q April, good afternoon.

17 A Good afternoon.

18 Q If you could, try to relax and tell this
19 jury a little bit about yourself. Tell us about where
20 you went to school, where you grew up, and I
21 understand you're not from Greenville, so how you got
22 here.

23 A I grew up in Tennessee, a small town,
24 Clifton. I graduated there in the year 2000. I'm 34
25 now. Back in 2012, I had a car accident. I ended up

1 getting pain pills and that started my drug
2 addiction. As my problem got worse, I got scared. I
3 called a family member, my dad, in South Carolina,
4 needing help, wanting help. When I got up here, I
5 didn't get help. I was in an environment where there
6 was a lot of using going on and my problem took off.
7 It got a lot worse. At that time, I started going
8 around the Greenville area meeting people. I had met
9 Nathan Crouch. He was already using as well.
10 Together, we started using.

11 Q Let me ask you. You moved to Greenville
12 when? How long ago?

13 A Approximately five years ago. Four or five.
14 It had been after 2000 -- it had been about 2013.

15 Q You said you had taken pain pills for an
16 accident?

17 A At the time of the accident I was, but, you
18 know, I didn't need those after probably three
19 months. I started abusing them.

20 Q Just inform us. We don't mean to pry too
21 much, but just explain how you go from a prescription
22 to a heroin problem.

23 A A doctor had given me several OxyContin. I
24 wasn't familiar with pain pills and prescription
25 drugs. Now, I know it's a very serious narcotic. I

1 probably shouldn't have been prescribed that. At the
2 time, I was in college. When I had the accident, I
3 was no longer in school. I started -- I don't know
4 how it come about, but I started meeting a different
5 class of people, a different crowd. Somebody showed
6 me how to snort one. They said that would make it
7 work faster. Then it escalated from that. Then when
8 it was clear I had a problem and the doctor took the
9 pain pills away from me, I didn't know what to do. I
10 didn't even have a clue. So you start searching for
11 the things on the street. They want 30, 40, \$50 for
12 just one pill. Eventually, I run into heroin, which
13 was twice as cheap and lasts twice as long.

14 Q Are you using now?

15 A No.

16 Q You've gotten clean?

17 A I am.

18 Q You've been charged with crimes in the
19 past?

20 A I have.

21 Q Are they drug-related?

22 A They are.

23 Q Did they have something to do with you
24 being clean?

25 A It does.

1 Q About how long have been clean?

2 A Going on two years.

3 Q Tell us a little bit about where you were
4 living at the time. I'm taking you back to December
5 27th, 2015. Tell us about your living situation.

6 A I was living at [REDACTED] Perry Road. I was
7 living -- Nathan and I had dated for, like, the whole
8 time I been in Greenville for four years. But we were
9 temporary -- we were broke up. It seemed like
10 together our problem was just worse. Everything was
11 worse. We went to jail. Our drug addiction was
12 getting worse and worse and worse. But at the time, I
13 was dating somebody named Gerald White. I was living
14 at [REDACTED], which was his home. He was currently in jail
15 for drug-related charges on a no bond.

16 Q How long had he been in jail?

17 A At that time, it was probably going on two
18 and a half, three weeks, two weeks, maybe three
19 weeks.

20 Q Okay.

21 A I know he had 30 days before he could get a
22 bond hearing.

23 Q And so who was living at the house with
24 you?

25 A Nathan had been there for a couple of

1 nights. He didn't have clothes, per se, there. You
2 know, he didn't have -- you know, he didn't have --
3 he had a whole book bag. He had a change of clothes
4 and a toothbrush in it.

5 Q Okay.

6 A And he had been there two nights. Two days,
7 two nights, however you want to put that.

8 Q What were you doing for money? Did you have
9 a job?

10 A No, I didn't. I was selling drugs.

11 Q Before Gerald White went to jail, were you
12 selling drugs then?

13 A No, I hadn't ever. That was what he'd done.
14 It was when he went to jail. He had told me that --
15 his phone was still left at the house. It just kept
16 ringing and ringing. I was telling him what do you
17 want -- he want me to do about his phone. He said
18 that he was setting something up to be dropped off to
19 me and he only wanted me to deal with five or six
20 people. Those were the orders he gave me.

21 Q Did he tell you who those people were?

22 A Yes.

23 Q Was Kevin Hoffman one of these people?

24 A Yes, he was.

25 Q Was Marqual Griffin one of those people?

1 A No, I'd never heard that name up until this
2 incident.

3 Q Okay. You mentioned Nathan Crouch.

4 A Yes.

5 Q You dated him for about four years. Tell us
6 a little bit about Nathan.

7 A He's -- other than his drug problem, he's
8 the best person you'll ever meet. He's a marine. He
9 was actually on disability for a traumatic brain
10 injury he had received. He'd run over an IUD -- I
11 think it's called -- in Iraq. I mean, what else do
12 you want me to explain about him?

13 Q He got back after that?

14 A He got back -- I think he told me he got
15 back before Thanksgiving of -- I don't know the exact
16 year. I can't recollect the exact year. But when I
17 had met him, he told me he had not been back from
18 service for long.

19 Q Did you offer him a place to stay?

20 A I'm backing up to when I first met him. The
21 time this incident happened, he had been out of
22 service for years.

23 Q Right.

24 A He had been coming over to, you know, get
25 heroin. When he would come, he would stay. I really

1 didn't know what I was doing. So he would -- he's
2 helping me, too.

3 Q He struggled with a drug problem as well?

4 A Very much so. We both did.

5 Q What was your drug?

6 A Heroin.

7 Q Did you sell anything else?

8 A No.

9 Q When I say you, for the two weeks that you
10 were selling.

11 A Right.

12 Q Who is Kevin Hoffman?

13 A He was just somebody that had bought drugs
14 from Gerald.

15 Q Did you -- after Gerald went to jail, did
16 you start selling to Kevin?

17 A Yeah, that was one of the people that he
18 told me that I could.

19 Q How often did Kevin come by?

20 A Once a day, maybe twice. At least once.

21 Q Same thing pretty much every time?

22 A Yeah.

23 Q How about Clinton Nalley?

24 A No.

25 Q Did you know a Clinton Nalley?

1 A I knew of his name. I'd seen him maybe once
2 with Gerald. I remember there was a time that Gerald
3 was getting a lot of text messages from a girl I
4 assumed to be his girlfriend saying that she was
5 going to turn him in, cause him a lot of problems if
6 he dealt anything to him. So that was that. It was a
7 wrap. He didn't deal with him anymore.

8 Q What about you?

9 A No.

10 Q So if he came to the door and asked for
11 some --

12 A I would never even open the door for him.
13 If you don't call me, you know, and I don't know
14 you're coming, I'm not going to open the door.

15 Q Okay. Take us to the 27th of December of
16 2015.

17 A Okay.

18 Q Tell us what you'd been doing that day and
19 kind of take us up to the event.

20 A I had -- earlier that day, I had done some
21 shopping with my niece, some Christmas stuff. I got
22 her a teddy bear. I actually called my brother and
23 waited for him to come up there and get the teddy
24 bear for her. That's why he was up there that day.
25 I'd just run some errands. I did some shopping. I

1 stopped at Walgreens. I was back at the house. I was
2 taking care of a few clients.

3 Q Okay. And your brother, his name again?

4 A Shane Barron.

5 Q All right. You said he was over that day?

6 A He was.

7 Q Did he go shopping with you?

8 A I don't think he did. I can't remember.

9 Q You remember what you bought?

10 A I bought a teddy bear.

11 Q Okay. You mentioned taking care of some
12 clients. Do you remember any in particular?

13 A I took care of a female and I took care of
14 Kevin.

15 Q About what time of day would you take care
16 of Kevin?

17 A It was still daylight. I don't know. Maybe
18 4:00 or 5:00. I couldn't be for sure. There's no way
19 I could be for sure.

20 Q What is the procedure for him to buy from
21 what?

22 A He's got to call me and -- for me to tell
23 him to come on. That way, I'm expecting him to be
24 there. You have to move quickly, you know.

25 Q How long does it take?

1 A The transaction or --

2 Q Yes.

3 A Two seconds. Another thing was, I never let
4 anybody actually fully in my house. Just open the
5 door and the transaction.

6 Q You had a female, you had Kevin, anybody
7 else come by that day?

8 A Earlier that day, I didn't know who the
9 gentleman was, but there was a black male that came
10 to the door knocking. It was strange because nobody
11 had called me. The way the front door is, there's a
12 window there. I pulled the curtain back to look to
13 see who it was. I was like -- he said what's up. I
14 was like, I don't know you, leave. He said what's up
15 with Cincinnati. I said, he's not here. Leave. I just
16 shut the curtain.

17 Q Had you ever seen him before?

18 A I hadn't.

19 Q Could you give us a description of him?

20 A Small frame. He was short, young, black,
21 male.

22 Q Okay. What kind of hair? Do you remember?

23 A Short.

24 Q What was the discussion? What was the
25 conversation, specifically, if you remember?

1 A When I looked out the window?

2 Q Right.

3 A He just threw his hands up. He was like
4 what's up. I was like I don't know you. Leave. Then
5 he asked me what's up with Cincinnati. I said he's
6 not here.

7 Q Tell the jury who is Cincinnati.

8 A Cincinnati is Gerald White. His nickname is
9 Cincinnati. I met him. Honestly, I met him -- he sold
10 heroin to me when I first met him probably a year and
11 a half prior to all of this.

12 Q Okay. So his nickname is Cincinnati and
13 that's the term that was used by the person?

14 A Yes.

15 Q You told him he wasn't there?

16 A Right.

17 Q What did that person do then?

18 A I don't know. I assumed he left. I just
19 shut the curtain and walked off. I didn't hear
20 another knock or anything.

21 Q And roughly what time of day was that or
22 how much earlier was that?

23 A I can't be exactly sure of the times. It
24 was in the evening.

25 Q Still daylight?

1 A Yeah, still daylight, yeah.

2 Q All right. Tell the jury about the incident
3 itself. What were you doing?

4 A I was in the back, in the bedroom. I put
5 the money on a prepaid card to pay my cable bill. The
6 cable company was closed and it took several days for
7 them to take the bill -- actually the TV was turned
8 off, the cable was. Nathan and I was back there
9 messing with it. I got a call from Kevin. Now, am I
10 going to talk -- you want the first time Kevin called
11 or start from the second time?

12 Q The second time.

13 A The second time he had called. Okay. He had
14 called and -- wanting some more. I was like, you were
15 just here. He said, I know, I know, but I run into
16 some more money. I didn't think there was any harm in
17 it so I told him to come on. Short time after,
18 probably five minutes, I hear a knock on the door.
19 Nathan was still messing with the card. I go out to
20 the front door. I ask who it is. When I figure out it
21 was him cause he told me Kevin, I opened the front
22 door, not even that far, to do the transaction.

23 We did the transaction and the next thing I
24 know, here comes Kevin the house. There's a gentleman
25 behind him. He starts waiving a gun, giving demands.

1 Excuse --

2 Q What was he saying?

3 A -- excuse my French, but, you know what
4 this is. Get the fuck down. What y'all got in here?

5 Q What is the -- give us a description of
6 that person coming in.

7 A Small stature. 5'2 to 5'5. Thin, short, a
8 younger male with short hair.

9 Q African-American?

10 A African-American. Black male.

11 Q What kind of clothing?

12 A He had on a hoodie. I thought he had on a
13 hoodie and some pants, tennis shoes.

14 Q Okay. All right. So take us from there. He
15 comes in behind Kevin. Where does Kevin go?

16 A I know Kevin just goes off towards my
17 right. Where, exactly, he went, I don't know. At this
18 point, I've got a gun in my face. That's the only
19 thing that I could see going on. I remember I'm
20 backing up. I remember I've got my hands up. He's
21 waiving the gun around. He's making demands. He told
22 my brother to put that the fuck down. He had a cell
23 phone that he was trying to mess with. Shane was
24 sitting on the couch. The whole time I'm backing up,
25 I'm getting close to the doorway that goes into the

1 kitchen area of the apartment.

2 **Q** Let me ask you to step down, if I can, and
3 just show this jury. This is what we've premarked as
4 State's Exhibit 21.

5 **A** Okay. So this is the doorway. When I opened
6 the door and he pushes in, we get backed up to this
7 area. My brother was sitting on the couch here. He's
8 waving the gun around. He's giving demands. At this
9 time, he was about this area. However, I get back up
10 to this area, Nathan comes out of the bedroom from
11 this area between the kitchen doorway. As he comes
12 out, he comes in front of me, just kind of pushes me
13 to the back. I see an opportunity to slip in behind
14 this doorway in the kitchen area where I'm kind of
15 hid.

16 While all of this is going on, I forgot to
17 tell y'all this, I had ear buds in. I had a phone
18 call conversation going on with a -- with somebody in
19 jail at the Greenville County jail, Gerald White. So
20 this is all being recorded even before I opened the
21 door. So when I get back up in here, at that time,
22 that's when I hang up the jail call and I pull my
23 phone out of my pocket and dial 911 and I stick it
24 back in my pocket. The whole time, I've got ear buds
25 in and a microphone right here.

1 Q Let me ask you what's going on in the room
2 when you back up. Your brother's in there on the
3 couch, right?

4 A Yes.

5 Q Did you see what occurred with him?

6 A When I got back into this area, I couldn't
7 see what was going on. I heard a gunshot take place.
8 I don't know how many it was. I heard a gunshot.

9 Q Where were you when you heard the gunshot?

10 A I'm in this -- this is the doorway going
11 back into the kitchen area. I'm through the doorway.
12 I'm right here, over here.

13 Q How long is it that Nathan has come out
14 before you hear those gunshots?

15 A (No audible response.)

16 Q If you know.

17 A It all was so fast. Not long. Very short
18 period.

19 Q You said the defendant knew -- I'm sorry.
20 You can take a seat. You said the defendant came in,
21 the individual came in making demands. Tell the jury
22 again, specifically, if you can, what he was trying
23 to do. What was going on?

24 A I took it he was trying to rob me. He was
25 stating, you know what this is, get the fuck down,

1 what y'all got in here.

2 Q What were you saying, if anything?

3 A I said that's all I got.

4 Q What did you mean?

5 A What I had given Kevin.

6 Q Okay. Did you actually -- were you able to
7 actually hand it to Kevin?

8 A Yeah, I had already handed it to Kevin. The
9 transaction was done in a second.

10 Q Did you have other drugs in the house?

11 A I had none -- no other -- I had no other
12 drugs to sell, no.

13 Q Did you see Kevin again that evening?

14 A After all this -- when?

15 Q No, during -- while all this was going on.

16 A No, I don't recall seeing him again, no.

17 Q All right. So when you heard the gunshots,
18 you said you called 911?

19 A Uh-huh.

20 Q What was transpiring while you were on the
21 phone?

22 A I don't know what was physically
23 transpiring. But once I got 911 on the phone, I went
24 back into the living room area. I heard gunshots. My
25 brother's in there. Nathan's in there. I see the

1 black male and my brother fighting. Just out of
2 instinct -- I see Nathan. He's already on the ground.
3 Out of instinct, you know, I'm like, get off my
4 brother. Get off my brother. I don't know where the
5 gun's at. I don't know if he's got it. I don't know
6 at any time could he be shot, could I be shot. I
7 know, at one point, he was trying to grab my phone
8 out of my pocket. There was a scuffle between us. I
9 kept trying to shove my phone in my pocket.

10 Q Why did you try to do that? Did he reach
11 for it?

12 A My phone?

13 Q Right.

14 A Yes, he was reaching for it out of my
15 pocket. Maybe he thought I was doing a 911 call. I
16 don't know.

17 Q You said you came over to try and help your
18 brother?

19 A Him and my brother were in an altercation.
20 I run over there to help my brother, you know. I'm
21 like get off my brother. Get off of him. All I could
22 see was him on top of my brother.

23 Q When he first came in, this individual,
24 into your house, did he strike you?

25 A Not this time.

1 Q Okay. All right. Was he threatening to you
2 and your brother with the firearm?

3 A Yes.

4 Q You said he had a gun. Could you describe
5 it?

6 A Just a hand pistol or handgun. Small.

7 Q All right. Did you feel free to leave at
8 that point?

9 A Absolutely not.

10 Q You mentioned that you were on the phone
11 with Gerald White at the time?

12 A In the beginning. Before Kevin even knocked
13 on the door.

14 Q That was recorded.

15 A Correct.

16 Q Were you aware that that was being recorded
17 because it was from the jail?

18 A Yes. They tell you before you start your
19 phone conversation that it's recorded.

20 Q Okay. And 911?

21 A Of course, it's recorded.

22 Q Okay. All right. Let me do this, have you
23 had an opportunity to review the recordings?

24 A Yes, I have.

25 Q Both the jail call and the 911 call?

1 **A** Yes, I have.

2 **Q** Let me show you what's been marked as
3 State's Exhibit 8 and 9. Take a look at those. Let me
4 know if you recognize those.

5 **A** I do.

6 **Q** All right. What are they?

7 **A** They are the recordings from the jail and
8 the 911 call.

9 **Q** And how do you know that?

10 **A** I've listened to them, personally.

11 **Q** All right. So anything on there that
12 indicates to you that that is the actual ones that
13 you listened to?

14 **A** Yes, my initials.

15 **Q** Okay. So you've initialed these?

16 **A** I have.

17 **Q** All right. In listening to that, did that
18 fairly and accurately represent the conversations you
19 had with Gerald White on December the 27th, 2015, as
20 well as that 911 call?

21 **A** Yes.

22 **MR. CULBREATH:** Your Honor, at this time,
23 I'd like to move these into evidence as State's
24 8 and 9.

25 **THE COURT:** Any objection?

1 **MR. CHAMBERS:** No objection.

2 **THE COURT:** All right. They are admitted
3 without objection.

4 (State's Exhibits 8 and 9 are admitted into the
5 record.)

6 **MR. CULBREATH:** If I may publish to the
7 jury.

8 **THE COURT:** Yes.

9 **BY MR. CULBREATH:**

10 **Q** Ms. Green, we're going to play the jail
11 call first. Could you describe for us -- we're just
12 going to kind of just join into your conversation
13 with Mr. White. What are you talking about? At what
14 point -- what do we need to be listening for?

15 **A** We're talking about -- pretty much the
16 entire phone call, we're talking about the card that
17 I was getting to get the TV turned back on,
18 discussing how it was the holidays and so forth. At
19 some point, you'll hear a knock on the door and me
20 asking who it is.

21 **Q** From there, are we able to hear?

22 **A** Yes.

23 (State's Exhibit 8 is played in its entirety.)

24 **BY MR. CULBREATH:**

25 **Q** Is that what you recall?

1 A Yes.

2 Q Where were you when he was telling you get
3 down or get back?

4 A I was in the living room.

5 Q And he forced his way into your house?

6 A Yes.

7 Q Did you know this individual?

8 A No.

9 Q Was he armed when he came in?

10 A Yes.

11 Q Did he restrict your movement when he came
12 in?

13 A Yes.

14 Q Was he there to take something of yours?

15 A Yes. He implied that.

16 Q Now, you mentioned the 911 as well. Tell us
17 -- I'm going to play this for the jury. Tell us what
18 has occurred between you hanging up and --

19 A Well, Gerald was the one that hung -- I
20 later found out Gerald was the one that hung up the
21 phone call. He knew I was getting robbed. He had told
22 me that he was going to try to call somebody to come
23 help me. But right at the time it ended, it wasn't
24 too much longer because Nathan had heard the
25 commotion that he'd come out. That's when I got to

1 make my way into the kitchen.

2 Q Did you -- when you heard the shots, did
3 you see any of the shots?

4 A I didn't.

5 Q Okay. Gerald White, is he deceased now?

6 A He is.

7 Q Okay. Did he die after this?

8 A He did.

9 Q Unrelated?

10 A Unrelated.

11 Q Now, I'll ask you, does the 911 call
12 capture any time periods where this suspect is still
13 in your home?

14 A Yes.

15 Q Does it capture any of the fighting that
16 goes on?

17 A Yes.

18 Q What is that fighting about? What are you
19 doing or what is your brother doing?

20 A My brother -- when I came back into the
21 living room area, he was on top of my brother. It
22 always looked like he was getting the best of him or
23 whatever. I panicked. I went over there to try to
24 help my brother. We were in a scuffle. I don't know
25 if he's fighting for the gun. I don't know where the

1 gun's at, at this point.

2 Q I was going to ask you. He came in armed?

3 A He came in armed.

4 Q Did you not see any firearm when he was
5 wrestling with your brother?

6 A No.

7 Q All right. Is that why you jumped in?

8 A Yeah. I didn't know where it was at. I
9 didn't know if they were fighting for the gun. I
10 didn't know what was going on.

11 Q At some point, did you get an opportunity
12 to talk to the 911 dispatcher?

13 A Yes.

14 Q Where were you?

15 A I went into the bedroom and shut the door
16 and tried to give her a clear description of where I
17 lived.

18 Q All right. Did anything occur during that
19 time period that you were talking with her regarding
20 the suspect?

21 A Yes. At some point, the bedroom door come
22 open forcefully. It was kicked open. I'm crying. I'm
23 at the end of the bed. I'm hysterical. I'm trying to
24 talk to the 911 people. As soon as he comes in the
25 door, it was like he was looking for something.

1 Q When you say -- who -- who are you talking
2 about?

3 A The black male.

4 Q All right.

5 A It looked like he was looking for
6 something. Out of nowhere, he comes up and he just
7 punches me and hard enough where it knocks me down.
8 He starts stomping me in the face and stomping me and
9 stomping.

10 Q Stomping you with his foot?

11 A His foot.

12 Q Are you on the floor?

13 A At this point, yes.

14 Q Are you still on the phone?

15 A I've got my ear buds in.

16 Q All right. Are you on the phone with 911
17 still?

18 A Yes, I am.

19 Q And how long does that go on?

20 A It seemed like forever. I'm not sure
21 exactly how it took place. I remember hearing my
22 brother's voice saying, get off of my sister.

23 Q Okay. You said he was looking around?

24 A When he had first come in, before he had
25 hit me, it was like he was looking for something. It

1 was like crazy, like looking around my room.

2 Q Could you see if he had anything in his
3 hands?

4 A He didn't.

5 Q All right.

6 A The first thing I was looking for was the
7 gun, you know, to see if he had a gun in his hand.

8 Q What caused him to stop stomping you?

9 A My brother pulling him off of me.

10 Q Did they move back out into the living area
11 with the scuffle?

12 A They just...

13 Q Did you remain in the bedroom?

14 A I remained there. I don't know exactly
15 where their scuffle was.

16 Q Were you able to give a description of
17 where you were, what was going on to the 911
18 dispatcher?

19 A Yes.

20 Q And thereafter, when the police arrived,
21 were you able to talk with law enforcement and fill
22 them in on what you observed?

23 A Yes.

24 Q Have you had a chance to review this 911
25 call? Does it capture when law enforcement arrives on

1 scene?

2 A Yes.

3 Q So are we listening for two parts, the
4 initial part where you called and then when he comes
5 into the bedroom?

6 A It's all one phone call, though.

7 Q Right. Right. But there's kind of a lull in
8 between?

9 A Where I went to the bedroom, yeah.

10 Q That's where you start trying to give them
11 the address?

12 A Uh-huh.

13 Q We're going to play this, State's 9.

14 A At some -- seems like, at some point, he
15 ran out of the house. I don't know when that was.

16 Q You didn't see him, though?

17 A No.

18 (State's Exhibit 9 is played in its entirety.)

19 **BY MR. CULBREATH:**

20 Q April, the individual that came into your
21 home that evening, was that the same individual that
22 came by earlier in the day?

23 A Yes.

24 Q And asked for Cincinnati?

25 A Yes.

1 **Q** And that's who you told Cincinnati wasn't
2 there?

3 **A** Yes.

4 **Q** Did anyone in your house have a gun?

5 **A** No.

6 **Q** Did you have other drugs that you tried to
7 get rid of after law enforcement came?

8 **A** No.

9 **Q** Did you, in fact, get charged days later
10 with distribution of drugs yourself?

11 **A** I did.

12 **Q** Even after this happened?

13 **A** After this happened.

14 **Q** Explain to this jury how, days after this
15 happened, you would still be doing that, if you can.

16 **A** I was still an addict. I was in the worse
17 of my addiction. It's ruined my life and changed my
18 life.

19 **Q** There were a couple of times on the
20 recording that you mentioned or you referenced in
21 your testimony that you said he was looking for
22 something when you were talking about the man who
23 entered your home. Does that recording refresh your
24 recollection at all?

25 **A** Yes. When he come -- he didn't have a gun.

1 My brother -- I don't know if I can say this. He was
2 asking where is it at, where is it at. You know, he's
3 flipping furniture over, I mean, looking for a gun.

4 Q None of you all had a gun?

5 A No.

6 Q Did you get EMS treatment after this event?

7 A I mean, they talked to me there, but I
8 didn't go to the hospital.

9 Q Okay. Do you know whether or not they come
10 in and took pictures of you or your home?

11 A Yes, they did.

12 Q Let me show you what's been marked as
13 State's Exhibit 10 -- I'm sorry -- 10 and 11.

14 A Okay.

15 Q Take a look at those, please. What are
16 those?

17 A Those are pictures of me.

18 Q As far as 10, what is that a picture of --
19 or when, in this process?

20 A That's a picture of me when they got me
21 back to the station or whatever you want to call it,
22 to get my statement. They took a picture of me.

23 Q Okay. How long did you remain on the scene
24 after law enforcement arrived before they took you
25 back to the LEC?

1 A 30 minutes to an hour. I don't -- maybe 30
2 minutes to an hour.

3 Q Okay. Once they finished questioning you,
4 they took your photograph?

5 A How long was I here?

6 Q How long after the incident --

7 A Was I with them all together? Probably two
8 to three -- two to three hours.

9 Q Okay. This was taken during that time
10 period?

11 A Yes.

12 Q After you finished at the LEC, did you have
13 to come back out to your house at some point that
14 evening where this picture was taken?

15 A No. This is also at the -- yeah, I think --
16 yeah, I asked if I could come back and get my purse
17 and some personal items.

18 Q Come back to where?

19 A To where the incident had taken place, the
20 house, [REDACTED].

21 Q At that point, you also --

22 A My keys, the car. You know, can I get those
23 type of items. They had brought me clothes because
24 they had to take mine for evidence. When I finally
25 got back there to get some personal stuff, they

1 noticed that my injuries were showing up more. They
2 were -- they looked worse than they did earlier.

3 Q Is that why you're wearing a different
4 shirt in that picture?

5 A Yes.

6 Q But it was taken the same night?

7 A Yes.

8 Q Do those fairly and accurately depict the
9 injuries you received that night?

10 A Yes.

11 Q Let me show you what's been marked as
12 State's 12, 13, 14, and 15. Take a look at that and
13 tell us what those are.

14 A This is pictures inside of [REDACTED], just
15 different angles.

16 Q Okay. Are they all of the interior of your
17 residence?

18 A Yes, they are.

19 Q Can you -- do they accurately and fairly
20 represent what your home looked like right after this
21 incident?

22 A Yes.

23 MR. CULBREATH: Your Honor, at this time, I
24 would like to move into evidence these six
25 photographs.

1 **MR. CHAMBERS:** No objection, Your Honor.

2 **THE COURT:** All right. Without objection.

3 (State's Exhibits 10 through 15 are admitted
4 into the record.)

5 **MR. CULBREATH:** Request permission to
6 publish.

7 **THE COURT:** Yeah.

8 **BY MR. CULBREATH:**

9 **Q** I'm going to show you now State's Exhibit
10 10. When looking at that, does that accurately
11 reflect your condition after?

12 **A** Yes.

13 **Q** State's 11.

14 **A** Yes.

15 **Q** Was this just a few hours after the
16 incident?

17 **A** Yes.

18 **Q** How did you sustain these injuries?

19 **A** From the black male that came in the house.

20 **Q** 12. What is that a picture of?

21 **A** That's a picture of inside of [REDACTED] just as
22 you walk in. It's the laundry room, couch, seating
23 area.

24 **Q** That's what you see if you look off to your
25 left when you come through the front door?

1 A Yes.

2 Q How about State's Exhibit 13?

3 A When you come in the door, if you look
4 straight ahead, that's the view you will get inside
5 the apartment.

6 Q Okay. And the bear, is that the bear you
7 went shopping for?

8 A Yeah, that's the teddy bear.

9 Q What's this a picture of?

10 A That's my bedroom. It's a picture of the
11 pen and paper, I've been trying to figure that out to
12 pay the cable bill.

13 Q Trying to figure out how to pay the cable
14 bill. State's 15 would be of your bathroom?

15 A Yes.

16 Q Did you try to flush anything out of the
17 toilet?

18 A No.

19 Q Was this taken by law enforcement after
20 they came in to process the scene?

21 A I would assume so, yeah.

22 Q Had you had an occasion to go into that
23 bathroom after you called 911, once the suspect came
24 in the house?

25 A Huh-uh.

1 **MR. CULBREATH:** Court's indulgence one
2 moment. (Pause.)

3 Your Honor, just a few more quick
4 questions.

5 **BY MR. CULBREATH:**

6 **Q** April, just to clarify a couple of points,
7 when you were talking about who had a gun in the
8 house and who didn't have a gun, you mentioned he
9 didn't have a gun. Who were you talking about didn't
10 have a gun? Was that your brother?

11 **A** At which point? When he came into the --
12 when he forcefully kicked my bedroom door open, the
13 black male?

14 **Q** Right.

15 **A** When he was looking around all crazy, I
16 didn't see a gun in his hand.

17 **Q** Okay. Okay. He didn't have a gun at that
18 point?

19 **A** He didn't have a gun at that point.

20 **Q** All right. Did Shane ever have a gun?

21 **A** No.

22 **Q** Did you ever have a gun?

23 **A** I never had a gun.

24 **Q** And you had been living there for about how
25 long, beforehand?

1 A Probably six months.

2 Q Okay. You considered that your residence?

3 A Yes.

4 Q All right. And we talked a lot about the
5 fight that occurred. It can sometimes be unclear. He
6 comes in with a gun and then you hear shots.

7 A Uh-huh.

8 Q And then you and your brother are fighting
9 or struggling with him?

10 A At the time I'm in the kitchen area trying
11 to call the cops, I hear the shots when this is going
12 on. I hadn't seen what's going on, I just heard it.
13 So when I run into that area, I see him and my -- I
14 see Nathan laying on the floor bleeding and I see
15 them into an altercation, but he's on top of my
16 brother. I run in there in a panic because that's my
17 brother. He's eight years younger than me. It's my
18 baby brother. I went in there and I panicked. I
19 remember I got on his back. I was like, get off of
20 him. Then we started scuffling. I was trying my best
21 to pull him off of him.

22 Q Did that continue on until he left the
23 house?

24 A Yes.

25 Q During the course of struggling with him,

1 did he lose his shirt?

2 A Apparently, he did. I didn't witness when
3 it happened. You know, when he came in the house --
4 when he first pushed his way in my house, he had a
5 shirt on. But you know, I noticed when he kicked my
6 door open to the bedroom, he didn't.

7 Q What kind of shirt did he have on?

8 A I think it was a hoodie and a sweater,
9 sweatshirt.

10 Q Did he have it up over his head?

11 A When he first come in.

12 Q Covering his face?

13 A It was just kind of like -- I don't know.
14 It wasn't completely covering his face, no. Just over
15 his head.

16 Q You ultimately made it over to Nathan to
17 check on Nathan?

18 A Yes.

19 Q What did you observe when checking on him?

20 A When I was checking on Nathan, at some
21 point, he -- the gentleman comes back in the scene. I
22 don't know if he runs back in my house, but he's
23 going through the living room. He's flipping the
24 tables over and looking under stuff. I think that's
25 when I was telling the 911 call he's looking for the

1 gun, he's looking for it. I'm freaking out.

2 Q You're on the phone with 911 while he's in
3 there flipping over furniture?

4 A Yes.

5 Q Okay. Is that what we hear, the second part
6 of that recording?

7 A Yes. I'm telling them he's looking for it,
8 he's looking for it. I'm in a panic cause I don't
9 know where it's at. I don't know if he's going to
10 find it. I don't know. Those are things that I don't
11 know. I'm in a panic.

12 Q At one point, you talk about something
13 about holding on to someone's leg.

14 A When -- the very last part, when I come in
15 there and there's another altercation between him and
16 my brother, I had thought I was helping my brother,
17 trying to make sure that he didn't leave, trying to
18 make sure he'd still be there when the cops got
19 there. But instead of holding his leg, I was holding
20 my brother's leg. I thought I was helping my brother
21 restrain him so that he couldn't leave, that way, he
22 would be arrested.

23 Q Just to make sure, these photographs were
24 taken by law enforcement. I'm going to show you the
25 house right after you -- right after this incident,

1 correct?

2 **A** Yes.

3 **Q** When they came back out, they asked you if
4 they could consent -- have consent to search your
5 house?

6 **A** Yes.

7 **Q** Did you give them that?

8 **A** I did.

9 **Q** April, thank you. Please answer any
10 questions counsel has.

11 **THE COURT:** Counsel, approach.

12 (Bench conference is held off the record.)

13 **THE COURT:** All right. Ladies and
14 Gentlemen, I don't normally like to break up a
15 witness like this, but it is 3:30 and that's
16 when I promised y'all that y'all could -- we
17 could leave now. I think it's okay, but I just
18 wanted to make sure everybody has plenty of time
19 without traffic to get home. So we're going to
20 break for the day.

21 As I told you before, any time you break,
22 I'm going to tell you do not discuss the case
23 among yourselves or anyone in your family or
24 anything like that. Don't do any type of
25 independent research, google anything about

1 these parties or the law or anything like that.
2 Don't pay any attention to any media coverage.
3 Finally, if anybody should contact you outside
4 of the clerk's office, please let the bailiff
5 know.

6 We're going to start back -- from
7 everything that I can tell, looks like we're
8 going to be fine as far as weather goes after
9 this evening. We're going to come back at 9:30
10 in the morning. If anybody has any issues with
11 that in the morning, by all means, please call
12 the clerk's office. I think y'all should have --
13 do they have a number?

14 **THE CLERK:** It's on the back of their
15 badge.

16 **THE COURT:** All right. Just contact them
17 if y'all have any issues or if it's a lot worse
18 than what we're expecting. We don't want to make
19 sure -- we don't want to create any problems
20 with anybody. As far as right now, let's shoot
21 for being back in your jury room at 9:30 in the
22 morning. Other than that, y'all have a very
23 good, safe evening and a safe trip home.
24 (Jury exits at approximately 3:29 p.m.)

25 **THE COURT:** All right. Ms. Green, you are,

1 what I call, in the witness bubble. That means
2 that you've already started your testimony and
3 you can not talk with anybody about your
4 testimony. I know it's going to be -- that's
5 what you're going to want to do, but you can not
6 talk to the State's attorneys and you can't talk
7 to anybody else about your statement. Okay. You
8 can talk about anything else, but it's not
9 allowed at all once you start testifying. At
10 this point, you can step down. You'll be back up
11 first thing in the morning.

12 Anything else?

13 **MR. CHAMBERS:** No, Your Honor.

14 **THE COURT:** Anything else from the State
15 before we break?

16 **MR. CULBREATH:** No, Your Honor.

17 **THE COURT:** Anything else from the
18 defendant?

19 **MR. CHAMBERS:** No.

20 **THE COURT:** Sorry we have to break here. I
21 thought after we promised the jury 3:30, I
22 didn't want to -- I didn't want Mr. Chambers to
23 look like the bad guy because he was the one
24 going past 3:30.

25 **MR. CULBREATH:** Mr. Pringle is here.

1 There's one issue -- I don't know that it's even
2 an issue. But there's a witness who has pled
3 guilty and is deferred sentence, Clinton Nalley.
4 Mr. Pringle represents Mr. Nalley. We didn't
5 know -- there was some question as to whether or
6 not he needed to be here. I didn't know -- we
7 couldn't make that call. Mr. Pringle has spoken
8 with him. I just wanted to put on the record so
9 that in the event we had an issue tomorrow when
10 Mr. Nalley comes out that the Court is aware
11 that they had discussed his testifying and
12 whether or not Mr. Pringle needed to be here for
13 that.

14 **THE COURT:** Okay. That's fine. If y'all
15 are comfortable with that. I mean, that's --

16 **MR. PRINGLE:** He's already pled. Him and
17 I have consulted at length and we've had
18 meetings with the State to prepare him for his
19 anticipated testimony. He clearly is fine with
20 waiving me being present. I don't know what my
21 purpose would be. But I will if the Court --

22 **THE COURT:** I don't think there's anything
23 that the Court can require. That's certainly up
24 to -- between you and him. I mean, I'm fine with
25 that. I don't think that's my call on that.

1 **MR. PRINGLE:** Very well.

2 **THE COURT:** I'll make sure that he --
3 maybe when y'all get ready to put him up, we can
4 make sure he's confident and wants to waive your
5 --

6 **MR. PRINGLE:** I went down and talked to
7 him just a little bit ago. Evidently, there was
8 some confusion. He said the jail personnel told
9 him he was coming over here to plead time
10 served. I don't know where he got that idea. We
11 already pled in this case. The sentencing hasn't
12 even been set yet. It was going to be subsequent
13 to his performance ---

14 **THE COURT:** Okay.

15 **MR. PRINGLE:** --- in this trial. So
16 evidently, there were some wires crossed, but I
17 wanted to make sure there was not a problem.

18 **THE COURT:** Okay. If I need to put that on
19 the record, then I'm fine.

20 **MR. CULBREATH:** Okay. Thank you.

21 **THE COURT:** All right. Anything else?

22 **MR. CULBREATH:** Nothing from the State.

23 **THE COURT:** All right. We'll see everybody
24 at 9:30, as they say, if the good Lord's willing
25 and the creek don't rise.

1 (The Court recess for the day at approximately
2 3:32 p.m.)
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CERTIFICATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 9th day of December, 2017.

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

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2016GS2302330,
	)	2016GS2302331,
State of South Carolina,	)	2016GS2302332,
	)	2016GS2302333,
Plaintiff,	)	2016GS2302335,
	)	2017GS2302334
-VS-	)	
	)	
Marqual Devine Griffin,	)	TRANSCRIPT OF RECORD
	)	(Volume 2 of 3)
Defendant.	)	
	)	

September 11-13, 2017
Greenville, South Carolina

B E F O R E:

HONORABLE PERRY GRAVELY, Judge.

A P P E A R A N C E S:

ANDREW CULBREATH, Esquire
ELIZABETH GARY, Esquire
Attorneys for the Plaintiff

RANDALL L. CHAMBERS, Esquire
EDWARD H. DAWSON, III, Esquire
Attorneys for the Defendant

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

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P R O C E E D I N G S

(Proceedings begin on the 12th day of September,
2017 at approximately 9:41 a.m.)

THE COURT: We ready to bring the jury in?

MR. CULBREATH: Your Honor, one brief
matter before --

THE COURT: Okay.

MR. CULBREATH: -- before we start. This
was at the end of the day yesterday. Mr. Pringle
came in and addressed --

THE COURT: Right.

MR. CULBREATH: I just want to address a
comment that he made right at the end. He
indicated that he had talked with his client. He
was aware that he was going to be a potential
witness. Then he said that he knows that his
sentence is dependant on his performance at
trial. I want to make it clear for the record
that we have never discussed any potential
sentence with that individual, anything along
those lines. I wasn't privy to what he and his
client talked about or the wording that he used.
I just wanted to be clear to everyone here that
we were in no way offering him anything for his
testimony.

1 **THE COURT:** All right. And I didn't take
2 it that way when I took his plea either.

3 I guess, Ms. Green, is it? Will you come
4 back up?

5 We ready to bring the jury in?

6 **MR. CHAMBERS:** Yes, sir.

7 **THE COURT:** All right. I think we need to
8 let the jury -- on my way home, there were trees
9 down all over the road even that early.

10 You are still under oath. I'll remind you
11 of that from yesterday.

12 **THE WITNESS:** Okay.

13 **THE COURT:** All right. Ready to bring the
14 jury in?

15 **MR. CULBREATH:** Yes, sir.

16 (Jury enters at approximately 9:44 a.m.)

17 **THE COURT:** Well, I hope everybody -- I
18 think everybody made it safely back. I hope
19 everybody had a safe evening. I know on my way
20 home, there were trees down. It was a crazy
21 night.

22 All right. If you will recall, we're in the
23 State's case. The State had finished their
24 direct on Ms. Green and now Mr. Chambers' cross-
25 examination.

1 **MR. CHAMBERS:** May it please the Court,
2 Your Honor.

3 **CROSS-EXAMINATION**

4 **BY MR. CHAMBERS:**

5 **Q** Good morning, Ms. Green.

6 **A** Good morning.

7 **Q** I want to talk to you a little bit more
8 about what happened back on December 27th, 2015. At
9 that time, I believe you told us you were living at
10 █████ Perry Road in Greenville; is that right?

11 **A** Yes.

12 **Q** And you were living there with Gerald
13 Smith?

14 **A** Gerald White.

15 **Q** Gerald White, I mean. And his name -- he's
16 also known as Cincinnati?

17 **A** Yes.

18 **Q** How long had you been living there with
19 him?

20 **A** Approximately six months.

21 **Q** Can you speak up a little bit for me?

22 **A** Approximately six months.

23 **Q** Why don't you pull that in close. And you
24 said you met Cincinnati because he sold heroin to
25 you?

1 A That's how I met him, yeah.

2 Q Did someone introduce you to him or did you
3 just hear --

4 A Yes.

5 Q And did you immediately start a
6 relationship with him?

7 A No.

8 Q And -- but you two grew close enough that
9 you moved in and not only lived with him, but you
10 helped him in his drug enterprise; is that correct?

11 A When he went to jail.

12 Q Okay. So he was selling heroin and various
13 other drugs at [REDACTED] Perry Road; is that correct?

14 A Heroin.

15 Q Just heroin?

16 A Mainly, yeah.

17 Q And so while he was in jail, you were
18 running the business for him?

19 A He had me handle five or six people.

20 Q Now, you were also pregnant at the time; is
21 that correct?

22 A I was.

23 Q Is -- was he the father?

24 A He is.

25 Q Okay. Is the father. So is that the only

1 time that you ever sold heroin was while he was in
2 jail?

3 A No, there was a time prior, about --
4 approximately a year prior that I was not dating him,
5 but I was living -- I was living in a house that he
6 had rented in his name, but Nathan and I paid him
7 rent. He called me up one day and asked me to do him
8 a favor. Somebody was going to pick something up but
9 he had somewhere to go and he would give me a 20 bag
10 if I would do it. I said okay. I don't know how much
11 longer after that, but whoever it was, they wore a
12 wire on me.

13 Q How long had you been -- how long had he
14 been in jail come December 27th, the date that all
15 this happened?

16 A Approximately two to three weeks.

17 Q Okay.

18 A I know he was waiting on a bond hearing.

19 Q During that two to three weeks, you
20 continued to sell heroin out of the house?

21 A He had -- he had told me to answer his
22 phone and take care of five or six people.

23 Q Did you have a large stash of heroin or was
24 somebody supplying you during this time?

25 A No, I did not have a large amount. He

1 ordered the person that dropped it off to drop off no
2 more than two grams at a time.

3 Q Okay. So there was somebody on a regular
4 basis coming by there to deliver heroin for you to
5 sell?

6 A Yes.

7 Q So people would come by the house on a
8 regular basis and buy heroin from you?

9 A Only if they -- only that five or six
10 people and if they called me and I knew that they
11 were coming.

12 Q So you were only selling to five or six
13 people?

14 A Correct.

15 Q They had to call you before they came?

16 A Yes.

17 Q So this wasn't a situation where we just
18 got people coming and going like it's a store that's
19 open for business, right?

20 A Right.

21 Q And it's not constant. It's fairly
22 infrequent. Would that be fair to say?

23 A At that time, when I was doing it. When
24 Gerald was doing it, that's a-whole-nother thing.

25 Q I'm talking about when you were doing it on

1 December 27th and apparently for at least two weeks
2 prior to that. It was infrequent. You were only
3 dealing with five or six people.

4 A Correct.

5 Q And they weren't coming to you every day,
6 right?

7 A Normally, they would.

8 Q So -- but it was at prearranged times. It
9 wasn't at any sort of consistent time that somebody
10 could count on, right?

11 A No, it was just whenever they would call.

12 Q All right. And on this day, Kevin called
13 you, right?

14 A Yes.

15 Q You knew Kevin?

16 A Yes.

17 Q In fact, I believe you described Kevin as
18 basically being a friend of yours, right? You'd known
19 him for a while?

20 A No, I didn't say he was a friend. I said we
21 had known him for a while. He had been buying for a
22 while.

23 Q Is that the only way that you knew him?

24 A Yeah.

25 Q So he called you, then, just before all

1 this stuff that we've heard about happened. He called
2 you and said he was coming over there; is that right?

3 A Yes.

4 Q Now, earlier in the day, though, you had
5 said that you had seen my defendant over here,
6 Marqual Griffin, right?

7 A Yes.

8 Q And you say that he came by the house and
9 he was looking for Cincinnati?

10 A I had a knock on the door. It was
11 unannounced, so that was strange to me. And when I
12 looked out the window, I didn't know him. He threw
13 his hands up, like, what's up. I was like, I don't
14 know you, please leave. He said, where's Cincinnati.
15 I said, he's not here, would you please leave and I
16 shut the window -- shut the blind.

17 Q And you're saying that was your only
18 interaction with him?

19 A That was my only interaction.

20 Q The fact is when he came over there, he
21 bought from you as he had before, right?

22 A No.

23 Q You knew who he was?

24 A No.

25 Q Kevin knew who he was, didn't he?

1 A I can't speak for Kevin.

2 Q The next time you say you saw Marqual was
3 when he pushed his way into your door there at [REDACTED]
4 Perry, right?

5 A Yes.

6 Q It was about 7:45, correct?

7 A (No audible response.)

8 Q Do you know?

9 A I don't know the exact times.

10 Q Probably a little earlier than that, wasn't
11 it?

12 A I couldn't tell you.

13 Q It was still not dark outside, was it?

14 A It was dusky.

15 Q Yeah, you could still see really well,
16 right?

17 A Okay.

18 Q And you could kind of see it from the
19 picture, but there at [REDACTED], there's [REDACTED] -- if you're
20 facing it, it's on the right -- and there's [REDACTED]
21 that's on the left; is that correct?

22 A No. [REDACTED] -- if you're facing it, you're
23 saying [REDACTED] is to the left?

24 Q Yeah.

25 A Yes.

1 Q Okay. And there is a driveway that's really
2 just big enough -- it's basically a car length almost
3 from your front door to the sidewalk. It's basically
4 big enough for a car to pull up in there and maybe
5 four cars can park across; is that right?

6 A Right.

7 Q So the front door is very close to the
8 sidewalk, right?

9 A Yes.

10 Q No trees or anything around there, am I
11 correct?

12 A Not that I'm aware of, no.

13 Q There's just open yard between the houses
14 that are actually fairly close together, correct?

15 A Yes.

16 Q Then there's -- I don't know -- another
17 house or trailer or something that sits in the back
18 yard.

19 A Yes.

20 Q Not quite directly behind the house, but
21 kind of, right?

22 A Right.

23 Q So it's kind of an open space in there.
24 It's kind of easy to see. There would be nowhere for
25 anybody to hide, especially with it being daylight,

1 right?

2 A We could hide into the side of the house.

3 Q But you could see that as you walk up
4 front, can you not?

5 A I wouldn't be able to see it from inside.

6 Q Okay.

7 A Somebody from the outside may.

8 Q You said you don't know whether Kevin knew
9 Marqual or not?

10 A No, I don't know. I can't speak for him.

11 Q Even to this day, you don't know.

12 A I don't know.

13 Q And so you say that he came in and he did
14 not have his face covered, right?

15 A No, he just had a hood on.

16 Q A hood, but you could clearly see his face?
17 He did not in any way try to obscure his face, right?

18 A He was behind Kevin. I didn't get to even
19 get a look at him until he was already in the house
20 with a gun in my face.

21 Q Okay. So you are saying as soon as he came
22 in, he put a gun in your face, right?

23 A Yes.

24 Q Okay. Was he -- where was he when he put a
25 gun in your face?

1 A He was standing in the living room.

2 Q How far inside the living room was he?

3 A I want to say he was at the moped area.

4 Q He was where?

5 A Like where the moped was at, like maybe to
6 the back of the moped.

7 Q You had opened the door for him, am I
8 correct?

9 A No, I didn't open the door for him.

10 Q You didn't open the door -- I mean you
11 opened it for Kevin?

12 A I opened the door for Kevin.

13 Q Okay. But you're the one who opened the
14 door?

15 A Right.

16 Q So you would have still been close to the
17 door if he just came in, right?

18 A Well, when you got somebody forcefully
19 pushing the door open, you know, being a human being,
20 it's instinct to step back.

21 Q I understand.

22 A And you take one or two steps back and
23 you're at the couch/moped area.

24 Q This is all very small.

25 A Right.

1 Q I mean, it's a small apartment.

2 A Uh-huh.

3 Q Small rooms?

4 A Yes.

5 Q How many bedrooms?

6 A One.

7 Q Just one bedroom. And that was where you
8 said Nathan was lying, correct?

9 A He was in the bedroom working on a card.

10 Q So he was in the bedroom, the only bedroom?

11 A Yes.

12 Q So when you say he pointed in your face,
13 demonstrate that the best you can. You can stand up
14 right there where you are.

15 A When he came in the door, he said, you know
16 what this is, get the fuck down, what y'all got in
17 here, stating things of that nature.

18 Q So when he looked around, who else was he
19 pointing at?

20 A My brother was on the couch.

21 Q Okay.

22 A That was the only people in the living room
23 at the time.

24 Q But where he was standing, he was facing
25 anybody that might come toward him, pistol in hand,

1 right?

2 A I don't understand what you're saying.

3 Q In other words, where he was standing, if
4 somebody was coming toward him, he would have been
5 able to see him and he had a gun out?

6 A As this is going on, as he's making demands
7 and telling people to get down, I'm backing up. The
8 whole time, I'm backing up. I've got my hands up. As
9 I'm backing up, I'm pretty much at the TV in the
10 living room area. I'm very close to the doorway. When
11 Nathan comes up out of the doorway, I'm still kind of
12 standing in front of the doorway. When -- he steps in
13 front of me and pushes me to the back. As he comes in
14 and was making his demands, I was constantly stepping
15 back with my hands up.

16 Q Were you stepping back towards the bedroom?

17 A I was -- I don't know where I was going. I
18 was in complete shock.

19 Q How long --

20 A I was scared.

21 Q How long was it while this was going on
22 before Nathan came out of the bedroom?

23 A I can't tell you as far as minutes. But
24 it --

25 Q You think it was minutes, not seconds?

1 A I can't tell you if it was minutes or
2 seconds. I was in shock and I was scared.

3 Q I understand. But at some point, he came
4 out. Did you see him come out?

5 A Once he had got beside me and was in front
6 of me, I seen him.

7 Q Okay. And he just ran up to this guy that's
8 pointing a gun at everybody --

9 A He did not run up to him.

10 Q What did he do?

11 A He come out to see what was going on. Keep
12 in mind, Nathan and I dated for four years. He come
13 out -- he's like, what's going on. He put his hands
14 up. And when he stepped in front of me, I felt him
15 push me back. At that time, I slipped into the
16 kitchen area to call 911. I couldn't see what was
17 physically going on.

18 Q I thought you went to the bedroom.

19 A I didn't say that.

20 Q Did you go to the bedroom?

21 A At some point in the incident, but not
22 right then.

23 Q So the guy that you said rushed in, pointed
24 a gun at you, pointed a gun at your brother Shane and
25 presumably pointing the gun at Nathan, who you said

1 just sort of walked out with his hands up, and yet,
2 somehow, everybody ends up on the floor. Is that
3 right?

4 A I'm telling you what happened. At that
5 point, I was pushed -- I backed up into the kitchen
6 area. When Nathan stepped in front of me to push me
7 back, I stepped off into the kitchen area feeling
8 that that was my only opportunity to be able to call
9 911.

10 Q So this person is holding a gun on you?

11 A Uh-huh.

12 Q You're able to get in the kitchen to call
13 911?

14 A Uh-huh.

15 Q Nathan, the last time you see him is
16 standing with his hands up.

17 A Yes.

18 Q Okay.

19 A I don't know exactly what he was saying to
20 him, but I know he's like, what's going on, you know.

21 Q All right. When did you hear a commotion?

22 A When I was trying to get my phone out of my
23 pocket and -- to get 911 on the phone, sometime while
24 this was going on, I heard gunshots. But everything
25 was going just so fast, I was so scared that I can't

1 tell you exactly what I was hearing. It wasn't until
2 I came back in my living room that I saw Nathan on
3 the ground and my brother and the defendant
4 scuffling. He was on top of my brother.

5 Q Then you jumped in.

6 A To help my brother. I don't know where the
7 gun's at. I'm scared. We're absolutely scared for our
8 life. I do not know where the gun's at. Nathan's
9 laying there bleeding. He's already shot, from what
10 it appears. Now, he's on top of my brother.

11 Q You said that as far as the shooting goes,
12 you didn't see any of it.

13 A I didn't physically see the shooting.

14 Q You don't really even know what you heard?

15 A I heard the gunshots.

16 Q You're saying that the last -- how many
17 gunshots did you hear?

18 A I didn't know exactly. I just knew I heard
19 a gunshot or two. I didn't know how many.

20 Q So the last time that you saw Nathan, he
21 was still standing there with his hands up?

22 A When he come up beside me, I said his
23 hand's up like this. He started to talk to the
24 defendant, whatever. When he pushed me back, I was
25 just concerned about calling for help.

1 Q You slipped into the kitchen and this guy
2 that's standing there holding a gun didn't do
3 anything to make you stop?

4 A He's saying get the fuck down. Maybe he's
5 in shock.

6 Q He just let you ignore it?

7 A I don't know that.

8 Q I mean, he didn't shoot you, did he?

9 A Not me.

10 Q Okay.

11 A Other people.

12 Q So this guy with a gun who is trying to
13 take charge of the whole thing let you walk in there,
14 and Nathan's standing there like this. I want to make
15 sure that we're clear about that.

16 A He come out when he was talking. He had his
17 hands up as in to not be offensive.

18 Q But nobody was fighting or carrying on when
19 you went into the kitchen?

20 A Not at that time.

21 Q You called 911?

22 A That's right.

23 Q You're in a separate room from all these
24 people. You've got 911 on the phone. Presumably, help
25 is on the way. That's when you choose to go back into

1 the living room?

2 A That's right.

3 Q That's when you say you jumped into the
4 fray?

5 A My baby brother -- he was on top of my baby
6 brother. Absolutely.

7 Q You said you didn't know anything about
8 where the gun was?

9 A At that point, I didn't know where it was
10 at because they were scuffling on the floor.

11 Q So anybody could have had that gun at any
12 point?

13 A He had that gun when he came in.

14 Q Cause if your story is to be believed, then
15 we believe that Nathan charged a man who was holding
16 a gun pointed at him.

17 A Okay.

18 Q And then shot him at some point.

19 A Do what? Nathan shot him?

20 Q Am I right? You said they were wrestling on
21 the floor.

22 A You're talking about a-whole-nother --

23 Q No, I'm not talking about Nathan shooting
24 anybody. I'm talking about you said that Nathan got
25 shot on the floor, right?

1 **A** He didn't get shot on floor.

2 **Q** So you say he was standing up when he got
3 shot?

4 **A** I assume. I didn't see it.

5 **Q** So you're making an assumption now?

6 **A** I told you I didn't physically see it. I
7 was pushed into the kitchen area when the gunshots
8 took place.

9 **Q** So your story now is that he shot -- he
10 shot Nathan who's standing there with his hands up,
11 you are assuming?

12 **A** I told you that I didn't see him shoot
13 Nathan.

14 **Q** Yeah, he didn't shoot Shane and he didn't
15 shoot you?

16 **MR. CULBREATH:** I'm going to object.

17 **THE COURT:** Sustained.

18 **BY MR. CHAMBERS:**

19 **Q** So you say you came out from the safety of
20 the kitchen where you had 911 on the phone and jumped
21 into the pile. What happened then? Did you keep
22 fighting? What happened?

23 **A** I was trying to help -- I was trying to get
24 him off my brother, just to help my brother until the
25 police got there. I don't know exactly movement for

1 movement. I was scared and fighting for my life.

2 Q Tell me how you were fighting for your
3 life.

4 A That's what I'm telling you. I don't know
5 exact -- you want me to give you exact movements. I
6 mean, I can not give you exact movements.

7 Q At some point, did you get up off the
8 floor?

9 A At some point, yeah, when he had run out of
10 the house.

11 Q So you were never in the bedroom with him
12 like you said yesterday?

13 A At some point, I got up -- you're talking
14 about this scene -- at some point, I got up and went
15 to the bedroom. I'm trying to give correct
16 information to 911. While I'm in there, at some
17 point, that's when he bust in the door. You can hear
18 it on the video. I mean, it's recorded. It's right
19 there. When he bust into the bedroom, he was looking
20 around like he was looking for something. When he
21 sees me, he punches me and stomps me in the face. At
22 some point, my brother comes in there. I hear my
23 brother say get off my sister and then they was in
24 another scuffle.

25 Q In the bedroom?

1 A In the bedroom.

2 Q Small bedroom, right?

3 A Yes.

4 Q Not much bigger than a bed in there, is it?

5 A What?

6 Q It's not too much bigger than the bed?

7 A Correct.

8 Q All right. I'm going to show you State's
9 Exhibit 14. Is that your bedroom?

10 A Yes, it is.

11 Q That's where you scuffled with this guy and
12 that's where ---

13 A I didn't scuffle with him here.

14 Q --- your brother scuffled with him?

15 A I didn't scuffle with him there.

16 Q Doesn't look like a scuffle there, does it?

17 A I didn't scuffle with him there.

18 Q Thought you said it was in the bedroom.

19 A I said I didn't scuffle with him. I said he
20 stomped me in the face. At the doorway where my
21 brother came in, that's where they scuffled. At some
22 point, it went back into the living room. The last
23 thing I remember is he was flipping furniture over
24 looking for the gun.

25 Q So this person that came in with a gun

1 kills Nathan, but doesn't shoot you, lets you go to
2 three separate rooms in the house while he's there?
3 That's what you're saying happened?

4 A No, that's not what I said happened.

5 Q And didn't shoot Shane even though he was
6 wrestling with him, right?

7 A (No audible response.)

8 Q Am I right?

9 A No, you're not right.

10 Q Okay. Then he went into the bedroom and you
11 said he didn't have a gun with him when he came into
12 the bedroom.

13 A All I know is after Nathan was shot, I
14 didn't see the gun in his hands. Apparently, he had
15 lost it. I can't speak for that. He was looking for
16 the gun. The rest of the time he was in that house,
17 he was looking for his gun.

18 Q So you're saying he's killed somebody. He's
19 left two people alive. He doesn't know if somebody
20 else in the house has his gun, yet, he stays there
21 flipping over furniture.

22 A I don't know what he thinks. I don't know
23 why he's doing what he's doing. You need to ask other
24 people those questions.

25 Q Did they exercise -- did they execute a

1 search warrant later at your house?

2 A They did.

3 Q Did they recover the pistol that was used
4 behind the dresser in your bedroom?

5 A Yes, they did.

6 Q So the bedroom that you said you went into
7 later to be followed by Marqual, the gun was found
8 behind that dresser?

9 A It was.

10 Q You're the only one who had been in that
11 room other than when Marqual came in, correct?

12 A No, I can't speak for other people when
13 this is going on. You're asking me to speak for other
14 people. I can't do that.

15 Q Is it possible that maybe you were the one
16 that ended up with the gun and you threw it behind
17 the dresser?

18 A No.

19 Q Truthfully, what happened is, you were
20 right, Marqual had come by earlier in the day and he
21 bought drugs from you, he bought heroin from you?

22 A No.

23 Q And you knew that he was coming back with
24 Kevin and you knew that he was unhappy about what you
25 had sold him. You knew that?

1 **A** No.

2 **Q** And the truth is, when he went in there and
3 confronted you and that's all this that we can hear
4 on the tape, that's when Nathan and your brother,
5 followed by you, jumped on him.

6 **MR. CULBREATH:** Objection, Your Honor. I
7 can't tell if that's a question. I don't believe
8 it is.

9 **THE COURT:** Overruled. I think that's
10 appropriate.

11 **BY MR. CHAMBERS:**

12 **Q** Isn't that correct?

13 **A** No.

14 **Q** In fact, the gun that he had in his
15 waistband for protection, one of you were able to get
16 it out, there was a struggle over the gun and that's
17 when Nathan got shot?

18 **A** No.

19 **Q** You took the gun and threw it behind your
20 dresser in order to get it out of there and get it
21 away?

22 **A** No. No. It's an entertaining story, but
23 not.

24 **Q** And you told this story about him having,
25 about Marqual having come by earlier in the day

1 because you knew people would have maybe seen him and
2 would know who he was.

3 A No, that's not correct. No, sir.

4 Q And you told the Solicitor yesterday that
5 you've been convicted of several crimes that involve
6 dishonesty; is that correct?

7 A What does that mean?

8 Q Well, you have --

9 A I've been convicted of crimes, yes.

10 Q You've got at least four, five shoplifting
11 convictions; is that correct?

12 A I was an addict. I have prior charges.

13 MR. CULBREATH: May we approach?

14 THE COURT: Yes.

15 (Bench conference is held off the record.)

16 THE COURT: All right. You may continue.

17 BY MR. CHAMBERS:

18 Q Drug business is a rough business, right?

19 A Yes.

20 Q People get killed in the drug business,
21 right?

22 A I know that now.

23 Q Sometimes you have happy -- unhappy
24 customers that don't think that what you sold them
25 was ---

1 A I don't know about that.

2 Q --- what it was supposed to be?

3 A I haven't experienced that. I don't know.

4 Q All right. That's all the questions I have
5 for you. Thank you.

6 **THE COURT:** Any redirect?

7 **MR. CULBREATH:** One moment, Your Honor.

8 (Pause.)

9 Just briefly.

10 **REDIRECT EXAMINATION**

11 **BY MR. CULBREATH:**

12 Q April, not to speak for somebody else, but
13 do you have an understanding of what happened to the
14 gun or how it got behind the dresser?

15 A Yes, I do.

16 Q Could you --

17 A I just didn't want to speak in hearsay. My
18 understanding was that my brother had seen the gun
19 and went and hid it, hid the gun.

20 Q And was it then found later by law
21 enforcement?

22 A Right, because my brother knew where it was
23 at. I don't know how or when or what, how that took
24 place for him to see it and find it and hide it, but
25 that's how the gun got behind the dresser.

1 **Q** And the shopliftings and the other crimes
2 that occurred --

3 **A** Is part of my addiction, everything I'm
4 ashamed of. It's part of my addiction. It's part of
5 my past.

6 **MR. CULBREATH:** That's all I have, Your
7 Honor.

8 **THE COURT:** Okay.

9 **RECROSS EXAMINATION**

10 **BY MR. CHAMBERS:**

11 **Q** So your brother hid the gun?

12 **A** That's what I was told.

13 **MR. CHAMBERS:** All right.

14 **THE COURT:** All right. You may step down.
15 Call your next witness.

16 **MR. CULBREATH:** Your Honor, the State would
17 call Shane Barron.

18 **THE CLERK:** Pause at the end of the bench.
19 Place your left hand on the Bible and raise your
20 right hand.

21 **SHANE BARRON**

22 having first been duly sworn, testifies as follows:

23 **THE CLERK:** Thank you. Please be seated.
24 Please state your name for the record.

25 **THE WITNESS:** Yes, ma'am. My name is Shane

1 Barron.

2 **DIRECT EXAMINATION**

3 **BY MR. CULBREATH:**

4 Q Shane, morning.

5 A Morning.

6 Q Could you tell the jury how old are you?

7 A I'm 27.

8 Q All right. Lean a little bit towards --

9 A I'm 27.

10 Q All right. How long have you lived in
11 Greenville?

12 A I've been here about three and a half years
13 now.

14 Q Okay. And where did you live before that?

15 A I lived in Tennessee in a smaller town.

16 Q Did you go to school in Tennessee?

17 A Yes, sir.

18 Q All right. And when you moved to
19 Greenville, you lived in the same spot the whole
20 time?

21 A Yes, I did.

22 Q Where is that?

23 A That's ■ 6th Street.

24 Q Have you ever lived with your sister?

25 A I had once before. Before I moved with her

1 this time, I lived in Spartanburg. But that didn't
2 last for a couple of months. I ended up going back
3 home to Tennessee.

4 Q I apologize. I got ahead of myself a little
5 bit. Who is your sister?

6 A April Green.

7 Q You have any other family in the area?

8 A Yes, sir. I have an aunt and uncle and
9 people like that.

10 Q Back in December, December 27th, 2015, were
11 you living with April at all or living where you --

12 A I was living on 6th Street.

13 Q All right. Tell us a little bit about how
14 you know some of the people who had been mentioned in
15 this case. Do you know a Gerald White?

16 A To be honest with you, the only people I
17 knew in the whole thing was Nathan Crouch and April
18 Green.

19 Q Okay. So you didn't know Gerald?

20 A No.

21 Q All right. How did you know Nathan?

22 A Nathan, he's been around about four years
23 now. He's done a lot of favors for me and my little
24 girl. Stuff like that.

25 Q And you knew him through...

1 A April.

2 Q All right. Did you know Kevin Hoffman?

3 A No.

4 Q Do you know the defendant?

5 A No, sir.

6 Q Do you recall the events of December 27th,
7 2015?

8 A Yes, sir.

9 Q Were you with your sister that day?

10 A Yes, sir.

11 Q Tell this jury how you got over to your
12 sister's and what you were doing.

13 A I was at home, and I get a phone call. She
14 said she was wanting me to come up there. She was
15 wanting to get something for my little girl for, I
16 guess it was Christmas or something. She was also
17 talking about this car she had. It was a Mustang GT
18 convertible, 5-speed. She knows I'm crazy over cars.
19 She was like, if you come up here and clean it up for
20 me and stuff, I'll get your little girl something for
21 Christmas and I'll pay you some money.

22 Q Okay. So you've got a little girl?

23 A Yes, sir.

24 Q How old is she?

25 A She's four.

1 Q All right. So back then, she was roughly
2 two?

3 A Yes, sir. So I came up there. I met her. I
4 walked in the house at that time. I didn't even know
5 Nathan was there. We talked in the living room. We
6 went out and got in the car. We left. She was like,
7 I'll let you drive it, just not right now. I want you
8 to clean it up and stuff like that. Thank you. So we
9 get there and we go in and get stuff for the car.

10 Q All right. Roughly, what time was this?

11 A To be honest, sir, I don't know.

12 Q Was it daylight?

13 A Yeah, it was daylight.

14 Q All right. So you go shopping?

15 A Uh-huh.

16 Q All right. Take us from there.

17 A So we get stuff for the car. She gets this
18 big, white teddy bear for my little girl. It's huge.
19 I posted it on Facebook about how good my sister was
20 to my little girl. We get back to the house. I sit
21 down -- and she had got me an iPhone also for
22 Christmas. I was trying to get on iTunes to get it
23 unlocked. While I was sitting there trying to figure
24 all that out, my sister's on the phone talking and
25 all this. At that time, I wasn't even paying

1 attention to what's going on around me. I'm looking
2 at my phone. I hear a knock. I told my sister, I was
3 like, there's somebody at your door. She still was on
4 the phone. She continues talking. It takes her a
5 minute. She finally gets to the door. There's another
6 knock.

7 She goes to open it and I see this guy come
8 through the door. That's all I see is a guy and my
9 sister at the door talking. Then the door is pushed
10 open and the man had a gun to the back of his head.

11 Q All right. So let me ask you about that.
12 The entry part, roughly, do you know what time it
13 was?

14 A No, sir.

15 Q You were sitting on the couch?

16 A Yes, sir.

17 Q Were you facing the television?

18 A No, sir. I was facing the wall. The
19 television was right here in the corner beside the
20 passage into the kitchen.

21 Q Okay. I'll have you come down and show us
22 in just a minute.

23 A Okay.

24 Q All right. So you hear a knock at the door.
25 Did you turn or could you already see the front door?

1 A To be honest with you, when I looked up
2 first, I seen the guy and the door and I just kind of
3 looked and I looked back down. That's when I heard
4 the door slam open and I looked over and I seen him
5 come through. At that time, I was going to get up.

6 Q Just one second. Just describe the guy you
7 saw.

8 A Hoodie. I can't even say short cause I'm
9 short. He was about my height.

10 Q Did you see anybody else?

11 A No, just two people.

12 Q Who was that?

13 A My guess is Marcus, whatever his name was,
14 Kevin.

15 Q Okay.

16 A I guess it was Kevin.

17 Q So you saw who we now think is Kevin?

18 A Yeah.

19 Q And the person with the hoodie. All right.
20 And your sister was standing there?

21 A Yes, sir.

22 Q All right. You said a hoodie. You remember
23 anything about what he's wearing?

24 A No, sir. It was at that point when the gun
25 and stuff come out. It was -- after that, everything

1 was frantic. It was scary and it just all went
2 together.

3 Q You remember the color of the hoodie?

4 A No, sir.

5 Q Okay. How about the gun? Do you remember
6 anything about the gun?

7 A No, sir.

8 Q You remember what was being said, if
9 anything?

10 A Something about he said -- he told me to
11 sit down. You know what this is. Where is it at? It
12 was a lot of things.

13 Q He told you to sit down?

14 A Yeah.

15 Q Did he have a gun?

16 A Yes, sir.

17 Q Pointed at you?

18 A Yes, sir.

19 Q Does he try to control your movement with
20 that gun?

21 A Yes, sir.

22 Q Threatening you?

23 A Yes, sir. He wasn't trying to control my
24 movements, he was controlling my movements.

25 Q Yes, sir.

1 **MR. CULBREATH:** Your Honor, may I approach?

2 **THE COURT:** Yes.

3 **MR. CULBREATH:** May the witness have leave
4 of the stand, Your Honor?

5 **THE COURT:** Yes.

6 **BY MR. CULBREATH:**

7 **Q** If you could, Shane, let me get you to do
8 this so we're not pointing at anybody, stand over
9 there and just use this laser pointer. Shane, what
10 I'd like for you to do is just take your time and
11 slowly walk us through the initial entry of this
12 individual that came into the house. Describe what
13 your movements were and what happened.

14 **A** Okay. So I'm sitting right here in this
15 spot right here. They come through this door right
16 here. As he did, the other guy had a gun to his head
17 trying to come in and runs this way into the laundry
18 room. I can see him no longer. So he comes in. My
19 sister and them and me right here. They are into --
20 she's backing up. I'm right here. I go to get up. He
21 tells me to sit back down and put my phone up so I
22 kicked them under the table. At that time, they're
23 backing up across here. They get right here. They
24 are, like, into a confrontation or whatever, talking.
25 Nathan comes out of his bedroom right here

1 and pushes my sister behind me and steps in front of
2 him. They get into it. My sister is in here.

3 Q Describe getting into it.

4 A Nathan, he had his hands open when he come
5 out. He was trying to calm the situation down and try
6 to talk to him. He had the gun up. When he did,
7 Nathan tried to grab the gun like that. He's a
8 trained military. That's what he's good for. That's
9 his thing, I guess. I kind of felt safer when he came
10 out. I was thinking Nathan's here, everything will be
11 okay. When he went to grab the gun, the gun went off.
12 When the gun went off, everything went blank from
13 there because I could not hear nothing.

14 Q Where were they at the time?

15 A They were right here when the gun went off.
16 When the gun went off, they started falling this way.
17 They ended up behind this couch.

18 Q Was Nathan pushing him or trying --

19 A It was hard to -- after that point, it was
20 kind of hard to know what was really going on.

21 Q Let me ask you this, how many shots did
22 you --

23 A To be honest with you, after the first
24 shot, it was kind of like shell shock. I couldn't
25 hear nothing else. It was -- all I heard was ringing

1 in my ear.

2 Q You're not sure what occurred after that
3 first shot?

4 A No, sir. After the ringing kind of settled,
5 all I heard was my sister screaming. When she was
6 screaming, she was screaming Nathan's been shot. I
7 jump over the couch right here and we get into a
8 fight. When we get into -- started fighting --

9 Q Let me stop you just a second. Back up just
10 a little bit. You hear the shots go off.

11 A Uh-huh.

12 Q Where is the individual?

13 A Nate or --

14 Q I'm sorry?

15 A Which individual?

16 Q The intruder.

17 A The intruder. They're right here.

18 Q And then the shot goes off?

19 A Yeah, the shot goes off. That's when he's
20 coming this way. So there's still fighting when the
21 shot goes off.

22 Q Do you see where they end up?

23 A Yes, sir. When they end up, they're right
24 here.

25 Q Are you standing there watching?

1 A No, sir. I'm sitting right here.

2 Q All right. At what point do you decide to
3 get up?

4 A The point when I got up is my sister made
5 her way.

6 Q She had come in?

7 A It's kind of hard to --

8 Q Take your time.

9 A No, when Nate and them come into the couch,
10 I jump over the couch. They are still -- I was going
11 to help Nate. And we started fighting, me and the
12 suspect or whatever. We started fighting right here.
13 He started getting the best of me. I'm afraid he
14 still has the gun. So I'm locked up with him. He's
15 backing me up across the room, which is right here.

16 Q Okay.

17 A He's backing me up and there's a table
18 right here. There's actually two tables. One right
19 here and one with a lamp. He knocks me over that. I'm
20 on my back. I'm trying to hold him. He's saying, let
21 me go, and I wouldn't let him go.

22 Q Where is Nate? What's happening with Nate?

23 A At that point, I ain't realize where Nate
24 was at or anything.

25 Q Okay.

1 A I didn't see him at that point. So we're
2 right here and I'm on my back. He's saying, let me
3 go. And I'm saying, I'm not letting you go. Then he
4 was like, just give me my gun. When I notice he
5 didn't have his gun, I knew that was my chance. So
6 I'm thinking when I jumped over the couch and I hit
7 him, it knocked the gun out of his hand.

8 Q Okay.

9 A So when I found out -- that's when my
10 sister, I guess, come back in there. It's so frantic.
11 There was so much happening. When you try to explain
12 this whole thing it's kind of hard to get, you know
13 what I'm saying, each thing right. I don't know how
14 it all happened.

15 Q Let me ask you a question. Did -- was there
16 any other shots fired after you approached him?

17 A No, sir.

18 Q Okay.

19 A No, sir. There were no other shots.

20 Q Okay. All right. So your sister comes out
21 and the two of you begin to try to restrain this
22 individual?

23 A No, when she -- when I was sitting there
24 and I was fighting him and stuff and I finally get
25 him off of me, I take off running and try to get to

1 the door to get out the door and try to get help. As
2 I'm trying to get the door open, I have somebody in
3 back of me punching me in the back of my head. I just
4 kept trying to get the door open. I finally get out
5 and run outside. There's this SUV sitting outside
6 across from the GT Mustang. And I hollered at them,
7 why did you bring him, why did you bring him here.

8 Q Slow down just a bit. So you come running
9 out of the house?

10 A Yes, sir.

11 Q You said somebody was hitting you in the
12 back of the head?

13 A Yes, sir.

14 Q Were you able to see who that was?

15 A No, sir.

16 Q That individual that you were scuffling
17 with, at any point, did you get control of him? Did
18 he have a shirt that came off or anything like that?

19 A I don't remember or recall that. I got just
20 enough control to get loose. That was when I was able
21 to get to the door.

22 Q Okay. All right. When you came back, you
23 said you saw an SUV parked there?

24 A Yes, sir. There was an SUV outside.

25 Q Who was -- did you see anybody sitting

1 there?

2 A There was two people sitting in it. I don't
3 know who they was.

4 Q All right.

5 A Right beside is a home right beside it
6 built onto it. I opened the door hoping somebody
7 could help.

8 Q This is B?

9 A I guess. So I go into their place hoping
10 there was somebody there. There's a laundry room to
11 the right. I ran in there hoping there was something
12 I could protect myself with. There was nothing there.
13 At that time, I turned around and I noticed he was
14 gone. So I figured maybe he ran. After everything
15 that's happened, he was just going to try to run
16 away. So I go back outside. I'm hollering at these
17 people in the SUV why did you bring him. They're
18 saying we don't know, we didn't know this was going
19 to happen and all this.

20 Q Why did you think they brought him?

21 A Because they were the only people sitting
22 outside. I mean, you're sitting there. Shots running
23 off. None of them got out of the vehicle to help us.
24 They are sitting there watching me struggle outside
25 trying to get away -- the door, trying to get away

1 from this individual and they are just sitting there
2 kind of watching me.

3 Q Does this individual come outside with you
4 when leave the first time?

5 A I feel like he did, yes, sir.

6 Q Okay. And then --

7 A I never turned around and looked, but I
8 mean, he was sitting there punching me in the back of
9 the head as I was going to try to open it. He noticed
10 I was running to somebody else's place. I don't think
11 he was wanting to run in the house.

12 Q And the individuals in the car, you didn't
13 know them? Did you recognize either one of them as
14 being an individual that came over there?

15 A No, sir.

16 Q At some point, did you go back into the
17 house?

18 A Yes, sir. As I was trying to holler at them
19 and ask them why they brought him there or he brought
20 him there, I heard my sister start screaming. When I
21 heard my sister start screaming again, that's when I
22 realized he was still in there. I ran back in. This
23 is the little confusion. Everything happened when I
24 come back in. It was so frantic. But I remember
25 seeing him over top of my sister.

1 **Q** Him who?

2 **A** I don't want to forget, sir. On top of my
3 sister. She's pregnant. He's beating her hard. Only
4 thing I could think of was to get him off my sister.
5 I ran up behind him and hit him as hard as I could.
6 That gave me just enough leeway to drag him and drag
7 him off my sister. As I was hitting him and trying to
8 keep him on the ground, my sister ended up latching
9 onto my leg.

10 **Q** Where were you when this was going on?

11 **A** I don't know, sir.

12 **Q** Okay.

13 **A** I really don't. She's on my leg. I'm trying
14 to -- it's kind of hard to explain. I remember her
15 being on my leg. I was trying to keep him down. I
16 started hearing sirens going. That's when he ran out
17 the door and got from under me. At that point, I
18 looked over. I don't know exactly what it was. It was
19 confusion. I don't know whether it was in the bedroom
20 or was in the living room. I'm still confused on
21 that. But the gun was laying right there in the
22 crease.

23 **Q** Okay. If you don't know, then --

24 **A** I really don't know. When I seen it, the
25 first thing I thought was to hide it. I went to grab

1 it. Then I didn't want my fingerprints on the handle
2 of the gun. So I grabbed the barrel of the gun. I
3 threw it behind the TV hoping that if he came back,
4 he wouldn't have a weapon. People was asking why
5 didn't you keep the gun in case he come back and you
6 could have used it. That wasn't on my mind. I didn't
7 want no more shot. I didn't want anybody else hurt.
8 So I just hid it. The cops came in, they asked me
9 what happened and stuff. We explained to them. They
10 asked for the gun. We told them to look behind the
11 TV.

12 Q Did you ever touch that gun before the
13 individual left the house?

14 A No, sir.

15 Q Okay.

16 A I feel that's why he was on top of my
17 sister and that's what he was looking for the whole
18 time and why he didn't leave as soon as he could. He
19 knew that firearm was still in the house with his
20 handprints on it.

21 Q And you told law enforcement where the
22 pistol was?

23 A Yes, sir.

24 Q Thank you.

25 A (Returns to witness stand.)

1 Q Do you feel like you'd recognize the
2 firearm if I showed it to you?

3 A Yes, sir.

4 Q I'm going to show you what's been marked as
5 State's Exhibit 37 for identification. Do you
6 recognize that?

7 A (Reviewing.)

8 Q If you don't --

9 A I mean, it was a black gun.

10 Q Okay. That's all right. Whatever that gun
11 was, you just picked it up and threw it behind the
12 dresser?

13 A Yes, sir. I didn't look at it. I didn't
14 examine the gun.

15 Q And after you -- let me ask, when he left
16 the house, the individual, was he wearing a shirt?

17 A I don't recall.

18 Q I understand this happened very quickly.

19 A Yeah.

20 Q Did you get any injuries as a result of
21 this?

22 A Yes, sir.

23 Q What kind?

24 A I don't remember everything that happened
25 as far as injuries. I know my eye was swollen. The

1 next couple of days, it kept getting worse. Two days
2 later, my eye wouldn't open up. It was -- that's
3 healable. The aftereffects that lasted months, I
4 could not sleep. He wasn't found that night. I was
5 worrying if he was going to try to come back and
6 finish the job. There's a lot of things after that.

7 Q Was this a fairly traumatic experience?

8 A Yes, sir.

9 Q If I can, I'd like to show you what's been
10 premarked as State's Exhibits 16 through 20. If you
11 would, look at each one and tell me if you recognize
12 them. When you refer to them, if you would, refer to
13 the number. Do you recognize any of those?

14 A Yes, sir.

15 Q All right. What do those show?

16 A It's the pictures we took when we was
17 getting her clothes and stuff after the fact.

18 Q All right. So after the fact, was this when
19 law enforcement was on the scene?

20 A No, sir. This is when we done get escorted
21 back to the main place.

22 Q You went to the LEC?

23 A Yes, sir. I'm sure they were still there at
24 the crime scene, but we was not there with them.

25 Q Okay. All right. Did you give them a

1 statement as well?

2 A Yes, sir.

3 Q Okay. They interviewed you. Do those
4 pictures fairly and accurately reflect the injuries
5 that you received on the night of December 27th,
6 2015?

7 A Yes, sir.

8 MR. CULBREATH: Okay. Your Honor, at this
9 time, I'd like to move these into evidence as
10 State's 16 through 20.

11 THE COURT: Any objection?

12 MR. CHAMBERS: No objection, Your Honor.

13 THE COURT: All right. In without
14 objection.

15 (State's Exhibits 16 through 20 are admitted
16 into the record.)

17 MR. CULBREATH: Thank you, Your Honor.
18 Publish to the jury?

19 THE COURT: Yes.

20 BY MR. CULBREATH:

21 Q Shane, I'll show you State's 16. That's you
22 at the LEC?

23 A Yes, sir.

24 Q What's on your pants there?

25 A That's blood.

1 Q This would be 17. What's that?

2 A That's a picture of me.

3 Q 18. That's your eye?

4 A Yes, sir.

5 Q The injury of your eye?

6 A Yes, sir.

7 Q All right. 19.

8 A Yes, sir.

9 Q It's kind of hard to see that. What is
10 that?

11 A My hands. There's cuts on my hands and on
12 my knees and stuff.

13 Q And 20?

14 A Yes, sir.

15 Q What is that of?

16 A That's actually on my arm and stuff.

17 Q Thank you.

18 Court's indulgence one moment. (Pause.)

19 Shane, just a question or two. They took
20 pictures and interviewed you. Did they get a DNA
21 sample from you?

22 A I don't recall that. I know they took my
23 clothes that had blood and stuff on it.

24 Q They take a Q-tip and stick it in your
25 mouth?

1 A I don't recall.

2 Q All right. Thank you. Answer any questions
3 defense may have.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. CHAMBERS:

7 Q All right. So on this evening when these
8 things transpired, you were at the house where your
9 sister was staying with Cincinnati at [REDACTED] Perry
10 Road; is that correct?

11 A Yes, sir.

12 Q And you'd been over there before?

13 A I been there a time or two to go see my
14 sister, yes.

15 Q You are familiar with it then?

16 A I wouldn't say familiar. I went over there
17 a time or two. I'd have to call my sister to get
18 directions because I've got lost.

19 Q Did you know that she was in the drug
20 business?

21 A Not really.

22 Q Did you ever wonder how she was paying for
23 all these things she was paying for for you?

24 A I figured the guy was paying for it for
25 her. I didn't know him, but he had nice stuff, so...

1 **Q** So you weren't involved in the drug
2 business?

3 **A** No, sir.

4 **Q** You just happened to be over there?

5 **A** Yes, sir.

6 **Q** And it was still daylight outside, kind of
7 dusky, dark, right?

8 **A** I can't recall. I know it was daylight, but
9 I don't know exactly what time it was.

10 **Q** You said that she was expecting somebody to
11 come?

12 **A** I didn't say she was expecting anybody. I
13 didn't know if anybody was coming.

14 **Q** Somebody did knock at the door?

15 **A** Yes, there was a knock at the door.

16 **Q** And she willingly opened the door for
17 whoever this was?

18 **A** Yes, sir.

19 **Q** Which would indicate to you that she knew
20 who it was?

21 **A** Yes.

22 **Q** Immediately after that is when you say that
23 Marqual Griffin came in?

24 **A** No, sir. This is when another gentleman
25 entered the door and came through with a gun to his

1 head.

2 Q Came through with a gun to whose head?

3 A The guy, I guess he's Kevin, I guess. I
4 don't know these people.

5 Q So you're saying that Marqual Griffin had a
6 gun to Kevin's head?

7 A Uh-huh.

8 Q And you saw that?

9 A Yes, sir. Well, first, I seen Kevin came
10 through the door and then Mark. He was behind him and
11 he was like, you know what this is.

12 Q And he's holding a -- if this is Kevin, is
13 he holding it like this?

14 A I don't recall, sir. I just know he had
15 the gun and he was behind Kevin and he had it up
16 saying you know what this is. At that time, you don't
17 sit there and just observe everything that's going
18 on.

19 Q I understand, but that's a pretty
20 significant detail.

21 A It was --

22 Q He was actually holding a gun --

23 A A whole deal of specific, ain't it?

24 Q But he -- so your -- but your testimony, I
25 want to make sure I'm right, was that he was holding

1 a gun at Kevin's head when he came through the door?

2 A Uh-huh.

3 Q You remember giving a statement to an
4 investigator prior to this?

5 A Yes, sir. I did.

6 Q You didn't mention about a gun being
7 pointed at Kevin's head in that interview, did you?

8 A I don't recall, sir. There's a lot of
9 things I don't recall.

10 Q So when he came in, where was your sister?

11 A My sister was right in front of me.

12 Q Right in front of you?

13 A Backing up. She would have been right in
14 front of Kevin and Marcus Griffin would have been
15 right behind Kevin.

16 Q So Kevin was still in the room? Kevin
17 didn't leave or go anywhere?

18 A Kevin disappeared after they walked in and
19 he went towards the laundry room.

20 Q He disappeared even though this guy had a
21 gun to his head?

22 A Yes, because it was setup -- it was a setup
23 deal.

24 Q Oh, okay.

25 A I feel.

1 Q Kevin was part of the setup?

2 A That's the way I feel. I mean, everybody's
3 entitled to their beliefs. But for a man to have a
4 gun at somebody's head and just let them go after
5 they entered the place, it's kind of obvious.

6 Q Did you ever see them together after this
7 day?

8 A Sir?

9 Q Did you ever see Kevin after this day?

10 A No, sir.

11 Q You ever go back over there to that house?

12 A No, sir.

13 Q Do you know if your sister continued to
14 live there?

15 A No, sir.

16 Q No, she didn't or no, sir, you don't know?

17 A No, sir. I'm not really positive what she
18 does after that.

19 Q Okay. Did -- so after -- did he ever have
20 any interaction with your sister as he came through
21 the door in the living room?

22 A Who?

23 Q Marqual Griffin?

24 A Yeah, she's back -- he's got the gun
25 telling me to sit down and telling her, you know what

1 this is, where's it at. She continues saying, no,
2 that was all of it. They are still backing up towards
3 the kitchen area. That's when Nathan Crouch comes out
4 the bedroom to interfere.

5 Q Are you seated on the couch the whole time?

6 A Yes, sir.

7 Q Let me ask you, you said you remember this
8 interview you did with Investigator Howard. Do you
9 remember telling Investigator Howard that the suspect
10 pistol-whipped his sister with a handgun?

11 A Yes, sir.

12 Q You said that was right there in the
13 doorway, right?

14 A No, sir.

15 Q So you're saying that -- he actually used
16 the pistol to hit her?

17 A That's what I want to believe when I was
18 talking to them. When he come in, he was at my
19 sister. You could hear it on tape when he was talking
20 to her. You could hear her scream out. I mean, yes,
21 sir. I do believe he hit her with the end of the
22 pistol.

23 Q You don't --

24 A I was sitting on the couch, but yes, that's
25 what I remember in my mind. When you got something

1 like that and you got shell shock, everything kind of
2 goes together. You don't remember every little
3 detail.

4 Q So this --

5 A You really don't want to remember it.

6 Q So where he pistol-whipped her, where
7 physically were they standing when that happened?

8 A Right there in the doorway. It goes into
9 the kitchen. Right there beside the TV.

10 Q Okay.

11 A I mean, I can show you if you want me to.

12 Q Okay. So he was in the living room, though?

13 A Yes, sir.

14 Q And I believe -- and you were continuing to
15 sit on the couch, correct?

16 A Yes, sir.

17 Q And that's when Nathan came into the room,
18 you said, right after that happened?

19 A Yes, sir.

20 Q So they would have been over by the kitchen
21 door when Nathan came out of the bedroom?

22 A It was in front of the kitchen door, yes.

23 Q Okay. And then you said that they started
24 to struggle, Nathan and Marqual?

25 A Yes, sir.

1 Q And you still stayed on the couch?

2 A Yes, sir.

3 Q And your sister was still in the room or
4 had she --

5 A No, sir. When Nathan stepped in, he stepped
6 in between my sister.

7 Q When you heard the -- when did you hear the
8 shot fired that you said?

9 A When Nathan Crouch stepped in between them
10 and kind of pushed my sister to the back, my sister
11 disappeared into the kitchen. Nathan Crouch went to
12 try to apprehend the gun, to try to grab it and push
13 it out of the way of him and that's when the gun went
14 off. That's when the struggle started. That's when
15 they fell behind the couch. That's when everything
16 started happening real fast.

17 Q So you saw Nathan Crouch, basically, go at
18 a guy that was holding a gun on him?

19 A He went for the gun, yes.

20 Q And there was one shot and you don't
21 remember whether you heard any more or not?

22 A After that first shot, I couldn't hear
23 anything. My ears was ringing. As a matter of fact, I
24 had ear damage after that to my right ear.

25 Q When did you finally jump off the couch?

1 A I finally jumped off the couch when they
2 fell behind the couch and I didn't see nobody getting
3 up.

4 Q Who was behind the couch fighting?

5 A It was the suspect and Nathan Crouch.

6 Q Also your sister, correct?

7 A No, sir.

8 Q Do you remember telling Investigator Howard
9 that you heard at least two shots?

10 A No, sir. I don't remember what I told him
11 that night.

12 Q You remember telling Investigator Howard
13 that you heard your sister saying that the suspect
14 had shot Nate?

15 A No, sir. I told you, I don't remember
16 nothing what I told him that night. Nothing. I'm
17 pretty sure it's close to what I'm telling you right
18 now, though.

19 Q When you jumped off the couch, did you get
20 the -- did you get the suspect, Marqual Griffin, in a
21 headlock?

22 A I had my arms around him trying to keep the
23 gun. At the time, I thought he still had the gun. I
24 was fearing for my life and trying to keep him as
25 close to me as I could and his hands away from my

1 body. That's when he was getting the upper hand of
2 me. I was limited on what I could do. So I let him
3 push me around until I found out he didn't have the
4 gun no longer.

5 Q So you knew at that point he didn't have
6 the gun?

7 A I didn't know that until I went over back
8 to the table and he was telling me to let him go and
9 I wouldn't. He just told me he wanted the gun. That's
10 when my sister starting trying to help me. When I
11 found out he didn't have the gun is when I finally
12 got him off me and I started running for the door to
13 run outside to get help.

14 Q You told Investigator Howard that the only
15 reason you got involved was because your sister was
16 trying to help Nate. She was on the floor with Nate
17 already. You remember telling him that?

18 A That's a whole different -- that's a whole
19 different thing. That's when I come back in from
20 outside and she was screaming that he was on top of
21 her. I want to believe when I came back in that they
22 was in the living room next to the moped and he was
23 on top of my sister hitting here there. That's where
24 I found the gun. That's why he was hitting her and
25 trying to get her up because she was sitting on the

1 gun.

2 Q So you left the house knowing, at that
3 point, at least, that he did not possess a gun?

4 A Oh, yes, sir.

5 Q And he followed you out, didn't he?

6 A I'd like to believe he did to an extent.

7 Q You believed it enough when you talked to
8 Investigator Howard that you told him you followed
9 him out, didn't you?

10 A Do what? Can you repeat that, sir?

11 Q Didn't you tell Investigator Howard that he
12 followed you out of the house?

13 A I don't recall what I said that night.

14 Q And so you left the house unarmed knowing
15 that your sister was -- that you had gotten involved
16 to help, knowing that she was still in there?

17 A At that point, I figured the only thing I
18 could do is by getting some help by somebody else
19 because we already had one person that wasn't getting
20 up. At that point, you don't really think; you just
21 do.

22 Q So you're saying that this person, Marqual,
23 who had wrestled with at least three different
24 people, everybody sustaining injuries, he's unarmed,
25 he knows you left the house, you're saying that he

1 didn't run off, that he went back unarmed into that
2 house and started looking for this gun?

3 A I mean, why would you run off when your
4 handprints is already on the firearm? If you done
5 started something, why not finish it?

6 Q And you were worried about handprints on
7 the gun, weren't you?

8 A At that point, yes.

9 Q When you hid the gun behind the dresser,
10 you took pains to make sure you didn't put your
11 fingerprints on it?

12 A Yes, sir. I did.

13 Q And --

14 A I was scared, not ignorant.

15 Q Y'all didn't tell the investigators about
16 the gun that night. They got a search warrant and
17 went back to the house and found it, didn't they?

18 A Yes, sir. They asked me where it was. I
19 told them. I told them as soon as they got there
20 where it was at.

21 Q And they didn't -- they didn't pick it up,
22 the murder weapon? They left that evening and left
23 that gun back there behind the dresser and you knew
24 exactly where it was?

25 A I don't know, sir. You'd have to ask them.

1 They are the investigators, not me.

2 Q So a key piece of evidence, you're saying,
3 you told them that night where it was and they just
4 left it there?

5 A You'd have to ask them. I don't know. I
6 never said they left the weapon there.

7 Q All right. Thank you very much.

8 THE COURT: Any redirect?

9 MR. CULBREATH: Very briefly.

10 REDIRECT EXAMINATION

11 BY MR. CULBREATH:

12 Q Do you know when law enforcement went back
13 and got the gun?

14 A Yes, sir. They came back to me when we were
15 changing our clothes out and stuff. They asked me
16 again where it was. I said it was behind the TV. He
17 said which TV, and I said the one in the bedroom.

18 Q The same night?

19 A Yes.

20 Q That's all I have.

21 A The same night.

22 THE COURT: All right. Thank you. You may
23 step down.

24 MR. CULBREATH: The State would call Kevin
25 Hoffman.

1 **THE COURT:** All right.

2 **THE CLERK:** Mr. Hoffman, please pause at
3 the end of the bench. Place your left hand on
4 the Bible and raise your right hand.

5 **KEVIN HOFFMAN**

6 having first been duly sworn, testifies as follows:

7 **THE CLERK:** Thank you. Please be seated.
8 Would you please state your name for the record?

9 **THE WITNESS:** Kevin Hoffman. I'm 25 years
10 old.

11 **DIRECT EXAMINATION**

12 **BY MR. CULBREATH:**

13 **Q** Kevin, good morning.

14 **A** Morning.

15 **Q** Make sure you lean forward and speak up ---

16 **A** Gotcha.

17 **Q** --- so everybody can hear you. Tell us
18 where you're from.

19 **A** I'm from -- born and raised in Greenville,
20 South Carolina. I been here all my life.

21 **Q** Where'd you go to school?

22 **A** Berea.

23 **Q** All right. Do you live in the area of
24 Cherrydale?

25 **A** No, sir. Not far. About three miles from

1 Cherrydale.

2 Q All right. Did you have a drug problem?

3 A Yes, sir.

4 Q Tell us about that.

5 A I was in a car wreck and started taking
6 pain pills. They cut me off. I started buying them in
7 the streets. Pills were too expensive. Heroin ruined
8 my life. It took everything from me.

9 Q When did you have that wreck?

10 A It was April 2010, I think. 2010.

11 Q Do you remember what they prescribed you?

12 A Lortabs, pain pills.

13 Q You said they cut you off. What do you
14 mean?

15 A They didn't give them to me anymore.

16 Q The doctors?

17 A Yes, sir.

18 Q And what drugs did you seek out on the
19 street?

20 A At first, it was what I had. Those wasn't
21 working, so I just moved on to something stronger. It
22 wasn't doing it for me anymore. I just got addicted.
23 It's a bad, bad situation altogether.

24 Q Did you have a job at the time?

25 A Yeah, I had a job. Same job I have now. I'm

1 a roofer. That's what I did ever since I was in high
2 school.

3 Q Okay. Do you have family here?

4 A Yeah, I have -- they are here now, my dad
5 and my child's mother's here.

6 Q Let me ask you about a few people to see if
7 you know them. April Green?

8 A Yes, sir.

9 Q How did you know April?

10 A From Cincinnati, the guy you were talking
11 about.

12 Q Cincinnati, you know as -- do you know his
13 name?

14 A I don't -- Gerald, I guess. I didn't really
15 know his name, just his -- just what we called him.

16 Q All right. How did you get to know
17 Cincinnati?

18 A Actually, me and the guy, Clint, they were
19 talking about, we pulled up at -- he used to live
20 right behind them in a trailer park. We pulled up at
21 a stop sign one day. We were looking for pills. We
22 couldn't find any. We pulled up at a stop sign and
23 this guy was standing there. Clint asked him if he
24 knew where to get anything. He said yeah. So we got
25 it that day. This was probably a year before that

1 happened. When I found out it was there, you know,
2 that's where I was going every day taking him my
3 money.

4 Q And there would be where?

5 A To [REDACTED], I believe, Perry.

6 Q The address we've been talking about?

7 A Yes, sir.

8 Q Okay. And that's on Perry Road?

9 A Yes, sir.

10 Q And through your association with him, you
11 met April?

12 A Yes, sir.

13 Q How about Nathan Crouch?

14 A Yeah, I had met him before a few times,
15 actually. Three days before that, I gave him a ride
16 to Ingles, I think.

