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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable George M. McFaddin, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DYWAIN CA MEL MCKENZIE,

APPELLANT.

APPELLATE CASE NO. 2024-000741

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF SUMTER	)	Case No.: 2022GS4300742
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Dywain Ca Mel McKenzie,	)	
	)	
Defendant.	)	April 22, 2024
_____	)	

TRANSCRIPT OF TRIAL

VOLUME 1 OF 5

PAGES: 0 - 19

WEEK OF APRIL 22, 2024, GENERAL SESSIONS COURT

BEFORE THE HONORABLE GEORGE M. MCFADDIN JR.
Circuit Court Judge, and a jury.

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

For Government:	William J. Corbett, Esquire
	215 N. Harvin
	Sumter, SC 29150

For Defendant:	Charles T. Brooks III, Esquire
	309 Broad Street
	Sumter, SC 29150

Recorded by:	DCRP
Transcribed by:	Teresa B. Johnson
	CVR-M-CM, RVR, RVR-M
	P.O. Box 2812
	Greenville, SC 29602

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P R O C E E D I N G S

(Proceedings begin on the 23rd day of April 2024,
at 10:03 a.m.)

THE COURT: All right.

It appears are the jurors are here. We are
soon to start the case of the State versus Dywain
McKenzie. Is that right, gentlemen?

MR. CORBETT: That is correct, Your Honor.

THE COURT: Mr. Campbell, they were oathed
yesterday. But this is a new day now. Can we do
that again, please?

THE DEPUTY CLERK: Yes, sir, Your Honor.

Ladies and gentlemen, would you please stand
to be sworn again.

THE BAILIFF: Ladies and gentlemen of the
jury, would you please raise your right hand?

You shall in true answer make to all
questions demanded of you touching the matter now
before the Court by the court or order thereof.
You shall speak the truth, the whole truth,
nothing but the truth, so help you God by saying,
"I will."

(Jury venire respond.)

THE DEPUTY CLERK: You may be seated. Was
there anyone who did not take the oath?

1 Been sworn, Your Honor.

2 **THE COURT:** Thank you, sir.

3 And thanks to all of you for being on time
4 today.

5 Mr. Corbett, Mr. Brooks, I'll now ask these
6 questions of these jurors here. If a question
7 applies to you or you need to respond to it,
8 please stand. Is there any member of the jury
9 panel today related by blood or marriage to
10 defendant Dywain McKenzie?

11 And Mr. Corbett, I know you said you had a
12 list of witnesses. You want to do that now?

13 **MR. CORBETT:** Yes, sir, Judge. If I may.
14 Your Honor, please it the Court.

15 **THE COURT:** Yes, sir.

16 **MR. CORBETT:** Your Honor, at this time, we
17 would call the State of South Carolina versus
18 Dywain McKenzie, true-billed Indictment No.
19 2022-GS-43-742. Mr. McKenzie is before the Court
20 on an indictment alleging two counts of attempted
21 murder and two counts of armed robbery. Your
22 Honor, these allegations date from March 17, 2021,
23 on Maxwell Street here in Sumter County.

24 Judge, if I may, I'll hand up the indictment
25 and a list of the state's potential witnesses.

1 **THE COURT:** Yes, sir.

2 To repeat the question, or to recite it one
3 more time, is any member of the panel here today
4 related by blood marriage to James Salmon, Kelsey
5 Wade, Michael Austin, Jeffrey Hansen, Megan
6 Fletcher, Natalie Porter, Cameron Bryant, Brandon
7 Doherty, Brandon Osbourne, Kayla Flemming, Heath
8 Gardner, Jarquis Brown, Shirlene Skipper, Dan
9 Buck, Alexis Carter, Amanda Snapp, Nicholas
10 Scudder, Zachary Tidwell, Anna Gaymon. Does that
11 apply to anybody here?

12 **THE DEPUTY CLERK:** Your Honor --
13 Stay standing.

14 **THE COURT:** I can't even see. It's so dark
15 back there.

16 Ma'am, your number, please?

17 **POTENTIAL JUROR:** 51.

18 **THE COURT:** And your connection is with whom?

19 **POTENTIAL JUROR:** I believe I know Heath
20 Gardner.

21 **THE COURT:** All right.

22 You've heard a little bit about the case.
23 You say you might think you know him. Is that --
24 can you still be a fair and impartial juror in
25 this trial?

1 **POTENTIAL JUROR:** I think (inaudible).

2 **THE COURT:** Ma'am?

3 **POTENTIAL JUROR:** I guess yeah. I don't know
4 him that well.

5 **THE COURT:** Well, I -- right now, I just need
6 can you be fair and impartial or not?

7 **POTENTIAL JUROR:** Yeah.

8 **THE COURT:** Okay. Thank you, ma'am.
9 Anybody else?

10 As to those names called and to include
11 Dywain McKenzie, do any of you have a close
12 personal or social relationship with any of those
13 persons? Please stand.

14 **MR. CORBETT:** Judge.

15 **THE COURT:** Yes, sir.

16 **MR. BROOKS:** I think Natalie Porter used to
17 be Natalie Kelly. I want to make sure that --

18 **THE COURT:** I do see that.

19 To -- to correct myself, Natalie Porter was
20 the former Natalie Kelly. Does that change
21 anybody's position on her?

22 I see no one standing regarding the second
23 question.

24 I'll ask the lawyers to stand, present
25 themselves. And then I'll ask another question.

1 **MR. CORBETT:** Thank you, Your Honor.

2 Good morning, ladies and gentlemen. My name
3 is Jason Corbett. I'm one of the assistant
4 solicitors here in Sumter County. I work for
5 Mr. Finney, your elected solicitor. Also sitting
6 at the table with me will be our investigator
7 Daniel Caufield.

8 **THE COURT:** Mr. Brooks.

9 **MR. BROOKS:** Ladies and gentlemen, my name is
10 Charles Brooks. I have an office here in sumter.
11 I have the distinct honor and privilege of
12 defending my client, Dywain McKenzie.

13 Dywain, will you stand up and face the jury?
14 Okay. Thank you.

15 **THE COURT:** Is any member of the jury panel
16 here today related by blood or marriage or have a
17 close personal or social relationship with either
18 these lawyers? Please stand.

19 Yes. Your number please.

20 **POTENTIAL JUROR:** 22.

21 **THE COURT:** 20?

22 **POTENTIAL JUROR:** 22.

23 **THE COURT:** 22. And ma'am, with whom?

24 **POTENTIAL JUROR:** I go to church with
25 Mr. Jason Corbett.

1 **THE COURT:**

2 **THE DEPUTY CLERK:** Can you be a fair and
3 impartial juror, ma'am?

4 **POTENTIAL JUROR:** Yes.

5 **THE COURT:** All right. Thank you.
6 Anybody else, sir, standing up?

7 **THE DEPUTY CLERK:** That's it.

8 **THE COURT:** Is there any member of the panel
9 here today formed or expressed an opinion about
10 any issue or matter in this case presented by the
11 state just now. Please stand.

12 None?

13 **THE DEPUTY CLERK:** Yes, sir.

14 **THE COURT:** One or none?

15 **THE DEPUTY CLERK:** None.

16 **THE COURT:** Okay.

17 Is any member of the panel aware of any bias
18 or prejudice toward either the state or the
19 defendant? Please stand.

20 **THE DEPUTY CLERK:** None.

21 **THE COURT:** Is there any member of the panel
22 who is a member of or a contributor to any group
23 who has as its primary concern the promotion of
24 law enforcement or victims' rights? These groups
25 would include but certainly not be limited to

1 MADD, SADD, or CAVE, Citizens Against Violent
2 Crime. Please stand.

3 **THE DEPUTY CLERK:** None, Your Honor.

4 **THE COURT:** And, Mr. Corbett, did you have
5 anything else before I get through these last
6 questions here?

7 **MR. CORBETT:** Judge, Mr. Brooks and I worked
8 on those last couple together.

9 **THE COURT:** All right.

10 Has a member of the panel or any close
11 relative been a victim of a crime? Please stand.

12 **THE DEPUTY CLERK:** None, Your Honor.

13 **THE COURT:** Has any member of the jury panel
14 or a close relative been accused of a violent
15 crime?

16 **THE DEPUTY CLERK:** None, Your Honor.

17 **THE COURT:** All right.

18 Mr. Corbett, any other questions before I
19 move to my last one here?

20 **MR. CORBETT:** Nothing further from the state.

21 **THE COURT:** Mr. Brooks, you, sir?

22 **MR. BROOKS:** No, sir, Your Honor.

23 **THE COURT:** Does any member of the panel know
24 of any reason whatsoever why he or she should not
25 serve as a juror in this case with particular

1 emphasis being placed on your ability to be a fair
2 and impartial -- both to the state and to the
3 defendant? If so, come forward.

4 **THE DEPUTY CLERK:** None, Your Honor.

5 **THE COURT:** And anything additional,
6 gentleman?

7 **MR. CORBETT:** Nothing further from the state.

8 **THE COURT:** All right.

9 So do we need a few minutes now?

10 **THE DEPUTY CLERK:** Thirty seconds.

11 **THE COURT:** Thirty seconds. Okay.

12 (Pause in proceeding.)

13 **THE DEPUTY CLERK:** May it please the Court,
14 Your Honor.

15 **THE COURT:** Yes, sir.

16 **THE DEPUTY CLERK:** Ladies and gentlemen, if
17 your name is called, please come to the podium and
18 turn around and face the back wall.

19 **THE COURT:** Mr. --

20 **THE DEPUTY CLERK:** And please bring your
21 personal belongings with you.

22 **THE COURT:** Strikes, gentlemen?

23 **MR. CORBETT:** Your Honor, five for the state
24 and 10 for the defense.

25 **THE COURT:** Okay.

1 Just wanted to be sure, sir. Thank you.

2 **THE DEPUTY CLERK:** Juror No. 127, Zachariah
3 Mues.

4 What says the state?

5 **MR. CORBETT:** Present the juror, please.

6 **THE DEPUTY CLERK:** What says the defendant?

7 **MR. BROOKS:** Please excuse the juror in this
8 trial.

9 **THE DEPUTY CLERK:** Please return to your
10 seat, sir. You've been excused from this trial.

11 Juror No. 20 Laura Cabbagestalk.

12 What says the state?

13 **MR. CORBETT:** Present the juror, please.

14 **THE DEPUTY CLERK:** What says the defendant?

15 **MR. BROOKS:** Excuse this juror.

16 **THE DEPUTY CLERK:** Please return to your
17 seat. You've been excused from this trial, ma'am.

18 Juror No. 68, Charlene Green.

19 What says the state?

20 **MR. CORBETT:** Present the juror, please.

21 **THE DEPUTY CLERK:** What says the defendant?

22 **MR. BROOKS:** Please seat this juror.

23 **THE DEPUTY CLERK:** Please have a seat in the
24 jury box to my left. This way, ma'am.

25 Juror No. 27, Vondalear Cheverez.

1 What says the state?

2 **MR. CORBETT:** Present the juror, please.

3 **THE DEPUTY CLERK:** What says the defendant?

4 **MR. BROOKS:** Please seat this juror.

5 **THE DEPUTY CLERK:** Please have a seat in the
6 jury boxy to my left.

7 Juror No. 51, Loren Infinger.

8 What says the state?

9 **MR. CORBETT:** Present the juror, please.

10 **THE DEPUTY CLERK:** What says the defendant?

11 **MR. BROOKS:** Please excuse the juror for this
12 trial.

13 **THE DEPUTY CLERK:** You may return to your
14 seat, ma'am. You've been excused from this trial.

15 Juror No. 61, Joseph Gargano Jr.

16 What says the state?

17 **MR. CORBETT:** Present the juror, please.

18 **THE DEPUTY CLERK:** What says the defendant?

19 **MR. BROOKS:** Please excuse the juror in this
20 trial.

21 **THE DEPUTY CLERK:** Please return to your
22 seat, sir. You've been excused from this trial.

23 Juror No. 170, Maxwell Terry.

24 What says the state?

25 **MR. CORBETT:** Present the juror, please.

1 **THE DEPUTY CLERK:** What says the defendant?

2 **MR. BROOKS:** Beg the Court's indulgence.

3 Please seat this juror in this trial.

4 **THE DEPUTY CLERK:** Please have a seat to our
5 left, sir, in the juror box.

6 Juror No. 3, Vanessa Alston-Coleman.

7 What says the state?

8 **MR. CORBETT:** Present the juror, please.

9 **THE DEPUTY CLERK:** What says the defendant?

10 **MR. BROOKS:** Please seat this juror.

11 **THE DEPUTY CLERK:** Please have a seat in the
12 juror box, ma'am.

13 Juror No. 55, Calvin Felder.

14 What says the state?

15 **MR. CORBETT:** Present the juror, please.

16 **THE DEPUTY CLERK:** What says the defendant?

17 **MR. BROOKS:** Please seat this juror.

18 **THE DEPUTY CLERK:** Please have a seat in the
19 jury box.

20 Juror No. 113, Jeremy Mayhew.

21 What says the state?

22 **MR. CORBETT:** Present the juror, please.

23 **THE DEPUTY CLERK:** What says the defendant?

24 **MR. BROOKS:** Please excuse this juror.

25 **THE DEPUTY CLERK:** Please return to your

1 seat, sir. You've been excused from this trial.

2 Juror No. 177, Jennifer Welch.

3 What says the state?

4 **MR. CORBETT:** Present the juror, please.

5 **THE DEPUTY CLERK:** What says the defendant?

6 **MR. BROOKS:** Beg the Court's indulgence.

7 Please excuse this juror.

8 **THE DEPUTY CLERK:** Please return to your
9 seat, ma'am. You've been excused from this trial.

10 Juror No. 166, Manpreet Stewart.

11 What says the state?

12 **MR. CORBETT:** Present the juror, please.

13 **THE DEPUTY CLERK:** What says the defendant?

14 **MR. BROOKS:** Seat this juror.

15 **THE DEPUTY CLERK:** Please have a seat in the
16 jury box, ma'am.

17 Juror No. 46, Kimberly Davis.

18 What says the state?

19 **MR. CORBETT:** Present the juror, please.

20 **THE DEPUTY CLERK:** What says the defendant?

21 **MR. BROOKS:** Please seat this juror.

22 **THE DEPUTY CLERK:** Please have a seat in the
23 jury box, ma'am.

24 Juror No. 83, Julie Hobday.

25 What says the state?

1 **MR. CORBETT:** Present the juror, please.

2 **THE DEPUTY CLERK:** What says the defendant?

3 **MR. BROOKS:** Please excuse this juror.

4 **THE DEPUTY CLERK:** Please return to the seat,
5 ma'am. You've been excused from this trial.

6 **MR. CORBETT:** Your Honor, please note a
7 state's motion for the record.

8 **THE COURT:** Yes, sir.

9 **THE DEPUTY CLERK:** Juror No. 168, Norma
10 Stone.

11 What says the state?

12 **MR. CORBETT:** Present the juror, please.

13 **THE DEPUTY CLERK:** What says the defendant?

14 **MR. BROOKS:** Please seat this juror.

15 **THE DEPUTY CLERK:** Please have a seat in the
16 jury box, ma'am.

17 Juror No. 77, Joshua Hayden.

18 What says the state?

19 **MR. CORBETT:** Present the juror, please.

20 **THE DEPUTY CLERK:** What says the defendant?

21 **MR. BROOKS:** Please excuse this juror.

22 **THE DEPUTY CLERK:** Please return to your
23 seat, sir. You've been excused from this trial.

24 Juror No. 11, Frenche Brewer.

25 What says the state?

1 **MR. CORBETT:** Present the juror, please.

2 **THE DEPUTY CLERK:** What says the defendant?

3 **MR. BROOKS:** Please seat this juror.

4 **THE DEPUTY CLERK:** Please have a seat in the
5 jury box, ma'am.

6 Juror No. 90, Darryl Hunter.

7 What says the state?

8 **MR. CORBETT:** Present the juror, please.

9 **THE DEPUTY CLERK:** What says the defendant?

10 **MR. BROOKS:** Please seat this juror.

11 **THE DEPUTY CLERK:** Please have a seat in the
12 jury box, sir.

13 Juror No. 7, Kim Bannister.

14 What says the state?

15 **MR. CORBETT:** Present the juror, please.

16 **THE DEPUTY CLERK:** What says the defendant?

17 **MR. BROOKS:** Please seat this juror.

18 **THE DEPUTY CLERK:** Please have a seat in the
19 jury box, ma'am.

20 Juror No. 94, Brian Jamison.

21 What says the state?

22 **MR. CORBETT:** Present the juror, please.

23 **THE DEPUTY CLERK:** What says the defendant?

24 **MR. BROOKS:** Excuse the juror in this trial.

25 **THE DEPUTY CLERK:** Please return to your

1 seat, sir. You've been excused from this trial.

2 Juror No. 102, Deborah Kirkland. If you
3 don't mind, take a step or two back, ma'am. Thank
4 you. That's good.

5 What says the state?

6 **MR. CORBETT:** Present the juror, please.

7 **THE DEPUTY CLERK:** What says the defendant?

8 **MR. BROOKS:** Please seat this juror.

9 **THE DEPUTY CLERK:** Please have a seat in the
10 jury box, ma'am.

11 First alternate. Juror No. 35, Rodney Cook.

12 What says the state?

13 **MR. CORBETT:** Present the juror, please.

14 **THE DEPUTY CLERK:** What says the defendant?

15 **MR. BROOKS:** Seat this juror.

