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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRAYLON LAMAR MORRIS,

APPELLANT

APPELLATE CASE NO. 2023-000608

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VOLUME II OF II
PAGES 501-721

INDEX

INDEX	i
IMMUNITY HEARING TRANSCRIPT DATED FEBRUARY 16, 2023	1
STATE’S MOTION TO BLOCK IMMUNITY HEARING BY MR. GREGORY	3
RESPONSE BY MR. GAMBRELL	6
COURT DENIES MOTION TO BLOCK IMMUNITY HEARING	9
TESTIMONY	
BRAYLON MORRIS (<i>IN-CAMERA</i>)	
Direct Examination by Mr. Gambrell	11
STATE’S OBJECTION TO HEARSAY TESTIMONY BY MR. MILLER	20
RESPONSE BY MR. GAMBRELL	22
COURT OVERRULES OBJECTION	26
TESTIMONY	
BRAYLON MORRIS (<i>IN-CAMERA</i>)	
Continued Direct Examination by Mr. Gambrell	26
Cross-Examination by Mr. Miller	40
Redirect Examination by Mr. Gambrell	93
DEFENSE’S MOTION FOR IMMUNITY PURSUANT TO S.C. CODE ANN. §§ 16-11-440 BY MR. GAMBRELL	98
RESPONSE BY MR. GREGORY	103
COURT DENIES MOTION FOR IMMUNITY	106
TRIAL TRANSCRIPT DATED APRIL 3-6, 2023	112
DEFENSE’S MOTION FOR RECUSAL BY MR. GAMBRELL	120
COURT DENIES MOTION FOR RECUSAL	123

JACKSON V. DENNO HEARING

TRACY KING (<i>IN-CAMERA</i>)	
Direct Examination by Mr. Gregory	137
Cross-Examination by Mr. Gambrell.....	145
Redirect Examination by Mr. Gregory	156
HONORABLE SELDON PEDEN (<i>IN-CAMERA</i>)	
Direct Examination by Mr. Miller	158
Cross-Examination by Mr. Gambrell.....	163
STATE’S MOTION TO INCLUDE STATEMENTS BY DEFENDANT IN EVIDENCE BY MR. MILLER	167
RESPONSE BY MR. GAMBRELL	168
REPLY BY MR. MILLER.....	170
COURT FINDS STATEMENTS WERE GIVEN FREELY AND VOLUNTARY AND GRANTS MOTION TO INCLUDE STATEMENTS BY DEFENDANT IN EVIDENCE ..	172
RESPONSE TO STATE’S MOTION <i>IN LIMINE</i> TO EXCLUDE TESTIMONY OF VICTIM’S TOXICOLOGY RESULTS BY M. GAMBRELL	173
REPLY BY MR. MILLER.....	175
COURT DEFERS RULING	177
DEFENSE’S OBJECTION TO PROPOSED <i>VOIR DIRE</i> BY MR. GAMBRELL	179
JURY <i>VOIR DIRE</i>	203
JURY SELECTION	215
DEFENSE’S OBJECTION TO JURY POOL PURSUANT TO U.S. CONST. AM. XIV BY MR. GAMBRELL	226
RESPONSE BY MR. MILLER	229
COURT OVERRULES OBJECTION	234
OPENING STATEMENT BY MR. GREGORY.....	249
OPENING STATEMENT BY MR. GAMBRELL	254

STATE’S OBJECTION TO DEFENSE’S OPENING STATEMENT BY MR. GREGORY	256
COURT OVERRULES OBEJCTION	259
CONTINUED OPENING STATEMENT BY MR. GAMBRELL.....	260
TESTIMONY	
ANTHONY DUBOSE	
Direct Examination by Mr. Miller	264
Cross-Examination by Mr. Gambrell.....	272
Redirect Examination by Mr. Miller.....	275
QUINCY GREENE	
Direct Examination by Mr. Miller	277
Cross-Examination by Mr. Gambrell.....	280
Redirect Examination by Mr. Miller.....	285
HAZEN GEORGE	
Direct Examination by Mr. Gregory	287
Cross-Examination by Mr. Gambrell.....	294
CHARLIE BOONE	
Direct Examination by Mr. Gregory	296
Cross-Examination by Mr. Gambrell.....	301
CHRISTOPHER MCCALMONT	
Direct Examination by Mr. Miller	304
Cross-Examination by Mr. Gambrell.....	326
Redirect Examination by Mr. Miller.....	333
TRACY KING	
Direct Examination by Mr. Gregory	335
Cross-Examination by Mr. Gambrell.....	348
AMANDA ALDERMAN	
Direct Examination by Mr. Miller	359
Cross-Examination by Mr. Gambrell.....	365
CALEB KORN	
Direct Examination by Mr. Miller	369
Cross-Examination by Mr. Gambrell.....	371
BLAKE WOLFE	
Direct Examination by Mr. Gregory	373

Cross-Examination by Mr. Gambrell.....	389
DOCTOR JOHN WASSUM	
Direct Examination by Mr. Gregory	393
Cross-Examination by Mr. Gambrell.....	406
COLLOQUY WITH JUROR NO. 130	410
STATE’S MOTION TO DISMISS JUROR NO. 130 BY MR. MILLER.....	414
RESPONSE BY MR. GAMBRELL	414
COURT DENIES MOTION TO DISMISS JUROR NO. 130.....	421
TESTIMONY	
HONORABLE SELDON PEDEN	
Direct Examination by Mr. Miller	427
Cross-Examination by Mr. Gambrell.....	436
ANTONIO BAILEY	
Direct Examination by Mr. Miller	438
Cross-Examination by Mr. Gambrell.....	454
Redirect Examination by Mr. Miller.....	466
Recross-Examination by Mr. Gambrell	468
STATE RESTS.....	469
DEFENSE’S MOTION FOR A DIRECTED VERDICT BY MR. GAMBRELL	470
RESPONSE BY MR. MILLER	471
COURT DENIES MOTION FOR A DIRECTED VERDICT	471
TESTIMONY COLLOQUY WITH DEFENDANT	476
DEFENSE’S MOTION TO INCLUDE STATEMENT BY WITNESS INTO EVIDENCE PURSUANT TO RULE 804, SCRE BY MR. GAMBRELL	
	478
RESPONSE BY MR. MILLER	479
COURT DEFERS RULING	491

TESTIMONYTYLOR MOBLEY (*IN-CAMERA*)

Direct Examination by Mr. Gambrell 493

Cross-Examination by Mr. Miller.....502

Redirect Examination by Mr. Gambrell.....502

COURT DENIES MOTION TO INCLUDE STATEMENT BY WITNESS INTO
EVIDENCE PURSUANT TO RULE 804, SCRE 504**TESTIMONY**

BRAYLON MORRIS

Direct Examination by Mr. Gambrell 505

STATE’S OBJECTION TO HEARSAY TESTIMONY BY MR. MILLER 514

RESPONSE BY MR. GAMBRELL 520

TESTIMONYBRAYLON MORRIS (*IN-CAMERA*)

Continued Direct Examination by Mr. Gambrell 523

CONTINUED STATE’S OBJECTION TO HEARSAY TESTIMONY UNDER RULE 803
BY MR. MILLER 528

RESPONSE BY MR. GAMBRELL 529

COURT SUSTAINS OBJECTION.....532

STATE WITHDRAWS OBJECTION TO HEARSAY TESTIMONY.....540

TESTIMONY

BRAYLON MORRIS

Continued Direct Examination by Mr. Gambrell 543

Cross-Examination by Mr. Miller.....557

DEFENSE’S OBJECTION TO UNCLEAR TESTIMONY BY MR. GAMBRELL 591

RESPONSE BY MR. MILLER 592

COURT OVERRULES OBJECTION 594

TESTIMONY

BRAYLON MORRIS	
Continued Cross-Examination by Mr. Miller	595
Redirect Examination by Mr. Gambrell.....	599
CHARGE CONFERENCE	608
DEFENSE’S MOTION TO CHARGE SELF DEFENSE BY MR. GAMBRELL	612
RESPONSE BY MR. MILLER	612
COURT GRANTS MOTION TO CHARGE SELF DEFENSE.....	613
STATE’S OBJECTION TO SENTENCE FROM SELF DEFENSE CHARGE BY MR. MILLER	616
RESPONSE BY MR. GAMBRELL	617
COURT SUSTAINS OBJECTION AND STRIKES SENTENCE FROM CHARGE	623
DEFENSE’S MOTION TO CHARGE DEFENSE OF OTHERS BY MR. GAMBRELL	627
COURT DENIES MOTION TO CHARGE DEFENSE OF OTHERS	628
DEFENSE RESTS	631
DEFENSE’S RENEWAL OF MOTION FOR DIRECTED VERDICT BY MR. GAMBRELL	632
RESPONSE BY MR. MILLER	632
COURT DENIES MOTION FOR DIRECTED VERDICT	632
CLOSING ARGUMENT BY MR. MILLER	633
CLOSING ARGUMENT BY MR. GAMBRELL	655
CLOSING ARGUMENT IN REPLY BY MR. MILLER	670
CHARGE ON THE LAW	672
VERDICT.....	692
SENTENCING.....	696

ORDER DENYING IMMUNITY	699
DEFENDANT’S EXHIBIT #1 (TEXT MESSAGES PRINT OUT)	704
INDICTMENT.....	715
SENTENCE SHEETS	717
CERTIFICATE OF COUNSEL	721

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #3 (DVD—COMPILATION VIDEO) AND STATE’S EXHIBIT #30
(DVD—BOND HEARING).**

SW - T. MOBLEY - PROFFER

1 Q Did you ever -- you heard about what had
2 happened?

3 A Yes, sir.

4 Q Did you ever go to law enforcement to tell
5 them?

6 A No, sir, I didn't.

7 Q And why not?

8 A Well, I didn't think I needed to because I
9 thought it was a self-defense case from after, you
10 know, what I heard other people say. So I thought
11 it was a self-defense case. I didn't think I needed
12 to go to a lawyer, I mean ---

13 MR. MILLER: Your Honor, he's already said
14 it, but he's -- hearsay on that because he's saying
15 I thought it was a self-defense case because I heard
16 what other people said.

17 THE WITNESS: Yeah, I understand.

18 THE COURT: I'm gonna ---

19 MR. MILLER: We got hearsay again.

20 THE COURT: Yeah, I'm gonna sustain the
21 objection. I won't let you get into that.

22 MR. GAMBRELL: That's fine. That's all
23 the questions I have, Mr. Mobley. Thank you.

24 THE COURT: Got any questions for him?

25 **CROSS-EXAMINATION**

1 BY MR. MILLER:

2 Q Was it only you and Jason Deck ---

3 A Oh, yes.

4 Q --- in the parking lot?

5 A Yes, sir. It was.

6 Q And I take it Braylon Morris is a drug
7 dealer, or was?

8 A Yeah.

9 THE COURT: Any other questions, Mr.
10 Gambrell?

11 **REDIRECT EXAMINATION**

12 BY MR. GAMBRELL:

13 Q How long have you been clean, Mr. Mobley?

14 A I have been clean for, I think, almost
15 three years.

16 Q Congratulations.

17 A Thank you.

18 Q All right.

19 MR. MILLER: No more questions.

20 THE COURT: You can step down, sir.

21 THE WITNESS: I can?

22 THE COURT: Yes.

23 THE WITNESS: Where do I go?

24 THE COURT: Go back outside.

25 THE WITNESS: Okay.

1 THE COURT: All right. Hold on one
2 second, let me see something. All right. The State
3 v. Wannamaker, which I think the counsel previously
4 cited. I'm looking at that case and in the
5 Wannamaker case, the defendant offered -- was
6 seeking to offer a hearsay statement against
7 interest. And in that case they said the -- the
8 defendant bears the formal burden of establishing
9 that the corroborating circumstances clearly
10 indicate the trustworthiness of the statement. The
11 State v. Kinloch case that I've also looked at,
12 essentially travels the same path. But what's more
13 importantly is, counseling is relying on 804(b) (3)
14 and I think it's important for the Court to read
15 into the record for the basis of his ruling that
16 803 -- 804(b) (3) states a statement which was at the
17 time of its making so far contrary to the
18 declarant's pecuniary or propriety interest or so
19 far tended to subject the declarant to civil or
20 criminal liability or to render invalid a claim by
21 the defen-- declarant against the other, another,
22 that a reasonable person in declarant's position
23 would not have made the statement unless believing
24 it to be true.

25 Here's, here's the language that the

DW - B. MORRIS - DIRECT

1 court -- causes the Court some pause. A statement
2 tending to expose the declarant to criminal
3 liability and offered to exculpate the accused is
4 not admissible unless corroborating circumstances
5 clearly indicate the trustworthiness of the
6 statement. That was set forth in the Wannamaker
7 case and Kinloch case; and I think in based upon the
8 Court's hearing of this particular witness, I don't
9 -- the statement would not, would not fall under
10 804(b) (3) and would not be admissible.

11 But your exception, Mr. Gambrell, is noted
12 for the record.

13 MR. GAMBRELL: Thank you, Your Honor.

14 THE COURT: All right. So you're ready to
15 proceed? Defense ready to proceed?

16 MR. GAMBRELL: We're ready, Your Honor.

17 THE COURT: All right, bring the jury in.

18 (WHEREUPON, the jury was returned to the
19 courtroom at approximately 2:35 p.m., and the
20 following proceedings commenced in open court.)

21 THE COURT: All right. Ready to go?
22 Okay. Mr. Gambrell, Defense ready to proceed?

23 MR. GAMBRELL: Yes, sir, Your Honor.

24 THE COURT: You can call your first
25 witness.

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1 MR. GAMBRELL: The Defense calls Braylon
2 Morris.

3 WHEREUPON,

4 **BRAYLON MORRIS,**
5 having been duly sworn by the clerk, testified
6 as follows:

7 THE CLERK: Thank you. You may be seated.
8 Please state your full name for the record.

9 THE WITNESS: Braylon Lamar Morris.

10 MR. GAMBRELL: May it please the Court,
11 Your Honor.

12 THE COURT: Yes.

13 **DIRECT EXAMINATION**

14 BY MR. GAMBRELL:

15 Q Mr. Morris, how old are you?

16 A Thirty-seven.

17 Q Where are you from?

18 A Greenville, South Carolina.

19 Q How far did go in school?

20 A I graduated.

21 Q From which high school?

22 A Greenville High.

23 Q What year was that?

24 A 2004.

25 Q Are -- is your mother and father in

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1 Greenville also?

2 A No, they in Easley.

3 Q In Easley? Do you have any brothers or
4 sisters here?

5 A I don't have any here -- yeah, I have a
6 brother here.

7 Q Just gonna go ahead and ask you, back in
8 June of last year you were convicted of a -- of a
9 criminal charge?

10 A Yes, sir.

11 Q And you were convicted of what?

12 A What -- the charge at the time?

13 Q The charge.

14 A I was convicted of marijuana. I was
15 convicted of heroine. I was convicted of
16 methamphetamine, and I was convicted of firearms.

17 Q And so currently you reside where?

18 A At Tyger River Correctional Institution.

19 Q Take us back to before then. This
20 incident occurred on July the 5th, 2019?

21 A Yes, sir.

22 Q What took you -- tell me about that day,
23 what you were doing that day.

24 A That day me and my girlfriend went to -- I
25 went to report for house arrest and then went to the

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1 doctor across the street, got prescriptions, and
2 then we went to Walmart to get the prescription
3 filled and got some groceries.

4 Q So when you say you checked in for house
5 arrest, were you out on bond for the charges you
6 were convicted of?

7 A Yes, sir, I was.

8 Q Okay. And now I'm gonna back up just a
9 little bit. Where, where were you living at the
10 time?

11 A I was living in Dixon Estates on White
12 Horse Road.

13 Q Is that in Greenville County?

14 A Yes, sir.

15 Q Okay. Who were you living with?

16 A My girlfriend lived with me 'cause I had
17 my own place.

18 Q And what's her name?

19 A Heidi Meriweather.

20 Q And does she have any children?

21 A Yes.

22 Q Did her children also live with you?

23 A Yes, they did live with me.

24 Q Do you have any other children?

25 A I have other stepchildren.

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1 Q Do you have any biological children?

2 A No, I don't.

3 Q Okay. When did you first meet Michael
4 Jason Deck?

5 A I met him, like, in probably beginning of
6 2018, late 2017.

7 Q And under what circumstances?

8 A He sold merchandise like, you know, TVs,
9 hover boards, things of that nature so, and he give
10 you a reasonable price for them so that's -- that's
11 how we was, you know, some acquainted.

12 Q And how do you know Scotty Pope?

13 A I met Scotty Pope through Jason Deck
14 through casual association. Like, one day they came
15 together in a car and that's how I met him.

16 Q So he was a friend of -- of Mr. Deck?

17 A Yes, sir.

18 Q Okay. You did not know him previously?

19 A No, I didn't.

20 Q Did you know anyone associated with
21 Mr. Pope?

22 A Yes. He had a girlfriend named Jessica,
23 Jessica. I think Jessica Bledsoe or Jessica. I
24 don't know what her last name was, but I think it's
25 Jessica. I know her name Jessica.

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1 Q You knew his girlfriend?

2 A Yes.

3 Q Okay. And how often would you see Mr.
4 Pope or Mr. Deck?

5 A I didn't see Pope too much; but you know,
6 he came around as much as he could, but I didn't
7 really try to deal with him like that, you know,
8 because I didn't know him like that so I just, you
9 know, dealt with Jason.

10 Q And how was your relationship with Mr.
11 Pope?

12 A It deteriorated because once he couldn't
13 confide in me, you know, he had some type of
14 jealousy thinking about this must be about his
15 girlfriend or I must have some type of relationship
16 with his girlfriend, which I didn't, we were just
17 great friends. It was nothing -- it was strictly
18 platonic. And it became a situation where now he's
19 using -- he's in need to back, you know, like a
20 crutch, you know what I'm saying, a scapegoat to
21 argue about anything. You must be sleeping with him
22 or dating him or something like that. So whatever
23 domestic problems they had going, I didn't involve
24 myself in none of that, you know what I'm saying;
25 but it just came to a point where he turned Jason

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1 against me.

2 Q Turned Jason Deck?

3 A Yes, sir.

4 Q And what was your relationship with Jason
5 up until that point?

6 A Everything was fine. Me and Jason never
7 had no type of direct animosity, any type of, you
8 know, misunderstanding with one another about each
9 other personally, you know what I'm saying. It
10 really just, really honest, intertwine between
11 Scotty, you know what I'm saying. Then words got
12 exchanged between me and Jason and then that's when
13 he went too far and said things that, you know, he
14 could never take back, you know, so. When he said
15 those things, I just, I couldn't take him or trust
16 him no more.

17 Q Couldn't trust who?

18 A Jason Deck.

19 Q Okay. Now when did your relationship with
20 him start to change?

21 A It changed, like, probably a few days.
22 Actually, before the situation happened, we -- we,
23 like I say, we were communicating with each other
24 and I guess he -- I guess he felt some type of guilt
25 about what was going on. I was just telling him no

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1 matter what we all would be friends, man, we cool,
2 you know what I'm saying, that he was trying to -- I
3 don't know if he was trying to bring a truce between
4 me and Scotty or he was trying to lure me to Scotty
5 or whatever plot they had whatever together; but I
6 just, you know what I'm saying, told him, like, you
7 know, I said we have -- we fine, but I don't -- I
8 don't see myself have any tie with Scotty Pope, you
9 know what I'm saying so, you know. Then basically I
10 question him, like, what's your intentions, you know
11 what I'm saying. If I say me and you don't have no
12 problems, why you keep trying to involve somebody
13 else who you know I have -- I have differences with.
14 So then that's when words got exchanged, you know.
15 I told him -- basically I told him, I call him the
16 police, just basically a test mission, you know what
17 I'm saying. We can go word for it on cross-examine,
18 but basically I call him the police. I call him
19 basically, like, don't -- don't, you know,
20 infiltrate my friendship and then, you know, bring
21 them, involve them inside, you know what I'm saying.
22 You got a true bond we have. Well, if you don't,
23 don't, you know what I'm saying. So basically, you
24 know, he feel insulted, you know what I'm saying;
25 then I say, you know, just pick up the phone, we can

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1 talk about this, you know. I'm not tripping about
2 you, but I ain't got no problem wit you. This isn't
3 a test mission.

4 Q Hold on.

5 A Then ---

6 Q Hold on one second. Let me, let me back
7 you up just for a second.

8 THE COURT: Mr. Morris, if you would, do
9 me a favor. The court reporter has to take down
10 everything you say so it'd be real helpful if you'd
11 slow down just a little bit.

12 THE WITNESS: I'm sorry. I'll slow down.

13 THE COURT: Slow down too.

14 THE WITNESS: Okay.

15 BY MR. GAMBRELL:

16 Q How would y'all normally communicate?

17 A We communicate, like, on the phone. We
18 might talk, you know what I'm saying, but for some
19 reason that day I kept trying to get him to pick the
20 phone up so we can talk, you know, so he can hear
21 me, I can hear him, and we can -- you know, when you
22 talk to someone, you can, you know, stop things
23 before they go too far, but he's texting. He just
24 keep texting and then I tell him pick up the phone
25 and he'll pick up the phone and he'll hang up the

1 phone.

2 Q You have a -- you have a copy of a ---

3 A Text messages?

4 Q Yes.

5 A Yes. Yes, I do.

6 Q And it's -- consists of about eight pages
7 of text messages?

8 A Yes, sir.

9 Q Do you have that? You have a copy ---

10 A Yes, sir.

11 Q --- of that with you? And that

12 [REDACTED]-6455, whose number is that?

13 A That's Deck. That's Michael Deck number.

14 Q And [REDACTED]-0920, whose -- whose phone
15 number is that?

16 A That was my number.

17 Q Okay. And the texts start out with what?

18 A Deck, before dishonor ---

19 MR. MILLER: Judge.

20 THE WITNESS: 424 universal logic ---

21 THE COURT: Hold, hold. Hold on for a
22 second.

23 MR. MILLER: This isn't admitted into
24 evidence, then it wouldn't proper at this time to
25 read from.

1 THE COURT: All right. Ladies and
2 gentlemen of the jury, I'm gonna send you back to
3 your jury room just for a second. I'll bring you
4 back. Please, ma'am, please, sir, do not talk about
5 the case with each other and I'll bring you back in
6 just a few minutes.

7 (WHEREUPON, the jury was removed from the
8 courtroom at 2:45 p.m.)

9 THE COURT: Let's go back on the record.
10 I knew that there was an issue that we needed to
11 resolve regarding the text messages, and I'm
12 assuming that's where we're headed, Mr. Miller?

13 MR. MILLER: Well, I think we probably do.
14 I just, I don't know if Mr. Morris has a copy of the
15 actions that were agreed upon or not.

16 THE COURT: Yeah.

17 MR. MILLER: And since I'm not seeing what
18 they're trying to read from, I don't know what they
19 would potentially be trying to put into evidence.
20 Also, we haven't -- we started a foundation for it.
21 There's probably hearsay in there as well.

22 THE COURT: Well, ---

23 MR. MILLER: But without even seeing it or
24 knowing if it's the redacted version and, also,
25 just, it's not admitted into evidence, then it's

1 just not proper to read from.

2 THE COURT: Did y'all -- I think you gave
3 me a copy, a copy earlier?

4 MR. MILLER: Yes, sir.

5 THE COURT: That's what I was trying to
6 put my hands on. Well, the reason I took the jury
7 out is because I want us to get, get it straight on
8 these -- on the text messages 'cause I don't want,
9 you know, a lot of disruptions. We -- so, you --
10 and I'm assuming, I thought -- you've seen the text
11 messages came up when we did the stand-your-ground.
12 I think we did.

13 MR. MILLER: Yes, sir.

14 THE COURT: And I thought that both sides
15 had agreed upon the redacted versions of -- I
16 thought ---

17 MR. MILLER: Not at the stand-your-ground,
18 Your Honor. At the stand-your-ground, there was a
19 part I said that at trial I would be objecting to,
20 had it not been included. Mr. Gambrell has agreed
21 that that not be included, so those redactions on
22 it. I don't know if what Mr. Morris is reading from
23 is what we agreed upon as to what would potentially
24 they would try to move into evidence or not; and so
25 without seeing it or, and -- just also, if it's not

1 in evidence, then it's not proper for the jury. It
2 has to be in evidence if we're looking at a document
3 and not just testimony. It's got to be in evidence.

4 THE COURT: So you have not seen what Mr.
5 Morris ---

6 MR. GAMBRELL: I've redacted his. But
7 what I'll do is, Judge, I'll give him the copy that
8 Mr. Miller gave me and that way he'll have the same
9 one which we'll have.

10 MR. MILLER: And, Judge, that's all fine,
11 but it's still not admitted into evidence yet. The
12 texts are not in evidence yet.

13 THE COURT: How do you get -- how do you
14 get to get them in 'cause obviously the text is to a
15 third party?

16 MR. GAMBRELL: No, they're texts between
17 him and Mr. Deck.

18 THE COURT: Okay. Well ---

19 MR. GAMBRELL: And he can ---

20 THE COURT: Can I ---

21 MR. GAMBRELL: He can authenticate them
22 himself as receiving them and sending them.

23 THE COURT: No, I'm not gonna tell you how
24 to do that. I'm just saying counsel made a -- he
25 said it's not in evidence, and I'm not gonna tell

1 you how to do that; but I think that's a valid
2 point.

3 MR. GAMBRELL: Right. I would ---

4 THE COURT: It's got to be in evidence
5 before you can ask him questions about it.

6 MR. GAMBRELL: That's fine. I will --
7 I'll lay the foundation and have him authenticate it
8 and then previously they have an objection to
9 hearsay with regard to Mr. Deck's statements, and
10 our position was that we weren't offering them for
11 the truth of the matter asserted, but rather, to
12 Mr. Morris' state of mind.

13 MR. MILLER: Well, Judge, the objection
14 was to not only Mr. Deck's statements, it's also
15 Mr. Morris's statements because his own statements
16 are -- would fall under hearsay as an out-of-court
17 statement and so they're not -- under Rule 801 is a
18 statement against a party opponent as he is not a
19 party opponent to himself. So those are the
20 statements is they -- the Defense is introducing
21 them fall under hearsay. I'm not making a
22 foundational argument. It would be a hearsay
23 admissibility argument on top of they're just not in
24 evidence. So I don't know if we want to hash out
25 the hearsay objection part before if it's just lay

1 foundation if we have that done and then move on so
2 it's not what we lay it -- they move into evidence
3 and they say, well, there's hearsay and then deal
4 with it if we want to deal with that right now.

5 THE COURT: Well, I think we need to deal
6 with the hearsay portion right now. How many text
7 messages are there? A lot of them?

8 MR. GAMBRELL: There's about, I think,
9 eight pages, Judge.

10 THE COURT: Eight pages?

11 MR. GAMBRELL: But they're -- they're
12 fairly long, I mean.

13 THE COURT: Fairly long or fairly short?

14 MR. GAMBRELL: Seven pages. I'm just the
15 captions of them are fairly long.

16 THE COURT: Some of them were text
17 messages between Morris and Deck and Morris and who?

18 MR. GAMBRELL: Just Morris and Deck.

19 THE COURT: All Morris and Deck.

20 MR. MILLER: There's 26 total. I just
21 counted them.

22 THE WITNESS: They're short ones.

23 THE COURT: Okay. So I, I thought that we
24 had an agreement, at least when we did the
25 stand-your-ground hearing on the admissibility of

1 certain portions of the text messages. Now maybe
2 I'm wrong.

3 MR. MILLER: No, Your Honor. You deemed
4 them admissible at the hearing. I just put on the
5 record that ---

6 THE COURT: That you'd want to object.

7 MR. MILLER: --- at the trial ---

8 THE COURT: You do ---

9 MR. MILLER: --- that there were portions
10 at trial with the jury that I felt needed to be
11 redacted if they were admitted; but I have the same
12 argument that this is not Rule 801, a statement
13 against a party opponent.

14 THE COURT: So ---

15 MR. MILLER: So it's all Rule 803 for any
16 of the statements 'cause they are all out-of-court
17 statements.

18 THE COURT: Redacted or not?

19 MR. MILLER: Yes, sir.

20 THE COURT: What's your position on that,
21 Mr. Gambrell?

22 MR. GAMBRELL: Give me just a
23 (indiscernible).

24 MR. MILLER: And I'm not making a
25 foundational argument, Judge.

1 THE COURT: I understand. You're making
2 an argument that the -- all of it's hearsay.

3 MR. MILLER: Yes, sir.

4 THE COURT: It should be excluded?

5 MR. MILLER: Yes, sir.

6 THE COURT: That's your argument?

7 MR. MILLER: Yes, sir.

8 MR. GAMBRELL: Well, and, Judge, again,
9 we're not offering these for the truth of the matter
10 asserted of what's being said in the text messages.
11 We're offering them because it goes to Mr. Morris's
12 state of mind as to what he took from those
13 messages. He perceived them in such a way that
14 he -- that he'll testify to, you know, he felt
15 threatened by them. You know, we're not seeking to
16 offer them as truth, whether any of these things are
17 actually -- that are actually being said are true or
18 not. We're simply offering them for -- to show what
19 his state of mind was after he received them.

20 MR. MILLER: Judge, that is for the truth
21 of the matter asserted for the -- it's not to say
22 we're not saying they're true or not. We're saying
23 this is what they say and we are offering them for
24 what they say in order to get to the next level of
25 to say, well, this is for how they were perceived.

1 You're not getting past -- you are offering them
2 just for what they say, which is for the truth of
3 the matter asserted of those statements.

4 THE COURT: Which is the self-defense
5 argument?

6 MR. MILLER: Well, ---

7 THE COURT: I mean, that's...

8 MR. MILLER: But that doesn't change if
9 whether or not they're hearsay or not.

10 THE COURT: And I'm assuming, Mr.
11 Gambrell, you're relying on 803, subsection 3?

12 MR. GAMBRELL: One second, Judge.

13 THE COURT: Then existing mental,
14 emotional, physical condition, statement of the
15 declarant then existing, state of mind. Is that
16 what -- is that where we are? Let me ask the
17 question this way. What do you define,
18 Mr. Gambrell, as the matter asserted, just that
19 little portion. What's the matter asserted? How
20 would you define, in this case, what's the matter
21 asserted? Because you say you're not offering it
22 for the truth of the matter asserted. What do you
23 define -- in this case, give me the set of facts
24 as -- as your client states them to be, what is the
25 matter asserted in this case?

