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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARVIN DONTE BRYAN,

APPELLANT

APPELLATE CASE NO. 2017-001468

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1 using it.

2 (Pause.)

3 THE COURT: Are all exhibits accounted for?

4 THE COURT REPORTER: Yes, ma'am.

5 THE COURT: From the State?

6 SOLICITOR KIDD: Yes, ma'am.

7 THE COURT: Defense?

8 MR. PRICE: Yes, ma'am.

9 MR. PEPPER: Yes, ma'am.

10 THE COURT: All right. And we sent a clean laptop that
11 is owned by the Clerk's Office into the jury room. It is
12 equipped with most media players. So, we shouldn't have any
13 problems, and I have instructed the bailiff to advise the
14 jury that No. 65 takes a minute to load because the
15 software's loading.

16 Is there any exception to him being able to give that
17 instruction from the State?

18 SOLICITOR KIDD: No, ma'am.

19 THE COURT: The defense?

20 MR. PRICE: No, ma'am.

21 MR. PEPPER: No, ma'am.

22 THE COURT: Okay. I need to excuse the alternates.
23 So, I need y'all to stay with me, and I need you to get the
24 bailiff to get the alternates for me, and we still need to
25 hear motions.

1 (WHEREUPON, the jury began deliberations at 12:47.)

2 THE COURT: Are they getting the alternates?

3 THE BAILIFF: The alternates are in this section here.

4 THE COURT: I need them.

5 THE BAILIFF: Okay.

6 THE COURT: I need the alternates so I can excuse them.

7 THE BAILIFF: Okay.

8 (WHEREUPON, the alternate jurors were excused at this
9 time.)

10 THE COURT: Okay. The alternates have been excused.

11 The record should reflect that the jury began its
12 deliberations at 12:47.

13 The jury has its lunch. If y'all want to go get some
14 lunch, leave your cell phone numbers with us. If y'all
15 could come back by about 1:30, that would be helpful, in the
16 event that there are any questions, and I need to give the
17 deputies time and the Court staff time to eat as well.

18 SOLICITOR KIDD: Yes, ma'am.

19 MR. PEPPER: See you in a little bit.

20 THE COURT: Oh, we need to hear motions. I keep
21 forgetting that. Let's take care of that right quick before
22 we forget again.

23 At the close, when both the defense rested their cases,
24 I reserved motions.

25 Are there any motions?

1 MR. PRICE: Your Honor, I would just renew all my
2 previous motions at this time?

3 THE COURT: Mr. Peper.

4 MR. PEPER: As would Mr. Wilson, Judge. Thank you.

5 THE COURT: Any response from the State?

6 SOLICITOR KIDD: No, ma'am.

7 THE COURT: The Court would renew its original ruling
8 and would incorporate those findings into this portion of
9 the record. There's both direct and substantial
10 circumstantial evidence reasonably tending to prove the
11 defendants' guilt, and, therefore, the motions are denied.

12 MR. PEPER: Thank you, Judge.

13 THE COURT: Have a good lunch.

14 SOLICITOR KIDD: Thank you.

15 MR. PEPER: Thank you.

16 THE COURT: I'll see you-all at -- let's try for 1:30.

17 SOLICITOR KIDD: Yes, ma'am.

18 THE COURT: The bailiffs -- I mean the deputies will be
19 back to open the courtroom then.

20

21

22 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Charleston County, South Carolina, on the 22nd and 23rd days of June, 2017, as reported by Heather Landry and transcribed by myself.

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

February 15th, 2017



PAMELA E. GREEN, Court Reporter

1 every witness you call against them. So how are you going
2 to prove that that's the person? So you might want to think
3 about that. But I'm tired right now, so we are going to
4 adjourn. Because I can't think any more. I've reached my
5 limit today. And I'm sure y'all have to, and I'm a little
6 hungry. And I'm sure Mr. Cornley is too, and I'm sure this
7 young man is. So we'll start in the morning at 9:30. And
8 I'll go back through my notes and we'll see about 152 -- I'm
9 sorry. I'm getting my numbers wrong -- 153 and 152.

10 (The proceeding adjourned for the evening at 6:29 p.m.)

11
12 (Proceedings that took place on Thursday, June 22,
13 2017, and the morning portion of Friday, June 23, 2017,
14 were produced and submitted separately by another court
15 reporter.)

16 - - - - -

17 (The proceedings resumed at 2:56 p.m.)

18 THE COURT: While the bailiff is getting the jury, I
19 understand this is a very emotional proceeding. However,
20 when the jury verdicts are read, I do not expect there to be
21 any audible response from the gallery. If you don't feel
22 for you can abide by those instructions, I would hope that
23 you would excuse yourself at this time. Otherwise, I'm
24 putting it into the hands of the deputies to handle it, and
25 that might not be so pleasant. So I would ask that you

1 search yourself and decide whether this is something you can
2 tolerate. And if not, then I would ask that you excuse
3 yourself, but I expect the order and the decorum the Court
4 to be observed. And I thank every one in attendance in
5 advance.

6 (The jury enters the courtroom at 3:01 p.m.)

7 VERDICT OF THE JURY

8 THE COURT: Madame Forelady, is it correct that the
9 jury has reached a verdict?

10 FOREPERSON: Yes ma'am.

11 THE COURT: If you would give the verdict forms to the
12 bailiffs for me, please.

13 (Brief pause.)

14 THE COURT: Please stand for the announcement of the
15 verdicts. You may proceed.

16 THE CLERK: The verdict forms in the matter of the
17 State of South Carolina versus Marvin Donte Bryan as to
18 indictment number 2017-GS-10-4164, we the jury unanimously
19 find the defendant guilty of murder, signed by the
20 foreperson of the jury on 23 June 2017. Ladies and
21 gentlemen of the jury, if this was your, please raise your
22 right hand.

23 (Jurors comply.)

24 Thank you. Please let the record reflect that all 12
25 jurors raised their right hand. As to indictment number

1 2017-GS-10-4165, we the jury find, unanimously find, the
2 defendant guilty of attempted murder as to Adrian Isaac
3 Williams, signed by the foreperson of the jury on 23 June of
4 2017. Ladies and gentlemen of the jury, if this is your
5 verdict, please raise your right hand.

6 (Jurors comply.)

7 Thank you. Let the record reflect that all 12 jurors
8 raised their right hand. As to indictment number
9 2017-GS-10-4166, we the jury unanimously find the defendant
10 guilty of attempted murder as Montez Capers, signed by the
11 foreperson of the jury on 23 June 2017. Ladies and
12 gentlemen of the jury, if this was your verdict, please
13 raise your right hand.

14 (Jurors comply.)

15 Thank you. Please let the record reflect that all 12
16 jurors raised their right hand. As to indictment number
17 2017-GS-10-4167, we the jury unanimously find the defendant
18 guilty of attempted murder as to Quran Kaleith Allen, signed
19 by the foreperson of the jury on June 23, 2017. Ladies and
20 gentlemen of the jury, if this was your verdict, please
21 raise your right hand.

22 (Jurors comply.)

23 Thank you. Please let the record reflect that all 12
24 jurors raised their right hand. The verdict forms in the
25 matter of Justin Martel Wilson as to indictment

1 2017-GS-10-4160, we the jury unanimously find the defendant
2 guilty of murder, signed by the foreperson of the jury on 23
3 June 2017. Ladies and gentlemen of the jury, if this was
4 your verdict, please raise your right hand.

5 (Jurors comply.)

6 Thank you. Please let the record reflect that all 12
7 jurors raised their right hand. As to indictment number
8 2017-GS-10-4161, we the jury unanimously find the defendant
9 guilty of attempted murder as to Quran Kaleith Allen, signed
10 by the foreperson of the jury on June, 23, 2017. Ladies and
11 gentlemen of the jury, if this was your verdict, please
12 raise your right hand.

13 (Jurors comply.)

14 Thank you. As to indictment number 2017-GS-10-4162, we
15 the jury unanimously find the defendant guilty of attempted
16 murder as to Montez Capers, signed by the foreperson of the
17 jury on June23, 2017. Ladies and gentlemen of the jury, if
18 this was your verdict, please raise your right hand.

19 (Jurors comply.)

20 Thank you. Please let the record reflect that all 12
21 jurors raised their right hand. As to indictment number
22 2017-GS-10-4163, we the jury unanimously the defendant
23 guilty of attempted murder as to Adrian Isaac Williams,
24 signed by the foreperson on June 23, 2017. Ladies and
25 gentlemen of the jury, if this was your verdict, please

1 raise your right hand.

2 (Jurors comply.)

3 Thank you. Please let the record reflect that all 12
4 jurors raised their right hand.

5 THE COURT: Is there any request to poll the jury from
6 the defendant Bryan?

7 MR. PRICE: No, Your Honor.

8 THE COURT: Any request to poll the jury from the
9 defendant Wilson?

10 MR. PEPPER: Yes, ma'am.

11 THE COURT: Please proceed with the polling the jury.

12 THE CLERK: Yes, Your Honor.

13 THE COURT: We're you going to change your mind Mr. --
14 Mr. Price, you were saying something. Do you want the jury
15 polled or do you not want the jury polled?

16 MR. PRICE: Yes. We'll join in the motion. Yes, Your
17 Honor.

18 THE CLERK: Ladies and gentlemen, what we're going to
19 do now is called polling the jury. When I call your jury
20 number, please raise your hand. I'll identify you, then you
21 can put it down. I'll then ask you two questions. First
22 question will be: Where those your verdicts? The second
23 question will be: Are they still your verdicts? Please
24 answer these questions verbally.

25 As to Defendant Justin Martel Wilson, juror number

1 342 -- thank you -- were those your verdicts?

2 JUROR: Yes.

3 THE CLERK: Are this still your verdicts?

4 JUROR: Yes.

5 THE CLERK: As to Defendant Marvin Donte Bryan, were
6 those your verdicts?

7 JUROR: Yes.

8 THE CLERK: Are they still your verdicts.

9 JUROR: Yes.

10 THE CLERK: Thank you. Juror number 6, as to defendant
11 Marvin Donte Bryan, were those your verdict?

12 JUROR: Yes, sir.

13 THE CLERK: Are they still your verdicts?

14 JUROR: Yes, sir.

15 THE CLERK: Thank you. As to defendant Justin Martel
16 Wilson, were those your verdict?

17 JUROR: Yes, sir.

18 THE CLERK: Are they still your verdicts?

19 JUROR: Yes, sir.

20 THE CLERK: Thank you. Juror number 34, Ms. Matt
21 Bonnie.

22 (No response from Juror 34.)

23 THE CLERK: Juror number 50. Yes, ma'am. As to
24 defendant Marvin Bryan, were those your verdict?

25 JUROR: Yes.

1 THE CLERK: Are they still your verdicts?

2 JUROR: Yes.

3 THE CLERK: As to defendant Justin Martel Wilson, were
4 those your verdict?

5 JUROR: Yes.

6 THE CLERK: Are they still your verdicts?

7 JUROR: Yes.

8 THE CLERK: Please say that again.

9 JUROR: Yes.

10 THE CLERK: Thank you very much. Juror number 68.
11 Yes, sir. As to defendant Marvin Donte Bryan, were those
12 your verdicts?

13 JUROR: Yes.

14 THE CLERK: Are they still your verdicts?

15 JUROR: Yes.

16 THE CLERK: Thank you. As to defendant Justin Martel
17 Wilson, were those your verdicts?

18 JUROR: Yes.

19 THE CLERK: Are they still your verdicts?

20 JUROR: Yes.

21 THE CLERK: Thank you. Juror number 73. Yes, sir. As
22 far as defendant Marvin Donte Bryan, were those your
23 verdicts?

24 JUROR: Yes, sir.

25 THE CLERK: As far as defendant Justin Martel Wilson,

1 were those your verdicts?

2 JUROR: Yes, sir.

3 THE CLERK: As to -- excuse me -- as to Marvin Bryan,
4 are those still your verdicts?

5 JUROR: Yes, sir.

6 THE CLERK: Ast to Justin Wilson, are they still your
7 verdicts?

8 JUROR: Yes, sir.

9 THE CLERK: Thank you. Juror number 73. That's you.
10 Excuse me. Juror number 74. Yes, ma'am. As to Marvin
11 Donte Bryan, were those your verdicts?

12 JUROR: Yes, sir.

13 THE CLERK: Are they still your verdicts?

14 JUROR: Yes.

15 THE CLERK: As to defendant Justin Martel Wilson, were
16 those your verdicts?

17 JUROR: Yes.

18 THE CLERK: Are they still your verdicts?

19 JUROR: Yes, sir.

20 THE CLERK: Thank you. Juror number 116. Yes, ma'am.
21 As to defendant Marvin Donte Bryan, were those your
22 verdicts?

23 JUROR: Yes.

24 THE CLERK: Are they still your verdicts?

25 JUROR: Yes.

1 THE CLERK: Thank you. As to defendant Justin Martel
2 Wilson, were those your verdicts?

3 JUROR: Yes.

4 THE CLERK: Are they still your verdicts?

5 JUROR: Yes.

6 THE CLERK: Thank you. Juror number 116. Is that you?
7 Thank you. Juror number 155, as to defendant Marvin Donte
8 Bryan, were those your verdicts?

9 JUROR: Yes, sir.

10 THE CLERK: Are they still your verdicts?

11 JUROR: Yes, sir.

12 THE CLERK: Thank you. As to defendant Justin Martel
13 Wilson, were those your verdicts?

14 JUROR: Yes, sir.

15 THE CLERK: Are they still your verdicts?

16 JUROR: Yes, sir.

17 THE CLERK: Thank you. Juror number 191. Yes, ma'am.
18 As far as defendant Marvin Donte Bryan, were those your
19 verdicts?

20 JUROR: Yes.

21 THE CLERK: Are they still your verdicts?

22 JUROR: Yes.

23 THE CLERK: Thank you. As to defendant Justin Martel
24 Wilson, were those your verdicts?

25 JUROR: Yes.

1 THE CLERK: Are they still your verdicts?

2 JUROR: Yes.

3 THE CLERK: Thank you. Juror number 269. Yes, ma'am.

4 As to defendant Marvin Donte Bryan, were those your
5 verdicts?

6 JUROR: Yes.

7 THE CLERK: Are they still your verdicts?

8 JUROR: Yes.

9 THE CLERK: Thank you. As to defendant Justin Martel
10 Wilson, were those your verdicts?

11 JUROR: Yes.

12 THE CLERK: Are they still your verdicts?

13 JUROR: Yes.

14 THE CLERK: Thank you. Juror number 333, as to
15 defendant Marvin Donte Bryan, were those your verdicts?

16 JUROR: Yes.

17 THE CLERK: Are they still your verdicts?

18 JUROR: Yes.

19 THE CLERK: Thank you. As to defendant Justin Martel
20 Wilson, were those your verdicts?

21 JUROR: Yes.

22 THE CLERK: Are they still your verdicts?

23 JUROR: Yes.

24 THE CLERK: Thank you. Is there any juror whose number
25 I did not call? Please raise your right hand. Yes, ma'am;

1 your juror number, please?

2 JUROR: 184.

3 THE CLERK: Which one was that?

4 JUROR: 184.

5 THE CLERK: Okay. As to defendant Marvin Donte Bryan,
6 were those your verdicts?

7 JUROR: Yes, sir.

8 THE CLERK: Are they still your verdicts?

9 JUROR: Yes, sir.

10 THE CLERK: As to defendant Justin Martel Wilson, were
11 those your verdicts?

12 JUROR: Yes, sir.

13 THE CLERK: I'm sorry?

14 JUROR: Yes, sir.

15 THE CLERK: Are they still your verdicts?

16 JUROR: Yes, sir.

17 THE CLERK: Thank you. Is there any juror whose number
18 I did not call? Please raise your right hand.

19 (No response.)

20 THE CLERK: Your Honor, the jury has been polled, and
21 the verdicts stand.

22 THE COURT: Madam Forelady, ladies and gentlemen, you
23 all can take your seats. We thank you for your time and
24 your attention to this case. As I said during jury
25 qualification, and people often laugh, that the real system

1 is nothing like what you see on television. I hope through
2 your service this week you have known how vital your
3 services to us. Charleston County is one of busiest
4 counties in the State. We hold jury trials every week with
5 the exception of holidays. Usually, three civil and three
6 criminal courts, as well as nonjury courts and other court
7 operations that are housed in this building. And we could
8 not do the majority of what we do without your willingness
9 to serve as jurors. So I thank you for your service.

10 If you need a work excuse, you can obtain those on the
11 first floor -- actually, I'm going to ask Dallas, if anybody
12 needs work excuses, if you can bring those upstairs. I
13 don't want them to have to be downstairs with the rest of
14 the public and be able to exit the courthouse if they would
15 like. If you need a work excuse, please just go back to
16 your jury room and I'll have Dallas bring those to you.
17 Otherwise, they will be mailed to you along with your
18 checks.

19 You're welcome to discuss this case if you would like.
20 Often times lawyers will reach out to you to get a
21 layperson's opinion as to the trial. You're welcome,
22 likewise, not to discuss this case if you don't want to.
23 And if someone should exceed your comfort level, please
24 contact the clerk's office so that we can take the
25 appropriate action to protect your privacy. You are welcome

1 to remain with us for sentencing. If anyone -- is there
2 anyone that would like to remain for sentencing? If not,
3 your are welcome to be excused. In South Carolina, we
4 sentence individuals immediately after the verdict is
5 rendered. There's not a waiting period. And so if anybody
6 wants to remain for that process, they are welcome to. And
7 you can remain in the jury box as we continue with the
8 remainder of the preceding. If not, if there's anyone that
9 wishes to remain, let the bailiffs know as you exit the
10 courtroom, and we will reseate you in the jury box. If there
11 is anyone who feels they need be escorted to their vehicle,
12 please let us know, and likewise, we will accommodate your
13 request. I hope you know how very valuable your service is
14 to us, and you're excused with the court's profound thanks.

15 I'll hear post-trial motions and sentencing in a
16 moment.

17 (The jury is excused and exits the courtroom at 3:15
18 p.m..)

19 (Brief pause.)

20 THE COURT: All right. Do the defendants have any
21 records starting with Mr. Bryan?

22 AST. SOL. KIDD: Yes, ma'am.

23 THE COURT: What is his record?

24 AST. SOL. KIDD: In 2009, a possession of a controlled
25 substance conviction. Later in that same year, he had

1 possession with intent to distribute cocaine. He got a
2 three year suspended on a two-year probationary sentence
3 with that charge. In 2012, he had a DUS; another DUS. And
4 in 2014, he had a possession with intent to distribute
5 cocaine base in which he received a nine-year sentence
6 suspended on probation for four years. So he would have had
7 been on probation for that charge during this crime.

8 As for Mr. Wilson, he does not have much of a record.
9 In 2012, possession of marijuana, second offense. In 2013,
10 driving under suspension. And that's all.

11 THE COURT: Are there any post-trial motions?

12 MR. PEPER: Thank you, Your Honor. May it please the
13 Court? On behalf of Mr. Wilson, we obviously are concerned
14 with the efficiency in which the jury made their unanimous
15 decision especially in light of the fact that we've had four
16 days, five now, of extremely lengthy and complicated
17 testimony along with, by my count, 157 exhibits. The only
18 -- they received the case at 12:47 p.m. No questions of the
19 Court, and returned a verdict in approximately 122 minutes
20 later. We have grave concerns as to whether they
21 deliberated as effectively as they should have, Judge.

22 THE COURT: Is there a motion?

23 MR. PEPER: We ask you to set aside the verdict?

24 THE COURT: Mr. Price?

25 MR. PRICE: We absolutely join in that motion as well,

1 Your Honor. This was a four-day trial, and essentially
2 almost under a three-hour -- two-hour verdict. We would ask
3 the same.

4 THE COURT: Would the State like to have any response?

5 AST. SOL. KIDD: Judge, just that I think our charge
6 was very clear. I think the evidence was very clear and
7 laid out. I think you could tell by the emotion on all the
8 jurors's faces that they took their job seriously and
9 considered the evidence rationally and went through it as
10 much as they needed to. I think the evidence was strong in
11 this case and supported a quick verdict. Defense counsel
12 did a very competent job, but you can't argue against the
13 evidence. And the evidence in this case afforded a quick
14 verdict and that's what we received. And I think that the
15 verdict should stand.

16 THE COURT: Motion is denied. The Court is constrained
17 by the rule sand case law which provide that if there is any
18 competent evidence to sustain a verdict, a motion for new
19 trial must be denied. There is no bright-line test on how
20 long a jury should deliberate. I've had a verdict in as
21 quick as seven minutes. And that's just not a barometer on
22 whether a jury has effectively deliberated. While they were
23 a great many exhibits that were admitted into the record, I
24 watched the jury. They were very attentive as the testimony
25 was presented. They, I believe, based on my observations,

1 took their responsibility very seriously. And I have no
2 reason to doubt the competency of their verdict. And,
3 really, this came down to a credibility contest as to
4 whether the jury believed the State's version of events,
5 which is that there was an eyewitness who testified that he
6 in fact witnessed this event, was the driver of the vehicle;
7 or whether the jury believed that the police were
8 incompetent and failed to adequately investigate the matter
9 and identify other suspects who potentially were culpable in
10 this matter.

11 So based on -- actually, this is about an average
12 amount of time for them to have deliberated. Probably about
13 average in these type cases. And I, again, have no reason
14 to doubt the competency of their verdict and would find that
15 there is sufficient evidence in the record to support their
16 verdict. The law is also very clear that the Court is not
17 to substitute it's judgment for that of the jury. And,
18 therefore, the motions are denied.

19 Now, does the State have any argument regarding
20 sentencing or any posture regarding sentencing? After
21 which, I'll be glad to hear from the defense.

22 MR. PEPER: Your Honor, if it pleases the Court?

23 THE COURT: Yes, sir.

24 MR. PEPER: I just want to make sure the record that we
25 just want to renew all of our prior motions ---

1 THE COURT: Yeah, I think you did that -- yeah. At the
2 close of the case, I allowed you to renew your motions and I
3 ruled on them.

4 MR. PEPER: Thank you.

5 THE COURT: You're welcome. Anything further from
6 Mr. Price before we being the sentencing?

7 MR. PRICE: No, Your Honor.

8 THE COURT: Glad to hear from you, Mr. Kidd.

9 AST. SOL. KIDD: Thank you, Your Honor. May it please
10 the Court?

11 THE COURT: Yes, sir.

12 AST. SOL. KIDD: First, just from me, Your Honor, you
13 know, this case is one of extreme violence and a kind of
14 brazenness that is very unsettling to me. When you talk
15 about the use of assault weapons literally across the street
16 from City Hall in North Charleston, through residential
17 neighborhoods, it's the type of violent that we cannot allow
18 to take place within our city. I know that the family will
19 join me in asking for life sentences. I believe Mr. Bryan
20 is in fact somewhat less culpable, and I don't believe was
21 the trigger man. But we believe they both deserve life
22 sentences and in large part because Mr. Bryan's prior record
23 that Mr. Wilson doesn't have. So, Judge, I know that
24 there's a few members of Mr. Williams' family who would like
25 to address you. There are two minor children, Judge, that

1 were escorted out of the courtroom. This was their father
2 who was the decedent. I now they would like to be in here.

3 THE COURT: I think I can assume their a breadth, and
4 I'm not particularly fond of children being exposed to this
5 type of preceding.

6 AST. SOL. KIDD: Yes, ma'am.

7 THE COURT: I think it sows a seed that doesn't need to
8 be nurtured in their young life. And I don't see anything
9 beneficial in them -- and they have guardians for a reason,
10 that's to speak on their behalf. I can assume their a
11 breadth in the loss of their parent. I can't even imagine,
12 but I am a little bit of -- and I understand what the
13 rationale would be, but I think, from an objective posture,
14 I have to observe what the court rules are regarding minors.

15 AST. SOL. KIDD: Yes, ma'am. I understand. And I know
16 Ms. April Ford, the victim's sister, and Brian Ford, the
17 victim's brother-in-law, would like to address the Court.

18 THE COURT: And I'd be glad to hear from them. And if
19 they would state their ---

20 AST. SOL. KIDD: As well as Patricia Williams.

21 THE COURT: I'd be glad to hear from anyone. If they
22 would state their names for the record, spell their last
23 names for the court reporter. And speak as loudly as
24 possible so the court reporter can take down their comments
25 for the record. Who is going to go first?

1 OTHER: My name is Brian Ford --

2 THE COURT: Brian Ford; yes, sir. Court would be glad
3 to hear from you.

4 MS. FORD: Good morning. My name is April Ford.

5 THE COURT: Yes, ma'am.

6 MS. FORD: I am the sister of Franklin. My family,
7 first off, we want to just thank everybody. We want to
8 thank Andy Maddox (ph) our advocate. she's been very kind
9 and compassionate to our family. We want to thank Culper
10 Kidd who assured early on he's gonna hold Marvin Bryan and
11 Justin Wilson accountable. I like to thank Jennifer Butler
12 our detective. She expressed to me that she was confident
13 that she was going to find them. And Jennifer Butler was a
14 person that advised me that my brother had succumbed to his
15 injuries. And all I can remember is being picked up off of
16 the floor. And she told me in her words, you know, April,
17 the good news is that we think we know who did it. And at
18 that point, it didn't matter to me at all. All I could
19 think about was my brother's children. My brother has nine
20 children. He has eight boys one girl, one daughter. But I
21 love them like blood.

22 THE COURT: I'm sorry. You said not by blood?

23 MS. FORD: He has eight children, blood children, and
24 boys, and he has a stepdaughter. All I can think of is
25 them. Those eight boys, they're being raised by single

1 struggling mothers. And I'm so afraid, I'm so afraid. But
2 we try best. I'm so afraid for their future without their
3 dad. And I'm asking that this case be a deterrent for them.
4 They have to see justice work for them. I ask for my family
5 to have -- my life would like life in prison, and it's for
6 these boys. And I think everybody in this room can put
7 yourselves in our shoes if this was your loved one. Just
8 take a minute. Put this picture aside. If this as your
9 grandson, if this was your children, what kind of justice
10 would you want? Would you want 30 years? Thirty years,
11 they can come out, have families, get married. We want
12 life, Your Honor. Life in prison. Thank you.

13 THE COURT: You're welcome, ma'am. Yes, sir. Or who
14 is going to speak next?

15 MR. FORD: Yes, Your Honor. I'd like to speak on
16 behalf of children as their uncle. They're have issues
17 with, the young boys especially, because ---

18 THE COURT: How old are they?

19 MR. FORD: The oldest is 11 and the youngest is, I
20 think, two years old now. And it's hard picking up the
21 slack with the loss of their father who was a very good
22 father. He raised all of them with the discipline that he
23 was raised with. And me, personally, I have two young boys
24 of my own. And, you know, they are heartbroken. They
25 are -- they're in a challenging state because they seen

1 their father die in a violent way. And they don't think
2 justice is going -- at first, they didn't think justice was
3 going to happen for their father. So what they see done to
4 their father, they want it to be done to whoever done that
5 to their father. And that's hard to explain the justice
6 system to young boys that, you know, have seen something
7 like this. It's a detriment to the community that these
8 young boys have to go around for the rest of their lives
9 without their father in place to instill what they need to
10 be instilled with. I can try to do that, but I can't be
11 there 24/7, you know.

12 THE COURT: Have they gone to counseling at all? Have
13 y'all taken advantage of any of the services that, the
14 victims' assistance program.

15 MS. FORD: They're receiving services at MUSC,
16 schooldays, they have mentors, yeah.

17 MR. FORD: So they think that they have to seek revenge
18 for their father. That's something for the two, maybe even
19 three, oldest boys. And that's said to think about what
20 fear they have for somebody that may be out there that might
21 be coming for them. That's what -- that's the way that I see
22 that they are in fear that somebody might do the same thing
23 to them or to their family. And that's all I have to say
24 right now. That's all the words I have about this right
25 now. It's sad. It's just -- both ways. These guys that

1 may have kids, they also for the lost victim . . .

2 THE COURT: Thank you very much, sir. Is there anyone
3 else that wishes to be heard, Mr. Kidd?

4 OTHER: Yes, Your Honor.

5 THE COURT: Tell me your name, ma'am.

6 MS. BROWN: Your Honor, my name is Patricia Williams
7 Brown. I am Franklin Williams' aunt. I have been here for
8 the entire case except this morning; I had a doctor's that I
9 could not miss. But we the family, we want justice.
10 Everyone that day, Your Honor, had a choice on that day of
11 November 22, 2015. We've been waiting a long time for this
12 to come to an end. It seems like Franklin just left
13 yesterday. We the family feel that Justing and Marvin
14 should definitely get the death penalty, with no parole, and
15 other in that silver car should get life in prison with no
16 parole. They took an innocent life. They killed my nephew
17 who was a great father. And as you know, he has eight sons
18 and one daughter. We will never get over the loss of our
19 loved one. At least these mother's sons are still alive and
20 they're not buried six feet underground like Franklin.
21 Their son, brother's, father, sister, mother, they could
22 have killed someone. They could have killed many people
23 that night because they just kept shooting and shooting.
24 The lady, the lady in her house was afraid for her
25 children's life and her life. They have no remorse. They

1 don't have no heart because they were just out to kill. And
2 anybody could have died that night.

3 Now, in the Bible it states that an eye for an eye and
4 tooth for a tooth, and we all know that if Franklin Williams
5 had not died today or died on November 22nd, we would not be
6 here this week. We would not be here this week that. And
7 if that car didn't crash on that night, they might have
8 gotten away, and we would have never found the killers. If
9 they would have gotten away if it didn't crash. But God
10 stepped in and justice has prevailed. Now, why did
11 Justin -- why did he have to stop to get that rifle? I've
12 listened to everything. I was listening to every word you
13 spoke, Your Honor. I was listening to every -- all the
14 defense attorneys, our attorney, Attorney Kidd, I was
15 listening to every single word. And if only didn't stop.
16 If Stewy didn't call him. I think Stewy should be punished
17 too because he called Justin. If he didn't call Justin and
18 Justin didn't go get that rifle that took off. He took my
19 nephew's head off. In the casket, we could tell. It was
20 awful. And I can really say today, we live this every day,
21 Your Honor. And we have -- we had a birthday for BJ. And
22 on BJ's death day, the boys were on his grave crying; all
23 the boys, the girl. It's awful, Your Honor. We'll never
24 get over this. We will never get over BJ. His name is BJ.
25 That's his nickname that I gave him because his daddy is

1 senior and BJ, Jr. Anyway, Franklin, we'll never get over
2 this, Your Honor.

3 Father's Day was an awful day for us. That was an
4 awful day. The evidence, we had all the evidence and God
5 was on our side more than anything. God was there. And,
6 Your Honor, you were there and all the attorneys and
7 everybody was there. But Father's Day was awful, and every
8 Father's Day's is going to awful for our family.
9 Thanksgiving is awful. We don't -- and we have two family
10 members that he died on their birthday. And they are
11 distraught. All of them that was in that car should pay for
12 the choices that they made on that awful day. Marvin and
13 Justice [sic], if they want to ride together, they should
14 die together, Your Honor. And you stated that hand of one,
15 the hand of all. That's what you stated, and I thank you
16 for stating that, Your Honor. But I thank you for this
17 opportunity to hear me. And I want to thank Attorney
18 Culvert Kidd, his associates, the deputy, the investigators.
19 I want to thank Jennifer Butler. I want to thank Ms. Annie
20 Maddox, the victim advocate. Everybody was there for us.
21 We want to thank everybody. I want to thank Ms. Annie for
22 her thoughtfulness, for her kindness, her support. Oh, God,
23 you know, Your Honor, innocent people. They need to be put
24 off the street. We don't need no more death in South
25 Carolina. And if they get out -- they can go to Georgia.

1 They can go to California. They can go to west coast and do
2 the same thing and get away killing people. Enough is
3 enough. I'm almost done, Your Honor.

4 THE COURT: Take your time.

5 MS. BROWN: I'm almost done. My nephew, Adrian
6 Williams, he could have died also. Adrian Williams almost
7 lost his leg. The doctor said that he would lose his leg.
8 And Adrian now walks with a limp. Adrian's mind is gone. He
9 was innocent. All of those -- maybe Quran -- they might
10 have been after Quran. He might have recognized Quran. But
11 all those other three boys in that car could have been
12 killed too. And it's just awful. I thank God that we
13 didn't lose Adrian, but I'm sorry he has to walk with a limp
14 for the rest of his life. But his mind is gone. He's
15 seeking help as well and counseling. But, Your Honor, oh
16 God, I thank you for this opportunity Your Honor. I'm
17 sorry.

18 THE COURT: That's okay, ma'am. You don't have to
19 apologize.

20 MS. BROWN: Thank you.

21 THE COURT: You're welcome. The children that came,
22 how old are they?

23 AST. SOL. KIDD: Ten and 11.

24 THE COURT: What grades are they in? Say that for me
25 one more time.

1 MS. FORD: Sixth and fifth grade.

2 THE COURT: Sixth and fifth grade. How are they doing
3 in school?

4 MS. FORD: Their grades is good; their behavior, not so
5 much. They've been -- [REDACTED] (ph), the ten-year-old, has
6 been diagnosed with depression along with other disorders.
7 So sometimes he comes to school and he just doesn't want to
8 do anything. He just doesn't want to be bothered. He
9 suffers from depression.

10 THE COURT: But you say he is getting counseling,
11 school-based and otherwise?

12 MS. FORD: He's getting school-based and he's getting
13 counseling at MUSC. My mom is raising him.

14 THE COURT: Okay.

15 (Brief pause.)

16 AST. SOL. KIDD: Your Honor, I apologize.

17 THE COURT: Yes, sir. No that's okay.

18 AST. SOL. KIDD: I think the victim's mother would also
19 like to address the court.

20 THE COURT: Certainly.

21 MS. EVANS: Hi, Your Honor.

22 THE COURT: Hello. Tell us your name for the record.

23 MS. EVANS: My name is Donna Evans. I'm the mother of
24 Franklin Williams. I think everything my daughter and my
25 sister said is sufficient for me mostly. But I think that

1 Franklin would want me to say, you know, just a little
2 something. My son Franklin, he lived kind of a full life,
3 you know. He got killed when he was 27 -- 28. He would've
4 been 30. But and my son kind of lived a full life because
5 he was a -- I try to keep my children in church. And I
6 thought I'd never hate anybody in my life. I thought never
7 that in my entire life, all through my life, even being
8 abused and victimized, I never -- I always forgive. Anybody
9 could tell you that. I have four children. I had four
10 children. But franklin was the one that never left home. I
11 mean, he left, but he never left. He would pick me up off
12 the ground. I had diabetes since I was 18. So I was always
13 sick. And he would come in with his key, he always had a
14 key, pick me up out of the shower naked when I was dying,
15 and I don't have that anymore. And the only reason why I
16 can't eat because Franklin was born with love. And there is
17 no sentence you can give these guys. They could get chair,
18 they could get 500 years, it doesn't matter to me.

19 All I want is my baby, and I can't bring a back. They
20 can't bring him back even if the die, it's not going to
21 bring him back. It's not my satisfaction to see anybody
22 else suffer, because I don't want to suffer. And I don't
23 want them to suffer either. But I know that other people
24 will suffer if these two are allowed on the streets again
25 because they are heartless. My son had just left his one of

1 his kid's birthday parties and they could have been sliding
2 down, sitting in his seat. He just left a skating rink
3 party that day. One of the kids could have been in the car.
4 I got all these kids to take of. I'm sick and these girls,
5 they don't know how to take care of these kids. Franklin
6 did everything. He was never on child support. That speaks
7 to who he was; what kind of dad he was. Oh, God, you don't
8 know, they took something great. There ain't no mother in
9 this world can love their child like I loved Franklin. I
10 planned that birth -- and they took him. They took
11 everything from me. I took two hands full of pills within
12 an hour of Franklin dying because I can't live without him.
13 I don't know how I'm going to live without him. I've been
14 sleeping every day. I can't tell you how many hours in the
15 day of the week. I sleep. I'm on so much medicine, I sleep
16 just so I won't think about it.

17 The kids, they all on medicine just about. Only the
18 youngest three are not on medicine. I mean, I just don't
19 understand why would they not see other people in the car,
20 or not think that a kid would be in the car. And my nephew,
21 he's afraid of his own ghost, his own shadow. He won't even
22 go outside. He got shot five times. He won't even go
23 outside. He's gone, you know. I just want -- I know
24 Franklin would have wanted to be here. He loved life so
25 much, Your Honor. He was the type of child that would kiss

1 you in the mouth. And he wouldn't take no kiss on the
2 cheek. He wanted to kiss you in the mouth and hug you.
3 That's why he had so many children because everybody loved
4 him. There were so many girls and I couldn't get rid of
5 them. All his friends, he so much friends that's why I
6 can't understand why somebody killed him because he had no
7 enemies. Oh, God, they heartless. Oh, I can't do this.
8 I'm sorry.

9 THE COURT: No, ma'am. You don't have to apologize.

10 MS. EVANS: But they just can't bring him back. They
11 can't bring him back.

12 THE COURT: Anything further from the State?

13 AST. SOL. KIDD: No, ma'am.

14 THE COURT: Mr. Price, be glad to hear from the
15 defense.

16 MR. PRICE: Thank you, Your Honor. Court's indulgence
17 for one moment. (Brief pause.) Your Honor, he is here
18 supported by his two aunts and his mother. His mother was
19 unable to attend. She ---

20 THE COURT: Had a seizure the other day; correct?

21 MR. PRICE: Correct. The emotional aspect of this was
22 just too much on here. She was unable to medically come
23 back to support him today. But at the appropriate time, I
24 know his aunt would like to address the Court. Your Honor,
25 just as to Mr. Bryan, he does have four small boys. He has

1 a four-year-old son [C.B.] (ph) and an eight-year-old son,
2 [J.B.] (ph). Your Honor, as to Mr. Bryan, even though the
3 State obviously agreed that his culpability in this is far
4 less. Your Honor, there is no testimony during the trial
5 that he stated anything malicious, anything that would draw
6 inference that he was out to get anyone. He was in the car,
7 obviously. He understands his culpability behind that. I
8 just want to bring that to the Court's attention. Your
9 Honor, at this time, we would simply be asking for the
10 30-year sentence for Mr. Bryan, and I know his aunt would
11 like to address you.

12 THE COURT: Ma'am, I would be glad to hear from you.
13 Tell me your name for the record.

14 MS. HENDERSON: Hi. My name is Sheila, last name
15 Henderson.

16 THE COURT: Henderson?

17 MS. HENDERSON: Yes, ma'am.

18 THE COURT: Yes, ma'am. Be glad to hear from you.

19 MS. HENDERSON: I am Marvin Bryan's aunt. There were
20 no words. But I want to take this opportunity to speak
21 directly to the Williams Family and to let you all know that
22 we have been praying for you every day. It has been
23 difficult to come in this courtroom and sit on the same pew
24 and cannot make eye contact with you guys. But I want you
25 to know, we don't know your pain, but we fell your loss and

1 we fell your heart, and we are a God-fearing compassionate
2 people. So please don't think that we are heartless, cold
3 people, because we are not. We feel your pain. So please
4 if you don't hear anything else, please know that we are
5 with you always, forever. This has got to stop. This has
6 got to stop. So know that I sat there and I couldn't even
7 look you all in the face. It was just too much. And if it
8 was just too much for me, I know it was just too much for
9 you guys.

10 Your Honor, my grandmother was 92 years old when my
11 nephew as arrested. I'm sorry, 90 years old. And she died
12 two days before Christmas. And she said my son is not -- my
13 grandson, great grandson, is not an angel, but I know he is
14 not a murderer. And, Your Honor, we are asking for your
15 consideration and the Court's consideration any leniency
16 because we know that my nephew did not shoot anybody. He
17 did not shoot anybody. And I feel your pain. Because he
18 has two boys, and we got to raise them. We got to raise
19 them, and we're going to raise them. But women cannot
20 raised boys. They need men to raise boys. This cycle of
21 hatred and killing and violence has to stop. It's got to
22 stop. I love my nephew. He's the blood of my blood and the
23 blood of my sister. And his grandmother is here. And we're
24 going to support him the same way Ms. Williams and her
25 sisters have supported their son. So on behalf of the Bryan

1 family, Your Honor, there are not words. There are no
2 words. I don't know what else to say other than we just
3 want you all to know that whatever the verdict is, we will
4 accept it, and the rest really is in God's hands. It's in
5 God's hands. It's in God's hands. And we pray every
6 morning before coming in this courtroom. We gathered as a
7 family in a circle. And my sister is not here, but I'm
8 speaking on her behalf because it's too much. We gathered
9 in a circle and we asked God to give the Williams family
10 peace, and we pray for everybody in this courtroom. And I
11 don't know what else to say, Your Honor, other than thank
12 you for the opportunity and the time. And Marvin Donte
13 Bryan, I will love you, I will love you forever.

14 THE COURT: Thank you, ma'am. Anybody else that wishes
15 to be heard, Mr. Price?

16 MR. PRICE: Yes, Your Honor.

17 DEFENDANT BRYAN: Just want to say I ain't shoot no
18 gun. I had no gun. I ain't no murderer. I feel bad for
19 the family. You know, I feel, my heart is out to them. But
20 I ain't killed her son. I ain't shoot nobody in that car.
21 And I ain't never been no murderer in my life. So I feel
22 bad for those boys because I got two boys of my own now; two
23 boys of my own that I raised every day. You know, they see
24 me every day. So I know how boys feel. I just wanted to
25 say that I ain't no murderer. I ain't murder nobody. And I

1 ain't sticking to no code, ain't riding or dying with nobody
2 like the family said they riding or dying. I ain't riding
3 or dying with nobody. I ain't hurt nobody. I ain't hurt
4 nobody. And I'm just asking for leniency from the Court.
5 And, you know, I got to deal -- I got to deal with it if
6 Your Honor don't. But I just wanted to state for the record
7 that I ain't shoot or pass no gun to nobody. I apologize to
8 the family, and I apologize to my family for, you know, what
9 they got to go through. You know, I apologize to both sides
10 of the family for having to sit down in here and go through
11 this. But I ain't hurt nobody. I ain't shoot no guns. You
12 know, I just wan to thank you, Judge Jefferson, for being
13 fair during the trial. you were really fair. So I just want
14 to say that. That's all.

15 MR. PRICE: Thank you very much, Your Honor, for your
16 patience.

17 THE COURT: Not a word. All right. Mr. Peper?

18 MR. PEPER: Thank you, Your Honor. May it please the
19 Court?

20 THE COURT: Yes, sir.

21 MR. PEPER: Your Honor, before I address sentencing, I
22 wanted to give you an opportunity to know a little bit more
23 about Justin Wilson. Justin is 23 years of age; a very
24 young 23. The 23-year-old father of a two-year-old
25 daughter. **D.W.** that is with her mother, Danielle that you

1 heard from this week. And Daniel had her hands full with
2 Justin. Just as Ms. Octavia had her hands full with Justin.
3 The only person that can handle Justin is Justin. And if he
4 makes the leaps and bounds over the next 30 or so years that
5 he has with me in the last two years, **D.W.**, Danielle,
6 Octavia, everybody in this courtroom is going to accept him
7 for who he is and be proud of him one day; one day. Not
8 today, but one day.

9 His father Leroy has been here all week. He knows how
10 it is to raise six children. And sometimes that flock,
11 Judge, you just can't shepherd as much as you want. And
12 I've seen over the years that that youngest sheep tends to
13 go astray. With the help of the Department Of Corrections,
14 their programs, and his loving family, and the team that
15 surrounded him these two years, we are going to take every
16 staff we have, bring them back in, get him rehabilitated,
17 and make sure that when he walks out of that prison system,
18 he's right with himself; he's right with the Williams
19 family; he's right with the big man upstairs; and he's right
20 with Danielle and his two-year-old. Because that's all he's
21 got. He graduated Burke in 2012, Your Honor. He became a
22 brick mason. He has the skills necessary to be a productive
23 member of society. And when he chooses to do so, I have no
24 doubt he will be very successful. Thirty to life is a wide
25 range for a 23-year-old, Your Honor. Life expectancy is

1 mid-seventies. So that's a 40-year discretion, time period.
2 If we looking at what the state legislator intended when
3 they created that penalty, it seems to me that 30 is to
4 allow for extensive rehabilitation. We may not have the
5 best of prison system in the country, but we've got what we
6 need to get him rehabilitated. On the other end, life,
7 which the legislature intended nothing more nothing less
8 than to remove, flat-out remove, from society. Because I am
9 so confident in Justin, because I know and I've seen and
10 I've heard the impact this week has had upon him, the impact
11 that the Williams family has made upon him, and the impact
12 of his own family who has supported with all their love, I'm
13 confident he can be rehabilitated in 30 years. And I ask
14 you to sentence him to 30 years, Judge.

15 THE COURT: Anything further?

16 MR. PEPPER: From his mother, Octavia, Your Honor.

17 MS. WILSON: First of all, I would like to thank you,
18 Your Honor, for everything you've done.

19 THE COURT: I'm sorry, ma'am. Tell me your name again.
20 I apologize. I was asking my clerk a question.

21 MS. WILSON: My name is Octavia Wilson. I'm Justin's
22 mother.

23 THE COURT: Thank you, ma'am. I apologize.

24 MS. WILSON: I thank all the members for everything
25 they have done for the week I've been here. I'm sorry for

1 the Williams family, for your loss. Nothing can bring a
2 child back. I've never lost one. I've lost a grandchild,
3 but not one of my own. And what is going on here today and
4 the picture that has been painted of my son as a bad person.
5 And I know him; that is not him. I know my child. He is
6 not that type of person to take someone else's life. He's a
7 good person. Always very mannerable. Will do anything for
8 anyone. Sometime, they make the wrong decisions and be in
9 places at the wrong time or being with people, certain
10 people, at the wrong time. But everything is always a
11 lesson learned. And I just hope and pray, as my whole
12 family and other families been praying for us, that the
13 decision that you make today on his life, it won't be as
14 harsh as others want it to be. That's all I have to say.
15 Thank you.

16 THE COURT: You're welcome, ma'am. Anything further,
17 Mr. Peper?

18 MR. PEPER: One more family member, Judge.

19 MS. HAMILTON: My name is Vanessa Hamilton.

20 THE COURT: Yes, ma'am.

21 MS. HAMILTON: I'm Justin's mother's best friend. I've
22 known Justin since he was -- he's always been a
23 well-mannered person. What I want to say today is I have
24 never lost a child either, but I have lost a brother in the
25 same manner that you guys have lost your family member. My

1 brother was killed 28 years ago, and they still don't know
2 who killed him. What I'm thinking, because I'm sitting in
3 this courtroom hearing all the testimony, watching all these
4 -- doing all these things, I'm thinking even when I watch
5 the news I get depressed. When I see the policeman shoot
6 somebody and they why did you -- and they say I don't know.
7 My mind goes back to the movie -- where the devil goes from
8 one person to the next. And then when he chop that person,
9 the person I don't why I did it. My mind goes back to that
10 movie. We got so much going on in this world today. These
11 kids are making these decisions and their not thinking about
12 what they're doing. Now, as good as a child as Justin is
13 and as mannerable as he is, I shot in the neck will change a
14 person. Now, he could've made a better decision that night,
15 not to get in that car or not to go and get that gun. He
16 could've made a better decision. But they didn't. Your
17 Honor, all I'm asking is that you be lenient. All I can do
18 as the best friend of the Wilson family is apologize to the
19 family and give you guys my sympathy. Because although I
20 can feel what you feel, I still feel a whole lot more pain
21 because they still don't know who killed my brother. Your
22 Honor, I'm just asking for leniency. That's all I wanted to
23 say.

24 THE COURT: Thank you, ma'am. Anything further, Mr,
25 Peper?

1 MR. PEPER: Please the Court? Judge, I'm a God-fearing
2 man. I know most of are in this courtroom. And I'm
3 familiar with the Bible. And it in fact says an eye for an
4 eye, and a tooth for a tooth. Justin knows that. We also
5 know it says you must forgive. Justin is prepared to
6 forgive himself and the others that put him in this
7 position. While the family will never forget what they've
8 been through, we ask humbly and hope they may forgive Justin
9 one day. It's separated, though, the church is, from the
10 state. That's what controls in this courtroom. It gives
11 you the ability of a minimum 30-year sentence up to life.
12 We humbly ask you, Judge, to consider a 30-year sentence for
13 Justin.

14 THE COURT: Anything further from the State?

15 AST. SOL. KIDD: No, ma'am.

16 THE COURT: We'll be at ease for about five minutes.
17 And in the meantime, I may allow -- since the children are,
18 I believe they said 10 and 11? I may allow them to view
19 sentencing. I did not feel it appropriate that they
20 experience all that other emotion. I just don't think
21 they're at an age of maturity to be able to digest and
22 process all of that. And I think it would have been far
23 more detrimental to them than positive. Okay. I'll be out
24 for about five minutes. I need to think for a few minutes.

25 (A brief recess was taken at 4:04 p.m. The proceedings

1 resumed at 4:29 p.m.)

2 THE COURT: If the defendants would stand for
3 sentencing. And you know I neglected -- maybe you all
4 neglected to argue this, but I did I hear any argument
5 regarding the attempted murder charges. The only sentence
6 recommendation that was articulated was regarding the murder
7 which has a minimum of 30 years and a maximum of life. And
8 the attempted murder is zero to 30. Does the State have any
9 position on that?

10 AST. SOL. KIDD: Judge, we would ask that you give them
11 the 30 years -- we would like a life sentence on the murder
12 charge.

13 THE COURT: I understand that part. But after I was
14 reviewing my notes while I was taking a break, I didn't hear
15 anybody -- I assumed defense counsel request for 30 years
16 applied to all the charges, but the State only asked for a
17 life sentence on the murder charge.

18 AST. SOL. KIDD: And the 30-year sentence on the
19 attempted murders to run concurrent.

20 MR. PEPER: Which, we would -- obviously, Judge. Thank
21 you.

22 MR. PRICE: We would as well, Your Honor, just the
23 concurrent.

24 THE COURT: Okay. But you all are requesting 30 years
25 on the attempted murder; correct? I just want to make sure

1 I'm clear.

2 AST. SOL. KIDD: Yes.

3 THE COURT: Oh, I'm sorry. I didn't direct who I was
4 asking.

5 AST. SOL. KIDD: Yes, ma'am. And I wouldn't be asking
6 for a concurrent if you did not give a life sentence on the
7 murder. So I don't want you to think that ---

8 THE COURT: Well, you need to articulate what your
9 position is so I can know. Because I ---

10 AST. SOL. KIDD: My position is if you give something
11 less than life on murder, we would ask for consecutive
12 sentences in relation to the attempted murders to drive the
13 number up. You know, obviously, we want them to get as time
14 as possible. We think a life sentence is appropriate under
15 the facts of this case. You've heard from the family as
16 well. So that if you're not inclined to give a life
17 sentence on the murder, we would like consecutive sentences
18 on the attempted murders.

19 MR. PRICE: Your Honor, may I address something at the
20 appropriate time?

21 THE COURT: Yes, sir.

22 MR. PRICE: I know this is obviously a never ancillary
23 unique -- for the purposes of sentencing so as to make it
24 correct and accurate, I think the prosecutor mentioned it,
25 but Mr. Bryan is on probation. So I didn't ---

1 THE COURT: You know, are his probation people here?
2 Do you want to deal with that? Because this conviction
3 would be a violation and that eliminates him not getting any
4 credit.

5 MR. PRICE: Correct. And the need to have him be
6 brought back and forth, and those type things. So I thought
7 maybe ---

8 THE COURT: Is probation still in the building? I
9 didn't think to ask that question.

10 AST. SOL. PATRICK: Your Honor, I can go run out and
11 check.

12 THE COURT: What time is it? It's 4:30. (Brief pause.)
13 I'll have my secretary call and see if anybody is still over
14 there. I saw Ms. Holmes earlier, but I didn't know if that
15 was someone she had shadowing her or whether she was her for
16 the purpose of observing the sentencing. I wasn't sure.
17 And, frankly, I don't remember what time frame that was that
18 she was here.

19 AST. SOL. KIDD: Judge, I don't know if I have the
20 power to, but I wouldn't mind the probation just being
21 terminated.

22 THE COURT: They have to make that -- yeah. That's
23 within their prerogative and they have to make a
24 recommendation as to what they want done with it. And I
25 don't know -- he had a nine-year sentence; correct?

1 AST. SOL. KIDD: Yes, ma'am.

2 THE COURT: And I don't know what kind of probationer
3 he was. I don't know if he had a warrant outstanding; I
4 don't know if they moved to revoke it; I don't know. There
5 are a lot of extra variables that I need to be made aware of
6 so I can deal with it. Okay. And, Mr. Price, what is your
7 position regarding the request on the attempted murder?

8 MR. PRICE: Your Honor, obviously, we would just ask
9 that if the Court does impose a 30-year sentence and you're
10 so inclined to give a 30-year sentence on those, if they all
11 run concurrent.

12 THE COURT: And if I'm not, what is your request?

13 MR. PRICE: Well, 30 is the minimum he could get, Your
14 Honor.

15 THE COURT: Thirty is the maximum on the attempted
16 murder.

17 MR. PRICE: I was talking about for murder. So if you
18 use this and do the minimum, then I would just say give him
19 time served on the other ones. You see my point?

20 THE COURT: Yeah.

21 MR. PRICE: Or always have it run concurrent. Those
22 would be my two wishes.

23 THE COURT: But if he doesn't get the minimum on
24 murder, what is your request on the attempted murder? You
25 understand what I'm asking?

1 MR. PRICE: I do. I do.

2 THE COURT: I just need some clarity just in terms of
3 what you're requesting because I don't want you later to say
4 I didn't consider it. I can't consider what I haven't been
5 told. And are the young mean here? You get them now, if
6 you'd like, and bring them in.

7 (Confirmation that probation is not available.)

8 We can deal with it on Monday morning if you want
9 before I -- I qualify the jury on Monday. But we have a
10 window of time while roll call is going on that we can deal
11 with it. And then that way probation, the agent, can be
12 notified to be here if they desire. And we can do it that
13 way. Otherwise, it would be delayed and he runs the risk of
14 not getting any credit for any time especially if a warrant
15 has not yet been served regarding it. Because I don't know
16 what his performance was on probation, and this conviction
17 may well be the trigger of a revocation proceeding.

18 MR. PRICE: Yes, ma'am.

19 THE COURT: Okay. When would they be transported? Are
20 they going to hold them over the weekend, or do they
21 transport them on the weekend? Once they're sentenced.

22 BAILIFF: I can't answer that. But I understand it's
23 usually once they get convicted, if they get convicted for
24 life, they get rid of them as soon as possible.

25 THE COURT: On each of the offenses that being murder

1 for each defendant, Marvin Donte Bryan -- well, I guess I
2 better do these separately -- Marvin Donte Bryan
3 2017-GS-10-4164, the offense of murder, you're sentenced to
4 the State Department of Corrections for a period of 50
5 years. You'll get credit for any time that you have served
6 to be calculated and applied by the Department of
7 Corrections. On each count of attempted murder, you're
8 sentenced to the State Department of Correction for a period
9 of 30 years. Each of those sentences, likewise, to run
10 concurrent with one another. And you'll get credit for any
11 that you've served to be calculated an applied by the
12 Department of Corrections. Those indictments respectively
13 are 2017-GS-10-4165, 4166, and 4167. And as if we've already
14 observed, you have pending probation violation, and I think
15 that would be for the 2014 PWID crack conviction for which
16 you received, as I recall, nine year suspended on some
17 period of probation. Which I think would've ended prior to
18 this proceeding, but they probably have some level of
19 warrant outstanding probably based on you alleged to have
20 had a gun. But we'll have to figure that out on Monday.
21 And I would ask if you all could be kind enough to see what
22 I would need to do to let the County Detention Center know
23 that we need to have him transported on Monday for the
24 purposes of his probation, and not to be transported to
25 Department of Corrections prior to that time. Are were able

1 to take care of that, you think?

2 AST. SOL. KIDD: I'll take care of that, Your Honor.

3 THE COURT: Thank you, sir. Mr. Wilson, on indictment
4 2017-GS-10-4160, the offense of murder, you're sentenced to
5 the State Department of Corrections for a period of 50
6 years. The sentence is concurrent with 2017-GS-10-4161,
7 4162, and 4163 respectively, the offenses of attempted
8 murder where your sentence is the State Department of
9 Corrections for 30 years each on those offenses. All these
10 are to run concurrent with one another. You'll get credit
11 pursuant to 24-13-40 to be calculated and applied by the
12 Department of Corrections.

13 Do any of them need drug treatment or any evaluation
14 for drug treatment?

15 MR. PRICE: No, not on behalf of Mr. Bryan.

16 THE COURT: They don't need to go to the ATU; correct?

17 MR. PRICE: No, ma'am.

18 MR. PEPER: No, Judge.

19 THE COURT: Nobody ever told me either how long --
20 they've been in jail since the day after the event?

21 MR. PEPER: Your Honor, Mr. Wilson has been in jail
22 since December 1, 2015.

23 MR. PRICE: 2016.

24 MR. PEPER: '16, excuse me.

25 THE COURT: 2016. And how long has Mr. ---

1 MR. PEPER: No, '15.

2 THE COURT: '15?

3 MR. PEPER: 12/1/15, Judge.

4 THE COURT: And how long has Mr. Bryan been in jail?

5 MR. PRICE: January 11, 2016.

6 THE COURT: His bond was revoked or something?

7 MR. PRICE: No, ma'am.

8 THE COURT: He just wasn't arrested until that.

9 MR. PRICE: They had an outstanding warrant, and I
10 turned him on that day.

11 THE COURT: Okay. I gotcha. Okay. Thank you all very
12 much.

13 MR. PEPER: Thank you, Judge.

14 THE COURT: Thank you.

15 (The trial concluded at 4:38 p.m.)

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STATE OF SOUTH CAROLINA)
) CERTIFICATE OF REPORTER
COUNTY OF CHARLESTON)

I, HEATHER R. LANDRY, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the trial of the captioned case, in the Court of General Sessions for Charleston County, South Carolina, on the 19th-23rd day(s) of June 2017.

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

February 20, 2018

A handwritten signature in blue ink that reads "Heather Landry". The signature is written in a cursive style and is positioned above a horizontal line.

Heather R. Landry, CVR
Official Court Reporter

This is a certified original/copy of the Transcript of Record requested by and provided to the following party: SC Commission on Indigent Defense

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF CHARLESTON) CASE NO.: 2017-GS-10-4160, 4161,
 4162, 4163 (Wilson);
 2017-GS-10-4161, 4165,
 4166, 4167 (Bryan)

STATE OF SOUTH CAROLINA)
)
 v.) TRANSCRIPT OF RECORD
)
) BENCH CONFERENCE REVIEW
)

JUSTIN MARTEL WILSON AND)
 MARVIN DONTE BRYAN)
 _____)

ORIGINAL

Monday, June 19 , 2017 - Friday, June 23, 2017

COMMENCING AT:
 Charleston County Courthouse
 Charleston, South Carolina
 Before The Honorable Deadra L. Jefferson, Judge

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 Official Court Reporter

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| BC at 11:30 a.m. | 32 |
| BC at 3:32 p.m. | 35 |
| Certificate | 37 |

1 Monday, June 19, 2017 Bench Conferences:

2 12:21 p.m., Page 39 of Transcript:

3 The audio for this bench conference was unintelligible.

4

5 2:52 p.m., Page 90 of Transcript:

6 THE COURT: (Unintelligible) -- then why did you say
7 you want to take it up in-camera? (Unintelligible) -- thank
8 you.

9

10 3:32 p.m., Pg. 122 of Transcript

11 AST. SOL. KIDD: I just argue that -- that it's not
12 offered for the truth, that it's offered to show what they
13 did next.

14 THE COURT: Well, he can say what they did next. He
15 was there. He didn't have to say -- (unintelligible).

16 AST. SOL. KIDD: But it's ---

17 THE COURT: They have the right to cross-examine
18 anybody else in his testimony -- listening. It is within
19 the scope of what happened. It's offered for it's truth.
20 You want the jury to believe that's what happened, they
21 acted on it. He can only say what one of his two defendants
22 said. Those are admissions against interest. He said what
23 he did was a result of the conversation but he can't repeat
24 anybody else's words.

25 AST. SOL. KIDD: I understand.

1 MR. PEPER: (Unintelligible)-- testimony was during the
2 in-camera hearing compared to what it is now which is
3 complete opposite -- you want to hear that as a matter of
4 law.

5 THE COURT: Which is the complete opposite?

6 MR. PEPER: The first question of the hearing was, "Did
7 you hear the phone call?" And he says, "Yes I heard ---

8 THE COURT: Well, you never asked him -- you never
9 asked that -- (unintelligible). You never asked him if he
10 heard -- you led him through the conversation. You never
11 asked him ---

12 MR. PEPER: I was -- it was leeway.

13 THE COURT: You never asked him -- Yeah. You never
14 asked him if it's what he heard. But I gave him the
15 instructions that he can only repeat what he heard and not
16 what he assumed based on who the phone call ---

17 MR. PEPER: Well, I don't -- okay. It's good enough
18 for us. I don't know that it's good enough for him. I
19 don't know that the witness understood that.

20 THE COURT: (Unintelligible) direct question --
21 (unintelligible) -- you never asked him if he ever heard ---

22 MR. PEPER: Okay. Thank you.

23 THE COURT: You're welcome.

24

25 4:46 p.m., Page 165 of Transcript

1 MR. PRICE: My understanding is that once he takes that
2 stand and he waives the ---

3 THE COURT: He cannot waive privilege with his lawyer.
4 Not unless it's a deal we're not aware of and then you would
5 ask that direct question. Don't beat around the bush. I'm
6 not -- if anything is privileged. What he says to his
7 lawyer is privileged.

8 MR. PRICE: I understand. I was asking how many times
9 he met with her.

10 THE COURT: You need to get to the point. If you think
11 there's something that's going to impact his credibility, if
12 there's some deal that was promised to him in her presence,
13 otherwise ---

14 MR. PRICE: That's what I'm getting to.

15 THE COURT: Well, then you need to ask that question
16 directly but don't answer your own questions.

17 MR. PEPER: Is it privileged if there's others in the
18 room?

19 THE COURT: I don't know. He hasn't established that.
20 That's his -- he has to create that foundation. But right
21 now he's telling me is that the two of them were in a room
22 together talking and that's privileged.

23 MR. PEPER: I gotcha.

24 MR. PRICE: I understand.

25

1 4:48 p.m., Page 166 of Transcript

2 THE COURT: You can't -- (unintelligible) -- or Mr.
3 Kidd -- the witness. You need to be more specific if there
4 is a promise tendered -- (unintelligible) -- do not make her
5 a witness. I don't know what she said. I didn't hear it.
6 But I was -- (unintelligible) -- your client you need to
7 cooperate --

8 MR. PRICE: That's correct.

9 THE COURT: --- about the truthfulness --
10 (unintelligible). That's not among us.

11 MR. PRICE: That's correct. But he has indicated that.

12 THE COURT: But you need to rephrase your questions
13 along that -- (unintelligible)-- do not make her a witness
14 because then she'll be disqualified as representing her
15 client ---

16 MR. PRICE: But I can ask him -- I can ask him if she
17 indicated ---

18 THE COURT: You need to inquire as to his credibility
19 or his believability or any motivation he would have not to
20 be forthright. There's a way to ask those questions without
21 making these other parties -- (unintelligible).

22 MR. PRICE: I understand.

23

24 5:08 p.m., Page 181 of Transcript

25 MR. PEPER: I think I made my point. I can move on.

1 THE COURT: The problem with making them a witness is
2 (unintelligible) -- It's Problematic.

3 MR. PEPER: But we would then be able to cross with the
4 audio of it though, right?

5 THE COURT: Huh?

6 MR. PEPER: We would be able to cross with the audio of
7 it though, right?

8 THE COURT: (Unintelligible) -- not unless he answers
9 inconsistently then you can let him listen to it to refresh
10 his memory.

11 MR. PEPER: Okay.

12 THE COURT: Only then if he answers inconsistently can
13 you use the audio.

14 MR. PEPER: I'm -- I think I'll move on.

15 THE COURT: You need to ask exact question that he was
16 asked.

17 MR. PEPER: Yes, ma'am. Thank you.

18

19 **Tuesday, June 20, 2017 Bench Conferences**

20 10:33 a.m., Page 253 of Transcript

21 MR. PEPER: My client has waived it, but I was in the
22 restroom this morning and I represented Detective Martin's
23 son in a disciplinary hearing before the school board years
24 ago. I told my client about it. He's good with it. He
25 doesn't care. I don't see where there's a conflict but I

1 wanted to bring it to your attention in case -- put on the
2 record it has nothing to do with . . .

3 THE COURT: I would assume -- (unintelligible) --
4 written notice and have them deliberate.

5 MR. PEPER: I didn't realize it until in the bathroom
6 this morning.

7 THE COURT: Well, then you might wan them --
8 (unintelligible) -- for your own protection --
9 (unintelligible).

10 MR. PEPER: I'm with you. Thank you.

11 THE COURT: Or I can put it on the record at the break.

12 MR. PEPER: During the break?

13 THE COURT: Yeah, I'll do it at the break.

14 MR. PEPER: Okay. Thank you.

15

16 11:12 a.m., Page 271 of Transcript

17 MR. PRICE: I thought you meant -- (unintelligible) --
18 do it over the break.

19 THE COURT: (unintelligible) -- I want to finish this
20 witness first.

21 MR. PRICE: Yes, ma'am.

22

23 11:24 a.m., Page 283 of Transcript

24 THE COURT: -- lay foundation -- (unintelligible) --
25 otherwise it's speculative.

1 MR. PEPER: Well, he opened the door by asking him why
2 do you have it on? He said they were new.

3 THE COURT: (Unintelligible).

4 MR. PEPER: Can I ask ---

5 THE COURT: (Unintelligible) -- unless you can
6 establish a foundation -- (unintelligible).

7 MR. PEPER: Well, I'll just ask him why he's asking him
8 that: Do you know why?

9 THE COURT: That's not -- you have to establish the
10 foundation that he knows that.

11 MR. PEPER: Okay.

12 THE COURT: Not based on what he heard ---

13 MR. PEPER: Okay. I gotcha.

14 THE COURT: (Unintelligible).

15 MR. PEPER: Yeah. Okay. Thank you, Judge.

16

17 12:20 p.m., Page 314 of Transcript

18 THE COURT: Who is your next witness?

19 AST. SOL. KIDD: I would just publish the 911 call ---

20 THE COURT: How long is it?

21 AST. SOL. KIDD: About 20 minutes.

22 THE COURT: That's too long -- (unintelligible).

23 AST. SOL. KIDD: Yes, ma'am.

24 MR. PEPER: (Unintelligible).

25

1 2:37 p.m., Page 327 of Transcript

2 AST. SOL. KIDD: Can I ask for five minutes? I've got
3 a lot of evidence that I need to bring up, like the physical
4 evidence for the next witness.

5 THE COURT: Who is your next witness?

6 AST. SOL. KIDD: Tiffany Adams, my crime scene tech.
7 She's going to be a long witness. If I can get organized
8 with the physical evidence up front it might go a little bit
9 quicker.

10 THE COURT: Okay.

11

12 4:42, Page 384 of Transcript

13 AST. SOL. KIDD: I apologize. We left one item or two
14 items of evidence in our office and my investigator should
15 be back any second.

16 THE COURT: Uh-huh. What are those?

17 AST. SOL. KIDD: They are the black beanie hat and the
18 Nike shoe.

19 THE COURT: (Unintelligible) -- you haven't marked them
20 yet?

21 AST. SOL. KIDD: I haven't marked them yet. And then
22 we'll be done with this witness.

23 THE COURT: (Unintelligible).

24 MR. PEPPER: I can't remember -- (unintelligible) -- but
25 I think about 50 minutes.

1 THE COURT: (Unintelligible).

2 MR. PEPER: (Unintelligible).

3 THE COURT: (Unintelligible) -- debate whether we do it
4 tomorrow -- (unintelligible).

5 MR. PEPER: (Unintelligible).

6 THE COURT: (Unintelligible).

7 AST. SOL. KIDD: It shouldn't take more than 2 minutes.
8 I just don't know --

9 THE COURT: Do you have any other questions to ask the
10 witness?

11 AST. SOL. KIDD: I'm done with her at this point.

12 THE COURT: Mr. Peper?

13 MR. PEPER: Oh, I'm sorry.

14 THE COURT: That's okay. Do you have any objection --
15 (unintelligible) -- introduce ---

16 MR. PEPER: It's the beanie and what?

17 AST. SOL. KIDD: And the shoe.

18 THE COURT: The beanie and the shoe.

19 MR. PEPER: No. Thank you.

20

21 **Wednesday, June 21, 2017**

22 10:02 a.m., Page 415 of Transcript

23 THE COURT: (Unintelligible).

24 AST. SOL. KIDD: Yes, ma'am.

25 THE COURT: Was it -- (unintelligible).

1 AST. SOL. KIDD: Yes. It's a recorded interview. It's
2 pretty long. I'm not trying to get much out of her really
3 other than she wasn't with the defendant the night of the
4 shooting.

5 MR. PEPER: (Unintelligible).

6 THE COURT: Yeah. I mean -- (unintelligible) -- that
7 was a long time ago. I'm going to give you some latitude.
8 Not on anything that's --

9 AST. SOL. KIDD: I'm not going any further than that.

10 THE COURT: Uh-huh.

11

12 10:05 a.m., Page 418 of Transcript

13 AST. SOL. KIDD: He wants to put on Justin told her the
14 car was stolen. It's inadmissible hearsay.

15 THE COURT: It is hearsay.

16 MR. PEPER: Well, she told the cops her car was stolen.
17 Can I ask her did you -- didn't you ---

18 THE COURT: --- have her elicit that, that she said
19 that without implying -- (unintelligible).

20 MR. PEPER: Can I just ask her what she told the cops?

21 THE COURT: It's hearsay.

22 MR. PEPER: What she told the cops?

23 THE COURT: You're going to establish that she knows
24 that of her own knowledge not that someone told her that
25 because he has to be able to cross-examine that person. And

1 your client has the right against self-incrimination and he
2 has the right to remain silent and doesn't have to testify.

3 MR. PEPER: Right.

4 THE COURT: (Unintelligible).

5 MR. PEPER: I understand.

6 THE COURT: (Unintelligible).

7 MR. PEPER: May I seek some guidance?

8 THE COURT: Uh-huh.

9 MR. PEPER: Can I ask her what happened to her rental
10 car? Why she didn't have it anymore?

11 THE COURT: If it's of her own personal knowledge and
12 it's not based on what someone told her. She would of had
13 to have been there and rationally received it. In other
14 words, if she were -- (unintelligible) -- she can't say what
15 someone told her. Because I don't have any ability to
16 cross-examine the veracity of that statement.

17 MR. PEPER: So I can't ask her anything that Justin
18 told her?

19 THE COURT: (Unintelligible). It's hearsay.

20 MR. PEPER: Right.

21 THE COURT: And it's bolstering. And you really have
22 to know -- (unintelligible) to elicit that --
23 (unintelligible).

24 MR. PEPER: Right.

25 THE COURT: Sticky. (Unintelligible) -- her own

1 knowledge and you can establish foundation not what someone
2 is telling her.

3 MR. PEPER: Okay.

4 THE COURT: You can ask that question but otherwise
5 it's speculative.

6 MR. PEPER: Okay.

7 THE COURT: It's hearsay.

8 MR. PEPER: All right. Okay. Thank you, Judge.

9 THE COURT: You're welcome.

10

11 10:22 a.m., Page 429 of Transcript

12 THE COURT: (Unintelligible) -- him as an expert
13 because -- qualify him -- to object to.

14 AST. SOL. KIDD: I could qualify him. I'm not sure ---

15 THE COURT: It takes specialized knowledge to do what
16 he's doing. (Unintelligible). Are you going to object --
17 (unintelligible).

18 MR. PEPER: The whole thing. I mean, what's relevant
19 to -- what's relevant to this case. I mean, I didn't
20 anticipate -- put the whole thing in. I was waiting on ---

21 THE COURT: What are seeking to introduce with this
22 witness?

23 AST. SOL. KIDD: There's a number of photographs, text
24 messages, call logs.

25 THE COURT: Why don't you isolate those ---

1 AST. SOL. KIDD: I do have them isolated if the Court
2 would prefer me to enter them that way.

3 THE COURT: (Unintelligible) -- the whole disc. The
4 disc comes in, the jury -- (unintelligible).

5 AST. SOL. KIDD: I mean, I think the whole phone is
6 relevant. It's in the car.

7 THE COURT: Not everything that's in it. Every phone
8 call on my phone is not relevant to what I did today. It
9 might be relevant ten years ago but it might not be relevant
10 to today. It might be prejudicial.

11 AST. SOL. KIDD: There is -- well, the phone calls I
12 think are definitely relevant because we had witnesses ---

13 THE COURT: Well, we'll have to take them up each at a
14 time. But you're not going to put a whole disc in if I
15 don't know what's on it if he's going to consent to it. He
16 might've had conversations with his mother. It's not
17 relevant to this case. He might've had a conversation with
18 his -- (unintelligible). Not relevant to this case.

19 AST. SOL. KIDD: All right. How about I just enter the
20 print outs from the disc that are relevant to me or I mean
21 relevant to the case?

22 THE COURT: Are you trying -- (unintelligible). I
23 assume this is his client's phone?

24 AST. SOL. KIDD: Yes, ma'am.

25 THE COURT: And are you going to object to this witness

1 -- (unintelligible)?

2 MR. PEPER: I would assume so. I mean, I don't -- I've
3 never known him to be anything but just a detective, they
4 guy that does ---

5 THE COURT: He says he has extensive experience. He
6 works for the Secret Service Task Force. Apparently, he's
7 trained in the software.

8 MR. PEPER: I mean, I don't want to do it in-camera.
9 You know, well ---

10 THE COURT: Either you -- how many times has he
11 testified as an expert?

12 MR. PEPER: I mean, are you going to offer him?

13 AST. SOL. KIDD: Testified three weeks ago as an expert
14 in the same thing.

15 MR. PEPER: That's fine. I mean ---

16 THE COURT: He's gonna need to qualify him as an expert
17 to render opinions.

18 MR. PEPER: Right.

19 THE COURT: As to the software.

20 MR. PEPER: I mean, he can't render an opinion as to
21 what he thinks something means. I mean, you know . . .

22 THE COURT: No. But in terms of him extracting stuff
23 from a phone ---

24 MR. PEPER: Right.

25 THE COURT: That takes expertise ---

1 MR. PEPER: I agree. Yes, ma'am. I agree. If it's
2 for the limited purpose of being able to expertly extract
3 something, then, you know ---

4 AST. SOL. KIDD: And I'm not going to ask him to
5 interpret any of the information.

6 MR. PEPER: Okay.

7 AST. SOL. KIDD: I just, you know ---

8 THE COURT: Pictures and call logs and
9 --(unintelligible). But have you shown him what it is
10 you're seeking to introduce from that disc?

11 AST. SOL. KIDD: I believe I have in passing, probably
12 not specifically.

13 THE COURT: What is it that you want off the disc?

14 AST. SOL. KIDD: This is just -- this is the wrong one.
15 Excuse me. This is a picture before he searched the phone
16 with the search number. This is his call log relevant to me
17 because of, one, we heard the 911 call from the Ford Edge,
18 this phone is blue-toothed to the Ford Edge. And you have
19 the 911 calls going --

20 THE COURT: Why don't you just ask -- the one call?
21 What other calls are on it?

22 AST. SOL. KIDD: Well, there's a lot of other calls
23 that are pertinent. Specifically the calls that were
24 testified to by Daquan Gilliard in the -- when they're
25 sitting behind the house on Tripe Street and then again in

1 the driveway of Admiral being this 0404 number which we've
2 identified as Stewy.

3 THE COURT: Okay.

4 AST. SOL. KIDD: And then additionally, also police
5 researched this 8650 number which is a common number found
6 on Keith Evans' phone which is important.

7 THE COURT: Common number found on what?

8 AST. SOL. KIDD: In another phone we're going to get
9 into later which a witness is going to testify that when
10 they're at the Admiral Street address, Mr. Wilson then uses
11 Mr. Evans' phone to make some additional phone call. And
12 the common numbers between both the numbers removed from
13 Mr. Wilson's phone and Mr. Evans' phone I think is
14 especially germane, especially since when you look at the
15 call log of Mr. Wilson, he has a history of calling those
16 numbers. And when you look at the call log of Mr. Evans,
17 those numbers have never been dialed before that night.

18 THE COURT: (Unintelligible) -- subpoena?

19 AST. SOL. KIDD: As to the text messages on the night
20 of the murder, there's a three text-message exchange through
21 a number. It says -- from Mr. Wilson's phone, it says "WYD"
22 which is "What are you doing?" The response is, "Who is
23 this?" And then he sends out Bubby, which identifies him as
24 Justin Wilson. And that text message is sent at 1:52 a.m.
25 which indicates this phone is in his possession at 1:52

1 which is 12 or 13 minutes before the shooting. This phone
2 is found in the defendant's car at the scene.

3 THE COURT: I need to know what else you're seeking to
4 introduce.

5 AST. SOL. KIDD: Photographs on the phone of him with
6 firearms.

7 THE COURT: Is that the gun that -- (unintelligible)?

8 AST. SOL. KIDD: No, ma'am. But I think ---

9 THE COURT: Why is it relevant?

10 AST. SOL. KIDD: Because it shows the phone was his.
11 These are photographs of him in his phone.

12 THE COURT: Yeah. And then you'll have to redact that
13 gun out. I don't think -- are they contesting this is his
14 phone?

15 AST. SOL. KIDD: I mean, I don't think they're going to
16 admit it's his phone. They might.

17 THE COURT: (Unintelligible).

18 AST. SOL. KIDD: Even if they do admit it, I still have
19 to prove my case the way I have to prove my case.

20 THE COURT: I understand that. But you're not going to
21 prove it with a picture of a gun -- (unintelligible).

22 AST. SOL. KIDD: Right. That photograph as well.

23 THE COURT: -- identify it.

24 AST. SOL. KIDD: And an additional photograph of him.
25 You know, also a bud (ph) history search from the phone

1 where he is going to -- Brown Ale's (ph) which is a firearms
2 dealer website buying ---

3 THE COURT: Can you prove he bought the --
4 (unintelligible).

5 AST. SOL. KIDD: I can prove not that -- but I think
6 it's circumstantial evidence this is ---

7 THE COURT: (Unintelligible) -- unless you can prove --
8 (unintelligible). Are you going to consent to any of these
9 -- (unintelligible) -- or do I need to hear --
10 (unintelligible) -- outside the jury's presence?

11 MR. PEPPER: We need to do it one by one just as far as
12 what's he going to introduce. My position would be ---

13 THE COURT: Y'all can stand back. Take all your stuff
14 with you. Thank you.

15

16 4:19 p.m., Page 597 of Transcript

17 AST. SOL. KIDD: This is the photo that they've
18 objected to that came off of Keith's phone. It's the
19 screenshot between the conversation of Keith ---

20 THE COURT: You need to establish --
21 (unintelligible) -- and you need to establish why it's
22 relevant. For what purpose are you seeking to admit?

23 AST. SOL. KIDD: There's a number of purposes. One,
24 the date, which I will get through him, is the day he's
25 released from hospital after being shot. I think it goes to

1 the length of their relationship and how close they are in
2 that, you know, he's checking on him minute one after being
3 shot. He's here testifying against him and I think that
4 goes a long way towards his credibility. But I also think
5 it establishes motive. He is now testified very succinctly
6 that they're looking for the person who shot Bubby. This is
7 very distinct evidence of Bubby being shot, which at this
8 time is the motive for this crime.

9 THE COURT: You object to the picture?

10 MR. PEPER: I object.

11 THE COURT: What's the basis of your objection?

12 MR. PEPER: I don't understand what the relevance is.

13 THE COURT: Well, he has a point about --

14 (unintelligible) -- based on -- his corroboration and -- not
15 knowing ---

16 MR. PEPER: What does that have to do with anything?

17 THE COURT: Because -- (unintelligible) -- connect the
18 dots -- (unintelligible) ---

19 MR. PEPER: Assuming he does.

20 THE COURT: (Unintelligible).

21 MR. PEPER: Right. Assuming he does connect the dots
22 that will go towards the prejudicial of the jury now knowing
23 he got shot.

24 THE COURT: (Unintelligible) -- shot all the time.
25 Innocent guy -- (unintelligible). I don't think really

1 matters why he was shot at this moment -- (unintelligible)
2 -- if it's being offered for his credibility --
3 (unintelligible).

4 MR. PEPER: I agree. Yeah.

5

6 4:49 p.m., Page 613 of Transcript

7 THE COURT: How long do you think you're going to be in
8 your examination of the -- (unintelligible).

9 AST. SOL. KIDD: I've got a lot to go through.

10 THE COURT: (Unintelligible).

11 AST. SOL. KIDD: Hour and a half; hour.

12 THE COURT: (Unintelligible).

13 AST. SOL. KIDD: We've got a lot to go through.

14 THE COURT: How much longer -- (unintelligible).

15 MR. PRICE: He's going to go first -- (unintelligible)
16 -- what he does -- what I'll do.

17 THE COURT: I'm going to -- (unintelligible). Give the
18 jury a chance to make phones calls -- (unintelligible).
19 We're probably going to go to about five-ish --
20 (unintelligible).

21

22 5:18 p.m., Page 619 of Transcript.

23 MR. PEPER: I'm going to ask that since this is on
24 direct and this is a recorded video, if they play the entire
25 video. Just press play. Now if he were to stop and ask

1 questions, that's understandable. But to date, he's played
2 at least twice about three times just the Mitsubishi. Just
3 play the whole thing.

4 THE COURT: You can play the whole thing if you want --
5 (unintelligible). But videos speak for themselves. They
6 don't need to be -- (unintelligible). You need somebody to
7 identify -- (unintelligible).

8 MR. PEPER: Thank you.

9

10 5:19 p.m., Page 620 of Transcript

11 MR. PEPER: Maybe I misunderstood your ruling, but I
12 thought he was going to play the whole thing.

13 THE COURT: (Unintelligible).

14 MR. PEPER: It's my understanding --
15 (unintelligible) -- if it's a recorded statement, it's got
16 to come in on direct. I can't --

17 THE COURT: This isn't a recorded statement. This is
18 dash cam. You can make a motion for completeness as ---

19 MR. PEPER: Right. I understand.

20 THE COURT: (Unintelligible) -- but you don't annotate
21 a video -- (unintelligible) -- if you want to replay the
22 whole thing on your cross-examination --

23 MR. PEPER: It's already in -- (unintelligible).

24 AST. SOL. KIDD: The whole thing is in. I'm just
25 trying to get through it ---

1 THE COURT: Just like ---

2 AST. SOL. KIDD: Just trying to save us time.

3 THE COURT: (Unintelligible).

4 MR. PEPER: (Unintelligible).

5 THE COURT: Which they probably will.

6 MR. PEPER: Yeah. Thank you.

7 THE COURT: (Unintelligible) -- we'll deal with that
8 later.

9

10 5:41 p.m., Page 632 of Transcript

11 THE COURT: Is this the -- (unintelligible).

12 AST. SOL. KIDD: It's his Facebook page and then a
13 picture of him.

14 THE COURT: (Unintelligible).

15 AST. SOL. KIDD: One, to identify it which is actually
16 his Facebook page.

17 THE COURT: (Unintelligible).

18 AST. SOL. KIDD: Uh-huh. So that's a photo of Jason
19 Dubois who is Stewy.

20 THE COURT: Yeah. It says it's a -- (unintelligible).

21 AST. SOL. KIDD: Right.

22 THE COURT: (Unintelligible).

23 MR. PEPER: Well, what's it being submitted for? For
24 identification purposes?

25 THE COURT: -- Stewy is a regular -- (unintelligible).

1 MR. PEPER: I mean, is there any relevance to --
2 (unintelligible) -- show picture of Stewy --
3 (unintelligible).

4 AST. SOL. KIDD: So the relevance will be through
5 another witness, but the relevance is --

6 THE COURT: That's not what he's asking. He's asking
7 why do you need a Facebook picture to show who Stewy is ---

8 AST. SOL. KIDD: Because it identifies Stewy's Facebook
9 who is now also be connected with Justin and Tater or Marvin
10 through Facebook.

11 THE COURT: (Unintelligible).

12 AST. SOL. KIDD: Through being Facebook friends with
13 those two individuals. It shows the connection.

14 THE COURT: You don't have anything to show that the
15 documents -- (unintelligible).

16 AST. SOL. KIDD: Because we have access to their
17 Facebook accounts and you can see -- people who have done
18 that investigation who can testify they've gone at that page
19 and they've looked at who is friends with who's ---

20 THE COURT: --- but have you seen -- (unintelligible)
21 -- unless they agree to it. I guess I'm trying to figure
22 out what's the basis of the objection.

23 MR. PEPER: Authentication. (Unintelligible) -- for
24 ID purposes.

25 THE COURT: (Unintelligible). They'll be marked for ID

1 only right now. We'll take it up later when we have time.
2 ID Only.

3 AST. SOL. KIDD: This is not a bad time to take a break
4 if you want to. It's 5:45.

5 THE COURT: (Unintelligible).

6

7 5:47 p.m., Page 635 of Transcript

8 MR. PEPER: For what purpose -- (unintelligible).

9 AST. SOL. KIDD: For a few purposes. The first being
10 identifying names and nicknames.

11 THE COURT: (Unintelligible).

12 AST. SOL. KIDD: The future purpose would be to
13 establish other Facebook posts and things like that that
14 have been pulled from their accounts by other individuals.
15 So the first is to lay the foundation that these are in fact
16 these individual Facebook accounts so I can authenticate
17 future documents through other witnesses.

18 THE COURT: (Unintelligible) -- it might be his child.
19 I'm not sure.

20 MR. PEPER: What I heard was what are these and they're
21 his Facebook account -- (unintelligible). I just don't know
22 how he's authenticating through ---

23 THE COURT: (Unintelligible).

24 MR. PEPER: Okay. So has he had ---

25 THE COURT: That's the last post. And they were

1 printed on 21st at 9:42; 9:41, 9:42.

2 MR. PRICE: (Unintelligible).

3 MR. PEPER: Are you doing this for nickname purposes?

4 THE COURT: I assume for corroboration on his
5 nicknames. What other purpose would you be offering --
6 (unintelligible).

7 AST. SOL. KIDD: That's the first purpose. And the
8 second purpose would be for future witnesses who have pulled
9 other documents, other photos, and other relevant
10 information from their Facebook accounts. So this is to
11 link ---

12 THE COURT: Whose Facebook accounts?

13 AST. SOL. KIDD: Both Marvin Bryan's and Justin
14 Wilson's.

15 THE COURT: What is it you're offering to show?

16 AST. SOL. KIDD: Well, those photographs are offered to
17 show ---

18 THE COURT: No, not this. I'm talking about other ones
19 that you claim you're going link to these.

20 AST. SOL. KIDD: The other ones will show motive. The
21 other ones will show ---

22 THE COURT: (Unintelligible).

23 AST. SOL. KIDD: I mean, they're making statements,
24 affiliations with specifically as to -- I'm going to get you
25 the documents if you would like to see it.

1 THE COURT: Yeah, that would be nice. I can see them
2 in advance. I'm going to take it under advisement. For now
3 they'll be marked for ID only.

4

5 5:51 p.m., Page 636 of Transcript

6 MR. PRICE: I'm not sure who it was. I think they,
7 they being Justin and -- (unintelligible) -- be part of West
8 Cash. He has no way -- (unintelligible) ---

9 THE COURT: He has a long standing relationship with
10 him. And he sees him -- (unintelligible).

11 MR. PRICE: My client doesn't -- my client doesn't
12 believe he's a part of anything. Just because he's in
13 Ashleyville doesn't mean he's a part of West Cash.

14 THE COURT: He says with his own personal knowledge --
15 I don't know what his answer is going to be. He certainly
16 has the foundation -- (unintelligible). He's been around it
17 enough. He says he's -- (unintelligible).

18 MR. PRICE: Okay. I'll cross him on it.

19 MR. PEPPER: (Unintelligible).

20 THE COURT: He doesn't call it a gang. Where he lives
21 or what purposes -- (unintelligible).

22 AST. SOL. KIDD: I think ultimately what we will prove
23 is that there is a back and forth retaliation going on
24 between -- I'm not never going to refer to him as a gang --
25 but with Ashleyville and this North Charleston Runway group.

1 MR. PEPER: (Unintelligible).

2 THE COURT: I haven't heard anything that ties all that
3 together yet. (Unintelligible) -- he doesn't have any
4 personal knowledge of -- and what somebody told him and what
5 he heard, that's not -- (unintelligible). It's not
6 admissible -- (unintelligible). So for now, for now, for
7 this moment, until I can think -- (unintelligible) -- next
8 set of questions. It's under advisement.

9

10 **Thursday, June 22, 2017**

11 (*Thursday proceedings were transcribed by a different court
12 reporter, therefore page numbers are not provided.)

13

14 9:45 a.m.

15 AST. SOL. KIDD: I don't have anymore questions for
16 this witness. My only concern is the outstanding issue ---

17 THE COURT: (Unintelligible).

18 AST. SOL. KIDD: Okay.

19 THE COURT: (Unintelligible).

20 AST. SOL. KIDD: Yes, ma'am.

21 THE COURT: I don't think he has any additional
22 questions to ask -- (unintelligible).

23 AST. SOL. KIDD: I think I've laid the foundation.

24

25

1 9:58 a.m.

2 THE COURT: (Unintelligible) -- be very careful of the
3 characterization -- (unintelligible).

4 MR. PEPER: Yes, ma'am.

5 THE COURT: Characterizing his as something -- I think
6 there's just a different way to ask the question.

7 MR. PEPER: I agree. I agree.

8 THE COURT: (Unintelligible) -- veracity.

9 MR. PEPER: I would just ask -- it's cross-examination,
10 but I ---

11 THE COURT: You have wide latitude. You still --
12 (unintelligible), you know, you got caught up in the drama.

13 MR. PEPER: Okay. Thank you.

14 THE COURT: You're welcome.

15

16 10:02 a.m.

17 MR. PEPER: When I was crossing ---

18 THE COURT: (Unintelligible).

19 MR. PEPER: (Unintelligible) -- sticking ---

20 THE COURT: --- when you ask questions in that way, he
21 has the right to rehabilitate his witness --
22 (unintelligible) -- to say what he said -- (unintelligible).

23 MR. PEPER: Okay.

24 THE COURT: There is a proper way to ask the question.
25 (Unintelligible)-- his motives, his credibility --

1 (unintelligible). You're going to make --
2 (unintelligible) -- a witness -- (unintelligible) -- he has
3 to rehabilitate himself.

4 MR. PEPER: Yeah. I know, I know.

5 THE COURT: (Unintelligible).

6 MR. PEPER: When we were talking about this with
7 Daquan, Judge, you basically told me the same thing but you
8 said make sure if you're going to ask him that ---

9 THE COURT: (Unintelligible) -- to rehabilitate. And
10 that's just, you know -- what the jury is going to do.

11 MR. PEPER: Okay.

12 THE COURT: (Unintelligible).

13 MR. PEPER: Maybe I'm missing -- I thought you told me
14 if you're going to ask him that make sure you ask him the
15 exact ---

16 THE COURT: (Unintelligible). You need to --
17 (unintelligible) -- phrase it other than --
18 (unintelligible) -- Mr. Kidd -- (unintelligible) and his
19 credibility.

20 MR. PEPER: I gotcha.

21 THE COURT: (Unintelligible).

22 MR. PEPER: That's not what I'm trying to do, yeah.

23 THE COURT: (Unintelligible) -- rehabilitate himself.
24 (Unintelligible).

25 MR. PEPER: I gotcha.

1 THE COURT: See if you can rephrase it, please.

2 MR. PEPER: All right. Thank you.

3 THE COURT: You're welcome.

4

5 10:27 a.m.

6 AST. SOL. KIDD: In Mr. Peper's cross-examination of
7 him I think he opened the door to a lot of things especially
8 when he starts questioning him about the incident at the
9 club where an individual named CB got a bottle broken over
10 his head by Creep. That's the exact stuff you told me to
11 stay away from. He's opened the door to the back and forth
12 between the West Cash and the Runway Group. I've just
13 called a handful of officers who can come in here and
14 testify to the exact incidents we're talking about. And
15 he's now opened the door to them.

16 THE COURT: I'm gonna have to think about that. Stand
17 back for me.

18

19 11:30 a.m.

20 THE COURT: Yes, sir.

21 AST. SOL. KIDD: My next witness will be Mr. Cheney
22 regarding the Facebook stuff which I know ---

23 THE COURT: That's your only other witness?

24 AST. SOL. KIDD: No, ma'am.

25 THE COURT: (Unintelligible) -- so I can send the jury

1 out for lunch.

2 AST. SOL. KIDD: Well, not that I ---

3 THE COURT: (Unintelligible).

4 AST. SOL. KIDD: Not that I can call before Mr. Cheney.

5 THE COURT: How many other -- you don't plan to call
6 Mr. Allen?

7 AST. SOL. KIDD: I think -- no, ma'am.

8 THE COURT: Mr. Williams?

9 AST. SOL. KIDD: No, ma'am. Adrian Williams? No,
10 ma'am.

11 THE COURT: Detective Butler will be last I assume?

12 AST. SOL. KIDD: Yes, ma'am.

13 THE COURT: Niblock?

14 AST. SOL. KIDD: I don't believe I need to call her at
15 this point.

16 THE COURT: Tammy Greene?

17 AST. SOL. KIDD: Through rebuttal if necessary.

18 THE COURT: Marcus Green.

19 AST. SOL. KIDD: Same.

20 THE COURT: Bailey?

21 AST. SOL. KIDD: Yeah. No, ma'am. I really don't have
22 many witnesses ---

23 THE COURT: Desheers?

24 AST. SOL. KIDD: Dependent on what happens with
25 Mr. Cheney.

1 THE COURT: Gerten?

2 AST. SOL. KIDD: Dependent on Mr. Cheney.

3 THE COURT: Manigault?

4 AST. SOL. KIDD: I'm not going to call him.

5 THE COURT: Blake?

6 AST. SOL. KIDD: I'm not going to call him.

7 THE COURT: Kosarko?

8 AST. SOL. KIDD: Dependent on Mr. Cheney.

9 THE COURT: Ambrose?

10 AST. SOL. KIDD: Dependent on Mr. Cheney.

11 THE COURT: Alex Gray?

12 AST. SOL. KIDD: I'm not going to call Mr. Gray.

13 THE COURT: Kubicsko?

14 AST. SOL. KIDD: No, ma'am.

15 THE COURT: Alana Keith?

16 AST. SOL. KIDD: Dependent on Mr. Cheney.

17 THE COURT: Sergeant Andrew Coker.

18 AST. SOL. KIDD: I'm not going to call Mr. Coker.

19 THE COURT: Thailando King?

20 AST. SOL. KIDD: I can't find him.

21 THE COURT: Now, why aren't you calling the other
22 witness? How are you going to establish their relationship?

23 AST. SOL. KIDD: I believe I have established.

24 THE COURT: You can't find him? Is that --

25 (unintelligible).

1 AST. SOL. KIDD: I've got a warrant out for Mr. Allen.
2 Mr. Capers is testifying. I believe I had the EMS testify
3 about Mr. Williams injuries.

4 THE COURT: Where is Mr. Williams?

5 AST. SOL. KIDD: That's a good question.

6 THE COURT: All right. Stand back for me, please.

7

8 3:32 p.m.

9 MR. PRICE: I'm not going to ask her what someone said.
10 I'm going to ask her that through her investigation, did a
11 witness indicate that they could have picked the defendant
12 out of a photo lineup.

13 THE COURT: That's hearsay. It's a roundabout way of
14 having her say what somebody told her. She can say what she
15 did as a result of that.

16 MR. PRICE: I know.

17 THE COURT: But she can't say that she spoke to
18 somebody in -- (unintelligible).

19 MR. PEPPER: (Unintelligible) -- then she ran --
20 (unintelligible).

21 THE COURT: She can say what she did as a result. But
22 she can't say what somebody told her.

23 MR. PEPPER: As result, she can -- (unintelligible) --
24 right?

25 THE COURT: She can say through her investigation what

1 she did.

2 MR. PRICE: Correct. Okay.

3 THE COURT: Just can't say what somebody said.

4 MR. PRICE: I got it.

5 - - - - -

6 (End of Bench Conferences.)

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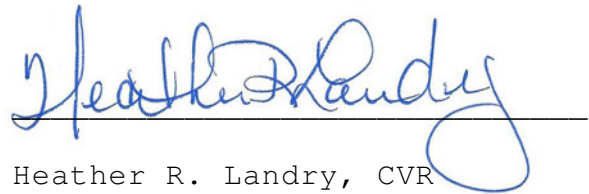
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STATE OF SOUTH CAROLINA)
) CERTIFICATE OF REPORTER
COUNTY OF CHARLESTON)

I, HEATHER R. LANDRY, at the time of this trial, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing transcript has been produced using digital recordings of the bench conference proceedings had in the trial of the captioned case, in the Court of General Sessions for Charleston County, South Carolina, on the 19th-23rd day(s) of June 2017.

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

October 1, 2018



Heather R. Landry, CVR
Court Reporter

1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT 9
2 COUNTY OF JASPER) COURT C.A NO. 2017-GS-10-04164

3
4 State of South of Carolina)
5 Plaintiff,)
6 Versus)
7 Justin Martell Wilson and Marvin Dante Bryan)
8 Defendant.)

9
10 H E A R I N G

11
12 DATE: August 8, 2023

13
14 LOCATION: South Carolina Circuit Court 9

15
16 JUDGE: Deadra L. Jefferson

17
18 TRANSCRIBED BY: ERIN REILLY

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Certificate of Transcriber 77

EXHIBITS

(None Marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

PROCEEDINGS

1
2 THE COURT: State of South Carolina versus Justin Martell
3 Wilson and Marvin Dante Bryan. Indictments 2017
4 GS10416041614162 and 4163. That are applicable to Marvin Dante
5 -- no, I'm sorry. Justin Martell Wilson and 2017
6 GS10416141654166 and 4167 which relate to Marvin Dante Bryan.
7 This matter was remanded to the court originally for whatever
8 reason. The court reporter did not transcribe all of the bench
9 conferences, although she was clearly instructed to mic the
10 bench. Charleston, unlike most counties, is equipped with the
11 equipment to capture bench conferences electronically and for
12 the court reporter to be able to listen independently while
13 those are being done. In addition to that, though, most court
14 reporters have separate digital mics that they all -- digital
15 recording devices that they also use and I'm not certain which
16 one this particular court reporters utilizes, as we had two
17 court reporters during the course of this trial. Each -- these
18 trials lasted from June 19th to June 23rd of 2017 both
19 defendants were found guilty on all indictments and they were
20 subsequently sentenced by the court. And it's my recollection
21 that we also may have dealt with a probation violation for one
22 of the defendants on the Monday following the guilty verdict.
23 And I just add that for completeness, the matter went up on
24 appeal and was one of my old law clerks, Susan Hackett, was
25 originally one of the appellate defenders on this case, and she

1 immediately realized that all the bench conferences, knowing my
2 habits, would have been recorded and transcribed. And she
3 requested those it appears. They were then subsequently
4 transcribed by the court reporter and appended to the record.
5 Now and then the matter was -- there was a request to
6 reconstruct the bench conferences, the ones that the parties
7 felt they could not discern what was being said or otherwise in
8 that relief was granted. Unfortunately, however, it was granted
9 right before COVID. And so it's just the perfect storm. And we
10 find ourselves here today after having made multiple attempts
11 to schedule the matter. Now, I will tell you all that I've gone
12 back through and read the entire transcript. I've also gone
13 back through and for those who have experienced with me, you
14 know, I keep thorough notes of the trial. And to say that my
15 notes are more than 100 pages from this trial is probably about
16 accurate. Okay. Mr. Brooker is going to be conferenced in
17 shortly. He had his wife became ill and he had to pick up his
18 children from school. So he will come on by telephone and be
19 conferenced in shortly. The way I would suggest that we deal
20 with this. I've gone back through and read everything. I've
21 read my notes and think I've been able to reconstruct the bench
22 conferences and I will tell you what my notes reflected on each
23 one of the ones that were raised. And then if you all want to
24 append anything to the record, you're welcome to. I will,
25 however, make the initial observation that I really don't know

1 that many of the bench conferences are dispositive because
2 after every bench conference, a contemporaneous ruling was made
3 on the record regarding each of the items. So I kind of, in my
4 perspective, it's a little bit of much ado about nothing and I
5 don't know that it really -- it is even the portions that are
6 inaudible. It is so clear from the responses what was being
7 elicited. So I don't know that it really makes any appreciable
8 difference but I will say this. Initially the parties had
9 worked on this although there have been changes in counsel and
10 I will note for the record, there are stipulations that have
11 been reduced to writing regarding certain of the bench
12 conferences. There is clarity that I need to add to one of
13 those stipulations, but I will go through those initially and
14 let you know which ones have been stipulated to. Page 90,
15 there's a stipulation page 122, page 165, page 181, page 253,
16 page 314, page 327, page 429, page 597, page -- and then from
17 June 23rd and apologize. Let me backtrack, those are from June
18 19th through 23rd, 2017. And those pages that I've referred to
19 correspond with that transcript. Then transcript dated June
20 23rd through 24, 2017. There has been a stipulation to page 45,
21 page 74 and that's it. Although, and I may go in reverse order
22 on a few of these just to get them out of the way, because
23 they're really simple in their nature. But the stipulations
24 have been reduced to writing in a document that consists of two
25 pages. I don't know if it's ever been filed. I know that Scott

1 Mathews signed it on behalf of the state and Mr. Gilliam signed
2 it on behalf of the defense. And Ms. Hackett signed it on
3 behalf of the defense when they were counsel representing each
4 of the defendants. The only clarification that I would make is
5 on number nine. It says the previously untranscribed bench
6 conference on page 597 is partially contained within the
7 transcript entitled Bench Conference Review. Based upon the
8 information available, the bench conference concerned an
9 objection to the admission of States 145 on the basis of
10 relevance. And actually that is not - that is partially
11 accurate. Any objections regarding that document were made on
12 the record. So the bench conference is not dispositive. The
13 actual objection was foundation and authentication, according
14 to my records, and also that to some portion of it. Well, that
15 would have been the underlying objection, but no objection was
16 made. And that the -- and that counsel withdrew the objection
17 and that that was placed on the record. So it should accurately
18 reflect in that stipulation that the objection was withdrawn.
19 So there's nothing that needed to be preserved except for the
20 fact that the objection on that issue was withdrawn by counsel.
21 And that is accurate -- accurately reflected in the transcript.
22 Now, I'm going to go in order of the pages that were
23 transmitted to me and also I'm going to be -- if you all want
24 to follow along with me, I have the transcript of record, which
25 is the bench conference review, which was provided by Heather

1 Landry and also provided by let me see here. I think the other
2 -- I'm not sure the other -- but there is an index of bench
3 conferences that is appended to the last page. And as I said, I
4 may go in opposite order of -- and is there anybody that does
5 not have that or have privy to it?

6 MS. DELANY: Judge, are we still just talking about the
7 stipulations here?

8 THE COURT: No, ma'am. We're moving on to those things
9 that you say were unintelligible.

10 MS. DELANY: Okay.

11 THE COURT: And I'm going to tell you my notes reflect.

12 MS. DELANY: I would ask -- you know, for in order to
13 preserve the record, the appellate courts are very specific.
14 And I want to make sure I protect my client's rights. And I
15 would ask that each of the four lawyers be called as witnesses
16 and put under oath and ---

17 THE COURT: I'm going to allow you all after I do this to
18 have them then make any annotations to the record regarding
19 whether they either accept to what my recollection of my notes
20 reflect and what the record very clearly reflects. As I've been
21 very clear, while there has been much ado made about these
22 bench conferences, every single objection was contemporaneously
23 made, argument was taken, and even if there was a bench
24 conference, it was unintelligible. Right after that it was
25 placed on the record and the court made a contemporaneous

1 record and made a contemporaneous ruling. So what ---

2 MS. DELANY: Respectfully Judge ---.

3 THE COURT: I understand that.

4 MS. DELANY: -- I have to ask that -- for testimony from
5 the lawyer.

6 THE COURT: You can do that after I do what I'm doing and
7 you seem to have a penchant for dictating how the court's going
8 to proceed, I've been very clear about how we're going to
9 proceed. So we will deal with this first and then if you'd like
10 to call any witnesses, you're more than free to do that.

11 MS. DELANY: Yes, Your Honor.

12 THE COURT: Thank you. Is there any exception to us
13 proceeding in that way from -- and actually, we need to see
14 Shawn, did Mr. Booker call in? Mr. Brooker, can you hear us?

15 MR. BOOKER: Yes, I can hear you.

16 THE COURT: How are you?

17 MR. BOOKER: I'm fine. I apologize, Your Honor.

18 THE COURT: No worries. Heard what happened and certainly
19 we hope everything works out. Ms. Delany seems to believe that
20 the appeal was -- your client's appeal was dismissed. Is that
21 accurate or inaccurate?

22 MR. BOOKER: Your Honor, I believe that the appeal was --
23 I believe, because there was no transcript.

24 THE COURT: Okay. Did you make any motions to have it
25 reinstated or otherwise with the court being well aware that a

1 portions of the record had to be reconstructed?

2 MR. BOOKER: We intend to do that should it be
3 reconstructed.

4 THE COURT: We're doing that right now.

5 MR. BOOKER: Successfully reconstructed.

6 THE COURT: Yes, sir. Well, there were only bench
7 conferences that they remanded for reconstruction. The rest of
8 the record is quite clear and quite thorough. So they're only a
9 few.

10 MR. BOOKER: Okay.

11 THE COURT: There were stipulations that were entered on
12 many of the bench conferences. They're also other ones that
13 were not stipulated to that I'm -- what I told the lawyers I'm
14 going to do is go through what my notes reflect and then they
15 will be given the opportunity to proceed as they would like
16 regarding those bench conferences. And I was just trying to
17 figure out if there's any exception to you from us proceeding
18 in that manner.

19 MR. BOOKER: No.

20 THE COURT: Okay. Any exceptions?

21 MR. BOOKER: None that I can think of.

22 THE COURT: I'm trying to think who else would have be
23 able to. Any exception, Mr. Patrick?

24 MR. PATRICK: No, ma'am.

25 THE COURT: Mr. Kidd.

1 MR. KIDD: No. I saw that [Indiscernible] Your Honor.

2 THE COURT: Mr. Price.

3 MR. PRICE: No, ma'am.

4 THE COURT: Am I missing nobody. Mr. Peper?

5 MR. PEPER: No, ma'am.

6 THE COURT: Mr. Evans.

7 MR. EVANS: Your Honor, one thing I want to bring up.

8 There were some additional stipulations that were made.

9 today ---

10 THE COURT: The conditional stipulations were made
11 yesterday and what were those?

12 MR. EVANS: Page 108 to 227. Page ---

13 THE COURT: [Indiscernible] One second 108 from what? From
14 the second day? No, wait a minute. Yeah, 108. Now, according to
15 my notes, that was talking about scheduling.

16 MR. EVANS: Yes. Those were -- all three of these were
17 about scheduling, Your Honor. That's why we stipulated here.

18 THE COURT: Tell me numbers you may be able to eclipse me
19 going through those. So 108 you all stipulated with scheduling?

20 MR. EVANS: Yes.

21 THE COURT: Okay. Which other one? Because my notes also
22 reflect that number 32 page 227 on June 23rd was scheduling as
23 well.

24 MR. EVANS: Yes, ma'am.

25 THE COURT: And also my notes reflected that 267 was

1 | actually not a bench conference. They were asked to approach to
2 | look at the verdict.

3 | MS. DELANY: [Indiscernible] Your Honor, I sent your law
4 | clerk an email or your secretary and law clerk an email. Mr.
5 | Tommy Evans is on it. That's got a copy of those stipulations
6 | that he and I entered. [Indiscernible]. And those were for what
7 | you just -- for 271 of the first transcript for 9108.

8 | THE COURT: Wait a second for me. Page eight. No, I'm
9 | sorry. 271 is scheduling from June 19th to 23rd, 2017. Correct?

10 | MS. DELANY: Yes.

11 | THE COURT: And you all stipulated to that?

12 | MS. DELANY: Yes.

13 | THE COURT: Bear with me one second. I think my secretary
14 | is bringing the document that you're referring to. Okay. Let's
15 | see here. No, that's not the same.

16 | MS. DELANY: So I sent over the original.

17 | THE COURT: The original one. She says she sent you an
18 | email. When did you say you sent the email?

19 | MS. DELANY: This afternoon, just before the hearing.

20 | THE COURT: What time did you send it?

21 | MS. DELANY: Maybe half an hour before the hearing.

22 | THE COURT: I think I have it. Let's see. The additional
23 | stipulations are, from June 19th to 23rd through 2017. Page 271
24 | was scheduling. And I agree with that because that's what I
25 | have noted. June 23rd through 24th. Page nine is scheduling.

1 Not stipulated. 108 is scheduling, which we just covered. 227
2 is scheduling my notes reflect the same. Okay. So that will
3 then go into my other group of stipulations, and I assume you
4 all will then file that with -- and then I would suggest if Mr.
5 Brooker has the case or he has not already had it reinstated,
6 that you all likewise include him on -- and have a consultation
7 with him regarding his desire to stipulate to those or his
8 inclination to stipulate to those as well. Sort of going in
9 reverse order what is I perceive the most simplistic of some of
10 the issues, although we have covered 108 and nine, which was
11 scheduling. Signals page nine. 108, 227 scheduling. Strip away.
12 Strip [Indiscernible]. And stipulated... Going backwards from
13 transcript dated June 23rd through 24th 2017. My notes reflect
14 in the transcript will corroborate that that was although she
15 noted it as a bench conference that was not a bench conference.
16 The parties were asked to approach to look at the verdict form.
17 So there was no discussion that took place. And starting with
18 transcript dated June 19th through 23rd 2017, starting with the
19 first, which would be page 39. My notes reflect that dealt with
20 juror -- number down. Got my notes earlier. We had a juror who
21 at the last minute after we were getting ready to swear the
22 jury indicated that she had a family, a familial obligation in
23 Myrtle Beach, but she did not tell us until right before we
24 were about to swear the jury. And that was juror number 184,
25 Tikeyah, T-I-K-E-Y-A-H, Jenkins. My notes reflect that there

1 | was no exception to the way that was handled. In other words,
2 | keeping her with us, anticipating that the trial might finish
3 | earlier. If it did not finish earlier, then she would have been
4 | excused and it would not have been an issue because we had two
5 | alternates. So because of the nature of the trial, wanted to
6 | have both of those alternates available in the event that
7 | something came up and there were no objections posed on keeping
8 | the juror who made the late disclosure. Page 90 is a
9 | stipulation. Page 122 is a stipulation. Page 165 is a
10 | stipulation. And those have already been reduced to writing.
11 | And there's no purpose in the court going back over those. The
12 | next [Indiscernible] with 160 -- page 166. And the scope of
13 | that objection dealt with and just will observe for the benefit
14 | of the portions of the court's response that says
15 | unintelligible that they don't make any appreciable difference,
16 | as the court's ruling is very clear within the scope of the
17 | response. And it dealt with making Mr. Kidd a witness in the
18 | case, not making him a witness, because he would have -- the
19 | state would have the ability to rehabilitate him as a witness
20 | if that need were arise based on the scope of the testimony.
21 | And the portion from line eight. Well, not line eight. And I'm
22 | only going to deal with the parts of my responses that are
23 | intelligible. What that says unintelligible at line 12. But you
24 | need to rephrase your questions along the lines. Along those
25 | lines, do not make her a witness because then she'll be

1 disqualified as representing her client. And then Mr. Price was
2 asking certain questions and I gave clarity regarding you need
3 to inquire as to his credibility or his believability or any
4 motivation he would have not to be forthright. There's a way to
5 ask those questions without making these other parties in the
6 unintelligible part would be witnesses. And that is, of course,
7 the court statement, not anyone else's. And clearly the
8 question was allowed at page 167. It was just a direction that
9 the question be rephrased to elicit questions regarding the
10 witnesses credibility, believability, potential to fabricate or
11 otherwise, or to have some undue motive in the case in her in
12 their testimony. Page 181 there's a stipulation as well as page
13 253 there's a stipulation. Page 271 is also a stipulation. That
14 then took us to page 283. There's an objection posed by the
15 state. I asked for the basis. Mr. Kidd asked to approach, which
16 was at page 11, I said that they could, we then defer to page
17 nine of the court reporter's -- I'll -- what I'll refer to is
18 transcript of record bench conference review. Mr. Peper says,
19 well, he opened the door by asking him, why do you have it on?
20 He said they were new. For the record where it says the Court
21 unintelligible. My notes do not reflect I was making any
22 ruling. If anything, I was asking for clarity regarding the
23 objection. And Mr. Peper then responds, can I ask? The next
24 statement from the court at page at lines five and six, the
25 portion that is unintelligible. I would note, is not important

1 | because the rest of the sentence is clear. Unless you can
2 | establish a foundation and my notes reflect for his knowledge,
3 | for his personal knowledge. And then Mr. Peper goes on to say,
4 | well, I'll just ask him why he's asking him that. Do you know
5 | why? And then the court's answer is clear. And where it says
6 | the court Unintelligible. My notes reflect that I responded,
7 | rephrase the question, you may proceed. And Mr. Peper
8 | responded, yeah, okay. Thank you, Judge. 314 is stipulation.
9 | 327 is a stipulation. Page 384. [Indiscernible]

10 | THE COURT: My notes reflect that, that is about
11 | scheduling and the availability of a witness but there was
12 | nothing substantive argued or at the bench conference.
13 | Actually, I apologize. I got ahead of myself. That's not the
14 | one that I was -- it's 12. No, number 12, 384. 384, I
15 | apologize. We left one item or two items of evidence in our
16 | office, and my investigator should be back in a second. That
17 | was Mr. Kidd. I asked what are those? They are the black beanie
18 | hat and the Nike shoe. The part that's unintelligible, I said,
19 | would have been Mr. Kidd. And then you haven't marked them yet.
20 | Mr. Kidd responds, I haven't marked them yet, and then we'll be
21 | done with this witness. I do not recall what I said at line 23
22 | but my notes would reflect in the context of this portion that
23 | we were talking about scheduling and dealing with the arrival
24 | of this evidence. And then Mr. Peper says, I can't remember,
25 | but I think about 50 minutes. Then both Mr. Peper and I are

1 | unintelligible. The Court debate whether we do it tomorrow. My
2 | notes -- and without reading the whole thing. It should take
3 | more than two minutes. Really, this is about scheduling of the
4 | witness and the evidence being brought over from the
5 | solicitor's office. My notes don't reflect that any objections
6 | were made during this colloquy. And I clearly ask -- and that
7 | is part of the transcribed bench conference. Do you have any
8 | objection? And then the unintelligible part would have been to
9 | the state introduce. And then Mr. Peper says it's the beanie
10 | and what? And Mr. Kidd says and the shoe. The court, the beanie
11 | and the shoe. Mr. Peper. No, thank you. That then take us to
12 | number page 415. And where it says my rule -- my observation is
13 | unintelligible. My notes reflect that we were having a
14 | discussion about the scope of the testimony and whether Mr.
15 | Kidd would be allowed to some latitude and leading the witness
16 | so that she did not get into extraneous matters that would have
17 | been irrelevant and prejudicial to the defense. So I gave him
18 | some latitude to lead the witness. It then goes on to the next
19 | page, which is page 12, because I inquired of him what type of
20 | statement it was, and that's the unintelligible part at line 25
21 | on page 11. Was it a statement? Is the unintelligible portion.
22 | And Mr. Kidd responds on page 12, line one. Yes, it's a
23 | recorded interview. It's pretty long. I'm not trying to get
24 | much out of her, really, other than she wasn't with the
25 | defendant the night of the shooting. And my notes reflect that

1 -- well, actually, my notes don't reflect. I'm -- I assumed
2 within the scope of what we were talking about that Mr. Peper
3 may have made -- may have inquired as to for what purpose he
4 was seeking to introduce or elicit the statement but of course
5 he can speak to that and then I said, yeah, I mean the
6 unintelligible portion of that sentence is of no import,
7 considering the rest of the court statement, which is that was
8 a long time ago. I'm going to give you some latitude not on
9 anything. That's -- I'm not going any further on that than that
10 was Mr. Kidd's response. So that was -- the portion of the
11 court statement was to give Mr. Kidd latitude and giving him
12 some latitude and leading the witness so that no portion of
13 this recorded statement would come in that would be prejudicial
14 to the defendants or include any hearsay or otherwise that
15 would not have been admissible. Going down to page 418, which
16 is the court statement at line 18. Clearly, the objections are
17 on the record, they are audible and they are transcribed. My
18 response is have her elicit that, that she said that without
19 implying the unintelligible portion is what someone told her.
20 Mr. Peper then asked, can I just ask her what she told the
21 cops? I said, It's hearsay what she told the cops, you're going
22 to establish that she knows that of her own knowledge not that
23 someone told her that because she has to be able to be cross-
24 examined, has to be able to cross-examine that person but the
25 only portion of the court statement on that page that's

1 | unintelligible. I've clarified from my notes. Port 29 is
2 | stipulation, 597 is a stipulation, 613 through 614 is a
3 | stipulation. And actually I need to go back to 418 because it
4 | goes on to page 13 with the court statement and actually there
5 | are some -- there's a typo in the court's response in line 11.
6 | If it's of her own personal knowledge and it's not based on
7 | what someone told her she would have had to -- I would have
8 | said she would have had to have been there and rationally
9 | perceived it. And that's a typo at I think what she originally
10 | had was deceived it -- received it, but my statement was
11 | perceived it. In other words, if she were, that is
12 | unintelligible but the rest of the court's ruling is clear. She
13 | can't say what someone told her because they don't have -- and
14 | she put I, but it should be they, don't have any ability to
15 | cross examine the veracity of that statement because the court
16 | would not be cross-examining someone. So in its context, that
17 | is clearly a scrivener's error. On page 19, where it says
18 | unintelligible my answer was no. And then it goes, it's
19 | hearsay. Mr. Peper says, right and then my next statement at
20 | page 921, page 13, and it's bolstering and again, another
21 | scrivener's error, I believe, and she would really have to
22 | know. And then the unintelligible portion is for you to elicit
23 | that. The rest of the unintelligible part of it is of no
24 | importance because it does not include the court instruction to
25 | counsel. The unintelligible portion at 925. You have to

1 establish she knew of. And then it goes on to her own
2 knowledge. And you can establish foundation, not what someone
3 is telling her. Mr. Peper responds, okay. I tell him you can
4 ask that question, but otherwise it's speculative. 429 is the
5 stipulation. 597 is a stipulation. 613 through 614 are
6 stipulations. That would take us then to 619. And it deals
7 basically, I think Mr. Peper statements are clear. The only
8 thing that was inaudible was the court's portion at page 23,
9 line four. You can play the whole thing if you want but you
10 don't have to. That's the unintelligible portion but videos
11 speak for themselves. They don't need to be annotated. That is
12 the unintelligible portion. You need somebody to identify and I
13 don't have any recollection of what the rest of that sentence
14 was. So in essence, Mr. Peper's objection was sustained
15 regarding them commenting, regarding or annotating the video.
16 That then goes down to page 620 which is -- it has at line 20,
17 which is page 23. There are two portions of my comments at line
18 20 and 21 that are unintelligible, but they really don't make
19 any appreciable difference because the rest of the court
20 statement is very clear as to what it intended and the
21 instructions it was given. It was giving to counsel. Page 632,
22 line 11, which is page 24 of the transcribed bench conferences.
23 Is this the Facebook evidence? Is the unintelligible portion of
24 my statement. Mr. Kidd's response is, it's his Facebook page
25 and then a picture of him. And the unintelligible portion at

1 | page 14 is my statement is for what purpose is it being
2 | offered? And then Mr. Kidd responds at line 17. It is clear
3 | from the transcript that I asked the parties to show me what it
4 | was they were referring to and at that point I was looking at
5 | those pages that screenshots that Mr. Kidd was seeking to use
6 | or utilise in the witnesses testimony. And I was asking
7 | questions regarding those pages. In other words, whose page is
8 | it? Who was going to be able to ID it and for what purpose was
9 | it being offered? Mr. Kidd responds at line 20. Yeah, it says
10 | it's a -- and I don't recall what the unintelligible portion of
11 | that was, but it would have related to what I was asking
12 | regarding who could have ID'd the page that Mr. Kidd was
13 | seeking to introduce. At line 22, where it says the court
14 | Unintelligible. What my statement was, for what purpose is it
15 | being offered? And then Mr. Peper makes a statement. 25, which
16 | is the last line. I don't know that the unintelligible portion
17 | as the court was not ruling. It seems like I was asking the
18 | questions or making a statement. Stewie is a regular. Mr. Peper
19 | makes an objection as to relevance, which is clearly preserved.
20 | And then Mr. Kidd then responds and then the court responds,
21 | which is clear at line 11, the court made an observation
22 | regarding the -- whether the evidence was relevant. It was not
23 | a ruling. And Mr. Kidd makes a statement at line 14, the court,
24 | you don't have anything to show that the documents are
25 | authentic or business records or how they were obtained. That

1 is the unintelligible portion, and that was in the form of a
2 question. Mr. Kidd then responds Mr. Peper then makes an
3 objection on authentication. And then I marked exhibits for ID
4 only and took the matter under advisement. And that takes us to
5 -- is there an objection to page 26 though 635 [Indiscernible]
6 which is page 26 of the transcribed bench conferences. Line 11,
7 I asked of counsel for what purpose was the -- was he seeking
8 to introduce the evidence? At line 18, the unintelligible
9 portion is of no appreciable difference because I was making
10 inquiry, I was not making a ruling to get clarity regarding the
11 purposes for which Mr. Kidd was seeking the introduction of the
12 evidence. [Indiscernible] And it looks like at a line 23, I
13 would have been asking a question again, seeking clarity
14 regarding the same issues that we have been discussing in the
15 previous lines. And likewise on page 27 at line 22, I was not
16 making a ruling. I was eliciting clarity from Mr. Kidd, which
17 he then provides at line 23. As regards 636, which is page 28.
18 A contemporaneous objection was made on the record. The basis
19 of it was dated and the court ruled on the objection. Counsel
20 then asked to approach the bench guest seeking clarity. And at
21 page -- at line ten, well, nine and ten. He has a long standing
22 relationship with him and he sees him. The unintelligible
23 portion is regularly. At page -- at line 14, the court's ruling
24 is clear. The unintelligible portion has no appreciable. Well,
25 actually the unintelligible portion at at line 16. He certainly

1 has the foundation to answer of his own knowledge. He's been
2 around it enough. He says he's familiar. That's at line 17. The
3 unintelligible portion. My notes reflect at line 19 that Mr.
4 Peper made a request that there be no reference or labels
5 referring to gangs or any other type labels. The court then
6 responds He doesn't call it a gang where he lives or what
7 purpose. And of course Mr. Peper can -- may have notes as to
8 what his recollection is as to what he said at that time. That
9 goes on to page 29. At line two, I haven't heard anything that
10 ties all that together yet. He doesn't -- so the unintelligible
11 portion was not a ruling. The court's ruling is or observations
12 are clear from its complete statement, which is he doesn't have
13 any personal knowledge of and what somebody told him and what
14 he heard. That's -- and the unintelligible portion is
15 admissible. It's not admissible. The unintelligible portion is
16 it's hearsay. So for now, for this moment, until I can think.
17 Next set of questions is under advisement. That then takes us
18 to page nine of the 23rd and 24th. You all have stipulated
19 that, that was scheduling. That takes us to page 22 to the
20 court statement at the top of.
21 page 30, I made -- I was very clear in my directive. Be careful
22 of the characterization. So the unintelligible portions I don't
23 recall what was said, but it is of no import because I was very
24 clear as to the directions I was giving, which is to be careful
25 of the characterization. And actually we're dealing with some

1 evidence from the preceding page that was under advisement. And
2 I was reminding Mr. Kidd that I was aware I had it under
3 advisement and that I would make over ruling when I was
4 prepared to do so. And at line eight where the courts where it
5 says unintelligible, my statement is you can always question
6 the veracity. At line 11, the court you have wide latitude. You
7 still can question anything on credibility, veracity, et.
8 cetera. You know, you got caught up and I don't -- I would
9 never have said drama. I think that's a scrivener's error is
10 more likely. I would have said advocacy. I just don't use those
11 kind of terms. I think sometimes court reporters rely on real
12 time. And if they're not -- if that device is not -- it's same
13 thing when you talk a text, if it's not familiar with someone's
14 tone intonation. Otherwise it will type words that they just
15 never said. So just for you all's benefit, I would have said
16 you're caught up in advocacy, didn't take it personally, you
17 know, but would have said drama because Mr. Peper clearly says,
18 okay, thank you.

19 MR. PEPER: It was me though, Judge. So ---.

20 THE COURT: Yeah, but I think you know. I would have never
21 said you thought ---

22 MR. PEPER: I know but ---

23 THE COURT: Yeah.

24 MR. PEPER: If you would have it makes sense that it was
25 me and you going back and forth.

1 THE COURT: I wouldn't have said that to you. Then going
2 down to line 18. I have no recollection of what I said there
3 but it was clear that Mr. Peper was asking for some guidance
4 about how to phrase a question. And we -- and it's the same
5 thing where we were going through the whole colloquy about
6 being careful that you can always question the veracity,
7 credibility of a witness. You have wide latitude in that
8 regard, but be careful not to make someone a witness because
9 then they have the ability to rehabilitate that witness and
10 it's sort of going down a rabbit hole. So that's what that
11 whole colloquy related to. And to the extent that the court's
12 statements, some of them are unintelligible or words or
13 unintelligible at line 22 and line 25, they really have no
14 appreciable difference because it's very clear from what I said
15 what the important of the statement was and what direction the
16 court was giving. And then a page 31, line one you're going to
17 make where it's unintelligible. It's supposed to be Mr. Kidd a
18 witness. And if you do that which is the unintelligible, he has
19 to rehabilitate himself. And then going down to line nine, the
20 unintelligible portion. Be careful not to make Mr. Kidd a
21 witness. And then going down to line 16. The unintelligible
22 portion of the first part is of no appreciable difference. It
23 says you need to phrase it other than Mr. Kidd being a witness
24 and his credibility. And then at line 21, be careful in
25 praising. Don't make Mr. Kidd a fact witness. And then Mr.

1 Peper responds, that's not what I'm trying to do. And then I
2 said, once you make him a witness, he'll have the ability to
3 rehabilitate himself. So again, it was just reinforcing what
4 was said in the lines preceding those statements. And I think I
5 went through 25. So then 20 -- page 45 was a stipulation. Page
6 74 was a stipulation. You all agreed that 108 is scheduling,
7 which has been stipulated to. That then takes us to 169 and the
8 -- we were having a discussion about hearsay. And then at line
9 17 with the court says, but she can't say that she spoke to
10 somebody in but have a notation from my notes that there was a
11 discussion about hearsay. 19, which is Mr. Peper. He can speak
12 to what he remembers. And then at line 21, she can say what she
13 did as a result, but she can't say what somebody told her. And
14 then my recollection is that Mr. Peper said as a result, she
15 can say what she did right. And that's the unintelligible
16 portion. Say what she did, that's what my notes reflect but of
17 course his recollection may be different. Excuse me. That took
18 us to 169. My recollection of page 173, is that there was --
19 and my notes reflect that there was no argument taken or
20 requested in the record itself. The foundation objection was
21 sustained because it was the case agent and she was being asked
22 about a fingerprint analysis that she did not perform and a
23 report she did not complete or perform, and that I was only --
24 I asked to approach so that I could see or the counsel asked,
25 approach the bench. Let me make sure I'm accurate because I was

1 asking to see the document that was being purported to be used
2 with the witness. So there was no argument taken at that
3 conference nor any requested. And that's at page 173 of page --
4 of June 23rd through 24th, 2017. And let me make sure that my
5 memory and my notes are accurate. 173, and that is that line
6 you recall? Yes. Starting at line seven. Okay. And so do you
7 recall through your investigation doing or getting the
8 fingerprint analysis returned back to you? Answer I do not
9 recall. No, sir. Question If I show you what it refresh your
10 recollection, Mr. Kidd then objects. I ask the basis, he says,
11 foundation. The court says, what exactly are you going to show
12 her? Whereupon and really it says it's a bench conference, but
13 that really isn't what it was. I would have motioned for you
14 all to approach and show me the document because I wouldn't
15 have known what it was and I needed to see it to make a
16 contemporaneous ruling. And then [Indiscernible]. And then the
17 questioning continued. And then I think there was a subsequent
18 objection on foundation of my memory serves me. And then there
19 was a contemporaneous ruling on the record regarding it. But I
20 think all of her answers were, no, she didn't know. As I
21 recall, she didn't have any independent knowledge. That then
22 took us to page 225, which was also to look at a document. Do
23 you know who Sergeant Andrew Coker is? Yes, sir. And what was
24 his role in you all's investigative team? Don't know. Can I
25 show her just a document to refresh her recollection. And I did

1 | what I tell witnesses never to do. I said, uh-huh. I cringed
2 | every time I saw that in the transcript because I should have
3 | said yes or no. You can see if she created the document. No,
4 | it's in her -- it's out of her file, but it's got his. And then
5 | I said, is it in her file? Oh, it came out of her file. I'll
6 | give it to you. And so while it is denoted that that's a bench
7 | conference, it is not. It is the parties approach to show me
8 | the document. And then the questioning continued. And then Mr.
9 | Kidd objected, and there was a contemporaneous objection and a
10 | contemporaneous ruling. So there really wasn't a bench
11 | conference at 225. 227, you all have stipulated that it's
12 | scheduling and 267 again, as I've already indicated, was not a
13 | bench conference. The parties were asked to approach to review
14 | the verdict form. Now I've provided clarity as to any
15 | statements the court made. Certainly I cannot speak for what --
16 | although my records do reflect what others said and what their
17 | arguments were. I'll leave it into the hands of anyone else who
18 | feels that they need to. And however you'd like to proceed
19 | regarding any of these matters. So who wants to -- let's see
20 | here. Got to look at my list again. All right, Ms. Delany, are
21 | there any witnesses you wish to call regarding these matters?

22 | MS. DELANY: Yes, Your Honor. I'd like to call Judge
23 | Price.

24 | THE COURT: Mr. Price, if you would raise your right hand
25 | to be sworn. Do you swear or affirm the testimony you give will

1 | be the truth?

2 | MR. PRICE: I do.

3 | THE COURT: If you would state your full name for us for
4 | the record, spelling your last name for the benefit of the
5 | record.

6 | MR. PRICE: Bentley Price, P-R-I-C-E.

7 | THE COURT: And if you could spell your first name as
8 | well, even though I know how to spell it, I want to make sure
9 | whoever's transcribing this will know how to spell it.

10 | MR. PRICE: B-E-N-T-L-E-Y.

11 | THE COURT: Now, can you turn up the volume on your device
12 | a little bit? I have mine at 100, but you're coming through
13 | just a tad muffled.

14 | MR. PRICE: Oh.

15 | THE COURT: If you could just get a little closer to your
16 | mic, that might help as well, because I just want to make sure
17 | everybody can hear you.

18 | MR. PRICE: All right. How about now?

19 | THE COURT: Okay. You may proceed, Ms. Delany.

20 | MS. DELANY: Thank you, Your Honor.

21 | THE COURT: You're welcome.

22 | DIRECT EXAMINATION OF WITNESS, BENTLEY PRICE

23 | BY MS. DELANY:

24 | Q: Judge Price, I want to take you to page 166 of the big
25 | transcript, the June 19th through June 23rd transcript and ask

1 | you what you recall about that bench conference.

2 | THE COURT: I've already clarified for the court. The only
3 | portions of that provision you're referring to are the court
4 | statements. And he made an argument that was -- he made a
5 | contemporaneous objection that was preserved and ruled upon. So
6 | exactly what are you trying to elicit from him?

7 | MS. DELANY: I want to make sure I I'd like to to ask Mr.
8 | Price what he said up at the bench conference and what he
9 | recalls hearing you say up at the bench conference.

10 | THE COURT: These statements are recorded by the court
11 | reporter.

12 | MS. DELANY: Your Honor. There's a lot of unintelligible -
13 | --.

14 | THE COURT: All of the unintelligible is the court, it's
15 | not Mr. Price. Are we looking at the same transcript on page
16 | six of the transcribed recording?

17 | MS. DELANY: From what I'm looking at, I want to make sure
18 | that we have the whole thing. And I'm just asking him if
19 | there's anything he recalls that does not appear in these
20 | transcripts.

21 | THE COURT: I think that you have to be more succinct in
22 | your scope of that question because almost every bit of that
23 | bench conference was recorded and was intelligible.

24 | BY MS. DELANY:

25 | Q: Would you agree, Judge Price, that the unintelligible

1 portions of that objection don't make a difference to your
2 argument?

3 A: I would.

4 Q: Would you agree that you were allowed to ask the
5 questions that you wanted to ask but were ordered to rephrase
6 them?

7 A: I was, if I recall, it was something about me
8 eliciting testimony from the witness, potentially that would
9 have -- then some type of attorney client privileged
10 information. And so I was just asked to rephrase the question.
11 I rephrased the question. So it would not alter or amend in any
12 way my examining of the witness.

13 Q: Okay. Thank you. I would like to move on to -- see
14 here page 283 of that transcript.

15 A: That's Mr. -- that's Mr. Peper I believe.

16 THE COURT: That's Mr. Peper.

17 Q: Yes. Just the only question I have about that is
18 whether you joined in any of his objections on page 283.

19 A: I would say for the record, I think Mr. Peper and I
20 mostly always joined in on any objections that we had for both
21 of our clients. So I would -- I would have not had any issue
22 with whatever his line of questioning would have been.

23 Q: Okay. I'd like to move along to page -- let's see 415.

24 A: Yes, ma'am.

25 Q: And this -- the transcript that I have, it appears to

1 | be between the Court. Mr. Kidd, and Mr. Pepper. Did you
2 | participate in that argument or bench conference at all?

3 | A: If I would have at any point in time with Mr. Kidd and
4 | Mr. Pepper would have been asked to approach. I'm more than
5 | likely would have gone up there but again, without my line of
6 | questioning or having any involvement in that line of
7 | questioning, I would not recall anything.

8 | Q: But as far as you recall, you did not participate in
9 | that conference?

10 | A: I would have participated in the sense that I probably
11 | would have stood behind to -- to determine, because obviously,
12 | even though Mr. Peper, I didn't have a joint defense agreement,
13 | we were in the defense of our two clients. So I'm positive I
14 | would have walked up there to see what was being discussed, but
15 | I would not have participated as it was at my witness. It
16 | wasn't my time.

17 | Q: Thank you. Okay. And moving on to 418, would your
18 | answer be the same, since this is Mr. Peper and the court and
19 | the solicitor that you would have stood there but did not say
20 | anything at that bench conference?

21 | A: That would be accurate.

22 | Q: Okay. I'd like to move along to page 619.

23 | A: Yes, ma'am.

24 | Q: Okay. Did you -- and would your answer be the same
25 | that you did not participate in that? That was between Mr.

1 Peper and the court?

2 A: Yes, ma'am, I would agree.

3 Q: All right. How about page 620, would that be the same
4 answer you did not participate in that bench conference?

5 A: [Indiscernible] correct.

6 Q: It was between Mr. Peper. Okay. And this court And the
7 solicitor. All right. And then I think that I believe is over
8 to page 620 as well. Let's move on to page 632. This is one
9 regarding Facebook pictures and it appears to mostly be between
10 the solicitor, the court, Mr. Peper and -- let's see. Did you
11 participate ---

12 THE COURT: What page that was for me, Ms. Delany. I'm
13 sorry. I didn't hear you. Was that 622?

14 MS. DELANY: 632, Your Honor.

15 THE COURT: Thank you.

16 BY MS. DELANY:

17 MS. DELANY: These are the ones about Stewie, the Jason
18 Devoe, guy and whether his Facebook photos were admissible. Did
19 you object to that or participate in that objection or were you
20 just present there for that one?

21 A: I think that Mr. Peper and I both agreed that we did
22 not want any of the Facebook evidence pertaining to our clients
23 to come in so as to -- as to Mr. Wilson. I would not have
24 participated, but I do recall what 152 and 153 would have been.
25 So to the point where I would have verbally said, Your Honor, I

1 | agree or I want to join in in this objection probably would not
2 | have been placed on the record or been at the bench or anything
3 | along those lines. I would have just sat back and listened,
4 | obviously, because I was trying to keep it excluded the same
5 | thing as to my client, his Facebook information. So I don't
6 | think I would have participated in this bench conference, but I
7 | -- I would have been there to find out what they were
8 | discussing.

9 | Q Okay. Thank you. I'm going to move along to page 635.
10 | And again, we're talking about Facebook information, in this
11 | one in the bench conference transcript. You do participate in
12 | this one. The Court The solicitor, Mr. Peper, and also Mr.
13 | Price or something by you that just says Unintelligible. This
14 | is about -- let me see if I can tell you what this. Do you
15 | recall anything about this one?

16 | A I don't recall anything about this one. If you could
17 | refresh my recollection, I may be able to -- to indicate what I
18 | might have said.

19 | Q Okay.

20 | THE COURT: What page Was that again? Did you say 635?

21 | MS. DELANY: 635, Your Honor.

22 | THE COURT: That's Mr. Peper interacting with the court --

23 | -

24 | MS. DELANY: But it is the ---

25 | THE COURT: But on page 27 Mr. Price at line two, if

1 that's okay.

2 MS. DELANY: That's right. That's what I have in the bench
3 conference transcript.

4 BY MS. DELANY:

5 Q: And so I think we're still talking about Stewie
6 because there's a picture of a man and his child. Do you
7 remember if a Facebook photo of a man and his child if that was
8 Stewie?

9 A: I do not recall.

10 Q: Okay. Do you have a copy of those exhibits that we're
11 talking about here? That could help you refresh your
12 recollection?

13 A: I do. What exhibit number is it? 150 -- 151?

14 Q: I believe it's 153 for -- let's take a look at 153 for
15 ID...

16 A: All right.

17 Q: Is that to your recollection, what they're talking
18 about at this point with Stewie, or was that...

19 A: Yes, ma'am. But that was not of my concern. I think this
20 had to do with Justin Wilson, not with Marvin. Bryan.

21 Q: Okay. Do you remember what you would have said at line
22 two on page 27 of this bench conference transcript? So it looks
23 like a little farther down. The solicitor is talking about both
24 of their just general Facebook pages. The -- I guess the cover
25 sort of cover page. Did you have an objection to that?

1 A: I think at that time I'd have to defer to Judge
2 Jefferson, but I assume that she would have asked a question
3 and I either would have acknowledged yes or no, or I would have
4 said I don't recall. But that's -- I don't -- I don't
5 specifically recall exactly what was being discussed at that
6 point in time.

7 Q: Okay.

8 A: And to be honest with you, I don't recall this photo.
9 All the other -- the other photos I recall, obviously, as
10 pertaining to my client.

11 Q: Okay. Well, let me ask you about those photos. And
12 Judge, I'd like to make these a court exhibit and ---.

13 THE COURT: Let's say we're made exhibits at the trial. You
14 don't get to enter new evidence.

15 MS. DELANY: They were made exhibits at the trial.

16 THE COURT: And they're already a part of the transcript.

17 MS. DELANY: So I would like just the record to reflect
18 that I'm discussing states 150 through 157 with this witness,
19 and I would like this ---

20 THE COURT: Make relevance to the numbers that correspond
21 with what you're referring to that correspond with the record.

22 MS. DELANY: I'm sorry, Your Honor.

23 THE COURT: I said you need to use the numbers ---

24 MS. DELANY: Yes.

25 THE COURT: -- that correspond with the actual transcript

1 | because they're already in the record. I've ruled
2 | contemporaneously on each one of them. A great portion of them
3 | did not come in based on the objections that were made. They
4 | were excluded.

5 | BY MS. DELANY:

6 | Q: Okay. So we're -- we were discussing Judge Price. I
7 | think we were discussing 153 states -- 153 You said you didn't
8 | recall that and I'll move along and come back to these because
9 | I want to get your recollection on what you objected to that
10 | came in but I can move along for efficiency. Page 636, this is
11 | between you and the court. Mr. Peper and the solicitor are
12 | talking a little bit as well and this seems to be about the
13 | picture that says West Cash from what I can tell. And that
14 | would be, let's see. State's exhibit 157, is that your
15 | recollection of the West Cash photo? That says it's a West Cash
16 | thing and has some guys with money on the ground?

17 | A: It is. My client is depicted in that photo.

18 | Q: Okay. Is that the photo that this objection was about?

19 | A: It is.

20 | Q: Okay. And let's see. Is there anything that you said
21 | that doesn't appear in the record regarding that?

22 | A: [Indiscernible]

23 | Q: So there's a couple of intelligible portions where you
24 | say, I'm not sure who it is. I think they -- and this is
25 | starting at line six on 28. Do you recall what you said there?

1 A: On which page? 638?

2 Q: This is -- so we're talking about I guess I'm trying
3 to refer ---

4 THE COURT: You need to refer to the pages of the
5 transcribed bench conferences so that he can know which one
6 you're referring to, whether it's the main transcript or those
7 individual pages of the transcribed bench conferences.

8 MS. DELANY: Yes, Your Honor.

9 THE COURT: So which page and line are you referring to?

10 MS. DELANY: So I'm referring to page 28 of the bench
11 conferences transcript, and I'm referring to lines six through
12 eight.

13 BY: MS. DELANY

14 A: Hold on. That's on my computer. All right. Which
15 number Now?

16 Q: This is on page 28.

17 A: All right. I'm there.

18 Q: Do you see the parts that say unintelligible? Where
19 lines six through eight.

20 A: If I recall, I'm answering and I say, I'm not sure who
21 it was. I think they being [Indiscernible] and I don't know
22 what I would have said. I was arguing that my client was not a
23 part of anything that was related to a gang and that they
24 didn't refer to themselves as a gang or what they -- the
25 state's position was that they were a part of a gang called

1 West Cash. And if I'm not mistaken, my -- my client was
2 indicating that he did not even know who the other gentlemen
3 were, and so therefore he could not be in a gang with them.

4 Q: Okay.

5 A: I think that's where I said my client doesn't -- my
6 client doesn't believe he's a part of anything. Just because
7 he's in Nashville doesn't mean he's a part of this West Cash
8 gang.

9 Q: Okay. And line six through eight. You think it was. --
10 you're saying he was not -- he has no way of what?

11 A: He has no way -- no way of knowing who these other
12 people are.

13 Q: Okay. And they being [Indiscernible]. And could you
14 remember who that -- what that was?

15 A: My our indication was he didn't know who the other
16 people were.

17 Q: Okay.

18 A: So that was his position was he can't be a part of
19 something that he doesn't even know what the other people are
20 involved. So that was why he was indicating that there was no
21 gang and he wasn't a part of one. And obviously the state had a
22 different position as to the photo.

23 Q: Okay. I'm going to move along to -- let's see. Page
24 one -- let's see. This is going to be page 35 of the bench
25 conference transcript. This is discussing some objections,

1 | actually, I think these were here. This was your questioning of
2 | a witness.

3 | THE COURT: And for the benefit of the record, this is
4 | page 169 of the original transcript.

5 | Q: Yes, Your Honor. And this is -- Judge Price, this is
6 | your direct of Officer Butler. The solicitor makes a hearsay
7 | objection. Let's see. There's a bench conference. And is there
8 | -- are you on page 35 with me?

9 | A: I'm on page 169 of the original transcript at this
10 | point.

11 | Q: Okay. Check page 35 of the bench conference
12 | transcript.

13 | A: All right, I'm there.

14 | Q: Is there anything from that objection that you recall
15 | is not contained in the transcript? Or do you recall what that
16 | ruling was or anything else about that?

17 | A: I don't see anything next to my name that says
18 | unintelligible on page 35.

19 | Q: Okay. I'm going to move along to -- let's see. This is
20 | going to be page 173 of second transcript. Let's see. And for
21 | these we don't have the bench conference transcript, so we'll
22 | just be at page 173. This is again, your direct of Officer
23 | Butler. And this is -- I think, about the fingerprint analysis.
24 | You're wanting to show her something to refresh her
25 | recollection and let's see. I think Judge Jefferson had said

1 her recollection was that there was no argument made that you
2 were just approaching for her to look at a document. Do you
3 remember if there was an argument made at that bench
4 conference?

5 A: Jefferson is correct when she asked me, what exactly
6 are you going to show her? I approached the bench, showed her
7 the report, and then I made -- she handed it back to me and I
8 began -- and I continued with my questioning.

9 Q: Okay. And I think page 225 might be similar. This is
10 again, this is your redirect of Officer Butler. I think you're
11 trying to show her more fingerprint reports. And was that just
12 approaching the bench to show the report or was that argument
13 that was happening?

14 A: Just to show the report? I was trying to get it back
15 in again.

16 Q: Okay. I don't have any further questions for Judge
17 Price, Your Honor.

18 THE COURT: Mr. Evans, do you have any questions for Mr.
19 Price?

20 MR. EVANS: No, Your Honor.

21 THE COURT: Okay. And let's see. Am I missing? I feel like
22 I'm missing something, but apparently. I don't think I am. So
23 Mr. Evans has no cross-examination. And do you have any further
24 witnesses you wish to call? Ms. Delany?

25 THE WITNESS: Your Honor. If there -- if Mr. ---

1 THE COURT: Have a wonderful day. We appreciate you
2 accommodating us. And I know I've held your schedule up and
3 thought it would take shorter than I anticipated but the court
4 ---

5 THE WITNESS: I'm going to do...

6 THE COURT: -- is going to be so appreciative that we got
7 this done.
8 what I'm going to ---

9 THE COURT: I'm trying to schedule this. Is there anything
10 else, Ms. Delany are you sure there are any other questions you
11 want to ask of the witness before I excuse him?

12 MS. DELANY: I'm -- no, ma'am. Not with -- not from Judge
13 Price.

14 THE COURT: Okay. Perfect. Have a great day. Appreciate
15 you.

16 THE WITNESS: Thank you. Judge Jefferson, I'm going to
17 leave this up and allow camera to participate. If there's any
18 questions that come up that need my attention, she can just
19 walk in, grab me, and I'll come right back out.

20 THE COURT: Perfect. Appreciate you.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Okay. All right. Ms. Delany, do you have any
23 other witnesses you wish to call?

24 MS. DELANY: Yes, Your Honor. I would like to call Mr.
25 Kidd.

1 THE COURT: Mr. Kidd, are you available. Are you there?

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: You could raise your right hand for me to be
4 sworn. You swear or affirm the testimony you give will be the
5 truth?

6 THE WITNESS: I do, Your Honor.

7 THE COURT: You can put your right hand down if you'd
8 state your full name for us.

9 THE WITNESS: Thank you, Honor. My name is Edwards Culver
10 Kidd. Last name, K-I-D-D. First name E-D-W-A-R-D-S.

11 THE COURT: C-U-L-V-E-R, correct?

12 THE WITNESS: Correct. Yes, Your Honor.

13 THE COURT: All right. You may proceed, Ms. Delany.

14 MS. DELANY: Thank you, Your Honor.

15 THE COURT: You're welcome.

16 DIRECT EXAMINATION OF WITNESS, EDWARDS CULVER KIDD

17 BY: MS. DELANY

18 Q: Mr. Kidd, can you pull up the bench conference
19 transcript that we've been talking about?

20 A: I have it up.

21 Q: Okay. Can you go to page six of that transcript,
22 please and let's see. Tell me if there's anything about that,
23 that you feel -- did you participate in that? I know that you
24 made some objection. That is on the record. It doesn't look
25 like you participated in that bench conference. Did you have

1 anything to say up there?

2 THE COURT: Tell me what page that is again, you're
3 referring to.

4 Q: This is page six of the bench conference transcript,
5 and it's talking about page 166 of the trial transcript. The
6 first one.

7 A: So...

8 THE COURT: If he had said anything, the court reporter
9 would have indicated his name and it would have said
10 unintelligible.

11 THE WITNESS: Yeah, I don't have any specific recollection
12 other than to say that, you know, I believe the objection was
13 as to questions being asked that were privileged. And just that
14 I felt the questions needed to be rephrased.

15 THE COURT: Okay.

16 THE WITNESS: And that was the basis of my objection.

17 THE COURT: Okay.

18 A: And asking what a defense attorney told their client,
19 which I didn't think was appropriate, which was the basis of my
20 objection.

21 BY: MS. DELANY

22 Q: Okay. Let's see. Let me take you over to page -- bear
23 with me. See here for 50. Let's see, this is going to be page
24 11 of that same transcript, the bench conference transcript.
25 Let's see.

1 THE COURT: I'm sorry. Could you repeat that page again
2 for me?

3 MS. DELANY: This is page 11 of the bench conference
4 transcript. And I'm trying to be efficient here, Judge, and
5 just bear with me I'm doing the best I can here.

6 THE COURT: Take your time don't feel constrained in any
7 way.

8 BY: MS. DELANY

9 Q: So it appears that this was between you and Mr.
10 Pepper, this arguments, and then the court making some
11 statements. So again, this is page 11 of the bench conference
12 transcript. Is there anything that you said that's not
13 reflected in that transcript?

14 A: Just give me one second. So this would be 384 of the
15 regular transcript.

16 Q: It would be 415 of the regular transcript.

17 A: 415

18 THE COURT: I'm sorry. What page are you referring to of
19 the original transcript.

20 Q: Or it's...

21 THE COURT: Are you referring to page 415?

22 MS. DELANY: 415, yes, Your Honor.

23 THE COURT: Okay.

24 BY: MS. DELANY

25 A: And -- and what lines of the bench conference

1 transcript are we looking at?

2 Q: So we are starting on line 22 is where the 415 one
3 begins. Do you remember anything about some of the remarks they
4 unintelligible not your remarks, but do you remember anything
5 about the courts or the Mr. Pepers that you'd like to add?

6 A: Page 11 to -- okay. Just give me one second.

7 Q: Line 22 and goes over to page 12 through line ten.

8 A: I don't have any different recollection than as what
9 Judge Jefferson ---

10 Q: Okay.

11 A: -- supplemented.

12 A: I mean, I remember the context of what I was getting
13 at with this witness, if that's what you're -- you're asking.
14 Now, I think the objection was just the way I was phrasing my
15 questions, which was really all I -- all I was trying to get at
16 was to show that this witness was not with the defendant at the
17 time of the shooting. And I think I was trying to just get
18 there in a direct fashion. And the way I phrased my question, I
19 think was leading. And I was asked to rephrase it.

20 Q: Okay. Also continuing on page 12 of this transcript,
21 this bench conference transcript. This some seems to be --
22 let's see, between Mr. Peper and the court. We make a remark at
23 the beginning, but I don't see anything unintelligible from
24 you. Is there anything that you said that you think ---.

25 THE COURT: I'm sorry, could you say that page again?

1 MS. DELANY: This is page 12 of the bench conference
2 transcript regarding page 19, line one -- number 12. Line
3 number 12.

4 THE COURT: You're starting at what line?

5 MS. DELANY: On page 12, line 12.

6 BY: MS. DELANY

7 Q: So line 13 is Assistant Solicitor Kidd. He wants to
8 put on Justin told her the car was stolen. Is that your
9 recollection of that objection?

10 A: It is. The basis was that I think the witness in the
11 recorded interview had previously reported to the police that
12 the vehicle was stolen. It was my recollection that she did so
13 at the request of the defendant, and we were just objecting to
14 entering what she had said. Now, I think there was a way to
15 rephrase the question. I think they could have asked, did you
16 report the car stolen? And that wouldn't have been a proper
17 objection but they were asking what she told police at the
18 time, which would have been hearsay, which was the basis of our
19 objection.

20 Q: Okay. And the court ruled that it was hearsay?

21 A: Correct.

22 Q: Okay. I think we can move on to page 22 of the bench
23 conference transcript down at line 22. This is -- let's see.
24 Actually, I don't think I need to ask you about that. That's
25 between Mr. Peper and the court. Let's move on to page 24 of

1 | the bench conference transcript. At line ten, this is page --
2 | let's see, starting -- yeah, line ten so this is about page 632
3 | of the transcript. Again, we're at 24 of the bench conference
4 | transcript. Do you remember which one is being talked about
5 | here? Is this the Stewy pages? The Stewy photos?

6 | A: State's Exhibit 152 and 153. Looking back at the
7 | exhibit list that looks like -- that looks like the front page
8 | of a Facebook profile of a Jason Deveaux. Exhibit 152 and 153
9 | looks like a photograph of within Jason Deveaux Facebook page.

10 | Q: Was that him with some -- is that his photo? A photo
11 | of him? You don't recall?

12 | A: I don't recall. I have to assume so.

13 | Q: Okay. Okay. Let's see. There's -- most of your remarks
14 | seem to be intelligible. Is there anything you recall about
15 | that that's not present in the transcript?

16 | A: No, I speak pretty loud.

17 | Q: Okay. I think we can move along to -- let's see. Page
18 | 26 of the bench conference transcript. This is again about
19 | Facebook posts. This looks like it's about the defendant and
20 | co-defendants, I guess Facebook page or cover page, for lack of
21 | a better word. Is that your recollection?

22 | A: This would be referring to 635 of the main transcript.

23 | Q: That's right. And I believe that's exhibits 150 and
24 | 151?

25 | A: Right, 150. So State Exhibit 150 was just the opening

1 9 Facebook page of Defendant Bryan. In 151, I believe, is that
2 of defendant Wilson.

3 Q: Okay. And again, your remarks seem to be fully
4 transcribed unless there's anything you recall that's not
5 present in that bench conference transcript?

6 A: Nothing additional that I recall.

7 Q: Okay. I am going to move on to page 35 of the bench
8 conference transcript. And as far as I can tell, you did not
9 say anything at that -- this is page 35, line eight. And it
10 looks like you didn't make any remarks at the bench. And I'm
11 sorry, I'm trying to be efficient here. I apologize if I'm not.
12 Is there anything you recall about that bench conference or
13 anything you recall saying at that ---

14 A: I don't think I could supplement anything that was said at
15 the bench conference. I don't think I said anything ---

16 Q: Okay.

17 A: -- other than, you know, I. I know Judge Price had
18 called this witness who was the lead case agent, trying to
19 elicit a fingerprint report that I think was inconclusive. And
20 so I think the next two objections, one was as to the -- one
21 witness who did the fingerprint lifts and the next one that did
22 the analysis, my objection was the same on both, was that this
23 witness was not the proper one. She lacked any specific
24 knowledge as to those processing or reports regarding those
25 fingerprints.

1 Q: Okay. And I can leave that one. And so this was just a
2 discussion about hearsay as far as you recall?

3 A: That's the -- well, correct. And anything that she
4 would testify to would be hearsay from another witness.

5 Q: Okay. As far as I'm going to go now, these are not in
6 the Bench Conference Transcript. These are in the second
7 transcript, but this is at page 173 and page 225 of the second
8 transcript. That's both the times that Judge Price is
9 questioning Officer Butler and the judge, Judge Jefferson and
10 Judge Price both recalled. That was just approaching the bench
11 to show her document, but no argument. Do you agree with that?

12 A: I agree with that. That's just what I was referring to
13 ---

14 Q: Okay.

15 A: -- the first one on 173, I believe, was -- I forget
16 the witnesses name who actually took the lifts crime scene
17 Detective Tiffany. And I can't recall in my objection what she
18 wasn't, you know, Detective Butler wasn't the proper witness to
19 get into that report. Jefferson asked us to approach to see the
20 report we did. We had no arguments at the bench.

21 Q: Okay. I don't have any further questions for Mr. Kidd,
22 Your Honor.

23 THE COURT: Any questions for the witness, Mr. Evans?

24 MR. EVANS: No, Your Honor.

25 THE COURT: And any questions for the witness, Mr.

1 Brooker?

2 MR. BROOKER: Just very briefly for Mr. Kidd.

3 THE COURT: Go right ahead.

4 DIRECT EXAMINATION OF WITNESS, EDWARDS CULVER KIDD

5 BY: MR. BROOKER

6 Q: Did you take any contemporaneous notes of the bench
7 conferences?

8 A: I did not. You know, I definitely took very jumbled
9 trial notes, I'm assuming, are stashed away in the solicitor's
10 office somewhere but I didn't take notes of the bench
11 conferences. As you know, when we approached the bench I don't
12 have pad and paper with me. So typically trial notes that I
13 take would be regarding testimony that's coming from the stand,
14 not our arguments to the bench.

15 Q: So any questions that you answered in reference to Ms.
16 Delany's questions or those based upon your memory and not
17 based upon any specific notes that you had made?

18 A: That's correct. I mean, I was on a plane a few days
19 ago, and I read these transcripts and looked at the evidence,
20 and it's based on the refreshing of my memory through reading
21 the transcripts and recalling as best I can the nature of the
22 objections and the arguments that were made and putting them in
23 context through reading the transcripts that I -- I'm able to
24 somewhat testify here today.

25 Q: Okay. No further questions.

1 THE COURT: Any redirect. Ms. Delany.

2 MS. DELANY: No, Your Honor.

3 THE COURT: All right. Do we need to keep Mr. Kidd for
4 anything else or Mr. Kidd, do you want to hang around or did --
5 or were you asking to be excused?

6 THE WITNESS: Judge. I'm happy to leave this running in
7 the background. So as long as you don't mind me moving around,
8 I'll turn my video off. So if you all need me, just
9 [Indiscernible].

10 THE COURT: Okay. All right. Are we going to need Mr.
11 Patrick as a witness?

12 MS. DELANY: Mr. Patrick, is that you in the middle?

13 THE COURT: Yes.

14 REDIRECT EXAMINATION OF WITNESS, CHARLES PATRICK

15 BY: MS. DELANY

16 Q: Yeah. As far as I can tell from the transcriptions we
17 have, he did not participate in these arguments. So I guess I
18 would just ask him if that's his recollection.

19 A: Yeah, I've just incorporate anything Judge Jefferson
20 stated and anything Mr. Kidd stated. I was -- I was obviously
21 present for most of these. I would have kind of been what Judge
22 Price said, where you kind of stand up behind the person
23 arguing but nothing that's been said is contrary to what I
24 recall.

25 Q: I don't think I need to ask Mr. Patrick any questions,

1 Your Honor.

2 THE COURT: Mr. Patrick, do you want to hang out with us,
3 or do you have some other stuff you need to do?

4 THE WITNESS: I'll do the same thing Mr. Kidd's doing.
5 I'll keep it running but if you need anything, just let me
6 know.

7 THE COURT: Thank you. All right. Ms. Delany, do you have
8 any further witnesses you wish to call?

9 MS. DELANY: I would call Mr. Peper, Your Honor.

10 THE COURT: Mr. Peper, if you'd raise your right hand for
11 me to be sworn. Do you swear or affirm the testimony you give
12 will be the truth?

13 THE WITNESS: Yes, ma'am, I do.

14 THE COURT: If you would state your full name.

15 THE WITNESS: Mark Andrew Peper, M-A-R-K, A-N-D-R-E-W.
16 Last is Pepper, P-E-P-E-R.

17 THE COURT: Is there any way you can turn your mic up?
18 Just a titch for me?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: I just want to make sure everything we take
21 down is clear.

22 THE WITNESS: Sure.

23 THE COURT: All right. You may proceed, Ms. Delany.

24 MS. DELANY: Thank you, Your Honor.

25 THE COURT: You're welcome.

1 DIRECT EXAMINATION OF MARK ANDREW PEPER

2 BY: MS. DELANY

3 Q: Mr. Pepper, I'm going to ask you to also look at the
4 bench conference transcript.

5 A: Yes, ma'am.

6 Q: Okay. How about page six -- starting around line two.
7 Let's see. It looks like from the bench conference transcript.
8 It looks like you did not -- you were maybe present but did not
9 make any remarks at that... Is that your recall?

10 A: Yes, ma'am.

11 Q: Okay.

12 THE COURT: You said page six of the ---

13 MS. DELANY: Bench conference.

14 THE COURT: -- bench conferences?

15 MS. DELANY: Yes, Your Honor.

16 THE COURT: Okay. I just want to make sure that was clear
17 for the record. You may continue.

18 BY: MS. DELANY

19 Q: Okay. I'm going to move along to page -- let's see.
20 Eight of the bench conference transcript down at the bottom
21 starting around line 23. This is about laying a foundation. Do
22 you recall any of those unintelligible portions of that
23 transcription?

24 A: This is page 283 of the trial transcript. So this
25 would have been...

1 Q: This was you questioning Officer Martin about body
2 worn cameras.

3 A: Right.

4 Q: And I think temporarily this was after a high profile
5 case in Charleston.

6 A: Right -- right. I think he was having trouble
7 recalling or I was trying to get him to kind of back door some
8 hearsay. And so my question was, well, he opened it by saying
9 he had his body worn camera on. He said they were new. And I
10 think the court said, well, I understand that. And then I would
11 say, well, can I ask. And then she rightfully said, well, you
12 got to lay a foundation from his personal knowledge. And as I
13 recall, I was trying to get him to admit that my client was not
14 at the scene, which he clearly wasn't when Martin asked him.
15 And it was to the effect of -- she basically said you can
16 unless he has a personal knowledge of what you're getting ready
17 to ask him, you just can't ask him that. And I don't recall
18 specifically what I was trying to elicit from him. But in other
19 words, my -- and my think might you know I think it was -- it
20 was maybe sirens or something to the effect of the -- the body
21 cam would have picked it up. But she was basically saying, if
22 you don't have personal knowledge of it, you can't -- you got
23 to lay a foundation. That's all I recall.

24 Q: Okay. I'm going to move along to... This is page 11 of
25 the bench conference transcript near the bottom, starting at

1 | line 22. So this is regarding page 415 of the trial transcript
2 | where the solicitor is questioning Daniel Ravenel and let's
3 | see, some of it is unintelligible. Do you have any recall about
4 | any of the unintelligible remarks spanning from pages 11 to 12
5 | of the bench conference transcript?

6 | A: Yes, this was an issue with regards to Daniel on line
7 | 25 of page 11, my notes indicate that the court said, was it a
8 | statement to which Mr. Kidd, on the top of page 12 said, yes,
9 | it's a recorded interview, it's pretty long. And then I said,
10 | well, what's the purpose? And then the court says, yeah, I
11 | mean, you know, in fairness, that's my recollection. In
12 | fairness, that was a long time ago. I'm going to give you some
13 | latitude not on anything that's -- and then he said, I'm not
14 | going to go any further than that. So it was -- I think what
15 | the court -- and we were all trying to get from Mr. Kidd was,
16 | if you're just going to try to use it to refresh your
17 | recollection, that's fine. And we moved on.

18 | Q: Okay. And continuing on page 12 of the bench trial
19 | transcript. Moving down to line 12, this is. Again, this is you
20 | questioning Daniel Ravenel. Do you recall if Mr. Price joined
21 | in this at all? Is there anything that he ---

22 | A: I will tell you this every time Bentley and I went to
23 | the went to the bench. It was always with Mr. Kidd. And I think
24 | Mr. Patrick Charlie was there too. But I know for a fact that
25 | any time, whether it was with the exception of just handing a

1 document up, but if there was a -- you know, let's approach if
2 there was an actual bench conference, Mr. Price and I would
3 have been there together. And this was -- this was me trying to
4 get Daniel to just flat out say, my car was stolen ---

5 Q: Okay.

6 A: -- or I reported the car stolen and I just couldn't --
7 I couldn't get her there and I think her testimony ended up
8 being -- well, Justin told me that the car had been stolen, and
9 that's when we ran into this hearsay issue.

10 Q: Okay. All right. I'm going to move on to page 22 of
11 the bench conference transcript.

12 A: Okay.

13 Q: Let's see, actually, let's go down to the bottom. Oh,
14 well, it doesn't -- yeah, let's go down to the bottom. This is
15 -- it's talking about page 619 of the trial transcript. This is
16 about playing a video. Is there anything you recall? Is the
17 only thing unintelligible to see is over on page 23, the court
18 saying you can play the whole thing. Do you recall anything
19 about what the court said there or no?

20 A: This was a completeness issue that I was not
21 articulate -- articulating well, to which the court said, well,
22 you can play the whole thing if you want on cross.

23 Q: Okay.

24 A: But -- but you don't have to speak for themselves.
25 They don't need to be annotated. You need somebody to identify

1 something different and ---

2 Q: Okay. Moving along that same page. This is 23 of the
3 bench conference transcript. Moving down to line ten, it looks
4 like you all are still discussing this video. What's your
5 recollection? There's quite a bit more ---

6 A: Again.

7 Q: -- intelligible.

8 A: Right. Again, and I apparently did misunderstand her
9 ruling at the -- at the time when we were talking about the
10 completeness. Turns out what she said was you can play the full
11 recording if you want on cross. And so when Mr. Kidd once again
12 referenced a snippet of the video, we approached and I said,
13 well, maybe I misunderstood your ruling, but I thought he was
14 going to play the whole thing. And she just said no and I said,
15 What was my understanding if it's -- if it's recorded
16 statement, it's got to come in on direct. I can't. And then she
17 said, it's not a recorded statement, it's dash cam. You can
18 make a motion for completeness as objection I assumed. I said,
19 right, I understand but she said, but to the video but you
20 don't annotate the video. You can if you want to replay the
21 whole thing on your cross examination. I think she said, you
22 know, you can put it into evidence if you want to play the
23 whole thing. And I said, well, it's already in your honor. And
24 then Solicitor Kidd said, you know, the whole thing is in. I'm
25 just trying to get through it as quickly as I can and. We kind

1 of moved on.

2 Q: Okay.

3 A: And not to keep going, but on page 24, that's the
4 court and I saying it's already in evidence. If they want to
5 play the whole thing in the jury room they can. And then she
6 says, you know, they probably will. I said, okay, got it. I
7 just want to make sure they have the ability to play it at some
8 point.

9 Q: Okay.

10 A: [Indiscernible]told them.

11 Q: Okay. And then still on page 24 of the bench trial
12 conference, this is line ten regarding page 632 of the trial of
13 transcript. I think this is about Stewie's Facebook pages. Do
14 you -- some of your remarks are unintelligible. Do you have
15 anything you could clarify about that?

16 A: You're still on page 24?

17 Q: I'm on page 24, going over to 25. Some of the
18 questions from the court say unintelligible, but some of the
19 moving over to 25. Some of your argument says unintelligible to
20 you ---.

21 A: At the top of 25, I would have said basically, what's
22 the point? Is there any relevance to him needing to show the
23 picture of Stewie to the witness? And then he said, well, the
24 relevance would be through another witness. But the relevance
25 is -- and then Judge Jefferson corrected him, said, well,

1 that's not what he's asking. He's asking, why do you need a
2 Facebook picture to show who Stewie is? That -- that's we're
3 talking about.

4 Q: Okay. And then kind of going down to the bottom of
5 that page, you've got another ---.

6 A: Yes.

7 Q: -- unintelligible.

8 A: On line 23, I would have interrupted the court, which
9 I apologize for doing, and I would have said authentication.
10 They should only be marked for ID purposes, to which the court
11 said, I agree they'll be marked for ID purposes only right now
12 we'll take it up later when we have time ID only.

13 Q: Okay. And then over on the next page 26. This is still
14 about Facebook posts. I think this is for the ---

15 A: [Indiscernible] on line eight, I would say. For what
16 purpose are they being offered?

17 Q: Okay. And how about line 20?

18 A: Right on line 20. What I heard was, what are these?
19 And they're his Facebook account and a random post.

20 Q: Okay.

21 A: I just don't know how he get -- was planning to
22 authenticate them through this witness

23 Q: And then do you remember what the judge was saying or
24 what Mr. Price was saying right after that?

25 A: I think this was when -- like I said Bentley and I

1 always approached and I think he was behind me and he said, you
2 know, what's the purpose?

3 Q: Okay.

4 A: And that's when I jumped in. I said, you know, are you
5 doing this for nickname purposes?

6 Q: Okay. So you think he said, what's the purpose at page
7 27, line to you of the ---

8 A: I had that -- I had that written down. I kind of did
9 the same thing ---

10 Q: Okay.

11 A: -- that the judge did, not as well.

12 all she did, but I kind of went through it and took the context
13 of what we were talking about. And then also knowing Mr. Price
14 for as long as I've known him to be, and I remember him saying,
15 you know, what's the point or what's the purpose?

16 Q: Okay. I think we can move on to -- let's see. I think
17 we can kind of -- so let me move on to page 28 of the bench
18 trial transcript. We've got some unintelligible for you down at
19 19. Do you have a recollection about this one? This one --

20 A: I do.

21 Q: -- I think is the West Cash photo. The photo that says
22 West Cash on the page.

23 A: Right, I do. And let me start with line six, where my
24 notes indicate Mr. Price would say, I'm not sure who it was. I
25 think they -- they being Justin and Marvin, alleged to be part

1 of West Cash, he has no way to know that.

2 Q: Okay

3 A: To testify to that or something like that.

4 Q: Okay.

5 A: And then the court said he has a long standing
6 relationship with him and he sees him regularly was my.

7 Q: Okay.

8 A: And then court goes on to say, you know, I don't know
9 what his answer is going to be. He certainly has the foundation
10 to answer of his own accord or -- or you know, to answer to
11 something he has knowledge of. He's bound around it enough. He
12 says he's familiar to which Mr. Price says, okay, I'll cross
13 him on it. And then I would have said, but no reference to
14 gangs, right?

15 Q: Okay.

16 A: I mean, no, we're not going to talk about gangs.

17 Q: Right

18 A: And then Judge Jefferson said, well, he didn't call it
19 -- he didn't call it a gang, you know, where he lives or, you
20 know, what purposes is yet to be determined or something like
21 that.

22 Q: Okay. And then 29, can you continue on to the top of
23 29?

24 A: Yes. I haven't heard anything that -- again, we're
25 still I'm -- our main concern is that we didn't want any gangs.

1 | There was a lot of that going on in the area and that was a new
2 | kind of hot topic of the law. And so we were doing everything
3 | we could to protect the record. And Judge Jefferson said, I
4 | haven't heard anything about that ties all that together yet.

5 | Q: Okay.

6 | A: And certainly he -- I haven't heard anything, he
7 | doesn't have any personal knowledge of or what somebody told
8 | him what he heard. That's not personal knowledge. It's not
9 | admissible, it's hearsay. So for now -- for now, for this
10 | moment, until I can think about it more next set of questions,
11 | it's under advisement.

12 | Q: Okay. And I think we can move along to -- let's see,
13 | page 35 of the bench conference transcript.

14 | A: Okay.

15 | Q: And this is again with those -- I think this is asking
16 | the officer -- female officer about fingerprint reports. Do you
17 | remember that

18 | A: Yeah, I remember.

19 | Q: Officer Butler.

20 | A: [Indiscernible] Trying to back door once again, to --
21 | she was the lead detective. And the reason he called her and I,
22 | you know we discussed this and I didn't-- I didn't think we
23 | should call her. And Bentley wanted to, you know, he was trying
24 | to case for -- for Marvin. And one of the things he wanted to
25 | do and this was going on at the time until the solicitors

1 | smartly figured it out and stopped calling the lead
2 | investigator was that -- you know, the lead investigator is the
3 | top dog, the lead investigator. And so any -- even if other
4 | people involved in the investigation messed up, we would use
5 | that as an example to try to discredit the -- or the
6 | credibility, you know, put the credibility of the lead
7 | investigator in play, which is the right tactic. And so what
8 | Mr. Price was trying to do was to continue handing her a
9 | specific document that she didn't know anything about. And she
10 | -- you know, she hadn't authored she hadn't done anything with
11 | to go to show that they -- they didn't have any fingerprints
12 | for our clients anywhere on any of the -- the weapons or
13 | whatever was in the car. And so that's him trying to get it
14 | back in which Judge Jefferson rightly said, look, I've told you
15 | once, I'll tell you again that -- that's hearsay. You can't --
16 | you know, she can't say that she spoke to somebody in
17 | fingerprints or or DNA or the sled analysis she -- she can only
18 | -- or that she ran up the hall and talk to so and so, you know,
19 | and then she said, you know, she can say what she did as a
20 | result, but she can't say what somebody told her. Then I
21 | said...

22 | Q: What were your remarks right around there 19 through
23 | 23?

24 | A: Yeah. I said, but as a result, she can say what she
25 | did next. Right?

1 Q: Okay. How about at 19? Do you remember?

2 A: I don't have my -- I didn't write down any notes when
3 I went through it so. I -- no.

4 Q: Okay. And then I think the next to Judge Price and
5 Judge Jefferson seemed to agree that it was just approaching
6 the bench to show her a document, but no argument being made.
7 This was still with Officer Butler. Is that your recollection
8 as well?

9 A: Yes, ma'am. Again, he was still trying to get that
10 document into evidence. And so she said, finally, what document
11 are you talking about? And he approached and handed it to her
12 and then continued his questioning

13 Q: Okay. And I'm not sure if I remember to ask the other
14 witnesses, but it seemed like Judge Jefferson had said
15 regarding page 267 of the second transcript, that where you all
16 are talking about the verdict forms that you guys just came up
17 and looked at the verdict forms. There was no remarks made. Is
18 that your...

19 A: The remarks where those are from.

20 Q: Okay. I don't have any further questions for Mr.
21 Peper, Your Honor.

22 A: Mr. Evans, do you have any questions?

23 MR. EVANS: No, Your Honor.

24 THE COURT: Mr. Brooker, do you have any questions? Mr.
25 Brooker? Did we lose him? No, he's still there. Mr.

1 Brooker can you hear me?

2 MR. BROOKER: Yes, ma'am. I can hear you. I apologize.

3 THE COURT: No worries. Do you have any questions?

4 MR. BROOKER: Just very briefly.

5 BY: MR. BROOKER

6 Q: Mr. Pepper, did you take contemporaneous notes of the
7 bench conferences either at the time in which they were
8 occurring or either shortly thereafter?

9 A: No, I -- I would have taken notes of somebody's direct
10 examination or cross, but I never wrote down what we discussed
11 at the bench. I'm sorry.

12 A: No that's fine. So I just wanted to make sure that I
13 understand so that the testimony and responses to Ms. Delany's
14 questions regarding areas of the bench conference where you
15 made statements and of course the transcript indicates that
16 they were unintelligible. You were testifying based upon your
17 memory, I guess, being enhanced by reading the original
18 transcript.

19 A: That coupled with some discussions that Mr. Price, Mr.
20 Kidd and I had with [Indiscernible] last week. And -- you know,
21 I spent all day yesterday in reviewing the entirety of the
22 transcript, along with the documents presented and then
23 handwriting notes. So all the notes that I would have taken to
24 refresh my memory through my testimony today were done over the
25 last two days or so.

1 Q: No further questions.

2 THE COURT: Any redirect Delany.

3 MS. DELANY: No, Your Honor.

4 THE COURT: All right. Do we need to -- you -- I guess you
5 can do the same thing, Mr. Peper. If you want to mute yourself
6 and go about your business in case we need you.

7 MR. PEPER: Okay. Thank you, Judge.

8 THE COURT: You're welcome. Thank you.

9 MR. PEPER: I do want to clarify one thing.

10 THE COURT: Sure. Go right ahead.

11 THE WITNESS: Every time that the transcript says yeah or
12 no, in response to your question, I'm confident that was a yes,
13 ma'am or a no, ma'am. And I just want to put that on the
14 record. Okay.

15 THE COURT: It's funny, when you go back and read
16 transcripts, how some of it really. I'm of the opinion now
17 wondering if they need to let us read them before they're
18 produced.

19 MR. PEPER: Right.

20 THE COURT: Because I think some of it really and I've had
21 real time court reporters, which I adore. They're just a gift.
22 But you know, that software has to be able to understand your
23 dialect, your tone and everything. And that's why don't speak
24 text messages, because it would be googly goop. I mean ---

25 MR. PEPER: I've about had a heart attack when I read some

1 of that stuff. So, yeah.

2 THE COURT: I agree with you because I know you and that I
3 know that is what you would say. So I'm certain it's probably
4 oversight in the transcript, but I wouldn't lose any sleep over
5 it.

6 THE WITNESS: All right. Thank you, ma'am appreciate it.

7 THE COURT: You're welcome. Ms. Delany, do you have any
8 further witnesses?

9 MS. DELANY: I don't have any further witnesses, Your
10 Honor.

11 THE COURT: Okay. Mr. Evans, do you have any witnesses?

12 MR. EVANS: No, ma'am.

13 THE COURT: Mr. Brooker, do you have any witnesses?

14 MR. BROOKER: No, ma'am.

15 THE COURT: All right. I think this would conclude the
16 reconstruction of the record. Are we all in agreement, Ms.
17 Delany?

18 MS. DELANY: Yes, Your Honor. I could give a brief
19 summation if that would be helpful for the court. There were
20 some of the matters that I don't -- I didn't question the
21 witnesses about because it seemed that everyone was in
22 agreement with -- when you went through your notes, such as
23 page 39 of the first transcript regarding the witness the juror
24 --

25 THE COURT: Apparently I think she ended up staying with

1 us because I don't reflect in the transcript and I'm going
2 solely off my memory. So if I'm inaccurate, I'll stand
3 corrected. But I don't recall her being excused. And then ---

4 MS. DELANY: I think that's correct page 384. I think that
5 there was nothing substantive. You'd noted that was about
6 evidence being at the solicitor's office and being brought
7 over. Similarly, I didn't really question anyone about the
8 second transcript, page 267 because it seemed everyone was in
9 agreement that there were no objections to the verdict forms to
10 the extent ---

11 THE COURT: It will be reflected later in the transcript,
12 because I do a full charge conference which includes asking
13 about the verdict forms as well as the instructions.

14 MS. DELANY: Yes, Your Honor. And I would just sum by
15 saying, you know, to the extent that in order for me to protect
16 the record, to the extent that the reconstruction is inadequate
17 to prevent appellate review. They are kind of picky in
18 Columbia, and we have to make sure it's not conclusory or
19 summary under state Ladson. I mean, I would just ask for a new
20 trial in the event that it -- that --

21 THE COURT: The jury make that decision. That's not
22 relief. This court can grant the Supreme Court or the Court of
23 Appeals would make that decision.

24 MS. DELANY: Well, and you may be correct about that, Your
25 Honor. I just I am ---

1 THE COURT: I am correct. I've inquired of it because I
2 wanted to know what the remedy would be if we could not
3 recreate the record. I don't have the authority. Well,
4 actually, what I would say is, let me retract what I just said
5 and start over. I would have to make a finding that the record
6 could not be adequately reconstructed. And then I would report
7 that to them and then they would take the appropriate action.
8 However, I do not find any reasonable basis for that in this
9 case. There is a thorough transcript with contemporaneous
10 objections, argument and rulings, and I think any
11 reconstruction and I really credit my old law clerk, Susan
12 Hackett, for even asking the court reporter for them. I've
13 learned a lot in the last, oh, I would say two years in how
14 court reporters perceive different things, even though I always
15 instructed and gave direct instructions that the might be
16 benched, that nothing was off the record and everything was to
17 be transcribed, it seems some court reporters of the
18 misapprehension that they have the latitude as to whether bench
19 conferences are to be transcribed. Unfortunately, lots of times
20 those who are appealing cases never talk to those who tried the
21 cases, so they never request the bench conferences. So the
22 Appellate Court is left with the misapprehension that they
23 don't exist and that they were never recorded. As a result, I
24 now don't have bench conferences. I just send the jury out how
25 much ever time it takes.

1 MS. DELANY: And Your Honor, some of them were not
2 recorded in the bench conference transcript. And I would just
3 respectfully I'm not arguing with your ruling. I would just ---

4 THE COURT: I don't know if that's the case.

5 MS. DELANY: That we would ask that you find it was not
6 reconstructed Judge.

7 THE COURT: I don't know if that's the case because Ms.
8 Perrin was long retired before this was, and she was my court
9 reporter and she knew my policy and Mia would have had a
10 separate independent digital recording of those bench
11 conferences.

12 MR. EVANS: And Your Honor, may I be heard on that to ask
13 the ruling that this case be dismissed [Indiscernible].

14 THE COURT: I don't think I have the -- actually, it would
15 not be dismissed. It would just be sent back for a new trial.

16 MR. EVANS: And I would object to that because I've read
17 the transcript even. I don't even think the ---

18 THE COURT: The transcript is incredibly thorough and long
19 and it is extensive. And I don't think ---

20 MR. EVANS: I agree, Your Honor [Indiscernible].

21 THE COURT: Go ahead. I'm sorry. I didn't mean to
22 interrupt you.

23 MR. EVANS: I can tell from your rulings on what occurred
24 and what arguments were made. And I appreciate the court and
25 the notes that you took and your ability to place in the record

1 | what was said during the bench conferences. I think this record
2 | is very complete. I think this record is sufficient enough to
3 | make any errors known by the appellant court -- to the
4 | appellate courts, Your Honor. So I would vehemently object to
5 | any rulings as to the record not being complete because this
6 | record is very complete. In my opinion, Your Honor. Even
7 | without the reconstruction, I think the record would have been
8 | completed in order to make a sufficient ruling by the appellate
9 | court if any errors were made. And so I would object to any
10 | conclusions that the record is not complete, Your Honor. I feel
11 | that the record is very complete and is sufficient enough to go
12 | forward in this case, Your Honor.

13 | THE COURT: Anything further, Miss Delany?

14 | MS. DELANY: No, Your Honor.

15 | THE COURT: Yes, and I'll echo what I said earlier. I
16 | think anything about these bench conferences was much ado about
17 | nothing, because even when I had bench conferences, I always
18 | made a contemporaneous ruling after the fact to make sure that
19 | everything was recorded. I've taken the time -- actually, I've
20 | now read this transcript twice and it is thorough. It is
21 | complete. I have no concern about its completeness. My only
22 | consternation has been in the ability to get this scheduled one
23 | because and just so the record is complete, that the court not
24 | counsel has been dilatory in getting this matter done. I served
25 | as chief administrative judge for the 14th Circuit when this

1 first came back, which for those of you who know, the 14th
2 Circuit is five counties. Even during COVID, I still had court
3 almost every day, whether it be electronically or whether it be
4 on by briefs or otherwise. So it was really my way of coping.
5 I'm not bragging about it was just my way of coping with COVID
6 to keep my mind busy and try to keep some semblance of normalcy
7 in my life. In the interim, we had -- without going into a
8 whole lot of detail, we had counsel changes and other things,
9 and then we had to compete with the fact that Judge Price was
10 elected, which takes him out of the circuit for six months,
11 sometimes a year. So there are just what I would call the
12 perfect storm in trying to get this scheduled but I think we've
13 done it now. Um, it'll be recorded, as a matter of fact, as
14 soon as we're done, it will go into the repository of court
15 administration. So all of you need -- all you need to do at
16 this point is request the transcript. I would ask that you have
17 them expedited so that it can get to the Court of appeals. And
18 when we're done with this hearing, I will be advising and both
19 Judge Williams, who is chief judge of the Court of Appeals, as
20 well as the clerk of Court, Jenny Kitchings, that the
21 reconstruction has been complete and has been completed. So I'm
22 hoping -- again, if you all don't I can't vouch for how long it
23 will take them to get it transcribed. They have independent
24 folk who do transcribe these transcripts, but I would assume,
25 however, based on the age of this matter, that they will be

1 | able to accommodate a request for it to be expedited so that
2 | the Court of Appeals can go about its business of reviewing
3 | this matter and ruling in a ruling regarding the pending
4 | appeal.

5 | MS. DELANY: Your Honor, are you going to issue a written
6 | order or just ---

7 | THE COURT: I don't think that reconstructions require
8 | that. I think you do the reconstruction and the transcript then
9 | goes, I have no -- I only have the jurisdiction and the
10 | authority which has been delegated to me, which is to
11 | reconstruct this record. This court makes no additional
12 | findings. All the findings that were necessary, I made them at
13 | the time of trial. Any additional action is within the
14 | authority of the appellate court. The only purpose this court
15 | has was to reconstruct what counsel said was inaudible during
16 | certain bench conferences, and we have completed that task. And
17 | there -- and I find no basis for this court finding that it
18 | cannot be reconstructed. There's absolutely no basis for that.
19 | And that would be the only way I would time I would do an order
20 | is if I did an order advising the appellate court that the
21 | matter could not be reconstructed. But that's not the case. And
22 | then they would take any action they felt appropriate from that
23 | point. All right. Is there anything else for the record, Ms.
24 | Delany?

25 | MS. DELANY: No, Your Honor. Well, I had trouble hearing

1 | you, and I hope you didn't say I was dilatory. I heard you say
2 | counsel dilatory ---

3 | THE COURT: No, I said no counsel dilatory.

4 | MS. DELANY: No dilatory.

5 | THE COURT: I was making it clear that everybody worked
6 | hard to try to get this scheduled. And it was just the perfect
7 | storm and it just couldn't be avoided. I mean, we had COVID.
8 | COVID has blessed us with a lot of things, one of which is
9 | WebEx, which is beautiful. It works wonderfully. It allows us a
10 | lot of flexibility and I think without the flexibility of
11 | WebEx, we still would be waiting to get this done. And so I
12 | think it served a very valuable and laudable purpose for us
13 | today. So no, I did not say anyone was dilatory.

14 | MS. DELANY: Thank you, Your Honor. I did --

15 | THE COURT: You're welcome.

16 | MS. DELANY: I was reassigned -- assigned this case in May
17 | of this year, and I did contact the court and I believe it was
18 | scheduled within a couple of a month or two of that.

19 | THE COURT: Yeah. So before you got involved though, it
20 | was -- we were, yeah. I mean it was a lot of -- like I said, I
21 | don't want the record to reflect that anybody and I've
22 | communicated this to the appellate court that everybody's been
23 | working hard to get it scheduled and we did the best we could
24 | with what we had and that no one had been dilatory and nobody
25 | was dragging their feet, that nobody wanted to get this

1 | disposed of more than me and counsel. So. And I think they
2 | understand, you know, like with the cop, like I said, with the
3 | cop, I don't think anybody knew what to do once COVID started,
4 | I think nobody could move forward. Nobody could move backward.
5 | Everybody's just kind of stuck until we figured it out. But I
6 | think, all things considered, we've done well with it. Mr.
7 | Evans, was there anything else you wanted to share with us?

8 | MR. EVANS: No, Your Honor

9 | THE COURT: Wonderful. As soon as y'all get that request
10 | in the court administration, this recording will go to them as
11 | soon as I hit end. So they will have it. And as soon as you
12 | request the transcript, they will be glad to assign someone to
13 | do it.

14 | MS. DELANY: We will request it, Your Honor, and provide
15 | it ---

16 | THE COURT: Wonderful. Y'all have a good day. Mr. Bryant
17 | and Mr. Wilson, I hope you all have a good day as well.

18 | MR. BRYANT: You too.

19 | THE COURT: Thank you all of you.

20 | MR. EVANS: Thank you, Honor.

21 | THE COURT: Mr. Patrick. Have a good day. You're welcome.

22 | (THERE BEING NO FURTHER QUESTIONS, THIS HEARING IS CONCLUDED)

23 |

24 |

25 |

1 CERTIFICATE OF TRANSCRIBER

2 I, ERIN REILLY, a court-approved transcriber, do hereby certify
3 that the foregoing is a true, accurate and complete Transcript
4 of Record of the proceedings had and evidence introduced in the
5 trial of the captioned case, relative to appeal, in the South
6 Carolina Circuit Court 9, Jasper County, South Carolina, on
7 the 8th day of August, 2023.

8

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

11

August 29th, 2023

12

ERIN REILLY

13

TRANSCRIBER

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|-------------------------|---|----------------------------------|
| STATE OF SOUTH CAROLINA |) | THE COURT OF GENERAL SESSIONS |
| COUNTY OF CHARLESTON |) | INDICTMENT NO.: 2017-GS-10-4164; |
| |) | -4165; -4166; -4167 |
| |) | APPELLATE CASE NO. 2017-01468 |
| |) | |
| STATE OF SOUTH CAROLINA |) | |
| |) | |
| v. |) | STIPULATIONS |
| |) | |
| MARVIN DONTE BRYAN, |) | |
| Defendant |) | |
| _____ |) | |

Based upon a review of the two trial transcripts and the Bench Conference Review transcript, the parties agree and stipulate that certain bench conferences need not be reconstructed.

As to the trial transcript dated **June 19-23, 2017**, the parties stipulate to the following:

1. The previously un-transcribed bench conference on page 90 concerns an objection raised by counsel for Justin Martel Wilson. After the bench conference on page 90, the judge entertains argument in camera. Based upon the information available, the complete scope of the objections and rulings appears in the transcript of the in-camera hearing.
2. The previously un-transcribed bench conference on page 122 is partially contained within the transcript entitled Bench Conference Review. Based upon the information available, the bench conference concerned an objection raised by counsel for Marvin Bryan to hearsay, which the judge sustained.
3. The previously un-transcribed bench conference on page 165 is fully contained within the transcript entitled Bench Conference Review.
4. The previously un-transcribed bench conference on page 181 is partially contained within the transcript entitled Bench Conference Review. Based upon the information available, the bench conference concerned an objection by the state to a question posed by counsel for Justin Martel Wilson. The judge sustained the state's objection.
5. The previously un-transcribed bench conference on page 253 is partially contained within the transcript entitled Bench Conference Review. Based upon the information available, the bench conference concerned whether trial counsel for Justin Martel Wilson had a conflict of interest. This matter was addressed fully beginning on page 291 of the transcript dated June 19-23, 2017.

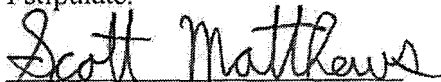
6. The previously un-transcribed bench conference on page 314 is partially contained within the transcript entitled Bench Conference Review. Based upon the information available, the bench conference concerned scheduling.
7. The previously un-transcribed bench conference on page 327 is fully contained within the transcript entitled Bench Conference Review.
8. The previously un-transcribed bench conference on page 429 is partially contained within the transcript entitled Bench Conference Review. Based upon the information available, the bench conference concerned an objection by counsel for Justin Martel Wilson to the admission of the phone extraction on the basis of relevance and lack of the witness's requisite expertise to testify about the contents of the phone. The objection was sustained.
9. The previously un-transcribed bench conference on page 597 is partially contained within the transcript entitled bench Conference Review. Based upon the information available, the bench conference concerned an objection to the admission of State's Exhibit #145 on the basis of relevance.
10. The previously un-transcribed bench conference on page 613 is partially contained within the transcript entitled Bench Conference Review. Based upon the information available, the bench conference concerned scheduling.

As to the transcript dated **June 23, 2017, and the morning of June 24, 2017**, the parties stipulate to the following:

11. The previously un-transcribed bench conference on page 45 is fully contained within the transcript entitled Bench Conference Review on page 32 at the 10:27 a.m. time mark.
12. The previously un-transcribed bench conference on page 74 is partially contained within the transcript entitled Bench Conference Review on pages 32-35 at the 11:30 a.m. time mark. Based upon the information available, the bench conference concerned scheduling.

Thus, the parties agree and stipulate that reconstruction of the above enumerated bench conferences is unnecessary.

I stipulate.



Scott Matthews, Esquire
Attorney for the State

I stipulate.



Taylor D. Gilliam, Esquire
Attorney for the Defendant

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
)
 State of South Carolina,)
)
 v.)
)
)
 Marvin Donte Bryan,)
 Defendant)
 _____)

IN THE COURT OF GENERAL SESSIONS
 FOR THE NINTH JUDICIAL CIRCUIT

Indictment Nos. 2017-GS-10-4161, -4165,
 -4166, -4167

ADDITIONAL STIPULATIONS

Based upon discussion with trial attorneys for the State and the defense, the parties agree and stipulate that certain bench conferences need not be reconstructed. As to the trial transcript dated June 19 – 23, 2017, the parties stipulate to the following:

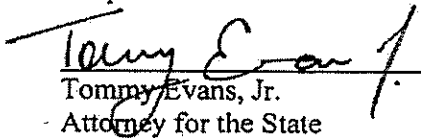
1. The previously un-transcribed bench conference on page 271 is partially contained within the transcript entitled Bench Conference Review. This bench conference concerned scheduling.

As to the trial transcript dated June 23 – 24, 2017, the parties stipulate to the following:

2. The previously un-transcribed bench conference on page 9 is partially contained within the transcript entitled Bench Conference Review. This bench conference concerned scheduling.
3. The previously un-transcribed bench conference on page 108 concerned scheduling.
4. The previously un-transcribed bench conference on page 227 concerned scheduling.

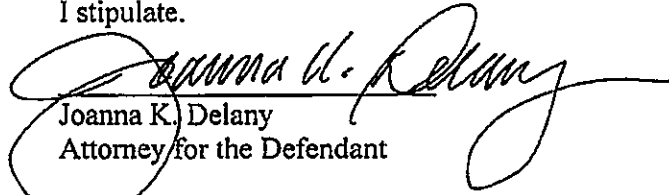
Thus, the parties agree and stipulate that reconstruction of the above enumerated bench conferences is unnecessary.

I stipulate.


 Tommy Evans, Jr.
 Attorney for the State

This 7th day of August, 2023

I stipulate.

A handwritten signature in cursive script, appearing to read "Joanna K. Delany", written over a horizontal line.

Joanna K. Delany
Attorney for the Defendant

This 5th day of August, 2023

ECK/0312875
WITNESSES

DOCKET NO. 2017-GS-10-04164

North Charleston Police Department

The State of South Carolina
County of Charleston

AGENCY CASE NUMBER

2015-036633

FILED

7/3/2017 9:41:36 AM
JULIE J. ARMSTRONG
CLERK OF COURT

ARREST WARRANT NUMBER

2015A1010205641

COURT OF GENERAL SESSIONS

JUNE TERM 2017

DATE OF ARREST

01/11/2016

THE STATE

VS.

ACTION OF GRAND JURY

TRUE BILL

MARVIN DONTE BRYAN
B/M DOB: [REDACTED]-1987

[Signature] JUN 13 2017
Foreperson of Grand Jury Date:

VERDICT

Indictment for

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened June 2017, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about November 22, 2015, the defendant, Marvin Donte Bryan, while acting alone or in concert with others, feloniously, willfully and with malice aforethought, did kill and murder Franklin Othell Williams by means of gunshot, and Franklin Othell Williams did die in Charleston as a proximate result thereof on or about November 22, 2015; in violation of §16-3-10 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.



CULVER KIDD
ASSISTANT SOLICITOR

ECK/0312875
WITNESSES

DOCKET NO. 2017-GS-10-04165

North Charleston Police Department

The State of South Carolina
County of Charleston

AGENCY CASE NUMBER

2015-036633

COURT OF GENERAL SESSIONS

JUNE TERM 2017

ARREST WARRANT NUMBER

2015A1010205638

DATE OF ARREST

01/11/2016

THE STATE

VS.

ACTION OF GRAND JURY

TRUE BILL

MARVIN DONTE BRYAN
B/M DOB: [REDACTED]-1987

[Signature] 'JUN 13 2017
Foreperson of Grand Jury Date:

VERDICT

Guilty

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

[Signature] 6/23/2017
Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened June 2017, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about November 22, 2015, the Defendant, Marvin Donte Bryan, while acting alone or in concert with others, did, with intent to kill and malice aforethought, attempt to kill Adrian Isaac Williams. This is in violation of Section 16-3-29 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.



CULVER KIDD
ASSISTANT SOLICITOR

ECK/0312875
WITNESSES

DOCKET NO. 2017-GS-10-04166

North Charleston Police Department

The State of South Carolina
County of Charleston

AGENCY CASE NUMBER

2015-036633

ARREST WARRANT NUMBER

2015A1010205639

DATE OF ARREST

01/11/2016

COURT OF GENERAL SESSIONS

JUNE TERM 2017

THE STATE

VS.

MARVIN DONTE BRYAN
B/M DOB: [REDACTED]-1987

ACTION OF GRAND JURY

TRUE BILL

JUN 13 2017

Jeannette Seaton
Foreperson of Grand Jury

Date:

VERDICT

Guilty

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

Carolin Smith
Foreperson of Petit Jury

6/23/17
Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened June 2017, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about November 22, 2015, the Defendant, Marvin Donte Bryan, while acting alone or in concert with others, did, with intent to kill and malice aforethought, attempt to kill Montez Capers. This is in violation of Section 16-3-29 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.



CULVER KIDD
ASSISTANT SOLICITOR

ECK/0312875
WITNESSES

DOCKET NO. 2017-GS-10-04167

North Charleston Police Department

The State of South Carolina
County of Charleston

AGENCY CASE NUMBER

2015-036633

ARREST WARRANT NUMBER

2015A1010205640

DATE OF ARREST

01/11/2016

COURT OF GENERAL SESSIONS

JUNE TERM 2017

THE STATE

VS.

MARVIN DONTE BRYAN
B/M DOB: [REDACTED]-1987

ACTION OF GRAND JURY

TRUE BILL

Frederick Spivey JUN 13 2017
Foreperson of Grand Jury Date:

VERDICT

Guilty

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

Carol Smith 6/23/17
Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened June 2017, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about November 22, 2015, the Defendant, Marvin Donte Bryan, while acting alone or in concert with others, did, with intent to kill and malice aforethought, attempt to kill Quran Khalif Allen. This is in violation of Section 16-3-29 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.



CULVER KIDD
ASSISTANT SOLICITOR

COUNTY OF CHARLESTON

STATE VS.

MARVIN DONTE BRYAN

AKA:

Race: Black/African American Sex: M

DOB: 1987 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Charleston, SC 29407-6401

DL# [REDACTED] SID# SC01726174

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Murder

CONVICTED OF or PLEADS

In 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 Lewd Act)

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:

Culver Kidd, Assistant Solicitor SC Bar # 76671

Attorney for Defendant SC Bar # 70593

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 50 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: All of 6/23/17

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____

Obtain GED

Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____ \$ 3.75

TOTAL \$ 128.75

Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk: D. Husvarick

Presiding Judge: [Signature]

Court Reporter: Heather [Signature]

Judge Code: 2128

Sentence Date: 6/23/17

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
STATE VS.

MARVIN DONTE BRYAN

AKA:
Race: Black/African American Sex: M
DOB: /1987 SS#:
Address:
City, State, Zip: Charleston, SC 29407-6401
DL# SID# SC01726174

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-10-04165
A/W: 2015A1010205638
Date of Offense: 11/22/2015
S.C. Code §: 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Attempted Murder
In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

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:

[Signature] 76671 _____ 70593
Culver Kidd, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 30 months under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and or payment
of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: all of @ 6/23/17

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: _____ \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75 Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk: D. Hysawick
Court Reporter: Heather Paul

Presiding Judge: [Signature]
Judge Code: 21280
Sentence Date: 6/23/17

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON
STATE VS.

MARVIN DONTE BRYAN

AKA:
Race: Black/African American Sex: M
DOB: 1987 SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Charleston, SC 29407-6401
DL# [REDACTED] SID# SC01726174

INDICTMENT/CASE#: 2017-GS-10-04166
A/W: 2015A1010205639
Date of Offense: 11/22/2015
S.C. Code §: 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Attempted Murder
In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

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:

[Signature] 76671 _____ 70593
Culver Kidd, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: all of 6/23/17
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75 Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk: D. Higginwick

Court Reporter: Heather Joubert

Presiding Judge: [Signature]

Judge Code: 2128

Sentence Date: 6/23/17

1182

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

MARVIN DONTE BRYAN

AKA:

Race: Black/African American Sex: M

DOB: 1987 SS#: [redacted]

Address: [redacted]

City, State, Zip: Charleston, SC 29407-6401

DL# [redacted] SID# SC01726174

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Attempted Murder

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or Lewd Act)

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:

Culver Kidd, Assistant Solicitor SC Bar # 76671 Defendant Attorney for Defendant SC Bar # 70593

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: All of 6/23/17

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____ Appointed PD or appointed other counsel,

3% to County (if paid in installments) \$ \$3.75 \$47.12 requires \$500 be paid to Clerk

TOTAL \$128.75 during probation.

Clerk of Court/Deputy Clerk: D. Hysawick Court Reporter: Heath South

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-10-04167

A/W: 2015A1010205640

Date of Offense: 11/22/2015

S.C. Code #: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

CONVICTED OF or PLEADS

Mandatory GPS §17-25-45 (CSC w/minor 1st or Lewd Act)

Defendant Waives Presentment to Grand Jury. (def.'s initials)

Negotiated Sentence, Recommendation by the State.

Attorney for Defendant SC Bar # 70593

County Detention Center, for a determinate term of _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*;

CONSECUTIVE to sentence on: All of 6/23/17

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____ Appointed PD or appointed other counsel,

3% to County (if paid in installments) \$ \$3.75 \$47.12 requires \$500 be paid to Clerk

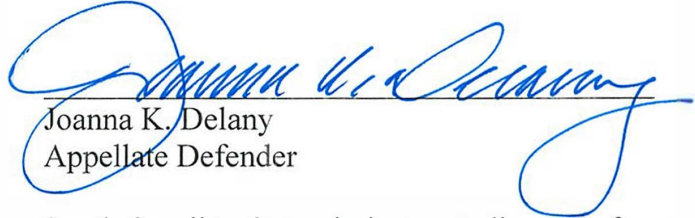
TOTAL \$128.75 during probation.

Presiding Judge: [Signature] Judge Code: 2128 Sentence Date: 6/23/17

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,



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

RECEIVED
Dec 05 2024
SC Court of Appeals

This 5th day of December, 2024.

RECEIVED

Dec 05 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARVIN DONTE BRYAN,

APPELLANT

APPELLATE CASE NO. 2017-001468

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 5th day of December, 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