16 **THE DEPUTY CLERK:** Please have a seat in jury
17 box, sir.

18 Juror No. 41, James Cromwell III.

19 What says the state?

20 **MR. CORBETT:** Present the juror, please.

21 **THE DEPUTY CLERK:** What says the defendant?

22 **MR. BROOKS:** Seat this juror.

23 **THE DEPUTY CLERK:** Please have a seat in jury
24 box, sir.

25 **THE COURT:** May I speak to the lawyers

1 outside regarding logistics?

2 (A sidebar conference is held off the record.)

3 **THE COURT:** For those of you in the back, the
4 gallery so to speak, and I'll say this to the
5 jurors also, I have some legal matters to address
6 that I cannot do and should not do and will not do
7 in your presence.

8 So for those of you in the gallery,
9 Mr. Campbell, they go to --

10 **THE DEPUTY CLERK:** Jury assembly room.

11 **THE COURT:** -- jury assembly room downstairs.
12 For those of you who have been chosen, the
13 bailiff will take you to your jury room.

14 By the way, especially the jurors here, even
15 now, do not discuss this case among yourselves or
16 with any other persons in any manner directly or
17 indirectly for any reason whatsoever, please.

18 (Jury panel exits the courtroom at 10:36 p.m.)

19 **THE COURT:** Those in the gallery, would you
20 kindly follow the bailiff back to the jury
21 assembly room? Thank you.

22 (Jury venire exits the courtroom at 10:36 p.m.)

23 **THE COURT:** All right, Mr. Corbett.

24 **MR. CORBETT:** Judge, if I may have just a
25 moment. I -- I need to step down to my office and

1 grab my desk book. It has some *Batson* procedures.
2 If I may just have just --

3 **THE COURT:** Yes, sir.

4 **MR. CORBETT:** -- a moment to grab that.

5 **THE COURT:** That's fine.

6 (A recess is taken.)

7 **MR. CORBETT:** Your Honor Jason Corbett on
8 behalf of the state. Back on the record in the
9 matter versus State of Dywain McKenzie. As the
10 Court is aware, we recently completed jury
11 selection.

12 Judge, during the jury selection, a total of
13 14 jurors -- or 12 jurors were seated along with
14 two alternates. The state exercised zero
15 peremptory strikes. The defense exercised nine
16 strikes. Of those nine, the defense struck --
17 eight of the nine are identified as white.

18 Judge, also to note that the defendant is
19 African American. We believe that the defense
20 violated the Batson requirements by striking and
21 deliberately attempting to remove white jurors
22 from the panel.

23 **THE COURT:** All right, sir.

24 Mr. Brooks.

25 As I recall, gentleman, from seven years ago,

1 the procedure is we go one by one. Am I right?

2 Gentlemen, is that right?

3 **MR. CORBETT:** Judge, from our -- from our --
4 from the state's perspective, once the state makes
5 this motion challenging the strikes, then it is up
6 to the defense to offer an explanation for the
7 strikes -- or I should say a racially or
8 gender-neutral explanation.

9 **THE COURT:** Right.

10 **MR. CORBETT:** And then, the state has
11 opportunity to respond in an effort to show --
12 show mere pretext.

13 **THE COURT:** So -- so let's start with my --
14 my records, No. 1, Zachariah Miles -- Miles --

15 **THE DEPUTY CLERK:** Mues.

16 **THE COURT:** Mues. Sorry.

17 **MR. BROOKS:** Judge, he was in the
18 communication field, Internet. My client believes
19 that that would put him in the world of potential
20 conspiracy theorists. That was his job,
21 communications, internet. That's what my client
22 was thinking in regards to him.

23 If you want me to go to the next one, I can.

24 **THE COURT:** No, sir.

25 Let me hear from Mr. Corbett.

1 **MR. CORBETT:** Judge, the state is informed it
2 believes that if we look at the jurors seated that
3 there are -- there were other jurors seated,
4 specifically, black males of similar age and
5 similar type work, length, and experience. We do
6 not believe that working in the field of
7 communication makes you a conspiracy theorist.

8 **THE COURT:** Mr. Brooks, does your client have
9 more than that assumption, sir?

10 **MR. BROOKS:** Judge, my client -- we're
11 sitting here doing it. My client looks at it, and
12 looked at it that way. And we hadn't struck
13 anybody yet. That was the first person up. So we
14 went ahead and struck him.

15 We also struck some African Americans as well
16 for obvious reasons that we can get into.

17 **THE COURT:** You struck one, by my count.
18 What precise business does this Mr. Mues work
19 in? What does he actually do, Mr. Campbell, do
20 you know?

21 **THE DEPUTY CLERK:** He didn't return a summon.
22 So I don't know. Whatever he said Monday.

23 **THE COURT:** Does your client know,
24 Mr. Brooks?

25 **MR. BROOKS:** He doesn't. But I do know he

1 stood up on yesterday. He said he's in a
2 communication service tech industry.

3 **THE COURT:** Okay. All right.

4 Anything else on that, Mr. Corbett?

5 **MR. CORBETT:** Nothing further on that one,
6 Your Honor.

7 **THE COURT:** Okay.

8 The next one -- and y'all correct me if I'm
9 wrong, because I tried to keep up with this, would
10 be --

11 **MR. CORBETT:** Judge, next juror struck was
12 number -- Juror No. 20, a black female.

13 **THE COURT:** Yes, sir. That's right.

14 **MR. CORBETT:** Judge, this -- the state isn't
15 specifically concerned with that strike.

16 **THE COURT:** Okay.

17 And the next strike would be --

18 **MR. CORBETT:** Juror No. 51.

19 **THE COURT:** That will be on the left hand
20 side, No. 5. That will be Loran -- Lauren [sic]
21 Duval Infinger; is that right?

22 **MR. BROOKS:** Judge, she stood up doing voir
23 dire and said that she knew a state's witness.

24 **THE COURT:** Mr. Corbett?

25 **MR. CORBETT:** Judge, that is correct.

1 **THE COURT:** Okay.

2 **MR. CORBETT:** Judge, the next juror struck is
3 No. 61.

4 **THE COURT:** That would be Joseph Gargano?

5 **MR. CORBETT:** That's correct.

6 **MR. BROOKS:** Judge, his wife is in insurance
7 industry. It's been my position, my years of
8 experience that people who are that deep into the
9 insurance business typically are very, very
10 conservative, and tend to believe whenever the
11 state and the police tends to tell them.

12 **THE COURT:** Mr. Corbett.

13 **MR. CORBETT:** Your Honor, Mr. Gargano's wife
14 is retired from the insurance business. She's not
15 the juror who is present today. Mr. Gargano is 64
16 years of age and is retired from some type of
17 construction work, the Electric Boat Division of
18 General Dynamics.

19 **MR. BROOKS:** He filled out the call. Her
20 name has (inaudible) Mutual Insurance, (inaudible)
21 Mutual Insurance. It's what we've got. We don't
22 have the intensive detail drilled down, as you
23 asked Mr. Campbell. It's what we got here on the
24 juror card. And that's just been my experience
25 for the few years that we've been practicing.

1 **THE COURT:** Okay.

2 The next one would be No. 7, Maxwell Terry;
3 is that right?

4 **MR. CORBETT:** Judge, the next one I'm showing
5 is Juror No. 113, Jeremy Mayhew.

6 **MR. BROOKS:** Judge, last Sunday night when my
7 research from having the juror list, checked
8 Mr. Mayhew's Facebook post. He's a frequent
9 visitor of OAN, and that's anti-gun control. It's
10 been my experience those folks are very, very
11 conservative, tend to leave everything that the
12 state tells them slash police and law enforcement.
13 So that is the reason why we struck Juror No. 113.

14 **THE COURT:** Mr. Corbett.

15 **MR. CORBETT:** Judge, I'm sorry. The Facebook
16 indicated -- Mr. Brooks said something I didn't
17 understand.

18 **MR. BROOKS:** We checked his Facebook post.
19 Since I had the list from Mr. Campbell's office.
20 I took the opportunity to go through the list and
21 see if these folks had Facebook posts. Mr. Mayhew
22 has placed these things on his Facebook posts.

23 **MR. CORBETT:** I'm sorry, Judge. What I was
24 asking was he indicated belonging to a certain
25 group. And I just didn't understand --

1 **MR. BROOKS:** Well, he -- he --

2 **MR. CORBETT:** -- what he said.

3 **MR. BROOKS:** He -- he -- he had things, OAN,
4 which is a very, very conservative channel that
5 comes on. He had anti-gun control things on his
6 posts, that tends to believe that this gentleman
7 is very conservative, which leads to believe that
8 they vote and tend to lean for law enforcement and
9 believe whatever the police tells them. So that
10 is not something that I thought was advantageous
11 for my client.

12 **THE COURT:** Okay.

13 **MR. BROOKS:** It had nothing to do with race.

14 **THE COURT:** All right.

15 Anything with that regard, Mr. Corbett?

16 **MR. CORBETT:** And, Judge, I want to be
17 careful that I'm not misunderstanding. I -- I was
18 trying to understand is -- was he taking anti-gun
19 positions?

20 **THE COURT:** I didn't get that impression.

21 Is that what you mean?

22 **MR. BROOKS:** That's what he had on his --

23 **THE COURT:** All right.

24 So, Mr. Brooks, to be clear, is he -- do you
25 feel like he's pro gun or anti gun?

1 **MR. BROOKS:** Pro gun.

2 **THE COURT:** Okay.

3 **MR. BROOKS:** Pro gun. I'm sorry. I say an
4 anti-gun control.

5 **THE COURT:** That was throwing us off.

6 **MR. BROOKS:** Pro gun.

7 **THE COURT:** So that what you -- anything
8 else, Mr. Corbett, on that one?

9 **MR. CORBETT:** Judge, that was -- that was
10 what I was failing to understand.

11 **THE COURT:** Okay.

12 **MR. CORBETT:** Judge, we -- we don't believe
13 that a person's position on gun control is
14 reflective of their political persuasion.

15 **THE COURT:** Okay.

16 **MR. BROOKS:** We disagree.

17 **THE COURT:** And Jennifer Welch, I think, is
18 the next one. Am I right?

19 **MR. BROOKS:** She's a nurse, Judge. We tend
20 to not have nurses, particularly when we're
21 talking about injuries, wounds, bullets.

22 **MR. CORBETT:** Now, Judge, in just a moment,
23 I'm going to point out that he seated a lady who
24 works at a medical office.

25 **MR. BROOKS:** There's a difference between the

1 medical office, working in a medical office and
2 being a nurse.

3 **THE COURT:** Well, tell me, Mr. Brooks, how
4 being a nurse is not good for your client.

5 **MR. BROOKS:** Judge, this has just been my
6 experience that tend to be more conservative, and
7 that's not necessarily good with my client.

8 **THE COURT:** Okay.

9 **MR. BROOKS:** Particularly, a defendant in a
10 trial.

11 **THE COURT:** Who's next, Mr. Corbett? I've
12 got so much writing on my sheet, I can't keep up
13 with it.

14 **MR. CORBETT:** Judge, Juror No. 83.

15 **THE COURT:** Julie Hobday? Is that right?

16 **MR. CORBETT:** That's correct, Judge.

17 **THE COURT:** Mr. Brooks?

18 **MR. BROOKS:** She is Facebook friends with
19 Mr. Corbett's colleague in the solicitor's office,
20 one Wanda McElveen. Facebook friend.

21 **THE COURT:** Who is Wanda McElveen?

22 **MR. BROOKS:** Bronwyn McElveen.

23 **THE COURT:** Oh, Bronwyn.

24 **MR. BROOKS:** I'm sorry, Judge. Brownwyn
25 McElveen.

1 **THE COURT:** Mr. Corbett?

2 **MR. CORBETT:** Judge, I don't use Facebook.
3 But I know that my wife occasionally does. And
4 there are literally hundreds and hundreds of
5 people on hers. I'm not sure that a Facebook
6 connection, as tenuous as they can be, is any
7 reflection of a race-neutral reason.

8 **MR. BROOKS:** Do you want me to just put
9 everybody that just have all types of law
10 enforcement just sitting on the jury for my guy?
11 Man, come on. Ms. McElveen has working for the
12 solicitor's since 15, 16 years now. Everybody
13 knows.

14 **THE COURT:** All right.
15 Who's next, Mr. Corbett?

16 **MR. CORBETT:** Judge, next is Juror No. 77,
17 Joshua Hayden.

18 **THE COURT:** Okay.
19 Mr. Brooks.

20 **MR. BROOKS:** His wife is an insurance rep,
21 State Farm. Same reasons I talked about before.

22 **THE COURT:** Mr. Corbett?

23 **MR. CORBETT:** Judge, the state fails to see
24 how the juror's wife's working insurance
25 constitutes a racially-neutral reason.

1 **MR. BROOKS:** Judge, if it wasn't important
2 for the spouse, I'm sure Mr. Campbell's office
3 would not be concerned about asking them where
4 does your spouse work. It wouldn't be in there in
5 the first place if it didn't make that big a
6 difference. The clerk asked for it.

7 **THE COURT:** Who is next, Mr. Corbett?

8 **MR. CORBETT:** Your Honor, the next would be
9 No. 94.

10 **MR. BROOKS:** And No. 94 has -- used to be a
11 former cop. And he has a bunch of pro law
12 enforcement positions in regards to his Facebook
13 posts. We tend to think that those folks are
14 going to be obviously pro law enforcement, tend to
15 towards the state and whatever version the state
16 sells them.

17 **THE COURT:** Mr. Corbett?

18 **MR. CORBETT:** Judge, the juror indicated they
19 were engineering maintenance for South Carolina
20 ETV and their wife worked for Sumter School
21 District. They did not indicate any connection to
22 law enforcement or anything else during the jury
23 voir dire.

24 **MR. BROOKS:** True.

25 **THE COURT:** Where was he a law enforcement

1 officer, Mr. Brooks?

2 **MR. BROOKS:** Former police. It says -- it
3 says it on his Facebook post, Judge. That's why
4 you go and research people's Facebook posts. It
5 tends to tell you what some of these folks tend to
6 be thinking. I would think that I'd want my
7 lawyer to know what the jury's thinking or
8 inclined, persuasion. He put it out there. I
9 didn't put it out there. I took the opportunity
10 to go to the clerk of court's office, get the
11 judicial thing that they print out. I sat down
12 looked in the computer.

13 **THE COURT:** And you saw them on Facebook.

14 **MR. BROOKS:** Saw them on Facebook.

15 **THE COURT:** All right.

16 Who's next, Mr. Corbett?

17 **MR. CORBETT:** Judge, that's all of the
18 strikes exercised by the defense.

19 **THE COURT:** Okay.

20 Any law we need to look at, Mr. Brooks,
21 before I go decide what I'm gonna do?

22 **MR. CORBETT:** And, Judge, if you'll bear with
23 me one moment. There were a few notes that I
24 wanted to point out.

25 **THE COURT:** Yes, sir.

1 **MR. CORBETT:** Judge, with regard to the
2 jurors who were seated, the first juror selected,
3 No. 68, works in a medical office. The next
4 juror -- and that was a black female. The next
5 juror, black female, works at Pilgrims. The next
6 juror, No. 170, was a white male who works in
7 construction. The next juror selected was a black
8 female who works for UniFirst.

9 **THE COURT:** What is UniFirst?

10 **MR. BROOKS:** They do the uniforms.

11 **THE COURT:** Okay.

12 **MR. CORBETT:** The next juror selected, No.
13 55, was a black male that works for Cummins
14 Meritor. The next juror selected, Judge, I
15 believe on the card may have identified her as
16 Asian descent. Juror No. 166 works for Blue Cross
17 Blue Shield. That is an insurance company. Juror
18 No. 46, black female, is unemployed. Juror No.
19 168, a white female, works in retail. Juror
20 No. 11 is a black female who works at USC Sumter.
21 Juror No. 90 is a black male who works for the
22 Veterans Administration in human resources. No. 7
23 is a black female who works for Sumter Housing.
24 And Juror No. 102, a white female, works for
25 the -- is retired from the Naval Research Lab in

1 Washington DC.

2 So for us to try to ascribe conservative
3 leanings, they -- Judge, to the state, they don't
4 appear to match with who is actually on the panel.

5 **THE COURT:** Any reply, Mr. Brooks?

6 **MR. BROOKS:** It's not that I have to prove --
7 prove anything to what my client believes in terms
8 of this jury selection. And regardless of whether
9 he believes how strongly he's connected or how
10 loosely connected is irrelevant. We're giving you
11 what we -- what we have submitting as race-gender
12 neutral reasons for the strikes that we've made.
13 And we submit to the Court that this is the
14 appropriate jury.

15 If you -- if you subscribe to the state's
16 theory, there's no way my client is ever going to
17 get any type of fair and impartial jury. Because
18 at that rate, what I'm supposed to do, is just let
19 anybody and everybody sit there simply because of
20 what they own put down on the card to
21 Mr. Campbell's office? I took the opportunity to
22 go back and look at some of the things that the
23 people have. They got them listed here. These
24 people went put these things out on Facebook. My
25 client obviously has the right to have a lawyer do

1 a little bit of research for him. That's what we
2 did.

3 **THE COURT:** All right.

4 I gotta take this in the back. I don't know
5 how long I'm going to be.

6 How long have they been out, Mr. Campbell,
7 the jurors?

8 **THE DEPUTY CLERK:** Twenty minutes or more.
9 It's not been very long.

10 **THE COURT:** Let me go see how much headway I
11 can make. And I'm not gonna rush. As far as I'm
12 concerned, this is the only trial I have this
13 week. And I'll be back.

