

VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARQUES QUANTEZ HEATH,

APPELLANT

APPELLATE CASE NO. 2024-001405

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED AUGUST 15, 16, 19, 20, 2024.....	1
OPENING STATEMENT BY MR. PORTER	42
OPENING STATEMENT BY MR. DAVIS	52
TESTIMONY	
MICHAEL MELTON.....	56
HERMAN LEACH.....	73
BETHANY FARRAR	86
NICHOLAS SCHIFFERLE.....	119
MICHAEL RAMSEY.....	135
BRIAN MCAFEE	164
ELAINE KENNINGTON.....	179
MARK GIBBY	188
LAQUATA WILSON.....	202
GEORGE WEEKS.....	228
ANTOINE LOGAN.....	282
CARSON NEELY	295
EDWARD MARK	311
SHANE COBB	333
JOSH YATES	341
STEPHEN MOORE.....	349
WALTER BECK	371

MATT PIPER	463
EMILY CAMPBELL-SMITH.....	478
ROBERT THOMAS.....	507
RAY BARNWELL.....	522
JOE WALLACE.....	579
THE STATE RESTS	607
MOTION FOR DIRECTED VERDICT.....	608
RULING OF THE COURT DENYING MOTION FOR DIRECTED VERDICT	614
COLLOQUY WITH THE DEFENDANT REGARDING HIS RIGHT TO TESTIFY	614
TESTIMONY	
MARQUES HEATH	622
THE DEFENSE RESTS	703
CHARGE ON THE LAW	718
CLOSING ARGUMENT BY MR. EPTING.....	740
CLOSING ARGUMENT BY MR. BARROWCLOUGH.....	770
VERDICT	815
SENTENCING	828
TRANSCRIPT OF RECORD (JURY SELECTION) DATED AUGUST 12, 2024	831
INDICTMENTS	874
CERTIFICATE OF COUNSEL	888

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS #5 AND #9 (BODY CAM VIDEOS)**

JURY TRIAL & SENTENCING

1 brother -- or, I'm sorry -- half your DNA from your mom
2 and half your DNA from your father. Which means that the
3 closer in relation you are to another person, the more DNA
4 you're going to have in common. So when calculating these
5 statistics, the databases are based on unrelated
6 individuals, which means that the -- it's a more unbiased
7 way of offering a statistical analysis, because having a
8 database of relatives would make a statistic more common.

9 Q So this is -- your report is based on nobody involved
10 in the DNA profiles you developed being related?

11 A Correct.

12 Q Okay. And you were not given any other individuals
13 aside from Ms. Wilson, Ms. Williams, Ms. Farrar and
14 Mr. Heath; is that correct?

15 A That's correct.

16 Q There were -- even though there might have been other
17 people in this case with -- and evidence presented that --
18 who may have handled the weapon or may have had contact
19 with the weapon, those are the only individuals that you
20 received samples for; correct?

21 A Correct.

22 Q How would it affect your -- your report if some of the
23 people involved -- and by my count, there's five people in
24 one location that are either father-son, uncle and nephew,
25 or cousins -- that may have an access or touched the --

JURY TRIAL & SENTENCING

1 the -- the firearm in question and contributed to the
2 sample? Would that affect your conclusion?

3 A No.

4 Q Why wouldn't it affect your conclusion if there was a
5 mixture of different related people instead of unrelated?

6 A When speaking of just the major components of the
7 profiles that were obtained, the only profile that was not
8 identifiable to an individual was from 5-B, which was a
9 swab of the trigger of the shotgun. The relatedness of
10 the individuals actually touching the items does not --
11 does not change my conclusion as to the matches that were
12 made between the evidence items that were consistent with
13 particular reference samples, because those reference
14 samples are given to me as known samples from individuals
15 for comparison purposes. So barring the presence of an
16 identical twin, the profiles that I got matched the
17 individuals' reference samples that were given.

18 Q What if you had received additional profiles?

19 A The only reference sample that I would need for
20 reference -- or for comparison purposes is for Sample 5-B.
21 The others could be compared to. And in this circumstance
22 where I have profiles that have been identified to be
23 consistent with reference samples that I've obtained, they
24 could -- I could compare to other reference samples for
25 those. Absolutely.

JURY TRIAL & SENTENCING

1 Q So you're saying -- and an example, let's just
2 focusing in on Item 5-C, because that's only one where you
3 identified the defendant's having -- being a possible
4 match. If you had received -- you're saying that a -- a
5 reference sample obtained from a relative who had handled
6 that shotgun would not -- that you're saying that relative
7 would not be a match as well?

8 A In a -- for the major component of the profile, unless
9 there was an identical twin, the major profile was
10 identified to be consistent with a mixture of two
11 individuals, of which one person was included was
12 Mr. Heath. The other individual not identified. If there
13 were a relative that were provided to me as a reference
14 sample, that relative could have been compared to the
15 mixture of the -- that was obtained for the major portion
16 of that profile.

17 Q But your report says "cannot be excluded." It doesn't
18 say an identical match, does it?

19 A That's correct.

20 Q Okay. So --

21 A It's consistent.

22 Q -- so there is -- there's a very good possibility that
23 if you got a reference sample from a relative who would be
24 of very similar DNA, that you would use the same language
25 with regards to that reference sample as you did for

JURY TRIAL & SENTENCING

1 Mr. Heath; is that correct?

2 A I wouldn't know unless I made the comparison to
3 another individual. I'd have to have another profile to
4 provide an inclusion or exclusion to that portion of the
5 major mixture profile.

6 Q So -- so without that extra profile, you cannot rule
7 out the fact that that DNA you tested could have come from
8 a cousin, an uncle, or a related person, as opposed to
9 coming from Mr. Heath; is that correct?

10 A Without having another sample for comparison, I cannot
11 make any inclusions or exclusions as to anybody else
12 except for the four that I tested.

13 Q But you only received -- you only received the -- you
14 did not receive any of the profile -- any other samples of
15 anybody else?

16 A That's correct.

17 Q Did you review any of the case reports in this case?

18 A As far as investigative reports?

19 Q The investigative ones, anything like that?

20 A Boy. I'm usually given some kind of information. I
21 don't know specifically whether I reviewed anything
22 investigative -- investigation-related to this. At times,
23 I have to go and look at investigative information to
24 determine how an item of evidence relates to the crime and
25 what any results that I get how they are needing to be

JURY TRIAL & SENTENCING

1 reported in order to provide an understanding for the--
2 the matters in the case. So in this case, I don't recall
3 looking at any particular report, but it's possible I did.

4 Q If it was brought to your attention while you were
5 still analyzing this -- this -- the DNA from this case
6 that there were related individuals in the room and the
7 related individuals had handled the firearm, would you --
8 and there were other people that handled the firearm,
9 would you have suggested that they get reference samples
10 from those people as well?

11 A You can collect reference samples, test them and have
12 them compared, but it wouldn't -- it doesn't necessarily
13 change -- it doesn't change any of the conclusions that
14 have been made in my report.

15 Q But it would have -- you may not have changed your
16 conclusions, but it also may have concluded other people
17 as a match -- possible match; is that correct?

18 A I'm not entirely sure I understand what you're asking.

19 Q If you had additional reference samples --

20 A Mm-hmm.

21 Q -- and I think I just asked you this same question
22 earlier about whether or not they -- if you had an
23 additional reference sample, you would use the same
24 language to describe that if there was a match, and
25 whether or not it was physically or scientifically

JURY TRIAL & SENTENCING

1 impossible for another related person to have a match and
2 use the same language, would that match in your report.
3 I'm not saying you'd change the language with regard to
4 Mr. Heath.

5 A Mm-hmm.

6 Q I'm just saying if you had an additional sample, would
7 you use the same language in describing that sample?

8 A As far as inclusion or exclusion --

9 Q Correct?

10 A -- after doing a comparison, yes, I would say I would
11 either provide an exclusion or an inclusion.

12 MR. DAVIS: I have no further questions, Your
13 Honor.

14 THE COURT: All right. Mr. Epting?

15 MR. EPTING: Nothing from the State, Your Honor.

16 THE COURT: Any objection to excusing this
17 witness?

18 MR. EPTING: No, Your Honor.

19 THE COURT: From the Defense?

20 MR. DAVIS: None, Your Honor.

21 THE COURT: Thank you, ma'am. You're excused.

22 MR. EPTING: I beg the Court's indulgence.

23 THE COURT: You may call your next witness.

24 MR. EPTING: Your Honor, the State calls

25 Dr. Robert Thomas.

JURY TRIAL & SENTENCING

1 ROBERT THOMAS

2 was called as a witness, and having been first duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. EPTING:

6 Q Good afternoon.

7 A Hello.

8 Q Could you please state your name for the record?

9 A Robert E. Thomas, Jr.

10 Q Dr. Thomas, how are you employed?

11 A I'm an employee of York Pathology Associates.

12 Q How long have you been with York Pathology?

13 A I was hired in June of -- or July of 2000, so 24
14 years.

15 Q What is your role there?

16 A I'm a pathologist.

17 Q And what education does one need to have to be a
18 pathologist?

19 A So I'm a medical doctor. That would entail a
20 four-year college degree, which I studied in engineering
21 at Clemson University, and then did a four-year medical
22 degree that MUSC in Charleston. From there, I did a
23 five-year residency MUSC also, also in Charleston.

24 Q And -- and are there any additional certifications
25 that are required to -- to conduct autopsies as a

JURY TRIAL & SENTENCING

1 pathologist and make conclusions?

2 A So as a -- as a medical personnel in this state, you
3 have to have a medical license in South Carolina, which I
4 do. I -- my residency was in anatomic and clinical
5 pathology. At the end of that period of time, you have to
6 take a board certification, which I did in 2000.

7 Q And over the course of your career, how many autopsies
8 have you conducted?

9 A Approximately 1,300 to 1,400.

10 Q 1,300 to 1,400?

11 A Correct.

12 MR. EPTING: Your Honor, at this time, the State
13 would seek to enter Dr. Thomas as an expert in
14 pathology.

15 THE COURT: Any objection?

16 MR. DAVIS: No objections, Your Honor.

17 THE COURT: Ladies and gentlemen, as with the
18 previous expert, what this means is this witness is
19 entitled to give his opinion and the reasons for it.
20 But you should evaluate his opinion just like that of
21 any other witness. You do not have to believe it
22 because it's an expert opinion.

23 BY MR. EPTING:

24 Q Doctor, did you conduct an autopsy that is relevant to
25 the case against Marques Heath, a murder that occurred on

JURY TRIAL & SENTENCING

1 February 12th of 2019?

2 A I did.

3 Q Do you have a copy of your report with you?

4 A I do.

5 Q Did you produce a report of your findings?

6 A Yes.

7 Q Can you walk the jury generally through what -- what
8 goes on when you conduct an autopsy? What things are you
9 doing and what are you looking for?

10 A Sure. So the autopsy would have been ordered in this
11 case by the coroner's office of York County. As the
12 pathology group here in York County, they would have
13 called us and asked us to perform this autopsy. In this
14 case, the homicide, or the alleged event, occurred on the
15 12th of February, so we would have scheduled the autopsy
16 for the next day, which took place on February the 13th.
17 So that next day, we would have had some communication
18 with the coroner's office about background information,
19 historical information, and then we would have conducted
20 the autopsy in the morgue. That would have consisted of
21 an external examination where we would weigh the -- the
22 body, measure the body, detail any injury patterns that we
23 might see, any descriptions that might identify the
24 individual as the said individual. And that's the
25 external examination.

JURY TRIAL & SENTENCING

1 From there, we would do the internal examination,
2 where we would remove the organs, weight the organs, look
3 for any disease processes, take samples, look under the
4 microscope. We would also take blood samples, perhaps, or
5 other body fluids to be used for toxicology, which would
6 be sent off to a lab. In this case, the blood went to
7 SLED down in Columbia to be tested. And then the next
8 step would be a microscopic examination of any organs.
9 And then, the final report would be a compilation of
10 assimilating the external examination, the historical
11 information, the internal examination, and the toxicology.

12 Q Is it fair to say that your goal in conducting this
13 autopsy is to determine as best as you can, using what's
14 in front of you, a manner of death?

15 A Yes.

16 Q And did you examine a decedent named Shaniijela
17 Shamicheal Williams in this case?

18 A Yes.

19 Q Did you conduct an autopsy in the manner that you
20 described?

21 A I did.

22 Q Did you document injuries and come to a conclusion as
23 to manner of death?

24 A Yes.

25 Q Can you talk the jury through about what injuries you

JURY TRIAL & SENTENCING

1 observed and how this factored into your conclusion?

2 A I can. So the -- the major finding was a large
3 gunshot wound to this part of the -- the neck and jaw,
4 which was what we would call a close-to-intermediate range
5 that was fairly -- the gun, the barrel of the gun would
6 have been fairly close to the individual when the gun was
7 fired. The path of the bullet which, in this case, there
8 was -- there was a shotgun, allegedly, would have kind of
9 come slightly from right to left and backward. Part of
10 the autopsy would have been to measure that, which we did,
11 and then remove any bullets or fragments, which we -- we
12 did, and any other parts of the discharge which, in this
13 case, a wadding, which is part of a shotgun shell, was
14 removed in that location. And then we were documenting
15 any injuries to any of the structures in the neck and try
16 to determine what might have, you know, actually caused
17 the mechanism of death.

18 Q So she had a close-quarter gunshot wound. And you
19 mentioned -- you motioned to the right side of your lower
20 jaw of your --

21 A Yeah.

22 Q -- the left side of your lower jaw on the right side?

23 A Correct.

24 Q Do you document those with any types of diagrams?

25 A Yes.

JURY TRIAL & SENTENCING

1 Q And did you do that in this case with your report?

2 A I did.

3 MR. EPTING: May I approach witness, Your Honor?

4 THE COURT: You may.

5 BY MR. EPTING:

6 Q I'm handing Dr. Thomas what has been marked as State's
7 50. Doctor, do you recognize State's 50?

8 A I do.

9 Q Is there -- is that a fair and accurate depiction of
10 the report that you produced associated to this case?

11 A It is.

12 MR. EPTING: Your Honor, at this time, the State
13 seeks to enter State's 50 into evidence.

14 (Plaintiff's Exhibit 50 was moved
15 for admission into evidence.)

16 THE COURT: Any objection?

17 MR. DAVIS: No objection, Your Honor.

18 THE COURT: Into evidence without objection.

19 (Plaintiff's Exhibit 50 was
20 admitted into evidence.)

21 BY MR. EPTING:

22 Q And I'm sorry. I wanted you to have a copy of the
23 report that's in evidence as we discuss this. So you
24 indicated a wound to the decedent's -- to Shae's lower
25 front jaw moving at an angle upwards?

JURY TRIAL & SENTENCING

1 A Kind of backwards and from right to left, so kind of
2 like -- kind of in this direction right here.

3 Q Did -- did Ms. Williams have injuries to her jaws
4 consistent with being fired -- shot with a shotgun at
5 close quarters?

6 A She did. She had significant fractures to the
7 mandible, which is this jawbone, basically, on both the
8 right and the left sides.

9 Q Would the close-quarters nature of the shotgun blast
10 cause any type of injury, brain injury?

11 A She also had a base-of-skull fracture. So the -- the
12 force of the -- the gunshot basically caused the damage to
13 the neck, and it also caused a fracture to the bottom of
14 the skull, which would be right below where the brain
15 would sit.

16 Q As you conducted your autopsy, did you notice injuries
17 consist with -- to her brain and her skull consistent with
18 that type of injury?

19 A I did.

20 Q Could you describe that to the jury?

21 A So as far as the skull goes, there was a fracture
22 across the bottom of the skull, again, at what we call the
23 base of the skull. She also had hemorrhage around the
24 bottom of the brain on both the right and side -- right
25 and left side of the brain, and the front in the middle

JURY TRIAL & SENTENCING

1 section. So as the -- as the pellets from the gunshot
2 wound came in, the force caused this fracture and this
3 upward pressure, which causes the contusion or the
4 hemorrhage in the brain.

5 Q As you were conducting your autopsy and potentially
6 recovering evidence, I mean, you mentioned the wadding.
7 Is that typically attended by law enforcement?

8 A Yes.

9 Q And is that -- is that -- are those collected items
10 typically handed over to law enforcement to be collected
11 as evidence?

12 A They are.

13 Q As part of your autopsy, do you typically conduct an
14 x-ray of the suspected injury area to find medical --
15 metal particles?

16 A We do.

17 Q Did you do that in this case?

18 A Yes.

19 MR. EPTING: May I approach the witness, Your
20 Honor?

21 THE COURT: You may approach.

22 MR. EPTING: I'm handing this -- I'm handing
23 this witness what's been marked as State's 17-A and
24 B.

25 BY MR. EPTING:

JURY TRIAL & SENTENCING

1 Q Doctor, do you recognize State's 17-A and B?

2 A I do.

3 Q One second. I'm sorry. Are they fair and accurate
4 depictions of the x-ray you took of Shania [sic] Williams
5 as part of your examination as a pathologist?

6 A Yes.

7 MR. EPTING: Your Honor, at this time, the State
8 would seek to enter 27-A and B into evidence.

9 (Plaintiff's Exhibit 27-A and B
10 was moved for admission into
11 evidence.)

12 THE COURT: Any objection?

13 MR. DAVIS: No objection, Your Honor.

14 THE COURT: Into evidence without objection,
15 State's 27-A and B.

16 (Plaintiff's Exhibit 27-A and B
17 was admitted into evidence.)

18 MR. EPTING: Permission to publish?

19 THE COURT: You may publish.

20 MR. EPTING: Will you dim the lights?

21 BY MR. EPTING:

22 Q Doctor, on the screen right now is State's 27-A. Can
23 you describe for the jury what we're seeing here?

24 A Yes. We're seeing -- this is the skull. This would
25 be a frontal view of the skull. And the little white

JURY TRIAL & SENTENCING

1 pellet-looking things are part of the -- the projectile.
2 So in this case, a shotgun. A shotgun might have one
3 large slug. It might have many bigger pellets, buckshot.
4 In this case, there are multiple smaller pellets, which is
5 what we commonly call birdshot. So these little round --
6 white little pellets, which is down where the jaw would
7 be, are the projectiles that has come out of the shotgun
8 shell and then lodged in the neck area of the decedent.

9 Q In your opinion as a pathologist, did this contribute
10 or cause the manner of death in which you ultimately
11 concluded in this case?

12 A It did.

13 Q And you mentioned a wadding earlier being found in her
14 -- in her face around these pellets. Why is the wadding
15 not showing up on this x-ray?

16 A The wadding is not made of a metallic substance. It's
17 a plastic substance of some sort, so it doesn't tend to
18 show up on an x-ray.

19 Q I'm showing State's 27-B. And what are we looking at
20 here, Doctor?

21 A This is just the same idea, but it's a side view. So
22 you see in sort of the bottom part of the jaw and the neck
23 area all these same pellets, but just from a 90-degree
24 different angle.

25 Q And again, what was your final conclusion after

JURY TRIAL & SENTENCING

1 examining the body, the related materials, the x-rays, and
2 all the evidence that you were presented as to manner of
3 death?

4 A So these pellets, this shotgun shell, was released
5 into the neck area. It comes across the midline and to
6 the back on the left side. It transected the -- the left
7 carotid artery and the left jugular vein, and it
8 obliterated both those structures and the decedent then
9 bled out.

10 Q What do you mean by transected?

11 A Basically, cut in two.

12 Q And would this have caused an immediately fatal
13 injury, or is that outside the scope?

14 A It would have been pretty -- pretty quick, in a matter
15 of seconds to minutes. And again, we already described
16 the injury to the brain. So the combination of those two
17 things would have caused her death.

18 Q So massive blood loss, and then a catastrophic injury,
19 a traumatic brain injury to the brain caused by the
20 close-quarter nature of a shotgun shell?

21 A Correct.

22 Q That's all the questions I have. Please answer any
23 questions Defense counsel may have for you.

24 A Yes, sir.

25 THE COURT: Mr. Davis?

JURY TRIAL & SENTENCING

1 MR. DAVIS: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. DAVIS:

4 Q Good afternoon, Doctor.

5 A Hello.

6 Q You had the opinion about 1,300 to 1,400 autopsies; is
7 that correct?

8 A Yes, sir.

9 Q All right. How many shotgun wounds have you seen in
10 your career?

11 A Maybe ten.

12 Q Ten? And you also mentioned the type of pellets in
13 your -- in your -- the type of pellets in your testimony.
14 Do the type of pellets leave different types of damage,
15 generally?

16 A Yes.

17 Q In this case, we're dealing with birdshot. Would --
18 would the -- would a -- how would a, say, for example, a
19 double ought buck do compared to birdshot, just eight
20 pellets with a 32-or-so caliber?

21 A So the -- if -- if in a given shotgun shell you had
22 buckshot and there were eight pellets, the pellets would
23 be significantly larger. So if -- if I'm making a guess
24 at the size of each of these pellets, they might be, you
25 know, 3 or 4 millimeters. I would guess buckshot might be

JURY TRIAL & SENTENCING

1 a centimeter in size each, ballpark, give or take. So
2 you'd see much fewer, but they would be bigger, and they
3 might do more damage.

4 Q Would they penetrate further?

5 A They might, correct.

6 Q Would a -- would a larger -- a -- a bullet -- well,
7 say a bullet of larger mass penetrate further if given the
8 same velocity?

9 A It -- it probably would, yes.

10 Q Were there any exit wounds in this case?

11 A No.

12 Q And so, all -- pretty much all the pellets we're
13 seeing were, unfortunately, in the victim and they went
14 about to the spine; is that correct?

15 A Correct.

16 Q Did you get a weight of the pellets that you took from
17 the victims? Did you weight the total amount?

18 A No, we did not.

19 Q And do you typically see wadding from a shotgun inside
20 a victim?

21 A No, we do not.

22 Q So that's -- does that give you an indication of the
23 range, then, when you see wadding?

24 A It does. It would suggest that the range is pretty
25 small.

JURY TRIAL & SENTENCING

1 Q And your report, I believe, says "close to
2 intermediate." Are those terms that you guys define, or
3 is that just kind of a generic term?

4 A Well, close would be -- there's a close contact would
5 be one way you might phrase this. I'd like to see more
6 soot and things around the edge. It may be harder to use
7 that terminology with a shotgun versus a handgun.
8 Intermediate generally is two to three feet or less. So
9 basically, I'm saying it was likely very close for the
10 wadding to be inside that wound, probably a matter of
11 almost touching the individual to several inches, maybe up
12 to a foot.

13 Q Is there any possibility that some of the pellets may
14 have missed Ms. Williams and gone somewhere else?

15 A I don't think that would be the case. And the reason
16 I say that is the -- the wound around the individual that
17 were not any indication of birdshot pellets. There was
18 not any stippling or anything around the wounds.

19 MR. DAVIS: No further questions, Your Honor.

20 THE COURT: Any redirect?

21 MR. EPTING: Very briefly.

22 REDIRECT EXAMINATION

23 BY MR. EPTING:

24 Q And I neglected to ask you. You mentioned the
25 injuries as to the brain and as to the -- the severing --

JURY TRIAL & SENTENCING

1 severing of the artery. Is that manner homicide?

2 A Yes.

3 Q That's all the questions I have.

4 THE COURT: Any recross?

5 MR. DAVIS: Nothing further, Your Honor.

6 THE COURT: Any objection to excusing this
7 witness, from the State?

8 MR. EPTING: No, Your Honor.

9 THE COURT: From that Defense?

10 MR. DAVIS: None, Your Honor.

11 THE COURT: Thank you, Doctor. You're excused.

12 THE WITNESS: You're welcome.

13 MR. EPTING: And can we have a very brief
14 bathroom break, like, five minutes?

15 THE COURT: Absolutely. We'll take a
16 five-minute break.

17 (The jury exited the courtroom.)

18 (Off the record.)

19 (Recess.)

20 (On the record.)

21 MR. EPTING: -- firearms expert that may be
22 lengthy. And our final witness will be our case
23 agent.

24 THE COURT: We're talking about finishing
25 tomorrow morning.

JURY TRIAL & SENTENCING

1 MR. EPTING: Probably finishing with the case
2 agent, unless the firearms testimony goes very
3 quickly -- which I don't think I will -- and possibly
4 having it to the jury before lunch or a little after.

5 THE COURT: That sounds good to me. All right.
6 Let's bring them in.

7 (The jury entered the courtroom.)

8 THE COURT: All right. Mr. Epting, you may call
9 your next witness -- or Mr. Porter?

10 MR. PORTER: The State calls Ray Barnwell.

11 RAY BARNWELL

12 was called as a witness, and having been first duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. PORTER:

16 Q Good afternoon.

17 A Good afternoon, sir.

18 Q Could you please state your name for the record?

19 A My name is Raymond Martin Barnwell. I go by Ray.

20 Q And where -- or what is your present occupation?

21 A I am retired, but I do consulting, forensic firearms
22 consulting. I have my own company doing that. But I
23 worked 25 years at the sheriff's office, from --
24 everything from patrol all the way up to my end job was a
25 forensic firearms examiner.

JURY TRIAL & SENTENCING

1 Q And do you have any -- could you walk the jury through
2 the experience that you have with respect to firearms,
3 like, toolmark examination, ballistics analysis and
4 shotgun pattern analysis?

5 A Well, in -- first of all, in my -- in my job I started
6 out as -- as in the military as learning ballistics
7 through sniper training and that kind of type thing,
8 because you've got to learn what the flight of the bullet.
9 But then you come to the sheriff's office, and I worked
10 patrol, then crime scenes, learning how to process crime
11 scenes. And then in the end, I went to a gentleman in
12 Atlanta that owned a company that by AFTE, which is the
13 Association of Toolmark and Firearm Examiners Association.
14 That organization holds the standards that we are trained
15 by, and I did 1,500 hours of training through him over a
16 14-month period, plus did some work also at the sheriff's
17 office.

18 Q Do you also teach classes in -- in these fields?

19 A I teach in those -- in firearms fields at each year
20 for the past four or five years, I've taught at the
21 International Association of Firearms and Toolmark
22 Examiners that we call AFTE. And I'm also a distinguished
23 member of that organization.

24 Q Are you what's called an armorer?

25 A I -- I do have several armorer certifications in

JURY TRIAL & SENTENCING

1 shotguns, pistols, rifles, automatic pistols and
2 automatic...

3 Q As a certified armorer, what -- what expertise do you
4 have in that field?

5 A We learn -- first of all, you become an armorer and
6 then -- and excuse me -- then you -- you learn how to
7 check all of the safeties and all of the -- to examine the
8 rifle or the pistol or the shotgun to the standards that
9 it was made by. And that's very important because that's
10 the only standard. It's made by standard, made safe, and
11 it's tested. And once that standard is manipulated, then
12 it's -- it's whoever manipulated it if there's a problem
13 in it. And so, we -- we teach them at each year how to
14 recognize if it's a stock, for a better word,
15 off-the-shelf rifle, or if it's an older shotgun.

16 Q But any modification could change the performance of a
17 firearm?

18 A Yes, it can.

19 Q With respect to toolmark identification, what is that?
20 Could you explain that for the jury?

21 A Well, the easiest way to explain it is a metal is
22 formed into an object, usually square block, and then it's
23 taken and the ground or turned in a CNC machine down to a
24 certain item. In this case, we're talking about a -- a
25 firing pin. And it is -- so it starts out big and it's

JURY TRIAL & SENTENCING

1 ground down or filed down, CNC'd down to a certain size.
2 But when that mold is first made into a piece of steel,
3 there are microscopic imperfections. You can't see it
4 with your eye, but microscopic imperfections. Those
5 imperfections are then pronounced as a make dot [ph].
6 Well, that steel is harder than the steel -- or, excuse
7 me -- the aluminum or the brass or in some cases, the
8 steel shall that it hits that causes the ammunition to --
9 to go off, okay, the primer, or the casing itself. In
10 this case, a shotgun shell. So when the -- when the
11 firing pin hits, it leaves an impression very similar to
12 the old Silly Putty. You could pick it up and see an
13 impression. This is more like a piece of grain in the
14 wood, it's microscopically, and it leaves that impression
15 of the harder steel of the firing pin into the primer
16 itself. So you can match the firing pin shape and
17 imperfection, microscopic imperfections, in the actual
18 primer or the casing itself.

19 Q During your examination, did you also look at what I
20 believe you called extractor marks?

21 A Yes. That's -- that's -- it's another piece of
22 hardened steel that pulls the actual shell, grabs on the
23 lips of it, pulls it out of the chamber area, and then
24 it's extracted out of the gun and onto it. And in this
25 case, it's a pump shotgun. You have to manually cock it,

JURY TRIAL & SENTENCING

1 take it back out and put a new shell into it.

2 Q So that was with respect toolmarks. With respect to
3 ballistics, do you -- are you a shooter yourself?

4 A I am.

5 Q Do you load your own ammunition?

6 A I have loaded some. I'm not consistent at it, and
7 don't practice that that much.

8 Q But over the course of your training as a sniper --

9 A It is required training in my AFTE training. It is
10 required that you take a block of instruction of the
11 loading and unloading and how it's -- and each individual
12 powder. Like in a disk, and this is a flat-disk powder,
13 what kind of powder it is. All of that is required in
14 your training in that 1,500 hours.

15 Q And with respect to shotgun pattern analysis, what
16 would that be?

17 A Well, shotgun pattern analysis is when a shotgun is
18 fired. It depends on the actual bore of the shotgun. And
19 what I mean, the bore, at the end of the shotgun, it can
20 be a full bore. It can be -- it can be reduced tighter so
21 you get a tighter pattern as it comes together. Or in
22 this case, it's just a cylinder, which means it's straight
23 out the barrel. And when it comes out the barrel, there's
24 a wadding in the shotgun. And that wadding expands,
25 catches the air and expands, and the bullets are pushed

JURY TRIAL & SENTENCING

1 into a directional pattern. What I did in this case,
2 which I was requested to do when I worked at the sheriff's
3 office, was do a -- a shotgun pattern analysis, meaning I
4 would --

5 Q We can get into that. I'm sorry to interrupt. We can
6 get into that in the second phase. But as far as shotgun
7 pattern analysis goes, are you looking at the spread at a
8 certain distance from the barrel of the shotgun when
9 around is fired? What -- what does pattern mean?

10 A Is you can reproduce it, and you can explain it, and
11 you can measure it. That pattern is reproducible every
12 time you fire it at that -- within a margin of error. So
13 if you're at -- at two feet, that's going to all be at
14 this distance. If you're at 20 feet, it will all spread
15 out the same within a couple of inches or feet.

16 Q Assuming you're --

17 A It depends on which gun it is.

18 Q -- assuming you're using the same type of load?

19 A Yeah. You always have to use the same shotgun, the
20 same ammunition. Otherwise, the test is not -- it's not
21 applicable. You can't do it. I mean, you can't shoot a
22 No. 9 shot and a No. 7 shot because they won't spread the
23 same.

24 Q Is that because you're changing the variables when
25 you're doing the math, basically?

JURY TRIAL & SENTENCING

1 A Well, it's the way that the -- the weight, the
2 velocity, and the shell itself -- not the shell itself --
3 the -- the wadding itself could be different. You don't
4 know that. But I mean, you know, different manufacturers
5 use different wadding and different primers and different
6 powders.

7 Q And have you received training and attended classes
8 and taught in these -- in these three areas that we're
9 talking about?

10 A I've been to classes in Huntersville, North Carolina
11 at the applied -- forensic applied sciences hosted by
12 CPCC. Several weeks up there of taking online classes
13 from the University of Virginia, and -- and then training
14 in Atlanta, and continuing training at AFTE in my earlier
15 years before I started teaching.

16 MR. PORTER: Your Honor, at this point, I would
17 offer Mr. Barnwell as an expert in the three areas:
18 toolmark examination, ballistics, and shotgun pattern
19 analysis.

20 THE COURT: All right. Any objection?

21 MR. DAVIS: No objection, Your Honor.

22 THE COURT: All right. This witness is
23 certified as an expert in toolmarks, ballistics, and
24 shotgun pattern analysis. And ladies and gentlemen,
25 as I've said with the other two experts, that means

JURY TRIAL & SENTENCING

1 he's entitled to give his opinion, but you should
2 evaluate his opinion like that of any other witness's
3 testimony and decide whether you should believe it in
4 full or in part or not at all.

5 MR. PORTER: Thank you, Your Honor.

6 BY MR. PORTER:

7 Q We were -- we were getting into what your
8 investigation for this case. Were you requested to do
9 some testing with respect to this case while you were
10 still employed with the sheriff's office?

11 A Yeah. When I was at the sheriff's office, I was --
12 and this incident happened during my last year that I
13 worked. And I was requested to do testing of the pattern
14 analysis test that I was talking about, about the
15 distance, determination, and pattern spread of the actual
16 shotgun.

17 Q Have you -- did you produce a report as a result of
18 that?

19 A I did. I produced a report on December 5th of 2019.

20 Q And I think we got into it a little bit. But could we
21 just start at the beginning of how you -- how you set up
22 that procedure?

23 A In my report, you can also see in my final -- my
24 final, I'll use the standardized testing. The
25 standardized testing is -- is set forth by AFTE. And that

JURY TRIAL & SENTENCING

1 test says that you start out at six inches, a foot, and
2 you're -- I'm sorry. You get a white placard board --
3 very similar to this white placard board -- and you stand
4 in front of it, put the barrel on the front, and you hold
5 it six inches away and shoot the same ammunition that was
6 on the scene. It must be the gun -- not one similar --
7 the gun, and test it. The reason you make share it's that
8 gun is because it could be manufactured -- could have been
9 changed or something to it, so you use that gun. You
10 start out at six inches, and you back up six inches, back
11 up six inches. Now, you're at 18 inches. And at
12 two-foot, you start backing up a foot or two -- it depends
13 on the test -- but you're allowed to jump two foot. So in
14 this case, I did six inches, 18 inches, two foot, four
15 foot, six foot, eight foot, 12-foot and -- excuse me --
16 ten foot and 12-foot. I fired at those distances to
17 compare the spread that was on. And each shot -- I
18 didn't -- didn't cover this -- but each shot, you use a
19 different backer. So you use the one backer that's over
20 here. So I had a different backer for each one.

21 The determinations of using the photo that I was
22 provided and the evidence that I collected, the analysis
23 of shooting a shotgun, I determined that the blast on that
24 picture was approximately nine feet. and there's a
25 two-foot margin of error, meaning two foot from nine feet.

JURY TRIAL & SENTENCING

1 So it's really from eight foot to ten foot was the
2 distance in that photograph.

3 Q Okay. Eight foot to 11 foot. Eight foot, because if
4 it's two --

5 A No.

6 Q -- nine, seven --

7 A It's two.

8 Q -- I'm sorry. We're doing math -- we're doing math in
9 public.

10 A It's nine foot. So it's one foot in front and one
11 foot in back. That's the two foot.

12 Q Oh, okay. And so, it's seven -- seven to ten -- or
13 seven to nine?

14 A Nine foot, eight foot and ten foot.

15 Q Okay. Got it. So we're effectively taking an
16 increasing cone, figuring out where the pattern that you
17 have available fits into each of those cones?

18 A That's correct. The farther you are away from the
19 shotgun, it fires, and you take pictures and examinations
20 of each individual one.

21 MR. PORTER: Ms. Hall, would you place it onto
22 publish, please?

23 BY MR. PORTER:

24 Q I'm showing you what's been entered into evidence as
25 State's 11-J. Is this the photo that you reviewed for

JURY TRIAL & SENTENCING

1 your report?

2 A Yes, that is. That's the one I reviewed for my
3 report, and we determined that it was -- the blast was
4 similar at nine feet. Myself and Detective Wallace were
5 on the -- were on the range together.

6 Q I'm showing you what's been marked for identification
7 us State's Exhibit 49. Can you tell the jury what this
8 is?

9 A That is a copy of my original report that was
10 submitted.

11 Q Is it a true and accurate copy of your report as you
12 wrote it?

13 A Yes, it is.

14 MR. PORTER: Your Honor, at this point, we would
15 ask for State's 49 to be entered into evidence.

16 (Plaintiff's Exhibit 49 was moved
17 for admission into evidence.)

18 THE COURT: Any objection?

19 MR. DAVIS: No objection, Your Honor.

20 THE COURT: States 49 into evidence, without
21 objection.

22 (Plaintiff's Exhibit 49 was
23 admitted into evidence.)

24 MR. PORTER: Thank you, Your Honor.

25 BY MR. PORTER:

JURY TRIAL & SENTENCING

1 Q Now that we've handled that conclusion, were you asked
2 later to --

3 MR. PORTER: -- we can now take it off of
4 publish and bring the lights up. Thank you.

5 BY MR. PORTER:

6 Q Were you asked to conduct any additional testing after
7 you had left the sheriff's office?

8 A Well, I retired. And when this case started coming
9 forward, I was asked to do some examinations of the actual
10 firing pin impressions on the shot shells -- whatever you
11 call them -- shotgun shells, but they're shot shells --
12 and the firing pin impressions and see if you could match
13 the firing pin, which is in the shotgun that is in
14 question fair and the evidence collected. And it was
15 turned over to me. I signed for it. It was all sealed
16 evidence. I brought it, put it in a locked storage, and
17 then examined it and returned it back to the sheriff's
18 office, and then issued a report.

19 Q And that would be in the field of toolmark
20 examination?

21 A Yes, it's toolmark examinations on it because of the
22 firing pin impression.

23 Q I'm showing you what's been marked for identification
24 as State's 48. Could you please tell the jury what this
25 is?

JURY TRIAL & SENTENCING

1 A That is a copy of my report I did with the initials
2 down here in the very bottom, which is important. That is
3 my person that -- my peer reviewer this -- that peer
4 reviews all my work.

5 Q Okay. And we'll talk about the peer review a little
6 bit later. But is that a true and accurate -- that is a
7 copy of your report?

8 A Yes.

9 Q And it reflects your findings?

10 A Yes.

11 MR. PORTER: Your Honor, at this point, I would
12 ask for State's 48 to be entered into evidence.

13 (Plaintiff's Exhibit 48 was moved
14 for admission into evidence.)

15 THE COURT: Any objection?

16 MR. DAVIS: No objection, Your Honor.

17 THE COURT: Stays 48 into evidence, without
18 objection.

19 (Plaintiff's Exhibit 48 was
20 admitted into evidence.)

21 BY MR. PORTER:

22 Q Okay. So at this point, just for convenience sake,
23 you're taking rounds that law enforcement collected and
24 comparing them to themselves. Would -- how -- explain to
25 the jury how you began your process of -- of comparing?

JURY TRIAL & SENTENCING

1 A All right. When I go - I came to the sheriff's
2 office. I collected the evidence and signed for it. And
3 then I went to get back to my home and -- where I have an
4 office, and I secured it in a safe. I got it out of the
5 safe, opened it up. I had pictures of everything. And
6 some packages have, like, three shotgun shells in it.
7 Some of them are fired, some of them are not. So in my
8 report, because there's so many different -- you'll -- you
9 -- these are mixed sheriff's office reports, and the
10 numbers get confusing. So you've got Item 1 two times,
11 Item 3 two times. So in my report, I relabel everything
12 as an exhibit. So I have 21 exhibits that in my -- that I
13 examined. I took 21 items, and I looked at all 21 items.
14 And those 21 items, I compared the shot shells, the ones
15 that had been fired, to each other under a microscope.
16 And then I compared the -- then I took the shotgun itself
17 out to my range. I fired it, took those fired rounds back
18 into my house, my office, and I tested those fired rounds
19 to one shell. And the only reason I did one shell is
20 because it matched all the others. So I took pictures of
21 one versus this model. It's because I examined No. 1 and
22 it matched everything, so 1 matched 2, 1 matched 3, which
23 means 2 matches 3. Because if 1 and 2 match, and we bring
24 3 in, that means it also matches. Does that make sense?

25 Q Yes, sir.

JURY TRIAL & SENTENCING

1 A Okay. I also examined two the main areas that you
2 always examine. You never just go off of one -- one area.
3 So I examined two the main areas: the face of the shell
4 where the primer is, the little round circle; and the side
5 of the shell that some people call the -- the brass or the
6 -- the -- because you've got high brass, you've got low
7 brass, you've got medium brass. It's really not brass,
8 most of the times. A lot of times, it's either steel or
9 -- or -- or aluminum. But anyway, the -- the rim of it
10 where that ejector mark pulls it out. So I examined that
11 area also. So it's not just one area that you're
12 examining. And inside each of those areas, you also dive
13 down and examine several areas in that just on the top.
14 It's not just one area on the top.

15 Q Okay. Just for a little bit of cleaning up here, I'm
16 showing you what's been entered into evidences as State's
17 45. Which exhibit would this be on your report?

18 A As I say, when you see this, I -- I take the number
19 just on this barcode here and I add that barcode to my
20 report. And if there's three in here, it will stay that
21 -- it will still say that barcode. But I have Exhibit 1,
22 2 and 3 on this one. This is my Exhibit No. 1.

23 Q Okay. So that is the one you later compared to the
24 test fires?

25 A Yes, because everything matched that one. So that

JURY TRIAL & SENTENCING

1 means that everyone in the middle -- there's no reason to
2 compare those, because I've already done so.

3 Q Okay. So State's 41 is Exhibit 1. Exhibit 2, 3 and 4
4 on yours, can you tell me if State's 21 matches up with
5 those exhibits?

6 A This is my Exhibit 2, 3 and 4.

7 Q So those three shells --

8 A Three shells --

9 Q -- are 2, 3, and 4?

10 A -- are my Exhibits 2, 3 and 4.

11 Q Okay. And then we got -- we've to get to 21, so we're
12 -- we're getting there. I'm going to show you States 41.
13 Could you tell the jury where State's 41 appears on your
14 report?

15 A This is my Exhibit 5, 6 and 7, unfired shells.

16 Q These are unfired shells. And just 21, for the
17 purposes of the record, were the Farlow Street fired
18 shells. It will be Exhibits 2, 3, and 4. And moving to
19 this group here. I'm showing you State's 20-A. Can you
20 tell the jury what those are?

21 A This is my Exhibit 8 and 9. On my report, it says
22 Exhibit 8 and 9.

23 Q And what was contained in Exhibit 8 and 9?

24 A Two different types of fired -- fired shotgun shells,
25 one being Fiocchi buckshot, which is a high brass gold

JURY TRIAL & SENTENCING

1 cylinder, and then it was also Winchester fired 7.5 shot
2 birdshot.

3 Q And just for the purposes of the record, those were
4 recovered at 1087 Leach Road. And then 20 B and C, can
5 you tell me where those appear on your report?

6 A Exhibit 10 is 20-B, and Exhibit 11 is 20-C. That's
7 what you have here.

8 Q Okay.

9 A As I say, my report, the -- the barcode, the original
10 barcode from the sheriff's office matched up on my report.
11 So you can -- going back to those.

12 Q And then finally, State's 40.

13 A There's Exhibit 12 through 20, nine unfired shotgun
14 shells.

15 Q Okey-doke. And what is the last item on your report?

16 A 21, which is the Rossi shotgun.

17 Q Do you recognize that item?

18 A Yes, sir. There's a couple of specialty things on it
19 on the nearest shell [ph].

20 Q There is blood on that --

21 A Okay.

22 Q -- so please don't touch the inside of the gun. I can
23 get you some gloves, if you would like.

24 A No I'm good. One of the things that I recognize
25 immediately is, yes, this is the gun I fired, I

JURY TRIAL & SENTENCING

1 test-fired. It's even got my sticker on it from my
2 photos, and it's also missing the front sight. It is --
3 but it is a factory. When examined it, that's the one
4 examined.

5 Q And was it -- is it in -- other than the bead missing,
6 is it in good operating condition?

7 A Yes.

8 Q For the record, I was showing the witness State's
9 Exhibit 22, the Rossi shotgun. As far as the operability
10 of the shotgun, did you have any issues firing it?

11 A I had no -- no problems firing it when I did the
12 distance pattern determination. I do not remember any,
13 and back in five years ago, six years ago. And I had no
14 problems when I test-fired it two weeks ago, I think.

15 Q As far as a misfire analysis or anything, is there any
16 -- is there anything in your understanding of your
17 profession, your expert opinion that would be -- what
18 would a misfire analysis be, if there were such a thing?

19 A I don't know of what they would call a misfire
20 analysis. It would be more of the ammunition, most likely
21 was the problem if there was a problem firing. It could
22 be that a dirt or something in the gun itself, but I don't
23 know of an analysis. The only thing we do is test-fire
24 it, and if it test-fires every time accurately. As I say,
25 I've test-fired at least ten -- over ten times, because I

JURY TRIAL & SENTENCING

1 test-fired it this past two weeks ago seven times.

2 Q And you never had a problem?

3 A Never had a problem.

4 Q I'm showing you what's been marked for identification
5 as State's 51. Can you tell the jury what is contained
6 inside State's 51?

7 A These are the -- in my -- I test-fired these shells at
8 my range. I test-fired the Rossi shotgun with three
9 different kinds of ammunition. I test-fired it with the
10 Fiocchi double barrel -- excuse me, not double barrel --
11 double-ought buck. I test-fired it with medium brass,
12 7.5. And -- and I test-fired it with low brass eight
13 birdshot, No. 8 birdshot. And these are the test fires
14 that I put -- that I test-fired and I kept and turned them
15 in, because that's what I used to examine those pieces of
16 evidence.

17 Q Are those in substantially similar --

18 A Yes.

19 Q -- condition as when you sealed them up?

20 A Yeah. I sealed them up right there.

21 MR. PORTER: Your Honor, I move State's 51 into
22 evidence.

23 (Plaintiff's Exhibit 51 was moved
24 for admission into evidence.)

25 THE COURT: Any objection?

JURY TRIAL & SENTENCING

1 MR. DAVIS: No objection, Your Honor.

2 THE COURT: State's 51 into evidence, without
3 objection.

4 (Plaintiff's Exhibit 51 was
5 admitted into evidence.)

6 BY MR. PORTER:

7 Q So that brings up a -- a interesting point. So you
8 fired three different rounds to create your test --
9 test-fires. Why did you do that?

10 A Well, the evidence was a low brass 7.5 birdshot.
11 Okay? Birdshot, if -- most people are familiar with a BB
12 gun. Okay? A BB gun is .7 -- .17 of an inch. That's what
13 a BB gun -- if you measure a BB gun, a BB, it's .17 of an
14 inch. Anything smaller than that -- No. 1, No. 2, all the
15 way down to 12 -- is considered birdshot. So this
16 birdshot in here is like .9 -- .095 of an inch. That's
17 how small the actual birdshot is. So to -- I'm not trying
18 to confuse you on that, but that's -- that's how the
19 pellets that hit the wall that I examined, or the pellets
20 that I hit the target, the target that I examined the
21 picture to was No. 7.5 birdshot, so real tiny, .09 -- .095
22 of an inch. But in this case, I used No. 8, because I
23 could not find -- no one in the county had No. 7.5 low
24 brass, which is the -- the -- the metal casing around the
25 shotgun shell. It's -- they call it low, medium, and high

JURY TRIAL & SENTENCING

1 brass. The more powder, the bigger the brass. Okay? So
2 that brass, it was -- I had 7.5s, and I fired 7.5s. But
3 it was medium brass. I feel it's unfair to judge the
4 medium brass against his low brass. And I call his being
5 the shotgun. The shotgun or the evidence that was -- I
6 received, that evidence was low brass, which means the
7 powder was less powder. Less force against the firing pin
8 would cause it to make a different impression. Not
9 particularly a different impression. It give more
10 impression because it would make it deeper. More force
11 against the firing pin would make it deeper. So it
12 wouldn't change it. It would just give me more evidence
13 to examine again. So I didn't feel like it was fair. So
14 I took No. 8s, which was all that was available, and I
15 tested No. 8s. I shot No. 8s and it tested against the
16 sample. I did also test number -- the buckshot, and I did
17 also test the No. 7s, 7.5, against it in comparison
18 against those. I did look at that. But as I say, in my
19 personal opinion, it does not -- it's not a fair
20 representation to compare each other, so that's why I used
21 that. I fired two buckshot, three No. 7 birdshot, and
22 then two No. 8s. And I used the first No. 8 that I shot,
23 because I felt like that was an accurate representation of
24 what was fired at the scene.

25 Q And were you able to make any determinations based on

JURY TRIAL & SENTENCING

1 all of that methodology about whether the Exhibits 1
2 through 4 and 8 through 11 were fired by the same gun?

3 A Yes. Now, I did compare the test-fires to each one.
4 Okay? I did look at that.

5 Q And we'll go into that. But just as far as your
6 conclusion goes --

7 A My conclusion is, is the shot shells that are there
8 that have been fired -- those shotgun shells that have
9 been fired -- were fired inside that -- that shotgun.

10 Q That shotgun sitting right there?

11 A That shotgun right down there.

12 Q And were you able to confirm that one, State's -- or
13 Exhibit 1, your Exhibit 1 matched up to your test-fires?

14 A Yes.

15 Q Okay. Now, we'll -- I'm showing you what's been
16 marked for identification as State's Exhibit 47. Have you
17 reviewed the photographs that are on State's Exhibit 47?

18 A Yes, I did before I came in.

19 Q And are they true and accurate photos of the --

20 A Yes. So --

21 Q -- the photos that you took?

22 A -- those are photos I -- microscopic photos that I
23 took of the examination I did.

24 MR. PORTER: Your Honor, at this point, we would
25 ask that State's 47 be entered into evidence.

JURY TRIAL & SENTENCING

1 (Plaintiff's Exhibit 47 was moved
2 for admission into evidence.)

3 THE COURT: Any objection?

4 MR. DAVIS: No objection, Your Honor.

5 THE COURT: State's 47 into evidence, without
6 objection.

7 (Plaintiff's Exhibit 47 was
8 admitted into evidence.)

9 MR. PORTER: Thank you, Your Honor. Permission
10 to publish?

11 THE COURT: You may publish.

12 BY MR. PORTER:

13 Q Photographs will help us go through --

14 A Okay.

15 Q -- for comparison. What are we looing at here?

16 A All right. These are the actual front of the -- or
17 the face of the shotgun shell. You can see part of the
18 caliber down at the bottom where it talks 12-gauge. On
19 each side down the middle is the left side. You see --
20 you see a divider down the center. And these are the two
21 shells that I examined. And this photo is labeled. My
22 labeling is 1V2FP, meaning firing pin. So this one,
23 Exhibit 1 compared to Exhibit 2, and looking at each other
24 that way.

25 Q And based on your observations under the microscope,

JURY TRIAL & SENTENCING

1 what was your determination?

2 A Well, the center of the firing pin, and there's some
3 marks out on the outskirts regions of the primer there,
4 are an identificational match.

5 Q I'm going to hand you a mouse, and we'll see if that
6 -- if you can -- a mouse, but I can get you a mouse pad,
7 if like. Is it working up there?

8 A No.

9 Q Okay.

10 MR. PORTER: Your Honor, mid the witness step
11 down?

12 THE COURT: The witness may step down.

13 MR. PORTER: Let's see if it will pick up here.
14 Still no? Okay. Scoot on around a little bit more
15 and get closer to the mic right here.

16 THE WITNESS: Is this the same image?

17 MR. PORTER: Yes.

18 THE WITNESS: All right. Item 1, as I state,
19 1V2, that means the 1 is on the left and 2 is on the
20 right. Firing pin impressions, if you look at this
21 impression right here, what happens is, is there is a
22 microscopic flaw in the firing pin, and it leaves an
23 impression in this area right here. In other
24 examples, you can see this line that comes across
25 here, the striation. You can see it a little bit

JURY TRIAL & SENTENCING

1 right here as it ends up right on the tip of this
2 firing pin. Not every impression is made the exact
3 same. Okay? So you have to examine every little
4 section of it. The reason is, is this is not a --
5 this is not a precision weapon, or these
6 mass-produced shells. They're no hand-loaded to be
7 exactly precise. Okay? Unlike precision shooting,
8 you get hand-loads or are you get match-grade stuff.
9 So this is not. And so, you get some that are
10 impressionable more than others, and you'll see a
11 line right here. It's a straight line that comes
12 across here. It's straight on the top. And as I
13 say, this mark up here. You go to another example,
14 you'll see some are a little bit more pronounced than
15 others, and that's because the powder is more
16 powerful. And that's what I was talking about. I
17 did not want to use a medium brass versus a low
18 brass. I wanted low brass shells, because the powder
19 is the same and the same impression. It would be
20 like pushing something real hard and then pushing
21 something real soft. It wouldn't be a fair
22 impression. So that's why I did that. That's why
23 No. 8s were used, because that was all that was
24 available.

25 BY MR. PORTER:

JURY TRIAL & SENTENCING

1 Q And low brass?

2 A And low brass.

3 Q And so, moving on to the next photo, what are we
4 looking at here?

5 A This is the rim and the -- the rim of the shotgun
6 shell and the extractor marks. The extractor mark as it
7 reaches around the rim here, and then right here, and then
8 the shotgun -- the extractor, if you look at the shotgun
9 where the extractor is, there is a void there, meaning
10 there's not any piece of metal. When the gun is fired,
11 this shell expands a little bit. I'm talking
12 microscopically expands. You can see it just barely,
13 maybe even feel it. But you can see it definitely the
14 line right here. Now, this line is divided. This is one
15 on the left, two on the right. And you can see this line
16 that comes around is the void or the expansion of the
17 shell when it's fired.

18 Q Okay. Onto the next one.

19 A That's still 1 versus 2. It's just a better picture
20 of it. You can see the expansion that I was talking
21 about.

