

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Aug 15 2025**

**S.C. SUPREME COURT**

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Certiorari to Spartanburg County

Honorable G.D. Morgan, Jr., Circuit Court Judge  
\_\_\_\_\_

BENJAMIN A. DOYLE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000549  
\_\_\_\_\_

APPENDIX  
\_\_\_\_\_

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

D. RUSSELL BARLOW  
Senior Assistant Deputy Attorney General  
P.O. Box 11549  
Columbia, SC 29211-1549  
(803) 734-3737

ATTORNEY FOR PETITIONER

BARRY J. BARNETTE  
Solicitor, Seventh Judicial Circuit  
180 Magnolia Street  
Spartanburg, SC 29306  
(864) 596-2575

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA  
2 COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS  
FOR THE 7th JUDICIAL CIRCUIT

3 STATE OF SOUTH CAROLINA,  
4  
5 Plaintiff,

6 vs.

CASE NO. 2020A4210200831  
2020A4210200832

7 BENJAMIN ANTHONY DOYLE,  
8  
9 Defendant.

10 HEARING BEFORE: HONORABLE J. MARK HAYES, II

11 DATE: July 11, 2022

12 TIME: 3:00 PM

13 LOCATION: Spartanburg County Judicial Center  
14 180 Magnolia Street  
15 Spartanburg, SC 29306

16 REPORTED BY: LORA L. McDANIEL,  
17 Registered Professional Reporter

18  
19 APPEARANCES:

20 ATTORNEYS FOR THE PLAINTIFF  
21 SPENSER SMITH, ESQ.

22 ATTORNEYS FOR THE DEFENDANT  
23 KATHERINE SIEBER, ESQ.  
24  
25

## BENJAMIN DOYLE VS. STATE OF SOUTH CAROLINA

1

## I N D E X

2

DIRECT CROSS REDIRECT RECROSS

3

WITNESS/EXAMINATION

4

BENJAMIN ANTHONY DOYLE

5

BY MS. SIEBER

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BY MR. SMITH

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## E X H I B I T S

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(No Exhibits Proffered)

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## BENJAMIN DOYLE VS. STATE OF SOUTH CAROLINA

1                   THE COURT: Okay. I've reviewed the motion. Thank  
2                   you for providing it to me. More than happy to hear from you.

3                   MS. SIEBER: Thank you, Your Honor. I have two  
4                   short motions to make before the motion I just provided, out of  
5                   an abundance of caution for the record. I'll be making these  
6                   again pretrial as well.

7                   We are moving to exclude the prior record of  
8                   Mr. Doyle pursuant to Rule 609 and 403; specifically, anything  
9                   beyond that is over ten years old that is too remote and not  
10                  relevant here today. Mr. Doyle will be testifying.

11                  In addition, he has three charges within the past  
12                  ten years. We're asking you to exclude any mention of the fact  
13                  those charges were enhanced as that is related to sentencing  
14                  and is not relevant to his impeachment.

15                  THE COURT: We can take those up at the pretrial  
16                  stage, prior to the trial.

17                  MS. SIEBER: I understand. I intend to make them  
18                  pretrial as well. I do think they're relevant to the hearing  
19                  since Mr. Doyle will be testifying.

20                  THE COURT: You intend to go into his prior record,  
21                  past ten years, for purposes of this hearing?

22                  MR. SMITH: I was going to ask him about the  
23                  three -- well, probably two shoplifting in the last ten, I  
24                  think probably only thing would be.

25                  THE COURT: In the last ten?

## BENJAMIN DOYLE VS. STATE OF SOUTH CAROLINA

1 MR. SMITH: Yes.

2 THE COURT: Or beyond ten?

3 MR. SMITH: In the last ten.

4 THE COURT: Her motion is 609 says anything past  
5 ten years.

6 MR. SMITH: I'm not concerned.

7 THE COURT: He's not going to do anything past the  
8 ten years.

9 MR. SMITH: I don't care so much about the  
10 enhancement portion though questions could get into that, about  
11 how he got a gun and why he chose to get a gun that way and  
12 will probably depend on how the testimony goes. I don't know  
13 exactly what he's going to say.

14 THE COURT: If he opens the door to credibility  
15 issues that go outside of him just having a prior record, I  
16 understand.

17 Yes, ma'am.

18 MS. SIEBER: Additionally, Your Honor, I am moving  
19 to exclude certain parts of his interview that you've already  
20 received from the State, specifically, parts that I feel are  
21 irrelevant and overly prejudicial; that would include any  
22 mention of his drug use or his prior record as well. Again,  
23 I'll be making these pretrial.

24 He does discuss the fact that he is a former crack  
25 cocaine user. I do not think that's relevant. As Your Honor

## BENJAMIN DOYLE VS. STATE OF SOUTH CAROLINA

1 will be listening to the interview, we ask that be excluded  
2 from your consideration.

3 THE COURT: You're going to argue that's relevant  
4 somehow?

5 MR. SMITH: Well, I believe there's going to be  
6 some testimony he was not a recovering addict; still actively  
7 using drugs that contributed to what happened here. It's a bit  
8 difficult to break the city's disks. In the future, it would  
9 be nice to have these things mentioned before Monday of trial  
10 so we can prepare those accordingly.

11 The prior record is him saying he doesn't have a  
12 prior record for anything violent so I'm not totally sure why  
13 that would be prejudicial to him. If anything, it's  
14 deferential. He's actually leaving out that he does have some  
15 crimes that involve violence.

16 If they insist, he's obviously going to be asked  
17 about two of his records. He doesn't go into anything specific  
18 about his prior record so I'm not totally sure that it is an  
19 issue.

20 THE COURT: Okay. Well, for purposes of this  
21 hearing, I've already listened to -- I think I told the  
22 lawyers -- I listened to almost 40-plus minutes' worth. I've  
23 heard the things that y'all have already referenced. I think  
24 I'll be able to judge based on the arguments, based upon the  
25 other information that's presented to me. I'll be able to

## BENJAMIN DOYLE VS. STATE OF SOUTH CAROLINA

1 judge the items that are related to relevant credibility issues  
2 versus items that are irrelevant to the substantive decision of  
3 a motion for immunity for criminal prosecution.

4 You've made those motions. Be sure that if we move  
5 forward to a trial, you renew the motion, if you feel like  
6 they're needed.

7 MS. SIEBER: Yes, Your Honor.

8 THE COURT: What else?

9 MS. SIEBER: Your Honor, the defense is moving for  
10 Protection Under Persons and Property Act for Immunity for  
11 Mr. Doyle for both his attempted murder charge and his  
12 possession of a weapon during the commission of a violent crime  
13 charge.

14 Your Honor, we are moving pursuant to Section  
15 16-11-440(C) which allows a person who's engaged in an unlawful  
16 activity and who is attacked in another place where he has a  
17 right to be, including but not limited to his place of  
18 business; has no duty to retreat, and has a right to stand his  
19 ground and meet force with force, including deadly force if he  
20 reasonably believes it's necessary to prevent death or great  
21 bodily injury to himself.

22 We believe that Mr. Doyle was acting in  
23 self-defense in this case and was in a place which he had the  
24 right to be; therefore, should be protected under the Act. We  
25 would remind The Court, as I'm sure you're aware, of the

BENJAMIN DOYLE DIR BY MS. SIEBER

1 preponderance of the evidence is standard in this case.

2 And we would -- are you prepared to move forward  
3 with testimony, Your Honor?

4 THE COURT: Yes, ma'am.

5 MS. SIEBER: The defense would call Benjamin Doyle.

6 THE COURT: Mr. Doyle, come right up here. Let the  
7 clerk of court swear you in. If you would, place your left  
8 hand on the Bible and raise your right hand.

9 BENJAMIN DOYLE

10 being first duly sworn, testified as follows:

11 THE COURT: Mr. Doyle, be careful stepping up. And  
12 have a seat in the chair. Pull the chair up to the microphone.  
13 Very gently, you can bend the microphone. Somebody pulled it  
14 out one time. It's pretty fragile. Speak into the microphone  
15 so the court reporter and I both can hear you.

16 DIRECT EXAMINATION

17 BY MS. SIEBER:

18 Q. Mr. Doyle, how old are you?

19 A. I'm 54 -- I mean 55.

20 Q. How old were you at the time this happened?

21 A. Fifty-three.

22 Q. Tell us how tall you are.

23 A. 5'10".

24 Q. How much do you weigh?

25 A. 185.

BENJAMIN DOYLE DIR BY MS. SIEBER

1           Q.    I want to talk just a little bit about you. Tell  
2   me about your family.

3           A.    I have a daughter that is 34. I have a son that is  
4   15 at this time. My mother, my father, they're still living.

5           THE COURT: I'm sorry. Mr. Doyle, you're going to  
6   need -- sort of speak up. You're trailing off.

7           THE WITNESS: I have a daughter that is 34. I have  
8   a son that is 15. My mother and my father is living. I have a  
9   brother and a sister.

10   BY MS. SIEBER:

11          Q.    Were you living with your son at the time this  
12   happened?

13          A.    Yes, ma'am, I was.

14          Q.    That was February 16, 2020?

15          A.    Yes, ma'am.

16          Q.    I want to talk to you about your health. Have you  
17   ever had any surgeries before?

18          A.    Yes, ma'am.

19          Q.    Tell us about those.

20          A.    I was shot three different times.

21          Q.    Let's talk about the first time you were shot.  
22   When did that happen?

23          A.    I was shot when I was 19. I was hanging out with a  
24   guy, a friend of mine. He was wanting to --

25          Q.    Make sure you speak up.

BENJAMIN DOYLE DIR BY MS. SIEBER

1           A.    He chose to -- wanted to get a guy's glasses off  
2   his eyes.  And when he took the glasses, I went behind him.  
3   But the guy whose glasses he took, he was pushing me in my  
4   back.  So I turned back around, and I pushed him and he shot me  
5   in my face.

6           Q.    Where did this happen?

7           A.    Charleston, South Carolina.

8           Q.    Where were y'all at?

9           A.    On a city bus.

10          Q.    Talk about where you were shot.

11          A.    In my face on my left side.  Ricochet off two  
12   teeth, came up to my ear.

13          Q.    What injuries did you have as a result of that?

14          A.    I lost two teeth and jaw was swolled.  I was pretty  
15   much okay after a month.

16          Q.    Tell the judge how it affected you mentally.

17          A.    It affected me because I knew that I have to, you  
18   know, be careful of how, you know, you would put yourself in  
19   harm's way.  So I did my best not to be in harm's way.  You  
20   know, just -- just not wanting to harm anyone.

21          Q.    You said that happened after a person pushed you?

22          A.    Yes, ma'am.

23          Q.    Tell us about the second time you were shot.  When  
24   did that happen?

25          A.    Second time I was shot is -- I was in the City of

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Charleston, and a guy, he came up to me and point the gun at my  
2 head. And he chose to not shoot me in the head; he shot me in  
3 the hip.

4 Came to find out, another guy gave him some drugs.  
5 And he had to let this other guy realize that I was the one  
6 took the drugs but I never did it. In order for him to keep  
7 the drugs, he had to bodily harm someone and that's what he did  
8 to me.

9 Q. He was blaming you for taking those drugs?

10 A. Yes, ma'am.

11 Q. Where were you shot that time?

12 A. I was shot in the hip. I had a colostomy bag and I  
13 had about 75 stitches in my stomach.

14 Q. How long did it take you to recover from that?

15 A. Thirty days. Well, with the stitches coming out,  
16 it took about maybe three months. With the colostomy bag was  
17 30 days.

18 Q. Tell the judge how that affected you mentally.

19 A. I just continued to know that I cannot be able to  
20 put myself in a place where I don't need to be. And as I got  
21 older, I realized, you know, I'm not going to put myself in  
22 harm's way. And just living that fast life, it showed me that,  
23 you know, you can get yourself killed out here.

24 Q. That caused you to slow down?

25 A. Yes, ma'am.

BENJAMIN DOYLE DIR BY MS. SIEBER

1           Q.    You said you were shot a third time.  When did that  
2   happen?

3           A.    I was about 44.  And I was shot in my head.  The  
4   neighbor across the street, we were having words.  And I was on  
5   my way to go over there, and a guy was walking down the street  
6   on the same side I was on.  And as I walked past him, I saw him  
7   pull out a gun and shot me in the head.

8           Q.    Did you know that man?

9           A.    No, I didn't.

10          Q.    Where were you hit?

11          A.    I was shot in the head on the left side.

12          Q.    In your eyebrow, is that what you're pointing to?

13          A.    Yes, ma'am.

14          Q.    Tell us about what were your injuries from that.

15          A.    I had about eight stitches.  It was grazed because  
16   I guess the gun was too powerful and it grazed off of my head.  
17   He really didn't get a good aim.  Because it was just sneaking  
18   to shoot me.

19          Q.    Were you in pain after each of these incidents?

20          A.    Yes, ma'am.

21          Q.    Mentally, it had an effect on you; right?

22          A.    Yes, it did.

23          Q.    Now I want to go back to 2020, around the time that  
24   this incident happened.

25          A.    Yes, ma'am.

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Q. Where were you living at that time?

2 A. Prince Hall.

3 Q. Do you remember what apartment you were living in?

4 A. Apartment [REDACTED].

5 Q. Who were you living with?

6 A. My wife and my son.

7 Q. That's your 15-year-old son you talked about  
8 earlier?

9 A. Yes, ma'am.

10 Q. Tell us about life at Prince Hall. What did you  
11 typically do over there?

12 A. Well, I worked through Labor Finder. I end up with  
13 a job at, permanent job at Pickens Roofing full-time. I would  
14 get off from work, and I would go and hang out in the  
15 breezeway.

16 Q. When you say the breezeway, what are you referring  
17 to?

18 A. I would sometimes sit in the breezeway at building  
19 three. I would go in the breezeway building two, four. I  
20 would go in all the breezeways and sit and wind down from work.

21 Q. The breezeway, you're talking about the area  
22 between the apartments; correct?

23 A. Yes, ma'am.

24 Q. Would you just be in the breezeway by your  
25 apartment or were you in all the breezeways?

BENJAMIN DOYLE DIR BY MS. SIEBER

1           A.    I was in all the breezeways.

2           Q.    Would you be by yourself?

3           A.    Yes, ma'am.

4           Q.    Would other people ever come and join you?

5           A.    Yes.

6           Q.    Did you know them well?

7           A.    No.

8           Q.    Who were they? Any idea?

9           A.    I mean, they were people who stays in those  
10 apartment complex. I didn't actually know them personally but  
11 as me being able to -- I was staying in Prince Hall, you know.  
12 They was clinging on to Old School. Old School is in the  
13 breezeway, playing his music. Just got off from work.

14          Q.    How long had you lived at Prince Hall when this  
15 happened?

16          A.    I lived at Prince Hall for about seven months.

17          Q.    And I want to talk to you about your relationship  
18 with Mr. Wilkes. How did you know him?

19          A.    I knew him from my step-daughter, Rachel Holloway.  
20 Never had a problem with him.

21          Q.    Tell the judge about the first time you met him.

22          A.    First time I met him, he came down to Greenville,  
23 South Carolina and picked me up from my girlfriend's house.  
24 And me, him and Rachel, we rode back to Spartanburg. And I  
25 spend a weekend with my wife. And then they took me back to

BENJAMIN DOYLE DIR BY MS. SIEBER

1        Greenville.

2                Q.    Initially, was your relationship with Mr. Wilkes  
3        good?

4                A.    Yes.

5                Q.    Would y'all ever do anything together?

6                A.    Yes.

7                Q.    Like what?

8                A.    Drink. Talk. I would give him cigarettes, he  
9        would give me cigarettes. We ride in the car together. He  
10       needed -- he was riding with an expired tag. And I was working  
11       to the car dealership. I would get the tags that would be a  
12       little more updated. Paper tags.

13                And he would give me a few dollars for it. And I  
14       would give it to him. He would put it on his car and drive  
15       until it expired. Then he would ask me: Hey, man, could you  
16       get me another tag. And, you know, no problem.

17                Q.    Let's talk about Rachel Holloway. You said she was  
18       your step-daughter?

19                A.    Yes, ma'am.

20                Q.    Tell us about your relationship with her.

21                A.    We had a good relationship. When I first met  
22       Rachel, Rachel had her brother locked out of the house in  
23       Greenville, South Carolina. And her brother asked me to use  
24       the phone. And I was, well, why are you asking me to use the  
25       phone. Where you live?

BENJAMIN DOYLE DIR BY MS. SIEBER

1                   He said: I live right down the street.

2                   And as he pointed down the street, Rachel was over  
3 there in the door telling him to come on in, but he had already  
4 called his mother. I never knew his mother until we got  
5 married. As Rachel --

6                   Q. Did you and Rachel ever have any issues?

7                   A. No. No.

8                   Q. Would you help out William and Rachel?

9                   A. Yeah. I treated them like they were my, my, my  
10 kids.

11                  Q. Tell the judge how you would help them out.

12                  A. Buy clothes for school. Take them to -- when I get  
13 paid, I would take them to Dollar General. We would go out of  
14 town together to my hometown Charleston, South Carolina. I  
15 treated them like they were my kids.

16                  Q. Did your wife have any other children?

17                  A. Yes, ma'am.

18                  Q. Who was that?

19                  A. William Hough and Malike Hough.

20                  Q. Let's talk about William Hough. Tell the judge  
21 about your relationship with him.

22                  A. Well, just like I said, we all got along well  
23 because, you know, I was a stepfather. And I came into the  
24 relationship when they were young. And William -- we moved to  
25 Charleston. And William started cutting grass and making his

BENJAMIN DOYLE DIR BY MS. SIEBER

1       own money at the age of 12, 11, 12 years old. He was a good  
2       kid.

3               Q.    Did William move back to Spartanburg when you and  
4       your wife did?

5               A.    Yes. William was back in Spartanburg.

6               Q.    Tell the judge when you started having problems  
7       with Mr. Wilkes.

8               A.    I started having problem with Mr. Wilkes when --  
9       the day came when he came across the lawn with a newborn baby  
10      and he said that he's going to F me up. And tell me to come on  
11      downstairs.

12               And I never, ever done anything to make him feel  
13      like he needed to do anything to me. But that's when the  
14      problem started. And that was after I told Rachel that William  
15      was home, and he looked like he's on methamphetamine.

16               Q.    So the issue with Mr. Wilkes started after William  
17      Hough returned?

18               A.    Yes, ma'am.

19               Q.    Tell us what was going on with William at that  
20      point. William Hough.

21               A.    William spent five months in jail. And I went to  
22      the jail every other week and take him money to put on his  
23      books. When he came home, three days later William was on the  
24      couch. And he was just about butt naked.

25               And I said, well. I went to my wife Brenda, and I

BENJAMIN DOYLE DIR BY MS. SIEBER

1 say: Your boy must be on that methamphetamine again.

2 And she said: Well, I know. He looks like he's on  
3 it.

4 So I walked out the house. I left. I told him:  
5 Boy, you look like you're on the meth. And I left out the  
6 house.

7 Q. Did you have a problem with Mr. Hough using  
8 methamphetamine in your house?

9 A. Yes, I did.

10 Q. Did you tell him that?

11 A. Yes, I did.

12 Q. Tell the judge how Ms. Holloway responded to that.

13 A. I went to the other breezeway after I knew that he  
14 was using. I assumed that he was using. And as I was in the  
15 breezeway, Rachel came -- Ms. Holloway, came from her  
16 apartment.

17 And I said: I see your brother over there, look  
18 like he on that meth again.

19 She said: Yeah, I'm going over there now. He just  
20 texted me and telling me you over there bothering him. He's on  
21 meth, but he's grown. He can do whatever he can do.

22 I was like: No, he can't do what he want to do  
23 inside the apartment because I'm a recovering addict.

24 She went over to building three, apartment two.  
25 And she was standing outside raising hell. But I still was

BENJAMIN DOYLE DIR BY MS. SIEBER

1 over in the other breezeway.

2 Q. Rachel Holloway and William Wilkes, they lived at  
3 Prince Hall, too; correct?

4 A. Yes, ma'am.

5 Q. What building did they live in?

6 A. One.

7 Q. Was that far from your building?

8 A. Yeah, that was about 25 feet.

9 Q. Was it across the apartment complex?

10 A. It was across the apartment complex. There was  
11 another apartment, well, four, three -- well, I think it was  
12 four and five is in the middle and then across the parking lot  
13 is one.

14 Q. Were there several buildings in between your two  
15 buildings?

16 A. Yes, ma'am.

17 Q. Let's talk about the incident that happened in your  
18 breezeway. Did you have an issue with William Hough and  
19 William Wilkes?

20 A. Yes. That same night Wilkes asked me to come  
21 downstairs because he's going to F me up. I was upstairs  
22 talking to the neighbor Tom. So I end up going down the steps.

23 Q. You're upstairs at -- who's apartment are you at?

24 A. That was Tom's. Tom. He was a neighbor. And I  
25 would go to his house and sit down, look at football, you know.

BENJAMIN DOYLE DIR BY MS. SIEBER

1       He would cook dinner, so forth and so on. We would sit there.

2               Q.    Tell the judge what happened then.

3               A.    I'm squared. When I say I'm squared up, me and  
4       Wilkes, we were fist-to-fist standing there, wanting to  
5       fistfight. And me face-to-face with Wilkes.

6               Q.    Where is Mr. Wilkes standing?

7               A.    Face-to-face with me.

8               Q.    Face-to-face with you?

9               A.    Yes, ma'am.

10              Q.    Where are you standing?

11              A.    Right there where I stay at.

12              Q.    You're standing in front of your apartment door?

13              A.    I'm standing -- he's by my apartment door. I'm by  
14       the steps.

15              Q.    You said he had threatened you before?

16              A.    Yes, ma'am.

17              Q.    What did he say to you?

18              A.    MF, I'm going to F you up. And then he's  
19       threatening me.

20              Q.    Do you have any idea why he was upset with you?

21              A.    No.

22              Q.    Tell us what happens after you're squared up.

23              A.    I had a knock on the back of my head. So now it's  
24       William jump out the window.

25              Q.    Which William are you referring to?

BENJAMIN DOYLE DIR BY MS. SIEBER

1           A.   William Hough.  He jumped out of the window and  
2   come around the apartment complex, around the apartment  
3   building, hit me in the back of my head.  And Mr. Wilkes hit me  
4   in the front.  Now --

5           Q.   When you say the front, where do you mean?

6           A.   In my face.  So now I left.  I ran off.  And I went  
7   to Dee Traxx, which is a corner store.

8           Q.   How long did the attack last before you had to run?

9           A.   About three minutes.  Three or four minutes.

10          Q.   They were both hitting on you at that point?

11          A.   Yeah, I mean, they were -- one did hit on me, but I  
12   got out of the way.  I ran.

13          Q.   You said you went to Dee Traxx?

14          A.   Yes, ma'am.

15          Q.   What did you do when you got to Dee Traxx?

16          A.   I was calling the police as I was going to Dee  
17   Traxx.

18          Q.   Did the police meet you at Dee Traxx?

19          A.   Yes, ma'am.

20          Q.   In this incident, you tried to defend yourself;  
21   correct?

22          A.   Yes, ma'am.

23          Q.   Were you using your fists?

24          A.   Yes, ma'am.

25          Q.   Were you injured as a result of that?

BENJAMIN DOYLE DIR BY MS. SIEBER

1           A.    I was hit in the face and hit in the back of the  
2   head and the ambulance was on its way to Dee Traxx.

3           Q.    Did the police respond out to Dee Traxx?

4           A.    Yes, ma'am.

5           Q.    Tell us what happened when they got there.

6           A.    I told them that I was jumped in Prince Hall, and  
7   they laughed. They laughed and they said: What are you doing  
8   out here this time of night? It was about 9:30.

9           Q.    How many officers responded out?

10          A.    Two.

11          Q.    Did they ask you about your injuries?

12          A.    No, they didn't.

13          Q.    Did they take any pictures of them?

14          A.    No, ma'am.

15          Q.    Did you wait on EMS?

16          A.    No. I left after they started to laugh at me and  
17   making me like I'm a joke.

18          Q.    After you left Dee Traxx, where did you go?

19          A.    I went back home.

20          Q.    What did you find out when you got home?

21          A.    Tom was up in the apartment. Tom was bloody. Come  
22   to find out they beat Tom up because they were defending -- Tom  
23   was defending me by saying -- I asked Tom, I said: Well, what  
24   happened?

25                Well, they jumped me because I told them they were

BENJAMIN DOYLE DIR BY MS. SIEBER

1       wrong for jumping on you.

2               Q.    So your neighbor Tom was attacked?

3               A.    Yes, ma'am.

4               Q.    Did you see Mr. Wilkes or Mr. Hough at that point?

5               A.    No.

6               Q.    Tell the judge about -- did you have any more  
7 problems with Mr. Wilkes?

8               A.    Yes, ma'am. I did. After that I -- one night I  
9 was coming from Dee Traxx, and it was wintertime. It was dark.  
10 And I was looking at my phone, and I heard: Yeah, we got you  
11 MF now. We got you now. We got you now.

12               I looked up, and I saw Mr. Wilkes and another guy.

13               Q.    Where were they?

14               A.    I was going back home. Mr. Wilkes and them was  
15 going like they going to Dee Traxx.

16               Q.    What happened after that?

17               A.    Well, I had to make them feel like my phone was a  
18 weapon. So I put my phone on my hip. And with me talking to  
19 them, I end up getting in the direction that I could go home.

20               Q.    What were you thinking they were going to do?

21               A.    They was going to hurt me. They were going to be  
22 on me. I was scared because, you know, it was nighttime. And  
23 he's already done harmed me already, you know.

24               Q.    Were you walking by yourself?

25               A.    Yes, ma'am.

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Q. What did you do after that?

2 A. I went home. And --

3 Q. Did you have to run home? Did you walk home?

4 A. I got to the point that I ran in the beginning.

5 Then I saw they wasn't behind me so I walked. Once I got home,  
6 now there's a whole lot of kicking on the door. Bring your  
7 F -- MF tail out the door. I'm going to beat your, you know,  
8 A-S-S.

9 Kicking on the apartment door. Knocking on the  
10 windows. So I decide to call the police.

11 Q. Who was outside?

12 A. It was Mr. Wilkes.

13 Q. Mr. Wilkes?

14 A. Yes.

15 Q. How did you know it was him?

16 A. Because I know his voice. Then once the police  
17 came, he was still outside. Still raising -- still acting  
18 belligerent. And they came in and they talked to me and they  
19 left.

20 Q. Did the police make any kind of report?

21 A. No, ma'am.

22 Q. So they basically told y'all to break it up and  
23 left?

24 A. Yeah. They basically told me to stay in the house.  
25 And I guess told them to leave.

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Q. How were you feeling after that incident?

2 A. Feeling threatened. I'm feeling scared even more.

3 Q. Did you have any more interactions with Mr. Wilkes?

4 A. Yes, ma'am.

5 Q. What was the next time something happened?

6 A. I was in the breezeway, me and two other guys, and  
7 they all lived there. And females. He came running in the  
8 breezeway. He was on his phone.

9 Q. When you say he, who are you referring to?

10 A. Mr. Wilkes. He was on his phone, and he was like:  
11 I got his MF ass right here. I got him right here. Come on,  
12 come on.

13 The people I was in the breezeway with, they say:  
14 Ain't none of that going on in this breezeway now. Ain't none  
15 of that going on in this breezeway.

16 I know I'm by myself. So I end up running home.

17 Q. What did you think Mr. Wilkes was going to do?

18 A. He was going bodily on me. He was going to  
19 physically harm me.

20 Q. Who did you think he was calling?

21 A. I think he was calling one of his homies to come  
22 and help him because, you know, he knew more people, much more  
23 people than I know in the apartment complex.

24 Q. So you had to run home on that occasion, too?

25 A. Yes, ma'am.

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Q. Did you call the police that time?

2 A. No, I didn't.

3 Q. Why not?

4 A. Because I got to a point that, you know, calling  
5 the police, they're not doing anything for me. So I went in  
6 the house, and I laid down. And once I laid down, they  
7 continued on.

8 He came to the door, kicking up on the door again,  
9 telling me come on out the door. Come on. Bring your tail out  
10 the door. I mean, he was using profane language, threatening  
11 words.

12 Q. Tell us what threatening words was he using.

13 A. Bring your MF tail out the door. I'm going to F  
14 you up. Come on out the door.

15 Q. How were you feeling at that moment?

16 A. I'm feeling very, very scared now. I'm feeling  
17 very threatened. Knowing that I've never done anything to this  
18 gentleman.

19 Q. So what did you do?

20 A. Well, I stayed in the house that night.

21 Q. Did he eventually leave?

22 A. Yes, he did.

23 Q. How long do you think he was at the door for?

24 A. Maybe about five, six minutes knowing that I'm not  
25 coming out.

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Q. Is he screaming the whole time?

2 A. Yes, ma'am.

3 Q. Did you have any other incidents with Mr. Wilkes? '

4 A. Yes, ma'am. The day before the shooting, I was in  
5 the breezeway. And I came out to the sidewalk. And I came out  
6 to the sidewalk, he came from the building that the shooting  
7 was in. He came from out that building, saw me, and he came to  
8 a point that he wanted to attack me.

9 Q. Why did you think he wanted to attack you?

10 A. Because he came close to me to where, if I didn't  
11 show some kind of protection, that he would've -- I know he  
12 would've attacked me.

13 Q. How did he seem to you?

14 A. He seemed that --

15 Q. What was his demeanor? Was he aggressive or calm?

16 A. He was aggressive to where he called me and then  
17 threatened me all these other times. So throughout these other  
18 times that he's already threatened me, now he's even getting  
19 worse. Because I'm out here around all these people: Why are  
20 you still continuously want to harm me for no reason?

21 Q. Did you have to defend yourself in that incident?

22 A. Yes, ma'am. He didn't know that I had a little  
23 chain in my pocket. (Demonstrating.) The chain that I had in  
24 my pocket when he saw me pull it out, then he backed up, you  
25 know. When he backed up, then he realized that I wanted to

BENJAMIN DOYLE DIR BY MS. SIEBER

1 defend myself so I swung it at him. And he saw me swung at  
2 him, then he went and he fled. When he fled, I ran behind him  
3 but, with me, I'm not as fast as the young guys. So I chased  
4 him and tagged him to be able to get in the direction that I  
5 knew I could run on to the house. And ran on home.

6 Q. Did you call the police in that incident?

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

8 Q. Do you recall the police coming out in that  
9 incident?

10 A. They did come out, I believe. Yes, because they  
11 said I had a chain. Yeah. They did come out. They did come  
12 out because someone else called the police, I believe, and they  
13 came. And they said that I had a chain. And I told them that  
14 I didn't have a chain.

15 Q. So you weren't charged in that incident; correct?

16 A. No, ma'am.

17 Q. What do you know about Mr. Wilkes' reputation?

18 A. With me getting to understand that there were  
19 gangs, you know, I see William with gold and they would give  
20 these hand signals.

21 Q. Which William?

22 A. William Hough.

23 Q. He would go to who?

24 A. Mr. Wilkes. And they would do hand signals and  
25 gang signals. And that's when I realize that this is why

BENJAMIN DOYLE DIR BY MS. SIEBER

1       he's --

2               Q.    What made you think those were gang signals?

3               A.    I'm old school. I'm old school. So I know gang  
4       signals when I see it. By William doing it around others and  
5       when I see him meeting other people, I just -- it's  
6       self-explanatory.

7               Q.    Had you been around anyone in a gang before?

8               A.    No, ma'am.

9               Q.    How did you know that these were gang signals that  
10      they were using?

11              A.    Because they always would use these signals when  
12      they meet up.

13              Q.    Was it the same signal that they were using?

14              A.    Yes, ma'am.

15              Q.    Did that make you more fearful?

16              A.    Yes.

17              Q.    Had you ever seen Mr. Wilkes with a weapon before?

18              A.    Yes, I have.

19              Q.    Tell the judge about that.

20              A.    Well, I rode in his car. I saw him with a knife  
21      before.

22              Q.    Was this when y'all got along?

23              A.    Yeah.

24              Q.    Did you know him to carry that knife with him?

25              A.    I knew that he always kept it in his car. I never,

BENJAMIN DOYLE DIR BY MS. SIEBER

1       you know, saw him with it on him.

2               Q.    I want to take you to the day of February 16, 2020,  
3       the day of the shooting.  What were you doing that day?

4               A.    I was in the breezeway.  It was my son's birthday.  
5       And I was at home, and I decided to go into the breezeway.

6               Q.    What had you done that morning?

7               A.    Stand in the breezeway, play my music, and just  
8       enjoy myself.

9               Q.    After you got out into the breezeway, did you run  
10      into Mr. Wilkes?

11              A.    I saw him coming across the parking lot.

12              Q.    What did you think when you saw him?

13              A.    I felt like he was going to harm me at that moment,  
14      at that time again, after he saw me.

15              Q.    Why did you think that?

16              A.    Because he had already -- he had done it multiple  
17      times.

18              Q.    Tell us what happened.

19              A.    At that time I wanted to go to him and ask him why  
20      he's, you know, why he's always threatening me, coming to my  
21      house, doing what he's doing.  You know, as me and him being,  
22      you know, one-on-one.

23              Q.    Were you trying to work it out with him?

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

25              Q.    Why was that?

BENJAMIN DOYLE DIR BY MS. SIEBER

1           A.    Because I didn't -- I never wanted to have no  
2    conflict with no one in Prince Hall. I never did have any  
3    conflict with no one in Prince Hall. I was a good guy. I was  
4    a guy that go to work, come home, wind down, play my music,  
5    enjoy myself. I never had a problem with no one at Prince  
6    Hall.

7           Q.    What breezeway did you see Mr. Wilkes coming  
8    towards?

9           A.    That was four.

10          Q.    This was not at your apartment; correct?

11          A.    No, ma'am.

12          Q.    This was not at Mr. Wilkes' apartment?

13          A.    No, ma'am.

14          Q.    Tell the judge what happened.

15          A.    Well, I went, and I went and asked him why -- no, I  
16    asked him if Vern is home.

17          Q.    Who is Vern?

18          A.    Vern is the apartment that we all used to go in  
19    drinking. They would play arcade games and so forth and so on.  
20    And Vern was a guy that, you know, I accepted as someone whose  
21    house I could go to also.

22                So he said that: MF, why are you going to Vern  
23    home?

24                I asked him why you always -- at that point, he's  
25    still being aggressive to me. And then I asked him: Why are

BENJAMIN DOYLE DIR BY MS. SIEBER

1       you always threatening me and harassing me?

2                       And he said: MF. He spit in my face. And he  
3       throw liquid on me.

4               Q.    What did you think was going to happen after that?

5               A.    What I was thinking is that he was going to harm  
6       me. He was going to, you know, actually hurt me at that point.

7               Q.    Why did you believe that?

8               A.    Because then he started to make a move from not  
9       knocking on the door no more. He was making a move to actually  
10      come to my direction.

11              Q.    How did you respond?

12              A.    Well, I pull up the handgun that I had. And  
13      pointed it at him. And he told me to put that BB gun down. He  
14      said: MF, put that BB gun down. And I fired it.

15              Q.    Were you aiming at him at all when you fired?

16              A.    Yes, ma'am.

17              Q.    Had you ever shot a gun before?

18              A.    No, ma'am. I've shot a gun once. It was a small  
19      caliber gun. I never pointed a gun at a human being. I shot  
20      at a tree.

21              Q.    Why did you feel like you had to fire your weapon?

22              A.    Because I was feeling like I was going to be bodily  
23      harmed. Hurt. Or killed. At this point.

24              Q.    How many shots did you fire?

25              A.    Fired one shot.

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Q. Did you know if you would hit Mr. Wilkes?

2 A. No, I didn't.

3 Q. What did you do at that point?

4 A. I went home.

5 Q. Why did you leave?

6 A. I leave because I didn't want to do what I did. He  
7 left me a choice of my life or protect himself. So I left.  
8 And I went home. When I went home, like I said, I didn't know  
9 if I hit him or shot him, but I realized that my wife and my  
10 child is in the house. So I need to get out of the house  
11 because he might come and retaliate into that apartment.

12 Q. Who did you think might come?

13 A. Wilkes.

14 Q. When did you get that gun that you had?

15 A. Got that gun on the 15th.

16 Q. The day prior to this incident?

17 A. Yes, ma'am.

18 Q. Why did you get it?

19 A. I got the gun because I wanted to feel protected.  
20 I wanted to feel like, to know that I need to protect myself  
21 knowing that I've been threatened, harassed, door being kicked  
22 on, family being distraught. I got that gun to protect myself.

23 Q. After you left your apartment, where did you go?

24 A. I left the apartment, and I went to the Beacon. It  
25 wasn't the Beacon, it was QT.

BENJAMIN DOYLE DIR BY MS. SIEBER

1 Q. You left your apartment and you went to QT?

2 A. Yes, ma'am.

3 Q. What did you do when you were at QT?

4 A. I went to QT, and I bought me three beers.

5 Q. Did you drink those?

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

7 Q. Did you try to contact anybody while you were at  
8 QT?

9 A. Yes, I called my co-worker and asked him if he  
10 would come pick me up and take me to Dillon, South Carolina.

11 Q. Did you have a vehicle?

12 A. No, ma'am.

13 Q. Why did you feel like you needed to leave  
14 Spartanburg?

15 A. Because I didn't want to get hurt. I didn't want  
16 to get killed. I didn't want to be bodily harmed.

17 Q. What made you decide to come back?

18 A. Well, the reason why I came back is because I saw a  
19 whole lot of police passing me. So I said to myself, before I  
20 run away and go anywhere, go ahead back to the apartment  
21 complex and, you know, see what's going on, at least.