14 **MR. CORBETT:** Thank you, Judge.

15 (A recess is taken.)

16 **THE COURT:** Mr. Brooks, is your client's
17 mother present, sir?

18 **MR. BROOKS:** She is, Judge.

19 **THE COURT:** Will you ask her to stand up,
20 please?

21 How are you, ma'am?

22 **MS. MCKENZIE:** Fine. How you doing, Judge?

23 **THE COURT:** Fine. And your name, please?

24 **MS. MCKENZIE:** Kimberly McKenzie.

25 **THE COURT:** Can you come up a little bit

1 closer? I just can't -- can't hardly hear you,
2 ma'am. Tell me again your name, please.

3 **MS. MCKENZIE:** Kimberly McKenzie.

4 **THE COURT:** Ms. McKenzie?

5 **MS. MCKENZIE:** Yes, sir.

6 **THE COURT:** It is come to this Court's
7 attention --

8 **MS. MCKENZIE:** Yes, sir.

9 **THE COURT:** -- that you have made some
10 comments to the victim in or out of the courtroom
11 or -- coming in and going out of the courtroom?

12 **MS. MCKENZIE:** What victim?

13 **THE COURT:** Ma'am?

14 **MS. MCKENZIE:** Who I made -- what victim I
15 made a comment to?

16 **THE COURT:** Let me finish, please.

17 **MS. MCKENZIE:** Oh.

18 **THE COURT:** Okay?

19 **MS. MCKENZIE:** Yes, sir.

20 **THE COURT:** These comments are not proper in
21 terms of courtroom decorum. No. 2, they could be
22 fall -- it could fall into the area of being
23 considered witness tampering or intimidation. I'm
24 asking you to please not make any comments during
25 the trial, in the courtroom or out of the

1 courtroom or anywhere else during this trial that
2 could possibly be deemed to be disruptive,
3 improper, or intimidation of a witness. Do you
4 understand me?

5 **MS. MCKENZIE:** Yes. I understand you. But
6 I'm not certain what you're talking about.

7 **THE COURT:** Then, have a seat please, ma'am.

8 **MS. MCKENZIE:** Okay.

9 **THE COURT:** And please don't force me to go
10 further with any type of sanctions against that.
11 Okay? I'm asking you politely to be -- not make
12 any comments. Okay?

13 **MS. MCKENZIE:** Yes, sir.

14 **THE COURT:** Thank you.

15 Now, I'll move on to the other matter
16 regarding the *Batson* situation. And I have done
17 this -- my research thus far.

18 I think we-all know that the purpose of a
19 *Batson* motion or the *Batson versus Kentucky* ruling
20 is to protect a defendant's right to a fair trial
21 and preserve public confidence in the fairness of
22 the justice system. To get right to the point
23 here, and there's lots of examples offered in the
24 case law, the first step, being that the members
25 of this group or cognizable racial group or gender

1 are struck and opposing party may request a
2 hearing.

3 Now, let me tell at the outset, these -- this
4 law case law talks about discrimination, racial
5 comments. I understand it has to -- it also talks
6 about gender also. That's another case out there,
7 not necessarily the *Batson* case. The whole goal
8 is to promote fairness or the -- at least the
9 appearance of fairness.

10 The -- the state made the motion based upon
11 the cognizant group being recognized here, that
12 being by my count seven or eight black persons
13 stricken. And then, Mr. Brooks gives his reasons.
14 The state has a chance to respond.

15 And looking through this case law, the
16 explanation of the strikes can fall under several
17 categories. I said explanation. I didn't say
18 justification but explanation. To extend that
19 under the *State versus Casey* says the need -- the
20 reason -- the reason need not be persuasive or
21 even plausible and may even be superstitious.
22 That falls under the explanation factor. Then you
23 come over to a long list of insufficient reasons
24 for strike. And it is very long. It has to do
25 with dress, body language, as being insufficient.

1 And then there's this one that's deemed
2 *Payton versus Kears*, or Kears. An insufficient
3 strike would be a generalization about an entire
4 group. And I find that at least three jurors were
5 struck just because they were in a group.

6 And it goes on further to say that the reason
7 is just found to be fundamentally implausible,
8 that being the two persons related to either
9 directly or indirectly to insurance work or
10 business and the nurse. As much as I respect
11 Mr. Brooks, I don't find those reasons were
12 fundamentally proper.

13 Sure, the nurse may see lots of violence.
14 But I don't not find that as a reason to just
15 strike her or justify a strike. And then, the
16 insurance situation, if this were a civil case, I
17 could certainly buy that for a reason. But I
18 cannot here in a criminal case.

19 So I, therefore, grant the motion. And we
20 will do it all over again. And I make this ruling
21 with no criticism to either one of you lawyers. I
22 know you well.

23 Mr. Brooks, you don't play that game.

24 Mr. Corbett, you don't play that game.

25 So that's -- this is not what this is about.

1 It's nothing personal with either one of you. I
2 would never think that of either one of you at
3 all.

4 So Mr. Campbell, I guess we'll do it all
5 over.

6 **THE DEPUTY CLERK:** You want them, Your Honor?

7 **THE COURT:** Sir?

8 **THE DEPUTY CLERK:** You want me to bring the
9 jury up now?

10 **THE COURT:** I know they've been in a break
11 for over an hour probably, but -- but yeah. We
12 need to go ahead and do this. Yes, sir.
13 (Off-the-record discussion.)

14 **THE COURT:** Gentlemen, not -- Mr. Campbell is
15 asking me what do I say to this jury. I will
16 simply say to them that we're going to -- y'all
17 help me in any way you want to now -- select a new
18 jury, without any further comment.

19 **THE DEPUTY CLERK:** My question is, do you
20 want me to bring those 14 out first or do you want
21 me to deal with the panel and then have them just
22 join the panel?

23 **THE COURT:** They all need to be seated
24 together back out there.

25 **THE DEPUTY CLERK:** Right. Right.

1 **THE COURT:** So just -- just --

2 **THE DEPUTY CLERK:** One time?

3 **THE COURT:** Yes, sir.

4 **THE DEPUTY CLERK:** Okay.

5 **THE COURT:** Yes, sir.

6 (Off-the-record discussion.)

7 **THE COURT:** Gentlemen, y'all help me on this
8 now. Mr. Campbell is asking me -- what was your
9 question, Mr. Campbell?

10 **THE DEPUTY CLERK:** Do we bring the 14 and sit
11 them here? Or do you go back into the jury room
12 and address --

13 **THE COURT:** No. I don't go in there.

14 **MR. CORBETT:** Judge, from the state's
15 perspective is we would put everybody back in the
16 gallery --

17 **THE COURT:** Yes.

18 **MR. CORBETT:** And the court could say some --
19 something as simply as, after hearing some legal
20 matters, we have to select -- we have to go
21 through the jury selection process again.

22 **THE COURT:** He's asking where to place them,
23 right?

24 **MR. BROOKS:** I think -- I -- I think that's
25 what he's asking, like what do you do with the 14?

1 I -- I guess my suggestion would be to take the 14
2 and put them back down with the others in -- in
3 the -- on the first floor. Then let everybody
4 come up again. That's what I would suggest.

5 **THE COURT:** They're already on the way up?

6 **THE DEPUTY CLERK:** Yes, Your Honor.

7 **THE COURT:** It was a very bright idea,
8 Mr. Brooks.

9 **THE DEPUTY CLERK:** They could swing down the
10 hall. They could do that and we put them in the
11 hall. Bring --

12 **THE COURT:** Do that. Yeah. Let them -- let
13 them come in as one.

14 **THE DEPUTY CLERK:** So stop -- stop the panel?

15 **THE COURT:** Yes, sir. Stop them. Let them
16 get out there first.

17 (Pause in proceeding.)

18 **THE COURT:** Gentlemen, this is simply a
19 redraw.

20 **MR. CORBETT:** Yes, sir.

21 (Jury venire enters the courtroom at 11:50 a.m.)

22 **THE COURT:** To you who now return to this
23 courtroom, you're now jury selection veterans.

24 And I'm going to ask Mr. Campbell to do your
25 job again, sir.

1 **THE DEPUTY CLERK:** Yes, sir, Your Honor. May
2 it please the Court.

3 Ladies and gentlemen, y'all know the routine.
4 So when I call your name, please come to the
5 podium. And please bring with you any of your
6 personal belongings.

7 Juror No. 170, Maxwell Terry.

8 What says the state?

9 **MR. CORBETT:** Present the juror, please.

10 **THE DEPUTY CLERK:** What says the defendant?

11 **MR. BROOKS:** Please seat this juror.

12 **THE DEPUTY CLERK:** Please have a seat in the
13 jury box.

14 Juror No. 177, Jennifer Welch.

15 What says the state?

16 **MR. CORBETT:** Present the juror, please.

17 **THE DEPUTY CLERK:** What says the defendant?

18 **MR. BROOKS:** Beg the Court's indulgence.

19 **THE COURT:** Yes, sir.

20 **MR. BROOKS:** You can seat this juror.

21 **THE DEPUTY CLERK:** Please have a seat in the
22 jury box, ma'am.

23 Juror No. 114, Shirley McDowell.

24 What says the state?

25 **MR. CORBETT:** Present the juror, please.

1 **THE DEPUTY CLERK:** What says the defendant?

2 **MR. BROOKS:** Please seat this juror.

3 **THE DEPUTY CLERK:** Please have a seat in the
4 jury box, ma'am.

5 Juror No. 143, Evan Richardson.

6 **MR. CORBETT:** I'm sorry, Mr. Clerk. Would
7 you say that number again?

8 **THE DEPUTY CLERK:** 143.

9 **MR. CORBETT:** Thank you.

10 What says the state?

11 **MR. CORBETT:** Present the juror, please.

12 **THE DEPUTY CLERK:** What says the defendant?

13 **MR. BROOKS:** Seat this juror.

14 **THE DEPUTY CLERK:** Please have a seat in the
15 jury box, sir.

16 Juror No. 123, Ayana Miller.

17 What says the state?

18 **MR. CORBETT:** Excuse the juror, please.

19 **THE DEPUTY CLERK:** Please return to your
20 seat, ma'am. You've been excused from this trial.

21 Juror No. 174, Monica Washington.

22 What says the state?

23 **MR. CORBETT:** Excuse the juror, please.

24 **THE DEPUTY CLERK:** Please return to your
25 seat, ma'am. You've been excused from this trial.

1 **MR. BROOKS:** Note a motion, Judge.

2 **THE COURT:** I thought so. Go ahead.

3 **THE DEPUTY CLERK:** Juror No. 61, Joseph

4 Gargano Jr.

5 What says the state?

6 **MR. CORBETT:** Present the juror, please.

7 **THE DEPUTY CLERK:** What says the defendant?

8 **MR. BROOKS:** Beg the Court's indulgence.

9 **THE COURT:** Yes, sir.

10 **MR. BROOKS:** Seat this juror.

11 **THE DEPUTY CLERK:** Please have a seat in the
12 jury box, sir.

13 Juror No. 172, Michaela Tindal.

14 What says the state?

15 **MR. CORBETT:** Present the juror, please.

16 **THE DEPUTY CLERK:** What says the defendant?

17 **MR. BROOKS:** Seat this juror.

18 **THE DEPUTY CLERK:** Please have a seat in the
19 jury box, ma'am.

20 Juror No. 20, Laura Cabbagestalk.

21 What says the state?

22 **MR. CORBETT:** Present the juror, please.

23 **THE DEPUTY CLERK:** What says the defendant?

24 **MR. BROOKS:** Please excuse this juror.

25 **THE DEPUTY CLERK:** Please return to your

1 seat. You've been excused from this trial.

2 Juror No. 6, Sheila Baker.

3 What says the state?

4 **MR. CORBETT:** Present the juror, please.

5 **THE DEPUTY CLERK:** What says the defendant?

6 **MR. BROOKS:** Beg the Court's indulgence,

7 Your Honor.

8 **THE COURT:** Yes, sir.

9 **MR. BROOKS:** We'll seat this juror.

10 **THE DEPUTY CLERK:** Please have a seat in the

11 jury box, ma'am.

12 Juror No. 181, Jazlyn Wilber.

13 What says the state?

14 **MR. CORBETT:** Present the juror, please.

15 **THE DEPUTY CLERK:** What says the defendant?

16 **MR. BROOKS:** Please seat this juror.

17 **THE DEPUTY CLERK:** Please have a seat in the

18 jury box, ma'am.

19 Juror No. 26 Stephen Chenevey.

20 What says the state?

21 **MR. CORBETT:** Present the juror, please.

22 **THE DEPUTY CLERK:** What says the defendant?

23 **MR. BROOKS:** Please excuse this juror.

24 **THE DEPUTY CLERK:** Please return to your

25 seat, sir. You've been excused from this trial.

1 Jury No. 113, Jeremy Mayhew.

2 What says the state?

3 **MR. CORBETT:** Present the juror, please.

4 **THE DEPUTY CLERK:** What says the defendant?

5 **MR. BROOKS:** Excuse this juror.

6 **THE DEPUTY CLERK:** Please return to your
7 seat, sir. You've been excused from this trial.

8 Juror No. 71, Tiffany Gregg.

9 What says the state?

10 **MR. CORBETT:** Your Honor, may we approach
11 with counsel?

12 **THE COURT:** Yes, sir.

13 (A sidebar conference is held off the record.)

14 **THE DEPUTY CLERK:** What says the state?

15 **MR. CORBETT:** Present the juror, please.

16 **THE DEPUTY CLERK:** What says the defendant?

17 **MR. BROOKS:** Seat the juror.

18 **THE DEPUTY CLERK:** Please have a seat in the
19 jury box, ma'am.

20 Juror No. 55, Calvin Felder.

21 What says the state?

22 **MR. CORBETT:** Present the juror, please.

23 **THE DEPUTY CLERK:** What says the defendant?

24 **MR. BROOKS:** Please seat this juror.

25 **THE DEPUTY CLERK:** Please have a seat in the

1 jury box.

2 Juror No. 46, Kimberly Davis.

3 What says the state?

4 **MR. CORBETT:** Excuse the juror, please.

5 **THE DEPUTY CLERK:** Please return to your
6 seat, ma'am. You've been excused from this trial.

7 Juror No. 182, Leila Wiley.

8 What says the state?

9 **MR. CORBETT:** Present the juror, please.

10 **THE DEPUTY CLERK:** What says the defendant?

11 **MR. BROOKS:** Please seat this juror.

12 **THE DEPUTY CLERK:** Please have a seat in the
13 jury box, ma'am.

14 Juror No. 69, Dianetta Green.

15 What says the state?

16 **MR. CORBETT:** Excuse the juror, please.

17 **THE DEPUTY CLERK:** Please return to your
18 seat, ma'am. You've been excused from this trial.

19 Juror No. 147, Barbara Roach.

20 What says the state?

21 **MR. CORBETT:** Present the juror, please.

22 **THE DEPUTY CLERK:** What says the defendant?

23 **MR. BROOKS:** Please seat this juror.

24 **THE DEPUTY CLERK:** Please have a seat in the
25 jury box.

1 First alternate, Juror No. 48, James Dore.

2 What says the state?

3 **MR. CORBETT:** Present the juror, please.

4 **THE DEPUTY CLERK:** What says the defendant?

5 **MR. BROOKS:** Please seat this juror.

6 **THE DEPUTY CLERK:** Please have a seat in the
7 jury box, sir.

8 Juror No. 41, James Cromwell III.

9 What says the state?

10 **MR. CORBETT:** Present the juror, please.

11 **THE DEPUTY CLERK:** What says the defendant?

12 **MR. BROOKS:** Please seat this juror.

13 **THE DEPUTY CLERK:** Please have a seat in the
14 jury box, ma'am.

15 **THE COURT:** Well, let's chat.

16 (A sidebar conference is held off the record.)

17 **THE COURT:** To all of you seated jurors
18 selected and not selected: We are fast
19 approaching what I call dinner time; y'all might
20 call lunch. So I'm going to ask all of you to be
21 back at two o'clock. All of you.

22 The jury will come back to the jury room.
23 And they will show you that in a minute. You are
24 not to discuss this case among yourselves or any
25 other persons, directly or indirectly, or begin

1 any deliberations.

2 To those in the back: Please be back in the
3 jury -- juror assembly room downstairs at two
4 o'clock p.m.

5 Anything else, Mr. Campbell?

6 **THE DEPUTY CLERK:** No, sir, Your Honor.

7 **THE COURT:** Mr. Finney -- Mr. Corbett?

8 **MR. CORBETT:** No, Your Honor.

9 **THE COURT:** Mr. Brooks?

10 **MR. BROOKS:** Yes, sir.

11 **THE COURT:** Anything else on that?

12 **MR. BROOKS:** No, sir, Judge.

13 **THE COURT:** All right.

14 Thank you all very much.

15 (Jury venire exits the courtroom at 12:10 p.m.)

16 (Jury panel exits the courtroom at 12:10 p.m.)

17 **THE COURT:** Mr. Brooks.

18 **MR. BROOKS:** Yes, sir.

19 **THE COURT:** We meet again, sir.

20 **MR. BROOKS:** Judge, I noticed that the state
21 struck four people, all of them, African American
22 females. Not only are you talking about a racial
23 group, but also a gender group. Got a double
24 whammy here. Judge, we think that -- matter of
25 fact, one of them they accepted last time, which

1 is very puzzling.

2 But we would submit that this is an improper
3 selection and the panel should be -- the selection
4 should be stricken and redone again.