22 Q Okay.

23 A Now, 1 versus 3, the firing pin impressions. You can
24 see some microscopic -- and this is -- when I say it's
25 microscopic, we're not talking super zoomed in. This is

JURY TRIAL & SENTENCING

1 only ten times the natural eye. Okay? So it's ten times
2 the natural eye. You can make it go further, but usually,
3 you don't really need to. But you can see an impression
4 right here that follows on 3. This is 1. This is 1 on
5 the left, 3 on the right. There's also you can see in the
6 center the oval with flat sides.

7 Q So it's 1 versus 3 is a match?

8 A Right.

9 Q Moving onto the next one.

10 A This is the rim or -- years ago, they called it the
11 ogive. But it's that section in there that is -- I'm
12 talking about the void in the shotgun where it -- it
13 swells out, 1 versus 3, how that line matches. You can
14 see it is not the lines, the manufacturing lines. These
15 are the manufacturing lines. These lines or straight and
16 never, never change. Those are manufacturing lines. That
17 happens during the manufacturing period -- process. The
18 -- the void, actually this expands and comes out. It
19 kinda looks like an impression to an extent, but it
20 expands out.

21 Q And the next photo, 1V4?

22 A 1V4 is the same. You can see how actually I pulled it
23 away. The reason that this -- this is a good example of
24 why I would not fire a different medium brass or heavy
25 brass, because the No. 4 on this side has a less

JURY TRIAL & SENTENCING

1 impression then No. 1. That's because the powder is not
2 consistently the same.

3 Q Moving onto the next. What's the name -- the name of
4 that photo?

5 A That's 1V4, where I matched the sides of the rim.

6 Q Still a match, still the same as far as --

7 A Yes, sir.

8 Q Next one.

9 A That's 1V4 with a different -- I'm sorry. That's 1V8
10 and it's where it matches in -- in -- in the center there,
11 the firing pin.

12 Q Can you show the jury with the mouse?

13 A Yeah. How this line continues into here, this is a
14 different color. And most likely -- and I don't have my
15 report with me -- I'm going to say this is the -- the
16 buckshot, meaning because of the color (unintelligible).
17 Yes. No. 8 is the -- my Exhibit No. 8 is the Fiocchi
18 double-ought buck brass, and it's a high brass. Even
19 though it was high brass, what happens is, is it does
20 leave more impression over on this area, which is around
21 the edge of the firing pin. And that's what I was talking
22 about. There's even impressions over here on this side
23 that you don't quite see over here. And that's why you
24 try to use the same to match it.

25 Q And the next photo?

JURY TRIAL & SENTENCING

1 A That's 1V8. The rim where it matches on the side.
2 The little markdown area is called a witness mark. and
3 that's just to help you get in the right -- if somebody
4 was to follow-up on me.

5 Q Okay. And the next photo?

6 A This is 1V9, 1 versus 9 were it -- it -- the
7 comparison is the same. And what I was talking about, you
8 checked all areas. If you look in this area right up
9 here, this is another area you can see where the
10 striations are not prominent on everything, but they're
11 different. They're not there before you examine it.

12 Q Okay.

13 A Or on unfired shells are not -- it's not there. 1V9
14 firing pin impressions, it's just another picture of the
15 -- of the center there where it matches.

16 Q Okay. Anything of particular note about that one, or
17 is that just another match?

18 A It's just another match. I mean, there's other places
19 you can look in it and match. If I turned it around,
20 there's a little mark, just like I had on the last one.
21 There's a mark right here. And I was talking about those
22 two lines. That -- that's showing that if I compared this
23 went to the last one, those lines are there if you go back
24 and say -- just repeated if looking for the same marks to
25 make sure they're repeated on each one. Once you find it

JURY TRIAL & SENTENCING

1 and see it under a microscope, it's a lot easier. But
2 finding it and getting it into to the right area is -- and
3 then you can start seeing them. It's kinda amazing the
4 way it works.

5 Q Okay.

6 A And that's 1V9 showing the rim.

7 Q All right.

8 A That's another picture of it. It's just a different
9 -- different -- where I moved over to the side a little
10 bit. If -- if you go back for a minute. This center line
11 that you see down the center here can be moved. The
12 shells stay the same, and this center line is moved over
13 to the left or to the right and you examine it that way
14 with the microscope.

15 Q Okay.

16 A And that's the firing pin impression on -- on 1V10,
17 which is No. 10 is my Exhibit No. 10. And you can see the
18 circular firing pin impression there and the mark up in
19 the top about the 12:00 position. There's a couple of
20 marks in there that you can identify the other ones with.

21 Q All right.

22 A And the rim also.

23 Q Which phot is this?

24 A 1V10, Exhibit 1 versus Exhibit 10 where it matches.

25 In 1V11, you can see the firing pin impressions there, and

JURY TRIAL & SENTENCING

1 also about the 1:00 or 12:00 position, you can see those
2 marks right there. If I move the line over, they would
3 identify to the other ones. And the same thing with 1V11.
4 Just a rim where I moved a line over. I didn't move the
5 shells, I moved the line over, so just that
6 (unintelligible) line. That was my -- that was my
7 test-fires of the 7.5 shot, the medium brass. And that's
8 just the box lids so you know what it looks like. And the
9 same thing with the No. 12 -- I mean, the 8 shot.

10 Q Is that the low brass round -- load?

11 A The low brass that I -- that I shot and tested and
12 tested to. And that's the -- that's the buckshot, the box
13 that I used to shoot, which is similar or the exact same
14 make, model and everything of the buckshot used, I used
15 there.

16 Q Okay.

17 A And then I started my examination of the test-fires.
18 I take the test-fires and I examined to one cartridge
19 case. And I -- the one -- and I picked one, and I
20 examined one to my test-fires.

21 Q Now -- now that we've kind of been through a couple of
22 these, if you want to the witness stand again and we'll go
23 through this test-fire procedure. So this photo were
24 showing is TF6V1FP?

25 A Test-fire No. 6 versus No. 1.

JURY TRIAL & SENTENCING

1 Q So now, we're into rounds that you fired yourself
2 personally and comparing them to your -- your example?

3 A Yeah. You take test-fires and you do it yourself or
4 in a controlled area. I didn't have test-fires that I
5 knew 100 percent came from that gun, so I did the test
6 fires myself. And I test-fired -- I tested those
7 test-fires against the evidence.

8 Q In this particular one, was this a -- was this a 8
9 load or the 7.5?

10 A This is a No. 8 shot.

11 Q And is that -- is -- is that a match?

12 A Yes. You can see the striations at the -- about the
13 1:00 or 2:00 position on each, and the firing pin
14 impressions in the center.

15 Q And the next photo?

16 A And this is a test-fire. This is just another --
17 another picture of test-fire No. 6 versus No. 1.

18 Q Okay.

19 A All right. What I was talking about earlier is the
20 examination can consist of changing the microscopic
21 examination where you come down into one general area.
22 And I'm zooming in, and then line is the divider of the
23 left and the right. Okay? Left being my known standard,
24 which is the test-fire. I know 100 percent it came from
25 that gun. I know that for 100 percent. So I take my

JURY TRIAL & SENTENCING

1 evidence on the right, I bring it over. And this is
2 taking No. 1, zooming down into where I talked about the
3 1:00 or 2:00 position, and those striations match there.
4 You do that in several different locations in this -- in
5 this -- in this evidence, but...

6 Q Are we talking about this area?

7 A No. Come down, right there.

8 Q Right -- right here?

9 A That -- that line is actually divided by the left and
10 the right. That is, the -- the darker picture is a -- is
11 the evidence. The lighter picture is my test-fire.

12 Q So you can see that line --

13 A That is two different pictures. That's how the harder
14 metal left the impression on that firing -- the firing pin
15 hardened metal in the breach face of the -- of the shotgun
16 left an impression on the softer metal, being the firing
17 pin -- excuse me -- being the primer.

18 Q Same impression? Two rounds fired at different times,
19 but same impression?

20 A Yes.

21 Q Next photo, please.

22 A This is --

23 Q This is again TF6V1?

24 A -- yeah. You can see the -- it's not quite exactly
25 centered in there, but the impression at the bottom, the

JURY TRIAL & SENTENCING

1 6:00 position right in that area, and then in the center
2 of -- of it, you can see there's the same impression how
3 that little dimple there, that's microscopic --
4 microscopic imperfections in the middle. That os what
5 that is.

6 Q Kind of like a fingerprint for a firearm?

7 A Yeah. It's basically the same thing. It's -- it's
8 just the harder metal leaves an impression in the softer
9 metal.

10 Q So after all of that, after all of those comparisons,
11 were there -- were there other analyses that you did that
12 weren't depicted in those photos?

13 A No. I did all -- I examined -- well, I examined all
14 of the test-fires to that, and I also examined each piece
15 of evidence to the final test-fire.

16 Q So you had seven test-fires?

17 A I had seven test-fires. I examined that to No 1. And
18 I took No. 1 and I examined it to 6, because my 6 test --
19 No. 6 test-fire is the best representation, I felt,
20 because it was a low brass. And I used it to compare to
21 all eight shot shells, fired shot shells, and prove that
22 it was a match.

23 Q Did you also match it to the other test-fires?

24 A Yes. I mean, I examined some of the test-fires and --

25 Q So 6 was the one you -- is basically your best

JURY TRIAL & SENTENCING

1 example?

2 A Well, it was the best example because it was the low
3 brass version. It was the same exact as I could possibly
4 get to the original.

5 Q Earlier, you mentioned peer review. Could you explain
6 what you -- what -- how your procedure results were
7 peer-reviewed?

8 A Well, in a -- in a crime lab, you always have your --
9 your evidence peer-reviewed. Some experts do not have
10 their stuff peer-reviewed. Peer review is someone with
11 equal knowledge or higher learning who examines your work
12 and makes sure and -- and agrees with your work, but they
13 do it in a blind. They don't -- you take them the
14 examples. You don't tell them. You just tell them and
15 say I need something peer-reviewed. And they come over to
16 your computer or in the room (unintelligible) corner, and
17 they examine it. Well, in this case, my peer reviewer is
18 in Atlanta. So I took all the evidence down to Atlanta.
19 He examined all of it, and then he looked at my report
20 after examining it, and he agreed with my findings. He
21 has over 45 years of experience.

22 Q Did he know what your findings were before you handed
23 it over to him?

24 A No, he did not. He just knew I needed something
25 peer-reviewed.

JURY TRIAL & SENTENCING

1 Q Did you offer him anything or any conditional fee
2 based on his findings?

3 A He paid for his -- his review.

4 Q Was it contingent upon his findings?

5 A No. He gets paid no matter if it's he doesn't like my
6 findings or -- and there's basically four findings that a
7 firearms examiner will come up with, which is: unsuitable
8 examination; you have a match or it's conclusive;
9 inconclusive or not a match; and unsuitable -- I mean,
10 excuse me -- you just don't know. Okay? So you have
11 those four different types of findings that he could have
12 come up with. He could have said I can't tell you if it
13 is not, I don't -- I don't know. But he agreed with all
14 of my findings, and that's why he signs that piece of
15 paper that -- he put his initials at the bottom saying
16 that he agreed on 1 April of 2024.

17 Q And this particular --

18 A Not -- August, not April. I'm sorry.

19 Q -- thank you. So this particular investigation you
20 did was while you were working as a new, private company?

21 A Yes.

22 Q Were you compensated by the solicitor's office for
23 your services?

24 A Yes. Because these I did -- this was not requested
25 when I was at the sheriff's office. And in a lab setting,

JURY TRIAL & SENTENCING

1 you never go outside your scope. You stay in your scope.
2 If you were -- if the request would have come when I was
3 there, I would have done it then. But the request was the
4 pattern analysis, and that was not requested, so I did not
5 do the testing then. They found out it wasn't done by
6 SLED or the state crime lab, so they asked me to it for
7 trial. And I had to be -- and I -- because it was under
8 -- done now under my business, I am charging.

9 Q Was there any expectation from the solicitor's office
10 as to what the results should be, or were you pressured in
11 any way to make -- make your determination?

12 A No. The only pressure was -- was time. It was a
13 little, you know, can we get this done before trial.

14 MR. PORTER: Your Honor, I have no further
15 questions for this witness. Thank you, sir.

16 THE COURT: All right. Mr. Davis?

17 MR. DAVIS: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. DAVIS:

20 Q Mr. Barnwell, can you explain real quickly to the
21 jury, just as a refresher, how a shotgun works?

22 A Okay. Well, in this shotgun? Is that okay with
23 talking about this shotgun?

24 Q Shotguns in general, and then I'll --

25 A Shotguns in general, depends on -- we'll talk about a

JURY TRIAL & SENTENCING

1 pump shotgun. There -- in -- in most pump shotguns, there
2 is a barrel on top. It kinda looks like a tube on the
3 bottom. And then you have a chambered area on the
4 chamber, and a stock of some type, a hand stock or a
5 shoulder stock. And you have, most of the time, unless --
6 and this model here is a pump shotgun, so you have to pump
7 it and it takes a -- a shell out of the tube, puts it into
8 the chamber area or the ejection area, and then -- so when
9 you slide it forward, the actual shell goes into the
10 chamber where the firing pin is then cocked and ready to
11 be struck when you pull the trigger. There is a finger
12 safety on it to put it on safe or -- and it was all
13 working properly, this model was when I -- afterwards, if
14 you -- once you fire it, you have to actually pull the
15 charging -- pull the slide back manually then slide it
16 forward again to make it work.

17 Q And when you pull the slide back, what exactly takes
18 place when that happens?

19 A When you pull it back, as you pull it back, the firing
20 pin is then cocked again by the sear and the ejection is
21 caused by the extraction. It extracts -- which I was
22 talking about matching it -- and it would then -- and then
23 a new round is released by the tube. It goes into the --
24 then the follower comes up, slide it forward, and it goes
25 in the battery.

JURY TRIAL & SENTENCING

1 Q So when you -- when you pump it back, it ejects the
2 spent shotgun shell --

3 A Yes.

4 Q -- is that correct?

5 A Yes, sir.

6 Q And then you load a second one; correct?

7 A Yes, sir.

8 Q So you shoot one, you pump it, it ejects the shell,
9 and then you move it forward and you're ready to shoot a
10 second one; is that correct?

11 A Yes, sir.

12 Q All right. And so, when you -- when you fire a
13 shotgun, how does a shotgun -- how do the projectiles
14 differ from a single bullet fired from a conventional
15 rifle or pistol?

16 A Well, these are little tiny pellets called, in this
17 case, birdshot, which are little lead or steel balls. most
18 of the time with this birdshot or buckshot, you can have
19 some that have actual -- a solid projectile. That's
20 called a slug. But in this case, it was birdshot, little
21 tiny pellets. And they're put in there, and there is no
22 amount containing -- there's not an amount that goes in
23 here, meaning 1 in 38 pieces of lead is weighed on a
24 scale. Because, as I say, these are not particularly the
25 exact -- they're not precision rounds. So it can have 350

JURY TRIAL & SENTENCING

1 little pellets in it, or it can have 360. It's just
2 little tiny pellets. And in this model, which is the
3 No. 7, those pellets are .095 of an inch.

4 Q So going back to general shotguns, they can be -- they
5 can have different -- they can be designed to fire
6 different patterns; is that correct?

7 A Yes, they can. It's called a choke, and it's the end
8 of the barrel. There's a choke, and you can -- some --
9 some of them have -- there's a cylinder that they call the
10 choke, and that's just a straight barrel. And you can add
11 -- they can change it by tightening the little tip of the
12 actual shotgun. You can actually -- there's mechanical
13 versions where you can tighten it up by turning it.
14 There's also where you take out the tip of it and put in a
15 different one with a wrench. This model doesn't have it.

16 Q So this -- this shotgun -- the shotgun in this case
17 has a very wide pattern?

18 A Yeah. It's called a cylinder.

19 Q It's called a cylinder? So a straight two --

20 A This is a straight two.

21 Q -- is what you call it?

22 A -- from one end to the other.

23 Q All right. So in this -- this particular shotgun,
24 would you say it is less effective at a longer range?

25 A Yes, sir.

JURY TRIAL & SENTENCING

1 Q Now, let's go to the different types of shot. We've
2 discussed those a little bit. Why would you use a heavier
3 versus a lighter shot?

4 A Well, it -- you know, it depends on -- just like in --
5 in this case where it depends on what I could find or what
6 I could get. I was trying to match 7s and I couldn't
7 match it, so I used No. 8s.

8 Q I'm saying, generically, why would someone choose to
9 shoot birdshot over buckshot?

10 A Well, one is, it depends on what they had. The second
11 is, it's still firing a projectile at someone or in the
12 defense of yourself, either way.

13 Q Let's take a step back, then. Let's ask, why do they
14 call it birdshot?

15 A It's anything smaller than a BB is the scientific
16 answer. That's what's in the -- in the book, because I
17 looked it up.

18 Q So they call it birdshot because it's designed for
19 hunting birds?

20 A Yes, sir. It's -- it's birdshot or clay pigeons or
21 rabbits, because they want to be able to spread out the
22 shot instead of making it a solid piece of lead at one
23 like on when you -- you know, target practice or shoot
24 competitions with long-range shooting.

25 Q All right. Let's talk about birdshot for a second,

JURY TRIAL & SENTENCING

1 and then talk about birds specifically. The birds they're
2 shooting at, are they generally very large birds?

3 A No, sir. Normally, dove. Dove is a -- is a small,
4 you know, they're smaller than that box of gloves there.

5 Q All right. So if you hit dove, say, double-ought
6 buck, would it do a lot of damage to that dove --

7 A Yes, sir.

8 Q -- that same way would you hit birdshot [ph]?

9 A Yes, sir.

10 Q And so, would the dove kind of be inedible if you tore
11 it up with double-ought buck?

12 A I'm sure it would.

13 Q So they -- they designed birdshot, then, to shoot
14 smaller animals; correct?

15 A Yes.

16 Q Okay. So does the size of the shot affect how far it
17 would penetrate?

18 A It's the -- it's the powder in it is less, in -- in
19 this case. But normally, birdshot has less powder in it,
20 because your throwing it -- because it's inaccurate at
21 large -- at great distance.

22 Q So you're saying that a -- a -- a single birdshot has
23 to penetrate just as much as a single piece of buckshot?

24 A No, sir --

25 Q Okay.

JURY TRIAL & SENTENCING

1 A -- that's not what I'm saying.

2 Q So that was -- that's kind of my question is, does the
3 birdshot pellets, do they penetrate less than a, say,
4 buckshot or a slug would?

5 A No. Because the velocity would be less on the --
6 because all the powder in the buckshot versus the less
7 powder, and the amount of force it would take away as it
8 flies through the air. So the velocity.

9 Q Doesn't the mass of the shot impact the force as well?

10 A I'm sorry. I didn't --

11 Q Doesn't the mass of the shot impact the force it -- it
12 imparts as well? As I remember my physics, I believe mass
13 is part of the energy, momentum and force equation.

14 A It would be if you -- I can't really answer that
15 question, sir. I'd -- I would have to sit down and look
16 at that. And right this matter [sic], I can't tell you
17 the 100 percent answer, so I won't give you one. In other
18 words, I don't want to be wrong because I don't know the
19 answer to your question.

20 Q And so, it let me just ask this, then: Do you believe
21 -- is it your belief that velocity is the only thing that
22 matters when it comes to penetration?

23 A No, sir.

24 Q Okay. So what else would come into factor when it
25 comes to penetrating a target?

JURY TRIAL & SENTENCING

1 A There's -- you have the bullet co-efficiency, which is
2 like the rifling is very dark. It's not the rifling --
3 the aerodynamics of the bullet is the bullet
4 co-efficiency. So it flies through the air, cutting the
5 air butter. And as far as this is a BB, it's a round, so
6 it does not -- it hits force against the air, so it
7 doesn't cut through the air as easy.

8 Q Maybe I'm asking the question wrong. All those things
9 seem to affect the bullet before the point of impact. At
10 the point of impact, what are the factors that affect the
11 penetration of that round?

12 A Of the BB or -- the BB of the buckshot has more
13 velocity, so it's going to go deeper, because it's -- they
14 -- the shells are not the same, the patterns, they're not
15 the same.

16 Q I'm saying, at the point of impact. I'm saying, if
17 you have two objects impacting at the same time.

18 A Flying at the same time.

19 Q Okay?

20 A Yes, sir.

21 Q What are the factors going to -- that affect the
22 penetration? Ignore the -- the -- the powder or anything
23 like that. I'm talking at the point of impact.
24 Everything that's come before that is immaterial.

25 A Yes, sir.

JURY TRIAL & SENTENCING

1 Q At the point of impact, what are the properties of
2 that projectile that are going to influence how far it
3 penetrates?

4 A What it actually hits. If it hits hard wood versus
5 soft wood.

6 Q All hitting the same -- they're all hitting the same
7 material. In this case was, it was a person's body --

8 MR. PORTER: Objection.

9 BY MR. DAVIS:

10 Q -- so that's --

11 A The BB --

12 Q But assume that it's a ballistic gel or a uniform
13 property. They all hit the same way.

14 A Yes, sir.

15 Q I'm asking, what properties of that projectile
16 determine how far it's going to penetrate?

17 A There is greater mass in the BB -- in the -- in the
18 buckshot load because it's bigger. So it will not
19 penetrate as deep because there's greater mass pushing
20 against it. The small round, being the No. 7 shot, will
21 penetrate further because there's less mass against it.
22 As long as the velocity is the same and as long as
23 everything is the same, if you dropped them into a bowl of
24 grits, the smaller is going to go deeper because of the
25 mass or the size of the BB will be slowed down because of

JURY TRIAL & SENTENCING

1 the texture.

2 Q Are you familiar with Newton's Laws of Motion?

3 A I'm familiar with it, but I didn't study it.

4 Q And you understand that force equals mass times
5 acceleration; is that correct?

6 A Yes, sir.

7 Q And you understand that --

8 MR. PORTER: Your Honor, I've got a matter of
9 law.

10 THE COURT: Counsel, can you all approach?

11 (Bench conference off the
12 record.)

13 THE COURT: Mr. Davis, you may continue.

14 MR. DAVIS: Thank you, Your Honor.

15 BY MR. DAVIS:

16 Q All right. So back to Newton's Laws of Motion. Do
17 you understand the -- how -- what -- what the formula is
18 for momentum?

19 A I do understand a little bit. As I say, I didn't -- I
20 didn't study it --

21 Q Do you understand it is --

22 A -- to answer all your questions on it.

23 Q -- if I told you it was mass times velocity.

24 A Yes, I understand.

25 Q And the law -- the -- the formula for determining

JURY TRIAL & SENTENCING

1 energy is velocity times mass over two, correct --

2 velocity squared -- I'm sorry -- times mass over two?

3 A As I said, I didn't study it enough to -- to give you
4 an expert analysis of it.

5 Q Okay. So if I have two projectiles hitting at the
6 same velocity, but one has larger mass --

7 A Yes, sir.

8 Q -- is it going to have more energy and more momentum?

9 A I'm saying they have the same velocity.

10 Q They're the same velocity?

11 A They're the same velocity.

12 Q And one has greater mass. One is made of tin and one
13 is made of lead. Would the one that's made of lead have
14 greater velocity, or would have greater energy and
15 momentum?

16 A I cannot give you that answer, sir, because I -- I
17 won't -- as I say, I do not -- I can't give that answer
18 because I don't know. If I sat back and studied it and --

19 Q Have you -- okay. Let me go back to what you do know.
20 Do you have -- do you have any studies on dropping 7.5
21 pellets and buckshot into a bowl of grits you can present
22 before the Court?

23 A No, sir.

24 Q Okay. So back to my question: How does the mass of
25 the projectile determine -- is that one of the factors

JURY TRIAL & SENTENCING

1 that determines how far it may penetrate?

2 A The mass of it? Yes, it could -- it could.

3 Q It could or it does?

4 A It could.

5 Q Okay. Give me an example under which the mass of a
6 projectile would not affect how far it could penetrate.

7 A Well, when you -- the size or the --

8 Q The mass.

9 A The mass itself.

10 Q I'm just asking about the mass. I'm not asking about
11 the --

12 A The mass --

13 Q -- cross-section. I'm not asking about the angle of
14 incidence. I'm asking about the materials. I'm asking
15 about whether or not mass is a factor. And I would ask
16 for you to give me an example when the mass of the
17 projectile doesn't matter whether or not it's going to
18 penetrate.

19 A -- I'm going to tell you, I can't give you that answer
20 again, because as I say, I have clearly stated I am not an
21 expert in that field.

22 Q All right. Let me just ask you this: Would buckshot
23 be more lethal if it was fired from this weapon than
24 birdshot?

25 A In my experience, yes, sir.

JURY TRIAL & SENTENCING

1 Q Okay. Would a .357 magnum pistol, that round, be more
2 deadly than, say, birdshot fired from this weapon?

3 A That weapon cannot fire that.

4 Q I'm saying a .357 pistol firing a .357 magnum round,
5 would that be more deadly than birdshot fired from this
6 gun?

7 A Yes, sir.

8 Q Okay. When they gave you the -- to do the blast
9 pattern analysis, you received only a photograph; correct?

10 A That's correct.

11 Q They didn't cut out the drywall and send you that
12 section of drywall?

13 A No, sir.

14 Q They didn't tell you how far from the wall they were
15 when they took the photo, did they?

16 A No, sir.

17 Q They didn't give you an indication of whether not the
18 shot came in from an angle, if the angle of incidence was
19 90 degrees, a little off one way or the other?

20 A No, sir.

21 Q So you had just a picture with some scale markings and
22 nothing else?

23 A (No audible response.)

24 Q Can you determine the height above floor for the
25 impact areas from that photograph?

JURY TRIAL & SENTENCING

1 A No, sir.

2 Q Okay. Do you know how accurate the dimensions of that
3 photograph were? I mean, they gave you scale markings in
4 that photo; correct?

5 A Yes, sir.

6 Q Did you have -- did you have -- did they deliver you
7 those scale markings that you could verify the accuracy of
8 those?

9 A No, sir.

10 Q Were you asked to test any of the firearms in this
11 case?

12 A I was not, no, sir.

13 Q Did you do a trigger pull test on this -- this weapon?

14 A Yes, sir, I did.

15 Q Did you do any other testing on this weapon?

16 A No, sir.

17 Q And you've seen the condition. You own firearms
18 yourself?

19 A Yes, sir.

20 Q Would you keep a firearm that you owned in this
21 condition?

22 A No, sir.

23 Q Did you do any testing on whether or not this -- this
24 particular shotgun is prone to accidental discharge?

25 A No. I didn't do any testing on it.

JURY TRIAL & SENTENCING

1 Q And there are tests for whether or not a shotgun is --
2 any firearm is prone to accidental discharge. There is --
3 there are -- there is testing for that; correct?

4 A There is testing for accidental discharge of firearms.
5 Dropped testing and -- and trigger pull testing is done
6 over numerous long periods of time.

7 Q And pump shotguns have problems also with --
8 associated with the firing pin not coming fully back and
9 have -- when -- and an inadvertent discharge once the --
10 the new shell is loaded?

11 A There -- there has been cases that do that that are
12 weapons or that are -- and -- and malfunctions that
13 happen, yes. I do know of studies that that's -- or cases
14 that's happened, not studies -- excuse me -- cases.

15 MR. DAVIS: No further questions, Your Honor.

16 THE COURT: Redirect?

17 MR. PORTER: Just briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. PORTER:

20 Q If you took a BB and you took a 50-caliber bullet at
21 the same speed and fired them at the same thing, all other
22 variables being the same, those two things have different
23 weight; correct?

24 A Yes.

25 Q And if they hit the same thing, every other variable

JURY TRIAL & SENTENCING

1 being the same, the 50-caliber bullet, what -- what -- the
2 50-caliber bullet would experience resistance based on the
3 size of that bullet compared to the .22?

4 A There would be some resistance, but also you have the
5 mass of it. It -- carrying it, but it's just -- just the
6 -- if it's all the velocity is the same and it's just only
7 the mass of the actual bullet carrying it any different.

8 Q Is penetration affected by the dimensions of the round
9 that's fired, whether it's a frangible round?

10 A It depends on if it's -- what target it is. In
11 drywall versus wood, yes, they're going to penetrate
12 differently. If they're all the same, you know, I
13 wouldn't say they would be.

14 Q Okay. And based on the way the bullet is designed to
15 move through the object, it's intended target, that could
16 change as well, the penetration?

17 A Yeah. The -- the -- as I say, I talked about the
18 bullet co-efficient, meaning the angle of the bullet going
19 in.

20 Q Okay.

21 A I mean, in this case, you're talking about a round
22 cylinder object, like a marble. You know, that's tiny.

23 Q When -- when -- and at a close range, can a wadding
24 effectively become a projectile?

25 A Yes. So I mean, it is a projectile. It's still a

JURY TRIAL & SENTENCING

1 piece of plastic being thrown into -- or as for it being
2 pushed by the rapid burning of powder inside the gun.

3 Q And one final question, Mr. Barnwell. I'm going to
4 start walking at you, and you tell me at which point you'd
5 be comfortable me firing birdshot at you.

6 A Right there. I -- I --

7 Q All that? How far -- how far back there do I need to
8 go before you're comfortable --

9 MR. DAVIS: Objection; asked and answered. He's
10 answered the question.

11 THE COURT: You can -- you can ask the question.

12 BY MR. PORTER:

13 Q -- how far back there do I have to go before you're
14 comfortable with me firing birdshot at you?

15 A -- you firing at me, or me firing at you? That was
16 the question.

17 Q I'll take that as an answer, Your Honor. No further
18 questions.

19 THE COURT: Any redirect -- excuse me -- any
20 recross?

21 RECROSS-EXAMINATION

22 BY MR. DAVIS:

23 Q Does the mass affect the penetration of a projectile?

24 A I think it does.

25 Q At equal range, would you rather be shot with birdshot

JURY TRIAL & SENTENCING

1 or buckshot?

2 A Neither one, but at equal range, birdshot.

3 MR. DAVIS: No further questions, Your Honor.

4 THE COURT: Any redirect?

5 MR. PORTER: No sir, Your Honor.

6 THE COURT: Okay. Any objection to excusing
7 this witness?

8 MR. PORTER: No, sir, Your Honor.

9 THE COURT: Anything from the Defense?

10 MR. DAVIS: None, Your Honor.

11 THE COURT: Thank you, sir. You can step down,
12 and you are excused. I believe the witness was
13 asking about one of the exhibits there. If it's the
14 Court's copy, you can just put in the pile here.
15 Yeah. All right. Ladies and gentlemen, that will be
16 the final witness for today, so I'm going to ask you
17 all to head on home. I believe the case will
18 conclude tomorrow morning, which means we will let
19 you likely be deliberating tomorrow, probably around
20 lunchtime, if I had to guess. So if you have to make
21 arrangements for child care or anything, you will
22 likely be deliberating or could be deliberating
23 tomorrow night. Okay? So tomorrow may be a longer
24 night than usual. Okay? So if you ever -- you can
25 make -- if you need to make arrangements, go ahead

JURY TRIAL & SENTENCING

1 and do that. The county will provide meals for you
2 while you're deliberating, so you don't need to worry
3 about going out to get food or anything. All right?
4 So ladies and gentlemen, remember, don't discuss the
5 case, don't do any outside research. But other than
6 that, I will see you all tomorrow morning. I have
7 another matter to take up at 9:30, so I'm going to
8 ask you to be here 9:45 instead of 9:30. Okay? See
9 you tomorrow morning.

10 (The jury exited the courtroom.)

11 THE COURT: Can you close that door? Thank you,
12 sir. Anything from the State before we break for
13 today?

14 MR. PORTER: The only thing I can think of would
15 be if we wanted to briefly discuss the charge
16 conference.

17 THE COURT: I have not reviewed it, but Mr. Pope
18 has prepared the charge based on -- based on my other
19 charges, so I'm sure it will be great. Do you want
20 him to go ahead and send you what we have?

21 MR. PORTER: Yeah, that would be a good start.

22 THE COURT: Okay.

23 MR. PORTER: We talked before the afternoon
24 session about maybe having a charge conference. But
25 being that we still have another State's witness and

JURY TRIAL & SENTENCING

1 we haven't determined what we're doing yet, it might
2 be a little premature. But you know, like we've been
3 doing this whole trial, if we can get the ball
4 rolling on it, it might --

5 THE COURT: That would be great.

6 MR. PORTER: -- by Mr. Pope's --

7 THE COURT: Mr. Pope, do you want to send that
8 charge and verdict form? Okay. All right.
9 Mr. Barrowclough or Mr. Porter, have you all
10 discussed whether you're going to ask for any lesser
11 included charges?

12 MR. PORTER: We have -- Mr. Barrowclough and I
13 have not. I -- I believe that, based on the
14 testimony, voluntary would certainly be something,
15 attempted murder. I mean all the way down to --

16 THE COURT: Well, why don't you all talk about
17 that and we'll include that in the charge conference
18 as well. Okay?

19 MR. BARROWCLOUGH: Sure, Your Honor. Like,
20 tomorrow after everybody rests?

21 THE COURT: I think after everybody rests. And
22 I mean, what do you have left for tomorrow,
23 Mr. Porter?

24 MR. PORTER: It's just our case agent, Joey
25 Wallace.

JURY TRIAL & SENTENCING

1 THE COURT: That may be several hours, though,
2 right?

3 MR. PORTER: Based on the Beck
4 cross-examination, I think we're probably looking at
5 most of the morning for --

6 THE COURT: Okay. So maybe what we do, then, is
7 we'll cut the jury loose for lunch, and then we can
8 have a charge conference, and I get everything
9 squared away and sent in to the jury after lunch.

10 MR. PORTER: That sounds good.

11 THE COURT: We'll see how it goes. But we'll
12 figure it out tomorrow. Anything from the Defense?

13 MR. BARROWCLOUGH: No, sir.

14 THE COURT: All right. We'll see everybody
15 tomorrow morning. Again, I've got a civil hearing at
16 9:30, so 9:45.

17 (The proceedings were adjourned
18 until 9:45 a.m., August 20,
19 2024.)

20 **AUGUST 20, 2024**

21 THE COURT: Is the Defense ready?

22 MR. BARROWCLOUGH: Yes, sir, Your Honor.

23 THE COURT: Let's bring them in.

24 (The jury entered the courtroom.)

25 THE COURT: All right. Welcome back, ladies and

JURY TRIAL & SENTENCING

1 gentlemen. Were you all able to follow the rules I
2 gave you overnight? All right. Well, I appreciate
3 that. The State may call your next witness.

4 MR. EPTING: Thank you, Your Honor. May it
5 please the Court? Your Honor, the final witness in
6 the State's case is Lieutenant Joey Wallace.

7 THE COURT: All right.

8 JOE WALLACE

9 was called as a witness, and having been first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. EPTING:

13 Q Good morning.

14 A Good morning, sir.

15 Q Could you please state your name for the record?

16 A Joe Mickey Wallace, Jr.

17 Q And how are you employed?

18 A I'm employed with the York County Sheriff's Office.

19 Q And how long have you been employed with the sheriff's
20 office?

21 A Almost 20 years.

22 Q And what is your role with the sheriff's office now?

23 A Currently, I'm the lieutenant over the violent crimes
24 unit and the special victims unit.

25 Q And have you -- were you employed with the sheriff's

JURY TRIAL & SENTENCING

1 office in 2019?

2 A Yes, sir.

3 Q What was your role then?

4 A I was a detective with the violent crimes unit.

5 Q And with the departure of Detective Beck from the
6 sheriff's office, have you taken over the role of case
7 agent in this case?

8 A Absolutely.

9 Q Has that involved follow-up -- follow-up
10 investigations?

11 A Yes, sir.

12 Q And are you familiar with all aspects of the case?

13 A Yes, sir.

14 Q Could you give the jury just a general overview of the
15 investigation and your part in it?

16 A So we were dispatched to Leach Road for a shooting,
17 and I responded there emergency traffic. It was an
18 all-call. During that response, once I arrived on scene,
19 I was one of the first officers there, so I made contact
20 with the deputies outside, made entry into the house. As
21 entered into the house, I encountered an individual on the
22 front porch, Mr. Tommy Leach. Tommy didn't really -- I
23 want to say his mind wasn't really there. He was kind of
24 mumbling some unintelligible things as he was talking. I
25 went into the house. As soon as I entered the house, I

JURY TRIAL & SENTENCING

1 turned to the right and I saw Ms. Williams laying in the
2 floor. She was obviously diseased, major trauma to the
3 face. It appeared to be a gunshot wound from a shotgun.
4 And we were able to tell that because we saw a shotgun
5 shell laying on the floor next to her in her hair. I made
6 it past her into the bedroom, where Detective Schifferle
7 was already on scene. And into that bedroom is where we
8 encountered Ms. Farrar. She was obviously injured, a lot
9 of trauma. You could see an obvious shot to her chest,
10 and then some damage to one of her arms. So at that
11 point, Nick had asked for some specific medical equipment,
12 he asked for a tourniquet. So we began to try to find
13 that -- that equipment. Once we located it, we went in
14 and applied that tourniquet to her arm.

15 Q Did you -- did you as -- did you, as a responding
16 officer, have concerns about her -- viability, her
17 survivability at that point?

18 A Absolutely. She -- so she was very lethargic. She
19 had lost a good amount of blood. She was kind of in and
20 out of consciousness as we were trying to talk to her.
21 But during that time, we were able to get -- retrieve a
22 tourniquet from one of the deputies that was there and
23 apply that tourniquet to her.

24 Q And where did you apply the tourniquet?

25 A We tried to put it -- you try to go above the injury,

JURY TRIAL & SENTENCING

1 obviously, wherever your injury is. So we tried to go
2 above the injury, but due to the -- the damage to her arm,
3 we had to go as high as possible on her arm. We tried to
4 tightened on the arm, but you could tell that the amount
5 of damage to her arm, it just kept getting tighter and
6 tighter. So we moved it high up on the shoulder, as high
7 as we could get it, and got it tightened down there.

8 Q And at that point, were you able to get her out of the
9 house?

10 A Yes. Myself, Deputy Melton, Sergeant Dean, and Nick
11 Schifferle, we were able to pick her up and carry her.
12 Due to Shae being in the floor and being deceased, and it
13 also being a crime scene, we want -- we did not want to
14 disturb anything that, you know, we could -- by bringing
15 EMS in with a stretcher and all that. So we were able to
16 lift her up and carry her from the bedroom, down the
17 hallway, to the front door, and then out to the ambulance.

18 Q Were you present when Deputy Melton's body cam was
19 played in court?

20 A Absolutely.

21 Q Was the scene of her being carried out and the
22 position of her arm indicative of the severity of her
23 injury?

24 A Yes, sir. Her arm appeared to be dangling. And
25 again, the only thing that we could tell at that point in

JURY TRIAL & SENTENCING

1 time, the tourniquet was -- it had stopped the bleeding
2 that it could stop, but the arm appeared to be severely
3 damaged.

4 Q And were you all able to get her into the ambulance
5 and taken away?

6 A Yeah. We took her to a stretcher. Once we got her
7 secured on the stretcher, we told EMS workers there what
8 injuries we saw. They transported her to the hospital.

9 Q And what evidence was recovered for further testing
10 and processing at Leach Road?

11 A There were numerous shot shell casings that were
12 recovered from there. Obviously photographs. I'm sure
13 there were some other things that I don't have the list in
14 front of me, but --

15 Q And moving Farlow, are you familiar with the scene at
16 Farlow?

17 A I am.

18 Q What evidence -- what -- what was done at Farlow?

19 A So the initial -- the initial deputy responded there.
20 Due to this call on Leach Road being such a major call for
21 us, the deputies in the Rock Hill area responded to Leach
22 Road. Farlow, obviously, is in Rock Hill as well, but we
23 had the call for our Fort Mill units, our District 4
24 units, to come down. So Sergeant Gibby was the first one
25 to arrive on scene there, encountered Mook there on the

JURY TRIAL & SENTENCING

1 front porch. Once what medical assistance could be given
2 to her and EMS arrived on scene, the crime scene was
3 secured, FSU came in, search warrants were obtained, and
4 the house was processed for evidence.

5 Q And were search warrants obtained at Leach Road as
6 well?

7 A They were.

8 Q And -- and what evidence was recovered from Farlow,
9 off the top your head?

10 A Shot shells were covered from there, as well as
11 photographs. I believe there was some other items
12 collected from inside the house, but...

13 Q Now, as far as equipment, you -- did you -- were you
14 equipped with a tourniquet when you responded to Leach
15 Road?

16 A I was not. So in 2019, tourniquets were not -- they
17 were available to officers if you bought them on your own.
18 They wasn't available through the department. So at that
19 point in time, most of the officers didn't have their own
20 tourniquets. Shortly after that, our department started
21 issuing tourniquets to all the officers, and now, that's
22 something that every officer has multiple tourniquets in
23 their vehicle or on their person.

24 Q What about body cams?

25 A During that timeframe, we were using a system called

JURY TRIAL & SENTENCING

1 L3, and the body cams in the system were only issued to
2 the patrol officers. So the detectives at that point in
3 time, if we were doing interviews with people, we used a
4 digital recorder to record those interviews. And body
5 cams were not issued to us until later of 2019.

6 Q And again, you testified earlier as case agent that
7 you were actively involved in the case on the front end
8 and also did some follow-up. On the front end, did you
9 conduct interviews of the folks inside the trailer at
10 Leach Road?

11 A We did.

12 Q Did you interview a Mr. Colvin?

13 A No.

14 Q Did you -- did somebody interview Mr. Colvin?

15 A We attempted to interview Mr. Colvin at different
16 points, but we were later advised that Mr. Colvin -- Mr.
17 Colvin was deceased.

18 Q Did you interview Shane Schillinglaw?

19 A We did.

20 Q And without saying what he said -- we'll get to that
21 in a minute -- what is the status of Shane Schillinglaw
22 right now?

23 A Mr. Schillinglaw is deceased as well.

24 Q And just to be clear, those are unrelated from this
25 incident entirely?

JURY TRIAL & SENTENCING

1 A Completely unrelated to this.

2 Q Did you interview -- or somebody on your staff
3 interview Karla Offert?

4 A Yes.

5 Q And did you see Karla Offert in one of the videos
6 presented in court?

7 A Yes. On Deputy Melton and Deputy McAfee's video, as
8 they are approaching the trailer, Ms. Offert is coming out
9 the door.

10 Q And does Karla Offert have a fixed address?

11 A She does not.

12 Q Were you or any of your agents able to locate her to
13 serve her with a subpoena to come testify today?

14 A No, sir, we were not.

15 Q Sheila Rushing, does she have a fixture addressed?

16 A She does not.

17 Q Was she interviewed by you or one of your agents as
18 part of -- under your investigation?

19 A Yes, sir.

20 Q And were you able to find her to serve her with a
21 subpoena to come testify today?

22 A The last contact that we could find of any -- any law
23 enforcement contact with Ms. Rushing was in Charlotte, and
24 it earlier in this year, but we were unable to locate her.

25 Q And you mentioned Tommy Leach earlier being

JURY TRIAL & SENTENCING

1 interviewed.

2 A Correct.

3 Q And he was unintelligible when you spoke to him, for
4 the most part?

5 A Absolutely.

6 Q Did you -- did you or someone on your staff interview
7 Wayne Mitchell, without saying what he said?

8 A Yes.

9 Q What is -- what was physical state?

10 A Mr. Mitchell was in -- he was bedridden. He was in
11 the bed, and I believe you could see that on Deputy
12 Melton's video as he entered the bedroom. Not real mobile
13 at all, and was -- again, was bedridden.

14 Q And could you -- and were you present when Detective
15 Beck testified and was cross-examined by Defense counsel?

16 A Yes.

17 Q Did you hear the questions about the decision-making
18 process to charge Mr. Heath and not charge Elijah James?

19 A Yes, I did.

20 Q Were you part of that process as a -- as a detective?

21 A I was, yes, sir.

22 Q Can you explain a little about how the case agent
23 system existed in 2019?

24 A Yes. So back then, we had three detectives assigned
25 to violent crimes and one lieutenant. And what would

JURY TRIAL & SENTENCING

1 happen is a rotation. If we had a violent crime that came
2 in, something major like a murder that would come in, the
3 -- a detective would pick that case up, but that
4 detectives didn't work that case by themselves. That
5 detective worked that case with multiple other detectives.
6 So that primary detective, which was Detective Beck in
7 this case, was what we called back then the folder holder.
8 He was the guy that collected all the information. You
9 take everything that you had -- that you did in the case
10 or information you received -- statements or what have you
11 -- photographs, everything went to that detective. He put
12 that case together, provided a summary, and provided that
13 to the Court -- or to the solicitor's office.

14 Q Did you, as a senior member of CID, have input on
15 making charges?

16 A Absolutely.

17 Q Did you have input on not making charges?

18 A I did.

19 Q Can you explain to the jury why you did not make
20 charges against Elijah James?

21 A So -- give me one second. So during -- during our
22 interviews of individuals that were involved in this case
23 -- everything from Ms. Farrar to Mook to the end of -- the
24 Leaches, to Mr. Schillinglaw, everybody that was at the
25 residence -- only one person had mentioned Elijah.

JURY TRIAL & SENTENCING

1 MR. BARROWCLOUGH: Your Honor, I'm going to
2 object to this line of questioning. May I approach?

3 THE COURT: You may approach.

4 (Bench conference off the
5 record.)

6 THE COURT: The objection is overruled.

7 BY MR. EPTING:

8 Q Please continue, Detective. You were explaining why,
9 based upon your interviews, you did not -- you decided
10 against -- along with the other detectives -- charging
11 Elijah James in this case.

12 A So during the interviews, like I was saying before,
13 not the victims Bethany and Laquata, the victims that
14 could speak to us, nobody mentioned Elijah James as being
15 involved in this. Also during this, during some of these
16 interviews, nobody mentioned hearing Elijah James. They
17 had mentioned hearing Marques talking, but nobody
18 mentioned Elijah James in this. So during that
19 investigation and -- and based off the interviews, and
20 then speaking with Elijah James, we made a determination
21 that -- Ms. Farrar and Ms. Wilson both told us that
22 Marques Heath was the one that shot her, and we had been
23 told by Mr. Leach that Marques Heath was the one that hit
24 him with the hammer. Mr. Schillinglaw told us the same
25 thing, that Marques Heath hit him with the hammer -- we

JURY TRIAL & SENTENCING

1 made the decision not to charge Elijah James in this case.

2 Q Did you interview the defendant's father, Wayne
3 Mitchell?

4 A We did.

5 Q Did he give you any information that would cause you
6 to charge Elijah James with kidnapping or any other
7 charges?

8 A So during that interview, Mr. Mitchell did say that he
9 heard his son, Q, say if you --

10 MR. BARROWCLOUGH: Your Honor, I'm going to
11 again -- this is blatant hearsay. Now, it's going to
12 something that --

13 THE COURT: Counsel, approach.

14 (Bench conference off the
15 record.)

16 THE COURT: Ladies and gentlemen, please step
17 back to the jury room.

18 (The jury exited the courtroom.)

19 MR. BARROWCLOUGH: Your Honor, my point is, the
20 question was: Did Mr. Mitchell say anything that
21 would have the led you to charge Elijah James?
22 Presumably, the answer to that is no, given what the
23 point that I believe they're trying to make. But
24 then the detective starts talking about what Wayne
25 Mitchell said pertaining to something Mr. Heath

JURY TRIAL & SENTENCING

1 allegedly did. Now, they want to say that's the
2 exact same thing that I was doing, which it is not,
3 because, first of all, clearly, the detective is
4 trying to testify to evidence that goes to an element
5 of one of the crimes that they brought here against
6 Mr. Heath. I was bringing it up as to the state of
7 mind of the investigation -- of the investigator who
8 actually took out the warrants, as it goes to the
9 factual allegations in the warrants that were sworn
10 out, was the behavior by all the witnesses that
11 Elijah James engaged in, not Mr. Heath. We were -- I
12 was not allowed to actually bring before the jury the
13 specific allegations in the warrants to show how that
14 matched the behavior of Elijah James.

15 That said, I did not, in any way, open the door
16 for them to elicit hearsay evidence that goes to
17 establish the quote/unquote truth of the matter for an
18 element of the crime against Mr. Heath. Like I say,
19 if you want to say I opened the door to them saying
20 why they didn't charge Elijah James, then -- then
21 maybe I have to eat that. But then the answer to his
22 question would just be no, Mr. Mitchell didn't add
23 anything to that. But to go beyond that is beyond
24 what -- what anything I did.

25 MR. EPTING: Your Honor, I believe that his

JURY TRIAL & SENTENCING

1 argument yesterday was that no kidding occurred, and
2 if a kidnapping occurred, it was committed by Elijah
3 James and not my client. This is directly relevant
4 to that issue, and I -- it's being offered for a
5 non-hearsay purpose. This statement is being offered
6 to explain the decision-making process on why they
7 did not charge Elijah James.

8 THE COURT: (From the jury box and clerk area of
9 the courtroom; very difficult to discern due to mics
10 sporadically picking up the Court's audio.) I mean --
11 so Mr. Barrowclough said -- the question that was
12 asked was: Did you find out anything with which you
13 could charge Elijah James, and the answer to that
14 would have presumably been no. But then if the
15 witness would continue to say but that I heard
16 something else, why is that not (unintelligible.)

17 MR. EPTING: I think he was -- because part of
18 the reason they did not charge Elijah James is: A, no
19 one is putting that gun on him saying -- keeping them
20 in the house, but that they heard the defendant
21 yelling, "No one is leaving until I find my stuff."
22 Which puts him, A, as the primary actor on this, and
23 also in a way takes away Elijah James since no one
24 heard him yelling the same, which goes to charging,
25 which is being offered not for the truth of the

JURY TRIAL & SENTENCING

1 matter asserted, but to explain their decision with
2 not charging Elijah James and also charging the
3 defendant with kidnapping. And, Your Honor, this is
4 -- this is the --

5 MR. BARROWCLOUGH: But that testimony --

6 THE COURT: I don't remember that testimony
7 coming in. (Unintelligible.)

8 MR. EPTING: This -- this was the father, who
9 has not testified, that's not been brought in.
10 However, there were multiple other -- what we argued
11 were hearsay statements brought in from Sheila
12 Rushing and other parties through -- to -- through
13 Walter Beck that we argued were hearsay using the
14 same rationale that Mr. Barrowclough is using today
15 that was overruled. He was allowed to do it. We
16 think we should be able to as well.

17 MR. BARROWCLOUGH: I mean, Judge, just to
18 refresh the Court's memory, the -- the hearsay
19 statements I brought out, it was Sheila Rushing who
20 did put the gun in Elijah James' hand. Elijah James
21 himself, who admitted having the gun to Detective
22 Wallace, and that's it. And also, I would point out
23 that it was brought to our attention pretrial that
24 another witness on the State's list would have
25 testified that Elijah James had the gun outside the

JURY TRIAL & SENTENCING

1 house, and I didn't even get into that.

2 THE DEFENDANT: My question is, the statement
3 that Mr. Heath -- that no one is leaving without my
4 (unintelligible), I don't think that testimony has
5 pointed to anybody else yet. Is that correct?

6 MR. EPTING: No one else has testified to that
7 yet, Your Honor.

8 THE COURT: That concerns me. So I mean, the
9 question as asked I understand it. The answer
10 (unintelligible) well, I assume the answer is going
11 to be no. So I don't I'm -- I'm going to sustain the
12 objection as of this witness to testify to Mr. Heath
13 allegedly saying -- allegedly saying that -- that's
14 multiple --

15 MR. EPTING: Wait. Your Honor, just with a --
16 with a caveat of Bethany did, I believe, testify that
17 Heath -- that Mr. Heath did yell, "Nobody is leaving
18 until I get my stuff," so that is corroborative of
19 her testimony as well. But again, being offered
20 to -- being offered for the purposes of explaining
21 why they did charge Mr. Heath with kidnapping and not
22 Elijah James. No one heard him yelling the same
23 thing or doing the same things.

24 THE COURT: All right. I'm going to allow the
25 question as far as Mr. James. I'm going to sustain

JURY TRIAL & SENTENCING

1 the objection of having this witness testify about
2 what Mr. Heath allegedly said about not
3 (unintelligible).

4 MR. BARROWCLOUGH: Thank you, Your Honor.

5 MR. EPTING: We understand, Your Honor.

6 THE COURT: I don't know how to turn this off.
7 Thank you. Yeah. Are we okay, everybody, on what I
8 said? Okay. Thank you. I'm loud enough that --
9 let's bring them in.

10 (The jury entered the courtroom.)

11 THE COURT: Yes, sir.

12 MR. EPTING: Thank you, Your Honor.

13 BY MR. EPTING:

14 Q Detective, without repeating -- Lieutenant, without
15 repeating what was said, did Wayne Mitchell say anything
16 to you that led you to believe that Elijah James had an
17 active participation in any of the crimes that the
18 defendant was charged with?

19 A No.

20 Q Based on any of your interviews, did you get -- aside
21 from Sheila Rushing, did you get information that Elijah
22 James was an active participant in any of the crimes that
23 Mr. Heath is charged with?

24 A No, sir.

25 Q Did you, at some point closer in your investigation,

JURY TRIAL & SENTENCING

1 interview Herman Leach?