17 Q How did you know him? Was that through
18 April, too?

19 A Yeah, through April. I didn't really know
20 him. He was there -- he was there all the time.

21 Q Okay. How about Shane Barron?

22 A I think I had seen him one time before, but
23 I didn't know him.

24 Q How often would you go over to this [REDACTED]?

25 A Every day.

1 Q Is that how you feed your habit?

2 A Yes, sir.

3 Q What would you buy when you were there?

4 A Whatever -- I mean, whatever I had. Mostly
5 20 -- \$20 worth and \$40 worth. Whatever I had. I
6 mean, I was addicted. I was spending everything I
7 had. I was taking from my family. Everything.

8 Q Tell the jury what would a 20 buy you and
9 how much would use that? Just one person?

10 A Well, I mean, there's -- I don't know how
11 to explain it. It's just a little bit. You can do
12 whatever you wanted to with it. You could split it up
13 five ways. It's powder. It was powder, so, you
14 know --

15 Q In December --

16 A I mean I could do it -- if you're asking if
17 \$20 would -- you know, that would satisfy me for a
18 few hours.

19 Q Is that what you were using on December
20 27th?

21 A Yes, sir.

22 Q You recall the events of that day?

23 A I do.

24 Q Okay. You recall -- how many times did you
25 go over to [REDACTED] that day?

1 A I went twice that day.

2 Q Can you tell this jury kind of what lead to
3 your first visit and what you were doing and then the
4 second?

5 A The first time I went over there, I got up
6 that morning trying to find \$20 trying to get there,
7 you know, to feed my habit. Somehow, I came across
8 some money. I don't know what I did that day to get
9 it. There's no telling. But, anyway, I got the money.
10 I called April. I asked her could I come get it. She
11 said yeah. I went over and knocked on the door and
12 got my bag and left.

13 Q You remember what time of day it was?

14 A I'm not sure the time of day. It was
15 daylight.

16 Q The procedure that you went through when
17 you bought from her, what was it? Was it kind of
18 routine?

19 A It was routine. It was quick. Walk up to
20 the door and knock on it. She opens the door and
21 hands me the drugs. I give her the money.

22 Q Okay. You let her know in advance that you
23 were coming over?

24 A Yeah, and how much I wanted.

25 Q Was it kind of different times of the day

1 sometimes?

2 A Yeah, I mean, whenever I could get money.

3 Q Okay. All right. So you bought your bag and
4 left. Where did you go?

5 A I went and did it. I used it and then I
6 went -- I'm not sure when this happened. I don't know
7 if it was after I did it or before I did it, but
8 sometime at that point, I went to go pick up my --
9 another car, my baby's mother's car. I went and
10 picked that up. I told her I was going to wash it for
11 her because it was dirty. She let me use it to wash
12 it. I get in the car, I drive around. My buddy calls
13 me and asks me -- he said he had some money or said
14 he could get some money and he wanted to go get some.

15 Q Who?

16 A Clint.

17 Q You know his full name?

18 A Clinton Nalley.

19 Q Yes, sir. How long had you known Clinton?

20 A I'd known him for a good while, him and --
21 Chandy is my daughter's mother -- are good friends.
22 So we started hanging out through them. He had a
23 problem and I had a problem. That was our problem. We
24 -- that's what we did together.

25 Q You said he called you?

1 A Yes, sir. He called me and said he could
2 get some. So I went and picked him up.

3 Q What did you do then?

4 A We got in the car. We drove probably a
5 block from his house. We went to a dollar store. We
6 parked there. He got out and talked to somebody. It
7 was a SUV. He got out and talked to somebody.

8 Q Did you see who it was?

9 A I did not. I wasn't paying attention. I had
10 just done, you know, my drug. I was about to go get
11 some more. I wasn't paying attention.

12 Q Were you driving?

13 A Yes, sir.

14 Q He was the passenger?

15 A Yes, sir.

16 Q You remember the type of car it was?

17 A SUV. That's all I know. I'm not sure of the
18 car.

19 Q Did you have any conversation with anybody
20 in that car?

21 A No, sir.

22 Q You remember about how long that time
23 period for that conversation?

24 A It wasn't long. I think -- I believe he got
25 out of the car and got back in.

1 Q Okay.

2 A It was just long enough to grab some money.

3 Q What happened next?

4 A We pulled out of the Dollar General. We
5 take a -- probably go down two streets and take a
6 right. That's Perry Avenue.

7 Q So is this Family Dollar?

8 A Yes, sir. Yes, sir.

9 Q You remember when the SUV left or did it
10 stay there or do you remember?

11 A I didn't really pay attention. I'm not
12 sure. I just backed out. That was my -- that was the
13 thing on my mind. I had \$20 and was going back to do
14 it again.

15 Q Okay. Were you aware that anybody was
16 following you or was supposed to meet you there?

17 A No, sir.

18 Q Okay. All right. So you're driving over to
19 Perry Avenue?

20 A Yes, sir. I called -- I -- when I was
21 pulling out, I called April. It wasn't just a second
22 that I was there. I think I told her that. I don't
23 know if I texted her or I called her, but she knew I
24 was coming. I went and walked up to the door and
25 knocked on the door.

1 Q Did you see anybody around?

2 A Nobody.

3 Q Did Clinton mention anything about anybody
4 being around?

5 A No, sir.

6 Q Where was the car parked in relation to the
7 front door?

8 A To the left of the front door. April's car
9 was probably right in front of the door. My car was
10 right beside her.

11 Q Okay.

12 A I got out of the car, knocked on the door.
13 She said, who is it. I said, Kevin. She opened the
14 door. I handed her the money. She handed me the bag.
15 As soon as she handed me the bag, all I heard was
16 somebody come up behind me and say, you know, get
17 down. That's what he said, get down.

18 Q Did you feel anybody behind you or did
19 they --

20 A I don't know if he put his hands on me. I
21 don't know if he had the gun to the back of my head.
22 It all happened so fast. It was just a blur. But I
23 knew when he said get down, y'all get down, get the F
24 down, I mean, you heard the tape, right then, I knew
25 it was serious. What I did, I got down like he told

1 me. When you go in the door, to the left, there's a
2 laundry room right there.

3 Q All right. Let me stop you and show you
4 something.

5 MR. CULBREATH: Your Honor, may I approach?

6 THE COURT: Yes, sir.

7 BY MR. CULBREATH:

8 Q I'm going to show you what's been marked
9 and entered as State's Exhibit Number 12. Do you
10 recognize that?

11 A Yes, sir.

12 Q You mentioned the laundry room?

13 A Yes, sir. This is the laundry room here.
14 (Indicating.)

15 Q Okay. Describe for us, you come in -- and
16 again, I don't mean to back up too much, but was it
17 dark out when you got there?

18 A I would say it was dusk maybe. Right at
19 dark.

20 Q Okay.

21 A I'm not really sure.

22 Q That's okay. That's all right. So as you
23 come through the door and you hear that person behind
24 you, what do you do?

25 A The first thing he said was get down, y'all

1 know what this is. So that's what I did. I got down.
2 I wasn't -- was scared. The first thing I did -- my
3 first thought was get away, get down.

4 Q All right. What made you concerned? Was it
5 the tone of voice? Was it what he said?

6 A The tone of voice, her face, everything
7 just happened so fast. I just -- I don't know. I knew
8 it was a robbery. I knew it was. I could tell by the
9 way he was talking, the way she looked. He was saying
10 get down. I mean, what else would he be there for?

11 Q Well, did you see him?

12 A I did not see him.

13 Q Anything about him? What was he wearing?

14 A I did not. I did not see him at all. I've
15 never seen him.

16 Q All right. So when you get down, you went
17 to the laundry room?

18 A Yes, sir. That was the first door I seen.

19 Q Take us from there.

20 A All right. I crawled straight to the
21 laundry room. I shut myself in the door. I hear him
22 yelling. I'm not sure what they're saying. I know
23 they're yelling. Then, I hear a scuffle. At this
24 point, you know, I'm trying to figure out how I'm
25 going to get out of there. So I don't know if I had

1 my feet against the door, I don't really know. But I
2 was in the laundry room. I was panicking and I heard
3 gunshot -- I heard a gunshot. So when I heard the
4 gunshot, I got over -- there's a washing machine
5 here, I think, and a dryer here. I was behind -- when
6 I heard the gunshot, I got behind the dryer.

7 Q Why did you do that?

8 A Because I was scared. I didn't want to get
9 hit by a bullet. I knew they were flying. They were
10 flying close.

11 Q All right.

12 A I heard that. Everything kind of got quiet
13 for a second. I kind of peeked out the door. When I
14 peeked out the door, I saw Nathan laying there. As
15 soon as I opened the door, I took off running. I
16 jumped over Nathan and ran out the front door. When I
17 came out the front door, I don't know if her brother
18 Shane was -- I don't know where he was at the time. I
19 guess he had already gone next door like he said, but
20 when I came outside, he was coming back inside. He
21 asked me, he said, why did you bring him there, why
22 did you bring him there? I said I didn't. You know,
23 and that was it. He just kind of -- he ran back in
24 the house, I guess. I don't know. When he did that, I
25 jumped in the car and I took off.

1 Q Did you have a conversation with Clinton?

2 A Yeah, when I got back in there, he was
3 white. He heard the gunshots, obviously. He was
4 scared. He was. But he didn't really say anything.

5 Q Did you say anything?

6 A Somebody got shot.

7 Q Where did you go when you got out of there?

8 A I left there and I had been gone for a
9 couple of hours from using her car. I was going to
10 clean it. I didn't want her to know any of this had
11 happened. I drove straight to the car wash and tried
12 to spray it off. I was panicking. I didn't know what
13 to do.

14 Q When you came out of that house, did you
15 hear or see anybody in that main room other than
16 Nathan laying there?

17 A I didn't, but I wasn't paying attention. I
18 wasn't -- I wasn't looking for anybody. I was trying
19 to get out of there.

20 Q I understand. All right. So you sprayed the
21 car off?

22 A I sprayed the car off. I took -- I guess I
23 took Clint home or maybe she may have. She might have
24 took him home. I really don't know how he got home.
25 But I went back home and I was just in shock. I

1 didn't know what to do. A little later, the police
2 department called me. I went down there.

3 Q A little later in that same evening?

4 A Yes, sir. I believe so.

5 Q Did you talk with them and give an
6 interview?

7 A Yes, sir.

8 Q All right. What do you have to say to
9 people that say you got something to do with this?

10 A I don't know. I mean, I talked to April a
11 little bit. I know they said I had something to do
12 with it. I didn't. I didn't. I knew Nathan. I would
13 never want anybody to get hurt. I didn't try to set
14 anybody up. It wasn't that I was trying to get the --
15 it was a bad situation.

16 Q Court's indulgence. (Pause.)

17 Kevin, please answer any questions counsel
18 has for you.

19 A Yes, sir.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. CHAMBERS:

23 Q So you said that when you went to the door,
24 there was no one with you?

25 A No, sir.

1 Q You -- when you pulled up, you didn't see
2 anybody anywhere, did you?

3 A No, sir.

4 Q In fact, you told Investigator Howard,
5 didn't you, that you saw no suspicious people, in
6 fact, saw no people out front or around there
7 anywhere?

8 A Yes, sir.

9 Q And it's a pretty wide open area. There's
10 no trees or bushes or anything like that, right?

11 A No, sir.

12 Q And it wasn't dark at that point?

13 A I don't believe so. I'm not sure if it was
14 dark or not.

15 Q But -- and did she open the door before you
16 realized somebody was behind you?

17 A Yeah. She was opening the door.

18 Q Okay. Any idea where this person you say
19 just appeared behind you, where he came from?

20 A I'm assuming the side of the house.

21 Q Okay. So your thinking is that somebody was
22 just sort of standing out there hoping that somebody
23 like you was going to come along and get entry into
24 the house?

25 A Yes, sir.

1 Q Okay. So when you went in, did you ever see
2 Marqual Griffin?

3 A No, sir.

4 Q Never saw him?

5 A No, sir. I don't know who he is. I've never
6 met him.

7 Q You didn't -- there's somebody with a gun,
8 waiving it around and you had your back to him?

9 A Yes, sir.

10 Q You got down on the floor?

11 A Yes, sir.

12 Q And crawled into the laundry room and
13 closed the door; is that right?

14 A Yes, sir.

15 Q And you never saw anything?

16 A I never saw anything.

17 Q Did you hear a scuffle?

18 A I did.

19 Q Did you hear voices?

20 A I did.

21 Q More than one voice?

22 A Uh-huh.

23 Q And it sounded like a fight, a struggle
24 going on in the other room; is that right?

25 A Yes, sir.

1 Q You -- did you hear gunshots?

2 A Yes, sir.

3 Q How many did you hear?

4 A One that I can recall. It all happened so
5 fast. I don't know how many there were. Obviously, he
6 got shot more than once.

7 Q You only heard one shot though?

8 A Yes, sir. That I can recall.

9 Q You have no idea who shot or did anything?

10 A No, sir.

11 Q You indicated that Marqual Griffin had a
12 gun, but then you said you never saw him?

13 A No, I didn't. No, I didn't. I didn't see
14 the gun at all. I heard the gun go off. I knew
15 somebody was coming in and they meant business,
16 period.

17 Q And then at some point, when you looked out
18 and the only person you saw was Nathan lying on the
19 ground, that's when you bolted for the front door?

20 A Yes, sir.

21 Q You were outside of your car when Shane
22 asked you why you brought him here?

23 A Yes, sir.

24 Q You weren't in the car?

25 A No, sir.

1 **Q** Did he -- did Shane know you?

2 **A** No.

3 **Q** But he saw you, I mean, because you were
4 standing there, right?

5 **A** Yeah. I had -- like I said, I had seen him
6 before, but I didn't know him. I didn't personally
7 know him like I knew April. I didn't see him every
8 day.

9 **Q** You and Clinton Nalley had gotten to be
10 pretty good friends, right?

11 **A** Yes, sir.

12 **Q** Been hanging out a lot?

13 **A** Yeah. We been using together, I mean, since
14 -- since that year, you know, when we -- when we met
15 Cincinnati. That's where we got -- I couldn't get it
16 anywhere else. That was the only place.

17 **Q** So for a year, y'all have been hanging out
18 all day every day?

19 **A** Not all day every day. When we could get
20 away from the people that didn't want us doing it and
21 had a chance, a break to go get it, that's when we
22 did it.

23 **Q** You went over there to buy heroin?

24 **A** Yes, sir.

25 **Q** You remember telling Investigator Howard

1 that you went over there to buy pills?

2 A Not really. I mean, I was on heroin that
3 night.

4 Q You remember telling Investigator Howard
5 that, in fact, you went over there to buy Roxies?

6 A I may have said that because I bought them
7 from Cincinnati before. But the only thing I had
8 gotten from April was heroin.

9 Q Why do you think you would say --

10 A Just to try -- just to try to make it look
11 better because a prescription drug sounds better than
12 a street drug. I guess that was my -- that was my
13 thing, I guess. I was scared. I just -- I was just
14 there for that.

15 Q Where did your friend, Clinton Nalley,
16 live?

17 A Probably three blocks from Perry Avenue.

18 Q Were you aware that he knew Marqual
19 Griffin?

20 A No, sir.

21 Q You weren't aware that they knew each other
22 and had had some sort of relationship with each
23 other?

24 A Not at all.

25 Q You did not know that?

1 **A** Not at all. I have never heard of him.
2 Never seen him. Never seen him on Facebook. Nothing.

3 **Q** And your testimony is that Marqual did not
4 ride over there to [REDACTED] Perry in your car?

5 **A** He didn't. He's never --

6 **Q** If anybody said that he did, they would be
7 lying?

8 **A** Yes, sir.

9 **MR. CULBREATH:** Objection. Argumentative.

10 **THE COURT:** Overruled. I think it's
11 appropriate.

12 **THE WITNESS:** They would be lying, yes,
13 sir.

14 **BY MR. CHAMBERS:**

15 **Q** And you've had some prior run-ins with the
16 law; is that correct?

17 **A** Yes, sir.

18 **Q** Two shoplifting convictions?

19 **A** Yes, sir.

20 **Q** Burglary second conviction?

21 **A** Yes, sir.

22 **Q** That's all the questions I have for you.
23 Thank you.

24 **THE COURT:** Any redirect?

25 **MR. CULBREATH:** Just briefly.

REDIRECT EXAMINATION

BY MR. CULBREATH:

Q Kevin, do you still have a drug problem?

A No, sir.

Q How did you beat it?

A A lot of counseling. I did -- I was -- last year, I was away from my family for six months. I went to rehab. I did -- I mean, I been through it. It's been tough, but I beat it.

Q What prompted?

A Sir?

Q What prompted you to get help?

A The whole situation. Even after that, I got -- after that happened, I went back the next day to April. I don't know if it was the next day or the day after that. And when I left her house, I guess they had been watching and the detectives got me and took me to jail. They kind of cracked down on me. They told me about, you know -- they scared me real good.

And I got back home and my family, you know, they brought it to my attention that, hey, somebody just got shot and you're going back to the same -- the same people, you know. I mean, I just had to realize that it was either going to take me out or put me in prison. I had to get out of the situation.

1 **Q** Thank you. That's all I have.

2 **RECROSS EXAMINATION**

3 **BY MR. CHAMBERS:**

4 **Q** Did you get charged with anything related
5 to this incident on December 27th?

6 **A** No, sir. They gave me -- they gave me --
7 no. No, not on that day.

8 **Q** All right. Thank you.

9 **THE COURT:** All right. Thank you. You may
10 step down. We've been going about an hour and a
11 half, so it may be a good chance for us to have
12 a break, about a 10-minute break.

13 You can step down.

14 At this time, would you please just go back
15 to your jury room. Don't discuss the case among
16 yourselves. We'll bring you back out in just a
17 few minutes.

18 (Jury exits at approximately 11:06 a.m.)

19 **THE COURT:** All right. We'll be at -- take
20 a break, about a 10-minute break.

21 (The Court goes off the record at approximately
22 11:06 a.m.)

23 (The Court goes on the record at approximately
24 11:22 a.m.)

25 **THE COURT:** Are we ready for the jury?

1 **MR. CULBREATH:** I am, Your Honor.

2 **THE COURT:** You ready for the jury?

3 **MR. CHAMBERS:** Yes, sir.

4 **THE COURT:** All right. Bring them in.

5 (Jury enters at approximately 11:25 a.m.)

6 **THE COURT:** All right. Solicitor, call
7 your next witness.

8 **MR. CULBREATH:** Thank you, Your Honor. The
9 State will call Sergeant Chris Hammett.

10 **THE CLERK:** Sir, if you will, please place
11 your left hand on the Bible and raise your right
12 hand.

13 **CHRIS HAMMETT**

14 having first been duly sworn, testifies as follows:

15 **THE CLERK:** Thank you. Please be seated.
16 If you will, state your name for the record.

17 **THE WITNESS:** Henry Christopher Hammett.

18 **THE CLERK:** Thank you, sir.

19 **THE WITNESS:** Thank you.

20 **DIRECT EXAMINATION**

21 **BY MR. CULBREATH:**

22 **Q** Sergeant Hammett, good morning.

23 **A** Morning, sir.

24 **Q** Could you tell the jury about your current
25 employment.

1 A I work for the Greenville County Sheriff's
2 Office.

3 Q All right. In what capacity?

4 A At this point, I'm a sergeant in the Office
5 of Professional Responsibility, which is commonly
6 known as Internal Affairs.

7 Q All right. And how long have you been in
8 law enforcement?

9 A Approximately 20 years.

10 Q All right. I'm going to take you back to
11 December 27th, 2015. Are we still with the sheriff's
12 office then?

13 A Yes, sir.

14 Q All right. In what capacity?

15 A At that point, I was a master deputy in the
16 Violent Crimes Unit, assigned to homicide.

17 Q All right. And tell this jury what does
18 that mean, you're assigned to homicide. What are your
19 responsibilities?

20 A Basically, as a homicide investigator, you
21 are assigned to an on-call rotation where you're on
22 call -- basically, at that point, it was once every
23 six weeks -- 24 hours a day, so that any kind of
24 violent crime that was reported after-hours, someone
25 was there to respond to. We have to respond to those

1 scenes to make sure they are processed properly. We
2 pretty much were assigned cases for follow-up that
3 were of a violent nature: attempted murders, murders,
4 kidnapping, those kinds of cases. Those were assigned
5 to us on a daily basis to follow up on.

6 Q Okay. And if you were on call, would you
7 get actually summoned out to the crime scene?

8 A Yes. Yes.

9 Q You recall being on call on December 27th,
10 2015?

11 A Yes, sir. I was.

12 Q All right. Tell the jury how you first got
13 involved in that.

14 A I received a phone call from the shift
15 supervisor, which I believe was Sergeant Robinson at
16 that point. What typically happens is in a case where
17 we're notified, uniform patrol deputies are obviously
18 the first responders to the scene. Then the sergeant
19 on any violent crime will respond and then notify us.
20 Once we're notified, we respond to the scene.

21 Q Okay. And did you respond to a scene on
22 that night?

23 A Yes, sir. I did.

24 Q All right. Tell us about that.

25 A I was advised by the sergeant that there

1 had been a home invasion-type incident that was at
2 [REDACTED] Perry Road in Greenville County where a
3 gentleman had forced his way into the residence. One
4 victim had been shot and was deceased at the scene.
5 Two other witnesses that were present for -- when the
6 incident occurred were still on the scene also.

7 Q Okay. And can you describe the scene as you
8 observed it when you got there?

9 A Yes, sir. When I arrived, obviously, it's
10 usually -- it's been secured by the time we get
11 there. It was secured with crime scene tape, the
12 yellow tape you see in front of these locations, and
13 deputies were there on post where no one could enter
14 the location.

15 Q At some point, did forensics come in and
16 process the scene?

17 A Yes, sir. Typically, most cases where
18 violent crime has occurred, usually the on-call
19 investigator, which, again, was myself, would notify
20 them if they hadn't been already, to respond.

21 Q Okay. And you recall if you did that?

22 A Yes, we did.

23 Q What about witnesses? Were there any
24 witnesses on scene?

25 A Yes, there were two subjects that were

1 reportedly inside the house. They were actually
2 victims also who were present. At my directive, they
3 were transported to the law enforcement center to be
4 interviewed before we could videotape the interviews.

5 Q Okay. When you come on scene, do you get an
6 initial summary?

7 A I do.

8 Q Okay.

9 A Yes, sir. Typically, we meet with the
10 supervisor who is there who will brief us on all the
11 details that they know or the first reporting,
12 responding deputy who has talked to the victims that
13 are there on scene, if any.

14 Q So when you respond to the scene when
15 you're on call, do you -- does that become your case?

16 A Typically, yes, it does.

17 Q Okay. Did this particular case become
18 yours?

19 A Yes, sir.

20 Q Tell us what you do as far as investigating
21 a case. You don't have a suspect on scene, so what
22 steps do you take or what do you review in going
23 about an investigation?

24 A Kind of depends on the circumstances. But
25 as a general rule, obviously, the first step in the

1 investigation is to process the scene, which is
2 usually pretty time consuming. Once that's done, or
3 at the same time sometimes, witnesses are
4 interviewed, if there are any. Once that process is
5 over, eventually, hopefully, it will lead to a
6 suspect that is eventually charged. During that
7 process, you review the statements, any other
8 evidence that comes in or that is uncovered during
9 the processing of the scene or the interviews.

10 Q Okay. When they come and process the scene,
11 forensics, is that part of the sheriff's office or is
12 that --

13 A No, sir. That's a different agency
14 altogether.

15 Q Okay. All right. And in this case, take us
16 through the process of going through the home,
17 searching it. I know you personally didn't conduct
18 it, but what are the typical steps that are followed.

19 A Typically steps, obviously, is first to
20 secure it to make sure that there's no -- no one
21 going into the scene or coming out of it, even law
22 enforcement. It's limited to personnel that need to
23 be in there for a specific purpose. Once that scene
24 is secure, then forensics comes along. They will
25 videotape it and photograph it before anything is

1 done to make sure that it is documented as it is
2 found. Once that process is done, they will actually
3 start processing for evidence, including blood
4 spatter or shell casings, projectiles, guns, whatever
5 is there that is of an evidentiary nature.

6 Q Okay. Now, based on your training and
7 experience, did you formulate an initial opinion
8 about what occurred in this particular residence?

9 A Yes, sir. Based on what we knew at that
10 point, at that point, it appeared that it was a home
11 invasion, which is what we term them, where a
12 location that has a history of having narcotics sold
13 there has been robbed by someone. That was the
14 initial theory that we were working under.

15 Q The deceased individual, were they still
16 present when you got on the scene?

17 A The body, yes, sir, it was.

18 Q All right. Did you follow up at some point
19 with the investigators that are conducting the
20 interviews with witnesses?

21 A Yes. They are actually at the Law
22 Enforcement Center and I'm actually at the scene
23 where the incident occurred. During that process,
24 there is communication back and forth between myself
25 and whoever else is at the Law Enforcement Center,

1 which also usually includes a supervisor for violent
2 crimes, too. There's an on-call rotation for
3 supervisors also.

4 Q Okay. So that's kind of my next question.
5 There's some communication back and forth between
6 those interviewing witnesses and those who may still
7 be on the scene?

8 A Correct. Yes, sir.

9 Q Okay. In this case, there was some
10 testimony about the gun. Could you just explain to
11 the jury the process where they found the gun?

12 A This particular incident?

13 Q Yes.

14 A Yes, sir. We had initial information that
15 the suspect, or the person who did this, had dropped
16 the gun during the course of the altercation inside.
17 However, during the search of the location, we were
18 unable to locate it, initially. We had returned the
19 search warrant, which is what gave us the legal right
20 to process the residence. That is also part of the
21 process. Even for violent crimes, the search warrant
22 is obtained, in most cases, to give us legal right to
23 be in there.

24 So I actually called and spoke with one of
25 the investigators at the Law Enforcement Center to

1 clarify where this gun was supposedly put. I think it
2 was Investigator Howard who spoke with Shane and was
3 able to verify that he had put it or thrown it behind
4 a dresser. We then had Ms. Howard, excuse me,
5 Ms. Green respond back and sign what we called a
6 Consent to Search where she's giving us her
7 permission to go into her residence. That's when we
8 located the gun behind a dresser.

9 Q Okay. All right. Was it where he said it
10 was?

11 A It was. Yes, sir.

12 Q And the deceased, do you sometimes attend
13 autopsies?

14 A Yes, sir.

15 Q All right. But even if you don't, do you
16 sometimes follow up with the medical examiner when
17 there's a DNA issue involved?

18 A Yes, sir. We do. What happens is, at the
19 autopsy, a specimen of blood is taken from the
20 deceased, for future DNA testing are necessary or
21 relevant. So that is an after process. You typically
22 will meet with the medical examiner to discuss that
23 and get their report, also, when it's complete.

24 Q Would the medical examiner have identified
25 the body?

1 **A** Yes.

2 **Q** Then they would provide you with a sample?

3 **A** That is correct, yes.

4 **Q** Did that happen in this case?

5 **A** It did. Yes.

6 **MR. CULBREATH:** Your Honor, may I approach?

7 **THE COURT:** Yes.

8 **BY MR. CULBREATH:**

9 **Q** I want to show you what's been premarked as
10 State's Exhibit 22. If you could, take a look at that
11 and tell the jury what that is.

12 **A** It is a sealed envelope which, according to
13 the label, contains the blood spot that was obtained
14 from the medical examiner's office from the victim's
15 autopsy.

16 **Q** And when you got it, did you put it into
17 evidence?

18 **A** Yes.

19 **Q** Okay. Did you seal it up like that?

20 **A** No, I don't seal it like this. This done --
21 this is packaged this way by the actual property and
22 evidence room.

23 **Q** All right.

24 **A** The card itself is usually packaged in an
25 envelope just like this but much smaller. It's just

1 almost about that size. That's done by the medical
2 examiner.

3 Q All right. If you would, go ahead and open
4 that.

5 A It's the package that was inside it, which
6 inside this would be the blood spot.

7 Q All right. Do you recognize that?

8 A Yes.

9 Q How do you recognize that?

10 A By the name that's on it as well as the
11 date as well as this number on top, which is the
12 medical examiner's office number.

13 MR. CULBREATH: Okay. The State would like
14 to move that in as State's 22.

15 THE COURT: All right. Any objection?

16 MR. CHAMBERS: No objection, Your Honor.

17 THE COURT: All right. In without
18 objection.

19 (State's Exhibit 22 is admitted into the
20 record.)

21 BY MR. CULBREATH:

22 Q All right. Did you continue to work on this
23 case for several days?

24 A Yes, sir.

25 Q At some point, did you develop a suspect?

1 A Yes, sir. We did.

2 Q Tell us about that.

3 A We received a Crime Stoppers tip, which is
4 a tip that comes through Crime Stoppers office. That
5 tip actually named the defendant, Mr. Griffin, as a
6 suspect in this incident and provided somewhat I
7 would call firsthand information. I actually have his
8 name, physical description of him, an address. I
9 believe it wasn't a numeric, but it was a street
10 name. It went on to say that he had fled the scene in
11 such a hurried manner. His shoe had been left at the
12 scene, which we knew from working the scene itself
13 that that was an accurate statement. It also
14 mentioned that it had been a lick, which is sort of
15 street terminology for a home invasion or robbery.

16 Q So you took some of the criteria that was
17 in the CrimeStopper tip and compared it to the
18 forensic evidence that you had?

19 A Correct, yes, sir.

20 Q And that matched?

21 A It matched, yes.

22 Q All right. Were you able to develop a
23 physical address, a description of Marqual Griffin?

24 A Yes, sir. We were.

25 Q Were you able to locate him?

1 A Yes, sir. We did.

2 Q Okay. Did you do that or did somebody at
3 the sheriff's office?

4 A No, sir. I did not do that personally.
5 Another officer did that.

6 Q Okay. When he was located, did you have an
7 opportunity to interview him?

8 A Yes, sir. I did.

9 Q Where did you do that?

10 A At the Law Enforcement Center in what is
11 called the CID office, which is the Criminal
12 Investigation Division. There are two recorded
13 interview rooms that are video and audio recorded.

14 Q Is this -- was this recorded?

15 A It was, yes, sir.

16 Q All right. Who all were present for this
17 interview?

18 A Myself and Investigator Picone.

19 Q Now, tell this jury how you began one of
20 those types of interviews?

21 A Typically -- well, in this case, I
22 introduced myself. I had not met this gentleman prior
23 to going in there. Sort of kind of asked generic
24 questions about, can you read and write, their age
25 and so forth, just some particulars, and explain to

1 them what's going on, why they are there. Then, prior
2 to asking any questions about the case, you would go
3 through their Miranda rights with them which is -- we
4 do on a standard form that we use so we don't
5 overlook one of them.

6 **Q** Did you do that in this case?

7 **A** Yes, sir. I did.

8 **Q** I'd like to show you what's been admitted
9 as State's Exhibit 1, Sergeant. Tell me if you
10 recognize this.

11 **A** Yes, sir. I do.

12 **Q** All right. What is that?

13 **A** That's the waiver of rights that I used
14 when I interviewed the defendant.

15 **Q** Okay. If you could, take us through from
16 the top right all the way to the bottom, what's on
17 that form and why you use it.

18 **A** The very top, at the very right corner
19 there, that number is the case number that was
20 assigned to this incident through dispatch when it is
21 actually reported, initially. Stepping down, there's
22 the date and the time. Below that is each individual
23 statement of your rights. It's listed individually.
24 And then below that section in the big bold letters
25 is waiver of rights, which is a further section that

1 we gave before we get them to sign it before we
2 actually ask any questions related to what we're
3 there for.

4 Q And the initials, what does that indicate?

5 A The initials on the left-hand side, there's
6 little blanks by each statement. Once we have gone
7 through each statement, we ask the person, do you
8 understand each one of these rights, do you have any
9 questions about any of these rights. If they say,
10 yes, sir, I understand, no questions, then we get
11 them to initial just to show that we have gone
12 through each one of those and that they understood
13 it.

14 Q Does that have your signature on it?

15 A Yes, sir. It does.

16 Q And does it have the defendant's signature?

17 A Yes, sir. It does.

18 Q All right. And you've indicated
19 Investigator Picone. Is his signature on there as
20 well?

21 A Yes, sir. It is. It's right below mine
22 right there.

23 Q Does that form that you're looking at
24 fairly and accurately reflect the form as it was when
25 you completed it with the defendant during the

1 interview?

2 **A** Yes, sir. It does.

3 **Q** The date itself, it's listed up there as
4 1/4 --

5 **A** '15. 2015, yes, sir.

6 **Q** All right. Is that an error?

7 **A** It is. It's an error on my part when I put
8 the date on there. Obviously, it had just gone from
9 December of 2015 to January of 2016. I was so used to
10 writing the 15 that I put a 15 instead of 16.

11 **Q** Understood.

12 **MR. CULBREATH:** Your Honor, if I may, in
13 the event I have not already moved this into
14 evidence, I'd move this in as State's Exhibit 1.

15 **MR. CHAMBERS:** No objection.

16 **THE COURT:** All right. In without
17 objection.

18 (State's Exhibit 1 is admitted into the record.)

19 **BY MR. CULBREATH:**

20 **Q** All right. Did you have any difficulties
21 communicating with this defendant?

22 **A** No, sir. I did not.

23 **Q** Did he appear to be under the influence to
24 you at all?

25 **A** No, sir. He didn't.

1 Q Throughout the course of the interview, was
2 he free to ask questions?

3 A Yes, sir. He was.

4 Q Did he appear to understand as you went
5 through the rights with him?

6 A Yes, sir.

7 Q Did you threaten or coerce him in any way
8 to talk to you?

9 A No, sir. I did not.

10 Q Did you promise him anything or offer
11 leniency in exchange for him talking to you?

12 A No, sir. I didn't.

13 Q In your opinion, was his statement given
14 freely and voluntarily?

15 A Yes, sir. It was.

16 Q Was he advised of all of his rights?

17 A Yes, sir. He was.

18 Q And that was after a knowing waiver that he
19 signed?

20 A Correct. Yes, sir.

21 Q You've got an underlined section there.
22 What is that again?

23 A This section here? Is that what you're
24 referring to?

25 Q Yes.

1 **A** Those words, you probably can't see them
2 too well, it basically says pressure or coercion. We
3 go through that specifically and explain the word
4 coercion to anybody just to make sure that they
5 understand that this is free and voluntary and we're
6 not -- we're not making you sit here and talk to me.
7 Once that is done, we'll ask the person did they
8 understand the meaning to that word. If they say yes,
9 then we'll get them to initial the little slanted
10 line there to show that they did understand that.

11 **Q** Okay. And the defendant did that in this
12 case?

13 **A** Yes, sir. He did.

14 **Q** All right. And you indicate it was
15 recorded, have you reviewed a complete recording of
16 that?

17 **A** I have, yes.

18 **Q** And the full length, the copy was edited to
19 remove some statements that were either irrelevant or
20 not pertinent to this particular case. Have you had a
21 chance to review that edited version?

22 **A** Yes, sir. I have.

23 **Q** Does that edited version clearly and
24 accurately represent your interview with this
25 defendant?

1 **A** Yes, sir. It does.

2 **Q** I'm going to show you this. This has been
3 marked as State's Exhibit 23. Do you recognize that?

4 **A** I do, yes, sir.

5 **Q** Is that -- what is that?

6 **A** This is the DVD of the redacted statement.

7 **MR. CULBREATH:** Your Honor, at this time,
8 I'd like to move this in as State's 23.

9 **MR. CHAMBERS:** No objection.

10 **THE COURT:** All right. In without
11 objection.

12 (State's Exhibit 23 is admitted into the
13 record.)

14 **MR. CULBREATH:** And publish to the jury.

15 **BY MR. CULBREATH:**

16 **Q** Sergeant ---

17 **A** Yes, sir.

18 **Q** --- I'll play this ---

19 **A** Okay.

20 **Q** --- statement and then we can follow up
21 with some questions. It's not terribly long. But if
22 you're more comfortable over here, I'd ask the Court
23 that if you need to sit over here then --

24 **A** That's fine, if that's okay.

25 (State's Exhibit 23 is played in its entirety.)

1 **BY MR. CULBREATH:**

2 **Q** Sergeant Hammett, just a little bit more.
3 You mentioned in the interview that you were going to
4 get a DNA sample, a buccal swab, I think you called
5 it.

6 **A** Correct, yes, sir.

7 **Q** Did you, in fact, go ahead and do that?

8 **A** We did.

9 **Q** Would you tell the jury how you go about
10 doing that, what you used to do that?

11 **A** It's called a buccal swab. It's basically
12 the least intrusive way of getting a DNA sample. It's
13 basically a Q-tip that's in a protected container
14 that's plastic. You just basically swab the inside of
15 the cheek, rolling it up and down to get saliva
16 samples for DNA.

17 **Q** All right. And how many of those do you
18 get?

19 **A** Typically, we do two.

20 **MR. CULBREATH:** Your Honor, may I approach?

21 **THE COURT:** You may.

22 **BY MR. CULBREATH:**

23 **Q** Sergeant, let me show you this. Tell us
24 what that is.

25 **A** It is labeled as a buccal swab obtained

1 from Marqual Griffin.

2 Q Can you open that?

3 A Sure.

4 Q What is this?

5 A These are the two samples that I was
6 explaining. These are the plastic containers.
7 Basically, the top screws on. The Q-tip swab is
8 attached to the top. Once you collected the sample,
9 you screw it together and then it's taped up so it
10 can't be altered after it's placed in Property and
11 Evidence and marked with the name and date.

12 Q Do you use those to ensure that you provide
13 a secure, uncontaminated sample to whoever may test
14 it at some point?

15 A Yes, we do.

16 Q Are there initials on there as far as a
17 designation of the cases -- of the evidence?

18 A Yes, sir. There's an HCH-7A and B, which
19 are my initials.

20 Q Your initials and 7A and 7B?

21 A Yes, sir.

22 MR. CULBREATH: All right. I'd like to
23 premark these as -- 7A as 24, State's 24, and 7B
24 as State's 25.

25 BY MR. CULBREATH:

1 **Q** All right, sir. And did you get those two
2 buccal swab samples from the defendant?

3 **A** Yes, I did.

4 **Q** Those are the completed ones?

5 **A** That is correct.

6 **MR. CULBREATH:** Your Honor, at this time,
7 I'd like to move those in as State's 24 and 25.

8 **MR. CHAMBERS:** No objection.

9 **THE COURT:** All right. In without
10 objection.

11 (State's Exhibit 24 and 25 are admitted into the
12 record.)

13 **BY MR. CULBREATH:**

14 **Q** Now, Sergeant, based on your investigation,
15 looking at all the factors, all the evidence, did you
16 charge this defendant?

17 **A** Yes, sir. We did.

18 **Q** What did you charge this defendant with?

19 **A** He was charged with Murder, first degree
20 Burglary, Kidnapping, Attempted Armed Robbery and
21 Possession of a Weapon During the Commission of a
22 Violent Crime, and Assault and Battery, I believe.

23 **Q** And as far as the kidnapping, who were the
24 victims?

25 **A** The victims on that were April Green and

1 Shane Barron.

2 Q Okay. Would that be two counts?

3 A That is correct. Yes, sir.

4 Q And the defendant, Marqual Griffin, who you
5 charged, is he in the courtroom here today?

6 A Yes, sir, he is.

7 Q Where is he?

8 A He's seated over there at the end of
9 counsel table.

10 Q Sitting by counsel?

11 A Yes, sir.

12 Q Thank you. Please answer any questions
13 counsel has for you.

14 THE COURT: All right. Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. CHAMBERS:

17 Q Investigator Hammett, as you said earlier,
18 you were the lead investigator on this case?

19 A Yes, sir. That's correct.

20 Q That means that once you were assigned to
21 it, you oversaw the whole investigation, start to
22 finish, correct?

23 A Yes, sir. Pretty much.

24 Q So things that were sent out for forensics,
25 you followed up to see what the test results were for

1 those forensics?

2 A Yes, sir.

3 Q As to the weapon, you said it was
4 eventually found behind, I believe, a dresser in the
5 only bedroom in the residence, correct?

6 A Correct, yes, sir.

7 Q You're not the officer that went out and
8 retrieved it?

9 A No, sir.

10 Q You know that it was retrieved?

11 A Correct, yes, sir.

12 Q And was that tested for DNA or fingerprints
13 or anything?

14 A It was tested for DNA, yes, sir.

15 Q Did you recover any DNA from that weapon?

16 A Yes, sir.

17 Q Whose DNA?

18 A I would have to look at the actual
19 printout. Off the top of my head, I know the
20 defendant's was on there.

21 Q Anybody else's?

22 A I don't remember. Honestly, I'd have to
23 look at the actual report. I don't have it in front
24 of me.

25 Q I don't have it handy either, but it's

1 possible that somebody else has --

2 A Correct, yes, sir.

3 Q We know because he said so that he brought
4 a weapon there with him when he went, correct?

5 A Yes, sir. That's correct.

6 Q He initially told you one thing only to
7 then tell you another thing, right?

8 A Yes, sir.

9 Q And that is pretty much the case with a lot
10 of the witnesses that you talked to in this case,
11 correct?

12 MR. CULBREATH: Objection. Argumentative.

13 THE COURT: Overruled.

14 THE WITNESS: Honestly, the only one I
15 actually talked to was Shane, and then the
16 defendant himself. I didn't interview -- I
17 didn't conduct the other interviews.

18 BY MR. CHAMBERS:

19 Q So you didn't interview any of the others?

20 A No, sir.

21 Q But in your experience, is it unusual for a
22 person, not even a suspect, but let's say a witness,
23 to initially not tell the truth and tell you
24 something that's false?

25 A Correct. Yes, sir.

1 **Q** And then, later, tell you something that
2 you deem to be true?

3 **A** Yes, sir.

4 **Q** Okay. So Shane and Marqual are the only
5 people that you interviewed?

6 **A** If I recall correctly as far as actually
7 taking the statement, yes, sir.

8 **Q** You indicated when you were talking to
9 Mr. Griffin on the tape that there were four
10 witnesses present. Who were the four witnesses that
11 were present?

12 **A** I believe I said that, but it was actually
13 the three. I did mean actually that were present on
14 scene.

15 **Q** So you don't mean four people that actually
16 witnessed --

17 **A** Correct. That were actually in the house,
18 no, sir.

19 **Q** All right. That's all the questions I have.
20 Thank you.

21 **A** Thank you, sir.

22 **THE COURT:** Any redirect?

23 **MR. CULBREATH:** No, Your Honor.

24 **THE COURT:** All right. I believe you said
25 your --

1 You can step down.

2 **THE WITNESS:** Thank you, sir.

3 **THE COURT:** I believe you said your next
4 witness was fairly lengthy, didn't you?

5 **MR. CULBREATH:** One moment, Your Honor.

6 **THE COURT:** Yes, sir.

7 (There is a pause.)

8 **MR. CULBREATH:** Your Honor, we have another
9 witness if you are so inclined to hear it before
10 lunch.

11 **THE COURT:** How long of a witness?

12 **MR. CULBREATH:** Thirty minutes.

13 **THE COURT:** Show of hands. Do y'all want
14 to go to lunch now or have another witness? All
15 in favor, raise your hand.

16 (Each juror responds.)

17 **THE COURT:** All right. Ladies and
18 Gentlemen, we will take a break for lunch. Let's
19 have about an hour and 15 minutes. It's 12:30
20 now. If we be back at 1:45, would that give
21 everybody enough time? All right. So be back in
22 your jury room at 1:45.

23 Again, do not discuss the case. Do not do
24 any type of independent research. Do not pay any
25 attention to any media coverage, social media or

1 anything like that. If anybody contacts you
2 other than the clerk's office, please let the
3 bailiff know. Other than that, have a great
4 lunch.

5 (Jury exits at approximately 12:28 p.m.)

6 **THE COURT:** Anything before we break for
7 lunch?

8 **MR. CULBREATH:** Nothing from the State.

9 **THE COURT:** All right. 1:45, everybody be
10 back in here and ready to go.

11 (The Court goes off the record at approximately
12 12:29 p.m.)

13 (The Court goes on the record at approximately
14 1:53 p.m.)

15 **THE COURT:** All right. Anything before we
16 bring the jury in?

17 **MR. CULBREATH:** Nothing from the State,
18 Your Honor.

19 **THE COURT:** Anything from the defendant?

20 **MR. CHAMBERS:** No, Your Honor.

21 **THE COURT:** All right. Bring them in.

22 (Jury enters at approximately 1:55 p.m.)

23 **THE COURT:** All right. I hope everybody
24 had a good lunch. The wind looks like it has
25 settled down at least a little bit. The weather

1 has settled down. We'll proceed with the case.

2 State, call your next witness.

3 **MS. GARY:** May it please the Court, Your
4 Honor. The State calls Riley Hope.

5 **THE CLERK:** Sir, if you will, please place
6 your left hand on the Bible and raise your right
7 hand.

8 **RILEY HOPE**

9 having first been duly sworn, testifies as follows:

10 **THE CLERK:** Thank you. Please be seated.
11 Would you please state your name for the record.

12 **THE WITNESS:** Riley Hope.

13 **THE CLERK:** Thank you.

14 **DIRECT EXAMINATION**

15 **BY MS. GARY:**

16 **Q** Mr. Hope, where are you employed, sir?

17 **A** Currently, I'm employed with Keller
18 Williams Realty.

19 **Q** Have you previously worked with the
20 Greenville County Department of Public Safety?

21 **A** Yes, ma'am.

22 **Q** When did you work for them?

23 **A** 2013 to 2017.

24 **Q** Okay. When did you -- specifically when did
25 you leave employment there?

1 A July of this year.

2 Q Of this year?

3 A Yes.

4 Q Okay. Why did you leave?

5 A More time with the family.

6 Q What was your position with the Department
7 of Public Safety?

8 A Forensic officer, forensic technician.

9 Q Tell the jury what that means.

10 A We get called out to any various crimes,
11 anything from autobreakings, thefts, residential
12 burglaries, all the way up to homicides. And we
13 process, collect evidence, fingerprint, things of
14 that nature.

15 Q Were you working as a forensic tech on
16 December 27th, 2015?

17 A Yes.

18 Q How did you get called out to the scene in
19 this case?

20 A Right at shift change. I came in and was
21 informed by the previous shift that that call was
22 actively holding for us. There was one guy standing
23 by on the scene waiting for relief. As soon as I
24 gathered up my belongings, got in the forensic truck,
25 I drove over there to relieve him.

1 Q Where -- what address did you respond to?

2 A [REDACTED]? [REDACTED] Perry Road in Greenville.

3 Q Okay. Is that here in Greenville County?

4 A Yes.

5 Q Who all was on the scene when you arrived?

6 A When I arrived, there was another forensic
7 officer there and some other deputies and
8 Investigator Hammett was there.

9 Q Did you have anyone else from forensics
10 with you?

11 A Officer Downing arrived soon after I did.

12 Q What -- tell us, generally, what are you
13 trained to do when you first arrive at a crime scene.

14 A When we arrive, if we're relieving
15 somebody, like in this case, we meet with them, get
16 any information they may have been told. We also
17 speak with the first responding deputies and also
18 meet with Investigator Hammett, get the gist of what
19 could have possibly taken place or what they believe
20 took place based on witness account and take it from
21 there.

22 Q Prior to working the scene, you have a
23 general idea of what may have happened?

24 A Correct. We get a general rundown of what
25 was believed to have happened.

1 **Q** What did you do first in this case?

2 **A** This case, went to -- well, first, waited
3 for the search warrant. It had not been obtained at
4 that point. But as soon as we got word it had been
5 obtained, Investigator Hammett, myself and also the
6 on-call supervisor on our side, Sergeant Shaw, had
7 arrived. Officer Downing walked through the evidence
8 -- walked through the scene and taken a visual
9 account of what was there.

10 **Q** Do you photograph the scene first?

11 **A** We walked -- as we walked through, we kind
12 of -- we don't want to miss anything. So if you just
13 start photographing right away, you may miss
14 something. Nothing is touched or maneuvered or
15 handled in any way. You just walk through the visual
16 inspection where you can walk without contaminating
17 anything. Then we start the video and the camera
18 photographing right after.

19 **Q** So the first -- I guess, the first action
20 that you take would be to document the scene; is that
21 correct?

22 **A** Correct.

23 **Q** That's done by both video and photos?

24 **A** Yes.

25 **Q** Okay. I'm going to show you a number of

1 items that have been premarked as State's 26 to 31
2 and just ask you if you recognize those, sir.

3 A (Reviewing.)

4 Yes, ma'am.

5 Q And what are they?

6 A These are photographs that I obtained on
7 the scene of the crime scene.

8 Q And were these taken prior to your
9 collecting any evidence?

10 A Yes.

11 Q Okay. Is each of those a fair and accurate
12 representation of what you saw that night?

13 A Yes, ma'am.

14 Q Have they been altered at all?

15 A No.

16 Q Okay. Thank you.

17 MS. GARY: Your Honor, at this time, the State
18 would offer Exhibits 26 to 31 into evidence.

19 MR. CHAMBERS: No objection.

20 THE COURT: All right. In without objection.

21 (State's Exhibits 26 to 31 are admitted into the
22 record.)

23 BY MS. GARY:

24 Q After you photograph and videoed that
25 scene, what did you do?

1 A The next step is you start -- you look in
2 those photos, you see placards down marking items of
3 evidence of possible evidentiary value to be
4 collected. Then you begin collecting in the
5 appropriate manner making sure not to cross-
6 contaminate anything.