5 **THE COURT:** Mr. Corbett.

6 **MR. CORBETT:** Thank you, Your Honor.

7 **THE COURT:** One by -- one by one, please.

8 **MR. CORBETT:** Yes, sir.

9 Your Honor, if I may begin by stating that of
10 the 12 primary juries, six are black females that
11 were seated by the state. That constitutes 50
12 percent of the seated panel.

13 Your Honor, with regard to the jury struck by
14 the state, Juror No. 123 -- Juror No. 123 -- one
15 moment.

16 **THE COURT:** Ms. Miller? Talking about
17 Ms. Miller?

18 **MR. CORBETT:** That's correct, Judge. Did not
19 return a card and stated unemployed as well as
20 also stayed single. That was the extent of the
21 information the state had. And Judge, I'll come
22 back to case law that makes that relevant in just
23 a moment.

24 With regard to Juror No. 174,
25 Ms. Washington --

1 **THE COURT:** Yes, sir.

2 **MR. CORBETT:** -- did -- also indicated at
3 qualification unemployed and single.

4 Juror No. 46, Davis, stated unemployed and
5 single at the jury qualification. Right. And,
6 Judge, also we didn't have any additional
7 information.

8 Juror No. 69 -- and, Judge -- and, Judge,
9 when I say no additional information, we didn't
10 get a card from them.

11 **THE COURT:** Right.

12 **MR. CORBETT:** Juror No. 69 also reported
13 unemployed and single at jury qualification.
14 Judge, also, I have a specific recollection of
15 Jury [sic] No. 9, who -- I'm sorry during Juror
16 No. 69 that also seemed to have some difficulty
17 responding to the court's questions.

18 Judge, if I may refer the Court to *State*
19 *versus Ford*, 334 S.C. 59.

20 **THE COURT:** Do you have a copy of it for me?

21 **MR. CORBETT:** Judge, I'm sorry. I don't have
22 a copy of the case.

23 **THE COURT:** That's fine. Just speeds it up a
24 little bit. But go ahead.

25 **MR. CORBETT:** Yes, sir. 512 S.E.2d 500.

1 Also State versus Green, 306 S.C. 94, 409
2 S.E.2d 785. The sufficient reason for a strike is
3 lack of employment or place of employment.

4 **THE COURT:** Mr. Brooks.

5 **MR. BROOKS:** Judge, we understand the state's
6 position in regards to unemployment. However,
7 with the last selection of the jury, the state
8 accepted No. 46, the same No. 46 that they are now
9 striking because she was single and unemployed.
10 But she was good enough to be selected in last
11 jury while she was still single and unemployed.
12 And it's our position that I don't think anything
13 has changed or any new information has come up
14 about in the last hour or two in regards to No.
15 46. So as such, we think that all of this is very
16 pretextual. And as such, this panel should be
17 stricken.

18 **THE COURT:** Anything else, Mr. Corbett?

19 **MR. CORBETT:** Judge, the -- the previous
20 seating of the juror in and of itself is not
21 dispositive of this issue, whether that was a
22 mistake or a choice in the first go -- go-round
23 jury selection really doesn't have a bearing on
24 the fact that in the second go around, the state
25 was consistent with all of those particular

1 individuals and that the case law supports such.

2 **THE COURT:** Okay.

3 Well, you know I'm gonna go back and read
4 some more. There's a lot to read here. And with
5 many things in our body of law, one case leads you
6 down one road and another one takes you down
7 another highway. And it falls into that
8 ever-challenging category, I think, of reasonable
9 discretion.

10 So they're not coming back until two o'clock.
11 I'll give you my ruling no sooner than two
12 o'clock.

13 All right. Thank y'all for your patience.

14 **MR. CORBETT:** Thank you.

15 **THE COURT:** And I do -- I do appreciate it.

16 (A recess is taken.)

17 **THE COURT:** -- a pending ruling on a motion
18 made by Mr. Brooks before we broke for the
19 dinnertime break. I have looked at the case law.
20 And my ruling is relatively short here assuming I
21 can read my handwriting from that review.

22 The state struck four African American
23 females. Mr. Brooks timely made a motion, a
24 *Batson* motion. And my review of the law is as
25 follows and I will respectfully deny the motion.

1 First of all, Mr. -- the state made the -- made
2 the justification for its strikes based on lack
3 of -- not -- well, it said -- I think Mr. Corbett
4 said unemployment and lack of job.

5 Right, Mr. Corbett? Is that right?

6 **MR. CORBETT:** That's correct, Judge.

7 **THE COURT:** In -- in this massive book here
8 on criminal law under the heading "Sufficient
9 Reasons for a Strike," first one, lack of
10 employment or place or type of employment, under
11 the *State versus Ford*, 334 S.E. 59, 1999.

12 And then goes on to where I had marked the
13 jury panel's composition is a factor that may be
14 considered when determining a *Batson* motion, *State*
15 *versus Johnson* 302243. And by my review of the
16 jury panel we have now, I count seven African
17 Americans and five Caucasians.

18 So for those reasons in that case law,
19 Mr. Brooks, with immense respect for you always,
20 deny your motion.

21 **MR. BROOKS:** Thank you, Judge.

22 **THE COURT:** So are we ready, gentlemen, to
23 bring the jury in?

24 **MR. BROOKS:** Judge, there's a discovery
25 issue.

1 **THE COURT:** Oh. That's right. Proceed.

2 **MR. BROOKS:** Judge, when we adjourned prior
3 to lunch, Mr. Corbett had handed me a video of the
4 recording of Mr. Tidwell. I haven't seen it --
5 looked at it. I don't think Mr. Corbett has
6 actually seen it. He just handed it to me. But
7 it's purported to be video interview of Mr.
8 Tidwell who was the other victim in this case, in
9 terms of his statement.

10 Of course, we've just been handed this. This
11 case is -- this incident happened in March 2021.
12 Here we are getting this. And it's April 23,
13 2024. And I know while the state may say there's
14 a written version that the law enforcement typed
15 up, it's not a typed-up version that Mr. Tidwell
16 signed.

17 And as I have seen with a written-up version
18 of what the law enforcement did for Mr. Scudder,
19 there are some small differences but very
20 important differences that I've seen in the video
21 version of Mr. Scudder's testimony.

22 I say that to say that, you know, we may have
23 these issues -- I haven't even looked at it --
24 that may come up in Mr. Tidwell's video version
25 statement. That's why it's a -- a -- a discovery

1 violation. And we needed to bring it to the
2 Court's attention, here we are, before we get into
3 openings, swearing the jury, and testimony.

4 **THE COURT:** Mr. Corbett?

5 **MR. CORBETT:** Thank you, Your Honor.
6 Your Honor, as Mr. Brooks stated, in the report
7 that was provided to Mr. Brooks in discovery,
8 there was actually a somewhat detailed recitation
9 in the investigator's notes concerning the
10 statements made by Mr. Tidwell. And judge -- and
11 part of this was due yesterday, Mr. Brooks asking
12 for any prior statements.

13 The rule concerning written statements are
14 statements of the witnesses that they are to be
15 turned over at the time the witness testifies.
16 Obviously, we don't want to have to slow the trial
17 down for those purposes. So I had informed the
18 Court yesterday afternoon, we'll go look, make
19 sure we have that. We look through there.
20 Mr. Brooks actually came to my office. We went
21 through criminal records. We thumbed through the
22 file. There was no statement in Mr. Tidwell's
23 handwriting.

24 Today, I became aware that those notes in the
25 office -- investigating officer's report had in

1 fact -- there was in fact -- there was in fact a
2 recording of that interview. Judge, we don't
3 necessarily see this as a discovery violation in
4 that it has been provided prior to the witness's
5 testimony.

6 And, Judge, in addition to that, given the
7 hour of the day, we would agree not to call
8 Mr. Tidwell today, so that Mr. Brooks would have
9 the opportunity to listen to that videotape and
10 compare it to the written statement previously
11 provided.

12 **THE COURT:** How long would it take Mr. Brooks
13 to look at this video?

14 **MR. CORBETT:** Judge, we believe it's
15 approximately one hour.

16 **THE COURT:** Okay.

17 Then I'm going to allow Mr. Brooks to have
18 that time to do that today. We won't start until
19 9:30 in the morning. Because if this video takes
20 an hour to look at, and I find that he's entitled
21 to see it if it's gonna be used at trial, then
22 that's gonna cramp y'all's opening statements. I
23 don't want to do that. So we'll -- we won't swear
24 the jury yet.

25 Mr. Brooks, you'll had a chance to look at

1 it. And I'll see y'all in the morning.

2 **MR. BROOKS:** Thank you, Judge.

3 **THE COURT:** Thank you.

4 And my office remains.

5 **MR. BROOKS:** Judge, are you releasing the
6 jury from back there?

7 **THE COURT:** Yes, sir. Well, I -- they
8 haven't been sworn. So I -- not that that's
9 important to this particular matter.

10 Sometimes I -- I think they feel like they're
11 not very much included. But all I'm gonna tell
12 them is we'll see them in the morning.

13 **MR. BROOKS:** All right.

14 **THE COURT:** So do y'all mind if this fine
15 bailiff does that?

16 **MR. BROOKS:** We don't mind, Your Honor.

17 **MR. CORBETT:** That's fine.

18 **THE COURT:** He's a veteran in all this.

19 Just simply tell them that we will see them
20 at 0930 in the morning in the jury room.

21 **THE DEPUTY CLERK:** Yes, sir.

22 **THE COURT:** All right.

23 **MR. CORBETT:** Thank you, Your Honor.

24 **THE COURT:** And they've already been
25 admonished not to discuss anything yet.

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MR. CORBETT: See you tomorrow, Judge.

THE COURT: Yes, sir.

(Proceedings conclude at 2:48 p.m.)

1
2 I, the undersigned, Teresa B. Johnson, Official
3 Court Reporter, who listened to the digital recording
4 created by DCRP, do hereby certify that said hearing is
5 a true, correct, and verbatim transcript of said
6 recorded, discernible proceedings, except for the
7 portions noted where no transcript was possible due to
8 the lack of discernible wording, noted by (inaudible):
9 3 times.

10 I do further certify that I am not a relative,
11 employee, attorney, or counsel of any of the parties
12 connected with the action, nor am I financially or
13 otherwise interested in the outcome of the action.

14
15 Dated: 08/19/2024

16
17 /s/Teresa B. Johnson

18 Teresa B. Johnson

19 Official Court Reporter
20
21
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25

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF SUMTER	)	Case No.: 2022GS4300742
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Dywain Ca Mel McKenzie,	)	
	)	
Defendant.	)	April 24, 2024
_____	)	

TRANSCRIPT OF TRIAL

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WEEK OF APRIL 22, 2024, GENERAL SESSIONS COURT

BEFORE THE HONORABLE GEORGE M. MCFADDIN JR.
Circuit Court Judge, and a jury.

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

For Government: William J. Corbett, Esquire
215 N. Harvin
Sumter, SC 29150

For Defendant: Charles T. Brooks III, Esquire
309 Broad Street
Sumter, SC 29150

Recorded by:	DCRP
Transcribed by:	Teresa B. Johnson
	CVR-M-CM, RVR, RVR-M
	P.O. Box 2812
	Greenville, SC 29602

P R O C E E D I N G S

(Proceedings begin on the 24th day of April 2024,
at 9:51 a.m.)

THE COURT: Folks, we got to address this
juror matter.

I think, traditionally, we need somebody from
the clerk's office, don't we? I've got to draw an
alternate.

(Off-the-record discussion.)

MR. CORBETT: Judge, I'm so sorry. But I'm
not sure that the numbers were moving when you
made the first part of that announcement. And
just for purposes of the record, that we have a
juror that is under the weather and needs to be
replaced and that we're going to draw numbers from
a cup to determine which alternate juror to
select.

THE COURT: I thought that's what we were
doing.

MR. CORBETT: It is, Judge. But I think when
you made that announcement --

THE COURT: Yes, sir.

MR. CORBETT: -- I don't think the numbers on
this clock were moving.

THE COURT: Oh, okay. Well, now it's

1 captured. Thank you.

2 You ready, sir?

3 Gentlemen, do y'all want to view the cup --
4 cup contents or --

5 **MR. CORBETT:** Hold on one second, Your Honor.

6 **THE COURT:** All right.

7 Just for a second record if y'all would note,
8 I would assume it says one and two.

9 All right. Mr. Bailiff, you shake it up and
10 stir it up and you draw it.

11 (Bailiff complies.)

12 **THE COURT:** And you folded those up good.
13 No. 2. Right, sir?

14 **THE BAILIFF:** Yes, sir.

15 **THE COURT:** Is that right? No. 2.

16 **THE BAILIFF:** That's No. 2.

17 **THE COURT:** No. 2. All right.

18 So gentlemen, I would propose that we go
19 ahead and excuse that juror who seeks to be
20 excused. And because her reasons are rather
21 private, just to go ahead and excuse her now from
22 out here. And bring the balance and that and the
23 two alternates in.

24 Okay. All right. Go ahead and excuse her
25 and bring what's left in here.

1 **THE BAILIFF:** Bring the rest of them?

2 **THE COURT:** Yes, sir. Yes, sir.

3 Is that right, gentlemen? Are we ready ready
4 to bring them in?

5 **MR. CORBETT:** The state's ready, Your Honor.

6 **MR. BROOKS:** We're ready, Judge.

7 (Jury panel enters at 9:57 a.m.)

8 **THE BAILIFF:** The jurors are all seated,
9 Your Honor.

10 **THE COURT:** Members of the jury, you've been
11 very obedient and respectful by being here on
12 time. We were too, but were delayed with some
13 other matters.

14 We have removed one juror for legitimate
15 reasons, and now through a proper process have
16 replaced that juror with Mr. Cromwell; is that
17 right?

18 **THE BAILIFF:** Yes, sir.

19 **THE COURT:** So who's Mr. Cromwell?

20 You are now a juror. And that leaves Mr. --
21 is that Dore?

22 **THE JUROR:** Dore. Yes, sir.

23 **THE COURT:** Sir?

24 **THE JUROR:** Dore.

25 **THE COURT:** Dore, as the alternate, sir.

1 Detective Wade's body camera video on it.

2 So with the Court's permission, and if
3 there's no objection from Mr. Brooks, we would
4 like to substitute out State's Exhibit No. 1 with
5 both body cameras on it for a new State's No. 1
6 with just the body camera of Detective Wade.

7 **MR. BROOKS:** Just the one with Detective Wade
8 is fine, Your Honor.

9 **THE COURT:** All right, sir. So that's
10 resolved.

11 Now, gentlemen, our senior bailiff tells me
12 that a certain juror is not feeling well and is
13 fact, to get straight to the point, vomiting and
14 throwing up. I would consider that to be a sick
15 juror. I don't know what she has. If it's
16 contagious, I don't want it. You don't want it.

17 The alternative is to stop the trial. Don't
18 want to do that. We need to move. And the most
19 plausible thing I think to do is to remove her
20 for -- for -- for that reason, she's sick, and
21 move the remaining alternate into the jury pool.

22 Mr. Corbett, any comments?

23 **MR. CORBETT:** Judge, based on what the
24 bailiff has described and what the Court has
25 relayed to us, I -- I -- I don't know that we have

1 any choice. The state certainly does not object.
2 We certainly wouldn't ask a juror to come in and
3 sit in here in that type of condition.

4 Judge, it obviously raises some concerns
5 about for the remainder of the case. But I
6 believe that's why we have alternates, Judge. And
7 I believe we just -- our only choice is to seat
8 the alternate.

9 **THE COURT:** Yes, sir.

10 (Mr. Brooks consults with the defendant.)

11 **MR. BROOKS:** Judge, I thank you for that
12 brief respite. I explained to my client what was
13 transpiring since he wasn't in immediately when
14 the bailiff was telling us about the juror that
15 wasn't feeling well.

16 **THE COURT:** Yes, sir.

17 **MR. BROOKS:** And I did not hear Mr. Corbett
18 say, because I was busy talking to my client. But
19 as I understand Mr. Corbett to say he didn't have
20 any problem with the other alternative now being
21 seated.

22 Is that correct, Mr. Corbett?

23 **MR. CORBETT:** That's correct, Mr. Brooks.

24 **MR. BROOKS:** Okay.

25 I talked to my client. We don't have any

1 problem with that.

2 **THE COURT:** All right.

3 Well, that's what we'll do. So I'll ask the
4 chief bailiff, sir, if you would excuse that
5 juror. And then bring the remaining jurors in.
6 And we will promote Mr. Dore, I believe it is.

7 Okay. Anything else, gentlemen?

8 **MR. CORBETT:** Nothing further from the state.

9 **MR. BROOKS:** That's it, Judge.

10 **THE COURT:** All right.

11 **THE BAILIFF:** Yes, sir.

12 (Jury enters the courtroom at 2:08 p.m.)

13 **THE BAILIFF:** All the jurors are seated,
14 Your Honor.

15 **THE COURT:** All right, sir.

16 To the jury: One jury -- one more juror has
17 been excused. And we now will promote Mr. Dore --
18 is that right?

19 **THE JUROR:** Yes, sir.

20 **THE COURT:** -- to status of a juror.

21 Now, Ms. Wiley? Where is Ms. Wiley?

22 Ms. Wiley, you have now been named the
23 foreperson of this jury. And your job will be,
24 when -- when allowed to do so, manage the
25 deliberations; act as the liaison by written note

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF SUMTER	)	Case No.: 2022GS4300742
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Dywain Ca Mel McKenzie,	)	
	)	
Defendant.	)	April 26, 2024
_____	)	

TRANSCRIPT OF TRIAL

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WEEK OF APRIL 22, 2024, GENERAL SESSIONS COURT

BEFORE THE HONORABLE GEORGE M. MCFADDIN JR.
Circuit Court Judge, and a jury.

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

For Government: William J. Corbett, Esquire
215 N. Harvin
Sumter, SC 29150

For Defendant: Charles T. Brooks III, Esquire
309 Broad Street
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	P.O. Box 2812
	Greenville, SC 29602

1 the firearms are clear of ammunition.

2 **THE COURT:** All right, sir.

3 Are we ready to take it back?

4 **MR. CORBETT:** From the state's perspective,
5 we're ready to send it back, Your Honor.

6 **THE COURT:** Mr. Brooks?

7 **MR. BROOKS:** They are zip tied so nobody can
8 smuggle no ammunition in it, right?

9 **THE COURT:** That's right.

10 **MR. BROOKS:** All right.

11 **THE COURT:** All right.

12 I'll ask the bailiff, please, to take those
13 items to the jury. Tell them they may -- may
14 begin their deliberations. Here's the jury
15 verdict form here.

16 And if you would kindly, sir, Tell Mr. -- our
17 foreman, any questions in writing back to me. You
18 understand that? You know, he know what to do. I
19 don't need to tell you.

20 All right. Gentlemen, I'll just ask you not
21 to go too far. Because especially if we have a
22 question, I'll need to get to you quickly.

23 **MR. CORBETT:** Understand, Judge.

24 **THE COURT:** To those of you who remain:
25 Although this is not over, I still want to go

1 ahead and thank you for your patience with the
2 Court. As you will know, like I've told the jury
3 many times, this is not like television.

4 So if I am needed, you know where to find me.
5 Thank y'all.

6 And I want to thank the two lawyers for being
7 very civil with each other and the Court and
8 everybody else. Such a pleasure from my journey
9 eastward last weekend -- last week.

10 (A recess is taken while deliberation of the jury
11 commences.)

12 **THE COURT:** We've got mail. Will the lawyers
13 come up here?

14 We have a question from the foreperson. I'm
15 going to try -- I mean, y'all will get to see us.
16 But I'm going to try to read it.

17 No. 1, can we get a copy of the testimony
18 transcript -- and then I can't read the next two
19 words. April 26.

20 The next question is, copy of what the judge
21 guidelines that he read. That one I understand.
22 Then that's dated April 26. I'm not sure what
23 that means.

24 So are y'all able to decipher that first
25 question?

1 (Attorneys consult.)

2 **THE COURT:** We can call him in and let him
3 read to us.

4 **MR. CORBETT:** It's she. It's a her.

5 **THE COURT:** That's right. That's right.
6 That's right.

7 **MR. BROOKS:** I think that's her signature.
8 Look at it. See, she signed it.

9 **MR. CORBETT:** Oh, I see.

10 **MR. BROOKS:** That's her signature.

11 **THE COURT:** All right.

12 Well, I still need to have her brought in so
13 I can answer her question. That way -- first of
14 all, can we see the copy of the transcript
15 testimony.

16 **MR. BROOKS:** From April 26. That's today.

17 **THE COURT:** That's --

18 **MR. CORBETT:** She signed and dated it.

19 **THE COURT:** -- dating it for today.

20 **MR. BROOKS:** Oh, okay.

21 **THE COURT:** We don't have the transcript.
22 I'll try to narrow that down then.

23 And then the a copy of -- well, my charge is
24 right here. There's nothing -- nothing -- it's
25 all clean, like I read it.

1 What do you think, Mr. Corbett?

2 Personally, I'm reluctant to give this back
3 there. Because I just --

4 **MR. BROOKS:** I agree, Judge. I agree with
5 your reluctance.

6 **THE COURT:** Everything here is written --
7 that's written, I read to them.

8 **MR. CORBETT:** I think the way to solve it is
9 if they want to hear certain --

10 **THE COURT:** Certain.

11 **MR. CORBETT:** -- parts --

12 **THE COURT:** Yeah.

13 **MR. CORBETT:** -- you can tell them again.

14 And if they want to hear certain testimony,
15 we can pull it up for them to hear it.

16 **THE COURT:** Okay.

17 **MR. BROOKS:** I agree with that.

18 **THE COURT:** All right.

19 If you'd bring them in, sir -- or bring --
20 bring her in, the foreperson.

21 (Jury foreperson enters the courtroom at
22 10:30 a.m.)

23 **THE COURT:** Ms. Wiley, how are you?

24 **THE JURY FOREPERSON:** I'm all right.

25 **THE COURT:** Nothing bad. Nothing bad. I

1 just need your help.

2 **THE JURY FOREPERSON:** All right.

3 **THE COURT:** Come -- come -- come over so I
4 can see you.

5 **THE JURY FOREPERSON:** Right here? Okay.

6 **THE COURT:** Ms. Wiley --

7 **THE JURY FOREPERSON:** Yes, Your Honor.

8 **THE COURT:** I've consulted with the lawyers
9 here. It is Wiley, right?

10 **THE JURY FOREPERSON:** It is Wiley, yes.

11 **THE COURT:** Okay.

12 Can we see a copy of the transcript or
13 testimony? We don't have anything printed.
14 There's nothing automatically being printed.

15 Now the lawyers and I consulted.

16 And madam court reporter, correct me if I'm
17 wrong. They -- you're able to play certain parts
18 of the transcript for them if they desire that.

19 **THE JURY FOREPERSON:** Okay. Yeah.

20 **THE COURT:** So is there any particular
21 person's testimony you want to hear or a part?

22 **THE JURY FOREPERSON:** Actually, we kind of
23 wanted to hear everybody again.

24 **THE COURT:** Okay.

25 Then, your next question was a copy of what

1 the judge guidelines were read. They were -- it
2 was read word for word into the record.

3 **THE JURY FOREPERSON:** True.

4 **THE COURT:** Now, if there's any particular
5 charge, or instruction, because there are about 30
6 pages here, if there's a particular question about
7 a certain charge on a certain element of the
8 information, I can certainly bring y'all back in
9 and reread that part. So what -- what -- what do
10 you desire?

11 **THE JURY FOREPERSON:** Just I believe it was
12 just basically the instructions.

13 **THE COURT:** Well, that's all?

14 **THE JURY FOREPERSON:** That's all.

15 **THE COURT:** So you want me to read that again
16 to you? If you say yes, that's fine. You're
17 the --

18 **THE JURY FOREPERSON:** Can I consult with
19 them?

20 **THE COURT:** Sure.

21 **THE JURY FOREPERSON:** And see if they want to
22 read it again.

23 **THE COURT:** I'll be glad to read it all to
24 you again, I don't mind, or portions of it. And
25 while you're there discussing it with them,

1 which -- well, you said y'all want to hear the
2 entire transcript, right, the testimony?

3 **THE JURY FOREPERSON:** Uh-huh.

4 **THE COURT:** Okay.

5 **THE JURY FOREPERSON:** Yes, we wanted to hear.

6 **THE COURT:** Okay.

7 **THE REPORTER:** Everyone or just the main
8 people?

9 **THE JURY FOREPERSON:** I think everybody.

10 **THE COURT:** Okay.

11 Would you confirm that, all or parts of the
12 testimony, and the question about any parts of the
13 charge? Or if you want to read it all.

14 **THE JURY FOREPERSON:** Okay.

15 **THE COURT:** Okay.

16 **THE JURY FOREPERSON:** I think we just wanted
17 to hear the instructions again.

18 **THE COURT:** Okay.

19 Are you content hearing from me or from the
20 recording?

21 **THE JURY FOREPERSON:** We're -- we're fine
22 from -- from --

23 **THE COURT:** Okay.

24 **THE JURY FOREPERSON:** Yeah.

25 **THE COURT:** All right.

1 And as far as the testimony, you want to hear
2 all of that again, right?

3 **THE JURY FOREPERSON:** Yes.

4 **THE COURT:** Okay.

5 **THE JURY FOREPERSON:** Uh-huh.

6 **THE COURT:** All right.

7 **THE JURY FOREPERSON:** All right. Thank you.

8 **THE COURT:** Thank you, ma'am.

9 (Jury foreperson exits the courtroom at
10 10:33 a.m.)

11 **THE COURT:** Well, gentlemen, looks like
12 Monday's coming closer. Let's see what she says.
13 My understanding, she wants to hear the charge all
14 over again, and then she said all the testimony,
15 right -- did y'all hear that? -- after she
16 consults with them. But I understood her to say
17 that's what they want.

18 **MR. BROOKS:** I guess, Judge, the way I
19 understand the way you left it, she's gonna come
20 back and confirm that.

21 **THE COURT:** That's what I was thinking until
22 she's -- she answered again that she wants to hear
23 everything.

24 **MR. BROOKS:** Do we want to wait till she
25 comes back and confirms that?

1 **THE COURT:** Might be a long time.

2 **MR. BROOKS:** Might be.

3 **THE COURT:** She might be waiting on us.

4 Would you -- would you go ask -- just kind of
5 see where they are, if they want to --

6 **THE BAILIFF:** Find out what they want to do.

7 **THE COURT:** Yes, sir, please.

8 (Bailiff exits the courtroom.)

9 **MR. BROOKS:** It's almost -- Judge, we off the
10 record?

11 **THE COURT:** Yeah. Go off.

12 (Off the record briefly.)

13 **THE COURT:** -- one hand is all hand. So is
14 she --

15 Would you just ask to come back for me?

16 **THE BAILIFF:** Yes, sir.

17 (Bailiff exits the courtroom.)

18 (Jury foreperson enters the courtroom at
19 10:37 a.m.)

20 **THE COURT:** Ms. Wiley.

21 **THE JURY FOREPERSON:** Yes, Your Honor.

22 **THE COURT:** From my clarification, this says
23 the intent slash one hand is all hand. Y'all want
24 to hear the one hand?

25 **THE JURY FOREPERSON:** Hmm.

1 **THE COURT:** You don't know, do you, ma'am?
2 You want to hear the hand charge?

3 **THE JURY FOREPERSON:** Yes, we do. And then
4 we want to also -- I think it is what intent --
5 the intent again. How that -- how that goes.

6 **THE COURT:** And you still want to hear the
7 testimony, though?

8 **THE JURY FOREPERSON:** Let me -- let me make
9 sure. Because when I was mentioning it to them,
10 they didn't look excited. So let me still make
11 sure on that.

12 **THE COURT:** Okay.
13 Because we're trying to determine now how
14 long it's going to take to hear all that testimony
15 all over.

16 **THE JURY FOREPERSON:** Okay.
17 Let me -- let me be sure.

18 **THE COURT:** All right.
19 You just come and let us know.

20 (Jury foreperson exits the courtroom at
21 10:38 a.m.)

22 **THE COURT:** For the record, I have -- have
23 pulled out the intent charge and the
24 hand-of-one-is-the-hand-of-all charge.
25 (Jury foreperson enters the courtroom at

1 10:39 a.m.)

2 **THE COURT:** Yes, ma'am. Come on around so I
3 can see you better.

4 **THE JURY FOREPERSON:** Okay.

5 Your Honor, we decided to just hear the
6 intent and the one-hand-is-all-hand. And we don't
7 need the testimony. We're good with hearing that.

8 **THE COURT:** Just this?

9 **THE JURY FOREPERSON:** Yes. Just that.

10 **THE COURT:** Okay.

11 Gentlemen, then I'm going to reread these two
12 charges.

13 **MR. CORBETT:** No objection from the state.

14 **THE COURT:** All right.

15 **MR. BROOKS:** No -- no objection.

16 **THE COURT:** All right.

17 If you'd bring the rest of them, ma'am,
18 please.

19 (Jury foreperson exits the courtroom at
20 10:40 a.m.)

21 (Jury enters the courtroom at 10:41 a.m.)

22 **THE COURT:** All right.

23 Members of the jury, Ms. Wiley has indicated
24 to me that y'all wish to hear two charges, one
25 being the intent charge and one being the

1 hand-of-one charge. In no particular order here,
2 I will start with the hand-of-one.

3 If a crime is committed by two or more people
4 who are acting together in committing a crime, the
5 act of one is the act of all. A person who joins
6 with another to commit an unlawful act is
7 criminally -- criminally responsible for
8 everything done by the other person which happens
9 as a probable or natural consequence of the acts
10 done in carrying out the common plan and purpose.

11 For example, two people can be guilty of
12 killing another person when only one of the two
13 had a gun, there was only one bullet, and only one
14 of the two fire the shot that caused the death.
15 If two or more people are together, acting
16 together, assisting each other in committing the
17 offense, the act of one is the act of all, or as
18 it is sometimes said the hand of one is the hand
19 of all.

20 Prior knowledge that a crime is going to be
21 committed without more is not sufficient to make a
22 person guilty of that crime. Mere knowledge that
23 another person is going to commit a crime even if
24 the defendant is present when the crime is
25 committed is not sufficient to convict the

1 defendant as a principal.

2 Guilt as a principle is shown by actual or
3 constructive presence at the scene as a result
4 of -- of prior arrangement. Therefore, a finding
5 of a prior arranged plan or common scheme is
6 necessary for a finding of guilt as a principle.
7 The state must prove beyond a reasonable doubt by
8 competent evidence the theory of the hand of one
9 is the hand of all.

10 A principal in a crime is one who either
11 actually commits the crime or who is present,
12 aiding, abetting, or assisting in the commission
13 of the crime. When a person doesn't act in the
14 presence of one and with the assistance of
15 another, the act is done by both. Where two or
16 more acting with a common plan or intent are
17 present at the commission of a crime, it does not
18 matter who actually commits the crime. All are
19 guilty. The hand of one is the hand of all.

20 Present at the commission of a crime needs to
21 be sufficiently near to aid and abet and assist in
22 the commission of the crime. However, mere
23 presence at the scene of a crime is not sufficient
24 to convict one as a principal only theory of
25 abetting -- of aiding and abetting. Intent is

1 also a necessary element, and there must have been
2 a common design or intent to commit the crime, and
3 the crime must have been committed pursuant
4 thereto with a person aiding and abetting by some
5 over act.

6 "Intent" means intending the result which
7 actually occurs not -- not accidentally or
8 involuntarily. Intent may be shown by acts and
9 conduct of the defendant, and other circumstances
10 from which you may naturally and reasonably infer
11 intent. The state must prove these elements
12 beyond a reasonable doubt.

13 Intent. In order to establish criminal
14 liability, criminal intent is required. For
15 example, the mental state required to be proven by
16 the state for a particular crime might be purpose,
17 intent, knowledge, recklessness, or criminal
18 negligence. Criminal intent must be proven by the
19 state beyond a reasonable doubt. Criminal intent
20 is always a matter that must be determined by the
21 jury from the circumstances surrounding the
22 situation.

23 There is no way to prove intent to a
24 mathematical certainty. There is no way medical
25 science can dissect a person's brain and determine

1 what the person had in mind. So the law says that
2 criminal intent may be inferred from the
3 circumstances shown to have existed. This is how
4 you make a determination of whether or not the
5 element requiring intent was present.

6 It is not necessary to establish intent by
7 direct and positive evidence. But intent may be
8 established by inference in the same way as any
9 other fact, by taking into consideration the acts
10 of the parties and all the facts and circumstances
11 of the case.

12 Criminal intent is a mental state; a
13 conscious wrongdoing. It is up to you to
14 determine what the defendant intended to do, based
15 on the circumstances shown to have existed.
16 Criminal intent can arise from action or a failure
17 to act. It may arise from negligence,
18 recklessness, or an indifference to duty or to
19 consequences that are considered by the law to be
20 the equivalent of criminal intent.

21 And there are those charges, Ms. Wiley.

22 **THE JURY FOREPERSON:** Thank you.

23 **THE COURT:** You may return to your room.

24 (Jury exits the courtroom at 10:47 a.m.)

25 (A recess is taken as deliberation of the jury

1 commences.)

2 **THE COURT:** We want to see the video, the
3 DVD. I don't know which one.

4 So, sir, would you ask her to step in,
5 please.

6 (Jury foreperson enters the courtroom at
7 1:08 p.m.)

8 **THE COURT:** Ms. Wiley.

9 **THE JURY FOREPERSON:** Yes, sir.

10 **THE COURT:** Which video do y'all desire to
11 view?

12 **THE JURY FOREPERSON:** We wanted to view the
13 DVDs that are sitting on the desk in the jury --
14 jury area. We want to look at those videos.

15 **THE COURT:** All -- all of them?

16 **THE JURY FOREPERSON:** Yes.

17 **THE COURT:** I just need to know. So how many
18 videos are there.

19 **THE JURY FOREPERSON:** I think like four.

20 **MR. CORBETT:** Judge, there's a body camera of
21 Detective Michael Austin. There's a body camera
22 of Detective Kelsey Wade. And there's the 911
23 call video -- that's not video. That's disc.

24 **THE COURT:** All right.

25 Is that what you want to see, ma'am?

1 **THE JURY FOREPERSON:** Yes. Yes, Your Honor,
2 the discs.

3 **THE COURT:** All right.

4 Mr. Campbell, the clerk, said they have some
5 food for y'all now?

6 **THE JURY FOREPERSON:** Sounds good,
7 Your Honor.

8 **THE COURT:** There's no way to watch these in
9 the --

10 **MR. CORBETT:** No, sir.

11 **THE COURT:** Do y'all want to send the -- or
12 eat now?