22 Q. You knew the police were there when you returned to  
23 the apartment?

24 A. Yes, ma'am.

25 Q. Were there a lot of police around at that point?

BENJAMIN DOYLE DIR BY MS. SIEBER

1           A.    It was almost 100 of them.  There was a lot.

2           Q.    But you chose to go back to your apartment?

3           A.    Yes, ma'am, because I know now I will be protected.  
4   Coming back to my apartment, to the apartment.

5           Q.    Did you want to shoot Mr. Wilkes that day?

6           A.    No, I didn't.  I never did.  Lord knows.  I never  
7   wanted to hurt no one.  I, I, I didn't know why he just  
8   couldn't understand that you're doing me wrong, and I haven't  
9   done nothing to you.

10                  I never in my life wanted to do anything to that  
11   young man.  Never.  I never thought about it.  And he was still  
12   harassing me.  He still was threatening me.  He still was, you  
13   know, making me scared.  And I think he was thinking that it  
14   was a joke or was funny.

15                  I never wanted to hurt him.  I never premeditate to  
16   want to do anything to him.  But he --

17           Q.    So you fired the gun to defend yourself that day?

18           A.    Yes, ma'am, I did.

19           Q.    What did you think was going to happen to you if  
20   you did not fire it?

21           A.    He would've killed me.  He would've hurt me.  He  
22   would've bodily harm me.  He would've continued to do the same  
23   thing he was doing for the last four different occasions that  
24   he had been doing.

25                  MS. SIEBER:  I have no further questions.  Please

BENJAMIN DOYLE CROSS BY MR. SMITH

1       answer any questions Mr. Smith has.

2                   THE WITNESS:   Thank you.

3                                   CROSS-EXAMINATION

4       BY MR. SMITH:

5               Q.    Why didn't you call 911 after shooting Mr. Wilkes?

6               A.    The reason why I didn't call 911 is because 911  
7       didn't do anything the first two times that I called.   Fill out  
8       a police report or just getting pictures.   Just being able to  
9       know that I'm being harmed.   I'm calling them.   I'm not calling  
10      them to, for, for nothing.

11              Q.    You then said, when you saw the police, you felt  
12      safe.   That's why you turned yourself in?

13              A.    Well, when I saw the police, it's a whole bunch of  
14      police is going in the direction that I live.   When I  
15      approached -- once you get off the street to go to Prince Hall,  
16      you can see where it is.   And it's a whole bunch of police cars  
17      there.

18              Q.    What I'm getting at is, you have a firearm.  
19      Someone has attacked you apparently to the point you thought  
20      you were going to die.   You shoot at them.   You said you don't  
21      know if you hit them.   You've walked multiple, multiple blocks  
22      away.   And you didn't think it would be worthy to call police?

23              A.    Well, sir, it was really for me to call the police  
24      when the incident first started.

25              Q.    I'm talking about this time.   When you fired a

BENJAMIN DOYLE CROSS BY MR. SMITH

1        weapon at somebody after being attacked and you left the scene,  
2        and he's not following you, why did you not call police?

3            A.    I mean, I didn't feel like I should call the  
4        police. The police haven't done anything for me throughout the  
5        times that I called them.

6            Q.    You did call a co-worker. Did you offer him money  
7        to take you to Dillon?

8            A.    Yes, sir.

9            Q.    And that was just because you would be safe?

10          A.    Well --

11          Q.    Not because you were trying to get away?

12          A.    I wasn't trying to get away. I know definitely  
13        that I would have to face what I -- what actually occurred if I  
14        actually shot him.

15                But I wanted to get away because now I know that I  
16        might've shot him. I don't know. I just didn't want to be  
17        around to know if I did. I choose to come back home because --  
18        not because he wouldn't give me a ride. I had money in my  
19        pocket; I could go anywhere. I choose to go back and not put  
20        my family in jeopardy, knowing that I fired a firearm.

21          Q.    So if he had agreed to take you to Dillon, when  
22        were you going to contact law enforcement?

23          A.    When I was going to contact law enforcement, I  
24        mean, I didn't know if I shot him or not. So that's why I  
25        didn't want to contact law enforcement.

BENJAMIN DOYLE CROSS BY MR. SMITH

1 Q. Who did you get the gun from?

2 A. I got the gun from the earth.

3 Q. From the earth. Did you summon it? What does that  
4 mean?

5 A. Getting a gun is something that I can't say who I  
6 got it from.

7 Q. Why?

8 A. Because it was put in a position that was told that  
9 it's going to be there.

10 Q. Who told you they were going to leave a gun in the  
11 earth for you?

12 A. That's something that I'm not going to say.

13 Q. Why?

14 A. Because it was known that I was being harassed,  
15 knowing that I was being threatened. And I'm not going to give  
16 a person up who knows that Mr. Wilkes was threatening me.

17 Q. Why would it be a problem for you to say who gave  
18 you the gun?

19 A. Because I don't want to get nobody in trouble.

20 Q. Why would they be in trouble if you were using it  
21 to defend yourself?

22 A. For the simple reason they knew I needed some kind  
23 of defense because --

24 Q. Because you were going to shoot Mr. Wilkes?

25 A. No, I never planned to shoot Mr. Wilkes.

BENJAMIN DOYLE CROSS BY MR. SMITH

1           Q.   Why would you not give up that person other than  
2   you told him you were going to kill Mr. Wilkes and he gave you  
3   a gun, that would be a good reason to not tell on him. Yours  
4   doesn't really make any sense. Can you explain.

5           A.   With me getting a gun, I never had no way of  
6   wanting to harm Mr. Wilkes. Okay. I got that gun for my  
7   protection. And Mr. Wilkes, he did what he did to me on the  
8   16th.

9           Q.   You will not say who gave you the gun?

10          A.   No, sir.

11          Q.   Did it come with bullets from the earth, or did you  
12   have to get those separately?

13          A.   I already had bullets.

14          Q.   What did you do with the gun after you shot at  
15   Mr. Wilkes?

16          A.   I put it back to earth.

17          Q.   The same earth spot that it came out of or a  
18   different place?

19          A.   The spot that it came from.

20          Q.   Are you supposed to possess firearms?

21          A.   Do I?

22          Q.   Are you a felon? Are you allowed to have firearms?

23          A.   I am not a felon.

24          Q.   You're not?

25          A.   No, I'm not.

BENJAMIN DOYLE CROSS BY MR. SMITH

1 Q. You've not been convicted of felonies?

2 A. Huh?

3 Q. You haven't been convicted of felonies?

4 A. I've never been convicted of a felony. What  
5 felony?

6 Q. I have a list. Breaking into motor vehicles and  
7 grand larceny in 1986.

8 A. That's not a felony.

9 Q. Yes, it is.

10 A. It wasn't when I was.

11 Q. 1987 grand larceny.

12 A. It wasn't a felony.

13 Q. 1991 forgery.

14 A. They never -- they never tried me as a felony.

15 Q. And the two shoplifting, 2014 and 2016, those were  
16 not felonies?

17 A. No.

18 Q. Did it get handled in general sessions court?

19 A. I never signed a gun act, sir.

20 Q. You might not have been aware that you're a felon.  
21 Why didn't you go to a gun store to buy the gun?

22 A. Sir, I didn't have to go to buy a gun at a store.  
23 That's why I didn't.

24 Q. Your testimony is that you've been shot three  
25 previous times and essentially they were all random?

BENJAMIN DOYLE CROSS BY MR. SMITH

1           A.    Yes, sir.

2           Q.    You had nothing to do with anything leading to you  
3 being shot?

4           A.    No, sir.

5           Q.    Are you just the unluckiest person alive?

6           A.    If that's what you want to say.

7           Q.    Shot in the face twice and survived. I guess  
8 you're lucky in that.

9           A.    If that's what you want to say.

10          Q.    On the date of this incident, did Mr. Wilkes ever  
11 touch you?

12          A.    Yes, he spit in my face.

13          Q.    Did you tell police that he spat in your face?

14          A.    Huh?

15          Q.    Did you tell police that he spat in your face?

16          A.    Yes.

17          Q.    Are you sure?

18          A.    Yes.

19          Q.    Then he threw a cup of some liquid on you?

20          A.    Yes, sir.

21          Q.    Who do you know in building four that you were  
22 going over there to see?

23          A.    The same guy that we hang out at.

24          Q.    Vern?

25          A.    Yes, sir.

BENJAMIN DOYLE CROSS BY MR. SMITH

1           Q.    You said Vern is the guy Mr. Wilkes tried to call  
2   to get somebody to jump on you. That's what you told police;  
3   correct?

4           A.    I didn't know who he was calling.

5           Q.    I think you told police that you thought it was  
6   Vern; is that right?

7           A.    Well, he hangs out with so many different people.

8           Q.    Do you know if that's what you said or not?

9           A.    Sir, it was two-and-a-half years ago.

10          Q.    So you were going to hang out with Vern. You're in  
11   the breezeway first and Mr. Wilkes come up?

12          A.    No. Mr. Wilkes in the breezeway.

13          Q.    You're there already?

14          A.    No. I'm not. I'm in the next breezeway.

15          Q.    So when you see the guy that has been threatening  
16   you for multiple days, you came to him?

17          A.    I walked to Vern's house.

18          Q.    Knowing that Mr. Wilkes was there?

19          A.    I didn't know if he was going to be there or not.

20          Q.    You said you saw him going there; right?

21          A.    Well, I saw him going down in the breezeway.

22          Q.    The guy that you've been having problems with and  
23   is assaulting you to the point that you had to buy a gun from  
24   earth is going to the breezeway, and you decided: I should go  
25   over there and confront him?

BENJAMIN DOYLE CROSS BY MR. SMITH

1           A.    No.  I went down in that breezeway knowing that  
2           he's in Vern's house.  We could be able to talk and be able to  
3           'settle what we have to settle.  Like I said, sir, I never had  
4           anything' against Brian at all.  Mr. Wilkes at all.  I never,  
5           ever had anything against this man.  I never wanted to bodily  
6           harm this man as he has done to me.

7           Q.    You did have a gun on you at this time; right?

8           A.    Yes, I did.

9           Q.    Where did you hold the gun?

10          A.    On my waistband.  He never knew I had it.  And I  
11          know he would never know I had it there, if he never did what  
12          he done to me for the time what he done to me.

13          Q.    To be clear, he is in building four breezeway.  You  
14          are not.  You are in the building next door.  And you came to  
15          where he was in hopes of working out whatever y'all's dispute  
16          is about?

17          A.    Yes, sir.

18          Q.    But you had the gun just in case?

19          A.    Yes, sir.  I would be able to go back and say he  
20          has came to any of the different breezeways that I've been into  
21          and threatening me, showing me that he wanted to do bodily harm  
22          to me.  With me going to that breezeway, I'm not going into  
23          that breezeway to do anything to Brian.

24                If I wanted to do anything to Brian and knowing  
25          that he's in that breezeway -- I didn't have to go into that

BENJAMIN DOYLE CROSS BY MR. SMITH

1 breezeway. All I had to do was walk on the sidewalk and aspire  
2 in the breezeway for me to want to make amends and let's be men  
3 about what you're doing to me.

4 Let me look -- could we be able to talk and settle  
5 what's going on. I can be able to accept what you've already  
6 done to me, and we could be able to settle things.

7 He got to a point that he made me scared again.  
8 He -- he -- he made me feel like he didn't give a durn about  
9 what he already had done to me in the past. Now he's actually  
10 doing it even more. And I -- this man never even knew I had a  
11 gun until he actually done what he done to me.

12 Then when he saw the gun, instead of him being a  
13 man and say, you know what, man, I apologize for what I've been  
14 doing to you, he tell me put the BB gun down. You P, you pussy  
15 boy.

16 And why is he continuously do me like this when now  
17 you see I got a gun and you still want to do me the way like I  
18 done something to you. I've never done nothing to the man.  
19 I've never done nothing to him. Never. The man cannot tell  
20 you a day that I've done something to him besides treat him  
21 fair.

22 Q. How far away was he when you shot him?

23 A. About four feet.

24 Q. Did he ever swing at you?

25 A. No, he was coming from knocking on the door but

BENJAMIN DOYLE CROSS BY MR. SMITH

1       coming to my way.

2               Q.    Did he reach for anything in his waistband?

3               A.    I mean, I didn't pay attention to him reaching for  
4       anything. I saw his body movement come my way.

5               Q.    Is the last thing he said: Drop that BB gun? Did  
6       he ever threatened you with words, I mean?

7               A.    He had threatened me with words, but he -- when I  
8       talked to him in the beginning, he said that -- I asked him why  
9       he was always bothering me and threatening me and coming to the  
10      house. He said mother fucker, and spit, and throw away  
11      whatever he had in the cup on me.

12              Q.    He never struck you with anything other than the  
13      spit?

14              A.    He's already done struck me four, five different  
15      times, sir. He's already done threaten me four, five different  
16      times. I've been calling the police two, three times.

17              Q.    You said that you never wished any harm upon him;  
18      right?

19              A.    I never wanted to hurt Brian.

20              Q.    Do you remember telling the police like 15  
21      different times that you hoped the mother fucker died?

22              A.    Well, being in distress, being angry, knowing that  
23      what I done, I was making a thousand dollars a week at Pickens  
24      Roofing. My son birthday the day. I'm about to lose my  
25      freedom. And knowing that I done something that I didn't want

BENJAMIN DOYLE CROSS BY MR. SMITH

1       to do, I said it because I was hurt of knowing that it had to  
2       go to this point for me to believe that Brian would leave me  
3       alone.

4               Q.    The day before you had a chain and you were able to  
5       scare him off; right?

6               A.    Well, the day I had the chain, he didn't know I had  
7       the chain. He was approaching me to do bodily harm to me. So  
8       when he thought that he could have been able to get close  
9       enough to do bodily harm, when I bring the chain out there,  
10      that's when he backed up, knowing that I had defense.

11              Now, when he saw that I have defense, now I swing  
12      the chain after him. Now he going -- he went to running. When  
13      he ran, he ran in his direction. I ran home.

14              Q.    So you pulled a weapon, and he backed down,  
15      basically?

16              A.    I pulled the chain out and then he came to the  
17      house that same day kicking up on the door again. Kicking up  
18      on the residence that I live. Telling me to bring my pussy ass  
19      out the house.

20              Q.    You never mentioned that you seen Mr. Wilkes with a  
21      firearm, have you? Just a knife that he has in his car?

22              A.    Well, yeah. I don't know what he has. I knew what  
23      I saw.

24              Q.    How do you think that he was going to kill you in  
25      this instance or seriously hurt you?

BENJAMIN DOYLE CROSS BY MR. SMITH

1           A.   Well, I mean, throughout him seriously to hurt me,  
2   just to bodily harm me. Because to attack me, you know. For  
3   me, I didn't know what he might've done. But with me going to  
4   Mr. Wilkes, I never had the intentions on wanting to harm him  
5   at all.

6                   I went to Mr. Wilkes on a note of asking him why  
7   you continuously scaring me, threatening me, coming to my  
8   house, kicking up on the door. Why are you continuously doing  
9   this? This is Sunday. My son's birthday. I'm looking for  
10  peace from Mr. Wilkes.

11                   And if Mr. Wilkes had, as any man should've done,  
12  me and Mr. Wilkes could've done the same thing that we used to  
13  do when we first met. Sit down, drink our little beer. Smoke  
14  our cigarettes. Laugh and joke and have fun.

15                   I've never had a problem with this man until when  
16  William came home, and I told his sister about it. And she  
17  took it to the extreme. And Mr. Wilkes come across the lawn  
18  with a newborn baby in his hand, talking about he's going to F  
19  me up.

20                   And I'm like, what did I do? I did nothing to you.  
21  I ain't did a thing to you. Yet, by you listening to other  
22  people, instead of you staying home and babysit your newborn  
23  child, you coming across the lawn causing friction, problems  
24  with someone that I never done nothing to this young man.  
25  Never. There's nothing -- in the motion discovery, nothing in

BENJAMIN DOYLE CROSS BY MR. SMITH

1 a report to say Benjamin did anything to Mr. Wilkes but fire  
2 one shot.

3 Q. The question was: How was he going to seriously  
4 harm or kill you?

5 A. I don't know. I don't know what he had.

6 Q. You shot him without knowing what he had?

7 A. Well, like I said, with his body movement, he came  
8 from the door. And now he's coming like he's coming to me, you  
9 know. Where was his body movement, now I know.

10 With my way of thinking, he's done scared me and  
11 threatened me and done the things that he done to me.

12 Q. Previously you were going to engage in a fistfight  
13 with Mr. Wilkes where Hough jumped you from behind; right?

14 A. Yes, sir.

15 Q. You were upstairs. And he said to come downstairs.  
16 And you voluntarily went down there to fight him physically;  
17 right?

18 A. Yes, sir.

19 Q. And you said in the police interview that you're a  
20 bit of a boxer, that you can handle yourself quite well?

21 A. Yes, sir.

22 Q. In this instance, he has no guns, only his fists  
23 and might be trying to fight you, which you voluntarily did  
24 five days ago. This time it ends up with him shot. Why?

25 A. The reason why is because, with the fistfight, now

BENJAMIN DOYLE CROSS BY MR. SMITH

1 I know I'm an older guy. I can talk about fistfight all I  
2 want. But why should I have to fistfight when I've never done  
3 nothing to this man. I've never done nothing to him.

4 Q. This time you just didn't want to get into a  
5 fistfight? You just shot him?

6 A. It's not -- I never wanted to shoot Mr. Wilkes,  
7 sir. I never wanted to pull the gun off my waistband, sir.

8 Q. When you pulled the gun out, did you stick it out  
9 at him when he's telling you to drop the BB gun? You have it  
10 out?

11 A. After he done spit on me.

12 Q. Did he advance at you anymore after you pulled the  
13 gun out?

14 A. Well, when I pulled the gun out, he had already had  
15 moved from the door.

16 Q. Once you pulled it out and you're pointing it at  
17 him, did he ever get any closer?

18 A. Well, there wasn't never a point. I pulled it out.  
19 I -- I didn't have to aim.

20 Q. I think you told the police: He poured the cup.  
21 Then bam, I blasted his ass. Is that what you told them?

22 A. That's what I said.

23 Q. Where did the discussion about put the BB gun down  
24 happen during that time; you're basically making it out like it  
25 happened all instantaneously. How did he ask twice to put the

BENJAMIN DOYLE CROSS BY MR. SMITH

1 BB gun down?

2 A. Well, I'll say like this. I knew what happened. I  
3 knew what he said to me. Throughout the interrogation, I was  
4 actually under the influence.

5 Knowing that I saw on the tape, it hurt me to my  
6 heart to know that I didn't put my words in the right way that,  
7 how it actually happened. But throughout the interview, the  
8 interview was an interview that I remember after I saw it.

9 I spoke in a way that it made me feel bad because,  
10 with Mr. Wilkes, he told me throughout the time of me pulling  
11 that gun out, he said: See, boy, put that BB gun down. And I  
12 had shot him after he said that.

13 It wasn't -- God knows I've never, ever wanted to  
14 hurt that man. I never, ever wanted to hurt nobody in Prince  
15 Hall or anywhere in this world. He did what he did to me. Got  
16 away with it. All the times that I called the law, the law  
17 didn't make no police report. They didn't do anything to help  
18 me out. And when he did what he did to me and build it  
19 forward, and build it forward, then I pulled the gun out. I  
20 mean...

21 Q. What's the worst injury that Mr. Wilkes has ever  
22 inflicted on you physically?

23 A. The worst injuries?

24 Q. Yes.

25 A. I mean, he injured my heart, man.

BENJAMIN DOYLE CROSS BY MR. SMITH

1 Q. Physically?

2 A. Physically. That he physically harmed my heart.

3 Q. We don't have self-defense for getting your  
4 feelings hurt. What is the most he ever physically hurt you?

5 A. Throughout the time that they gang me.

6 Q. What did you come away with out of that?

7 A. Knot on my head. No police report.

8 Q. Hough got arrested over it; right?

9 A. Hough got arrested over it.

10 Q. Assault of a neighbor?

11 A. Yeah, he hit him. Still, assault on me.

12 Q. When you listed your family, you did not mention  
13 your wife. Is there a reason for that?

14 A. Say it again.

15 Q. When Ms. Sieber was asking about your family, you  
16 did not mention your wife.

17 A. My wife is in a home. My wife is in a home because  
18 of her daughter, Rachel Holloway. Okay. The young lady lost  
19 her apartment. Rachel called the police on her mom three times  
20 and got that lady locked up. She didn't haven't no other  
21 choice but to go and put herself in a home. She's mentally  
22 disturbed.

23 MR. SMITH: I don't have anything else.

24 THE COURT: Any redirect?

25 MS. SIEBER: Briefly.

BENJAMIN DOYLE REDIR BY MS. SIEBER

1 REDIRECT EXAMINATION

2 BY MS. SIEBER:

3 Q. Mr. Doyle, the first incident where Mr. Wilkes and  
4 Mr. Hough attacked you, when did that happen?

5 A. That happened about, at least about 18th of  
6 January.

7 Q. It was a couple weeks before the shooting happened?

8 A. Yes, ma'am.

9 Q. And all of these incidents, did they happen in that  
10 time in between there? In between January 18th and February  
11 16th?

12 A. Yes, ma'am.

13 Q. The first time you tried to defend yourself with  
14 your fists; right?

15 A. Yes, ma'am.

16 Q. The second time I think you told the judge that you  
17 tried to pretend like you had a weapon with your phone;  
18 correct?

19 A. Yes, ma'am.

20 Q. And then I think the fourth time you pulled the  
21 chain; right?

22 A. Yes, ma'am.

23 Q. So explain -- do you remember telling the police  
24 how scared you were that night? Do you remember talking to  
25 Investigator Nelson about that?

BENJAMIN DOYLE REDIR BY MS. SIEBER

1           A.    Yes, ma'am.

2           Q.    Do you remember telling them that you did not want  
3   to kill Mr. Wilkes?

4           A.    I've never wanted to even pull a gun out, you know.  
5   And I never wanted to pull a gun out. I never wanted to hurt  
6   the young man. I mean, he was someone we got along. We got  
7   along. I mean, it was no problem with me and him.

8           Q.    And the clip in your gun, was that filled?

9           A.    Yes, ma'am, it was.

10          Q.    You only fired one shot?

11          A.    Yes, ma'am.

12          Q.    When you talked to Investigator Nelson, when  
13   Mr. Smith was talking to you about how you said, I'm a boxer, I  
14   box for my life --

15          A.    Uh-huh.

16          Q.    -- do you remember telling them how you used to  
17   knock them out but now you can't do that anymore?

18          A.    Yes, ma'am.

19          Q.    Can you explain what you meant by that.

20          A.    In fistfight, you know, you have people that want  
21   to actually challenge you. You could be able to take a punch.  
22   And you can give a punch. Mr. Wilkes, he never -- he would sit  
23   there and taunt, taunt, taunt.

24                He would, you know, stand there and: Come on MF.  
25   Come on MF. And just dance around, dance around. That's all

BENJAMIN DOYLE REDIR BY MS. SIEBER

1       that doing, making my adrenaline just go higher because now.

2       You playing. You playing.

3                You're thinking that you're threatening me of my  
4       life and doing the things that you're doing to me, it's a joke.  
5       It's not a joke. I'm 53 years old. I got grown kids.

6               Q.    Did you know many other people at Prince Hall?

7               A.    No, ma'am.

8               Q.    Did you have anybody that could fight with you?

9               A.    No, ma'am.

10              Q.    You were on your own?

11              A.    Yes, ma'am.

12              Q.    You were on your own on each of these incidents  
13       where he came at you?

14              A.    Yes, ma'am.

15              Q.    Where he threatened you?

16              A.    Yes, ma'am.

17              MS. SIEBER: I have no further questions.

18              THE COURT: Thank you, sir. You may step down.

19       Watch your step as you're stepping down.

20              THE WITNESS: Thank you, sir.

21              (The witness exited the stand.)

22              THE COURT: Lawyers approach.

23              (Off-the-record discussion.)

24              (Thereupon, the hearing was adjourned at 4:19 p.m.)

25

BENJAMIN DOYLE REDIR BY MS. SIEBER

STATE OF SOUTH CAROLINA                      IN THE COURT OF GENERAL SESSIONS  
COUNTY OF SPARTANBURG                      FOR THE 7th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,                      VOLUME II  
Plaintiff,

vs.                      CASE NO. 2020A4210200831  
2020A4210200832

BENJAMIN ANTHONY DOYLE,  
Defendant.

HEARING BEFORE:                      HONORABLE J. MARK HAYES, II

DATE:                      July 12, 2022

TIME:                      9:43 AM

LOCATION:                      Spartanburg County Judicial Center  
180 Magnolia Street  
Spartanburg, SC 29306

REPORTED BY:                      LORA L. McDANIEL,  
Registered Professional Reporter

APPEARANCES:

ATTORNEYS FOR THE PLAINTIFF  
SPENSER SMITH, ESQ.

ATTORNEYS FOR THE DEFENDANT  
KATHERINE SIEBER, ESQ.

BENJAMIN DOYLE REDIR BY MS. SIEBER

## 1 I N D E X

2 DIRECT CROSS REDIRECT RECROSS

3 WITNESS/EXAMINATION

4 DONALD TRACY

5 BY MR. SMITH 59 -- -- --

6 BY MS. SIEBER -- 61 -- --

7 JAIMEE TRACY

8 BY MR. SMITH 63 -- -- --

9 BY MS. SIEBER -- 65 -- --

10 WILLIAM WILKES

11 BY MR. SMITH 67 -- -- --

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13 RACHEL HOLLOWAY

14 BY MR. SMITH 106 -- -- --

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## 17 E X H I B I T S

18 IN EVD. FOR I.D.

19 STATE EXH. 1, Photograph 73 73

20 STATE EXH. 2, Photograph 80 81

21 STATE EXH. 3, Photograph 80 81

22 STATE EXH. 4, Photograph 80 81

23 STATE EXH. 5, Photograph 80 81

24 STATE EXH. 6, Photograph 80 81

25 STATE EXH. 7, Photograph 85 86

BENJAMIN DOYLE REDIR BY MS. SIEBER

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| 1  | STATE EXH. 8, Photograph                       | 85  | 86  |
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| 3  | DFT. EXH. 1, Black-and-white Photographs,* (4) | 103 | 105 |
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BENJAMIN DOYLE REDIR BY MS. SIEBER

1 MS. SIEBER: The defense had a witness issue. We  
2 subpoenaed her for today for this hearing as well as for the  
3 trial. We subpoenaed her on June 27th of this year. I met  
4 with her personally. She was willing to come to the trial.  
5 She was hand-delivered her subpoena at that time. We lost  
6 contact with her. Her phone number stopped working.

7 We went back out to her home last Friday. And I  
8 believe that was the 8th and spoke to her again in person. She  
9 was again willing to come to the trial. And as of this hearing  
10 today, she is not here. We have attempted to locate her  
11 several times in the past two days and have been unable to do  
12 so. We're asking The Court -- for assistance from The Court in  
13 locating her prior to trial. "

14 THE COURT: If you'll get her most current address  
15 contact information, we can get the Sheriff's Office to try to  
16 locate her and bring her to the court or somehow get your  
17 office in touch with her. While you're in here, do you know  
18 who she would reach out to?

19 MS. SIEBER: She could reach out to my  
20 investigator. We can provide all that information to the  
21 deputy.

22 THE COURT: Provide that to the deputy.

23 (A pause transpired).

24 THE COURT: With that, do you have any other  
25 witnesses to call as far as the stand your ground hearing?

BENJAMIN DOYLE REDIR BY MS. SIEBER

1 MS. SIEBER: No, Your Honor, we do not.

2 THE COURT: As part of the lawyers had requested  
3 and that The Court review the Spartanburg Police Department's  
4 interviews of Benjamin Doyle, I have done that. There's four  
5 interviews on the CD. The third interview was not of  
6 Mr. Doyle; of a separate witness. I viewed that; did not  
7 really digest it because it wasn't Mr. Doyle and wasn't  
8 somebody who I felt like I needed to. I have reviewed the  
9 other three witnesses. Can we make this a record?

10 MR. SMITH: Yes, we're going to do that with  
11 Investigator Nelson.

12 THE COURT: For purposes of the stand your ground  
13 hearing, we'll make the CD that's provided by the State as  
14 Court exhibit.

15 (COURT EXH. 1, Three audio CDs, was entered into  
16 evidence.)

17 THE COURT: No other witnesses from the defense for  
18 the stand your ground hearing?

19 MS. SIEBER: That's correct, Your Honor. I do have  
20 argument after Mr. Smith.

21 THE COURT: Is the State ready to present their  
22 witnesses?

23 MR. SMITH: Yes, Your Honor. The State calls  
24 Donald Tracy.

25 THE COURT: Please come right up here and let the

DONALD TRACY DIR BY MR. SMITH

1 clerk of court swear you in. Place your left hand on the Bible  
2 and raise your right hand.

3 DONALD TRACY  
4 being first duly sworn, testified as follows:

5 THE COURT: Mr. Tracy, be careful. Step up to the  
6 platform, and have a seat in the chair. Pull the chair up to  
7 the microphone. If you need to move the microphone, do so  
8 gently. It can come out of its socket. Sir, please speak up  
9 loud enough so the court reporter and I can hear you.

10 DIRECT EXAMINATION

11 BY MR. SMITH:

12 Q. Will you please state your name.

13 A. Donald Tracy.

14 Q. How do you know Benjamin Doyle?

15 A. I worked with him.

16 Q. Where did you work with him?

17 A. Pickens Roofing and Sheet Metal.

18 Q. Do you know how long you worked with him before  
19 this incident?

20 A. About maybe close to a year, I guess.

21 Q. How would you describe your relationship? Were you  
22 just coworkers or were you friends?

23 A. Friends. I gave him rides to work.

24 Q. So you knew where he was living at the time?

25 A. Yes.

DONALD TRACY DIR BY MR. SMITH

1 Q. Where was he living?

2 A. Park Hills.

3 Q. Park Hills?

4 A. Whatever them apartments are.

5 Q. Is it Prince Hall?

6 A. Prince Hall, yeah.

7 Q. In the City of Spartanburg?

8 A. Spartanburg.

9 Q. What happened on this day, February 16th of 2020?

10 A. Just got a call from him. He said he shot somebody  
11 and that he needed a ride out of town. Keeping me on the  
12 books. He said he was at QT by Beacon and, basically, I don't  
13 know. I didn't say I would do it or not. After I got off the  
14 phone with him, I rode by Prince Hall, saw all the cops, and  
15 then I went and reported it. And that's it.

16 Q. Was your wife with you when this happened?

17 A. Yeah, it was on speakerphone when he called.

18 Q. You actually went to where Mr. Doyle lived just to  
19 see?

20 A. Yes, sir.

21 Q. Did you think he was kidding?

22 A. Yeah. I thought he was kidding.

23 Q. Can you tell me anything about the tone of his  
24 voice? Could you tell anything? Was it normal?

25 A. It was a little out of breath and, yeah. He was

DONALD TRACY CROSS BY MS. SIEBER

1       just out of breath.

2               Q.    Have you ever had any discussions with him from  
3       that day to today?

4               A.    He came to my work one day after he got out and  
5       said he wanted his \$20 for giving him a ride to work. I guess  
6       he prepaid. I don't remember or not. I went ahead and gave  
7       him \$20 because he sat outside of work all day.

8               MR. SMITH: Thank you. I don't have any other  
9       questions.

10              THE COURT: Yes, ma'am.

11                                   CROSS-EXAMINATION

12       BY MS. SIEBER:

13              Q.    So Mr. Tracy, you worked with Mr. Doyle; correct?

14              A.    Yes.

15              Q.    How long did y'all work together? You said a year?

16              A.    Yes.

17              Q.    And he never had any discussions with you in that  
18       time about Mr. Wilkes; correct?

19              A.    No.

20              Q.    So you didn't know anything about the problems that  
21       they were having?

22              A.    No.

23              Q.    But I'm assuming y'all talked a good amount at  
24       work; correct?

25              A.    Yes, just about work stuff.

DONALD TRACY CROSS BY MS. SIEBER

1 Q. Y'all were friends?

2 A. Yeah.

3 Q. He never had any kind of discussions with you, '  
4 anything to do with Mr. Wilkes?

5 A. No.

6 Q. In fact, when he called, you thought it was a joke?

7 A. Yeah.

8 Q. 'Cause you didn't believe that he would shoot  
9 somebody?

10 A. No.

11 Q. You said it seemed like he was out of breath;  
12 right?

13 A. Yeah.

14 Q. Like he had recently been running --

15 A. Yes.

16 Q. -- correct?

17 A. Yes.

18 MS. SIEBER: Thank you. I don't have any further  
19 questions.

20 THE COURT: Any redirect limited to what she went  
21 into?

22 MR. SMITH: No, Your Honor.

23 THE COURT: Thank you, sir. You may step down.  
24 Watch your step as you're stepping down.

25 (The witness exited the stand.)

JAIMEE TRACY DIR BY MR. SMITH

1                   MR. SMITH: I don't know if he rode with his wife,  
2                   we're about to call her.

3                   THE COURT: Sir, either sit outside or sit in the  
4                   gallery, and they will excuse you in just a moment.

5                   MR. SMITH: State calls Jaimee Tracy.

6                                   JAIMEE TRACY  
7                   being first duly sworn, testified as follows:

8                   THE COURT: Just have a seat at the chair. Pull  
9                   the chair up to the microphone.

10                                   DIRECT EXAMINATION

11                   BY MR. SMITH:

12                   Q. Will you state your name, please.

13                   A. Jaimee Tracy.

14                   Q. And you're married to Donald who just testified?

15                   A. Correct.

16                   Q. Do you know the Defendant Benjamin Doyle?

17                   A. Not personally, no. I saw him occasionally, if I  
18                   went to see my husband at work. Other than that, not on a  
19                   personal level.

20                   Q. Did you ever ride with him when your husband would  
21                   take him to work?

22                   A. No, sir.

23                   Q. Do you remember getting a call from him on February  
24                   16, 2020?

25                   A. Yes, I remember my husband getting a phone call,

JAIMEE TRACY DIR BY MR. SMITH

1       and he had the phone on speaker. And, again, just -- he was  
2       saying, you know, I'm at QT. Out of breath. You know, asking  
3       for a ride, offering us, you know, \$100 to get him out of town.

4               Q.    What did you think of that?

5               A.    To me, I was like, something doesn't feel right in  
6       my gut. And I told my husband, I was like: We need to either  
7       report it or, you know, try to, you know, let someone else know  
8       what's going on. That, you know, he's offering us monetary  
9       value to get out of town.

10              Q.    You understood that he had shot somebody?

11              A.    Yeah, that's what he said on the phone. He said:  
12       Hey, I shot somebody, I need to get out of town. You know,  
13       here I am, I'm here waiting.

14              Q.    Other than being out of breath, did you notice  
15       anything about his voice?

16              A.    No, sir.

17              Q.    Have you had any discussions with him after that  
18       day?

19              A.    No, sir.

20              Q.    Is there a reason that your husband put it on  
21       speakerphone?

22              A.    Just because -- most of the time that's how he  
23       would answer the phone. Where we live, usually didn't have the  
24       best of cell reception. So we would usually talk on  
25       speakerphone most of the time.

JAIMEE TRACY CROSS BY MS. SIEBER

1 Q. Did you go with him to Prince Hall?

2 A. We did, yes. We went together.

3 Q. And then did y'all report it to the Sheriff's  
4 Office?

5 A. We did. We made a call to the Sheriff's Office at  
6 first 'cause we weren't sure what needed to be. So we did make  
7 a phone call. And then a Spartanburg City Police officer got  
8 back in contact with us, and we gave them the information he'd  
9 given us as well.

10 MR. SMITH: I don't have anything further. Thank  
11 you.

12 THE COURT: Yes, ma'am.

13 CROSS-EXAMINATION

14 BY MS. SIEBER:

15 Q. Ms. Tracy, you didn't know Mr. Doyle; correct?

16 A. Correct.

17 Q. Y'all didn't work together?

18 A. No.

19 Q. He had come to your house once?

20 A. Just for a brief moment to be there, not  
21 necessarily like to hang out or anything. He was there that  
22 one time, maybe around, maybe five minutes or so.

23 Q. You knew that he worked with your husband?

24 A. Yes.

25 Q. And they were work friends?

JAIMEE TRACY CROSS BY MS. SIEBER

1 A. Uh-huh.

2 Q. Your husband drove him to work occasionally?

3 A. Uh-huh.

4 Q. And you didn't know -- there was no plan with your  
5 husband to help him get out of town; correct?

6 A. Correct.

7 Q. But he talked to your husband all the time?

8 A. Yes, when they were at work and not necessarily --  
9 they didn't have any conversations much outside of work. It  
10 was mostly work-related conversations.

11 Q. But he knew that your husband had a car?

12 A. Yes.

13 Q. 'Cause your husband had driven him before?

14 A. Correct.

15 Q. But he hadn't contacted your husband at all before  
16 this happened, to give him a ride out of town?

17 A. No.

18 MS. SIEBER: Thank you. No further questions.

19 THE COURT: Any limited redirect as to what she  
20 went into?

21 MR. SMITH: No.

22 THE COURT: Thank you, ma'am. You may step down.  
23 Watch your step as you're stepping down.

24 Any reason why they can't be excused now?

25 MR. SMITH: No. Please, Your Honor.

WILLIAM WILKES DIR BY MR. SPENSER

1 MS. SIEBER: No, Your Honor.

2 THE COURT: Thank you, ma'am. You and your husband  
3 may be excused. Thank you for coming.

4 (The witness exited the stand.)