2 A I did.

3 Q Where did that -- and make share that mic is picking
4 you up. That one is a little bit --

5 A Sorry. Yeah, I did.

6 Q -- and where was that -- where was the location of
7 that interview?

8 A Room 349 at Piedmont Medical Center.

9 Q Was that the same day of the incident, or the day
10 after?

11 A It was the day after.

12 Q And did you speak to him about what occurred inside
13 the Leach Road residence?

14 A I did.

15 Q Were you present when he testified earlier, I guess
16 last week, about what he saw inside the residence?

17 A Yes.

18 Q Did he tell you during that interview that Elijah
19 James had a shotgun at any point?

20 A No, he did not.

21 Q Did he tell you at any point that he walked out of the
22 house of his own free will?

23 A No, he did not. Actually, what he told us was, is
24 that he was struck with a hammer multiple times, and then
25 when he left the house, he got the chance to run, he ran

JURY TRIAL & SENTENCING

1 down the hall and jumped out the window to run, and then
2 he jumped a fence and ran up to the security office at the
3 nursing home next door.

4 Q And did he have any type of indication of a broken arm
5 when you interviewed him?

6 A Yes. He had -- I don't think at that point in time he
7 had had any surgery, but he was definitely going to have
8 to have surgery on that elbow.

9 Q And were you part of the decision-making process to
10 charge or not charge Dimitri McCullough, who ran from the
11 Farlow Street address?

12 A Yes.

13 Q Can you explain your thought process behind that?

14 A So during the incident that happened at Farlow,
15 Mr. McCullough was obviously in the house with Ms. Wilson.
16 When Marques Heath came into the house, Mr. McCullough saw
17 Marques come in the house with a shotgun. When he saw the
18 shotgun, he --

19 MR. BARROWCLOUGH: Your Honor, I'm going to
20 object to this testimony. The lieutenant is
21 testifying as if he was there. I mean, he doesn't
22 know.

23 MR. EPTING: I can ask a clarifying statement.

24 THE COURT: Well --

25 BY MR. EPTING:

JURY TRIAL & SENTENCING

1 Q This is from the investigation you gathered; correct?

2 A Correct.

3 Q Please continue.

4 A So Mr. McCullough was inside the residence when
5 Mr. Heath came in. At that point in time, Mr. Heath had a
6 shotgun. Mr. McCullough fled the scene. He ran because
7 he was scared. He left the residence, jumped the fence,
8 ran across the parking lot of the tire shop and into the
9 Advanced Auto Parts across the street.

10 Q Is it illegal to have a pistol inside a third party's
11 house?

12 A It is not.

13 Q It's illegal to have that outside without a permit?

14 A Outside of that property, yes.

15 Q So why not charge him for having it outside?

16 A At that point in time, Mr. McCullough was a victim.
17 He was a victim in this case. He ran from the house. We
18 knew at that point in time that Mr. Heath was who we were
19 looking for, for the shooting itself. And due to that, it
20 was consulted in our -- within our detectives that work
21 those types of cases, we made a decision not to charge Mr.
22 McCullough.

23 Q And how close is that Advanced Auto to to the house on
24 Farlow Street where the shooting occurred?

25 A A couple hundred yards.

JURY TRIAL & SENTENCING

1 MR. EPTING: I beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 MR. EPTING: That's all the questions I have for
4 you at this time. Please answer any questions
5 Defense counsel may have.

6 THE COURT: Mr. Barrowclough?

7 MR. BARROWCLOUGH: May it please the Court?

8 CROSS-EXAMINATION

9 BY MR. BARROWCLOUGH:

10 Q So Lieutenant Wallace, as has been testified to
11 already, you were actually the person who interviewed
12 Elijah James; correct?

13 A Yes.

14 Q And that was -- that was recorded?

15 A It was.

16 Q And have you listened to it recently?

17 A Yes.

18 Q Okay. And you testified that no one besides Sheila
19 Rushing puts the gun in his hands when Mr. Heath was
20 inquiring about his stuff.

21 A Of the people that we talked to about what happened in
22 the house, nobody but Ms. Rushing put the gun in Elijah's
23 hand.

24 Q Okay. But you talked to Elijah, and Elijah admitted
25 to having the gun in the house, didn't he?

JURY TRIAL & SENTENCING

1 A Elijah -- what Elijah said in his interview -- and I
2 guess we can go into this -- is what Elijah said in his
3 interview was that he took the gun from Mr. Heath, and
4 Mr. Heath took the gun back from him.

5 Q And admittedly, it was a disjointed interview, but my
6 question was, Mr. James admitted to having possession of
7 the gun in the house --

8 A He took --

9 Q -- prior to them both going out the door?

10 A -- he took the gun from Mr. Heath, and Mr. Heath took
11 the gun back from him.

12 Q I think his testimony was Mr. Heath took the gun back
13 from him outside.

14 A I don't recall him saying outside. I recall him
15 saying that he took the gun back from him.

16 Q Okay. And the more important point is, isn't it true
17 that Mr. James said he had the gun by the door?

18 A He said the gun was by the door.

19 Q Right. He said he had the gun by the door, and then
20 he said --

21 A No. He --

22 Q -- I'll show you --

23 A -- he said.

24 Q -- something --

25 MR. EPTING: Your Honor, I'm going to object.

JURY TRIAL & SENTENCING

1 The witness is trying to answer.

2 THE COURT: Yeah. Well -- well --

3 MR. BARROWCLOUGH: -- I'm just trying to clarify
4 my question.

5 THE COURT: -- okay. Well, let --

6 THE WITNESS: Yes, sir. He said the gun was by
7 the door. He did not say that he had the gun by the
8 door. He said the gun was by the door.

9 BY MR. BARROWCLOUGH:

10 Q And he said that he was at the door when Herman Leach
11 approached the door; correct?

12 A So you saw the pictures of the residence. When you go
13 into the door, the hallway is right there. It's a mobile
14 home. It's a straight wall.

15 Q Right.

16 A Mr. James was standing at the door. Mr. Leach ran
17 down the hallway.

18 Q Wait, wait, wait. Before that, isn't it true he said
19 that Mr. Leach wanted to go out the door, and he's the one
20 who said no, no, Unc, don't do that, it's going to make
21 you look guilty?

22 A That's possible.

23 Q That was -- that was --

24 A That was early in the interview, yes, sir.

25 Q -- okay. He told you that, that Herman Leach went to

JURY TRIAL & SENTENCING

1 the door where he was at and the gun was at -- even though
2 he maybe said he wasn't holding it to you -- but that he's
3 the one who kept Mr. Leach from going out the door.

4 A He told Mr. Leach not to go out the door because it
5 would make you look guilty.

6 Q Right. And then that's when Mr. Leach went down the
7 hall --

8 A He went down the hall --

9 Q -- and, presumably, out the window?

10 A -- out the window.

11 Q But it wasn't Mr. Heath who kept Mr. Leach from going
12 out the front door?

13 A According to Mr. James?

14 Q According to Mr. James, yeah. It wasn't Mr. --

15 A According --

16 Q -- it wasn't Mr. --

17 MR. EPTING: Your Honor, I'm going to object
18 again. He's trying to answer the question he's being
19 asked, and he's being cut off.

20 THE COURT: I'm going to overrule the objection.
21 Go ahead. It's cross-examination.

22 BY MR. BARROWCLOUGH:

23 Q -- according to Mr. James, it wasn't Mr. Heath who
24 prevented Mr. Leach from going out that front door?

25 A According to Mr. James, Mr. Heath was preventing

JURY TRIAL & SENTENCING

1 everybody from leaving, including himself. Mr. James --
2 Mr. James was scared of Mr. Heath.

3 Q Well, I think he did not say that. He said that he
4 could control Mr. Heath.

5 A No. He said he thought he could control Mr. Heath.

6 Q Right?

7 A He could calm him down, is what he -- what he said.

8 Q Right. But if you would answer my question. I
9 understand there's a lot you want to say, but if you would
10 answer my question.

11 A Right.

12 Q It was Mr. Leach -- I mean, excuse me -- Mr. James,
13 not Mr. Heath who prevented Mr. Leach from going out the
14 front door --

15 A Mr. --

16 Q -- by his own admission?

17 A -- Mr. James told Mr. Leach, you don't need to go out
18 the door, Unc, you're going to look guilty --

19 Q Right.

20 A -- you need to stay here.

21 Q And prevented him from going out the door?

22 A He kept him there because he felt like if he did
23 anything other than that, that he was going to -- he was
24 going to do something that was going to get him hurt as
25 well.

JURY TRIAL & SENTENCING

1 Q But he had a shotgun at least near him at that time at
2 the door?

3 A The shotgun was -- was against the door. He was not
4 holding the shotgun. He said the gun was against the
5 door.

6 Q Where he was at?

7 A He was standing at the door. It's a mobile home.
8 There's not a whole lot of room in there, sir.

9 Q All right. And just one other thing. You testified,
10 as part of your investigation, about the shell casings
11 recovered at Leach Road.

12 A Yes.

13 Q And there was the one shell casing that we've already
14 seen that was recovered inside the mobile home next to
15 Shae; correct?

16 A It was in her hair, yes.

17 Q Yeah. And there was not a shell casing recovered in
18 the room where Bethany was; correct?

19 A I don't recall, immediately. I'd have to -- to look
20 at the notes to be able to tell you.

21 Q Oh. But you know that Ramsey recovered a total of two
22 shell casings from the residence.

23 A Again, I would have to look at Ramsey's report to be
24 able to tell you.

25 Q Okay.

JURY TRIAL & SENTENCING

1 A I was not involved in the collection of evidence.

2 That was something that was handled by forensic services.

3 Q All right. But you were in here when Investigator

4 Ramsey testified?

5 A I was, sir, yes.

6 Q And the picture of the one that was out on the porch

7 by the bucket?

8 A Yes.

9 Q And that would be the one that Mr. Davis questioned

10 Ramsey about the fact that that one was wet?

11 A Yes, sir. And it was very cold, very wet that day,

12 and it did rain multiple times during this incident.

13 Q Right. So --

14 A And --

15 Q -- so if there were two recovered and one is on the

16 porch and the other one is by Shae, then that's it; right?

17 A -- again, I would have to look at Mr. Ramsey's report

18 to be able to tell you how many, exactly, were recovered

19 from there.

20 Q And while we pull that report -- I'm sorry. I thought

21 you'd remember that.

22 A I'm sorry. It has been five years.

23 Q You heard -- I hear you. I understand. But again,

24 you -- you testified you were in hear when Bethany

25 testified and you heard what she testified to?

JURY TRIAL & SENTENCING

1 A Yes.

2 Q And so, you heard her say that Elijah didn't have a
3 shotgun but he had different gun?

4 A I do believe I heard her say that, yes.

5 Q And -- but when you interviewed Elijah, he didn't
6 admit to having a different gun?

7 A No, he didn't.

8 Q And back at the time that when you and Detective Beck
9 were doing all of these interviews, she didn't say that --
10 that Elijah had a different gun.

11 A No.

12 Q In fact, nobody said that Elijah had a different gun.

13 A I don't believe so.

14 Q In fact, the first time that that came out was in this
15 courtroom; right?

16 A Right. I don't believe anyone said anything about
17 Elijah having a gun at all, except for Ms. Rushing. And
18 then what Elijah told me that he actually took the gun
19 from Marques.

20 MR. BARROWCLOUGH: Your Honor, may I approach
21 the witness?

22 THE COURT: You may approach.

23 BY MR. BARROWCLOUGH:

24 Q And, Lieutenant, I'm handing you the forensic services
25 report from Investigator Ramsey which documents the shell

JURY TRIAL & SENTENCING

1 casings that he found and where they were found. Just
2 take a look -- take a minute sheet to take a look at that
3 and see if it refreshes your memory.

4 A Yeah, absolutely. Okay.

5 Q So am I correct that two shell casings were recovered?

6 A One -- one from the front porch behind the blue
7 bucket, and one from the decedent's hair.

8 Q Correct. And that would mean that there were not any
9 located (unintelligible) bedroom.

10 A No, but there were pellets on the floor of the
11 bedroom.

12 Q Correct. All right. That's all I have. Thank you,
13 Lieutenant.

14 THE COURT: Redirect?

15 MR. EPTING: Briefly.

16 BY MR. EPTING:

17 Q If Mr. Heath did not eject the last round he fired,
18 would it be found on the scene?

19 A No, it would not.

20 Q That's the only question I have.

21 MR. BARROWCLOUGH: Nothing further, Your Honor.

22 THE COURT: Thank you, sir. You can step down.

23 The State may call your next witness.

24 MR. EPTING: The State rests, Your Honor.

25 THE COURT: Okay. All right. Ladies and

JURY TRIAL & SENTENCING

1 gentlemen, the State has rested, meaning they're not
2 going to have any other witnesses. So there's some
3 legal matters I need to talk to you with -- talk to
4 the lawyers about, so I'm going to send you back for
5 a couple of minutes.

6 THE BAILIFF: Please remain seated until the
7 jury is out of the room.

8 (The jury exited the courtroom.)

9 THE COURT: Mr. Barrowclough, Mr. Davis, I'm
10 assuming you have a motion.

11 MR. BARROWCLOUGH: Yes, sir, Your Honor. At
12 this time, the Defense would move for a directed
13 verdict on all the charges generally. And as part of
14 that motion, we would incorporate all my previous
15 objections and exceptions and pretrial motions. Your
16 Honor, beyond that specifically, we would move for a
17 directed verdict on the three kidnapping charges on
18 the basis that, No. 1, there's no evidence that
19 anyone tried to actually leave that residence and was
20 restrained or seized or confined from leaving. The
21 evidence is uncontradicted that -- that all those
22 people went there and were there of their own free
23 will. And then when something went missing and
24 things got tense, I would submit that that's not
25 enough to allow these kidnapping charges to go to the

JURY TRIAL & SENTENCING

1 jury. That nobody tried to leave. In fact, there
2 was testimony that, at some point in time, Mr. Heath
3 and Mr. James were absent from the residence. The
4 door was open and, yet and still, Ms. Williams and
5 Ms. Farrar did not try to leave, indicating no desire
6 to leave or no -- no intention to try to leave that
7 was thwarted at some point by anybody.

8 Furthermore, Herman Leach did, in fact, leave.
9 Again, to the extent that he went out a window instead
10 of a door, which I would agree is highly irregular,
11 you just heard that it was the only evidence educed in
12 this case is that that was because Elijah James was by
13 the door, not Mr. Heath. And, Your Honor, I would
14 just say on these facts and circumstances, there is
15 not enough evidence presented that would be fair for
16 these charges to even go to the jury that -- that
17 Mr. Heath confined or seized or inveigled these people
18 and took away their freedom.

19 And then last, Your Honor, with regards to the
20 assault and battery of a high and aggravated nature
21 charge for Mr. Herman Leach, Your Honor, I would
22 submit that that charge should be DV'd down to an
23 assault battery second degree. Looking at the
24 definitions of great bodily injury and moderate bodily
25 injury, great bodily injury is defined in

JURY TRIAL & SENTENCING

1 16-3-681(A)(1) as "Bodily injury which causes a
2 substantial risk of death or which causes serious
3 permanent disfigurement or protracted loss or
4 impairment of the function of a bodily member or
5 organ." And I would submit that that's just not the
6 case as far as what happened to Herman Leach.

7 THE COURT: I mean, a fracture is specifically
8 named in -- in -- in assault and battery second,
9 isn't it?

10 MR. BARROWCLOUGH: Yes. And -- and --

11 THE COURT: That's --

12 MR. BARROWCLOUGH: -- basically, moderate bodily
13 injury involves "physical injury that involves
14 prolonged loss of consciousness or that causes
15 temporary or moderate disfigurement and temporary
16 loss of the function of a bodily member or organ or
17 injury that requires medical treatment when the
18 treatment requires the use of regional or general
19 anesthesia, injury that results from a fracture or
20 dislocation. Moderate bodily injury does not include
21 one-time treatment and subsequent observations,
22 scratches or cuts." But I mean, what was testified
23 to was, he had one strike, it was a clean break,
24 surgery, and he completely recovered. So I would say
25 that if that's moderate bodily injury --

JURY TRIAL & SENTENCING

1 THE COURT: I mean, what --

2 MR. BARROWCLOUGH: -- appropriate for A&B
3 second.

4 THE COURT: -- let's -- let me hear that
5 argument first.

6 MR. EPTING: Your Honor, we do take issue with
7 the "completely recovered." His testimony was that
8 he lost some function of his arm that was broken and
9 will have less in function in that arm for the rest
10 of his life. He held out his hand and showed that
11 his fingers did not work properly. He could not
12 twist it right. That is impairment of the use of a
13 bodily function, especially in a light most favorable
14 to the State.

15 THE COURT: Let me pull the statute. Give me a
16 second. Yeah, I mean, that was the testimony. Let
17 me pull the -- let me see. Refresh my memory of
18 exactly what the witness said about the impairment.

19 MR. EPTING: He said that he does not maintain
20 full range of motion of his arms, and he has trouble
21 with his hands. His fingers won't close properly all
22 the time. He also indicated that he had a
23 substantial surgery. So I don't know if Your Honor
24 remembers. We pulled up his --

25 THE COURT: Right. The scarring, I don't think,

JURY TRIAL & SENTENCING

1 is -- is sufficient.

2 MR. EPTING: -- I would argue disfigurement, but
3 I certainly --

4 THE COURT: I mean, serious permanent
5 disfigurement --

6 MR. EPTING: -- think a life-long injury is --

7 THE COURT: -- and I don't think that's -- you
8 know.

9 MR. EPTING: -- understood, Your Honor. But
10 nonetheless, he did testify that he will have
11 impairment of use of his arm for the rest of his life
12 which, particularly in the light most favorable to
13 the State, we think gets it to the jury under ABHAN.

14 MR. BARROWCLOUGH: And Judge --

15 THE COURT: Mr. Barrowclough?

16 MR. BARROWCLOUGH: -- I would just say two
17 things to that: one, when I was questioning him first
18 and I asked him did he make a full recovery and was
19 he fine, he said yes. And it was on follow-up for
20 Mr. Epting that that testimony came out. I don't
21 remember the thing about the fingers. I do remember
22 him saying he didn't have full range of motion in his
23 arm. And to that, I would just say -- add, Your
24 Honor, that, you know, there was no medical testimony
25 educed to connect that up. He's 75. This happened

JURY TRIAL & SENTENCING

1 five years ago.

2 THE COURT: No, but he's -- he can testified to
3 his own injuries.

4 MR. BARROWCLOUGH: Yeah, he can testify to his
5 own injuries, but I'm saying that was five years ago.
6 I don't have full range of motion in my arm just
7 because I'm 54. I mean, what 75-year-old has full
8 range of motion in their arm? I don't know. But he
9 told under my questioning he said he had full
10 recovery.

11 THE COURT: But the State gets every inference
12 at this time, so I think it's enough to send it to
13 the jury as ABHAN. Okay? On the other -- and again,
14 on the other thing, I mean, Mr. Barrowclough, you
15 know, South Carolina has an incredibly broad
16 kidnapping statute. Given the testimony in the case,
17 especially from the -- the surviving -- the woman
18 from Leach Road, Ms. Farrar, that is enough, I think,
19 to send it to the jury on kidnapping as well.
20 Anything from the State on -- on the other charges?

21 MR. EPTING: No, Your Honor.

22 THE COURT: Any other argument, Mr.
23 Barrowclough?

24 MR. BARROWCLOUGH: No. I understand what you're
25 saying. I mean, I think a lot of people would say

JURY TRIAL & SENTENCING

1 it's an unconstitutionally broad definition of
2 kidnapping. But, yes, I understand.

3 THE COURT: I'm just a trial judge.

4 MR. BARROWCLOUGH: I know. I know.

5 THE COURT: Okay. All right. So the motion for
6 a directed verdict is denied. Mr. Barrowclough, are
7 you planning to put on a case?

8 MR. BARROWCLOUGH: No. Can we have, like, five
9 minutes to confer with our client?

10 THE COURT: Absolutely. Why don't we just --
11 it's 10:40. Let's just give everyone a ten-minute
12 break. We'll reconvene at ten minutes to 11:00.

13 MR. BARROWCLOUGH: Yes, sir.

14 (Off the record.)

15 (Recess.)

16 (On the record.)

17 THE COURT: Has your client decided he would
18 like to testify?

19 MR. BARROWCLOUGH: Yes, sir, Your Honor. We
20 conferred. And after -- after our last meeting, we
21 decided to go forward. He is going to take the
22 stand.

23 THE COURT: Okay. Mr. Heath, I'm going to ask
24 the clerk to swear you in.

25 MARQUES HEATH

JURY TRIAL & SENTENCING

1 was duly sworn to tell the truth, the whole truth, and
2 nothing but the truth.

3 THE COURT'S EXAMINATION

4 THE COURT: Okay. Mr. Heath, at this time, I'm
5 going to explain to you certain of your rights. If
6 you don't understand anything I say, please let me
7 know. If you want me to explain anything in more
8 detail, please let me know. Do you understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Heath, I can't hear you. You
11 need to get to the microphone --

12 THE DEFENDANT: Yes, sir.

13 THE COURT: -- okay. Thank you. Mr. Heath,
14 we've now reached the stage of the trial where you
15 may present your defense. You have the right to
16 claim the protections given to you by the Fifth
17 Amendment to the Constitution of United States which
18 says, in part, "No person shall be compelled in a
19 criminal case to be a witness against himself." This
20 means that you cannot be required to testify in this
21 case. You have the right to testify in your own
22 behalf, however, no one can make you testify. This
23 is a personal right and no one can waive this right
24 except for you. If you do decide to testify, you
25 will be subject to the same rules that govern other

JURY TRIAL & SENTENCING

1 witnesses, and you may be examined and cross-examined
2 on any relevant issue in this case. In addition, if
3 you have any convictions involving dishonesty or
4 false statements, or for crimes punishable by
5 imprisonment for more than one year and I determine
6 that the probative value of admitting this evidence
7 outweighs any possible prejudice to you, the
8 solicitor will be able to introduce your record to
9 attack your credibility.

10 If you do decide to testify, this decision on
11 your part must be freely, voluntarily, knowingly and
12 intelligently made with the knowledge that the
13 protections given to you by the Fifth Amendment and
14 the consequences of your decision to testify or not to
15 testify. If you do decide to not testify, I will
16 instruct the jurors they cannot give the fact you did
17 not testify any consideration whatsoever and, in fact,
18 I will tell them they should not even discuss this
19 fact in the jury room. And I also will tell them
20 there is to be no prejudice to you because you did not
21 testify. It is left entirely up to you whether or not
22 you testify. You can talk with your attorney, your
23 family or friends or anyone else, but the final
24 decision is entirely up to you. Do you understand
25 what I have explained to you?

JURY TRIAL & SENTENCING

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you have any questions about what
3 I've explained to you?

4 THE DEFENDANT: No, sir.

5 THE COURT: Have you discussed with your lawyers
6 whether or not you want to testify?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you need any more time to talk
9 with them?

10 THE DEFENDANT: No.

11 THE COURT: Do you have any more questions for
12 your lawyers about this decision?

13 THE DEFENDANT: No, sir.

14 THE COURT: Do you want to testify in this case?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. All right.

17 MR. EPTING: Your Honor, the State [sic] has had
18 convictions that we believe are fair game. We have
19 discussed those with the Defense and I don't think
20 there's much controversy.

21 THE COURT: Anything you need a ruling on, Mr.
22 Barrowclough, as far as prior convictions?

23 MR. BARROWCLOUGH: No, Your Honor. I think
24 that, pursuant to pretrial as well as what was
25 provided over the break, there are certain

JURY TRIAL & SENTENCING

1 convictions from 2019, 2018, and at least -- at least
2 one, maybe two, from 2015 that I think would all the
3 subject under the rules to being used.

4 THE COURT: All right. Just for scheduling
5 purposes, Mr. Barrowclough, do you anticipate calling
6 any other witnesses?

7 MR. BARROWCLOUGH: No, sir.

8 THE COURT: Okay. All right. Is the State
9 ready to proceed?

10 MR. EPTING: Your Honor, just -- just very
11 briefly. I do think it bears repeating on the record
12 that there were certain parts of this case that, to
13 keep this trial clean, we decided on an agreement
14 between -- between the State and the Defense to keep
15 out: one of those being drugs inside the house; one
16 of those being drugs possibly being given by the
17 defendant to at least one of our surviving victims.
18 We instructed our witness is not mention that, not to
19 mention -- if their testimony were unadulterated, it
20 would have been that he was looking for drugs. I
21 believe that, should the Defense open the door to
22 that, it would be fair game. And just putting the
23 Defense on notice, if he does open the door to that,
24 we do intend to walk through that door.

25 And again, there was a domestic violence charge

JURY TRIAL & SENTENCING

1 from January that the defendant referenced in his --
2 in his confession to the officers at the PMC involving
3 Bethany Farrar. The defendant was actually scheduled
4 to have his bond revoked one day after this shooting
5 happened. Again, we've instructed our witnesses not
6 to mention that. However, should that become relevant
7 in this case, the State fully intends to walk through
8 that door as well if it's put before the jury.

9 As far as record-keeping -- not record-keeping,
10 but housekeeping, one of our victims does wish to be
11 present for this portion of the case. She is on her
12 way. She told us seven minutes ago that she was ten
13 minutes out.

14 THE COURT: Okay. I mean, we'll give it a few
15 minutes. I mean, I don't -- I mean -- she's on
16 notice of the trial. I don't think the Victims
17 Rights Act requires us to pause the trial for her to
18 get here. But we'll give her a few minutes before we
19 start.

20 MR. EPTING: Thank you, Your Honor.

21 THE COURT: Okay.

22 MR. BARROWCLOUGH: And, Your Honor, just for
23 purposes also of the record, you know, I talked to
24 Mr. Heath about how we're not going to mention drugs
25 in this; in the house, with regards to the witness

JURY TRIAL & SENTENCING

1 he's talking about, or -- or in any other way. And I
2 think that that's straight. And with regards to the
3 prior arrest, you know, we also discussed about
4 keeping that out. You know, I think Mr. Heath has --
5 I don't know how to put this -- desire to talk about
6 how he was previously -- the police had been called
7 on him previously. You know, if it comes to that and
8 if we have to have an argument over whether or not
9 that opens the door, we can have that argument. But
10 he's been instructed not to talk about those things.
11 So that's where we are.

12 THE COURT: Thank you, Mr. Barrowclough.
13 Mr. Heath, I just tell you, I mean, the jury has not
14 heard anything so far about drugs in the house or any
15 alleged drug activity. So do you understand that if
16 you -- your attorney has told you not to talk about
17 that. If you do, you may open the door to testimony
18 coming in that would not be beneficial to your case.
19 Because right now, those -- those -- you're not being
20 charged -- tried for drug cases, the jury has not
21 heard anything about drugs. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay.

24 MR. EPTING: Ms. Farrar is present.

25 THE COURT: I believe I just saw her walk in.

JURY TRIAL & SENTENCING

1 Okay.

2 MR. EPTING: I think it would be prudent to have
3 the defendant placed in the witness stand.

4 THE COURT: Let's go ahead. That was going to
5 be the last thing to do. But anything else from the
6 State?

7 MR. EPTING: Not from the State, Your Honor.

8 THE COURT: From the Defense?

9 MR. BARROWCLOUGH: No, sir, Your Honor.

10 THE COURT: Mr. Heath, go ahead and take the
11 witness stand. All right. Let's bring the jury back
12 in.

13 (The jury entered the courtroom.)

14 THE COURT: All right. Ladies and gentlemen, as
15 I said, the State has rested their case. Mr.
16 Barrowclough, you may call your first witness.

17 MR. BARROWCLOUGH: Thank you, Your Honor. Well
18 as Your Honor sees, I've called Mr. Heath to the
19 stand.

20 THE COURT: Madam Clerk, if you will swear in
21 Mr. Heath, please.

22 MR. BARROWCLOUGH: I believe he was previously
23 sworn, Your Honor.

24 THE COURT: Not -- the jury needs to see him be
25 sworn. Yeah.

JURY TRIAL & SENTENCING

1 MARQUES HEATH

2 was called as a witness, and having been first duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BARROWCLOUGH:

6 Q Mr. Heath, would you please state your full name for
7 this jury?

8 A Marques Quantez Heath.

9 Q Mr. Heath, tell this jury, where did you grow up?

10 A I grew up in Sunset Park in Rock Hill, South Carolina.

11 Q Okay. And when you were growing up, who did you live
12 with?

13 A I lived with my mom.

14 Q And is she the one who was taking care of you?

15 A Yeah. Yeah, she was taking care of me.

16 Q Tell the jury, how old were you when you had to start
17 taking care of yourself?

18 A I've been taking care of myself since I was 13-years
19 old.

20 Q And why was that?

21 A My dad, he was in the military, and stuff like that.
22 And during his time in his military, like, back then, they
23 treated him for, like, any type of mental health issues
24 they had. And they was giving him, like, heroin, and
25 stuff like that, so he got hooked on drugs when he was in

JURY TRIAL & SENTENCING

1 the military. My mom, she had my brother when she was 15.
2 She had me when she was 19. And so, she dropped out of
3 school when she had my brother in order to take care of
4 us, and stuff like that. So it was hard for her to get,
5 like, a good job, and stuff like that. So we didn't have
6 a lot of money growing up, and stuff like that.

7 Q So your dad developed a drug problem from his time in
8 the military, and your mom was extremely young when she
9 had you all?

10 A Yes.

11 Q And basically, she couldn't afford to take care of you
12 all?

13 A No. It was like -- it was hard growing up like --
14 besides, like, breakfast in school and then lunch at
15 school and free lunch programs, and stuff like, there was
16 rarely, like, any food in the house. We barely got, like,
17 any clothes and shoes, and stuff like. So it was like --
18 it was, like, real hard.

19 Q Okay. And so, we talked about school. How did you do
20 in school?

21 A I did pretty good in school. I was a straight-A
22 student. I never had any Bs, Cs, Ds. I was a straight-A
23 student. I was in advanced classes through school. In
24 elementary school, they had a program called RISK that I
25 was in. They went around to, like, all the elementary

JURY TRIAL & SENTENCING

1 schools and stuff in the area and they picked up the kids,
2 and we went to school together. I took advanced classes
3 at another school, and stuff like that too.

4 Q Okay. And so, what did you do after you got out of
5 school?

6 A I had a couple of different jobs. I worked at
7 McDonald's. I worked -- I worked at a car wash on Carol.
8 I worked it Bojangles. I worked a detail shop. I had a
9 lot of different jobs.

10 Q Okay. Were you constantly employed, though?

11 A Yeah, pretty much. Yeah.

12 Q All right. And in addition to those type of jobs,
13 were also involved in the music business?

14 A Yeah. I had my own record label. I went around and
15 did, like, shows at different clubs and events, and stuff
16 like that. I got videos on YouTube. I have my own music
17 up on iTunes, Apple Music, and all that type of stuff like
18 that.

19 Q Can you tell the jury the names of a couple people who
20 you've worked with?

21 MR. EPTING: I'm going to object at this point
22 to relevance.

23 THE COURT: I'll allow it. Yeah.

24 THE WITNESS: The very first person I worked
25 with was this woman name Angela Covington. She was

JURY TRIAL & SENTENCING

1 with Sony Records, and stuff like that. She was
2 like -- she could help me with my music career where
3 she was like she wanted to help me get my fan base
4 up. And so, she started lining up, like, different
5 shows and for me, and stuff like that. One of the
6 producers that I was using is a producer that's used
7 by a rapper that's in the industry named DaBaby. And
8 like, we was using same producer and the same studio
9 in Charlotte. I've opened up shows for Rich Homie
10 Quan, the Moneyman, Sexyy Red. I did a show in,
11 like, Miami and stuff where they had, like, a lot of
12 rappers. It was, like, Ice Cube, JT Money, Trina,
13 Trick Daddy. It was -- who else I work with? I
14 opened up a show for Kevin Gates in Charlotte. You
15 know, I did a lot of stuff.

16 BY MR. BARROWCLOUGH:

17 Q So would it be fair to say that your music career was
18 actually going pretty well?

19 A Yes. Yes, it was going pretty good before I came
20 here.

21 Q And was that the case leading up to around the time of
22 this incident in 2019?

23 A Yeah, like -- yeah. At the time that this incident
24 happened, like, everything was going, like, real good. I
25 had a video.

JURY TRIAL & SENTENCING

1 THE COURT: Mr. Heath, let me stop you just a
2 moment. I think some folks are indicating they're
3 having trouble hearing you. Can you make share
4 you're getting -- the mic is picking you up?

5 THE WITNESS: All right.

6 THE COURT: That's much better. Thank you, sir.

7 THE WITNESS: Okay.

8 THE COURT: Yeah.

9 THE WITNESS: Yeah. Like, at the time of my
10 arrest, like, my -- I had a video called "Hold You
11 Down," and it's me and this girl named Chantel
12 Miller. And that video was, like, doing, like, real
13 good, and stuff like that. So yeah, like, at the
14 time, everything was going pretty good.

15 BY MR. BARROWCLOUGH:

16 Q Okay. So that's sort of the backdrop to these events?

17 A Yes.

18 Q Now, Mr. Heath, Laquata Wilson, did you have a
19 relationship with her?

20 A We had somewhat of a relationship. Like, we had been
21 dealing with each other for a little while now. She had
22 made it plain to me that she was married. She was married
23 at the time. She had a husband that was in prison, and
24 she made it clear that, like, once he got out of prison
25 that they would get back together. So it wasn't like an

JURY TRIAL & SENTENCING

1 ongoing relationship. She made it understood what she had
2 going on.

3 Q Okay. But while you were together, how did you treat
4 her?

5 A I treated her good. I did all type of stuff with her,
6 for her kids. I paid bills, you know, helped her fix her
7 car, took the kids to Carowinds, bought the kids school
8 clothes, spent money on the kids for, like, their
9 birthdays, and stuff like that. So I did everything I
10 could during the time that I was dealing with her.

11 Q Okay. And -- but at some point, that relationship
12 ended, and that's when you moved to Leach Road?

13 A Yes.

14 Q All right. And as far as Bethany Farrar, how did you
15 meet her?

16 A I met Bethany because we had a mutual friend, this
17 girl named Sam. And her and Sam had -- like, I think they
18 met at a bar or something. Like, Sam liked girls. But I
19 guess they was together or whatever. And they came to my
20 house. And when they came to my house, Sam was, like, I
21 know you got this record label and stuff. She was, like,
22 my homegirl right here --

23 MR. EPTING: Object to hearsay, Your Honor.

24 THE WITNESS: -- she can sing.

25 THE COURT: I'm sorry?

JURY TRIAL & SENTENCING

1 MR. EPTING: Objection to hearsay.

2 THE COURT: Mr. Barrowclough?

3 MR. BARROWCLOUGH: Well, Judge, it's really just
4 setting the scene. It's not really being offered for
5 the truth of matter, but we can --

6 THE COURT: I'll sustain the objection.

7 MR. BARROWCLOUGH: -- all right.

8 BY MR. BARROWCLOUGH:

9 Q So you met Bethany through Sam. And what, if
10 anything, was brought to your attention about Bethany and
11 music?

12 A Bethany could sing. She got a -- she got a real
13 beautiful voice. She's like -- she's talented. She could
14 sing real good. And so, that's how we got involved with,
15 like, working with the music, and stuff like that.

16 Q Okay. And would it be fair to say that you want --
17 your relationship with her was professional at first?

18 A Yes, it was. Yeah, it's professional.

19 Q And what types of things did you do for her?

20 A Well, she would come by -- like, we went to start
21 working on her album, and she didn't really have any music
22 written, and stuff like that. So I told her I would
23 ghostwrite her album for her because I had a lot of R&B
24 music. I've got rap music, gospel music, R&B music, and
25 stuff like that. So she told me she didn't have any

JURY TRIAL & SENTENCING

1 music, so I was helping her work on her album and giving
2 her music. And so, she started coming by my house and --
3 because I was telling her, like, I pay for the studio
4 time. And I was telling her it's better if you get the
5 music down with the beats and stuff before we go to the
6 studio because it will save you time and it will save me
7 money recording all the stuff at the studio if you can get
8 it down beforehand.

9 And so, she was coming by. And she would like to go
10 on her social media, so she would ask to use my phone to
11 go on her social media, because when I met her, she had --
12 she just had a regular flip phone. She didn't have a
13 smart phone. And she would use my phone to go on her
14 social media and -- either my phone or my uncle's
15 girlfriend's phone to go on her social media, and stuff
16 like that. And so, I went and bought her a phone and I
17 told her, I said, you need to keep it with your stuff
18 yourself. So I got her the phone.

19 And then I had a show one night and I told her I was
20 going to take her, right? we went to the studio too. we
21 went to the studio, and we recorded a song together. We
22 had started working on her album and stuff too, as well as
23 some music I had for my album. but I took her to the
24 studio and we started recording music. After that, I had
25 a show and so I told her, I said, I'm going to take you to

JURY TRIAL & SENTENCING

1 the show with me to let you see how things operate. And
2 so, I took her to a show with me and we went to the show,
3 and I showed her how everything would work whenever she
4 had a performance, and stuff like that.

5 Q Okay. So that was your professional relationship.
6 Now, at some point, did you develop more than a
7 professional relationship?

8 A Yeah. Like, we -- it was, like, we was never really
9 in, like, a relationship. Like, she asked to be my
10 girlfriend at one point in time, but I told her, I was,
11 like, man, I've gotta -- I've had a lot of situations, bad
12 situations with certain people, you know, because I
13 don't -- I don't want to jump into a relationship right
14 now. And I was, like, I got a situation with my ex where
15 I have my insurance and my tags on my cars in her name,
16 and stuff like that. And that was a problem that me and
17 Laquata had when I was dealing with her was she didn't
18 like the fact that I would meet up with my ex to give her
19 money to, like, pay for my -- my insurance and my tags and
20 stuff on my car. So I told her, I said, I don't want to
21 get into relationship right now. You know, I got a lot of
22 stuff going on but, like, we could be friends. But we
23 ended up -- we did sleep together a few times.

24 Q Okay. And -- but at some point, the quality of your
25 relationship with Ms. Farrar changed; correct?

JURY TRIAL & SENTENCING

1 A Yes.

2 Q And one of the reasons that happened is because you
3 believed she stole from you; right?

4 A Yeah. Like, it was a situation where I ended up
5 finding out, like, she had a lot going on. Like, she was
6 sleeping --

7 Q We're not talking about that other stuff that's going
8 on. We're just talking about with you.

9 A All right. Repeat the question.

10 Q When things started to go bad between you all, is one
11 of the reasons why is because you believed that she stole
12 from you?

13 A Yeah. Like, she -- she was coming by. And, like,
14 during the time that she would come by it was, like, stuff
15 started coming up missing at my house. Like, I had a
16 Gucci bookbag come up missing. One day, she went live
17 and, like, she had on some of my clothes and stuff, and I
18 was, like, I didn't know where she got them from, you
19 know, I didn't know where she had them or how she got
20 them. And some jewelry came up missing, like, there was a
21 watch I had. It came up missing. And so, I told her, I
22 was, like, I don't want you to come back to my house.
23 Like, we could still work on music and stuff, but I don't
24 want you back at my house anymore, because when you come
25 around, like, stuff starts missing. You know what I'm

JURY TRIAL & SENTENCING

1 saying? So, yeah.

2 Q Now, Mr. Heath, let's talk a little bit about Shae.

3 Tell the jury about your relationship with her.

4 A Me and Shae was good. Like, we didn't -- we really
5 didn't have any problems. Like, the problem that I had
6 with -- with certain females that I was dealing with was
7 they would always like to ask me for money, and different
8 things like that. But the thing is with Shae is, like,
9 whenever Shae came around, like, she was -- like, she was
10 just happy to be around me. Like, she didn't never really
11 ask me for anything. Anything I did for Shae, it was --
12 it was because I wanted to because I volunteered. And
13 sometimes, she would even tell me no, but I would still do
14 stuff for her anyway.

15 Q So she made you feel like she liked you for you, not
16 for what you could do for her?

17 A Exactly.

18 Q Were there any problems between you and Shae?

19 A No. We didn't have any problems. Like --

20 Q Right up until February 19th [sic]?

21 A No. We didn't -- we didn't have any problems. Like
22 you saw on the video, most of the people that I had
23 problems with, I mentioned something about them. But I
24 never brought Shae's name up because we didn't have any
25 problems.

JURY TRIAL & SENTENCING

1 Q Now, let's talk a little bit about your residence at
2 1079 Leach Road. Who -- who paid all the bills at 1079
3 Leach Road?

4 A I paid all the bills.

5 Q And why was that?

6 A My dad, he was -- he got dishonorably discharged from
7 the military, you know. And as you could see on the
8 video, like, he was bedridden. So he wasn't working. He
9 didn't have any source of income coming in, or anything
10 like that. And so, I was taking care of the bills, and
11 stuff like that, yeah.

12 Q And was that true even before you moved back there?

13 A Yes. Yes, even before I moved back there, I made sure
14 that my dad had food. I paid the light bill and made sure
15 his cell phone stayed on, and all that type of stuff like
16 that.

17 Q All right. And when you did move there, who all was
18 living there at time?

19 A It was just my dad.

20 Q All right. And once you moved in, what, if anything,
21 did you do to improve the property?

22 A My first thing I did when I moved in is, like, all the
23 furniture that was the house and stuff, I threw that away.
24 I replaced all the appliances in the house. You can see
25 some of the hardwood floors, and stuff like that in some

JURY TRIAL & SENTENCING

1 of the pictures. I tore up all the carpet and started
2 putting hardwood floors in. I fixed the pipe running to
3 the septic tank, and stuff like that, pumped the septic
4 tank out. Like, I was going through -- I painted -- I
5 painted all through the house and everything too, you
6 know. I was doing everything I could to, like, fix it up.

7 Q Okay. Now, this property that you're fixing up and
8 that you paid the bills at, how often would people just
9 show up there?

10 A Oh, daily. They would show up -- they would show up
11 on a daily basis. Like, especially, like, right before I
12 came here. Because most of the time that I knew Bethany,
13 like, my dad was in the hospital. And he had just
14 recently got out of the hospital, so he had a lot of
15 friends coming by to check on him, and stuff like that
16 because my dad almost died. He -- he had, like, some type
17 of blood -- some -- some problem with his blood, or
18 something like that, a blood infection. And not only
19 that, he had cirrhosis of the liver, so a lot of people
20 was coming by. They was coming by to check on him, and
21 stuff like that.

22 Q And what, if anything, did you do to make those guests
23 feel welcome?

24 A I mean, anybody that came by, like, if I had anything
25 that they wanted, like cigarettes, food. You know, some

JURY TRIAL & SENTENCING

1 of them I would let stay, you know, for a day or so, like,
2 if they were coming to visit my dad and if it was getting
3 late, I wouldn't run nobody off. But I would give them,
4 like, food, alcohol, cigarettes, anything like that that
5 they asked for, if they needed something or wanted
6 something.

7 Q Would it be fair --

8 A I try to be a good host.

9 Q -- I'm sorry. Would it be fair to say that some of
10 these people who were coming to visit your dad were
11 homeless?

12 A Yes. Yes, some of them were.

13 Q But you still let them stay if they needed to stay?

14 A Yeah. Yeah. I'm not no mean person, you know. I try
15 to be a good guy, anyway.

16 Q All right. Mr. Heath, let's talk about what happened
17 on February 19th [sic] in the morning. So you were
18 partying the night before; is that right?

19 A Yeah. I wouldn't say partying but, like, we'd been
20 there working on music and listening to music, and stuff
21 like that. But, yeah.

22 Q Okay. And you slept on the couch; right?

23 A Yeah. I dozed off on the couch.

24 Q All right. And tell the jury about what happened when
25 he woke up.

JURY TRIAL & SENTENCING

1 A Actually, what woke me up was I had a friend guy named
2 Lee, and Lee came by and he woke me up, because Lee was
3 like the manager to the record label. We had a lot of
4 different things that we was doing. Lee -- Lee shot the
5 videos, he took pictures at different clubs, and stuff
6 like that. He owned his -- he had his own podcasts where,
7 like, he interviewed, like, local rappers, you know, local
8 people that had, like, stuff going on. So he came by and
9 we was talking about -- because he was on the label too,
10 and so we was working on his album, my album, and
11 Bethany's album, as well as, like, three other people that
12 we had on the label.

13 Q Okay. So he woke you up. And then what happened
14 next?

15 A Well, he woke me up. Like, we sat around and we was
16 talking for a few minutes. Well, I ain't going to say a
17 few minutes. We talked for a little while about music,
18 and stuff like that. And a little while later, I end up
19 getting up and I went to my bedroom.

20 Q Okay. And when you went to your bedroom, who was in
21 your bedroom?

22 A When I got to my bedroom, Bethany and Shae was in
23 there talking.

24 Q And then, so what did you do next, or what happened
25 next?

JURY TRIAL & SENTENCING

1 A I asked them to leave out of my room. And I was,
2 like, I needed to get in my room to do some stuff, and so
3 they left out of the room.

4 Q All right. So then what did you do?

5 A I took my jewelry and stuff off, set my jewelry on the
6 dresser. I got ready to go in the bathroom to take a --
7 take a shower, and stuff like that.

8 Q All right. And then, did you go to the bathroom next?

9 A Yes. I went -- I went to the bathroom. And when I
10 went in the bathroom, Bethany and Shae, they was both in
11 the bathroom. And Bethany was sitting on the sink, like,
12 with the phone, and I could see she was talking to my
13 cousin in the other room. And I was -- it was kind of
14 weird to me. I was, like, why are you calling my cousin
15 when you can just go down the hall and talk to him?

16 Q And who is your cousin? Who are you talking about?

17 A Elijah James.

18 Q Okay. So you're in the bathroom. They're both in the
19 bathroom with you. Then what happened?

20 A I really didn't know what was going on, so I asked
21 Bethany to leave out so that I could talk to Shae.
22 Because at this time, like, I had told Bethany on numerous
23 occasions that I didn't want her at my house, but she came
24 there and she wouldn't leave.

25 Q Okay. So then, did Bethany leave the bathroom?

JURY TRIAL & SENTENCING

1 A Yes, she left out.

2 Q Then -- then what did you do?

3 A I asked Shae, like, I was, like, man, what you all
4 talking about? I was, like, don't let Bethany tell you
5 anything bad about me because she don't like me. She --
6 it's all type of stuff that we had going on. I really
7 don't even want Bethany here. I told Shae that numerous
8 times. And not only was Shae there, but Shae had a cousin
9 named Dae Dae. Dae Dae was at my house too. But I was
10 telling both of them that I didn't want Bethany there.
11 And I had asked Bethany to leave my house numerous times
12 in front of them, but she wouldn't leave. And so, I was
13 trying to tell her, like, don't listen to nothing Bethany
14 got bad to say about me because, like, I don't know what's
15 going on with her right now.

16 Q All right. And then after you and Shae had that
17 conversation, what happened next?

18 A I left out of the bathroom and I went into my room for
19 a second. And when I went in my room, I noticed that,
20 like, my jewelry and stuff was gone off my dresser. And
21 so first, I looked around and I didn't see it. And, like,
22 sometimes, like, when I would leave, I would take my stuff
23 and lock it in my car. And so, I went out to my car and I
24 checked my car and I hadn't put it in my car, so I came
25 back in and went back to my room and started looking

JURY TRIAL & SENTENCING

1 through my room to see if I could find any of my stuff in
2 there. There was some money missing, and my jewelry and
3 stuff too.

4 Q All right. So you did not locate your stuff in your
5 room?

6 A No.

7 Q So what was the next thing you did?

8 A I walked into the living room.

9 Q And when you walked into the living room, who was in
10 the living room?

11 A It was my cousin, Elijah James, Bethany, Shae. My
12 Uncle Herman had came in, Rabbit. Shane had came in.
13 Sheila had came in while I was in the back, and Lee
14 Colvin, and that was it at that time.

15 Q Okay. So basically, just so it's clear on the time,
16 but when you first woke up, Shane and Sheila and Herman,
17 they weren't there?

18 A No, they weren't there at first. They had to come in
19 while I was in the back in my room or something. Somebody
20 let them in.

21 Q All right. But by the time you came out the second
22 time, all of those people were there?

23 A Yeah. Yeah. They were standing around in my living
24 room.

25 Q All right. So then what did you do?

JURY TRIAL & SENTENCING

1 A When I came out of my bedroom and I walked into the
2 living room, the first thing I noticed was somebody had
3 the windows open and they had the door open. And, like, I
4 got some nice leather couches, like, sitting right in
5 front of the window. And the first thing I noticed was,
6 like, rain coming through the window on my couches, and
7 stuff like that. So I closed the windows. It's February
8 too. It's cold outside. I don't know why they had --
9 anyone had the windows open. So I closed the windows and
10 then I closed the door. And then I was, like, hey, my
11 stuff is missing. I was, like, has anybody seen my stuff?
12 Yeah.

13 Q And did anyone say they had your stuff?

14 A No. Everybody, they claimed -- nobody is claiming
15 that they had claimed to see it, or anything like that.

16 Q Okay. So then what did you do?

17 A I asked people. I was, like, listen, this is what I
18 want to o. I want to pat you all down to see if you all
19 have any of my stuff, any of my money or any of my
20 jewelry, or stuff like that. Then after that, I want you
21 all to get out of my house, I want you all to leave.

22 Q All right. And after you said that, what did you do?

23 A Well, like, I looked around at, like, there was a lot
24 of people in there. And I really didn't know what a
25 person would do to try and keep my stuff, or if I was to

JURY TRIAL & SENTENCING

1 find them with my stuff whether they would try and fight
2 me, hit me, or anything like that. And so, I picked up a
3 hammer to defend myself if anybody tried to do anything to
4 me. And also, my hand is messed up so, like, it would
5 hurt me more to hit somebody than it would -- it would
6 hurt me more to hit somebody than it would hurt them
7 because, like (descriptive noise into microphone) like, my
8 knuckles is messed up. I got arthritis real bad in this
9 hand right here. Every time I ball my fist up, it cracks
10 like that, and it hurts.

11 Q All right. So you retrieved the hammer. Then what
12 happened?

13 A I went to pat my Uncle Rabbit down, my Uncle Herman.
14 I went to pat him down. And so, when I went to pat him
15 down, I was, like, come here, Unc, let me pat you down
16 real quick. And he had his hands in his pocket. And so,
17 he was like, well, Nephew, you know I wouldn't take
18 nothing from you, or anytime I asked you for something you
19 give it to me, so you know I wouldn't take your stuff. So
20 I was, like, I understand that, Unc, but let me pat you
21 down, you know, to make sure you don't have none of my
22 stuff. I was, like, just like take your hands out of his
23 pocket. So this being my uncle, like, I know him, like,
24 he always had, like, a little pocketknife or something in
25 his pocket or a box cutter, or something like that. So,

JURY TRIAL & SENTENCING

1 like, I'm standing back off of him, and I'm, like, take
2 your hands out of your pocket, because I don't know.
3 He -- he could have some of my stuff. I don't know
4 whether he do or not, so I asked him to take his hands out
5 of his pocket.

6 So when he wouldn't take his hands out of his pocket,
7 I did hit him on the arm with the hammer, but it wasn't
8 like no -- I was bludgeoning him or anything like that. I
9 just hit him on the arm and just telling him to take his
10 hands out of his pocket. And so, he took his hands out of
11 his pocket. When he took his hands out of his pocket, I
12 patted him down. And after I patted him down, I was,
13 like, all right, Unc, go ahead and go, leave out the door.
14 So well, he was like -- he said, okay, well, Nephew,
15 before I go, let me -- let me go back here and talk to
16 your daddy. So I was, like, you want to talk to my daddy?
17 He was, like, yeah. And I said, well, okay, go ahead. I
18 was, like, but I want you to hurry up and then I want you
19 to leave. And so, he went down the hall to my dad's room.

20 Q All right. And then, what was the next thing you did?

21 A I patted down Shane, Sheila, and Lee, and I told them
22 to leave. And so, as I'm telling them to leave, I went
23 down the hall to my dad's room to get my Uncle Herman to
24 make him leave top. And so, when I get my dad's room and
25 I open my dad's door, I say, where Rabbit at? My dad was,

JURY TRIAL & SENTENCING

1 like, he went out the window. I'm, like, why he went out
2 the window? I told him to go out the door. Like, that
3 was -- that was crazy. I really didn't understand it. He
4 messed my mind up, but I seen the window open. And so, I
5 turned around and I went back down the hall. And when I
6 went back down the hall, when I walked into the living
7 room, I was saying to myself, like, why he go out the
8 window, like, I told him to go out the door. And so, when
9 I told him that, my cousin, Elijah -- Elijah had -- had
10 the pump shotgun. He runs out the door and he starts
11 shooting at my uncle outside. And so --

12 Q All right. So stop right there. So when you were
13 patting down people looking for your stuff --

14 A Yeah.

15 Q -- did you have the shotgun?

16 A No, I didn't. I had -- I had a hammer. Everybody
17 said I had a hammer.

18 Q And at what point, if you have observed it -- and if
19 you didn't, that's fine -- but at what point did you see
20 Elijah have the shotgun?

21 A I didn't really see when he got it because, like, he
22 was on this side of the room, and I was talking to my
23 uncle, and my uncle was standing, like, towards the
24 kitchen. But he had it for -- I mean, like, I remember
25 seeing him with it, but I don't remember -- recall exactly

JURY TRIAL & SENTENCING

1 when he got it.

2 Q Okay. So then, at some point, you see Elijah go out
3 the door with the shotgun. What do you do?

4 A At first, I didn't -- like, I didn't know what he was
5 going to do. At first, he went out and I heard the shots.
6 So when he -- when I heard the shots, I ran out the door
7 behind him. And when I ran out the door behind him, he
8 was, like, shooting towards the woods, and so I just ran
9 up to him and I snatched the gun out of his hands. I was,
10 like, bro, like, what is you doing, like, why is you
11 shooting at people, you know what I'm saying? So I took
12 the gun from him, and then I went back in the house.

13 Q Okay. And so, when you took the gun from Elijah
14 outside, was that the first time that you had the shotgun
15 in your possession?

16 A Yes.

17 Q So then, you go back in the house?

18 A Yeah.

19 Q All right. And -- and then what happened?

20 A When I walked back in the house, as soon as I walk
21 into the door is the hallway to your right and, like, Shae
22 was standing, like, right immediately as soon as I stepped
23 through the door, and Bethany standing a little bit behind
24 her, like, near the doorway of the room. And so, at that
25 time, like, I was telling Bethany, like, look, you've been

JURY TRIAL & SENTENCING

1 stealing stuff out of my house. I done told you on
2 numerous occasions not to come back in my house. Like, I
3 feel like you had something to do with my stuff going
4 missing. Like, you need to get my stuff, and I want you
5 out of my house. And so, Shae started trying to tell me,
6 like, she was, like, just don't do it. She was, like,
7 just calm down, and stuff like that. And I was, like,
8 man, I had a feeling she -- like, she had something to do
9 with my stuff being missing. You know, I didn't want her
10 here, you know that yourself. And so, Shae went to, like,
11 tell me to put the gun down. And, like, I was standing
12 like this with the gun.

13 Q When she -- when she told you to put the gun down, at
14 that point, had you pointed it at Shae?

15 A No. The gun wasn't pointed at Shae. Shae was, like
16 -- like in the hallway is only about this wide. And,
17 like, Shae was standing on this side, Bethany was standing
18 on this side.

19 Q All right. And so then, she stepped in front of the
20 gun and put her hand towards you?

21 A Yeah. Yeah. She -- yeah. It was like she was trying
22 to -- trying to grab the gun and, like, push it down.

23 Q And what did you do?

24 A I stepped back. I stepped back and I pulled the gun
25 back. And when I pulled the gun back, I -- I didn't even

JURY TRIAL & SENTENCING

1 hear the shot. I didn't even hear it. I just seen her
2 fall.

3 Q Look at your jury. Did you mean to to shoot Shae?

4 A No, I didn't mean to shoot her. I didn't mean to
5 shoot her. I didn't have the gun pointed at her. Like,
6 she was telling me, like, to put the gun down and not get
7 in trouble for anything with Bethany. And when she
8 reached out for the gun, it -- like, when I went to pull
9 it back, it just, boom. And I -- it was so loud, I didn't
10 even hear it. I just seen her fall.

11 Q And you've already testified that you have no problems
12 with her, she was your girlfriend, you were getting along
13 well at the time; right?

14 A Yeah, everything was fine. Even Bethany got on the
15 stand and told you, like, she could tell, like, everything
16 was good between us. Even she said that.

17 Q And also, just So it's clear, you know, your stuff
18 went missing. And tell me if I'm wrong now, but your
19 stuff went missing while you were in the bathroom with
20 Shae?

21 A Yeah. She was in the bathroom with me when my stuff
22 came up missing.

23 Q So you did not -- or tell the jury, did you suspect
24 her of taking your stuff?

25 A No. No. And then the way she was dressed, it was

JURY TRIAL & SENTENCING

1 like it's no way possible. She had on, like, some little,
2 small boy shorts and a tank top. It's no way possible she
3 had anything of mines. It's no way possible.

4 Q And did she -- so did you shoot her on purpose?

5 A No, I didn't.

6 Q All right. Mr. Heath, so tell the jury what happened
7 next.

8 A Like, after that, like it was -- it was a lot going on
9 in my mind, you know, because, like at the time, like I'm
10 telling you, I told -- I had told Bethany, like -- that I
11 didn't want her at my house, you know, because of stuff
12 coming up missing. And it was clear that I didn't want
13 her there because, like she said when she was up here,
14 that oh, he said he loved me, but it's, like, any woman
15 know if a man got another woman at his house and you hug
16 -- he hugged up with this woman and you're saying you
17 could tell he loved this woman, and stuff like that, like,
18 why -- why are you here?

19 Q Okay. All right. But what I'm saying is, what --
20 what happened next? What did you do next?

21 A I shot Bethany.

22 Q And your mindset then, I know you were upset. Were
23 you thinking clearly?

24 A No. No. I mean, the only thing I can think of is,
25 like, man, I just shot this girl by accident and I know

JURY TRIAL & SENTENCING

1 I'm going to go to jail, like, even though I didn't mean
2 to do it. And it's like a lot of this stuff wouldn't even
3 happen, like -- like the -- the prosecutor is trying to
4 make it seem like I planned any of this or all of this.
5 Like, I didn't plan for nobody to steal my stuff. I had
6 no intention of shooting anybody. You know, I could have
7 went and got the gun myself. I never went and got the
8 gun. It was my gun. I could have went and got it. I
9 didn't go get it. I didn't have no plan of doing none of
10 that.

11 Q And, albeit, you were upset and you did shoot Bethany.
12 Was it your intention to kill her?

13 A No. No. I really -- I just wanted Bethany out of my
14 house.

15 Q Did you have buckshot on you at the time you did that?

16 A Yeah. I had a -- I had boxes of buckshot and boxes of
17 birdshot in my room.

18 Q I mean, did you have buckshot in your pocket?

19 MR. EPTING: Objection to leading, Your Honor.

20 THE COURT: Sustained. You can rephrase the
21 question.

22 BY MR. BARROWCLOUGH:

23 Q What -- what type of shot, if any, did you have in
24 your pocket?

25 A I had birdshot and buckshot.

JURY TRIAL & SENTENCING

1 Q Did you load any buckshot into the gun?

2 A No.

3 Q All right. After you did that, what happened next?

4 A I left. I left the house.

5 Q All right. And when you left the house, where did you
6 go?

7 A Like, at the time I left the house, like, I really
8 didn't know where I was going to go. Like, I was just --
9 like, my mind was all over the place. But the thing is,
10 is I knew I was nine times out of ten -- well, I ain't
11 going to say nine times out of ten -- I knew I was going
12 to jail. But I needed to talk some people to try and help
13 me out with my situation. And in the past, like, Laquata,
14 like she testified up here that she helped me out in the
15 past as far as, like, getting stuff and handling stuff
16 like that. So I went to try and find somebody to help me,
17 and she had helped me in the past, so I went to go talk to
18 her about trying to help me.

19 Q So that's why you went to Farlow Street?

20 A Yes.

21 Q You were seeking her help?

22 A Yes.

23 Q And isn't it true -- or hadn't you lived at Farlow
24 Street prior?

25 A Yes.

JURY TRIAL & SENTENCING

1 Q Do you think of that as sort of a safe place?

2 MR. EPTING: Objection to leading.

3 THE COURT: Sustained.

4 MR. BARROWCLOUGH: All right. I'll withdraw
5 that question.

6 BY MR. BARROWCLOUGH:

7 Q So you go Farlow Street. Then what happens?

8 A When I get to Farlow Street, first, I knocked on the
9 front door and Laquata didn't come to the door, Mook
10 didn't come to the door. So I went and knocked on the
11 side window, which is something that I've done numerous
12 times, like, this wasn't the first time. And by the time
13 I made it back to the front of the house, she was at the
14 door. And so I told her, I was, like, man I need to talk
15 to you to about something. You know, and she was like,
16 okay. She asked me if I had something to smoke, would I
17 smoke with her, so I was, like, yeah. And so, I went back
18 to the car. And when I went to the car, like, the shotgun
19 was laying in the front seat. And there was a car that
20 rolled pass. It was the next-door neighbor. They rolled
21 pass and they pulled up in front of the house. And so, I
22 was, like, nah, I just don't want to leave the gun just
23 laying on my front seat like that. Somebody would come by
24 and get it or somebody will see it and call the police,
25 and stuff like that. And so, I picked it up and I took it

JURY TRIAL & SENTENCING

1 in the house with me.

2 Q Okay. So that's why you brought the shotgun into the
3 house?

4 A Yeah. I probably wouldn't of did it at first hadn't I
5 -- I seen the neighbor pull up, and stuff like that.

6 Q All right. And so then, you went back in?

7 A Yeah. Well, I wasn't -- I never went in. I just
8 talked to her on the porch, so I didn't go in at first.

9 Q Oh, okay. Well, then, once you got back to your
10 vehicle, then you go in?

11 A Yeah.

12 Q All right. And, Mr. Heath, tell this jury, what were
13 your intentions as you were walking into that house?

14 A Like I said, when I went there, I went there to talk
15 to her to try and get her to help me out. Like, she --
16 she told you, like, she's helped me on different
17 situations. Like, when a situation happened with me and
18 Beth, she told you, like, I had called her to help me, but
19 she had some stuff going on.

20 Q Okay. And tell the jury, what -- you know, what did
21 you see when you entered the Farlow Street house?

22 A At first, she was sitting on the couch, and I went and
23 sat down. And when I went and sat down, like, a few
24 minutes later, a guy came out of the back room with a gun.
25 Now, she said she told me that the guy was there, but she

JURY TRIAL & SENTENCING

1 never told me that.

2 Q All right. So -- so you observed a guy come out of
3 the back room?

4 A Yeah.

5 Q Tell the jury exactly what you saw.

6 A The guy came out the back room, and he had a gun in
7 his hand. He said -- well, like, they're trying to say
8 that he didn't have it in his --

9 Q What about what their trying to say? You're here to
10 tell the jury, you know, what happened. So you see the
11 guy come out of the back room with a gun in his hand.
12 What are you thinking?

13 A -- I -- I really didn't want know what to think.
14 Like, I'm thinking, like, he's upset that I'm here, or
15 something like that, and he's going to try and do
16 something to me, because he came out of there with the gun
17 out.

18 Q So what did you do?

19 A I was trying to get up out of there. I -- I shot. I
20 started shooting, but I -- I was trying to get out the
21 front door. I was --

22 Q Do you have a recollection how many times you shot?

23 A No. No. Maybe -- maybe two or three times, but I was
24 -- I was -- I was just trying to get out the door.

25 Q All right.

JURY TRIAL & SENTENCING

1 A That's all I was trying to do.

2 Q And after you fired, you went out the door?

3 A Yes. Yeah, I was -- I was going towards the door
4 trying to get out the door.

5 Q All right. And then -- and then what happened?

6 A I jumped in my car and left.

7 Q All right. And after you left, where did you go?

8 A I ended up near Charlotte. I ended up in Charlotte.

9 Q Okay. And then at some point, in Charlotte, you were
10 arrested by the Charlotte Police?

11 A Yes.

12 Q And that's like we saw here in court on video?

13 A Yeah. Yeah, it's sort of what you saw. It's a lot
14 that they eliminated, like the fact that they -- they
15 sicced the dog on me --

16 MR. EPTING: Your Honor, I object to this. That
17 was eliminated.

18 THE WITNESS: -- after I had gave up.

19 THE COURT: I'm going to sustain -- I'm going to
20 sustain the objection.

21 MR. BARROWCLOUGH: Okay.

22 BY MR. BARROWCLOUGH:

23 Q But basically, Mr. Heath, you did go with them
24 peacefully?

25 A Yes.

JURY TRIAL & SENTENCING

1 Q You did not resist arrest?

2 A No.

3 Q All right. All right. Mr. Heath, I mean, this is
4 your day in court. You look at your jury and you tell
5 them back on February 12th of 2019, was it your intention
6 to kill anybody that day?

7 A No. I -- I had no intention to do anything to
8 anybody. If anything, man, like, I -- I messed my
9 whole -- that's like one of the worst days of my life. I
10 messed my whole life up. You know, I had the record label
11 going on, I was selling dogs. I had started, like, a
12 little clothing line where I was selling my T-shirts, and
13 stuff like that. Like, that land that you all saw out
14 there, like, that -- that wasn't just my trailer and my --
15 and my uncle's house. It's, like, it's about seven, eight
16 houses out there. My family owns, like, close to 100
17 acres of land off Highway 5. We got our own road named
18 after us. Leach Road is, like, our family lane. It's not
19 a neighborhood. That's all my family land. You know,
20 most of it is woods, but you know, like, my family owns
21 land. I had my own business. Like, you all have seen
22 some of my cars, and stuff like that. I had a lot of
23 stuff going for me. Like, I had no reason to just flip
24 out and do all this stuff for no reason. And I can't make
25 up the fact that my jewelry and my money went up -- went

JURY TRIAL & SENTENCING

1 missing, and the dude having the gun. Like, that's not
2 something I can make up. Like, that happened.

3 Q Mr. Heath, you acknowledge you messed up your life on
4 February 12th, 2019. But -- but again, your feelings
5 towards Shae Williams were what?

6 A Me and Shae didn't have no problems. Like I said --
7 like -- like, you all heard me on the tape. Like, I
8 complained about a lot of women in my life, but I never
9 said anything about Shae. I had nothing bad to say about
10 Shae, period. Shae was the only female that I really
11 dealt with in a long time that never really asked me for
12 anything. The rest of the females, like, they asked me
13 for money and I do stuff for them, and then it's like they
14 be unappreciative of the stuff that I do for them. But
15 there would be times that I would offer Shae stuff and,
16 like, she would -- she would try and turn it down. Like,
17 up until this time, like, she had a friend named Veronica,
18 and she came to my house. And I had bought Shae, like, a
19 bunch of clothes. I had just got her hair done. Like,
20 when her family got her stuff back, like, she should have
21 had a couple hundred dollars in her pocket. I put -- gave
22 it to her and put it in her pocketbook. I had just paid
23 her friend, Diamond, to do her hair and stuff the day
24 before, and all type of stuff like that. We had no
25 problems at all whatsoever.

JURY TRIAL & SENTENCING

1 Q Mr. Heath, how do you feel about the fact that she's
2 no longer -- excuse me. How do you about the fact that
3 she's no longer with us?

4 A I mean, I hate that it happened, man. You know, like
5 I'm -- I'm real sorry about it. And the thing is, like,
6 if I could give my life for hers in exchange for hers,
7 like, I would do that.

8 Q Thank you, Mr. Heath. Mr. Heath, please answer any
9 questions the solicitor may have.

10 THE COURT: Cross-examination?

11 MR. EPTING: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. EPTING:

14 Q Mr. Heath, I'm less interested in asking about your
15 label at this time, but what is your label name?

16 A Hustlaholic.

17 Q Hustler what?

18 A Hustlaholic.

19 Q Do you remember talking with officers in Charlotte --
20 Walter Beck and Pete Branham -- that video we saw earlier
21 this -- earlier in the day yesterday?

22 A Yes, I remember talking to them.

23 Q Do you remember telling them that you were there late
24 that night drinking --

25 A Yeah.

JURY TRIAL & SENTENCING

1 Q -- and smoking?

2 A Yeah.

3 Q Do you member telling them that you've went outside
4 and came back in and you found that some jewelry was
5 missing?

6 A Yes.

7 Q And you didn't know who took it?

8 A No, I didn't know who took it. It was -- it was -- it
9 was, like, a good little bit of people in my house.

10 Q And you said Bethany was there; right?

11 A Yes.

12 Q And she was pregnant with you child at that time;
13 correct?

14 A The thing is, is -- is Bethany says she was pregnant
15 by me, but Bethany was sleeping with a whole all bunch of
16 dudes, including my cousin, Elijah James.

17 Q Well, we'll get to this later on. But in a
18 termination of parental rights hearing, you contested
19 terminating your parental rights to that child, did you
20 not?

21 A I mean, I can't deny if the child is mine or not, but
22 I haven't took a DNA test to find out whether the child is
23 actually mines or not. She was sleeping with a lot of
24 guys.

25 Q So you -- you -- you -- you fought to keep your

JURY TRIAL & SENTENCING

1 parental rights over a child that you did not know was
2 yours; is that your testimony?

3 A One thing about me is, I try to be responsible.

4 Q No, sir --

5 A I try. I try.

6 Q -- that is not what I asked you. You fought to keep
7 parental rights over a child that you did not know was
8 yours; is that correct?

9 A Here's the thing. The possibility of the child being
10 mines, I'm going to try and do what's right. That's me.
11 You know, like, I'm not sure whether it's mines, but I
12 can't deny whether it's mines or not. And so, me being
13 the man that I am, I'm going to try and take care of any
14 responsibility that I got. So just the possibility of it
15 being mines, yes, I will fight for the parental rights.

16 Q So you were taking care of the child before that
17 hearing?

18 A The things is, if you talk to Bethany, I offered
19 Bethany money. I've tried to give Bethany money, and she
20 told me she didn't need anything, like, she didn't want
21 anything. But my mom has still been doing things for the
22 child.

23 Q Still doing that today; right?

24 A Yes, I'm pretty sure.

25 Q Did you see family of yours in this courtroom here

JURY TRIAL & SENTENCING

1 this week?

2 A No, I didn't. I actually didn't tell anybody I was
3 coming.

4 Q You didn't see your brother?

5 A No. My brother's got his own life.

6 Q Got you. You didn't see your brother here in the
7 courtroom earlier this week; yes or no?

8 A Actually, the thing is, is this guy right here kept
9 telling me don't look back at the courtroom. He told me
10 to face forward. And even the judge instructed me to face
11 forward and not to look back.

12 Q So you talked a lot about your love for Shae --

13 A Yeah.

14 Q -- and how good you felt about her. But you spoke
15 poorly of her to officers on February 12th, did you not?

16 A I mean, at the time that these officers was asking me
17 questions --

18 Q All right.

19 A -- like they was -- they was rapid-fire asking me
20 questions so that --

21 Q Let me ask you this.

22 A -- so the way --

23 Q Let me ask you this. Mr. Heath, Mr. Heath, let me ask
24 you this.

25 A -- why you keep cutting me off? You -- you kept

JURY TRIAL & SENTENCING

1 stopping my lawyer every time he was talking.

2 Q Because you're not answering my questions, Mr. Heath.

3 A I am answering your questions. I just ain't answering
4 it the way you want me to answer it.

5 Q Did you tell officers that Shae and Beth were both
6 "talking shit to you," your words?

7 A I don't recall that.

8 Q You don't recall that? Did you see that video that
9 was played earlier?

10 A Yeah. Yeah, I seen that video. I seen where every
11 time I got ready to say certain things in that video that
12 you all kept muting the video too, so you eliminated them
13 parts, or whatever I was saying.

14 Q That was by --

15 A You played what you wanted to play.

16 Q -- agreement by the parties. That was by Court's
17 order.

18 A Okay.

19 Q You don't remember hearing that?

20 A I don't remember exactly, but at the way that --

21 Q You don't remember --

22 A -- the way they was answering -- asking me questions.
23 Like, at the time, like, I had a lot of stuff --

24 Q Mr. Heath --

25 A -- going on in my head.

JURY TRIAL & SENTENCING

1 Q -- Mr. Heath, Mr. Heath, I'm going to ask you
2 questions, and you need to respond to the questions I'm
3 asking you.

4 A I'm responding to the questions. You just --

5 Q No, you're not.

6 A -- I'm just not responding in a way you want me to
7 respond.

8 THE COURT: Mr. Heath, you need to answer the
9 questions that you're asked. And then if you want to
10 explain your answer, you're allowed to do that. But
11 you need to answer the questions that you're asked.

12 THE WITNESS: I answered the question. I told
13 him I didn't recall, and he asked me the question
14 again.

15 THE COURT: Counsel?

16 BY MR. EPTING:

17 Q You were mad because you were missing stuff?

18 A Yes. I mean, anyone would be upset if something got
19 stolen out of their house. If somebody came to your house
20 and stole you all's stuff, you all would be upset about
21 it.

22 Q And you're not getting answers from people inside the
23 house, and you suspect your Uncle Herman took it,
24 possibly; right?

25 A Here's the thing, is I didn't know who took it. I

JURY TRIAL & SENTENCING

1 asked my Uncle Herman could I search him. I said, man,
2 let me pat you down, and then I want you to leave.

3 Q And how old was your uncle when this happened?

4 A He was around about 70, or something like that.

5 Q He's 70-years old. And you smacked your 70-year-old
6 uncle with a hammer.

7 A The way you making it sound, it's like you make it
8 sound like way worse than what actually happened. And the
9 stuff that you're doing -- a lot of stuff that you're
10 saying is based off of someone's testimony who got up here
11 on the stand and committed perjury.

12 Q And so, you did not hit your uncle with a hammer?

13 A I didn't say I didn't. It's just the context that you
14 were putting it in.

15 Q Did you give him a love tap with the hammer?

16 A I mean, it was just only some, take your hands out of
17 your pockets stuff. Like, I didn't beat him. I could
18 have hit him in the head with it and I could have hit him
19 in the neck with it. I could have just kept on beating
20 him with it, but I just hit him on the arm once, as he
21 told you, to ask him to take his hands out of his pocket,
22 because I didn't know whether he had a weapon or what he
23 had in his pocket.

24 Q And he told us that broke his arm in two places.

25 A He didn't say it broke his arm in no two places. He

JURY TRIAL & SENTENCING

1 didn't say that.

2 Q He is disabled, that arm, for the rest of his life.

3 A He didn't say that either.

4 Q Well, I guess the jury will have to listen to that
5 testimony again if they wish rehear it, but that's what he
6 testified to, Mr. Heath. They -- they asked you today
7 that was the end-all be-all. Do you remember them asking
8 you that?

9 A Yeah.

10 Q Do you remember what you said?

11 A No. I remember what you tried to insinuate that I was
12 saying, but I really didn't say anything.

13 Q You said --

14 A You all played that tape three times, and you tried to
15 insinuate that I said that's it, but I never said any of
16 that.

17 Q -- you said, "Yeah, that shit's frustrating." You
18 deny making that statement?

19 A No, I don't remember hearing that statement. You
20 played it three times because you all couldn't hear what I
21 was saying. So you played it, like, three -- was it three
22 times or four times -- and you couldn't make out what I
23 was saying.

24 Q And you said that you broke up with Mook because she
25 was asking you for money. Do you remember saying that?

JURY TRIAL & SENTENCING

1 A Yeah, I remember saying that.

2 Q But then later you said Mook put you out because
3 Innocence called and told -- you told her what you all had
4 been up to. Do you remember saying that?

5 A Listen, here's the thing about it.

6 Q No, sir. Did she -- did you -- did you say those
7 things?

8 A It was a -- it was a -- it was a --

9 Q Did you say those things?

10 A -- mixture of things.

11 Q Did you say that Mook put you out --

12 A It was -- it was more than one occasion. It was more
13 -- more than one incident of what I said then.

14 Q You were put out -- you were put out multiple times?

15 A No. It was more than one incident about why the
16 relationship ended. And she told you herself, she came
17 back to try and get with me numerous times, numerous
18 times.

19 Q And you lived --

20 A Not more than -- not once, but more than once.

21 Q -- and you lived with Mook for a while, did you not?

22 A Yeah, I did.

23 Q And you paid your bills?

24 A Yup.

25 Q Those are you all's bills if -- if you're living there

JURY TRIAL & SENTENCING

1 with her; right?

2 A Basically, yeah.

3 Q So you were paying bills for your own rent from a
4 place that you stayed?

5 A Yeah.

6 Q So it's not like you're covering Mook's bills on your
7 own?

8 A Yes, I was, during the time that I stayed there.

9 Q But you're staying there too?

10 A Yeah.

11 Q Do you remember them asking you about the events that
12 led up to that day?

13 A Exactly what part are you talking about?

14 Q Let me be specific with you, very specific. Do you
15 remember them asking you if you had a shotgun?

16 A Yeah, I remember them asking me that.

17 Q Do you remember what you said?

18 A What I said to them in there?

19 Q Right.

20 A Like, the thing is, is I told them I didn't want -- I
21 really -- the thing is, brother, is I was -- I was robbed
22 in my own house, you know. And the thing is --

23 Q Mr. Heath, again, did you tell them that you had a
24 shotgun?

25 A You knew I had a shotgun.

JURY TRIAL & SENTENCING

1 Q Well, I know a lot of things. I'm asking you.

2 THE COURT: Mr. Heath, you need to answer the
3 question that you're asked, please.

4 THE WITNESS: Yeah.

5 BY MR. EPTING:

6 Q They asked you, do you know what load was in the
7 shotgun. Do you remember them asking you that?

8 A Yes.

9 Q And do you remember what you said?

10 A It was birdshot.

11 Q You -- they told you Shae was dead, and you acted
12 surprised. Were you surprised to hear that Bethany was
13 not dead?

14 A Listen, I don't know where you're going with this, but
15 go ahead. Continue.

16 Q Were you surprised to hear that Bethany Farrar, who
17 you shot twice --

18 A I knew Beth wasn't dead.

19 Q -- you knew she wasn't dead?

20 A Yeah.

21 Q Even though you shot her twice?

22 A Yeah. I knew she wasn't dead.

23 Q Even though you took her arm off with one of those
24 shots?

25 A Her arm was not off.

JURY TRIAL & SENTENCING

1 MR. BARROWCLOUGH: Your Honor, I object. That's
2 not only argumentative, but not factually true.

3 THE COURT: I'm going to allow it. It's
4 cross-examination. I'm going to allow it.

5 BY MR. EPTING:

6 Q You weren't surprised to hear that Mook was not dead?

7 A Listen, at the time, I didn't know what happened,
8 exactly. I was just trying to get up out of there. You
9 all assaulted [ph] me with the gun. And then thing is, is
10 that the neighbors saw the man come out of the house with
11 the gun in his hand and dropped it. Now, if you look at
12 the video where he was at the parts store, you see how
13 hard it was for them to get the guns out of his pocket.

14 Q Mr. Heath, you had your chance to talk to your
15 attorney. You need to answer my questions.

16 A I'm answering your questions. You just don't like the
17 way I'm answering it.

18 Q You're not. You're not. You're -- you're answering
19 -- you are extrapolating. Were you surprised to hear that
20 Mook was not dead?

21 A I mean, I didn't know whether she was dead or not.
22 The thing that I do know about birdshot is -- is birdshot
23 is made to not do a lot of damage to the game that you're
24 shooting at. That's why they call it birdshot. So if you
25 shoot a bird, it doesn't destroy the bird. You can still,

JURY TRIAL & SENTENCING

1 like, take it and eat it, and stuff like that afterwards.

2 Q It did a whole lot of damage to Shae, did it not?

3 A I mean, that was -- that was accidental and it was,
4 like, almost point-blank.

5 Q It did a --

6 A It wasn't something that I meant to do.

7 Q -- it did a whole lot of damage to Bethany Farrar, did
8 it not?

9 A I mean, depending on how you say that, how you look at
10 that.

11 Q It shredded her arm, did it not? Did you see that
12 body cam of Mook Wilson on her porch?

13 A Yeah, I saw it.

14 Q It did a lot of damage to Mook Wilson, did it not?

15 A Yeah. But the thing is, is I was shooting in my
16 defense. There was somewhere in the house with a gun.

17 Q You shot Mook in self-defense, is your testimony?

18 A She told you herself that she was standing between me
19 and the guy.

20 Q We'll get to that in a minute. But just going back to
21 her injuries, her arm was shredded, was it not?

22 A Yes, it -- yeah, it was.

23 Q Her eye was put out, was it not?

24 A I don't know the extent to her injuries. I don't
25 know.

JURY TRIAL & SENTENCING

1 Q Her finger was blown off, was it not?

2 A I mean, from what I saw, yeah.

3 Q Her organs were coming out of her side, were they not?

4 A Yeah, basically.

5 Q And that's what that harmless birdshot that you were
6 firing into these women?

7 A (No audible response.)

8 Q They asked you what you would have done differently.
9 Do you remember what you said?

10 A No.

11 Q You didn't say "I wouldn't have put that shotgun in
12 Shae's face," did you?

13 A I don't remember saying anything like that.

14 Q You don't remember saying "I would have been a asshole
15 my whole life" in response to that question?

16 A The reason why I said that is because a lot of people
17 that I've been nice to in my life, they've come back and
18 did messed up stuff to me. Like, I was trying to be nice
19 to Bethany and trying to help Bethany when I knew the
20 girl. Bethany came back and broke in my house. She broke
21 in my house and stole some stuff out of my house.

22 Q They asked you whether you knew you might have taken
23 them from their families. Do you remember what you said?

24 A No, I don't remember what I said.

25 Q Okay. So you don't remember that, but you remember

JURY TRIAL & SENTENCING

1 the other stuff? Would it surprise you if I told you you
2 said, "They are taking me from mine"?

3 A I don't -- I don't recall saying that, but you know.

4 Q What was your dad in the hospital for?

5 A My dad was in the hospital because he had an infection
6 in his bloodstream.

7 Q He didn't have any other injuries?

8 A I'm not sure. I know he had cirrhosis of the live,
9 and stuff like that.

10 Q How long was he in the hospital for?

11 A Maybe, like -- maybe, like, a month and some change.

12 Q He'd just gotten out?

13 A Yeah.

14 Q And you are -- your testimony here today under oath is
15 that you're not aware of any other injuries that put him
16 in that hospital?

17 A No, I'm -- no, I'm not.

18 Q So you said -- going back to what happened inside --
19 that you see stuff is missing, and you come out and you
20 see some windows are open. Do you remember testifying to
21 that earlier?

22 A Yes.

23 Q And it was raining that day, was it not?

24 A Yes.

25 Q And some windows were open, were they not?

JURY TRIAL & SENTENCING

1 A Yes.

2 Q And you have some nice stuff inside that trailer, some
3 leather couches. It's stuff that you don't want to get
4 wet; is that correct?

5 A Yes.

6 Q And then you start looking for your stuff. And you
7 said you got a hammer to defend yourself; is that right?

8 A Yes.

9 Q To defend yourself against Sheila Rushing?

10 A It was -- it was more than Sheila Rushing.

11 Q So let's go --

12 A It was lot of people in there.

13 Q -- let's go through the list. Was Sheila Rushing
14 there?

15 A Yes, she was.

16 Q Were you defending yourself against her?

17 A The thing is, is I was --

18 Q Yes or no, sir?

19 A -- I got the hammer to --

20 Q Yes or no --

21 A -- defend myself against --

22 Q -- were you defending yourself against Sheila Rushing?

23 A -- anybody that would try and do anything to me.

24 Q Does that include Herman Leach?

25 A Anybody. To defend myself against anybody that would

JURY TRIAL & SENTENCING

1 try and do anything to me.

2 Q Does that include Bethany Farrar?

3 A Listen, I had told Bethany on numerous occasions --
4 numerous occasions -- that I did not want her in my house.
5 She was in my house against my will. She was in my house
6 against my will. She knows I told her on numerous
7 occasions not to be in my house.

8 MR. EPTING: May we approach briefly, Your
9 Honor?

10 THE COURT: You may approach.

11 THE WITNESS: Numerous occasions.

12 (Bench conference off the
13 record.)

14 BY MR. EPTING:

15 Q Mr. Heath you stated that you did not want Bethany
16 there and she was there anyway, but there was a no-contact
17 order prohibiting contact between the two of you; correct?

18 A Um --

19 Q All right. That's a -- that's a yes or no. Was there
20 no-contact order?

21 A -- she lied to the police and had me arrested. She
22 lied to the police and had me arrested. So -- so, yes,
23 there was a no-contact order after she lied when I
24 wouldn't let her in my house.

25 THE COURT: Mr. Heath, Mr. Heath, I'm going to

JURY TRIAL & SENTENCING

1 ask you to (unintelligible) to stop. You need to
2 answer the question you're asked, and then you may
3 explain it.

4 BY MR. EPTING:

5 Q So, Mr. Heath, you have this hammer to -- to defend
6 yourself when it's mostly women inside the house; is that
7 not correct?

8 A It's actually -- it's more than me and them women in
9 the house.

10 Q But most of those -- but a couple of those are your
11 friends; right? Are you worried about them?

12 A I've told you, I patted everybody down.

13 Q And Bethany was a tiny girl at that time, was she not,
14 about 100 pounds?

15 A No. Bethany was, like, 160 pounds.

16 Q 160 pounds?

17 A Yeah.

18 Q Did you watch the video of the body cam that played?
19 Your testimony is that girl weighed 160 pounds?

20 A You had her medical records that said she was 5'4"
21 and, like, 157.

22 Q 157 --

23 A Yes.

24 Q -- that's your testimony?

25 A Yes.

JURY TRIAL & SENTENCING

1 Q Okay. And were you worried about -- what were you
2 worried about Bethany?

3 A Bethany wasn't worried about me when she lied to the
4 police and had me arrested --

5 Q Were you worried about --

6 A -- because I wouldn't let her back in my house.

7 Q -- were you worried about Shae?

8 A Yes, I was worried about Shae.

9 Q About Shae attacking you?

10 A No, I wasn't worried about her attacking me.

11 Q But you were worried about Herman Leach because he
12 said he had a pocket knife, I think?

13 A Yeah, he kept -- he kept pocket knives and box
14 cutters, and stuff like that, so I asked him to take his
15 hands out of his pockets. If he would have took his hands
16 out of his pockets, I would never have did anything.

17 Q That's when you tapped him with the hammer --

18 A Yes.

19 Q -- that broke his arm?

20 A Yes. I mean, he's a 70-year-old man. I might have
21 hit him a little bit harder than I intended to, but I
22 didn't mean to do any damage to him like that. I just
23 really just wanted him to take his hands out of his pocket
24 before I got close on him.

25 Q Right. And you wanted to know who inside the house

JURY TRIAL & SENTENCING

1 had your stuff; right?

2 A Yeah, pretty much. Yeah.

3 Q And you needed them there to make sure, to pat them
4 down and make sure that they didn't have it on there;
5 right?

6 A I wanted them out my house. I just wanted to pat them
7 down and make sure they didn't leave out my house with any
8 of my stuff.

9 Q But before they left, you wanted to pat them down,
10 right, so they're not leaving with your stuff?

11 A Yes.

12 Q Okay. And then, Herman Leach goes into the back?

13 A Yeah. He asked me could he go to talk to my dad
14 before he left, and I told him, yeah. And went to my
15 dad's room. That's how he got back there in the room with
16 my dad is because I told him to go ahead and go back
17 there.

18 Q And that 70-year-old man leapt out a window to get out
19 of that house.

20 A I told him to go out the front door. He could have
21 walked out the front door.

22 Q So he could have left -- your testimony is that he was
23 free to walk through the front door --

24 A I --

25 Q -- and instead, he jumped out of a window?

JURY TRIAL & SENTENCING

1 A I told him -- as God is my witness, I told that man to
2 go out the front door. I don't know why he went out a
3 window.

4 Q Mr. Heath --

5 A I told him go out the front door.

6 Q -- Mr. Heath, God is our -- is witness to all of this.

7 A Yeah. Yeah, I'm basically not, because Bethany got up
8 here and committed perjury bad, and that's on the record.
9 She lied to you, me, and the jury.

10 Q And then, as far as Elijah -- and then, as far as
11 Elijah, you said that he got a pump shotgun --

12 A Yeah --

13 Q -- and started --

14 A -- yeah did.

15 Q -- and then after Rabbit ran through the window to get
16 away, he went outside and started shooting at your uncle?

17 A Yeah, and I went and took the gun from him to stop
18 him.

19 Q To stop him?

20 A Yes.

21 Q All right. Did you make Elijah leave?

22 A The thing is, all these people wanted to be in my
23 house on their own free will.

24 Q So he is shooting at your uncle, and you don't tell
25 him, you need to leave?

JURY TRIAL & SENTENCING

1 A I went out there and talked junk to him when I took
2 the gun from him.

3 Q You didn't tell him to leave.

4 A No, I didn't tell him to leave.

5 Q Did you call the police?

6 A Yeah, I called the police. Listen man, listen, the
7 police came to my house. And when I told them that I
8 didn't want Bethany in my house, they didn't listen to
9 nothing I said. They took Bethany's word over me, even
10 though it was my house.

11 Q When was that?

12 A She told them she lived with me. She was then she was
13 my girlfriend. But what you didn't show us, when the
14 police went through my house, when the police came to my
15 house, she said she lived with me and she was my
16 girlfriend. They found no female clothing. There's four
17 bedrooms. No female clothing in any of the closets, no
18 female clothing in any of the dressers, no female shoes,
19 no female hygiene products.

20 Q Mr. Heath --

21 A How do you live with me --

22 Q -- Mr. Heath --

23 A -- and you have absolutely nothing in my house?

24 Q -- Mr. Heath, we are talking about February 12th,

25 2019. Did you call the police to report that Elijah shot

JURY TRIAL & SENTENCING

1 at your 70-year-old uncle?

2 A No. I didn't have a chance to call the police. When
3 I went back in the house, that's when the rest of the
4 stuff happened.

5 Q Okay. And we'll get to that.

6 A I didn't have a chance to do anything.

7 Q So you told Bethany that she's a thief. You said Shae
8 gets in between you all.

9 A Yes.

10 Q And Shae gets between you all to protect Bethany?

11 A No. She was telling me, don't get in trouble because
12 of Bethany. She was, like, don't -- don't let this girl
13 get you in trouble. I had told Shae and her cousin, Dae
14 Dae -- because her cousin, Dae Dae, was staying -- and
15 stayed there for a couple days too. I told Shae and Dae
16 Dae that I didn't want Bethany there. And so, Shae was
17 telling me, like, don't get in trouble over this girl,
18 just -- just put the gun down. And when she went to reach
19 for the gun to push it dow, when I stepped back and pulled
20 it back, it went off.

21 Q So you came inside with a gun in your hand --

22 A Yes, I did.

23 Q -- that same shotgun that -- that -- that Elijah had
24 used to shoot your uncle, according to your testimony
25 today.

JURY TRIAL & SENTENCING

1 A Yeah. And I mean, the thing is, you all --

2 Q And then --

3 A -- listen --

4 Q -- you continued --

5 A -- don't -- don't sit in here in this courtroom and
6 act like all them people didn't tell you all Elijah had
7 the gun, including Elijah himself.

8 Q -- and then, you are -- and then, you had that shotgun
9 in your hand between Shae and between Bethany, and it goes
10 off and shoots Shae in the face, killing her immediately.

11 A Yes. Yes.

12 Q And then you -- that woman that you love -- you do not
13 call an ambulance for her, do you?

14 A You've got to understand the treatment that I get from
15 the police.

16 Q I was talking about an ambulance, not the police. You
17 did not call an ambulance to come out there and give her
18 treatment that might have saved her life, did you?

19 A I mean, the thing is, when it happened, like, I could
20 instantly tell, like, it was -- it was over with already
21 right then. It wasn't -- like, it was crazy.

22 Q And it's abundantly clear from your testimony here
23 that you do not like Bethany Farrar.

24 A I ain't going to say that I don't like here. I don't
25 like a lot of her ways, and I don't like the fact that she

JURY TRIAL & SENTENCING

1 was at my house and she wouldn't leave after I repeatedly
2 told her to leave my house. And I don't like that.

3 Q Well, you must not have liked her too much, because
4 you went to her bedroom and shot her with a shotgun.

5 A That wasn't her bedroom. That was my cousin's
6 bedroom.

7 Q Elijah's bedroom.

8 A Yeah.

9 Q You went to a bedroom and shot her with a shotgun;
10 right?

11 A She didn't have a bedroom in my house. She didn't
12 have no clothes in my house. Like, you're insinuating
13 that she lived with me when she didn't. She didn't live
14 with me. Where was her clothes --

15 Q Please answer the --

16 A -- where was her shoes if she lived there?

17 Q -- sir, you are dancing around everything except for
18 what I'm asking you.

19 A Where was her stuff if she lived there?

20 Q You went -- you went into that bedroom and shot
21 Bethany with a shotgun that you had just killed Shae with.

22 A Listen --

23 Q Yes or no?

24 A -- if someone --

25 Q Yes or no?

JURY TRIAL & SENTENCING

1 A -- if someone breaks in somebody's house or comes in
2 their house, like, it's your right to protect your house.

3 THE COURT: Please stop. Okay? I'm warning you
4 one more time, you need to answer the question you're
5 asked, and then you may explain.

6 BY MR. EPTING:

7 Q I know you don't want to answer this question, but did
8 you shoot Bethany inside that bedroom with a shotgun that
9 you had just shot Shae with?

10 A Yes, I did shoot Bethany. But the thing is -- like he
11 said, I get to explain now. Here's the thing. This woman
12 broke in my house.

13 Q No, sir.

14 A She stole my stuff.

15 Q No, sir. We are talking about February 12th, 2019.

16 THE COURT: Hold on. Let the witness explain.
17 Let him explain.

18 THE WITNESS: Listen, this woman, she was
19 already stealing and I told her not to come back in
20 my house. She broke in my house and stole some more
21 stuff. Then I told her that I wanted her out of my
22 house that time, she went and lied to the police and
23 had me arrested. She went and lied to the police and
24 had me arrested after that. So not only was you
25 stealing, you broke in my house and stole some more

JURY TRIAL & SENTENCING

1 stuff, then you lied to the police and had me
2 arrested.

3 MR. EPTING: May we approach, Your Honor?

4 THE WITNESS: I didn't want this woman in my
5 house, period. She don't have no clothes or nothing
6 in my house. But, like, that's crazy.

7 (Bench conference off the
8 record.)

9 THE WITNESS: It's crazy, bro.

10 BY MR. EPTING:

11 Q I understand you didn't want her in your house. I
12 understand there was a no-contact order prohibiting
13 contact. But you shot Bethany Farrar in that bedroom on
14 February 12, 2019, with that shotgun, did you not?

15 A Yes, I did. But if she would have left my house on
16 numerous occasions, I feel like this whole incident would
17 have never happened.

18 Q And more than that, you shot her a second time?

19 A I don't recall.

20 Q When does your become unclear as to what happened that
21 day?

22 A I can't -- I don't know how to answer that.

23 Q Is it when you don't want to talk about what I'm
24 asking you?

25 A No. I mean, I talk about everything that you're

JURY TRIAL & SENTENCING

1 asking me.

2 Q Do you remember talking with the police in the
3 hospital for a good long time, over an hour? You remember
4 some of that; right?

5 A Yeah.

6 Q Do you remember when they'd asked you what happened in
7 the house what you'd say?

8 A I wouldn't say anything because they were trying to
9 get me -- it was -- it was nothing that they was trying to
10 do to help me. Like, I was robbed in my own home, then I
11 had a dude pull a gun out on me, and -- and, like, nobody
12 is asking about me and what I got going on. There's a
13 robbery in my house. I was robbed.

14 Q Would it surprise you for me to tell you that when
15 they asked you -- after you admitted to having the
16 shotgun, after you admitted you were mad at these people,
17 and then after you admitted that you were angry because
18 somebody stole something -- that you told them you
19 couldn't remember what happened after that, you weren't in
20 your right mind, you were drinking, you were smoking?
21 Would that surprise you?

22 A That's because I didn't want to talk to them anymore.

23 Q It's all on video.

24 A I didn't want to talk to them.

25 Q Did you not watch that video?

JURY TRIAL & SENTENCING

1 A Yeah, yeah, exactly. I told them that because I
2 didn't want to talk to them anymore, and I eventually got
3 around to the point of telling them, like, you all's not
4 here to help me. The whole point is, I thought they was
5 going to ask me about the -- the whole situation in
6 general. The thing that they was trying to do was trying
7 to get me to say something to what they could try and make
8 the situation worse.

9 Q You didn't tell them that the shotgun accidentally went
10 off, did you?

11 A I really didn't give any details as to anything that
12 really happened.

13 Q This is the first time that folks on our side are
14 hearing that that -- that shotgun accidentally went off in
15 that trailer.

16 A I mean, the only person's statement that you all have
17 been doing -- have been using is Bethany's. You said
18 Bethany is the only one that said I kidnapped anybody.
19 Bethany is the only one -- the only person who said I made
20 somebody strip. Bethany is the only person who said I had
21 a gun. Bethany is the only person that got up here and
22 added a person to my house that wasn't there, and then
23 added a gun in their hand, then said my cousin, Elijah,
24 had another gun when he told you all hisself he had the
25 pump shotgun. She said no, he didn't have it, he had a

JURY TRIAL & SENTENCING

1 pistol. She got up here and committed perjury. Bethany
2 has been lying the whole time.

3 Q Well, it seems like your memory is pretty good when
4 you want to talk about what you want to talk about,
5 doesn't it?

6 A That just happened yesterday --

7 Q Right?

8 A -- or the day before yesterday.

9 Q When did we watch those videos, yesterday? But you
10 can't remember saying things on that, even though you saw
11 the video, can you?

12 A Man, listen.

13 Q After you shot Bethany, did you call an ambulance for
14 her?

15 A No. Listen, the thing -- no, I didn't. I didn't call
16 one. That's because -- the thing is, when the police came
17 to my house the first time, I told them Bethany didn't
18 live with me, Bethany wasn't my girlfriend, Bethany didn't
19 stay with me. They didn't listen to any of that. They
20 came to my house suited up with body armor on and assault
21 rifles, and stuff like that. And even after I told them
22 she didn't stay with me, they left, she called the police
23 again. And they came back to my house and locked me up,
24 even though I told them this girl don't stay with me,
25 she's not my girlfriend, or any of that. They didn't want

JURY TRIAL & SENTENCING

1 to hear nothing I had to say. And even though she did all
2 this, like, she even got up here on the stand in lied.
3 Like, Bethany is untouchable, man. Like, she could do
4 what she wanted to do and nobody's going to charge her
5 with anything. She broke in my house, and they didn't
6 want to charge her with burglary --

7 Q Mr. Heath --

8 A -- not any of that.

9 Q -- you took that shotgun from the house.

10 A What about it?

11 Q You took the shotgun from the house on Leach Road;
12 right? You didn't leave it there.

13 A No, I didn't.

14 Q The same shotgun that you'd killed Shae with?

15 A Yeah, basically. Yeah.

16 Q The same shotgun that you shot Bethany with?

17 A Yeah.

18 Q How many times, you can't remember, apparently. And
19 then you went where, to Farrar -- to Farlow?

20 A Yes.

21 Q To Mook's house?

22 A Yes.

23 Q Because you said you wanted to, what, get some comfort
24 from her?

25 A Yes. I went to go ask her to help me with my

JURY TRIAL & SENTENCING

1 situation because she knew some of my friends and she
2 could probably talk to them before I could and get in
3 touch with them to -- to help me with the situation that I
4 had going on.

5 Q And you never called an ambulance for Shae, who have
6 all these good feelings for?

7 A No. There was plenty of people there. I knew
8 somebody would call them.

9 Q You knew somebody would call an ambulance for Shae,
10 but you didn't yourself?

11 A No, I didn't. Like I said, I had a bad situation with
12 the police. You see how the police sicced the dog on me
13 after I gave up in Charlotte.

14 Q And you sure didn't call an ambulance for Beth?

15 A No.

16 Q But you grabbed the shotgun, and then you took it to
17 Farlow. And I want to clear something up. You said that,
18 at first, you were going to just enter into the house
19 without the shotgun. Is that what you said?

20 A Yes.

21 Q And then you saw a neighbor coming by and you were
22 worried they might steal it?

23 A I said they -- if they saw it, they might call the
24 police or somebody might walk past. Because the thing is,
25 in that neighborhood, like, it's a bunch of people that do

JURY TRIAL & SENTENCING

1 drugs that live in that neighborhood and stuff. So I
2 didn't know whether somebody might come by and take it out
3 my car or somebody see it and call the police, or anything
4 like that.

5 Q So you show up to Laquata's door with a shotgun, the
6 same shotgun that's killed one person -- maybe killed a
7 second at that time -- and you knock on her window to get
8 her to come to the door?

9 A Yeah.

10 Q She let's you in?

11 A Yeah.

12 Q You all going to smoke a blunt?

13 A Yeah.

14 Q You walk inside with that same shotgun?

15 A Basically, yeah.

16 Q Sit down --

17 A Yeah.

18 Q -- according to your testimony. And then there's a
19 man with a pistol?

20 A Yes.

21 Q Does he shoot at you?

22 A No. He comes out the room with the -- with the gun in
23 his hand. And I don't know whether he shot or not,
24 because once I started shooting, I was trying to get out
25 the door.

JURY TRIAL & SENTENCING

1 Q And you shot --

2 A I wasn't paying attention to what he was doing.

3 Q -- and then, you shot at him?

4 A Yes, basically.

5 Q How many shots did you fire?

6 A I can't recall.

7 Q There goes that memory again. You can't recall how
8 many shots you fired inside Farlow?

9 A I mean, the thing is, when there's stuff going on like
10 that, like it's -- it's a lot of stuff going on, so you -
11 there's certain things that you're probably not going to
12 remember exactly.

13 Q Did you tell the detectives about this self-defense
14 claim that you're bringing here to this Court for the
15 first time?

16 A I didn't tell the detectives really anything. You
17 watched the tape.

18 Q All right.

19 A I was talking about my situation and what I had going
20 on.

21 Q So you remember that part of the tape?

22 A Yeah.

23 Q And you can't member how many times you shot?

24 A No, not exactly.

25 Q You had pockets full of shotgun shells, did you not?

JURY TRIAL & SENTENCING

1 A Yeah, I did.

2 Q When did that happen?

3 A Before I left my house.

4 Q Why did you fill your pockets with shotgun shells?

5 A Actually, to be honest -- because I was actually
6 thinking about killing myself.

7 Q How many shotgun shells do you need to kill yourself,
8 Mr. Heath?

9 A I don't know. I don't know.

10 Q You had two pockets full of them.

11 A Did I have two pockets full of them?

12 Q Yes, sir.

13 A No, that's not what was on the tape.

14 Q Oh, so you remember that tape?

15 A We just watched it.

16 Q Do you want to watch it again?

17 MR. EPTING: State's 40, Your Honor.

18 THE WITNESS: We watched it numerous times.

19 MR. EPTING: May I approach?

20 THE COURT: You may approach.

21 BY MR. EPTING:

22 Q While we're going through this, State's 6. Does that
23 appear to be the hammer that you love-tapped Herman Leach
24 with?

25 A Yeah, that's the hammer.

JURY TRIAL & SENTENCING

1 MR. EPTING: Your Honor, I'm handling State's
2 40.

3 THE COURT: Yes, sir.

4 MR. EPTING: It indicates the package contains
5 nine shotgun shells taken from the defendant.

6 THE COURT: You may open the package and hand it
7 to the witness.

8 BY MR. EPTING:

9 Q Is that right?

10 A Maybe, yeah, pretty much.

11 Q And then, as you're running from Charlotte, you're
12 dropping shells as your running from your other pocket,
13 just like you dropped shells at Farlow; right?

14 A (No audible response.)

15 Q I lost my train of thought. So you're at Farlow with
16 the shotgun. A man comes in with a pistol. You can't
17 member if he shot at you or he didn't shoot at you?

18 A I just remember him pointing a gun at me.

19 Q He pointed the gun at you, and you shot?

20 A Yes.

21 Q You can't remember how many times you shot?

22 A No.

23 MR. BARROWCLOUGH: Your Honor, that's asked and
24 answered, like, five times.

25 THE COURT: Move on -- move on, Mr. Epting.

JURY TRIAL & SENTENCING

1 BY MR. EPTING:

2 Q How did Laquata get shot?

3 A Honestly, I don't really recall exactly, like -- like
4 I said, man, my thing was, was -- here's the thing. When
5 a lot of stuff happened, bro -- when it's a lot of stuff
6 going on -- when it's a lot of stuff going on, you don't
7 -- like, you remember certain things, but not every minute
8 detail.

9 Q So let me ask you this. You stated you were there to
10 talk to Mook and can get some guidance and get some
11 comfort.

12 A Yeah.

13 Q But you told officers you weren't too fond of Mook.

14 A I didn't say I wasn't too fond of her. She told you
15 we had been talking.

16 Q So prior to you all breaking up, you felt like she was
17 asking you for money and that she was taking advantage of
18 your generosity, and all of that stuff; right?

19 A Yeah. I mean just because I don't want to be in a
20 relationship no more a person doesn't mean that -- that I
21 don't -- I dislike them like that. And I said I didn't
22 want to be with her because she lied to me about
23 something. You can't force me to be with somebody that's
24 lying to me.

25 Q And your memory goes fuzzy again, doesn't it? You

JURY TRIAL & SENTENCING

1 don't remember shooting Mook, this confidant friend that
2 you're there to get comfort from?

3 A I mean, yeah. I mean, like, I remember somewhat of
4 it, but I can't sit there and recall and saying, oh well,
5 I shot this many times or that many times.

6 Q Tell me what you remember.

7 A I remember going in the house and sitting down, and a
8 guy coming out the back room with a gun.

9 Q And then what?

10 A And I started shooting and ran towards the door.

11 Q You starting shooting and ran towards the door?

12 A Yes.

13 Q How did Mook get shot?

14 A I was sitting on that couch right there with the blue
15 bag on it.

16 MR. EPTING: Permission to publish State's 11.

17 THE COURT: You may publish. Mr. Heath, just
18 make sure speak into the microphone, please.

19 THE WITNESS: All right.

20 BY MR. EPTING:

21 Q Do you see those shotgun shells, Mr. Heath?

22 A Yes.

23 Q Those came from you, did they not?

24 A Yes, they did.

25 Q You dropped some live ones; correct?

JURY TRIAL & SENTENCING

1 A Yes.

2 Q You dropped some spent ones from firing the shotgun;
3 correct?

4 A Yes.

5 Q Are you -- and -- and where is Mook when you're
6 shooting at the individual in the doorway?

7 A Well, when I -- when I stood up -- I was on the couch
8 right there with the blue bag on it, and she was on the
9 other couch with the -- with the three on top of it. The
10 guy came out this hallway right here that you can't really
11 see off to your left. You see, like, a corner of it right
12 there. But that's where he came from.

13 Q And you don't remember shooting Mook at all?

14 A And I jumped up and I -- and I fired in his direction,
15 then I started going towards the door.

16 MR. EPTING: I'm showing what's been marked as
17 State's 11-G.

18 BY MR. EPTING:

19 Q Do you remember shooting Mook there?

20 A She said something about me shooting her when she was
21 laying on the ground. That's a lie. All the shell
22 casings are found on the other side of the room.

23 Q So you did not shoot Mook laying back there --

24 A No.

25 Q -- where she was?

JURY TRIAL & SENTENCING

1 A No, I didn't.

2 Q That's a lie?

3 A (No audible response.)

4 Q Do you see that splatter on the wall that the expert
5 testified was from a gunshot wound from somebody prone on
6 the ground with a shotgun?

7 A I mean, that's -- that's his opinion. That's what he
8 said.

9 Q That's a lie too, huh?

10 A Yeah. It didn't happen. Where's the shell casings
11 that was over there? All the shell casings is on the
12 other side of the room.

13 Q Well, I'd submit to you the shell casings is right by
14 the TV where you ejected it.

15 A Yeah, over on the other side of the room.

16 Q But you don't remember shooting Mook there?

17 A No, I didn't.

18 Q You don't remember shoot Mook at all?

19 A I -- I know -- I know for sure I didn't shoot her
20 while she was laying down. I know for sure I didn't do
21 that.

22 Q So tell me when your memory gets better. You do
23 remember shooting her standing up?

24 A I started shooting and ran for the door, and that's
25 why there's shell casings over on this side of the room

JURY TRIAL & SENTENCING

1 and another one by the door.

2 Q Is that where you shot her; yes or no?

3 A From the other side of the room, she got hit. That's
4 where it had to come from.

5 Q But you didn't shoot her laying down on the ground?

6 A No, I didn't.

7 MR. BARROWCLOUGH: Your Honor, asked and
8 answered again.

9 MR. EPTING: It's cross-examination, Your Honor.

10 THE COURT: I'll allow that question. Go ahead.

11 BY MR. EPTING:

12 Q Some mystery person came with a shotgun and shot her,
13 making that splatter pattern on the wall?

14 A I mean, that might have been blood that was coming out
15 of her. I don't know how that got here.

16 Q Sir, do you see the viscera on the ground, her
17 fingernail, her organs?

18 A I mean, the thing is, is that --

19 Q That's a lie too?

20 A -- any of that could have came off of her after she
21 fell.

22 Q After you shot her.

23 A How many times are we going to go over this?

24 Q Apparently, until you remember it, Mr. Heath.

25 A Until you get tired of asking me.

JURY TRIAL & SENTENCING

1 Q So you say Mook was lying when she said you shot her
2 on the ground?

3 A Yes.

4 Q And you told -- you told on direct that you gave up
5 without any type of resistance to Charlotte-Meck.

6 A No, I did -- I did run at first. I ran at first.

7 Q Okay.

8 A And then, I laid down the ground, and they asked me to
9 get up. It was like, come back towards us, and I said no,
10 I'm going to just lay here, you all come get me. And you
11 all did a good job of editing that out the video. But I
12 told them, like, three or four times that, no, I wouldn't
13 get up. I was, like, I'm going to just lay here and you
14 all come get me. And then they came and jumped on my back
15 and they put the handcuffs on me, then they pulled up with
16 a Jeep. And I thought they were going to put me in the
17 Jeep but instead, they opened the door and pulled the dog
18 out. And while I was already laying there, handcuffed,
19 they sicced the dog on me.

20 Q So you're a victim of Bethany, you're a victim of --
21 of -- of Shae at least talking badly about you. What
22 about this girl that lives over in Stonehaven? What's her
23 name?

24 A That's Arteria [ph] Pearson.

25 Q You're a victim of her too, aren't you?

JURY TRIAL & SENTENCING

1 A The thing is -- listen. I was -- I was with Arteria
2 Pearson for nearly 20 years. We never had a problem. The
3 only problem I said that I had with her was she took my
4 truck that she didn't pay anything for. But I was with
5 her for 20 years. I never put my hands on her. I never
6 did anything to her. We was totally good. She was still
7 keeping my insurance and my tags and stuff in her name.
8 We had no problems, even though she knew we wasn't
9 together anymore. So -- so no, it wasn't like I was just
10 a victim. She took my truck, though, because she got mad
11 at me about a situation.

12 Q She lives here in York County?

13 A Yes.

14 Q She works in Charlotte, right, or at least did in
15 2019?

16 A Yeah, yeah, she did.

17 Q Okay. But you were reaching for a gun when they tried
18 to pull you over in Charlotte?

19 A No, I wasn't.

20 Q That was a lie too?

21 A Yeah, that's what the dude said. He said he was
22 reaching for a gun. No, I didn't.

23 Q Okay. You testified this was -- this the worst day of
24 your life because of all the things you had going on with
25 your music career your business, your cars, all those

JURY TRIAL & SENTENCING

1 things?

2 A Yes.

3 Q It was the worst day of Shae's life, was it not?

4 A I mean, the thing is, bro, if you all came in this
5 courtroom right now to bring Shae back, I would stand and
6 let you blow my brains out.

7 Q It was the worst day of Bethany's life, was it not?

8 A I told Bethany numerous times not to come back.

9 Q Sir, that is a yes or no question. Was that the worst
10 day of Bethany's life?

11 A I don't know if it was or not.

12 MR. BARROWCLOUGH: Your Honor, it calls for
13 speculation. He doesn't know.

14 THE COURT: It's cross-examination. You can ask
15 the question.

16 MR. BARROWCLOUGH: That's not a factual
17 question.

18 MR. EPTING: It's responsive.

19 THE COURT: I'll -- I'll allow the question.
20 It's cross-examination.

21 BY MR. EPTING:

22 Q It was the worst day of Bethany's life, was it not?

23 A I don't -- I don't know whether it was or not. I
24 don't know what her life been like. I had her medical
25 records where she tried to kill herself before she was 13.

JURY TRIAL & SENTENCING

1 Q And poor Mook, who lost her arm as a result of your
2 actions that day, that was the worst day of her life too,
3 wasn't it?

4 A It -- it may have been. I don't know.

5 Q And those are because of the decisions you made and
6 the actions that you did on February 12th of 2019.

7 A So -- so you're just eliminating the fact that -- that
8 Bethany broke in my house, and like I told the police, I
9 didn't want her there, and they wouldn't do anything to
10 her. And you're eliminating the fact that the guy was
11 there with the gun, and you all know he had a gun.

12 Q I am focusing on who you shot that day and who you
13 killed that day.

14 A The thing is, is -- is I never went and got a gun. My
15 cousin had the gun the whole time. He told you he had the
16 gun, Sheila Rushing told you he had the gun, Shane
17 Schillinglaw told you he had the gun. My Uncle Rabbit
18 just stood her up on the stand and told you he had the
19 gun. I'm telling you he had the gun. That's five people.
20 The only person that lied about him having the gun was
21 Bethany Farrar --

22 Q Mr. Heath, who had the gun --

23 A -- and you're all using her statement.

24 Q -- when Shae was shot? Who had the gun when Shae was
25 shot? You.

JURY TRIAL & SENTENCING

1 A I only had the gun because I took it from my cousin to
2 stop him from shooting --

3 Q Who had the gun when Bethany was shot?

4 A -- my uncle.

5 Q Who had the gun when Bethany was shot? You; right?

6 A Why are you talking on me when I was still answering
7 the question?

8 Q Because you're not answering my question, Mr. Heath,
9 and you haven't for a long time. Who had the gun when
10 Shae was shot?

11 A I had the gun.

12 Q Who had the gun when Bethany was shot?

13 A I did.

14 Q Who had the gun when Mook was shot?

15 A I did.

16 Q No further questions.

17 A Okay.

18 MR. BARROWCLOUGH: No redirect, Your Honor.

19 THE COURT: Okay. Thank you. Ladies and
20 gentlemen, let me speak to the lawyers. It may be
21 time for a lunch break. Let me send you all back to
22 the jury room just real briefly. And I need to talk
23 to the lawyers real briefly about scheduling.

24 (The jury exited the courtroom.)

25 THE COURT: Mr. Heath, you can step down. I

JURY TRIAL & SENTENCING

1 just wanted the jury out of the room. All right.
2 Counsel, is Defense going to call any other
3 witnesses?

4 MR. BARROWCLOUGH: No, Your Honor.

5 THE COURT: Okay. Well, in this case, I know
6 you all probably want a little time to work on your
7 closings. It's 12:20. What I propose that we all be
8 back at 1:30 for a charge conference, and I'll ask
9 the jury to be back at 2:00 for charge and close. Is
10 that satisfactory to both sides?

11 MR. BARROWCLOUGH: Yes, sir, Your Honor.

12 THE COURT: That will give you all some time.
13 If you want to go to lunch, you can. Otherwise, you
14 can work on your close. I mean, my standard practice
15 will be, you know, charge prior to close. You all
16 will have written printed copies.

17 MR. EPTING: Thank you, Your Honor.

18 MR. BARROWCLOUGH: Yes, sir, Your Honor.

19 THE COURT: All right. Okay. Let me -- have
20 you -- I'm going to bring the jury back in and tell
21 them they're on lunch break.

22 MR. DAVIS: Does Your Honor want us to e-mail
23 any of the -- our proposed changes?

24 THE COURT: Absolutely. Yeah. E-mail away.
25 And just -- you can -- if you can include Mr. Pope

JURY TRIAL & SENTENCING

1 and myself as well.

2 MR. EPTING: And, Your Honor, we have no reply.

3 THE COURT: Okay. Thank you. Mr. Barrowclough,
4 just for formality, the jury has got someone in the
5 restroom. When they come back in, I'll ask you to
6 call your next witness --

7 MR. BARROWCLOUGH: I'll rest.

8 THE COURT: -- and that will be -- then it will
9 be for -- yeah.

10 (The jury entered the courtroom.)

11 THE COURT: All right. Mr. Barrowclough, you
12 can call your next witness.

13 MR. BARROWCLOUGH: Thank you, Your Honor. At
14 this time, the Defense will rest.

15 THE COURT: Okay. Ladies and gentlemen, what
16 that means is, you now have heard all of the evidence
17 in this case. So in just a second, I'm going to send
18 you all on a lunch break. I'm going to ask you to be
19 back at 2:00. The lawyers and I will be back earlier
20 than that so we can work out some legal issues. But
21 be back at 2:00 and, at that point, you will hear my
22 charge on the law, which is my explanation of the
23 law, as well as the closing arguments of the
24 attorneys. Okay? So remember, still don't discuss
25 the case with anyone, including each other. Don't do

JURY TRIAL & SENTENCING

1 any research, and don't read or watch any news
2 reports. But other than that, you all have a great
3 lunch and we'll see you back at 2:00. It may be a
4 late evening tonight. The county will provide pizza
5 for dinner tonight. Okay? Thank you all.

6 (The jury exited the courtroom.)

7 THE COURT: All right. We'll be in recess until
8 1:30 for the charge conference.

9 MR. BARROWCLOUGH: Your Honor, just for purposes
10 of the record, at this time, I would renew our
11 motions for a directed verdict. Adding in with the
12 new evidence, I think there's not enough evidence for
13 these kidnapping charges to go to the jury. And of
14 course, I still think it's minor bodily injury for
15 the ABHAN with regards to Mr. Leach. And then just
16 my general for other charges. And I still
17 incorporate all of our previous objections,
18 exceptions, and motions.

19 THE COURT: The motions are denied for the
20 reasons previously stated. All right. See everybody
21 at 1:30.

22 (Off the record.)

23 (Recess.)

24 (On the record.)

25 THE COURT: So okay. So the Defense is asking

JURY TRIAL & SENTENCING

1 for a lesser included involuntary manslaughter, A&B
2 1st, A&B 2nd. And on -- and on attempted murder
3 ABHAN, A&B 1st and A&B 2nd. Does the State have any
4 objection to those charges?

5 MR. EPTING: We do, Your Honor. As to ABHAN, we
6 believe that there is sufficient evidence to charge
7 that as a lesser included. Going lower than that, I
8 think, based on what has not been in contention in
9 this case, particularly the injuries to the victims,
10 that it would not be proper to submit that to the
11 jury. As to Herman Leach's ABHAN, I believe that is
12 properly an A&B 1st and an A&B 2nd, as far as lesser
13 included, based upon the nature of his injuries and
14 his testimony accompanying.

15 THE COURT: Okay. So let me make sure I
16 understand. So -- so on Mr. Leach's ABHAN, the --
17 the State concedes that assault and battery 1st and
18 assault and batter 2nd would be proper. But as to
19 the two surviving shooting victims, the State
20 believes that going lower than ABHAN is not -- is not
21 supported by the facts?

22 MR. EPTING: Yes, Your Honor.

23 THE COURT: Mr. Barrowclough?

24 MR. BARROWCLOUGH: And, Your Honor, you know,
25 we're asking for that as a lesser included offense

JURY TRIAL & SENTENCING

1 because, of course the jury -- or the charge can
2 choose all, some, or none of a witness's testimony.
3 Furthermore, the Court did allow these victims to
4 testify about their own injuries, but no medical
5 evidence was actually educed at trial. And so,
6 therefore, I think that asking for the lesser
7 included. Otherwise, it's almost like you're taking
8 judicial notice of the fact that this was great
9 bodily injury, which I don't know if that would be
10 proper. So that's why we're asking for the lesser
11 included down to assault and battery 2nd degree.

12 THE COURT: Well, I mean, Mr. Barrowclough, I
13 mean, as to the -- the -- the Farlow street shooting,
14 your client testified on the stand today that he
15 could see her internal organs. So I think at
16 least --

17 MR. BARROWCLOUGH: I mean, I understand what
18 you're saying, and if you rule against me, you rule
19 against me. But I need to tell you what our request
20 is.

21 THE COURT: No, I understand. I'm just trying
22 to think it through. Mr. Epting, I mean, given that
23 there's no medical testimony, I'm inclined to charge
24 him, to give them the lesser included down to
25 assault and battery 2nd.

JURY TRIAL & SENTENCING

1 MR. EPTING: We understand, Your Honor.

2 THE COURT: Okay. That's -- okay. We'll do
3 that. And does the State have any objection to a
4 lesser included for involuntary manslaughter for the
5 murder charge?

6 MR. PORTER: Yes, sir, Your Honor. That
7 required him to be engaged in conduct otherwise
8 lawful. This defendant was not in lawful possession
9 of the firearm at the time. He's prohibited by
10 several previous felonies under federal law and state
11 law. He was, in fact, convicted of it just shortly
12 later that year for possessing a firearm unlawfully.
13 I do have some case law that just came up over lunch.
14 I did not anticipate that issue. I haven't had a
15 chance to review these cases. They -- they discuss
16 whether that is a sufficient -- the cases are State
17 versus --

18 THE COURT: Do you have copies? That would be
19 -- yeah, okay.

20 MR. PORTER: Yes, Your Honor. I have copies for
21 the Defense and for you. Your Honor, I'm in a bad
22 position. I didn't have a lot of time to review
23 this. I did want to make the Court aware of these
24 cases. And that -- that discussion that occurs in
25 federal law, as well as in state law, about whether a

JURY TRIAL & SENTENCING

1 defendant can be lawfully in possession of a gun.

2 But my understanding is that most of the discussion
3 circles around whether the -- it is a weapon of
4 convenience with respect to arming oneself for
5 self-defense. There has been no testimony that would
6 substantiate self-defense in this case. And so, he
7 also admitted that he was going into the house to
8 smoke a blunt.

9 And if you look at the Williams case, that case,
10 the facts actually dealt with a drug deal -- or a gun
11 being brought to drug deal. They talk about the drugs
12 and guns nexus. The Burris case is simply an
13 unlawfully carried firearm. And the discussion of --
14 and for the purposes of the record -- I apologize,
15 Your Honor. I should have said State versus Burris.
16 That's 334 S.C. 256. That's a '99 Supreme Court case.
17 427 S.C. 246, that's a 2019 case. Williams discusses
18 Burris. But the crux of the matter is whether it is
19 unlawful -- whether the unlawful possession itself or
20 if there are other elements that preclude that -- that
21 make the -- the second element of involuntary
22 manslaughter the lawful activity -- otherwise unlawful
23 activity applicable.

24 In addition, there was a new 2019 case, I
25 believe, that discusses involuntary manslaughter.

JURY TRIAL & SENTENCING

1 Well, that was -- that was on -- I think that -- that
2 concludes my -- my argument. And we'll need to look
3 at the case law to -- to determine the conclusions
4 (unintelligible), but I wanted to raise that to the
5 Court's attention.

6 THE COURT: Mr. Barrowclough, are you asking for
7 a self-defense charge.

8 MR. BARROWCLOUGH: No.

9 THE COURT: Okay.

10 MR. BARROWCLOUGH: Your Honor, free and
11 voluntary manslaughter can be defined as the
12 unintentional killing of another without malice, but
13 while engaged in an unlawful activity not naturally
14 tending to cause death or great bodily harm. And I
15 think that Mr. Heath's testimony of I'm disarming
16 Elijah James outside and coming in with a shotgun and
17 then being confronted with the two females in the
18 context of Shae telling him don't do anything to get
19 yourself in trouble, the gun goes off, I think that
20 that would sort of fit under that -- under that
21 definition. And, Your Honor, I have the case State
22 versus Mekler that has those definitions. And
23 that's, for purposes of the record, 379 S.C. 12,
24 2008. And although that was a little bit different
25 situation. A woman had a shotgun on her porch

JURY TRIAL & SENTENCING

1 keeping a man from coming up on her porch. I think
2 it might have been her husband, but -- and the gun,
3 she might have had it for self-defense or it might
4 have went off unintentionally. But either way, the
5 court said she was entitled to a charge on both
6 self-defense and involuntary manslaughter. Of
7 course, we're not asking for self-defense, only
8 involuntary manslaughter.

9 But the concept of having the shotgun, even if
10 Mr. Porter says, as a status offense, unlawfully would
11 not prohibit him from being able to be entitled to a
12 charge of involuntary manslaughter. I think when
13 Mr. Porter spoke about going to smoke a blunt, he was
14 confusing that with the Farlow shooting.

15 MR. PORTER: That is correct, Your Honor.

16 MR. BARROWCLOUGH: Yeah. That -- so that
17 wouldn't really come into play here.

18 THE COURT: I think it -- I mean I'm looking at
19 State v. Burris, which is the state -- the case the
20 State passed up. It says "Involuntary manslaughter
21 is defined as either the killing of another without
22 malice and unintentionally, but while one is engaged
23 in the commission of an unlawful act not amounting to
24 a felony and not naturally tending to cause death or
25 great bodily harm, or the killing of another without

JURY TRIAL & SENTENCING

1 malice unintentionally but while one is acting
2 lawfully." And it says in the case where the -- the
3 -- the defendant was unlawfully possessing a firearm,
4 involuntary manslaughter should have been charged.
5 So I think under that --

6 MR. PORTER: And that's why I presented it to
7 the Court.

8 THE COURT: And I appreciate that. I think -- I
9 mean -- but -- so you're not asking for voluntary,
10 you're asking for involuntary?

11 MR. BARROWCLOUGH: Yes, sir, Your Honor.

12 THE COURT: I think under the Burris case, I
13 have to charge involuntary.

14 MR. EPTING: As I recall the cross-examination,
15 he stated that he approached -- he approached the
16 women, Shae is standing in front of Bethany,
17 apparently afraid that Bethany is about to be
18 attacked. He has the shotgun in his hands
19 approaching her, and that she attempts to disarm him,
20 at which point the gun goes off. I would argue that
21 is a felony. I would argue that is pointing and
22 presenting, which would preclude him from receiving
23 and involuntary manslaughter charge. But however the
24 Court rules, we obviously will respect the Court's
25 ruling.

JURY TRIAL & SENTENCING

1 MR. BARROWCLOUGH: And, Judge, not to belabor
2 the point, but I think that's just one interpretation
3 of the events. And that I think under -- under the
4 law, if there is any evidence that would support the
5 charge, we're entitled to it. And also, I would
6 point out that on cross-examination, I specifically
7 asked Ms. Farrar, was Mr. Heath pointing the gun at
8 you, and she said no.

9 THE COURT: All right. I'm going to charge --
10 I'm going to charge all of the lesser includeds
11 requested by the Defense.

12 MR. BARROWCLOUGH: Thank you, Your Honor.

13 MR. DAVIS: Thank you, Your Honor.

14 THE COURT: All right. Let's see. Okay. The
15 State is asking for a voluntary intoxication charge.
16 I think that's appropriate.

17 MR. BARROWCLOUGH: I have no objection.

18 THE COURT: Okay. We'll do the involuntary
19 intoxication charge.

20 MR. PORTER: Yes, sir, Your Honor. And the
21 defendant on his direct made an issue of some of the
22 State's redactions. I understand the Court's
23 reaction charge. I think -- and there were
24 objections during the defendant's testimony where the
25 State attempted to elicit the truth of what actually

JURY TRIAL & SENTENCING

1 happened, and the defendant actually admitted to the
2 police to hitting Bethany Farrar and committing
3 domestic violence. And so, in -- in -- in
4 recognizing -- in recognizing the State made an
5 objection and was -- and by the Court's decision was
6 not allowed to go there, I believe that the redaction
7 charge should be amended to say that it would be --
8 the redactions were placed there for the benefit of
9 the defendant, or something of that nature, to
10 indicate that there was no fault of the State.

11 And, in fact, we were trying to play fair. The
12 defendant himself -- not the Defense counsel, I'm not
13 talking about the Defense counsel -- but the defendant
14 himself is the one who decided to punch below the
15 belt. And I understand that we're arguing close to a
16 charge on the facts, Your Honor. But in this
17 particular case, we were not allowed to address that,
18 that otherwise we should have been allowed to. And I
19 think the -- the redaction charge should be expanded a
20 little bit to explain that the defendant has a right
21 to a fair trial and the Court had made preliminary
22 determinations to that extent.

23 THE COURT: Mr. Barrowclough?

24 MR. BARROWCLOUGH: I'm not 100 percent clear on
25 what Mr. Porter is asking.

JURY TRIAL & SENTENCING

1 THE COURT: He's -- he's asking for the -- the
2 redaction charge to be expanded to basically say that
3 the reason for the redactions is to protect the
4 rights of the defendant. And because your client, on
5 the stand, on multiple occasions, criticized the
6 redactions and said they were -- they were edited
7 out.

8 MR. PORTER: And they were flat not true, that
9 his allegations were just not true.

10 MR. BARROWCLOUGH: Well --

11 THE COURT: I'll be honest, I'm not comfortable
12 doing that because that -- I mean, that -- that, to
13 me, suggests to the jury -- which may be true in this
14 case -- there's evidence out there that the jury
15 hasn't seen that is bad for the defendant. And I
16 just -- I mean, I understand why you're asking for
17 that. I just -- I think that is creating an issue on
18 appeal, and I don't think that's --

19 MR. BARROWCLOUGH: I appreciate that, Judge.
20 And I would just also like to point out, in the
21 bigger picture, because I know in a trial like this
22 we all get a myopic view. I understand that the
23 State thinks Mr. Heath lied. But I also want to say,
24 as Mr. Porter is aware, there are plenty of cases
25 that I've tried where I think the other side has

JURY TRIAL & SENTENCING

1 witnesses that I lied, and I don't get special charge
2 authorizations for that either.

3 THE COURT: I -- I -- I am not comfortable
4 altering the redaction charge in that way because,
5 like I said, I think it -- it strongly suggests to
6 the jury that when I say it is for the benefit of the
7 defendant that there is redacted material out there
8 that paints the defendant in a bad light. And I
9 understand that may be the case, I mean, that it
10 actually is factually correct, but I think the
11 purpose of the redactions is to not present that
12 evidence to the jury. And giving them evidence from
13 the Court that suggests that that's a true statement,
14 I just don't think that's a good thing. I think
15 we're looking -- that would create an appealable
16 issue. So I'm going to...

17 MR. EPTING: Your Honor, what -- what about
18 adding in a portion by agreement of both parties, by
19 mutual agreement of both parties. And that way, it's
20 not against one party or the other, but does indicate
21 to them that the State is, in fact, not hiding
22 anything and using the Court as a shield, but that we
23 have agreed to --

24 THE COURT: I mean, that's not always the case,
25 but in this case, I think it is correct, that all the

JURY TRIAL & SENTENCING

1 redactions were -- were by agreement of both parties.
2 Does the Defense have any objection to me adding
3 that?

4 MR. BARROWCLOUGH: No, not -- especially not the
5 way Mr. Epting phrased it. Just the by mutual
6 agreement, and the rest of it.

7 THE COURT: Okay. Well, let me -- let me fix
8 that. Okay. Let me bring up the charge and we'll
9 put that in right now. Okay. Let's find -- okay.
10 So right now, it says "Ladies and gentlemen, during
11 the presentation of the case, you may have noticed
12 that certain sections of the audio' -- blah, blah,
13 blah -- were presented -- 'were redacted or edited
14 out." I could say -- strike the next sentence and
15 say "This is by mutual' -- okay. So what is changed
16 now is that the second sentence now says "This is by
17 mutual agreement of the parties and is due to the
18 rules of Court," and is a decision made by me. Is
19 that satisfactory to the State?

20 MR. EPTING: Yes, Your Honor.

21 MR. BARROWCLOUGH: I have no objection.

22 THE COURT: Okay. We'll do that. All right.
23 Any additional requests by the State?

24 MR. EPTING: No, Your Honor.

25 THE COURT: Any additional requests by the

JURY TRIAL & SENTENCING

1 Defense?

2 MR. BARROWCLOUGH: No, sir, Your Honor.

3 THE COURT: Okay. All right. Well, that is
4 going to take -- so okay, let me talk to Mr. Pope.
5 Is the charge directly -- so hold on. Let me get
6 that e-mail. Okay. So the only charge the defendant
7 is charged with, which is also a lesser included is
8 ABHAN; is that correct?

9 MR. BARROWCLOUGH: Yes.

10 THE COURT: And basically, I'm going to charge
11 that twice; once as a lesser included --

12 MR. BARROWCLOUGH: That's fine.

13 THE COURT: -- to -- to attempted murder, and
14 then also charge it separately because it's an
15 indictable defense. Is the State -- is that a
16 standard view of that?

17 MR. EPTING: Yes, Your Honor.

18 THE COURT: It's going to take a little bit for
19 Mr. Pope to get that and make those changes.

20 (Pause.)

21 THE COURT: Is the State ready to proceed?

22 MR. EPTING: The State is ready, Your Honor.

23 THE COURT: Where's Mr. Porter?

24 MR. EPTING: I believe --

25 THE COURT: Oh, gotcha. Okay. We'll wait.

JURY TRIAL & SENTENCING

1 Yeah.

2 (Pause.)

3 THE COURT: All right. Is the Defense ready?

4 MR. BARROWCLOUGH: Yes, sir, Your Honor.

5 THE COURT: Let's bring them in.

6 (The jury entered the courtroom.)

7 THE COURT: All right. Ladies and gentlemen,
8 welcome back. Let me first apologize to you for that
9 long delay. That's my fault. There were some legal
10 issues and some wording I had to work with with the
11 lawyers on and I underestimated how long that would
12 take. That's on me. I'm very sorry. But that said,
13 we've come to the end of the trial now. What I'm
14 going to do right now is explain to you the law in
15 what's called the charge on the jury, and then the
16 attorneys will make their closing arguments, and then
17 you'll have it for deliberation.

18 Ladies and gentlemen and Mr. Foreperson and
19 members of the jury, you have heard the evidence and
20 you will soon hear the closing arguments of both
21 parties. First, I will explain to you the rule of law
22 you must follow and apply in deciding this case, what
23 I'm doing now. When I'm finished, you will hear the
24 arguments and then go to the jury room and begin
25 deliberations. I will give you a written copy of

JURY TRIAL & SENTENCING

1 these instructions. During your deliberations, you
2 may refer to the instructions to guide your
3 decision-making. You must consider the instructions
4 as a whole and not follow some and ignore others.
5 Your decision must be based only on the evidence
6 presented here. You must not be influenced in any way
7 by sympathy for or prejudice against anyone.

8 The indictments in this case charge the
9 defendant, Marques Quantez Heath, with the following
10 crimes: murder; two counts of attempted murder; one
11 count of assault and battery, high and aggravated; and
12 four counts of possession of a weapon during
13 commission of a violent crime, and three counts of
14 kidnapping. I remind you, as I said at the beginning
15 of the case, the indictments are simply the formal
16 written instruments which contains the charge or
17 accusation made against the defendant. I'll remind
18 you that the fact that the defendant was arrested,
19 charged and indicted in this case is not evidence and
20 cannot be considered by you as evidence of his guilt
21 -- of this -- of guilt in this case, nor does it
22 create any presumption or inference of guilt.

23 The indictments in this case allege more than
24 one offense against the defendant. Each indictment
25 charges a separate and distinct offense. You must

JURY TRIAL & SENTENCING

1 decide each indictment separately on the evidence and
2 on the law applicable to it, uninfluenced by your
3 decision as to any other indictment. The defendant
4 may be convicted or acquitted on any or all of the
5 offenses charged. You will be asked to write a
6 separate verdict of guilty or not guilty for each
7 indictment.

8 Presumption of innocence. The defendant has
9 pled not guilty, and that puts the burden on the State
10 to prove his guilt beyond a reasonable doubt. A
11 person committing a -- charged with committing a crime
12 in South Carolina is never required to prove himself
13 innocent. I charge you that is an important rule of
14 law in that the defendant in a criminal trial, no
15 matter what the seriousness of the charges, will
16 always be presumed to be innocent of the crime for
17 which the indictment was issued, unless guilt has been
18 proven by evidence satisfying you, the jury, of their
19 guilt beyond a reasonable doubt. This presumption of
20 innocence does not end when you begin your
21 deliberations, but accompanies the defendant
22 throughout the trial until you reach a verdict. The
23 presumption of innocence is not a mere legal theory or
24 legal catchphrase, it is a substantial right to which
25 every defendant is entitled unless you, the jury, are

JURY TRIAL & SENTENCING

1 satisfied from the evidence of the defendant's guilt
2 beyond a reasonable doubt.

3 Reasonable doubt. So what is reasonable doubt
4 in the law? Some of you may have served as jurors in
5 civil cases where someone is suing someone for money
6 and you were told it was only necessary to prove a
7 fact is more likely true than not true; so just by the
8 greater weight or the preponderance of the evidence.
9 In a criminal case, the State's proof must be more
10 powerful than that. It must be beyond a reasonable
11 doubt. Proof beyond a reasonable doubt is proof that
12 leaves you firmly convinced of the defendant's guilt.
13 Now, there are very few things in this world that we
14 know with absolute certainty, and in a criminal cases,
15 is the law does not require proof that overcomes every
16 possible doubt. If, based on your consideration of
17 the evidence, you are firmly convinced the defendant
18 is guilty of the crime charged, you must find him
19 guilty. If, on the other hand, you think there is a
20 real possibility the defendant is not guilty, you must
21 give the defendant the benefit of the doubt and find
22 him not guilty. Put another way, a reasonable doubt
23 is the kind of doubt that would cause a reasonable
24 person to hesitate to act.

25 Duties of the jury and the judge. I'll remind

JURY TRIAL & SENTENCING

1 you that during the trial, you and I have had
2 different duties to perform. As a trial judge, it was
3 and is my responsibility to preside over the trial of
4 the case, and I also have the duty to rely on the
5 admissibility of evidence offered during the trial.
6 You should consider only the evidence before you. If
7 I ordered any testimony stricken from the record, you
8 should disregard that testimony. You should consider
9 only the testimony which has been presented from the
10 witness stand, exhibits which have been made part of
11 the record, and any stipulations or agreements of the
12 attorneys.

13 I have the additional duty to charge or explain
14 the law, which I am doing right now. As the presiding
15 judge, I am the sole judge of the law in this case,
16 and it is your job as jurors and your duty to accept
17 and apply the law as I now state it to you. If you
18 already have an idea as to what the law is or what it
19 ought to be and that does not agree with what I'm now
20 telling you, you must abandon your idea because you
21 are sworn to accept the law and apply the law exactly
22 as I state it to you.

23 In every case is tried before a jury, you, the
24 jury, are the sole and exclusive judge of the facts in
25 the case. As a trial judge, I'm not allowed to

JURY TRIAL & SENTENCING

1 intimate, state, comment on, or make any statement to
2 a trial jury about the facts in the case. Since you,
3 the jury, are the sole judge of the facts of in case,
4 you are not to infer from what I've said during the
5 progress of this trial in ruling upon the
6 admissibility of evidence or anything else, or
7 anything I'm now saying during these instructions that
8 I have an opinion about the facts in the case. The
9 law does not allow me to have any opinion about the
10 facts in the case. That is a matter solely for you,
11 the jury, to determine. As jurors, it is your duty to
12 determine the effect, the value, the weight and the
13 truth of the evidence presented during the trial.

14 Objections by attorneys: From time to time, you
15 heard the attorneys make objections. In reaching your
16 verdict, you should not consider the objections or my
17 rulings on them. You should not hold any objections
18 made against either party.

19 Evidence: As I said before, you must consider
20 only the evidence I've admitted in this case.
21 Evidence includes the testimony of the witnesses and
22 the evidence and exhibits I've admitted. You should
23 not assume from anything I've said that I have any
24 opinion about any factual issue in this case. As I
25 said earlier, except for my instructions to you on the

JURY TRIAL & SENTENCING

1 law, you should disregard anything I've said during
2 the trial in arriving at your own decision about the
3 facts. Your own recollection and interpretation of
4 the evidence is what matters. And in considering the
5 evidence, you must use your reason and common sense to
6 make deductions and reach conclusions.

7 Ladies and gentlemen, redactions: During the
8 presentation of this case, you may have noticed that
9 entire sections -- I'm sorry -- certain sections of
10 the audio, video or paper or electronic documents that
11 were presented were redacted or edited out. This is
12 by mutual agreement of the parties and is due to the
13 rules of court and a decision made by me. Please do
14 not speculate as to what may or may not be contained
15 on these edited portions, and do not hold these
16 portions against either party.

17 Direct and circumstantial evidence: There are
18 two types of evidence generally presented during a
19 trial; direct evidence and circumstantial evidence.
20 Direct evidence is the testimony of a person that
21 claims to have actual knowledge of a fact, like an
22 eyewitness. It is evidence which immediately
23 establishes the main fact to be proved.
24 Circumstantial evidence is proof of a chain of facts
25 or circumstances indicating the existence of another

JURY TRIAL & SENTENCING

1 fact. It is evidence which immediately establishes
2 additional collateral facts from which the main fact
3 may be inferred. Circumstantial evidence is based on
4 inference and not on personal knowledge or
5 observation. The law makes absolutely no distinction
6 between the weight or value to be given to either
7 direct or circumstantial evidence, nor is a greater
8 degree of certainty required of circumstantial
9 evidence than of direct evidence. However, to the
10 extent the State relies on circumstantial evidence,
11 the circumstances must be consistent with each other
12 and, when taken together, point conclusively to the
13 guilt of the accused beyond a reasonable doubt. If
14 the circumstances merely portray the defendant's
15 behavior as suspicious, the proof has failed.

16 The State has a burden of proving the
17 defendant's guilt beyond a reasonable doubt. This
18 burden rests with the State, regardless of whether the
19 State relies on direct evidence, circumstantial
20 evidence, or some combination of the two. You should
21 weigh all the evidence in the case and if you -- and
22 if you -- if, after weighing the evidence, if you are
23 not convinced of the guilt of the defendant beyond a
24 reasonable doubt, you must find him not guilty.

25 Arguments of attorneys: While the arguments of

JURY TRIAL & SENTENCING

1 counsel or the attorneys is a very beneficial part of
2 every trial, please remember that the statements made
3 by counsel are not the same thing as evidence. In
4 presenting arguments, the attorneys often refer to the
5 evidence. However, you should base your verdict on
6 the evidence as you remember it. If there is a
7 conflict between the recollection of the attorney
8 about the evidence and your own recollection, you
9 should rely on your own understanding of the evidence.

10 Believability of witnesses: When I say that you
11 must consider all the evidence, I do not mean you must
12 accept all the evidence as true or accurate. You
13 should decide whether you believe what each witness
14 had to say and how important their testimony was. In
15 making those decisions, you may believe or disbelieve
16 any witness in whole or in part. The number of
17 witnesses testifying about a particular point doesn't
18 necessarily matter. To decide whether to believe a
19 witness, I would suggest you ask yourself a few
20 questions: Did the witness impress you as someone who
21 was telling the truth; did they have any particular
22 reason to not tell the truth, or have a personal
23 interest in the case's outcome; did they seem to have
24 a good memory; did they have the opportunity and
25 ability to accurately observe the things they're

JURY TRIAL & SENTENCING

1 testifying about; did they appear to understand the
2 questions clearly and answer them directly; did the
3 witness's testimony differ from other testimony or
4 other evidence? However, please keep in mind that a
5 simple mistake by a witness doesn't necessarily mean
6 the witness wasn't telling the truth as he or she
7 remembers it. People naturally tend to forget some
8 things or remember them inaccurately. So if a witness
9 misstated something, you must decide whether this was
10 because of an innocent lapse in memory or intentional
11 deception. The significance of your decision may
12 depend on whether the misstatement was about an
13 important fact or unimportant detail.

14 Expert witnesses: Normally, the rules of
15 evidence do not allow a witness to give their opinion
16 or their conclusions. Normally, they can only testify
17 about what they, themselves, saw or heard. An
18 exception exists for witnesses we call expert
19 witnesses. A witness, who by their education or
20 experience or training and has become an expert in art
21 or science or professional calling, may give their
22 opinion on relevant and material matters in which they
23 are an expert, and may also give the reasons for their
24 opinion. You should consider any expert opinion in
25 this case and, like any other evidence, give it the

JURY TRIAL & SENTENCING

1 weight you think it deserves. If you decide the
2 opinion of an expert is not based on enough education
3 or experience, or if you conclude the reasons the
4 expert gave in support of their are not sound, or that
5 their opinion is outweighed by other evidence, you may
6 disregard the opinion entirely. An expert witness's
7 testimony is not to be given greater weight than that
8 of another witness simply because they're an expert.
9 Further, you are not required to accept an expert's
10 opinion, even if it's not contradicted.

11 The State must prove every element. The burden
12 of proof is on the State to prove every element of the
13 crime charged. If you find, after reviewing all the
14 evidence, that the State has proved the defendant was
15 only present at the scene of a crime, and that the
16 State has not proved beyond a reasonable doubt any
17 participation in the crime, then you are required to
18 find the defendant not guilty.

19 Voluntary intoxication: A person who
20 voluntarily becomes intoxicated is just as responsible
21 for the acts committed while intoxicated as when the
22 person is not intoxicated. Voluntary intoxication is
23 not a defense to a crime. And we're halfway there.
24 So I know it's hard to just listen, but we're halfway
25 there.

JURY TRIAL & SENTENCING

1 Murder: The defendant is charged with murder.
2 The State must prove beyond a reasonable doubt the
3 defendant killed another person with malice
4 aforethought. Malice is hatred, ill will or hostility
5 towards another person. It is the intentional doing
6 of a wrongful act without just cause or excuse, and
7 with the intent to inflict an injury or under
8 circumstances that that the law will infer an evil
9 intent. In its legal sense, it does not necessarily
10 import ill will towards the individual injured, but
11 rather signifies a general malignant recklessness of
12 the lives and safety of others, or a condition of mind
13 which shows a heart regardless of social duty and
14 fatally bent on mischief.

15 Malice aforethought does not require the malice
16 exist for any particular time before the act is
17 committed, but it must exist in the mind of the
18 defendant just before and at the time the act is
19 committed. Thus, there must be a combination of evil
20 intent and the act itself. Malice aforethought may be
21 expressed or inferred. These terms, "express or
22 inferred," do not mean different kinds of malice, but
23 are merely the manner in which malice may be shown to
24 exist. That's either by direct evidence or inference
25 from the facts and circumstances which have been

JURY TRIAL & SENTENCING

1 proved. Express malice is shown where a person speaks
2 word which express hatred or ill will for another
3 person, or when the person prepared beforehand to do
4 the act which was later accomplished. For example,
5 laying in wait for a person or any other acts of
6 preparation going to show the deed was in the
7 defendant's mind would be express malice.

8 Malice may be inferred from conduct showing a
9 total disregard for human life. If you, the jury,
10 found the State has proven beyond a reasonable doubt
11 the defendant killed another person with malice
12 aforethought, you must find him guilty. If you find
13 the State has failed to prove beyond a reasonable
14 doubt the defendant is guilty of murder, you must then
15 decide whether the State has proved beyond a
16 reasonable doubt the defendant is guilty of the lesser
17 included offense of involuntary manslaughter.

18 Involuntary manslaughter: If you find the State
19 has failed to prove beyond a reasonable doubt the
20 offense of murder, you may consider whether the State
21 has proved beyond a reasonable doubt the crime of
22 involuntary manslaughter. To prove this offense, the
23 State must prove beyond a reasonable doubt the
24 defendant unintentionally killed the victim without
25 malice, but while engaged in an unlawful activity not

JURY TRIAL & SENTENCING

1 naturally tending to cause great bodily harm, or the
2 death unintentionally killed the victim without malice
3 while engaged in a lawful activity with reckless
4 disregard for the safety of others.

5 Unintentional means the defendant did not intend
6 for anyone to be killed or seriously injured.

7 Reckless disregard for the safety of others is more
8 than mere negligence or carelessness. Mere negligence
9 or carelessness is the failure to use the care that a
10 person of ordinary reason would use in the same
11 circumstances. Recklessness is a conscious failure to
12 use ordinary care. Reckless disregard for the safety
13 of others means you are not interested in the
14 consequences of your acts or the rights and safety of
15 others. If a person who knows or should know that
16 ordinary care requires precautions to be taken for the
17 safety of others when using a dangerous
18 instrumentality, like a gun or a car, and the person
19 fails to use those precautions without concern, the
20 person's actions are considered reckless.

21 The State must also prove beyond a reasonable
22 doubt the defendant's act was the proximate cause of
23 death. Proximate cause is a direct cause, it is
24 immediate cause, the efficient cause, or the cause
25 without which the death of the victim would not have

JURY TRIAL & SENTENCING

1 resulted. There must be chain of causation from the
2 time the injury inflicted by the defendant to the time
3 of the victim's death. Proximate cause does not
4 necessarily mean that it occurred immediately prior to
5 death. There may be more than one proximate cause.
6 The acts of two or more persons may combine together
7 to be a proximate cause of death. The defendant's
8 acts may be regarded as a proximate cause if it is a
9 contributing cause of the death of the victim. The
10 fact that the other causes also contribute to the
11 death of the victim does not relieve the defendant
12 from responsibility. The defendant's act need not be
13 the sole cause of death, but must be a proximate cause
14 contributing to the death of the victim. The
15 violation of the statute, if it is the proximate cause
16 of an injury, is evidence of recklessness.

17 Attempted murder: The defendant is also charged
18 with two counts of attempted murder. The State must
19 prove beyond a reasonable doubt the defendant, with
20 intent to kill, attempted to kill another person with
21 malice aforethought. Malice and malice aforethought,
22 for the purpose of this charge, are defined in the
23 same way as for the charge of murder. Attempted
24 murder can be committed only when the defendant's acts
25 or act are accompanied by express malice or malice in

JURY TRIAL & SENTENCING

1 fact. Express malice is a deliberate and specific
2 intent of the defendant to unlawfully kill another
3 with hatred, ill will or hostility without just cause
4 during or excuse. It is the performance of an act or
5 acts which tend, but fail, to kill a human being.
6 Specific intent means the defendant consciously
7 intended the completion of the killing of another but
8 failed to do so. If you, the jury, find the State has
9 proven beyond a reasonable doubt the defendant's
10 intent to kill another with express malice, you must
11 find him guilty. But if you find the State has failed
12 to prove the defendant is guilty of attempted murder
13 beyond a reasonable doubt, you must then decide
14 whether the State has proved beyond a reasonable doubt
15 that the defendant is guilty of a lesser included
16 offense, such as assault and battery high and
17 aggravated, assault and battery in the 1st degree, or
18 assault and battery in the 2nd degree.

19 Lesser included charge: Assault and battery
20 high and aggravated. A person commits the offense of
21 assault and battery high and aggravated if the person
22 unlawfully injures another person and great bodily
23 injury results, or the act is accomplished by means
24 likely to produce death or great bodily injury. Great
25 bodily injury is injury which causes a substantial

JURY TRIAL & SENTENCING

1 risk of death or which causes serious permanent
2 disfigurement or protracted loss or impairment of the
3 function of a bodily member or organ. In the
4 alternative, if you find the prosecution has not
5 proven assault and battery assault and battery of a
6 high and aggravated nature beyond a reasonable doubt,
7 you may consider whether the prosecution has proven
8 the lesser included offenses of assault and battery in
9 the 1st degree or 2nd degree.

10 Assault battery the 1st degree: A person
11 commits the crime of assault battery in the 1st degree
12 if the person commits the offense of assault and
13 battery -- excuse me -- a person commits the crime of
14 assault and battery in the 1st degree if the person
15 unlawfully injures another person, and that act
16 occurred during the commission of a robbery, burglary,
17 kidnapping or theft, or offers or attempts to injure
18 another person with the present ability to do so and
19 the act, one, is accomplished by means likely to
20 produce death or great bodily injury or, two, occurred
21 during commission of a robbery, burglary, kidnapping
22 or theft.

23 In the alternative, if you find the prosecution
24 has not proven assault battery in the 1st degree
25 beyond a reasonable doubt, you may consider whether

JURY TRIAL & SENTENCING

1 the prosecution has proven a lesser included offense
2 of assault battery in the 2nd degree beyond a
3 reasonable doubt. A person convicts -- commits the
4 crime of assault battery in the 2nd degree if he
5 unlawfully injures another person or offers or
6 attempts to injure another person with the present
7 ability to do so, and the moderate bodily injury to
8 another person results, or moderate bodily injury to
9 another person could have resulted. We're almost
10 done.

11 Moderate bodily injury is defined as a physical
12 injury that involves a prolonged loss of
13 consciousness, or that causes temporary or moderate
14 disfigurement, or temporary loss of the function of a
15 bodily member or organ that requires medical treatment
16 when the treatment requires the use of regional or
17 general anesthesia, or injury that results in a
18 fracture or dislocation. Moderate bodily injury does
19 not include one-time treatment and subsequent
20 observation of scratches, cuts, abrasions bruises,
21 burns, splinters, or other minor injuries that do not
22 ordinarily require extensive medical care.

23 The defendant is charged with assault and
24 battery of a high and aggravated nature. The elements
25 of this crime are the same as previously charged. If

JURY TRIAL & SENTENCING

1 you find the State has failed to prove the defendant
2 is guilty of assault battery of a high and aggravated
3 nature, you must then decide if the State has proved
4 beyond a reasonable doubt the offenses of assault and
5 battery in the 1st degree or 2nd degree. Lesser
6 included charge, assault in the 1st degree: The
7 elements of this crime are the same as previously
8 charged. If you find the prosecution has not proven
9 assault battery in the 1st degree beyond a reasonable
10 doubt, you may consider whether the prosecution has
11 proven the lesser included offense of assault and
12 battery the 2nd degree beyond a reasonable doubt.
13 Assault and battery in the 2nd degree: The ailments
14 of this crime are the same as previously charged.

15 Possession of a weapon during commission of a
16 violent crime: The defendant is charged with four
17 counts of possession of a weapon during the commission
18 of a violent crime. The State must prove beyond a
19 reasonable doubt the defendant was in possession of a
20 firearm or visibly displayed what appeared to be a
21 firearm during the commission of a violent crime, and
22 was convicted of attempting to commit or committing a
23 violent crime. Murder, attempted murder, assault and
24 aggravated -- assault and battery high and aggravated,
25 and kidnapping are violent crimes under South Carolina

JURY TRIAL & SENTENCING

1 law.

2 Kidnapping: The defendant is charged with three
3 counts of kidnapping. For this offense, the State
4 must prove beyond a reasonable doubt the defendant
5 knowingly and unlawfully seized, confined, inveigled,
6 decoyed, kidnapped, abducted or carried away another
7 person without authority of law. To do a thing
8 unlawfully is to do it willingly against the law.
9 Knowingly means with knowledge consciously, not
10 accidentally. Seize means to take hold of suddenly or
11 forcibly. Confined means to limit, restrict, or
12 enclose within bounds or in prison, or shut up or keep
13 in. Inveigle means to lure, entice or lead astray by
14 false representations, promises, or other deceitful
15 means. Decoy means to lure by, or as if by, a decoy.
16 A decoy is something to entice a person into a trap.
17 A kidnap is to remove a person against his will by
18 unlawful force or fraud. Abduct means to carry off
19 secretly or by force for an illegal purpose. Carrying
20 away means to remove. The State does not have to
21 prove the defendant did all of these things. Instead,
22 if you find beyond a reasonable doubt the defendant
23 did any of these things, you may find the defendant
24 guilty of kidnapping. Something done without
25 authority of law which the law does not sanction,

JURY TRIAL & SENTENCING

1 permit -- I'm sorry. Something done without the
2 authority of law is something which the law does not
3 sanction, permit, allow, condone, or provide
4 justification for. The kidnapping does not have to be
5 for personal or monetary gain or for any illegal
6 purpose, but may be for any reason whatsoever.

7 Ladies and gentlemen of the jury, as you begin
8 to retire -- as you retire to begin your
9 deliberations, I wish to express the hope that each of
10 you will be mindful of the importance of your
11 responsibility. You are called upon to -- you are not
12 called upon to serve as jurors very often, and the
13 proper performance of that duty requires each of you
14 to reach the height of freeing your mind of all
15 improper influences. As the presiding judge of this
16 Court, I am vitally concerned that whatever verdict
17 you find will be the result of your going into the
18 jury room and confining your consideration to the
19 evidence and the law you've heard in court and
20 weighing it fairly and impartially, as I have every
21 confidence that you will do. Do not base your verdict
22 on sympathy, compassion, prejudice or emotion, or
23 anything not found in the evidence. Remember, ladies
24 and gentlemen, your verdict must be unanimous, meaning
25 all 12 of you must agree.

JURY TRIAL & SENTENCING

1 Ladies and gentlemen, this is the verdict form.
2 Okay? This will be sent back with you. For each
3 offense, it lists guilty or not guilty, which you'll
4 check or make an X. And there's no significance at
5 all in the order in which I just listed those possible
6 verdicts, but one has to be listed first. But then,
7 for each offense, it will say if you found the person
8 not guilty, then you move on to the lesser included
9 charges. Okay? It has instructions. Just follow the
10 steps on the verdict form. Okay?

11 So ladies and gentlemen, once the attorneys
12 speak, I will send you back to the jury room. Don't
13 begin deliberating quite yet. The signal to begin
14 your deliberation will be when the bailiffs bring you
15 all of the evidence along with the verdict form and
16 the jury instructions. Okay? Once you get those, you
17 are free to begin deliberating. All right? And you
18 can -- how you handle that is up to you. The only
19 restriction is, if some of you -- one person has to
20 leave the room, like to go to the bathroom or smoke a
21 cigarette, you cannot deliberate while all 12 of you
22 are not present. Okay? So if, while someone is in
23 the bathroom, you have to stop talking about the case
24 and talk about something else. But with that said,
25 how you handle deliberations are up to you all.

JURY TRIAL & SENTENCING

1 As I said, the State will order pizza for you
2 for dinner. Is there anyone for -- for -- that has
3 allergies or other dietary restrictions where they
4 cannot eat pizza? If so, raise your hand. Okay. The
5 State will order pizza for you. Ladies and gentlemen,
6 we will send back all the evidence to you, with the
7 exception of the two firearms. That is because some
8 jurors may not be comfortable handling firearms, but
9 as jurors, you are entitled to handle all the
10 evidence. So if you want to handle the firearm, send
11 me a note and I will send them back to you. Okay?
12 But I don't -- everything else is automatically sent
13 back to you. We don't send back the guns unless you
14 ask for them. All right? That said, ladies and
15 gentlemen, I'm going to give the attorneys a chance to
16 object if I said anything I should not have, and then
17 I'll turn it over to the lawyers. Any objections from
18 the State?

19 MR. EPTING: None from the State, Your Honor.

20 THE COURT: From the Defense?

21 MR. BARROWCLOUGH: No, sir, Your Honor.

22 THE COURT: All right. Ladies and gentlemen,
23 the State burden of proof, so they go first.

24 MR. EPTING: Thank you, Your Honor. May it
25 please the Court?

JURY TRIAL & SENTENCING

1 THE COURT: Yes, sir.

2 MR. EPTING: Defense counsel? Madam Clerk,
3 could you please publish -- publish the State's
4 screen?

5 Ladies and gentlemen, Mr. Porter told you last
6 week when we started this case that we are here today
7 because of one man, Marques Heath, who murdered Shae
8 Williams, who shot Bethany Farrar, and who shot
9 Laquata Wilson, kidnapping several -- kidnapping the
10 folks at Leach Road, attempting to murder Laquata at
11 Farlow. The judge has already been over the law with
12 you, so I won't belabor on that except to point out
13 one thing. There are very few things we can prove
14 beyond all doubt in life, and that's not the standard
15 the State is held to. In order to find this defendant
16 guilty after hearing all the evidence, you must
17 believe beyond a reasonable doubt that he is guilty.
18 Another way to put that is that you are firmly
19 convinced. And I submit that after hearing the
20 evidence at the close of the case, you should be
21 firmly convinced that he committed all those crimes.

22 What did the defendant say when he was
23 cross-examined? This was the worst day -- that was
24 the worst day of his life, which struck me as an odd
25 thing for him to say for a person in his position,

JURY TRIAL & SENTENCING

1 given what else happened to everyone else's lives
2 around him. That tells you all you need to know. He
3 is concerned about himself, first and foremost above
4 all tings. Did he call an ambulance for Beth? No.
5 What did he say? Somebody else will call one. Did he
6 call an ambulance for Shae, this person that he
7 proclaimed to love? No, son. She was -- she was
8 dead, he said, obviously dead. Whoops, shot her,
9 she's dead. Mook, his confidant, Laquata, did he call
10 an ambulance for her as she lay there bleeding to
11 death? Nope. Why not? Well, the cops don't help me.
12 He didn't call the cops with a guy shooting at his
13 uncle. I don't need an ambulance, so why would I call
14 one? It's all about him. More on that later.

15 Murder is the killing with a depraved heart.
16 Think meanness. When somebody kills somebody, did
17 they have evil in their heart, was it mean? It does
18 not have to be premeditation. People hear malice
19 aforethought and think somebody has to plan it. And
20 cater to -- and cater you, I don't believe this was a
21 planned thing. This was something happened, something
22 that grew out of his anger, his -- his snowballing
23 anger about the stuff being missing on Leach Road that
24 turned into him killing Shae, and then almost killing
25 Bethany Farrar.

JURY TRIAL & SENTENCING

1 Malice is hatred or ill will, a general
2 recklessness, a disregard for the safety of other
3 people. Attempted murder is as simple as that. You
4 try to kill someone and you are trying to kill them
5 (unintelligible). Kidnapping is a strange South
6 Carolina law that's very broad. Basically, you heard
7 inveigle, you heard abduct, all that stuff. The
8 theory in the State's case in this is that he confined
9 those people in the room at Leach Road. He confined
10 them with his words. He confined them by striking
11 people with a hammer, he confined them by saying no
12 one is leaving until I get what I'm looking for.

13 ABHAN: If you injure somebody and they have
14 long-term impairment to a bodily injury or member,
15 that is charged as charged. You heard what Herman
16 Leach testify that he had long-term lack of use of his
17 arm from the injuries that his nephew placed upon him
18 at Leach Road.

19 Finally, a timeline, because this has been a
20 while. Officers are called out to Leach Road after
21 several 911 calls are made. They arrive on scene and
22 they find Bethany. They find Shay obviously dead, and
23 Bethany is in serious condition. You saw the video.
24 And Ms. Porter apologized that we had to show that to
25 you, but what Mr. Heath did that day was horrible.

JURY TRIAL & SENTENCING

1 You saw Bethany's injuries. You saw what state she
2 was in. You saw what state he saw he left her in,
3 bleeding there on the bed. Her arm was severely
4 injured. I know the Defense took exception to saying
5 it was hanging by a thread -- hanging by shreds of
6 skin, but Bethany said, yeah, that's about right.
7 Permanently placed, held in place by a metal piece in
8 her arm. It was off. Her other arm healed better,
9 but had a crater that -- that -- that also impacted
10 her life. Officers are able to save her life that day
11 by getting that ligature on the right place and
12 getting her a out to the ambulance. You saw when she
13 left the state that her arm was in. If you want to
14 see that video again, then I encourage you to look at
15 it, if you want to see what -- how badly her arm
16 injured. Because as she's leaving, you see her arm is
17 no longer hanging at an angle that is normal. The
18 bone wasn't in the right place (unintelligible) a
19 ligature around the right place.

20 The forensics that processed that scene, they
21 find multiple shells. They find a shell in Shae's
22 hair in the area where -- where were she was shot.
23 They find a shell on the porch ejected from a shotgun.
24 And then, as officers (unintelligible) and finally
25 getting Shae -- finally getting Bethany to an

JURY TRIAL & SENTENCING

1 ambulance, they get tones telling them that there's
2 been another Farlow [sic] not too far away on Farlow
3 Street. And at Farlow Street, you saw the video. And
4 again, I apologize that we had to put you all through
5 that experience. You all saw the state that Laquata
6 was in. You all saw the state of her arm, and you all
7 saw the state of her hand, you all saw the state of
8 her eye. That was the way that he left her. And you
9 heard that she turned that eye to him to get him to
10 leave, to play dead, so that he would leave her alone.
11 He did not shoot her again, because she didn't think
12 she could tolerate being shot again. That was the
13 state he left her in. And thankfully, they were able
14 to get her to the ambulance. She was actually, in a
15 miracle, able to walk to the ambulance of her own
16 volition. And what followed was a very long road to
17 recovery; 150-plus surgeries to repair the damage that
18 he did to her that day. She still, to this day, is
19 recovering pellets from her skin and from her body.

20 Forensics processed that scene as well.
21 Curiously, at the time, they find Elijah. What's up
22 with that? Well, we'll found out about that later.
23 On one side of the room, at the door, they find one
24 shell, and on the other side of the room, they find
25 two more spent shells, shotgun shells. They find

JURY TRIAL & SENTENCING

1 holes in one part of the wall and they find a bloody
2 mess where Laquata says that she eventually came to
3 rest and the defendant shot her multiple more times
4 (unintelligible).

5 Ladies and gentlemen, oftentimes when jurors
6 come in, they -- they think that there's some trick to
7 it, that there's more to the story, because why else
8 wouldn't there be? I know once upon a time, I my kids
9 used to -- Guide Post, hidden picture shows. And I
10 remember, he gave me one and he was upset because he
11 could not find hidden the picture inside the picture.
12 And I looked at it, and I looked at it, and then I
13 realized this wasn't a hidden picture picture, that he
14 was looking for something that wasn't there.

15 Mr. Heath has asked for his day in court. He's
16 asked for his trial. He's asked for an impartial
17 jury, and he's asked for competent representation.
18 He's gotten that. He's had his day. Ladies and
19 gentlemen, all you need to convict that defendant of
20 murder Shae, of attempted murder of Bethany and
21 attempted murder of Laquata are these photos. And if
22 you (unintelligible).

23 (The video was played.)

24 (The video was paused.)

25 MR. EPTING: "Please help me". Who did this?

JURY TRIAL & SENTENCING

1 "Marques." What did she say she was doing prior to
2 that being taken -- prior to being shot? She was
3 praying to God. This was it, she was going to die.
4 She was preparing herself to meet her Maker, to die,
5 when he shot her. She still doesn't know that she's
6 out of the -- out of -- out of danger as they're
7 treating her, as she's bleeding to death there on the
8 bed. And they ask her, who did this to you? I
9 submit to you, there's no reason to lie about that.
10 She might be meeting God in the next ten minutes
11 after bleeding to death on that bed. "Who shot you?"
12 "Marques." All the reason in the world to tell the
13 truth, no other reason for her to lie. And then
14 later:

15 (The video resumed playing.)

16 (The video was stopped.)

17 MR. EPTING: She pipes up again in another
18 place. Who shot her? They're not even talking to
19 her. They're talking to each other because she's so
20 far gone. She says "Marques." And they say
21 themselves, not even her, "What's Marques's last
22 name?" She pipes up, "Heath, Marques Heath is the
23 one who shot me." In the first video, she said "shot
24 me two times."

25 (The video was played.)

JURY TRIAL & SENTENCING

1 (The video was paused.)

2 MR. EPTING: Laquata.

3 (The video resumed playing.)

4 (The video was paused.)

5 MR. EPTING: Laquata, grievously injured can say
6 only a few things: "I can't breathe, I can't
7 breathe," because of the nature of her injuries, the
8 extensive injuries that he caused her. But she could
9 say who did it to her, "Marques Heath." She says it
10 twice. Same position as Bethany; she's dying. They
11 ask who did it. Marques Heath.

12 (The video resumed playing.)

13 (The video was stopped.)

14 MR. EPTING: "What did he shoot you with"? A
15 shotgun." She was able to get that. And we know
16 that's true because we find shotgun shells inside the
17 place. That -- those two women on those two videos
18 in those states and in those states of mind, all you
19 need to find him guilty. That, in and of itself,
20 should leave you firmly convinced of his guilt. But
21 he didn't stop there. The shotgun was used in both
22 of these crime scenes. I don't think that's of much
23 debate. And we find that inside the vehicle that
24 they find in Charlotte.

25 Oh, and by the way, and how does the defendant

JURY TRIAL & SENTENCING

1 react when they try to when they try to pull him over
2 in Charlotte? Pulled over on what? Oh, this crazy
3 story happened. You won't believe it but, you know,
4 as he had just shot this girl and I intentionally shot
5 this other girl, and when I defended myself this third
6 guy at a scene, and here you are pulling me over. I
7 need to tell my side of the story. Nope. What does
8 he do? He runs. And as he's running, what does he
9 have in his pocket? A pocketful of shotgun shells.
10 He told you today that he carried extra shells because
11 he was going kill himself. Nine shells recovered from
12 his pocket, multiple shells recovered as he ran. And
13 then those live shells that he dropped as he was
14 fumbling with that shotgun on Farlow Street.

15 We have the forensics, we have the DNA. I'm not
16 going to put you to sleep talking about that. But
17 there was firearm testing done on this gun, all
18 important stuff. We know that there was blood on that
19 shotgun, and we know that that blood belongs to look
20 Laquata Wilson. We know that that was submitted to
21 the DNA lab for testing. We know that the same weapon
22 fired all of those rounds found at Leach Road, as well
23 as Farlow, because we did toolmark testing. Like the
24 fingerprint of a gun; Leach Road shell, Farlow Street
25 shell, all fired by that shotgun that is found in that

JURY TRIAL & SENTENCING

1 car with that defendant as he is fleeing from
2 Charlotte-Meck Police Officers on foot.

3 A person who runs from police as they're trying
4 to pull him over under these circumstances, what does
5 that tell you about their state of mind? What does
6 that tell you about their guilt? Its manifest. The
7 judge mentioned common sense in deciding who's telling
8 the truth and who's telling a lie to evaluate this
9 case. Common sense. His own pocket:

10 (The video was played.)

11 (The video was paused.)

12 MR. EPTING: A pocketful of shotgun shells.
13 Things are obvious: Shae is dead. She was killed.
14 She was shot in the face. Both Laquata -- Mook --
15 and Bethany are grievously injured. Obviously
16 occurred within York County. And you know what? I
17 would submit it's just as obvious that he did it.

18 (The video resumed playing.)

19 (The video was stopped.)

20 MR. EPTING: Karla Offert, who unfortunately is
21 now homeless and unable to be located, told them on
22 the scene running from the house what she told them.
23 And you know what? What was he found driving that
24 day? A blue car with rims, with a shotgun inside, a
25 shotgun that matched the shootings at both of those

JURY TRIAL & SENTENCING

1 locations.

2 The judge charged you with credibility. That's
3 the main juror's task. Anytime you have a witness up
4 there testifying, ask yourself: what reason does a
5 person have to tell the truth; what reward might they
6 expect; what bad things might happen if they don't
7 tell the truth? It's called the reward-punishment
8 analysis. What incentive did Bethany have to get up
9 there and not tell the truth? Well, by getting up
10 there and telling the truth, had to come to court and
11 face the man who almost killed her. She had to be
12 subject to cross-examination about a time in her life
13 that was very difficult for her to talk about. That's
14 incentive to lie. But I submit to you, she got up
15 there and she told her story. She told what happened
16 to her that day.

17 And you know what? What she told is consistent
18 with everything else that we know about this case.
19 She told us that the defendant, in a rage because he
20 cannot find the things that he thinks are taken from
21 him, and he is not getting the answers he wants after
22 having these people strip, after hitting somebody,
23 including his elderly uncle with a hammer, breaking
24 his arm so that that guy goes and runs out a window.
25 He gets a shotgun and walks up to -- and walks up to

JURY TRIAL & SENTENCING

1 Shae Williams, puts it in her face and shoots her,
2 killing her very -- almost immediately. And then he
3 chases her. He chases her into that back bedroom. He
4 didn't have to do that. If it was an accident like he
5 said, he didn't have to do that, but he did.

6 And that colors what his true actions, his true
7 intent, his true crime with Shae. Was it an accident
8 like he said? Whoops, just didn't mean to do that?
9 What does him following Bethany into a nearby bedroom
10 and then nearly killing her with that same shotgun
11 tell you about his state of mind? Guilty as sin. He
12 follows her into that bedroom, she testified, and he
13 waits, almost like he's waiting, playing God. And
14 she's hiding over there in that corner in that closet.
15 And you all saw the pictures of the blood sprayed on
16 top of the -- top of the ceiling, the pellets on the
17 floor, all the damage, the carnage that he caused with
18 that shotgun, that birdshot.

19 And then he waits for her to stop praying, waits
20 for her to look, and then he shoots her. And she said
21 that was her right arm, and that nearly took the arm
22 off her body, not -- not much. And not content with
23 that, he shoots her again. Ladies and gentlemen, that
24 is malice. That is malice. That is an intent to
25 kill. And I don't care if he's using birdshot, BBs,

JURY TRIAL & SENTENCING

1 buckshot. He shot her twice at close range such that
2 one of the wads lodged into her skin and was recovered
3 during surgery, and is in evidence if you all want to
4 see it. That's malice. That's intent to kill.

5 She had all the reason in the world to come in
6 hear and say, you know what, Mr. Epting? This never
7 happened, I don't want to have anything to do with it,
8 I don't want to testify, because then she wouldn't
9 have to face him. And then she wouldn't have to get
10 cross-examined by a trained defense attorneys about
11 that time in her life. She could have tried to make
12 it go away, but she didn't. She didn't. She came in
13 here and she told -- and she told what happened to
14 her. What did she say then? The same thing; he shot
15 her twice in the bedroom, he shot Shae, killing her
16 immediately; that she cried out for help. She was
17 crying out for help, to this day, in some ways. And
18 that she begged for help and then she got help when
19 the police saved her. What is she saying now?
20 Credibility. What reasons does she have to come in
21 here and tell a lie about what he did? None.

22 Did he kidnap her? There's been a lot of
23 argument about that and you heard the questions being
24 asked. What did she testify to? What did she think
25 would happen after the defendant said nobody's leaving

JURY TRIAL & SENTENCING

1 here until I get what I'm looking for, and starts
2 making people strip so he can find his stuff? He
3 tells folks to lock the door. She sees him smack his
4 uncle with a hammer, who then goes and runs out of a
5 window. Do you think she might have felt afraid to
6 leave? And again, it's not abduction, it's not
7 kidnapping. It's confinement. He unlawfully confined
8 her in that trailer. I submit to you he did. He did
9 with fear, he did with his words: Nobody's leaving
10 until I find what I want.

11 Did he commit murder? She told you what she
12 saw. She told you what he did. And she said -- I
13 mean to the benefit of Shae, when they tried to make
14 it sound like Shae was standing in front of her, what
15 did she say? "No, she was not standing in front of
16 me, like, to protect me. She was standing in front of
17 me, and I was slightly beside her when he walked up
18 and he pointed that shotgun in her face and he killed
19 her." And what did she say after that? "No matter
20 what anybody says, that is what happened, I saw it."
21 And then follows her back to that bedroom and shoots
22 her. And you saw those bloodied pellets, and you saw
23 where she laid, and you saw how they found her. That
24 is beyond a reasonable doubt of kidnapping. That is
25 beyond a reasonable doubt of murder. That is beyond a

JURY TRIAL & SENTENCING

1 reasonable doubt of attempted murder. And again, as
2 we'll get into in a minute, all of the evidence that
3 we know outside of her testimony corroborates what she
4 said.

5 What did Herman Rabbit Leach tell us? Well,
6 he's an interesting guy. You might have noticed he
7 didn't come down in his street clothes because he is
8 not out in our community. What did he tell Joey
9 Wallace closer in time? He said that his nephew broke
10 his arm with a hammer, that he had a shotgun and that
11 he was scaring the crap out of everyone in there, that
12 he jumped out a window to get away. What did he say
13 when he was here in court sitting across from him?
14 "He hit me with a hammer." And some of it depended on
15 who asked him the question, wasn't it? When his
16 Defense attorney asked him any of that, he downplayed.
17 He said, oh I could have just walked out the door if I
18 wanted to, but I went out a window. Does that make
19 sense to you? Credibility.

20 And he said, oh wait, but Elijah had that
21 shotgun. Elijah was threatening people that shotgun.
22 But then what did he say when I asked him? He said
23 "No, Marques had the shotgun, Q had the shotgun."

24 UNIDENTIFIED FEMALE SPEAKER: He didn't.

25 MR. EPTING: Then he said he never said anything

JURY TRIAL & SENTENCING

1 about Elijah, that it was all Marques. But now the
2 time has passed. And now that he's in the same exact
3 room with his nephew who did that to him that day,
4 whether it was a love tap like -- like the defendant
5 testified, just barely smacked with a hammer, or
6 whether he broke his uncle's arm in two places, like
7 he also said. It goes to credibility.

8 The others in the house, I can tell you, I -- I
9 wish that we could have given more people to you from
10 that house (unintelligible) or otherwise. You heard
11 that Mr. Colvin is deceased. You heard that
12 Schillinglaw is deceased. You heard that Ms. Rushing
13 has no fixed address and probably had no fixed address
14 at the time this happened, and cannot be located. The
15 last known contact we had with her was in Charlotte,
16 and we can't find her.

17 The corroboration of Bethany. She's found where
18 she says -- where she said she was. Her injuries are
19 completely consistent with what she described. Again,
20 why would she lie about that? What does the DNA tell
21 us? What does the firearms tester tell us? What do
22 the shells tell us? The shells tell us that shells
23 fired are the same ones that were fired from the
24 shotgun that he was found fleeing with in Charlotte.
25 Rabbit's injuries, a broken arm in two places. Today,

JURY TRIAL & SENTENCING

1 he showed you the scars he had where he was hurt so
2 badly that he had to have his bones surgically
3 repaired at the hospital. That ABHAN. That's
4 protracted use of a -- of a -- of a weapon. And he
5 told us that he did not have full use of his hands,
6 even to this day, due to the injury he sustained and
7 how it healed. That's ABHAN; protracted loss of a
8 limb. What did the defendant say to the police the
9 day they find him? He didn't say all that stuff that
10 he said here this morning, I can tell you that.

11 (The recording was played.)

12 (The recording was paused.)

13 MR. EPTING: So he said there all his stuff was
14 gone. He went outside, he comes back in, all of his
15 stuff is gone. He said similar things today. But
16 the problem with Mr. Heath is that he has a selective
17 memory. He's wanting to talk about things that
18 affect him, that affect him in a negative way, that
19 he's a victim. But when it goes past that, his
20 memory gets fuzzy.

21 (The recording was played.)

22 (The recording was stopped.)

23 MR. EPTING: In the interest of time, we'll move
24 on. He told you that he loved Shae, that he had
25 lovey-dovey feelings toward her and had no reason to

JURY TRIAL & SENTENCING

1 be mad at her. But yeah, he was mad at Bethany for
2 any number of reasons. He was mad about all these
3 other women for any number of reasons. But he is
4 angry at Shae though, and he said that. You saw that
5 on the interview that he gave. He's missing
6 something. And what did he say, his words, "They are
7 talking shit. They are telling me you are not going
8 to do anything. You ain't gonna do nothing." And
9 then past that, he remember having the shotgun. He
10 remembers arguing. And then the day of his arrest,
11 he couldn't really remember what happened after that
12 because he said he was smoking and drinking.
13 Convenient. Convenient. He can remember everything
14 up until the crime that he's on trial for, the crime
15 that he knows he's going to be charged with once they
16 put everything together.

17 (The recording was played.)

18 (The recording was paused.)

19 MR. EPTING: You heard what he said about Shae,
20 this woman that he -- he's got no ill will towards
21 her. No, he loved Shae. Nobody's going to be mad at
22 her in the trailer. She's being disrespectful to
23 him. She's talking shit, she's telling him that he
24 won't do anything, even though he's mad. Because
25 he's increasingly madder and madder because he can't

JURY TRIAL & SENTENCING

1 find the things he wants, and no one is giving him
2 answers to the point where he's making people strip.
3 Think of what he can't remember and what he can. If
4 you decide to go back and watch those videos of him
5 in the hospital, think about when his memory becomes
6 selective and his memory goes blank. Because I
7 submit to you that he's going to be -- he is about to
8 be asked about committing these horrible crimes. He
9 remembers having the shotgun. He remembers the most
10 of the names. He remembers -- nobody will tell him
11 where it's at. "And what did you do with the
12 shotgun?" Can't remember. Nope, can't remember.
13 What else did he say? He said he could only take so
14 much. He said I knew I had a shotgun. They asked
15 him, hey, did you use that shotgun? And that's where
16 that memory comes back. I'd been smoking and
17 drinking, I might have, I might not have, I can't
18 remember. Did you have enough to assault people that
19 day? I don't remember.

20 (The recording resumed playing.)

21 MR. EPTING: What did he not say? He didn't say
22 nothing about Elijah, who's become this facet that we
23 keep (unintelligible) of this case. He said nothing
24 about, you know, that gun going off automatically
25 without him trying anything. He said nothing about

JURY TRIAL & SENTENCING

1 this mystery guy that was at Farlow. Why not?
2 Because he hadn't thought of it yet. He had not
3 thought of it yet. He hadn't had the time to take
4 this evidence, to look at it, and then to pick
5 through and try to selectively pick which facts are
6 true and which facts are not to try to get out of
7 these charges.

8 Bethany's injuries. And again, not to -- not
9 to -- not to gild the lily, her shoulders. You all
10 saw the scars on the shoulders. You heard the
11 operations she had to have to make those normal
12 shoulders again, something that she can use in her
13 day-to-day. And to this day, the use of her limbs is
14 still severely limited. It's a miracle that she has
15 them. Shae's injuries, we saw that. Too bad for us
16 to even show you the picture where you see an x-ray of
17 her face filled with birdshot, which I think Mr. Davis
18 implied were -- were not that bad, not that serious,
19 but it sure was serious to Shae. It sure was serious
20 to Beth. What did the coroner say? Any chance that
21 he was shooting at her and maybe some went out? No,
22 the forensics on that don't match up to that. She
23 called it -- including the wadding in her face, which
24 cracked her skull and broke her brain and severed her
25 jugular, killing her. The defendant did that.

JURY TRIAL & SENTENCING

1 What did the Laquata tell us about Farlow
2 Street? She told us about her injuries. She told us
3 about how the defendant came, and she told us that he
4 had somewhat jealous leading up to this, and that he
5 had one question for her when he said he was -- asked
6 her if she wanted to smoke a blunt. Who's inside
7 (unintelligible)? And she is a man friend, and he
8 said okay. And she took that as, okay, I'm going to
9 go to -- I'm going to get what I need to go smoke.
10 What she didn't know is that "okay" was okay, you're
11 going to die. Okay, I'm going to get the shotgun that
12 I have just shot somebody with and killed her, and
13 that I've just shot a second person with and nearly
14 killed them, and I'm coming in the house with that
15 shotgun.

16 Did his testimony make any sense about that? He
17 has just killed a woman and almost killed another
18 woman, and he sees a neighbor drive by and he thinks,
19 oh, this -- this is not safe for me to leave her,
20 somebody might steal shotgun, my murder weapon. And
21 he brings that into her house. Does that make any
22 sense, common sense? Absolutely not. He walks in.
23 Her testimony, Dimitri said -- and his words, "What
24 the fuck?" Laquata looks up. She's seated on the
25 couch. She looks over, she sees him with a shotgun in

JURY TRIAL & SENTENCING

1 his hand, kind of fumbling with it. Dimitri is gone.
2 Not a chivalrous moment for Dimitri. And then he
3 shoots her twice. And after the first shot, she says
4 "You shot me," kind of in shock. What does one way in
5 that situation? "You shot me." And then she falls
6 right in front of where that chair was, right in front
7 of where all that blood was, and he shoots her two
8 more times. And you see the blood splatter on the
9 wall. You see the bits that are left behind from the
10 shooting of her. You see the pellets on the ground
11 where he shot her. He don't remember that.
12 Convenient.

13 Any evidence that that revolver that Dimitri
14 McCullough had had been fired, had been used in any
15 way, shape, or form? Nope. Full of six revolver
16 rounds, into evidence if you all want to see it. But
17 I guess the Defense wants you to believe that maybe he
18 did, and maybe he reloaded as he's running from the
19 scene to the nearby Advanced Auto, despite the fact
20 that he's so clumsy that caller said that he dropped
21 that gun while he was running. (Unintelligible) but
22 no, he is at a (unintelligible) apparently
23 (unintelligible), and he reloaded with six brand-new
24 revolver rounds, closed it, and then was caught that
25 way at Advanced Auto.

JURY TRIAL & SENTENCING

1 Laquata will never be the same. Her eye will be
2 blind for the rest of her life. Her lower injuries
3 will be there for the rest of her life. Her finger
4 will never be back, and she'll be missing her arm, and
5 the defendant did that, Mr. Heath. And he -- that
6 because after killing Shae, who had made him mad by
7 disrespecting him, and after trying to kill Bethany,
8 who made him mad by -- he thinks -- stealing his stuff
9 and -- and disrespecting him, he was solving all --
10 all -- all the bills. All the women in his life had
11 pissed him off that he talked about on that hospital
12 video. He's taking care of them. And the next stop
13 was Farlow. Laquata's number is up, she just didn't
14 know it.

15 Credibility again. Did that seem particularly
16 easy for you to see Laquata come in here and show her
17 arm and talk about the worst thing that ever happened
18 to her in her entire life in the same room with the
19 man that did it? And then, again, be cross-examined
20 and have her credibility called into question by a
21 trained defense attorney? Easier for her not to do
22 that. Easier for her to say I don't want to go
23 forward. I don't want to go to court and have to do
24 that. That was harder than what she could have done,
25 and she did it, because she lived through that day.

JURY TRIAL & SENTENCING

1 He did not kill her.

2 We see the -- we see the forensics. We see
3 where she said she was when he first shot her. We see
4 the shot in the wall. We see the blood stains from
5 where she came to lay, being alive, and we see six
6 shotgun shells consistent with that. What did George
7 Weeks testify as to that second photo? Spatter,
8 spatter from right to left. Shot while she is in a
9 prone position. Completely inconsistent with what
10 Mr. Heath testified to today. But again, he doesn't
11 remember shooting her at all, so I guess that's a
12 pass. Assuming you believe his version of events,
13 assuming we -- we -- we -- pushing all reason aside
14 and we say, okay, he saw a guy with a gun and he just
15 starts opening fire after having brought a shotgun in
16 her house that he had just killed someone with. Okay.
17 And he defends himself. What a crazy set of
18 coincidences. The second place he goes, he has to
19 defend his life after doing this horrible thing on
20 Leach Road.

21 Assuming that's true, he can never explain that.
22 He can never explain that evidence. That's blood
23 splatter. Again, fired at a person who is prone on
24 the ground and hurting her. Pieces of her flesh,
25 pieces of her fingernail there, and pieces of pellets

JURY TRIAL & SENTENCING

1 from the shotgun that he shot her with.

2 And then York County has a ticket to hell on
3 this case, and that's apparent from day one. Herman
4 was in that house. Elijah apparently was in that
5 house. All kinds of men were in that house on Leach
6 Road that could have been should have stepped in to
7 help these women, and maybe things would have turned
8 out differently. Dimitri McCullough had a pistol. I
9 think that's undisputed. He had a pistol. He could
10 have saved Laquata's life. She would not have had to
11 go through any of the things that she went through if
12 he would been chivalrous, if he would have been a man,
13 and if he would have helped her out. But he didn't.
14 And I guess none of us know what we'll do in a
15 situation that Dimitri was in. But he fled. He
16 didn't flee far because they found him right at that
17 Advanced Auto a couple hundred yards away, but he fled
18 with that gun in his waistband, because what's a snub
19 going to do against a pump?

20 Reasonable doubt must be reasonable. You heard
21 a lot of alternatives, and most of them coming from
22 the defendant in this case. Reasonable doubt must be
23 reasonable. Ask yourself, whose version makes sense?
24 Does it make sense what Laquata told you, given the
25 evidence we have? Does it make sense what Bethany

JURY TRIAL & SENTENCING

1 told you, given the evidence that we have? Does it
2 make sense what happened to Shae as Bethany told you?
3 Of course it does, because we have corroboration. We
4 know there was a close-quarters blast with Laquata.
5 And how do we know that? A, there was the blood
6 spatter, and I won't show you that horrible picture
7 again. But her blood is all over the shotgun, all
8 over the front of the shotgun. When he pointed it
9 toward her as she lay on the ground and it got smeared
10 with her blood. And again, I'm repeating myself,
11 because the evidence (unintelligible()). Where was
12 that shotgun found? (Unintelligible) hidden in a --
13 hidden in a -- hidden in a trunk. It was found in his
14 car with the same blood evidence that he drove it with
15 from both of the shootings, covered in Laquata's blood
16 with one spent round in the chamber. And then, the
17 shells match all the scenes to that shame shotgun. He
18 did this. It matches what they said. None of it
19 matches what he said.

20 On February 12th of 2019, the defendant was mad,
21 and he snapped (unintelligible) because he couldn't
22 find what he was looking for, because apparently he
23 does not like these women in house because they're
24 being disrespectful with him and they're take -- take
25 -- take -- taking from him. He had enough. And

JURY TRIAL & SENTENCING

1 ladies and gentlemen, that is malice. Being mad
2 because a woman has disrespected you and then putting
3 a shotgun in her face and pulling the trigger and
4 killing her is malice. And then following a fleeing
5 woman into a nearby bedroom and shooting her twice is
6 also malice. Malice is going to your ex-girlfriend's
7 house when you're mad at her and shooting her until
8 you think she's dead. Because what did Laquata say?
9 She turned the bad part of her face and she played
10 dead. What did Bethany say? She played dead. That's
11 why he left. In his own words:

12 (The recording was played.)

13 (The recording was paused.)

14 MR. EPTING: He focuses on material things. He
15 focuses on that nice leather couch that he had inside
16 that trailer. And what was the first thing that came
17 out of his mouth? He was mad about these people who
18 left the window open it was raining, they're going to
19 ruin my things. All the material things that he says
20 he provided for Laquata and for Bethany and for Shae.
21 Even though he -- it's not really a benefit to
22 Laquata if he's living there and paying rent, because
23 he's living there too. That's his rent too. But
24 nonetheless, in his eyes, that's him being a
25 benefactor. He gives these women money, he gives

JURY TRIAL & SENTENCING

1 them alcohol, he helps them pay their way. And then
2 what does he say after he is told that Shae is dead
3 and Laquata might not make it?

4 (The recording resumed playing.)

5 (The recording was paused.)

6 MR. EPTING: He's talking about his jewelry.
7 He's talking about how nice it is, how nice that
8 watch is. And finally, Pete -- Detective Pete
9 Branham has enough and says "Does somebody deserve to
10 die for that?" And it's telling. It's telling in
11 light of what we know. He says "Stop asking me those
12 dumb-ass questions." Why are those questions
13 dumb-ass questions, ladies and gentlemen? Everybody
14 knows what he did. Everybody knows what was in his
15 mind. Everybody knows what his intentions were.
16 That is why they're dumb-ass questions.

17 The only reasonable verdict in this case is the
18 murder of Shae. He says he shot her. Bethany fills
19 in the other part of that as to why shot her. He shot
20 Bethany until she played dead and almost killed her.
21 He shot Laquata until she almost died and had played
22 dead and almost killed her. Bethany and Herman Leach
23 were both kept in that trailer on Leach Road by him,
24 again, confined. Not kidnapped, confined by threats.
25 Nobody leaves here until I find what I'm looking for.

JURY TRIAL & SENTENCING

1 And then he starts beating people with a hammer, and
2 he broke Herman Leach's arm. And Herman Leach's arm
3 will never feel the same. How do we know he didn't
4 intend to kill his uncle? These are last two things
5 he talked about:

6 (The recording resumed playing.)

7 MR. EPTING: That's the state Bethany is in.
8 And of course, Laquata, you can see her eye. It's
9 (unintelligible). He only left when they played
10 dead. He was settling all debts. We talked about
11 ABHAN. We talked about kidnapping. Again, he
12 doesn't have to kidnap them. But at some point, it
13 was asked, well, nobody did leave. Maybe that's
14 because they were afraid to leave because they were
15 afraid of what would happen to them if they did
16 leave. And what did he say about Rabbit after having
17 testified and then after the defendant testified? I
18 was going to let Rabbit leave through the front door.
19 Let rabbit leave. He was in control of the people in
20 that room, because they were scared of what was going
21 to happen if they leave.

22 And all of these crimes are violent. If you
23 find that he used a weapon or used a firearm, then
24 he's convicted of using a firearm in the commission of
25 these violent crimes. That was the worst day of

JURY TRIAL & SENTENCING

1 everyone's lives. Bethany. It was the last day of
2 Shae's life and Laquata's. But in some way, this is
3 the most important day of their lives and their
4 families' lives. Don't hesitate. The evidence in
5 this case is clear. It is exactly what it looks like.
6 You have the forensic evidence. You have the
7 eyewitness evidence that we can provide to you.
8 Everything is consistent with what the State has
9 presented to you. Please give him his fair trial.
10 Don't hesitate to act. Find him guilty as charged.
11 Thank you.

12 THE COURT: Mr. Barrowclough?

13 MR. BARROWCLOUGH: May it please the Court?

14 THE COURT: Yes, sir.

15 MR. BARROWCLOUGH: Ladies and gentlemen of the
16 jury, this is a horrible case. This is a hard case.
17 This is a hard case. It's hard for the State, the
18 victims. It's hard for us, and I'm sure it's hard
19 for you all. And you all have been very patient.
20 It's been a long trial. It's taken a long time to
21 get to where we are. And, ladies and gentlemen, you
22 know, just like when Detective Beck was on the stand
23 and I said I wanted to be fair with him, I want to be
24 fair with you all.

25 You know, I'm not here to tell you Marques Heath

JURY TRIAL & SENTENCING

1 is a saint. He's not a saint. He is a human being,
2 is a flawed heat individual. Like anybody, he has
3 good points and bad points. And I'm not here to
4 sugarcoat any of that for you. Okay? But I am asking
5 you to be fair to him when you're trying to evaluate
6 his behavior that day. And as you go through the
7 evidence, evaluate his behavior, because this is a
8 real criminal jury trial. This is not a horror movie
9 or a Stephen King book. This is real life. And in
10 real life, there are always shades of gray. Nobody is
11 perfect, and nobody is the absolute villain. Okay?
12 It's all shades of gray. They make it sound so
13 simple, he is the worst. But it's not that simple.

14 On that video and that they played clips where
15 Mr. Heath is being interviewed, the other gentleman
16 besides Detective Beck in the video is Detective Pete
17 Branham. And one of the things that he said to
18 Mr. Heath was this: Charges sometime depend on
19 someone's mindset. You have not really heard a whole
20 lot of dispute -- other than the kidnapping charges --
21 a whole lot of dispute about what happened. The
22 dispute really comes in as to, like, why it happened.
23 You know, *mens rea*. That's the part of the -- of the
24 charge deals with the defendant's mindset, his intent,
25 why the things happened that happened. You know,

JURY TRIAL & SENTENCING

1 that's what we -- that's what we really have made at
2 issue here, because that really is the issue in this
3 case.

4 And to -- to look at that, ladies and gentlemen,
5 requires a serious inquiry by you all. You all have
6 sat and been diligent, you've been patient. This is
7 been a long trial. But you have to actually delve
8 into this evidence and the testimony, including the
9 testimony of Mr. Heath, to arrive at a decision that
10 is true and just. And I'm asking that you be fair
11 enough to do that. It requires a serious inquiry, not
12 name-calling.

13 And I want to go back to the beginning of this
14 case where, in opening statement, it was said "Death
15 came to the bedroom, death went to Farlow Street."
16 And then a scenario was laid out for you all that said
17 Mr. Heath struck Herman Leach with a hammer, went down
18 the hall to the bedroom, got the shotgun, came back
19 and shot Shae. And there was no mention of anybody
20 going out of the house, or Elijah James, or any of the
21 things that came up in the trial. It was a scenario
22 that was given to you in opening. And so, that's what
23 they're going to show. And you heard when Detective
24 Beck was on the stand and I cross-examined him. And
25 Detective Beck was the true lead investigator in this

JURY TRIAL & SENTENCING

1 case. He's the one who did the most investigation
2 back at the time. He's the one who talked to the vast
3 majority of the witnesses. And I specifically gave
4 him that scenario, and I said "Did any witness tell
5 you it happened that way?" "No. "Have you ever heard
6 that scenario before? "No. "No." That was a
7 completely erroneous statement. And the reason that
8 it came about was because this case is being treated
9 like a horror novel, because Mr. Heath is being
10 treated as something less than human. And that's not
11 right. But I'm trusting that you all will not do the
12 same.

13 Now, Mr. Epting did go to great lengths to both
14 bring out from Lieutenant Wallace, as well as in his
15 closing argument to talk about the fact that they
16 don't have all the witnesses. And bear it in mind,
17 you know, that's not a minor point because, again,
18 this is a criminal trial and they do the burden of
19 proof. And wouldn't you like to know what some of the
20 witnesses said? At Farlow Street, where is Dimitri
21 McCullough? Now, they had excuses. Of course, in
22 fairness, Lee Colvin is dead, and Shane Schillinglaw
23 is dead. Okay? Those two had excuses. And there
24 were excuses made for other people, and we'll talk
25 about them in a minute. But no excuse was given for

JURY TRIAL & SENTENCING

1 where is Dimitri McCullough. Why is he not here?

2 You have a scenario where Ms. Wilson says things
3 happened one way, Mr. Heath said things happened
4 another way. We have one eyewitness who was there,
5 and they don't bring him in to testify to answer my
6 questions. Why not? And the judge will tell you,
7 ladies and gentlemen -- or I guess he already has told
8 you -- that a reasonable doubt can arise both from
9 evidence that's in the case or the absence of evidence
10 in a case, evidence that you might want to hear in
11 case. And when we talk about Leach Road, there are
12 multiple people who they did not bring in, right? We
13 went -- I went through with Detective Beck all the
14 people that were there: Wayne Mitchell, Tommy Leach,
15 Karla Offert, Shane Schillinglaw, Herman Leach, Tommy
16 Leach, Elijah James, Lee Colvin. None of those
17 people -- ten people. The only person they brought in
18 was Herman Leach, and we'll talk about his testimony
19 in a minute.

20 Now, again, Schillinglaw and Colvin are dead.
21 They say they can't find Sheila Rushing or Karla
22 Offert, although this case has been pending for five
23 years and they have the power of all of York County
24 Law Enforcement. Just look at the amount of law
25 enforcement that came to watch this trial. Maybe they

JURY TRIAL & SENTENCING

1 should have been out hitting the streets trying to
2 find Sheila Rushing.

3 But not only that, what about Tommy Leach? They
4 didn't say they couldn't find him. They said that he
5 was mumbling that day. Well, did they talk to last
6 month to see how he was doing and if he wanted to come
7 testify or what he had to say? I mean, you could see
8 him in those original videos, those crime scene body
9 cam videos, where they walk in. He's the guy sitting
10 right on the couch. He was right there, an
11 eyewitness. So why didn't they bring him in?

12 Well, you know what happens, for both Leach Road
13 and for Farlow Street, the absence of the third-party
14 witnesses creates this he-said-she said-type situation
15 as far as what went down. And the
16 he-said-she-said-type situation, first of all, that's
17 not fair to Ms. Farrar and Ms. Wilson. Now, that's
18 putting all of the burden on them to convince you
19 these crimes happened beyond a reasonable doubt.
20 Secondly, it's not fair to Mr. Heath. You know, he
21 should be entitled to have all the people who are
22 witnesses in this case come in and be cross-examined
23 by his lawyer. And most importantly, that's not fair
24 to you all, because you all are charged with the
25 extremely difficult and serious responsibility of

JURY TRIAL & SENTENCING

1 deciding this case, deciding these charges beyond a
2 reasonable doubt. And they should bring you all the
3 witnesses and evidence before asking you to render a
4 decision in this matter.

5 But you see how that closing went, and how many
6 times Mr. Epting referred back to the gory videos and
7 stuff like that, because they are jarring, and I'm
8 sure they do play on your emotion, just like they
9 would play on anybody's emotion, mine included, in
10 order to get you to -- to overlook the fact that
11 witnesses were not brought here that should have been
12 brought here, and overlook the fact that, really, this
13 is put down as -- this really comes down to what
14 he-said-she-said as far as responsibility and as far
15 as exactly what happened at each crime scene.

16 Now, let's talk a little bit about Bethany
17 Farrar's testimony. And Mr. Epting said, you know,
18 that she had -- about her credibility. I'm not
19 attacking her credibility. I'm not saying Bethany
20 Farrar came in here and intentionally lied. But I'm
21 at the same time -- and again, this is what I mean.
22 We have to have a sophisticated analysis, a nuance
23 analysis. This was five years ago, it was a traumatic
24 event, and she is not perfect. That's why I said,
25 like, no one in this case is perfect. Her memory may

JURY TRIAL & SENTENCING

1 not be perfect. She testified to some things that,
2 quite frankly, couldn't be true. One, she said Tank
3 Ratliff was there and may have locked the door. Well,
4 we went through everything in the file with Detective
5 Beck, and there was no mention of a Tank Ratliff being
6 there by anyone. There was no mention of anyone named
7 Tank Ratliff in the file. Detective Beck had never
8 heard of a Tank Ratliff. Now, does that matter if
9 Tank Ratliff was there or not? Probably not. But is
10 that an indication that perhaps her memories of the
11 details of what happened that day are not, perhaps, as
12 clear is that they want you to believe? Yes, it is.

13 The second thing she said. She said Elijah
14 James did not have the shotgun, but he did have some
15 other gun. And again, in talking both with Detective
16 Beck and with Lieutenant Wallace, there was no
17 mention. A lot of people said Elijah James had the
18 shotgun. But nobody said Elijah James had another
19 gun. So where did that fact come from? And again, is
20 that fact really important or critical when you're
21 trying to figure out what happened that day? No,
22 probably not. It isn't. But the fact that another
23 detail or another fact is inserted into this scenario
24 that is clearly incorrect goes to the reliability of
25 her overall testimony. And that's something that, you

JURY TRIAL & SENTENCING

1 know, the judge charged you in his jury charge when
2 you're evaluating credibility of a witness.

3 And when I say credibility, I'm not saying she
4 was lying on purpose. I'm just saying, taking
5 everything into account, it's been five years, five
6 years and a traumatic event, that could make things
7 hard to remember the exact details. You'll recall
8 when I was questioning her -- and yes, I am a trained
9 attorney, but I really did try to not put her through
10 the ringer or anything like that -- but she did not
11 recall telling Detective Beck that Mr. Heath had gone
12 outside for a while, that Mr. Heath did not have the
13 shotgun until he came back in. But she did
14 acknowledge the fact that that was her statement back
15 at the time, close to the incident, when she talked to
16 Detective Beck about what happened the day before.

17 And it brings up the point again for a third
18 time. You know, when do you think her memory is more
19 clear about what happened, the day after or five years
20 later? And if you get that point incorrect, that's a
21 pretty significant point when you're talking about
22 what, exactly, went down in that trailer, why it
23 happened in that trailer, and particularly with
24 regards to the kidnapping that there was a time when
25 nobody was even in that trailer and the door was open.

JURY TRIAL & SENTENCING

1 We'll come back to that in a minute. And she
2 said -- Bethany Farrar -- I mean, excuse me. Bethany
3 Farrar said that Mr. Heath shot her twice. And that
4 is -- that is, of these things, probably the most
5 significant thing. Okay? She said that he shot her
6 twice. Mr. Epting was arguing that too. But ladies
7 and gentlemen, we questioned Deputy Ramsey at length,
8 and I also questioned Lieutenant Wallace at length
9 about the shell casings found in 1079 Leach Road,
10 right? There was only one shell casing found in the
11 interior proper of that trailer. And then there was
12 one found outside on the porch. One, one found by
13 Shae.

14 Now, think about this, because not only do
15 forensics not lie, but forensics also don't get
16 confused after five years. A scenario -- and I would
17 submit to you all, probably a scenario that's pretty
18 close to the truth -- Mr. Heath shoots Shae by
19 accident. He freaks out, he's upset to a degree where
20 he does blame Bethany. So he cocks the shotgun, goes
21 down the hall. There's the shell casing that's by
22 Shae ejected when he cocks the shotgun. Than he goes
23 into the bedroom, and when he's overhauled like he
24 testified, he's overwhelmed and blanks out, he did
25 something he never should have done, he shoots her

JURY TRIAL & SENTENCING

1 once. But as he cocked the shotgun to shoot her
2 again, there would have been a shell casing in that
3 room. I mean, there's pellets in that room, yes, when
4 he shot once. But there's not a shell casing in that
5 room. There's not another shell casing in the whole
6 interior of the trailer. So how could he have the
7 shot her twice?

8 Now, she has two injuries: one, as Mr. Epting
9 said, a bigger one, which I would submit to you all is
10 actually when he shot her in that bedroom; and the
11 other less severe one, which is probably where some of
12 the spare pellets from when Shae got shot also hit her
13 when she was behind and to the side. That would
14 explain the two injuries. And why is that so
15 significant? It's significant because the whole
16 scenario of Mr. Heath, the monster, death coming to
17 the door, going in there and shooting and waiting and
18 torturing her and this and that, and then shooting her
19 again, it didn't happen that way. The forensics show
20 it didn't happen that way, and also, Mr. Heath
21 testified it didn't happen that way.

22 Yes, he did wrong. I'm not here to make excuses
23 for that. And at the end of this, I'm not going to
24 ask you to acquit him of all these charges and send
25 him home. But I am asking for you to take this

JURY TRIAL & SENTENCING

1 seriously and look at the detailed analysis of what
2 happened. There's no shell casing in that room.
3 There's not a shell casing in the all or in the living
4 room, other than the one by Shae. So how was she shot
5 twice? She wasn't. That's a significant fact. It's
6 a significant fact when you're trying to determine,
7 with regards to Bethany Farrar, was this attempted
8 murder or was it aggravated assault, or was it 1st
9 degree assault? And that's a decision you're charged
10 with making, and it's serious. It's a big decision.
11 And I'm asking you to consider all these facts because
12 it's not quite as simple as Mr. Epting is making it
13 sound.

14 That's the only other shell casing found, that's
15 out on the deck. And, as Mr. Davis brought out on
16 cross-examination, that shell casing was also wet.
17 Now, something that, ladies and gentlemen, I would
18 submit is a little more straightforward is that the
19 charge of assault and battery of a high and aggravated
20 nature against -- with Herman Leach being listed as
21 the victim. On cross-examination -- and again, you
22 take it how you take it -- but I wasn't trying to be
23 hard on him either. But I asked him, and he said that
24 he was hit one time with the hammer, that it was a
25 clean break, he had one surgery, and he had a full

JURY TRIAL & SENTENCING

1 recovery.

2 Now, again, I'm not here to say that that's
3 right. That's wrong. Mr. Heath never should have
4 done that. But what is it? What is it? You know,
5 Mr. Epting said in his closing that Mr. Leach kind of
6 gave different answers depending on who's asking the
7 questions, because I didn't hear him say that it was
8 broken in two places. And when I asked him about his
9 full recovery, he said, yeah, he recovered fully. And
10 then, when Mr. Epting followed up with him, he said,
11 yeah, he did have some range of motion issue with his
12 shoulder, which I would submit, first of all, it was
13 five years ago and, I mean, I don't know any
14 75-year-olds. I mean, I'm 54 and I have range of
15 motion issues with my shoulder. I don't know. But he
16 testified on my cross-examination that he made a full
17 recovery. So what would that be?

18 The judge has charged you, the definition of
19 moderate bodily injury is physical injury that
20 involves the loss of consciousness or causes temporary
21 or moderate disfigurement or a temporary loss of the
22 function of a bodily member or organ. An injury that
23 requires medical treatment, whether the treatment
24 requires the use of regional or general anesthesia or
25 surgery, injury that results in a fracture or

JURY TRIAL & SENTENCING

1 dislocation. One clean break; that's exactly what he
2 had, and that's the type of definition of injury that
3 goes with assault and battery 2nd degree.

4 For ABHAN, great bodily injury: Causes a
5 substantial risk of death or which causes serious
6 permanent disfigurement or protracted loss or
7 impairment of the function of a bodily member or
8 organ. That just didn't happen. You don't have
9 protracted loss or impairment of the function of a
10 bodily member or organ. He wasn't at risk of death.
11 He didn't have serious permanent disfigurement. I
12 mean, again, it's just a matter of being fair. I'm
13 not saying that what he did wasn't wrong. It was
14 wrong. I'm not saying that he's not guilty of
15 something. He is guilty of something. But let's just
16 be proper about what he's guilty of. In the case of
17 his uncle, it's assault and battery 2nd degree, not
18 assault battery of a high and aggravated nature.

19 Now, let's talk about the kidnappings. There is
20 no evidence in this case that any of these people were
21 seized or confined. Mr. Epting, in his closing, tried
22 to make it like, oh, that by his words these people
23 were confined. Well, you heard the definition of
24 kidnapping read to you by the judge, and you'll have
25 the full jury charge with the definition of kidnapping

JURY TRIAL & SENTENCING

1 back in the jury room with you. Read that jury
2 instruction and see if it says anything about
3 confinement by words. Bethany, on the stand, admitted
4 that no one tried to leave that trailer and was
5 prevented. No one did. And she also admitted that in
6 her statement there's a period of time when Mr. Heath
7 was even gone from the trailer and the door was open
8 and she did not leave and Shae did not leave.

9 So if they didn't leave when he wasn't there for
10 a period of time and the door was open, there's no
11 indication that there was a desire to leave. Everyone
12 admitted everyone was there of their own free will.
13 Everybody went there themselves of their own free
14 will. It's kind of like, well, if a tree falls in the
15 woods and no one is there to hear it, does it make a
16 sound? If people are in a location and they're not
17 trying to leave, are they really kidnapped? It
18 doesn't make sense. This, again, is just like he's so
19 bad, let's charge him with kidnapping also. Because
20 these crimes are so horrible, let's run up the score.

21 What did Herman Leach say? First of all, he
22 said Elijah James had the shotgun the whole time. He
23 said that he, himself, did not feel seized or confined
24 or kidnapped, and he left. And the funny thing about
25 that is he left going out the window. That's --

JURY TRIAL & SENTENCING

1 that's crazy. I mean, normal people don't go out the
2 window. Well, maybe that's a sign that he -- he was
3 kidnapped. But then today -- I think it was today --
4 today, Lieutenant Wallace admitted in his conversation
5 with Elijah James that when Herman Leach went to go
6 out the door -- much like Mr. Heath testified he told
7 him go out the door -- when he went to go out the
8 door, it was Elijah James at the door. It was Elijah
9 James at the door, and the gun was at the door. Now,
10 Elijah James did not go so far to admit that he had
11 the gun in his hand at that point, although he
12 admitted to having in his hand earlier. But it's
13 Elijah James at the door with the gun at the door who
14 said, no, Unc, don't go out the door. Don't go out
15 the door, it's going to make you look like you stole
16 the stuff.

17 So to the extent if Herman was confined
18 momentarily for minutes where he felt that he had to
19 go out the window, who did it? There was no testimony
20 that Marques Heath did it. There was no testimony or
21 evidence of Marques Heath and Elijah James were
22 working together. If that happened at all, Lieutenant
23 Wallace's testimony -- testimony shows that it was
24 Elijah James who did it and not Marques Heath who did
25 it. When I cross-examined Detective Beck about the

JURY TRIAL & SENTENCING

1 kidnapping, what did he say? Again, pursuant to his
2 investigation, there was a period of time where Heath
3 and Elijah James left the trailer. He said that
4 neither Bethany nor Shae chose to leave at that time.
5 Also, prior to that time, Mr. Heath did not have the
6 shotgun. There's no evidence that Heath and James
7 were working together, and that James was not charged
8 with kidnapping.

9 And when we're talking again about all the
10 people, all the witnesses that the State did not bring
11 to you so that you did not get the opportunity to get
12 hear their testimony, I did not get the opportunity to
13 question them in front of you. How about Elijah
14 James? No mention was made of why he wasn't brought
15 in. He's not dead. There's no talk of any effort .
16 made to find him and they couldn't find him. Well,
17 why not? Why didn't he have to come in and talk about
18 whether or not he had the shotgun? Why didn't he have
19 to come in talk about whether or not he was at the
20 door? Come in and talk about why or why not he was in
21 charge of kidnapping? I mean, it makes no sense. If
22 you're going to say somebody was kidnapped because
23 they were afraid to leave, or the with the shotgun was
24 Elijah James, but he doesn't get charged, but Marques
25 Heath gets charged. It's not right. It's just piling

JURY TRIAL & SENTENCING

1 on because he did, in fact, shoot these three other --
2 these three women, which was wrong. And again,
3 Detective Beck's investigation revealed Mr. Heath did
4 not physically prevent anyone from leaving.

5 Now, the attempted murder charge for Laquata
6 Wilson. Mr. Heath said he did not intend to kill her.
7 His intention -- and again, this goes back to the
8 Lieutenant Branham quote -- what was his mindset? His
9 intention was to defend himself from Dimitri
10 McCullough. Mr. Heath said that McCullough had
11 entered the room and pointed a gun at him, and he
12 fired because he was scared for his life.

13 Now, what do we know about that? We know he
14 went there for help from Ms. Wilson. We do know that
15 it's true Mr. McCullough was armed with a 357 Magnum.
16 The fact that the guy came into the room with his gun,
17 he didn't make that up because McCullough, when he was
18 located by police, did, in fact, have a 357 Magnum.
19 This isn't like complete fiction. We know that
20 there's a white powdery substance in a baggy in a
21 coffee mug in the living room. And I questioned him
22 about it, if it could be cocaine: "Yes. "Did they
23 test it?" "No." But Beck did say that people on
24 drugs can tend to be violent or aggressive. We know
25 that Dimitri McCullough came into the room. Even

JURY TRIAL & SENTENCING

1 Ms. Wilson's statement said that he came into the room
2 and was behind her. Her testimony was, he came into
3 the room and was behind her and she looked at him and
4 looked at Mr. Heath. Her statement just said he came
5 into the room and she heard him behind, but we know he
6 did, in fact, come into the room. He had the gun out.

7 And the last thing we know is that much of the
8 shotgun spray in the wall was above and behind the
9 couch where Ms. Wilson was sitting. That would be
10 consistent with the area where Mr. McCullough was.
11 And I don't have as good a capability as Mr. Epting
12 with these pictures, but if you look, the picture
13 that's on you all's right shows the wall. It's high
14 up. You can see both where the pellets went into the
15 wall and, as was testified to, the two bigger black
16 marks are where the wadding went in the wall. And
17 that -- and that's high up and close to the doorway
18 where McCullough would have come into the room.

19 Now, Mr. Epting did go to great lengths to talk
20 about the blood spatter and how that meant that
21 Mr. Heath stood over Ms. Wilson and shot her. But
22 ladies and gentlemen, again, this is real life. This
23 isn't a movie. This is real life. When he feels his
24 life is in danger, I submit to you, everything would
25 have happened fast. He's from here. Like he said,

JURY TRIAL & SENTENCING

1 where the blue baggy is, getting up, firing, firing
2 this way as he's going out this way. As he's running
3 out this way, now, isn't it possible that one of his
4 shots went this way and those pellets still would have
5 struck Ms. Wilson in this area, accounting for the
6 blood spatter? And I don't have a picture of what's
7 behind that chair.

8 It's not like this happened in slow motion, like
9 a movie. This all happened fast. He didn't sit there
10 -- by his own testimony or anybody's -- sit there and,
11 like, line it up and take good aim, or anything like
12 that. He was trying to get up out of there as fast as
13 possible.

14 And what do we know of Dimitri McCullough?
15 Well, he's carrying a 357 illegally. He wasn't tested
16 for gunshot residue. He was not questioned about drug
17 use. His clothes were not taken into evidence. So
18 why is that important? That's important both because
19 the one expert testified about you can you gunshot
20 residue off of clothing, but also, you can get gun
21 powder off of clothing. If we want to know how long
22 was Dimitri McCullough even still in that room, they
23 could have taken his jacket, swabbed it, and tested
24 it. But they didn't do it because, again, just want
25 to keep everything simple. He's a monster, he's

JURY TRIAL & SENTENCING

1 guilty of everything, we're only going to look at the
2 things that make him look bad. We're not going to
3 charge Dimitri McCullough with a crime. We're not
4 going to bring Dimitri McCullough into court. We're
5 not going to have Dimitri McCullough testify as to
6 what happened in that house from his perspective.
7 We're just going to sweep all that under the rug,
8 because he's a monster who went there with a vendetta
9 to kill Ms. Wilson. But that's not true. That's not
10 true.

11 Dimitri McCullough. The report said he was
12 looking for a ride out of there. He wasn't calling
13 911, he wasn't there to get an ambulance for
14 Ms. Wilson, he wasn't there to get the police. He was
15 just trying to get up out of there. And again, the
16 fact that he was trying to leave that day and not be a
17 part of it, and the fact that he didn't come in this
18 week to be part of it is all indicative of the same
19 thing.

20 Well, let me say this about the charge of Ms.
21 Wilson. Okay? You see that we are not asking you to
22 find Mr. Heath not guilty of that charge for
23 self-defense because, first of all, Ms. Wilson is not
24 the one who went in the room with a gun. He thought
25 he needed to defend himself against Mr. McCullough,

JURY TRIAL & SENTENCING

1 and he shot Ms. Wilson by mistake. Now, going back to
2 what Lieutenant Branham said. You know, what's the
3 mindset? That's what's important. You can't do that
4 what he did and be not guilty of anything. Okay?
5 What he did in shooting Ms. Wilson, he's guilty of
6 something, right? He's guilty of something. But the
7 question is, what?

8 If he really fired those shots because he was
9 scared of McCullough, he's still guilty of some form
10 of assault, but it's just not going to be attempted
11 murder, because he wasn't firing those shots at the
12 person he went to help -- to get help from with intent
13 to kill her. He did it, I would submit, first of all,
14 because he was jacked up over everything that happened
15 on Leach Road, but second of all, because he was
16 afraid of Mr. McCullough. But he still grievously
17 harmed Ms. Wilson. So where do we fall down on that?
18 I mean, her injuries do meet the definition of great
19 bodily injury for aggravated assault. But he didn't
20 intend to inflict those injuries, so we don't have the
21 *mens rea* part of that crime. So is it assault battery
22 1st degree or aggravated assault? That's going to be
23 up to you all to sift through that. That is, I just
24 ask on behalf of Mr. Heath to do it conscientiously
25 and diligently. You know, look at all the facts. I

JURY TRIAL & SENTENCING

1 mean, he's guilty of something for that, no question.
2 The only question is what.

3 Now this: That he did not murder Ms. Williams.
4 There's no evidence educed at this trial that they
5 were having problems prior to February 12th, 2019. He
6 never complained to Detective Beck. Despite a lot of
7 his complaints, he never complained to Detective Beck
8 that she lied to him, that she cheated on him, that
9 she called the police on him. But what does the
10 evidence show? What did the evidence affirmatively
11 show, what was testified to? That he had told Bethany
12 that he loved Shae, that he was smitten, that he and
13 Shae were being sweet to each other.

14 And again, ladies and gentlemen, this go back to
15 what I'm saying, that this is a real person. He's not
16 all good, he's not all bad. He has bad traits, he has
17 bad characteristics. He had a rough upbringing. He
18 was on his own since he was 13. He wasn't shown a lot
19 of love. He doesn't know how to handle things
20 appropriately all the time. But that doesn't mean
21 he's not also a human being who can't also care about
22 somebody, who can't also love somebody, who can't also
23 have feelings for somebody. It's not all one or the
24 other. And the evidence, no matter what the State
25 tries to say, the only evidence is that at the time

JURY TRIAL & SENTENCING

1 that this happened on February 12th, that he loved
2 her. He had no motive, he had no intent to hurt her
3 or kill her.

4 But the State wants you to ignore all of that.
5 They want you -- they want you to focus on after the
6 fact; how did he act at the hospital when, basically
7 -- you know, I'm not even going to talk about the fact
8 he's bit by a dog, or whatever else. But just the
9 fact that, you know, he knows that he's in huge
10 trouble, his life is basically over. And these cops
11 keep haranguing him and haranguing him. And -- and
12 some of his responses might not have been what you
13 have done in that situation or what you'd want to
14 hear. But that's because he's a human being. But
15 none of that after-the-fact stuff takes away from all
16 the evidence, the only evidence that you have about
17 this before-the-fact stuff.

18 The State wants you to discard the idea that
19 this is an accidental shooting. The State wants you
20 to find guilt beyond a reasonable doubt. And a
21 reasonable doubt is defined as the type of doubt that
22 would cause a reasonable person to hesitate to act.
23 You are all reasonable people. They want you to find,
24 without hesitation, that Mr. Heath killed the woman
25 that he loved, the only one who treated him good, on

JURY TRIAL & SENTENCING

1 purpose, intentionally, because he's death. That's
2 what they want you to find.

3 Ladies and gentlemen, I would also ask you to
4 consider one thing: Shae's actions that day. The only
5 way that she would step in front of a loaded gun is
6 that she believed the person who was holding it would
7 never shoot. Her actions showed a confidence in his
8 feelings for her that were real. Despite what they
9 say despite, depict how they depict him, they were
10 real. And ladies and gentlemen, if you hear me on
11 anything that I've talked about any of these charges,
12 hear me on this: He did not intend to kill
13 Ms. Williams. He did not. And again, that doesn't
14 make him not guilty of anything, but then you have the
15 option of convicting him of manslaughter for that.
16 And that's in your charge too. But we're looking for
17 a verdict that's consistent with the truth, that he
18 did not kill her on purpose. So we ask you to find
19 him guilty of involuntary manslaughter for the death
20 of Shae Williams.

21 And, ladies and gentlemen, the last thing I want
22 to say is this: You know, I've been doing this a long
23 time, and I've heard it said a lot of times, mainly by
24 judges, that jury service is the second most important
25 thing you can do for your country, short of military

JURY TRIAL & SENTENCING

1 service. And I know from doing this a long time that,
2 just like military service, jury service requires
3 courage. It requires courage. It requires courage
4 with you 12 people to give meaning to the words
5 "presumption of innocence." It takes courage for you
6 12 people to give meaning to the words "burden of
7 proof." It takes courage for you 12 people to give
8 meaning to the words "beyond a reasonable doubt." So
9 I'm going to ask you, on behalf of Mr. Heath, to have
10 the courage to give meaning to the words, have the
11 courage to treat him fairly, and have the courage to
12 find him guilty of manslaughter. Thank you all.

13 THE COURT: All right. Ladies and gentlemen,
14 the State as the burden of proof, so they get a brief
15 reply.

16 MR. EPTING: Thank you, Your Honor.

17 (Technical difficulties.)

18 THE COURT: I think we just got it, Mr. Epting.
19 Okay. Let's see.

20 MR. BARROWCLOUGH: No. Ours is off.

21 MR. EPTING: I beg the Court's indulgence.

22 MR. PORTER: What is going on? What is going
23 on?

24 THE COURT: There you go.

25 MR. EPTING: So Shae was the love of his life,

JURY TRIAL & SENTENCING

1 the person that he would never harm under any
2 circumstances whatsoever. That's what the Defense
3 has told you. She knew that, so she stepped in front
4 of a loaded gun. The defendant did not have the
5 intent to do any of these crimes, that's what you've
6 been told. Intent is one of the hardest elements to
7 prove in any case. How do we prove what
8 somebody really did? We prove it by their actions,
9 what they say and what they do. Because as it stands
10 right now, there's no technology to read somebody's
11 mind. So what did the defendant intend that day? We
12 know what he did do, we know what he didn't do.
13 Shae, he loves her, right? And if you believe what
14 the Defense just told you, he shoots her
15 accidentally, if you believe their story. Does he
16 call an ambulance? Does he called Bethany an
17 ambulance? Whoops, he accidentally shot Mook, the
18 person who was his confidant, the person he goes to
19 for help in his time of trouble. Did he call her an
20 ambulance? Because he accidentally shot her
21 defending himself. No.

22 He did not call an ambulance for any one of
23 those women. Why? Because he wanted them to die,
24 because he did not want help to arrive. He did not
25 want the police to arrive in time to collect evidence

JURY TRIAL & SENTENCING

1 against him. There was no evidence that him and Shae
2 were having problems? Are you serious? Did you watch
3 that interview where -- where he talked about what
4 happened inside the house that led to all of this
5 stuff on Leach Road? What did he say? I won't play
6 it again because you've seen it a million times. But
7 he said, "They were talking shit." And Walter Beck
8 says "Who, Beth?" And he says "Beth and Shae, cursing
9 me like a dog." He was furious because he was missing
10 this stuff. He was mad, and that anger was
11 snowballing, and snowballing, and snowballing until he
12 did something crazy, something stupid, something evil,
13 something malicious. And that's why we're here today.

14 People do horrible things in rage every single
15 day. When he was told in the hospital, again, this
16 woman that he loved that was his -- his -- his one and
17 only was dead, how did he react? Did he cry? Did he
18 react at all? He said, "Man," like you just told me
19 Clemson football lost their game. Her actions show
20 that he didn't -- that she did not believe that he
21 would shoot her? She was a 20-year-old girl. And
22 what did Bethany say? Bethany said that she tried to
23 calm him down. She tried for a while before she
24 realized (descriptive noise), basically this ain't
25 happening. She backed away. Shae was too young to

JURY TRIAL & SENTENCING

1 see it. She was too naïve, she was too young. She
2 didn't realize what was coming at her until he shot
3 her in the face with a shotgun.

4 The case is being brought to you like a horror
5 novel. Well, ladies and gentlemen, you've seen the
6 pictures and you've seen the videos and you've heard
7 the testimony. To the people that lived this very
8 real thing that Mr. Heath did, it was a horror novel.
9 Common sense. Mr. Barrowclough has -- has told you
10 how things happened, how they had to have happened,
11 and stated them as facts. I ask you to go back to the
12 testimony that was given of Ms. Williams. The coroner
13 was asked, is it possible, based on your examination
14 of Shae and all those pellets that were in her face,
15 that some may have gone past her and some have struck
16 straight? And what did he say? He said "I don't
17 think so because there were no secondary marks,
18 there's no other marks in her face indicating that she
19 did not receive the full blast." And more than that,
20 the wadding, the wadding containing all those pellets,
21 where was it? Lodged in her jaw and starting to
22 expand inside of her face. There was nowhere for
23 those pellets to go because the wadding was in her
24 face. That's what killed her.

25 More clear then or now? What -- what -- what

JURY TRIAL & SENTENCING

1 did -- what did Bethany say? Well, first of all,
2 where was she interviewed when she spoke with Walter
3 Beck? More on him later. Were did Walter Beck say he
4 interviewed her? At the hospital, right after she'd
5 been shot, trying to repair all the damage done to
6 both of her arms, heavily, heavily medicated. Was she
7 clear on all the details? It doesn't seem like she
8 was. Was Walter Beck clear on all the details? What
9 did he say? "It's been five years." He's moved on.
10 He's not even with the sheriff's office anymore. Joey
11 Wallace is, and he testified as well. More on that in
12 a minute.

13 But what he could remember was that he talked
14 to her in the hospital. She was fuzzy about some of
15 the details, but she wasn't fuzzy about what he did.
16 She wasn't fuzzy that he walked up to Shae and shot
17 her in the face in the course of that argument. She
18 wasn't fuzzy that he then went to her room and shot
19 her two times. Going to go shoot Bethany with a
20 shotgun. It couldn't have come from when Shae was
21 shot because the wadding is in her face, the one with
22 all the pellets. And the other wadding is taken from
23 Bethany's body. Where did it come from?

24 The shotgun. What did they testify was in that
25 shotgun that was recovered from the defendant's car?

JURY TRIAL & SENTENCING

1 A spent shell. There's nothing to say that he did not
2 shoot Shae, eject that shell that goes to the porch,
3 walk back, shoot Bethany, eject that shell. Where was
4 that shell found? There was a shell in the hallway.
5 It was in the victim's hair. Where was the victim?
6 In the hallway, right outside the bedroom where
7 Bethany was shot. That's two. He shoots her a third
8 time and then he leaves with that shell inside the
9 shotgun, just like he left Farlow with a shell inside
10 the shotgun that they ejected when they processed that
11 here at the Moss Justice Center.

12 The defendant testified that he didn't have
13 intent, that it was just an accident. They -- they --
14 they implied during the course of this trial that if
15 anybody kidnapped anybody, it was Elijah. And they
16 asked Walter Beck multiple times: "What did Elijah
17 say when he was interviewed by police, what did he
18 say, what did he say about the gun, what did he say
19 about what he did?" And what did Walter say? "It's
20 been five years, I don't remember." They keep showing
21 him reports. A, it's been five years since he's left
22 law enforcement and, B, he wasn't the one who
23 interviewed him, Joey Wallace did.

24 What did Joey say when he was on the stand about
25 what Elijah said about that shotgun? He said he had

JURY TRIAL & SENTENCING

1 it. He grabbed it away from the defendant, and then
2 the defendant grabbed it back. So in a vacuum, is it
3 true to say that he had the shotgun? Yeah, he did.
4 He grabbed it briefly away from the defendant, and
5 then the defendant immediately grabbed it back and did
6 what he did. He didn't until intent to kill Bethany.
7 I just don't how to respond to that. He shot her
8 twice. He shot her until she played dead and he left,
9 and he almost succeeded.

10 Farlow Road. When he was talking to Pete, he
11 doesn't remember. To this day, he doesn't really
12 remember shooting Mook. He could go back check on
13 her, I guess. But I asked him again and again, "How
14 did Mook get shot? Did you shoot her when you were
15 aiming at McCullough? Did you shoot her when she was
16 down on the ground?" "No, I didn't do that."
17 Unfortunately for him, the forensics tell a different
18 story. These were the last things he saw -- very
19 briefly -- Mook in this state, Bethany in this state,
20 grievously injured. He didn't call an ambulance.
21 What's in his mind? He did then to them. What's in
22 his mind? What's his intent of causing these
23 injuries?

24 Did he go there for help? That's what the
25 Defense said. We know a couple of things. We know he

JURY TRIAL & SENTENCING

1 went there for help. Do we? Do we know that? I
2 submit to you, he didn't go there for help. Because
3 if he went there for help, why did he bring the
4 shotgun with him? And if he's going there for help,
5 why does he bring a shotgun inside the house? Does
6 that make any sense to anybody? Or does it make more
7 sense that he's going there to do more harm? Does it
8 make more sense that as he's going inside, he's
9 reloading that shotgun and shooting Laquata Wilson
10 almost to death.

11 The white powder, what does that have to do with
12 anything? How was that factored into any part of this
13 case? It hasn't. It's a red herring. It's a
14 distraction. It has nothing to do with whether he
15 attempted to kill Laquata Wilson, or whether he
16 attempted to kill Bethany Farrar, or whether he
17 kidnapped those people at Leach, or whether he
18 murdered Shae. Nothing to do with it whatsoever.

19 We know he had the gun out. We know that
20 Dimitri McCullough had the gun out. Do we? Who said
21 that? Who said that? Mr. Heath said that. Did
22 Laquata say that? No. What did Laquata say about
23 Dimitri? (Snaps fingers) Gone. He sees that shotgun
24 and he is gone. And what -- so that's what Laquata
25 says. We have what she said, we have what Mr. Heath

JURY TRIAL & SENTENCING

1 said. One of them is lying, but that's a completely
2 different story. Who do we believe? Who has the
3 motive to lie? Does Laquata have motive to lie? Does
4 Mr. Heath have motive to lie? The answer is obvious.

5 The realm of possible, the blood spatter thing.
6 Let's look at it again. I'll use my -- those tech
7 schools that I've been heralded on. You see on left
8 picture shotgun holes, pellets, two waddings in the
9 wall. I'll give you that. What did -- what did --
10 what did Laquata testify to? That Dimitri McCullough,
11 her then boyfriend, was standing at in a doorway, far
12 to the left. And more than that, we have shotgun
13 pellets, we have splatter, we have wadding from
14 Laquata's body. That's in evidence too, if you want
15 to see that, I believe two pieces of wadding -- one,
16 two, three, four -- from her body. If he was not
17 aiming for her, how did that wadding get in her body?
18 Two in the wall, at least one in her body, maybe two.
19 It makes -- his story makes absolutely no sense, and
20 Laquata's does because it's corroborated by the facts.
21 That spatter didn't get on the wall by her sitting.
22 That spatter got on the wall by him continuously
23 shooting her in a prone position, trying to kill her,
24 trying to murder her, attempting to murder her.
25 Exactly what he's charged with.

JURY TRIAL & SENTENCING

1 He has had five years to think about this case
2 and come up with these crazy stories, and he's had
3 access to the evidence. So now, he can tailor his
4 stories knowing what evidence the State has and try to
5 come up with a way to come in front of you and ask for
6 a not guilty or to ask for a lesser charge, which is
7 what they're doing today.

8 Ladies and gentlemen, that's not courage. It
9 doesn't make any sense. And then, again, this goes to
10 intent. What is it somebody said? He had an
11 opportunity to call the police after Leach. If he's
12 telling the truth and what he said happened, did he
13 ever call the police? No, he did not. Why? He had
14 the opportunity to call the police after Farlow --
15 Farlow, where somebody assaulted him to the point
16 where he had to defend himself. He did not. Why? He
17 spoke to the officer for two hours, and he never
18 mentioned any of these things that testified here in
19 court today. Why? Because he didn't have access to
20 the evidence to know how to specifically try to wiggle
21 his way out of this.

22 What did Bethany say about Herman? She said he
23 ran out of a window, and that he was struck multiple
24 times with a hammer that broke his arm. When he had a
25 chance to break -- bolt, he did it. Nowhere in that

JURY TRIAL & SENTENCING

1 statute does it say you have to physically confine
2 someone. If I were to come in a room and say if
3 anybody leaves this room, I'm going to kill you, and
4 you believe me because you're afraid, I have committed
5 the crime of kidnapping. I don't have to tap you. I
6 don't have to tie you up. If Mr. Heath says nobody is
7 leaving until I get what I want, and he has a hammer
8 and he's started to beat me, that's kidnapping.
9 Because what is going to happen if someone tries to
10 leave? He might hurt them. He has put them in fear.

11 He downplayed his injuries. Herman Leach
12 downplayed his injuries, of course he did. He's in
13 the room with his nephew. Their paths may have
14 crossed (unintelligible). He showed you his scar, he
15 said he just hit him. The defendant himself said he
16 just tapped him lightly. But he showed you a surgery
17 scar. That break was bad enough to require surgical
18 repair. Any he did say his arm -- the mobility in his
19 arm is limited for the rest of his life.

20 I wish we -- and I've addressed this -- I wish
21 we could have called them. Shane Schillinglaw is
22 dead. Shae Williams is dead. Karla Offert is
23 homeless and can't be located. Sheila Rushing is
24 homeless and can't be located. Herman Leach, we
25 called. Mr. Colvin is deceased. Elijah James,

JURY TRIAL & SENTENCING

1 according to what has been argued in here, is a
2 potential suspect who has the right to plead the
3 Fifth. Bethany Farrar testified. Wayne Mitchell --
4 we'll get to him -- and Tommy Leach. The vast power
5 of the State (unintelligible) in this investigation.
6 It's common fodder in every trial. I can tell you, as
7 impressive as it is, the power of the State is not
8 that vast. And there is no perfect police
9 investigation. I've been doing this 15 years, and I
10 haven't seen it. And the day I see it, I'll retire,
11 because the police are human. Police are not -- and
12 -- and humans are not perfect.

13 Dimitri McCullough, what do we know about him?
14 He ran. What is he going to come in here and testify
15 and help us? Is he going to come in here and lie
16 because he's embarrassed? He ran. What did he see?
17 They mentioned that Walter Beck was the true case
18 agent. What did Joey Wallace say about how they
19 operated in 2019? What did -- what did he classify
20 that position as? A paperwork folder holder, somebody
21 to essentially collect all the documents in a very
22 complicated case. And then, they act as a team to do
23 follow-up. And that's what they did here. Joey
24 Wallace did a ton of follow-up on this case. He did a
25 ton of investigations and was actively involved in the

JURY TRIAL & SENTENCING

1 decisions that were made. And again, he had the
2 answers about Elijah and what Elijah knew. Walter
3 Beck didn't because Walter Beck didn't conduct that
4 interview. This is Wayne Mitchell. That's why we did
5 not call Wayne Mitchell. This is Tommy Leach on the
6 body can.

7 (The video was played.)

8 (The video was stopped.)

9 MR. EPTING: Does that sound like somebody that
10 can provide us with valuable testimony, or does that
11 sound like somebody that's going to be a horror show
12 to come in here and put on the stand? This is not a
13 he-said-she-said. There is all kinds of forensic
14 evidence to back up the testimony of our surviving
15 victims; to back up the testimony of Bethany Farrar,
16 to back up the testimony of Laquata Wilson. That's
17 called corroboration. The defendant's testimony,
18 none of it's corroborated. Why? Ladies and
19 gentlemen, I submit to you, it's because he's not
20 being truthful. He's lying. And he's lying to try
21 to get himself at least in less trouble than he's in,
22 if not out of trouble completely. That's not
23 courage.

24 Review the evidence in this case, decide --
25 look at -- look at the evidence, look at the

JURY TRIAL & SENTENCING

1 corroborating, consider what people -- what reasons
2 people might have to tell the truth and what reasons
3 they might have to lie, and use your common sense.
4 This defendant, on February 12th of 2019, was in a
5 rage because he felt he had been wronged and
6 disrespected and stolen from, shot Shae Williams, who
7 was not the love of his life, who was not this perfect
8 angel in his eyes, somebody who was a suspect in
9 having taken and stolen from him, who he put a gun in
10 her face and pulled the trigger. And then he shot
11 Bethany, who he also suspected of stealing from him,
12 multiple times, leaving her for dead. And he
13 proceeded immediately to Farlow Street, where he shot
14 Laquata Williams -- Laquata Wilson multiple times,
15 again, leaving her for dead. That is attempted
16 murder. He held those people in the house with threat
17 of violence. That is kidnapping. And he's the one
18 who committed these violent crimes. That is use of a
19 weapon during the commission of a violent crime. We
20 await your verdict.

21 THE COURT: All right. Ladies and gentlemen,
22 that concludes the closing arguments. I'm going to
23 ask you all to step back to the jury room. You can
24 use the restroom or whatever. And just -- again,
25 your signal to begin deliberation will begin -- will

JURY TRIAL & SENTENCING

1 be when the bailiffs bring you the evidence and the
2 verdict form and the jury instructions. Okay? I do
3 need to ask my alternates, which would be a Juror
4 Warntz and Juror Atkins to stay and speak with me
5 briefly. Okay? Thank you all very much.

6 (The jury exited the courtroom.)

7 THE COURT: All right. Gentleman, I know your
8 job is a little frustrating. You've been paying
9 attention for several days here, and I can tell
10 you've paid close attention, and you're not going to
11 get to vote on the verdict. And I understand that's
12 frustrating. But we did have to replace two jurors
13 with alternates, and if we had had another juror that
14 had an issue, you all could have stepped up and
15 allowed us to continue the trial, so we're very
16 grateful. On behalf of York County and the State of
17 South Carolina and myself, thank you very, very much
18 for giving up your time and for your jury service.
19 With that said, your jury service is complete.
20 You're now released from any restrictions. You can
21 discuss these matters -- discuss with anyone you'd
22 like. You're welcome to stay for pizza, and the
23 county will provide pizza. If you want to stay and
24 wait out here for the verdict, you can do that.
25 However, I can't let you eat with the other jurors

JURY TRIAL & SENTENCING

1 because they'll be deliberating. All right?

2 Gentlemen, thank you all very much.

3 Counsel, you all want to make sure all the
4 evidence is here and we'll send it back? Counsel,
5 that was a very well-tried case on both sides.

6 (Off the record.)

7 (On the record.)

8 THE COURT: All right. All the evidence is
9 accounted for. It's 5:25 exactly. Sending it back
10 to the jury. We're off the record.

11 (Off the record.)

12 (On the record.)

13 THE COURT: Counsel, we have a note. The note
14 says "Do we have a summary of exhibits?" So what I
15 think that they want is an exhibit list. I'm okay
16 sending them the exhibit list. I mean, what do you
17 all think? I mean, what I'm doing -- this is the one
18 the State prepared and the court reporter is using.
19 I was going to redact out. It has a box for what
20 witnesses were going to testify. I'll redact that
21 out. So what they would get is just the numbers and
22 what it is. So do you all want to --

23 MR. PORTER: Can we take a look at it real
24 quick?

25 THE COURT: -- yeah. Yes.

JURY TRIAL & SENTENCING

1 MR. DAVIS: I think that's got some documents in
2 there as well.

3 THE COURT: Right. That will be redacted out
4 too. So what -- what -- I actually had already --
5 was cutting paper. So what I'm -- what I'm proposing
6 to give them is just -- just that.

7 MR. PORTER: Do you have a copy of the -- do you
8 have a copy of that so I can just delete the
9 (unintelligible) sheet? Sure. Take out the caption.

10 THE COURT: Yeah. You can take out the caption.
11 Okay. Okay.

12 MR. EPTING: Judge, that's fine with us. We may
13 have a copy of that that we can blank out a portion
14 of it.

15 THE COURT: Okay. The Defense has requested
16 blacking out the caption, which is fine with the
17 Court. If you all want to -- yeah.

18 MR. EPTING: That's fine with us too.

19 THE COURT: So let me -- if you all want to just
20 hang out while I'm doing my sort of best job of
21 redacting here and to make sure it looks okay.

22 MR. BARROWCLOUGH: Yes, sir.

23 THE COURT: All right. The last thing,
24 Ms. Bennett, do you all have a Sharpie or a marker of
25 some kind? We'll cross out the heading -- the --

JURY TRIAL & SENTENCING

1 that would be great. All right. All right. Ladies,
2 can you all make a copy of that? You'll probably --
3 you'll have to probably manually lay it on top or
4 maybe -- because I'm not sure it's going to feed, but
5 we can try.

6 MR. PORTER: We can use the (unintelligible)
7 there too if it's...

8 THE COURT: So far, so good. It looks good.
9 All right. Counsel, do you all want approach and
10 take a look at the final product to make sure you're
11 okay?

12 MR. PORTER: It looks like the letters kind of
13 got through there. Evidence inventory, statements --
14 mean, I can read it because I know what it says.

15 MR. BARROWCLOUGH: That's fine. I don't care.

16 MR. PORTER: Just staple it and send it back to
17 them?

18 THE COURT: Okay. Well, let's just go on the
19 record. So -- so we've redacted out the -- the
20 Court's inventory -- the exhibit inventory where it
21 only shows the number and the description. Any
22 objection to sending that back as redacted, from the
23 State?

24 MR. EPTING: No, Your Honor.

25 THE COURT: From the Defense?

JURY TRIAL & SENTENCING

1 MR. BARROWCLOUGH: No, Your Honor.

2 THE COURT: All right. Send it back.

3 MR. PORTER: And, Your Honor, one other thing.

4 I mentioned a Court's Exhibit earlier yesterday. I
5 haven't done that yet. Court's Exhibit 7 is going to
6 be the un-redacted audio call. That was something
7 that was referenced.

8 THE COURT: That would be great.

9 MR. PORTER: And I keep saying audio call, and I
10 apologize. It's right underneath audio calls in the
11 -- on our (unintelligible). The recording of the --
12 the actual full recording from Detective Beck at the
13 hospital.

14 THE COURT: That would be fine. All right.
15 We'll be at ease again.

16 (Off the record.)

17 (On the record.)

18 THE COURT: The note says "Can we have the
19 testimony transcripts from Mook, Bethany and Q?"
20 Obviously, there's no such thing. So I will approach
21 and just bring them back in and tell them that
22 transcripts are not prepared, but if they want to
23 rehear any particular piece of critical testimony, we
24 can play it back. Does that satisfy the State?

25 MR. PORTER: Yes, Your Honor.

JURY TRIAL & SENTENCING

1 THE COURT: Defense?

2 MR. BARROWCLOUGH: Yes, sir, Your Honor.

3 THE COURT: Let's bring them back in.

4 THE BAILIFF: (Unintelligible) the defendant
5 before we bring the jury in?

6 MR. BARROWCLOUGH: Yeah, probably.

7 THE COURT: Yeah, hold -- hold -- hold them.
8 Yeah, you're right. Thank you for the reminder,
9 Sergeant. Yep. Bring them in.

10 (The jury entered the courtroom.)

11 THE COURT: All right. Ladies and gentlemen, I
12 have a note that says "Can we have testimony
13 transcripts from Mook, Bethany and Q?" That answer
14 to that is, we don't have transcripts. There's an
15 audio recording on the preceding, but there's no
16 written transcript. So as I said at the beginning of
17 the trial, if there's a very important piece of
18 testimony that you want to be -- to hear again, it
19 can be played back for you over the speakers, but
20 there's no written transcript. Is there something
21 the jury would like to have played back for them?

22 JURY FOREPERSON: Not at this time, Your Honor.

23 THE COURT: Okay. Thank you ladies and
24 gentleman.

25 (The jury exited the courtroom.)

JURY TRIAL & SENTENCING

1 (Off the record.)

2 (On the record.)

3 THE COURT: You all, I'm inclined to let them go
4 until they tell me they don't want to go anymore.

5 MR. EPTING: Yes, Your Honor.

6 MR. BARROWCLOUGH: Yes, sir.

7 THE COURT: All right. Will be at ease.

8 (Off the record.)

9 (On the record.)

10 THE COURT: Please, no emotion, no cheering, no
11 clapping, no booing, whatever it turns out. In other
12 words, you need to control -- it's a courtroom.
13 Okay? I understand, yeah. All right.
14 Mr. Foreperson, I understand the jury has reached --
15 has reached a verdict; is that correct?

16 JURY FOREPERSON: We have, Your Honor.

17 THE COURT: And is it unanimous?

18 JURY FOREPERSON: It is, Your Honor.

19 THE COURT: If you could hand it to the bailiff,
20 please. All right. Madam Clerk, please publish the
21 verdict.

22 THE CLERK: The State of South Carolina versus
23 Marques Quantez Heath, Indictment Nos.:
24 2019-GS-46-01192; 2019-GS 46-01192a;
25 2019-GS-46-01224; 2019-GS-46-01224a;

JURY TRIAL & SENTENCING

1 2019-GS-46-01225; 2019-GS-46-01226; 2019-GS-46-01229;
2 2019-GS-46-01232; 2019-GS-46-01232a;
3 2019-GS-46-01234; and 2019-GS-46-01234a. We, the
4 jury, by unanimous consent, find the defendant,
5 Marques Heath, as to the charge of the murder of S.
6 Williams, guilty. We, the jury, by unanimous
7 consent, find the defendant, Marques Heath, as to the
8 charge of possession of a firearm or ammunition
9 during the violent crime of the murder of S.
10 Williams, guilty. We, the jury, by unanimous
11 consent, find the defendant, Marques Heath, as to the
12 charge of the kidnapping of S. Williams, guilty. We,
13 the jury, by unanimous consent, find the defendant,
14 Marques Heath, as of the charge of possession of a
15 firearm during the violent crime of kidnapping of S.
16 Williams, guilty. We, the jury, by unanimous
17 consent, find the defendant, Marques Heath, as to the
18 charge of the kidnapping of B. Farrar, guilty. We,
19 the jury, by unanimous consent, find the defendant,
20 Marques Heath, as to the charge of the kidnapping of
21 Herman Leach, guilty. We, the jury, by unanimous
22 consent, find the defendant, Marques Heath, as to the
23 charge of assault and battery of a high and
24 aggravated nature of Herman Leach, not guilty. We,
25 the jury, by unanimous consent, find the defendant,

JURY TRIAL & SENTENCING

1 Marques Heath, as to the charge of assault and
2 battery in the 1st degree of Herman Leach, guilty.
3 We, the jury, by unanimous consent, find the
4 defendant, Marques Heath, as to the charge of
5 attempted murder of B. Farrar, guilty. We, the jury,
6 by unanimous consent, find the defendant, Marques
7 Heath, as to the charge of possession of a weapon
8 during the violent crime of attempted murder or
9 assault and battery of a high and aggravated nature
10 with regard to B. Farrar, guilty. We, the jury, by
11 unanimous consent, find the defendant, Marques Heath,
12 as to the charge of attempted murder of L. Wilson,
13 guilty. We, the jury, by unanimous consent, find the
14 defendant, Marques Heath, as to the charge of
15 possession of a weapon during the violent crime of
16 attempted murder or assault and battery of a high and
17 aggravated nature with regard to L. Wilson, guilty.
18 Signed and dated by the foreperson.

19 THE COURT: Ladies and gentlemen of the jury, is
20 still your verdict? If so, signify by saying yes.

21 (The jury answered "Yes.")

22 THE COURT: Would the Defense like the jury
23 individually polled?

24 MR. BARROWCLOUGH: No, Your Honor.

25 THE COURT: Okay. Any motions or requests from

JURY TRIAL & SENTENCING

1 the State before we release the jury?

2 MR. EPTING: None from the State, Your Honor.

3 THE COURT: From the Defense?

4 MR. BARROWCLOUGH: No, Your Honor.

5 THE COURT: All right. Ladies and gentlemen, it
6 has been a long trial and I want to commend you for
7 your attention and your hard work, and I know you
8 paid very close attention. On behalf of the State of
9 South Carolina, York County, and myself, I want to
10 thank you very much for your jury service. We're
11 very grateful. Your service is complete, which means
12 that you are released from any of the restrictions
13 that have been placed on you. You're free to discuss
14 the case with anyone if you want to. Attorneys want
15 to get better at their jobs, like other
16 professionals, and the attorneys may contact you and
17 ask you what they could have done better, or things
18 like that. You are under no obligation to talk to
19 them. You can say I don't want to talk to you about
20 it. That's totally fine. But if you want to talk
21 about it, it's okay. All right?

22 Ladies and gentlemen, we are going to move on to
23 the sentencing phase, which is a decision I make as a
24 judge. You are welcome to stay for that if you want
25 to, but you don't have to stay. Your jury service is

JURY TRIAL & SENTENCING

1 complete. So again, with the thanks of the State and
2 of York County and myself, thank you very much.

3 Mr. Foreperson, I do need you to sign some documents,
4 but everyone else, thank you all very much.

5 (The jury exited the courtroom.)

6 MR. EPTING: The kidnapping, he --

7 THE COURT: The kidnapping was incorrectly
8 marked serious, and it's most serious. Okay. Any
9 objection from the Defense?

10 MR. BARROWCLOUGH: No, Your Honor.

11 THE COURT: All right. Mr. Epting?

12 MR. EPTING: Thank you, Your Honor. May i
13 please the Court?

14 THE COURT: Yes, sir.

15 MR. BARROWCLOUGH: Your Honor, before we begin
16 sentencing, for purposes the record, I want to make a
17 motion for a new trial based on the facts in evidence
18 don't support these verdicts. And part of that I
19 want to incorporate on (unintelligible) the motion's
20 exception -- an objection, and most specifically, my
21 overruled motion for a directed verdict on the three
22 counts of kidnapping and the one count of aggravated
23 assault for Herman Leach.

24 THE COURT: I think there's enough to send it to
25 the jury, so I'm going to deny the motions. But

JURY TRIAL & SENTENCING

1 you're protected for the record.

2 MR. BARROWCLOUGH: Yes, Your Honor.

3 MR. EPTING: Your Honor, there is a short
4 presentation that the victims would like us -- would
5 like me to give on their behalf, and then could we
6 move to sentencing after that if it pleases the
7 Court?

8 THE COURT: Yes, sir.

9 MR. EPTING: Your Honor, the victim -- Shae
10 Williams' godmother, Tonya House, has written a
11 letter she's asked me to read to the Court, should
12 the defendant be found guilty. I'd like to do that
13 at this time. She writes, "First, I would like to
14 say I forgive you, but will never forget that day our
15 family's lives were turned upside down five years
16 ago. It still feels like it happened today. I heard
17 you called about five different women's names in that
18 video that took from you, but I never heard you say
19 Shae's name. If she didn't take anything, why did
20 you take her life and rip our hearts out? I don't
21 know what was going through you head at that time,
22 but you took a mother away from her child, whom she
23 loved dearly, a daughter, sister, cousin, and a
24 friend from her family, who loved her dearly. You
25 didn't think about your own kids who will be without

JURY TRIAL & SENTENCING

1 their father. Everyone is here to tell their story
2 except Shae, the one who did nothing wrong. I pray
3 that Shae and all the other victims and their
4 families get the justice we deserve. I don't
5 understand how you can take a life you didn't give
6 and sit with no remorse. Shae will never get to sit,
7 Shae will never get to smile, laugh, talk or breathe
8 again. She will never see her daughter go to prom,
9 graduate high school, or even college. I pray God
10 bless you and your family. P.S. That awful day was
11 her sister's 18th birthday. I am happy she was alive
12 to tell her happy birthday."

13 Your Honor, speaking for the other victims, this
14 has been a trial that has consumed my professional
15 life for the past few months, and my personal life to
16 a degree, but it's been something that's consumed
17 their life for the past couple of years. Your Honor,
18 it's been an emotional process getting these victims
19 ready for trial. They've relived this over and over
20 again as we prepped, but they have come through this
21 better than ever.

22 I've been provided a written statement from
23 Laquata Wilson that she wishes me to read. "Your
24 Honor, the Court' -- survivor statement -- 'I stand
25 before you today not as victim, but as a survivor.

JURY TRIAL & SENTENCING

1 Despite the horrific act of violence that was
2 inflicted upon me, I refused to let my ex-boyfriend's
3 attempt to destroy me define my life. I was shot in
4 the face, but the physical scars I bear are not a
5 reflection of my inner strength and resilience. He
6 thought he buried me but in truth, he planted a seed.
7 From that seed, I have blossomed into a stronger, more
8 determined person than ever before. My face may look
9 normal, but the journey to get there has been anything
10 but. I have endured immense physical pain, battled
11 with mental and emotional trauma, and yet, I stand
12 here with my head held high. I want it to be known
13 that no one has the power to break my spirit. I am
14 not weak, and I will not be silenced. The ordeal I
15 survived has only fortified my resolve to seek justice
16 and ensure that no one else suffers as I have. I am
17 determined to live my life fully, embracing the
18 strength that has emerged from this darkness. I am a
19 testimony showing others the ability to heal, thrive
20 and adapt, improvise and overcome. My story is one of
21 survival, courage and resilience. Thank you for
22 hearing me."

23 And, Your Honor, we would like to thank the jury
24 on behalf of the victims, both surviving and deceased
25 in this case, for giving them some measure of justice

JURY TRIAL & SENTENCING

1 after five long years of waiting.

2 THE COURT: All right. I would be happy to hear
3 from the State as far as sentencing.

4 MR. EPTING: Yes, Your Honor. As far
5 sentencing, as Your Honor is aware, Mr. Heath does
6 have a substantial long criminal history. He is
7 currently serving a life sentence after being
8 sentenced to life under the three strikes law based
9 on drug convictions. This would be an additional
10 strike that would give him an additional life
11 sentence, both -- whether it be on the kidnapping
12 charge, whether on the murder charge, on the -- on
13 the attempted murder charge, or the ABHAN. We
14 believe, based upon his heinous actions and his
15 repeated criminal behavior, we would ask the Court to
16 impose a consecutive life sentence in this case,
17 consecutive to any sentence already being served.

18 THE COURT: All right. Anything else from the
19 State?

20 MR. EPTING: That's the State's presentation,
21 Your Honor.

22 THE COURT: Okay. And I just want to give --
23 give the victims one more chance. If any victim or
24 the member of their family would like to speak, I'll
25 be happy to hear from you all if you'd like to say

JURY TRIAL & SENTENCING

1 anything.

2 MR. EPTING: I think they'll -- Your Honor, I
3 believe the victims will let their testimony in this
4 case stand for them as far as their testimony to the
5 Court.

6 THE COURT: Mr. Barrowclough?

7 MR. BARROWCLOUGH: Your Honor, I'll waive
8 mitigation. I know that the Court is bound by law to
9 give Mr. Heath another life sentence, whether it's
10 concurrent or consecutive. He only has one life to
11 give. So you know, I know you've got to do what --
12 what the law requires, so there's really nothing I
13 can say. I would ask you to inquire of my client if
14 he wishes to speak.

15 THE COURT: Mr. Heath, is there anything you'd
16 like to say before I sentence you?

17 THE DEFENDANT: Yeah. Don't give me life, give
18 me death. Kill me.

19 THE COURT: Mr. Heath --

20 THE DEFENDANT: Go ahead and kill me.

21 THE COURT: -- Mr. Heath, I don't know if --
22 that's a serious request, but --

23 THE DEFENDANT: I'm serious. I swear to God,
24 I'm serious. Don't give me life. Kill me.

25 THE COURT: Mr. Heath, please don't interrupt

JURY TRIAL & SENTENCING

1 me. Okay? So in South Carolina, the -- the
2 prosecution would have to give notice if they're
3 seeking a death sentence, which they did not do in
4 this case, and the jury would have to impose a death
5 sentence. So that's not in my power to do.

6 THE DEFENDANT: I waive that right. I waive
7 that right. I won't challenge them.

8 THE COURT: Is there anything you'd like to say,
9 Mr. Heath, other than that?

10 THE DEFENDANT: I got nothing else to say.

11 THE COURT: Okay.

12 THE DEFENDANT: Well, no, no. Let me -- let me
13 say this. Here's what I want to say. The only
14 person you heard that said I did a whole bunch of the
15 stuff is --

16 THE COURT: Mr. Heath -- Mr. Heath --

17 THE DEFENDANT: -- is Bethany Farrar.

18 THE COURT: Speak to me, please.

19 THE DEFENDANT: It was Bethany Farrar that was
20 at my house, and I told her numerous occasions not to
21 be there. She's the one saying I kidnapped people.
22 She's the one saying I shot this girl intentionally,
23 and all type of stuff like that. And then, she got
24 up here on the stand and lied. She lied to the
25 police. She had me arrested for a (unintelligible)

JURY TRIAL & SENTENCING

1 that I didn't do. She was stealing out my house, and
2 all type of stuff like that. And I feel it's -- it's
3 real messed up that I'm going through all this
4 situation over somebody that -- that got a grudge
5 against me because I didn't want to deal with them
6 anymore. The whole thing is, I ain't got no reason
7 to lie about nothing. I got up there on that stand.
8 I already got a life sentence. It don't matter if
9 you all give me 15 more life sentences. I ain't got
10 nothing but one life. So the thing is, I had no
11 reason to get up there and lie. I told that girl on
12 numerous occasions not to come back to my house.

13 They didn't let me get it out that she had broke
14 in my house and stole my stuff, and that she lied to
15 the police and had me arrested, and then came back to
16 my house after I told her repeatedly that I didn't
17 want her there. And I feel like it's -- it's messed
18 up. And that's what most of these charges is based
19 on, is based on a person that broke in my house, stole
20 stuff from me, lied to the police, had me arrested,
21 and then came back to my house. And I got a whole
22 'nother woman in my house, and you -- still, you're
23 lying like you're staying with me. Then, when the
24 people come in here, they find no clothes that belong
25 to this woman, period, in my house. Period. So how

JURY TRIAL & SENTENCING

1 was she staying with me?

2 So that -- that's -- like, I why I don't even --
3 I don't even care, bro. Like, it don't even matter
4 what nobody do to me. And that's the person that say,
5 oh, he just do this and shot her in the face.
6 Somebody that -- that been had a grudge against me
7 before this situation happened. This woman would have
8 never been in my house, wouldn't none of this stuff
9 had happened. I still feel like she stole my stuff.
10 Yeah, I'm still going to say that. The woman had no
11 reason to be in my house, period. They knew she lied,
12 and that's subornation of perjury too, what you did on
13 that stand. You encouraged her to lie.

14 THE COURT: Sir, sir, you address me.

15 THE DEFENDANT: I'm talking to the solicitor.

16 THE COURT: You need to talk to me only. Okay?

17 THE DEFENDANT: Well, I'm telling you -- well,
18 you need to tell him that's subornation of perjury.
19 That's a crime. And he let her commit perjury on the
20 stand. That's a crime, a bullheaded [ph] crime.

21 THE COURT: Just one second. I'm looking for
22 the kidnapping indictment for -- for Shae, because
23 that's the one. Okay. Before I get started, I want
24 to make sure I do this right. Indictment 1224, which
25 is for the kidnapping of Shae, by law the sentence on

JURY TRIAL & SENTENCING

1 that has to be zero because the defendant was
2 convicted of murdering the same defendant [sic]. So
3 give me one second to make sure I don't mess that up.
4 How much time served credit do we have?

5 MR. BARROWCLOUGH: I don't have the exact days.

6 THE COURT: We can have a SCDC compute it. It's
7 okay, if you don't know. All right. The State of
8 South Carolina versus Marques Quantez Heath,
9 Indictments 2019-GS-46-1192; 1232; 1234; 1226; 1225;
10 1224; 1229; 1224a; 1234a; 1192a; and 1232a. The
11 charges are: one count of murder, two counts of
12 attempted murder, three counts of kidnapping, one
13 count of assault and battery in the 1st degree, and
14 four counts of possession of a weapon during the
15 commission of a violent crime.

16 On the murder charge, the sentence of the Court
17 is Mr. Heath is committed to the custody of the
18 department of corrections for a life sentence. This
19 is consecutive to all other convictions, both from
20 today and other -- other days in court. On the two
21 attempted murder charges, Mr. Heath is committed to
22 the custody of the department of corrections for a
23 period of 30 years. Both of those sentences are
24 consecutive to all other sentences Mr. Heath has. And
25 then, on the kidnapping charges, 1226 and 1225,

JURY TRIAL & SENTENCING

1 Mr. Heath is sentenced to the custody of the
2 department of corrections for a period of 30 years on
3 each charge. Those are concurrent sentences to all
4 his other sentences.

5 On the 1224 kidnapping, by operation of law,
6 because Mr. Heath is also convicted of murder, the
7 sentence of the charges is zero days. On the assault
8 and battery in the 1st degree, the sentence of the
9 Court is Mr. Heath is committed to the custody of the
10 department of corrections for a period of 10 years,
11 which is concurrent to all his other sentences. And
12 on the four charges of possession of a weapon during
13 the commission of violent crime, the sentence of the
14 Court for each of those charges is five years in the
15 department of corrections, concurrent to all other
16 sentences.

17 All right. Anything else from the State?

18 MR. EPTING: Nothing from the State, Your Honor.

19 THE COURT: From the Defense?

20 MR. BARROWCLOUGH: No, sir, Your Honor.

21 THE COURT: Okay. Thank you, Counsel.

22 (The proceedings were concluded.)
23
24
25

1 CERTIFICATE OF TRANSCRIBER

2
3 I, Sandra J. Early, a court-approved
4 transcriber, do hereby certify that I transcribed the
5 electronic recording of the foregoing proceedings in
6 Indictment Nos.: 2019-GS-46-1192; 2019-GS-46-1192a;
7 2019-GS-46-1224; 2019-gs-46-1224a; 2019-GS-46-1225;
8 2019-GS-46-1226; 2019-GS-46-1229; 2019-GS-46-1232;
9 2019-GS-46-1232a; 2019-GS-46-1234; 2019-GS-46-1234a,
10 held on August 15, 16, 19 and 20, 2024, before the
11 Honorable William A. McKinnon, and that said
12 transcript is true and correct, all to the best of my
13 knowledge and ability.

14 I further certify that I am not related to nor
15 the employee of any of the parties hereto, nor
16 related to or employed by any attorney or counsel
17 employed by the parties hereto, nor interested in the
18 outcome of this action.

19
20 October 19, 2024

21 *Sandra J. Early*
22

23 Sandra J. Early

24 Transcriber
25

STATE OF SOUTH CAROLINA,)
)
 Plaintiff,)
)
 -vs-) TRANSCRIPT OF RECORD
) (Jury Selection)
 MARQUES QUANTEZ HEATH,)
)
 Defendant.)
)

August 12, 2024
York, South Carolina

B E F O R E:

Honorable Daniel D. Hall, Judge.

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

Mr. Christopher Epting
Assistant Deputy Solicitor
Mr. Daniel Porter
Senior Solicitor
Sixteenth Circuit Solicitor's Office
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York, South Carolina

Mr. Bryson J. Barrowclough
Chief Public Defender
Mr. Fred Davis
Assistant Public Defender
Attorneys for the Defendant
York, South Carolina

Shannon E. McGilberry, CVR-M
Court Reporter

1 THE COURT: All right. We're on the record in the
2 matter of *State versus Marques Quantez Heath*. This is --
3 we're at the point to where the Court is now getting ready
4 to have a jury panel brought into the courtroom, where we
5 can pull a jury, or potential jury, for this case.

6 I have what's been provided to the Court a document
7 that says, State's Potential Witnesses. Most of those are
8 typed; there's some handwritten. Is this the complete
9 potential witness list for the State?

10 MR. EPTING: I believe so, Your Honor. The handwritten
11 witnesses, one of them is deceased. The other two we don't
12 anticipate calling; however, we wanted their names to be
13 called--

14 THE COURT: All right.

15 MR. EPTING: ---to the jury just out of an abundance of
16 caution.

17 THE COURT: And then, Mr. Barrowclough, do you have any
18 witnesses that need to be submitted, a potential witness
19 list?

20 MR. BARROWCLOUGH: No, sir, Your Honor.

21 THE COURT: All right. And let me just note just for
22 my own clarification that one written under FSU Robert
23 Mitchell, I assume that -- I'm so old I know that Pete
24 Mitchem works for the Sheriff's department and he works in
25 evidence, but Robert Mitchell is the correct name. Is that

1 correct?

2 MR. EPTING: It is the correct name, however, he is not
3 a member of FSU. He is a potential name that may come up---

4 THE COURT: Well, --

5 MR. EPTING: ---during the trial itself.

6 THE COURT: Okay. All right. So Pete Mitchem is not
7 on the witness list?

8 MR. EPTING: No, Your Honor.

9 THE COURT: Okay. All right. And then I have this --
10 I had met with the lawyers in chambers, discussed briefly
11 any potential voir dire. The State indicated that they were
12 comfortable with the Court's normal voir dire. I have a
13 document entitled, Defendant's Request For Voir Dire for the
14 jury panel, of three pages, submitted by the defense to the
15 Court.

16 Mr. Epting, what's the State's position on defendant's
17 request for voir dire?

18 MR. EPTING: Your Honor, the State's position is that
19 items 7 through 20, with the exception of item 12, either
20 are properly covered by Your Honor's general instruction.
21 One is specifically prohibited by case law, number 15, and
22 the others, I think, are either specifically covered, or
23 rather, sufficiently covered by Your Honor's general
24 instructions or perhaps asking unduly personal or
25 unnecessary information from the jury.

1 THE COURT: Do you wish to be heard Mr. Barrowclough?

2 MR. BARROWCLOUGH: Well, Judge, you know, I been doing
3 this a long time. I think that there are people who do not
4 necessarily work in law enforcement or have family members
5 who work in law enforcement, but who manifest their affinity
6 for law enforcement in different ways and I think a lot of
7 those questions that Mr. Epting's referring to, you know,
8 particularly questions 9, 10, 11, you know, society's
9 changed. Twenty years ago it was pretty standard to always
10 ask if people have donated to the Highway Patrol, stuff like
11 that. These days, I think these questions are more
12 indicative of how people feel about law enforcement than
13 those questions from 20 years ago. So I cert- -- and I
14 certainly think that that's something we're entitled to,
15 entitled to know about, as that could go to a potential
16 juror's bias towards the State. I think that, you know,
17 question 13 is certainly germane to this and in a variety of
18 different context. I've always been able to ask questions
19 about if a potential juror has experienced a situation
20 similar to what they're going to hear about the alleged
21 victims' experience in this case. I think that's germane to
22 that. I think the autopsy pictures, question number 14, is
23 pretty standard and 17, again, you know, I think we're just
24 looking for information out of this jury pool that is not
25 overly intrusive or anything like that.

1 THE COURT: Well, he didn't seem to be objecting to 17.

2 MR. BARROWCLOUGH: I thought he said 13 through 20.

3 MR. EPTING: I don't have issue -- as to the first part
4 of 13, I don't have an issue with. A bad experience
5 involved with a gun, I think, opens us up to a lot of -- but
6 no, if Your Honor wants to ask them about --

7 THE COURT: I'm going to ask everything except 15. I'm
8 going to strike 15.

9 MR. EPTING: And, Your Honor, just --

10 MR. BARROWCLOUGH: Thank you, Your Honor.

11 MR. EPTING: -- as to item 14, may I be heard?

12 THE COURT: Yes.

13 MR. EPTING: It's my understanding they're objecting to
14 us entering any autopsy photos. We have no intention to
15 enter autopsy photos.

16 MR. BARROWCLOUGH: Well, that's fine. I'll withdraw
17 14.

18 THE COURT: Okay. All right. There's no autopsy
19 photos going to be entered. So the State or the defense are
20 not introducing any autopsy photos?

21 MR. EPTING: There's an x-ray taken of her head, but no
22 photos of her --

23 THE COURT: That's not an autopsy photo?

24 MR. EPTING: Right.

25 THE COURT: That's not technically an autopsy photo.

1 All right. So we've agreed I will not ask 14 and 15.

2 MR. EPTING: Right.

3 THE COURT: Anything else as far as voir dire?

4 MR. BARROWCLOUGH: Nothing from the defense, Your
5 Honor.

6 THE COURT: All right. Mr. Barrowclough, if you and
7 Mr. Davis and Mr. Heath, if y'all would stand. Mr. Heath,
8 if you'd stand and is the defense ready to proceed?

9 MR. BARROWCLOUGH: Defense is ready, Your Honor.

10 THE COURT: All right. Y'all can have a seat.

11 Are we comfortable where we are as far as the jury
12 coming in? When the jury comes in, then, when the jury's
13 seated, I'm going to ask Mr. Epting, I'm going to say State,
14 call your next case. Mr. Epting, you call your case. Once
15 he finishes calling the case, then we'll start the voir dire
16 process. All right?

17 MR. EPTING: Thank you, Your Honor.

18 THE COURT: And then we all agree the strikes are ten
19 and five.

20 MR. BARROWCLOUGH: Yes, sir.

21 MR. EPTING: Yes, Your Honor.

22 THE COURT: And then we'll seat, hopefully, 12 and then
23 attempt to have 4 alternates. Do we have -- we've got
24 enough seats for four alternates?

25 THE BAILIFF: Yes, sir.

1 THE COURT: All right. Let's the jury panel -- let's
2 bring the jury in -- upstairs.

3 THE COURT: Chris, do you need the indictments to call
4 the case?

5 MR. EPTING: Yes, Your Honor. May I approach?

6 THE COURT: Yes.

7 (Whereupon, Mr. Epting retrieves indictments from the
8 Court)

9 THE BAILIFF: Are you ready for them, Judge?

10 THE COURT: Yes, please.

11 (Discussion between the bailiff and Madam Clerk.)

12 THE COURT: Just as a matter of logistics, when the
13 clerk -- when we get to the point the clerk provides us with
14 the list and the order in which the jurors will be called,
15 those will be provided. Y'all will take about a ten- or
16 fifteen-minute break and y'all can look at the list--

17 MR. BARROWCLOUGH: Thank you, Your Honor.

18 THE COURT: ---and determine how you're going to handle
19 that and then we'll bring you back in. I'm still old enough
20 to remember: One, we didn't have a list in criminal court
21 and then, two, we never knew what order the jurors would be
22 called and then we now produce them in the order, which
23 seems to the Court to be extremely fair to both the State
24 and the defense to know ahead of time before their strikes,
25 how they want to exercise them. So that's the procedure

1 we'll follow.

2 (Whereupon, the jury panel entered the courtroom at
3 11:30 a.m.)

4 THE COURT: All right. All of the jurors are in place.
5 All right. Thank you, ladies and gentlemen. I appreciate
6 your cooperation this morning. We are now ready to begin
7 the third part of jury qualification or selection for a
8 particular case and with that, I'm going to ask Mr. Epting
9 from -- the attorney for the State to call his next case.

10 MR. EPTING: Thank you, Your Honor. May it please the
11 Court? Your Honor, the State calls Marques Quantez Heath,
12 one count of murder, one count of use of a weapon during a
13 violent crime, alleges that the defendant did on or about
14 February 12th, with malice aforethought, either expressed
15 or implied, kill Shanijela Alexis Williams by means of
16 shooting her, and Ms. Williams died as a result. He was
17 armed with a weapon at the time that this happens, the State
18 alleges. *State v. Marques Heath*, one account of attempted
19 murder and accompanying weapons charge, again, that on
20 February 12th, 2019, the defendant did unlawfully and with
21 malice aforethought attempted -- with intent to kill,
22 attempted to kill Bethany Farrar at 10709 Leach Road and
23 accompanying with the weapons charge.

24 *State v. Marques Heath*, one count of kidnapping and use
25 of a weapon during the commission of a violent crime.

1 Again, at Leach Road on February 12th, 2019, the defendant
2 did unlawfully seize, confine, inveigle, detour or kidnap
3 Shanjela Alexis Williams without the authority of law. He
4 was armed with a weapon when he did these acts.

5 Another count of kidnapping, *State v. Marques Heath*.
6 On February 12th, 2019, on Leach Road, the defendant did
7 kidnap or abduct Herman Leach on 1079 Leach Road.

8 *State v. Marques Heath*, another count of kidnapping,
9 that on February 12th, 2019, the defendant did kidnap,
10 abduct or carry away Bethany Farrar at 10709 Leach Road.

11 One count of assault and battery of a high and
12 aggravated nature, *State v. Marques Heath*, that on February
13 12th of 2019, the defendant unlawfully injure Herman Leach
14 and accomplished that means by means likely to produce death
15 or great bodily injury.

16 And finally, Your Honor, one count of attempted murder,
17 *State v. Marques Heath*, with accompanying weapons charge,
18 that on or about February 12th, 2019, the defendant did with
19 malice aforethought, expressed or implied, with intent to
20 kill, attempt to kill Laquata Wilson. This incident
21 occurred on 2134 Farlow Street in York County.

22 The Defendant's pled not guilty, requests a trial by a
23 jury of his peers.

24 THE COURT: All right. If you'd pass the indictments
25 up to the Court.

1 (Whereupon, Mr. Epting hands indictments to the Court.)

2 THE COURT: And for the purposes of the record, let's
3 make sure that it is clear that these are indictment numbers
4 2019-GS-46-1192, 1192a; 2019-GS-46-1232 and 1232a; 2019-GS-
5 46-1224, 1224a; 2019-GS-46-1226, 2019-GS-46-1225, 2019-GS-
6 46-1229, 2019-GS-1234, 1234a.

7 Ladies and gentlemen of the jury, you've heard the
8 State call their case for trial. Is there any member of the
9 jury panel that has any knowledge, direct or indirect, about
10 these alleged instances that took place here in York County
11 on Leach Road and Farlow Road on February the 12th, 2019?

12 Is there any member of the jury panel have any
13 knowledge about this case, direct or indirect, or have been
14 exposed to any media reporting of this alleged incident,
15 have any knowledge? If so, please stand.

16 (No one stands)

17 THE COURT: Thank you. No one stands.

18 Mr. Epting -- the State is represented by Mr. Chris
19 Epting and Mr. Dan Porter. If you'd introduce yourself, Mr.
20 Epting and who's at your table?

21 MR. EPTING: Thank you, Your Honor.

22 I'm Assistant Deputy Solicitor Chris Epting of the
23 Sixteenth Circuit Solicitor's Office.

24 MR. PORTER: I'm Senior Solicitor Dan Porter.

25 THE COURT: Is there any member of the jury panel

1 related by blood or marriage or have any close personal,
2 professional relationship with either Mr. Epting or Mr.
3 Porter or anyone in the York County Solicitor's Office?
4 That would be the Solicitor, Deputy Solicitors, Assistant
5 Solicitors, investigators, or any of the programs that are
6 administered by the Solicitor's office, such as, diversion
7 programs, including various types of mental health court
8 personnel, PTI personnel, victim witness personnel? Any
9 member of the jury panel related by blood or marriage, have
10 a close personal, business or professional relationship with
11 any of those individuals, then please stand.

12 (No one stands)

13 THE COURT: Thank you. No one stands.

14 Mr. Barrowclough, if you'd introduce yourself and those
15 at your table.

16 MR. BARROWCLOUGH: Good morning. I'm B.J.
17 Barrowclough. I'm the Chief Public Defender for the
18 Sixteenth Judicial Circuit. This is my co-counsel, Fred
19 Davis. This is our client, Marques Heath.

20 THE COURT: Thank you. You may be seated.

21 Is any member of the jury panel related by blood or
22 marriage or have a close business, professional, or social
23 relationship with either Marques Quantez Heath, Mr. Fred
24 Davis or Mr. -- the attorneys, Mr. Fred Davis or attorney,
25 Mr. B.J. Barrowclough, or been represented by them in any

1 way, form or fashion in the past? If so, please stand.

2 (No one stands)

3 THE COURT: Thank you. No one stands.

4 Is there any member of the jury panel either presently
5 or in the past ever been employed by or volunteered with any
6 city, county, state or federal law enforcement agency or law
7 enforcement's victim witness assistance program? Again, if
8 either you or a -- either you or a family member been
9 employed in any law enforcement or anything related to law
10 enforcement's victim witness or enforcement agencies,
11 federal or state; if so, please stand.

12 (Jurors stand)

13 THE COURT: Thank you. If you'd tell us your number.

14 JUROR: Juror Number 54.

15 THE COURT: I'm sorry?

16 JUROR: 54.

17 THE COURT: And -- I'm sorry. Is it 154?

18 JUROR: No; 54. Just --

19 THE COURT: 54. Okay. I'm sorry. Yes. And who do
20 you know?

21 JUROR: My brother.

22 THE COURT: And what's his --

23 JUROR: He's a Lexington County Sheriff, deputy
24 sheriff.

25 THE COURT: Would that fact affect your ability to be

1 fair and impartial to both the State and the defense in this
2 particular case?

3 JUROR: I've heard a lot of stories, so --

4 THE COURT: I'm sorry?

5 JUROR: I've heard a lot of stories from my brother, so
6 --

7 THE COURT: Well, the question is can --

8 JUROR: Yes.

9 THE COURT: -- even though you have that relationship,
10 can you be fair and impartial to both the State and the
11 defense in this particular case?

12 JUROR: I don't know how to answer that. I don't know
13 how to answer that.

14 THE COURT: All right. You're excused. Juror Number
15 19 (sic) is excused.

16 MR. EPTING: Your Honor, that's 54.

17 THE COURT: I'm sorry. Juror 54. All right.

18 Yes, ma'am, your number.

19 JUROR: 1-1-4.

20 THE COURT: I'm sorry, 1-1 --

21 JUROR: 4.

22 THE COURT: Yes.

23 JUROR: My husband's a police officer here in York
24 City.

25 THE COURT: Would that fact affect your ability to be

1 fair and impartial to both the State and the defense in this
2 particular case?

3 JUROR: (Non-verbal negative response)

4 THE COURT: Thank you. You may be seated.

5 Is there any member of the jury panel, either presently
6 or in the past, ever been employed or volunteered with any
7 city, county, state or federal prosecutor's office or
8 prosecutor's victim witness assistance program? If so,
9 please stand.

10 (No one stands)

11 THE COURT: Thank you. No one stands.

12 Is any member of the jury panel -- any member of the
13 jury panel ever contributed or volunteered time with
14 Mother's Against Drug Driving, Student's Against Drunk
15 Driving, Citizen's Against Violence Everywhere or victim
16 witness programs or similar organizations which lobbies on
17 behalf of victims or lobbies for tougher sentences for
18 criminal offenses? If you have contributed to or
19 volunteered to any type of that organization, then please
20 stand.

21 (No one stands)

22 THE COURT: Thank you. No one stands.

23 Has any member of the jury panel ever contributed money
24 to the Fraternal Order of Police or the South Carolina Law
25 Enforcement Officer's Association or any law enforcement

1 organization or any organization which supports police and
2 law enforcement? If you've contributed money or volunteered
3 with any of those type organizations, then please stand.

4 (Jurors stand)

5 THE COURT: Yes, sir. Your number?

6 JUROR: 11.

7 THE COURT: Yes.

8 JUROR: I've contributed every year.

9 THE COURT: Would that fact affect your ability to be
10 fair and impartial to both the State and the defense in this
11 case?

12 JUROR: (Non-verbal negative response)

13 THE COURT: Thank you. You may be seated.

14 Yes. Your Number?

15 JUROR: 27.

16 THE COURT: Yes.

17 JUROR: I've contribute to law enforcement, Your Honor.

18 THE COURT: Would that fact affect your ability to be
19 fair and impartial to both the State and the defense in this
20 case?

21 JUROR: No.

22 THE COURT: Thank you. You may be seated.

23 Yes, sir. Your Number?

24 JUROR: 20.

25 THE COURT: Yes.

1 JUROR: I have contributed in the past to the York
2 County Sheriff's Association.

3 THE COURT: Would that fact affect your ability to be
4 fair and impartial to both the State and the defense in this
5 case?

6 JUROR: No.

7 THE COURT: Thank you. You may be seated.

8 Does any member of the jury panel have any law
9 enforcement or legal training, law enforcement or training,
10 legal training? If so, please stand.

11 (No one stands)

12 THE COURT: Thank you. No one stands.

13 Has any member of the jury panel ever sought employment
14 as a law enforcement officer or a prison official? If so,
15 please stand.

16 (No one stands)

17 THE COURT: Thank you. No one stands.

18 Has any member of the jury panel ever displayed the
19 Thin Blue Line or other symbol that shows direct support of
20 law enforcement or law enforcement driven causes, such as on
21 your vehicle, houses, places of business or yards? In other
22 words, have you displayed the Thin Blue Line symbol? If so,
23 please stand.

24 (Juror stands)

25 THE COURT: Yes, Your number?

1 JUROR: 23.

2 THE COURT: And tell me where you have that symbol?

3 JUROR: I've got a FOP sticker on my car and I have a
4 Thin Blue Line shirt.

5 THE COURT: Would that fact affect your ability to be
6 fair and impartial to both the State and the defense in this
7 case?

8 JUROR: No.

9 THE COURT: Thank you. You may be seated.

10 Has any member of the jury panel ever displayed the
11 Thin Blue Line or other symbols on your personal social
12 media page, Facebook, Twitter, Instagram, TikTok and
13 etcetera? If so, please stand.

14 (Juror stands)

15 THE COURT: Yes, ma'am, your number?

16 JUROR: 134.

17 THE COURT: Yes, ma'am.

18 JUROR: I displayed Mike Doty's memorial page.

19 THE COURT: Would that fact affect your ability to be
20 fair and impartial to both the State and the defense in this
21 case?

22 JUROR: No, sir.

23 THE COURT: Thank you. You may be seated.

24 Does any member of the jury panel follow the York
25 County Sheriff's Office or any other law enforcement

1 organization on social media? If so, please stand.

2 (Jurors stand)

3 THE COURT: All right. We'll start here on my right.

4 Yes, ma'am, your number?

5 JUROR: 1-6-1.

6 THE COURT: And who do you follow?

7 JUROR: York County Sheriff's Office.

8 THE COURT: And in what fashion?

9 JUROR: Facebook.

10 THE COURT: Would that fact affect your ability to be
11 fair and impartial to both the State and the defense in this
12 case?

13 JUROR: No, sir.

14 THE COURT: Thank you. You may be seated.

15 Yes, ma'am, your number again?

16 JUROR: 134.

17 THE COURT: Would that fact affect your ability to be
18 fair and impartial?

19 JUROR: No, sir.

20 THE COURT: Thank you.

21 Yes. On my far left, your number?

22 JUROR: 86.

23 THE COURT: And ---

24 JUROR: I follow the York County Sheriff's Office on
25 Twitter.

1 THE COURT: Would that fact affect your ability to be
2 fair and impartial?

3 JUROR: No, Your Honor.

4 THE COURT: Thank you. You may be seated.
5 Yes, sir. Your number?

6 JUROR: 23.

7 THE COURT: Yes?

8 JUROR: Tega Cay Police?

9 THE COURT: I'm sorry?

10 JUROR: Tega Cay Police Department, Facebook.

11 THE COURT: Would that fact affect your ability to be
12 fair and impartial?

13 JUROR: No.

14 THE COURT: Thank you. My far left?

15 JUROR: 149.

16 THE COURT: Yes.

17 JUROR: York County Sheriff's Office.

18 THE COURT: Would that --

19 JUROR: Facebook.

20 THE COURT: Would that fact affect your ability to be
21 fair and impartial?

22 JUROR: No, sir.

23 THE COURT: Thank you. You may be seated.

24 Yes, ma'am, and your number?

25 JUROR: 151.

1 THE COURT: Yes.

2 JUROR: York County Sheriff on Facebook.

3 THE COURT: Would that fact affect your ability to be
4 fair and impartial to both parties in this case?

5 JUROR: No.

6 THE COURT: Thank you. You may be seated.

7 Has any member of the jury panel ever been the victim
8 of a crime involving violence? If you've been a victim of a
9 crime involving violence, then please stand.

10 (Jurors stand)

11 THE COURT: Yes. Your Number?

12 JUROR: 151.

13 THE COURT: All right. And without going into details,
14 what type of crime?

15 JUROR: Assault.

16 THE COURT: Would that fact affect your ability to be
17 fair and impartial in this case?

18 JUROR: No.

19 THE COURT: Thank you. You may be seated.

20 Yes, ma'am, your number?

21 JUROR: 32.

22 THE COURT: I'm sorry?

23 JUROR: 32.

24 THE COURT: And yes.

25 JUROR: CDV.

1 THE COURT: Would that fact affect your ability to be
2 fair and impartial in this case?

3 JUROR: No, Your Honor.

4 THE COURT: Thank you. You may be seated.

5 Has any member of the jury panel ever been the victim
6 of a crime involving a gun or simply had a bad experience
7 that involved a gun? If so, please stand.

8 (Jurors stand)

9 THE COURT: Yes. Your Number?

10 JUROR: 161.

11 THE COURT: And without going into detail, just simply
12 the situation?

13 JUROR: I was robbed at 16 at a fast food restaurant I
14 was working at.

15 THE COURT: Would that fact affect your ability to be
16 fair and impartial in this case?

17 JUROR: No, sir.

18 THE COURT: Thank you. You may be seated.

19 Does any member of the jury panel believe that a person
20 arrested for a crime must prove their innocence or that the
21 person accused must have done something wrong in order to be
22 accused? If so, please stand.

23 (No one stands)

24 THE COURT: Thank you. No one stands.

25 Does any member of the jury panel have any strong

1 feelings or preconceived notions concerning the lifestyles
2 of rap artists or anyone in that genre of rap music? If so,
3 please stand.

4 (No one stands)

5 THE COURT: Thank you. No one stands.

6 Does any member of the jury panel follow any true crime
7 podcasts or wrongful conviction podcasts or belong to any
8 type of internet -- internet sleuth groups? If so, please
9 stand.

10 (No one stands)

11 THE COURT: Thank you. No one stands.

12 Does any member of the jury panel have any Covid
13 concerns about serving as a juror this week? If so, please
14 stand.

15 (No one stands)

16 THE COURT: Thank you. No one stands.

17 Has any member of the jury panel ever served on a jury
18 before? If so, please stand. If you have served as a juror
19 before, if so, please stand.

20 (Jurors stand)

21 THE COURT: Yes. Your Number?

22 JUROR: 128.

23 THE COURT: What type of jury? Case?

24 JUROR: It was a murder trial.

25 THE COURT: I'm sorry?

1 JUROR: A murder trial.

2 THE COURT: Would that fact affect your ability to be
3 fair and impartial in this particular case?

4 JUROR: No, Your Honor.

5 THE COURT: Thank you. You may be seated.

6 Yes. Your number?

7 JUROR: 64, Your Honor.

8 THE COURT: Yes.

9 JUROR: When serving in the military, I was on a -- on
10 a jury.

11 THE COURT: Would that fact affect your ability to be
12 fair and impartial to both the State and the defense in this
13 case?

14 JUROR: It would not. No.

15 THE COURT: Thank you. You may be seated.

16 Yes, ma'am, your number?

17 JUROR: 71.

18 THE COURT: Yes.

19 JUROR: It was a civil case.

20 THE COURT: Would that fact affect your ability to be
21 fair and impartial?

22 JUROR: No.

23 THE COURT: Thank you. You may be seated.

24 Yes, ma'am?

25 JUROR: I am 138 and--

1 THE COURT: Yes.

2 JUROR: ---no, it wouldn't.

3 THE COURT: What type of --

4 JUROR: I think it was -- I want to say civil.

5 THE COURT: All right. And would that affect your
6 ability to be fair and impartial?

7 JUROR: No.

8 THE COURT: Thank you. You may be seated.

9 Yes, sir; in the front.

10 JUROR: 111.

11 THE COURT: Yes.

12 JUROR: It was here at Moss. It was a civil case.

13 THE COURT: Would that fact affect your ability to be
14 fair and impartial?

15 JUROR: No, sir.

16 THE COURT: You may be seated.

17 Yes, sir. Your number?

18 JUROR: Juror 27.

19 THE COURT: Yes.

20 JUROR: I'm not sure what case -- what kind of case it
21 was, but it was the office downtown Rock Hill.

22 THE COURT: All right. Would that fact affect your
23 ability to be fair and impartial?

24 JUROR: No, it would not.

25 THE COURT: Thank you. You may be seated.

1 I'm going to go through a list of potential witnesses
2 in the case. I'm going to break this up into certain
3 groups. I'm going to read the witnesses, the potential
4 witnesses. The question for each of these groups, are any
5 of you related by blood or marriage or have a close
6 business, professional or social relationship with any of
7 the following potential witnesses:

8 Shane Cobb from the Clover -- I'm sorry -- Charlotte
9 Mecklenburg Police Department; Bethany Farrar; Elaine
10 Kennington; Herman Leach; Antoine Logan from the Rock Hill
11 Police Department.

12 Anyone related by blood or marriage, have a close
13 business or professional or social relationship with any of
14 those individuals, please stand.

15 (No one stands)

16 THE COURT: Thank you. No one stands.

17 Ed Mark, from the Charlotte-Meck. Police Department;
18 Dr. Rob Thomas; Tinnecka White; Laquata Wilson, also known
19 as Mook; Stephen Moore of the York County Sheriff's
20 Department; Matt Piper from the Forensic Services Unit.

21 Anyone related by blood or marriage or social or business
22 relationship with any of those individuals, please stand.

23 (Juror stands)

24 THE COURT: Thank you. No one stands.

25 MADAM CLERK: Your Honor.

1 THE COURT: I'm sorry. Yes.

2 JUROR: 1-1-4.

3 THE COURT: Yes.

4 JUROR: I am close personal friends with Matt Piper.

5 THE COURT: Would that fact affect your ability to be
6 fair and impartial to both the State and the defense in this
7 case?

8 JUROR: No, sir.

9 THE COURT: Thank you. You may be seated.

10 Mike Ramsey of the Forensic Services Unit; George E.
11 Weeks, from the forensic services; Mr. Robert Mitchell; Ray
12 Barnwell from the York County Sheriff's Office; Walter Beck
13 from the York County Sheriff's Department; Pete Branham from
14 the York County Sheriff's Department. Anyone related by
15 blood or marriage, have a close business, professional or
16 social relationship with any of those individuals, then
17 please stand.

18 (No one stands)

19 THE COURT: Thank you. No one stands.

20 Emily Campbell-Smith, York County Sheriff's Office;
21 Mark Gibby, York County Sheriff's Office; Brian McAfee, York
22 County Sheriff's Department; Mike Melton, York County
23 Sheriff's Office; Carson Neely, York County Sheriff's
24 Office; Nick Schifferle, York County Sheriff's Office; Joey
25 Wallace, York County Sheriff's Office; Josh Yates, York

1 County Sheriff's Office. Anyone related by blood or
2 marriage or have a close personal, business or social
3 relationship with any of those individuals, then please
4 stand.

5 (Juror stands)

6 Yes, sir. Your number?

7 JUROR: 127.

8 THE COURT: And who do you know?

9 JUROR: Josh Yates.

10 THE COURT: I'm sorry?

11 JUROR: Josh Yates.

12 THE COURT: And how do you know Josh Yates?

13 JUROR: Social friends with me and my wife.

14 THE COURT: Would that fact affect your ability to be
15 fair and impartial to both the State and the defense in this
16 case?

17 JUROR: No, sir.

18 THE COURT: Thank you. You may be seated.

19 Shae Williams; Sheila Rushing; Shane Shillinglaw.

20 Anyone related by blood or marriage, have a close business
21 or professional relationship with any of those individuals,
22 then please stand.

23 (No one stands)

24 THE COURT: Thank you. No one stands.

25 Has any member of the jury panel formed an opinion or

1 expressed an opinion about any issue or matter involved in
2 this case? If so, please stand.

3 (No one stands)

4 THE COURT: Thank you. No one stands.

5 Is any member of the jury panel aware of any bias or
6 prejudice toward either the State or the defendant in this
7 case? If you have any prejudice for the State or the
8 defendant in this case, then please stand.

9 (No one stands)

10 THE COURT: Thank you. No one stands.

11 Does any member of the jury panel know of any reason
12 whatsoever why he or she should not serve as a juror in this
13 case, with particular emphasis being placed on your ability
14 to be fair and impartial to both the State and the
15 defendant? Have any reason whatsoever why you should not
16 serve as a juror, with the emphasis on being fair and
17 impartial, then please stand.

18 (No one stands)

19 THE COURT: Thank you. No one stands.

20 Anything further from the State?

21 MR. EPTING: Nothing from the State, Your Honor?

22 THE COURT: From the defense?

23 MR. BARROWCLOUGH: No, sir, Your Honor.

24 THE COURT: All right. Lawyers approach?

25 (Whereupon, counsel approached the Bench and discussion

1 was held off the record, and out of the hearing of the court
2 reporter.)

3 THE COURT: Ladies and gentlemen, what we're going to
4 do is, in this world of computers and programs adapted for
5 the court, the Clerk of Court will -- is going to produce
6 what's randomly selected jurors in the order in which
7 they're going to call. That's been distributed to the
8 attorneys in the case. We're going to take just about a
9 ten-minute break for them to have an opportunity to go over
10 that list. If anybody needs to -- any of the jurors, if you
11 need to get up and take a break, do that. Just don't leave
12 this floor. There's bathrooms right outside. I think
13 they're outside this way (indicating). You can -- out in
14 the hall, but just be back in your seats in ten minutes.

15 You're going to hear me -- those of you selected as
16 jurors in the case, do not discuss the case even while we
17 take this ten-minute break. Don't go out there on the hall
18 and start talking to each other about the case. You might
19 be tempted to look things up on your -- if you have any
20 handheld devices, don't utilize them. Don't discuss the
21 case and I'm going to remind the jurors later on that that's
22 the only way that we can be fair and impartial to both
23 parties in the case is that you have -- that when you're
24 selected as a jury in this case, that your decision has to
25 be based on what you see and hear in this courtroom alone.

1 So there may be a temptation to go out in the hall and start
2 saying -- talking to each other about what's this about and
3 that kind of thing. Do not do that. You're prohibited from
4 doing that even during this next ten minutes. So with that,
5 we'll be at ease for about ten minutes. I'm going to step
6 down briefly and then we'll be back ready to go in ten
7 minutes. Thank you.

8 (Whereupon, a brief recess was observed from 11:56 A.M.
9 until 12:08 P.M.)

10 THE COURT: Is everybody in? All right. Is the State
11 ready to proceed?

12 MR. EPTING: The State's ready, Your Honor.

13 THE COURT: The defense ready?

14 MR. BARROWCLOUGH: Yes, sir, Your Honor.

15 THE COURT: All right. Madam Clerk, if you'll give us
16 a jury.

17 MADAM CLERK: All right. Vernon Bell, juror number 11.
18 Please come to the front and bring your stuff.

19 THE COURT: And ladies and gentlemen of the jury, under
20 our law in this type of case, the State has the right to
21 strike five jurors and the defense has a right to strike ten
22 jurors, so that's part of the process that you're going to
23 see as we go forward.

24 MADAM CLERK: What say ye for the State?

25 MR. EPTING: Please present the juror.

1 MADAM CLERK: Defense?

2 MR. BARROWCLOUGH: Please excuse the juror.

3 MADAM CLERK: You have been excused from the case.

4 Juror number 169, Makenzie Wherrey.

5 What say ye for the State?

6 MR. EPTING: Please excuse this juror.

7 MADAM CLERK: You have been excused from this case.

8 Juror 128, Beau Preston.

9 What say ye for the State?

10 MR. EPTING: Please present this juror.

11 MADAM CLERK: And the defense?

12 MR. BARROWCLOUGH: Please swear the juror.

13 MADAM CLERK: Please have a seat in the jury box.

14 Juror Number 41, Maria Emery.

15 What say ye for the State?

16 MR. EPTING: Please present this juror.

17 MADAM CLERK: And the defense?

18 MR. BARROWCLOUGH: Please swear the juror.

19 MADAM CLERK: Please have a seat in the jury box.

20 Juror number 127, Adam T. Pressley.

21 What say ye for the State?

22 MR. EPTING: Please present this juror.

23 MADAM CLERK: And the defense?

24 MR. BARROWCLOUGH: Please excuse the juror.

25 MADAM CLERK: You have been excused from this case.

1 Juror number 27, Keith Currence.
2 What say ye for the State?
3 MR. EPTING: Please present this juror.
4 MADAM CLERK: And the defense?
5 MR. BARROWCLOUGH: Please swear the juror.
6 MADAM CLERK: Please have a seat in the jury box.
7 Juror number 155, Lisa Sowers.
8 What say ye for the State?
9 MR. EPTING: Please present this juror.
10 MADAM CLERK: And the defense?
11 MR. BARROWCLOUGH: Please excuse the juror.
12 MADAM CLERK: You have been excused from this case.
13 Juror number 114, Dana Mumaw.
14 What say ye for the State?
15 MR. EPTING: Please present this juror.
16 MADAM CLERK: And the defense?
17 MR. BARROWCLOUGH: Please excuse the juror.
18 MADAM CLERK: You have been excused from this case.
19 Juror Number 64, James Holzman.
20 What say ye for the State?
21 MR. EPTING: Please present this juror.
22 MADAM CLERK: And the defense?
23 MR. BARROWCLOUGH: Please swear the juror.
24 MADAM CLERK: Please have a seat in the jury box.
25 Juror number 160, Lynn Sweatt.

1 What say ye for the State?

2 MR. EPTING: Please present this juror.

3 MADAM CLERK: And the defense?

4 MR. BARROWCLOUGH: Please swear the juror.

5 MADAM CLERK: Please have a seat in the jury box.

6 Juror 112, Gwendolyn Morrison.

7 What say ye for the State?

8 MR. EPTING: Please present this juror.

9 MADAM CLERK: And the defense?

10 MR. BARROWCLOUGH: Please excuse the juror.

11 MADAM CLERK: You have been excused from this case.

12 Juror 161, Jeana or Jeana Travano or Travano.

13 What say ye for the State?

14 MR. EPTING: Please present this juror.

15 MADAM CLERK: And the defense?

16 MR. BARROWCLOUGH: Please excuse the juror.

17 MADAM CLERK: You have been excused from this case.

18 Juror 134, Loretta Robbins.

19 What say ye for the State?

20 MR. EPTING: Please present this juror.

21 MADAM CLERK: And the defense?

22 MR. BARROWCLOUGH: Please excuse the juror.

23 MADAM CLERK: You have been excused from this case.

24 Juror number 71, Kathryn Jannello-Simpson.

25 What say ye for the State?

1 MR. EPTING: Please present this juror.

2 MADAM CLERK: The defense?

3 MR. BARROWCLOUGH: Please swear the jury.

4 MADAM CLERK: Please have a seat in the jury box.

5 Juror number 61, Christopher Heitman.

6 What say ye for the State?

7 MR. EPTING: Please excuse this juror.

8 MADAM CLERK: You have been excused from this case.

9 Juror 15, Courtney Boyd.

10 What say ye for the State?

11 MR. EPTING: Please present this juror.

12 MADAM CLERK: And the defense?

13 MR. BARROWCLOUGH: Please swear the juror.

14 MADAM CLERK: Please have a seat in the jury box.

15 Juror Number 102, William Merritt.

16 What say ye for the State?

17 MR. EPTING: Please present this juror.

18 MADAM CLERK: And the defense?

19 MR. BARROWCLOUGH: Please swear the juror.

20 MADAM CLERK: Please have a seat in the jury box.

21 Juror number 32, Latoya Davis.

22 What say ye for the State?

23 MR. EPTING: Please present this juror.

24 MADAM CLERK: And the defense?

25 MR. BARROWCLOUGH: Please excuse the juror.

1 MADAM CLERK: You have been excused from the case.
2 Juror number 129, Lynette Purvis.
3 What say ye for the State?
4 MR. EPTING: Please present this juror.
5 MADAM CLERK: And the defense?
6 MR. BARROWCLOUGH: Please swear the juror.
7 MADAM CLERK: Please have a seat in the jury box.
8 Juror 113, Phyllis Mostellar.
9 What say ye for the State?
10 MR. EPTING: Please present this juror.
11 MADAM CLERK: And the defense?
12 MR. BARROWCLOUGH: Please excuse the juror.
13 MADAM CLERK: You have been excused from this case.
14 Juror number 20, Paul Butry.
15 What say ye for the State?
16 MR. EPTING: Please present this juror.
17 MADAM CLERK: And the defense?
18 MR. BARROWCLOUGH: Please swear the juror.
19 MADAM CLERK: Please have a seat in the jury box.
20 Juror number 138, Jo Rowland.
21 What say ye for the State?
22 MR. EPTING: Please present this juror.
23 MADAM CLERK: And the defense?
24 MR. BARROWCLOUGH: Please swear the juror.
25 MADAM CLERK: Please have a seat in the jury box.

1 Juror number 91, Brett Markowitz.

2 What say ye for the State?

3 MR. EPTING: Please present this juror.

4 MADAM CLERK: And the defense?

5 MR. BARROWCLOUGH: Please swear the juror.

6 MADAM CLERK: Please have a seat in the jury box.

7 THE COURT: All right. The alternate strikes are one
8 and two.

9 MADAM CLERK: Juror number 23, Robert Caudle.

10 What say ye for the State?

11 MR. EPTING: Please present this juror.

12 MADAM CLERK: And the defense?

13 MR. BARROWCLOUGH: Please excuse this juror.

14 MADAM CLERK: You have been excused from this case.

15 Juror 166, Bryson Wamtz.

16 What say ye for the State?

17 MR. EPTING: Please present this juror.

18 MADAM CLERK: And the defense?

19 MR. BARROWCLOUGH: Please swear this juror.

20 MADAM CLERK: Please have a seat in the jury box.

21 Juror number 1, John Adkins.

22 What say ye for the State?

23 MR. EPTING: Please present this juror.

24 MADAM CLERK: And the defense?

25 MR. BARROWCLOUGH: Please swear this juror.

1 MADAM CLERK: Please have a seat in the jury box.
2 Juror number 51, Thomas Gisondi, Jr.
3 What say ye for the State?
4 MR. EPTING: Please excuse this juror.
5 MADAM CLERK: You have been excused from this case.
6 Juror number 172, Tamara Wilson.
7 What say ye for the State?
8 MR. EPTING: Please present this juror.
9 MADAM CLERK: And the defense?
10 MR. BARROWCLOUGH: Please swear the juror.
11 MADAM CLERK: Please have a seat in the jury box.
12 Juror number 87, Sarah Macchi.
13 What say ye for the State?
14 MR. EPTING: Please present this juror.
15 MADAM CLERK: And the defense?
16 MR. BARROWCLOUGH: Please swear this juror.
17 MADAM CLERK: Please have a seat in the jury box.
18 THE COURT: Anything further in regards to jury
19 selection from the State?
20 MR. EPTING: Nothing from the State, Your Honor.
21 THE COURT: From the defense?
22 MR. BARROWCLOUGH: No, sir, Your Honor.
23 THE COURT: All right. Ladies and gentlemen of the
24 jury, those of you who were not selected to serve as jurors
25 in this case, if you would call tonight after 6:00, call

1 tonight after 6:00 the number as provided to you by the
2 Clerk of Court, they'll give you further instruction about
3 when you're needed next. So with that, I'm going to allow
4 those that are in the jury pool outside to -- you're
5 excused. Again, call tonight after 6:00. Everyone else
6 remain seated.

7 (Whereupon, the jury pool exited the courtroom at 12:23
8 P.M.)

9 THE COURT: All right. Ladies and gentlemen, those of
10 you who have been selected to serve as jurors in this case,
11 I'm going to give you just a few instructions before you
12 leave. When you come back in, and you'll get that
13 instruction about when to report back also on the phone, the
14 message from the Clerk's office after 6:00 tonight, when you
15 come back in, the four alternates, if y'all will keep those
16 two -- your four seats, where you're sitting, throughout the
17 remainder of the trial. The rest of you can sit wherever
18 you feel like when you come in and out. I am going to tell
19 you, and I think Judge McKinnon follows this rule as well,
20 is we ask that you not bring any soft drinks, sodas or
21 coffee in the courtroom. Feel free to bring any water, just
22 don't bring any soft drink or sodas. We still consider this
23 a new building even though it's got a few years on it. The
24 clerk has done a real good job of keeping it nice and clean
25 and part of that is try to keep soft drinks and coffee out

1 of the courtroom, but, again, bring water, bring that with
2 you as well.

3 When you leave, I'm going to instruct you again, you're
4 not to discuss this case. Even though you've heard just the
5 reading of the indictments, that's all you know about the
6 case. You're not to discuss the case with those that you
7 live with or anybody else, even when you go back to the jury
8 room. Throughout the trial, even when you go back to the
9 jury room, you're not to discuss the case among yourselves
10 at all and the reason behind that is is that you've taken an
11 oath to be fair and impartial. You're going to take that
12 oath when you get sworn in shortly before the trial starts,
13 to be fair and impartial to both the State and the defense.
14 If you think about it a little bit, if you start going out
15 and talking to other people about the case, and if you're
16 doing your own independent research, you start forming
17 opinions about the ultimate issue in this case on something
18 that's not in the courtroom and so that would not be a fair
19 process.

20 You're going to hear evidence in the case that's
21 going to be presented here in the courtroom. You're going
22 to hear the law that's going to apply in the case and that's
23 going to be here in the courtroom from Judge McKinnon when
24 he deals with that and once you -- once all the evidence
25 that's to be presented is in, you can -- you know, you'll

1 then have the law given to you or read to you, combined with
2 the evidence that you have in the case, then you can start
3 discussing about the ultimate issue about the case. In the
4 meantime, don't use your electronic devices to Google
5 people, places, lawyers, things, anything related to this
6 case, don't discuss it at all with anyone else or even among
7 yourselves. Again, you'll be given instructions via the
8 telephone -- or I still call it the telephone. I guess
9 we're not even supposed to call it a telephone. There'll be
10 a phone call sometime after 6:00 tonight. We anticipate --
11 Judge McKinnon is the judge who's been assigned to try this
12 case. He should be back either tomorrow or it may be that
13 it doesn't start until Wednesday, but you'll get that
14 information. I apologize for that, but it's just the
15 logistics of when you have a lot going on and post-Covid, we
16 still have a lot going on in various courtrooms and so
17 you're going to have a delay before the trial gets started.

18 We will be working. I will be working. I have a full
19 week of matters to be heard in the other courtroom. Judge
20 McKinnon is working. He's working over in Union. He'll be
21 working 'til that case is resolved and then he'll be ready
22 to go to work immediately, because y'all have been selected,
23 when he comes back.

24 So with that, the bailiff will give you -- will take
25 you out. You'll go out this door. He's going to show you

1 the jury room that you're going to be assigned to and give
2 you some basic instructions. Enjoy your time away and I'm
3 sure we hope to see you a little bit later on in the week.
4 With that, I'm going to allow you to be excused; everyone
5 else remain seated.

6 (Whereupon, the jury exited the courtroom at 12:28
7 P.M.)

8 THE COURT: All right. Anything else in regards to
9 jury selection from the State?

10 MR. EPTING: No, Your Honor. I did want to put on the
11 record that the Union trial that Your Honor referenced to
12 the jury spilling over into this week caused Mr.
13 Barrowclough and myself to approach the Court and ask us --
14 ask the Court to hold jury selection since Your Honor was
15 covering jury qualifications in order to save us time. That
16 was done with the consent of both parties and the case will
17 be handed over to the trial judge, Judge McKinnon, once the
18 Union trial is wrapped up.

19 MR. BARROWCLOUGH: That's correct, Your Honor. Yes.

20 THE COURT: All right. And let me put on the record
21 too, it's common practice throughout the state where we have
22 two judges, at least two judges holding court
23 simultaneously, that often one judge, in fact, may be in
24 charge of jury qualifications and selection of a particular
25 jury, just not swearing that jury on -- in and then that

1 particular jury is then handed off to the trial judge to
2 then swear the jury and try the case. So that's where we
3 are. Again, we're there also with the consent of both the
4 State and defense in this case.

5 All right. Anything else for the record before we
6 break?

7 MR. EPTING: Nothing from the State, Your Honor.

8 THE COURT: All right.

9 MR. BARROWCLOUGH: Nothing from the defense, Your
10 Honor.

11 THE COURT: I don't know -- I don't know how Judge
12 McKinnon's going to do it and I don't know whether y'all
13 need to bring it to his attention. I'm not necessarily
14 comfortable with the two alternates sitting sort of promptly
15 where they are, conspicuously in front of everybody. If
16 there's some way -- my preference would be, if I was holding
17 the trial, we might want to try to move them a little bit
18 further to the left and we'll try to deal with that. Again,
19 that's my preference. Judge McKinnon, it's his courtroom,
20 he can make that decision. All right. With that, we'll be
21 at ease until this case is ready to start.

22 MR. EPTING: Thank you, Your Honor.

23 MR. BARROWCLOUGH: Thank you, Your Honor.

24 THE COURT: And the clerk has the indictments.

25 (Whereupon court was in recess at 12:30 P.M.)

STATE OF SOUTH CAROLINA)

) C E R T I F I C A T E

COUNTY OF YORK)

I, the undersigned Shannon E. McGilberry, official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 12th day of August, 2024.

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

In witness whereof, I have hereunto subscribed my name, this 21st day of December, 2024.

Shannon E. McGilberry, CVR-M

My Commission Expires:

April 26, 2027

WITNESSES

YCSO

Witnessing Officer: *Rodenhauser*

ARREST WARRANT NUMBER

COUNT ONE: 2019AA4610100117
COUNT TWO: Direct Indictment

ACTION OF GRAND JURY

TRUE BILL

Carla Nieves
Forperson of Grand Jury
Date: *5-16-19*

VERDICT
Guilty on both counts
8/20/2024

Forperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46-01192
2019-GS-46-01192a(DIRECT)

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 16TH, TERM 2019

THE STATE

VS.

MARQUES QUANTEZ HEATH

INDICTMENT FOR

COUNT ONE: MURDER

SC Code: § 16-03-0010
CDR Code: 0116

**COUNT TWO: POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on May 16, 2019, the Grand Jurors of York County present upon their oath:

COUNT ONE: MURDER

Marques Quantez Heath did on or about February 12, 2019, unlawfully and with malice aforethought, either express or implied, kill Sh'nijela Sher'Michael Elexus Williams by means of shooting her, and Ms. Williams died as a proximate result thereof. The murder occurred at or near 1079 Leach Road in York County, South Carolina. All in violation of Section 16-3-10, *Code of Laws of South Carolina* (1976), as amended.

**COUNT TWO: POSSESSION OF A WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

Marques Quantez Heath did on or about February 12, 2019, while committing the violent crime of Murder as detailed in count 1 of this indictment, possess a firearm. All in violation of 16-23-0490, *Code of Laws of South Carolina* (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLY THOMPSON
DEPUTY SOLICITOR

WITNESSES

YCSO1 Rodenhaiser

ARREST WARRANT NUMBER

COUNT ONE: 2019A4610100119
COUNT TWO: 2019A4610100137

ACTION OF GRAND JURY

TRUE BILL

Caral Nunez
Foreperson of Grand Jury
Date: 5-16-19

VERDICT
Guilty on both counts
8/20/2024

Foreperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46-01234
2019-GS-46-01234a

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 16TH, TERM 2019

THE STATE

VS.

MARQUES QUANTEZ HEATH

INDICTMENT FOR

COUNT ONE: ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

**COUNT TWO: POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on May 16, 2019, the Grand Jurors of York County present upon their oath:

COUNT ONE: ATTEMPTED MURDER

Marques Quantez Heath did on or about February 12, 2019, unlawfully and with malice aforethought, either express or implied, and with the intent to kill, attempt to kill Laquata Shontae Wilson. The attempted murder occurred at or near 2134 Farlow Street in York County, South Carolina. All in violation of Section 16-03-0029, *Code of Laws of South Carolina* (1976), as amended.

**COUNT TWO: POSSESSION OF A WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

Marques Quantez Heath did on or about February 12, 2019, while committing the violent crime of Attempted Murder as detailed in count 1 of this indictment, possess a firearm. All in violation of Section 16-23-0490, *Code of Law of South Carolina* (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLY THOMPSON
DEPUTY SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Rodenhauser*

ARREST WARRANT NUMBER

COUNT ONE: 2019A4610100118
COUNT TWO: Direct Indictment

ACTION OF GRAND JURY

TRUE BILL

Carla Nieves
Foreperson of Grand Jury
Date: *5-16-19*

VERDICT

Guilty on both counts
8/20/2024

Foreperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46- 01232

2019-GS-46-01232a (DIR IND)

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 16TH TERM 2019

THE STATE

VS.

MARQUES QUANTEZ HEATH

INDICTMENT FOR

COUNT ONE: ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

**COUNT TWO: POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on May 16, 2019, the Grand Jurors of York County present upon their oath:

COUNT ONE: ATTEMPTED MURDER

Marques Quantez Heath did on or about February 12, 2019, unlawfully and with malice aforethought, either express or implied, and with the intent to kill, attempt to kill Bethany Farrar. The attempted murder occurred at or near 1079 Leach Road in York County, South Carolina. All in violation of 16-03-0029, *Code of Laws of South Carolina* (1976), as amended.

COUNT TWO: POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

Marques Quantez Heath did on or about February 12, 2019, while committing the violent crime of Attempted Murder as detailed in count 1 of this indictment, possess a firearm. All in violation of 16-23-0490, *Code of Laws of South Carolina* (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLY THOMPSON
DEPUTY SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Rodenhauser*

ARREST WARRANT NUMBER

COUNT ONE: 2019A4610100131
COUNT TWO: 2019A4610100130

ACTION OF GRAND JURY

TRUE BILL

Carla Alvarez
Foreperson of Grand Jury
Date: *5-16-19*

VERDICT

Guilty on both counts
8/20/2024

Foreperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46-01224
2019-GS-46-01224a

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 16TH, TERM 2019

THE STATE

VS.

MARQUES QUANTEZ HEATH

INDICTMENT FOR

COUNT ONE: KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

COUNT TWO: POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME

SC Code: § 16-23-0490
CDR Code: 0549

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on May 16, 2019, the Grand Jurors of York County present upon their oath:

COUNT ONE: KIDNAPPING

Marques Quantez Heath did on or about February 12, 2019, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Sh'nijela Sher'Michael Elexus Williams without the authority of law. The crime occurred at or near 1079 Leach Road in York County, South Carolina. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976), as amended.

COUNT TWO: POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

Marques Quantez Heath did on or about February 12, 2019, while committing the violent crime of Kidnapping as detailed in count 1 of this indictment, possess a firearm. All in violation of 16-23-0490, *Code of Laws South Carolina* (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLY THOMPSON
DEPUTY SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Radenhauser*

ARREST WARRANT NUMBER

2019A4610100133

ACTION OF GRAND JURY

TRUE BILL

Sarah Nunez
Foreperson of Grand Jury
Date: *5-16-19*

VERDICT

Guilty
8/20/2024

Foreperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46-01226

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 16TH, TERM 2019

THE STATE

VS.

MARQUES QUANTEZ HEATH

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

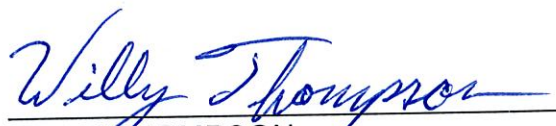
INDICTMENT

At a Court of General Sessions, convened on May 16, 2019, the Grand Jurors of York County present upon their oath:

KIDNAPPING

Marques Quantez Heath did on or about February 12, 2019, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Bethany Farrar without the authority of law. The kidnapping occurred at or near 1079 Leach Road in York County, South Carolina. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLY THOMPSON
DEPUTY SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Rodenhauser*

ARREST WARRANT NUMBER

2019AA4610100132

ACTION OF GRAND JURY

TRUE BILL

Carah Nieves
Foreperson of Grand Jury
Date: 5-16-19

VERDICT

Guilt
8/20/2024

Foreperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46-01225

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 16TH, TERM 2019

THE STATE

VS.

MARQUES QUANTEZ HEATH

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on May 16, 2019, the Grand Jurors of York County present upon their oath:

KIDNAPPING

Marques Quantez Heath did on or about February 12, 2019, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Herman Leach without the authority of law. The kidnapping occurred at or near 1079 Leach Road in York County, South Carolina. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLY THOMPSON
DEPUTY SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Rodenhauser*

ARREST WARRANT NUMBER

2019AA4610100127

ACTION OF GRAND JURY

TRUE BILL

Carol Nunez
Foreperson of Grand Jury
Date: *5-16-19*

VERDICT
*Guilty of lesser included
charge Assault and Battery
1st Degree*
8/20/2024
Foreperson of Petit Jury
Date:

DOCKET NO. 2019-GS-46-01229

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MAY 16TH TERM 2019

THE STATE

VS.

MARQUES QUANTEZ HEATH

INDICTMENT FOR

**ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE**

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

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

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on May 16, 2019, the Grand Jurors of York County present upon their oath:

ASSAULT & BATTERY OF A HIGH AND AGGRAVATED NATURE

Marques Quantez Heath did on or about February 12, 2019, unlawfully injure Herman Leach and did accomplish that injury by means likely to produce death or great bodily injury. The crime occurred at or near 1079 Leach Road in York County, South Carolina. All in violation of 16-03-0600(B)(1), *Code of Laws of South Carolina*, (1976), as amended.

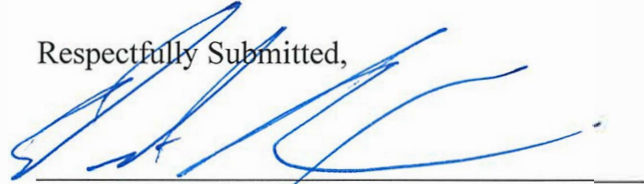
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLY THOMPSON
DEPUTY SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

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

ATTORNEY FOR APPELLANT

RECEIVED

Jul 07 2025

SC Court of Appeals

This 7th day of July, 2025.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Jul 07 2025
SC Court of Appeals

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARQUES QUANTEZ HEATH,

APPELLANT

APPELLATE CASE NO. 2024-001405

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Marques Q. Heath, #304128, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 7th day of July, 2025.



David Alexander
Deputy Chief Attorney For Capital Appeals

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

ATTORNEY FOR APPELLANT