7 Q Now, in a case like this, where a victim is
8 on scene, how do you prioritize documenting the
9 victim?

10 A Since the victim was still on scene and was
11 also near the door, we didn't want things being
12 cross-contaminated. Pretty much anybody that walked
13 through that door to assist with evidence was going
14 to be coming right by that body. So we focused on
15 getting the body documented and out of scene first.

16 Q Did you do that in this case?

17 A Yes, and then began collecting stuff
18 further in the house. Everything was documented as
19 observed, but the body was focused on getting out
20 first before we actually picked up other items.

21 Q Is that standard procedure when you have a
22 victim on scene?

23 A Usually, especially in this case where
24 they're right by the front door.

25 Q Okay. What did you do after tending to the

1 victim -- excuse me -- after documenting the victim?

2 A Once he was documented and actually removed
3 is what you're asking?

4 Q Uh-huh.

5 A Once he's gone?

6 Q Yes.

7 A Then we, again, reevaluated the evidence
8 that's left and the items of possible evidentiary
9 value, make sure they're documented, placard and then
10 begin collecting that.

11 Q What types of evidence do you collect in
12 this case?

13 A There was some clothing, projectile,
14 cartridge casings. Then, eventually, there was a gun.
15 There were also some swabs, a lot of blood swabs, we
16 collected. There was a lot of suspected blood around
17 the door.

18 Q Tell us about the procedure of swabbing
19 suspected blood.

20 A Once it's visually noted that there could
21 be something there, we actually have a test where if
22 it comes back positive, we will go through with a
23 team to swab. Once it's noted with a picture and a
24 little sticky saying what the evidence item will be
25 collected as, it's the same thing as the buccal swab.

1 It's in a plastic tube. You take the swab out. You
2 swab that area. It goes immediately back in there.
3 It's sealed and is not opened again until time to
4 test it by DNA.

5 Q You did that in this case?

6 A Yes. Every one was collected in that
7 manner. All the blood swabs.

8 Q All right. I want to ask you about --
9 specifically about a number of items of evidence. I
10 will start with -- not trying to blind you. I'm
11 sorry.

12 A No, you're good.

13 Q I'm going to show you what's already in
14 evidence as State's Exhibit 7 and ask you if you
15 recognize that photo, sir.

16 A Yes, I do.

17 Q Tell us what that is.

18 A That is the living room area. As soon as
19 you walk through the door slightly to the left of
20 that was as we saw it when we walked in.

21 Q Did you take that photo?

22 A Yes.

23 Q Obviously, this is prior to your having
24 collected any evidence related to the victim?

25 A Correct. Yeah, this is one of those initial

1 as-we-observed-it documenting photos.

2 Q Okay. Looking at State's Exhibit 26, tell
3 us what we see there.

4 A This is after the body had been removed,
5 the victim has been removed. This right here is one
6 way we mark where we obtained blood swabs from. So
7 that was taken from this pool of suspected blood.
8 Then, you have item 5 and 6 collected. Those were
9 pieces of clothing. You can also see in the
10 background item 4 and then also some other
11 documentation of suspected blood on the wall there.

12 Q Tell the jury how you use these numbered
13 placards to organize the evidence you collect.

14 A When you walk through a scene, you start at
15 1. You go as many evidence items as you may collect.
16 It's just a way of documenting and referring back to
17 your report and keeping everything straight. You just
18 progress through the scene and keep going up the
19 numbers.

20 Q And when you collect a piece of evidence,
21 do you label it?

22 A Yes.

23 Q How do you label it?

24 A Usually with initials, also with that
25 number so can we refer back to the photos and the

1 time of when it was collected and placed in the
2 appropriate sized bag or envelope and then sealed.

3 Q And whose initials did you use?

4 A My own.

5 Q What are they?

6 A RRH.

7 Q Okay. I'm going to show you what's been
8 marked as State's Exhibit 32 and 33 and ask you if
9 you recognize those.

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

11 Q And what is State's Exhibit 32?

12 A This is the long sleeve sweatshirt that was
13 collected, item number 5 in my listing, which is
14 actually that one right there right by that front
15 tire. That is the black sweatshirt that I collected
16 on scene.

17 Q How do you know that?

18 A Based on my numbers that I collected for
19 reference, RRH-5 coordinates with that 5. Then, on
20 the back, it has my initials and also with the date
21 that I collected it.

22 Q When you packaged this item, tell us how
23 you do that.

24 A It's placed in -- like I said, because it's
25 an item of clothing, it can not go in plastic. Has to

1 go in a paper bag. This was the bag that was used on
2 the scene. It's of the appropriate size. When you --
3 clothing, when you fold from the outside in -- as to
4 not lose anything that may be on or in the fabric, so
5 once you fold it in on itself, it just goes straight
6 up into the baggy that's sitting right beside where
7 you would go straight in there and seal until further
8 examination is needed.

9 Q Do you put any indication on that seal to
10 show that you're the one that sealed it?

11 A Yes, usually initials, always.

12 Q Are those visible on that bag?

13 A Yes, ma'am.

14 Q What do they say?

15 A RRH and date. I kind of scribbled it, but
16 yes, that's mine.

17 Q And what is State's Exhibit 33?

18 A This is a tape lift that I did from the
19 black sweatshirt. When we get back to our crime scene
20 lab that is secured and we're the only ones with
21 access into it, evidence like this may need further
22 examining. So then I will pull it back out in a non-
23 contaminating area and then begin to unfold itself.
24 I begin looking for any suspected blood or bullet
25 holes or hairs, any kind of fibers. In this case, I

1 observed fibers on the sweatshirt and conducted a
2 tape lift using just the tape that we have from our
3 forensic office and collected those fibers and placed
4 them in here.

5 Q And that's what's inside State's Exhibit
6 33?

7 A Yes, ma'am.

8 Q And how do you know that, sir?

9 A I personally -- anytime evidence comes from
10 Evidence, I always use the same number 5, and end
11 with an A. So this is labeled as 5A. It just has my
12 initials again.

13 Q On the seal?

14 A Yes.

15 Q Thank you. Do each of these items appear to
16 have been altered at all?

17 A No. The only thing is just here that was
18 resealed by the person that last examined it.

19 Q Okay.

20 A So nothing altered.

21 MS. GARY: Your Honor, at this time, the
22 State would offer Exhibits 32 and 33 into
23 evidence.

24 MR. CHAMBERS: No objection.

25 THE COURT: All right. In without

1 objection.

2 (State's Exhibits 32 and 33 are admitted into
3 the record.)

4 **BY MS. GARY:**

5 **Q** Now, you mentioned that each of those items
6 have RRH-5 as it's code. Is that what you said?

7 **A** Yes, 5 and 5A.

8 **Q** And again, that would correspond to your
9 having located it here?

10 **A** Correct.

11 **Q** At the scene?

12 **A** Yes.

13 **Q** I'm going to show you State's Exhibit 27
14 and ask you what that is.

15 **A** This is when I was doing a further
16 examination of that black sweatshirt. That is where
17 the fiber -- if I can see it, it's right here, I
18 believe, on that black sweatshirt. It was labeled and
19 photographed for document purposes right before I did
20 that tape lift.

21 **Q** You said that that occurred at the crime
22 scene office?

23 **A** Yes.

24 **Q** And what sort of surface do you do that
25 collection on?

1 A It's a brown paper surface similar to this
2 to make sure there's no moisture issues with plastic.
3 It's pulled out and used just for that item and then
4 discarded for anything further. That black -- you
5 can't really see it, but it's a paper background that
6 was only used for that sweatshirt.

7 Q I'm looking at State's Exhibit 28. Do you
8 recognize that?

9 A Yes, ma'am.

10 Q What is that?

11 A That is a photo also in that same front
12 area by the door. The victim's body was over here on
13 the right. This was in the corner. There was also
14 additional blood spatter. That is a shell casing,
15 yes, that I collected.

16 Q What is a shell casing?

17 A That is a spent or a fired bullet.

18 Q Okay.

19 A Fired round.

20 Q I'm going to show you what is marked as
21 State's Exhibit 34 and ask you if you recognize that.

22 A Yes, ma'am. That is what I placed the
23 cartridge casing in.

24 Q So this is the cartridge casing inside of
25 that envelope?

1 **A** It appears to be so, yes.

2 **Q** How do you know what that is?

3 **A** It has the RRH-10, which corresponds to the
4 photograph, as the time in which it was collected and
5 then my initials on the back.

6 **Q** Again, how would you have sealed and
7 packaged that?

8 **A** It would have gone straight into this coin
9 envelope. There's nothing further that we would do
10 with it and then immediately sealed and my initials
11 placed on it.

12 **Q** If you could, open that up for me. There's
13 some scissors. (Pause.)

14 And what is that inside?

15 **A** That is a cartridge casing. It's a fired
16 bullet.

17 **Q** Okay. Thank you. You can put it back.

18 **A** Okay.

19 **MS. GARY:** Your Honor, at this time, the
20 State would offer State's Exhibit 34 into
21 evidence.

22 **MR. CHAMBERS:** No objection, Your Honor.

23 **THE COURT:** All right. In without
24 objection.

25 (State's Exhibit 34 is admitted into the

1 record.)

2 **BY MS. GARY:**

3 **Q** Mr. Hope, as part of your duties on scene,
4 did you also create a two-scaled sketch of that crime
5 scene?

6 **A** Yes.

7 **Q** How do you do that?

8 **A** Myself and, I believe, Sergeant Shaw and
9 the other officers on the scene, when you take
10 measurements of the room where the body and the
11 evidence is collected from. Then once back at the
12 crime scene office, we have a program where you go in
13 and you use those measurements, and based on your
14 photographs, you reconstruct based on that 2-D
15 diagram.

16 **Q** Did you personally create the sketch in
17 this case?

18 **A** Yes.

19 **Q** Okay. I'm going to show you what's marked
20 as State's Exhibit 21 and ask if you recognize that.

21 **A** Yes, ma'am.

22 **Q** What is that?

23 **A** That is my sketch of the crime scene.

24 **Q** Okay. Is that a fair and accurate
25 representation of the sketch that you made?

1 **A** Yes.

2 **Q** Has it been altered at all?

3 **A** No, ma'am.

4 **Q** Okay. Thank you.

5 **MS. GARY:** Your Honor, at this time, we'd
6 offer State's Exhibit 21 into evidence.

7 **MR. CHAMBERS:** No objection.

8 **THE COURT:** All right. No objection.

9 (State's Exhibit 21 is admitted into the
10 record.)

11 **BY MS. GARY:**

12 **Q** We have seen this earlier on the larger
13 blow-up. Are you able to see on State's 21, the
14 notation of an RRH-11?

15 **A** No. No, just the measurements are on there.

16 **Q** I'll hand it to you and see if you have a
17 better eye up close.

18 **A** Oh, okay. Yes. It's right there by the
19 door, just inside the door.

20 **Q** Okay. Just so we can all understand what
21 we're talking about, can you point to that for me.

22 **A** Right there. (Indicating.)

23 **Q** What does that say?

24 **A** That is the cartridge, RRH-11.

25 **Q** That's fine. With it being noted here on

1 this sketch, what would that tell you?

2 A That that was where it was located at and
3 observed.

4 Q Okay.

5 A And collected from.

6 Q I'm going to show you what's been marked as
7 State's Exhibit 35 and ask you if you recognize that.

8 A Yes, ma'am.

9 Q What is that?

10 A This is the cartridge that was collected.
11 This was actually a non-fired bullet.

12 Q So the cartridge is a bullet that has not
13 been fired?

14 A Correct.

15 Q How would a cartridge get out of a gun?

16 A Either somebody slipped it out of the
17 magazine or it was -- as you pull the slide back and
18 eject one.

19 Q Okay. How do you know that that is the
20 cartridge you collected in this case?

21 A Based on the 11 that coordinates with the
22 photographs, the time and then also my initials on
23 the back.

24 Q Okay. I'm going to ask you to identify that
25 one as well. Thank you.

1 **A** (Reviewing.)

2 Yes, ma'am. That is it.

3 **Q** Now, does that appear to be what you
4 collected as item RRH-11 in this case?

5 **A** Yes, ma'am.

6 **Q** Has it been altered at all?

7 **A** It does not appear to be so.

8 **Q** All right. Thank you.

9 **MS. GARY:** Your Honor, at this time, we'd
10 offer State's 35 into evidence.

11 **MR. CHAMBERS:** No objection, Your Honor.

12 **THE COURT:** All right. In without
13 objection.

14 (State's Exhibit 35 is admitted into the
15 record.)

16 **BY MS. GARY:**

17 **Q** Looking now at State's Exhibit 29. Are you
18 able to tell what is depicted there?

19 **A** Yes. That was actually a fired bullet, the
20 projectile part that comes out of the cartridge.

21 **Q** Okay. Where was that collected?

22 **A** That was collected from along the right
23 wall as you walk through the front door, I believe.

24 **Q** In the living room?

25 **A** In the living room area, yes, ma'am.

1 **Q** Okay. Again, that's marked item 12, for
2 your purposes?

3 **A** Yes.

4 **Q** Let me show you again what's been marked
5 State's 36 and ask you if you know what that is?

6 **A** Yes, this is that projectile, that bullet.

7 **Q** A projectile again is what?

8 **A** The bullet from a fired casing, just the
9 actual bullet part that comes out as a projectile.

10 **Q** Okay. And how do you know that that's RRH-
11 12?

12 **A** It has my writing there, RRH-12, with my
13 initials on the back and sealed.

14 **Q** Will you open that for me, too?

15 **A** Yes. That is the projectile or the fired
16 bullet.

17 **Q** Does that appear to be what you collected
18 on the scene?

19 **A** Yes, ma'am.

20 **Q** Has it been altered at all?

21 **A** No, ma'am.

22 **Q** All right. Thank you.

23 **MS. GARY:** At this time, we'd offer
24 State's 36 into evidence.

25 **MR. CHAMBERS:** No objection.

1 **THE COURT:** All right. In without
2 objection.

3 (State's Exhibit 36 is admitted into the
4 record.)

5 **BY MS. GARY:**

6 **Q** Now, Mr. Hope, in this case, did you have
7 two opportunities to visit the crime scene?

8 **A** Yes.

9 **Q** Tell us about that.

10 **A** On the scene, we walked through -- we
11 conducted a walk-through of the house in its
12 entirety. We were told the suspect was believed to
13 have been focused around the living room around the
14 door. So when we were walking through and collecting
15 evidence, that's where we focused. There was some
16 discrepancy on if the gun was still left behind that
17 we could not locate it. So we sealed the house. It
18 was locked. When we left, further information was
19 obtained that the gun had actually been moved by a
20 victim, not a suspect, and had been moved to a back
21 bedroom. So then we went back to that scene. It was
22 still secured. We made entry based on the consent
23 that was given.

24 **Q** And was that the same night that this
25 incident occurred?

1 A Yes, it was very soon after.

2 Q Okay. Who all was involved in looking for
3 the gun the second time?

4 A Myself; again, Officer Downing, who was
5 assisting; Investigator Hammett, he was also on
6 scene.

7 Q I'm going to show you State's Exhibit 30
8 and ask you what that is that we're seeing?

9 A That is the handgun located behind the
10 dresser. The dresser had been pulled out. There was
11 very little room between the dresser and the wall. In
12 order to better photograph it, we slid the dresser
13 slightly forward. As you walk through the living
14 room, through the kitchen to the back bedroom, that
15 is on the right as you walk into the bedroom.

16 Q Okay. State's 31.

17 A Yes, the gun had not been moved in any way.
18 Just the placard placed there to document that as
19 number 15 for my collection.

20 Q And you did that?

21 A Yes.

22 Q And did you, in fact, collect that gun?

23 A Yes.

24 Q Tell us about how you go about collecting a
25 weapon like that.

1 **A** As soon as it's documented as observed and
2 then with the placard, the first thing we do is
3 another one of those swabs from that plastic tube. A
4 fresh one, obviously, not opened. We open it. We swab
5 the grip, first, for possible DNA. Then -- you don't
6 want to handle anything. We're not going to mess up
7 the DNA, per se, because our guys can separate out
8 several strains, but you don't want to add yours to
9 it or contaminate in any way. So I always swab the
10 handle first consisting of the gripping area, that
11 textured area.

12 As soon as that is swabbed, that swab is
13 sealed back in its plastic tube and I can hold the
14 grip and secure the weapon and make sure there's
15 nothing in the chamber and then swab the trigger. You
16 don't want to swab the trigger and have a firearm on
17 you. That's why you swab the grip first so you can
18 manipulate the grip, make the gun safe, remove any
19 bullets that may be left. Then you take another swab
20 and swab the trigger itself.

21 **Q** And would that second swab be preserved and
22 packaged the same way as the first one?

23 **A** Directly out of the tube to the trigger and
24 then back into that plastic tube.

25 **Q** Did you follow that procedure in this case?

1 A Yes, ma'am.

2 Q Do you recall where, in this home, you
3 performed those swabs?

4 A I believe it was on the edge of the bed.

5 Q Okay. As far as collecting the weapon after
6 the swabs were taken, are there any specific steps
7 you have to take to collect a gun like this?

8 A As soon as it's been made safe, all the
9 bullets removed, including magazines, if there is
10 one, the swabs are obtained. It would go straight
11 into a gun box, as you're holding in your hand.

12 Q Would you also package -- if you collected
13 any additional rounds or magazines, would they be
14 packaged with that gun?

15 A Yes.

16 Q I'm going to show you what's been marked as
17 State's Exhibit 37, it should be, and just ask you if
18 you recognize that.

19 A (Reviewing.)

20 Yes, ma'am.

21 Q And how -- what is that?

22 A This appears to be the gun that's
23 photographed in that picture.

24 Q And does it have identifying information on
25 the box?

1 A Yes. It has the 15 that corresponds with
2 that evidence placard. And it, again, has my
3 initials.

4 Q Okay. And how would you have sealed that on
5 the scene?

6 A As soon as all the pertinent evidence
7 pertaining directly to this gun, bullets coming from
8 the gun on in there, the evidence tape is placed
9 along the edge to make sure it can not be reopened.

10 Q Again, you, yourself, would have secured
11 that weapon?

12 A Yes.

13 Q If you would, just open that to see if that
14 -- to see if that gun is in substantially the same
15 condition as it was when you collected it.

16 A Yes, ma'am.

17 Q Has it been -- has anything been added to
18 it?

19 A Yes, the lock.

20 Q Tell us about the lock.

21 A I believe property and evidence does that
22 to secure it and make sure it has stayed in the --
23 the slide is in the back position for safety
24 purposes.

25 Q Beyond the addition of the lock, does that

1 appear to be the weapon you collected in this case?

2 A Yes, ma'am.

3 Q Okay.

4 THE COURT: I want to advise the jury at
5 this time that the gun has been disabled and
6 that's the purpose of the lock as well for
7 purposes of y'all's information.

8 BY MS. GARY:

9 Q I'm also going to hand you what's been
10 marked as State's Exhibits 38 and 39 and ask if you
11 recognize those.

12 A Yes. These two are the two swabs I obtained
13 from the gun, again, as I mentioned before. It's
14 coming -- evidence -- coming from evidence. It is
15 listed with that same number and then with an A for
16 the one that came from the grip, which I did first,
17 and then B, 15B is the one coming from the trigger.

18 Q And have those been altered at all?

19 A No.

20 Q Is there any additional writing on those
21 labels?

22 A Yes.

23 Q And by whom would that have been done?

24 A The examiner ---

25 Q Okay.

1 **A** --- DNA examiner, I would think.

2 **Q** Beyond that, have they been altered at all?

3 **A** No, ma'am.

4 **MS. GARY:** At this time, Your Honor, the
5 State would seek to admit State's Exhibits 37,
6 38 and 39.

7 **THE COURT:** Any objection?

8 **MR. CHAMBERS:** No objection.

9 **THE COURT:** All right. In without
10 objection.

11 (State's Exhibits 37 through 39 are admitted
12 into the record.)

13 **BY MS. GARY:**

14 **Q** And for what purpose -- I believe you did
15 mention this. For what purpose do you swab those
16 parts of a gun?

17 **A** For DNA purposes, for further testing down
18 the road.

19 **Q** Do you personally handle that?

20 **A** No.

21 **Q** Okay. So with all the evidence you
22 collected in this case, what did you do with it?

23 **A** As soon as it has been deemed fully
24 examined on our end, in what we do in our job
25 description, again, it is made sure to be sealed with

1 our initials and then taken over to property and
2 evidence where they log it and categorize it until
3 further examination is needed by other departments.

4 **Q** Did you personally submit it to the
5 Property and Evidence office in this case?

6 **A** Yes, ma'am.

7 **Q** How does that -- how is a log kept there?

8 **A** Electronic based, again, on those bar codes
9 that you see on those items. It is transferred from
10 my possession to Property and Evidence's possession.
11 Then, the next person would then have to check it
12 out, again, by scanning that bar code if further
13 examining or they wanted to look at something. It
14 would all be documented based on that bar code.

15 **Q** You followed that proper procedure in this
16 case?

17 **A** Yes, ma'am.

18 **Q** After you submit your evidence to Property
19 and Evidence, did you have any further involvement in
20 this case?

21 **A** No.

22 **Q** Okay. That's all my questions. Answer any
23 questions Mr. Chambers has. Thank you.

24 **MR. CHAMBERS:** I don't have any quick --
25 any questions for Mr. Hope.

1 **THE COURT:** All right. You may step down.

2 **THE WITNESS:** Thank you.

3 **MR. CULBREATH:** Please the Court?

4 **THE COURT:** Yes, I'm sorry.

5 **MR. CULBREATH:** The State would call
6 Dr. James Fulcher.

7 **THE CLERK:** Place your left hand on the
8 Bible and raise your right hand.

9 **JAMES FULCHER**

10 having first been duly sworn, testifies as follows:

11 **THE CLERK:** Thank you. Please be seated.
12 Please state your name for the record.

13 **THE WITNESS:** Dr. James William Fulcher.

14 **THE CLERK:** Thank you.

15 **DIRECT EXAMINATION**

16 **BY MR. CULBREATH:**

17 **Q** Dr. Fulcher, good afternoon.

18 **A** Hello, sir.

19 **Q** If you could, tell this jury what your
20 current occupation is.

21 **A** Sure. I'm the Deputy Medical Examiner for
22 Greenville County. I'm a board certified forensic
23 pathologist. I do autopsies for this county and
24 several others nearby. I'm also an associate
25 professor of pathology at the medical school here.

1 **Q** Okay. Great. Just a little bit about your
2 educational background.

3 **A** Sure. I'm from Virginia, so I went to
4 college at the University of Virginia, medical school
5 at the Medical College of Virginia. Did a residency
6 in anatomic and clinical pathology there. Then did a
7 fellowship in forensic pathology, which is an
8 additional year of training there. So that was 16
9 years after high school. Then came here on my first
10 job. I've been the deputy medical examiner ever
11 since, here.

12 **Q** So you are a duly licensed physician here
13 in South Carolina?

14 **A** I am. I'm licensed in this state, Virginia
15 and North Carolina.

16 **Q** Are you a member of any professional
17 associations?

18 **A** Sure. I'm a member of multiple
19 associations, the South Carolina association --
20 Society of Pathologists, the American Board of
21 Pathology and that's probably it.

22 **Q** Okay. Tell us about the duties of the
23 deputy medical examiner.

24 **A** Sure. I do autopsies. I do approximately
25 350 autopsies a year. I've been here approximately

1 nine years, so approximately 3000 autopsies over my
2 time here, plus the ones that I did in Virginia. We
3 do autopsies for anyone that dies in an unnatural
4 event, be it homicide, be it a suicide, be it a drug
5 overdose, a traffic accident. We see everyone from
6 fetuses to very old age and all in between. Just
7 about any autopsy you can imagine, we will personally
8 do.

9 Q The purpose of an autopsy again?

10 A An autopsy, the Latin term is to look for
11 one's self. It is a deep and thorough investigation
12 of the body with examination of all tissues from the
13 outside in to include microscopic examination of
14 certain organs under a microscope. So we are
15 literally looking from the skin all the way down to
16 the cells, every organ -- well, we get every organ,
17 so every organ.

18 Q And when you do these autopsies, typically,
19 do you reduce your findings to writing?

20 A I do. Yes, we make a report.

21 Q Okay. Did you do that in the case of Nathan
22 Crouch?

23 A I did. Yes. I did this autopsy on
24 Mr. Nathan Crouch labeled A15678.

25 Q Okay. Let me ask you just real quickly,

1 have you testified in courts of South Carolina
2 before?

3 A Yes, approximately 30 times.

4 Q Okay. Have you ever been qualified as an
5 expert in this field?

6 A Every time.

7 MR. CULBREATH: Your Honor, at this time,
8 I'd like to move Dr. Fulcher be deemed an expert
9 in the area of forensic pathology.

10 MR. CHAMBERS: No objection.

11 THE COURT: All right. Ladies and
12 Gentlemen, normally, a person can not testify
13 about an opinion about something. They can only
14 testify about what they observed with their
15 senses, sight, smell, taste. But if somebody is
16 qualified as an expert in a particular field,
17 they can testify about their opinion in that
18 field. In this case, Dr. Fulcher has been -- a
19 motion has been consented to that he be an
20 expert in the field of forensic pathology. Now,
21 as an expert, that does not mean you have to
22 accept his testimony, but you are to give it the
23 weight that you do all testimony, the weight
24 that you feel is appropriate when you begin
25 deliberation. All right.

1 **BY MR. CULBREATH:**

2 **Q** Dr. Fulcher, do you have a standardized way
3 to conduct an autopsy?

4 **A** We do. We have the body brought in a secure
5 body bag. We open the body bag, take photographs of
6 the outside of the body, and then we start
7 eviscerating the body, taking organs out and
8 examining internal damage and internal structures
9 that may have been altered in the wound path or by
10 natural disease.

11 **Q** Okay.

12 **A** At that point, we obtain microscopic slides
13 and toxicology specimens. We interpret the slides
14 ourself and the toxicology is sent to an outside
15 laboratory and they do the toxicology testing.

16 **Q** Do you go through a series of steps in
17 identifying the body? What do you do to identify the
18 individual?

19 **A** In this case, because the decedent was
20 visually identifiable at autopsy. Oftentimes, we find
21 people from fires or decomposed or you can't look at
22 their face and tell who they are. In those cases,
23 we'll do scientific identification. But in this case,
24 he was visually ID'able and was ID'd by the coroner
25 at the crime scene.

1 Q Okay. And the identification, again, for
2 this particular autopsy?

3 A Nathan Lee Crouch.

4 Q All right. Was this performed on December
5 28th, 2015?

6 A It was, yes.

7 Q All right. Is it -- is it pretty much the
8 same procedure every time you do an autopsy?

9 A It is with notable exceptions of infants or
10 hospital autopsies where certain organs, they don't
11 want me looking at them, they can actually exclude
12 them. In these cases, we would do the exact same
13 thing every time.

14 Q If you can, give us a brief overview,
15 Doctor, of the injuries you observed to Nathan
16 Crouch's body.

17 A Sure. I will stand to make this easier and
18 I will point to myself where the bullets enter and
19 exit. Mr. Crouch is shot three times. The first wound
20 -- and I don't know the order these wounds occurred.
21 I'm just numbering them so I can keep them straight
22 for myself -- the first one -- and I have a diagram
23 here --

24 Q Let me show you what we've premarked as
25 State's Exhibit 47. Do you recognize this one?

1 **A** Yes, sir. I created that diagram.

2 **Q** Okay.

3 **A** This will make it easier for you to
4 visualize.

5 **Q** Has it been altered in any way?

6 **A** No, sir.

7 **MR. CULBREATH:** Okay. All right. We'd move
8 this in as State's 47, Your Honor.

9 **MR. CHAMBERS:** No objection.

10 **THE COURT:** All right. In without
11 objection.

12 (State's Exhibit 47 is admitted into evidence.)

13 **BY MR. CULBREATH:**

14 **Q** I'll put this on the screen, Doctor. Do you
15 need a pointer?

16 **A** Oh, a pointer would probably be helpful, I
17 suppose.

18 **Q** There it is.

19 **A** Thank you, sir. Excellent. So gunshot wound
20 number 1 enters on the right side of the body under
21 the nipple but well posterior, towards the back. It
22 goes straight across the body and exits at the upper
23 shoulder. It moves from inferior to superior and
24 upward. It really doesn't alter much from anterior to
25 posterior. Because it goes through the entire body of

1 the chest, it wounds both lungs and the thoracic
2 aorta, a large caliber vessel that takes blood down
3 to the legs and other organs. It comes directly off
4 the heart. This vessel is, quite literally, the size
5 of a garden hose. It's the largest artery in the
6 human body. This bullet completely perforates that.

7 Because of that case, at autopsy, this
8 young man had a liter of blood on each side of his
9 chest. You think of a two liter Coke bottle, there
10 was half of that of blood in each side. A man his
11 size and weight should have approximately five liters
12 of blood total in his body, so two-fifths of his
13 blood volume is loose in his chest cavity. Clearly,
14 gunshot wound number 1 is the fatal wound.

15 Number 2 and 3, interestingly, you would
16 think a gunshot wound to the head would always be
17 more fatal than a gunshot wound to the back, but in
18 fact, they are not. This one, literally, enters the
19 posterior back and just goes along the fat. It
20 doesn't actually enter the chest cavity. This one
21 skips off the skull. There's a few small fragments of
22 bone that penetrate minimally into the brain, but the
23 bullet actually never gets to the brain in this case.
24 So it's like skipping a rock in a pond where it flips
25 up and hits and bounces off and ricochets. What that

1 tells me is this projectile was shot at a strong
2 downward angle and actually ricochets off the skull
3 there and exits again.

4 So for practical purposes, number 1 is a
5 fatal wound, 2 and 3, less severe. Certainly serious
6 wounding, but not as fatal as one. The direction of
7 wounding on all these cases, let's see, three is
8 downward and two is from -- let's see. I've got to do
9 this -- front to back or back to front, basically. It
10 goes straight through the soft tissue.

11 Q Okay. Thank you, Doctor. Now, with regard
12 to number 2 ---

13 A Yes.

14 Q --- you indicated that was a shoulder shot
15 from the back?

16 A Yeah, shoulder. Enters in the back and then
17 actually -- it doesn't cross midline, I'm sorry --
18 exits at the -- actually, I find the projectile in
19 the body of the deltoid muscle. So it comes in at the
20 back, actually shatters the humerus and ends up in
21 the muscle here.

22 Q Which shoulder was that of his?

23 A Let me see, that's going to be his left.
24 Yes, left shoulder.

25 Q Okay.

1 **A** So it does not cross midline. I apologize.

2 **Q** Okay. All right. Let me show you this.

3 We've had this marked as State's Exhibit 46. I'll ask
4 you, in conjunction with that, were you able to
5 recover the projectile from shot number 2?

6 **A** I was.

7 **Q** All right. And do you recognize what I've
8 handed you?

9 **A** Yes, this is the State's Exhibit. This is
10 signed by Dar Shaw, the forensics officer. I
11 recovered these projectiles at autopsy and hand them
12 directly over to forensics, who is present there.

13 **Q** Okay. Would that be something -- let's see.
14 Let's go ahead and open that.

15 **A** Yes, this is the condition it would have
16 been received in by me. I have initialed this screw
17 top specimen container. It's clear you can see a
18 deformed medium caliber projectile in here.

19 **Q** Okay. And that would be the one that you
20 recognize as being involved in this case and pulled
21 from Mr. Crouch?

22 **A** Yes.

23 **MR. CULBREATH:** Your Honor, I'd like to
24 move this in as State's 46.

25 **MR. CHAMBERS:** No objection.

1 **THE COURT:** All right. In without
2 objection.

3 (State's Exhibit 46 is admitted into the
4 record.)

5 **BY MR. CULBREATH:**

6 **Q** Doctor, can you give us your -- I know you
7 did a report. We'll cover that. Would you just tell
8 the jury to a reasonable degree of medical certainty
9 your opinion regarding the cause of death of Nathan
10 Crouch?

11 **A** Yes. Because we do the complete autopsy, we
12 have the ability to evaluate for any natural disease.
13 In this case, we really have a perfectly healthy 33-
14 year-old male. There is no natural disease present.
15 So, by deduction, because he was shot in the chest
16 and has fatal internal bleeding into his chest cavity
17 due to gunshot wound number 1, that is the cause of
18 death. So, in this case, it is -- cause of death is
19 gunshot wound to chest.

20 **Q** All right. And do you classify that or
21 categorize that in your report?

22 **A** We do. Part of doing an autopsy is
23 rendering a medical opinion as to why or -- it's a
24 legal disclaimer or legal opinion as to how this
25 injury occurred. We call that manner. In this state,

1 that can be natural, undetermined, suicide, accident
2 or homicide. In this case, given the report of the
3 coroner and police from the scene and also the fact
4 that this projectile enters pretty hard in the back
5 here and comes up, we believe this to be a homicide.
6 And that is to say that we do not believe Mr. Crouch
7 shot himself three times.

8 Q Dr. Fulcher ---

9 A Yes.

10 Q --- if I may, I'm going to show you what's
11 been marked as State's Exhibit 48.

12 A Yes. State's Exhibit 48 is my autopsy
13 report.

14 Q Okay. Did you author that report?

15 A I did.

16 Q All right. Does that contain your opinions
17 to a reasonable degree of medical certainty?

18 A It does.

19 Q Doctor, let me ask you a question or two
20 about these three shots.

21 A Yes.

22 Q I'll ask you in regards to some additional
23 training that you may have received with regard to
24 forensics ---

25 A Sure.

1 **Q** --- and firearms. Are you able to tell how
2 close a firearm may have been to a particular body?

3 **A** Yes. In most cases, if it is a contact
4 wound or a close range wound, that would be on the
5 skin surface or on clothing that may or may not be
6 received. You can examine those items and get a
7 general idea, not an exact distance, but a general
8 idea how close the end of the gun was to the skin
9 surface when it was fired.

10 **Q** All right. And is that the soot and is
11 there any other matter, stippling or anything?

12 **A** Yes, so soot, if you imagine, this is the
13 end of the gun. If the gun is contacting the skin,
14 there will be burning and charring. If it's just
15 slightly away, with a pistol, maybe an inch, you'll
16 have soot on the skin. If it's further than that,
17 you'll have gun powder tattooing, or stippling. That
18 is hot fragments of primer and other debris that
19 actually embedded in the skin. We call it tattooing
20 because quite literally, it embeds under the skin
21 just like tattooing and you can't wash it off. So
22 it's tattooed into the skin. In this case, none of
23 those were present on -- let me make sure. They were
24 not present on gunshot wound number 1. I don't
25 mention any soot or stippling there. And I do not

1 believe I mentioned it on the chest wound. Nope. The
2 left shoulder wound does have soot present. That's
3 the one right here. That left shoulder.

4 **Q** Let me show you what has been marked as
5 State's Exhibit 49. Do you recognize that document?

6 **A** Yes, this is a picture from Vince DiMaio's
7 book -- handbook of forensic pathology that shows a
8 pictorial illustration of a bullet being fired from a
9 gun and showing the soot and the stipple coming out.

10 **Q** And in your medical opinion and expert
11 opinion, does that accurately reflect your
12 understanding of stippling, soot and the distances at
13 which it impairs itself to the body?

14 **A** Yes. Yes.

15 **MR. CULBREATH:** At this time, I would like
16 to move that in as State's Exhibit 49.

17 **THE COURT:** Any objection?

18 **MR. CHAMBERS:** No objection.

19 **THE COURT:** All right. In without
20 objection.

21 (State's Exhibit 49 is admitted into the
22 record.)

23 **BY MR. CULBREATH:**

24 **Q** If I can, I'll just get you to tell us a
25 little bit more.

1 A Sure. So we have the end of the gun here,
2 flame and soot coming out. If it's a contact wound,
3 you'll have a chart area. If you move further out,
4 you'll have more soot around that. At some point in
5 time, you'll get to a post where the soot ends and
6 just that stipple is moving through the atmosphere,
7 the air. Then you'll have the hole with stipple.

8 At some point, you have a distant range
9 wound, which means we're past the certain distance.
10 Dr. DiMaio here, I believe, has a two-foot mark
11 there. That's more or less accurate. If you're really
12 concerned about range of fire, you'll want to test
13 this weapon against filter paper and have a firearms
14 examiner look at it carefully. At some point in time,
15 the stipple will stop coming out. At that point,
16 you've got a distant range wound.

17 Q And with regard to this particular case,
18 can you recall or refresh your recollection and tell
19 us what you're observation as to each of the three
20 entry wounds on Mr. Crouch.

21 A So, on number 3, and I have my notes here,
22 which is the head, I didn't see any soot. I didn't
23 see any stipple. And unless he was wearing a hat,
24 which he wasn't received with one at autopsy, the
25 absence of soot and stipple in that wound or on that

1 skin surface means that the gunshot wound to the head
2 was a distant range wound, meaning that the weapon
3 was two feet away from the top of his head when it
4 was fired, at least. It could have been a lot more,
5 but it was a minimum of two feet away. Had there been
6 -- had it been closer than that, I would have seen
7 that stipple. Remember, the stipple doesn't wash off.
8 It's actually tattooed in the skin.

9 Q All right.

10 A So the gunshot wound number 2, and I have
11 things drawn here, that was on that shoulder. I said
12 there was a bit of soot. In that case, we know we're
13 several inches away. The one that enters here on the
14 back is several inches away, probably two to three.
15 Those are rough estimates. You can't be exact, but
16 it's not a contact wound.

17 Then, number 1, the one on the chest there,
18 it actually does have an abrasion as to that certain
19 stipple. In that particular case, we have a marginal
20 abrasion around this wound. In that particular wound,
21 number 1 -- I've drawn number 1 here -- likely, what
22 happened, it was a loose contact. The barrel just
23 slightly abrades the body as it expired. A little bit
24 of char there, too.

25 Q So how close would that barrel need to be?

1 **A** Likely touching.

2 **Q** Okay.

3 **A** One, two and three. Keep in mind, three is
4 a minimum. Three could be 100 feet away. I can't tell
5 you. Once the stipple stops going through the air, it
6 could be two to infinity. I can't tell you that.

7 **MR. CULBREATH:** All right. Let's see. I
8 don't know that I've done this. But let me move
9 to admit 48, which is your report.

10 You've got that there.

11 **THE WITNESS:** Yes, it's here.

12 **MR. CHAMBERS:** No objection, Your Honor.

13 **THE COURT:** In without objection.

14 (State's Exhibit 48 is admitted into the
15 record.)

16 **MR. CULBREATH:** Thank you. Court's
17 indulgence one moment. (Pause.)

18 **BY MR. CULBREATH:**

19 **Q** Doctor, one last question. Were all the
20 opinions that you've given here today for this jury
21 given to a reasonable degree of medical certainty in
22 your expert opinion?

23 **A** Yes, they have been.

24 **Q** All right. Thank you. Please answer any
25 questions counsel has.

CROSS-EXAMINATION

1

2 **BY MR. CHAMBERS:**3 **Q** Shot number 1, what was the -- the
4 trajectory?5 **A** The trajectory on shot number 1 is from --
6 I'm going to look at my diagram again -- from left to
7 right and upwards.8 **Q** So that one went upwards?9 **A** Yes.10 **Q** That's the shot to the chest?11 **A** Correct.12 **Q** Shot number 2, what was the trajectory?13 **A** Shot number 2 comes basically from back to
14 front. Hold on. Let me tell you. Back to front and it
15 really just kind of pierces the shoulder and doesn't
16 deviate much. So it's basically straight back to
17 front fracturing the humerus and then going into the
18 muscle.19 **Q** Okay. That was the shot to the shoulder?20 **A** Correct. Yes, sir.21 **Q** Finally, shot number 3, which was the shot
22 to the head, what was the trajectory?23 **A** Almost directly downward. It enters and
24 exits on the same plane, horizontally. It literally
25 is that skip wound, straight down.

1 **MR. CHAMBERS:** Thank you. That's all the
2 questions I have, Your Honor.

3 **THE COURT:** Any redirect?

4 **MR. CULBREATH:** None, Your Honor.

5 **THE COURT:** Thank you. You may step down.

6 **THE WITNESS:** Thank you.

7 **MR. CULBREATH:** May this witness be
8 excused?

9 **THE COURT:** Any objection?

10 **MR. CHAMBERS:** No, Your Honor.

11 **THE COURT:** All right. You may be excused.

12 **THE WITNESS:** Thank you.

13 **MS. GARY:** Your Honor, the State calls
14 Sergeant Dar Shaw.

15 **THE CLERK:** Place your left hand on the
16 Bible and raise your right hand.

17 **DAR SHAW**
18 having first been duly sworn, testifies as follows:

19 **THE CLERK:** Thank you. Please be seated.
20 Please state your name for the record.

21 **THE WITNESS:** Darwin Shaw, S-H-A-W.

22 **THE CLERK:** Thank you, sir.

23 **DIRECT EXAMINATION**

24 **BY MS. GARY:**

25 **Q** Sergeant Shaw, where do you work, sir?

1 **A** I work for the Department of Public Safety,
2 Forensic Division, Crime Scene Section, Greenville
3 County.

4 **Q** How long have you been working with the
5 Department of Public Safety?

6 **A** December will be 19 years.

7 **Q** How long have you been the sergeant over
8 there?

9 **A** Next month will be 18 years.

10 **Q** Tell the jury your responsibilities as the
11 sergeant in forensic office.

12 **A** I do administrative things, such as
13 correcting reports. Reports that technicians do on
14 scene, they turn them in. As a supervisor, I have to
15 look at them to make sure that the spellings are
16 correct. If there were certain actions that were
17 taken, make sure that they're doing what they need to
18 be doing as far as each scene. I also work crime
19 scenes as any other technician. I respond out,
20 process for prints, collect evidence, take
21 photographs and everything else that a technician
22 would do.

23 **Q** Does a supervisor always respond to a crime
24 scene?

25 **A** No, they don't.

1 **Q** Would there be certain types of crime
2 scenes to which you would respond as a sergeant?

3 **A** There's a lieutenant and two sergeants
4 rotate the on-call -- on-call rotation once a week.
5 That happened to be my week that I was on call. Any
6 time that there's a homicide or if there's a question
7 that a technician may have, they would call the on-
8 call supervisor to either get an answer or to advise
9 what type of call they have and then the decision
10 would be made, in this case by myself, whether to go
11 or not.

12 **Q** Okay. Did you, in fact, respond to the
13 scene on December 27th, 2015?

14 **A** I did.

15 **Q** Do you recall who was on the scene when you
16 arrived?

17 **A** When I got there, Investigator Hammett was
18 there. Riley Hope, technician -- at that time, was
19 technician, Riley Hope and Nick Downing. They were
20 the ones that I actually met with as soon as I
21 responded.

22 **Q** What did you do first when you arrived?

23 **A** As I got there, I was told the search
24 warrant had not been obtained yet. So when I spoke
25 with Investigator Hammett, he indicated there was a

1 female and a male who had been transported to the Law
2 Enforcement Center and he was going to need somebody
3 to go there and process each of those individuals.
4 Since the scene is going to be worked by two
5 individuals, I'm the one most likely to leave to go
6 ahead and take care of those situations that need to
7 be addressed. Then, I can always go back to the scene
8 later.

9 Q Did you, in fact, respond to the Law
10 Enforcement Center on this night?

11 A I did.

12 Q Tell us about that. What did you do when
13 you got there?

14 A When I got there, I met with an
15 investigator who advised that there was a female that
16 was in the interview room, as well as another -- her
17 brother was in another interview room and that they
18 were needing to be processed. I had spoken with
19 Investigator Hammett prior to responding. Typically,
20 what he was looking for is to swab, get buccal swabs,
21 take photographs, collect her clothes, get nail
22 clippings, if possible. I do gunshot residue tests.
23 These are standard things that we do if we're working
24 a homicide.

25 Q You were asked to do that for both the

1 witnesses in this case?

2 A I was.

3 Q Do you recall the name of the female whom
4 you helped collect -- from whom you collected
5 evidence?

6 A It was April, but I would have to look as
7 far as her last name.

8 Q Sergeant Shaw, do you write a report in
9 every case you work?

10 A I do.

11 Q I'm going to hand you a copy of it and see
12 if that will help refresh your recollection.

13 A Yes, it was April Green.

14 Q Okay. And tell us, did you -- do you have
15 to ask someone for consent to collect these items?

16 A Typically, we want to get at least a verbal
17 consent or written consent for any testing that's
18 going to be done. In this case, I'd gotten her
19 permission to do whatever needed to be done as far as
20 any testing was concerned.

21 Q What did you collect from her first?

22 A I took photographs first. Had her just sit
23 in the chair. I took some photographs, made
24 observations as far as injuries that she had.
25 Documented those injuries. Once all the photographs

1 were taken, then I began collecting evidence from her
2 at that time.

3 Q What types of evidence did you collect from
4 Ms. Green?

5 A I took buccal swabs from her, which is
6 basically a DNA swab using a Q-tip. You put it
7 between the cheek and gum and obtain their DNA from
8 the saliva. I also did the gunshot residue test. It's
9 an SEM, which stands for Scanning Electronic
10 Microscope. They are little dabbers, like fly paper,
11 sticky fly paper. There are four of them combined.
12 One goes to the back of the left hand, the palm of
13 the left, back of the right and palm of the right. I
14 take off the cap. I then would dab each area of the
15 hand, left, right, front and back. They go back into
16 their containers that they are originally packaged in
17 from the manufacturer.

18 Q After you did that, did you collect
19 anything else from Ms. Green?

20 A I did. I got nail clippings from her left
21 hand. The right hand, she said she had already cut
22 that day, so I couldn't get any clippings from there.
23 Also, there was blood, suspected blood on her hands.
24 I got swabs of that.

25 Q How are those swabs collected?

1 A Just using -- the swabs that we use are
2 self-contained in a plastic container. The Q-tip is
3 built into the lid. So when you take the cap off, the
4 Q-tip is there. Put distilled water on the end of the
5 Q-tip and then do the swab. Since the blood is dry,
6 you do the swab using distilled water.

7 Q And then you reseal it as it was?

8 A Correct.

9 Q Okay. I'm going to show you what's in
10 evidence as State's Exhibit 10 just to see if you
11 recognize that. Is that the photo you took of
12 Ms. Green at the Law Enforcement Center?

13 A Yes, it is.

14 Q Okay. Move on here, did you also collect
15 evidence from Shane Barron in this case?

16 A Yes, I did.

17 Q Is this a photo -- State's Exhibit 16, did
18 you take this photo of him?

19 A Yes, I did.

20 Q That was also at the Law Enforcement
21 Center?

22 A Yes, it was.

23 Q Tell us about what else you might -- you
24 did collect from him.

25 A From him, I basically did the same thing. I

1 did buccal swabs. I got buccal swabs from him, did a
2 gunshot residue test. There were -- he had areas of
3 blood on his hands. I took swabs from his hands.

4 Q Okay. Showing you what's been marked as
5 State's 50 and 51 and ask you if you recognize those.

6 A Yes, I do.

7 Q What are those?

8 A These are the buccal swabs that I took from
9 Barron. One is labeled DS-10. As Mr. Hope stated
10 previously, every piece of evidence is assigned a
11 number. My initials are DS. So DS-10 shows that it
12 was a buccal swab from Shane Barron at the Law
13 Enforcement Center. And DS-12 is a swab of dried
14 blood taken from the right hand of Barron.

15 Q Okay. And we talked about packaging a
16 little bit. But as to the buccal swab, is that a pre-
17 existing package that you use? Is it sealed when you
18 first open it?

19 A When these -- these containers are plastic
20 containers. Again, the Q-tip is in the cap. They are
21 in a sealed cellophane wrapper. We have to peel the
22 wrapper open and take the contents out. We then take
23 the cap off, do the swab, put the cap back on and
24 then it's later sealed with a piece of evidence tape
25 and a bar code is affixed to the outside so we can

1 identify what the piece of evidence is.

2 Q And they are only used for one collection;
3 is that correct?

4 A That's correct.

5 Q Now, both of those items appear to be the
6 items you collected from Mr. Barron?

7 A They appear to be, yes.

8 Q Have they been altered at all?

9 A There are some different pieces of tape on
10 it. But as far as what I identified were these two
11 items DS-10 and DS-12.

12 Q Okay. Thank you.

13 MS. GARY: Your Honor, at this time, we'd
14 offer State's Exhibits 50 and 51 into evidence.

15 MR. CHAMBERS: No objection.

16 THE COURT: All right. Without objection.
17 (State's Exhibits 50 and 51 are admitted into
18 the record.)

19 BY MS. GARY:

20 Q Sergeant Shaw, after you collected from
21 Mr. Barron, what did you do next in this case?

22 A I went back to the scene to see if Riley
23 needed any additional help. Again, walked through and
24 he kind of told me what they had found, what evidence
25 they had found. We discussed things that he probably

1 would want to do as far as marking the areas of tape
2 on the wall, photographing that and so on. Then, that
3 was -- then I ended up going back to the office at
4 that point.

5 Q So what you did when you returned to the
6 scene would be more in your supervisory role; is that
7 correct?

8 A Correct.

9 Q Okay. Did you attend the autopsy of Nathan
10 Crouch?

11 A I did.

12 Q Where did that occur?

13 A At the Greenville Memorial Hospital at the
14 morgue.

15 Q And why did you attend that autopsy?

16 A Any time that there's a homicide that has
17 occurred -- that has occurred that they want a
18 forensic technician to respond to the autopsy to,
19 one, photograph the victim as they are found, also
20 clothes are taken off, collected and then any
21 projectiles or other potential evidence from the body
22 is also collected at that point.