13 **THE JURY FOREPERSON:** I -- I believe so.
14 Yes. That's a good idea.

15 **THE COURT:** So would you let me know as soon
16 as y'all are finished and we can bring you back in
17 to watch these videos, please?

18 **THE JURY FOREPERSON:** Yes, Your Honor. I
19 will.

20 **THE COURT:** Thank you, ma'am.

21 **THE JURY FOREPERSON:** You're welcome.

22 (Jury foreperson exits the courtroom at 1:09 p.m.)

23 **THE COURT:** You need your client for this?

24 **MR. BROOKS:** Trying to find him. You want us
25 to come up there and read the question?

1 **MR. CORBETT:** You can't read the question
2 without your client.

3 **THE COURT:** All right.

4 From now on, I don't want y'all going out of
5 the courtroom. Nobody.

6 Let me see the question.

7 All right. "What happens if we cannot or do
8 not come to an agreement on one of the plaintiff's
9 two charges? Ms. Wiley."

10 Gentleman, my -- only think I know to do is
11 read them the Allen charge. Y'all got any
12 suggestions?

13 **MR. BROOKS:** One moment, Your Honor.

14 Well, Judge, would you read that question
15 again, please, sir?

16 **THE COURT:** Why don't you show it to him?
17 Show it to him. Y'all can see it.

18 (Attorneys consult.)

19 **MR. CORBETT:** Judge.

20 **THE COURT:** Yes, sir.

21 **MR. CORBETT:** From the state, what the state
22 would is as follows, that the Court would recharge
23 the jury regarding multiple charges, which was in
24 the Court's earlier charge.

25 **THE COURT:** Yes, sir.

1 **MR. CORBETT:** And then as to the matters that
2 you're unable to reach an agreement on, provide
3 them with the Allen charge.

4 **THE COURT:** Yes, sir. I can do that.

5 **MR. BROOKS:** Since -- since my client is not
6 here, I would respectfully object.

7 **THE COURT:** All right.

8 Well, go find your client, Mr. Brooks.

9 **MR. BROOKS:** Yes, sir.

10 **THE COURT:** I'll be in my room. Y'all please
11 don't go far.

12 (A recess is taken.)

13 **THE COURT:** All right, Mr. Corbett.

14 **MR. CORBETT:** Yes, sir, Judge.

15 **THE COURT:** Allow me again to hear what you
16 had to say?

17 **MR. CORBETT:** Your Honor, bear with me one
18 moment, please.

19 (Pause in proceeding.)

20 **MR. CORBETT:** Your Honor, back on record with
21 the --

22 **THE COURT:** Yes, sir.

23 **MR. CORBETT:** -- State of South Carolina
24 versus Dywain McKenzie.

25 **THE COURT:** Yes, sir.

1 **MR. CORBETT:** Your Honor, a note came out
2 from the jury, which basically said that they
3 have -- it appears -- I'm having to interpret a
4 little bit here. But apparently, they have
5 reached a verdict on at least a portion of the
6 charges and not on the other. It appears to be
7 two -- two from my interpretation.

8 In regard to that, what the state would
9 request is that this Court recharge the language
10 of multiple charges and at the conclusion of that
11 charge, if -- and what the state would request is
12 words to the effect of: "I understand that you
13 have been unable to reach a verdict on two of the
14 charges. To that end, I charge you as follows."
15 And then go into the Allen charge.

16 **THE COURT:** Yes, sir.

17 **MR. CORBETT:** Judge, I've -- I've hand wrote
18 this. I'll show it to Mr. Brooks and then hand it
19 up.

20 **THE COURT:** All right.

21 **MR. BROOKS:** Judge, our -- our -- our
22 position is, I would like to ask Your Honor to
23 state that question again, just for my client's
24 clarification, what that actual question was. But
25 in regards to what to do about it, our position

1 would be that I think it's a bit early to do an
2 Allen charge. The jury's been out. Had this
3 case -- what? -- maybe an hour or so before lunch.
4 And it's approximately 2:45. We've got -- you've
5 charged them this. You're not giving them the
6 actual paper of the charges. So our position is
7 that is what needs to be said to them, that -- not
8 an Allen charge because it's too early.

9 **THE COURT:** What do you want me to tell them?
10 They have a question. They're telling us that
11 they've got --

12 **MR. BROOKS:** Some questions you can't answer,
13 Judge.

14 **THE COURT:** Oh, I think I can. I think I
15 can.

16 **MR. BROOKS:** I understand. Our position is
17 that --

18 **THE COURT:** I understand. I understand.
19 I -- I -- I -- and I respect your position. What
20 I'm going to do is, I'll follow the state's
21 request. I mean, basically what we've got here
22 is --

23 **MR. CORBETT:** Judge, may I just hand up this
24 sheet that I --

25 **THE COURT:** Sure.

1 **MR. CORBETT:** -- took from your charges.

2 **THE COURT:** Noting your object, Mr. Brooks,
3 that's what I'm going to do, sir.

4 Would you bring the jury back in, sir?

5 I do suggest that where it says "each
6 indictment" where there's only one indictment that
7 I used each offense charges a separate and
8 distinct -- each charge.

9 **MR. CORBETT:** Yes, sir. We -- we do agree
10 with that.

11 **THE COURT:** All right.

12 And that reflects her question too.

13 (Jury enters the courtroom at 2:48 p.m.)

14 **THE COURT:** To you and your jury, the
15 question is: "What happens if we don't come to an
16 agreement on one of the plaintiff's two charges?"
17 Is that right?

18 **THE JURY FOREPERSON:** That's correct,
19 Your Honor.

20 **THE COURT:** I've discussed this with the
21 lawyers, and this is the response of the Court.
22 The indictment in this case alleges several
23 different offenses or charges against the
24 defendant. Each charge is a separate and distinct
25 offense. You must assign each charge separately

1 on the evidence and the law applicable to it,
2 uninfluenced by your decision as to any other
3 charge. The defendant may be convicted or
4 acquitted on any or all the offenses charged. You
5 will be asked to write a separate verdict of
6 "guilty" or "not guilty" for each charge.

7 I understand that you have been unable to
8 reach a verdict on two of the charges. To that
9 end, I charge you as follows, you have stated that
10 you've been able to agree on two verdicts in this
11 case. As I instructed earlier, each verdict must
12 be unanimous.

13 When a matter is in dispute, it isn't always
14 easy for even two people to agree. So when 12
15 people must agree, it becomes even more difficult.
16 In most cases, absolute certainty cannot be
17 reached or expected. However, you have the duty
18 to make every reasonable effort to reach a
19 unanimous verdict on each charge. In doing this,
20 you should consult with one, express your own
21 views, and listen to the opinions of your fellow
22 jurors, tell each other how you feel and why you
23 feel that way, discuss your differences with open
24 minds.

25 Although the verdicts must be unanimous,

1 every one of you has the right to your own
2 opinions. The verdict you agree to -- verdicts
3 you agree to must be your own verdicts, the result
4 of your own convictions. And you should not give
5 up your final -- your firmly held beliefs merely
6 to be in agreement with your fellow jurors.

7 The majority should consider the minority's
8 opinion and the minority should consider the
9 majority's opinion. You should carefully consider
10 and respect the opinions of each other and
11 reevaluate your positions for reasonableness,
12 correctness, and impartiality. You must lay aside
13 all outside matters and re-examine the questions
14 before you, based on the law and evidence in this
15 case.

16 If you do not agree on a verdict in this
17 case, I must declare a mistrial. In that case, it
18 does not mean anybody wins. It just means that at
19 some future time this case will be retried with
20 some other jury sitting where you are now. The
21 same participants will come and the same lawyers
22 will ask basically the same questions to get
23 basically the same answers. And we will go
24 through the whole process again.

25 You were selected in the same manner and from

1 the same source as any future jury will be. And
2 there's no reason for me to support -- to suppose
3 that the case will ever be submitted to 12 more
4 intelligent, impartial, conscientious, and
5 competent jurors than you or that there more or
6 clearer evidence will be produced on one side or
7 the other.

8 I, therefore, kindly ask you to return to
9 your jury room and resume your deliberations.

10 **THE JURY FOREPERSON:** Yes, Your Honor.

11 **THE COURT:** Thank you, ma'am.

12 (Jury exits the courtroom at 2:53 p.m.)

13 **THE COURT:** We can't say they aren't
14 conscientious. All right.

15 I'll be in my little room.

16 (A recess is taken while deliberation of the jury
17 continues.)

18 **THE COURT:** All right, sir.

19 The bailiff needs -- foreperson needs to see
20 me?

21 **THE BAILIFF:** Yes, sir.

22 **THE COURT:** All right.

23 Bring her in.

24 **THE BAILIFF:** Go ahead and bring her in?

25 **THE COURT:** Bring her in, yes, sir.

1 (Jury foreperson enters the courtroom at
2 3:09 p.m.)

3 **THE COURT:** Ms. Wiley, how are you?

4 **THE JURY FOREPERSON:** Fine, Your Honor.

5 **THE COURT:** I understand there's further
6 questions you -- you or your jury might have. And
7 I'm not asking you for any verdicts now. I'm not
8 asking for that. I don't -- I don't want to know.

9 **THE JURY FOREPERSON:** Pretty much, we -- I --
10 I -- I -- I just thought it was just time to do
11 the -- give you the verdict. But you said you
12 don't want it yet. Because we're pretty much at
13 where we're going to be.

14 **THE COURT:** I just told you to go back and --
15 well, you -- you remember what I told you. Go
16 back and reconsider.

17 **THE JURY FOREPERSON:** Yeah. We have went
18 back and we reconsidered. And we're still were we
19 were. We're not -- we haven't --

20 **THE COURT:** All right.

21 **THE JURY FOREPERSON:** People are not -- we're
22 not -- some of us are not budging or --

23 **THE COURT:** All right.

24 Gentlemen, I think you understand her
25 question. She's made it clear that after further

1 deliberations -- and correct me if I'm wrong
2 now -- after further deliberations, although just
3 a few minutes' worth, you telling me that you're
4 not able to reach a verdict on the remaining two
5 charges; is that correct?

6 **THE JURY FOREPERSON:** Can you repeat that
7 last statement?

8 **THE COURT:** Even after returning to your jury
9 room with a request from the Court to consider
10 further deliberations, are you telling me that
11 it's obvious that you will not be able to reach a
12 verdict on the other two charges?

13 **THE JURY FOREPERSON:** Yes, Your Honor. On
14 one of the plaintiff's, we're not able --

15 **THE COURT:** I'm not -- I'm not trying to cut
16 you off.

17 **THE JURY FOREPERSON:** Oh, okay. I'm sorry.
18 On -- yes. On two of them, yes.

19 **THE COURT:** All right.

20 Ma'am, under the -- under the law --

21 **THE JURY FOREPERSON:** Uh-huh.

22 **THE COURT:** -- Section 14-7-1330 provides
23 that when a jury returns a second time without
24 having agreed on a verdict, the trial judge cannot
25 send the jurors out again without the jurors'

1 consent unless the juror ask for a further
2 explanation of the law. So are -- are you -- if
3 you're not asking for further explanation of the
4 law, then I would ask you just for the sake of the
5 record, consult with the other jurors. Because
6 that's what it says "without the jurors," plural,
7 "consent." Would you go back and find out if you
8 have the consent of the jury to tell me that
9 you're deadlocked on those other two charges?

10 **THE JURY FOREPERSON:** Okay.

11 **THE COURT:** Okay.

12 Any -- Mr. Corbett?

13 **MR. CORBETT:** One moment, Your Honor.

14 **THE COURT:** Yes, sir.

15 (Pause in proceeding.)

16 **MR. CORBETT:** Your Honor?

17 **THE COURT:** Yes, sir.

18 **MR. CORBETT:** May we address the Court
19 without the forelady present?

20 **THE COURT:** Yes, sir.

21 **THE JURY FOREPERSON:** Okay.

22 **THE COURT:** Thank you, ma'am.

23 **THE JURY FOREPERSON:** You're welcome.

24 (Jury foreperson exits the courtroom at 3:13 p.m.)

25 **THE COURT:** Yes, sir.

1 **MR. CORBETT:** Judge, I'm just trying to, in
2 my mind, kind of sort out where we are.

3 **THE COURT:** Okay.

4 **MR. CORBETT:** Do we know definitively if they
5 have reached any particular -- any number of
6 verdicts, I guess you would say? And I'm not sure
7 that that necessarily matters for the -- for the
8 legal analysis before us. But I just -- I was
9 having a little trouble deciphering from the --
10 from the forelady where exactly we were in that
11 process.

12 **THE COURT:** I took it from the prior note on
13 the last note that she gave us that there were two
14 that they could not decide. Does anybody have
15 that note? I don't -- I don't have it.

16 Let me read it again. "What happens if we
17 don't come to an agreement on one of the
18 plaintiff's two charges?"

19 Actually, there are four really.
20 (A sidebar conference is held off the record.)

21 **THE COURT:** All right.

22 I have conferred with both lawyers. And the
23 state made a suggestion which would reflect
24 basically what I had written down up here coming
25 out of some case law is to ask the forelady -- or

1 instruct her there are four charges for them to
2 decide "guilty" or "not guilty." Ask her: "How
3 many of the four have you decided?"

4 For those not decided, the question would be:
5 "Would further deliberations be helpful or further
6 instruction on the law be helpful?" Again, per
7 statute.

8 If she says "no," then I will instruct her to
9 complete the verdict form on those charges they
10 have decided and sign it and bring it to the
11 Court.

12 **MR. CORBETT:** No objection from the state.

13 **THE COURT:** Mr. Brooks?

14 **MR. BROOKS:** Our position, Judge, at this
15 time is for the Court to declare a mistrial on all
16 the charges. Our position is that they were hung
17 up. This is just be an all-or-nothing situation.
18 And thus, we would interpret that as it should be
19 a mistrial in this case against Mr. McKenzie on
20 all of his charges at this time.

21 **THE COURT:** Yes, sir.

22 The reason I'm going to deny that, first of
23 all, is -- with great respect to you, Mr. Brooks,
24 is I charged them a little while ago not once but
25 twice, telling them, "You must decide each charge

1 separately on the evidence and the law applicable
2 to it. The defendant may be convicted or
3 acquitted on any or all the charges, and that each
4 is a separate offense." So there we go. Your --
5 your objection is certainly noted, Mr. Brooks.

6 Will you bring the fore -- Ms. Wiley back in,
7 please?

8 (Jury foreperson enters the courtroom at
9 3:24 p.m.)

10 **THE COURT:** And, Ms. Wiley, we meet again.

11 **THE JURY FOREPERSON:** Hey, Your Honor.

12 **THE COURT:** Ms. Wiley, I'm going to ask you
13 to listen to my questions carefully and just
14 answer it concisely, okay?

15 **THE JURY FOREPERSON:** Okay.

16 **THE COURT:** There's a method to all this.

17 **THE JURY FOREPERSON:** Okay.

18 **THE COURT:** I'm going to tell you that the
19 verdict form you have shows four charges.

20 **THE JURY FOREPERSON:** Uh-huh.

21 **THE COURT:** Four separate and distinct
22 charges.

23 **THE JURY FOREPERSON:** Yes.

24 **THE COURT:** Now, here's my question to you:
25 Of those four, how many have y'all reached a

1 verdict on?

2 **THE JURY FOREPERSON:** Two.

3 **THE COURT:** Two?

4 **THE JURY FOREPERSON:** Yes.

5 **THE COURT:** So that leaves two that you
6 haven't reached a verdict on?

7 **THE JURY FOREPERSON:** Yes.

8 **THE COURT:** Now, as to those two, would your
9 jury consent to further deliberations on those two
10 verdicts and/or would further instruction of the
11 law help? That I think you need to get -- ask
12 your jury about before you answer it. Okay?

13 **THE JURY FOREPERSON:** Explain that again,
14 Your Honor, the last part.

15 **THE COURT:** For the -- for the two that you
16 haven't reached a verdict on --

17 **THE JURY FOREPERSON:** Uh-huh.

18 **THE COURT:** -- would you find out -- and it
19 says "jurors." That means not just you, but the
20 whole panel.

21 **THE JURY FOREPERSON:** Right.

22 **THE COURT:** Ask your jurors if further
23 deliberations by y'all on those two would be
24 desired and helpful.

25 **THE JURY FOREPERSON:** Uh-huh.

1 **THE COURT:** You can come back and tell me
2 "yes" or "no." Or you can tell me, "We need
3 further instruction on the law," which is
4 basically what I've given you. I need an answer
5 on those two.

6 **THE JURY FOREPERSON:** Yes, Your Honor.

7 **THE COURT:** Okay?

8 **THE JURY FOREPERSON:** Okay.

9 **THE COURT:** Thank you.

10 **THE JURY FOREPERSON:** You're welcome.

11 (Jury foreperson exits the courtroom at 3:26 p.m.)

12 (Pause in proceeding)

13 (Jury foreperson enters the courtroom at
14 3:28 p.m.)

15 **THE COURT:** First question that I asked,
16 would further -- does your jury desire further
17 deliberations?

18 **THE JURY FOREPERSON:** Yes, they do,
19 Your Honor.

20 **THE COURT:** Okay.

21 **THE JURY FOREPERSON:** Okay.

22 **THE COURT:** All right.

23 **THE JURY FOREPERSON:** Okay. You're welcome.

24 **THE COURT:** Gentlemen?

25 **THE JURY FOREPERSON:** Okay.

1 **THE COURT:** Their request. Your jury wants
2 to have further deliberations?

3 **THE JURY FOREPERSON:** Yes, Your Honor. They
4 suggest.

5 **THE COURT:** All right, ma'am. Proceed.

6 **THE JURY FOREPERSON:** Okay.

7 **THE COURT:** Thank you.

8 **THE JURY FOREPERSON:** You're welcome.

9 **THE COURT:** Oh, and by the way, ma'am --

10 **THE JURY FOREPERSON:** Uh-huh.

11 **THE COURT:** -- when y'all -- when you have --
12 when you -- when you're done --

13 **THE JURY FOREPERSON:** Yes, Your Honor.

14 **THE COURT:** Sign the verdict form --

15 **THE JURY FOREPERSON:** Uh-huh.

16 **THE COURT:** -- with whatever you've done and
17 bring it --

18 **THE JURY FOREPERSON:** Bring it back when I
19 come again?

20 **THE COURT:** Let the bailiff know.

21 **THE JURY FOREPERSON:** Let the bailiff know?

22 **THE COURT:** Yes, ma'am.

23 **THE JURY FOREPERSON:** Yes, Your Honor.

24 (Jury foreperson exits the courtroom at 3:29 p.m.)

25 **THE COURT:** I'll be in my room.

1 **MR. CORBETT:** Thank you, Judge.

2 (A recess is taken while deliberation of the jury
3 continues.)

4 **THE COURT:** All right.

5 Would you -- regarding the juror who wants to
6 make a call, what's the situation there, sir?

7 **THE BAILIFF:** What she does, Your Honor?

8 **THE COURT:** Somebody want to make a phone?

9 **THE BAILIFF:** Yeah. To pick up her --
10 somebody to pick up her son.

11 **THE COURT:** Okay.

12 I don't have any problem with that,
13 gentlemen, do y'all?

14 **MR. CORBETT:** No objection from the state,
15 Your Honor.

16 **MR. BROOKS:** I don't have a problem with her
17 calling her, son. Yeah.

18 **THE COURT:** Uh-huh.

19 **MR. BROOKS:** Or calling somebody to get her
20 son.

21 **THE COURT:** To pick her son up?

22 **THE BAILIFF:** Yes, sir.

23 **THE COURT:** Yes, sir. All right.

24 Now, while I -- while I -- while I got y'all
25 here --

1 You can go ahead and tell her that.

2 All right. Gentlemen, I got another note,
3 another male here. I don't think you need your
4 client for this. But we can -- we can do that if
5 you want to after you hear this.

6 "Do I need to get another paper if I marked
7 the verdict form as the verdict sheet? Or is it
8 okay if I just put a line through things initially
9 above the line?"

10 My purpose is to get under it and print off a
11 clean one.

12 **MR. CORBETT:** Judge, bear with me just one
13 moment. I may can try to help out because I have
14 a clean one somewhere. I have -- Judge, I thought
15 I had a clean one, but I do not.

16 **THE COURT:** All right.

17 I've got a clean one. Do y'all wanna look at
18 it before I send it back?

19 **MR. BROOKS:** Sound like they done marked up
20 the original one.

21 **THE COURT:** All right.

22 I'm going to ask the bailiff to give this to
23 her, and tell them to proceed. They know what to
24 do. That all right with y'all?

25 All right. I'll be back in my little room.

1 (A recess is taken while the deliberation of the
2 jury continues.)

3 **THE COURT:** I understand they have reached a
4 verdict, sir?

5 **THE BAILIFF:** Yes, Your Honor.

6 **THE COURT:** Would you bring them in and the
7 forelady, please?

8 (Jury enters the courtroom at 4:19 p.m.)

9 **THE COURT:** Ms. Wiley, I understand the jury
10 has reach a -- verdicts, plural; is that right?

11 **THE JURY FOREPERSON:** Yes, Your Honor.

12 **THE COURT:** Yes, ma'am.

13 Would you give that to the bailiff, please,
14 ma'am?

15 **THE JURY FOREPERSON:** Yes, Your Honor.

16 **THE COURT:** The verdict form.

17 (The verdict form is passed to the Court.)

18 **THE COURT:** The State of South Carolina
19 versus Dywain McKenzie, 2022GS4300742, we the jury
20 by unanimous consent find the defendant Dywain
21 McKenzie, Count 1 -- as to Count 1, attempted
22 murder with the victim Nicolas Scudder: No
23 verdict;

24 Count 2, attempted murder with the victim
25 Zachary Tidwell: Not guilty;

1 Count 3, armed robbery with the victim

2 Nicolas Scudder: Guilty;

3 As to Count 3, armed robbery when the victim

4 Zachary Tidwell: Guilty of armed robbery.

5 And is this your verdict, the jury's verdict,
6 ma'am?

7 **THE JURY FOREPERSON:** Yes, Your Honor.

8 **THE COURT:** And your signature at the end,
9 correct?

10 **THE JURY FOREPERSON:** Yes, Your Honor.

11 **THE COURT:** So to be sure, the verdict -- the
12 jury did not reach verdicts on Count 1; is that
13 right?

14 **THE JURY FOREPERSON:** That's correct,
15 Your Honor.

16 **THE COURT:** All right.

17 Mr. Corbett?

18 **MR. CORBETT:** Judge, nothing further from the
19 state with regard to the jury.

20 **THE COURT:** Okay.

21 Mr. Brooks?

22 **MR. BROOKS:** We'll request that the jury be
23 polled, Your Honor.

24 **THE COURT:** Yes, sir.

25 Would you kindly poll the jury please?

1 **THE COURTROOM DEPUTY:** Your Honor, may I
2 please the Court?

3 **THE COURT:** Yes, sir.

4 **THE COURTROOM DEPUTY:** Ladies and gentlemen,
5 I will call your number and your name. All I need
6 is a yes-or-no answer.

7 Juror No. 170, Maxwell Terry, is this your
8 verdict and still your verdict?

9 **THE JUROR:** Yes, sir.

10 **THE COURTROOM DEPUTY:** Juror No. 177,
11 Jennifer Welch, is this your verdict and still
12 your verdict?

13 **THE JUROR:** Yes, sir.

14 **THE COURTROOM DEPUTY:** Juror No. 114, Sheila
15 McDowell, is this your verdict and still your
16 verdict?

17 **THE JUROR:** Shirley.

18 **THE COURTROOM DEPUTY:** Correction. Shirley.

19 **THE JUROR:** Yes.

20 **THE COURTROOM DEPUTY:** Juror No. 143, Evan D.
21 Richardson, is this your verdict and still your
22 verdict?

23 **THE JUROR:** Yes.

24 **THE COURTROOM DEPUTY:** Juror No. 61, Joseph
25 Gargano Jr., is this your verdict and still your

1 verdict?

2 **THE JUROR:** Yes, sir.

3 **THE COURTROOM DEPUTY:** Juror No. 6, Sheila
4 Baker, is this your verdict and still your
5 verdict?

6 **THE JUROR:** Yes, sir.

7 **THE COURTROOM DEPUTY:** Juror No. 71, Tiffani
8 Gregg, is this your verdict and still your
9 verdict?

10 **THE JUROR:** Yes, sir.

11 **THE COURTROOM DEPUTY:** Juror No. 55, Calvin
12 Felder, is this your verdict and still your
13 verdict?

14 **THE JUROR:** Yes, sir.

15 **THE COURTROOM DEPUTY:** Juror No. 182, Leila
16 Wiley, is this your verdict and still your
17 verdict?

18 **THE JUROR:** Yes, sir.

19 **THE COURTROOM DEPUTY:** Juror No. 147, Barbara
20 Roach, is this your verdict and still your
21 verdict?

22 **THE JUROR:** Yes, sir.

23 **THE COURTROOM DEPUTY:** Juror No. 48, James
24 Dore, is this your verdict and still your verdict?

25 **THE JUROR:** Yes, sir.

1 **THE COURTROOM DEPUTY:** Juror No. 41, James O.
2 Cromwell III, is this your verdict and still your
3 verdict?

4 **THE JUROR:** Yes, sir.

5 **THE COURTROOM DEPUTY:** Your Honor, the jurors
6 have been polled.

7 **THE COURT:** Anything further, gentlemen, for
8 the jury regarding the jury?

9 **MR. CORBETT:** Nothing from the state,
10 Your Honor.

11 **THE COURT:** Mr. Brooks?

12 **MR. BROOKS:** Nothing else in regards to the
13 jury, Judge.

14 **THE COURT:** Yes, sir.

15 To this jury: You have been patient,
16 incredibly patient with the Court in this process.
17 It's been a long week. You've done your job, as
18 the Court asked you to do. Thank you. I don't
19 want to delay your time any longer. But
20 appreciate what you've done in terms of being the
21 good jurors you are and listening. So I will
22 dismiss you with that.

23 Mr. Campbell, what do they need to do in
24 terms of work?

25 **THE COURTROOM DEPUTY:** If you need a work

1 excuse, just go to my office, which is at the end
2 of the hallway, and we'll get you that.

3 **THE COURT:** Thank y'all. The bailiff will
4 take you out.

5 (Jury exit the courtroom at 4:26 p.m.)

6 **THE COURT:** Consistent with the prior
7 discussions with the lawyers, motions and so forth
8 and ruling, I find that as to Count 1, be deemed a
9 mistrial, and there are verdicts on the remaining
10 three charges.

11 So we will need to move onto the sentencing.

12 **MR. BROOKS:** Judge, we will renew our motions
13 at the end of the state's case that we've already
14 put forth on the record --

15 **THE COURT:** Yes, sir.

16 **MR. BROOKS:** -- for purposes of, as
17 Your Honor know, procedurally --

18 **THE COURT:** Oh, yes, sir.

19 **MR. BROOKS:** -- we want to make sure that
20 that's noted.

21 **THE COURT:** I understand. You by all means,
22 Mr. Brooks, you've done well representing your
23 client. And you should make those motions. I
24 respectfully deny them as I did earlier.

25 Do we need a few minutes? I would like a few

1 minutes.

2 **MR. CORBETT:** Judge, if I may.

3 **THE COURT:** Yes, sir.

4 **MR. CORBETT:** I certainly have no objection
5 to the Court taking a few minutes. May I go ahead
6 and hand up the sentencing sheets?

7 **THE COURT:** Yes, sir. Yes, sir.

8 All right. I'll return shortly.

9 Well, no, let's do this now. Let me hear
10 from the state and then from Mr. Brooks. Then,
11 I'll go back out.

12 Mr. Brooks or Mr. -- who wants to do first.

13 **MR. CORBETT:** Your Honor, Jason Corbett on
14 behalf of the state. Your Honor, we've reached
15 that point of sentencing at this point in time.

16 Judge, Your Honor has sat through the
17 entirety of the trial and has heard the facts and
18 circumstances of the case. Judge, the victims are
19 present in the courtroom. Judge, bear with me one
20 moment. (Pause.)

21 Judge, I've taken a moment to speak with both
22 of the victims in this case.

23 **THE COURT:** Yes, sir.

24 **MR. CORBETT:** Judge, as you can imagine for
25 them as well as others in the courtroom, that this

1 is a very, very emotional time. They feel that
2 because you have heard their testimony from the
3 witness stand, there's not a great deal extra to
4 add at this point.

5 Judge, what we have is the jury, having found
6 Mr. McKenzie guilty of armed robbery -- Judge,
7 that's two counts of armed robbery. That is a
8 mandatory minimum of 10 years, a maximum sentence
9 of 30 years, subject to either concurrent or
10 consecutive sentencing as the Court deems
11 appropriate.

12 Judge, I understand the way the verdict came
13 out. Because there were issues of other parties
14 involved and other parties being armed on the
15 night in question. But Judge, Mr. McKenzie's
16 actions set in motion a chain of events that left
17 Mr. Scudder paralyzed for the rest of his life and
18 left Mr. Tidwell traumatized over these events.
19 Judge, we believe that the maximum penalty is
20 appropriate.

21 **THE COURT:** Yes, sir.

22 Mr. Brooks.

23 **MR. BROOKS:** Please the Court, Judge. As
24 Mr. Corbett did state, you obviously have heard
25 all the factual situation involved in this case.

1 But obviously you have not necessarily heard from
2 or about our client, in terms of any type of
3 mitigation. While we respectfully, we want to
4 make sure we preserve all of our issues for
5 appeal --

6 **THE COURT:** Yes, sir.

7 **MR. BROOKS:** -- my client is 24 years of age.
8 He does have a young son that's four. And you
9 have seen over the last couple of days, he's had
10 his family, his mother, his brothers, grandmother,
11 aunts have all being in attendance with him
12 throughout this. They stand in support of him.

13 I don't -- obviously, I don't know if anybody
14 wants to say anything in regards to mitigation.
15 So I would ask Your Honor for just a few minutes
16 for me --

17 **THE COURT:** Yes, sir.

18 **MR. BROOKS:** -- to check --

19 **THE COURT:** Yes, sir.

20 **MR. BROOKS:** -- if possible.

21 (Pause in proceeding.)

22 **MR. BROOKS:** I've checked with my client's
23 family. I've check with my client. Judge,
24 obviously, you can tell it's very emotional --

25 **THE COURT:** Yes, sir.

1 **MR. BROOKS:** -- as you can see behind me. We
2 would respectfully ask for the Court to be as
3 lenient as possible.

4 My client did exercise his right to a jury
5 trial, which every defendant has. We don't want
6 him to be penalized or punished for doing so. And
7 bear in mind that the jury did find him not guilty
8 of one of these charges and did not come up with a
9 verdict on another one of these charges. So in an
10 essence, we've got a split -- split decision. So
11 it's not -- I point that out to Your Honor for
12 points of mitigation and leniency. And we will
13 respectfully ask the Court for the minimum
14 sentence, and that it be a minimum sentence and it
15 be concurrent.

16 **THE COURT:** Okay.

17 **MR. BROOKS:** Hold on one --

18 **THE COURT:** Yes, sir.

19 **MR. BROOKS:** -- one second.

20 **THE COURT:** Yes, sir.

21 **MR. BROOKS:** Judge, his mother does want to
22 say a few words.

23 **THE COURT:** Yes, sir.

24 Yes, ma'am.

25 **MS. MCKENZIE:** Good morning, everybody. My

1 name is Kimberly McKenzie. I think my son made a
2 big mistake, like everybody makes mistakes. We
3 all make a mistake in our life. I'm pretty sure
4 everybody has made mistakes and been, you know,
5 done -- done what they've done or got approved or
6 dismissed for that stuff.

7 But my son has a four-year-old. And if you
8 can be a little lenient on him, and if he could
9 get as least as he can. Because I mean, like I
10 said, he -- he also got shot five times. He
11 didn't put no -- you know, he didn't really do
12 most of this. It's hands of one/hands of all.

13 **THE COURT:** Yes, ma'am.

14 **MS. MCKENZIE:** And he showed up. You know,
15 usually y'all wouldn't see this greatness of him.
16 But I think he did good. He came. He showed up.
17 He been a man about his -- what he did. And he's
18 here. So if you would recognize that.

19 **THE COURT:** Yes, ma'am.

20 **MS. MCKENZIE:** And also he hasn't got the
21 right medical attention from when he did get
22 injured in -- in that incident. If y'all can find
23 a medical facility. Like most nights, he can't
24 sleep, you know, and his have tingling. If he's
25 not messed up like Mr. Scudder, but he is messed

1 up. He has four bullet wounds in his legs up at
2 the top.

3 **THE COURT:** Yes, ma'am.

4 **MS. MCKENZIE:** Thank you, Judge.

5 **THE COURT:** Thank you, ma'am.

6 All right. Y'all give me a few minutes.

7 **MR. BROOKS:** That's it, Judge. Thank you for
8 allowing that.

9 **MR. FINNEY:** Please the Court, Your Honor?

10 **THE COURT:** Yes, sir.

11 **MR. FINNEY:** Your Honor, this is Ernest
12 Finney, Solicitor for the Third Circuit. I've had
13 the pleasure of working with Mr. Corbett,
14 preparing this case and getting it ready, but I've
15 also had the greater pleasure of meeting this
16 family and dealing with what they've been going
17 through, especially Mr. Scudder, and the other
18 victim Zack.

19 Judge, I want the record to reflect that even
20 though the jury had trouble with a couple of the
21 cases --

22 **THE COURT:** Uh-huh.

23 **MR. FINNEY:** -- Mr. -- the defendant in this
24 case was not necessarily given all of the legal
25 burdens that he could have carried. For example,

1 when he was first arrested, he was charged with
2 kidnapping. He would have been charged with
3 conspiracy and possession of a weapon during a
4 violent crime. None of those charges were
5 indicted by one of the lawyers in my office. So
6 he has not had to carry those burdens today.

7 I also want the Court to realize that he was
8 offered a 15-year plea at the beginning of this
9 trial, which he turned down, and that certainly he
10 had right to go to trial. We think that the jury
11 has spoken clearly on the two counts that they
12 came back with. And we think the Court ought to
13 keep in mind the testimony about how the gentleman
14 Mr. Scudder and his friend got with Mr. McKenzie
15 that night, in terms of the texting and the offer
16 of the rifle and the pictures that were sent to
17 entice them over there and to get them down over
18 on that street where this crime occurred.

19 **THE COURT:** Yes, sir.

20 **MR. FINNEY:** Thank you, Your Honor.

21 **THE COURT:** All right.

22 Y'all bear with me.

23 (A recess is taken.)

24 **THE COURT:** -- the trial, what I've heard,
25 what I've seen. I have considered that there are

1 two victims here, not one. I have considered
2 information offered by Mr. Finney just a few
3 minutes ago about charges that could have been
4 made and pursued but were not.

5 The sentence of the Court --

6 **THE REPORTER:** Hold on one second,
7 Your Honor.

8 (Pause in proceeding.)

9 **THE REPORTER:** Okay, Your Honor. I'm sorry.

10 **THE COURT:** Did you get what I said? No.
11 Okay.

12 I have considered what I heard and saw during
13 the trial. I have considered the fact that there
14 are two separate victims, not one. And I have
15 considered the information offered by Solicitor
16 Finney just few minutes ago about charges that
17 could have been made, but were not made.

18 The service of the Court on each charge is 20
19 years in the Department of Corrections. These are
20 to run consecutive. I don't generally and rarely
21 give out what I call a BOGO sentences when there
22 are two victims involved. He is to be given
23 credit for time served of 1065 days. And that is
24 a sentence of the Court.

25 **MR. CORBETT:** Thank you, Judge.

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(Proceedings conclude at 4:48 p.m.)

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2 I, the undersigned, Teresa B. Johnson, Official
3 Court Reporter, who listened to the digital recording
4 created by DCRP, do hereby certify that said hearing is
5 a true, correct, and verbatim transcript of said
6 recorded, discernible proceedings, except for the
7 portions noted where no transcript was possible due to
8 the lack of discernible wording, noted by (inaudible):
9 0 times.

10 I do further certify that I am not a relative,
11 employee, attorney, or counsel of any of the parties
12 connected with the action, nor am I financially or
13 otherwise interested in the outcome of the action.

14
15 Dated: 08/19/2024

16
17 /s/Teresa B. Johnson

18 Teresa B. Johnson

19 Official Court Reporter
20
21
22
23
24
25



Sumter County Judicial Center

RANDOM STRIKE SHEET

Judge Name: McFaddin George M.

Sorted By Random Nbr

Trial Type: Criminal

Panel ID: 2022GS4300742

Description: 2022GS4300742 McKenzie

Trial

CTR1

Courtroom:

	NAME	JURORNBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1	Mues, Zachariah S	127	W	M	()	X	()	
2	Cabbagestalk, Laura E	20	B	F	()	X	()	
3	Green, Charlene D	68	B	F	()	()	()	
4	Cheverez, Vondalear M	27	B	F	()	()	()	
5	Duval (Infinger), Loran M	51	W	F	()	X	()	
6	Gargano, Joseph P Jr.	61	W	M	()	X	()	
7	Terry, Maxwell W	170	W	M	()	()	()	
8	Alston-Coleman, Vanessa A	3	B	F	()	()	()	
9	Felder, Calvin	55	B	M	()	()	()	
10	Mayhew, Jeremy A	113	W	M	()	X	()	
11	Weich, Jennifer K	177	W	F	()	X	()	
12	Stewart, Manpreet	166	A	F	()	()	()	
13	Davis, Kimberly M	46	B	F	()	()	()	
14	Hobday, Julie S	83	W	F	()	X	()	
15	Stone, Norma C	168	W	F	()	()	()	
16	Hayden, Joshua C	77	W	M	()	X	()	
17	Brewer, Frenche D	11	B	F	()	()	()	
18	Hunter, Darryl F	90	B	M	()	()	()	
19	Bannister, Kim T	7	B	F	()	()	()	
20	Jamison, Brian C	94	W	M	()	X	()	
21	Kirkland, Deborah A	102	W	F	()	()	()	
22	Cook, Rodney R	35	B	M	()	()	()	
23	Cromwell, James O III	41	W	M	()	()	()	
24	Singleton, Pshanda S	162	B	F	()	()	()	
25	Wilbur, Jazlyn	181	M	F	()	()	()	
26	Carlisle, Mary K	22	W	F	()	()	()	
27	Tindal, Michaela	172	B	F	()	()	()	
28	Bantum, Kevin	8	B	M	()	()	()	
29	Jeffers, Kristina H	95	W	F	()	()	()	
30	Burchett, Deborah A	19	W	F	()	()	()	
31	Wiley, Lelia D	182	B	F	()	()	()	

Sumter County Judicial Center

RANDOM STRIKE SHEET

Judge Name: McFaddin George M.

Sorted By Random Nbr

Trial Type: Criminal

Panel ID: 2022GS4300742

Description: 2022GS4300742 McKenzie

Trial

CTR1

Courtroom:

32	Watkins, Diamond T	175	B	F	()	()	()	_____
33	Richardson, Evan D	143	B	M	()	()	()	_____
34	Green, Dianetta R	69	B	F	()	()	()	_____
35	Roach, Barbara L	147	B	F	()	()	()	_____
36	Baker, Sheila R	6	W	F	()	()	()	_____

Total Number of Jurors: 36

**** END OF REPORT ****



Sumter County Judicial Center

RANDOM STRIKE SHEET

Judge Name: McFaddin George M.**Sorted By Random Nbr****Trial Type:** Criminal**Panel ID:** 2022GS4300742**Description:** 2022GS4300742 McKenzie**Trial****CTR1****Courtroom:**

	NAME	JURORNBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1	Terry, Maxwell W	170	W	M	()	()	()	
2	Weich, Jennifer K	177	W	F	()	()	()	
3	Mcdowell, Shirley	114	B	F	()	()	()	
4	Richardson, Evan D	143	B	M	()	()	()	
5	Miller, Ayana M	123	B	F	()	()	()	
6	Washington, Monica M	174	B	F	()	()	()	
7	Gargano, Joseph P Jr.	61	W	M	()	()	()	
8	Tindal, Michaela	172	B	F	()	()	()	
9	Cabbagestalk, Laura E	20	B	F	()	()	()	
10	Baker, Sheila R	6	W	F	()	()	()	
11	Wilbur, Jazlyn	181	M	F	()	()	()	
12	Chenevey, Steven P	26	W	M	()	()	()	
13	Mayhew, Jeremy A	113	W	M	()	()	()	
14	Gregg, Tiffani M	71	B	F	()	()	()	
15	Felder, Calvin	55	B	M	()	()	()	
16	Davis, Kimberly M	46	B	F	()	()	()	
17	Wiley, Lelia D	182	B	F	()	()	()	
18	Green, Dianetta R	69	B	F	()	()	()	
19	Roach, Barbara L	147	B	F	()	()	()	
20	Dore, James C	48	W	M	()	()	()	
21	Cromwell, James O III	41	W	M	()	()	()	
22	Cook, Rodney R	35	B	M	()	()	()	
23	Brewer, Frenche D	11	B	F	()	()	()	
24	Alston-Coleman, Vanessa A	3	B	F	()	()	()	
25	Jeffers, Kristina H	95	W	F	()	()	()	
26	Watkins, Diamond T	175	B	F	()	()	()	
27	June, Tiffany N	99	B	F	()	()	()	
28	Carlisle, Mary K	22	W	F	()	()	()	
29	Hunter, Darryl F	90	B	M	()	()	()	
30	Duval (Infinger), Loran M	51	W	F	()	()	()	
31	Green, Charlene D	68	B	F	()	()	()	

Sumter County Judicial Center

RANDOM STRIKE SHEET

Judge Name: McFaddin George M.

Sorted By Random Nbr

Trial Type: Criminal

Panel ID: 2022GS4300742

Description: 2022GS4300742 McKenzie

Trial

CTR1

Courtroom:

32	Hobday, Julie S	83	W	F	()	()	()	_____
33	Jamison, Brian C	94	W	M	()	()	()	_____
34	Singleton, Pshanda S	162	B	F	()	()	()	_____
35	Stone, Norma C	168	W	F	()	()	()	_____
36	Brunson, Alfred L	18	B	M	()	()	()	_____

Total Number of Jurors: 36

**** END OF REPORT ****

10:05 - 11:24

Sumter County Judicial Center

Present List for Panel - April 22 2024

Roll Call for Jurors Present

Filtered By: Panel ID, Court Agency Code

Sorted By: Juror Name

NAME	JUROR #	RACE	SEX	DOB	#XFER	DEFERRED DATE	CMNT/PAY
3 Alston-Coleman, Vanessa A	942	B	F	1977	1	/ /	
6 Baker, Sheila R	2674	W	F	1966	0	/ /	
7 Bannister, Kim T	2879	B	F	1966	0	/ /	
8 Bantum, Kevin	2889	B	M	1960	0	/ /	
11 Brewer, Frenche D	7137	B	F	1957	1	/ /	
14 Brown (Reed), Denise G	7855	B	F	1964	0	/ /	
18 Brunson, Alfred L	8617	B	M	1968	1	/ /	
19 Burchett, Deborah A	9286	W	F	1966	0	/ /	
20 Cabbagestalk, Laura E	10127	B	F	1983	0	/ /	
22 Carlisle, Mary K	10784	W	F	1994	0	/ /	
26 Chenevey, Steven P	11834	W	M	1969	0	/ /	
27 Cheverez, Vondalear M	11886	B	F	1969	0	/ /	
35 Cook, Rodney R	13737	B	M	1972	0	/ /	
41 Cromwell, James O III	16317	W	M	1970	1	/ /	
45 Davis, James O	15853	W	M	1986	0	/ /	
46 Davis, Kimberly M	15935	B	F	1986	0	/ /	
48 Dore, James C	17716	W	M	1968	0	/ /	
49 Dow, Jimmie Jr.	17830	B	M	1954	0	/ /	
51 Duval (Infinger), Loran M	18744	W	F	1989	1	/ /	
54 Farmer, Andria S	20122	B	F	1984	0	/ /	
55 Felder, Calvin	20305	B	M	1969	0	/ /	
60 Galloway, Willie Jr.	22476	B	M	1961	0	/ /	
61 Gargano, Joseph P Jr.	22765	W	M	1959	1	/ /	
68 Green, Charlene D	25191	B	F	1978	0	/ /	
69 Green, Dianetta R	25232	B	F	1982	0	/ /	
71 Gregg, Tiffani M	25724	B	F	1975	0	/ /	
77 Hayden, Joshua C	28022	W	M	1990	0	/ /	
83 Hobday, Julie S	29451	W	F	1968	0	/ /	
90 Hunter, Darryl F	31203	B	M	1963	0	/ /	
94 Jamison, Brian C	32687	W	M	1978	1	/ /	
95 Jeffers, Kristina H	32779	W	F	1984	0	/ /	
99 June, Tiffany N	35168	B	F	1983	0	/ /	

NAME	JUROR #	RACE	SEX	DOB	#XFER	DEFERRED DATE	CMNT/PAY
102 Kirkland, Deborah A	36224	W	F	1962	0	/ /	
106 Lewis, Brandon E	38186	B	M	1991	0	/ /	
108 Lynch, Shannon M	39549	W	F	1980	0	/ /	
113 Mayhew, Jeremy A	41071	W	M	1993	0	/ /	
114 McDowell, Shirley	42330	B	F	1958	0	/ /	
123 Miller, Ayana M	44536	B	F	1998	0	/ /	
127 Mues, Zachariah S	46706	W	M	1988	0	/ /	
143 Richardson, Evan D	54318	B	M	1999	0	/ /	
~~145 Richburg, Deldrick~~	~~54576~~	~~B~~	~~M~~	~~1981~~	~~0~~	~~/ /~~	Excused
147 Roach, Barbara L	55138	B	F	1975	0	/ /	
153 Rundgren, Todd W	56806	W	M	1962	0	/ /	
162 Singleton, Pshanda S	59959	B	F	1977	0	/ /	
166 Stewart, Manpreet	62460	A	F	1980	0	/ /	
167 Stone, Michael R	62660	W	M	1974	0	/ /	
168 Stone, Norma C	62662	W	F	1965	0	/ /	
170 Terry, Maxwell W	63899	W	M	2004	0	/ /	
172 Tindal, Michaela	64853	B	F	1998	0	/ /	
173 Vance (Cornelius), Jessica	66062	W	F	1979	1	/ /	
174 Washington, Monica M	67553	B	F	1988	1	/ /	
175 Watkins, Diamond T	67780	B	F	1994	0	/ /	
177 Weich, Jennifer K	68265	W	F	1981	0	/ /	
180 Whatley, Sylvia J	68874	B	F	1950	0	/ /	
181 Wilbur, Jazlyn	69535	M	F	1999	0	/ /	
182 Wiley, Lelia D	69623	B	F	1971	0	/ /	
184 Winn, Eugene Sr.	71509	B	M	1965	0	/ /	
185 Woods, Nykwon R	71930	B	M	2002	0	/ /	
Total jurors: 58							

WITNESSES

Jeffery B. Hansen
Police Dept. Sumter

Tod Sims Sumter Police Dept.

DOCKET NO. 2022-GS-43-0742

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

July TERM 2022

THE STATE

vs.

DYWAIN CA MEL MCKENZIE

Indictment for

Attempted Murder (Two Counts)

Armed Robbery (Two Counts)

ACTION OF GRAND JURY

TRUE BILL

Ominda Osters (deputy)
Foreperson of Grand Jury
Date: 7/7/2022

VERDICT

Foreperson of Petit Jury
Date:

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Attempted Murder (Two Counts)
 Armed Robbery (Two Counts)

At a Court of General Sessions, convened on July 7, 2022 the Grand Jurors of
 SUMTER County present upon their oath:

COUNT ONE-ATTEMPTED MURDER

That Dywain McKenzie, along with co-defendants, did in Sumter on or about 2021-03-17, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, did with intent to kill, attempt to kill another person, Nicholas Scudder, with malice aforethought, either express or implied, by shooting the victim with a firearm.

COUNT TWO-ATTEMPTED MURDER

That Dywain McKenzie, along with co-defendants, did in Sumter on or about 2021-03-17, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, did with intent to kill, attempt to kill another person, Zackery Tidwell, with malice aforethought, either express or implied, by shooting at the victim's vehicle and striking the car door.

COUNT THREE-ARMED ROBBERY

That on or about March 17, 2021, in Sumter County, South Carolina, the Defendant, Dywain McKenzie, along with co-defendants, did at [REDACTED] Maxwell Avenue, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Nicholas Scudder with the intent to permanently deprive the victim of possession thereof, to wit: a firearm, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

COUNT FOUR-ARMED ROBBERY

That on or about March 17, 2021, in Sumter County, South Carolina, the Defendant, Dewain McKenzie along with co-defendants, did at [REDACTED] Maxwell Avenue, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Zackery Tidwell, to wit: one I Phone, with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Dywain Ca Mel Mckenzie

AKA:

Race: Black Sex: M Age: 23

DOB: [REDACTED]

Address: [REDACTED]

City, S: [REDACTED]

DL#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022-GS-43-0742A/W#: 2021A4320100301Date of Offense: 3/17/2021S.C. Code § 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

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

W. Jason Corbett
 Corbett, Jason W

SC Bar #

Defendant

Brooks III, Charles Thomas

SCB11762

SC Bar#

 WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,
 for a determinate term of 20 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

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

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

OTHER SENTENCE (S) THIS DATE

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
 SCDOC. 1065 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or
 § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Dywain Ca Mel McKenzie INDICTMENT/CASE#: 2022-GS-43-0742**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

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

§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 28.75Clerk of Court/ Deputy Clerk:
Court Reporter:James C Campbell
Shem JonesPresiding Judge:
Judge Code:
Sentence Date:GEORGE M. McFADDIN, JR
#2759
01/24/2024

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Dywain Ca Mel Mckenzie

AKA:

Race: Black Sex: M Age: 23

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022-GS-43-0742A/W#: 2021A4320100298Date of Offense: 3/17/2021S.C. Code § 16-11-0330(A)DR Code #: 0139

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

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

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

SC Bar #

Defendant

Brooks III, Charles Thomas

SCB11762

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 20 days/months/~~years~~ Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

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

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

OTHER SENTENCE (S) THIS DATE

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 10 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. Dywain Ca Mel McKenzie INDICTMENT/CASE#: 2022-GS-43-0742**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5 %)			\$
§14-1-211(A)(1) (Conv. Surcharge)		\$100	\$100.00
§14-1-211(A)(2) (DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
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§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114(BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$
TOTAL			\$128.75

Clerk of Court/ Deputy Clerk: James C. Campbell
Court Reporter: Sherril JonesPresiding Judge: GEORGE M. McFADDIN, JR
Judge Code: #2759
Sentence Date: 04/26/2024

CERTIFICATE OF COUNSEL FOR APPELLANT

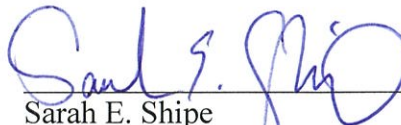
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED

Jul 21 2025

SC Court of Appeals

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 21st day of July, 2025.

RECEIVED

Jul 21 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable George M. McFaddin, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

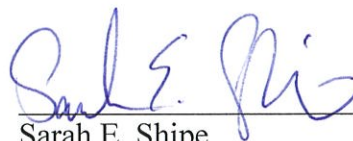
DYWAIN CA MEL MCKENZIE,

APPELLANT.

APPELLATE CASE NO. 2024-000741

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 Ambree M. Muller, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 21st day of July, 2025.



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

Leverett, Scott

From: Leverett, Scott
Sent: Monday, July 21, 2025 2:56 PM
To: Ambree Muller
Cc: Grace Sommer; Shipe, Sarah
Subject: 2024-000741 - The State v. Dywain Ca Mel McKenzie - Record on Appeal
Attachments: 2024-000741 - The State v. Dywain Ca Mel McKenzie - Record on Appeal.pdf

Dear Ms. Muller,

Attached please find a copy of the Record on Appeal in the above referenced case that is being filed today with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Sarah Shipe
Appellate Defense