

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAVID C. MOSLEY,

APPELLANT.

APPELLATE CASE NO. 2024-001102

RECORD ON APPEAL

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1 door?

2 A Braelon Brown's.

3 Q Does that evidence tell you that his fingerprint
4 touched that door?

5 A It does.

6 Q Is that consistent with the information that you
7 obtained and determined what side of the vehicle he was
8 seated in?

9 A No. Let me correct that. It was on the driver's
10 rear door.

11 Q Okay. And that is what the evidence shows; is that
12 correct?

13 A Yes. That's where it was lifted according to Crime
14 Scene Technician Libus. And I was watching her.

15 Q Perfect.

16 During your investigation, did you utilize any type
17 of GPS location data to try to identify who was in the
18 area of this crime?

19 A I did.

20 Q And just briefly tell us about how that works.

21 A It's a practice -- common practice. It's a homicide
22 or any kind of crime scene investigator to see who's in
23 the area. On our checklist or the one that I use is I
24 look for video in the area, but I also, I'll check GPS
25 monitors to see if anybody that's out on GPS monitor from

1 the Court is in a particular area as a witness, suspect or
2 both.

3 Q And did you utilize that in this particular case?

4 A I did.

5 Q Did you determine if someone who was being monitored
6 on GPS was in the location of this crime that night?

7 A I did.

8 Q And who was that individual?

9 A Jamazzeo Glover.

10 Q And what locations did his GPS show him in?

11 A At 7:46 p.m., he was in front of 206 and 207 Mansion
12 Circle.

13 Q And where does his tracking device data show that he
14 went after that?

15 A It shows him moving through the neighborhood behind
16 206 and eventually stopping on Rudd Street or Rudd Road.

17 Q I want to show you this map that we looked at earlier
18 with the beginning point being Mansion Circle and the
19 ending point being Ms. Fleming's house. The evidence that
20 you reviewed as to Mr. Glover's location, does it follow
21 that path?

22 A No.

23 Q Does it follow a different path?

24 A It's north. It's -- Rudd (indicating), this is
25 Kingswood Number 1 or Number 2 or vice versa. There's two

1 sections to it. Rudd is in the top portion of the
2 neighborhood ---

3 Q Okay.

4 A --- opposite from this location.

5 Q So does that evidence show you that Mr. Glover did or
6 did not travel with the other defendants after the
7 shooting?

8 A He did not.

9 Q When Mr. Brown was placed under arrest, was anything
10 collected from his person?

11 A A cell phone.

12 Q Okay. And what can you tell me about the way that
13 cell phone looked?

14 A When I observed it, it appeared to have been bent in
15 half, freshly bent in half because glass fragments and
16 splinters were still coming off of it.

17 Q Was that confiscated from his person and taken into
18 evidence?

19 A It was.

20 Q Okay. And at some point, was it analyzed, the data?

21 A We -- I obtained a search warrant, and we had to have
22 it repaired.

23 Q I'm going to show you what's been premarked as
24 State's Exhibits 55, 56, 57, 65, 66 and 67. Do you
25 recognize those?

1 A (Reviews exhibits) I do.

2 Q How do you recognize them?

3 A I made these copies from the download extraction from
4 his phone pursuant to a search warrant.

5 Q So this information came from Mr. Brown's phone that
6 was recovered from him?

7 A It did.

8 MS. McCALL: Your Honor, at this time, the State
9 seeks to enter Exhibits 57 -- no. I'm sorry -- 55, 56,
10 57, 65, 66 and 67 into evidence.

11 THE COURT: Any objection from Brown?

12 MR. CANTRELL: None, Your Honor.

13 THE COURT: Any from Mosley?

14 MR. PRINGLE: No, Your Honor.

15 THE COURT: And any from Hill?

16 MR. WARDER: No, sir.

17 THE COURT: All right. In without objection.

18 (WHEREUPON, State's Exhibit Numbers 55 through 57 and 65
19 through 67 were admitted into evidence.)

20 MS. McCALL: Thank you, Your Honor. And I will
21 publish for the jury.

22 BY MS. McCALL:

23 Q Investigator Garrett, did you review the Internet
24 searches that were made by Mr. Brown?

25 A Yes.

1 Q And I'm going to show you what is State's Exhibit 55.
2 Is this an Internet search from Mr. Brown's phone?

3 A It is.

4 Q And what is he searching for?

5 A It looks like he's searching for -- a Greenville
6 County inmate search via Google.

7 Q What date is that on?

8 A That is December 21, 2019, two days after the
9 shooting.

10 Q And State's Exhibit 56, is this a web site that he
11 visited?

12 A It is. Greenville Online, December 21, 2019, about a
13 -- the shooting incident.

14 Q Okay. So this article that he reviewed was an
15 article about ---

16 A This incident.

17 Q --- Kerolos's death?

18 A Correct.

19 Q Okay. And State's Exhibit 57, what is that?

20 A It's another search on December 21, 2019, about an
21 arrest made in the same incident.

22 Q State's Exhibit 65, what is this?

23 A It's another article, Fox Carolina, talking about the
24 identification of the victim in this case, Kerolos Zaky.

25 Q State's Exhibit 66?

1 A It's a WYFF4.com search -- or not a search -- where
2 he reviewed 18-year-old charged in the shooting.

3 Q And State's Exhibit 67, what does that show?

4 A Another one. It's a Google search, quick search on
5 the 24th, Christmas Eve, a couple days after this related
6 to this case.

7 Q We'll come back to this evidence and talk a little
8 bit about it a little later on.

9 I want to move on to DNA evidence in this case. Are
10 you aware the cotton pad was collected from Ms. Fleming's
11 house?

12 A Yes.

13 Q And did you request that any DNA evidence be analyzed
14 and recovered from that cotton pad?

15 A I did.

16 Q Okay. And were you present when the buccal swab was
17 taken of Mr. David Mosely?

18 A I was.

19 Q And when was that taken from him?

20 A It was later after a hearing.

21 Q Okay.

22 A I think a year or so later we had to have a hearing.

23 Q Okay. And you were present -- were you present with
24 a forensics officer who physically collected that?

25 A I was.

1 Q Okay. And is that buccal swab what was used to
2 compare Mr. Mosley's DNA to that cotton pad?

3 A Yes. I had to reference that in my request, the item
4 number with the item of the cotton pad.

5 Q Okay. I want to show you what has been premarked as
6 State's Exhibit 54. Do you recognize that photo?

7 A I do.

8 Q How do you recognize it?

9 A That's my hand under that hand taking the
10 photographs.

11 Q Okay. And whose hand are you holding?

12 A I am holding David Mosley's hand at the time of his
13 arrest. I photographed it.

14 Q Okay. And what day was he arrested on or what date?

15 A December 30, 2019.

16 Q Is that approximately ten days after -- ten or 11
17 days after the shooting incident?

18 A It is.

19 MS. MCCALL: Your Honor, at this time, the State
20 seeks to enter State's Exhibit 54 into evidence and
21 publish.

22 THE COURT: All right. Any objection from Brown?

23 MR. CANTRELL: None, Your Honor.

24 THE COURT: Mosley?

25 MR. PRINGLE: No, Your Honor.

1 THE COURT: And Hill?

2 MR. WARDER: No, sir.

3 THE COURT: All right. In without objection.

4 (WHEREUPON, State's Exhibit Number 54 was admitted into
5 evidence.)

6 MS. McCALL: Thank you, Your Honor.

7 BY MS. McCALL:

8 Q What does this show, Investigator Garrett?

9 A Showing injuries to his right knuckles.

10 MR. PRINGLE: Objection. Injuries? I mean, that --
11 that could be all kinds of things. It looks like scabs,
12 it looks like ---

13 THE COURT: All right. Your objection, but I'm not
14 going to allow you to editorialize your objection. You
15 have an objection? All right.

16 MS. McCALL: Your Honor, he obviously is testifying
17 that there is an injury to his hand. He is not saying
18 what caused the injury. So I believe that he can testify
19 to that.

20 MR. PRINGLE: Can I respond?

21 THE COURT: Yes.

22 MR. PRINGLE: That may or may not be an injury. I
23 mean, when I look at that ---

24 THE COURT: You're not going to be testifying.

25 MR. PRINGLE: Okay. Judge, that could be anything.

1 THE COURT: Rephrase your question.

2 BY MS. McCALL:

3 Q Does it appear that there is something of interest on
4 Mr. Mosley's knuckles?

5 A Damage.

6 Q Yes. Is that how you could classify that,
7 Investigator Garrett? Okay.

8 A Wound.

9 Q Was there a reason that you took a photograph of
10 Mr. Mosley's knuckles?

11 A Yes.

12 Q Okay. And was it -- in your expert opinion, was it
13 relevant to your investigation in this case?

14 A Yes. I had received information that the night of
15 the incident, an individual had showed up at another
16 residence in proximity that was bleeding from one of their
17 knuckles.

18 Q Okay.

19 A A clue.

20 Q Is this the individual, Mr. Mosley, that you later
21 obtained a buccal swab on for his DNA to be analyzed?

22 A It is.

23 Q And is that the swab that was analyzed and compared
24 to the cotton pad that was taken from Ms. Fleming's
25 residence?

1 A It was.

2 Q And are you aware of the results of that analysis?

3 A I am.

4 Q And what were the results?

5 A Mr. David Mosely's DNA was collected from the cotton
6 swab collected from Ms. Fleming's trash can.

7 Q Was anyone else's DNA on the cotton pad that was
8 collected from that scene?

9 A The victim, Kerolos Zaky.

10 Q Is there a reason that no other defendant's DNA was
11 obtained and tested against that particular cotton pad?

12 MR. PRINGLE: Objection.

13 MS. MCCALL: Your Honor, this is what he's doing in
14 the course of his investigation. They ---

15 THE COURT: What's your objection?

16 MR. PRINGLE: Is there any reason -- I'd like to know
17 why they didn't collect any other samples.

18 THE COURT: Make your objection and don't be
19 editorializing and arguing. I mean, you can argue your
20 objection but not ---

21 MR. PRINGLE: It's an improper question.

22 THE COURT: All right.

23 MR. CANTRELL: And I believe it's improper because
24 there's no way to observe DNA. So there's no way for him
25 to say why he did or did not collect DNA. You can't --

1 you can't observe it. You can ask why he didn't find
2 other items.

3 MS. McCALL: Your Honor, the defense elicited in
4 front of the -- through the DNA analyst why she did not
5 compare any other DNA samples to this particular cotton
6 pad. Investigator Garrett is the one who provides the DNA
7 analyst with those -- with those samples.

8 THE COURT: Overruled. Objection overruled.

9 MS. McCALL: Thank you, Judge.

10 BY MS. McCALL:

11 Q Investigator Garrett, did you obtain any other
12 samples to be tested against this particular cotton pad?

13 A No. Common practice is when we analyze DNA, we go
14 over it with the DNA analyst and we look at what
15 probability to start. And we started with David Mosely
16 because he had injuries. I did not see any injuries on
17 any of the other defendants when they were arrested. I
18 got a match with a second unknown, so I had to determine
19 who might be the second unknown. I started with the
20 victim next and used a blood spot from his autopsy and
21 provided that to DNA. And months later I got the second
22 which was a minor contributor which was the victim.

23 Q And was the evidence that you received from the
24 analyst consistent with your investigation?

25 A It was.

1 Q All right. Investigator Garrett, I want to
2 transition to interviews that were conducted after this
3 incident. After the incident occurred, did you speak with
4 a witness Nijah Croskey?

5 A I did.

6 Q And when did you first speak with him?

7 A Two hours after -- well, while I was on the scene
8 around 11 p.m. on the 19th of 2019.

9 Q Okay. And did you determine if he was present that
10 night?

11 A I did.

12 Q Where was he first interviewed at?

13 A At his residence in the next subdivision near
14 Kingswood.

15 Q At that point, was he a suspect in this crime?

16 A No.

17 Q At some point during your interviews with
18 Mr. Croskey, did you present -- well, before we get there,
19 while you were meeting and talking to Mr. Croskey, did you
20 ask him if he knew any if these individuals that were in
21 the car?

22 A I did.

23 Q And at some point, did you present him with
24 photographs in order to identify those defendants?

25 A I did.

1 Q Okay. I want you to look at what's been marked as
2 State's Exhibits 33 and 34. Do you recognize those?

3 A (Reviews exhibits) I do.

4 Q And what are they?

5 A They're photo lineups of Jamazzeo Glover and Braelon
6 Brown.

7 Q Okay. Did you present those to Mr. Croskey?

8 A I did.

9 Q And did you initial or sign his identification of
10 those suspects?

11 A I did ---

12 Q Okay.

13 A --- after he initialed and circled the photographs.

14 MS. McCALL: Your Honor, at this time, the State
15 seeks to move into evidence and publish Exhibits 33 and
16 34.

17 THE COURT: Any objection on behalf of Brown?

18 MR. CANTRELL: None, Your Honor.

19 THE COURT: On behalf of Mosley?

20 MR. PRINGLE: No, Your Honor.

21 THE COURT: And Hill?

22 MR. WARDER: No, Your Honor.

23 THE COURT: All right. In without objection.

24 (WHEREUPON, State's Exhibit Numbers 33 and 34 were
25 admitted into evidence.)

1 BY MS. McCALL:

2 Q Investigator Garrett, I'm going to start with
3 Exhibit 34. What is this?

4 A It's a six-photo lineup.

5 Q Is this something that you commonly use during your
6 investigations?

7 A It is.

8 Q And what is the purpose of it?

9 A To try to positively identify an individual involved
10 in an investigation.

11 Q Did you -- when you interviewed and spoke with
12 Mr. Croskey, how did you present this lineup to him? What
13 did you say to him in order to see if he knew anyone in
14 the photos?

15 A I said you may or may not know anyone in these photos
16 and they may or may not be involved in this. If you
17 recognize anyone, point them out, tell me why.

18 Q Did Mr. Croskey recognize anyone in this photo?

19 A He did.

20 Q And who did he identify?

21 A Photo Number 2, Braelon Brown.

22 Q Did he also sign an affidavit of photograph
23 identification?

24 A He did.

25 Q And can you read for the jury what the description

1 was for that identification?

2 A I wrote it just as he said. "This Spaz that hit
3 Kerolos and pointed a gun at him and said give me
4 everything. Spaz had the gun before I heard the five or
5 six shots."

6 Q Now I'm going to show you State's Exhibit 33. What
7 is this?

8 A A six-photo lineup containing Jamazzeo Glover.

9 Q And did you present this to Mr. Croskey?

10 A Yes.

11 Q Did you give him the same instructions about whether
12 or not if he noticed anyone that he knew to identify them?

13 A I did.

14 Q And did he identify anyone on this photo lineup?

15 A Jamazzeo Glover, Number 5.

16 Q Did he also provide an affidavit stating his
17 involvement?

18 A He did.

19 Q And what did he say about Mr. Glover's involvement?

20 A "I know that he was there when Spaz hit Kerolos and
21 pointed a gun at him and said give me everything."

22 Q You stated that Mr. Croskey was the first individual
23 kind of related to this incident as a witness that you
24 spoke to after the crime; is that correct?

25 A That's right.

1 Q Did you ever speak personally with Thomas Mueller?

2 A I did not.

3 Q Okay. Who did?

4 A Investigator Moates. He was at the Law Enforcement
5 Center researching information we were getting on the
6 scene. And then they arrived there, and that's when he
7 took over that interview.

8 Q Is it common practice for multiple investigators to
9 be involved in an investigation as large as this one?

10 A It is.

11 Q And did Mr. Mueller, did he come into the sheriff's
12 office willingly to give a statement?

13 A Yes. With his father.

14 Q And you said it was the night of the incident?

15 A It was.

16 Q Okay. Who was the next either suspect or witness
17 that you spoke to in relation to this case?

18 A Jamazzeo Glover.

19 Q And I believe you already mentioned this earlier, but
20 how were you able to identify his involvement early on?

21 A He had a GPS monitor on.

22 Q Okay. And where did you speak with him at?

23 A At the Greenville County Law Enforcement Center
24 homicide office.

25 Q At that point in time, was he a suspect in this

1 crime?

2 A He was.

3 Q And was he provided his rights before you spoke with
4 him?

5 A He was.

6 Q At some point in time, did you speak with Braelon
7 Brown?

8 A I did.

9 Q Was that after he had been placed under arrest?

10 A It was.

11 Q Okay. Was he provided with his rights?

12 A He was.

13 Q And how do you do that when you're interviewing a
14 suspect?

15 A I read it from my Miranda form verbatim, read it to
16 them and then ask them do they understand what I'm reading
17 to them.

18 Q Okay. I'm going to show you State's Exhibit 32
19 that's been premarked. Do you recognize that?

20 A I do.

21 Q How do you recognize it?

22 A It has my signature.

23 Q Okay. And what is that?

24 A It's a waiver of rights form.

25 Q And who is the person that is waiving their rights?

1 A Braelon Brown.

2 MS. McCALL: Your Honor, at this time, the State
3 seeks to enter Exhibit 32 into evidence.

4 THE COURT: All right. Any objection from Brown?

5 MR. CANTRELL: None, Your Honor.

6 THE COURT: Mosley?

7 MR. PRINGLE: No, Your Honor.

8 THE COURT: And Hill?

9 MR. WARDER: No, Your Honor.

10 THE COURT: All right. In without objection.

11 (WHEREUPON, State's Exhibit Number 32 was admitted into
12 evidence.)

13 MS. McCALL: Thank you.

14 BY MS. McCALL:

15 Q Investigator Garrett, I'm showing you Exhibit 32.
16 What is that?

17 A That's a waiver of rights form.

18 Q And is it initialed and signed by Braelon Brown?

19 A It has.

20 Q Does that mean that he was apprised of his rights and
21 agreed to waive his rights?

22 A That's correct.

23 Q And agreed to speak with you; is that correct?

24 A He did, yes.

25 Q During that interview with him, was it audio and

1 video recorded?

2 A It was.

3 Q Is that standard practice for you to do that?

4 A It is.

5 (Whereupon, State's Exhibit Number 68 was marked for
6 identification.)

7 BY MS. McCALL:

8 Q Where did this interview take place?

9 A Greenville County homicide office, sheriff's office,
10 homicide.

11 Q I'm showing you what has been premarked as State's
12 Exhibit 68. Do you recognize that?

13 A I do.

14 Q And how do you recognize it?

15 A It has my initials on the outside of it.

16 Q Okay. And what is on that CD?

17 A Audio/video recording of Braelon Brown's interview.

18 MS. McCALL: Your Honor, at this time, the State
19 seeks to enter State's Exhibit 68 into evidence and
20 publish for the jury.

21 THE COURT: All right. Any objection on behalf of
22 Mr. Brown?

23 MR. CANTRELL: Subject to proper identification,
24 which I think they've provided, no.

25 THE COURT: Okay. On behalf of Mosley?

1 MR. PRINGLE: No, Your Honor.

2 THE COURT: On behalf of Hill?

3 MR. WARDER: No, sir.

4 THE COURT: All right. In without objection.

5 (WHEREUPON, State's Exhibit Number 68 was admitted into
6 evidence.)

7 MS. McCALL: Thank you, Judge.

8 BY MS. McCALL:

9 Q Investigator Garrett, who was present for this
10 interview with Braelon Brown?

11 A Investigator Tracy King.

12 Q Okay. And as well as yourself?

13 A Yes.

14 Q Okay. Are you the one that's seated at the table?

15 A It is.

16 Q Okay. At this point in time, does this interview
17 begin with the Miranda, the waiver of rights form that
18 you're providing?

19 A Yes. I uncuffed him and cuffed him in the front.

20 Q Okay. And you stated that he was already under
21 arrest at this point?

22 A He was.

23 Q And what was the date that you interviewed Braelon
24 Brown?

25 A December 27th.

1 Q December 27th. So is that approximately seven to
2 eight days after this incident?

3 A Correct.

4 Q And prior to your interviewing Mr. Brown, you had
5 been collecting evidence in this case; is that correct?

6 A I had, correct.

7 (WHEREUPON, State's Exhibit 68, a video recording, is
8 played in open court.)

9 BY MS. McCALL:

10 Q Let me pause it right there and ask you, what were
11 you asking him to start off this conversation?

12 A Did he know why he was there.

13 Q And what did he tell you?

14 A He did not know.

15 (WHEREUPON, State's Exhibit 68, a video recording,
16 continues to play in open court.)

17 MS. McCall: My apologies. I believe it was slowed
18 down so it seemed off.

19 (WHEREUPON, State's Exhibit 68, a video recording,
20 continues to play in open court.)

21 BY MS. McCALL:

22 Q Investigator Garrett, what did he just say here?

23 A I asked him if he heard anything on the news about
24 this incident, and he said no, nothing.

25 Q At that point in time, his phone had just been

1 confiscated; is that correct?

2 A Right.

3 Q And it was analyzed at a later date and time; is that
4 correct?

5 A Later than this, correct.

6 Q But this is December 27th?

7 A Yeah. The 27th.

8 Q And, again, I won't put it on the screen so I don't
9 have to take the video off, but these exhibits that we
10 went through earlier, Exhibit 67, 66, 65, 57, 56 and 55,
11 those Internet searches and articles, what were they
12 about?

13 A This incident on the 21st.

14 Q So at the time that you are interviewing Mr. Brown,
15 the evidence shows that he has already reviewed articles
16 and had searches on the Internet about this case; is that
17 correct?

18 A That is correct.

19 Q And what was it that he told you when you asked him
20 that question?

21 A No. Nothing.

22 (WHEREUPON, State's Exhibit 68, a video recording,
23 continues to play in open court.)

24 BY MS. McCALL:

25 Q I know it's hard to hear but the jury will have this

1 video, but did you ask him if he had been in the victim's
2 car?

3 A Correct.

4 Q And what did he say?

5 A He had not.

6 Q Did you ask him if he had been at Spinx ---

7 A I did.

8 Q --- that night and if he would be on video? And what
9 did he say?

10 A No.

11 Q And at that point in time, that latent print that was
12 found on the car matched to him would have already
13 occurred; is that correct?

14 A I got that on the 23rd, four days before.

15 (WHEREUPON, State's Exhibit 68, a video recording,
16 continues to play in open court.)

17 BY MS. McCALL:

18 Q What are those photographs that you're showing him?

19 A Those are photographs of the victim.

20 Q And did you ask him if he knew -- if he knew him?

21 A I did.

22 Q And what did he say?

23 A He did not.

24 (WHEREUPON, State's Exhibit 68, a video recording,
25 continues to play in open court.)

1 BY MS. McCALL:

2 Q What was that that you showed him?

3 A The latent fingerprint results matching to his
4 finger.

5 Q And what was his answer when you asked if there was a
6 reason that his fingerprint would be on the car?

7 A No.

8 (WHEREUPON, State's Exhibit 68, a video recording,
9 continues to play in open court.)

10 BY MS. McCALL:

11 Q Did that conclude the interviewed with Mr. Brown?

12 A He didn't want to speak with us anymore.

13 MR. CANTRELL: Your Honor, I would object. It
14 obviously ended in mid-sentence. There's got to be more
15 to this audio and video.

16 MS. McCALL: Your Honor, I believe for the defense's
17 motions and objections that have already been ruled upon,
18 that is why it ended there.

19 THE COURT: All right. Let's take this up outside
20 the presence of the jury.

21 Ladies and gentlemen, I'm going to ask that you step
22 back in your jury room. Don't discuss the case and we'll
23 bring you back out in just a minute.

24 (WHEREUPON, the jury exits the courtroom at 10:36 AM.)

25 THE COURT: All right.

1 MR. CANTRELL: Your Honor, I appreciate the
2 accommodation on some areas that I think are objectionable
3 that might would have come out in this, but there also are
4 other areas of this that should be heard. And, you know,
5 I think if it requires redacting or if it requires the
6 Court to view it or hear it the rest of the way to make
7 that determination, I'm not sure what's the best approach
8 to take.

9 THE COURT: Well, if you want to put that in. This
10 is all that they want to put in. But if you want to put
11 some additional part in...

12 MS. McCALL: And I will remind Mr. Cantrell that all
13 that is after this point is where Investigator Garrett
14 tells him that this is a good case, the last -- the last
15 very violent crime that he was involved in might not have
16 been so bad, but this one was -- was strong. So I don't
17 think that it's something -- I mean, we certainly redacted
18 it for -- for the Court's previous ruling.

19 MR. CANTRELL: And I understand that and appreciate
20 it again. But the fact of the matter is, I think there's
21 a point in here where Mr. Brown stated his desire to
22 exercise his right to have an attorney. I think that ---

23 MS. McCALL: That is where it ends, Your Honor, where
24 he says I don't want to talk anymore. I want an attorney.
25 It's hard to hear, but that is where it ends.

1 MR. CANTRELL: I'm not sure that it's clear in the
2 audio. And I think at some point there was a comment made
3 that Mr. Brown would never see the light of day again.
4 And I think that may be relevant.

5 MS. McCALL: Your Honor, I think the comment that is
6 made at the end of the interview is that this may be the
7 last of your freedom or something to that effect because
8 he is telling him that it is a strong case. And he
9 doesn't ask any more questions at that point. But that
10 comes with the comment that he had previously been
11 involved in another murder.

12 So I certainly don't think it hurts the State's case
13 if Mr. Cantrell wants -- you know, is adamant that it
14 comes in, but we redacted that for the protection of
15 appeal. Certainly, if that's an approach that
16 Mr. Cantrell wants to take as his counsel, then if he
17 wants to put that on the record and protect the case for
18 purposes of appeal, that is fine. But I do think that
19 they are inappropriate things to be played before the
20 jury.

21 THE COURT: One thing to kind of go along with that,
22 I could not tell -- and I guess it's like at the end of
23 your interview and then it's stopped. I didn't hear the
24 part that you could -- I mean that I'm not going to talk
25 to you. I want to talk -- does he say I want my attorney?

1 MS. McCALL: Yeah. I don't want to say anything else
2 without my attorney.

3 THE COURT: Okay.

4 MS. McCALL: And I believe that is said right there
5 at the end.

6 THE COURT: Right. I couldn't hear that, too.

7 MR. CANTRELL: I did not.

8 THE COURT: Maybe we could -- I mean, what other ---

9 MR. CANTRELL: I think those two things as long as --
10 I mean, I would say the primary thing, not so much a
11 comment that may have been made, but the primary thing is
12 that he stated I don't want to talk anymore, I want to
13 have an attorney, I think it's appropriate to tie into the
14 rest of the statement. So I think that's got to be clear
15 to the jury. And it wasn't clear to me.

16 MS. McCALL: I will certainly highlight that, Your
17 Honor. I admittedly did not because I think that kind of
18 teeters on the verge of some appellate issues for them.
19 But I will highlight it if he's adamant.

20 MR. CANTRELL: Just that he ---

21 THE COURT: How about maybe on your
22 cross-examination, could you -- I mean, that may be ---

23 MR. CANTRELL: I certainly can do that, or if it can
24 be stated now for the jury on the record that if the audio
25 was bad that Mr. Brown stated I don't want to talk

1 anymore. I want an attorney.

2 MS. McCALL: I don't think that Your Honor needs to
3 respectfully put that -- I think that needs to be
4 something that comes from Investigator Garrett. I will
5 ask him what those last statements were and have him
6 explain that for the jury.

7 MR. CANTRELL: I guess I need to see how he -- what
8 he says and how he says it.

9 THE COURT: Let's see if we can -- let's play that
10 part again.

11 And for the record, too, at what point do you stop on
12 this video?

13 MS. McCALL: It's a redacted video.

14 THE COURT: Oh, so just -- that's all. Okay.

15 MS. McCALL: And I redacted it right after the point
16 where he says I do not want to speak with you anymore. I
17 want an attorney.

18 (WHEREUPON, State's Exhibit 68, a video recording,
19 continues to play in open court.)

20 MS. McCALL: Did you hear that, Your Honor? He says
21 I want to stop right there and he's shaking his head. And
22 he's like I want a lawyer.

23 THE COURT: Okay. I can't hear that either.

24 MS. McCALL: It is hard. I will question -- I will
25 follow-up with Investigator Garrett.

1 THE COURT: All right. Does that cover your
2 objection?

3 MR. CANTRELL: Yes.

4 THE COURT: All right. You know, I'm sure since we
5 took a break, I'm sure the jury is using this as a break
6 so let's just take a ten-minute break.

7 Tell the jury that we're just going to go ahead and
8 take our morning break for ten minutes.

9 All right. Ten-minute break.

10 (WHEREUPON, a recess is taken at 10:42 AM; State's Exhibit
11 Number 69 was marked for identification.)

12 THE COURT: Is the State ready?

13 MS. McCALL: I have one request, Your Honor, or
14 question about how you would prefer for us to handle this.
15 As we discussed before we got started this morning, we are
16 intending to elicit some testimony about Jaylin Hill's
17 interview, but obviously, we're not playing the recording
18 because of Bruton issues. So I just want to be sure that
19 Your Honor is okay with me saying something to the effect
20 of when I'm asking Investigator Garrett if it was audio
21 and video recorded, yes. If Your Honor is okay with me
22 saying but due to legal evidentiary reasons, we're not
23 able to play that video. I just don't want the jury to --
24 I want them to have some explanation for why it's not
25 being played.

1 THE COURT: Mr. Warder, I don't particularly like
2 that statement.

3 MR. WARDER: Yeah. I don't think -- I don't think we
4 can let that statement. That's like saying, Judge,
5 there's this really, really guilty stuff out here but for
6 some technicality we can't let it in.

7 MS. McCALL: Your Honor, I mean, I just think we need
8 to give them -- and I agree. I mean, I feel a little iffy
9 about it, too, honest. I'm just trying to come up with a
10 way to say it so they have some explanation.

11 MR. WARDER: Sometimes there isn't an explanation and
12 we kind of have to leave that hole.

13 THE COURT: You may just have to ask that and -- I
14 mean, I don't want to be able to kind of just say anything
15 along the lines you've mentioned because I think that
16 makes a bad inference.

17 MS. McCALL: And, I mean, I do understand, certainly,
18 Your Honor. I'm just trying to figure out a way to give
19 them some explanation without telling them it's because it
20 implicates his ---

21 THE COURT: Why don't y'all talk, see if you can't
22 figure out something.

23 (Pause in proceedings.)

24 MS. McCALL: Your Honor, okay, if Your Honor's okay
25 with this, I just won't mention anything about it being

1 audio/video recorded as long as we're under the
2 understanding that the defense isn't going to get up and
3 say but it was audio and video recorded. Why is the --
4 you know, at least in their closing why did you not see
5 that video of Jaylin Hill. So as long as the defense is
6 precluded from insinuating that we were withholding any
7 type of recording from them.

8 MR. WARDER: Your Honor, I have to think about that.
9 That might be his answer.

10 THE COURT: Okay.

11 MR. PRINGLE: You know, I don't want to shoot myself
12 in the foot without thinking about it a little while.

13 THE COURT: You want to take a minute then?

14 (Pause in proceedings.)

15 MS. McCALL: Your Honor, I believe we've resolved the
16 issue in agreement.

17 THE COURT: Okay. What's the agreement?

18 MS. McCALL: Mr. Warder, I'll let him speak for
19 himself.

20 THE COURT: Okay.

21 MR. WARDER: Your Honor, I'm not going to certainly
22 argue to the jury that there's something that doesn't
23 exist so I argue to keep out.

24 THE COURT: Okay. All right.

25 MR. RICHARDSON: And, Your Honor, we would ask that

1 that also apply to the codefendants.

2 THE COURT: All right. And I know y'all don't have a
3 dog in that fight, but what they're saying is Mr. Warder
4 has agreed that he will not reference that it was
5 audio/video taped, the statement of Mr. Hill.

6 MR. PRINGLE: Meaning what?

7 THE COURT: Why don't y'all talk to him for a second.

8 (Pause in proceedings.)

9 THE COURT: All right. Are we all on the same page?

10 MS. McCALL: Finally, Your Honor.

11 THE COURT: All right. So we have kind of a
12 stipulation, I understand.

13 MS. McCALL: Yes, Your Honor. We have a stipulation
14 that the defense will not try to insinuate that the State
15 is withholding a recorded video interview with Mr. Hill.

16 THE COURT: All right. And all defendants are on the
17 same place on that.

18 MR. PRINGLE: Yes, Your Honor.

19 THE COURT: All right. And I know it's his dog,
20 but...

21 MR. PRINGLE: We've discussed it at length.

22 MS. McCALL: Or to mention one at all, Your Honor.
23 To mention video at all.

24 THE COURT: All right. So is the State ready for
25 this jury?

1 MS. McCALL: We are, Your Honor.

2 THE COURT: Brown's ready for the jury? Mosley,
3 y'all ready for the jury?

4 MR. PRINGLE: Yes, Your Honor.

5 THE COURT: And Mr. Hill?

6 MR. WARDER: Yes, sir.

7 THE COURT: All right. Bring the jury in.

8 (WHEREUPON, the jury entered the courtroom at 11:04 AM.)

9 THE COURT: All right. Ladies and gentlemen, I
10 realized after we -- because we were taking a break
11 anyway, that's why we just turned it into our morning
12 break.

13 All right. With that being said, the State's still
14 in the direct testimony of this witness, so you may
15 proceed.

16 MS. McCALL: Thank you, Judge.

17 BY MS. McCALL:

18 Q Investigator Garrett, we had just finished playing
19 the recorded interview of Braelon Brown. At the end of
20 his interview after you presented him with the evidence
21 that you had against him, what statement did he make?

22 A "I don't want to speak anymore without an attorney."

23 Q Did you end the interview as a result of that?

24 A I asked him no more questions.

25 Q After Jaylin Hill was arrested, did you speak with

1 him?

2 A I did.

3 Q I'm going to show you what's been premarked as
4 State's Exhibit 69. Do you recognize that?

5 A I do.

6 Q How do you recognize it?

7 A That's my signature at the bottom.

8 Q Okay. What is it?

9 A It's a Miranda waiver of rights form.

10 Q And whose rights are being waived on that form?

11 A Jaylin Hill.

12 Q Does he sign and initial by all of the waivers?

13 A He does.

14 MS. McCALL: Your Honor, at this time, the State
15 seeks to enter Exhibit 69 into evidence.

16 THE COURT: Any objection on behalf of Hill?

17 MR. WARDER: No, Your Honor.

18 THE COURT: Mosley?

19 MR. PRINGLE: No, Your Honor.

20 THE COURT: And Brown?

21 MR. CANTRELL: No, Your Honor.

22 THE COURT: All right. In without objection.

23 (WHEREUPON, State's Exhibit Number 69 was admitted into
24 evidence.)

25 BY MS. McCALL:

1 Q Prior to interviewing Mr. Hill, did you inform him of
2 his rights?

3 A I did.

4 Q And did he agree to waive those rights and speak with
5 you?

6 A He did.

7 Q And during that interview, did he tell you what
8 happened on the night of December 19th?

9 A Eventually, yeah.

10 Q Did he make an initial statement?

11 A He did.

12 Q At any point in time, did that statement change?

13 A Three more times.

14 Q At any point in time, did he place himself at the
15 scene of the crime?

16 A He did.

17 Q Did he inform you of anything that was said to the
18 victim or between them about money?

19 A Yes. About changing for a 20 but all he had was
20 hundreds.

21 Q So explain that a little bit more. What did Hill say
22 that the dialogue was between him and Kerolos?

23 A Could he change a \$20 bill. And the response was all
24 I have is hundred -- or hundreds.

25 Q And that response about hundreds, was that made by

1 the victim, Kerolos?

2 A Correct.

3 Q Did he inform you that he had told anyone else about
4 their intentions that night when they got -- I'm sorry.
5 Did he inform you that he had told anyone else about his
6 intentions that night ---

7 A Yes.

8 Q --- when he got to Mansion Circle?

9 And what did he tell you his intentions were?

10 A He told his cousin that he intended to rob the
11 victim.

12 Q During your investigation on scene that evening and
13 subsequently thereafter, did you determine if the victim
14 had any weapons on him?

15 A The victim had no weapons.

16 Q Did he have a gun on him?

17 A He did not.

18 Q Did he have a knife on him?

19 A He didn't.

20 Q We know the gun was used in this case to shoot the
21 victim. Was that gun ever recovered?

22 A It was not.

23 Q Did you attempt to locate that gun?

24 A I did.

25 Q Did you search the area of Mansion Circle and

1 surrounding areas in an attempt to locate that gun?

2 A We did with a K-9.

3 Q And none was ever recovered.

4 A It was not.

5 Q Investigator Garrett, how many people were charged in
6 this crime?

7 A Five.

8 Q Who were those people?

9 A Braelon Brown, David Mosely, Jaylin Hill, Jamazzeo
10 Glover and Tyreke McMahand.

11 Q So the three individuals seated at this table were
12 charged.

13 A Correct.

14 Q Jamazzeo Glover, was he charged?

15 A He was.

16 Q And was Tyreke McMahand charged?

17 A He was.

18 Q And what is the status of McMahand's charges?

19 A He was a juvenile and his case has been adjudicated.

20 Q And Thomas Mueller and Nijah Croskey, were they ever
21 charged with a crime in this case?

22 A No.

23 Q And why is that?

24 A They came forward as witnesses almost immediately.

25 Q And did you determine that they were involved in any

1 type of robbery that night?

2 A None I found.

3 Q And did you determine that they were involved in the
4 murder that took place that night?

5 A I did not determine it.

6 MS. McCALL: No further questions, Investigator
7 Garrett. Please answer anything the defense counsel has.

8 THE COURT: On behalf of Mr. Brown?

9 CROSS EXAMINATION

10 BY MR. CANTRELL:

11 Q Good morning, sir. Let's start at the end here.
12 Tyreke McMahand was adjudicated, which, in adult court
13 language, pled in Family Court; is that correct?

14 MS. McCALL: Objection, Your Honor. I believe that
15 that is outside the scope of what we can testify to today.

16 THE COURT: Right. He's a juvenile.

17 BY MR. CANTRELL:

18 Q So the fact of the matter is, you stated he was a
19 juvenile and was adjudicated.

20 A Correct.

21 Q How long ago was that?

22 A 2020, 2021. I'm not sure.

23 Q And he is not present in the courtroom or present for
24 this trial; is that correct?

25 A He's not.

1 Q And Mr. Glover is not currently present in the
2 courtroom and present in this trial for obvious reasons.
3 He came in, testified. So his case or cases are still out
4 there dangling; is that right?

5 A That's right.

6 Q He's got additional cases in addition to these
7 charges; is that correct?

8 A I'm not sure.

9 Q Okay. Now, he was on house arrest when this
10 happened. Do you know if that was because he was on bond
11 or because he had been -- pled already?

12 MS. McCALL: Objection, Your Honor. Relevance to
13 this case.

14 THE COURT: Relevance. Sustained.

15 MR. WARDER: The door's open on that.

16 THE COURT: Not through this witness.

17 BY MR. CANTRELL:

18 Q Let's back up. He was on GPS monitoring, and you
19 were able to check through the monitoring agency
20 everywhere he went; is that correct?

21 A That's correct.

22 Q Again, back up a little bit, start from the end and
23 work backwards. You did indicate -- it was a little hard
24 to hear, but you did indicate that Mr. Brown stated he
25 didn't want to talk anymore, he wanted his attorney or

1 wanted an attorney; is that correct?

2 A That's correct.

3 Q And up to that point, he had not answered any
4 questions or given you any information; is that correct?
5 I'm sorry. Real usable information.

6 A It was useful for me. He was denying what I already
7 knew as true: fingerprints.

8 MR. CANTRELL: Your Honor, I'd object. That's not
9 responsive to my question about what he knew was true.
10 That's got nothing to do with what Mr. Brown was saying.

11 MS. McCALL: Your Honor, it was actually a direct
12 answer to his question.

13 THE COURT. All right. I'm not sure I overrule or
14 sustain your objection since you objected to his answer.
15 So I guess move forward.

16 MR. CANTRELL: That, I can do.

17 BY MR. CANTRELL:

18 Q He did not give you information about the case.

19 A Correct.

20 Q Given what you knew or thought you knew, he did not
21 give you any information about the case or what happened.

22 A That's correct.

23 Q And requested an attorney and decided to quit
24 talking.

25 A True.

1 Q Now, at some point in your discussions with him, did
2 you, based on what you say you knew about the case, did
3 you tell him that you didn't feel like he would see the
4 light of day?

5 A I did not say that.

6 Q What did you say about that type of thing?

7 A This may be the last time you get to talk to me, your
8 freedom. Just I'd like to talk to you again. In other
9 words ---

10 Q Okay. Say that -- what, again, about freedom?

11 A Yeah. We're about to put you in jail. I'd like to
12 talk to you again.

13 Q But you did discuss with him his freedom, I guess, is
14 what I'm saying.

15 A Yes.

16 Q Now, who was the first person arrested on this case?

17 A Jamazzeo Glover.

18 Q So he's the first person you had enough evidence on
19 to issue a warrant for.

20 A That's correct.

21 Q And what charges was -- what was he charged with?

22 A Murder, possession of a weapon during a violent crime
23 and conspiracy.

24 Q Just three?

25 A I think. I'd have to check my notes to be sure.

1 Q Okay. Could you check and be sure? Was there not a
2 fourth one?

3 A I'd have to refer to my report.

4 Q Let me just add, did you charge him with armed
5 robbery?

6 A Yes, I did. I apologize.

7 Q And it was subsequent to that that other warrants
8 were issued, the same four charges for all five
9 defendants.

10 A That's correct.

11 Q And I'm sorry. I'll correct myself there.
12 Mr. McMahan probably not so much warrants since he was a
13 juvenile, but he was charged with same charges.

14 A That's right.

15 Q Okay. But the other four were charged as adults,
16 same four charges.

17 A Correct.

18 Q Okay. In your investigation, you talked to various
19 witnesses. We've heard, I guess, all of them. Did you
20 receive information that Mazze, or Jamazzeo Glover, was
21 the one with the gun and that hit Kerolos? Did you
22 receive that information?

23 MS. McCALL: Objection. Your Honor, he is calling
24 for hearsay. He is asking him to testify to the truth of
25 the matter asserted, for what it was.

1 THE COURT: Yeah. Sustained.

2 MR. CANTRELL: Well, I was just asking if he was told
3 that.

4 THE COURT: Well, I mean, isn't that not what hearsay
5 is? So sustained.

6 BY MR. CANTRELL:

7 Q Okay. So you don't have to answer that. But did you
8 focus in on Jamazeeo Glover first?

9 A I did.

10 Q You had a fingerprint of Braelon Brown that was on
11 the vehicle; is that correct?

12 A That's right.

13 Q So no other forensic evidence as far as Braelon Brown
14 goes.

15 A No.

16 Q And, well, frankly, you had video that Braelon Brown
17 had been in that vehicle once you got that from Spinx; is
18 that correct?

19 A Yeah. Not forensic, but I had video evidence,
20 correct.

21 Q Excuse me one second. And I'm just going to show you
22 this from here. But this diagram, you believe that to be
23 an accurate diagram of where everybody was sitting in the
24 car?

25 A Yes.

1 Q When it got to Kingswood?

2 A That's right.

3 Q So if people were sitting in that fashion when the
4 car stopped, Braelon Brown could not have been the first
5 person out of the car, could he?

6 A Nijah Croskey was in front of him at the door.
7 That's right.

8 Q So Mr. Croskey would have had to have gotten out.

9 A Yes.

10 Q Glover could have gotten out on the other side, but
11 then Braelon Brown could have gotten out on his side.

12 A Yes.

13 Q I knew it would be on the bottom. I should have
14 started there.

15 Is this the only evidence of the trajectory or angle
16 of the shot? Is that the only one you have?

17 A I think so because that's the only one that -- it was
18 tying up the whole garage.

19 Q All right. And this is the rear door?

20 A Rear driver door.

21 Q Okay. And is that -- maybe you can tell better from
22 your distance. The trajectory appears to be somewhat
23 down, maybe slightly, but somewhat down; is that correct?

24 A I'd have to look at it a little closer. (Reviews
25 exhibit) I'm not sure the way the angle of the camera

1 would have been, but it appears to be straight in or
2 straight -- level but at an angle, going in at an angle.

3 Q Now, if it was level, that means the gun would have
4 had to have been held approximately lower than the back
5 trunk of the car. It would have to be fairly low; is that
6 correct?

7 A It is below the door handle.

8 Q But the evidence would show that there were other --
9 there's evidence of other shots or other bullet holes,
10 too.

11 A Yes.

12 Q And the glass.

13 A Correct.

14 Q And you also mentioned Mr. Hill made a statement
15 about telling his cousin something. You have no clue who
16 that person was.

17 A I don't.

18 Q You have no evidence that Braelon Brown was his
19 cousin, do you?

20 A I don't.

21 Q All right. Just one more minute, I think. I think
22 maybe just one last question.

23 All of these defendants were charged with armed
24 robbery; is that correct?

25 A Correct.

1 Q They are here today before the Court on trial for
2 attempted armed robbery; is that correct?

3 A That's correct.

4 Q So changed just within the last few months.

5 MS. McCALL: Objection, Your Honor. Obviously, the
6 only thing that's relevant before the jury is what we're
7 moving forward with as far as charges.

8 THE COURT: Sustained.

9 MR. CANTRELL: Your Honor, if I could be heard. I
10 think it's relevant for the jury ---

11 MS. McCALL: Your Honor, I would object to the
12 speaking objection, depending on what he's going to say.

13 THE COURT: Right. Unless we need to take this in
14 the presence -- outside the jury.

15 MR. CANTRELL: Yes.

16 THE COURT: All right. Ladies and gentlemen, I'm
17 going to have to ask you to go back in your jury room.
18 And don't discuss the case. I'll bring you back in just a
19 few minutes.

20 (WHEREUPON, the jury exits the courtroom at 11:23 AM.)

21 THE COURT: All right.

22 MS. McCALL: Your Honor, we believe that that's
23 inappropriate because that's a legal decision that's
24 outside the purview of the investigator. That is
25 something that we as prosecutors made a decision as to

1 what to go forward on. And that charge is not before the
2 jury, the armed robbery. It is attempted armed robbery.

3 MR. CANTRELL: I think from a factual standpoint,
4 they've got a right to know that law enforcement, after
5 the investigation, saw fit to charge these people with
6 armed robbery and that they are now before the Court on
7 attempted armed robbery. I'm not asking him to explain
8 what they did or vice versa, but I think they've got a
9 right to have the information that there was an armed
10 robbery charge, that's what they were arrested for, that's
11 what they were interrogated about for years and that now
12 they're before the Court on the strong -- I'm sorry --
13 attempted armed robbery charge. And then that's the end
14 of it. That's what I think they're entitled to know.

15 THE COURT: I think the explanation doesn't help you
16 because the guy didn't have anything.

17 MR. CANTRELL: And I think that's the point.

18 MS. McCALL: I mean, honestly, the explanation -- the
19 explanation would be that the evidence shows that his
20 phone was stolen but we never recovered the phone so we
21 didn't have great evidence to go forward on armed robbery,
22 so we chose to indict on attempted armed robbery because
23 we knew there was the intent to steal. So, I mean, if he
24 wants to go that route, that is the evidence that will
25 come out.

1 MR. CANTRELL: Your Honor, I have seen no evidence of
2 a phone being stolen. I just have evidence of a phone
3 being missing. He had a phone from ---

4 MS. McCALL: There are statements made by witnesses
5 and individuals that the victim had a phone and that it
6 was taken. It was taken by Braelon Brown. But they are
7 not necessarily testifying witnesses. I believe one of
8 the codefendants indicated that.

9 MR. CANTRELL: And, again, Your Honor, I think the
10 jury has a right to know -- well, they know now. And
11 maybe that serves the purpose. They know that he was
12 charged with armed robbery. They will know that they are
13 here on attempted armed robbery. That's just the fact. I
14 can stop now, I guess, with that.

15 MS. McCALL: Your Honor, now that the door has been
16 opened, honestly, I think that the charge is still
17 pending. It has not been dismissed. But if he wants to
18 ask him that, then obviously, Investigator Garrett can get
19 into what his reason was for charging that.

20 MR. CANTRELL: I think we've gotten into that. I
21 think if there is the implication that now because I've
22 objected that these gentlemen may get charged with armed
23 robbery is totally inappropriate.

24 THE COURT: I'm not sure that's what -- no.

25 MS. McCALL: That's not what we're saying. I'm

1 saying that Investigator Garrett has leeway now because
2 you've opened the door. If you want to ask that question,
3 he now has leeway to answer to the other evidence and the
4 item that we do believe was taken.

5 THE COURT: All right. Before you all -- okay.
6 You've withdrawn your objection, it sounds like.

7 MS. McCALL: Yes, Your Honor.

8 THE COURT: Okay.

9 MS. McCall: I will withdraw my objection if he is
10 going to go that route.

11 THE COURT: All right.

12 MR. CANTRELL: And as I stated, I think ---

13 THE COURT: She's withdrawn her objection. That's
14 all I know. That's all that applies to me.

15 MR. CANTRELL: Got you.

16 THE COURT: All right. Bring the jury back in.

17 (WHEREUPON, the jury entered the courtroom at 11:28 AM.)

18 THE COURT: All right. Mr. Cantrell, you may
19 proceed.

20 BY MR. CANTRELL:

21 Q Well, just to be clear, I think you along with others
22 noticed that the victim had no shoes on and that appeared
23 unusual at first, but then you found them very close to
24 the original site of where the shell casings were and that
25 sort of thing. So you found them close to the site of the

1 incident; is that a fair statement?

2 A That's right. Yeah. Yes, sir.

3 MR. CANTRELL: That's all I have. Thank you.

4 THE COURT: All right. Cross-examination on behalf
5 of Mr. Mosley?

6 CROSS EXAMINATION

7 BY MR. PRINGLE:

8 Q Good morning, Investigator Garrett.

9 A You, too, Mr. Pringle.

10 Q Let's start with after the shooting took place, you
11 described and testified a little bit about the route that
12 evidently at least four of these boys took when they went
13 to what we're calling just Pine Bluff, right?

14 A Okay. Yes.

15 Q And that would have been -- whose residence was that?

16 A Tori Fleming. Ms. Tori Fleming.

17 Q Ms. Fleming.

18 I can kind of see that. We've seen it enough times,
19 right?

20 A Yes.

21 Q Now, again, that blue -- I'm going to ask you to kind
22 of help in pointing out to the image for the jury if you
23 could. But that blue line, again, this (indicating) is
24 about where the actual incident took place, right?

25 A About. So I put that in the middle because casings

1 are right here (indicating) at Buick, but the vehicle is
2 at 103, so I put it in the middle.

3 Q Okay. And yeah. And like we'll get to that image
4 with the red. There's obviously quite a spread.

5 A Right.

6 Q Okay. But just for the purposes of getting to Pine
7 Bluff, we start off about here (indicating), and we run to
8 here (indicating).

9 A Correct.

10 Q Okay. And you said -- did you say that you actually
11 followed that path that tracked it?

12 A Not that one.

13 Q Oh. It was Glover's.

14 A No. This path here (indicating) is just where I'm
15 from the way the crow flies. That's the distance.

16 Q Okay. So you prepared that knowing the two points,
17 and then it's just a straight line.

18 A Yeah. That's just the distance between here and
19 there.

20 Q We're saying that if they ran straight there, it
21 would have been about 1.06 miles. A little more than a
22 mile.

23 A Right.

24 Q And do we know, again, how long approximately it took
25 them to get to Pine Bluff?

1 A I know the original call -- 9-1-1 call came in at
2 7:51, and Ms. Fleming's call came in at 8:58, so a little
3 over an hour.

4 Q Okay. Now, all the evidence seems to show that these
5 boys didn't just casually stroll away from the shooting,
6 did they?

7 A Correct.

8 Q They ran away, right? And it looks like they
9 traveled at least 1.06 miles if they went straight there.

10 A That would be right.

11 Q Right. Okay. Now, this was at night, right?

12 A Right.

13 Q Now, are you familiar with this (indicating) area? I
14 mean, I know you said you didn't walk it, but can you
15 describe kind of the terrain? What are we dealing with?

16 A I don't know about the terrain between there. I
17 drove these roads days after following up with my
18 investigation, routes, obviously looking for a gun and
19 other evidence between here and there. And I drove the
20 roads.

21 Q There's a number, and not pinning it down anywhere
22 specifically, but there's a number of fences and fenced-in
23 yards and properties in this area, correct?

24 A I would say.

25 Q Yeah. And isn't this and maybe some of these darker

1 -- those are woods, right? Wooded areas?

2 A That's right.

3 Q Okay. So we know that the four boys ran through all
4 that, don't we? I mean, one way or another, they had to
5 traverse that area to get to where they got within that
6 time frame.

7 A I don't know if they took the roads or went straight
8 through. I wish I did know.

9 Q They might have -- they might have ran through
10 somebody's yard.

11 A Correct.

12 Q They may have jumped a fence or two.

13 A Could have.

14 Q Yeah. And they very likely ran through some wooded
15 areas.

16 A True.

17 Q If you look at the overhead, it looks like a bunch of
18 that is woods.

19 A There is between there. I just don't know the route
20 they took. I wish they did.

21 Q Right. Of course, of course.

22 THE COURT: All right. Mr. Pringle, make sure he --
23 y'all can't be talking at the same time.

24 MR. PRINGLE: I'm sorry, Judge. You told me that
25 three or four -- I'm sorry. I'm sorry.

1 THE COURT: She's the one you need to apologize to.

2 BY MR. PRINGLE:

3 Q And, again, that was all at night and obviously in
4 haste, right?

5 A Correct.

6 Q Okay. And, you know -- yeah. Excuse me.

7 Okay. So, you know, we talked a little bit about
8 this, you know, and I'm sure you sat through the testimony
9 of all this DNA stuff and you've heard the words
10 "cross-contamination," "contamination," how DNA can be
11 passed. And the prosecutor asked you -- you know, we've
12 shown this trash can multiple times. I'm not going to put
13 it back up. We've seen it enough -- about how that swab,
14 cotton piece, ball, whatever, we've used multiple terms,
15 that that was recovered, correct?

16 A Correct.

17 Q And we know there was at least three DNA samples on,
18 it, correct?

19 A Correct.

20 Q And we've been over this. We know that David
21 Mosely's DNA, Kerolos's DNA and a third party.

22 A Correct.

23 Q And from prior testimony of the expert, we know that
24 there could have been even more DNA on that, couldn't
25 there?

1 A It could have been.

2 Q Okay. But we know there was at least one more. And
3 that person to date has never been identified.

4 A Right.

5 Q Okay. And, again, there could have been even more
6 that were not identified.

7 A Right.

8 Q Right. And it came out that, of course,
9 unfortunately, nothing else from that trash can was
10 tested, correct?

11 A Correct.

12 Q And you said that that was common practice. What did
13 you say?

14 A So, we'll do a case review with DNA, the DNA lab.
15 And they'll review what's more probable that we're going
16 to get results from. And that's on top of everything. It
17 was suggested for me to test that first, so I did.

18 Q Okay. And when we looked at that can, I mean,
19 there's a lot of stuff. It's a trash can.

20 A Right.

21 Q Okay. And would you agree that some other stuff out
22 of that can could have been tested?

23 A No. I'd have to go past where my evidence is on top.
24 My -- this woman pointed -- directed us to that cotton,
25 the blood, so I'm focused on that.

1 Q Right. And we already know that there's any number
2 of ways that those three results could have ended up on
3 that ball, right?

4 A Right.

5 Q Okay. Are you saying it's not even possible that
6 there was other stuff in that trash can that could have
7 been tested that might have helped us?

8 A No.

9 Q It's not possible?

10 A I wouldn't test it. I mean, it would be like testing
11 the victim's wallet. It wasn't relevant. She directed us
12 to what she used on his hands, so I tested that.

13 Q Yeah.

14 A But I didn't have a suspect then. I just knew it's
15 somebody of interest.

16 Q Well, you heard her testimony, right?

17 A Whose?

18 Q Tori's.

19 A Yes.

20 Q And, you know, she obviously said all this happened
21 really fast. She didn't have a chance to really examine
22 everybody and figure it all out. Doesn't even know who
23 these kids were.

24 A Right.

25 Q Okay. So she clearly wouldn't have known if anybody

1 or anything else might have also been put in that trash
2 can without her knowledge, could she? There could have
3 been other stuff in there.

4 A I don't -- I'm not going to consent to that because
5 she showed us the cotton that she used and the suspected
6 blood, so we focused on that.

7 Q Okay. And we know from the expert that whatever that
8 touched, it would have been picking up stuff from other
9 sources, right?

10 A Right. Ms. Fleming's DNA which could have been the
11 trace, the victim and Mr. Mosley.

12 Q Perfect.

13 Okay. All right. You said you met with David, my
14 client, Mosley.

15 A Yes.

16 Q And you said you took that picture. That's his hand.

17 A Correct.

18 Q Okay. And, you know, although you know I contest
19 that we don't know exactly what that is, you would agree
20 that regardless of what it is, it was ten days after the
21 shooting.

22 A That's right.

23 Q So, I mean, I know you've made some conclusions and
24 you have suspicion, but you really have no idea of how
25 those got there, do you?

1 A I don't.

2 Q Okay. And you heard Tori Fleming say that he had
3 some damage to his knuckles.

4 A I did.

5 Q Right?

6 A Right.

7 Q Okay. Are these knuckles?

8 A Those are.

9 Q Okay. You know, some people might refer to these as
10 knuckles, but generally, we refer to this (indicating) as
11 knuckles, right? Like knuckle sandwich?

12 A A knuckle sandwich, yes.

13 Q Okay. So it looks like he's got some stuff lower on
14 his fingers, I guess.

15 A Yes.

16 Q Right? Okay.

17 Why do you think they never showed that picture to
18 Tori?

19 A When? I'm confused.

20 Q Today. Yesterday at trial.

21 MS. McCALL: Objection, Your Honor. Speculation.

22 He's asking him to answer a question he wouldn't know the
23 answer to.

24 THE COURT: Right. He's not ---

25 BY MR. PRINGLE:

1 Q Okay. We agree that's David's hand, right?

2 A It is.

3 Q And they had Tori get up there and say she worked on
4 his knuckles. Maybe we're talking about the same thing.
5 Maybe we're not. It's ten days later. But you'd agree
6 they never showed her this picture, did they?

7 A No. I don't think they did.

8 Q All right. Let's shift to the Spinx videos, I'm
9 calling them collectively. That evidently proves that
10 these boys were together at Spinx, doesn't it?

11 A They were.

12 Q Yeah. And it proves that evidently they got maybe
13 somebody over 18 to buy them some tobacco.

14 A Correct.

15 Q Other than that, it doesn't prove or tell us anything
16 about what happened, does it?

17 A Not at the Spinx at the time of the shooting.

18 Q So out of all those photos and videos that we saw
19 over and over, they really don't tell us anything other
20 than these boys were together at Spinx at that time.

21 A Yeah. Just before what happened.

22 Q And one of those boys, of course, was Mazze, Jamazzeo
23 Glover. We've obviously talked a lot about him.

24 A Yes.

25 Q And he was there. He was one of them, right? In

1 fact, again, he was the first -- he was the first one to
2 be investigated in this whole thing, wasn't he?

3 A Yes.

4 Q It all started with him.

5 A Yes.

6 Q And, of course, he was charged with everything that
7 these boys were charged with, wasn't he?

8 A He was.

9 Q Exact same frying pan.

10 A Correct.

11 Q And, you know, he showed up, of course, Monday and
12 became the State's star witness, didn't he?

13 A Correct.

14 Q Okay. And so you sat through his testimony, too,
15 didn't you?

16 A I did.

17 Q And you heard him tell his latest story, didn't you?

18 A I did.

19 Q And you also heard the two eyewitnesses, the boys.
20 The one that was clearly traumatized by the loss of his
21 friend. You heard their testimony, too, didn't you?

22 A I did.

23 Q And you heard what they said about Jamazzeo Glover,
24 didn't you ---

25 A Yes.

1 Q --- what their testimony was?

2 A I did.

3 Q Okay. Now, we've also heard a lot about this Tyreke
4 McMahan?

5 A Yes.

6 Q Glizzy, I believe, correct?

7 A Correct.

8 Q He was also part of all this.

9 A He was.

10 Q And he was one of the first original five charged in
11 this case. I think you said that it would be obviously
12 Glover, Brown, David Mosely, Jaylin Hill and Tyreke
13 McMahan, right?

14 A That's correct.

15 Q Those are the five. They were all charged same stuff
16 leading off.

17 A That's right.

18 Q And, of course, now we know that McMahan pled his
19 case in juvenile court.

20 MS. McCALL: Objection, Your Honor.

21 THE COURT: Right. Sustained. We've already gone
22 through this. It was adjudicated. We can't get into the
23 details of the juvenile.

24 BY MR. PRINGLE:

25 Q Okay. And, obviously, pretty much all these guys

1 were juveniles, weren't they, at the time?

2 A Not all of them.

3 Q There was just one that wasn't?

4 A Glover and Brown.

5 Q Okay. Glover and Brown. Excuse me. The rest were
6 also juveniles, boys.

7 A Correct.

8 Q And, you know, when I asked you about McMahand, in
9 fact, at any time, did you investigate the possibility of
10 any other shooters?

11 A All of them at the time I was looking at it was
12 possible.

13 Q You didn't look into McMahand?

14 A I looked into all of them. Even -- yeah. All of
15 them. I looked at all of them collectively.

16 Q Uh-huh. Did McMahand give you any reason to maybe
17 check him out?

18 MS. McCALL: Objection, Your Honor. He's asking for
19 hearsay.

20 THE COURT: Sustained.

21 BY MR. PRINGLE:

22 Q Did McMahand give a statement?

23 MS. McCALL: Objection, Your Honor. That is not
24 relevant as he is not a part of the crime.

25 MR. PRINGLE: I'm just asking if he gave a statement.

1 THE COURT: Sustained.

2 BY MR. PRINGLE:

3 Q Did -- well, all right. How About this. Have you
4 spoken to McMahan recently?

5 A I have.

6 Q Huh?

7 A Yes.

8 Q You have? Like maybe in the last day or two?

9 A Not in the last day or two.

10 Q Huh?

11 A Not in the last day or two.

12 Q You haven't talked to him within the last few days?

13 A Last week.

14 Q Okay. What did you talk to him about?

15 MS. McCALL: Objection, Your Honor. He's asking for
16 hearsay.

17 THE COURT: Yeah. Sustained.

18 BY MR. PRINGLE:

19 Q Why did you feel the need to go see him?

20 A He was arrested in another case.

21 Q And he'd been charged with murder in this case,
22 right, and everything else?

23 A Correct.

24 Q Were you aware that he was on the witness list?

25 A I was.

1 Q And so that meant that he might testify in this case,
2 right?

3 A Could have.

4 Q Okay. Did that have anything to do with why you went
5 to see him?

6 A I do not make the witness list. I ---

7 Q You didn't go see any other of these guys, did you?

8 A Hu-uh.

9 Q But you went to see him, and it was about this case,
10 wasn't it?

11 A Yes. It came up.

12 Q Uh-huh. And now he's not testifying, is he?

13 MS. McCALL: Objection, Your Honor. He's asking for
14 questions that Investigator Garrett cannot answer.

15 THE COURT: Sustained.

16 BY MR. PRINGLE:

17 Q Okay. All right. Well, how about this. I'm going
18 to ask about what you said. Did you say anything to
19 McMahan ---

20 A I did not.

21 Q --- to make him not want to testify?

22 A No, I did not.

23 Q Nothing at all.

24 A Hu-uh.

25 Q He could have never perceived that by anything you

1 said.

2 A I don't know what he was perceiving from me.

3 Q All right. So just to get that out of the way, you
4 did not threaten him in any way.

5 A I have not threatened anyone in this case.

6 Q All right. I want to wrap up with this one here.

7 Okay. Now, we've seen that plenty of times as well.

8 That's the overhead and, I guess -- well, you prepared
9 that illustration, the red line?

10 A It is.

11 Q And, again, that represents right around here
12 (indicating) is where it started?

13 A Correct.

14 Q And then, of course, this (indicating) is where we
15 located Kerolos in his vehicle.

16 A That's right.

17 Q Okay. And, again, did you ever determine like,
18 again, how far is that from the first point to the last
19 point?

20 A About 85 yards.

21 Q Okay. And it appeared that there was like debris,
22 shell casings, you know, different things that were kind
23 of, lack of a better term, spread out or strewn out
24 through this (indicating) area?

25 A There's only one other thing. And I prepared this

1 from my notes so like four years later I can know where it
2 started and where it end is one end was just shell casings
3 and the live round and blood and glass, the other end was
4 the victim's vehicle, and there was only one other thing
5 in between, and that was some shattered glass about
6 midway.

7 Q Okay. All right. So to be most accurate, I went
8 like this (indicating), but you're really talking maybe a
9 small little area of spread-out stuff like what we saw in
10 the pictures with the markers and stuff?

11 A That's right.

12 Q Okay. And, of course, you know, the State has
13 charged that there was an attempted armed robbery at that
14 scene.

15 A Right.

16 Q Okay. And obviously, that robbery failed, didn't it?

17 A Yes.

18 Q Okay. All the testimony and evidence seems to
19 indicate that the car was rolling away slowly when he was
20 shot and killed, correct?

21 A It appears that way.

22 Q Yeah. And it looked -- and it looks like, and I
23 think your testimony was, that clearly all the shots came
24 from outside the vehicle.

25 A That's right.

1 Q So there was nobody in the vehicle that shot Kerolos.

2 A That's right.

3 Q It all happened outside the vehicle.

4 A Correct.

5 Q And he was clearly in that vehicle like operating it,
6 trying to drive away.

7 A That's correct.

8 Q Okay. When he was killed.

9 So obviously, we'd have to say that he got away from
10 that scuffle. Whether it was an armed robbery, a fight,
11 whatever, he escaped initially.

12 A Initially.

13 Q He got in his car, right? So he got out of the fight
14 or the scuffle, clearly.

15 A Right.

16 Q Got in the car, started to drive away and that's when
17 he's shot and killed?

18 A That's what it appears.

19 Q Yes, sir. All right. And so I don't know if we
20 determined this like in a legal sense, but he was killed
21 by gunshots, wasn't he?

22 A Yes.

23 Q He was not beaten to death.

24 A Correct.

25 Q Okay. He wasn't stabbed to death.

1 A Right.

2 Q Nothing. He was shot to death.

3 A That's true.

4 Q And that was after he got in his car and started to
5 roll away from the alleged attempted armed robbery.

6 A Right.

7 MR. PRINGLE: Thank you. Nothing further.

8 THE COURT: Cross-examination on behalf of Mr. Hill?

9 MR. WARDER: If it please the Court, I have no
10 questions of this witness.

11 THE COURT: All right. Redirect?

12 MS. McCALL: Just briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. McCALL:

15 Q The defense asked you if this case was -- if one of
16 the charges they were originally charged with was armed
17 robbery, but today this case is before the Court on
18 attempted armed robbery; is that correct?

19 A That's correct.

20 Q What was your thought process behind charging the
21 defendants with armed robbery?

22 A Based on my investigation that night and days
23 afterwards, the victim, Kerolos, had a cell phone that he
24 was using at McDonald's and at Spinx. We didn't recover
25 that cell phone on his body or in his vehicle or anywhere

1 near the scene. It's still missing. But -- and it's
2 still missing. I charged them with armed robbery.

3 Q And the State, which is our decision, but we are
4 going forward on attempted armed robbery, not armed
5 robbery, correct?

6 A That's correct.

7 Q Is there evidence that you discovered during your
8 investigation that there was, at the very least, an
9 attempted armed robbery?

10 A I did.

11 Q And is that a lesser charge than armed robbery?

12 A I'm not sure.

13 Q The defense mentioned the Spinx video, that it
14 doesn't prove anything that happened on Mansion Circle,
15 but what does the Spinx video prove to you?

16 A They were together 19 -- for when they left at about
17 19 -- 7:32, and at 7:51 the 9-1-1 calls come in, so just
18 before.

19 Q And did at least one of the defendants, Braelon
20 Brown, deny to you that he was at Spinx?

21 A He did.

22 Q Did that video disprove what he told you?

23 A That's correct.

24 Q The defense also asked you about Jamazeeo Glover and
25 they want to indicate and insinuate that he just decided

1 to become cooperative today. Is that true?

2 A That's not true.

3 Q What is true?

4 A The day I arrested him, he immediately wanted to
5 talk. I had to stop him, get him in an interview room and
6 advise him of his rights.

7 Q Has he always maintained that cooperation with you?

8 A He had.

9 Q Tyreke McMahan, evidence came out that his charges
10 were adjudicated in juvenile court. How old was he at the
11 time of the shooting?

12 A 14.

13 Q Was he the youngest out of all these defendants?

14 A He was.

15 Q Mosley's knuckles, let's talk about that a little
16 bit. They bring up that, obviously, the DNA evidence.
17 Mr. Pringle talked a lot about that. Regardless of what
18 caused Mosley's knuckles to have injuries or damage or
19 whatever it is on his knuckles, is there evidence that
20 Mosley was at Tori Fleming's house that night?

21 A There is.

22 Q Is there evidence that his knuckles were doctored or
23 treated by Tori Fleming?

24 A Yes. By Ms. Fleming.

25 Q And is that the reason that you tested his DNA?

1 A It is.

2 Q Have you discovered any evidence in this case
3 whatsoever that Kerolos Zaky, the victim in this case, was
4 ever at Tori Fleming's house?

5 A No. None.

6 Q Did Fleming provide any information that these boys
7 put anything else in her trash can that night?

8 A No, she did not.

9 Q Mr. Pringle asked about Mosley's knuckles, and he
10 stated that it was -- this photo was taken, I believe,
11 roughly ten days after the incident; is that correct?

12 A That's right.

13 Q And I know you're no doctor, but did that appear to
14 you that those were fresh wounds or that they were in
15 stages of healing?

16 MR. PRINGLE: Objection. He's not a doctor. Even
17 she said so. Again, that could be a rash. That could be
18 a virus, fungus.

19 THE COURT: I'm going to sustain. You can object,
20 but I don't want you testifying as a doctor either.
21 Sustained.

22 MR. PRINGLE: Thank you.

23 BY MS. McCALL:

24 Q Investigator Garrett, based on the information that
25 you had been provided about someone's knuckles being

1 treated ten days prior, is there a reason you took this
2 photograph of Mr. Mosley's hand?

3 A Yes. They're not bleeding now.

4 Q It's no secret that Thomas Mueller, at one point,
5 stated that Jamazzeo Glover had the gun. Do you recall
6 that during your investigation?

7 A Mueller?

8 Q Mueller. Yes. I know you did not interview him, but
9 during your investigation, did you discover that a
10 statement was made to that effect?

11 A Yes.

12 Q Okay. And out of the individuals in that car, was it
13 your determination that Mr. Mueller was the only one who
14 did not know these individuals before that night?

15 Mr. Mueller and the victim. I'm sorry.

16 A Right. They never met him before.

17 Q Other than that one statement from Mr. Mueller, did
18 all of the other -- all of the other evidence and
19 statements that you gathered point to Braelon Brown having
20 the gun and being the shooter?

21 A It did.

22 MS. McCALL: Thank you. I have no further questions.

23 MR. CANTRELL: Your Honor, can I be heard on a couple
24 questions that brought up new information?

25 THE COURT: I'll let you go into that.

RECROSS EXAMINATION

BY MR. CANTRELL:

Q In fact, two questions.

On the last question as to who had the gun, you had statements also or witnesses who said I couldn't tell who had the gun or I didn't see who had the gun.

A Yes. I had some of those.

Q And do you have statements that the gun was passed around?

A I did.

Q And Mr. Mueller might have just met these fellows that night, but he was sitting in a car and had been with them for over an hour in lighted areas. He had been sitting with them for a good while in close proximity; is that correct?

A Yeah. That was a tight vehicle.

Q So when he told you Mazze, you had every reason to believe he meant Mazze.

A I didn't know who Mazze was at that time. It took me ---

Q Who did you think it was or who did you think he was talking about?

A I don't know. At the time, I didn't know who Mazze was. I didn't find that out until the next morning when we checked our moniker and nickname file.

1 Q Let me change the question. When he told you Mazze,
2 he appeared to mean Mazze who was Glover.

3 MS. McCALL: Objection, Your Honor. I want to
4 clarify that this is not the witness that Mr. Mueller
5 talked to so he did not actually tell this witness that.

6 MR. CANTRELL: I can rephrase.

7 THE COURT: Yeah. Rephrase your question.

8 BY MR. CANTRELL:

9 Q Was it reported to you that Mueller said Mazze had
10 the gun?

11 A Yes.

12 Q And was it reported to you that Mazze was actually
13 Glover?

14 A I don't recall that.

15 Q So you're saying Jamazzeo Glover was known as Mazze?

16 A Jamazzeo Glover is known as Mazze. I found that out
17 later, yeah.

18 Q Okay. All right. And then the last question, just
19 very simply, you were asked about a cell phone. So you're
20 saying that the only reason you issued a warrant for armed
21 robbery is because there was an unfound cell phone.

22 A Correct.

23 Q Never found.

24 A It was not.

25 MR. CANTRELL: Thank you. No further questions.

1 THE COURT: All right. Thank you. You may step
2 down.

3 All right. State, call your next witness.

4 MS. McCALL: The State calls Dr. Michael Ward to the
5 stand.

6 THE CLERK: Please place your left hand on the Bible
7 and raise your right hand.

8 WHEREUPON,

9 MICHAEL WARD

10 After having been duly sworn, testified as follows:

11 THE CLERK: Thank you. Please take a seat and state
12 your name for the record.

13 THE WITNESS: Michael Eugene Ward.

14 DIRECT EXAMINATION

15 BY MS. McCALL:

16 Q Good morning, Dr. Ward. How are you doing?

17 A Good morning. I'm very good. Thank you.

18 MS. McCALL: Beg the Court's indulgence for just one
19 moment.

20 BY MS. McCALL:

21 Q Dr. Ward, where do you work?

22 A I'm employed here in Greenville by Pathology
23 Associates of Greenville as well as by Greenville County
24 as the chief medical examiner.

25 Q And how long have you worked in that role?

1 A Almost 30 years.

2 Q What education and training do you have that prepared
3 you for your role?

4 A I have a bachelor's degree in biology from the
5 University of Alabama, a master's degree in forensic
6 science from the University of South Alabama -- sorry --
7 from the University of Alabama in Birmingham, received my
8 medical degree from the University of South Alabama, I
9 attended a four-year anatomic pathology residency at the
10 Medical University of South Carolina, had a one-year
11 fellowship in forensic pathology at the University of New
12 Mexico in Albuquerque. I'm board certified by the
13 American Board of Pathology in both anatomic and forensic
14 pathology.

15 Q Dr. Ward, do you conduct autopsies?

16 A Yes, I do.

17 Q And can you approximate how many autopsies you've
18 conducted in your career?

19 A Well over 7,000.

20 Q Have you ever testified as an expert witness in a
21 court of law?

22 A Yes, I have.

23 Q How many times?

24 A Over a hundred times here in Greenville.

25 MS. MCCALL: Your Honor, at this time, the State

1 offers Dr. Ward as an expert in the field of pathology and
2 autopsy examination.

3 THE COURT: Any objection or voir dire from Brown?

4 MR. CANTRELL: None. In fact, we would stipulate to
5 that.

6 THE COURT: Any objection or voir dire from Mosely?

7 MR. PRINGLE: Same. No objection.

8 THE COURT: And Hill?

9 MR. WARDER: No, Your Honor.

10 THE COURT: And you said forensic pathology and
11 autopsy?

12 MS. McCALL: Yes, Your Honor.

13 THE COURT: All right. Ladies and gentlemen, as I
14 told you previously, an expert can testify about their
15 opinions and conclusions in a manner a little bit
16 different than a regular -- a lay witness. And this is
17 based on their experience, their training and their
18 education. And like all witnesses and all evidence, you
19 are to give it the weight that you feel is appropriate.
20 And he's been qualified in forensic pathology and
21 autopsies.

22 So you may proceed.

23 MS. McCALL: Thank you, Judge.

24 BY MS. McCALL:

25 Q Can you briefly describe an autopsy and the purpose

1 of an autopsy?

2 A An autopsy is a detailed physical examination
3 performed on someone who has died. Its purpose is to
4 determine cause and manner of death as well as to document
5 any natural disease or injuries that may be present.

6 Q Did you conduct an autopsy on Kerolos Zaky in
7 December of 2019?

8 A Yes, I did.

9 Q And can you explain the injuries that you observed to
10 Mr. Zaky? Anything on his head? Were there any injuries?

11 A Yes. There were four separate blunt-force injuries
12 to Mr. Zaky's head. There was a bruise behind the left
13 ear, a patterned bruise behind the right ear. There was a
14 laceration or a tear of the skin to the right occipital
15 scalp and a separate bruise above the left ear.

16 Q Were those injuries that you testified to, were those
17 fatal injuries?

18 A No. They would not have been.

19 Q Dr. Ward, I'm going to show you what's been premarked
20 as State's Exhibits 58, 59, 60 and 61. Can you tell me if
21 you can identify and recognize those?

22 A (Reviews exhibits) Yes, I can.

23 Q And how do you recognize those?

24 A Those are photographs taken by the Department of
25 Public Services, the forensics team, during the autopsy.

1 Q Are they in the same condition and appear to show the
2 same things that you viewed that day during the autopsy?

3 A Yes, they do.

4 MS. McCALL: Your Honor, at this time, the State
5 seeks to enter Exhibits 58, 59, 60, and 61 into evidence
6 and publish.

7 THE COURT: All right. Objection on behalf of
8 Mr. Brown?

9 MR. CANTRELL: None, Your Honor.

10 THE COURT: On behalf of Mosley?

11 MR. PRINGLE: No, Your Honor.

12 THE COURT: And Hill?

13 MR. WARDER: No objection, Your Honor.

14 THE COURT: All right. In without objection.

15 (WHEREUPON, State's Exhibit Numbers 58 through 61 were
16 admitted into evidence.)

17 BY MS. McCALL:

18 Q Dr. Ward, I'm going to show you State's Exhibit 58.
19 Can you explain for the jury what we're looking at?

20 A Yes, ma'am. This is the back right of Mr. Zaky's
21 head demonstrating the pattern contusion behind the right
22 ear as well as the tear in the skin or the laceration of
23 the right occipital scalp.

24 Q Dr. Ward, I'd like to direct you to this particular
25 injury here (indicating). Does this appear consistent

1 with having been hit by the butt of a gun?

2 A It is a pattern injury rectangular in shape and would
3 be consistent with that weapon, yes.

4 Q And does this injury appear consistent with having
5 been hit by a hard object?

6 A It is a laceration of the skin which is blunt-force
7 trauma which would result -- which would only be caused by
8 being hit with a hard -- a blunt object, yes.

9 Q I'm going to show you State's Exhibit 61. What can
10 you tell the jury about the injuries on Mr. Zaky's face?

11 A Here's another pattern contusion consisting of two
12 parallel lines to the forehead, an abrasion to the
13 bridge of the nose and a superficial bruising of the lower
14 lip.

15 Q Are those injuries that could be consistent with
16 having been in a fight or punched in the face?

17 A They are most -- they are blunt-force injuries and
18 could be consistent with having been involved in an
19 altercation. Other things include a terminal collapse
20 where he may have fallen. But there are multiple body
21 surfaces, so they're inconsistent with a fall, more
22 consistent with blunt trauma to the face.

23 Q Dr. Ward, can you tell us anything about when you
24 believe these injuries took place prior to his death?

25 A There's no obvious healing to these injuries, and so

1 I would say that they are contemporaneous or around the
2 time of his death.

3 Q I'm going to show you State's Exhibit 60. What is
4 that? Let me zoom out just a minute. Is that a portion
5 of his arm?

6 A I believe it is. I'm just making sure I'm in the
7 right location here.

8 These are abrasions of the upper extremity here, here
9 and here as well as a bruise here in the arm (indicating
10 throughout).

11 Q And Exhibit 59, what does that show?

12 A Those are linear abrasions or scratches of the skin.
13 This is the right upper back. Here's the scapular.
14 Prominence would be in this region here. And so these are
15 linear abrasions of the skin indicating that the skin is
16 moving across a roughened, hard surface causing that type
17 of an abrasion (indicating throughout).

18 Q Is this injury likely have also been contemporaneous
19 with the death of this individual?

20 A Yes. There's no -- there's no healing, there's no
21 scab formation, very minimal inflammation around it so
22 contemporaneous to the time of death.

23 Q Did you also examine Mr. Zaky's body and find another
24 injury to his body?

25 A Yes, I did.

1 Q And what was that particular injury?

2 A Mr. Zaky had a gunshot wound to his back. Do you
3 want me to proceed with the wound path or you want to ---

4 Q Actually, let me show you these exhibits so we can --
5 I think it will help the jury understand. I'm showing you
6 62 and 63, also 64 while I have you here. Do you
7 recognize those photographs?

8 A Yes, I do.

9 Q And how do you recognize those?

10 A Again, they are photographs taken during the time of
11 the autopsy.

12 Q And are they reflecting what you observed during the
13 autopsy?

14 A Yes, they are.

15 MS. McCALL: Your Honor, at this time, the State
16 seeks to enter Exhibits 62, 63, and 64 into evidence and
17 publish.

18 THE COURT: All right. Any objection on behalf of
19 Brown?

20 MR. CANTRELL: None, Your Honor.

21 THE COURT: On behalf of Mosley?

22 MR. PRINGLE: No, Your Honor.

23 THE COURT: On behalf of Hill?

24 MR. WARDER: No, Your Honor.

25 THE COURT: All right. In without objection.

1 MS. McCALL: Thank you.

2 (WHEREUPON, State's Exhibit Numbers 62 through 64 were
3 admitted into evidence.)

4 BY MS. McCALL:

5 Q I would like to start with Exhibit 64. Can you tell
6 the jury what that is?

7 A Yes, ma'am. This is a -- this is a photograph of the
8 left cheek roughly in this (indicating) region here, the
9 left cheek of Mr. Zaky. And it is a penetrating injury
10 with a superficial wound. And the copper-colored material
11 that you can see there is a fragment of jacket material, a
12 portion of the projectile. It was a jacketed projectile.
13 It has fragmented meaning that the projectile has passed
14 through something else prior to impacting Mr. Zaky, broken
15 apart, and a portion of that having struck him and
16 penetrated into his cheek.

17 Q Is this injury what caused Mr. Zaky's death?

18 A No, it's not.

19 Q Did he suffer from an additional or an actual gunshot
20 wound?

21 A There is another gunshot wound, yes.

22 Q I'm going to show you State's 62. What is that?

23 A So this is a photograph of Mr. Zaky's back. This
24 entrance wound is to the left mid-back just to the left of
25 the midline. This is a circular gunshot wound of entry so

1 it's nice and round. It has even abrasion margins around
2 it indicating that this projectile has not passed through
3 another object prior to striking Mr. Zaky. So it is a
4 separate wound from the wound to his cheek. It's not the
5 same projectile.

6 But this wound then goes through the skin and muscle
7 of his back, through the seventh vertebrae transecting his
8 spinal cord at that region, then enters into the right
9 chest where it perforates the right lung and exits his
10 right anterior chest just to the right of his nipple.

11 Q I believe that you testified that it did not hit
12 anything before -- after being released from the gun and
13 hitting his body, it did not hit anything else in between
14 that time; is that correct?

15 A The wound is consistent with a ballistic missile
16 which indicates it had not passed through another object.

17 Q So it was possible that it could have traveled
18 through an already broken window. It would not have hit
19 glass before.

20 A This wound -- this projectile has not broken glass
21 before it hit Mr. Zaky.

22 Q And what was the travel of this bullet through
23 Mr. Zaky's body?

24 A It goes from his back to his front and from his right
25 -- excuse me -- from his left to his right.

1 Q I'm going to show you 63. What is that? This way.

2 A So this photograph of Mr. Zaky's right chest, and
3 this is the exit gunshot wound to the right chest. Here's
4 the chest axilla, here's the nipple, and here's the exit
5 gunshot wound (indicating throughout).

6 Q After exiting out of Mr. Zaky's chest, did it enter
7 any other portion of his body?

8 A Yes, it did. After exiting here (indicating), it
9 immediately goes into the skin of the inside of the right
10 arm where it separates into a jacket component and the
11 lead core component which were then recovered separately
12 at autopsy.

13 Q And you said recovered at autopsy. Were the
14 projectiles from Mr. Zaky's body recovered?

15 A Yes, they were.

16 Q Was one of those projectiles intact and meaning not
17 fragmented?

18 A "Intact" is not the correct word. The lead core and
19 the jacket had separated into two components, but they
20 were separate from the fragment recovered from his cheek.

21 Q Thank you for explaining that.

22 The injury to Mr. Zaky's body from that gunshot
23 wound, what would have been the impact to his ability to
24 function? How would that have impacted him?

25 A So transection of the spinal cord of the level of T7

1 would have caused him to have lower extremity paralysis
2 immediately. He would still, I think, have function of
3 his arms, would still be able to breathe, but he would
4 have become immediately paralyzed from at least the waist
5 down. It would have caused significant blood loss
6 internally, having passed through the hilum of the right
7 lung where there are very large blood vessels. He would
8 have begun to immediately bleed into his right chest.

9 Q If I were to tell you that Mr. Zaky drove a car that
10 required him to push the brake and push a button in order
11 to start the vehicle, is that something he would have been
12 able to do after suffering this gunshot wound?

13 A I would not think so, no. He would be able to drive
14 the vehicle and push the button, but I don't think he
15 would have been able to purposefully apply his foot to the
16 brake.

17 Q And would he have been able to press the gas and
18 cause it to accelerate?

19 A I don't think so.

20 Q Would he have been able to walk after an injury like
21 this?

22 A No.

23 Q Based on your examination of Mr. Zaky, could you give
24 a medical opinion as to the distance from the gun, the
25 gunshot to Mr. Zaky's body?

1 A The -- what we call the range of fire from the muzzle
2 of the gun to the target is based on the presence of
3 certain components that exit the muzzle of the gun at the
4 time of discharge, that being hot gas, soot or burned
5 gunpowder and unburned gunpowder. And they travel for a
6 variable distance. There was no indication of any of that
7 present on Mr. Zaky or on his clothing. So in my opinion,
8 the range of fire was greater than two to three feet.

9 Q So would that have been consistent with Mr. Zaky
10 sitting in the driver's seat of his car and having been
11 shot by someone outside of his vehicle?

12 A It's certainly consistent with that, yes.

13 Q Did you observe any injuries on Mr. Zaky's hands?

14 A I did not.

15 Q Any injuries consistent with him having punched
16 someone else or struck something else?

17 A There were no injuries to his hands, no abrasions or
18 contusions or bruising of his hands.

19 Q Did you obtain toxicology results on Mr. Zaky?

20 A Yes, we did.

21 Q And was there marijuana in his system?

22 A There was.

23 Q Did you also obtain a blood spot for Mr. Zaky during
24 your autopsy?

25 A Yes. It's our standard routine on every autopsy to

1 get a dried blood spot from each individual.

2 Q And what is a blood spot used for?

3 A For DNA.

4 Q Dr. Ward, what was the cause and manner of Mr. Zaky's
5 death?

6 A Mr. Zaky died from a gunshot wound of the chest.
7 And, I'm sorry, and the manner of death is homicide.

8 Q And how old was Mr. Zaky at the time of his death?

9 A He was 15.

10 MS. McCALL: Thank you, Dr. Ward.

11 THE COURT: Cross-examination on behalf of Mr. Brown?

12 CROSS EXAMINATION

13 BY MR. CANTRELL:

14 Q Dr. Ward, just a couple quick questions. I may have
15 not listened well enough. The projectile that entered the
16 back, the fatal shot, did you say it appeared it had not
17 traveled through any other surfaces before entering his
18 back?

19 A It had -- it had traveled through his clothing. It
20 had not passed through any hard objects such as glass or
21 the door of the vehicle prior to impacting Mr. Zaky.

22 Q Okay. All right. And was the projectile redirected
23 after it entered his body or did it just continue on its
24 path?

25 A It appeared to travel in a reasonably straight path.

1 Q And was this path -- that this might be in the
2 photos. Was this path in a downward position? I think
3 you said left to right. Was it upward? downward?
4 straight?

5 A It was from his back to his front, left to right and
6 without significant deviation either up or down.

7 MR. CANTRELL: Okay. That's all I have. Thank you.

8 THE WITNESS: Yes, sir.

9 THE COURT: On behalf of Mr. Mosley?

10 MR. PRINGLE: No, Your Honor.

11 THE COURT: On behalf of Mr. Hill?

12 MR. WARDER: No, Your Honor.

13 THE COURT: Any redirect?

14 MS. McCALL: None, Your Honor.

15 THE COURT: All right. Thank you. You may step
16 down.

17 MR. RICHARDSON: Your Honor, at this time, the State
18 rests.

19 THE COURT: All right. Ladies and gentlemen, I'm
20 going to ask you to step back in your jury room at this
21 time. Do not discuss the case. The State has rested
22 their case in chief. I need to discuss with the lawyers
23 and I'll let you know kind of what our next schedule is.
24 So step back in your jury room at this time.

25 (WHEREUPON, the jury exits the courtroom at 12:19 PM.)

1 THE COURT: All right. Anything else from the State
2 at this point?

3 MR. RICHARDSON: No, sir.

4 THE COURT: All right. Any motions on behalf of
5 Defendant Brown?

6 MR. CANTRELL: Your Honor, in addition to renewing
7 all prior motions, I would move at this point for a
8 directed verdict. The testimony taken in light most
9 favorable to the State does not present a significant
10 question or evidence to support the burden of proof, and
11 we move for a directed verdict.

12 THE COURT: All right. And I believe, again, as to
13 Mr. Brown, I think that there is evidence taken in the
14 light most favorable to the State, there is evidence of
15 each of the charges, and I'm going to deny your motion.

16 Mr. Mosley?

17 MR. PRINGLE: On behalf of Mr. Mosley, moving for a
18 directed verdict. He's in a completely different
19 situation than the other defendants. And, again, there's
20 only been -- there's been very limited direct testimony or
21 evidence that even places him in any kind of vicinity of
22 this scuffle. There's no evidence that he was part of any
23 conspiracy or any of this hand of one mentality, no
24 affirmative acts. I mean, even by the one witness that
25 did implicate him, as part of it, we've shown that witness

1 to be completely untruthful and self-serving. And even if
2 you took what he said, the facts of the case and the way
3 the case actually played out, there simply is no way to
4 sustain the State's theory with regard, certainly, to
5 murder with regard to Defendant Mosley.

6 And, you know, the attempted armed robbery's even
7 problematic with regard to Mosley. I mean, there's just
8 -- there's no evidence that he was part of any plan or
9 scheme or even assented to it.

10 We heard of something about a cell phone being shown
11 to guys in the backseat. I think we obviously pointed out
12 the difficulties in the credibility of that.

13 But even if you take it by what he said, there was no
14 overt -- that's what's required. He has to have done
15 something that puts him in that realm where he's part of
16 this scheme, this robbery. Mere presence isn't enough.
17 We know that, Judge. Certainly, they can't support a
18 murder charge against Mr. Mosley. So I'm asking for a
19 directed verdict as well.

20 Thank you.

21 THE COURT: State?

22 MR. RICHARDSON: Your Honor, evidence was presented
23 in the light most favorable to the State. We had evidence
24 that an armed robbery text was shown through the car in
25 which Mr. Mosley saw along with the other codefendants,

1 that that armed robbery text led to the sending of that
2 car to that house that was abandoned in which all
3 codefendants got out of the car, including Mr. Mosley.
4 There's testimony that the defendant -- excuse me -- the
5 victim was attacked by all the individuals over this
6 hundred dollars that he supposedly had. In that light, we
7 have the crime of armed robbery or in this case we've made
8 attempted armed robbery.

9 The natural consequence of that -- any armed robbery
10 or any attempted armed robbery where a weapon's involved,
11 a murder is a natural consequence of that. We see it
12 every day. He is part of that crime. He doesn't have to
13 pull the trigger. He has to be part of that part of the
14 crime.

15 In addition and lastly, there was testimony that he
16 said "blast that" and I'll just use the word -- the N
17 word. There's plenty of evidence against Mr. Mosley.

18 THE COURT: Anything in response?

19 MR. PRINGLE: Mr. Richardson's correct. There's only
20 one witness that even said that. There's seven people
21 potentially that could have heard him or anybody say that
22 and nobody else. The guy that clearly lied. Okay. Just
23 like the guy that said he was part of it.

24 He's also the only one out of seven possible, Judge,
25 that actually names Mosley as part of even the scuffle,

1 let alone any scheme.

2 And then with the last investigator that we
3 cross-examined, clearly, the evidence and his
4 interpretation of it shows that this scuffle or alleged
5 attempted armed robbery had long been over -- was over
6 with. In fact, it's obvious that, unfortunately, Kerolos,
7 the deceased, he clearly got away from that and was in the
8 car driving away before he was shot. Okay. So if we're
9 going to allege the shooting is the murder and we're going
10 to try to rope these other guys into it under this
11 accomplice or hand of one, first of all, there's a break.
12 There's a break in the continuum there. He's driving
13 away.

14 THE COURT: But in your -- but in your client's case,
15 I mean, there's -- again, it's not my job to weigh the
16 evidence or determine what is credible and what is not.
17 It's just to give the light most favorable to the State
18 and whether there is evidence. And there is evidence that
19 your client was the one that said "shoot him."

20 MR. PRINGLE: But we've shown that that evidence ---

21 THE COURT: And I'm not weighing the value of that
22 evidence. I'm saying there is evidence to support that he
23 was involved in directing the shooting.

24 MR. PRINGLE: Well, I believe Your Honor can prevent
25 any chance of injustice based on what we know is perjured.

1 THE COURT: I mean, I can't -- I don't believe that
2 that has clearly been shown. So I'm going to deny your
3 motion.

4 How about as to the other charge?

5 MR. PRINGLE: Oh, Judge, I submitted a jury
6 instruction. And there's law that says that even under
7 hand of one, hand of all, if he didn't possess the gun, he
8 can't be convicted of that charge. That certainly should
9 be dismissed against him.

10 THE COURT: What's the State's position on that?
11 State v. Johnson is actually what he's referred to, and I
12 read it four times last night myself.

13 MR. PRINGLE: I think it's pretty clear that ---

14 MR. RICHARDSON: I never saw that.

15 THE COURT: Well, I mean, can you do hand of one,
16 hand of all for -- I mean, it looks like the -- that's
17 what they charged in State v. Johnson. It was reversed on
18 the other issues. Don't you have to have possession?

19 MS. McCALL: Your Honor, I don't think I was provided
20 a copy of it.

21 THE COURT: He didn't provide it to me.

22 MS. McCALL: Oh, I thought you said -- I thought he
23 said he sent it.

24 MR. PRINGLE: Well, I did submit an instruction that
25 has that language.

1 THE COURT: Another judge provided it.

2 No, no. He submitted it this morning. But he -- I
3 got it this morning. But no. I had read State v.
4 Johnson. And in that case, they actually charge you have
5 to have possession. Now, that was not -- it was reversed
6 on other issues. But -- and that's why I was looking that
7 up because I don't -- my question was can you have
8 possession of a weapon during a violent crime with -- can
9 that be -- let me ask you this.

10 MR. RICHARDSON: I've just -- I mean, I've always --
11 since I've been doing this, possession of the gun in and
12 of itself can be a crime that can be hand of one, hand of
13 all. If a person is in possession of that gun committing
14 an armed robbery and this individual over here is not in
15 possession of a weapon, I think he, under hand of one,
16 hand of all, under that theory, he's liable to the
17 consequences of this individual, and therefore, it would
18 be -- it would fall under that hand of one, hand of all
19 law.

20 THE COURT: As to the attempted robbery. But the
21 possession actually is where -- I mean I think what
22 changes it.

23 MR. PRINGLE: And, frankly, Judge, in all evidence
24 presented in the best light for the State, there was no
25 evidence whatsoever presented that he even touched a gun,

1 let alone possessed one.

2 MR. RICHARDSON: Well, no. Actually, there was
3 evidence that that gun was passed around through the car.

4 MR. PRINGLE: Not to Mosley.

5 MR. RICHARDSON: The backseat of the car.

6 MR. PRINGLE: You know, each one of these guys is on
7 trial individually.

8 THE COURT: I'll let you look at that during lunch
9 then. Okay. All right. And I'm going to take that one
10 under advisement.

11 Anything else on behalf of Mosley?

12 MR. CANTRELL: No, Your Honor.

13 THE COURT: All right. Mr. Hill?

14 MR. WARDER: Your Honor, we certainly think we're in
15 the same position. There's no testimony that we had the
16 gun or we possessed it at all.

17 THE COURT: You've got to speak up.

18 MR. WARDER: I said certainly there's no testimony
19 that my client had a gun or possessed a gun.

20 You know, and as for the rest of the charges, general
21 insufficiency of evidence. I would move for a directed
22 verdict on all the charges.

23 THE COURT: All right. And, again, I'm going to take
24 the possession of a weapon during the commission of a
25 violent crime under advisement. I'm going to deny -- I

1 think -- again, I think under the hand of one, hand of
2 all, you know, there is evidence that there was a plan,
3 and I think the evidence shows that Mr. Hill was -- again,
4 I'm not weighing the evidence. I'm just saying there was
5 evidence that Mr. Hill was the one that kind of started
6 that plan and then is the murder a natural consequence of
7 that plan for the robbery. And I think that's going to be
8 a factual issue for the jury to determine. So I'll deny
9 your motion.

10 I'm taking -- as to Mosley and Hill, I'm taking the
11 possession of a weapon during the commission of a violent
12 crime under advisement.

13 Now let me ask you this. And I'm asking this for
14 scheduling so I'll know what to tell the jury. Are you in
15 a position -- and, again, I'll go through everybody's
16 rights, but are you in a position at this time -- I'm
17 going to ask each defendant to tell me whether you're
18 going to be presenting any evidence or are we ready to go
19 to the jury again. And then I'll go through with your
20 client his Fifth Amendment rights. Just for -- or do you
21 need additional time to discuss this?

22 MR. CANTRELL: Your Honor, still subject to
23 discussion, but at this point we will be calling a
24 witness.

25 THE COURT: Okay. How about ---

1 MR. PRINGLE: Not from Mosley, Your Honor.

2 THE COURT: Okay. And how about for Hill?

3 MR. WARDER: Unless there's something that's changed,
4 we probably won't.

5 THE COURT: All right.

6 MR. WARDER: I hate to not give you a definite
7 answer.

8 THE COURT: No. I understand. I'm just trying to
9 get a scheduling thing here.

10 Well, do we need to break for lunch then for that
11 purpose, Mr. Cantrell?

12 MR. CANTRELL: Yes, sir. And given the fact that it
13 -- and I believe we're going to be calling this witness,
14 it is going to require transport of an individual from the
15 LEC.

16 THE COURT: Okay. All right. Let's chat. Because I
17 want to chat about scheduling here, nothing about any -- I
18 want to figure what we ---

19 MR. RICHARDSON: And one more thing on the record.

20 THE COURT: Okay.

21 MR. RICHARDSON: So I want to go back to our
22 possession of the weapon during a violent -- to prevent
23 any appellate issue or any issues whatsoever along that
24 lines, we at this time will concede it with all defendants
25 and drop that charge on all the defendants and not have --

1 go forward on possession of a weapon during a violent
2 crime. And yes. She makes a good point. I'm not
3 conceding it. It can't be tried at this stage of the game
4 without my knowledge on the exact law on that. That's the
5 way the State would like to move forward.

6 THE COURT: So you're withdrawing that charge,
7 dismissing that charge?

8 MR. RICHARDSON: Yes.

9 THE COURT: Okay. Against all three defendants.

10 MR. RICHARDSON: Yes.

11 THE COURT: Okay. All right. Well, again, we're
12 going to break for lunch. Well, let me bring the jury --
13 y'all come up here. I want to figure out what we're going
14 to do.

15 (WHEREUPON, a bench conference was held off the record.)

16 THE COURT: All right. Okay. This is what I'm going
17 to tell the jury that we're not sure exactly what our
18 schedule is going to be and kind of let them know that
19 when we start closing and charge, that that's several
20 hours.

21 All right. Bring the jury in.

22 (WHEREUPON, the jury entered the courtroom at 12:37 PM.)

23 THE COURT: All right. Ladies and gentlemen, let me
24 just -- we're going to break for lunch. And let me just
25 kind of tell you where we are now. Once we get to this

1 stage where we are arguing and charging, and I'm trying to
2 figure out exactly what the schedule and I can't exactly
3 tell you now, that's a process where you have basically
4 four attorneys. When you get to the point of, okay, what
5 -- the final stage of the trial is argument and charge.
6 Okay. Argument, that would be each attorney arguing. So
7 that's going to take a fair amount of time on a trial like
8 this. Then I will charge you on the law.

9 And so what I've got to determine at some point is at
10 what point do I want to start that process knowing that
11 once we start that process, y'all can go well into the
12 evening or, you know, and I haven't made a decision yet.
13 I'm just kind of letting you know my thought process. Or
14 it may be that we come back in the morning.

15 But right now we're just going to lunch. I'm just
16 saying that's kind of the factor. And I realize that you
17 say, wow, we just keep -- you know, feel like you're --
18 you know, we're taking these breaks early and all that,
19 and that's because we have these huge chunks that we have
20 to do when we get to that stage. And you kind of try to
21 keep it together. You have to argue and charge together
22 when we submit it to you. This is too important of a case
23 for us to rush anything.

24 So I'm just kind of -- I know that probably doesn't
25 make any sense, but I'm kind of letting you know that I

1 really don't know what to tell you at this point. Go to
2 lunch and come back at 2 o'clock, and I should have a
3 better idea at the point.

4 So all right. Y'all have a good lunch.

5 Okay. Remember my rules. Don't discuss the case.
6 Don't do any type of research. Do not pay any attention
7 to media coverage including social media or anything on
8 the Internet. And if anybody contacts you other than
9 somebody from the clerk's office, please let the bailiffs
10 know, otherwise you all have a good lunch. 2 o'clock.

11 (WHEREUPON, the jury exits the courtroom at 12:39 PM.)

12 THE COURT: All right. We're going to break for
13 lunch.

14 (WHEREUPON, a recess is taken at 12:40 PM.)

15 THE COURT: All right. We're back on the record.

16 At this point, since the State has rested, we've
17 heard motions, I'd like to go through each of the
18 defendants and discuss their Fifth Amendment right. So at
19 this time, each of the defendants, Mr. Brown, Mr. Mosley
20 and Mr. Hill, if y'all would stand. And this is just for
21 the purposes of this hearing.

22 All right. If each of you would raise your right
23 hand.

24 (WHEREUPON, DAVID JASPER BROWN, DAVID CHRISTOPHER BERNARD

25 MOSLEY AND JAYLIN HILL are duly sworn.)

1 THE COURT: Now, first of all, are any of you under
2 the influence of any alcohol, drugs or medication today,
3 Mr. Brown?

4 DEFENDANT BROWN: No, Your Honor.

5 THE COURT: And Mr. Mosley?

6 DEFENDANT MOSLEY: No, sir.

7 THE COURT: And Mr. Hill?

8 DEFENDANT HILL: No, sir.

9 THE COURT: Do you have any health or mental issues
10 which would keep you from understanding what's going on,
11 Mr. Brown?

12 DEFENDANT BROWN: No, Your Honor.

13 THE COURT: Mr. Mosley?

14 DEFENDANT MOSLEY: No, sir.

15 THE COURT: And Mr. Hill?

16 DEFENDANT HILL: No, sir.

17 THE COURT: All right. Now, the purpose of our
18 discussion here now is just to let -- first of all, make
19 sure you realize what stage of the trial we're at. The
20 State has rested. So at this point, you have two
21 decisions to make, each of you. And I'm going to ask each
22 of you, but I'm going to explain all of your rights to all
23 three of you.

24 You have a right to present a case, and that means
25 call any witnesses which you feel is appropriate after

1 consultation with your attorneys. And you also have to
2 make a decision whether you want to testify or not. Okay.
3 And those are your two. You have the right to present
4 evidence. You have a right to testify, but you also have
5 the right not to testify. And that's your Fifth Amendment
6 right. And that's exercising your constitutional rights
7 under the Fifth Amendment that no person should be
8 compelled to testify in a case against themselves.

9 And there are several things here. One is if you
10 decide not to testify, then I will instruct this jury that
11 they're not to consider that in any way, that they're not
12 even to discuss that. Because the burden is clearly on
13 the State and only the State, and y'all have no burden to
14 prove whatsoever on anything.

15 The second thing is, is I'm sure your attorneys have
16 told you that there's some strategic value in not
17 presenting any evidence or testimony, and that allows your
18 attorneys to have final closing arguments. And so that's
19 one of the strategic things. And that's something that
20 the attorneys can discuss with you.

21 So -- and what I've got to determine at this point
22 is, you know, if you want to testify and if you want to
23 present a case. Okay. And before I do that, I'm going to
24 say, hey, you know, you can discuss this with your
25 attorney and anybody else that you feel you need to

1 discuss it with, but ultimately, it's your decision.
2 Okay. As I've always advised people, I think it's always
3 important to consult with your attorney about any of these
4 decisions because they're the ones that have experience --
5 been experienced in the courtroom and how it can
6 ultimately play out.

7 So first of all, I would ask each of you, do you
8 understand that you have a right to testify, Mr. Brown?

9 DEFENDANT BROWN: Yes, Your Honor.

10 THE COURT: Mr. Mosley?

11 DEFENDANT MOSLEY: Yes, sir.

12 THE COURT: And Mr. Hill?

13 DEFENDANT HILL: Yes, sir.

14 THE COURT: All right. And if you testified, you'd
15 be subject to the same cross-examination as any other
16 witness. And that means any statements that you have
17 provided, any inconsistent statements.

18 How about any criminal record that could be used
19 against any of these defendants?

20 MR. RICHARDSON: Mr. Brown has a -- I believe it's
21 unlawful carrying charge.

22 THE COURT: All right.

23 MR. RICHARDSON: He has that charge. I can't recall
24 if it meets the standard.

25 THE COURT: But other than that, there's nothing else

1 against any of these defendants?

2 MR. RICHARDSON: Other than that.

3 THE COURT: Okay. But like I said, if you'd be on
4 the stand, you'd be subject to cross-examination, the same
5 as any other witness.

6 So first of all, do you understand that you have a
7 right to testify and you also have a right not to testify,
8 Mr. Brown?

9 DEFENDANT BROWN: Yes, Your Honor.

10 THE COURT: And Mr. Mosley?

11 DEFENDANT MOSLEY: Yes, sir.

12 THE COURT: And Mr. Hill?

13 DEFENDANT HILL: Yes, sir.

14 THE COURT: Do you have any questions of the Court
15 regarding your rights, Mr. Brown?

16 DEFENDANT BROWN: No, sir.

17 THE COURT: And Mr. Mosley?

18 DEFENDANT MOSLEY: No, sir.

19 THE COURT: And Mr. Hill?

20 DEFENDANT HILL: No, sir.

21 THE COURT: Would you like some additional time to
22 talk with your attorney before you give me your answer,
23 Mr. Brown?

24 DEFENDANT BROWN: No, sir.

25 THE COURT: You're ready to go? Okay.

1 Mr. Mosley?

2 DEFENDANT MOSLEY: No, sir.

3 THE COURT: And Mr. Hill?

4 DEFENDANT HILL: No, sir.

5 THE COURT: All right. So first of all, Mr. Brown,
6 I'll ask you the questions. Do you wish to testify?

7 DEFENDANT BROWN: No, sir.

8 THE COURT: And is that your decision?

9 DEFENDANT BROWN: Yes, sir.

10 THE COURT: Has anybody forced you to make that
11 decision?

12 DEFENDANT BROWN: No, sir.

13 THE COURT: Is this your decision that you've made on
14 your own?

15 DEFENDANT BROWN: Yes, sir.

16 THE COURT: Okay. The other question is, do you wish
17 to present any evidence?

18 DEFENDANT BROWN: No, sir.

19 THE COURT: Okay. Again, is that your answer?

20 DEFENDANT BROWN: Yes, sir.

21 THE COURT: And I know that that was something that
22 you were considering. But -- so that's your final
23 decision. You've had enough time to talk with your
24 attorney about this issue?

25 DEFENDANT BROWN: Yes, sir.

1 THE COURT: And that's what you want to do.

2 DEFENDANT BROWN: Yes, sir.

3 THE COURT: How about you, Mr. Mosley? Would you
4 like to testify?

5 DEFENDANT MOSLEY: No, sir.

6 THE COURT: And is that your decision?

7 DEFENDANT MOSLEY: Yes, sir.

8 THE COURT: Is it made voluntarily?

9 DEFENDANT MOSLEY: Yes, sir.

10 THE COURT: Nobody's coerced you or forced you to
11 make that decision?

12 DEFENDANT MOSLEY: No, sir.

13 THE COURT: Nobody's threatened you to make that
14 decision?

15 DEFENDANT MOSLEY: No, sir.

16 THE COURT: Do you wish to present any evidence?

17 DEFENDANT MOSLEY: No, sir.

18 THE COURT: Okay. And, again, that's your decision.

19 DEFENDANT MOSLEY: Yes, sir.

20 THE COURT: How about you, Mr. Hill? Do you
21 understand your rights?

22 DEFENDANT HILL: Yes, sir.

23 THE COURT: And do you wish to testify?

24 DEFENDANT HILL: No, sir.

25 THE COURT: Is that your decision?

1 DEFENDANT HILL: Yes, sir.

2 THE COURT: Has anybody promised you anything or
3 coerced you in any way to make that decision?

4 DEFENDANT HILL: No, sir.

5 THE COURT: So that's your decision?

6 DEFENDANT HILL: Yes, sir.

7 THE COURT: And do you wish to present any evidence?

8 DEFENDANT HILL: No, sir.

9 THE COURT: And is that your decision?

10 DEFENDANT HILL: Yes, sir.

11 THE COURT: All right. And finally, before I accept
12 this, does anybody need any additional time to have any
13 further discussions with their attorneys or think about
14 it, Mr. Brown?

15 DEFENDANT BROWN: No, sir.

16 THE COURT: Mr. Mosley?

17 DEFENDANT MOSLEY: No, sir.

18 THE COURT: And Mr. Hill?

19 DEFENDANT HILL: No, sir.

20 THE COURT: All right. I find that each of the
21 defendants have been advised of their rights, they
22 understand their rights, their Fifth Amendment rights, and
23 have made a decision not to proceed -- or not to --
24 they've made a decision to exercise those rights, and
25 that's been voluntarily, intelligently made. So I will

1 accept that. So thank you. You may sit down.

2 Anything else on behalf of Mr. Brown in that regard,
3 their rights?

4 MR. CANTRELL: Nothing, Your Honor.

5 THE COURT: Okay. On behalf of Mr. Mosley?

6 MR. PRINGLE: No, Your Honor.

7 THE COURT: And Mr. Hill?

8 MR. WARDER: No, Your Honor.

9 THE COURT: All right. Y'all may be seated now.
10 Thank you.

11 All right. Anything else at this point then? I
12 guess do y'all -- okay. Before we bring the jury out, do
13 y'all want to let me just tell them that the defendants
14 will not be presenting any testimony or any evidence, that
15 they've rested as well? Or how do you -- or do you ---

16 MR. PRINGLE: Of course, you will be advising the
17 jury that that's their right.

18 THE COURT: Right. No. I always preface it with
19 like to say that the defendants are exercising their
20 rights in the Constitution not to present anything, and
21 the burden will be on the State.

22 MR. PRINGLE: Yes, Your Honor. I think that will be
23 proper.

24 THE COURT: Okay. Is that ---

25 MR. CANTRELL: Yes, sir. I agree.

1 THE COURT: All right. On behalf of Mr. Hill?

2 MR. WARDER: On behalf of Mr. Hill, I agree.

3 THE COURT: So then I think like in light of -- and
4 as we've kind of discussed before, almost 2:30 now, I have
5 a feeling that the arguments on a case like this with four
6 lawyers arguing, that that will probably run as close to
7 4 o'clock even before we charge the jury. As you know, we
8 try to kind of follow the rule that we hate to put a case
9 to a jury after 4 o'clock. I don't think I'll be able to
10 even charge them before 4 o'clock. So I don't believe
11 there's any question that we need to -- and also, I don't
12 want to put the pressure -- I think Mr. Warder indicated
13 this. I don't want the jury to feel pressured into the
14 evening of making a decision.

15 So I'm going to bring them out and tell them kind of
16 the status and that we'll bring them back -- bring them
17 back at 9:30 in the morning. That way we can -- and what
18 we'll do is we'll go over the charge this afternoon. You
19 can put anything on the record at 9 o'clock in the morning
20 just before we start the trial.

21 All right. Bring the jury in.

22 (WHEREUPON, the jury entered the courtroom at 2:20 PM.)

23 THE COURT: All right. Ladies and gentlemen, I hope
24 everybody had a good lunch.

25 Okay. Let me tell you where we are. The State has

1 rested their case. There's some matters we had to go
2 over. The defendants have indicated that they will not be
3 presenting any evidence, which is their constitutional
4 right because the burden is on the State. The defendants
5 have no burden whatsoever. And I will tell you further in
6 your charge that when you're deliberating, you're not to
7 consider anything about whether the defendants -- the fact
8 that the defendants didn't testify or present any evidence
9 is not anything to be considered by you. You're to look
10 at the burden of proof that is on the State in this
11 matter. So you have been presented with all the evidence
12 that you will have in your deliberation.

13 Okay. And like I told you before we went to lunch, I
14 wasn't exactly sure what the schedule was, but let me tell
15 you why I'm making this decision. We're going to have to
16 come back in the morning. And if that creates any serious
17 heartburn in anybody, please hold it against me and not
18 any of the parties in this matter. But when you have four
19 attorneys, you're looking at possibly an hour and a half
20 to two hours of total closing arguments. By the time I
21 charge you, we're looking at probably close to 5 o'clock
22 even before I say, okay, you can go deliberate. And I
23 don't want anybody to feel pressure as you go into an
24 evening about making a good decision because you've got a
25 lot of things to consider and it's a very important case

1 for all parties involved.

2 So what we're going to do is we're going to start
3 back at 9:30. The only thing we have left are closing
4 arguments and I will charge you on the law, and then you
5 will have your deliberation. And I'm going to start at
6 9:30, because I keep telling y'all a time and I always
7 miss it by about 15 minutes, so that we can go over
8 everything we can before 9:30 and we can be ready to go at
9 9:30. So as soon as I said that, I'm sure I just jinxed
10 myself.

11 But also, for your planning purposes, we will have
12 lunch for you. Okay. That's something usually what they
13 do is they'll give you the menu in the morning when you
14 get here, and you'll get to select. I'm not sure.
15 They'll have menus for y'all to select before you come out
16 here, and that way, when you go back in your
17 deliberations, you'll have your lunch available at that
18 time.

19 And I appreciate your patience. And I know this is
20 all -- you know, we seem to be kind of pushing you all
21 around a little bit, but I do appreciate your patience and
22 cooperation and your attention throughout this case.

23 Now, so I'm going to let you go today because there's
24 some matters that we have to go over. One of the things
25 that I go over is the law of the case. I need to make

1 sure that everybody knows what I'm going to be telling
2 y'all and so that we can put anything on the record there.

3 All right. Final time that you will here this,
4 possibly, and that is do not discuss the case. I know
5 it's difficult when you go home at night, and your friends
6 and your family, to not discuss the case. I know it's
7 very difficult. But you only have to do it one more day.

8 The second thing, do not do any type of research.
9 And that's, again, I can't stress to you how important
10 that is because everything that you need to do to make
11 your decision is what you should have gotten in this
12 courtroom and the law that I apply to you.

13 Third is don't pay any attention to any media
14 coverage. I'm not aware of any media coverage since that
15 first day. But if there is, please do not pay any
16 attention to that, any social media or anything like that.

17 And finally, if anybody contacts you other than
18 somebody from the clerk's office, please let the bailiffs
19 know when you get here in the morning.

20 All right. So 9:30 in the morning. Y'all have a
21 good evening, and we'll see you tomorrow.

22 (WHEREUPON, the jury exits the courtroom at 2:25 PM.)

23 THE COURT: All right. Anything else from the State
24 at this point?

25 MS. McCALL: Nothing, Your Honor.

1 THE COURT: All right. Defendant Brown?

2 MR. CANTRELL: Nothing, Your Honor.

3 THE COURT: All right.

4 MR. PRINGLE: No, Your Honor.

5 THE COURT: Hill?

6 MR. WARDER: No, Your Honor.

7 THE COURT: All right. We'll go ahead and break for
8 the day. And if y'all want to come back in chambers in a
9 few minutes and we can kind of go through the charge and
10 see what we've got. And like I said, y'all can put
11 anything on the record first thing in the morning.

12 MR. RICHARDSON: I'm sorry?

13 THE COURT: Y'all can put anything on the record, any
14 objections.

15 (WHEREUPON, proceedings recessed at 2:26 PM.)
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1 Friday, June 21, 2024

2 (WHEREUPON, proceedings reconvened at 9:24 AM.)

3 THE COURT: Anything on the verdict form?

4 MS. McCALL: Nothing on the verdict form.

5 THE COURT: How about the charge?

6 MS. McCALL: Nothing on the jury charges.

7 THE COURT: All right. Anything else?

8 MS. McCALL: Yes. A different matter, Your Honor.

9 It's come to our attention, the State's attention, that
10 there have been people posting comments on social media
11 and other places referencing some of these witnesses that
12 have testified in this case making sort of vague threats
13 to them. Some of those individuals we believe have been
14 in the courtroom this week and so we would just ask the
15 judge to instruct them, obviously, that that is -- you
16 know, whatever Your Honor feels is appropriate, but it is
17 certainly concerning for the State that those things have
18 been taking place.

19 THE COURT: All right. And I would instruct
20 everybody in the galley that that's not appropriate. And
21 I will instruct law enforcement to investigate that.

22 MS. McCALL: Thank you, Judge.

23 THE COURT: All right. Anything on behalf of
24 Defendant Brown?

25 First of all, as to the verdict form, let's start

1 with the verdict form. Verdict form okay with Brown?

2 MR. CANTRELL: No objection.

3 THE COURT: Mosley?

4 MR. PRINGLE: No objection.

5 THE COURT: And Hill?

6 MR. WARDER: No objection.

7 THE COURT: Okay. Charge. I know that's one of the
8 issues you had.

9 MR. CANTRELL: We've got one issue I want to present
10 some argument on.

11 THE COURT: Right. I'll be glad to hear from you.

12 MR. CANTRELL: Well, if I can back up, Your Honor. I
13 think we discussed it briefly yesterday. I would like to
14 be sure this time that it's noted that I did renew the
15 motion for a directed verdict at the close of the defense
16 case. So moved.

17 THE COURT: All right. I believe, again, as I said
18 previous, I believe it's a factual issue for the jury and
19 I'll deny your motion.

20 MR. PRINGLE: On behalf of Mosley, I renew the same
21 motion. Of course, he's in a lot different position than
22 the other defendants are.

23 THE COURT: Right.

24 MR. PRINGLE: And I think I alluded to much of that
25 when we first made the argument. I just reiterate that

1 argument. It hasn't gotten any better for the State.

2 THE COURT: Okay. And I think -- like I said, I
3 think that's an issue for the jury and I'll deny your
4 motion.

5 Mr. Hill -- on behalf of Mr. Hill?

6 MR. WARDER: We have no objections to the charge.

7 THE COURT: I mean how about you want to renew your
8 motion ---

9 MR. WARDER: No.

10 THE COURT: --- directed verdict motion?

11 All right. So Hill's okay with the charge. Do you
12 want to renew your motion for a directed verdict?

13 MR. WARDER: Yes, sir, for the record.

14 THE COURT: All right. And as I said -- and we just
15 talked about we were going to renew them this morning.
16 And I think that this is an issue for the jury and I'll
17 stand by my denial as previously noted.

18 JURY CHARGE CONFERENCE

19 So, Hill, do you have any objections to the verdict,
20 Mr. Warder?

21 MR. WARDER: No.

22 THE COURT: I'm sorry. The charge, jury charge.

23 MR. WARDER: No.

24 THE COURT: Mosley?

25 MR. PRINGLE: No, Your Honor.

1 THE COURT: All right. You do?

2 MR. CANTRELL: Oh, yes, I do.

3 THE COURT: That's why you're standing up. I'm
4 moving around, too. I've got too many things going on.
5 All right.

6 MR. CANTRELL: You went backwards so it put me off.

7 Your Honor, yes, with the Court's permission, I would
8 like to hand counsel a couple of cases. I'll hand up two
9 copies, one for you and one for your clerk.

10 Your Honor, we had discussions and I was moving for
11 the inclusion of a charge of manslaughter as a
12 lesser-included offense. What I'm handing up to you is
13 State vs. Cole, 525 S.E.2d 511, 338 S.C. 97. It's a case
14 from 2000.

15 On the second page, I would point out that the Court
16 says, "The law" -- I'm sorry. "In determining" -- and
17 this is about two-thirds of the way down.

18 THE COURT: Yeah. I see where you're talking about.

19 MR. CANTRELL: Right under "discussion." (As read)
20 "In determining whether evidence requires a charge of
21 involuntary manslaughter, the Court must view the facts in
22 the light most favorable to the defendant. To warrant the
23 Court's eliminating the offense of manslaughter, it should
24 be very -- should very clearly appear that there is no
25 evidence whatsoever tending to reduce the crime from

1 murder to manslaughter."

2 The second case is State vs. Starnes, 338 S.C. 590,
3 698 S.E.2d 604. And in the very last paragraph on the
4 third page, they talk about the elements that will
5 constitute a manslaughter -- a manslaughter charge, the
6 elements that need to be present. And I think that
7 terminology, again, sets the bar for that. But take that
8 in conjunction with a very low bar set in Cole for the
9 inclusion of the manslaughter charge, and taking into
10 account the testimony in this case, there are different
11 witnesses that have testified differently.

12 One makes reference to Defendant Brown having the
13 gun, but that, quite frankly, is the defendant that has
14 the least credibility of anybody that's testified. In
15 fact, there have been statements that he had the gun by
16 witnesses, that he's the one that had the gun when he
17 denies any involvement whatsoever. There are other
18 statements and other witnesses that testified that other
19 defendants, whether here or not here, had the gun. And I
20 think that it leaves open the question as to the evidence
21 regarding the gun.

22 I think when you add to that the fact to get to the
23 basis for a manslaughter charge is the circumstances
24 surrounding this. The behavior that causes the defendant
25 to act and that manslaughter should be charged does not

1 have to be that of the victim. It can be circumstances,
2 it can be things happening in the surrounding area.

3 In this case, you have, by all accounts, a
4 significant physical altercation. We're not even sure
5 what happened prior to that, what could have happened in
6 the car. There are various things that could have
7 happened and small indications of things happening in the
8 car whether it's that marijuana had been smoked or
9 discussions about leaving or not leaving. But after that,
10 there was a significant altercation involving some people.
11 There's never even a clear definition of who was involved
12 in that altercation. The State would imply that all five
13 defendants, even the two that aren't here, were involved,
14 but there's never a specific statement to that, that they
15 were actually hitting the victim.

16 But there was a significant altercation. There was a
17 lot of movement. The victim started moving and running
18 towards his car. And then there were shots fired, no
19 definitive proof as to by whom. And I think all of those
20 circumstances and the surrounding events would create a
21 significant circumstance that would justify and meet the
22 definition of manslaughter and the case law on when
23 manslaughter should be charged.

24 THE COURT: Well, I mean, I think what your argument
25 is clearly shows an issue of maybe who the shooter was.

1 But, I mean, looking at the cases you just cited,
2 "Moreover, there must be evidence that the heat of passion
3 was caused by sufficient legal provocation." I've not
4 heard anything, any evidence whatsoever that even comes
5 close to that, that there's evidence of heat of passion
6 caused by sufficient legal provocation. I mean, there may
7 be a question of who was the shooter, but there's no
8 question at the time the shooting took place this victim
9 had gotten in his car and was moving away from this
10 situation. So I don't -- I mean, I think you're protected
11 for the record, but I'm going to deny your request for
12 voluntary manslaughter.

13 MR. CANTRELL: Thank you.

14 THE COURT: All right. Anything else from the
15 defendants?

16 MR. RICHARDSON: I just want to be able to test this
17 before the jury comes out because we've had significant
18 issues.

19 THE COURT: And I would instruct the gallery, too,
20 that once closing arguments start, you're in here. You
21 will not be able to get up and leave, and during the
22 charge. At some point, there may be a short break, and I
23 mean short break because we've got a long morning here.
24 Just letting y'all know that. You need to plan
25 accordingly. We will start in seven minutes. I'll give

1 everybody a warning. Seven minutes. After that, you're
2 kind of either locked in or locked out.

3 (Pause in proceedings.)

4 THE COURT: All right. Is the State ready?

5 MR. RICHARDSON: The State's ready, Your Honor.

6 THE COURT: Defendant Brown ready?

7 MR. CANTRELL: Yes, sir.

8 THE COURT: Mosley?

9 MR. PRINGLE: Yes, Your Honor.

10 THE COURT: And Hill?

11 MR. WARDER: Yes, sir.

12 THE COURT: All right. Bring the jury in.

13 (WHEREUPON, the jury entered the courtroom at 9:42 AM.)

14 THE COURT: All right. Good morning, ladies and
15 gentlemen. As I told you yesterday, we're at the final
16 phase of the trial. What we have left is we have closing
17 statements, and that will be an attorney for each side for
18 each party. And the closing arguments are their summary.
19 It's just not evidence. You have all the evidence that
20 you will have to consider during your deliberations that's
21 already been presented.

22 After closing argument, we will take a short break,
23 because like I say, that could be, you know, an hour and a
24 half to two hours, somewhere in there. If anybody gets in
25 a situation where they feel like they need to take a break

1 before that, we may break between arguments. Just let me
2 know. But I'll take a short break before I give you the
3 charge, and then you will begin -- and then you can go
4 back in your room and deliberate. And I think everybody
5 placed a lunch order, so you'll have lunch probably about
6 the time y'all are getting ready to begin your
7 deliberations.

8 So at this point, I would ask that you devote your
9 full attention to the attorneys and their closing
10 argument.

11 Mr. Richardson, you may proceed.

12 CLOSING ARGUMENTS

13 MR. RICHARDSON: Thank you, Your Honor may it please
14 the Court.

15 Good morning, ladies and gentlemen of the jury. This
16 has been a lengthy trial. And during that trial,
17 obviously, we bring in you jurors, and y'all have to go
18 through this process of listening to all the evidence and
19 going through everything that's presented to you. I mean,
20 I know that's an inconvenience to y'all, but y'all do a
21 great service for the State of South Carolina coming in
22 here and doing this. So I want to thank you for your time
23 and attention. I'm going to spend a little bit more time,
24 and I ask you to spend a little bit more time in listening
25 to what I've got to say and wrapping this case up in full.

1 I have the burden of proof, and I must prove the
2 defendants committed these crimes beyond a reasonable
3 doubt. That is a burden I gladly accept. I've been doing
4 it 32 years, and I accept that burden. And I absolutely
5 believe that we have met that burden, clearly.

6 I want to say, though, that that burden is beyond a
7 reasonable doubt. It's not beyond every single doubt. As
8 humans, there's always going to be little things out there
9 that may be doubtful. It has to be a reasonable doubt.
10 So that boils down to us using our common sense on what
11 happened. So we bring each of you in here who have
12 different jobs and different lifestyles and different
13 things going on, and use your everyday common sense in
14 life to put together this case and piecemeal this case,
15 this puzzle. It paints a picture of the defendants being
16 guilty.

17 The judge is going to charge you as to the law in
18 this case. That's his job. He is the judge of the law.
19 Y'all are the facts, are also judges. Y'all are judges of
20 the facts. Y'all are going to decide the facts of the
21 case.

22 But just as a brief -- just to tell you briefly about
23 the law which he's going to tell you a lot more in depth
24 beforehand, but I want you to know what it is at this
25 point in time. I want to start with the crime of murder.

1 Murder is taking the life of another human being with
2 malice aforethought. What is that? Human being,
3 obviously. Malice, malice -- what malice is is a depraved
4 heart. It's a hatred. I boil it down to meanness. It's
5 just being mean. That's malice.

6 The last element of it is aforethought. Now,
7 aforethought, that's a weird term. It is not that we have
8 premeditation, that we have to think through this thing.
9 Aforethought can be a split-second decision to pull a
10 trigger and fire a gun and kill somebody. A gun in and of
11 itself is hatred, malice.

12 There's other charges of attempted armed robbery.
13 Attempted armed robbery is the attempt to take goods or
14 monies from another human being with a deadly weapon. I
15 don't actually have to prove that they got anything, but
16 that they attempted to rob the victim and used a deadly
17 weapon to do so, a gun.

18 And the last charge is conspiracy. Conspiracy is
19 simply two or more people getting together saying we're
20 going to do a crime, getting together, we're going to do
21 this crime and then doing something in furtherance of that
22 crime. In this case, conspiracy, do the armed robbery and
23 then eventually the murder. But the armed robbery was the
24 initial conspiracy in this case.

25 Also, you're going to hear the judge tell you about

1 another piece of law that's very important in this case.
2 Because this law was written with this type of case in
3 mind. And it's called accomplice liability, or also
4 what's known as the hand of one is the hand of all.
5 Simply put in that context -- and he's going to tell you
6 in much more detail, but simply put in that context, if
7 two people enter in to commit a crime, and during the
8 commission of that crime, other natural consequences come
9 out of it, then the people are responsible for the other
10 people that did those natural consequences.

11 For instance, you enter into a robbery to rob a bank.
12 Two people go to the bank. I'm the driver. I'm the
13 getaway driver. Investigator Garrett is the guy that says
14 I'm going in with a gun. I don't have a gun. He goes in
15 with the gun. He goes in, he pulls up and robs the bank.
16 In the midst of robbing that bank, he shoots and kills the
17 clerk. He gets back into my car and I drive away. Hand
18 of one, hand of all. I'm guilty of armed robbery. I'm
19 guilty of murder. That's the way the law is written in
20 the State of South Carolina.

21 And the reason why they wrote that law and the reason
22 why we have that law is for these situations. Because if
23 you're doing a violent act, any other violent act that
24 arises out of that, especially murder, then you have to be
25 responsible. You have to pay the consequences for that.

1 Hand of one, hand of all.

2 And I don't have to prove to you who shot and killed
3 Kerolos. I don't have to prove that to you. We know who
4 did it. We know Brown did it. But I don't necessarily
5 have to prove that. If you thought one of the other two
6 did it, everybody's still guilty. Hand of one is the hand
7 of all.

8 This is not a case of whodunit. This is not a case
9 of, well, did he do it or did he do it or did he do it.
10 No. We've got all these individuals who are all
11 responsible including Mr. Glover. He also, under the same
12 theory, is guilty. And I will be dealing with him at a
13 later date.

14 In a nutshell, and I'm going to get more into it,
15 specifically to the evidence that we have, but in a
16 nutshell, when Defendant Hill starts the crime and he
17 shows his text message let's rob this guy, who wants to
18 rob this guy, Hill has now entered into the crime. He has
19 entered into the conspiracy.

20 When Mosley and Brown see that message and eventually
21 go along with that message, they enter the crime. They
22 are part of the crime. When they all get out of the
23 vehicle and assault Kerolos, they have entered the crime.
24 They are part of the crime, every bit a part of it.

25 They all know, by the way, that Brown has a gun. So

1 don't let Hill be separated from this. They all know
2 Brown's got a gun because he pulled it out and he
3 pistol-whipped him. And when he took the gun out, he
4 pistol-whipped him, then every single one of those people
5 who saw that and then continued to assault Kerolos entered
6 the crime. And a natural consequence of the crime of
7 armed robbery is murder. Anytime you pull a gun on
8 somebody and try to rob them, that's a natural
9 consequence, murder.

10 We have put up a lot of evidence. I'm going to go
11 through a few of them. I want to start with Mr. Mueller.
12 Mr. Mueller flew down here to testify. He was in the car
13 that day -- that night. He's 17 years old. He has met
14 none of these guys. He does not know any of these guys.
15 For one hour, approximately one hour he was around those
16 guys. And, in fact, he got on the stand and he
17 misidentified one of them. He said one was Brown who was
18 not Brown. Four and a half years later, ladies and
19 gentlemen. These people were doing a lot of growing,
20 facial changes, weight. These things change, and one
21 time, he seen him one time that four and a half years ago,
22 and then he sees him for his first time since then the
23 other day when he testified. He misidentified. He made a
24 mistake. He's 17 years old.

25 He mentioned all through the night when they were in

1 the car that street names kept coming out. And he put
2 down a wrong street name in his statement. He put down a
3 street name he had heard. And these names are coming out.
4 And they want you to believe that because he's in this
5 tight car with them, that he can put each street name with
6 each person at 17 years old.

7 My wife yelled at my 17-year-old stepson yesterday
8 three different times about not taking the trash --
9 getting the trash out. 17, they can't remember things
10 like that. They're not going to remember these details,
11 the details of faces.

12 But what did he do -- say? He did corroborate. And
13 you'll hear throughout this case, this case is
14 corroborated on several different levels to what
15 eventually Mr. Glover says. And those levels are these.
16 He did say that everybody went to Spinx, that everybody
17 got out of the car at the Spinx, that everybody then went
18 to Mansion Circle, and that everybody got out of the car
19 at Mansion Circle. That's exactly what Mr. Glover said.
20 And that they started assaulting them. And he admitted,
21 he said that he saw them assault him and he started to run
22 and he heard the shots. That corroborates exactly what
23 Mr. Glover said, and also what Nijah Croskey said.

24 Nijah testified. He was a little bit more specific.
25 Difficult to hear, but young. Once again, we have a young

1 kid. Difficult to hear.

2 But he testified that, in fact, the Defendant Brown
3 had the gun. We've heard that more than one time. But he
4 was one of the first people that he interviewed, that
5 Investigator Garrett interviewed, that he had the gun,
6 that Spaz had the gun, that Spaz pistol-whipped the
7 victim. This kid saw that and ran. In fact, that night,
8 he gave a statement in which he says -- and this came into
9 evidence. This is Spaz, hit Kerolos and pointed a gun at
10 him and said give me everything. Spaz had the gun before
11 I heard the five or six shots. Okay. Once again, we're
12 corroborating evidence. We've got corroborating evidence.
13 And then he picks him out in the photo lineup. He picks
14 him out.

15 He also said Glover was there. He picks out Glover.
16 Glover becomes a suspect. And I agree with him. He's an
17 initial suspect, and I'm going to get to that in a minute.
18 And he picks out Glover. And he says I know that -- I
19 know that chaos was there when Spaz hit Kerolos and
20 pointed a gun at him and said, "Give me everything." And
21 he points out Glover. Okay. He's telling everything that
22 he knows. But once again, he doesn't know everybody in
23 the car because these guys all know each other, but they
24 don't know Kerolos, that they don't know the two other
25 individuals in the car. At least Mueller they don't know.

1 But he corroborates. He's just a witness. But he
2 says what Jamazzeo Glover told you all on the stand. And,
3 in fact, says that he ran, and he admits -- and by the
4 way, these people could have said, yeah, we saw the
5 shooting and we saw who shot and all that. They didn't do
6 that. They told the truth. They said, yes, we ran. And
7 he said the last person who had the gun was Brown, and
8 then he heard four or five shots.

9 And let me tell you, let me say the defense counsel
10 gets up here about this little minutia about how many
11 shots were going off and that type of thing, these little
12 things that four and a half years later that, you know,
13 maybe are not quite clear how many shots are going off.
14 We know how many shots went off, and they're pretty close
15 to it. You have right here the shell casings. We've got
16 all the shell casings. There were five shots and one
17 round that did not go off. So everybody's telling about
18 that many. You heard the individual that came in who
19 heard the shots who was in bed when he heard shots. Well,
20 he said three. Three. But, in fact, we know there were
21 five. Once again, we're human. We're not going to get
22 everything exactly right. But these are things they've
23 got to focus on. See, they've got to focus on that in
24 order to get your mind off the facts of the case.

25 In fact, another credible thing that was brought up

1 is when they start talking about, oh, well, the victim
2 must not have been scared. He kind of slowly drove away.
3 He's not scared, you know. He's not scared. He just
4 slowly drove away.

5 You heard Dr. Ward. Dr. Ward said on the stand,
6 expert, he's been on the stand over a hundred times, he
7 said once he was shot, he could not drive. He could not
8 operate that vehicle because the shot went through his
9 back. So when he was shot, when this shot came through,
10 Exhibit 62 for the record, when that shot came through his
11 back, it hit his spinal cord. And Dr. Ward said at that
12 point in time, he was paralyzed. That's why he's not
13 speeding off. He couldn't. They want you to believe, oh,
14 there wasn't anything going on. Nothing's going on. He's
15 just going to slowly go away. No. Our expert witness
16 told you exactly why.

17 And Mr. Glover, Mr. Glover was arrested. He knew he
18 was going to be arrested. And he came in and he told what
19 happened in that incident. And he told it immediately.
20 And he told basically the same thing four and a half years
21 later. They want to insinuate that I've somehow put
22 something in his mind. No. He told this officer right
23 here in December 2019, and he told me the same thing.

24 By the way, I only had to meet with him once. I just
25 met with him once and said, "What happened? You want to

1 testify?"

2 He said, "Yeah. I want to testify."

3 I made no promises to him. He's under the same
4 umbrella as they are. And he gives -- he tells the story.
5 And this is very important. He tells everything that
6 implicates himself in the crime. When he's saying it,
7 he's saying I'm there. He's saying I knew the armed
8 robbery was going to happen. He said who did what. He
9 ran -- he ran away from these guys. He ran to his
10 grandmother's house who lived right there who he sometimes
11 lives with. He has a bedroom in her house.

12 He shouldn't have run. Part of the reasons he didn't
13 tell, because he ran.

14 And he testifies to things that we've already had
15 corroboration from other witnesses and we're going to have
16 other evidence -- I'm going to get into some other
17 evidence that corroborates what he says, too -- that this
18 whole thing was set up by this (indicating) defendant
19 right here. He sets it up. Hand of one, hand of all.
20 This thing may never have happened if this guy had not
21 pulled out a cell phone and said, "Let's rob him."

22 What else was corroborated that everybody talked
23 about? A hundred dollars. How many times did you hear
24 something about a hundred dollars, that Kerolos said
25 something about him having a hundred dollars, which he

1 didn't have. And I'll get to that in a minute.

2 He starts the whole thing. And they decide, okay,
3 well, we're going to go to this house, this abandoned
4 house under the pretense of girls.

5 He shows the text messages. They made a big deal
6 about that. He's in the front seat. He is putting in
7 Snapchat these messages that he does not send so,
8 unfortunately, we could not get them. We got some stuff
9 off Brown's phone. I'll get to that in a minute. But we
10 could not get them because they didn't send them.

11 And he's doing this (demonstrating). He's turning
12 around doing this (demonstrating). And the people in the
13 backseat can see it, including -- admittedly, including
14 Mr. Glover who now has implicated himself in armed
15 robbery. I asked him on the stand, you knew that armed
16 robbery was going to happen. And he said yes. Yes.
17 Guilty.

18 And then you've heard testimony that they got there,
19 and the first thing that happens is that the victim,
20 Kerolos, is pistol-whipped. Okay. You've heard that
21 several times. That's been corroborated. Glover said
22 that Brown got out of the car and pistol-whipped him.
23 Mr. Ward -- Dr. Ward has verified, once again,
24 corroboration. We're trying to corroborate what everybody
25 is saying. We need evidence. We've got to corroborate.

1 Mr. Ward -- excuse me -- Dr. Ward testified in his
2 expert opinion, a hundred times qualified on the stand, a
3 medical expert done thousands of autopsies, that that is a
4 pistol-whip. It's consistent with a pistol-whip,
5 corroborating Nijah Croskey and also Jamazzeo Glover.

6 And they all get out of the car and start the assault
7 and the armed robbery. And Mr. Glover, he may have hit
8 him. I don't know. He's guilty. He's there. He's
9 guilty. But regardless, the armed robbery starts then,
10 and now we have the crime of armed robbery. It ends up
11 being attempted armed robbery because I know that the
12 victim had a phone and he doesn't have one now, but I
13 wanted to make sure that I prove the case that I knew I
14 could prove, and I know I could prove that he -- they
15 attempted the armed robbery.

16 And that Glover then testifies that after the assault
17 and trying to get things and the victim's trying to get
18 away, that he runs out of his shoes and, at that point in
19 time, gets into his car. And as he gets into his car,
20 that the defendant Mosley then says, "Blast that N."

21 Now, the only person that said that in this case that
22 you've heard say that is Mr. Glover. Because the other
23 two individuals who were in the car that testified, where
24 were they? They had run upon the pistol-whip. They're
25 gone. So don't let them make you believe that, well, that

1 was never said because they didn't hear anything.

2 I don't get to respond to them, so I have to
3 anticipate where they're going to come.

4 And those two guys were gone. They heard gunshots.
5 They were gone when that statement was made.

6 Mr. Mosley, involved in the case, he has now
7 assaulted him, he's attempted to rob him, and then he
8 takes a step in saying, "Blast that N."

9 If Hill doesn't send the text messages, maybe none of
10 this happens. If Mosley doesn't make that ridiculous
11 comment on a kid that's trying to get away from the scene,
12 maybe we're not here for murder. They're involved with
13 the crime. They didn't pull the trigger, but they're
14 involved with the crime so they might as well have pulled
15 the trigger, both of them.

16 Of course, they're going to attack Mr. Glover when
17 they get up here. That's their job. That's what they've
18 got to do. They're fine attorneys. They're going to
19 attack him.

20 I ask you to think about this, ladies and gentlemen.
21 Mr. Glover got up there and testified and we've heard no
22 rebuttal otherwise that he grew up with these three guys
23 playing basketball that day. He's their friend. These
24 are his friend. These aren't hang-out people every once
25 in a while. These are his friends. He testified to it.

1 They went to Woodmont together. They were friends.

2 If Mr. Glover is lying about this, why did he not say
3 that the other two people who he did not know did it? If
4 he's lying and trying to get out, not only is he
5 implicating himself, he implicates his friends. But he
6 has two other guys he could have said did it that he said
7 had nothing to do with it. That is complete honesty.
8 Because if he's all involved with his friends and good
9 friends with them and they did nothing, why is he going to
10 come and sit on this stand and swear to you people that
11 he, my friends, killed somebody? Because Glover was
12 telling the truth. And if you believed Glover had
13 anything to do with any of it, if he's part of that group,
14 hand of one is the hand of all. They're still guilty.
15 But that's ridiculous.

16 And I apologize for looking down. I wish I was smart
17 enough to remember everything.

18 So some of the evidence that comes up and it leads up
19 to this case and how -- and by the way, Investigator
20 Garrett, what a great job. Greenville County Sheriff's
21 Office, what a great job. They had police everywhere.
22 They're getting all the evidence. He collects all the
23 evidence. We send it to SLED. We try to get everything
24 we can. Unfortunately, you don't always get forensic
25 evidence. It's not CSI in here. I wish it was, but it's

1 not. We don't always get everything, but we try. We try.

2 And we got some stuff. Thank you to this
3 investigator for Greenville County and the sheriff's
4 office and the public safety people and the forensics
5 people that came in. Because we got some stuff. And we
6 got some stuff that leads directly to some of the
7 individuals' guilt.

8 First, a firearms expert testified. We just want to
9 make sure. Is this one gun or do we have multiple
10 shooters? Does the victim -- did the victim shoot?
11 Remember, no evidence that the victim had a gun. He's
12 dead in the car. He's laid out in the car. Did he have a
13 gun? No. No weapon whatsoever on the victim. One
14 shooter. 9 millimeter testified by an expert witness, the
15 9 millimeter that ultimately Dr. Ward told you killed
16 Kerolos.

17 You see everybody together at the Spinx. They're
18 there at the Spinx. You see them getting in and out of
19 the car. I'm not going to show you pictures again, but
20 there was pictures of every one of them.

21 Glover admitted, yeah, that's me. I'm there. I'm
22 involved. Yeah.

23 And so all these people at the Spinx, so we have them
24 all together. And this is going to become important a
25 little bit later as to Mr. Brown. But there they are.

1 They're at the Spinx.

2 And when they leave the Spinx, it's not -- if I got
3 the time right, there was testimony to I believe it was
4 19 minutes later there's a 9-1-1 call. Kerolos is dead
5 19 minutes later. They're all there. Every one of them
6 is there. I've heard no testimony whatsoever that -- they
7 have to say they're there. We've got too much evidence
8 against them, so now they have to say they're there. So
9 now they're coming up different avenues to try to convince
10 you all, well, they're there, but they're not involved
11 with the murder. Somebody else did it. I don't know what
12 they're going to say.

13 But Mr. Hill, I'll start with him. Mr. Hill was
14 interviewed by this investigator. He was interviewed and
15 gave four separate statements. Jamazzeo Glover gave one.
16 Four statements. Well, now you're lying about that.
17 Well, this is what happened. You're lying about that.
18 This is what happened.

19 Eventually, in his statement when he comes down to
20 it, and they're very good, they have very good -- talking
21 to these people and getting people down to some of the
22 facts that are the truth. After he's lied three or four
23 times, he finally says, yes, well, he told his cousin it
24 was his intent to rob Kerolos. And he told that in his
25 own words. Guilty. Involved with the crime.

1 Mr. Mosley. Mr. Mosley sees the message. He knows
2 it. And he gets out of the vehicle and is along with the
3 ride. He's going through the beating, he's going through
4 the robbery and the assault -- and this is when it becomes
5 very important -- the assault on him and -- which
6 ultimately leads to Kerolos's death.

7 Where -- and the defense attorneys made a big deal
8 about this. I'd be worried about it, too. What's he
9 worried about? DNA. How is he going to get out of the
10 DNA.

11 Okay. He's -- by the way, all these guys ran
12 together, too. They're all together. They're beating him
13 up. They're robbing him. They shoot. They're all
14 together. They're a group. They're together.

15 Mr. Pringle, I respect him. I've known him a long
16 time. But I have absolutely no idea where he's going
17 about shaking up a trash can and doing these things.

18 This is the blood that was obtained from
19 Ms. Fleming's house. This blood she took a picture of
20 beforehand because we want to show where it was. It's on
21 top of some trash.

22 This blood is sealed and put into evidence in a
23 sealed facility and then tested. What does it matter
24 about the trash in the trash can? What we're talking
25 about is what this investigator saw and instructed

1 forensics to take into evidence because this is evidence.
2 Toilet paper rolls are not evidence. Blood is evidence.
3 And it's damaging evidence against Mr. Mosley.

4 We then get a sample. We have to get a court order
5 to get a sample of his DNA where they take a swab. And
6 these swabs, it's all testified to, were sealed,
7 delivered, kept under a secure location. When tested,
8 they were tested separately. A profile was found here
9 (indicating) on this, Mosley's profile, and a profile was
10 found on this with more than one profile. Who else's DNA
11 is in here? The victim's.

12 I did some calculations because I don't know what
13 "centillion" is. I did some calculations. I looked it
14 up. I googled. There are eight billion people in the
15 world, approximately. The Defendant Mosley's DNA is
16 113 septillion, that's 24 zeros -- I mean, there's not
17 even close to that many people in the world -- chance it's
18 somebody else's. 223 quintillion, 18 zeros. Nine zeros
19 in eight billion people.

20 This is the victim's DNA, and this is Mosley's DNA.
21 And what does that show us? That he hit the victim. He
22 hit the victim. When Ms. Fleming cleaned off his blood,
23 he hit the victim, and the victim's DNA, the victim's
24 blood, the injuries that the victim suffered transferred
25 into his knuckles. Involved in the crime. Didn't pull

1 the trigger, but involved in the crime.

2 And that corroborates who? The other witnesses that
3 testified that he was assaulted and the attempted robbery.
4 It corroborates that. That evidence is solid,
5 corroborating evidence.

6 You know, while I'm at it on Ms. Fleming's house,
7 that's a very interesting thing. You've seen that she
8 lives about a mile from the place. I think it was a mile
9 point two from the incident location. And they get there
10 to her house.

11 Now, they're running. They're getting away from the
12 scene. I think they're getting as far away as they can
13 till they find a house that has a light on, and then
14 they're going to knock on the door because they've got to
15 go get some help because their phones are dead. That's
16 what Ms. Fleming testified to.

17 And they came in. And they were frantic. And
18 they're all talking about shooting, a shooting. But yet
19 they don't want her to call 9-1-1. No, no. Yeah.
20 They're shooting. Somebody's shooting at us, but please
21 don't call 9-1-1. Let's charge my phone.

22 And then they make phone calls off of her phone, you
23 heard testimony to that, in an attempt to get somebody
24 there. And eventually, they do. And I believe there was
25 testimony that one of them's sister picked them up and

1 drove them away from the scene and that they flew out of
2 her house. I believe Ms. Fleming said, yeah, they flew
3 out of her house. And she gets on the phone. And she's
4 on 9-1-1, and she's chasing them in her slippers, I
5 believe she said.

6 They've got to get out of there. They've got to get
7 as far away from that scene as they can. They can't get
8 caught near that scene.

9 And she's the one that leads. The investigator,
10 tells him, well, yeah I was cleaning his knuckles. Look
11 at the blood. So the blood's sitting right on top of the
12 thing and now we've got his DNA and showing his assault on
13 the victim. Why else would the victim's blood be in his,
14 his DNA be in his blood?

15 That's kind of like a -- I keep going back to that,
16 but it's like a spitball punch. Like when I was a kid, I
17 threw spitballs against the wall and see what sticks.
18 That's what that is. It's trying to blow smoke until you
19 can't.

20 But y'all, look through the smoke. Use your common
21 sense. His DNA is in there because he was bleeding from
22 hitting the victim and his victim's DNA was in there from
23 him transferring into that wound. And you've seen
24 pictures that he actually had wounds.

25 And lastly, our shooter, our killer, Mr. Brown, I

1 don't know where to start with him. I'll start with his
2 statement.

3 He gives a statement to this investigator, and he
4 starts out with I don't know anything about anything.
5 Well, Investigator Garrett said, well, you don't know
6 about a Chrysler, a 2015 Chrysler, red Chrysler? You
7 weren't at the Spinx? You weren't at the Spinx on that
8 night, December 10th -- or excuse me -- 19th, 2019? You
9 weren't at Spinx that night?

10 Oh, no, no. There's no -- I don't know anything
11 about that car. I've never been in that car. I think he
12 said I've never been in that car.

13 More forensic evidence. Fingerprint. So he states
14 he has never been in that car, he's never seen the victim,
15 he knows nothing about this. He is getting into his --
16 that he has never gotten into this Chrysler. He's never
17 been in this Chrysler, blah, blah, blah. And the
18 investigator, being as good as he is, says, well, let me
19 show you something. Let me show you this report that says
20 your fingerprint is on the car.

21 And what does he do then? He says, "I want a
22 lawyer." He stops talking. And he has that right.
23 Investigator Garrett told him in his rights you have a
24 right to stop talking. That's one of your constitutional
25 rights. You can stop talking. But it's interesting that

1 when he got caught in his lie, that's when he decides to
2 exert his lie -- or exert his rights. Because of his lie,
3 he's caught.

4 And you heard the fingerprint expert get up here and
5 state that these were, in fact, Braelon Brown's prints
6 lifted off this Chrysler where the victim was killed.
7 Still with Mr. Brown, he still continued to try to get out
8 of this thing.

9 So as I stated, Hill had talked to the police. So
10 for whatever reason, he wants Hill to have something out
11 there that Hill redacts off everything he says, whatever.
12 And he signs this affidavit. He writes this affidavit on
13 behalf of Jaylin Hill. I don't know if Mr. Hill, that he
14 was trying to blame Mr. Hill. But anyway, that he recants
15 his story and then signs it Jaylin Hill. And you heard
16 the officer testify. No, he signed it Jaylin Hill but it
17 was Braelon Brown who gave it to me, who wrote it and gave
18 it to me and signed it. One more attempt. He wants y'all
19 to let him go. One more attempt to get out of this thing.

20 I have here, one -- I'm not going to show them again
21 -- two, three, four, five, six searches. Six searches
22 from December 21st to December 24, 2019, that came off of
23 Mr. Brown's phone. And by the way, a phone that he had
24 cracked in half at his arrest and that he had to go get
25 repaired in order for us to get the evidence off of it.

1 Six all the way to Christmas Eve searching about murder in
2 Greenville, 18-year-old charged.

3 He's worried. Uh-oh. Somebody's been caught.
4 Somebody's going to tell on me. I need to see who that
5 is. 18-year-old charged.

6 Coroner identifies teen found shot and killed inside
7 car. Here's a Greenville inmate search he's doing. He's
8 looking in our jail to see who's there. Who is it? Who's
9 going to tell on me?

10 Suspect arrested, charged with murder in connection
11 with shooting in Piedmont. Suspect arrested in connection
12 of fatal shooting in Piedmont. Is that coincidental? Is
13 that coincidental? 2019 -- I mean December 12 of '19 and
14 he's made these searches, is that coincidental? No. He's
15 guilty.

16 This is a sad case. Every murder case I have is sad,
17 but this is especially sad. This kid who was 15 years old
18 at the time, he's never going to see marriage. He's never
19 going to see -- have kids. His poor father is never going
20 to see him again. His family, his mother, his brother,
21 his sister, never going to see him again. All because he
22 said I have a hundred dollars. This thing was over a
23 hundred dollars in their mind. They got nothing, but in
24 their mind, this thing is over a hundred dollars.

25 And they are mad. They are mad. Do you know why

1 they're mad? Because when they beat him and they searched
2 through his stuff, he had nothing. He had nothing. And
3 they were mad.

4 So Mosley says -- he says it. Yes, he did. He said
5 it. He gets up here and says "blast that" -- when he got
6 away.

7 And he's running for his life. He's running out of
8 his shoes. There was no reason for him to die that night.
9 He's trying to get away. He isn't trying to hit anybody
10 with a car. He's not shooting at anybody. And now his
11 life's gone. He's destroyed the life of his family all
12 because he was trying to leave the scene. It is not one
13 shot. It's five shots. Unfortunately, one hit him.

14 Ladies and gentlemen, what happened that night is
15 these three got together, went under the presumption that
16 they were going to get a hundred dollars and took him to a
17 place and began to beat him, assault him with a gun. And
18 by the way, everybody saw that gun and continued the
19 assault. And then because they are mad and they don't get
20 anything, they kill him.

21 Ladies and gentlemen, I respectfully ask that you
22 come back with the only verdict in this case, and that is
23 guilty on each count, on each defendant of murder,
24 attempted armed robbery and conspiracy.

25 Thank you.

1 THE COURT: All right. Closing argument on behalf of
2 Mr. Brown.

3 MR. CANTRELL: Thank you, Your Honor.

4 Very simply, Mr. Kerolos in this case is gone. He
5 was killed. That's -- there's nothing we can say to
6 change that. And it's very simply it's a sad fact that
7 everyone in this courtroom has to deal with. So please
8 don't misunderstand the intent of any of us. And I'm
9 asking this on my behalf that starting in just a second
10 I'm going to talk about this case. I'm going to talk
11 about evidence, facts, testimony. Let us not take away
12 from why we're here in the first place. That is not
13 something we can change.

14 And what we are here about is the facts, is the
15 testimony, is the evidence. And that is what you are here
16 about. So please don't misunderstand or misinterpret my
17 failure to discuss Mr. Zaky any further. It is not out of
18 disrespect. It is out of necessity to discuss with you
19 the case.

20 And the solicitor does have to go over every detail
21 with you. Those are details that they presented. He's
22 got to discuss all of those with you. And that's his job.
23 That's his responsibility. Because as you know, the State
24 has to prove their case beyond a reasonable doubt and that
25 the defendants are presumed innocent. I'm not going to

1 touch on every detail or every comment or every statement
2 off the witness stand.

3 The forensic evidence is what it is. You probably
4 noticed that there was so much evidence that was submitted
5 by the solicitor. We had an opportunity to review it. No
6 objection, no objection, no objection. It was the
7 forensic evidence that competent experts reviewed,
8 processed and presented, and that competent prosecutors
9 presented in court the proper way. And you're entitled to
10 have that, and I certainly have no objection to any
11 competent evidence. And that was virtually everything of
12 a forensic nature. So I'm not going to discuss that with
13 you except to say, yes, Braelon Brown's fingerprint was on
14 the car. We knew that and I think there was another no
15 objection.

16 It's the other evidence, it's the other testimony
17 that is important for you to consider because the State
18 has to prove all of these charges, the most serious of
19 which is murder. And the judge will give you that
20 definition. Pay particular attention to the malice
21 aforethought definition and the circumstances that must be
22 proven beyond a reasonable doubt before you can enter a
23 verdict of guilty. Otherwise, it's not guilty. And there
24 is a place for not guilty verdicts even in tough, sad,
25 tragic cases. And this is one of them.

1 I'm going to start at the back end of
2 Mr. Richardson's comments about -- a little bit about
3 Mr. Brown's statement to the investigating officer. And I
4 would simply say to you, in about a six-to-eight minute
5 period, he responded to the investigator. He said he
6 didn't know anything, didn't do anything. We all know
7 that that's not true. It wasn't true at the time. But he
8 had a right not to answer questions or not to admit
9 anything.

10 During the interview, he was characterized as a
11 monster by some people, apparently. He was told we know
12 everything. We've heard everything. Your freedom is at
13 stake here, or words to that effect. We're not clear on
14 those words. And he was under arrest.

15 He chose not to answer the questions, not to admit
16 anything. And he asked for an attorney. My recollection
17 was not that that was immediately after seeing the
18 fingerprint, because prior to that he had also been told
19 there was video from Spinx which placed him there. So he
20 was being told what the evidence was. And he was also
21 being told -- you've been called a monster and your
22 freedom is at stake. Six or eight minutes of it, he's
23 ready to stop and get his attorney which he has every
24 right to do.

25 So his statement was not totally true but it's

1 understandable. Don't blame him at all.

2 The phone search. If you believe that he was
3 involved in this incident, which I think we all do, the
4 evidence is there that he was present at Spinx and at
5 Mansion. I cannot imagine not googling information. I
6 won't ask you, but I will confess to you that I google
7 stuff all day long. I'm kind of ashamed of it because I
8 ought to be putting my time to better use a lot of times.
9 But I will google things all day long to get information.

10 And he googled an incident, this incident that he
11 knew about, was familiar about and he was present for. I
12 cannot imagine not doing that. And that is not a sign of
13 anything other than wanting to get the information or find
14 out what's going on. And I don't blame him, and I don't
15 believe you can't blame him for wanting to know that.

16 His affidavit or the affidavit that we're hearing
17 about, it's almost comical, I believe, if you heard the
18 officer's testimony about the affidavit that was supposed
19 to be from Mr. Hill and, in fact, I believe was.

20 What Braelon Brown did was he went to his CO. He's
21 in the jail. He's in the midst of other inmates and other
22 law enforcement officers. He's not getting away with
23 anything. He goes up to the officer and says need this
24 notarized. Had he wanted to sign it with Mr. Hill's name,
25 he would have already done it and try to slide it by.

1 He gave it to the officer saying we need this
2 notarized. And I submit to you he was presuming that they
3 would get it to Mr. Hill for him to sign because that's
4 who the affidavit was for, obviously, on its face. But
5 what did the officer do? No fault of his own. He hadn't
6 looked at it at that point. He said, well, you've got to
7 sign it. So Braelon Brown in the detention center,
8 inmates, officers around, the CO says you've got to sign
9 it, so he signed Mr. Hill's signature. Not the smartest
10 thing he's ever done, but understandable under the
11 circumstances. He was told to. And it was Mr. Hill's
12 affidavit.

13 It didn't incriminate or anything with Mr. Hill at
14 all. It was just a statement about Braelon Brown. And
15 Mr. Brown and Mr. Hill, I believe, were prepared to do
16 that. It never got done.

17 But all Mr. Brown did was hand them an unsigned
18 document. It's not proof of anything. It's not proof of
19 guilt. It's not proof of anything except, yeah, he
20 probably shouldn't have signed the statement, but he was
21 told to and he just did it. Does that impact your
22 deliberation? I hope not because it's pretty
23 insignificant in spite of the attention it's drawn.

24 Again, I mentioned proof beyond a reasonable doubt,
25 presumption of innocence. The judge is going to give you

1 the law on that. And very simply, you go by everything he
2 says as to what the law is.

3 The rest of what I want to talk to you about is the
4 evidence and the testimony. It's kind of a series of
5 issues here or layers of issues. Well, there's a charge
6 of murder, killing with malice aforethought. But to get
7 to that, there's a lot of emphasis on robbery, armed
8 robbery. Well, in fact, it was armed robbery but it
9 wasn't anymore. It becomes attempted armed robbery. The
10 State changed their mind about the charge. I submit to
11 you that's because there was no evidence of armed robbery
12 and, in fact, no real evidence of attempted armed robbery.

13 And here's why I say that. Their only testimony
14 about Mr. Zaky having things of value was from Mr. Glover.
15 He said that, one, Mr. Zaky said I've got a hundred. On
16 cross-examination I asked Mr. Glover, I said you knew he
17 didn't have a hundred, didn't you? He said yeah. I knew
18 it. He said everybody else in the car knew he didn't have
19 a hundred. That was just talk. He didn't have that, and
20 everybody knew it. And he said yeah.

21 So don't entertain the idea that there was any intent
22 to rob him of a hundred dollars because everybody knew he
23 didn't have it. In fact, on cross-examination, it was
24 stated by the investigating officer that they were
25 charging armed robbery because they couldn't find a cell

1 phone and that's what led to armed robbery and now
2 attempted armed robbery. Only because a cell phone was
3 lost. That does not mean and that is not evidence of
4 anybody stealing it.

5 And I would submit to you they were intent on
6 alleging armed robbery or attempted armed robbery to prove
7 murder allegations. They felt like they had to have the
8 first to have the second, and they didn't. And they still
9 don't. There is no real evidence of an attempted armed
10 robbery or a reason for there to be a robbery.

11 If you go back to Mr. Glover -- I'm sorry. Let me
12 back up and first thing, Mr. Glover is to be believed
13 according to the solicitor. Everything he said came true.
14 Everything he said was truth and he's in here just
15 because. He's not getting any deal. He's not getting any
16 benefit by testifying.

17 But what he testified to was not true. He was not
18 being honest and he was not being truthful. We have
19 witnesses that said he hit the victim with a gun and that
20 he was involved in the assault.

21 Mr. Glover was involved in this situation. Let me
22 back up and say he also originated the robbery idea based
23 on the cell phone being shown to the people in the
24 backseat of the car, which was physically impossible the
25 way he said it. Because if you remember, he said, yeah,

1 he showed it this way (demonstrating) so people could see
2 it. Well, if it was over Mr. Hill's left shoulder,
3 Mr. Glover, who's over here to the right on the door,
4 check the diagram. Mr. Croskey was over here on the left
5 at the door. So, number one, Mr. Glover couldn't have
6 seen a cell phone. Mr. Croskey had to have seen a cell
7 phone.

8 And Mr. Glover said but I'm absolutely certain
9 Mr. Croskey didn't see it. How in the world could he say
10 that? There was no doubt in his mind. No, Croskey didn't
11 see it. Everybody else saw it but him who was over here
12 in the perfect line of sight to see it. Translation,
13 there was no cell phone communication. There was no
14 notation about a robbery. There was no discussion,
15 nodding or communication about robbing this fellow,
16 because, number one, there was no text because couldn't
17 see it; number two, because he had nothing to steal. So
18 if you believe Mr. Glover on everything, you have to
19 believe all that's true. And it's simply not. There's no
20 way it could be true.

21 The robbery, these are young men, young boys at the
22 time. They are trying to concoct a robbery plan, so they
23 go from QT to this area that we have already heard has
24 numerous residences, some of them with their outdoor
25 lights on. It's just starting to get dark because it's

1 like 7:30 or 8:00, if I remember right.

2 So they go to a congested or -- well, a residential
3 area with numerous homes. One's unoccupied, but all the
4 others are occupied. They go there to commit this
5 brainstorm of a robbery makes no sense whatsoever. Add to
6 that that the first officers get to the car, that arrived
7 on the scene and got to the car indicated that the stereo
8 was blasting.

9 So they're going to go to a residential area with
10 lots of homes, drive from QT past, I'm sure, a lot of
11 other desolate areas and try to commit a robbery in front
12 of these houses with the radio blasting. There's simply
13 no real believable, credible evidence that there was a
14 scheme to rob, period. And that is -- the reason the
15 State wants that is that gets you to murder with malice
16 aforethought. There was going to be a robbery.

17 Quite candidly, if you believe everything Mr. Glover
18 says, then I probably should sit down right now. But I'm
19 not going to do it because he was not believable. He was
20 not truthful. And I would submit to you there should not
21 be a verdict. A verdict in this case, in fact, on murder,
22 armed robbery and conspiracy rests entirely on the
23 shoulders of Jamazeeo Glover. And what he tried to tell
24 you is what he told the officers.

25 He was the first one arrested because he had the

1 ankle monitor on. They found him. Good police work with
2 a little bit of luck, they find this guy immediately.
3 He's already gone to grandma's house. He already knows,
4 based on having his ankle monitor on, that he's in
5 trouble, so he's already concocting his story of how he
6 didn't do anything. He was with them. That part's true
7 that he did say that.

8 But he denied doing anything if you think back to his
9 statement. First, he was five feet away and then he was
10 on the cul-de-sac. But he was not involved. He was going
11 away. But he saw enough to implicate these fellows. And
12 he was covering himself because he was getting ready to
13 have to face the folks with the monitor. So he's, well,
14 okay, I was there, but I didn't do anything. I did not do
15 anything. Let me off the hook. He's already fabricating
16 that. But he also provided the investigators with enough
17 information to go elsewhere, so they latch onto his
18 statement which has turned out to be very uncredibile.
19 But they latched onto that to be their theory of this
20 case.

21 So Mr. Glover, you can put whatever credibility you
22 want in his statement, but I'll submit he's not entitled
23 to any. And he should not be the basis for any verdict in
24 this case because of what he did and said. And if you
25 believe he's testifying without a belief he's going to get

1 a benefit out of testifying, again, quite frankly, if you
2 believe that, I need to sit down because that simply makes
3 no sense. He's looking for -- he's expecting something,
4 and odds are he could receive something.

5 MR. RICHARDSON: I'm going to object to that, Your
6 Honor. He's insinuating something that is not placed into
7 evidence, insinuating I've made some kind of deal with him
8 to this jury. I think it's improper for him to do that at
9 this stage of the trial.

10 THE COURT: All right. Sustained, and move on.

11 MR. CANTRELL: We have another person that's not
12 here. And Mr. McMahan was involved from beginning to
13 end, and he is not here. There was some statement to
14 investigators that he had a gun and that he was involved
15 in the assault and in this entire case. And simple fact
16 is, he is not here. You don't have the benefit of
17 anything from him.

18 So what you're being asked to do today is to make a
19 decision on these three people without being involved in a
20 decision of the other two that were there and just as much
21 involved if not more so than these. And I will submit to
22 you that that is incomplete, and that prevents you from
23 having the ability to render a verdict which speaks the
24 truth or render a verdict beyond a reasonable doubt
25 because you don't have everything and you don't have

1 everybody. And that is not your fault and certainly not
2 our fault.

3 We talked about Glover for just a minute or two.

4 Mr. Mueller, and I think he was a kind of sympathetic
5 person the other day. But he was called as a witness. He
6 was there. He was here to testify. And he was all over
7 the place. I would believe that his testimony was almost
8 useless because he couldn't remember things, he couldn't
9 remember people. He had to change what he said a few
10 times. And thankfully, I can't say I know what he went
11 through or I know what he was going through the other day
12 because I don't. And he was going through stuff.

13 But, again, his testimony has to be taken with a huge
14 grain of salt. He could not remember things for his
15 testimony. He even thought he probably better check the
16 news to help him refresh his memory or to improve his
17 testimony because he really was trying to memorialize his
18 friend, I guess you might say. But that's not what he was
19 here for, really, or for our purposes.

20 But one thing he did say that I think could be
21 credible that was on point is the interview he gave
22 immediately after this, and if he can't remember faces,
23 I'm sorry, but he had been around these people for a
24 considerable amount of time, and he was able to tell
25 without prompting that Mazze, Jamazzeo Glover was the one

1 that hit the victim and had the gun. He said that that
2 night. He couldn't remember that here that way. And he
3 acknowledged it, but then he couldn't remember anything
4 else. And yes, he misidentified somebody even after
5 having refreshed his memory. So I cannot tell you that
6 his testimony proves anything particularly about the
7 allegations: armed robbery, murder, conspiracy. He had
8 nothing for you on that that could really be credible.

9 And Mr. Croskey was kind of hard to follow and hard
10 to keep up with. He did say he didn't know who shot, who
11 fired the shot. He wasn't even clear. He just said they
12 were around beating him, but he couldn't specify who. And
13 he had a poorer point of vision than Mr. Mueller because
14 he took off first and he's up in front of Mueller and
15 Mueller's behind him.

16 So there, again, up to the point of them running,
17 they can testify as to some of the things that were there.
18 Nothing about a robbery. Nothing about a text message.
19 Nothing about a plan. But they can testify up to that
20 point. And then as soon as there appeared to be an
21 assault happening, they took off and they have nothing for
22 you after that. So they have no proof of any of the
23 allegations that lead up to the charges.

24 So what you've got is a lot of forensics which were
25 admitted without objection, and you've got three witnesses

1 to the incident, none of which can provide you information
2 or evidence or testimony beyond a reasonable doubt because
3 it's too cloudy, they don't remember or they forget, they
4 weren't at a good point to see it. One of them -- one of
5 the individual is not even here.

6 And then you've got Mr. Glover. And I'll let that
7 stand on his own as to how valuable or invaluable his
8 testimony would be. Because, again, remember, you're here
9 to reach a verdict. And if it is guilty on anything, it
10 absolutely has to be guilt beyond a reasonable doubt even
11 in a case where the consequences are so serious and so
12 significant. That does not change the law. The proof has
13 to be guilt beyond a reasonable doubt, and you have to be
14 able to look each other in the eye and look yourself in
15 the eye and say, yeah, absolutely beyond a reasonable
16 doubt. Based on these three witnesses, we know it. We
17 know what. And I submit to you that it's just simply not
18 there.

19 Lastly, I want to do one thing. You've heard a lot
20 of things said about Braelon Brown, none of them
21 complementary, up to and including how horrible he is in
22 this case so that he's a monster. That's not true. This
23 is Braelon Brown. He was 18 at the time. He's 22. He's
24 the son of Herman Brown and Felicia Leggett. He's got one
25 brother, three sisters. He's a young man that was born

1 and raised here in Greenville County, went to Woodmont
2 High School. He is a young man. He's a young human being
3 with so much at stake here. And he is before you asking
4 you to render a verdict which speaks the truth, and I am
5 asking the same thing. And in this case based on this
6 evidence, I'm asking you to render a verdict of not
7 guilty.

8 Thank you.

9 THE COURT: Everybody okay or does everybody need a
10 break? Thumbs up. Give me a thumbs up, you want a break.

11 Okay. We've been going about an hour and a half so
12 we're going to take a short break. Again, don't discuss
13 the case. Let's go back to your jury room at this point.

14 (WHEREUPON, the jury exits the courtroom at 10:54 AM, and
15 a recess is taken.)

16 THE COURT: All right. Is everybody ready? Is the
17 State ready?

18 MR. RICHARDSON: The State's ready.

19 THE COURT: Defendants ready?

20 MR. CANTRELL: Yes, Your Honor.

21 MR. PRINGLE: Yes, Your Honor.

22 THE COURT: All right. Bring the jury in if they're
23 ready.

24 (WHEREUPON, the jury entered the courtroom at 11:08 AM.)

25 THE COURT: All right. Ladies and gentlemen, we're

1 ready. I don't like to break in the middle of closing
2 arguments, but this is quite a few attorneys so we needed
3 to take that break.

4 So at this point, closing argument on behalf of
5 Mr. Mosley.

6 MR. PRINGLE: May it please the Court.

7 First of all, ladies and gentlemen, let me
8 reintroduce myself. I'm Kraig Pringle. Of course, I'm
9 here for David Mosely.

10 I'm not special. They didn't give me this just
11 because I'm who I am. It's I've got kind of a bad back,
12 so if you're wondering why I've pulled this up here, it
13 makes it a little bit easier for me to stand here and
14 address you all.

15 On a little bit lighter note, it happens to be my
16 birthday. And I certainly would have hoped and I think we
17 can all agree that we would have all hoped that we
18 wouldn't be here doing what we're doing right here and
19 right now. Obviously, regardless of what differences we
20 may have about what happened or what didn't happen, we can
21 all agree that this was a tragic waste and a young man was
22 killed. And that's something that we're not ever going to
23 kind of get around. Okay. Terrible case.

24 I want to thank you all because it's obvious to me
25 and on behalf of David you have paid close attention. Of

1 course, the job's not over with. You're getting ready to
2 go into maybe the most important part after we get done
3 here to go in and make your deliberations.

4 You know, another thing I want to say is, you know,
5 during the trial, you may have noticed sometimes things
6 get just a little -- the temperature dials up just a
7 little bit. It gets a little bit heated whether it be
8 between the lawyers, sometimes the judge has got to
9 straighten me out. I want you to know if -- you know, I
10 know my style and my personality is not for everyone, and
11 if you hold anything against me, don't hold it against
12 David. He has nothing to do with that. I'm doing my best
13 and I'm not perfect. I've got a lot to work on. So if I
14 made anybody uncomfortable, let's get that out of the way
15 and let's get past that. Let's get back to the case here.

16 The other thing I want to say is, you know, we had
17 some difficult questions with even police, law
18 enforcement, Investigator Garrett. Want you to know, I've
19 got no axe to grind, nothing personal with police. In
20 fact, until I was about 10 years old, my dad was a cop.
21 And like a lot of kids, I idolized my father. I wanted to
22 be a police officer. That's what led me to the law. I
23 was a prosecutor for about ten years before I ended up
24 doing what I'm doing now. So there's nothing going on
25 that y'all should focus on other than the facts and

1 circumstances of the case.

2 Yeah, it's my birthday. Happy birthday to me. You
3 might recall in opening I told you I don't get into a lot
4 of details in the opening statement. I don't like making
5 a lot of promises. That's for them to make the promises,
6 and they've got to keep those promises. Of course, you
7 can imagine that I'm going to tell you why they've failed
8 to keep those promises. And, you know, I'm focusing on
9 the case, but obviously, more so with David. Okay.

10 Despite what the State has said, these three guys are all
11 separately on trial. Okay. I think you understand that.

12 But, you know, there were only a few things that I
13 said in opening that I wanted to stress to you all. You
14 may remember: please, pay close attention to all of it.
15 Don't just -- and when you get back there in the jury
16 room, you're going to be given some information to review.
17 Don't just start reading through it and draw conclusions.
18 Read it all. Listen to the entire law. I'm going to hit
19 some keys that I think will make things easier for you
20 when you get back there, because it can get very
21 complicated even for lawyers that have been doing this a
22 lot longer than I have.

23 I told you they were going to have to prove their
24 case. And we keep hearing this term "beyond a reasonable
25 doubt." I'm going to go out on a limb and say no matter

1 how many times we try to instruct you and tell you what
2 that means, I'm guessing y'all are going to have trouble
3 figuring it out, number one, because it's different for
4 everybody; number two, amongst the whatever hundred plus
5 years of combined experience here, it's hard for us as
6 lawyers to pinpoint what exactly that means. It's kind of
7 like you know it when you see it. We're going to get into
8 some specific language that defines exactly what it means
9 in this context. Okay. It's going to make it very easy
10 for you, and I'll get to that.

11 I told you the State made some big bets on a few
12 things that were going to come out at trial. And I think
13 you saw some of those bets. You, obviously, saw what I
14 was kind of focusing on at length. I believe we exposed
15 how some of those big bets had backfired on the State.
16 They haven't cashed in. I'm going to point out each and
17 every one of them here before we finish.

18 I also told you that this trial, it was tragic, but
19 it was a mess. And I said I don't think that I personally
20 will ever know exactly what happened that night. And I'm
21 guessing that none of us will ever know exactly what
22 happened that night. And I'll pose that even after all of
23 this, we still don't know exactly what happened that
24 night. It's very important, very important that we try to
25 nail down specifics of something that has this much at

1 stake. And here we are, and the prosecutor, and I'm going
2 to point out some of this, is still trying to explain,
3 justify some of the big problems that they clearly have in
4 this case. Okay.

5 Now, I like to focus on two things to simplify all of
6 this. It starts with what do we know, meaning after all
7 this, what do we know? Not what do we think, not what do
8 we suspect. What do we know, and more importantly, what
9 can we prove, more specifically, what can they prove.
10 What do we know for sure and what does it prove. I'm
11 going to hit on that throughout.

12 You know, a couple things I'll just concede. You
13 know, the State made a huge deal out of all this stuff at
14 Spinx. All kinds of video, pictures, testimony, who's
15 sitting where. Look, we all know there were eight kids in
16 that car at Spinx. Let's get beyond that. Everybody
17 knows that. They spent a lot of time trying to establish
18 that. I'm not sure what that did as far as proving what
19 did or didn't happen at the incident. And that's what
20 we've got to focus on. There's a lot of smoke about
21 everything before and maybe even after. That's smoke.
22 The whole case boils down to what happened or did not
23 happen. The incident that we all heard about, okay, still
24 trying to figure out.

25 They also -- you know, obviously, they can prove that

1 this poor kid, Kerolos Zaky, the victim, he was killed,
2 and he was killed by a gunshot wound. Spent a lot of time
3 with that. That was never really in dispute. We know he
4 was killed by a gunshot wound. Now, what does that prove?
5 We know that. But what does that prove ultimately with
6 regard to David?

7 You know, the prosecutor said this isn't about who
8 did or didn't do what. It is, in fact, exactly about who
9 did or didn't do what. They're not all lumped in the same
10 boat. Despite what they're trying to sell you, we already
11 know, and I'm going to point out in more detail that there
12 were things that were done or not done allegedly by each
13 of these three boys at the time.

14 And you've got to look at each one individually. In
15 fact, you're going to get that jury form -- or that
16 verdict form that the judge is going to give you, and it's
17 going to have with regard to Defendant Braelon Brown, do
18 you find guilty or not guilty. And it's going to be
19 conspiracy, attempted murder -- or, excuse me --
20 conspiracy, attempted armed robbery and murder.

21 And you may note that Mr. Cantrell pointed out that
22 they started off with more charges than we ended up with.
23 You're going to find why do we only have three charges
24 now? We started with five. There was armed robbery.
25 Possession of a weapon, gun, during the commission of a

1 violent crime, they've dropped that charge. That's for
2 you to decide why or to conclude why. It seems like the
3 case has fallen apart. They didn't have enough for
4 robbery so they got rid of it. But they brought it to
5 trial, brought it to trial and never had enough to make
6 that case.

7 They've also dropped this gun charge. And that's
8 against all of them, not just David. They had to drop it
9 against David. There's zero evidence that he even touched
10 or was anywhere near a gun.

11 But you have to ask yourself, what does that tell us?
12 We started with five charges. Hey, we started with four
13 defendants until Monday morning. And we'll get to -- of
14 course, you know, y'all know that my favorite witness here
15 would be Mr. Glover. I said I didn't have an axe to grind
16 against everybody here, but frankly, that might be the one
17 exception.

18 You know, we know these boys were at Spinx in the
19 car. We know they were scrunched together like sardines
20 and they're on top of each other. Okay. We know what
21 those implications can mean about this DNA business, and
22 I'm going to get into that, too. Okay. Where I'm going
23 with that DNA, this has nothing to do with what
24 Mr. Richardson tried to tell you that that's what I was
25 trying to do. I'm going to explain that to you. I think

1 it will make more sense.

2 So, again, we started with five charges, now we're
3 down to three. They dropped the robbery because, again,
4 I'm focusing on David Mosely. He didn't rob anybody.
5 They dropped that charge against him.

6 They dropped the gun charge now against him. Why?
7 He never even came close to a gun. There's evidence there
8 was a gun involved here. We're not sure exactly,
9 certainly not beyond a reasonable doubt exactly who or
10 what may have had anything to do with the gun, but we do
11 know there's absolutely no evidence he had anything to do
12 with a gun. Not even touching it. Nothing. So of course
13 they had to drop that charge.

14 So when that smoke clears, now what are we left with?
15 We're left with this conspiracy, attempted armed robbery
16 and murder, murder under these facts. Of course, he
17 didn't plan or attempt to rob anyone. He didn't conspire
18 with anybody to do it. He was never armed. He never shot
19 anyone. And he certainly didn't murder anyone.

20 Again, back to this reasonable doubt thing. The
21 judge is going to instruct you on it. And, again, I think
22 I'm going to do you a big favor to really boil this down.
23 It's this simple. And he's going to tell you that, and
24 it's going to be in the instructions that you get that you
25 take back there and you can look over and discuss without

1 any of us in your ear.

2 This is what it says. Listen very carefully.

3 "Reasonable doubt is the kind of doubt that would make a
4 reasonable person hesitate to act." Hesitate to act. So
5 in this context, if you're considering if David is guilty
6 of each of these charges, any of them, and you're thinking
7 about is he guilty of conspiracy? Hmm. That's it. Any
8 hesitation, any pause, anything that makes you not say,
9 yes, guilty, it's got to be that automatic. It's got to
10 be to that extent.

11 It's a very high burden. They admit it. We all know
12 it. They've got to live up to it. If you hesitate at all
13 when it comes to David on any of those charges, and I
14 would certainly say murder under these facts, if you have
15 any doubt at all, any hesitation, if it's anything short
16 of, yes, of course he's guilty of murder, that is
17 reasonable doubt. And that's what the judge is going to
18 instruct you. It's that simple. If you hesitate to act.
19 If there's a real possibility that he's not guilty, the
20 answer is clear. You've got to find him not guilty. You
21 can't make logical assumptions, jumps. You can't do their
22 job for them. They failed on a lot of things, and they're
23 asking y'all to make those connections for them.

24 All right. Let's start a few comments first before
25 we get into the charges. This stuff about DNA. Okay.

1 Obviously, I spent a good bit of time breaking down the
2 whole process, all the issues with the DNA. Look, they
3 marched several people up there, but clearly, it doesn't
4 matter how many people they roll up there. It's not about
5 how many. They all basically were saying the same thing:
6 DNA matched up with David's. We already knew that. We
7 already knew that. That was never in dispute. None of
8 the stuff about the trash can is about saying his DNA is
9 not there. That's not what that's about.

10 Okay. And, again, they could have been way more
11 thorough. I think I established that. There was a lot of
12 I don't know, da, da, da, you know. We've always done
13 things this way. I love that common standard practice.
14 Well, that's what we do.

15 And I can understand, you know. They can explain why
16 they might not be a little more thorough, but when we know
17 how easy it is for -- and, obviously, I went to great
18 lengths to get them to tell you how easy it is. Remember
19 this? You know, I asked the forensic person to pick that
20 up and then I picked it up, and she told you, well, both
21 of our DNA's all over that.

22 You know, think back. You had eight kids on top of
23 each other in Kerolos's vehicle. His DNA is on every one
24 of them. I mean, if you believe what these experts said,
25 his DNA is on all of them. And then with them, with all

1 the interaction going on with them, their DNA is probably
2 all over each other.

3 So the idea about the trash can is never about, oh,
4 that wasn't his blood and that wasn't Kerolos's blood. Of
5 course it was. That's not in dispute. But there's a
6 million ways, almost literally a million ways how those --
7 DNA could have ended up on the same thing with all the
8 stuff that happened leading up to them showing up at Tori
9 Fleming's house that night, the Good Samaritan, the great
10 woman that let them in that night. Again, I'm not sure
11 how many of us would have done that, but she did. It's
12 that easy.

13 You know, they used a lot of words over and over:
14 contaminated, cross-contaminated, tainted. Not talking
15 about that means that that wasn't his DNA. Talking about
16 making the assumption, the huge leap, that because there's
17 DNA, Kerolos's DNA and, of course, there's that third
18 person that we know was never identified, they can never
19 explain why that person was never identified. We also
20 know that there was probably any number of other people's
21 DNA on that. They told you that. There could have been
22 thousands of different samples.

23 So the contamination wasn't about trying to tell you
24 folks, no, that's not his DNA. No. It's trying to tell
25 you that the way this DNA business works is they're

1 putting a lot of stock in the fact that they've got this
2 tissue or cotton thing that's got multiple people's DNA on
3 it.

4 I'd like to know who else. What we'd probably find
5 is just about everybody in that car was on there.
6 Certainly, the third party that we never found out who
7 that was, well, who do you think -- where do you think it
8 came from? I mean, just use your common sense.

9 So, you know, they made a big deal about that
10 combination, like that proves that David assaulted or was
11 part of some kind of scuffle. But what we know is there
12 is literally no evidence of that other than, of course,
13 Mr. Glover, the State's star witness.

14 So the DNA stuff really doesn't prove much. It
15 certainly doesn't tell us what happened at the scene.
16 Again, that's what this is all about.

17 So what do we know? We know his DNA was on the
18 sample. We know that Kerolos's was. We know at least one
19 other of the kid's was. And who knows who else. That's
20 all we know. Well, we concede that. I mean, look, his
21 DNA is going to be all over everything just like Kerolos's
22 DNA would have been all over one of those guys. None of
23 the other guys got tested. So it doesn't really prove
24 much. It proves he was in the car at least and he was
25 around Kerolos. Or at least he was around people that

1 were around Kerolos. So were all the others.

2 You know, one thing that's interesting, they want you
3 to put so much into that. Oh, his DNA is with Kerolos's
4 DNA. What do you think might have helped clear that up?
5 How about some of David's DNA on Kerolos? We didn't hear
6 anything about any of that. There was no evidence of
7 David's DNA being anywhere near that kid's body. And if
8 you want to buy what they're telling you about the DNA,
9 that means that he was part of this assault, this
10 attempted armed robbery, this conspiracy, this murder.
11 You've got to suspend reality.

12 They never tested Kerolos for David's DNA or
13 anybody's. That's a big piece, isn't it? There's a lot
14 of that in this case. Why didn't you do certain things,
15 y'all? Well, you know, that's common practice. Well, we
16 didn't consider it. Well, you know what? There's
17 people's lives that are on the line. I think it's time to
18 be thorough.

19 And let's forget about what we typically do or what
20 we would normally do. That sounds ridiculous when a few
21 extra steps might have really helped make some more
22 connections. Don't you think it might have helped if they
23 did a DNA swab of Kerolos and it's got David Mosley's DNA
24 on one of those -- one or more of those bruises or wounds
25 or whatnot? Well, that's not there. And that would be

1 there if what they're saying about the DNA is as big of a
2 deal as they try to make it out to be.

3 So, again, it was never about saying it wasn't him on
4 the sample. It's saying it's tainted because it's been
5 cross-contaminated with all kinds of stuff, and so we
6 can't make any assumptions about it other than they were
7 in proximity to each other and maybe one or more other
8 people. I mean, it could be a chain: Kerolos, Brown,
9 Glover, David. It doesn't prove anything beyond a
10 reasonable doubt. Okay. Nothing is going to leave us
11 firmly convinced that he participated in what they said he
12 did.

13 So that's really all I simply wanted to show y'all is
14 there's literally a million reasons. And you heard it
15 from their witnesses, not me, about how that could be.
16 And does that really prove anything in and of itself? No,
17 it doesn't.

18 Just the tip of a Q-tip, just that little bit. We
19 take all of it, we throw it in the trash. Now it's
20 probably cross-contaminated with anybody that's thrown
21 anything in that trash can. That's all -- that's all that
22 was about. Never a denial that it was his DNA. So I just
23 want to explain that. I can't explain that to you while
24 we're in the trial, but I can now.

25 You know, any one of those boys' blood, sweat or

1 tears could have produced that. And we know everyone in
2 the car was on top of each other. Does that mean that
3 they were part of a scuffle, a conspiracy, an attempt to
4 arm, rob, murder? Well, I mean, Croskey and Mueller were
5 in the car, too. They had Kerolos's DNA on them. They
6 certainly had some of the other guys' DNA on them. That
7 didn't make them robbers, conspirators or murderers. Mere
8 presence, the fact that the kids were there, that doesn't
9 prove anything.

10 And, again, where is David's DNA on that body? They
11 can't say they didn't have an opportunity to check or
12 test. He's deceased. He's not going anywhere. They
13 obviously did all kinds of testing and stuff to determine
14 his cause of death. They pointed out all this stuff,
15 these gory and gruesome photos. It's inflammatory, but it
16 doesn't prove anything about David. So, again, it's what
17 do we know, what does it prove.

18 Now, the other thing I want to get out of the way is
19 the thing about his hand. Okay. And, you know, we went
20 through that whole interplay, you know. What do we know?
21 And I'd ask you to go back and look. Go back and look at
22 the testimony, look at the photo. They can't prove beyond
23 a reasonable doubt exactly what was going on with his
24 fingers, you know. The whole thing about the knuckle, you
25 know, typically, you know, what do we refer to as a

1 knuckle sandwich, knuckles, it's right here (indicating),
2 you know. I made that demo when Investigator Garrett was
3 on the stand.

4 You know, he's got some stuff here (indicating).
5 Yeah, it could be some kind of wound. It could be a
6 number of things. Like I said, it looks almost like a
7 rash, virus or some kind of fungus. My nephew had a
8 fungus similar to that. It reminds me of that.

9 Now, let's assume, though, that it is from that
10 night. We don't know because they didn't even look at him
11 till ten days later. He's a 15-year-old kid getting into
12 all kinds of stuff, and they're checking him out 15 days
13 later and he's got some stuff on -- which these are not --
14 think about it. I may be blowing my cover, but let's just
15 say -- let's say I've thrown a punch or two in my youth.
16 Okay. Any of you that knows anything about that, use
17 common sense. Whether you've been in a fight or not,
18 think about it. Nobody does this (demonstrating). It's
19 this (demonstrating). Okay. There's no wounds here.
20 There's some stuff here (indicating). And I know those
21 are probably technically knuckles, but, you know, when we
22 use those -- these are fingers, in common parlance. Okay.
23 These are knuckles. It just doesn't add up. That's where
24 kind of your common sense is going to have to come in.

25 But I'm not going to ask you to just leave it at

1 that. The real problem is, you know, why didn't they show
2 that picture of his hand to Tori? You know, they made a
3 big deal out of the fact that she treated someone's hand.
4 They say it was David's. Probably was. We don't know.
5 They didn't prove it was. She wouldn't say who was who.
6 She couldn't say who bled, who did what. She clearly said
7 it was chaotic. She did not check these guys out. She
8 didn't really closely observe any of them. She couldn't
9 ID any of them. But wouldn't it have really cleared up
10 that issue about his knuckles and whatnot if they would
11 have just put that picture in front of her and asked her
12 do you recognize that? Is that what his hand looked like
13 that night? Very easily could have cleared that up.

14 She's a remarkable person. No doubt she would have
15 been honest. Tori, is that what his hand looked like?

16 Why do you think they didn't show her that picture?
17 That's for you to decide. Okay. But that would have
18 certainly cleared up the question. But, man, they chose
19 not to show her that picture. Maybe she wasn't going to
20 answer it the way they wanted her to. Why else wouldn't
21 they? It would have been really easy. That would be a
22 kill shot on that. Tori, is that his hand? Yes. Okay.
23 Then I'd be done making these arguments. But they didn't
24 do that, and that is very peculiar. But you've got to
25 decide what that means.

1 But let's back up. Let's say, hey, even despite all
2 that, one or more of y'all believes that he wounded his
3 hand that night. Well, that doesn't mean it happened in
4 any scuffle or conspiracy or attempted armed robbery or,
5 God forbid, murder. We know from the testimony and, you
6 know, went into great detail showing you the diagram.

7 Investigator Garrett did that homework about the boys
8 running from the scene to Pine Bluff, Tori's house. You
9 might remember the crow-flies line, straight line, 1.06
10 miles. And we clearly were able to establish that through
11 that area, they ran hastily from this shooting. They took
12 off like bats out of hell, ran through woods, climbed over
13 fences, I'd like to say over the river and through the
14 woods to Tori's house we go.

15 There's any number of ways when you're running full
16 blast through the woods with that kind of chaos. Whether
17 it be fear or adrenaline or what, these boys are taking
18 off like raped apes through the woods. If I would have
19 done that, I'd be covered with nicks, bruises, cuts. I'd
20 be in traction. Okay. And after a few more birthdays,
21 I'm certain I'd probably be laid up for a good bit.

22 But it's clearly, even if you think it had to have
23 happened that night and when he showed up with the rest of
24 them that she helped him out with his hand, sure looks
25 that way. That doesn't even prove that he was part of

1 this. Again, there's no corroborating evidence whatsoever
2 from any eyewitness at the scene other than Glover.

3 Again, I'm going to get back to that. But it's about what
4 happened at the scene. And we know the two boys, Mueller
5 and Croskey, that they put on, unfortunately for them
6 right after their star witness, the perjurer, Glover.

7 MR. RICHARDSON: I'm going to object to that
8 characterization. That's improper.

9 MR. PRINGLE: He lied under oath, Judge.

10 THE COURT: I'm going to allow it.

11 MR. PRINGLE: Thank you.

12 He lied under oath multiple times. That's perjury.
13 Okay. And, again, I'll get back to that.

14 But, you know, if you believe that whatever on his
15 fingers happened that night, there's any number of
16 explanations for how that happened other than
17 participating in this insanity. Okay. And there's simply
18 no other corroboration. It's at least as likely he would
19 have injured it in any of those other fashions as it is he
20 did it in some kind of beatdown. Again, when you look at
21 where it is, it just wouldn't add up if he did that as
22 part of some kind of fight. That's not what we're --
23 these -- just little stuff on these three fingers, that
24 doesn't make sense. Just think about it logically.

25 But having said that, even if you think that he was

1 part of it, they haven't proven it. It's not what we
2 think or, oh, probably likely or could have been. They've
3 got to prove beyond a reasonable doubt. No hesitation,
4 folks. No hesitation.

5 And, again, real easy to clear that up. Show it to
6 Tori. Game over. If she ID'd it, I wouldn't be sitting
7 here making that argument. But, man, they chose not to
8 show her. And that's a choice they made. If you think it
9 was a mistake, think about how thorough they've been with
10 all this. Okay. There was a reason they didn't show
11 Tori.

12 Now, after all that, I'm finally going to get to --
13 if some of you still think David is deeper in this than we
14 do, it's like Mr. Cantrell said in his closing, that means
15 by definition you have to put absolute faith in Jamazzeo
16 Glover. Okay. And I feel like I've got to talk a little
17 bit about him, obviously. I don't want to be too
18 repetitive with beating it to death with him.

19 But there's going to be another jury instruction that
20 the judge is going to give you about credibility of
21 witnesses. And I'm not making these words up. This is
22 literally what he's going to give you. And, again, this
23 is where I'm going to try to help you simplify this.

24 If a witness is shown to have knowingly testified
25 untruthfully concerning any material matter, you may

1 consider this in determining whether to trust the
2 witness's testimony as to other matters. Once a liar,
3 always a liar. We know he lied multiple times. We know
4 the entire investigation started with him. We know that
5 despite his performance on the stand and what he says now,
6 just serve himself, he was on the trial docket till Monday
7 morning when we all met. He was going to be sitting right
8 over there with those guys. Same frying pan. But then he
9 saw the light and he went up there and he spun that story
10 to save his own ass.

11 And, again, after hearing the only two other
12 eyewitnesses with no skin in the game, they clearly blew
13 up his testimony. One of them put him as the main
14 perpetrator pistol-whipping the victim. We certainly know
15 he was neck-deep in all of this. He didn't want a trial.

16 And, you know, just to touch briefly on Thomas
17 Mueller, TJ, the young white kid that was with all these
18 other kids, God help him because, I mean, he clearly was
19 still really hurting over this. That was his really good
20 friend. I think we all -- I felt terrible for him. I
21 wasn't even totally comfortable asking him questions.
22 But, you know, we have to do what we have to do.

23 And the truth is, he was really, as Mr. Cantrell
24 said, unfortunately, and God help him, but he was pretty
25 much useless for the State. It was painfully obvious, and

1 then when he misidentified these guys and was so adamant
2 about it, I really felt bad for the kid. But, you know,
3 they're the ones that flew him in here and put him up
4 there and put him in that situation.

5 Again, you know, Mr. Richardson sits there and says,
6 well, you know, they're kids, you know. I've got to
7 remind my kid how many times to take out the trash or make
8 his bed or whatever. Well, that's not -- that's not their
9 problem.

10 You know, when you have trouble with a witness, you
11 don't come in here and try to justify it and explain why
12 they couldn't do anything for you. You don't bring the
13 witness. And if you don't have enough to make the case,
14 you don't bring the case. That's how terrible injustice
15 can be perpetrated.

16 You know, like I said, I spent ten years on that side
17 of the coin. All right. So I'm not only talking about
18 what we know here and now, but I'm just asking you to just
19 think about some of these things outside the box and use
20 your common sense.

21 He could not ID these guys then and he couldn't do it
22 now. They should have never called him.

23 You know, then they followed up with Nijah Croskey.
24 He also lost his friend. He seemed like he was doing a
25 little bit better with it.

1 You know, of course, he put our friend Glover right
2 in the middle of it as well. Interestingly enough, he
3 never ID'd David. You know why? Because David wasn't
4 part of it.

5 So, again, we're down to one person that even puts
6 David involved in any of this, and that's, of course,
7 Glover.

8 We know Glover was a criminal and a cold-blooded
9 liar. He's always going to be. They do that when they
10 put him on that stand. Mr. Richardson sat there before he
11 even got started and laid out all his criminal charges and
12 his history and whatnot because, frankly, Mr. Richardson
13 knew if he didn't do that, then somebody like me was going
14 to come up here and blow this guy up for all of it. They
15 knew that they were putting a liar and a criminal up
16 there.

17 And you have to ask, man, that's another one of those
18 big bets I told you about. Glover was a very big bet for
19 them.

20 You know, he performed pretty well and you have to
21 question, you know, we know he met with Mr. Richardson.
22 We know he has a really good lawyer. We know that he was
23 coming in here to try to help himself. Was he coached? I
24 don't know. Certainly, nobody could prove it otherwise.
25 But we know he met with these guys. And he came in here,

1 and he performed pretty well. But that's what it was. It
2 was a performance. He had a lot at stake. If we stick
3 with what -- again, what do we know? He know he was a
4 main perpetrator. You've got to decide, you know, his
5 credibility.

6 When I said it was a big bet, why did they make that
7 bet? Why take the risk, put so much on a known liar and
8 criminal? And that's really what you're banking the whole
9 case on in some ways. If you think about it, he's the
10 only guy that talks about any kind of conspiracy. As
11 flawed and crazy as that whole description was, he's the
12 only guy that talks about any type of armed robbery
13 situation or attempted armed robbery.

14 He's the only one that says David was any part of it.
15 He's the only one that said David told him to shoot
16 Kerolos.

17 They knew he was lying. They bet all this on him.
18 Why? Because they had to. They needed him. They needed
19 him bad. Think about where this case would be without his
20 perjured testimony. There'd be nothing at all even
21 putting David in there. They know that. So when they're
22 prepping their case, they go what are we going to do?
23 We've got nothing against David Mosely. Oh, okay.
24 Glover. Glover. Glover is the only one of seven kids
25 that were out there other than, obviously, the victim,

1 seven that put him in the scuffle. Only one of seven that
2 said he told Braelon Brown to shoot him. No other
3 witnesses.

4 And then, of course, the State wants you to just buy
5 that and says, hey, it's not our fault that he's the only
6 witness. Well, it's certainly not ours. It's not yours.
7 They're asking you to go with it. Hey, just go with it,
8 ladies and gentlemen. We know we're coming up short. We
9 know this is crazy. But you know what? Just do it. We
10 put a lot of work into this. We've got a lot of
11 witnesses. We've got a lot of evidence. Forget about
12 their lives, their rights. Forget about David Mosely.

13 And interestingly enough, there's been no other
14 statement since in four and a half years. Nothing.
15 Nothing that puts David into this. Does that make sense,
16 murder case, four and a half years in prep?

17 Oh, yeah. And where's Tyreke McMahan? Mr. Cantrell
18 asked you that. I'm asking you that. We know he was in
19 the car. We know he was neck-deep in the crime. We know
20 he pled guilty. We know he was thick as thieves in it.
21 And you heard me ask Investigator Garrett.

22 Interestingly enough, McMahan was on the witness
23 list as you heard and he was going to testify. A couple
24 days before the trial Garrett goes to see him. He doesn't
25 come to testify. He was in the middle of it. He was

1 neck-deep. Do you think he might have been able to clear
2 up some of these questions? Do you think maybe he isn't
3 here because he might have cleared up some of the wrong
4 questions?

5 Garrett's a good man. I'm not implying he wasn't.
6 But you've got to decide.

7 Look, these police officers, you know they're all
8 about the case. And, again, I admire that. I was on that
9 side. He's going to do whatever he can to help the case,
10 help these solicitors out. He goes and sees McMahan.
11 Oop, McMahan's not here. So we're supposed to base this
12 whole case now on a proven liar whose self-serving
13 statement did nothing.

14 He sat there over and over and said I didn't have
15 anything to do with it, i'm an innocent bystander, knowing
16 he was flat lying. And I guess he didn't expect the next
17 two kids were going to come up there and destroy that.
18 But what kind of person is that who can sit there in a
19 proceeding like this with all this and look at y'all and
20 flat lie about it? And, man, he was cold-blooded about
21 it. I would submit it takes a special talent to do that.
22 He is a hard case. That's one of the guys we should have
23 been most worried about, clearly.

24 But look what he did. He made a deal, and now he's
25 not in the same frying pan.

1 MR. RICHARDSON: Objection, Your Honor.

2 THE COURT: Sustained. There's no evidence of that
3 and I will not allow that argument.

4 MR. PRINGLE: Y'all have to make the decision as to
5 what happened behind the scenes there.

6 But he was the only one to try to patch together or
7 create some theory of a conspiracy or some plan to rob.
8 They needed him badly. They make excuses for the perjured
9 testimony. Look, he knew he was going to -- do you think
10 he felt like he was going to get any benefit from what he
11 was doing? Do you think he did it out of the goodness of
12 his heart? Do you think he showed up the morning of
13 trial, I saw the light? He got hit by lightning that told
14 him to come in here and all of a sudden do the right thing
15 for the first time in his life. Why did he do that?
16 Well, you've got to decide. Did anybody get to him? Was
17 he promised anything? Or did he do it out of the goodness
18 of his heart.

19 MR. RICHARDSON: Your Honor, objection. This is
20 unbelievable.

21 THE COURT: Yeah. I'm going to sustain. I've
22 already ruled. This is not to be further argued.

23 MR. PRINGLE: Your Honor, they can make that
24 determination, right? That's all I said.

25 THE COURT: There's been no evidence. No. You're

1 stepping over the line. There's no evidence of any deal
2 and therefore that cannot be argued. That will be
3 stricken from the record.

4 MR. PRINGLE: Thank you.

5 Well, hopefully, I'm within my purview to say that,
6 you know, this is a guy that would say whatever he needed
7 to say. It was by any means necessary. It was crunch
8 time. And it was the morning of trial. He probably would
9 have sold his own grandmother to save himself, and I
10 believe that's what he did in his own way. Clearly in the
11 middle of it.

12 Now let's ship ahead to, actually, the three
13 remaining charges. After the two of them dropped, we've
14 got three left with regard to David. And, again, we're
15 getting into big bets.

16 Conspiracy, and the judge will give you this. This
17 is all coming straight from the actual words. I'm not
18 twisting anything. You're going to get this. You're
19 going to be able to review it at your own leisure and talk
20 about it without me or anybody else. There must be a
21 mutual understanding, agreement or common intention and
22 plan. So that's got to be there from the beginning.

23 Mere passive knowledge, that means even if you know
24 it's going to go down, or even if you consent to the
25 conduct, the criminal conduct of someone else, it's not

1 enough to make that person a conspirator. So they can't
2 come even close to that.

3 But under the law, even if you believe that David had
4 knowledge that there was going to be a robbery, that's not
5 enough. Even if you believe that he may have been
6 associated with the person committing the crime, it's not
7 enough. It's not enough. Even if they discussed common
8 aims does not necessarily establish proof of a conspiracy.
9 Clearly, none of that happened.

10 And what this is saying is he could have actually
11 discussed it, known about it, associated with them and
12 basically agreed with it. That's not enough for
13 conspiracy. The State must prove beyond a reasonable
14 doubt, again, where you have no hesitation that he not
15 only knew that the conduct was going to happen, but he
16 agreed to combine with the other persons for the purpose
17 of accomplishing the unlawful conduct. None of that
18 applies to David in this case, clearly. Again, go back
19 and look. Don't take my word for it. Go back and check
20 it all out. Do it over and over and over, and you're
21 going to be led to the same conclusion. And when you use
22 the exact words you're going to be given and apply it to
23 his case, not Brown, not Hill, not McMahan, not Glover,
24 nobody else, his case, no evidence of any conspiracy or
25 armed robbery other than that latest told by Glover.

1 You know, again, we've talked a lot about this
2 business in the car where Glover said that Hill showed
3 this phone. It's just so awkward it doesn't make much
4 sense. But even if you believe it, and even from star
5 witness Glover's testimony, he said that at least twice
6 Hill showed that phone to the boys in the back and David
7 did not react. There was testimony that one or more may
8 have nodded like implying that he's like, yeah, let's go.
9 Let's rob him, whatever. We know that not only once, but
10 twice from his own mouth David never nodded his head,
11 never said anything. Sat there. That's what's in
12 evidence. That's what happened. He clearly wasn't going
13 along with anything.

14 He certainly -- and again, the mere fact that he had
15 knowledge, if you believe he saw the phone screen, knew
16 what it said and still didn't nod his head, that's still
17 not enough. That's the law. Read the words. I didn't
18 make them up. Apply them to what actually happened.
19 Remember, it's what we know and what can be proven. What
20 was proven? They can't prove anything about his willfully
21 being involved in any conspiracy or attempted armed
22 robbery or any motive to do that.

23 You know, there's got to be -- you know, conspiracy,
24 it's like a master plan, you know. Where's the big master
25 plan? They've got to prove that. They've got to prove

1 all that. We don't have to disprove it. I don't have to
2 sit here and convince you he didn't do something. They've
3 got to prove he did. It's just not there. They could
4 never do it because it's never going to be there.

5 Okay. Now, we talked a little bit about this hand of
6 one business. That's another big bet in this case and for
7 a lot of the same reasons. And, again, I want to read
8 just some of the law that the judge is going to give you
9 about hand of one. It's pretty long and Mr. Richardson
10 focused on part of it, but I'm going to ask you to focus
11 on the whole thing. There are some keywords here. Again,
12 I think it's going to help you back there.

13 Prior knowledge that a crime is going to be
14 committed. Knowledge that a crime is going to be
15 committed meaning he saw it, he's like, yes, it's on, it's
16 going to happen. Without more is not sufficient to make
17 him guilty of the crime. That's the law even if he's
18 there when it's committed.

19 Obviously, we know they were all there. Again, we're
20 not disputing that. The State can put them there. Again,
21 there are a lot of things the State went on and on about
22 that, again, I'm going to ask you to sort through that and
23 get to what can be proven, what we know about the
24 incident. But even if he had prior knowledge and was
25 there, it's not enough for him to be roped into this

1 nonsense.

2 Further, they've got to find that there was a prior
3 arranged plan or common scheme. Now, Mr. Richardson is
4 right. That doesn't mean it takes months to put that all
5 together. It can be put together in a very short time.
6 But there's no evidence of that with David. Mere presence
7 at the scene is not sufficient. We know he was there. We
8 know a bunch of kids were there. That's not enough to
9 say, oh, they're murderers, they're robbers, they're
10 conspirators.

11 Intent is big here. Again, that's all going to be
12 part of what the judge gives you. There must have been a
13 common design or intent to commit the crime. That means
14 they've got to get together and cook it up. We've got to
15 have the same intent. The facts don't support that, okay?

16 Regardless of what happened up to that shooting, what
17 do we know? That even if you believe there was an
18 attempted armed robbery, okay, and, again, I would say if
19 there was, David had nothing to do with it, but even if
20 you believe he did, okay, what do we know? That that boy,
21 the poor victim, Kerolos Zaky, he got away from whatever
22 this robbery or fight or whatever it was. He got away.
23 He got in his car and he was starting to drive away.
24 That's when he was shot and killed.

25 We went into all the evidence. Clearly, nobody shot

1 him from inside the vehicle. The shots all came from
2 outside the vehicle.

3 And as we showed on the diagram when Investigator
4 Garrett was on the stand, it clearly shows there was a
5 break in the action between the time that this robbery or
6 this scuffle, as I call it, because I don't think it was a
7 robbery. Maybe it was, but they can't prove it was. When
8 it was all done, he got away. He's heading down the road.
9 That's when he's killed. A break in the action. It
10 wasn't like there's a bunch of these boys and they're
11 scuffling with Zaky and then one of them shoots him right
12 there. No. That all broke up. He gets away. He's
13 driving away, then he's shot. And that break in the
14 action is really important because they're asking you to
15 rope this whole murder and everything in with this armed
16 robbery. Can't even get to armed robbery. Certainly, not
17 with David. But you've got to.

18 As Mr. Cantrell said, if you can't get to armed
19 robbery and conspiracy, you're never going to get to
20 murder. And that's what they need. But it's just not
21 enough, and the law says so. And you're going to be able
22 to take it back there, and you're going to be able to
23 decide. That's what the jury duty and the beauty of it
24 is. It's not us. It's not me, it's not them, it's not
25 even the judge. It's you.

1 Finally, the other thing that I think is really
2 important about this hand of one, when you talk about
3 intent, intent means intending the result that actually
4 occurs. We know what occurred. Where's the evidence that
5 David had any intent for any of that to happen? That's
6 for you to decide. I would pose to you there's none.

7 And, you know, this hand of one as Mr. Richardson
8 said, the classic example is the bank robbers. You get
9 together with your cronies, you plan a bank robbery, you
10 know. You've got the counter, you've got the front door,
11 I've got the vault. We go in. The guy at the counter
12 starts shooting up the place, kills somebody. Yeah. We
13 all planned a robbery -- armed robbery. We're going to
14 knock off this bank. Obviously, it's foreseeable that if
15 somebody got hurt or killed in the process, that's
16 something that we would all be potentially liable for.
17 Some kind of actual scheme, some kind of plan, some master
18 plan.

19 Another good example: burglary. Myself and
20 Mr. Richardson decide we're going to burglarize Judge
21 Gravelly's house, for example. And I go to the front door.
22 I'm a lookout. He goes in to burglarize the place. In
23 the meantime, I shoot and kill somebody. He's going to be
24 on the hook for that. Because we went to burglarize the
25 place, it's totally foreseeable that something like that

1 might happen. Okay. That's not what this was. Even with
2 any stretch that they can make, even if you start to buy
3 into it, it clearly falls short of that classic analysis.
4 Okay. And the law is going to tell you that.

5 So finally, again, in sum, what do we know? What
6 does it prove? If you think David was part of the
7 scuffle, that doesn't prove conspiracy, attempted armed
8 robbery or murder. If you think he's the one that told,
9 if anybody told anybody to shoot the victim, there's still
10 no evidence of that. Again, the only source is, again,
11 from the perjured testimony of Mr. Glover. You know, he
12 was the main perp. I'm going to pose to you that it may
13 be just as likely if anybody said it, it might have been
14 him. But there's no other evidence from any of them, any
15 of them, and there's quite a few of them, none that
16 anybody ever said that. Anybody. Not David, not anybody.
17 Not even Glover.

18 Still, it never adds up to conspiracy, attempted
19 armed robbery or murder. And those are your only choices.
20 I mean, you had the gun charge and you had the robbery,
21 but, of course, they dropped those. They couldn't make
22 those, so that part fell apart. The rest of it seems like
23 it's falling apart.

24 You know, if you believe that David was in a scuffle
25 but didn't intend to rob or conspire or certainly murder

1 anybody, you know, he might have been -- you might have
2 found him guilty of assault or something similar. But
3 that's not a choice that you've been given. They're
4 asking you to go all the way on this. Didn't give you
5 that choice.

6 They can't prove any of it because it didn't happen.
7 And, you know. They could have marched 150 witnesses up
8 there and it wouldn't have changed anything. They didn't
9 call McMahan. They didn't ask some questions they could
10 have. Again, you've got to decide what that's about.

11 But, you know, somebody was killed, a young man. And
12 our sense of justice, and that includes me, is that
13 somebody needs to pay for that. Something needs to
14 happen. We want to make it right. But in order to make
15 that right, we don't do the State's job. We don't fill in
16 the blanks. We don't make connections, do their job.
17 They made some excuses for some of the lack of evidence
18 and their witnesses. That's not for you to correct.
19 That's not for you to sympathize with. If they didn't
20 have enough, they shouldn't have brought the witness, they
21 shouldn't have brought the case. That's their rights.
22 And those are things that are there to protect them.

23 They're the ones that have to prove anything. As the
24 judge told you, will probably tell you again, the State
25 has the burden of proof. The defendant has to prove

1 nothing. I would say not only have they not met their
2 burden of proof, but I think we've actually proven more
3 than they have in a weird way if you go back and look at
4 it.

5 And, again, they made some big bets, and we don't bet
6 people's lives with all these questions. And I pointed
7 out quite a few. They had quite a few lies sprinkled in.
8 That is reasonable doubt. That's where you take a look
9 and you definitely hesitate because there is no way you
10 can say, oh, yeah, clearly David, guilty.

11 You know, and Kerolos obviously paid the ultimate
12 price, and we cannot forget that. But, you know, David's
13 been paying in his own way since that night, too. You
14 know, he's already done time, a big chunk of his life.
15 He's already paid a big price for whatever happened or
16 didn't happen that night. I'm sure he wishes he never got
17 in the car. But that's not the way it works, and here we
18 are.

19 Kerolos certainly paid the ultimate price, and
20 David's paid a price to this point that I would say he
21 never deserved. I've gotten to know him. He was a
22 15-year-old kid, and we need to remember that.

23 And the word that Tori used is probably appropriate.
24 I'd call them teens or boys, but she called them babies.
25 You're talking 15 years old when this happened. They were

1 all kids, I think, with the exception of Glover and maybe
2 one other were maybe 18 at the time. Brown. He got
3 caught up in this crazy, tragic mess.

4 Just think about when you were a kid, teenagers, all
5 the -- I know about in my experience, my life, all the
6 stupid stuff I did at that age. And, you know, just think
7 about that, like how easy it would be for a few things to
8 go crazy, and before you know it, you end up in a
9 situation like this.

10 I've gotten to know him a good bit. As you can
11 imagine, we spent a lot of time together. He is also,
12 he's a human being. He's a kid. He's got a lot to offer.
13 In fact, I'll tell you straight up, not just because ---

14 MR. RICHARDSON: Your Honor, now I'm going to object.
15 I should have objected during Mr. Cantrell's argument on
16 this, and that is outside the evidence.

17 THE COURT: Sustained. You're getting into things
18 that were not introduced into evidence.

19 MR. PRINGLE: Okay.

20 You know, no one ever said he or any of these guys
21 were angels. Okay. They were kids. They did kid stuff,
22 and it went crazy. But you've got to look at each kid,
23 their specific circumstances, who did what, who didn't do
24 what. They're asking you to flush David down the toilet
25 over this. On what? Not with this case. Not with this

1 case. I mean, we can't be sure of much of anything that
2 happened, and we're never going to know, like I said,
3 everything, but let alone be firmly convinced or without
4 hesitation.

5 And, again, you're going to find after all the smoke
6 and mirrors, that's the standard, does it make you
7 hesitate. Do you hesitate before you find him guilty?
8 It's a senseless, stupid, tragic waste of a young life.
9 And, again, somebody's got to pay for it. Somebody's got
10 to pay for it. But, you know, please don't reward the
11 State for bringing, you know, a case with so many problems
12 and questions against David, anyway. You know, don't
13 compound the injustice. It's already a horrible
14 situation. We don't need to make it worse by compounding
15 the injustice.

16 Finally, again, reasonable doubt, it's about hesitate
17 to act. Just what it sounds like. Any real possibility
18 that David's not guilty, you must give him the benefit
19 under the law.

20 So, again, it's my birthday. It's been my privilege
21 to represent David, please the Court, fellow co-counsel,
22 the State. I appreciate everyone's consideration during
23 this trial.

24 And on behalf of David, you know, I hope -- like I
25 told you guys before we got started, I just hope that you

1 thoroughly review everything and think about all this and
2 ask those questions. Again, and it's simple, what do we
3 know? What's been proven? Proven, it's about proof.
4 This is big-boy court. It's not guessing or speculation.
5 What do we know? What can be proven? They can't make it,
6 ladies and gentlemen. So I'm going to pray on my birthday
7 that y'all do the right thing, the only thing when it
8 comes to David and find him not guilty of these charges.

9 Thank you.

10 THE COURT: Mr. Warder, on behalf of Mr. Hill.

11 MR. WARDER: I think probably one of the things I can
12 do to help the most is be short. And so I'll try and be
13 as brief as I can.

14 I represent Jaylin Hill. Jaylin's in this case.
15 Somebody said that he put a text on his phone and showed
16 it to other passengers in the car. We deny that. As soon
17 as I find my photograph...

18 And I would call your attention to the car interior
19 is the diagram the State shows and the names of the
20 defendants written on it. My client is sitting in what
21 appears -- I think those are bucket seats with Thomas
22 Mueller. They're sharing a bucket seat. The other
23 defendants are in the back. They accuse my client of
24 putting a text on his phone and not sending it but then
25 showing it to other people. And they say the text said

1 "let's rob" or "let's do the robbery," something
2 indicating that they would do a crime against the victim.

3 It seems highly unlikely that Jaylin Hill could put a
4 text to assault the driver on his phone and show it to
5 everybody else without somebody, the driver getting
6 suspicious, somebody else seeing it. You know, he's
7 supposed to have shown that text to the interior of the
8 car, and there's not another person that can testify they
9 saw it. I think all counsel's found that improbable. But
10 it surely would -- the driver would have seen that text
11 and seen it go back. That conduct isn't logical, isn't
12 the way things happened and didn't happen in this case.
13 And the witness that testifies with it is the same one
14 that co-counsel has accused and there's been testimony had
15 a late revelation that he was going to be a State's
16 witness against the defendants.

17 He -- in another bit of his testimony, he covers what
18 happened to the victim's shoes. Those were shown in 22.
19 And they say he ran out of his shoes. That's what he
20 said. I submit to you that those shoes are basketball
21 shoes type made by Nike, and they're designed not to be
22 easily ran out of. The one up there is still laced up
23 clear to the top and has some kind of knot in the
24 shoestring and doesn't look like a shoe that was just ran
25 out of.

1 The other shoe appears to be in the same location,
2 and I would assert to you looks much more like it was
3 thrown there than it was ran out of. That's the condition
4 that the police found them in. They told you about
5 putting the placards down so that no one else would tamper
6 with them or do anything. And that's what's happened in
7 this case.

8 I submit to you, with all you've heard about
9 reasonable doubt, all you've heard about the witnesses,
10 the reliability and the believability, that you should
11 reasonably question whether that is evidence that merits.
12 I think the shoes, when you conclude that that's not a
13 shoe that was just ran out of, that there was more to that
14 story. It was thrown there, placed there for some reason.
15 It makes and indicates the high improbability of the
16 texting so to become involved like they say. And I submit
17 to you that you should find that there's reasonable doubt
18 through that testimony and it should not be believed.

19 I submit to you whether testimony was logical has a
20 great deal to do with its belief. If you find a witness
21 like Mr. Glover has given false testimony on one occasion,
22 and certainly deserves heightened scrutiny to other things
23 he would say. He says the only thing he can say to save
24 the State's case against my client, and that's that he was
25 in a conspiracy because he put a message on his phone and

1 showed it. And that's the crime, my client's conduct they
2 say that he should be charged with murder. That's the
3 conduct they say that makes him part of the big scheme so
4 he can be given a murder sentence.

5 I submit to you, you find the truth. You find where
6 believability ends and deliberate deception starts. And
7 then as part of the search you'll take in this case today,
8 you will decide what testimony to believe, how much weight
9 to give it, what testimony should be unbelievable. And
10 you will do that with many of the skills you've learned.

11 His Honor will charge you on the law. You will use
12 your common sense in applying what you learn, what you
13 see, what you hear. You use your common sense in seeing
14 what any witness has to gain or lose by giving certain
15 testimony. You will use all the things that you've
16 learned just by living and being citizens in this
17 community.

18 I ask you in this case to do the right, the sensible
19 and the just thing and to find Jaylin Hill not guilty
20 because he's not a member of this conspiracy. He didn't
21 do anything. Doubtful testimony that he put anything on
22 his cell phone and showed it around, and, certainly, that
23 he didn't join a conspiracy with all the other people that
24 never said a word to him and that he never said a word to
25 them about it.

1 Thank you very much.

2 THE COURT: Thank you, Mr. Warder.

3 That concludes the closing arguments. And I've got
4 about 30 minutes of my charge. Does anybody want to take
5 a break now?

6 CHARGE ON THE LAW

7 THE COURT: All right. Ladies and gentlemen, now you
8 get to hear from me. And this is what we call the jury
9 charge or the law of the case. And as I told you in the
10 very beginning, you and I have two very distinct jobs. My
11 job is to preside over the trial, rule on objections and
12 charge you on the law. And if you come into this
13 courtroom and you thought you knew what the law might be
14 or maybe have an opinion of what you thought the law
15 should have been, if it contradicts what I'm telling you,
16 you're to disregard that. You have taken an oath that you
17 will apply the law that I'm giving you now.

18 On the converse of that, your job is to determine
19 what the facts are. And what I mean by that is you're to
20 come up with a verdict. At the end of the instructions,
21 I'll show you a verdict form. And how you determine the
22 facts is you determine a verdict as to each defendant on
23 each charge. And if there's anything that I have done or
24 said that makes you think I have an opinion of the facts,
25 then you're to disregard that because that's not my job.

1 That's your job and your job solely.

2 What are you supposed to make your decision on? The
3 evidence and only the evidence presented here at trial and
4 the law which I'm applying, which I'm giving to you now.

5 Now, the evidence is by way of testimony, by way of
6 exhibits, any stipulation of counsel that has been
7 presented. Any evidence that was stricken, then you're
8 not to consider that. And you're to give each piece of
9 evidence, you're to give it the weight and value which you
10 feel is appropriate.

11 Now, as we go -- as I told you in the very beginning,
12 the fact that an individual is charged, arrested,
13 indicted, that is not something for you to even consider
14 in your deliberation because that's not evidence. That's
15 merely the allegations made by the State to establish
16 their burden. Because your decision is going to be based
17 on the evidence that was presented at trial.

18 And in this matter, there are -- you have multiple
19 charges and multiple defendants. The matters being
20 presented to you are the charge of murder, the charge of
21 attempted armed robbery, and the charge of conspiracy.
22 And what you've got to determine is as to each defendant
23 -- as to each charge and as to each defendant, that's what
24 your determination of the facts are. And you are to
25 carefully consider the elements that I will give you as to

1 each charge, and then you will apply that to each
2 defendant. And the fact that you make a decision on one
3 charge for a defendant should not necessarily bind you on
4 your decision on a different charge for that individual.
5 And your decision on one defendant does not bind you on
6 your decision on another defendant. In other words,
7 you're to consider each charge as to each defendant
8 separately and based on the evidence and the elements.

9 Now, and I'll go through the verdict form with you in
10 just a few minutes and it will help you, so I think it's
11 really good, almost like a checklist for you to go
12 through.

13 Now, let me talk to you a little bit about the
14 presumption of innocence. And that is more than just this
15 phrase that we throw out. That's a very important part of
16 our criminal justice system.

17 And what that says is that everybody that comes into
18 a court of law on a criminal case, no matter how small or
19 how great the charge is, has a presumption of innocence.
20 And that means that they are presumed innocent, and they
21 have no burden to prove otherwise. The burden, again, is
22 on the State to prove to you beyond a reasonable doubt to
23 take away that presumption of innocence.

24 A defendant comes into the court, they are presumed
25 innocent at the time they're arrested, charged, the time

1 they brought into court, the time -- when this case
2 starts, they still have that presumption of innocence.
3 They have that presumption of innocence right now. And
4 the only time that that presumption of innocence is
5 removed is when you the jury have determined that the
6 State has met its burden beyond a reasonable doubt that
7 that presumption should be removed and they're guilty of
8 the charges that have been put to you. Otherwise, that
9 presumption stays with them.

10 Now, we've talked a lot about and you've heard a lot
11 about reasonable doubt. Now, I always like to start off
12 with kind of comparing it. I don't know if somebody's
13 ever been involved in a civil matter. Maybe you sat on a
14 jury in a civil matter. That's a different standard of
15 proof when you're talking about parties suing another
16 party. That is by a preponderance of the evidence. That
17 means that's a much lesser standard. In a criminal case
18 like this, and all criminal cases, the burden is beyond a
19 reasonable doubt. It's a much higher burden than you see
20 in a civil matter.

21 What is "beyond a reasonable doubt"? Reasonable
22 doubt is the kind of doubt that would make a reasonable
23 person hesitate to act. Reasonable doubt is proof that
24 leaves you firmly convinced of the defendant's guilt.

25 You know, there's very few things in this world that

1 we know with absolute certainty, and the law does not
2 require that the State's burden is with absolute
3 certainty. If, based on your consideration of the
4 evidence, you're firmly convinced that the defendants are
5 guilty of any of the charges, then you must find the
6 defendants guilty of those charges that you find that
7 they've met their burden. On the other hand, you think
8 there's a possibility that the defendant is not guilty,
9 then you must give the defendant the benefit of that doubt
10 and find him not guilty. Facts and circumstances that
11 merely place upon a defendant suspicion of a crime or
12 merely that there's a speculation or conjecture that the
13 defendant is guilty, that is not sufficient.

14 All right. Now, there's two types of evidence that
15 the State can rely on in meeting their burden, and that is
16 direct evidence and circumstantial evidence. And those
17 are two types of evidence, but the burden's the same. And
18 they can use direct evidence, circumstantial evidence, a
19 combination of those two types.

20 Direct evidence is when a piece of evidence or
21 testimony directly proves the point that they're trying to
22 prove. Okay. Circumstantial evidence is maybe a series
23 of facts that have to be kind of tied together to prove
24 that fact, and therefore they have to have a series of
25 those facts to prove the ultimate fact that they're trying

1 to establish. Now, and again, they can use a combination
2 of those. However, to the extent that the State relies on
3 circumstantial evidence, all the circumstances must be
4 consistent with each other, and when taken together, point
5 conclusively to the guilt of the defendants beyond a
6 reasonable doubt. If these circumstances merely portray
7 the defendants' behavior as suspicious, then that proof
8 has failed.

9 Now let's talk about -- and, again, this particular
10 phase that I'm going through, I always call these are my
11 tools that I give you to make your evaluation of the
12 facts. And one of those is you the jury have to determine
13 credibility of witnesses. Okay.

14 Credibility merely means believability. And you may
15 look and consider the way a particular witness acted on
16 the stand, whether they had an outcome, whether they had a
17 bias. All of those could be considered by you. And so
18 one of the things, you may accept a portion of a witness's
19 testimony, and you may reject the remaining portion of it.
20 You may accept one witness's testimony over several
21 witnesses, and you may accept several witnesses over one
22 witness. Again, it's what you feel is appropriate. It's
23 you are to give the testimony like all other evidence the
24 weight and the value which you feel is appropriate.

25 Now, normally, as I told you each time someone is

1 qualified as an expert witness, a person cannot testify
2 about opinions and conclusions and those type of things.
3 The exception of that is an expert witness. An expert can
4 testify about their opinions and their conclusions in
5 their particular field, and just like all other evidence,
6 you're to give it the weight and value which you feel is
7 appropriate even if there's no evidence contradicting
8 that. So, again, you consider the evidence from the
9 expert witnesses and you determine the weight and value
10 that you need to give them.

11 Another very important part of our criminal justice
12 system is a party's, a defendant's constitutional right
13 not to testify, not to present evidence. And the reason
14 for that is they have no burden. The burden is clearly on
15 the State. So the fact that a defendant does not testify
16 or present evidence is not even to be considered by you.
17 It is not even to be discussed by you in the jury room,
18 because that is merely the exercise of their
19 constitutional right. It does not take the burden away
20 from the State. So I repeat, the fact that a defendant
21 did not testify or present evidence is not even a
22 consideration for you or to be discussed.

23 There has been evidence presented that witnesses may
24 have made prior statements which are not consistent with
25 their testimony. Now, you may use this evidence to decide

1 whether to believe the witness. You may also use this
2 earlier contradictory statement to determine the truth of
3 those statements. It is up to you to decide whether to
4 believe the earlier statement, testimony given at trial,
5 or part of a testimony and part of a statement. Again,
6 however you feel is appropriate. If a witness is shown to
7 have knowingly testified untruthfully concerning any
8 material matter, then you may consider this in determining
9 whether to trust the witness's testimony as to other
10 matters. You may reject all the testimony of that witness
11 or give a part of it the weight you think it deserves.

12 All right. A person who has a past criminal record,
13 and I'm particularly talking about witnesses that have
14 been presented, is competent to testify during trial. A
15 past record does not affect the ability of that witness to
16 testify. The past record may only be considered by you if
17 at all in determining that witness's believability.
18 Remember, you're the sole judge of the facts in the case,
19 and believability of the witness is an important part of
20 your deliberation.

21 In order to establish the case, sometimes, or in this
22 particular case, criminal intent is required. The State
23 has the burden of proving criminal intent. For example,
24 the mental state required to be proven for a particular
25 crime may be purpose, intent, knowledge, recklessness or

1 criminal negligence.

2 Criminal intent must be proven beyond a reasonable
3 doubt, but it's not -- but they can do so -- the State can
4 do so by way of circumstances and inferences. There's no
5 way for the State to prove with mathematical certainty
6 exactly what a person was thinking at the time; so
7 therefore, you may consider all the circumstances
8 surrounding the matter and determine what exactly was the
9 criminal intent.

10 Criminal intent is a mental state. It's a conscious
11 wrongdoing. It is up to you to determine what the
12 defendants intended to do based on the circumstances at
13 the time.

14 Now, those are the various tools that you will have
15 in making your deliberation. Now I'm going to give you
16 the specific elements of each of the charges. Again,
17 there are three charges that you will be considering:
18 murder, attempted armed robbery and conspiracy.

19 Okay. Now, in the charge of murder, the State must
20 prove beyond a reasonable doubt that the defendants killed
21 another person with malice aforethought. All right. Now
22 let me kind of define a couple of these terms for you.

23 Malice is hatred, ill will or hostility towards
24 another person. It is the intentional doing of a wrongful
25 act without just cause or excuse and with intent to

1 inflict an injury or under circumstances that the law will
2 infer evil intent.

3 Malice aforethought, what does that mean? It does
4 not require malice exist for any particular length of time
5 before the act is committed, but malice must exist in the
6 mind of the defendants just before and at the time the act
7 is committed; therefore, there must be a combination of
8 the previous evil intent and the act.

9 Malice aforethought may be expressed or inferred.
10 These terms "expressed" or "inferred" do not mean
11 different kinds of malice but merely the manner in which
12 the malice may be shown to exist, that is, either by
13 direct evidence or by inference from the facts and
14 circumstances which have been proven.

15 All right. Still with me? Still with me?

16 All right. Express malice. Express malice is shown
17 when a person speaks words which express hatred or
18 ill-will for another or when the person prepared
19 beforehand to do the act which was later accomplished, for
20 example, lying in wait for a person or any other acts of
21 preparation going to show that the deed was within the
22 defendant's mind would be express malice.

23 If facts are proved beyond a reasonable doubt
24 sufficient to raise an inference of malice to your
25 satisfaction, this inference would be simply an

1 evidentiary fact to be taken into consideration by you the
2 jury along with all other evidence.

3 So murder, again, is killing another person with
4 malice aforethought.

5 Now, attempted armed robbery. Basically, that is --
6 kind of give you definitions of two crimes. You have the
7 attempt of an armed robbery, so I have to kind of define
8 both of those.

9 To prove attempted armed robbery, the State must
10 prove beyond a reasonable doubt that a person or persons
11 had a specific intent to commit an armed robbery.

12 Robbery is defined as the felonious or unlawful
13 taking of money, goods or other personal property of any
14 value from the person of another or in his presence by
15 violence or by putting such person in fear.

16 The crime armed robbery is when a person commits a
17 robbery while armed with a deadly weapon.

18 Property is in the presence of a person if it is
19 within the person's reach, inspection, observation or
20 control.

21 The State must also prove beyond a reasonable doubt
22 that the defendants attempted to carry the property away
23 to permanently deprive the owner of the property and to
24 keep the property for the defendant's own use. The
25 attempted taking and caring away of the property must have

1 been done with violence or by putting the owner of the
2 property in fear of violence.

3 Finally, the State must prove beyond a reasonable
4 doubt that the defendant was armed with a deadly weapon
5 during the attempted robbery.

6 A deadly weapon is an article, instrument or
7 substance which is likely to cause death or great bodily
8 harm. Whether an instrument has been used as a deadly
9 weapon depends on the fact and circumstances at the time.

10 Under our law, the following are examples of
11 instruments which may be considered deadly weapons: a
12 pistol, shotgun, rifle, dirk, dagger, knife, slingshot,
13 metal knuckles, razor, gasoline, firebomb, Molotov
14 cocktail. A gun may be a deadly weapon even if it is not
15 in operation.

16 All right. That's your attempted armed robbery. So
17 armed robbery, it's an attempt at an armed robbery.

18 Conspiracy, this is the third charge that the State
19 must prove beyond a reasonable doubt that the defendants
20 combined with one or more persons for the purposes of
21 committing an unlawful act or committing a lawful act by
22 unlawful means. There must be a mutual understanding, an
23 agreement or common intention and plan. Mere passive
24 knowledge or consent to the criminal conduct of another is
25 not enough to make a person a -- I mean to make a person a

1 conspirator. There must be guilty knowledge and
2 participation.

3 Similarly, the mere fact that the defendant may have
4 associated with another person or met with another person
5 and discussed common aims and interests does not establish
6 proof of existence of the conspiracy or that the defendant
7 was involved in the conspiracy.

8 On the other hand, it's not necessary that the
9 agreement be a formal one and that it be in writing, that
10 the persons hold a meeting and expressly state the terms
11 of this common plan or that the agreement was stated in
12 words between them. The agreement of a criminal
13 conspiracy may come into being through an implied mutual
14 understanding. The willful, intentional and knowing
15 adoption by two or more persons of a common plan is
16 sufficient. No overt acts need to be shown to establish
17 the conspiracy. A conspiracy may be shown by
18 circumstantial evidence and the conduct of the parties.

19 In order to convict the defendants of conspiracy, the
20 State must prove beyond a reasonable doubt not only that
21 the defendant knew of the unlawful conduct, but the
22 defendant agreed to combine with other persons for the
23 purposes of accomplishing the unlawful conduct.

24 All right. So we have three charges. Again, murder,
25 attempted armed robbery and conspiracy. Now I'm going to

1 give you another tool and that is what we call the hand of
2 one is the hand of all.

3 If a crime is committed by two or more people who are
4 acting together and committing a crime, the act of one is
5 the act of all. A person who joins with another to commit
6 an unlawful act is criminally responsible for everything
7 done by the other person which happens as a probable or
8 natural consequence of the act in carrying out the common
9 plan and purpose. For example, two people can be guilty
10 of killing another person when only one of the two had a
11 gun, there was only one bullet and only one of the two or
12 three fired the shot that caused the death. If two or
13 more people are together, they're acting together,
14 assisting each other in committing the offense, the act of
15 one is the act of all. Again, that's why it's called the
16 hand of one is the hand of all.

17 Prior knowledge that a crime is going to be committed
18 without more is not sufficient to make a person guilty of
19 the crime. Mere knowledge that another person is going to
20 commit a crime even if the defendant is present when the
21 crime is committed is not sufficient to convict the
22 defendant.

23 Guilt as a principle is shown by actual or
24 constructive presence at the scene as a result of prior
25 arrangement. Therefore, a finding of prior arranged plan

1 or common scheme is necessary for the finding of guilt as
2 a principle. The State must prove beyond a reasonable
3 doubt by competent evidence the theory of the hand of one
4 is the hand of all.

5 A principal in a crime is one who either actually
6 commits the crime or is present, aiding, abetting or
7 assisting in committing the crime. When a person does an
8 act in the presence of and with the assistance of another,
9 the act is done by both. Where two or more acting with a
10 common plan or intent are present at the commission of a
11 crime, it does not matter who actually commits the crime.
12 All are guilty.

13 Present at the commission of a crime means to be
14 sufficiently near to aid and abet and assist in the
15 commission of the crime. However, mere presence at the
16 scene of a crime is not sufficient to convict one as a
17 principal.

18 Intent is also a necessary element, for there must
19 have been a common design or intent to commit the crime.
20 And the crime must have been committed pursuant thereto
21 with persons aiding and abetting of the overt act.

22 Intent means intending the result which actually
23 occurs, not accidental or involuntary.

24 Intent may be shown by acts and conduct of the
25 defendant and other circumstances from which you may

1 naturally and reasonably infer intent. And, again, the
2 State must prove these elements beyond a reasonable doubt.

3 All right. That's all the law that will be applied
4 that you will have with you in your deliberations. Now
5 I'm going to go through the verdict form with you. And
6 one of the things I want to tell you is you will have to
7 answer each question. And each question must be a
8 unanimous decision. That means all 12 of you must agree
9 on what your answer is going to be.

10 You're also -- it cannot be based on anything but the
11 evidence. It cannot be based on passion, sympathy, bias,
12 anything like that.

13 So, at this point -- now, the top part of that is
14 just the caption of the case. So the top is just the
15 caption of the case and it's really no bearing, really.
16 That's just the particular order. And there's no -- the
17 fact that these are listed, don't give any type of
18 inference from the way they are listed. We just listed
19 them based on the numbers only.

20 Okay. So for the first part, start off, so like I
21 said, you will look at each defendant, each charge on each
22 defendant independently.

23 So the first question is for the charge of murder, we
24 the jury unanimously find, and you must check one. If you
25 find the State has met it's burden on the charge of murder

1 as to Braelon Brown, you check "guilty." If you find that
2 the State has not met its burden, you would check "not
3 guilty."

4 Okay. Also, I will tell you, you can go whatever
5 order you want to go in. If you want to look at each of
6 these defendants individually or if you want to look at
7 each charge, again, that's something for y'all whatever to
8 -- whatever y'all feel is appropriate.

9 You would do the same analysis on attempted armed
10 robbery. If you find they met the burden, then guilty.
11 Find they haven't met the burden, then not guilty. The
12 same on conspiracy as to Braelon Brown.

13 Okay. Then you go to page 2. And we didn't --
14 actually did not change this around.

15 So then on page 2 we have Jaylin Hill. We have the
16 same analysis. You will do the murder. If you find they
17 met the burden on murder, you check "guilty." If you find
18 the State has not met its burden as to Jaylin Hill, you'd
19 check "not guilty." You do the same analysis of attempted
20 robbery. Then you would do the same analysis on
21 conspiracy.

22 And then you would go here as to David Christopher
23 Bernard Mosley. You would have -- again, and so then you
24 have two of the charges listed on this page and you do the
25 same analysis there. And then as to the third charge as

1 to Mr. Mosley is on page 3. And you would do your same
2 analysis there and make your determination. And you would
3 check either "guilty" or "not guilty."

4 Once you've completed your deliberations and you've
5 reached a verdict on all nine questions, you would sign --
6 that's what your duty as a foreperson. You would sign,
7 date and you would let the bailiffs know. And they'll
8 give you instructions on how to do that.

9 Now, again, all of your decisions must be unanimous.

10 Now, after you get back there and you begin your
11 deliberations, if you have any questions, Mr. Foreman,
12 that's kind of your job is to write those questions on a
13 piece of paper, sign and date it, and then you would give
14 that to the bailiff. The bailiff will bring it to me.
15 And I have two ways to respond to that. First of all,
16 I'll gather the lawyers to make sure I've discussed it
17 with them because that's one of the things we have to do.
18 And I can respond by writing a response maybe on that
19 piece of paper. Or it may be something that I have to
20 bring you back in and charge you on something.

21 I will also tell you that we cannot answer any
22 factual questions. A lot of times, juries will get back
23 there and they'll say there's a reference to a medical
24 report such-and-such, or there was a reference to a
25 witness. What did that witness -- what would he have

1 said? Or what did that report say? My response back is
2 we cannot discuss anything if it was not placed into
3 evidence. So, again, that's totally up to you.

4 If you need to watch any videos that were placed into
5 the record, then you'll just have to let us know. I
6 believe we have the ability to send that back with you.
7 If not, sometimes we have to maybe bring you back in here
8 to show that.

9 As far as the lunch, I think the lunch will probably
10 be -- it will be there when y'all get back. If not, very
11 shortly. And that's up to you whether you want to eat
12 your lunch and then start your discussion, or maybe you
13 want to just do your discussions during your lunch. That
14 is, again, totally up to you.

15 Now let me talk to my alternates. You have worked
16 just as hard as all these other 12, but you would not be
17 able to participate in the deliberation. But I want to
18 let you know, your job has been just as important because
19 if we had lost another juror for any reason, then you'd
20 have to step in or we'd not be able to complete the trial.
21 I always like to compare my alternate to maybe the backup
22 quarterback in the Super Bowl. You know, as long as that
23 starting quarterback's in there, nobody knows who the
24 backup quarterback is. But the moment that starting
25 quarterback goes down, then that alternate -- or that

1 backup quarterback is the most important person on the
2 field. So I want to say that your role in this has been
3 just as important even though you cannot begin to assist
4 in the deliberation.

5 So I think I have said all that I need to say at this
6 point. But I'm going to send you back to your jury room,
7 but I'm not going to let you talk about it yet. And the
8 reason is, I need to make sure I haven't left anything out
9 or misstated something. If I have, then I'll bring you
10 back in here. I won't repeat all that. I'll just correct
11 anything or add anything to it that I need to do.

12 Your signal for you to being your deliberation is the
13 bailiff will bring the jury form back with the evidence,
14 and then we'll ask the alternate to step out. At that
15 point, you can begin discussing the case when y'all feel
16 it's appropriate connected with your lunch.

17 So with that being said, go back to your jury room
18 but do not discuss the case or begin your deliberations
19 until you've been given the signal.

20 (WHEREUPON, the jury exits the courtroom at 12:47 PM.)

21 THE COURT: All right. Any objection from the State?

22 MR. RICHARDSON: No exceptions or objections, Your
23 Honor.

24 THE COURT: All right. How about on behalf of
25 Defendant Brown?

1 MR. CANTRELL: None, Your Honor.

2 THE COURT: All right. Defendant Mosley?

3 MR. PRINGLE: No, Your Honor.

4 THE COURT: And Defendant Hill?

5 MR. WARDER: No, Your Honor.

6 THE COURT: All right. I realize that, contrary to
7 our discussion, I did -- I changed the name of the
8 defendants here, but I didn't -- I mean, I don't think
9 that makes any difference. But if any objection to that,
10 we can change this if needed. And what I'm talking about
11 is on the verdict form itself, Jaylin Hill is listed
12 second but on the caption and everything else, he's listed
13 third. But if y'all would like me to change that, I will
14 be glad to do so.

15 MR. CANTRELL: I don't think it's necessary.

16 MR. PRINGLE: No objection.

17 THE COURT: No objection?

18 MR. WARDER: No, I don't think so.

19 THE COURT: Okay. I didn't think there would, but I
20 wanted to make sure everybody was good with that.

21 All right. Y'all look at the exhibits and make sure
22 they're all in the proper form -- I mean proper there.

23 (WHEREUPON, a recess is taken at 12:53 PM and the jury
24 begins deliberations; Court's Exhibit Number 3 was marked
25 for identification.)

1 THE COURT: Back on the record.

2 I understand that we have a verdict. Anything from
3 the State before we ---

4 MS. McCALL: Nothing, Your Honor.

5 THE COURT: Anything from Defendant Brown?

6 MR. CANTRELL: Nothing, Your Honor.

7 THE COURT: Defendant Mosley?

8 MR. PRINGLE: No, Your Honor.

9 THE COURT: And Defendant Hill?

10 MR. WARDER: No, sir.

11 THE COURT: All right. This is to the gallery. I
12 realize this has been a long ordeal and I know that
13 there's a lot of people. This has been a very tragic
14 ordeal for all people involved. If we have any outbursts
15 or any inappropriate conduct, then you will be a guest of
16 Greenville County until further notice. We have quite a
17 few officers here that can take care of that. So I just
18 caution everybody out there to withhold any kind of
19 outburst, any kind of response to this jury. Do I make
20 myself clear?

21 All right. Bring the jury in.

22 (WHEREUPON, the jury entered the courtroom at 4:56 PM.)

23 THE COURT: Mr. Foreman, I understand you've reached
24 a verdict?

25 JURY FOREPERSON: That's correct.

1 THE COURT: If you can hand that to the bailiff,
2 please.

3 All right. It looks like it's in proper form.

4 If you can publish the verdict.

5 VERDICT

6 THE CLERK: Your Honor, in the case of
7 2020-GS-23-4604, 4605 and 2024-GS-23-02582-A, the State
8 vs. Braelon Jasper Brown, for the charge of murder, we the
9 jury unanimously find the defendant guilty. For the
10 charge of attempted armed robbery, we the jury unanimously
11 find the defendant guilty. For the charge of conspiracy,
12 we the jury unanimously find the defendant guilty.

13 In the case of 2020-GS-23-07746-A, 7749-A and
14 2024-GS-23- 02584-A, the State vs. Jaylin Hill, for the
15 charge of murder, we the jury unanimously find the
16 defendant not guilty. For the charge of attempted armed
17 robbery, we the jury unanimously find the defendant
18 guilty. For the charge of conspiracy, we the jury
19 unanimously find the defendant guilty.

20 In the case of 2021-GS-23-04414-A, 4413-A and
21 2024-GS-23-02581-A, the State vs. David Christopher
22 Bernard Mosley, for the charge of murder, we the jury
23 unanimously find the defendant not guilty, for the charge
24 of attempted armed robbery, we the jury unanimously find
25 the defendant guilty, for the charge of conspiracy, we the

1 jury unanimously find the defendant guilty.

2 Ladies and gentlemen, if this is the verdict you
3 reached in your deliberation room, please raise your right
4 hand.

5 (WHEREUPON, all jurors raised their right hand.)

6 THE CLERK: Thank you.

7 THE COURT: All right. Anything for the jury on
8 behalf of the State?

9 MR. RICHARDSON: Nothing from the State.

10 THE COURT: All right. Anything on behalf of
11 Defendant Brown?

12 MR. CANTRELL: Nothing, Your Honor.

13 THE COURT: Defendant Mosley?

14 MR. PRINGLE: No, Your Honor.

15 THE COURT: And Defendant Hill?

16 MR. WARDER: No, Your Honor.

17 THE COURT: All right.

18 All right. Ladies and gentlemen, thank you for your
19 service. I know this has been a long week and so I want
20 to thank you very much for your service. And at this time
21 you can go back in your jury room and I've got some things
22 I've got to discuss. I'll step back there in a few
23 minutes if anybody wants to wait around for some
24 questions, but you don't have to. But I'll be glad to
25 step back there in just a few minutes. You're free to go.

1 So thank you very much.

2 (WHEREUPON, the jury exits the courtroom at 5:01 PM.)

3 THE COURT: All right. Any motions from the State?

4 MR. RICHARDSON: None from the State, Your Honor.

5 THE COURT: Any motions on behalf of Defendant Brown?

6 MR. CANTRELL: Yes, Your Honor. At this time, I
7 would renew all prior motions throughout the trial for the
8 record. I would also move for a judgment NOV,
9 notwithstanding the verdict, as well as a motion for a new
10 trial.

11 THE COURT: All right. And as I stated before, I
12 believe that these were factual issues for the jury. It
13 was sufficient -- I mean, it was appropriate for the jury
14 to make these decisions, so I'm going to deny your
15 motions.

16 On behalf of Mosley?

17 MR. PRINGLE: Your Honor, I also would want to
18 restate our prior motions. At this time, also ask for a
19 judgment notwithstanding the verdict based on the fact
20 that based on the evidence that was presented and what was
21 elicited through evidence and testimony. I still can't
22 understand how they could have possibly supported the
23 guilty verdict on the two counts that came back. I just
24 ask that Your Honor take another look at that, the
25 totality of it and ask for a new trial.

1 Thank you.

2 THE COURT: And I believe that there -- again, I
3 think there was sufficient evidence for the jury to make
4 that finding, and so I'm going to deny your motion on all
5 counts.

6 Mr. Warder, on behalf of Mr. Hill?

7 MR. WARDER: Yes, sir. For the record preservation,
8 we renew our previously made motions during the trial. I
9 would also move for a judgment NOV not of the verdict on
10 the guilty ---

11 THE COURT: All right. And I -- I'm sorry. Yeah.
12 I'm sorry. Go ahead.

13 MR. WARDER: On the guilty charge, Your Honor.

14 THE COURT: All right. And like I said, also as to
15 Mr. Hill, I believe there was sufficient evidence to be
16 presented to the jury and to support the jury's findings,
17 so I will deny your motions as well.

18 At this point, I'll give the State an opportunity to
19 get their stuff together. I'll be glad to have the
20 defense get anything they need and then we'll proceed with
21 sentencing. I'm going to now step back.

22 MR. RICHARDSON: Your Honor, I'm prepared with the
23 sentencing sheets.

24 THE COURT: Okay.

25 (Pause in proceedings.)

1 THE COURT: All right. At this time, is the State
2 ready for sentencing?

3 MR. RICHARDSON: The State's ready, Your Honor.

4 THE COURT: And are the defendants ready for
5 sentencing?

6 MR. CANTRELL: Yes, Your Honor.

7 THE COURT: All right. Does the State have a
8 preference of whether -- I mean, do y'all want to -- let
9 me hear from the State as to all defendants.

10 MR. RICHARDSON: Okay. That's fair.

11 THE COURT: And then I will hear from each individual
12 defendant and anything they want to provide. I think that
13 would be ---

14 MR. RICHARDSON: And then we have victim impact that
15 would like to be -- to read also.

16 THE COURT: And I think that will be against all
17 defendants, yeah. Just have one -- y'all have one shot at
18 it. And then the defendants, I'll deal with each of you
19 individually and y'all can present any information or
20 presentation that y'all want to do.

21 So I'll be glad to hear from the State.

22 MR. RICHARDSON: Your Honor, in starting with
23 Mr. Brown, you've heard the facts of the case. I don't
24 need to get into that other than to stress that when I
25 have been involved in murder cases, I've been involved in

1 quite a few, tried quite a few, and a lot of times there's
2 reasons that -- from the victim and other things that
3 happen from the victim. But ultimately, those come out
4 murder. And our legislature has established a sentencing
5 range that gives a sentence of up to life. And sometimes
6 we don't give life to people because the victim's
7 involvement in that.

8 This is a case for life. This individual shot at a
9 kid, a 15-year-old kid who was running away from him
10 trying to get away from him. He could have let him go.
11 There was no reason. There's not one reason that
12 individual had to shoot him. And he shot five times.
13 This is not a one-time shot, oops, I shot one time. Boom,
14 boom, boom, boom, boom. Your Honor, the same -- we have
15 -- have a NIBIN hit or a NIBIN hit on the same gun on two
16 separate shootings that have come back that matched these
17 shell casings.

18 We believe Mr. Brown has been involved in a lot of
19 different criminal activity. He has been a suspect in
20 another murder. He is an extreme danger to the community.
21 Your Honor, it's the position of the State that this is
22 one of those cases that the legislature has laid out when
23 they're thinking about the minimum to the maximum of life,
24 they're thinking about life. That victim was trying to
25 get away.

1 As to Mr. Hill, Mr. Hill's involvement in this case,
2 although I saw what the jury did, and they separated the
3 two and said that Mr. Hill was involved with the armed
4 robbery part of this case or the attempted armed robbery
5 part of this case. So for them to believe that, they
6 believe that he wrote those messages and started this
7 entire event. And this entire event would not have taken
8 place if an amount of money did not come up and Mr. Hill
9 decides that he wants to rob this guy. But he needs
10 somebody's help. And he needs the help of Mr. Brown who
11 had the gun and who he saw pistol-whip him. And he
12 continued to attack him. That sentence carries up to
13 20 years. Again, a scenario that he started that led to
14 the death of an individual.

15 So -- and with that said, Judge, it's not our typical
16 armed robbery -- attempted armed robbery. It's not an
17 armed robbery where I'm up sitting there with a gun trying
18 to get some money out of somebody and nobody gets hurt.
19 Because of his attempted armed robbery, we have a dead
20 kid. We would ask for the maximum sentence, 20 years on
21 him.

22 Mr. Mosley was also involved with the case just as
23 much. He got out of the car. He was involved with the
24 shooting. We had enough proof on him that he was involved
25 with the assault that we had his DNA. Once again, because

1 of that situation and because of him saying what he said,
2 and I'll maintain that he said "Blast that N," this kid
3 may not be dead today. I ask for 20 years, the maximum
4 sentence on both of those with five years on the
5 conspiracies.

6 Thank you, Your Honor.

7 MS. McCALL: Your Honor, I'm going to be presenting
8 the victim's statement on behalf of his entire family.
9 This case was very, very difficult for them as I'm sure
10 you can understand, and so they chose not to be present
11 for a good portion of the trial because they just could
12 not stand to have to hear the facts of what happened to
13 their son and brother and friend. But they are here today
14 on behalf of Kerolos. And this is written by his father.

15 "Your Honor, I am Mina Ibrahim, the father of Kerolos
16 Zaky. This statement is written on behalf of my whole
17 family.

18 "We want you to know who Kerolos was. He was 15 and
19 just a few days away from his 16th birthday. He was
20 kindhearted. He had a heart for the homeless and would
21 even give his own money in order to help.

22 "Kero was raised in the Egyptian Orthodox church and
23 he loved Jesus. He became a deacon at a very young age.

24 "Kero was funny and very lighthearted. He was an
25 amazing son and a loyal brother. He had such a bright

1 future ahead of him and it was taken away from him in a
2 very brutal manner.

3 "This tragic event has shattered my family. We will
4 never be the same.

5 "This trial was too traumatic for Kero's mother and
6 sister and brother to attend. Listening to the details of
7 this case and the way our Kero died was more than what my
8 family could endure. We will never get over the loss of
9 our son and my children's brother. We are still grieving
10 and I want these defendants to know that they have
11 destroyed a family unit.

12 "Your Honor, I ask that you please give to these
13 defendants what they have given to me and my family, a
14 life sentence. Even that does not feel like justice, but
15 that is what we ask.

16 "Mina Ibrahim."

17 And all I will say, Your Honor, in addition to what
18 Mr. Richardson said is I prosecuted a very similar case to
19 this about a year and a half ago with a very similar
20 situation, a young teenager who was robbed by another
21 teenager at gunpoint. He came to that person to buy a
22 couple of pills, and he was shot and killed brutally. And
23 he was also given a life sentence. And it is the State's
24 position that that is what is appropriate.

25 This is one of the most heinous types of crimes we

1 see, those that are perpetrated on juveniles, our children
2 in society. They don't have an opportunity to grow up and
3 live full lives, Your Honor. And as dangerous as these
4 defendants have proven to be, it is in society's best
5 interest that they never have an opportunity, or at least
6 Mr. Brown, that he never have an opportunity to take
7 another life.

8 Thank you, Your Honor.

9 THE COURT: Thank you. And thank the family for
10 being here. I'm sorry for what you all have been through.

11 How about credit for jail time for each of these
12 individuals? Do y'all have that?

13 MR. RICHARDSON: Yes, Your Honor. For Mr. Brown,
14 1,638 days; for Mr. Mosley, 1,635 days as well as
15 Mr. Hill.

16 THE COURT: The same, 1,635?

17 MR. RICHARDSON: 1,635. Yes, sir.

18 THE COURT: All right. Anything else on behalf of
19 the State?

20 MR. RICHARDSON: Nothing further, Your Honor.

21 THE COURT: All right. Mr. Cantrell, I'll be glad to
22 hear from you first.

23 MR. CANTRELL: Please the Court. Your Honor, you've
24 heard some about Braelon Brown. 22 years of age. He's
25 born and raised here in Greenville. His parents and other

1 family members are here. I ask the family to stand up.

2 He went to Woodmont High School. He has attended New
3 Jerusalem Relentless Church, involved in mission trips and
4 homeless ministries.

5 I don't know how far this goes with you, but I've got
6 to say for me, I've dealt with him for a year and a half
7 under stressful, difficult circumstances. And I have to
8 say he has yet to show me anything but respect and act in
9 a proper and respectful way with me or the other people
10 that were around at the time.

11 We won't try, of course, to go back into the
12 testimony or the verdict of the jury that's been reached.

13 I do think he is a young man with a great deal of
14 value, certainly. I do believe it would be a mistake or
15 an error to take into account allegations about a weapon
16 and what that weapon has done when we know in this day and
17 age weapons are moving all over the place all of the time.
18 There's no evidence before this court whatsoever about any
19 prior actions, events or conduct of this young man. And I
20 think to take that into account would be a mistake and
21 would be -- well, it would be a mistake. He is before you
22 on this charge.

23 THE COURT: And I will agree with you on that. I'm
24 not going to -- because without -- I mean, I know those
25 were allegations and they may well be true, but I believe

1 in this setting, I need to consider only things that --
2 either convictions or things that can be established at
3 this point.

4 MR. CANTRELL: Thank you, Your Honor.

5 And as far as this incident goes, what I would say,
6 as tragic and horrific as it is for everybody involved, I
7 would say everybody in this courtroom, it was a stressful
8 and a situation under extreme stress. I just want to say
9 excitement, but I know that's not the right word. Just
10 very simply a very upsetting and disturbing incident that
11 got out of hand in a very serious and dramatic way.

12 It was not anything that was planned. I do think
13 it's significant that nowhere was it stated that Braelon
14 Brown put this together for these folks to get together
15 and go riding around. He had nothing to do with creating
16 these circumstances. And I think the evidence supports
17 that. He didn't go out that night intending for this to
18 happen. And I think that's significant.

19 I do believe that, again, he's a young man that
20 deserves some future and do not believe that this is a
21 situation where life is an appropriate or a fair sentence
22 that will accomplish anything for anyone in this room.
23 But certainly, not for Braelon Brown, Your Honor. I would
24 ask the Court to certainly not consider that and give a
25 sentence that you deem appropriate, Your Honor.

1 THE COURT: Mr. Brown, I'll be glad to hear from you.

2 DEFENDANT BROWN: Sir, I really don't got too many
3 words. I mean, I know y'all feel it necessary (inaudible)
4 the allegations state. That's what y'all feel like
5 (inaudible).

6 THE COURT: I'm having trouble hearing you. I'm
7 sorry.

8 MR. CANTRELL: Say that a little louder.

9 DEFENDANT BROWN: I feel like I deserve some. I
10 mean, it's out of my hands. I can't really tell you too
11 much how much of a good person I am locked up. A lot of
12 good I do outweighs the bad. I'm not really as bad as
13 y'all think I am. But, you know, I understand what the
14 consequences is due to the allegations, and I understand
15 what comes with it.

16 THE COURT: Thank you.

17 Anything else on behalf of Mr. Brown, Mr. Cantrell?

18 MR. CANTRELL: Nothing, Your Honor. Again, you see
19 him. He's a -- well, you see him. So nothing.

20 THE COURT: Thank you.

21 All right. Now we'll go to Mr. Mosley.

22 MR. PRINGLE: Your Honor, again, and I would agree
23 with the State. We don't need to relitigate all the facts
24 that came out. I'm sure Your Honor is clear on all those.
25 And, Judge, you know what arguments I've made over and

1 over with regard to what I perceive as serious
2 shortcomings and issues with the State's case against
3 Mr. Mosley.

4 Judge, he was 15 years old when this happened. No
5 history. He got in that car that night, and we know what
6 happened and what led to it. We certainly know that there
7 was no discussion or no thought whatsoever of any we're
8 going to go out and rob somebody, we're going to conspire
9 to do anything illegal except maybe find some girls and
10 maybe some weed or whatever it was that teenage boys would
11 normally get into. He certainly had no reason to believe
12 that it was going to end up and go crazy like it did.
13 That would have never been him. It isn't him today.

14 You know, again, without relitigating everything,
15 it's my feeling that, unfortunately, the jurors had to
16 have placed a lot of stock and credibility in the
17 testimony of what I have argued was a self-serving
18 perjurer witness. I'm still having trouble with the idea
19 of the conspiracy because even if we take the facts in
20 light of the State's -- or in the best light for the
21 State, there simply was no evidence that he had assented
22 or he didn't nod his head or anything with regard to this
23 alleged, you know, whipped-up scheme with the cell phone.
24 He did nothing to indicate that he was -- you know, and
25 the standards, you know, Judge, that you read and we've

1 gone over many times clearly requires more for a
2 conviction. I haven't said that the conspiracy, I
3 believe, is up to five years in this context.

4 Judge, he was clearly found not guilty of murder, and
5 we would say that had to be the verdict with regard to
6 David because it was just crazy to think that, logically,
7 that he could ever have been convicted of murder. That's,
8 obviously, my argument. Others may disagree.

9 But, you know, the idea of using a sentence for
10 attempted armed robbery to somehow backdoor, you know, or
11 indirectly punish Mr. Mosley for murder or the fact that
12 Mr. Zaky ended up being murdered, he wasn't part of any
13 murder, Judge. The facts just -- and I pray that Your
14 Honor sees it that way. Never supported that. Still
15 doesn't. And when the State's asking for 20 years on the
16 attempted armed robbery, even under the best facts for
17 them, the only thing that -- again, that we would argue
18 was ever proven was he was there and he may have been part
19 of a scuffle. He may or may not have said something well
20 after the so-called armed robbery. So we seriously still
21 dispute some of the facts and question what their verdict
22 was based on.

23 But, again, having said that, he's been found guilty.
24 And we do have a young man who died that night. Can't get
25 around it. But what I'm asking Your Honor to consider is

1 just because he wasn't convicted of murder, which was the
2 way it should have gone, that we don't try to backdoor
3 punish him or hit him excessively hard on the attempted
4 armed robbery in the name of trying to maybe equate or
5 balance that out.

6 He has been in jail for four and a half years, Judge.
7 He's 20 now. It's a big chunk of his life. And, again, I
8 would say, although, obviously, he didn't pay the ultimate
9 price, he also didn't cause that ultimate price to be
10 paid. He's literally a different person here today. He's
11 20. He was a boy. He was a kid when he got in the car
12 that night. Here he is four and a half years later. He's
13 a young man.

14 And, you know, he's got a right to a life as well.
15 He's going to have to pay his price, but, you know, Judge,
16 I'm going to add -- you know, he's not -- this is not
17 someone who you would think would likely be back in here
18 moving forward from this, you know. He looks back on that
19 night, and I think he still can't believe he even got in
20 the car, let alone getting wrapped up in this. And
21 whatever it is that Your Honor believes that he may or may
22 not have -- what role he may have played, they really
23 didn't have much proof or evidence of it. It's still
24 thin.

25 You know, he's graduated from high school. He was an

1 honor student, outstanding achievement, played football,
2 music. This is a well-rounded person. And I just -- the
3 fear I have, Judge, and it was the same fear that I had
4 during the trial was that he's going to end up getting his
5 life essentially flushed down the toilet on what was a
6 really tragic case, but with regard to him, very thin.
7 And, you know, at some point we have to, I guess, put it
8 in perspective with regard to what others may have done or
9 not done at that scene. And I just ask that Your Honor
10 consider all that.

11 He's been in jail for four and a half years. That's
12 a pretty big chunk. He's facing up to 20. I believe it's
13 up to five, again, on the conspiracy. I'd ask that you
14 consider running whatever sentences current.

15 And, you know, I would even say, Judge, based on all
16 the above and who he really is today, vis-à-vis what
17 happened almost five years ago, a reasonable sentence may
18 even be somewhere in the neighborhood of the time he's
19 already served, maybe some additional. 20 years seems
20 excessive, and it's a bit -- to me it smacks of
21 retribution in one sense. Because, again, like I said, he
22 was not guilty of murder. That's the way it is. It's not
23 like, well, you know, he got lucky. It was a
24 technicality. It's nothing like that. He was never
25 guilty of murder. And I would hate to see him then,

1 again, get an excessive sentence under these circumstances
2 and these facts in the effort of trying to maybe balance
3 that out or some idea of equity.

4 Thank you.

5 THE COURT: Mr. Mosley, I'll be glad to hear anything
6 you want to tell me.

7 DEFENDANT MOSLEY: Can I talk to the victim's family?

8 THE COURT: Talk to your lawyer. I mean, you can
9 direct anything to me. That always gets a little awkward.

10 DEFENDANT MOSLEY: I just want to let them know that
11 I'm sorry for their loss. And regardless of what the jury
12 said, I had nothing to do with the loss of their son. And
13 I just want to let my family know I thank them for
14 supporting me at this time.

15 MR. PRINGLE: There's one other thing I'd like to
16 say, too.

17 Judge, I'm sure you're aware somewhat of the
18 procedural history of how I came to represent Mr. Mosley.
19 I think I was the third or fourth lawyer in the equation.
20 And I was appointed fairly recently. I would say it was
21 pretty much short notice. I'm not raising that as an
22 issue as far as substantively or anything like that or the
23 validity of the trial.

24 But I do believe in good faith, Judge, and I want you
25 to know and I've mentioned it to the State, it's no secret

1 that I believe that this could have worked out a lot
2 differently. And I'm not tooting my horn, but I believe
3 if I would have been appointed to him or if I was his
4 attorney earlier in the equation, we would have never got
5 -- we would have never been here. We would have never got
6 that far. It got so far that the way that it worked out,
7 there was -- there was no middle ground. There was no way
8 to resolve it fairly without going to trial and facing the
9 big one, the murder and everything else. So I think that
10 needs to be considered. That shouldn't -- that shouldn't
11 be his penalty because it worked out that way. And
12 whatever happened with his prior -- he had appointed
13 lawyers and he had some private lawyers that were involved
14 before me.

15 And, again, I really -- and I've told everybody in
16 the equation including him, the other lawyers, everybody,
17 and even Mr. Richardson when we were negotiating, this
18 should have gone way differently with regard to David.
19 And if I would have been in it earlier, it would have
20 never got this far. We would have never been in this
21 position. We would have had this case resolved more
22 fairly.

23 Thank you.

24 THE COURT: All right. Thank you. Anything else on
25 behalf of Mr. Mosley?

1 MR. PRINGLE: No.

2 THE COURT: All right. Mr. Warder and Mr. Hill, be
3 glad to hear from you.

4 MR. WARDER: Thank you, Your Honor.

5 Your Honor, young men that end up in jail, it's
6 tragic, it's sorry. But they're still salvageable.
7 They're not dregs to society that can never be productive
8 and can never get it behind them.

9 Certainly, this crime deserves a punishment. But I
10 ask Your Honor to consider that our ultimate goal if we're
11 ideal is to rehabilitate in some fashion, to have people
12 that did even the most horrible things someday be in our
13 society doing good things. If you take and study the
14 sentences of the world in different countries, many of the
15 European countries give much less time and spend much
16 bigger budgets on rehabilitation.

17 I think that I represent Jaylin Hill who comes from a
18 good family with loving parents who care a great deal
19 about him. That family's always been here with him and
20 for him. And that's the backbone of any rehabilitation in
21 the world is having guidance and people that love and care
22 giving you their best advice.

23 He got in a situation that he made terrible
24 decisions. And he ended up with this we're here today.
25 Your Honor, he can be productive again. He was 15 when

1 this happened. He is also 20 years old now.

2 He has a background of a close family, church, close
3 friends. Hopefully, most of them will be there whenever
4 whatever sentence you give ends. I just ask you to give a
5 sentence that will allow him to pay his debt to society
6 and still have a chance to redeem and show society that
7 he's better than this.

8 THE COURT: Mr. Hill, anything you want to tell me?

9 DEFENDANT HILL: Yes, sir. I just want to say I'm
10 thankful for my lawyer for always listening to me and
11 always being there with me. Thankful for my family for
12 having my support, being there through everything I go
13 through. And I just want to say I thank God for taking me
14 through this process and growing me as a man and showing
15 me that things can be different, that things that I can
16 change and I can grow as a man. I just want as leniency
17 of a sentence that you can give me.

18 THE COURT: All right. Anything else on behalf of
19 Mr. Hill?

20 MR. WARDER: No, sir.

21 THE COURT: Okay. All right. For y'all's purposes,
22 do you want me to sentence one and then ---

23 THE DEPUTY: Yeah. If you want to do it ---

24 THE COURT: I'm going to do it the other way. I'm
25 going to do it this way. Sentence one and then let y'all

1 Take him?

2 THE DEPUTY: Yes, sir.

3 SENTENCING

4 THE COURT: All right. As to Mr. Hill, the sentence
5 of the Court on the attempted armed robbery is 18 years,
6 credit for 1,635 day, and on the conspiracy, five years.
7 And those are to run concurrent.

8 Good luck to you Mr. Hill.

9 (WHEREUPON, Defendant Hill exited the courtroom.)

10 THE COURT: All right. As to Mr. Mosley, as to
11 attempted armed robbery, the sentence of the Court is
12 18 years, credit for 1,635 days. These are to run
13 concurrent. On the conspiracy charge is five years.

14 Good luck to you, Mr. Mosley.

15 (WHEREUPON, Defendant Mosley exited the courtroom.)

16 THE COURT: And Mr. Brown, on the murder charge,
17 okay, these will -- you get credit for 1,638 days.
18 Sentence of the Court on the murder is 50 years, sentence
19 on the conspiracy is five years, that's consecutive, and
20 the attempted armed robbery, that's 20 years consecutive.

21 Good luck to you, Mr. Brown.

22 (WHEREUPON, proceedings concluded at 5:38 PM.)
23
24
25

1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina, on
14 the 17th, 18th, 19th, 20th and 21st day of June, 2024.

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

17
18 October 16, 2024

19
20
21 *Cheryl A. Smith*

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

RECEIVED
JUL 01 2024
SC Court of Appeals

DOCKET NO. 2024-GS-23-
WOR 802584A

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May TERM 2024

THE STATE

vs.

DAVID CHRISTOPHER BERNARD MOSLEY

Indictment for

0026

ATTEMPTED ARMED ROBBERY

VIOLATION § 16-11-0330(B)

ENTERED ACCT

Can

WITNESSES

Chief Justice Elizabeth Johnson 7/30/24

Greenville County Sheriff's Office

12/22/2020

ARREST WARRANT NUMBER
DIRECT PRESENTMENT

DOB: B/M SSN#: NA

ACTION OF GRAND JURY
TRUE BILL

[Signature]

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED ARMED ROBBERY

At a Court of General Sessions, convened on

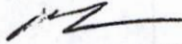
MAY 07 2024

the Grand Jurors of Greenville

County present upon their oath:

That DAVID CHRISTOPHER BERNARD MOSLEY did in Greenville County, on or about the 19th day of December, 2019, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon attempt to take by means of force or intimidation, goods or monies described as: money and other items from the person or presence of K.Z.. This is in violation of §16-11-330(B) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 66112

RECEIVED
JUL 01 2024
SC Court of Appeals

DOCKET NO. 2020-GS-23-
WDR 007749A
The State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS
TERM 2020
December

THE STATE
vs.
DAVID CHRISTOPHER BERNARD
MOSLEY

WITNESSES
Jonathan J. Garrett
Greenville County Sheriffs Office
12/27/2019

ARREST WARRANT NUMBER
DIRECT PRESENTMENT
DOB: B/M

ACTION OF GRAND JURY
TRUE BILL
Foreman Grand Jury
Foreperson of Grand Jury

VERDICT
0049
Indictment for
CONSPIRACY
VIOLATION § 16-17-0410

Foreperson of Petit Jury
Date:
ENTERED ACCT

[Handwritten mark]

[Handwritten mark]

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CONSPIRACY

At a Court of General Sessions, convened on
County present upon their oath:

DEC 22 2020

the Grand Jurors of Greenville

That DAVID CHRISTOPHER BERNARD MOSLEY did in Greenville County, on or about the 19th day of December, 2019, willfully and unlawfully combined with Braelon Jasper Brown and/or Jamazeeo Dequan Glover, and other individuals for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to wit: Murder and Armed Robbery. This is in violation of §16-17-0410 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.


SOLICITOR

BAR # 66112

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

David Christopher Bernard Mosley

AKA:

Race: BLACK Sex: M Age: 20DOB: 2004 SS#:

Address:

City, State, Zip:

DL# SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2024 - GS - 23 - 2584AA/W#: 2024GS2302584ADate of Offense: 12/19/2019S.C. Code § 16-11-0330(B)CDR Code #: 0026

SENTENCE SHEET

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

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

☒ CONVICTED OF or ☐ PLEADSTO: Robbery / Attempted armed, or allegedly armed, robberyin violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

Richardson, Doug

66112

SC Bar #

Defendant

PRINGLE, KRAIG
Attorney for Defendant

73694

SC Bar#

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

for a determinate term of 18 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: 6/21/24

☒ 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. 1635 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. David Christopher Bernard Mosley INDICTMENT/CASE#: 2024 - GS - 23 - 2584A**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5 %)			\$
§14-1-211(A)(1) (Conv. Surcharge)		\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114(BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$
TOTAL			\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk:
Court Reporter:Brice Ganett
C SmithPresiding Judge:
Judge Code:
Sentence Date:May H. May GW
2755
6-21-24

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

David Christopher Bernard Mosley

AKA:

Race: BLACK Sex: M Age: 20DOB: 2004 SS#: _____

Address: _____

City, State, Zip: _____

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 7749AA/W#: 2020GS2307749ADate of Offense: 12/19/2019S.C. Code § 16-17-0410CDR Code #: 0049

SENTENCE SHEET

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

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

☒ CONVICTED OF or ☐ PLEADSTO: Conspiracy / Criminal Conspiracy, Common Law conspiracy definedin violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

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

Richardson, Doug
 66112
 SC Bar #

 66112
 SC Bar #

Defendant

PRINGLE, KRAIG
 Attorney for Defendant

 73694
 SC Bar#
WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,
 for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 6/21/24
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
 SCDOD. 1635 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or
 § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. David Christopher Bernard Mosley INDICTMENT/CASE#: 2020 - GS - 23 - 7749A**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

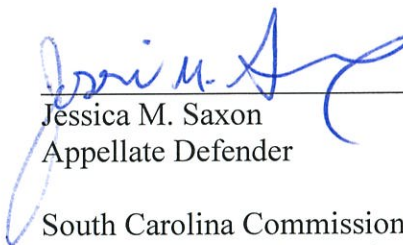
Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5 %)			\$
§14-1-211(A)(1) (Conv. Surcharge)		\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114(BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$

TOTAL \$ 128.75Clerk of Court/ Deputy Clerk:
Court Reporter:Bruce Bennett
C. SmithPresiding Judge:
Judge Code:
Sentence Date:My Guy
2755
6-21-24 GN

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED**Apr 23 2025****SC Court of Appeals**

Jessica M. Saxon
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 23rd day of April, 2025.

RECEIVED

Apr 23 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID C. MOSLEY,

APPELLANT.

APPELLATE CASE NO. 2024-001102

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon Melody J. Brown, Esquire, at her primary email address listed in the Attorney Information System (AIS); and on David C. Mosley, #394252, at Turbeville Correctional Institution, 1578 Clarence Coker Hwy., Turbeville, SC 29162, this 23rd day of April, 2025.



Jessica Saxon
Appellate Defender

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

ATTORNEY FOR APPELLANT