5 MR. SMITH: The State calls William Wilkes.

6 THE COURT: Mr. Wilkes, just come right over here.  
7 Let the clerk of court swear you in.

8 WILLIAM WILKES  
9 being first duly sworn, testified as follows:

10 THE COURT: Mr. Wilkes, you can turn around and be  
11 right there between the stand and the court reporter.

12 THE WITNESS: Right back in here?

13 THE COURT: Sure, that will be great, sir. Thank  
14 you.

15 I think we can hear you, Mr. Wilkes.

16 DIRECT EXAMINATION

17 BY MR. SMITH:

18 Q. Mr. Wilkes, will you please state your name.

19 A. William Wilkes.

20 Q. Try to be loud. You're not getting picked up by  
21 the microphone.

22 THE COURT: That's okay, Mr. Wilkes. This lady  
23 right here needs to be able to hear you. Don't worry about  
24 that microphone.

25 BY MR. SMITH:

WILLIAM WILKES DIR BY MR. SPENSER

1 Q. How old are you, Mr. Wilkes?

2 A. I'm 33.

3 Q. And prior to your injury, what was your height and  
4 weight?

5 A. Prior to the injury, my height was 5'7". My  
6 weight, I want to say 167.

7 Q. And how do you know Benjamin Doyle?

8 A. That's my fiancée's step-dad.

9 Q. Who is your fiancée?

10 A. Rachel Holloway.

11 Q. How long had you known him before this incident  
12 happened?

13 A. I can't remember. It's been about, about a year.

14 Q. About a year?

15 A. About a year.

16 Q. During the time that you knew him, the majority of  
17 the time, did you have a fine relationship with him?

18 A. Yes. We was -- we was friends. We was cool.

19 Q. Would you hang out with him or just not have any  
20 problems with him?

21 A. We hung out with him. Like he said, we drunk beers  
22 or whatever or not. The problem started when he was saying  
23 explicit things to my fiancée.

24 Q. What did he say to your fiancée that caused an  
25 issue?

WILLIAM WILKES DIR BY MR. SPENSER

- 1           A.    He asked her:  Can I eat your banana for \$200.
- 2           Q.    Where did this occur?
- 3           A.    At my doorstep.
- 4           Q.    I don't know if the judge heard.  What did he say
- 5   again?
- 6           A.    Can I eat your vagina for \$200.
- 7           Q.    Is that the word he used?
- 8           A.    Yes.
- 9           Q.    That was on the doorstep of your apartment?
- 10          A.    Uh-huh.
- 11          Q.    Who lives in the apartment with you?
- 12          A.    My fiancée, Rachel Holloway, and my kids.
- 13          Q.    How old are your children?
- 14          A.    At the time my kids from Charleston was down here.
- 15   They gone back to Charleston.  My son is 13.  My little girl is
- 16   11.  And my step-daughter, as of now, she's five.
- 17          Q.    Do you have a child with Ms. Holloway?
- 18          A.    Yes, my youngest daughter.  She's three.
- 19          Q.    So she was alive when this happened as well?
- 20          A.    Yes.
- 21          Q.    Were the kids present when this comment was made?
- 22          A.    Yes, sitting outside.
- 23          Q.    Had Mr. Doyle been drinking before this?
- 24          A.    Yes.  Yes.
- 25          Q.    What was your reaction to hearing that from him?

WILLIAM WILKES DIR BY MR. SPENSER

1           A.    I had walked in the house.  That's how I heard it  
2    'cause he waited until I walked in the house; then he come out,  
3    eat your vagina, \$200.

4           I had cracked the window.  And he thought I didn't  
5    hear him.  Then when I said something:  Man, go on with that.  
6    We ain't got time for that.  And then that's when all the  
7    animosity started.

8           Q.    Did he leave?

9           A.    No.

10          Q.    How did that end?

11          A.    When I told him to go on ahead, he start:  I know  
12    you heard me, you little punk mother.

13                And then that's when the argument started.  He got  
14    to coming back and forth, back and forth.  He chased me with a  
15    chain.

16          Q.    Slow up.  Where was this incident in relation to  
17    the shooting?  The incident where he made the comment to  
18    Rachel?

19          A.    In front of.

20          Q.    What time in relation to the shooting?

21          A.    It was like two days before the shooting.

22          Q.    Two days before?

23          A.    Yes.

24          Q.    Have you ever been in any altercations with him?

25          A.    We had altercations.

WILLIAM WILKES DIR BY MR. SPENSER

1 Q. After that comment or before that comment?

2 A. After that comment.

3 Q. He described several different ones. There was one  
4 where he was leaving Dee Traxx and you followed him with other  
5 people. Do you acknowledge that happened?

6 A. Yes, that did happen. The person that was walking  
7 with me was Vaughn.

8 Q. Did you threaten him?

9 A. No. I asked him, where it was told to me that he  
10 was trying to get somebody to beat me up, he offered them \$100  
11 to beat me up.

12 Q. This is again after the conflict, before the  
13 shooting?

14 A. Yes, sir.

15 Q. So did you have words with Mr. Doyle about that?

16 A. All I asked him was: Why you trying to get them to  
17 beat me up. That's all I said. Like he said, he was pulling  
18 out of his pocket, acting like he got a gun or a weapon or  
19 something.

20 Q. How did that end?

21 A. Nothing. We just kept walking. He said: Go on.  
22 I ain't got time for that. So we kept walking.

23 Q. No physical --

24 A. No physical.

25 Q. -- contact?

WILLIAM WILKES DIR BY MR. SPENSER

1           A.    No.

2           Q.    Is Vaughn the man that lives inside the apartment  
3   that you were shot outside of?

4           A.    Yes.

5           Q.    He mentioned another incident where you called him  
6   downstairs to fight. Did that happen?

7           A.    That did happen, but he wasn't downstairs -- I  
8   mean, he wasn't upstairs. He was downstairs.

9           Q.    Tell me about that incident and what happened.

10          A.    That incident, that's when my fiancée went up  
11   there. And he said I was beating on the door. It wasn't me  
12   beating on the door. That was her trying to get in the door at  
13   her momma's house.

14          Q.    Go on. What happened?

15          A.    That's when we got into altercation. He come up in  
16   my face and blows were thrown.

17          Q.    Was it y'all basically agreed to fight?

18          A.    Yes.

19          Q.    He described it as y'all were squared up?

20          A.    No. We fought.

21          Q.    I mean, like getting into a fighting stance?

22          A.    Yes.

23          Q.    Y'all both chose to get into it?

24          A.    Yes. He swung. He come up to me. He swung. I  
25   hit him one time. He ran to Dee Traxx. He did not call the

WILLIAM WILKES DIR BY MR. SPENSER

1 police that night.

2 Q. Is that the time where William Hough jumped on him?

3 A. William Hough didn't jump on him. William Hough  
4 jumped on the neighbor. Like I said, he wasn't even upstairs.

5 Q. So you acknowledge that you got into a mutual  
6 fight?

7 A. Yes, we got into altercation. We fought.

8 Q. That, again, is after the comment but before the  
9 shooting?

10 A. Uh-huh.

11 Q. And then there's the incident that's been mentioned  
12 with the chain. Can you explain what happened in that.

13 A. I was going to my neighbor Vaughn's house to have  
14 coffee. And he was -- do you have -- can I show --

15 Q. Yeah. We have an aerial of Prince Hall, if we can  
16 get this marked.

17 (STATE EXH. 1, Photograph, was marked for  
18 identification.)

19 BY MR. SMITH:

20 Q. This is aerial of Prince Hall; correct?

21 A. Yes.

22 MR. SMITH: Your Honor, at this time we move  
23 State's Exhibit 1 into evidence for purposes of this hearing.

24 THE COURT: Without objection. State's 1.

25 (STATE EXH. 1, Photograph, was entered into

WILLIAM WILKES DIR BY MR. SPENSER

1 evidence.)

2 BY MR. SMITH:

3 Q. Can you point for the judge and explain there's 100  
4 on something. That's the edge of Prince Hall?

5 A. Okay. When you go into Prince Hall -- I'm coming  
6 from building one.

7 Q. Is building one this one above where it says  
8 Google?

9 A. Yes. All right. Now, he's standing right there by  
10 building four, where he say he did but he at the top by the  
11 light post.

12 Q. Is building four where --

13 A. Yeah, but he on up.

14 Q. Hold up, so the judge can see. Where Prince Hall  
15 is marked or is it the building to the left?

16 A. No, it's on in the parking lot. Up there by the  
17 light post.

18 Q. On this picture, you see that indicator that says  
19 Prince Hall?

20 A. Yes.

21 Q. Is that building four or the one to the left of it?

22 A. To the left.

23 Q. So the one that's got a tan roof?

24 A. Yeah, but he on up to the end of the building. Not  
25 by where Vaughn live at. He on up there by the light. There's

WILLIAM WILKES DIR BY MR. SPENSER

1 a light post that sits between them two buildings and building  
2 four.

3 Q. The two buildings to the left of that tan building?

4 A. Yes.

5 Q. Kind of in the corner of the parking lot; is that  
6 right?

7 A. Yes, corner of the parking lot where you go --

8 Q. There's a tan building?

9 A. Where you go in between the buildings.

10 Q. So he's standing there --

11 A. He was standing there --

12 THE COURT: Mr. Wilkes, let Mr. Smith ask a  
13 question and then you respond. Y'all are talking over each  
14 other. It's hard for the court reporter to get that down.  
15 It's also hard for me to understand when two people are talking  
16 at the same time.

17 THE WITNESS: Okay, sorry.

18 BY MR. SMITH:

19 Q. The Judge has not been to Prince Hall. We're  
20 trying to get him the lay of the land. I don't think he's been  
21 there.

22 THE COURT: Not lately.

23 BY MR. SMITH:

24 Q. You're at the bottom in the tan building above  
25 Google?

WILLIAM WILKES DIR BY MR. SPENSER

1           A.    Yes.

2           Q.    Building one. Mr. Doyle is to the left of building  
3   four, that's what you're saying, which is the tan building to  
4   the left of that pink indicator?

5           A.    No. He was standing up there where building four  
6   at. You see where the sidewalk going around between the two  
7   buildings?

8           Q.    Yes.

9           A.    He was standing right there. It's a light post  
10   right there. I'm walking across the street to go talk to my  
11   home boy.

12          Q.    In four?

13          A.    Yes. He's standing there, drinking a beer, on the  
14   phone, talking to one of his friends and talking about this B  
15   started, referring to Rachel Holloway.

16                So when I'm walking across the street, he's  
17   looking. He's all loud and obnoxious. I was like: Who you  
18   talking to, bro? That's when he started chasing me with the  
19   chain in the parking lot. I ran all the way around the  
20   building to the back of building four, where the playground at.  
21   And I ran all around. I ran back in the house and told my old  
22   lady.

23          Q.    Did you contact law enforcement --

24          A.    Yes.

25          Q.    -- on that day?

WILLIAM WILKES DIR BY MR. SPENSER

1           A.    That's what he said.  He was going to call the  
2    police.  So I said:  I'm going to make sure you call them.  I'm  
3    going to call them, too.

4           Q.    You deny instigating that incident?

5           A.    I didn't instigate nothing.

6           Q.    Did he ever make contact with you during that?  Did  
7    he ever touch you?

8           A.    Other than chasing me with the knife and the chain,  
9    no, he didn't.

10          Q.    That was the day before the shooting?

11          A.    Yes, sir.

12          Q.    Was it daytime or nighttime?

13          A.    It was daytime.

14          Q.    Is that the first time that you ever called law  
15    enforcement on Mr. Doyle?

16          A.    Yes.

17          Q.    Is the other times you just didn't think it was  
18    necessary?

19          A.    Like I told him, I said:  I'm not bothering you.  
20    Why is you bothering me?  All I want you to do is leave me  
21    alone.  That's all I asked him.  You a 55-year-old man, why you  
22    just can't go about your business, and I go about mine?

23          Q.    What building did he actually live in at the time?

24          A.    I can't remember the number of the building, but  
25    it's --

WILLIAM WILKES DIR BY MR. SPENSER

1 Q. Is it above four? The other side?

2 A. Yes, the other side, in the other parking lot up  
3 there at the top.

4 Q. Higher up on this picture than building four we're  
5 just talking about?

6 A. Uh-huh.

7 Q. Is he friends with Vern, that you know of?

8 A. All I know he come by there.

9 Q. So it's not unusual to see him outside of building  
10 four?

11 A. Like I said, he be in every breezeway, which is  
12 true.

13 Q. On the date of the incident, let's just go through  
14 the entire day. Do you know when you woke up or about when you  
15 woke up?

16 A. I want to say it was about 6:00, 7:00.

17 Q. What did you do?

18 A. When I woke up, I left the house. I had to go to  
19 my mechanic's shop. And as I was going to my mechanic shop, I  
20 got a phone call from my fiancée, Rachel Holloway, saying that  
21 he was at my window with a gun. My kids heard him say: I'm  
22 going to kill your daddy.

23 Q. At that time you weren't at Prince Hall; you were  
24 at the mechanic's?

25 A. Yes.

WILLIAM WILKES DIR BY MR. SPENSER

1 Q. Did you end up coming back to Prince Hall?

2 A. Yes, I came back. When I came back, I walked  
3 across the street. When I was coming out of my home boy  
4 Vaughn's house, the screen door is to my left.

5 Q. Let's hold up. What's your relationship with  
6 Vaughn?

7 A. We used to work together. That was my friend. I  
8 give him a ride when he didn't have no car.

9 Q. Did you go to his place to get coffee in the  
10 morning?

11 A. Yes.

12 Q. Was that a regular thing for you?

13 A. Yes.

14 Q. When you came back to Prince Hall, did you stop in  
15 to your place in building one first?

16 A. Yes, sir.

17 Q. And what made you end up going over to building  
18 four?

19 A. 'Cause my buddy Vaughn had called me on the phone.

20 Q. Did he invite you over?

21 A. Yes.

22 Q. At that point did you see Mr. Doyle?

23 A. No, I didn't see Mr. Doyle. But what was said was  
24 he was out lurking all night long.

25 Q. Let's not talk about what was said to you. Just

WILLIAM WILKES DIR BY MR. SPENSER

1        what you saw. Did you see Mr. Doyle when you got back?

2            A. No, I didn't see.

3            Q. When you were walking over to Vaughn's place?

4            A. No, I didn't see him.

5            MR. SMITH: Let me show you five pictures.

6            (STATE EXH. 2, Photograph, was marked for  
7        identification.)

8            (STATE EXH. 3, Photograph, was marked for  
9        identification.)

10           (STATE EXH. 4, Photograph, was marked for  
11        identification.)

12           (STATE EXH. 5, Photograph, was marked for  
13        identification.)

14           (STATE EXH. 6, Photograph, was marked for  
15        identification.)

16        BY MR. SMITH:

17           Q. I'm going to hand you these and ask you if you can  
18        tell me what they are.

19           A. This one right here is the front of building four.

20           Q. Look through them all, and then I'll ask you a  
21        question.

22           THE COURT: Can you identify the exhibit number.

23           MR. SMITH: That was six. He has two through six  
24        in his hands.

25           THE WITNESS: This right here --

WILLIAM WILKES DIR BY MR. SPENSER

1 BY MR. SMITH:

2 Q. Look at them all. I'll ask you a question. We'll  
3 get them all in and we can do it all at once.

4 A. (Witness complied.)

5 Q. Are those pictures of building four and what's been  
6 referred to as the breezeway at Prince Hall?

7 A. Yes, sir.

8 MR. SMITH: Your Honor, at this time we move  
9 State's 2 through 6 into evidence.

10 MS. SIEBER: No objection.

11 THE COURT: Without objection. They will be  
12 admitted.

13 (STATE EXH. 2, Photograph, was entered into  
14 evidence.)

15 (STATE EXH. 3, Photograph, was entered into  
16 evidence.)

17 (STATE EXH. 4, Photograph, was entered into  
18 evidence.)

19 (STATE EXH. 5, Photograph, was entered into  
20 evidence.)

21 (STATE EXH. 6, Photograph, was entered into  
22 evidence.)

23 BY MR. SMITH:

24 Q. This is State's Exhibit 5. What is in this  
25 picture, Mr. Wilkes?

WILLIAM WILKES DIR BY MR. SPENSER

1           A.    That is the breezeway of building four.

2           Q.    I'll show you a closer one.  Is there only one  
3 breezeway on each building?

4           A.    Yes.

5           Q.    This is State's Exhibit 6, just a closer version.  
6 Still the breezeway; is that right, Mr. Wilkes?

7           A.    Yes, sir.

8           Q.    This is State's Exhibit 4.  Who lives where this  
9 door is?

10          A.    That's where my home boy Vaughn lives at.

11          Q.    This is State's Exhibit 3.  That door here on the  
12 left, that's Vaughn's place?

13          A.    Yes, sir.

14          Q.    Is this -- where you can see this grass here, that  
15 would be the back of the building?

16          A.    Back of the building.

17          Q.    So you start walking over to Vaughn's place.  Tell  
18 me what happens from that point.

19          A.    When I walked over to my buddy Vaughn's house, I  
20 stepped in for a minute and we talked.  I want to say it was  
21 about 15, 20 minutes, if that.  As I was coming out, that's  
22 when I seen him when he was coming out..  He was at the back of  
23 the building.

24          Q.    When you say him, who are you talking about?

25          A.    Benjamin Doyle.  That's when he showed up.  He

WILLIAM WILKES DIR BY MR. SPENSER

1       already had the gun out. And I said: Put that gun down,  
2       nobody got time for that. That gun is fake.

3               And that's when he let off a shot. He already had  
4       the gun presented before he even come to the back of the  
5       building.

6               Q.    On your way over to Vaughn's, did you run into  
7       anybody?

8               A.    Nobody but my home boy. I guess his wife or his  
9       girlfriend, Gabrielle.

10              Q.    Did y'all have a brief conversation?

11              A.    Yes.

12              Q.    Did she understand you were going over to see her  
13       husband?

14              A.    Yes.

15              Q.    So you make it into the apartment. You never see  
16       Mr. Doyle until leaving the apartment; is that right?

17              A.    Yes, sir.

18              Q.    Where was he standing? If I need to show you  
19       another picture. This is State's Exhibit 2, little bit zoomed  
20       out. When you walked out that door, where was he?

21              A.    When I walked out the door, he was standing behind  
22       the building where the park playground at.

23              Q.    Out through what's been referred to as the back?

24              A.    Yes.

25              Q.    The back of the building?

WILLIAM WILKES DIR BY MR. SPENSER

1           A.    Yes.

2           Q.    He has a gun out?

3           A.    Yes, 'sir.

4           Q.    Did he say anything to you?

5           A.    No.  He was just -- when I walked out the door, I  
6    said:  Put that gun down, nobody ain't got time for that.  That  
7    fake gun.  After I said that, that's when he let off a shot.

8           Q.    Did you say anything to him other than that?

9           A.    No, that's all I said.

10          Q.    Did you advance towards him?

11          A.    No.

12          Q.    Did you have any weapons on you?

13          A.    I have no weapons.

14          Q.    Did you have a cup or anything?

15          A.    Not that day.

16          Q.    So you deny throwing anything on him?

17          A.    I didn't throw nothing on him.  He was too far away  
18    for me to throw anything on him.

19          Q.    How far would you estimate the distance was between  
20    the two of you when he shot you?

21          A.    He was standing about right here to that table  
22    (indicating).

23          Q.    More than four feet?

24          A.    Yes.

25          Q.    What happened after he shot?

WILLIAM WILKES DIR BY MR. SPENSER

1           A.    I don't remember none of that after I shot -- after  
2   he shot.

3           Q.    Do you know where you got shot?

4           A.    Yes, I know where I got shot.

5           Q.    How do you know that?

6           A.    I remember me getting shot. After I got shot, I  
7   don't remember nothing else other than that.

8           Q.    Do you have scars?

9           A.    Yes.

10          Q.    Where are the scars?

11          A.    He shot me in my neck. I don't know how it  
12   traveled. It went in my neck and out my back.

13          Q.    It exited out through your back?

14          A.    Yes, sir.

15                (STATE EXH. 7, Photograph, was marked for  
16   identification.)

17                (STATE EXH. 8, Photograph, was marked for  
18   identification.)

19   BY MR. SMITH:

20          Q.    I'm going to hand you two pictures. Can you tell  
21   me what these are.

22          A.    Tell you the truth, I don't remember none of this.

23          Q.    You don't have to necessarily remember it. Is that  
24   you, do you know?

25          A.    Yes, sir.

WILLIAM WILKES DIR BY MR. SPENSER

1 Q. Does that show the wound anywhere on your back?

2 A. Yes, sir.

3 MR. SMITH: Your Honor, at this time I move State's  
4 Exhibit 7 and 8 into evidence for the hearing.

5 THE COURT: Any objection to 7 and 8?

6 MS. SIEBER: No, Your Honor.

7 THE COURT: Without objection.

8 (STATE EXH. 7, Photograph, was entered into  
9 evidence.)

10 (STATE EXH. 8, Photograph, was entered into  
11 evidence.)

12 BY MR. SMITH:

13 Q. As a result of the shooting, what happened to you?

14 A. The result of me -- of the shooting, I'm paralyzed  
15 from chest down. I'm T1-2 paraplegic.

16 Q. What about your arms? Do you have problems with  
17 your arms?

18 A. Yes, this arm supposed to be -- not able to move  
19 it.

20 Q. Do you have any hope of your condition getting  
21 better at this time?

22 A. They don't know.

23 Q. But there's a chance; is that possible?

24 A. They don't know.

25 MR. SMITH: Please answer any questions Ms. Sieber

WILLIAM WILKES CROSS BY MS. SIEBER

1        may have.

2 CROSS-EXAMINATION

3 BY MS. SIEBER:

4 Q. Mr. Wilkes, you were saying the problems with  
5 Mr. Wilkes started only two days before?

6 A. Yes.

7 Q. Yet you're talking about how both of you were  
8 fighting back in January 18, 2020; correct?

9           A.    It wasn't January 18th.  It was prior to.  Like,  
10       two or three days before the shooting.

11 Q. The fight that was in the breezeway of the  
12 building?

13           A.     Yes, it was like two days before the shooting.

14 Q. At that fight, right, William Hough was arrested  
15 following that, wasn't he?

16           A.    Yes, but not on beating Doyle.

17 Q. For fighting a neighbor?

18                      A. Yes.

19 Q. You're saying that was during the same incident?

20                    A.     Yes.

21 Q. If the police came out on January 20th of 2020,  
22 would you agree then that incident happened before that?

23 A. Excuse me?

24 Q. If the police responded out to an attack on the  
25 neighbor in January of 2020, okay, they responded out on

WILLIAM WILKES CROSS BY MS. SIEBER

1 January 20, 2020, that would mean that incident happened before  
2 that; correct?

3 A. No. The incident happened that day. The same day  
4 that William Hough did what he did to the neighbor, that's the  
5 same day we got into a fight.

6 Q. Correct. You got in a fight with Mr. Doyle on the  
7 same day that William Hough attacked the neighbor?

8 A. Yes.

9 Q. That's correct?

10 A. Yes.

11 Q. What I'm saying to you is, if the police were  
12 called out on January 20th of 2020 for William Hough attacking  
13 a neighbor, that would mean that that happened before that  
14 date; correct? Or on that date?

15 A. Honestly, I don't remember what date it was  
16 because, from the gunshot wound, I don't remember a lot.

17 Q. So you're having issues with your memory?

18 A. Yes.

19 Q. The gunshot wound has affected your ability to  
20 remember what happened that day?

21 A. Yes.

22 Q. So you can't really tell us any of the events  
23 leading up to this then; correct?

24 A. Yes, I remember somewhat, but I don't remember the  
25 dates.

WILLIAM WILKES CROSS BY MS. SIEBER

1 Q. It's a selective memory?

2 A. Yes, if you want to say that.

3 Q. You said on this -- when we're talking about going  
4 back to the incident that happened where y'all are fighting,  
5 you're claiming it's a mutual fight between the two of you?

6 A. Uh-huh.

7 Q. William Hough got involved in that fight, didn't  
8 he?

9 A. No, he did not get involved with me and Benjamin  
10 Doyle.

11 Q. He never hit Mr. Doyle?

12 A. No.

13 Q. Why did the neighbor come downstairs then?

14 A. To defend him, I guess. That's when they started  
15 fighting, William Hough and the neighbor.

16 Q. To defend him against your attack?

17 A. I don't really know what the neighbor had going on  
18 with William Hough, but they got into a fight.

19 Q. He's coming down at the same time that you and  
20 Mr. Doyle are fighting?

21 A. Yes.

22 Q. You're claiming William Hough doesn't have anything  
23 to do with that?

24 A. Not with Benjamin Doyle.

25 Q. Yet the neighbor comes downstairs and gets into a

WILLIAM WILKES CROSS BY MS. SIEBER

1 fight with William Hough?

2 A. Yes.

3 Q. William Hough jumps on him?

4 A. Yes.

5 Q. Punches him?

6 A. Yes.

7 Q. Beats him up?

8 A. Yes.

9 Q. You don't have anything to do with that?

10 A. No.

11 Q. Mr. Doyle, he ran away after that, didn't he?

12 A. Yes.

13 Q. After you hit on him?

14 A. Yes.

15 Q. Did the police ever come out and talk to you about  
16 it?

17 A. No.

18 Q. Never spoke to you at all?

19 A. No.

20 Q. What was that fight over?

21 A. He -- when my fiancée went up there, he put his  
22 hands on my fiancée, but prior to that, he was already, like,  
23 coming into my parking lot where he wasn't supposed to be,  
24 period.

25 Q. He lived in the same complex as you; right?

WILLIAM WILKES CROSS BY MS. SIEBER

1           A.    He wasn't supposed to be there, though.  He wasn't  
2   even on the lease.

3           Q.    He lived in Prince Hall?

4           A.    Yeah, he did.

5           Q.    So he would wander around.  You said he was in all  
6   the different breezeways?

7           A.    Yes.

8           Q.    Right?  And that was normal for him to do; correct?

9           A.    Yes.

10          Q.    Let's talk about this.  You say that there's no  
11   further incident between y'all until the dog chain incident  
12   happened; right?

13          A.    No.

14          Q.    Do you remember running into Mr. Doyle on the  
15   bridge?  On the way to Dee Traxx?

16          A.    Yes.

17          Q.    You threatened him that day, didn't you?

18          A.    No, I did not do it.

19          Q.    You were with your friend Vern?

20          A.    Yes.

21          Q.    Is it Vern or Vaughn?

22          A.    Vaughn.

23          Q.    Vaughn.  I apologize.

24          A.    It's ShaVaughn.

25          Q.    So you all were together --

WILLIAM WILKES CROSS BY MS. SIEBER

M

1 A. Uh-huh.

2 Q. -- on the bridge. Mr. Doyle had to run from that  
3 incident, didn't he?

4 A. No, he didn't. He did not run.

5 Q. Then he called the police?

6 A. He did not call the police that day.

7 Q. The police came out to the door that day?

8 A. No, they did not. They did not come and talk to  
9 me. If you call the police, why didn't they come and talk to  
10 me?

11 Q. You don't have any idea if he called the police or  
12 not. You just know they didn't come and talk to you?

13 A. They didn't come and talk to me.

14 Q. I want to talk to you about this fight that you're  
15 claiming you had with Mr. Doyle with the chain. You say he is  
16 between building two and building four; correct? On that  
17 pathway?

18 A. I don't know which building it is.

19 Q. I'm showing you what's been marked as State's  
20 Exhibit 1. Can you see that, Mr. Wilkes?

21 A. You have to lighten it up a little.

22 MS. SIEBER: Is there a way to turn down the light?

23 MR. SMITH: I was struggling with that.

24 THE WITNESS: That's good.

25 BY MS. SIEBER:

WILLIAM WILKES CROSS BY MS. SIEBER

1 Q. Is that clearer for you?

2 Mr. Wilkes, you were saying y'all were standing --  
3 I'm pointing at that tan building, close to where it says  
4 Prince Hall Apartments. Do you see the tan building that I'm  
5 pointing at?

6 A. Not where it say Prince Hall Apartments. The  
7 building beside it, you see where the sidewalk going around?

8 Q. Yes, sir. The building to the left of --

9 A. Between the two buildings on the end. The building  
10 sitting like this (indicating) and the other building that way.

11 Q. Hold on. Let me ask you the question, then you can  
12 answer. I'm looking at the building that's directly to the  
13 left where it says Prince Hall Apartments. It's lighter than  
14 that dark building. Do you see where I'm talking about?

15 A. Yes.

16 Q. Are you saying he was on the sidewalk to the left  
17 of that building --

18 A. Yes.

19 Q. -- when you ran into him?

20 A. I didn't run into him. He was already standing out  
21 there.

22 Q. So you walked up to him, though?

23 A. No, I did not walk to him. I was going to building  
24 four to ShaVaughn house.

25 Q. So you live in apartment one; correct?

WILLIAM WILKES CROSS BY MS. SIEBER

1           A.    Yes.

2           Q.    And ShaVaughn's house or Vaughn's house --

3           A.    Is straight across.

4           Q.    -- is apartment 4-5; correct?

5           A.    Yes, ma'am.

6           Q.    In order to get to Vaughn's house, you would just  
7 walk from building one, which building one is down; correct?

8           A.    Yes.

9           Q.    Below the apartment line?

10          A.    Yes.

11          Q.    Vaughn's house is right where that little red mark  
12 is, isn't it?

13          A.    Yes.

14          Q.    That's where Mr. Doyle is?

15          A.    Yes.

16          Q.    In order to get from where your apartment is to  
17 Vaughn's apartment, you would just walk directly across that  
18 parking lot?

19          A.    Yes.

20          Q.    You were seeing Mr. Doyle was all the way over here  
21 in that area between those two yet you run into him somehow.  
22 So you saw him, didn't you?

23          A.    Yeah, I seen him because --

24          Q.    And then you went up to him?

25          A.    No, I did not go up to him. How am I going to go

WILLIAM WILKES CROSS BY MS. SIEBER

1 up to him if he's standing all the way around where the  
2 sidewalk going around in circles.

3 Q. You couldn't have ended up anywhere near him if you  
4 walk, like you're claiming, from your apartment to Vaughn's  
5 apartment?

6 A. Vaughn's apartment is straight across. He was  
7 right there, by where the sidewalk at.

8 Q. I see the sidewalk you're talking about.

9 A. It goes around like this (indicating).

10 Q. The sidewalk to the left of that tan building.

11 A. He was standing in front of that building. If I'm  
12 walking straight across in Prince Hall apartment where it's red  
13 at, that's straight across from me. He standing -- this is  
14 where the building at. He standing all the way down here  
15 (indicating). When I'm walking across the street, that's when  
16 he start hollering, talking about: That B started everything.

17 Q. You said you had to run from behind that building,  
18 all the way around back to your apartment?

19 A. Yes. When he start chasing me with the chain and  
20 the pocket knife.

21 Q. He chased you from over in that corner, tan  
22 building, right? You said there's a light stand over there.  
23 He was standing on that sidewalk?

24 A. Yes.

25 Q. He chases you all the way around this parking lot,

WILLIAM WILKES CROSS BY MS. SIEBER

1 through that little area that cuts between and then all the way  
2 back around the apartments?

3 A. No. When I start running, when I seen the chain  
4 and the knife, I ran all the way around the building. All the  
5 way around.

6 Q. Around the building on which side?

7 A. I went to the back of the building where the  
8 playground at, all the way back around. I ran into my  
9 residence.

10 Q. I understand that the playground is --

11 A. At the back.

12 Q. It's right behind building four; correct?

13 A. Yes.

14 Q. In that large grassy area?

15 A. Yes.

16 Q. The playground is off to the right; right?

17 A. Yes.

18 Q. You see where it's almost like circled on there --

19 A. Yes.

20 Q. -- with a black mark?

21 A. Yes.

22 Q. That's where the playground is located. Which side  
23 of the building do you go around?

24 A. I went all around to the back of the building.

25 Q. I understand you went all the way around. Which

WILLIAM WILKES CROSS BY MS. SIEBER

1 side of the building?

2 A. To the back.

3 Q. Did you cut through a breezeway?

4 A. No, I didn't go through no breezeway. It's also a  
5 sidewalk between where the Prince Hall apartments at and that  
6 building that sits right there to the side.

7 Q. You're talking about off to the right from the red  
8 mark?

9 A. Yes. I went between them buildings and come all  
10 the way around.

11 Q. So you're claiming he chased you from that corner,  
12 all the way around the parking lot, back around the buildings,  
13 all the way through the parking lot to your building?

14 A. When he got -- when he got to the back of the  
15 building, that's when he went off to his house. I went to my  
16 residence. That's when the police was called.

17 Q. So you're saying that you didn't say anything to  
18 him except: Who are you on the phone?

19 A. No, 'cause when I walked outside he was like: That  
20 B started everything, she the one all this shit going on.

21 I asked him: Who you talking to? And that's when  
22 he pulled the chain and the knife out.

23 Q. Didn't you say he already had it out when he was on  
24 the corner?

25 A. No, I said he had the gun out. I didn't say he had

WILLIAM WILKES CROSS BY MS. SIEBER

1 the chain out.

2 Q. He chases you and pulls out a knife and chain --

3 A. Yes.

4 Q. -- and you're saying chases you around the parking  
5 lot?

6 A. Yes.

7 Q. Completely unprovoked by you?

8 A. I didn't say nothing to him but: Who are you  
9 talking to. That's all I said to him.

10 Q. When did you call the police?

11 A. When I got out to my residence after I told my  
12 fiancée.

13 Q. You were saying that he said something to you along  
14 the lines of: You told him you were going to call the police?

15 A. Yes, I told him.

16 Q. When are you telling him? As he's chasing you  
17 around the parking lot?

18 A. After he chased me around the parking lot, like I  
19 said, my fiancée went up there banging on the door, and asked  
20 them: Why your husband chasing my fiancée with a knife and a  
21 chain?

22 Q. She went to building three?

23 A. Yes.

24 Q. You didn't actually tell him that?

25 A. When we went back up there, yes, we both called the

WILLIAM WILKES CROSS BY MS. SIEBER

1 police. He say he going to call the police, put me in jail. I  
2 said: I'm going to make sure you call the police.

3 Q. He said he was going to get you put you in jail  
4 because you had been threatening him; right?

5 A. I did not threaten him.

6 Q. That day you had told him that you were going to  
7 fuck him up; correct?

8 A. If I said it, I don't remember.

9 Q. You don't remember that. That's part of your  
10 memory issues.

11 Let's talk about the day of this incident. You had  
12 said you were going again to Vaughn's house?

13 A. Yes.

14 Q. Did you start off in your apartment? In apartment  
15 one?

16 A. After I got back from my mechanic's shop.

17 Q. After you got back from the mechanic's, you were in  
18 apartment one?

19 A. Yes.

20 Q. You had said you went over to Vaughn's, and you  
21 went inside of his house first?

22 A. Yes.

23 Q. You talked to him for 20 minutes, is that what you  
24 said? 15 to 20 minutes?

25 A. 15 to 20 minutes, if that.

WILLIAM WILKES CROSS BY MS. SIEBER

1 Q. Somewhere in that range?

2 A. Yes.

3 Q. Before you came back outside?

4 A. Yes.

5 Q. You never left Vaughn's apartment during that time  
6 you were talking to him, 15 to 20 minutes?

7 A. No.

8 Q. Then you say you run into his girlfriend Gabrielle  
9 Lester?

10 A. Yes, before I walked over there.

11 Q. You said you ran into her in the parking lot. She  
12 tells you: Watch out, that old man is in the breezeway?

13 A. Yes, ma'am.

14 Q. Something to that effect?

15 A. She said: Watch out because I've been seeing Old  
16 School walking all morning. That's what was said.

17 Q. She tells you that he's over there?

18 A. She didn't say he would necessarily go there. She  
19 just say he was walking around all night. She said she thought  
20 he followed her.

21 Q. When she tells you that, you say: I'm not afraid  
22 of that man?

23 A. I didn't say I wasn't afraid. I said I'm not  
24 worried about that.

25 Q. You're not worried about him?

WILLIAM WILKES CROSS BY MS. SIEBER

1           A.   (Witness moves head up and down.)

2           Q.   You're not worried about someone who you claimed,  
3   unprovoked, chased you around the parking lot with a knife and  
4   a chain?

5           A.   Why would I be -- if I'm not bothering him, why  
6   would I be worried about it?

7           Q.   That didn't make you nervous?

8           A.   Why?

9           Q.   Gabrielle Lester says that she talked to you right  
10   beforehand, before she heard the shot, two to three minutes.  
11   Would you say that wasn't true?

12          A.   Yes. We talked as she was going to work. That's  
13   the only time I talked to her.

14          Q.   Only time you ever spoke to her?

15          A.   Yes.

16          Q.   Then you go to Vaughn's house for 15 to 20 minutes?

17          A.   If that.

18          Q.   How long have you and Rachel Holloway been  
19   together?

20          A.   Since 2018.

21          Q.   You said you had known Mr. Doyle for what?

22          A.   It's been about a year.

23          Q.   About a year before this happened?

24          A.   About a year.

25          Q.   And you're friends with William Hough as well;

WILLIAM WILKES CROSS BY MS. SIEBER

1 right?