23 Q Did you have occasion to collect -- receive
24 an item from Dr. Fulcher in this case?

25 A I did.

1 Q I'm going to show you what's already in
2 evidence as State's Exhibit 46. Will you tell us what
3 that is?

4 A This is a bar code that's labeled A, which
5 indicates it is a projectile recovered from the
6 victim's left shoulder.

7 Q And that was recovered at the autopsy?

8 A It was.

9 Q Did you observe that being removed from the
10 victim's body?

11 A I did. And I photographed it as it was
12 found in the body.

13 Q And did Dr. Fulcher hand that item to you?

14 A He did. Then I packaged it and filled out a
15 property and evidence sheet and had Dr. Fulcher sign
16 it over to me.

17 Q Okay. Would you have sealed it into that
18 bag?

19 A I did. In fact, I put it in the cannister.
20 I put it in the cannister. My initials are also what
21 I -- what I do is when it's taped up, the pathologist
22 will date it and sign it. Then I also sign it showing
23 that it's been sealed before it gets put into
24 Property and Evidence.

25 Q Okay. And with this item and with both of

1 the swabs taken from Mr. Barron, what do you do with
2 those after they are collected?

3 A After they are collected, they will go to
4 our office and go into my personal evidence locker
5 until such time they are packaged and then placed
6 into Property and Evidence.

7 Q Do you personally take them into Property
8 and Evidence?

9 A Yes. We're responsible for our own
10 evidence. We can't transport anybody else's evidence
11 nor can somebody else transport mine. So we have to
12 do it ourselves.

13 Q Did you, in fact, deliver all three of
14 these items to Property and Evidence in this case?

15 A I did.

16 Q They remained sealed when you did so?

17 A They were.

18 Q Okay. That's all I have. Answer any
19 questions Mr. Chambers has. Thank you.

20 MR. CHAMBERS: I have no questions for
21 Sergeant Shaw.

22 THE COURT: All right. You may step down.

23 THE WITNESS: Thank you.

24 THE COURT: Everybody good over there?
25 Call your next witness.

1 **MS. GARY:** Thank you, Your Honor. The
2 State intended to call James Armstrong, the
3 firearms and ballistics expert, at this time.
4 It's my understanding the defense has agreed to
5 stipulate to his being an expert in that area
6 and to our simply admitting his report.

7 **THE COURT:** All right.

8 **MR. CHAMBERS:** That's correct, Your Honor.

9 **THE COURT:** All right. And that is Exhibit
10 what?

11 **MS. GARY:** 52.

12 **THE COURT:** All right. You want to publish
13 it? Is that what you're going to do or how do
14 you want to?

15 **MS. GARY:** No, sir. We'll simply admit it.

16 **THE COURT:** Okay. All right. It's admitted
17 without objection.

18 (State's Exhibit 52 is admitted into the
19 record.)

20 **MS. GARY:** Your Honor, the State also
21 intended to call Kara Bennick, who is the
22 custodian of records and the custodian over the
23 Property and Evidence Department. Again, it is
24 my understanding that the defense does not
25 object to our having established the chain of

1 custody as to each item of evidence. I have the
2 complete property and evidence report in this
3 case that we would seek to admit as Court's
4 Exhibit 2 at this time.

5 MR. CHAMBERS: No objection, Your Honor.

6 THE COURT: All right. That's Court's
7 Exhibit so that won't be going --

8 MS. GARY: Yes, sir.

9 THE COURT: All right.

10 (Court's Exhibit 2 is marked for identification
11 purposes.)

12 MS. GARY: Thank you.

13 THE COURT: All right.

14 MR. CULBREATH: The State would call
15 Mr. Tim Nafziger.

16 THE CLERK: Sir, would you please place
17 your left hand on the Bible and raise your right
18 hand.

19 TIM NAFZIGER

20 having first been duly sworn, testifies as follows:

21 THE CLERK: Thank you. Please be seated.
22 Please state your name for the record.

23 THE WITNESS: Timothy David Nafziger, Jr.

24 THE CLERK: Thank you.

25 THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. CULBREATH:

Q Mr. Nafziger, good afternoon.

A Good afternoon.

Q Tell this jury where you work and what you do.

A I work in the Greenville County -- I work for the Greenville County Department of Public Safety in the DNA lab.

Q All right. And tell us a little bit about the DNA lab and what your role is there.

A My role there is a serologist. Primarily, what a serologist does is identify human bodily fluids on evidence. I prepare samples for DNA analysis.

Q And how long have you worked there?

A About five years.

Q Did you work anywhere in that field before that?

A I worked in biology areas. I taught biology at a couple of community colleges and taught science classes.

Q The last five years, you've been here in Greenville doing serology?

A That's correct.

1 **Q** That's the study of body fluids?

2 **A** Yes, sir.

3 **Q** So to give this jury a little more context,
4 what does that mean when you study body fluids? What
5 does that mean in the context of working for the
6 Department of Public Safety? What do you typically
7 do?

8 **A** Most cases, I'm looking -- DNA is most
9 often found in body fluids. I look -- sort of screen
10 evidence so I'm looking for -- depending on the
11 circumstances of the case, I may be looking for blood
12 or semen or saliva or swabbing various items to
13 collect DNA.

14 **Q** Okay. Would it be a fair representation to
15 say that you can take items of evidence submitted to
16 you, be it clothing, buccal swabs, tape lifts, and
17 convert what blood -- body fluids or DNA matter is on
18 those into a testable format?

19 **A** Sort of. I basically -- ultimately, I end
20 up with taking samples and putting them in small
21 plastic tubes that the DNA analyst can then come and
22 extract the DNA.

23 **Q** Okay. And in doing this and being able to
24 do this, do you have to obtain any type of
25 certifications?

1 A I was trained in the lab. I have a degree
2 in biology and a master's degree as well. I was
3 trained for six months in the lab by a technical
4 leader. I get -- I undergo an outside proficiency
5 test every year to make sure that I do it right.

6 Q Okay. And is your work that you do on a
7 daily or weekly basis, is that peer reviewed?

8 A It is. All of our reports are peer
9 reviewed.

10 Q All right. Tell the jury a little bit about
11 what peer review is.

12 A It just means that another analyst goes
13 over all of our reports and looks at our notes and
14 makes sure we did everything right.

15 Q Have you testified in courts of South
16 Carolina before?

17 A Yes, sir.

18 Q Were you certified as an expert?

19 A Yes, sir.

20 Q Were you certified as an expert in the
21 field of serology?

22 A Yes, sir.

23 **MR. CULBREATH:** Your Honor, at this time, I
24 would offer Mr. Nafziger as an expert in the
25 field of serology.

1 **MR. CHAMBERS:** No objection.

2 **THE COURT:** All right. Ladies and
3 Gentlemen, as I told you previously, a person
4 can't normally testify about their opinion about
5 something outside of direct evidence of what
6 they've observed through their senses. In a
7 field -- when somebody has been qualified in a
8 particular field -- what's the particular field
9 again?

10 **MR. CULBREATH:** Serology.

11 **THE COURT:** Serology. He can testify about
12 his opinion in this field and you are to give it
13 the weight that you feel is appropriate.

14 **BY MR. CULBREATH:**

15 **Q** Mr. Nafziger, do you remember getting
16 involved in the case involving Marqual Griffin and
17 Nathan Crouch?

18 **A** Yes.

19 **Q** Tell this jury how you first came involved
20 in that.

21 **A** Well, we get notified that there's
22 evidence. We get a DNA analysis request for us to
23 work a case if there's evidence for a case that's --
24 that would be appropriate for DNA. So that's when I
25 first became aware of the case.

1 **Q** Okay. What is the standard procedure for
2 when you receive one of those for your role? What do
3 you do?

4 **A** Okay. I pick up the case from our Property
5 and Evidence Department, make sure the evidence is
6 sealed and then I bring it back to our DNA lab where
7 it's stored in our lab until I work on it.

8 **Q** Okay. And we've heard several times in
9 court the importance of it being sealed. Why is that?

10 **A** It's to prevent contamination. It keep some
11 -- my DNA or any other DNA that may be around this
12 evidence from getting onto that evidence.

13 **Q** Okay. Do you -- would you do any testing or
14 analysis on something that was not sealed when it
15 came to you?

16 **A** No.

17 **Q** That's part of the protocols that you use
18 there in the DNA lab?

19 **A** That's correct.

20 **Q** As part of receiving evidence that you are
21 to analyze or convert to a testable type, do you
22 receive what is called a property and evidence
23 transfer receipt?

24 **A** I do.

25 **Q** And did you receive one in this case?

1 **A** Yes, sir.

2 **MR. CULBREATH:** If I may approach, Your
3 Honor.

4 **THE COURT:** Yes.

5 **BY MR. CULBREATH:**

6 **Q** I'm going to show you what's marked as
7 State's Exhibit 53. Do you recognize that?

8 **A** Yes.

9 **Q** What is that?

10 **A** It's the property and evidence transfer
11 receipt for this case.

12 **Q** Does it appear to accurately reflect the
13 evidence that you analyzed in this case?

14 **A** Yes, it does.

15 **Q** Okay.

16 **MR. CULBREATH:** Your Honor, I'd like to
17 offer this as State's Exhibit 53.

18 **THE COURT:** Any objection?

19 **MR. CHAMBERS:** No objection, Your Honor.

20 **THE COURT:** All right. In without
21 objection.

22 **MR. CULBREATH:** Thank you.

23 (State's Exhibit 53 is admitted into the
24 record.)

25 **BY MR. CULBREATH:**

1 **Q** All right, sir. What we'll do is -- using
2 this may be the easiest way to go through the
3 evidence in this case. I don't know if you can see
4 that or not. Are you able to read that?

5 **A** Yes, sir.

6 **THE COURT:** You want to adjust the lights
7 a little bit?

8 **BY MR. CULBREATH:**

9 **Q** Can you still see it?

10 **A** I can see it fine.

11 **Q** Okay. Tell me what we're looking at, sir.

12 **A** You want me to go through the list of
13 items?

14 **Q** We've got bar codes and then we've got a
15 center column and then some descriptions off to the
16 right.

17 **A** Every time I pick up evidence from Property
18 and Evidence, when they scan the evidence to me, it's
19 all tracked through a bar code system. They print out
20 a sheet for each case with all the items that they
21 gave me on it. I sign for it. It's essentially proof
22 that we received it.

23 **Q** Okay. All right. If you will bear with me a
24 minute. You have HCH-7A, the buccal swab from Marqual
25 Griffin, correct? That is State's 24. (Pause.)

1 I'm going to show you these two. Those have
2 been marked as State's 24 and 25. Do you recognize
3 those?

4 A I do.

5 Q What are those?

6 A These are the buccal swabs of Marqual D.
7 Griffin.

8 Q Okay. And those appear to be in the same
9 condition they were?

10 A Yes, sir.

11 Q And let me show you State's 22. Do you
12 recognize that?

13 A Yes.

14 Q What is that?

15 A That was a sealed package containing the
16 blood spot of Nathan -- Nathan Crouch.

17 Q Okay. Sir, there's been a number of pieces
18 of evidence put in earlier today. What I will do is
19 refer to them. If you can look on the sheet and
20 verify for me that those were also items that you
21 tested. You've got them listed as DS-10, the buccal
22 swab from Shane Barron.

23 A Yes.

24 Q Is that correct?

25 A Uh-huh.

1 **Q** That's State's 50. You've got DS-12, which
2 is a swab from the right hand ---

3 **A** Yes.

4 **Q** --- correct? All right. And that is State's
5 51. You've got RRH-5, which is a black pullover. How
6 is it described there?

7 **A** This label has it as black long-sleeved
8 pullover with hood and white drawstring, King's
9 court, size XL, collected from living room.

10 **Q** Okay. And RRH-5A, what is that listed as?

11 **A** Tape lift from hood of black long-sleeved
12 pullover, item RRH-5.

13 **Q** Okay. And we have that as State's 33. Now,
14 RRH-15A.

15 **A** Swab of possible DNA from grip of handgun,
16 item RRH-15.

17 **Q** And that is State's 38. And RRH-15B?

18 **A** Swab of possible DNA from trigger of
19 handgun, item RRH-15.

20 **Q** Okay. And then off to the right, you've
21 got, it looks like a column of your initials and some
22 numbering. Tell the jury, if you will, what that
23 numbering is.

24 **A** When I bring items into the lab, we assign
25 them our own lab number, which helps track the items

1 once they are in the lab.

2 Q So if someone is to conduct some DNA
3 analysis on those particular items, would they then
4 be referred to by your numbers, rather than RRH or
5 some other designation?

6 A That's right. In our DNA reports, we refer
7 to them based off of these numbers. It just keeps our
8 system consistent throughout.

9 Q All right. And as part of your analysis,
10 once you have done that on these items, do you reduce
11 your findings to writing?

12 A We write a report, yes, once we're done.

13 Q Right. Sorry. More words than I needed to.
14 You write a report, right?

15 A Yes.

16 MR. CULBREATH: Let me -- may I approach,
17 Your Honor?

18 THE COURT: Yes, you may.

19 BY MR. CULBREATH:

20 Q Let me show you what's been marked as
21 State's Exhibit 54. Do you recognize that?

22 A I do.

23 Q What is that?

24 A That is my report.

25 Q Okay. And that is your report generated in

1 this case?

2 A Generated for this case, yes.

3 Q All right. Does that look accurate to you?

4 A Yes, sir.

5 Q All right. Get this back from you just for
6 a second.

7 MR. CHAMBERS: No objection, Your Honor.

8 THE COURT: All right. In without
9 objection.

10 MR. CULBREATH: Thank you, Your Honor.

11 (State's Exhibit 54 is admitted into the
12 record.)

13 BY MR. CULBREATH:

14 Q All right. So Mr. Nafziger, can you
15 describe for the jury your findings in conducting the
16 analysis that you did on these items?

17 A Well, on item 1, the black pullover, I
18 visually examined it and visual examination revealed
19 reddish-brown stains on the drawstrings and both
20 sleeve cuffs. I did a presumptive examination with
21 phenolphthalein, which tested positive for the
22 presence of blood in all three locations. The
23 reddish-brown stain on the right sleeve cuff was
24 sampled for DNA analysis. It's item 1-A. Then I
25 swabbed the inside hood and collar areas. The swab

1 was sampled for DNA analysis as item 1-B. I also
2 swabbed the inside armpit areas. The sample of that
3 swab is item 1-C. Then, item 2, the tape lift from
4 the hood of the black long-sleeved pullover, I
5 examined that with a microscope and found one hair
6 with a root. The root was sampled for DNA analysis as
7 item 2-A.

8 Q Why is the root significant?

9 A Because that's where we're going to find
10 skin cells.

11 Q Okay.

12 A Basically, if a hair is pulled out by
13 force, there's skin cells at the base of the hair.
14 That's the best place to find DNA.

15 Q Is that easier to find than the strand
16 itself?

17 A The strand of hair itself is dead, so there
18 is no DNA in a strand of hair.

19 Q Okay.

20 A Item 3 was a swab from the grip of the
21 handgun RRH-15. I just sampled that swab for DNA
22 analysis as item 3-A. Also, with item 4, I just
23 sampled it. I didn't do any test on it. I just
24 sampled it.

25 Q 4-A?

1 A I'm sorry. 4-A is swab from the trigger of
2 the handgun.

3 Q Okay.

4 A So swab from the trigger of the handgun was
5 sampled, 4-A. Swab from the grip of the handgun was
6 sampled as 3-A.

7 Q Okay.

8 A And then the swab of suspected blood from
9 right hand, I once again used presumptive test with
10 phenolphthalein to test for blood. It tested positive
11 for blood. I sampled the swab as item 5-A. Item 6,
12 which was the blood spot of Nathan Crouch, I sampled
13 the -- I took a sample from the blood spot for DNA
14 analysis as well. Item 7 was the buccal swab of Shane
15 Barron. I sampled that as item 7-A. And the buccal
16 swab of Marqual D. Griffin, item 8, I sampled for DNA
17 analysis as item 8-A.

18 Q The samples themselves, what do you do to
19 prepare them for DNA analysis?

20 A After I take the samples, I put them in a
21 label -- create a bar code label for them to be
22 tracked, then I store them in our DNA freezer in the
23 DNA lab.

24 Q Does it remain in a secure area the whole
25 time?

1 A Yes, sir.

2 Q Is your lab certified as a secure area?

3 A It is. We have key card access and an alarm
4 system.

5 Q Okay. Are you aware of any anomalies or
6 concerns with regard to any of the testing of these
7 materials in this case?

8 A No.

9 Q That's all the questions I have. Please
10 answer any questions counsel may have.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. CHAMBERS:

14 Q So you -- regarding the gun, you never
15 examined the pistol itself, correct?

16 A That's right. I never examined the gun. I
17 just received swabs that were taken from the gun.

18 Q So what was submitted to you was the swab
19 from the grip of the gun, correct?

20 A Yes, sir.

21 Q And also the swab from the trigger of the
22 gun?

23 A That's right.

24 Q No swabs from any other part of the gun,
25 say, the barrel?

1 **A** No, sir.

2 **Q** All right. Thank you. That's all the
3 questions I have.

4 **THE COURT:** Any redirect?

5 **MR. CULBREATH:** None, Your Honor.

6 **THE COURT:** All right. You may step down.

7 **MR. CULBREATH:** May we take a short break?

8 **THE COURT:** Yeah, that's what I just said.
9 We're going to take a short break.

10 **MR. CULBREATH:** Can he be released?

11 **THE COURT:** No, hold on until the break.

12 **MR. CULBREATH:** Okay.

13 **THE COURT:** All right. Ladies and
14 Gentlemen, we're going to take a short break
15 here. Again, do not discuss this case in any
16 way. We'll bring you back out in just a few
17 minutes. Thank you.

18 (Jury exits at approximately 3:15 p.m.)

19 **THE COURT:** All right. We'll be at break
20 for 10 minutes.

21 (The Court goes off the record at approximately
22 3:16 p.m.)

23 (The Court goes on the record at approximately
24 3:30 p.m.)

25 **THE COURT:** All right. Anything before we

1 bring the jury in?

2 MR. CULBREATH: Nothing from the State,
3 Your Honor.

4 MR. CHAMBERS: No, Your Honor.

5 THE COURT: All right. Bring them in.
6 (Jury enters at approximately 3:33 p.m.)

7 THE COURT: All right. Mr. Culbreath, you
8 can call your next witness.

9 MR. CULBREATH: Thank you, Your Honor. The
10 State would call Dr. Jagannadha Kandala.

11 THE COURT: All right. Please come
12 forward.

13 THE CLERK: Sir, please come forward. If
14 you would, please place your left hand on the
15 Bible and raise your right hand.

16 JAGANNADHA KANDALA

17 having first been duly sworn, testifies as follows:

18 THE CLERK: Thank you. Please be seated.
19 Would you please state your name for the record.

20 THE WITNESS: Jagannadha C. Kandala.

21 THE CLERK: Thank you, sir.

22 DIRECT EXAMINATION

23 BY MR. CULBREATH:

24 Q Dr. Kandala, good afternoon.

25 A Good afternoon.

1 **Q** Could you tell this jury where you work and
2 what you do, please.

3 **A** I work for the Greenville County DPS,
4 Department of Public Safety. I am the DNA technical
5 leader. I'm in charge of the lab.

6 **Q** How long have you served in that position?

7 **A** About nine and a half years now.

8 **Q** And tell us a little bit about your
9 educational background.

10 **A** I have a BS in biology and chemistry. I
11 have masters in chemistry. I have a masters in
12 microbiology and a PhD in biochemistry.

13 **Q** You have any specialized training to
14 facilitate analyzing DNA?

15 **A** In fact, I work in the teaching industry
16 for 25 years, all with DNA. And then I'm here in DNA
17 itself for about 20 years. I was trained. I have
18 attendance of meetings, training sessions and stuff
19 like that.

20 **Q** And when you were in school and doing
21 training, did you actually have specific training on
22 DNA analysis?

23 **A** Yes. My first job was in St. Louis
24 Metropolitan Police Department. I was trained from
25 the forensics there. And then I -- since then, I work

1 in -- I worked there about seven years. I worked in
2 San Bernadino, California, for three years, and here,
3 about nine and a half years.

4 Q If you could, give this jury just a good
5 description of what you do on a daily basis where you
6 work.

7 A My serologist in the lab, he does work on
8 the -- initially on all the evidence and the
9 reference material. He prepares the samples for the
10 DNA analyst. As a technical leader and also as the
11 DNA analyst, I also do the job in the lab of
12 analyzing the DNA from the samples.

13 What we do is, once we get the sample from
14 the serologist, we extract DNA from it. And then we
15 quantify the DNA, how much DNA, because we use a
16 specific amount of DNA in the analysis, that is, one
17 nanogram. A nanogram is a billionth of a gram. That
18 is what we use. We quantify the sample.

19 Then we make copies of the DNA at specific
20 points that we want to look at. Those points are the
21 areas that we are looking are unique for a human
22 being. So we can make -- we can differentiate one
23 person from the other person by looking at those. We
24 look at 21 areas on the DNA and then make sure that
25 if the evidence sample, whether it matches the

1 different sample that provided to us. If it matches,
2 that is the person's DNA that is present in the DNA
3 sample, that is what we see.

4 Q Okay. And is the work that you do, is it
5 peer reviewed?

6 A It is peer reviewed. In DNA, all are peer
7 reviewed by analysts in the lab.

8 Q Okay. Have you had an opportunity to
9 testify in courts in South Carolina?

10 A Yes.

11 Q And were you certified as an expert in
12 those courts?

13 A Yes.

14 Q In the area of DNA analysis?

15 A DNA analysis, yes. The method that we
16 follow here, and in general and in all the DNA
17 throughout this country, is called STR analysis. It
18 is called short tandem repeats. That is what I was
19 talking about, the specific areas on the DNA. We copy
20 these areas.

21 We look at these areas by separating these
22 areas. You get -- the ultimate result that is found
23 is in terms of by computer recognition. We see peaks.
24 These peaks present as areas. And then we
25 differentiate between person to person, sample to

1 sample.

2 Q That's a little bit of the detail of what
3 you see when you do your analysis, correct?

4 A Yes.

5 MR. CULBREATH: At this time, the State
6 would like to offer Dr. Kandala as an expert in
7 the area of DNA analysis.

8 THE COURT: Any objection?

9 MR. CHAMBERS: No objection.

10 THE COURT: All right. Ladies and
11 Gentlemen, as I've told you previously, when a
12 person is qualified as an expert, they can
13 testify about their opinion in that field. This
14 is in the field of DNA analysis. And again, I've
15 qualified him as such. You are to give that the
16 weight that you feel appropriate in your
17 deliberations.

18 MR. CULBREATH: Your Honor, may I approach?

19 THE COURT: Yes, you may.

20 BY MR. CULBREATH:

21 Q Dr. Kandala, let me show you what's been
22 premarked as State's Exhibit 55. Do you recognize
23 that, sir?

24 A Yes, this is my report I have prepared.

25 Q Okay. And do you typically generate a

1 written report in these cases?

2 A Pardon?

3 Q Do you typically generate a written report
4 when you do a DNA analysis?

5 A Yes.

6 Q All right. And in this case, is this the
7 analysis regarding the case involving Marqual Griffin
8 and Nathan Crouch?

9 A Yes, please.

10 Q All right. Tell this jury a little bit
11 about how a case comes to you for analysis.

12 A The investigator, when they bring the
13 evidence, they submit it in the Property and
14 Evidence. They let us know that there is a case for
15 analysis, DNA analysis. Our serologist, he goes and
16 picks up the case. He does the preliminary job of
17 looking at all the samples, which is essentially good
18 enough for the case, evidentiary samples. He prepares
19 the samples and then passes -- he will pass it onto
20 the DNA analyst by keeping them in the DNA freezer.
21 In the sequence, we pick up the case. In this case, I
22 had pick it up and I had done the analysis on this
23 case.

24 Q Okay. And the serologist you referenced,
25 would that be Mr. Nafziger that we've heard from?

1 **A** Yes.

2 **Q** Okay. And that report that I handed you,
3 State's 55, does that appear to be an accurate report
4 that you prepared in this case?

5 **A** Yes.

6 **MR. CULBREATH:** All right. At this time,
7 I'd like to move this in as State's 55.

8 **THE COURT:** Any objection?

9 **MR. CHAMBERS:** No objection, Your Honor.
10 (State's Exhibit 55 is admitted into the
11 record.)

12 **BY MR. CULBREATH:**

13 **Q** Doctor, I would like to show you what the
14 serologist generated earlier just to kind of give
15 myself, more than you -- I know that you know this
16 and are very familiar with it -- but the numbering
17 and sequencing so that we can review your report or
18 the jury can when they go back to deliberate and
19 understand what samples are. You make some references
20 here to question items and reference items. So, if we
21 can first get an understanding from you of what a
22 question or reference item is, then we can kind of
23 talk through these numbers.

24 **A** A question item is brought into the lab,
25 which is of evidentiary value from the crime scene. A

1 reference sample is a known sample because you take
2 it from a person. Normally, a buccal swab. So, that
3 is a reference sample.

4 Q So, for instance, these would be reference
5 samples, these buccal swabs?

6 A In this case, yes. Normally, they are --
7 all swabs are in those kind of tubes, but they are
8 marked as -- they are marked with the name the person
9 and -- the buccal swab is taken from that person. If
10 it is put in that --

11 Q It's reference because it's a known -- you
12 know where that came from, correct?

13 A Yes.

14 Q Just like a DNA card is -- we know where
15 that came from because we took it from that
16 individual?

17 A Yes.

18 Q Then a question item might be the
19 sweatshirt, the pullover?

20 A Right.

21 Q All right. Or the hair. Okay. All right. So
22 you take both of those into account when you do your
23 analysis.

24 A Right. Normally, what we do is, so that
25 there's no contamination, we do all evidence samples

1 separate and the different samples separately.

2 **Q** Okay. And for -- and I'm referring to your
3 report now. You have reference items as Nathan
4 Crouch, Shane Barron and Marqual Griffin?

5 **A** Yes.

6 **Q** Correct? Okay. Tell us what question items
7 you looked at.

8 **A** I looked at 1A, 1B, 1C, 2A, 3A, 4A, 5A.

9 **Q** All right.

10 **A** These are samples of suspected blood, the
11 handgun, the swabs that I made from the handgun, all
12 the samples. As I said, first, what we do is when we
13 extract the DNA from the samples, we quantify them.
14 If the DNA is not enough for further analysis, those
15 samples are not taken into the further analysis.

16 **Q** There's a certain threshold of DNA content
17 that you need to have before you will do a test?

18 **A** Right.

19 **Q** Then you mentioned 1A, 1B, 1C and then 2A.
20 The 1A, 1B, 1C, the 1 is the sweatshirt. So we've got
21 three different areas tested on that sweatshirt; is
22 that correct?

23 **A** Right. Because he prepared the -- he looked
24 at the areas on the shirt, then he took the samples
25 separately for further analysis.

1 **Q** So 1A would be the suspected blood on the
2 right sleeve cuff of the pullover.

3 **A** Right.

4 **Q** And then B would be swab of the inside hood
5 and collar area of the hooded pullover.

6 **A** Yes.

7 **Q** The collar area, why would that be a
8 particular interest for DNA analysis? Why would you
9 look at the collar.

10 **A** The collar rubs under the skin quite a bit
11 for any person when he is wearing that. That is the
12 place where you are moving your head quite a bit. It
13 rubs any cells from that -- the neck area, collar
14 area. They get deposited on the collar. So when you
15 swab the area, you get all the cells onto the swab.
16 So we get DNA, quite a good amount of DNA from the
17 area.

18 **Q** That would -- would that same thought hold
19 true for swabbing the armpit area of the sweatshirt?

20 **A** The armpits are down. But if it is not onto
21 the body, suppose an inside shirt or something that
22 they are wearing, then you would not get anything on
23 the armpit. But if it is the only thing that he is
24 wearing, the person is wearing, then you will see the
25 DNA, because there is a lot of sweating the armpits.

1 That is the reason we look for DNA in the armpits.

2 Q Okay. So you had question items, seven of
3 those, that you compared against your reference
4 items, correct?

5 A I have 1A, 1B, 3A, 4A, and 5A.

6 Q Okay.

7 A Five samples.

8 Q I understand. All right. Tell the jury --
9 you've got a results and conclusions area for your
10 findings. So if you could, go through those for the
11 jury.

12 A Sure. 1A, sample of suspected blood on the
13 right sleeve cuff of black hooded pullover. The --
14 when we analyze, we get what we call a profile. It's
15 like a fingerprint. The DNA profile from this item
16 matches the DNA of Nathan Crouch. Excluding an
17 identical twin, Nathan Crouch is the source of this
18 DNA to a reasonable degree of scientific certainty.

19 Q Let me ask you, you can say that to a
20 reasonable degree of scientific certainty because you
21 have the known reference sample.

22 A Right.

23 Q Correct?

24 A Yeah.

25 Q And there's blood on the right sleeve cuff?

1 A Right.

2 Q That you've been able to compare directly
3 to?

4 A Yeah, so when we compare the profile from
5 the evidence sample to one of the known samples, one
6 Nathan Crouch sample has match exactly in every area
7 that we looked at, so it is a match.

8 Q Okay. Nathan Crouch's blood was on the
9 black hooded sweatshirt sleeve?

10 A Yes.

11 Q All right. All right. Continue on.

12 A The second sample is the item 1B, swab of
13 inside hood and collar area of black hooded pullover.
14 DNA results obtained from this item is a mixture of
15 two individuals, a major male and a trace of second
16 individual. The major contributor is a match to
17 Marqual Griffin. Excluding an identical twin, Marqual
18 Griffin is the source of this DNA to a reasonable
19 degree of scientific certainty.

20 Q Okay. So, in essence, Marqual Griffin --

21 A What happens some times is, by any chance,
22 the second person has touched the other person at the
23 collar, his DNA may also come here. That is what
24 happened here. Two people are seen. The major person
25 is Marqual Griffin and the trace, as we see,

1 indicates the trace donor is Nathan Crouch, in this
2 case.

3 Q Okay. So it's got some indications of
4 Nathan Crouch's DNA on the sweatshirt?

5 A There's an indication. I can not say it's a
6 match or anything. But looking at those -- a few
7 areas that are seen, because it's only a trace amount
8 of DNA, looking at his profile and the areas that are
9 seen, a little bit of DNA, I can say maybe it is him.
10 Yes. It is an indication only.

11 Q As far as Marqual Griffin, can you say
12 that's a match?

13 A Yes.

14 Q With regard to item 3A, that looks to be
15 the swab from the grip of the handgun.

16 A Yes. We look -- as I said, we looked at 21
17 areas in general. That is the number of places we
18 look at it. But I did not see all those areas in this
19 case in this profile, so we call it a partial
20 profile. Only a few of them are seen.

21 Q Is that unusual, Doctor?

22 A It's not unusual. Depending on how much DNA
23 is there, if it is below the level that we really
24 look for, then you will not see a complete profile.
25 But still, it is useful because 21 areas are a large

1 number of places. Normally, 8 to 10 areas are good
2 enough to say whether it is -- we match or not,
3 sometimes. So we still work with even the DNA less
4 than the optimal. Still, we will work with that. A
5 partial profile is obtained and so we look at it.
6 Then we look for the match.

7 A partial profile is obtained. I describe
8 what areas I have seen, number of areas I have seen.
9 The problem of finding a random person with the same
10 areas is 1 in 150,000 in the African-American, 1 in
11 5.6 million in the Caucasian, 1 in 7 billion in the
12 Southeast Hispanics.

13 Q That is in regard to whose DNA?

14 A Marqual Griffin.

15 Q Okay. How about item 4A, the sample of the
16 swab from the trigger of the handgun?

17 A This trigger of handgun also has given me a
18 partial profile. The probability of finding an
19 individual with the same areas as this in a random
20 population is 1 in 500,000 in African-American
21 population, 1 in 24 million on Caucasian, 1 in 17
22 billion in Southeast Hispanic population. This was
23 also to Marqual Griffin.

24 Q Marqual Griffin. Okay. And item 5A looks to
25 be the last one you have a test result for.

1 A Yes, this is a sample of suspected blood
2 from the right hand. This is also a partial profile.
3 It matches the DNA of Shane Barron. He is the -- was
4 given as an elimination sample. It is 1 in 700
5 million in the African-American population, 1 in 2.9
6 billion in the Caucasian, 1 in 700 million in the
7 Southeast Hispanic population.

8 Q Okay. Now, you had a reference sample from
9 Shane Barron, correct?

10 A Yes. That's why I could compare ---

11 Q Okay.

12 A --- and do the statistics on it.

13 Q Also, of course, with Nathan Crouch. So if
14 you tested any one of these particular items, if any
15 one of those reference samples were present on an
16 item, be it the sweatshirt, the trigger, the grip,
17 would you -- would you identify that? It may be a
18 smaller or partial. But you -- I'll give you an
19 example. Under item 1B, the inside hood and collar
20 area ---

21 A Uh-huh.

22 Q --- you had a match to Marqual Griffin, but
23 you mentioned a trace indicator of Nathan Crouch.

24 A Because it's a trace indicator, the -- our
25 procedures won't allow us. If the profile doesn't

1 give us the correct amount of DNA, we will just say
2 that it indicates, but we will not give a match.

3 Q Okay.

4 A That's why it is written as it indicates,
5 but we don't say that it is for sure is a match of
6 anything.

7 Q So with the trigger and the grip, of the
8 reference samples you had, the one that indicated the
9 presence of DNA for was Marqual Griffin, correct?

10 A Yes. But we have to do the probability
11 statement because it's a partial profile. I had given
12 how many people in so many how -- have that kind of a
13 profile with that partial profile.

14 Q I understand.

15 Q Because it's not a full profile. If it was
16 a full profile, we can make the statistical
17 calibration close to several billion, trillion. But
18 here, in this case, because it's a partial profile,
19 we can not define completely as a match.

20 Q I understand. Now, when you do your
21 testing, are you able to identify whether the subject
22 or the contributor of the DNA is male or female?

23 A Yes.

24 Q All right. In the testing that you done on
25 these items, did you find any female DNA?

1 **A** No.

2 **Q** Were the opinions given in your written
3 report and testified to today in your expert opinion?

4 **A** Pardon?

5 **Q** Were all the opinions given here today ---

6 **A** Yes.

7 **Q** --- offered in your expert opinion?

8 **A** Yes.

9 **MR. CULBREATH:** One second, Your Honor.
10 (Pause.)

11 Doctor, thank you. Answer any questions
12 counsel may have.

13 **MR. CHAMBERS:** I have no questions for
14 Dr. Kandala.

15 **THE COURT:** All right. Thank you. You may
16 step down.

17 **THE WITNESS:** Thank you.

18 **MR. CULBREATH:** Your Honor, may this
19 witness be excused?

20 **THE COURT:** Yes, he can be.

21 **MR. CULBREATH:** Your Honor, may we
22 approach?

23 **THE COURT:** Yes.

24 (Bench conference is held off the record.)

25 **THE COURT:** All right. Ladies and

1 Gentlemen, based on our scheduling conference up
2 here, there appears to -- the State has an
3 additional witness which they believe to be
4 their last one. But their scheduling has been so
5 efficient today getting through things, both
6 sides, that they did not have it scheduled until
7 in the morning. So, therefore, we get to break
8 early two days in a row. We've gotten through a
9 lot of information these two days. Therefore,
10 we'll break and have y'all come back at 9:30 in
11 the morning. Is that good with everybody? That
12 work for everybody?

13 Again, I got to give you all the four
14 rules: Do not discuss the case amongst yourself
15 or anyone else. Do not pay any attention to any
16 type of media coverage or any social media. Do
17 not do any type of independent research. If you
18 are in contact by anybody other than somebody
19 from the clerk's office, please let the bailiff
20 know. Other than that, we hope y'all will have a
21 good evening. We'll see you at 9:30 in the
22 morning.

23 (Jury exits at approximately 3:57 p.m.)

24 **THE COURT:** All right. Anything else
25 before we break for the day?

1 **MR. CULBREATH:** No, sir. With regard to the
2 charges, will we just have a brief conference?

3 **THE COURT:** Yeah, we will at the
4 conclusion, just so we'll know. All right. Well,
5 we'll see everybody at 9:30 in the morning.

6 (The Court recesses for the day at approximately
7 3:58 p.m.)

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STATE OF SOUTH CAROLINA)
)

CERTIFICATE

345
345

COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 9th day of December, 2017.

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

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2016GS2302330,
	)	2016GS2302331,
State of South Carolina,	)	2016GS2302332,
	)	2016GS2302333,
Plaintiff,	)	2016GS2302335,
	)	2017GS2302334
-VS-	)	
	)	
Marqual Devine Griffin,	)	TRANSCRIPT OF RECORD
	)	(Volume 3 of 3)
Defendant.	)	
	)	

September 11-13, 2017
Greenville, South Carolina

B E F O R E:

HONORABLE PERRY GRAVELY, Judge.

A P P E A R A N C E S:

ANDREW CULBREATH, Esquire
ELIZABETH GARY, Esquire
Attorneys for the Plaintiff

RANDALL L. CHAMBERS, Esquire
EDWARD H. DAWSON, III, Esquire
Attorneys for the Defendant

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

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P R O C E E D I N G S

(Proceedings begin on the 13th day of September,
2017 at approximately 9:41 a.m.)

THE COURT: All right. Before we get
started, I understand we have a juror that went
in the hospital last night for kidney
infection. I'll bet you it's that pregnant one.

THE BAILIFF: It is, Your Honor.

THE COURT: It is? Okay. Kim Burgess. I
noticed yesterday she seemed to be very
uncomfortable. So we will draw the alternate as
required by the law. Put two names to draw the
alternate out. Is that your understanding of
the rules?

MR. CULBREATH: Yes, sir.

THE COURT: Defense?

MR. CHAMBERS: That's my understanding the
last time I was in court with you. (Pause.)

All right. Torrey Crosby has been elevated
from alternate to regular juror. Any -- any
objection to the selection process of our
alternate?

MR. CULBREATH: None from the State, Your
Honor.

MR. CHAMBERS: No, Your Honor.

1 **THE COURT:** All right. All right. Anything
2 before we bring the jury in?

3 **MS. GARY:** Your Honor, we have one brief
4 matter just to ---

5 **THE COURT:** Okay.

6 **MS. GARY:** --- put on the record. The
7 witness whom we're calling next currently has
8 pending criminal charges here in Greenville
9 County. It is, of course, the State's position
10 that those are irrelevant to this case and
11 certainly inadmissible as they are currently
12 still pending. They are from an unrelated
13 incident, not related to this all. I just
14 wanted to make sure that Mr. Chambers and I are
15 on the same page as to their inadmissibility
16 and their irrelevance.

17 **MR. CHAMBERS:** Actually, Your Honor, I
18 think it's admissible for impeachment purposes
19 only. He's got charges pending. He's here
20 testifying for the State. I think it's fair
21 game for me to ask him if he has pending
22 charges.

23 **MS. GARY:** If I may, Your Honor.

24 **THE COURT:** Yes.

25 **MS. GARY:** Obviously, under rule 609, only

1 convictions may be used to impeach a witness.
2 We will certainly get into the fact that this
3 witness was charged in this case, has pled
4 guilty in this case. We will bring that out
5 almost in our first line of questioning. As to
6 any other unrelated pending charges that are
7 not before this court and not before this jury,
8 the State's position would be that those are
9 certainly irrelevant.

10 **MR. CHAMBERS:** Again, Your Honor, the fact
11 that he has pending charges and he's looking to
12 help himself on those charges, I think, goes to
13 impeachment.

14 **MS. GARY:** Your Honor, again, I apologize
15 to jump back to him, but he still has the
16 protections of the Fifth Amendment as to those
17 charges. Mr. Culbreath and I are not involved
18 in those cases and do not -- have not been
19 involved in negotiating them, so whether or not
20 he stands to benefit from this in those cases
21 is certainly not relevant today.

22 **THE COURT:** And I --

23 **MR. CHAMBERS:** I don't plan on asking him
24 anything as far as his Fifth Amendment rights
25 go. I don't plan on asking about the merits of

1 the charges against him, just that they're
2 pending.

3 **THE COURT:** All right. Are you aware of
4 any -- either side aware of any case where this
5 actual issue has been addressed? I mean, it's a
6 little bit different than your standard.

7 **MS. GARY:** The State is not, Your Honor.
8 Obviously, we were relying on 609, the Rules of
9 Evidence.

10 **MR. CHAMBERS:** And I, honestly, didn't
11 anticipate the issue coming up, Your Honor. I'm
12 not prepared with any case law. I just -- you
13 know, I know that these are asked. I've never
14 had anybody object to that.

15 **THE COURT:** Well, don't you -- I mean --
16 aren't you going to ask that you have been --
17 that you have pled guilty but haven't been
18 sentenced? Doesn't that get you where you need
19 to go anyway?

20 **MR. CHAMBERS:** Perhaps.

21 **THE COURT:** I mean, that's the one that's
22 pled guilty but has not been sentenced?

23 **MS. GARY:** Yes, sir.

24 **THE COURT:** I think that will be a cleaner
25 way of doing it. You're going to get that

1 anyway. All right. Anything else?

2 **MS. GARY:** No, sir. Thank you.

3 **THE COURT:** All right. Let's -- let's
4 bring the jury in.

5 (Jury enters at approximately 9:47 a.m.)

6 **THE COURT:** All right. Ladies and
7 Gentlemen, you are one short. I guess they told
8 you that Ms. Burgess evidently had a kidney
9 infection and had to go to the hospital. I know
10 she seemed to be pretty uncomfortable
11 yesterday. So under our law, in a criminal
12 matter, the alternate is selected by a random
13 draw. So civil cases, the next one in line just
14 moves up. In a criminal case, we actually
15 random draw, and Mr. Crosby has been promoted
16 from alternate to regular juror. So we will now
17 -- one minute before we start. I was looking up
18 -- let me just look up one thing before we get
19 started. (Pause.)

20 Ladies and Gentlemen, I'm going to have to
21 ask you to step out. I want to discuss a legal
22 matter with them. I apologize for not doing
23 this sooner. If you step out, I'll bring you
24 right back.

25 (Jury exits at approximately 9:50 a.m.)

1 **THE COURT:** Sorry about that. My law
2 clerk, in all his efficiency and speed, has
3 found a case directly on point on the pending
4 charges. This is State versus Sims. It says
5 pending charges in a case like this are
6 admissible under Rule 608(c), that to exclude
7 them would be error. In that case, there was --
8 because it goes to the possible bias. These are
9 charges pending in the Solicitor's office where
10 no deal had been made and they were able to get
11 into the fact that he had pending charges.

12 **MS. GARY:** Your Honor, just for my own
13 edification, can we have a site on that?

14 **THE COURT:** Yeah, State versus Sims, which
15 is 348 S.C. 16.

16 **MS. GARY:** Thank you, Judge.

17 **THE COURT:** Let me just double-check
18 reading to make sure I'm not...(Pause.)

19 They say because the charges pending
20 against Peterson and the severity of the
21 potential sentences, we find the evidence was
22 probative on the issue of bias and should have
23 been admitted. I think in light of that -- what
24 are the charges that are pending?

25 **MR. CHAMBERS:** It's a murder charge, Your

1 Honor.

2 THE COURT: Oh, okay. I think that
3 definitely falls under State v. Sims.
4 Therefore, I'll reverse my previous discussions
5 and he will be able to ask him about that. All
6 right. Anything before I bring the jury in,
7 from the State?

8 MS. GARY: Nothing from the State.

9 THE COURT: From the defense?

10 MR. CHAMBERS: No, Your Honor.

11 THE COURT: All right. Bring them in.

12 (Jury enters at approximately 9:54 a.m.)

13 THE COURT: All right. Ladies and
14 Gentlemen -- I'll wait until all of you get in
15 here -- thank you for your patience. Like I
16 said, I just had a matter of law that I had to
17 go over with the attorneys. Now, we will -- the
18 State is still in their case.

19 Mr. Culbreath, you may call your next
20 witness.

21 MS. GARY: Thank you, Your Honor. May it
22 please the Court. The State calls Terry Harris.

23 THE CLERK: Good morning, Mr. Harris.
24 Please come around. If you would, please pause
25 at the end of the bench and place your left

1 hand on the Bible and raise your right hand.

2 **TERRY HARRIS**

3 having first been duly sworn, testifies as follows:

4 **THE CLERK:** Thank you so much. Please be
5 seated. Sir, would you please state your name
6 for the record.

7 **THE WITNESS:** Terry Clifton Harris.

8 **THE CLERK:** Thank you, sir.

9 **DIRECT EXAMINATION**

10 **BY MS. GARY:**

11 **Q** Good morning, Mr. Harris. How old are you,
12 sir?

13 **A** 33.

14 **Q** How long have you lived in Greenville?

15 **A** All my life.

16 **Q** Okay. Are you here this morning because of
17 your involvement in this case?

18 **A** Yes, ma'am.

19 **Q** Tell this jury how you know Marqual
20 Griffin.

21 **A** I been knowing Marqual Griffin for about
22 five or six months. We used to smoke and chill.

23 **Q** Would that be five or six months prior to
24 this incident happening?

25 **A** Yes.

1 Q I'm going to ask you to lean forward and
2 use that microphone just a little bit more for me.
3 Okay. Thank you. Did you -- did Marqual Griffin come
4 to your house on December 27th, 2015?

5 A Yes.

6 Q Why did he do that?

7 A He came to -- I had fed him something to
8 eat. He just come to chill, I guess.

9 Q Did he tell you what he was planning to do
10 that day?

11 A Yes.

12 Q What did he tell you?

13 A He said he was going to get some money or
14 something.

15 Q Okay. Do you recall the exact words that he
16 used?

17 A What? A lick?

18 Q A lick? And what did you understand a lick
19 to mean?

20 A A lick means that you going to do
21 something, like robbery or something like that.

22 Q Okay. So a lick, to you, means a robbery?

23 A Yes.

24 Q Okay. And that was the word that Mr.
25 Griffin used?

1 A Yes.

2 Q What did he ask you to do to help him to do
3 that?

4 A He asked me to go with him, but I didn't.

5 Q Okay. Did he offer to give you anything as
6 a result of the robbery?

7 A Yes.

8 Q What did he say?

9 A He said he was going to give me some money
10 or whatever.

11 Q Okay. That was if you helped him?

12 A Yes.

13 Q Did you, in fact, give him a ride that day?

14 A Yes, my partner gave him a ride.

15 Q All right. Let's talk about the car. Whose
16 car were you in?

17 A In my partner car. He was driving.

18 Q Okay. What kind of car was that?

19 A Cherokee.

20 Q Do you recall what color that is?

21 A White.

22 Q Where did you first go with Mr. Griffin and
23 with someone else driving?

24 A We went to the Family Dollar on Old
25 Buncombe.

1 Q Okay. And why did you go there?

2 A He had to talk to his people, I guess. Meet
3 with his -- meet with some white boys I ain't never
4 saw before.

5 Q So Mr. Griffin asked you to go to the
6 Family Dollar?

7 A Yes, asked my driver to take him there.

8 Q Okay. Did you -- what did you do at the
9 Family Dollar?

10 A Just sit in the car.

11 Q What did Mr. Griffin do?

12 A He was talking to his people.

13 Q Do you recall any of his conversation?

14 A I think one of the dudes was like, this is
15 a good time to do it, to let him know it's a good
16 time or whatever.

17 Q Okay. He said that to Mr. Griffin?

18 A Yes.

19 Q What happened when you left Family Dollar?

20 A We dropped him off by Cherrydale. He asked
21 to drop him off. I dropped him off.

22 Q You remember the name of the road you
23 dropped him off on?

24 A It was Perry. Perry Road, something like
25 that.

1 Q And while you were in the car with Mr.
2 Griffin, did you notice if he had a gun?

3 A Yes.

4 Q He did have a gun?

5 A (Nods head.)

6 Q Do you remember anything about that gun?

7 A No.

8 Q You don't remember the size?

9 A Looks like it was .380.

10 Q What happened when you got to Perry Road?

11 A We just dropped him off and we went to the
12 Old Navy store.

13 Q Okay. I got a little bit ahead of myself. I
14 apologize, Mr. Harris. I'm going to show you two
15 pictures that have been marked as State's Exhibits 56
16 and 57. Before telling us what they are, I'm just
17 going to ask you if you recognize them.

18 A Do I recognize what now?

19 Q The photos.

20 A Yes.

21 Q Do you recognize in those photos the car
22 that you were in at the Family Dollar?

23 A The white Jeep.

24 Q Are they -- is that Jeep in both photos?

25 A Yes, ma'am.

1 **Q** Do you recognize in those photos the car
2 that the two white men were in?

3 **A** Yes.

4 **Q** Is that depicted in each photo?

5 **A** Yes, ma'am.

6 **Q** Okay. Let me take those back from you.
7 Thank you.

8 **MS. GARY:** Your Honor, at this time, the
9 State would offer Exhibits 56 and 57 into
10 evidence.

11 **MR. CHAMBERS:** No objection, Your Honor.

12 **THE COURT:** All right. Without objection.

13 (State's Exhibit 56 and 57 are admitted into the
14 record.)

15 **BY MS. GARY:**

16 **Q** Mr. Griffin, this is going to show up
17 behind you. If you could, turn for me. If you can
18 turn around behind you.

19 **A** You called me Griffin.