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1 MR. GAMBRELL: On these -- with regard to
2 the text messages?

3 THE COURT: Uh-huh.

4 MR. GAMBRELL: Well, I mean, for each one,
5 Judge, you know, when -- if he says I'm gonna make
6 this right somehow, I'm not suggesting that that's
7 true but he is gonna make this right somehow. But
8 the conversation itself shows mental state of Mr.
9 Morris as to what he knew and what he perceived
10 leading up to July 5th. I'm not saying that each
11 one of these statements, whatever they're stating in
12 there is true; but because of the conversation, it
13 goes to his mental state as to what he perceived on
14 January 5th -- July 5th.

15 THE COURT: I haven't gone in any depth
16 with any text messages. I don't know what they say
17 other than what you're telling me. What do you want
18 to say?

19 MR. MILLER: I just think it -- that
20 they're being offered for truth of the matter
21 asserted, in order to get how it perceived, you have
22 to be offering for what they say themselves in
23 order to get there. You can't skip that step and
24 say, well, now we're in a hearsay exception.

25 THE COURT: So Mr. Miller, what do you

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1 define as the matter asserted?

2 MR. MILLER: They are offering them for
3 exactly for what they say in order for Mr. Morris to
4 say this is how I perceive them. So they are
5 offering these out-of-court statements for exactly
6 what they say, which is offering for the truth of
7 the matter asserted.

8 THE COURT: Can I hear some proffer
9 testimony just a little bit?

10 MR. GAMBRELL: Yes, sir.

11 THE COURT: Go ahead. Ask him some
12 questions, Mr. Gambrell, before I rule on it.

13 **PROFFER EXAMINATION**

14 BY MR. GAMBRELL:

15 Q Mr. Morris, if you could look at the
16 documents from -- what are those?

17 A What is it?

18 Q Yeah. What are -- what are they -- what
19 are these depictions of?

20 A These are just text messages back and
21 forth between me and Deck.

22 Q And are you on which side? The right side
23 or the left side?

24 A The right side is my text messages. The
25 left side is Deck text messages.

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1 Q And these were text messages that you
2 exchanged with him from June 26 through when?

3 A July the 3rd.

4 Q And do you recognize that [REDACTED]-6455 is
5 Mr. Deck's phone number?

6 A Yes, sir.

7 Q And the other phone number, is that your
8 phone number?

9 A Yes, sir.

10 Q Okay. And do these texts as see them on
11 your -- on the pages before you, do they accurately
12 depict what was texts between you and Mr. Deck?

13 A These exact accurate, exact accurate text
14 messages.

15 Q Okay. And has there been any alterations
16 to them at all?

17 A Nothing.

18 Q Okay.

19 A This is the most authentic information
20 I've had on motion discovery.

21 Q And this was pulled off of your phone?

22 A Yes, sir.

23 Q Okay.

24 A And homicide had it.

25 Q Okay. And this is a conversation that

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1 begins on June 26; is that right?

2 A Yes, sir.

3 Q Okay. And how does that conversation
4 begin?

5 A It begins with "Death before dishonor, 424
6 universal logic. In essence, it be like I'll never
7 betray our friendship. Death pull us apart. The
8 lord sees everything." That's how it was so. He
9 replied, "Hey, bro, I put it on my 6. I'm going to
10 make this right somehow" so. He's trying, I guess,
11 fix another person's insecurity. He can't do that.

12 MR. MILLER: Your Honor, that's
13 speculation. He's saying he's trying to say.

14 THE COURT: I'm gonna sustain that.
15 Don't ---

16 THE WITNESS: Can we say ---

17 THE COURT: Just read what's in the
18 message, Mr. ---

19 THE WITNESS: Yes, sir. Okay.

20 THE COURT: Go ahead. What's your next
21 portion?

22 THE WITNESS: Next portion, I made a okay
23 emoji. Then he replied, "Hey, I know where he's at.
24 I found out where he's staying." And I didn't reply
25 to the message 'cause I don't check my text messages

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1 like that; but when I seen it, I replied "What's
2 good," like, what's your intentions, why you look
3 for me, you know what I'm saying. So I said, "So
4 basically all y'all muthafucakas police." I said,
5 Fuck 12," you know, like, fuck the police, and I say
6 "You fake as fuck" for police too. That was -- that
7 was the insult.

8 THE COURT: I want you to read the text
9 message, not give editorials on it.

10 THE WITNESS: All right.

11 THE COURT: Read what's on the paper.

12 THE WITNESS: Yes, sir. And then he said,
13 "Look here, bro, I done told u where he's at and
14 even though I introduce y'all, I ain't responsible
15 for what his faggot ass does. I done my fuckin
16 part. Now do yours and go fuckin don't be calling
17 me no fuckin 12." Then he say, "I ain't got shit to
18 say, B. I ain't no fuckin 12. Ask any fuckin
19 body." And I reply, "Pick up your phone." I said,
20 "I'm not tripping about you. I'm just pissed about
21 that muthafucka." And he said, "Yes, what the fuck
22 ever. I done done 5 fuckin bids and never had a
23 seatbelt charge dropped." I said, "Fuck whoever say
24 I'm 12 ---

25 THE COURT: Hold on, hold on.

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1 THE COURT REPORTER: Judge, I can't
2 understand what he's saying.

3 THE COURT: Slow down.

4 THE WITNESS: He said, "Yes, what the fuck
5 ever. I done done 5 fuckin bids and never had a
6 fuckin seatbelt -- seatbelt charge dropped so fuck
7 whoever say I'm 12. I got 12 big boy charges and
8 attempted murder and then you're gonna try and
9 career me out; but when it goes down, I'm shooting
10 out wit y'all bitches. Ain't shit none of y'all can
11 do to me. I ain't no pussy boy Scotty. Fuck all
12 y'all in this fuckin life" ---

13 THE COURT: Hold on. Hold on a second.

14 MR. MILLER: Your Honor, that also wasn't
15 read correct. It didn't say I'm shooting it out
16 with y'all. It says I'm shooting out with them.

17 THE WITNESS: "Them" and "y'all" the same,
18 I'm sorry.

19 THE COURT: No, no, no, no, no, no. You
20 have to read exactly what's on ---

21 THE WITNESS: All right.

22 THE COURT: --- the paper. If it happens
23 ---

24 THE WITNESS: "When it goes down ---

25 THE COURT: Hold on a second. If you're

1 not gonna do that, then we're not gonna get into
2 that, sir. You can't put your words in there.

3 THE WITNESS: Yes, sir.

4 THE COURT: What's on the paper, ---

5 THE WITNESS: I'm sorry.

6 THE COURT: --- I want you to read.

7 THE WITNESS: I was reading too fast, I'm
8 sorry.

9 THE COURT: Well, I don't care what you're
10 doing. I want you to read exactly what's on the
11 paper.

12 THE WITNESS: Yes, sir.

13 THE COURT: And slow it down. Go ahead.

14 THE WITNESS: Want me to read it over?

15 THE COURT: No, it's cool. Keep going.

16 THE WITNESS: Okay. And then he said, "I
17 ain't no pussy boy Scotty. Fuck all y'all in this
18 fuckin life." And I said, "I don't give a fuck
19 about none of that." I said, "Since you're talking
20 shh and you can't pick up the phone you fake." I
21 say, "You know where I'm at." I said, "Pull up."
22 And he said, "Really, B, is that what u want?" I
23 said, "You fake. Pull up." He said, "Over Scotty"
24 And that's the last conversation we had.

25 MR. MILLER: Judge, I would say, you know,

1 we can -- part of the testimony is they're trying to
2 say what he perceived Jason Deck meant from the
3 text, which is going directly towards speculation;
4 but also, that would all be hearsay. And just going
5 through there, it's just being offered for what they
6 say, for the truth of the matter asserted and
7 they're under 803 and I don't think they're
8 admissible. I believe all of it is hearsay.

9 THE COURT: What's your position,
10 Ms. Gambrell?

11 MR. GAMBRELL: Judge, again, you know
12 we're not offering it for the truth of the matter
13 asserted. I'm not, you know, suggesting that, you
14 know -- any declaration that's made in there, we're
15 not offering that as that that being truth; but
16 based on this conversation, it goes towards Mr.
17 Morris' state of mind.

18 THE COURT: How so?

19 MR. GAMBRELL: Because of what he
20 perceived.

21 THE COURT: How -- go ahead.

22 MR. MILLER: I was gonna say if it's going
23 towards his state of mind then you have to be
24 offering it for the truth.

25 MR. GAMBRELL: It's what he perceived it

1 to be. It may not be true, but how he perceived it
2 is what his state of mind is. And it may not be
3 true at all, but it's being offered for what his
4 state of mind was that he can testify to, the fact
5 that he perceived it as a -- as a threat to him.

6 THE COURT: The redacted version of these
7 text messages were admitted at the stand-your-ground
8 hearing; is that correct?

9 MR. MILLER: Those are the unredacted,
10 but ---

11 THE COURT: Unredacted.

12 MR. MILLER: They were admitted, yes, sir.

13 THE COURT: They were admitted. I, quite
14 frankly, heard what he was saying and I tried to
15 follow him. You got a case -- you got any case law
16 on point to back what you're saying?

17 MR. GAMBRELL: I mean, I have a case if
18 you give me just a second, Judge. I'm not sure
19 where I put it.

20 THE COURT: Let's go back to the basic
21 definition of hearsay. Hearsay is a statement other
22 than the one made by the declarant while testifying
23 at trial or hearing offered in evidence to prove
24 truth of the matter asserted. And that's why I was
25 paying particular attention to your definition of

1 the truth of the matter asserted. I'm trying --
2 'cause -- and, Mr. Gambrell, what I'm trying to say
3 and I think counsel touched upon it. You gotta, you
4 gotta get to -- okay, if it's not being offered for
5 the truth of the matter asserted, in order to get to
6 the hearsay exception you got to be at that prong,
7 then you got to leave from that prong to get to the
8 exception. Now that's where I'm having difficulty,
9 a little. It's problematic for me. You understand
10 what I'm saying?

11 MR. GAMBRELL: I think I do, Judge. But,
12 you know, it's being offered because of the -- not
13 that any of the declarations are true. I'm not
14 suggesting, we're not offering it to prove what
15 they're -- what's being declared in those text
16 messages. It's being offered to show what
17 Mr. Morris' present state of mind was.

18 MR. MILLER: Truth of the matter asserted
19 is not to say we're saying what's said is true. If
20 you got an out-of-court statement that says 2 plus 2
21 equals 5, you know that's not true but you can still
22 be offering that for the truth of the matter
23 asserted. So it's not to say we're saying whether
24 this is true or whether it's not, it's just for what
25 it says and for what that says is the truth of the

1 matter asserted.

2 MR. GAMBRELL: And I'm not ---

3 MR. MILLER: If you have a false
4 statement, the offer for the truth of the matter
5 asserted.

6 MR. GAMBRELL: I mean, the matter that
7 we're asserting, Judge, is relates to his present
8 state of mind. You know, the statements themselves
9 aren't being offered for the truth of whatever
10 they're stating.

11 THE COURT: Can I see y'all up here just a
12 second.

13 (WHEREUPON, counsel approached the
14 Bench for an off-the-record discussion.)

15 THE COURT: Let's go back on the record,
16 State v. Braylon Lamar Morris. The Court heard the
17 arguments of counsel from both sides regarding the
18 admissibility of text messages between the decedent
19 and the defendant. And the Court finds after having
20 looked at the rule, after having heard arguments of
21 counsel, and also after having heard the proffer
22 testimony of the defendant, the Court finds that the
23 statements are considered to be hearsay, that they
24 are offered for the truth of the matter asserted and
25 did not fall within the exception, any exception to

1 the hearsay rule. Counsel's specific argument, as
2 far as counsel for Defense, that is, that these
3 statements reflected the defendant's state of mind.
4 The Court is not moved by that argument and would
5 indicate on the record that the text messages are
6 being offered for what they said, what the truth of
7 the matter asserted, so the Court will not allow the
8 text messages in and deem them to be hearsay.

9 MR. GAMBRELL: I think I understand your
10 ruling, Your Honor.

11 THE COURT: All right.

12 MR. GAMBRELL: I just want to make sure
13 because, obviously, that limits the type of
14 testimony that I can elicit from Mr. Morris. And I
15 don't want to get somewhere where I, you know, ask a
16 question that shouldn't be asked with regard to
17 those; but I guess my intention would be is to still
18 ask him not specifically about the text messages but
19 that he had had a conversation through texts with
20 Mr. Deck and then inquire as to what his mental
21 state was after he received those text messages
22 without going into the contents or through the
23 substance of what the texts were.

24 THE COURT: Mr. Miller.

25 MR. MILLER: He'd have to get through some

1 403 on that because that would cause confusion for
2 the jury.

3 THE COURT: I won't -- I'll do the 403
4 analysis, Mr. Miller. I'll see it when it happens,
5 but I am gonna allow -- I'm gonna how you to get a
6 little bit into after you -- some testimony from him
7 regarding what, how he perceived and what was his
8 state of mind. I'll let you do that. Okay.

9 All right. Mr. Morris, come on back up.
10 You're still under oath.

11 State's objection -- any objection of the
12 State is noted for the record. Any objections for
13 the Defense is noted for the record. All right,
14 bring the jury back.

15 MR. MILLER: Your Honor, can we have a
16 second. I'm just trying to clear out here because I
17 feel like if we talk about text messages and the
18 jury doesn't see them, it causes confusion as to
19 what exactly they were and it just leaves their mind
20 to run free as to what is -- what it could be.

21 THE COURT: So what do you want,
22 Mr. Miller? Tell me what you want.

23 MR. MILLER: Can I have a second to talk
24 with Mr. Gregory about ---

25 THE COURT: Well, you know, you can talk

1 to Mr. Gregory, but I -- you can't -- you can't have
2 it both ways.

3 MR. MILLER: I -- I'm not trying to,
4 Judge.

5 THE COURT: So, you know, so, you know...

6 MR. MILLER: I was just asking, asking the
7 Court for a second to ---

8 THE COURT: I'm gonna give you a half a
9 second.

10 MR. MILLER: Yes, sir.

11 THE COURT: You got half a second and
12 we're going to move on.

13 (Pause.)

14 MR. MILLER: Judge, with those rulings,
15 the State, we would prefer them come in as long as
16 there's not speculation as to what is believed that
17 the victim's texts were trying to say. If it's just
18 we're gonna -- they jury will know there's texts out
19 there, I'd rather have, actually have the actual
20 texts. And so I would -- with that ruling I would
21 say we would agree to having that agreed upon
22 redacted version come in.

23 THE COURT: Now you want -- now you want
24 the redacted version come in.

25 MR. MILLER: Well, with -- if we were

1 gonna discuss the text at all, then I'd rather the
2 jury have the actual text in hand to read rather
3 than just imagination run free.

4 THE COURT: Let's go off the record.

5 (Off the record.)

6 MR. MILLER: Yes, sir. If we're gonna
7 talk about the texts, I'd rather us have the -- be
8 there, than the jury wondering what they could have
9 said and just have what they said as long as the
10 testimony ---

11 THE COURT: There's no dispute that they
12 had text messages between each other so if he asks a
13 question did you receive any text messages from Mr.
14 Deck, the answer would be yes. I mean, the text
15 messages were exchanged between the two of them.

16 MR. MILLER: I understand, Your Honor.
17 And the way the question came up was reading what
18 they said is the one with it now, but what they said
19 not in evidence ---

20 THE COURT: You want a ruling that -- you
21 want a ruling from the Court that just makes the
22 text messages disappear.

23 MR. MILLER: Well ---

24 THE COURT: And that's not what I'm giving
25 you.

1 MR. MILLER: Well, I'm sorry, I failed to
2 understand the full ruling. When we got to they're
3 gonna talk about text exists and what his perception
4 were from the texts, then it's -- if we put in the
5 redacted version that does not and we don't have
6 testimony towards speculation of what Mr. Morris
7 thought Jason Deck was saying in the texts as to
8 just what's there.

9 THE COURT: So now you're, you're willing
10 to put in the redacted version that you guys have
11 not really sat down and done?

12 MR. MILLER: Yes, sir. And I'm sorry I
13 failed -- I understand that we're still going to be
14 talking about texts received and perception. I'm
15 sorry for misunderstanding on that.

16 THE COURT: No, I think your understanding
17 was that this defendant, I mean, counsel would not
18 be able to ask this defendant whether he received
19 text messages from Mr. Deck; and if he asked that
20 question, the truth would be, Mr. Miller, that he
21 did.

22 MR. MILLER: Yes, sir, and I apologize for
23 a misunderstanding of the full ruling of that. I
24 was -- the understanding is that we weren't going to
25 talk about the text messages and I apologize for

1 that so I'd rather ---

2 THE COURT: No. The question is if he
3 asked the question whether or not the defendant
4 received text messages from Mr. Deck, the answer
5 would be yes and that would be truthful.

6 MR. MILLER: Yes, sir.

7 THE COURT: Wouldn't it?

8 MR. MILLER: Yes, sir.

9 THE COURT: Okay, so. But what the State
10 wants is all the text messages to disappear, the
11 communication between Deck and this defendant to
12 disappear, and that's not what -- you talked about
13 the content of the text messages being hearsay
14 versus -- and I made a ruling in that regard. And
15 if his question is, did Mr. Deck, did you and
16 Mr. Deck exchange text messages, the answer would be
17 yes.

18 MR. MILLER: Yes, sir.

19 THE COURT: And, you know, and that's
20 gonna be -- yes, speculation is going to be out
21 there, but it's gonna be yes but that -- you know,
22 that's what you -- I'm sure that's what's gonna be
23 his question. I'm not saying that's going to be his
24 question, but he did ask that. So if he asked did
25 y'all, you and Mr. Deck exchange text messages, if

1 you want me to make a ruling to say the text
2 messages never existed, that's not -- let him do it.

3 I think the prudent thing to do is for both of you
4 to decide what redacted version, if any, of the text
5 messages you want, you want to come in, maybe
6 through this particular witness since he can
7 authenticate it because it was his text message.
8 That's what I think, if you're asking me. I don't
9 know if that's what you want to do 'cause it seems
10 to me there needs to be some dialogue in that
11 regard.

12 MR. MILLER: Yes, sir. And I mean, would
13 you like me to ---

14 THE COURT: Well, yeah, y'all can -- we're
15 gonna -- we've been going at this for a few minutes
16 so we're going to ---

17 MR. GAMBRELL: I'm not aware of ---

18 THE COURT: 'Cause I really, I really
19 thought when we had the stand-your-ground hearing, I
20 knew we had some discussion about the text messages
21 and I knew you were gonna make some objections at
22 the time of trial, you said that. But I, I surely
23 believe, certainly believe that you guys would have
24 talked about this before now in terms of whether or
25 not the Court was gonna admit it or not, but. But

1 no, that's -- I mean, if his question is whether or
2 not there were text messages, they did exchange text
3 messages, but I'm not -- I'm not gonna make them
4 disappear, Mr. Miller.

5 MR. MILLER: Well, then the State would
6 like to withdraw the objection on there and allow
7 the jury to just see the text messages as long as
8 speculation is not put towards Mr. Deck's text
9 messages.

10 THE COURT: And who would put -- who would
11 put forth the speculation? Who would do that?

12 MR. GAMBRELL: Well, I think Mr. Morris
13 gave ---

14 MR. MILLER: We had an objection earlier.
15 Mr. Morris.

16 THE COURT: Well, you know, I already told
17 Mr. Morris I don't want him editing anything in the
18 text messages, read what the text messages say,
19 don't give his opinion as to what he thought it
20 said, it was saying, or anything like that, just
21 read the text messages. Is that where we are?

22 MR. MILLER: Yes, sir.

23 MR. GAMBRELL: Yes, sir.

24 THE COURT: All right. So let me make
25 sure I understand so the record will be clear.

1 After consultation between counsel -- not the
2 Court -- after consultation between counsel, both
3 sides agree on the record that the text messages
4 between the decedent and the defendant would be
5 allowed provided that the defendant does not
6 speculate or edit or say anything other than what
7 the text messages say. Is that where I'm at?

8 MR. MILLER: Yes, sir.

9 MR. GAMBRELL: Yes, sir.

10 THE COURT: All right. So let the record
11 reflect that that clearly changes the Court's ruling
12 based upon the consent of both of the lawyers. The
13 lawyers, let the record reflect that the lawyers
14 agreed to this. Am I right?

15 MR. GAMBRELL: Yes, sir.

16 MR. MILLER: Yes, sir.

17 THE COURT: And Mr. Miller agreed and
18 Mr. Gambrell agreed. All right?

19 MR. GAMBRELL: Correct.

20 MR. MILLER: Yes, sir.

21 THE COURT: Okay.

22 MR. GAMBRELL: And, Judge, I just want to
23 admonish my client that he just read verbatim and
24 not change any words or add any words or omit any
25 words ---

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1 THE COURT: All right. And ---

2 MR. GAMBRELL: --- in the text messages.

3 THE COURT: Mr. Morris, I just remember
4 from the stand-your-ground hearing that you have a
5 tendency to as your thoughts about these things
6 after you read it, that's -- we -- you cannot do
7 that. You understand that? What's your question?

8 THE WITNESS: One, will the Solicitor be
9 able to edit the text message as he cross-examine me
10 and just say specific words?

11 THE COURT: I can't answer that question.
12 I can't -- all I'm telling you is, you've got to
13 read what's on the paper.

14 THE WITNESS: No problem.

15 THE COURT: And I think -- and you need to
16 admonish your client, Mr. Gambrell, because if he
17 doesn't do that, then obviously, and the State moves
18 to strike, I may have to do that if he's not gonna,
19 if he's not gonna follow instructions.

20 MR. GAMBRELL: Correct. He will.

21 THE COURT: Okay. You just understand
22 what the consequences are if he doesn't follow
23 instructions.

24 MR. GAMBRELL: If he doesn't follow the
25 instructions, the State makes an objection on a

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1 motion to strike the testimony, then that testimony
2 will be stricken and will not be -- the jury will
3 not be able to consider it.

4 THE COURT: All right. Okay. Anything
5 before we bring the jury back?

6 MR. MILLER: Nothing from the State, Your
7 Honor.

8 THE COURT: All right, bring them back.
9 (WHEREUPON, the jury was returned to the
10 courtroom at 3:27 p.m., and the following
11 proceedings commenced in open court.)

12 THE COURT: Mr. Gambrell.

13 MR. GAMBRELL: Thank you, Your Honor. May
14 it please the Court.

15 BY MR. GAMBRELL:

16 Q Mr. Morris, you have a packet of...

17 MR. GAMBRELL: May I approach the witness,
18 Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. GAMBRELL:

21 Q Mr. Morris, what is that before you?

22 A This is copies of the text messages that
23 was on my phone between me and Jason Deck.

24 Q Okay. And if you could, what are the two
25 phone numbers that are listed at the top of that?

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1 A Michael Deck number [REDACTED]-6455.

2 Q And what's the other number?

3 A My number was [REDACTED]-0920.

4 Q And as it is on the page before you,
5 which -- if you're looking at the page, which side
6 represents your phone and which side represents
7 Mr. Deck's phone?

8 A The right side of the page represent my
9 messages and the left side of the page represent
10 Deck messages.

11 Q Okay. And have you had an opportunity to
12 review all of the pages of these text messages?

13 A Yes, sir.

14 Q Okay. And there's -- is there seven? You
15 have seven pages up there?

16 A I have eight.

17 Q Eight, okay.

18 A No, I'm sorry, it's seven, but it starts
19 on one and then goes to three.

20 Q Okay. So there are just seven pages?

21 A Something -- yeah, it's seven pages.

22 Q Okay.

23 A Yes, sir.

24 Q All right. And have you had an
25 opportunity to review each of the text messages?

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1 A Yes, sir.

2 Q And are they an accurate depiction as to
3 the text messages that you both sent and received on
4 your phone?

5 A Yes, sir.

6 Q Okay. Have there been any alterations or
7 edits, omissions, additions to any of the text
8 messages?

9 A One message that's been redacted.

10 Q And that was by agreement through the
11 parties?

12 A Yes.

13 Q Okay. But other than that, is that an
14 accurate depiction of what was ---

15 A Yes, sir.

16 Q --- on your phone?

17 A Yes, sir.

18 Q Okay.

19 MR. GAMBRELL: Judge, at this time we
20 would move to admit this, these text messages, as
21 Defendant's No. 1.

22 MR. MILLER: Your Honor, no objection,
23 other than just haven't seen the actual copy they're
24 wanting to submit into evidence.

25 THE COURT: Give him a copy.

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1 (Attorneys confer.)

2 MR. GAMBRELL: Can I approach the witness?

3 THE COURT: Yes, sir.

4 BY MR. GAMBRELL:

5 Q Did I just hand you back the same document
6 that I took from you a minute ago this morning?

7 A Yes, sir.

8 Q Okay. And the second document that you
9 have there, is that another printed version of the
10 text messages?

11 A It's for (indiscernible).

12 Q Right. And is that third one down on the
13 new one, does it contain the emoji?

14 A Yes.

15 Q Okay. And how does that differ from the
16 third one in the one ---

17 A It's blinking in the other -- the one I
18 that just got.

19 Q Okay. So it's the same except that it
20 shows the emojis?

21 A Emojis

22 Q Okay.

23 A Yes, sir.

24 Q All right.

25 MR. GAMBRELL: And at this time, Judge, we

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1 would ask ---

2 BY MR. GAMBRELL:

3 Q And is the rest of the text messages in
4 the printed out version the same, exact same as the
5 text that you have in the original copy that I gave
6 you?

7 A Excuse me?

8 Q Is it the same text?

9 A Yes, sir, same text.

10 Q The only ---

11 A Except it got emojis on it, that's all.
12 That's all.

13 Q The only thing different is that one has
14 the emojis ---

15 A Yes.

16 Q --- because the one, the original one I
17 gave you does not have the emojis on it?

18 A Correct.

19 Q Okay.

20 MR. GAMBRELL: At this time, Judge, we
21 would offer both of those as Defendant's No. 1
22 please.

23 THE COURT: State's position?

24 MR. MILLER: No objection, Your Honor.

25 THE COURT: All right. Without objection

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1 so entered.

2 (WHEREUPON, Defense Exhibit No. 1 was
3 marked for identification and admitted
4 into evidence.)

5 BY MR. GAMBRELL:

6 Q Now, Mr. Morris, I'm just gonna have you
7 read through the text messages that starts with your
8 text, and then if you could, just for clarification,
9 state who the next -- like, if the response, if you
10 write a text and make sure that we understand that
11 the next text you read is a response from either
12 Mr. Deck; or if it's a followup, just let us know
13 who is -- the text is ---

14 A I got you.

15 Q --- coming from. Thank you. All right.
16 Go ahead.

17 A The first text message come from me.
18 "Death before dishonor 424 universal logic." And
19 Deck replied, "Hey, bro, I put it on my 6. I'm
20 going to make this right somehow." Then I replied
21 with okay emoji. And Deck replies, "Hey, I know
22 where he's at. I found out where he's staying."
23 Then I reply, "What's the" -- I reply followup, "Why
24 you look for me?" Then I reply followup, "So
25 basically all y'all muthafucakas police." I

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1 followup with reply, I say, "Fuck 12." I reply,
2 "You fake as fuck." I reply, "You the police too."
3 And I reply with a okay emoji. And Michael Deck
4 replied, "Look here, bro, I done told you where he's
5 at and even though I introduce y'all, I ain't
6 responsible for what his faggot ass does. I done my
7 part. I done my fuckin part, now do yours and go
8 fuckin get him and don't be calling me no 12." Then
9 Deck replies with a followup, "I ain't got shit to
10 say, B. I ain't no fuckin 12." Then that followup
11 a reply, "Ask any fuckin body." Then I reply, "Pick
12 up your phone." I followup reply, "I ain't tripping
13 about you." I followup reply, "I'm pissed about
14 that, muthafucka." Then Deck replies, "Yes, what the
15 fuck ever. I done done 5 fuckin bids and never had a
16 fuckin seatbelt charge dropped so fuck whoever say
17 I'm 12. I got 12 big boy charges and attempted
18 murder and gonna try to career me out; but when it
19 goes down I'm shooting out with them bitches. Ain't
20 shit none of y'all can do to me. I ain't that pussy
21 boy Scotty so fuck all y'all and this fuckin life."
22 Then I reply, "I don't give a fuck about none of
23 that." Then I followup, "Since you're talking shit,
24 can't pick up the phone, you fake." Then I reply,
25 "You know where I'm at." Then I reply, "Pull up."

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1 Then Deck replies, "Really, B, is that what you
2 want?" Then I reply, "You fake." Then I reply,
3 "Pull up." Then Deck replies, "Over Scotty."
4 That's the end.

5 Q Do you recall the date that that first
6 text message ---

7 A It was ---

8 Q --- was sent?

9 A --- June 27th.

10 Q And do you recall the date that his last
11 text message was sent?

12 A July the 3rd.

13 Q Okay. So after that interchange with him,
14 what did you take away from that?

15 A What I took the message I received?

16 Q Yeah.

17 A I took that when he sees me, he's gonna
18 kill me and my children.

19 Q And did you talk to him any time between
20 July 3rd and July 5th?

21 A No, I haven't.

22 Q Okay. Did he attempt to call you at all
23 between that period of time?

24 A No.

25 Q Okay. I think July 5th was on a Friday.

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1 A Correct.

2 Q And July 4th was on that Thursday so, did
3 he attempt to try to contact you through any of the
4 social media?

5 A No. Like, months before he tried to but I
6 didn't reply.

7 Q Not after this last he's saying ---

8 A No. No, he didn't.

9 Q Okay, all right. So take me back to
10 July 5th.

11 A July 5th me and my girlfriend -- it was
12 the day after 4th of July so. We went -- I had to
13 go report on Friday to house arrest so we went to
14 Eagle Eye and then we went to the doctor that's
15 across the street, AnMed, and got something, got my
16 prescription, and then we went to get the
17 prescription at Walmart. And then after that,
18 that's when the situation happened when we was
19 leaving.

