

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

RECEIVED

Aug 13 2025

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DANIEL TAYLOR JONES,

APPELLANT

APPELLATE CASE NO. 2024-000129

RECORD ON APPEAL

LARA M. CAUDY
Senior Appellate Defender

ALAN WILSON
Attorney General

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

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

TOMMY EVANS, JR.
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211-1549
(803)734-6305

S. R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit
205 Main Street, Third Floor
Lexington, SC 29072
(803) 785-8352

ATTORNEYS FOR RESPONDENT

VOLUME II OF II
PAGES 501-756

INDEX

INDEX	i
PRE-TRIAL TRANSCRIPT DATED JANUARY 17, 2024	1
DEFENSE MOTION TO COMPEL DISCOVERY OF TESTIFYING OFFICERS’ TRAINING RECORDS BY MS. ZMROCZEK	1
COURT DENIES MOTION TO COMPEL DISCOVERY OF TESTIFYING OFFICERS’ TRAINING RECORDS	2
TRIAL TRANSCRIPT DATED JANUARY 22-26, 2024	8
OPENING STATEMENT BY MR. POGUE	9
OPENING STATEMENT BY MS. ZMROCZEK	22
TESTIMONY	
CHRISTOPHER SWYGERT	
Direct Examination by Ms. Patterson	34
Cross-Examination by Ms. Zmroczek	48
Redirect Examination by Ms. Patterson	94
Recross-Examination by Ms. Zmroczek	105
DAVID PAYTON	
Direct Examination by Mr. Pogue	109
Cross-Examination by Ms. Zmroczek	130
Redirect Examination by Mr. Pogue	147
Recross-Examination by Ms. Zmroczek	148
COREY CHANEY	
Direct Examination by Ms. Patterson	151
Cross-Examination by Ms. Zmroczek	158
Redirect Examination by Ms. Patterson	160
JACQUELINE AIKEN	
Direct Examination by Ms. Patterson	162
Cross-Examination by Ms. Zmroczek	186
Redirect Examination by Ms. Patterson	206
Recross-Examination by Ms. Zmroczek	208
JADA ELLISON	
Direct Examination by Ms. Patterson	211
Cross-Examination by Ms. Zmroczek	231

Cross-Examination <i>in-camera</i> by Ms. Zmroczek	234
Continued Cross-Examination by Ms. Zmroczek	236
Redirect Examination by Ms. Patterson	253
Recross-Examination by Ms. Zmroczek	258
ROY WILLIAMS	
Direct Examination by Mr. Pogue	261
Cross-Examination by Ms. Zmroczek	268
PATRICK WARD	
Direct Examination by Ms. Patterson	272
<i>Voir Dire</i> Examination by Ms. Zmroczek	275
Continued Direct Examination by Ms. Patterson	277
DEFENSE OBJECTION TO STATE’S EXHIBIT #60 (.300 BLACKOUT CASES) BY MS. ZMROCZEK	294
COURT’S RULING FINDING STATE’S EXHIBIT #60 (.300 BLACKOUT CASES) ADMISSIBLE	295
TESTIMONY	
PATRICK WARD	
Continued Direct Examination by Ms. Patterson	295
Cross-Examination by Ms. Zmroczek	319
Redirect Examination by Ms. Patterson	347
Recross-Examination by Ms. Zmroczek	351
MICHAEL HART	
Direct Examination by Ms. Patterson	354
Cross-Examination by Ms. Zmroczek	389
Redirect Examination by Ms. Patterson	435
Recross-Examination by Ms. Zmroczek	439
JENNIFER NATES	
Direct Examination by Mr. Pogue	442
Cross-Examination by Ms. Zmroczek	457
PAUL GREER	
Direct Examination by Mr. Pogue	459
Cross-Examination by Ms. Zmroczek	490
Redirect Examination by Mr. Pogue	497
ANGELINA PHILLIPS	
Direct Examination by Ms. Patterson	499
Cross-Examination by Ms. Zmroczek	517

STATE RESTS.....	521
DEFENSE’S RENEWAL OF ALL PRIOR MOTIONS AND OBJECTIONS BY MS. ZMROCZEK	522
TESTIMONY COLLOQUY WITH DEFENDANT	522
DEFENSE MOTION TO EXCLUDE DEFENDANT’S PRIOR JUVENILE ADJUDICATIONS PURSUANT TO RULE 609(D), SCRE BY MS. ZMROCZEK	523
RESPONSE BY MS. PATTERSON.....	524
COURT’S RULING FINDING EVIDENCE OF DEFENDANT’S PRIOR JUVENILE ADJUDICATIONS ADMISSIBLE	525
DEFENSE MOTION TO EXCLUDE DEFENDANT’S PRIOR JUVENILE ADJUDICATIONS PURSUANT TO RULE 403, SCRE BY MS. ZMROCZEK	530
COURT’S RULING FINDING EVIDENCE OF DEFENDANT’S PRIOR JUVENILE ADJUDICATIONS ADMISSIBLE	531
TESTIMONY	
DANIEL JONES	
Direct Examination by Ms. Zmroczek.....	534
Cross-Examination by Ms. Patterson.....	572
Redirect Examination by Ms. Zmroczek	601
Recross-Examination by Ms. Patterson	607
MELISSA PATRICK	
Direct Examination by Ms. Zmroczek.....	617
Cross-Examination by Ms. Patterson.....	622
Redirect Examination by Ms. Zmroczek	625
PATRICK WARD	
Direct Examination by Ms. Zmroczek.....	626
Cross-Examination by Ms. Patterson.....	632
Redirect Examination by Ms. Zmroczek	635
MICHAEL HART	
Direct Examination by Ms. Zmroczek.....	637
DEFENSE RESTS	642
DEFENSE RENEWAL OF ALL PRIOR MOTIONS AND OBJECTIONS BY MS. ZMROCZEK	642

DEFENSE MOTION TO PROHIBIT THE STATE FROM ARGUING INFERRED MALICE FROM THE USE OF A DEADLY WEAPON DURING CLOSING ARGUMENT BY MS. ZMROCZEK.....	644
RESPONSE BY MS. PATTERSON.....	644
COURT DENIES DEFENSE MOTION TO PROHIBIT THE STATE FROM ARGUING INFERRED MALICE FROM THE USE OF A DEADLY WEAPON.....	646
CHARGE CONFERENCE	647
DEFENSE OBJECTION TO INFERRED MALICE CHARGE PURSUANT TO <u>STATE V. BURDETTE</u> BY MS. ZMROCZEK.....	649
RESPONSE BY MS. PATTERSON.....	650
COURT OVERRULES OBJECTION TO INFERRED MALICE CHARGE	650
DEFENSE MOTION TO CHARGE LESSER INCLUDED OFFENSES OF ASSAULT AND BATTERY, FIRST, SECOND, AND THIRD DEGREE BY MS. ZMROCZEK.....	651
RESPONSE BY MS. PATTERSON	652
COURT'S RULING DENYING MOTION TO CHARGE LESSER INCLUDED OFFENSES OF ASSAULT AND BATTERY, FIRST, SECOND, AND THIRD DEGREE.....	653
DEFENSE OBJECTION TO ACCOMPLICE LIABILITY CHARGE BY MS. ZMROCZEK.....	655
COURT OVERRULES OBJECTION TO ACCOMPLICE LIABILITY CHARGE	656
DEFENSE MOTION TO CHARGE BELIEVABILITY OF DEFENDANT AND WITNESSES WITH PRIOR RECORDS BY MS. ZMROCZEK.....	660
RESPONSE BY MS. PATTERSON	661
COURT'S RULING GRANTING MOTION TO CHARGE BELIEVABILITY OF DEFENDANT AND WITNESSES WITH PRIOR RECORDS	661
STATE'S OBJECTION TO CHARGE ON BELIEVABILITY OF DEFENDANT BY MR. POGUE	662
COURT RENEWS RULING GRANTING MOTION TO CHARGE BELIEVABILITY OF DEFENDANT	663

DEFENSE’S MOTION FOR SPOILIATION CHARGE BY MS. ZMROCZEK	664
RESPONSE BY MS. PATTERSON	665
COURT’S RULING DENYING MOTION FOR SPOILIATION CHARGE	667
DEFENSE MOTION TO CHARGE LESSER INCLUDED OFFENSE OF INVOLUNTARY MANSLAUGHTER BY MS. ZMROCZEK	667
RESPONSE BY MS. PATTERSON	670
COURT’S RULING DENYING MOTION TO CHARGE LESSER INCLUDED OFFENSE OF INVOLUNTARY MANSLAUGHTER	672
COURT’S DECISION TO CHARGE SELF-DEFENSE	672
CLOSING ARGUMENT BY MS. PATTERSON	674
CLOSING ARGUMENT BY MS. ZMROCZEK	692
CLOSING ARGUMENT IN REPLY BY MS. PATTERSON	710
CHARGE ON THE LAW	716
DEFENSE RENEWAL OF MOTION TO CHARGE INVOLUNTARY MANSLAUGHTER BY MS. ZMROCZEK	733
JURY QUESTION	737
RECHARGE ON THE LAW OF MURDER	738
DEFENSE RENEWAL OF PRIOR OBJECTIONS BY MS. ZMROCZEK	740
VERDICT	741
SENTENCING	742
INDICTMENTS	744
SENTENCE SHEETS	750
CERTIFICATE OF COUNSEL	756

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
DEFENDANT’S EXHIBIT #1 (SWYGERT BODY CAM VIDEO).**

1 where we examine the inside and outside of a deceased
2 person looking for the reason why they died and based on
3 that examination we'll determine a cause and then the
4 manner of death.

5 Q. And how many autopsies have you performed at this
6 juncture of your career?

7 A. At this point, I have done over a thousand autopsies.

8 Q. And have you been qualified in court before as an
9 expert in the field of forensic pathology?

10 A. Yes.

11 Q. How many times?

12 A. At least ten.

13 MS. PATTERSON: Your Honor, at this time we move
14 that Dr. Phillips be qualified as an expert in the field
15 of forensic pathology.

16 MS. ZMROCZEK: No objection, Your Honor.

17 THE COURT: All right. Ladies and gentlemen of the
18 jury, this Court finds Dr. Phillips qualified to be an
19 expert in forensic pathology. You can give her testimony
20 the weight that you see fit.

21 Ms. Patterson.

22 MS. PATTERSON: Thank you, Your Honor.

23 (State's Exhibit Number 90 through 96 were marked
24 for identification.)

25 BY MS. PATTERSON:

1 Q. Dr. Phillips, in March of 2020, did you perform an
2 autopsy on someone named Barry Chavis, Jr.?

3 A. Yes, I did.

4 Q. And who made this request for an autopsy?

5 A. The autopsy was requested by the Lexington County
6 Coroner's Office.

7 Q. And did you make a report to note your findings?

8 A. Yes.

9 Q. And do you have your report with you?

10 A. I do.

11 Q. Okay. And what specific date did you perform the
12 autopsy on Mr. Chavis?

13 A. The autopsy was performed on the 28th of March.

14 Q. And where did this autopsy take place?

15 A. At the Medical University of South Carolina in
16 downtown Charleston in the autopsy facility that we have
17 there.

18 Q. And explain to the jury what is the first thing you do
19 when you're presented with a body to perform an autopsy?

20 A. The first thing that's done after the body is placed
21 on the table is take photographs and -- should I continue?

22 Q. Yes.

23 A. So after photographs are taken and I do a basic look
24 over the body, I'm looking to identify any evidence that
25 might be on the surface of the body that needs collection

1 prior to cleaning the body up. I also will collect
2 fingernail clippings, pulled scalp hair or any other such
3 findings that we have on the surface of the body that may
4 have evidentiary value and we collect that prior to
5 beginning the autopsy examination.

6 Q. So is this, in essence, an external examination of the
7 body?

8 A. That is the beginning of the external examination.

9 Q. And so what else further do you do during your
10 external examination of the body?

11 A. The external examination will continue with after I've
12 taken my photographs, collected my evidence that's there, I
13 will clean any blood or debris off of the body, remove the
14 clothing and examine the outside of the body looking for
15 any injuries that may be present or any natural disease
16 that may be present.

17 Q. And what, if anything, did you observe on Mr. Chavis's
18 body during your external examination?

19 A. During the external examination in this case I noted
20 that there were multiple gunshot wounds on the body and so
21 I documented those areas. The additional thing that would
22 be done for a case where there are gunshot wounds would be
23 to get x-rays.

24 Q. And did you, in fact, do x-rays on Mr. Chavis?

25 A. Yes.

1 Q. Now did you also note height and weight of Mr. Chavis?

2 A. Yes, I did.

3 Q. And what was the height that you noted?

4 A. He was 71 inches or 5-foot 11.

5 Q. And what was the weight that you noted?

6 A. The weight was 157 pounds.

7 Q. And how many -- you said multiple gunshot wounds. How
8 many gunshot wounds did you note on your report?

9 A. There were three gunshot wounds and that includes
10 multiple holes on the body.

11 Q. And on your report did you put these -- the different
12 wounds in numerical order?

13 A. I have them numbered one through three, but that's not
14 in the order they happened. That's just arbitrary.

15 Q. That's just because one has to go first?

16 A. For descriptive purposes.

17 Q. For descriptive purposes. And you said you took
18 photographs during the autopsy?

19 A. Yes, ma'am.

20 Q. And would these pictures assist you in your
21 explanation to the jury of your findings?

22 A. Yes, ma'am.

23 Q. Let's first discuss what part of Mr. Chavis's body did
24 you take x-rays?

25 A. I believe we took x-rays of the head and neck, the

1 torso and the hip, thigh region.

2 Q. Okay. And I'm gonna show you State's 92 and 94. Do
3 you recognize what I just handed you?

4 A. Yes, I do.

5 Q. And what is depicted in those images?

6 A. These are two of the x-rays that were taken at that
7 time of the autopsy which is showing the head and one
8 showing the right hip thigh region.

9 MS. PATTERSON: Your Honor, at this time we move
10 State's 92 and 94 into evidence.

11 MS. ZMROCZEK: Without objection.

12 I just didn't hear the numbers. I'm sorry.

13 MS. PATTERSON: 92 and 94.

14 MS. ZMROCZEK: Thank you.

15 THE COURT: And they're admitted.

16 (State's Exhibit Number 92 and 94, photographs,
17 were admitted into evidence.)

18 BY MS. PATTERSON:

19 Q. And, Dr. Phillips, in State's 1 -- I mean, State's 92,
20 excuse me, what, if anything, was noted on Mr. Chavis's
21 body on this picture?

22 A. So this is an x-ray of the head and it's primarily
23 showing the skull. The areas of interest would be down
24 here on the right side of his jaw. If you look at the left
25 side, it's nice and intact, you can see a straight line.

1 On this side that line's disrupted or broken apart, and
2 that's where he has some injury from one of the gunshot
3 wounds. And then there is this very bright white spot
4 right in there towards his mouth, which initially looked
5 like it would be a projectile or a bullet, that's how they
6 usually appear on x-ray, later determined to be a tooth
7 with a cap.

8 Q. And what is noted on State's 94 that was of interest
9 to you?

10 A. So this is an x-ray showing the hip joint and the
11 thigh bone and here is a fracture of that thigh bone, and
12 that's on the right side. And, again, we see these bright
13 white areas and that would be fragments of our projectile
14 that remained in the body.

15 Q. And were you able to recover those fragments that were
16 inside the body?

17 A. Yes, ma'am.

18 Q. Now on your report you indicate the first gunshot
19 wounds is to the back?

20 A. Yes.

21 Q. Before we talk about that, explain to the jury what is
22 the difference between an entrance and exit wound and how
23 you able to differentiate between the two?

24 A. Okay. So entrance and exit wounds for gunshots, the
25 quick version, when we're looking for an entrance wound it

1 tends to be round, it tends to have an abrasion or a scrape
2 along its border. As the bullet's penetrating through the
3 skin, it just scrapes and creates a round hole, and that's
4 our entrance appearance. The exit wounds tend to be more
5 slit like or a split. As the bullet's pushing its way out
6 of the body, it splits open the skin, so those tend to have
7 more of an elongated, able to push the skin back together
8 appearance, and those are two of the main features that I
9 would look at to differentiate an entrance versus exit.

10 Q. I'll show you State's 90 and 91. Do you recognize
11 what's in those images?

12 A. I do.

13 Q. And what is depicted in those images?

14 A. These are two photographs taken at the time of autopsy
15 and they show the gunshot wounds on the victim's body.

16 Q. Okay.

17 MS. PATTERSON: Your Honor, at this time we move
18 90 and 91 into evidence.

19 THE COURT: Any objection?

20 MS. ZMROCZEK: No objection. Your Honor.

21 THE COURT: They're admitted.

22 (State's Exhibit Number 90 and 91, photographs,
23 were admitted into evidence.)

24 BY MS. PATTERSON:

25 Q. And for the record, these are in black and white.

1 You normally take color pictures, right?

2 A. Yes.

3 Q. And so in State's 90 is the gunshot wound you
4 indicated as Gunshot Wound Number 1, is it depicted in
5 this photograph?

6 A. Yes, it is.

7 Q. And can you point out to the jury where?

8 A. The first gunshot wound that I had noted is a gunshot
9 wound to the right side of the back and that is up here.

10 Q. And would you have categorized that as an entrance or
11 exit wound?

12 A. That was entrance wound. It was round and had an
13 abrasion border.

14 Q. And do you always have an exit wound?

15 A. Not always.

16 Q. Okay. And did you have an exit wound with regards to
17 that entrance wound to the back?

18 A. Yes, I did.

19 Q. And can you tell us where did you determine that exit
20 wound to be?

21 A. That exit wound was on the front of the body in the
22 collarbone area on the neck.

23 Q. And is that depicted in State's 91?

24 A. Yes, it is.

25 Q. And can you point out to the jury where you determined

1 the exit wound to be?

2 A. The exit wouldn't for the gunshot wound that enters in
3 his back, is here on the right side of the neck.

4 Q. And when you are looking at entrance wounds -- first
5 of all, what is soot or stippling?

6 A. Soot or stippling is referring to materials that can
7 get deposited on the body. It's material that is coming
8 out of the end of the gun along with the bullet. Soot is
9 burnt black material. And stippling is burning material
10 that gets deposited on the skin and creates small little
11 punctate abrasions or scrapes.

12 Q. And when that is present on an entrance wound, what
13 does that indicate to you?

14 A. The presence of soot and/or stippling will give me an
15 indication of how far away the weapon is from the body.
16 Usually if I can see soot and stippling, I can tell you
17 that it's within a 12-inch range. It could be more, it
18 could be a little less. It's an estimate. If I don't
19 see soot or stippling, I cannot really give you much
20 information off of the absence of it, but when I do see
21 it I can tell you it is close range.

22 Q. And did you see soot or stippling on this particular
23 gunshot wound?

24 A. I did not.

25 Q. And can you tell us little bit about this injury?

1 A. So the injury here on the right side of his jaw, it
2 has a somewhat elongated appearance. It's not a specific
3 separate entrance and exit wound, it is one elongated
4 wound, which is more likely to be a deep graze wound of the
5 bullet going through the jaw and that is what created the
6 injury that we saw on the x-ray that dislodged his tooth.

7 Q. I'm gonna show you State's 93, 95 and 96 -- State's 93
8 and 95. Do you recognize what's in those pictures?

9 A. Yes, I do.

10 Q. And what do you recognize in those pictures?

11 A. We have pictures taken at the time of autopsy of the
12 tooth that was recovered and the fragments of projectile
13 that were recovered from the thigh.

14 Q. Okay. And these are your photographs?

15 A. Yes.

16 MS. PATTERSON: Your Honor, at this time we move
17 State's 93 and 95 into evidence.

18 MS. ZMROCZEK: No objection.

19 THE COURT: Without objection they're admitted.

20 (State's Exhibit Number 93 and 95, photographs,
21 were admitted into evidence.)

22 BY MS. PATTERSON:

23 Q. And State's 96, can you take a look at that?

24 A. This would be a representation of the diagram that I
25 created at the time of autopsy.

1 Q. And what's the purpose of you creating a diagram?

2 A. The diagram is primarily there to help me record the
3 injuries and/or any findings that I might have on the body
4 so that I can refer to it at a later point when I'm making
5 my report.

6 MS. PATTERSON: Okay. And, Your Honor, at this time
7 we move State's 96 into evidence.

8 THE COURT: Without objection?

9 MS. ZMROCZEK: Without objection.

10 THE COURT: Without objection it's admitted.

11 (State's Exhibit Number 96, an autopsy diagram, was
12 admitted into evidence.)

13 BY MS. PATTERSON:

14 Q. Now we've already looked at that x-ray. This x-ray
15 here, you said that is the tooth?

16 A. Yes.

17 Q. And you did recover that?

18 A. Yes.

19 Q. And still discussing what was indicated as Gunshot
20 Wounds Number 1, are you able to tell what type of caliber
21 of weapon may have caused that injury?

22 A. No.

23 Q. And why are you not able to give that opinion?

24 A. I don't have a projectile to evaluate. You cannot
25 really tell the caliber of a projectile based off of the

1 injuries on the body and that's primarily because of the
2 properties of skin. It's pretty stretchy to use a simple
3 word and it can stretch to large sizes with small
4 projectiles or it can rebound into a smaller hole with a
5 larger projectile.

6 Q. And given both the entrance and exit wound of Gunshot
7 Wound Number 1, can you please explain the trajectory of
8 the wound?

9 A. So the gunshot wound that enters on the right side of
10 his back exits on the right side of his neck here. We know
11 that the one on his back is an entrance wound based on its
12 appearance, nice and round, good abrasion border. The
13 wound on his neck is much larger than you would expect for
14 a normal so to speak exit wound, but because of its
15 trajectory or how it travels through the body it creates a
16 different momentum and fragments some bone and that creates
17 the larger wound as it exits, and in this case that gunshot
18 wound projectile is going from back to front upward and
19 right to left.

20 Q. Now was anything done to this wound prior to you
21 photographing it?

22 A. I cleaned the blood and debris off of it.

23 Q. And given, again, the positions of the entrance and
24 exit wound, what organs or parts of Mr. Chavis's body were
25 likely to be injured as a result of this bullet?

1 A. So as the bullet is going through the body after it
2 penetrates the skin subcutaneous tissues, tissues under the
3 skin, and the muscles of the back, it's going through the
4 chest cavity and I have documented injuries to his ribs on
5 the right side, his right lung, the right clavicle or
6 collarbone and the right sided ribs in the front and his
7 right carotid artery, which is the large vessel that takes
8 blood towards the brain. It also disrupts those muscles on
9 the right side of his neck before coming out the skin in
10 that area.

11 Q. And would the directional path of this wound be
12 consistent with someone who's 5-11 bending down when they
13 were struck versus standing up?

14 MS. ZMROCZEK: Your Honor, I'm gonna object --

15 THE COURT: What's the basis?

16 MS. ZMROCZEK: -- if she's speculating.

17 MS. PATTERSON: She's an expert.

18 THE COURT: She's an expert. She's allowed to give
19 her opinion.

20 Go ahead, Ms. Patterson.

21 BY MS. PATTERSON:

22 Q. Dr. Phillips, based on your expert opinion, would the
23 directional path of these wounds be consistent with someone
24 that's 5-11 who's bending down when they were struck?

25 A. The trajectory being upward in the body makes it more

1 likely that he had to have been bent over or twisted over
2 or the weapon had to be angled in such a way that it would
3 cause the bullet to go upward.

4 Q. And on your report you indicated that -- let me ask
5 you this first. And given the extent of the injuries
6 caused by this particular gunshot wound, would you
7 determine this wound to be fatal?

8 A. Yes.

9 Q. And the second injury noted on your report, which --
10 is it indicated in this picture what you're describing?

11 A. Yes. The second injury on my report is the graze
12 gunshot wound to the head and that is the injury we see
13 here on the jaw.

14 MS. PATTERSON: I beg the Court's indulgence.

15 BY MS. PATTERSON:

16 Q. And that was the exit wound as was presented at
17 autopsy, right?

18 A. The injury to his jaw I thought could have been
19 continuous with this exit wound on his right side of his
20 neck, but I couldn't definitively say that.

21 Q. And that's the way this exit wound looked when you
22 were presented with the body for autopsy?

23 A. Yes.

24 Q. And going back to State's 90, is the gunshot wound
25 that you indicated on your report as Gunshot Wound Number 3

1 reflected in this picture?

2 A. Yes, it is. It is this gunshot wound right here which
3 we see the rod through.

4 Q. And we've heard a little bit of testimony about
5 trajectory rods, but why do you use trajectory rods during
6 an autopsy?

7 A. I will primarily use a trajectory rod to help
8 visualize the direction that the projectile is travelling
9 through the body.

10 Q. And that's why you did it with this particular injury?

11 A. Yes.

12 Q. And based on the rod's path what, if any, parts of
13 Mr. Chavis's body were injured?

14 A. For this gunshot wound, again, it penetrated through
15 the skin, subcutaneous tissue and muscle of the region
16 being the thigh and buttock area, and as it travelled
17 through the thigh it fractured the femur, which is that
18 long bone in the thigh. I called it a comminuted fracture,
19 which is the fancy way of saying lots of small fragments,
20 as it went through and it did not exit, so I had a few
21 small projectile fragments.

22 Q. And is the injury to the femur indicated in State's 94
23 during the x-ray?

24 A. Yes.

25 Q. And, again, point out the injury or damage to

1 Mr. Chavis's femur?

2 A. So we have our fractured bone right here and the
3 bright white and paler white fragments of projectile along
4 the pathway.

5 Q. And, again, are there large blood vessels and arteries
6 around this area of the body?

7 A. Yes. The femoral arteries and veins that run through
8 the body going down towards the legs are in close proximity
9 to that long bone.

10 Q. And would this also be considered a fatal injury?

11 A. Yes.

12 Q. And just to summarize, both of the entrance wounds
13 that you noted to Mr. Chavis's body were both entered in
14 his back?

15 A. Yes.

16 Q. And what did you do with the fragments that were
17 recovered from Mr. Chavis's autopsy?

18 A. The fragments were collected, photographed, packaged
19 and submitted to any investigator that was sent there to
20 pick it up.

21 Q. Okay.

22 MS. PATTERSON: I beg the Court's indulgence.

23 BY MS. PATTERSON:

24 Q. I'll show you what's been entered as State's 24.

25 A. This is an envelope that is labeled with an autopsy

1 label and a container with the fragments that were in said
2 envelope.

3 Q. Okay. And that's what you turned over to the officer
4 from Lexington County Sheriff's Department?

5 A. Yes.

6 MS. PATTERSON: I beg the Court's indulgence.

7 BY MS. PATTERSON:

8 Q. And, Dr. Phillips, do you have an expert opinion as to
9 the cause and manner of death of Barry Chavis, Jr.?

10 A. Yes.

11 Q. And what is your opinion?

12 A. The cause of death would be the gunshot wounds to the
13 back and right buttock region. The manner of death in this
14 casework be homicide.

15 MS. PATTERSON: Thank you, Dr. Phillips. Please
16 answer any questions Ms. Zmroczek has.

17 THE COURT: Ms. Zmroczek.

18 MS. ZMROCZEK: Thank you, Your Honor. May it please
19 the Court?

20 THE COURT: Yes, ma'am.

21 CROSS-EXAMINATION

22 BY MS. ZMROCZEK:

23 Q. Okay. Good afternoon -- I'm sorry. Good afternoon,
24 Doctor.

25 A. Good afternoon.

1 Q. I just have a couple of questions for you. So you
2 listed three wounds because you couldn't say to a
3 reasonable degree of medical certainty that the -- that
4 what appeared to be an extenuating wound could have been
5 like just an extension as it was leaving, right?

6 A. Correct. I could identify three separate wounds two
7 of them appeared to be continuous, but I could not say that
8 for sure.

9 Q. Right. Right. But it was enough for you to even note
10 that because it was a close call, right?

11 A. Correct.

12 Q. Okay. And when a -- you described the femur being
13 shattered, right?

14 A. Yes.

15 Q. Okay. What happens when your femur gets shattered?

16 A. In what way?

17 Q. If you're standing up?

18 A. If you're standing up and your femur is fractured, in
19 general you tend to not remain standing up because you lose
20 the ability to utilize that extremity.

21 Q. Okay. And so you were asked about the directionality
22 of the trajectory of the bullets, right?

23 A. Yes.

24 Q. That's a lot of words. And so what we do know is that
25 bullets travel straight, right?

1 A. They mostly do.

2 Q. Unless they hit something, right?

3 A. Correct.

4 Q. Okay. So unless they hit an object big enough to make
5 it move or not, but typically they travel straight until
6 they run into something, right?

7 A. Correct.

8 Q. Okay. And so given that same hypothetical, if they
9 could be bending over, could that -- if they were on the
10 ground, would that -- would could that also be explanation
11 as to the directionality?

12 A. If the decedent was on the ground and the weapon was
13 positioned in such a way to be below him, then, yes, it's
14 possible.

15 Q. Okay. And you didn't see any soot or stippling on
16 either of the entrance wounds, right?

17 A. I did not.

18 Q. Okay. And so because you didn't see that you're not
19 able to say how far away the shooter was, correct?

20 A. Correct.

21 Q. Okay. Typically if you see soot, how far does that
22 indicate that is someone was standing?

23 A. With soot I usually think that that would be within a
24 foot or twelve inches.

25 Q. So pretty close?

1 A. It could be more or it could be less.

2 Q. Okay. But about a foot to twelve inches?

3 A. Yes.

4 Q. Okay. And then what about if you see stippling, what
5 would that indicate to you as far as closeness to the gun?

6 A. Stippling extends it out a little further. You can
7 see stippling on the body up to three feet away depending
8 on the weapon, so that would tell you that it is a close
9 to intermediate size range and it depends on how closely
10 aggregated the injuries from stippling is.

11 Q. And so if we have neither of those we have no -- then
12 we just can't speculate at all, right?

13 A. Correct. If I don't have that information, I couldn't
14 make a determination on it.

15 MS. ZMROCZEK: Thank you for being here. I have no
16 further questions.

17 THE COURT: Any redirect?

18 MS. PATTERSON: I beg the Court's indulgence.

19 No further questions, Your Honor.

20 THE COURT: May I let the doctor go then?

21 MS. PATTERSON: Yes, the State has no objection.

22 MS. ZMROCZEK: No objection from the defense.

23 THE COURT: Doctor, thank you so much for coming.

24 (Witness excused.)

25 THE COURT: Does the State want to call their next

1 witness?

2 MR. POGUE: I beg the Court's indulgence one moment.

3 MS. PATTERSON: Your Honor, may we approach?

4 THE COURT: You may.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: All right. Ms. Patterson.

7 MS. PATTERSON: Your Honor, at this time the State
8 rests.

9 THE COURT: Okay. Thank you.

10 Mr. Foreman, the State has rested, so there's some
11 matters that I need to take up with the attorneys so I'm
12 gonna ask if you'll go to the jury room. Please -- we're
13 getting close, but it's not time to talk about this case
14 just yet.

15 Let me take up these matters and I'm gonna have you
16 back in and we're going to continue to go if we can, okay?

17 FOREPERSON: Yes, ma'am.

18 (Whereupon, the jury retires to the jury room at
19 2:47 PM.)

20 THE COURT: Okay. Please be seated.

21 All right. The State has rested.

22 Ms. Zmroczek, do you have anything?

23 MS. ZMROCZEK: I do, Your Honor. The first -- I
24 have a couple of different directed verdict motions.
25 Well, I have two different ones, but I'd like to argue

1 the jury.

2 Thank you, Ms. Zmroczek. I certainly do appreciate
3 your argument.

4 MS. ZMROCZEK: Oh, and before I forget, Your Honor,
5 I would like to -- I almost forgot. I would like to
6 renew all of my previous objections, both pre-trial and
7 during the trial, which I think I've continued to do by
8 saying subject to my previous objections and so at this
9 point I just want to make sure that they are -- I did
10 renew.

11 THE COURT: And that motion's granted.

12 MS. ZMROCZEK: Thank you.

13 THE COURT: All right. Now let me talk to you,
14 Mr. Jones, because the State's rested and at this time
15 I'm gonna explain to you your rights about testifying.
16 So if you don't understand anything I say, please let me
17 know and if you want me to explain it in more detail, let
18 me know.

19 Do you understand?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. We have now reached the
22 stage of the trial where you may present your defense.
23 You have the right to claim your protections given to
24 you by the Fifth Amendment to the Constitution of the
25 United States, which states, in part, no person shall be

1 compelled in any criminal case to be a witness against
2 himself. This means that you cannot be required to
3 testify in this case. You have the right to testify on
4 your own behalf, however, no one can make you testify.
5 This is a personal right and no one can waive this right
6 except you. If you decide to testify, you will be subject
7 to the same rules that govern all the other witnesses and
8 you may be examined and cross-examined on any relevant
9 issue in this case.

10 In addition, if you have any convictions involving
11 dishonesty or false statements or for crimes punishable
12 by imprisonment for more than one year and this Court
13 determines that the probative value of admitting this
14 evidence outweighs its prejudicial affect to you, the
15 Solicitor will be able to introduce your record to attack
16 your credibility.

17 Let me ask the Solicitor, are there any convictions
18 on his record should he decide to testify that you would
19 use against him?

20 MS. PATTERSON: Yes, ma'am, Your Honor.

21 Yes, ma'am. Mr. Jones has a burglary first and a
22 petit larceny.

23 MS. ZMROCZEK: Your Honor, if I may, those are
24 adjudications from when he was fifteen years old and we
25 would argue, A, for that reason alone, they're not

1 convictions, they are adjudications, but, secondly,
2 Your Honor, burglary and petit larceny have nothing to
3 do with this case at all and any mention -- that is
4 strictly character evidence. Any mention of that, Your
5 Honor, would simply be for the -- to put his character
6 into question.

7 MS. PATTERSON: And, Your Honor, Rule 609(d)
8 specifically says evidence of a juvenile adjudication
9 is admissible under this rule if conviction of the crime
10 would be admissible to attack the credibility of an adult.

11 So clearly, Your Honor, we can use his juvenile
12 adjudications for impeachment.

13 THE COURT: What do you have say about that,
14 Ms. Zmroczek, because sure enough it does say that. It
15 specifically says evidence of a juvenile adjudication is
16 admissible if the crime would be admissible to attack his
17 credibility.

18 MS. ZMROCZEK: And, again, Your Honor, then we would
19 -- it's still subject to the same 403 analysis and so
20 that's -- that's the part that we would be focussing on.

21 THE COURT: Well, does it fall within the ten years?

22 MS. PATTERSON: Yes, ma'am. Can I unseal it or can I
23 pass up to you?

24 THE COURT: You may.

25 MS. PATTERSON: I'm pretty sure it does though, but

1 I'll just --

2 THE COURT: Was there another sentencing date?

3 Let me see the lawyers just for a second.

4 (Proceedings held at the bench; not reported.)

5 THE COURT: Okay. Mr. Jones -- oh, wait a minute.

6 Let me see the lawyers for just one second.

7 (Proceedings held at the bench; not reported.)

8 THE COURT: All right. Mr. Jones, I'm ruling --
9 you've had some it looks like family court adjudications.
10 By law those can come in, okay?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And then they presented me with some
13 documents from family court and this Court has decided
14 that the burglary first and the petit larceny can be used
15 to attack your credibility. I just want you to know that
16 because, you know, this is a very important right that I'm
17 telling you about, whether you have the right to testify,
18 and you need to know that if you take the stand they can
19 use this against you.

20 Do you understand?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. Now let me finish.

23 If you decide to testify, this decision on your part
24 must be freely, voluntarily and intelligently made with
25 the knowledge of the protections given to you by the

1 Fifth Amendment and the consequences of your decision
2 to testify. If you decide not to testify, ill instruct
3 the jurors that they cannot give the fact that you did
4 not testify any consideration whatsoever and that there
5 is to be absolutely no prejudice to you because you did
6 not testify. It is left entirely left up to you whether
7 or not you testify.

8 You may talk with your attorney, I see that you've
9 got some family and friends or anyone else, but the final
10 decision will be left entirely up to you.

11 Do you understand what I've explained to you?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And have you had the opportunity to talk
14 with your lawyer about whether you should or should not
15 testify?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you wish to talk to your lawyer some
18 more?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Okay. I'm gonna let you talk to her
21 some more. I'll tell the deputies -- I don't know what
22 family members are out, but if he needs to --

23 MS. ZMROCZEK: His mom and grandma.

24 THE COURT: His mom and grandma.

25 If you feel like you need to talk to them,

1 Mr. Jones, I'm gonna make sure that you're able to speak
2 with them.

3 Do you understand?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: It is an important decision. You get to
6 decide this one time.

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. I'm gonna give you a little bit
9 of time.

10 I'm gonna give everybody else a break and really
11 ask them to kind of leave the courtroom so they can talk.

12 Let's come back -- Ms. Zmroczek, you think about
13 fifteen minutes is good? If you need more, how about
14 just let the deputy know and they will let me know, okay?

15 MS. ZMROCZEK: Thank you.

16 THE COURT: You're welcome.

17 MS. ZMROCZEK: And, Your Honor, can his aunt also
18 stay?

19 THE COURT: The aunt can stay.

20 MS. ZMROCZEK: Thank you.

21 (Recess taken at 3:19 PM.)

22 (Back on the record at 3:49 PM.)

23 BAILIFF: Keep your seats. Court's back in session.

24 THE COURT: Okay. Mr. Jones, have you had enough
25 time to speak with your lawyer?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. Are you gonna testify or not
3 testify?

4 THE DEFENDANT: Yes, ma'am. I'm going to testify.

5 THE COURT: Okay. I'm gonna -- let me ask the State.
6 You can sit down.

7 As a matter of fact, let me see the lawyers just for
8 a second.

9 (Proceedings held at the bench; not reported.)

10 THE COURT: Okay.

11 MS. PATTERSON: I need to get the victim's family
12 in here. I apologize.

13 THE COURT: Certainly.

14 All right. Let me see, Aimee, and -- I'm sorry,
15 Ms. Zmroczek and Ms. Patterson. And you, too, Mr. Pogue.
16 I'm not gonna leave you out.

17 MR. POGUE: My feelings aren't hurt.

18 (Proceedings held at the bench; not reported.)

19 THE COURT: Okay.

20 All right. I'd like to go over these prior
21 convictions, the burg first and the petit larceny.

22 Let me hear from the State if you intend to use these
23 to attack the defendant's credibility --

24 MS. PATTERSON: Yes, ma'am.

25 THE COURT: -- so I can make a ruling on those.

1 MS. PATTERSON: It is the State's intent if
2 Mr. Jones does take the stand to impeach him on 2017
3 burglary first and petit larceny convictions, and we are
4 citing support in State v. Robinson, as well as -- and
5 although this is a juvenile adjudication, I think it's
6 609(d).

7 THE COURT: Right. I've ruled on the 609(d) because
8 I think it does come in.

9 MS. PATTERSON: Yes.

10 THE COURT: It doesn't matter whether it's a
11 juvenile adjudication, but let me ask you what is -- what
12 is the value of -- I want to hear the value of it. You
13 know, there's a case out there, Bryant, that says that
14 burglary is not probative of truthfulness.

15 MS. PATTERSON: Yes, ma'am.

16 Your Honor, prior witnesses testified and were
17 impeached regarding their credibility, their prior
18 records. If Mr. Jones testifies, Your Honor, he has
19 given -- this could perhaps be the third statement that he
20 has given. The first statement was he was not involved at
21 all and then he sent in a written synopsis of his limited
22 involvement to Detective Hart, so this perhaps can be his
23 third story that he has given regarding his actions or
24 inactions of this case, I just don't know, so it is very
25 imperative that the State be able to impeach him on his

1 credibility.

2 Credibility is -- is greatly involved in this case
3 when it comes to witnesses and his testimony, the
4 truthfulness. I mean, it's just all very relevant and
5 pertinent to this case.

6 THE COURT: Okay. Let me ask you, are you planning
7 on going into the details of this burglary first or petit
8 larceny?

9 MS. PATTERSON: I do not, Your Honor. I do not plan
10 to go into the details. It would be very limited to the
11 fact that he has a 2017 --

12 THE COURT: Conviction.

13 MS. PATTERSON: -- conviction.

14 THE COURT: Okay. Let me hear from you,
15 Ms. Zmroczek.

16 MS. ZMROCZEK: Thank you. Thank you, Your Honor.

17 I -- I would like to address a few things. One,
18 that 2006 State v. Bryant case, it's our position that
19 the burglary is not probative of his truthfulness. I
20 think that's what that case law says. Also the State
21 said well, but the other witnesses, they had their
22 burglaries come out. Not by me, Your Honor. The State
23 impeached their own witnesses. I never asked a word
24 about it. So the State put those burglaries in, not me,
25 and so -- and I didn't even mention any of that, Your

1 Honor. So I don't think that relying on that factor in
2 making your decision should matter, but I just wanted to
3 make sure that my position was placed on the record.

4 THE COURT: Okay.

5 MS. PATTERSON: And, Your Honor, just to clarify,
6 in State v. Robinson, the holding -- the fifth holding,
7 credibility of the defendant and other witnesses was
8 central to the case as a factor in determining
9 admissibility of prior convictions for impeachment
10 purposes, and that's simply why I stated that with regards
11 to the them.

12 THE COURT: Okay.

13 All right. Well, I think it's the Court's job to
14 weigh the probative value of the prior convictions against
15 the prejudicial effect of the accused. In this case, I
16 think the impeachment value is -- from what this Court
17 has heard, I've heard several different statements from
18 several different witnesses, and it appears that all of
19 them have a different story so to speak. So I think that
20 the impeachment value is great in this case.

21 The point in time of the conviction itself. It's a
22 2017 conviction. It's somewhat close in time. Also the
23 similarity I've considered between the past crime of the
24 burg first and the charged crime, which is the murder,
25 the ABHAN --

1 MS. ZMROCZEK: Possession of a weapon.

2 THE COURT: -- and possession of a weapon.

3 Thank you.

4 MS. ZMROCZEK: You're welcome.

5 THE COURT: Really there's not a lot of similarity
6 there, therefore, the less prejudicial it is to the
7 defendant. The importance of the defendant's testimony,
8 it's very important. Again, he's given three statements.
9 This is --

10 MS. ZMROCZEK: Your Honor, he has not given three
11 statements, he's only given two, just so the record's
12 clear.

13 THE COURT: Okay. I'm sorry.

14 MS. ZMROCZEK: That's okay.

15 THE COURT: Two statements. And then I think there
16 was some other statements by the other witnesses to that
17 were kind of conflicting. So I think his testimony is
18 very important in this case and I think his credibility
19 revolves right around it. So I'm gonna allow for those
20 reasons the burglary first and the petit larceny.

21 Again, Ms. Patterson, you tell the Court that it's
22 in a very limited aspect that you're using it. You're
23 using it just for the conviction purposes to let the
24 jury know is my understanding, so it kind of clean.
25 We're not going into any details of any of his prior

1 history other than he has these convictions; is that
2 correct?

3 MS. PATTERSON: Yes, ma'am. That's correct.

4 THE COURT: Okay. Then I'm gonna allow it.

5 MS. ZMROCZEK: And, Your Honor, I know just because
6 I deal with appellate defense, I just want to note my
7 objection for the record and then when I renew, that that
8 will be included, so.

9 THE COURT: It's noted.

10 THE COURT: I'm just telling you I've read the
11 Robinson case, the Bryant case, the Burdette case, and
12 I've considered all of the case law -- relevant case law
13 that this Court has found, and I'm allowing it.

14 Now have I covered everything? With your client
15 testifying, I believe that you're putting up a defense?

16 MS. ZMROCZEK: I am, Your Honor.

17 THE COURT: So let me ask, are you ready to call
18 your witnesses?

19 MS. ZMROCZEK: Your Honor, I am. I actually just
20 saw another witness. I didn't know which one it was, but
21 he had a uniform on, but right at this time I'm ready to
22 call six witnesses and they're here and ready to go and
23 possibly a seventh. I just don't know how long.

24 THE COURT: Okay. Is the State ready?

25 MS. PATTERSON: The State is ready, Your Honor.

1 your first witness?

2 MS. ZMROCZEK: We are prepared to call our first
3 witness, Your Honor.

4 THE COURT: You may call them.

5 MS. ZMROCZEK: Thank you.

6 The defense calls Daniel Jones.

7 (Whereupon, Daniel Taylor Jones was duly sworn by
8 the Clerk of Court.)

9 THE CLERK: Please take a seat in the witness box.
10 State your full name and spell your last for the record.

11 THE DEFENDANT: Daniel Taylor Jones.

12 DANIEL TAYLOR JONES,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. ZMROCZEK:

16 Q. Mr. Jones, how old are you?

17 A. I'm twenty-two years old.

18 Q. And on March 27th of 2020, how old were you?

19 A. Eighteen years old.

20 Q. And in 2017, how old were you?

21 A. Sixteen years old.

22 Q. Okay. And let's just go ahead and get this out of
23 the way. You had convictions from 2017; is that right?

24 A. Yes, ma'am.

25 Q. And were those for simple possession of marijuana,

1 possession of a pistol by an unlawful person because you
2 were under eighteen, petit larceny and burglary first?

3 A. Yes, ma'am.

4 Q. Does that sound about right?

5 A. Yes, ma'am.

6 Q. Okay. Daniel, where -- where do you live?

7 A. Right now, currently in Lexington County Detention
8 Center.

9 Q. Okay. And obviously you know why we're here, right?

10 A. Yes, ma'am.

11 Q. Okay. And so we're just gonna jump right into it and
12 start talking about March 27th of 2020, okay?

13 A. Yes, ma'am.

14 Q. And so I want you to -- first of all, what did you do
15 that day?

16 A. Well, I woke up. I was at my Uncle Darrell's farm in
17 Neeses, South Carolina, and shortly after I woke up I went
18 to my grandmother's house -- no. Sorry. I went to my
19 cousin Heath's house.

20 Q. Your cousin Heath?

21 A. Yeah.

22 Q. Okay.

23 A. Went to my cousin Heath's house and got dropped off
24 there, was talking to him for a little bit and hanging out.

25 Q. And then do you know about what time that was?

- 1 A. 3:00, 4:00 in the afternoon.
- 2 Q. Okay. And then what did you do next?
- 3 A. I went to my grandmother's house.
- 4 Q. All right. And once you were at your grandmother's
- 5 house, did you go anywhere else?
- 6 A. Yes, ma'am.
- 7 Q. Okay. How did you --
- 8 A. After I went to my grandmother's house?
- 9 Q. Uh-huh.
- 10 A. Yes, ma'am.
- 11 Q. After you were finished at your grandmother's house,
- 12 how did you leave your grandmother's house?
- 13 A. With Chris.
- 14 Q. And when we say Chris, are we talking about Chris
- 15 Shumpert?
- 16 A. Yes, ma'am.
- 17 Q. And how long have you known Chris Shumpert?
- 18 A. I've known him since I was about thirteen, fourteen
- 19 years old.
- 20 Q. Okay. What kind of friends were you-all?
- 21 A. We were pretty close. Like best friends almost.
- 22 Q. We've seen video that he came to your step-dad. Did
- 23 he know your family?
- 24 A. Yes, ma'am.
- 25 Q. Okay. Did you know his girlfriend?

- 1 A. Yes, ma'am.
- 2 Q. What was her name?
- 3 A. Jacqueline Aiken.
- 4 Q. And how did you know her?
- 5 A. Through Chris.
- 6 Q. Okay. And then did you know any of the other people
- 7 that we've seen? Did you know Steven Phillips?
- 8 A. Yes, ma'am.
- 9 Q. How long have you known him?
- 10 A. I've known him since I was about fourteen, fifteen
- 11 years old.
- 12 Q. Okay. Did you know Todd Sarvis?
- 13 A. Yes, ma'am.
- 14 Q. Did he -- how did you know him as?
- 15 A. From hanging around at Treemount.
- 16 Q. Okay. Did you know Jada Ellison?
- 17 A. Yes, ma'am.
- 18 Q. How did you know her?
- 19 A. Through everybody that I hung around.
- 20 Q. Okay. And did you know David, Bubba? David Peyton?
- 21 A. Yes, ma'am.
- 22 Q. How did you know him?
- 23 A. From going to school and hanging around everybody.
- 24 Q. Okay. And, B.J., how did you know him?
- 25 A. From riding dirt bikes with him and hanging out with

1 him and getting high with him.

2 Q. Okay. And when I say B.J., I'm talking about -- when
3 I say B.J., what does that mean to you?

4 A. Barry Joe Chavis, Jr.

5 Q. Okay. And you said riding dirt bikes. Is that
6 something that you liked to do?

7 A. Yes, ma'am.

8 Q. And why is that important to B.J.?

9 A. Ma'am.

10 Q. Did B.J. do anything special with dirt bikes?

11 A. Yeah, he worked on them and solded them and traded
12 them and stuff like that. Yes, ma'am.

13 Q. Okay. Now all of those people, including yourself,
14 so you Steven, Todd, Jacqueline, Jada, Bubba and B.J., did
15 you-all do anything else -- have anything else in common?

16 A. Yes, ma'am.

17 Q. And what was that?

18 A. Getting high.

19 Q. Getting high?

20 A. Yes, ma'am.

21 Q. And on what drugs?

22 A. Methamphetamines.

23 Q. When's the last time you used the methamphetamines?

24 A. About four years ago.

25 Q. Okay. So you leave -- sorry to interrupt, but I just

1 wanted to make sure we understood how you knew everybody.
2 So you leave your grandma's because Chris and Jacqueline
3 picked you up?

4 A. Yes, ma'am.

5 Q. All right. And when they got there, you can't tell
6 me what anybody else, okay, but after -- did you -- you
7 had a -- without telling me what they said, did you have a
8 conversation with either of them or both of them?

9 A. Yes, ma'am.

10 Q. And what was it, either or both?

11 A. With both of them.

12 Q. Okay. And after you had that conversation -- and let
13 me ask you this. What was Chris's demeanor like when you
14 were having conversations with him at your grandma's house?

15 A. He pulled up. He was a little upset. He was crying a
16 little bit and --

17 Q. Okay. And what was Jacquelin's reaction? Or sorry,
18 demeanor. Not reaction, demeanor.

19 A. She was a little upset and crying little bit.

20 Q. Okay. When your friends are upset, is there -- how
21 would you interact with your friends when they were upset?

22 A. Try to help them out, lift them up.

23 Q. All right. And so as a result of seeing your friends
24 upset, where -- did you go anywhere after that?

25 A. Yes, ma'am.

1 Q. Where did you go?

2 A. We went to B.J.'s house.

3 Q. All right. And so you're at your -- you're at your
4 grandma's house and that's at [REDACTED] Bachman?

5 A. Yes, ma'am.

6 Q. And you went to B.J.'s house and where did he live?

7 A. Right there off of Fish Hatchery Road.

8 Q. All right. And who was driving?

9 A. Chris.

10 Q. Did you bring anything with you?

11 A. Yes, ma'am.

12 Q. What did you bring?

13 A. An AR-15 and an FN-9.

14 Q. Why did you bring those?

15 A. Because they told me that they had already been --

16 MS. PATTERSON: Objection. Hearsay.

17 MS. ZMROCZEK: You can't say what they're saying.

18 THE COURT: You can't testify to what somebody else
19 told you, okay?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: All right.

22 BY MS. ZMROCZEK:

23 Q. Let me -- and that was a poor question on my part.

24 Let me ask it this way. As a result of that conversation,
25 is that why you got the guns?

1 A. Yes, ma'am.

2 Q. Okay. And so what was your intention with the guns?
3 Your intention.

4 A. My intentions was that people that was there at the
5 house, I knew they was there and I knew that they probably
6 had guns, too, and my intentions for going over there was
7 to help them get the money back because they told me they
8 had got their money taken and they didn't have no money
9 left.

10 Q. Okay. And so you say the people that was there or
11 were there, excuse me, probably had guns. Who did you know
12 amongst your friends to have guns? Certainly you did,
13 right?

14 A. Yes, ma'am.

15 Q. All right. Who else?

16 MS. PATTERSON: Objection. Speculation.

17 MS. ZMROCZEK: No, if he -- he can answer if he knows,
18 right?

19 THE COURT: Let me see the lawyers just for a second.

20 (Proceedings held at the bench; not reported.)

21 BY MS. ZMROCZEK:

22 Q. Let me ask you this. Before Chris and Jacqueline came
23 to pick you up, had you seen any of your other friends that
24 day?

25 A. No, ma'am.

1 Q. How many days, weeks or months before that had you
2 seen Jada? I don't want to group them all together. Did
3 you see them together or separately?

4 A. Together.

5 Q. And how -- when was that?

6 A. Hanging around B.J.'s house.

7 Q. Right. When? Like -- and I'm sorry. When I say
8 when, in relation to March 27th of 2020, like how many
9 days, weeks or months or years before that?

10 A. It wasn't long. Maybe a couple -- a week or two.

11 Q. Okay. And you said when you saw them they were all at
12 B.J.'s?

13 A. Yes, ma'am.

14 Q. And you were there as well?

15 A. Yes, ma'am.

16 Q. And what was everybody doing?

17 A. Hanging out, getting high.

18 Q. Okay. And at that point did anybody have a weapon?

19 MS. PATTERSON: Objection. Relevance.

20 (Proceedings held at the bench; not reported.)

21 THE COURT: All right. Ms. Zmroczek, let's move on.

22 MS. ZMROCZEK: Thank you.

23 BY MS. ZMROCZEK:

24 Q. So how often --

25 MS. ZMROCZEK: Your Honor, I think the white noise

1 is still playing.

2 THE COURT: Oh, I'm sorry.

3 MS. ZMROCZEK: That's okay.

4 BY MS. ZMROCZEK:

5 Q. How often did you-all hang out as a group?

6 A. A lot.

7 Q. Okay. And were you working at the time?

8 A. No, ma'am, I wasn't.

9 Q. Okay. What kinds of things did you enjoy doing?

10 A. Hunting, fishing, riding dirt bikes, hanging out with
11 everybody, getting high.

12 Q. Okay. How -- how old were you when you started
13 hunting?

14 A. Seven, eight years old.

15 Q. Okay. Are you familiar with guns?

16 A. Yes, ma'am.

17 Q. Okay. You said that you -- you had relatives in
18 Neeses that had a farm?

19 A. Yes, ma'am.

20 Q. Okay. Did you ever -- what did you use your guns for?

21 A. Shooting and hunting, target practice.

22 Q. Okay. And so I want to go back again to this date,
23 and I'll try to quit jumping around, but who was driving
24 when Chris and Jacqueline picked you up?

25 A. Chris.

1 Q. All right. And where -- did you get in the vehicle?

2 A. Yes, ma'am.

3 Q. Okay. Where were you sitting?

4 A. In the front seat. Passenger seat.

5 Q. Okay. In the front passenger seat?

6 A. Yes, ma'am.

7 Q. And was Jacqueline in the car?

8 A. Yes, ma'am.

9 Q. Okay. Where did you-all go?

10 A. We was on -- we went to B.J.'s house.

11 Q. Okay. How did you get to B.J.'s house?

12 A. Riding in the car with Chris and Jacqueline.

13 Q. Again, terrible question. What route, directions?

14 How did you get there from --

15 A. We left from grandmother's house, we then turned on
16 Glenn Road, went all the way down Glenn Road, onto Busby
17 Road and then turned from Busby to Fish Hatchery and went
18 all the way up to Ponderosa Mobile Home Park.

19 Q. Okay. And was Jacqueline with you when you got to
20 Fish Hatchery?

21 A. Yes, ma'am.

22 Q. Okay. And where was she?

23 A. She was in the back seat.

24 Q. You -- so tell the jury what happened and -- what was
25 your intention? What was your intention when you went

1 there?

2 A. My intention when I went there was to get the money
3 back that my friends told me that they had lost and they
4 didn't have their money back, they didn't get their money
5 and they were staying there prior to that day. They told
6 me they had belongings there and they needed to get their
7 belongings back.

8 Q. Okay. And were you gonna do it in a -- how were you
9 gonna do it? Were you gonna -- just tell me how were gonna
10 do it.

11 A. When we got there, this is how I was gonna do it. I
12 was gonna talk to them like a regular person.

13 Q. Is that something that you did with them? I mean,
14 were you able to reason with people?

15 A. Yes, ma'am.

16 Q. Okay. Was -- were you mad?

17 A. No, I wasn't mad.

18 Q. Was Chris mad?

19 A. No, he wasn't mad.

20 Q. Okay. So they had asked -- strike that because I
21 can't ask you what other people asked. Did you have --
22 strike that. What happened when you got there?

23 A. When I got there to B.J.'s house, I got out of the car
24 and I told B.J. -- well, before I got the out the car I
25 told B.J. to come here and he told me to get out the car,

1 so I got out of the vehicle and I started talking to him
2 and while I started talking to him David, Steven -- David,
3 Steven, Bubba and Jada all ran out the house and Jada
4 ran up on me and was screaming and yelling at me and her
5 boyfriend David was at the steps of the porch yelling at
6 me and screaming and he had gun in his hand waving his gun
7 in the air.

8 Q. Well, where was your gun?

9 A. Inside the car.

10 Q. Okay.

11 A. Continue?

12 Q. Yeah.

13 A. All right. So they was yelling and screaming at me.
14 While all this was happening Chris got out of the car and
15 started arguing with B.J. They all started arguing and
16 when Jada ran up, she was screaming and yelling at me and
17 her boyfriend was in the back waving his gun and yelling
18 and they all was threatening me, we was all threatening
19 each other, you know.

20 Q. So was it a good situation?

21 A. No, it was not a good situation.

22 Q. Okay. When you went there, did you intend be for it
23 to be a bad situation?

24 A. No, ma'am.

25 Q. Okay. So when you got there and everybody started

1 yelling, how did that make you feel?

2 A. It made me feel kind of like fearful of my well-being
3 and myself.

4 Q. Why is that?

5 A. Because they was threatening me.

6 Q. Uh-huh. And what was B.J.'s demeanor when you -- you
7 said when you pulled up you asked him to come to the car?

8 A. Yes, ma'am.

9 Q. And what was his demeanor? What did you notice about
10 him?

11 A. He was kind of -- a little angry a little bit, kind of
12 hostile voice.

13 Q. Okay. And had you seen him like that before?

14 A. Yes, ma'am.

15 Q. And when was that?

16 A. Weeks, months before this.

17 Q. I'm sorry?

18 A. Weeks, months before this.

19 Q. Okay.

20 A. I hung around with him all the time.

21 Q. I'm sorry?

22 A. I hung around with him all the time.

23 Q. You hung around with him all the time? And so was he
24 always angry?

25 A. Not always. Sometimes.

1 Q. Okay. And let me ask you, at that point did you have
2 knowledge of what had happened previous that day? Don't
3 say if anybody told you. I'm just asking you if you had
4 knowledge at that time of what happened on Treemount.

5 A. Yes, ma'am.

6 Q. Okay. And so when you called B.J. over to the car,
7 what were -- what else did you -- did you say anything to
8 him?

9 A. Yes, ma'am. I started to talking to him and asking
10 him why they beat the girl up and why did he shoot at Chris
11 earlier and I was asking him if we can get the money and
12 the belongings back that belonged to them.

13 Q. Okay. And what, if anything, did you do after -- you
14 said he and Chris started raising their voices?

15 A. Yes, ma'am.

16 Q. Okay. And so what did you do at that time?

17 A. At that time everybody was screaming and yelling and
18 there was guns. David was yelling, Steven was yelling,
19 Jada was yelling, Chris was jelling, B.J. was yelling. I
20 was yelling, too. We all was yelling at each other. And
21 during this situation I grabbed the AR out the car.

22 Q. And why were you yelling? Were you yelling mad or
23 were -- what was your intention when you were yelling?
24 Were you trying to -- what were you trying to do?

25 A. I was telling them all to just chill out.

1 Q. Okay. And so -- and the amount of time that this
2 happened was -- how much time was it? A lot of time, a
3 little time? If you remember.

4 A. About four or five minutes.

5 Q. Okay. And so everybody's yelling at this point and
6 you said you were trying to tell everybody to chill out?

7 A. Yes, ma'am.

8 Q. And so then what happened next?

9 A. So I get the AR out of the car and we're all yelling,
10 everybody's yelling. I turned to the side and look and I
11 see Chris reaching -- not Chris, I seen B.J. reaching on
12 his waistline and then I heard gunshots and I started
13 shooting my weapons.

14 Q. Okay. And now when you got the AR out of the car, who
15 all was armed at that point?

16 A. David and B.J. and Chris.

17 Q. Okay. And you say that David -- who all came out of
18 the house, because I don't want to put words in your mouth,
19 when you-all drove up?

20 A. Steven, David and Jada.

21 Q. Okay. Did you see any other people there?

22 A. Yes, ma'am.

23 Q. Who else?

24 A. Today Sarvis, Kevin Kimbler.

25 Q. Okay. And you knew all those people as well?

1 A. Yes, ma'am.

2 Q. Okay. And did you see anybody else there at that
3 time?

4 A. No, ma'am. I didn't.

5 Q. Okay. And so who -- do you know who fired the first
6 shot?

7 A. It was kind of hard.

8 Q. Okay.

9 A. It was kind of hard to say who fired the first shot.

10 Q. Was it you?

11 A. No, ma'am.

12 Q. Okay. And what happened -- what was your reaction
13 when you heard that first shot?

14 A. When I heard the first shot, the first thing that come
15 to my mind was my own life, so I started shooting the AR.

16 Q. Okay. Were you shooting -- where were you shooting
17 it?

18 A. I was shooting it towards the ground.

19 Q. Why were you shooting it towards the ground?

20 A. Because I was just scared.

21 Q. Okay. And what did you think shooting it towards the
22 ground would do?

23 A. Just help me out.

24 Q. Okay. At that point when people are starting to
25 shoot, what did you want to do?

1 A. Leave.

2 Q. All right. The -- you said you wanted to leave, so
3 did you leave?

4 A. Yes, ma'am. We did leave.

5 Q. All right. How many times did you shoot and from
6 where?

7 A. I shot eight times standing right beside the passenger
8 side door of Christopher's car.

9 Q. And where were you aiming?

10 A. Towards the ground.

11 Q. Okay. And were you aware what anybody else was doing
12 at that point?

13 A. Screaming and yelling and shots went off.

14 Q. Okay. And so how long were you there before you got
15 in the car and before -- were you still in the passenger
16 seat at this point? Did you get back in the passenger
17 seat?

18 A. Yes, ma'am.

19 Q. Okay. And who got in the driver's seat?

20 A. Christopher.

21 Q. Okay. Let me ask you this. Did Jacqueline ever get
22 out of the car?

23 A. Yes, ma'am.

24 Q. Okay. And where -- where was she?

25 A. She got out right there on the dirt road.

1 Q. Okay. So does every -- who gets back in the car?

2 A. After the incident happened?

3 Q. Uh-huh.

4 A. Me and Christopher.

5 Q. Okay. And so where was Jacqueline at this point?

6 A. On the dirt road.

7 Q. Okay. And did she get back in the car?

8 A. Yes, ma'am.

9 Q. Okay. Where did she get in the car?

10 A. At the dirt road.

11 Q. I meant where in the car did she go. I'm sorry.

12 A. In the back seat.

13 Q. Okay. And where did you-all go?

14 A. We went to my mother's house.

15 Q. Okay. Which is on -- which is located where?

16 A. [REDACTED] Earline Drive.

17 Q. When you got there, and we've seen the video, is that
18 you in the video?

19 A. Yes, ma'am.

20 Q. And is that your gun in the video?

21 A. Yes, ma'am.

22 Q. And where did you put it?

23 A. I put it behind the bass boat.

24 Q. And why did you do that?

25 A. Because the situation that just happened, I really

1 didn't know how to handle the situation.

2 Q. And how old you were you?

3 A. Eighteen.

4 Q. Okay. What was going on in your mind?

5 A. A lot was going on because a lot just happened.

6 Q. Okay. And how did that make you feel?

7 A. Worried, scared.

8 Q. Okay. So when you got back to your mom's on -- how do
9 you say it? Earline?

10 A. Earline Drive.

11 Q. Okay. When you got back to Earline Drive, did you
12 leave with -- did anybody leave? Did you leave with Chris
13 and Jada -- or Jacqueline? I keep getting those confused.

14 A. Yes, ma'am. Yes, ma'am.

15 Q. Did you leave with them or did they leave without you?

16 A. I left with them.

17 Q. Okay. And when they pulled out of the -- did you get
18 back in the car or how did you leave with them?

19 A. I got back into the car. I think I got into the back
20 seat.

21 Q. Okay. And was it in the driveway or was it -- was it
22 behind -- after you were behind the barn? When did you get
23 back in the car is my question?

24 A. After I put the AR behind the bass boat, then I
25 proceeded to get back in the car.

1 Q. Back there behind there?

2 A. Yes, ma'am.

3 Q. Okay. And so you -- where did you-all go?

4 A. We went to Heath Short's house.

5 Q. And who is Heath Short?

6 A. My cousin.

7 Q. Okay. Why did you go there?

8 A. Because I was very scared and worried and I told him
9 what had just happened and I gave him the pistol and told
10 him to put it up, that I did not want it no more.

11 Q. Okay. Because you didn't want it no more, is that
12 what you said?

13 A. Yes, ma'am.

14 Q. Okay. Did you -- why didn't you call the police?

15 A. I don't really trust the police at all. We was never
16 the type of people to call the police.

17 Q. Okay. When you -- so who was with you at Heath's
18 house?

19 A. Me, Heath, my uncle Darrell, Heath's wife and his
20 kids.

21 Q. Okay. And where were Chris and Jacqueline?

22 A. They was there for a few minutes then they had left.

23 Q. Okay. Do you know where they went? I mean, I know
24 you know now, but at that time did you know where they were
25 going?

1 A. No, ma'am. I did not know.

2 Q. Okay. And so did you stay at your -- at Heath's
3 house?

4 A. No, ma'am.

5 Q. Okay. Where did you go next?

6 A. So I was sitting there at Heath's house and he got a
7 phone call from my grandmother saying that the cops was
8 looking for me, so I told him that I would go to my
9 grandmother's house and told the cops that I was there.

10 Q. Okay. So you knew that the police were looking for
11 you?

12 A. Yes, ma'am.

13 Q. And you told them where you were gonna be?

14 A. Yes, ma'am.

15 Q. Okay. And so you went to your grandmother's house and
16 who showed up?

17 A. The police.

18 Q. All right. Now I want to talk about that for a little
19 bit. So the police show up. How many -- about how long
20 afterwards?

21 A. I was there probably four or five minutes.

22 Q. Okay. And did they speak to you?

23 A. Yes, ma'am.

24 Q. Did you tell them what happened?

25 A. No, ma'am. I did not.

1 Q. You didn't tell them what happened?

2 A. No, ma'am.

3 Q. Well, why not?

4 A. Because I was worried, scared. Really didn't know
5 what I was supposed to do. I didn't want to tell them
6 anything.

7 Q. Okay. Let me ask you this. When you were firing
8 those shots like you said into the ground, at that point
9 did you see anybody -- and I want you to put yourself back
10 on that day, okay? Not -- throw away what you know now,
11 but on that day when you pulled out of the driveway in
12 the passenger seat, what did you know about anybody's
13 condition?

14 A. Nothing.

15 Q. Okay. So you -- I'm trying to make sure I don't ask
16 the same question twice. So you're at your grandmother's.
17 The police come talk to you, right?

18 A. Yes, ma'am.

19 Q. And you told them a lie?

20 A. Yes, ma'am.

21 Q. Now which police? Who was there, if you know? How
22 many police were there?

23 A. A few. It was a good many.

24 Q. Okay. And what did they have with them? Did they --
25 how did they appear to you?

1 A. Well, when they pulled up, they got out with guns
2 and they were just talking through the intercom thing and
3 telling me to get on the ground.

4 Q. And did you?

5 A. Yes, ma'am.

6 Q. You complied?

7 A. Yes, ma'am.

8 Q. And after you were on the ground, what did -- what
9 happened to you?

10 A. They put me in handcuffs.

11 Q. All right. And at that point did you speak with any
12 officers?

13 A. Yes, ma'am. I did.

14 Q. Okay. Who did you speak to first, if you remember?

15 A. The officer that read the Miranda rights to me, I
16 spoke to him first.

17 Q. Okay. And so -- and he read you your Miranda rights,
18 right?

19 A. Yes, ma'am.

20 Q. Did you know -- did you have your own personal
21 knowledge of what had happened at that point?

22 A. At the incident?

23 Q. Yes.

24 A. Like with the shooting taking place?

25 Q. Right.

1 A. Yes, ma'am. I did.

2 Q. No. I mean, like did you know if anybody had gotten
3 hurt at that point?

4 A. No, ma'am. I did not know.

5 Q. Okay. So when did you first learn that somebody was
6 hurt?

7 A. When Detective Brock was talking to me.

8 Q. Okay. And so Detective Brock -- was it just Detective
9 Brock or was it --

10 A. Mr. Hart.

11 Q. Investigator Hart right here?

12 A. Yes, ma'am.

13 Q. Okay. So where were Investigator Hart and
14 Investigator Brock talking to you?

15 A. Inside the county truck.

16 Q. Okay. And where -- where was everybody seated?

17 A. Detective Hart was in the driver's seat, I was in the
18 passenger seat and Brock was in the back seat.

19 Q. Okay. And did you tell them the truth at that time?

20 A. No, ma'am. I did not.

21 Q. Okay. And -- I guess that's really -- the
22 continuation. So you -- they were asking you questions?
23 Don't say what they were asking you, but were they asking
24 you questions?

25 A. Yes, ma'am. They were. Yes, ma'am.

1 Q. Okay. And you didn't tell them the truth?

2 A. No, ma'am, I didn't.

3 Q. All right. So did you know where Chris was at that
4 time?

5 A. No, ma'am. I did not.

6 Q. Okay. After -- did anything happen in the vehicle?

7 A. Yes, ma'am.

8 Q. Okay. So tell the jury about what happened.

9 A. So I was talking to the detective and they was asking
10 me questions and did I know Chris or see them that day.

11 Q. Remember, you can't say what people said.

12 A. All right. I told them that I seen -- I didn't see
13 Chris that day and I didn't know where he was.

14 Q. Okay. Why did you lie?

15 A. Because I didn't want to tell them anything. I was
16 scared and nervous.

17 Q. Okay. And so after you told them that you hadn't seen
18 Chris that day and that you were out of town, what happened
19 next?