20 **Q** I'm so sorry. Mr. Harris, thank you. I
21 appreciate you paying attention. There should be a
22 pointer somewhere. There it is. This is a laser
23 pointer, if you would, just use that first button and
24 use that pointer. Would you show us please, sir, on
25 State's Exhibit 56, which car in this photo were you

1 riding in?

2 A The white Jeep.

3 Q It's that first button on the top. There
4 you go. Right there. And which car is the car that
5 the two white men were riding in?

6 A (Indicating.)

7 Q Right there?

8 A Uh-huh.

9 Q Okay. And you recognize this photo to be
10 taken at the Family Dollar?

11 A Yes.

12 Q Okay. And this is State's 57. Can you show
13 us in that photo where the car is that you and
14 Mr. Griffin were riding in? Again, the car where the
15 folks to whom you spoke were right there?

16 A (Nods head.)

17 Q All right. Thank you so much.

18 A All right.

19 Q Mr. Harris, after you dropped the defendant
20 off on Perry Road, you said you went to Old Navy; is
21 that right?

22 A Yes, ma'am.

23 Q At some point later on that same day, did
24 you again see the defendant?

25 A Yes, he had called me.

1 Q Okay. And how did he appear when you saw
2 him after this robbery?

3 A Bloody.

4 Q Bloody.

5 A Yeah, and I was asking him what happened.

6 Q Okay. Now, Mr. Harris, were you charged as
7 a result of your involvement in this case?

8 A Was I charged?

9 Q Yes, sir.

10 A Yes, I was charged with it.

11 Q Okay. And have you, in fact, pled guilty to
12 Attempted Armed Robbery as a result of this case?

13 A Yes, ma'am.

14 Q Okay. Have you been promised anything as a
15 result of your testimony today?

16 A No, ma'am.

17 Q Okay. And when you pled guilty, did you, in
18 fact, admit to giving Mr. Griffin a ride as part of
19 his plan to rob Ms. Green?

20 A Yes.

21 Q Is the person who you know as Marqual
22 Griffin, whom you gave a ride to Perry Road that day
23 understanding he was going to hit a lick, is that
24 person in the courtroom today?

25 A Yes.

1 **Q** Where is he seated? Just so we can have it
2 on the record.

3 **A** (Indicating.)

4 **Q** Over there? Just for the record, he is, in
5 fact, pointing to the defendant in this case.

6 **A** Yes, ma'am.

7 **Q** Just one second, Mr. Harris. (Pause.)
8 Mr. Harris, those are all my questions.
9 Answer any questions Mr. Chambers has, please.

10 **THE COURT:** Mr. Chambers?

11 **CROSS-EXAMINATION**

12 **BY MR. CHAMBERS:**

13 **Q** Mr. Harris, you said that you had known
14 Marqual for five or six months, right?

15 **A** Yes.

16 **Q** Did you say that the two of you were
17 hanging out together, chilling, and smoking most of
18 the time?

19 **A** Yes.

20 **Q** And -- but on this particular day, your
21 testimony today is that he came to see you about
22 hitting a lick on Perry Road; is that right?

23 **A** Yes.

24 **Q** You -- did you give a statement some time
25 back in February of 2016 where you met with Agent

1 Wingler, who is a federal agent, and also
2 Investigator Whitlock at the sheriff's office?

3 A Yes.

4 Q You remember them -- at the Law Enforcement
5 Center; is that right?

6 A Yes. Yes.

7 Q They were asking you about these events
8 that happened on Perry Road; is that right?

9 A Yes.

10 Q So when you went in there, you knew what
11 they were investigating, didn't you?

12 A Yes.

13 Q I mean, they told you, we believe you're
14 involved in this robbery and they told you about the
15 robbery. You knew what they were talking about,
16 right?

17 A Yes.

18 Q You also knew what they wanted from you,
19 correct?

20 A Yes.

21 Q They wanted your cooperation in trying to
22 make a case against Marqual Griffin?

23 A Yes.

24 Q So it -- it wasn't like you just
25 volunteered that information. They told you what they

1 were looking for, am I right?

2 A Uh-huh.

3 Q You were able to provide that to them.

4 A Yes.

5 Q You just testified, did you not, that you
6 told Marqual that you didn't want to participate in
7 any -- hitting a lick?

8 A Yes.

9 Q And all you did, you said, was give him a
10 ride, then you went on to the Old Navy store.

11 A Uh-huh.

12 Q And yet, you end up pleading guilty to
13 Attempted Armed Robbery, correct?

14 A Yes.

15 Q That would mean that you did have some
16 involvement on what happened, wouldn't it?

17 A Not really. I can't stop a man from doing
18 what he already had his mind made up to do. He told
19 me to drop him off. That's what I did, dropped him
20 off.

21 Q But I'm talking about you. You pled guilty
22 to something, apparently, you had nothing to do with.

23 A I pled guilty for dropping him off, because
24 I dropped him off.

25 Q Well, they also charged him with Murder, as

1 well as Attempted Armed Robbery. Since you dropped
2 him off, they told you they could charge you with
3 Murder, didn't they?

4 A They said that -- they charged me with
5 Murder. They dropped it to Attempted Armed Robbery,
6 so that's what I pleaded guilty to.

7 Q So out of everything that happened and all
8 the charges that Marqual Griffin got, you get to
9 plead guilty to an armed robbery -- an attempted
10 armed robbery?

11 A Yes.

12 Q In fact, you haven't been sentenced yet,
13 have you?

14 A No.

15 Q They were waiting to see how you did here
16 today?

17 A Yes.

18 Q Am I right? You also have another Murder
19 charge pending against you from a separate incident,
20 don't you?

21 A Yes.

22 Q That's still pending as you sit here today.

23 A Yes.

24 Q So you knew what those investigators were
25 looking for when they started talking to you, right?

1 **A** Yes.

2 **Q** You were able to give them what they
3 wanted, correct?

4 **A** Yes.

5 **Q** Now, you sit here convicted only of
6 Attempted Armed Robbery waiting to be sentenced with
7 another Murder charge pending, correct?

8 **A** Yes.

9 **Q** So you have every incentive in the world to
10 tell the State what they want to hear from you,
11 right?

12 **A** Yes.

13 **Q** Yes, if your story is to be believed, we
14 have to believe, do we not, sir, that you just
15 dropped a guy that's a friend of yours off supposedly
16 to commit a robbery, then you went to the Old Navy
17 and left him over there, is that what we're to
18 believe?

19 **A** Yeah, I dropped him off.

20 **Q** Really, what he told you was that he was --

21 **MS. GARY:** Objection, Your Honor. May we
22 approach?

23 **THE COURT:** Yes.

24 (Bench conference is held off the record.)

25 **THE COURT:** All right. Objection

1 sustained. Rephrase your question.

2 **BY MR. CHAMBERS:**

3 **Q** These two people that he met with, you said
4 two white boys?

5 **A** Yes.

6 **Q** Did you ever hear the name Kevin Hoffman?

7 **A** Yes, I saw it in my paper.

8 **Q** But did you hear anything about him on that
9 day?

10 **A** Yes.

11 **Q** What about Clinton Nalley?

12 **A** Yeah, saw him.

13 **Q** Were those -- were those the people that
14 Marqual and you were over there talking to at the
15 Family Dollar?

16 **A** Yeah, he was speaking with them. I don't
17 know them. But he was speaking with them.

18 **Q** Those are definitely the two people he was
19 talking to?

20 **A** Yeah.

21 **Q** So Kevin Hoffman was well aware of the fact
22 that Marqual Griffin was going over to [REDACTED] Perry, but
23 he didn't ride with them. You let him off on Perry;
24 is that right?

25 **MS. GARY:** Your Honor, I object again.

1 This witness does not know what Mr. Hoffman knew
2 or did not know.

3 **THE COURT:** All right. Sustained. If he
4 knows specifically, if not --

5 **MR. CHAMBERS:** I just asked him because he
6 said he had talked to him.

7 **THE COURT:** All right.

8 **MR. CHAMBERS:** That's all the questions I
9 have for you, sir.

10 **THE COURT:** All right. Any redirect?

11 **MS. GARY:** Briefly, Your Honor.

12 **THE COURT:** Yes.

13 **REDIRECT EXAMINATION**

14 **BY MS. GARY:**

15 **Q** Mr. Harris, is it, in fact, your testimony
16 that you did not get out of the car at Perry Road?

17 **A** Yes.

18 **Q** You dropped Mr. Griffin off and left; is
19 that correct?

20 **A** Yes.

21 **Q** Was it your understanding when you pled
22 guilty to Attempted Armed Robbery that you did so
23 because you gave him that ride and because you were
24 perhaps to benefit from the proceeds?

25 **A** Yeah.

1 **Q** Okay. That's all I have. Thank you.

2 **A** Yes, ma'am.

3 **THE COURT:** All right. You may step down.
4 All right.

5 **MR. CULBREATH:** Your Honor, that's the
6 State's case.

7 **THE COURT:** All right. Ladies and
8 Gentlemen, the State has rested their case-in-
9 chief, which means that's the evidence that they
10 were going to present forward in their case-in-
11 chief. At this time, we're going to take a
12 break. It may be a little longer, because
13 there's some things I have to go over with the
14 attorneys at this time. If you will, go back to
15 your jury room. Do not discuss the case amongst
16 yourself. Talk about the hurricane; nothing
17 about the case. That's the topic of choice here
18 lately. Tell you what, we'll bring you back out
19 as soon as we're able to. Thank you.
20 (Jury exits at approximately 10:09 a.m.)

21 **THE COURT:** All right. Anything from the
22 defendant?

23 **MR. CHAMBERS:** No, we're going to rest,
24 Your Honor.

25 **THE COURT:** All right. Any motions at this

1 point?

2 **MR. CHAMBERS:** Make a motion for directed
3 verdict as to all charges, just generally
4 arguing as to all charges, that they didn't meet
5 their burden on each element, all evidence
6 considered in the light most favorable to the
7 State. I want to, specifically, address the
8 kidnapping charges though, Your Honor.

9 I don't believe at any point there was any
10 testimony or other evidence that anybody was
11 restrained in their movement. The testimony was
12 -- with everybody was that they were all around
13 that place. There was -- there was not anything
14 where people were corralled and put into another
15 room or anything like that or even held at
16 gunpoint. It was an immediate fight that broke
17 out and chaos. As to those, specifically, I
18 would say they have not met their burden.

19 **THE COURT:** Although I don't particularly
20 agree that it's a kidnapping charge, I think
21 that it meets -- I think, particularly, Shane
22 Barron said -- I think the question was, did he
23 attempt to restrain him. His response was, he
24 didn't attempt, he did restrain me. I guess, in
25 light of the true definition of the way

1 kidnapping is, I think, that would suffice
2 there. And I think as to the remaining elements,
3 I think that there is -- in the light most
4 favorable to the State, I think there's evidence
5 enough for this to go to the jury. So your
6 motion is respectfully denied.

7 **MR. CULBREATH:** Just to clarify, Your
8 Honor, that's as to both victims, April Green
9 and --

10 **THE COURT:** Yes. I mean, I was just saying
11 I remember that specific testimony. All right.

12 You want me to go through with your client,
13 at this point --

14 **MR. CHAMBERS:** I do, Your Honor. We've
15 discussed it, but still, obviously, for the
16 record, we'd like for the Court to go over his
17 rights with him.

18 **THE COURT:** All right. Mr. Griffin, if you
19 will, raise you right hand.

20 (The defendant is first duly sworn.)

21 **THE COURT:** All right. This is just on
22 your rights. First of all -- yeah, you can put
23 your hand down. Okay. First -- and I know your
24 attorney's talked to you at length about this,
25 but I want to make sure you understand and this

1 is on the record -- first of all, you realize
2 that you have a right -- on these charges, you
3 have a right to testify on your own behalf. If
4 you do testify, you will be subject to the same
5 cross-examination as any other witness.

6 Any kind of criminal record? I always like
7 to put that on the record. What's the criminal
8 record you have against Mr. --

9 **MR. CULBREATH:** Your Honor, within 10
10 years, five prior convictions for Burglary third
11 and one Felon in Possession in federal court
12 that's related to this case.

13 **THE COURT:** All right. So those can be
14 used against you on the witness stand. You also
15 have the absolute and constitutional right not
16 to testify. That is your absolute right. That
17 can not be used against you in any way. For
18 instance, if you decide you did not want to
19 testify, in addition to having strategic
20 reasons, which I'm sure your attorney's talked
21 with you, but also, if you don't testify, I will
22 tell the jury that they are not to consider that
23 in any way, because the burden is still on the
24 State to prove you guilty beyond a reasonable
25 doubt and that reasonable doubt applies to every

1 element of every charge. So it's totally your
2 decision whether you testify or you don't
3 testify. You understand your rights?

4 **MR. GRIFFIN:** Yes, sir.

5 **THE COURT:** Also, you have -- you need any
6 additional time to discuss with your attorney
7 whether you are going to testify or not?

8 **MR. GRIFFIN:** No, sir.

9 **THE COURT:** You've had all the time you
10 need? He's answered all the questions in this
11 regard?

12 **MR. GRIFFIN:** Yes, sir.

13 **THE COURT:** Based on that, do you wish to
14 testify?

15 **MR. GRIFFIN:** No, sir.

16 **THE COURT:** All right. That's your
17 decision?

18 **MR. GRIFFIN:** Yes, sir.

19 **THE COURT:** And you don't need any more
20 time to talk with anyone else about that?

21 **MR. GRIFFIN:** No, sir.

22 **THE COURT:** All right. Any other questions
23 from you, Mr. Chambers?

24 **MR. CHAMBERS:** No, Your Honor.

25 **THE COURT:** All right. Let's take a break,

1 and then I'd like to see the attorneys. We'll
2 discuss charge and verdict in the back. We'll
3 take a brief break, maybe five minutes. Y'all
4 are welcome to come back whenever.

5 **MR. CULBREATH:** Yes, sir.

6 (The Court goes off the record at approximately
7 10:14 a.m.)

8 (The Court goes on the record at approximately
9 10:59 a.m.)

10 **THE COURT:** Anything before we bring the
11 jury in? Y'all want to discuss the --

12 Sorry, Mr. Griffin. Didn't mean not to wait
13 on you.

14 Anything from the State? We went over -- in
15 chambers, went over the jury charges. We made
16 some adjustments based on discussions. But if
17 there are any exceptions or objections from the
18 State?

19 **MR. CULBREATH:** Your Honor, based on our
20 discussions in chambers, no, sir.

21 **THE COURT:** All right. Anything from the
22 defendant?

23 **MR. CHAMBERS:** No, Your Honor.

24 **THE COURT:** All right. Any -- y'all should
25 have -- I believe y'all have gotten a copy of

1 the verdict form.

2 MR. CULBREATH: Yes, sir.

3 THE COURT: Any objections or exceptions
4 to that?

5 MR. CULBREATH: No, sir.

6 THE COURT: Anything from the defense?

7 MR. CHAMBERS: No, Your Honor.

8 THE COURT: All right. As we said, the
9 State argues first and then the defense argues
10 last. Anything else before we bring the jury in?

11 MR. CULBREATH: Your Honor, if I may, just
12 one request for a cautionary instruction
13 regarding arguments and making reference to a
14 potential sentence if convicted, making
15 reference by defense counsel to what a person
16 may be facing as far as a sentence. That is
17 improper. That's not part of their decision-
18 making. Usually, it's only used for reference to
19 try to engender some type of sympathy because of
20 the severity of the charge. I would just ask
21 that the Court give cautionary instruction.

22 THE COURT: I think he --

23 MR. CHAMBERS: Yeah, I'm not planning on
24 it. They know murder --

25 THE COURT: Well, let's think about it. In

1 a murder charge, I'm not sure there's really --
2 I mean, they all know that it's pretty serious
3 and there's lost of time hanging over somebody's
4 head.

5 **MR. CULBREATH:** Yes, Your Honor.

6 **THE COURT:** All right. Anything else
7 before we bring the jury in?

8 **MR. CULBREATH:** None from the State.

9 **THE COURT:** All right. Anything else from
10 the defendant?

11 **MR. CHAMBERS:** No, Your Honor.

12 **THE COURT:** Bring the jury in. I will tell
13 them that you rested.

14 **MR. CHAMBERS:** Yes, sir.

15 **THE COURT:** Okay.

16 (Jury enters at approximately 11:02 a.m.)

17 **THE COURT:** All right. Ladies and
18 Gentlemen, as -- the fact that you all got to
19 select your lunch means obviously something's
20 changing here. First, as previously noted, the
21 State rested. The defense has also rested. As I
22 will tell you in more detail when I charge you
23 on the law, the State has the burden of proof.
24 The fact of whether the defendant testifies or
25 whether the defendant puts up any evidence is

1 not to be considered by you in any way. I will
2 go into that in more detail in my charge on the
3 law. What that means is all of the evidence that
4 you will be considering in your deliberation has
5 been put in. That's all the evidence that you
6 will have in this case.

7 Now, what we will do is we will have
8 arguing -- argument and charge. Argument by the
9 attorneys. That is argument. That's not evidence
10 in the case. The evidence is the testimony
11 you've heard, any stipulations, and the evidence
12 that was put in the record. After they have made
13 their charge -- I mean, after they have made
14 their arguments, then I will charge you on the
15 law.

16 Then, at that point, you will begin to go
17 back into your deliberations. Based on -- that's
18 one of the reasons I went ahead and requested --
19 made you make your decision to make your lunch
20 selection, so that when you do go back there,
21 your lunch should be here so that y'all can
22 begin your deliberation without a break for
23 lunch. I mean, y'all can eat it. With that being
24 said, closing arguments.

25 **MR. CULBREATH:** Thank you, Your Honor.

1 Please the Court.

2 Ladies and Gentlemen, good morning. Thank
3 you for your patience over the last couple of
4 days. I know sometimes it's been tedious,
5 particularly yesterday afternoon, for some of
6 that type of evidence to come in. But please
7 understand that even though a lot of the
8 testimony early on was fact testimony, we had
9 some scientific at the end. The State needs to
10 put that in. We've got to have that as part of
11 our case. We just wanted to get that in kind of
12 as efficiently as possible so that you can
13 consider that, because it's important evidence,
14 but it can be dry at times. So we appreciate
15 your patience on that.

16 Like I told you at the beginning, we get to
17 get up and talk to you one more time before you
18 get this case. This is my opportunity to do
19 that. I'm going to go over the law. Of course,
20 the judge is going to charge you on the law. I
21 want to touch on some of the charges and what
22 law you may be hearing from the judge. Then
23 we're going to go over the evidence that was
24 presented.

25 I will say, at the outset, the evidence in

1 this case is unique in the sense that, because
2 you have the audio recordings, it's almost like
3 you were in the room. You've got a recorded
4 statement. You've got a number of photographs.
5 You have quite a bit of testimony from the
6 stand. I would, at the outset, encourage you to
7 go back and review that. Hold us both to the
8 promises, the comments that we made at the
9 beginning. I think that's important. It gives
10 you kind of a roadmap of where we're going and
11 where we've gotten to.

12 Let's talk a little bit about the charges.
13 We've got burglary, first degree burglary.
14 Entering a dwelling without consent with the
15 intent to commit a crime therein. I don't know
16 that we have too much dispute about the entry.
17 He forced his way in with a gun. If you come
18 into a dwelling armed with the intent to commit
19 a crime, that's burglary. Don't know what we
20 have much dispute about that.

21 Kidnapping, there are two victims in the
22 kidnapping. Where did the kidnapping come up in
23 this case? It came up when he took the pistol
24 and he came in and he started giving
25 instructions, demands. Get down. You have to be

1 confined to be restrained, but for a moment.
2 That's all that the law requires. If somebody
3 uses force to restrict your movement and confine
4 you, that's a kidnapping. Now, there's a
5 traditional thought that we all have, the common
6 thought of kidnapping. I understand that. But
7 the law is fairly broad in this area. I'll refer
8 you to the jury charge on that.

9 Attempted armed robbery. An armed robbery,
10 of course, is the taking of the property of
11 another with the use of force or deadly weapon.
12 And the attempt is simply the attempt of doing
13 that, but without actually taking the goods.
14 That's what this defendant is charged with
15 today. I think -- throughout the course of this
16 trial, I don't know that there's too much issue
17 with all of these charges, except the murder
18 charge and the attempted robbery charge. We'll
19 talk a little bit more about those later. But
20 that's what the attempted armed robbery is in
21 this case.

22 No dispute he had a gun. No dispute it
23 worked. It was operable. There's possession of a
24 weapon during the commission of a violent crime.
25 The violent crime, the definition the judge will

1 give you. Burglary first, attempted armed
2 robbery and murder are all considered violent
3 crimes under our statute. This defendant did
4 possess a Bursa .380 when he went into that
5 home.

6 That gets us to the elements of the murder
7 charge, the unlawful killing of another with
8 malice aforethought. The judge is going to give
9 you an instruction on malice. We're going to
10 hear what express malice, or inferred malice,
11 is. I want you, if you will, listen very
12 carefully to the definitions of how you can
13 prove malice, what we need to prove malice.
14 Listen to the -- during the commission of a
15 felony, while you are possessing a deadly
16 weapon. There are pieces of evidence in this
17 case, compelling pieces of evidence that support
18 those two legal definitions. There's also
19 express malice. And I think we have that here as
20 well.

21 There are some lesser includeds to murder.
22 You may hear a charge on one of those. They may
23 not include malice or they may say that they are
24 unintentional. We've proven today, and we'll go
25 through factually, that this was very

1 intentional. This was an intentional act and
2 there was malice. Whether or not he walked
3 through that front door or on his way up to that
4 door had an intent to kill or was full of malice
5 doesn't matter. What happened when he walked
6 through that door matters. Does it matter how he
7 got there, whether it was a set up, whether it
8 was a contrived lick or robbery set up by these
9 people, even one you heard today? It doesn't
10 matter, Ladies and Gentlemen. That's what it
11 was. This was a robbery. This was a planned
12 robbery. But for analysis today, what happened
13 inside is what matters. If you don't have intent
14 when you're walking in the yard up to the door,
15 you can certainly form it. The same with malice.

16 I want to, if I can, try and cover what
17 we've heard as far as evidence. The defendant
18 admits to being there. You've heard testimony
19 from more than a few about how he forced his way
20 in. April Green -- now, you may not like some of
21 these witnesses. You may not like any of them. I
22 think -- I think we had a window this week into
23 the lives people that may live different lives
24 than we do. That's part of our society. Does it
25 make them any less accessible to the justice

1 system? Does it make them any less credible?

2 I would submit to you, April Green, she's
3 got some problems. She's pretty open about it.
4 She looks like she's pulled it back together.
5 She wasn't hiding any thing. She was pretty much
6 an open book. Not proud of it. But she's telling
7 you what she saw, what happened. Note that what
8 she tells you and what you hear on those
9 recordings, all the way down to the details. We
10 listened to five minutes of mundane discussion
11 between her and her boyfriend in jail about her
12 trying to get her cable bill or getting the card
13 started. Look at the photograph. She's got the
14 card and the paperwork on her bed.

15 They'd been out shopping for her niece and
16 bought a teddy bear. Might wonder why we have a
17 picture in there of a teddy bear. It just goes
18 to corroborate. These people that took the stand
19 all told you about the same afternoon. They all
20 told you about the same evening. Take that into
21 consideration when you measure their
22 credibility.

23 He had the firearm. DNA confirms it. Whose
24 DNA is on the trigger? The defendant's. Whose
25 DNA is on the grip? The defendant's. Is there

1 any female DNA on that gun? No. Is there anybody
2 else's DNA on that gun? No, there's not.

3 What are the words we heard when he came
4 in? Get the F down. You know what this is. What
5 y'all got in here? Listen close to that
6 recording, if you can hear it. It's a little
7 hard to hear sometimes, but listen to it as best
8 you can.

9 Jumping back up one second. It was loaded
10 with six rounds. Where are the six rounds coming
11 from? Well, there were two left in the magazine.
12 There were three fired at the victim. There was
13 one found on the side. I'm going to show you --
14 if you think about the sketch that we used --
15 I'll show it to you in just a minute -- there's
16 an unfired cartridge laying on the right-hand
17 side as you come through the front door that
18 they found. We've got spent shell casings over
19 here. We have a projectile over here.

20 How did that unspent cartridge get there?
21 What is that? I would submit to you this is what
22 that is. When he comes through the front door
23 and he wants to show you he means business, he
24 racks it. He takes this pistol and he rack it
25 back one time. When it's loaded and it's got one

1 in the chamber and you rack it back, out comes a
2 cartridge.

3 So, in addition to his introduction when he
4 comes in and starts to yell and waive the gun
5 around, he wants to show he means business. It
6 goes to intent. That's how that bullet got there
7 next to the wall. Sorry I keep walking in front
8 of this. And he had one in the chamber when he
9 came in. If you want to talk about intent,
10 there's intent behind every bullet he slid into
11 that magazine. All six of them. There's intent
12 when he racked it on his way into that house.

13 He had it in his waistband. I bet he did
14 have it in his waistband. You don't walk down
15 Perry Road with it hanging out. You stick it in
16 your waistband.

17 Now, how long did he have to wait before
18 that door opened? Think about it. Does it sound
19 like it was just perfect timing? Just on timing?
20 No. Go back and listen to the recording. You
21 hear April go, who is it. You hear, it's Kevin.
22 Then you hear this long -- I mean, it might be
23 20, 30 seconds. She's getting the drugs
24 together, but there's 20, 30 seconds after he's
25 knocked on that door where he's just standing

1 there.

2 Then, when she finally cracks open the
3 door, the defendant's hiding around the corner.
4 Look at the picture. He's standing around the
5 corner. That's exactly where he'd be. That door
6 opens up. The transaction starts. In he goes.
7 That's burglary, that's a robbery, that's
8 intent.

9 Let's talk about Nathan a little bit. He
10 wants to talk about Nathan coming out. What does
11 he do? What's the testimony about what Nathan
12 did? Hands up. First thing he does, before he
13 puts his hands up, he pushes April out of the
14 way. That's what he's trained to do. We're
15 talking about a United States Marine combat
16 veteran, hit an IED, came back disabled. Had
17 some trouble reentering. Is he perfect? No. None
18 of us are. But he knew what to do when an armed
19 person comes at you.

20 He got her out of the way. He came towards
21 Marqual. He steps forward, hands up. What
22 happens? Shane told you as best he could. Don't
23 think people go through this experience and
24 aren't traumatized. Don't think that. This is a
25 -- you've heard that call. That was very

1 traumatic. They're doing the best they can with
2 their recollection. But what he went through --
3 and if I can, I want to put up this document.

4 When Marqual comes in, the defendant comes
5 in, she's up here. Kevin's gone in here.
6 Nathan's back here. As she's backing up and he's
7 demanding what they've got, out comes Nathan.
8 They're going to encounter each other about
9 right here. He's got his hands up. Hey, hey,
10 what's this? What's this? Cincinnati's on the
11 phone.

12 That's the point where it goes from like
13 this when Marqual's got the gun up. Nathan tries
14 to move the gun. I would submit to you that
15 Nathan attempted to move the gun and get him out
16 the front door. He ends up here. Here's your
17 struggle. There's your table. Listen to that
18 defendant's statement. We fell up against the
19 table. There's your table. Then they come up
20 here.

21 Shane, he remembers a shot. He sees them
22 locked up. The defendant will tell you that the
23 victim's hand is on the pistol. Well, whether it
24 is or it's not, it's an important point. How
25 many times did the gun go off? Three times. Did

1 it go off once? No. It started going off when he
2 got behind this couch. Shane said they started
3 to go down and he heard a gun shot.

4 Where'd the first gun shot go? Dissected
5 the mid -- midline, right here. Came in right
6 there almost point blank. Almost contact fire.
7 Went through both lungs and came out the
8 shoulder. Where'd the second round go? Was it
9 somewhere during the struggle? It was in his
10 back. He shoots Nathan and Nathan starts to go
11 down. He pulls the gun back and puts one in the
12 shoulder.

13 As he's down -- once he goes down, what
14 does he do with the third one? Where does the
15 third one go? Back of the head. Is that an
16 accident? No, it's not. You know why? Because it
17 was more than two feet away. You had an expert
18 tell you that head shot had no stippling. It was
19 more than two feet away. That was a kill shot.
20 That was an execution shot. There's your intent.

21 Did he have that when he came in? No, you
22 know why? He didn't even know he was in there.
23 He'd come by earlier and she's here by herself,
24 as far as he knows. Cincinnati is in jail. She
25 won't even come to the door. So now is the time

1 to hit that house. Word, apparently, spread.
2 You've got photographs.

3 Assault and battery on April Green? You
4 can believe her testimony. You can believe her
5 pictures. You can even listen to the beating on
6 the 911 call.

7 Ladies and Gentlemen, there's a lot of
8 arguments to be made. I just want you to go back
9 and have a clearer picture of what you've seen
10 here. I want to show you one more time. Again,
11 I've had it blown up.

12 I told you at the beginning -- I told you a
13 few things at the beginning. I told you April
14 Green was a heroin dealer. I told you Kevin was
15 a heroin user. And I told you, you were going to
16 hear testimony, photographs, forensics and
17 science, maybe more science than you care to
18 hear. But this is a science. This is a
19 measurement of what it would look like.

20 I submit to you, there's your shoulder
21 shot. That's what that looks like. Here's your
22 rib cage shot. There's your head shot. He didn't
23 say two feet. He said at least two feet. Think
24 about the questioning of the defendant, the
25 statement. He tells his investigator a story

1 until he says, you know what, I've got the gun.
2 I'm going to get the DNA off of it. Then the
3 story changes. Then he tells him what, you know
4 what, I've got you on recording on a jail line.
5 Give a piece of evidence, he changes his story.
6 Give a piece of evidence, he changes his story.

7 Take them back. Take a look at them. Why
8 would he say I'm there for a refund? Why would
9 he tell law enforcement he was there trying to
10 get a refund when he already knows April only
11 sells to certain people? Because he doesn't have
12 another logical excuse or explanation as to why
13 he's there. Think about it. He's had seven days
14 to think about it. I was there for a refund.
15 Otherwise, what are you doing there? Doesn't add
16 up. Doesn't add up.

17 He tell you that he didn't get anything of
18 value out of there. Didn't get anything of value
19 out of the house. I would submit to you Nathan's
20 grandmother may take issue with that. He took a
21 life.

22 You're going to find malice, intent. Ladies
23 and Gentlemen, we've shown it to you three ways.
24 Some of this testimony has been difficult. Some
25 of the photographs are not pleasant. But we're

1 trying to give you as complete picture as we
2 can.

3 I think the placement of those shots is
4 important. I'm going to ask you to consider
5 that. I'm going to ask you to just go back and
6 recall all the testimony that you can. Review
7 all the evidence that we've provided. Apply your
8 every day common sense. That's why you're here.
9 You're the finders of fact. Render a verdict. We
10 believe we have proven beyond a reasonable doubt
11 that he's guilty on all counts.

12 The way this process works is I get to
13 speak, Mr. Chambers gets to speak. Ask yourself
14 if there's any evidence -- if you hear anything
15 that's inconsistent, go back and look at the
16 evidence. Go back and review the testimony. We
17 appreciate your time and attention. Thank you.

18 **MR. CHAMBERS:** Ladies and Gentlemen, we've
19 come to the end of a good two and a half days of
20 trial of Marqual Griffin, whom you've heard
21 referred to as the defendant. As I told you at
22 the outset, he's been looking forward to this
23 day, not because he looked forward to going on
24 trial for murder and all these other very
25 serious charges, but because he's had this

1 hanging over his head and because you good folks
2 are here, this case is going to be decided
3 today. Justice will be done in this courthouse.

4 You are the triers of fact. We've talked
5 about that at the outset. His Honor is going to
6 give you the law here in a few minutes. You're
7 going to apply that to the facts in this case.
8 But you're going to decide what the facts are.
9 You're going to reach a verdict. It has be
10 unanimous.

11 Now, the word verdict comes from the old
12 Latin term "verdicto", which means to speak the
13 truth, which means that part of what you have to
14 do here is figure out what the truth is, keeping
15 in mind, of course, that the State has this
16 burden of proof to prove their case to you
17 beyond a reasonable doubt, to give you evidence
18 that leaves you definitely sure that Marqual
19 Griffin is guilty of murder, attempted robbery,
20 kidnapping, and the gun charge.

21 The Solicitor went over those elements with
22 you a little bit. His Honor is going to give you
23 very specific instructions. You have to weigh
24 all of the evidence. Ask yourself if they've
25 proven every element of this offense. You have

1 to find the truth. You can't find the truth in
2 this case if you're left with doubt. If there's
3 doubt, then you reach a not guilty verdict. Any
4 doubt has to go in favor of Marqual Griffin.

5 That's how the system works. That's how
6 it's supposed to work. In this court, if a
7 person leaves here with a criminal conviction,
8 it's possible that they will be deprived of
9 their liberty. As a result, they have this high
10 standard.

11 Now, the Solicitor had very specific theory
12 of this case, one where Marqual Griffin,
13 essentially, went to that place at [REDACTED] Perry
14 Road laying in wait at the side of the house,
15 waiting for an opportunity that might arise that
16 he could go into the house and rob them, of
17 course, not knowing if anybody would show up, of
18 course, not knowing if he would ever have that
19 opportunity. He just decided he would go out
20 there and he would hang out by that house until
21 somebody came up to allow him access.

22 As you've heard, we know he had been there
23 before. He said that -- when he was talking to
24 the investigator when they videotaped him, he
25 indicated he had gone by there earlier and he

1 had bought some, I believe he said meth, from
2 April Green there at the house.

3 She said he came by. She claims he just
4 came by, he's looking for Cincinnati. She told
5 him he wasn't here. She never opened the door.
6 He went away. It proves one thing for sure. It
7 proves that he knew where that house was. It
8 proves that he knew who lived there. This was
9 before he ever had any contact, presumably, with
10 any of these other people, like these two white
11 dudes that you heard from, from Mr. Harris.
12 There were drugs and money and things in there
13 to be had.

14 He knew Cincinnati was there. He,
15 apparently, didn't know enough about what was
16 going on to know that Cincinnati was in jail.
17 The truth of the matter is, as he said to the
18 investigator, he went over there and bought some
19 meth from April Green, because that's what April
20 Green does. April Green is a drug dealer. She
21 wanted to paint herself in as sympathetic light
22 as she could, not only here at trial, but when
23 she talked to the officers.

24 She was a drug dealer. She'd been operating
25 that enterprise for quite some time without

1 Cincinnati there, who's in jail. Anything that
2 goes along with that, that's what she was
3 involved with. Okay. Anybody that would hang out
4 in a house like that is going to be somehow
5 involved in that. These are not innocent people.
6 This is not an innocent place, despite how
7 sympathetic they may want to make themselves
8 appear.

9 And that's just natural. You know, we try
10 to weasel our way out of as much trouble as we
11 can. We always try to downplay our own
12 blameworthiness in any situation. None of that
13 surprises me, but it leads people to say things
14 that are untrue for various reasons.

15 Again, going back to what the Solicitor has
16 described, he describes a situation where
17 Marqual Griffin planned this out, knew exactly
18 what he was going to do when he went in, yet --
19 and was in complete control as he went in. You
20 remember when he was talking to you just a few
21 minutes ago in his closing argument? He would
22 lead you to believe that he came in, had this
23 .380 in front of him. All right. Everybody get
24 down. This is a robbery. He's holding the gun
25 out like this.

1 Yet, we are to believe that April Green
2 begins to back away from this person who is so
3 in control of the situation, ready to shoot
4 somebody. I don't know about you, but if
5 somebody's pointing gun at me, I'm not moving
6 anywhere. Then you've got Nathan Crouch, the
7 person who is killed in this case, who comes out
8 of a bedroom and apparently walks up close
9 enough, with somebody pointing a gun at him,
10 threatening to kill him and is able to grab the
11 gun.

12 Now, I've seen things like that on TV and
13 in movies. But I don't care, marine or no
14 marine, you're not going to walk up on somebody
15 with a loaded gun who you really believed is
16 about to shoot you. You're just not going to do
17 it. It belies common sense. The reason it belies
18 common sentences is it didn't happen that way.

19 The Solicitor, you know they've got their
20 thing here with, you know, the distances and all
21 that. He describes -- he makes a very compelling
22 argument that they begin to go down. And as they
23 go down, Marqual manages to squeeze off a shot
24 into the side. He rolls up, shoots him in the
25 back. And then he stands over him to deliver the

1 kill shot.

2 Well, that doesn't make sense for a couple
3 of reasons. One, if Marqual then had the time to
4 stand up, do this, deliver the kill shot to the
5 head -- which wasn't the kill shot, by the way.
6 Apparently, that shot to the head was a graze, a
7 graze to the head. The shot to the head was
8 down. The shot to the shoulder was straight. The
9 shot to the chest was up. All at different
10 directions perfectly consistent with a struggle
11 going on over a gun. Not consistent with what
12 the Solicitor said. The other thing is this,
13 if, in fact, he was able to gather himself up,
14 the person is already disabled on the floor and
15 he stands over him to do a kill shot, why did he
16 lose his gun? Why didn't he have a gun when he
17 got up?

18 Steve Barron, who was supposedly in the
19 room on the couch, watching the whole thing
20 happen, never saw the gun after the scuffle
21 started. And in fact, later, found the gun --
22 for some reason that's never been adequately
23 explained -- carefully picks it up so as not to,
24 I guess, get his fingerprints or anything on it.
25 And then takes it and drops it behind the

1 dresser in the bedroom. Police didn't get it the
2 first time. They had to come back on a
3 subsequent trip and get it. That belies common
4 sense. I don't have a good explanation for it.

5 But you know, here's the thing, that's what
6 I'm talking about when I talk about doubt.
7 That's what I'm talking about when I talk about
8 you searching for the truth. It is true that
9 Marqual Griffin, like a lot of people when they
10 originally started talking to him, told
11 something that wasn't true. He wasn't going to
12 admit that he was over there. He knew something
13 bad had happened.

14 Then, he told what actually happened, that
15 he had been by there earlier in the day to buy
16 drugs. It makes a lot of sense. April Green sold
17 a lot of drugs out at that house. He went to
18 smoke what he got, and it was no good. He's
19 pissed. He's going to go back and recoup his
20 loss, if he can. And he goes armed, because
21 guess what, these are drug dealers. It's
22 reasonable to expect that they are going to have
23 guns in that house. They're probably not going
24 to be too happy with that. You want to protect
25 yourself when you go over there. That doesn't

1 mean he's going over there to commit a robbery.
2 That means he was going over there. Indeed,
3 these people weren't happy with him.

4 The thing that has bothered me ever sense I
5 looked at this is I keep thinking about somebody
6 who is supposed to be there to commit a robbery,
7 didn't hide his face. He knew that he knew it
8 because he had seen April Green earlier in the
9 day. He's planning this robbery. Why would he
10 show up and not even try to obscure his face?
11 Why would he not put gloves on?

12 They tell you that the only DNA they found
13 on the gun was his. Well, of course, they'll
14 find his DNA on the gun. You know what, they've
15 never checked? They've never checked the barrel.
16 Struggling around like this. (Demonstrating.)
17 Why not? Why not check the whole gun out? Why
18 not swab everything if you're doing a thorough
19 investigation?

20 Everybody that you've heard from on the
21 State's side contradicted themselves from
22 previous statements and, in some cases, even
23 crossed themselves up from direct to cross
24 examination. For example, Mr. Barron said that,
25 when he testified on direct, he never said

1 anything at all about Marqual Griffin,
2 supposedly, pistol whipped April Green, but
3 admitted that in his statement to Investigator
4 Whitlock, he said that when Marqual Green first
5 came in, what he did was he started to pistol
6 whip April Green right inside the door. Then he
7 -- you know, there may be things you're not
8 going to remember.

9 There may be things you don't get straight.
10 But if you're telling the truth and that's what
11 happened, you're remember it. I want you, when
12 you go back there and deliberate, I want you to
13 think about April Green. Do I believe everything
14 that she's telling me? Does it make sense to me?
15 Same thing with Steve Barron. You can look at
16 these inconsistencies. You know, there's a
17 temptation on my part to go through each and
18 every one of them, but you folks sat there and
19 you heard it, and I don't want to keep you here
20 all day. I want you to be able to go back there
21 and deliberate and talk about this one to
22 another.

23 You get Kevin Hoffman. They seem to believe
24 that Kevin Hoffman didn't even know Marqual
25 Griffin, never had anything to do with Marqual

1 Griffin, that he just happened to show up when
2 Kevin called ahead and was there to go in and
3 buy drugs. He wasn't charged with anything as a
4 result of this. Despite one of their other
5 witnesses saying that Kevin Hoffman and Clinton
6 Nalley or the people that you see the picture of
7 meeting at the Family Dollar.

8 I'm not asking you to believe anything
9 Terry Harris says. Clearly, he is a person
10 motivated to help himself. He has a pending
11 murder charge out there. The only thing that
12 they had him plead guilty to in this case,
13 despite him being charged with murder and other
14 things, is attempted armed robbery. He hadn't
15 even been sentenced yet, because they want to be
16 able to see what he's going to say.

17 When he went in and talked to the federal
18 agent and with the investigator from the
19 sheriff's office, he said that he drove Marqual
20 -- Marqual over there, told him he didn't want
21 anything to do with the robbery, dropped him
22 off, then he went to the Old Navy. As a result
23 of that, he pleaded guilty to armed robbery.

24 Now, before he told that story, keep in
25 mind that the federal agent and the investigator

1 were leaning on him. He had charges pending. He
2 had exposure. They told him up front they
3 thought he was involved in this robbery. As he
4 told you, they told him basically what they were
5 looking for. He gave it to them. But it doesn't
6 make sense. Once again, he tries to minimize his
7 involvement as much as possible, if there was
8 any involvement. But there wasn't really
9 anything to be involved in.

10 As we said, this is not a robbery. The
11 facts don't bare that out. They just don't. This
12 was a person that went back to get recompense
13 for having been ripped off. He got jumped. He
14 not only got jumped by Nathan Crouch, but by
15 Steve Barron and by April Green herself. You
16 know, April's got herself moving all over the
17 place. It doesn't add up. Their theory is that
18 this man walked in there armed with a gun, was
19 in complete control and that people basically
20 just ignored him. They risked getting shot.

21 The other thing is, again, the whole kill
22 shot thing. If he didn't have a gun, that could
23 not have happened. Had it happened, you would
24 have heard it from Steve Barron. He didn't say
25 that. He was there for the whole thing. He had

1 Marqual in a headlock beating the hell out of
2 him. He's not a big guy. He's not an
3 intimidating person. It would make sense that he
4 would have a weapon. It would not be hard to
5 physically take advantage of it.

6 David Crouch was a big guy and, apparently,
7 a trained fighter. Steve Barron, clearly bigger
8 than he is. April is even bigger than he is.
9 They all have injuries. All of them.
10 Significantly, when you look at Steve Barron and
11 those pictures of him, he's got arm burns, leg
12 burns. He was rolling all over the place
13 fighting. Same thing with Nathan Crouch. That's
14 when the gun went off. That's why one goes in
15 from above, one goes in from below, one goes in
16 straight. That's why he had no gun. If he had
17 been able to leave, don't you think he would
18 have gotten out of there? These people were
19 trying to kill him. Exactly what was going on.

20 When you look at this case, you have to
21 believe that this was a robbery. If you don't
22 find that, then nothing else follows from it. If
23 you don't find that, he's not guilty of
24 anything. If he went over there simply to get
25 redress, he's not guilty of anything. The facts

1 support that a lot more than they support what
2 they put forward.

3 I want you, again, to ask yourself that
4 with each witness. Do I believe they're telling
5 me the truth? Do I believe the State's theory of
6 the case? Do I believe what the State told me at
7 the outset? Have they proven that? Does that
8 make sense to me? It's not for you to put the
9 pieces together and try to make sense of it and
10 help them make their case. No. It is to hold
11 them accountable. If you're confused, then you
12 have doubt.

13 Now, I'm not, in any way, trying to say the
14 police tried to frame an innocent person.
15 They're just trying to solve a case. I want you
16 to think about this. When I talked to
17 Investigator Hammett, Investigator Hammett said
18 that on his way over, he had been filled in.
19 When he got there, he was working on the
20 assumption that this was a home invasion
21 robbery. He never let go of that assumption.
22 Every witness that they put up, in some way, was
23 pushed in that direction, however well-meaning.

24 Here's the problem with that. It leads to
25 bad results. It leads to people being convicted

1 of things they didn't do. Obviously, we don't
2 want things like this going on in our
3 neighborhoods. You would think that where this
4 happened was just a terrible neighborhood. Now,
5 there are a lot of people that live over there.
6 It's a nice neighborhood. People keep their
7 houses up well. If you drove down that street,
8 you would never think this kind of stuff was
9 going on. You were right to be concerned that
10 that kind of thing is going on in the community.

11 But here's the thing, folks, people that
12 are involved in that sort of thing end up having
13 bad things happen to them, especially if they
14 sell things that aren't what they're purporting
15 to be. People show up at your doorstep with a
16 gun, not necessary to rob you or do anything
17 like that. It's for protection. They know they
18 are dealing with people that mean business.

19 I have a tendency to want to keep going on
20 and on about this stuff and point out every
21 little detail in the case. This is my
22 opportunity to get to talk to you and go over
23 the evidence with you. You know the evidence as
24 well as I do. You sat here. You've heard their
25 case. Now, you get to go make a decision. You

1 can consider whether you believe this was a
2 premeditated murder with malice. You can
3 consider --

4 **MR. CULBREATH:** Your Honor, I object.
5 That's a misstatement of the law.

6 **THE COURT:** All right. I'm -- I'm -- I
7 overrule that. I'm going to tell them what the
8 law is.

9 **MR. CHAMBERS:** You can consider, okay,
10 maybe something happened, but it's not murder.
11 You can consider involuntary manslaughter. The
12 judge is going to give you the elements of that.
13 You go through and consider the elements of each
14 and every one of those offenses. Folks, when you
15 do that, I will submit to you that you're going
16 to have to rely on the witnesses and evidence
17 that they brought you in each every case and ask
18 yourself, is it consistent? Is it believable?
19 No.

20 You know, the only person out of all of
21 this that's standing trial for murder is Marqual
22 Griffin. At this point, his fate is in your
23 hands, guilty or not guilty. We simply ask you
24 to hold them to their burden. If you do that, we
25 believe you'll come back with a verdict of not

1 guilty.

2 I know I forgot something I wanted to say
3 and I know I will regret it later, but I'm going
4 to have to go sit down now. I do that knowing I
5 watched y'all. You've paid attention. You were
6 very much into what was going on. I'm confident
7 that you'll reach the right decision in this
8 case. Thank you very much.

9 **THE COURT:** Thank you. All right. Let's
10 everybody just take a -- everybody, stand and
11 stretch for a second before I start with the
12 law.

13 Counsel, if y'all could just approach for
14 one second.
15 (Bench conference is held off the record.)

16 **THE COURT:** All right, Ladies and
17 Gentlemen. Now, it is my -- we just had a
18 clerical error we had to talk about on the
19 verdict form. All right -- now, it's my duty to
20 charge you on the law which applies to this
21 case.

22 First of all, as we discuss -- as you've
23 heard, there are several different indictments.
24 I believe there's a total of seven -- six
25 different charges here. All right. Six different

1 indictments and seven different charges. There's
2 -- they are very distinct charges. Let me go
3 through these with you. There's attempted armed
4 robbery, there's assault and battery 1st degree,
5 two separate counts of kidnapping, burglary in
6 the 1st degree, murder, & possession of a weapon
7 during the commission of a violent crime.

8 I remind you that I said, at the very
9 beginning, that the fact that the defendant was
10 arrested, and he was charged and indicted is not
11 evidence in this case and should be considered
12 by you in your determination that this is
13 evidence of his guilt, nor does it create any
14 presumption or inference. As I've told you,
15 everybody that comes into this courtroom, that
16 has pled not guilty, has that presumption of not
17 guilty.

18 It's up to the State to prove each of these
19 charges beyond a reasonable doubt and the
20 elements of them. The document is simply the
21 formal written instrument that brings these
22 charges against the defendant before the Court.
23 That's all it's for. You're not to consider
24 those in there.

25 Now, we have multiple charges here. They

1 allege several -- many different offenses, as
2 I've indicated -- as I've previously listed.
3 Now, you are consider each indictment as a
4 separate and distinct offense when you're
5 deliberating. This will -- this will be set out
6 on the verdict form. It will make -- it tells
7 you how you are to be deliberating as far as
8 each independent one.

9 But you must decide each independent,
10 separately on the evidence, the law applicable
11 to it and uninfluenced by your decisions as to
12 any other document. In other words, if you
13 decide one indictment and you don't consider --
14 consider your verdict on that indictment, you go
15 to the next one, because you are consider each
16 one independently based on the law and the
17 evidence presented. The defendant may be
18 convicted or acquitted on any or all or none of
19 the charges. You will be asked to write a
20 separate verdict of guilty or not guilty for
21 each indictment. Again, I will go through the
22 verdict form with you so you will have a better
23 idea of that. It will make better sense then.

24 The defendant has pled not guilty, as I
25 said, to these indictments, and that plea puts

1 the burden squarely on the State to prove the
2 defendant guilty. A person charged with
3 committing a criminal offense in South Carolina
4 is never required to presume -- prove himself
5 innocent.