20 Q Now I'm gonna ask you this, did you go to
21 Walmart with your girlfriend and kids?

22 A No, they was dropped off.

23 Q So you went to Walmart with who?

24 A Just me and Heidi, my girlfriend.

25 Q Okay. And when you say "they," are you

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1 talking about Heidi's children?

2 A Yes.

3 Q They were dropped off at Walmart?

4 A Yes, they were.

5 Q With who? Or by who?

6 A Their grandmother.

7 Q Okay. Do you recall about what time you
8 got to Walmart that day?

9 A Probably like 12:30, 12:00.

10 Q Okay. And so y'all spent quite a bit of
11 time in Walmart?

12 A No, not too long, but we was there for
13 probably about 20-minutes.

14 Q And you said that you had dropped off a
15 prescription?

16 A Yes.

17 Q Did you wait for the prescription to be
18 filled?

19 A We got the prescription first. Then we
20 got some groceries and then we just said, I just
21 told her we could just come back and get the
22 prescription, you know, no sense in waiting so we
23 just went and bag the groceries up and let's, you
24 know.

25 Q How long were you there before the

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1 children were dropped off?

2 A We was there probably like eight minutes
3 'cause she was calling them to drop them off, you
4 know what I'm saying, on the way there.

5 Q When you say "she," you're talking about
6 her mother?

7 A Heidi.

8 Q Oh, Heidi was, okay. And so as you're
9 checking out, describe what happens.

10 A Well, I'm checking out. I'm trying to get
11 the kids to stay still 'cause they want to grab
12 other things, you know, which I don't have a problem
13 with them trying to get the things bagged up so we
14 can leave and then that's when I see Deck come in.
15 I see he had his hand in his pocket and I seen -- I
16 just know what he's known for and I knew his
17 intentions so I backed up away from my children to
18 make sure they were safe, and that's when he came
19 and approach me.

20 Q Then what did you do?

21 A I mean, he -- basically, he came up to me,
22 you know. He had a arrogant attitude about you can
23 kiss your kids goodbye and that's when I reacted
24 with fear and shot him. Then I shot him again.
25 Then I panicked and I left.

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1 Q Why did you shoot him two times?

2 A I shot him twice because I wanted to make
3 sure my children was protected about when I left.

4 Q Why did you run out of the store?

5 A I ran out the store because it just
6 happened so fast I just ran out the store.

7 Q Where did you go after that?

8 A After that I just went to the TitleMax
9 place, Long John Silver's.

10 Q Did you know that Michael Deck was gonna
11 be at the Walmart that day?

12 A No, I didn't.

13 Q Now when you -- when he first came in to
14 the store, you were in the self-checkout line,
15 correct?

16 A Yes, sir. Yes, sir.

17 Q What was the first thing that ran through
18 your mind when you saw him coming in to the
19 self-check out?

20 A He was coming to kill us.

21 Q And why did you think that?

22 A Because the last conversation we had is
23 when it goes down, you know, I perceive that he say
24 he gonna shoot it out with them bitches and fuck all
25 y'all's life and I was perceiving my family life was

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1 in danger.

2 Q And over what quarter, period of time, did
3 you see him until you shot him the first time?

4 A It happened so fast I seen him like in a
5 split, four seconds.

6 Q And then what do you -- do you recall
7 where Heidi's kids were at the time?

8 A They was right beside him.

9 Q And where was Heidi?

10 A She was behind me.

11 Q Okay. And I think you testified you saw
12 some -- Mr. Deck had his hand in his pocket?

13 A Correct.

14 Q What did you perceive that that was?

15 A That he has a gun on him.

16 Q And you found out later that he was
17 unarmed?

18 A Yes, later I did.

19 Q Okay. At the time that you saw him, your
20 perception was that he was armed?

21 A Yes.

22 Q Okay. And the fear you had was what?

23 A That my -- my life and my family life was
24 in danger.

25 Q Did you feel as though you could have

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1 gotten y'all out of there without engaging with him?

2 A No, I couldn't.

3 Q Why is that?

4 A Because he came towards me, and I know his
5 intentions was gonna be something violent and
6 harmful towards us and I was just wanted to make
7 sure they were protected.

8 Q You had your ankle monitor on at the time,
9 right?

10 A Yes, sir.

11 Q Okay. And when you check out of Walmart
12 there's a camera that's looking right at you?

13 A Yes, sir.

14 Q And so you knew all this was on film?

15 A Yes, sir.

16 Q And you knew that you couldn't run
17 anywhere because you were being monitored?

18 A I mean, it wasn't about trying to get away
19 from a situation. It just happened so fast it
20 wasn't no thinking about it. It wasn't even
21 intentional. It was just protect my family in this
22 instant situation and knowing what was going on
23 around me to me.

24 Q Do you feel as though y'all could have
25 gone out behind you? Is there any way to have ---

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1 A No, because there was a long line where
2 the self-checkout point, people at certain registers
3 where you come in, it's a long line; they'll point
4 you to one to go to as you know so. It makes it a
5 full line right there. You can't go that way. You
6 can't go behind.

7 Q Thank you, Mr. Morris. Answer any
8 questions that Mr. Miller has for you.

9 THE COURT: Cross-examination.

10 MR. MILLER: Thank you, Your Honor. May
11 it please the Court.

12 **CROSS-EXAMINATION**

13 BY MR. MILLER:

14 Q Mr. Morris, you mentioned a little bit ago
15 about your prior convictions. You mentioned
16 marijuana, is that a meth charge, a heroine charge;
17 but that was actually a trafficking in
18 methamphetamine charge and a trafficking in heroine
19 charge, correct?

20 A Correct.

21 Q You were also convicted of possession with
22 intent to distribute cocaine charge as well,
23 correct?

24 A Correct.

25 Q And the gun charge was unlawful possession

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1 of a sawed-off shotgun, as well as possession of a
2 weapon during the commission of a violent crime?

3 A Unlawfully, correct.

4 Q You were also convicted of possession?

5 A It's in appeal phase.

6 Q I'm just asking if you were convicted, not
7 the current status.

8 A All right.

9 Q So is that ---

10 A Correct.

11 Q Thank you. And also, back you -- and
12 previously convicted of another possession of crack
13 cocaine charge back in 2007?

14 A I'm not sure.

15 MR. GAMBRELL: Judge, could we approach
16 real quick.

17 (WHEREUPON, counsel approached the
18 bench for an off-the-record discussion.)

19 THE COURT: All right, you may continue.

20 BY MR. MILLER:

21 Q And, Mr. Morris, you were also convicted
22 back in -- also an attempted armed robbery?

23 A About 15 years ago.

24 Q Correct?

25 A Yeah.

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1 Q Okay. Now, so it is your testimony that
2 you did kill Jason Deck?

3 A Yes.

4 Q Okay. Now, and that was on July 5th,
5 2019, at Walmart?

6 A Correct.

7 Q Correct? Okay. Mr. Morris, this is you
8 down at the bottom right corner in the red hat,
9 correct?

10 A Correct.

11 Q And you are going -- at this point you're
12 gonna walk towards Jason Deck, correct?

13 A Incorrect. I was stepping away from my
14 children to -- I was stepping away from them so they
15 could be safe in protection mode.

16 Q I'm ask---

17 A I wasn't going towards him. I was going
18 here so they could be away from him.

19 Q So you walk in the direction to Jason
20 Deck?

21 A No.

22 Q Is it your testimony that you never moved
23 from the original spot?

24 A I moved from the original spot, but I was
25 not going his direction. I was stepping away from

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1 my children to be safe. That was the whole purpose
2 of getting away from the cash register. They was
3 right beside me and my girlfriend and her cousin all
4 were together; they was beside him. They were all
5 together. We were all together right here. I
6 stepped away right here so they can be safe and
7 avoided from the conflict of probably getting shot.

8 Q So you already made up your mind at this
9 point in time that you were going to shoot Jason
10 Deck?

11 A No. I made up mind to protect my family
12 and avoid them being any type of harms way.

13 Q So I thought you just said them not being
14 shot so. But your testimony is that you don't walk
15 in the direction of Jason Deck?

16 A I walked in the direction away from my
17 children. I didn't walk -- I didn't go to him; he
18 came to me.

19 Q So as we watch this, we're not going to
20 see you walk towards him?

21 A You're gonna see from a eye view on the
22 sky. You're not gonna see from the eyes of my head.
23 The eyes of my head see something coming towards me.
24 I move away to protect my children safety.

25 MR. MILLER: Your Honor, if I could finish

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1 my questions.

2 THE COURT: Let him finish the question,
3 Mr. Morris, then you can answer. Okay?

4 THE WITNESS: Thank you.

5 THE COURT: All right.

6 BY MR. MILLER:

7 Q My question is, as we watch this, are we
8 not going to see you walk towards Jason Deck?

9 A You're gonna see me walk towards the
10 middle of self-checkout to avoid my children being
11 in any harms way. You're not gonna see me go --
12 you're not gonna see me walk from the cash register
13 to where he's standing right now and harm him;
14 you're not. You're not gonna see it. You're gonna
15 see me walk right here so my children who's 9-years
16 old and 5-years old are safe. Because the last
17 communication I had with this man was when it goes
18 down, he gonna kill us, so I made sure that I was
19 standing in the protection point where they were not
20 gonna be in harms way. They didn't have no gun on
21 them. They couldn't protect themselves; I had to.
22 And the last thing he told me was that he was gonna
23 kill us. That's the last thing he ever said to me.
24 And I'm sorry for being aggressive.

25 Q Well, I believe you testified earlier

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1 about the last thing Jason Deck ever said to you was
2 in the text messages and that text was, "Over
3 Scotty"?

4 A And it stem from everything he said before
5 "Over Scotty," and it was when it goes down, he's
6 gonna shoot it out with me and my family.

7 Q And as we read the text messages -- as you
8 read them, those words were not said?

9 A What did he say?

10 Q You just read them to the jury and that
11 was not said.

12 A What did it say though? 'Cause he
13 committed saying derogatory terms about my family.

14 MR. MILLER: Judge ---

15 THE WITNESS: I'm ---

16 THE COURT: You got ---

17 MR. MILLER: I ask he just answer ---

18 THE COURT: Mr. ---

19 MR. MILLER: --- the questions.

20 THE COURT: Mr. Morris, you gotta --
21 here's the deal. The court reporter has to take
22 down what you said and also what Mr. Miller said so
23 could you help me out and do this for me. Let him
24 ask the question, give him an opportunity to ask the
25 question and you'll have ample opportunity to answer

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1 the question. But help the court reporter out, not
2 y'all talk at the same time, would you do that for
3 me?

4 THE WITNESS: Yes, sir. I'm just saying
5 that ---

6 THE COURT: I understand that. I don't
7 want you to explain to me. I just want you to ---

8 THE WITNESS: He tries to control my
9 answer.

10 THE COURT: Hold on a second. I just want
11 you to follow my instructions, okay?

12 THE WITNESS: Yes, sir.

13 THE COURT: Just do what I say.

14 THE WITNESS: Give her the time to make
15 sure she's safe.

16 THE COURT: Give her and make sure ---

17 THE WITNESS: That's right.

18 THE COURT: Be courteous now, okay?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right.

21 BY MR. MILLER:

22 Q That text message leading up to that on
23 July 3rd, 2019, 4:57:19 you said, "Since you talking
24 ssh and can't pick up the phone you fake." Then you
25 said, "You know where I'm at." And then you said,

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1 "Pull up." And then he said, "Really, B. Is that
2 what you want?" And you said, "You fake. Pull up."
3 And he said, "Over Scotty." That's the last
4 communication you had with him?

5 A Before there was more communication as
6 you're taking out what was said before what
7 escalated to that. To answer your question, that's
8 not the truth because you're taking out what led up
9 to that.

10 Q Okay. Mr. Morris ---

11 A What led up to that will give you the
12 understanding of what was said after that. So if
13 you will say everything in the text messages, we can
14 have a full understanding what was said and what was
15 perceived and why I felt the way I felt. And I say
16 that respectfully.

17 MR. MILLER: Judge.

18 BY MR. MILLER:

19 Q Mr. Morris, did not a little bit ago, did
20 you not read the text messages that were admitted
21 into evidence?

22 A But you are not presenting everything I
23 read. I'm asking you a question. You're not
24 presenting everything I read.

25 Q My question, Mr. Morris ---

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1 THE COURT: Answer the question, Mr.
2 Morris.

3 BY MR. MILLER:

4 Q --- is, in your direct examination with
5 your attorney, did you not read all of the text
6 messages into the record and they were admitted into
7 evidence for the jury?

8 A What was allowed to be said, yes.

9 Q Yes. All right. I want to go back to the
10 video screen, Mr. Morris. You are reaching into
11 your left pocket right now, correct?

12 A Yes. He's in his left -- he's in his left
13 pocket too.

14 Q Okay. What is in your left pocket?

15 A What's in my left pocket?

16 Q Yes.

17 A A firearm.

18 Q Okay. And because of your prior record
19 you're not supposed to have a firearm, are you?

20 A I ain't know that.

21 Q Okay. At this point in time are both of
22 Jason Deck's hands out of his pocket?

23 A On July 5th, 2019, they was -- his hand
24 was still in his pocket in my mind.

25 Q And you testified earlier that ---

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1 A He ---

2 THE COURT: Hold, hold on.

3 MR. GREGORY: Oh, he still talking, I'm
4 sorry.

5 BY MR. MILLER:

6 Q And you testified earlier that you
7 perceived the threat from Jason Deck's hand being in
8 his pocket, correct?

9 A Correct, with him being known for carrying
10 guns as well.

11 Q Okay. Now both of his hands are out and
12 he does not have a firearm in his hand, does he?

13 A I don't know that.

14 Q So did you stop looking at the area where
15 you perceived the threat to be?

16 A Because I looked at his mouth when he came
17 up to me and what he said and then blocked -- that
18 blanked out everything else. When he told me to
19 kiss my kids good-bye, that's when everything else
20 blanked out. I'm prepared for him to shoot me.
21 That's why I did it first.

22 Q Mr. Morris, the question was, did you stop
23 paying attention to the area where you perceived the
24 threat to be?

25 A The threat was the message of kiss your

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1 kids good-bye. That was the -- that was the --
2 that's what the threat came to then. I seen his
3 hands in his pocket coming towards me. Then when he
4 said what he said when he approached me, that's what
5 led to him getting shot.

6 Q And so the threat then was his words. The
7 threat was not his hand in his pocket?

8 A Yes, the threat was his words that he done
9 say it before even seeing me.

10 Q Okay. so it wasn't the hand in the pocket
11 then?

12 A Was he gonna -- he said he was gonna kill
13 my family; that's what he said.

14 Q So you weren't concerned about the hand in
15 his pocket?

16 A Yes.

17 Q Well, so then you stopped looking at his
18 hands?

19 A Because I'm already preparing to protect
20 my family. I'm not waiting for him to shoot me.

21 Q So ---

22 A I'm not waiting for him to shoot me. I'm
23 prepared to protect my family. I ain't go looking
24 for him. I was in Walmart where I was assigned to
25 be and allowed -- from leaving the doctor. I was

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1 getting groceries with my family letting everybody
2 know at Walmart I'm with my family. I didn't go in
3 there and cause no conflict with anyone. I didn't
4 go looking for any trouble. This is the
5 self-checkout where you walk out of Walmart. You
6 don't come in here. You -- it's not one cash
7 register in here where you can come and buy
8 something like -- if you come in here you done
9 bought groceries from this whole mall -- this whole
10 shopping center. So if you'd have come in this
11 direction after two days beforehand threatening to
12 kill me and my family, I proceed to protect us at
13 all cost.

14 Q This has gone outside the scope of
15 questioning.

16 THE WITNESS: No, it's ---

17 MR. MILLER: Let him testify ---

18 THE COURT: Please answer the question.

19 THE WITNESS: Okay.

20 MR. MILLER: But it's not open ended to
21 give a narrative question.

22 THE COURT: Answer your question.

23 THE WITNESS: Yes, sir.

24 MR. MILLER: If they need to do anything
25 on redirect they can, but it's not just ---

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1 THE COURT: All right. Just answer the
2 question, Mr. Morris.

3 Go ahead, Mr. Miller.

4 BY MR. MILLER:

5 Q Now with the text too, the first text was
6 the text that you sent to Jason Deck was the first
7 text, correct?

8 A Correct, after the phone call he gave me.

9 Q And that text was death before dishonor,
10 correct?

11 A Correct.

12 Q Now you -- you have said before that Deck
13 did not reply with a threat, never replied angry,
14 never replied in any defense?

15 A What do you -- what do you mean?

16 Q Do you remember at a prior hearing
17 stating ---

18 A 'Cause that wasn't a threat in com---

19 THE COURT: Hold, hold, let him ask the
20 question, Mr. Morris. Let him ask the question.

21 BY MR. MILLER:

22 Q Do you recall stating that at a prior
23 hearing?

24 A What did I state?

25 Q Okay. I'm gonna have your attorney read

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1 along with me as I read from the transcript. This
2 is Page 42. This is your testimony. You said
3 "Death before dishonor. Is it death before
4 dishonor. And it means I'm telling him I will die
5 before I betray you. I'll never betray our
6 friendship and Deck never replied with a threat. He
7 never replied angry. He never replied in any
8 defense."

9 A Because that was a -- that was a comment
10 of respect. That was a text message of respect. It
11 wasn't no type of conflict when we were
12 communicating the text message at the beginning. It
13 escalated in the middle of the text messages.

14 Q But that he didn't reply with a threat?

15 A In the -- in the end he did. Oh, in the
16 end he did. He did reply with a threat killing me
17 and my family.

18 Q Oh ---

19 A In the beginning he reply with, "Hey, bro,
20 I put it on my 6, but I'm going to make this right
21 somehow.

22 Q Mr. Morris, as you said earlier, you've
23 read that into the record. The jury has it and they
24 can see them. Now I want to go back to the video
25 again.

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1 A Okay.

2 Q So again, both of Mr. Deck's hands are out
3 of his pockets and you are pulling out a firearm,
4 correct?

5 A In sky view, yes.

6 Q And you are the only one with a firearm,
7 correct?

8 A I don't know -- I think he has a gun on
9 him. He told me he was gonna have one he see me
10 again. I can't ---

11 MR. MILLER: Judge ---

12 THE WITNESS: I don't have eyes ---

13 THE COURT: Hold, hold.

14 THE WITNESS: --- where I can laser vision
15 somebody and ---

16 THE COURT: Hold -- hold on, Mr. Morris.
17 Yes, sir.

18 MR. MILLER: Can we approach?

19 THE COURT: Yeah.

20 (WHEREUPON, counsel approached the
21 bench for an off-the-record discussion.)

22 THE COURT: All right, Mr. Morris, listen
23 to me.

24 THE WITNESS: Yes, sir.

25 THE COURT: You cannot say what somebody

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1 else said to you. That's considered hearsay. You
2 understand that? You understand that? Do you
3 understand what I just said? I'm trying to be as
4 ---

5 THE WITNESS: I'm just -- I don't ---

6 THE COURT: Just listen to me. All I was
7 just trying to be as simplistic as I can. All I
8 want you to do is to answer the questions, calm --
9 take it down a notch. Take it down a notch, take a
10 deep breath, be calm about this.

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. 'Cause, you know,
13 you're entitled to your day in court and I'm giving
14 you that.

15 THE WITNESS: Yes, sir.

16 THE COURT: But I also want you to take it
17 down a notch, be calm. Answer the questions that
18 you're asked, okay.

19 THE WITNESS: Yes, sir.

20 THE COURT: Now you can't repeat what
21 somebody else said to you because if you do, it's
22 considered hearsay, it's gonna be objectionable by
23 the State so. You can get your story across. You
24 can get where you -- anything that you want to say
25 and I'm gonna let you say, testify to anything you

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1 want to tell this jury.

2 THE WITNESS: Yes, sir.

3 THE COURT: But you gotta take it down a
4 notch and you gotta slow up for me a little bit so
5 the court reporter can take down what you say. The
6 court reporter is taking down what you say not only
7 benefits you, but it also benefits the State. It
8 benefits everybody so. Would you do that for me?

9 THE WITNESS: Yes, sir.

10 THE COURT: Okay. Go ahead.

11 MR. MILLER: Your Honor, the State would
12 ask to have the portions of where he said what Deck
13 said struck from the record.

14 THE COURT: All right. I'll direct that
15 that happen, Madam Court Reporter.

16 BY MR. MILLER:

17 Q Mr. Morris, looking at the video, you are
18 the only person with a gun between you, Jason
19 Michael Deck?

20 A At the time I didn't know. I thought he
21 had a gun. So I'm not gonna say I'm the only person
22 with a gun 'cause if I was -- if I knew I was the
23 only person with a gun, I wouldn't have to use it.

24 Q And again, he just put both hands in
25 front and now they're both down by his side,

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1 correct?

2 A In the sky view, yes, but when it was
3 right here in my eyes, I was looking in his eyes and
4 I feel like still was gonna try to make a move on
5 me.

6 Q And he never tried to punch you, did he?

7 A He told me kiss my kids good-bye.

8 Q That was not the question. Your Honor ---

9 A Okay, I'm sorry. I'm sorry.

10 MR. MILLER: Objection to hearsay and
11 strike.

12 THE COURT: Okay. All right.

13 THE WITNESS: Continue.

14 MR. MILLER: Your Honor, may that please
15 be struck from the record.

16 THE COURT: Yes. Strike that language,
17 Madam Court Reporter.

18 Answer the question.

19 THE WITNESS: Yes, sir.

20 BY MR. MILLER:

21 Q He never attempted to punch you or he
22 never lunged at you, did he?

23 A He came at me with intentions to.

24 Q That was not the question.

25 A I didn't give him a chance to, I'm sorry.

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1 I didn't give him a chance to hurt me and my family.

2 Q So the answer ---

3 A To answer your question, I didn't give him
4 a chance to hurt me and my family. That's it.

5 Q The answer is no?

6 A I didn't give him a chance to hurt me and
7 my family. That's the answer.

8 Q And that was the first time you shot him,
9 correct?

10 A Correct.

11 Q And you just tried to shoot again right
12 there, correct?

13 A Correct.

14 Q And now Jason Deck is lying on the ground,
15 correct?

16 A Correct.

17 Q Fell away from the children, from Heidi,
18 from her cousin, correct?

19 A Correct.

20 Q And you're going to walk towards him,
21 correct?

22 A Correct.

23 Q And you tried to shoot again, correct?

24 A Correct.

25 Q And you're about to stand over him and

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1 re-rack your firearm in order to shoot him again,
2 correct?

3 A Just one -- just twice. I shot him twice.

4 Q You are about to stand over him and
5 re-rack your firearm, correct?

6 A That's what the video shows.

7 Q So is that correct?

8 A That's what the video shows.

9 Q Yes or no, Mr. Morris.

10 A That's what the video shows, sir.

11 MR. MILLER: Judge, can we instruct ---

12 THE WITNESS: It happened ---

13 MR. MILLER: --- him to answer the
14 question.

15 THE COURT: You have to answer the
16 question.

17 THE WITNESS: Correct.

18 BY MR. MILLER:

19 Q And you just shot Jason Deck in the head
20 while he was lying on the ground, correct?

21 A Correct.

22 Q And you're about to run out of the store,
23 correct?

24 A Jog.

25 Q Not walk, correct?

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1 A I jogged.

2 Q You did not walk, correct?

3 A Correct.

4 Q And you left the store without Heidi,
5 without her cousin, and without the kids, correct?

6 A Correct.

7 Q You didn't go back and check on anybody,
8 did you?

9 A They were safe then.

10 Q Did you go back and check on them?

11 A They were safe.

12 Q Yes or no, Mr. Morris.

13 A No.

14 Q As you -- as you say, "jog," leaving the
15 store, you still -- the red hat is still on your
16 head, correct?

17 A In the camera shows that still on there.

18 Q So is that a yes?

19 A It shows on the footage.

20 Q Is that a yes?

21 A Yes.

22 Q The hat still on your head there, correct?

23 A Correct.

24 Q And the hat was on your head till
25 somewhere around the TitleMax store on White Horse

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1 Road, correct?

2 A I don't know exactly where, but it fell
3 off.

4 Q It fell off? Is that your testimony?

5 A Yes, it fell off. I don't remember
6 exactly where.

7 Q But it didn't fall off as you ran out the
8 store, did it?

9 A No.

10 Q And also in that time frame, you weren't
11 found with a firearm either, were you?

12 A No, sir.

13 Q So you got rid of the firearm?

14 A No, I just misplaced it.

15 Q Just misplaced it? But you were asked,
16 they didn't want anybody to find it and you remember
17 stating that no kid or adult that's dumb would ever
18 find it?

19 A Yeah, I misplaced it and I couldn't
20 recollect. If I could have remembered where it was
21 at, I would have told them. I didn't know where it
22 was at, so I couldn't tell them.

23 Q Do you remember being interviewed by
24 Investigator Antonio Bailey?

25 A Yes.

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1 Q Do you recall Investigator Bailey asking
2 you what happened to the gun because I'd hate for
3 somebody else, that you then stated nobody's going
4 to get hurt with that gun, I don't know exactly but
5 I know it won't be where -- it won't -- it's fine, I
6 promise, that's my word. Look at me in the eye.
7 I'm telling you a child is not going to grab that
8 gun and hurt theirselves or an adult that's dumb. Do
9 you recall telling Investigator Bailey that?

10 A Yes.

11 Q So is it your testimony today just that
12 you lost it so well that you felt comfortable enough
13 to tell Antonio Bailey to look you in the eye and
14 assure him that nobody, any children, would be able
15 to find that gun because that's how well you just
16 lost it or misplaced it?

17 A I couldn't provide information he needed
18 and I assured him that no one would find it, but
19 that's it. I couldn't provide information neither.
20 I didn't know where it was.

21 Q Because you got rid of it in a way that
22 you knew no one would find it. You didn't just
23 lose; you got rid of it.

24 A No, I didn't get of it; I misplaced it.

25 Q So how do you know you misplaced it so

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1 well that a kid or -- your words -- an adult that's
2 dumb, couldn't find that gun?

3 A I mean, I misplaced it and I couldn't
4 provide information for him to find it.

5 Q So you misplaced it so well nobody could
6 find it?

7 A No, that's just your opinion. I said I
8 misplaced it. You're adding to what I'm saying.

9 Q You're saying you misplaced it, correct?

10 A Thank you. Correct.

11 Q That's what you said. I'm not saying
12 that's what you did. That's what you said, right?

13 A I just answered the question. Correct, I
14 misplaced it.

15 Q I understand that is your testimony. And
16 you're saying that you misplaced it because you told
17 Investigator Bailey to look you in the eye 'cause a
18 child is not going to grab that gun and hurt
19 theirselves or an adult that's dumb, right? You just
20 testified ---

21 A Did you just ask me a question?

22 Q I -- correct.

23 A 'Cause I answered the question, right?

24 THE COURT: Hold on. Hold on, Mr. Morris.

25 THE WITNESS: He asking me the same

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1 question.

2 THE COURT: Hold -- what'd you just
3 promise me a minute ago.

4 THE WITNESS: Yes, sir, I'm sorry.

5 THE COURT: Okay. All right.

6 BY MR. MILLER:

7 Q That you told Investigator Bailey to look
8 you in the eye, right?

9 A I answered your question.

10 Q Is that a yes?

11 A I don't remember. It was four years ago.

12 Q Okay. Well, you ---

13 A I don't remember the exact words me and
14 him had with each other. I only seen him one time.
15 He only wished to talk to me one time.

16 Q Well, I believe you just testified a few
17 minutes ago that you said you remembered that?

18 A I misplaced it. I can't provide
19 information he need to find a gun.

20 Q So a few seconds ago you said that you
21 remembered telling Antonio Bailey that, and now your
22 testimony is that you don't remember telling Antonio
23 Bailey that?

24 A I don't remember telling him a word-for-
25 word context about the gun, but I said that if -- I

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1 can't find it. And I said that no one will find it.
2 If I can't find it, I'm not sure how to tell anyone
3 how to find it. Has it been recovered in the past
4 four years? Has it?

5 THE COURT: You don't get to ask the
6 questions either.

7 THE WITNESS: I'm sorry. I'm sorry.

8 BY MR. MILLER:

9 Q Mr. Morris, you mentioned the name Scotty
10 Pope. Do you recall earlier hearing stating that
11 you believed Scotty Pope to be a known confidential
12 informant?

13 A I mean, that's irrelevant. That's
14 hearsay. That's hearsay, whatever I heard about
15 him. I don't have any information or facts. I
16 don't have no paperwork from the solicitor's office
17 stating he is, so I'm not -- I can't testify that's
18 true.

19 Q I'll have your attorney read along with me
20 from a prior hearing where you also testified under
21 oath. This is Page 34, Line 11. This is your
22 testimony. "Scotty Pope is a known informant for
23 the police. He's been a known informant for over 15
24 years." And you testified to that?

25 A But it should have been struck from the

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1 record. It should have been struck from the record.

2 THE COURT: Hold on. Hold on just a
3 moment.

4 THE WITNESS: 'Cause it's hearsay.

5 THE COURT: Mr. Morris, Mr. Morris. He's
6 asking you a question about your prior testimony.
7 Either you said it or you didn't. That's the
8 answer -- that's the question he's asking you.

9 THE WITNESS: But what I'm saying it's not
10 certain.

11 MR. GAMBRELL: But, Judge, I would ask
12 that he at least put a context as to what the
13 context of that answer was.

14 THE COURT: Why -- Counsel, the question
15 was, there was a deposition from a prior hearing
16 that you attended, Mr. Miller attended, defendant
17 attended. My understanding of the question is, he's
18 asking this witness what he said on that day, which
19 he can do as you well know about to impeachment; he
20 can do that. And so the question becomes, did he
21 say those words on that day or not?

22 MR. GAMBRELL: Okay.

23 THE COURT: You understand that, sir?

24 THE WITNESS: Yes, sir.

25 THE COURT: Did you say those words on

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1 that day or not?

2 THE WITNESS: I don't remember.

3 THE COURT: Well, show it to him.

4 BY MR. MILLER:

5 Q Mr. Morris, right here. It's Page 34,
6 Line 11, your testimony where you testified under
7 oath, "Scotty Pope is a known informant for the
8 police and he's been a known informant for over 15
9 years." Did I read that right?