2 A. Yeah.

3 Q. 'Cause he's Rachel's brother?

4 A. Yes.

5 Q. So he was a friend of yours?

6 A. Yeah.

7 Q. Family friend; right?

8 A. Yeah.

9 Q. You knew Rachel had told you that Mr. Doyle was  
10 kicking him out of that home because he was using meth;  
11 correct?

12 A. I don't know nothing about that.

13 Q. You didn't know anything related to that?

14 A. That's something between them. I didn't get into  
15 it.

16 Q. Never heard anything about it?

17 A. No.

18 Q. You also claimed that you didn't have any weapons  
19 on you; correct?

20 A. No weapon.

21 Q. The day of the event?

22 A. No.

23 Q. If a knife was found on you in the hospital, that  
24 wasn't yours?

25 A. I don't remember no knife.

WILLIAM WILKES CROSS BY MS. SIEBER

1 Q. You don't remember having that?

2 A. No.

3 Q. No recollection?

4 A. No.

5 Q. And you also said that there was no cup in your  
6 hand that day?

7 A. No. There was no cup in my hand.

8 Q. You weren't carrying anything like that?

9 A. No.

10 Q. If there was a cup found on the ground right  
11 outside where the shooting happened, it wasn't yours?

12 A. Where the cup at?

13 (DFT. EXH. 1, Photographs, (4), was marked for  
14 identification.)

15 BY MS. SIEBER:

16 Q. Take a look at the photo in the lower left-hand  
17 corner.

18 A. That's not my cup. The cup I had is a coffee cup.  
19 It was a steel coffee cup.

20 Q. So you did have a cup in your hand?

21 A. That's not my cup.

22 Q. I understand it's not your cup.

23 A. That's not my cup.

24 Q. You said you didn't have any cup with you at all?

25 A. Not that day.

WILLIAM WILKES CROSS BY MS. SIEBER

1           Q.    You said you went over to Vaughn's to have coffee  
2   with him that morning?

3           A.    Not the morning he shot me.  It wasn't even  
4   morning.

5           Q.    Did you spend time at Vaughn's house that day?

6           A.    Yes.

7           Q.    Typically you said you went over there to drink  
8   coffee with him; right?  That was something you commonly did?

9           A.    So I just told you that I went over there that day  
10  to have coffee or did I told you --

11          Q.    I'm asking you the question.  It's a yes or no  
12  question.  Did you typically go over to Vaughn's house and have  
13  coffee with him?

14          A.    Yes.  That's something we did.

15          Q.    And a cup is found directly outside that area, but  
16  you're claiming that's not your cup?

17          A.    That cup don't belong to me.

18          Q.    Then you talked about how Rachel Holloway told you  
19  that Mr. Doyle was outside with a gun?

20          A.    She didn't tell me nothing about he was outside  
21  with a gun.

22          Q.    You didn't hear anything about that?

23          A.    No.  She didn't even know.

24          Q.    She had no idea he had any kind of weapon?

25          A.    No.

WILLIAM WILKES CROSS BY MS. SIEBER

1 Q. She never heard anything from him?

2 A. After I got shot or as it was happening? I don't  
3 know when she found out.

4 MS. SIEBER: I have no further questions, Your  
5 Honor.

6 THE COURT: Any redirect?

7 MR. SMITH: No, Your Honor.

8 THE COURT: Thank you, sir. Mr. Wilkes, thank you,  
9 sir. You may step down.

10 THE COURT: Did you want to make that --

11 MR. SMITH: I have no problem with that coming in.

12 MS. SIEBER: I would ask we move into evidence.

13 THE COURT: Defendant 1 for purposes of the  
14 hearing.

15 (DFT. EXH. 1, Photographs (4), was entered into  
16 evidence.)

17 MS. SIEBER: Can we take a brief break? My client  
18 needs to use the bathroom.

19 THE COURT: We will take a short recess. We'll  
20 come back in about ten minutes.

21 (A recess transpired from 10:38 a.m. until 10:55  
22 a.m.)

23 THE COURT: State have any other witnesses?

24 MR. SMITH: Yes, the State calls Rachel Holloway.

25 THE COURT: Ms. Holloway, come right up here. Let

RACHEL HOLLOWAY DIR BY MR. SMITH

1 the clerk of court swear you in.

2 THE CLERK: Place your left hand on the Bible.

3 Raise your right.

4 RACHEL HOLLOWAY

5 being first duly sworn, testified as follows:

6 THE COURT: Be careful as you're stepping up.

7 Please have a seat in the chair and pull the chair up to the  
8 microphone.

9 DIRECT EXAMINATION

10 BY MR. SMITH:

11 Q. Will you please state your name.

12 A. Rachel Holloway.

13 Q. How do you know Benjamin Doyle?

14 A. He's married to my mother.

15 Q. How do you know William Wilkes?

16 A. That's my fiance. We've been together since 2018.

17 Q. You've known Mr. Doyle longer than Mr. Wilkes has?

18 A. Yes.

19 Q. How long have you known him?

20 A. Since I was nine.

21 Q. How would you describe your relationship with  
22 Mr. Doyle before --

23 A. It's never been good.

24 Q. Never been good?

25 A. No.

RACHEL HOLLOWAY DIR BY MR. SMITH

1           Q.    So do you disagree with him when he says that you  
2   were a good child and y'all had a good relationship?

3           A.    We never had a good relationship.

4           Q.    Do you know what happened between Mr. Wilkes and  
5   Mr. Doyle that started -- in your experience, what is Mr. Doyle  
6   and Mr. Wilkes' relationship like before all this started?

7           A.    They were fine.

8           Q.    You've never seen them get into arguments or  
9   anything like that?

10          A.    No.

11          Q.    What started the issues between Mr. Wilkes and  
12   Mr. Doyle?

13          A.    The sexual comment that he made towards me.

14          Q.    What did Mr. Doyle say to you?

15          A.    He asked me could he eat my vagina for \$200.

16          Q.    Where did that occur?

17          A.    In front of my doorstep.

18          Q.    Are your children or Mr. Wilkes' children present  
19   for that?

20          A.    Both.

21          Q.    What was your reaction to him?

22          A.    I cussed him out, and I told him I was going to go  
23   tell my mother, which I did. And Mr. Wilkes was in the window.  
24   He heard what he said. And he came out, and he said: We don't  
25   play that around here. Go on with that.

RACHEL HOLLOWAY DIR BY MR. SMITH

1                   I went and told my mother. She was looking  
2 clueless as ever, act like she didn't hear anything I said. I  
3 don't know if she brought it to his attention or not when he  
4 came in the house. After that, I left the issue alone.

5           Q. Do you know how long before Mr. Wilkes getting shot  
6 that occurred? That comment?

7           A. That comment was, like, two or three days before he  
8 had got shot.

9           Q. There's been a couple instances mentioned. Were  
10 you present for what I call the Dee Traxx incident where  
11 Mr. Wilkes and Vaughn apparently followed Mr. -- were you there  
12 for that?

13          A. No, I was at work. I worked third shift at the  
14 time. He was a stay-at-home dad.

15          Q. Were you there for the incident where Mr. Hough was  
16 involved? Do you have any knowledge of that incident?

17          A. Yes, I know exactly what happened that night.

18          Q. Can you tell me what happened that night.

19          A. That night my brother texted me. And he said that  
20 Mr. Doyle kept picking with him, kept picking with him. I woke  
21 up late; didn't go to work. So I decided to go and see what  
22 the issue was about.

23                I'm coming through the second number four building,  
24 not the building where Mr. Wilkes got shot, but the building  
25 next to it. He sees me. 0FUB, FU your kids. F your brother.

RACHEL HOLLOWAY DIR BY MR. SMITH

1       That's why he on meth.

2                   And I'm just like: Why did you bother him? If he  
3       ain't messing with yu, leave him alone. Yes, he grown. At the  
4       end of the day, if my momma want him there, that's not up to  
5       you.

6                   When I got up there, I asked my momma: What's the  
7       issue? What's the problem? He texting me, telling me he  
8       saying all this.

9                   When we got in there, my mom was in between me and  
10      Mr. Doyle. He swung and he hit me. So I called Mr. Wilkes.  
11      Didn't think Mr. Wilkes was going to come up there. He had my  
12      daughter at the time. She was like four, three,  
13      four-month-old.

14                  And we came up there -- well, he came up there.  
15      And I was holding William in the house. I couldn't hold him  
16      much longer because how big he is. He's bigger than me, he's  
17      taller than me. So he bum rushed me.

18                  Q.    When you're talking about William, you're talking  
19      about Hough?

20                  A.    Yes. William Hough.

21                  Q.    There's two Williams.

22                  A.    Yes, my brother William. The neighbor was upstairs  
23      running his mouth, talking trash. So, at that time, Mr. Wilkes  
24      and Mr. Doyle had got into it. Hit him one time. He got up  
25      and he ran. The neighbor came downstairs.

RACHEL HOLLOWAY DIR BY MR. SMITH

1 THE COURT: See the lawyers for a moment.

2 (Off-the-record discussion.)

3 BY MR. SMITH:

4 Q. Can you cut down on pronouns and call Mr. Wilkes  
5 Brian or B as he's known as. Call Hough or William or whatever  
6 or your brother. The judge is getting -- because you know the  
7 story, you know the people. We don't.

8 On this day you went to where your mom and  
9 Mr. Doyle lived?

10 A. Yes.

11 Q. After your brother had called you. Your brother  
12 being William Hough?

13 A. Yes.

14 Q. What you said, I think, was that your mom was in  
15 between you and Mr. Doyle?

16 A. Yes.

17 Q. And Mr. Doyle swung at you?

18 A. Yes.

19 Q. And then you called Brian, Mr. Wilkes?

20 A. Yes.

21 Q. And he showed up?

22 A. Yes.

23 Q. Can you start from that point forward. Try to --  
24 don't say he and him.

25 A. I was at the door holding Mr. Hough as long as I

RACHEL HOLLOWAY DIR BY MR. SMITH

1       could because he was trying to get outside. And I kept telling  
2       him to calm down. He wouldn't listen to me any longer. He bum  
3       rushed me out the front door.

4               Mr. Wilkes and Mr. Doyle had got into it. It  
5       wasn't even -- the fight didn't even last, I want to say, two  
6       minutes. Two or three minutes. The neighbor upstairs, I don't  
7       know his name, he came downstairs. He was talking trash. The  
8       neighbor was on, I want to say, the last step towards the  
9       bottom or the second step towards the bottom. William just  
10      started hitting him and he wouldn't stop.

11             And so, after that, Mr. Wilkes and I went home.  
12      The neighbor, he said he wasn't going to press charges but he  
13      end up pressing charges on my brother. And so that was the end  
14      of that night.

15             Q.   William Hough, your brother, did you see him ever  
16      attack Mr. Doyle?

17             A.   He never attacked Mr. Doyle.

18             Q.   He attacked the neighbor?

19             A.   Yes.

20             Q.   How would you describe -- you just said they got  
21      into it. The interaction between Mr. Wilkes and Mr. Doyle, how  
22      would you describe it?

23             A.   Mr. Doyle swung first. He missed. Then Mr. Wilkes  
24      swung and he hit him. He fell. He got up. He ran to Dee  
25      Traxx. I don't know what he did when he got to Dee Traxx

RACHEL HOLLOWAY DIR BY MR. SMITH

1       because we weren't down there.

2               Q.    You're saying Mr. Doyle swung first. Did it appear  
3       to you that they were wanting to get into it, both Mr. Wilkes  
4       and Mr. Doyle?

5               A.    Yeah, it was too much of talking.

6               Q.    It wasn't like it was a sucker punch, I would say.  
7       They knew they were getting into it?

8               A.    Yeah, they knew. They knew. Both of them.

9               Q.    Then there's the incident with the chain. Were you  
10      a witness to that?

11              A.    I was not outside that day. I had got off work --  
12      like I stated, I worked third shift at the time. I got home  
13      about 6:45 in the morning. I laid down. I got up, I'm  
14      guessing, around like 8:00, 9:00.

15                    I hear my door slam shut. He come in the house.  
16      He's out of breath. I'm like: What's wrong with you?

17                    He's like: He just chased me around the whole  
18      building --

19                    MS. SIEBER: I'm going to object to her talking  
20      about this at all. It's hearsay.

21                    THE COURT: Sustain the hearsay objection.

22      BY MR. SMITH:

23               Q.    The answer is you were not --

24               A.    No, I wasn't present outside.

25               Q.    He's already testified about what he said.

RACHEL HOLLOWAY DIR BY MR. SMITH

1           A.    Yeah.

2           Q.    Did that incident occur the day before the  
3 shooting?

4           A.    It was like -- yeah.  Yes, that was the day before.

5           Q.    The chain incident?

6           A.    Yes.

7           Q.    Do you know when the incident that involved  
8 Mr. Hough occurred relative to the shooting?

9           A.    That was the day before that.

10          Q.    It was not in January?

11          A.    No.  I don't recall it being in January.

12          Q.    There's police reports said it occurred on the 18th  
13 and that it was called in on January 20th.  Do you think that's  
14 correct?

15          A.    I didn't get a police report.  I don't know.

16          Q.    Are you maybe not certain of when it occurred?

17          A.    All I know is it was raining that night and that's  
18 that.

19          Q.    On the day of the shooting, what did you do?

20          A.    I had got off work.  It was about 6:45 when I got  
21 home.  Mr. Wilkes had my bath water already ran.  I got in the  
22 tub with my daughter.  I got out.

23                He said:  Fay, I'm leaving.  He went to the shop to  
24 go fix car wheels.  I hear screaming and hollering in my living  
25 room with all four kids in there.  They come in the room and

RACHEL HOLLOWAY DIR BY MR. SMITH

1       they say: Mom, your Old School is at the window, and he has a  
2       gun. And he said that he going to kill my daddy.

3               So I got up. I went to the window. He was gone by  
4       the time I got to the window. I never opened my front door to  
5       see if he was outside.

6               I called Mr. Wilkes. And I told him you need to  
7       come back home because he was at the window. The kids seen him  
8       with the gun looking for you.

9               He came back home about 11:30. He stayed inside.  
10       He got a phone call from ShaVaughn. He went across the street.  
11       I seen him out in the parking lot talking to Gaffney. That's  
12       the last time I seen him.

13               Next thing you know, my mother calls me. It was  
14       around like 3:00-something. She said: Rachel, what's going  
15       on?

16               I said: What is you talking about? I'm thinking  
17       they done got into it again, Mr. Wilkes and Mr. Doyle.

18               So I told my step-daughter, Kinsey, at the time, I  
19       said: Hold your baby sister, I need to go outside and see  
20       what's going on.

21               I go outside. I hear everybody screaming and  
22       hollering. I run across the street. That's when I see Mr.  
23       Wilkes laid out in the doorway, in Gabriella's doorway. I  
24       asked what happened. They said Mr. Doyle just shot him for no  
25       reason. I stepped over his body. I ran to my mother's house.

RACHEL HOLLOWAY DIR BY MR. SMITH

1 I opened the door. I was screaming. I said: He just shot him  
2 for no reason.

3 He was out of breath. He was standing in front of  
4 my momma --

5 Q. Who is he?

6 A. Mr. Doyle. He was out of breath that day. He was  
7 standing in front of her washing machine.

8 Mr. Doyle say: I had the gun present, in his  
9 pocket, and he was smoking a cigarette. I grab Ezekiel's  
10 phone, which is Mr. Doyle's son. I called the police. I told  
11 them: I need ambulance, my fiance has been shot.

12 It took the ambulance 20 minutes to get to him.  
13 All they kept telling me: They was enroute, they're on their  
14 way.

15 I ran back out my mother's door. Mr. Doyle ran out  
16 the opposite way. After that, I don't know where Mr. Doyle  
17 went. I went back to where Mr. Wilkes was. The ambulance  
18 showed up. Mr. Hough was present at the time. He said that he  
19 saw Mr. Doyle, watching from a view.

20 MS. SIEBER: Objection; going to object to this as  
21 hearsay as well.

22 THE COURT: Sustained.

23 BY MR. SMITH:

24 Q. Just say what you witnessed and what you said.

25 A. That day I was hysterical. I couldn't hold my

RACHEL HOLLOWAY DIR BY MR. SMITH

1 four-month-old daughter. Mr. Hough had to grab her. I had  
2 dropped to my knees. I couldn't ride in the ambulance with  
3 Mr. Wilkes. I had to catch a ride to the hospital.

4 I got there as soon as Mr. Wilkes got to the  
5 hospital. The surgeon came out and told me that it was  
6 critical. And I just prayed the entire time I was there that  
7 he would make it.

8 They said if he did not make it, that a chaplain  
9 would come out and speak to me. After that, Mr. Wilkes, his  
10 family started to show up to the hospital. And they asked me  
11 what happened, and I told them what happened.

12 Q. Did you know Mr. Doyle to carry a gun before that  
13 morning, basically, where your kids said he had a gun?

14 A. No.

15 Q. Have you ever seen him with a firearm?

16 A. No.

17 Q. What about Mr. Wilkes? Do you know him to be in a  
18 gang or anything like that?

19 A. This man, Mr. Wilkes, has never been in a gang at  
20 all.

21 Q. What about him carrying firearms or other weapons?

22 A. No, sir.

23 Q. Other than the incident that you described that  
24 Mr. Doyle/Mr. Wilkes decided to get into a fight, have you ever  
25 seen Mr. Wilkes threaten or assault Mr. Doyle?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 A. No, sir.

2 MR. SMITH: Please answer any questions they have.

3 CROSS-EXAMINATION

4 BY MS. SIEBER:

5 Q. Ms. Holloway, I want to talk to you about the day  
6 of the shooting. You said you were at your house that morning;  
7 correct?

8 A. Yeah.

9 Q. Who else was in the house with you?

10 A. Four kids.

11 Q. Two of those were --

12 A. His kids.

13 Q. -- Mr. Wilkes' kids? Is that Camron and McKinsey?

14 A. Yes.

15 Q. Did you have your phone with you that day?

16 A. Yes.

17 Q. And it was working fine?

18 A. Yes.

19 Q. So you didn't see anything that happened outside of  
20 the apartment 4-5 at the time of the shooting; correct?

21 A. No, ma'am.

22 Q. You were still in the home?

23 A. Yes.

24 Q. So you didn't come out until later?

25 A. Yes.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

- 1 Q. Then you go to building three; correct?
- 2 A. Yes.
- 3 Q. That's where your mom lived?
- 4 A. Yes.
- 5 Q. So your mother lives in building three?
- 6 A. 3-2.
- 7 Q. Building three, apartment two?
- 8 A. Yes.
- 9 Q. You go over to your mother's house?
- 10 A. Yes.
- 11 Q. You see Mr. Doyle over there?
- 12 A. Yes.
- 13 Q. You said he seemed very out of breath?
- 14 A. Yes.
- 15 Q. Like he had just ran?
- 16 A. Yes.
- 17 Q. Let's talk about this incident with William Hough,
- 18 Mr. Wilkes, and Mr. Doyle. You go over to your mother's
- 19 house --
- 20 A. Yes.
- 21 Q. -- correct? And you say that there's a fight
- 22 happening between Mr. Doyle and Mr. Wilkes outside?
- 23 A. Yes.
- 24 Q. Over him hitting you in the house?
- 25 A. Yes.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 Q. Is that right?

2 A. Yes.

3 Q. You said that William Hough is struggling to get  
4 out the door, basically; right?

5 A. Yes.

6 Q. He's trying to get out of there?

7 A. Yes.

8 Q. To get to Mr. Doyle; correct?

9 A. No.

10 Q. He was just going outside to stand?

11 A. No. The neighbor upstairs at the time was running  
12 his mouth, saying what he said, and that's how it happened.  
13 They got into it.

14 Q. Did Mr. Hough have any prior problems with the  
15 neighbor upstairs?

16 A. I don't know.

17 Q. You don't know anything about that?

18 A. I don't.

19 Q. Could he see the neighbor upstairs?

20 A. Yes, you could see him visually.

21 Q. From the door --

22 A. Yes.

23 Q. -- of the apartment?

24 A. Yes. Because how my mom's apartment is in the  
25 stairs, you can look straight up and you can see if you're

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 standing over the rails. So you can see the person standing  
2 right there.

3 Q. Your apartment, apartment 3-2 is below the  
4 neighbor's apartment; correct?

5 A. I don't honestly know which apartment they stay in  
6 up there.

7 Q. Where was the neighbor?

8 A. On the staircase.

9 Q. Above; correct?

10 A. No, not that apartment above the staircase. You  
11 have my mother's apartment. You have the apartment above her,  
12 and then you have the staircase. He was in the middle of the  
13 staircase. You can look straight up. You can see the person  
14 standing right there.

15 Q. So he's above?

16 A. Yes.

17 Q. You're saying Mr. Hough is struggling to get out  
18 the door; right? He's pushing past me?

19 A. Yes, he was trying to push pass me.

20 Q. He was angry at Mr. Doyle; right?

21 A. At that time I don't know.

22 Q. You don't know who he was mad at. He's trying to  
23 push past you to get out the door, and Mr. Doyle is standing  
24 directly outside?

25 A. Yes.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           Q.    You're saying he never touched him? Just got out  
2   there and --

3           A.    He never touched Mr. Doyle.

4           Q.    I want to talk to you about William Hough. That's  
5   your brother; correct?

6           A.    Yes.

7           Q.    Is he older than you?

8           A.    No, he's younger than me.

9           Q.    How much younger?

10          A.    He's 25.

11          Q.    How old are you?

12          A.    Twenty-seven.

13          Q.    Now, Mr. Hough and Mr. Doyle did not get along;  
14   correct?

15          A.    At all.

16          Q.    Mr. Doyle was angry with Mr. Hough about using  
17   methamphetamine; right?

18          A.    I don't know what he was using at that time. So I  
19   can't sit here and say what he was using. That's not my  
20   business. I didn't ask.

21          Q.    You didn't go over there and say: He's a grown  
22   man, he can do what he wants?

23          A.    Yes, I said that. But, I mean, as far as drug  
24   use --

25          Q.    You didn't have any issue with him using

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1       methamphetamine?

2               A.    If he was, that's his choice.  That's his business.

3               Q.    That's up to him.

4               Mr. Doyle helped out your family; right?  Did he  
5       ever give you money?

6               A.    Yes.  When we were kids, yes.

7               Q.    And you said Mr. Wilkes wasn't working at the time,  
8       right?  It was just you supporting the family?

9               A.    Yes.

10              Q.    And there's four children?

11              A.    Yes.

12              Q.    Between the two of y'all?

13              A.    Yes.

14              Q.    That's on one income?

15              A.    Yes.

16              Q.    Mr. Doyle gave you some money to help out, didn't  
17       he?

18              A.    With my kids?

19              Q.    Right.

20              A.    No, he did not.

21              Q.    He didn't buy any clothes for y'all?

22              A.    No, he did not.

23              Q.    He never gave you any funds?

24              A.    No, he did not.

25              MS. SIEBER:  I have no further questions, Your

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 Honor.

2 THE COURT: Any redirect limited to what she went  
3 into?

4 MR. SMITH: No, Your Honor.

5 THE COURT: Thank you, ma'am. You may step down.  
6 Watch your step as you're stepping down.

7 (The witness exited the stand).

8 MR. SMITH: State calls Louis Nelson.

9 THE COURT: Sir, just come right up here and let  
10 the clerk of court swear you in.

11 LOUIS NELSON

12 being first duly sworn, testified as follows:

13 THE COURT: Just have a seat at the chair and pull  
14 the chair up to the microphone.

15 THE WITNESS: Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. SMITH:

18 Q. Investigator Nelson, where are you employed?

19 A. With the City of Spartanburg, within the police  
20 department.

21 Q. How long have you been with the City of  
22 Spartanburg?

23 A. Since 2007.

24 Q. For the bulk of that time, did you work in  
25 investigations?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           A.    Yes, sir.  Nearly 15 years.

2           Q.    And you were in that role when this incident  
3 happened in February 2020?

4           A.    That's correct.

5           Q.    Did you respond to a shooting at Prince Hall on  
6 February 16, 2020?

7           A.    I did.

8           Q.    Do you know about when you were notified of that?

9           A.    I was notified sometime after 3:00 p.m. that day,  
10 the day of the shooting.

11          Q.    What did you initially do?

12          A.    Once I arrived on the scene that day, I was advised  
13 per the victim, the victim's name.  And I was briefed and told  
14 it was William Bryant Wilkes; that he had been shot possibly  
15 and was transported to Spartanburg Regional Medical Center.

16                Once I got that information I then began to canvas  
17 the area to speak to any witnesses that were available.  The  
18 patrol officers had already arrived on the scene.  I was just  
19 gathering information.

20          Q.    Did you go by where the shooting had actually  
21 occurred?

22          A.    I did.

23          Q.    I have State's Exhibit 1 up here.  Do you know --  
24 was it in building four that I'm pointing at?

25          A.    Yes, it's directly where the balloon highlights

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1       that portion of the building.

2               Q.    The right portion of building four?

3               A.    Yes.

4               Q.    Just for the Judge, this is building one.  Is that  
5       correct, at the bottom of the page?

6               A.    That's correct.

7               Q.    And it's all of these buildings, even though they  
8       are kind of zigzag?

9               A.    Yes.  From above, they give the appearance of being  
10      like that.  They're all one continuous building joined  
11      together.

12              Q.    This is building four where the balloon is and the  
13      tan; right?

14              A.    That's correct.

15              Q.    Is this building five to the right of building  
16      four?

17              A.    That's correct.

18              Q.    What building is this?

19              A.    Building two.

20              Q.    Along the back line to the left of one and four?

21              A.    Yes.

22              Q.    What about this one up here?

23              A.    That is building three.  It's kind of shaped like  
24      an L.

25              Q.    All of this is building three?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           A.    Yes, that's correct.

2           Q.    What is that building?

3           A.    That is the office, the complex office.

4           Q.    There's been some testimony about all that distance  
5 of running. Can you describe about how big this parking lot  
6 is.

7           A.    I would say width from building one across the  
8 parking lot towards building four, I would say that's  
9 approximately maybe 60 meters, give or take.

10                   And the lengthwise from down where building five  
11 is, back across to building two, I would say it's a little bit  
12 more, maybe about 75 meters, 75 or 80, give or take. That's  
13 not exact.

14           Q.    While you were canvassing the area, was Mr. Doyle  
15 found?

16           A.    Mr. Doyle had already been transported by the time  
17 I arrived on the scene.

18           Q.    Are you sure about that?

19           A.    Wait a minute. Let me review, look back at my  
20 notes.

21                   (A pause transpired.)

22                   THE WITNESS: At the time when I arrived, his  
23 condition was unknown. It appeared that his chances --

24 BY MR. SMITH:

25           Q.    Mr. Doyle. I'm talking about Mr. Doyle.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           A.    Oh, Mr. Doyle.  No, he was not on the scene.

2           Q.    Did he end up showing back up at Prince Hall when  
3   you were there?

4           A.    That's what I was told, yes.  He showed back up,  
5   and he was detained once he showed back up at Prince Hall.  
6   Officers were still on the scene.

7           Q.    Then you went to city hall to interview him; is  
8   that correct?

9           A.    Yes, I did.

10          Q.    Can you describe his demeanor and his behavior when  
11   you interviewed him.

12          A.    He appeared calm to me.  I didn't know Mr. Doyle  
13   until this incident occurred.  To me, he just appeared calm.  
14   And that's the best way I can describe it.

15          Q.    Is that before he started talking or even when he  
16   was talking?

17          A.    Even when he was talking to me, he appeared calm  
18   and undisturbed.

19          Q.    The Judge has already seen there's a recording of  
20   the various interviews.  I think there's three separate  
21   segments where you interviewed him; correct?

22          A.    Yes, sir.

23          Q.    Did Mr. Doyle ever mention to you that Mr. Wilkes  
24   spit on him?

25          A.    I don't recall him mentioning that to me.  The only

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1        thing that he stated was that he threw coffee or some type of  
2        liquid on him.

3                Q.    Was it Mr. Doyle's statement that he then  
4        immediately pulled out his gun and shot Mr. Wilkes?

5                A.    Yes, that's correct.

6                Q.    Did Mr. Doyle tell you what he did after shooting  
7        Mr. Wilkes?

8                A.    Doyle said after Bryant threw the liquid on him, he  
9        fired. When asked where he hid the gun, he's only saying I had  
10       it ready for him. He said the gun was a .40 caliber throw-away  
11       gun.

12                Doyle said he only wanted to love and respect him.  
13       Once again, he betrayed -- he said that he had known he had  
14       done good for them. And it did not make any sense for him to  
15       continue disrespect him.

16                Doyle asked where he got the gun from. He said he  
17       got it from the earth. After he shot him, he left the area.

18                Q.    Did he tell you about going to get a cheeseburger?

19                A.    He said he went to the Beacon and got a  
20       cheeseburger, which I thought was odd.

21                Q.    Why did you think that was odd?

22                A.    If you had just been involved in an incident where  
23       someone was shot, I wouldn't think you would be so calm just to  
24       go get a cheeseburger, to be so casual.

25                Q.    Did he mention to you calling anybody about getting

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 a ride out of town?

2 A. No.

3 Q. Were you ever able to figure out where the weapon  
4 that was used in this case either came from or went to?

5 A. No. Just other than him saying that it came from  
6 the earth. We canvassed the area, and we did a grid search  
7 behind building two. We searched that entire wooded area from  
8 the back of building two, all the way across to Highland  
9 Avenue, down in the woods, the wooded area. And we never  
10 recovered anything.

11 Q. His testimony or statement to you, he shot him one  
12 time; is that right?

13 A. Yes, that's correct.

14 Q. Y'all did recover one single shell casing from the  
15 scene?

16 A. Yes, we did.

17 Q. Is it fair to say that he felt justified in what he  
18 had done?

19 A. That's the impression that I got from him, yes.

20 Q. Did he tell you that he hoped that the mother  
21 fucker died?

22 A. Yes, he did.

23 Q. Several times?

24 A. Yes, he did. He said that.

25 Q. Why did you ultimately charge him with attempted

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 murder given the story he had given you and believing that he  
2 was justified? Why did you decide to charge him?

3 A. He showed no remorse during the interview. When I  
4 spoke with him about it, he was very calm. That impressed me  
5 as he did this with full intent to harm someone.

6 Q. Did you find that the story that he gave you would  
7 justify the use of deadly force?

8 A. No, sir.

9 Q. Did he seem satisfied to you about what had  
10 happened?

11 A. That's the way -- the impression that I got from  
12 him, that he was satisfied, yeah. And that he -- he was  
13 satisfied with what had happened.

14 Q. During the interview you made some comments about  
15 the younger generation not understanding. What was the purpose  
16 of talking to him that way?

17 A. Just to try and continue to have a dialogue with  
18 him during the interview. Just to try to continue.

19 Q. So it's not necessarily your belief that Mr. Wilkes  
20 had it coming or something or perhaps you may have given  
21 Mr. Doyle the impression of?

22 A. Yes, that's correct. I just want to continue to  
23 try to build a dialogue and get him to talk to me.

24 Q. In the total, did you ask a lot of questions, or  
25 was it mostly him talking to you?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           A.    I would just like to let the person speak.  I like  
2   to try not to interrupt unless they're getting far off base.

3           Q.    He was very willing to talk about this; is that  
4   correct?

5           A.    Yes.  I would just ask a question, and he would  
6   just give me a long answer.

7           Q.    Did you observe any injuries on Mr. Doyle?

8           A.    I didn't see any.

9           Q.    Did you see any liquid stains or anything on him?

10          A.    I don't recall seeing any liquid stains.

11          Q.    Do you remember him having the odor of either  
12   coffee or beer or some other liquid about him?

13          A.    No, sir.

14          Q.    Did respect seem to be a very important thing to  
15   Mr. Doyle?

16          A.    Yes.

17          Q.    Did he mention that multiple times in relation  
18   to --

19          A.    He mentioned that several times that he felt  
20   disrespected.

21          Q.    Do you believe this happened because he was  
22   disrespected; is that your impression?

23          A.    My impression is that he was -- he may have felt  
24   disrespected, but the day that this incident happened, I think  
25   he just -- that was just what was on his mind.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 Q. What was?

2 A. To shoot, to harm Mr. Wilkes.

3 MS. SMITH: Please answer any questions they may  
4 have.

5 CROSS-EXAMINATION

6 BY MS. SIEBER:

7 Q. Investigator, Mr. Doyle tells you about -- that he  
8 wants to tell you what transpired, right, between the two of  
9 them when he gets in there?

10 A. Yes, he did voluntarily.

11 Q. He starts by telling you about this incident with  
12 William Hough and with Mr. Wilkes. Do you remember that?

13 A. Yes.

14 Q. He is telling you how Mr. Wilkes is standing in  
15 front of him, they're squared up in the breezeway; right?

16 A. I remember him saying that they were squared off or  
17 squared up, yes.

18 Q. Mr. Hough comes up and just slams him in the back  
19 of the head from behind. Do you remember him telling you that  
20 story?

21 A. Yes.

22 Q. He tells you then that he has to run basically from  
23 his home; right?

24 A. Yes.

25 Q. 'Cause this happened right in front of his door to

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 the apartment that he lived in?

2 A. That's what he said, yes.

3 Q. He tells you when he goes to Dee Traxx, he calls  
4 the police. Do you remember him telling you that?

5 A. If he did -- I'm not saying that he didn't, but I  
6 don't recall that.

7 Q. If it's on the video --

8 A. If it's on the video, yeah, of course.

9 Q. He kept referring to it as they ganged him?

10 A. Yes.

11 Q. Did you ask him what that meant?

12 A. No, I don't think I did.

13 Q. Did you have any idea what that meant?

14 A. In my mind, yes. It means that couple people tried  
15 to do physical harm to you.

16 Q. More than one person had beat on him at once?

17 A. That's what I took it as.

18 Q. That's what you took it as. Okay. Then he was  
19 telling you that he was scared; right?

20 A. Yes.

21 Q. And he says to you: Why should I feel like I have  
22 to be harmed by these people?

23 Do you remember him telling you that?

24 A. I don't remember that.

25 Q. If it's on the video --

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           A.    Correct, yes.

2           Q.    He was in a situation where it was two against one  
3   according to him, and he gets beat in the head --

4           A.    Yes.

5           Q.    -- trying to fight them off; has to run from his  
6   home?

7           A.    Yes.

8           Q.    And they were hitting him with their fists, right,  
9   according to his story?

10          A.    Yes.

11          Q.    You would agree fists can be used as a weapon?

12          A.    Yes.

13          Q.    You can do serious damage to somebody with fists?

14          A.    Yes.

15          Q.    Mr. Doyle told you at the time he was 54 years old;  
16   right? Do you remember him saying at the beginning of the  
17   interview?

18          A.    I think he did tell me at the beginning.

19          Q.    You can see he's an older man?

20          A.    Yes.

21          Q.    Did you have any information about what the  
22   victim's age was at that point?

23          A.    I know he was younger. Possibly in his 30s;  
24   somewhere in that range.

25          Q.    You knew he was a younger guy than Mr. Doyle was?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           A.    Yes.

2           Q.    Did you know anything about the victim's physical  
3 capabilities? How tall he was, how much he weighed?

4           A.    No.

5           Q.    No?

6           A.    No.

7           Q.    Did you ask Mr. Doyle anything about that?

8           A.    No, I don't think I did.

9           Q.    Then he starts telling you about the incident on  
10 February 16th, the day the shooting happened?

11          A.    Yes.

12          Q.    And he's telling you that he sees Mr. Wilkes coming  
13 across the parking lot; right?

14          A.    I believe he did, yes.

15          Q.    He knew at that point that Mr. Wilkes was coming to  
16 challenge him? I think that's the word he used; correct?

17          A.    That sounds correct, yes.

18          Q.    And he also tells you that Mr. Wilkes is headed to  
19 -- he uses the name Vern. Do you remember him telling you  
20 that?

21          A.    Yes.

22          Q.    That sounds like that's the same person as Vaughn  
23 that's been testified to prior.

24          A.    Yes.

25          Q.    He says to you that's the same son of a bitch that

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 Mr. Wilkes called last night to come and gang me. Do you  
2 recall him telling you that?

3 A. I believe he did say that.

4 Q. Mr. Doyle has already told you that the interaction  
5 when he was assaulted by Mr. Wilkes happened when he was  
6 standing right in front of him, correct, in the breezeway?  
7 We're talking about back in the January incident.

8 A. I think he did, yes. He told me about an incident.  
9 I'm not certain about the date that incident occurred at that  
10 particular time.

11 Q. You didn't look into anything related to that  
12 report, did you?

13 A. I didn't know there was a report.

14 Q. 'Cause you didn't look for one?

15 A. Not during the interview, no.

16 Q. Did you look for one after?

17 If you had, would you have noted it in your report?

18 A. I pulled up -- I did pull up one particular  
19 incident. I can't remember the case number. I do think it was  
20 related to something that took place in January with William  
21 Hough, I believe it was.

22 Q. If you had looked into it, would you have noted it  
23 in your report?

24 A. If it would have been relevant, yes.

25 Q. You were told by Mr. Doyle about this prior

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 incident in the breezeway outside of his house. I'm talking  
2 about the January incident. He tells you the details  
3 surrounding that.

4 A. Like I said, as far as a January incident, he told  
5 me about an incident.

6 Q. I understand you don't know the date. I'm using  
7 that to refer to it now so you know which one I'm talking  
8 about.

9 A. I just want to make sure we're on the record  
10 straight. I'm just not sure certain about the date.

11 Q. I understand. You did not know when it happened  
12 because you didn't ask when it happened?

13 A. I was just letting him talk at that point, yes.

14 Q. You had that information, though. The information  
15 that he's given you?

16 A. Yes, that's correct.

17 Q. Now he's telling you that he is with Mr. Wilkes  
18 outside of the apartment of a man who he believes Mr. Wilkes  
19 called the night before to come and gang him?

20 A. Yes.

21 Q. You remember him saying that to you?

22 A. Yes.

23 Q. That didn't lead you to believe that he was afraid  
24 in that scenario?

25 A. No, ma'am. Not at that point, no.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           Q.    Just a couple weeks before -- I understand you  
2           didn't know when -- but he is telling you that something very  
3           similar happened to him before where he got hit in the back of  
4           the head and ganged.

5           A.    During the interview his demeanor, just to me, he  
6           didn't impress me as being fearful of these guys. He was  
7           telling a story, and I was listening to what he had to say.  
8           That was the tone. That's the impression that he made upon me.  
9           It was just his demeanor. He just didn't impress me as being  
10          afraid at that point.

11          Q.    He didn't come across as scared in that moment  
12          sitting in the interview with you; correct?

13          A.    Yes, that's what I'm saying.

14          Q.    But he did tell you that he was scared of  
15          Mr. Wilkes; right?

16          A.    Yes.

17          Q.    And he told you that Mr. Wilkes had threatened him  
18          prior?

19          A.    Yes.

20          Q.    Threatened to fuck him up. Remember him telling  
21          you that?

22          A.    Yes.

23          Q.    He said again -- Mr. Doyle said again: Why should  
24          I be afraid?

25          A.    I think he did say that, yes.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           Q.    Do you remember him saying he -- now he's referring  
2   to Mr. Wilkes -- he scared me so bad and said he wanted to do  
3   something to me. Do you remember him telling you about that?

4           A.    No, I don't remember. I don't recall that.

5           Q.    If you had heard that, that wouldn't have led you  
6   to believe that he's in fear?

7           A.    Is this on the video like you said? It's on the  
8   video, yes, of course.

9           Q.    Each prior incident that Mr. Doyle is telling you  
10  about that involves Mr. Wilkes, he's telling you about how he  
11  was scared; right?

12          A.    Yes.

13          Q.    That didn't lead you to believe that he was afraid  
14  at that incident the day of the shooting?

15          A.    No, ma'am, it didn't.

16          Q.    You didn't think to follow up with any of the  
17  people that Mr. Doyle was telling you knew about those  
18  incidents?

19          A.    I don't recall. I don't recall any people that he  
20  told me were witnesses that could tell me anything.

21          Q.    Do you remember him saying to you: My son knew  
22  what he was doing to me. Do you recall that?

23          A.    No, I don't.

24          Q.    If it's on the video, we agree that's what was  
25  said?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1           A.    Yes.

2           Q.    Do you remember him saying: My wife could tell you  
3 what he's been doing to me; referring to Brenda Doyle?'

4           A.    Yes.

5           Q.    And that Rachel Holloway could've told you what he  
6 had been doing to her?

7           A.    No, ma'am. I don't remember him mentioning Rachel  
8 could tell exactly.

9           Q.    Again, on the video --

10          A.    Correct.

11          Q.    -- if that was what was said. You didn't follow-up  
12 with any of those people following the interview, though?

13          A.    No, I didn't.

14          Q.    You never actually talked to the victim in this  
15 case, did you?

16          A.    Wait a minute. In reference to that question you  
17 just asked me, I did speak to Ms. Holloway regarding the  
18 incident.

19          Q.    When did that occur?

20          A.    She had called me trying to provide information to  
21 where the gun may have been stashed, or where it was discarded.  
22 During those conversations regarding the incident overall, she  
23 never mentioned to me anything about Mr. Doyle.

24          Q.    Did you ask her?

25          A.    She spoke briefly about the relationship, about

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1 things that were going on. She never mentioned, and I never  
2 did ask her.

3 Q. You never asked her any questions about it?

4 A. Yes.

5 Q. You spoke to her?

6 A. Yes.

7 Q. You had the opportunity to ask her questions about  
8 it?

9 A. Yes.

10 Q. You chose not to?

11 A. I didn't think it was necessary, to be honest.

12 MS. SIEBER: I have no further questions.

13 THE COURT: Any redirect?

14 MR. SMITH: Yes.

15 REDIRECT EXAMINATION

16 BY MR. SMITH:

17 Q. Mr. Doyle specifically did not want his wife to be  
18 involved in this case; is that correct?

19 A. Yes, sir.

20 Q. Did he even give you an address to a motel and not  
21 to an address at Prince Hall when y'all were going over the  
22 address?

23 A. That's correct, yes.

24 Q. Because that was how much he did not want his  
25 family to be involved?

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1           A.    Yes.

2           Q.    Just to clarify questions about Vaughn or Vern and  
3   Mr. Wilkes, Mr. Doyle does not live in building four; correct?

4           A.    No.  It's my understanding that he lived in three.  
5   Building three.

6           Q.    In his version of events, he's traveling to a  
7   building where the man he is deathly afraid of and the man who  
8   tried to gang him the night before is and goes to his doorstep.  
9   Is that what you understand him to have been telling you?

10          A.    Wait a minute.  You said goes to his doorstep?

11          Q.    Goes to building four, to Vern's place.

12          A.    Yes.

13          Q.    Which is apparently because he sees Mr. Wilkes?

14          A.    Yes.

15          Q.    And he knows that Vern lives there.  And he told  
16   you that Vern is the person who tried to gang him?

17          A.    That's correct.

18          Q.    In his version of events, he went to the man who he  
19   was deathly afraid of and the other man who tried to gang him  
20   the night before?

21          A.    That's correct, yes.

22                MR. SMITH:  I don't have any further questions.

23                MS. SIEBER:  Nothing, Your Honor.

24                THE COURT:  Thank you, sir.  You may step down.

25   Watch your step as you're stepping down.

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1 (The witness exited the stand.)

2 MR. SMITH: We have no further witnesses for the  
3 purposes of this hearing, Your Honor.

4 THE COURT: Any reply witnesses?

5 MS. SIEBER: No, Your Honor.

6 THE COURT: Y'all ready to present arguments to me  
7 about the motion --

8 MS. SIEBER: I am, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. SIEBER: Your Honor, as we previously stated,  
11 Mr. Doyle is seeking immunity under the Protection of Personal  
12 Property Act, under subsection C. And as Your Honor is aware,  
13 this requires us to use the element of self-defense under  
14 common law.

15 With respect to the first element of him being  
16 without fault in bringing on the difficulty, the facts that  
17 have been presented today are from Mr. Doyle, that he  
18 approached Mr. Wilkes and asked him a question. On the video  
19 you can hear him say that he came up to him and asked him: Is  
20 Vern home? That's when he was spit on and something was thrown  
21 at him.

22 This is similar to the court case of State v.  
23 Douglas where two men were together in a residence, drinking  
24 vodka. And the victim asked the -- I apologize. The defendant  
25 asked the victim to give back his medication. At that point

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1 the victim came at him. The court said that he was not at  
2 fault in bringing on the difficulty in that case because that  
3 wasn't a reasonable reaction to asking for something back from  
4 him.

5 We would say that is similar to the facts here.  
6 The victim's reaction to Mr. Doyle's initial question was not  
7 reasonable and was not -- Mr. Doyle's statement wouldn't  
8 reasonably have provoked an attack from the victim in this  
9 case.

10 Additionally, I think there's been evidence  
11 presented that Mr. Doyle is a felon, and he's not allowed to  
12 carry a weapon.

13 We believe that he can rely on State v. Burris,  
14 which says that just because a person is in unlawful possession  
15 of a weapon does not mean that they are at fault in bringing on  
16 the difficulty. There needs to be more.

17 Here, with only a comment made by him and the  
18 carrying of a weapon, he is not at fault in bringing on the  
19 difficulty in this case.

20 Second, the Defendant needs to believe that he was  
21 in imminent danger of sustaining serious bodily injury. You  
22 heard testimony from Mr. Doyle about the previous attack that  
23 happened to him. He tells us he was in the breezeway outside  
24 his apartment when he and Mr. Wilkes was squared up. Then he  
25 gets slammed in the head by Mr. Hough.

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1                   Mr. Wilkes then jumps on him. They both hit him,  
2                   and he takes off running.

3                   Each of the prior incidents that he says happened  
4                   to him would've contributed to the fear in this case. He tells  
5                   you about how he was threatened repeatedly by Mr. Wilkes. He  
6                   is on the bridge on the way to Dee Traxx. He explained he was  
7                   alone, he didn't have anybody else with him. And that he comes  
8                   across the bridge, two men are there. Mr. Wilkes has been  
9                   threatening him. He feels he has to pretend he has a weapon on  
10                  his hip and run home. He tells the investigator: They had me  
11                  so scared. His fear in that situation is very clear.

12                  He also explains how he has gradually -- first he  
13                  tried to fight with his fists in the first attack he talked  
14                  about. Second attack, he tries to pretend that he has a weapon  
15                  to scare off Mr. Wilkes from hurting him.

16                  And then when he talks about the incident with the  
17                  chain, he tells you how he, again, had to defend himself, and  
18                  yet still the victim is repeatedly coming back after him. Each  
19                  of those things we believe are contributing to him having an  
20                  actual fear on the day of the incident.

21                  This is similar, again, to State v. Douglas where  
22                  the court found that, that defendant reasonably believed he was  
23                  in fear, and they allowed him to use prior instances of  
24                  violence between the two of them in order to help support that  
25                  fear. I think those prior instances in the Douglas case are

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1 from the summer of 2006, which was six years prior to the  
2 actual incident that was happening in that case.

3 Here we're only talking about a month's span and  
4 some of the attacks are as close as the day before the shooting  
5 happens in this case. For that reason we think that the  
6 evidence shows that Mr. Doyle was, in fact, in fear of serious  
7 bodily harm.

8 Investigator Nelson testified to the fact someone  
9 using their fists can cause serious damage to a person that  
10 could rise to that level.

11 Third, whether or not that this belief was  
12 reasonable, as you know, you place yourself in the spot of  
13 somebody who has been through the same circumstances as  
14 Mr. Doyle has in this case. I think that Mr. Doyle testified  
15 to the fact that he's been a victim of gun violence before.  
16 Serious injury to him. He's been shot twice in the head. Shot  
17 once in the hip.

18 And he's been attacked by this man once before, and  
19 he's not even sure why, what happened between them prior, prior  
20 to the attack. Then he's experiencing repeated threats against  
21 him that's forcing him to run home. He explained that he is  
22 significantly older than the victim in this case. I think  
23 there's about a 25-year age gap between the two of them. That  
24 is contributing to his fear as well.

25 With that, the fact that this man, Mr. Wilkes, is

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1 repeatedly calling other people to help him adds to the fact  
2 that his fear would've been reasonable in this situation.

3 As far as a duty to retreat, under the common law,  
4 he is not required to retreat if doing so would add to his  
5 injury. Here he has told you that he's been hit in the back of  
6 the head with fists by this man. To turn and run from him,  
7 when this happened in 4-5, the breezeway of 4-5, which you can  
8 see on State's Exhibit 1, is across a full lawn.

9 There's several buildings in between before he  
10 would be able to get back to his apartment. It is unrealistic  
11 to expect him to run all the way back when he feels like he's  
12 in imminent danger at that point.

13 With respect to subsection C, a person who is  
14 engaged in lawful activity and who is attacked in another place  
15 where he has a right to be has no duty to retreat and has the  
16 right to stand his ground and meet force with force. Even if  
17 you find that he could have retreated, under subsection three,  
18 we believe Mr. Doyle fails there.

19 He lives at this apartment complex. He told you he  
20 lived in building three, apartment two. This is not happening  
21 outside of Mr. Wilkes' apartment. Mr. Wilkes lives in building  
22 one. This is a common space between the two of them where  
23 Mr. Doyle, in fact, does have a right to be.

24 For that reason, Your Honor, we believe that he is  
25 entitled to immunity from prosecution for the attempted murder

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1 as well as possession of a weapon during the commission of a  
2 violent crime. I do have copies of the case law I cited, if  
3 you would like a copy.

4 THE COURT: Yes, ma'am.

5 MR. SMITH: Your Honor, as you know, the Defendant  
6 has to prove each of the elements of self-defense beyond a  
7 preponderance of the evidence. We don't believe that he meets  
8 any of the elements.

9 The first element is he may not be responsible in  
10 bringing about the difficulty. The most recent testimony is  
11 that the previous day to this, Mr. Doyle was threatened to the  
12 point that he had to pull a weapon on Mr. Wilkes.

13 After that he went and got a gun from the earth, I  
14 guess, believing that the chain and -- there is a dispute  
15 whether there's a knife. At least the chain was not sufficient  
16 to ward off Mr. Wilkes.

17 He goes and gets a gun on the day of this incident.  
18 He leaves the area that he is in, where he says Mr. Wilkes does  
19 not see him. Mr. Doyle doesn't say Mr. Wilkes saw him. He  
20 voluntarily goes to the apartment complex of the man that he is  
21 deathly afraid of because he has been trying to hurt him for  
22 the last month or so.

23 In addition to that, he's going to the unit where  
24 the man inside apparently has also tried to gang him in the  
25 past. This is not someone who's standing in his own area or

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1 out in the middle of the playground or something and gets  
2 approached by people. He actually brings himself to the person  
3 that he is afraid of -- through his testimony -- for purposes  
4 of squashing the bee or whatever you want to say, talking it  
5 out. He is armed with a handgun in his waistband, which he has  
6 a round in the chamber, ready to go when he does this.

7 It really does not fall in line with certainly any  
8 sort of curtilage or in your car or in your business or  
9 anything like that. We believe that actually he went to the  
10 problem either with the thought that it would start a  
11 confrontation in which he could use his firearm to shoot  
12 Mr. Wilkes or we believe Mr. Wilkes' testimony; he actually  
13 just stalked him to that location because there was testimony  
14 he was looking for him earlier in the day and, basically, went  
15 there solely for purposes of shooting him; that there wasn't  
16 any sort of confrontation.

17 For most of my arguments, I'm going to make them in  
18 the light, if you take him even at his word and ignore all of  
19 our evidence, we think it fails. We do want you to consider  
20 our evidence as well.

21 His own words makes him coming to the difficulty,  
22 which is not what self-defense is expected to do where you  
23 either start a confrontation or know a confrontation is going  
24 to happen and then use a deadly weapon.

25 As to the second point, some of the points from the

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1 first also go into his reasonable fear. If he is so afraid of  
2 Mr. Wilkes that he has had to, one, use a weapon, now procure a  
3 weapon from the earth, why would he go to the location that  
4 he's at to squash the beef? He either was not that fearful of  
5 him and he thought that the conversation would go fine or he  
6 knew that there would be a confrontation and that's why he had  
7 the gun and then used it upon him.

8           There's really not evidence -- and if you watch his  
9 interview, it's night and day between his court appearance  
10 where he's spelling out the word ass and then his interview  
11 where he's using the F word like 450 times. He's not  
12 trembling. There's nothing in his interview that would give  
13 you the impression that he was in fear for his life and had to  
14 make a life-or-death decision.

15           You can also look at the fact that he did not  
16 contact law enforcement. All of his reasons for everything he  
17 did afterwards, all of the things that he knows are bizarre and  
18 has to offer an explanation for why he did them, they are all  
19 about he was still in fear.

20           In his own words he gets back to his apartment  
21 while still armed with a handgun and a phone, doesn't contact  
22 law enforcement, doesn't stay in his apartment and say: I've  
23 just been attacked. Doesn't do anything like that.

24           He chills out, smokes a cigarette. Rachel comes  
25 over. I guess he decides to leave at that point. Depending on

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1       which version of his story, he either goes to Beacon and has a  
2       cheeseburger or goes to QT and has three beers, he calls a  
3       co-worker to get a ride out of town to Dillon.

4               All of these things are bizarre for somebody who's  
5       in fear and doesn't have anything to hide. Those are much more  
6       consistent with somebody who knows they have committed a crime  
7       and are trying to get away. And when his ride fails, he  
8       doesn't have a car, he just turns himself back in.

9               It's also important to note, even if you take all  
10      of the incidents as he says them, and none of the prior  
11      incidents, there's only one that involved physical contact,  
12      which he said he got a knot on his head from. We don't know if  
13      that's from Mr. Hough or Mr. Wilkes. A lot of this is directed  
14      at Mr. Hough but he's not present when the actual incident  
15      happened.

16              He's never threatened with a weapon. Mr. Wilkes  
17      never presents a weapon. He does not know Mr. Wilkes to carry  
18      a weapon. He said he saw him have a knife in a car one time.  
19      At the actual incident, he does not say that Mr. Wilkes swings  
20      at him. He does not say he reached for anything. He does not  
21      say he said anything about having a weapon.

22              He doesn't touch him other than the spit, which we  
23      believe has been added to sweeten up his story because he did  
24      not mention that to law enforcement; he only mentioned the cup.  
25      He didn't mention that the cup was hot or anything like some

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1 McDonald's coffee that would've burned his face off. He said,  
2 it doesn't fucking matter whether it's hot or cold, is what he  
3 told the investigators.

4 We believe, in the light most favorable to him, at  
5 best, he had a fear of some sort of physical confrontation,  
6 which would not have authorized deadly force. We believe he  
7 actually went to the apartment just for purposes of killing  
8 Mr. Wilkes.

9 There's no indication -- there's got to be a  
10 proportionality as a portion of self-defense. There's a  
11 gigantic lack of proportionality. There's never been any  
12 mention of weapons, no actual movements towards him when he  
13 actually decides to shoot him.

14 There's some conflicting testimony from Mr. Doyle  
15 what he says to law enforcement. He throws the coffee,  
16 whatever it is. I pulled it out. I had it ready, and I  
17 blasted his ass. It's like an instantaneous thing. In his  
18 version, his testimony might be even worse; that he pulls out a  
19 firearm and is pointing it at him and Mr. Doyle -- Mr. Wilkes  
20 is saying get that BB gun down, and then just shoots him.  
21 Apparently, when he has a gun drawn on him and Mr. Wilkes has  
22 no weapon, that's almost less self-defense than his original  
23 story.

24 And we don't think his original story would be  
25 self-defense. Somebody throwing a cup of liquid on you, while

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1       inconvenient, does not equal the use of deadly force, maybe it  
2       would justify punching somebody. There's a higher bar for when  
3       we use deadly force.

4               As far as the reasonableness, an ordinary person  
5       has not been shot three times randomly. We would ask that  
6       standard be a little bit higher even than Mr. Doyle's, which  
7       might be maybe more. I'm assuming the point of that testimony  
8       was to make it he is more on edge about people doing harm to  
9       him since he's been a victim. That standard needs to be a  
10      reasonable person of ordinary firmness and courage. Would they  
11      interpret, in the light most favorable to him, the throwing of  
12      a liquid, would that mean you have no choice but to shoot  
13      somebody?

14             On the duty to retreat, he is not in his place. He  
15      has a right to be there, I suppose. Question is why he went  
16      over there. Under one of his versions, he has a gun out and  
17      has an escape route. He's at the back door and could back up  
18      and say: Get away from me. He did not. He chose to shoot  
19      Mr. Wilkes, even though Mr. Wilkes didn't have any weapons.

20             Your Honor, I was looking at State v. Douglas. I  
21      find it to be wholly different than this situation. In State  
22      v. Douglas, there's actually a large physical confrontation in  
23      which the victim gets wounded, and basically his legs buckle  
24      out from underneath him. He's basically choked out against a  
25      refrigerator. The victim, I guess, in this case, mounts him,

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1 punches him in the face. He's ultimately injured and is able  
2 to retreat to his bedroom, where he gets a pistol, continues to  
3 demand that the person leave. He doesn't. And he ultimately  
4 fires at him. That is nothing even close to what happened in  
5 this situation.

6 I think it's his own house which, of course, would  
7 change the rationale somewhat. Regardless, there was no  
8 physical confrontation. Mr. Doyle had no injuries.

9 There was maybe a cup and maybe spit, if you  
10 believe his second version of events.

11 We don't think Douglas is quite the same. This  
12 was, in our view, if you take Mr. Wilkes' testimony, he  
13 basically left out and Mr. Doyle was waiting for him and  
14 ambushed him and shot him. I think his behaviors afterwards  
15 support that's likely what happened.

16 And the testimony from Ms. Holloway about what her  
17 children saw is also relevant. And, of course, I don't know  
18 what percentage of people buy a handgun and end up using it in  
19 a life-or-death situation the next day, I find that to be more  
20 indicative he had made up his mind that he was going to handle  
21 the issue with Mr. Wilkes 'cause he was dissatisfied with law  
22 enforcement. He made a decision to buy a gun and handle it  
23 himself. We don't believe that's a justified use of force.  
24 Thank you, Your Honor.

25 THE COURT: Any reply?

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1                   MS. SIEBER: Your Honor, with respect to his  
2 behavior during the interview, I think the interview happened  
3 several hours after, at least two to three hours after this  
4 happened. I think that's important to note why he would be  
5 calm according to Investigator Nelson. He has -- a significant  
6 amount of time has elapsed. He is now in law enforcement's  
7 custody.

8                   He testified to the fact that Mr. Wilkes had been  
9 calling other people around the complex. He didn't really have  
10 anybody else around the complex, which is why he wanted to get  
11 out of there. One of them could potentially come after him.

12                  With respect to State v. Douglas, I use that to say  
13 the prior confrontation in that case was notable when it came  
14 to whether or not he was in fear.

15                  Here we're looking at prior confrontations between  
16 the two of them to show his fear at that time. He's obviously  
17 testified to the fact that he was in fear. I think that's made  
18 more reasonable by the fact he's been in a fight with  
19 Mr. Wilkes where he's been injured. Whether it's Mr. Wilkes'  
20 version, he's the only one that's hitting him. The knot on the  
21 back of his head, according to Mr. Wilkes, would've had to come  
22 from Mr. Wilkes since, according to them, Mr. Hough was never  
23 involved at all.

24                  And as far as the reasonable person standard, I  
25 think it has to be someone who has had the same experiences

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1       that Mr. Doyle has had. The fact that he's been shot before,  
2       multiple times, is important as to whether or not he was acting  
3       reasonably under these circumstances. And that would put him  
4       more on edge than perhaps an average person. It's not an  
5       average person that we're looking at. It's a reasonable person  
6       knowing what Mr. Doyle knew at the time and the experiences  
7       that he had.

8               THE COURT: Thank you very much. Lawyers, approach  
9       a moment.

10              (Off-the-record discussion.)

11              THE COURT: I'm going to step down, be back  
12       shortly.

13              (A pause transpired.)

14              THE COURT: I've asked the bailiff to inform the  
15       jury to go to their lunch break. I'll come right back.

16              (A recess transpired from 12:04 p.m. until 12:23  
17       p.m.)

18              THE COURT: Thank y'all very much for the  
19       presentations. The hearing that we have conducted for the last  
20       day involves the statute 16-11-410, 16-11-450.

21              My understanding of the case law that interprets  
22       these cases requires the trial court to make findings that  
23       satisfy all of the elements of the statute in order that it can  
24       be appropriately reviewed by the Court of Appeals or the  
25       Supreme Court, if it becomes an issue. My comments are meant

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1 to fulfill the obligations as I understand them. So bear with  
2 me as I speak.

3 In referencing, I'm going to use the case law that  
4 has been referenced by the Defendant's attorney, State versus  
5 Glen, State versus Douglas.

6 Whether a defendant was entitled to immunity from  
7 prosecution under South Carolina Protection of Persons and  
8 Property Act, a circuit court must determine whether the  
9 conduct, in order to establish immunity, the court must address  
10 all of the elements of common law self-defense; thereby, again,  
11 allowing an appellate review of the matter.

12 In this particular case, we have an issue of -- I  
13 find that the Defendant did not reasonably believe that, at the  
14 time that the shooting occurred, that the Defendant's shooting  
15 of the victim, who lived in the same apartment complex, was  
16 necessary to prevent great bodily harm or death to the  
17 Defendant.

18 In considering those matters, I do not believe that  
19 the Defendant has established a sufficient showing to all of  
20 the elements of self-defense. That's without approaching the  
21 statutes consideration yet.

22 The Defendant, to establish self-defense, must  
23 prove that he is without fault in bringing on the difficulty.  
24 He also must prove that the Defendant must've actually believed  
25 he was in imminent danger of losing his life or sustaining

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1       serious bodily injury or that he actually was in such imminent  
2       danger.

3                       Third, if his defense is based upon the belief of  
4       imminent danger, which it is here, a reasonable, prudent man of  
5       ordinary firmness and courage would have entertained the same  
6       belief that must be established by the Defendant. If the  
7       Defendant actually was in imminent danger, the circumstances  
8       were such and would warrant a man of ordinary prudence,  
9       firmness, and courage to strike the fatal blow in order to save  
10      himself from serious bodily harm or losing his own life.

11                      And fourth, the Defendant had no probable means of  
12      avoiding the danger of losing his own life or sustaining  
13      serious bodily injury than to act as he did in particular  
14      instances.

15                      And the last element, the duty to retreat, may not  
16      be shown when seeking immunity under 16-11-410, 16-11-450. In  
17      this particular case, I believe that the Defendant has failed  
18      to meet his burden of establishing the self-defense element as  
19      well as the application of 16-11-440.

20                      I've given significance to the testimony that I  
21      reviewed of the interviews that were given to the police  
22      officer, given at the police station, which was in close  
23      proximity to the time of when the actual shooting occurred.

24                      It was This Court's opinion that in that -- in  
25      those interviews, as described by the police officer during

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1       this hearing, the Defendant had a calmness about himself that  
2       was inconsistent with someone who had just been placed in close  
3       fear of great bodily injury or fear of losing his life and  
4       having to, as a last resort, pull a gun on someone and shoot  
5       them at point blank range. Probably -- when I say point blank  
6       range, I mean about four feet in distance. I believe the  
7       testimony at this hearing as well as the statements given to  
8       the police officer indicate it was about four feet of distance  
9       between the gun and where the victim was standing.

10               So my finding is going to be that he's not met the  
11       elements of self-defense.

12               I also placed weight in the narrative that was  
13       presented to The Court as to where the shooting occurred.  
14       Unlike this situation where we see in most of these cases that  
15       involve the assertion of the immunity from the statute, while  
16       both parties were at a place where legally they had a right to  
17       be, there was no indication in this hearing that the victim was  
18       the aggressor just prior to the incident. And so -- and they  
19       did not, while they lived in the same apartment complex, they  
20       were not next door neighbors.

21               And The Court's conclusion at this juncture is that  
22       the Defendant was the one who sought out the victim at the time  
23       of the shooting. And that's significant because, in This  
24       Court's opinion, if the Defendant were not seeking out the  
25       Defendant -- I mean seeking out the victim, there would've

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1       never been the shooting.

2               There's also, in part of the interviews -- I  
3       believe it came up in the cross-examination of the Defendant --  
4       is the Defendant's explanation of where the gun came from. I  
5       think it was very reasonable for the police officer during the  
6       interview to ask him, when the Defendant was explaining his  
7       view on being disrespected by the victim and his need to want  
8       to get the gun, I think it was a reasonable question from the  
9       police officer: Where did you get it? And the response was:  
10      From the earth. And the police officer -- that was the same as  
11      established on cross-examination here.

12              When the police officer continued his questioning  
13      about him, he continued to -- the Defendant continued to assert  
14      it was from the earth. Asked him: Where did the gun go? He  
15      continued. I believe his response was: Back to the earth.

16              This Court takes that as factual statements and  
17      infers that the gun -- that there was a motive of getting the  
18      gun other than just generalized protection. I view it that  
19      there was an actual reason that he wanted -- the Defendant  
20      wanted to get the gun to actually do some harm to the victim in  
21      this case.

22              I believe that I've covered the elements. Let me  
23      check just to be sure.

24              (A pause transpired.)

25              THE COURT: I believe that I've covered the

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1 elements that are required by the case law, and I've discussed  
2 those. That will be my ruling, is to deny the present motion,  
3 and I do not believe the Defendant is entitled to the immunity  
4 offered to him by the statute or the case law.

5 Are we ready to proceed with the trial of the case?

6 MR. SMITH: We will be.

7 THE COURT: I've sent the jury out until 2:00.

8 MR. SMITH: Yes. The State will be ready.

9 THE COURT: I have 12:35. Why don't we get back  
10 together about ten minutes to 2:00 to see if there's any  
11 pretrial matters, discuss how long your openings are going to  
12 be and anything else so that we can actually move forward at  
13 2:00. I know -- I have a feeling the jury is going to be  
14 anxious to get moving.

15 MR. SMITH: Yes, sir.

16 THE COURT: Thank y'all very much.

17 During the break I would encourage the parties, the  
18 lawyers, there are opportunities that arise in the course of  
19 trial and litigation like this where windows and doors open  
20 that lead to discussions on resolving the matters. Those  
21 windows and doors open very rarely.

22 When those windows and doors open, I have a very  
23 strong opinion that it is a wise thing to do in cases like  
24 this, especially cases like this where I see that have family  
25 crossovers, to use this as an opportunity to explore a

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 resolution of these issues.

2 Resolution of these types of issues from both  
3 sides, give an opportunity to allow the parties that are most  
4 affected directly by what we're in court to do, to allow y'all  
5 to have an opportunity to control some outcome.

6 I've been doing this job almost 20 years. And I  
7 have a lot of respect for what we ask those 12 people to do  
8 over there. Those 12 people been brought into this courtroom  
9 to perform probably the most important Constitutional function  
10 of our country. They're being asked to sit and listen to facts  
11 that are going to be presented to them by very competent  
12 lawyers and then apply the law that are case law, the history  
13 of our country, and the Legislature then says I have to  
14 instruct them to do. And what they're being asked to do is  
15 resolve a very tough conflict between both sides.

16 I cannot tell you the number of times because  
17 there's been so many, as to what I think the outcome of the  
18 case is going to be. And those 12 people go back into the jury  
19 room and hear the same facts you're going to hear, hear the  
20 same law I'm going to give them, come back out here and go in a  
21 completely opposite direction of what I think they're going to  
22 do.

23 The jury -- that's one of the values of the type of  
24 system of justice that we have in this country is that we give  
25 it to those 12 people sitting over there. And they use their

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 common sense, their day-to-day experiences in applying the  
2 facts they're going to hear from y'all, and the law I'm going  
3 to give them to determine what justice is. You can't be  
4 critical of what those 12 people decide if you don't talk  
5 between yourselves to try to get this case resolved because you  
6 have some control over it right now.

7 I will tell you, especially from -- there are rules  
8 that we have to follow during a trial. They're going to be  
9 things that maybe the victim or the victim's family or the  
10 representatives want to say, that I'm going to say: Oh, you  
11 can't talk about that.

12 Likewise, they are going to be saying, maybe the  
13 Defendant, his family, his supporters are going to say -- and  
14 I'm going to say: No, you can't talk about that. Because  
15 there are Rules of Evidence, Rules of Procedure that we have to  
16 apply in this courtroom.

17 If the matter gets worked out, y'all come to some  
18 reasonable resolution, it gives you an opportunity to present  
19 to me things or information you might want me to consider at  
20 sentencing that normally you wouldn't present to those 12  
21 people.

22 I mention that because, if it gives you an  
23 opportunity to mitigate the facts in a way that you can say to  
24 a judge that you can't say to a jury, during a plea, that gives  
25 you that opportunity to try to be persuasive on those things

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1       that you feel emotionally or intellectually you feel are  
2       important that might never make it to the jury.

3               That's probably not very clear what I'm talking  
4       about, so talk to your lawyer as to what I'm meaning. Y'all  
5       talk to the Solicitor as to what I'm meaning. I think this is  
6       one of those opportunities where a window or a door is open  
7       where there needs to be some serious discussions about getting  
8       this case resolved.

9               Otherwise, that's why I'm here. That's why we have  
10       12, 13 people sitting over there. We can solve and determine  
11       what justice is in this case.

12               This is an opportunity for y'all to have some  
13       control over the outcome. Once it goes to them and me, it's  
14       out of your hands.

15               I'll see everybody back shortly. Thank you very  
16       much.

17               (Thereupon, a luncheon recess transpired from 12:37  
18       p.m. until 2:27 p.m.)

19               THE COURT: Mr. Doyle, if you would, please stand.

20               Mr. Doyle, I've got to administer an oath to you.  
21       Please raise your right hand.

22                               BENJAMIN DOYLE  
23       being first duly sworn, testified as follows:

24               THE COURT: Thank you, sir.

25               Mr. Doyle, please listen to the Solicitor. He is

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1 going to announce the cases for us.

2 MR. SMITH: Your Honor, Mr. Doyle is here on  
3 indictment 2020-GS-42-5570, Count 1 was for attempted murder.  
4 He's going to plead guilty to the lesser included of assault  
5 and battery, high and aggravated, with a negotiated 15-year  
6 sentence. I have him having 43 days credit.

7 He is also pleading guilty to Count 2, possession  
8 of a weapon during the commission of a crime, with a negotiated  
9 sentence of five years, suspended to five years probation, with  
10 that sentence to run consecutive to the 15-year sentence on  
11 Count 1.

12 THE COURT: Mr. Doyle, is it your intent to enter a  
13 plea to the two charges that he just announced?

14 MR. DOYLE: Yes, sir.

15 THE COURT: Mr. Doyle, I need to remind you that we  
16 are making a recording of everything that happens here. The  
17 court reporter and I need to be able to hear you. Really speak  
18 up.

19 Sir, if ever during this process you can't hear me  
20 or anybody else when we speak, you let us know. And we'll  
21 speak up as well. Okay?

22 MR. DOYLE: Yes, sir.

23 THE COURT: Mr. Doyle, how old are you?

24 MR. DOYLE: I'm 55.

25 THE COURT: How far did you go in school?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1                   MR. DOYLE: I went -- I got my GED.

2                   THE COURT: And how far did you go before you  
3 dropped out?

4                   MR. DOYLE: Tenth.

5                   THE COURT: Presently married, single, divorce,  
6 widow?

7                   MR. DOYLE: I'm still married.

8                   THE COURT: How many children do you have?

9                   MR. DOYLE: Two.

10                  THE COURT: How old are they?

11                  MR. DOYLE: Thirty-four and 15.

12                  THE COURT: Prior to -- are you working outside the  
13 home right now?

14                  MR. DOYLE: Well, I was working at Cracker Barrel.

15                  THE COURT: Ever serve in the military?

16                  MR. DOYLE: No, sir.

17                  THE COURT: Within the last 24 hours, have you  
18 consumed any type of substance that is adversely or negatively  
19 affecting your ability to understand what we're doing today?

20                  MR. DOYLE: No, sir.

21                  THE COURT: In the past, have you ever received any  
22 type of substance abuse treatment for a drug or alcohol  
23 problem?

24                  MR. DOYLE: Yes, sir.

25                  THE COURT: Did you receive treatment for drugs or

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1 alcohol or both?

2 MR. DOYLE: Both.

3 THE COURT: Do you remember where you were when you  
4 received that last treatment?

5 MR. DOYLE: Salvation Army, Greenville.

6 THE COURT: When you finished that program the last  
7 time, did you consider it to have been a success?

8 MR. DOYLE: Yes, sir.

9 THE COURT: And about how long ago was that,  
10 approximately? A year? Ten years? Five years?

11 MR. DOYLE: Four years.

12 THE COURT: Mr. Doyle, are you satisfied with the  
13 work that your lawyers have done for you?

14 MR. DOYLE: Yes, sir.

15 THE COURT: Mr. Doyle, has anybody besides what the  
16 Solicitor has announced, has anybody perhaps come to you and  
17 threatened you in any way or have they made you any other  
18 promises in order to get you to make the decision to enter  
19 these pleas?

20 MR. DOYLE: No, sir.

21 THE COURT: Am I correct to conclude that your  
22 decision to enter these pleas today, that it is a free and  
23 voluntary decision on your part?

24 MR. DOYLE: Yes.

25 THE COURT: Mr. Doyle, I need you to understand,

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1       under the law, as you probably know, you are presumed innocent  
2       of both of these charges. And you do have a right to a jury  
3       trial. At any jury trial that would take place, the State  
4       would have the burden of proof. The State would have to  
5       convince all 12 members of a jury that you are, in fact, guilty  
6       of these charges.

7                 Mr. Doyle, you do understand that you have a right  
8       to that jury trial?

9                 MR. DOYLE: Yes, I do.

10                THE COURT: You do wish to give up your right to  
11       that jury trial?

12                MR. DOYLE: Yes, sir.

13                THE COURT: Mr. Doyle, I need to let you know that  
14       there are very important Constitutional rights that you are  
15       entitled to that you have to give up in order to enter these  
16       pleas. You have to give up your right to confront and  
17       cross-examine the State's witnesses; you also have to give up  
18       your right to present evidence which you or your lawyer might  
19       feel establish a defense to these charges. You have to give up  
20       your right of subpoena as well as your right to remain silent.

21                Mr. Doyle, do you understand all those rights that  
22       I just reviewed?

23                MR. DOYLE: Yes, sir.

24                THE COURT: You wish to give them up and move  
25       forward with these pleas?

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 MR. DOYLE: Yes, sir.

2 THE COURT: Mr. Doyle, I'm going to let you listen  
3 to Mr. Smith one more time. He's going to give us a brief  
4 recitation of the facts that are behind these cases. Please  
5 just listen to him.

6 MR. SMITH: Your Honor, these cases arose on  
7 February 16, 2020 around 3:30 in the afternoon of Prince Hall,  
8 Spartanburg County. Mr. Wilkes was found shot outside of an  
9 apartment. He was rushed to the hospital.

10 Benjamin Doyle was quickly developed as a suspect  
11 from some of the people in the area. There were people that  
12 will testify that they had seen him with a gun earlier. It  
13 appeared like he was looking for somebody.

14 Ultimately he was apprehended about two hours after  
15 the incident. He did confess to shooting Mr. Wilkes. So he  
16 gave a self-defense story which essentially involved that Mr.  
17 Wilkes had thrown a cup of liquid on him before that and there  
18 had been some events that had happened in the weeks leading up  
19 to this event that he felt left him with no choice that day  
20 other than to shoot him.

21 The State's position is that he basically became  
22 fed up with whatever was going on between them, dissatisfied  
23 with the response he was getting from the police and decided to  
24 handle it himself and ambushed Mr. Wilkes as he left the  
25 apartment. That is essentially what happened in this case,

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 Your Honor, plus you've already heard the testimony of the  
2 stand your ground hearing.

3 THE COURT: Mr. Doyle, do you believe, as the  
4 Solicitor stated the facts to me, that substantially he is  
5 correct with those facts?

6 MR. DOYLE: I plead the Fifth on that.

7 THE COURT: Sir, do you understand that, in order  
8 to enter a plea, you give up your Constitutional rights?

9 MR. DOYLE: Yes, sir.

10 THE COURT: And one of those is your Fifth  
11 Amendment; right? You understand that?

12 MR. DOYLE: Yes, sir.

13 THE COURT: Do you believe that, as the Solicitor  
14 has stated the facts to me, he is substantially correct with  
15 those facts?

16 MR. DOYLE: Yes, sir.

17 THE COURT: Mr. Doyle, you do understand these  
18 pleas are being presented to me as negotiated pleas; therefore,  
19 if I accept the pleas, I will be bound by the negotiations, and  
20 I will have to impose the sentences that were announced by the  
21 Solicitor? Do you understand that?

22 MR. DOYLE: Yes, sir.

23 THE COURT: That is what you want me to do?

24 MR. DOYLE: Yes, sir.

25 THE COURT: You do understand, on the assault and

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1 battery, high and aggravated nature, that charge that you will  
2 be pleading to is classified as both a violent and as a serious  
3 offense under the law?

4 MR. DOYLE: Yes, sir.

5 THE COURT: You've been able to talk to your  
6 lawyers about the consequences and ramifications of that  
7 offense being classified as being violent and a serious  
8 offense?

9 MR. DOYLE: Yes, sir.

10 THE COURT: You still wish to enter that plea as  
11 well?

12 MR. DOYLE: Yes, sir.

13 THE COURT: Mr. Doyle, are you, in fact, guilty of  
14 this charge of assault and battery of high and aggravated  
15 nature?

16 MR. DOYLE: Yes, sir.

17 THE COURT: Are you also guilty of possession of a  
18 weapon during the commission of a violent crime charge?

19 MR. DOYLE: Yes, sir.

20 THE COURT: Mr. Doyle, have all of your answers to  
21 my questions so far, have they been truthful and honest?

22 MR. DOYLE: Yes, sir.

23 THE COURT: Discovery was shared with the defense,  
24 Mr. Smith?

25 MR. SMITH: Yes, Your Honor.

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1 THE COURT: Any prior record?

2 MR. SMITH: You just want the last ten years, Your  
3 Honor?

4 THE COURT: Sure.

5 MR. SMITH: Nothing matters for enhancements or  
6 anything. In the last ten he had 2002, DUI/DUS, open  
7 container, possession of marijuana.

8 2003, public disorderly.

9 2010, possession of marijuana.

10 2014, shoplifting.

11 2015, PC.

12 2016, malicious injury and shoplifting.

13 He does have record that goes beyond that but  
14 nothing is like this. Certainly not anything aggravated like  
15 this. I think he has one assault and battery would be the only  
16 thing that would've involved violence towards another.

17 THE COURT: Thank you, sir.

18 Any additional information? I know I've heard the  
19 testimony from the stand your ground hearing. Any additional  
20 information on behalf of the victims?

21 MR. SMITH: This is Ms. Holloway.

22 THE COURT: Just to remind you, I need you to speak  
23 up loud enough so that the court reporter and I can both hear  
24 you. I know we have your name while you were testifying. Can  
25 you give us your name one more time.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 MS. HOLLOWAY: Rachel Holloway.

2 THE COURT: More than happy to hear from you.

3 MS. HOLLOWAY: I just wanted to say, in the past  
4 two years, this has been difficult for me and my kids. And  
5 their father. He was robbed of him walking again. And he may  
6 never walk again due to the injury of it hitting his spine and  
7 coming out his back. My youngest, she doesn't get to play with  
8 him, run with him like my little brother did with his father,  
9 Mr. Doyle.

10 You know, he can't go to the bathroom on his own.  
11 I have to change a diaper. I have to change clothes, bedding  
12 pads. I have to sit at the hospital all night. I have to go  
13 through surgery with him. He's had three different surgeries  
14 in two years.

15 And you know, it hurts. I want to be able to  
16 forgive him for what he did. I don't think it will be today.  
17 We just wanted some justice in all of this.

18 THE COURT: Thank you, ma'am.

19 MR. SMITH: I would just say it's a terrible  
20 situation, obviously, most important what happened with  
21 Mr. Wilkes. It was Mr. Doyle's son's birthday. Every birthday  
22 he's going to remember his dad shot somebody and ended up going  
23 to prison for it. Shame for him.

24 There were two others actually in the breezeway,  
25 weren't planning to use them as witnesses. They went to the

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1 CAC. They reported having nightmares about what had happened,  
2 seeing Mr. Wilkes laying there with blood coming out of his  
3 mouth. There's a lot of people got affected by this. In the  
4 grand scheme of things, it seems like it was not over a whole  
5 lot. Just a sad situation, Your Honor.

6 THE COURT: Thank you, sir.

7 Yes, ma'am.

8 MS. SIEBER: Thank you, Your Honor. I think it's  
9 important to Mr. Doyle that you know he did not intend to kill  
10 Mr. Wilkes. He is here pleading before you because of the  
11 reduction in the charge, to the assault and battery, high and  
12 aggravated. You've heard of prior incidents that happened  
13 between he and them.

14 Mr. Doyle and I have had discussions about  
15 self-defense defense, which was our intention if we were to  
16 move forward with the trial. Ultimately he has decided not to  
17 do that. We discussed the fact the threat from Mr. Wilkes was  
18 not imminent at that point and immediately after this.

19 He does want, Your Honor, to know he did feel like  
20 eventually this was going to come to blows with the situation  
21 that happened between the two of them and that he would  
22 eventually be injured at some future date.

23 THE COURT: Thank you. Mr. Doyle, do you agree  
24 with the statements just made by your lawyer?

25 MR. DOYLE: Yes, sir.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1                   THE COURT: Mr. Doyle, is there anything else you  
2 would like to say or want me to know or consider?

3                   MR. DOYLE: I would like to say to the victim, I  
4 never attempted to want to hurt Mr. Wilkes. I wanted  
5 Mr. Wilkes just to leave me alone by threatening me and scaring  
6 me.

7                   And with me as being an older man, I have so much  
8 lost and now taking this plea. I would rather to take peace  
9 and knowing that all this will be behind me. And I will never  
10 in my life put a gun in my hand again and live a life being  
11 prosperous in knowing that God made a way for me.

12                  I could have been in his position. And he could've  
13 been in mine. But I apologize to him. As he knew, I never,  
14 never wanted to hurt him. I never did anything to want to hurt  
15 him. I pray that he gets better, and he can do the things that  
16 he used to do.

17                  Just remember that he cannot be a bully to people.  
18 He can't scare people. He can't be able to intimidate people  
19 because, you know, you don't know what people feel in their  
20 heart what you're doing to them, you know.

21                  It hurts me. I'm leaving behind a 15-year-old son  
22 that just started a new job, his first job. And I understand  
23 the prosecutor for accepting the plea, and I have to be able to  
24 move on. Thank you, sir.

25                  THE COURT: Thank you, Mr. Doyle.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1                   Mr. Doyle, we're showing an address on the  
2                   sentencing sheet, [REDACTED], North Charleston. That's  
3                   your address?

4                   MR. DOYLE: That's my mother's.

5                   THE COURT: I find there is a substantial factual  
6                   basis for the plea. I find the Defendant's decision to enter  
7                   the plea has been made freely, voluntarily, knowingly, and  
8                   intellectually by him; therefore, I will accept the pleas on  
9                   the assault and battery of a high and aggravated nature charge.  
10                  It will be a 15-year sentence at the State Department of  
11                  Correction. I've indicated that he will get credit for 43  
12                  days.

13                  Consecutive to that charge will be five-year  
14                  sentence on the possession of weapon during the commission of a  
15                  violent crime, which is suspended upon the time he served  
16                  followed by five years of supervision. I've indicated it runs  
17                  consecutive to the other charge. He gets credit for 43 days.

18                  I've also indicated -- I've heard some testimony on  
19                  drug use. Congratulations on the progress you've made. Once  
20                  you are released, they're going to take a look, see if you need  
21                  any additional help to develop a treatment plan. You need to  
22                  be sure you stay clean of illegal substances.

23                  I've also indicated there's not to be any contact  
24                  with the victim. And there's not to be -- there's already in  
25                  play, not to be any possession of any type of firearm as well.

RACHEL HOLLOWAY CROSS BY MS. SIEBER

1                   Mr. Doyle, I wish you the best of luck. If you  
2                   have any questions about anything that we've done, speak with  
3                   your lawyers. I'm sure they will be able to answer those  
4                   questions for you. Good luck to you, sir.

5                   MR. DOYLE: Thank you.

6                   (Thereupon, the hearing was concluded at 2:43 p.m.)

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RACHEL HOLLOWAY CROSS BY MS. SIEBER

1 CERTIFICATE OF REPORTER

2

3 I, Lora McDaniel, Registered Professional Reporter  
4 and Notary Public for the State of South Carolina at Large, do  
5 hereby certify that the foregoing transcript is a true,  
6 accurate, and complete record.

7 I further certify that I am neither related to, nor  
8 counsel for, any party to the cause pending or interested in  
9 the events thereof.

10 Witness my hand, I have hereunto affixed my official  
11 seal this 23rd day of March, 2023 at Spartanburg, Spartanburg  
12 County, South Carolina.

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\_\_\_\_\_  
Lora L. McDaniel,  
Registered Professional Reporter  
My Commission expires:  
August 9, 2026

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## FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF *Spartanburg*

Full name and prison number (if any) of Applicant.

*BENJAMIN A. DOYLE*

State of South Carolina

IN THE COURT OF COMMON PLEAS

**2023-CP-42-00564**

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention *EVANS Correctional Institution P.O. Box 2951202*
2. Name and location of Court which imposed sentence *Bennettsville, S.C. 29512*
3. Name(s) of co-defendant(s) (if any) *Court of General Sessions Spartanburg, S.C.*
4. The indictment number or numbers (if known) upon which and the offenses for which *29304* sentence was imposed:
  - (a) *The court did not provide me any material*
  - (b) *to present to this court nor myself.*
  - (c) *No sentencing sheet; No Appeal sheet; No Motion*
5. The date upon which sentence was imposed and the terms of the sentence: *FOR RECONSIDERATION OF SENTENCE.*
  - (a) *July 12, 2022, ABHAN, 15 YEARS*
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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SPARTANBURG COUNTY  
SOUTH CAROLINA

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) COUNSEL NEVER ADVISED ME THAT I COULD APPEAL
- (b) COUNSEL NEVER INFORMED ME OF MY RIGHTS TO APPELLATE REVIEW
- (c) NOR DID THE COURT AFTER SENTENCING.

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

UNDER THE SENTENCE I'm held  
unlawfully do to the facts ABHAM  
SENTENCE TO 15 YEARS EXCESSES  
10 YEARS. <sup>2</sup> doesn't  
the minimum of

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) THE STATUTE PROVIDES THE MAXIMUM TO BE
- (b) SENTENCE OF 10 YEARS.
- (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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SPARTANBURG COUNTY  
SOUTH CAROLINA  
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iv. \_\_\_\_\_

(d) the date of each such disposition:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

4. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

5. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

6. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) FIRST TIME CHALLENGING SENTENCES

(b) \_\_\_\_\_

(c) \_\_\_\_\_

Were you represented by an attorney at any time during the course of:

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SOUTH CAROLINA

- (a) your arraignment and plea? NO
- (b) your trial, if any? NO
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO APPEAL TAKEN
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

i. (Katie Seiber) Spartanburg Public

ii. Defenders Office of South Carolina

iii.

- (b) the proceedings at which each such attorney represented you:

i. TRIAL AND SENTENCING

ii.

iii.

9. State clearly the relief you seek in filing this application:

THE ABHIAN SENTENCE EXCESS 10 YEARS WHICH IS THE  
MAXIMUM OF ABHIAN SENTENCE.

10. Are you now under sentence from any other court that you have not challenged?

NO

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2023 FEB 13 PM 4:50  
CLERK OF COURT  
SPARTANBURG COUNTY  
ALYNN COX

STATE OF SOUTH CAROLINA )

VERIFICATION

County of )

Spartanburg )  
BENJAMIN A. DOYLE

I, BENJAMIN A. DOYLE, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Benjamin A. Doyle

SWORN to and subscribed before me this 8th  
day of February, 2023

Sandra Oullaw (L.S.)  
Notary Public

My Commission Expires:

2/17/24

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2023 FEB 13 PM 4:50  
CLERK OF COURT  
SPARTANBURG COUNTY  
SOUTH CAROLINA

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

*BENJAMIN A. DOYLE*

I, BENJAMIN A. DOYLE, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

*Benjamin A. Doyle*  
Applicant

SWORN or affirmed to and subscribed before me this  
24<sup>th</sup> day of February, 2023

*Sarah Ouellet*

Notary Public

My Commission Expires: 2/17/24

SEE ATTACH SHEET THE APPOINTMENT OF COUNSEL.

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2023 FEB 13 PM 4:50  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY M. COX

Do to the fact of this material evidence  
Discover within the time frame and applicant  
being indigent that He, Benjamin A. Doyle be  
Appointed counsel doing His, Benjamin A. Doyle  
first PCR application

FILED

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CLERK OF COURT  
CHARTERS COUNTY  
ARMY MO CO

Respectfully Submitted  
Benjamin A. Doyle 142730

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| STATE OF SOUTH CAROLINA     | ) | IN THE COURT OF COMMON PLEAS     |
| COUNTY OF SPARTANBURG       | ) | FOR THE SEVENTH JUDICIAL CIRCUIT |
|                             | ) |                                  |
| Benjamin A. Doyle, #142730, | ) | Case No.: 2023-CP-42-00564       |
|                             | ) |                                  |
| Applicant,                  | ) |                                  |
|                             | ) |                                  |
| v.                          | ) | <b>RETURN</b>                    |
|                             | ) | <b>AND PARTIAL MOTION TO</b>     |
| State of South Carolina,    | ) | <b>DISMISS</b>                   |
|                             | ) |                                  |
| Respondent.                 | ) |                                  |
| _____                       | ) |                                  |

In response to the application for post-conviction relief filed by Benjamin A. Doyle (Applicant) on February 13, 2023, Respondent, the State of South Carolina, making its return would respectfully show this Court:

#### **PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. During the September 2020 term, the Spartanburg County Grand Jury indicted Applicant for attempted murder (2020-GS-42-5570) and possession of a weapon during commission of a violent crime (2020-GS-42-5570A). On July 11, 2022, Applicant pled guilty before the Honorable J. Mark Hayes, II. Katherine Sieber, Esquire represented Applicant and Spenser Smith, Esquire, represented the State. Judge Hayes sentenced Applicant to a fifteen-year sentence for the assault and battery of a high and aggravated nature. Applicant was given a consecutive five-year sentence for the possession of a weapon during the commission of a violent crime, which is suspended upon the time served followed by five years of supervision. The time served credit at the time of the plea hearing was forty-three days. Applicant did not appeal his convictions or sentences.

71:01

### **FACTUAL HISTORY**

These cases arose on or around February 16, 2020 around 3:30 PM in Spartanburg County. Tr. 169. Applicant was seen with a gun appearing to be looking for someone earlier in the day before Victim was found shot outside of an apartment. *Id.* Applicant was apprehended about two hours after the incident and confessed to shooting Victim. *Id.* Applicant told law enforcement that Victim had “thrown a cup of liquid on him before that and there had been some events that had happened in weeks leading up to this event that left him [feeling] no choice that day other than to shoot him”. The State’s position was that “whatever was going on between them, dissatisfied with the response he was getting from police and decided to handle it himself and ambushed Victim as he left the apartment”.

### **CURRENT ACTION BEFORE THE COURT**

In his current application for post-conviction relief, Applicant alleges he is being held unlawfully for the following reasons (excerpts verbatim):

1. “Counsel never advised me that I could appeal. Counsel never informed me of my rights to Appellate Review nor did the Court after sentencing”.
  - a. “Under the sentence I’m held unlawfully [due] to the facts ABHAN sentence to 15 years excess doesn’t the minimum of 10 years”.

Attached to this Return and incorporated herein are the records of the Spartanburg County Clerks of Court regarding the subject conviction, the guilty plea transcript, Applicant’s records from the South Carolina Department of Corrections, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

### **INEFFECTIVE ASSISTANCE OF COUNSEL**

Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of

71 :01

counsel as a ground for relief, Applicant must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove counsel’s performance was deficient. *Id.*; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 117-18, 386 S.E.2d at 625.

Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. *Strickland*, 466 U.S. at 691. Thus, “[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State.” *McKnight v. State*, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Moreover, a decision by counsel not to investigate should be assessed for

reasonableness under all the circumstances with heavy deference to counsel's judgment. *Simpson v. Moore*, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). "[C]ounsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions...." *Strickland*, 466 U.S. at 691. "[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." *Id.* at 690; *Bagwell v. State*, 410 S.C. 259, 265, 763 S.E.2d 630, 633-34 (Ct. App. 2014).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart* extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. 474 U.S. 52 (1985); cf. *Padilla*, 559 U.S. at 373 (recognizing the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). When reviewing a guilty plea, the analysis of counsel's performance under the first prong of *Strickland* remains unchanged—the applicant must show counsel's representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." *Id.* at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59. This inquiry "focuses on a defendant's decision making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. \_\_\_, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain

would have been rational under the circumstances. *Padilla*, 559 U.S. at 372.

Surmounting *Strickland*'s high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." *Lee*, 582 U.S. \_\_\_, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); *cf. Hill*, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." *Lee*, 582 U.S. \_\_\_, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.* In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. *Harres*, 282 S.C. at 134, 318 S.E.2d at 361.

Respondent submits Applicant can satisfy neither requirement of the *Strickland* test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

#### *Deprived of Right to Appellate Review*

- Applicant alleges he was denied his right to a direct appeal based on ineffective assistance of Counsel. Where an applicant establishes that he was unconstitutionally deprived of his statutory

right to a direct appeal, the applicant may petition our Supreme Court for review of direct appeal issues pursuant to *White v. State*.<sup>1</sup> See *Davis v. State*, 288 S.C. 290, 342 S.E.2d 60 (1986) (establishing procedural guidelines for *White* review when the PCR judge determines the applicant did not freely and voluntarily waive his appellate rights). The Court will review the lower court record and pass upon all issues properly raised and argued as if the direct appeal has been perfected. *White*, 263 S.C. at 119, 108 S.E.2d at 39–40.

Respondent submits Applicant cannot meet his burden showing he is entitled to a belated appeal pursuant to *White*. However, because this allegation may raise questions of fact not conclusively refuted by the record, Respondent requests an evidentiary hearing to fully resolve this issue as to whether Applicant made a knowing, voluntary, and intelligent waiver. *Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### *Wrongful Sentence*

Applicant alleges he is being held unlawfully because he was sentenced to fifteen years imprisonment for the charge of assault and battery of a high and aggravated nature, the lesser included offense of his original indictment for attempted murder, despite a minimum sentence of ten years. The crime of assault and battery of a high and aggravated nature does not carry a minimum sentence under the South Carolina Code of Laws as it is defined in Section 16-3-29. A

---

<sup>1</sup> In *White*, the PCR judge found the applicant did not knowingly and intelligently waive his right to direct appeal due to ineffective assistance of counsel. *Id.* at 117, 208 S.E.2d at 39. As a result, the PCR court directed PCR counsel to attempt to secure a belated appeal to the Supreme Court from his original conviction and sentence. *Id.* On appeal, our Supreme Court explained that it did not have jurisdiction to entertain a belated direct appeal absent the timely filing of notice of appeal. *Id.* at 119, 208 S.E.2d at 39. However, because the *post-conviction relief appeal* was properly before it, the Court reviewed the trial record and all issues properly raised as if the direct appeal had been perfected. *Id.* at 119, 208 S.E.2d at 39–40. The Court ultimately held that “that there was no reversible error in the trial and that there was not an arguably meritorious ground of appeal, even if notice of intention to appeal had been timely served.” *Id.* at 119, 208 S.E.2d at 40.

person who commits this offense “unlawfully injures another person, and great bodily injury to another person or the act is accomplished by means likely to produce death or great bodily injury”, must be imprisoned for not more than twenty years pursuant to Section 16-3-600 (B) of the South Carolina Code of Laws. Therefore, Respondent submits this allegation should be summarily dismissed as a matter of law as fifteen years is not more than the maximum sentence of twenty years.

#### **ANY FUTURE AMENDMENT AND INVOCATION OF DISCOVERY PROCESS**

Applicant must specify any claims he intends to raise at the evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

**RESPONSE TO ANY AND ALL OTHER ALLEGATIONS**

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

**VII. CONCLUSION**

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

WHITNEY O'KELLY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29212

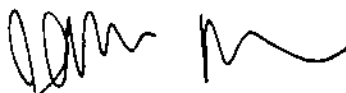
\_\_\_\_\_, 2023

|                             |   |                                |
|-----------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA     | ) | IN THE COURT OF COMMON PLEAS   |
| COUNTY OF SPARTANBURG       | ) | FOR THE SEVENTH JUDICIAL       |
|                             | ) | CIRCUIT                        |
| Lennell Dyches, II, #359623 | ) |                                |
|                             | ) | Case No.: 2022-CP-42-00564     |
| Applicant,                  | ) |                                |
|                             | ) |                                |
| v.                          | ) | Certificate of Service by Mail |
|                             | ) |                                |
| State of South Carolina     | ) |                                |
|                             | ) |                                |
| Respondent,                 | ) |                                |
| _____                       | ) |                                |

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Partial Motion to Dismiss in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Rodney Wade Richey, Esquire**  
**Richey & Richey, PA**  
**33 Market Point Dr, Greenville, SC 29607**  
**Post Office Box 10916**  
**Greenville, SC 29603-0916**

DATED this 21<sup>st</sup> day of April 2023.



\_\_\_\_\_  
Jordan Hickman Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMONS PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Benjamin A. Doyle, )  
S.C.D.C. No: 142730 )  
Applicant, )

Case No: 2023-CP-42-00564

**AMENDED  
POST-CONVICTION RELIEF APPLICATION**

vs. )  
State of South Carolina, )  
Respondent. )

The Applicant, Benjamin A. Doyle, through his undersigned attorney, Rodney Richey, Esquire amends his Post-Conviction Relief applications as follows:

1. Trial Counsel was ineffective for coercing the Applicant to plead guilty;
2. Trial Counsel was ineffective for not objecting to the solicitor stating that he had a violence background;
3. Trial Counsel was ineffective for not preparing and presenting a defense;
4. Trial Counsel was ineffective for not assisting Applicant in getting the recommended sentence;
5. Trial Counsel was ineffective for not proceeding with a trial by jury;
6. Trial Counsel was ineffective for not investigating the charges against the Applicant;
7. Trial Counsel was ineffective for not trying to get Applicant a favorable result from his case.

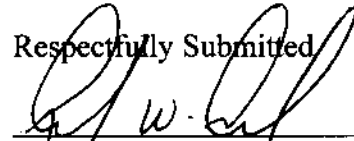
Wherefore Applicant requests a hearing on all the above issues and issues already plead in is

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application.

Respectfully Submitted



Rodney Richey, Esquire  
RICHEY AND RICHEY, P.A.  
Post Office Box 10916  
Greenville, SC 29603  
864-467-0503  
864-467-0646 (fax)

Dated: October 23, 2023

CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

2023 OCT 23 PM 2:19

FILED

1 STATE OF SOUTH CAROLINA  
2 COUNTY OF SPARTANBURG

IN THE COMMON PLEAS  
7th JUDICIAL CIRCUIT

3 BENJAMIN A. DOYLE,  
4  
5 Applicant,

6 vs.

CASE NO. 2023-CP-42-00564

7 STATE OF SOUTH CAROLINA,  
8  
9 Respondent.

10 HEARING BEFORE: HONORABLE G.D. MORGAN

11 DATE: November 1, 2023

12 TIME: 2:10 PM

13 LOCATION: Spartanburg County Judicial Center  
14 180 Magnolia Street  
15 Spartanburg, SC 29306

16 REPORTED BY: LORA L. McDANIEL,  
17 Registered Professional Reporter

18  
19 APPEARANCES:

20 ATTORNEYS FOR THE APPLICANT  
21 RODNEY W. RICHEY, ESQ.

22 ATTORNEYS FOR THE RESPONDENT  
23 SUZANNE J. SHAW, ESQ.  
24  
25

BENJAMIN DOYLE vs. STATE OF SOUTH CAROLINA

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# I N D E X

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WITNESS/EXAMINATION

BENJAMIN J. DOYLE

|               |   |    |    |    |
|---------------|---|----|----|----|
| BY MR. RICHEY | 7 | -- | 29 | -- |
|---------------|---|----|----|----|

|             |    |    |    |    |
|-------------|----|----|----|----|
| BY MS. SHAW | -- | 15 | -- | -- |
|-------------|----|----|----|----|

KATHERINE SIEBER

|               |    |    |    |    |
|---------------|----|----|----|----|
| BY MR. RICHEY | 30 | -- | 43 | -- |
|---------------|----|----|----|----|

|             |    |    |    |    |
|-------------|----|----|----|----|
| BY MS. SHAW | -- | 37 | -- | -- |
|-------------|----|----|----|----|

CERTIFICATE OF REPORTER Page 49

# E X H I B I T S

(No Exhibits Proffered)

BENJAMIN DOYLE vs. STATE OF SOUTH CAROLINA

1 THE COURT: Ready to proceed.

2 This is the matter of Benjamin A. Doyle vs. State  
3 of South Carolina, 2023-CP-42-00564. Are you Benjamin Doyle?

4 MR. DOYLE: Yes, sir, I am.

5 THE COURT: I'll hear from the State.

6 MS. SHAW: Thank you, Your Honor. Suzanne Shaw on  
7 behalf of the State of South Carolina. In this, Mr. Doyle  
8 filed an application for the post-conviction relief on February  
9 13, 2023. He was convicted on July 11, 2022 of assault and  
10 battery of a high and aggravated nature under 2022-GS-42-05570,  
11 as well as possession of a weapon during the course of a  
12 violent crime, under 2022-GS-42-05570A.

13 He was sentenced to 15 years on the ABHAN  
14 conviction as well as five years consecutive, suspended to time  
15 served on probation on the weapons possession.

16 Defense counsel was Ms. Katy Sieber, who is present  
17 in the court with me here today and will be the State's  
18 witness. Solicitor was also Mr. Spenser Smith, who is also  
19 present.

20 There was no direct appeal that followed from this  
21 guilty plea. In the application for PCR, the primary relief  
22 requested is, first and foremost, a White claim. He is  
23 alleging that he was not informed of his right to file an  
24 appeal and that is something that is not contained within the  
25 transcript. It would require an evidentiary hearing between --

BENJAMIN DOYLE vs. STATE OF SOUTH CAROLINA

1 with various witnesses to resolve that claim.

2 The other claim he has made is that he was  
3 sentenced illegally. Unfortunately, he was alleging that the  
4 ABHAN was a maximum of ten years. That is not the actual  
5 sentencing range. We would request that be dismissed as  
6 factually inaccurate.

7 Mr. Richey, once he assumed representation of Mr.  
8 Doyle on October 25, 2023, he filed an amended application for  
9 PCR, which alleges the following, all of which would require an  
10 evidentiary hearing. Number one, involuntary guilty plea.  
11 He's alleging Ms. Sieber coerced him into pleading guilty.

12 Number two, failure to object to the Solicitor's  
13 statement that he had a, quote, violent background during the  
14 colloquy with the court in the plea.

15 Three, failure to present a defense. I would  
16 assert that the factual record in the transcript strongly  
17 refutes this. There was a stand your ground hearing wherein, I  
18 believe, it was Judge Hayes found that Mr. Doyle did not  
19 qualify for the immunity afforded under the stand your ground  
20 statute. And we will have the witness testify to that.

21 Number four, not assisting with getting a  
22 recommended sentence.

23 Number five, not proceeding with a jury trial.

24 Number six, failure to investigate the case.

25 Number seven, not trying to obtain a favorable

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1 result.

2 He has alleged no new facts and has not provided  
3 any other supporting facts. This will come down to testimony  
4 of both Mr. Doyle and Ms. Sieber.

5 With that, would Your Honor like me to give you the  
6 basic facts of the case, or would you like me to turn it over  
7 to Mr. Richey?

8 THE COURT: I'll hear just the general background  
9 facts.

10 MS. SHAW: Thank you, Your Honor. On February 16,  
11 2020, Mr. Doyle shot the victim in the neck, rendering him a  
12 paraplegic. During the course of the investigation, there were  
13 multiple prior altercations between the victim and Mr. Doyle  
14 that were reported. He did assert a defense of self-defense in  
15 that he had been assaulted multiple times by the victim and was  
16 in fear for his life. That was his defense to the court.

17 There was a stand your ground hearing conducted  
18 where a witness's testimony was taken from both Mr. Doyle as  
19 well as various investigators. And The Court did find that it  
20 was not reasonable for Mr. Doyle to have responded in the way  
21 he did.

22 Apparently, on the date in question, there was an  
23 incident between the victim and Mr. Doyle. There were some  
24 allegations Mr. Doyle may have been seeking him out. Either  
25 way there was a verbal altercation which, apparently, resulted

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1 in the victim throwing some sort of liquid and possibly  
2 spitting on Mr. Doyle.

3 In response to that, Mr. Doyle basically pulled out  
4 his firearm and attempted to shoot the victim in the face or  
5 the head; instead, he hit him in the neck. The bullet passed  
6 out through the spinal cord, rendering him a paraplegic.

7 Those are the basic facts, Your Honor. I will turn  
8 it over to Mr. Richey as it is the Applicant's burden.

9 MR. RICHEY: Call Mr. Doyle.

10 THE COURT: Sir, put your left hand on the Bible,  
11 raise your right hand.

12 BENJAMIN A. DOYLE  
13 being first duly sworn, testified as follows:

14 THE COURT: Before we get started with questions  
15 from Mr. Richey, Mr. Doyle, just make sure that you want to go  
16 forward with this hearing. You were indicted for attempted  
17 murder and possession of a weapon during the commission of a  
18 violent crime; is that correct?

19 MR. DOYLE: Yes, sir, Your Honor.

20 THE COURT: Then you plead to assault and battery,  
21 high and aggravated nature; is that correct?

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

23 THE COURT: You understand I cannot reduce your  
24 sentence here. That is not under my authority. I can vacate  
25 your plea and send it back down and it starts all over again.



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1 Q. And what else?

2 A. Possession of a firearm.

3 Q. You're not in jail on that charge, correct, firearm  
4 charge?

5 A. No, sir.

6 Q. And this incident came about because a gentleman  
7 was threatening you a lot; correct?

8 A. Yes, sir.

9 Q. And that you felt really threatened by him because  
10 he had done things to you over time; correct?

11 A. Yes, sir.

12 Q. And on the date of this incident, you were fearful  
13 for your safety?

14 A. Yes, sir.

15 Q. Can you tell me why.

16 A. Because throughout the time that I approached the  
17 gentleman, I asked him if Vernon was home. And when I asked  
18 him if Vernon was home --

19 MS. SHAW: Your Honor. I apologize, Mr. Doyle.  
20 Could we approach, please?

21 THE COURT: Yes.

22 (Off-the-record discussion.)

23 BY MR. RICHEY:

24 Q. Go ahead and finish what you were saying.

25 A. When I asked him if Vernon was home, then he said

1 to me: What the F is it to me?

2 So I asked him why he's always being that way  
3 towards me. That's prior to him threatening me and coming to  
4 my apartment and everything. After that, he was coming towards  
5 me, and I feared that he was going to do something to me.

6 Q. That's the basis of you firing a gun; correct?

7 A. Yes, sir.

8 Q. Did you discuss that with your lawyer?

9 A. Yeah, I did discuss that with her.

10 Q. And y'all went through the facts of the case and  
11 all that as the way you outlined them and in discovery; is that  
12 correct?

13 A. Yes, sir.

14 Q. You ultimately pled guilty; correct?

15 A. Yes, sir.

16 Q. Do you believe that your counsel coerced you in any  
17 way to get you to plea guilty?

18 A. Yes, sir, because I didn't want to plea guilty. I  
19 was outside. And we were waiting for the jury to come back  
20 into the box after the pretrial. And I was outside and was --  
21 Sieber came outside to me and she said: Solicitor is offering  
22 you 15 years for your charge.

23 I told her I didn't want to plead guilty.

24 So she said: Well, Mr. Doyle, I advise you to plea  
25 guilty because you're facing 30 years. I don't want to see you

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1 be an old man coming out -- going to prison and coming out  
2 after doing 30 years.

3 So she left and she came back to me and she said:  
4 Well, the offer still stands.

5 I said: Well, I don't want to plead guilty.

6 When I came into the courtroom, then she took me  
7 into the little side room over here, and she said: I advise  
8 you to take the plea.

9 I said: Well, could you ask could I get ten years.

10 And she went again and came back and said: He's  
11 not offering. There's no offer for ten years.

12 Well, when I signed the paper, I didn't want to  
13 sign the paper. I didn't want to plea. That's why I picked  
14 the jury trial.

15 Q. Tell me what act she did to coerce you; the act  
16 that she did.

17 A. Well, well, well, what it is, is that, you know,  
18 when I told her that I didn't want to sign the paper, then she  
19 said: Come on, Mr. Doyle. The judge is coming back into the  
20 courtroom. We need to do this. We need to come on 'cause I  
21 don't want you to get 30 years.

22 I looked at it. She was not prepared for a trial,  
23 you know, because my witness wasn't there, who was subpoenaed.  
24 My 911 call that I made to Spartanburg County Sheriff's  
25 Department wasn't there. And she wasn't prepared for my trial.

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1           Q.    After you plead guilty or during the guilty plea,  
2           did the Solicitor make comments about you that you felt that  
3           your lawyer should object to or not?

4           A.    Yes.  The Solicitor stated that I had a violent  
5           assault and battery on my record.  My record, I never committed  
6           assault and battery, non-violent crime before in my life.

7                    I don't know why that was said.  I never was  
8           instructed on how much time assault and battery, high and  
9           aggravated nature carries, first of all.  And when she came  
10          with the 15 years to me, it wasn't nothing on the paper but 15  
11          years.

12          Q.    Is that why you put in your application that you  
13          thought it was ten years max?

14          A.    Yes, sir.  The reason why I put it in my paperwork  
15          is because, after I went to evidence and went into the law  
16          library and started studying my case, I saw that it carries  
17          three months to ten years on ABHAN, assault and battery, high  
18          and aggravated nature.

19                   After I looked at the paperwork that you sent me,  
20          it got zero to 20 years on it.  I never wanted to plea guilty  
21          to the charge.

22          Q.    Let me ask you this question.  You don't believe  
23          that counsel prepared and presented a proper defense.  My  
24          question is:  You were there to stand your ground hearing;  
25          correct?

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1           A.    Yes, sir.

2           Q.    And you heard the evidence that was put up in that  
3   hearing; correct?

4           A.    Yes, sir.

5           Q.    And you do not believe that your counsel was  
6   thoroughly prepared for this hearing or the case?

7           A.    That's correct.

8           Q.    Tell me why you believe that.

9           A.    Well, the reason why I believe that is because, you  
10   know, they took a jacket from me that they wanted to take for  
11   evidence to say that the guy threw the liquid on me, so forth,  
12   so on. Not only the jacket, Ms. Sieber send her investigators  
13   out to the young lady's house who was subpoenaed. The  
14   investigator came back and stated: I hear them in the house,  
15   but no one is not answering the door.

16                   I asked Ms. Katy Sieber could we get a continuance.  
17   I asked Ms. Katy Sieber, could we get a continuance.

18                   She said: Well, we can't get a continuance. The  
19   judge is going to put you back in jail. I was out on bond. I  
20   was out there two-and-a-half years on bond.

21                   Not only that, I asked her -- she said that she can  
22   not get the 911 calls that I made from the Sheriff's  
23   Department, yet she have my number and my phone is there and I  
24   made those calls.

25           Q.    You believe that she was ineffective for not

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1 pursuing a jury trial anyway regardless?

2 A. Yes, sir.

3 Q. Even if she didn't have the stuff, she should've  
4 went forward to trial?

5 A. Yes, sir.

6 Q. Did you discuss with her: Hey, I want to go  
7 forward to trial, I don't want to plea to this stuff?

8 A. Yes, sir.

9 Q. Is it your testimony her response, she didn't want  
10 to see you get a whole bunch of time?

11 A. Yes, sir.

12 Q. You conceded and pled; correct?

13 A. Yes, sir.

14 Q. Do you believe that the plea offer that you got of  
15 15-year offer, do you believe your counsel could've got you a  
16 more favorable offer?

17 A. Yes.

18 Q. How?

19 A. Because with me pleading guilty, I got 15 years  
20 with five years running consecutive with five years probation,  
21 which is a 25-year sentence. I assumed that it was 15 years  
22 that I was pleading to. And now I look at my sentencing sheet,  
23 it says zero to 20. That is on the sentencing sheet that  
24 wasn't on there. It's a negotiated and EG. That wasn't on  
25 that paperwork when I signed it. And it was only 15 years on

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1 the paperwork. All this other stuff that is on the paperwork  
2 was not announced in my transcript from the judge, anything.

3 So if I knew that the charge was carrying zero to  
4 20 years, I wanted to go to the jury. I would definitely say I  
5 want a jury trial because it's just five-year difference.

6 Q. Did your lawyer talk to you and explain to you that  
7 the judge writes in the sentence on the thing that, once you  
8 signed it, the judge wrote in the sentence? Did she explain  
9 that to you?

10 A. No, sir.

11 Q. It's your position -- this gentleman was shot;  
12 correct?

13 A. Yes, sir.

14 Q. And he came to court. He was in bad shape;  
15 correct?

16 A. Yes, sir.

17 Q. Did your attorney discuss with you how that would  
18 play with a jury, him being in that situation? Did she ever  
19 talk to you about that?

20 A. Well, she didn't say anything to me about it, you  
21 know. The guy was just, you know, he was sitting there. And  
22 he was more like slumped over like, you know, I mean. He  
23 wasn't slumped over when he was, you know, bullying me and  
24 threatening me and my family, of course; my wife and my son.  
25 But she never did.

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1           Q.    It's your contention you're asking This Court to  
2    give you a new trial on all these cases and start over;  
3    correct?

4           A.    Yes, sir.

5           MR. RICHEY:  Thank you.  Answer the questions the  
6    Attorney General has for you.

7           THE COURT:  Cross-examination.

8           MS. SHAW:  Thank you, Your Honor.

9                           CROSS-EXAMINATION

10          BY MS. SHAW:

11           Q.    It is your testimony that your lawyer -- I just  
12    want to make sure we're all clear -- that your lawyer told you  
13    that you were going to be offered 15 years after she had picked  
14    a jury and after you had completed the stand your ground  
15    hearing where Judge Hayes found you did not have a self-defense  
16    claim?

17           A.    No.

18           Q.    It's your statement that she didn't tell you, you  
19    were getting 15 years?

20           A.    No, no.  She came to me outside, offering me 15  
21    years.  And I told her that I didn't want 15 years.

22           Q.    But previously the only offer you had gotten on the  
23    table was 20 years; isn't that correct?

24           A.    No, ma'am.

25           Q.    That's not correct?

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1           A.    No, no.  It wasn't -- I never negotiate that offer.  
2    Wanted to offer --

3           Q.    Is it your testimony today that the Solicitor never  
4    made you an offer of 20 years on an assault and battery  
5    conviction?

6           A.    When I was not in the courtroom.  When I was out in  
7    society, he was offering me 20 years.

8           Q.    That was the plea bargain that you were offered  
9    prior to the trial?

10          A.    It wasn't a bargain.  I didn't want to plea --

11          Q.    That was what you had been offered.  Yes or no,  
12    sir?

13          A.    No, it wasn't what I offered.  I didn't accept an  
14    offer.

15          Q.    You feel that Ms. Sieber ineffectively represented  
16    you because she recommended that you take a guilty plea after  
17    the stand your ground hearing was lost?

18          A.    No.

19          Q.    No?

20          A.    No.

21          Q.    Okay.  Did you feel that she had some sort of  
22    authority over you or that she had power over you to induce you  
23    to enter this plea?  Were you somehow overpowered from saying:  
24    No, I want a trial?

25          A.    Well, I can be able to say this to you.  She never

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1       overpowered me on anything. I was coerced. I was under duress  
2       that now she is telling me that I was facing 30 years.

3               And with her telling me that I'm facing 30 years,  
4       she is my defense attorney. If my defense is not going to give  
5       me the proper representation and yet now after me knowing the  
6       law, and I'm ignorant of the law at that time, yeah, I have to  
7       follow what she is saying to me.

8               She didn't threaten me. Yet all and all, I was  
9       afraid because now my life led to her hand whereas: Take this  
10      plea, take this 15-year plea, because you're facing 30 years.

11             Q.    In your opinion, did she go back when you asked her  
12      to see if she could get ten years from the Solicitor, do you  
13      think she actually went and did that for you?

14             A.    No, I don't.

15             Q.    You don't think she did?

16             A.    No.

17             Q.    Okay. Why would you think that?

18             A.    Because she came with 15 years right back. She  
19      came right back.

20             Q.    But you said she stepped out to go talk to the  
21      Solicitor?

22             A.    I was outside.

23             Q.    She stepped out of the room. She was with you;  
24      right?

25             A.    She went back inside and then --

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1           Q.    She left your physical company to go back inside  
2           the courtroom or to another room to talk with the Solicitor; is  
3           that true?

4           A.    I don't know where she went.  I don't know where  
5           she went.  I was in another room over there.  I wasn't in the  
6           courtroom in front of the judge or anything.

7           Q.    Either way she stepped away after you told her:  Go  
8           ask for ten years?

9           A.    I guess.  Yes, she stepped away.

10          Q.    You didn't like that the Solicitor noted that you  
11          had a violent assault and battery in your background.  You  
12          didn't like that?

13          A.    No.  It's not what I didn't like.  I wanted to be  
14          able -- I'm not saying I didn't do the crime, ma'am.

15          Q.    So you do, in fact, have a violent assault and  
16          battery in your past?

17          A.    No, I don't.

18          Q.    You don't?

19          A.    No, I don't.

20          Q.    I'm going to ask you about your other criminal  
21          past.  I'm going to refer to page 172 of the actual plea  
22          transcript.  Is it your testimony that, in 2002, you did or did  
23          not have a DUI, DUS, and open container along with possession  
24          of marijuana conviction?

25          A.    That's a plea.

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1 Q. Were you convicted of that in 2002?

2 A. Yeah. That's on my record.

3 Q. In 2003, were you convicted of public disorderly  
4 conduct?

5 A. Yes.

6 Q. In 2010 were you convicted again of possession of  
7 marijuana?

8 A. Yes.

9 Q. In 2014 were you convicted of shoplifting, which is  
10 a crime of dishonesty?

11 A. Yes.

12 Q. In 2015 were you convicted of --

13 MS. SHAW: Your Honor, I'll skip that one.

14 BY MS. SHAW:

15 Q. In 2016, for this charge, you were also convicted  
16 of malicious injury as well as shoplifting; correct?

17 A. Yes.

18 Q. You do, in fact, have a substantial criminal  
19 record; right?

20 A. You say substantial criminal record. I was not  
21 violent. I haven't committed a violent crime. That's what I'm  
22 saying, violent crime. Throughout my time of my criminal  
23 record, it's all with stupidity.

24 Violence, I've never committed a violent attack to  
25 no one.

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1           Q.    Other than attempting to murder the victim in this  
2    case?

3           A.    I never attempted to murder anyone --

4           Q.    Is that your testimony --

5           A.    Ma'am, I never --

6           Q.    Sir, I'm asking you --

7           THE COURT:  Y'all, the court reporter can't get  
8    both of you.  Each one of you needs to make sure.  You need to  
9    let him answer the question.

10          THE WITNESS:  No, I never --

11          THE COURT:  Hold on.  Before you answer, make sure  
12   she finishes her question.

13          Don't cut him off in the middle of his answer.

14          MS. SHAW:  Your Honor, I'm going to offer to The  
15   Court that these answers are largely non-responsive, which is  
16   the reason that I cut.

17          THE COURT:  You have cut him off.  You haven't let  
18   him finish.  Ask your question.  Make sure that he finishes.

19          MS. SHAW:  Okay.

20   BY MS. SHAW:

21          Q.    I'm asking you:  Is it your testimony here today  
22   that the only violent crime you've ever been convicted of in a  
23   more than 20-year criminal history is the current one that  
24   we're here on this PCR about?  Is that your testimony here  
25   today?  Please remember you're under oath.

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1           A.    I never wanted to attempted murder anyone.  I never  
2   showed malice, not a threat, not intent to do anything to this  
3   young man.

4           MS. SHAW:  Objection, non-responsive.  I'm asking  
5   him if it is his testimony he has no prior violent criminal  
6   history, and he's not answering the question.

7           THE COURT:  Answer the question of any prior  
8   violent history.

9           THE WITNESS:  I never had a violent history, and I  
10   have never committed a violent crime until this actual.

11   BY MS. SHAW:

12           Q.    Do you remember talking to Judge Hayes during your  
13   plea?  Do you remember him asking you certain questions?

14           A.    Yes.

15           Q.    Do you remember him asking you if anyone had  
16   threatened, coerced, or otherwise pressured you into taking the  
17   plea?

18           A.    Yes.

19           Q.    Do you recall answering no?

20           A.    Well, ma'am --

21           Q.    Just answer my question, sir.

22           A.    Okay.  Yes.

23           Q.    Do you recall Judge Hayes asking you if you were  
24   satisfied with the services of your attorney?

25           A.    Yes.

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1 Q. And you said yes?

2 A. Yes.

3 Q. Do you recall Judge Hayes asking you if you  
4 understood the consequences of the plea that you were entering  
5 into, including the sentencing ranges?

6 A. Yes. I did.

7 Q. You indicated you, in fact, did understand that?

8 A. Yes.

9 Q. And Judge Hayes, in fact, put on the record that  
10 you were facing up to potentially 30 years. Don't you recall  
11 that?

12 A. No, he never told me that I was facing up to 30  
13 years.

14 Q. Do you recall him indicating that he found that you  
15 had entered into your plea agreement freely, knowingly, and  
16 voluntarily?

17 A. Well, I answered yes, but I mean, I never wanted to  
18 plea.

19 Q. Do you recall --

20 A. Yes.

21 Q. -- Judge Hayes making those findings on the record?

22 A. Yes, ma'am.

23 Q. Do you recall sitting down and talking with your  
24 lawyer prior to the stand your ground hearing and discussing  
25 your defense with her?

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1           A.    No.

2           Q.    Now, during the pendency of this case, you were  
3 actually living in Dillon County while you were out on bond;  
4 correct?

5           A.    Yes.

6           Q.    And all of your communication with Ms. Seiber was  
7 either by e-mail and telephone or text message; right?

8           A.    Yes.

9           Q.    You didn't have transportation; you couldn't get to  
10 the office?

11          A.    Yeah. Well, I came to the office.

12          Q.    Do you remember, approximately, how many times you  
13 communicated with her?

14          A.    I came to the office once. And I communicated with  
15 her maybe twice.

16          Q.    Do you recall receiving e-mails from her?

17          A.    E-mail from the interrogation?

18          Q.    She sent you documents.

19          A.    That's the interrogation documents.

20          Q.    She sent you documents related to your case.

21          A.    No, she sent me documents of the interrogation of  
22 where I was after the fact of my incident of the crime that was  
23 committed. I was -- I was sentenced under my interrogation. I  
24 was never sentenced on knowing that definitely. I never,  
25 never, ever wanted to hurt this young man --

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1 Q. Sir, that's not why we're here.

2 A. Yeah.

3 Q. I'm asking you about your communications with your  
4 lawyer.

5 A. I talked to Ms. Katy Sieber maybe three times on  
6 the phone, and I came up here once.

7 Q. In those conversations you discussed self-defense;  
8 right? You made it clear to her that you wanted to claim  
9 self-defense 'cause you felt you were afraid for your life;  
10 right?

11 A. Yes.

12 Q. She indicated to you that she did not feel that was  
13 a favorable defense to you based on the facts, but that she  
14 would pursue a stand your ground claim; right? That, in fact,  
15 did happen?

16 A. She never tell me anything that she was going to do  
17 anything on stand your ground. Ma'am, I'm ignorant --

18 Q. Sir, you did testify during that hearing; right?  
19 Yes? No?

20 A. Testify to the hearing -- of the pretrial hearing,  
21 yes.

22 Q. No, sir. Stand your ground hearing. You did, in  
23 fact, testify at that hearing; correct?

24 A. Well, we had just that one hearing. I mean, I came  
25 in Monday --

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1 MS. SHAW: Again, Your Honor, non-responsive.

2 THE WITNESS: I'm trying to get the fact what  
3 you're trying to say.

4 THE COURT: He answered your question. He's  
5 entitled to explain.

6 THE WITNESS: When I came to court on Monday, they  
7 said it was a pretrial hearing. Pretrial, I don't know what it  
8 is but, yet, once it ended, it ended on Tuesday evening. The  
9 jury supposed to come into the box after that. That's all I  
10 know.

11 I mean, stand your ground, I don't know your name.  
12 But I've been out on bond, on the \$15,000 bond. \$500 for  
13 two-and-a-half years, no ankle monitor, no nothing. I've  
14 never -- the bond judge gave me a bond for my motion of  
15 discovery on how he saw that case fit. And he knew that  
16 definitely I never attempt to murder no one.

17 BY MS. SHAW:

18 Q. Sir, that's not what I'm asking you.

19 A. Well, I want to put that for the record.

20 THE COURT: Mr. Doyle, you need to just answer the  
21 questions.

22 THE WITNESS: Okay. Okay.

23 BY MS. SHAW:

24 Q. Sir, I'm asking you, what you're calling a pretrial  
25 hearing, did you testify?

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1           A.    Yes, I was on the stand.

2           Q.    So you testified, and you told Judge Hayes that --  
3   about what you claimed your defense was; right?

4           A.    Yes.

5           Q.    You were there when Judge Hayes said that I find  
6   self-defense is not applicable?

7           A.    Yes.

8           Q.    You heard him say that?

9           A.    Yes.

10          Q.    After that you had another discussion with your  
11   attorney?

12          A.    Yes.

13          Q.    At that point she was concerned you were going to  
14   get 30 years because the one defense you had asserted was no  
15   longer an option; right?

16          A.    I didn't assert anything.

17          Q.    You claimed self-defense. The judge said no. Your  
18   attorney was concerned; right?

19          A.    Never picked a jury trial for self-defense, you're  
20   right.

21          Q.    Sir, I'm asking you a very specific question.

22          A.    Okay.

23          Q.    After your attorney said you can't claim  
24   self-defense, your attorney was concerned and spoke to you  
25   about that; right?

1           A.    Right, that's why she's my attorney.

2           Q.    That's when she said she recommended that you take  
3 a guilty plea for 15 years?

4           A.    No.  She didn't come to me and tell me that's why I  
5 would take the 15 years.

6           Q.    She didn't say that?

7           A.    No, she didn't.  Because I'm assuming now that  
8 we're going into a jury trial, you know what I mean.

9           Q.    You're saying that she didn't force you to decide  
10 to make the plea; right?  She just recommended it?

11          A.    I mean, she steady asking me to plea.  I'm telling  
12 her I don't want to plea.

13          Q.    At that point she had already picked a jury for  
14 your trial; right?

15          A.    We picked the jury that Monday morning.

16          Q.    You had a jury on standby, ready to go?

17          A.    Yes.

18          Q.    Okay.

19          A.    Yes.

20          Q.    You made a statement about a jacket as evidence and  
21 you felt that, for some reason, based on that jacket, that  
22 Ms. Sieber wasn't prepared?

23          A.    Well, not only the jacket, ma'am.  It's the two  
24 witness that was subpoenaed.  My 911 calls wasn't presented.  
25 She didn't present nothing in my defense.  Not only a jacket.

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1 The judge didn't see anything in my defense. All he see was a  
2 interrogation tape that was after the fact of the incident that  
3 happened.

4 He came in and he said: I've seen enough. It's  
5 two-and-a-half hours of interrogation, that is so forth and so  
6 on. Yet I know that definitely, when you get interrogated  
7 after a heinous crime like that, you should have that man to go  
8 into a drunk tank or something. I was drunk, and I was under  
9 the influence of alcohol, and they knew that.

10 Q. In fact, during that interview with the police, you  
11 used the F word approximately eight or ten times. In fact, you  
12 told the investigators that you wished that MFR would die,  
13 didn't you say that?

14 A. Ma'am, just like I say, after my victim --

15 Q. Sir, yes or no?

16 A. Yes, yes.

17 THE COURT: Mr. Doyle, you have to answer the  
18 question. Then you can explain.

19 THE WITNESS: Yes, okay.

20 BY MS. SHAW:

21 Q. You did say that?

22 A. Yes. And the reason why I said that is because  
23 this man had been threatening me. I've called the police on  
24 this man. This man had been going to the extreme, spitting in  
25 my face and throwing coffee on me.

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1                   Now my victim was down. I'm upset because I have  
2                   to go that far to do what I did to this young man that I never  
3                   did willing to do.

4                   Q.    Sir, there was never a question about who shot the  
5                   victim in this instance. You've admitted that from day one;  
6                   right?

7                   A.    Yes.

8                   Q.    It was never a question of whether there was  
9                   gunshot residue on the jacket or the other evidence. That  
10                  wasn't an issue, was it?

11                  A.    No, it wasn't.

12                  MS. SHAW: All right. That's all I have, Your  
13                  Honor. Thank you.

14                  THE COURT: Redirect.

15                  MR. RICHEY: Just one question.

16                                 REDIRECT EXAMINATION

17                  BY MR. RICHEY:

18                  Q.    These questions that Judge Hayes asked you about,  
19                  to satisfy your lawyer on that, why did you answer that way?

20                  A.    The reason why I answered that way is because I  
21                  knew that I didn't have no defense at this point. I know that  
22                  definitely now it's best for me to go ahead and take it this  
23                  way because I know -- I can't get the jury. And she is just  
24                  steady coming after me for a plea.

25                  Now, I guess this is my best plea because this is

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1 someone that I want to be there to be my advocate to help me  
2 but she was not showing any kind of help, so now my hands are  
3 tied. I pled guilty.

4 MR. RICHEY: Thank you.

5 THE COURT: You may step down, Mr. Doyle.

6 (The witness exited the stand).

7 MR. RICHEY: Call Ms. Sieber.

8 THE COURT: Place your left hand on the Bible.  
9 Raise your right hand.

10 KATHERINE SIEBER

11 being first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. RICHEY:

14 Q. Ma'am, where are you employed?

15 A. I work for Elmore, Goldsmith, Kelley and Deholl.

16 Q. Do you recall representing Mr. Doyle?

17 A. I do.

18 Q. Were you at the same employment at that time?

19 A. No, I was working for the Public Defender's Office  
20 in Spartanburg at that time.

21 Q. You've been in the courtroom. You've heard the  
22 testimony from Mr. Doyle; is that correct?

23 A. I have.

24 Q. I'm going to go through a series of questions and  
25 ask you. Mr. Doyle, y'all had a stand your ground hearing;

1 correct?

2 A. That's correct.

3 Q. Let me go back. Did Mr. Doyle ever express to you  
4 that he wanted a jury trial?

5 A. Yes, he did.

6 Q. I'm sorry?

7 A. Yes, he did.

8 Q. He was out on bond for a substantial period of  
9 time; correct? Like, two, two-and-a-half years he was out on  
10 bond?

11 A. That's right. I took over his case when I started  
12 with the PD's office, which would've been in September 2021.  
13 The case been pending at that point about a year-and-a-half.

14 Q. During all that time that he was out of jail, it  
15 was his intention to go to trial; correct?

16 A. Anytime I spoke to him prior to what he was talking  
17 about outside of this courthouse, he had wanted a trial.

18 Q. His level wanting a trial, was it medium, low,  
19 high?

20 A. He was adamant that he thought he had a  
21 self-defense claim here. He wanted to go to trial on that.

22 Q. I'm going to kind of go through this thing. When  
23 did you get presented with this 15-year offer? When was the  
24 first time you recall you got presented with this 15-year  
25 negotiated plea?

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1           A.    That would've been after the stand your ground  
2   hearing.   The initial offer was 20 years on this case.   And the  
3   15-year offer came after we completed the stand your ground  
4   hearing.

5                   And I had, I believe that was when we -- I can't  
6   remember the exact sequencing of it.   I believe Mr. Doyle asked  
7   me to ask for ten years.   I had gone in to the Solicitor and  
8   asked for ten, and Spenser, the Solicitor, had agreed to 15,  
9   which is what I presented to Mr. Doyle.

10           Q.   When you initially got the 15-year offer and you  
11   talked to Mr. Doyle, did he turn that offer down initially?

12           A.   He was wavering on what he wanted to do.   I had  
13   gone out to him after we lost the stand your ground hearing.   I  
14   explained to him I was very concerned that we would not get a  
15   self-defense charge.   I would never get to argue to the jury  
16   that this was done in self-defense.   I thought it was advisable  
17   that he consider a guilty plea at that point.

18           Q.   At any point did he say: No, I don't want to take  
19   15 years?

20           A.   Yes.   He did say that at one point.   And then again  
21   we discussed more about the facts of this case just didn't fit  
22   self-defense.   And that he was facing considerable amount of  
23   time.   I was concerned that he would get more than 15 years if  
24   he chose to go to trial.   I thought it was highly likely that  
25   he would be convicted at trial.

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1           Q.    Can you tell me what his response was.  You stated  
2           that you told him we did not have a defense; is that correct?

3           A.    That's correct.

4           Q.    What was his response when you told him:  We do not  
5           have a defense?

6           A.    I can't remember exactly what he said to me at that  
7           point.  But then, at some point during the conversation, he  
8           asked me to go ask the Solicitor for a ten-year offer, which is  
9           what he was considering pleading guilty.  He said he would be  
10          willing to plea guilty to ten years.  That's how the  
11          negotiations started.

12          Q.    Mr. Doyle, when you discussed this offer, and he  
13          eventually took it, can you tell me kind of -- I know this  
14          might be a tough ask.  What was his initial response when he  
15          said:  I'm going to take it?

16                Was there ever a time he said:  I'm going to take  
17          this offer?

18          A.    Yes.

19          Q.    When you-all went in front of the judge -- let me  
20          ask you this question.

21                Prior to the date that y'all came for the trial  
22          itself, prior to that, did you ever have any discussion with  
23          Mr. Doyle about the case?

24          A.    Yes, multiple.

25          Q.    Did you discuss with him about stand your ground

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1 hearing and all that?

2 A. Yes, I did.

3 Q. Had you filed a formal motion for the stand your  
4 ground?

5 A. I did.

6 Q. Was that motion presented to him at any point?

7 A. That I don't know if I ever gave him a copy of that  
8 motion. I would've discussed with him that we were going to be  
9 doing a stand your ground hearing, that he needed to testify  
10 during that stand your ground hearing.

11 Q. There was a motion filed. And prior to coming to  
12 court, did you discuss with him that motion, what y'all had to  
13 prove, and all that stuff?

14 A. I did. We went through each of the elements we  
15 needed to prove. And we practiced his testimony a number of  
16 times.

17 Q. When you say you practiced his testimony a number  
18 of times, what does that mean?

19 A. I had written out questions for him that I was  
20 going to ask him. We went through those questions together.

21 Q. In terms of the jury trial, do you believe -- you  
22 believed that, had he went to trial, he would've got convicted;  
23 is that correct?

24 A. Yes, I do believe that.

25 Q. You discussed that with him based on the stand your

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1 ground fact. Was there any other factors that you considered  
2 when telling him to plea guilty?

3 A. I considered the entirety of the case. He had  
4 confessed in this case to shooting Mr. Wilkes. He had  
5 repeatedly said during his confession that Mr. Wilkes had  
6 disrespected him by spitting on him. That's why he pulled out  
7 a gun and shot him. We had discussed at length the fact that,  
8 that was not going to be considered reasonable by jurors. I  
9 was very concerned about that.

10 Q. His statement given to the police, you go over that  
11 with him?

12 A. I did. And we would've mailed him a copy of his  
13 discovery. That would be typically how the PD's office does  
14 it. He gets sent a package in the mail.

15 Q. Prior to y'all coming to court and this long period  
16 of time between the court appearance and the plea, was there  
17 any time in that space that the State made an offer? You did  
18 any negotiations with him within that year? Did you ask him?

19 A. I did. The only offer that was made was in July of  
20 2021. There was an offer of 20 years that was made. I  
21 conveyed that offer to Mr. Doyle. Mr. Doyle said: No, I want  
22 a jury trial.

23 So I didn't do any negotiating with the Solicitor  
24 at that point because Mr. Doyle had told me he wanted a trial.  
25 I didn't see any purpose in negotiating for a guilty plea for

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1 him.

2 Q. Did you discuss with him what was the sentencing  
3 range of the charges?

4 A. Yes, I did.

5 Q. And as to this ABHAN, did you discuss with him  
6 ABHAN, how much it carried? When did you get the ABHAN offer?

7 A. The ABHAN offer would've come -- I cannot remember  
8 if the initial offer was ABHAN. If it was, I would've talked  
9 to Mr. Doyle about the sentencing range on ABHAN when we talked  
10 about the initial 20-year offer. Either way, when we discussed  
11 the 15-year negotiated offer, I would've explained to him this  
12 ABHAN charge carries zero to 20. They're offering you a  
13 negotiated 15 years.

14 Q. Even if it wasn't in his best interest, would you  
15 have pursued a trial? Even if it wasn't in his best interest?

16 A. I would have. I explained to him that was his  
17 right. We would've gone forward and tried to get a  
18 self-defense and work with the facts that we had.

19 MR. RICHEY: One moment, Your Honor.

20 (A pause transpired.)

21 MR. RICHEY: Thank you. Answer any questions the  
22 attorney general has.

23 THE COURT: Cross.

24 MS. SHAW: Thank you, Your Honor. I'll be very  
25 brief.

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1 CROSS-EXAMINATION

2 BY MS. SHAW:

3 Q. Ms. Sieber, during your initial investigation, once  
4 you were assigned this from Mr. Doyle's prior attorney, what  
5 did you do? Tell me about your process for how you do a case  
6 intake, meet with the client, start explaining the process to  
7 them.

8 A. So in this situation, because I came in kind of on  
9 the later end of it, this case was already popping up on trial  
10 dockets by the time I got it. I had asked for a few  
11 continuances at that time. I knew we needed the time to get  
12 ready for it.

13 My initial conversation with Mr. Doyle would've  
14 happened over the phone. At that point I would've explained  
15 his rights to him, explain what he was facing in this case, and  
16 then asked him to come in to meet with me.

17 Mr. Doyle came in to meet with me a few months  
18 after that. And, unfortunately, I got pulled into court, a  
19 plea hearing at that time. I had asked him to stay into the  
20 afternoon and meet with me. I think he had a job hearing, so  
21 he wasn't able to stay. He had to go home. We ended up having  
22 that meeting over the phone, which is how that happened.

23 I spoke with him multiple times in the about eight  
24 or nine months between the time I picked up the case and the  
25 time his case went to trial.

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1           He had told me about the prior incidents that he  
2           had with this victim. A large part of what we did was trying  
3           to investigate those prior claims to try to show why he  
4           would've been in fear for his life in this type situation.

5           So we had reached out to Spartanburg County 911,  
6           trying to look for this 911 call. I had given Spartanburg  
7           County his phone number, and they told me that they did not  
8           have a call.

9           So I went to the city police department to review  
10          the evidence in this case. Got Mr. Doyle's phone that was in  
11          evidence. Went through it, looking for communication between  
12          him and the victim, communication between him and 911, anything  
13          that we could use. We were not able to find anything along  
14          those lines.

15          We had gone out to Prince Hall Apartments, which is  
16          where this incident happened and tried to talk to people.  
17          There had been like a prior incident where Mr. Doyle said he  
18          was assaulted by the victim and 911 was called. We had pulled  
19          the police reports on that, the body cam, and went looking for  
20          his neighbor, who was a victim of Mr. Wilkes. We were not able  
21          to find the neighbor. I think he had moved to New Jersey at  
22          that point.

23          We also spent some time talking to a few other  
24          women who lived in the area surrounding the apartment where  
25          this happened. We had found one of them. She was able to

1 articulate some bullying that she remembered happening. We had  
2 got her under subpoena. I believe her name was Tiffany Hardy.  
3 She was subpoenaed for trial.

4 We couldn't find her when trial time came. I had  
5 requested a continuance from Judge Hayes at that time. He  
6 denied that request. We had -- Mr. Doyle was the person that  
7 we had to testify.

8 Q. You literally had no witnesses other than Mr. Doyle  
9 who could testify to his state of mind at the time of the  
10 crime?

11 A. That's correct.

12 Q. You did make the effort to locate people and had,  
13 in fact, people under subpoena?

14 A. That's correct.

15 Q. What happened with the 911 tapes? Were you able to  
16 find any?

17 A. We were not able to find any record of any kind of  
18 911 call that was made.

19 Q. From Mr. Doyle?

20 A. That was made by Mr. Doyle. 911 didn't have any  
21 record of that. We also reached out to the city police to see  
22 if they had record of 911 calls in case it was in a separate  
23 system. They did not.

24 Q. Based on the facts as you were aware of, that  
25 Mr. Doyle had shot this individual and then not attempted to

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1       secure any sort of medical aid for him; basically, left him for  
2       dead?

3               A.     So the 911 call that we were looking for was of a  
4       different incident. It was from an incident where the victim  
5       had gamed Mr. Doyle on his way to Dee Traxx, which is a gas  
6       station that's close to Prince Hall. That was the call we were  
7       looking for that we couldn't find.

8               Q.     Did you explain all of this to Mr. Doyle?

9               A.     I did, yes.

10              Q.     Did you provide him with the documents from his  
11       case from your Rule 5 request?

12              A.     We did.

13              Q.     You provided those to him by e-mail?

14              A.     Those would've been sent in the mail. Like I said,  
15       the PD's office sends a package to them if they request that.

16              Q.     You were also able to communicate with Mr. Doyle by  
17       e-mail and text in addition to the hard copies?

18              A.     We were speaking over the phone almost exclusively.

19              Q.     During the -- you had made -- before the stand your  
20       ground hearing, you had made it clear to Mr. Doyle that you  
21       felt that the defense that he was asserting would probably not  
22       be successful at trial?

23              A.     Yes, I told him that.

24              Q.     You were clear in that, and he understood you?

25              A.     Yes, he didn't agree with me. He knew that's what

1 I thought.

2 Q. You had communicated to him that he was facing  
3 possibly up to 30 years in prison?

4 A. I had communicated to him he was facing 30 on the  
5 attempted murder and then an additional five on the possession  
6 of a weapon.

7 Q. If that was consecutive?

8 A. Yes.

9 Q. He understood that as well?

10 A. He did.

11 Q. Tell us about the conversation after Judge Hayes  
12 ruled in the stand your ground hearing and what you conveyed to  
13 him and what your major concerns were at that point with  
14 proceeding.

15 A. So like I had said, I conveyed to him that I was  
16 very concerned we wouldn't end up getting a self-defense  
17 charge, just because the facts of this case did not fit the  
18 elements of self-defense.

19 And if we didn't get the charge, there was no  
20 defense for Mr. Doyle. It was clear he had confessed that he  
21 was the one who shot Mr. Wilkes. And that was the only defense  
22 that we could go off of. It was extremely weak.

23 Q. At that point, the Solicitor had reiterated the  
24 offer of 20 years; correct?

25 A. I don't know that he reiterated it. We weren't

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1 asking for a plea at that point. Mr. Doyle was still thinking  
2 he wanted a trial. I don't recall speaking to the Solicitor  
3 and trying to negotiate with him until Mr. Doyle had asked me  
4 to ask him about a ten-year offer.

5 Q. In fact, you did do that. You spoke with the  
6 Solicitor, and he indicated he was not willing to do that?

7 A. That's correct. From my recollection that's when  
8 he went down to 15 from the 20-year offer that we had. That's  
9 what I told Mr. Doyle was on the table.

10 Q. Realistically Mr. Doyle, by doing the stand your  
11 ground hearing, secured a five-year cut in the proposed plea?

12 A. Yes, he did.

13 Q. That was listed as a negotiated sentence with Judge  
14 Hayes?

15 A. It was.

16 Q. He indicated that on the record?

17 A. He did, yes.

18 Q. In fact, it indicates it in the sentencing sheet;  
19 correct?

20 A. It did, yes.

21 Q. I believe you already answered this. If Mr. Doyle  
22 had insisted on going forward with the jury trial, you would've  
23 pursued and you were prepared to try it to the logical  
24 conclusion?

25 A. Yes, I was prepared to go forward. I would've gone

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1 forward if he wanted to do that.

2 Q. You already had empanelled a jury; right?

3 A. We had.

4 MS. SHAW: I have nothing further.

5 THE COURT: Redirect.

6 REDIRECT EXAMINATION

7 BY MR. RICHEY:

8 Q. As soon as the 15 you negotiated, did you ever  
9 discuss with him that he still had an opportunity to get  
10 probation in addition to that?

11 The negotiated plea was 15. Did you discuss with  
12 him that he still had exposure to probation or lengthy sentence  
13 of supervision?

14 A. I don't recall if that was part of the negotiation  
15 or not, if it was like entire negotiated sentence. I can't  
16 remember that.

17 Q. He got negotiated 15. That was the recommendation;  
18 correct?

19 A. That's correct.

20 Q. That was the negotiation?

21 A. That was the negotiations on the ABHAN charge. I  
22 do not remember specifically the details of the weapon charge.

23 Q. Did you ever discuss with him that he was still  
24 exposed to a probationary sentence on this negotiation?

25 A. I would have discussed that with him. I cannot

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1       remember specifically. If that was an open plea, I would've  
2       had that conversation with him.

3               Q.     This was negotiated; correct?

4               A.     Yes. From my recollection, the entire thing was  
5       negotiated.

6               Q.     Under the negotiation, was probation a part of the  
7       negotiations?

8               A.     I'd have to look at the sentencing sheets. I  
9       apologize. I do not remember.

10              MR. RICHEY: Thank you, ma'am.

11              THE COURT: Thank you, ma'am. You may step down.

12              (The witness exited the stand.)

13              THE COURT: Next witness, Mr. Richey.

14              MR. RICHEY: There's no other witness. Thank you,  
15     Your Honor.

16              THE COURT: State.

17              MS. SHAW: Ms. Sieber was going to be the State's  
18     witness but she has been fully done with direct and  
19     cross-examination. State would not be presenting any  
20     additional witnesses at this time. Would make a very, very  
21     brief closing argument, if The Court would like to hear it.

22              THE COURT: I'll hear from you.

23              MS. SHAW: Thank you. Most respectfully, this PCR,  
24     there is not much more that Ms. Sieber could have done to try  
25     and assist Mr. Doyle with his case. There's never a question

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1 of who fired the gun; that Mr. Doyle was, in fact, the one who  
2 did it.

3 He claimed self-defense. Unfortunately, that was  
4 not a successful defense, which Judge Hayes found, based on the  
5 facts of the case and the testimony that was presented.

6 You heard Ms. Sieber testify that she fully  
7 intended to litigate the case, that she was very concerned  
8 following loss of stand your ground hearing. It would not be a  
9 viable defense. He could -- Mr. Doyle could potentially be  
10 exposed to a significantly greater time than had been proposed  
11 by the Solicitor, which at that point had previously been 20  
12 years.

13 Mr. Doyle instructed her to ask for ten. She, in  
14 fact, did that and was able to secure 15. Mr. Doyle materially  
15 did benefit from the defense that she did provide.

16 And even if there were any errors, which I would  
17 submit that the testimony does not support that there were any.  
18 And that the allegations by Mr. Doyle as to what Ms. Sieber did  
19 and did not say are spurious.

20 I would submit the fact that he has been convicted  
21 of two crimes of dishonesty within a ten-year period, under  
22 Rule 609(a)(2), those would come in for impeachment purposes.  
23 He testified that he, in fact, has been convicted of those  
24 matters. There's a major credibility issue with respect to his  
25 allegations.

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1                   And the only other issues we have are the alleged  
2                   illegal sentence, which Your Honor would need to look at the  
3                   coding rules and sentences that were in effect at that time.  
4                   And that will show The Court that ten years was, in fact, not  
5                   the max for ABHAN at that time. The max was, in fact, 20  
6                   years.

7                   Most respectfully, I would submit that this PCR  
8                   application is without merit. If there were any error, it was  
9                   harmless. And under the Strickland standard, not only -- I'm  
10                  losing my voice -- does Mr. Doyle have to prove deficient  
11                  performance on the part of counsel, but also that he was, in  
12                  fact, prejudiced by that deficiency.

13                  Mr. Doyle benefited strongly from Ms. Sieber's  
14                  representation by securing additional five years off his  
15                  proposed sentence. She did everything she could have to assist  
16                  him.

17                  I would request that the PCR be dismissed and that  
18                  this matter be put to end. Thank you.

19                  THE COURT: Mr. Richey.

20                  MR. RICHEY: Thank you, Your Honor. We stand by  
21                  Mr. Doyle's testimony. His testimony was that he felt like  
22                  that counsel was not prepared for trial. She couldn't secure  
23                  these 911 tapes. And it's his position that he believed  
24                  counsel should've got these tapes and then prepared for trial.

25                  He also testified that I believe he was -- he

BENJAMIN DOYLE vs. STATE OF SOUTH CAROLINA

1       thought he was going to get a 15-year sentence; that he  
2       wouldn't be exposed to any other additional time.

3               The court record does indicate five years  
4       probation. His position is he never knew that.

5               He also testified that he didn't feel like his  
6       counsel was prepared to go to trial.

7               Your Honor, we will stand by his answer that he  
8       gave during his testimony as the basis for this case being  
9       granted for him.

10              THE COURT: I'll take it under advisement, and I'll  
11       review the testimony. And I'll let you know my decision.

12              MR. RICHEY: Thank you.

13              MS. SHAW: Your Honor, before we conclude, can I  
14       speak to Mr. Richey for one moment?

15              THE COURT: Yes.

16              (Off-the-record discussion.)

17              MR. RICHEY: There was a White claim. There is a  
18       guilty plea. That's not an issue we're going forward on. We  
19       have outlined our issues in our application. Mr. Doyle has  
20       testified to those issues. Thank you, Your Honor.

21              THE COURT: Anything?

22              MS. SHAW: That was my question to Mr. Richey is:  
23       Do we need to pursue? We didn't have any testimony on that.  
24       If he's going to abandon it, there's no objection.

25              THE COURT: Thank you.

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1 MS. SHAW: Thank you, Your Honor.

2 (The hearing was concluded at 3:07 p.m.)

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BENJAMIN DOYLE vs. STATE OF SOUTH CAROLINA

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## CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional Reporter  
and Notary Public for the State of South Carolina at Large, do  
hereby certify that the foregoing transcript is a true,  
accurate, and complete record.

I further certify that I am neither related to, nor  
counsel for, any party to the cause pending or interested in  
the events thereof.

Witness my hand, I have hereunto affixed my official  
seal this 17th day of September, 2024 at Spartanburg,  
Spartanburg County, South Carolina.



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Lora L. McDaniel,  
Registered Professional Reporter  
My Commission expires:  
August 9, 2026

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Benjamin A. Doyle, #142730,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS  
) FOR THE SEVENTH JUDICIAL CIRCUIT

) CASE NO. 2023-CP-42-00564  
)

**ORDER OF DISMISSAL  
WITH PREJUDICE**

Presiding Judge: Hon. G.D. Morgan  
Applicant's Attorney: Rodney W. Richey, Esq.  
Respondent's Attorney: Suzanne J. Shaw, Esq.  
Plea Counsel: Katherine Sieber, Esq.

This matter comes before the Court by way of Benjamin A. Doyle's (Applicant) application for post-conviction relief (PCR) filed on February 13, 2023. Respondent, the State of South Carolina, filed its Return and Partial Motion to Dismiss, and Motion for a More Definite Statement on or around May 3, 2022. An evidentiary hearing was held at the Spartanburg County Courthouse before the Honorable G. D. Morgan. Assistant Attorney General Suzanne J. Shaw represented Respondent. Applicant was present and represented by Rodney W. Richey, Esquire (PCR Counsel). At the hearing, Respondent confirmed for the record which allegations it was informed that Applicant intended to proceed on. In support of these claims, Applicant testified on his own behalf, and presented testimony from Katherine Sieber, Esq. (Plea Counsel).

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

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### PROCEDURAL HISTORY

The records before this Court establish Applicant is presently incarcerated according to an order of commitment of the Spartanburg County Clerk of Court. During its September 2020 term, the Spartanburg County Grand Jury indicted Applicant for attempted murder and possession of a weapon during commission of a violent crime (2020-GS-42-5570). Assistant Public Defender Katherine Sieber of the Seventh Circuit Public Defender's Office represented Applicant. Assistant Solicitor Spenser H. Smith of the Seventh Circuit Solicitor's Office prosecuted the case.

On July 11, 2022, Applicant appeared before the Honorable J. Mark Hayes, II, circuit court judge and pled guilty to the lesser included offense of assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime. Judge Hayes sentenced Applicant to consecutive terms of fifteen years' imprisonment for assault and battery of a high and aggravated nature and five years' imprisonment for possession of a weapon during the commission of a violent crime, which is suspended upon the time served followed by five years' supervision.

Applicant did not appeal his convictions or sentences.

### FACTS GIVING RISE TO THE CONVICTION

The facts giving rise to the convictions were articulated by the Solicitor at Applicant's plea hearing as follows:

Your Honor, these cases arose on February 16, 2020 around 3:30 in the afternoon of Prince Hall, Spartanburg County. Mr. Wilkes was found shot outside of an apartment. He was rushed to the hospital. [Applicant] was quickly developed as a suspect from some of the people in the area. There were people that will testify that they had seen him with a gun earlier. It appeared like he was looking for somebody. Ultimately he was apprehended about two hours after the incident. He did confess to shooting Mr. Wilkes. So he gave a self-defense story which essentially involved that Mr. Wilkes had thrown a cup of liquid on him before that and there had been some events

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that had happened in the weeks leading up to this event that he felt left him with no choice that day other than to shoot him. The State's position is that he basically became fed up with whatever was going on between them, dissatisfied with the response he was getting from the police and decided to handle it himself and ambushed Mr. Wilkes as he left the apartment. That is essentially what happened in this case [...].

(Plea Tr. p. 169, ll. 6 - 25).

#### CURRENT ACTION BEFORE THIS COURT

In his application for post-conviction relief filed February 13, 2023, Applicant claimed he was being held in custody unlawfully for the following reasons (excerpts verbatim):

1. Ineffective Assistance of Counsel:
  - a. Failure to Appeal
    - i. "Counsel never advised me that I could appeal. Counsel never informed me of my rights to Appellate Review nor did the Court after sentencing."
  - b. Excessive Sentencing
    - i. "Under the sentence I'm held unlawfully [due] to the facts ABHAN sentence to 15 years excess doesn't the minimum of 10 years."
    - ii. "The statute provides the maximum to be sentence of 10 years."

On October 23, 2023, Applicant, through PCR Counsel, amended his application for post-conviction relief to include the following allegations (excerpts verbatim):<sup>1</sup>

1. Ineffective assistance of Counsel:
  - c. Involuntary Guilty Plea:
    - i. "Trial Counsel was ineffective for coercing the Applicant to plead guilty;"
  - d. Failure to Object:
    - i. "Trial Counsel was ineffective for not objecting to the Solicitor stating that he had a violence background;"
  - e. "Trial Counsel was ineffective for not preparing and presenting a defense;"
  - f. "Trial Counsel was ineffective for not assisting Applicant in getting the recommended sentence;"

<sup>1</sup> At the conclusion of Applicant's evidentiary hearing, Applicant, through PCR Counsel, indicated that he would only be proceeding on the allegations contained in his Amended Application for PCR. (PCR Tr. p. 47, ll. 17-24).

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- g. "Trial Counsel was ineffective for not proceeding with trial by jury;"
- h. Failure to Investigate:
  - i. "Trial Counsel was ineffective for not investigating the charges against the Applicant;"
  - i. "Trial Counsel was ineffective for not trying to get Applicant a favorable result from his case."

Applicant requests relief in the following form:

The ABHAN sentence excess 10 years which is the maximum of ABHAN sentence.

Before this Court is the Spartanburg County Clerk of Court records regarding the subject convictions and sentences, Applicant's records from the South Carolina Department of Corrections, Applicant's guilty plea transcript, and the records of the current PCR action.

#### STANDARD OF REVIEW

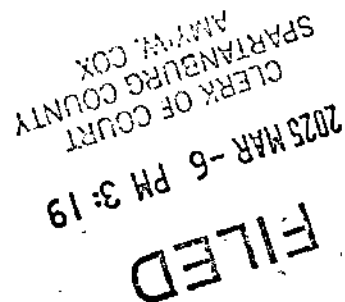
The Uniform Post-Conviction Procedure Act<sup>2</sup> (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based on the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

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<sup>2</sup> S.C. Code Ann. §§ 17-27-10 to -160.



Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687-88; Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[without proof of both deficient performance and prejudice to the defense... it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356 (2010).

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373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged, the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58-59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999) (emphasis added).

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCP (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code:

***INITIAL FINDINGS***

This Court finds applicable the strong presumption that at all stages of Plea Counsel's representation of Applicant, she rendered adequate assistance and exercised reasonable professional judgment in her representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at

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the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992). See, e.g., State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) ("In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment."); Clemons v. Mississippi, 494 U.S. 738, 766 (1990) (Blackmun, J., concurring in part and dissenting in part) ("The trial judge who hears the witnesses live, observes their demeanor and in general smells the smoke of the battle is by his very position far better equipped to make findings of fact which will have the reliability that we need and desire.").

This Court makes the following findings from the record: 1. Applicant indicated that he was satisfied with the work that Plea Counsel had done for him (Plea Tr. 167, 5, ll. 12-14); 2. Applicant indicated no one had threatened him or made any promises to him in order to coerce his guilty plea and his decision to plead guilty was freely and voluntarily made (Plea Tr. p. 167, ll. 15-24); 3. Applicant understood his right to a jury trial and that he waived those rights by pleading guilty (Plea Tr. pp. 167, l. 25-168, l. 12); 4. Applicant affirmed his understanding that he would be giving up constitutional rights in entering his guilty plea including his right to confront and cross-examine the State's witnesses and his right to assert any defense he may have by pleading guilty and indicated his desire to waive those rights (Plea Tr. pp. 168, l. 13- 169, l. 1; 170, ll. 3-12); 5. Applicant agreed with the facts surrounding the State's case against him (Plea Tr. p. 170, ll. 13-16); 6. Applicant understood that his pleas were presented to the court as negotiated pleas and therefore the court would be bound by the negotiations and have to impose the sentences that were announced by the Solicitor (Plea Tr. p. 170, ll. 17-22); 7. Applicant confirmed that he wished for the court to accept the negotiated pleas (Plea Tr. p. 170, ll. 17-24); 8. Applicant understood the assault and battery of a high and aggravated nature charge he faced at his plea hearing was

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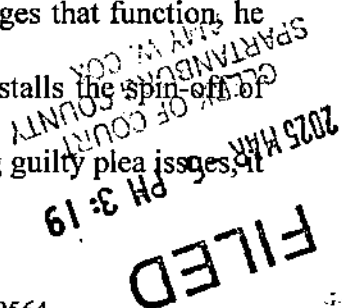
classified as violent and serious (Plea Tr. pp. 170, l. 25 - 171, l. 4); 9. Applicant indicated he had the opportunity to discuss with Plea Counsel the consequences and ramifications of that offense being classified as violent and serious (Plea Tr. p. 171, ll. 5-9); 10. Applicant indicated that, understanding the violent and serious classification, he still wished to enter his guilty plea to that charge. (Plea Tr. p. 171, ll. 5-12); 11. Applicant stated that he was guilty of the charge of assault and battery of a high and aggravated nature (Plea Tr. p. 171, ll. 13-16); 12. Applicant stated that he was guilty of the charge of possession of a weapon during the commission of a violent crime (Plea Tr. p. 171, ll. 17-19); 13. Applicant affirmed that all of his answers to the court's questions were truthful and honest (Plea Tr. p. 171, ll. 20-22).

***INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS***

**Allegations C, E, G: Involuntary Guilty Plea; Plea Counsel was Ineffective for not Preparing and Presenting a Defense; and Plea Counsel was Ineffective for not Proceeding with Trial by Jury.**

Applicant alleges Plea Counsel was constitutionally ineffective rendering his guilty plea involuntarily made. Specifically, Applicant alleges Plea Counsel was ineffective for “coercing [him] to plead guilty;” “for not preparing and presenting a defense;” and “for not proceeding with trial by jury.” This Court finds these allegations to be without merit.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a complete understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin v. Alabama, 395 U.S. 238, 244 (1969) (Courts must make sure defendants have “a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought and forestalls the spin-off of collateral proceedings that seek to probe murky memories.”). In determining guilty plea issues,



is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea "is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.").

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

### **Guilty Plea Hearing**

During Applicant's plea hearing Applicant indicated that he was satisfied with the work that Plea Counsel had done for him. (Plea Tr. 167. 5, ll. 12-14). Applicant indicated no one had threatened him or made any promises to him in order to coerce his guilty plea and his decision to plead guilty was freely and voluntarily made. (Plea Tr. p. 167, ll. 15-24). Applicant understood his right to a jury trial and that he waived those rights by pleading guilty. (Plea Tr. pp. 167, l. 25-168, l. 12). Applicant affirmed his understanding that he would be giving up constitutional rights in entering his guilty plea including his right to confront and cross-examine the State's witnesses and his right to assert any defense he may have by pleading guilty and indicated his desire to waive those rights. (Plea Tr. pp. 168, l. 13- 169, l. 1; 170, ll. 3-12).

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The record reflects that Plea Counsel presented the following at the conclusion of Applicant's plea hearing:

Thank you, Your Honor. I think it's important to Mr. Doyle that you know he did not intend to kill Mr. Wilkes. He is here pleading before you because of the reduction in the charge, to the assault and battery, high and aggravated. You've heard of prior incidents that happened between he and them. Mr. Doyle and I have had discussions about self-defense defense, which was our intention if we were to move forward with the trial. Ultimately he has decided not to do that. We discussed the fact the threat from Mr. Wilkes was not imminent at that point and immediately after this. He does want, Your Honor, to know he did feel like eventually this was going to come to blows with the situation that happened between the two of them and that he would eventually be injured at some future date.

(Plea Tr. p. 174, ll. 8 - 22).

#### PCR Evidentiary Hearing

During the PCR evidentiary hearing on direct-examination, Applicant testified that he informed Plea Counsel that he did not wish to plead guilty, but Plea Counsel advised him to do so because he was facing a sentence of thirty years' incarceration. (PCR Tr. pp. 9, l. 14 – 10, l. 25; 13, ll. 6-13). When asked what act Plea Counsel did to coerce Applicant into entering his guilty plea, Applicant testified that Plea Counsel was not prepared for his trial. (PCR Tr. pp. 9, l. 14 – 10, l. 25). Applicant testified that his belief that Plea Counsel was not prepared for his trial was based on the following:

Well, the reason why I believe that is because, you know, they took a jacket from me that they wanted to take for evidence to say that the guy threw the liquid on me, so forth, so on. Not only the jacket, Ms. Sieber send her investigators out to the young lady's house who was subpoenaed. The investigator came back and stated: I hear them in the house, but no one is not answering the door. I asked Ms. Katy Sieber could we get a continuance. I asked Ms. Katy Sieber, could we get a continuance. She said: Well, we can't get a continuance. The judge is going to put you back in jail. I was out on bond. I was out there two-and-a-half years on bond. Not only that, I asked her - she said that she can not get the 911 calls that I made from the

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Sheriff's Department, yet she have my number and my phone is there and I made those calls.

(PCR Tr. p. 12, ll. 9-24).

Applicant testified to his belief that Plea Counsel was ineffective for failing to pursue a jury trial despite his previous testimony. (PCR Tr. pp. 12, l. 25 – 13, l. 5). Applicant testified that his decision to plead guilty was based upon Plea Counsel's concerns that he would receive a heavier sentence if he proceeded to a jury trial. (PCR Tr. p. 13, ll. 6-13). When asked why he answered the plea court's questions affirmatively at his guilty plea hearing if his answers were not true, Applicant testified that he did so because he was aware that he did not have a viable defense that would persuade the jury and therefore he believed it was in his best interest to plead guilty. (PCR Tr. pp. 29, l. 18 – 30, l. 3).

During the PCR evidentiary hearing on cross-examination, Applicant testified that Plea Counsel never overpowered him to override his intent on proceeding to a jury trial. (PCR Tr. pp. 16, l. 21 – 17, l. 1). Applicant testified that he was coerced by Plea Counsel into taking his plea where Plea Counsel informed him that he was facing a thirty year sentence which placed him under duress. (PCR Tr. p. 17, ll. 1-7). Applicant testified that Plea Counsel never threatened him in order to coerce his guilty plea, but he ultimately pleaded guilty to the negotiated sentence because he was afraid to receive the thirty year sentence he was facing if he proceeded to a jury trial. (PCR Tr. p. 17, ll. 8-10).

During the PCR evidentiary hearing on direct-examination, Plea Counsel testified that throughout her representation of Applicant he was adamant about proceeding to a jury trial using a defense of self-defense. (PCR Tr. p. 31, ll. 3-21). Plea Counsel testified that Applicant had initially been offered a plea offer of twenty years, and was presented the fifteen year offer following the conclusion of Applicant's stand your ground hearing. (PCR Tr. pp. 31, l. 32, l. 1.

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STATE OF FLORIDA

4). Plea Counsel testified that Applicant was initially wavering on what to do following the State's offer of a guilty plea to a negotiated fifteen year sentence, and at that time that she advised him that she believed accepting the plea offer to be in his best interest. (PCR Tr. p. 32, ll. 10-17). Plea Counsel testified that her belief was based upon her concerns that Applicant would receive a heavier sentence if he were to proceed to a jury trial following his loss at the stand your ground hearing. (PCR Tr. p. 32, ll. 10-24).

Plea Counsel testified to her belief that it was highly likely that Applicant would be convicted if he proceeded to a jury trial. (PCR Tr. p. 32, ll. 24-25; 34, ll. 21-24). Plea Counsel testified that in advising Applicant to plead guilty she considered the entirety of the case including the fact that Applicant had confessed to shooting the victim, and had repeatedly stated during his confession that his reason for shooting the victim was that the victim had disrespected him by spitting on him. (PCR Tr. pp. 34, l. 25- 35, l. 7) Plea Counsel testified that she discussed with Applicant at length that the jury would not consider his explanation for shooting the victim reasonable and her concerns about that. (PCR Tr. p. 35, ll. 7-9).

Plea Counsel ultimately testified on both direct and cross-examination that, had Applicant requested she do so, she would have proceeded to a jury trial on his behalf despite her belief that pleading was in Applicant's best interest. (PCR Tr. p.36, ll. 14-18;42, l. 21 – 43, l. 3).

### Findings

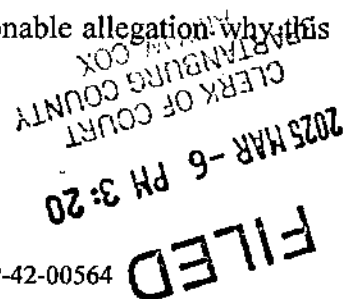
As an initial matter, this Court finds the record refutes Applicant's allegations and reflects that Applicant's guilty plea was knowingly and voluntarily entered with a complete understanding of the charges and consequences of the plea. This Court further finds Applicant was fully aware of the minimum and maximum sentencing ranges on all charges that he pleaded guilty to. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual,

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PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977). Statements made during a guilty plea should be considered conclusively unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975) (overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)).

Furthermore, this Court finds Applicant has failed to show that Plea Counsel's representation fell below an objective standard of reasonableness, and that but for Plea Counsel's alleged errors, Applicant would not have pled guilty and proceeded to trial. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 362 426 S.E.2d 795, 797 (1993). This Court finds the combination of the record and Plea Counsel's credible testimony at the evidentiary hearing provides Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969) and Roddy v. State, 339 S.C. 29 (2000).

Moreover, the plea colloquy cured any alleged deficiency regarding Plea Counsel's advice. The plea transcript reflects that Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the plea court's questions. Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea as provided *supra*. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so).



Thus, based on the evidence presented at the plea proceeding and the evidentiary hearing, this Court finds Applicant freely, knowingly, and voluntarily pled guilty. This Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Accordingly, this allegation must be **DENIED** and **DISMISSED**.

**Allegation D: Plea Counsel Failed to Object**

Applicant alleges Trial Counsel was constitutionally ineffective for failing to make certain objections. Specifically, Applicant alleges Plea Counsel was ineffective for failing to object to "the Solicitor stating that he had a violence background." This Court finds this allegation to be without merit

An ineffective assistance claim based on a failure to object is tied to the admissibility of the underlying evidence." Hough v. Anderson, 272 F.3d 878, 898 (7th Cir. 2001). "If evidence admitted without objection was admissible, then the complained of action fails both prongs of the Strickland test: failing to object to admissible evidence cannot be a professionally 'unreasonable' action, nor can it prejudice the defendant against whom the evidence was admitted." Id.; see Miller v. Keeney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence). Also, "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691.

The "use and timing of objections at trial is a quintessential matter of strategy and discretion on the part of the trial attorney and will very seldom constitute objectively deficient representation." United States v. Nguyen, 379 F. App'x 177, 181 (3d Cir. 2010); see Humphries

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v. Ozmint, 397 F.3d 206, 234 (4th Cir. 2005) (Luttig, J., concurring) ("[I]t is well established that failure to object to inadmissible or objectionable material for tactical reasons can constitute objectively reasonable trial strategy under Strickland."); cf. Bergmann v. McCaughtry, 65 F.3d 1372, 1380 (7th Cir. 1995) (noting that deciding when to object is a matter of trial strategy that a lawyer has to make on the spot.).

When analyzing counsel's performance, the reviewing court will "strong[ly] presume[e] that counsel's attention to certain issues to the exclusion of others reflects trial tactics rather than sheer neglect. Yarborough, 540 U.S. at 8 (internal quotation marks omitted); cf. Higgs v. United States, 711 F. Supp. 2d 479, 515 (D. Md. 2010) ("Defense counsel constantly must decide what questions to ask and how much time to spend on a particular witness. These are precisely the types of tactical decisions a court is not supposed to second guess.") (citing Byram v. Ozmint, 339 F.3d 203, 209 (4th Cir. 2003)); Sallie v. North Carolina, 587 F.2d 636, 640 (4th Cir. 1978) (Strickland standard was not developed "to promote judicial second-guessing on questions of strategy as basic as the handling of a witness.").

Also, "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To establish prejudice, Applicant is required to show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694.

In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harris v. Leake, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984). "A defendant's knowing and voluntary waiver of the constitutional rights

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accompany a guilty plea may be accomplished by colloquy between the Court and the defendant, between the Court and defendant's counsel, or both." Pittman v. State, 337 S.C. 597, 600, 524 S.E.2d 623, 625 (1999).

### Guilty Plea Hearing

In this case, the record reflects during Applicant's plea hearing the State Set forth Applicant's prior criminal history as follows:

|            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The Court: | Any prior record?                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Solicitor: | You just want the last ten years, Your Honor.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| The Court: | Sure.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Solicitor: | Nothing matters for enhancements or anything. In the last ten he had 2002, DUI/DUS, open container, possession of marijuana. 2003, public disorderly. 2010, possession of marijuana. 2014, shoplifting. 2015, PC. 2016, malicious injury and shoplifting. He does have record that goes beyond that but nothing is like this. Certainly not anything aggravated like this. I think he has one assault and battery would be the only thing that would've involved violence towards another. |
| The Court: | Thank you, sir.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

(Plea Tr. pp. 172, ll. 1-17).

### PCR Evidentiary Hearing

During the PCR evidentiary hearing on direct-examination, Applicant testified that the Solicitor stated at his plea hearing that he had a violent assault and battery charge on his record, but that he had never committed assault and battery or a non-violent crime prior to the incident from which his current charges arose. (PCR Tr. pp. 10, ll. 1-6; 20, l. 21 - 21, l. 10).

During cross-examination, Applicant confirmed that his criminal record as stated on page 172 of his guilty plea hearing was correct. (PCR Tr. pp. 18, l. 9 - 19, l. 17). Applicant testified that he was convicted of malicious injury as well as shoplifting in 2016. (PCR Tr. pp. 11-15-17).

### Findings

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This Court finds that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, *supra*. This Court further finds Applicant has failed to overcome his burden in proving Trial Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. *See* Butler, *supra*. Here, Applicant has failed to provide what legal basis Trial Counsel would have had to make the objection and must prove that the objections would have been sustained. This Court is not persuaded with this and finds that even if Trial Counsel had objected, the objection would have been overruled. *See* Miller v. Keeney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence).

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel's performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

**Allegations F, I: Plea Counsel was Ineffective for not Assisting Applicant in Getting the Recommended Sentence, and for not Trying to get Applicant a Favorable Result from his Case.**

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Applicant alleges Plea Counsel was constitutionally ineffective. Specifically, Applicant alleges Plea Counsel was ineffective for failing to assist Applicant in “getting the recommended sentence;” and for “not trying to get Applicant a favorable result from his case.” This Court finds this allegation to be without merit.

### **Guilty Plea Hearing**

The record reflects that Plea Counsel presented the following at the conclusion of Applicant’s plea hearing:

Thank you, Your Honor. I think it's important to Mr. Doyle that you know he did not intend to kill Mr. Wilkes. He is here pleading before you because of the reduction in the charge, to the assault and battery, high and aggravated. You've heard of prior incidents that happened between he and them. Mr. Doyle and I have had discussions about self-defense defense, which was our intention if we were to move forward with the trial. Ultimately he has decided not to do that. We discussed the fact the threat from Mr. Wilkes was not imminent at that point and immediately after this. He does want, Your Honor, to know he did feel like eventually this was going to come to blows with the situation that happened between the two of them and that he would eventually be injured at some future date.

(Plea Tr. p. 174, ll. 8 - 22).

### **PCR Evidentiary Hearing**

During the PCR evidentiary hearing on direct-examination, Applicant testified to his belief that Plea Counsel could have obtained a more favorable offer than the fifteen year offer he received. (PCR Tr. p. 13, ll. 14-17). Applicant testified that his belief was based upon the following:

Because with me pleading guilty, I got 15 years with five years running consecutive with five years probation, which is a 25-year sentence. I assumed that it was 15 years that I was pleading to. And now I look at my sentencing sheet, it says zero to 20. That is on the sentencing sheet that wasn't on there. It's a negotiated and EG. That wasn't on that paperwork when I signed it. And it was only 15 years on he paperwork. All this other stuff that is on the paperwork was

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not announced in my transcript from the judge, anything. So if I knew that the charge was carrying zero to 20 years, I wanted to go to the jury. I would definitely say I want a jury trial because it's just five-year difference.

(PCR Tr. pp. 13, l. 19- 14, l. 5).

### Findings

As an initial matter, this Court finds the record refutes Applicant's allegations and reflects that Applicant's guilty plea was knowingly and voluntarily entered with a complete understanding of the charges and consequences of the plea. The record reflects that Applicant pleaded guilty to a negotiated sentence of fifteen years' imprisonment for the lesser included offense of assault and battery of a high and aggravated nature and five years' imprisonment suspended to five years' probation, sentences to run consecutively. (Plea Tr. p. 165, ll. 2-14). The record further reflects that Applicant was sentenced to the negotiated sentences of fifteen years' imprisonment for the lesser included offense of assault and battery of a high and aggravated nature and five years' imprisonment suspended to five years' probation, sentences to run consecutively. (Plea Tr. p. 176, ll. 8-17).

Additionally, this Court finds Applicant was fully aware of the minimum and maximum sentencing ranges on all charges that he pleaded guilty to. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977). Statements made during a guilty plea should be considered conclusively unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975) (overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)).

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Furthermore, this Court finds Applicant has failed to show that Plea Counsel's representation fell below an objective standard of reasonableness, and that but for Plea Counsel's alleged errors, Applicant would not have pled guilty and proceeded to trial. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 362 426 S.E.2d 795, 797 (1993). This Court finds the combination of the record and Plea Counsel's credible testimony at the evidentiary hearing provides Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969) and Roddy v. State, 339 S.C. 29 (2000).

Moreover, the plea colloquy cured any alleged deficiency regarding Plea Counsel's advice. The plea transcript reflects that Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the plea court's questions. Applicant has presented no valid reason why he should be able to depart from the statements made during his guilty plea as provided *supra*. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so).

Thus, based on the evidence presented at the plea proceeding and the evidentiary hearing, this Court finds Applicant freely, knowingly, and voluntarily pled guilty. This Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Accordingly, this allegation must be **DENIED** and **DISMISSED**.

**Allegation H: Plea Counsel Failed to Investigate the Charges  
Against Applicant**

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Applicant alleges Plea Counsel was constitutionally ineffective for failing to investigate the charges against him. This Court disagrees and finds this allegation to be without merit.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). Likewise, in order to prevail on a claim that counsel did not review discovery with applicant, the applicant must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Id.

Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is insufficient to support a relief grant. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

### PCR Evidentiary Hearing

During the PCR evidentiary hearing on direct-examination, Applicant testified that he informed Plea Counsel that he did not wish to plead guilty, but Plea Counsel advised him to do so because he was facing a sentence of thirty years' incarceration. (PCR Tr. pp. 9–10, 12–13, ll. 6–13). When asked what act Plea Counsel did to coerce Applicant into entering his guilty

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plea, Applicant testified that Plea Counsel was not prepared for his trial. (PCR Tr. pp. 9, l. 14 – 10, l. 25). Applicant testified that his belief that Plea Counsel was not prepared for his trial was based on the following:

Well, the reason why I believe that is because, you know, they took a jacket from me that they wanted to take for evidence to say that the guy threw the liquid on me, so forth, so on. Not only the jacket, Ms. Sieber send her investigators out to the young lady's house who was subpoenaed. The investigator came back and stated: I hear them in the house, but no one is not answering the door. I asked Ms. Katy Sieber could we get a continuance. I asked Ms. Katy Sieber, could we get a continuance. She said: Well, we can't get a continuance. The judge is going to put you back in jail. I was out on bond. I was out there two-and-a-half years on bond. Not only that, I asked her - she said that she can not get the 911 calls that I made from the Sheriff's Department, yet she have my number and my phone is there and I made those calls.

(PCR Tr. p. 12, ll. 9-24).

During the PCR evidentiary hearing on cross-examination, Applicant testified that he has admitted to being the individual who shot the victim from the beginning of the proceedings. (PCR Tr. p. 29, ll. 4-7). Applicant testified that the issue of whether gunshot residue appeared on his jacket or the other evidence was not at issue in his case. (PCR Tr. p. 29, ll. 8-11).

During the PCR evidentiary hearing on cross-examination, when asked to explain her initial investigation into Applicant's case following her appointment to represent him, Plea Counsel testified as follows:

So in this situation, because I came in kind of on the later end of it, this case was already popping up on trial dockets by the time I got it. I had asked for a few continuances at that time. I knew we needed the time to get ready for it. My initial conversation with Mr. Doyle would've happened over the phone. At that point I would've explained his rights to him, explain what he was facing in this case, and then asked him to come in to meet with me. Mr. Doyle came in to meet with me a few months after that. And, unfortunately, I got pulled into court, a plea hearing at that time. I had asked him to stay into the afternoon and meet with me. I think he had a job hearing.

he wasn't able to stay. He had to go home. We ended up having that meeting over the phone, which is how that happened. I spoke with him multiple times in the about eight or nine months between the time I picked up the case and the time his case went to trial. He had told me about the prior incidents that he had with this victim. A large part of what we did was trying to investigate those prior claims to try to show why he would've been in fear for his life in this type situation. So we had reached out to Spartanburg County 911, trying to look for this 911 call. I had given Spartanburg County his phone number, and they told me that they did not have a call. So I went to the city police department to review the evidence in this case. Got Mr. Doyle's phone that was in evidence. Went through it, looking for communication between him and the victim, communication between him and 911, anything that we could use. We were not able to find anything along those lines. We had gone out to Prince Hall Apartments, which is where this incident happened and tried to talk to people. There had been like a prior incident where Mr. Doyle said he was assaulted by the victim and 911 was called. We had pulled the police reports on that, the body cam, and went looking for his neighbor, who was a victim of Mr. Wilkes. We were not able to find the neighbor. I think he had moved to New Jersey at that point. We also spent some time talking to a few other women who lived in the area surrounding the apartment where this happened. We had found one of them. She was able to articulate some bullying that she remembered happening. We had got her under subpoena. I believe her name was Tiffany Hardy. She was subpoenaed for trial. We couldn't find her when trial time came. I had requested a continuance from Judge Hayes at that time. He denied that request. We had -- Mr. Doyle was the person that we had to testify.

(PCR Tr. pp. 37, l. 8 – 39, l. 7).

Plea Counsel testified that they had no other witnesses aside from Applicant who could testify to his state of mind at the time of the crime. (PCR Tr. p. 39, ll. 8-11). Plea Counsel testified that, despite various efforts, they were unable to find any record of any kind of 911 call made by Applicant. (PCR Tr. p. 39, ll. 15-23). Plea Counsel testified that she provided Applicant with all of the discovery in his case via mail. (PCR Tr. p. 40, ll. 10-15). Plea Counsel ultimately testified on both direct and cross-examination that, had Applicant requested she do so, she would have

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proceeded to a jury trial on his behalf despite her belief that pleading was in Applicant's best interest. (PCR Tr. p.36, ll. 14-18;42, l. 21 – 43, l. 3).

### Findings

This Court finds the combination of the record, and Plea Counsel's credible testimony that Applicant has failed to meet the burden of showing Plea Counsel was constitutionally ineffective. See Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006) Applicant failed to present "any evidence of how additional preparation or communication would have resulted in a different outcome." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012); see Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998) (explaining that, where an applicant failed to present any evidence of what counsel could have discovered or what other defenses he would have requested counsel pursue had counsel more fully prepared for the trial, applicant failed to show his counsel's lack of preparation prejudiced him); Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (finding that, when there is evidence counsel met with a defendant in preparation for trial and there is no evidence additional preparation on the part of counsel would have affected the outcome at trial, counsel cannot be said to have been ineffective), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Moreover, to whatever extent Applicant was not entirely satisfied with the amount of time allotted for by Plea Counsel to investigate the charges, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea. (Plea Tr. 167. 5, ll. 12-14)

This Court finds Applicant has offered no valid reason to be allowed to depart from the truth of the statements made under oath during his guilty plea. See Crawford v. United States, 519 F.2d 347 (4th Cir.1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976) (Statements made during

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a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements.). Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

[CONCLUSION PAGE FOLLOWS]

**CONCLUSION**

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED WITH PREJUDICE**.

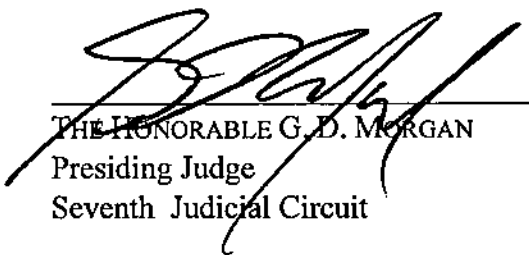
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This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 25<sup>th</sup> day of February, 2025.

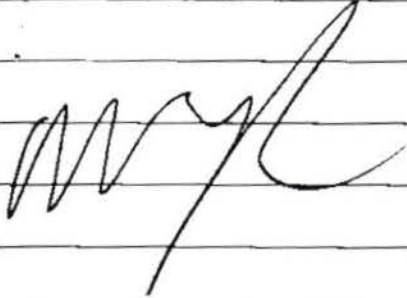
  
 THE HONORABLE G. D. MORGAN  
 Presiding Judge  
 Seventh Judicial Circuit

Spartanburg, South Carolina

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WITNESSES

Spartanburg City PD

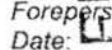


ARREST WARRANT NUMBER

COUNT ONE: 2020A4210200831

COUNT TWO: 2020A4210200832

ACTION OF GRAND JURY

  
Foreperson of Grand Jury  
Date:   
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SPARTANBURG, ARMY W. COX  
**True Bill**  
SEP 25 2020  
VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 20-CC-42-5570A

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 28 2020

TERM

THE STATE

vs.

Benjamin Anthony Doyle

Indictment for

ATTEMPTED MURDER AND POSSESSION  
OF A WEAPON DURING VIOLENT CRIME

SC Code: 16-3-0029; 16-23-490

CDR Code: 3410; 549

Class FEL-A; FEL-F

STATE OF SOUTH CAROLINA)  
 )  
COUNTY OF SPARTANBURG )

## INDICTMENT

At a Court of General Sessions, convened on SEP 25 2020 the  
Grand Jurors of Spartanburg County present upon their oath:

**COUNT ONE: ATTEMPTED MURDER**

That Benjamin Anthony Doyle, did in Spartanburg County on or about February 16, 2020, with malice aforethought attempt to kill [REDACTED], by shooting the victim with a firearm, with the intent to kill the said victim, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

**COUNT TWO: POSSESSION OF A WEAPON DURING A VIOLENT CRIME**

That Benjamin Anthony Doyle, did in Spartanburg County on or about February 16, 2020, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: ATTEMPTED MURDER, in violation of Code §16-23-490, *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.

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE

VS.

Benjamin Anthony Doyle

AKA:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 42 - 05570

A/W#:

2020A4210200831

Date of Offense:

2/16/2020

C. Code §

16-03-0029

OR Code #

3410

## SENTENCE SHEET

☐ GLE 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 Nature (4-20y, 15y)in violation of § 16-03-0600(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:

Spencer Smith SC101370 Benjamin A. Doyle Katie Sieber SCB102826  
SMITH, SPENSER H SC Bar # Defendant Sieber, Katherine M. SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 15 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;     
☒ 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 43 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. Benjamin Anthony Doyle INDICTMENT/CASE# 2020 - GS - 42 - 05570

## 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)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

|                                                                           | \$      |
|---------------------------------------------------------------------------|---------|
| §14-1-206 (Assessments 107.5 %)                                           | \$      |
| §14-1-211(A)(1) (Conv. Surcharge)                                         | \$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    |
| §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)                                    | 7BD     |
|                                                                           | \$3.75  |

|       |          |
|-------|----------|
| \$500 | \$       |
| 1BD   | \$       |
| TOTAL | \$ 68.75 |

Clerk of Court/ Deputy Clerk: WinstleyCourt Reporter: McDaniel

Presiding Judge: \_\_\_\_\_

Judge Code: \_\_\_\_\_

Sentence Date: 7/12/2022