6 I charge you that it is an important rule
7 of the law that the defendant in a criminal
8 trial, no matter what the seriousness of the
9 charge may be, will always be presumed to be
10 innocent of the crimes for which the indictments
11 were issued unless guilt has been proven by
12 evidence satisfying you of that guilt beyond a
13 reasonable doubt. This presumption of innocence
14 does not end when you begin your deliberations,
15 but it accompanies the defendant throughout the
16 trial, until you reach a verdict of guilt based
17 upon the evidence satisfying you of that guilt
18 beyond a reasonable doubt.

19 The presumption of innocence is not a mere
20 legal theory. It's not just a legal phrase. It
21 is a substantial right to which every defendant
22 is entitled to unless you, the jury, are
23 satisfied from the evidence of the defendant's
24 guilt beyond a reasonable doubt.

25 All right. We've had reference to

1 reasonable doubt. What does reasonable doubt
2 mean? Reasonable doubt is the kind of doubt that
3 would cause a reasonable person to hesitate to
4 act. Proof beyond a reasonable doubt is proof
5 that leaves you firmly convinced of the
6 defendant's guilt.

7 There are very few things in this world
8 that we know with absolute certainty. And in
9 criminal cases, the law does not require proof
10 that overcomes every possible doubt. If, based
11 on your consideration of the evidence, you are
12 firmly convinced that the defendant is guilty of
13 the crimes charged, you must find the defendant
14 guilty of those charges. If, on the other hand,
15 you think there is a real possibility that the
16 defendant is not guilty on any or all of these
17 charges, you must give the defendant the benefit
18 of the doubt and find him not guilty as to those
19 charges.

20 Now, you and I, as I told you at the very
21 beginning, have separate duties in the trial. As
22 the trial judge, it is my responsibility to
23 preside over the trial and rule on the
24 admissibility evidence. You are to consider
25 only the competent evidence that is before you.

1 If there was any testimony or questions that
2 were stricken, then you are not to consider
3 those. You must disregard that testimony or
4 those questions. You are to consider only the
5 testimony which has been presented from the
6 witness stand, any exhibits which have been made
7 a part of the record, and stipulations of
8 counsel.

9 I have the additional duty to charge you
10 the law which applies to this case. As the
11 presiding judge, I'm the sole judge of the law.
12 So if you come in with some preconceived notion
13 that you thought you knew what the law was or
14 you thought -- or you have an impression of what
15 you think the law should be, you are to
16 disregard that. You are to apply the law as I
17 give it to you at this point. That's one of the
18 things that you swore in your duty that that
19 would be what you were doing. You would apply
20 the law as I give it to you.

21 On the other hand, you are the sole and
22 exclusive judges of the facts in a case. As a
23 trial judge, I cannot intimate, state, comment
24 on, or make any statement to a trial jury about
25 the facts in a case, because you are the sole

1 judge of that. If, in some way, during this
2 trial, if I inferred or made any comments or
3 anything that would lead you to believe that I
4 had an opinion of these facts, then you are to
5 disregard those, because that is totality your
6 duty and not that of the judge. During the
7 course of this instruction to you, if I have an
8 opinion, the law does not allow me to have such
9 opinion about the facts. This is a matter solely
10 for you to determine. As jurors, it's your duty
11 to determine the facts and you are to give the
12 effect, the value, the weight, and the truth of
13 the evidence presented as you feel appropriate.

14 Now, there's two types -- categories of
15 elements -- evidence, and that is circumstantial
16 and direct evidence, which have been -- can be
17 presented at trial. Direct evidence is the
18 testimony of a person who claims to have actual
19 knowledge of a fact, such as an eyewitness. It
20 is evidence which immediately establishes the
21 main fact to be proved.

22 Circumstantial evidence is proof of a chain
23 of facts and circumstances indicating the
24 existence of a particular fact. It is evidence
25 which immediately establishes collateral facts

1 from which the main fact may be inferred.
2 Circumstantial evidence is based on inference
3 and not on personal knowledge or observation.

4 The law makes absolutely no distinction
5 between the weight or value to be given to
6 either direct or circumstantial evidence. Nor
7 is a greater degree of certainty required of
8 circumstantial evidence over direct evidence.
9 You should weigh all of the evidence in the
10 case. After weighing all the evidence, if you
11 are not convinced of the guilt of the defendant
12 beyond a reasonable doubt as to any charges, you
13 must find the defendant not guilty of those
14 charges.

15 Crimes may be proven by circumstantial
16 evidence. The law makes no distinction between
17 the weight or value to be given to either direct
18 or circumstantial in a trial of this nature.
19 However, to the extent the State relies on
20 circumstantial evidence, all the circumstances
21 must be consistent with each other, and when
22 taken together, point conclusively to the guilt
23 of the accused beyond a reasonable doubt. If
24 these circumstances merely portray the
25 defendant's behavior as suspicious, the proof

1 has failed. The State has the burden of proving
2 the defendant guilty beyond a reasonable doubt.
3 This burden rests with the State, regardless of
4 whether the State relies on direct or
5 circumstantial evidence or a combination of the
6 two.

7 One of the main things that you must
8 consider in your deliberations is the
9 credibility of witnesses. Credibility mainly
10 means, or simply means, believability. It
11 becomes your duty as jurors to analyze and to
12 evaluate the evidence and determine which
13 evidence convinces you of the truth.

14 In determining the believability of
15 witnesses who have testified in this case, you
16 may believe one witness over several witnesses
17 or several witnesses over one witness. You may
18 believe a part of the testimony of a witness and
19 reject the remaining part of the testimony of
20 that same witness. You may believe the
21 testimony of a witness in its entirety or reject
22 the testimony of a witness in its entirety. You
23 may consider whether any witness has exhibited
24 to you any interest, bias, prejudice, or any
25 other motive in this case. You may also

1 consider the appearance and manner of a witness
2 while on the witness stand. So when you evaluate
3 the various witnesses, you are to give them the
4 weight that you feel is appropriate.

5 In this matter, there has been a statement
6 alleged to have been made by the defendant and
7 was admitted into evidence by way of video.
8 While the Court has determined that the
9 statement was admissible, I instruct you that
10 you make the ultimate decision of whether or not
11 the defendant made the statement. If the
12 defendant made the statement, you must determine
13 whether the statement was made by the defendant
14 voluntarily and of his own free will. This
15 means that the statement was not caused by
16 pressure, force, fear, threats, coercion, or
17 intimidation, or by hope or a promise of
18 leniency or a reward of any kind.

19 In determining whether the statement was
20 voluntary, you should consider both the
21 characteristics of the defendant and the details
22 of the questioning. Some of the factors that
23 you may consider are: the age of the defendant;
24 the defendant's education or lack of education;
25 the defendant's mental ability or capacity; the

1 defendant's I.Q. or intelligence; the
2 defendant's background and environment; the
3 place and length of detention; the nature of the
4 questioning; and the advice, or lack thereof, to
5 the defendant of his constitutional rights
6 including, but not limited to, the right to
7 remain silent; that any statement could be used
8 against him in a court of law; the right to have
9 a lawyer present; that if he could not afford a
10 lawyer, a lawyer would be appointed to represent
11 him without any cost; and that he could stop
12 making a statement at any time. You must
13 carefully consider all of the surrounding
14 circumstances before you give any weight to an
15 alleged statement.

16 The State, like all other elements, has the
17 burden of proving beyond a reasonable doubt that
18 the alleged statement was voluntary. If you
19 determine it was, you may give the statement any
20 further consideration which you deem proper.
21 You must decide that the weight, if any, should
22 be given to the alleged statement. If you
23 determine the alleged statement was not the free
24 and voluntary statement of the defendant, you
25 should not consider the statement at all.

1 There has also been evidence presented that
2 witnesses made prior statements which may not be
3 consistent with their testimony. You may use
4 this evidence to decide whether to believe the
5 witness. You may also use evidence of the
6 earlier contradictory statements to determine
7 the truth of those statements. It's up to you
8 to decide whether to believe the earlier
9 statements or the testimony given at trial.

10 If a witness is shown to have knowingly
11 testified untruthfully concerning any material
12 matter, you may consider this in determining
13 whether to trust the witness' testimony as to
14 other matters. You may reject all testimony of
15 that witness or give all or part of the
16 testimony the weight you think it deserves. As I
17 mentioned to you earlier, you are to look at all
18 that and give it the weight that you think is
19 appropriate.

20 There's also been evidence produced about
21 prior records of various witnesses. A person who
22 has a past criminal record is still competent to
23 testify during a trial. A past record does not
24 affect the ability of a witness to testify. The
25 past record may only be considered by you, if at

1 all, in determining the witness' believability.
2 Remember, you are the sole judge of the facts in
3 the case and of the believability of any and all
4 of the witnesses.

5 Several of the witnesses were qualified as
6 expert witnesses. Let me remind you of what the
7 law -- and how you are to consider that. As I
8 mentioned at the time that they were qualified,
9 the rules of evidence ordinarily do not permit a
10 witness to testify as to opinions or
11 conclusions. An exception to the rule is when a
12 witness is called as an expert witness, a
13 witness, who by education and experience has
14 become expert in a particular art, science,
15 profession or field, may state an opinion as to
16 relevant and material matters in which the
17 witness claims to be an expert and may also
18 state the reasons for that opinion.

19 You should consider any expert opinion
20 received into evidence in this case. Like any
21 other evidence, give it the weight you think it
22 deserves. If you decide that the opinion of an
23 expert witness is not based on sufficient
24 education and experience or you have concluded
25 that the reasons given in support of the opinion

1 are not sound or that the opinion is outweighed
2 by other evidence, you may disregard the opinion
3 entirely. An expert witness' testimony is to be
4 given no greater weight than that of other
5 witnesses simply because a witness was
6 designated as an expert. Further, you're not
7 required to accept an expert's opinion even
8 though it is not contradicted.

9 One of the primary elements in any criminal
10 criminal liability is criminal intent. For
11 example, the mental state required to be proven
12 by the State for a particular crime might be
13 purpose, intent, knowledge, recklessness, or
14 criminal negligence. Criminal intent must be
15 proven by the State beyond a reasonable doubt.
16 Criminal intent is always a matter that must be
17 determined by the jury from the circumstances
18 surrounding the situation.

19 There is no way to prove intent to a
20 mathematical certainty. There is no way medical
21 science can dissect a person's brain and
22 determine what the person had in mind, so the
23 law says that criminal intent may be inferred
24 from the circumstances shown to have existed.
25 This is how you make a determination of whether

1 or not the element requiring intent was present.

2 It is not necessary to establish intent by
3 direct and positive evidence, but intent may be
4 established by inference in the same way as any
5 other fact, by taking into consideration the
6 acts of the parties and all the facts and
7 circumstances of the case. Criminal intent is a
8 mental state, a conscious wrongdoing. It is up
9 to you to determine what the defendant intended
10 to do based on the circumstances shown to have
11 existed at the time. Criminal intent can arise
12 from action or a failure to act. It may arise
13 from negligence, recklessness, or an
14 indifference to duty or the consequences that is
15 considered by the law to be the equivalent of
16 criminal intent.

17 All right. Now, we get to -- that's kind of
18 a general charge of the rules on your
19 deliberations and various other matters. Now,
20 I'm going to go through the elements of each of
21 the crimes that were listed in the indictment to
22 which they have alleged -- the State has alleged
23 the defendant did. I'm going to go through these
24 just in the order of the indictment numbers. So
25 please do not pay -- there's no particular

1 reason why they are in this order other than
2 that was just the way the indictments were.

3 The first one is attempted armed robbery.
4 That is -- I will now go through the elements of
5 attempted armed robbery. The defendant is
6 charged with attempted armed robbery. In order
7 to prove this offense, the State must first
8 prove beyond a reasonable doubt that the
9 defendant attempted to take personal property
10 from the person or the presence of another
11 person.

12 Attempt crimes are generally ones of
13 specific intent such that the act constituting
14 the attempt must be done with the intent to
15 commit that particular crime. The State must
16 prove that the defendant's specific intent was
17 accomplished by some overt act, beyond mere
18 preparation, in furtherance of the intent, and
19 there must be an actual or present ability to
20 complete the crime. The preparation consists in
21 devising or arranging the means or measures
22 necessary for the commission of the crime; the
23 attempt or overt act is the direct movement
24 toward the commission and after the preparations
25 are made.

1 Property is in the presence of a person if
2 it is within the person's reach, inspection,
3 observation, or control so that the person
4 could, if not overcome with violence or
5 prevented by fear, keep possession of that
6 property. The State must also prove beyond a
7 reasonable doubt that the defendant intended to
8 carry the property away intending to permanently
9 deprive the owner of the property. The attempt
10 to take or carry away the property must have
11 been done with violence or by putting the owner
12 of the property in fear of violence.

13 Finally -- again, it's the final element of
14 attempted armed robbery -- finally, the State
15 must also prove beyond a reasonable doubt that
16 the defendant was armed with a deadly weapon
17 during the robbery. A deadly weapon is any
18 article, instrument, or substance which is
19 likely to cause death or great bodily harm.
20 Whether an instrument has been used as a deadly
21 weapon depends on the facts and circumstances of
22 each case.

23 All right. Now, we're moving the second
24 charge listed, and that is assault and battery
25 in the first degree. Here are the elements of

1 assault and battery in the first degree. A
2 person commits the offense of assault and
3 battery in the first degree if the person
4 unlawfully: injures another person, and the act
5 occurred during the commission of a robbery,
6 burglary, kidnapping, or theft. All right.
7 That's the element of Assault and Battery in the
8 first degree.

9 Kidnapping, the defendant is charged with
10 two counts of kidnapping as to two separate
11 victims in this matter. The State must prove
12 beyond a reasonable doubt that the defendant
13 knowingly and unlawfully seized, confined
14 another person without authority of law. To do
15 a thing unlawfully is to do it willfully against
16 the law. Knowingly means with knowledge,
17 consciously, not accidentally. Seize means to take
18 hold of suddenly -- take hold of suddenly or
19 forcibly. Confine means to limit, restrict, or
20 enclose within bounds, imprison, or shut or keep
21 in.

22 The State does not have to prove that the
23 defendant did all of these things. Instead, if
24 you find beyond a reasonable doubt that the
25 defendant did any of these things, you may find

1 the defendant guilty of Kidnapping. Something
2 done without authority of law is something which
3 the law does not sanction, permit, allow,
4 condone, or provide justification for. The
5 kidnapping does not have to be for any personal
6 or monetary gain for any illegal purpose, but
7 may be for any reason whatsoever. As I said, we
8 have two alleged victims. I'm sorry to say the
9 word alleged, but we have two alleged victims in
10 these particular indictments as to kidnapping.

11 All right. Now, we have the charge of First
12 degree burglary. The defendant is charged with
13 first degree burglary. The State must first
14 prove beyond a reasonable doubt that the
15 defendant entered a dwelling without consent.

16 A dwelling is any building or portion of a
17 building in which a person ordinarily sleeps.
18 In addition, the State does not have to prove
19 that the force was used -- that force was used
20 to gain entry. If a person enters a building by
21 using deception, artifice, trick,
22 misrepresentation to get consent to enter, this
23 is an entry without consent.

24 Next, the State must prove beyond a
25 reasonable doubt that the defendant intended to

1 commit a crime, either a felony or a
2 misdemeanor, at the time of the entry. The mere
3 entry into a dwelling without consent is not
4 burglary. If the intent to commit a crime is
5 formed after an entry is not burglary. On the
6 other hand, if the defendant intended to commit
7 a crime at the time of the entry, it is a
8 burglary, even if the intent was abandoned after
9 the entry. It does not matter what the intended
10 crime was -- it does not matter if the intended
11 crime was not completed. Intent may be shown by
12 acts and conduct of the defendant and other
13 circumstances from which you may naturally and
14 reasonably infer intent.

15 So on a burglary, it's the entering of a
16 dwelling without consent. You must also find one
17 of the following: that the defendant, when
18 entering, while in the dwelling, or when
19 fleeing, or an accomplice was armed with a
20 deadly weapon or explosive -- I previously
21 defined deadly weapon for you -- Number two, or
22 they must find when entering, or while in the
23 dwelling, or when fleeing, the defendant or an
24 accomplice caused physical injury to anyone not
25 participating in the crime; or when entering,

1 while in the dwelling, or when fleeing, the
2 defendant or accomplice displayed what was or
3 appeared to be a knife, pistol, revolver, rifle,
4 shotgun, machine gun or other firearm or the
5 entering or remaining occurred in the nighttime.
6 So for burglary first degree, you must find the
7 entering of the dwelling without consent and one
8 of those four additional elements, either one of
9 the four.

10 All right. Now, we have the charge of
11 murder. The defendant was charged with murder.
12 The State must prove beyond a reasonable doubt
13 that the defendant killed another person with
14 malice aforethought. Malice is hatred, ill will,
15 or hostility towards another person. It is the
16 intentional doing of a wrongful act without just
17 cause or excuse, and with the intent to inflict
18 an injury or under circumstances that the law
19 will infer an evil intent.

20 Malice aforethought does not require that
21 malice exists for any particular length of time
22 before the act is committed, but malice must
23 exist in the mind of the defendant just before
24 and at the time of the act is committed.
25 Therefore, there must be a combination of the

1 previous evil intent and the act.

2 Malice aforethought may be either express
3 or inferred. These terms, "express" and
4 "inferred" do not mean different kinds of
5 malice, but merely the manner in which malice
6 may be shown to exist. That is, either by
7 direct evidence or by inference from the facts
8 and circumstances which are proved. Express
9 malice is shown when a person speaks words which
10 express hatred or ill will for another, or when
11 the person prepared beforehand to do the act
12 which was later accomplished; for example, lying
13 in wait for a person or any other acts of
14 preparation going to show that the deed was
15 within the defendant's mind would be express
16 malice.

17 If one intentionally kills another during
18 the commission of a felony, the inference of
19 malice may arise. If facts are proven beyond a
20 reasonable doubt, sufficient to raise an
21 inference of malice to your satisfaction, this
22 inference will be simply an evidentiary fact to
23 be taken into consideration by you, the jury,
24 along with other evidence in the case, and you
25 may give it such weight as you decide it should

1 receive.

2 If you find the State has failed to prove
3 beyond a reasonable doubt that the defendant
4 committed murder, you may also consider whether
5 the State has proved beyond a reasonable doubt
6 if the defendant committed involuntarily
7 manslaughter. This is what we commonly refer to
8 as a lesser included offense of the charge of
9 murder.

10 To prove involuntary manslaughter, the
11 State must prove beyond a reasonable doubt that
12 the defendant unintentionally killed the victim
13 without malice, but while engaged in an unlawful
14 activity not naturally tending to cause death or
15 great bodily harm or that the defendant
16 unintentionally killed the victim without
17 malice, while engaged in a lawful activity with
18 reckless disregard for the safety of others.
19 Unintentional means that the defendant did not
20 intend for anyone to be killed or seriously
21 injured.

22 Reckless disregard for the safety of others
23 is more than mere negligence or carelessness.
24 Mere negligence or carelessness is the failure
25 to use the care that a person of ordinary reason

1 would use under the circumstances. Recklessness
2 is a conscious failure to use ordinary care.
3 Reckless disregard for the safety of others
4 means that you are not interested in the
5 consequences of your acts or the rights and
6 safety of others.

7 If a person who knows, or should know, that
8 ordinary care requires certain precautions be
9 taken for the safety of others when using a
10 dangerous instrumentality, such as a gun or car,
11 but that person fails to use those precautions
12 without concern, the person's actions are
13 considered reckless.

14 The State must also prove beyond a
15 reasonable doubt that the defendant's act was
16 the proximate cause of death. Proximate cause is
17 the direct cause. It is the immediate cause. It
18 is the efficient cause. It is that cause without
19 which the death of the victim would not have
20 resulted. There must be a chain of causation
21 from the time of the injury inflicted by the
22 defendant until the time of the victim's death.
23 Proximate cause does not necessarily mean that
24 it occurred immediately prior to death.

25 There may be more than one proximate cause.

1 The acts of two or more persons may combine
2 together to be a proximate cause of the death of
3 a person. The defendant's act may be regarded
4 as the proximate cause if it is a contributing
5 cause of the death of the victim. The fact that
6 the other causes also contribute to the death of
7 the victim does not relieve the defendant from
8 responsibility. The defendant's act need not be
9 the sole cause of the death, but must be a
10 proximate cause contributing to the death of the
11 victim.

12 Ladies and gentlemen of the jury, I will
13 now charge you on the law of possession of a
14 weapon during the commission of a violent crime
15 or attempt to commit a violent crime. The
16 defendant is charged with possession of a weapon
17 during the commission of, or attempt to commit,
18 a violent crime. The State must prove beyond a
19 reasonable doubt that the defendant was in
20 possession of a firearm or visibly displayed
21 what appeared to be a firearm during the
22 commission of a violent crime. A firearm means
23 any machine gun, automatic rifle, revolver,
24 pistol, or any weapon which will, is designed
25 to, or may be readily converted to expel a

1 projectile.

2 In order to find the defendant guilty of
3 possession of a weapon during the commission of
4 a violent crime, you must find the defendant
5 guilty of either committing a violent crime or
6 attempting to commit a violent crime. First
7 degree burglary is a violent crime. Attempted
8 armed robbery is a violent crime. Murder is a
9 violent crime. The State must prove beyond a
10 reasonable doubt that the weapon furthered,
11 advanced, or helped in the commission of the
12 crime.

13 Now, in this matter, the defendant failed
14 to testify. This is a very important part of the
15 constitutional law. I instruct you and emphasize
16 the fact that the defendant did not testify is
17 not a factor to be considered by you in any way
18 in your deliberations and in your considerations
19 on the question of guilt or innocence of the
20 defendant. It must not be considered by you in
21 any manner whatsoever. A defendant has the
22 constitutional right to remain silent and the
23 assertion of this right must not be considered
24 by you in your deliberations. I repeat. Under
25 your oath, you are to draw no conclusions

1 whatsoever from the fact that the defendant in
2 this case did not testify. The fact that this
3 defendant did not testify should not even be
4 discussed in the jury room.

5 The burden of proof, as I stated to you, is
6 on the State. The defendant is not required to
7 prove his innocence. The fact that he did not
8 testify does not relieve the State of its
9 burden. It's still the State's burden to prove
10 the elements of each of these charges beyond a
11 reasonable doubt.

12 All right. Mr. Foreman --

13 Madam Bailiff, if you could, hand this to
14 the foreman.

15 I'm going to go through this verdict form
16 with you. All right. I'm going to go through
17 this verdict form with you, which you will have
18 back in your jury room. And there's no
19 significance of the order. First, let me kind of
20 -- the top part is just the caption of the case.
21 Then you have the indictment numbers on there.
22 That's just the indictment numbers we've been
23 referencing. It has seven questions. Part six
24 has two parts to it, question six.

25 All right. So you will first start with

1 question number 1. As to the charge of attempted
2 robbery, and it has the indictment number, we,
3 the jury, unanimously find the defendant,
4 Marqual Devine Griffin, and you check one,
5 guilty of attempted armed robbery or not guilty.
6 In other words, if you feel that the State has
7 met its burden on that charge, then you would
8 find guilty. If you find the State did not meet
9 its burden on that charge, then you will check
10 not guilty. You have to do this for every
11 charge.

12 Then, you go to number 2, as to assault and
13 battery in the first degree, we, the jury,
14 unanimously find the defendant, again, guilty of
15 assault and battery in the first degree or you
16 will find him not guilty, again depending on
17 what you decide as a jury. Then, as to 3, you
18 will go to kidnapping as to indictment -- the
19 indictment regarding April Green, we, the jury,
20 unanimously find the defendant, Marqual Devine
21 Griffin, guilty of kidnapping or not guilty.
22 Check one of those on each one of them.

23 Four, as to the charge of kidnapping on
24 Shane Barron, you must find unanimously either
25 guilty of kidnapping or not guilty. And question

1 5, as to the indictment for first degree
2 burglary, that has that you unanimously find
3 guilty of first degree burglary or not guilty.

4 And now then, 6 is one that you have to
5 answer both parts of 6. The first is the charge
6 of murder. We, the jury, find the defendant,
7 Marqual Devine Griffin, and that is you find the
8 State has met its burden on murder, on the
9 elements of murder beyond a reasonable doubt,
10 then you would find -- you would put guilty. You
11 would check guilty. But if you have found that
12 they have not met their burden, then you would
13 check not guilty.

14 If you check not guilty, then you would go
15 to the second part of six. If you find guilty,
16 then you do not need to go to the second part of
17 6. That would only be if you find not guilty of
18 murder. That would be going to the lesser
19 included offense. That is, we, the jury, find
20 the defendant, Marqual Devine Griffin, not
21 guilty of murder, but you find him guilty of the
22 lesser included offense of voluntary
23 manslaughter or not guilty.

24 Okay. 7, as to the charge of possession of
25 a weapon during the commission or attempt to

1 commit a violent crime, then you would check
2 guilty of possession of that charge or you would
3 find not guilty. All right. So those -- you will
4 go through each of those and answer either
5 guilty or not guilty as to each charge.

6 Now, all 12 of you must agree on this
7 verdict. It must be a unanimous verdict. Your
8 verdict can not be based on sympathy, passion,
9 prejudice, emotion or any other consideration
10 which is not in the evidence. I said 12 people
11 because unfortunately - well, our law does not
12 allow the alternate to be involved in the
13 deliberation. But as you can see from our having
14 to substitute someone in, you play a very
15 important role. I don't want to minimize that in
16 any way. When the deliberations began, you'll
17 have to step out of the jury room, but we do
18 appreciate your service. It was very important
19 in this matter.

20 Now, when you reach a verdict, you will --
21 the bailiff will indicate to you the switch that
22 you must turn on or push or whatever. That's to
23 indicate that you've reached a verdict, complete
24 verdict, not on each one but on all seven. All
25 right. Now -- and then the bailiff will let us

1 know and then we'll call you back in.

2 Now, throughout the trial -- your
3 deliberations, you may have questions. Now, how
4 we communicate there is you are to write out the
5 question on a piece of paper, you would sign it,
6 use your name and date it. You would knock on
7 the door, give it to the bailiff. The bailiff
8 will present it to me and I will either write a
9 response on the same piece of paper and send it
10 back to you or, if it's something that I will
11 need to bring y'all back out and discuss with
12 you, I will do that.

13 I will also tell you that all the evidence
14 that you are to consider will be sent back there
15 to you. Now, very often, a juror will say what
16 about this, what about that. You can not
17 consider anything that was not put into evidence
18 by the attorneys. If there's something else that
19 you want to consider that's not in evidence,
20 that's not permissible. You only can review the
21 matters into evidence and the testimony
22 presented. Now, again, if you have any
23 questions, you would just write those out.

24 Now, I'm going to send you back to your
25 jury room here in just a minute, but you can not

1 begin deliberation. All right. First, I have to
2 go over with the attorneys and make sure that
3 I've not stated something correctly or if I
4 missed something. In that case, I will bring you
5 back out and give you those additional
6 instructions. But if we've covered everything
7 appropriately, then you'll begin deliberations.

8 This will be the signal for you to begin
9 deliberating, one is you -- the bailiff will
10 bring you the verdict form and put the verdict
11 form on there -- they'll bring you that verdict
12 form with all the evidence. She will knock on
13 the door. She will exchange that for the
14 alternate. The alternate will step out. At that
15 point, you can begin deliberations, but not
16 before.

17 As I said, at this point, go back to your
18 jury room. Do not begin deliberating until you
19 get the signal. I will discuss with the
20 attorneys and make sure we've covered
21 everything. If I need to bring you back out,
22 wait until you get that before you start your
23 lunch. It should be back there by now. At this
24 point, you can go back to your jury room.

25 (Jury exits at approximately 12:22 p.m.)

1 **THE COURT:** All right. Any objections or
2 exception to the jury charge by the State?

3 **MR. CULBREATH:** Your Honor, really just a
4 question, to start with.

5 **THE COURT:** Okay.

6 **MR. CULBREATH:** I sometimes can't hear very
7 well. Did you mention in the charge with regard
8 to the malice, possession of a weapon? I didn't
9 hear that part. I did hear the --

10 **THE COURT:** Let me look back and see
11 exactly how I charged it. (Pause.)

12 No, I don't think I did that. (Pause.)

13 I don't believe I have anything about
14 malice can be inferred. (Pause.)

15 For some reason, I -- for some reason, I
16 think when we were adjusting it, I left that
17 paragraph out. For some reason, I left that
18 paragraph out of there. I'll bring them back
19 out, and I'll charge them on that. Anything else
20 from the State?

21 **MR. CULBREATH:** No, Your Honor.

22 **THE COURT:** All right.

23 **MR. CHAMBERS:** Two things. One, Your Honor,
24 obviously, if you're going to add that to your
25 charge, I want to ask that you read the whole

1 charge as opposed to just highlighting that
2 portion that was omitted.

3 The other thing, you went on to give a very
4 thorough explanation of the law. When you got to
5 the part about my client not testifying, you
6 used a sentence that the defendant failed to
7 testify, which would seem to give sort of a
8 negative connotation to the jury of his
9 responsibility to testify as opposed to just
10 saying he didn't testify.

11 **THE COURT:** I mean, I'll say something to
12 the fact that it should not have any inference.
13 Just say he didn't testify. Okay.

14 **MR. CULBREATH:** Your Honor, if you're just
15 going to make a reference to the failed part,
16 just a complete recharge of that particular
17 section.

18 **THE COURT:** All right.

19 **MR. CULBREATH:** Or general...

20 **THE COURT:** I don't know if I'm going to
21 read all that. I've got too many different ones
22 going here. That's what happens.

23 I think what I may do is say something that
24 in discussing the defendant's -- the fact that
25 he didn't testify, I'm going to use the word

1 failure is not to have any kind of inference
2 other than that he didn't testify and that's his
3 constitutional right.

4 MR. CHAMBERS: Thank you.

5 THE COURT: Something like that. All
6 right. Are you -- I'm not going to read the
7 whole charge for murder. I'm just going to read
8 the part about the inference for malice. What
9 are y'all thoughts on that?

10 MR. CULBREATH: The State has no objection
11 to that. Is that the --

12 THE COURT: What I may do is say, in
13 reading you the charge on murder, I want to make
14 sure it's clear --

15 MR. CULBREATH: I'm sorry, Your Honor.

16 THE COURT: No, that's fine. I'm not going
17 to read the whole charge of murder or anything
18 like that. I'm going to say when I discussed
19 with you the inference of malice, I want to
20 clarify that a little bit, and then go through
21 the part about the inference of malice. I don't
22 think I need to go back and read the whole
23 thing, the whole charge on murder. Is that -- do
24 y'all --

25 MR. CULBREATH: That's fine with the State.

1 **THE COURT:** Is that fine with the
2 defendant?

3 **MR. CHAMBERS:** From what you're saying, it
4 sounds like it would be okay, Your Honor.

5 **THE COURT:** Okay. All right. Bring the
6 jury back in. Anything else before we bring the
7 jury back in?

8 **MR. CULBREATH:** None from the State, Your
9 Honor.

10 **MR. CHAMBERS:** No, Your Honor.

11 **THE COURT:** All right.

12 (Jury enters at approximately 12:32 p.m.)

13 **THE COURT:** All right. Ladies and
14 Gentlemen, in discussing this, there's a couple
15 of matters that I -- one part that I missed. I
16 want to make sure that everything is properly
17 before you.

18 All right. In discussing the elements of
19 murder, as I said, one of the requirements of
20 murder is that the State must prove beyond a
21 reasonable doubt that the act is committed with
22 malice -- with malice aforethought. It may be
23 either express or inferred. These terms --
24 express -- do not mean different kinds of
25 malice, but merely the manner.

1 I want to discuss with you that the law
2 says -- and this is in the inference of malice
3 -- the law says if one intentionally kills
4 another with a deadly weapon, the implication of
5 malice may arise. If facts are proved beyond a
6 reasonable doubt sufficient to raise an
7 inference of malice to your satisfaction, this
8 inference would be simply an evidentiary fact to
9 be taken into consideration by you along with
10 all the other evidence. You may give it such
11 weight as you determine it should receive. A
12 deadly weapon -- again, as I previously defined
13 to you what a deadly weapon. That has been --
14 that is to be used in consideration of whether
15 malice was inferred.

16 Now, also, when I discussed with you the
17 right of a defendant, I want to make sure you
18 understand, and emphasize the fact that he did
19 not testify. I may have referenced failure, but
20 that is not to have any type of inference. But
21 he has an absolute right not to testify. The
22 fact that he did not testify is not a factor for
23 you to be -- not a factor to be considered by
24 you in any way in your deliberations and in your
25 consideration of the question of whether he's

1 guilty or innocent of the charges.

2 So I just want to have some clarification
3 on those two issues. Again, let me discuss with
4 the attorneys. When I give you the signal --
5 again, the same rules as apply as before. When I
6 give you the signal, then you can begin
7 deliberations when the alternate steps out.

8 And it's up to you -- I understand the
9 lunch is here -- it's up to you to determine
10 whether you want to eat your lunch before the
11 deliberations or eat your lunch during
12 deliberations. That's totally up to you as a
13 juror. So at this time, step back in your jury
14 room. Do not begin deliberations until I give
15 you the signal.

16 (Jury exits at approximately 12:35 p.m.)

17 **THE COURT:** All right. Any objection or
18 exception to the amendment to the charge?

19 **MR. CULBREATH:** None from the State, Your
20 Honor.

21 **THE COURT:** Anything from the defendant?

22 **MR. CHAMBERS:** No, Your Honor.

23 **THE COURT:** All right. I realize what
24 happened was your murder charge had all the
25 inference in it, then you had a separate felony

1 murder inference. It was one sentence
2 difference. In other words, it was duplicated.
3 That one sentence was the one about the weapon.

4 **MR. CULBREATH:** I apologize.

5 **THE COURT:** No, that was my fault. I
6 should have caught it. All right. Make sure --
7 y'all look at the evidence. Make sure that it's
8 all there, all 54, 6, whatever we ended up with.
9 (There is a pause.)

10 **THE COURT:** All right. Take them back.
11 Grab the alternate.

12 (Jury deliberation begins at approximately
13 12:41 p.m.)

14 (The Court goes off the record at approximately
15 12:41 p.m.)

16 (The Court goes on the record at approximately
17 1:31 p.m.)

18 **THE COURT:** All right. The jury has
19 requested that. Do you want to look at that? Do
20 you have a problem with the jury -- we don't
21 have any markers.

22 **MR. CHAMBERS:** Yeah, that's fine.

23 **THE CLERK:** Yes, we do.

24 **THE COURT:** Yes, we do. All right. Bring
25 them on.

1 (Court's Exhibits 3 and 4 are marked for
2 identification.)

3 (Jury enters at approximately 1:34 p.m.)

4 **THE COURT:** All right. Ladies and
5 Gentlemen, I was going to just write a response
6 back, but it may -- I figured it may make sense
7 -- may be easier if I just kind of go through
8 your questions and respond to them.

9 Court's Exhibit Number 3, can we get the
10 following evidence, if possible: transcript of
11 Shane Barron's testimony. We do not have
12 transcripts. But I know these are probably just
13 general questions as y'all begin your
14 deliberation. Even in the event that you, the
15 jury, decide you want to listen to or want to
16 review testimony that is presented at trial,
17 then what we have to do is bring you back in the
18 courtroom and replay that testimony from the
19 recordings. That's about 30 minutes long, which
20 is indicated there. If that's something that
21 y'all do want to listen to is testimony, then
22 send a note back out. We have to get that set
23 up. We'd have to bring you back out here and
24 listen to it.

25 Transcript of phone call of Gerald White.

1 That's, again -- I don't remember if that's one
2 of the pieces of evidence. If it is in evidence
3 there, we're -- we thought we had a computer
4 that y'all could take back there, but we're kind
5 of having some technical difficulties with that.
6 We're going to still work on that. If it's
7 something, again, you want to listen to, we'll
8 either send something back that y'all can listen
9 to it on or we may have to bring you back out to
10 listen to that. We thought we had it set up,
11 otherwise. I'm sorry about that part.

12 Write out the law for each indictment. I
13 apologize for this. I can't -- I was asking
14 y'all for seven different indictments, and that
15 makes perfect sense. What I have done is I have
16 printed only the portions of my charge that
17 talks about the different indictment, the
18 charges, so I will send that back with you.

19 Time of the phone calls to Gerald White
20 and 911. Again, if y'all need to review any of
21 the testimony on that, we'll let you do that. I
22 can not really respond to any factual questions.
23 You must rely on what's into evidence.

24 So, transcript of interrogation of
25 defendant. Again, there's not a transcript. If

1 you need to review the video of that or listen
2 to the testimony that was presented, we can do
3 that.

4 Your next question. DVD, CD player to
5 listen to evidence. Again, that's what we hope
6 to get the computer.

7 Are the order of the shots confirmed?
8 Again, that's a factual question we can not
9 address. That's something you have to rely on
10 what the testimony was and the evidence
11 presented. Again, if you need to listen to any
12 portion of that testimony, then we'll be glad to
13 replay that.

14 Court's Exhibit Number 4, you said exhibits
15 40 through 45 are not in our box. Are they
16 missing or stricken from the record? Those were
17 merely matters that may have been identified.
18 I'm not aware. But they have confirmed that all
19 the evidence that was introduced, you've got.
20 Sometimes, the numbers may not all match up
21 because the party may have decided not to put it
22 in or whatever. But there are no exhibits 40
23 through 45 that will be for your consideration.

24 So I think that answers all the questions
25 there. I will --

1 Again, was there any objection to the --
2 y'all both reviewed this. Any objections from
3 the State or the defendant?

4 **MR. CHAMBERS:** No, Your Honor.

5 **THE COURT:** All right. This, again, is all
6 written out. It's a nice little bullet point for
7 you there. We could have probably made it
8 easier, but I apologize for that. So I'm going
9 to ask -- I'm going to send this back with you.
10 Now, once you get back -- I've given you
11 additional information. I can respond to
12 anything probably a lot easier now. But I
13 figured it would be easier just to go through
14 all this.

15 So, with that being said, you can go back
16 and continue your deliberation. We will let you
17 know as soon -- and we're able to get something
18 y'all can play those on, we will let you know as
19 soon as we have that. If not, if y'all need to
20 listen to those, we're just going to bring you
21 out to listen.

22 I'm sorry we can't -- oh, y'all also asked
23 about some board. We don't have a grease board
24 or something, but you're welcome to take this
25 back. This is something, markers and big pieces

1 of paper. So if y'all want to take that back,
2 y'all are welcome to take that back to use.

3 All right. You can take them back.

4 (Jury exits at approximately 1:39 p.m.)

5 **THE COURT:** All right. Any objection or
6 exception on behalf of the State?

7 **MR. CULBREATH:** None from the State.

8 **THE COURT:** From the defendant?

9 **MR. CHAMBERS:** No, Your Honor.

10 **THE COURT:** All right. Well, until further
11 notice.

12 (The Court goes off the record at approximately
13 1:39 p.m.)

14 (Court's Exhibit 5 is marked for identification.)

15 (The Court goes on the record at approximately
16 4:46 p.m.)

17 **THE COURT:** I'm going to remind everybody
18 that I will not tolerate any kind of outbursts
19 or any response to the jury by the victims or
20 witnesses or defendant. All right.

21 All right. Anything before we bring the
22 jury in? And I'm going to mark -- anything from
23 the State?

24 **MR. CULBREATH:** No.

25 **THE COURT:** Defendant?

1 **MR. CHAMBERS:** No, Your Honor.

2 **THE COURT:** I did not mark, as a Court's
3 exhibit, the jury charge, but I'll mark that
4 when we get it back in.

5 All right. Bring the jury in.

6 (Court's Exhibit 6 is marked for
7 identification.)

8 (Jury enters at approximately 4:48 p.m.)

9 **THE COURT:** All right. Mr. Foreman, I
10 understand you've reached a verdict?

11 **THE JUROR:** Yes, Your Honor.

12 **THE COURT:** All right. If you will, hand
13 that to the bailiff.

14 (The verdict form is passed up.)

15 **THE COURT:** All right. Does look like it's
16 in proper form.

17 You can publish the verdict.

18 **THE CLERK:** Your Honor, in the case of the
19 State of South Carolina versus Marqual Devine
20 Griffin, Number 1, as to the charge of Attempted
21 Armed Robbery, indictment 2016-GS-23-2330, we,
22 the jury, unanimously find the defendant,
23 Marqual Devine Griffin, guilty of Attempted
24 Armed Robbery. As to Assault and Battery in the
25 first degree, indictment 2016-GS-23-2331, we,

1 the jury, unanimously find the defendant,
2 Marqual Devine Griffin, guilty of Assault and
3 Battery in the first degree. Number 3, as to the
4 charge of Kidnapping, April Green, indictment
5 2016-GS-23-2332, we, the jury, unanimously find
6 the defendant, Marqual Devine Griffin, guilty of
7 Kidnapping. Number 4, as to the charge of
8 Kidnapping, Shane Barron, indictment 2016-GS-23-
9 2333, we, the jury, unanimously find the
10 defendant, Marqual Devine Griffin, guilty of
11 Kidnapping.

12 Number 5, as to the charge of first degree
13 Burglary, indictment 2016-GS-23-2334A, we, the
14 jury, unanimously find the defendant, Marqual
15 Devine Griffin, guilty of first degree Burglary.
16 Number 6, as to the charge of Murder, indictment
17 2016-GS-23-2335, we, the jury, unanimously find
18 the defendant, Marqual Devine Griffin, guilty of
19 Murder. Number 7, as to the charge of Possession
20 of a Weapon During the Commission or Attempt to
21 Commit a Violent Crime, indictment 2016-GS-23-
22 2335, we, the jury, unanimously find the
23 defendant, Marqual Devine Griffin, guilty of
24 Possession of a Weapon During the Commission of
25 or Attempt to Commit a Violent Crime. These are

1 signed by our foreperson, Mr. Ollom.

2 Ladies and Gentlemen, if you agree these
3 are the verdicts you reached in your
4 deliberation room, would you please raise your
5 right hand?

6 (Each juror responds.)

7 **THE COURT:** All right. Anything from the
8 State before we release the jury?

9 **MR. CULBREATH:** No, Your Honor.

10 **THE COURT:** Anything from the defendant?

11 **MR. CHAMBERS:** No, Your Honor.

12 **THE COURT:** All right. Ladies and
13 Gentlemen, I'm going to thank you for your
14 service in this matter. Unfortunately, I can not
15 release you. They may have another trial in the
16 morning. At this time, you can step back in your
17 jury room, and I'll step back there in a minute.
18 If anybody has any questions, I'll be glad to
19 answer them. Thank you very much.

20 (Jury exits at approximately 4:51 p.m.)

21 **THE COURT:** I'm going to step back there.
22 You've got the sentencing sheets together?

23 **MR. CULBREATH:** Yes, sir.

24 (The Court goes off the record at approximately
25 4:52 p.m.)

1 (The Court goes on the record at approximately
2 4:55 p.m.)

3 **THE COURT:** Do you have the sentencing
4 sheets?

5 **THE CLERK:** Right here. Right here, sir.

6 **THE COURT:** All right. Mr. Griffin, as
7 you've heard, you were found guilty of all
8 charges. Before I hear from you and your
9 attorney, I have a request to hear from the
10 victim's grandmother. I'm going to listen to
11 her. Then I'm going to let you all have last
12 word.

13 Please state your name, and I'll be glad to
14 hear from you, ma'am.

15 **SPEAKER:** Lenora Crouch.

16 **THE COURT:** I'll be glad to hear from you.

17 **SPEAKER:** I want to say that I do not
18 have any hatred for the defendant. I hate the
19 drugs that caused our family to have to go
20 through all this. In the time that he gets, I
21 hope he will have a chance to change his life
22 and make a difference wherever he is -- in your
23 life and think of the heartache that it's caused
24 other people's families. Thank you.

25 **THE COURT:** I did not -- I did not also

1 before sentencing give you any opportunity to
2 make any motions.

3 **MR. CHAMBERS:** Yeah, I was going to address
4 that in a minute.

5 **THE COURT:** Right.

6 **MR. CHAMBERS:** We, for the record, make a
7 motion for a new trial, Your Honor.

8 **THE COURT:** All right. I think that the
9 matters were properly presented to the jury.
10 They were factual issues. So I deny your
11 motions. Anything else on that before we get any
12 further into sentencing?

13 **MR. CHAMBERS:** No, Your Honor.

14 **THE COURT:** All right. Anything from the
15 State?

16 **MR. CULBREATH:** No, Your Honor. I think the
17 -- Ms. Crouch addressed it and the Court has
18 heard the entire case.

19 **THE COURT:** Mr. Chambers and Mr. Griffin,
20 I'll be glad to hear from you.

21 **MR. CHAMBERS:** Well, you know, at this
22 point, Your Honor, there's not a whole lot that
23 I can say. Obviously, my client is going to
24 receive a substantial sentence, no matter what
25 the Court does, given what the charges are and

1 the sentencing ranges. He's 25, 26 years old
2 now. He was 24 when this happened.

3 I'm not going to second guess the jury's
4 decision. I think it's clear to everybody that
5 heard the case that there were some mitigating
6 factors in this case given, you know, the drug
7 activity and everything that went on at that
8 address. This certainly wasn't a case where
9 something occurred at some law-abiding citizen's
10 home.

11 In my dealings with Marqual -- and, of
12 course, we weren't out running the streets
13 together, I've just been representing him. He
14 seems like a thoughtful, very nice, intelligent
15 young man. Has always been courteous and
16 respectful and never shown any belligerence
17 towards anybody. I found that to be unusual over
18 the years.

19 I do think that he has some opportunity,
20 although it will be much later, to come out and
21 have some kind of life and maybe contribute
22 something to society. I would ask the Court to
23 be as lenient as the law would allow you to be
24 in this case.

25 **THE COURT:** All right. You have the

1 sentencing ranges on these charges?

2 MR. CULBREATH: I can tell you some from --
3 I can get the book. I know it's --

4 THE COURT: Well, we can do that.

5 MR. CULBREATH: Your Honor, the State's
6 position --

7 THE COURT: Hang on a minute.

8 (There is a pause.)

9 MR. CHAMBERS: Your Honor, I know you're
10 busy looking those up, but my client obviously
11 would like to speak.

12 (There is a pause.)

13 THE COURT: All right. All right.

14 Mr. Griffin, I'll be glad to hear from you.

15 MR. GRIFFIN: Yes, sir. I just wanted to
16 say something to Ms. Crouch. I just wanted to
17 tell you, I'm sorry. I never meant for none of
18 this to happen, from the bottom of my heart.
19 That's not how I was raised. This is a situation
20 that's been on my heart two years now. I just
21 want to say I'm sorry. I never meant for nobody
22 to be taken from their family. I love my family
23 just like y'all love y'all family.

24 I haven't seen my daughter in a while too.
25 My baby moma was here today. That's the only

1 real family I have now since this done happened.
2 Everybody turned their back on me.

3 I never been a bad person. I never, you
4 know, disrespected nobody. If I could change
5 everything that happened, I wish I could. I wish
6 I could go back and make better decisions. But
7 right now, I can't. This is what happens when
8 stuff like that happens. I mean, I can't -- I
9 can't just be mad. I can't speak bad on nobody
10 because pretty much, it's my fault. So I just
11 want to say I'm sorry from the bottom of my
12 heart. I never meant to make your family hurt.

13 **THE COURT:** All right. Anything else you
14 want to tell me?

15 **MR. GRIFFIN:** Yes, sir. I'm just -- just
16 really kind of bummed about the situation
17 because I never meant for that to happen to
18 nobody. I never meant for the situation to go
19 that far. It's just, like, since I been home
20 from prison, I really ain't really had nobody.
21 So I kind of -- I kind of was like living from
22 pretty much house to house or abandoned houses
23 and stuff like that.

24 I tried to do more for my daughter. From me
25 being gone for pretty much almost two years, I

1 missed a lot of her life. And then this
2 happened. I just really want everybody to know
3 that I'm really sorry for the situation. I never
4 meant for nothing to happen to nobody,
5 especially nothing like that.

6 Since I been home, a lot of stuff been
7 happening to me and a lot of people be dying
8 around me, so, pretty much, just having that
9 weapon was for protection. That was truly
10 honest, but like the other situation was not
11 honest. I just felt like if I could -- if I
12 could just change it, if I could do it all over
13 again, it would be way different, because I'm --
14 I'm pretty much a different person.

15 That's not what I do. It's not the type of
16 thing that I do. I work for whatever I get. It
17 was just so much pressure on me about being
18 homeless and not being able to do for my
19 daughter. It was just a lot of animosity towards
20 other people, which I couldn't be mad at because
21 the simple fact is, I went down the road by
22 hanging with people.

23 I never did burglaries, but I hung with
24 them guys that did them. So with me being
25 involved with them, it was the hands of one,

1 hands of all. With this situation, like, I never
2 thought it out. I never really just was like,
3 oh, man, I'm just going to go ahead and rob
4 these people. Wasn't nothing like that. It was
5 just heat of the moment. It just happened.

6 Then, truly, most of that statement is
7 true. I really did try to help him. I really did
8 tell her please let's just call the ambulance,
9 call the ambulance. That's what type of person I
10 am. I'm a good-hearted person. I never meant for
11 nobody to get hurt. I just wanted to tell the
12 Court, like, the situation, how it was explained
13 was not true what I said.

14 When we got into it, it was nothing like I
15 tried to shoot him or nothing like that. Then,
16 after that, I checked on him. I asked them to
17 help me. They didn't want to help. They were
18 just trying to fight me. Then the situation with
19 the call, the 911 call, I'm talking to the lady.
20 I wasn't even hitting her. She was just
21 screaming at me. I was like, just call the
22 ambulance. That's all I want you to do.