10 A Yeah, but it may not be true.

11 Q But that was your testimony in February of
12 this year under oath.

13 A It may not be certain though.

14 Q The question is, is that your testimony
15 for February of this year under oath?

16 A That was my uncertain testimony February
17 of this year 'cause I don't have any facts to prove
18 it like you wouldn't let me admit other envelope in.

19 Q Well, ---

20 A I mean, ---

21 MR. MILLER: Your Honor, would you please
22 instruct that I'm not the one that admits evidence
23 in or not.

24 THE COURT: All right. Mr. Morris, the
25 only question that I think you answered was I

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1 allowed counsel to show you the deposition, the
2 hearing that happened in February which I wasn't the
3 trial judge. The question was, did you say that?
4 It's really a simple question. Did you say you were
5 ---

6 THE WITNESS: I told him I didn't
7 remember. He showed me. I did say it so I guess
8 that's it.

9 THE COURT: Okay. All right then.
10 Go ahead, Mr. Miller.

11 BY MR. MILLER:

12 Q You testified Scotty Pope is a known
13 informant for the police for over 15 years; is that
14 right?

15 A That's what the transcript say.

16 Q And 'cause that's what's you said,
17 correct?

18 A That's what the transcript say. It may
19 not be true though.

20 Q Your testimony is that the certified
21 transcript of the court reporter may not be true.

22 A Because I said that they told you ---

23 Q That was not ---

24 A --- he was (indiscernible) ---

25 Q --- my question.

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1 THE COURT: Hold, hold, hold on. Hold on,
2 Mr. Morris. Hold on.

3 THE WITNESS: That's hearsay.

4 THE COURT: All right. You were at the
5 hearing in February; is that correct?

6 THE WITNESS: Yes, sir.

7 THE COURT: You testified in February,
8 correct?

9 THE WITNESS: Yes, sir.

10 THE COURT: And what Mr. Miller read into
11 the record from the transcript is a simple question.
12 It requires a yes or no answer, not anything other
13 than a yes or no. No, wait a minute. It requires
14 just a yes or no answer. Did you -- you understand?
15 It's a yes or no answer. Did you say in court under
16 oath on that day that's represented in the
17 transcript the statements that you read and that Mr.
18 Miller showed to you? That's either yes or no.

19 THE WITNESS: But he showing me ---

20 THE COURT: Well, I'm asking ---

21 THE WITNESS: Yes.

22 THE COURT: Okay.

23 BY MR. MILLER:

24 Q As you testified earlier, Jason Deck
25 introduced you to Scotty Pope?

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1 A Correct.

2 Q And you believed, stated, that Scotty Pope
3 was a poisonous mother fucker, correct?

4 A Correct.

5 Q And that he got you fucked all the way up?

6 A Correct.

7 Q And when this incident happened, those
8 convictions in Pickens County, the trafficking
9 illegal drugs and trafficking methamphetamine were
10 pending at the time, correct?

11 A Correct.

12 Q And do you recall a bond hearing?

13 A Correct.

14 Q Do you recall at the hearing you stated
15 why Jason Michael Deck is dead, correct?

16 A Correct.

17 Q And that was because he introduced you to
18 Scotty Pope?

19 A No, 'cause he threatened my life.

20 Q That's what you said at the bond hearing?

21 A Yeah, he threatened my life. I said it.
22 You can play it. And when y'all earlier, I think
23 today y'all stopped it ---

24 Q Mr. Morris, I'm asking you a question.

25 A You asked me a question. Can I say he

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1 threatened my life. I said it in a bond hearing.

2 It's on there.

3 (Video was published to the jury.)

4 BY MR. MILLER:

5 Q After Mr. Deck asked why you murdered his
6 son -- those were his words -- you stated, "can I
7 tell him why?" Correct?

8 A Correct.

9 Q And that you would be straight up with
10 him, not disrespect him or anything like that.
11 Correct?

12 A Correct.

13 (Video published to the jury.)

14 THE WITNESS: Can you continue to play it
15 'cause I said he threaten my life after that.
16 That's if you continue to play the bond hearing.
17 No, 'cause they keep taking it out. Could you
18 continue to play it?

19 BY MR. MORRIS:

20 Q I have a couple of questions, Mr. Morris.

21 A Okay.

22 Q That you just said he introduced you to
23 Scotty Pope who is the poisonous mother fucker that
24 got you fucked all the way up, correct?

25 A Yes, but it had nothing to do with my

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1 drug charges.

2 THE COURT: Answer the question.

3 MR. MILLER: And then ---

4 THE WITNESS: He asking me, he asking me
5 coerce questions. He trying to ask me a question to
6 ---

7 THE COURT: Well, ---

8 THE WITNESS: He's asking me leading
9 questions.

10 THE COURT: Hold on. Hold on.

11 THE WITNESS: He's not getting answers.

12 THE COURT: Hold on, Mr. Morris. Hold on.
13 You just answer the question that he asked you.

14 THE WITNESS: All right.

15 THE COURT: All right.

16 Go ahead, Mr. Miller.

17 BY MR. MILLER:

18 Q And then after you stated that, you said,
19 "so that's why he's dead," correct?

20 A That's not why he's dead.

21 Q I'm asking you, is that what you said?

22 A If you play the rest, I can continue to
23 answer.

24 Q Mr. Morris, you need to answer the
25 question yes or no, ---

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1 THE COURT: Is that what you said? That's
2 a yes or no answer.

3 MR. MILLER: --- is that what you said?

4 THE WITNESS: Yes.

5 BY MR. MILLER:

6 Q Okay. And that Scotty Pope, you said
7 earlier, is a known confidential informant.

8 A All that's irrelevant.

9 Q That was what you testified to earlier,
10 correct?

11 A But it's irrelevant to what going on
12 between me and Deck.

13 THE COURT: That's a yes or no, Mr.
14 Morris.

15 BY MR. MILLER:

16 Q You have to answer the question.

17 A Ask the question again.

18 Q That Scotty Pope, you testified earlier,
19 was a known confidential informant?

20 A Yes.

21 MR. MILLER: We need to approach on this,
22 Judge.

23 (WHEREUPON, counsel approached the
24 bench for an off-the-record discussion.)

25 MR. GAMBRELL: Actually, Judge, can I put

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1 my objection on the record to the court reporter?

2 THE COURT: All right. Ladies and
3 gentlemen of the jury, I'm gonna send you back to
4 your jury room for about three, three or four
5 minutes. I'll bring you right back. Please, ma'am,
6 please, sir, don't talk about the case to each
7 other.

8 (WHEREUPON, the jury was removed from the
9 courtroom at 4:27 p.m.)

10 THE COURT: We're gonna extend this break
11 for about ten minutes so if anybody needs a restroom
12 break, they can go get one.

13 You want to put your objection on the
14 record?

15 MR. GAMBRELL: Yeah. The State was
16 intending to introduce the one that I saw was a ---

17 MR. MILLER: Judge, I know it clarified
18 not introduce into evidence ---

19 MR. GAMBRELL: To impeach.

20 MR. MILLER: -- cross-examine and
21 impeach ---

22 MR. GAMBRELL: Right.

23 MR. MILLER: --- him with.

24 MR. GAMBRELL: It looks like it's a
25 message sent from Mr. Morris to a Tierra John

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1 Phillips on July 20th, 2019. It reads, a question
2 mark, question mark, question mark, no, it was
3 self-defense, ellipse, ellipse, ellipse. That puts
4 the mother fucker text message me threats, don't
5 create chaos, and confidential informant is still
6 alive. If you want to help, you know what can be
7 done. And my objection to that is, is that, you
8 know, the implication is or the suggestion is that
9 he's referring to Scotty Pope, but that's not clear
10 from that message. And the other fact of the matter
11 is that Scotty Pope is not a confidential informant
12 against Mr. Morris. And so I think it's confusing
13 for the jury, that he's trying to make the
14 connection between that message and the testimony
15 that was given from the hearing in February to what
16 was said at the bond hearing, when that's not --
17 it's not clear from this message who he's referring
18 to.

19 MR. MILLER: Judge, the confidential
20 informant information was not released at the time
21 so he wouldn't have known who the confidential
22 informant was. He only had his idea of who it was
23 at the time. We've gone through the testimony from
24 July 3rd, the victim texted to the defendant "Over
25 Scotty". At the bond hearing he talks about Scotty

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1 Pope. We had testimony that Scotty Pope is a known
2 confidential informant. And in here, Mr. Morris is
3 clearly talking about his case. He says known
4 self-defense, as he asserts today. And he says,
5 text message me threats, as he asserts today. Then
6 he says the confidential informant is still alive,
7 if you want to know what can be done, you can help.
8 You know it can be done. And so this clearly
9 connects to this case in every way. He's ready to
10 begin, Judge.

11 THE COURT: Now hold ---

12 MR. MILLER: His clearly connects to the
13 case through all the prior testimony in to here and,
14 also, that in the bond hearing he says that Jason
15 Deck introduced him to Scotty Pope who he states was
16 a known confidential informant.

17 MR. GAMBRELL: Judge, he -- he was
18 arrested on that Pickens County charge back in
19 November of 2018 and this is in July of 2019. You
20 know, to -- to make that connection that maybe
21 trying to pull from several different references to
22 make that nexus in that he's referring to Scotty
23 Pope, Scotty Pope here, is just -- it's not clear
24 and it's confusing.

25 THE COURT: Well, I'm, I'm gonna allow,

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1 let the jury give whatever weight they want to give
2 to it. They can -- they can assess credibility or
3 give whatever weight they would like to give to
4 that, but I'm gonna allow it. All right, anything
5 else? Anything else?

6 MR. GAMBRELL: No, sir.

7 THE COURT: All right, logistically, let's
8 talk logistics for just a minute. We're not gonna
9 be able to argue and charge today because it's
10 almost 5:00 and I don't like to do that to the jury
11 panel late in the afternoon so. How many more
12 witnesses you got other than the defendant?

13 MR. GAMBRELL: Zero.

14 THE COURT: Zero, okay. So we're gonna
15 finish up with the defendant. We're going to
16 reconvene tomorrow morning at 10, okay. We're gonna
17 have a short charging conference. Let's do that
18 first thing. And then we're gonna go directly into
19 closing arguments on both sides so. And I have --
20 just so you can prepare for the charging conference,
21 I intend to use the standard murder charge utilized.
22 Isn't this the one that -- same one that I utilized
23 in the case that you guys had before me while -- a
24 good while. Possession of a weapon during a violent
25 crime, that's a very short charge. That's very

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1 short. Then the other boilerplate things that I
2 would say normally in a case, any criminal case so.
3 That's what we're looking at logistically. So we're
4 gonna finish up this witness and then we're going to
5 reconvene tomorrow morning at 10:00.

6 I need the Solicitor's Office, your
7 manpower -- gonna put them to work -- bring me a
8 proposed verdict form, share it with Mr. Gambrell.
9 You can probably work on that, get your people to
10 work on that between now and tomorrow.

11 MR. MILLER: Yes, sir.

12 THE COURT: Okay, all right. Bring the
13 jury back in. I'm sorry, we're gonna -- we need a
14 5-minute bathroom break, okay? So we'll be down
15 about five minutes.

16 (WHEREUPON, a recess was taken from the
17 proceedings.)

18 THE COURT: Okay, bring the jury in.

19 (WHEREUPON, the jury was returned to the
20 courtroom at approximately 4:43 p.m., and the
21 following proceedings commenced in open court.)

22 THE COURT: All right. Yes, sir.

23 MR. MILLER: Thank you, Your Honor. May
24 it please the Court.

25 BY MR. MILLER:

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1 Q Mr. Morris, do you recall on July 20th of
2 2019 sending an email out from Greenville County
3 Detention Center?

4 A No, sir.

5 Q Okay. Now this was an email sent from
6 you to Jared John Phillips. I can now show it to
7 you to refresh your memory. And I'm gonna read this
8 and this email where you stated several question
9 marks, know of self-defense, that pussy mother
10 fucker text messaged me threats, don't create chaos,
11 the confidential informant is still alive, if you
12 want to help you know what can be done. You said
13 that, correct?

14 A Correct.

15 Q And then also on July 30th of 2019, you
16 sent an email to an Adrian Hammond.

17 A Correct.

18 Q Where you stated, "I know, baby, I've been
19 on my case doing research and it looks like I can
20 beat it off of self-defense 'cause it's all on
21 camera me being watched and violently approached for
22 me to save my life and not risk losing my life and
23 my children was beside me too." And then you asked
24 for her to send you some pictures and credits,
25 correct?

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1 A Correct.

2 Q And do you recall making a phone call from
3 a Sao (ph) Charles Wakefield's account on May 30th
4 of 2020, about 7:30 p.m.?

5 A I don't remember.

6 Q Okay. I'm gonna play a portion of the
7 call, see if it refreshes your memory where you told
8 the person you were talking to look you up on
9 Facebook and to find you as Lamar Morris.

10 (Published to the jury.)

11 BY MR. MILLER:

12 Q Early in the call you remember talking
13 about the mother fucker I killed?

14 A I don't remember.

15 (Published to the jury.)

16 BY MR. MILLER:

17 Q You hear that?

18 A I hear it.

19 Q You stated, "The mother fucker I killed,"
20 correct?

21 A That's what I said.

22 Q So that's correct?

23 A Correct.

24 Q And earlier it's correct, find you on
25 Facebook under Lamar Morris, correct?

DW - B. MORRIS - REDIRECT

1 A Correct.

2 Q Do you remember saying later in that --
3 the whole situation as you got to make him the
4 aggressor?

5 A I got to prove my innocence.

6 Q I'm asking you, do you recall stating the
7 whole situation you got to make him the aggressor?

8 A You saying it out of context. I'll say
9 correct, but it's said out of context thought.

10 Q Okay. And also that, like, he came after
11 me and the kids, correct?

12 A Correct.

13 Q Do you remember that?

14 A No.

15 (Published to the jury.)

16 BY MR. MILLER:

17 Q Okay. Then do you recall stating that the
18 gun he used is the 9-millimeter, it doesn't connect
19 anybody to anything?

20 A Correct.

21 Q You recall saying that?

22 A Correct.

23 Q And you recall saying that they don't even
24 have the murder weapon?

25 A Correct.

DW - B. MORRIS - REDIRECT

1 Q So you agree that on this call you
2 referred to the gun you used as the murder weapon?

3 A That's what I was charged with so I
4 referred to what I was charged with. To answer your
5 question, I was referring to what I was charged
6 with.

7 (Published to the jury.)

8 BY MR. MILLER:

9 Q That's what you said, right?

10 A Correct.

11 Q Okay. Please answer any questions Defense
12 counsel has.

13 THE COURT: Mr. Gambrell.

14 MR. GAMBRELL: Thank you, Your Honor.

15 **REDIRECT EXAMINATION**

16 BY MR. GAMBRELL:

17 Q Braylon, that -- when Mr. Miller was going
18 over that video with you from inside Walmart and had
19 stopped it and was, you know, going through it step
20 by step, that's over a very short period of time?

21 A Correct.

22 Q And as I was watching it, it appeared to
23 me about just one second. Is that, is that how you
24 perceived it?

25 A Yes, sir.

DW - B. MORRIS - REDIRECT

1 Q Okay. I know that you had stated with
2 regard to the bond hearing that you worked -- they
3 didn't play the whole thing.

4 A Correct.

5 Q So I wanna make sure that you have an
6 opportunity to see the -- the balance of that from
7 what you were talking earlier.

8 MR. MILLER: Judge, I would ask that we
9 use the video in evidence because there have been
10 needs to be in compliance with rules of evidence
11 that we make sure that something doesn't
12 accidentally -- I don't see any will, but can
13 accidentally come in that hasn't been redacted to
14 comply with evidence.

15 THE COURT: All right. Is the full bond
16 hearing on the -- written on the -- that disk?

17 MR. MILLER: Yes, sir.

18 THE COURT: All right, let's use that one.

19 MR. GAMBRELL: Judge, I don't have a
20 drive. I haven't had a drive since 2015. I ---

21 MR. MILLER: We have -- we can put it in.

22 THE COURT: You can use his.

23 MR. GAMBRELL: Okay.

24 (Published to the jury.)

25 BY MR. GAMBRELL:

DW - B. MORRIS - REDIRECT

1 Q Is that the part that you had said was
2 left out?

3 A Yes, sir.

4 Q Now when you refer in that video,
5 Mr. Morris, to Mr. Pope as a poison, what -- what
6 were you talking about?

7 A I was just saying he's a backstabbing
8 snake, you know what I'm saying. And really, the
9 whole concept what the solicitor doing is ---

10 Q I was ---

11 THE COURT: Hold on. Answer his question.

12 THE WITNESS: Oh.

13 THE COURT: Now if you ---

14 BY MR. GAMBRELL:

15 Q I'm asking you what you meant by that when
16 you said ---

17 A I mean, he's un-- he's untrustworthy.

18 Q I know. Why are you -- why did you say
19 that?

20 A 'Cause he's an insecure dude, you know
21 what I'm saying, like. I'll ---

22 Q Was this based on the relationship you
23 had with him? I'm not -- I'm trying to figure out
24 what is ---

25 A This was based on me not trying to have

DW - B. MORRIS - REDIRECT

1 ties with him, and this is based on him being
2 jealous of me and his girlfriend in friendship.

3 Q Are you saying that your relationship with
4 Scotty Pope affected your relationship with Jason
5 Deck in some way?

6 A Yes, because Scotty Pope turned Deck
7 against me.

8 Q In regard to the telephone call, do you
9 recall who you were speaking with on the jail phone
10 call?

11 A I think it was Tamanna, Tamanna Gause.

12 Q Is that a friend of yours, family member?

13 A My girlfriend's cousin.

14 Q Okay. And when you speak with your
15 girlfriend's cousin, with her in particular, do
16 you -- what kind of language do you use?

17 A I just use slang, you know, and some
18 things may seem derogatory, you know what I'm
19 saying, but it's nothing -- it's no hate or anything
20 I'm saying. Just slang terms.

21 Q So when you hear that tape played back to
22 you where you refer to some improper language as
23 mother fucker, does that -- does that strike cruel
24 with you in any way?

25 A It just -- it just saying -- without

DW - B. MORRIS - REDIRECT

1 saying his name I just say -- I just say that term
2 without having to say his name.

3 Q Is that way that you normally talk
4 with ---

5 A Yes.

6 Q --- your friends?

7 A My friends I'm close to, you know. We can
8 talk, communicate like that.

9 Q Okay. Additionally, you were talking to
10 her about, it sounded like you had done some
11 research or you were talking about with regard to
12 this case.

13 A I was just telling her my -- she didn't
14 know what was going on, what was there; and when we
15 was there, she went and got some bullets from the
16 sporting goods and I was telling her that she had,
17 you know what I'm saying. She has nothing to do
18 what took place in the situation, you know what I'm
19 saying. I was telling her my defense and what was
20 going on, you know what I'm saying. And, you know,
21 I was trying to explain to her what I'm going
22 through and how she has no partake in the situation.

23 Q So you're trying to explain to her your
24 perception of what the -- what the lay is?

25 A Yes.

DW - B. MORRIS - REDIRECT

1 Q Okay. I'm assuming she doesn't have any
2 training in the law?

3 A At all.

4 Q Okay. And was she asking you questions
5 about your case?

6 A She would ask me questions, ---

7 MR. MILLER: Your Honor.

8 THE WITNESS: --- and she was just telling
9 me that she was gonna come to court, you know what
10 I'm saying, speak on my behalf and stuff and I was
11 trying to keep in contact with her.

12 BY MR. GAMBRELL:

13 Q Now when you refer to, in your email, to
14 "beat a case," what are you referring to?

15 A To just give clarity to unjust situation.
16 You know, everybody have their own assumption of
17 what's -- what's partaking, and we need to give
18 clarity to give complete understanding to what's
19 going on so it's no -- it's no bad insinuations
20 being put in. This is the truth being told and
21 clarified. It's the point of going to trial to
22 court.

23 Q Is that -- is that something that you
24 would hear people talk about in your neighborhood or
25 as you're growing up? Is that the language that you

DW - B. MORRIS - REDIRECT

1 use?

2 A Yes, sir.

3 Q Okay. And so to you it doesn't have any
4 particular significance of guilt or innocence?

5 A No, sir. It's just simple. It's simple
6 slang with people you close with. It's nothing
7 like -- some of the conversation I have on the phone
8 was very unprofessional conversation because I was
9 just talking to people that I'm communicating with.
10 It was, you know, we just having a, you know,
11 one-on-one conversation so what it's like I'm trying
12 to be professional, educated about what's going on.
13 I'm just, you know, telling them where they can
14 understand what I'm saying.

15 Q Have you ever sought out or harmed Scotty
16 Pope in any way?

17 A Never.

18 Q What is the last kind of communication you
19 even had with him?

20 A I haven't seen Scotty Pope since like
21 about August 2018. Haven't seen him, contacted him,
22 anything. Had no type of encounter with him,
23 anything.

24 Q Did he testify at your trial back in June
25 of last year?

1 A No, he did not.

2 Q All right. thank you very much.

3 MR. MILLER: No questions, Your Honor.

4 THE COURT: All right. Sir, you can step
5 down.

6 All right. Ladies and gentlemen of the
7 jury, what we're gonna do, we're gonna adjourn for
8 today. I need you back in your jury room at 10:15,
9 tomorrow morning at 10:15. Please, ma'am, please,
10 sir, do not talk about the case at all with anyone
11 and I'll see you tomorrow morning at 10:15. Have a
12 good evening.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 4:58 p.m.)

15 THE COURT: Probably, Mr. Gambrell,
16 probably -- I'm probably gonna let you rest 'cause
17 you didn't have any other witnesses, did you?

18 MR. GAMBRELL: No, sir.

19 THE COURT: All right. I was gonna let
20 you think about it. I'm gonna let you rest tonight,
21 but I'll let you do that in the morning ---

22 MR. GAMBRELL: Yes, sir.

23 THE COURT: --- before the jury, and then
24 we'll do what we do. Okay. Is there anything
25 further we need to discuss before we adjourn for the

1 evening?

2 MR. MILLER: Nothing from the State, Your
3 Honor.

4 THE COURT: All right.

5 MR. GAMBRELL: Nothing from the Defense.

6 THE COURT: All right, see you tomorrow
7 morning around 10'ish, 10:00.

8 (Court was adjourned at 4:58 p.m. and resumed on
9 April 6, 2023.)

10 THE COURT: The State v. Braylon Morris,
11 indictment number 2019-GS-23-07279. Janine informed
12 me that one of the jurors called in last night, I
13 guess, or early this morning and was throwing up,
14 and it was the juror with the long hair. I know
15 that's a bad way to describe him 'cause I don't know
16 his number.

17 THE CLERK: 162.

18 THE COURT: 162. But since we've got
19 three alternates, I don't think it will be a
20 problem. But he, he did indicate that he wanted us
21 -- if we wanted him to come, he would come. But I
22 will just state we got three alternates, I don't see
23 any -- oh, he's the alternate.

24 THE CLERK: He is an alternate. He's the
25 first alternate.

1 THE COURT: Oh, he's the alternate, okay.

2 THE CLERK: The first alternate.

3 THE COURT: That cures that. Now we just
4 got two alternates, okay. So he was the first. He
5 was alternate number one.

6 THE CLERK: Yes.

7 THE COURT: Okay. Well, that's the
8 easiest thing we've solved this week then. That's
9 the easiest thing we've solved this week. So the
10 jury's not here yet? Did I say 10:15 or 10:00?

11 THE CLERK: 10:15.

12 THE COURT: I thought I did. I said
13 10:15, okay. All right. So in light of that, I'll
14 see you at 10:15 unless we got some -- we got some
15 matters we need? Well, let's use this time wisely.

16 MR. MILLER: I don't know if we want to do
17 the charge conference.

18 THE COURT: Yeah, let's do that. What I
19 -- what I've got, gentlemen, is just standard charge
20 that I -- that I used before and it's just basically
21 what I did in the last murder case that you guys
22 were involved in. Mr. Gambrell, it's just a
23 standard charge. You know, it's about -- the
24 standard charge I use is about seven, eight pages
25 long. And then I -- and it encompasses the

1 preliminary remarks that I normally give, plus
2 murder and the definition under the statute. And
3 I'm just -- I can read that section to you. You
4 want me to read it to you?

5 MR. GAMBRELL: I guess so, Judge. I do not
6 have a copy of it so I'm ---

7 THE COURT: Well, I'm gonna read it to
8 you. It won't take long. It won't take but a
9 second. Section 16-3-10 of the South Carolina Code
10 defines murder as the killing of a person with
11 malice aforethought, either express or implied. The
12 State must prove beyond a reasonable doubt that the
13 defendant killed another person with malice
14 aforethought. Malice is hatred, ill will, or
15 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 an
18 injury or under circumstances the law will infer
19 evil intent. Malice indicates a formed purpose and
20 design to do a wrongful act under circumstances that
21 exclude any legal right to do it. Further, there
22 must be malice aforethought which means that the
23 malice must have been conceived in the mind of the
24 defendant prior to producing the fatal result.

25 The word aforethought is usually

1 understood to refer to the time when the evil is
2 conceived. The law does not require that malice
3 must exist for any appreciable length of time before
4 the commission of the act. It may be conceived at
5 the very moment the action is taken which results in
6 the death of another. Malice aforethought may be
7 expressed or inferred. These terms express and
8 infer do not mean different kinds of malice, but
9 merely the manner in which the malice may be shown
10 to exist. That is either by direct evidence or by
11 inference from the facts and circumstances which are
12 proved. Expressed malice is shown when a person
13 speaks words which express hatred or ill will for
14 another or when the person prepared beforehand to do
15 the act which was later accomplished. Malice may be
16 inferred from conduct showing a total disregard for
17 human life. If facts are proved beyond a reasonable
18 doubt sufficient to raise an inference of malice to
19 your satisfaction the inference would be simply an
20 evidentiary fact to be taken into consideration by
21 you, the jury, involving the other evidence in the
22 case and you may give it such weight as you find it
23 should receive. You, as jurors, are free to accept
24 or reject this permissive inference depending on
25 your view of the facts that malice is present in the

1 mind of one doing the killing any length of time
2 before the act then its presence would be sufficient
3 to render the killing of murder.

4 Criminal intent is a necessary element of
5 the crime of murder and must be proved by the State
6 beyond a reasonable doubt. Criminal intent is
7 always a matter that must be determined by the jury
8 from the circumstances surrounding the situation.
9 So the law states that criminal intent may be
10 inferred from the circumstances shown to be -- to
11 have existed.

12 The State is not required to prove motive,
13 although the presence or absence of this evidence of
14 motive may be considered in making your
15 determination in this case. Criminal intent is a
16 state of mind that operates jointly with an act in
17 the commission of the crime. Intent includes those
18 consequences which represent the very purpose for
19 which an act is done or be or known to be
20 substantially certain to result regardless of
21 desire. Criminal intent is a mental state, a
22 conscious wrongdoing, so it's up to you, the jury,
23 to determine what the defendant intended to do based
24 on the circumstances shown to have existed. I tell
25 you that the State must prove criminal intent as it

1 must prove every other element beyond a reasonable
2 doubt. That's the charge I'm working on.

3 MR. GAMBRELL: Yes, sir.

4 THE COURT: You okay with that?

5 MR. GAMBRELL: Yes, sir.

6 THE COURT: Okay. And obviously the
7 State's okay with that?

8 MR. MILLER: Yes, Your Honor.

9 THE COURT: Okay. The -- there is a --
10 tell me your position on self-defense and I'll tell
11 you what my position is.

12 MR. GAMBRELL: Well, we're asking for the
13 charge obviously, Your Honor, and I, I mean,
14 depending on what your ruling is I'd like to be
15 heard on that, just note the record.

16 THE COURT: Mr. Gregory gonna tell me
17 something. He was over there. He want to tell me
18 something about self-defense, either he or
19 Mr. Miller. I don't know which one want to talk to
20 me about it. Either one you want to jump up, go
21 ahead.

22 MR. MILLER: The State's opposed to the
23 charge, Your Honor.

24 THE COURT: Huh?

25 MR. MILLER: The State is opposed to the

1 charge.

2 THE COURT: I know you are. I know you
3 are, but I'm gonna charge self-defense. I know you
4 are. I'll make note of it in the record. But let
5 me just tell you what the charge on self-defense,
6 the proposed charge on self-defense. Since we got a
7 little time I can just read that to you. It's not
8 too long. The defendant has raised a defense of
9 self-defense. Self-defense is a complete defense
10 and if established, you must find the defendant not
11 guilty. The State has the burden of disproving
12 self-defense by proof beyond a reasonable doubt. If
13 you have a reasonable doubt of the defendant's guilt
14 after considering all the evidence, including the
15 evidence of self-defense, then you must find the
16 defendant not guilty. On the other hand, if you
17 have no reasonable doubt as to the defendant's guilt
18 after considering all the elements, evidence,
19 including evidence of self-defense, then you must
20 find the defendant guilty.

21 The following elements are required to
22 establish self-defense. One, without fault. The
23 defendant must be without fault in bringing on the
24 difficulty. If the defendant's conduct was the type
25 of which was reasonably calculated to and did

1 provoke a deadly assault, the defendant would be at
2 fault in bringing about the difficulty and would not
3 be entitled to an acquittal based on self-defense.

4 Imminent danger, number two. The second
5 element of self-defense is the defendant was
6 actually in imminent danger of death or serious
7 bodily injury or that the defendant actually
8 believed he was in imminent danger of death or
9 serious bodily injury. If the defendant was
10 actually in imminent danger, it must be shown that
11 the circumstances would have warranted a person of
12 ordinary firmness and courage to strike the fatal
13 blow to prevent death or serious bodily injury. If
14 the defendant believed he or she was in imminent
15 danger of death or serious bodily injury, it must be
16 shown that a reasonably prudent person of ordinary
17 firmness and courage would have had the same belief.
18 In deciding whether the defendant actually was or
19 believed he or she was in my danger of death or
20 serious bodily injury, you should consider all the
21 facts and circumstances surrounding the crime,
22 including the physical condition and characteristics
23 of the defendant and the victim. The defendant does
24 not have to show that he or she was in actual
25 danger. It is enough if the defendant believed he

1 or she was in imminent danger and a reasonable
2 prudent person of ordinary firmness and courage
3 would have had the same belief.

4 The defendant has the right to act on
5 appearances even though the defendant's belief may
6 have been mistaken. It is for you, the jury, to
7 decide whether defendant's fear of imminent danger
8 or serious bodily injury was reasonable and would
9 have been felt by an ordinary person in the same
10 situation.