20 A. They started getting upset with me and telling me to
21 answer their F'ing questions and it got to the point where
22 I told them to let me out of the truck, that I didn't want
23 to talk to them no more to them at all, and the detective
24 -- while I was talking to them and yelling -- they was
25 yelling at me, the man put his hands on my throat and

1 started choking me.

2 Q. Who was that?

3 A. Detective Brock.

4 Q. He put his hands on your throat?

5 A. Yes, ma'am.

6 Q. And started choking you?

7 A. Yes, ma'am.

8 Q. Well, why did he do that? Do you go after him?

9 A. No, ma'am.

10 Q. Well, do you have any idea why he did that?

11 A. Yes, ma'am. Because he said that I turned around --

12 Q. Remember, you can't say what somebody said. I'm
13 sorry.

14 A. Yes, ma'am.

15 Q. Okay.

16 A. He --

17 Q. Remember, you can't say what they said. But you had
18 an understanding that he was -- was he happy with you?

19 A. No, he wasn't. He was upset.

20 Q. Okay. Do you remember which vehicle were you in?

21 A. Yes. A silver pick-up truck.

22 Q. A silver pick-up truck?

23 A. Yes, ma'am.

24 Q. All right. After he choked you, were you still in the
25 truck?

1 A. Yes, ma'am.

2 Q. And then -- and then what happened?

3 A. They finally let me out of the truck and put me into
4 the deputy's vehicle.

5 Q. Okay. And they put you in the deputy's vehicle?

6 A. Yes, ma'am.

7 Q. And where were your hands at this point?

8 A. They were behind my back.

9 Q. In handcuffs still?

10 A. Yes, ma'am.

11 Q. All right. And so he puts you in the -- he puts you
12 in which deputy's truck?

13 A. I think it was the guy that got up here the other day.

14 Q. The first one?

15 A. Yes, ma'am.

16 Q. Okay. You don't remember his name?

17 A. No, ma'am.

18 Q. That's okay. Were you just upset because they were
19 arresting you for murder?

20 A. Yes, ma'am. They told me I had a murder charge and
21 I really couldn't believe it.

22 Q. Why couldn't you believe it?

23 A. Because I wasn't trying to kill or shoot nobody.

24 Q. Okay. So let me ask you this, Daniel. Do you suffer
25 from any -- do you have any mental health problems?

1 A. Yes, ma'am.

2 Q. And what kind?

3 A. Manic depression and stuff of that nature.

4 Q. Okay. Did you tell anybody about that?

5 A. Yes, ma'am.

6 Q. And what happens or what is it that -- what happens
7 when you get an episode?

8 A. I can be irate, start freaking out and yelling and
9 screaming.

10 Q. All right. Do you take medication for that?

11 A. Yes, ma'am.

12 Q. All right. So what happened in Investigator Swygert's
13 truck?

14 A. That's the guy's truck that I got in?

15 Q. Yes.

16 A. I busted -- he threatened me in the front seat of his
17 -- he was in the front seat and I was in the back seat and
18 he threatened me and told me I was a piece of -- and told
19 me I wasn't worth nothing and he was threatening me, told
20 me -- I can't remember everything that he said, but he was
21 threatening me?

22 Q. And how did that make you feel?

23 A. Upset.

24 Q. All right. So what did you do?

25 A. Started screaming and yelling and I busted my head

1 open.

2 Q. You busted your head open?

3 A. Yes, ma'am.

4 Q. All right. What did you bust your head open on?

5 A. The front window thing that sits right there between
6 me and him.

7 Q. Are you still in handcuffs at this point?

8 A. Yes, ma'am.

9 Q. And after you busted your head open, was it bleeding?

10 A. Yes, ma'am.

11 Q. A little --

12 A. Yes, ma'am.

13 Q. -- or a lot?

14 A. Oh, it was bleeding a lot. It was all over the place.

15 Q. Was it all over Investigator Swygert's car?

16 A. Yes, ma'am.

17 Q. Were you -- what, if anything, were you -- were you
18 being nice at that point to Investigator Swygert?

19 A. No, ma'am. I wasn't.

20 Q. Okay. Was he being nice back?

21 A. No, ma'am.

22 Q. Okay. You had gotten blood all over his car, right?

23 A. Yes, ma'am.

24 Q. Okay. How long were you in that vehicle with -- and
25 you said you did it to yourself, but how long were you in

1 that vehicle with blood? Do you know?

2 A. A good thirty, forty minutes.

3 Q. Okay. What happened after about thirty or forty
4 minutes?

5 A. They finally opened up the door to the car and I
6 didn't know what the EMS people had gave me, they had gave
7 me something called ketamine and it had made me -- put me
8 out cold. Like I couldn't remember nothing.

9 Q. So they had called EMS?

10 A. Yes, ma'am.

11 Q. And when they opened up the door, did you get out
12 willingly?

13 A. I --

14 Q. Do you remember?

15 A. I can't -- I'm not gonna lie because I'm on the stand,
16 so I do not remember.

17 Q. Well, let me ask you this. When you -- so you get out
18 of the -- so you don't know because you don't remember?

19 A. Yes, ma'am.

20 Q. But you said that you do remember that EMS injected
21 you with ketamine?

22 A. Yes, ma'am.

23 Q. All right. And then where did you wake up after that?

24 A. I woke up in the hospital.

25 Q. Okay. And who was there with you?

- 1 A. Two deputies.
- 2 Q. Okay. Do you know who they were?
- 3 A. No, ma'am.
- 4 Q. Okay. Male, female?
- 5 A. A male and a female. Yes, ma'am.
- 6 Q. One male and one female?
- 7 A. Yes, ma'am.
- 8 Q. Were they Caucasian, African American?
- 9 A. Caucasian.
- 10 Q. Both of them?
- 11 A. Yes, ma'am.
- 12 Q. All right. So how long were you in the hospital?
- 13 A. By the time I woke up, they put the staples in my
- 14 forehead and I was probably out in about ten minutes.
- 15 Q. Okay. And where did you go after that?
- 16 A. To the jail.
- 17 Q. Okay. So at what point did you learn that someone had
- 18 died?
- 19 A. When I was talking to Deputy Hart and Mr. Brock.
- 20 Q. Okay. How did that make you feel?
- 21 A. A little worried, anxious, upset.
- 22 Q. Because you didn't want to get in trouble?
- 23 A. Yes, ma'am.
- 24 Q. How did you feel for your friend?
- 25 A. Upset and worried, too.

1 Q. Okay. So at this point is it early into the morning
2 on the next day, the 28th?

3 A. Yes, ma'am.

4 Q. Okay. And they take you to the jail?

5 A. Yes, ma'am.

6 Q. And when you get to the jail, do they put you in a
7 jail uniform?

8 A. It's been four years ago. I don't --

9 Q. Did they put you in a regular jail uniform or did they
10 put you in --

11 MS. PATTERSON: Objection. Relevance.

12 THE COURT: I agree. Move on, Ms. Zmroczek.

13 MS. ZMROCZEK: Okay. Thank you.

14 BY MS. ZMROCZEK:

15 Q. Did you -- were you able to use the phone?

16 A. Yes, ma'am. I was.

17 Q. Okay. Did you call anybody?

18 A. Yes, ma'am. I did.

19 Q. Who did you call?

20 A. I called my grandmother.

21 Q. Okay. Why did you call your grandmother?

22 A. To let her know that I was in jail and let her know
23 everything that just had happened.

24 Q. Did you let her know anything else?

25 A. Yes, ma'am.

1 Q. What was that?

2 A. I told her that when we got there that B.J. shot at
3 Chris, that B.J. was grabbing on his waistline -- this
4 is what I told her on the phone. I said that B.J. was
5 grabbing on his waistline and that Chris fired the gun and
6 I was telling her that I had shot the weapon, too.

7 Q. Okay. Did you -- did you ask her to do anything for
8 you?

9 A. Yes, ma'am. I did.

10 Q. And what was that?

11 A. I told her to tell my mother to go get the AR from
12 behind the bass boat and do something with it.

13 Q. Okay. And why did you do that?

14 A. Because I was scared and worried.

15 Q. Okay. And I know that you're saying scared and
16 worried a lot, but did you want to be arrested?

17 A. No, ma'am. I did not.

18 Q. When -- did you ever relay any information about what
19 happened that night to anyone from the jail?

20 A. Anyone from the jail?

21 Q. Let me ask it this way. When you're at the jail, do
22 you have like a way for you to report crimes or to do
23 anything?

24 A. Oh, when I first got there I did not know how to work
25 the machines or none of that. I did know how to use the

1 cell phone. Yes, ma'am.

2 Q. Okay. And when you say machines, what were those
3 machines used for?

4 A. A kiosk machine to order your commissary off of. Now
5 I know that you can order your commissary off of and put
6 in requests to different types of people, supervisors,
7 investigators and things of that nature.

8 Q. Okay. And did you do that?

9 A. No, ma'am. Not at that time.

10 Q. Not at that time. Did you ever do that?

11 A. Yes, ma'am. I did.

12 Q. When was that?

13 A. Sometime the next month. Probably I think about --

14 Q. Okay. I'm gonna show you what's been marked for
15 Defendant's ID only Number 68 just to see if it refreshes
16 your recollection on the date, okay?

17 I'm gonna hand you for ID -- or let you hold it --
18 what's been marked and do you see the date?

19 A. Yes, ma'am.

20 Q. And what date was that?

21 A. 4-17-2020 at 4:36 PM.

22 Q. Okay. So 4-17-2020 at 4:36 PM you filled out a form
23 online?

24 A. Yes, ma'am. I did.

25 Q. And who did it go to?

1 A. Investigator Brock -- no, Mr. Hart.

2 Q. Investigator Hart?

3 A. Yes, ma'am.

4 Q. Okay. What did you think was going to happen when you
5 went over to B.J.'s with Chris to get his money and stuff
6 back?

7 A. I thought we was gonna get the stuff back and leave.

8 Q. Okay. Why did you think that that's all that it was
9 gonna be?

10 A. Because usually when something happens around all of
11 us friends hanging out if we argue with one another, we
12 fight one another, usually we can settle the dispute.

13 Q. Okay. Then why did you bring your guns?

14 A. Because I knew things would probably get out of hand
15 and I knew that they had guns, too.

16 Q. Okay. And so you -- let me ask you this. Did you
17 make an any more jail phone calls? I mean, did you make a
18 lot of jail phone calls?

19 A. Yes, I did.

20 Q. Okay. And were you -- were you saying things that
21 were true on those?

22 A. Not exactly.

23 Q. Okay. Why not?

24 A. Because I knew I had a murder charge and this was
25 something very seriously and I never had a murder charge.

1 I was eighteen years old at the time and I was very scared.

2 Q. Okay. And why did you shoot your gun that day?

3 A. Why? Because everybody else had guns and they were
4 threatening and screaming and once I heard the gunshots, I
5 started getting scared for myself and started shooting at
6 the ground.

7 Q. Okay. Did you go there intending to kill anybody?

8 A. No, ma'am.

9 Q. Did you intend to kill anybody when you pulled out
10 your gun?

11 A. No, ma'am. I did not.

12 Q. Did you intend to kill anybody when you shot your gun?

13 A. No, ma'am.

14 Q. And how do you know that?

15 A. Because I wasn't aiming at nobody.

16 Q. Where were you aiming?

17 A. At the ground.

18 MS. ZMROCZEK: I beg the Court's indulgence.

19 THE COURT: Take your time.

20 MS. ZMROCZEK: Daniel, those are all the questions
21 that I have for you. Please answer any questions that
22 the State has.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: All right. Hold on just one second.

25 Mr. Foreman, would the jury like to take a quick

1 break?

2 FOREPERSON: We're good.

3 THE COURT: You-all are good.

4 Can I see the lawyers just for a moment?

5 (Proceedings held at the bench; not reported.)

6 THE COURT: All right. Mr. Foreman, I know you-all
7 don't want a break, but I'm gonna have to give you about
8 a 10-minute break. I'm gonna ask you to return to your
9 jury room and I'm gonna bring you back in and we're
10 gonna finish this witness and that will be all that we're
11 gonna do today and we will start promptly at 9:00 in the
12 morning, okay?

13 FOREPERSON: Okay.

14 THE COURT: So I'll call you back in in about
15 10 minutes. Remember, no talking about this case.

16 (Whereupon, the jury retires to the jury room at
17 5:07 PM.)

18 (Recess taken at 5:07 PM.)

19 (Back on the record at 5:16 PM.)

20 THE COURT: All right. Can you tell the lawyers
21 to come back and in I'm gonna bring the jury back in.

22 BAILIFF: All right. Are you ready for the jury,
23 Your Honor?

24 THE COURT: Yes. Please bring the jury in.

25 (Whereupon, the jury return to the courtroom at

1 5:19 PM.)

2 THE COURT: Thank you-all for accommodating the
3 Court. Please be seated.

4 Ms. Patterson.

5 MS. PATTERSON: Thank you, Your Honor. May it
6 please the Court?

7 THE COURT: Yes, ma'am.

8 CROSS-EXAMINATION

9 BY MS. PATTERSON:

10 Q. Good evening, Daniel. How are you?

11 A. I'm all right.

12 Q. And let me just make sure I've got a couple of things
13 clear. Back in March of 2020, you were living at [REDACTED]
14 Bachman Road with your grandparents, right?

15 A. Yes, ma'am.

16 Q. And you were best friends with Christopher Shumpert,
17 right?

18 A. Yes, ma'am.

19 Q. And at the time he was dating Jacqueline Aiken, right?

20 A. (Nods head.)

21 Q. And you said you knew Jada, Bubba, Steven and B.J.
22 because you-all used drugs together, correct?

23 A. Yes, ma'am.

24 Q. So you're involved in drugs as well?

25 A. Yes, ma'am.

1 Q. And I think you said that B.J. worked on dirt bikes,
2 right?

3 A. Yes, ma'am.

4 Q. And on this particular day, you had not been with any
5 of these people out at Treemount Road, right?

6 A. No, ma'am.

7 Q. And it wasn't until Chris and Jacqueline came to your
8 grandmother's house at Bachman Road and told you what
9 happened at Treemount, right?

10 A. Yes, ma'am.

11 Q. And I think you said at that time Chris was upset and
12 he was crying, right?

13 A. Yes, ma'am.

14 Q. And this was your best friend, again, right?

15 A. Yes, ma'am.

16 Q. And isn't it true during that time Chris told you his
17 intentions about what he wanted to do to B.J., didn't he?

18 A. No, ma'am.

19 Q. Chris told you his intent was to get guns and go
20 confront B.J., didn't he?

21 A. No, ma'am.

22 MS. ZMROCZEK: Your Honor, I --

23 MS. PATTERSON: This is cross-examination.

24 MS. ZMROCZEK: I understand, but she's trying to
25 elicit hearsay.

1 THE COURT: It's cross-examination. I'm gonna let
2 her.

3 Go ahead, Ms. Patterson.

4 MS. ZMROCZEK: Okay. So he's been instructed not
5 to say anything, but that's fine. I think if you can tell
6 him that he can answer the question without any of the
7 limitations, then -- I think that's the issue.

8 THE COURT: I'm gonna instruct the witness to answer
9 these questions truthfully.

10 THE WITNESS: I am. Yes, ma'am.

11 THE COURT: Go ahead, Ms. Patterson.

12 BY MS. PATTERSON:

13 Q. Didn't Chris tell you what he wanted to do to B.J.?

14 A. No, ma'am.

15 Q. Didn't Chris tell you what happened at Treemount?

16 A. Yes, ma'am. He did.

17 Q. And you testified that Chris was upset about this,
18 right?

19 A. Yes, ma'am.

20 Q. And he was yelling, right?

21 A. When he came to my house?

22 Q. Yes.

23 A. No, ma'am. He wasn't yelling.

24 Q. He wasn't yelling? That's not what you testified,
25 that he was yelling?

1 A. No, ma'am. I did not.

2 Q. Okay. He was crying?

3 A. Yes, ma'am.

4 Q. Okay. And Jacqueline, she was upset right, too?

5 A. Yes, ma'am.

6 Q. And, again, this is your best friend and your best
7 friend's girlfriend, right?

8 A. Yes, ma'am.

9 Q. And whose idea was it for you two to arm yourselves?

10 A. Mine.

11 Q. It was your idea?

12 A. Yes, ma'am.

13 Q. So it was -- he told you he wanted to go to B.J.'s
14 house?

15 A. Yes, ma'am.

16 Q. But it was your idea to give Chris your FN
17 9-millimeter handgun, right?

18 A. Yes, ma'am.

19 Q. And for you to arm yourself with your .300 Blackout
20 handgun, right?

21 A. Yes, ma'am.

22 Q. And you made sure that it had ammunition, right?

23 A. Yes, ma'am.

24 Q. And you made sure Chris had an extra magazine that had
25 ammunition in it, did you?

1 A. I didn't make sure.

2 MS. ZMROCZEK: Your Honor, I didn't hear the
3 response. I'm sorry.

4 THE COURT: Okay.

5 THE WITNESS: I didn't make sure, no.

6 BY MS. PATTERSON:

7 Q. You didn't make sure?

8 A. No, ma'am.

9 Q. But you provided him with that magazine with
10 ammunition in it, too, didn't you, that extra magazine?

11 A. It was in my bookbag.

12 Q. And you gave it to Chris, right?

13 A. I didn't give it to Chris. It was in my bookbag in
14 the car.

15 Q. But isn't it true that you gave Chris the gun to use
16 at B.J.'s house?

17 A. I did give him the gun. Yes, ma'am.

18 Q. And you also gave him the extra magazine, didn't you?

19 A. I didn't give him the extra magazine. It was in the
20 bookbag.

21 Q. But you allowed him to use the extra magazine, didn't
22 you?

23 A. Yes, ma'am.

24 Q. And you normally kept these guns at your grandparents'
25 house on Bachman Road, right?

1 A. Yes, ma'am.

2 Q. And you made it known to all of these people that you
3 testified were friends with, they knew you had guns, didn't
4 they?

5 A. Yes, ma'am.

6 Q. And at times you -- isn't it true that you even
7 practiced shooting a gun at your grandmother's house out by
8 that pond?

9 A. Yes, ma'am.

10 Q. And you would practice shooting the 9-millimeter and
11 the .300 Blackout, right?

12 A. Yes, ma'am.

13 Q. And did you and Chris do any practicing before you-all
14 went to B.J.'s house on Fish Hatchery Road out there?

15 A. No, ma'am.

16 Q. And I think you said you've been shooting -- since
17 you were seven or eight years old you've been familiar with
18 guns, right?

19 A. Yes, ma'am.

20 Q. And you've shot guns a lot of times, haven't you?

21 A. Yes, ma'am.

22 Q. And you're a pretty good shot, aren't you?

23 A. Yes, ma'am.

24 Q. And you like to hunt, right?

25 A. Yes, ma'am.

1 Q. And you're pretty good with shooting moving targets,
2 aren't you?

3 A. Yes, ma'am.

4 Q. And on this particular day you didn't know what
5 anybody -- you didn't even know who was at B.J.'s house,
6 did you, because you hadn't been there earlier that day,
7 did you?

8 A. I did know who was at the house.

9 Q. You knew that Jada and Steven and Bubba and B.J. and
10 Kevin and Todd, you knew all of them was at the house?

11 A. I didn't know Kevin and Todd was there. No, ma'am.

12 Q. Okay. And you didn't know what was going on at that
13 house before you got there, did you?

14 A. What you mean what was going on?

15 Q. You didn't know what they were out -- what they were
16 doing at B.J.'s house before you got there, did you?

17 A. No, ma'am.

18 Q. Okay. And you didn't call B.J. up and get permission
19 to come to his house, did you?

20 A. No, ma'am.

21 Q. He didn't know you was coming to his house, did he?

22 A. No, ma'am.

23 Q. You just showed up with Chris, right?

24 A. Yes, ma'am.

25 Q. And you stated on your direct testimony that you were

1 going there because -- to settle a dispute, right?

2 A. Yes, ma'am.

3 Q. And because usually when you-all had disputes in the
4 group you-all could talk it out, right?

5 A. Yes, ma'am.

6 Q. But you didn't call B.J. to talk it out, did you?

7 A. No, ma'am. I didn't call him.

8 Q. You went to his house --

9 A. I never called him.

10 Q. So you just showed up at his house with this gun?

11 A. Yes, ma'am.

12 Q. To settle a dispute this is what you took to someone's
13 house?

14 A. Yes, ma'am.

15 Q. Is this how you-all settle disputes in the group?

16 A. We usually always have guns. Everybody always has
17 guns.

18 Q. And you always would have this gun when you would
19 settle a dispute in the group?

20 A. Sometimes I brought a round with me. Yes, ma'am.

21 Q. A gun that you was even forbidden to have, right?

22 A. Forbidden to have?

23 Q. By law.

24 MS. ZMROCZEK: Your Honor, may we approach?

25 THE COURT: Sure.

1 (Proceedings held at the bench; not reported.)

2 THE COURT: Sure. All right. I need for you-all
3 to tell me what case it is you-all are looking at. I'm
4 looking at Wiggins and I don't see it.

5 MS. ZMROCZEK: Okay. I beg the Court's indulgence.

6 (Proceedings held at the bench; not reported.)

7 THE COURT: I'm gonna allow it.

8 Go ahead, Ms. Patterson. You can repeat your
9 question.

10 BY MS. PATTERSON:

11 Q. And, once again, Daniel, you unlawfully armed yourself
12 with this gun to go over to B.J. Chavis's to settle a
13 dispute, didn't you?

14 A. Unlawfully?

15 Q. You wasn't supposed to have a gun, were you?

16 A. I'm not a felon.

17 Q. Didn't your attorney just ask you during her direct
18 isn't it true you have a burglary first conviction?

19 A. Juvenile record.

20 Q. And it's a burglary first conviction?

21 A. Yes, ma'am. It don't go on your adult record.

22 Q. Okay. And you're not supposed to have a gun, are you?

23 A. I am. I'm not a felon. Convicted felons can't own
24 guns.

25 Q. And isn't it true that not only did you have that gun,

1 you gave your best friend, Chris Shumpert, this gun to go
2 over to B.J. Chavis's house to settle a dispute, didn't
3 you?

4 A. Yes, ma'am. I did give him that gun.

5 Q. And you knew something was gonna happen when you got
6 to B.J.'s house, didn't you?

7 A. I didn't exactly know that anything was gonna happen.

8 Q. Isn't it true that you knew something bad was gonna
9 happen because you-all dropped Jacqueline off on that dirt
10 road, didn't you?

11 A. That wasn't my decision.

12 Q. But she was dropped off on that dirt road, wasn't she?

13 A. Yes, but I think it was because she got beat up
14 earlier that day and she didn't want to go back over there.

15 Q. And isn't it true, unlike the drive from Bachman Road
16 to Fish Hatchery Road, you and Chris were discussing what
17 was gonna happen when you-all got to B.J.'s house?

18 MS. ZMROCZEK: Objection, Your Honor. Asked and
19 answered.

20 THE COURT: I didn't hear it. I'm sorry.

21 Can you repeat the question?

22 BY MS. PATTERSON:

23 Q. On the drive from Bachman Road to Fish Hatchery Road,
24 isn't it true you and Chris discussed what was gonna happen
25 when you got to B.J.'s house?

1 A. Yeah, I was gonna try to get their money back and
2 their belongings.

3 Q. You were gonna try to get their money back and their
4 belongings, your best friend, right?

5 A. Yes, ma'am.

6 Q. And, again, with those weapons in your hand?

7 A. Yes, ma'am. They was in the car.

8 Q. And after dropping Jacqueline off on that dirt road,
9 you and Chris pulled up in B.J.'s yard, right?

10 A. Yes, ma'am.

11 Q. Chris driving, you on the passenger side, right?

12 A. Yes, ma'am.

13 Q. And you-all pulled straight into here where this pen
14 is, right?

15 A. Yes, ma'am. Right around that area.

16 Q. And you got out on the passenger side?

17 A. Yes, ma'am.

18 Q. And Chris got out on the driver's side?

19 A. Yes, ma'am. Previously as -- previously after I got
20 out of the vehicle.

21 Q. And when you-all got out, you-all already had your
22 guns out, didn't you?

23 A. No, ma'am.

24 Q. Isn't that true that's why everybody was yelling? You
25 testified everybody was yelling and screaming.

1 A. I got out of the vehicle first and started talking to
2 B.J. and then when everybody came out of the house
3 screaming and yelling and Jada ran up on me, that's when I
4 grabbed the AR out of the car.

5 Q. And you're saying Jada ran up on you?

6 A. Yes, ma'am.

7 Q. And isn't it true you even tried to say that Jada
8 tried to take your firearm?

9 A. Yes, ma'am.

10 Q. So your firearm was out then when you got out of the
11 car, correct?

12 A. After she ran up on me, that's when I grabbed the AR
13 out of the car.

14 Q. So after Jada runs up on you, you go you back to the
15 car and you grab your AR?

16 A. Yes, ma'am. I was just standing right there by the
17 car.

18 Q. And it's your testimony she tried to grab it from you?

19 A. She did reach for the AR. Yes, ma'am.

20 Q. And you stated you called B.J. over to the car to
21 talk?

22 A. Yes, ma'am.

23 Q. And where did you see B.J. when you first pulled up in
24 the car? Isn't it true that B.J. was up here --

25 MS. ZMROCZEK: Your Honor, she asked the question

1 where did you see B.J. when you pulled up in the car and
2 then didn't let him answer and then said isn't it true --

3 MS. PATTERSON: Well, I'm gonna change my question.

4 THE COURT: All right. Ms. Patterson, let him
5 answer.

6 Go ahead. Ask your question.

7 BY MS. PATTERSON:

8 Q. Isn't it true you saw B.J. Chavis up here in front of
9 his truck when you pulled in?

10 A. Yes, ma'am. He was beside his truck when we pulled
11 up.

12 Q. And isn't it true he was up there with Kevin Kimbler
13 working on a moped?

14 A. I did not see him working on a moped. No, ma'am.

15 Q. But he was up there with Kevin Kimbler; isn't that
16 true?

17 A. Yes, ma'am. He was right there beside the truck and
18 Kevin was somewhere right behind him.

19 Q. And it's your testimony you called him to come to your
20 car?

21 A. Not my car. Chris's car.

22 Q. Or Chris's car?

23 A. Yes, ma'am.

24 Q. And isn't it true B.J. told you-all to leave his yard?

25 A. No, ma'am. He never told us to leave.

1 Q. He didn't tell you-all to leave his yard?

2 A. No, ma'am.

3 Q. And you said weeks and months before this B.J. had a
4 hostile voice?

5 A. Yes, ma'am. Toward somebody else when I was hanging
6 out with him.

7 Q. So if you knew B.J. had a hostile voice, why would you
8 go over to his yard -- house uninvited with guns?

9 A. It was never towards me. It was to somebody else. He
10 never had a hostile voice towards me.

11 Q. So if you're going to try to retrieve property and
12 money, why didn't you call the police?

13 A. I don't ever call the police. No one ever calls the
14 police when anything happens.

15 Q. Nobody calls the police when things happen?

16 A. No, ma'am.

17 Q. You-all just settle disputes with weapons?

18 A. Usually it don't get down to a shooting happening.

19 Q. And you want us to believe that B.J. had his gun out?

20 A. Yes, ma'am. He had one on his waistline.

21 Q. He had a gun on his waistline?

22 A. Yes, ma'am.

23 Q. And then he was shot, correct?

24 A. Yes, ma'am.

25 Q. And it was a pretty bloody scene. You've seen the

1 pictures sitting in here this week, didn't you?

2 A. Yes, ma'am. Afterwards.

3 Q. Afterwards. Daniel, isn't it true that you and Chris
4 both were shooting your weapons in the direction that you
5 saw B.J. when you-all pulled into his yard?

6 A. Yes, ma'am. When we got there, when we started
7 shooting, I started shooting at the ground. I shot and I
8 was shooting at the ground and the truck.

9 Q. And isn't it true you were shooting towards where you
10 saw B.J. standing?

11 A. I really wasn't shooting towards him. I was shooting
12 at the ground.

13 Q. Well, which direction were you shooting at the ground?

14 A. Right in front of me.

15 Q. Right in front of you. And isn't it true that B.J.
16 was right in front of you while you were shooting that gun?

17 A. He was probably about fifteen feet away, twenty feet
18 away from me.

19 Q. Fifteen feet away from you, but straight in front of
20 you?

21 A. I don't know about straight in front of me.

22 Q. Well, he was in front of you when you were shooting
23 that ground -- I mean, shooting that gun, wasn't he?

24 A. When I started shooting the weapon, I was arguing with
25 Jada and everybody else and I was facing this way and they

1 was over here, right here, arguing.

2 Q. And isn't it true -- I mean, you were shooting -- you
3 shot that gun multiple times, didn't you?

4 A. Yes, ma'am. I did.

5 Q. You pulled that trigger over and over and over to the
6 tune of at least eight times, didn't you?

7 A. Yes, ma'am. I did.

8 Q. And all the while you was still standing outside the
9 passenger door by this tree, correct?

10 A. Yes, ma'am.

11 Q. And, again, your shots -- you were shooting towards
12 this direction, which is where you testified you saw B.J.
13 when you-all pulled in?

14 A. I was shooting at the ground. Yes, ma'am.

15 Q. At the ground, but towards this direction, correct?

16 A. Not towards his direction.

17 Q. And no one shot back at you, did they?

18 A. I heard gunshots and I seen that David had a black gun
19 in his hand and B.J. had a silver gun.

20 Q. And while you were shooting your gun, you didn't get
21 shot, did you?

22 A. No, ma'am. I didn't.

23 Q. And you stood in the same place and you kept shooting,
24 right?

25 A. Yes, ma'am.

1 Q. And then after you and Chris shot, you-all jumped back
2 in his car, correct?

3 A. Yes, ma'am. We did.

4 Q. And you-all backed out of B.J.'s yard, right?

5 A. Yes, ma'am.

6 Q. And you-all left?

7 A. Yes, ma'am.

8 Q. And isn't it true Chris kept shooting out the window?

9 A. Yes, ma'am. He did.

10 Q. And you-all don't leave and call the police, do you?

11 A. No, ma'am.

12 Q. And you don't drive to the police station to report
13 this, do you?

14 A. No, ma'am.

15 Q. You don't tell your family you've been shot at, did
16 you?

17 A. I did tell my cousin Heath that we just got in a
18 shooting.

19 Q. So you did tell your cousin Heath that you shot -- you
20 shot somebody?

21 A. I didn't know I shot anybody at the time.

22 Q. Yeah, let's talk about that. So it's your testimony
23 you didn't know B.J. was shot until you talked to Detective
24 Brock, right?

25 A. Yes, ma'am.

1 Q. And isn't it true --and you had a phone that day,
2 right?

3 A. Yes, ma'am.

4 Q. And you had Facebook, too, didn't you?

5 A. Yes, ma'am.

6 Q. And in Defendant's Exhibit 22 around 8:09 PM, isn't it
7 true you got a Facebook message from David Peyton?

8 A. Yes, ma'am. After the incident.

9 Q. After the incident. And isn't it true that Facebook
10 message said you killed that man because you a punk ass
11 little boy who don't know WTF to do with a gun? Do you
12 remember getting that message from him?

13 A. Yes, ma'am. I do.

14 Q. You did?

15 A. Yes, ma'am.

16 Q. And that was way before you got had any interaction
17 with Detective Brock, wasn't it?

18 A. Yes, ma'am.

19 Q. So you knew B.J. had been shot, didn't you?

20 A. Yes, ma'am.

21 Q. So you just lied when you testified earlier that you
22 learned that from Detective Brock for the first time,
23 right?

24 A. Yes, ma'am. I did.

25 Q. Okay. And so then you go to your mom's house on

1 Earline Drive, right?

2 A. Yes, ma'am.

3 Q. You, Chris and Jacqueline, and you take that AR gun
4 and you hide it, don't you?

5 A. Yes, ma'am.

6 Q. You hide it, you wrap it in a Dora the Explorer
7 blanket, right? You wrap it over some -- under some camo
8 and up under some other item, right?

9 A. Yes, ma'am.

10 Q. And you leave it there and then they drop you off or
11 somehow you get to your cousin Heath's house, right?

12 A. Yes, ma'am.

13 Q. It's your testimony you told your cousin Heath what
14 happened?

15 A. Yes, ma'am. I told him we just got in a shooting and
16 I didn't -- I didn't want the gun no more.

17 Q. And you didn't want the gun no more. And at this
18 point, again, you knew B.J. had been shot, didn't you?

19 A. I reckon if that's the time that he sent the message.
20 I really couldn't recall.

21 Q. Did you tell your cousin Heath B.J. had been shot?

22 A. I can't recall.

23 Q. And isn't it true you told your cousin Heath to hide
24 that gun for you?

25 A. I gave it to him and told him I did not want the gun

1 anymore.

2 Q. And you didn't want the gun because you knew you had
3 to hide it because it had been involved in a shooting, a
4 murder, didn't you?

5 A. Yes, ma'am. I wouldn't call it a murder though.

6 Q. You knew somebody had been killed with that?

7 A. Afterwards. Yes, ma'am.

8 Q. And you didn't want the gun anymore?

9 A. Yes, ma'am.

10 Q. So you was trying to load that gun like you had
11 already loaded off that -- or what you thought you loaded
12 off that AR, right?

13 A. Ma'am?

14 Q. You thought you had hid that AR, right?

15 A. Yes, ma'am.

16 Q. And isn't it true that you wanted those guns to be hid
17 at two different locations to try to throw law enforcement
18 off?

19 A. No, that's not true.

20 Q. That's not true? And then you find out the police are
21 looking for you at your grandma's house, right?

22 A. Yes, ma'am. While I was at my cousin Heath's.

23 Q. Okay. And you go to your grandma's house, right?

24 A. Yes, ma'am.

25 Q. And you see all these police officers there, right?

1 A. Yes, ma'am.

2 Q. And you don't tell them that you've been shot at --
3 involved in a shooting, do you?

4 A. No, ma'am. I was scared to tell them what had
5 happened.

6 Q. You don't tell the police that you just had to shoot
7 at somebody, did you?

8 A. No, ma'am. I didn't.

9 Q. You didn't tell the police that you had been to B.J.'s
10 house and somebody had guns and you felt like you had to
11 shoot off your gun, did you?

12 A. I did not tell them that. No, ma'am.

13 Q. You did not tell them that. In fact, you told them
14 the opposite. You told them you didn't know nothing about
15 the shooting, didn't you?

16 A. Yes, ma'am. I did.

17 Q. And you told them you hadn't seen Chris in a couple of
18 days, right?

19 A. Yes, ma'am.

20 Q. And after they had you detained there at the scene --
21 your family was there, right? I think you had an aunt, a
22 grandma, an uncle, a cousin. They were there at the scene,
23 right?

24 A. Yes, ma'am.

25 Q. And isn't it true you start yelling at your grandma to

1 even lie to the police for you, too, don't you?

2 A. I cannot recall.

3 Q. Okay. And then you talked about your interaction I
4 think about Detective Brock and you stated that Detective
5 Brock tried to choke you, correct?

6 A. Yes, ma'am. He did choke me.

7 Q. But isn't this true, this was after you attempted to
8 head butt Detective Brock, didn't you?

9 A. No, ma'am. I did not attempt to head butt him.

10 Q. You did not attempt to head butt Detective Brock?

11 A. No, ma'am. I was in the passenger side of the truck
12 and he was in the back seat of the truck and I was in
13 handcuffs.

14 Q. Okay. And isn't it true after that you was moved to
15 Deputy Swygert's car, wasn't you?

16 A. Yes, ma'am.

17 Q. And you talked about Deputy Swygert calling you all of
18 these names, right?

19 A. Yes, ma'am.

20 Q. Isn't it true that was after you had banged your head
21 against his panel in his car?

22 A. No, ma'am. This was before.

23 Q. That was before?

24 A. Yes, ma'am.

25 Q. So it's your testimony even before you had banged your

1 head, busted your head open and damaging his car, he was
2 calling you names?

3 A. He was calling me names. Yes, ma'am.

4 Q. Isn't it true you were yelling at him telling him he's
5 the one that's fucked?

6 A. I do not recall.

7 Q. You don't recall that?

8 A. No.

9 Q. Do you recall threatening to sue the police
10 department?

11 A. I cannot recall.

12 Q. Okay. And then you were taken to the detention center
13 that night, correct?

14 A. Yes, ma'am.

15 Q. And then the next morning you make a jail call talking
16 to your grandma, right?

17 A. Yes, ma'am.

18 Q. And in that call you're telling your grandma to tell
19 your mom to go out and get that gun by the bass boat,
20 right?

21 A. Yes, ma'am.

22 Q. And during that call isn't it true you were also
23 informed that they had already recovered the gun from
24 Heath's house?

25 A. Yes, ma'am. I think so. I do not know.

1 Q. So you now this that FN 9-millimeter gun had been
2 recovered, right?

3 A. Yes, ma'am.

4 Q. And then in a subsequent call to your grandma, you
5 find out that they have also recovered the .300 Blackout,
6 right?

7 A. Yes, ma'am. I think that's how I found out. Yes,
8 ma'am.

9 Q. And so after you find out that these guns have been
10 recovered, then you decide on April 17th to send Detective
11 Hart a form about what you say happened at Fish Hatchery
12 Road, right?

13 A. Yes, ma'am. I did.

14 Q. And this was after you had found out, again, that
15 everything had been recovered, right?

16 A. I mean, I sent it to him because I was kind of wanting
17 to talk to him and I was very scared and nervous.

18 Q. But -- but didn't on that form you said you didn't
19 want to talk to him?

20 A. I tried to talk to him. That's why I sent him the
21 form. Why else would I put in an investigator request?

22 Q. But at that time you had an attorney, didn't you?

23 A. No, ma'am. I didn't hire an attorney yet.

24 MS. ZMROCZEK: Your Honor, may we approach?

25 THE COURT: Yes, you may.

1 (Proceedings held at the bench; not reported.)

2 THE COURT: Okay. I'm gonna tell the jury to
3 strike anything about an attorney. Please disregard
4 that question.

5 All right. Ms. Patterson, you may continue.

6 BY MS. PATTERSON:

7 Q. So, Daniel, it's your testimony you wanted to talk to
8 Investigator Hart?

9 A. Yes, ma'am.

10 Q. Okay. I'm gonna show you what's been admitted in --
11 well, what's been presented in Defendant's ID 68 and draw
12 your attention to Number 5. Are you willing to speak with
13 an investigator about the incident?

14 MS. ZMROCZEK: Your Honor, I mean, if she's gonna
15 publish it, I think we need it to put it in. I had it
16 marked as ID.

17 MS. PATTERSON: I'll just let him read it. Just
18 take a moment to read it.

19 THE COURT: If she's just gonna let him read it,
20 I'm gonna allow that.

21 MS. ZMROCZEK: Thank you.

22 THE WITNESS: Yes, ma'am. I reckon I did tell him
23 that because I got choked in the truck.

24 BY MS. PATTERSON:

25 Q. And what you did tell him?

1 A. What do you mean what did I tell him?

2 Q. Did you wish to speak to an investigator?

3 A. I sent an investigator request and I let them know
4 what had happened. I told them on my own.

5 Q. And so I'm a little confused. Did you want to talk to
6 an investigator?

7 A. I put in an investigator request to let them know what
8 had happened.

9 Q. But then you say fuck, no, I don't -- I got choked, I
10 don't want to talk.

11 A. I wouldn't have wanted to talk to Mr. Hart again or
12 none of them because they had choked me out and was cussing
13 at me.

14 Q. Isn't it true you submitted that -- that report
15 because you knew you had to come up with some type of story
16 because the firearms had been recovered?

17 A. That is not true. I submitted that to -- an
18 investigator request so I could let them know what had
19 happened because I had lied to them before and told them I
20 didn't know nothing.

21 Q. So you lied to them before, but you knew the guns had
22 been recovered and you had to come up with a story, didn't
23 you?

24 A. I didn't have to come up with a store. I did that
25 willfully to let them know what happened.

1 Q. And that was about twenty days after the shooting at
2 Fish Hatchery Road, right?

3 A. Yes, ma'am. That's 4-17-2020.

4 Q. And that's when you decided to submit your version of
5 what happened, right?

6 A. Yes, ma'am. That's correct.

7 Q. And, again, you stated you-all went out there and you
8 didn't know what was gonna happen, but that you and Chris
9 went with guns? You went with this .300 Blackout and Chris
10 went with this 9-millimeter with an extra magazine.

11 A. Yes, ma'am. We went over there and we had guns in the
12 vehicle.

13 MS. ZMROCZEK: Your Honor, this is about the fourth
14 time that it's been asked and answered. I understand the
15 point, but at some point it becomes more than repetitive.

16 THE COURT: Okay. All right. Let's move on.

17 BY MS. PATTERSON:

18 Q. One more time. And isn't it -- doesn't it make sense
19 that two you armed with these weapons wouldn't make
20 anything less than hostile?

21 A. Not if I got out of the vehicle without a weapon in my
22 hand.

23 Q. But you had the weapon in your -- well, your
24 testimony, you had it in the car?

25 A. Yes, ma'am. When I first got out.

1 Q. But when you got out with the guns at whatever point
2 it is you say you got out, did you think that was really
3 gonna make it a less hostile environment?

4 A. I really didn't know what to think at the time.

5 Q. So B.J. was at his house, you-all come uninvited and
6 at whatever point you say you-all got out with the guns and
7 it's not reasonable for you to say that that is a hostile
8 environment?

9 A. No, ma'am. I did not get out acting hostile.

10 Q. With guns?

11 A. I did not get out with no guns.

12 Q. And you thought that would settle the dispute and
13 you-all would be able to get Chris and Jacqueline's money
14 and belongings back?

15 A. I tried to settle the dispute by getting out the car
16 first and talking before all that happened. Yes, ma'am.

17 Q. And you say you only shot at the ground, right?

18 A. Yes, ma'am.

19 Q. And were you here during the testimony about those
20 defects to B.J.'s truck?

21 A. That I shot at the ground and the truck. Yes, ma'am.
22 I said that.

23 Q. And you saw the angles those defects were going at,
24 didn't you?

25 A. Yes, ma'am. I did.

1 MS. ZMROCZEK: Your Honor, I'm gonna object if she's
2 gonna ask him to speculate which --

3 MS. PATTERSON: You heard the testimony --

4 THE COURT: I don't think she's asking -- hang on --
5 she's asking him to speculate. She's asking if he heard
6 the testimony, so I'm gonna allow it.

7 MS. ZMROCZEK: Okay. Thank you.

8 THE COURT: Go ahead, Ms. Patterson.

9 BY MS. PATTERSON:

10 Q. You heard that testimony at the angles that those
11 defects were -- were coming at in B.J.'s truck, didn't you?

12 A. Yes, ma'am. I heard the expert up here on the stand.

13 MS. PATTERSON: I beg the Court's indulgence, Your
14 Honor.

15 THE COURT: Take your time.

16 BY MS. PATTERSON:

17 Q. So one last question, Daniel. So now you admit to
18 shooting at the truck, right?

19 A. Yes, ma'am. I admit to shooting at the ground and the
20 truck.

21 Q. And the truck?

22 A. Yes, ma'am.

23 Q. So you shot at the ground and the truck --

24 A. Yes, ma'am.

25 Q. -- towards B.J.?

1 MS. PATTERSON: Thank you.

2 THE COURT: Any redirect?

3 MS. ZMROCZEK: I do.

4 REDIRECT EXAMINATION

5 BY MS. ZMROCZEK:

6 Q. She asked you three -- three questions in one, so I
7 want to break that down for you, okay?

8 A. Yes, ma'am.

9 Q. She said you were shooting towards the ground, towards
10 the truck and towards B.J.

11 A. Yes, ma'am.

12 Q. Okay. Were you shooting towards B.J.?

13 A. No, ma'am. I wasn't shooting towards him. I was just
14 shooting at the ground and the truck.

15 Q. Okay. And were you shooting towards the ground?

16 A. Yes, ma'am.

17 MS. ZMROCZEK: Your Honor, under 801(d)(1)(B), I
18 would like to move in Defendant's 68.

19 MS. PATTERSON: Your Honor, may we approach?

20 THE COURT: Yeah, you may.

21 (Proceedings held at the bench; not reported.)

22 BY MS. ZMROCZEK:

23 Q. So, Daniel, she asked you about that e-mail statement,
24 right?

25 A. Yes, ma'am.

1 Q. Okay. And you knew that that statement went to
2 Investigator Hart, right?

3 A. Yes, ma'am.

4 Q. Okay. And you put in there what you testified to.
5 Let me -- don't answer that question.

6 THE COURT: Rephrase that.

7 MS. ZMROCZEK: I'm gonna rephrase that.

8 BY MS. ZMROCZEK:

9 Q. You -- at some point -- let me ask this question --
10 strike that. I'm gonna move to -- she asked you about
11 Defendant's ID 22 and she said that you had a message from
12 David Peyton, right?

13 A. Yes, ma'am.

14 Q. And she said -- she said didn't David Peyton's
15 Facebook message say that -- that you a little punk ass
16 little boy who doesn't know WTF to do with a gun, right?

17 A. Yes, ma'am.

18 Q. And you were eighteen years old at the time?

19 A. Yes, ma'am.

20 Q. And you had been shooting since you were seven or
21 eight?

22 A. Yes, ma'am.

23 Q. Did you know what to do with a gun?

24 A. Yes, ma'am.

25 Q. If you wanted to kill Barry, could you have?

1 A. Yes, ma'am.

2 Q. Would it have taken eight shots?

3 A. No, it wouldn't.

4 Q. If you wanted to kill Jada, could you have?

5 A. Yes, ma'am.

6 Q. If you wanted to kill every single person there, could

7 you have?

8 A. Yes, ma'am.

9 Q. Was that your intention? Is that what you went there

10 to do?

11 A. No, ma'am.

12 Q. Okay. She asked you about bringing the extra

13 magazine.

14 A. Yes, ma'am.

15 Q. And what -- and why did you -- did you bring extra

16 magazine?

17 A. I didn't bring it. There was one already in my

18 backpack --

19 Q. Okay.

20 A. -- that I carried around.

21 Q. And she asked you, you brought guns over to B.J.'s

22 house?

23 A. Yes, ma'am.

24 Q. Had you ever done that before?

25 A. Yes, ma'am.

1 Q. Did you-all -- what did you-all do when you brought
2 guns to B.J.'s house?

3 A. Hang around, get high, shoot back there in the woods
4 behind his house.

5 Q. Okay. Did you -- she said -- she asked you, you
6 didn't call to get permission. She said you didn't call
7 to get permission?

8 A. No, ma'am.

9 Q. Did you ever call to get permission?

10 A. No, ma'am.

11 Q. She said -- she kept asking you that Chris -- she
12 asked you what Chris told you, right?

13 A. Yes, ma'am.

14 Q. And she said didn't Chris tell you let's go get my
15 stuff?

16 A. Yes, ma'am.

17 Q. Okay. When Chris -- what did Chris tell you?

18 A. He told me that they -- she -- Jacqueline had got
19 beaten up and that he had got shotten at earlier that day
20 and that his money -- all their money was taken and they
21 was staying there earlier that morning and their belongings
22 were there.

23 Q. All right. And was he mad about it?

24 A. He wasn't mad, no.

25 Q. Didn't he say let's go get them?

1 A. No, ma'am.

2 Q. In fact, did he know about your relationship with B.J.
3 because he had seen you-all interact before?

4 MS. PATTERSON: Objection. Speculation.

5 MS. ZMROCZEK: If you know.

6 THE COURT: Well, I think you can rephrase that and
7 get what you want.

8 MS. ZMROCZEK: Okay.

9 BY MS. ZMROCZEK:

10 Q. When you -- have you ever hung out with B.J. and Chris
11 at the same time?

12 A. Yes, ma'am.

13 Q. So he had seen you-all interact?

14 A. Yes, ma'am.

15 Q. Okay. Ever gotten into a fight with B.J. before?

16 A. No, ma'am.

17 Q. Okay. And when she kept asking you, you knew who was
18 over there, when did you know who was over there?

19 A. After Chris had told me.

20 Q. Okay. When you pulled up, who did you see?

21 A. I seen B.J. standing out in the yard and then David,
22 Steven and Jada ran out of the door of the house.

23 Q. So you saw all those people?

24 A. Yes, ma'am.

25 Q. And it was you and Chris?

1 A. Yes, ma'am.

2 Q. When -- she said you lied about testifying when you
3 knew that B.J. had been shot, right?

4 A. Yes, ma'am.

5 Q. Are you -- why did you -- why did you not tell --

6 A. Well, she asked me the question so quick, I was just
7 responding back to her --

8 Q. Okay.

9 A. -- because she was manipulating --

10 Q. Okay. So she asked you about you were texting back
11 with who's listed as David Peyton, right, and you told them
12 where you -- were where you were?

13 A. Yes, ma'am.

14 Q. Right?

15 A. Yes, ma'am.

16 Q. You turned yourself into the police?

17 A. Yes, ma'am.

18 Q. Was it smart to lie to the police?

19 A. No, ma'am. It wasn't. It was dumb.

20 Q. What were your feelings towards Investigator Hart and
21 Investigator Brock after your experience that evening?

22 A. Upset. Kind of upset, scared and, you know, a little
23 angry.

24 Q. Okay. And so twenty days later, twenty days later,
25 you tell them, right?

1 A. Yes, ma'am.

2 Q. You send this e-mail. Not three years, twenty days?

3 A. Yes, ma'am.

4 MS. ZMROCZEK: I beg the Court's indulgence.

5 THE COURT: Take your time.

6 MS. ZMROCZEK: Nothing further, Your Honor.

7 THE COURT: Ms. Patterson.

8 RECROSS EXAMINATION

9 BY MS. PATTERSON:

10 Q. So, Daniel, you said you would go over to B.J.'s house
11 to shoot in the backyard, right?

12 A. Not all the time, but we did sometimes. Yes, ma'am.

13 Q. But on March 27th of 2020 you didn't go over there to
14 shoot your guns in the backyard, did you?

15 A. No, ma'am. Went over there to get the money and their
16 belongings back.

17 Q. And if you knew about this prior beef or altercation
18 between Chris and B.J. earlier that day, why didn't you
19 just go over there by yourself?

20 A. I don't have no car.

21 Q. Okay. And you said you don't call B.J., right?

22 A. No, ma'am. I never call him or don't contact him by
23 cell phone. I just pull up at his house.

24 Q. But you do have a phone, didn't you?

25 A. Yes, ma'am.

1 Q. Okay. So you could have called B.J., right?

2 A. Yes, ma'am. I could have.

3 Q. And you said that you could -- she asked you about you
4 being a good shot and could have shot Jada and all these
5 other people in the yard, but all your shots went towards
6 B.J., didn't they?

7 A. They was going towards the ground and the truck. Not
8 at B.J.

9 Q. Towards the ground and the truck that B.J. was in
10 front of, right?

11 A. Yes, ma'am. He was in front of the truck.

12 Q. And if your magazine and everything was inside your
13 bookbag, do you have any idea how your magazine ended up on
14 the ground at Fish Hatchery Road?

15 A. Yes, ma'am. I do.

16 Q. And how did it end up out there?

17 A. Because it fell out when Christopher was shooting out
18 the car when we was leaving.

19 Q. So your magazine fell out of the bookbag as
20 Christopher was shooting out of the car when you-all were
21 leaving?

22 A. No, he put the magazine into the pistol and was
23 shooting out of the car as he was leaving.

24 Q. And you previously testified through direct through
25 your attorney that you learned through Detective Brock that

1 B.J. had been shot, right?

2 A. Ma'am?

3 Q. You said through your -- when your attorney was asking
4 you questions, you said you first learned that B.J. had
5 been shot through Detective Brock, right?

6 A. Yes, ma'am. We just went over that, but then you said
7 I said it different in the text message.

8 Q. And then when --

9 A. That's what it is then.

10 Q. And then when I read you the text messages --

11 A. I don't know if I seen the text message in my phone or
12 not when he sent it. Did I text back after that? I do not
13 know. It was four years ago.

14 Q. But when I read to you didn't you agree with me that
15 you, in fact, did know about B.J. prior to your interaction
16 with Detective Brock?

17 A. I did say that. Yes, ma'am. I did.

18 Q. You did say that. So you admitted to lying, right?

19 A. Yes, ma'am.

20 Q. And your attorney misspoke because I asked you, you
21 didn't know who all was over there before you went to
22 B.J.'s house, right?

23 A. I did.

24 Q. Did you know who all was over there prior to you
25 getting there?

1 A. I knew who was in the truck with them earlier that day
2 and who I was around when he got shot at and Jada got --
3 Jacqueline got beat up.

4 Q. But you didn't know for a fact who was over there at
5 that house before you pulled up with Chris?

6 A. I didn't know for a fact. No, ma'am.

7 MS. PATTERSON: No further questions.

8 THE COURT: Can I let the defendant step down --
9 or Mr. Jones?

10 MS. ZMROCZEK: I'm sorry?

11 THE COURT: Can I let Mr. Jones step down?

12 MS. ZMROCZEK: Yes.

13 THE COURT: All right. Mr. Jones, we're gonna
14 let you return to the table, please.

15 THE DEFENDANT: Yes, ma'am.

16 (Witness excused.)

17 THE COURT: Ladies and gentlemen, thank you-all
18 for being patient with us today. That concludes the
19 testimony for today. We will start promptly at 9:00 AM
20 in the morning, okay?

21 Remember, do not talk about this case, social media,
22 TV, news, none of it. Cut it off.

23 FOREPERSON: Yes, ma'am.

24 THE COURT: Thank you.

25 FOREPERSON: Thank you.

1 (Whereupon, the jury was excused for the day at
2 6:17 PM.)

3 THE COURT: All right. Anything from the State?

4 MS. PATTERSON: No, ma'am.

5 THE COURT: Anything from the defense?

6 MS. ZMROCZEK: Yes, Your Honor.

7 Based on the testimony, we have released the
8 toxicologist, so that's not an issue.

9 THE COURT: Okay.

10 MS. ZMROCZEK: We -- now that I don't have to go to
11 the jail this evening to do that and, quite honestly,
12 that's -- when we were discussing strategy about what
13 would be more beneficial to the case --

14 THE COURT: Right.

15 MS. ZMROCZEK: -- me spending the evening at the
16 jail versus getting ready for arguments and closing was
17 a better choice, so that's why we did that just for the
18 record.

19 THE COURT: Okay.

20 MS. ZMROCZEK: But what that will allow me to do,
21 Your Honor, I think it's a little after six right now,
22 before 8:00 PM I will have the clips of -- or, I mean,
23 I don't know if they want to do clips or whatever, but
24 I'll tell them what I'm looking -- what the excited
25 utterances are that I am looking to introduce through

1 the officers.

2 Tomorrow I intend on calling the 9-1-1 operator,
3 recalling Investigator Ward, and maybe -- I'll have to
4 go back and look at the list because I don't -- I don't
5 want to marry myself to it, but I think that we will be
6 done with our case by noon-ish. I think noon -- actually
7 -- or maybe by one. I think that's a fair time.

8 THE COURT: Okay.

9 All right. Because I want everybody to be prepared
10 for closings and I'm gonna charge.

11 While I'm at it, let me talk to you-all about the
12 jury charges. You know, there was a case that came out
13 I think it was like in September of 2023, I don't have
14 it -- the name of it right off the top of my head, but
15 it dealt with the voluntary statements and set out a new
16 charge for -- there is no longer a charge for statement
17 of the defendant anymore. If anybody needs that case law,
18 let me know, I have it on my desk, because I do not plan
19 to charge that.

20 MS. ZMROCZEK: Okay.

21 THE COURT: I will take that out of the charges
22 that I've sent you. I think the biggest thing that
23 we're gonna have to talk about at the charge meeting is
24 probably self-defense, so I'm gonna ask both sides to be
25 prepared to argue that. I know that I will be prepared

1 on the law.

2 There's also a case that came out, the Sellers case.
3 I think that's gonna make a huge difference -- not a huge
4 difference, it's four words, as to whether I am gonna
5 leave that in on my malice charge or not.

6 Hand of one hand of all. If you would read the
7 Sellers case. It's the same thing. The Supreme Court
8 just backed it up. That will be charged.

9 MS. ZMROCZEK: And, Your Honor, I know there's a
10 case called Rivera that I'll be -- that I know that I'll
11 be relying on and I'll try to send those --

12 THE COURT: And I would suggest that everyone read
13 State versus Williams, the Supreme Court opinion here in
14 South Carolina about self-defense, okay?

15 MS. PATTERSON: Yes, Your Honor.

16 THE COURT: I think that is the leading case about
17 it being charged.

18 MS. PATTERSON: And, Your Honor, just based on the
19 testimony from the defendant, we may have one, maybe two,
20 recall witnesses.

21 THE COURT: Okay.

22 All right. I'm gonna try hard -- I don't know that
23 I can do it, but I'm gonna try hard to finish the case
24 tomorrow. It might be that we're gonna be here Saturday
25 morning before the Boy Scouts get here.

1 What about it, Stacy?

2 THE COURT REPORTER: I'm fine.

3 THE COURT: I can't do anything without her.

4 THE COURT REPORTER: I'm fine. I'm fine.

5 THE COURT: I mean, sure enough we might be for
6 closings and charging, so please put that on your
7 calendar because I start vacation on Monday. I don't
8 mind coming in Monday, so if there's something that
9 somebody's got to do Saturday morning, let me know,
10 okay?

11 All right. Court's adjourned. I'll see you at
12 9:00 in the morning.

13 (Whereupon, the proceedings were concluded for
14 January 25, 2024, at 6:22 PM.)

15 (The following proceedings were held January 26,
16 2024, beginning at 9:00 AM.)

17 (Defendant's Exhibit Number 67 through 75 were
18 marked for identification.)

19 (Proceedings held at the bench; not reported.)

20 THE COURT: Okay. Before we get started, the parties
21 -- both parties have brought to my attention that they
22 have a stipulation in this case. Yesterday there was
23 testimony, I believe the State asked the defendant was
24 he in illegal possession of the gun. My recollection is
25 the defendant said oh, no, I can have a gun, and I think

1 the State asked him again.

2 After a review of the law, the parties have decided
3 to do a stipulation that the defendant was legally in
4 possession of the weapon. So I'm gonna do -- they're
5 stipulating to that. I am going to give a stipulation
6 charge to the jury when they come in to that effect.

7 Anything else? What I'm going to say is after
8 further review of the law, the parties have agreed to
9 Defendant Jones's record and they stipulate that he was
10 legally in possession of the weapon on 3-27-20, which is
11 the incident date in this case.

12 Any objection to that, Ms. Patterson?

13 MS. PATTERSON: Not from the State, Your Honor.

14 THE COURT: Anything from the defense?

15 MS. ZMROCZEK: No objection, Your Honor.

16 THE COURT: I think I've covered you-all's
17 conversation that we had at the bench earlier this
18 morning. I agree with the law in this case that you-all
19 have come up with.

20 You can bring the jury in.

21 BAILIFF: Yes, ma'am.

22 (Whereupon, the jury enter the courtroom at 9:39 AM.)

23 THE COURT: Mr. Foreman, the jury ready?

24 FOREPERSON: Yes, ma'am.

25 THE COURT: Okay. You can be seated.

1 All right. Let me ask my morning question. Has
2 anybody been in touch with you or tried to get in contact
3 with you about this case? Have you done any research on
4 this case or has anyone attempted to talk to you about
5 this case? If so please, raise your hand.

6 All right. I need to tell the jury -- I need you
7 to listen to me just for a second. The parties in this
8 case have decided to agree upon a fact. When that occurs,
9 it is called a stipulation. You may, therefore, treat
10 this fact as true for the purposes of this trial.

11 Now this is what the parties have agreed upon.
12 After further review of the law and the defendant's prior
13 record, the parties agree that the defendant was in legal
14 possession of the weapon on March 27th of 2020, which is
15 the incident date in this case. In legal possession,
16 okay?

17 Thank you.

18 Any -- anything else from the State?

19 MS. PATTERSON: No, ma'am. Thank you.

20 THE COURT: Anything from the defense?

21 MS. ZMROCZEK: Nothing further.

22 THE COURT: Okay. Now, Ms. Zmroczek, are you ready
23 to call your next witness?

24 MS. ZMROCZEK: I am, Your Honor.

25 THE COURT: Okay.

1 MS. ZMROCZEK: We call Melissa Patrick.

2 (Whereupon, Melissa Patrick was duly sworn by the
3 Clerk of Court.)

4 THE COURT: Please take a seat in the witness box.
5 State your full name and spell your last for the record.

6 THE WITNESS: My name is Melissa Patrick. Last name
7 is P-A-T-R-I-C-K.

8 MELISSA PATRICK,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. ZMROCZEK:

12 Q. Good morning, Ms. Patrick.

13 A. Good morning.

14 Q. Will you please tell the jury where you're employed?

15 A. Lexington County 9-1-1 Communications Center.

16 Q. So what -- what happens at the Lexington County 9-1-1
17 Communications Center? What's the function of that agency?

18 A. We receive emergency, as well as nonemergency phone
19 calls from the citizens of Lexington County and then we
20 send responders for assistance.

21 Q. So anywhere within Lexington County if someone calls
22 9-1-1 it gets routed to your office?

23 A. Yes, ma'am.

24 Q. And when a call comes in, what then happens at the
25 center?

1 A. When the call comes in, the call taker gets the
2 address, verifies it, the caller's information to include
3 the name of the caller, as well as the callback number.
4 We use a software, which is called Pro QA, which it's
5 guided and it's like a script based on the type of the
6 call. It walks the call taker through asking pertinent
7 questions, also giving life saving instructions and so
8 forth.

9 Q. And so when that call comes in, how does it get -- how
10 does that information get to where it needs to go? For
11 example, if someone calls 9-1-1 and says my house is on
12 fire, how does the fire department get notified?

13 A. Based on the address of the call, it goes through the
14 GIS system, it comes through the phone company's system,
15 and it comes to our screen, we verify it and then it
16 interfaces into our CAD, which is our computer-aided
17 dispatch, and once the address and the nature code goes in,
18 it routes to that specific dispatcher.

19 Q. Okay. And then they alert medical or fire personnel?

20 A. Yes, ma'am.

21 Q. Medical, fire and police? Sorry.

22 A. Right.

23 Q. And do you have the CAD record report for this case?

24 A. Yes, ma'am.

25 Q. Did you bring that with you?

1 A. Yes, ma'am.

2 Q. Thank you. And --

3 A. There's several of them actually.

4 Q. Thank you.

5 A. Yes, ma'am.

6 Q. And you said there were several of them, right?

7 A. Yes, ma'am. There's a medical, police and I believe

8 there's a fire one there as well.

9 Q. And how -- so it's -- but it's all the same call,

10 correct?

11 A. Yes, ma'am.

12 Q. And the CAD reports are generated kind of realtime as

13 things are coming in, correct?

14 A. Yes, ma'am.

15 Q. And what if there are multiple calls?

16 A. Our policy is if there are multiple calls, if you are

17 a secondary call taker you are to document the caller's

18 name, the call back number and what they are reporting.

19 Q. And then is all of that put into one CAD report?

20 A. Yes, ma'am.

21 Q. Okay. And so what I've marked as Defendant's 69 and

22 hand back to you, is that record fairly, accurately and

23 complete information of the CAD report for the incident at

24 [REDACTED] Fish Hatchery Road on March 27, 2020?

25 A. Yes, ma'am.

1 Q. Okay. And those records are kept in the regular
2 course of business?

3 A. Yes, ma'am.

4 MS. ZMROCZEK: Your Honor, at this time we would
5 move Defendant's 69 in.

6 THE COURT: Any objection?

7 MS. PATTERSON: Your Honor, can we take a look at the
8 document?

9 THE COURT: You may.

10 If you'd show it to the State, please.

11 MS. ZMROCZEK: Sure.

12 MS. PATTERSON: Your Honor may we approach?

13 THE COURT: You may.

14 (Proceedings held at the bench; not reported.)

15 MS. ZMROCZEK: I'm gonna mark 69 as ID only.

16 THE COURT: Thank you, Ms. Zmroczek.

17 BY MS. ZMROCZEK:

18 Q. And then corresponding with the CAD report,
19 Ms. Patrick, do we also get a recording?

20 A. Yes, ma'am.

21 Q. And how it does that work?

22 A. It's automatic. The minute the line picks -- or
23 actually it starts before the call actually is answered it
24 starts recording and it records throughout the duration of
25 every single call. Every incoming call is recorded.

1 Q. And so that's actually interesting. You said it
2 starts before the recording, so if people are talking on
3 the phone and somebody hasn't picked up yet, it can still
4 be recorded, right?

5 A. Right.

6 Q. And so I'm gonna show you what's been marked as
7 Defendant's 67 and ask if you recognize this desk?

8 A. Yes, ma'am. I do.

9 Q. And what is this?

10 A. That is the recording of the calls that were received
11 in reference to this call.

12 Q. And how do you know that that's what that is?

13 A. Because I listened to it and I initialled and dated it
14 when I listened to it.

15 Q. And does that fairly and accurately represent the
16 call?

17 A. Yes, ma'am.

18 Q. Thank you.

19 MS. ZMROCZEK: Your Honor, at this time we'd like to
20 move Defendant's 67 in.

21 THE COURT: Any objection?

22 MS. PATTERSON: No objection.

23 THE COURT: Okay.

24 (Defendant's Exhibit Number 67, a 9-1-1 recording,
25 was admitted into evidence.)

1 MS. ZMROCZEK: Permission to --

2 THE COURT: Go ahead and play it.

3 MS. ZMROCZEK: Thank you.

4 (Defendant's Exhibit Number 67 was played.)

5 BY MS. ZMROCZEK:

6 Q. So there were a total of four calls?

7 A. Yes, ma'am.

8 Q. Okay. And when you -- if someone doesn't give you
9 their phone number, does your system sometimes have a way
10 to automatically record from where numbers are called?

11 A. Yes, ma'am. It comes through our ANI systems and it
12 comes from the phone company's database and it actually
13 displays up on the screen so the call taker can see the
14 number as well.

15 Q. Okay. So even if they don't give it to you, you can
16 still --

17 A. Yes, ma'am.

18 Q. And that's all recorded on what was marked for ID on
19 the CAD report, correct?

20 A. Yes, ma'am.

21 MS. ZMROCZEK: Thank you. Please answer any
22 questions the State may have.

23 CROSS-EXAMINATION

24 BY MS. PATTERSON:

25 Q. Good morning, Ms. Patrick.

1 A. Good morning.

2 Q. Isn't it true sometimes when people call 9-1-1 calls
3 you get hang-ups, right?

4 A. Absolutely.

5 Q. And isn't it true if a person is calling 9-1-1 and
6 they don't have phone service that sometimes the phone
7 numbers may not pick up?

8 A. Right. It will show as 9-1-1 prefix in that instance.

9 Q. And sometimes they don't connect?

10 A. Right.

11 Q. And isn't it true if it doesn't connect they don't
12 actually get to speak with a dispatcher?

13 A. Right. Unless the dispatcher -- or the call taker
14 will call the number back as long as it's not a 9-1-1
15 prefix number.

16 Q. As long as it's not like a person just calling --

17 A. No service.

18 Q. -- with no service.

19 A. Yes, ma'am.

20 Q. That's right. And the call takers, isn't it true that
21 they are given -- in situations such as we heard, they are
22 giving lifesaving measures to the caller?

23 A. Yes, ma'am.

24 Q. And depending on the circumstances of the call, you
25 might not get the information of the person's name and

1 phone number until minutes into the call, correct?

2 A. Sometimes. Yes, ma'am.

3 Q. And, again, it was several calls made regarding this
4 same incident, correct?

5 A. Yes, ma'am.

6 Q. And that's normal sometimes, right?

7 A. Yes, ma'am.

8 MS. PATTERSON: I beg the Court's indulgence.

9 BY MS. PATTERSON:

10 Q. And if you got one of those 9-1-1 pre -- what'd you
11 call it, prefix?

12 A. The prefix.

13 Q. -- prefix calls, would you always know to associate
14 it with other calls that you may have gotten about the
15 incident?

16 A. As long as we get a Phase II location off of it with
17 it being -- basically the Phase II is like the GPS in the
18 phone. As long as we can get the Phase II interface from
19 that phone, we can actually get within a certain -- it's
20 just like a 5-mile radius.

21 Q. So if you don't -- but if you're not able to get that,
22 it may not always connect with calls?

23 A. Right.

24 MS. PATTERSON: Thank you, Ms. Patrick.

25 THE WITNESS: Yes, ma'am.

1 MS. ZMROCZEK: Just briefly.

2 REDIRECT EXAMINATION

3 BY MS. ZMROCZEK:

4 Q. And those 9-1-1 prefix calls would show up on the
5 report? How would it be identified?

6 A. It would show as 9-1-1 in the place of the area code.

7 Q. Okay. And I'll just ask you to look through that real
8 quickly and see if -- did you have any on these.

9 A. So the only thing that I'm gonna be able to see from
10 this report is the fact of what's the call taker manually
11 entered.

12 Q. Okay.

13 A. To see the number that actually called would actually
14 be from the actual phone record itself.

15 Q. Perfect. Thank you.

16 A. Yes, ma'am.

17 MS. ZMROCZEK: I have no further questions, Your
18 Honor.

19 THE COURT: May I excuse this witness?

20 MS. PATTERSON: No objection from the State.

21 MS. ZMROCZEK: No objection, Your Honor.

22 THE COURT: Thank you.

23 THE WITNESS: Yes, ma'am.

24 (Witness excused.)

25 MS. ZMROCZEK: Your Honor, we would call -- recall

1 Special Agent Ward.

2 THE COURT: Okay.

3 Is the jury all right, Mr. Foreman?

4 FOREPERSON: (Nods head.)

5 (Whereupon, Patrick Ward was duly sworn by the Clerk
6 of Court.)

7 THE CLERK: Thank you. Please take a seat in the
8 witness box. State your full name and spell your last
9 for the record.

10 THE WITNESS: Patrick Ward. W-A-R-D.

11 PATRICK WARD,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. ZMROCZEK:

15 Q. Thank you for returning, Patrick Ward. I just have a
16 few questions I want to ask you a little about just some of
17 the physical evidence that you collected. You did a report
18 in this case, right?

19 A. Correct.

20 Q. And on page -- do you have -- did you bring your
21 report with you?

22 A. Yes.

23 Q. On page 2 of the report, who does it indicate were the
24 Lexington County personnel on-scene for the search of the
25 vehicle?

1 A. On that date I met with Detective Hart that morning
2 to obtain the search warrant and then during the vehicle
3 process itself it was Evidence Custodian Antley, as well as
4 Sergeant Johnson.

5 Q. And are you looking at your report?

6 A. Yes.

7 Q. Okay. And where it says LCSD personnel on-scene,
8 right?

9 A. Correct.

10 Q. Who did you list?

11 A. I listed Sergeant Jamie Johnson, Detective Joe Hart
12 and Evidence Technician Anthony. I did meet with Detective
13 Hart and then he left.

14 Q. Okay. And is that reflected in your report?

15 A. Yes. In the paragraph just below that, it says
16 that Forensic Services Sergeant Jamie Johnson and I met
17 Evidence Technician Antley at the impound lot to process
18 the vehicle.

19 Q. And I want to talk a little bit about that. When you
20 processed the vehicle, you found you said a weapon in
21 there, right?

22 A. Correct.

23 Q. And you collected it?

24 A. Yes.

25 Q. Okay.

1 BY MS. ZMROCZEK:

2 Q. I'm gonna show you what's been marked as Defendant's
3 75 and ask if you recognize Defendant's 75?

4 A. I recognize it.

5 Q. Okay. And is it rendered safe?

6 A. Yes, it is.

7 Q. Okay. And do you recognize that to be the firearm you
8 took out of the Dodge Dakota truck?

9 A. Yes.

10 MS. ZMROCZEK: Your Honor, at this point we would
11 move Defendant's 75 into the evidence. It has been
12 rendered safe.

13 MS. PATTERSON: Without objection.

14 THE COURT: It's admitted.

15 MS. ZMROCZEK: Thank you.

16 (Defendant's Exhibit Number 75, a handgun, was
17 admitted into evidence.)

18 BY MS. ZMROCZEK:

19 Q. And in there as well when they -- when they collect
20 and box the evidence, what is this little --

21 A. That's the magazine that was located in the pistol
22 when I collected it.

23 Q. And you collected this on what date?

24 A. That was April the 7th of 2020.

25 Q. Of 2020. And it was in evidence and available for

1 testing, correct?

2 A. Yes.

3 Q. Okay. You also collected some cartridge firings,
4 correct?

5 A. Correct.

6 Q. Okay. Sorry. That was a terrible question. I'm
7 gonna show you Defendant's 74 and ask if you recognize
8 this?

9 A. Do you have scissors?

10 Q. I do.

11 A. Yes, I recognize them.

12 Q. Okay. And those are also items that you collected?

13 A. Yes.

14 Q. And turned in for testing?

15 A. Correct.

16 Q. Okay. Or not turned in, but turned in for evidence
17 available for testing?

18 A. Correct.

19 MS. ZMROCZEK: Your Honor, at this time we would
20 move in Defendant's 74.

21 THE COURT: Any objection?

22 MS. PATTERSON: No objection.

23 THE COURT: It's admitted.

24 (Defendant's Exhibit Number 74, fired cartridge
25 cases, was admitted into evidence.)

1 BY MS. ZMROCZEK:

2 Q. I want to ask you again when you -- you have the
3 scissors up there, right?

4 A. Yes.

5 Q. Okay. When you -- we saw pictures, but when you were
6 executing the search warrant of the home on [REDACTED] Fish
7 Hatchery Road, you actually didn't only just take pictures
8 of that ammunition, you collected it as well, right?

9 A. Yes.

10 Q. Okay. I'm gonna hand you Defendant's 70 and ask if
11 you can identify this?

12 A. Yes, I recognize them.

13 Q. And are those the items that you collected out of [REDACTED]
14 -- the bedroom -- Fish Hatchery Road on March 27th?

15 A. Yes.

16 Q. And you turned them into evidence around the same day?

17 A. Yes, I did.

18 Q. Okay. I'm just gonna put them back in the box. And
19 there was one -- just so I'm not confused because it's a
20 box and it has five separate --

21 A. Correct. This is the ammunition from the .22 rifle.

22 Q. This is the ammunition from the .22 rifle, but it's
23 all in one box, right?

24 A. Correct.

25 MS. ZMROCZEK: Your Honor, at this time we'd move

1 Defendant's 70 into evidence.

2 THE COURT: Any objection?

3 MS. PATTERSON: No objection.

4 THE COURT: It's admitted.

5 (Defendant's Exhibit Number 70, box of ammunition,
6 was admitted into evidence.)

7 BY MS. ZMROCZEK:

8 Q. Lastly, you were asked about the cell phones that you
9 collected, correct?

10 A. Yes.

11 Q. Okay. I'm gonna hand you 71, 72 and 73, and ask you
12 if you recognize those?

13 A. As far as these two phones, I did not collect.

14 Q. Okay. And that would be 71 and 72?

15 A. Yes.

16 Q. Okay.

17 A. And I do recognize this one.

18 Q. Okay. And that -- and that is 73?

19 A. Correct.

20 Q. And 73 you recognize as being the phone you collected
21 from Mr. Chavis?

22 A. Yes, I believe so. That was the only phone that I
23 located.

24 Q. Okay. Thank you.

25 MS. ZMROCZEK: Your Honor, at this time we would move

1 73 into evidence.

2 MS. PATTERSON: Without objection.

3 THE COURT: And it's admitted.

4 MS. ZMROCZEK: Thank you.

5 (Defendant's Exhibit Number 73, a cell phone, was
6 admitted into evidence.)

7 MS. ZMROCZEK: Those are all the questions I have
8 for you. Please answer any questions the State may have.

9 THE COURT: Ms. Patterson.

10 MS. PATTERSON: Thank you.

11 CROSS-EXAMINATION

12 BY MS. PATTERSON:

13 Q. So, Agent Ward, isn't it true that on April 7th of
14 2020 when you went to the Lexington County Sheriff's
15 Department to process the Dodge Dakota truck, Sergeant Hart
16 was only there to give you the search warrant?

17 A. Correct.

18 Q. And he was not there when you processed the truck, was
19 he?

20 A. No.

21 Q. And in processing the truck, you did recover this gun,
22 correct?

23 A. Yes, that's correct.

24 Q. And what kind of gun is this?

25 A. It's a COBRA Model CA 380. It's a .380 pistol.

1 Q. A .380 pistol, correct?

2 A. Correct.

3 Q. And when you recovered this .380 pistol, did it have
4 any -- it didn't have any indication there was any blood or
5 anything on it, did it?

6 A. No.

7 Q. In fact, you didn't see any indication of any blood
8 anywhere inside the truck, did you?

9 A. No.

10 Q. And you viewed Mr. Chavis's body at the crime scene,
11 didn't you?

12 A. Yes, I did.

13 Q. And you recall it being in a pool of blood, don't you?

14 A. Yes.

15 Q. And during the search you also recovered some casings,
16 correct?

17 A. That's correct.

18 Q. And isn't it true those were revolver casings?

19 A. The .32 Smith & Wesson cartridge cases?

20 Q. Yes.

21 A. Yes, those are typically revolver cartridge cases.

22 Q. And in order to remove revolver casings, you would
23 have to manually remove them, correct?

24 A. Yes.

25 Q. And in this case since you found them inside the

1 truck, they would have manually removed and dropped, right?

2 A. Yes.

3 MS. ZMROCZEK: Objection, Your Honor. Speculation.

4 THE COURT: Well, hold on just a second.

5 Let me see the lawyers just for a moment.

6 (Proceedings held at the bench; not reported.)

7 THE COURT: Okay. I'm gonna let him testify to it.

8 Go ahead.

9 BY MS. PATTERSON:

10 Q. And you would have to manually remove those casings
11 from a revolver, correct?

12 A. Yes, they would not be ejected out like a
13 semiautomatic pistol.

14 Q. And isn't it true nowhere in that truck did you
15 recover a revolver, is it?

16 A. No.

17 Q. And there's no way to even date these casings that
18 were found in inside the truck, is it?

19 A. No.

20 Q. And Ms. Zmroczek asked you about the items that were
21 recovered inside the home at Fish Hatchery Road and this is
22 the diagram that you talked about that you made in relation
23 to this case. And, again, items 28, which was a box of
24 ammunition, 29, which was a Winchester model rifle, and,
25 30, which was a pistol magazine, was found inside the

1 residence, correct?

2 A. That's correct.

3 Q. And inside a back bedroom in the residence, correct?

4 A. Correct.

5 Q. And there was no evidence that any of those items had
6 been connected to the shooting outside of the home, was it?

7 A. No.

8 MS. PATTERSON: I beg the Court's indulgence.

9 No further questions.

10 MS. ZMROCZEK: Briefly.

11 REDIRECT EXAMINATION

12 BY MS. ZMROCZEK:

13 Q. She asked you about the .32 -- the 32-caliber?

14 A. Yes.

15 Q. Do they make a 32-caliber semiautomatic?

16 A. To my knowledge, not in that cartridge.

17 Q. To your knowledge not in that cartridge, but --

18 A. It's not -- it's not a very common cartridge.

19 Q. It's not very common, but you don't know, right?

20 A. As far as I'm aware I've never seen one.

21 Q. Okay. You also -- she asked you about items that you
22 collected from the home in the back bedroom, right?

23 A. Yes.

24 Q. And I think you previously testified that you didn't
25 collect a casing that was inside the home that I previously

1 showed you a picture of that was right inside the door,
2 right?

3 A. Correct.

4 MS. ZMROCZEK: No further questions, Your Honor.

5 THE COURT: May I excuse the witness?

6 MS. PATTERSON: Yes, ma'am.

7 MS. ZMROCZEK: Yes, ma'am.

8 THE COURT: Thank you, Detective.

9 I mean, I'm excusing him from the case.

10 MS. ZMROCZEK: Yes, ma'am.

11 THE COURT: From the case.

12 (Witness excused.)

13 MS. ZMROCZEK: And, Your Honor, we only have one
14 more witness to call.

15 THE COURT: All right. Let me ask, Mr. Foreman, is
16 the jury okay?

17 FOREPERSON: We're good.

18 THE COURT: You-all know you're getting lunch today.

19 JUROR: Thank you. We appreciate that.

20 THE COURT: Call your next witness.

21 MS. ZMROCZEK: Thank you, Your Honor.

22 We recall Investigator Hart.

23 (Whereupon, Michael Joe Hart was duly sworn by the
24 Clerk of Court.)

25 THE CLERK: Please take a seat in the witness box.

1 State your full name and spell your last for the record.

2 THE WITNESS: Yes, ma'am. It's, again, Michael Joe
3 Hart. H-A-R-T.

4 MICHAEL JOE HART,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. ZMROCZEK:

8 Q. Investigator Hart, when did you receive Agent Greer's
9 firearms reports?

10 A. I don't know. I'll have to look at it to tell you.
11 I couldn't tell you the exact date I got it, but I know it
12 would have been after February 18, 2021, because that's the
13 date that it was issued.

14 Q. So after February 18, 2021, right?

15 A. Yes, ma'am.

16 Q. And before -- and also -- let me rephrase the
17 question. When did you receive information that there
18 was another person out there with a gun? Yesterday
19 Mr. Jones testified, I think you were in here, but he
20 testified that he sent a crime tips reporting form to you.
21 Did you receive that form?

22 A. Yes, ma'am. I received information from him that
23 there was allegedly somebody else out there with a gun on
24 April 17, 2020.

25 Q. Right.

1 A. And just for reference, the crime tip goes to
2 everybody that has access to the system. It's not direct
3 to me.

4 Q. Okay. So anybody could have investigated that, right?

5 A. It goes to everybody. Everybody does not investigate
6 every type that we get.

7 Q. Okay. So tell the jury what you did to investigate
8 the statement?

9 A. When I investigated this statement?

10 Q. Yes.

11 A. I printed it out and I provided it to the Solicitor's
12 office.

13 Q. Okay. So when you learned -- when he told you in his
14 report that Barry Chavis shot at him and David pointed and
15 presented a gun, did you -- why didn't you go back and do
16 any investigation into that?

17 A. Ma'am, I think I explained yesterday when I was on
18 the stand they were at a place they were legally allowed
19 to be. Had they possessed a gun, it would have been
20 perfectly legal, there was nothing to investigate, and this
21 was three weeks after the arrest, after we had recovered
22 evidence implicating both of the suspects, so there was
23 nothing to investigate as far as -- I didn't -- in my
24 opinion, there was nothing credible to this statement or
25 relevant to the actual shooting death of our victim.

1 Q. Exactly. In your opinion, right?

2 A. As the lead investigator on this case in the shooting
3 death. Yes, ma'am.

4 Q. Right. You figured he was guilty, so why bother
5 investigating?

6 A. No, ma'am. I had evidence that I had probable cause
7 that he was responsible for the murder of the victim and
8 the ABHAN of the additional victim.

9 Q. Right. And that was evidence from Jada, Steven and
10 David, right?

11 A. As well as the physical evidence, the firearms, the
12 jail recordings that you referred to. Yes, ma'am.

13 Q. All right. I want to talk about the firearms for a
14 second, but before that I want to hand you 71 and 72 and
15 ask you if you directed to have these two phones collected
16 and actually collected with Investigator Brock one of them?

17 A. This one, yes. This one would have been Jada's phone.
18 I initially collected it and then gave him the phone when
19 he interviewed Jada.

20 Q. Okay.

21 A. Well, let me back up. Deputy Swygert initially
22 collected it and provided to me and then I gave it to --

23 Q. But this is Jada's phone and that's the same phone
24 that was collected, right?

25 A. Yes, ma'am.

1 MS. ZMROCZEK: Your Honor, at this time we would
2 move 72 in.

3 THE COURT: Any objection?

4 MS. PATTERSON: Yes. Relevance.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: All right.

7 MS. ZMROCZEK: I'll mark that as ID, Your Honor.

8 THE COURT: Okay. ID's fine.

9 MS. ZMROCZEK: Thank you.

10 THE WITNESS: And this phone I did not collect and
11 I did not expressly direct anybody to collect it.

12 BY MS. ZMROCZEK:

13 Q. So you have no idea -- what's been marked for ID 71,
14 you have no idea whose phone this is? No idea where it
15 came from?

16 A. As far as -- I know where it came from. I don't know
17 whose phone it is.

18 Q. Where did it come from?

19 A. It came from Mr. Jones's house.

20 Q. It came from Mr. Jones's house, right?

21 A. Yes, ma'am.

22 Q. Okay.

23 MS. ZMROCZEK: I'm just gonna leave this as ID, Your
24 Honor. This 71 phone from Mr. Jones's house is ID.

25 THE COURT: Okay.

1 BY MS. ZMROCZEK:

2 Q. But it certainly was in evidence, right?

3 A. It was in evidence, is that your question?

4 Q. Yes.

5 A. Yes, ma'am. It was.

6 Q. And did you run it?

7 A. I'm sorry?

8 Q. Did you send it for testing?

9 A. Did I obtain a search warrant for it to have it

10 extracted?

11 Q. Yes.

12 A. No, ma'am. I did not.

13 Q. Okay. And did you obtain a search warrant for

14 extraction of Mr. Chavis's phone?

15 A. No, ma'am. I did not.

16 MS. ZMROCZEK: I beg the Court's indulgence.

17 Nothing further, Your Honor.

18 THE COURT: Ms. Patterson.

19 MS. PATTERSON: No questions, Your Honor.

20 THE COURT: May I excuse this witness?

21 MS. PATTERSON: No objection from the State.

22 THE COURT: I'm excusing him to your table.

23 MS. PATTERSON: Yes, ma'am.

24 THE WITNESS: Thank you.

25 (Witness excused.)

1 THE COURT: Okay.

2 MS. ZMROCZEK: Thank you, Your Honor. The defense
3 rests.

4 THE COURT: Thank you.

5 All right. Mr. Foreman, the defense has rested.
6 There's some matters that I need to take up with the
7 attorneys. I'll have you back in as soon as I finish,
8 okay?

9 Please remember it's not time to talk about this
10 case just yet. We're getting close, but it's not time
11 yet.

12 Thank you.

13 (Whereupon, the jury retire to the jury room at
14 10:37 AM.)

15 THE COURT: All right. Be seated.

16 I'll be glad to hear your motions, Ms. Zmroczek.

17 MS. ZMROCZEK: Thank you, Your Honor.

18 At this time we would renew our motions based upon
19 the same arguments, but with this additional testimony,
20 and renew all of our previous objections.

21 THE COURT: Okay. Anything, Ms. Patterson?

22 MS. PATTERSON: No, ma'am.

23 THE COURT: All right. And based on my previous
24 ruling, I'm gonna deny your motions.

25 All right. Let me talk to you-all about jury

1 charges.

2 You-all have a copy of them?

3 MS. ZMROCZEK: Was it e-mailed?

4 THE COURT: Yes.

5 MS. PATTERSON: The one I -- I copy I have still
6 has Christopher Shumpert's name on it, so I just wanted
7 to make sure that was --

8 THE COURT: Well, hang on a second. Let's get this
9 printed. I want a copy for everybody.

10 Give me just one second and we're gonna go over
11 these.

12 MS. ZMROCZEK: Thank you, Your Honor.

13 Your Honor, while she's waiting, can I start to
14 argue so we're not sitting here, just not about the
15 charges in general, but about malice because, I mean, I
16 know he's charged with murder and I understand you're
17 gonna charge that, so I don't think that that charge is
18 in question.

19 THE COURT: No, the murder charge is not in question.
20 I know that you do want involuntary.

21 MS. ZMROCZEK: I do want involuntary, but -- not but.
22 I do want involuntary period. The next sentence is with
23 the case law of Burdette and its progeny about the judge
24 cannot charge inferred malice period because Belcher
25 started it was just having that someone was acting in

1 self-defense and that inferred malice could not be charged
2 with use of a gun. The Court went further and said in
3 Burdette that you cannot charge malice or inferred
4 malice --

5 THE COURT: I think we took that out.

6 MS. ZMROCZEK: We did. I don't know if we put it
7 on the record though because what -- Your Honor, what I
8 need to make sure that I preserve is I don't want to
9 object during their closing to interrupt when they start
10 to -- because Ms. Patterson indicated that she intends to
11 say malice, he had that gun, malice, he had that gun, and,
12 Your Honor, that's contrary to the law and the law says
13 that you cannot not charge inferred malice from a gun.

14 MS. PATTERSON: And I can argue it. I'm not gonna
15 tell the jury that you're gonna charge it. That's just
16 gonna be one of my inferred malice's points, use of a
17 deadly weapon. And it says in that case that I'm able
18 to make that argument and the statute clearly says express
19 or implied.

20 MS. ZMROCZEK: Your Honor, that's contrary to the
21 case law. That makes zero sense. That's like me
22 arguing --

23 THE COURT: Show me the case law that she can't argue
24 that.

25 MS. ZMROCZEK: I don't know that thee is case law.

1 That's the point.

2 THE COURT: Because I'm gonna tell you I've handled
3 a lot of murder cases and a lot of them are with guns and
4 -- and I've seen a lot of lawyers argue that.

5 MS. ZMROCZEK: I have, too, Your Honor, and --

6 THE COURT: Tell me why she can't. Tell me why she
7 can't.

8 MS. ZMROCZEK: Because, Your Honor, the law is that
9 you cannot infer malice from a gun. That's what Burdette
10 says. You cannot charge inferred malice from a gun.

11 MS. PATTERSON: And she's not gonna charge it.

12 MS. ZMROCZEK: I understand you're not gonna charge
13 it, but she's gonna argue it.

14 THE COURT: I'm not gonna charge it.

15 MS. ZMROCZEK: Right.

16 THE COURT: I mean, I took that out of my murder
17 charge the moment that law came out.

18 MS. ZMROCZEK: Right. But when the State argues
19 that that's what malice is, is the gun, but the law --
20 it doesn't say that that's what malice is, that's where
21 the conflict is. It's a slippery slope, Your Honor, of
22 allowing the State to get up here and say that's malice,
23 but that's no what the law says malice is.

24 THE COURT: I'm gonna be telling the jury what malice
25 is.

1 MR. POGUE: Actually the case law doesn't say that.

2 THE COURT: And I don't believe that it goes as far
3 as to say that the State can't argue it.

4 I'll be glad to hear from you, Ms. Patterson.

5 MS. PATTERSON: The law specifically says we can
6 argue that as one of the instances of implied malice and
7 until the law changes I think we should -- we are allowed
8 to argue it.

9 MR. POGUE: She's just saying as matter of law you
10 can't argue it. That's the difference.

11 MS. ZMROCZEK: And so, Your Honor, what I'm doing is
12 just -- the only way that laws change is by making the
13 argument. So what I'm trying to do --

14 THE COURT: I've got you and let me put it to you
15 this way. It is so noted for the record, okay?

16 MS. ZMROCZEK: Thank you.

17 THE COURT: But at this point I know what I'm gonna
18 charge.

19 MS. ZMROCZEK: Right.

20 THE COURT: But if she wants to argue it, I'm gonna
21 let her argue it.

22 MS. ZMROCZEK: Thank you.

23 THE COURT: Let's talk about this -- I'll get to
24 involuntary in just a second. I wanted her -- my law
25 clerk is bringing the jury charges now. I just want

1 everybody to have a copy when I go over them and then
2 we'll fix them and go from there.

3 All right. Everybody with me?

4 Page 2. Regular jury charge I charge in every case.
5 That's the charge. I talk about the indictment.

6 Page 3 I talk about what is not evidence and the
7 duties of the jury and the trial judge. That continues
8 over to page 4 and 5. I charge it in every case. I've
9 ever done.

10 Presumption of innocence on page 5. I've charged it
11 in every criminal case I've tried.

12 Reasonable doubt I've charged -- on page 7. I've
13 charged that in every criminal case I've done.

14 Direct evidence and circumstantial evidence.

15 MS. ZMROCZEK: It's the Logan charge, Your Honor?

16 THE COURT: It's the long charge. It goes over to
17 page 9. I did the Logan in this case.

18 Any objection so far?

19 MS. ZMROCZEK: No.

20 THE COURT: All right. My criminal intent on
21 page 10.

22 Credibility of witnesses on page 11.

23 Expert witnesses because we had experts in this case
24 is my normal, but it's a little long.

25 My murder charge. Now with the case law that came

1 out last week or this week. I can't remember. I told
2 you-all about it. I think it's the Sellers case. Malice
3 is hatred, ill will and hostility towards another person.
4 It is the intentional doing of a wrongful act and the
5 topic of the case law -- the case that came out was
6 "without just cause or excuse". It was those words.

7 Did you-all read that case?

8 MS. ZMROCZEK: Sellers.

9 MS. PATTERSON: Yes, ma'am.

10 THE COURT: Okay. And the case law while I kind of
11 hinted around it's okay if you've got self-defense to use
12 it. They still upheld it with it in it because the jury
13 charges were still so clear that the State carries the
14 burden all the way through. I think just about all of
15 our judges' jury charges are about the same. I know that
16 was Judge Griffith's case. I know that my jury charges
17 are pretty much in line with his, but ill be happy to hear
18 from you-all on the "without just cause or excuse".

19 Ms. Zmroczek.

20 MS. ZMROCZEK: Your Honor, so I read the Sellers
21 case and I do believe that that case -- that's actually
22 different from this one obviously in that we have raised
23 a defense. And so I'm not asking for self-defense, but
24 I'm asking for involuntary with the -- within the
25 background of self-defense. And so honestly -- and when

1 I read Sellers again, it said they felt that it was
2 appropriate in -- in that kind of case and since we are
3 arguing for a lesser included, I believe that it is
4 appropriate to remain in for this case.

5 THE COURT: Let me hear from you, Ms. Patterson.

6 MS. PATTERSON: Your Honor, I agree with your current
7 jury charge is as affirmed in Sellers.

8 THE COURT: Okay. Then I'm just gonna leave it like
9 it is if there's no objection. I know that there is --
10 she's wanting involuntary, but I'm gonna leave it like it
11 is because I think it covers it.

12 Have you-all read the rest of the murder charge? Is
13 there any objection to it? I've charged this for a good
14 little while. The only change that's come out is the
15 Sellers case.

16 MS. ZMROCZEK: And I -- understand that, again, I'm
17 arguing -- what I would argue, Your Honor, is that when
18 it says malice may be inferred from conduct showing a
19 total disregard for human life, in this case that would,
20 again, go back to the gun. I would ask that that be
21 removed in light of the Burdette case. I understand
22 what the current case law is, Your Honor, but I think
23 that total disregard -- so what they're gonna say,
24 total disregard of human life is shooting off a gun, I
25 understand that, but I believe that that is in conflict

1 with the other findings that the Supreme Court has come
2 down on with inferred -- with inferences and malice and
3 so they say you can't charge malice from a gun.

4 So, for example, if this -- if he had been driving
5 a car, right, that would be -- and he ran through a crowd
6 of people, then that's what I would argue malice showing
7 a total disregard for human life to would be.

8 Now I understand that what the argument is in this
9 case is that -- and I understand. I know. I know, but
10 I have to make the arguments, Your Honor, because
11 otherwise --

12 THE COURT: Well, that analogy just makes me say I'm
13 leaving this right in.

14 MS. ZMROCZEK: But the difference is a car and a gun
15 when a gun --

16 THE COURT: I got it. You just want any inference
17 that somebody could imagine a gun --

18 MS. ZMROCZEK: Right.

19 THE COURT: -- and I don't believe that's what this
20 says, but I'll be happy to hear from you, Ms. Patterson.

21 MS. PATTERSON: Yes, we believe it's appropriate as --
22 as noted.

23 THE COURT: Okay. I believe it's appropriate. I'm
24 gonna keep it in.

25 All right. Did you read the assault and battery of

1 a high and aggravated nature? It's pretty --

2 MS. PATTERSON: Standard.

3 THE COURT: -- short and to the point.

4 MS. ZMROCZEK: Your Honor, we would ask for all of
5 the lesser includeds. There was no testimony about any
6 -- of the weapon and, therefore, I think that the lesser
7 includeds of assault and battery first, second and third are
8 appropriate to be charged here.

9 THE COURT: Let me hear from you, Ms. Patterson.

10 MS. PATTERSON: Your Honor, I think there was
11 sufficient testimony that the injury that Mr. Kimbler
12 sustained was committed with the act accomplished by
13 means likely to produce death or great bodily injury by
14 the simple fact he was shot twice with a gun.

15 MS. ZMROCZEK: Again, Your Honor, there's evidence
16 in the record that supports that --

17 THE COURT: You want me to charge simple assault?

18 MS. ZMROCZEK: No. No. No, I want A and B -- well,
19 A and B first, A and B second and A and B third. Yeah, I
20 guess A and B third is technically simple assault. I want
21 -- you can't just go to A and B third. I think you have
22 to do them all. And there's evidence in the record that
23 -- that I think supports that.

24 THE COURT: Well, I don't -- well, I disagree. I'm
25 certainly not charging simple assault when somebody's been

1 hit twice.

2 Assault and battery second, can you pull that up
3 for me. Let me look at the elements. Is it a lesser
4 included?

5 Ms. Patterson, let me hear from you.

6 MS. PATTERSON: Your Honor, again, it doesn't -- the
7 great bodily injury doesn't have to exist. It could be
8 accomplished by means likely to produce --

9 THE COURT: Means to produce --

10 PATTERSON: -- great bodily injury.

11 MS. ZMROCZEK: The problem is, is they had no
12 testimony. They just said he was shot.

13 THE COURT: They had a video if I remember
14 correctly.

15 MS. PATTERSON: A video that she entered into
16 evidence.

17 MS. ZMROCZEK: The video, Your Honor, just shows him
18 in an ambulance. That doesn't --

19 THE COURT: No, it showed him -- you-all tell me if
20 I'm wrong, but I saw him sitting on the porch, they were
21 trying to do a tourniquet around --

22 MS. ZMROCZEK: And he was drinking a Coke. Yes.

23 THE COURT: -- and he had been shot in the thigh
24 area it looked like to me.

25 MS. PATTERSON: Right.

1 THE COURT: Where was the second shot?

2 MS. ZMROCZEK: See, and that's it, Your Honor.

3 MS. PATTERSON: The torso and the upper thigh area
4 is where he was shot and they had to place a tourniquet
5 around his thigh to prevent him from bleeding out.

6 MS. ZMROCZEK: But, Your Honor, there was no testimony
7 about that. If they want to argue that the jury can infer
8 that from the video, then that's -- I understand, but to
9 limit a lesser included I think is improper.

10 MS. PATTERSON: And Swygert did testify to it, as
11 well as the accompanying video showed it.

12 THE COURT: I'm gonna decline to charge the lesser
13 included on the assault and battery of a high and
14 aggravated nature. I'm going to charge that.

15 All right. Possession of a weapon during the
16 commission of a violent crime. This is my normal charge
17 and I usually list what the violent crimes are and in this
18 case the violent crimes are murder and ABHAN.

19 Any objection to this charge?

20 MS. ZMROCZEK: Well, Your Honor, as I was just
21 flipping through, it appears that you have not included
22 an involuntary manslaughter charge.

23 THE COURT: We're gonna talk about that. I'm trying
24 to get through these first.

25 MS. ZMROCZEK: Okay. Then at this point, the way

1 it's drawn up, I do not, but if you do include the
2 involuntary manslaughter charge because you said that
3 murder and ABHAN are violent, I think that you have to
4 say that involuntary is not if you include it. That's
5 the only -- that would be the only -- because otherwise
6 there could -- I just -- there could be an inconsistent
7 verdict, like if -- but if they found him, you know,
8 guilty of like the ABHAN and involuntary, then they could
9 still find the gun, but I'm just trying to make it less
10 confusing.

11 THE COURT: Well, I think we can -- we can accomplish
12 that on the --

13 MS. PATTERSON: Verdict form.

14 THE COURT: -- verdict form.

15 The verdict form will accomplish that --

16 MS. ZMROCZEK: Okay.

17 THE COURT: -- Ms. Zmroczek, because you haven't
18 seen my verdict form yet.

19 MS. ZMROCZEK: I haven't. No.

20 THE COURT: All right. Hand of one hand of all.
21 This is my normal hand of one hand of all charge.

22 Is there any objection to it?

23 MS. PATTERSON: Not from the State.

24 MS. ZMROCZEK: Yes, Your Honor. And so the most
25 recent case that I can find -- sorry -- is Sha'quille

1 Washington. State v. Sha'quille Washington.

2 I think I have one to hand up.

3 THE COURT: Can I have the cite?

4 MS. ZMROCZEK: It is 431 S.C. 394, 2020.

5 848 S.E.2d 779.

6 THE COURT: Thank you.

7 All right. What's your objection?

8 MS. ZMROCZEK: Okay. So, Your Honor, what I would
9 argue is that in the facts as presented in this case,
10 that -- so a homicide that would be the hand of one has
11 to -- it has to show that -- there has to be evidence
12 that a person joins with another to commit a crime, okay,
13 and that's where I'm focussing. To commit a crime. All
14 of the testimony here is that they went -- or that Chris
15 told Daniel that he was assaulted and he just wanted to
16 get his money and clothes back and going to retrieve your
17 items is not a crime. So I would argue that -- that they
18 didn't join together to commit a crime.

19 THE COURT: He -- he supplied the guns to the
20 co-defendant.

21 MS. ZMROCZEK: Again, I know. I understand that
22 the guns are the biggest part of this, but also there's
23 no crime in having a gun in your vehicle, Your Honor.
24 If they want to argue that the crime -- there's no crime
25 for having a gun in your vehicle and -- but also -- the

1 instruction also requires -- it says a finding of a prior
2 -- and I'm under the Section B -- a finding of a prior
3 arranged plan or scheme is necessary -- excuse me -- is
4 necessary elsewhere creates an inference that the --
5 someone other than the petitioner was a shooter. So
6 because obviously the testimony was they don't know --
7 they can't say which -- they can't say which bullets
8 entered, so we don't know which -- she couldn't say on
9 either one which bullets caused the two injuries.

10 And so, again, Your Honor, it goes back to -- it
11 goes back to a finding of -- what was the meeting of the
12 minds? What had they gone to agree? And I understand
13 that Your Honor's position is the fact that because they
14 took guns there it was their planned killing.

15 THE COURT: No, I'm -- I'm gonna tell you. I think
16 it's the jury's decision. My charge says it is necessary.
17 There must be a common design or intent to commit the
18 crime and the crime must have been committed with the
19 defendant aiding and abetting by some overt act. That
20 is entirely a jury -- for a jury to decide the facts in
21 that case. And what you're telling me is that you think
22 there ought to be some common scheme or design or the
23 intent to commit a crime and I'm telling you that's what
24 I'm charging. But, you know, him picking up the guns is
25 the testimony that I heard that I think is left up to a

1 jury to decide the facts of this case. I don't know what
2 else you want me to put in this hand of one hand of all
3 charge.

4 MS. ZMROCZEK: And I think as long as -- and I read
5 it, Your Honor. I just -- I just --

6 THE COURT: I even put mere presence at the scene --

7 MS. ZMROCZEK: Yes.

8 THE COURT: -- is insufficient.

9 MS. ZMROCZEK: Okay. Good.

10 THE COURT: That's in there. And I think all of
11 that is for the jury to decide. They can take the
12 testimony and give it the weight that it's worth and they
13 can decide if it's hand of one hand of all, but I think
14 I've hit all the elements of it in the charge itself.

15 MS. ZMROCZEK: And you will leave mere presence in,
16 so, right?

17 THE COURT: Yes. Mere presence is in there.

18 MS. ZMROCZEK: Thank you.

19 THE COURT: All right. Next is sympathy. I always
20 charge sympathy. Always. In every criminal case.

21 The rest of the jury charge is the duty to
22 deliberate, the jury verdict, those -- that's my normal
23 closing to a jury and my advice to them on how they should
24 act in the jury room.

25 MS. ZMROCZEK: I think multiple charges is

1 appropriate because there's a jury charge on multiple
2 counts.

3 THE COURT: There is.

4 MS. ZMROCZEK: I think that's appropriate.

5 THE COURT: I think that I did put in here -- on
6 here that there were multiple --

7 MS. ZMROCZEK: I just didn't see the charge. I'm
8 sorry.

9 THE COURT: I just put in here that your verdict
10 must be a unanimous one as to each charge.

11 MS. ZMROCZEK: I would -- I would ask that we
12 include that --

13 THE COURT: Let's see if there's a multiple -- I know
14 I have a multiple charge. It's a little blurb.

15 MS. ZMROCZEK: And multiple defendants. It's --
16 they're right after each other. And I know that there's
17 not multiple defendants in this case, but -- I mean,
18 there are, but not in this trial. But, Your Honor, I
19 would argue that -- especially since they're getting the
20 accomplice liability charge that I think that they still
21 have to consider each defendant's behavior independently.

22 THE COURT: Now wait a minute. I'm looking at the
23 multiple charges. Let's see. I thought I had one.

24 MS. ZMROCZEK: And I think that the multiple
25 defendants one is probably when they're both at trial,

1 but I guess we can just --

2 THE COURT: I don't know that I'm doing the multiple
3 defendants.

4 I'll be glad to hear from you, Ms. Patterson.

5 I don't know that this case is -- I've already tried
6 the co-defendant in this case.

7 MS. PATTERSON: I'm so sorry, Your Honor. She wants
8 multiple defendants? I don't think it's appropriate in
9 this case, again, because we are not trying them both
10 together. If we were trying them both together --

11 THE COURT: And the multiple defendant charge that I
12 had is --

13 MS. ZMROCZEK: It looks like -- I just re-read it.
14 It looks like it's for multiple defendants, so we would
15 just ask for the multiple charges, so.

16 THE COURT: Okay. I -- yeah, multiple defendants
17 I'm denying. Let's look for multiple charges.

18 MS. ZMROCZEK: It should be in that section right
19 before it.

20 THE COURT: Do you have one, Aimee?

21 MS. ZMROCZEK: I do.

22 THE COURT: Why don't you show it to Ms. Patterson.

23 I don't mind charging multiple charges. I've done
24 it before, but show it to Ms. Patterson and tell me if
25 there's any objection. I'll be more than happy to add

1 it. It just lets the jury know that they have to decide
2 each charge on its own.

3 MS. PATTERSON: That's fine. Multiple charges.

4 MS. ZMROCZEK: Do you want a copy of this one?

5 THE COURT: Yeah. Thank you. That will save me
6 time.

7 MS. ZMROCZEK: No problem.

8 THE COURT: All right. Then the only thing left --
9 I'll add that in -- is involuntary manslaughter.

10 MS. ZMROCZEK: And, Your Honor, I think there may
11 be -- so I think there might be two more that I was just
12 gonna ask about and that was prior record of witnesses
13 and defendant because obviously we talked about that and
14 how that -- obviously we talked about it with everybody
15 and I think that there's -- I know that there's a charge
16 on it.

17 THE COURT: Let me tell you what I do, Ms. Zmroczek,
18 and maybe this will take care of it, but when I go
19 through --

20 MS. ZMROCZEK: The credibility?

21 THE COURT: Let me tell you what page it's on.

22 On page 3, on duties of jury and trial judge, if
23 you look at the very last line it says and stipulations
24 of counsel. I will always go and say -- I will add there
25 was a stipulation in this case and then I will read what

1 I told the jury before just to remind them that there is
2 a stipulation in this case and the stipulation in this
3 case was about your client's record and you-all agreeing
4 that he was in legal possession of a gun at the time of
5 the incident.

6 Does that take care of what you're trying to do?

7 MS. ZMROCZEK: Well, there's -- so kind of. The
8 other charge that I was talking about, it says -- it says
9 prior record of defendant limited for impeachment and
10 prior record of -- thank you -- of witnesses. And I'll
11 just -- and then just so I don't forget it, so I need to
12 say it out loud, Your Honor, I did request a spoliation
13 charge, so I want to discuss that next as well.

14 THE COURT: Okay.

15 MS. ZMROCZEK: But I just didn't want to forget.

16 THE COURT: Just let me get through one at a time
17 so we don't get confused.

18 MS. ZMROCZEK: Exactly.

19 MS. PATTERSON: I'm not gonna agree to the prior
20 record jury charge. I think the credibility charge
21 should cover the believability.

22 THE COURT: Well, I haven't seen what she wants.
23 Let me see.

24 MS. ZMROCZEK: (Hanging.)

25 THE COURT: Well, I mean, it's kind of redundant,

1 but I don't mind charging it.

2 Is there any objection, Ms. Patterson?

3 MS. PATTERSON: I do object, but I'll -- I'll agree
4 with the Court's decision.

5 THE COURT: Well, I mean, it is. I'm saying it's
6 redundant only because it goes to believability of
7 witnesses and I've got a long witness believability.

8 MS. PATTERSON: You do.

9 THE COURT: It's redundant. I don't mind doing it.
10 I mean, it's an important case. I'll do it.

11 Now are you wanting something on the prior record
12 of the defendant?

13 MS. ZMROCZEK: Yeah, I would ask that that be
14 included as well.

15 THE COURT: Did you look at that, too?

16 MR. POGUE: I did.

17 THE COURT: Any objection?

18 MS. PATTERSON: Yes.

19 MR. POGUE: I think that if you -- the issue only
20 as a -- if you believe the testimony, if you find it to
21 be true. I mean, I think we all have established that
22 that's a fact, that these defendants have prior criminal
23 histories. It's not something that the jury could -- you
24 know what I mean? So maybe that part of it would be the
25 only thing I would really object to. The rest of it,

1 whatever, is fine. It's in the defendant portion of it.

2 THE COURT: I just say we -- if we take that out,
3 if you conclude it's true and put may be considered by
4 you only in deciding whether the defendant's testimony is
5 believable.

6 MS. ZMROCZEK: I think that's fair.

7 MR. POGUE: That's fine.

8 THE COURT: I think that's fair.

9 MS. ZMROCZEK: And then there's just one more,
10 Sorry, on prior inconsistent statements.

11 THE COURT: I've got prior inconsistent statements.
12 I don't mind doing it. I've got my own.

13 All right. I've got all those done, added in.
14 We're fixing it. We're gonna print a final copy and go
15 over a final copy.

16 MS. ZMROCZEK: Okay. But I wanted to -- so you said
17 you were gonna charge involuntary?

18 THE COURT: No. I haven't gotten -- we haven't
19 talked about it yet.

20 MS. ZMROCZEK: Okay. That's what I -- before we
21 print it.

22 THE COURT: No. No. No.

23 MS. ZMROCZEK: So I need to argue for the spoliation,
24 too.

25 THE COURT: All right. Let me hear about the

1 spoliation.

2 MS. ZMROCZEK: Thank you, Your Honor.

3 So there was testimony from the firearms examiner,
4 Greer, about how these -- there were two that could be
5 .38 nominal, nominal meaning that it could be a .380,
6 and he listed several different items that it could be
7 and there were pictures introduced of a shell casing not
8 only inside of the vehicle, but inside of the house that
9 were never collected and that were never photographed
10 properly so we don't know what kind those are.

11 My issue was that this all -- this whole issue
12 started when I went to go look at the truck in preparation
13 for the case and was advised that on April 20th of 2020
14 that it had been released not by this solicitor, but by
15 the former solicitor, without giving us an opportunity
16 to examine the truck and request any testing or any
17 evidence out of it be tested.

18 Your Honor, the whole issue here is now that that's
19 in evidence that Mr. Jones did give a statement that said
20 that B.J. shot at him and David had a gun, that's what
21 his statement was -- or even maybe that David shot, too,
22 I can't remember, but either way that there were other
23 guns and the .380, which is what I introduced, they
24 collected the .380 from the truck, but then they didn't
25 collect the shell casings and I don't have an opportunity

1 to see what kind that that was. So that's why we would
2 be arguing for that charge.

3 THE COURT: Let me hear from you, Ms. Patterson.

4 MS. PATTERSON: Thank you, Your Honor.

5 There was not any testament even from her client
6 that B.J. shot at him. He testified that B.J. had a gun,
7 but he --

8 THE COURT: In his waistband --

9 MS. PATTERSON: In his waistband.

10 THE COURT: -- I think is what he said.

11 MS. PATTERSON: Right.

12 THE COURT: I pay attention up here.

13 MS. PATTERSON: Yes, ma'am.

14 And I passed up last week in pre-trial State v.
15 Cheeseboro. Even in that case where the murder weapon
16 was destroyed by the agency's policies and procedures,
17 it still did not warrant a spoliation charge, and I would
18 argue in this case, again, nothing was done in bad faith
19 in turning that vehicle over. Again, it was nothing that
20 linked -- or nothing that could have been exculpatory
21 in that vehicle that would have helped Mr. Jones in this
22 case. There was no bad faith in returning the vehicle.
23 It was processed, it was documented, it was photographed.
24 It actually wasn't turned over until October of 2020 and
25 there's -- again, there's no evidence that the State or

1 law enforcement acted in bad faith in releasing this
2 vehicle or that the evidence had any exculpatory value
3 apparent before it was returned and the defendant cannot
4 obtain comparable evidence by any other means. I think
5 those are the requirements of the State v. Cheeseboro in
6 order for there to be a spoliation charge.

7 THE COURT: Okay. You know, I heard the testimony
8 about the five bullets that was found in the side pocket
9 of the door and there was one that was lodged in between
10 the seats, but I don't think anybody matched them up to
11 the guns that were the murder weapon.

12 MS. ZMROCZEK: Well, they couldn't. They weren't
13 collected, but the one that -- the shell casing -- that's
14 what I'm arguing, is that shell casing wasn't collected
15 and that that's why we couldn't have it tested or argued
16 and then that -- in conjunction with the testimony about
17 the nominal -- the two nominal items that he --

18 THE COURT: But those were found inside the truck in
19 the side of a -- in the side pocket I think was what you
20 call it. I've got one in my car. I don't know where that
21 could help establish or -- or be exculpatory or -- I mean,
22 I just don't see that they destroyed any evidence, that
23 they are trying to hide any evidence.

24 MS. ZMROCZEK: Your Honor, and I understand, and
25 I'll just note that.

1 THE COURT: I think I'm -- I decline to -- and plus
2 there's been no testimony of all of that for the jury.
3 If I charge that, they're not even gonna know what I'm
4 talking about. So I'm gonna decline to charge this
5 spoliation charge.

6 All right. Now what other charge do we have?

7 MS. ZMROCZEK: I would argue for involuntary.

8 THE COURT: Involuntary. That's the last one. All
9 right involuntary. Let me hear from you Ms. Zmroczek as
10 to why I should charge involuntary.

11 MS. ZMROCZEK: Thank you, Your Honor.

12 And so the cases that I'm relying on are State v.
13 Pickens. I could give you the cite. It's 320 S.C. 528.

14 THE COURT: Wait a minute. State v. Pickens, 320 --

15 MS. ZMROCZEK: S.C. 528.

16 THE COURT: Okay.

17 MS. ZMROCZEK: 464 S.E.2nd 364, 1996. And the
18 holding in that case, Your Honor, is that there's no
19 error in failing to charge involuntary manslaughter when
20 defendant claims intentional shooting in self-defense and
21 that he was acting lawfully but recklessly.

22 And then further in State v. Light, which is
23 378 S.C. 641, 664 S.E.2d 465, 2008, said -- and, again,
24 we haven't requested it, we are not requesting a
25 self-defense charge, but they requested both in that

1 case, but this is a little different. It says however,
2 a self-defense charge and involuntary manslaughter charge
3 are not mutually exclusive as long as there is evidence
4 to support both charges.

5 But, again, we're not asking for the self-defense.
6 We're just asking for the involuntary where there's a
7 factual issue as to whether the killing was committed
8 intentionally in self-defense -- or unintentionally and,
9 Your Honor, he -- I mean, the testimony -- and then in
10 State v. Burriss, Your Honor, which I think that's what
11 I was trying to argue yesterday when they were talking
12 about illegal possession of a gun, but I think we've
13 covered that. But what the testimony is here is that
14 Mr. Jones was only going over there with the intent to
15 get items back and I know -- I understand what's gonna
16 follow, but he brought guns, and I understand that, but
17 -- and that's where I think State v. Burriss -- because
18 it wasn't illegal for him to have a gun and it's not
19 illegal to drive around in a gun -- or drive around with
20 a gun and, Your Honor, he has -- he was asked several
21 times on direct and cross about his intention and how
22 and where he was shooting and, Your Honor, I think all
23 of the testimony that is in evidence supports an
24 involuntary manslaughter charge, that he was acting --
25 that the involuntary manslaughter charge -- let me pull

1 it up so I quote it correctly.

2 Involuntary manslaughter is defined as, one, the
3 unintentional killing of another without malice but
4 while engaged in a lawful -- excuse me -- in an unlawful
5 activity not naturally tending to cause death or great
6 bodily harm. We're not saying that's the section that
7 applies here, Your Honor. We're saying it falls under
8 Section 2 of the involuntary manslaughter charge, which
9 is the unintentional killing of another without malice
10 while engaged in lawful activity with reckless disregard
11 for the safety of others, and that's State v. Mekler,
12 379 S.C. 12, 664, S.E.2d 477, 2008.

13 Your Honor, it's our position that the evidence
14 exist in the records that a jury could find that the
15 respondent was guilty of the second form of involuntary
16 machine, which is the unintentional killing of another
17 while recklessly engaged in lawful activity. He was in
18 lawful possession of a firearm and he was acting in
19 self-defense. That's what was testified to. He also
20 testified to that he was in fear of great bodily harm or
21 death, and I think that that is the -- that was the key
22 testimony that I think leads to allowing him to have that
23 charge to the charge.

24 MS. PATTERSON: And, Your Honor, it's the State's
25 position involuntary manslaughter would not be

1 appropriately charged in this case. Again, I'm gonna
2 go through the definition, too, and I know she's not
3 speaking with subsection -- the first part of the
4 definition, the unintentional killing of another without
5 malice, but while engaged in an unlawful activity not
6 naturally tending to cause death or great bodily injury.

7 Just for the record, I don't even know how we get
8 past without malice. I think this was a very malicious
9 killing. Two armed people go onto someone else's property
10 to confront him or settle a situation or whatever he
11 called, shooting a gun multiple times towards someone.

12 THE COURT: There was, what, thirteen, sixteen shots?
13 I can't remember.

14 MS. PATTERSON: The first one was I think --

15 MR. POGUE: Between the two of them, it was
16 twenty-one.

17 MS. PATTERSON: Twenty-on shots. It was thirteen
18 shots --

19 THE COURT: Twenty-one, but the Blackout, thirteen,
20 wasn't there?

21 MS. ZMROCZEK: No, Your Honor. The testimony was
22 that there were eight Blackout.

23 MS. PATTERSON: Eight .300 Blackout casings, thirteen
24 9-millimeter casings on the property in a yard full of
25 people, but specifically targeting towards the victim.

1 In Subsection 2, or the unintentional killing of another
2 without malice while engaged in a lawful activity with
3 reckless disregard for the safety of others. He was not
4 engaged in a lawful activity. He, again, went onto this
5 property armed. The homeowner, the victim, told him to
6 leave according to testimony from David Payton, so at
7 that point he was trespassing and then he pointed and
8 presented his weapon. There was no lawful activity
9 done by Mr. Jones in order to support an involuntary
10 manslaughter charge. And, again, he was told to leave.
11 The victim had turned his back. It's evident by him
12 being shot in the back.

13 THE COURT: Anything else?

14 MS. ZMROCZEK: Your Honor, I'm not gonna keep
15 repeating my same argument. I think that the evidence
16 is there, it's meets the requirements, it's certainly up
17 to the Court.

18 THE COURT: Can I see the lawyers just for a second?

19 (Proceedings held at the bench; not reported.)

20 THE COURT: All right. Let me ask you this. Can
21 we agree on that, Ms. Zmroczek?

22 MS. ZMROCZEK: I do agree that the testimony also
23 supports a self-defense charge. I do -- and I understand
24 where the Court is and I understand that -- I just need
25 to make sure that I'm making -- preserving my argument

1 that, yes, we do think that specifically that charge of
2 self-defense is appropriate, but we would also, again,
3 especially under State v. Rivera, which is, I think, one
4 of the cases that I handed up, that self-defense and
5 involuntary manslaughter are not mutually exclusive. I
6 just want to make sure that that's noted for the record
7 and that -- and I think that it is at this point.

8 THE COURT: Okay.

9 MS. ZMROCZEK: But, yes, I do think that that
10 self-defense charge is appropriate.

11 THE COURT: I think there was testimony to support
12 a charge for self-defense; however, I do not believe
13 that there was testimony enough for an involuntary
14 manslaughter, and this is why. Altogether there were
15 twenty-one shots fired between two co-defendant, eight
16 of them from this defendant, and I really think that
17 there was more shell casings than that.

18 MS. ZMROCZEK: There were, Your Honor. That's why
19 I objected to them going in because they weren't shot --
20 they were -- that was home shootings, so that's why --

21 THE COURT: But more importantly there was testimony
22 from your client that while he shot into the ground, he
23 also testified that he shot the truck and that's where
24 the body was found. So I don't believe it goes to an
25 involuntary manslaughter, especially when this victim was

1 shot in the back. So I don't believe that supports an
2 involuntary, but I do believe it might would support a
3 self-defense.

4 Any objection from the State?

5 MS. PATTERSON: No objection to that, Your Honor.

6 THE COURT: Any objection from the defense?

7 MS. ZMROCZEK: And, Your Honor, we would just note
8 the objections on the involuntary.

9 THE COURT: Involuntary --

10 MS. ZMROCZEK: And actually there was one thing you
11 said. Oh, when you said that he was shot in the back and
12 so -- just so it's on the record and somebody else can
13 argue it later, that's specifically why I asked the
14 pathologist if he could have received that shot into the
15 back while he was laying on the ground and she indicated
16 that that could also be a possibility, and that's all I'm
17 gonna. I'm gonna shut up. I just want to make sure that
18 that's note.

19 THE COURT: Okay. Well, the one that he -- when he
20 was struck in the thigh, she also testified put him on
21 the ground.

22 MS. ZMROCZEK: Right, and since we don't know that
23 that -- yeah.

24 THE COURT: So I just do not find an involuntary
25 manslaughter charge and I'm not charging it.

1 THE COURT: Let's bring them in.

2 BAILIFF: Yes, ma'am.

3 (Whereupon, the jury return to the courtroom at
4 1:10 PM.)

5 THE COURT: Are we ready, Mr. Foreman?

6 FOREPERSON: Yes, ma'am.

7 THE COURT: All right. Let be seated.

8 All right. We're gonna go to closing arguments.

9 MS. ZMROCZEK: Your Honor, just so I'm not moving
10 around, if I may sit where the bailiff is?

11 THE COURT: You may. Pull up a chair.

12 Okay. Ms. Patterson.

13 MS. PATTERSON: Thank you, Your Honor. May it
14 please the Court?

15 THE COURT: Yes, ma'am.

16 MS. PATTERSON: Good afternoon. Preservation of
17 life. Preservation of life. It seems like everyone in
18 this case values the preservation of life except for the
19 defendant, Daniel Jones. Jada, Bubba, Steven, law
20 enforcement, first responders. The other people at
21 [REDACTED] Fish Hatchery Road valued the preservation of life.
22 And Barry Chavis, Jr., his life, it was worth value. He
23 was a son, a grandson, a nephew, a friend. Yet on
24 March 27th of 2020 around 7:30 PM Daniel Jones and
25 Christopher Shumpert coldly, cowardly and brutally

1 confronted and gunned him down in front of his friends
2 in his own yard, and all over \$50. And I know you may
3 be thinking this would have to do more than \$50 and we
4 don't have to prove motive in this case, but you heard
5 the testimony. This was about \$50 and hurt pride.

6 Now Daniel Jones is on trial for murder, possession
7 of a weapon during the commission of a violent crime and
8 assault and battery of a high and aggravated nature. And
9 Judge McCaslin will charge you as to the law in South
10 Carolina, but is this just my opportunity to go over it
11 with you and how I think it relates to this case.

12 First of all, in South Carolina murder is the killing
13 of a person with malice aforethought, either express or
14 implied. The killing of a person. Barry Chavis, Jr., he
15 was a person. No, he wasn't perfect, but no matter what
16 the defendants say or speak ill of him, it doesn't matter.
17 He was a person.

18 Malice aforethought. Malice is defined as ill will
19 or hatred or hostility. It doesn't require ill will
20 toward the individual injured, although I'll submit to
21 you in this case that's certainly who it was towards, but
22 rather it signifies a general malignant recklessness of
23 the lives and safety of others. Going onto a man's yard,
24 shooting a hail of gunfire in a yard full of people while
25 arguing, that signifies a general malignant recklessness

1 of the lives and safety of others. And the judge will
2 charge that malice doesn't have to exist for a long period
3 of time. It must merely exist before the act. And malice
4 can be express or implied.

5 And let's look at the ways that malice existed in
6 this case. Daniel Jones agreeing to go along with his
7 best friend, Christopher Shumpert, who he knows is upset
8 and crying, who he knows has had an altercation with
9 Barry Chavis, Jr., earlier that day and who knows that
10 he wants to confront him, and not just confront him, but
11 confront him armed. Malice.

12 Daniel Jones arming himself with a .300 Blackout
13 assault rifle. Malice. Daniel Jones providing a
14 9-millimeter gun to his friend, Christopher Shumpert,
15 with an extra magazine. Malice. Driving to Fish Hatchery
16 Road all the while thinking of this plan. Malice. Drops
17 Jacqueline Aiken off on a dirt road before they get to
18 the scene because they knew what was gonna happen. All
19 implied malice. Getting out of the car armed, guns
20 drawn. Malice. Pointing the gun at B.J. Doesn't leave
21 when B.J. tells them to leave. Waits until B.J. turns
22 his back and shoots at least eight rounds towards B.J.,
23 towards the truck that B.J. is trying to flee in front
24 of. All malice. B.J. being unarmed at the time.
25 Malice. And then they fled the scene. Daniel Jones fled

1 the scene. He hid the guns, then lied to the police.

2 All examples of implied malice.

3 Now the judge will also instruct you on self-defense.

4 In South Carolina, all four prongs must be met in order

5 for you to find that the defendant was acting in

6 self-defense. First of all, the defendant must be

7 without fault in bringing on the difficulty. I submit

8 to you we don't even get past this first prong. Daniel

9 Jones brought the assault rifle onto B.J.'s property,

10 B.J. telling him to leave. That's bringing on the

11 difficulty.

12 The second prong, the defendant actually believed

13 he was in imminent danger of losing his life or sustaining

14 serious bodily injury. Again, B.J. was unarmed. You-all

15 saw where his gun was. There was no evidence or testimony

16 that he fired that gun or even had that gun --

17 MS. ZMROCZEK: Your Honor, I just need to note the

18 objection.

19 THE COURT: Excuse me?

20 MS. ZMROCZEK: I just need to note an objection that

21 I'll put on later.

22 MS. PATTERSON: -- except from Daniel Jones.

23 MS. ZMROCZEK: Thank you.

24 MS. PATTERSON: That's the only person who testified

25 to that and it was not corroborated.

1 The third prong. A reasonable prudent person of
2 ordinary firmness and courage would have entertained the
3 same belief. Again, he had no right to even be there
4 armed.

5 The defendant had no other probable means of avoiding
6 the danger. He could have left. He was asked to leave.
7 He was told to leave and he didn't. I submit to you
8 self-defense does not apply in this case.

9 The judge will also instruct you on the charge of
10 possession of a weapon during the commission of a violent
11 crime. It's simple. He possessed a firearm during the
12 commission of a violent crime and I would submit to you
13 that both murder and assault and battery of a high and
14 aggravated nature are both violent crimes.

15 She will also charge you on possession of a weapon
16 during the commission of a violent crime. Excuse me.
17 Of assault and battery of a high and aggravated nature.
18 Kevin Kimbler, who unfortunately is no longer with us
19 today, he was shot twice while he was in front of the
20 truck with B.J. An assault and battery of a high and
21 aggravated nature, the act was accomplished by means
22 likely to produce death or great bodily injury. You saw
23 him on the video. You heard Deputy Swygert testify how
24 they had to put a tourniquet around him to stop the
25 bleeding and we know he could have sustained great bodily

1 injury or death because B.J. did.

2 Now in South Carolina there is also legal concept
3 called accomplice liability or the hand of one is the
4 hand of all. Under this legal theory, a person who has
5 knowledge of the principal's criminal conduct and is
6 present at the scene and his presence is such as to show
7 he has associated himself with and participated in the
8 criminal undertaking. I submit to you under this legal
9 theory the murder was committed by both Daniel Jones and
10 his accomplice, Christopher Shumpert.

11 You heard Jacqueline. You heard why they went
12 looking for Daniel. They were upset about what happened
13 at Treemount earlier that day between her and Jada and
14 B.J. and -- and Chris, and they were mad. And they went
15 looking for Daniel because he was the muscle. He had the
16 guns. They had a plan and he knew the criminal conduct
17 of what Chris Shumpert wanted to do. They devised a plan.
18 They even dropped Jacqueline off because I think he
19 testified they knew something was gonna happen. Fully
20 armed, jumping out of the car, leaving the doors open. I
21 submit to you that was for easy out, easy in and to get
22 away because they knew something was gonna happen. And
23 within minutes they fired upon Barry killing him and
24 injuring Kevin Kimbler.

25 And we don't have to prove who fired the fatal shot

1 under this theory. They both acted in concert with each
2 other and they're equally guilty under this legal theory.
3 The hand of one is the hand of all. He wasn't just merely
4 present at the scene. They planned, he participated, he
5 provided the guns and he hid them afterwards.

6 And Judge McCaslin will also instruct you that we,
7 as the State, has the burden of proving this case beyond
8 a reasonable doubt. And reasonable doubt is not beyond
9 all doubt as you were told in openings because there are
10 few things we know without all doubt and the law doesn't
11 require us to prove the case beyond all possible doubt.
12 Reasonable doubt is doubt that leaves you firmly convinced.
13 If you're firmly convinced of Daniel Jones's guilt, then
14 you must find him guilty.

15 Credibility, believability. What does a person have
16 to gain? What does a person have to lose about -- from
17 coming up here testifying, telling you what they know,
18 telling you what they saw, telling you what they've done?
19 And, again, as you were told in openings, you don't have
20 to leave your common sense at the door to determine if
21 someone's credible.

22 Now the defense would have you believe that Jada
23 Ellison, Jacqueline Aiken, David Payton and even some
24 law enforcement are not credible, but think about it.
25 Use your common sense. No, those young kids, they're

1 not perfect. Yes, they have addictions. Yes, they have
2 charges, but the things they reported to law enforcement
3 were able to be corroborated. If they were so
4 unbelievable, so not trustworthy, I'm sure law enforcement
5 with all the experience that you heard from this stand --

6 MS. ZMROCZEK: Objection, Your Honor. Just the "I'm
7 sure" part.

8 THE COURT: The what?

9 MS. ZMROCZEK: The "I'm sure" part.

10 MS. PATTERSON: -- they would have been able to find
11 these young people out.

12 THE COURT: I'm gonna let her go.

13 MS. PATTERSON: They would not have been able to
14 back up one thing they said; however, this was just the
15 opposite. They located Daniel just where they told them he
16 would be. They located the type of weapons just like they
17 described were used. They located the car just like they
18 described was used in the shooting. Jacqueline was dropped
19 off just like she said she was. And the casings were all
20 found just where they said these people were standing. The
21 casings that each participant had. Daniel over here where
22 the .300 Blackout casings were found. Chris over here
23 where the 9-millimeter casings were found. Just like those
24 witnesses said. They're credible.

25 The only person who's proved to be not credible is

1 the defendant, Daniel Jones. He admitted to lying on the
2 stand when I questioned him yesterday about the first time
3 he heard B.J. was killed was through Detective Brock when,
4 in fact, he had received a message from the phone that both
5 Jada and Bubba used confronting him about what happened.
6 He knew what he did. And he tried to hide guns, come up
7 with an alibi and lie to law enforcement. I submit to you
8 and I ask you who's not credible.

9 Now I know you-all have been paying attention, but
10 I've just got to go a little bit longer, and I apologize
11 in advance because I'm probably gonna repeat myself some
12 during this closing, but, you know, some things are just
13 worth repeating, especially when someone was brutally
14 murdered in their yard, so just allow me this opportunity
15 to, again, just to go through the testimony and the
16 evidence that was presented to you this week so I can
17 make my case.

18 As Mr. Pogue said to you in his opening, this was
19 senseless, this was cold, this was cowardly and this was
20 brutal. And you've heard over and over how Jada and
21 Jacqueline, who had been friends for years, they had this
22 fight over \$50, and how Jada took a hundred instead of
23 fifty and that's what started the altercation.

24 Now the defense will try to throw a lot of what I
25 call distractions at you, and let's just go ahead and get

1 that out of the way so we can get back to what was really
2 proven this week.

3 First she went on and on and talked about how law
4 enforcement didn't secure the crime scene, they didn't
5 talk to people, they didn't check Jada and Bubba's bags.
6 All distractions. Law enforcement had that scene secured
7 within minutes. It was a large law enforcement presence
8 because it were two shooting victims, two suspects. And
9 you heard them say their main goal when they get at the
10 scene is preservation of life. Just like I started out
11 with.

12 She spent a lot of time trying to convince them that
13 they did not secure this scene. Even making a big deal
14 about something being on the ground, that law enforcement
15 don't know what happened to this that was on the ground.
16 She went over and over about this, but I was actually
17 able to show you that this man who obviously got to the
18 scene, concerned about the preservation of life, and went
19 straight to B.J.'s aid trying to hold pressure on that
20 large gaping hole and after EMS came he went and picked
21 up his items, which is clearly a wallet, a cell phone
22 and a pack of cigarettes. This was nothing that law
23 enforcement missed. This had nothing to do with that
24 shooting. A distraction.

25 She even got -- tried to get an experienced CSI

1 investigator to admit that he missed this leaf. He
2 collected this fragment, but you think he would have left
3 this if it was something of evidentiary value? A
4 distraction.

5 And you watched the video. You saw the concern of
6 Jada and Bubba and Steven. You saw the concern they had
7 for their friend. You saw Jada holding her hands trying
8 to -- around B.J. trying to help him as well. And Steven
9 literally giving him the shirt off his back and Bubba's
10 look of concern is evident. They were not trying to hide
11 anything, conceal anything, discard anything from the
12 scene. This big conspiracy theory is just that, a theory.
13 There's no proof, there's no corroboration. She's just
14 throwing it out there as a distraction and I ask you not
15 let it distract you.

16 And let's briefly talk about what Daniel testified
17 about yesterday. Now remember at first he didn't know
18 nothing about a shooting. He ain't seen B.J. in a couple
19 of days, then twenty days after he found out from his
20 grandmother that both the weapons he and Chris had had
21 been recovered by law enforcement, then he wants to come
22 up with something. And then he comes up with I took the
23 weapons because I was gonna go get their money and their
24 belongings back from B.J.

25 That's how they settle disputes. They don't call

1 people up. They both had phones. They don't call the
2 police. He said no, they don't call the police even
3 though his step-daddy said he told Chris and Jacqueline
4 to call the police, so somebody in his familiar used law
5 enforcement.

6 No, they just settle things with guns. And not just
7 any guns. Assault rifles. And you heard him, he's been
8 shooting guns for years, since he was little and
9 experienced at moving targets just like B.J. was doing
10 when he was running for his life only to be shot twice in
11 his back.

12 Then he testified at first he was shooting at the
13 ground, but then admitted it was at the ground towards
14 B.J. Then I think I got him to admit -- I know I got
15 him to admit he was shooting at the truck. So now he's
16 shooting towards the ground and the truck, which was all
17 where B.J. was standing and fleeing for his life.
18 Retreating. Even on his own property when you don't have
19 to, but that's what he was doing because he was unarmed.
20 He didn't have nothing to fight those guys back with.

21 And if you shoot a gun towards someone, you have the
22 intent to shoot them and if you're shooting a high powered
23 assault rifle towards someone, I submit to you, you have
24 the intent to kill someone. And he had to admit to hiding
25 those guns because we found them and then we've got him on

1 camera six, seven minutes after the 9-1-1 call rings out
2 and then we have the GSR on him. What else was he gonna
3 say? He had to admit it.

4 The defense also wants to imply that Jada robbed
5 Jacqueline. Now was Jada right taking the money out of
6 Jacqueline hand and fighting her? No, she wasn't. She
7 just should have waited for Jacqueline to give her the
8 money back. But Jada didn't set out to commit a robbery.
9 She just wanted her money back.

10 And the incident at Treemount Lane where Daniel
11 Jones wasn't even there. This whole thing clearly
12 angered Jacqueline and Chris and they went to find the
13 muscle, the person with the guns. Daniel Jones. And
14 Daniel's stepfather, Corey Cheney -- and I know he's in
15 a tough situation. He told them leave. No, I'm not
16 getting involved. If it was nothing to get involved in,
17 why would he have said that? Because they told him just
18 like they told Daniel when they located him at Bachman
19 Road what was going down, what they wanted to do to B.J.
20 Told them to call the police and he told them don't
21 involve my son. If nothing was gonna go down, why he
22 said don't involve my son. They told Corey Cheney just
23 like I'm sure they told Daniel Jones and according to
24 Jacqueline, yeah, they told him what they wanted to do
25 and for whatever reason he decided yeah, I'll go and I'll

1 provide the guns and then I'll go and shoot the guns
2 knowing his friend was bent on revenge and retaliation.

3 And then that wasn't enough. Chris, Jacqueline
4 and Daniel, they go to Fish Hatchery Road and, again,
5 according to Daniel it was just to get money and
6 belongings, but Jada and Jacqueline, they both said
7 Jacqueline had no money. No, Jacqueline and Chris's
8 items, they were in that car. You'll see pictures of
9 that trunk. They had their belongings. I mean, how much
10 belongings could have been there? They didn't stay at
11 B.J.'s house. They would just spend the night from time
12 to time like they did in their car and hotels. But if
13 this wasn't a plan, if this wasn't what was about to go
14 down, why drop Jacqueline off? Because they knew they
15 were going to use those guns.

16 And you heard her testify she wasn't there long
17 before she heard screams and she heard gunshots and
18 that's just like Jada and Bubba testified about. It
19 didn't take long when they pulled up, when they pulled up
20 and started shooting those guns, and Jacqueline said it
21 didn't take her long before she started hearing it, and
22 she knew. She said she just knew what happened. They
23 didn't talk about it. She said they was acting all
24 nonchalant about it.

25 And then they returned to Earline Drive and then

1 they -- again, Daniel hid the weapon. Then he told his
2 grand-momma later to call and tell momma to go behind the
3 bass boat because he knew law enforcement was coming.
4 And, again, if these witnesses are so not credible, it's
5 no coincidence that all of these .300 Blackout casings that
6 matched the .300 Blackout assault rifle found at [REDACTED]
7 Earline Drive, Daniel Jones's mom's house and then the ones
8 found at his grandma's house on Bachman Road, it's no
9 coincidence because that's what was used and that's what
10 the witnesses said was used and what happened. It's no
11 coincidence that all these 9-millimeter casings were found
12 right here where witnesses testified Christopher Shumpert
13 was shooting from and that matched the 9-millimeter handgun
14 found at Daniel Jones's cousin or uncle, Heath Short's
15 house and the ones found at his grandma's house because
16 this is exactly the way those witnesses testified to.

17 Again, there was no evidence from the scene that
18 B.J. had a gun. Yes, he had a gun inside his truck. You
19 heard that. You heard that from Bubba, that he shot that
20 warning shot to the ground earlier that day at Treemount.
21 If Bubba was gonna be a liar, why would he even give that
22 information? Jacqueline and Jada didn't even remember it.
23 I think Jada remembers a gun, but she doesn't remember a
24 shot and Jacqueline don't even remember it -- or Jada don't
25 even remember it, but Jacqueline don't even remember a

1 shot, she remembers a gun. And if this gun was somehow on
2 B.J. when he was shot and somebody concealed it in that
3 truck, trust me it would have evidence of blood.

4 MS. ZMROCZEK: Again, Your Honor, I'm gonna have to
5 object to the "trust me" part.

6 THE COURT: To the?

7 MS. ZMROCZEK: "Trust me".

8 THE COURT: Try not to put yourself into your
9 argument, please.

10 MS. PATTERSON: There was no evidence of blood on
11 the gun according to Agent Ward, there was no evidence
12 of blood inside the truck according to Agent Ward, who
13 processed it.

14 And we keep going on and on about what was found
15 inside B.J.'s house. Yes, they found a Winchester rifle,
16 they found a pistol magazine and they found a box of
17 ammunition and none of that could be connected to the
18 shooting outside, but you know what? Even if he did have
19 guns, even if he did have a gun on him, he was on his
20 property. He would have been well within his rights to
21 have a gun. His friends who was living there who was
22 invited guests would have been well within their rights to
23 have a gun. If somebody comes on your property, you can
24 have a gun. You can arm yourself. You can defend
25 yourself. If anybody has a self-defense claim, it's B.J.

1 And there was no evidence, again, around B.J.'s body. No
2 casings, no weapons. Nothing.

3 And then Agent Ward testified about processing the
4 truck and he used projectile rods to note the direction.
5 He stated in his opinion the defects that went through the
6 truck were caused by a high powered gun and the defects
7 that caused like the dings was probably consistent with a
8 9 and they all came from the back towards the front of the
9 truck. Again, just like the witnesses said. Everything
10 they said was credible.

11 And, again, we went over the matches. Everything
12 matched those weapons. The fired casings at Fish Hatchery
13 and Bachman where we know Daniel was staying with his
14 grandparents matched those weapons.

15 Now you heard Dr. Phillips testify and I won't show
16 you the pictures again because those injuries were bad.
17 Hard to look at. Even in black and white they were hard
18 to look at. And Dr. Phillips, what did she say? Both
19 wounds had entry wounds to the back. To the back. The
20 one on the upper shoulder that exited the clavicle area
21 and grazed the chin would have been consistent with someone
22 who was 5-11 like B.J. Chavis and in a bending position
23 when he sustained it as opposed to standing up. Again,
24 just like the witnesses testified. He was retreating in
25 front of that truck. And the other entry wound to the --

1 directly below the buttocks that shatters his femur would
2 have left him immobilized. And you heard her talk about
3 the organ damages and all the blood vessels that was
4 damaged because of these two shots to B.J. to the back and
5 she opined that either one of these injuries could have
6 been fatal. Again, we don't have to prove to you which
7 shot was fatal, but either -- or who shot the fatal round
8 in hand of one hand of all, but Dr. Phillips said either of
9 these injuries could have been fatal. Fatal. And you look
10 at the pictures. You look at the injuries. Although she
11 wouldn't say, you decide what you think which gun caused
12 which injury.

13 This wasn't about oh, I'm just gonna go and try to
14 get their money back because they don't have any more
15 money or their belongings back. This was about settling
16 something. This was about hurt pride and trying to settle
17 something. To arm yourself with something like this to
18 go over to someone's house to settle something, does that
19 make sense? You take something like this when you mean
20 business, when you're going to confront somebody, you're
21 going to hurt somebody, going to shoot somebody, going to
22 murder somebody, an assault rifle. And you give your
23 backup his weapon and you make sure he has an extra
24 magazine. You make sure the getaway car is still running,
25 you make sure the doors are still open because you've got

1 to get out of there once you come there to do what you
2 intended to do.

3 And I submit to you that's what Daniel Jones and
4 Christopher Shumpert did on March 27th of 2020 when they
5 went to [REDACTED] Fish Hatchery Road to confront B.J. Chavis
6 in his own yard. Don't get distracted. You-all heard
7 what happened. Better yet you-all saw what happened with
8 the evidence to corroborate the testimony.

9 Now I'm about to take my seat for a while, but I
10 will be back in front of you. I just ask that you don't
11 get distracted by any thing that the defense says. None
12 of that matters. No one tried to hide anything. Law
13 enforcement did their job. There's nothing to support
14 these theories. The only thing that's evident is that
15 Daniel Jones is guilty of murder, assault and battery of
16 a high and aggravated nature and possession of a weapon
17 during the commission of a violent crime.

18 Thank you.

19 THE COURT: Thank you, Ms. Patterson.

20 MS. ZMROCZEK: Thank you, Your Honor.

21 Good afternoon. It's a little daunting standing in
22 front of you after my adversary says don't listen to a word
23 she says, just ignore the guy behind the counter -- behind
24 the screen, ignore her. I know you won't do that and I
25 thank you for that because you swore an oath and you guys

1 have sat here all week and it's been a long week and it's
2 been long and if any of that was my fault, the only thing I
3 ask you is to please not take that out on this case.

4 I also just want to explain to you because I need
5 to. I fell down the stairs Monday and that's where I got
6 the black eye. So nobody beat me up, I didn't meet any
7 witnesses in the parking lot. I just -- I fell. So I
8 just wanted to get those two things out of the way because
9 it's been bothering me.

10 And I should you this PowerPoint at the beginning
11 of the case and I -- and I've added a few things and taken
12 a few things out and I want to talk about a few things
13 a little bit more and I hopefully won't be up here for a
14 long time, but I tell you that this is an important case.
15 The loss of life of anyone is -- is unimaginable.
16 Genuinely I feel for Barry Chavis's family. He was a
17 brother, he was a -- excuse me -- he was a son, he was
18 grandson, all those things. All of the things that Daniel
19 is, too. He was a friend. He was a friend to Daniel.

20 The judge is going to charge you on the law, so I'm
21 not gonna go through all the elements of all this. I'm not
22 gonna waste your time doing that because Judge McCaslin
23 will tell that to you and she's gonna tell you what the law
24 says inferred malice is and it's not gonna be just because
25 he had a gun you can infer malice.

1 And, ladies and gentlemen, it's tough any time
2 somebody loses their life, but just like I said in the
3 very beginning of this case because I knew that it was
4 gonna be an issue. Oh, she just wants to cross-examine
5 and call -- one thing I did not do is I didn't call anyone
6 a liar. Now could I have? Ms. Jada, I never, never ever
7 held a gun in my life. Come on. I didn't go well, you're
8 a liar. Was she lying? Yes. We all know she was. And we
9 know amongst the three of them Jada, Bubba and Jacqueline,
10 one of them was lying or two of them were lying about a gun
11 being shot out because -- because Jada said he didn't have
12 it and then Jacqueline says she heard it, she didn't see
13 it, but she also said that B.J. got out of the truck and
14 shot and David said gunshots from the window. Are they
15 lying? Are they mistaken? I don't -- I don't know.
16 That's for you to decide because apparently the only liar
17 in this whole courtroom has got to be Daniel because you
18 can't believe anything he says.

19 But, ladies and gentlemen, the Constitution requires
20 you and the judge is going to tell you that -- I'm sorry
21 -- I was making sure you had water. I was making sure you
22 were okay. The judge is gonna tell you that the law
23 requires that you don't put the blinders on that
24 Investigator Hart had streamlining for Daniel. I asked him
25 if he had ever heard any information about Daniel being --

1 or, excuse me, B.J. having a gun and then he said yeah, I
2 got it, but I didn't believe it. I just gave it to the
3 Solicitor's office. Twenty, 2-0, twenty days later an
4 18-year-old child -- that's what these -- they're all
5 children. Barry's twenty-eight, but still a child, who
6 realizes his circumstances and says I need to tell you what
7 happened and so he does.

8 But you know what we didn't hear? We didn't hear
9 them call Detective Brock up and say I didn't choke him.
10 We didn't hear that. Does he have a reason to be afraid?
11 Well, because he's got his probable cause from Bubba and
12 from Jada, but we didn't hear from Steven. I put Steven's
13 statement in because they wouldn't call him, but I did
14 put his statement in and that's why I kept putting those
15 pictures because things are fresh in your mind right when
16 they happen. So what would it look like -- what would it
17 look like if Daniel were telling the truth? What would it
18 look like if he was scared? What would that look like?
19 And that's when you go back and you look at all the
20 evidence and you're gonna get every bit of it. I don't --
21 you may not get the guns, I don't know, but I know you're
22 not gonna get the guns and the ammunition at the same time,
23 but you'll get the videos, you'll get the pictures, and
24 the judge is gonna tell you, you have to look at it in a
25 way that presumes that Daniel is innocent. So what would

1 it look like? What would it look like if he were telling
2 the truth? And that's what -- that's how you have to
3 start.

4 I've never been to Lexington for jury duty and given
5 the nature of what I do for a career I won't get that
6 opportunity, so I just get to watch it on the movies and
7 I imagine it's -- I imagine, and I talk to a lot of
8 jurors because I've been doing this for quite some time,
9 but I imagine that when you go into the room the first
10 inclination is to say all right, let's everybody vote,
11 let's see where we are. I know I've asked a lot of you
12 this week and you-all have to sit in these chairs, but
13 I'm gonna ask one more thing, and that is before we just
14 vote and decide, before we just rush to a judgment,
15 before we just decide he's guilty, that maybe we look at
16 everything. And so that's -- that's kind of the focus of
17 what I'm gonna do. And, like I said, I'm not gonna be up
18 here a long, long time I hope, but I am gonna make some
19 points because as Ms. Patterson told you when I'm done
20 she gets to come back up and she gets to -- it's called
21 a rebuttal argument and she gets to say no, she's just
22 distracting you, just don't listen to her, what she said
23 didn't make sense, that's not true, that's not true, and
24 I don't get to respond anymore.

25 And it's done that way for a reason. It's not that

1 we've flipped a coin and she -- she won and I lost. It's
2 not that. The only reason I'll tell you it's done is
3 because the burden -- the burden is on them, the State,
4 to prove beyond a reasonable doubt that he acted with
5 murder when he fired that gun and the only way that they're
6 gonna get to that is that you just have to disbelieve
7 everything he said.

8 And so, yes, I did make a big deal about the evidence,
9 and we'll get to that, and I'll tell you why because it
10 was important and it is important, and just like I told
11 you in the beginning of this case being passionate about
12 following the facts to discover the truth is what -- is
13 why we're here. And so I understand that there are
14 shoplifters that need to be prosecuted. That's why we
15 had to hurry up and just move on in this case, but when
16 Agent Greer can spend ten days or however many days of
17 doing -- just doing his job and then when Agent Greer
18 comes to you and says look, look, we've got some -- we've
19 got some bullet fragments by the truck, right here by the
20 truck, that don't definitively match either one of these
21 guns, but maybe I could do some more testing. We don't
22 need to do that. Oh, that's just a 9. That's just a 9.
23 We don't need to worry about it even though a nominal .38
24 could be a .380. I'm sorry, a what? A 380? Maybe, just
25 maybe, he was telling the truth. Maybe B.J. had a gun.

1 Ms. Patterson said something interesting in her
2 closing she said if anybody had a self-defense claim it
3 was B.J. Not if he had a gun -- not if he didn't have a
4 gun. He didn't need a gun, right? He didn't have one,
5 but it would have been covered in blood. Well, there's
6 no testimony about that. What the doctor, the actual
7 expert, the pathologist, testified to is if somebody gets
8 hit -- and remember, look at the -- look at the angles.
9 There are a lot of ways that those angles could be
10 downward. Bending over, sure. Lying on the ground. If
11 somebody is on the ground because they got hit, then that's
12 not malice. It's just like he said. He was trying to
13 retreat. He was trying to get out of there.

14 They talked about throughout this case all the things
15 that happened that they just know and they know it because
16 the people they relied upon, Jacqueline, Jada and Steven,
17 told them. The judge is gonna talk to you about a lot of
18 different jury charges about credibility and prior
19 inconsistent statements. Oh, well, Daniel lied. He got up
20 there and faced just like every other witness, who I didn't
21 call a liar, but he got up there and he told you what
22 happened and what he remembered and why he shot. The one
23 thing that you did not hear from any of those witnesses was
24 I'm gonna kill you, I'm gonna -- you know, none of that.
25 In fact, what you hear from the witnesses on the scene

1 through those pictures, through Steven, who was the first
2 one to confront them, Jada, you'll have the interview in
3 there, she -- she says they weren't -- they weren't meaning
4 to shoot. I agree. I agree with that.

5 Now as he keeps asking well, where were they shooting,
6 where were they shooting and so, you know, she's like well,
7 I guess -- I guess they were trying to shoot at him, but
8 the questions -- that's why -- that's why I put the whole
9 video in. Interestingly, I told you about, you know, we
10 want to make sure that you have everything, and I know that
11 there are limits to evidence, but if we put those blinders
12 on, then we're not honoring why you-all had to spend all
13 week here to get your, Happy Meal, okay?

14 And I just want to impress upon you how serious this
15 is. Every time I do this I get a pit in my stomach because
16 I feel like I'm arguing, arguing and oh, let's just make it
17 easy, somebody's dead, let's just convict them, but he's
18 pointing. Steven is showing you where they were shooting.
19 Is that consistent with what Daniel testified to? Was it
20 reckless? Absolutely. Was it malice? No. That's why --
21 we're are here on -- on the term of one word, but the turn
22 on that one word is very important.

23 The judge is gonna talk to you about reasonable doubt
24 and I know Mr. Pogue said that oh, sometimes lawyers,
25 indicating me, sometimes lawyers have a chart. I didn't

1 bring it because I was not going -- I refused to go up
2 to the stairs to my office since I fell, I'm a little
3 traumatized, but up there is a chart and you-all can see
4 it in the scales as presented here, you know. Yes, you
5 are correct. You do not have to prove it beyond a reas
6 -- I mean, beyond every doubt, but you do have to prove
7 it beyond a reasonable doubt. And judges and lawyers
8 and Legislatures and all the people that do what we do,
9 we, for years, have been arguing for what's the definition
10 of reasonable doubt. The best definition I can come up
11 with is do you have a reason to doubt that he was acting
12 in malice? I submit that you're gonna have a lot of
13 reasons to doubt that he was acting in malice. His
14 testimony. The one thing that she was able to call him
15 a liar on was whether or not he remembered -- whether or
16 not when he learned about -- about B.J. being killed.
17 That's it. And he told you that he had emotional problems
18 and that he's eighteen and -- or I think he said mental
19 health problems, not emotional, but -- and that he was
20 eighteen. And these kids were living a life that I can't
21 even imagine from when I grew up. We didn't have access
22 to guns. I didn't hunt. We didn't have access to this
23 kind of -- to drugs and, unfortunately, that's what --
24 that's what our society is, but it doesn't change what we
25 still have to do to protect everybody.

1 And we talked I talked about this in the beginning.
2 It makes a lot more sense to you now because in the
3 beginning you-all didn't know any facts about this case,
4 so when I'm talking about good deeds and who's doing good
5 deeds and regardless -- and you've got to remember the
6 testimony from Jacqueline because they tried to spin it
7 one way, but, yes, they were upset. They just wanted
8 their stuff back. And I know it doesn't make sense to
9 why bring a gun. Well, because somebody had just shot at
10 somebody, but they want to say oh, she's making a big deal
11 about a box of ammunition. No, no. I'm gonna tell you
12 why. This is my opportunity to tell you what I think the
13 evidence means, okay?

14 So, yeah, we've got -- you-all will have them back
15 there, .22 longs, we've got .45 Colts, we've got .22,
16 but you know what we don't have? Guns to go with these.
17 The only gun that was found in the house is a gun that
18 wouldn't fit in a backpack. They weren't carrying things
19 away. Oh, ooh. When they said -- when David and Jada
20 claimed that they were escorted in the house by an officer,
21 and these are -- these are big deals because they had
22 five -- you'll see the picture and the video, they had
23 five backpacks with them. Five. And I said well, who
24 was it? Because that's important information. Is that
25 me beating up on the police? No. I mean, maybe a little,

1 but I read you every single report that was provided in
2 this case and guess how many of those reports talked about
3 going inside -- or escorting somebody in the house? Now
4 am I gonna call police liars? No, because they didn't go
5 inside the house. They didn't leave it out of their report
6 because it didn't happen. But did I call David a liar?
7 Bubba? You lie.

8 They all had reasons to say what they said. Yes,
9 even Daniel. He went there with a gun, but he told you
10 that he had gone there with a gun numerous times. They
11 had shot together. There's nothing against the law about
12 that. He tells you he left it in the car. Watch the
13 video. See who else says that Daniel then reaches in the
14 car after the shooting starts, which that's one thing
15 amongst all of these statements that we can agree on, is
16 he didn't start the shooting, he didn't start this fire.
17 We can't agree on who did. We can't test the evidence to
18 see if there were other guns, but this little guy, little
19 Steven, just listen to what he says. And then Daniel gets
20 out the car and then he goes and he goes back and gets his
21 gun. That's called corroboration. That's called maybe
22 what Daniel is saying could be true. And if there's a
23 maybe, that's what we call reasonable -- that's reason to
24 doubt.

25 You know, they're like oh, she wants to make a big

1 deal about evidence that they didn't even think about or
2 look at or printed about until I pointed it out. But,
3 yeah, evidence is important because there was a spent shell
4 casing right inside the front door. Could that shell
5 casing have been from the gun that Bubba said he ain't
6 never had, he ain't never owned, but it was on his lap?
7 Oh, wait, that was B.J.'s friend's gun, but had we known
8 the caliber -- and you can hear on the 9-1-1 calls people
9 going -- you could hear people moving all around.

10 I'm not throwing things at a wall hoping they're
11 sticking. I'm saying if you're gonna charge one with
12 the most serious crime that we have to make sure that
13 it's right. Lifelong friend. Even Bubba was a lifelong
14 friend. They talked about it. And, you know, one thing
15 that you didn't hear from Bubba at all was about the
16 malice because it wasn't there. It wasn't there. He
17 was upset. He was looking for help.

18 You know, we talked about all the defendants, but
19 this -- and Ms. Patterson brought it out, and this is
20 another example of what corroborates what Daniel said,
21 and Bubba says -- he texts him. He says you punk ass
22 little boy, pardon my French, you don't know WTF to do
23 with a gun. He knows WTF to do with a gun. If he wanted
24 to kill somebody, he would have. He didn't need to. You
25 heard him.

1 There's -- I listed all the inconsistencies, but
2 sometimes people are mistaken. Sometimes they tell lies.
3 We don't know. That's for -- that's in your purview. But
4 you have to consider the differences. Oh, Jacqueline.
5 Bless her heroin-riddled heart. She's still -- you know,
6 still struggling, right? But why does only her testimony
7 gets credit even though she didn't come clean with her
8 testimony until three years later, but twenty --
9 three years later, three years later and he goes out and
10 takes pictures of Fish Hatchery Road. Twenty days later he
11 can't just submit the .45 for testing? Can't do it? It's
12 not worth it? I don't believe him. He told you right
13 there he didn't believe a damn thing that Daniel said
14 because he had his man. You guys will get those shotguns.

15 Jada. I don't have words. I don't. You-all get
16 to evaluate what she said, but the most important --
17 there are two things that she said that help bring
18 credibility, okay? She was the pissed one. Yeah,
19 there's a reason they dropped Jacqueline off. I mean,
20 there was a reason between Chris and Jacqueline because,
21 remember, Daniel said I don't know any of that, but
22 there's a reason because she had just beat her behind
23 and stolen money from her. Who knows what else, but
24 let's stick with the money. That's what she testified
25 to, okay?

1 And, remember, talking about a liar, and they want
2 to call Daniel a liar, she sat in front -- she sat up
3 here and gave sworn testimony and that testimony was me,
4 Steven, Bubba and B.J. drove to Treemount. And, remember,
5 I said and weren't you asked again under oath who drove
6 to Treemount and she said yeah, yeah. But, remember,
7 when she told the story on direct this time, it was me,
8 Bubba and B.J. That's called lying under oath. I'm
9 quite sure the State will charge her with perjury. Don't
10 worry.

11 But she's a violent person. Of course, they left
12 Jacqueline because they didn't want trouble. If they
13 wanted trouble, they would have brought her because
14 they would have gotten it. Because remember what she
15 testified to? I came out that house because I thought
16 it was Jacqueline coming to get her stuff. I said Jada,
17 have you ever held a gun? No. Ever owned a gun? No.
18 Ever had a gun? Never. Never. And she said oh, this is
19 from a long time ago she says and obviously that's me.
20 Well, I knew that. That's why I asked the question, but
21 you didn't have to lie about it. And then obviously
22 that's Bubba. This is the reason he went over there with
23 guns. And I even included the metadata for you to show
24 when this was created. Again, are you sure about that?
25 That's not cross-examination, okay? Over and over.

1 Daniel lawfully, you'll get that stipulation,
2 lawfully armed himself in self-defense. That gun was in
3 the car. Yes, he brought it. It was in the car and he
4 took it out just like he says, just like Steven says,
5 and just like he told you he didn't have any intent. He
6 was shooting at the ground. And just like the pathologist
7 said that could have gone in that angle, it was tragic and
8 it was terrible, but it was not murder.

9 Yes, I'm beating up on the sheriff's department.
10 I'm not. I have many friends and family in law
11 enforcement. But did I call Agent Ward a liar when he
12 had a -- what did he call it -- an error in his report?
13 Because we've got these five -- we've got these five that
14 are in the door frame, but we don't have this one that's
15 in the seat. The shell casings that's ejected. I wonder
16 if we had this shell casing and testing it maybe we could
17 have a little more information. Maybe -- is it completely
18 impossible? If there's a possibility, that that's called
19 doubt. Is there a possibility that B.J. was just like he
20 said he was with his gun because he's mad and pulls it out
21 shoots it, sees that they have guns, runs, they're shooting
22 at the ground, he gets hit on the ground. When he goes
23 down, when that femur shatters and his gun doesn't go, is
24 it reasonable that somebody stuffs it exactly inside of the
25 truck right there with a shell casing? Is that -- is that

1 a possibility? Am I just asking you to just be distracted
2 or am I asking you to consider credible relevant evidence?
3 That's all. That's all.

4 What about these? Where did these come from that
5 were in the truck? We don't know. What caliber did
6 these go to? Is this what Daniel was shooting directly
7 into the truck? We don't know. And he says he was never
8 shooting in the truck -- towards the truck because he was
9 hitting the ground, but we don't get to test because they
10 don't get it to us.

11 They want to complain on and on and on and on and on
12 about how I, you know, dragged out to say that the scene
13 wasn't secure. Ladies and gentlemen, it -- it wasn't.
14 And I'm not saying it wasn't -- it was done maliciously
15 by the police. I am saying that it was done maliciously
16 by Jada and her five bags and not one gun -- all kinds of
17 ammunition and the only gun that's found in that house
18 doesn't fit in a bag, but this sand doesn't jump itself
19 into a shell casing. It doesn't. And how did it happen?
20 It's because it was manipulated, not intentionally, but
21 that can mess up the crime scene.

22 I'm just trying to shine some light on the truth.
23 That's -- that's all. And the judge is going to tell you
24 about your oath and these oaths are so important because
25 we have to get to the truth and if we can't, if you can't

1 get to the truth about what happened that day the judge is
2 gonna tell you that you can follow the law. The law will
3 be your guide.

4 All right. I asked this question at the beginning.
5 Did the police build evidence and charges around the
6 suspect, instead of charging the suspect around the
7 evidence? Yes. That's -- that's exactly what I submit
8 and that's exactly what Hart said. I already had it. I
9 didn't need to investigate anything else even though it
10 was only twenty days later, although three years later
11 I'll go out and take pictures because I'm gonna believe
12 this girl, but I'm not gonna believe Daniel because he's
13 the defendant. That is not -- that's not what our
14 Constitution requires and that's not what their own --
15 their own mission statement requires of them.

16 Ladies and gentlemen, I'm gonna sit down, but before
17 I do I ask you that when you are going through this
18 evidence that you look at the corroborated credible
19 evidence. It's interesting to me that -- that only the
20 things that they want you to corroborate can corroborate.
21 Oh, believe Daniel when he says that he, you know, took
22 his gun to Heath's, but don't believe anything else. He
23 says said only believe the stuff that helps us.

24 Let me just make sure I haven't missed anything
25 because this is, like I said, the last time I get to

1 stand up here because she'll -- Ms. Patterson will get to
2 come up and she'll get to rebut and I can't come up and
3 go like oh, but what? But the judge is gonna tell you
4 that that's what your job is. We selected each and every
5 single one of you because you said you could be fair,
6 you said you could be impartial and you said you could
7 evaluate the law and the evidence, and you will. I know
8 it.

9 When we're pursuing this journey of truth, that's --
10 that's what's required. She's gonna give you all the
11 elements, she's gonna talk to you about mere presence,
12 she's gonna talk to you about self-defense, she's gonna
13 talk to you about this and she's gonna tell you that they
14 have to disprove it beyond a reasonable doubt. Beyond a
15 reasonable doubt. And it's counterintuitive to say they
16 have to disprove something, but they have to. We -- just
17 because I put up evidence and just because I put up a case
18 and I put witnesses and I cross-examined, that burden never
19 shifts to us to prove how we were acting. That's -- and
20 the judge is going to be very firm on that.

21 Ladies and gentlemen, there was no malice in this
22 case. He did not commit murder. And as I close, I'm
23 gonna leave you with the words of their witness who they
24 want you to believe, and those are the words of Jada
25 Ellison. And these aren't words or questions that I

1 have to ask. These are her words out of her mouth.

2 (Audio playing.)

3 MS. ZMROCZEK: They didn't even mean to. And you
4 get to take it back to you because I can guarantee you
5 besides being told, again, to not listen to a word I say
6 because I'm just trying to distract you, they're also
7 gonna get up there and they gonna say go listen to that.
8 Does it say "mean" or does it say "need"? That's why you
9 guys get to listen to it. We -- we disagree and that's
10 why you-all are brought in, to solve a case. But remember
11 what she testified to. She said mean, mean, mean, mean,
12 mean, and listen to it for yourself because, ladies and
13 gentlemen, when you do that I know that you will find that
14 he is not guilty.

15 Thank you.

16 THE COURT: Thank you, Ms. Zmroczek.

17 Ms. Patterson.

18 MS. PATTERSON: Unlike what's in Ms. Zmroczek's
19 PowerPoint, murder is not defined as killing a person on
20 purpose. Murder is defined as the killing of a person
21 with malice aforethought, express or implied, just like
22 I stated earlier.

23 And, again, malice inferred can be a number of
24 things. And it's hatred, ill will, hostility towards
25 another person, the intentional doing of a wrong act

1 without just cause or excuse and with an intent to
2 inflict an injure or under circumstances that the law
3 will infer an evil intent.

4 Going to someone's house armed with weapons, I
5 cannot repeat it enough, is malicious. Going there with
6 a plan and repeatedly shooting that gun, and you heard
7 testimony, you have to pull that trigger each and every
8 time, to a tune of eight times, a semiautomatic assault
9 rifle. Malicious. Shooting a hail of gunfire in a crowd
10 of people. Malicious. Lying about being there.

11 She wants to say she's not calling our witnesses
12 liars. That's exactly what she's doing. But who's the
13 liar? And Daniel just didn't lie about that one thing
14 when he found out B.J. was dead. He lied about being
15 there at all. He tried to get an alibi. It didn't work.
16 He concealed and tried to hide those guns. He said he
17 hadn't seen Chris and he participated in the crime.
18 And, again, if B.J. had a gun, so what? He was at home
19 working on a moped, minding his business in his yard with
20 his friends, and this was hours later after the Treemount
21 incident. He could he have had all the guns he wanted.

22 And Steven, you listened -- you-all can listen to
23 everything, and she's right, I'm gonna tell you to go
24 and listen to him. And go back and listen to Jada's
25 interview with Detective Brock. You can hear her in her

1 mind. She's just trying to process this traumatic event
2 that she's just witnessed. She's trying to make sense of
3 something senseless, but at the end she says I guess they
4 did try to kill him because she's replying it in her mind.

5 And I will submit to you the stipulation that the
6 judge talked about earlier it wasn't that Daniel Jones
7 armed himself in self-defense, I wouldn't stipulate to
8 that because it's not self-defense. Remember, I stated
9 you have to find all those four prongs present and you
10 don't get past the first one. You cannot bring about the
11 difficulty, then claim self-defense. That's not what the
12 law of South Carolina allows.

13 And, then again, she wants to call Jada a --
14 Jacqueline a liar and talk about Jacqueline's road to
15 recovery. So insensitive. What did Jacqueline testify
16 to? All things that were corroborated and, again, even
17 some things corroborated by her own client, Daniel Jones.
18 She testified about going to the Chaney house to look for
19 Daniel after the Treemount incident. She testified about
20 getting dropped off on Cinder Hill after they got him
21 from grandma's house on Bachman Road just like her client
22 said. She wasn't lying. Her own client also said they
23 dropped her off on a dirt road. And then she talked about
24 them returning. She was in the back seat of that car.
25 Everything she said was corroborated. She's not a liar

1 because she has an addiction.

2 And Steven, he stated they got out of that car and
3 started spraying. You listen to that. He didn't talk
4 about Daniel going back in the car. He said they got out
5 with the guns. Guns were ready. They was drawn. They
6 was ready to start shooting.

7 And you want to talk about Brock choking him? We
8 didn't call Brock because that's irrelevant. You already
9 heard testimony about how Daniel was acting out in that
10 car, how he even had to get treatment, busted his head,
11 bloodied up Swygert's car, made threats. None of that
12 matters. Not when it comes to what happened to B.J.
13 Chavis.

14 And law enforcement, they didn't build their case
15 around these two people just because they're picking on
16 Daniel Jones or Christopher Shumpert. They had those
17 names immediately. They had them from several people.
18 They had the corroboration of the car that Chris was
19 driving, the hangouts that they were at, the weapons
20 that were used, and then you've got them on camera, and
21 it all fits the timeline just like witnesses gave. Law
22 enforcement got it right. They investigated this case.
23 They went from scene to scene to scene. They collected
24 the evidence. They sent it out for testing, and it
25 matched.

1 Movie scenes, the cartoons on her PowerPoint, that's
2 cute, but this is serious. Just like she said. This is
3 a serious case and law enforcement took it serious, the
4 witnesses took it serious, and they got it right.

5 Taking those weapons to Barry Chavis's house, that
6 was no scare tactic. That was no mistake. Pulling those
7 triggers multiple times over and over, that's no mistake.
8 You don't mistakenly do that. You do it on purpose. You
9 do it with malice, with ill will, with hostility, with
10 hatred because that's what happened in this case.

11 They knew what they were doing when they grabbed
12 those guns and drove to Fish Hatchery Road dropping
13 Jacqueline off, keeping that car running and those
14 doors open and aiming straight for Barry Chavis and
15 unfortunately hitting Kevin Kimbler as well who was at
16 the front of the truck with Barry Chavis. It was
17 intentional. It was what they planned to do. And they
18 went there and they stood on business and they did it.

19 This was murder. Law enforcement got it right and
20 I ask that you get it right and find the defendant guilty
21 of murder, assault and battery of a high and aggravated
22 nature and possession of a weapon during the commission
23 of a violent crime.

24 Thank you.

25 THE COURT: Thank you, Ms. Patterson.

1 All right. Mr. Foreman, it's time for me to charge
2 the jury with the law, but it's gonna -- my charge is
3 about thirty-five minutes long. Would you-all like a
4 break before?

5 FOREPERSON: Yes, ma'am.

6 THE COURT: Okay. Take a break, knock on the door
7 when you're ready to come back in and I'll have you in,
8 okay?

9 FOREPERSON: Yes, ma'am.

10 THE COURT: Thank you.

11 (Whereupon, the jury retires to the jury room at
12 2:39 PM.)

13 THE COURT: All right. This is the time -- if
14 you-all need to go to restroom or anything, this will be
15 the time to go.

16 (Recess taken at 2:39 PM.)

17 (Back on the record at 2:49 PM.)

18 THE BAILIFF: Keep your seats.

19 THE COURT: All right. Can we get the lawyers?
20 Because the jury is ready.

21 All right. Bring them in.

22 (Whereupon, the jury return to the courtroom at
23 2:52 PM.)

24 THE COURT: All right. Mr. Foreman, the jury ready?

25 FOREPERSON: Yes, ma'am.

1 THE COURT: Please be seated.

2 All right. Let me ask the deputy, are the doors
3 locked?

4 THE DEPUTY: (Nods head.)

5 THE COURT: Thank you.

6 All right. I'm now going to charge you on the law
7 applicable to this case. You must consider the charge
8 as a whole and not focus on some portions to the exclusion
9 of others.

10 The indictments charge the defendant with murder,
11 assault and battery of a high and aggravated nature and
12 possession of a weapon during the commission of a violent
13 crime.

14 I thought those doors were locked.

15 BAILIFF: He's locking them now.

16 THE COURT: I remind you the fact that the defendant
17 was arrested, charged and indicted in this case is not
18 evidence in this case and cannot be considered by you as
19 evidence of guilt in this case.

20 When I'm charging the law, I don't like these doors
21 to be opened. It's too important.

22 Do I have all of the doors locked now?

23 BAILIFF: They are.

24 THE COURT: Thank you. I'm gonna go back just a
25 little bit.

1 I remind you that the fact that the defendant was
2 arrested, charged and indicted in this case is not
3 evidence in this case and cannot be considered by you as
4 evidence of guilt in this case. Nor does it create any
5 presumption or inference of guilt. These documents are
6 simply the formal written instruments which contain the
7 charges made against the defendant. These are the formal
8 documents by which this case is brought into this court.

9 Each indictment charges a separate and distinct
10 offense. You must decide each indictment separately on
11 the evidence and the law applicable to it uninfluenced by
12 your decision as to any other indictment. The defendant
13 may be convicted or acquitted on any or all of the offenses
14 charged. You will be asked to write a separate verdict of
15 guilty or not guilty for each indictment.

16 The following things are not evidence and you must
17 not consider them as evidence in deciding the facts of
18 this case. Statements and arguments of the attorneys,
19 questions and objections of the attorneys and testimony
20 that I instruct you to disregard. I think there were
21 several times during the trial that I asked the jury to
22 please disregard. I think I struck something from the
23 record also. Please do not consider that in your
24 deliberations.

25 I remind you that during this trial you and I have

1 certain duties to perform. As the trial judge, it is my
2 responsibility to preside over the trial of the case and I
3 also have the duty to rule on the admissibility of the
4 evidence offered during the trial. You are to consider
5 only the competent evidence before you. If there was any
6 testimony ordered stricken from the record in this case,
7 you must disregard that testimony. You are to consider
8 only the testimony which has been presented from this
9 witness stand and any exhibits which have been made a part
10 of the record and any stipulations of counsel.

11 Now we did have a stipulation in this case. That
12 the lawyers agreed that after a review of the law and the
13 defendant's record, the parties stipulated that the
14 defendant could legally possess a weapon on 3-27-20,
15 which was the incident date. He could legally possess
16 one. The other stipulation is one that was brought to
17 the Court's attention that the parties agreed on that I
18 have not mentioned to you, but I mention it to you now.
19 Kevin Kimbler, the victim on the porch, is now deceased
20 due to causes unrelated to this case. So you are to treat
21 that as true, okay?

22 I have the additional duty to charge you the law in
23 this case. As the presiding judge, I am the sole judge
24 of the law and it is your duty as jurors to accept and
25 apply the law as I now state it to you. If you already

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

6 In every case tried before a jury, the jury becomes
7 the sole and exclusive judge of the facts in a case. A
8 trial judge cannot state, comment on or make any statement
9 to a trial jury about the facts in a case. Since you,
10 the jury, are the sole judges of the facts in this case,
11 you are not to infer from what I have said during the
12 progress of this trial in ruling upon the admissibility
13 of evidence or otherwise or anything I say now during the
14 course of this instruction to you that I have any opinion
15 about the facts in this case. The law does not allow me
16 to have an opinion about the facts in this case. This is
17 a matter solely for you. As jurors, it is your duty to
18 determine the effect, value and weight of the evidence
19 presented during this trial.

20 The defendant has pled not guilty to these
21 indictments and that plea puts the burden on the State
22 to prove him guilty. A person charged with committing a
23 criminal offense in South Carolina is never required to
24 prove himself innocent. I charge you that it is an
25 important rule of the law that the defendant in a criminal

1 trial no matter what the seriousness of the charge may be
2 will always be presumed to be innocent of the crime for
3 which the indictment was issued unless guilt has been
4 proven by evidence satisfying you of that guilt beyond a
5 reasonable doubt. This presumption of innocence does not
6 end when you begin your deliberations, but it accompanies
7 the defendant throughout the trial unless you reach a
8 verdict of guilt based on the evidence satisfying you of
9 that guilt beyond a reasonable doubt.

10 The presumption of innocence is like a robe of
11 righteousness placed about the shoulders of the defendant
12 which remains with the defendant unless it has been
13 stripped from him by evidence satisfying you of the
14 defendant's guilt beyond a reasonable doubt. The
15 presumption of innocence is not a mere legal theory. It
16 is not just a legal phrase. It is a substantial right
17 to which every defendant is entitled unless you, the jury,
18 are satisfied from the evidence of the defendant's guilt
19 beyond a reasonable doubt.

20 The State has the burden of proving the defendant
21 guilty beyond a reasonable doubt. Some of you may have
22 served as jurors in civil cases where you were told it is
23 only necessary to prove that a fact is more likely true
24 than not true such as by the greater weight or what we
25 call the preponderance of the evidence. In criminal

1 cases, and this is a criminal case, the State's proof
2 must be more powerful than that. It must be beyond a
3 reasonable doubt.

4 Proof beyond a reasonable doubt is proof that leaves
5 you firmly convinced of the defendant's guilt. There are
6 very few things in this world that we know with absolute
7 certainty and in criminal cases the law does not require
8 proof that overcomes every possible doubt. If, based
9 on your consideration of the evidence, you are firmly
10 convinced that the defendant is guilty of the crime
11 charged, you must find him guilty. If, on the other
12 hand, you think that there is a real possibility that the
13 defendant is not guilty, you must give the defendant the
14 benefit of the doubt and find him not guilty.

15 Now there are two types of evidence which are
16 generally presented during a trial. Direct evidence and
17 circumstantial evidence. Direct evidence directly proves
18 the existence of a fact and does not require deduction.
19 Circumstantial evidence is proof of a chain of facts and
20 circumstances indicating the existence of a fact. Crimes
21 may be proven by circumstantial evidence. The law makes
22 no distinction between the weight or value to be given
23 to either direct evidence or circumstantial evidence.
24 However, to the extent that the State relies on
25 circumstantial evidence, the circumstances must be

1 consistent with each other and when taken together point
2 conclusively to the guilt of the accused beyond a
3 reasonable doubt. If these circumstances merely portray
4 the defendant's behavior as suspicious, the proof has
5 failed. The State has a burden of proving the defendant
6 guilty beyond a reasonable doubt. This burden rests with
7 the State regardless of whether the State relies on direct
8 evidence, circumstantial evidence or come combination of
9 the two.

10 Criminal intent is a state of mind which operates
11 jointly with an act or omission in the commission of a
12 crime. Criminal intent is a mental state of conscious
13 wrongdoing. Criminal intent includes those consequences
14 which represent the very purpose for which an act is done
15 or are known to be substantially certain to the result
16 regardless of one's desire. Intent may be shown by acts
17 and conduct of the defendant and other circumstances
18 from which you may naturally and reasonably infer intent.
19 Criminal intent must be proven beyond a reasonable doubt.

20 You must also determine the credibility of witnesses
21 who have testified in this case and the evidence
22 presented. Credibility simply means believability. It
23 becomes your duty as jurors to analyze and to evaluate the
24 witnesses and the evidence and determine the credibility
25 of the witnesses and the evidence.

1 In determining the credibility of witnesses who
2 have testified, you may believe one witness over several
3 witnesses or several witnesses over one witness. You may
4 believe a part of the testimony of a witness and reject
5 the remaining part of the testimony of that same witness.
6 You may believe the testimony of a witness in its entirety
7 or reject the testimony of a witness in its entirety.
8 You may consider whether any witness has exhibited to you
9 any interest, bias, prejudice or other motive in this
10 case. You may also consider the appearance and manner of
11 a witness while on the witness stand.

12 There has been evidence presented that witnesses
13 have made prior statements which are not consistent with
14 the witness's present testimony. You may use this evidence
15 to decide whether to believe the witness. You may also
16 use evidence of the early contradictory statements to
17 determine the truth of those statements. It is up to
18 you to decide whether it believe the earlier statements
19 or the testimony given at trial. If a witness is shown
20 to have knowingly testified untruthfully concerning any
21 material matter, you may consider this in determining
22 whether to trust the witness's testimony as to other
23 matters. You may reject all testimony of that witness
24 or give all or part of the testimony the weight you think
25 it deserves.

1 A person who has a past criminal record is competent
2 to testify during a trial. A past record does not affect
3 the ability of that witness to testify. The past record
4 may only be considered by you, if at all, in determining
5 the witness's believability. Remember, you are the sole
6 judges of the facts in the case and the believability of
7 any and all of the witnesses.

8 You have heard evidence that the defendant was
9 adjudicated of a crime other than the one for which
10 the defendant is now on trial. This evidence may be
11 considered by you only in deciding whether the
12 defendant's testimony is believable and for no other
13 purpose. You must not consider the defendant's prior
14 record as any evidence of the defendant's guilt of the
15 charge we are trying today.

16 The rules of evidence ordinarily do not permit
17 witnesses to testify to opinions or conclusions. An
18 exception to this rule exists for witnesses we call expert
19 witnesses. We had several expert witnesses in this case.
20 A witness who by education and experience has become an
21 expert in some art, science, profession or calling may
22 state an opinion as to relevant and material matter in
23 which the witness claims to be an expert and may also
24 state the reasons for the opinion. You should consider
25 any expert opinion received in evidence in this case

1 and like any other evidence give it the weight you think
2 it deserves. If you decide that the opinion of an
3 expert witness is not based on sufficient education and
4 experience or if you conclude that the reasons given in
5 support of the opinion are not sound or that the opinion
6 is outweighed by other evidence, you may disregard the
7 opinion entirely. An expert witness's testimony is to be
8 given no greater weight than that of any other witness
9 simply because the witness is an expert. Further, you are
10 not to required to accept an expert's opinion even though
11 it is not contradicted.

12 The defendant is charged with murder. The State
13 must prove beyond a reasonable doubt that the defendant
14 killed another person with malice aforethought. Malice
15 is hatred, ill will or hostility towards another person.
16 It is the intentional doing of a wrongful act without just
17 cause or excuse and with an intent to inflict an injury
18 or under circumstances that the law will infer an evil
19 intent. Malice aforethought does not require that malice
20 exist for any particular time before the act is committed,
21 but malice must exist in the mind of the defendant just
22 before and at the time the act is committed. Therefore,
23 there must be a combination of the previous evil intent
24 and the act. Malice aforethought may be expressed or
25 inferred. These terms "express" and "inferred" do not

1 mean different kinds of malice, but merely the manner in
2 which malice may be shown to exist; that is, either by
3 direct evidence or from inference from the facts and
4 circumstances which are proved.

5 Express malice is shown when a person speaks words
6 which express hatred or ill will for another or when the
7 person prepared beforehand to do the act which was later
8 accomplished. Malice may be inferred from conduct showing
9 a total disregard for human life. If facts are proved
10 beyond a reasonable doubt sufficient to raise an inference
11 of malice to your satisfaction, this inference would be
12 simply an evidentiary fact to be considered by you along
13 with all the other evidence in the case and you may give
14 it the weight you decide it should receive.

15 A person commits the offense of assault and battery
16 of a high and aggravated nature if the person unlawfully
17 injures another person and great bodily injury to another
18 person results or the act is accomplished by means likely
19 it produce death or great bodily injury.

20 Great bodily injury means bodily injury which causes
21 a substantial risk of death or which causes serious
22 permanent disfigurement or protracted -- I can't speak --
23 protracted loss or impairment of the function of a bodily
24 member or organ.

25 The defendant is also charged with possession of a

1 weapon during the commission of a violent crime. The
2 State must prove beyond a reasonable doubt that the
3 defendant was in possession of a firearm or visibly
4 displayed what appeared to be a firearm during the
5 commission of a violent crime. A firearm means any
6 machine gun, automatic rifle, revolver, pistol or any
7 weapon which will, is designed to or may be readily
8 converted to expel a projectile. In order to find the
9 defendant guilty of possession of a weapon during the
10 commission of a violent crime, you must first find the
11 defendant guilty of either committing a violent crime or
12 attempting to commit a violent crime. Both murder and
13 ABHAN -- I call it ABHAN, it's assault and battery of a
14 high and aggravated nature, are violent crimes. The
15 State must prove beyond a reasonable doubt that the weapon
16 further advanced or helped in the commission of the crime.

17 The principal in a crime is one who either in person
18 perpetrates the crime or aids, abets and assists. When
19 one acts in the presence of and with the assistance of
20 another, the act is done by both. Where two or more act
21 with a common design or common intent and are present at
22 the commission of a crime, it does not matter whose
23 immediate agency commits that crime because all would be
24 guilty of that crime.

25 Intent, however, is a necessary element for there

1 must be a common design or intent to commit the crime and
2 the crime must have been committed with the defendant
3 aiding and abetting by some overt act. Mere presence at
4 the scene is insufficient to prove someone guilty of a
5 crime.

6 The burden is on the State to prove every element
7 of the crime charged. If you find after reviewing all of
8 the evidence that the State has proven that the defendant
9 was merely present at the scene of the crime and they
10 have not proven beyond a reasonable doubt any other
11 participation in the crime, then you must find the
12 defendant not guilty. The law says that proof of mere
13 presence at the scene of a crime is not sufficient to
14 find someone guilty. However, the law also says that the
15 hand of one is the hand of all. The law states that a
16 crime committed by two or more persons acting together in
17 the commission of a crime is the act of both.

18 The defendant has raised the defense of
19 self-defense. Self-defense is a complete defense and
20 if it is established you must find the defendant not
21 guilty. The State has the burden of disproving
22 self-defense by proof beyond a reasonable doubt. If you
23 have a reasonable doubt of the defendant's guilt after
24 considering all of the evidence, including the evidence
25 of self-defense, then you must find the defendant not

1 guilty. On the other hand, if you have no reasonable
2 doubt of the defendant's guilt after considering all of
3 the evidence, including the evidence of self-defense, then
4 you must find the defendant guilty.

5 The elements of self-defense are as follows. First,
6 the defendant must be without fault in bringing on the
7 difficulty. If the defendant's conduct was the type
8 which was reasonably calculated to and did provoke a
9 deadly assault, the defendant would be at fault in
10 bringing on the difficulty and would not be entitled to
11 acquittal based on self-defense.

12 The second element of self-defense is that the
13 defendant was actually in imminent danger of death or
14 serious bodily injury or that the defendant actually
15 believed he was in imminent danger of death or serious
16 bodily injury. If the defendant was actually in imminent
17 danger, it must be shown that the circumstances would
18 have warranted a person of ordinary firmness and courage
19 to strike the fatal blow to prevent death or serious
20 bodily injury. If the defendant believed he was in
21 imminent danger of death or serious bodily injury, it
22 must be shown that a reasonable prudent person of ordinary
23 firmness and courage would have had the same belief.

24 In deciding whether the defendant actually was or
25 believed he was in imminent danger of death or serious

1 bodily injury, you should consider all the facts and
2 circumstances surrounding the crime, including the
3 physical condition and characteristics of the defendant
4 and the victim.

5 The final element of self-defense is that the
6 defendant had no other probable way to avoid the danger
7 of death or serious bodily injury than to act as the
8 defendant did in this particular instance.

9 A verdict in this case cannot be based upon sympathy,
10 passion, prejudice or emotion or some other consideration
11 not found in the evidence.

12 Let me say something about your deliberations.
13 Deliberation is defined as a careful consideration
14 weighing up with a view to decision. The genius of our
15 jury system is that it allows twelve good men and women
16 from twelve different backgrounds, life experiences and
17 perspectives to consider the evidence, talk about it and
18 ultimately reach a verdict. We call them deliberations
19 for a reason. You are to consider the evidence in this
20 case carefully and deliberately and discuss it in a calm,
21 thorough and courteous manner. Listen to the views of
22 all your fellow jurors, consider other people's points
23 and points of view and talk through and discuss the
24 evidence. And, remember, if you are doing something
25 deliberately, you are not in a big hurry and you should

1 not be in a hurry here. This case is very important to
2 both sides and this is their only day in court.

3 When you retire to the jury room, you should discuss
4 this case with your fellow jurors to reach an agreement
5 if you can do so. Your verdict must be unanimous. Each
6 of you must decide the case for yourself, but you should
7 do so only after you have impartially considered all of
8 the evidence, discussed it fully with the other jurors
9 and listened the views of your fellow jurors. Do not be
10 afraid to change your opinion if your discussions persuade
11 you that you should, but do not come to a decision simply
12 because the other jurors thinks it is right. It is
13 important that you attempt to reach a unanimous verdict,
14 but, of course, only if each of you can do so after having
15 made your own decision. Do not change an honest belief
16 about the weight and effect of the evidence simply to
17 reach a verdict. In other words, do not change your
18 opinion solely for the sake of reaching a unanimous
19 verdict.

20 There are two possible verdicts for each charge
21 which you may find in this case and they are listed on
22 the verdict sheet that will go back with you. There is
23 no significance whatsoever in the order in which I state
24 these possible verdicts. It's simply that one must be
25 stated first. Again, your verdict must be an unanimous

1 one as to each charge.

2 Mr. Foreman, when the jury agrees on a verdict,
3 you will initial on the line next to the verdict on the
4 verdict form for the charge and sign your name as the
5 foreperson, then inform the bailiff that you have reached
6 a verdict and at that time I'll have you back in the
7 courtroom. If you have any questions for the Court, the
8 bailiffs will give you a pen and a pad. You may write
9 any questions to me on that pad. They will get it to me.

10 I'm gonna ask that you return to your jury room, but
11 do not begin deliberations until you are told so by the
12 clerk or the bailiff to do so. There are some matters I
13 need to discuss with the attorneys before you begin your
14 deliberations.

15 I'll also tell you, Mr. Foreman, in the event in
16 your deliberations there's a split in the vote, the Court
17 at any time does not want to be informed of the actual
18 split by number in the vote if it exists. It might not.

19 We have to gather up all of the evidence. We'll
20 bring it back to the jury room. I'll tell you I'm gonna
21 hold out the two alternates.

22 Mr. Foreman, I'm gonna tell you all twelve jurors
23 must be in the jury room when you're deliberating. If
24 someone needs to go to the restroom, deliberations stop.
25 All twelve must be in the room when you're deliberating.

1 There are no cell phones in the jury room. There are no
2 breaks to go use cell phones during your deliberations.
3 If you need anything, again, write it on a note to me on
4 the pad provided to you and I'll be in touch with you,
5 okay?

6 All right. I'm gonna ask for you to go back. I'm
7 gonna ask the bailiff to hold out the two alternates.
8 I'll be back to talk to them. If you can put them in
9 the room where we put our alternates.

10 Don't deliberate yet. We are just right there. Let
11 us get the evidence and the computer back to you, okay?

12 FOREPERSON: Yes, ma'am.

13 THE COURT: Thank you.

14 (Whereupon, the jury retires to the jury room at
15 3:28 PM.)

16 THE COURT: All right. Let me ask you the State,
17 any exceptions to the jury charge?

18 MS. PATTERSON: None from the State.

19 THE COURT: Any from the defense?

20 MS. ZMROCZEK: Yes, Your Honor. The ones that I
21 previously argued. I just -- I think I just have continue
22 to put that on the record, that we would argue for --
23 continue to argue for involuntary manslaughter especially.
24 But we understand the Court's ruling. We're simply
25 protecting our record.

1 THE COURT: Right. I'm just asking from what I did
2 charge.

3 MS. ZMROCZEK. No. No exception to it.

4 THE COURT: I understand and I think we protected
5 your objection to the involuntary.

6 MS. ZMROCZEK: You can tell that I have not had
7 issues raised, so I'm --

8 THE COURT: And I did put that second stipulation in.

9 MS. ZMROCZEK: Yes. Thank you.

10 THE COURT: All right. Well, let's get this evidence
11 together.

12 Has everybody reviewed the verdict form? You-all
13 can sit down.

14 MS. ZMROCZEK: Yes.

15 MS. PATTERSON: Yes, ma'am.

16 THE COURT: Okay. Everybody's good with that.

17 All right. Let me ask -- because you made some
18 objections -- I just want to, Ms. Patterson, put on the
19 record, it was during your closing, because Ms. Zmroczek
20 said I will -- I'll address it later, but I want to make
21 sure we do address it.

22 There were two objections. It was one when you were
23 -- I think stating the elements of self-defense and you
24 said "I'm sure". The other one was "trust me". Are the
25 two that I noted.

1 MS. ZMROCZEK: That's correct, Your Honor.

2 THE COURT: And, you know, it's an improper use
3 of pronouns. There is no doubt about it. You're not
4 supposed to -- you're not supposed to do that, so -- but
5 those are the only two that I saw. I don't find it
6 prejudicial to the defendant at all. I mean, I just don't.
7 It's not like she did it all through her closing. It's not
8 like we can't put it back in the box. I'm not real sure
9 that anybody -- the jurors paid -- it hit them like that,
10 the way that it was said.

11 I'll be glad to do a curative if you'd like me to,
12 but I'll note your objection for the record.

13 MS. ZMROCZEK: Maybe just -- just maybe, Your Honor,
14 just because of the case law that's come out, maybe before
15 -- as we're getting this -- or before we send it back,
16 that you just -- if we can craft a very just -- and I'm
17 not saying that she did it anything wrong, you know what
18 I'm saying?

19 THE COURT: You just can't portray -- put yourself --

20 MS. ZMROCZEK: Yeah, and I had to object.

21 MS. PATTERSON: Even though you shared personal
22 stories.

23 MS. ZMROCZEK: They're different.

24 THE COURT: Well, I have to say I caught some on
25 the other side, too, now. I heard an "I" in there, but

1 I didn't hear any objection.

2 MS. PATTERSON: I did, too, but I was professional and
3 -- because I'm professional and I didn't object.

4 MS. ZMROCZEK: If I hadn't objected, Your Honor, it
5 would come back on me, so.

6 But, Your Honor, if the Court doesn't believe a
7 curative objection is --

8 THE COURT: I don't think that we need a curative.

9 MS. ZMROCZEK: It was only two and so --

10 THE COURT: Those were the only two times I caught
11 it and in fairness I caught "I" on the other side, but I
12 didn't think it was anything that --

13 MS. ZMROCZEK: I wasn't saying I believe --

14 THE COURT: -- one way or the other would sway the
15 jury.

16 MS. PATTERSON: Sympathy about a black eye.

17 THE COURT: Ma'am?

18 MS. ZMROCZEK: She said I was trying to gain
19 sympathy because of my black eye.

20 THE COURT: All right, Stacy. We're off the record.
21 The case has ended.

22 (Recess taken at 3:50 PM.)

23 (Whereupon, the exhibits and verdict form were sent
24 back to the jury at 3:52 PM.)

25 (Recess taken at 3:52 PM.)

1 (Back on the record at 4:36 PM.)

2 BAILIFF: Court come to order.

3 THE COURT: I'm gonna make this Court's 4.

4 (Court's Exhibit Number 4 was marked for
5 identification.)

6 THE COURT: Can you pull up our jury charges?

7 All right. The jury wrote a note. Can we please
8 get the definition of malice? Which means I need to read
9 the murder charge over to them.

10 MR. POGUE: You don't send your charge back there,
11 right?

12 MS. ZMROCZEK: No. Please don't send the charge
13 back.

14 MR. POGUE: I mean, I'd be fine with it.

15 THE COURT: Everybody agree that we read the murder
16 charge to them?

17 MS. PATTERSON: Yes, ma'am.

18 MS. ZMROCZEK: And just tell them that you have to
19 read it as a whole?

20 THE COURT: Yes.

21 MS. ZMROCZEK: Yes.

22 THE COURT: Let's bring them in.

23 (Whereupon, the jury return to the courtroom.)

24 THE COURT: All right. Please be seated.

25 All right. And I've got my two alternates in

1 here because I just wanted you to hear this. Then
2 afterwards I'm gonna ask you to return back to your
3 separate rooms.

4 Okay. I received a note from the jury that says can
5 we please get the definition of malice?

6 Okay. That means I am going to read you the murder
7 charge over again as a whole.

8 The defendant is charged with murder. The State
9 must prove beyond a reasonable doubt that the defendant
10 killed another person with malice aforethought. Malice
11 is hatred, ill will or hostility towards another person.
12 It is the intentional doing of a wrongful act without
13 just cause or excuse and with an intent to inflict an
14 injury or under circumstances that the law will infer an
15 evil intent.

16 Malice aforethought does not require that malice
17 exist for any particular time before the act is committed,
18 but malice must exist in the mind of the defendant just
19 before and at the time the act is committed. Therefore,
20 there must be a combination of the previous evil intent
21 and the act. Malice aforethought may be expressed or
22 inferred. These terms "express" and "inferred" do not
23 mean different kinds of malice, but merely the manner in
24 which the malice may be shown to exist; that is, either
25 by direct or by inference from the facts and circumstances

1 which are proved.

2 Express malice is shown when a person speaks words
3 which express hatred or ill will for another or when the
4 person prepared beforehand to do the act which was later
5 accomplished. Malice may be inferred from conduct showing
6 a total disregard for human life. If facts are proved
7 beyond a reasonable doubt sufficient to raise an inference
8 of malice to your satisfaction, this inference would simply
9 be an evidentiary fact to be considered by you along with
10 the other evidence in the case and you may give it the
11 weight you decide it should receive.

12 I'm gonna ask you to go back to your jury room and
13 continue. Make sure my two alternates go back to their
14 room.

15 Thank you.

16 (Whereupon, the jury retires to the jury room at
17 4:43 PM.)

18 THE COURT: Anything else from the State?

19 MS. PATTERSON: No, ma'am.

20 THE COURT: Anything else from the defense?

21 MS. ZMROCZEK: Nothing from the defense, Your Honor.

22 THE COURT: Okay. I'll let you-all know if I hear
23 anything else.

24 MS. ZMROCZEK: Thank you.

25 (Recess taken at 4:44 PM.)

1 (Back on the record at 4:52 PM.)

2 BAILIFF: Court come to order. Please be seated.

3 MS. ZMROCZEK: Judge, just before the verdict is
4 read, I forgot to renew my objections to everything at
5 the end of the case and so I'm just making sure that that
6 is done, including -- including the other charges.

7 THE COURT: And so noted for the record.

8 MS. ZMROCZEK: Thank you, Your Honor.

9 Oh, and -- well, we can do that afterwards.

10 THE COURT: All right. They tell me we've got a
11 verdict, so let me address everybody in the gallery.

12 I do not put up with any outbursts, screaming,
13 crying. Do not do it. I know it's an emotional case.
14 If you feel that you cannot control yourself, I'm gonna
15 ask that you please leave the courtroom now.

16 Everybody understand?

17 All right. Are you ready to for me to bring the
18 jury in?

19 MS. PATTERSON: The State's ready.

20 MS. ZMROCZEK: Defense is ready.

21 THE COURT: Let's bring the jury in.

22 (Whereupon, the jury return to the courtroom at
23 5:17 PM.)

24 THE COURT: All right. Mr. Foreman, has the jury
25 reached a verdict?

1 FOREPERSON: We have.

2 THE COURT: Is it unanimous on each charge?

3 FOREPERSON: Yes, ma'am.

4 THE COURT: If you would pass the verdict please to
5 the bailiff.

6 You can be seated, please.

7 I'm gonna ask Mr. Jones to stand and I'm gonna get
8 the clerk to read the verdict, please.

9 THE CLERK: Indictment 2022-GS-32-00268,
10 2022-GS-32-00269, 2022-GS-32-00275, the State of South
11 Carolina versus Daniel Jones. On the charge of murder,
12 we, the jury, unanimously find Daniel Taylor Jones guilty.
13 On the charge of assault and battery of a high and
14 aggravated nature, we, the jury, unanimously find Daniel
15 Taylor Jones guilty. On the charge of possession of a
16 weapon during the commission of a violent crime, we, the
17 jury, unanimously find Daniel Taylor Jones guilty.

18 So signed by the foreperson on this date,
19 January 26, 2024.

20 THE COURT: Thank you.

21 MS. ZMROCZEK: Your Honor, we would ask the jury be
22 individually polled.

23 THE COURT: Okay.

24 THE CLERK: When I call your juror number, I will
25 ask was this your verdict and are these still your

1 I do want to thank the Lexington County Sheriff's
2 Department. You-all have done a great job on this case.
3 I've sat through -- this is the second -- my second go
4 around. I'm telling you it's sad and it's sad to sit
5 here and look at somebody at the age of eighteen that
6 I'm fixing to put away for a awfully long time, but I'm
7 gonna tell you the citizens of Lexington County, they
8 deserve better. I'm not gonna put up with this. I'm not
9 gonna do it.

10 Anything else from the State?

11 MS. PATTERSON: No, ma'am.

12 THE COURT: Anything else from the defense?

13 MS. ZMROCZEK: Nothing further, Your Honor.

14 THE COURT: I'd also like to thank the jury in this
15 case. I see them in the back. I think they've done an
16 excellent job. They stuck with us for the whole week,
17 they paid attention and I think they got it exactly right.

18 All right. The sentence of the Court. Possession
19 of weapon during a violent crime, the sentence of the
20 Court is five years. That's -- it carries zero to five,
21 I'm giving him five. Assault and battery of a high and
22 aggravated nature carries zero to twenty, I'm giving him
23 twenty. I will run all of these concurrent.

24 The murder charge I will tell you, Mr. Jones, carries
25 thirty to life and it's a day for day charge, so whatever

1 I give you must do day for day.

2 You do understand, don't you?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Has he served any time, get credit for
5 any time?

6 MS. ZMROCZEK: Your Honor, he's been incarcerated
7 since March 27th of 2020.

8 THE COURT: He gets credit for his time. Let me
9 find out what that is.

10 MS. ZMROCZEK: I can do it real quick. It's.

11 THE COURT: It's 1400 days exactly.

12 MS. ZMROCZEK: Oh, wow.

13 THE COURT: I will give him credit for his 1400
14 days. However, on the murder charge the sentence of
15 this Court is forty years.

16 Court's adjourned.

17 I'm treating you just like I did your co-defendant.
18 I hold both of you equally responsible. Forty years.

19 (Whereupon, the proceedings were concluded for
20 January 26, 2024, at 5:51 PM.)

21

22

23

24

25

WITNESSES

Lexington County Sheriffs Department

Michael J Hart

Law Enforcement Case #: 20005975

DSG

ARREST WARRANT NUMBER

2020A3210200661

ACTION OF GRAND JURY**JUE BILL***Ruby Anderson*Foreperson of Grand Jury
Date: 2-7-22VERDICT

Foreperson of Petit Jury

Date: 1/26/2024

DOCKET NO. 2022GS3200268**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS**FEBRUARY TERM 2022****THE STATE****vs.****Daniel Taylor Jones**CDR #: 0116**Indictment for****Murder****§ 16-03-0010****S.R. Hubbard III, SOLICITOR**

2024 JAMES
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder

§ 16-03-0010

At a Court of General Sessions, convened on February 2022, the Grand Jurors of Lexington County present upon their oath:

That **Daniel Taylor Jones along with Christopher David Shumpert** did in Lexington County on or about March 27, 2020, unlawfully, willfully, feloniously, and with malice aforethought kill the victim, Barry Joe Chavis Jr., by shooting the victim, and the victim died as a proximate result thereof, in violation of § 16-3-10, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

SCANNED: 02082022

2024JAN29

WITNESSES

Lexington County Sheriffs Department

Michael J Hart

Law Enforcement Case #: 20005975

DSG

ARREST WARRANT NUMBER

2020A3210200660

ACTION OF GRAND JURY
TRUE BILL

Shirley Byrd
Foreperson of Grand Jury
Date: 1/26/2024

VERDICT

[Signature]
Foreperson of Petit Jury
Date: 1/26/2024

DOCKET NO. 2022GS3200269

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2022

THE STATE

vs.

Daniel Taylor Jones

CDR #: 0549

Indictment for

Weapons / Poss. weapon during a violent
crime

§ 16-23-0490

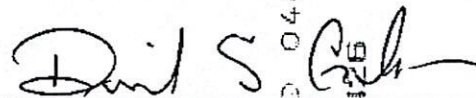
S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Weapons / Poss. weapon during a violent crime
COUNTY OF LEXINGTON	)	
	)	§ 16-23-0490

At a Court of General Sessions, convened on April 2022, the Grand Jurors of Lexington County present upon their oath:

That **Daniel Taylor Jones** did in Lexington County, South Carolina on or about March 27, 2020 knowingly and willfully, possess a firearm, during the commission of a violent crime or attempt to commit a violent crime, to wit: Murder such weapon described as a 9 mm handgun and/or an AR-15 assault rifle in violation of § 16-23-490 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DEPUTY SOLICITOR

SCANNED 04052022

2024 JUN 15

2024JAN29

WITNESSES

Lexington County Sheriffs Department

Michael J Hart

Law Enforcement Case #: 20005975

DSC

ARREST WARRANT NUMBER

2020A3210200659

ACTION OF GRAND JURY

TRUE BILL

Shirley Poyas

Foreperson of Grand Jury

Date: 4.4.22

VERDICT

DOCKET NO. 2022GS3200275

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2022

THE STATE

vs.

Daniel Taylor Jones

CDR #: 3411

Indictment for

Assault and Battery of a High and
Aggravated Nature

§ 16-03-0029

S.R. Hubbard III, SOLICITOR

[Signature]
Foreperson of Petit Jury
Date: 1/26/2024

2024 JAN 6
STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

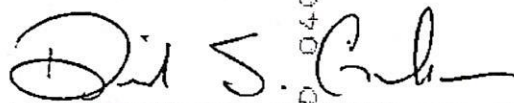
)
) INDICTMENT FOR
) Assault and Battery of a High and Aggravated
) Nature

)
§ 16-03-0029

At a Court of General Sessions, convened on APRIL 2022, the Grand Jurors of Lexington County present upon their oath:

That Daniel Taylor Jones along with Christopher Schumpert did in Lexington County, South Carolina, on or about March 27, 2020, unlawfully injure another person, Kevin Kimbler, and the act was accomplished by means likely to produce death or great bodily injury, to wit: the victim was shot multiple times once in his torso and another in his right upper thigh area requiring hospitalization, in violation of §16-0333-600(B) of the South Carolina Code of Laws of 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

2022 JAN 6
04055070
SCANNED


DEPUTY SOLICITOR

2024JAN29

750

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

STATE

VS.

Daniel Taylor Jones

AKA:

Race: White Sex: Male Age: 18

DOB: [REDACTED] 2001 SS#: [REDACTED]

Address:

City, State, Zip:

DL#* [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022GS3200268

AW#: 2020A3210200661

Date of Offense: 03/27/2020

S.C. Code §: 16-03-00010

CDR Code #: 0116

SENTENCE SHEET

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

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder / Murder

In violation of § 16-03-00010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

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

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

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

ATTEST:

Solicitor [Signature] SC Bar # 139169 Defendant Attorney for Defendant SC Bar #

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

for a determinate term of 40 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:

2022 GS 3200275
2022 GS 3200269

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

☐ 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. Daniel Taylor JonesINDICTMENT/CASE#: 2022GS3200268**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ _____
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-286 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ _____

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund
TOTAL \$ 125
 Clerk of Court/Deputy Clerk: Lisa Comer
 Court Reporter: Stacy Johnson

 Presiding Judge: Debra McCasidi
 Judge Code: 2769
 Sentence Date: 1/26/24

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

STATE

VS.

Daniel Taylor Jones

AKA:

Race: White Sex: Male Age: 18DOB: 2001 SS#: [REDACTED]

Address:

City, State, Zip: [REDACTED]DL#* [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022GS3200269AW#: 2020A3210200660Date of Offense: 03/27/2020S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or deathIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] Solicitor [Signature] SC Bar # [REDACTED] Defendant [Signature] Attorney for Defendant [REDACTED] SC Bar # [REDACTED]

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2022 GS 320068☒ 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.140 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. Daniel Taylor JonesINDICTMENT/CASE#: 2022GS3200269

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$
☐ 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

\$

Clerk of Court/Deputy Clerk: Lisa Comer
Court Reporter: Stacy JohnsonPresiding Judge: Debra McCarty
Judge Code: 27109
Sentence Date: 1/26/24

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

STATE

VS.

Daniel Taylor Jones

AKA:

Race: White Sex: Male Age: 18DOB: 2001 SS#:

Address:

City, State, Zip: DL#* SID# *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Assault and Battery of a High and Aggravated NatureIn violation of § 16-003-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)
The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Att. Patt 139169
 Solicitor SC Bar # Defendant Attorney for Defendant 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: 2022 BS 3200 268
2022 BS 3210 0269
☒ 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.
1400 (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.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022GS3200275AW#: 2020A3210200659Date of Offense: 03/27/2020

S.C. Code §:

CDR Code #: 3410

SENTENCE SHEET

STATE VS. Daniel Taylor JonesINDICTMENT/CASE#: 2022GS3200275**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$ _____
§56-5-2995 (DUI Assessment)	\$12		\$ _____
§56-1-286 (DUI Breath Test)	\$25		\$ _____
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25
§14-1-213 (Drug Court Surcharge)	\$150		\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ _____
☐ 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

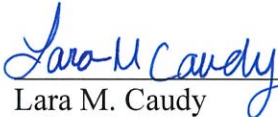
\$ 125

Clerk of Court/Deputy Clerk: Lisa Comer
Court Reporter: Stacy JohnsonPresiding Judge: Debra McChesler
Judge Code: 2769
Sentence Date: 1/26/24

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

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

ATTORNEY FOR APPELLANT

This 13th day of August, 2025.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

RECEIVED

Aug 13 2025

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DANIEL TAYLOR JONES,

APPELLANT

APPELLATE CASE NO. 2024-000129

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 Tommy Evans, Jr., Esquire, at his primary email address listed in the Attorney Information System (AIS), this 13th day of August, 2025.



Lara M. Caudy
Senior Appellate Defender

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

ATTORNEY FOR APPELLANT