23 By that time, that's when me and her
24 brother got to fighting and I left. That's why I
25 felt like, I felt like if they cared about him

1 too, they would have been more concerned about
2 him than me. I wasn't even really trying to do
3 nothing. After this situation went like that, I
4 was really just trying to diffuse -- just help
5 me help him and then we can worry about
6 everything else. They weren't doing that. They
7 were doing other stuff.

8 That's why I said with the kidnapping
9 situation, I might have said things, but I never
10 -- I never like really pressured them to do what
11 I said or nothing like that. That's why I said I
12 feel like this trial was going to prove that.
13 But then again, it really ain't -- it just prove
14 that I did something wrong. I'm sorry for that.
15 I mean, I can't take it back.

16 **THE COURT:** Mr. Griffin, you sound very
17 sincere and genuine. I'm sorry you didn't act
18 more like you are here today back on that night.

19 **MR. GRIFFIN:** Yes, sir.

20 **THE COURT:** I mean, you know, I appreciate
21 what you're saying. Unfortunately, that doesn't
22 excuse --

23 **MR. GRIFFIN:** I already know. I just -- I
24 just want to let them know.

25 **THE COURT:** All right. Anything else?

1 **MR. GRIFFIN:** No, sir.

2 **THE COURT:** All right. On the Murder
3 charge, which is 2016-2335, the sentence of the
4 Court is 45 years. All the rest of them are run
5 concurrent. Ten years on the armed robbery. Ten
6 years on Assault and Battery first degree.
7 Burglary first, 15 years. Kidnapping, 10 years.
8 That's on the 16-2332. 2016-2333 is 10 years.
9 Possession of a weapon, five years. Again, all
10 of those are run concurrent. Good luck to you,
11 Mr. Griffin.

12 **MR. GRIFFIN:** Thank you.
13 (Proceedings conclude at approximately
14 5:06 p.m.)

15
16
17
18

CERTIFICATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 9th day of December, 2017.

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

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA)
 IN THE COUNTY OF COMMON PLEAS)
 County of Greenville)

IN THE COURT OF COMMON PLEAS

Margual Devine Griffin,)
 Full name and prison number (if any) of Applicant)
#358328)

2020-CP-23-02941

v.)

APPLICATION FOR

State of South Carolina)
)
)
)
)
)

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River CORR. Inst.,
4460 Broad River Rd., Columbia, SC 29210
2. Name and location of Court which imposed sentence Greenville 13th Judicial
Circuit, Greenville County Ct. House, 305 E. North St., Greenville, SC 29601
3. Name(s) of co-defendant(s) (if any) Terry Clifton Harris
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 2016-65-23-2330, 2331, 2332, 2333
& 2016-65-23-2335 AND ALSO 2017-65-23-2334
Murder, Poss of WPN, Burglary 1st deg., A.R., A&B, & Kidnapping.
45 Yrs. Sentence, others → (1) CONCURRENT Sentences ON Dec. 9, 2017

4572 Check whether a finding of guilty was made

- (a) after a plea of guilty N/A
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A

6. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. The SC Court of Appeals
- ii. N/A
- iii. N/A

(b) the result in each such Court to which you appealed:

- i. Dismissed
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. June 26, 2019
- ii. N/A
- iii. N/A

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. Unpublished Opinion No: 2019-UP-226 (App. No. 2017-001960)
- ii. N/A
- iii. N/A

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) N/A
- (b) N/A
- (c) N/A

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) I.A.D.C. @ TRIAL & APPELLATE LEVEL (VIOLATION OF STATE & US. CONSTITUTIONAL RIGHTS)
- (b) TRIAL COURT COMMITTED ERROR THROUGH THE LENS OF I.A.D.C. TRIAL ATTORNEY
- (c) PROSECUTORIAL MISCONDUCT THROUGH THE LENS OF I.A.D.C. TRIAL LEVEL

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) See ATTACHMENTS;
- (b) See ATTACHMENTS;
- (c) See ATTACHMENTS;
- (d) See ATTACHMENTS;

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court?
NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

YES!

474 (a) which grounds have been presented:

i.

ii. WHETHER MALICE MAY BE INFERRED IN MURDER JURY INSTRUCTION

(b) the proceedings in which each ground was raised:

i. THE SOUTH CAROLINA COURT OF APPEALS

ii.

iii.

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

(a) FIRST P.C.R. APPLICATION PER SC CODE ANN. §§ 17-27-10-10-160 (2003)

(b) FIRST P.C.R. APPLICATION PER SC CODE ANN. §§ 17-27-10-10-160 (2003)

(c) FIRST P.C.R. APPLICATION PER SC CODE ANN. §§ 17-27-10-10-160 (2003)

(d) FIRST P.C.R. APPLICATION PER SC CODE ANN. §§ 17-27-10-10-160 (2003)

16. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? DID NOT HAVE AN ATTORNEY

(b) your trial, if any? Randall L. Chambers & Edward H. Dawson, III.

(c) your sentencing? Randall L. Chambers & Edward H. Dawson, III.

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Susan B. Hackett

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

i. Randall L. Chambers, Esquire
804 LAURENS Rd., GREENVILLE, SC 29607

ii. Edward H. Dawson, III, Esquire, PUBLIC DEFENDERS OFFICE
305 E. NORTH ST., RM # 123, GREENVILLE, SC 29601

iii. Susan Barber Hackett, APPELLATE ATTORNEY
1330 LADY ST., SUITE 401, COLUMBIA, SC 29201

(b) the proceedings at which each such attorney represented you:

i. JURY TRIAL - Greenville County Ct. House, 13th Cir, 305 E. NORTH ST., Greenville SC 29601

ii. JURY TRIAL - Greenville County Ct. House 13th Cir, 305 E. NORTH ST., Greenville SC 29601

iii. APPEAL - SC Ct. OF APPEALS, 1015 SUMMITER ST., COLUMBIA, SC 29201

18. State clearly the relief you seek in filing this application.

CONVICTION & SENTENCE REVERSED, VACATED & REMAND FOR NEW TRIAL ALSO
COUNSEL BE APPOINTED, EVIDENTIARY HEARING & DISCOVERY PROCEEDINGS BE GRANTED

19. Are you now under sentence from any other court that you have not challenged? (FEDERAL OFFENSE)

FEDERAL SENTENCE FOR CONVICTED FELON POSS. OF A WEAPON (12 YRS) SENTENCE
SAME OFFENSE IN THIS CASE! (5) YRS. STATE SENTENCE FOR SAME CRIME

STATE OF SOUTH CAROLINA

County of GREENVILLE

VERIFICATION

I, MARQUAL DEVINE GRIFFIN, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

* Marqual Devine Griffin
MARQUAL DEVINE GRIFFIN

SWORN to and subscribed before me this 4th

day of June, 2020
Kanara Robinson (L.S.)
Notary Public

My Commission Expires: 8/5/2024

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, MARQUAL DEVINE GRIFFIN, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

* Marqual Devine Griffin
Applicant
MARQUAL DEVINE GRIFFIN

SWORN or affirmed to and subscribed before me this

4th day of June, 2020
Kanara Robinson
Notary Public

My Commission Expires 8/5/2024

POST CONVICTION RELIEF APPLICATION ATTACHMENT

9 STATE CONCISELY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOU ARE BEING HELD IN CUSTODY UNLAWFULLY

9(a) DENIAL OF DUE PROCESS CLAUSE, OF THE 14TH AMEND. U.S.C.A. CONST. & ART. I § 3 & 14 OF THE STATE OF SC AND THE LAWS OF THIS STATE ALSO THE 5TH AMEND. FEDERAL CONST. VIOLATION PROCEDURAL AND SUBSTANTIVE RIGHTS OF THESE CONSTITUTIONS.

10 STATE CONCISELY AND IN THE SAME ORDER THE FACTS WHICH SUPPORTS (A)(1), EACH OF THE GROUNDS SET OUT IN (9)(A)(1)

(A) See: ATTACHMENTS 9 (A) & 10 (A) (A) & (A)(2)

9 & 10 GROUNDS FOR RELIEF WITH SUPPORTING FACTS:

9 (A) APPLICANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH (6TH) AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE I § 3 & 14TH OF THE SC CONSTITUTION AND THE LAWS OF THIS STATE, ALSO THE FIFTH (5TH) AMENDMENT OF THE FEDERAL CONSTITUTION.

10 (A) SUPPORTING FACTS: TRIAL COUNSEL'S PERFORMANCE AND REPRESENTATION FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND THAT COUNSEL'S DEFICIENT PERFORMANCE PREJUDICED THE DEFENDANT HAD COUNSEL NOT COMMITTED THESE ERRORS, RESULTING IN AN UNRELIABLE OR FUNDAMENTALLY UNFAIR OUTCOME IN THE PROCEEDING. See: STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984). COUNSEL'S ACTS OR OMISSIONS INCLUDED BUT NOT LIMITED TO THE FOLLOWING: (TRIAL COUNSEL)

1) TRIAL COUNSEL FAILED TO OBJECT TO THE TRIAL COURT COMMENTING ON THE FACTS IN THE CASE AND PRESERVE THE RECORD

JAN 2001

POST CONVICTION RELIEF APPLICATION ATTACHMENT

FOR APPELLATE REVIEW WHEN THE TRIAL COURT DURING THE JURY CHARGE AN EXAMPLE OF EXPRESSED MALICE; "LYING IN WAIT FOR A PERSON" OR ANY OTHER ACTS OF PREPARATION GOING TO SHOW THAT THE DEED WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESS MALICE. See; TRIAL TRANSCRIPT. (TR 435 II. 865 - THRU - TR. 436 II. 1.)

APPLICANT ASK THE COURT TO NOTE THAT THE TRIAL COURT STATED IT'S A CARDINAL RULE THAT AS A TRIAL JUDGE, HE CAN NOT INTIMATE, STATE, COMMENT ON OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE BECAUSE YOU ARE THE SOLE JUDGE OF THAT. IF, IN SOMEWAY, DURING THIS TRIAL... See; TRIAL TRANSCRIPT. (TR. 419 II. 21 - THRU - TR. 420 II. 1-2)

APPLICANT STATES THAT EVIDENCE HE WAS HIDING BESIDE THE HOUSE WHEN KEVIN HOFFMAN CAME AND GOT APRIL GREEN TO OPEN THE DOOR THAT HE WOULD HAVE TO BE "LYING IN WAIT" NOT KNOWING WHEN SOMEONE WOULD COME TO PURCHASE DRUGS IN ORDER TO GET THE DOOR OPEN.

APPLICANT STATE THAT THE TRIAL COURT COMMENTED ON THE FACTS IN HIS CASE AND PREJUDICED THE JURY BY ELABORATING WITH AN EXAMPLE THAT IS EXACTLY AS THE FACTS IN HIS CASE AND IS HIGHLY PREJUDICIAL AND REMOVED THE FUNDAMENTAL PROCESS OF A FAIR TRIAL.

APPLICANT STATES THAT TRIAL COUNSEL PERFORMANCE AND REPRESENTATION FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND THAT COUNSEL'S DEFICIENT PERFORMANCE PREJUDICED THE DEFENDANT HAD COUNSEL OBJECTED TO THE COMMENT FOR APPELLATE REVIEW PRESERVE RECORD THERE A REASONABLE PROBABILITY THE OUTCOME WOULD HAVE BEEN DIFFERENT. A REASONABLE PROBABILITY IS ONE THAT COULD UNDERMINE THE OUTCOME

MIAMI JACOBI

POST-CONVICTION RELIEF APPLICATION ATTACHMENT

OF THE PROCEEDING.

THE APPLICANT SEEKS THAT AN EVIDENTIARY HEARING BE GRANTED, AN ATTORNEY BE APPOINTED, THE TRIAL TRANSCRIPT BE ACCEPTED AS THE TRUE RECORD AND DISCOVERY GRANTED AS LETAVE TO DDSD AND SUB POENAS BE SERVED ON ANDREW CULBREATH, RANDALL L. CHAMBERS, JUDGE PERRY GRAVELY, AND COURT REPORTER TERESA B. JOHNSON ALSO SUSAN BARBER HACKETT, APPELLATE ATTORNEY.

THE APPELLANT ACKNOWLEDGES THE BURDEN OF PROOF IS ON HIM AND FOR THESE VERY REASONS AS OF THE FILING OF THIS APPLICATION HE'S PLACING THE COURT ON NOTICE THE NECESSITY OF HAVING ALL NAMED PERSONS PRESENT AT HIS HEARING TO CARRY HIS BURDEN THROUGH CROSS EXAMINATION TO PROVE HIS CLAIM OF STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984)

END OF CLAIM!

9(a) & 10(a) GROUNDS FOR RELIEF WITH SUPPORTING FACTS:

9 (A) APPLICANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL DURING TRIAL AS GUARANTEED BY THE SIXTH (6TH) AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES AND ARTICLE I § 3 & 14 OF THE CONSTITUTION OF SC AND THE LAWS OF THIS STATE, ALSO THE FIFTH (5TH) AMENDMENT OF THE FEDERAL CONSTITUTION.

10 (A) SUPPORTING FACTS: TRIAL COUNSEL'S PERFORMANCE AND REPRESENTATION FELL BELOW AND OBJECTIVE STANDARD OF REASONABLENESS AND THAT COUNSEL'S DEFICIENT PERFORMANCE PREJUDICED THE DEFENDANT. HAD COUNSEL NOT COMMITTED THESE ERRORS

POST-CONVICTION RELIEF APPLICATION - ATTACHMENT

RESULTING IN AN UNRELIABLE OR FUNDAMENTALLY UNFAIR OUTCOME IN THE PROCEEDING. See; STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984) COUNSEL ACTS OR OMISSIONS INCLUDED BUT NOT LIMITING TO THE FOLLOWING:

1. COUNSEL FAILED TO CONTEMPORANEOUSLY OBJECT TO THE TRIAL COURT ERRONEOUS (IMPROPER) JURY INSTRUCTION AS THE LESSER INCLUDED OFFENSE OF MURDER WHICH WAS INVOLUNTARY MANSLAUGHTER INSTEAD OF VOLUNTARY MANSLAUGHTER. HOWEVER THE TRIAL COURT MADE MATTERS WORSE BY SUBMITTED THE VERDICT FORM WITH VOLUNTARY MANSLAUGHTER WITH NO INSTRUCTIONS DEFINING IT AND THE JURY HAVING TO DELIBERATE ON A VERDICT WITH NO JURY CHARGE FOR VOLUNTARY MANSLAUGHTER OR ITS ELEMENTS. See; TRIAL TRANSCRIPT (TR. 434, II. 10-THRU-TR. 438, II. -11) esp. TR. 436, II. 2-THRU-TR. 439, II. -24) THE INVOLUNTARY MANSLAUGHTER CHARGE AS THE LESSER INCLUDED OFFENSE OF MURDER GIVEN BY THE TRIAL COURT HOWEVER THE TRIAL COURT SUBMITTED TO THE JURY WITH THE VERDICT FORM WAS WRITTEN AS VOLUNTARY MANSLAUGHTER. See; (TR. 440, II. 5-24 & TR. 442, II. 4-23.) WHICH STATES VOLUNTARY MANSLAUGHTER NOT INVOLUNTARY MANSLAUGHTER WHICH PREJUDICED THE DEFENDANT AND DENIED HIM DUE PROCESS AND HIS SUBSTANTIAL RIGHTS AFFORDED BY THE CONSTITUTION.

TRIAL COUNSEL FAILED TO OBJECT TO THE JURY CHARGE AND THE VERDICT FORM SUBMITTED TO THE JURY. COUNSEL WAIVED HIS RIGHT TO OBJECT AND CONSENT TO THE CHARGE AND FORFEITURED HIS RIGHT TO APPELLATE REVIEW AND THE TRIAL COURT CLEARLY COMMITTED AN ERROR WHICH DENIED THE DEFENDANT A RIGHT TO A FUNDAMENTALLY FAIR TRIAL. TRIAL TRANSCRIPT WILL SUBSTANTIATE THAT COUNSEL CONSENTED TO THE JURY CHARGE. See; (TR. 446, II. 23-THRU-TR. 447, II. -10), (TR. 448, II. 4), (TR. 449, II. 1-10), (TR. 451, II. 17-THRU-TR. 452, II. -22), ...

POST-CONVICTION RELIEF APPLICATION-ATTACHMENTS

TR. 456, II. 1-4, (TR. 457, II. 1-9, 17-THRU-TR 458, II. 1, 7 & (TR. 458, II. 9-THRU-TR. 464, II. -12)

TRIAL COUNSEL'S FAILURE TO OBJECT TO THE ERROR OF THE TRIAL COURT AND HIS INTENTIONAL WAIVER FOR NOT DOING SO HAS FORFEITED DEFENDANT'S RIGHT TO APPEAL BECAUSE OF NOT BEING PRESENT FOR APPELLATE REVIEW HAS DENIED DEFENDANT THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AND VIOLATED HIS SIXTH (6TH) AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AND RIGHT TO DUE PROCESS AND HIS SUBSTANTIAL RIGHTS WHICH WERE AFFECTED BY THIS ERROR OF JURY CHARGE, (VIOLATION 14TH AMEND. U.S. C.A. CONST.)

APPLICANT ASK THE STATE COURT TO TAKE NOTE OF FEDERAL R. CRIM. P. 52(b) WHICH PROVIDES: A PLAIN ERROR THAT AFFECTS "SUBSTANTIAL RIGHTS" MAY BE CONSIDERED EVEN THOUGH IT WAS NOT BROUGHT TO THE COURT'S ATTENTION AND JONES V. U.S., at. 388-89 (APPELLATE COURT'S PLAIN ERROR REVIEW DISCRETIONARY AND SHOULD BE EXERCISED ONLY IF IT "SERIOUSLY AFFECTS THE FAIRNESS, INTEGRITY, OR PUBLIC REPUTATION OF JUDICIAL PROCEEDINGS." AS IT DOES IN THE CASE AT HAND AGAINST THE DEFENDANT. APPLICANT STATES THAT ERROR IS SO PLAIN AND OBVIOUS, AND PARTICULARLY EGREGIOUS TO ALLOW HIS CONVICTION TO STAND WOULD BE A SEVERE CASE OF MISCARriage OF JUSTICE.

APPLICANT STATES THAT TRIAL COUNSEL PERFORMANCE AND REPRESENTATION FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND THAT COUNSEL'S DEFICIENT PERFORMANCE PREJUDICED THE DEFENDANT. HAD COUNSEL OBJECTED TO THE ERROR JURY CHARGE AND ERROR VERDICT FORM AND PRESERVE FOR APPELLATE REVIEW OF THE RECORD THERE IS A REASONABLE PROBABILITY THE OUTCOME WOULD HAVE BEEN DIFFERENT. A REASONABLE PROBABILITY IS ONE THAT UNDERMINE THE OUTCOME OF THE PROCEEDINGS.

POST CONVICTION RELIEF APPLICATION - ATTACHMENTS

THE APPLICANT SEEKS THAT AN EVIDENTIARY HEARING BE HELD AN ATTORNEY BE APPOINTED, THE TRIAL TRANSCRIPT BE ACCEPTED AS THE TRUE RECORD AND TIME BE GRANTED TO LEAVE FOR DISCOVERY ALSO BE IT KNOWN APPLICANT MOVES FOR SUBPOENA'S BE SERVED ON RANDALL L. CHAMBERS, EDWARD H. DAWSON, III, SOLICITOR ANDREW CULBREATH, JUDGE PERRY GRAVELY, COURT REPORTER TERESA B. JOHNSON AND APPELLATE SUSAN BARBER HACKETT. (APP. ATTORNEY)

THE APPLICANT ACKNOWLEDGES THE BURDEN OF PROOF IS UPON HIM TO DEMONSTRATE THAT COUNSEL'S PERFORMANCE WAS NOT ONLY DEFICIENT BUT ALSO HOW THIS PERFORMANCE AND REPRESENTATION PREJUDICED HIM AS THE STRICKLAND PRONGS REQUIRE.

THE APPLICANT STATES ON RECORD THAT IS THE REASON THAT HE IS REQUESTING OF THE COURT THE NECESSITY FOR A SUBPOENA OF INDIVIDUALS NAMED ABOVE.

THE APPLICANT BELIEVES THAT HE HAS SHOWN JUST CAUSE THAT THE COURT PRODUCE THESE PERSONS TO ANSWER THIS ALLEGATIONS AND CLAIMS AGAINST THEM AND THE COURT.

END OF DOCUMENT,

POST CONVICTION RELIEF APPLICATION ATTACHMENT

9 & 10 GROUNDS FOR RELIEF WITH SUPPORTING FACTS:

9 (A) APPLICANT WAS DENIED THE RIGHT TO DUE PROCESS AND EQUAL PROTECTION UNDER THE CLAUSE OF THE FOURTEENTH (14TH) AMENDMENT OF U.S. CA. CONST WHICH GUARANTEES A CRIMINAL DEFENDANT THE EFFECTIVE ASSISTANCE OF COUNSEL ON A FIRST APPEAL AS OF RIGHT AND THAT THE APPEAL AT ISSUE CONSTITUTED A FIRST APPEAL AS OF RIGHT. See; EVITT'S V. LUCEY; 469 U.S. 387, 105 S.Ct. 830 (1985)

10 (A) SUPPORTING FACTS; COUNSEL AT APPELLATE LEVEL PERFORMANCE AND REPRESENTATION FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND COUNSEL'S DEFICIENT PERFORMANCE DENIED DEFENDANT DUE PROCESS OF A THOROUGH AND FAIR APPEAL REVIEW OF THE APPEAL PROCESS. See; STRICKLAND V. WASHINGTON; 466 U.S. 668, 104 S.Ct. 2052 (1984) (COUNSEL'S ACTS OR OMISSIONS INCLUDED BUT NOT LIMITED TO THE FOLLOWING:

1.) APPELLATE COUNSEL FAILED TO DO DUE DILIGENCE IN READING THE TRIAL **RECORD** WHICH IS THE TRIAL TRANSCRIPT AND FAILED TO POINT OUT OR BRING ATTENTION TO THE COURT OF APPEAL A "PLAIN AND OBVIOUS ERROR" THAT AFFECTED DEFENDANT "SUBSTANTIVE RIGHT" TO A FAIR TRIAL.

(2) THE TRIAL COURT IN ITS CHARGE TO THE JURY GAVE A JURY CHARGE AND THE ELEMENTS FOR MURDER BUT THEN INSTRUCTED THE JURY ON WHAT THE COURT DECLARED TO BE A LESSER INCLUDED OFFENSE WHICH WAS IN-VOLUNTARY MANKLINGHER AND BY PASSING INSTRUCTION ON VOLUNTARY MANKLINGHER, THEREFORE THE

POST CONVICTION RELIEF APPLICATION ATTACHMENTS

JURY WAS ONLY INSTRUCTED ON THE MURDER CHARGE AND IN-VOLUNTARY MANSLAUGHTER, see TRIAL TRANSCRIPT, - TR. 434, II 10-THRU - TR. 438, II, - 11.) HOWEVER THE "PLAIN AND OBVIOUS ERROR" IS THE TRIAL COURT SUBMITTED THE JURORS VERDICT FORM WITH "VOLUNTARY-MANSLAUGHTER", see TRIAL TRANSCRIPT, (TR. 442, II 14-23) THE TRIAL TRANSCRIPT WILL SUBSTANTIATE AND DEMONSTRATE THAT THE TRIAL COURT DID NOT INSTRUCT THE JURY ON "VOLUNTARY MANSLAUGHTER" WHICH CAUSE THE VERDICT FORM TO BE INCOMPLETE AND CONFUSING TO THE JURY AND JURORS DENYING THE DEFENDANT OF "SUBSTANTIVE RIGHT" OF THE DUE PROCESS CLAUSE AND EQUAL PROTECTION AFFORDED BY THE FOURTEENTH (14TH) AMENDMENT (U.S.C.A. CONST) AND WAS DEPRIVED HIM OF THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL ON APPEAL GUARANTEED BY THE DUE PROCESS CLAUSE OF THE FOURTEENTH (14TH) AMENDMENT.

See; "U.S. v. Frady," 456 U.S. 152, 163 (n.14) (1982) (PLAIN ERROR RULE AUTHORIZES APPELLATE COURTS TO CORRECT ONLY [PARTICULAR] EBREGIOS ERRORS] AND THIS SHOULD BE USED SPARINGLY ONLY TO PREVENT MISCARRIAGE OF JUSTICE.

See; "U.S. v. Hansen," 434 F.3d 92, 101 (P.Cir.2006) (PERSUASIVE AUTHORITY) (FAILURE TO OBJECT TO COURT'S OMISSION OF PROPOSED JURY INSTRUCTION AND DEFENSE COUNSEL'S COMMENT "I AM CONFIDENT" [WITH JURY INSTRUCTION] WAIVED ISSUE ON APPEAL.

See; "U.S. v. Young," 470 U.S. 1, 15 (1985) (THE PLAIN-ERROR-EXCEPTION TO THE CONTEMPORANEOUS-OBJECTION RULE IS TO BE USED SPARINGLY "IN THOSE CIRCUMSTANCES IN WHICH A MISCARRIAGE OF JUSTICE WOULD OTHERWISE RESULT AS WOULD BE THE CASE OF MAR- UAL D. GRIFFIN."

See; FED. R. CRIM. P. 52(b) (A PLAIN ERROR THAT AFFECTS "SUBSTANTIAL"

"POST-CONVICTION RELIEF APPLICATION-ATTACHMENT"

RIGHTS "MAY BE CONSIDERED EVEN THOUGH IT WAS NOT BROUGHT TO THE COURT'S ATTENTION. See; ALSO "JOHNSON V. U.S." 520 U.S. 461, 465 (1997) (FAILURE TO ASSERT RIGHT USUALLY RESULTS IN FORFEITURE BUT "PLAIN ERROR RULE" MITIGATES.)

IN "U.S. V. VEGA MOLINA" 407 F.3d 511, 522 (1st Cir., 2008) (PERSUASIVE AUTHORITY) (DISTRICT COURT'S IMPROPER JURY INSTRUCTIONS AFFECTED SUBSTANTIAL RIGHTS.)

APPLICANT ALLEGE APPELLATE COUNSEL DEPRIVED DEFENDANT OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT (14TH) WHICH ENCOMPASSES EQUAL PROTECTION AND GUARANTEES A CRIMINAL DEFENDANT THE EFFECTIVE ASSISTANCE OF COUNSEL ON A FIRST APPEAL AS OF RIGHT AND THAT THE APPEAL AT ISSUE CONSTITUTED A FIRST APPEAL AS OF RIGHT. See; "EVITT'S V. LUCE", 469 U.S. 381, 105 S.Ct. 830 (1985) THE DEFENDANT WAS DENIED SUBSTANTIAL RIGHTS OF A PROPER JURY CHARGE WHEREAS THE JURY COULD ASSESS AND RENDER A JUST VERDICT RATHER THAN AN ERRONEOUS CHARGE WHEN COMPARING TO THE JURORS VERDICT FORM WHICH DID NOT ALIGN WITH THE INSTRUCTIONS GIVEN. APPELLATE COUNSEL FAILED TO POINT OUT TO THE COURT THIS ERROR WHICH WAS PLAIN AND OBVIOUS AND IS A REVERSIBLE ERROR BECAUSE IT DENIED DEFENDANT OF "SUBSTANTIAL RIGHTS" GUARANTEED BY THE FOURTEENTH (14TH) AMENDMENT OF THE CONSTITUTION.

THE APPLICANT SEEKS THAT AN EVIDENTIARY HEARING BE HELD ON THIS ISSUE AND AN ATTORNEY BE APPOINTED. THE TRIAL TRANSCRIPT BE ACKNOWLEDGED AS THE OFFICIAL RECORD. THE COURT BE PLACED ON NOTICE THE APPLICANT SEEKS LEAVE FOR DISCOVERY PROCESS ALSO SUBPOENA'S FOR RANDALL L. CHAMBERS, EDWARD H. DAWSON, JR., SUSAN BARBER HUCKER, APP. ATTORNEY, ANDREW CULBRETH SOLICITOR, COURT REPORTER TERESA B. JOHNSON, AND JUDGE PERRY GRAVELY.

POST CONVICTION RELIEF APPLICATION-ATTACHMENT

THE APPLICANT HEREBY PLACES THE HONORABLE COURT ON NOTICE ON INTENT TO AMEND HIS APPLICATION AT LEAST ONCE ON OR BEFORE EVIDENTIARY HEARING DATE AND TO SUPPORT HIS CLAIM OF "PROSECUTORIAL CONDUCT THROUGH THE LENS OF IN-EFFECTIVE ASSISTANCE OF COUNSEL" WITH SUPPORTING AFFIDAVITS AND DOCUMENTS ONCE HE RECEIVES "CLIENT'S CASE FILE" FROM TRIAL ATTORNEY IN WHICH HAVE BEEN REQUESTED AS OF THIS FILING DATE. CLAIM #9(d) DENIAL OF DUE PROCESS, PROCEDURAL AND SUBSTANTIAL VIOLATIONS IN OPERATING EQUAL PROTECTION UNDER THE FOURTEENTH (14TH) AMENDMENT CONST. (U.S.C.A.), ARTICLE #1, §§ 3 & 14 OF THE CONSTITUTION OF SC AND THE LAWS OF THIS STATE ALSO THE FIFTH (5TH) AMENDMENT OF THE FEDERAL CONSTITUTION, IS INCORPORATED IN ISSUE #9 (2)(1)(2)(3). THEREFORE #9(d) IS NOT A SEPARATE ISSUE AS WRITTEN BUT IS INCORPORATED WITH IN-EFFECTIVE ASSISTANCE OF COUNSEL AGAINST TRIAL COUNSEL AND APPELLATE COUNSEL.

APPELLANT ONCE AGAIN PLACES THE STATES ON NOTICE THAT HE HAS OTHER POSSIBLE CLAIMS TO AMEND AT A LATER DATE AFTER HE HAS RECEIVED HIS CLIENT'S FILE FROM TRIAL ATTORNEY AND GIVEN PERMISSION FOR LEAVE OF DISCOVERY BUT NOT LIMITED TO THIS.

APPELLANT BELIEVES THAT BY THE FILING OF THIS APPLICATIONS AND SUPPORTING FACTS THAT HE HAS DEMONSTRATED THE CAUSE TO SHOW JUST CAUSE WHY AN EVIDENTIARY HEARING SHOULD BE HELD AND APPOINTMENT OF AN ATTORNEY WITHIN A REASONABLE TIME.

"FOLLOWED BY NOTARY SIGNATURE ON PAGE (11)"

POST CONVICTION RELIEF APPLICATION ATTACHMENTTEN (10) PAGES PRIOR TO THIS NOTARY SIGNATURE
(ATTACHMENTS)END OF CLAIM.Margaret Devine Griffin

MARGARET DEVINE GRIFFIN #358328

BROADRIVER CORR. INST.

4460 BROADRIVER RD.

COLUMBIA, SC 29210

SWORN to and subscribed before me this 14th
day of June, 2020Doreen Roberson
NOTARY FOR THE STATE OF SOUTH CAROLINAMY COMMISSION EXPIRES: 8/5/2024THE ORIGINAL PCR APPLICATION WAS FILED IN GREENVILLE COUNTY ON
THE DATE CORRESPONDING WITH THE DATE OF SERVICE DATE

CC: ALAN WILSON, ATTORNEY GENERAL OF SC

MARGARET DEVINE GRIFFIN, #358328

MDG

PROOF-OF-SERVICE

THE HEREBY UNDERSIGNED STATE UNDER THE PENALTY OF PERJURY THAT HE HAS SERVED A TRUE APPLICATION FOR POST CONVICTION RELIEF UPON: THE CLERK OF COURT, PAUL B. WICKENSIMER, ESQUIRE, 13TH CIR., GREENVILLE COUNTY COURT-HOUSE, 305 E. NORTH ST., GREENVILLE, SC 29601 AND A TRUE COPY UPON THE ATTORNEY GENERALS' OFFICE:

TO: ATTN: ALAN WILSON, ESQUIRE
ATTORNEY GENERAL OFFICE
P.O. BOX 11549
COLUMBIA, SC 29211-1549

THE POST CONVICTION RELIEF APPLICATION IS ENCLOSED WITH A NOTARIZED VERIFICATION FORM, A NOTARIZED APPLICATION TO PROCEED WITHOUT PREPAYMENT OF COST AND AFFIDAVIT, AND TEN (10) PAGES ATTACHMENTS WITH SUPPORTING FACTS AND CLAIMS FOLLOWED BY A SIGNATURE OF APPLICANT AND NOTARY SIGNATURE. THIS WAS ACCOMPLISH AT BROAD RIVER CORR. INST. MAIL ROOM ON 4TH DAY OF JUNE, 2020. AND PLACED IN THE UNITED STATES MAIL THAT DAY. THE ACTUAL APPLICATION INCLUDED (5 PAGES)

Margaret Devine Griffin

MARGARET DEVINE GRIFFIN #
358328

BROAD RIVER CORR. INST.
4460 BROAD RIVER Rd
COLUMBIA, SC 29210

CC: ALAN WILSON, ATTORNEY GENERAL
MARGARET DEVINE GRIFFIN, APPLICANT
MDG



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

June 27, 2019

Mr. Marqual Devine Griffin, #358328
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

Re: Your case

Dear Mr. Griffin:

Enclosed is a copy of the opinion of the Court of Appeals affirming your conviction pursuant to the Anders v. California procedure. Please be advised that our office will be closing your case along with this letter.

* Please be aware that there is a one year statute of limitations for filing an application for (post-conviction (PCR) relief.) This is one year from the date of the enclosed opinion. This statute of limitations is **very strictly enforced**, so please be sure that **you** comply with it. Please understand *it is your responsibility alone to be sure this PCR application is timely filed.* **This application must be filed with the clerk of court in the county of your conviction.** There is also now a one year statute of limitations for filing for federal habeas. However, you must **exhaust your PCR claims** in state court, before raising them in federal court.

Please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future.** I do wish you the best. Feel free to contact me if you have any questions.

Sincerely,

Susan B. Hackett
Appellate Defender

SBH/emm

Enclosure: Post-Conviction Relief Application

"June 2, 2020"

489

ATTN: PAUL B. WICKENSIMER, ESQUIRE
CLERK OF COURT, 13TH JUD. CIR. CT. OF COMMON PLEAS
GREENVILLE COUNTY COURTHOUSE
305 E. NORTH ST.
GREENVILLE, SC 29601

20 JUN 12 AM 11:01
PAUL WICKENSIMER, OFFICIAL SC

FROM: MARQUA DEVINE GRIFFIN, #358328

Re: POST CONVICTION RELIEF APPLICATION!

: ~~DEAR~~ CLERK, "COVER LETTER"

ENCLOSED IS MY APPLICATION FOR POST CONVICTION RELIEF APPLICATION AND MY DEADLINE IS JUNE 26, 2020. PLEASE ACKNOWLEDGE THE DATE STAMP OF BROAD RIVER CORR. INST. AS MY FILING DATE AS IN "HOUSTON V. LACK" 487 U.S. 266, 270, 276 (1988). I HAVE SERVED ALAN WILSON, ATTORNEY GENERAL OF SOUTH CAROLINA WITH A TRUE COPY. I HAVE ENCLOSED AN EXTRA TRUE COPY OF MY P.C.R. APPLICATION. I RESPECTFULLY ASK THAT YOU TO PLEASE DATE STAMP AND CLOCK STAMP IT AND RETURN TO ME. I THANK YOU IN ADVANCE FOR YOUR ASSISTANCE IN THIS MATTER.

RESPECTFULLY SUBMITTED
/s/ Marqua Devine Griffin
MARQUA D. GRIFFIN.

FROM

RODNEY D. GRIFFIN #358328
ROAD RIVER CORP INVEST
NOTICE: UNIT - RM #244
460 Broad River Rd.
Lumbia, SC 29210

RECEIVED

JUN 04 2020

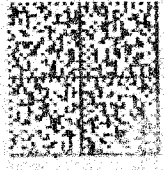
BRCI
MAIL ROOM

LEGAL APPLICATION

LEGAL-MAIL

2020-CP-23- 02941

ATTN: PAUL B. WICKENS, ESQUIRE
CLERK OF COURT, 13th Jd. Cir. Court
GREENVILLE COUNTY COMPT HOUSE
385 E. NORTH ST.
GREENVILLE, SC 29601



U.S. POSTAGE PITNEY BOWES
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"JULY 9, 2020"

ATTN: PAUL B. WICKENSIMER, ESQUIRE
CLERK OF COURT, 13TH CIR., CT. OF COMM'N PLEAS
305 E. NORTH ST.
GREENVILLE, SC 29601

FROM: MARQUAL DEVINE GRIFFIN, #358328

: C/A NO: 2020-CP-23-02941

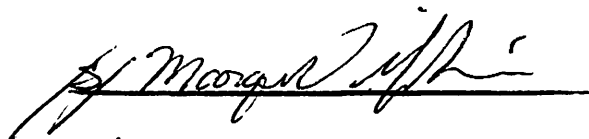
Re: "MOTION TO AMEND POST CONVICTION RELIEF APPLICATION!"

"COVER LETTER"

: DEAR CLERK,

I AM FILING THIS PRO SE MOTION TO AMEND MY
POST CONVICTION RELIEF APPLICATION WITH YOUR CLERK OFFICE
PURSUANT TO RULE 15 (a) OF SCRCIV. PROCEDURE. I AM EN-
CLOSING AN EXTRA COPY, ASKING OF YOU TO PLEASE CLOCK
STAMP IT AND RETURN IT TO ME. I'VE ALSO MAILED A TRUE
COPY UPON THE ATTORNEY GENERAL'S OFFICE AS THE PROOF-OF-
SERVICE WILL SUBSTANTIATE IT. I THANK YOU IN ADVANCE FOR
YOUR TIME AND ASSISTANCE REGARDING THIS MATTER.

RESPECTFULLY SUBMITTED,



MARQUAL DEVINE GRIFFIN
#358328

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

MARQUAL DEVINE GRIFFIN,
APPLICANT,
V.
STATE OF SOUTH CAROLINA,
RESPONDENT.

C.A. NO: 2020-CP-23-02941

AMENDED PETITION FOR
POST CONVICTION RELIEF

THE APPLICANT RESPECTFULLY MOVE UPON THIS HONORABLE COURT WITH A MOTION TO AMEND POST CONVICTION RELIEF APPLICATION PURSUANT TO S.C.R.C.V.P., RULE 15, AND TO ADD THE FOLLOWING ALLEGATIONS BUT NOT LIMITED TO ONLY THESE:

ISSUE #1

TRIAL COUNSEL WAS IN-EFFECTIVE ASSISTANCE OF COUNSEL FOR FAILURE TO REQUEST A VOLUNTARY MANSLAUGHTER CHARGE WHERE THERE WOULD BE ALL THE EVIDENCE OF THE ELEMENT OF A LESSER INCLUDED OFFENSE REDUCING MURDER TO MANSLAUGHTER TO THE JURY. See: DEMPSEY V. STATE, 363 SC 365, 371, 610 S.E.2d 182 (S.C. 2005)

ISSUE #2

ISSUE #2

TRIAL COUNSEL WAS IN-EFFECTIVE ASSISTANCE OF COUNSEL FOR FAILURE TO OBJECT TO THE TRIAL COURT VERDICT FORM INSTRUCTION CONFUSING THE JURY DIFFERING FROM ACTUAL JURY INSTRUCTION GIVEN. TRIAL COURT INFORMED THE JURY THAT THE BOX ON INDICTMENT NO. #6 (MURDER) HAS TWO (2) PARTS AND YOU HAVE TO

MOTION TO AMMEND POST CONVICTION APPLICATION CONTINUE,

ANSWER BOTH IF YOU FIND THE DEFENDANT NOT GUILTY OF MURDER THEN YOU WOULD GO TO THE SECOND PART OF SIX. . . BUT YOU FIND HIM GUILTY OF THE LESSER INCLUDED OFFENSE OF VOLUNTARY MAN-SLAUGHTER OR NOT GUILTY. DEFENDANT WAS ENTITLED TO A CONSISTENT JURY CHARGE AND JURORS VERDICT FORM BOTH ALIGNING WITH EACH OTHER A GIVING THE DEFENDANT A FAIR AND CONSISTING JURY CHARGE AND VERDICT FORM WHERE AS A JURY CAN RENDER A JUST VERDICT. DEFENDANT WAS DENIED RIGHT OF DUE PROCESS AND HIS SUBSTANTIVE RIGHT OF A FAIR JURY VERDICT FORM INSTRUCTIONS WERE VIOLATED. (THE SIXTH & FOURTEENTH AMEND. U.S.C.A. CONST. VIOLATION)

SUPPORTING FACTS: TRIAL COUNSEL'S PERFORMANCE AND REPRESENTATION FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND THAT COUNSEL'S DEFICIENT PERFORMANCE PREJUDICED THE DEFENDANT. HAD COUNSEL NOT COMMITTED THESE ERRORS RESULTING IN AN UNRELIABLE OR FUNDAMENTALLY UNFAIR OUTCOME IN THE PROCEEDING. See; STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052 (1984)

APPLICANT SEEKS TO AMEND THESE ISSUES TO THE ORIGINAL POST CONVICTION RELIEF APPLICATION AND NOT LIMITED TO BUT THAT AN ATTORNEY BE APPOINTED AND A DATE AND TIME BE SET FOR AN EVIDENTIARY HEARING OF THE THIS CASE

MOTION TO AMEND POST CONVICTION RELIEF APPLICATION CONTINUANCE

APPLICANT STATE THAT HE HAS FILED THIS MOTION TO AMEND POST CONVICTION RELIEF APPLICATION PURSUANT TO RULE 15(a) OF S.C.R. CIV. PROCEDURE AND IN GOOD FAITH.

APPLICANT BELIEVE THAT HE DEMONSTRATED JUST CAUSE WHY THIS HONORABLE COURT SHOULD GRANT HIS MOTION TO AMEND P.C.R. APPLICATION.

Margal Devine Griffin

MARGAL DEVINE GRIFFIN, #358328
BROADRIVER CORR. INST.,
MONTICELLO UNIT #244
4460 BROADRIVER RD.
COLUMBIA, SC 29210

Sworn to and Subscribed before me

this 14th DAY OF July, 2020

Ramona Robinson
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 8/5/2024

PRO SE FILED

CC: Alan Wilson, ESQUIRE
ATTORNEY GENERAL'S OFFICE

MARGAL DEVINE GRIFFIN, APPLICANT

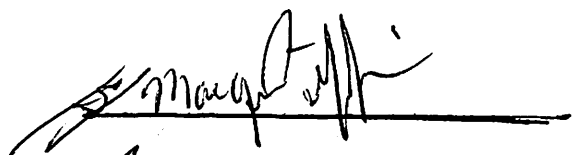
"PROOF-OF-SERVICE"

C/A NO: 2020-CA-23-02941

THE HEREBY UNDERSIGNED STATE UNDER THE PENALTY OF PERJURY THE HE HAS SERVED A "MOTION TO AMEND HIS POST CONVICTION RELIEF APPLICATION" UPON PAUL B. WICKENSIMER, CLERK OF COURT, COURT OF COMMON PLEAS OF THE THIRTEENTH JUDICIAL CIRCUIT, 9305 E. NORTH-ST. GREENVILLE COUNTY COURTHOUSE, GREENVILLE, SC 29601 AND A TRUE EXACT COPY TO THE ATTORNEY GENERAL'S OFFICE AT:

ATTN: ALAN WILSON, ESQUIRE
ATTORNEY GENERAL OFFICE
P.O. BOX 11549
COLUMBIA, SC 29211-1549

THIS ACTION WAS ACCOMPLISHED AT BROADRIVER CORR. INST. MAILROOM AND MAILED ON 21ST, DAY OF JULY, 2020 AND PLACED IN THE UNITED STATES POSTAL SERVICES ON THIS DATE.



MARQUALE DEVINE GRIFFIN,
#358328 PRO Se

BROADRIVER CORR INST.
MONTICELLO UNIT-RM#244
4460 BROADRIVER Rd.
COLUMBIA, SC 29210

CC: ALAN WILSON, ESQUIRE
MARQUALE DEVINE GRIFFIN, APPLICANT



ALAN WILSON
ATTORNEY GENERAL

October 22, 2020

The Honorable Paul B. Wickensimer
Clerk of Court - Greenville County
305 E North St
Greenville, SC 29601-2121

Re: Marqual Devine Griffin, #358328 v. State of South Carolina
2020-CP-23-2941

Dear Mr. Wickensimer:

Enclosed is the original return and motion for a more definite statement in the above-captioned case, which I am submitting for filing in your office. Thank you for your help.

Sincerely,

sTaylor Zane Smith
Taylor Z. Smith
Assistant Attorney General

TZS/jj
Enclosure

cc: Sarah M. Henry, Esquire

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Marqual Devine Griffin, #358328,	)	Case No.: 2020-CP-23-2941
	)	
Applicant,	)	
	)	
v.	)	RETURN AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
State of South Carolina,	)	
	)	
Respondent.	)	

The State of South Carolina (“Respondent”), making its return to the application for post-conviction relief filed by Marqual Devine Griffin (“Applicant”) on June 12, 2020, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. During its March of 2016 term, the Greenville County Grand Jury indicted Applicant for murder (2016-GS-23-002335), attempted armed robbery (2016-GS-23-002330), two counts of kidnapping (2016-GS-23-002332; -002333), possession of a weapon during the commission of a violent crime (2016-GS-23-002335), and first-degree assault and battery (2016-GS-23-002331). During its June of 2017 term, the Grand Jury indicted Applicant for first-degree burglary (2016-GS-23-002334). Applicant was represented by Randall Lee Chambers, Esquire, and Edward Hood Dawson, III, Esquire. Assistant Solicitors Andrew Scott Culbreath and Elizabeth Morrow Gary, both of the Thirteenth Circuit Solicitor’s Office, prosecuted the case. On September 11, 2017, through September 13, 2017, Applicant proceeded to a jury trial with the Honorable Perry H. Gravely presiding. The jury found Applicant guilty as indicted. Judge Gravely sentenced Applicant to imprisonment as follows, with all sentences running concurrently: for murder, to imprisonment for forty-five years; for attempted

armed robbery, to imprisonment for ten years; for first-degree assault and battery, to imprisonment for ten years; for first-degree burglary, to imprisonment for fifteen years; for both counts of kidnapping, to imprisonment for ten years each; and for possession of a weapon, to imprisonment for five years.

Chambers filed a timely notice of appeal. Appellate Defender Susan B. Hackett of the South Carolina Commission on Indigent Defense represented Applicant on appeal. Senior Assistant Deputy Attorney General Melody J. Brown represented Respondent. Hackett filed a motion to be relieved as counsel and a brief pursuant to Anders v. California, 386 U.S. 738 (1967), arguing Judge Gravely erred by instructing the jury that malice could be inferred from the use of a deadly weapon. Applicant did not file a pro se response to the Anders brief. The South Carolina Court of Appeals granted Hackett's motion and dismissed the appeal. State v. Griffin, Op. No. 2019-UP-226 (S.C. Ct. App. filed June 26, 2019) (per curiam). The remittitur was issued on July 12, 2019.

II. Current Application

In his application for post-conviction relief, filed on June 12, 2020, Applicant argues he is entitled to relief based upon multiple claims, which Respondent interprets as follows: (1) Applicant's trial attorneys were constitutionally ineffective for failing to object and preserve for appellate review Judge Gravely's commenting upon the facts of the case, (2) Applicant's trial attorneys were constitutionally ineffective for failing to object when Judge Gravely's improperly charged the jury on the lesser-included offense of voluntary manslaughter instead of involuntary manslaughter, (3) Applicant's appellate attorney was constitutionally ineffective for failing to argue on appeal that Judge Gravely erred by charging the jury on murder and involuntary manslaughter but submitted to the jury a verdict form that had a verdict for voluntary manslaughter, and (4) the State committed prosecutorial misconduct. Applicant prays the Court would grant post-

conviction relief and remand for a new trial.

Attached to this return and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding Applicant's convictions and sentences; the records from Applicant's direct appeal, including the Anders brief, the record on appeal, the Court of Appeals' opinion, and the remittitur; and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III. Motion for a More Definite Statement

Respondent moves for a more definite statement as to Applicant's claims. Applicant fails to set forth with specificity any facts and circumstances upon which his claim that the State committed prosecutorial misconduct is based. The Uniform Post-Conviction Procedure Act requires that Applicant must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon an applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974). Furthermore, Rule 8(a), SCRCRCP, requires all civil pleadings include "a short and plain statement of the facts showing that the pleader is entitled to relief."

Respondent moves pursuant to Rule 12(e), SCRCRCP, to require Applicant to provide a more definite statement of his claim. As it stands, Respondent is unable to understand Applicant's claim

and provide an effective response. Respondent moves to require Applicant to file an amended application well in advance of any evidentiary hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

IV. Response to Applicant's Claims¹

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008); Strickland v. Washington, 466 U.S. 668 (1984). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, at 117, 386 S.E.2d at 625 (quoting Strickland, at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to

¹ Not enough information is pleaded in the application for the undersigned to effectively understand all of Applicant’s claims and respond to them. As to those claims, the undersigned moves for a more definite statement and will respond accordingly once an amended application is filed.