11 Lastly, a final element of self-defense is
12 the defendant had no other probable way to avoid the
13 danger of death or serious bodily injury than to act
14 as the defendant did in this particular instance. A
15 person cannot be required to make an exact
16 calculation as to degree of amount of force which
17 may be needed to avoid death or serious bodily
18 injury. Therefore, in self-defense the defendant
19 has the right to use the force needed to avoid
20 serious bodily injury or death. The force used in
21 self-defense does not have to be limited to the
22 degree of medical -- limited to the degree or amount
23 of force used by the victim. The defendant has the
24 right to use so much force as appeared to be
25 necessary for complete self-protection and which a

1 person of ordinary reason and firmness would have
2 believed to be needed to prevent death or serious
3 bodily harm.

4 The relative sizes, ages, and weight to
5 the defendant and the victim may be considered in
6 deciding the apparent or actual need of force in
7 self-defense in the amount of force needed. If the
8 defendant is justified in defending him or herself,
9 or others in firing the first shot, then the
10 defendant is also justified in continuing to shoot
11 until it is apparent that the danger or serious
12 bodily injury has completely ended. That's a
13 standard self-defense charge; but I'll be glad to
14 hear from you, Mr. Miller, or you, Mr. Gregory.

15 MR. MILLER: Your Honor, I believe under
16 State v. Marin, also in regards to able to keep
17 shooting, under that same case law it states a
18 person who fatally wounds another even in
19 self-defense is not entitled to hasten the victim's
20 death by continuing to pump bullets into the
21 victim's body 'cause that is -- it ends when a
22 reasonable person believed the threat is over, that
23 you're not allowed to just keep on shooting.

24 THE COURT: All right. But what I'll do
25 is, I'll just eliminate the last line of the charg,

1 which says defendant is justified in defending
2 themselves in firing the first shot. Then the
3 defendant is also justified continuing to shot until
4 it is apparent, which is this one.

5 MR. GAMBRELL: Well, I would object to
6 taking that out actually, Judge.

7 THE COURT: You read the case that he
8 cited?

9 MR. GAMBRELL: I have read Marin, but I
10 think based on the facts, you know, Dr. Wassum
11 testified that the first shot was not a fatal shot
12 and I don't think that, you know, Mr. Morris would
13 have known to what expense.

14 THE COURT: I understand. What you're
15 saying is I'm saying is, how does your argument
16 reconcile with the language? That's a recent case;
17 isn't it?

18 MR. MILLER: Yes, Your Honor. I've got it
19 here.

20 THE COURT: I believe it was -- is it a
21 Court of Appeals case?

22 MR. MILLER: It is a Supreme Court case
23 and it is from 2016.

24 THE COURT: Yeah. How do you -- how do
25 you reconcile your argument with the language as set

1 forth in that case?

2 MR. GAMBRELL: I've just pulled it up,
3 Your Honor.

4 THE COURT: All right. What's the cite on
5 that case, Mr. Miller?

6 MR. MILLER: Your Honor, it's 415 SC 475.

7 THE COURT: Okay.

8 MR. MILLER: Judge, I have a copy I can
9 bring up and direct to the language that I'm
10 referencing in the case.

11 THE COURT: What'd you say, Mr. Miller? I
12 didn't hear you.

13 MR. MILLER: I have a copy of the case for
14 the Court if you'd like, and I'm directing to Page
15 4. It's just under -- it's paragraph marked 3. And
16 just under that line it references The Court of
17 Appeals expressed concern that the charge Marin
18 request is not correct statement of law. On this
19 point the Court of Appeals erred for where
20 previously held that when a person is justified in
21 firing the first shot, he is justified to continue
22 to shoot until it is apparent that the danger to his
23 life and body has ceased. They state to Hendrix,
24 270 S.C. 653, citation interpretations marked. And
25 then also, CJS Homicide, a person who fatally wounds

1 another even in self-defense is not entitled to
2 hasten the victim's death by continuing to pump
3 bullets into the victim's body.

4 THE COURT: So apparently, the language in
5 this case suggests the modification of the
6 boilerplate language that's been utilized in the
7 past.

8 MR. MILLER: I believe so, Your Honor.

9 THE COURT: You found it, Mr. ---

10 MR. GAMBRELL: Yes, sir. I was just
11 trying to find the facts on the case 'cause it looks
12 like Marin had requested the initial charge, and the
13 court was finding that the trial court's decision
14 denying that request was -- they denied the
15 defendant's, they did not find that abuse of
16 discretion. I mean, it says that under the specific
17 language of the trial court's charge in this case,
18 Marin, quote, may use such force as is reasonably
19 necessary, i.e., fire the second shot if such is
20 reasonable to prevent death or great bodily injury,
21 closed quote.

22 MR. MILLER: I don't disagree with that
23 language, but I think it's important to add the
24 remaining language that you're not allowed to hasten
25 the death and continue to pump bullets into the

1 person's body, which I think is very important to
2 the facts of this case.

3 THE COURT: All right.

4 MR. GAMBRELL: And I don't see where that
5 language is in this case. Point me to the page.

6 THE COURT: On Page 4.

7 MR. MILLER: On the printout, Your Honor.

8 THE COURT: 4, Paragraph 3, Roman numeral
9 III, about halfway down.

10 MR. GAMBRELL: And, again, that's a
11 citation that's not coming from a specific case and
12 I don't think that that's the holding of this case.
13 That's coming from a treatise.

14 MR. MILLER: I would say that the Supreme
15 Court felt important enough to include in its ruling
16 in this case as a matter of law that not allowed to
17 hasten a person's death by continuing to pump
18 bullets into them, which I believe makes it fall
19 under the objective standard the reasonably prudent
20 person in ordinary firmness and encourage as to when
21 you believe that the threat is over as to when you
22 would then have to stop shooting.

23 MR. GAMBRELL: What was the last part of
24 your charge, Your Honor?

25 THE COURT: If the defendant is -- it's

1 really essentially the same thing mentioned in this
2 case. If the defendant is justified in defending
3 him or herself or others in firing the first shot,
4 then a defendant is also justified in continuing to
5 shoot until it is apparent that the danger of death
6 or serious bodily injury is completely ended. I
7 think it references language, but I think Mr. Miller
8 has indicated the Court of Appeals looked at that
9 charge and gave it ---

10 MR. MILLER: Supreme Court, Your Honor.

11 THE COURT: I mean, Supreme Court, looked
12 at it and viewed a different interpretation.

13 MR. GAMBRELL: It looks like they -- the
14 charge that the court gave in that case, and I think
15 Marin was requesting for that language that Your
16 Honor used and then the Court of Appeals stated that
17 the charge that he requested was not a correct
18 statement of law.

19 THE COURT: Supreme Court did.

20 MR. GAMBRELL: Well, yes, sir, the Supreme
21 Court stating that the Court of Appeals expressed
22 concern. On this point the Court of Appeals erred
23 and we had previously held that when a person is
24 justified in firing the first shot, he's justified
25 in continuing to shoot until it is apparent that the

1 danger to his life and body has ceased. And then he
2 quotes the language Mr. Miller brings up, a person
3 who fatally wounds another. While we acknowledge
4 that the language accurately states the law, our
5 inquiry on appellate review is concerned only with
6 the question of whether the jury charge reviewed as
7 a whole accurately conveys the law of self-defense.

8 MR. MILLER: I think in regards to that,
9 they included in their citation saying here's the
10 error, here's what they should have done. They
11 included the part about continually pumping bullets
12 into a person's body.

13 MR. GAMBRELL: That is -- that is not in
14 the charge that has been given and it's not found in
15 the case. It's simply the supreme courts, you know,
16 stated what the general law of self-defense is, as I
17 read this case. They go on and state from the
18 bran-- if the jury charge is correct if when the
19 charge is read as a whole contains the correct
20 definition and adequately covers the law. I don't
21 think that they were approving that the language in
22 this.

23 THE COURT: You don't what?

24 MR. GAMBRELL: I don't think the Supreme
25 Court was approving of its language. They were

1 simply saying that Marin requesting the charge that
2 he didn't get was not an error. The court did not
3 commit an error by failing to give him the charge.

4 MR. MILLER: I believe Mr. Gambrell said
5 they recited the law of self-defense which the court
6 appears to state includes this language.

7 MR. GAMBRELL: That has never been a
8 holding of any Court of Appeals or Supreme Court.

9 THE COURT: Well, it was important enough
10 for them to address it.

11 MR. GAMBRELL: Well, I mean, but they
12 stick opinions on cases all the time to explain
13 their reasoning. They're not approving this
14 language as a jury charge. They're simply using it
15 to explain why failing to give Marin the charge is
16 not an error of law.

17 THE COURT: Well, what I'm -- is that --
18 what I'm inclined to do is to -- I'm gonna rely on
19 the State v. Marin case and I think we -- we've
20 already put the citation in the record, 415 S.C. 475
21 and I'm going to rely on the language in that case
22 and I'm going to not read the last sentence of the
23 charge.

24 MR. MILLER: Would Your Honor mind just so
25 I can refresh after all that, just so where the

1 charge will end?

2 THE COURT: The charge will end on the
3 self-defense -- relative sizes, ages, and weight of
4 defendant and the victim may be considered in
5 deciding the apparent or actual need of force in
6 self-defense in the amount of -- that's it. We'll
7 stop there. And next, the last sentence in the
8 boilerplate charge that I have, the Court's relying
9 on State v. Marin, did not include that language.

10 You're not -- I'll note your objection to
11 that, Mr. Gambrell for the record.

12 MR. GAMBRELL: Thank you, Your Honor.

13 MR. MILLER: Your Honor, just to clarify
14 and, Mr. Gregory, to make sure we're on the same
15 basis so we're -- the Marin language is not included
16 in the last sentence is removed from the charge.

17 THE COURT: Do what now?

18 MR. MILLER: I'm just clarifying
19 discussion with Mr. Gregory the Marin language we
20 discussed is not included. The last sentence is
21 removed from the charge?

22 THE COURT: Yes.

23 MR. MILLER: Thank you, Your Honor.

24 THE COURT: And Mr. Gambrell's objections
25 are noted for the record. The -- on the issue of --

1 on possession of a weapon during the commission of a
2 violent crime, this is some really short language.
3 It just says that a person is possession of a
4 firearm or visibly displays what appears to be a
5 firearm during the commission of a violent crime
6 is -- and is convicted of committing a violent crime
7 as defined in Section 16-1-60, which defines murder,
8 a violent crime would violate Section 16-23-490.
9 The term "firearm" is defined in this section as any
10 revolver, pistol, or any weapon which will or is
11 designed to or may be readily be converted to expel
12 projectile. Ladies and gentlemen of the jury, you
13 are not partisans or advocates for the State of
14 South Carolina or Defendant. You do to as jurors to
15 reward friends or enemies. You have been selected
16 by both State and Defendant as fair and impartial
17 jurors. It is your duty made by your oath and jury
18 joint deliberations to determine the truth in this
19 case giving this defendant the benefit of every
20 reasonable doubt. Then to the facts which you
21 determine to be true, you take and apply the law
22 which have been given to you by this court, thus
23 arrive at a verdict which says -- arrive at a
24 verdict. The word verdict which has a Latin
25 derivative means truth, a true saying. When you

1 have accomplished this and completed your verdict,
2 you will have satisfied your oath as jurors, you
3 will discharge your duty to the State and to
4 Mr. Morris and the court. That's the last thing I'm
5 gonna say.

6 Now I did take -- there was some
7 controversy regarding asking the juror -- the jury,
8 to arrive at a verdict which speaks the truth.
9 There was some question about that among the -- not
10 the judges, but also on the appellate court whether
11 or not we should say that, so you notice that I
12 didn't put that language in there just so -- we just
13 as collectively decided to stick -- take that word
14 out. In other words, that sentence used to say
15 this, then to the fact which you determine to be
16 true, you take and apply the law which has been
17 given to you by this court and, thus, arrive at a
18 verdict which does speak the truth of the case. And
19 so I'm taking that out. I'm leaving, which does
20 speak the truth of the case, and leave that
21 particular line out and stopping there. I would
22 stop at this sentence. I'll read it again. Then to
23 the facts which you determine to be true, you take
24 and apply the law which has been given to you by
25 this court and, thus, arrive at a verdict, and

1 that's how it ends.

2 MR. MILLER: I also have the verdict form.

3 THE COURT: Have you seen it to Mr.
4 Gambrell?

5 MR. MILLER: Yes, I've shown it to
6 Mr. Gambrell.

7 THE COURT: All right. All right. You
8 okay with this, Mr. Gambrell?

9 MR. GAMBRELL: With the verdict form?

10 THE COURT: Yes.

11 MR. GAMBRELL: Yes. Yes, Your Honor.

12 THE COURT: All right. Anything else that
13 we need to discuss relative to the charges or the
14 verdict form? Of course, Mr. Gambrell, again, your
15 objection are noted, is noted for the record.

16 Mr. Miller and Mr. Gregory, your objection
17 to the charge and self-defense is noted for the
18 record, and we will make the appropriate redactions
19 based on the case law that we just talked about.

20 MR. MILLER: Thank you, Your Honor.

21 MR. GAMBRELL: Judge, we would also ask
22 for a charge on defense of others.

23 THE COURT: Give me justification for
24 that.

25 MR. GAMBRELL: Mr. Morris was there with

1 his girlfriend and his two children. They were
2 there in the vicinity, avoiding this occurring. His
3 testimony was that he perceived a threat from Mr.
4 Deck towards him and his family, and he was there
5 ---

6 THE COURT: Didn't he -- didn't he run out
7 the store and leave the other people in the store?

8 MR. GAMBRELL: He did leave the store,
9 yes, sir.

10 THE COURT: So how you get there? How you
11 get to defense of others out of that?

12 MR. GAMBRELL: Well, to him I guess the
13 threat had been removed at that time.

14 THE COURT: That's why he ran?

15 MR. GAMBRELL: Or that's why it -- it was
16 no longer a threat to his family.

17 THE COURT: Mr. Miller, Mr. Gregory, I'm
18 not inclined to charge that, but I'll hear from you.

19 MR. MILLER: I agree with the Court, Your
20 Honor.

21 THE COURT: I'm not gonna charge that.

22 MR. GAMBRELL: Please note our objection
23 for the record, Judge.

24 THE COURT: So noted for the record. All
25 right.

1 MR. MILLER: Ask for a two second bathroom
2 break before we get started.

3 THE COURT: Yeah, we'll -- let's take
4 about a five minute bathroom break.

5 (WHEREUPON, a recess was taken from the
6 proceedings.)

7 THE COURT: That juror, we're replacing
8 Juror No. 1. Juror No. 2 -- alternate, sorry,
9 alternate number one is sick so alternate number one
10 will be -- who's alternate No. 2? Who's alternate
11 2?

12 THE CLERK: Leslie Townsend, No. 193.

13 UNIDENTIFIED: Leslie Townsend is
14 Alternate 2.

15 THE COURT: Okay. She'll be on there.
16 She becomes Alternate No. 1.

17 MR. MILLER: Judge, the State would
18 request that after argue and charge that the
19 alternates not be released in case anything comes up
20 that we would need an alternate again, that they not
21 be released and remain back, that they not be with
22 the jury during deliberation, be separate, but not
23 be released.

24 THE COURT: I wonder why you're asking me
25 that.

1 MR. MILLER: Nothing, nothing comes to
2 mind.

3 THE COURT: All right. Y'all ready?
4 Bring them out.

5 (Pause.)

6 THE COURT: All right, Mr. Gambrell, I'm
7 gonna let you rest on the record.

8 MR. GAMBRELL: Yes.

9 THE COURT: And then you need some time to
10 complete that to go into closings, or y'all good to
11 go straight into it?

12 MR. MILLER: The State's ready to proceed.

13 THE COURT: You ready?

14 MR. GAMBRELL: Yes, Judge, and I also
15 think when I do close, we're probably gonna do our
16 motion for directed verdict also.

17 THE COURT: All right. So I'll send them
18 out for a minute.

19 MR. GAMBRELL: Thank you.

20 (WHEREUPON, the jury was returned to the
21 courtroom at 10:42 a.m., and the following
22 proceedings commenced in open court.)

23 THE COURT: Good morning. Juror No. 193,
24 where are you? All right. You were the second
25 alternate and you're now the first alternate. And,

1 sir, you're gonna be the second alternate. All
2 right.

3 Mr. Gambrell.

4 MR. GAMBRELL: Your Honor, at this time
5 the Defense rests.

6 THE COURT: All right. Okay. All right.
7 Ladies and gentlemen of the jury, I hate that I'm
8 gonna have to send you back that way, but I'm gonna
9 have to send you back to your jury room for just a
10 minute. When you come back, counsel will be going
11 in to what is called closing arguments. Closing
12 arguments, obviously, is not evidence. At the
13 beginning of the case. You remember I said that
14 counsel is going to give you opening statements in
15 terms of where they thought the evidence may lead.
16 Now that you've heard all the evidence, counsel is
17 now permitted on both sides to give you what is
18 called closing statements, in other words, their
19 interpretation what the evidence did lead to. But
20 here, again, opening statements or closing statement
21 is not evidence. That's just the attorneys'
22 opportunity to tell you where they think the
23 evidence went to. So I'm gonna send you back to
24 your jury room for just a minute. When you come
25 back in, we'll go into closing arguments. Okay?

1 (WHEREUPON, the jury was removed from the
2 courtroom at 10:45 a.m.)

3 THE COURT: All right, the Court will
4 entertain any motions.

5 MR. GAMBRELL: Your Honor, at this time
6 the Defense would renew their motion for directed
7 verdict that we made at the end of the State's case,
8 at the close of their case.

9 THE COURT: All right. Anything in reply,
10 Mr. Miller or Mr. Gregory?

11 MR. MILLER: In response to the directed
12 verdict motion, the State feels that we have met the
13 burden as evidence viewed in a light most favorable
14 to the State. Same arguments as we made after the
15 State rested. We don't feel that the Defense's case
16 shifted that any way, that all the evidence viewed
17 in a light most favorable to the State, we have met
18 the elements for the jury for a charge of murder, as
19 well as possession of a weapon in commission of a
20 violent crime.

21 THE COURT: All right. I'm gonna deny
22 Defense's motion for directed verdict. I think
23 there's ample evidence for the matter to be
24 submitted to the jury. All right. Anything else?
25 All right. State's ready to go into closing

1 arguments. Defense is ready to go into closing
2 arguments.

3 MR. MILLER: Yes, Your Honor .

4 MR. GAMBRELL: Yes, Your Honor.

5 THE COURT: Okay, let's bring them back.

6 (WHEREUPON, the jury was returned to the
7 courtroom at 10:48 a.m., and the following
8 proceedings commenced in open court.)

9 THE COURT: All right. State ready to
10 proceed?

11 MR. MILLER: Yes, Your Honor.

12 THE COURT: All right. Mr. Miller or Mr.
13 Gregory.

14 MR. MILLER: Your Honor, I'm waiting to
15 see -- we had a slide show, if I can get it to show
16 up on the screen for the jury. Once, again, brief
17 technical difficulty. I have my IT here.

18 THE COURT: All right.

19 MR. MILLER: Sorry about that, ladies and
20 gentlemen of the jury. As you heard earlier, my
21 name is Walker Miller. And, Your Honor, may it
22 please the Court.

23 THE COURT: Yes, sir.

24 MR. MILLER: I'm an assistant solicitor of
25 the 13th Circuit Solicitor's Office. And as you met

1 earlier, this is John Gregory, also assistant
2 solicitor, as well as Sonia Browning, investigator
3 that we work with in our office. And we're here
4 today on the case of State v. Braylon Morris on the
5 two charges of: Murder, possession of a weapon
6 during the commission of a violent crime. And
7 initially, I want to talk to you a little bit about
8 what these charges are, and His Honor is going to
9 charge you on the law and what His Honor charge you
10 is the law. This is -- I'm trying to break it down,
11 see if I can make it simple; but to be clear, His
12 Honor is charging on the law.

13 Possession of a weapon during the
14 commission of a violent crime is statute Section
15 16-23-490. It essentially states that if a person
16 is committing a violent crime, is convicted of a
17 violent crime and a weapon is used in possession,
18 commission of a violent crime, then they would be
19 guilty of possession of a weapon during the
20 commission of a violent crime. And violent crimes
21 are defined in 16-1-60. And in South Carolina
22 murder is defined as a violent crime and a firearm
23 is defined as a weapon.

24 Murder is the killing of any person with
25 malice aforethought either expressed or implied. So

1 it's unlawful to kill. And what this means, it is a
2 general intent, not a specific intent. And what
3 general intent, how you would know something is a
4 general intent crime is by the character of the act,
5 the character of the instrument that is used, the
6 manner that the instrument is used, the purpose
7 being accomplished, and with it being murder that it
8 results in the death of another person. The intent
9 can be inferred, that the action is going to be
10 willful and voluntary. So from the act, the willful
11 and voluntary act, you can infer the intent of the
12 person and that the natural tendency of that act is
13 like the judicial(ph) area in another person's life.
14 Another person, one person kills another person.

15 Malice aforethought. Malice is a hatred;
16 it's an ill will. It's a hostility towards another
17 person. Aforethought means that the malice has to
18 exist at least just before and at the time of the
19 act. It does not mean there has to be a long drawn
20 out plan; it can form in an instant. It can form
21 just before; but that's when it has to exist, those
22 two times. And it can also be expressed or implied.
23 You can have an example of expressed is there can be
24 statement of, I am going to kill you. There could
25 also have a list of items that were purchased at a

1 store that is gonna be an example of expressed
2 malice. Implied is you look at the circumstances.
3 As the conduct of the circumstances, does it show a
4 total disregard for human life because, again, in
5 murder we are talking about the killing of another
6 person so did the circumstances around show the
7 malice.

8 And, again, as we stated in opening, the
9 standard of proof that -- the standard of proof is
10 beyond a reasonable doubt, but the burden of proof
11 lies solely at this table. That is for Mr. Gregory
12 and I to prove to you beyond a reasonable doubt the
13 elements of these two crimes. And now beyond a
14 reasonable doubt, as Mr. Gregory said, is not all
15 doubt, it is not 100-percent, and in fact, is a
16 reasonable doubt. It is a burden of reasonableness,
17 a bar of reasonableness, because not every question
18 can be answered or anything of that nature. And
19 that's why it is not 100-percent. In a lot of ways
20 it can get defined as hesitate to act or firmly
21 convinced. And now hesitate to act does not mean
22 that when you go back and you deliberate and if one
23 of you have a question and you stop and you think
24 for a second and you ask a question, that's not
25 hesitating to act; that is fulfilling your oath as a

1 juror and examining the evidence and deliberating.
2 But as -- once you have reached a decision, are you
3 firmly convinced in your decision and that you can
4 say this is my decision and then you would be beyond
5 a reasonable doubt. So the way I like to think
6 about that is, well, it's how do you know that
7 'cause this can be an experience I would imagine for
8 most everybody here. When you're confronted with
9 new experiences, how do you guide yourself through
10 those experiences to make the best decision. I
11 suggest you use your common sense. No one asked you
12 to leave that at the door. There's a lot of things
13 you can't bring into the courthouse or to the
14 courtroom itself, but your common sense and your
15 life experience will be your guiding light. As you
16 see a new situation, you use your common sense to
17 move through it to make the best decision that you
18 can. And this is what we are here about today.

19 And I want to go through this a little
20 slowly to point some things out to you. As you can
21 see here, this is a still frame and the circle there
22 is the defendant Braylon Morris. Now this coming
23 into the frame up at the top, you can see an arrow
24 pointing to the leg of Jason Deck coming in. Here,
25 I believe you can tell that Braylon Morris is

1 looking at Jason Deck. You can look at the bill of
2 his hat. You can look at his shoulders and the way
3 his head is turned. He is already looking at Jason
4 Deck and he already sees him. And now in this
5 frame, Mr. Morris is completely turned. He's facing
6 Jason Deck as Jason is getting closer, and -- and
7 he's already reaching for the firearm in his left
8 pocket. On this frame, this is the time we first
9 see Jason Deck and Braylon Morris both their full
10 bodies in the frame at the same time. Jason Deck
11 does not appear to be looking at Braylon Morris, but
12 Braylon Morris is looking at him. If we go to the
13 last frame and we look at this feet, he is now
14 already moving towards Jason Deck. And this shows
15 the distance that Mr. Morris covered, and I would
16 say this is probably about the time Jason Deck first
17 sees Braylon Morris.

18 Now in this frame we can see Mr. Morris is
19 still reaching in his left pocket where the firearm
20 is, and we can see both of Jason Deck's hands. I
21 ask you, you remember from testimony you heard, Mr.
22 Morris said that he originally perceived a threat
23 because Jason Deck had his hand in his pocket; but
24 when both of his hands came out of his pocket, he
25 was no longer looking at his hands. Common sense to

1 me that just doesn't make sense. But we can see in
2 this frame Jason Deck does not have anything in his
3 hands at all; and now in this frame, you can still
4 see there's nothing in Jason Deck's hands and we can
5 clearly see the firearm in Braylon Morris's left
6 hand. And there it appears that he is still moving
7 towards Jason Deck.

8 Now also, I think let's pay attention to
9 as we heard the lady down at the bottom of the
10 screen in the purple/blackish dress is Heidi
11 Meriweather who Braylon was in a relationship at the
12 time. Those are her -- her two boys there with her,
13 and Mr. Morris. And Mr. Morris has said he was
14 there not only to defend himself, but he was also
15 mentioning the kids as well and so I'll mention them
16 a little bit as well. I think we can use our common
17 sense with conduct that Heidi and what happens with
18 the kids, as we look at this as to what this was
19 really about. So here, we can see Heidi is starting
20 to move. Braylon you can tell from last frame to
21 this frame, is still moving towards Jason Deck, the
22 gun is out. And as we take a look, we have to
23 circle around the hands. Nothing in his hands, but
24 also is that his hands are down low, he does not
25 have them up in fists. He's not trying to punch.

1 He's not trying to lunge. He is not doing anything.
2 If you take a look at Jason Deck's feet with the air
3 is he was actually backing him up. Here to here he
4 is backing up. And that aligns with what Hazen
5 George said, would that be a person who was shot was
6 trying to get away.

7 Now, here we have Braylon still moving
8 towards Jason and Heidi is running towards Braylon.
9 She is not running towards her son right there.
10 That's not where her attention is directed. Common
11 sense will tell you that this is not about the kids.
12 And again we see Jason's got nothing in his hands.
13 He's not making any type of motion towards Braylon
14 in threatening in any way. Now what we see here in
15 this frame is Jason Deck backs up. You can see his
16 shoulder starting to turn and now the firearm is
17 being pointed at him, and here's the first shot.
18 Then the gun jams as Braylon testified to. He
19 tried to shoot again, the gun jammed. Jason Deck is
20 falling to the ground. Braylon re-racks the gun,
21 oriented to fire. Jason Deck is now on the ground.
22 Braylon Morris is moving towards him and getting the
23 firearm ready to shoot again. And now we have Jason
24 Deck fully on the ground. Braylon Morris is moving
25 towards him. But also, Heidi's son is standing in

1 the middle of the aisle but one, by himself. That
2 tells us this is not about the boys. This is
3 between Braylon Morris and Jason Deck and that's it.

4 We have the second jamb. Now look how far
5 away Heidi has even moved from her own son because
6 that's not what it's about. We have the second
7 re-rack when Braylon Morris is standing over Jason
8 Deck lying motionless on the floor. He's getting
9 ready to shoot him again. And there's the second
10 shot. And then Mr. Morris does not go back to check
11 on the little boys. He doesn't go to check and see
12 if Heidi is okay; he leaves. And when he leaves, he
13 said he was jogging. I hope running, it's a general
14 term. I'm not saying sprint or anything, just not
15 walking. He's fleeing the scene. And as he's
16 running, at least at a pace fast enough that both of
17 his feet are off the ground, the hat does not come
18 off. We have to lie (ph) and believe that's
19 important.

20 Now we know we pick up with Mr. Morris
21 around at the TitleMax at White Horse Road from
22 Sergeant McCalmont's dash-cam, and we also heard
23 testimony that that is around the location of where
24 the red hat was found. Now I think it's interesting
25 about this scenario is Sergeant McCalmont decided to

1 no longer respond all the way to Walmart because
2 units were already on scene. And so now Braylon is
3 at a location closer to White Horse Road which is a
4 big road in Greenville County and there's already
5 police cars at the Walmart and this is response that
6 a lot of people coming that you heard about, a heavy
7 response. It would be reasonable to think that
8 Braylon saw police cars coming. As you heard in the
9 testimony, he knew it was on camera. And what would
10 stand out? A red hat. He can't be seen wearing the
11 red hat. He said it just fell off. I don't think
12 that makes sense when you use your common sense.
13 And so, pick up. Sergeant McCalmont's dash-cam.

14 (Video published to the jury.)

15 MR. MILLER: And I don't know if you
16 caught it over the radio, Sergeant McCalmont was
17 watching, more description came out. As he
18 testified, initial descriptions are not always
19 correct; but there's the initial description came
20 from Anthony Dubose, loss prevention officer, who
21 had a bunch of different things going on. He said
22 red shirt. Well, those shoes -- Braylon was wearing
23 a lot of red and he was wearing a red hat.
24 Reasonable to think, sat in that he was incorrect.
25 Sergeant McCalmont testified to you have to look for

1 other things that can't necessarily change. They
2 knew the description was also a black male, look for
3 a black male; and as he was following, you could
4 hear over the radio that heavier set came out as
5 well. And so, as he was watching, more of the
6 description came out from the watching of the video
7 that led to fit the description or Braylon Morris
8 started to fit more the description coming out over
9 the radio.

