

VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jan 16 2025

SC Court of Appeals

Appeal from Richland County
Honorable Jocelyn J. Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES TOATLEY,

APPELLANT

APPELLATE CASE NO. 2023-001059

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE EXHIBIT #10 (CH. 5 VIDEO CLIP 1; CH. 5 VIDEO CLIP 2; CHANNEL 1) AND
STATE’S EXHIBIT #14 (CH. 4 CLIP 1, CH. 4 CLIP 2, CH. 4 CLIP 3, CH. 6 CLIP 2, CH.
6 CLIP 3, CH. 13 CLIP 1, CH. 13 CLIP 2)**

1 report, did you find any similarities with regards to the
2 telephone number and name in the LG?

3 A. Yes ma'am. There is a number and a name -- a
4 contact name that was associated with the name Pope and a
5 phone number for that as well.

6 Q. Was it the same number as the LG?

7 A. Yes, it was.

8 Q. So, and I guess it's just easier to call them by
9 their -- I'll call them by their identifiers if that's okay.
10 So the LG and then the Samsung. What was the Samsung
11 identified as in the property report that you received?

12 A. That was -- I'm trying to find it in my notes.
13 I'm sorry.

14 Q. It's okay if you don't have it, but I just want to
15 confirm that it is the same as State's 119?

16 A. Yes, yes ma'am.

17 Q. Okay. So you -- I want to go back to the LG.

18 A. Okay.

19 Q. Okay. When you were asked to do an analysis,
20 after -- what did you find after looking at all three phones
21 with regards to the 8008861 number?

22 A. The call logs and text messages between the two
23 phones that was on the same -- same day. Same content, same
24 text messages between that phone number and those two phones.

25 Q. Okay. So that phone number, the 8008861, was in

1 communication with both the LG and the Samsung?

2 A. And the Samsung, yes.

3 Q. So I want to go back to the LG report and show you
4 what's been marked as Defendant's Exhibit 13. First, let me
5 just show you Defendant 19 and ask -- 13, excuse me, and ask
6 if you can identify that.

7 A. Yes, ma'am.

8 Q. When you -- when you do extractions and analysis,
9 how are you able to -- or are you able to separate out and
10 single just certain numbers in communication with an LG
11 phone?

12 A. Yes, ma'am. You can filter the results during --
13 in the physical analyzer or the Cellebrite reader format.
14 You can -- say, if I wanted link two emails together, I can
15 pull up the reports and see if those two contacts are in the
16 same phone as another phone. And by filtering out that --
17 that information.

18 Q. So on Defendant's 13, does that fairly and
19 accurately represent all the telephone calls between the
20 8008861 number and the LG?

21 A. Yes, ma'am.

22 Q. And the only thing that has changed is, you said,
23 filtered out all of the other phone calls that were made in
24 between; is that correct?

25 A. Correct.

1 Q. What information is stored in those telephone --
2 or provided in those telephone communications?

3 A. That would be the parties, the timestamp, how
4 long, and the duration of the call, and also, the status such
5 as incoming or outgoing, or if it was answered or if it
6 wasn't answered or a missed call.

7 Q. Okay. And does it have a date and time as well?

8 A. It does.

9 MS. ZMROCZEK: All right. And so, Your Honor, at this
10 time we move Defendant 13 into evidence.

11 THE COURT: Any objection?

12 MS. DARKO: No objection, Your Honor.

13 THE COURT: Defendant's 13 is admitted without
14 objection.

15 (Defendant's Exhibit 13 was admitted into evidence.)

16 BY MS. ZMROCZEK:

17 Q. You talked about text messages. What is a text
18 message?

19 A. It could be an MMS message which is a multimedia,
20 or an SMS, which is a short messaging system. You can also
21 with iPhones have an iMessage such as when it's on wifi. I
22 believe those are the three.

23 Q. Okay. And specifically, were you asked to locate
24 any text messages with photo images?

25 A. Yes, yes, ma'am. I was.

1 Q. I'm showing you what's been marked as Defendant's

2 14. Do you recognize Defendant's 14?

3 A. I do.

4 Q. And how do you recognize it?

5 A. That would be a photo that was identified on the
6 phone.

7 Q. On the LG phone?

8 A. Correct.

9 Q. And is -- does that -- with all -- subsequent to
10 the redactions, how many text messages can you find in the
11 phone at one time?

12 A. As many as there was from the time that the phone
13 was activated to the time it was extracted. That could be,
14 depending on how much someone texts, it could be thousands of
15 texts, or it could be just a couple hundred. Depends on how
16 popular they are.

17 Q. Okay. And so this specific text message December
18 -- or excuse me, Defendant's 14, what number is associated
19 with sending that message?

20 A. I believe it says 117.

21 Q. No, no. What -- what phone number? I'm sorry.

22 A. Oh, I'm sorry. That would be (803)-800-8861.

23 Q. And what date? And that was a sent message or a
24 received message?

25 A. That was a received message from that number.

1 Q. So the LG received that message from that number?

2 A. Correct.

3 MS. ZMROCZEK: Okay. Your Honor, at this time we would
4 move Defendant's 14 into evidence.

5 THE COURT: Any objection?

6 MS. DARKO: Your Honor, I do have an objection with
7 regard to relevance and also authentication in this case and
8 also really foundation.

9 THE COURT: All right. Ladies and gentlemen, if you'd
10 just return to your jury room for a few minutes, so I can
11 discuss the matters of law. Do not discuss the case amongst
12 yourself. We'll bring you back shortly.

13 THE COURT: Ms. Darko, your objection.

14 MS. DARKO: Thank you, Your Honor. With regard to the
15 authentication and this exhibit, I -- I just don't think that
16 Ms. Zmroczek has established the ownership necessary in order
17 to begin to make this information relevant. And I'm just --
18 I'm going to refer to the Court and if your Honor will
19 permit, I'll hand up the case, State v Benton. This is for
20 purposes of the record, 435SC250.

21 I guess sort of the seminal case prior, as Your Honor,
22 likely knows prior to Benton, was State versus Green (ph)
23 when it comes to authenticating instant messaging and sort of
24 these digital communications on mobile devices. and in
25 Green, the -- the bar was set rather low. Benton, what then

1 comes along and they're trying to authenticate -- the State
2 is actually trying to authenticate text messages. So
3 initially they're trying to move these in without having
4 anybody on the stand to say necessarily who the belong -- who
5 that number belongs to.

6 And so they don't have, you know, Verizon Wireless
7 backup documents or somebody saying that they know that that
8 is that person's cell phone. But additionally, the real
9 issue is these are mobile devices and it is incredibly
10 difficult without having one of the parties to that
11 conversation to prove that it is what it purports to be. So
12 Benton sort of narrows the authentication when it comes to
13 communications on mobile devices.

14 Now, Ms. Zmroczek is referring to this photograph being
15 transferred, and I don't know what the date is. It is a
16 photograph of a gun. I believe it's far outside the time of
17 the incident date. In any regard, I -- I believe that her
18 position is that it's a gun, so it means that somehow
19 somebody was armed that night. There's certainly been no
20 information on the record to indicate it that thus far. The
21 party who could have answered this question was actually on
22 the stand. Pope Hope was on the stand. She tried to ask
23 these questions of him. He already answered them explaining
24 that he did not have a gun.

25 But yes, that several weeks prior that there may have

1 been some discussion, but he actually does not remember any
2 of that. And he did not know what Curtis Dinkin's cell phone
3 number was, even though she attempted to elicit that. Your
4 Honor, I just don't think that we're there with regard to
5 authentication. I also don't think that it's relevant in any
6 case.

7 THE COURT: Ms. Zmroczek?

8 MS. ZMROCZEK: You -- Your Honor, this is actually
9 part of my impeachment of Mr. Pope. So when I asked -- when
10 I asked him what his cell phone number was, he read off that
11 cell phone number. Then I -- the 8661 that from -- from
12 which that text message came from. Then I specifically, and
13 -- and the date of that text message phone, which Your Honor
14 can read, but may not because it's really small, is December
15 12th. So we're talking seven days prior to this incident.
16 And I specifically asked him if anybody else had his phone.
17 He said, no. I said, this was your phone number, was anybody
18 using your phone? He said, no. And so this would go
19 directly to impeach him.

20 Obviously, I can't impeach him with somebody else's
21 phone records, which is why I didn't, because that would be
22 improper. These -- these phone records are associated with
23 the LG phone that was put into evidence by Richland County.

24 THE COURT: And I'm sorry, tell me again what portion of
25 his testimony you're looking to impeach.

1 MS. ZMROCZEK: When I asked him if he ever sent any
2 pictures of guns to Mr. Dinkins or -- or bought him a -- a
3 gun.

4 THE COURT: But I -- I don't -- I see where you want to
5 go. I don't know how this gets you there.

6 MS. ZMROCZEK: Yes. Well, so, Your Honor, I can also
7 go about it another way if I have or if I need to. But, so
8 what Ms. Setree has testified to is that there are three
9 phones. The LG phone, who I'm careful not to identify as Mr.
10 Dinkins yet, the -- the 8661, which we already know is
11 associated with Mr. Pope.

12 That's what he testified to on the stand. And as well
13 as it's identified in the context. And then Mr. Smith's
14 phone, which refers to the same number that of the LG phone
15 with the identifier contact information Curtis Dinkins.

16 THE COURT: Right. I still think you have an
17 authentication problem because you don't know who sent the
18 picture. You don't know who sent the message.

19 MS. ZMROCZEK: Right. But I -- well, so the issue was,
20 Your Honor, I did ask him if he sent it on December 12th. So
21 I -- I identified a specific date and time and he said, no,
22 but then he -- but then he backtracked and said, but there
23 may have been some discussions about it. And so I think
24 through the phone number -- I mean the -- the -- and I think
25 she -- if she needs to explain it more, but that message

1 comes from the 8661 phone number, which is associated with
2 Pope.

3 THE COURT: I understand that. But the authentication
4 of texts and social media messages requires more than proven
5 mere ownership of the device from which messages originated.
6 Just because it says phone, doesn't get you past the
7 authentication issue.

8 MS. ZMROCZEK: So when I read that case, Your Honor,
9 which she provided me this morning, it says the -- where it
10 says about authentication of and the contents of text
11 messages, and again, this is just a photograph, but it says
12 that appearance content patterns. And so the patterns, your
13 Honor, which is -- is why I put in December -- or excuse me,
14 why I keep saying December. Defendant's 13, which identifies
15 the frequency of contact information between the number
16 associated with Mr. Pope and the LG gun as well.

17 THE COURT: You don't know if he sent any of those?

18 MS. ZMROCZEK: Well, those were telephone calls, but it
19 -- but, and he testified that he did call.

20 THE COURT: I think, under State event and you're not
21 there. And the State's objection must be sustained.

22 MS. ZMROCZEK: I can -- I will call an additional
23 witness afterwards, Your Honor, and then recall this witness.

24 THE COURT: That's fine.

25 MS. ZMROCZEK: Do you still have the -- I just want to

1 make sure I don't put it in the first ID for.

2 THE COURT: Okay.

3 MS. ZMROCZEK: Thank you.

4 THE COURT: Then let's take a 10 minute break since the
5 jury's out and we'll resume.

6 (Off the record.)

7 THE COURT: Ms. Zmroczek, you may resume.

8 MS. ZMROCZEK: Thank you.

9 BY MS. ZMROCZEK:

10 Q. Ms. Setree, I want to turn now to just the Samsung
11 Galaxy Note 9 telephone.

12 A. Okay. What was the question, I'm sorry?

13 Q. Sorry, I'm just ---

14 Q. Okay.

15 A. I'm just switching photos on.

16 Q. When you were -- so you actually completed the
17 extraction on this phone, correct?

18 A. Correct, yes, ma'am.

19 Q. So there was not one -- was there one done by
20 Richland County?

21 A. Not that I received.

22 Q. Okay. Were you able to identify the number
23 associated with the LG phone? Were you able to identify that
24 with the Samsung note phone?

25 A. Yes, I was.

1 Q. Okay. How were you able to do that?

2 A. The number that was associated with the contact
3 name of Pope and the number was the (803)-800-8861 number.

4 Q. Right. Now, the L -- okay. So I'm trying to
5 confuse you. So moving on. So the L -- what's the phone
6 number associated with the LG phone?

7 A. That -- can I see one, the -- the exhibit for the
8 ---

9 Q. I'm sorry?

10 A. Can I see the exhibit for the ---

11 Q. Oh, sorry.

12 A. (Inaudible) of the LG.

13 MS. ZMROCZEK: Your Honor, Defendant's 12.

14 THE WITNESS: Perfect. That number is the (803)
15 977-2285.

16 BY MS. ZMROCZEK:

17 Q. Okay. So (803) 977-2285; is the number associated
18 with the LG phone?

19 A. Correct.

20 Q. On the Samsung phone, the Samsung Galaxy 9, were
21 you able to find a contact identified with the number (803)
22 977-2285?

23 A. Yes.

24 Q. And tell the jury what that context was?

25 A. That was the -- identified by the name of Curtis

1 Dinkins.

2 Q. So it was identified on the Samsung 9 as Curtis
3 Dinkins with the phone number associated with the LG phone?

4 A. Correct.

5 MS. ZMROCZEK: Okay. I believe those are all the
6 questions I have at this time for you. Please enter any
7 questions the State may have.

8 THE WITNESS: Okay.

9 THE COURT: Ms. Darko?

10 MS. DARKO: I actually don't have anything for this
11 witness, Your Honor.

12 THE COURT: Okay. Thank you. You may step down.

13 You leave all those papers. If you didn't bring it with
14 you, don't take it with you. How about that?

15 THE WITNESS: All right. I brought this folder.

16 THE COURT: Ms. Zmroczek, call your next witness.

17 MS. ZMROCZEK: Your Honor, at this time I call Pam
18 Dinkins.

19 THE BAILIFF: (Inaudible) on the Bible (inaudible).

20 PAM DINKINS,

21 being first duly sworn testifies as follows:

22 THE BAILIFF: Have a seat (inaudible) state your full
23 name for the record and spell your last name.

24 THE WITNESS: My name is Pamela Dinkins. D-I-N-K
25 -I-N-S.

1 DIRECT EXAMINATION

2 BY MS. ZMROCZEK:

3 Q. Ms. Dinkins, what -- where are you from?

4 A. I'm from Columbia.

5 Q. Okay. And I -- you're very soft spoken, so I -- I
6 -- I know -- I know you don't feel like testifying, but I
7 just need you to speak up with me. Who was your husband?

8 A. Curtis Dinkins.

9 Q. How long had you been married to Curtis Dinkins?

10 A. 15 years, but I've been with him almost 27.

11 Q. So you were married for 15, but together for
12 almost 30, 15, 27 years. In that time, did you know him to
13 have a cell phone?

14 A. I mean, everybody in America has a cell phone.

15 Q. Certainly. Let me ask you this. During -- and
16 I'm -- I'm talking about during the time between November and
17 December of 2020. Okay. Just for a time reference. Do you
18 recall what his cell phone number was?

19 A. I don't recall anything, but watching my husband
20 get gunned down and murdered Ms. Zmroczek for you to put me
21 on this witness stand.

22 Q. I -- I'm sorry, I didn't understand what --

23 A. I said the only thing I recall is going through
24 the tragedy that I've been through watching my husband get
25 gunned down and murdered ---

1 Q. Right.

2 A. --- by your defendant. So, other than that, I
3 really don't remember anything. I'm traumatized.

4 MS. DARKO: Your Honor, under 6011C, I would like to be
5 able to cross-examine this witness.

6 THE COURT: 6011C. Is that just a adverse ---

7 MS. DARKO: Adverse chronology issue.

8 THE COURT: You may proceed.

9 MS. ZMROCZEK: Thank you.

10 BY MS. ZMROCZEK:

11 Q. Ms. Dinkins, your phone number back in 2020,
12 November and December, was (803)-836-2410, wasn't it?

13 A. No, ma'am.

14 Q. Okay. What was it?

15 A. I don't know.

16 Q. You have no independent recollection?

17 A. No, ma'am.

18 Q. Okay. And your -- your husband of 27 years had a
19 phone number as well, correct?

20 A. I don't know it.

21 Q. Okay. Did you send him text messages?

22 A. I -- I can't recall.

23 Q. Okay. When you -- so you were married for 15
24 years, you can't recall ever sending him a text message?

25 A. I can't recall.

1 Q. Okay. You also knew Curtis Smith, or excuse me
2 Corey Smith, right?

3 A. I knew of him.

4 Q. You knew of him?

5 A. Uh-huh.

6 Q. And in fact, you sent him several text messages,
7 didn't you?

8 A. I don't recall.

9 Q. You don't recall. Is it your intention to not
10 answer or recall any questions that I ask you?

11 A. I'm trying to do my spousal and my 5th Amendment.

12 Q. I'm sorry?

13 A. I'm trying to rely on my spousal and my 5th
14 Amendment. I'm the victim in this case. Your defendant on
15 video gunned my husband down. I didn't do any wrong to my
16 husband, and I ain't do anything to be sitting in this
17 witness stand. I've had to live with trauma and tragedy.

18 Q. I understand. Are you refusing ---

19 A. Honestly, you don't understand.

20 Q. Are you refusing to answer any of my questions?

21 A. I answered them. I don't know. What else do you
22 want me to give you?

23 Q. I want you to explain to me why there are text
24 messages with your name associated with an LG cell phone.

25 A. I don't know.

1 Q. Okay. Why there are text messages with your name
2 associated with a Samsung cell phone?

3 A. I don't know.

4 Q. You received a large settlement in this case,
5 correct?

6 A. Is that irrelevant to this case ---

7 MS. DARKO: Objection, Your Honor.

8 THE COURT: Sustained. Ladies and gentlemen, disregard
9 that. That is not relevant to this case whatsoever.

10 BY MS. ZMROCZEK:

11 Q. Were you able to identify any of your husband's
12 belongings?

13 A. I was able to identify his body. Would you like
14 to see a picture of it?

15 Q. No, ma'am.

16 A. Because I do have it, where I identified his body
17 on the morgue. I identified his body on a video when Mr.
18 Toatley gunned him down and he fell face first.

19 Q. But you can't answer any questions about ---

20 A. I can't answer anything. All I remember is
21 watching that video.

22 MS. ZMROCZEK: Thank you, Ms. Dikins. Nothing further,
23 Your Honor.

24 THE COURT: Anything from the State for this witness?

25 MS. DARKO: Nothing for this witness, Your Honor.

1 THE COURT: All right. Thank you. Ms. Dinkins, you may
2 step down.

3 THE COURT: Call you next witnesses, Ms. Zmroczek.

4 MS. ZMROCZEK: Your Honor, the defense rest.

5 THE COURT: All right ladies and gentlemen. There are
6 certain matters of law that I need to discuss with the
7 attorneys outside of your presence. As you know, we are
8 ordering lunch for you. The lunch isn't here yet though, so
9 we're going to try to make this a short break. I'm hoping to
10 -- to get you to the point of closing arguments and my charge
11 to you on the law so that you can eat lunch while
12 deliberating. So hopefully, we can make it pretty quick, but
13 please return to your jury room. Do not discuss the case.
14 We'll bring you back soon.

15 THE COURT: Any motions, Ms. Zmroczek?

16 MS. ZMROCZEK: Yes, Your Honor. We would renew our
17 motion for directed verdict specifically with regards to
18 Jamica Bethel for the same grounds.

19 THE COURT: Respectfully denied.

20 MS. ZMROCZEK: And ---

21 THE COURT: Yes.

22 MS. ZMROCZEK: And -- and we would -- sorry, Your
23 Honor. We would also just renew all of our previous objects.

24 THE COURT: Of course, my rulings remain the same.

25 MS. ZMROCZEK: I do believe, Your Honor, I rested

1 without you getting an answer from the defendant, and that is
2 -- I just thought of it, so I apologize.

3 THE COURT: Mr. Toatley, would you stand. You're still
4 under oath. Have you now had sufficient time to discuss with
5 your attorney, family, friends and whoever, whether you will
6 testify in this case?

7 MR. TOATLEY: Yeah, I can testify.

8 THE COURT: Okay. Have a seat. So now defense rests
9 and produces all the motions, objections, et cetera, et
10 cetera. Okay.

11 MS. ZMROCZEK: Yes, Thank you, Your Honor.

12 THE COURT: Okay. Jury charges. Let's discuss. Of the
13 defendant's proposed jury charges, does the State have a copy
14 of the defendant's proposed charges?

15 MR. TAYLOR: Yes, Your Honor, I have copies here. I --
16 copies of what the State sent in as well.

17 THE COURT: I have that. We'll just start with the
18 defense because I think that's easier. I'm on Page 8. Pages
19 1 through 7 are pretty standard and will be included in the
20 Court's charge in some form or fashion. One Page 8 prior
21 inconsistent Statements. Is there any objection to the Court
22 charging on that issue?

23 MR. TAYLOR: No, Your Honor.

24 THE COURT: Okay. On Page 9, prior record of witness, I
25 think that's appropriate. Any objection from the State?

1 THE COURT: All right. Bring the jury please.

2 THE BAILIFF: Jury seated, Your Honor.

3 THE COURT: Thank you. Welcome back, folks. You may
4 have seen on your way in here that jury -- that, no -- that
5 lunch has arrived. We are going to do closing arguments and
6 my charge to you on the law and then you can eat while you
7 deliberate. So we're going to finish up this trial ask you
8 to give Ms. Darko looks like your undivided attention for her
9 closing argument. Yes, ma'am.

10 MS. DARKO: Thank you. Your Honor. May I please the
11 court. Your Honor, may I move just because I can't see.

12 THE COURT: Can you? I think she's got it positioned.
13 Can you maybe sit over there?

14 MS. DARKO: Yes, exactly. Thank you.

15 THE COURT: You may proceed.

16 MS. DARKO: You heard at the calling of the State's case
17 that James Toatley was on trial for two counts of murder for
18 the killing of Curtis Dinkins and Corey Smith, and two counts
19 of attempted murder for the -- for trying to kill Pope Hope
20 and Jamica Bethel. And finally, one single count of
21 possession of a weapon during a violent crime for the gun he
22 possessed and used during the commission of these crimes.

23 You all are the deciders of fact in this case. It is
24 you who ultimately decides what is true based upon all the
25 evidence and witness testimony presented here in court over

1 the past two weeks. There's been a good bit of evidence
2 presented over the preceding week, and by now what you must
3 know is that the single most important piece of the State's
4 case has been the video evidence. So often inside the four
5 walls of this courtroom, we're attempting to paint you a
6 picture based on what comes off that stand and what we can
7 put in evidence in terms of photos or DNA. But that wasn't
8 the case here.

9 We were actually able to place you in front of what
10 happened and you got to view what happened with your own two
11 eyes because of that video surveillance. And in a few
12 moments, I'm going to show you the clips that you've already
13 seen here in court today. Not to belabor the point, I know
14 that some of them are very violent, but just so that I can
15 place them in chronological order so you can see the clips as
16 they happened in ordinary time. But before I turn to that, I
17 would briefly go over the law in this case because I'll be
18 referencing certain elements of the law as we're looking
19 through that video together. And you heard me explain that
20 you all are the deciders of fact in this case. Judge Newman,
21 the Court is the decider of the law. So in the event that
22 anything I say to you today differs with what you later hear
23 coming off the bench, you are absolutely to defer to what
24 Judge Newman says.

25 With regard to the first charge that I mentioned,

1 murder, it's the killing of any person with malice and
2 forethought, express or implied. That's about the most
3 straightforward statute and the criminal code to my view.
4 Malice is hatred ill will or hostility towards another
5 person. And malice of forethought does not require that
6 malice exists for any particular time before the act is
7 committed, but it must exist in the mind of the defendant
8 just before and at the time the act is committed and you
9 decide that based upon what you see in this case.

10 And malice of forethought may be express or inferred.
11 When we talk about express malice, those are words, I'm going
12 to kill you. So often we do not have that. And so we're
13 looking at things to be inferred from the actions and all
14 other evidence in the case. Attempted murder is the
15 attempted killing of a person with the -- in the specific
16 intent to kill that person with malice of forethought.
17 Again, we went over malice. And specific intent means that
18 the defendant consciously intended the completion of the acts
19 constituting murder against that victim in particular, so
20 against Jamica Bethel Or Pope Pope.

21 And finally, possession of a weapon during the
22 commission of a violent crime is fairly self-explanatory.
23 Murder and attempted murder are both violent crimes.

24 You'll recall when you heard from Andre Riley that he
25 had run out of gas and that his vehicle was positioned over

1 here in the corner, and that is how he was able to view the
2 arrival of the defendant in that Black Crown Victoria. He
3 explained that he had gone over to this corner to look for a
4 container to get gas. And so he actually passed the Crown
5 Victoria on his way back to his vehicle.

6 And we also know from Andre Riley's testimony that the
7 defendant, this vehicle's occupied, they're in that Black
8 Crown Vic at this point. And if you could just move it
9 forward. And again, all of the video surveillance you'll
10 have in the jury room with you to review. And at this point
11 we're seeing the moment that Hesham, the store clerk
12 testified to where the defendant and the man in Red Schwartz
13 come into the store. And you remember his testimony that he
14 gets a good look at them because they're right there. And
15 this is the moment that he explained where the gun is dropped
16 and then picked up by Mr. Toatley. And there is Mr. Hesham.

17 THE COURT: We can move forward to the next.

18 MS. DARKO: The defendant then exits and he gets back
19 into the driver's side of the vehicle where he's sitting at
20 the same time that the victim's vehicle pulls up to the
21 store. And again, Mr. Riley is back here in his SUV. Curtis
22 Dinkins, just as Jamica and Pope explained, goes into the
23 store. And at this point, the defendants is still seated in
24 that Black Crown Vic. And just as Jamica and Pope explained,
25 Pope follows soon thereafter, almost immediately followed by

1 the defendant. And that's the moment, right there, that hand
2 touch.

3 And I want to talk to you for a moment about the malice
4 portion of the murder charge, because as I Stated, malice can
5 be formed just like that. It doesn't require it to have
6 existed in the mind of the defendant for the entire time that
7 he was sitting out there in that Black Crown Vic. And we've
8 seen that in our own lives, right? Now, you are to decide
9 this case in a vacuum, but you can be informed in terms of
10 logic and reasoning by what you see in your everyday lives at
11 work and with your own families, et cetera. And how many
12 times have we seen instances like this, where downtown on
13 I-20, on 77, somebody cuts us off, somebody reacts
14 immediately.

15 We've seen that kind of malice in our own everyday
16 lives, but typically, we can overcome that. We don't follow
17 that person. And that's what happens in this case, because I
18 want you to watch at that point, just as Pope said, he's
19 turning back and according to his testimony, he's saying, my
20 bad, but totally does not let it go. They're leaving. The
21 defendant intending to buy chips now abandoned that idea and
22 he's going now follow them out over this. And this is the
23 moment where Pope, as he testified, Curtis is saying, my bad,
24 not a big deal. Let it go. Let's just go on -- let's just
25 go on.

1 But again, the defendant is not letting it go. You see
2 Mr. Toatley get in Pope's face and what does Pope do in
3 response? He walks away. He gets into that vehicle.
4 Toatley follows him. He's trying to get away. And now
5 Curtis too. According to witness testimony, Pope and Jamica,
6 get in the car, get in the car, get in the car, and he's
7 trying to do that, but he can't because Mr. Toatley is
8 keeping him from enter -- entering that car. He's not
9 letting it go. You see him lean down, just as Jamica
10 testified because he can hear the talking to Mr. Dinkins.
11 Again, begging him to get in the car. That's the second time
12 that he bends down. She's repeatedly saying, get in the car.
13 Get in the car.

14 And it is at this moment, that is the last time that
15 Curtis tries to make amends. You see them actually touch
16 hands, shake hands. He thinks he's getting in the car, that
17 he is going home that night, but he is not going to get to go
18 home that night. First sequence of shots, Ms. Bethel is
19 seated -- seated in the back of that vehicle when those shots
20 first entered the vehicle. At this point, Mr. Smith has been
21 shot and Pope, as he explained, is bending down, trying to
22 figure out how to get the car out of the parking lot.

23 Ms. Bethel does get out of the car and you can see as
24 she comes around, she's looking at him. Why is she looking
25 at him? As she testified because she was running for her

1 life. She thought that she was going be killed. He shoots a
2 man that is seat belted into his vehicle. Didn't know him
3 from Adam's house, capped. Hadn't talked to him on the
4 sidewalk. He's just sitting there. Shoots him in the back
5 of his head. He can't move. God knows Pope is trying to get
6 them out of there. He's trying to get the vehicle to move,
7 but he can't.

8 Ms. Bethel is able to escape to the safety of the
9 interior of the store and locked that door behind her where
10 she's able to call 911. And then as Andre's seated in his
11 vehicle in the back, we watch the last moments of Curtis
12 Dinkins and Corey Smith's life just drain out of them over
13 something senseless, over instantaneous malice. Just a touch
14 of the hand that somebody could not let go.

15 And then we see Mr. Toatley running on. As Andre
16 explained, they come back to the Crown Vic likely to retrieve
17 that Crown Vic. And we see that distinct limp that
18 investigator Eisenhower testified to.

19 Again, they attempt to remove the vehicle. And then
20 finally, Mr. Toatley leaves the scene for the last time
21 calmly. And this is the point where law enforcement arrives.
22 We're not talking at response time at 15 minutes or anything
23 like that. Law enforcement was on the scene quickly. We
24 don't see anything moved from this scene or altered because
25 the camera is watching the entire time.

1 I've explained to you that this case is different
2 because it's on video surveillance and you get to watch what
3 happened, unfold before your own eyes. And what I cannot
4 explain and what we cannot know specifically through watching
5 that video, is how the witnesses and survivors felt in those
6 moments.

7 That can only come from them through their voice. Our
8 lives begin to end the day we become silent about the things
9 that matter. Pope Hope, Jamica Bethel, Andre Riley and Mr.
10 Hesham were just people going about their regular lives. You
11 heard Hesham say, it was my first night on shift at this gas
12 station.

13 Andre Riley, just a man who had happened to run out of
14 gas. Corey and Pope just going out to help a friend that
15 night, whose car broke down. I want you to think about their
16 demeanor on the stand as they voiced what happened to them
17 that night. A night that was most certainly the worst night
18 of Jamica Bethel and Pope Pope's lives. And you heard Jamica
19 explain that she was having a night on the town with her
20 friend, somebody that she had known nearly her entire life
21 when she watched him get gunned down in the parking lot like
22 he was nothing like his life didn't matter.

23 Is that the takeaway with all the points made about
24 Curtis maybe being gay, about him using drugs or about Pope's
25 prior criminal history and drug use, or about Corey maybe

1 being gay? Is that the point?

2 Corey was tapped in a seatbelt unarmed when he was
3 executed the back of his head. But that's not though the law
4 with regard to murder works in South Carolina. It says right
5 here that it's any person. It doesn't say a saint, non-drug
6 user, straight person. That's not what it says because all
7 lives matter. When we snatch away a life, we're taking much
8 more than flesh and bone. We're taking everything that a
9 person was bad, good, whatever, everything that they were at
10 that moment, but also everything that they could have been.

11 And that's what was snatched away in this case from
12 these families, from the survivors. Everything that could
13 have been. I'm not asking you to place yourself in the
14 victim's shoes in this case because that would be improper.
15 Your decision cannot be based or influenced by empathy or
16 sympathy.

17 However, in weighing witness testimony, again, you are
18 committed to use the logic and reason that you acquire
19 through your movement in your ordinary lives. And that's
20 what I want you to do. When considering those people that
21 got on the stand, those who chose to speak to the police that
22 night, those who chose not to slip away in silence. Because
23 again, our lives begin to matter or begin to end the day that
24 we become silent about the things that matter and they
25 weren't. They went to the police. They gave statements.

1 MS. ZMROCZEK: Your Honor, (inaudible) a matter of law.
2 I'll just note (inaudible).

3 THE COURT: Proceed, Ms. Darko.

4 MS. DARKO: The final piece of law that I'll talk to you
5 about is reasonable doubt. That's the State's burden. It is
6 the type of proof that leaves you firmly convinced. And I
7 believe and submit to you that we have presented you with
8 everything that we had in this case to prove the elements of
9 the law that I just set in front of you, so that you will
10 return a verdict of guilty in this case. And that -- that is
11 all. Nothing further for the State.

12 THE COURT: Ms. Zmroczek?

13 MS. ZMROCZEK: Good afternoon. We're into the next
14 week, but we finally reached the end of our attorney and I'm
15 sure, on behalf of my colleagues as well, I want to thank you
16 for the kind attention that you pay to this case because
17 that's what it deserves.

18 At this point, I hope that you have more questions than
19 answers. I want to talk to you about that. Way back the
20 beginning of our country, some Boston police officers were
21 accused of a massacre. A knock comes to John Adams door, a
22 man, a father, a lawyer, saying, we need for you to defend
23 these gentlemen accused in this lien.

24 Ladies and gentlemen, I stand here not only representing
25 Mr. Toatley the constitution because now we are here

1 representing Mr. Toatley. The judge is going to tell you the
2 law. She's going to read it to you. Going to be a lot of
3 words. But what's important is the law applied to the facts
4 and the facts as you each individually determine that they
5 are. How I've broken down my closing and -- and it shouldn't
6 take too long, but I've kind of broken it down.

7 I want to talk to you a little bit about the burdens.
8 In this case, I want to talk to you about the evidence, what
9 I think it shows. And then I want to talk to you about some
10 questions that I want for you to pose to the State because
11 when I'm done, I sit down and I don't get to come up again.
12 The State gets an opportunity to come up and -- and do what
13 we call a rebuttal argument. And they get to do that because
14 the burden, as the judge will tell you, is always on them, to
15 prove each and every element of each and every aspect of this
16 case beyond a reasonable doubt.

17 And although we put up witnesses and we put up evidence
18 and I cross-examined witnesses, we are not required to do so
19 because those are the constitutional protections that we
20 have. I could have sat back, said nothing, not -- not
21 question one witness, not put any evidence in front of you,
22 and the burden would still be on the State. That's the
23 highest burden in American jurisprudence, beyond a reasonable
24 doubt. So one of the things I want to talk to you about are
25 some of the reasons to doubt.

1 I want to start with, like I said, this State's case.
2 As an impassioned closing about life going forward and ending
3 when we remain silent. Judge is going to be very -- very
4 clear to you, but you cannot decide this case on empathy or
5 sympathy or emotions that you just take the facts as you find
6 them and apply them to the law. So what evidence did the
7 State present? The video, from different angles. Ladies and
8 gentlemen, actually watch that video and then you compare it
9 with the other evidence they put in about spot shooter times.

10

11 One of the things that the judge is going to tell you is
12 that you get to weigh the credibility, the believability of
13 the evidence, not just from the witnesses, but all the
14 evidence that you see.

15 So one of the questions that I want you to ask the State
16 when they come back up, or as you're deliberating, if that
17 video is so accurate, why aren't the times adding up? Didn't
18 hear any testimony about that. The entire State of South
19 Carolina and all its power, but they can't give 12 citizens
20 competent evidence.

21 You heard Investigator Eisenhower, it was on video. We
22 didn't need to investigate. Ladies and gentlemen, that's not
23 what the constitution says. And I know it seems like I'm
24 attacking the police, but that's their job. We all have a
25 job. They want you to -- to know that they collected Bria's

1 phone and then they collect -- they collected Ms. Bethel's
2 phone and they collected Mr. Smith's phone and they collected
3 Corey Dinkin's phone, but they didn't look at any of those
4 other phones, just for your record.

5 They don't -- don't -- don't confuse me with -- with
6 questions. Don't confuse me about what else was going on
7 that night. Ladies and gentlemen, the one thing that I can
8 agree with the State on is this. You don't leave your common
9 sense at the door. State wants you to believe that this was
10 all over a hand touch. They want you to listen to the
11 witnesses, as do I. The judge is going to talk to you about
12 credibility and believability. Because ladies and gentlemen,
13 if you're going to lie about the little things and why
14 wouldn't you lie about the big things. Are you meaning to
15 tell me that Jamica Bethel been friends with Corey Dinkins
16 since she was 16 years old and you can't remember his phone
17 number?

18 Why -- why would she just give me his phone number?
19 What's in that book? Are you going to tell me that Pam
20 Dinkins was married to Curtis Dinkins for 15 years and dated
21 him for 27 years, but can't remember his phone number. The
22 State -- McDonald testified that he extracted two of those
23 phones, but nobody bothered to look at them. The defense had
24 to go and extract the third phone, but nobody can remember
25 anybody's number because they don't want to identify

1 anything. But we know from the testimony, if you're to
2 believe it, that Ms. Bethel's phone was right there on the
3 ground, a confident and thorough investigation, not a perfect
4 investigation, not a perfect one, just a confident one.

5 Ladies and gentlemen, the man in the red shorts who had
6 the gun in his pocket and it fell out and Mr. Toatley picks
7 it up. They know where he is, man. He didn't commit any
8 crimes then. They don't need to talk to him. Pope Hope has
9 \$3,000 on him. Refuses to take his pants off at the hospital
10 because of religious reasons, but they want you to believe
11 everything else that he said. Ladies and gentlemen, here's
12 my problem with this case. In my 15 years, 15 years of being
13 criminal defense attorney, I have never ever called a firearm
14 and tool mark investigator to the stand in my case. That's
15 not my evidence. That was provided to me. He works for the
16 State. He works for Richland County, and this is the most
17 important evidence that I want to talk about. This is
18 probably where I'll spend the most time.

19 So what you're going to see when you go back there,
20 you'll get all the a admitted evidence. So some of it was
21 for ID, so you won't get that, but some of it, a lot of it
22 was admitted. Defense Number 7 was admitted. And each and
23 every one of you all, as you're deliberating, you get to go
24 through each piece of evidence and examined for yourself.

25 And I implore you to look at State's Number 7 because it

1 identifies for you the item number in red, a description of
2 what it was and where. And, yeah, a description of where it
3 was. So where the evidence came from. Okay? I had to put
4 this evidence in, ladies and gentlemen, the State provided it
5 to you to me, but they didn't call evidence. And let me tell
6 you why they didn't. You heard -- you heard the firearm and
7 tool mark investigator testify. Second firearm. When I sit
8 down and the State comes up, I can't come back and say, oh,
9 but what about this? But that's why you all were selected.
10 So you can hold the State to that burden.

11 Because when you take Defendant's Number 7 and you
12 listened and you recall the testimony, firearm report of
13 firearms related to a gun that they collected, okay? So
14 there were several items that matched a gun they collected
15 from a different case. These will be in evidence in these
16 pictures, shells casings, fire -- fire cartridge casings,
17 right? Number nine projectile. That one matched that gun
18 that they got. Number 12, number 13, number 14, all these
19 matched each other and the gun.

20 Number 15, A and B placard right under the driver's
21 seat. A and C placard, fire cartridge, shell casing. A and
22 E, A and D. All of those matched the -- to the firearm that
23 they later collected. Some of them were outside of the
24 rental car or the decedent's car. But these all matched the
25 gun that they collected. Ladies and gentlemen, one of the

1 reasons that we allow ordinary citizens to come in and make
2 these determinations of fact is because things have to make
3 sense. All right? Things that don't make sense, again, and
4 you'll get these in Defendant 7, a second firearm, my -- item
5 number one and item number two, located directly in front of
6 the vehicle that was shot -- directly in front.

7 And then as Investigator Eisenhower did, you get to
8 watch that videos -- those videos over and over and over and
9 over. So -- so look closely because you'll get to see that
10 there were no shell casings there before. So one and two,
11 right in front of the vehicle, don't match. Number 10 from
12 inside the vehicle, fire cartridge casing doesn't match.
13 Placard AA on the windshield of the vehicle. AC, in the --
14 in the vehicle itself. And then 17.

15 I had the investigator read his conclusions to you, and
16 his conclusions were item 63, 64, 66, 67, 68 and 74 cartridge
17 casing were fired from a second firearm. And I suspect that
18 the State may come up and say, well, but remember how he
19 demonstrated that it could be a second firearm if it were
20 disabled? Watch the video ladies and gentlemen, because the
21 amount of time that this went down, I submit, you won't see
22 any gun barrel changes. And why? Why? Why won't somebody
23 just admit that they had a gun? Because then ladies and
24 gentlemen, it would be, as I said, an opening, not a murder,
25 but a voluntary manslaughter.

1 But the judge isn't going to charge you on that, so you
2 can't even consider it. You can only consider the charges
3 that are in front of him. Murder, now support that. See who
4 had the gun first and then it dropped. Ask yourself, why?
5 Why? Why? Is it really just the touch of a hand or is there
6 something more going on that nobody will tell us?

7 Attempted murder. The judge is going to tell you and
8 instruct you that you must find a specific intent to kill.
9 And ladies and gentlemen, my biggest problem with this is --
10 is when it comes to Ms. Beth. A specific intent to kill.
11 Remember how she testified that the windows were down and
12 that's how she was hearing and talking and -- and, again,
13 you'll get the pictures, you'll get the video, judge for
14 yourself if the windows were down. Anyway because that
15 weighs on her credibility.

16 The judge is not also going to charge you with assault
17 and battery, which is a lesser included offense of attempted
18 murder for Ms. Beth. Ladies and gentlemen, I submit there is
19 no evidence of any specific intent to kill anybody that are
20 in the attempted murders. Why with all the time, this
21 happened in December 19, 2020. So here we are two and a half
22 years later, and the State still hasn't looked at anybody's
23 cell phone except for (inaudible). When you take all of this
24 back, you have to weigh each of these evidence and these --
25 and these scientific evidence, this -- this gun evidence,

1 it's based in science. I mean you heard him testify about
2 his training, his knowledge, the fact that it was peer
3 reviewed by someone else in Richland County.

4 What doesn't make sense to me, ladies and gentlemen, is
5 why we can't just know what happened. Why can't Pope Hope
6 tell us that he may or may not have sent a gun picture? Why?
7 Why can't he remember? He testified that nobody else had his
8 phone. Why did they bring these shell casings to be tested
9 if they're then just going to discard the science because
10 they don't match what they see? Interesting, Investigator
11 Eisenhower testified that he has watched hours and hours and
12 hours of this -- these same clips of videos, over and over
13 and sees different things.

14 The beauty of our system, ladies and gentlemen, is that
15 you get to look at it and you get to decide. And if you are
16 not convinced beyond a reasonable doubt, then your job is
17 simple. The judge is going to tell you that you must find
18 him not guilty. And just like John Adams, when he freed
19 those Boston soldiers, regardless of the cries of the people,
20 he followed the law. He did the right thing. Ladies and
21 gentlemen, as I close my case and I sit down, I now hand this
22 case over to you because the judge is going to tell you that
23 every person is presumed innocent of the charges for which
24 they're charged. And now you have that responsibility.
25 Question the evidence. Question what we're missing.

1 Because ladies and gentlemen, the science says there
2 were two events, and why? It is a difficult job, but you all
3 were selected because the answers you provided, the attention
4 that you've paid to the witnesses, and be confident that you
5 can vote not guilty because they have not proven Mr. Toatley
6 guilty of the crimes of what he's charged beyond a reasonable
7 doubt. Thank you.

8 THE COURT: Ms. Darko.

9 MS. DARKO: Thank you, Your Honor. Ms. Zmroczek is
10 focused on whether or not the hand touch or something else
11 that we don't know about formed the basis for the mouse in
12 this case. And under the law, it doesn't matter. Whether
13 the malice was in Mr. Toatley's heart for an instant or a day
14 or weeks, none of that matters. But what is in front of you
15 is that there is this hand touch. There's no interaction
16 between these parties when they're out on the sidewalk as Mr.
17 Pope is or Pope is walking into the store. There's no
18 interaction until he literally just brushes his hand and then
19 it doesn't stop. It just goes on and on and on.

20 Much has been made about the shell casings in this case
21 and the projectiles. There's no doubt when you watch that
22 video that the gun that totally fire, that those bullets land
23 in the victims, those projectiles match. What the firearms
24 expert explained is that the gun frames that actually housed
25 that barrel, those are different. There was a switching out.

1 That doesn't mean a switching out between shots or while
2 you're standing there on scene, but there was a lot of time
3 in that Crown Vic. A lot of time, more than enough time to
4 switch out barrels.

5 He's not bending his findings to a video or conforming
6 it to anything that is convenient. It is what it is. Those
7 projectiles should match and they do. We see those
8 projectiles go into those victims on the video. Ms. Zmroczek
9 said that Investigator Eisenhower said it was on video. We
10 didn't need to investigate. That is not what Investigator
11 Eisenhower said on the stand. In fact, he told you that they
12 interviewed and brought in multiple witnesses to do photo
13 lineups to give Statements that he spent the day in a
14 dumpster looking for a weapon, that they had GSR, that they
15 did DNA testing, that they did fingerprint testing, and that
16 they followed the leads, if there were any, a connection with
17 those things.

18 But ultimately, they did have this on video. And Ms.
19 Zmroczek conceded in our opening that this case isn't about
20 ID. We know who's in that video. We know what happened.
21 The rest is really distraction. What is being made about
22 whether or not somebody had a gun? Don't you think if
23 somebody had a gun this would be a different case entirely.
24 Common sense, just like you said, if you had a way to defend
25 yourself in that scenario, would you?

1 There's also been questions about when this occurred and
2 Ms. Zmroczek asked the shot spotter analyst, were there any
3 other shots? No, just these. The idea that something
4 nefarious is going on or that there wasn't a -- an
5 investigation because it's on video, that's a
6 misrepresentation, a distraction. I want you to go back into
7 that jury room and focus on what's before you, what's in that
8 video, and use your common sense. If there's another gun,
9 don't you think somebody would've used it? Nothing further.

10 THE COURT: All right. Folks, it's now time for me to
11 charge you on the law that applies to this case. I remind
12 you that during this trial you and I have certain duties to
13 perform. As the trial judge it is my responsibility to
14 preside with the trial of this case and I also have the duty
15 to rule on the admissibility of the evidence offered during
16 this trial. You are to consider only the competent evidence
17 before you, including the testimony which has been presented
18 from this witness stand, any exhibits which have been made a
19 part of the record in this case, and any stipulations of
20 counsel.

21 I have the additional duty to charge you the law
22 applicable to this case. As the presiding judge, I'm the
23 sole judge of the law of this case and it is your duty as
24 jurors to accept and apply the law as I now stated to you.
25 If you already have any idea as to what the law is or what

1 the law ought to be and it does not agree with what I now
2 tell you the law is, you must abandon this idea because you
3 were sworn to accept the law and apply the law exactly as I
4 Stated to you.

5 In every case, try in this Court before a jury, the jury
6 becomes the sole and exclusive judges of the facts. A trial
7 judge cannot intimate, state, comment on or make any
8 statement to a trial jury about the facts in a case. Since
9 you the jury are the sole judges of the facts in this case,
10 do not infer from anything that I have said during the
11 progress of this trial or anything that I say now during the
12 course of this instruction to you that I have any opinion
13 about the facts in this case, the law does not allow me to
14 have an opinion about the facts in this case. This is a
15 matter solely for you, the jury to determine.

16 The indictments charged the defendant with two counts of
17 murder, two counts of attempted murder, and one count of
18 possession of a weapon during the commission of a violent
19 crime. I remind you that the fact that the defendant was
20 arrested, charged, and indicted is not evidence in this case
21 and cannot be considered by you as evidence of guilt in this
22 case, nor does it create any presumption or inference of
23 guilt.

24 These documents are simply the formal written
25 instruments which contain the charges made against the

1 defendant. They're the formal documents by which this case
2 is brought into this Court. The indictments alleged several
3 different offenses against the defendant. The charges are
4 two counts of murder, one count of possession of a weapon
5 during the commission of a violent crime, and two counts of
6 attempted murder. Each indictment charges a separate and
7 distinct offense. You must decide each indictment separately
8 on the evidence and the law applicable to it uninfluenced by
9 your decision as to any other indictment.

10 The defendant may be convicted or acquitted on any or
11 all of the offenses charged. You'll be asked to write a
12 separate verdict of guilty or not guilty for each indictment.
13 The defendant has pled not guilty to each of these
14 indictments and that plea puts the burden on the State to
15 prove the defendant guilty of the offenses charged and each
16 of the indictments. A person charged with committing a
17 criminal offense in South Carolina is never required to prove
18 himself innocent.

19 I charge you that it is an important rule of the law
20 that the defendant in a criminal trial, no matter what the
21 seriousness of the charge may be, will always be presumed to
22 be innocent of the crime for which the indictment was issued.
23 Unless guilt has been proven by evidence satisfying you of
24 that guilt beyond a reasonable doubt. This presumption of
25 innocence does not end when you begin your deliberations, but

1 it accompanies the defendant throughout the trial until you
2 reach a verdict of guilt based on evidence satisfying you of
3 that guilt beyond a reasonable doubt.

4 The presumption of innocence is like a robe of
5 righteousness, placed about the shoulders of the defendant,
6 which remains with the defendant until it has been stripped
7 from him by evidence satisfying you of the defendant's guilt
8 beyond a reasonable doubt. The presumption of innocence is
9 not a merely legal theory. It is not just a legal phrase.
10 It is a substantial right to which every defendant is
11 entitled unless you, the jury, are satisfied from the
12 evidence of the defendant's guilt beyond a reasonable doubt.

13 Now, what is a reasonable doubt in the law? A
14 reasonable doubt is the kind of doubt that will cause a
15 reasonable person to hesitate to act. The State has the
16 burden of proving the defendant guilty beyond a reasonable
17 doubt. Some of you may have served as jurors in civil cases
18 where you were told that it is only necessary to prove that a
19 fact is more likely true than not true, such as by the
20 greater weight or preponderance of the evidence.

21 In criminal cases, the State's proof must be more
22 powerful than that. It must be beyond a reasonable doubt.
23 Proof beyond a reasonable doubt is proof that leaves you
24 firmly convinced of the defendant's guilt. There are very
25 few things in this world that we know with absolute

1 certainty, and in criminal cases the law does not require
2 proof that overcomes every possible doubt. If based on your
3 consideration of the evidence you are firmly convinced that
4 the defendant is guilty of the crime charge, you must find
5 the defendant guilty. If on the other hand you think that
6 there is a real possibility that the defendant is not guilty,
7 you must give the defendant the benefit of the doubt and find
8 him not guilty.

9 There are two types of evidence which are generally
10 presented during the trial, direct evidence, and
11 circumstantial evidence. Direct evidence is the testimony of
12 a person who claims to have actual knowledge of a fact such
13 as an eyewitness. It is evidence which immediately
14 establishes the main fact to be proved and does not require
15 deduction. Circumstantial evidence is proof of a chain of
16 facts and circumstances indicating the existence of a fact.
17 It is evidence which immediately -- immediately establishes
18 collateral facts from which the main fact may be inferred.
19 Circumstantial evidence is based on inference and not on
20 personal knowledge or observation.

21 The law makes absolutely no distinction between the
22 weight or value to be given to either direct or
23 circumstantial evidence. Nor does a greater degree of
24 certainty require circumstantial evidence than of direct
25 evidence. However, to the extent that the State relies on

1 circumstantial evidence, the circumstances must be consistent
2 with each other and when taken together point conclusively to
3 the defendant's guilt beyond a reasonable doubt.

4 If the circumstances merely portray the defendant's
5 behavior as suspicious, the proof has failed. The burden of
6 proof rests with the State. Regardless of whether the State
7 relies on direct evidence, circumstantial evidence, or some
8 combination of the two, you should weigh all of the evidence
9 in the case. After weighing all of the evidence if you are
10 not convinced of the guilt of the defendant beyond a
11 reasonable doubt, you must find the defendant not guilty.

12 Necessarily, you must determine the credibility of
13 witnesses who have testified in this case. Credibility
14 simply means believability. It becomes your duty as jurors
15 to analyze and to evaluate the evidence and determine which
16 evidence convinces you of its truth. In determining the
17 believability of witnesses who have testified in this case,
18 you may believe one witness over several witnesses or several
19 witnesses over one witness. You may believe a part of the
20 testimony of a witness and reject the remaining part of the
21 testimony of that same witness. You may believe the
22 testimony of a witness in its entirety or reject the
23 testimony of a witness in its entirety. You may consider
24 whether any witness has exhibited to you any interest, bias,
25 prejudice, or other motive in this case. You may also

1 consider the appearance and manner of a witness while on the
2 witness stand.

3 There has been evidence presented that witnesses have
4 made prior statements which are not consistent with the
5 witness's present testimony. You may use this evidence to
6 decide whether to believe the witness. You may also use
7 evidence of the earlier contradictory statements to determine
8 the truth of those statements. It is up to you to decide
9 whether to believe the earlier statements or the testimony
10 given at trial.

11 If a witness is shown to have knowingly testified
12 untruthfully concerning any material matter, you may consider
13 this in determining whether to trust the witness's testimony
14 as to other matters. You may reject all testimony of that
15 witness or give all or part of the testimony the weight you
16 think it deserves. A person who has a past criminal record
17 is competent to testify during a trial. A past record does
18 not affect the ability of that witness to testify. The past
19 record may only be considered by you, if at all, in
20 determining the witness's believability. Remember that you
21 are the sole judges of the facts in this case and of the
22 believability of any and all witnesses.

23 The rules of evidence ordinarily do not permit witnesses
24 to testify to opinions or conclusions. An exception to this
25 rule exists for witnesses we call expert witnesses. A

1 witness who by education and experience has become expert in
2 some art science profession or calling may state an opinion
3 as to relevant and material matter in which the witness
4 claims to be an expert, and may also state the reasons for
5 the opinion. You should consider any expert opinion received
6 in evidence in this case and like any other evidence, give it
7 the weight you think it deserves.

8 If you decide that the opinion of an expert witness is
9 not based on sufficient education and experience, or if you
10 conclude that the reasons given in support of the opinion are
11 not sound, or that the -- the opinion is outweighed by other
12 evidence, you may disregard the -- the opinion entirely. An
13 expert witness's testimony is to be given no greater weight
14 than that of other witnesses simply because the witness is an
15 expert. Further, you are not required to accept an expert's
16 opinion even though it is not contradicted.

17 I instruct you and emphasize that the fact that the
18 defendant did not testify is not a factor to be considered by
19 you in any way in your deliberation or in your consideration
20 of the question of the guilt or innocence of the defendant.
21 It must not be considered by you in any manner whatsoever. A
22 defendant has the constitutional right to remain silent and
23 the insertion of this right must not be considered by you in
24 your deliberations. I repeat under your oath you are to draw
25 no conclusion whatsoever from the fact that the defendant in

1 this case did not testify. The -- the fact that this
2 defendant did not testify should not even be discussed in the
3 jury room.

4 The burden of proof, as I've stated to you is on the
5 State. The defendant is not required to prove his innocence.
6 The burden of proof remains on the State to prove guilt
7 beyond a reasonable doubt. An issue in this case is the
8 identification of the defendant as the person who committed
9 the crime charged. The State has the burden of proving
10 identity beyond a reasonable doubt. You must be satisfied
11 beyond a reasonable doubt of the accuracy of the
12 identification of the defendant before you may convict the
13 defendant.

14 Identification testimony is an expression of belief or
15 impression by an eye witness or by any witness. You must
16 determine the accuracy of the identification of the
17 defendant. You must consider the believability of each
18 identification witness in the same way as any other witness.
19 You may consider whether the witness had an adequate
20 opportunity to observe the offender at the time of the
21 offense. This will be affected by things like how long or
22 short a time was available, how far or close the witness was,
23 the lighting conditions, and whether the witness had the
24 chance to see or know the person in the past.

25 Once again, I instruct you the burden of proof on the

1 State extends to every element of the crime charged and this
2 specifically includes the burden of proving beyond a
3 reasonable doubt the identity of the defendant as the person
4 who committed the crime. If after examining the testimony
5 you have a reasonable doubt as to the accuracy of the
6 identification, you must find the defendant not guilty.

7 In order to establish criminal liability, criminal
8 intent is required. For example, the mental state required
9 to be proven by the State for a particular crime might be
10 purpose, intent, knowledge, recklessness, or criminal
11 negligence. Criminal intent must be proven by the State
12 beyond a reasonable doubt. Criminal intent is always a
13 matter that must be determined by the jury from the
14 circumstances surrounding the situation. There is no way to
15 prove intent to a mathematical certainty. There is no way
16 that medical science can dissect a person's brain and
17 determine what the person had in mind.

18 So the law says that criminal intent may be inferred
19 from the circumstances shown to have existed. This is how
20 you make a determination of whether or not the element
21 requiring intent was present. It is not necessarily to
22 establish intent by direct and positive evidence, but intent
23 may be established by inference in the same way as any other
24 fact. By taking into -- into consideration the acts of the
25 parties and all of the facts and circumstances of the case.

1 Criminal intent is a mental State, a conscious
2 wrongdoing. It is up to you to determine what the defendant
3 intended to do based on the circumstances shown to have
4 existed. The defendant is charged with two counts of murder
5 in this case. Therefore, the State must prove beyond a
6 reasonable doubt as to each count that the defendant killed
7 another person with malice of forethought. Malice is hatred,
8 ill will, or hostility towards another person. It is the
9 intentional doing of a wrongful act without just cause or
10 excuse and with an intent to inflict an injury or under
11 circumstances that the law will infer an evil intent.

12 In its legal sense, however, malice does not necessarily
13 mean ill will towards the individual injured, but signifies a
14 general and malignant recklessness of the lives and safety of
15 others or a condition of the mind, which shows a depraved
16 heart regardless of social duty and fatally bent on mischief.
17 In other words, a malicious killing is where the act is done
18 without legal justification, excuse, or extenuation. And
19 malice has been frequently substantially so defined as
20 consisting of the intentional doing of a wrongful act toward
21 another without legal justification or excuse.

22 Malice of forethought does not require that malice
23 exists for any particular time before the act is committed.
24 But malice must exist in the mind of the defendant just
25 before and at the time the act is committed. Therefore,

1 there must be a combination of the previous evil intent and
2 the act. Malice may be conceived at the very moment the
3 fatal blow is given. It is sufficient in the law if the
4 combination of the evil intent and act produced the fatal
5 result. Malice of forethought may be expressed or inferred.
6 These terms do not mean different kinds of malice, but merely
7 the manner in which malice is shown to exist. That is either
8 by direct evidence or by inference from the facts and
9 circumstances -- facts and circumstances which are proven.

10 Express malice is shown when a person speaks words which
11 express hatred or ill will for another. Or when the person
12 prepared beforehand to do the act which was later
13 accomplished. For example, lying in wait for a person or any
14 other acts of preparation, going to show that the deed was
15 within the -- the defendant's mind would be expressed malice.
16 You may find malice if you find that the State has proven
17 beyond a reasonable doubt that the defendant was consciously
18 and unlawfully involved in conduct that constituted an
19 extremely high risk of death or serious injury to others, and
20 that he was acting with such recklessness and wantonness as
21 to indicate a depravity of mind and disregard for human life.
22 Beyond a reckless disregard for the safety of others rising
23 to the level where he consciously disregarded the extremely
24 high risk of death that this conduct was creating.

25 Where this state of mind exists, it is known as a

1 depraved heart or a malignant heart. And if a defendant
2 having such a mental state and acting with malice of
3 forethought engages in such conduct that acts as approximate
4 cause of the unlawful death of another person, it does not
5 matter whether he actually intended to kill anyone. He may
6 be found guilty of murder.

7 The defendant is also charged with two counts of
8 attempted murder. In order to prove this crime, the State
9 must prove that the defendant had the specific intent to kill
10 the alleged victims with malice of forethought. The same
11 definition of malice of forethought, which I've previously
12 given applies here as well. Specific intent means that the
13 defendant consciously intended the completion of the acts
14 constituting murder.

15 Attempted murder is the attempt to kill a person with
16 express malice, or more completely defined, attempted murder
17 is the performance of an act or acts which tend but fail to
18 kill a human being when such acts are done with express
19 malice. Namely, the deliberate intent to kill. A specific
20 attempt includes an intent to do a particular criminal act
21 along with an act falling short of the act intended. The
22 State must show more than mere preparation and intent. There
23 must be some overt act committed in the effort to commit the
24 crime.

25 Now, as to Jamica Bethel only, if you find that the

1 State has failed to prove that the defendant is guilty of
2 attempted murder, you must then decide whether the State has
3 proven that the defendant is guilty of assault of a high and
4 aggravated nature. A person commits the offense of assault
5 of a high and aggravated nature if the person unlawfully
6 injures another. And the act is accomplished by means likely
7 to produce death or great bodily injury. Great bodily injury
8 means bodily injury, which causes a substantial risk of death
9 or which causes serious permanent disfigurement or protracted
10 loss or impairment of the function of a bodily member or
11 organ.

12 The defendant is also charged with possession of a
13 weapon during the commission of a violent crime. The State
14 must therefore prove beyond a reasonable doubt that the
15 defendant was in possession of a weapon during the commission
16 of a violent crime. A weapon is any article or instrument
17 which is likely to cause death or great bodily harm. Whether
18 an instrument has been used as a weapon depends on the facts
19 and circumstances of each case. In order to find the
20 defendant guilty of possession of a weapon during the
21 commission of a violent crime, you must first find the
22 defendant guilty of committing a violent crime. Murder and
23 attempted murder are both violent crimes.

24 The State must prove beyond a reasonable doubt that the
25 weapon furthered, advanced, or helped in the commission of

1 the violent crime. Mere presence at the scene is not
2 sufficient to prove someone guilty of a crime. A defendant's
3 presence where a crime is being committed or mere association
4 with the person who commits a crime does not make the
5 defendant an accomplice or an (inaudible) or a better of the
6 person committing the crime, nor does it prove him guilty of
7 a crime.

8 The burden is on the State to prove every element of
9 each of the crimes charged. If after reviewing all of the
10 evidence, you find that the State has proven that the
11 defendant was only present at the scene of the crime, and
12 that they have not proven beyond a reasonable doubt any other
13 participation in the crime, then you must find the defendant
14 not guilty. The law is that proof of the defendant at the
15 scene of the crime by itself is not sufficient to find
16 someone guilty.

17 The issue of intoxication has come up during this trial.
18 Voluntary intoxication is not a defense to a crime. A person
19 who voluntarily becomes intoxicated is just as responsible
20 for the acts committed while intoxicated as he is when the
21 person is not intoxicated.

22 Now, there are two possible verdicts which you may find
23 for each of the indictments in this case, guilty or not
24 guilty. There's no significance whatsoever in the order in
25 which I State these possible verdicts. It's simply that one

1 must be stated first. Now, you have been chosen and sworn to
2 give the parties in this case a fair and impartial trial.
3 When you have done so, you will have complied with your oath
4 and no one will have a right to criticize your verdict.

5 You must not be influenced by opinions or expressions of
6 opinion you may have heard outside of the courtroom, but
7 rather should base your verdict solely on the testimony of
8 the sworn witnesses who took the stand, the exhibits received
9 into evidence, and the law which I have stated. You should
10 not be swayed by caprice, passion, prejudice, or improper
11 sympathy for or against anyone in this case.

12 Remember, you have no friends to reward or enemies to
13 punish, and all parties are entitled to fair and impartial
14 trial. It is your duty as jurors to consult with one another
15 and to deliberate in an effort to reach an agreement. As I
16 stated earlier, you are judges, judges of the facts. Your
17 verdict must represent the considerate judgment of each
18 juror. In other words, your verdict must be unanimous.

19 Now, you may have noticed that I've read these
20 instructions. I do so to give you the law as accurately as
21 possible. Mr. Foreperson, it will be your duty to preside
22 over the jury's deliberations, and if during the
23 deliberations you should desire to communicate with the
24 Court, please reduce your message to writing signed by you as
25 the foreperson and foreperson alone, and pass the note to the

1 bailiff, who will then bring it to my attention. I'll then
2 respond -- respond as promptly as possible.

3 I caution you, however, with respect to any message or
4 question that you send that you should never specify your
5 numerical division. If you've taken a bonus to guilty, not
6 guilty, et cetera. I don't need to know that part. Now,
7 you've heard the evidence and you've heard the law. Whatever
8 your verdict, Mr. Foreperson, you will indicate it on the
9 indictment and then sign it on behalf of the jury.

10 So there's an indictment for each of the charges. Five
11 indictments for all five charges. Each one, on the front,
12 describes the offense charged, it lists the alleged victim's
13 name. But then if you flip it over in the bottom left hand
14 corner, there's a place for the verdict to be written. On
15 each one you'll write guilty or not guilty, and sign it and
16 date it on behalf of the jury. Remember that although the
17 foreperson is the only juror who writes the verdict, it is
18 not his alone. The verdict has to be unanimous. Mr.
19 Foreman, you are not permitted to write the verdict until all
20 jurors have agreed on the verdict.

21 I'm now going to excuse you to the jury room. This is
22 the last time I'll tell you not to begin to discuss the case.
23 The bailiff will bring you all of the evidence in this case
24 and the indictments. Once you receive those, that is your
25 signal to begin deliberating. You'll continue to deliberate

1 until you've reached a verdict. Also, you've seen that lunch
2 is here. You can eat lunch while you deliberate. You cannot
3 deliberate until everyone's finished their lunch. That's
4 totally up to you all to decide, however you want to do it.
5 But you will continue to deliberate until you've reached a
6 verdict.

7 I'll now excuse you from the courtroom. Except to two
8 alternates. The alternates can stay here. The other 12 can
9 retire to the jury room please.

10 Any objections or exceptions to the jury charge from the
11 State?

12 MS. DARKO: Nothing from the State, Your Honor.

13 THE COURT: From the defense?

14 MS. ZMROCZEK: Your Honor, I just renewed my previous
15 objections. Also, I do have an inquiry separately from that
16 objection, about should we need to do a special verdict form
17 on Jamaica Bethel? Because of the list are included. Sorry.
18 As you were reading that, I just -- I -- I wrote it down.

19 THE COURT: (Crosstalk) think about that. I can
20 instruct them just to write it on the indictment. I already
21 instructed them to write on the indictment. I mean, they can
22 write their verdict down here, whatever it is. What's the
23 State's position on that issue?

24 MS. DARKO: I think that's sufficient, Your Honor.

25 THE COURT: Okay. All right. Have you all already gone

1 through evidence? Let's do that now.

2 MS. DARKO: (Inaudible) work it on the -- the --
3 Courtroom laptop so that they can play it. The one that
4 doesn't have any internet access on it, so.

5 THE COURT: Okay. Have you seen that Ms. Zmroczek? In
6 your ---

7 MS. ZMROCZEK: I've tried a lot of cases here, so I'm
8 familiar with it, Your Honor.

9 THE COURT: Okay, let's get the laptop. You all make
10 sure all of the evidence is there. And the alternates, thank
11 you for your being here. Thank you for your participation.
12 You are our backup jurors in case one of the other 12 didn't
13 make it to the finish line, but they all have. So thank you
14 for your time and attention. You are no longer eligible to
15 serve on a jury in circuit court for the remainder of 2023.
16 If you were summoned for jury duty in circuit court only in
17 2024 or 2025, you will have to report that Monday. But you
18 can tell the judge that's doing the qualifications that you
19 served on a jury this week and last week, and they should
20 excuse you provided that they have enough jurors.

21 You're now free to discuss the case with whoever you
22 want to discuss it with, the attorneys, the parties, your
23 friends, your family, post it on Facebook, I don't care.
24 Totally up to you. Make sure -- I'm going to excuse you out
25 the back door because you need to get your cell phones, I'm

1 sure, and also your lunch is back there. If you don't want
2 to talk to anybody, keep on going out that hallway the same
3 way that you have been recording. If you feel like chatting
4 with people, we'll be in here for a minute. You can come on
5 back in the Courtroom, just let the bailiff know. But thank
6 you so much. You're excused.

7 MS. ZMROCZEK: And procedurally, Your Honor ---

8 THE COURT: Yes.

9 MS. ZMROCZEK: I do -- I did have a matter of law that I
10 marked contemporaneously and I think I need to argue before
11 it gets sent back. So my issue, Your Honor throughout the
12 State's closing, and -- and I certainly try not to object,
13 but the third time that it was said, in conjunction with
14 showing the video and seeing Mr. Toatley walk off the video,
15 she said, and you can see him just linking away without any
16 -- or without -- or -- or just going away or --I can't
17 remember the word exactly. But what -- what concerned me,
18 Your Honor, was that the State kept saying that there were
19 witnesses that didn't just slip away, that did give
20 statements. And I at that point had a concern about an
21 inference of Mr. Toatley not giving a statement. I know that
22 the judge -- I know that you charged that they are not to
23 consider that, but I think I do need to move for a mistrial
24 just to -- to protect the record.

25 THE COURT: Can we hear from the State?

1 MS. DARKO: Your Honor, I believe I used the word
2 limping away, referring back to Investigator Eisenhower's
3 statement about how he was able to -- what he thought was
4 significant about the photos of the leg injury and the phone.
5 And Ms. Zmroczek got into with Investigator Eisenhower Shiel
6 Burgess, and why he didn't follow up on that. He said he
7 would not speak to me. I did focus in my closing on those
8 witnesses that were willing to speak to the police and who
9 came in this courtroom and testified. I don't think that --
10 and -- and I will say that Ms. Zmroczek's objection, I
11 believe came after I said to the jury, you know, it's
12 improper for you to make your decision based on sympathy or
13 empathy. And then she made -- made that objection.

14 I certainly don't think that -- I -- I -- I'm quite --
15 I'm surprised that it was construed as commenting on the --
16 the defendant's silence because it was really this testimony
17 that was elicited in terms of Mr. Burgess and why that had
18 not been followed up on. And no -- nothing further, Your
19 Honor.

20 THE COURT: Okay. The motion for a mistrial is
21 respectfully denied. I did not, at the time, and still do
22 not see it as a burden shifting to the extent that that could
23 be argued or somehow construed. I think that any attempt to
24 do that by the State, not -- not that it was intentional, but
25 it would have been cured by the jury charges and my

1 instructions, the repetitive nature of the instruction that
2 he's not ever required to prove himself innocent, that they
3 should not discuss his failure to testify. He has no burden
4 whatsoever, et cetera, et cetera. So motion is respectfully
5 denied. Thank you.

6 All right. Let's make sure all the evidence is there.
7 Here are the indictments. And before we go off the record,
8 it's a note for all the juror. I need a moment to call a --
9 the doctor to confirm that I'm able to come to a procedure
10 tomorrow morning and inform Derek husband, so that the juror
11 can be prepared. I will -- since the evidence is not back
12 there yet, they're not supposed to be deliberating yet, I'll
13 just give them a couple minutes to make whatever phone call
14 necessary before they begin deliberations and instruct them
15 that they can't begin deliberating until all phones have been
16 returned and they're all back there. Unless there's some
17 objection from the State, from the defense.

18 MS. DARKO: No, Your Honor.

19 THE COURT: Thank you. Okay. Y'all check the evidence.
20 I'll go back there, inform the bailiff and we can get going.

21 MS. ZMROCZEK: Your Honor, how will we instruct them on
22 that special verdict?

23 THE COURT: Sorry, I just didn't want to --- sort of
24 self-explanatory that they'll bring it on there. I'll --
25 I'll take that up if it becomes an issue at the end. Okay.

1 Or do you want to wait, Ms. Zmroczek, for your client?

2 MS. ZMROCZEK: Was there a question or is it just that

3 ---

4 THE COURT: It's a question. I mean, that -- that is

5 --- question. So I'll read the question.

6 MS. ZMROCZEK: Okay.

7 THE COURT: Folks, we have a note from the jury. The

8 question is; do you have a charge sheet for the reduced

9 charge for Jamica Bethel? And I've prepared a verdict form

10 that's now been shown to the State and to the defense. I

11 will note for the record that Mr. Toatley is not in the

12 courtroom right now. He was being brought upstairs and --

13 and that led to my question. Do we need to wait for him?

14 Ms. Zmroczek?

15 MS. ZMROCZEK: Your Honor, I -- I don't feel like this

16 is a significant issue. I will explain to him when he comes

17 up, what the question. As long as I can talk to him about

18 it, I think he'll be fine.

19 THE COURT: Okay.

20 MS. ZMROCZEK: Yeah.

21 THE COURT: So is there any objection to this verdict

22 form from the defense?

23 MS. ZMROCZEK: No. No, Your Honor.

24 THE COURT: From the State?

25 MS. DARKO: No.

1 THE COURT: Okay. And we will be at recess. I'm not
2 going to stop them from bringing them up, so you can explain
3 to them when he gets in here, but we'll be back in recess.
4 I'll give this to the jury. Thank you.

5 (Off the record.)

6 THE COURT: All right. Defendant is in the courtroom
7 this time. And I assume Ms. Zmroczek explained to him what
8 happened in his absence.

9 MS. ZMROCZEK: I -- I did, Your Honor. I just explained
10 to him the -- the question, the remedy that we thought was
11 appropriate, and -- and he understood and had no objections.

12 THE COURT: Okay. Wonderful. Bring the jury, please,
13 Mr. Bailiff.

14 THE BAILIFF: Juror seated, Your Honor.

15 THE COURT: Thank you. Mr. Foreman, I understand the
16 jury has reached a verdict; is that correct?

17 MR. FOREMAN: Yes, Your Honor. We made a verdict.

18 THE COURT: Okay. Are they all unanimous as to all five
19 charges?

20 MR. FOREMAN: Yes, Your Honor.

21 THE COURT: Okay. If you would hand the indictments and
22 verdict form to the bailiff, please. Mr. Foreman, as to the
23 charge of attempted murder with the alleged victim, Jamica
24 Bethel, am I to look at the verdict form or what is written
25 on the back of the indictment? I guess is the indictment as

1 to what's written as to the charge of attempted murder?

2 MR. FOREMAN: The verdict form, the other.

3 THE COURT: So look at the verdict form.

4 MR. FOREMAN: Not that one.

5 THE COURT: Okay. Okay, I understand. All right, Madam
6 Clerk, will you publish the verdict?

7 THE CLERK: Yes, Your Honor.

8 THE COURT: Mr. Toatley, please stand.

9 THE CLERK: Indictment number 2021-GS-40-4738, the State
10 of South Carolina versus James Jamal Toatley. Indictment for
11 weapons, possessions weapon during violent crime, if not also
12 sentenced to life without patrol -- parole, or death we, the
13 jury, find the defendant guilty.

14 Indictment number --- indictment number 2021-GS-40-4739,
15 the State of South Carolina versus James Jamal Toatley,
16 indictment for attempted murder. As to the alleged victim,
17 Jamica Bethel, we the jury unanimously find the defendant
18 guilty of assault of a high and aggravated nature.

19 Indictment number 2021-GS-40-4740, the State of South
20 Carolina versus James Jamal Toatley, indictment for attempted
21 murder. We the jury find the defendant guilty. And that's
22 of Pope Hope.

23 Indictment number 2021-GS-40-4725, the State of South
24 Carolina versus James Jamal Toatley, indictment for murder as
25 it relates to Corey Smith. We, the jury, find the defendant

1 guilty.

2 Indictment number 2021-GS-40-4737, the State of South
3 Carolina versus James Jamal Toatley, indictment for murder as
4 it relates to Curtis Dinkins. We, the jury, find the
5 defendant guilty. Sign number 74 person, June the 27, 2023.
6 Mr. Foreman, release your verdicts and the verdicts of the
7 entire jury.

8 MR. FOREMAN: Yes.

9 THE CLERK: Thank you.

10 THE COURT: Anything before the jury's release?

11 MS. ZMROCZEK: We'd ask to poll the jury.

12 THE COURT: Madam Clerk, would you poll the jury?

13 THE CLERK: Yes, Your honor. Ladies and gentlemen, the
14 jury, I'm going to ask you two questions related to your
15 verdict. Please answer yes or no to each question. Juror
16 number 70, were these your verdicts?

17 JUROR NUMBER 70: Yes, ma'am.

18 THE CLERK: Are they still your verdicts?

19 JUROR NUMBER 70: Yes, ma'am.

20 THE CLERK: Juror number 19, were these your verdicts?

21 JUROR NUMBER 19: Yes, ma'am.

22 THE CLERK: Are they still your verdicts?

23 JUROR NUMBER 19: Yes, ma'am.

24 THE CLERK: Number 202; were these your verdicts?

25 JUROR NUMBER 202: Yes.

1 THE CLERK: Are they still your verdicts?
2 JUROR NUMBER 202: Yes.
3 THE CLERK: Number 264; were these your verdicts?
4 JUROR NUMBER 264: Yes.
5 THE CLERK: Are they still your verdicts?
6 JUROR NUMBER 264: Yes.
7 THE CLERK: Number 333; were these your verdicts?
8 JUROR NUMBER 333: Yes.
9 THE CLERK: Are they still your verdicts?
10 JUROR NUMBER 333: Yes.
11 THE CLERK: Number 98; were these your verdicts?
12 JUROR NUMBER 98: Yes.
13 THE CLERK: Are they still your verdicts?
14 JUROR NUMBER 98: Yes.
15 THE CLERK: Number 103; were these your verdicts?
16 JUROR NUMBER 103: Yes.
17 THE CLERK: Are they still your verdicts?
18 JUROR NUMBER 103: Yes.
19 THE CLERK: Number 115; were these your verdicts?
20 JUROR NUMBER 115: Yes.
21 THE CLERK: Are they still your verdicts?
22 JUROR NUMBER 115: Yes.
23 THE CLERK: Number 207; were these your verdicts?
24 JUROR NUMBER 207: Yes.
25 THE CLERK: Are they still your verdicts?

1 JUROR NUMBER 207: Yes.

2 THE CLERK: Number 1; were these your verdicts?

3 JUROR NUMBER 1: Yes.

4 THE CLERK: Are they still your verdicts?

5 JUROR NUMBER 1: Yes.

6 THE CLERK: Number 32; were these your verdicts?

7 JUROR NUMBER 32: Yes.

8 THE CLERK: Are they still your verdicts?

9 JUROR NUMBER 32: Yes.

10 THE CLERK: Number 142; were these your verdicts?

11 JUROR NUMBER 142: Yes.

12 THE CLERK: Are they still your verdicts?

13 JUROR NUMBER 142: Yes.

14 THE CLERK: The jurors been polled, Your Honor.

15 THE COURT: Thank you. Ladies and gentlemen, thank you,
16 thank you, and thank you for your service. You know, you are
17 told when you report that jury service last one week.

18 Unfortunately, this went past one week. It was a short week
19 last week, but we appreciate you being here, your time, your
20 attention, and your punctuality. We can't do what we do
21 without people like you showing up and doing what you have
22 done. So I absolutely appreciate that. On -- on my own
23 behalf, on behalf of law enforcement, the parties, the
24 solicitor's office, Mr. Toatley even, I thank you for that.

25 Your jury service is now complete. You are no longer

1 eligible to serve on a jury for the remainder of 2023. If
2 you're summoned for jury duty in 2024 or 2025, you will have
3 to report, but you can exercise an extension. You'll just
4 tell the judge that you served on a jury this week. You're
5 also now free to discuss the case with whoever you want to
6 discuss it with, your friends, your family, strangers, and
7 best friend. Anyone, everyone, no one, it is totally up to
8 you.

9 The next phase of this process, after I dismiss you is
10 that I will sentence Mr. Toatley. You see on TV sometimes,
11 or even here in the news, that in some other states or in
12 federal court, something like that, sentencing happens some
13 considerable period later, especially in federal court, you
14 know, the federal judge accepts a guilty plea or gets a
15 guilty verdict. And then there are a number of months that
16 pass between the conviction and the sentencing. In State
17 Court in South Carolina, absent a few exceptions, we don't do
18 it that way. The sentencing happens immediately.

19 So this afternoon I will sentence Mr. Toatley for the
20 crimes that you have found him guilty of. That'll happen.
21 And I say this afternoon, it'll happen in 10 or 15 minutes or
22 so. And I tell you that because although I'm going to
23 release you, you're free to go, if you are interested in the
24 sentencing and you want to hear what happens or observe --
25 observe what happens during that, you are free to come back

1 in the courtroom. I'm going to excuse you out the back door.
2 You can get any leftovers that you have, your phones, and any
3 personal belongings you may have left in the jury room.

4 And then if you want to come back into the courtroom
5 we're going to take just a short break, but like I said, it
6 won't be more than 10 -- my phone.

7 (Phone Rings.)

8 Sorry. We (inaudible) a break. My fault. It won't be
9 more than 10 or 15 minutes before we get to that. So you can
10 go out the way that you have been leaving in the afternoons
11 and then just come and sit in the back of the courtroom if
12 you choose to do that. You're not required to, but I just
13 wanted to give you that information so that you know you have
14 the option. So thanks again for your jury service. You're
15 now free to go.

16 And counsel, let's take a brief recess while the State
17 gets some sentencing sheets, I'll hear any post-trial motions
18 and all of that immediately before sentencing. So we'll be
19 at least for 10 minutes or so. Thank you.

20 (Off the record.)

21 THE COURT: All right, well, defendant, come forward for
22 sentencing.

23 MS. ZMROCZEK: Your Honor, did you want me to make my
24 mistrial motion ---

25 THE COURT: It's okay.

1 MS. ZMROCZEK: Okay.

2 THE COURT: Ms. Zmroczek, before we get sentencing,
3 post-trial motions.

4 MS. ZMROCZEK: Thank you. Your Honor, at this time I
5 would renew my objection specifically to the jury charges and
6 the mistrial for the reasons that I laid out. I do believe I
7 verbalized that. I don't think anything has changed in my
8 argument, but I did want to make sure that for the record I
9 renewed those.

10 THE COURT: Yes, ma'am. My rules remain the same.

11 MS. ZMROCZEK: And additionally, I know I've been doing
12 it at every stage, but I also wish to preserve all the
13 objections previously entered into.

14 THE COURT: Yes, ma'am.

15 MS. ZMROCZEK: Thank you.

16 THE COURT: Anything else in the way of post-trial
17 motions?

18 MS. ZMROCZEK: Nothing, Your Honor.

19 THE COURT: All right. Let me have the State come
20 forward up here, Ms. Darko. So that I can see you. Yes,
21 ma'am.

22 MS. DARKO: All right. Thank you, Your Honor. You've
23 already heard all -- all the facts and evidence in this case,
24 and certainly what strikes me is exactly what Mr. Waltman
25 addressed in his opening statement. That this is -- what --

1 this is the type of case that necessitates our community,
2 having shot spotter in it. Unfortunately this is a public
3 space where people are going to about their business and it
4 was a -- a brutal senseless murder and attempted murder of
5 these -- the victims in this case.

6 Seated in the courtroom today, Your Honor, is Corey
7 Smith's family who's been here throughout the trial. I will
8 say that they asked me to present to the Court a like a 30
9 second video clip and some photos of him, which I've reviewed
10 just so that because they entered all of these other images
11 that they want that to sort of be the last perimeter on the
12 Court. Obviously Ms. Pam Dinkins, who we've heard from is
13 Curtis Dinkin's wife. I believe Ms. Hel (ph) has hand a
14 statement up. She did not. Okay. She was going to hand a
15 statement to Nicole, and I don't believe that Pope is present
16 in the courtroom today either.

17 Would -- is it acceptable for me to read his priors to
18 Your Honor at this point?

19 THE COURT: Yes, ma'am.

20 MS. DARKO: His priors kind of go in with the facts in
21 this case, Your Honor. Mr. Toatley was convicted of shooting
22 into an occupied vehicle in 2009, and then he was also
23 convicted federally of conspiracy to distribute cocaine, and
24 I believe two counts of conspiracy to distribute heroin. He
25 was sentenced to 120 months in that case. He was allowed to

1 get out on early supervised release. He's going to have
2 about 60 months in the community. And he came down here, I
3 believe, on a transfer. He was released on April, 2020, and
4 I believe by August he had acquired a domestic violence
5 second charge with Ms. Ruffin that led to them seeking to
6 revoke that probation.

7 So he actually was -- they were looking for him
8 federally at that point. They were not able to apprehend
9 him, and then this incident occurred in December. So that is
10 the history of -- of his priors and sort of how we find
11 ourselves here today.

12 I'm not going to belabor the Court with what I think is
13 an appropriate sentence because I think that Your Honor
14 probably knows what I think is appropriate given the fact
15 that I offered 50 years in this case that was a client in the
16 encounter in this case was 40. With that, Your Honor, I
17 think it's most appropriate just to let the victims be heard.

18 THE COURT: Absolutely. Who would like to speak? You
19 would first tell me your name.

20 MS. SMITH: Valerie Smith.

21 THE COURT: Okay. Yes, Ms. Smith.

22 MS. SMITH: I'm Corey's mum. Corey was my number 10 --
23 the number 10 child in my family. My mom was -- and my
24 parents were the parents to 12 kids. Corey's mom was my
25 number 10 sibling. And when Corey's moms passed away in

1 2009, he was just totally lost and devastated and never
2 really recovered from her death. And to just -- just one of
3 the most humble young men. Although the portrait that was
4 portrayed of him was a little different to the Court. He was
5 very -- a very well respectable young man. Just always, yes
6 ma'am, Aunt Val.

7 And he's a tremendous loss to this family, especially
8 during the holidays. And it's been very hard, but through
9 prayer and faith and the Lord. I just thank God for this day
10 and I ask that you just take our family into consideration
11 and the loss, and we really thank the Court for everything
12 that you've done for our family. Thank you.

13 THE COURT: Thank you. Tell me how old Corey was when
14 he was killed.

15 MS. SMITH: 42 -- 42.

16 THE COURT: 42. Thank you, ma'am. Hi, tell me your
17 name.

18 MS. TIFFANY SMITH: Tiffany Smith.

19 THE COURT: Yes, ma'am.

20 MS. TIFFANY SMITH: Your Honor, I'm Corey's only
21 sibling. This is probably the third hardest thing I've ever
22 encountered, speaking on the behalf of my deceased brother.
23 The first being losing my mom in 2009, and the second being
24 losing my only sibling, my brother Corey Smith in 2020 in
25 such a violent way. As I sit here in this courtroom and

1 listen to the prosecutors and the defense attorney, I'm
2 thinking, wow, if they only knew the Corey that I knew, the
3 Corey who was always respectful to his aunts, elders and
4 others, the Corey who loved and smiled at everyone that he
5 came in contact with. Corey -- the Corey who would give you
6 the shirt off his back.

7 Sitting here the past couple days listening to the
8 defense attorney, Ms. Zmroczek, I am amazed at the picture
9 that she tried to paint of my brother. My brother was not
10 perfect, but he was my brother and I truly loved him. Had I
11 known that morning that Corey would be murdered for assisting
12 the people who text him for a ride that had car issues, I
13 would have intruded into that and begged him not to go. As
14 I'm sure you're aware, my brother never left the vehicle he
15 was driving.

16 For the -- the defendant to follow his passengers out
17 the store and try to spark an argument when the other victims
18 is begging to let him go because he was already having a
19 difficult day, and for the defendant just to open fire is
20 beyond me. He also took something from my son. I only had
21 one son. My son was scheduled to go to the Navy May of 2021.
22 It was difficult for us to decide whether he should go or
23 should he stay behind with me to console me. I had to make
24 that hard decision to let him go, so he can go on with his
25 life.

1 Of all the things that happened in my life, this is the
2 most difficult. My family and I have to spend every
3 Christmas since that day grieving and broken because someone
4 we love so dearly and so much was taken from us so brutally
5 -- brutally. And now, the family circle has been broken. I
6 plead with the Court to please issue the maximum sentence
7 applicable for this case. Thank you.

8 THE COURT: Thank you, ma'am.

9 MS. DARKO: Your Honor, I don't want to interrupt Ms.
10 Dinkins, but it may be appropriate for us just to play those
11 clips, so this new family access to play at this time.

12 THE COURT: Okay. You're fine. I can see. Oh, okay.

13 (Video played)

14 MS. DINKINS: Thank you.

15 THE COURT: Ms. Dinkins. Yes, ma'am.

16 MS. DINKINS: Hi, Your Honor. I never thought I'd be
17 standing in this same courtroom again after my son was
18 murdered and having to do this. And it's hard because Curtis
19 wasn't a perfect man, but he was good to his child. He was
20 good to everybody around him. He didn't deserve this,
21 despite me and his differences and our ups and downs and our
22 flaws, he was a good man. He did not deserve this. And I
23 would ask the Court for the max because he's gone and I have
24 nothing now. I've lost everything. My son, my husband,
25 they're gone to gun violence, and it's sad that this man was

1 running from the feds. If they were doing their job, we
2 wouldn't be here today.

3 And then I blamed myself for three years because if I
4 went and stood in the same courtroom and let Curtis out three
5 weeks before he was murdered, he'd still be alive. And it's
6 a hard pill to swallow.

7 THE COURT: Yes, ma'am. How old was Curtis?

8 MS. DINKINS: 38.

9 THE COURT: Thank you. Anything else from the State?

10 MS. DARKO: Nothing further from the State, Your Honor.

11 THE COURT: Ms. Zmroczek?

12 MS. ZMROCZEK: Thank you, Your Honor. Certainly, there
13 are no winners here. Nothing can bring the -- the students
14 back. We -- I recognize that. Just as the Court
15 understands, in my position, I have advised my client not to
16 speak, but I do want to shed a little light on kind of how we
17 ended up here.

18 Your Honor, as you know, going through discovery, all we
19 -- in the defense world are provided are snippets of
20 information that we have. And so the information that we
21 have especially in the phone records, indicates that once
22 again it seems like addiction has really caused a -- a
23 problem in this society. I think that it is clear that just
24 given on the toxicology that certainly everyone was
25 intoxicated. And Your Honor, the text messages certainly

1 indicate a pattern of -- of that kind of lifestyle. None of
2 that is said to excuse or, you know, or explain their death.
3 Certainly, we understand that there are no winners.

4 THE COURT: Was Mr. Dinkins or Ms. Corey killed because
5 of their addiction? How did that contribute to their death?

6 MS. ZMROCZEK: So Your Honor, I think that had there
7 been a little more information provided, I think that what
8 the Court would have learned is that it wasn't just the
9 addiction and the selling of these -- of these drugs which is
10 discussed frequently in the phone records, but there was also
11 a gain component to it. And again, not excusing it, but just
12 trying to understand how we end up -- how everybody ends up
13 in this.

14 THE COURT: Right. I'm trying to understand how -- what
15 you're telling me in that moment when your client pulls --
16 how -- how any of that causes your client to pull the
17 trigger, whether it's an addict, a sober person, a young
18 person, an old -- I don't know, but how does that contribute
19 to the moment of their death?

20 MS. ZMROCZEK: So with the information that I have --
21 and understand, it's just what's been provided to me. There
22 were -- the other person who -- Mr. Burgess, who is obviously
23 not here, not arrested, knew at least Mr. Dinkins. My client
24 as well knew Mr. Dinkins from being in the streets. My
25 client was shot in August when he got out. And Mr. Dinkins

1 was incarcerated at that time, so we know that it wasn't him.
2 But the word on the street was that he had ordered him to be
3 shot. So I think that there was a lot of previous prior
4 problems that obviously didn't come out and couldn't come out
5 without my client getting on the stand.

6 And -- and so obviously the -- the facts are difficult
7 here. One of the things that, you know, I mean, I've always
8 argued against these ballistics, because, I mean, that
9 presented a problem. You know, I mean, it's -- it's science
10 and it's unexplainable. You know, certainly, you know, the
11 -- the facts are difficult with the video, but I think there
12 was a little more of -- not a little more, probably a lot
13 more to the backstory that I don't know that will get to.
14 But it certainly, I think involved the other person who was
15 in the red shorts who had the gun.

16 And again, not excusing any behavior, Mr. Toatley is 34
17 years old now. He did get his diploma while he was
18 incarcerated. Your Honor, I can tell you this, he has been
19 one of the most respectful clients that I have had. And --
20 and he knows -- I mean, he'll tell you -- well, he won't tell
21 you because I won't let him, but he, you know, I fuss at him
22 a lot because when I see gentlemen like Mr. Toatley who have
23 loving family, as you can see, they've been in the courtroom,
24 Your Honor, almost everyday, members of -- of his family have
25 been here. And they have been in constant contact with me.

1 And they -- the -- the strong family ties that he has.

2 It is hard because he knows that he's going to be taken
3 away, especially from his, you know, two year old daughter,
4 who I believe you can see in the courtroom as well. And
5 certainly you saw the -- the poor choice of -- of behaviors
6 when he was under the influence taking pictures with his
7 child with a gun. He and I have discussed that a lot, Your
8 Honor. And he knows that a lot of that poor decision making
9 came from his addiction.

10 Your Honor, I did -- I know maybe a few of the family
11 members would like to speak. I do have a letter that I would
12 like to read to you as well. It says, "To whom it may
13 concern, I am writing on behalf of James Toatley, James's the
14 6th child out of 11," and in fact, when I heard the
15 similarities of these families, it -- it really does touch
16 your heart. "We grow up -- we grew up in a housing complex
17 in Jersey City, New Jersey, where we witnessed everything
18 from drug violence and a number of other criminal activities.
19 So at a very young age, he started following me and my older
20 brother's footsteps by getting involved in the street life.

21 "I really wish I was in a better -- I really -- I really
22 wish I was a better role model. A few things I got to learn
23 from James is he's very loving and caring person. Very
24 respectful young man. He's the type of person that will give
25 you a shirt off his back. Sometimes people paint pictures

1 about people before getting to know them. And I'm not saying
2 that he didn't do anything wrong. All I'm asking is that you
3 see that there is some good in him, not only the bad."

4 And Your Honor, I think that that really sums up my
5 mitigation as -- because that -- that -- that's the Mr.
6 Toatley that I know. I mean, I've known James and I've --
7 I've been on his case for quite some time and he and I had
8 several discussions about -- about whether to plea or go to
9 trial. And, you know, I felt like 40 years, day for day was
10 a -- was a -- a fair result, just given some of the issues
11 that I think could arise in this case. And -- and to try not
12 to put the family through, but Your Honor ---

13 THE COURT: It is correct that he was willing to admit
14 guilt -- plead guilty in exchange for a 40-year sentence.

15 MS. ZMROCZEK: I think that we -- I think that had that
16 -- had we been able to reach that negotiation, I think that
17 it would have -- I think that we could have gotten that done.

18 THE COURT: Okay. Slightly different from the
19 representation that was made earlier, but okay.

20 MS. ZMROCZEK:

21 Well -- well, and -- and he and I have talked about it a
22 lot, Your Honor. Because he always said, you know, can I
23 just get 30? And I was like, I just don't think that that --
24 that's going to be enough. And obviously I try to be
25 reasonable in advising my clients especially looking at the

1 facts. So --

2 THE COURT: And of course, 40 would've been on murder,
3 not voluntary manslaughter because the maximum on that is 30.

4 MS. ZMROCZEK: Right -- right. And -- and that -- and
5 quite honestly in our negotiations, and this was before I had
6 gotten the gunshot analysis -- the -- the -- not gunshot
7 analysis, but the -- the firearms and tool mark report. I
8 hadn't even discussed that, like I never even. I thought
9 that that may be a starting point, obviously going back and
10 watching the video. You know, I felt like we were -- I was
11 being forthcoming in our negotiations.

12 THE COURT: Do you believe -- does anybody in the family
13 wants to speak? Okay. Come forward to that microphone and
14 tell me your name, please.

15 MS. RUFFIN: Good afternoon. I'm Olivia Ruffin. I am
16 his mother-in-law. And I -- I saw the same thing you saw in
17 the video. Each and every one of us had our own perspective
18 of whatever it is we saw. But for me, seeing him and knowing
19 him, I know him as being the perfect gentleman to me.

20 I know him as being a loving stepfather to my two
21 grandsons whose father was murdered in gang violence. So I
22 know they -- that's all they know, is him. I know I love him
23 for the most beautiful gift I've ever received, my
24 granddaughter, who is everything in this world to him. She's
25 like the heir he believes. She -- she holds his life in the

1 palm of her hand. And I know that -- I understand that other
2 people, if you have children, they're going to miss their
3 dad. I understand that. I totally know that. And the same
4 way now I have three grandchildren that also going to miss
5 their dad.

6 The only part that I see in this, the only end of the
7 road rainbow that I'm seeing is this, my grandchildren will
8 at some point be able to go and see their dad. That I'm
9 grateful for. I do ask that you understand that this is a
10 young man that I know his backstory. His life as a child was
11 taken away from him by the judicial system. The judicial
12 system raised him. Over half of his life already at this
13 young age was spent in prison. Like you said, in 2009 this
14 young man as a child went to jail. So all he know the prison
15 raised him.

16 So this is the life that he learned from where? He
17 learned how to live and survive inside of the walls and
18 grounds of a prison. Now, it is -- he's right here in the
19 mid and he's going to do this again. This is all he know.
20 And what did he learn it from? He learned what he know from
21 learning it inside of the walls of the judicial system. I
22 feel like where he fail, he may have failed his family, his
23 babies. They -- they don't know any better, but we're trying
24 to raise them -- we're going to make sure we raise them to
25 know better.

1 And I want him to understand that at some point in time,
2 wherever he's going at this point, he's put there for a
3 reason. Not just the reason of what he may be accused of or
4 what we may feel like he did or he deserved, but God put us
5 all where we belong. So if he is there just to teach
6 somebody else how to come up and how to stay up and how to
7 stay out of trouble, then he's doing his part. He's doing
8 what he's supposed to do. Each and every one of us have a
9 job on this planet.

10 We would sitting here for a reason. So if his reason is
11 maybe he can get into a program where he can go and tell
12 somebody else that's coming behind him that might very well
13 make the same mistakes or be going down the same road that he
14 going down right now, to stop and think before you react.
15 And all of us, I even know some of those people over there,
16 all of us have young children, young grandchildren now, and
17 our grandchildren are in these same -- in these same areas,
18 in these same neighborhoods.

19 We need to take this and build on this, something that
20 did not have to happen. And teach these kids to stop being
21 so aggressive. To start loving on each other. Especially
22 mothers -- especially the fathers that's at home telling
23 these little boys, it's -- you don't supposed to cry. Don't
24 say I'm sorry, man up. If you stop teaching them to man up,
25 then they'll stop trying to be men before they become young

1 men. Teach them to be boys. Let them cry. Let them say,
2 I'm sorry. Make them say I'm sorry, so they know its okay to
3 accept I'm sorry. All this stuff that can be avoided is as
4 parents, we start teaching these kids, it is okay to be
5 wrong. It's okay to say I'm sorry, because once something is
6 done, you can't take back what you've done. You damn sure
7 can't give back a life. Thank you.

8 THE COURT: Thank you, ma'am.

9 MS. DARKO: Your Honor, I have something by the way.

10 THE COURT: Yeah. Come on to the microphone. Did you
11 want it now or is this direct -- in direct response to Ms.
12 Ruffin?

13 MS. DARKO: It is in direct response to that, Your
14 Honor.

15 THE COURT: Okay.

16 MS. DARKO: Typically, I would not do that. But as an
17 officer of Court -- of the Court moving full candor to the
18 Court what is in those full exhibits from Ms. Ruffin is that
19 Mr. Toatley was brutally beating her. She saved photographs
20 of the brutal beatings and accused him of shooting up their
21 house while her children were in it. Her mother is
22 confronting her saying, this is a dangerous man. You do not
23 even have this man around your children. So that is the only
24 thing that I will address there. But that -- that literally
25 is in the -- the exhibits that we handed up for Id during

1 pretrial. These are the things that are coming directly out
2 of Ms. Ruffin's mouth.

3 With regard to sort of this post-incident respectful
4 behavior, I did hand Ms. Zmroczek his behavior while he was
5 in Alvin S Glenn. And it is anything but that. I don't
6 doubt that he's been very respectful towards her. However,
7 he has committed assaults at the jail and has had drugs on
8 him countless times at the jail. So I don't think that this
9 is an individual who is necessarily turning over a new lead.

10 Certainly, you know, we are more than the worst thing
11 that we have ever done, Your Honor, but we have to be
12 accountable to the worst thing that we've ever done first
13 before we can even begin to realize any other potential. And
14 that has not happened with this man. And I'm not saying
15 anything further.

16 THE COURT: Sir, tell me your name.

17 MR. GERALD TOATLEY: My name is Gerald Toatley.

18 THE COURT: Yes, sir.

19 MR. GERALD TOATLEY: Well, first I'm going to say this
20 you know ---

21 THE COURT: Pull the microphone up a little bit.

22 MR. GERALD TOATLEY: Okay.

23 THE COURT: I mean, you can't -- the, yeah.

24 MR. GERALD TOATLEY: First I'm going to say this. I
25 want to apologize to the families and the people who, know

1 what I'm saying, who lost loved ones, but because it's like
2 peeing on yourself. Like everybody, they play victim until
3 the shooter become the victim. But I'm just going lay out
4 with that said, so who would make it certain? My name is
5 Gerald Toatley. I'm the oldest brother of James Toatley. I
6 had six sisters and four brothers. We grew up in uneducated,
7 dysfunctional household. James was a special brother to me
8 because when he was born, I remember hearing the adults
9 saying that he needed a blood transfusion or he would pass
10 away.

11 Nobody in the family at the time could give that because
12 either they had tattoos or they was really strung out on
13 drugs. I didn't really understand why back then, but I
14 remember being grateful that an older Caucasian gentleman was
15 willing to give my baby brother some blood in order for him
16 to survive. Your Honor, that's not -- that what -- Your
17 Honor, that what always made him special to me. My mama did
18 her best in raising us all without the proper guidance, as
19 well as me and my brothers were magnified to the illegal
20 activities that took place in our community.

21 I'm not saying that we didn't have the same 24 hours
22 just as everyone else and could have chose a different path.
23 Your Honor, my brother was always a good kid. He was -- he
24 -- he was -- well, my -- my brother was always a good kid.
25 And he has, well as the rest of my sisters and brothers,

1 watch our mother be abused physically, mentally, as well as
2 emotionally. I can't express to you -- I can't express to
3 you what he was thinking or how he feel, but if it had come
4 from those broken home -- if you haven't came from those
5 broken homes and experienced some of the physical and
6 emotional damage that took place during those times, you
7 probably would never really understand.

8 Now, I know people that came from those same
9 environments and they became successful, but I also
10 understand that everybody's story is different. And all I'm
11 asking is that Your Honor to be fair in this situation.
12 Respectfully, Gerald Toatley.

13 THE COURT: Thank you, sir. Ms. Zmroczek?

14 MS. ZMROCZEK: Thank you. Your Honor, as you can see,
15 he does have strong family support. I do need to let the
16 Court know he was arrested on January 26th of '21. He has
17 been incarcerated in the detention center since then. And as
18 you're well aware of the conditions, it -- it has not been
19 easy, nor is it meant to be. I do think though that he has
20 made strides, especially since the time that I've known him.

21 Your Honor, I don't think that he is someone that isn't
22 going to -- to learn and grow. I think that it's just taking
23 a lot of -- of self-development. I can tell you that. I
24 also -- because I did have a concern before we got here and I
25 had spoke to Ms. Darko about this because he was -- he is --

1 he is receiving treatment for Wellpath, but it's for
2 depression and other conditions, Your Honor, which really
3 affects, I think, his behavior and the way he moves.

4 Because I was concerned at one point after a
5 conversation that I may need to get him evaluated, but after
6 getting his records and speaking with him and then seeing
7 that he was seeking out treatment and actually getting it, I
8 certainly never had any questions about his competency, Your
9 Honor. It was just simply his -- the -- just the -- the
10 things that he was saying had me concerned for self-harm. He
11 has been -- I -- like I said, he has been getting treatment
12 at Wellpath. He has been shot obviously as you saw in the
13 pictures. And he still has issues with -- with that as well.
14 But I think learning -- the first biggest step that he's made
15 is learning to accept that he needs help and then accepting
16 that help. And that's where I think I've seen the
17 differences in him.

18 THE COURT: Mr. Toatley, is there anything that you
19 would like to say?

20 MR. TOATLEY: No, ma'am.

21 THE COURT: Madam Clerk, may I see the indictments,
22 please?

23 THE CLERK: Yes, Your Honor.

24 THE COURT: I would like to believe that Mr. Toatley is
25 a respectful man, but I know what I saw in video and I know

1 what I've seen here in the courtroom, and he's certainly not,
2 in this courtroom, been respectful to the Court or to the
3 victims and their families.

4 I -- I've not understood, at any time, what was at all
5 humorous about the video surveillance from the store, but Mr.
6 Toatley found that amusing somehow. And has been
7 disrespectful to the Court when the Court is trying to do its
8 job inquire about Mr. Toatley's decisions and constitutional
9 rights, et cetera. And as I said, I know what I've seen on
10 the video and that -- that just, as best I can tell without
11 any additional explanation was just a completely senseless
12 killing.

13 Ms. Zmroczek, you tell me now that it had something to
14 do with a shooting back in August, but you told the jury it
15 had something to do with some gay hand touching or something
16 about some brushing together or something along those lines.
17 So I'm -- I'm not even sure what happened with the story
18 about what occurred that night. It was in your opening
19 statement.

20 MS. ZMROCZEK: Okay. Sorry. I didn't recall that.

21 THE COURT: Yeah, it absolutely was. To the extent that
22 I, my clerk, my interns, the jurors were all wondering where
23 she is going with that. Because you actually never closed
24 the loop on that -- that story, that version of it. That is
25 what it is.

1 Mr. Toatley on indictment 2021-GS-40-04737 for the
2 murder of Curtis Dinkins, the sentence is that you be
3 committed to the State Department of Corrections for a period
4 of 38 years.

5 On indictment 2021-GS-40-04725 for the murder of Corey
6 Smith, the sentence is that you be committed to the State
7 Department of Corrections for a period of 42 years. Those
8 sentences will run concurrent to one another.

9 Consecutive to that is the sentence on indictment
10 2021-GS-40-04740. On that indictment, the sentence is 10
11 years.

12 On indictment 2021-GS-40-04739, the sentence is 10
13 years. Those 10-year sentences will run concurrent to each
14 other, but consecutive to the murder sentences.

15 And finally, indictment 2021-GS-40-04738, that is for
16 possession of a weapon during the commission of a violent
17 crime. The sentence is five years, and by statute that must
18 be consecutive to the murder sentences. In fact, it's
19 consecutive to all these sentences. Good luck to you, sir.
20 If everyone will remain in the courtroom while the defendant
21 is taken out, please. That concludes this matter. Court is
22 adjourned for the day.

23 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
24 5:35 P.M.)

25

Not To Scale
K.M.C. 11/12/14

7 →

2012 00414 19
K.M.C. 11/19/2015

- 1-FEC
- 2-FEC
- 3-Chain
- 4-Pes
- 5-Cigarette
- 6-Blau phone
- 7-Pendant
- 8-Under Phone
- 9-Projector
- 10-FEC (De Sea)
- 11-FEC
- 12-FEC (13)
- 13-FEC
- 14-FEC 5
- 15-FEC
- 16-Cig. Butt
- 17-FEC

(74) 14
(74) 17

Potato (2400)
X-Clip Bag (4000)

(71) (14) (30) 13 11 12

(20) 10

5601 Fairfield Rd
Moto City Market

Plotter

Green

10400

Cam (119) 2 (104)
10 (24) 3
14 (118) (12) (15)
(118) (12) (15)

Hwy 321 - Fairfield Rd



WITNESSES

(S) Kevin S Isenhoward
- Richland County Sheriff Dept

DOCKET NO. 2021GS4004725

The State of South Carolina

County of

Richland

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

COURT OF GENERAL SESSIONS

November TERM 2021

102

THE STATE
vs.

James Jamal Toatley

ARREST WARRANT NUMBER

2020A4010206084

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury NOV 17 2021
Date:

VERDICT

Guilty

Indictment for
MURDER / MURDER

SC Code: 16-03-0010
CDR Code: 0116

SCANNED

SCANNED

Foreperson of Petit Jury
Date: 11-27-2021

36 - life

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland

STATE

VS.

INDICTMENT/CASE#: 2021 - GS - 40 - 04725James Jamal ToatleyA/W#: 2020A4010206084

AKA:

Date of Offense: 12/20/2020Race: BLACK Sex: M Age: 34S.C. Code § 16-03-0010DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0116Address: [REDACTED] StreetCity, State, Zip: Columbia, SC 29203DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Murder / MurderIn violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

[Signature]
Darko, Melanie101529
SC Bar #

Defendant

[Signature]
Zmroczek, Aimee J.SCB77193
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,
 for a determinate term of 42 days/months/years Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2021 GS 40 04737 (June 27, 2023)
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
 SCDoc. 863 (days/months)
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or
 § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SCANNED

STATE VS. James Jamal Toatley INDICTMENT/CASE#: 2021 - GS - 40 - 04725**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5 %)			\$
§14-1-211(A)(1) (Conv. Surcharge)		\$100	\$100
§14-1-211(A)(2) (DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$25
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114(BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$375
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$
TOTAL			\$12875

Clerk of Court/ Deputy Clerk:
Court Reporter:

Leah W. McBridge
DRK

Presiding Judge:
Judge Code:
Sentence Date:

Joelyne Newman
2757
June 27, 2023

SCANNED

WITNESSES

(S) Kevin S Isenhoward
- Richland County Sheriff Dept

DOCKET NO. 2021GS4004737

The State of South Carolina

County of

Richland

ARREST WARRANT NUMBER

2020A4010206085

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: NOV 17 2021

VERDICT

Guilty

Foreperson of Petit Jury
Date: 6-27-2023

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

COURT OF GENERAL SESSIONS

November TERM 2021

102

THE STATE
vs.

James Jamal Toatley

Indictment for
MURDER / MURDER

SC Code: 16-03-0010
CDR Code: 0116

SCANNED

SCANNED

30 - Life

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland

STATE

VS.

INDICTMENT/CASE#: 2021 - GS - 40 - 04737James Jamal Toatley

AKA:

A/W#:

2020A4010206085Race: BLACK Sex: M Age: 34

Date of Offense:

12/20/2020DOB: [REDACTED] SS#: [REDACTED]

S.C. Code §

16-03-0010Address: [REDACTED] Street

CDR Code #:

0116City, State, Zip: Columbia, SC 29203

SENTENCE SHEET

DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murderin violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Darko, Melanie

101529

SC Bar #

Defendant

Zmroczek, Aimee J.

SCB77193

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 30 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2021 GS 40 04725 (June 21, 2023)☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 883 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SCANNED

STATE VS. James Jamal Toatley INDICTMENT/CASE#: 2021 - GS - 40 - 04737

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____
- _____
- _____
- _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5 %)			\$
§14-1-211(A)(1) (Conv. Surcharge)		\$100	\$100
§14-1-211(A)(2) (DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$25
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114(BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$
TOTAL			\$128.75

Clerk of Court/ Deputy Clerk:
Court Reporter:Leannette W. M. Bricker
DRKPresiding Judge:
Judge Code:
Sentence Date:Joelyn Newman
2157
June 27, 2023

SCANNED

WITNESSES

(S) Kevin S Isenhoward
- Richland County Sheriff Dept

DOCKET NO. 2021GS4004738

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

November TERM 2021

102

ARREST WARRANT NUMBER

2020A4010206088

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: NOV 17 2021

VERDICT

Guilty

Jeray Copeland
11-27-2021

Foreperson of Petit Jury
Date: 11-27-2021

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

James Jamal Toatley

THE STATE
vs.

Indictment for
WEAPONS / POSS. WEAPON DURING
VIOLENT CRIME, IF NOT ALSO
SENTENCED TO LIFE WITHOUT PAROLE
OR DEATH

SC Code: 16-23-0490
CDR Code: 0549

SCANNED

SCANNED

*0-5 when convicted of murder
5 when convicted of 1st Murder*

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

James Jamal Toatley

AKA:

Race: BLACK Sex: M Age: 34DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] StreetCity, State, Zip: Columbia, SC 29203DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021 - GS - 40 - 04738A/W#: 2020A4010206088Date of Offense: 12/20/2020S.C. Code § 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-46

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]

101529

SC Bar #

Defendant

[Signature]

SCB77193

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2021 - GS - 40 - 64725 (June 27, 2023)☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. 003 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SCANNED

STATE VS. James Jamal Toatley INDICTMENT/CASE#: 2021 - GS - 40 - 04738**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**☐ Substance Abuse Counseling☐ Completion of GED☐ Random Drug/Alcohol Testing☐ Attend Voc. Rehab. or Job Corp☐ No Contact with Victim☐ Domestic Violence Intervention Program☐ Mental Health Counseling☐ May serve W/E
beginning: _____☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430☐ Public Service Employment _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☐ Other: _____

_____☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	TBD
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD
TOTAL	\$1287.75

Clerk of Court/ Deputy Clerk:
Court Reporter:Leannette W. M. Bricker
OKRPresiding Judge:
Judge Code:
Sentence Date:Jocelyn Newman
2757
June 27, 2023**SCANNED**

WITNESSES

(S) Kevin S Isenhoward
-- Richland County Sheriff Dept

DOCKET NO. 2021GS4004739

The State of South Carolina

County of

Richland

ARREST WARRANT NUMBER

2020A4010206090

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury NOV 17 2021
Date:

VERDICT

Not Guilty

Foreperson of Petit Jury
Date: 11-24-2023

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C.; PLS. AND G.S.

COURT OF GENERAL SESSIONS

November TERM 2021

102

THE STATE
vs.

James Jamal Toatley

Indictment for
ATTEMPTED MURDER

SC Code: 16-03-0029
CDR Code: 3410

SCANNED

SCANNED

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

James Jamal Toatley

AKA:

Race: BLACK Sex: M Age: 34DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] StreetCity, State, Zip: Columbia, SC 29203DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021 - GS - 40 - 04739A/W#: 2020A4010206090Date of Offense: 12/20/2020S.C. Code § 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Assault & Battery of a High & Aggravated Naturein violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Darko, Melanie101529
SC Bar #

Defendant

Zmrodzek, Aimee J.SCB77193
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,
 for a determinate term of 109 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: June 27, 2023 (2021 GS 40 04725, 4737)
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
 SCDoc. 883 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or
 § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SCANNED

STATE VS. James Jamal Toatley INDICTMENT/CASE#: 2021 - GS - 40 - 04739**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5 %)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	TBD \$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500 \$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD \$ _____
TOTAL	\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk:
Court Reporter:

Jessette W. McBride
DKP

 Presiding Judge:
 Judge Code:
 Sentence Date:

Joubert Numan
2757
June 27, 2023

SCANNED

WITNESSES

(S) Kevin S Isenhoward
- Richland County Sheriff Dept

DOCKET NO. 2021GS4004740

The State of South Carolina

County of

Richland

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2020A4010206091

COURT OF GENERAL SESSIONS

November TERM 2021
102

Defendant

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

THE STATE
vs.

James Jamal Toatley

TRUE BILL

Foreperson of Grand Jury
Date: NOV 17 2021

VERDICT

Guilty

Indictment for
ATTEMPTED MURDER

SC Code: 16-03-0029
CDR Code: 3410

SCANNED

Foreperson of Petit Jury
Date: 6-27-2023

SCANNED

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

James Jamal Toatley

AKA:

Race: BLACK Sex: M Age: 34DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] StreetCity, State, Zip: Columbia, SC 29203DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021 - GS - 40 - 04740A/W#: 2020A4010206091Date of Offense: 12/20/2020S.C. Code § 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Attempted Murderin 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 CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Darko, Melanie

101529
SC Bar #

Defendant

Zmroczek, Aimee J.

SCB77193
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 10 ~~30~~ days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: June 21, 2023 (2021 GS 40 04725, 4737)

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. 883 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SCANNED

STATE VS. James Jamal Toatley INDICTMENT/CASE#: 2021 - GS - 40 - 04740**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____ \$ _____

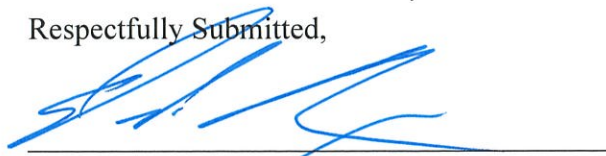
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$25
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$128.75

Clerk of Court/ Deputy Clerk:
Court Reporter:Jeannette W. W. B. B. B.
DRKPresiding Judge:
Judge Code:
Sentence Date:Jocelyn Newman
2157
June 27, 2023**SCANNED**

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,



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

Jan 16 2025

SC Court of Appeals

This 16th day of January, 2025.

RECEIVED

Jan 16 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Jocelyn J. Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES TOATLEY,

APPELLANT

APPELLATE CASE NO. 2023-001059

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 16th day of January, 2025.



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT