

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Orangeburg County

Honorable Paul M. Burch, Circuit Court Judge

BRANDON WILSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000751

APPENDIX

KATHRINE H. HUDGINS
Senior Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

BRYAN T. HALL
Assistant Attorney General

Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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S.C. SUPREME COURT

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1 STATE OF SOUTH CAROLINA)
2) IN THE COURT OF
3 COUNTY OF ORANGEBURG) GENERAL SESSIONS
4
5 THE STATE,)
6 Plaintiffs,)
7 Vs.) CASE NO. 2018-GS-38-00825
8 BRANDON DWIGHT WILSON,) 2018-GS-38-00826
9 Defendant.)

10 JANUARY 24, 2022
11 ORANGEBURG, SOUTH CAROLINA
12

13 HONORABLE MAITE MURPHY, JUDGE

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

15 BY: CATHERINE M. HUNTER, ESQUIRE

16 W. PHILLIP GIESE, ESQUIRE

17 Attorneys for the Plaintiffs

18 BY: BELINDA M. DAVIS-BRANCH, ESQUIRE

19 THOMAS R. SIMS, SR, ESQUIRE

20 Attorneys for the Defendant
21
22
23

24 KATHERINE A. SPIRES

25 REGISTERED PROFESSIONAL REPORTER

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1 THE CLERK: Good morning, everyone. My
2 name is LaEisha Bennett and I am a general sessions
3 clerk here in Orangeburg County. We are about to
4 begin our process of picking our jury. Before we
5 can begin, everyone has to be sworn in, so please
6 stand and raise your right hand.

7 (WHEREUPON, the jury panel was sworn
8 in)

9 THE CLERK: You may be seated. Once
10 your juror number and name is called, I ask that
11 you please state your name, your employment status,
12 if you're retired, your former employer, and your
13 marital status as well as your spouse's employment.

14 Those on the left side, you can come
15 straight down to the mic and speak into the mic
16 clearly. And on the right side, the mic will be
17 brought to you.

18 Juror Number 1, William Adicks.

19 MR. ADICKS: I'm self-employed. I own
20 the IGA in Williston in Elloree. Married to Laura
21 Adicks. She's a kindergarten teacher at Saint
22 Andrews United Methodist Church.

23 THE CLERK: Okay. Thank you. Sir,
24 would you come back and pull down your mask for me
25 if you don't mind.

1 MR. ADICKS: Self-employed. I own the
2 IGA in Williston in Elloree. Married to Laura
3 Adicks, she's a kindergarten teacher at Saint
4 Andrews United Methodist Church.

5 THE CLERK: Thank you. Juror Number 9,
6 Carroll Ballew.

7 MR. BALLEW: Carroll Ballew, Brian's
8 Heating and Cooling, Lexington, South Carolina.
9 Senior technician. Wife is Jennifer Ballew. She's
10 currently employed with Columbia area YMCA, HR.

11 THE CLERK: Thank you. Juror Number
12 10, Caleb Barr.

13 MR. BARR: Caleb Barr. I'm a service
14 tech for American Pools and Spas and I'm single.

15 THE CLERK: Thank you. Juror Number
16 16, John Benoit.

17 MR. BENOIT: My name is John Benoit.
18 My employer is Encon Security Systems. The type of
19 work I do is security with the Armed Guard for the
20 Department of State. I am married. My wife's name
21 is Nancy Benoit. Her employer is Lowe's and she
22 does retail. I am retired Army, 22 years, and the
23 type of work I did was mechanic work.

24 THE CLERK: Thank you. Juror Number
25 17, Mildred Bishop.

1 MS. BISHOP: Good morning. Mildred
2 Bishop. I'm retired. I'm a widow and I was
3 previously employed by Archdiocese in Philadelphia.

4 THE CLERK: Thank you. Juror Number
5 20, Kelvin Bonnette.

6 MR. BONNETTE: Good morning. I'm
7 Kelvin Bonnette. I'm employed by the College of
8 Charleston. I work in financial aid. I'm married
9 to Anya Bonnette and she's employed by Howard
10 Middle School. And that's it.

11 THE CLERK: Thank you. Juror Number
12 26, Ervin Brown.

13 MR. BROWN: Ervin Brown. I'm employed
14 by Kurtz Construction out of Lexington. I'm
15 married and my wife she's employed at Crane
16 Merchandising.

17 THE CLERK: Thank you. Juror Number
18 29, Sara Brown.

19 MS. BROWN: My name is Sara Brown. I
20 am unemployed. I'm a stay-at-home mom and I'm
21 single.

22 THE CLERK: Thank you. Juror Number
23 33, Timothy Butler.

24 MR. BUTLER: My name is Timothy Butler.
25 I work at Thompson Construction. I'm a forklift

1 driver and my wife, she's on disability.

2 THE CLERK: Thank you. Juror Number
3 34, Mary Byrd.

4 MS. BYRD: My name is Mary Byrd. I'm
5 employed with Husqvarna of Orangeburg, South
6 Carolina. I am married to Freddie Byrd. He's a
7 former employee of Orangeburg County. He's now
8 retired.

9 THE CLERK: Thank you. Juror Number
10 35, Campenella Caldwell.

11 MR. CALDWELL: Campenella Caldwell. My
12 wife Pernell, both retired Husqvarna, former.

13 THE CLERK: Thank you. And what was
14 your marital status, sir?

15 MR. CALDWELL: Married.

16 THE CLERK: Thank you. Juror Number
17 36, Alfred Calloway.

18 MR. CALLOWAY: I'm Alfred Calloway.
19 I'm a supervisor at Bridgestone in Graniteville,
20 South Carolina and I'm single.

21 THE CLERK: Thank you. Juror Number
22 39, Micdrena Canty.

23 MS. CANTY: I am Micdrena Canty. I'm
24 single. Employed at Nephron warehouse associate.

25 THE CLERK: Thank you. Juror Number

1 54, James Cubiotti.

2 MR. CUBIOTTI: James Cubiotti. I work
3 for ES Integrated out of Charleston. I'm a site
4 supervisor.

5 THE CLERK: I'm sorry, sir, could you
6 speak into the mic for me, please?

7 MR. CUBIOTTI: I'm James Cubiotti. I
8 work for ES Integrated out of Charleston. I'm a
9 site supervisor. We do environmental remediation.

10 THE CLERK: Marital status?

11 MR. CUBIOTTI: Single.

12 THE CLERK: Thank you. Juror Number
13 57, Everlette Darby.

14 MS. DARBY: Good morning. My name is
15 Everlette Darby. I work at Carver Edisto Middle
16 School as a cafeteria worker. And I also work at
17 Dodge's part-time as a hostess and I'm single.

18 THE CLERK: Thank you. Juror Number
19 60, Cassie Davis.

20 MS. DAVIS: My name is Cassie Davis.
21 Formally employed of Department of Transportation.
22 Single. Retired/single.

23 THE CLERK: Thank you. Juror Number
24 71, Linda Drayton.

25 MS. DRAYTON: Hi, my name is Linda

1 Drayton. I'm employed at Husqvarna Outdoor
2 Products. I am married. My husband is employed at
3 Husqvarna and at Food Lion warehouse in Elloree,
4 South Carolina.

5 THE CLERK: Thank you. Juror Number
6 72, Michael Driggers.

7 MR. DRIGGERS: Michael Driggers. I
8 work at Dak Americas in Cayce, South Carolina and
9 I'm single.

10 THE CLERK: Thank you. Juror Number
11 74, Joseph Dukes.

12 MR. DUKES: Joseph Dukes. I'm employed
13 by Lowe's. I work in the back in operations and
14 I'm single.

15 THE CLERK: Thank you. Juror Number
16 75, Darvis Easterlin.

17 MR. EASTERLIN: Darvis Easterlin. I'm
18 employed by Allied Air Enterprise, maintenance
19 electrician. Single.

20 THE CLERK: Thank you. Juror Number
21 77, Akeem Elmore.

22 MR. ELMORE: How you doing? Akeem
23 Elmore. I'm interning at -- a lab technician for a
24 sea grass gentleman in Charleston, South Carolina.
25 My wife is self-employed. She is -- she has her

1 own hair salon.

2 THE CLERK: Thank you. Juror Number
3 78, Jackie Elmore, Jr.

4 MR. ELMORE: I'm Jackie Elmore, Jr. I'm
5 employed at Ryder in Charleston as a forklift
6 driver and I'm single.

7 THE CLERK: Thank you. Juror Number
8 79, Mary Elmore.

9 MS. ELMORE: Mary Elmore, separated for
10 30 years. I'm on disability.

11 THE CLERK: Thank you. Juror Number
12 82, Brandy Fairey.

13 MS. FAIREY: Brandy Fairey. I am a
14 self-employed cosmetologist. I own Glamor Girl
15 Salon here in Orangeburg. I am married. And my
16 husband is an office manager for Roberts Oxygen.

17 THE CLERK: Thank you. Juror Number
18 85, John Fine.

19 MR. FINE: John Fine. I work at Food
20 Lion warehouse and I'm a loader. Single.

21 THE CLERK: Thank you. Juror Number
22 90, Richard Fogle.

23 MR. FOGLE: I'm Richard Fogle. I am
24 retired from the United States Postal Service as a
25 rural mail carrier. I also farm now since I'm

1 | retired. My wife is Katie Fogle. She is a
2 | psychotherapist and she is the owner of Stepping
3 | Stones Counseling Service. Thank you.

4 | THE CLERK: Thank you. Juror Number
5 | 96, Clay Frazier.

6 | MS. FRAZIER: Hi, Clay Dean Frazier.
7 | My employer is American Security. I'm a site
8 | manager. My husband works at Whitman Mold.

9 | THE CLERK: Thank you. Juror Number
10 | 101, Herbert Gardner.

11 | MR. GARDNER: Herbert Gardner. Work at
12 | Holston Gas as a driver. Married and my wife stays
13 | home.

14 | THE CLERK: Thank you. Juror Number
15 | 103, Cecile Garvin.

16 | MS. GARVIN: Cecile Garvin. Works at
17 | Allied Air. I'm single.

18 | THE CLERK: Thank you. Juror Number
19 | 104, Tammie Garvin.

20 | MS. GARVIN: I work at -- my name is
21 | Tammie Garvin. I work at Allied Air Enterprises.
22 | I'm a quality auditor. I'm married. My husband
23 | work at Gulbransen Chemicals.

24 | THE CLERK: Thank you. Juror Number
25 | 107, Tanyra Gilliard.

1 MS. GILLIARD: I'm Tanyra Gilliard. I
2 work for Berkeley County School District,
3 substitute teacher and I'm single.

4 THE CLERK: Thank you. Juror Number
5 115, Sandra Greene.

6 MS. GREENE: I'm Sandra Greene. I work
7 at Orangeburg Regional Hospital. I'm the purchaser
8 of all the drugs there. My husband is
9 self-employed.

10 THE CLERK: Thank you. Juror Number
11 116, Olivia Grigsby.

12 MS. GRIGSBY: I'm Olivia Grigsby. I
13 work at Dodge's of Orangeburg, assistant manager
14 and I'm single.

15 THE CLERK: Thank you. Juror Number
16 118, Mitchell Haddock, Jr.

17 MR. HADDOCK: I'm Mitchell Haddock.
18 I'm an electrician with SRS and I'm separated two
19 years.

20 THE CLERK: Thank you. Juror Number
21 123, Tamika Hart.

22 MS. HART: My name is Tamika Hart. I
23 work at Michelin Tires. I'm a class spec and I'm
24 single.

25 THE CLERK: Thank you. Juror Number

1 130, Brenda Holiday.

2 MS. HOLIDAY: Good morning. My name is
3 Brenda Holiday. I'm employed at Bamberg Job Corps
4 Center as a tape testing coordinator. Single.

5 THE CLERK: Thank you. Juror Number
6 127, Vivian Heatley.

7 MS. HEATLEY: My name is Vivian
8 Heatley. I'm retired from Koya Corporation. My
9 husband is Don Heatley, he's retired from Zeus
10 Industries.

11 THE CLERK: Thank you. Juror Number
12 135, Kelvin Houser.

13 MR. HOUSER: Kelvin Houser. Employed
14 Husqvarna and also Food Lion in Orangeburg and
15 single.

16 THE CLERK: Thank you. Juror Number
17 137, Andrew Huggins.

18 MR. HUGGINS: My name is Andrew
19 Huggins. I work for Orangeburg County building
20 grounds and I'm single.

21 THE CLERK: Thank you. Juror Number
22 138, David Hughes.

23 MR. HUGHES: My name is David Hughes.
24 I work for Sunshine Recycling, truck driver. My
25 wife Marcie Hughes. She works for Regional Medical

1 Center, MOA phlebotomist.

2 THE CLERK: Thank you. Juror Number
3 140, Reggie Jackson.

4 MR. JACKSON: My name is Reggie
5 Jackson. I work Aiken Electric Co-Op. My wife
6 she's a stay-at-home mom, Stephanie Jackson.

7 THE CLERK: Thank you. Juror Number
8 143, Jerry Jenkins.

9 MR. JENKINS: My name is Jerry Jenkins,
10 retired military. Single.

11 THE CLERK: Thank you. Juror Number
12 145, Sabrina Johnson.

13 MS. JOHNSON: My name is Sabrina
14 Johnson. I work at Husqvarna Outdoor Products in
15 accounting department. I'm married to Lee Van
16 Johnson. He's retired from International Papers.

17 THE CLERK: Thank you. Juror Number
18 146, Audrey Jones.

19 MS. JONES: My name is Audrey Jones. I
20 work for Pruitt Health in Columbia and also
21 Shelia's Helping Hands and single.

22 THE CLERK: Thank you. Juror Number
23 149, Willie Jones.

24 MR. JONES: My name is Willie Jones. I
25 work for Orangeburg County Disability Board. I'm a

1 maintenance technician. My wife is Tawanda Jones.
2 She works for JT Methodist (phonetic) where she
3 take patient to and from doctor appointments.

4 THE CLERK: Thank you. Juror Number
5 150, Justin Joyner.

6 MR. JOYNER: Good morning. I'm Justin
7 Joyner. I'm in sales at the Zeus Industrial
8 Products. I'm married to Wendy Joyner who is the
9 office manager at Calhoun Oil.

10 THE CLERK: Thank you. Juror Number
11 156, Joseph King.

12 MR. KING: I'm Joseph King. I work at
13 DPU in purchasing and inventory. I'm married. My
14 wife Vicki is a part-time worker for American
15 Greetings.

16 THE CLERK: Thank you. Juror Number
17 159, Robert Laird.

18 MR. LAIRD: Good morning. My name is
19 Robert Laird. I work for Laird's Farms in North,
20 South Carolina and I am separated for two years.

21 THE CLERK: Thank you. Juror Number
22 160, Paul Leedecke.

23 MR. LEEDECKE: Paul Leedecke. Employed
24 by the City of Orangeburg as a fire fighter also
25 retired law enforcement from the same agency.

1 Single.

2 THE CLERK: Thank you. Juror Number
3 165, Constance Maharrey.

4 MS. MAHARREY: My name is Constance
5 Maharrey. I'm employed by the Department of
6 Veterans Affairs as an IT analyst. And my husband
7 is employed by the Fine Goalstra (phonetic) out of
8 Charleston.

9 THE CLERK: Thank you. Juror Number
10 166, Jennifer McAlhany.

11 MS. MCALHANY: I'm Jennifer McAlhany.
12 Work for the United States Postal Service. I'm in
13 retail in marketing and also a passport agent. My
14 husband is self-employed and owns McAlhany
15 Insurance Agency.

16 THE CLERK: Thank you. Juror Number
17 171, Richard McKnight.

18 MR. MCKNIGHT: I'm employed by
19 Orangeburg County School District. I am a speech
20 therapist and special education teacher and I'm
21 also the pastor of Hannah African Methodist
22 Episcopal Church in Newberry, South Carolina.

23 THE CLERK: Marital status?

24 MR. MCKNIGHT: Single.

25 THE CLERK: Thank you. Juror Number

1 174, Shanette Meeks.

2 MS. MEEKS: Good morning. My name is
3 Shanette Meeks. I'm a respiratory therapist at
4 Lexington Medical Center and I'm single.

5 THE CLERK: Thank you. Juror Number
6 65, Susan Metts.

7 MS. METTS: My name is Susan Metts. My
8 employer is SouthState Bank. I work in treasury
9 management services. Married to Albert Dwayne
10 Metts. He works for Lee's Sausage Company in
11 sales.

12 THE CLERK: Thank you. Juror Number
13 179, Quotasias Mingo.

14 MS. MINGO: Hello. My name is Quotasias
15 Mingo. I work for Bamberg County Disability and
16 Special Needs Board and I'm a full-time nursing
17 student. My husband is Jerome Robert and he work
18 for Orangeburg County.

19 THE CLERK: Thank you. Juror Number
20 180, Tyra Moment.

21 MS. MOMENT: My name is Tyra Moment.
22 I'm employed at BRN Sleep Products and single.

23 THE CLERK: Thank you. Juror Number
24 183, Jessica Moorner.

25 MS. MOORER: My name is Jessica Moorner.

1 I am married to John Moorer and we both work for
2 Orangeburg County School District.

3 THE CLERK: Thank you. Juror Number
4 187, Lori Morgan.

5 MS. MORGAN: My name is Lori Morgan.
6 I'm disabled. My husband's name is Ralph Morgan.
7 He's a full-time teacher at OC Tech and a part-time
8 mechanic at Superior Motors.

9 THE CLERK: Thank you. Juror Number
10 190, Onita Nelson.

11 MS. NELSON: Good morning. My name is
12 Onita Nelson. I work for the Orangeburg County
13 Department of Social Services, CPS intake and
14 single.

15 THE CLERK: Thank you. Juror Number
16 195, William Nix, Jr.

17 MR. NIX: William Nix, Jr. I work for
18 Santee Building Solutions. I'm a director. And my
19 wife works for GrandSouth Bank.

20 THE CLERK: Thank you. Juror Number
21 207, Marty Powell.

22 MR. POWELL: Marty Powell. Unemployed.
23 Single.

24 THE CLERK: Thank you. Juror Number
25 211, Edward Profit.

1 MR. PROFIT: Good morning. Edward
2 Profit. Disabled. Single.

3 THE CLERK: Thank you. Juror Number
4 214, Quentin Randolph.

5 MR. RANDOLPH: Good morning. Quentin
6 Randolph. I'm employed at Zeus as a catcher. My
7 wife, she works at GKN as a quality control.

8 THE CLERK: Thank you. Juror Number
9 215, Shamika Randolph Thomas -- Shamika Thomas
10 Randolph.

11 MS. RANDOLPH: Good morning. My name
12 is Shamika Randolph Thomas. I'm unemployed and
13 single.

14 THE CLERK: Thank you. Juror Number
15 216, Samuel Rector.

16 MR. RECTOR: My name is Samuel Rector.
17 I work for WB Enterprises. I'm a supervisor there.
18 I'm married to Melanie Rector and she works at the
19 same company.

20 THE CLERK: Thank you. Juror Number
21 217, Alaycia Reed.

22 MS. REED: Hi, my name is Alaycia Reed.
23 I'm employed at Barry Bates in West Columbia and
24 I'm single.

25 THE CLERK: Thank you. Juror Number

1 220, Nicole Rivers.

2 MS. RIVERS: Hi, my name is Nicole
3 Rivers. I work for the center for kitten care
4 (phonetic) as an assistant administrator and
5 certified tech and I'm single.

6 THE CLERK: Thank you. Juror Number
7 224, Brianna Robinson-Franklin.

8 MS. FRANKLIN: My name is Brianna
9 Robinson-Franklin. I'm employed for SDSI Group.
10 I'm a warehouse storeroom clerk. I'm married to
11 Donovan Franklin. He works as a log truck driver.

12 THE CLERK: Thank you. Juror Number
13 227, Alan Runager.

14 MR. RUNAGER: Alan Runager. Heavy
15 equipment operator at Palmetto Sitework Services.
16 Wife, Sydney Runager, she's employed with The Mane
17 Place.

18 THE CLERK: Thank you. Juror Number
19 234, Tracey Scoville.

20 MR. SCOVILLE: Good morning. I am
21 Tracey Scoville. Employed in Orangeburg County
22 School District as a teacher. My wife's name is
23 Mildred Scoville. She's also employed at
24 Orangeburg County School District as administrator
25 assistant.

1 THE CLERK: Thank you. Juror Number
2 244, Vernae Simmons.

3 MS. SIMMONS: Good morning. My name is
4 Vernae Simmons. Retired. My husband's name is
5 Benjamin Simmons also retired.

6 THE CLERK: And where are you both
7 retired from?

8 MS. SIMMONS: New York, Cablevision
9 Communications, that was me. My husband worked for
10 AutoNation enterprises.

11 THE CLERK: Thank you. Juror Number
12 246, Lamont Sistrunk.

13 MR. SISTRUNK: I'm Lamont Sistrunk. I
14 work at Quality Model as a team leader and I work
15 for the Post Office in Orangeburg and I'm single.

16 THE CLERK: Thank you. Juror Number
17 248, Ada Smith.

18 MS. SMITH: Ada Smith. Retired high
19 school teacher. My husband Larry Smith is also
20 retired director of operations hotel management.

21 THE CLERK: Thank you. Juror Number
22 249, Jarmel Smith.

23 MR. SMITH: Good morning. My name is
24 Jarmel Smith. I work for Palmetto Community Care
25 in Charleston, South Carolina as an HIV prevention

1 manager and I am also self-employed as a realtor
2 and single.

3 THE CLERK: Thank you. Juror Number
4 256, Rhonda Stevenson.

5 MS. STEVENSON: Good morning. My name
6 is Rhonda Stevenson. I'm employed with Stanton, we
7 work Husqvarna and I'm single.

8 THE CLERK: Thank you. Juror Number
9 257, Gail Stokes.

10 MS. STOKES: Good morning. I'm Gail
11 Stokes. Employed by Allied Air environmental
12 health and safety. My spouse is employed by
13 (inaudible) a team leader.

14 THE CLERK: Thank you. Juror Number
15 258, Thomas Stutzman.

16 MR. STUTZMAN: I'm Thomas Stutzman.
17 I'm the pastor at Northside Baptist here in
18 Orangeburg. My wife Lori works for Lexington
19 Medical and I also teach one class at Orangeburg
20 Christian Academy.

21 THE CLERK: Thank you. Juror Number
22 269, Bobby Walker.

23 MR. WALKER: My name is Bobby Walker.
24 I'm retired from International Paper, maintenance
25 technician. My wife is a stay-at-home mom former

1 employer, TRMC.

2 THE CLERK: Thank you. Juror Number
3 272, Eugenia Washington.

4 MS. WASHINGTON: I'm Eugenia
5 Washington. I work for Patient PASSlinks with
6 DaVita. I'm a dialysis coordinator and a doctoral
7 student and I'm single.

8 THE CLERK: Thank you. Juror Number
9 273, Farrell Washington.

10 MR. WASHINGTON: Farrell Washington.
11 I'm employed by Edisto Electric Cooperative and my
12 wife is a school teacher with Lexington County
13 School District II.

14 THE CLERK: Thank you. Juror Number
15 274, Kayla Watts.

16 MS. WATTS: Kayla Watts. I work at
17 Middle Creek Campground as a manager and I'm
18 single.

19 THE CLERK: Thank you. Juror Number
20 284, Benjamin Williams.

21 MR. WILLIAMS: I'm Benjamin Williams.
22 I work as an engineer with South Carolina
23 Department of Transportation and I'm single.

24 THE CLERK: Thank you. Juror Number
25 289, Tray-jan Williams-Blocker.

1 MR. BLOCKER: My name is Tray-jan
2 Williams-Blocker. I'm a TFB operator at Zeus
3 Industrial Products and I'm single.

4 THE CLERK: Thank you. Juror Number
5 291, Darren Winfield.

6 MR. WINFIELD: Good morning. My name
7 is Darren Winfield. I work for Sodexo, a company
8 at Claflin University and I'm a cook and I'm
9 single.

10 THE CLERK: Thank you. If there is
11 anyone I omitted, please stand at this time.

12 (No one is standing)

13 THE CLERK: Thanks.

14 THE BAILIFF: All rise. Court is in
15 session. The Honorable Judge Maite Murphy
16 presiding.

17 THE COURT: Good morning, everyone.
18 Please have a seat.

19 Good morning, ladies and gentlemen of
20 the jury panel. My name is Maite Murphy and I'm a
21 circuit court judge from Dorchester County and it's
22 a pleasure to be here with you this week for a term
23 of general sessions court or what we normally refer
24 to as criminal court. Your term of service will be
25 for one week which will conclude on Friday, but we

1 anticipate that the trial that we have should end
2 by Wednesday.

3 Ladies and gentlemen, we have certain
4 questions to ask you to determine your general
5 eligibility to serve as jurors in this court. And
6 certainly I understand that some of these questions
7 may be a little bit personal, you may not want to
8 stand and disclose that information in front of the
9 entire panel; therefore, if a question applies to
10 y'all, I will allow you to come forward and speak
11 with me and the attorneys privately. We certainly
12 do not want to cause anyone any embarrassment, but
13 we do need full and complete and accurate
14 information.

15 So if a question does apply to you,
16 please either stand at that time when I ask that
17 question or at the end of the questioning period I
18 will give you an opportunity to come forward at
19 that time I'll ask a very broad question. If you
20 need to speak to me or if you think that any
21 question applies to you to come forward at that
22 time. So please make a mental note to come forward
23 at the appropriate time.

24 Ladies and gentlemen, here are the
25 questions regarding your qualifications to serve as

1 jurors in this court.

2 Is there any member of the jury panel
3 who is not a citizen of the United States? If so,
4 please stand.

5 I find that there is no one standing.

6 Is there any member of the jury panel
7 who is not a resident and citizen of Orangeburg
8 County? If so, please stand.

9 I find that there is no one standing.

10 Is there any member of the jury panel
11 who is unable to read, write, speak or understand
12 the English language? If so, please stand.

13 I find that there is no one standing.

14 Does any member of the jury panel have
15 less than a sixth grade education or its
16 equivalent? If so, please stand.

17 I find that there is no one standing.

18 Is there any member of the jury panel
19 unable because of mental or physical infirmities to
20 render efficient jury service? For example, does
21 any member of the jury panel have a medical
22 condition that would prevent you from serving on a
23 jury this week? If so, please stand.

24 Yes, ma'am, would you come forward.

25 And your name?

1 MS. GILLIARD: Tanyra Gilliard.

2 THE COURT: Ms. Gilliard, you are 107.
3 What is your circumstance?

4 MS. GILLIARD: I have Crohn's disease.

5 THE COURT: You have Crohn's disease.
6 It makes it difficult for you to sit for an
7 extended period of time. Is that something --

8 MS. GILLIARD: I have to keep going
9 back and forth to the bathroom.

10 THE COURT: Do you take medication for
11 that?

12 MS. GILLIARD: Uh-huh.

13 THE COURT: Is that something and I
14 don't want to get too personal, but can you sit
15 like say for several hours at a time or --

16 MS. GILLIARD: No, ma'am.

17 THE COURT: No. Okay. I'm happy to
18 try to accommodate you, but if you feel that you're
19 up to it, but if you feel that you would be
20 uncomfortable with that condition I will excuse
21 you.

22 MS. GILLIARD: Okay.

23 THE COURT: What would you like? If
24 you have -- can you feel it coming on and you raise
25 your hand and we take a break, I'm happy to do that

1 for you. I don't want to put you in a difficult
2 circumstance, but we're happy to try to accommodate
3 you if you'd like to stay with us.

4 MS. GILLIARD: Okay.

5 THE COURT: You want to stay?

6 MS. GILLIARD: Uh-huh.

7 THE COURT: All right. We'll keep a
8 lookout if you raise your hand, okay?

9 MS. GILLIARD: Okay.

10 THE COURT: Thank you.

11 Has anybody member of the jury panel
12 been convicted of by guilty plea or trial in a
13 state or federal court of record of a crime
14 punishable by imprisonment for more than one year
15 and your civil rights have not been restored by
16 pardon or amnesty? Punishable by more than one
17 year means that you could have received a sentence
18 of more than one year regardless of what sentence
19 you may have actually received. If this applies to
20 you, please stand.

21 I find that there is no one standing.

22 Is there any member of the jury panel a
23 clerk, a deputy clerk of court, constable, sheriff
24 or other commissioned law enforcement officer,
25 probate judge, county commissioner, magistrate or

1 other county officer or is employed within the
2 walls of any courthouse? If so, please stand.

3 Yes, sir, would you come forward. How
4 are you, sir?

5 MR. LEEDECKE: I'm still currently
6 employed with the City of Orangeburg Public Safety
7 as a fire fighter, retired law enforcement of 25
8 years --

9 THE COURT: Hold on. Let's do one
10 thing at a time. Your juror number, please?

11 MR. LEEDECKE: I can't remember.

12 THE COURT: Your name?

13 MR. LEEDECKE: My name is Paul
14 Leedecke.

15 THE COURT: 160. All right. So you're
16 currently with the fire department?

17 MR. LEEDECKE: Yes, ma'am. And retired
18 from the same agency as a law enforcement officer
19 in the patrol division for 25 years.

20 THE COURT: So if you're not a current
21 fire officer that would not disqualify you. I
22 understand you've been retired law enforcement then
23 that would go into the next set of questions once
24 we start as far as the actual case.

25 MR. LEEDECKE: Come back --

1 THE COURT: No hold on. You can go
2 ahead and talk about it now. With the fact that
3 you're retired law enforcement would in any way
4 prevent you from being fair and impartial to both
5 the State and to the Defense in a criminal case?

6 MR. LEEDECKE: No.

7 THE COURT: You can fully listen to the
8 evidence from the witness stand and be fair and
9 impartial to both sides?

10 MR. LEEDECKE: Yes, ma'am.

11 THE COURT: And you can set that fully
12 aside?

13 MR. LEEDECKE: (Nodded)

14 THE COURT: All right. You can stay
15 with us. Thank you.

16 Is there any member of the jury panel
17 who has previously served on jury duty in circuit
18 court, not in magistrate's court, municipal court
19 or in federal court during this calendar year? If
20 so, please stand.

21 I find that there is no one standing.
22 Oh, yes, sir? Would you come forward? Good
23 morning, sir.

24 MR. WALKER: Yes, my name is Bobby
25 Walker, Juror 269. I served in December 6th in

1 this court of last year.

2 THE COURT: December 6th?

3 MR. WALKER: Yes.

4 THE COURT: So this past year?

5 MR. WALKER: Yes, 2021.

6 THE COURT: Okay. Here in general

7 sessions --

8 MR. WALKER: Yes.

9 THE COURT: -- or common pleas?

10 MR. WALKER: General sessions.

11 THE COURT: Oh, okay.

12 THE CLERK: We'll double check it.

13 MR. WALKER: 269.

14 THE COURT: 269, Mr. Walker. We will
15 check our records. What type of case did you serve
16 on?

17 MR. WALKER: Civil.

18 THE COURT: Like a car wreck or
19 something?

20 MR. WALKER: Yes.

21 THE CLERK: October of 2019.

22 THE COURT: October of 2019, so you're
23 a couple of years out.

24 MR. WALKER: Okay.

25 THE COURT: So you actually -- the next

1 set of questions we'll ask if within the last three
2 years you've served. And if you'd like to be
3 exempt on that basis. Would you like to stay with
4 us or would you like to be exempt?

5 MR. WALKER: I'll just stay.

6 THE COURT: You want to stay. That's
7 great. Thank you.

8 Has any member of the jury panel served
9 as a member of the Orangeburg County grand jury in
10 the past several years? If so, please stand.

11 I find that there is no one standing --
12 oh. Yes, sir, would you come forward?

13 Good morning, sir.

14 MR. JENKINS: How you doing?

15 THE COURT: I'm good. How are you?
16 Are you okay getting up the steps?

17 MR. JENKINS: Yes.

18 THE COURT: All right, sir. Can you
19 tell me your name?

20 MR. JENKINS: My name is Jerry Jenkins.

21 THE COURT: Mr. Jenkins. All right.
22 Mr. Jenkins, you served on the grand jury?

23 MR. JENKINS: Yes.

24 THE COURT: And when did you do that?

25 MR. JENKINS: About ten years ago.

1 THE COURT: Oh, ten years ago. So that
2 technically wouldn't qualify for this question.
3 It's within the past several years and then if you
4 had served within the last five years you could be
5 exempt, so that wouldn't apply to you.

6 MR. JENKINS: Okay.

7 THE COURT: All right. Thank you, sir.

8 We now move to jury exemptions. State
9 law provides for several exemptions to jury
10 service. An exemption does not mean that you're
11 not qualified to serve, it simply means that you
12 have the right to say I choose not to serve. For
13 those of you who are over the age of 65 this
14 exemption could apply to you; however, if you're
15 over the age of 65, we certainly would encourage
16 you to stay with us as you've accumulated a lot of
17 wisdom and experience in your age and certainly we
18 would love for you to stay us with if you're over
19 the age of 65. However, if that applies to you and
20 you wish to be exempt on this basis, please stand.

21 I find that there is no one standing.

22 Another exemption concerns prior jury
23 service. No person is required to serve as a juror
24 more often than once every three calendar years;
25 therefore, if any member of the jury panel has

1 served on jury duty in the last two calendar years
2 you may be exempt from service this week if you
3 choose to be exempted. Please note that this
4 exemption does not apply if your service was in
5 magistrate's court, municipal court or in federal
6 court. If this exemption applies to you and you
7 wish to exercise it, please stand.

8 I find that there is no one standing.

9 Persons who have served as grand jurors
10 in the last five calendar years may also be exempt
11 from jury service. If any member of the jury panel
12 has served on the grand jury during the last five
13 calendar years you may be exempt from service this
14 week if you choose to be exempted. If this applies
15 to you and you wish to exercise it, please stand.

16 I find that there is no one standing.

17 The next exemption deals with those of
18 you who have small children. Please listen very
19 carefully to this exemption as it has several parts
20 all of which must apply for you to be exempt on
21 this basis.

22 You may be exempt from jury service
23 this week if you have a small child or small
24 children under the age of seven years, you have
25 legal custody of your child or children, you have

1 the principal care, custody and control of your
2 child or children and you are unable to make
3 adequate arrangements for the care of your child or
4 children while performing jury duty. If all of
5 these requirements apply to you and you wish to be
6 exempt on this basis, please stand.

7 Yes, ma'am, would you come forward?

8 Good morning. And your name, please?

9 MS. MINGO: Quotasia Mingo.

10 THE COURT: Yes, ma'am. And tell me
11 about your circumstance.

12 MS. MINGO: Yes, I have three kids. My
13 two year old, four year old, and eight year old and
14 I don't have any child care to cover anybody if I'm
15 on jury duty.

16 THE COURT: So basically there's no one
17 with them during the day?

18 MS. MINGO: Yes, I go to work, but they
19 go to day care and I don't have anybody to pick
20 them up.

21 THE COURT: What time do they have to
22 be picked up by?

23 MS. MINGO: One is 2 and one is at
24 3:30. And my eight year old is in public school.

25 THE COURT: All right. So then, again,

1 you don't have anybody to go pick them up?

2 MS. MINGO: No.

3 THE COURT: All right. I'll excuse you
4 on this basis.

5 MS. MINGO: Can I leave or stay?

6 THE COURT: Yes, ma'am, you can leave.

7 MS. MINGO: Okay. Thank you.

8 THE COURT: You can come forward,
9 ma'am. Good morning, ma'am. Your name, please?

10 MS. GREENE: Sandra Michelle Greene.

11 THE COURT: Yes, ma'am. And what's
12 your circumstance?

13 MS. GREENE: I have twins and they're
14 in school, but I have no one to keep them.

15 THE COURT: But they're in school this
16 week?

17 MS. GREENE: They're not today.

18 THE COURT: So what are you doing for
19 them today?

20 MS. GREENE: I have my sister, she's a
21 nurse and she's off.

22 THE COURT: So how old are your twins?

23 MS. GREENE: Five.

24 THE COURT: Five. Okay. And do you
25 usually work outside the home and they go to school

1 though?

2 MS. GREENE: They go to school

3 (inaudible) .

4 THE COURT: And what time do they have
5 to be picked up by?

6 MS. GREENE: 2:30.

7 THE COURT: 2:30, so you're kind of in
8 the same boat. Do you have anybody that can pick
9 them up for you if you were selected?

10 MS. GREENE: It varies. But my sister
11 is a nurse and so I don't know when she's off she
12 get them, but I don't have anybody to pick them up.

13 THE COURT: So I'll just ask you this.
14 If you were selected to serve, we will be finished
15 by Wednesday and after jury selection this morning
16 we will be through for today. Do you think you'd
17 be able to serve and find someone to pick them up
18 if we're done by Wednesday?

19 MS. GREENE: Yeah, I think I can.

20 THE COURT: Okay. Well then if you'd
21 stay with us then that would be fantastic. Thank
22 you, ma'am.

23 The next exemption involves those of
24 you who may be attending school at this time or
25 working in some capacity with a school. If this

1 exemption applies to you and you wish to be
2 exempted, I can transfer your service to another
3 term of court at which time will not conflict with
4 your school responsibilities. Is there any member
5 of the jury panel who is a full-time student,
6 school teacher, school crossing guard, school bus
7 driver or who serves in any other school related
8 function who is unable to serve on jury duty this
9 week as a result of that school involvement? If
10 so, please stand.

11 I find that there is no one standing.

12 Is there any member of the jury panel
13 who is employed with the Department of Corrections
14 at a penitentiary, if so if you wish to be exempt
15 on this basis please stand.

16 I find that there is no one standing.

17 Is there any juror who perform services
18 for a business, commercial or agricultural
19 enterprise which are so essential to the operation
20 of the enterprise that if you were required to
21 perform jury duty, the enterprise would have to
22 close or stop functioning? If so, please stand.

23 I find that there is no one -- yes,
24 sir, would you come forward?

25 MR. RECTOR: I'm actually not sure, but

1 as a supervisor, I run about 30 people. So when
2 I'm not there, my boss has to fill in which he
3 usually cannot. He's there right now, so I pretty
4 much make 30 people have their job.

5 THE COURT: Okay. Well, since you have
6 a supervisor that can come step in --

7 MR. RECTOR: Well, I am the supervisor.
8 My boss usually isn't even there.

9 THE COURT: Okay. Well, you have a
10 boss, so that technically wouldn't apply. So what
11 I can do is, you know the trial we have this week
12 is short and we should finish by Wednesday. Once
13 we select the jury this morning you'll be free this
14 afternoon if you're selected to serve. So I can
15 give you an option. I can transfer you to another
16 term and you can kind of plan ahead a little bit --

17 MR. RECTOR: We're just very busy from
18 now until July. Is there a transfer past that
19 date?

20 THE COURT: Yeah, I can transfer. The
21 only kicker is though whenever you're called it may
22 be for a trial that lasts all week, so you just
23 kind of have to balance that.

24 MR. RECTOR: I mean, I guess I'll -- so
25 how it does work if you may get picked as a jury?

1 THE COURT: Right. We're going to pick
2 a jury this morning. If you're selected then of
3 course we'll start the trial in the morning and
4 finish on Wednesday. If you're not selected then
5 you're done with your jury service.

6 MR. RECTOR: I guess I'll just wait.

7 THE COURT: Okay. And tell me your
8 name?

9 MR. RECTOR: I just was kind of asking.
10 Samuel Rector.

11 THE COURT: Mr. Rector?

12 MR. RECTOR: Yes.

13 THE COURT: All right. I gotcha.

14 MR. RECTOR: Thank you very much.

15 THE COURT: Good morning. Your juror
16 number?

17 MR. FAIREY: 82.

18 THE COURT: Ms. Fairey?

19 MS. FAIREY: Yes.

20 THE COURT: Yes, ma'am?

21 MS. FAIREY: I'm self employed (not
22 able to hear).

23 THE COURT: Okay. So this would apply
24 to you. So you're the only person working in your
25 business?

1 MS. FAIREY: Yes.

2 THE COURT: And you wish to be exempt
3 on this basis?

4 MS. FAIREY: Yes.

5 THE COURT: All right. Thank you.

6 Is there any juror who is the primary
7 caretaker of a severely disabled person who is
8 unable to care for himself or herself and cannot be
9 left unattended? If so, if you wish to be exempt
10 on this basis please stand.

11 I find that there is no one standing.

12 And, finally, is there any juror who's
13 the primary caretaker of a person age 65 or over,
14 if so, if you wish to be exempt on this basis
15 please stand.

16 I find that there is no one standing.

17 Ladies and gentlemen, that concludes
18 the statutory list of qualifications and exemptions
19 for jury service. It may be that you are qualified
20 and no exemption applies to you, but jury service
21 this week would constitute an extreme hardship upon
22 you for a particular reason. I cannot permanently
23 excuse a qualified juror from jury service, but
24 under extreme and compelling circumstances, I may
25 excuse a juror from this term of court and transfer

1 that juror to a different term of court
2 particularly those jurors who have not been
3 previously transferred.

4 Please understand that general
5 inconvenience is not a sufficient to transfer you
6 to another term of court. To justify a transfer to
7 another term of court service this week must
8 constitute an extreme hardship upon you.

9 Ladies and gentlemen, this is now the
10 chance for those of you who did not respond earlier
11 to any questions that I asked and those of you who
12 had a compelling reason to request a transfer of
13 your jury service to another week to come forward.
14 If you believe that you're disqualified or exempt
15 from jury service, if you have any questions as to
16 whether you're disqualified or exempt from jury
17 service, or if you need to be transferred to
18 another term of court, please come forward at this
19 time.

20 Good morning. Your name, sir?

21 MR. HUGHES: David Hughes.

22 THE COURT: Mr. Hughes. Yes, sir?

23 MR. HUGHES: I got a very important
24 doctor appointment. I have been in and out of the
25 hospital for like three months. I'm diabetic and I

1 have -- and I got to go to the doctor tomorrow to
2 get a referral to a lung doctor.

3 THE COURT: Well, I can transfer you to
4 a different term of court. Is there a time of year
5 that's better for you?

6 MR. HUGHES: Not really. Anytime. I
7 mean --

8 THE COURT: Do you want to do maybe
9 summertime?

10 MS. HUNTER: Before you do that --

11 THE COURT: So we haven't gotten to
12 this question, but do you happen to have a criminal
13 record?

14 MR. HUGHES: I had one, but I have -- I
15 had full pardon.

16 THE COURT: Can I get the paper?

17 MS. HUNTER: Sure.

18 THE COURT: Failure to stop for a blue
19 light that you got pardon for that?

20 MR. HUGHES: Yes, ma'am.

21 THE COURT: Then you if you will stay
22 with us. I can transfer you to July. Would that
23 be good?

24 MR. HUGHES: That would be fine.

25 THE COURT: Okay. We'll transfer to

1 July. You'll get a new notice. Thank you. Good
2 luck with your appointment tomorrow.

3 MR. HUGHES: Thank you. I can leave
4 now?

5 THE COURT: Yes, sir. Good morning,
6 sir.

7 MR. SCOVILLE: Good morning. How are
8 you?

9 THE COURT: Doing well. Tell me your
10 juror number, please?

11 MR. SCOVILLE: 234.

12 THE COURT: 234, Mr. Scoville?

13 MR. SCOVILLE: That is correct.

14 THE COURT: Yes, sir, what's your
15 circumstance?

16 MR. SCOVILLE: I already been exempted
17 once to education as a teacher, but also does
18 knowing any of the defense attorney qualify me as
19 well or disqualify?

20 THE COURT: You're jumping the gun a
21 little bit. That will be one of my questions as
22 soon as they call the case for trial, but we can go
23 ahead and take care of it now. Who do you know?

24 MR. SCOVILLE: I know --

25 THE COURT: Mr. Sims?

1 MR. SCOVILLE: Attorney Sims, yes.

2 THE COURT: In what capacity do you
3 know Mr. Sims?

4 MR. SCOVILLE: He was a pastor at my
5 wife's church and, of course, familiar with him
6 through that process as well.

7 THE COURT: Do you visit in each
8 other's homes and socialize all the time?

9 MR. SCOVILLE: No.

10 THE COURT: But as a pastor in that
11 kind of capacity?

12 MR. SCOVILLE: Yes.

13 THE COURT: Do you think you can set
14 that relationship aside in this case and listen to
15 the testimony as it comes from the witness stand?

16 MR. SCOVILLE: Yes.

17 THE COURT: And will you be fully fair
18 and impartial to both the State and to the Defense?

19 MR. SCOVILLE: Yes.

20 THE COURT: All right, sir. You can
21 stay with us.

22 MR. SCOVILLE: Oh, okay. And the
23 education part, I just decided to combine the two.

24 THE COURT: Yes, sir.

25 MR. SCOVILLE: The part where I'm a

1 teacher and that exercise been done earlier, I
2 didn't know whether I was, you know --

3 THE COURT: Are you able to be here? I
4 mean, what's your capacity as a teacher?

5 MR. SCOVILLE: I'm a teacher.

6 THE COURT: Right. And I guess, you
7 know, you may want to be away from school from the
8 kids a little bit, who knows. But -- so the trial
9 that we have this week, once we pick the jury this
10 morning, you'll be free to go and if you're
11 selected, the trial will be Tuesday and Wednesday.
12 So if you have any flexibility at school or do you
13 want me to transfer you to the summertime?

14 MR. SCOVILLE: I have flexibility. I
15 just have to notify them in advance.

16 THE COURT: Well, this might be a good
17 week for you to serve then if you're selected. Do
18 you want to stay with us or do you want me to
19 transfer you?

20 MR. SCOVILLE: The only thing is my
21 wife has a medical procedure tomorrow and I am
22 responsible for transporting her. That was the
23 only other reason.

24 THE COURT: Okay. Well, if you have to
25 take her tomorrow and if you're selected then of

1 course that wouldn't work. So let's go ahead and
2 transfer you to the summertime then.

3 MR. SCOVILLE: Okay.

4 THE COURT: Does that give your wife
5 sufficient time for her medical care?

6 MR. SCOVILLE: Yes.

7 THE COURT: All right. So how about
8 July? So we'll transfer you to July then.

9 MR. SCOVILLE: Very well then.

10 THE COURT: Have a good day.

11 MR. SCOVILLE: So I'm dismissed?

12 THE COURT: Yes, sir.

13 MR. SCOVILLE: Okay. Thank you.

14 THE COURT: Good morning. How are you
15 today?

16 MS. MCALHANY: Good. How are you?

17 THE COURT: Good. And your juror
18 number, please?

19 MS. MCALHANY: 166.

20 THE COURT: 166, Ms. McAlhany?

21 MS. MCALHANY: Yes.

22 THE COURT: Yes, ma'am.

23 MS. MCALHANY: So basically I just
24 wanted to bring this to your attention. I work for
25 Saint George Post Office in Dorchester County. I

1 work from the inside. I just wanted to bring that
2 to your attention. I didn't know -- I mean, I'm
3 happy to be here, don't get me wrong, I just wanted
4 to let you know that you work for Dorchester
5 County, okay, I work for the post office of
6 Dorchester County.

7 THE COURT: So you handle my mail?

8 MS. MCALHANY: Yes.

9 THE COURT: That's fine. That's not a
10 problem at all and I appreciate you disclosing
11 that, but that wouldn't have any affect. Of course
12 you can obviously set that aside and listen to the
13 evidence as it comes from the witness stand?

14 MS. MCALHANY: I just wanted to make
15 sure I'm good to go with that.

16 THE COURT: And just so the record's
17 clear, although you handle my mail, we don't know
18 each other personally; is that correct?

19 MS. MCALHANY: Correct.

20 THE COURT: All right. Thank you,
21 ma'am. Have a good day.

22 Good morning, sir. How are you?

23 MR. BENOIT: Not too bad. I was
24 wondering, I'm armed security for the state
25 department and I didn't know if that fell

1 underneath the court --

2 THE COURT: You're law enforcement
3 commissioned? Do you have a commission for law
4 enforcement? Because sometimes armed security is a
5 little bit different.

6 MR. BENOIT: Yeah, we're not actual law
7 enforcement. We can detain, we can't arrest
8 legalese.

9 THE COURT: So I think you're okay to
10 stay. Would that in any way prevent you from being
11 fully fair and impartial to the State or to the
12 Defense in a criminal case?

13 MR. BENOIT: What's that?

14 THE COURT: Would that in any way
15 prevent you from being fair and impartial to both
16 the State and to the Defense in a criminal case?

17 MR. BENOIT: No, it shouldn't.

18 THE COURT: Can you set that aside and
19 be fully fair and impartial?

20 MR. BENOIT: What's that?

21 THE COURT: Can you set that aside and
22 be fully fair and impartial?

23 MR. BENOIT: Oh, yeah. Yeah.

24 THE COURT: All right, sir. You can
25 stay with us. And tell me your name and juror

1 number, please?

2 MR. BENOIT: John Benoit. I don't know
3 what my juror number is.

4 THE COURT: What was the last name?

5 MR. BENOIT: Benoit, B-E-N-O-I-T.

6 Number 5 or something like that.

7 THE COURT: Yes, Number 5. Thank you.
8 He's staying.

9 Good morning.

10 MR. SISTRUNK: How you doing?

11 THE COURT: Doing all right. How are
12 you?

13 MR. SISTRUNK: All right.

14 THE COURT: And your juror number,
15 please, or your name?

16 MR. SISTRUNK: Lamont Sistrunk.

17 THE COURT: With an S?

18 MR. SISTRUNK: Yes, ma'am.

19 THE COURT: Number 246. Yes, sir?

20 MR. SISTRUNK: I got a charge in 2005
21 that hindered me from a job. Simple assault with
22 high and aggravated nature.

23 THE COURT: ABHAN?

24 MR. SISTRUNK: Yes, ma'am.

25 THE COURT: Were you convicted of that?

1 MR. SISTRUNK: Yes, ma'am.

2 THE COURT: All right. Let me make
3 sure, I've got your paperwork right here. You said
4 it was -- so, sir, that actually would disqualify
5 you. So thank you for letting me know. Have a
6 good day.

7 MR. SISTRUNK: All right.

8 THE COURT: Good morning, ma'am. How
9 are you?

10 MS. THOMAS: I'm good. My name is
11 Shamika Randolph-Thomas.

12 THE COURT: Randolph-Thomas. Yes,
13 ma'am?

14 MS. THOMAS: When you stated about like
15 if something would hinder me. I don't know, like,
16 does it matter what timeframe? I have a son that's
17 in school and he's ten, so he gets out of school
18 like 2:30 then he gets home at 2:55. I don't have
19 anyone to get him. So I don't know, do I --

20 THE COURT: So technically that doesn't
21 apply to you because he's ten and not under seven;
22 however, if you don't have anybody to care for him
23 and you're kind of in a bind, I can transfer your
24 service to another term of court and you can plan
25 ahead. I'll tell you that the trial that we have

1 | this week, once we pick the jury this morning,
2 | you'll be free to go. If you're selected, the
3 | actual trial will be Tuesday and Wednesday and then
4 | we'll be done. Or I can transfer you to another
5 | term of court and you can plan ahead, but you may
6 | be here all week.

7 | MS. THOMAS: I'll stay. I'll wait,
8 | yes, ma'am. Because I made arrangements for him
9 | today, so I didn't know going forward.

10 | THE COURT: So if you can make
11 | arrangements, yeah.

12 | MS. THOMAS: I made it for today, but I
13 | don't know how it was going to be going forward.

14 | THE COURT: Right. So if you're
15 | selected, you know, Tuesday and Wednesday.

16 | MS. THOMAS: Gotcha. Okay.

17 | THE COURT: All right.

18 | MS. THOMAS: Thank you.

19 | THE COURT: Appreciate it.

20 | MS. HOLIDAY: Juror Number 130.

21 | THE COURT: Yes, ma'am, Ms. Holiday,
22 | what's your circumstance?

23 | MS. HOLIDAY: I just got a job at
24 | Bamberg Job Corps and they have been out of a
25 | testing coordinator for like three months and

1 | there's a backlog of students that need to be test
2 | before they can go in their academic classes. So
3 | they have to be tested before they can proceed with
4 | that procedure. There's not a backup person for me
5 | yet that has been trained and no one else can do
6 | it. Another teacher, anyone who can do the
7 | testing.

8 | THE COURT: Well, let me ask you this
9 | and I'll give you an option. Basically the trial
10 | that we have this week is pretty quick. Once we
11 | pick the jury this morning, then you'll be free to
12 | go. If you're selected, service will be Tuesday
13 | and Wednesday, we anticipate the trial will finish
14 | on Wednesday. Or I can transfer you to another
15 | week and let your employer plan ahead a little bit,
16 | but you may be here all week.

17 | MS. HOLIDAY: I'll stay.

18 | THE COURT: That's probably a wise
19 | choice. All right. So you stay with us. And tell
20 | me your name again.

21 | MS. HOLIDAY: Brenda Holiday.

22 | THE COURT: Okay. Thank you, ma'am.

23 | Good morning, ma'am.

24 | MS. JOHNSON: Good morning. My name's
25 | Sabrina Johnson.

1 THE COURT: Ms. Johnson, Number 145.

2 Yes, ma'am?

3 MS. JOHNSON: My concern is this. I
4 have problems with my bladder and I'm in the
5 process of seeing a doctor to see what's the cause
6 of it. (Not able to hear).

7 THE COURT: Let's talk about your
8 medical condition first. Is that something that
9 prevents you from sitting for a long period of
10 time?

11 MS. JOHNSON: Yeah.

12 THE COURT: And do you take medication
13 for that?

14 MS. JOHNSON: No, that's why I'm going
15 to the doctor to see what's causing it. Not yet.
16 They already did the test, I go back the first part
17 of March.

18 THE COURT: Okay. So you haven't gone
19 back yet?

20 MS. JOHNSON: No.

21 THE COURT: Would it be something where
22 if you were selected you could just raise your hand
23 and we take a break to do a quick restroom break?
24 Would you feel okay with that?

25 MS. JOHNSON: Yeah.

1 THE COURT: Okay. Because we'd
2 certainly love to accommodate you for that. So as
3 far as the mother, you don't have her this week, so
4 this trial will be a pretty quick trial. Once we
5 pick the jury this morning, you will be free to go
6 and we start the trial in the morning and it should
7 finish on Wednesday. But your mom shouldn't be an
8 issue with that, okay?

9 MS. JOHNSON: Okay.

10 THE COURT: All right. So stay with us
11 then. Thank you, ma'am.

12 Would Juror Number 33, Mr. Timothy
13 Butler, please come forward. Good morning, sir.

14 MR. BUTLER: Good morning. How are you
15 doing?

16 THE COURT: I'm good. How are you?

17 MR. BUTLER: All right.

18 THE COURT: Mr. Butler, is this your
19 date of birth and your correct information right
20 here?

21 MR. BUTLER: Yes.

22 THE COURT: Is that you?

23 MR. BUTLER: Yes.

24 THE COURT: Sir, do you have -- I'm not
25 sure, but back in 1990, did you have a simple

1 possession of crack cocaine charge?

2 MR. BUTLER: It was 1990?

3 THE COURT: Yes, sir.

4 MR. BUTLER: Yeah, I think.

5 THE COURT: That was you?

6 MR. BUTLER: Yeah.

7 THE COURT: Okay. Well, that would
8 disqualify you, so you are free to go. Have a good
9 day.

10 MR. BUTLER: You too.

11 THE COURT: Would Juror Number 291,
12 Mr. Winfield please come forward. Good morning,
13 sir.

14 MR. WINFIELD: Good morning.

15 THE COURT: Mr. Winfield, is this your
16 correct information?

17 MR. WINFIELD: Yeah.

18 THE COURT: Yes, sir. And do you
19 recall having this conviction on your record?

20 MR. WINFIELD: Yes, ma'am.

21 THE COURT: Okay. So that would be
22 you. All right. So that would actually disqualify
23 you, so you are free to go.

24 MR. WINFIELD: All right. Thank you.

25 THE COURT: Have a good day.

1 MR. SIMS: Would Juror 160 who was the
2 fireman and former police officer. And because the
3 Orangeburg County Public Safety is a combination of
4 those, we would object to him still being on the
5 jury panel because he was a former police officer,
6 he is a fire fighter now and it's all one combined
7 unit. And I don't know how we do it in here, but
8 put it on the record that we would object to not
9 disqualifying him for cause.

10 THE COURT: I don't think he's
11 disqualified per the statute as far as a
12 commissioned law enforcement officer. That's what
13 your strikes are for.

14 MR. SIMS: But he was also a police
15 officer.

16 THE COURT: Retired. And he said he
17 could put that aside and be fully fair and
18 impartial.

19 MR. SIMS: I just needed to put that on
20 the record though.

21 THE COURT: Sure. That's fine.

22 Oh, one more. Good morning. Can you
23 tell me your juror number?

24 MS. MOMENT: Tyra Moment, number 180.

25 THE COURT: Yes, ma'am.

1 MS. MOMENT: (Not able to hear).

2 THE COURT: Once we pick the jury this
3 morning then everybody will be free to go. And if
4 you're selected to serve it will be Tuesday and
5 Wednesday.

6 MS. MOMENT: Okay. I have a five year
7 old and --

8 THE COURT: You need to make
9 arrangements?

10 MS. MOMENT: Yeah.

11 THE COURT: Okay. Thank you.

12 Thank you, ladies and gentlemen of the
13 jury panel. The jury panel is now qualified.
14 Solicitor, you may call your first case.

15 MS. HUNTER: Thank you, Your Honor.
16 May it please the Court. State calls Brandon
17 Wilson on the charges of ABHAN and possession of a
18 firearm during the commission of a violent crime.
19 Those are Indictments 2018-GS-38-0825 and 0826.

20 THE COURT: Thank you, ma'am. Ladies
21 and gentlemen of the jury panel, we're about to
22 begin the trial of the case of the State of South
23 Carolina verses Brandon Dwight Wilson. Before we
24 begin the selection in this trial, I'm going to
25 read to you the indictments in this case and that

1 is solely for the purpose of you knowing -- if you
2 know anything about this case or have any
3 information about this case.

4 Please be mindful that the indictments
5 are merely the charging documents which bring the
6 case into this court and they in no way have any
7 evidence as far as the charges against the
8 Defendant, but are merely the charging documents.

9 The first indictment is 2018-GS-38-0825
10 for assault and battery of a high and aggravated
11 nature. It states that in Orangeburg County, South
12 Carolina on or about October 21st of 2017, the
13 Defendant, Brandon Dwight Wilson did unlawfully
14 injure LaShawn Martin and cause great bodily injury
15 or the act was accompanied by means likely to
16 produce great bodily injury or death. This offense
17 being in violation of the South Carolina Code of
18 Laws.

19 The next indictment is 2018-GS-38-0826
20 and it is for possession of a firearm or a knife
21 during the commission of a violent crime. And it
22 states that in Orangeburg County on or about
23 October 21st of 2017, the Defendant, Brandon Dwight
24 Wilson, did physically display or have in his
25 possession a .45 caliber handgun during the

1 commission of a violent crime as defined by the
2 South Carolina Code of Laws. The alleged crime was
3 assault and battery of a high and aggravated
4 nature, thereby, violating the South Carolina Code
5 of Laws as amended.

6 So, ladies and gentlemen, before we get
7 started, I'm going to ask the State to please stand
8 and introduce themselves and the members of their
9 office, please.

10 MS. HUNTER: Good morning. My name is
11 Catherine Hunter, I'm with the Orangeburg County
12 Solicitor's Office and seated with me is Phil Giese
13 also with the Orangeburg County Solicitor's Office.

14 THE COURT: And if you would also state
15 the names of the other members of your office,
16 please.

17 MS. HUNTER: The other attorneys in our
18 office are Solicitor David Pascoe, Deputy Solicitor
19 Thomas Scott, Chelsea Glover is assistant
20 solicitor, and Brad Riley assistant solicitor, and
21 Taylor Wise our other family court solicitor.

22 THE COURT: Thank you, Ms. Hunter.
23 Ladies and gentlemen of the jury panel, anyone
24 related by blood or marriage or has a close
25 personal or social relationship or has ever been

1 represented by any of the attorneys or had a case
2 against them? If so, please stand.

3 I find that there is no one standing.

4 And, Counsel for the Defense, if you
5 would please do the same.

6 MS. BRANCH: I am Belinda Davis-Branch,
7 I practice law in the State of South Carolina. I
8 have two members that are on my staff, Merlin Glenn
9 and Ms. Bella Riley. Thomas Sims is another
10 attorney in the Orangeburg area, he will be
11 assisting me today and this is the Defendant
12 Brandon Dwight Wilson.

13 THE COURT: Thank you, Ms. Branch.
14 Ladies and gentlemen, same question, is there any
15 member of the jury panel related by blood or
16 marriage or has a close personal or social
17 relationship or ever has been represented by their
18 firm or -- both attorneys or had a case against
19 them? If so, please stand.

20 I find that there is no one standing.

21 And you've briefly met Mr. Wilson.
22 That's Mr. Wilson here on my right and your left,
23 Brandon Dwight Wilson. Anyone related by blood or
24 marriage or has a close personal or social
25 relationship with Mr. Wilson? If so, please stand.

1 I find that there is no one standing.

2 Ladies and gentlemen, I'm going to read
3 to you the list of potential witnesses in this case
4 and I'll ask you the same question if you're
5 related by blood or marriage or have a close
6 personal or social relationship with any of the
7 following witnesses -- potential witnesses:

8 LaShawn Martin.

9 Alexis Fludd.

10 Ebony Esaw.

11 Jaleel Darby.

12 Tevin Darby.

13 Chief Shawn Murphree with Elloree
14 Police Department.

15 Deputy Alfred James Doctor.

16 Paul Greer.

17 Sergeant William Ketcherside.

18 Earl Kinley.

19 Marquel Stokes.

20 Investigator John Stokes.

21 Shawanda Oliver and Brandon Wilson.

22 Anyone related by blood or marriage or
23 have a close personal or social relationship with
24 any of the potential witnesses? If so, please
25 stand.

1 Yes, sir, would you come forward? Good
2 morning, sir. Could you tell me your juror number,
3 please?

4 MR. EASTERLIN: It's 75.

5 THE COURT: Mr. Easterlin?

6 MR. EASTERLIN: Yes, ma'am.

7 THE COURT: And who do you know, sir?

8 MR. EASTERLIN: Chief Shawn Murphree.
9 I'm a good friend of his.

10 THE COURT: Okay. And by friend, you
11 visit in each other's homes?

12 MR. EASTERLIN: Yeah. Yeah. He comes
13 by and visit my folk's house and kind of hang out
14 with him socially also.

15 THE COURT: And as far as this
16 particular case, has he discussed any cases with
17 you?

18 MR. EASTERLIN: No, ma'am.

19 THE COURT: Do you know anything about
20 this particular case?

21 MR. EASTERLIN: No.

22 THE COURT: The fact that you visit
23 with him socially and visits your folks, do you
24 think you can set that completely aside and listen
25 to the evidence as it comes solely from the witness

1 stand?

2 MR. EASTERLIN: Yes, ma'am, I can.

3 THE COURT: Will you be fully fair and
4 impartial to both the State and to the Defense?

5 MR. EASTERLIN: Yes, ma'am.

6 THE COURT: Okay, sir. Thank you.

7 Good morning. Your juror number, please?

8 MR. ELMORE: 77.

9 THE COURT: 77, Mr. Elmore?

10 MR. ELMORE: Yes, ma'am.

11 THE COURT: Yes, sir, who do you know?

12 MR. ELMORE: Alexis Fludd.

13 THE COURT: Alexis Fludd. And how do
14 you know --

15 MR. ELMORE: I went to high school with
16 her. (Inaudible).

17 THE COURT: Can you speak up a little
18 bit so she can hear you.

19 MR. ELMORE: I'm actually friends with
20 her cousin, but I don't know anything about this
21 case.

22 THE COURT: Okay. So you went to high
23 school together. It's been a couple of years. So
24 I guess if you were born in 1990 that's been, what,
25 about ten years ago that you graduated?

1 MR. ELMORE: Yeah, almost ten.

2 THE COURT: And you don't know anything
3 about this particular case?

4 MR. ELMORE: No, I don't know anything
5 about this case.

6 THE COURT: And you visit in each other
7 homes and hang out together?

8 MR. ELMORE: I probably seen her and
9 probably in like a year or two.

10 THE COURT: You've just seen her, but
11 you're not in constant contact with her?

12 MR. ELMORE: No, I'm not in constant
13 contact with her.

14 THE COURT: Okay. But you're friends
15 with her cousin?

16 MR. ELMORE: Yeah.

17 THE COURT: And anything about that
18 relationship can you set that aside in this case
19 and listen to the evidence solely as it comes from
20 the witness stand?

21 MR. ELMORE: Yeah.

22 THE COURT: Is that a yes?

23 MR. ELMORE: Yes.

24 THE COURT: And will you be fully fair
25 and impartial to both the State and to the Defense?

1 MR. ELMORE: Yes.

2 THE COURT: All right, sir. Thank you.

3 Good morning, ma'am. Your name,

4 please?

5 MS. CANTY: Micdrena Canty.

6 THE COURT: Ms. Canty?

7 MS. CANTY: Yes.

8 THE COURT: Yes, ma'am?

9 MS. CANTY: I know Ms. Fludd.

10 THE COURT: You know Ms. Fludd. And
11 can you tell me how you know her?

12 MS. CANTY: Went to school together.
13 She's a close family friend.

14 THE COURT: And do you visit in each
15 other's homes?

16 MS. CANTY: Yes.

17 THE COURT: And you talk on a regular
18 basis?

19 MS. CANTY: Yes.

20 THE COURT: Has she discussed anything
21 about this particular case with you?

22 MS. CANTY: No.

23 THE COURT: So you don't know anything
24 about this case?

25 MS. CANTY: No.

1 THE COURT: You think that the fact
2 that you went to school with her, you think you can
3 set that aside in this case and listen to the
4 evidence solely as it comes from the witness stand?

5 MS. CANTY: Yes, ma'am.

6 THE COURT: And will you be fully fair
7 and impartial to both the State and to the Defense?

8 MS. CANTY: Yes, ma'am.

9 THE COURT: All right. Thank you,
10 ma'am. If you would stay with us.

11 Good morning, sir. Can you tell me
12 your name, please?

13 MR. ADICKS: Number 1.

14 THE COURT: That's easy to remember.
15 Yes, sir?

16 MR. ADICKS: (Not able to hear).

17 THE COURT: But do you know anything
18 about this particular case?

19 MR. ADICKS: I don't know anything
20 about the case.

21 THE COURT: And you don't know any of
22 the actual people that I've mentioned as potential
23 witnesses?

24 MR. ADICKS: I know Earl and Shawn, the
25 police officers.

1 THE COURT: But they haven't discussed
2 this case with you?

3 MR. ADICKS: No, ma'am.

4 THE COURT: The fact that you know
5 then, can you set that aside in this case and
6 listen to the testimony solely as it comes from the
7 witness stand?

8 MR ADICKS: Yeah.

9 THE COURT: And will you be fully fair
10 and impartial to both the State and to the Defense?

11 MR. ADICKS: Yes.

12 THE COURT: All right, sir. Thank you.

13 Is there any member of the jury panel
14 who is a member or a contributor to or has a close
15 affiliation with any group which has its primary
16 concern the promotion of law enforcement or
17 victim's rights. These groups would include are
18 not limited to MADD, SADD or Citizen's Against
19 Violent Crime? Or in the alternative, is there any
20 member of an organization that opposes law
21 enforcement? If so, please stand.

22 I find that there is no one standing.

23 Is there any member of the jury panel
24 that was a member of the grand jury which issued
25 the indictments in this case? If so, please stand.

1 I find that there is no one standing.

2 Has any member of the jury panel heard
3 anything about this case, read anything about this
4 case, or know anything about this case whatsoever
5 before you came here today or even in your time
6 here in the auditorium? If so, please stand.

7 I find that there is no one standing.

8 Ladies and gentlemen, I read to you the
9 indictments in this case. Anything about the
10 nature of the indictments of the crimes charged
11 cause you in any way to hesitate in your ability to
12 be fair and impartial. And this is taken into
13 consideration of course that your personal
14 experiences, your family experiences, social
15 experiences or anybody that you might work with or
16 have a close relationship with, anything about this
17 type of case that causes you to hesitate in your
18 ability to be fair and impartial to both the State
19 and to the Defense? If so, please stand.

20 I find that there is no one standing.

21 Has any member of the jury panel formed
22 or expressed an opinion about any potential issue
23 or matter involved in this case? If so, please
24 stand.

25 I find that there is no one standing.

1 Is there any member of the jury panel
2 aware of any bias or prejudice towards either the
3 State or to the Defense in this case? If so,
4 please stand.

5 I find that there is no one standing.

6 Does any member of the jury panel know
7 of any reason whatsoever why he or she should not
8 serve as a juror in this case with a particular
9 emphasis being placed on your ability to be fair
10 and impartial to both the State and to the Defense?
11 If so, please stand.

12 I find that there is no one standing.

13 Ladies and gentlemen, that will
14 conclude the list of questions before we begin the
15 jury selection. Madam Clerk, do you need a few
16 minutes?

17 THE CLERK: Yes, ma'am.

18 THE COURT: Ladies and gentlemen, the
19 clerk's office needs just about five minutes to --
20 we put your names in somewhat of an electronic
21 popper before we begin the jury selection, it might
22 be a good opportunity for anyone that needs to use
23 the restroom and we'll get started in -- actually,
24 we'll take a ten minute break that will allow every
25 one the chance to get comfortable and be back in

1 the auditorium in ten minutes. Thank you.

2 (WHEREUPON, there was a short break)

3 THE COURT: Thank you everyone, please
4 have a seat. Counsel, ready to proceed?

5 MS. HUNTER: Yes, Your Honor.

6 THE COURT: Defense ready?

7 MS. BRANCH: Yes, Your Honor.

8 THE COURT: Madam Clerk?

9 THE CLERK: As your name is called, can
10 you please grab your belongings and come down the
11 aisle.

12 Juror Number 244, Vernae Simmons.

13 What says the State?

14 MS. HUNTER: Please seat this juror.

15 THE CLERK: What says the Defense?

16 MR. SIMS: Seat the juror.

17 THE CLERK: Thank you. You may be
18 seated. Juror Number 29, Sara Brown.

19 What says the State?

20 MS. HUNTER: Please seat this juror.

21 THE CLERK: What says the Defense?

22 MR. SIMS: Excuse the juror.

23 THE CLERK: You may be excused, ma'am.
24 You can go back to your seat. Thank you.

25 Juror Number 72, Michael Driggers.

1 What says the State?

2 MS. HUNTER: Please seat this juror.

3 THE CLERK: What says the Defense?

4 MS. BRANCH: Seat the juror, please.

5 THE CLERK: You may be seated, sir, to

6 the right. Juror Number 10, Caleb Barr.

7 What says the State?

8 MS. HUNTER: Please seat this juror.

9 THE CLERK: What says the Defense?

10 MR. SIMS: Excuse the juror.

11 THE CLERK: You can have a seat, sir.

12 Juror number 146, Audrey Jones.

13 What says the State?

14 MS. HUNTER: Please excuse this juror.

15 THE CLERK: What says the Defense --

16 sorry. You may go back to your seat, ma'am.

17 Juror Number 9, Carroll Ballew.

18 What says the State?

19 MS. HUNTER: Please seat this juror.

20 THE CLERK: What says the Defense?

21 MR. SIMS: Seat the juror.

22 THE CLERK: Thank you. You may be

23 seated to the right. Juror Number 103, Cecile

24 Garvin.

25 What says the State?

1 MS. HUNTER: Please seat this juror.

2 THE CLERK: What says the Defense?

3 MR. SIMS: Seat the juror.

4 THE CLERK: Thank you. Juror Number
5 273, Farrell Washington.

6 What says the State?

7 MS. HUNTER: Please seat this juror.

8 THE CLERK: What says the Defense?

9 MR. SIMS: Seat the juror.

10 THE CLERK: Thank you. Juror Number
11 249, Jarmel Smith.

12 What says the State?

13 MS. HUNTER: Please excuse this juror.

14 THE CLERK: You may go back to your
15 seat, sir. Juror Number 215, Shamika
16 Randolph-Thomas.

17 What says the State?

18 MS. HUNTER: Please seat this juror.

19 THE CLERK: What says the Defense?

20 MR. SIMS: Please seat the juror.

21 THE CLERK: Thank you. You may be
22 seated. Juror Number 35, Campenella Caldwell.

23 What says the State?

24 MS. HUNTER: Please excuse this juror.

25 THE CLERK: Thank you. You may go back

1 to your seat. Juror Number 156, Joseph Alan King.

2 What says the State?

3 MS. HUNTER: Please seat this juror.

4 THE CLERK: What says the Defense?

5 MR. SIMS: Please excuse the juror.

6 THE CLERK: You may go back to your

7 seat. Juror Number 36, Alfred Calloway.

8 What says the State?

9 MS. HUNTER: Please seat this juror.

10 THE CLERK: What says the Defense?

11 MR. SIMS: Seat the juror.

12 THE CLERK: Thank you. You may come

13 have a seat. Juror Number 145, Sabrina Johnson.

14 What says the State?

15 MS. HUNTER: Please seat this juror.

16 THE CLERK: What says the Defense?

17 MR. SIMS: Seat the juror.

18 THE CLERK: Thank you. If you'd come

19 down and be seated, ma'am. Juror Number 174,

20 Shanette Meeks.

21 What says the State?

22 MS. HUNTER: Please seat this juror.

23 THE CLERK: What says the Defense?

24 MR. SIMS: Seat the juror.

25 THE CLERK: Thank you. Juror Number

1 79, Mary Elmore.

2 What says the State?

3 MS. HUNTER: Please seat this juror.

4 THE CLERK: What says the Defense?

5 MR. SIMS: Seat the juror.

6 THE CLERK: Thank you. If you would
7 come down and be seated. Juror Number 60, Cassie
8 Davis.

9 What says the State?

10 MS. HUNTER: Please seat this juror.

11 THE CLERK: What says the Defense?

12 MR. SIMS: Seat the juror.

13 THE CLERK: Thank you. Juror Number
14 143, Jerry Jenkins.

15 What says the State?

16 MS. HUNTER: Please seat this juror.

17 THE CLERK: What says the Defense?

18 MR. SIMS: Seat the juror.

19 THE CLERK: Thank you. Okay. We will
20 now move on to our alternates. Juror Number 16,
21 John Benoit.

22 What says the State?

23 MS. HUNTER: Please seat this juror.

24 THE CLERK: What says the Defense?

25 MR. SIMS: Excuse the juror.

1 THE CLERK: You can go back to your
2 seat. Juror Number 220, Nicole Rivers.

3 What says the State?

4 MS. HUNTER: Please seat this juror.

5 THE CLERK: What says the Defense?

6 MR. SIMS: Seat the juror.

7 THE CLERK: Thanks. You can be seated
8 to the right. Juror Number 115, Sandra Greene.

9 What says the State?

10 MS. HUNTER: Please seat this juror.

11 THE CLERK: What says the Defense?

12 MR. SIMS: Seat the juror.

13 THE CLERK: Thanks, you may be seated
14 to the right.

15 THE COURT: Are there any exceptions or
16 objections in the selection of this jury from
17 either the State or from the Defense?

18 MS. HUNTER: No, Your Honor.

19 THE COURT: Anything from the Defense?

20 MS. BRANCH: No, Your Honor.

21 THE COURT: Thank you. Ladies and
22 gentlemen of the jury panel that was not selected
23 for the trial of this case, you have fulfilled your
24 jury service obligations. If you need an excuse
25 for work, the clerk of court's office will be happy

1 to give that to you. For those members that were
2 selected on the jury for this trial of this case,
3 if you would please report to the courthouse
4 tomorrow morning at 9:30 then we will begin the
5 trial of this case. Please do not do any
6 independent investigation about this case or any of
7 the parties involved in this case as you must make
8 your determination of the facts solely from what
9 you hear from the witness stand and in the
10 courtroom.

11 So have a nice evening and we'll see
12 those members of the jury tomorrow at 9:30 and the
13 rest of you have a nice day. Thank you so much.

14 (WHEREUPON, court was in recess)

15 THE COURT: Good afternoon everyone.
16 Are we ready to proceed with the Stand Your Ground
17 hearing.

18 MR. SIMS: Yes, Your Honor.

19 THE COURT: All right. Yes, ma'am, you
20 may call your first witness.

21 ALEXUS FLUDD,
22 being first duly sworn, was examined and testified
23 as follows:

24 THE CLERK: Please state your first and
25 last name for the record.

ALEXUS FLUDD - DIRECT EXAMINATION BY MS. BRANCH

1 MS. FLUDD: Alexis Fludd.

2 THE CLERK: Thank you.

3 MS. BRANCH: Ms. Fludd --

4 THE COURT: Your witness, ma'am.

5 MS. BRANCH: Thank you, Your Honor.

6 DIRECT EXAMINATION BY MS. BRANCH:

7 Q. Ms. Fludd, what is your address?

8 A. Currently it's [REDACTED] Richland Street.

9 Q. And would that be in Elloree or Saint
10 Matthews?

11 A. Saint Matthews.

12 Q. What was your address in 2017?

13 A. [REDACTED] Carroll Street, Elloree.

14 Q. Okay. And at that time, did you know
15 the Defendant, Mr. Brandon Wilson?

16 A. Yes, we were dating at the time.

17 Q. So he is your ex-boyfriend?

18 A. Yes.

19 Q. Do you have a relationship with him
20 now?

21 A. No.

22 Q. Okay. How long did the two of you
23 date?

24 A. On and off for like a course of like
25 four years. Four or five years, yeah.

ALEXUS FLUDD - DIRECT EXAMINATION BY MS. BRANCH

1 Q. Did the Defendant ever spend the night
2 at your home?

3 A. Several times, yes.

4 Q. Do you recall the incident on October
5 21, 2017?

6 A. Yes.

7 Q. Were you home on that day?

8 A. Yes.

9 Q. Was the Defendant there?

10 A. Yeah.

11 Q. At some point, Ms. Fludd, did you hear
12 a gunshot?

13 A. Yes.

14 Q. What did you do, Ms. Fludd, when you
15 heard it?

16 A. Got up, went to the door to see what
17 was going on.

18 Q. How long did it take you to get up?

19 A. As soon as I heard it, like a matter of
20 seconds probably.

21 Q. Two or three seconds?

22 A. Yeah. Because where my chair was it
23 was like by the door.

24 Q. And would you explain to the Court what
25 you saw when you got up?

ALEXUS FLUDD - DIRECT EXAMINATION BY MS. BRANCH

1 A. When I went to the door, the Defendant,
2 Brandon, he was pointing a gun, but he was walking
3 back like backwards towards the house.

4 Q. Would you stand up so the Court can see
5 your posture?

6 A. Yes. You want me to do what he was
7 doing?

8 Q. Yes.

9 A. He was just kind of like walking back
10 in my yard from across the street.

11 Q. Okay. And do you know the victim in
12 this case?

13 A. Yes.

14 Q. What is his name?

15 A. Shawn.

16 Q. Shawn?

17 A. Martin.

18 Q. Shawn Martin?

19 A. Uh-huh.

20 Q. Okay. When you saw the Defendant
21 backing up and did he have a gun in his hand? I
22 think you said he did.

23 A. Yeah.

24 Q. Mr. Martin, did you also see him at the
25 time?

ALEXUS FLUDD - DIRECT EXAMINATION BY MS. BRANCH

1 A. Yeah, he was in the yard, but he was
2 like kind of holding his leg, so I was trying to
3 figure out what was going on.

4 Q. Did Mr. Martin have a gun?

5 A. He had it in his waistband, but he
6 wasn't the one that was like pointing it so to
7 speak. A friend of his did get the gun from him.

8 Q. Okay. Took the gun from who?

9 A. From Shawn.

10 Q. Again, your testimony is that someone,
11 a friend, you didn't name, do you know this person?

12 A. Yeah, he was one of the brothers from
13 across the street, they call him Leafy, but real
14 name is, I want to Jaleel Darby, yeah.

15 Q. Okay. So Mr. Darby was doing what
16 again?

17 A. He kind of got the gun from Shawn. And
18 he wasn't mad. They all were friends, but I guess
19 he was mad because Shawn is more of a friend to
20 him. So he was saying some things to the
21 Defendant. Everybody was yelling, so I don't know
22 what was being said. But, you know, every once in
23 a while he would point the gun up or, you know,
24 something at the Defendant. So I was like, oh,
25 it's something serious going on at this point.

ALEXUS FLUDD - DIRECT EXAMINATION BY MS. BRANCH

1 Yeah.

2 Q. Did the Defendant at anytime appear to
3 want to give the gun to Mr. Darby?

4 A. The Defendant?

5 MS. HUNTER: Objection, Your Honor.
6 She's leading the witness.

7 THE COURT: Please don't lead your
8 witness.

9 Q. Ms. Fludd, what was the victim, alleged
10 victim, Mr. Martin, how did Mr. Darby get the gun
11 from Mr. Martin?

12 A. Like I said, it was in his waistband
13 and he was kind of holding his leg. You want me to
14 do the illustration?

15 Q. Yes, please.

16 A. He was kind of like, you know, just
17 hopping around or whatnot and it was here, so he
18 did this and then the homeboy got it from here. So
19 it was kind of like a pass situation and, you know,
20 he was talking junk and walking kind of slowly, but
21 not charging at the Defendant, but kind of walking
22 because the road is what separate the houses. It
23 was my house here, the house over there, and then
24 the road in the middle. So he ended up in the
25 middle of the road almost in my yard, the other guy

ALEXUS FLUDD - CROSS EXAMINATION BY MS. HUNTER

1 that had the gun. Yeah.

2 Q. Right. Did you see any other person
3 with a gun?

4 A. No.

5 Q. You saw no other person shooting?

6 A. No, it was no other gunshots other than
7 that one.

8 Q. Did you see any other people pull a gun
9 on Mr. Wilson?

10 A. No. They were arguing and saying
11 things, but no one actually pulled a gun, you know,
12 that was the only other gun that I saw.

13 Q. Okay. Answer any questions that Ms.
14 Hunter may have for you.

15 A. Okay.

16 THE COURT: Cross examination?

17 MS. HUNTER: Yes, Your Honor. May it
18 please the Court.

19 THE COURT: Yes, ma'am.

20 CROSS EXAMINATION BY MS. HUNTER:

21 Q. Good afternoon, Ms. Fludd, how are you
22 doing today?

23 A. Good, how are you?

24 Q. I'm doing well. So, Ms. Fludd, you
25 testified that the night of the shooting you were

ALEXUS FLUDD - CROSS EXAMINATION BY MS. HUNTER

1 at your house [REDACTED] Carroll Street in Elloree?

2 A. Yes.

3 Q. Okay. And who else was there that
4 night?

5 A. Just me and the Defendant.

6 Q. And his name is Brandon Wilson?

7 A. Yes.

8 Q. Okay. And he would often go over or
9 sometimes would go across the street to the
10 neighbor's house?

11 A. All the time.

12 Q. Okay. And is that the Darby's house
13 and Ebony Esaw all live there?

14 A. Uh-huh.

15 Q. Okay. And you testified that you were
16 inside and you heard a gunshot?

17 A. Yeah, because I didn't go over there,
18 that wasn't my crowd.

19 Q. Okay. And after you heard the gunshot
20 you jumped up?

21 A. Yes.

22 Q. All right. And at some point, did you
23 call 911?

24 A. Yes. It was like maybe about 10, 15
25 minute range from when the incident actually

1 | happened from me trying to find out what was going
2 | on. A lot of people started pulling up. I saw
3 | Shawn truck circle back around after him leaving
4 | thinking he was going to the hospital, but he
5 | circled back around again. His dad pulled up. It
6 | was starting to get chaotic, so I just called the
7 | cops.

8 | Q. Okay. You called the cops. And the
9 | police responded that night?

10 | A. Yeah, they came.

11 | Q. Okay. And did the police talk to you
12 | when they got there?

13 | A. Yeah. Me and Brandon, the Defendant,
14 | we were sitting on the porch. I had told him to
15 | put the gun down and just kind of stay there.
16 | Because I had already called the cops, just put it
17 | down and stay there. And then I want to say the
18 | first cop on the scene was, I believe, was Earl
19 | Kinley from Elloree and he knows me personally, so,
20 | you know, we talk and I told him what I thought
21 | happened, Brandon explained what he thought
22 | happened, and, you know.

23 | Q. Okay. And do you remember giving a
24 | written statement to Earl Kinley that night?

25 | A. Yes.

ALEXUS FLUDD - CROSS EXAMINATION BY MS. HUNTER

1 Q. And that was that night?

2 A. I -- yeah, that was that night. Yeah.

3 Q. Okay. And in that statement do you
4 remember who you said had guns?

5 A. I believe I said Jaleel had the gun,
6 I'm not sure exactly how that statement give, but I
7 know I said something about Jaleel Darby in it.

8 Q. Okay. Would you like to read it and
9 refresh your memory?

10 A. Sure.

11 Q. Okay.

12 MS. HUNTER: Your Honor, may I approach
13 the witness?

14 THE COURT: Yes, ma'am.

15 Q. Does that refresh your memory?

16 A. Yeah.

17 Q. Okay. And in that statement that you
18 gave to law enforcement, did you tell them that
19 Shawn Martin had a gun?

20 A. I told them that the gun was Shawn's,
21 but Jaleel was pointing it, I want to say, yeah.

22 Q. Did you write that in your statement?

23 A. No, because he wasn't the one pointing
24 it.

25 Q. Did you write in your statement

1 anywhere that Shawn Martin had a gun?

2 A. No.

3 Q. Do you think that's an important
4 detail?

5 A. Well, yeah. I mean, it could have
6 been, yeah.

7 Q. It could have been an important detail
8 if the victim had a gun?

9 A. Yeah.

10 Q. And he was shot by someone else with a
11 gun?

12 A. Well, yeah, it could have been. But I
13 didn't write that part.

14 Q. You didn't write that down?

15 A. No. Because it was actually someone
16 else pointing it, so I just put Jaleel pointed the
17 gun.

18 Q. Ms. Fludd, do you remember in
19 preparation for this case me calling you on October
20 28th of 2021?

21 A. I do.

22 Q. Okay. Then do you remember if part of
23 that conversation I specifically asked you, did you
24 see LaShawn Martin with a gun? Do you remember
25 what your response was?

ALEXUS FLUDD - REDIRECT EXAMINATION BY MS. BRANCH

1 A. No. Can you refresh me on my response?

2 Q. Sure. You said, I don't believe so,
3 no, he didn't have a gun.

4 A. Okay.

5 MS. HUNTER: I don't have any further
6 questions, Your Honor.

7 THE COURT: Any further redirect?

8 MS. BRANCH: Yes, Your Honor.

9 REDIRECT EXAMINATION BY MS. BRANCH:

10 Q. Ms. Fludd, how long has it been since
11 you witnessed this incident?

12 A. When was it, '17?

13 Q. Yeah.

14 A. So what, four years?

15 Q. Four years ago?

16 A. Yeah.

17 Q. And so when you were called by the
18 Solicitor, was your memory faded somewhat?

19 A. Yes, it was. I was bombarded because
20 it's been four years and just like I stated to her
21 on the phone, I just didn't think it was necessary
22 to even bring it to court because of the situation
23 and I know the two people. Once I spoke with you,
24 you did refresh me on my statement, so I was like,
25 okay, yeah, that's what I said, LaShawn had the

1 gun.

2 Q. Do you have any reason to lie today
3 under oath?

4 A. No. I know all these people here. I'm
5 cool with all these people here, so I have no
6 reason to lie. It was just a petty thing that
7 happened and unfortunate, but, yeah, it was just
8 petty.

9 Q. Okay. And the Solicitor asked you
10 about the house across the street. What's the
11 difference between the house across the -- in feet
12 terms from your house?

13 A. Probably 10 feet. About 10, 20 feet,
14 yeah.

15 Q. I'm about 10 feet away from you; right?

16 A. Well, maybe less than that. Because it
17 was just like a road. Like just separating us.
18 But if you're talking about house-wise, it will be
19 like me and you. If you're talking about road-wise
20 as far as like in their yard, it would probably be
21 to where the Solicitor is, yeah.

22 Q. And would you -- what -- when I ask you
23 was this place across the yard was that a hangout
24 for other people?

25 A. Several guys.

ALEXUS FLUDD - REDIRECT EXAMINATION BY MS. BRANCH

1 Q. And do you know whether or not the
2 Defendant often went there?

3 A. All the time.

4 Q. And were they all getting along?

5 A. Yes.

6 Q. Okay. And tell me --

7 MS. HUNTER: Your Honor, objection.
8 This is beyond the scope of redirect.

9 MS. BRANCH: She brought it up.

10 THE COURT: I will allow it for
11 purposes of this hearing.

12 MS. HUNTER: Okay.

13 MS. BRANCH: Thank you, Your Honor.

14 Q. What was the feet number again? The
15 distance?

16 A. Like 10 feet, yeah.

17 Q. Okay. And do you know who owned that
18 house across the street?

19 A. Well, the people that's staying in it
20 are the Darby's. Well, one of the Darby brothers
21 and his girlfriend.

22 Q. What's the girlfriend's name?

23 A. I want to say Ebony.

24 Q. Okay. All right.

25 A. But the person that owns it, I believe

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 is their grandmother, but she doesn't live down
2 here. Yeah.

3 Q. Okay. So would the Defendant go there
4 often?

5 A. Yeah.

6 Q. All right. Answer any recross.

7 THE COURT: You may step down, ma'am.
8 Thank you. You may call your next witness.

9 MS. BRANCH: I'm sorry, Your Honor.

10 THE COURT: You may call your next
11 witness.

12 MS. BRANCH: Yes, we'll call Ms.
13 Oliver.

14 SHAWANDA OLIVER,
15 being first duly sworn, was examined and testified
16 as follows:

17 THE CLERK: Please state your name --
18 your first and last name for the record.

19 MS. OLIVER: Shawanda Oliver.

20 THE COURT: Your witness.

21 MS. HUNTER: Your Honor, before we
22 start, can we approach?

23 THE COURT: Yes, ma'am.

24 MS. HUNTER: Thank you.

25 (WHEREUPON, there was a bench

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 conference)

2 MS. BRANCH: Five minutes, Your Honor.

3 Okay. Your Honor, we withdraw this witness.

4 THE COURT: Yes, ma'am, you can step
5 down, please.

6 BRANDON WILSON,
7 being first duly sworn, was examined and testified
8 as follows:

9 THE CLERK: Please state your first and
10 last name for the record.

11 MR. WILSON: Brandon Wilson.

12 THE COURT: Your witness.

13 MS. BRANCH: Thank you, Your Honor.

14 DIRECT EXAMINATION BY MS. BRANCH:

15 Q. Mr. Wilson, please state your address?

16 A. [REDACTED] Noel Drive, Vance, South Carolina,
17 [REDACTED].

18 THE COURT: Mr. Wilson, you can take
19 your mask off while you're testifying.

20 A. Oh, sorry. [REDACTED] Noel Drive, Vance,
21 South Carolina, [REDACTED].

22 Q. And how long have you lived there?

23 A. Off and on since 2002.

24 Q. And you heard the testimony of Ms.
25 Fludd, was she your -- or is she your

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 ex-girlfriend?

2 A. Yes, ma'am.

3 Q. Okay. And if your current girlfriend
4 in the courtroom?

5 A. Yes, ma'am.

6 Q. What is her name?

7 A. Shawanda Oliver.

8 Q. Okay. On October 20th and October 21
9 of 2017, were you at Ms. Fludd's home?

10 A. Yes, ma'am.

11 Q. Okay. And how long were you there?
12 Were you there for like 24 hours?

13 A. I stayed there a lot. You might as
14 well say I stayed there because I was always there.
15 I basically stayed there. I had my big truck
16 there, my rig truck there, everything. I basically
17 stayed there.

18 Q. Did you often go across the street to
19 visit with the men who were there?

20 A. Yeah.

21 Q. Okay. And did you do that on October
22 21, 2017?

23 A. Yes, ma'am.

24 Q. So on that day, would you take the
25 Court through the gun, did you have a gun?

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 A. Yes, ma'am.

2 Q. Okay. So were you in the house with
3 the gun? That would be the house that you shared
4 with Ms. Fludd on occasion.

5 A. Yeah, I had it on me. At one time I
6 tried to put it up, but she had small kids and she
7 always say she don't want that gun in her house, so
8 I always -- that was why it was on me.

9 Q. Okay. And so at some point did you go
10 outside?

11 A. Yes, ma'am.

12 Q. Okay. And why were you going outside?

13 A. Across the street. Because at the
14 time, like basically to keep the confusion down in
15 our relationship she didn't want me in the streets
16 or over there, so I just basically stayed in their
17 house and just spend it just like basically stayed
18 at her house all time. And so even though that
19 wasn't my type of crowd, I always go across the
20 street to keep the confusion down in my
21 relationship like I'm here, I'm not elsewhere or
22 whatever.

23 Q. Do you recall about what time this
24 alleged incident happened? Is it like in the
25 evening? Was it in the evening?

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 A. It was daylight.

2 Q. So it was daylight?

3 A. Yes, ma'am.

4 Q. Okay. So did you go across the street
5 on that day?

6 A. Yes, ma'am.

7 Q. Okay. And who was there when you went
8 across the street?

9 A. Octavia Sellers, CJ Sellers, Tevin
10 Darby, Jaleel Darby, Ebony was in the house, Shawn
11 wasn't over there yet. That's about it.

12 Q. Okay. So when you went there, your
13 testimony is that Mr. Martin was not there?

14 A. Yes, ma'am.

15 Q. Okay. And did Mr. Martin come in
16 later?

17 A. Yes, ma'am.

18 Q. How much time had passed from the time
19 that you were there and Mr. Martin showed up?

20 A. I was there all day. Probably like --
21 when the incident happened he wasn't over there.
22 Ten minutes he wasn't over there.

23 Q. Okay. And so what kind of car does
24 Mr. Martin drive?

25 A. At the time he had a burgundy Chevy

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 | Tahoe.

2 | Q. And when he came to the yard, did he
3 | greet you or say anything to you?

4 | A. When I just got back over there from
5 | next house, so I was leaning against a white Honda.
6 | I think it was Octavia Sellers' Honda. I was
7 | leaning back and talking. He pulled in the yard.
8 | Had on like the window and said, hey, boy, that
9 | faggot looking for you. Then I was like, um, boy,
10 | every time you see me you bringing up some gay
11 | stuff. You must be like the faggot. Why is you
12 | always bringing that up. So at that time he said,
13 | what did you say? He raised the center console.
14 | Got --

15 | Q. Would you stand up and demonstrate to
16 | the Judge, please?

17 | A. At that time like I'll say this, the
18 | driver's side of the car, his truck and I'm leaning
19 | against the white Honda. So I can see everything
20 | in what's going on in his car. So I seen him like
21 | what you say, he raised the center console. I
22 | think the center console is cream or some light
23 | colored cream. He got something at that time. At
24 | that time I didn't think I needed to defend myself
25 | because I didn't see what he had.

1 So he had the gun, opened the car door,
2 got out, pointed, then someone yelled, boy, chill.
3 When he --

4 Q. He pointed it where?

5 A. At me.

6 Q. At where?

7 A. At me.

8 Q. Pointed it at you?

9 A. Yes, ma'am.

10 Q. His gun?

11 A. Yes, ma'am.

12 Q. Okay. And so someone said what?

13 A. Yep. Y'all boys chilling. He took his
14 eye off me for like a couple of seconds, that's
15 when I pull it from my waistband and shot down.

16 Q. Were you trying to shoot him?

17 A. It was just a warning shot. Because
18 like I watch the same -- I know this don't have
19 nothing to do with the case, but the same
20 situation, I watched my brother die because someone
21 -- same situation, got a gun out the center console
22 and pulled it on me and one of my brother's got
23 shot nine times and one got murdered.

24 Q. Were you frightened?

25 A. Yeah.

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 Q. Were you afraid for your life?

2 A. Very frightened.

3 Q. Did you think he was going to shoot or
4 kill you?

5 A. Yes, ma'am.

6 Q. Now you had said something about your
7 brothers?

8 A. Yes, ma'am.

9 Q. What happened to your brother?

10 A. Like, I think it's a club on Highway 4?

11 Q. Yes.

12 A. Like a long time ago way out over there
13 in Neece. Some girls who was with us pulled in a
14 parking space and cut the dude off they start
15 arguing. The whole time he in his car and he reach
16 in the center console and came out. That when he
17 shot my oldest brother nine times and killed my
18 youngest brother. And I witnessed all that.

19 Q. Your oldest brother was shot how many
20 times?

21 A. Nine.

22 Q. And your youngest brother?

23 A. Like two or three.

24 Q. Did he die?

25 A. Yes, ma'am.

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 Q. Okay. So did that heighten your
2 experiences?

3 A. Yeah. Like that's the reason I
4 purchased a gun because --

5 THE COURT: Mr. Wilson, you can sit
6 down.

7 A. I'm sorry.

8 Q. Go ahead.

9 A. That's the reason I purchased the gun.

10 Q. Because?

11 A. Fear of like fear of my life. I
12 watched that incident. The fear of my life because
13 I watched that incident.

14 Q. Now, obviously you testified that you
15 owned a gun; correct?

16 A. Yes, ma'am.

17 Q. Okay. What kind of gun was it?

18 A. A .45. Hi-Point .45.

19 Q. And is that gun registered?

20 A. Yes, ma'am.

21 Q. Okay. Where did you purchase the gun?

22 A. Money Man Pawn Shop in Summerville,
23 South Carolina.

24 Q. You purchased a gun in Summerville,
25 South Carolina?

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 A. Yes, ma'am.

2 Q. Okay.

3 MS. BRANCH: Excuse me, Your Honor.

4 Q. Getting back to when you had this
5 encounter with the victim -- alleged victim.

6 A. Yes, ma'am.

7 Q. Did Mr. Martin -- when he got out of
8 the car, that was your testimony?

9 A. Yes, ma'am.

10 Q. When he got out of the car, did he
11 approach you?

12 A. Yes, ma'am. I never -- like for where
13 I was at leaning against the car, the only movement
14 I make towards him was I was going backwards. Like
15 I was backwards and he was coming towards me.

16 Q. Okay. What do you think the distance
17 was?

18 A. It was close range. I let him get real
19 close to me.

20 Q. Okay. And you testified that you did
21 not intend to shoot him?

22 A. No. I had -- my gun, I had a full clip
23 -- my clip was full like I could have shot him more
24 than one time. This was like when I shot him, he
25 dropped the pistol. When he dropped by the pistol,

1 | so I felt that he wasn't a threat anymore. So
2 | that's when I backed up, came outside and come
3 | charging -- he was holding his leg shot was like
4 | Brad, I wasn't going to shoot you, I just was
5 | playing. I just wasn't going to shoot you. But
6 | you can't play with guns. Don't play with guns.

7 | Q. Okay. So what about Mr. Darby, was he
8 | there?

9 | A. Yeah. As I got -- as I got -- I was
10 | already in Alexis yard. Then he picked up Shawn --

11 | Q. That would be Ms. Fludd?

12 | A. Yeah. I was already in Alexis Fludd
13 | yard and that's when Jaleel Darby picked up the gun
14 | and he popped the hood of his trunk and hide behind
15 | it and he was pointing it like I should shoot over
16 | there. But the reason I didn't felt the need to
17 | shoot then because it was too many people and it's
18 | the bystanders, I don't want to get...

19 | Q. So it's your testimony Mr. Darby
20 | pointed a gun at you?

21 | A. Yes, Mr. Darby pointed it.

22 | Q. Did anybody else point a gun at you?

23 | A. When the situation happened, Shawn got
24 | in his vehicle. And like Alexis statement, he left
25 | and came back around, he left like he did a whole

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 circle, came back in front of Alexis step, pulled
2 out like a assault rifle type gun, point it, put it
3 back in, then he left. As he left -- when he left
4 the scene from being shot, he left, circled right
5 -- hit the block, circled right back around and
6 pulled right in front of the step again.

7 THE COURT: Mr. Wilson, can you explain
8 that again, who did that?

9 A. LaShawn Martin.

10 MS. BRANCH: The victim, Your Honor.

11 A. Yeah, as he -- once I shot him, he got
12 in his vehicle, like after he, like, Brad, I wasn't
13 going to shot you and then he got in his vehicle,
14 left the scene. It's like a big circle, crowd seen
15 he must be left, circled back around the block,
16 came right back around, stop in front of the step,
17 pulled the assault rifle, like pulled the assault
18 rifle, he didn't say anything, he just put it back
19 in and drove off.

20 THE COURT: You may proceed.

21 MS. BRANCH: Okay. Thank you, Your
22 Honor.

23 Q. Did you think he was going to shoot
24 you?

25 A. Yeah.

1 Q. Either the first or the second time?

2 A. Yeah, but I didn't -- if he was going
3 to shoot me, he was going to shoot me. Because
4 Alexis was in the house, and I didn't want to start
5 shooting again and then he shoot off then the
6 innocent bystander in the house get shot. So I
7 just like, do what you got to do. Because that's
8 way -- it's an assault rifle, if you just start
9 shooting someone get hit in the house.

10 Q. What kind of gun did Mr. Martin have
11 when he pointed it at you?

12 A. The first or second?

13 Q. The first time?

14 A. I know it was a handgun.

15 Q. It was a handgun. And what about the
16 second time?

17 A. I can't tell you the full model, but I
18 know it was like assault rifle type gun.

19 Q. So how much time passed between the
20 time of the shooting where you shot Mr. Martin and
21 the time that he turned around, how much time had
22 passed?

23 A. I backed in the yard, everybody was
24 yelling his car was still there. He left out, he
25 sped out. Left the scene, I'd say about after I --

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 after the shooting happened, I'd say about five to
2 ten minutes.

3 Q. Okay. Were the police there?

4 A. Not at the time.

5 Q. Okay. When Mr. Martin was shot by you,
6 did he fall?

7 A. Yeah, he fall. And that when like
8 Alexis statement, he said he reach in the
9 waistband, he was down like I wasn't going to shot
10 you. I guess when I was pointing it at him he was
11 trying to show that he wasn't going to shoot me,
12 take the gun off me and put it back down in his
13 waistband that when Jaleel Darby scoot back by him
14 and pulled --

15 Q. I'm having trouble hearing, so speak up
16 so the Judge can hear you.

17 A. As I shot him, I don't know if it was
18 the waistband, but -- I said when he shot me, I
19 said -- I'm guessing Alexis says the waist, I ain't
20 know the waistband, I know Jaleel reached for the
21 gun --

22 Q. Mr. Darby?

23 A. -- to the right side of him. In fact,
24 the gun backed up and pointed at me.

25 Q. Okay.

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 MS. BRANCH: One moment, Your Honor.

2 Q. Did you cooperate with the police when
3 the police came?

4 A. Yeah. I told Alexis to call 9-1-1. I
5 told Alexis to pass my box of bullets out the
6 house. I put the bullets -- the cops came on the
7 scene, I put the gun away from me with the bullets
8 by it then when they came, and I said that's the
9 gun right there. Never left. Never tried to flee.
10 Never give them --

11 Q. Why is that?

12 A. Because I --

13 Q. Did you feel that you were in the
14 right?

15 A. I feel I was in the right.

16 Q. Okay. So going back to the incident,
17 I'm walking down towards you.

18 MS. BRANCH: May I approach the
19 witness, Your Honor?

20 THE COURT: Yes, ma'am.

21 MS. BRANCH: Thank you, ma'am.

22 Q. I'm walking towards you. When I get to
23 the point --

24 A. You want me to get up too?

25 Q. Yeah, you can get up. Okay. You're

BRANDON WILSON - DIRECT EXAMINATION BY MS. BRANCH

1 standing up. Okay. You're going to play the role
2 of Mr. Martin and I'm going to play the role of
3 Brandon Wilson. Okay. All right. Come on around
4 this way.

5 MS. HUNTER: Objection, Your Honor,
6 that calls for speculation. She can't -- they
7 can't act like the victim.

8 THE COURT: We're not playing roles
9 we're asking questions.

10 MS. BRANCH: Asking questions.

11 Q. I'm asking you this question. Tell me
12 -- I'm going to walk towards you and tell me how
13 close you were to Mr. Martin. Do I need to come
14 closer?

15 A. Yeah. I was leaning, he was facing my
16 left side.

17 Q. Right. Just tell me when the stop.

18 A. Probably a little closer then that's
19 when I pulled -- walked back.

20 Q. So about five feet?

21 A. Yes, ma'am.

22 Q. Was Mr. Martin the aggressor?

23 A. Yes, ma'am.

24 Q. Have a seat. Was Mr. Martin --

25 MS. HUNTER: Objection, Your Honor.

1 She's asking leading questions.

2 Q. Was Mr. Martin or is Mr. -- did
3 Mr. Martin aggressively approach you?

4 MS. HUNTER: Objection, Your Honor.
5 Still leading.

6 THE COURT: I'll allow it for the
7 purposes of this hearing.

8 MS. HUNTER: All right.

9 MS. BRANCH: Thank you, Your Honor.

10 Q. Did Mr. Martin --

11 THE COURT: How about ask, how did he
12 approach you?

13 Q. How did Mr. Martin approach you?

14 A. As you said -- as you seen in
15 Mr. Martin's statement, he said me and Brandon --

16 MS. HUNTER: Objection, Your Honor.
17 That's hearsay.

18 THE COURT: You can answer the question
19 as to what your perception was.

20 A. He was very aggressive coming towards
21 me.

22 MS. BRANCH: That's about it, Your
23 Honor. Okay.

24 THE COURT: Cross examination?

25 MS. HUNTER: Yes, Your Honor. Thank

BRANDON WILSON - CROSS EXAMINATION BY MS. HUNTER

1 you.

2 CROSS EXAMINATION BY MS. HUNTER:

3 Q. Good afternoon, Mr. Wilson.

4 A. Good afternoon.

5 Q. All right. You just testified a few
6 minutes ago that LaShawn Martin pulled a handgun on
7 you?

8 A. Yes, ma'am.

9 Q. Can you describe that handgun?

10 A. It happened too quick. I know it was a
11 handgun. I can't give you the caliber, the model,
12 how many bullets it carried. I know it was a
13 handgun.

14 Q. And where were you when he pulled that
15 handgun on you?

16 A. Leaning against a white Honda.

17 Q. Were you in the Darby's yard or were
18 you in Alexis Fludd's yard?

19 A. Darby's yard.

20 Q. You were in the Darby's yard?

21 A. Yes, ma'am.

22 Q. Okay. And where was the victim?

23 A. Alleged victim?

24 Q. Where was LaShawn Martin?

25 A. When I pulled the gun? Or when --

1 Q. When you pulled the gun where was
2 LaShawn Martin?

3 A. Like five feet -- four to five feet
4 away from me.

5 Q. Was he in the Darby's yard? Was he in
6 the Fludd's yard? Was he in the roadway in the
7 Darby's yard?

8 A. In the Darby's yard.

9 Q. In the Darby's yard. Okay. And you
10 stated you saw him pull the gun out of the center
11 console?

12 A. Yes, ma'am.

13 Q. You give a pretty accurate description
14 of that center console.

15 A. Because if you sitting in a car and you
16 facing the driver's side of a car, the window's
17 down, the center console don't left to right. The
18 center console goes up.

19 Q. Right.

20 A. So I can see. Then I see his hand went
21 down so.

22 Q. So you could see the center console?

23 A. Yes, ma'am.

24 Q. Where the gun was -- where you're
25 saying the gun was pulled from --

1 A. Yes, ma'am.

2 Q. -- that's your testimony today? Okay.

3 And the victim -- you said the victim made a
4 comment to you and then did he get out of the car?

5 A. He made a comment.

6 Q. Okay.

7 A. And usually -- usually when he make the
8 comment, I always ignore him, but that day I was
9 like why every time you see me. So I guess he felt
10 some type of way that he feel like I was talking
11 trash back to him that's when he got aggressive.

12 Q. Okay. And when you say he got
13 aggressive, what exactly was his aggressive
14 behavior --

15 A. I can't remember --

16 Q. -- with the comment?

17 A. I can't remember the exact words, but I
18 can help you because it was like almost five years
19 ago. But when he said to my -- hey -- when he
20 pulled up, hey, that faggot looking for you. I was
21 like, boy, every time you see me y'all bringing up
22 some -- I can use the exact language?

23 THE COURT: You can use it during this
24 hearing. I prefer if there's something you can
25 abbreviate, I mean, I get the gist of what you're

1 saying. So don't use like the F boom or anything
2 like that in the courtroom, just abbreviate it.

3 A. Well, he was saying like, I was every
4 time you D see me -- every time f'g see me you
5 always bringing that up. You must be the one -- a
6 gay, so. And he was like, what did you said? Then
7 that's when he turned, raised the center console --

8 Q. Let me stop you right there. So he was
9 still in the truck -- in his -- he was still in his
10 car at that point?

11 A. If I felt like he was a threat and he
12 was pointing a gun in the car, I would have shot in
13 the car, but I didn't know what he was doing in the
14 center console. He raised the center console. I
15 didn't wait until I felt I needed to defend myself
16 until I could see the gun and he was coming towards
17 me.

18 Q. And so when you say he was coming
19 towards you, he had gotten -- he got out of the
20 car?

21 A. Yes.

22 Q. And how long was he -- describe him
23 getting out of the car and then when you shot him?

24 A. When he raised the center console, he
25 got the gun. He coming towards me, he pointed --

1 Q. Tell me how -- was he in the car when
2 he had the gun coming towards you or was he out of
3 the car --

4 A. He was already out of the car.

5 Q. He was out of the car. So how did he
6 get out of the car? So he lifts the center console
7 you say and he's pulled out the gun. Now, explain
8 to me how he gets out of the car, where the gun is,
9 how he's pointing it at you.

10 A. Like I said, at the time when he was in
11 the car he never pointed it at me yet.

12 Q. Right.

13 A. So he raised the center console. He
14 got the gun. I guess when he was switching over,
15 he put the gun in his right hand, opened his truck
16 door. Got out the truck, pointed it. Someone
17 said, y'all boys chill. He glanced off me and I
18 just slide, boom.

19 Q. So was it almost immediately when he
20 got out of the truck?

21 A. What do you mean almost immediately?

22 Q. Oh, did he get out of the truck? How
23 much time passed between when he got out of the
24 truck and when he pointed the gun at you?

25 A. Half a second.

1 Q. Half a second. So --

2 A. Two seconds, I don't know.

3 Q. Would you describe half a second as
4 almost immediately?

5 A. Immediately.

6 Q. Okay. Immediately. Immediately
7 pointed at you. All right. And I believe that you
8 testified that -- that you fired one shot and -- so
9 he's got a gun pointed at you, but you fired a
10 warning shot at him; is that correct?

11 A. I was trying to do a warning shot, but
12 he was coming up on me too quick.

13 Q. Coming up on you with a gun?

14 A. Yeah.

15 Q. So you fired that warning shot?

16 A. Then he dropped the gun.

17 Q. Right. And you stated that you were
18 cooperative with law enforcement; correct?

19 A. Yes, I was.

20 Q. Do you remember giving -- do you talk
21 to law enforcement?

22 A. Yeah, that night. As like I -- it was
23 hours and they arrested me then I was like, yo, the
24 cop, Earl Kinley, I told him, I gave three
25 statements. I was like, he pulled the gun on me.

1 Earl Kinley is a friend of his family. I think
2 he's family was Shawn's mother and father.

3 MS. HUNTER: Objection, Your Honor.
4 He's -- can I object to his own answer being
5 speculative. I mean...

6 THE COURT: The jury's not here.

7 MS. HUNTER: Okay. That's fine.

8 A. He -- Earl Kinley, he's like, I'm not
9 even from Elloree. Everybody who's in Elloree is
10 basically family. It's like he had a -- he took it
11 personal like he was write this! Write this! He
12 ain't pulled no gun! I said, Earl, he pull a gun.
13 I write three different statements that day. I was
14 sitting -- I was sitting there in the Elloree Town
15 Hall for hours, hours. If you don't write this
16 you're going to jail! Like he was this close to
17 me. I know what I said, but he was like -- it was
18 happened too fast. I'm 32 years old. I never been
19 arrested before.

20 Q. I'm going to stop you right there. Do
21 you remember exactly what --

22 MR. SIMS: Objection, Your Honor.
23 She's not giving him the opportunity to finish his
24 statements.

25 THE COURT: He finished the answer.

1 Let's move on.

2 MS. HUNTER: Thank you.

3 Q. So you remember writing a statement to
4 and -- you remember writing a statement to law
5 enforcement taken by Earl Kinley?

6 A. I remember somebody coaching me the
7 statement.

8 Q. You remember someone coaching you
9 through the statement?

10 A. Uh-huh.

11 Q. So the words in the statement aren't
12 your words?

13 A. No.

14 Q. This wasn't a freely given statement?

15 A. No. Like I say, I'm 32 years old.

16 Never been in -- I don't know how to -- like I was
17 scared. Like I just wanted to go home. Your life
18 is over! You're going to jail a long time! I was
19 scared.

20 MS. HUNTER: Your Honor, may I approach
21 the witness?

22 THE COURT: Yes, ma'am.

23 Q. Let me ask you something, Mr. Wilson.
24 Whose signature is that?

25 A. (No response)

BRANDON WILSON - CROSS EXAMINATION BY MS. HUNTER

1 Q. That says Brandon Wilson?

2 A. Yes.

3 Q. You didn't sign that?

4 A. Yeah, I signed that.

5 Q. And is this your written statement?

6 A. Yeah, I wrote that.

7 Q. Okay. And is this your signature here
8 at the bottom of the statement?

9 A. Yes, ma'am.

10 Q. And that's dated what day?

11 A. 10/21/17.

12 Q. Okay. And, Mr. Wilson, I'd like to go
13 through this. Do you remember being Mirandized?

14 A. No, I don't remember.

15 Q. Well, Mr. Wilson, can I show you this
16 statement? At the very top of the statement it
17 says, I have the right to remain silent. Are those
18 your initials next to it?

19 A. Yes, ma'am.

20 Q. Anything I say can be against --

21 A. I thought you saying like did you -- I
22 remember getting read it.

23 MS. SPIRES: I can't hear you, sir.

24 A. I thought you said that I remember
25 getting read this. The Miranda rights said to me,

1 but yeah.

2 Q. Well, let me ask you this, Mr. Wilson.
3 You said you're 32 years old, how far did you go in
4 school?

5 A. I graduated.

6 Q. You graduated. Can you read and write?

7 A. Yes, ma'am.

8 Q. Okay. So let me ask you this, did you
9 read these statements before you initialed next to
10 them?

11 A. I probably -- knowing me, I probably
12 just was agitated, I probably signed too, but,
13 yeah, that's my initials.

14 Q. Those are your initials next to the
15 Miranda forms?

16 A. Yes, ma'am.

17 Q. And Miranda warnings?

18 A. Yes, ma'am.

19 Q. Okay. Mr. Wilson, I'm going to get you
20 to read your statement and refresh your memory
21 about what you told Earl Kinley that night.

22 A. You want me to read it out loud?

23 Q. You can read it to yourself and refresh
24 your memory.

25 A. Okay.

BRANDON WILSON - CROSS EXAMINATION BY MS. HUNTER

1 Q. Do you remember giving that statement
2 to law enforcement?

3 A. Yes, ma'am.

4 Q. You do. All right. Mr. Wilson, I want
5 to point out a couple of things in your statement.
6 Originally when you talked to law enforcement you
7 told them that Alexa (verbatim) told you to come
8 get the gun out of her house; is that correct?

9 A. No. When I say I went in there that's
10 before Shawn that was like before Shawn ever came
11 over there. I went to try to put the gun in the
12 bathroom sink. That's when I took the clip out and
13 the clip dropped on the floor. She said, I know
14 you ain't got that damn gun in my house. Get that
15 gun out my house. I put it back in my waistband.
16 Five to ten minutes later I went back across the
17 street. Five or ten minutes later Shawn pulled up.

18 Q. So your testimony today is different
19 than what you put in your original statement about
20 getting the gun out of the house?

21 A. Yeah, I said the same thing in this
22 statement, ma'am.

23 Q. Let me read the statement to you.
24 Alexa called me to come get the gun out of the her
25 house which was across the street. Is that what

1 you testified to earlier today that you called you
2 to get the gun out of her house?

3 A. She called me to get food. She went
4 and got -- because earlier I gave her my card to go
5 get some Chinese food.

6 Q. Are you disputing this is the statement
7 that you wrote to police? That that's what you
8 said in your statement?

9 A. No, ma'am.

10 Q. Okay. And you came outside to put the
11 gun in the trunk of the car?

12 A. But her car door wasn't unlocked so.

13 Q. Okay. So you went back over to the
14 neighbor's house; that's correct?

15 A. Uh-huh.

16 Q. And you said LaShawn Martin started to
17 joke around. Those are your words, joke around; is
18 that correct?

19 A. I made that statement like I was
20 scared. I thought I was going to jail, but yeah,
21 those are my words.

22 Q. I'm going to stop you right there. I'm
23 not asking if you were scared. I'm asking if those
24 are the words in your statement -- in your written
25 statement?

1 A. Yes, ma'am.

2 Q. Okay. All right. And then you said
3 you told him -- excuse my language, fuck him. He
4 got out of the truck. He started walking towards
5 you. That was in your statement?

6 A. Yes, ma'am.

7 Q. At any point do you see in your
8 statement there where you write that -- do you
9 write anywhere in there that LaShawn Martin pulled
10 a gun out or had a gun and was pointing a gun at
11 you; is that in your statement anywhere?

12 A. No, ma'am. But --

13 Q. No, it's not in your statement -- so
14 answer my question, is in it your statement?

15 A. No, ma'am.

16 Q. Okay. It's not in your statement.
17 Okay. And then you then started -- you said you
18 didn't have time for those clowns and you started
19 walking back across the street. That's what you
20 say in your statement?

21 A. Uh-huh.

22 Q. And it was when you got into Alexis
23 Fludd's yard that he started running towards you
24 and you had your back turned and out of fear for
25 your safety you shot towards the ground to give him

1 a warning shot. Is that what your statement says?

2 Those were your words that night?

3 A. Yes, ma'am.

4 Q. That you were in Alexis Fludd's yard.

5 Not the Darby's yard that you testified to today --

6 A. Yes, ma'am.

7 Q. -- when you shot that shot? And then
8 when you saw that he got shot, you apologized to
9 him. Anywhere in that statement did you write that
10 LaShawn Martin had a gun?

11 A. I stated out loud that he had gun.

12 Q. My question is --

13 A. No, ma'am.

14 Q. -- is anywhere in your written
15 statement to the police the evening of the shooting
16 --

17 A. No, ma'am.

18 Q. -- that you did that? Okay. And let
19 me ask you this. That night did you get to leave
20 the police station?

21 A. No, ma'am.

22 Q. You didn't get to leave the police
23 station? They handcuffed you and they arrested you
24 that night?

25 A. Yes, ma'am.

BRANDON WILSON - CROSS EXAMINATION BY MS. HUNTER

1 Q. Are you sure about that?

2 A. I went to Elloree Town Hall. Left
3 Elloree Town Hall went to the Orangeburg County
4 Detention Center.

5 Q. What day were you served the arrest
6 warrant?

7 A. The 21st, that same day.

8 Q. All right. You told me you can read;
9 right?

10 A. Yes, ma'am.

11 Q. All right. I'm going to get you to
12 look at this arrest warrant. What's the date on
13 that arrest warrant?

14 A. That's the 23rd --

15 Q. October 23rd. And what day did this
16 incident happen?

17 A. The 21st. They arrested me that same
18 night. I went to Elloree Town Hall, then they
19 transferred me from Elloree Town Hall to the
20 Orangeburg County Detention Center. I didn't have
21 bond hearing -- I think I had bond and my bond got
22 denied. They had bond that Sunday.

23 Q. Thank you.

24 MS. HUNTER: I don't have any further
25 questions for the witness, Your Honor.

BRANDON WILSON - REDIRECT EXAMINATION BY MS. BRANCH

1 THE COURT: Any redirect?

2 MS. BRANCH: Yes, Your Honor. Thank
3 you.

4 REDIRECT EXAMINATION BY MS. BRANCH:

5 Q. Mr. Wilson, when you were arrested, how
6 many statements did you give to the police?

7 A. Three.

8 Q. You gave three statements?

9 A. Yes, ma'am.

10 Q. Do you have a copy of those statements
11 today?

12 A. No, ma'am.

13 Q. Why not?

14 A. Because I guess the other three
15 statements I wrote wasn't to their likings so.

16 Q. Why did you write three statements?

17 A. Because at the --

18 Q. I can't hear you. The Judge needs to
19 hear you.

20 A. The first three statements I put that
21 he had the gun and that when Earl Kinley was
22 telling me, no, he didn't have a gun -- he didn't
23 have a gun, stop lying. He was like basically
24 trying to intimidate me. I wrote three statements.

25 Q. Okay. So the tone that you just gave

1 was that tone intimidated?

2 A. No, it was louder.

3 Q. Louder. How loud was it?

4 A. Like --

5 Q. The Judge needs to hear that.

6 A. You want me to shout?

7 Q. No, I don't want you to shout, but
8 certainly more than what you were giving us at
9 first.

10 A. It was like loud. He was close like
11 this. He was trying --

12 Q. Close and doing what?

13 A. Yelling. Yelling. Yelling.

14 Q. What were his words?

15 A. He ain't had no gun, stop lying! He
16 ain't had no gun! Write this! You going to jail a
17 long time! Write this! Writing this! He ain't
18 had no gun!

19 Q. So the first statement that you wrote,
20 you said to the police officer, wrote in your
21 statement, what did you write?

22 A. That Shawn pulled the gun.

23 Q. And then did you give that to the
24 police officer?

25 A. Yeah. It was like he didn't write

1 this. He didn't write this.

2 Q. Was he satisfied with that statement?

3 A. No, he wasn't.

4 Q. Did you write another statement?

5 A. Yes, I did.

6 Q. And what did that statement say?

7 A. The same thing, but it wasn't his
8 liking that was like --

9 Q. Did you give the second statement to --

10 A. Yes, I did.

11 Q. Did you write another statement?

12 A. Yes, I did.

13 Q. Is that the third one?

14 A. Yes, ma'am.

15 Q. What did you say in the third
16 statement?

17 A. That he did have a gun -- he had a gun
18 and he pulled out the center console he came
19 towards me. So basically by me writing that, I
20 don't -- like I was -- I never been in that
21 situation.

22 Q. Okay. So you finally wrote a forth
23 statement?

24 A. Yes, ma'am.

25 Q. And you don't have a copy of that one,

1 do you?

2 A. She has it. She has it over here.

3 Q. No, she has a copy of the -- let me
4 rephrase that. What did -- the fourth statement
5 that you wrote, does it include the fact that -- or
6 does it include information that Mr. Martin had a
7 gun, the last one?

8 A. No, ma'am.

9 Q. All right.

10 MS. BRANCH: No further questions.

11 THE COURT: You may step down, sir.

12 Thank you. You may call your next witness.

13 MS. BRANCH: One moment, Your Honor.

14 No more witnesses, Your Honor.

15 THE COURT: Anything from the State?

16 MS. HUNTER: Your Honor, can we have
17 two minutes to make a decision?

18 THE COURT: Yes, ma'am.

19 MS. HUNTER: Thank you.

20 (Off the record)

21 MS. HUNTER: Your Honor, the State's
22 not going to call any witnesses. We're ready to
23 argue when you -- on the points when you are.

24 THE COURT: I'll be happy to hear your
25 arguments.

1 MS. BRANCH: Your Honor, thank you so
2 much. The Defense called two witnesses. The first
3 one was Ms. Alexis Fludd. She testified that she
4 saw the victim with a gun. Your Honor, our motion
5 is based on Stand Your Ground law. What does that
6 law say? I know that I do not have to share that
7 with Your Honor. But just for the sake of a
8 summary, when someone pulls a gun on you, Your
9 Honor, you have no duty to retreat. You can stand
10 your ground.

11 Mr. Brandon testified that the victim
12 pulled the gun on him. Once that happens, then
13 Mr. Brandon doesn't have to go anywhere. He pulled
14 out his gun, shot the victim in the leg. No intent
15 to kill him. He could have, but the victim is the
16 aggressor. He's the one that pulled the gun. He's
17 the one that was the aggressor, walked close to the
18 Defendant.

19 Defendant having witnessed his brother
20 being killed years ago, frightened, scared to
21 death. The man had already insulted him by calling
22 him a homosexual and he denied it. And he gets out
23 aggressively and says, what you say? What you say?
24 My client, scared to death, took the chance that he
25 had when Mr. Martin turned his head, he took the

1 gun and he shot him. In the leg, Your Honor.

2 Not a serious injury. As a matter of
3 fact, I think he was in the hospital about a good
4 half a day and we will bring in information at a
5 later time. I know that will come up. But the
6 point that I'm trying to make now, Your Honor, this
7 man who now claims that he does not have a -- did
8 not have a gun, he did have a gun, you've already
9 heard the witness Alexis Fludd and the Defendant.
10 Not only one time, he ran around which Ms. Fludd
11 said, he ran around and came back with an assault
12 rifle. He's not a good person, Your Honor. And
13 now he's allowing the State to bring this case
14 without telling the truth.

15 So, Your Honor, we would request that
16 you listen to the facts as you did, find in favor
17 of our motion was that he had a right to protect
18 himself from harm because the victim who was the
19 aggressor approached him with a gun. Thank you,
20 Your Honor.

21 THE COURT: Thank you, ma'am.
22 Solicitor?

23 MS. HUNTER: Thank you, Your Honor.
24 May it please the Court. We believe that the
25 Defendant has not met his burden of proof of --

1 beyond -- I'm sorry, of a preponderance of the
2 evidence. I believe there is conflicting
3 statements had been given by witnesses verses what
4 they testified to today, so I think that is a
5 question for the -- that the jury should decide who
6 to believe. Both Ms. Fludd stated she was not
7 outside at the time of the -- of the shooting when
8 Mr. Wilson shot Mr. Martin to know if the victim
9 had in fact pulled a gun on Mr. Wilson.

10 Further, she didn't testify that she
11 ever saw Mr. Martin pointing a gun at Mr. Wilson.
12 The testimony that Mr. Wilson gave today is
13 inconsistent with his one statement that was given
14 to law enforcement. I do want to be clear that
15 there is only one written statement to law
16 enforcement. If there are any other statements
17 that were given, the Defense has -- today is the
18 first time we've heard of that. That is the --
19 we've never heard of the Defendant giving any other
20 written statements.

21 We've never heard of any other
22 witnesses giving any other written statements that
23 are in the file. And I want to be clear that Ms.
24 Branch met with me in my office and we went through
25 the discovery together and what evidence we had and

1 | what evidence will be presented at trial and it was
2 | not mentioned at all there were any other
3 | statements taken or given by the -- or taken from
4 | the Defendant and the Defendant never gave any
5 | other statements. I just want to be clear of that.

6 | And, furthermore, Your Honor, there is
7 | a 2019 Court of Appeals case, *State v. Marshall*
8 | that discusses the defendant's statement being
9 | inconsistent and it's a Stand Your Ground case and
10 | the court -- the trial court denied the Stand Your
11 | Ground based on the inconsistent statements and the
12 | Court of Appeals affirmed it. And that's a 2019
13 | case. I'm happy to give you the site if you need
14 | it.

15 | THE COURT: I'll take a look at it if
16 | you have it.

17 | MS. HUNTER: I have my copy, yes, Your
18 | Honor, I'm happy to hand it up.

19 | THE COURT: I'll give it back to you.
20 | Anything further from either side?

21 | MS. BRANCH: Yes, Your Honor.
22 | Respectfully remind the Court that the burden is on
23 | the Defendant to bring this motion towards you.
24 | But also, Your Honor, this is not a standard of
25 | beyond a reasonable doubt. This is a preponderance

1 of the evidence.

2 The only evidence that the State
3 brought forth is not -- they attempted to refute my
4 client's statement and I don't think his statement
5 was inconsistent. His statement might have been a
6 little bit different. So I just want to remind the
7 Court that two witnesses, known produced by the
8 State and we do believe that this motion should be
9 granted because there was no duty to retreat on
10 behalf of the Defendant.

11 THE COURT: Thank you, ma'am.

12 MS. BRANCH: Thank you.

13 THE COURT: I've listened to the
14 testimony and considering the arguments of counsel,
15 Ms. Branch, I'm going to deny your motion based
16 upon several factors. First is the fact that
17 again, the Defense has the burden of establishing
18 by preponderance of the evidence each of the
19 elements of self defense. In order to be granted
20 that pursuant to then jump to the *Castle* doctrine.

21 And, of course, in order to make those
22 findings, the Defendant was without fault in
23 bringing the difficulty. The Defendant actually
24 believed he was in imminent danger of losing his
25 life or sustaining serious bodily injury or he was

1 in such imminent danger. And then if the defense
2 is based on the actual belief of imminent danger, a
3 reasonable prudent man of ordinary fitness and
4 courage would have entertained the same belief and
5 the Defendant had no other probable means of
6 avoiding danger of losing his own life of
7 sustaining injury -- of sustaining injury.

8 And in listening to the testimony of
9 both witnesses, Ms. Fludd obviously she did not see
10 the actual shooting or what led up to it and there
11 was inconsistencies as far as where the gun was
12 located. The Defendant's testimony first indicated
13 that the victim dropped the gun and then there was
14 testimony that the gun was in the waistband. So
15 there's inconsistencies there creating a question
16 of fact for the jury to determine.

17 Also there's inconsistencies in, again,
18 the number of statements whether or not he actually
19 voluntarily wrote what's in the statement and then
20 also inconsistencies as to where they were located.
21 Initially, apparently they were in Ms. Fludd's yard
22 and then the testimony today was that they were in
23 the Darby's yard creating a separate question of
24 fact for the jury to determine. So I'll
25 respectfully deny your motion.

1 MS. BRANCH: Thank you, Your Honor.

2 THE COURT: Are we ready to proceed
3 with the *Jackson v. Denno*.

4 MR. GIESE: Yes, Your Honor.

5 THE COURT: You may call your first
6 witness.

7 MR. GIESE: May it please the Court?

8 THE COURT: Yes, sir.

9 MR. GIESE: State calls Assistant Chief
10 Earl Kinley.

11 THE COURT: Just another matter for the
12 record too. Part of the Defendant's statement also
13 indicated there was some joking around which would
14 then create a question of fact as to the reasonable
15 belief of imminent danger. So I wanted to add that
16 to the record.

17 EARL KINLEY,
18 being first duly sworn, was examined and testified
19 as follows:

20 THE CLERK: Please state your first and
21 last name for the record.

22 MR. KINLEY: Earl Kinley, Jr.

23 THE CLERK: Thank you.

24 THE COURT: Your witness.

25 MR. GIESE: May it please the Court,

EARL KINLEY - DIRECT EXAMINATION BY MR. GIESE

1 Your Honor.

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION BY MR. GIESE:

4 Q. Mr. Kinley, where do you work?

5 A. I work with the Elloree Police

6 Department.

7 Q. And how long have you worked there?

8 A. I started August, 2017.

9 THE COURT: Sir, you can remove your
10 mask while you testify. It's a lot easier for us
11 to hear you. Thank you, sir.

12 Q. What are your duties at the Elloree
13 Police Department?

14 A. I'm the assistant chief.

15 Q. Okay. And how long have you been in
16 law enforcement?

17 A. Since 1997.

18 Q. Okay. In this area?

19 A. Yes, I have.

20 Q. Were you assistant chief of Elloree
21 Police Department back on October 21st of 2017?

22 A. Yes, I was.

23 Q. Do you remember that night?

24 A. Yes, I do.

25 Q. Were you called out -- where were you

EARL KINLEY - DIRECT EXAMINATION BY MR. GIESE

1 called out that night?

2 A. I was called out to go on Carroll
3 Street in Elloree in reference to a shooting.

4 Q. Okay. At some point did you identify
5 the shooter?

6 A. Yes, I did.

7 Q. And who was that?

8 A. Brandon Wilson.

9 Q. And that's the Defendant in this case?

10 A. Yes, it is.

11 Q. Is Mr. Wilson in the courtroom here?

12 A. Yes, he is.

13 Q. Did you get a statement from
14 Mr. Wilson?

15 A. Yes, I did.

16 Q. Okay. And where did you take that
17 statement?

18 A. At the Elloree Police Department.

19 Q. And are you familiar with Miranda
20 warnings on a suspect's Constitutional rights?

21 A. Yes, I am.

22 Q. Did you have the occasion to advise
23 Mr. Wilson of those rights?

24 A. I did.

25 Q. And how was he advised of those rights?

EARL KINLEY - DIRECT EXAMINATION BY MR. GIESE

1 A. I read them to him and then I had him
2 read them.

3 MS. GIESE: Your Honor, may I approach
4 the witness?

5 THE COURT: Yes, sir.

6 (WHEREUPON, Court's Exhibit Number 1
7 was marked)

8 Q. Mr. Kinley, I'm going to show you
9 what's been marked as Court's Exhibit 1. Do you
10 recognize that?

11 A. Yes, I do.

12 Q. And what is that?

13 A. This is Brandon Wilson's statement.

14 Q. Is that the statement you took the
15 night of the incident?

16 A. Yes, it is.

17 Q. Can you describe to Judge Murphy how
18 you advised Mr. Wilson of his rights?

19 A. After he was brought down there to the
20 police department, I read him his rights. And I
21 read him like -- I told him, you have the right to
22 remain silent, anything you say can and will be
23 used against you in the court of law. You have the
24 right to speak with an attorney and have him or her
25 present with you while you're being questioned. If

1 you cannot afford to hire an attorney, one will be
2 appointed to represent you before any questions if
3 you wish. You can decide at any time to exercise
4 these rights and not answer any question or make
5 any statement. Do you understand each of these
6 rights as I have explained them to you? Having
7 these rights in your mind, do you wish to talk to
8 us now?

9 Q. Okay. Did he appear to understand what
10 you were -- when you're explaining those?

11 A. Yes, he did.

12 Q. And how did he indicate that he
13 understood?

14 A. He signed them and initialed them.

15 Q. Okay. And is that on that document
16 right there?

17 A. Yes.

18 Q. Did he -- how many times did he sign
19 them?

20 A. Uh --

21 Q. Does he sign after each right?

22 A. Yes, he did.

23 Q. Okay. Can you count approximately how
24 many times that is?

25 A. It's five.

EARL KINLEY - DIRECT EXAMINATION BY MR. GIESE

1 Q. Okay. And at that point, did he talk
2 to you?

3 A. Yes, he did.

4 Q. And were you -- was anyone else
5 present?

6 A. Yes.

7 Q. Who was present?

8 A. The chief.

9 Q. And who is that? What's his name?

10 A. Chief Shawn Murphree.

11 Q. Okay. Can you describe the Defendant's
12 physical appearance during this?

13 A. He appeared was normal.

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

16 A. Not that I could tell, no, he wasn't.
17 I couldn't tell that.

18 Q. Did he respond to your questions?

19 A. He did.

20 Q. Did he appear to understand your
21 questions?

22 A. He did.

23 Q. Was his speech coherent?

24 A. Yes.

25 Q. Did he respond when asked whether he

EARL KINLEY - DIRECT EXAMINATION BY MR. GIESE

1 wanted an attorney?

2 A. Yes.

3 Q. Did he waive his right to an attorney?

4 A. Yes, he did.

5 Q. Okay. Did you promise the Defendant
6 anything in return for making a statement?

7 A. Didn't promise him anything.

8 Q. Did you coerce him in any way into
9 making that statement with threats or actions?

10 A. No, I did not.

11 Q. To the best of your knowledge was the
12 Defendant's statement freely and voluntarily given?

13 A. Yes, it was.

14 Q. And at some point did he make a
15 statement in response to these questions?

16 A. Yes, he did.

17 Q. And did he indicate that in writing?

18 A. Yes, he did.

19 Q. Okay. Is that his handwriting on that
20 statement?

21 A. Yes, it is.

22 Q. Okay. And where he signed as well?
23 That's his handwriting?

24 A. Yes.

25 Q. Okay. Did he ever refuse to answer

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 | questions?

2 | A. No.

3 | Q. What would you have done if he refused
4 | to answer questions?

5 | A. I wouldn't ask him anything else.

6 | Q. What would you have done if he would
7 | have asked for an attorney?

8 | A. I would have left him alone. I
9 | wouldn't have asked him anymore questions.

10 | Q. Okay.

11 | MR. GIESE: That's all, Your Honor.
12 | Thank you.

13 | THE COURT: Cross examination?

14 | CROSS EXAMINATION BY MR. SIMS:

15 | Q. I have a few questions, Chief. Do you
16 | have that statement? May I see it a moment,
17 | please.

18 | A. (Complies)

19 | Q. Thank you. Now, Mr. Wilson when he
20 | began to -- when you got there, did you meet him at
21 | the house or did you meet him at the police
22 | station?

23 | A. He was there at the house when I
24 | arrived. He was at the house on Carroll Street
25 | with the deputy.

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 Q. So he never tried to run or hide from
2 you or hide from anyone else, did he?

3 A. No, he did not.

4 Q. Okay. And when you got to the police
5 station where specifically did you question him?

6 A. At the Town Hall.

7 Q. Does the Town Hall have videotape?

8 A. It didn't have any at that time, no,
9 sir.

10 Q. Does the Town Hall have recording
11 equipment?

12 A. Nope. Not at that time we didn't have
13 that.

14 Q. So there was no recording equipment,
15 there was no video, how long did you question him?

16 A. I can't remember exactly how long, sir.

17 Q. Fifteen minutes? Thirty minutes? An
18 hour? Two hours?

19 A. Could have been 30 minutes to an hour.

20 Q. Thirty minutes.

21 A. Could have been an hour. I can't
22 recall exactly how long.

23 Q. And when you began to question him, did
24 he not give you a different statement initially?

25 A. No, he didn't give me a different

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 statement.

2 Q. So your testimony is that he never gave
3 you a different statement?

4 A. No, nothing but the statement he give
5 me. That's all I can remember is the statement
6 that he give me.

7 Q. And he never told you that the person
8 had a gun?

9 A. No, he did not.

10 Q. He never told you about coming back --
11 him coming back around with a car -- in his truck
12 with an assault weapon or like?

13 A. No, he did not.

14 Q. So he never gave you any other contrary
15 statement. Who else was there?

16 A. It was a deputy and it was the chief.

17 Q. Now who was the other person?

18 A. It was a deputy who brought him down
19 there.

20 Q. Orangeburg County Sheriff?

21 A. Yes, it was. That was the deputy who
22 was on scene first.

23 Q. Do you know that deputy's name?

24 A. Deputy James Doctor. Deputy Doctor.

25 Q. Now in this statement, there is a part

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 on this statement that says sworn and subscribed
2 before me this blank day of blank -- and the year
3 -- and they got 2000; right? There's a sworn part
4 that a notary signed saying that the person gave
5 that statement; is that correct?

6 A. Yes.

7 Q. I'm going to hand you this document
8 back. Has the notary part been filled out on that
9 statement?

10 A. No, she wasn't there that night.

11 Q. So the only person who can testify
12 about that would be you. And that statement,
13 that's a form that's used by law enforcement all
14 over the State of South Carolina; is that correct?

15 A. Yes.

16 Q. And on that statement there is a
17 requirement that it be notarized?

18 A. If you got it on that form. Not all
19 forms are like that.

20 Q. But that form is on there?

21 A. That's one of the forms that's like
22 that.

23 Q. And the one that you used required that
24 it be notarized?

25 A. No, I used -- he got two different

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 forms.

2 Q. Okay. Well, the one that we have here
3 I just was given has a notary part?

4 A. Yes.

5 Q. And is it not notarized?

6 A. No, it's not.

7 Q. May I have it back, please.

8 A. (Complies)

9 Q. And this was Court's Exhibit Number 1.
10 An official document from the Elloree Police
11 Department voluntary statement form; is that
12 correct?

13 A. Yes, it is.

14 Q. And it is not done according to the
15 procedures that are required or used on this
16 statement?

17 A. That's not a requirement for us, sir.

18 Q. Well, why would it be on there?

19 A. If the notary is there at the time
20 we'll get it notarized, but they wasn't there.
21 That was after hours.

22 Q. Well, I'm just looking at it. Why
23 would Elloree have a form that requires a notary
24 and you don't follow the procedure?

25 A. She -- like I stated, she wasn't there

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 that night.

2 Q. Don't you have other notaries at the
3 Elloree Police Department?

4 A. No, we do not.

5 Q. You only have one person. How many
6 people on the Elloree Police Department?

7 A. We got one lady who works there in the
8 daytime. We got a judge and we got three full-time
9 police officer.

10 Q. Three full-time police officers?

11 A. Three.

12 Q. And you couldn't call any of them to --

13 A. They're not notarized public.

14 Q. I'm sorry.

15 A. They're not notarized. Only one person
16 is.

17 Q. Okay. But you couldn't call anyone of
18 them to say it's not notarized, but I want you to
19 sign that you were here?

20 A. Not that time of the night. I didn't
21 see it necessary to do it at that time of the
22 night.

23 Q. So the only person that we can say had
24 -- the only person who can testify about the number
25 of statements is you?

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 A. And the chief.

2 Q. And the chief?

3 A. Yes, sir.

4 Q. There's no video?

5 A. No video, yes, sir.

6 Q. No recording?

7 A. No recording.

8 Q. Does Elloree have a recording or
9 handheld recorder or do you have an iPhone or
10 Android or some other phone that you could have
11 recorded that statement and what went on that
12 night?

13 A. At that time I wasn't -- I didn't use
14 my phone. But I was just getting there and I know
15 that they had the building destroyed, so couldn't
16 tell you what was destroyed. But I know they
17 didn't have any video cameras at that time. They
18 got video cameras later. And I was just starting
19 there.

20 Q. You were just starting there?

21 A. Yes, I was.

22 Q. How long you been in law enforcement?

23 A. Since 1997.

24 Q. Since 1997. And you are aware of the
25 necessity to corroborate statements that are being

1 given?

2 A. Yes, I am.

3 Q. And you had an iPhone?

4 A. No, I did not.

5 Q. An Android?

6 A. Yes, I did.

7 Q. Does not that Android phone have the
8 ability to record a statement?

9 A. This was my personal phone. I wasn't
10 going to use my personal phone.

11 Q. So he never told you, according to you,
12 that the other person had a gun?

13 A. No, he did not.

14 Q. He never told you or anything about one
15 or two times in terms of what went on and what
16 happened?

17 A. He told me somewhat what happened, yes,
18 he did. He told me what happened.

19 Q. Did he tell you that the other person
20 had a gun?

21 A. No, he did not.

22 Q. Did he tell you that anybody else out
23 there had a gun?

24 A. No, he did not.

25 Q. Did he tell you that he shot in

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 self-defense or to -- for him not to be hurt?

2 A. He said he shot -- his intention was to
3 shot in the ground and he was afraid for his
4 safety.

5 Q. Okay. Did he tell you how close they
6 were?

7 A. Not exactly.

8 Q. Okay. But he told you that he didn't
9 shoot him in the chest. He didn't shoot at him in
10 the chest. He shot on the ground and he got hit?

11 A. He told me he shot towards the ground.

12 Q. Towards the ground?

13 A. Yes.

14 Q. How tall is the victim?

15 A. The victim probably about 5'10",
16 something like that probably.

17 Q. 5'10" so he's kind of a tall guy?

18 A. Sort of.

19 Q. And where he did get hit?

20 A. In the upper leg.

21 Q. Upper leg. So there's a great
22 difference than pointing a gun and then shooting in
23 the ground; is that correct?

24 MR. GIESE: Objection, Your Honor.

25 What does this have to do with the voluntariness of

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 the statement? They're -- and I understand those
2 questions can be asked, you know, when he
3 testifies. But in terms of *Jackson v. Denno*, I
4 think it's outside of the scope.

5 THE COURT: Sustained. Let's stick to
6 the voluntariness.

7 MR. SIMS: Yes, ma'am.

8 Q. Do you know the victim?

9 A. I do.

10 Q. How long have you known the victim?

11 A. I can't say exactly, but I know him
12 from around town.

13 Q. You know him from around town. Do you
14 know his family?

15 A. I know his family.

16 Q. How long have you known the family?

17 A. For a long time.

18 Q. For a long time?

19 A. For a long time. Sir?

20 Q. Did you say for a long time?

21 A. Yes.

22 Q. Were you friends with the family?
23 Friends with him?

24 MR. GIESE: Objection, Your Honor.

25 This does not go towards the voluntariness of the

EARL KINLEY - CROSS EXAMINATION BY MR. SIMS

1 statement. It has nothing to do with Mr. Wilson.

2 THE COURT: I will allow it. He was
3 claiming that he basically was trying to help the
4 family, so I will allow it.

5 MR. GIESE: Thank you, Your Honor.

6 Q. I said how long have you known the
7 family or did you know him?

8 A. I know the family for a long time. I
9 know him for some years, but I don't socialize with
10 him like that. But I know him from around the
11 neighborhood.

12 Q. And you socialize with the family?

13 A. When I see them I speak to them.

14 Q. That's the only time you have
15 socialized with the family?

16 A. Yes.

17 Q. And how long have you known them? I'm
18 just trying to clear this up. How long have you
19 known the family?

20 A. I know them for a long time because
21 they stay in Elloree.

22 MR. SIMS: No further questions, Your
23 Honor.

24 THE COURT: Any redirect?

25 MR. GIESE: No, Your Honor. Thank you.

1 THE COURT: You may call your next
2 witness.

3 MR. GIESE: The State rests, Your
4 Honor.

5 THE COURT: Anything from the Defense?
6 Any witnesses?

7 MS. BRANCH: No, Your Honor.

8 THE COURT: All right. I'll be happy
9 to hear your arguments.

10 MR. GIESE: Your Honor, I think it's
11 pretty clear Deputy Kinley and all his experience
12 in law enforcement, he followed all the proper
13 procedures. I know Mr. Sims made a big deal about
14 it not being notarized, but it was. This interview
15 was witnessed by Chief Murphree. And, furthermore,
16 the first time that the State has heard of these
17 three or four statements was 15 minutes ago when
18 Mr. Wilson testified to that.

19 He never told police about that. Never
20 -- apparently never told his attorney that either
21 because I would assume they would have submitted in
22 maybe divulging that information to us. But the
23 fact of the matter is that that part is just not
24 true. I mean, Mr. Kinley has no reason to get up
25 there and pin some crime on Mr. Wilson when he

1 | doesn't even know him.

2 | But based on that all that, Your Honor,
3 | I think the State has met all the -- I think
4 | Mr. Kinley answered all the questions correctly. I
5 | think he did this -- he took this statement
6 | correctly and we'd ask that you allow it in.

7 | THE COURT: Mr. Sims?

8 | MR. SIMS: Your Honor, as the State has
9 | said, this is a veteran police officer who
10 | indicated he had been in law enforcement, they have
11 | a sign -- they have a statement or a form that is
12 | used by police officers that is required or
13 | basically why would you have a form that requires a
14 | notary and then you don't follow the procedures
15 | that are on the form. You don't get someone to
16 | notarize it. Nobody in the whole Elloree Police
17 | Department could have come and if they didn't
18 | notarize it, they could have witnessed it also.

19 | And, also, Your Honor, the other issue
20 | too is that he has a phone, but he wasn't going to
21 | use his personal phone in the mist of an
22 | investigation where someone has been shot. Also
23 | you have the issue he says that he didn't know the
24 | Defendant. But it's clear he knew the victim and
25 | he knew the victim's family. And there is no

1 corroborating testimony or statements by anyone
2 else right now in this court at this time
3 indicating that he witnessed or heard the
4 statement.

5 So it seems they only put up one person
6 who has an uncorroborated statement --
7 uncorroborated form that the police department of
8 Elloree gives to them for them to fill out. He
9 indicated that there is another form, but that's
10 not the form he used that night. The form that he
11 used that night required or has on it a notary
12 signature. And the only signature on that form, on
13 the first part of that form, is the assistant chief
14 of police of Elloree who has prior knowledge and
15 prior relationship with the family of the victim.

16 And we come today and the only evidence
17 that the State is putting up, not the chief, but
18 the assistant chief who was there. We find -- and
19 we did ask about the other statements. They said
20 they had no video. They had no audio. They had
21 nothing other than the word of that law enforcement
22 officer. So we'd ask Your Honor that the statement
23 be dismissed and not be allowed to be put in.

24 THE COURT: Thank you, Mr. Sims. As
25 you're well aware, Mr. Sims, obviously, at this

1 | juncture it's by preponderance of the evidence
2 | whether the statement was voluntary and in
3 | compliance with the Miranda. The statement does
4 | include all the Miranda warnings which were
5 | initialed by your client and then the waiver and it
6 | was signed.

7 | The -- Officer Kinley did testify that
8 | your client was not under the influence, that he
9 | was coherent. There's no promises or coercions
10 | were made. And although certainly those points
11 | that you bring up are very valid points that would
12 | be up to the -- once it's voluntary and in
13 | compliance with the Miranda, I'm ruling that it's
14 | admissible then of course you can bring those up
15 | and that would be to the weight of the evidence not
16 | the admissibility and certainly you can argue those
17 | factors to the jury.

18 | MR. SIMS: Yes, ma'am. Just note our
19 | objection, Your Honor.

20 | THE COURT: Yes, sir. Anything further
21 | at this stage?

22 | MS. HUNTER: Last motion, Your Honor.
23 | Mr. Wilson's case has been called to trial, so I
24 | believe his bond is officially over so we'd ask
25 | that he be taken into custody at this time.

1 MR. SIMS: We would strenuously object
2 to that. This has been five years ago and this
3 gentleman has not run away, he's not gone anywhere,
4 and to lock him up now and prevent him from having
5 the opportunity overnight to discuss with the --
6 with his attorneys, there's no justification for
7 that.

8 THE COURT: Well, Counsel, his case has
9 been called, that's my policy once the case has
10 been called then he will be taken into custody.
11 Before he's taken to the county detention center, I
12 will allow you as much time as you want to stay
13 here with him to talk to him if you need to.
14 Obviously, it's been five years, you had plenty of
15 time to prepare, but I will allow you to stay here
16 on the property until you can talk to him until you
17 feel comfortable, but he will be taken into
18 custody.

19 MR. SIMS: Yes, ma'am.

20 THE COURT: Anything further?

21 MS. BRANCH: Your Honor, may I
22 approach?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, there was a bench
25 conference)

BRANDON WILSON - EXAMINATION BY THE COURT

1 MR. GIESE: And, Your Honor, if -- it
2 will take me five minutes to repair an order that I
3 need you to sign just so he can be transported.

4 THE COURT: Yes, sir.

5 MR. GIESE: So just don't leave.

6 THE COURT: I won't leave. Yes, ma'am,
7 Ms. Branch?

8 MS. BRANCH: Yes. Thank you, Your
9 Honor. Again, I represent the Defendant and we
10 just want to -- the record to note that Mr. Wilson
11 was offered a plea deal to which he elected to
12 decline because he felt of his innocence, so that's
13 why we're going forward with the case, Your Honor.

14 THE COURT: Yes, ma'am. And did you
15 convey that plea offer to your client?

16 MS. BRANCH: Yes.

17 THE COURT: Mr. Wilson, I'm going to
18 ask you to please stand and be sworn in. Please
19 raise your right hand.

20 BRANDON WILSON,
21 being first duly sworn, was examined and testified
22 as follows:

23 EXAMINATION BY THE COURT:

24 THE COURT: So, Mr. Wilson, your
25 attorney tells me that she conveyed to you the plea

1 offer from the State; is that correct?

2 A. Yes, ma'am.

3 THE COURT: And based upon your
4 consideration of the evidence and talking to your
5 attorney, you declined that offer?

6 A. Yes, ma'am.

7 THE COURT: And you had sufficient time
8 to talk to your attorney about that and the
9 evidence and you wish to proceed and go forward
10 with the trial; is that correct?

11 MS. BRANCH: May we have a moment? Can
12 we go outside?

13 THE COURT: Absolutely.

14 (WHEREUPON, there was a short break)

15 THE COURT: Are the parties ready to
16 proceed?

17 MS. HUNTER: Yes, Your Honor, we are.

18 THE COURT: All right. Yes, ma'am.
19 Solicitor?

20 MS. HUNTER: Yes, ma'am, Your Honor.
21 Standing before you is Brandon Wilson with his
22 attorney Belinda Branch with the private bar.
23 Mr. Wilson is pleading guilty to two separate
24 arrests, three separate charges total.

25 The first incident, Your Honor, is from

1 October 21st of 2017 and for that he is charged
2 with assault and battery of a high and aggravated
3 nature and possession of a weapon during the
4 commission of a violent crime.

5 The second set of charges, Your Honor,
6 is from an incident on March 25th of 2021 and that
7 is an assault and battery second degree.

8 Mr. Wilson is pleading with a
9 recommendation of a cap of six years for
10 everything, Your Honor.

11 THE COURT: All right. Madam Clerk,
12 will you please swear in the Defendant.

13 BRANDON WILSON,
14 being first duly sworn, was examined and testified
15 as follows:

16 THE COURT: Ms. Branch, you represent
17 the Defendant, Mr. Wilson in these matters?

18 MS. BRANCH: Yes, Your Honor.

19 THE COURT: And have you explain to
20 your client the charges contained in the
21 indictments, the possible punishment and his
22 Constitutional rights?

23 MS. BRANCH: Yes, ma'am, I have.

24 THE COURT: In your opinion, does he
25 understand the charges, the punishment and his

1 rights?

2 MS. BRANCH: Yes, ma'am, he does.

3 THE COURT: How does he indicate to you
4 he wishes to plead?

5 MS. BRANCH: He wants to plead guilty,
6 Your Honor.

7 THE COURT: And do you agree with his
8 decision to plead guilty?

9 MS. BRANCH: Yes, Your Honor.

10 THE COURT: Based upon your
11 investigation of the facts and circumstances of the
12 case, do you feel the State could produce
13 sufficient evidence to convince a jury of your
14 client's guilt beyond a reasonable doubt and if he
15 were to stand trial his conviction would be
16 probable?

17 MS. BRANCH: Yes, Your Honor.

18 THE COURT: Have you also explained to
19 your client the collateral consequences of having
20 these convictions on his record?

21 MS. BRANCH: Yes, Your Honor.

22 THE COURT: In your opinion does he
23 understand those?

24 MS. BRANCH: Yes, Your Honor.

25 EXAMINATION BY THE COURT:

BRANDON WILSON - EXAMINATION BY THE COURT

1 THE COURT: All right. Mr. Wilson,
2 I've got certain questions for you to insure that
3 your plea is freely, knowingly and intelligently
4 made. If at any point you don't understand
5 something, please stop to ask me, okay?

6 A. Yes, ma'am.

7 THE COURT: How old are you, sir?

8 A. Thirty-seven.

9 THE COURT: And how far did you go in
10 school?

11 A. High school.

12 THE COURT: What type of work do you
13 do?

14 A. Truck driver.

15 THE COURT: Are you married?

16 A. No.

17 THE COURT: Do you have any children?

18 A. One.

19 THE COURT: How old is your child?

20 A. Sixteen.

21 THE COURT: Have you ever been treated
22 for the abuse of drugs, alcohol or mental illness?

23 A. No, ma'am.

24 THE COURT: In the last 24 hours have
25 you had any drugs, alcohol or prescription

BRANDON WILSON - EXAMINATION BY THE COURT

1 medication?

2 A. No, ma'am.

3 THE COURT: Are you aware of any
4 physical, emotional or nervous problem that would
5 prevent you from understanding what you're doing
6 here today?

7 A. Yes, ma'am.

8 THE COURT: There's something bothering
9 you? You understand everything that's going on
10 here today?

11 A. Yes, ma'am.

12 THE COURT: You understand?

13 A. Yes, ma'am.

14 THE COURT: You're pleading guilty to
15 three different charges. The first charge is
16 assault and battery of a high and aggravated
17 nature. That charge carries a potential penalty of
18 up to 20 years in prison; do you understand that?

19 A. Yes, ma'am.

20 THE COURT: In the possession of a
21 firearm or knife during the commission of a violent
22 crime that carries up to five years; do you
23 understand that?

24 A. Yes, ma'am.

25 THE COURT: The assault and battery

BRANDON WILSON - EXAMINATION BY THE COURT

1 second degree that charge carries up to three
2 years; do you understand that?

3 A. Yes, ma'am.

4 THE COURT: Although the State's
5 recommending that you receive a cap of up to six
6 years, you understand I don't have to do that you
7 could get the maximum possible punishment on each
8 of these charges; do you understand that?

9 A. Yes, ma'am.

10 THE COURT: Also, the assault and
11 battery in the second degree that charge has not
12 been before the grand jury. You have the right to
13 have the grand jury consider that case to see if
14 there's enough evidence to bring it into this
15 court. You've indicated on the sentencing sheet as
16 well as the indictment that you wish to waive
17 presentment; is that correct?

18 A. Yes, ma'am.

19 THE COURT: Knowing all of that, do you
20 wish to proceed and plead guilty here today?

21 A. Yes, ma'am.

22 THE COURT: All right. Solicitor?

23 MS. HUNTER: Thank you, Your Honor.
24 May it please the Court. I'll start out with the
25 first incident that we were going to go to trial on

BRANDON WILSON - EXAMINATION BY THE COURT

1 | today. That occurred on October 21st of 2017. I
2 | believe you've heard some of the testimony and so
3 | you're somewhat aware of what the facts are.

4 | Essentially, the victim who is present
5 | in the courtroom ran into a guy named -- an old
6 | time friend from Elloree named Jaleel Darby. They
7 | decided they were going to go to camp meet that
8 | day. Mr. Darby showed up. He said I'll come by
9 | your house. Shows up at the Darby's house -- I'm
10 | sorry, Mr. Martin shows up at the Darby's house.
11 | He's in his vehicle. He made a comment to
12 | Mr. Wilson. Everyone was kind of joking around
13 | about hanging out with someone that was gay as
14 | you've heard the testimony.

15 | We believe what would have been proved
16 | at trial, Your Honor, is that the victim did not
17 | have a weapon on him that day. That he -- that
18 | this kind of started going back and forth that the
19 | Defendant was between 15 and 20 feet away from him.
20 | The victim did go to get out of his vehicle. As
21 | soon as he stepped on the ground the Defendant
22 | pulled a gun out of his pocket and shot him. It
23 | entered into like his upper thigh here. It
24 | actually exited the back and the bullet hit the
25 | back tire of Mr. Martin's vehicle -- the victim's

BRANDON WILSON - EXAMINATION BY THE COURT

1 vehicle.

2 So to kind of clarify about the
3 circling back around. He left to go with someone
4 named Marquel Stokes who lived up the street to
5 have him take him to the hospital, but he actually
6 had a flat tire because the bullet went into his
7 tire. And Marquel Stokes took him to the hospital.
8 Luckily it was superficial wound. It didn't hit
9 any arteries. He was in and out of the hospital
10 the same day. There was a lot of blood. It was a
11 very scary event.

12 It's my understanding that all of them
13 are pretty much friends. I -- Brandon Wilson
14 wasn't really in their friend group, he wasn't from
15 Elloree, but he was over there hanging out like he
16 often would because he dated Alexis Fludd who lived
17 across the street.

18 Mr. Martin was out of work at least two
19 weeks. I know he racked up some medical bills.
20 They had to do an x-ray, they -- you know what it
21 costs to go into a hospital when you're a
22 self-insured individual. You know, luckily he
23 wasn't hurt. I don't -- he doesn't want to address
24 the Court today. He doesn't have any hard feelings
25 towards Mr. Wilson. I think he just wishes none of

1 | it ever happened.

2 | That's in sum the case that we believe
3 | it wasn't a self-defense case that it was more of a
4 | -- those boys I think had been sitting out there
5 | drinking all day and some emotions got the better
6 | of him and he made a poor decision to be quite
7 | honest with you.

8 | The second incident, Your Honor, is
9 | from 2021. That is the assault and battery second
10 | -- or do you want me to -- do you want to do that
11 | one first?

12 | THE COURT: No, you go ahead. We'll do
13 | them altogether.

14 | MS. HUNTER: The second incident, Your
15 | Honor, is an assault and battery second degree,
16 | that's a misdemeanor. The allegations in that,
17 | Your Honor, is that Mr. Wilson was over at a bar
18 | over in Santee. This is from the Santee Police
19 | Department. Basically, a fight broke out at the
20 | bar and Mr. Wilson is -- was arrested for breaking
21 | a beer bottle on an employee's face and he was
22 | charged with assault and battery second degree for
23 | that incident.

24 | I don't really have -- we haven't
25 | notified the victims about that arrest -- about

BRANDON WILSON - EXAMINATION BY THE COURT

1 | this plea today because I just assumed -- I went
2 | ahead and grouped it all together because it seemed
3 | like the best way to go ahead and resolve
4 | everything. But we have spoken with them in the
5 | past and I don't think they would have a problem
6 | with our plea.

7 | THE COURT: Did they indicate there was
8 | any type of restitution?

9 | MS. HUNTER: Your Honor, we did not get
10 | any restitution from those victims.

11 | THE COURT: Any prior record?

12 | MS. HUNTER: Your Honor, he has a very
13 | minimal record. He is, as he said, I believe he's
14 | in his late 30s and his prior record, Your Honor,
15 | consists of a 2012 -- I can't even tell if these
16 | are convictions. A malicious injury to personal
17 | property arrest from 2012.

18 | In 2017, he was also arrested for
19 | domestic violence third degree. Again, I cannot
20 | tell if there was a conviction on that either and
21 | then these two. So I don't have any documentation
22 | that he actually has a prior record for
23 | convictions.

24 | THE COURT: All right. Mr. Wilson, do
25 | you agree with the facts as stated by the State?

BRANDON WILSON - EXAMINATION BY THE COURT

1 A. Yes, ma'am.

2 THE COURT: And are you in fact guilty
3 of these charges?

4 A. Which charges? The charges that here
5 today?

6 THE COURT: For all three charges that
7 you're pleading guilty to?

8 A. Yes, ma'am.

9 THE COURT: And you understand that by
10 pleading guilty you're waiving certain
11 Constitutional rights. You're waiving your right
12 to have a trial by a jury where the State would
13 have the burden of proving your guilt beyond a
14 reasonable doubt?

15 A. Yes, ma'am.

16 THE COURT: You're also waiving the
17 right to remain silent during that trial at which
18 point the judge would instruct the jury they could
19 not use that against you. And you're waiving the
20 right to challenge the State's evidence as well as
21 cross examine witnesses and present any defenses
22 that you may have and you're also waiving the right
23 to challenge any potentially incriminating
24 statements you may have made. Do you understand
25 that you're waiving each of those rights?

BRANDON WILSON - EXAMINATION BY THE COURT

1 A. Yes, ma'am.

2 THE COURT: You've been represented by
3 Ms. Branch in this matter, have you been satisfied
4 with how she's advised and represented you in this
5 case?

6 A. Yes, ma'am.

7 THE COURT: And, Mr. Sims, I don't want
8 to exclude you, I know that he's been assisting as
9 well.

10 A. Yes, ma'am.

11 THE COURT: And you -- have you spoken
12 with him for as often and for as long as you feel
13 is necessary for them to properly represent you?

14 A. Yes, ma'am.

15 THE COURT: Have you understood your
16 talks with your attorneys?

17 A. Yes, ma'am.

18 THE COURT: Do you have any complaints
19 against your attorneys?

20 A. No, ma'am.

21 THE COURT: Has anyone promised you
22 anything or held out any hope of a reward to get
23 you to plead guilty?

24 A. No, ma'am.

25 THE COURT: Anyone threaten or coerce

BRANDON WILSON - EXAMINATION BY THE COURT

1 | you in any way to get you to plead guilty?

2 | A. No, ma'am.

3 | THE COURT: Has anyone associated with
4 | your case whatsoever mistreated you in any way?

5 | A. No, ma'am.

6 | THE COURT: Have you had enough time to
7 | make up your mind as to whether or not you wish to
8 | plead guilty?

9 | A. Yes, ma'am.

10 | THE COURT: Are you pleading guilty of
11 | your own free will?

12 | A. Yes, ma'am.

13 | THE COURT: Have you understood all my
14 | questions?

15 | A. Yes, ma'am.

16 | THE COURT: Is there anything you need
17 | to ask me about what we've just been over?

18 | A. Anything I have to ask you?

19 | THE COURT: Is there anything -- do you
20 | have any questions about any of the questions that
21 | I've asked you?

22 | A. No, ma'am.

23 | THE COURT: Has each and every answer
24 | that you've given the Court been completely
25 | truthful and honest?

BRANDON WILSON - EXAMINATION BY THE COURT

1 A. Yes, ma'am.

2 THE COURT: You understand that you
3 have ten days to appeal the guilty plea and the
4 sentence of the court and if you could not afford
5 an attorney, one would be appointed to represent
6 you?

7 A. Yes, ma'am.

8 THE COURT: And, Solicitor, you had
9 indicated some medical bills for this victim's --
10 was there any request for restitution?

11 MS. HUNTER: Let me ask him real fast,
12 Your Honor. Your Honor, if you do end up giving
13 him probation or some type of split sentence, I do
14 believe that Mr. Martin would ask that his medical
15 bills all be paid. And I'm happy to hand -- I have
16 not showed this to Ms. Belinda -- Ms. Branch-Davis,
17 but it is almost \$10,000.

18 THE COURT: Do you want to take a look
19 at those real quick?

20 MS. BRANCH: I've seen it.

21 MS. HUNTER: I have shown that to you?

22 MS. BRANCH: Yes.

23 THE COURT: So, Mr. Wilson, you
24 understand that the medical bills are somewhere in
25 the vicinity of \$10,000, I think your attorney has

BRANDON WILSON - EXAMINATION BY THE COURT

1 taken a look at those. Do you agree that those are
2 the correct amount of medical bills based upon him
3 being shot?

4 A. Yes, ma'am.

5 THE COURT: And you agree that that's a
6 correct amount of restitution?

7 A. Yes, ma'am.

8 THE COURT: I do find that there is a
9 substantial factual basis for the plea. The
10 Defendant's decision to plead guilty is freely,
11 knowingly and intelligently made with the advice of
12 counsel with whom he says he's satisfied with, I'll
13 accept the plea. Counsel?

14 MS. BRANCH: Thank you, Your Honor.
15 I've known Mr. Wilson for the last five years, Your
16 Honor. He has always come in and given me his side
17 of the events. It is unfortunate that we find
18 ourselves here today.

19 He is a father. He is a son and I'd
20 like for his mother to join me, please. You want
21 to come up, please. His mother -- if that's okay
22 with you, Your Honor.

23 THE COURT: Sure if we can just do one
24 at a time though so that security's got --

25 MS. BRANCH: Sure. Wait until she

1 calls you up. The State has asked for a cap to six
2 years. He's raising his son who is 16 years old.
3 Been an excellent father. He's employed. Pays his
4 taxes. And as the Solicitor said, what's on his
5 record is minimum.

6 Also, Your Honor, we have a \$10,000
7 hospital bill from the victim. Victim got out of
8 the hospital same day and Your Honor didn't get a
9 chance to look at the medical records, but if you
10 did, you would have seen that the victim was
11 consumed with alcohol. The victim had some
12 responsibility himself.

13 So we ask that you consider very
14 strongly giving Mr. Wilson a sentence of probation.
15 And he told me, I'd be willing to serve 50 years on
16 probation if I can just continue to raise my son.
17 So with that being said, we would appreciate it if
18 you would not give Mr. Wilson the maximum. Not
19 give him the six years that she's requesting. Give
20 him probation, a lengthy probation, or allow him to
21 serve weekend time.

22 And I don't know whether or not he
23 wants to say anything, but I know I'm talking on
24 his behalf. Do you want to say anything? Okay.
25 Go ahead.

1 THE COURT: You can say whatever you
2 like from where you are.

3 MS. OLIVER: I'm the girlfriend of
4 Brandon.

5 THE COURT: Can you state your full
6 name first, please?

7 MS. OLIVER: I would ask that you give
8 him probation if you could. I'm not the mother of
9 his son, but I do help him along with his son and I
10 do help him with his mother as well as far as
11 taking her back and forth to her doctor's
12 appointments and stuff, so we play a big part as
13 far as taking care of her. And he helps me a lot,
14 so would you please just grant him probation.

15 He's a truck driver, hard working.
16 He's been driving trucks for at least 17 years and
17 I don't want to see that get taken away from him,
18 everything he worked so hard for. So would you
19 just please grant him probation.

20 THE COURT: Thank you, ma'am.

21 MS. BRANCH: Thank you, Your Honor.

22 MR. SIMS: Your Honor, may I?

23 THE COURT: Of course.

24 MR. SIMS: When I got involved in this
25 case it's an anomaly. Something happened. Those

SENTENCE OF THE COURT

1 people were out there together and things getting
2 out of hand. I see this as an anomaly in terms of
3 his life after looking, in terms of what his prior
4 record was which was basically nothing and looking
5 at all of the circumstances in this matter it is an
6 unfortunate situation. From listening to him and
7 listening to his girlfriend and him taking care of
8 his child and trying to help with his mother and
9 having a long term relationship in terms of driving
10 and providing being a productive citizen, I think
11 that a minimum or probation in this situation
12 because he's going to have to pay that \$10,000.

13 And it is a very difficult thing to do
14 when you have to spend all this time and then come
15 back out and then try to reestablish yourself by
16 getting another job, getting another relationship
17 going on in terms of that, so we would ask that you
18 would consider the -- Ms. Branch's request for a
19 probationary sentence.

20 THE COURT: Thank you, Counsel.
21 Anything further from anyone?

22 Well, Mr. Wilson, these cases are
23 always difficult. Obviously, you don't have a
24 prior record, but this is something that is
25 obviously very serious and considered a violent

SENTENCE OF THE COURT

1 offense. It's very fortunate, I mean, you could
2 have killed somebody. That's a very unfortunate
3 circumstance and so because of that there must be
4 some consequences. I don't think probation is
5 appropriate for a gunshot -- for a gunshot wound.
6 I'm shooting straight with you. I don't think
7 that's appropriate. I think your attorneys have
8 done an excellent job in getting the State to
9 recommend a cap of six years. I'll cut you some
10 break on that, but I think they've done a very good
11 job in getting that type of recommendation
12 considering somebody could have been killed.

13 On Indictment 2018-GS-38-0825, you're
14 hereby committed to the State Department of
15 Corrections for a period of ten years provided upon
16 the service of five years and probation to follow
17 for three years. Special conditions of probation
18 are that you are to pay restitution in the amount
19 ordered of -- can you give me the exact number
20 there that's on there?

21 MS. HUNTER: Yes, Your Honor. It's
22 \$9,991.80. And, Your Honor, to be fair, we are
23 happy to reach out to TRMC and make sure that this
24 is still actually what is owed. I would hate for
25 somebody to be stuck with a bill that was more

SENTENCE OF THE COURT

1 | than...

2 | THE COURT: Why don't we do this. We
3 | can defer the probation -- I mean, the restitution
4 | based upon your investigation to see actually
5 | what's outstanding.

6 | MS. HUNTER: Yes, Your Honor.

7 | THE COURT: Mr. Sims and Ms. Branch,
8 | does 30 days give you sufficient time to
9 | investigate that?

10 | MS. BRANCH: The charge, Your Honor?

11 | THE COURT: Is that okay?

12 | MS. BRANCH: Yes, Your Honor.

13 | THE COURT: All right. So we'll defer
14 | that for 30 days. And that is concurrent to
15 | 2018-GS-38-0826 where you are hereby committed to
16 | the State Department of Corrections for a period of
17 | five years.

18 | That's concurrent to 2021-GS-38-1249
19 | where you are hereby it committed to the State
20 | Department of Corrections for a period of three
21 | years and they are all concurrent to each other.
22 | Good luck to you.

23 | MS. HUNTER: Yes, Your Honor.

24 | MS. BRANCH: Thank you, Your Honor.

25 | MR. SIMS: Thank you.

1 THE COURT: Thank you.

2 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

I, KATHERINE A. SPIRES, Registered Professional Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Orangeburg County, South Carolina, on the 24th of January, 2022.

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

September 26, 2022

s/Katherine A. Spires

Katherine A. Spires

Registered Professional Reporter

WITNESSES

Shawn E Murphree

Elloree Police Department

ARREST WARRANT NUMBER
2017A3820300005

Arrested: October 23, 2017

TRUE BILL
ACTING GRAND JURY

Date MAR 27 2019

Foreperson of Grand Jury
Date: March 27, 2019**VERDICT**

Foreperson of Petit Jury

DOCKET NO. 2018GS38-0825

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

April 1, 2019 TERM

THE STATE
vs.

Brandon Dwight Wilson

Indictment forASSAULT AND BATTERY OF A HIGH
AND AGGRAVATED NATURECLERK OF COURT
ORANGEBURG, SC

MAR 27 2019

CLERK OF COURT
ORANGEBURG, SC

SC Code: 16-3-600

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.

FILED FOR RECORD
WINNIEA B. CLARK
2019 MAR 27 AM 10:50
CLERK OF COURT
ORANGEBURG, SC
ATTEST: TRUE
Winnia B. Clark
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

INDICTMENT
2018GS38-0825

At a Court of General Sessions, convened on March 27, 2019 the Grand Jurors of Orangeburg County present upon their oath:

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

That in Orangeburg County, South Carolina, on or about October 21, 2017, the defendant, Brandon Dwight Wilson, did unlawfully injure Lashawn Martin and caused great bodily injury or the act was accompanied by means likely to produce great bodily injury or death. This offense being in violation of Section 16-3-600 of the South Carolina Code of Laws, as amended.

FILED FOR RECORD
MINNIFA B. CLARK
2022 JAN 25 AM 9:54
CLERK OF COURT
ORANGEBURG, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Ashley B. Cornwell, Solicitor

WITNESSES

Shawn E Murphree

Elloree Police Department

ARREST WARRANT NUMBER
 2017A3820300006

Arrested: October 23, 2017

TRUE BILL
ACTING GRAND JURY

 Date **MAR 27 2019**

 Foreperson of Grand Jury
 Date: March 27, 2019
VERDICT
 Foreperson of Petit Jury
 Date:

DOCKET NO. 2018GS38-0826

The State of South Carolina
County of ORANGEBURG
COURT OF GENERAL SESSIONS

April 1, 2019 TERM

THE STATE
vs.

Brandon Dwight Wilson

Indictment for
POSSESSION OF A FIREARM OR
KNIFE DURING THE COMMISSION OF
A VIOLENT CRIME

SC Code: 16-23-490

 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.

 ATTEST: TRUE COPY
 WINNIE B. CLARK
 CLERK OF COURT
 ORANGEBURG COUNTY, SC
 2019 MAR 27 11:10:50
 WINNIE B. CLARK
 CLERK OF COURT
 ORANGEBURG COUNTY, SC
 2019 MAR 27 11:10:50

 FILED FOR RECORD
 WINNIE B. CLARK

2019 MAR 27 11:10:50

CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)

INDICTMENT
 2018GS38-0826

At a Court of General Sessions, convened on March 27, 2019 the Grand Jurors of Orangeburg County present upon their oath:

**POSSESSION OF A FIREARM OR KNIFE DURING THE COMMISSION OF A
 VIOLENT CRIME**

That in Orangeburg County on or about October 21, 2017, the defendant, Brandon Dwight Wilson, did visibly display or have in his possession a .45 caliber handgun during the commission of a violent crime as defined by Section 16-1-60, Code of Laws of South Carolina, 1976, as amended, to wit: Assault and Battery of a High and Aggravated Nature, thereby violating Section 16-23-490, Code of Laws of South Carolina, 1976, as amended.

FILED FOR RECORD
 WINNIFA B. CLARK
 2022 JAN 25 AM 9:54
 CLERK OF COURT
 ORANGEBURG, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Ashley B. Cornwell, Solicitor

WITNESSES

Christopher L Golden

Santee Police Department

ARREST WARRANT NUMBER

2021A3821000019

Arrested: 5/27/2021

ACTION OF GRAND JURY*Foreperson of Grand Jury**Date: July 14, 2021***VERDICT***Foreperson of Petit Jury**Date:***DOCKET NO. 2021GS38-1249****The State of South Carolina****County of ORANGEBURG**

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


 Defendant
COURT OF GENERAL SESSIONS**July 19, 2021 TERM**
THE STATE
vs.

Brandon Dwight Wilson

Defendant

Witness:

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

Indictment for**ASSAULT AND BATTERY 2ND DEGREE**

SC Code: 16-3-600(D)(1)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)

INDICTMENT
 2021GS38-1249

At a Court of General Sessions, convened on July 19, 2021 the Grand Jurors of Orangeburg County present upon their oath:

ASSAULT AND BATTERY 2ND DEGREE

That on or about March 25, 2021 in Orangeburg County, Brandon Dwight Wilson did unlawfully injure or offer or attempt to injure with the present ability to do so Nicholas Soto, and the act resulted in moderate bodily injury or could have resulted in moderate bodily injury by hitting the victim in the face with a beer bottle or the act involved nonconsensual touching of the private parts of another person, either above or below the clothing, thereby violating Section 16-3-600(D)(1) of the South Carolina Code of Laws, as amended.

FILED FOR RECORD
 WINNIE B. CLARK
 2022 JAN 25 AM 9:53
 CLERK OF COURT
 ORANGEBURG, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Catherine E. Mubarak, Solicitor

up of 6 years

0-20 yrs

185

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

INDICTMENT/CASE#: 2018GS38-0825

Brandon Dwight Wilson

A/W#: 2017A3820300005

Date of Offense: 10/21/2017

S.C. Code § : 16-3-29

CDR Code #: 3410

AKA:

Race: BLACK Sex: M Age : 37

DOB: SS#

Address:

City, State, Zip: Vance, SC

DL#: SID#

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 ☐ PLEADS

TO: Assault / Assault and Battery of a High and Aggravated Nature

in violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-10
(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:

Hunter, Catherine M. 101317 SC Bar# Defendant Davis-Branch, Belinda SCB09371 SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 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 5 days/months/years/Time Served and or payment
of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for 3 years
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: 1/24/27

☒ 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.
60 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.

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 0 _____ 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: \$ 991.00 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 %)	\$100	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	
§14-1-211(A)(2) (DUI Surcharge)	\$12	\$	
§56-5-2995 (DUI Assessment)	\$25	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	25.00
§14-1-212 (Law Enforce. Funding)	\$150	\$	
§14-1-213 (Drug Court Surcharge)	\$41	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$50	\$	
§50-21-114(BUI Breath Test Fee)	\$40/ea	\$	
§56-5-2942(J) (Vehicle Assessment)	TBD	\$	3.75
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

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: _____

Court Reporter: _____

Kathy Spires
KATHY SPIRES

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

Nate Kemp
2164
1124122

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF GENERAL SESSIONS

STATE VS.

INDICTMENT/CASE#: 2018GS38-0826

Brandon Dwight Wilson
AKA:
Race: BLACK Sex: M Age: 37
DOB: SS#:
Address:
City, State, Zip: Vance, SC
DL#: SID#:

A/W#: 2017A3820300006
Date of Offense: 10/21/2017
S.C. Code § : 16-23-490
CDR 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

TO: Possession of a Firearm or Knife During the Commission of a Violent Crime

in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS

(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:

Hunter, Catherine M. 101317 SC Bar# Defendant Davis-Branch, Belinda Attorney for Defendant SCB09371 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years Time Served ☐ Youthful Offender Act not to exceed years and/or to pay a fine of \$ provided that upon the service of 5 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: 11/24/27

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

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

☐ The Defendant Shall be Released from County Detention Center.

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

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 0 _____ 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 %)	\$100	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	
§14-1-211(A)(2) (DUI Surcharge)	\$12	
§56-5-2995 (DUI Assessment)	\$25	
§56-1-286 (DUI Breath Test)	\$25	
§14-1-212 (Law Enforce. Funding)	\$150	
§14-1-213 (Drug Court Surcharge)	\$41	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$50	
§50-21-114(BUI Breath Test Fee)	\$40/ea	
§56-5-2942(J) (Vehicle Assessment)	TBD	
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.	\$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: *Joyce Johnson*

Court Reporter: *R. SPIRES*

Presiding Judge: *Nate' Murphy*

Judge Code: *2164*

Sentence Date: *1/24/22*

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG
STATE _____
VS.
Brandon Dwight Wilson
AKA: _____
Race: BLACK Sex: M Age: 37
DOB: [REDACTED] SS# [REDACTED]
Address: [REDACTED]
City, State, Zip: Vance, SC [REDACTED]
DL#: [REDACTED] SID#: _____

0.3 4655 and 1
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS38-1249

A/W#: 2021A3821000019
Date of Offense: 3/25/2021
S.C. Code § : 16-3-600(D)(1)
CDR Code #: 3413

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 ☒ PLEADS

TO: Assault and Battery 2nd Degree

in violation of § 16-3-600(D)(1) of the S.C. Code of Laws, bearing CDR Code # 3413

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS
(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] 101317 [Signature] SCB09371
Hunter, Catherine M. SC Bar# Defendant Davis-Branch, Belinda SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 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: 1/24/22
☒ 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.
60 (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.

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 0 _____ 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 %)	\$100	\$ 100.00
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§14-1-211(A)(2) (DUI Surcharge)	\$12	\$
§56-5-2995 (DUI Assessment)	\$25	\$
§56-1-286 (DUI Breath Test)	\$25	\$ 25.00
§14-1-212 (Law Enforce. Funding)	\$150	\$
§14-1-213 (Drug Court Surcharge)	\$41	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$50	\$
§50-21-114(BUI Breath Test Fee)	\$40/ea	\$
§56-5-2942(J) (Vehicle Assessment)	TBD	\$ 3.75
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.	\$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: Kathy Gpires

Court Reporter: _____

Presiding Judge: Nanti' Murphy

Judge Code: 2166

Sentence Date: 1/24/22

FILED FOR RECORD
WINNIE B. CLARK
2022 JAN 25 AM 9:53
CLERK OF COURT
ORANGEBURG, SC

2022 CP 380078

FORM 5

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of OrangeburgBrandon Dwight Wilson 387041
Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR
POST-CONVICTION RELIEFCOURT OF COMMON PLEAS
ORANGEBURG, S.C.

2022 MAY 16 PM 4:13

FILED FOR RECORD
KIMBERLY B. CLARK**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Trenton C.I. 84 Greenhouse Rd.
Trenton S.C. 29847
2. Name and location of Court which imposed sentence General Sessions
Orangeburg S.C.
3. Name(s) of co-defendant(s) (if any) General Sessions
Orangeburg S.C. N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2021GS38-1249
 - (b) 2015GS38-0825

(c) 2018-GS38-0826

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 3 years

(b) 10 suspended to 5 years 3yrs probation

(c) 5 years

6. Check whether a finding of guilty was made:

(a) after a plea of guilty plea

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. denied

ii. _____

iii. _____

(c) the date of each such result:

i. Feb. 9, 2022

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. lawyer filed appeal too late.

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) Involuntary Guilty Plea
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) see Attachment
- (b) see Attachment
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. NIA
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. NIA
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. NIA
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. NIA
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. NIA
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. NIA
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. NIA
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) my first appeal
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? NO
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Belinda Davis-Branch
205 Elliott St. Orangeburg S.C. 29115
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. plea
 ii. sentencing
 iii. _____

19. State clearly the relief you seek in filing this application:

new trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Edgefield)

VERIFICATION

I, Brandon Wilson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

B

SWORN to and subscribed before me this 11
day of May, 2022.

Belinda R. McKie (L.S.)
Notary Public

My Commission Expires: Feb 28, 2023



FILED FOR RECORD
JANUARY 16, 2023
CLARK
COURT
CLERK
1001 MAY 16 PM 4:03

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Brandon Wilson, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Brandon Wilson
Applicant

SWORN or affirmed to and subscribed before me this

11 day of May, 2022

Belinda R. McKie
Notary Public

My Commission Expires: Feb 28, 2023



FILED FOR RECORD
JANUARY 16, 2023
CLERK OF COURT
ORANGEBURG, SC

Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire
Brandon D. Wilson, 00387041

FILED
Feb 17 2022

The South Carolina Court of Appeals

The State, Respondent,

v.

Brandon Dwight Wilson, Appellant.

Appellate Case No. 2022-000102

ORDER

This appeal arises out of a sentence imposed on January 24, 2022. The proof of service provided with the notice of appeal shows service on February 9, 2022. Because the notice of appeal was not timely served, the appeal is dismissed. See *State v. Devore*, 416 S.C. 115, 119, 784 S.E.2d 690, 692 (Ct. App. 2016) (noting timely service of the notice of appeal is a jurisdictional requirement); Rule 203(b)(2), SCACR ("After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed."). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.


FOR THE COURT

Columbia, South Carolina

cc:

Belinda Montio Davis-Branch, Esquire
Robert Michael Dudek, Esquire
Catherine Mubarak Hunter, Esquire

FILED FOR RECORD
JAMES E. SMITH, JR., CLERK
2022 MAY 16 PM 4:07
CLERK OF COURT
ORANGEBURG, SC

1. Mrs. Belinda Davis did not understand plea bargain and what she had Mr. Wilson plead too. She fail to explain what charges Mr. Wilson was pleading to.
- 3) Mrs. Branch informed Mr. Wilson he was pleading to unlawful carrying of a firearm, Abhan, and Assault second with a six year cap. (Strickland vs Washington)
- 4 Abhan sentence was 10 years suspended to 5 yrs and 3 yrs probation. Assault second 3 yrs.
5. Unlawful carrying was changed to Possession of a firearm during the commission of a violent crime. Being a mandatory 5 year sentence.
- 6) Abhan ^{exceed} ~~exceed~~ the 6 year cap.
- 7) Mr. Wilson was informed that

he would serve 2 1/2 years
on the 5 year sentence. Had
he known it was a mandatory
sentence he would not have
plea to the charge.

Broadwell 9/1/11

**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

**COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT**

Brandon D. Wilson #387042, Applicant vs. State of South Carolina, Respondent.	Case No.: 2022-CP-38-00708 APPLICANT'S AMENDMENT TO PCR APPLICATION
--	--

The Applicant, Brandon D. Wilson (Wilson), amends his PCR Application filed in the above-captioned case to add the following:

11. State concisely and in the same order the facts which support each of the grounds set forth in (10):

Wilson amends his response to Item 11 to add the following:

- a. Ineffective assistance of trial counsel
 - i. Wilson's guilty plea was not made with or based on the advice of competent counsel.
 - ii. Wilson's guilty plea was not intelligently made.
 - iii. Trial counsel did not prepare Wilson's case for trial, and Wilson was left with no choice but to plead guilty.
 - iv. Trial counsel did not discuss all potential defenses with Wilson.
 - v. Trial counsel never discussed the advantages and disadvantages of a trial versus the advantages and disadvantages of a plea with Wilson so that Wilson could make an informed choice of whether to enter a plea or try his case.

- vi. Trial counsel did not investigate Wilson's case.
- vii. Trial counsel did not tell Wilson the possible penalties for his offenses.
- ix. Trial counsel did not explain to Wilson the elements of the offenses to which he was pleading guilty.
- x. Trial counsel told Wilson if he received a sentence consistent with the six-year recommendation, he would serve at most two and one-half years. An effective sentence of two and one-half years was legally impossible because the possession of a weapon during the commission of a violent crime charge carries a day-for-day five-year sentence. This two-and-one-half-year effective sentence was also legally impossible because ABHAN is a no-parole offense, which requires that Wilson serve 85% of his sentence on that charge before having any hope for release.
- xi. Trial counsel erroneously told Wilson that he was pleading guilty to one weapons charge, unlawful carrying of a pistol, which carries a one-year parolable sentence.
- xii. There was a plea offer made to trial counsel that was much more favorable than the plea offer that was ultimately accepted. Wilson was unable to accept this more favorable plea offer because trial counsel did not present this offer to Wilson until after it had expired.

The above deficiencies prejudiced Wilson in that but for these deficiencies, Johnson would not have pled guilty

19. State clearly the relief you seek in filing this application:

Wilson amends his response to Item 19 to state the following:

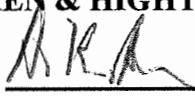
Order vacating conviction and sentence.

Furthermore, Wilson requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues

arise during the hearing that have not been specifically addressed in the Application or this Amendment to Application.

Respectfully Submitted,

AIKEN & HIGHTOWER, P.A.

BY: 

ARTHUR K. AIKEN

PO Box 90707

Columbia, SC 29290

Phone: 803-799-5205

Fax: 803-799-5206

Email: art@aikenandhightower.com

ATTORNEYS FOR APPLICANT

Columbia, South Carolina
August 29, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FOR THE FIRST JUDICIAL CIRCUIT
	)	
Brandon Dwight Wilson, SCDC #387041,	)	Case No.: 2022-CP-38-00708
	)	
Applicant,	)	
	)	RETURN TO THE APPLICATION
v.	)	FOR POST-CONVICTION RELIEF
	)	(Counsel Already Appointed)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent the State of South Carolina, making its return¹ to the application for post-conviction relief filed Applicant Brandon Dwight Wilson², on May 16, 2022, and received by the South Carolina Attorney General's office on May 18, 2022, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. During its April 2019 term, the Orangeburg County Grand Jury indicted Applicant for assault and battery of a high and aggravated nature (ABHAN) (2018-GS-38-0825) and possession of a firearm or knife during a commission of a crime (2018-GS-38-0826). Applicant was additionally charged

¹ Respondent's return was due to be filed July 18, 2022, or sixty days after receipt of Applicant's instant post-conviction relief application. *See* Rule 12(a), SCRCP ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial."). Now, having completed the return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay, Respondent respectfully asks this Court to accept this return as timely filed. *See* S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application."); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court.).

² Applicant filed this post-conviction relief application *pro se*. Counsel, Arthur K. Aiken, Esquire, has since been appointed to represent Applicant in this matter.

with assault and battery – 2nd degree (2021-CP-38-01249)³. On January 24, 2022, Applicant proceeded to trial before the Honorable Maite Murphy. Belinda M. Davis-Branch and Thomas R. Sims, Sr., Esquires, represented Applicant. Catherine M. Hunter and W. Phillip Giese of the First Circuit Solicitor’s Office prosecuted the case.

Following *voir dire* and jury selection, a Stand Your Ground hearing and a *Jackson v. Denno*⁴ hearing were held; Judge Murphy denied both of Applicant’s motions. Following to those pre-trial hearings and prior to the jury being sworn, Applicant pleaded guilty as indicted with a recommendation from the State. The State recommended a total sentencing cap of six years. Judge Murphy sentenced Applicant to concurrent sentences of 10 years provided upon the service of five years and probation to follow for three years for the ABHAN conviction; five years for possession firearm or knife during the commission of a crime conviction; and three years for the assault and battery – 2nd degree conviction.

Subsequently, Applicant, through counsel, filed a notice of appeal on January 31, 2022. On February 1, 2022, the South Carolina Court of Appeals sent a letter detailing the deficiencies in Applicant’s notice of appeal and requested all deficiencies be corrected within ten days of the date of that letter. On February 9, 2022, Applicant’s counsel provided corrected documents to the Court of Appeals. By Order dated February 17, 2022, the South Carolina Court of Appeals dismissed the appeal, finding the notice of appeal was not timely served pursuant to Rule 203(b)(2), SCACR⁵. The remittitur was returned to the circuit court on March 7, 2022.

³ Applicant waived presentment on the assault and battery – 2nd degree charge during his guilty plea. (Tr. 162).

⁴ 378 U.S. 368 (1964).

⁵ (“After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondent within ten (10) days after the sentence is imposed.”)

II. Factual Summary Set Forth in Transcript

The facts for these indictments were articulated by the State at the Applicant's plea hearing as follows:

MS. HUNTER: Thank you, Your Honor. May it please the Court. I'll start out with the first incident that we were going to go to trial on today. That occurred on October 21st of 2017. I believe you've heard some of the testimony and so you're somewhat aware of what the facts are.

Essentially, the victim who is present in the courtroom ran into a guy named -- an old time friend from Elloree named Jaleel Darby. They decided they were going to go to camp meet that day. Mr. Darby showed up. He said I'll come by your house. Shows up at the Darby's house -- I'm sorry, Mr. Martin shows up at the Darby's house. He's in his vehicle. He made a comment to Mr. Wilson. Everyone was kind of joking around about hanging out with someone that was gay as you've heard the testimony.

We believe what would have been proved at trial, Your Honor, is that the victim did not have a weapon on him that day. That he -- that this kind of started going back and forth that the Defendant was between 15 and 20 feet away from him. The victim did go to get out of his vehicle. As soon as he stepped on the ground the Defendant pulled a gun out of his pocket and shot him. It entered into like his upper thigh here. It actually exited the back and the bullet hit the back tire of Mr. Martin's vehicle -- the victim's vehicle.

So to kind of clarify about the circling back around. He left to go with someone named Marquel Stokes who lived up the street to have him take him to the hospital, but he actually had a flat tire because the bullet went into his tire. And Marquel Stokes took him to the hospital. Luckily it was superficial wound. It didn't hit any arteries. He was in and out of the hospital the same day. There was a lot of blood. It was a very scary event.

It's my understanding that all of them are pretty much friends. I -- Brandon Wilson wasn't really in their friend group, he wasn't from Elloree, but he was over there hanging out like he often would because he dated Alexis Fludd who lived across the street.

Mr. Martin was out of work at least two weeks. I know he racked up some medical bills.

They had to do an x-ray, they -- you know what it costs to go into a hospital when you're a self-insured individual. You know, luckily he wasn't hurt. I don't -- he doesn't want to address the Court today. He doesn't have any hard feelings towards Mr. Wilson. I think he just wishes none of it ever happened.

That's in sum the case that we believe it wasn't a self-defense case that it was more of a -- those boys I think had been sitting out there drinking all day and some emotions got the better of him and he made a poor decision to be quite honest with you.

The second incident, Your Honor, is from 2021. That is the assault and battery second

-- or do you want me to -- do you want to do that one first?

THE COURT: No, you go ahead. We'll do them altogether.

MS. HUNTER: The second incident, Your Honor, is an assault and battery second degree, that's a misdemeanor. The allegations in that, Your Honor, is that Mr. Wilson was over at a bar over in Santee. This is from the Santee Police Department. Basically, a fight broke out at the bar and Mr. Wilson is -- was arrested for breaking a beer bottle on an employee's face and he was charged with assault and battery second degree for that incident.

I don't really have -- we haven't notified the victims about that arrest -- about this plea today because I just assumed -- I went ahead and grouped it all together because it seemed like the best way to go ahead and resolve everything. But we have spoken with them in the past and I don't think they would have a problem with our plea.

(Plea Tr. 162-166).

III. Allegations Raised and Relief Sought in Post-Conviction Relief Application

Applicant timely commenced this PCR action on May 16, 2022. In his application,

Applicant asserts he is being held in custody unlawfully, alleging:

1. Ineffective Assistance of Counsel
 - a. Counsel did not understand plea bargain;
 - b. Counsel failed to explain to Applicant the charges he was pleading to;
2. Involuntary Guilty Plea
 - a. Counsel informed Applicant he was pleading to unlawful carrying of a firearm, ABHAN, and assault second with a six year cap;
 - b. Applicant was informed he would serve 2 ½ years; and
 - c. Applicant would not have pleaded if he had known possession of a firearm during the commission of a violent crime carried a mandatory five year sentence.

Applicant requests relief as follows:

“New Trial”.

Attached and incorporated by reference are the Orangeburg County Clerk of Court records regarding the subject conviction; Applicant's records from the South Carolina Department of Corrections; the records from Applicant's direct appeal, including the transcript; and the records of this current PCR action. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV. Response to Allegations of Ineffective Assistance of Counsel

Applicant alleges counsel was ineffective because she did not understand the plea bargain and because she failed to explain to Applicant which charges he was pleading to. Respondent submits these claims are without merit.

Ineffective Assistance of Counsel, Generally

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668, 685 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel's conduct “was so defective as to require reversal” of the applicant's conviction. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of

counsel's deficient performance. *Id.* at 687–88; *accord. Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense . . . , it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); *see* Rule 71.1(e), SCRPC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of “were outside the wide range of competence” demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Id.* Significantly, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” *Id.* at 696.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. *See Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant

must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; *accord Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." *Hill*, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." *Id.* at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59.

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, --- U.S. ----, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Reviewing "[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." *Lee*, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.* at 1958 In determining whether a guilty plea was taken in accordance

with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. *Harres v. Leeke*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

For the above-reasons, Applicant cannot satisfy either requirement of *Hill*. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

Involuntary Guilty Plea

Applicant asserts he was informed he was pleading guilty to unlawful carrying of a firearm, ABHAN, and assault and battery – 2nd degree, with a six-year cap on sentencing. Applicant further asserts he was informed and believed he would served only 2 ½ years of the sentence. Applicant posits that if he had known that the possession of a weapon charge carried a mandatory 5 year sentence, he would not have pleaded guilty. Respondent submits these claims are without merit.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. *Brady v. United States*, 397 U.S. 742, 748 (1970). To be voluntary, a

plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. *Id.* At 755; *see also United States v. Smith*, 440 F.2d 521, 528–529 (7th Cir.) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. *Boykin*, 395 U.S. at 243. Additionally, the defendant “must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” *Pittman*, 337 S.C. at 599.

The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both.” *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993); *See also Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (guilty plea not involuntary where the colloquy demonstrated the trial judge asked defendant twice whether he understood there were no promises and that no sentencing recommendations were binding on the judge). To ensure the defendant understands the consequences of his guilty plea, the plea judge “usually questions the defendant about the facts surrounding the crime and punishment that could be imposed.” *Dover v. State*, 304 S.C. 433, 434–35, 405 S.E.2d 391, 392 (1991). However, the plea judge “does not have to direct the defendant's attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea.” *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The voluntariness of a guilty plea, however, “is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” *Harres*, 282 S.C. at 133, 318 S.E.2d at 361. An applicant who enters a plea on the advice of counsel may “only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the [applicant] would not have pled guilty, but would have insisted on going to trial.” *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. *Wolfe*, 326 S.C. at 165, 485 S.E.2d at 370; *cf. Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant’s claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant’s claim his lawyer misadvised him).

Nonetheless, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); *see also Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). Indeed, admissions made during a guilty plea should be considered conclusive unless an

applicant presents valid reasons why he should be allowed to depart from the truth of his statements.” *Id.* At 137–38, 654 S.E.2d at 874 (internal citations and quotation marks omitted); *cf.* *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a “formidable barrier in any subsequent collateral proceedings”).

Surmounting *Strickland*’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” *Lee*, 582 U.S. ___, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); *cf. Hill*, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’”).

The State submits Applicant can satisfy neither requirement of the *Hill* test. However, the State requests an evidentiary hearing to fully resolve the issues. See *Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the [PCR] court”).

V. Any Future Amendments and Invocation of Discovery Process

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.*, 428

S.C. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC. *See also* Rules 15(a)–(b), SCRPC. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRPC.

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

VI. Response to Any and All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

[conclusion and signature on following page]

VII. Conclusion

WHEREFORE, the State respectfully requests an evidentiary hearing be held on Applicant's allegations of ineffective assistance of counsel and involuntary guilty plea.

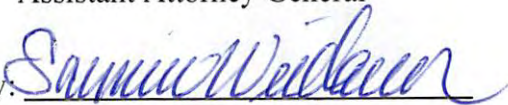
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

SAMANTHA J. WEIDAUER
Assistant Attorney General

By: 

ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

October 19, 2022

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	
	)	2022-CP-38-00708
	)	
Brandon Dwight Wilson, #387041	)	
	)	
Applicant,	)	
	)	
vs	)	CERTIFICATE OF SERVICE BY MAIL
	)	
State of South Carolina,	)	
	)	
Respondent,	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Arthur K. Aiken, Esquire
Aiken & Hightower, PA
Post Office Box 90707
Columbia 29290

DATED this 19th day of October, 2022.



Vickie Hall
 Legal Assistant For Respondent

State of South Carolina	)	In the Court of Common Pleas
	)	First Judicial Circuit
County of Orangeburg	)	Case No. 2022-CP-38-00708
	)	
Brandon Wilson,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

February 7, 2024
St. George, South Carolina

B E F O R E:

The Honorable Paul M. Burch, Judge

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

Arthur Aiken, Esquire
Attorney for the Applicant

Bryan T. Hall, Esquire
Attorney for the Respondent/State

Proceedings taken down electronically

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter III

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption
		or change in thought
ellipses	. . .	trailing off
[ph]		phonetically written
[sic]		written as said

1 FEBRUARY 7, 2024

2 (WHEREUPON, the proceedings began at 1:02 p.m.)

3 MR. HALL: All right. Good afternoon, Your Honor. May
4 it please the Court. Assistant Attorney General Bryan Hall
5 for the State.

6 Your Honor, this is the case of Brandon Wilson versus
7 State of South Carolina, Docket Number 2022-CP-38-00708. Mr.
8 Wilson was indicted by the Orangeburg County Grand Jury back
9 in April of 2019 for assault and battery of a high and
10 aggravated nature, Indictment Number 2018-GS-38-0825;
11 possession of a weapon during the commission of a violent
12 crime, 2018-GS-38-0826; and assault and battery, second
13 degree, 2021-CP-38-01249 [sic]. That A&B second was from a
14 separate incident.

15 Mr. Wilson proceeded to a jury trial before the Honorable
16 Maite Murphy on January 24th of 2022. So solicitors Catherine
17 Hunter and Philip Giese prosecuted the case, and Mr. Wilson
18 was represented by Belinda Davis-Branch and Thomas Sims.
19 Following jury selection and a stand your ground hearing, as
20 well as a *Jackson v. Denno* hearing, Mr. Wilson pled guilty
21 after Judge Murphy denied both of those motions, and he pled
22 guilty as indicted.

23 The State recommended a sentence -- a sentence of a cap
24 of six years, and Judge Murphy sentenced him to ten years,
25 provided upon the service of five active years, followed by

1 three years of probation for the ABHAN, five years active for
2 the weapons charge, and three years for the assault and
3 battery, second degree.

4 Mr. Wilson filed a notice of appeal on January 31st of
5 2022. The Court of Appeals dismissed for failure to timely
6 serve the Notice of Appeal, and this PCR was filed on May 16th
7 of 2022.

8 Mr. Wilson is alleging allegations of ineffective
9 assistance of counsel for failure to -- for failure to explain
10 the plea that Mr. Wilson was entering and failure to explain
11 to Mr. Wilson the charges that he was pleading to. He also
12 raised an allegation of -- of involuntary guilty plea,
13 alleging that counsel failed to inform him that he was
14 pleading guilty to an unlawful carrying of a firearm, assault
15 and battery of a high and aggravated nature, and assault and
16 battery in the second degree, and that counsel failed to
17 inform him that he would have to serve a six-year cap, or
18 counsel --

19 Excuse me. Let me rephrase that.

20 The allegation is that counsel informed him that he would
21 incur a six-year cap but would only serve two-and-a-half years
22 on that -- on those charges. And applicant also -- Mr. Wilson
23 alleges that he would not have pled guilty if he had known
24 that the possession of a firearm during the commission of a
25 violent crime carried a mandatory sentence of five years.

1 Mr. Wilson's attorney, Art Aiken, sent our office an
2 amended application. Does Your Honor have a copy of that?

3 THE COURT: I do not.

4 MR. AIKEN: I have an extra one.

5 MR. HALL: Your Honor, we're handing up a copy of Mr.
6 Wilson's second amended application. Or I don't know -- I
7 don't know if it's the second.

8 MR. AIKEN: It's the first.

9 MR. HALL: It's the first? Okay. First amendment to his
10 PCR application.

11 Mr. Wilson is present and represented by Art Aiken, and
12 the State is ready to proceed.

13 THE COURT: Okay. Mr. Aiken, have you explained to Mr.
14 Wilson the limited remedies that the Court has?

15 MR. AIKEN: Yes, sir. That you could vacate his
16 conviction and sentence, and he would go right back to being
17 charged with what he was originally charged with, which could
18 lead potentially to considerably more time, and I've gone over
19 that with Mr. Wilson. And Mr. Wilson has indicated to me that
20 he wants to take a chance on that, and I have a habit of
21 taking chances when --when clients tell me they want to.

22 THE COURT: I understand.

23 MR. AIKEN: But he does fully under -- I'm satisfied he
24 fully understands that. I've discussed that with him on
25 multiple occasions.

1 THE COURT: And did you discuss with him his exposure
2 should he be granted relief, the possible exposure on all
3 those charges?

4 MR. AIKEN: Yes, sir.

5 THE COURT: Okay.

6 MR. AIKEN: Yes, sir. I told him it was -- it was tens
7 of years.

8 THE COURT: Okay. All right. We will get started if
9 you're ready.

10 MR. AIKEN: The applicant calls Brandon Wilson.

11 THE COURT: If you'll come around and be sworn, please.

12 THE BAILIFF: Come around this way, Mr. Wilson. Just
13 follow him. He'll show you where to sit. Stop in front of
14 the clerk and she'll swear you in.

15 THE CLERK: Please raise your right hand. State your
16 full name for the record.

17 THE APPLICANT: Brandon Wilson.

18 THE CLERK: Do you solemnly swear or affirm to tell the
19 truth, the whole truth, and nothing but the truth, so help you
20 God?

21 THE APPLICANT: Yes, ma'am.

22 THE CLERK: Please have a seat.

23 THE COURT: Okay.

24 BRANDON WILSON, being first duly
25 sworn, testified as follows:

BRANDON WILSON - DIRECT BY MR. AIKEN

DIRECT EXAMINATION

1

2 BY MR. AIKEN:

3 Q: Hello, Mr. Wilson.

4 A: Yes, sir.

5 Q: Now, you -- you pled guilty to assault and battery in the
6 second degree; is that right?

7 A: Yes, sir.

8 Q: And you got a three-year sentence?

9 A: Yes, sir.

10 Q: You pled to assault and battery of a high and aggravated
11 nature, and you got ten years, suspended on five years and
12 three years' probation?

13 A: Yes, sir.

14 Q: Is that correct?

15 A: Yes, sir.

16 Q: Okay. And then you've got a conviction of possession of
17 a firearm during the commission of a violent crime, and you
18 got five years on that?

19 A: Yes, sir.

20 Q: What's your understanding of the sentence on the -- on
21 the firearms charge?22 A: The firearm charge, I thought I was going to do two and a
23 half. Like, at first, she told me it's a six-year cap. I
24 would have to do three non-violent, which I only had -- I had
25 two months down in county, which I only have to do 15 months

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1 up the road. I'd probably be eligible for parole before the
2 end of 2022. So if I had known I had any mandatory sentence,
3 if I knew I was going to be in jail still yet today, I would
4 have continued on at trial.

5 Q: Well, I'm looking at the inmate search detail report on
6 you.

7 A: Yes, sir.

8 Q: Which it has where you're located and what your sentence
9 is and what your max out date is.

10 A: Yes, sir.

11 Q: And it's got your sentence date on the firearm charge as
12 November 23rd, 2021. Does that sounds about right to you with
13 your -- with your good time? I mean, with your --

14 A: I had --

15 Q: -- time served?

16 A: Say again. So I started it November 23rd, 2021?

17 Q: Yeah.

18 A: With the two months I had in county from October 2017 to
19 December 2017, they added it up. I got convicted January
20 24th, 2022, and that way it pushed it back.

21 Q: But pushed the date back for your start date?

22 A: Yes, sir.

23 Q: Which is your time served?

24 A: Yes, sir.

25 Q: Now, it says here that your projected release date is

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1 November 25th, 2026.

2 A: Uh-huh.

3 Q: So you have to serve those full five years?

4 A: Yes, sir.

5 Q: Okay. So it's a day-for-day sentence?

6 A: Day for day. No work release. No good time. No work
7 credits. No nothing.

8 Q: It's not just mandatory that he's got to give you five
9 years, you've got to serve five years day for day?

10 A: Five years, day for day. No nothing.

11 Q: Did anyone ever explain that to you?

12 A: They didn't explain that to me until the plea colloquy.
13 They didn't explain that to me. The solicitor didn't say
14 that. My attorney at the time, defense counsel, didn't say
15 that. No one told me that.

16 Q: So what they told you was your effective sentence, in
17 other words, what you were -- would be required to serve is
18 about two-and-a-half years?

19 A: I know at first, but what got my signature, I pled to a
20 six-year cap, and she was, like, three of them will be put
21 down on probation, so the other three will be non-violent.
22 If you're going to offer a non-violent three, you have to do
23 18 months with the two months county time, which I -- we was
24 -- just now I was talking about before, like pushing me back
25 in November. With that added, I wouldn't have to do 15, 16

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1 more months. So that's what got my signature.

2 And when I got to Kirkland, a friend of mine, Shawonda
3 [ph] Oliver, she -- I have text messages. I gave them -- I
4 gave them to you. She changed it up and said, oh, you'll have
5 to do two-and-a-half years. I'm sorry. She's still quoting
6 the three-year sentence and say the two and a half is going to
7 be violent. You know what I'm saying?

8 So I was, like, I didn't know what I was -- she -- I
9 asked for the appeal. That was out the window. I didn't know
10 what I could do. As I got on the law library -- law library
11 and searched, I figured out the PCR because I thought I had to
12 deal with it.

13 Then I got to my first charge April 2022 and went to see
14 classification. They said I had two mandatory sentences, a
15 mandatory 85, a mandatory day-for-day, five-year sentence. If
16 I would have known that, I would continued on the trial. I
17 would never have taken it.

18 Q: So if you had known that not only -- not only was the --
19 the firearms charge a mandatory sentence, it was a day-for-day
20 sentence?

21 A: Screw that.

22 Q: If you had known that, would you have plead guilty?

23 A: No. I thought I would have had -- I thought I was
24 eligible for parole. I thought -- shit. I'm -- I'm trying to
25 remember her exact words. She said if you don't get paroled,

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1 the worst-case scenario, you will be home before the summer of
2 2023.

3 Q: Now, that ABHAN is a no-parole offense; right?

4 A: Yes, sir.

5 Q: So you --

6 A: And after I found out, I thought it was.

7 Q: So you have to serve 85 percent of that?

8 A: Yeah. I didn't -- I didn't know that too.

9 Q: So even on the five years at 85 percent, two-and-a-half
10 years couldn't possibly be right, could it?

11 A: No, sir.

12 Q: So 85 percent of five years is a whole lot more than two-
13 and-a-half years?

14 A: 51 months. I have two mandatory sentences running
15 together.

16 Q: Were -- did she appear confused about what you were
17 pleading guilty to?

18 MR. HALL: Objection. Leading.

19 THE COURT: Yeah. Sustained.

20 MR. AIKEN: Yes, sir. I'll fix it.

21 BY MR. AIKEN:

22 Q: Did you have a good sense of whether Ms. Davis-Branch
23 understood what you were pleading to?

24 A: The proof is in the pudding. No, she didn't understand
25 it. I'm here, and I'm just going the route I had to take.

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1 The proof is in the pudding. She didn't know.

2 Q: What -- what did she say you were pleading guilty to?

3 A: She said I was pleading guilty to unlawful carrying and
4 ABHAN. I would have to do 15 months, counting the two months
5 county time I already had down. When I was at Kirkland on
6 February 12th, 2022, she said, oh, I'm sorry, the two-and-a-
7 half years or three years is going to be violent, so you have
8 to do two and a half off it. So I went on to AC
9 classification within a week. As you get to your first yard,
10 which is Trent Correctional Institution, I went in there and
11 I'm arguing and I'm like, no, I don't have a mandatory five, I
12 don't have a mandatory 85, and they pulled it up on the
13 computer. I did work and found a PCR.

14 Q: So did she tell you that you were pleading to unlawful
15 carry?

16 A: Yes.

17 Q: Now, that's a total -- just to be clear, that's a totally
18 separate offense from possession of a firearm during the
19 commission of a crime?

20 A: Yeah.

21 Q: Right?

22 A: Yeah. If I -- if I had a -- if I -- if I had knowledge
23 that I was still going to be here incarcerated yet today, I
24 would never have pleaded guilty. I would have continued on
25 the trial. And I had a -- previous before this, I think on

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1 the date of 24th -- 23rd -- I think January 21st, I had a six-
2 month plea deal on the table, and I didn't find out about it
3 until January 22nd.

4 Q: So there was a plea offer of --

5 A: Six months.

6 Q: -- of six months?

7 A: Yes.

8 Q: And it expired before she ever brought it to you?

9 A: Yeah. She -- she called me Friday night between the
10 hours of 9 and 10 p.m. and told me about it, but she said
11 don't worry about it. Whatever. Whatever. It'll go work out
12 Monday, and Monday I -- I was up the road.

13 Q: Did -- did -- did she try to get that plea offer back?

14 A: No. I asked her. I asked her to. I asked her at court.
15 Like, I was, like, I'll just go ahead and plead out or
16 whatever, whatever, because I didn't trust. I was starting
17 feeling wary. I didn't -- all the errors.

18 So she went to Catherine. I think her name is Catherine
19 Hunter. That was the solicitor's name, and asked her in
20 private, and she never brought it in front of the judge and
21 laid it in front of the judge that I had a six-month plea deal
22 on the table, and she never did.

23 Q: Now, you -- you were on the verge of a trial; right?

24 A: Yes, sir.

25 Q: Did you feel like Ms. Davis-Branch was prepared for

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1 trial?

2 MR. HALL: Objection. Leading.

3 BY MR. AIKEN:

4 Q: Was Ms. Davis-Branch, in your opinion, prepared for
5 trial?

6 A: As I saw at the hearings, no, sir.

7 Q: What -- what were the indicators you saw?

8 A: Being that she didn't mention how -- the trial was for
9 unlawful carrying. I didn't know the crucial elements. She
10 did. The law for carrying is you can't be unlawful carrying
11 of a gun registered in your name and your own personal
12 property with somebody you invited to to have knowledge you
13 have a firearm on you, which it was me.

14 I gave -- about two weeks before that, I gave her my
15 registration for the firearm. It was a friend's. They had
16 knowledge I had a firearm, and she never -- it was a bunch of
17 stuff that she never brought up. She didn't brought up that
18 when the alleged victim went to the hospital, he was
19 intoxicated. He -- he was -- so that would make him more
20 aggressive. It's just a lot of stuff I feel that she just
21 should have brought up she never brought up.

22 Q: Did -- did Ms. Davis-Branch explain to you the elements
23 of the offenses you were pleading guilty to?

24 A: No, sir.

25 Q: Did -- did she explain to you what the possible penalties

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1 were?

2 A: No, sir.

3 MR. AIKEN: If I could have just one second, Your Honor.

4 THE COURT: Sure.

5 MR. AIKEN: I think I might be done.

6 BY MR. AIKEN:

7 Q: So if you understood that -- that the gun charge carried
8 a mandatory day-for-day, five-year sentence, would you have
9 pled guilty?

10 A: Not at all. No, sir.

11 Q: If you had understood that the assault and battery of a
12 high and aggravated nature was a no-parole sentence of which
13 you would have to serve 85 percent, would you have pled
14 guilty?

15 A: No, sir.

16 MR. AIKEN: Thank you, Mr. Wilson.

17 THE APPLICANT: You're welcome.

18 CROSS-EXAMINATION

19 BY MR. HALL:

20 Q: How are you doing, Mr. Wilson?

21 A: I'm doing good.

22 Q: Mr. Wilson, how old are you?

23 A: Thirty-nine.

24 Q: How far did you go in school?

25 A: What's the point of you asking that question? High

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1 school.

2 Q: I'm sorry?

3 A: High school diploma.

4 Q: Okay. Mr. Wilson, how many times did you meet with your
5 attorney?

6 A: She was my attorney for three years. So numerous.

7 Q: Numerous times?

8 A: Yeah.

9 Q: Okay. And do you recall reviewing discovery with her
10 during those visits?

11 A: We listened to 9-1-1 calls. Discovery, yeah, I think I
12 kind of studied.

13 Q: Okay. And you said that she didn't explain to you the
14 charges that you were pleading -- that you were -- were --
15 were charged with?

16 A: No, sir. Because if she had explained it to me, I know
17 the grounds surrounding my charges that happened doesn't
18 support those charges.

19 MR. HALL: I beg the Court's indulgence.

20 BY MR. HALL:

21 Q: And you said that she didn't explain the charge -- the
22 possible penalties for all the charges; right?

23 A: No, sir.

24 Q: Okay. Mr. Wilson, I want to turn your attention to the
25 day that you pled guilty.

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1 A: Uh-huh.

2 Q: I'm looking at page 158 of the transcript, starting at
3 line 19. The judge asked Ms. Davis-Branch if she had
4 explained to you the charges contained in the indictments, the
5 possible punishment, and your constitutional rights, and she
6 told the Court, yes, I have. Mr. Wilson, if -- if your -- if
7 your testimony here is that she didn't, why didn't you say
8 anything then?

9 A: Can I say something? Can I ask you a question?

10 Q: No, you can't. I'm asking the questions, Mr. Wilson.

11 Q: Okay. Why did I say that then? Because it was all
12 surreal. I was, like, what's -- what's going on? You know
13 what I'm saying? But I don't remember -- she -- she was
14 explaining no charges to me.

15 Q: But you were standing there next to her when she said
16 that she did. So why didn't you say anything then to the
17 judge?

18 A: Because I thought I was -- I thought -- because I thought
19 I was pleading to a parole offense, that I was going to be
20 home before the summer of 2023, sir.

21 Q: Okay.

22 A: That's why I didn't. That's why I say I understand
23 because I thought that was -- I was going to be home before
24 the summer of 2023, and I was eligible for parole. That's why
25 I said it.

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1 Q: Okay. And you said that there was a plea offer in this
2 case, and Ms. Davis didn't convey that to you?

3 A: Correct. She had conveyed it to me at -- the 24th, it
4 was that Monday. She conveyed it to me January 21st at 9
5 o'clock at night.

6 Q: Okay. I want to turn your attention to page 156 of your
7 transcript, beginning at line 9. Ms. Davis told the judge I
8 represent the defendant, and we just want to put -- we just
9 want the record to note that Mr. Wilson was offered a plea
10 deal to which he elected to decline because he felt of his
11 innocence. So that's why we're going forward with this case.
12 And the judge asked her, and did you convey that offer to your
13 client? She said yes.

14 And then further down at line 24, the judge asked you,
15 Mr. Wilson, your attorney tells me that she conveyed to you
16 the plea offer from the State; is that correct? And you said,
17 yes, ma'am.

18 A: I did.

19 Q: Is that right?

20 A: I just asked you a question that on January 21st she
21 conveyed that offer to me of six months, but at that same
22 hearing, I asked for that -- at that exact same hearing, I
23 asked for that six months deal back, and I ended up getting
24 four years and six months more, sir.

25 Q: Okay. And, Mr. Wilson, on the day of your plea, before

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1 you pled guilty, didn't the judge explain to you the charges
2 you were pleading to?

3 A: No, sir.

4 Q: The judge did not?

5 A: No, sir. And -- and the same thing, *Pittman v. State*,
6 any mandatory sentence and the minimum sentence, and she --
7 she could have put that on the record, too, probably. She
8 didn't never told me it was a mandatory five. She never told
9 me it was a mandatory 85.

10 Q: Okay. I just want to turn your attention to your plea
11 transcript, Mr. Wilson, at page 161, beginning at line 14.

12 The judge told you, quote, you're pleading guilty to
13 three different charges. The first is assault and battery of
14 a high and aggravated nature. That charge carries a potential
15 penalty of up to 20 years in prison. Do you understand that?

16 Do you recall what your answer was?

17 A: No, sir. I'm pretty sure you're looking at it. You
18 could tell me.

19 Q: You said, yes, ma'am; isn't that right?

20 A: Yes.

21 Q: Okay. And then the next line, the judge stated to you --
22 and the possession of a firearm or knife during the commission
23 of a violent crime, that carries up to five years. Do you
24 understand that? And you said, yes, ma'am; isn't that right?

25 A: Yeah, but did she say they carry up to a mandatory five

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1 years? Do you see that somewhere?

2 Q: It says up to five years.

3 A: But do you see -- but possession of a firearm during the
4 commission of a violent crime, she said up to five years.

5 It's only one. It's mandatory five. No more, no less.

6 Mandatory five, sir.

7 Q: Well, Mr. Wilson, your testimony here was that you
8 thought you were pleading to an unlawful carry charge.

9 A: And when I ordered the transcripts, I see that they had
10 court on the 24th and the 25th, so I wasn't present on the
11 25th, sir.

12 Q: Mr. Wilson, your testimony was that you thought you were
13 pleading to an unlawful carrying of a pistol charge.

14 A: Yeah.

15 Q: But the judge told you you were pleading to possess --
16 possession of a firearm during the commission of a violent
17 crime; right?

18 A: Well, really it doesn't say in the transcript, sir.

19 Q: And then the judge stated, beginning at line 25 of page
20 161, the assault and battery, second degree, that charge
21 carries up to three years. Do you understand that? And you
22 said, yes, ma'am; isn't that right?

23 A: Yes, sir.

24 Q: And the next line, the judge said, although the State is
25 recommending that you receive a cap of up to six years, you

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1 understand that I don't have to do that, and you can get the
2 maximum possible penalty on each of these charges. Do you
3 understand that?

4 A: Yes, sir.

5 Q: And you said, yes, ma'am?

6 A: Yes, sir.

7 Q: Okay. And you told the judge on the day that you pled
8 guilty, starting at -- on page 162, line 19, the judge said,
9 knowing all of that, do you wish to proceed and plead guilty
10 here today, and you said, yes, ma'am; isn't that right?

11 A: Yes, but I thought my sentence was going to be non-
12 violent, sir. I didn't know I had a mandatory sentence and no
13 parole. She didn't tell me do you understand these charges
14 are a no-parole offense, do you understand these charges are a
15 day-for-day, five-year day for day, no work release, no work
16 credits, no good credits. I didn't got none of that. Do you
17 see that anywhere in the transcript?

18 MR. HALL: I beg the Court's indulgence.

19 THE COURT: Certainly.

20 BY MR. HALL:

21 Q: And, Mr. Wilson, you told the judge on the day that -- on
22 the day that you pled guilty, that you had never been treated
23 for drugs or alcohol or mental illness; isn't that right?

24 A: Yes, sir.

25 Q: Okay. And you wasn't under the influence of any drugs or

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1 alcohol or medication at the time of your plea; right?

2 A: Yes, sir.

3 Q: Okay. And you told the judge that there was no physical,
4 emotional, or nervous problem that would have prevented you
5 from understanding what you were doing; isn't that right?

6 A: Yes, sir.

7 Q: Okay.

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

9 THE COURT: Mr. Aiken?

10 REDIRECT EXAMINATION

11 BY MR. AIKEN:

12 Q: When the judge said possession of a firearm during the
13 commission of a violent crime carried up to five years, did
14 you understand that to mean zero to five?

15 A: Yeah, that's what I thought. That's what I thought, sir.

16 Q: Instead of mandatory, which means every time you get
17 five?

18 A: No, I didn't. She never said that.

19 Q: And what the judge said didn't address the somewhat
20 unusual nature of the day-for-day sentence, did it?

21 A: I never heard it. Never heard that.

22 MR. AIKEN: Thank you. That's all I have.

23 THE COURT: Anything else?

24 MR. HALL: No further questions, Your Honor.

25 THE COURT: All right.

BELINDA BRANCH-DAVIS - DIRECT BY MR. HALL

1 THE APPLICANT: Thank you.

2 MR. HALL: Are you resting?

3 MR. AIKEN: Yeah. Oh, excuse me.

4 I'm sorry, Your Honor. The applicant rests.

5 MR. HALL: The State calls Belinda Davis-Branch.

6 THE COURT: Come around to be sworn, please.

7 THE CLERK: Please raise your right hand. State your
8 full name for the record.

9 THE WITNESS: Belinda Davis-Branch.

10 THE CLERK: Do you solemnly swear or affirm to tell the
11 truth, the whole truth, and nothing but the truth, so help you
12 God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Thank you.

15 BELINDA DAVIS-BRANCH, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. HALL:

19 Q: How are you, Ms. Davis-Branch?

20 A: I'm well, thank you.

21 Q: Ms. Davis-Branch, how long have you -- how long have you
22 been practicing law?

23 A: Since 1986.

24 Q: Okay. And how much of that time has been spent
25 practicing criminal law?

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1 A: I would say my practice is about 50 percent criminal.

2 Q: And did you represent Mr. Brandon Davis?

3 A: I did.

4 Q: Brandon Wilson. I'm sorry.

5 A: Yes, sir.

6 Q: Can you tell the Court how you got involved with this --
7 with his case?

8 A: I don't recall whether or not Brandon came to me on his
9 own or whether or not my name was referred to him, but at the
10 time that I met him, I believe that he was already
11 incarcerated. And we met at the Orangeburg County Detention
12 Center, and the first thing we did was to try to get him out
13 of jail.

14 Q: Okay. And how many times did you meet with Mr. Wilson?

15 A: Many times, I would say at least seven or eight. And Mr.
16 -- as you indicated on cross-examination of him, he had two
17 different charges. So the first charge -- the first activity
18 we had on this case was to get him out of jail, and we were
19 successful in that. And then we went to trial. And in
20 preparation for that trial, I know I probably met with him
21 eight or nine times, as well as his witness.

22 Q: Okay. And during those -- before I get there, did you
23 receive discovery from the State in this case?

24 A: Yes, sir.

25 Q: Okay. And during those visits, did you review that

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1 discovery with --

2 A: Yes.

3 Q: -- Mr. --

4 A: Yes.

5 Q: -- Wilson?

6 A: Yes, sir.

7 Q: Can you briefly tell us what evidence the State had
8 against Mr. Wilson?

9 A: For both charges?

10 Q: Yes, ma'am.

11 A: Okay. For both charges.

12 Okay. So the first charge was that Brandon had shot a
13 gentleman at a neighbor's house of his girlfriend. And so
14 your question is what we did to -- in that discovery. There
15 were three statements, may have been four statements from
16 witnesses at the scene of the accident, including Brandon.
17 And so that was very, very damaging to Brandon's case, but
18 nevertheless, he wrote a statement as to what happened.

19 The issue was the gun. And in his statement, he did not
20 say that the victim had a gun, although he ultimately revealed
21 that to me. So his statement did not show or did not state
22 that he -- that the victim had a gun, and then he had three
23 other witnesses who all stated in their statement -- the
24 incident report, that would be the correct name for it -- that
25 Brandon shot the victim.

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1 Q: Okay. And in that discovery, was there a video?

2 A: I don't think there was.

3 Q: Okay.

4 A: I don't think so. Not in that -- not in that case. The
5 -- there was a call, a 9-1-1 call, but I don't think there was
6 a video. It was an audio.

7 Q: Okay. And for both charges, did you explain to him the
8 evidence the State had against him?

9 A: Yes.

10 Q: Okay.

11 A: He -- he was very clear about that. He knew what had
12 happened, and he knew his involvement.

13 Q: Now, did Mr. -- after explaining that, did Mr. Wilson ask
14 you to investigate anything else?

15 A: I don't know if he asked me to investigate anything else,
16 but anything that I thought was in his favor, I would have
17 investigated. He pretty much was a very cooperative client
18 and defendant.

19 Q: And did you discuss with him potential defenses to -- to
20 those charges?

21 A: Yes.

22 Q: Okay.

23 A: Yes.

24 Q: And what were those defenses?

25 A: The victim had a gun. And if the victim had a gun and

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1 was putting Brandon at risk of his life, he had a statutory
2 right to defend himself. That was our -- that was our main
3 defense and, therefore, if we had won that defense, we would
4 not have gone to trial because if he was successful on his
5 stand your ground motion, it would have been no need to go to
6 trial.

7 Q: Okay. So I want to talk about the stand your ground
8 hearing because --

9 A: Okay.

10 Q: -- you mentioned it. And so, because Mr. Wilson's
11 defense was self-defense, you moved for a stand your ground
12 hearing?

13 A: Yes, sir.

14 Q: Okay. And can you tell us about that hearing?

15 A: Tell you about the hearing?

16 Q: Yes, ma'am. Can you tell us about that?

17 A: Yes. We had two witnesses. The first witness would have
18 been Mr. Wilson's ex-girlfriend, not current girlfriend, and
19 the second witness would have been his current girlfriend.
20 His current girlfriend -- I'm sorry. His ex-girlfriend's name
21 was Alexis Flood, and Ms. Flood met with me at least four or
22 five times, and she corroborated Brandon's story that the
23 victim had a weapon.

24 So we proceeded to the hearing -- the hearing, which was
25 the stand your ground motion before Judge Murphy. And

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1 unfortunately, the witness, Ms. Flood, although she had told
2 me on many occasions that Mr. Wilson -- I'm sorry -- the
3 victim had a gun, she completely changed her testimony at the
4 time of the hearing.

5 Q: And how did the witness changing her testimony affect
6 your case?

7 A: She said she didn't see any guns at the -- at the
8 hearing. And, again, that was my -- my main witness, and I
9 thought, you know, she -- Ms. -- Ms. Flood came. She was very
10 credible when I met with her. So I had no need to think that
11 she was going to change her story, but not having anybody to
12 corroborate Brandon's story was very detrimental to his case.

13 In addition to that, Brandon seemed to think that the
14 victim was not going to show up at the hearing and, therefore,
15 it would have been his testimony and the State would not have
16 been able to refute it, but the victim was at the hearing.
17 And so those things played a real serious part in regard to
18 the hearing, but because the ex-girlfriend said Brandon had a
19 gun and I didn't see anybody else with a gun, and she told me
20 that directly prior to and during our several meetings in my
21 office.

22 Q: Okay. And before -- before going to trial, did you
23 engage in plea negotiations with the State?

24 A: Yes, sir.

25 Q: Okay. And did the State commit -- communicate an offer?

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1 A: I recall -- I believe they did.

2 Q: Okay. Do you recall what that offer was?

3 A: I heard on direct testimony six months, but I don't think

4 it was six months. I could be incorrect about that.

5 Q: Okay. Could it have been six years?

6 A: I heard you read from the testimony. Then yes, it would.

7 That's what the -- I conveyed to the judge.

8 Q: Okay. And did you -- when you received that offer from

9 the State, did you convey that to Mr. Wilson?

10 A: That --

11 Q: The State's offer?

12 A: Yes.

13 Q: Okay.

14 A: He knew.

15 Q: And what was his response to that offer?

16 A: Well, we felt that we had a really solid case, and we

17 weren't going to go to trial because the stand your ground

18 motion was going to be successful. Again, Ms. Flood testified

19 -- not testified. She stated to me on numerous occasions that

20 the victim -- I think his name was Sean Martin, I think -- had

21 a gun and she saw it. So we get to the hearing and all of a

22 sudden she changes her testimony completely.

23 Q: Okay.

24 A: Therefore, we lost the motion and had to proceed to --

25 well, we didn't go to trial. We never did go to trial.

BELINDA BRANCH-DAVIS - DIRECT BY MR. HALL

1 Q: Okay. And so after she changed her testimony, did Mr.
2 Wilson then decide to plead guilty?

3 A: Yes.

4 Q: And it was his decision to plead?

5 A: Oh, definitely.

6 Q: Okay. And before he pled, did you explain to him the
7 charges that he was facing?

8 A: Yes.

9 Q: So did you explain to him that he was being -- he was
10 pleading to assault and battery of a high and aggravated
11 nature?

12 A: Yes.

13 Q: Did you explain to him that he was pleading to possession
14 of a firearm during the commission of a violent crime?

15 A: Yes. And I might add that that second charge, that was,
16 like, a last-minute offer by Ms. Hunter, the solicitor.
17 Because she had won the stand your ground motion, now she
18 decided that she was going to tack on the second charge.

19 We were not there for the first charge. We were there --
20 we were not there for the second charge, just the first
21 charge. So she said I'm offering you this now, and I'm going
22 to add this other charge to your plea.

23 Q: And when she added it, did you explain that to Mr.
24 Wilson?

25 A: Yes.

BELINDA BRANCH-DAVIS - DIRECT BY MR. HALL

1 Q: Okay. And did you explain to him that he was also
2 pleading to assault and battery, second degree?
3 A: Yes.
4 Q: A separate incident?
5 A: Yes, sir.
6 Q: And did you explain the possible penalties for all of
7 those charges?
8 A: Yes.
9 Q: Okay. And did you explain to Mr. Wilson that he had a
10 right to a jury trial?
11 A: Yes.
12 Q: Did you explain to him that he had the right to confront
13 witnesses at trial?
14 A: Yes.
15 Q: Did you --
16 A: We had even picked a jury. We picked a jury, and then we
17 did the motion, and then he pled. So we didn't go to trial.
18 Q: And did you explain to him that he had the right to
19 testify or not?
20 A: Yes.
21 Q: Okay. Did you also move for a *Jackson v. Denno* hearing?
22 Do you recall that?
23 A: I don't recall.
24 Q: You don't recall? Okay. Do you believe that Mr. Wilson
25 understood what you explained to him?

BELINDA BRANCH-DAVIS - DIRECT BY MR. HALL

1 A: I think he did. I think he -- he was very, very afraid
2 of the system because his witness turning on him at the last
3 hour, that really was a shock to him. It was a shock to me.
4 It was a shock to everybody that was there to support -- to
5 support Brandon. So now he's facing do I take this offer or
6 do I proceed and go to trial, and he decided to take the
7 offer.

8 Q: And after he pled, do you recall him ever asking you for
9 an appeal?

10 A: No, he never asked me for an appeal.

11 Q: Okay. And if he had, you would have -- you would have
12 filed an appeal?

13 A: Yeah. Well, I did the paperwork, but that was only after
14 I thought about it. I didn't think he had a chance at appeal,
15 but I said, well, let me just go ahead and do this and just in
16 case. Bryan, Brandon was -- I like Brandon a lot, and I
17 wanted to do the best I could for him.

18 Q: And last question, Ms. Davis-Branch. Did you ever tell
19 Mr. Wilson that he would only serve two-and-a-half years?

20 A: No.

21 Q: In your experience practicing, would you ever tell a
22 defendant that they would serve a set amount of time?

23 A: No. I don't do that because the Department of
24 Corrections -- they've changed their rules so many times, and
25 I'm not an authority person on the Department of Corrections.

BELINDA BRANCH-DAVIS - DIRECT BY MR. HALL

1 So, if anything, I would have said, you know, that we have to
2 check with the Department of Corrections. We had some
3 discussion, but I never said you're going to serve two-and-a-
4 half years.

5 MR. HALL: No further questions, Your Honor.

6 Please answer any questions opposing counsel has.

7 MR. AIKEN: May I have just one moment, please, Your
8 Honor?

9 THE COURT: Yes, sir.

10 MR. AIKEN: Thank you. Excuse me for one second, Judge,
11 if I could speak to my client?

12 I have no questions, Your Honor.

13 THE COURT: Anything further?

14 MR. HALL: Nothing from the State, Your Honor.

15 THE COURT: You may step down. Thank you.

16 THE WITNESS: Thank you, Your Honor.

17 MR. HALL: The State calls Thomas Sims.

18 THE COURT: Step around to be sworn, please.

19 THE CLERK: Raise your right hand. State your full name
20 for the record.

21 THE WITNESS: Thomas Sims.

22 THE CLERK: Do you solemnly swear or affirm to tell the
23 truth, the whole truth, and nothing but the truth, so help you
24 God?

25 THE WITNESS: I do.

THOMAS SIMS - DIRECT BY MR. HALL

1 THE CLERK: Thank you. You can have a seat, please.

2 THE WITNESS: Thank you.

3 THOMAS SIMS, being first duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HALL:

7 Q: How are you doing, Mr. Sims?

8 A: I'm good. How are you?

9 Q: Good. How long have you been practicing law?

10 A: Over 40 years.

11 Q: And how much of that time was devoted to criminal law?

12 A: Let me put it this way. I've been -- I was acting
13 solicitor for the First Judicial Circuit as a prosecutor, and
14 I was doing that for about 20-plus years. And then I went on
15 to the defense side, and I've been doing defense work also.
16 So I haven't practiced -- I've been practicing law for about
17 41 years here in the state of South Carolina and in
18 Mississippi.

19 Q: Okay. And did you work on Mr. Wilson's case?

20 A: Well, we worked -- Ms. Branch and I talked about the
21 stand your ground motion, and I was -- I came in at that point
22 to work with her on the stand your ground motion. The
23 linchpin of the stand your ground motion was the fact that his
24 girlfriend -- his previous girlfriend was going to testify
25 that she saw the guy, the gentleman who got shot. She saw him

THOMAS SIMS - DIRECT BY MR. HALL

1 with a gun, but when she -- during the stand -- the stand your
2 ground motion, she recanted all of that and said she did not
3 see him with a gun.

4 Q: Okay. And did that -- did the witness changing her
5 testimony affect Mr. Wilson's decision to proceed with the
6 trial?

7 A: We talked about it because we knew that at that point the
8 witness that we had, whom we thought was going to be the
9 upstanding witness who would be able to certify that he had a
10 right to protect himself, was no longer going to be able to
11 say that. So that affected his opinion when we discussed all
12 that with him in terms of whether or not he wanted to -- still
13 wanted to go to trial.

14 Q: And Mr. Wilson decided to plead guilty?

15 A: He decided to plead guilty.

16 Q: And do you recall the State offering a plea deal here?

17 A: We talked -- the young lady -- or Phil Giese and the
18 other young lady who was involved in the -- in the matter,
19 they did offer a plea. I think the -- if I'm recalling
20 correctly, when we were all back going back and forth, that
21 there was, like, a seven-year deal on the table. Then it went
22 down to the five, and Ms. Branch and everyone was explaining
23 to the defendant in terms of what that meant and all of -- and
24 everything that was coming along at that time.

25 Q: Okay. And did Ms. Branch also explain that he would be

THOMAS SIMS - DIRECT BY MR. HALL

1 pleading guilty to possession of a firearm during the
2 commission of a violent crime?

3 A: All of the -- all of the things that were on the table
4 were explained to him.

5 Q: Okay. And do you recall Ms. Branch -- Ms. Davis-Branch
6 ever telling Mr. Wilson that he would serve two-and-a-half
7 years?

8 A: No, I don't.

9 Q: Okay.

10 MR. HALL: No further questions, Your Honor.

11 Please answer anything opposing counsel has.

12 CROSS-EXAMINATION

13 BY MR. AIKEN:

14 Q: Mr. Sims, how are you?

15 A: I'm good. How are you?

16 Q: I'm Art Aiken. I represent -- I represent Mr. Wilson.

17 A: I understand.

18 Q: Were you at all the meetings between Ms. Davis-Branch and
19 Mr. Wilson?

20 A: I'm sorry?

21 Q: Were you at all of the meetings between Mrs. Davis-Branch
22 and Mr. Wilson?

23 A: No, I was not.

24 Q: So at a meeting you didn't attend, she may have said two-
25 and-a-half years; right?

THOMAS SIMS - CROSS BY MR. AIKEN

1 A: Well, I have been -- let me just explain one thing.
2 Basically, I'd always go into the -- my process has been to
3 talk about what the plea is and what -- what the possible
4 sentences are, but I could not tell you whether or not she
5 would say something like you're going to only do two-and-a-
6 half years, especially looking -- having the statute before
7 her and understanding what the statute said in terms of what
8 was mandatory in that matter.

9 MR. AIKEN: That's all I have. Thank you, sir.

10 THE WITNESS: Yes, sir.

11 MR. HALL: Nothing further from the State, Your Honor.
12 Your Honor, at this time, the State rests, and we would ask
13 for just a brief closing argument.

14 THE COURT: Sure.

15 MR. HALL: I'll let Mr. Aiken --

16 MR. AIKEN: You want me to go first?

17 MR. HALL: Yes.

18 MR. AIKEN: Since I've got the burden?

19 MR. HALL: Yes, sir.

20 MR. AIKEN: The crux of this case, Judge, is the fact
21 that he had a no-parole offense or a no -- a no-parole
22 offense, an ABHAN, come in at five years at 85 percent, and
23 that's 51 months. And then we also had serving as a -- as a
24 concurrent sentence, a sentence for possession of a weapon
25 during the commission of a violent crime, which is mandatory

1 five years, not zero to five, mandatory five years and day for
2 day.

3 Mr. Wilson was never advised of those two vitally
4 important points when he was in a position to make his
5 decision about whether to plead guilty or not. Matter of
6 fact, he was told that his effective sentence, what he would
7 actually serve, would be about two-and-a-half years, which is
8 considerably less than 51 months.

9 So, basically what I'm saying is -- well, and he also
10 testified, had I been told that information, I would not have
11 pled guilty, and that -- that's credible under the
12 circumstances, because there's a dramatic difference between
13 two-and-a-half years, get the best deal you can, and a
14 mandatory five years day for day. That's a dramatic
15 difference between those two things from the perspective of
16 anybody who might be pleading guilty. So it's credible for
17 him to say that had I been told that, I wouldn't have pled
18 guilty.

19 If I could have just one moment, please, Your Honor.

20 Just one more point, Your Honor. Ms. Davis-Branch and
21 Mr. Sims didn't really address those two issues in their
22 testimony. They really didn't discuss them and explain them
23 and tell them what they did or didn't do. That was the main
24 reason why I didn't cross-examine. I decided to hold my cards
25 close to my vest and -- and -- and come back later and do the

1 best I could based on that.

2 So, really, we've got Mr. Wilson giving a complete
3 explanation of the genesis of the plea, and then we have a
4 partial explanation of it from the State, which doesn't even
5 cover the most important points, which is the 85 percent
6 nature of the no-parole ABHAN and the five-year, day-for-day
7 mandatory on the -- on the possession of a weapon during the
8 commission of a violent crime.

9 Thank you, Judge.

10 THE COURT: Thank you, Mr. Aiken.

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

12 Counsel is presumed to have rendered competent advice at
13 the time that their client pleads guilty. That comes from
14 *Padilla v. Kentucky*, 559 U.S. 356. That's a U.S. Supreme
15 Court case. So there's a presumption here that counsel was
16 effective, and Mr. Wilson hasn't met his burden of proof of
17 proving otherwise.

18 Further, Your Honor, you heard from the testimony of both
19 counsels that Ms. Davis-Branch explained to Mr. Wilson not
20 only the charges that he was facing, but the possible
21 penalties, as well as his constitutional rights. Further, the
22 judge herself explained those to -- to Mr. Wilson -- Wilson,
23 and he indicated that he understood.

24 Your Honor, *Dalton v. State* says that the record must
25 establish that a defendant had a full awareness of the charges

1 he was pleading to and his constitutional rights and the
2 penalties, and the record establishes that here. Further, the
3 burden is on Mr. Wilson to show a valid reason why he should
4 be -- why he should be allowed to depart from the statements
5 he made in his plea colloquy, which he hasn't done so.

6 But, Your Honor, just to quote our Supreme Court, our
7 Supreme Court has held that a guilty plea entered because of
8 the belief that a judge will impose a certain sentence does
9 not render the guilty plea invalid -- involuntary. And so
10 just because Mr. Wilson had hoped or thought that the judge
11 would give him a particular sentence does not render his plea
12 involuntary.

13 The judge herself explained to him that he was facing a
14 recommendation from the State, and that she did not have to go
15 along with it, and so he had an awareness of the consequences
16 and entered his plea to avoid the uncertainty of trial. Thank
17 you.

18 THE COURT: Thank you.

19 All right. Let me look over the transcript. My law
20 clerk will be getting in touch with counsel about any response
21 or further material we may need. Okay?

22 MR. AIKEN: Yes, sir.

23 MR. HALL: Yes, sir. Thank you, Judge.

24 THE COURT: Thank you.

25 (WHEREUPON, the proceedings ended at 1:54 p.m.)

State of South Carolina	)	
	)	Certificate
County of Florence	)	

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter III for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 41, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Orangeburg County, South Carolina, held in Dorchester County on the 7th day of February, 2024, to the best of my ability based upon the audio and notes provided.

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

s/ Krystal J. Smith

Court Reporter

Florence, South Carolina

September 13, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FOR THE FIRST JUDICIAL CIRCUIT
	)	
Brandon Wilson, SCDC #387041,	)	Case No. 2022-CP-38-00708
	)	
Applicant,	)	ORDER OF DISMISSAL
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the Court pursuant to an application for post-conviction relief (“PCR”) filed by Brandon Wilson (“Applicant”) on May 16, 2022. On February 7, 2024, an evidentiary hearing convened before the Honorable Paul M. Burch. Applicant was present and represented by Arthur K. Aiken, Esquire. Assistant Attorney General Bryan T. Hall represented Respondent. At the hearing, Applicant testified on his own behalf. Respondent called as a witness Belinda M. Davis Branch, Esquire (“Counsel”) and Thomas R. Sims (“Sims”), Sr., Esquire. Following a thorough review of the plea transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (“SCDC”). In April 2019, the Orangeburg County Grand Jury indicted Applicant for assault and battery of a high and aggravated nature (“ABHAN”) (2018-GS-38-0825) and possession of a weapon during the commission of a violent crime (2018-GS-38-0826). In July 2021, the

Orangeburg County Grand Jury indicted Applicant for assault and battery in the second degree (2021-GS-38-01249) from a separate incident.

On January 24, 2022, Applicant proceeded to a jury trial before the Honorable Maite Murphy. Pursuant to Counsel's motions, the court convened a pre-trial stand your ground hearing¹ and a *Jackson v. Denno*² hearing. Judge Murphy denied both motions, and shortly thereafter the jury was selected, Applicant pled guilty to the indictments. Judge Murphy sentenced Applicant to ten (10) years provided upon the service of five (5) years active, followed by three (3) years of probation for ABHAN; five (5) years active for possession of a weapon during the commission of a violent crime; and three (3) years active for assault and battery in the second degree.

On February 9, 2022, a notice of intent to appeal was filed on Applicant's behalf by Belinda Davis-Branch, Esquire. On February 17, 2022, the South Carolina Court of Appeals dismissed the appeal for failure to timely serve. *State v. Wilson*, S.C. Ct. App. Order dated Feb. 17, 2022. The Remittitur was sent on March 7, 2022.

CURRENT APPLICATION

Applicant timely commenced this PCR action on May 16, 2022, alleging he is being held in custody unlawfully for the following reasons:

- 1) Ineffective Assistance of Counsel
 - a. Counsel did not understand the plea bargain.
 - b. Failure to explain the charges Applicant was pleading to.
- 2) Involuntary Plea

¹ Pursuant to the Protection of Persons and Property Act, S.C. Code Ann. § 16-11-410 *et seq.*

² *Jackson v. Denno*, 378 U.S. 368 (1964).

- a. Counsel informed Applicant he was pleading to unlawful carrying of a firearm, ABHAN, and assault and battery second degree.
- b. Counsel informed Applicant he would have a six (6)-year cap but would only serve two and half (2 ½) years.
- c. Applicant would not have pled guilty if he had known possession of a firearm during the commission of a violent crime carried a mandatory five (5)-year sentence.

Respondent filed a return. Applicant amended his application to add the following allegations:

1) Ineffective Assistance of Counsel

- a. Failure to discuss all potential defenses with Applicant.
- b. Failure to discuss the advantages and disadvantages of trial versus a plea so Applicant could make an informed choice.
- c. Failure to investigate Applicant's case.
- d. Failure to explain to Applicant possible penalties for his offenses.
- e. Failure to explain to Applicant the elements of the offenses to which he was pleading guilty.
- f. Failure to present a more favorable plea offer before it expired.

2) Involuntary Plea

- a. Guilty plea was not intelligently made.
- b. Counsel did not adequately prepare for Applicant's case, and Applicant was left with no choice but to plead guilty.

Before this Court are the Orangeburg County Clerk of Court records of the subject conviction; Applicant's records from SCDC; appellate records; the plea transcript; and the records of the current PCR action.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant averred he would have proceeded to trial if he was pleading guilty to possession of a weapon during the commission of a violent crime charge, which carries a mandatory minimum of five (5) years. Applicant testified he believed he was pleading instead to unlawful carrying of a pistol. Applicant testified Counsel told him he would

receive a cap of six (6) years but would only serve two and a half (2 ½) years. Applicant testified he believed he would be eligible for parole but learned that ABHAN is a no parole-eligible sentence. Applicant testified Counsel never informed him a plea deal from the solicitor for six (6) months, and Applicant found out about it months later. Applicant testified Counsel did not understand what Applicant was pleading to. Applicant further testified Counsel did not explain the elements of the charges and the possible penalties. Applicant testified he asked Counsel for an appeal and was told an appeal was “out of the window.”

Belinda Davis-Branch (“Counsel”) testified she met with Applicant numerous times, at least seven (7) to eight (8) times. Counsel testified that she and Applicant reviewed discovery together, which included reviewing statements by several witnesses and a statement by Applicant that was damaging to the case. Counsel testified that three (3) witnesses identified Applicant as the shooter and there was 911 audio. Counsel testified she did not recall Applicant asking her to investigate anything, but she would have investigated anything she thought was helpful. Counsel testified she discussed potential defenses with Applicant, which included self-defense. Counsel testified she believed Applicant had a solid case for trial and thought a stand your ground hearing would be successful.

Counsel testified that Applicant’s girlfriend, who was a key witness for Applicant, changed her testimony during the stand your ground hearing, which damaged Applicant’s case. Counsel testified Counsel testified that she conveyed the plea offer to Applicant. Counsel testified that after the jury was selected, Applicant made the decision to plead guilty and the decision was based on a key witness changing her testimony. Counsel testified that before Applicant pled, she explained to Applicant the charges he was facing, possible penalties, and

constitutional rights including the right to remain silent, confront witnesses, and right to a jury trial. Counsel testified she never told Applicant he would serve two and a half (2 ½) years. Counsel testified that Applicant never asked her to file an appeal but she did so on her own “just in case.”

Thomas Sims, Sr. (“Sims”) testified he assisted Counsel on Applicant’s case as second chair. Sims testified Applicant’s girlfriend changed her testimony, and Applicant decided to plead guilty as a result. Sims testified Counsel explained all charges Applicant was pleading guilty to. Sims testified he never heard Counsel tell Applicant he would only serve two and a half (2 ½) years.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the plea transcript in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony. After a careful review based on the *Strickland* standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court’s findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. “The

test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

To establish ineffective assistance of counsel, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Strickland*, 466 U.S. at 687–88; *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. “A PCR applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel’s errors, the applicant would not have pled guilty and would have insisted on going to trial.” *Dalton v. State*, 376 S.C. 130, 136, 654 S.E.2d 870, 873 (Ct. App. 2007); *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Failure to Adequately Prepare

This Court finds Applicant failed to prove Counsel was ineffective for failing to adequately prepare. Applicant bears the burden of proving counsel did not adequately prepare and must prove prejudice by showing what other defenses could have been developed that would have resulted in a different outcome. *See Jackson v. State*, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998) (determining applicant failed to prove prejudice by presenting evidence of what other defenses counsel have pursued had counsel been more fully prepared for trial). This Court finds **credible** Counsel’s testimony that she met with Applicant numerous times, reviewed discovery,

and prepared the defense of self-defense for Applicant's trial. Further, this Court finds **credible** Counsel's testimony that she pursued and discussed with Applicant applicable legal defenses. Thus, Applicant failed to meet his burden.

Failure to Investigate

This Court finds Applicant failed to prove Counsel was ineffective for failing to investigate. At the PCR hearing, Counsel testified she did not recall Applicant asking her to investigate anything but would have investigated anything she thought was helpful. This Court finds **credible** counsel's testimony that she reasonably investigated the information Applicant provided to her. Further, this Court finds Applicant failed to produce any evidence at the PCR hearing of what a further investigation would have uncovered and thus failed to prove prejudice in this regard. *Cf. Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995) (providing an applicant must produce witnesses at a PCR hearing to support a claim that counsel was ineffective for failing to interview or call potential witnesses). Thus, Applicant failed to meet his burden.

Failure to Convey a Favorable Plea Offer

Applicant contends Counsel was ineffective for failing to timely convey a plea offer from the solicitor. Defense counsel has a duty to communicate formal plea offers from the prosecution that may be favorable to the accused. *Missouri v. Frye*, 566 U.S. 134 (2012). This Court finds **credible** Counsel's testimony that she timely conveyed to Applicant the plea offers received. Further, the plea transcript reflects that Counsel conveyed a plea offer to Applicant, which he declined. (Tr. 156:9-16). Applicant indicated to the plea judge that Counsel had conveyed to him a plea offer from the state, and Applicant declined that offer. (Tr. 156:24-157:6). Thus, Applicant

failed to meet his burden.

Failure to File an Appeal

At the evidentiary hearing, Applicant alleged Counsel told him an appeal was “out of the window” when Applicant asked her to file a direct appeal. Following a guilty plea, there is no constitutional requirement that counsel to inform a defendant of the right to appeal following a guilty plea, and counsel is not required to initiate an appeal unless there is reason to think a rational defendant would want to appeal or the defendant reasonably demonstrated an interest in appealing. *Turner v. State*, 380 S.C. 223, 670 S.E.2d 373 (2008). This Court finds **credible** Counsel’s testimony that Applicant never asked her to file an appeal, but she filed a notice of appeal on her own accord “just in case.” Thus, Applicant has failed to meet his burden.

Involuntary Plea

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRCP; *Butler*, 286 S.C. 441, 334 S.E.2d 813. “To be knowing and voluntary, a plea must be entered with an awareness of its consequences.” *Holland v. State*, 322 S.C. 111, 113, 470 S.E.2d 378, 379 (1996). “To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him.” *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874. Counsel is presumed to have rendered competent advice at the time their clients considered pleading guilty. *Padilla v. Kentucky*, 559 U.S. 356, 372 (2010).

This Court finds Applicant pled guilty knowingly and intelligently. This Court finds **credible** Counsel’s testimony that prior to the plea, she explained to Applicant his constitutional rights including the right to remain silent, right to a jury trial, and right to confront witnesses.

This Court finds **credible** Counsel's testimony that she explained to Applicant the charges he was facing and the possible penalties for each charge. This Court finds **credible** Counsel's testimony that she did not tell Applicant that he would only serve two and a half (2 ½) years for his charges. Further, this Court finds Applicant has not overcome the presumption that Counsel rendered competent advice before he pled guilty.

The plea judge explained to Applicant that he was pleading guilty to ABHAN, which carries up to twenty (20) years in prison. (Tr. 161). The plea judge explained to Applicant that he was pleading guilty to possession of a weapon during the commission of a violent crime, which carries five (5) years. (Tr. 161). The plea judge explained to Applicant that he was pleading guilty to assault and battery in the second degree, which carries up to three (3) years. (Tr. 161-162). The plea judge further explained to Applicant that although the State recommended a cap of up to six (6) years, the judge could give him the maximum sentence on each of those charges. (Plea Tr. 161). Knowing all of that, Applicant indicated he understood and wanted to plead guilty. (Tr. 162). Thus, Applicant failed to meet his burden.

This Court finds Applicant failed to prove his guilty plea entered involuntarily. This Court finds Applicant's statements made during the guilty plea conclusive as Applicant failed to present a valid reason why he should be allowed to depart from his statements. *Dalton*, 376 S.C. at 137-38, 654 S.E.2d at 874 ("[S]tatements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements"). Applicant indicated to the plea judge that he was not under the influence of drugs, alcohol, or medication at the time of the plea. (Tr. 160). Applicant informed the plea judge that Applicant did not suffer from any physical, emotion, or nervous

problem that would have prevented him from understanding the plea. (Tr. 160). Further, Applicant informed the plea judge that no one had threatened, coerced, or promised him anything to plead guilty. (Tr. 168-69). Based on the foregoing, this Court finds Applicant failed to meet his burden.

[Space left blank intentionally. Conclusion follows on next page.]

CONCLUSION

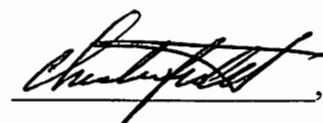
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty (30) days of receipt by counsel of written notice of entry of judgment. *See* Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED ON THIS 27th day of March, 2024.

, South Carolina


 PAUL M. BURCH
 Presiding Judge
 First Judicial Circuit