10 And I don't know if you recall from
11 watching the body -- from the body cam we watched,
12 but in the background you could hear they also
13 testified there were other people that were detained
14 as well in order to see if they could locate the
15 person who committed this crime, and Sergeant
16 McCalmont did. But I also want to talk about this a
17 little bit more in some detail because I think
18 there's some things to point out here as well. So I
19 have zoomed in over the aerial maps and some still
20 shots from the dash-cam that we just watched. And
21 so that red X I put where I believe is right about
22 where Braylon was at the scene on the video. And he
23 moves to about here and this is about the location
24 where, I believe -- no, it was this location I
25 believe has made eye -- Sergeant McCalmont made eye

1 contact with Mr. Morris. Now in this still frame --
2 I believe it's in the others, but I think it's clear
3 here -- there's two items that are gone: The red
4 hat and the gun. Talked about the red hat a little
5 bit now that Braylon is close to White Horse Road
6 which we can see coming across right there on the
7 aerial maps. And the gun is also gone. Now I asked
8 Braylon about the gun or where the gun. He said he
9 lost it and he misplaced it, it's where nobody can
10 find it. Sergeant, now Sergeant Bailey testified
11 about the search for the gun. It was multiple days.
12 Drones were used. Search for rooftops and metal
13 detectors were used. The firearm department was
14 involved. Many deputies are involved to search for
15 this firearm. Evidentiary value but also, as they
16 said, so a child doesn't find it. For those two
17 reasons, would be your two main reasons, why you
18 would want to find that firearm. It doesn't make
19 sense to me that you could just lose it so well and
20 also tell Investigator Bailey to look you in the eye
21 to say no one is going to find it, that you just
22 lost it that well. That doesn't make sense. What
23 makes sense to me is Braylon was now near White
24 Horse Road, the red hat would stand out. There's
25 deputies responding to the scene, so many deputies

1 responding that others are starting to canvass the
2 area instead of going to the scene. The red hat
3 will stand out and, also, if you are caught, you
4 don't want to be caught with the murder weapon.
5 Would it make sense he's trying to change his
6 appearance so that he can get away.

7 And now we pick up, it's right around
8 here. You can see the X with the location map. And
9 then we get to here. And we round this corner here
10 where there's skip steps involved as well. And
11 Sergeant McCalmont testified he cut through the
12 brush areas. I believe that will be more
13 representative of that line closer into the trees.
14 So what's interesting now is there's the TitleMax
15 with the yellow circle. You see where at one
16 location Braylon said he was going to Long John
17 Silver's, and we have gone around the old Bi-Lo
18 parking lot circling back to essentially face where
19 you were to begin with. And then when you're
20 walking in the parking lot to walk in between cars
21 and the drive-thru and the building, I don't know
22 about most people, but I've never thought to ever
23 walk in between cars and a building in a drive-thru.
24 It just didn't make sense he was trying to get to
25 Long John Silver's. It makes sense if you're trying

1 to escape arrest because you just committed a
2 murder. And so this was the path Braylon took.

3 Ladies and gentlemen, this shows a
4 consciousness of guilt. This shows a consciousness
5 of guilt by taking this path and moving it around
6 getting rid of the gun, getting rid of the hat. The
7 consciousness of guilt because Braylon knows that he
8 just committed murder. And before I hit play, I
9 believe everybody knows what's about to be said
10 before I hit play. I'd like to take a second and
11 appreciate this situation and this setting. A
12 person has just been arrested for murder, possession
13 of a weapon during the commission of a violent
14 crime. They're at the bond hearing for those
15 charges, in custody, and they're asked -- the
16 question was, why did you murder my son? And
17 Braylon said, well, can I tell him, can I tell him
18 why, I'll be straight up with him, I'll be honest, I
19 won't disrespect him. I believe those were the
20 words. They're not on this clip, but I believe that
21 was right before. And also those videos are in
22 evidence and you'll be able to go back and view them
23 in their entirety. And Mr. Morris said he was
24 saying those because he was just repeating the
25 charges that were there. He was -- and remember,

1 Mr. Morris was also told any statement you make
2 here -- by Judge Peden he was told this -- can be
3 used against you in your trial, where we are today.
4 His choice of words, no one forced him to say it,
5 was "the reason why I murdered your son." Not, it
6 was either me or him. Nothing like that. Yet later
7 he said after he says this, he threatened my life,
8 which we'll talk about in a minute; but I think
9 that's just you realize what you just said, you're
10 kind of trying to start to cover a little bit is
11 what it sounds like to me. But in that moment, in
12 that setting, when asked why did you do it
13 essentially.

14 (Video published to the jury.)

15 MR. MILLER: Now we heard about Scotty
16 Pope from here. We also heard about the name Scotty
17 in the text messages and between Jason Deck and
18 Braylon Morris. And it is through these text
19 messages that you'll have back with you, Braylon
20 says where he was threatened from. And you'll hear
21 a charge on self-defense and I'll talk about that
22 briefly; and I didn't highlight as much because I
23 really just don't believe it applies, but I want to
24 go through with why I do not believe that. In order
25 for self-defense to be established, you have to

1 prove certain elements.

2 The first element that has to be proved is
3 that the person asserting self-defense is without
4 fault in bringing on the danger. They do not have
5 fault in bringing on the danger. And you have to
6 have all of these elements. They all have to be
7 there. There isn't one that fails. We watched the
8 video. We went through -- I mean, the Walmart
9 video. We went through slide by slide, frame by
10 frame. I believe it is obvious that Braylon Morris
11 passed fault in this. I believe he fails here. He
12 approached Jason Deck. He was the only one with a
13 firearm. He shot him twice, once while he was
14 laying on the ground motionless. I believe he has a
15 lot of fault. I think that he carries, if not all,
16 the majority of the fault.

17 The next elements would be that person
18 actually believed they were in imminent danger or
19 they were actually in imminent danger. And this is
20 not a subjective standard, it is objective. And
21 what I mean by that as the standard is that the
22 reasonable person of ordinary prudence, firmness,
23 and courage would have held the same belief. Now
24 His Honor will give a detailed on self-defense and
25 I'm gonna tell you I'm -- seeing if I can break it

1 down a little. And so I want to talk about that,
2 that Braylon believed he was in imminent danger
3 because he said he was threatened and he said he was
4 threatened over text message. So here are the text
5 messages. The first text message is from Braylon
6 Morris to Jason Deck on June 26th. Remember this
7 happened on July 5th. And it states from Braylon to
8 Jason, "Death before dishonor, 424 universal logic."
9 So 424 part, the word death starts with the letter
10 D. It's the fourth letter of the alphabet. Before
11 B, 2, dishonor, 424. He says it was -- wouldn't
12 betray a friendship. But out of the blue you send a
13 text to somebody, death before dishonor. To the
14 person, as we heard at the bond hearing, introduced
15 you to "The rotten piece of shit who got me fucked
16 all the way up." I don't think that has anything to
17 do with betraying a friendship. Jason Deck
18 responded, "Hey, Bro, I put it on my six, I'm gonna
19 make this right somehow." Braylon Morris sent the
20 emoji. And now June 27th, Jason texted Braylon,
21 "Hey, I know where he's at. I found out where he's
22 staying." Okay. Now we go to July 3rd. So we've
23 gone from June 27th to July 3rd now. That's five or
24 six days. Braylon re-- I wouldn't necessarily call
25 this a reply at this point because so many days have

1 passed; this just seems like starting anew. Text to
2 Jason, "What's good?" And he texts, "Why you look
3 for me." And he texts, "So basically all y'all
4 muthafucakas police." Text, "Fuck 12. You fake as
5 fuck. You police too." Text this emoji again. So
6 at this point it seems as though Braylon is pretty
7 agitated with Jason Deck.

8 Now we're still on July 3rd. All the
9 remainders of these are on July 3rd. This is the
10 time they had communication. Jason Deck said, "Look
11 here, Bro, I done told where he's at and even though
12 I introduce y'all, I ain't responsible for what his
13 faggot ass does. I done my fuckin part. Now you do
14 yours and go fuckin. Get him and don't be calling
15 me no fuckin 12." And Jason says, "I ain't got shit
16 to say, B. I ain't no fucking 12." Then he texts,
17 "Ask any fuckin body." And Braylon says, "Pick up
18 your phone." That would indicate Braylon was trying
19 to call there. That time he was telling him to pick
20 up his phone and that Jason Deck is not picking up
21 his phone. It appears he doesn't want to talk to
22 him. Braylon texts, "I ain't tripping about you.
23 I'm pissed about that muthafucka." So he's mad
24 about the person, Scotty Pope, who Jason Deck
25 introduced him to. As you heard, his feelings

1 towards Scotty Pope. Scotty Pope texts -- I'm
2 sorry, Jason texts to Braylon, "Yes, what the fuck
3 ever. I done 5 fuckin bids and never had a fuckin
4 seatbelt charge dropped so fuck who ever say I'm
5 12." Sounds like he's saying I don't associate with
6 the police either. "I got 12 big boy charges and
7 attempted murder and know they gonna try and career
8 me out but when it goes down, I'm shooting out with
9 them bitches." Sounds like he's not -- would not
10 get along with the police if they had an encounter
11 again. "Ain't shit none of y'all can do to me. I
12 ain't that pussy boy Scotty so fuck all y'all and
13 this fuckin life." Braylon texts back, "I don't
14 give a fuck about none of that." So even as though
15 Braylon says this was the text that he says he felt
16 all the threats came from, that text from Jason was
17 sent 4:54 p.m. July 3rd. Braylon's response, "He
18 didn't care about it," it was at 4:56. So even this
19 text that was supposed to be his big friend, Braylon
20 didn't care about. Says, "Since you talking SHH" --
21 S-H-H -- "and can't pick up the phone you fake."
22 And Braylon says, "You know where I'm. Pull up."
23 Braylon was telling him to come to him. And
24 remember, he said that at this time Heidi and her
25 children were living with him. It doesn't make

1 sense that if you felt so threatened that you would
2 tell the threat to come to the house where your
3 girlfriend and her kids are living with you as well.
4 That doesn't make sense. It's because it wasn't a
5 threat; Braylon didn't take it as one. Jason
6 responded, "Really, B, is that what u want."
7 Braylon responded, "You fake." Response, then
8 Braylon said, "Pull up," the second time telling him
9 to pull up. And Jason texted, "Over Scotty." And
10 that's the last communication. I would say from
11 these text messages, they tell you Braylon was not
12 holding imminent fear for his life. In fact, he
13 told him he wasn't worried about it. He told him to
14 pull up.

15 The other part of self-defense is there's no
16 other probable means of avoiding the danger. Well,
17 we saw the video brought by Walmart. I think it's
18 clear that Braylon saw Jason Deck first. He did not
19 tell Heidi to grab the kids and get out of here as
20 they stood there. He didn't try and grab him to get
21 out of there 'cause everybody stood there. Now
22 Braylon went up to Jason Deck and pulled out his
23 gun, ambushed him. He shot him and then he executed
24 him.

25 Now Walmart is also a big store. Probable

1 means of escape, multiple exits, turn around and go
2 the other way. Braylon would have you believe that
3 a line of people at self-checkout prevented him from
4 acting, say, Heidi and her kids. Doesn't make
5 sense, just doesn't make sense. All of the actions
6 indicate Heidi, Braylon, and this was just Braylon
7 going after Jason Deck. This is also not the only
8 time this comes up. As you heard when I crossed
9 Braylon, asked him about this call. And now look at
10 the date this call was, May 30th, 2020. We're
11 almost a year later. We're no longer this same,
12 it's because of a charge, I'm at a bond hearing,
13 which I don't buy; and he's talking to someone on
14 the phone that he knows. It wouldn't be I'm just
15 saying it because saying it's the charge; it doesn't
16 make sense.

17 So what does he say almost a year later and
18 also, remember those emails about say I can beat it
19 with self-defense and also the email of the CI is
20 still out there, if you want to help, you know what
21 can be done. It fits just one person, what are we
22 concerned about what can be done to another person.
23 And as Braylon said -- he didn't want to admit it at
24 first. He said Scotty Pope, in his eyes, has been a
25 known confidential informant for 15 years. So what

1 was said on this call.

2 (Call was published to the jury.)

3 MR. MILLER: Is that you got to make him
4 the aggressor because Braylon can't have fault. In
5 that email he said he's been doing research,
6 Braylon, in 2019. So he was doing research. It
7 seems like saying 'cause you can't have fault, you
8 got to make him the aggressor. And, again, the bond
9 hearing was not the only time Braylon called this
10 murder.

11 (Call published to the jury.)

12 MR. MILLER: So this bond hearing
13 (indiscernible) called it murder. In May 30th,
14 2020, he called it murder. And so as Mr. Gregory
15 told you, we will come back, we'd ask you for a
16 verdict. Ladies and gentlemen, I know these are
17 tough images. I know that these are tough videos
18 and you are performing an important job and duty and
19 looking at these tough things and looking to examine
20 these tough things to reach your decision. I'm not
21 the only one saying this is murder. Braylon's
22 called it murder twice. This was an ambush that
23 turned into an execution, and Braylon told you why
24 Jason Deck is dead, 'cause he introduced him to
25 Scotty Pope, the guy that fucked all the way up.

1 And remember those convictions of
2 trafficking meth and trafficking in heroine, they
3 were pending when this happened, and that's what
4 this is about. That is why I'm asking to
5 deliberate, fulfill your oath; and I believe after
6 you do, you'll be firmly convinced and I'm asking
7 you for a verdict that justice deserves. That is a
8 verdict of guilty. Thank you.

9 THE COURT: All right. Thank you,
10 Mr. Miller.

11 Mr. Gambrell.

12 MR. GAMBRELL: Yes, sir, Your Honor. May
13 it please the Court.

14 THE COURT: Yes, sir.

15 MR. GAMBRELL: When I -- when I first was
16 able to speak with you all and, you know, I told you
17 this wasn't about a whodunit or a how, it was a --
18 it was a why. And honestly, Lamar has been charged
19 with murder and Judge Kinlaw is going to instruct
20 you on what that means here in South Carolina. But
21 essentially, it means that the State must prove
22 beyond a reasonable doubt that the defendant
23 Mr. Morris killed another person with malice
24 aforethought. Malice is hatred; it's ill will
25 toward someone. And you heard Dr. Wassum testify

1 that Mr. Deck's death was a homicide; but as I told
2 you at the beginning, not all homicides are murder.
3 In fact, Judge Kinlaw is also gonna instruct you on
4 the law of self-defense which is a -- is a complete
5 defense in South Carolina. And if you commit a
6 homicide during the act of self-defense, then it's
7 not murder. And I'm gonna go over with you the law
8 and then I'm gonna go over some of the facts that I
9 think are important for you during your deliberation
10 today.

11 As I said before, self-defense is a
12 complete defense. If you find that the State has
13 not disproven each element of self-defense beyond a
14 reasonable doubt, then you must find Mr. Morris not
15 guilty. And, and it is their burden. Lamar doesn't
16 have to prove that he committed self-defense or he
17 acted in self-defense. The State has the burden of
18 proving each element of self-defense, disproving it
19 beyond a reasonable doubt.

20 The first factor and on the -- is without
21 fault, as Mr. Miller stated earlier. And I'm gonna
22 go into each one of those, but I just want to get
23 through these briefly. The second one is there has
24 to be a known and imminent danger. There either has
25 to be actual imminent danger or there has to be a

1 belief of imminent danger. And the defendant
2 doesn't have to show that he was actually in danger.
3 It's enough if defendant believed that he was in
4 imminent danger and the defendant has the right to
5 act on appearances, even though the defendant's
6 beliefs may have been mistaken. That's an
7 instruction that Judge Kinlaw is gonna give to you.
8 And then there must be no other way to avoid the
9 danger, which is the duty to retreat.

10 And then the last bit of the law that I
11 want to go over with you is the law of reasonable
12 doubt. Mr. Miller stated that, you know, a
13 reasonable doubt is something that would cause you
14 to hesitate to act, or in other words, you have to
15 be convinced of this particular fact, firmly
16 convinced. But it also states that if there's a
17 real possibility that Lamar is not guilty or
18 committed or acted in self-defense, then you must
19 give him the benefit of the doubt. That's an
20 instruction that the judge is gonna read to you
21 also.

22 Now with regard to the first element of
23 self-defense, you cannot be at fault on bringing on
24 the difficulty. And the facts that we believe are
25 important in this case is the, you know, Lamar went

1 to Walmart with his girlfriend Heidi and her two
2 children. This was two days after he received the
3 text messages from Jason. Now his perception of
4 those text messages are that he believed that he had
5 been threatened, that his life had been -- had been
6 threatened. Now the solicitor gave you his
7 interpretation of those; but Lamar testified that
8 based on his conversation with them, with him, that
9 he perceived that his life was threatened and his
10 family's life was threatened; and so, but he doesn't
11 go and seek out Mr. Deck. He doesn't go try to find
12 him. He simply on July 5th, 2019, is in the Walmart
13 to go shopping. He testified that they went to the
14 emergency room earlier and went to Walmart to get a
15 prescription filled. At some point Heidi's mom
16 brings her two children, her cousin is there, and
17 they do their shopping and they're getting ready to
18 leave. You know, he wasn't, you know, he didn't arm
19 himself in anticipation of any sort of conflict with
20 anybody on the day, specifically Mr. Deck. When Mr.
21 Deck comes in to the Walmart, he doesn't come in
22 through the normal entrance where you would go
23 through the doors. He cuts through and goes to the
24 self-checkout where Mr. Morris and his family is.
25 And so, couple -- the threats coupled with the fact

1 that Mr. Deck comes into the Walmart where he is and
2 Mr. Morris' perception of those threats while he's
3 there, I don't think that you can say that he
4 brought on the difficulty. And that sort of tail
5 end or dove tails into whether or not he had an
6 actual -- a belief that he was in imminent danger
7 being there with his family. Now that, you know,
8 the State wants -- showing you and you have an
9 opportunity to take all this evidence including the
10 video back with you until you -- into the jury room
11 for your deliberations but, the presentation that
12 they gave you is broken down frame by frame. But
13 this, if you play it in realtime and you look at the
14 time stamp on how much time it takes for this entire
15 incident to play out, it's a matter of seconds. In
16 fact, from the time that they sort of come into the
17 same -- come into the frame to the time that it's
18 over, it's just a matter of a few seconds. It's
19 really easy to sit back and look at a still frame of
20 a video and say, you know, this is what you should
21 take from that; but you have to understand that, you
22 know, whether or not Mr. Morris believes he's in
23 imminent danger, happens in seconds. And based on
24 threats that were made two days prior, he sees Mr.
25 Deck coming into the store, not through the regular

1 entrance but through the self-checkout where he is
2 with Heidi and the kids and in the video he does
3 have his hand in his pocket. And he's allowed to
4 act on appearances, the Court is gonna say that.
5 He's allowed to take those appearances based on what
6 he's believed as a perception of threat and to act
7 on those if he believes that he's in imminent
8 danger, and that's exactly what he does. You know,
9 when you take it, you know, frame by frame, you
10 know, it's easy to sort of speculate as to what
11 could potentially go into people's minds. But when
12 you look at it in realtime, it's very easy to see
13 that this all happens extremely quickly. And him
14 confronting as they come in to together, I think it
15 was Ms. Hazel who said that they had -- she had
16 witnessed them wrestling, but Mr. Deck's hand does
17 come out as Mr. Morris' hand comes out. And, again,
18 he doesn't know if he has a weapon on him. He's --
19 he sees his hand in his pocket when he walks in the
20 store. He doesn't know if he still has a weapon in
21 his pocket. In his mind and his perception based on
22 the threats that were made, he saw it as an imminent
23 threat and he's allowed to act on those appearances.

24 Now the solicitor wants to make a big deal
25 about him, you know, leaving. Well, it's a -- it's

1 a very heightened situation. You have to remember,
2 Mr. Morris has on the GPS monitor. He can't -- he
3 can't run and he can't -- he can't go anywhere; they
4 know where he is. He's being tracked by the second.
5 But is, you know, after your adrenaline is pumping,
6 you've had a confrontation with someone who is
7 wanting to kill you, you know, his immediate
8 instinct is to -- is to flee. He testified that he
9 felt like the threat had been -- and so he left, you
10 know. They want to make it out as if it's a -- it's
11 a indication of guilt; but again, he can't -- he
12 can't go anywhere. He's got a GPS monitor on and he
13 can't run. In fact, it's on the -- McCalmont pulls
14 up and see him. He says he's got a GPS monitor on.
15 So it's -- he knows that he can't go anywhere.

16 No other way to avoid the danger but duty
17 to retreat. If you look at the layout of the
18 Walmart, obviously Mr. Deck is in front of him,
19 can't go side to side. You know, his girlfriend and
20 his children are behind him. You know, he testified
21 that he wanted to be in front of them between Mr.
22 Deck and his family, and so there was no way for him
23 to go out of there without going through Mr. Deck or
24 exposing his family to that threat. And let me go
25 back to say that, you know, if there is a real

1 possibility that Mr. Morris felt threatened and came
2 to that Walmart with his family, did not seek out
3 Mr. Deck, if that's a real possibility, then that is
4 reasonable doubt with regard to whether or not he
5 brought the con-- the difficulty on himself, and
6 they have not disproven that beyond a reasonable
7 doubt. If there is a real possibility that he felt
8 threatened and that he was in a Walmart with his
9 family and Mr. Deck came in, they have not disproven
10 that beyond a reasonable doubt.

11 If he believed that Mr. Deck had
12 threatened him and then he sees him coming in with
13 his hand in his pocket, if there's a real
14 possibility that he believed his life was in
15 imminent danger, then they have not proved beyond a
16 reasonable doubt that he was not in imminent danger.
17 So keep that in mind. If it's a real possibility.
18 And you have to give him the benefit of the doubt,
19 that's what the law says. If it's a real
20 possibility based on the threats, based on the
21 appearance of Mr. Deck coming into the Walmart with
22 his hand in his pocket, if it's a real possibility
23 that Lamar felt threatened, that he was in imminent
24 danger, then you have to give him the benefit of the
25 doubt and you cannot find they did that beyond a

1 reasonable doubt.

2 If you find that it's a real possibility
3 that he could not have escaped by going to the left
4 or to the right or by going this way through his
5 family to expose them to Mr. Deck, if that's a real
6 possibility, then they have not disproven that he
7 had a safe way to retreat beyond a reasonable doubt.
8 Each and every one of those, if there is a real
9 possibility -- and that's what the law states. It
10 just has to be a real possibility, and that
11 possibility has to be given to Mr. Morris and
12 construed in his favor and you cannot find that
13 they've disproved that beyond a reasonable doubt.

14 You know, and again, the government is
15 trying to disprove his belief in imminent danger by
16 showing -- going through the text messages. That's
17 just their interpretation of what those text
18 messages say. Mr. Morris testified as to what his
19 interpretation of those text messages were, and
20 you'll have your -- you can -- you can decide for
21 yourselves in favor. If you believed the -- he
22 didn't have a legitimate concern about being
23 threatened, him and his family. That's what he
24 testified to. And if there is a real possibility,
25 then that has to been construed in his favor and you

1 have to give him the benefit of the doubt.

2 The video, again, you know, the frame by
3 frame, it certainly is a lot easier to support the
4 State's case when you go through frame by frame
5 because it gives time to contemplate. I mean, you
6 contemplate indefinitely over each frame for as long
7 as you want to determine what was going through
8 someone's mind about where someone was positioned,
9 how someone felt. But in realtime, and look at the
10 time stamp on the video, it happens within just a
11 few seconds. In fact, the whole confrontation where
12 they're standing in front of each other happens in
13 less than a second. So, you know, for them to, you
14 know, try to disprove that by taking it frame by
15 frame, you know, it's -- it's a little disingenuous
16 because, you know, that didn't happen the way that
17 they said it did. It's just their interpretation of
18 it and it's their stopping it each time to allow
19 them to interpret something that happened in a
20 matter of a second.

21 You know, they also wanna, you know,
22 disprove or show that he conjured up this
23 self-defense claim while he was in jail through the
24 phone calls and the emails; but if you remember from
25 the video from the bond hearing, when they -- they

1 played the first part. Well, they didn't play the
2 second part. Why didn't they want y'all to hear
3 that? Why didn't they want y'all to hear Mr. Morris
4 say, to tell Mr. Deck's father that he had
5 threatened him. Because it doesn't fit the
6 narrative that he conjured up this defense while he
7 was sitting in jail. He said it from the very
8 beginning, he felt threatened. It wasn't
9 something -- and that was the same day that this
10 incident occurred. He states that he felt
11 threatened. He didn't have to think about it. He
12 didn't have to contemplate whether or not, you know,
13 what he was gonna say or how he was gonna do this.
14 He's told them he felt threatened, but the State
15 didn't want y'all to hear that. We had to play that
16 because they tried to keep it from you, and you
17 should ask yourself why.

18 You know, with regard to the snippets of
19 the -- of the phone calls, Mr. Morris was charged
20 with murder. He's not an attorney. He's not --
21 doesn't work in law enforcement. You know, he
22 speaks globally. And when he talks about, you know,
23 the case, he's charged with murder so that's the
24 language that he uses. I don't think you need to
25 read a whole lot into it as if he's confessing.

1 It's just the way that he's talking to a family
2 member about his case; and he's explained to them,
3 you know, what he has to show, to show that he acted
4 in self-defense, something that he claimed from the
5 very beginning. It's not something that he's, you
6 know, went and did research on and said, oh, this is
7 the way for me to beat the case. He's been claiming
8 that from the beginning. You know, I believe that
9 when -- in the bond video where Mr. Deck's father
10 asked him, you know, why did he murder my son, I
11 think when Braylon responds to that he's simply
12 repeating the question. Why did I -- I murdered
13 your -- why did you murder, this is why I murdered
14 my child -- your child. I don't think it was a --
15 again, it's just that he was using the word that
16 Mr. Deck had used to ask him the question he was
17 responding to in that particular way.

18 I'm curious about the testimony, you know,
19 the State had a list of, I believe, 140 some odd
20 witnesses. We may have heard from 12. Of why
21 former Investigator King, remember, he came to the
22 scene at the Long John Silver's and claimed that
23 Lamar had made -- had given him a statement. And
24 I'm still to this day I'm not sure exactly what he
25 testified to. You know, his -- his report says that

1 he talked to him in the parking lot and then he put
2 in the car. He came in and testified that he saw
3 him outside the parking lot, put him in the car and
4 got him out of the car and put him back in the car,
5 wasn't sure if it was the same car, could have been
6 a different car. It doesn't make any sense to me as
7 to why the State would introduce that, that
8 evidence, unless they themselves have doubt as to
9 the strength of their case. You know, the statement
10 that he gave wasn't caught on video. There were 7
11 to 15 officers out there, some of whom were wearing
12 body cameras. There were squad cars with dashboard
13 cameras. No one testified that they saw this
14 conversation happen. Investigator Bailey said that
15 he reviewed most of all the camera footage, did not
16 see this conversation ever took place; and so I'm
17 curious as to why they felt, the State felt
18 compelled to bring that, that testimony to you,
19 unless they themselves doubt the strength of their
20 case.

21 I think the -- and I'm not sure -- there
22 seem to be that they were alluding to the fact that,
23 you know, they introduced the statement of the email
24 about him claiming that he acted in self-defense and
25 that there was this confidential informant out there

1 and it seemed to me that they were trying to allude
2 that this may be Scotty Pope. But, you know,
3 Braylon testified that Scotty Pope had testified at
4 his trial so I don't know how they make that
5 connection. I don't know where that connection
6 comes from. I don't understand doing it from the
7 malice of how they're trying to reach -- Lamar's
8 malice against Jason if they're saying that he was
9 upset with Scotty. And Scotty was on the witness
10 list and so why did we not hear from Scotty? Why
11 did Scotty not come in and testify to give you all
12 the necessary things you need to decide the case.
13 It just doesn't make any sense. Why would Braylon
14 commit a murder in broad daylight in Walmart with
15 his girlfriend and her kids present while wearing a
16 GPS monitor under 4K videos. That makes absolutely
17 no sense whatsoever. It makes more sense if he was
18 responding to a threat because then you're not
19 thinking about I'm on a GPS monitor, I'm under 4K
20 videos. You just respond to the situation. If his
21 plan was to kill Jason Deck, why would he do it
22 there? Why would he -- why would he do it right
23 then and right there where he knew he would be
24 caught? He would be on video, and he would have an
25 ankle bracelet on so they would be able to track him

1 wherever he goes. It makes absolutely no sense
2 whatsoever.

3 What makes more sense is, is that he felt
4 threatened to the conversations that he had with
5 Jason. He was in the Walmart with his kids. He saw
6 Jason come in with his hand in his pocket and he
7 felt that he was immediate and he acted because of
8 it. And I suggest to you that a reasonable person
9 would do the same thing if they were in Walmart, had
10 been threatened, with their girlfriend and her two
11 kids to remove that threat.

12 The State simply has not proven beyond a
13 reasonable doubt that he didn't act in self-defense.
14 They haven't provided to you any additional
15 witnesses that would help conclude that to show up
16 their theory on how this supposedly murder occurred.
17 And I don't know why Scotty Pope didn't get called.
18 I don't know why Antonio Bailey didn't talk to
19 Scotty. If he's a big intricate part of their
20 theory of why Jason Deck was murdered, then why did
21 they not go talk to him. He was on the witness
22 list. They could have brought him in here, asked
23 him questions. He could have filled in those
24 questions that y'all have, that I have, about their
25 theory about why this -- this man is dead. But they

1 didn't do that. And part of the job is to collect
2 and then provide evidence to you all so that you can
3 make a decision to determine whether or not they met
4 their burden of proof, which is what the purpose of
5 this trial is, to determine whether or not the State
6 has met their burden of proof. And there really
7 should be on the guilty form -- on the verdict form
8 there should be a line for guilty, a line for not
9 guilty, and a line for not proven because oftentimes
10 that is the case. They just haven't proven their
11 case; or they haven't, they certainly in this case
12 have not disproven that he didn't act in
13 self-defense. And the only appropriate verdict that
14 we're asking today is to return a verdict of not
15 guilty. Thank you

16 THE COURT: Mr. Miller.

17 MR. MILLER: Thank you, Your Honor. May
18 it please the Court. It's been a long week so
19 I'll -- so, I'll go through a couple of things
20 Mr. Gambrell talked about and how Jason Deck entered
21 Walmart. You heard from Tony Dubose. He shoplifted
22 from there and he had entered the store a bunch of
23 different ways so that would explain why he went
24 that way. It just turned out to be the worst
25 possible way he could go.

1 You heard a lot about that there's a GPS
2 monitor. There's actually no testimony to that, and
3 Sergeant McCalmont said it was an ankle monitor. It
4 was a hip monitor. It monitors, let you know when
5 you leave the house and when you come back. That
6 time they didn't actually track your GPS. Just so
7 you know, since we're talking about those even
8 though there wasn't anything about how those
9 monitors work, but that's how they worked. And
10 there were other factors. A lot of people cut those
11 monitors off all the time and they abscond and they,
12 while they're out on bond, they try and flee so
13 those monitors can be cut, you know.

14 There's a lot about the imminent threat,
15 is it a real possibility. Real possibility is not a
16 standard. Reasonable, reasonable doubt. And also,
17 is it how Braylon threat. That's not standard for
18 the imminent threat either. It is how a prudent
19 person with ordinary firmness and courage would feel
20 on there. It's the objective standard, not the
21 subjective standard what Braylon says it was. You
22 can judge that credibility on your own, and so
23 that's just where that is under the law.

24 Now the last part -- I got some others,
25 but I think what I'd really like to talk about is it

1 doesn't make sense why, why at Walmart, why there?
2 You heard Braylon say, I couldn't leave the house,
3 house arrest, couldn't leave. Those texts, pull up,
4 come to his house. Because you heard Braylon say
5 introduced to Scotty Pope, that's what he did. That
6 was Braylon's only chance. Doesn't leave his house
7 and go find him, he went to the store. He went to
8 Walmart; Braylon did. Jason Deck goes in there all
9 the time. But that's why Walmart 'cause he said he
10 couldn't leave his house and that was when he saw
11 him. That was when he ambushed him, and that was
12 when he executed him. We ask for a verdict of
13 guilty.

14 THE COURT: Thank you, Mr. Miller.

15 All right. Ladies and gentlemen of the
16 jury, that concludes the closing arguments from the
17 State, closing arguments from the Defense. Now it
18 is time for me to instruct you on what the law is --
19 applicable law is in both of the offenses upon which
20 this defendant is charged. This defendant Braylon,
21 Braylon Lamar Morris, is charged under indictment
22 2019-GS-23-007-- 7279 with two offenses. One
23 offense is the offense of murder. The second
24 offense is possession of a weapon during the
25 commission of a violent crime. These offenses

1 allegedly occurred in Greenville County on or about
2 the 5th day of July 2019.

3 Now, it now becomes my duty as the trial
4 judge -- and remember when I -- when we started out
5 I said there were two judges in the courtroom.
6 There was a judge of the law and the judge of the
7 facts. You have been performing your duty as the
8 judge of the facts. Now I need to perform my duty
9 as judge of the law and instruct you on what the
10 applicable law is.

11 It is your duty as jurors to accept and
12 apply the law as the Court will now state it to you
13 and your exclusive duty to determine the effect, the
14 value, the weight, and the truth of the evidence.
15 Both the State and Mr. Morris have a right to expect
16 that you will conscientiously consider and evaluate
17 the evidence and apply the law of the case thereto;
18 and to that end, both parties will receive,
19 entertain a fair and impartial trial.

20 When I use the word "defendant," I'm
21 referring to this defendant Mr. Morris. The
22 defendant here has been accused in what we call an
23 indictment. I said at the beginning the indictment
24 was a piece of paper on which accusations about
25 defendants are placed. It is not an exhibit.

1 You'll have a number exhibits in this case and a
2 number of things that you would need to consider in
3 your jury room once you get back for deliberation.

4 Now to this indictment, a murder and the
5 indictment of possession of a weapon during a
6 violent crime, this defendant Mr. Morris has pled
7 not guilty to that indictment, which places the
8 burden squarely on the shoulders of the State of
9 proving this defendant guilty beyond a reasonable
10 doubt, not only proving the defendant guilty of
11 beyond a reasonable doubt but proving the elements
12 of each offense upon which the defendant is charged.
13 The State has the burden of proving the elements of
14 the offense of murder and defendant -- the State has
15 the burden of proving the elements of the offense of
16 possession of a weapon during a violent crime.
17 That's square -- falls squarely on the shoulders of
18 the State.

19 Now in this state and count, a person who
20 is accused with the commission of a criminal offense
21 is never required to prove him or herself innocent.
22 This principle of law we call the presumption of
23 innocence that you probably heard before. Each of
24 you are required under our law and by your oath that
25 you took earlier to presume that this defendant is

1 not guilty. The presumption of innocence is
2 maintained at all times throughout the trial of the
3 case and is only removed when and if the State
4 brings in enough evidence to persuade you beyond all
5 reasonable doubt that the defendant is guilty.
6 Well, what is reasonable doubt. A reasonable doubt
7 is the doubt which makes an honest, sincere,
8 conscientious juror in search of the truth in the
9 case to hesitate to act. Proof beyond a reasonable
10 doubt is a proof that leaves you firmly convinced of
11 the defendant's guilt. There are few things in this
12 world that we know with absolute certainty, and in
13 criminal cases the law does not require proof that
14 overcomes every possible doubt. If based on your
15 consideration of the evidence you are firmly
16 convinced that the defendant is guilty of the crime
17 charged, you must find him guilty. If on the other
18 hand, there is a real possibility that he is not
19 guilty, you must give him the benefit of the doubt
20 and find him not guilty.

21 Reasonable doubt may arise from evidence
22 which is in the case or from the lack or absence of
23 evidence in the case. It is up to you, ladies and
24 gentlemen, to determine whether or not a reasonable
25 doubt exists as to the guilt of this defendant. I

1 charge you that the defendant is entitled to every
2 reasonable doubt arising from the whole case. If
3 upon any issue of fact essential to conviction in a
4 verdict of guilty you have a reasonable doubt as to
5 how that issue should be resolved, it would be your
6 duty to resolve the reasonable doubt in favor of
7 this defendant.

8 Ladies and gentlemen, cases can be
9 presented or evidence can be presented in two ways.
10 You have direct evidence and you have indirect
11 evidence. Or the more popular name for indirect
12 evidence is what we call circumstantial evidence.
13 Direct evidence is when someone comes in, testifies
14 as they did in this case, to the commission of a
15 crime that they perceive through their own senses,
16 saw someone commit a crime. For example, indirect
17 evidence is circumstantial evidence is when someone
18 testifies as to different events that occur and when
19 you link all of them they point to the commission of
20 a crime. That is considered circumstantial
21 evidence. Now either method can be used to present
22 a case and oftentimes both methods are used during
23 the trial of a case. The law makes absolutely no
24 distinction between the weight or value to be given
25 to either direct or circumstantial evidence; nor is

1 a greater degree of certainty required of
2 circumstantial evidence than of direct evidence.

3 You should weigh all the evidence in the
4 case. The law says to the extent that the State
5 relies on circumstantial evidence, it has to meet a
6 certain test. First, as to each one of those events
7 or circumstances they're relying on, the State has
8 to prove each one of those beyond a reasonable
9 doubt. Further, these facts must point conclusively
10 to the guilt of the accused and they must be wholly,
11 perfectly consistent with each other in every
12 particular aspect -- respect.

13 I further instruct you that the mere fact
14 that the circumstances brought out in a case are
15 strongly suspicions of guilt or circumstances are
16 such that a defendant's guilt is probable is not
17 enough. That it is not sufficient to sustain a
18 conviction because the proof offered by the State
19 has to be more than a suspicion. It has to be more
20 than someone being probably guilty. It has to be
21 proof to satisfy you then beyond a reasonable doubt.

22 The evidence you are to consider consists
23 of testimony of the witnesses and exhibits that are
24 offered during the trial. As I said to you at the
25 beginning, it is up to you, the jury, and as the

1 judge of the facts to give whatever weight you want
2 to, to the credibility of the witnesses. In other
3 words, you can believe some of what a witness said.
4 You can believe none of what a witness says, or
5 you -- it's up to you, the jury.

6 As it relates to exhibits and anything,
7 photographs and anything that was introduced into
8 evidence, you evaluate the credibility of the
9 evidence the same way you would evaluate the
10 credibility of a witness who was in this witness
11 box. You can believe some of what you see, none of
12 what you see. It's totally up to you, the jury,
13 because you are the judge of the credibility of the
14 evidence that's presented.

15 Objections and rulings and matters that
16 may have been excluded from the record are not to be
17 considered by you in any fashion. If it appears to
18 you that I have commented during the trial or in
19 giving these instructions, you must disregard such
20 comment entirely. I know nothing about the case and
21 I -- I'm not -- I'm not -- I can't give any remarks
22 regarding the facts of the case. Also, the remarks
23 of attorneys are not evidence. Their statements and
24 their arguments are intended to help you understand
25 the evidence and apply the law as I said to you

1 earlier. You should disregard any remarks,
2 statement, or argument which is not supported by the
3 evidence or the law as given to you by the Court.

4 How do you decide the facts of this case?
5 You do it through your exercise of good judgment and
6 your application of common sense which you brought
7 in here with you, your sense of logic and reason and
8 your experiences in life. You know, every day in
9 your lives you judge credibility. You make
10 decisions every day of your lives regard to whether
11 people are believable, persuasive, convincing, or
12 not. And you do the same thing as a juror. In
13 deciding believability, you may consider what was
14 the manner and appearance of the witness who
15 testified. Was he or she straight forward or
16 hesitant in answering? Was the testimony of a
17 witness consistent or inconsistent? How did the
18 witness come to know the facts that he or she
19 testified to? What was his or her ability to know
20 these facts? Is there some reason a witness would
21 want to give testimony with your help or hurt one
22 side or the other? In other words, was the witness
23 biased or prejudiced in any way?

24 In determining the question of credibility
25 or believability of witnesses, you may believe one

1 witness over several or several over one. You may
2 believe a part of the testimony of a witness and
3 reject the remaining, as I just said to you a minute
4 ago. These considerations you do not exercise
5 arbitrarily, but in your good judgment there's a
6 sound reason in the record of this case for so
7 doing. You are to consider all of the evidence in
8 the case and determine what you believe to be the
9 true facts in dispute.

10 Now, as I already told you, you are given
11 wide latitude in regard to determining
12 believability, in determining the facts as we call
13 them in this case. When it comes to the law, you
14 have to accept the law as I give to you. I'm gonna
15 tell you what the law is. You can't -- you must
16 accept the law as I give it to you, not what you
17 think it should be, not what you may want it to be.
18 You must accept the law exactly as I read it to you.

19 Now, I'm gonna go specifically to the
20 first offense this defendant is charged with. This
21 defendant is charged with the offense of murder.
22 Section 16-3-10 of our South Carolina Code of Laws
23 defines murder as the following: The killing of any
24 person with malice aforethought, either express or
25 implied. The State must prove beyond a reasonable

1 doubt that the defendant killed another person with
2 malice aforethought. Malice is hatred, ill will, or
3 hostility towards another person. It is the
4 intentional doing of a wrongful act without just
5 cause or excuse and with the intent to inflict an
6 injury or other circumstances that the law will
7 infer an evil intent. Malice indicates a formed
8 purpose and design to do a wrongful act under
9 circumstances that exclude any legal right to do it.
10 Further, there must be malice aforethought which
11 means the malice must have been conceived in the
12 mind of the defendant prior to the act producing the
13 fatal result.

14 The word "aforethought" is usually
15 understood to refer to the time where the evil is
16 conceived. The law does not require that the malice
17 must exist for any appreciable length of time before
18 the commission of the act. It may be conceived at
19 the very moment the action is taken which results in
20 the death of another. Malice aforethought may be
21 expressed or inferred. These terms express or infer
22 do not mean different kinds of malice, but merely
23 the manner in which the malice may be shown to
24 exist. That is either by direct evidence or by
25 inference from the facts and circumstances which are

1 proved.

2 Express malice is shown when a person
3 speaks words which express hatred or ill will for
4 another and when the person prepared beforehand to
5 do the act which was later accomplished. Malice may
6 be inferred from conduct showing a total disregard
7 for human life. If the facts are proved beyond a
8 reasonable doubt sufficient to raise an inference of
9 malice to your satisfaction, this inference would be
10 simply an evidentiary fact to be taken into
11 consideration by you, the jury, along with the other
12 evidence in the case and you may give it such weight
13 as you think it should receive. You, as jurors, are
14 free to accept or reject this permissive inference
15 depending on your view of the facts. If malice is
16 present in the mind of one doing the killing any
17 length of time before the act, then its presence
18 would be sufficient to render the killing murder.

19 Criminal intent is a necessary element of
20 the crime of murder and that must be proved by the
21 State beyond a reasonable doubt. Criminal intent is
22 always a matter that must be determined by you, the
23 jury, from the circumstances surrounding the
24 situation so the law states that the criminal intent
25 may be inferred from the circumstances shown to have

1 existed. The State is not required to prove motive,
2 although the presence or absence of this evidence of
3 motive may be considered by you in making your
4 determination in this case. Criminal intent is a
5 state of mind that operates jointly with an act in
6 the commission of a crime. Intent includes those
7 consequences which (a) represent the very purpose
8 for which the act is done; (b) are known to be
9 substantially certain to result regardless of
10 desire. Criminal intent is a mental state, a
11 conscious wrongdoing, so it is up to you, the jury,
12 to determine what the defendant intended to do based
13 on the circumstances shown to have existed. I tell
14 you that the State must prove criminal intent as it
15 must prove every other element of the offense beyond
16 a reasonable doubt.

17 Now the self-defense was raised in this
18 case. The defendant raised the issue of
19 self-defense. Let me go over the law on
20 self-defense. Self-defense is a complete defense;
21 and if it's established, you must find the defendant
22 not guilty. The State has the burden of disproving
23 self-defense by proof beyond a reasonable doubt. If
24 you have a reasonable doubt of the defendant's guilt
25 after considering all the evidence, including the

1 evidence of self-defense, then you must find the
2 defendant not guilty. Another thing, if you have no
3 reasonable doubt of the defendant's guilt after
4 considering all of the evidence including the
5 evidence of self-defense, then you must find the
6 defendant guilty.

7 The following elements are required to
8 establish self-defense. One, without fault. First
9 the defendant must be without fault in bringing on
10 the difficulty. If the defendant's conduct was the
11 type which was reasonably calculated to and did
12 provoke a deadly assault, the defendant would be at
13 fault in bringing on the difficulty and would not be
14 entitled to an acquittal based on self-defense.

15 Second element, imminent danger. The
16 second element of self-defense is that the defendant
17 was actually in imminent danger or of serious bodily
18 injury or that the defendant actually believed he
19 was in imminent danger of death or serious bodily
20 injury. If the defendant was actually in imminent
21 danger, it must be shown that the circumstances
22 which would have warranted a person of ordinary
23 firmness and courage to strike the fatal blow to
24 prevent death or serious bodily injury. If the
25 defendant believed he or she was in imminent danger

1 of death or serious bodily injury, it must be shown
2 that a reasonably prudent person of ordinary
3 firmness and courage would have had the same belief.
4 In deciding whether the defendant actually was or
5 believed he was in imminent danger of death or
6 serious bodily injury, you should consider all the
7 facts and circumstances surrounding the crime,
8 including the physical condition and characteristics
9 of the defendant, as well as the victim.

10 The defendant does not have to show that
11 he or she was in actual danger. It is enough if the
12 defendant believed he or she was in imminent danger
13 and a reasonable prudent person of ordinary firmness
14 and courage would have had the same belief. The
15 defendant has the right to act on appearances even
16 though the appearance -- the defendant's beliefs may
17 have been mistaken. It is for you to decide whether
18 the defendant's fear of immediate danger of death or
19 seriously bodily injury was reasonable and would
20 have been felt by an ordinary person put in the same
21 situation.

22 The third element of self-defense, the
23 final element, is that the defendant had no other
24 probable way to avoid the danger of death or serious
25 bodily injury than to act as the defendant did in

1 this particular instance. In other words, a person
2 cannot be required to make an exact calculation as
3 to the degree of amount of force which may be needed
4 to avoid death and serious bodily harm. Therefore,
5 the self-defense, the defendant has the right to use
6 the force needed to avoid death or serious bodily
7 harm. The force used in self-defense does not have
8 to be limited to the degree or amount of force used
9 by the victim. The defendant has the right to use
10 as much force as appear to be necessary for complete
11 protection in which a person of ordinary and --
12 ordinary reason and firmness would have believed to
13 be needed to prevent death or serious bodily injury.
14 The relative sizes, ages, and weights of the
15 defendant and the victim may be considered in
16 deciding the apparent or actual need for force in
17 self-defense and the amount of force needed. That
18 is the law on self-defense and that is the law on
19 murder.

20 This defendant is also charged with
21 possession of a weapon during the commission of a
22 violent crime. If a person is in possession of a
23 firearm or visibly displays what appears to be a
24 firearm during the commission of a violent crime and
25 is convicted of committing a violent crime as

1 defined in Section 16-1-60 of our South Carolina
2 Code of Laws which defines murder a violent crime
3 would violate Section 16-23-490. The term
4 "firearm," is defined in this section as any
5 revolver, pistol, or any weapon which will or is
6 designed to or may be readily converted to expel a
7 projectile. Ladies and gentlemen of the jury, you
8 are not partisans or advocates for the State of
9 South Carolina or the Defendant. You do not serve
10 as jurors to reward friends or punish enemies. You
11 have been selected by the State and this Defendant
12 to be fair and impartial jurors which you took an
13 oath to do so. It is your duty then by your oath
14 and your deliberations to determine the truth in
15 this case. That's in your purview. You are the
16 judge of the facts. Then to the facts which you
17 determine to be true, you take and apply the law
18 which I have been giving to you and thus arrive at a
19 verdict. The word "verdict" which has a Latin
20 derivative means a true saying. When you've
21 accomplished this and written your verdict, you will
22 be satisfied -- you will have satisfied your oath as
23 jurors and you will be discharged as your duty to
24 this state, to Mr. Morris and the Court.

25 Mr. Foreman, I have prepared a verdict

1 form. This document will be given to you. It says
2 this: State of South Carolina, County of
3 Greenville, State of South Carolina v. Braylon Lamar
4 Morris. In the Court of General Sessions,
5 Thirteenth Judicial Circuit, indictment number
6 2019-GS-23-07279. As to indictment number one, as
7 to the indictment 2023-GS-23-12345, as to the charge
8 of murder, it states: We, the jury, find the
9 defendant -- and there are two lines. There's a
10 line that says guilty and there's a line that says
11 not guilty.

12 As to the indictment 2020-GS-23-12346 as
13 to the charge of possession of a weapon during a
14 violent crime: We, the jury, find the defendant --
15 there's a line that says guilty and there's a line
16 that says not guilty. Then at the bottom of this
17 form, Mr. Foreman, it says, I certify that this
18 decision was the unanimous decision of this jury.
19 You will sign your name and you will date it today's
20 date or the date that you come to the verdict.

21 All right. Now, I am going to -- I'm
22 going to send you to your jury room. Please, ma'am
23 please, sir, do not discuss the case until I
24 instruct you to begin deliberations.

25 And, Mr. Foreman, you are in charge of the

1 deliberations, you are in charge of that. If
2 there's anything that the Court needs to be aware
3 of, those items or things that the Court need to be
4 aware of need to come through you and you will
5 present those items to the bailiff and the bailiff
6 will bring it to me if there's an issue of any kind.
7 All right. So I'm gonna let you go back to your
8 jury room and let's wait for my signal. Now the
9 exhibits will be in the jury room, and I'm also
10 going to send to you not only the verdict form but
11 everything that I just said. It is written right
12 here. I'm gonna send you every word that I just
13 said right here, so you will have my charge in the
14 jury room so you can look back in terms of anything
15 I just said, to look back and review. So you will
16 have the verdict form, my charge. All the exhibits
17 will be given to you, but do not begin anything, any
18 deliberation till I instruct you to do so, okay.
19 All right. So go back and I'll -- and the two
20 alternates, y'all remain.

21 (WHEREUPON, the jury was removed from the
22 courtroom at 12:20 p.m.)

23 THE COURT: First of all, I want to thank
24 you for your service as jurors. I'm real hoarse
25 from me talking loud this week. And you don't have

1 to leave, you can stay if you want to. You can stay
2 in the pews out there if you like, but your service
3 as jurors has ended because you're alternates and we
4 thank you for having served. And I think -- I know
5 Mr. Miller wants -- we want you to stick around for
6 a while.

7 MR. MILLER: Can we approach, Your Honor.

8 THE COURT: Yeah.

9 (WHEREUPON, counsel approached the
10 Bench for an off-the-record discussion.)

11 THE COURT: I know the two of you just met
12 this week, but what I'm gonna ask you to do is to
13 stick around just because we don't know if something
14 will come up and we need services of either one of
15 you. So what we're gonna do is, you'll get lunch
16 and we're gonna -- the bailiff is gonna put you in a
17 room with just the two of you. You can't talk about
18 the case. You can't talk about anything that got
19 anything with the case. You can talk about me, but
20 you can't talk about the case. And so hopefully you
21 won't be in there long. Lunch will be brought to
22 you shortly so she'll, she'll take you back where
23 you need to go. Don't, don't talk anything about
24 the case. Talk about your kids or something.

25 (Alternates were removed from the courtroom.)

1 THE COURT: Any exceptions to the charge?

2 MR. GAMBRELL: Just the ones that I
3 previously made on the record, Judge.

4 THE COURT: All right. Yeah, the --
5 that's noted on the -- for the record.

6 MR. MILLER: None from the State, Your
7 Honor.

8 THE COURT: Okay, all right. So as soon
9 as I get the verdict form...

10 (Attorneys review exhibits.)

11 THE COURT: Tell the bailiff they can go
12 ahead and get started.

13 (Jury began deliberations.)

14 THE COURT: All right, anything we need to
15 do before we bring the jury out?

16 MR. MILLER: Nothing from the State, Your
17 Honor.

18 MR. GAMBRELL: Nothing from the Defense,
19 Your Honor.

20 THE COURT: All right. Bring them up.

21 (WHEREUPON, the jury was returned to the
22 courtroom at approximately 1:36 a.m., and the
23 following proceedings commenced in open court.)

24 THE COURT: All right. Mr. Foreman, it's
25 my understanding that the jury has reached a

1 verdict.

2 THE FOREMAN: Yes, Your Honor, we have.

3 THE COURT: All right. You can pass the
4 verdict form to the bailiff.

5 (Verdict form tendered to the Court.)

6 THE COURT: Madam Clerk, if you'd publish
7 the verdict for me.

8 THE CLERK: Your Honor, this is case
9 number 2019-GS-23-07279, the State v. Braylon Lamar
10 Morris. As to indictment 2019-GS-23-07279, the
11 charge of murder: We, the jury, find the defendant
12 guilty. As to indictment 2019-GS-23-07279, the
13 charge of possession of a weapon during a violent
14 crime: We, the jury, find the defendant guilty.

15 THE COURT: All right. If that's your
16 verdict, raise your hand.

17 (Jurors complied.)

18 THE COURT: All right. Anything else from
19 the State?

20 MR. MILLER: Nothing from the State, Your
21 Honor.

22 THE COURT: Anything else from the
23 Defense?

24 MR. GAMBRELL: Nothing from the Defense,
25 Your Honor.

1 THE COURT: All right. Ladies and
2 gentlemen of the jury, I want to thank you on behalf
3 of the State, as well as the Defendant, for being
4 very conscientious. And I watched you this week,
5 you're very conscientious in your jury service and
6 I appreciate your willingness to serve. As I said
7 during the period of time of qualifications, jury
8 service is a very noble thing to do; and if you ever
9 get an opportunity to do it again, don't hesitate.
10 I want to thank all of you and have a good Easter
11 weekend, okay. You're free to leave.
12 That's also the alternates if you so desire as well.

13 (WHEREUPON, the jury was removed from the
14 courtroom.)

15 THE COURT: All right. Gentlemen,
16 anything before sentencing that you need to bring to
17 the attention of the Court?

18 MR. MILLER: Your Honor, just I was
19 thinking at the appropriate time I would -- just
20 wanted to put the prior plea negotiations just on
21 the record just 'cause I just had to deal with that
22 recently where it wasn't. I was just gonna put that
23 on during sentencing.

24 THE COURT: All right. Y'all bring --
25 Mr. Morris, you can come forward with your lawyer.

1 And I'll let you do that, Mr. Miller.

2 MR. MILLER: Your Honor, as far as
3 sentencing goes, I hand up to the Court the four
4 affidavits of service and notifications of this case
5 being a life without parole mandatory sentence,
6 along with the certified convictions.

7 THE COURT: You've seen all these,
8 Mr. Gambrell?

9 MR. GAMBRELL: I have, Your Honor.

10 MR. MILLER: And the history of why
11 there's four, Your Honor, is originally Christine
12 Hodge was the attorney on the case. The only
13 qualifying conviction was a most serious attempted
14 armed robbery. Then when new attorneys were on the
15 case, I re-served the notice as well; and then when
16 new convictions arose on the case, I re-served
17 notice with the new convictions on there as well to
18 include convictions of trafficking and
19 methamphetamine and trafficking with drugs, in
20 addition to the prior most serious offense of
21 attempted armed robbery.

22 THE COURT: Most recent being the matters
23 in Pickens County?

24 MR. MILLER: The most recent would be the
25 Pickens County, Your Honor.

1 THE COURT: Pickens County. Okay. Thank
2 you, Mr. Miller.

3 MR. MILLER: I'm sorry, briefly, ---

4 THE COURT: Go ahead.

5 MR. MILLER: The prior plea negotiations,
6 just for the record, was this was always a mandatory
7 life without parole case upon conviction after
8 service was to remove -- the original offer was to
9 move the mandatory life without parole and plea to
10 murder straight up. I -- then I received a
11 counteroffer for a very long time. The first
12 counteroffer I did receive was five years on
13 involuntary manslaughter. That was when Christine
14 Hodge represented Mr. Morris. When Mr. Surat (ph)
15 and Mr. Nealy represented Mr. Morris, I received a
16 counteroffer. It was either eight or nine years on
17 voluntary manslaughter and also to include all time
18 on the hip monitor, which was not even applicable on
19 this charge because it was prior to this charge.
20 And then this week Mr. Gambrell on Monday asked me
21 if we would remove the mandatory life without parole
22 and plea straight up to murder. I asked how firm
23 this was, if this was something real. He instructed
24 he would go talk to his client, Mr. Morris. He went
25 and talked to his client Mr. Morris and then shortly

1 after that on Monday of this week, informed me that
2 it was a trial and he was not going to plea.

3 THE COURT: Is that correct, Mr. Gambrell?

4 MR. GAMBRELL: With regard to my
5 involvement in that, yes, that is correct, Your
6 Honor.

7 THE COURT: Okay, all right.

8 MR. MILLER: The victim's father is
9 present but does not wish to speak.

10 THE COURT: All right. Any --
11 Mr. Gambrell.

12 MR. GAMBRELL: Judge, it's my
13 understanding that the Court does not have any
14 discretion in this matter.

15 THE COURT: All right. Mr. Morris,
16 anything you want to say?

17 (There was no response.)

18 THE COURT: All right. On indictment
19 ending in 07279, State v. Braylon Lamar Morris, the
20 sentence of the Court is you be committed to South
21 Carolina Department of Corrections for your natural
22 life without the possibility of parole. On
23 indictment ending in 07279, the sentence of the
24 Court is five years consecutive.

25 MR. MILLER: Thank you, Your Honor.

1 THE COURT: All right. Good luck.

2 MR. MILLER: And, Your Honor, if the
3 notices could be Court's exhibits?

4 THE COURT: Yeah.

5 MR. MILLER: Thank you, Your Honor.

6 (Court's Exhibits Nos. 9 through 13 were
7 marked and made a part of the record.)
8
9

10 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
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C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding was transcribed for Hollie Jenkins from audio, using computer-aided transcription; that the foregoing transcript contains a true record of the proceedings to the best of my ability.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 14th day of October, 2023.

Frances B. Ray

FRANCES B. RAY, RPR

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	INDICTMENT: 2019GS2307279
STATE OF SOUTH CAROLINA,	)	
	)	
v.	)	
	)	ORDER DENYING IMMUNITY
	)	
BRAYLON LAMAR MORRIS,	)	
Defendant	)	
_____	)	

THIS MATTER came before the Court on February 16, 2023, for a hearing on the Defendant's Motion for Immunity and Dismissal pursuant to S.C. Code § 16-11-410, *et seq.*, more commonly known as the South Carolina Protection of Persons and Property Act. The Defendant, Braylon Lamar Morris, was present and represented by Michael Gambrell. Assistant Solicitors E. Walker Miller and Jon Gregory appeared on behalf of the State. Defense made the motion orally on the day trial was set to begin, and the motion hearing was scheduled for February 16, 2023.

The hearing proceeded and the Defense called one witness, Braylon Morris. Exhibits that were referenced during cross examination were made Court exhibits without objection. At the conclusion of the hearing, the Court heard oral argument by counsel for each side regarding the common law elements of self-defense and statutory immunity. After considering the testimony presented and the arguments of counsel, the Court found that the Defendant failed to prove by a preponderance of the evidence that he is entitled to immunity pursuant to S.C. Code § 16-11-410, *et seq.*, for the reasons set out more fully below. Based on the testimony and evidence presented during the hearing, and after weighing the credibility of the witness, the Court finds that the facts as set forth herein have been established by a preponderance of the evidence.

FACTS

On July 5, 2019, the Defendant, Braylon Lamar Morris, went to the Wal-Mart located on White Horse Road in Greenville County. The victim also went to the same Wal-Mart and according the video surveillance footage the victim entered the store through the self-check area, which is where the defendant was located. The defendant saw the victim. The defendant then

reached into his left pocket, where his firearm was located and approached the victim. As the defendant approached the victim, the defendant drew his firearm from his left pocket. At this time both of the victim's hands were visible and the victim did not have a weapon.¹ The defendant shot the victim and the victim fell to the ground. As the victim was falling the defendant attempted to shoot the victim again but the firearm jammed. The defendant then re-racked the firearm and approached the victim, who was lying motionless on the floor. The defendant put the firearm to the victim's head and attempted to fire but the gun jammed a second time. The defendant then re-racked the firearm a second time. The defendant then put the firearm to the victim's head and pulled the trigger.² The firearm shot this time and the defendant shot the victim in the head, as the victim was lying motionless on the ground. The victim never made any threatening motion or gesture towards the defendant. The defendant then fled the scene and was taken in to custody at the Long John Silvers on White Horse Road. From the time the defendant fled Wal-Mart and was taken into custody, the defendant got rid of the red hat³ he was wearing and the firearm he used to shoot and kill the victim.

After the defendant was arrested on the charges of Murder and Possession of a Weapon During the Commission of a Violent Crime he was taken to the Greenville County Detention Center, which is where the initial bond hearing took place. At this bond hearing the defendant stated to the victim's father "the reason why I murdered your son." At this hearing the defendant also said to the victim's father that the victim introduced him to another individual and the defendant stated, at this bond hearing, that this is the reason why the victim is dead. Further, the defendant made a jail call on May 30, 2020 and on this call he referred to the firearm he used to kill the victim as the murder weapon.

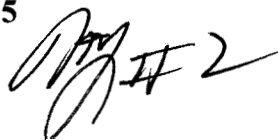
ANALYSIS

A defendant's entitlement to immunity from prosecution under the Protection of Persons and Property Act must be decided pretrial using a preponderance of the evidence standard. State v. Duncan, 392 S.C. 404, 410-11, 709 S.E.2d 662, 665 (2011). The Protection of Persons and Property Act essentially codified two common law doctrines: the Castle Doctrine and Stand Your Ground and the intent of the Act was to protect law abiding citizens from the fear of

¹ It is not in dispute that the victim was unarmed.

² There is no factual dispute as to the cause and manner of death of the victim.

³ Testimony revealed the red hat did not come off the defendant's head while he was running



prosecution or civil action when protecting themselves, their families, and others from intruders and attackers. See S.C. Code Ann. § 16-11-420 and 16-11-440. Further, the Court is not required to accept the Defendant's version of the underlying facts when analyzing the Defendant's claim to immunity under the Act. Curry, 406 S.C. at 371, 752 S.E.2d at 266. Subsection (A) of 16-11-440 addresses the common law Castle Doctrine and provides that:

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

Moreover, Subsection (B) sets forth circumstances under which Subsection (A) would not apply, to wit:

(B) The presumption provided in subsection (A) does not apply if the person:

(1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder...

Testimony presented at the hearing established that the defendant and the victim both had a right to be in the Wal-Mart, which is not a dwelling. No testimony or evidence was presented that the victim was making a forcible entry or that the defendant had reason to believe an unlawful and forcible entry or act was occurring or had occurred. Accordingly, the Court finds the elements of S.C. Code § 16-11-440(A) inapplicable to the factual circumstances of this case, and Defendant's claim of immunity is properly sought under S.C. Code § 16-11-440(C). Subsection (C) provides that:

(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary

to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

In 2013, the South Carolina Supreme Court held in Curry that "[c]onsistent with the Castle Doctrine and the text of the Act, a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity...this includes all elements of self-defense, save the duty to retreat." State v. Curry, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013). Accordingly, the Court's analysis of defendant's claim of immunity under Subsection (C) must also include an analysis of the first three common law elements of self-defense:

First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011).

As to the first element, the Defendant was the only person with a weapon. The victim had no weapon and did not make any threatening movements or gestures. Furthermore, before the defendant fired the first shot, both of the victim's hands were visible and the victim had no weapon nor made any threatening gestures or movements. The confrontation began by the defendant approaching the victim. As the defendant approached the victim, the defendant drew his firearm and subsequently shot the victim. The Court finds that the defendant is at fault in bringing on the difficulty.

With respect to the second element, the Defendant must actually believe that he was in imminent danger of losing his life or that he was actually in such imminent danger. The Court concludes the defendant failed to establish by a preponderance of the evidence that he, his family, or others were actually in imminent danger of losing their life. Therefore, the defendant must prove that he actually believed that he was in imminent danger. Based upon the evidence presented and legal analysis the Court finds the defendant has failed to establish by a preponderance of the evidence that he reasonably believed it was necessary to use deadly force

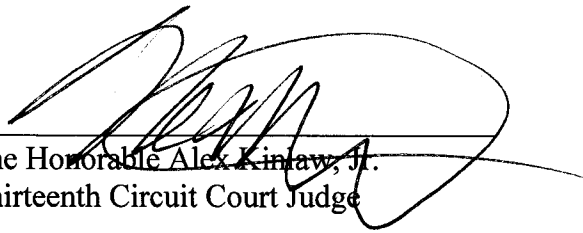
to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in S.C. Code § 16-1-60 and fails the second prong of self-defense.

The Court now moves to the final prong of the analysis, which states that the defendant must prove by a preponderance of the evidence that under the objective standard of a person of ordinary prudence, firmness and courage would feel the necessity to strike the fatal blow in order to save himself from serious bodily harm or losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. Based upon the evidence presented and legal analysis the Court finds, by a preponderance of the evidence, the defendant did not meet the objective standard of how a person of ordinary firmness and courage would respond in this particular situation or under similar circumstances.

At the conclusion of the hearing the court exercised its role of being the finder of fact as stated in State v. McClarty, 437 S.C. 355 (2022). In making its decision, the Court weighed the evidence and assessed the credibility of the witness.⁴

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that Defendant is not entitled to immunity under the Protection of Persons and Property Act §§ 16-11-440(A) or (C). Accordingly, the Defendant's Motion for Immunity and Dismissal pursuant to the Protection of Persons and Property Act, S.C. Code § 16-11-410, *et seq.*, is hereby DENIED.

IT IS SO ORDERED.


 The Honorable Alex Kinlaw, Jr.
 Thirteenth Circuit Court Judge

Greenville, South Carolina

Date: 2/22/23

⁴ The defendant was the only witness.

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1	Start Time: 6/26/2019 1:02:27 AM(UTC+0) Last Activity: 7/3/2019 5:00:39 PM(UTC+0) Number of attachments: 0 Source: Native Messages Account: +18643250920 Source file: 8b3877f2cc2311564d692b9ef4fc96f450361f0a_files_full.zip/private/var/mobile/Library/SMS/sms.db : 0x4EAA2 (Table: message, handle, Size: 954368 bytes) 8b3877f2cc2311564d692b9ef4fc96f450361f0a_files_full.zip/private/var/mobile/Library/SMS/sms.db-wal : 0x30AE61 (Table: chat, Size: 3946992 bytes) Body file: chat-2.txt Participants:  + [REDACTED] 3455  + [REDACTED] 0920

Braylon

From: [REDACTED] 0920 (owner)
To: + [REDACTED] 3455

Death before dishonor 424 universal logic

Participant	Delivered	Read	Played
+ [REDACTED] 3455			

Status: Sent

6/26/2019 1:02:27 AM(UTC+0)

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From: + [REDACTED] 3455
To: + [REDACTED] 0920 (owner)

Hey bro I put it on my 6 I'm going to make this right somehow

Participant	Delivered	Read	Played
+ [REDACTED] 0920			

Status: Read

Read: 6/26/2019 1:28:39 AM(UTC+0)

6/26/2019 1:12:10 AM(UTC+0)

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From: + [REDACTED] 0920 (owner)
To: + [REDACTED] 3455

Participant	Delivered	Read	Played
+ [REDACTED] 3455			

Status: Sent

6/27/2019 5:40:18 PM(UTC+0)

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From: [REDACTED] 1456
To: [REDACTED] 0920 (owner)

Hey I Kno where he's at .I found out where he staying

Participant	Delivered	Read	Played
[REDACTED] 0920			

Status: Read

Read: 6/27/2019 10:38:36 PM(UTC+0)

6/27/2019 9:32:00 PM(UTC+0)

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From: [REDACTED] 0920 (owner)
To: [REDACTED] 0456

What's good

Participant	Delivered	Read	Played
[REDACTED] 0456			

Status: Sent

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From: [REDACTED] 0920 (owner)
To: [REDACTED] 0456

Why you look for me

Participant	Delivered	Read	Played
[REDACTED] 0456			

Status: Sent

7/3/2019 4:01:30 PM(UTC+0)

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To: [REDACTED] 0456

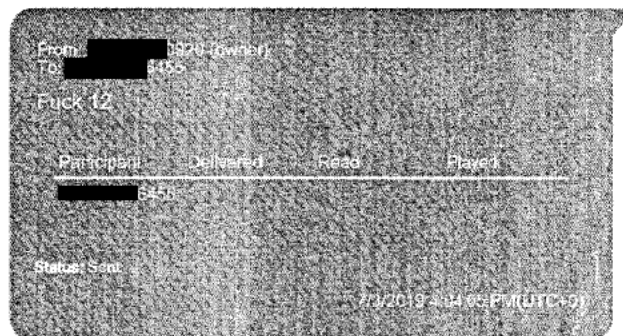
So basically all y'all muhahucakas police

Participant	Delivered	Read	Played
[REDACTED] 0456			

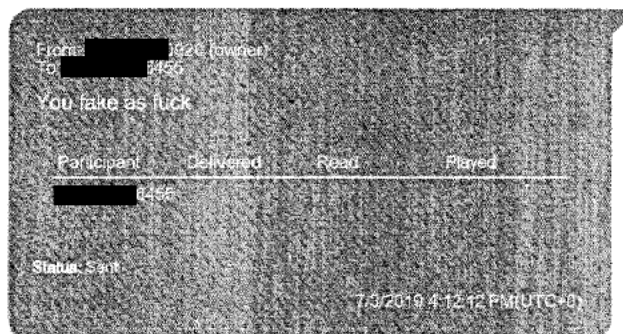
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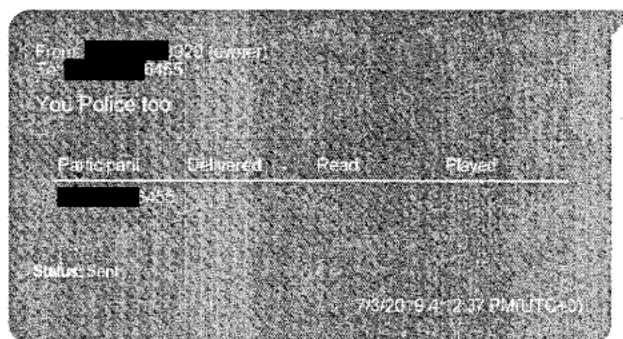
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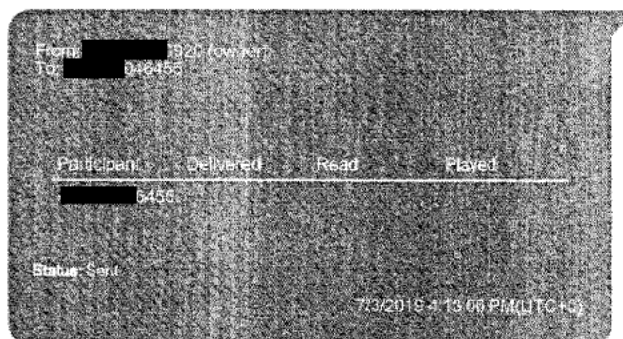
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From: 8455
To: 8920 (owner)

Look here bro I done told u where he's at and even though I introduce y'all I ain't responsible for what his faggot ass does. I done my fuckin part now do yours and go fuckin. Get him and dont be calling me no fuckin 12

Participant	Delivered	Read	Played
8920			

Status: Read

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7/3/2019 4:43:34 PM(UTC+0)

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From: 8455
To: 8920 (owner)

I ain't got shit to say b I ain't no fuckin 12

Participant	Delivered	Read	Played
8920			

Status: Read

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7/3/2019 4:46:58 PM(UTC+0)

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From: 8455
To: 8920 (owner)

Ask any fuckin body

Participant	Delivered	Read	Played
8920			

Status: Read

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7/3/2019 4:47:27 PM(UTC+0)

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From: 8920 (owner)
To: 8455

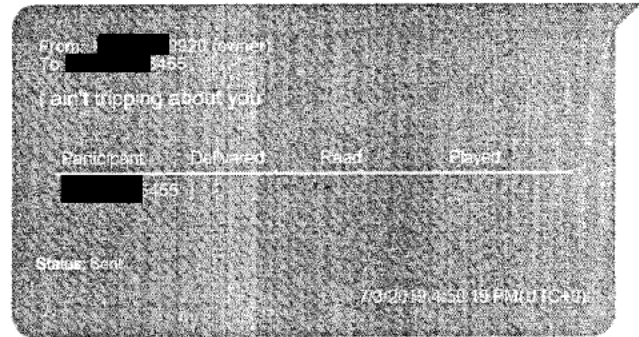
Pick up your phone

Participant	Delivered	Read	Played
8455			

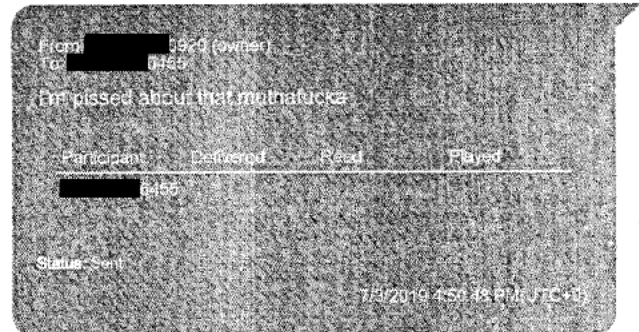
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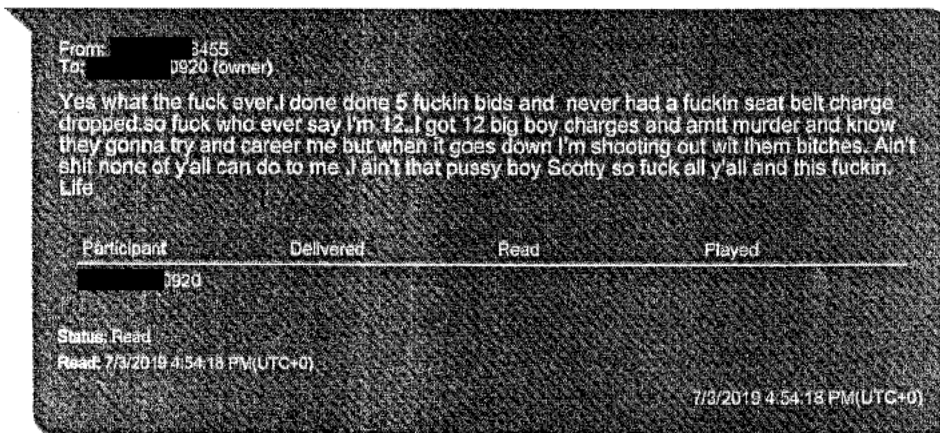
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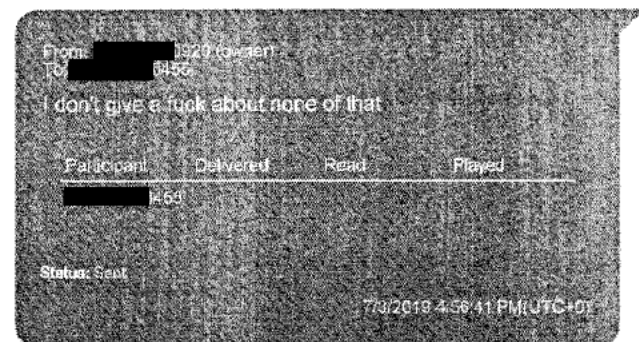
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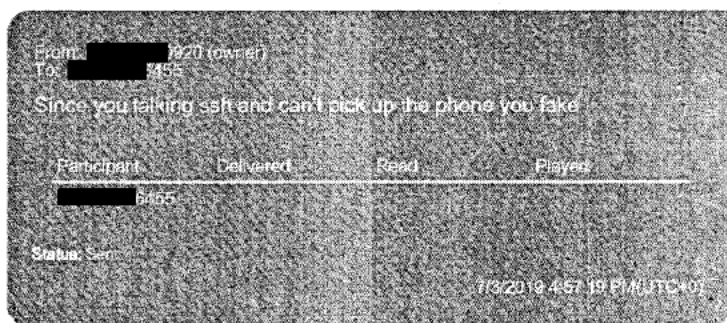
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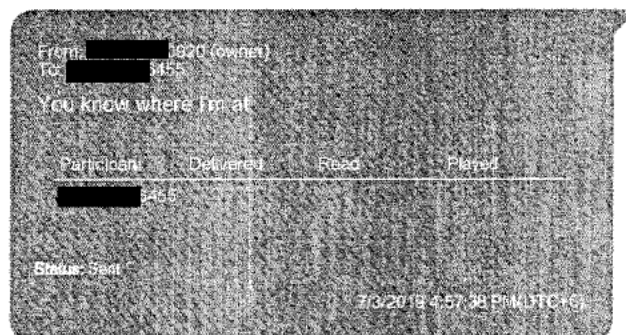
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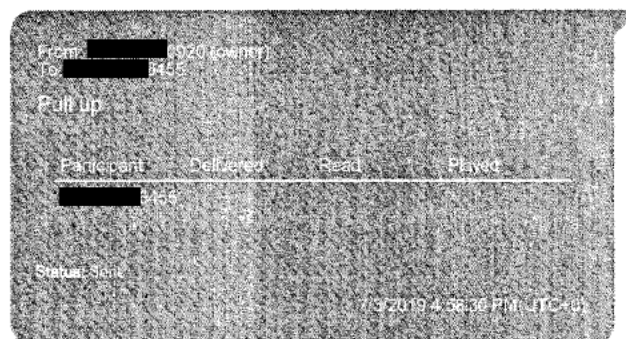
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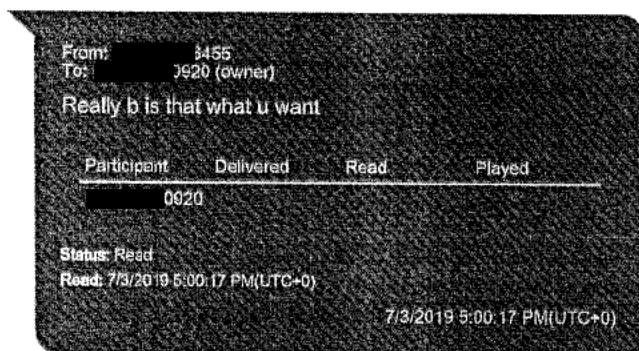
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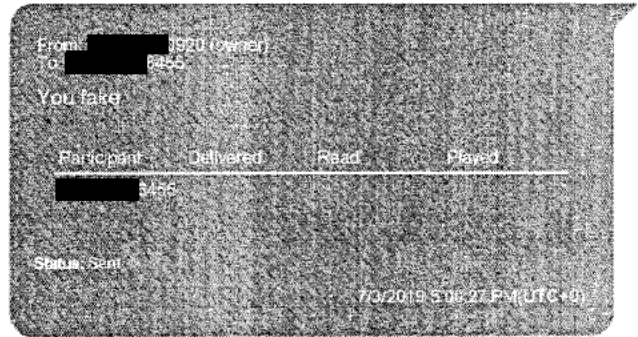
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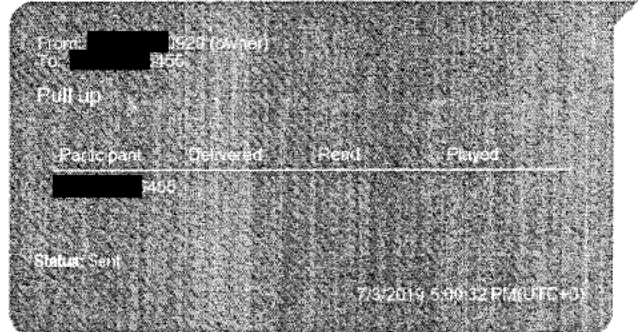
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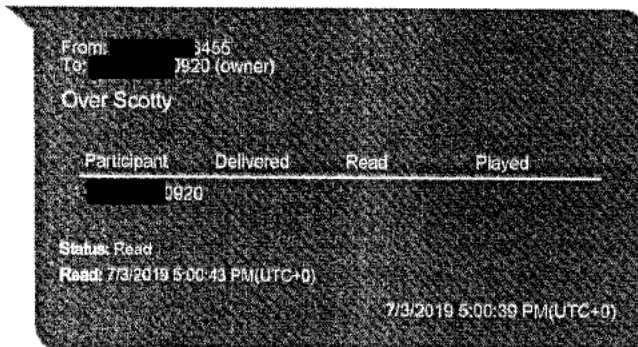
Source Info:
8b3877f2cc2311564d692b9ef4fc96f450361f0a_files_full.zip/private/var/mobile/Library/SMS/sms.db : 0xA6FE8 (Table: message, handle, Size: 954368 bytes)



Source Info:
8b3877f2cc2311564d692b9ef4fc96f450361f0a_files_full.zip/private/var/mobile/Library/SMS/sms.db : 0xA6E16 (Table: message, handle, Size: 954368 bytes)



Source Info:
8b3877f2cc2311564d692b9ef4fc96f450361f0a_files_full.zip/private/var/mobile/Library/SMS/sms.db : 0xA6C6E (Table: message, handle, Size: 954368 bytes)



Source Info:
8b3877f2cc2311564d692b9ef4fc96f450361f0a_files_full.zip/private/var/mobile/Library/SMS/sms.db : 0xA6AC4 (Table: message, handle, Size: 954368 bytes)

D + V

Start Time: 6/26/2019 1:02:27 AM(UTC+0)
 Last Activity: 7/3/2019 5:00:39 PM(UTC+0)
 Participants: [REDACTED] 6455 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED], [REDACTED] 0920
 From: [REDACTED] 0920 (owner)
 Timestamp: 6/26/2019 1:02:27 AM(UTC+0)
 Source App: Native Messages
 Body:
 Death before dishonor 424 universal logic

 From: [REDACTED] 6455 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
 Timestamp: 6/26/2019 1:12:10 AM(UTC+0)
 Source App: Native Messages
 Body:
 Hey bro 1 put it on my 6 I'm going to make this right somehow

 From: [REDACTED] 0920 (owner)
 Timestamp: 6/27/2019 5:30:18 PM(UTC+0)
 Source App: Native Messages
 Body:
 🙄

 From: [REDACTED] 6455 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
 Timestamp: 6/27/2019 9:32:00 PM(UTC+0)
 Source App: Native Messages
 Body:
 Hey 1 Kno where he's at .1 found out where he staying

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 3:59:58 PM(UTC+0)
 Source App: Native Messages
 Body:
 What's good

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:01:30 PM(UTC+0)
 Source App: Native Messages
 Body:
 Why you look for me

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:03:38 PM(UTC+0)
 Source App: Native Messages
 Body:
 So basically all y'all muthafucakas police

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:04:05 PM(UTC+0)
 Source App: Native Messages
 Body:
 Fuck 12

From: [REDACTED] 0920 (owner)
Timestamp: 7/3/2019 4:12:12 PM(UTC+0)
Source App: Native Messages
Body:
You fake as fuck

From: [REDACTED] 0920 (owner)
Timestamp: 7/3/2019 4:12:37 PM(UTC+0)
Source App: Native Messages
Body:
You Police too

From: [REDACTED] 0920 (owner)
Timestamp: 7/3/2019 4:13:06 PM(UTC+0)
Source App: Native Messages
Body:
👊

From: [REDACTED] 6455 🍆🍆🍆🍆🍆
Timestamp: 7/3/2019 4:43:34 PM(UTC+0)
Source App: Native Messages
Body:
Look here bro l done told u where he's at and even though l introduce y'all l ain't responsible for what his faggot ass does.i done my fuckin part .now do yours and go fuckin. Get him and dont be calling me no fuckin 12

From: [REDACTED] 6455 🍆🍆🍆🍆🍆
Timestamp: 7/3/2019 4:46:58 PM(UTC+0)
Source App: Native Messages
Body:
I ain't got shit to say b l ain't no fuckin 12

From: [REDACTED] 6455 🍆🍆🍆🍆🍆
Timestamp: 7/3/2019 4:47:27 PM(UTC+0)
Source App: Native Messages
Body:
Ask any fuckin body

From: [REDACTED] 0920 (owner)
Timestamp: 7/3/2019 4:50:08 PM(UTC+0)
Source App: Native Messages
Body:
Pick up your phone

From: [REDACTED] 0920 (owner)
Timestamp: 7/3/2019 4:50:19 PM(UTC+0)
Source App: Native Messages
Body:
I ain't tripping about you

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:50:48 PM(UTC+0)
 Source App: Native Messages
 Body:
 I'm pissed about that muthafucka

 From: [REDACTED] 6455 🐸🐸🐸🐸🐸
 Timestamp: 7/3/2019 4:54:18 PM(UTC+0)
 Source App: Native Messages
 Body:

Yes what the fuck ever..I done done 5 fuckin bids and never had a fuckin seat belt charge dropped.so fuck who ever say I'm 12..I got 12 big boy charges and amtt murder and know they gonna try and career me but when it goes down I'm shooting out wit them bitches. Ain't shit none of y'all can do to me .I ain't that pussy boy Scotty so fuck all y'all and this fuckin. Life

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:56:41 PM(UTC+0)
 Source App: Native Messages
 Body:
 I don't give a fuck about none of that

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:57:19 PM(UTC+0)
 Source App: Native Messages
 Body:
 Since you talking ssh and can't pick up the phone you fake

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:57:38 PM(UTC+0)
 Source App: Native Messages
 Body:
 You know where I'm at

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 4:58:30 PM(UTC+0)
 Source App: Native Messages
 Body:
 Pull up

 From: [REDACTED] 6455 🐸🐸🐸🐸🐸
 Timestamp: 7/3/2019 5:00:17 PM(UTC+0)
 Source App: Native Messages
 Body:
 Really b is that what u want

 From: [REDACTED] 0920 (owner)
 Timestamp: 7/3/2019 5:00:27 PM(UTC+0)
 Source App: Native Messages

Body:
You fake

From: [REDACTED] 0920 (owner)
Timestamp: 7/3/2019 5:00:32 PM(UTC+0)
Source App: Native Messages
Body:
Pull up

From: [REDACTED] 6455 🍻🍻🍻🍻🍻
Timestamp: 7/3/2019 5:00:39 PM(UTC+0)
Source App: Native Messages
Body:
Over Scotty

AMENDED
DOCKET NO. 2019-GS-23-007279
EWM
The State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS

January TERM 2022

THE STATE

vs.

BRAYLON LAMAR MORRIS

Indictment for

0116 and 0549

MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT
CRIME

VIOLATION § 16-03-0010 and § 16-23-0490

ENTERED
ACCT.

WITNESSES

Antonio L Bailey

Greenville County Sheriffs Office

7/5/2019

ARREST WARRANT NUMBER

2019A2330205995 and 2019A2330205996

ACTION OF GRAND JURY

TRUE BILL

James Porter
FOREMAN-GRAND JURY
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
**MURDER AND POSSESSION OF A WEAPON DURING THE
 COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on **JAN 11 2021** the Grand Jurors of Greenville
 County present upon their oath:

MURDER:

That BRAYLON LAMAR MORRIS did in Greenville County, on or about the 5th day of July, 2019, unlawfully
 and with malice aforethought kill MICHAEL DECK by means of shooting Michael Jason Deck, and that
 MICHAEL DECK died as a proximate result thereof. This is in violation of §16-3-0010 of the South Carolina
 Code of Laws (1976) as amended.

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME:

That BRAYLON LAMAR MORRIS did in Greenville County, on or about the 5th day of July, 2019, possess or
 visibly display a firearm during the commission or attempted commission of a violent crime, to wit: MURDER.
 This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

BAR # 101312

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE

VS.

INDICTMENT/CASE#: 2019 - GS - 23 - 07279

Braylon Lamar Morris

A/W#: 2019A2330205995

AKA:

Date of Offense: 7/5/2019 - 7/5/2019Race: BLACK Sex: M Age: 37S.C. Code § 16-03-0010, 0020DOB: [REDACTED]-1985 SS#: [REDACTED]CDR Code #: 0116Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

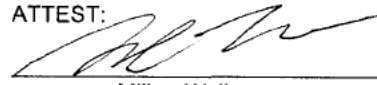
In disposition of the above indictment comes now the Defendant who was

☐ CONVICTED OF or ☐ PLEADSTO: Murderin violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:


101312
Miller, Walker SC Bar #

Defendant

70044
GAMBRELL, MICHAEL
Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of Life w. Post THE PROB. & PARD. S. days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Braylon Lamar Morris INDICTMENT/CASE#: 2019 - GS - 23 - 07279**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E
beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____ \$ _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

\$100 \$ 100.00

§14-1-211(A)(2) (DUI Surcharge)

\$100 \$

§56-5-2995 (DUI Assessment)

\$12 \$

§56-1-286 (DUI Breath Test)

\$25 \$

§14-1-212 (Law Enforce. Funding)

\$25 \$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150 \$

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

\$41 \$

§50-21-114(BUI Breath Test Fee)

\$50 \$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea \$

3% to County (if paid in installments)

TBD \$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

\$500 \$

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TBD \$

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk:
Court Reporter:

Paul B. Nickensamer
Jenkins

Presiding Judge:
Judge Code:
Sentence Date:

[Signature]
2763
4/6/23

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Braylon Lamar Morris

AKA:

Race: BLACK Sex: M Age: 37DOB: -1985 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019 - GS - 23 - 07279A/W#: 2019A2330205996Date of Offense: 7/5/2019S.C. Code § 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☐ CONVICTED OF or ☐ PLEADSTO: Possession of a Weapon During Commission of a Violent Crimein violation of § 1623-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:



101312

Miller, Walker

SC Bar #

Defendant

70044

GAMBRELL, MICHAEL
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Braylon Lamar Morris INDICTMENT/CASE#: 2019 - GS - 23 - 07279**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

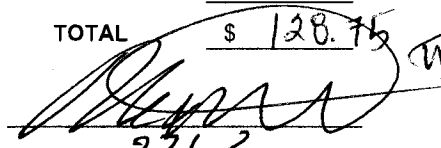
Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk:
Court Reporter:Paul B. Weckensamer
SentansPresiding Judge:
Judge Code:
Sentence Date:

2763
4/8/23

CERTIFICATE OF COUNSEL FOR APPELLANT

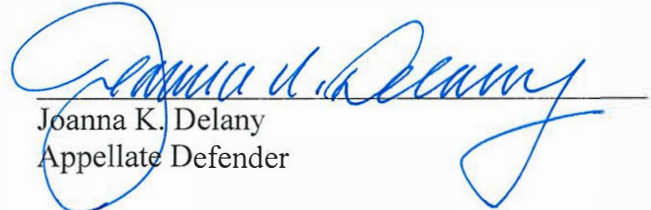
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Nov 25 2024

SC Court of Appeals



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 25th day of November, 2024.

RECEIVED

Nov 25 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRAYLON LAMAR MORRIS,

APPELLANT

APPELLATE CASE NO. 2023-000608

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Tommy Evans, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 25th day of November, 2024.



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT