

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Florence County
The Honorable D. Craig Brown, Circuit Court Judge
Appellate Case No: 2025-001214

THE STATE,

Petitioner,

v.

QUINTERRIS JAVON CARMICHAEL,

Respondent.

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Sep 23 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT

APPELLATE CASE NO. 2023-000162

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT: STATE’S
EXHIBIT NO. 2 (VIDEO STATEMENT ON DISK) AND STATE’S EXHIBIT NO. 3
(VIDEO SURVEILLANCE)]**

State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2019-GS-21-00472
	)	Case No. 2019-GS-21-00473
	)	Case No. 2019-GS-21-00474
	)	Case No. 2019-GS-21-00475
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Quinterris Carmichael and	)	
Tirik Johnson-Epps,	)	
	)	
Defendants.	)	
	)	

January 23-25, 2023
Florence, South Carolina

B E F O R E:

The Honorable D. Craig Brown, Judge; and a jury

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

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Attorney for the Plaintiff

William Foster "Josh" Edgeworth III, Esquire
Attorney for the Defendant Carmichael

Gregory Ammons, Esquire
Attorney for the Defendant Johnson-Epps

Krystal J. Smith
Official Circuit Court Reporter III

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COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption
 or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 JANUARY 23, 2023

2 (WHEREUPON, the proceedings began at 11:20 a.m.)

3 THE COURT: All right. Is the State ready to proceed?

4 MR. WHITE: Yes, sir, Judge.

5 THE COURT: Defense counsel, Mr. Edgeworth?

6 MR. EDGEWORTH: Ready, Your Honor.

7 THE COURT: Mr. Ammons?

8 MR. AMMONS: Yes, Your Honor.

9 THE COURT: All right. If the State would call its case,
10 please.

11 MR. WHITE: Thank you, Judge. At this time, the State
12 would call the State versus Quinterris Carmichael and Tirik
13 Johnson-Epps, Indictment 2021-GS-21-472, 473, 474, and 475,
14 each charged with murder and possession of a weapon during a
15 violent crime.

16 THE COURT: All right. Ladies and gentlemen, the State
17 has called the case of the State of South Carolina versus
18 Quinterris Javon Carmichael, as well as the State of South
19 Carolina versus Tirik Jaquan Johnson-Epps for trial. Each of
20 these defendants are charged with the offense of murder, as
21 well as possession of a weapon during a violent crime.

22 As it relates to Mr. Quinterris Javon Carmichael, the
23 indictment for murder reads as follows. That Quinterris Javon
24 Carmichael did in Florence County on or about September 12,
25 2019, willfully, feloniously, and intentionally kill the

1 victim, Tydrecus Williams, with malice aforethought, either
2 expressed or implied, by means of gunshot, and the victim did
3 die as a proximate result thereof on or about September 12,
4 2019, in Florence County in violation of Section 16-3-10 of
5 the South Carolina Code of Laws. That's on Indictment 2021-
6 GS-21-472.

7 On 2021-GS-21-473, that indictment is the State of South
8 Carolina versus Quinterris Javon Carmichael. It is for
9 possession of a weapon during a violent crime. That
10 particular indictment reads that Quinterris Javon Carmichael
11 did in Florence County on or about September 12, 2019, possess
12 a firearm or visibly display what appeared to be a firearm or
13 visibly displayed a knife during the commission or attempted
14 commission of a violent crime in violation of Section 16-23-
15 490 of the South Carolina Code of Laws. Again, that's on
16 2021-GS-21-473.

17 On Indictment 2021-GS-21-474, the State of South Carolina
18 versus Tirik Jaquan Johnson-Epps, that is an indictment for
19 murder, and that indictment reads that Tirik Jaquan Johnson-
20 Epps did in Florence County on or about September 12, 2019,
21 willfully, feloniously, and intentionally kill the victim,
22 Tydrecus Williams, with malice aforethought, either expressed
23 or implied, by means of gunshot, and the victim did die as a
24 proximate result thereof on or about September 12, 2019, in
25 Florence County in violation of Section 16-3-10 of the South

1 Carolina Code of Laws.

2 Now, as it relates to Indictment 2021-GS-21-475, the
3 State versus Tirik Jaquan Johnson-Epps, that is an indictment
4 for possession of a weapon during the commission of a violent
5 crime, and it reads as follows. That Tirik Jaquan Johnson-
6 Epps did in Florence County on or about September 12, 2019,
7 possess a firearm or visibly displayed what appeared to be a
8 firearm or visibly displayed a knife during the commission or
9 attempted commission of a violent crime in violation of
10 Section 16-23-490 of the South Carolina Code of Laws.

11 Now, ladies and gentlemen, to these charges each of these
12 defendants have pled not guilty. Therefore, the State of
13 South Carolina bears the burden of proving their guilt beyond
14 a reasonable doubt.

15 Now, before we move forward in selecting a jury, there's
16 some questions that I must ask of you. Is there any member of
17 the jury panel that's ever been related by blood, connected by
18 marriage, had a close personal, business, or social
19 relationship with Mr. Tirik Jaquan Johnson-Epps, Mr.
20 Quinterris Javon Carmichael, or Tydrecus Williams? If so,
21 please stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: All right. The following, ladies and
24 gentlemen, is a list of potential -- and I say potential.
25 That doesn't mean that all of them are going to be called.

1 MR. WHITE: No, ma'am.

2 THE CLERK: What say the defendant?

3 MR. EDGEWORTH: Court's indulgence.

4 Please swear the alternate.

5 THE CLERK: Sir, please take a seat on the jury panel.

6 THE COURT: All right. Are there any matters of law that
7 we need to take up with regards to jury selection from the
8 State?

9 MR. WHITE: None on behalf of the State, Judge.

10 THE COURT: Mr. Edgeworth?

11 MR. EDGEWORTH: None from the defendant, Your Honor.

12 THE COURT: Mr. Ammons?

13 MR. AMMONS: Nothing, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, those of
15 you that are seated in the jury box, you all have been
16 selected to serve as fair and impartial jurors in this case.

17 What I'm getting ready to do is I'm going to release you
18 all for the balance of the day. Okay? For the balance of the
19 day. There's some matters that I need to take to handle this
20 afternoon, and rather than have you come back here and wait
21 and possibly wait even longer, I'm going to let you go for the
22 balance of the day.

23 I'm going to ask that you be back here tomorrow morning
24 at 9 o'clock. Ms. Frances will show you where you need to
25 come back to tomorrow morning when you return, but I need you

1 back here at 9 o'clock and it's the intention -- it's the
2 Court's intention to start the trial of this case as promptly
3 at that time as possible.

4 Having said that, if one of you is not here at 9 o'clock,
5 that means we can't start. Okay? So please make sure that
6 you're here by 9 o'clock so we can start as promptly at that
7 time as possible.

8 Now, before I release you, let me just go over a few
9 preliminary instructions with you. Okay?

10 As I said before, ladies and gentlemen, you all have been
11 selected as fair and impartial jurors in this case. I'll tell
12 you that you are to decide this case based solely -- solely
13 upon the evidence and testimony that's presented in this
14 courtroom and nowhere else.

15 Now, during your breaks for meals, overnight, etc.,
16 you're not to discuss this case with anyone, anyone including
17 your fellow jurors. Okay? You're not to do any independent
18 investigation on this case. As I said before, you're to
19 decide this case based solely upon the evidence and testimony
20 that's presented in this courtroom and nowhere else.

21 Now, I've told you not to talk to anybody about this
22 case. I will also tell you that no one else is supposed to
23 talk to you about this case. So if anyone tries to talk to
24 you about this case, it is vitally important that you advise
25 the Court of such immediately. Okay?

1 Now, while you're serving up here, I'll tell you, ladies
2 and gentlemen, also just to try to give you some roadmap on
3 how we operate up here so that you all can plan accordingly.
4 Okay?

5 We'll typically start at 9 or 9:30 in the morning. We'll
6 typically go for about an hour and a half to two hours, take a
7 midmorning break, and go for about an hour, hour and a half,
8 and then break for lunch. We'll typically give you about an
9 hour and 15 to an hour and a half for lunch so you're not
10 overly rushed in getting out of here and trying to get back
11 here. Okay? We will typically resume sometime, you know,
12 between -- depending on when we break for lunch, around 1:30
13 or thereabouts, we'll go for about an hour and a half, break,
14 try to go about that long again, and break for the evening.

15 I'll tell you that I don't sit up here during the course
16 of a trial and watch my watch or the clock and as soon as it
17 strikes five say, all right, we're breaking for the day. If
18 there's a witness on that witness stand and it's 5 o'clock, it
19 will be my intention to finish that witness for the day.
20 Okay?

21 The other side of that coin is, say, we get around 4:15,
22 4:30, and I'm advised by the attorneys that the next witness
23 may be lengthy, I may let you go ahead and leave for the
24 balance of the day at that point rather than run the risk of
25 keeping you here too late. I told you I don't sit up there

1 and watch the clock and when it strikes five say we're
2 breaking. Very -- and I repeat very rarely would you be here
3 beyond 6 o'clock.

4 I don't know that it's ever happened, and as soon as I
5 tell you that, it'll end up happening, but very rarely would
6 that be the case up here. I've been on the bench now going on
7 13 years, and I can't ever remember us proceeding on through
8 trial past 6 o'clock. It could be a situation where you're
9 here beyond 6 o'clock during jury deliberations, but it would
10 be very rare that I would keep you here beyond that for
11 testimony to be taken when we can bring you back the next
12 morning. Okay? I'm telling you all of this again for
13 planning purposes.

14 Also, as you serve up here, ladies and gentlemen, quite
15 frankly, I hadn't looked at the weather this week. I know it
16 was probably in the 40s or low 50s when I walked out the door
17 this morning. For all I know, it could be 80 degrees out
18 there right now, and it might be 30 again tomorrow. You know,
19 it's just one of those things.

20 As you serve up here and as you're in this courtroom, I
21 want you to be comfortable. Okay? If you're cold natured,
22 please bring a jacket. If I have anything to do with it, it's
23 going to be quite cool in here. That's just -- I'm hot-
24 natured. I sit up here with an undershirt on, a dress shirt,
25 a tie, and then this black robe which is part of my uniform.

1 It's about like wrapping a blanket around me. And then I
2 drink some coffee up here too.

3 So I get hot, and so it's kind of an ongoing back and
4 forth, I guess, joking to some degree with the clerk's office
5 because they stay cold up here and I'm always hot up here, but
6 I want you to be comfortable as you serve and, again, if
7 you're cold-natured, please bring a jacket because I want you
8 to be comfortable.

9 Anything else from the State before I release the jury
10 for the day?

11 MR. WHITE: No, sir, Judge.

12 THE COURT: Mr. Edgeworth?

13 MR. EDGEWORTH: Nothing, Your Honor.

14 THE COURT: Mr. Ammons?

15 MR. AMMONS: No, Your Honor.

16 THE COURT: All right. I'm -- again, I'm going to
17 release you for the balance of the day. I hope you all have a
18 nice afternoon. Please make sure that you're back here by 9
19 o'clock tomorrow morning, and we'll start the trial as
20 promptly at that time as possible.

21 Again, don't do any independent research about this case.
22 As I've said and you will hear me say over and over and over,
23 you're to decide this case based solely upon the evidence and
24 testimony that's presented in this courtroom and nowhere else.

25 You all have a nice rest of your day, and I'll see you

1 tomorrow morning at 9 o'clock. Thank you.

2 Those in the audience, please remain seated for just a
3 minute, please.

4 (WHEREUPON, the jury exited the courtroom at 12:03 p.m.)

5 THE COURT: All right. Ladies and gentlemen, those of
6 you that are seated in the audience, you all were not selected
7 to serve as jurors in this particular case. Ordinarily, I
8 would tell you that that doesn't mean you're not going to
9 serve this week because usually we would have another case
10 that would be ready for trial, and you'd be possibly going
11 over to Courtroom B to be possibly selected as a juror in
12 another trial. However, I will tell you as a result of you
13 not being selected in this particular case, when I release you
14 here today, you're done for the week. Okay?

15 It's my understanding that Judge Seals is going to be
16 doing guilty pleas in Courtroom B for the balance of the week,
17 and any other cases that were set for trial were either --
18 have either pled out or been continued by the chief
19 administrative judge, which is not me. Okay? So when I
20 release you here today, you're done for the balance of the
21 week. Okay?

22 I want to personally thank you for being here today. As
23 I told you before, I understand that jury service never ever
24 comes at a convenient time, but I cannot stress to you how
25 vitally important your service is to this county, to this

1 state, and to this country as jurors.

2 I can assure you that if you were seated at one of these
3 tables, whether it was in a civil matter or a criminal matter,
4 you would want individuals such as yourselves serving as
5 jurors in your case. You would not want me or a panel of
6 judges sitting up here deciding all of the issues in your
7 case, nor would you want me or any other judge walking in the
8 courtroom on Monday morning, looking at the Florence County
9 deputies that are in here and saying how about go out there
10 and find me the first twelve people on the street, bring them
11 up here, and let's try this case. You wouldn't want that
12 either.

13 Again, I can't tell you how vitally important your
14 service is. Jury service, ladies and gentlemen, is really --
15 it's really the only true remaining service that you all have
16 as citizens in this country anymore. It's not a situation
17 where you can be drafted into the military and have to go away
18 and serve for an extended period of time. Jury service is the
19 only true remaining service that you have.

20 When I release you here today, you can't be called back
21 up here -- well, you could be called back up here, I guess,
22 within the next three years, but if you're called and you wish
23 to be excused or exempted, you certainly may be exempted. If
24 -- if you're selected to serve in city court, magistrate's
25 court, or federal court, there's not a thing I can do to help

1 you on that. You're going to have to serve. Okay?

2 But again, I want to thank you for being here today, I
3 want to thank you for your sacrifice in being here and your
4 willingness to serve. I hope y'all have a great rest of the
5 day and week as well. Again, thank you for being here.
6 You're free to go.

7 (WHEREUPON, the jury panel was excused and exited the
8 courtroom at 12:06 p.m.)

9 THE COURT: All right. We'll stand down as it relates to
10 this case until 3 o'clock. It's my understanding we have a
11 *Jackson v. Denno* hearing. Was there any other motions that we
12 have -- needed? A suppression?

13 MR. AMMONS: I'm sorry, Your Honor?

14 THE COURT: Just a *Jackson v. Denno* hearing?

15 MR. AMMONS: That's correct. Well, no, I've got a motion
16 to suppress, and he's got a *Jackson v. Denno* hearing.

17 THE COURT: Okay. All right. If you all will be back
18 here at 3 o'clock, 3 o'clock, we'll move forward with those
19 hearings. Okay?

20 MR. EDGEWORTH: Thank you, Your Honor.

21 MR. AMMONS: Thank you.

22 MR. WHITE: Thank you, Judge.

23 (WHEREUPON, there was a break in the proceedings from
24 12:08 p.m. until 4:21 p.m., after which the proceedings
25 resumed as follows.)

ASHLEY SHELLEY - DIRECT BY MR. WHITE

1 THE COURT: All right. Is the State ready to proceed?

2 MR. WHITE: Yes, sir, Judge.

3 THE COURT: Defense counsel?

4 MR. EDGEWORTH: Yes, sir.

5 MR. AMMONS: Yes, sir.

6 THE COURT: All right. Let's proceed.

7 MR. WHITE: Thank you, Judge. We'll start with the
8 *Jackson v. Denno*. At this time, the State would call
9 Investigator Ashley Shelley to the stand.

10 THE COURT: All right. Sir, if you'd come around.

11 THE CLERK: Come up --

12 THE COURT: I'm sorry. Come around to be sworn.

13 THE CLERK: Place your left hand on the Bible and raise
14 your right hand. Do you swear or affirm the testimony you
15 give in this case to be the truth, the whole truth, and
16 nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated and state your full name for
19 the record.

20 THE WITNES: My full name is Sheldon Gene Shelley II, and
21 I am commonly referred to as Ashley.

22 ASHLEY SHELLEY, being first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. WHITE:

ASHLEY SHELLEY - DIRECT BY MR. WHITE

- 1 Q: Investigator Shelley, where are you employed?
- 2 A: City of Florence Police Department.
- 3 Q: And how long have you been employed there?
- 4 A: Since November of 2009.
- 5 Q: And back on September 12th, 2019, were you employed at
- 6 the City?
- 7 A: I was.
- 8 Q: And what capacity were you employed?
- 9 A: I was an investigator.
- 10 Q: And were you involved in the investigation of the
- 11 shooting that occurred at the Tiger Mart or the Speedy Mart on
- 12 September 12th, 2019?
- 13 A: Yes, sir.
- 14 Q: And were you lead investigator?
- 15 A: No, sir.
- 16 Q: And what was your role in the investigation?
- 17 A: I worked in conjunction with the other investigators
- 18 during the absence of the lead investigator due to a training
- 19 obligation.
- 20 Q: Now, was one of those obligations speaking to and
- 21 obtaining a statement from one of the suspects and ultimately
- 22 defendant in this case, Quinterris Carmichael?
- 23 A: Yes, sir.
- 24 Q: And when did that interview take place?
- 25 A: I don't have the date of the interview in front of me.

ASHLEY SHELLEY - DIRECT BY MR. WHITE

1 Q: I'm going to show you, in an effort to refresh your
2 recollection, your supplemental. Investigator Shelley, if you
3 could take a look and flip through there and let me know on
4 what date that interview took place? I'll make it easier on
5 you. It might have the date on the Miranda form.

6 A: Yes, if I could have that, that would have been -- yes,
7 this is a Florence Police Department Waiver of Rights form
8 that I went over with Mr. Carmichael at the time of the
9 interview. So it would be dated for September the 20th of
10 2019.

11 Q: And is that roughly eight days after the incident date?

12 A: Correct. It was on the 12th, correct.

13 Q: And --

14 A: Approximately.

15 Q: And it says a time on there too. Could you tell us what
16 is the time?

17 A: That would be 4:12.

18 Q: Now, during this interview, where -- where was it
19 conducted?

20 A: At 324 W. Evans Street in the city of Florence in the
21 second-floor interview room.

22 Q: And that interview room, if you could tell us a little
23 bit, describe it for us?

24 A: It looks most like a everyday common office, normal walls
25 and ceiling tiles, with one desk with a computer on it.

1 Q: Is it well lit?

2 A: It is.

3 Q: And is it equipped with audio and video capability?

4 A: Yes, sir.

5 Q: And was that engaged at the time of this interview?

6 A: Yes, sir.

7 Q: Now, when you brought in Mr. Carmichael, was he in
8 custody at that time?

9 A: Yes, sir.

10 Q: Was he restrained?

11 A: Yes, sir.

12 Q: And did you go over prior to asking him any questions his
13 Miranda form?

14 A: Yes, sir.

15 Q: Or his Miranda rights?

16 A: Yes, sir.

17 Q: And did you use this particular form to do that with?

18 A: Yes, sir. That's my signature.

19 Q: And is -- did you acknowledge and go over each and every
20 right as it appears there on that form?

21 A: Yes, sir.

22 Q: And did he acknowledge that he understood those rights?

23 A: Yes, sir.

24 MR. WHITE: Judge, at this time, I would move State's
25 Exhibit 1 into evidence.

ASHLEY SHELLEY - DIRECT BY MR. WHITE

1 THE COURT: Any objection?

2 MR. EDGEWORTH: No objection, Your Honor.

3 MR. WHITE: Now --

4 THE COURT: So admitted.

5 MR. WHITE: Thank you, Judge.

6 (WHEREUPON, State's Exhibit Number 1, Waiver of Rights
7 Form, was admitted into evidence.)

8 BY MR. WHITE:

9 Q: Now, at any time during the interview, did he appear to
10 be under the influence of drugs or alcohol?

11 A: No, sir.

12 Q: Did he seem to understand what you were asking him and
13 what was being asked of him?

14 A: Yes, sir.

15 Q: Was there any coercion or duress applied to Mr.
16 Carmichael to get him to give you a statement?

17 A: No, sir.

18 Q: And aside from some redactions that are made to that --
19 well, let me ask you this way. Did you during the course of
20 that interview ask him about his prior criminal history?

21 A: I think I may have alluded to my familiarity with him, my
22 personal knowledge, but no speculations. No, sir.

23 Q: Now, at some point around the 13-minute mark, he does
24 make an unequivocal request for an attorney; is that right?

25 A: Yes.

ASHLEY SHELLEY - DIRECT BY MR. WHITE

1 Q: Now, other than the redactions made as it pertains to
2 prior criminal history and stopping at that point, are there
3 any other redactions made to that video that you're aware of?

4 A: Not that I'm aware of, no.

5 MR. WHITE: Judge, at this time I would move State's
6 Exhibit 2, which is a redacted confession or the statement
7 made by Quinterris Carmichael on that date, into evidence.

8 THE COURT: Any objection, Mr. --

9 MR. EDGEWORTH: No. Is this the modified version?

10 MR. WHITE: Yes.

11 MR. EDGEWORTH: No objection.

12 MR. WHITE: I beg the Court's indulgence.

13 THE COURT: It's really not your hearing, Mr. Ammons, but
14 I'll ask you. Do you have any objection to anything thus far?

15 MR. AMMONS: No objection, Your Honor.

16 THE COURT: All right. Thank you.

17 (WHEREUPON, State's Exhibit Number 2, video statement on
18 disk, was admitted into evidence.)

19 BY MR. WHITE:

20 Q: I think when y'all first started the interview, you
21 provided him with some water; is that right?

22 A: Yes. We moved his handcuffs from the rear to the front,
23 and I think they were ultimately removed entirely, if I'm not
24 mistaken. We provided him with some water just to make him
25 comfortable.

ASHLEY SHELLEY - DIRECT BY MR. WHITE

1 Q: And was that an effort to make him more comfortable?

2 A: Sure, yeah.

3 Q: And did you make him any threats or any promises to him
4 to get him to give you a statement on that date?

5 A: Absolutely not, no.

6 MR. WHITE: That's all I have, Judge.

7 THE COURT: Mr. Edgeworth?

8 MR. EDGEWORTH: Okay.

9 CROSS-EXAMINATION

10 BY MR. EDGEWORTH:

11 Q: And I apologize. It's Investigator Shelley or --

12 A: It was at that time.

13 Q: Okay. What are you called now?

14 A: I'm a sergeant with the police department.

15 Q: Okay. Sgt. Shelley. Okay. So let's just make sure the
16 record is clear on this. Do you, in fact, recall having an
17 interrogation with Mr. Carmichael on September 20th, 2019?

18 A: Yes.

19 Q: Okay. And do you recall -- well, you already testified,
20 but you confirmed that at the time of the interrogation, he
21 was, in fact, in custody; correct?

22 A: Correct.

23 Q: Okay. And although it's been described as an interview,
24 you would agree with me that you were, in fact, interrogating
25 Mr. Carmichael?

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 A: Just questions were asked. Yes, I guess it could be
2 interpreted as an interrogation, sure.

3 Q: You're familiar with what an interrogation is, of course?

4 A: Sure.

5 Q: You would consider that what's been phrased as an
6 interview was, in fact, a police interrogation of Mr.
7 Carmichael on September 20th, 2019; isn't that true?

8 A: Sure.

9 Q: Okay. Now, in the beginning of -- and you please let me
10 know if you don't remember, but in the beginning of your
11 interrogation, you actually referred to my client by a street
12 name. Do you recall that?

13 A: I do.

14 Q: Okay. And that was before you mirandized him; isn't that
15 true?

16 A: To the best of my recollection, I would have addressed
17 him by that, yes.

18 Q: Okay. And that's because you have already testified that
19 you have some type of familiarity with Mr. Carmichael prior to
20 this engagement?

21 A: Yes.

22 Q: And prior to this interrogation?

23 A: Correct.

24 Q: Okay. And in fact, during that -- during the
25 interrogation, you referred or reminded Mr. Carmichael of

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 other contacts, law enforcement contacts, that you had with
2 Mr. Carmichael?

3 A: Correct.

4 Q: And you stated that knowing that this thing was being
5 recorded?

6 A: Correct.

7 Q: Okay. Now, the video is actually turned on before you do
8 anything; right?

9 A: Correct.

10 Q: Okay.

11 A: Before I come into the room.

12 Q: So it's running when the guy comes -- when Mr. Carmichael
13 comes into the room?

14 A: Correct.

15 Q: Okay. Do you remember who else was in the room with you?

16 A: At that time, from reviewing the video, I believe Lt.
17 Nida would be who is present in the video prior to myself.

18 Q: Okay. And he's the one who, in fact, offered Mr.
19 Carmichael water; right?

20 A: I don't recall.

21 Q: You don't recall?

22 A: No.

23 Q: Did you have the opportunity to actually review the video
24 that's been placed into evidence for purposes of this hearing?

25 A: A portion of it, yes.

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 Q: Did you watch the one that's been placed into evidence?

2 A: Yes.

3 Q: Okay. Prior to today, have you watched the video of the
4 entire interrogation?

5 A: I have not.

6 Q: Okay. So would you agree with me that at approximately
7 3:37 into the thing that's when you refer to my client by his
8 street name?

9 A: I don't know what time, but I do remember doing that,
10 yes.

11 Q: And it was before he was mirandized?

12 A: I don't recall when.

13 Q: All right. Now, do you recall at approximately five --
14 at five minutes into the interrogation that my client, Mr.
15 Carmichael, asked can I get a lawyer?

16 A: Yes.

17 Q: Okay. And -- and do you recall you telling him if you
18 have one on retainer?

19 A: I don't recall specifically saying that.

20 Q: Do you deny saying that to him?

21 A: I said I don't recall saying that to him.

22 Q: Okay. Do you recall continuing on with your
23 interrogation after he asked can I get a lawyer?

24 A: Yes.

25 Q: Okay. And you are familiar with -- I'm sorry. This is

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 the document that you went over with Mr. Carmichael? That is
2 it?

3 A: Yes, sir.

4 Q: And that is a standard form that the police department
5 uses?

6 A: Yes, sir.

7 Q: Okay. And in that form it says you have the right to an
8 attorney?

9 A: Yes, sir.

10 Q: It says specifically, for the record, you have the right
11 to talk to a lawyer and have him present with you while you
12 are being questioned?

13 A: That's correct.

14 Q: If you cannot afford to hire a lawyer, one will be
15 appointed to represent you before any questions, if you wish?

16 A: That's correct.

17 Q: And at the 5:33 mark of this video just after you have
18 him sign that document, he asked for a lawyer; isn't that
19 true?

20 A: If he asked for a lawyer or could he get a lawyer?

21 Q: That's right.

22 A: If he could get one.

23 Q: Right.

24 A: Yes, sir, he did ask could I get a lawyer.

25 Q: Okay.

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 A: Yes, sir.

2 Q: And did you not understand that to mean that he was
3 invoking his right to counsel?

4 A: No, sir. Not him asking if he could get one.

5 Q: My apologies. Will you state that again for the record?

6 A: Not him asking if he -- if he could get a lawyer.

7 Q: Right. And your response to him was do you have one on
8 retainer?

9 A: Okay.

10 Q: Do you recall that?

11 A: I don't recall that part, but if you're saying from the
12 video that that's what I said, I believe you.

13 Q: Okay. So your response when someone says can I get a
14 lawyer is if you have one on retainer?

15 A: In this particular instance.

16 Q: Okay. And you do recall that this document right here
17 says, that you had him sign, one will be appointed for you if
18 you can't afford one?

19 A: Yes, sir.

20 Q: Okay. All right. Now, do you recall at the 7:55 mark
21 when my client asked for a lawyer, again you say you don't
22 need a lawyer, he'll just trick you?

23 A: No, sir.

24 Q: Okay. Do you recall at the 10:58 mark when you advised
25 my client that he had gotten away with an armed robbery?

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 A: No, sir. I don't recall that.

2 Q: Okay. On your direct examination, you agreed with the
3 State that at approximately 13:35 into the interrogation when
4 my client asked for a lawyer for a third time, that is when
5 the interrogation should have suspended; correct?

6 A: I'm sorry. Can you ask me one more time? I'm sorry.

7 Q: Sure. On direct examination from the State, you agreed
8 that at the 13:35 mark that when my client asked for a lawyer
9 for the third time, that that is when this custodial
10 interrogation should have ended; isn't that true?

11 A: Correct.

12 Q: Okay. Before today -- well, take that back. After that
13 third request, do you recall continuing on in this
14 interrogation for another approximately 13 minutes?

15 A: I don't recall the exact times. No, sir.

16 Q: Okay. Do you recall at some point you just decided to
17 end the interrogation because my client was not speaking with
18 you about the case?

19 A: I don't recall that part either. I'm sorry.

20 Q: Okay. You do agree with me though that the video that
21 you say you watched that's going into evidence today is much
22 shorter than your interview that you had at the time of the
23 interrogation?

24 A: My understanding is it's a shorter version, yes, sir.

25 Q: Okay. Do you acknowledge that during the course of the

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 interrogation, and not the one that's before the Court, in
2 that video that my client asked for an attorney five times
3 before you ended the interrogation?

4 A: I don't recall the number of times.

5 Q: But you wouldn't disagree that that took place; correct?

6 A: I don't recall the number of times, just what I have
7 reviewed myself, which is the shortened version of it.

8 Q: Okay. All right. Is it your general practice to
9 continue the interrogations once the defendant has asked for
10 an attorney?

11 A: No, sir.

12 Q: Okay. Then why did you go forward with this
13 interrogation after multiple requests for an attorney?

14 A: I feel that the questions that I'm asking were prodding
15 questions. There have been times that I've had conversations
16 with people after they have requested an attorney, but kept
17 the subject matter off of the case at hand or continued to
18 converse with those folks, but I wouldn't have asked any
19 questions that may incriminate them were they to answer those
20 questions. Prodding, I guess, would be the word that I'm
21 looking for.

22 Q: Okay. Do you believe that that is what you're supposed
23 to be doing? Continuing to talk to an in-custody person?

24 A: I would say it would be safe to err on the side of
25 caution and not speak to them at all. Sure. I would agree

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 with that.

2 Q: Okay. But you would agree in this case that after
3 multiple requests you continued the interrogation?

4 A: Sure. I agree with that.

5 Q: Okay.

6 A: If it's --

7 Q: And only today are we hearing that after about three
8 requests do you believe that there was an -- as the State
9 called it, an unequivocal request for an attorney?

10 A: Correct. A direct request or unequivocal. Correct.

11 Q: Okay. Was that your idea or the State's idea?

12 A: No, sir. In terms of the direct request for an attorney.

13 Q: Okay. Whose idea was it that it's now known or termed as
14 unequivocal?

15 A: I didn't know that that was anybody's. It's certainly
16 not anything that I said today.

17 Q: Okay. So for the record then, you don't listen for an
18 unequivocal request for an attorney during your
19 interrogations, do you?

20 A: Not necessarily.

21 Q: Okay. In fact, what you do is you continue with your
22 interrogation until you just decide that you're not getting
23 anything out of the person who is in custody?

24 A: I would say that I would be more on the lookout for
25 somebody's definitive statement for it. I will have people

ASHLEY SHELLEY - CROSS BY MR. EDGEWORTH

1 who aren't familiar with the system that may ask that
2 question, you know, do you think I should get an attorney, and
3 I can't give them legal advice. I can only tell them that
4 they have the right to an attorney, if they want one.

5 Q: But that's not the facts that we're talking about.
6 There's no testimony and you don't recall, do you, my client
7 didn't ask you whether or not he should get an attorney;
8 correct? He didn't ask you should?

9 A: I believe that was the way he phrased it on the -- on the
10 first statement that he made when he referenced counsel. I
11 believe that's -- and again, I'd have to look at it or a
12 transcript or something.

13 Q: I'll just refresh your recollection one more time and
14 then I think we can be done with this, but you do not deny
15 that at 5:33 during that interrogation that Mr. Quinterris
16 Carmichael says can I get a lawyer?

17 A: Correct.

18 Q: And you continued on with that interrogation; true?

19 A: Correct. I did speak to him further.

20 MR. EDGEWORTH: No further questions, Your Honor.

21 THE COURT: Mr. White?

22 MR. WHITE: Judge, at this time I'll play the video so we
23 can clear it up.

24 Ms. Elaine, can you switch us over, please, ma'am?

25 And, Judge --

ASHLEY SHELLEY - REDIRECT BY MR. WHITE

1 BY MR. WHITE:

2 Q: I mean, the video is the best evidence of what occurred
3 during that interview; is that right?

4 A: I agree with that, yeah.

5 Q: Okay.

6 MR. WHITE: Judge, I ask permission to publish the video
7 so you can see it.

8 THE COURT: Would you turn the volume up?

9 MR. WHITE: Ms. Elaine, can you turn the volume on?

10 (WHEREUPON, State's Exhibit Number 2, video statement on
11 disk, was played in court. Not transcribed herein.)

12 (WHEREUPON, the video was stopped.)

13 BY MR. WHITE:

14 Q: Investigator Shelley, who is that in the room there with
15 you?

16 A: That's Lt. William Nida. Want to try it again? That's
17 Lt. William Nida.

18 (WHEREUPON, the video resumed playing and was then
19 stopped.)

20 MR. WHITE: Ms. Elaine, can you turn the volume up?

21 (WHEREUPON, the video resumed playing and was then
22 stopped.)

23 MR. WHITE: Judge, can you hear that okay? I've got the
24 volume turned all the way up on my end.

25 THE COURT: You can play it. I'll see what I can hear.

1 (WHEREUPON, the video resumed playing.)

2 (WHEREUPON, the video ended, and the proceedings resumed
3 as follows.)

4 MR. WHITE: Thank you, Investigator Shelley.

5 Judge, that's all I have.

6 THE COURT: Anything? Mr. Edgeworth, anything else?

7 MR. EDGEWORTH: Not unless the Court requires an
8 argument.

9 THE COURT: Sir, you may step down. Thank you.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Anything else from the State on that as far
12 as any testimony or anything?

13 MR. WHITE: No more testimony, Judge.

14 THE COURT: All right. Mr. Edgeworth, I'll hear from
15 you.

16 MR. EDGEWORTH: Thank you, Your Honor. May it please the
17 Court.

18 Your Honor, it's my position and my client's position
19 that this video and associated testimony should be suppressed.
20 It's a complete and utter violation of my client's Fifth
21 Amendment rights.

22 It is clear and it's been testified to that Mr.
23 Carmichael was in custody. He was being interrogated as a
24 suspect in a -- in the murder that we are here for. It's been
25 admitted by law enforcement by the investigator, Sgt. Shelley.

1 It is clear from watching even the redacted video that my
2 client asked for an attorney while he was being given his --
3 even being read, I mean, verbatim the waiver form, and when my
4 client asked for counsel, asked to call his attorney, it's
5 kind of sidestepped and continued on.

6 And I believe that that is just -- whether it's a law
7 enforcement tactic or otherwise, there was no cooling off
8 period for him to continue to talk, which would be required.
9 He asked for an attorney on multiple additional occasions,
10 some of which have been redacted along with some of the other
11 inappropriate commentary that was made during the -- during
12 the interrogation.

13 I believe it's abundantly clear. He testified he doesn't
14 even know what unequivocal means as it relates to -- as it
15 relates to an assertion for the attorney, but I think it's
16 clear he asked for his attorney on multiple occasions. The
17 unequivocal nature, obviously, has been brought up by the
18 State due to case law. If the Court were to see the entire
19 video, it is -- this goes on for another 13 minutes after --
20 after they now concede it should have at least ended at the
21 13:00 mark.

22 So I would ask the Court to suppress the video, and in
23 addition I'd make the additional and alternative argument that
24 there is literally no way to cut and splice this video and
25 take out all of the inappropriate, inflammatory investigative

1 hearsay without being prejudicial to my client to the jury. I
2 mean most of the conversation is by the interrogator and just
3 putting thoughts and ideas out there to the world after my
4 client has asked for an attorney, but things that certainly
5 would be left up to the State to try to prove from the witness
6 stand in front of the jury. So I would ask the Court to
7 suppress that video as part of this trial in this case.

8 THE COURT: Thank you.

9 Mr. White?

10 MR. WHITE: Judge, that initial statement, can I get a
11 lawyer, is just not a clear indication of, you know, his right
12 to counsel. And furthermore, the statement is made while
13 Investigator Shelley is going over his Miranda rights, and
14 Investigator Shelley just says, hey, let me continue
15 explaining this to you and after that then we'll talk, and
16 that's what he does. He goes through his Miranda rights and
17 at that point he waives the Miranda rights, he initials the
18 Miranda form, and then he gives a short interview. Judge, I
19 agree at 13 -- at the 13:00 mark, that is a clear and
20 unequivocal indication of the right to counsel, but I just
21 don't feel that that initial statement is a clear indication.

22 Judge, I don't know what Mr. Edgeworth is referring to.
23 I have spliced and edited all the prejudicial information out.
24 Here it is. I don't know if he's saying I can't do it. I
25 have done it.

1 Everything that remains outside of that is your standard
2 fare. Judge, this is a standard interview outside of that
3 initial, again, not clear indication of his right to counsel,
4 and I would ask that I be able to admit it and publish it to
5 the jury.

6 THE COURT: How about getting me a copy of it so maybe I
7 can better understand what's being said here. I couldn't half
8 hear what the defendant was saying, especially right there at
9 the end. Get me a video.

10 MR. WHITE: Yes, sir, Judge.

11 THE COURT: And I don't have a -- I don't know that I
12 have a CD player.

13 MR. WHITE: Okay. We'll get it figured out one way or
14 the other. There is a disk there.

15 THE COURT: I don't know if I still have a CD player in
16 my bag.

17 THE LAW CLERK: I have it in my bag.

18 THE COURT: All right. Deyjenay says she's got a player.
19 So --

20 MR. WHITE: Okay.

21 THE COURT: All right. I'll listen to it again. I'll
22 let you know.

23 MR. WHITE: Yes, sir. Thank you, Judge.

24 MR. EDGEWORTH: Thank you, Judge.

25 THE COURT: All right. Next matter. Mr. Ammons?

1 MR. AMMONS: Yes, Your Honor. At this time we would make
2 a motion to suppress any evidence that was obtained from a
3 search warrant search conducted on the premises of [REDACTED] Sanborn
4 Street here in Florence, South Carolina, Your Honor.

5 THE COURT: All right. Mr. White?

6 MR. WHITE: Judge, I can certainly call Investigator
7 Chatlosh, who had that search warrant and executed that search
8 warrant, but I think the search warrant speaks for itself.
9 Judge, I think he's challenging the probable cause nature of
10 the search warrant, and under South Carolina law probable
11 cause determinations are evaluated under a totality of the
12 circumstances test in which the task of the issuing magistrate
13 or in this case municipal court judge is simply to make a
14 practical commonsense decision whether, given all the
15 circumstances set forth in the affidavit before him, there is
16 a fair probability that contraband or evidence of a crime will
17 be found in a particular place.

18 Judge, that meets the standard here. At the time of the
19 issuance of this search warrant, Investigator Chatlosh and
20 investigators at the city had the video surveillance that
21 captured Tirik Johnson-Epps firing shots at Tydrecus Williams.
22 They then went on Facebook and tried to track down who this
23 individual could be, this individual with the long dreads who
24 is firing the shots.

25 They are able to obtain a vehicle collision report that

1 had him on it, and based on that they got his DMV photograph
2 and compared it to the -- the video surveillance. A short
3 time thereafter, the vehicle that's seen leaving the scene is
4 determined to be owned by a young lady by the name of Tyrin
5 Jones. They bring Tyrin Jones in for an investigation, and
6 she names the individual who was with her in that car, that
7 being Tirik Johnson-Epps.

8 So at the point of the issuance of this affidavit, they
9 had two separate forms of identification of this individual in
10 the affidavit. I don't know if Your Honor hasn't had a chance
11 to look at it. It's quite proper. I mean, it says in the
12 description of the property sought, and it is specific. The
13 defendant, Tirik Johnson-Epps, seeking firearms, firearm parts
14 and accessories, ammunition, ammunition-making material,
15 matching clothing from the night of the incident, and other
16 evidence that could be related to this homicide case, and
17 that's essentially what they find.

18 Judge, they go into his place of residence. They find a
19 pair of acid-washed jeans that he's on video wearing. I mean,
20 it's the exact same jeans. On the jeans, they find a blood
21 spot. They send it off to SLED. The victim's blood is found
22 on it to 90 octillion, Judge, it is Tydrecus Williams' blood.

23 They also find ammunition that they are seeking in the
24 affidavit or in the search warrant, as well as a shotgun. And
25 then they found some things that they just -- you know, as a

1 matter of law they can't look away from, and that is the
2 marijuana, as well as some scales, but nothing exceeds the
3 scope of their search warrant. So, Judge, I believe based on
4 the affidavit and the face of the warrant, I believe it's
5 valid without needing further testimony from the State.

6 MR. AMMONS: Thank you, Your Honor. May it please the
7 Court.

8 Your Honor, a lot of what Mr. White just told you was all
9 evidence of things that were found after the fact. That
10 doesn't -- that doesn't bear on whether or not there was
11 probable cause to search it.

12 And, Your Honor, case law that -- and I have a case that
13 I'd like to hand up. It's *State v. Baccus*, Your Honor, which
14 talks about particularity with which the affidavit has to --
15 has to state as for the property and the probable cause, Your
16 Honor.

17 And if you'll look in this case, the Court actually
18 provides a portion of the affidavit that was provided in this
19 case that is almost identical to what was in this particular
20 affidavit, Your Honor, and the -- the Court found that to be
21 improper, that the affidavit did not give a substantial basis
22 for probable cause and so the Court found that any evidence
23 produced from that search was not admissible, and I've
24 highlighted that. I think it's on page 8 of that case law,
25 but if you'll look at the description of property sought, it's

1 pretty similar to the description of property sought on this
2 particular affidavit.

3 And then as far as probable cause, if you'll notice on
4 the affidavit, the officer went into great specificity in
5 describing the premises to be searched. I mean he goes down
6 to the color of the -- of the -- of the siding, the color of
7 the door, the trim on the door, where is the center of the
8 house. I mean, extremely explicit on the description of the
9 premises, not so much on the description of the property. And
10 if there was so much probable cause and they knew what they
11 were looking for, this affidavit should have said we're
12 looking for acid-washed jeans if they had that in that video
13 and they knew at that time.

14 In the probable cause portion of it, Your Honor, they're
15 speaking of -- it said through several means of
16 identification. Well, if they had the means of identification
17 from which they had identified Mr. Johnson-Epps -- and let me
18 say the video may show Mr. Johnson-Epps at the scene, it's not
19 conclusive who is firing the gun on that video, and I think
20 that will be borne out.

21 But if -- you know, they could have given the means that
22 they had for identification, that he was at the scene. The
23 video, all it says is this instance was captured on video.
24 What kind of video? I mean, is it multiple angles?

25 It just -- it could have been a whole lot more specific

1 in what they were put as far as the probable cause when there
2 was so much emphasis put on the description of the premises,
3 Your Honor, and we'd ask that anything obtained from that -- I
4 mean, probable cause, it's there for a reason, Your Honor.
5 The affidavit -- it had -- you know, it's a protection of the
6 Fourth Amendment right. It's in there statutorily.

7 We've got case law that says that -- that mere -- mere
8 conclusory statements, and that's what we've got here. We've
9 got conclusory statements that it's the belief of the affiant
10 that evidence related to this crime will be located at this
11 incident.

12 As far as evidence of the crime, there were -- no
13 evidence or no specificity in the description of what kind of
14 firearm, what kind of caliber, what this young man had been
15 shot with. There's no particularity. So it's just a -- it's
16 just a fishing expedition that we believe violates his Fourth
17 Amendment right, Your Honor, and we'd ask that the Court
18 suppress anything obtained from the execution of that warrant.

19 THE COURT: All right. Anything else, Mr. White?

20 MR. WHITE: Judge, just briefly. *Baccus* is not on point.
21 We're familiar with that case. *Baccus* involved a scenario
22 where a lead investigator or someone with firsthand knowledge
23 got another investigator, another officer -- and that's a
24 Twelfth Circuit case -- in their office to go and swear the
25 affidavit without firsthand knowledge. So that's the issue

1 that they're dealing with here.

2 That's not what we're dealing with in this particular
3 search warrant. The lead investigator is the one who got this
4 affidavit, who swore this affidavit and had firsthand
5 knowledge of the -- the incident and the circumstances giving
6 rise to his swearing and getting this search warrant.

7 Furthermore, Judge, the level of specificity that Mr.
8 Ammons is saying is required is just not simply required under
9 the state -- or under the law. Judge, it's just not. You
10 don't have to go to that level of specificity, and it is
11 specific in the warrant. It says matching clothing from the
12 night of the incident. Now, if it would have said all of his
13 clothing, all that we can find, then maybe I see his point,
14 but I mean, it is specific in that it is the matching clothing
15 from the incident night that we see on the video, which is
16 terribly specific.

17 THE COURT: Where is that?

18 MR. WHITE: Sir?

19 THE COURT: Where is that?

20 MR. WHITE: That's in the description of property sought.
21 It says matching clothing from the night of the incident. And
22 that, coupled with the fact that they have a video that shows
23 what he's wearing, makes this terribly specific.

24 Furthermore, Judge, it would be -- there's a video that
25 shows this individual firing a firearm. From the video, it

1 would be impossible to tell what kind of firearm, what kind of
2 ammunition was used in -- in the course of this shooting, and
3 so it would be impractical to require a level of specificity
4 that they are unaware of.

5 So they -- I mean, this is common practice to put in in a
6 case like this firearms, firearm parts and accessories, and
7 ammunition. We see that all the time. Again, I just don't
8 think the case law -- and specifically, *Baccus* does not
9 require that level of specificity.

10 And Mr. Tucker brings up a good point. Shell casings
11 were recovered from the scene. They were 9-millimeter. I'm
12 not sure if the firearms report had come back at the time of
13 the search warrant, but nothing would preclude there being
14 other firearms involved in this incident. So, you know, it
15 would be, again, impractical to require that level of
16 specificity.

17 THE COURT: Mr. White, a lot of what you argued to me
18 about the video surveillance, Facebook, vehicle collision
19 report, DMV photograph, vehicle seen leaving the scene,
20 interview of this young lady who says Mr. Epps was with her,
21 what about all of that? None of that's in here, is it?

22 MR. WHITE: Say that one more time, Judge?

23 THE COURT: I said none of that's in his affidavit, is
24 it?

25 MR. WHITE: No, sir. I don't think that's required.

1 THE COURT: You don't think so?

2 MR. WHITE: I don't.

3 THE COURT: Mr. Ammons, let me ask you something. Do you
4 have any case or anything that talks about having to
5 specifically identify a caliber of firearm used?

6 I mean, we all know that incidents occur all the time and
7 evidence has to be collected, evidence has to be sent to SLED
8 for them to determine. Hence, the use of a firearms expert
9 and an expert coming in to testify as to the actual caliber.

10 MR. AMMONS: Your Honor, I'm not aware of any case law.
11 The only thing I would rely on is the fact that the State
12 already admitted that they knew at least of 9-millimeter
13 shells. They could have at least had some specificity as to
14 that.

15 THE COURT: I mean, it's kind of like putting a puzzle
16 together though, isn't it?

17 MR. AMMONS: Yes, sir. I agree, Your Honor.

18 THE COURT: All right. I'll take a look at this case,
19 *Baccus*, that you gave me. I'll take a look at it overnight,
20 and I'll look at the -- I'll let you know if you'll be back
21 here at 8:30 in the morning.

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

23 MR. AMMONS: Thank you, Your Honor.

24 MR. EDGEWORTH: Thank you, Your Honor.

25 MR. WHITE: Thank you, Your Honor.

1 (WHEREUPON, the proceedings adjourned for the day at 5:14
2 p.m.)

3 JANUARY 24, 2023

4 (WHEREUPON, the proceedings began at 9:04 a.m.)

5 THE COURT: All right. Prior to coming out here, it was
6 conveyed to me by court personnel that two jurors came in this
7 morning and said that they were not comfortable serving on
8 this jury. I've conveyed this information to the attorneys
9 back in chambers. It's my understanding it's Juror Number 75,
10 Latoya Hickson, and Juror Number 37, Malekia Edmunds.

11 What I'm going to do is I am going to bring each one of
12 those jurors out here individually up to sidebar and allow the
13 lawyers to come up here while I have some discussions with
14 them. And pursuant to those discussions, I guess, I'll make a
15 determination as to where we need to go from there.

16 Anything from the State?

17 MR. WHITE: No, sir, Judge.

18 THE COURT: Defense counsel?

19 MR. EDGEWORTH: Nothing, Your Honor.

20 MR. AMMONS: Nothing, Your Honor.

21 THE COURT: Ms. Elaine, can you -- Ms. Frances went back
22 out there.

23 THE CLERK: Yes, sir.

24 THE COURT: Can you bring me Ms. Hickson first, please?

25 THE CLERK: Yes, sir.

1 MR. WHITE: Judge, just one thing. We just noticed that
2 -- and this might be purely coincidental, but both of these
3 ladies both work at Walmart or for Walmart in some capacity.
4 So I would -- after your initial line of questioning, I would
5 -- I would want to question them if they've been contacted in
6 some way, notified about this case, so that we can
7 investigate.

8 MR. EDGEWORTH: For clarification, are you asking the
9 Court to inquire or you want to inquire?

10 MR. WHITE: I want -- I would like the Court to inquire.

11 MR. EDGEWORTH: Okay.

12 MR. WHITE: So that if there's any information, you know,
13 that they reveal, then we can vet that.

14 MR. EDGEWORTH: Okay. Gotcha. You aren't asking to ask
15 the questions?

16 MR. WHITE: No, no, no, no.

17 (WHEREUPON, Juror Number 75 entered the courtroom, and a
18 bench conference was held with the juror as follows.)

19 THE COURT: Come on around here, ma'am.

20 The lawyers may approach.

21 Good morning. You can take your mask down while you talk
22 to me. Are you Ms. Hickson?

23 JUROR NUMBER 75: I am.

24 THE COURT: All right. You're Ms. Latoya Hickson, Juror
25 Number 75?

1 JUROR NUMBER 75: That's correct.

2 THE COURT: Ms. Hickson, it was conveyed to me this
3 morning by court personnel and staff that you told them that
4 you did not feel comfortable serving on this case. Can you
5 explain to me why?

6 JUROR NUMBER 75: I'm not sure why, but I have -- I had
7 it the whole time I was sitting in here, and it's still there
8 and my blood pressure is high. So I have -- I do have high
9 blood pressure. So, I mean, I don't know.

10 THE COURT: Well, the question becomes -- I mean, this is
11 a real-life situation.

12 JUROR NUMBER 75: It is.

13 THE COURT: This is not television.

14 JUROR NUMBER 75: Right.

15 THE COURT: And it is one of our civic duties as citizens
16 in this state. You know, the question becomes -- well, during
17 my questioning, I asked all jurors -- we had over -- close to
18 50 jurors in here yesterday.

19 JUROR NUMBER 75: Uh-huh.

20 THE COURT: And I asked all jurors whether or not they
21 knew of any reason, any reason whatsoever, why they couldn't
22 serve, and you nor anyone else stood up during that period of
23 time.

24 JUROR NUMBER 75: Right. Because at the time, you know,
25 it was, like, I tried, but --

1 THE COURT: Well, let me ask you this. Has anyone
2 contacted you --

3 JUROR NUMBER 75: No.

4 THE COURT: -- or tried to contact you --

5 JUROR NUMBER 75: Huh-uh.

6 THE COURT: -- or notified you about anything with this
7 case?

8 JUROR NUMBER 75: No.

9 THE COURT REPORTER: I didn't hear what she said.

10 THE COURT: She said no.

11 Have you since learned anything about this case?

12 JUROR NUMBER 75: No.

13 THE COURT: Do you know either one of these defendants?

14 JUROR NUMBER 75: I don't. I don't.

15 THE COURT REPORTER: I can't hear.

16 THE COURT: I need you to speak up a little bit.

17 JUROR NUMBER 75: No, I don't.

18 THE COURT: She says she doesn't.

19 You know, if you were -- if I told you you had to serve
20 on this jury, could you be fair and impartial to both the
21 State and the defense?

22 JUROR NUMBER 75: I would have no choice. Yes.

23 THE COURT: And decide this case -- make a decision on
24 this case based upon the evidence and testimony presented in
25 this courtroom?

1 JUROR NUMBER 75: Yes, sir.

2 THE COURT: Okay. I know that -- well, anything further?

3 MR. WHITE: No, sir.

4 THE COURT: Mr. Edgeworth?

5 MR. EDGEWORTH: Nothing further, Judge.

6 MR. AMMONS: No, sir.

7 THE COURT: At this time, Ms. Hickson, I'm going to let
8 you step back to the jury room. Don't discuss what we've
9 discussed out here. Okay?

10 JUROR NUMBER 75: Okay.

11 (WHEREUPON, Juror Number 75 left the courtroom, and the
12 bench conference continued as follows.)

13 THE COURT: What says the State?

14 MR. WHITE: I would ask that that particular juror be
15 excused, Judge. I think she's -- I mean, it's overly -- is
16 that door closed? I think she's just overly emotional, and
17 her response to your question whether she could be fair and
18 impartial was -- was just kind of -- it left me not firmly
19 convinced that she could be. She says that she would have no
20 choice. She didn't say a yes or a no. That she -- that she
21 just would have no choice but to be fair and impartial.

22 And you can see visibly she was shaken. She was
23 physically shaking, and she was crying during the course of
24 your questioning of her. So I would ask that she be excused
25 and an alternate placed.

1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: Thank you, Your Honor. For the record, I
3 believe that she did answer the Court's questions. I think
4 her acknowledgment that she would have to means that she
5 understood the fact that the Court reminded her that it is our
6 civic duty, and I would ask the Court to keep her in place as
7 a juror.

8 THE COURT: Mr. Ammons?

9 MR. AMMONS: She did answer the question, Your Honor, and
10 she said she could be impartial. I still have some concerns
11 about that. I don't -- I don't know if that benefits the
12 State or the defense or who that is geared to, but it does
13 raise some concerns for me, Your Honor. I certainly hate to
14 lose a juror, but it did cause me some concern.

15 (WHEREUPON, the bench conference ended, and the
16 proceedings resumed as follows.)

17 THE COURT: All right. If you would, bring me Juror
18 Number 37, please.

19 THE CLERK: Yes, sir.

20 THE COURT: Ms. Edmunds.

21 THE CLERK: Yes, sir.

22 (WHEREUPON, Juror Number 37 entered the courtroom, and a
23 bench conference was held with Juror Number 37 as
24 follows.)

25 THE COURT: The lawyers may approach.

1 Ms. Edmunds, you can take your mask down while you talk
2 to me.

3 JUROR NUMBER 37: Uh-huh.

4 THE COURT: You're Juror Number 37, Ms. Malekia Edmunds?

5 JUROR NUMBER 37: Uh-huh. Yes, sir.

6 THE COURT: It was conveyed to me this morning by court
7 personnel that you told them that you don't feel comfortable
8 serving on this case.

9 JUROR NUMBER 37: Yes, Your Honor.

10 THE COURT: Can you tell me why?

11 JUROR NUMBER 37: I have really bad anxiety, and I don't
12 feel comfortable doing it.

13 THE COURT: Anxiety? You're on medication for anxiety?

14 JUROR NUMBER 37: I'm not.

15 THE COURT: You're not?

16 JUROR NUMBER 37: No.

17 THE COURT: Well, let me ask you this. During
18 qualifications to serve as a juror yesterday, I asked all the
19 jurors, about 50, whether or not you knew of any reason, any
20 reason whatsoever, why you could not serve, with particular
21 emphasis being placed upon your ability to be fair and
22 impartial to both the State and the defense. Can you tell me
23 why you didn't stand up and respond then?

24 JUROR NUMBER 37: I was nervous.

25 THE COURT: Where do you -- you currently work at

1 Walmart?

2 JUROR NUMBER 37: Yes, sir.

3 THE COURT: Has anybody contacted you in any way, shape,
4 or form about this case?

5 JUROR NUMBER 37: No, sir.

6 THE COURT: Do you know either one of these defendants in
7 this case or their families?

8 JUROR NUMBER 37: No, sir.

9 THE COURT: If I told you you had to serve on this jury,
10 could you be fair and impartial to both the State and the
11 defense and decide this case based solely upon the evidence
12 and testimony presented in this courtroom?

13 JUROR NUMBER 37: Yes, sir.

14 THE COURT: Anything further?

15 MR. WHITE: No, sir, Judge.

16 THE COURT: Mr. Edgeworth?

17 MR. EDGEWORTH: Nothing further.

18 MR. AMMONS: No, Your Honor.

19 THE COURT: All right. I'm going to ask that you step
20 back to the jury room. Don't discuss what we discussed out
21 here. Okay?

22 (WHEREUPON, Juror Number 37 exited the courtroom, and the
23 bench conference ended and the proceedings resumed as
24 follows.)

25 THE COURT: Mr. White?

1 MR. WHITE: Judge, obviously, again, this young lady was
2 extremely anxious. She admitted to the Court she has severe
3 anxiety over the possibility of testifying or -- excuse me --
4 serving on the jury, but of note what I found particularly
5 troublesome for the State and for the defense, depending on
6 how you look at it, was the fact that when you asked her why
7 she didn't stand up to the question of whether or not she
8 could be fair and impartial before and she said she was
9 nervous, which would lead one to believe that her initial
10 inclination was to say that she could not be fair and
11 impartial, although she did go on to tell you at the bench
12 that she could be fair and impartial.

13 So that bit of back and forth and ambiguity there leaves
14 me quite concerned, and I think that is very telling that
15 although she told you, yes, she could be fair and impartial,
16 it was her initial inclination when you first asked the
17 question to maybe not respond in the affirmative or not stand
18 up at all. So I think that nervousness and that anxiety would
19 lead me to ask the Court to go ahead and sit the second
20 alternate. And, Judge, that's why we have alternates for this
21 exact situation here, and I'd ask that both alternates be sat
22 in the place of these two ladies.

23 THE COURT: Mr. Edgeworth?

24 MR. EDGEWORTH: Thank you, Your Honor.

25 I guess I look at that a little bit differently. She was

1 -- she -- when you asked her the question if I said you had to
2 remain on this jury, can you be fair and impartial, she said
3 yes, and what she was referring to was that she didn't answer
4 the question before because she was nervous was is there any
5 reason, etc. Well, that's because she wasn't on the jury
6 then. She was probably hoping that she wouldn't have to
7 serve, just like most of the people probably sitting in that
8 room and, therefore, didn't come forward.

9 I don't think at this point in time, given the fact that
10 she's been selected and the fact the Court has re-inquired and
11 indicated to the Court that she can, in fact, be impartial to
12 both the State and the defense, I would ask the Court to keep
13 this juror on the jury.

14 THE COURT: Mr. Ammons?

15 MR. AMMONS: Thank you, Your Honor.

16 I think she did answer your question much more directly,
17 didn't seem to waffle as much as the previous one, but I still
18 do have concerns, Your Honor. As Mr. White said, I don't know
19 how that plays for the State or for the -- or for the defense,
20 but there was clearly a measured level of anxiety with her.
21 So I certainly respect whatever the Court decides, but I do
22 have some concerns.

23 THE COURT: All right. Thank you.

24 MR. WHITE: Judge, I don't want to interrupt your thought
25 process, but I do want to add -- whenever you're ready, I just

1 want to add one thing to it.

2 THE COURT: While you're up, go ahead, since you already
3 interrupted me.

4 MR. WHITE: I'm sorry, Judge.

5 I did want to -- I understand what Mr. Edgeworth is
6 saying, but, Judge, she admitted that she, you know, maybe
7 should have stood up in that moment and did not. Because she
8 did not, you know, the State didn't have an opportunity to
9 elicit that information from her and possibly strike her if
10 she waffled on that question.

11 Furthermore, Judge, just because I want to go ahead and
12 get this out there while y'all are discussing what the next
13 step will be, before a decision is reached on these two
14 ladies, I wonder if it might be beneficial to bring the
15 gentleman out and see what he says about his situation because
16 it might be a situation where he's angered by the fact or the
17 possibility of being fired so much so that he could not also
18 be fair and impartial.

19 THE COURT: Well, that was my plan. I appreciate it.

20 MR. WHITE: I'm sorry, Judge. I apologize.

21 THE COURT: All right. Bring me, please, Juror Number
22 42, Mr. Kevin Fleming.

23 THE BAILIFF: What number?

24 THE COURT: 42, Kevin Fleming.

25 THE BAILIFF: Okay.

1 (WHEREUPON, Juror Number 42 entered the courtroom, and a
2 bench conference was held with the juror as follows.)

3 THE COURT: Come on up here, Mr. Fleming.

4 JUROR NUMBER 42: How are you doing?

5 THE COURT: Good. How are you doing this morning?

6 JUROR NUMBER 42: All right.

7 THE COURT: Tell me what -- well, let me tell you what
8 I've been told.

9 JUROR NUMBER 42: Okay.

10 THE COURT: I was told by court personnel that you
11 indicated to them that your job said they were going to
12 terminate you if you served up here.

13 JUROR NUMBER 42: Yes, sir. Well, they didn't say
14 terminate, but they're basically trying to tell me they
15 wouldn't accommodate because I just started last Tuesday, and
16 I work with Spartan Sand. That's what -- with Spherion, and
17 he was saying that, you know, due to --

18 THE COURT: I mean, they can't terminate you or get rid
19 of you because you're on jury duty.

20 JUROR NUMBER 42: Right. And that's why I was, you know,
21 telling them. That was the young ladies downstairs, but you
22 were saying that by them being inclined, they might -- they
23 might not accommodate for it. So --

24 THE COURT: Who is your boss or supervisor?

25 JUROR NUMBER 42: His name is -- all I know is his first

1 name is Brackett. Brackett.

2 THE COURT: Brackett?

3 JUROR NUMBER 42: Yes, sir. At Spherion.

4 THE COURT: Do you have a phone number?

5 JUROR NUMBER 42: No, sir, I don't.

6 THE COURT: You didn't bring any contact information?

7 JUROR NUMBER 42: I do, but it's -- I was told to, you
8 know, leave everything in the car. So I left everything. My
9 phone and stuff is in the car, but I do have the number, you
10 know, in my phone and everything.

11 THE COURT: If I kept you on this jury, could you be fair
12 and impartial to both the State and the defense?

13 JUROR NUMBER 42: Yes, sir. I believe so.

14 THE COURT: It's a yes or no question.

15 JUROR NUMBER 42: Yes, sir.

16 THE COURT: Anything further from the State?

17 MR. WHITE: No, sir, Judge.

18 THE COURT: Mr. Edgeworth?

19 MR. EDGEWORTH: No, sir.

20 THE COURT: Mr. Ammons?

21 MR. AMMONS: No, sir.

22 THE COURT: I'm going to ask that you step back to the
23 jury room right now, Mr. Fleming.

24 JUROR NUMBER 42: Okay.

25 THE COURT: But don't discuss what we've discussed out

1 here. Okay?

2 JUROR NUMBER 42: Yes, sir.

3 (WHEREUPON, Juror number 42 exited the courtroom, and the
4 bench conference ended and the proceedings resumed as
5 follows.)

6 THE COURT: Mr. White?

7 MR. WHITE: Judge, I do have some reservations that he
8 might hold it against -- I don't who he'd hold it against if
9 he has some issues with being told to stay. I don't know what
10 his employment situation is. It didn't sound like he was real
11 clear on what the consequences would be if he stayed on the
12 jury.

13 THE COURT: Well, he just said they would not -- he was
14 told they would not accommodate him.

15 MR. WHITE: Yeah. That's kind of confusing as to what --
16 I mean, obviously, they can't, you know, retaliate against him
17 staying up here with us. But at the end of the day, I mean,
18 he was quite clear that he could be fair and impartial. You
19 know, I don't want anybody to have to lose their job, but, you
20 know, we -- I would have no problems proceeding with him on
21 the jury.

22 THE COURT: Mr. Edgeworth?

23 MR. EDGEWORTH: Likewise, Your Honor, I think he answered
24 your questions in a manner that would be at least sufficient
25 for the Court's purposes that he could be impartial to both

1 the State and defendant, and I would ask the Court to keep him
2 on the jury.

3 THE COURT: Mr. Ammons?

4 MR. AMMONS: Same -- same thing, Your Honor. I do think
5 he was unequivocal in answering that he could be fair and
6 impartial.

7 I do have concerns about where his focus would be if he
8 were sitting up here this week, whether if he would be paying
9 attention closely or worrying about what was going to happen
10 with his employment when he got out of here. That certainly
11 is a cause for concern that I don't know how that affects the
12 State or the defense, but again, it is an area that I am
13 concerned about. I'm honestly concerned about all three of
14 them from that regard about where their heads would be during
15 this process.

16 THE COURT: All right. As it relates to Ms. Hickson,
17 Juror Number 75, when she came out here, she indicated that
18 she has high blood pressure. I didn't ask her any specifics
19 as to whether or not she was on any kind of medication for
20 high blood pressure, but it was apparent to me in my
21 observations of Ms. Hickson that she was very nervous,
22 appeared to be scared, afraid, and she was, in fact, crying.

23 When I asked whether or not she could be fair and
24 impartial to both the State and the defense, it was not a yes
25 or no response. In fact, her response was that she would have

1 no choice. Due to my observations and questioning of Ms.
2 Hickson and no affirmative yes or no as to whether or not she
3 could be fair to both the State and the defendants, I am going
4 to excuse Ms. Hickson.

5 All right. As it relates to Ms. Malekia Edmunds, Juror
6 Number 37 -- well, let me say this about Ms. Hickson as well
7 because the State brought this up. That Ms. Hickson, as well
8 as Ms. Edmunds, work at Walmart and had a concern possibly of
9 whether or not anyone had contacted her, Ms. Hickson and Ms.
10 Edmunds, notified them about this case or whether or not Ms.
11 Hickson knew either one of these defendants, of which she
12 indicated that she did not and that no one had tried to
13 contact her or notify her or talk to her about this case.

14 In any event, in light of my observations of Ms. Hickson,
15 her responses to my questions, and the fact that she appeared
16 to be visibly -- visibly shaken, I am going to excuse Ms.
17 Hickson.

18 Now, as it relates to Juror Number 37, Ms. Edmunds, she
19 also -- or it was brought to the Court's attention by the
20 State that she also works at Walmart. I believe that Ms.
21 Edmunds confirmed such on the record when I brought her out
22 here. She also indicated that no one had contacted her,
23 notified her, or tried to reach out to her as it relates to
24 this case.

25 She indicated that she suffers from anxiety. However,

1 she is not on any type of medication as a result of such
2 anxiety. She did not appear in any way, shape, or form to the
3 Court to be overly nervous, scared, or emotional in her
4 responses to me, like Ms. Hickson had been.

5 When I asked Ms. Edmunds whether or not she could be fair
6 and impartial to both the State and the defense, her response
7 was yes. She did not halt in her response to me. It was an
8 unequivocal yes in her response about being fair and impartial
9 to both the State and the defense. Therefore, I am going to
10 retain Ms. Edmunds on this jury.

11 As it relates to Juror Number 42, Mr. Kevin Fleming, Mr.
12 Fleming -- it was conveyed to the Court prior to Mr. Fleming
13 coming out here that -- it was conveyed to the Court that he
14 would lose his job. That's, in essence, what was conveyed to
15 me.

16 Pursuant to that being conveyed to me, I brought Mr.
17 Fleming out here, questioned Mr. Fleming. I asked him whether
18 or not he would lose his job as a result of serving on jury
19 duty. He conveyed to me that he was not told that he would
20 lose his job, but rather that they would not -- he would not
21 be accommodated. That is not to me confirmation that he
22 would, in fact, lose his job.

23 While we all know that one can't be terminated for
24 serving on jury duty -- terminated from employment for serving
25 on jury duty, he indicated that that was not what was conveyed

1 to him, but rather that he would not be accommodated. It is
2 speculation certainly on my part that notice that you would
3 not be accommodated could mean a variety of things. It could
4 mean that he would not be accommodated to return to the job
5 where he was working as a temporary employee. That stands out
6 first and foremost in my mind about not being accommodated,
7 what that means. It does not mean that he would not have
8 other opportunities at other employment sites.

9 And he responded that he could be fair and impartial to
10 both the State and the defendant -- defendants. Excuse me.
11 And therefore, I'm going to keep Mr. Fleming.

12 Now, since I have released Ms. -- or going to release Ms.
13 Hickson, I have written down the two alternates' names, Mr.
14 Eric Prescott, as well as Mr. James Lupo, on two separate
15 pieces of paper. I have put those pieces of paper in a cup,
16 and I will draw those names out or draw a name out and we'll
17 see who your alternate is who will be seated on this jury
18 pursuant to me releasing Ms. Hickson.

19 Mr. Eric Prescott, who was selected as Juror Number 13,
20 he is whose name I have drawn out of this cup. The Court
21 would mark that as an exhibit, please, Court's exhibit.

22 THE COURT REPORTER: Yes, sir.

23 (WHEREUPON, the alternate name's note was marked as
24 Court's Exhibit Number 1.)

25 THE COURT: Anything further at this time from the State

1 --

2 MR. WHITE: No, sir, Judge.

3 THE COURT: -- as it relates to those issues?

4 MR. WHITE: No, sir, Judge.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: Nothing from the defense, Your Honor.

7 THE COURT: Mr. Ammons?

8 MR. AMMONS: Nothing, Your Honor.

9 THE COURT: All right. If you'll bring me Ms. Hickson,
10 please, Juror Number 75.

11 THE BAILIFF: All right.

12 (WHEREUPON, Juror Number 75 entered the courtroom, and a
13 bench conference was held with the juror as follows.)

14 THE COURT: All right. I have Ms. Hickson back in here,
15 Juror Number 75, Ms. Latoya Hickson.

16 Ms. Hickson, based upon my questioning of you, as well as
17 my observations of you and your responses to my questions and
18 after consultation with the attorneys involved in this case, I
19 am going to release you from serving, and you're free to go.

20 JUROR NUMBER 75: Thank you.

21 (WHEREUPON, the bench conference ended, and Juror Number
22 75 exited the courtroom.)

23 THE COURT: All right. Now, we'll move quickly into the
24 Court's rulings on motions from yesterday.

25 As it relates to Mr. Edgeworth's motion to suppress the

1 statement of defendant Carmichael, when we broke yesterday, I
2 asked for a -- for the audio and video recording of defendant
3 Carmichael's statement. Pursuant to the testimony that was
4 elicited from the stand yesterday or during the court
5 proceedings, the audio/video portion of the statement was
6 played by the State.

7 I had a very difficult time hearing what exactly was said
8 by any of the parties that were in the video. So I took that
9 CD. I was able to play that CD in my office on my laptop with
10 my speakers and watched that video multiple times yesterday
11 afternoon before I left here and again this morning when I
12 came in.

13 As you all know, to introduce a statement made after an
14 accused has been advised of his rights, the State must prove
15 by a preponderance of the evidence that he voluntarily,
16 knowingly, and intelligently waived those rights. That's
17 citing *State v. Reed*, 332 S.C. 35.

18 A valid waiver does not require that a suspect be
19 informed of all information useful in making his decision or
20 all information that might affect his decision to confess.
21 That's *Moran, M-o-r-a-n, v. Burbine*, 106 S.Ct. 1135, which is
22 a 1986 case.

23 In reviewing the CD, the audio/video portion, of this
24 yesterday, at approximately the 5:22 mark of the statement or
25 the video recording, the defendant Carmichael states, "I can

1 get my lawyer up here right now." The response from law
2 enforcement is, "If you have one on retainer, they can come up
3 here."

4 That in and of itself or that statement from law
5 enforcement does to some extent bother me. However, after
6 making that statement, law enforcement continues and proceeds
7 to advise the defendant of his rights in going through the
8 Miranda form.

9 It is noted that, furthermore, law enforcement -- and I
10 didn't write down the timing of it, but law enforcement tells
11 the defendant that if at any time he wants a lawyer -- and I'm
12 paraphrasing here, but any time he wants a lawyer, then the
13 questioning will stop, that they won't be talking anymore.

14 Pursuant to *State v. Wanamaker*, 346 S.C. 495, the trial
15 court in that case found that defendant or the appellant did
16 not make an unequivocal request for an attorney. The Court
17 goes on to say, furthermore, any defects, if they existed at
18 all, were cured by the subsequent Miranda warnings given prior
19 to taking the third statement.

20 In this case, the Court believes that the defendant
21 stating -- and again, in quotes, "I can get my lawyer up here
22 right now" is not an unambiguous request for counsel.
23 Furthermore, as I stated previously, law enforcement proceeded
24 to advise the defendant of his rights pursuant to Miranda, and
25 the defendant initialed the Miranda form, signed the Miranda

1 form, after having been advised of his rights.

2 As you get further into the statement, at approximately
3 the 12:55 mark in the video, the defendant states, "I need my
4 lawyer, bro." I believe at that point that that is an
5 unequivocal, unambiguous request for counsel.

6 Upon making that statement, law enforcement in turn asked
7 the defendant, "Let's be clear, you want your lawyer?" After
8 making that statement, the defendant continues to proceed in
9 talking. At that juncture or shortly thereafter without any
10 further questioning from law enforcement, the video is
11 stopped.

12 Pursuant to *State v. Kennedy*, 333 S.C. 426, which is a
13 1998 case, it says once an accused requests counsel, police
14 interrogation must cease unless the accused himself initiates
15 further communication, exchange, or conversations with the
16 police.

17 Now, in this particular situation, the defendant
18 requested counsel, again at approximately the 12:55 mark.
19 What was said by law enforcement after that invocation,
20 unambiguous request for counsel, was not a question of
21 interrogation. It was not a question of interrogation, but
22 the defendant of his own volition continued to talk.

23 I believe after reviewing the video in its entirety that
24 it would be admissible under the totality of the
25 circumstances. I do not believe that such statement by the

1 defendant was involuntary, and I believe the State has set
2 forth sufficient evidence by a preponderance of the evidence
3 that the statement was voluntary and, therefore, it will be
4 allowed.

5 But your objection, Mr. Edgeworth, is so noted for the
6 record. Okay?

7 MR. EDGEWORTH: Thank you, Judge.

8 THE COURT: All right. Now, as it relates to Mr.
9 Ammons's motion to suppress, Mr. Ammons, I didn't have the
10 benefit of watching a video, as I did in Mr. Edgeworth's
11 situation, but I did have the benefit of your very well-
12 drafted memo, as well as your attachment of the affidavit of
13 the search warrant, the search warrant itself, as well as the
14 return.

15 I also -- when we broke yesterday, you had handed up the
16 case of *State v. Baccus*, which is a 2006 case, 367 S.C. 41. I
17 appreciate you providing me with a hard copy of that -- of
18 that case. When we broke yesterday, I conveyed to you that I
19 would read this case that you had handed up to me, and I read
20 the case last night and again briefly looked at it this
21 morning.

22 In the case of *State v. Baccus*, you are correct, Mr.
23 Ammons, in that the Court did find that the affidavit at issue
24 in that case were, in essence, conclusory statements, which,
25 in essence, did not give the magistrate a basis to make a

1 judgment regarding probable cause.

2 I think it's important to kind of set out the facts a
3 little bit in the *Baccus* case, and in the *Baccus* case the
4 defendant was accused of committing a murder over in Marion
5 County. Subsequent to the murder in that case, defendant
6 Baccus returned to Florence County. A Florence County
7 Sheriff's deputy was subsequently contacted. That would have
8 been, I believe, Officer Barry Price, who in turn arrested
9 defendant Baccus.

10 In addition to Barry Price with the Florence County
11 Sheriff's Office being contacted, Officer Amber McDaniel was
12 also contacted by the Florence County -- excuse me. Amber
13 McDaniel was employed with the Florence County Sheriff's
14 Office. She was contacted by Officer Turbeville of the Marion
15 County either Police Department or Sheriff's Department.

16 Officer Turbeville conveyed to Officer McDaniel here in
17 Florence information pertaining to the incident over in Marion
18 County and, pursuant to that information given to Officer
19 McDaniel by Turbeville, McDaniel completed an affidavit for a
20 search warrant with information that was supplied from
21 Turbeville.

22 During the suppression hearing, McDaniel testified that
23 she did not know any particulars regarding the homicide at the
24 time that she requested the warrant. Furthermore, she
25 testified that she did not know why appellant was a suspect.

1 She also stated that she told the magistrate that she had
2 received a phone call from Turbeville regarding a homicide and
3 that appellant had been arrested. Furthermore, she did not
4 remember telling the magistrate anything not contained in the
5 affidavit for the search warrant.

6 In *State v. Baccus*, it cites the case of *State v. Smith*,
7 301 S.C. 371, which is a 1990 case. In *State v. Smith*, there
8 was an affidavit as well. The Court concluded in *State v.*
9 *Smith* that the affidavit was defective because it set forth no
10 facts as to why -- why police believed Smith robbed the Master
11 Host Inn.

12 *Baccus* goes on to state that mere conclusory statements
13 which give the magistrate no basis to make a judgment
14 regarding probable cause are insufficient, citing *State v.*
15 *Weston*, 329 -- 329 S.C. 287. In *State v. Weston*, it says an
16 affidavit supporting a search warrant could not have been
17 provided substantial basis for finding probable cause to
18 search Weston's car when the affidavit failed to set forth any
19 facts as to why police -- why police believed Weston committed
20 the crime. Again, the Court is looking at the affidavit,
21 implying the affidavit needs to state why police believe
22 defendant committed the crime.

23 In the case before this Court, the affidavit as it
24 pertains to Mr. Epps, the affidavit certainly gives Mr. Epps's
25 name. The affidavit further states -- and I'm not -- I'm not

1 saying everything on the record here. The affidavit speaks
2 for itself, but also requests that they be looking for
3 matching clothing from the night of the incident, along with
4 firearms and other evidence that could be related to the
5 homicide. The description of the premises to be searched
6 states the address of the residence and goes on into further
7 detail as to the description of the residence.

8 In looking at the reasons for the affiant's belief that
9 the property sought is on the subject premises, it states
10 certainly that officers responded to the Tiger Mart at 207 W.
11 Lucas Street. That they located a deceased individual.
12 Through several means of identification, the one suspect was
13 identified and lives at this address.

14 While it's not -- while this portion does not
15 specifically state the suspect being Tirik Johnson-Epps, Tirik
16 Johnson-Epps is named in the affidavit as a defendant. It
17 further states that the individual lives at this address,
18 referring to the [REDACTED] Sanborn Street under the description of
19 premises to be searched. The reason for the affiant's belief
20 further states that the individual that was shot numerous
21 times by the defendant and the co-defendant, and the incident
22 was captured on video.

23 So, in essence, it's this Court's opinion after reviewing
24 *Baccus*, after reviewing this affidavit, that the affidavit
25 clearly sets forth why they want to search this residence, as

1 required by *Baccus*.

2 I will further say that under *Illinois v. Gates*, 462 U.S.
3 213, which is a 1983 U.S. Supreme Court case, it says a
4 magistrate, not the police or other person seeking the
5 warrant, must make a practical commonsense decision of whether
6 given the totality of the circumstances set forth in the
7 affidavit, including the veracity and basis of knowledge of
8 those supplying information, there is a fair probability that
9 contraband or evidence of a crime will be found in a
10 particular place.

11 The Court believes based upon its review of the affidavit
12 that such practical commonsense decision based upon the
13 totality of the circumstances would lead a magistrate to
14 believe that there is a fair probability that contraband or
15 evidence of a crime will be found in a particular place, and
16 that particular place in this case being at [REDACTED] Sanborn Street
17 in the city of Florence.

18 So, therefore, the Court is respectfully denying
19 defendant's request to suppress, but your objection as well,
20 Mr. Ammons, is so noted for the record.

21 MR. AMMONS: Thank you, Your Honor.

22 THE COURT: All right. Anything further from the State
23 at this time?

24 MR. WHITE: Judge, the last thing from the State as far
25 as evidentiary issues is one of the -- and I'll grab it right

1 now. I can't remember which exhibit it is. State's Exhibit 3
2 has been previously stipulated to by the parties. I'd move it
3 into evidence at this time.

4 THE COURT: What is that?

5 MR. WHITE: It's the video surveillance from the
6 convenience store where this occurred. I talked to Mr. Ammons
7 and Mr. Edgeworth. They had no problem stipulating. I would
8 move that particular piece into evidence.

9 MR. EDGEWORTH: Your Honor, I would object to that. I
10 mean, number one, I don't think we can put it into evidence
11 because we still need the foundation for it to be moved into
12 evidence. I think the State is doing that so that they can
13 play it during the opening, which I would object to because I
14 think it would be prejudicial for the jury to see a video
15 that's not in evidence yet.

16 I think they need -- the State can tell the jury that you
17 will see a video, but it will completely distract the jury
18 from the remainder of the case if they were to view the video
19 during the opening statement. I would -- I would object to
20 that explicitly.

21 THE COURT: And that clears up that it's not been
22 stipulated to. Mr. White, you will need to lay the foundation
23 to introduce it.

24 MR. WHITE: And, Judge, I relied upon their statement
25 that they were going to stipulate to it.

1 THE COURT: And that's fine.

2 MR. WHITE: But so I --

3 THE COURT: And evidently --

4 MR. WHITE: I've got a call that witness and track that
5 witness down, but I did rely on their word that it would be
6 stipulated to.

7 MR. EDGEWORTH: Well, may I make that clear though, Your
8 Honor? We stipulated to the fact that the State would not
9 have to call the owner of the Tiger Mart, not that it was
10 admissible. That he wouldn't need the owner to lay the
11 foundation for it to be admissible.

12 THE COURT: Well, listen, I'm not going to get into what
13 discussions y'all may or may not have had beforehand. It's
14 clear that you're not stipulating to the admission of it.
15 What y'all said separate and apart from y'all, I was not a
16 party to those discussions. Y'all can either figure it out or
17 y'all can take the proper steps to get it admitted. Okay?
18 Fair enough?

19 MR. WHITE: Yes, sir, Judge.

20 MR. EDGEWORTH: Thank you, Judge.

21 THE COURT: All right. I'm going to stand down for just
22 a couple minutes, and then I'll come back out here and we'll
23 start the trial.

24 (WHEREUPON, there was a break in the proceedings from
25 10:00 a.m. until 10:13 a.m., after which the proceedings

1 resumed as follows.)

2 THE COURT: Can the lawyers approach a minute while
3 they're getting the defendants out?

4 (WHEREUPON, a bench conference was held as follows.)

5 THE COURT: Do y'all have any concerns about the number
6 of people that are in here?

7 MR. WHITE: A little bit.

8 MR. AMMONS: A little bit.

9 THE COURT: All right. Is there some allegations in this
10 being gang-related?

11 MR. WHITE: No, I don't think so, but there is some bad
12 blood here, absolutely.

13 MR. EDGEWORTH: I think between the family holds -- the
14 victim's family obviously holds a lot of grudges.

15 MR. WHITE: We've had witnesses that have been getting
16 phone calls from no caller ID numbers that just -- that they
17 pick up and it just -- the people on the other end say do not
18 go, and then they hang up. They've been getting calls over
19 and over and over.

20 THE COURT: We can find out who that is, who's making
21 those calls. Okay. Well, I'm going to make a general comment
22 --

23 MR. WHITE: Okay.

24 THE COURT: -- about keeping in order. Huh?

25 MR. WHITE: And while we're up here, I was going to bring

1 up one other thing as far as scheduling is concerned. I've
2 got five witnesses, and then I've got some conflicts with my
3 experts tomorrow. So I've talked about it with these guys
4 before and asked them if the Court is amenable to it, we might
5 cut through this five witnesses and break early for the day.

6 THE COURT: Okay.

7 MR. WHITE: And if that's -- that's all right with you.

8 THE COURT: That's fine.

9 MR. WHITE: Okay. Thank you.

10 (WHEREUPON, the bench conference ended, and the
11 proceedings resumed as follows.)

12 THE COURT: All right. Anything from the State before I
13 bring the jury out?

14 MR. WHITE: Judge, we did clear up the -- the video
15 surveillance. With the caveat that I do not play it during
16 opening statement, I believe it is stipulated that that is
17 going to come into evidence.

18 MR. EDGEWORTH: That is correct, Your Honor.

19 MR. AMMONS: That's correct.

20 THE COURT: Very good.

21 (WHEREUPON, State's Exhibit Number 3, video surveillance
22 on disk, was admitted into evidence.)

23 THE COURT: All right. Before I bring the jury out, I
24 want to say a couple of things.

25 I noticed that there are a number of people out in the

1 audience this morning, approximately 30, 30 individuals that
2 are out in the audience. I know that this is a very serious
3 case for all parties involved. I know that emotions can run
4 high in these types of cases. Okay?

5 But this is kind of a -- I guess, a forewarning, so to
6 speak, to everyone that's out in the gallery that's not court
7 personnel or staff to keep your emotions in check with what's
8 going on here. Witnesses will be coming in here and
9 testifying. You may or may not disagree with -- or you may or
10 may not agree with what they have to say, but I don't want to
11 see any kind of headshaking, negative body language, etc.,
12 that can be perceived in any way to influence any juror's
13 [sic] testimony.

14 There's also a sign outside the door about the use of
15 electronic devices, such as cell phones or any electronic
16 devices. Unless you're court personnel or staff, you are not
17 authorized to even have them out of your pocket. You're not
18 even authorized to have them out of your pocket. If they are
19 seen by a bailiff or one of my -- one of the law enforcement
20 officers that are in here, they are authorized to confiscate
21 it immediately, immediately. If you have your cell phone or
22 any other electronic device out during the course of this
23 trial, you are also subject to being held in contempt of
24 court, which could be a fine or incarceration.

25 I will tell you also that any efforts in any way to

1 influence, intimidate, coerce witnesses or what may be
2 happening in this courtroom is a felony offense which carries
3 up to 10 years in jail. You're certainly -- and I welcome you
4 to be in here during these proceedings, but I want a fair and
5 impartial trial for the State and the defense, both of the
6 defendants, uninfluenced by anything else in this courtroom.

7 If you do not believe that you can abide by the Court's
8 instructions, you will be instructed to leave. If law
9 enforcement, the clerk, or any of my bailiffs ask you to do
10 something, your response should be "Yes, sir" or "Yes, ma'am."
11 They are an arm of the Court, and if it's not complied with,
12 then it's going to come to my attention, and I will deal with
13 it.

14 And so I would ask you not to put me in that situation.
15 All right? It's not something I would want to do. Also, any
16 outbursts or anything in this courtroom during these
17 proceedings, I will tell you that you will be taken into
18 custody immediately. All right? Does anybody in here not
19 understand this Court's instructions?

20 (WHEREUPON, there was no response.)

21 THE COURT: All right. Anything else, Mr. White?

22 MR. WHITE: No, sir, Judge.

23 THE COURT: Mr. Edgeworth?

24 MR. EDGEWORTH: No, Your Honor.

25 THE COURT: Mr. Ammons?

1 MR. AMMONS: No, Your Honor.

2 THE COURT: All right. Bring me the jury, please, ma'am.

3 (WHEREUPON, the jury entered the courtroom at 10:22 a.m.)

4 THE COURT: Mr. Prescott, you can move on down to the
5 next seat. You're no longer an alternate. Okay?

6 JUROR NUMBER 133: Oh, okay.

7 THE COURT: All right. We have all the jurors present in
8 the courtroom.

9 Madam Clerk, would you swear the jury, please?

10 THE CLERK: Yes, sir.

11 Jurors, please stand and raise your right hand. You
12 shall well and truly try and a true deliverance make between
13 the State of South Carolina and the defendant at bar, whom you
14 shall have in your charge, and a true verdict render according
15 to the law and evidence, so help you God.

16 You may be seated.

17 THE COURT: All right. Ladies and gentlemen, we're about
18 to try the case of the State of South Carolina versus Mr.
19 Quinteris Javon Carmichael and Mr. Tirik Jaquan Johnson-Epps.

20 Now, before we begin the trial of this case, I want to
21 tell you that this trial will probably be different from what
22 you might expect. Many people do not have the chance to
23 attend actual court sessions as you're doing now and may think
24 from watching television, movies, or reading books that trials
25 are always full of high drama, intense action, and riveting

1 circumstances.

2 Now, while all of these things may be true at times, this
3 trial, ladies and gentlemen, is not for entertainment. It is
4 a fundamental part of our democracy, an effort to make sure
5 that justice is done between the parties before the Court.

6 Now, in making sure that justice is done between the
7 parties, the process is often slow, deliberate, and
8 repetitive, the opposite of what you may have seen on
9 television or in movies or read in books. This courtroom is a
10 place of honor dedicated to the protection and preservation of
11 citizens' rights through what many have called the greatest
12 justice system ever created.

13 The attorneys appearing before you, ladies and gentlemen,
14 are advocates for the parties that they represent, but first
15 and foremost they are officers of the Court, sworn to uphold
16 the integrity and fairness of our judicial system. You should
17 expect them to be professional, competent, and ethical in the
18 representation of their client's interest.

19 Now, what I will now say to you, ladies and gentlemen, is
20 intended to serve as an introduction to the trial of this
21 case. These remarks are not a charge on the law in this case.
22 I will instruct you on the law applicable to the case at the
23 end of the trial before you retire to consider your verdict.
24 This is merely an explanation of the procedure that we will
25 follow in the trial of this case so that you may better

1 understand what may be happening.

2 Now, the defendants, ladies and gentlemen, in this case
3 are charged by an indictment filed in the court with the
4 crimes of murder and possession of a weapon during the
5 commission of a violent crime. The elements of those crimes
6 will be explained to you later. The indictment, as I told you
7 before, ladies and gentlemen, is simply the charging document
8 by which this case is brought into this court, and it is not
9 in any sense evidence of any of the allegations that it
10 contains.

11 The defendants have pled not guilty to the indictments.
12 The State, therefore, has the burden of proving each of the
13 elements of the indictment beyond a reasonable doubt, and it
14 will be your duty, ladies and gentlemen, to decide whether the
15 State has met that burden.

16 Your purpose as jurors is to find and determine the
17 facts. You are the sole and exclusive judge of the facts. If
18 at any time I make any comment regarding the facts, you must
19 disregard it.

20 You are to determine the facts from the testimony that
21 you hear and other evidence introduced during the course of
22 this trial. It is up to you to determine the inferences which
23 you feel may properly be drawn from the evidence. It is
24 especially important that you perform your duty of determining
25 the facts diligently and conscientiously because ordinarily

1 there is no way to correct an erroneous determination of the
2 facts by a jury.

3 Now, on the other hand and with equal emphasis, the same
4 law that makes you the judge of the facts makes me the judge
5 of the law. The law as given by the Court is the only law
6 that you may consider. You must accept and follow it, even
7 though you may disagree with it. I cannot tell you, ladies
8 and gentlemen, what the facts are, and you cannot disagree
9 with me about what the law is or should be.

10 Your job is to take the law as I give it to you and apply
11 it to the facts as you find them from the testimony of the
12 witnesses and any other evidence that is introduced. After
13 doing that, you will render your verdict under the solemn oath
14 that you just took as jurors.

15 Now, until I tell you to begin your deliberations, you
16 must not discuss this case with anyone, including your fellow
17 jurors, friends, family members, and anyone involved in the
18 case. The attorneys and the parties in this case have been
19 advised that they are not to talk to you at all. So if you
20 see anyone involved in the case and they don't speak to you,
21 they are not being unfriendly. They're simply following the
22 Court's instructions.

23 Now, during your deliberations you may only discuss the
24 case in the jury room with your fellow jurors because they
25 have seen and heard the same evidence that you have. You must

1 not discuss the case with anyone other than your fellow jurors
2 until you have returned a verdict and the case is at an end.

3 I remind you that you must decide this case based solely
4 on the evidence presented here in this courtroom. This means
5 that during the trial you must not conduct any independent
6 research about the case, the facts of the case, the evidence
7 presented in the case, or the people or organizations involved
8 in any way in the case. Please do not try to find out
9 information from any source outside of this courtroom.

10 In other words, you must not look at dictionaries or
11 other reference materials, search the Internet, websites, or
12 blogs, or use any other electronic tools to get information
13 about this case to help you decide the case. You may not use
14 computers, telephones, cell phones, smart phones, smart
15 watches, tablets, the Internet, or other tools of technology
16 with communication capabilities at any time while you are in
17 the courtroom or during your deliberations.

18 Now, during your breaks for meals or overnight, if
19 necessary, you may use those devices. However, you must not
20 use those devices to communicate with anyone about the case
21 until the case is over.

22 This means that you must not use phone calls, emails,
23 text messages, instant messages, Twitter, or any blog, chat
24 room, or website, including Facebook, Google+, MySpace,
25 Linked, YouTube, or any social media websites to send or

1 receive information about this case. This includes
2 information about a party, a witness, an attorney, or court
3 officer, news accounts about the case, research on topics
4 raised, any topics you may think would be helpful in deciding
5 the case, or any testimony presented by any witness.

6 During the trial, do not read, listen to, or watch any
7 news reports about the case, if there are any. This includes
8 anything that may be in the newspapers or on the Internet,
9 radio, or television. You must not, ladies and gentlemen,
10 consider anything that you may have read or heard about the
11 case outside of the courtroom, whether before or during the
12 trial. Information on television, radio, the Internet, or
13 from other sources might be wrong or incomplete.

14 In our judicial system, it is important that you are not
15 influenced by anything or anyone outside of this courtroom.
16 If you become aware of another juror's violation of these
17 instructions, please inform the Court immediately.

18 It is important, ladies and gentlemen, that you keep an
19 open mind and not decide any issue in this case until all of
20 the evidence has been presented, the parties have made their
21 closing arguments, and I have instructed you on the law in
22 this case. It is your solemn responsibility to determine
23 whether the State has proven the defendants guilty beyond a
24 reasonable doubt, and your verdict must be based solely on the
25 evidence as it is presented to you in this trial and on the

1 law as I instruct you during and at the close of the trial.

2 Now, in just a moment, the prosecutor or the solicitor
3 will make what is called an opening statement in which the
4 solicitor will explain to you the issues in this case or at
5 least what he believes the issues are in this case. The
6 attorneys for the defendants may also make an opening
7 statement, although they are not required to do so.

8 What the attorneys tell you during their opening
9 statements, ladies and gentlemen, is not evidence in this
10 case. It is only their contention as to what the issues are
11 in this case. Now, the evidence in this case will be
12 presented to you by the testimony of sworn witnesses from the
13 witness stand and/or by exhibits that may be introduced into
14 evidence during the trial.

15 Now, during the trial, ladies and gentlemen, from time to
16 time you may hear one of the attorneys say, Your Honor, I
17 believe that we have a question of law or a matter of law to
18 discuss with you or they may request permission to approach
19 the bench or sometimes I myself might find it necessary to
20 excuse you from the courtroom for a short while so the
21 attorneys and I can discuss a matter of law.

22 The reason for this is because you are the judge of the
23 facts in this case and sometimes when I am discussing matters
24 of law with the attorneys, it may be necessary for me to make
25 some comment as to the facts in connection with ruling whether

1 or not a particular law applies. I am not supposed to tell
2 you what I think the facts are; so I will excuse you from the
3 courtroom while these discussions take place so that in no way
4 will you be influenced by anything that I might say or do in
5 connection with the facts.

6 Now, in determining what the facts are in this case, you
7 must decide whether or not the testimony of the witnesses is
8 believable. It will be my responsibility to rule as a matter
9 of law as to whether certain testimony is admissible or not,
10 but once the testimony is admitted, whether or not you believe
11 it is solely for you to determine.

12 Now, in deciding whether to believe a witness, you have
13 the right to consider the interest of any witness, the
14 prejudice of any witness, the bias of any witness, the
15 opportunity for the witness to have seen the matters and
16 things about which the witness may testify, and the way the
17 witness acts on the witness stand. You, ladies and gentlemen,
18 have the right to consider anything that is in the record that
19 will help you evaluate the testimony of the witnesses.

20 That means that it is your duty to pay close attention to
21 these witnesses, to observe the witnesses, to listen to the
22 witnesses, and to pay close attention to the attorneys and to
23 the Court. Please don't let your thoughts wander but give
24 strict attention to the testimony in this case so that at the
25 end of all the testimony, after the arguments of counsel and

1 the charge on the law by the Court, you will then be in a
2 position to determine what the facts are and to apply the law
3 to those facts and thus render a verdict.

4 Now, later in the case, a foreperson will be selected to
5 preside over deliberations in the jury room. It will be the
6 foreperson's added duty to be the jury's spokesperson here in
7 court, if necessary. It will also be the foreperson's duty to
8 write the verdict, but I will give the foreperson further
9 instructions about that at the conclusion of the case.

10 Now, in order to preserve everyone's rights, I will give
11 the attorneys an opportunity to object to anything that I have
12 said.

13 Any exception or objection to anything that I've said to
14 the jury from the State?

15 MR. WHITE: None on behalf of the State, Your Honor.

16 THE COURT: Mr. Edgeworth?

17 MR. EDGEWORTH: Nothing, Your Honor.

18 THE COURT: Mr. Ammons?

19 MR. AMMONS: No, Your Honor.

20 THE COURT: All right. The State is so recognized.

21 OPENING STATEMENT ON BEHALF OF THE STATE

22 MR. WHITE: You want smoke? You don't want no smoke.
23 You want smoke? Hand in your pocket. I'll make you strip
24 right now. Am I on that perc or something? Yeah, I'm high.
25 Is you high? Talking real gangster. I'm like that. I'm real

1 like that. You know I'm real like that.

2 Who is this? Your brother or something? What's good?
3 What you got in your pockets? You're in front of the cameras.
4 I know you're going to tell. You're in front of the cameras.
5 I know you're going to tell. I'll take you out of your shoes.
6 I'll pop you out of your fucking shoes.

7 I know you walking. Yeah, I know you walking. I don't
8 got to be in the car to do it. I'll stand right here with
9 you. You think you're gangster? I'll take your chain. You
10 think you're gangster? I'll take you out your shoes. What
11 you clutching on? What you clutching on? I ain't taking
12 nothing from what? I ain't taking nothing from what? Give me
13 that thing. Give me your chain. Bust it and I'll finish it.
14 I'll finish you.

15 Now, pardon me for the language, but I needed you to hear
16 it. I needed you to feel it because, ladies and gentlemen,
17 those are the words of a man who was itching for trouble.
18 Those are the words of a man who was looking for any
19 opportunity to hurt somebody else and, ultimately, ladies and
20 gentlemen, those are the words of a cold-blooded killer, and
21 those are the words of Quinterris Carmichael, who is seated
22 right here with his defense attorney.

23 And on September 12th, 2019, he and his co-defendant,
24 Tirik Johnson-Epps, seated right there, did just that. They
25 seized an opportunity to hurt someone. They seized an

1 opportunity to kill. And when they did, they killed an 18-
2 year-old kid who was minding his business. His name was
3 Tydrecus Williams and -- excuse me, his name is Tydrecus
4 Williams.

5 Ladies and gentlemen, it happened September 12th, 2019,
6 and it happened at the Speedy Mart here in Florence County.
7 Some people refer to it as the Tiger Mart, but it's known as
8 the Speedy Mart, and I'm going to show you. Can everyone see
9 that okay?

10 Ladies and gentlemen, this is the Speedy Mart here,
11 right there. This is 52. It turns onto Irby. You go down a
12 couple blocks right here, it brings you right to where you're
13 seated right now in the courthouse. This is the gas pump area
14 right here, ladies and gentlemen, and this is, like I said,
15 the Speedy Mart. After hours, the Speedy Mart has a counter,
16 a convenient counter where you can come and get whatever you'd
17 like from the convenience store.

18 At about 3:30 in the morning on September 12th, 2019, a
19 vehicle pulls in from this direction, and it parks right where
20 this car is parked in this photograph. The car is driven by
21 Tirik Johnson-Epps. Seated directly behind him, Quinterris
22 Carmichael. In the passenger front seat, there's a young lady
23 by the name of Tyrin Jones. You're going to hear from her.
24 This is her vehicle. Directly behind her is a young lady by
25 the name of Kami Mitchell. Kami was dating Quinterris

1 Carmichael, and Tyrin Jones was dating Tirik Johnson-Epps.
2 They come, they hang out, and the girls pretty much stay put,
3 but the guys come and go out of the vehicle.

4 And, ladies and gentlemen, this is all captured on video
5 surveillance. There is one video camera that comes out here
6 and it pretty much shows the car in this area, and it's good,
7 but it doesn't have any sound. But the camera here just above
8 the checkout window is fantastic. It's color, it's clear, and
9 it has sound.

10 And then there's a camera right here that's the worst of
11 the three. It's a black and white. It does have sound. It
12 glitches from time to time, but everything on that video and
13 everything you're going to need to convict these two
14 individuals, you're going to see. You're going to see it with
15 your own eyes.

16 At about 3:35, 3:40 in the morning, two individuals --
17 they walk from this direction to come to the store. They're
18 minding their own business. Their name is Kareem Jones and
19 the victim in this case, Tydrecus Williams. When they come to
20 the store -- and I'm going to show all this to you on video.
21 When they come to the store, they go directly to the counter.

22 And they are minding their business when Quinterris
23 Carmichael sees them, and he diverts his attention
24 immediately. He goes straight to them, and he starts talking
25 trash. And to their credit, they don't engage with him very

1 much. They keep their composure, but he talks everything I
2 just told you, all those comments, he talks to them, bullying
3 them. The whole while, Tirik Johnson-Epps is watching and
4 waiting.

5 Carmichael goes back to the car, still talking, and then
6 he walks out, walks right up to Kareem Jones, walks right past
7 Tydrecus Williams who is just standing there, walks right up
8 to Kareem Jones. He's got a drink in his hand. He slaps the
9 drink out of his hand, and then hits him in the face. His
10 head ricochets off the building. Almost at the exact same
11 time, Tirik Johnson-Epps gets out of the front pass -- front
12 seat driver's side of the car. He walks immediately -- and
13 I'm going to show you, ladies and gentlemen. It happens
14 quick, quick. There is no time.

15 The whole time Tydrecus Williams is retreating,
16 retreating, retreating, retreating, and Quinterris Carmichael
17 and Tirik Johnson-Epps are following him, and they start to
18 shoot. Tirik Johnson-Epps shoots him several times in his
19 legs.

20 At this point, Kareem flees. He runs this way. He goes
21 back to Tydrecus's girlfriend's house, and she calls 9-1-1.
22 Tirik Johnson-Epps goes back to his car where the girls were
23 still in the car, backs up. He drives to right here and stops
24 and waits on Quinterris Carmichael, who stalks his prey.
25 Tydrecus stumbles and falls, he drops his sandals and his cell

1 phone, and eventually he crawls and walks and limps over here,
2 and you can see on video Quinterris Carmichael follows him the
3 whole way, tracking him right behind him, and then they both
4 disappear off camera.

5 Well, off camera, we know because the pathology report
6 came back, that not only was he shot several times in his
7 lower body, he was also shot in his upper body, once in the
8 head. They bullied him, they shot at him, and then they
9 executed him. This is an execution-style murder of a young
10 kid who you're going to see on camera wasn't bothering a soul.

11 Now, Judge Brown mentioned it. These folks, they don't
12 have the burden. I do, and I proudly receive it. They don't
13 have to say a word, but if they did, if they were going to
14 imply and poke holes in a case, they would point to two
15 things. In this area right here, there's a magazine, you
16 know, that goes in a gun. It's got bullets in it, a .22
17 caliber magazine found right here in the roadway. It's run
18 over. It's crushed. Okay?

19 And then there's a hole in the side of the building right
20 here. There's no evidence that it's a bullet hole at all. It
21 could be a hole from a rock that kicked up from a weed eater or
22 it could be a bullet hole, but they are going to imply and
23 they could imply that because those two things exist that the
24 victim must have had a gun and that they are well within their
25 rights to execute him.

1 And if that comes up, I want you to remember two things.
2 Do this for me and repeat them back in your mind whenever they
3 come up. Number one, the most important thing, there is no
4 evidence whatsoever at all that the victim had a gun, none.
5 There was not a gun around the body. There was not a gun in
6 his hand, not a gun in his pocket, none.

7 The second thing, not quite as important but still
8 important, even if he had a gun, he would have been within his
9 right to shoot, and you're going to see that. Ladies and
10 gentlemen, from the time these guys start the assault, he's
11 retreating. He is moving this way, and they are following
12 him. Moving this way, moving this way, he's shot several
13 times, he limps here, falls here, comes over here, and then he
14 is executed right there.

15 I'm going to show you the video. We've got DNA evidence,
16 firearms, pathology. The person who did the autopsy is going
17 to come, is going to speak to you.

18 There are three different ways you can convict these two
19 individuals, and that doesn't happen every day. There are
20 three different ways, and you can use all three of them or you
21 can use one or you can use two.

22 The first is you're going to see Tirik Johnson-Epps fire
23 these shots, and then you're going to see Quinterris
24 Carmichael walk to the exact spot where he's executed, and you
25 can find that that is enough for murder, and I submit to you,

1 ladies and gentlemen, that it is.

2 The second way is called hand of one is the hand of all.
3 That they were acting in concert to kill this young man, and
4 they did so. And it doesn't matter who shot, they were both
5 involved. That's another way you can find him guilty of
6 murder.

7 And then the third way is called felony murder, and it's
8 quite simply that if a killing happens in the commission of a
9 violent crime, it doesn't really matter who pulled the
10 trigger. They're both guilty of murder.

11 And right here, you're going to hear it. I want you to
12 listen for it. Right here, he's saying what's in your
13 pockets, what you got in your pockets, and then when he hits
14 him, he says give me your chain. At the same time, Tirik
15 Johnson-Epps is coming and they're assaulting this guy and
16 later shooting him while saying give me your chain.

17 Ladies and gentlemen, that's attempted armed robbery.
18 That's a violent crime and, therefore, they would be guilty of
19 felony murder. Outright murder, hand of one/hand of all, and
20 felony murder, they are guilty of all three. You've got
21 options. You just don't see that every day.

22 Ladies and gentlemen, Tydrecus Williams was 18 years old,
23 and you're going to see on that camera he's just standing
24 there minding his own business. In fact, when Quinterris
25 Carmichael was yelling and carrying on with Kareem Jones, this

1 young man doesn't even respond. He just stands there. The
2 beef is not even with him, but they killed him anyway. They
3 killed him because Kareem Jones ran off too fast and they just
4 wanted somebody to kill. They just wanted somebody to kill.

5 I appreciate you all being here. This is an important
6 case, and at the end of this case I am convinced that you're
7 going to have no problem convicting both of these individuals
8 of murder. Thank you.

9 THE COURT: Mr. Edgeworth.

10 MR. EDGEWORTH: Thank you, Your Honor. May it please the
11 Court.

12 OPENING STATEMENT ON BEHALF OF DEFENDANT CARMICHAEL

13 MR. EDGEWORTH: Ladies and gentlemen of this jury, what
14 you have just heard from the State is a theory, a theory.
15 They have told you what they believe happened, and the reason
16 why they're telling you what they believe happened is because
17 they really don't know. Are they going to be putting up
18 evidence? Sure. That's why we're here, but it's your job to
19 consider the evidence and determine whether or not that
20 reaches a burden beyond a reasonable doubt.

21 Now, my name is Josh Edgeworth, and I represent Mr.
22 Quinterris Carmichael. The State went out of their way to
23 make sure that you knew that before I even got up here. They
24 want to get you welled up. They want to tell you this was an
25 execution-style murder. They want to use words like stalk and

1 prey, as if they're animals, animals, but we are talking about
2 human beings and we are talking about facts.

3 They tell you you are going to see with your own eyes.
4 No, you are not. You will not see anyone executed. I promise
5 you that. You'll not see anyone get executed. Will you see a
6 dead body? Absolutely. Otherwise, we wouldn't be here.

7 They are telling you that the individual, the decedent,
8 the young man who is dead, was minding his own business. I
9 don't know about you, but I'm pretty sure the old saying after
10 midnight ain't nothing good. They told you that this happened
11 at 3 o'clock in the morning, well after three in the morning.
12 They showed you the picture of the gas station. He used the
13 word clutching, saying you can hear the word clutching on the
14 video, asking the young man whether he had a gun. Three
15 o'clock in the morning.

16 Now, let's go out of our way -- the State, let's go out
17 of our way to tell you in advance that, you know, you're going
18 to see, and this is going to be their strategy. That doesn't
19 change the fact that there was a magazine there on this
20 individual.

21 And I guess, lastly, the State is telling you that there
22 are many, many ways for you to convict, and we all know that's
23 not true. Each and every one of you have to determine that
24 the State has proved each and every element beyond a
25 reasonable doubt, way up here, I can stand up in the chair,

1 that their -- that that individual, Mr. Carmichael, committed
2 a murder, and I promise you, you will not see that.

3 THE COURT: Mr. Ammons?

4 MR. AMMONS: Thank you, Your Honor. May it please the
5 Court.

6 THE COURT: Yes, sir.

7 OPENING STATEMENT ON BEHALF OF DEFENDANT JOHNSON-EPPS

8 MR. AMMONS: Ladies and gentlemen of the jury, thank you
9 for being here today. I get the pleasure this week of batting
10 cleanup, so to speak. I get to go after Mr. White and the
11 State goes and after Mr. Edgeworth and try as best I can to
12 help point out the things that they've gotten wrong. By the
13 way, my name is Greg Ammons, and I represent Tirik Johnson-
14 Epps.

15 The State, in their opening, Mr. White tried to paint a
16 portrait, a picture, but I think what you're going to see at
17 the end of this week is that it's an unfinished picture.
18 There are parts of that picture that are missing. Imagine a
19 face, that it's a portrait of a face. The nose is missing,
20 ears are missing. Key parts are missing to this picture, and
21 the State is trying to -- is going to try to tell you that you
22 can just listen to what they say and fill it in.

23 Mr. White went through several things that -- obviously,
24 he showed you the exhibit or the diagram of the gas station.
25 I think he pointed out all these camera locations. What he

1 didn't point out is huge sections of the property that are not
2 on video, not covered by cameras.

3 Mr. Edgeworth is correct. You're just not going to see
4 an execution. You're not going to see it at all. Are you
5 going to see some shots fired? Yes. The State tells you that
6 it's clear that that's Mr. Johnson-Epps who fired the shots
7 that are on video.

8 I think you'll see when you see that video it's pretty
9 difficult to tell who is who and what is what and what's going
10 on on that video. And by and large, there is, again, things
11 that are happening. You can hear some things happening and
12 not see what's going on. All of that will become clear as you
13 see this video.

14 Another thing that you'll see on this video is there's a
15 lot of people, a lot of people that were at this gas station
16 at 3:30 in the morning, some interactions. You'll see some
17 interactions with people. I don't think you're going to hear
18 from any of them.

19 So as you go through this case, see the evidence that's
20 presented or the lack of evidence that's presented, I want you
21 to pay close attention. I want you to pay close attention to
22 the picture that's being painted. And when that picture is
23 unfinished and you don't know what the nose looks like and you
24 don't know what the ears look like and you don't know what
25 kind of hair this subject of this painting was going to have

1 and you can't complete the picture, you're going to have to
2 find that my client, Mr. Johnson-Epps, that these defendants
3 are not guilty.

4 Now, I want to point out both Mr. White and Mr. Edgeworth
5 -- both of them discussed the high bar. Mr. White embraces
6 it. He's got his work cut out for him. Mr. Edgeworth talked
7 about the high bar, said he can stand on the chair, it's that
8 high.

9 I want you to also know that as we sit here today, these
10 defendants are innocent. They are presumed innocent. This
11 trial starts today. When you look at them, they're innocent.
12 The State has got to prove to you beyond that reasonable
13 doubt, that high bar, that they're guilty, and I don't think
14 the evidence is going to bear that.

15 THE COURT: Call your first witness, please.

16 MR. WHITE: Thank you, Judge. At this time, the State
17 would call Kami Mitchell.

18 (WHEREUPON, there was a pause in the proceedings until
19 the witness entered the courtroom, after which the
20 proceedings resumed as follows.)

21 THE CLERK: Ma'am, please place your left hand on the
22 Bible and raise your right hand. Do you swear that the
23 testimony you give in this case will be the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 THE WITNESS: Yes.

KAMI MITCHELL - DIRECT BY MR. WHITE

1 THE CLERK: Please be seated on the witness stand and
2 state your full name for the record.

3 THE WITNESS: How are you?

4 MR. WHITE: Hey.

5 KAMI MITCHELL, being first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. WHITE:

9 Q: Can you just state your full name for the record? Okay,
10 Kami?

11 A: Okay. My name is Kami Mitchell.

12 Q: And I know you're soft-spoken, but use that microphone so
13 everybody in this jury can hear you. Okay? Kami, where are
14 you from?

15 A: I'm from Florence, South Carolina.

16 Q: Have you lived here all of your life?

17 A: Yes.

18 Q: How old are you?

19 A: I'm 21.

20 Q: Have you got any kids?

21 A: Three kids.

22 Q: How old are they?

23 A: I have a three-year-old, I have a one-year-old, and I
24 have a three month-year-old [sic].

25 Q: You've got your hands full.

KAMI MITCHELL - DIRECT BY MR. WHITE

1 A: Yes.

2 Q: I know you want to get back to them. So I'm not going to
3 try to keep you long. Okay? Just answer my questions the
4 best you can. All right?

5 A: Yes.

6 Q: Kami, this incident happened September 12th, 2019. Were
7 you there at the incident location when this occurred?

8 A: Yes.

9 Q: And did you know the -- do you know the individuals on
10 trial here today?

11 A: Yes. I mean before this trial I wasn't familiar with
12 Tyrin or Tirik, but yes, as far as everyone else, yes.

13 Q: Are you more familiar with Quinterris Carmichael?

14 A: Yes.

15 Q: And why are you more familiar with him?

16 A: We were having sexual dealings.

17 Q: He was a boyfriend at that time?

18 A: No.

19 Q: Okay. But y'all were hanging out that night?

20 A: Yes.

21 Q: What had y'all been doing prior to arriving at the Speedy
22 Mart or the Tiger Mart as it's called?

23 A: Prior to arriving, we were partying at this place called
24 Willy's, just hanging out.

25 Q: And was everybody drinking?

1 A: Yes.

2 Q: Was Tirik Johnson-Epps and Quinterris Carmichael -- were
3 they drinking?

4 A: Yes.

5 Q: Were they using drugs?

6 A: Unsure.

7 Q: Did you know Quinterris Carmichael to use drugs?

8 A: Yes, but of that night I'm unsure. I mean we were just
9 hanging out, but we wasn't together. You know how the girls
10 hang over there and guys hang out there.

11 Q: Okay.

12 A: So that's how it was.

13 Q: Absolutely. Well, what I'm going to do now, Kami, is,
14 with the permission of the Court, I'm going to show you the
15 video and kind of walk you through it and ask you some
16 questions.

17 MR. WHITE: Judge, permission to publish that video.

18 THE COURT: Any objection?

19 MR. EDGEWORTH: No objection, Your Honor.

20 THE COURT: Mr. Ammons?

21 MR. AMMONS: No objection.

22 THE COURT: All right.

23 MR. WHITE: And, Judge, just for the record, so it's
24 clear, I am referring to State's Exhibit 3, which has been
25 stipulated to and moved into evidence. Permission to publish?

KAMI MITCHELL - DIRECT BY MR. WHITE

1 THE COURT: All right. Go ahead.

2 BY MR. WHITE:

3 Q: Okay. Kami, you let me know when it's on your screen.

4 A: Okay.

5 Q: Do you see it? I just want to make sure the ladies and
6 gentlemen of the jury can see it properly.

7 (WHEREUPON, State's Exhibit No. 3, surveillance video,
8 was played in open court. Not transcribed herein.)

9 BY MR. WHITE:

10 Q: All right. Kami, do you see that vehicle approaching?

11 A: Uh-huh. Yes.

12 Q: And whose vehicle is that?

13 A: Tyrin.

14 Q: And again, where did you say y'all were coming from?

15 A: This club named Willy's.

16 Q: And when y'all pull up, if you can remember, where was
17 everyone seated? Do you recall? Who was driving?

18 A: I was behind the driver, and Tyrin was in the passenger
19 seat. Tirik was driving.

20 Q: Okay.

21 A: And it's not on my screen anymore.

22 Q: I'm going to show you the next. Kami, do you see two
23 individuals getting out of the vehicle?

24 A: Yes.

25 Q: Do you recognize those two individuals?

KAMI MITCHELL - DIRECT BY MR. WHITE

1 A: Yes. That's who I was with.

2 Q: And the one in the front with the long dreads, can you
3 tell me who is that?

4 A: That's Tirik.

5 Q: And are you referring to Tirik Johnson-Epps?

6 A: Yes.

7 Q: And do you see him in the courtroom here today?

8 A: Yes.

9 Q: And who is the one exiting the back door?

10 A: Quinterris.

11 Q: And what is his last name?

12 A: Carmichael.

13 Q: Does he go by any nicknames that you're aware of?

14 A: Yes.

15 Q: What's his nickname?

16 A: Man-Man.

17 Q: Now, the person at the bottom of the screen there that
18 just turned around, again is that Quinterris Carmichael, the
19 one at the very bottom?

20 A: Yes. Yes, ma'am.

21 Q: And again, is that Tirik Johnson-Epps who just got out of
22 the vehicle with the long dreads?

23 A: Yes.

24 Q: Now, I want to ask you -- and if I have to go back and
25 play it, but did you see something in Tirik Johnson-Epps' hand

KAMI MITCHELL - DIRECT BY MR. WHITE

1 there?

2 A: No.

3 Q: I'm going to go back --

4 (WHEREUPON, a cell phone rang from the gallery.)

5 THE COURT: Hold on. Hold up for a minute, Mr. White.

6 MR. WHITE: Yes. Yes, sir.

7 THE COURT: That's two. Get that phone.

8 I'm sorry. Go ahead.

9 MR. WHITE: No problem, Judge.

10 BY MR. WHITE:

11 Q: And, Kami, I know you're so soft-spoken, but if you could
12 speak up just a little bit more. Okay? If you could, pay
13 special attention to Tirik Johnson-Epps as he gets out of that
14 vehicle?

15 A: Oh, that's his drink.

16 Q: Okay. And that was a drink that he had on him?

17 A: I think he just purchased it.

18 Q: Okay. Do you see these two individuals on screen?

19 A: Yes.

20 Q: Do you recognize those two individuals?

21 A: Yes.

22 Q: And did you know both of them?

23 A: Yes. From school.

24 Q: And is one of those individuals on the screen Tydrecus
25 Williams?

1 A: Yes, sir.

2 Q: And what's he wearing in the video?

3 A: He has on a red shirt with some slides.

4 Q: And you said you knew Tydrecus -- excuse me -- from

5 school; is that right?

6 A: Yes, sir.

7 Q: What kind of guy was Tydrecus Williams?

8 A: Very laid-back. He wasn't really into anything everybody

9 else is known to be into and, you know, it's kind of sad

10 because, like I said, he don't condone to everything else the

11 rest of them, you know, condone in.

12 Q: Okay. Was he a quiet guy?

13 A: Yeah.

14 Q: And do you know the one in the blue?

15 A: Uh-huh.

16 Q: And who is that?

17 A: Kareem.

18 Q: And is that Kareem Jones?

19 A: Yes.

20 Q: And is it true that Kareem and Tydrecus were best

21 friends?

22 A: Yes.

23 Q: And that individual who looks a little unsteady on his

24 feet, is that Quinterris Carmichael?

25 A: Yes.

KAMI MITCHELL - DIRECT BY MR. WHITE

1 Q: Now, that's kind of the start of it, but in a minute
2 we're going to hear you on video. Do you -- do you remember
3 that?

4 A: Yes, sir.

5 Q: Were you trying to get Man-Man back to the car?

6 A: Yes. I was trying to go home and diffuse everybody, but
7 I was trying to do what I came to do, which was go have sex.

8 Q: I understand. And you -- at that time, you were a young
9 lady; right? And you still are a young lady. How old were
10 you when this occurred?

11 A: Twenty years old.

12 Q: And, you know, could you hear what was being said?

13 A: I mean, yes, sort of. I just heard you ain't taking that
14 from me, and him -- like, Tydrecus is not saying nothing, but
15 I see him, like, confused.

16 Q: So it appeared to you that Tydrecus was confused about
17 what was going on?

18 A: Yeah.

19 Q: And this is while that conversation is going on. Is that
20 Tirik Johnson-Epps that's getting in the car?

21 A: Yes.

22 Q: And, Kami, Mr. Ammons mentioned in his opening that there
23 were a lot of people around during this time, but about this
24 time, 3:40:22 when this altercation and this -- Man-Man is
25 confronting these guys, isn't it true that the parking lot

1 clears out?

2 A: Uh-huh. Yes.

3 Q: And you guys are pretty much the only people around at
4 that point?

5 A: Yes.

6 Q: And is that -- was that his drink that he was sipping on
7 there towards the end, that same drink --

8 A: Uh-huh.

9 Q: -- he had in his hand?

10 A: Yes.

11 Q: And we hear him again, and I think at the end I heard
12 your voice. Was that you saying no?

13 A: No. I remember telling him to get in the car.

14 Q: And were you trying to get him to stop --

15 A: Yeah.

16 Q: -- with these guys?

17 A: Yeah. I was just trying to figure out what was going on.
18 Like, all I seen was him arguing. So I'm, like, come on,
19 let's go. You know what I'm saying? I was ready to go.

20 Q: Did it appear that these two guys were arguing back?

21 MR. EDGEWORTH: Objection. Asked and answered.
22 Speculation.

23 THE COURT: I'll allow it. Rephrase your question.

24 BY MR. WHITE:

25 Q: Were the two individuals arguing back?

KAMI MITCHELL - DIRECT BY MR. WHITE

1 A: No.

2 Q: It was just Man-Man?

3 A: Well, Kareem was, you know, saying -- yeah, Kareem was
4 arguing back with them, you know, saying whatever they was
5 saying about it. He wasn't going to move him or something
6 like that, but Tydrecus was just literally standing there.

7 Q: Okay. And this is another view and you hear all this,
8 but this is, you know, when he's saying all the things we just
9 heard; is that right?

10 A: Yes.

11 Q: And at this point, Kami, there's a guy on the bottom
12 screen you can see pointing. Was that another guy waiting in
13 line?

14 A: I'm really unsure. I knew there was other people in the
15 line though.

16 Q: Okay. And during this whole time is he continuing to
17 talk?

18 A: Yeah. Yes.

19 Q: And again, is that Quinterris Carmichael, Man-Man,
20 getting out of that car right now?

21 A: Yeah.

22 Q: Is that your voice on the --

23 A: Yes.

24 Q: And were you trying to diffuse the situation?

25 A: Yes. At this point, he had already knocked the soda out

KAMI MITCHELL - DIRECT BY MR. WHITE

1 of his hands. So I knew, like, it was going to be, like, a
2 tussle or a fight.

3 Q: Is that you there?

4 A: Yes.

5 Q: And who is this individual who just gets out? I know I
6 keep asking you the same questions, but I just want to make
7 sure the jury is clear on it.

8 A: Getting out of the car was me and Tirik.

9 Q: Now, at this point -- and I want to -- I want to show
10 you, if I could. I just want to make sure everybody is clear
11 on it.

12 MR. WHITE: This seems a little uneven. I'll fix it
13 later, but in the meantime, I'll tell you what. We ain't even
14 going to worry about this. Thanks, Greg. I appreciate it.

15 BY MR. WHITE:

16 Q: All right. Kami, let's see. I'm going to hold this
17 thing up so the jury can see it. So this is the Tiger Mart;
18 right?

19 A: Uh-huh.

20 THE COURT: Is that a yes? Is that a yes?

21 THE WITNESS: Yes.

22 BY MR. WHITE:

23 A: I mean I really can't picture it out right now, but --

24 Q: All right. So this is -- this is 52 highway that turns
25 right here on Irby, and this is -- this is North Irby going

KAMI MITCHELL - DIRECT BY MR. WHITE

1 back?

2 A: Okay, yeah. Yeah, I see it.

3 Q: And this is the convenience store; correct?

4 A: Uh-huh.

5 Q: And is this where you would have been --

6 MR. WHITE: Thank you. Thank you a lot. I appreciate

7 it. We've got to adapt.

8 BY MR. WHITE:

9 Q: So is this -- where this white vehicle is, is this where

10 y'all would have been parked?

11 A: Yeah. Yes, sir.

12 Q: And at some point after Quinterris Carmichael strikes

13 Kareem, they go kind of around this corner; is that right?

14 A: Yes.

15 Q: At that point, do you lose sight of them?

16 A: Yes. At that point, I've gotten back in the car after he

17 wouldn't come. I mean, I'm not, like, dragging him to get in

18 the car.

19 Q: I understand, but when they go around this corner --

20 A: Uh-huh.

21 Q: -- who all goes around this corner?

22 A: From me remembering, I thought it was just Kareem and

23 Tydrecus, and -- but, you know, we already watched the video.

24 So --

25 Q: And you had an opportunity to review that video?

1 A: Yes.

2 Q: And so after, you know, did it refresh your recollection
3 as to who went around that corner?

4 A: Yes.

5 Q: And who were the individuals who went around the corner?

6 A: Quinterris.

7 Q: And who else?

8 A: I mean, that's -- are you talking about when we picked
9 him up?

10 Q: No, no, no. When they -- when they -- when the -- I
11 don't know if you can call it a fight.

12 A: Uh-huh.

13 Q: But when Quinterris Carmichael strikes Kareem and there's
14 a group of individuals who move right here, do you recall who
15 they were?

16 A: Yeah. Just those three from what I recall.

17 Q: Who are those three?

18 A: Kareem, Tydrecus, and Quinterris.

19 Q: Okay. Thank you. I'm going to show you this clip again.
20 Again, that's you getting out of the vehicle; correct?

21 A: Yes.

22 Q: And this is -- you've got your hands up there, and this
23 is when he strikes Kareem; is that right?

24 A: Knocked the can out of his hand.

25 Q: Right.

KAMI MITCHELL - DIRECT BY MR. WHITE

1 A: Uh-huh.

2 Q: And so who is that in the front seat?

3 A: On my side?

4 Q: No, on the other side. Is that Tirik Johnson-Epps?

5 A: Yes.

6 Q: And is he walking towards the three of them?

7 A: Yes.

8 Q: With that drink in his hand; right?

9 A: Yeah.

10 Q: And this is the video camera that's outside of your view

11 but just around that corner; is that right?

12 A: Yes.

13 Q: So you can see Tydrecus there running in the opposite

14 direction. Can you see the two individuals there at the side

15 of the screen?

16 A: I just see one person with a hoodie on.

17 Q: And who do you recognize that to be?

18 A: Is that Kareem?

19 Q: Well, who had the hoodie on? Who was wearing the hoodie?

20 A: Oh, Man-Man, but Kareem had on a hoodie too; right?

21 Q: I don't know. You have to tell me.

22 A: Yeah. He had on a hoodie.

23 Q: I'll play that again. Did you hear your voice in the

24 background?

25 A: Yes.

KAMI MITCHELL - DIRECT BY MR. WHITE

1 Q: Now, do you see once the shots are fired the two
2 individuals fleeing?
3 A: Yeah. That's Kareem right there.
4 Q: That's --
5 A: He -- that is a hoodie.
6 Q: That's Kareem running away?
7 A: Uh-huh.
8 THE COURT: Is that a yes?
9 THE WITNESS: Yes, sir.
10 THE COURT: Thank you.
11 THE WITNESS: Sorry.
12 MR. WHITE: Thank you, Kami.
13 BY MR. WHITE:
14 Q: You can see the other individual running away as well;
15 right?
16 A: Yes. Over there.
17 Q: Was that the other guy waiting in line?
18 A: I'm unsure.
19 Q: Okay.
20 A: Yeah, that looked like another person.
21 Q: And then seconds later after that, after the shooting,
22 who was that walking back to the car?
23 A: Tirik.
24 Q: And did you see that bottle in his hand still?
25 A: You got to -- I don't know.

KAMI MITCHELL - DIRECT BY MR. WHITE

1 Q: I'll play it as many times as you need to, Kami. All
2 right.

3 A: Yes, yes. He still has a bottle in his hand.

4 Q: And you're in this car as y'all are pulling off; right?

5 A: Yes, sir.

6 Q: IS that you guys pulling off?

7 A: Yes, sir.

8 Q: I'm going to play that last slide one more time, Kami.
9 Can you see that?

10 A: It's blank.

11 Q: There we go. Now, the individual -- you know, you guys
12 have already pulled out; is that right?

13 A: Yes.

14 Q: And did y'all leave?

15 A: No, sir.

16 Q: Where did y'all go?

17 A: We went to get -- I think he came back in the car because
18 he wasn't in the car yet.

19 Q: Did y'all park a short distance from where that occurred?

20 A: Like, at the light right there.

21 Q: Okay. And who -- who were y'all waiting on?

22 A: Tyrin was -- Man-Man.

23 Q: Okay. And is that Man-Man there in the video?

24 A: Yes.

25 Q: And eventually, does Man-Man get back in the car with you

1 guys?

2 A: Yes.

3 Q: And did y'all drive away?

4 A: Yes.

5 Q: Okay. Kami, how were you feeling when y'all were driving
6 away?

7 A: Driving away, I was just, like, unsure what just
8 happened, and I was ready to get away from who I was with.

9 Q: Okay. Were you scared?

10 A: Yes.

11 Q: And when law enforcement eventually talked to you, were
12 you still scared?

13 A: Yes.

14 Q: Okay. Everything that you've told us here today, is it
15 the truth?

16 A: Yes.

17 Q: And is it from your point of view exactly what occurred?

18 A: Yes.

19 Q: From that evening?

20 A: Everything that I remember. And like I told y'all, ever
21 since it happened, I've just been trying to, you know, forget
22 it really.

23 Q: Okay. Thank you, Kami.

24 MR. WHITE: I beg the Court's indulgence for just one
25 moment.

KAMI MITCHELL - DIRECT BY MR. WHITE

1 THE COURT: All right.

2 BY MR. WHITE:

3 Q: Kami, I know this is tough, but I've just got one more
4 set of questions for you. Do you see Quinterris Carmichael in
5 the courtroom today?

6 A: Yes.

7 Q: And where is he seated?

8 A: He is seated on the other side of the room.

9 Q: And if you could point to him? I know that's hard, but
10 if you'd just point to where he's seated in the courtroom?

11 A: (Indicating.) He's right there.

12 MR. WHITE: Let the record reflect that she has just
13 identified Quinterris Carmichael.

14 THE COURT: So noted.

15 BY MR. WHITE:

16 Q: And one last time, if you could also tell me if you see
17 Tirik Johnson-Epps in the courtroom today?

18 A: Yes.

19 Q: And where is he seated?

20 A: He's seated right there.

21 Q: I know this is hard, but if you could point to him?

22 A: (Indicating.) He's sitting right there.

23 MR. WHITE: Judge, let the record reflect that Kami
24 Mitchell identified Tirik Johnson-Epps.

25 THE COURT: So noted for the record.

KAMI MITCHELL - CROSS BY MR. EDGEWORTH

1 MR. WHITE: Kami, thank you. I appreciate it. Please
2 answer any questions that the defense attorneys may have.
3 Okay?

4 THE WITNESS: Okay.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: Thank you, Your Honor.

7 THE COURT: Hold on a minute before you start.

8 Ladies and gentlemen of the jury, I know we've been going
9 about an hour and a half. Is everybody okay? Does anybody
10 need a break?

11 Okay. Go ahead, sir, please.

12 MR. EDGEWORTH: Thank you, Judge.

13 CROSS-EXAMINATION

14 BY MR. EDGEWORTH:

15 Q: Ms. Mitchell, this -- this incident took place in 2019,
16 several years ago; correct?

17 A: Yes. Yes.

18 Q: And at the time -- well, you testified that you guys
19 arrived at the Tiger Mart at 3 o'clock in the morning?

20 A: Yes.

21 Q: Okay. Had you been there any other time previously
22 during that day?

23 A: I can't remember, sir.

24 Q: And I know that you were asked do you recall things?

25 A: Yes, sir.

KAMI MITCHELL - CROSS BY MR. EDGEWORTH

1 Q: Or did you see things. Back in 2019, did you speak to
2 law enforcement then?

3 A: Yes.

4 Q: Okay. And did they ask you whether you recalled things
5 or saw things back then?

6 A: Yes.

7 Q: Do you recall telling them that you didn't know anything?

8 A: Yes.

9 Q: Okay. Now, you didn't tell law enforcement that you knew
10 Mr. Tydrecus, the individual who got shot?

11 A: I mean it was already -- his parents had already told
12 them that. That was already known.

13 Q: But you were asked that question; correct?

14 A: Yes.

15 Q: And you didn't tell anybody that you knew him?

16 A: It was already known that I knew him.

17 Q: Known by whom? Did law enforcement know that?

18 A: Yes. His parents told him. I mean whoever. I don't
19 know how it got back to law enforcement, but I'm pretty sure
20 they told them that part.

21 Q: Did you acknowledge to them that you knew him at that
22 time?

23 A: Yes.

24 Q: Okay. So when you spoke to law enforcement, you told
25 them that?

1 A: I mean, yes, I think.

2 Q: Okay. Now, during the -- you also have indicated that
3 you were aware that Mr. Kareem was Mr. Tydrecus's best friend;
4 correct?

5 A: Yes.

6 Q: Okay. So it wasn't unusual that those two individuals
7 would be together on the night of this incident, would have
8 they?

9 A: Correct.

10 Q: Okay. And you have indicated that -- that Mr. Kareem was
11 the one also arguing with the individuals in the vehicle?

12 A: Yes.

13 Q: Okay. And he was -- he was chirping back; right?

14 A: Yes.

15 Q: Okay. And -- and you hear -- you hear the part in the
16 video, which you agree with me sitting here you can't really
17 hear everything on there; right?

18 A: Correct.

19 Q: And on that night, you couldn't really hear everything
20 everybody was saying; right?

21 A: Yeah. I just remember them -- the soda --

22 Q: Right.

23 A: -- going to the ground. That's all.

24 Q: And when -- and when people started going around the
25 corner, even though the State was asking about it, you

KAMI MITCHELL - CROSS BY MR. EDGEWORTH

1 couldn't really see who went over there, could you?

2 A: No. And that was already said.

3 Q: Yeah. You were back towards the car?

4 A: Uh-huh. Correct.

5 Q: So once things go around the corner, you have no idea
6 even as you sit here today on something that happened almost
7 four years ago, you don't know what happened over there, do
8 you?

9 A: Correct.

10 Q: Now, what you do know and you've testified to is that you
11 were near the car most of the night; correct?

12 A: Yes.

13 Q: Okay. With the exception of when you got out and you
14 were yelling towards everybody?

15 A: Uh-huh. Yes.

16 Q: Because they were arguing?

17 A: Yes.

18 Q: And even sitting here today, you have no idea what they
19 were arguing about?

20 A: No, sir.

21 Q: Did you hear on the video them talking about clutching?

22 A: No. I heard him say, like, he was going to take
23 something from him or something.

24 Q: Okay. Well, I'm just asking you when they played the
25 video, you actually testified that you've seen the video

1 before today; right?

2 A: Yeah. The first question, yes.

3 Q: Yeah. And so when did that happen?

4 A: They showed it to me just to, you know, basically prove
5 that it was me on the camera.

6 Q: When you say they, you mean the State?

7 A: No. This is when I first got questioned.

8 Q: Questioned back in 2019?

9 A: Yes.

10 Q: So they showed you the video surveillance --

11 A: Of me.

12 Q: -- of the incident?

13 A: Yeah. They just was, like, so this is not you. They
14 just played a slight clip.

15 Q: Okay. Well, my question to you is nothing more than in
16 2019 --

17 A: Uh-huh.

18 Q: -- they showed you the surveillance video or just a
19 picture of you at the Tiger Mart?

20 A: Yeah. Just a picture of me at the Tiger Mart proving
21 that I was there basically.

22 Q: So they could tell you that they knew you were there?

23 A: Yes.

24 Q: Okay. And then -- but today you testified or the State
25 asked you you've seen this video now?

KAMI MITCHELL - CROSS BY MR. EDGEWORTH

1 A: Uh-huh. Yes.

2 Q: Okay. Did they show it to you?

3 A: No.

4 Q: Who showed it to you?

5 A: I don't -- the first police that picked me up for
6 questioning. I'm not sure of his name, but I don't know.
7 They were just basically trying to prove it was me on the
8 camera.

9 Q: Understood. So before today in the courtroom when they
10 just showed this video, have you seen all of that detail?

11 A: No.

12 Q: Okay. So you're just kind of going by what the State was
13 feeding you as to what they saw and you were agreeing or
14 disagreeing; is that right?

15 MR. WHITE: Objection. I was asking her direct
16 questions. She was answering them.

17 THE COURT: Objection sustained.

18 BY MR. EDGEWORTH:

19 A: Yes. He just was basically asking he did -- like, you
20 know. He never said a theory. He just -- yes or no
21 questions.

22 Q: Oh, okay. When -- when everybody goes around the side
23 and you can no longer see, y'all -- you get back in the car;
24 correct?

25 A: Yes.

KAMI MITCHELL - CROSS BY MR. EDGEWORTH

1 Q: Okay. And then in the video you've acknowledged that
2 that is Mr. Epps -- Johnson-Epps that comes back to the
3 vehicle?

4 A: Uh-huh. Yes.

5 Q: Is that a yes? And he came around from the other side or
6 did you see?

7 A: He got in the car. Honestly, we were still on the floor
8 when he got in the car.

9 Q: Okay.

10 A: We was ducking.

11 Q: And that's my point. You didn't see the other side?

12 A: No.

13 Q: Okay. And when you get in the car, he is the driver;
14 correct.

15 A: Yes.

16 Q: Okay. And you've testified that y'all drove off to near
17 a -- was it a stoplight?

18 A: It was the stop -- the next stop sign -- I mean the next
19 stoplight right there.

20 Q: So that's out of the property of the Tiger Mart?

21 A: Correct.

22 Q: And were you on 52?

23 A: Correct.

24 Q: Okay. And in that video -- in that video were you aware
25 that there's a big old gap?

KAMI MITCHELL - CROSS BY MR. EDGEWORTH

1 A: A gap of?

2 Q: Would you -- were you aware that on the video the State
3 has played you, it stops, there's a big gap, and then it
4 starts again?

5 A: Oh, no, sir. I haven't paid attention to that.

6 Q: Okay. And that would have been during the time we saw an
7 individual walking out and the car going by. Okay? And then
8 there's a gap.

9 A: Uh-huh.

10 Q: That would have been when you were on the road?

11 A: Yes, sir. We would have been at that stoplight.

12 Q: Okay.

13 A: Correct.

14 Q: And you didn't see anything that took place?

15 A: Not on the side of the store.

16 Q: Okay.

17 A: My vision ends with them and the soda.

18 Q: Okay. Well, when you pull up -- pull off, do you
19 remember anything that happens while you're sitting there?

20 A: Tyrin telling Man-Man to come on so we can go.

21 Q: Okay. And is it -- do you know whether anyone else got
22 out of the car?

23 A: No. Nobody else got out of the car.

24 Q: And when you -- when you were sitting there waiting, was
25 anyone kind of -- were you -- I take that back. Were you --

KAMI MITCHELL - CROSS BY MR. EDGEWORTH

1 did you get out of the car to yell for Mr. Carmichael to come
2 back?

3 A: No. That was prior to the situation. This was when they
4 was arguing about the soda. When we stopped, Tyrin was
5 yelling to tell him to come on.

6 Q: Okay. Was she still in the passenger seat?

7 A: Correct.

8 Q: The front passenger?

9 A: Yes.

10 Q: Were you still in the back passenger?

11 A: Yes.

12 MR. EDGEWORTH: Court's indulgence.

13 THE COURT: Yes, sir.

14 MR. EDGEWORTH: Actually, I have no further questions for
15 this witness, Your Honor.

16 THE COURT: All right. Mr. Ammons?

17 MR. AMMONS: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. AMMONS:

20 Q: Ms. Mitchell, thank you for being here today. I want to
21 clear up one thing. Just to clear up the record, you said
22 you're 21 right now?

23 A: Yes, sir.

24 Q: And this incident happened --

25 A: When I was 20 years old.

KAMI MITCHELL - CROSS BY MR. AMMONS

1 Q: Well, if it happened in 2019 and it's 2023 --

2 A: I turn 22 on the 31st of this month.

3 Q: All right. So that's still only two years and this
4 incident was three years ago. Do you think maybe 19 -- 18 or
5 19 possibly?

6 A: Yeah.

7 Q: Okay. Now, on that evening you said you guys had been at
8 Willie's?

9 A: Yes.

10 Q: All right. And is that near the Tiger Mart?

11 A: I mean, yeah.

12 Q: Okay.

13 A: You can say that.

14 Q: And prior to you guys getting there at the Tiger Mart
15 around 3:30, there hadn't been any discussion between Mr. Epps
16 and Mr. Carmichael or any of you guys about wanting to get
17 into a fight or anything?

18 A: Correct.

19 Q: All right. And no one had had a discussion about wanting
20 to start something with Kareem or Tydrecus?

21 A: Yes, of course, nobody.

22 Q: Nobody had done that?

23 A: Yeah.

24 Q: Okay. And no discussion about wanting to shoot anyone?

25 A: No.

KAMI MITCHELL - CROSS BY MR. AMMONS

- 1 Q: No discussion about wanting to steal anything or --
- 2 A: No, sir.
- 3 Q: -- rob anyone?
- 4 A: No.
- 5 Q: There was no plan to go there and start any trouble?
- 6 A: No. Our plans was to go there and get drinks and stuff,
- 7 and that's it.
- 8 Q: All right. And then once you're there and this
- 9 altercation or the verbal exchange has started occurring, Mr.
- 10 Epps wasn't a part of that, was he?
- 11 A: No. I was confused on what was going on.
- 12 Q: All right. And Mr. Epps was primarily at the car with
- 13 you and Ms. Jones?
- 14 A: Yeah. He was basically getting his drink.
- 15 Q: Okay. And so on the video you hear this back-and-forth
- 16 between Kareem and Mr. Carmichael?
- 17 A: Correct.
- 18 Q: You didn't hear any exchanges with Mr. Epps?
- 19 A: No, sir.
- 20 Q: All right. Mr. Epps -- at a point when they are -- when
- 21 the discussion is going on between Carmichael and Mr. Jones
- 22 and Mr. Williams, it looked like Mr. Epps was actually back at
- 23 the car; right?
- 24 A: Yes.
- 25 Q: And was he trying to leave at that point in time?

KAMI MITCHELL - CROSS BY MR. AMMONS

- 1 A: I mean everybody was trying to leave.
- 2 Q: All right. So all of you at the car were trying to
- 3 encourage him, hey, let's get out of here?
- 4 A: Yes.
- 5 Q: All right. And that's before any trouble started?
- 6 A: Right.
- 7 Q: Now, once -- once the altercation started or became
- 8 physical up by the window and everybody -- they started going
- 9 around the corner, you didn't see who all went around the
- 10 corner?
- 11 A: No.
- 12 Q: All right. You didn't see Mr. Epps go around the corner?
- 13 A: No. At the -- like I said, my vision ended when he
- 14 didn't get back in the car. I got back in the car, and I just
- 15 was really waiting on my phone and then, like I said, once I
- 16 heard the shots, I was to the ground.
- 17 Q: Okay.
- 18 A: Well, to the ground of the car.
- 19 Q: All right. And so you don't even know who all was around
- 20 the building; correct?
- 21 A: No.
- 22 Q: I mean there were people around the building --
- 23 A: Right.
- 24 Q: -- that were already there before?
- 25 A: Uh-huh. Like, me seeing it on camera, I ain't know that

1 many people was there.

2 Q: All right. So there was at least a car around there?

3 A: Yes.

4 Q: And from the camera view, you can't see up close to the
5 building, you can't see the sidewalk?

6 A: Correct.

7 Q: You can't tell if there was anyone already on that
8 sidewalk; correct?

9 A: Yes.

10 Q: All right. Was it -- was it clear to you that Mr.
11 Williams had a gun? Tydrecus?

12 A: No.

13 Q: It was never clear to you?

14 A: No.

15 Q: But from -- from the comments of Man-Man or Mr.
16 Carmichael saying what you clutching, that's an indication
17 that --

18 MR. WHITE: Objection. Calls for speculation. She's
19 answered the question.

20 THE COURT: I'll sustain the objection.

21 BY MR. AMMONS:

22 Q: When you guys drove off around the side and you left, it
23 was just you, Tirik, and Tyrin in the car; right?

24 A: Correct.

25 Q: And you stopped down Lucas Street a ways?

KAMI MITCHELL - CROSS BY MR. AMMONS

1 A: Yes.

2 Q: And you didn't get out of the car when you stopped?

3 A: No.

4 Q: All right. Nobody got out of the car; right?

5 A: No.

6 Q: Everybody waited for Mr. Carmichael to get back to the
7 car?

8 A: Correct.

9 Q: All right.

10 MR. AMMOPNS: No further questions, Your Honor.

11 THE COURT: Briefly, any redirect?

12 MR. WHITE: Yes, sir.

13 REDIRECT EXAMINATION

14 BY MR. WHITE:

15 Q: Kami, just briefly and then we'll let you go. You've
16 answered everybody's questions, and I appreciate you. Kami,
17 we made a lot about Tirik Johnson-Epps having that bottle in
18 his hand; is that right?

19 A: Yes.

20 Q: And you can see on the camera he's got it in his hand for
21 the whole time he's walking around with it, he's got it. He
22 never lets go of that bottle, does he?

23 A: No.

24 Q: Have you ever seen -- you said you were at Willie's;
25 right? And I'm sure, you know, people partying and that sort

KAMI MITCHELL - REDIRECT BY MR. WHITE

1 of thing. Have you ever seen a beer fizz up and fizz over?

2 A: Uh-huh.

3 Q: You know, how you shake up a drink or someone taps on a
4 drink or anything that makes that beer fizz up and bubble
5 over?

6 A: Yes.

7 Q: You've seen that and you're -- I mean we're all familiar
8 with that; right?

9 A: Right.

10 Q: I want you to pay close attention to this video, if you
11 can. All right? And I want you to look. See that -- it
12 looks like an oil spot there on the ground just beside the
13 vehicle to the right. In between the two vehicles, there's an
14 oil spot. Do you see that?

15 A: Yes.

16 Q: I want you to pay attention to that general area. In
17 just a minute, you're going to see Man-Man come on that
18 camera. At that point, Tydrecus is going to be running away,
19 and then you're going to see another hand that's not Man-Man's
20 enter that camera. Okay? And then I want you to see and tell
21 me what that man's other hand is doing. Okay? It's very
22 slight. I want you to look for me and tell us what you think.

23 (WHEREUPON, a portion of video was played and then
24 stopped.)

25 BY MR. WHITE:

KAMI MITCHELL - REDIRECT BY MR. WHITE

1 Q: Do you see that beer fuzzing up? I'll show it to you
2 again. It's very quick. You've got to really look for it,
3 but that shooter's hand, did you see it?

4 A: Yes.

5 Q: You see that beer fizzing up? That's Man-Man; correct?
6 With the hood?

7 A: Yes.

8 Q: And the shooter is right beside him holding a beer that's
9 fizzing up, fizzing over; is that right?

10 MR. AMMONS: Objection. Calls for speculation.

11 THE COURT: She can answer if she knows the answer to the
12 question.

13 BY MR. WHITE:

14 A: From the camera, I do see the beer fizzing up, yes.

15 Q: And again, who was it that was carrying around that beer
16 everywhere he went?

17 A: Tydrec -- no, Tirik.

18 Q: Tirik Johnson-Epps?

19 A: Uh-huh.

20 THE COURT: Is that a yes?

21 THE WITNESS: Yes. I'm sorry.

22 THE COURT: Thank you.

23 MR. WHITE: Thank you, Kami. I appreciate you so much.

24 I've got nothing further for you. Okay? Thank you.

25 THE COURT: All right. Mr. Edgeworth, anything further?

KAMI MITCHELL - RECROSS BY MR. AMMONS

1 MR. EDGEWORTH: Nothing further, Your Honor.

2 THE COURT: Mr. Ammons?

3 MR. AMMONS: Just real briefly, Your Honor.

4 RECROSS-EXAMINATION

5 BY MR. AMMONS:

6 Q: Kami, can you definitively say that's a beer?

7 A: I mean I'm just looking for the fuzz. I do see some
8 fuzz.

9 Q: If Mr. White hadn't told you that was -- that was fuzz,
10 you wouldn't have thought that was beer?

11 A: Honestly, I didn't catch it.

12 Q: So it's not obvious that that's a beer?

13 A: I didn't catch it, no.

14 Q: Do you still have questions in your mind whether or not
15 it's a beer?

16 A: I mean I can't really tell it out. I'm just looking for
17 it, you know, like he said, the spot. That's it.

18 Q: And have you ever seen anybody else other than Mr.
19 Johnson-Epps around the Tiger Mart holding a beer in their
20 hand?

21 A: I'm unsure.

22 Q: All right.

23 A: I'm unsure, honestly.

24 Q: It wouldn't be uncommon to see someone with a beer?

25 A: Yeah, it's not uncommon, no.

KAMI MITCHELL - RECROSS BY MR. AMMONS

1 Q: All right.

2 A: I mean it's a smoker right there. So --

3 Q: And you don't know if there's anybody -- you can't see
4 the sidewalk in that video?

5 A: Yeah, I can't see from this point of view.

6 Q: So it's quite possible there's somebody else?

7 MR. WHITE: Objection. Calls for speculation.

8 THE COURT: Sustained.

9 BY MR. AMMONS:

10 Q: You don't know if there was anybody else there?

11 A: No, I don't know who is on the side of the building.

12 MR. AMMONS: No further questions, Your Honor.

13 THE COURT: All right. Ms. Mitchell, you may step down.
14 Thank you.

15 THE WITNESS: Okay.

16 THE COURT: As she's stepping down, can the lawyers
17 approach, please?

18 MR. WHITE: Yes, sir. Judge, at this time, I'd ask if
19 Kami Mitchell can be released from her subpoena.

20 THE COURT: Mr. Edgeworth, any objection?

21 MR. EDGEWORTH: No objection.

22 THE COURT: Mr. Ammons?

23 MR. AMMONS: No objection.

24 THE COURT: Ms. Mitchell, you're released from your
25 subpoena. You're free to go. Have a nice day.

1 THE WITNESS: Thank you.

2 (WHEREUPON, a bench conference was held off the record
3 regarding scheduling, after which the proceedings resumed
4 as follows.)

5 THE COURT: All right. Ladies and gentlemen of the jury,
6 what we're going to do now is I'm going to go ahead and let
7 you all go to lunch. I'm going to ask you to be back here at
8 1:15. Be back here at 1:15.

9 Do not discuss the case. Do not discuss the case at all.
10 Do not do any independent investigation. As I told you from
11 the outset, you're to decide this case -- excuse me -- based
12 solely upon the evidence and testimony presented in this
13 courtroom and nowhere else. Not only are you not to talk
14 about the case with anyone, again no one is supposed to talk
15 to you about this case at all. Okay?

16 You all have a nice lunch. I'll see you back here at
17 1:15.

18 All right. Everybody else remain seated while the jury
19 exits the courtroom, please.

20 (WHEREUPON, the jury exited the courtroom at 11:53 a.m.)

21 THE COURT: All right. Anything from the State before we
22 break for lunch?

23 MR. WHITE: No, sir, Judge.

24 THE COURT: Defense counsel, Mr. Edgeworth?

25 MR. EDGEWORTH: No, Your Honor.

1 MR. AMMONS: No, Your Honor.

2 THE COURT: All right. I'm going to give -- I'm going to
3 ask everybody to remain in the courtroom for a few minutes to
4 allow the jury to exit the courthouse. I don't want any
5 intermingling of individuals with the jury as they're getting
6 on elevators to leave. Okay? So everybody just sit tight for
7 a minute.

8 You can ask -- one of y'all can radio Bennett and find
9 out when they've exited, and then you all can release. Okay?

10 Let me say this too. I've noticed -- is the individual
11 that had the phone -- where is he? Is he gone?

12 All right. If you have a phone in this courtroom,
13 they're to be turned off. All right? I don't want any
14 distractions during the course of the trial.

15 If you'll -- also, sir, what's your name?

16 GALLERY MEMBER: Hakeem.

17 THE COURT: Sir?

18 GALLERY MEMBER: Hakeem.

19 THE COURT: I can't hear you.

20 GALLERY MEMBER: Hakeem.

21 THE COURT: King?

22 GALLERY MEMBER: Hakeem Williams.

23 THE COURT: What is it?

24 THE CLERK: Hakeem Williams.

25 THE COURT: Mr. Williams, stand right there. I'm going

1 to give you your phone back. If it goes off again -- I'm
2 telling everybody in this courtroom, if you have a phone in
3 this courtroom, it's to be turned off. If it goes off again,
4 it's going to be confiscated and you're going to Effingham.
5 All right? No ifs, ands, or buts about it. I don't want any
6 distractions in this courtroom.

7 I've seen a couple of individuals walk in and out of this
8 courtroom with their pants not pulled up. If your pants are
9 not being worn around your waist, that is improper dress for
10 this courtroom. If you can't wear your pants properly, either
11 don't come in here or I'm going to send you to Effingham and
12 they'll put an orange jumpsuit on you and you'll wear them
13 properly at that point. That is not proper wear for this
14 courtroom.

15 Do you understand? Anybody have any questions about
16 that? We're not on the streets out there. We're in a
17 courthouse, and such respect is required in the courthouse.
18 All right?

19 All right. We'll stand at ease until 1:15.

20 MR. EDGEWORTH: Thank you.

21 MR. AMMONS: Thank you, Judge.

22 MR. WHITE: Thank you, Judge.

23 (WHEREUPON, there was a break in the proceedings from
24 11:56 a.m. until 1:17 p.m., after which the proceedings
25 resumed as follows.)

1 THE COURT: Bring him in here.

2 The lawyers can approach, please.

3 (WHEREUPON, Juror Number 133 entered the courtroom, and a
4 bench conference was held with the juror as follows.)

5 THE COURT: You're Mr. Prescott; right?

6 JUROR NUMBER 133: Yes, sir.

7 THE COURT: Okay. How are you doing?

8 JUROR NUMBER 133: I'm all right.

9 THE COURT: First of all, let me say you did the exact
10 thing you were supposed to do.

11 JUROR NUMBER 133: I'm a little nervous about this.

12 THE COURT: You're okay. This has nothing to do with
13 you. This is not your fault at all. Okay? So you did
14 exactly what I asked you to do, and for that I want to thank
15 you for doing that. Okay? So don't be nervous at all. Okay?
16 Do you know -- who was it that sent you this message?

17 JUROR NUMBER 133: I don't know them.

18 THE COURT: You don't know?

19 JUROR NUMBER 133: No, I don't. It was Facebook here,
20 but I don't know him.

21 THE COURT: Sir?

22 JUROR NUMBER 133: It's Facebook from here, but I don't
23 know him.

24 THE COURT: Is the Pastorp Real -- is that you?

25 JUROR NUMBER 133: No, no. That's not me.

1 THE COURT: Okay. I'm curious as to whether or not this
2 -- let's see. It appears that this individual was seated in
3 the courtroom who said they had to leave and go to work.

4 JUROR NUMBER 133: Yeah.

5 THE COURT: And for the record, I'm going to read into
6 the record what was sent to Mr. Prescott. It says:

7 "Eric, both them boys killed Mrs. Betty's grandson, bug
8 son. Shot him 11 times and one in the head. I had to leave
9 and go to work. Please give them the justice they deserve."

10 And I read verbatim. I took a picture of your --

11 JUROR NUMBER 133: Okay.

12 THE COURT: -- what was on your phone. Have you shared
13 this with anybody in the jury room?

14 JUROR NUMBER 133: No, sir. I just came straight to the
15 --

16 THE COURT: Okay.

17 JUROR NUMBER 133: -- guy from lunch.

18 THE COURT: Okay. You haven't discussed this at all with
19 anyone in the jury room?

20 JUROR NUMBER 133: No, sir.

21 THE COURT: Okay. Now, I've told you -- I've told all of
22 you all, you know, not to read anything, listen to, or watch
23 --

24 JUROR NUMBER 133: Yes, sir.

25 THE COURT: -- whether it be any news reports about the

1 case. You know, there are times that jurors are selected in
2 cases wherein there's the news, whether it be paper or social
3 media outlets, etc., where there's a tremendous amount of
4 reporting of such.

5 JUROR NUMBER 133: Yes, sir.

6 THE COURT: And some jurors sometime come into cases
7 having heard about a case. Okay?

8 And my question to them always is in light of what you've
9 heard, in light of this text you received -- and we'll track
10 down who that is and we'll find out who it is because it's
11 highly inappropriate for them to reach out to you to try to
12 influence you in any way. But the question I always ask
13 jurors separate and apart from what they may have seen or
14 heard or read in a newspaper or on the Internet or anything,
15 can you set that aside and --

16 JUROR NUMBER 133: Of course.

17 THE COURT: -- decide this case based solely upon the
18 evidence and testimony presented in this courtroom?

19 JUROR NUMBER 133: Yes, sir.

20 THE COURT: Being fair and impartial to both the State
21 and the defendants?

22 JUROR NUMBER 133: Yes, sir.

23 THE COURT: Okay. All right. I'm going to ask that you
24 -- anything else from the State?

25 MR. WHITE: No, sir, Judge.

1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: No, sir.

3 MR. AMMONS: No, Your Honor.

4 THE COURT: Okay. I'm going to ask that you step back in
5 the jury room right now.

6 JUROR NUMBER 133: Yes, sir.

7 THE COURT: Do not discuss this at all with anyone. Let
8 me ask you this. Do you -- I want you to answer honestly.
9 Okay? Do you feel in any way threatened or coerced in any
10 way, shape, or form --

11 JUROR NUMBER 133: No.

12 THE COURT: -- by what you received?

13 JUROR NUMBER 133: No, sir.

14 THE COURT: All right. And you believe that you
15 certainly can be fair and impartial to everybody?

16 JUROR NUMBER 133: Yes, I can. Yes, sir.

17 THE COURT: And decide the case based solely upon the
18 evidence presented during this trial?

19 JUROR NUMBER 133: Yes, sir.

20 THE COURT: Okay.

21 JUROR NUMBER 133: I was just worried because I don't
22 want to be a snitch by telling, but I didn't know what else --
23 I even thought it was a joke. I don't usually open Messenger.

24 THE COURT: Well --

25 JUROR NUMBER 133: Most people I don't. I really don't

1 know.

2 THE COURT: Well, like I said, you did exactly what you
3 were supposed to do. I am thankful to you and I am grateful
4 to you, and I have the utmost respect for you doing what you
5 -- what I asked you to do.

6 JUROR NUMBER 133: Okay.

7 THE COURT: Okay? All right. I'm going to ask you to
8 step to the jury room, but do not discuss this at all. And
9 I'm going to consult with the attorneys, and I'll make a
10 decision on where we go from here. Okay?

11 JUROR NUMBER 133: Do I give my phone back to her?

12 THE COURT: Yeah. When you go back in, please give your
13 phone to her.

14 The lawyers can stay up here a second.

15 (WHEREUPON, Juror Number 133 exited the courtroom, and
16 the bench conference continued as follows.)

17 THE COURT: What says the State, I guess?

18 MR. WHITE: You know, I think what he did was honorable
19 and his response to what has happened is honorable, that he
20 can be fair and impartial. I don't know how he could. One
21 thing that he did bring up was worrisome for me is he didn't
22 want to be a snitch. In this case, we're dealing with a lot
23 of snitches. So, you know, I just don't know how we put that
24 back in the box. I feel like it's been unpacked in such a way
25 that I would ask respectfully that the alternate be sat.

1 THE COURT: I expect you'd argue the opposite side. So
2 go ahead.

3 MR. EDGEWORTH: Well, not necessarily because I mean I --

4 THE COURT: I'm just kidding. Okay?

5 MR. EDGEWORTH: Yeah. Well, I'm going to -- I'm really
6 on the fence about it. I'm not really sure how I feel. I
7 mean I feel like he gave honest responses, but I am inclined
8 to believe that, you know, no matter what you say in that
9 circumstance, it has to be perceived as a threat.

10 I mean, additionally, I know he spoke that way. He said
11 that, you know, he didn't bring it to anyone else's attention,
12 but I'm concerned that all this back and forth may have in
13 some form or fashion tainted the jury in general. I mean -- I
14 mean I'm almost to the point where I might ask for a mistrial.
15 I understand the Court may disagree, but --

16 THE COURT: You can ask for it, but I ain't, not at this
17 juncture.

18 MR. EDGEWORTH: Understood. I'm just kind of talking out
19 loud because I got caught off the cuff. But so --

20 THE COURT: It's okay.

21 MR. EDGEWORTH: Whatever the Court is inclined to do with
22 this particular juror, I wouldn't really have a smart
23 objection.

24 MR. AMMONS: I like what he did. I think he did the
25 right thing coming forward, and I think it shows a lot of

1 integrity. I appreciate that. I think it was hard for him to
2 come forward. I think showing that he came forward and did
3 the hard thing, I think he would do the hard thing on the
4 jury. I think -- I don't think there's any problem, you know.

5 THE COURT: Well, he did not -- I mean I asked him more
6 than once, and he did not equivocate --

7 MR. WHITE: I know.

8 THE COURT: -- that he could set aside the fact that he
9 received this text, that he could be fair and impartial to all
10 parties and decide this case based solely upon the evidence
11 and testimony presented, that he has not shared with other
12 jurors anything about this text.

13 MR. WHITE: My -- one of my other concerns -- and I've
14 seen it. We've seen it. When it gets heated back there and,
15 you know, you've got one group trying to convince the other
16 group, that he has that information that he could let loose at
17 any point. That would be a concern.

18 THE COURT: Well, the Court doesn't get into what --

19 MR. WHITE: Yes, sir.

20 THE COURT: -- a jury discusses and doesn't discuss and
21 how they come to their conclusion.

22 MR. WHITE: Yes, sir.

23 THE COURT: You know, what I have to look at, you know,
24 is obviously what's in front of me, question the juror, as I
25 did. He did not appear to me to be nervous in any way. He

1 didn't appear to be scared. He didn't equivocate on what I
2 asked him about being fair and impartial to everybody
3 involved.

4 With him having adhered to my instruction, you know, that
5 no one is to contact them, if they do to let the Court know
6 immediately, he let the Court know immediately upon his
7 return, which leads me to believe after telling him not to
8 discuss this issue in that jury room, and if he can abide by
9 my instructions to let us know if he does -- if somebody does
10 reach out to him, nothing would lead me to believe that he
11 would otherwise not comply with this Court's instruction in
12 discussing it in that jury room.

13 So I'm going to step off the bench. I want to look at
14 something for a minute, but I am inclined not to excuse him at
15 this point.

16 MR. WHITE: Yes, sir.

17 THE COURT: Based upon his responses to my question,
18 based upon his timely alerting to the Court what was going on,
19 based upon my observations of him, you know, and so I'm going
20 to go back and look at a couple of things, but unless I see
21 something different, I'm not inclined to release him at this
22 point.

23 MR. WHITE: Yes, sir.

24 MR. AMMONS: Thank you.

25 (WHEREUPON, there was a break in the proceedings from

1 1:29 p.m. until 1:58 p.m., after which the proceedings
2 resumed as follows.)

3 THE COURT: Can the lawyers approach a minute, please?
4 (WHEREUPON, a bench conference was held as follows.)

5 THE COURT: I think I am going to cut this juror loose.
6 This is an older case, but it's cited in a 2020 South Carolina
7 case. It's *Remmer v. United States*, which is 74 S.C. -- S.Ct.
8 450.

9 When there's improper contact by a third party, there's a
10 presumption of prejudice. There's a burden upon the
11 government at that point to establish that such contact was
12 harmless to the defendant. I don't know that the State can
13 reach that burden or would be able to in this situation.

14 Anything?

15 MR. WHITE: No.

16 MR. EDGEWORTH: No, Your Honor.

17 MR. AMMONS: No.

18 THE COURT: Well, I'm just debating on whether or not I
19 ought to clear the courtroom.

20 MR. WHITE: I think that would -- I would agree with this
21 assessment. I don't want him to have to go, you know, through
22 that with these -- these folks in the courtroom on both sides.
23 You never know how that might look.

24 (WHEREUPON, a courtroom deputy joined the bench
25 conference, and the bench conference continued as

1 follows.)

2 THE COURT: Okay. I'm going to -- I want the courtroom
3 cleared except for people that are involved in this case, the
4 court personnel and attorneys and defendants. I'm going to
5 have to bring this juror back out here and I'm going to
6 release him, but I don't want anybody in that audience in the
7 courtroom when I do it.

8 THE DEPUTY: Okay. I'll lose some deputies because I
9 might have to put them out there in the hallway to --

10 THE COURT: Yeah.

11 THE DEPUTY: -- make sure they ain't brawling, you know.
12 So -- but that's fine.

13 THE COURT: What I'm going to do is I want to say we'll
14 stand at ease and when I do that, they can clear the courtroom
15 and let them know I'm doing it and why it's being done.

16 MR. WHITE: Yes, sir.

17 (WHEREUPON, the bench conference ended, and the
18 proceedings resumed as follows.)

19 THE COURT: All right. I'm going to stand at ease for
20 just a few minutes.

21 (WHEREUPON, there was a break in the proceedings from
22 2:01 p.m. until 2:04 p.m., after which the proceedings
23 resumed as follows.)

24 THE COURT: All right. We've had several discussions up
25 here at sidebar with the attorneys.

1 It was brought to my attention that one of our jurors --
2 over lunch somebody reached out to him via Facebook. And I
3 shared with the attorneys, and I think I read it into the
4 record up here at sidebar. I know I shared it with the
5 attorneys or allowed them to see it back in chambers before I
6 came out after lunch.

7 The message that was sent to this juror said: "Eric,
8 both the boys killed Ms. Betty grandson, Bug son, shot him 11
9 times and one in the head. I had to leave and go to work.
10 Please give them the justice they deserve."

11 Upon being alerted of that message to Juror Number 133,
12 Juror Number 133 was brought out and questioned on the record
13 in the presence of the lawyers at sidebar. This particular
14 juror was commended for bringing that to the Court's attention
15 because that's exactly what I had asked the jury to do if such
16 occurred. Upon further questioning of this juror, he conveyed
17 to me that he -- that he could be -- that he could set aside
18 the message that he received and be fair and impartial to both
19 the State and the defense and decide this case based solely
20 upon the evidence presented in this courtroom.

21 At sidebar up here, I told the lawyers. The State had
22 concerns about -- well, let me say this too. I did ask the
23 juror whether or not he had shared such message with any other
24 jurors, and he assured me that he had not.

25 The State voiced some concerns about leaving this juror

1 on the panel. The defense, Mr. Edgeworth, Mr. Ammons, and
2 y'all kind of fill me in. I really -- I think Mr. Edgeworth
3 said he was somewhat torn about the situation. I think Mr.
4 Ammons kind of felt the same way. I told the lawyers at that
5 time I was inclined to leave the juror on this jury but wanted
6 to step down for a minute to look at a couple of things. I
7 did so. I stepped down.

8 In all the years I practiced law and since I've been on
9 the bench, I have not had this issue come up, thankfully, but
10 went back and looked at *State v. Green*, 432 S.C. 97. That
11 particular case involved a bailiff making a comment to a
12 juror, and that comment to the juror was simply a procedural
13 issue, talking about a procedural matter in the case, the
14 procedural matter being that if the jury couldn't reach a
15 verdict, then the judge would give them an Allen charge.

16 Our Supreme Court in citing *Remmer*, *Remmer v. United*
17 *States*, 347 U.S. 227, it says that not every third-party
18 contact is presumed prejudicial. All right? And in looking
19 at *Remmer v. United States*, it says in a criminal case any
20 private communication, contact, or tampering directly or
21 indirectly with a juror during a trial about the matter
22 pending before the jury is for obvious reasons deemed
23 presumptively prejudicial if not made in pursuance of known
24 rules of the Court and the instructions and directions of the
25 Court made during the trial with full knowledge of the

1 parties. So this contact with the juror was certainly not
2 made in pursuance of any known rules, and it was third-party
3 contact with the jury.

4 The defendant has a Sixth Amendment right to a fair and
5 impartial juror -- jury. When there is a presumption of
6 prejudice, although that presumption is not conclusive, the
7 burden rests heavily upon the government to establish after
8 notice to and hearing of the defendant that such contact with
9 the juror was harmless to the defendant.

10 In light of what that communication with this juror
11 stated and in light of my questioning, even though this juror
12 said he could be fair and impartial and decide the case based
13 solely upon the evidence and testimony presented in this
14 trial, I'm not sure that the State could meet its heavy burden
15 in proving that there's no real possibility the improper
16 communication influenced the verdict.

17 Now, I have not heard all of the evidence in this case
18 yet. The evidence may be overwhelming. I've seen and heard
19 one testimony of one witness and seen the video.

20 So based upon my reading of *Green* and *Remmer*, I am
21 inclined to release this juror and set the -- and seat the
22 final alternate. Any exception or objection to anything I've
23 said by the State?

24 MR. WHITE: None from the State, Judge.

25 THE COURT: Mr. Edgeworth?

1 MR. EDGEWORTH: None from the defendant, Your Honor.

2 MR. AMMONS: None, Your Honor.

3 THE COURT: All right. What I'm going to do is I'm going
4 to bring this juror back out here. And for the record, I have
5 cleared the courtroom. There were numerous individuals in the
6 courtroom watching these proceedings, several on behalf or
7 behind the State's table, more individuals behind the
8 defendants' table. I cleared the courtroom before having
9 these discussions and did not want those individuals in the
10 courtroom when I release this juror.

11 So if you'd bring me Juror Number 133, Mr. Prescott,
12 please.

13 When I release him, I'm going to stand down. You can let
14 all of those individuals come back in the courtroom. I want
15 him escorted off the premises by a deputy.

16 THE DEPUTY: Yes, sir.

17 THE COURT: Please.

18 (WHEREUPON, Juror Number 133 entered the courtroom.)

19 THE COURT: The lawyers may approach again, please.

20 (WHEREUPON, a bench conference was held as follows.)

21 THE COURT: Come on up here, Mr. Prescott. I'm going to
22 -- I'm going to release you --

23 JUROR NUMBER 133: Yes, sir.

24 THE COURT: -- from this trial. Let me tell you there's
25 absolutely -- you did absolutely nothing wrong. Okay? So I

1 don't want you to think that for a minute, but I'll tell you
2 the reason I'm releasing you is because I've done some -- I've
3 been on the bench going on 13 years. I've never had this
4 issue come up.

5 JUROR NUMBER 133: Yes, sir.

6 THE COURT: Okay? But based upon case law and me doing a
7 little research, as a matter or precaution I'm going to
8 release you. Okay?

9 JUROR NUMBER 133: Okay.

10 THE COURT: Again, you have my utmost respect for what
11 you've done. You did exactly what I asked you to do, and I
12 want you to clearly understand you've done nothing wrong.

13 JUROR NUMBER 133: Okay.

14 THE COURT: Okay? You did exactly what I asked you to do
15 and I, again, commend you and have the utmost respect for what
16 you've done. Okay? But based upon me looking at some case
17 law, just to be on the safe side, I'm going to release you.
18 Okay?

19 Now, I'm going to ask you this again. Have you shared
20 what we talked about before with any of the jurors?

21 JUROR NUMBER 133: Oh, no, sir.

22 THE COURT: Have you shared this communication you
23 received with any of the jurors?

24 JUROR NUMBER 133: No, sir.

25 THE COURT: Okay. All right. Anything from the State?

1 MR. WHITE: I have nothing further.

2 THE COURT: Mr. Edgeworth?

3 MR. EDGEWORTH: Nothing, Your Honor.

4 THE COURT: Mr. Ammons?

5 MR. AMMONS: Nothing, Your Honor.

6 JUROR NUMBER 133: I apologize.

7 THE COURT: You have nothing to apologize about. I can
8 tell you that I'm going to ask -- law enforcement may be in
9 contact with you. Don't delete the message. They may want to
10 look at it and see where it came from because everybody in
11 this courtroom who has been seated in this courtroom heard me
12 say to you all not to talk about the case and that nobody is
13 to reach out to you. So they're in direct violation of this
14 Court's instructions. And then if it -- if I find out who it
15 is and if they track down who it is, then I'm going to deal
16 with it from this side of things.

17 JUROR NUMBER 133: Yes, sir.

18 THE COURT: Okay? But listen, I want to thank you again
19 for your willingness to serve and for what you've done here
20 today. You absolutely did what you were supposed to. Okay?

21 JUROR NUMBER 133: Yes, sir.

22 THE COURT: Now, I cleared the courtroom before I brought
23 you back in here because I didn't want -- and I probably
24 should have done so before I brought you out here the first
25 time, but I wanted it cleared when I brought you back out here

1 to have this discussion. What I'm going to do is when I
2 release you, I'm going to ask that you stay in the back hall,
3 and we'll let everybody back in here and you'll have a police
4 escort out of this -- off the premises.

5 JUROR NUMBER 133: Okay.

6 THE COURT: Okay?

7 JUROR NUMBER 133: Yes, sir.

8 THE COURT: Thank you again, Mr. Prescott.

9 JUROR NUMBER 133: Okay.

10 MR. WHITE: Thank you.

11 MR. AMMONS: We appreciate it.

12 THE COURT: For doing the right thing.

13 JUROR NUMBER 133: Yes, sir.

14 THE COURT: Okay.

15 (WHEREUPON, Juror Number 133 exited the courtroom, and
16 the bench conference ended and the proceedings resumed as
17 follows.)

18 THE COURT: All right. You all can let the individuals
19 in the hall back in the courtroom. Mr. Prescott, an officer
20 is going to stay back here and once they're back in here,
21 he'll be escorted from the premises.

22 (WHEREUPON, there was a break in the proceedings from
23 2:19 p.m. until 2:24 p.m., after which the proceedings
24 resumed as follows.)

25 THE COURT: All right. Anything from the State before I

1 bring the jury back out?

2 MR. WHITE: No, sir, Judge.

3 THE COURT: Defense counsel, Mr. Edgeworth?

4 MR. EDGEWORTH: No, Your Honor.

5 THE COURT: Mr. Ammons?

6 MR. AMMONS: No, Your Honor.

7 THE COURT: All right. Bring me the jury, please, ma'am.

8 As they're coming in, can the lawyers approach a minute,
9 please?

10 MR. WHITE: Yes, sir.

11 (WHEREUPON, a bench conference was held off the record
12 regarding scheduling.)

13 (WHEREUPON, the jury entered the courtroom at 2:25 p.m.)

14 THE COURT: You moved to the correct seat because now
15 you're part of this jury. All right?

16 All right. Ladies and gentlemen, thank you for your
17 patience. This is why we select alternates. Things come up
18 during the course of a trial that we have to seat others on
19 here. That's why we select alternates, and then we have a
20 jury of twelve and we're going to proceed and continue with
21 this trial.

22 At this time, the State is recognized. Call your next
23 witness.

24 MR. WHITE: Thank you, Judge. At this time, the State
25 would call Darius Davis to the stand.

DARIUS DAVIS - DIRECT BY MR. WHITE

1 THE CLERK: Sir, please place your left hand on the Bible
2 and raise your right hand. Do you swear that the testimony
3 you will give in this case will be the truth, the whole truth,
4 and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please take a seat on the witness stand and
7 state your full name for the record.

8 THE WITNESS: My name is Darius Davis.

9 DARIUS DAVIS, being first duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. WHITE:

13 Q: Thank you, Mr. Darius -- or it's Mr. Davis. Excuse me.
14 If you could, tell us where are you living right now?

15 A: In Columbia.

16 Q: And what are you doing in Columbia?

17 A: I'm taking care of my sickly father.

18 Q: And back in September of 2019 and specifically September
19 12th, 2019, where were you employed?

20 A: Florence City Police Department.

21 Q: And at that time, did you have an occasion to respond to
22 the Speedy Mart or some people call it the Tiger Mart over
23 there just a couple blocks from here?

24 A: Yes, sir. It was in my district.

25 Q: And is that in Florence County?

1 A: Yes, sir.

2 Q: And specifically in the city of Florence; right?

3 A: Yes, sir.

4 Q: And on that day were you equipped with body-worn camera?

5 A: Yes, sir, I was.

6 Q: And how does that work? How does that body-worn camera
7 work?

8 A: Before we get to a scene, we'll turn our camera on or
9 whenever we turn on our blue lights, the cameras turn on.

10 Q: And was it functional at the time of this incident?

11 A: Yes, sir.

12 Q: And -- and at that time, once -- once you turned it over,
13 what do you do when you knock off shift? How does that get
14 back into your system?

15 A: We remove our body-worn cameras and we place the cameras
16 into a dock, and the dock uploads everything to where it needs
17 to go.

18 Q: And was that done in this case?

19 A: Yes, sir.

20 Q: And was that footage then turned over to the Solicitor's
21 Office?

22 A: Yes, sir.

23 Q: If I could, I'm going to approach you and show you what's
24 been marked as State's Exhibit 80. Could you tell me is that
25 a disk of the body-worn camera you're referring to?

DARIUS DAVIS - DIRECT BY MR. WHITE

1 A: Yes, sir, it is.

2 Q: Have you had a chance to review that particular footage?

3 A: Yes, sir.

4 Q: Have there been any alterations or deletions made?

5 A: No, sir.

6 Q: Is it a fair and accurate depiction of the scene as you
7 encountered it on September 12th, 2019?

8 A: Yes, sir.

9 MR. WHITE: Judge, at this time, I'd move State's Exhibit
10 80 into evidence.

11 THE COURT: Any objection, Mr. Edgeworth?

12 MR. EDGEWORTH: No objection, Your Honor.

13 THE COURT: Mr. Ammons?

14 MR. AMMONS: No objection.

15 (WHEREUPON, State's Exhibit Number 80, body-worn camera
16 footage on disk, was admitted into evidence.)

17 MR. WHITE: And permission to publish, Judge?

18 THE COURT: All right.

19 BY MR. WHITE:

20 Q: And, Mr. Davis, you responded to the scene, and this
21 captures you as you are pulling onto the scene and you first
22 get there; is that right?

23 A: Yes, sir.

24 MR. WHITE: Can everybody see that okay?

25 (WHEREUPON, State's Exhibit Number 80, body-worn camera

DARIUS DAVIS - DIRECT BY MR. WHITE

1 footage on disk, was played in open court and then
2 stopped. Not transcribed herein.)

3 BY MR. WHITE:

4 Q: Mr. Davis, you responded rather quickly; is that right?

5 A: Yes, sir.

6 Q: And why is it that you were able to respond so quickly?

7 A: I was in the parking lot at the City Center.

8 Q: Okay. And what happened that draw -- drew your attention
9 to this location?

10 A: While in the City Center getting things into my car, I
11 heard multiple gunshots coming from that direction. So I
12 quickly rushed to see where the gunshots were coming from.

13 Q: And when you get on scene and you're the first one to a
14 body as it were in this case, what are some of your
15 responsibilities?

16 A: We canvass the scene for evidence, see if we can preserve
17 any life, and to check for any witnesses.

18 Q: Now, in canvassing for evidence, does that include
19 weapons?

20 A: Yes, sir.

21 Q: And did you do that in this case?

22 A: Yes, sir.

23 Q: Did you see any weapons around this young man's body?

24 A: No, sir. No weapons.

25 Q: And in his immediate reach at all?

DARIUS DAVIS - DIRECT BY MR. WHITE

1 A: No, sir.

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

3 Mr. Davis, thank you so much. Please answer any
4 questions the defense may have.

5 THE WITNESS: Yes.

6 THE COURT: Mr. Edgeworth?

7 THE BAILIFF: Just a minute, Judge.

8 (WHEREUPON, a bench conference was held with the bailiff
9 as follows.)

10 THE BAILIFF: She said she felt a little wheezy after
11 seeing that. She said she thought she was going to be all
12 right.

13 THE COURT: Okay.

14 THE BAILIFF: Okay.

15 (WHEREUPON, the bench conference ended, and the
16 proceedings resumed as follows.)

17 THE COURT: If you need a break or anything, just raise
18 your hand and we'll take one.

19 All right. Mr. Edgeworth, you may proceed.

20 MR. EDGEWORTH: Your Honor, I have no questions for this
21 witness.

22 THE COURT: Mr. Ammons?

23 MR. AMMONS: No questions, Your Honor.

24 MR. SMITH: Sir, you may step down. Thank you.

25 THE WITNESS: Yes, sir.

LIZZIE ROBERTSON - DIRECT BY MR. WHITE

1 MR. WHITE: Judge, I'd ask if Mr. Davis could be released
2 from his subpoena.

3 THE COURT: Any objection, Mr. Edgeworth?

4 MR. EDGEWORTH: No objection, Your Honor.

5 THE COURT: Mr. Ammons?

6 MR. AMMONS: No objection.

7 THE COURT: Sir, you're released from your subpoena.
8 You're free to go. Have a nice day.

9 Call your next witness, please.

10 MR. WHITE: Judge, at this time, the State would call
11 Lizzie Robertson.

12 (WHEREUPON, there was a pause in the proceedings until
13 the witness entered the courtroom, after which the
14 proceedings resumed as follows.)

15 THE CLERK: Ma'am, please place your left hand on the
16 Bible and raise your right hand. Do you swear that the
17 testimony you will give in this case will be the truth, the
18 whole truth, and nothing but the truth, so help you God?

19 THE WITNESS: Yes.

20 THE CLERK: Please be seated on the witness stand and
21 state your full name for the record.

22 THE WITNESS: I'm Lizzie Robertson.

23 LIZZIE ROBERTSON, being first
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

LIZZIE ROBERTSON - DIRECT BY MR. WHITE

1 BY MR. WHITE:

2 Q: Ms. Robertson, thanks for being here. I just want to ask
3 you quickly where are you employed?

4 A: I'm currently employed at Florence County 9-1-1.

5 Q: And what's your role there at 9-1-1?

6 A: I'm the quality assurance specialist.

7 Q: And in your capacity as quality assurance specialist, are
8 you familiar with how calls come in and how calls are stored
9 there at dispatch?

10 A: Yes, sir.

11 Q: And can you tell us a little bit about that process? How
12 -- when someone calls 9-1-1, how does that work?

13 A: So when someone calls 9-1-1, we receive it into the
14 center. We then answer it and put a call for service in.
15 Once that's saved, we then send responding units, but all our
16 lines are recorded. So it goes into our recording system for
17 me to be able -- for me to be able to pull.

18 Q: And what are some occasions where you have to pull those
19 particular calls?

20 A: For court.

21 Q: And are those requests made by the agencies who work the
22 case, as well as the Solicitor's Office?

23 A: Yes.

24 Q: And in this case, on September 12th, 2019, was a request
25 made for the 9-1-1 call in this case?

LIZZIE ROBERTSON - DIRECT BY MR. WHITE

1 A: Yes, sir.

2 Q: I'm going to show you, if I could, what's been marked as
3 State's Exhibit 4. Is this a disk containing the 9-1-1 call
4 that you're referring to?

5 A: Yes.

6 Q: Have you had a chance to listen to the call?

7 A: Yes.

8 Q: And is it a fair and accurate depiction of the call as it
9 came in?

10 A: Yes.

11 Q: Has it been altered in any way or deleted or any changes
12 made whatsoever?

13 A: No.

14 MR. WHITE: Judge, I would move State's Exhibit 4 into
15 evidence.

16 THE COURT: Any objection, Mr. Edgeworth?

17 MR. EDGEWORTH: No objection, Your Honor.

18 THE COURT: Mr. Ammons?

19 MR. AMMONS: No objection.

20 THE COURT: So admitted.

21 (WHEREUPON, State's Exhibit Number 4, 9-1-1 call on disk,
22 was admitted into evidence.)

23 BY MR. WHITE:

24 Q: Now, when a call comes in, the 9-1-1 operator is making
25 notes; is that right?

LIZZIE ROBERTSON - DIRECT BY MR. WHITE

1 A: Yes.

2 Q: And the -- the document that that goes in, what is that
3 called?

4 A: It's called a CAD report, which stands for the computer-
5 aided dispatch.

6 Q: And is that also stored there at dispatch?

7 A: Yes.

8 Q: And is it able to be obtained and then turned over much
9 like the 9-1-1 call?

10 A: Yes.

11 Q: I'm going to show you what's State's Exhibit 5. If you
12 could, tell me if you recognize that particular document?

13 A: Yes.

14 Q: Is that a CAD report?

15 A: Yes.

16 Q: Is that the CAD report in this particular case that goes
17 along with that 9-1-1 call?

18 A: Yes.

19 MR. WHITE: Judge, I would move State's Exhibit 5 into
20 evidence.

21 THE COURT: Any objection?

22 MR. EDGEWORTH: No objection, Your Honor.

23 MR. AMMONS: No objection.

24 (WHEREUPON, State's Exhibit Number 5, CAD report, was
25 admitted into evidence.)

1 MR. WHITE: Judge, I believe that's all the questions I
2 have for Ms. Robertson.

3 Thank you, Ms. Robertson.

4 THE WITNESS: Thank you.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: No questions for this witness, Your
7 Honor.

8 THE COURT: Hold on.

9 THE WITNESS: I'm sorry.

10 MR. AMMONS: No questions, Your Honor.

11 THE COURT: All right. Now you can get up.

12 THE WITNESS: Okay.

13 MR. WHITE: And, Judge, I would ask that Ms. Robertson be
14 released from her subpoena.

15 THE COURT: Any objection, Mr. Edgeworth?

16 MR. EDGEWORTH: No objection, Your Honor.

17 THE COURT: Mr. Ammons?

18 MR. AMMONS: No, Your Honor.

19 THE COURT: Ma'am, you're released from your subpoena.
20 You're free to go. Have a nice day.

21 THE WITNESS: Thank you.

22 MR. WHITE: Judge, may we approach?

23 THE COURT: Yes.

24 (WHEREUPON, a bench conference was held off the record
25 regarding scheduling, after which the proceedings resumed

1 as follows.)

2 THE COURT: All right. Ladies and gentlemen of the jury,
3 I'm going to -- I'm going to let you go home for the balance
4 of the day. I'm going to ask you to be back here tomorrow
5 morning at 9 o'clock. Hopefully, we'll move things more
6 quickly tomorrow. Okay?

7 My instructions remain the same. Do not discuss this
8 case at all with anyone. Do not do any independent
9 investigation. You're to decide this case based solely upon
10 the evidence and testimony presented in this courtroom and
11 nowhere else.

12 Not only are you not to talk to anybody about the case,
13 no one is supposed to talk to you about it either. If they
14 do, you need to advise the Court immediately -- okay? -- upon
15 your return. All right?

16 You all have a nice evening. I'll see you tomorrow
17 morning.

18 (WHEREUPON, the jury exited the courtroom at 2:40 p.m.)

19 THE COURT: Can the lawyers approach a minute, please?

20 Hold up. Nobody else exit the courtroom at this moment.
21 Everybody else stay in the courtroom, please.

22 (WHEREUPON, a bench conference was held as follows.)

23 THE COURT: You know, if we end up having to not being
24 able to finish this case, you may have to pick a jury and put
25 them up somewhere next time.

1 MR. WHITE: Yes, sir. That's no problem. We can do
2 that.

3 THE COURT: We'll see what happens in the morning. I'll
4 be shocked if something doesn't come up in the morning.

5 MR. WHITE: Are you going to tell everybody to get on out
6 of here before we talk about this next issue?

7 THE COURT: Yeah, I am.

8 MR. WHITE: Okay. Good. It's, you know, dealing with
9 some lay witnesses that are going to testify.

10 THE COURT: Yeah. I just want to get the jury out of
11 here.

12 MR. WHITE: Oh, yeah, yeah, yeah.

13 THE COURT: Before they start coming out.

14 MR. WHITE: Yes, sir.

15 THE COURT: And I'm also -- will probably make the
16 comment that none of them better try to reach out to anyone.

17 MR. WHITE: Yes, sir. I think that's good.

18 THE COURT: Because if they do, there is a very high
19 likelihood they're going to be prosecuted.

20 MR. WHITE: Yes, sir.

21 THE COURT: To the fullest extent.

22 MR. WHITE: Yes, sir.

23 MR. EDGEWORTH: Yes, sir.

24 (WHEREUPON, the bench conference ended, and the
25 proceedings resumed as follows.)

1 (WHEREUPON, a bench conference was held with the deputy
2 off the record regarding release of the gallery, after
3 which the proceedings resumed as follows.)

4 THE COURT: All right. What I'm getting ready to do, I'm
5 going to allow everybody in the audience to leave, but before
6 I do so, let me forewarn everybody that you are not to try in
7 any way, shape, or form directly or indirectly to try and
8 contact, reach out to, or influence in any way this jury
9 that's seated in this case. If you do, I'm going to tell you
10 again that you're facing up to ten years in prison, and it is
11 a felony.

12 These two young men that that are seated up here are
13 entitled to a fair and impartial trial, and I'm doing -- I'm
14 going to do my best to ensure that that's the case, but it is
15 vitally important that this jury decide this case based solely
16 upon the evidence and testimony presented in this courtroom
17 and nowhere else.

18 So if there's any confusion about that issue, I think
19 I've made it abundantly clear that no one -- no one is to try
20 to contact any of these jurors directly or indirectly. All
21 right? You all are free to leave the courtroom at this point.

22 (WHEREUPON, there was a pause in the proceedings to clear
23 the gallery, after which the proceedings resumed as
24 follows.)

25 THE COURT: All right. Mr. White?

1 MR. WHITE: Thank you, Judge.

2 We have a witness testifying tomorrow by the name of
3 Kareem Jones. He's the individual we see on video with the
4 deceased.

5 In looking -- Judge, in looking at his record, I don't --
6 I would argue that nothing comes in. Starting with the small
7 stuff, the resisting arrest does not carry more than a year.
8 Unlawful carrying of a weapon does not carry more than a year.
9 He has a common-law robbery, Judge, and then he has a child
10 endangerment. I'm not sure if the child endangerment carries
11 more than a year, that particular offense, but the big one
12 we're dealing with here is the common-law robbery.

13 Judge, I believe under the law as it changed some years
14 ago that it has to be, you know, a crime of moral turpitude in
15 that there has to be an element of the crime that has to do
16 with false statement or lying in some regards or giving false
17 information, you know, false police report or something like
18 that, and I don't think that that -- a forgery or something of
19 that nature. I don't think common-law robbery would fit into
20 that -- that box.

21 And, Judge, I would further argue that given the nature
22 of what we're dealing with here that that particular -- being
23 able to elicit that particular testimony in terms of that
24 common-law robbery would be extremely prejudicial and would
25 have no -- no probative value here other than to -- you know,

1 to prejudice the State's case.

2 THE COURT: Mr. Edgeworth?

3 MR. EDGEWORTH: Thank you, Your Honor. May it please the
4 Court.

5 I guess, first and foremost, I do believe there is
6 probative value. We've already heard testimony from Ms. Kami
7 -- I apologize on the last name here -- Kami Mitchell that it
8 was her understanding that the decedent didn't have anything
9 to do with the life or whatever, when clearly her -- as she's
10 testified, his best friend is involved in the life according
11 to the record, and I think that's probative in the sense that
12 we've got -- as the State had made a comment in opening about
13 another magazine and who had that gun, making it irrelevant
14 that there's potentially a gunshot hole in the building which
15 would be facing back from Lucas Street towards the
16 individuals, meaning the possibility of gunshots from another
17 gun.

18 We obviously don't have the additional testimony yet, but
19 I certainly think that it's probative for this individual, if
20 this individual were to testify, for him to acknowledge that
21 strong-armed robbery conviction because of his propensity to
22 be involved in that kind of crime when the testimony is
23 already out there that he's with the decedent.

24 There's the commentary about the clutching, of having a
25 firearm on their person at the scene. So I certainly believe

1 that the probative value certainly outweighs any prejudicial
2 effect. I mean they don't have to call a witness that they
3 believe is so prejudicial.

4 So in any event, Your Honor, I think that under the rules
5 while it might not be a crime of dishonesty that would
6 automatically allow it to come in, I certainly think that the
7 rules of evidence would allow this witness to be impeached
8 with this particular part of his record.

9 THE COURT: Are you going to argue on anything else on
10 the record far as --

11 MR. EDGEWORTH: Oh, I --

12 THE COURT: Because he's got more than a common-law --

13 MR. EDGEWORTH: Honestly, I don't -- I'm not familiar
14 with it off the top of my head what that carries, but I guess
15 they believe that it is. Yeah, I mean, I don't -- I guess I
16 can agree that that doesn't have any probative value, Your
17 Honor.

18 THE COURT: Which one is that?

19 MR. EDGEWORTH: The child endangerment, Your Honor.

20 THE COURT: Okay. Anything else?

21 MR. EDGEWORTH: I don't believe there's another charge at
22 issue.

23 MR. WHITE: I do think the failure to stop is on there,
24 and it does carry three years, but I don't -- I wouldn't see
25 how that would be probative here.

1 MR. EDGEWORTH: I apologize. I didn't recognize that as
2 a conviction too.

3 MR. WHITE: No. I didn't bring it up, Josh. That was
4 not --

5 MR. EDGEWORTH: That's okay.

6 MR. WHITE: My mistake.

7 MR. EDGEWORTH: Your Honor, without knowing the details
8 surrounding that particular charge specifically, but I guess I
9 would argue that -- I can't put together any argument, Your
10 Honor, that that would be probative in this particular case.

11 THE COURT: Mr. Ammons?

12 MR. AMMONS: Your Honor, I don't have much to add. I
13 would say I do certainly believe, as Mr. Edgeworth said, that
14 there would be probative value in that -- in that armed
15 robbery charge, and I would join in his position on that.

16 As far as the -- as far as the other charge here, that
17 was a fleeing. Yeah, I can't think of any other probative
18 reasons for that as well.

19 THE COURT: All right.

20 MR. WHITE: Judge, I just want to add that I think what
21 Mr. Edgeworth is bringing up kind of highlights my point. I
22 mean, both -- both can be true. I mean you can not have
23 anything to do with a certain type of lifestyle. I mean Kami
24 Mitchell was hanging out with the defendants, you know, and
25 she's offering this information that the deceased was not

1 about that type of life.

2 And so what they're essentially trying to do is to imply
3 that just because of who he was with that he is about that
4 life, that he's -- he has -- of ill repute. And I think Mr.
5 Edgeworth kind of mentioned it in his opening that, you know,
6 nothing good happens after midnight. You know, this happened
7 at 3 o'clock in the morning.

8 So, again, I would -- I would echo that it's -- it would
9 be used for that purpose, to somehow besmirch the reputation
10 of the deceased by allowing this conviction that I don't think
11 fits squarely within the rules to be -- to be used against
12 him, and I would just -- I would reiterate that I think it
13 would -- it would highly prejudice the State's case, and I
14 just don't see what purpose it has here.

15 THE COURT: All right. As it relates to the common-law
16 robbery being admissible, as you all know, under *State v.*
17 *Bryant*, 369 S.C. 511, that case stood for the proposition that
18 a conviction for robbery, burglary, theft, and drug possession
19 beyond the basic crime itself is not probative of
20 truthfulness. Having said that, I'm certainly inclined not to
21 allow it, but I'll look at it a little bit more closely as
22 well.

23 I understand where you're coming from, Mr. Edgeworth, and
24 certainly at this juncture there's no evidence or testimony in
25 the record that Mr. Jones was in possession of a firearm,

1 actual or constructive possession. And quite frankly, I mean,
2 I'm just talking out loud here like you kind of were at the
3 bench earlier.

4 You know, if the decedent in this case were the one that
5 had the common-law robbery and there was some more to that
6 there, then I could see it possibly coming in there, but this
7 individual wasn't involved in the -- he wasn't shot, he wasn't
8 killed. But again, in fairness to you all, I'll take a look
9 at it a little bit more closely. Okay?

10 MR. EDGEWORTH: Thank you, Judge.

11 THE COURT: I'm just telling you what my initial
12 inclination is. And if you all want to send me anything
13 overnight for me to look at, I'll be happy to look at it.

14 MR. EDGEWORTH: Thank you, Judge.

15 THE COURT: Okay.

16 MR. WHITE: Thank you, Judge.

17 MR. AMMONS: Thank you, Your Honor.

18 THE COURT: All right. Anything else, Mr. White?

19 MR. WHITE: No, sir, Judge.

20 THE COURT: Mr. Edgeworth?

21 MR. EDGEWORTH: Nothing, Your Honor.

22 THE COURT: Mr. Ammons?

23 MR. AMMONS: No, Your Honor.

24 THE COURT: All right. If you all will be back here at
25 8:30 in the morning.

1 MR. WHITE: Yes, sir, Judge.

2 MR. TUCKER: Thank you, Your Honor.

3 (WHEREUPON, the proceedings adjourned for the day at 2:58
4 p.m.)

5 JANUARY 25, 2023

6 (WHEREUPON, the proceedings resumed at 9:22 a.m.)

7 THE COURT: All right. I've been advised that all the --
8 we have all the jurors back here. A couple of things I want
9 to put on the record.

10 Due to some potential security concerns that I have --
11 specifically, one of the jurors yesterday received a message
12 from someone which was, in essence, an improper contact of a
13 juror by a third party relating to this case, as well as a
14 telephone call from defendant Carmichael yesterday. I believe
15 it was yesterday.

16 Is that right, Mr. White?

17 MR. WHITE: Yes, sir, Judge.

18 THE COURT: That was forwarded to me.

19 MR. WHITE: That was on Monday.

20 THE COURT: Okay.

21 MR. EDGEWORTH: Monday, Your Honor.

22 THE COURT: Monday. Concerning -- and I couldn't make
23 out the entire discussion but was able to make out that there
24 was someone as part of the jury pool that was prepared to vote
25 not guilty who was not seated on this jury. I have concerns

1 about individuals making further efforts to contact this jury
2 and taint the jury for or against the State or for or against
3 the defendants.

4 Therefore, I have instructed law enforcement to only
5 allow immediate family into this courtroom, immediate family
6 being a father, mother, brother, sister, or grandparent. No
7 other individuals will be allowed in this courtroom during the
8 course of this trial, nor will any other individuals be
9 allowed to remain on the premises of this courthouse during
10 this trial.

11 All right. Anything further from the State at this time?

12 MR. WHITE: Judge, just one further thing, and it was
13 just -- just brought to my attention.

14 THE COURT: Okay.

15 MR. WHITE: And I wanted to make sure everybody was aware
16 of it. I haven't had a chance to listen to the calls from
17 yesterday, but yesterday some more calls were intercepted.

18 And it is relayed to me that Mr. Carmichael was on these
19 calls discussing with another individual don't worry about
20 looking for Dee's girlfriend anymore, she's the one that was
21 excused yesterday. So it does seem the fact that they were
22 trying to reach out to that particular juror, but she was the
23 one who was excused from jury service yesterday, Judge. But
24 again, I haven't had a chance to listen to it, but that is the
25 nature of the call as it was relayed to me, and I just wanted

1 to relay it to you.

2 THE COURT: Okay. Well, and I'm assuming that that was
3 Juror Number 75?

4 MR. WHITE: Yes, sir, Judge.

5 THE COURT: Okay. Well, the Court is vitally concerned
6 and tremendously disturbed about what may be going on here.
7 Therefore, I want to do everything within my power to protect
8 the integrity of this process and ensure to the best of my
9 ability that there is no improper contact by anyone with these
10 jurors, that these defendants receive a fair and impartial
11 trial, and that this jury decide this case based upon the
12 evidence and testimony presented in this courtroom,
13 uninfluenced by anything outside of this courtroom.

14 All right. Anything else, Mr. White?

15 MR. WHITE: No, sir, Judge.

16 MR. EDGEWORTH: Nothing, Your Honor.

17 THE COURT: Mr. Ammons?

18 MR. AMMONS: No, Your Honor.

19 THE COURT: All right. Bring me the jury, please, ma'am.

20 (WHEREUPON, the jury entered the courtroom at 9:29 a.m.)

21 THE COURT: All right. Good morning, ladies and
22 gentlemen. I hope you all had a nice evening yesterday and
23 are ready to proceed here today.

24 When we broke yesterday -- and you've heard me say this
25 since Monday, but you're not to discuss this case at all with

1 anyone, not to do any independent investigation as it relates
2 to this case. Has every -- has anyone on the jury not
3 complied with that court order?

4 (WHEREUPON, there was no verbal response.)

5 THE COURT: All right. I also told you that no one is
6 supposed to talk to you about this case or try to talk to you
7 about this case. Has anyone made any effort to try to reach
8 out to you or talk to you about this case whatsoever?

9 (WHEREUPON, there was no verbal response.)

10 THE COURT: All right. Very well. All right. Let the
11 record reflect that each of them have indicated that no one
12 has tried to reach out or talk to them in any way as it
13 relates to this case.

14 Mr. White, call your next witness, please.

15 MR. WHITE: Thank you, Judge. At this time, the State
16 would call Antecia Lawson to the stand.

17 THE CLERK: Ma'am, please place your left hand on the
18 Bible and raise your right hand. Do you swear that the
19 testimony you give in this case will be the truth, the whole
20 truth, and nothing but the truth, so help you God?

21 THE WITNESS: Yes, ma'am.

22 THE CLERK: Please be seated on the witness stand and
23 state your full name for the record.

24 THE COURT: State your full name for the record, please.

25 THE WITNESS: Antecia Lawson.

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 THE COURT: Spell your first name for my court reporter.

2 THE WITNESS: A-n-t-e-c-i-a.

3 THE COURT: Okay. Thank you, ma'am.

4 ANTECIA LAWSON, being first duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. WHITE:

8 Q: Antecia, I know you're soft-spoken and you're a little
9 bit nervous, but just make sure, if you don't mind, just speak
10 up into this microphone so everybody in this courtroom and
11 most especially the jury can hear you. Okay?

12 A: Okay.

13 Q: Now, Antecia, where are you from?

14 A: I'm from north Florence.

15 Q: Okay. And just make sure you speak up nice and clear.
16 Okay? And how long have you been living in Florence?

17 A: All 21 years of my life.

18 Q: And you live near the Speedy Mart or some people call it
19 the Tiger Mart here in Florence, don't you?

20 A: Yes, sir.

21 Q: And how long have you been living there?

22 A: About seven -- eight years.

23 Q: And so you would have been living there September 12th,
24 2019?

25 A: Yes, sir.

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 Q: Now, do you know the victim in this case, Tydrecus
2 Williams?

3 Q: Yes, sir. He was my boyfriend.

4 Q: All right. Now, speak up. Okay? We've got to make sure
5 we hear you. All right?

6 A: I'm sorry. I'm trying not to -- I'm trying to hold
7 myself together. I'm sorry.

8 Q: No, it's okay. It's all right. But you were saying that
9 Tydrecus Williams was your boyfriend; is that right?

10 A: Yes, sir.

11 Q: And how long had y'all been together?

12 A: It was actually, like, a private thing for a while, but
13 we made it public for about -- we made it public about six
14 months in, seven months in.

15 Q: And did y'all spend a lot of time together?

16 A: Almost every day.

17 Q: Would that include time at your house?

18 A: Yes, sir.

19 Q: And on the evening of September 12th, 2019, were you and
20 Tydrecus together?

21 A: Yes, sir.

22 Q: And where were -- where were y'all when y'all were
23 together?

24 A: We was at my house on Athens Street.

25 Q: Okay. And what were y'all doing?

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 A: His friend came over to -- he was going through something
2 basically; so he just needed some support from his friend,
3 some words of encouragement, I guess, but he came over to tell
4 us what was going on with him and his girlfriend. They was
5 going through something.

6 Q: Okay. And when you are discussing that friend, who are
7 we talking about?

8 A: Sir?

9 Q: That friend who came over who needed encouragement, who
10 was that?

11 A: Kareem.

12 Q: Do you know his last name?

13 A: Jones.

14 Q: And did Tydrecus have a nickname for Kareem?

15 A: Keem.

16 Q: Keem? And he called him Keem often?

17 A: (No verbal response.)

18 Q: And at some point we know because we've seen the video
19 that they, Kareem and Tydrecus, walked to the Speedy Mart or
20 the Tiger Mart?

21 A: Yes, sir.

22 Q: Was that abnormal? Did they do that often?

23 A: They did that often. That was something they did pretty
24 much. Almost every time they were together, they went to the
25 gas station.

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 Q: Would Tydrecus walk to the store on his own?

2 A: Sometimes, yes, sir.

3 Q: Okay. And what kind of things would he get while he was

4 there?

5 A: Snacks, like drinks, M&Ms, Lifesavers, stuff like that.

6 Q: And was he the type that liked snacks and wanted --

7 A: Yeah. He --

8 Q: -- to go there often?

9 A: Yes, sir.

10 Q: Okay. What I'm going to do now, Antecia, I'm going to

11 ask you -- if you don't mind and the Court doesn't mind, I'm

12 going to ask you to step down and I'm going to show you a map.

13 All right? So we can kind of get the lay of the land.

14 MR. WHITE: Madam Court Reporter, where is the best place

15 for her to stand? Okay. Okay. All right.

16 BY MR. WHITE:

17 Q: Okay. Antecia, if you'll come and stand on the other

18 side here facing the court reporter and speak up nice and loud

19 and clear so she can -- she can hear you. Okay? Step back

20 just a bit so everybody can see and make sure you speak up

21 nice and clear. Okay?

22 A: Okay.

23 Q: Do you recognize this area, Antecia?

24 A: Yes, sir.

25 Q: And in fact, is this the area where you live?

1 A: Yes, sir.

2 Q: Okay. Could you point to us where your house is?

3 A: My house is here.

4 Q: Okay. And what is this location here?

5 A: Irby Street.

6 Q: And what is this location specifically? And I'm pointing

7 to -- what is this location?

8 A: Tiger Mart.

9 Q: Okay. And is it also known as Speedy Mart?

10 A: Yes, sir. It's called Speedy Mart, but I guess they call

11 it Tiger Mart.

12 Q: And again, just to make sure I'm clear, I'm referring to

13 State's Exhibit 81. And you have to -- you've got to speak up

14 a little bit louder. Okay?

15 A: Sorry.

16 Q: I know you're soft-spoken. All right. So on that night

17 is this the location where y'all were hanging out?

18 A: Yes, sir.

19 Q: And at some point, the boys, Tydrecus and Kareem or Keem,

20 walked to the Tiger Mart or the Speedy Mart. How did they

21 walk to that particular place?

22 A: They walked through here. They walked straight up there

23 on the sidewalk there [inaudible].

24 Q: And that was not abnormal --

25 THE COURT: Hold on a minute. I need to -- she --

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 THE COURT REPORTER: I missed that.

2 MR. WHITE: Okay.

3 A: They walked straight -- they walked straight up the
4 street from my house and made that left and they crossed the
5 street from there.

6 Q: And again, that was a normal thing that they did?

7 A: Yes, sir.

8 Q: And you said -- you testified you've been living here for
9 a long time; correct?

10 A: Yes, sir.

11 Q: And you're intimately familiar with this area?

12 A: Yes, sir.

13 Q: And this is the area as you described it?

14 A: Yes, sir.

15 MR. WHITE: Judge, I'd move State's Exhibit 81 into
16 evidence.

17 THE COURT: Any objection?

18 MR. AMMONS: No objection, Your Honor.

19 MR. EDGEWORTH: No objection, Judge.

20 MR. WHITE: You can have a seat, Antecia. Thank you.

21 THE COURT: All right. State's Exhibit 81 admitted
22 without objection.

23 (WHEREUPON, State's Exhibit Number 81, large overhead
24 photo map, was admitted into evidence.)

25 BY MR. WHITE:

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 Q: Now, Antecia, obviously, you testified that they walked
2 to the store just like they normally did, but what happened
3 next was not normal, was it?

4 A: No, sir.

5 Q: What, if anything, occurred next?

6 A: I really -- well, they went -- after they went to the
7 store, I was just sitting there. I was waiting on them to
8 return because Keem had just gave me his phone or whatever,
9 told me to put it on the charger, and I put it on my charger
10 outside. We have an outlet outside on my porch. So I put it
11 on the charger outside.

12 I want to say, like, at least a minute or two after I did
13 that, I hear -- I hear gunshots. So I'm holding my ears and
14 just I'm waiting, but I'm waiting because I'm waiting for them
15 to come back to me because I just -- I was waiting for them to
16 come tell me something, but Keem ran from behind my neighbor's
17 yard and he told me that --

18 Q: Hang on. I'm going to stop you right there. Okay? So
19 we can't talk about what he said to you.

20 A: Okay.

21 Q: Let's not get into hearsay. I understand what you're
22 trying to say, but just don't tell us anything that he may
23 have told you.

24 A: Okay. He ran through the path. He was -- he was -- I
25 don't know how to describe it, but he was scared. He pretty

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 much let me know what was going on.

2 Q: Okay.

3 A: Well, he tried. He didn't -- he didn't really -- he
4 couldn't get nothing out. He was trying.

5 Q: And based on that -- I'm sorry to cut you off, but I just
6 want to make sure we're clear. Based on that information that
7 you received --

8 A: Uh-huh.

9 Q: -- did you call 9-1-1?

10 A: I did.

11 MR. WHITE: Judge, I previously admitted into evidence as
12 State's Exhibit 4 the 9-1-1 call that was made on that
13 evening. I'd ask for permission to publish that to the jury.

14 THE COURT: All right.

15 BY MR. WHITE:

16 Q: Antecia, I'm going to play for you that 9-1-1 call.
17 Okay?

18 A: Okay.

19 (WHEREUPON, State's Exhibit Number 4, 9-1-1 call on disk,
20 was played in open court. Not transcribed herein.)

21 BY MR. WHITE:

22 Q: Antecia, was that your voice on the 9-1-1 call?

23 A: Yes, sir.

24 Q: And that's the call that you placed that ultimately got
25 some law enforcement involved and to the Tiger Mart?

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 A: Yes, sir.

2 Q: Take your time. There's some tissues there if you need
3 them. Okay? Antecia, I know it's tough, but if you could,
4 tell us what you did next?

5 A: My cousin -- he ran out the house and he ran towards the
6 Tiger Mart. I ran. I ran behind him, and I pretty much met
7 the police right there in the middle of Irby Street right by
8 the store, and I kept telling them that he was there. They
9 asked me where -- where at, where at at the Tiger Mart, and I
10 told them that I didn't know. I just knew he was there
11 because they had physically went there together.

12 Q: Okay. And, Antecia, I'm going to have to ask you to do
13 something very difficult. Okay? I need to play a video for
14 you and ask you if this is the -- if you are the individual
15 that's on that video. Okay? I'm going to play a video for
16 you right now.

17 MR. WHITE: Judge, at this time I'd ask permission to
18 publish for Ms. Lawson State's Exhibit 80, which is Darius
19 Davis's body-worn camera.

20 MR. EDGEWORTH: Your Honor, I would object to that. I
21 mean he's already published it to the jury.

22 THE COURT: Can the -- can the lawyers approach a minute,
23 please?

24 (WHEREUPON, a bench conference was held as follows.)

25 THE COURT: If you would -- and I thought about this too.

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 Just forward it to that place where she's -- I guess it's her
2 that's coming up beside the building.

3 MR. WHITE: Okay.

4 THE COURT: We don't need to see --

5 MR. WHITE: Okay. I agree. It's two-fold. I want her
6 to identify herself and then the cousin who you can see with
7 his shirt off, but I can fast forward it the best -- the best
8 I can, Your Honor.

9 THE COURT: It would be best if you can.

10 MR. WHITE: Okay.

11 (WHEREUPON, the bench conference ended, and the
12 proceedings resumed as follows.)

13 BY MR. WHITE:

14 Q: Okay. Antecia, I'm going to show you this video. Can
15 you see it clearly on the screen there?

16 (WHEREUPON, State's Exhibit Number 80, body-worn camera
17 video on disk, was played in open court. Not transcribed
18 herein.)

19 BY MR. WHITE:

20 Q: And I'm sorry, but I just need to identify the people who
21 are on scene. Is that you, Antecia --

22 A: Yes.

23 Q: -- that was on the screen?

24 A: Yes, sir.

25 Q: And did you ever make it to Tydrecus?

ANTECIA LAWSON - DIRECT BY MR. WHITE

1 A: He wouldn't let me.

2 Q: Okay. And then moments -- well, at moments later on that
3 same video, would you -- did your cousin -- he ran out of the
4 house with you?

5 A: He ran -- he ran out. He ran out while I was on the
6 phone.

7 Q: Okay.

8 A: I think that's why the call was never finished.

9 Q: Okay. Did he -- did he have his shirt off?

10 A: I believe so, yes.

11 Q: Okay. Antecia, anytime that night but especially when
12 Tydrecus left, did you see him with a gun?

13 A: No, sir.

14 Q: Okay. What kind of -- what type of person was Tydrecus?

15 A: He was amicable. He was sweet. He was real loving. He
16 was generous. There was nothing that he would not do for me.
17 That was my best friend.

18 MR. WHITE: I beg the Court's indulgence for just a
19 second.

20 Antecia, thank you so much. Okay? These defense
21 attorneys are going to ask you some questions. Just answer
22 their questions for them. Okay?

23 THE WITNESS: Yes, sir.

24 MR. WHITE: Thank you.

25 THE COURT: Mr. Edgeworth?

ANTECIA LAWSON - CROSS BY MR. EDGEWORTH

1 MR. EDGEWORTH: Thank you, Your Honor. May it please the
2 Court.

3 CROSS-EXAMINATION

4 BY MR. EDGEWORTH:

5 Q: Ms. Lawson, on this night when you -- when you learned of
6 the -- or you heard the shots and you were making your way
7 back to the Tiger Mart, how long did it take you to get back
8 there?

9 A: You're talking about when I was running; right?

10 Q: Well, you hadn't been there earlier; correct?

11 A: No, sir.

12 Q: Okay. So when you learned or heard of the shooting, you
13 heard the shots?

14 A: Uh-huh.

15 Q: And then at some point you started making your way to the
16 Tiger Mart; is that right?

17 A: Yes, sir.

18 Q: How long did it take you to get there?

19 A: About what? Like a minute, maybe. Not long at all.

20 Q: So is it -- do you know the distance? Did you take what
21 you called the path to get there?

22 A: No, sir.

23 Q: Did you take the route that you showed the jury, you
24 know, up the street and then down?

25 A: Yes, sir.

ANTECIA LAWSON - CROSS BY MR. EDGEWORTH

1 Q: Okay. So you took that same -- same travel to get there?

2 A: Uh-huh.

3 Q: Okay. And you think it took you about a minute to get

4 there?

5 A: Yeah, maybe. Probably less.

6 Q: Okay.

7 A: I was running.

8 Q: Understood. And -- and you said your cousin ran ahead of

9 you?

10 A: Yes, sir.

11 Q: Okay. Was there anybody else that ran over there either

12 -- that ran there too?

13 A: No, sir.

14 Q: Okay. Who is the cousin that you're speaking of?

15 A: His name is Rayshawn.

16 Q: Rayshawn? Okay. And when you got there, was there

17 anyone else there?

18 A: No, not beside the police.

19 Q: Okay. There were no other individuals?

20 A: No.

21 Q: So it was just you and your cousin?

22 A: Yeah. That's who I ran behind. Yes, so it was just him

23 and me and police.

24 Q: Okay.

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

ANTECIA LAWSON - REDIRECT BY MR. WHITE

1 THE COURT: Mr. Ammons?

2 MR. AMMONS: Thank you, Your Honor. May it please the
3 Court. Actually, Your Honor, I don't think I have any
4 additional questions for this witness.

5 THE COURT: Mr. White, anything else on redirect?

6 MR. WHITE: Just briefly.

7 REDIRECT EXAMINATION

8 BY MR. WHITE:

9 Q: When you were running over there, Antecia, and even when
10 you're on that phone call -- and I think we can clearly see
11 it.

12 A: Uh-huh.

13 Q: Is it fair to say you were very upset?

14 A: I was. That's no -- no one should see their significant
15 other that way. I don't think no one deserves that at all.

16 MR. WHITE: Thank you, Antecia. I have nothing further.

17 THE COURT: Anything else, Mr. Edgeworth?

18 MR. EDGEWORTH: Nothing further, Your Honor.

19 THE COURT: Ma'am, you may step down. Thank you.

20 MR. WHITE: And, Judge, I would ask if Ms. Lawson could
21 be released from her subpoena.

22 THE COURT: Any objection, Mr. Edgeworth?

23 MR. EDGEWORTH: No, Your Honor.

24 THE COURT: Mr. Ammons?

25 MR. AMMONS: No objection.

TYRIN JONES - DIRECT BY MR. WHITE

1 THE COURT: Ma'am, you're released from your subpoena.
2 You're free to go. Thank you.

3 THE COURT: All right. Call your next witness, please.

4 MR. WHITE: Judge, at this time the State would call
5 Tyrin Jones.

6 (WHEREUPON, there was a pause in the proceedings until
7 the witness entered the courtroom, after which the
8 proceedings resumed as follows.)

9 THE CLERK: Ma'am, please place your left hand on the
10 Bible and raise your right hand. Do you swear that the
11 testimony you will give in this case will be the truth, the
12 whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: Yes.

14 THE CLERK: Please be seated on the witness stand and
15 state your full name for the record.

16 TYRIN JONES, being first duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. WHITE:

20 Q: Please state your full name for the record, Tyrin?

21 A: Tyrin Jones.

22 Q: Thank you. Tyrin, I know you're a little bit nervous.
23 Just answer the questions and speak up so this lady to your
24 right, the court reporter, can get everything down. Okay?

25 A: All right.

TYRIN JONES - DIRECT BY MR. WHITE

1 Q: And you've got that microphone here. Let's use it. All
2 right? I know you're soft-spoken. All right. Tyrin, where
3 are you from?

4 A: Florence.

5 Q: And how long have you been living in Florence?

6 A: All my life, 25 years.

7 Q: And do you -- do you have any kids in Florence?

8 A: Uh-huh.

9 Q: What are their ages?

10 A: Six and one.

11 Q: So you've got your hands full?

12 A: Yeah.

13 Q: We appreciate you being up here. I know it takes a lot
14 getting -- you know, getting the kids ready in the morning and
15 that sort of thing. So I appreciate you being here. We've
16 got to have a difficult conversation. I want to ask you about
17 what occurred September 12th, 2019. Is that all right?

18 A: Yes.

19 Q: On that evening, who were you with?

20 A: Ty, Man-Man, and Kami.

21 Q: All right. So let's break it down. When you say Ty, who
22 are you referring to?

23 A: Tirik.

24 Q: And what's his last name?

25 A: Epps.

TYRIN JONES - DIRECT BY MR. WHITE

1 Q: Okay. And would you be referring to Tirik Johnson-Epps?

2 A: Yeah.

3 Q: And then you also said Man-Man, and by Man-Man, who are

4 you referring to?

5 A: Quinterris.

6 Q: Okay. And is his last name Carmichael?

7 A: Yeah.

8 Q: So by Man-Man, you're referring to Quinterris Carmichael;

9 is that right?

10 A: Uh-huh.

11 Q: And the third individual that you named, you said Kami?

12 A: Yeah.

13 Q: Are you referring to Kami Mitchell?

14 A: Yes.

15 Q: And were y'all all together just kind of hanging out?

16 A: Uh-huh.

17 Q: Partying a little bit?

18 A: Yeah.

19 Q: Okay. And where were y'all earlier in the night before

20 you made your way over to Tiger Mart/Speedy Mart?

21 A: We were just chilling. We had, like, a little small

22 little cookout, not really, but we was just chilling.

23 Q: Okay. Now, I'm going to show you surveillance video, and

24 I'm going to try to go through it a little faster than I did

25 yesterday, but I want you to identify certain aspects of the

TYRIN JONES - DIRECT BY MR. WHITE

1 video. Okay?

2 MR. WHITE: And, Judge, at this time I would ask
3 permission to publish again --

4 Which one is that again, Krystal?

5 THE COURT REPORTER: 3.

6 MR. WHITE: State's Exhibit 3, Judge. Yes, 3.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit Number 3, surveillance video,
9 was played in open court.)

10 BY MR. WHITE:

11 Q: Now, Tyrin, can you see clearly on the screen there the
12 video in front of you?

13 A: Yes, sir.

14 Q: Okay. Can you see the vehicle approaching?

15 A: Yeah.

16 Q: Then it comes and parks. Whose vehicle is that?

17 A: That's -- that's my -- my car.

18 Q: Okay. And who was driving that vehicle?

19 A: Tirik.

20 Q: And who all else was in that vehicle?

21 A: Me, Tirik, Quinteris, and Kami.

22 Q: Okay. And where was everybody seated? I mean, I know
23 it's been a long time, but to the best of your --

24 A: It's off.

25 Q: Oh. To the best of your recollection, where was

TYRIN JONES - DIRECT BY MR. WHITE

1 everybody seated when y'all pulled up?

2 A: I was on the passenger-side, Tirik was driving, and Man-
3 Man and Kami was in the back.

4 Q: And during that time, were you and Tirik Johnson-Epps
5 dating?

6 A: Yeah.

7 Q: Okay. Now, I'm going to show you the next clip. Tyrin,
8 who were those two individuals who just got out of the
9 vehicle?

10 A: Man-Man and Ty.

11 Q: And can you specifically identify them? Which is which?

12 A: Could you explain? What do you mean?

13 Q: So I'll -- there's one individual that got out of the
14 rear of the vehicle that's got a hood on. Who is that?

15 A: The one in the back is Man-Man. The one in the front is
16 Ty.

17 Q: Okay. And again, Ty is Tirik Johnson-Epps?

18 A: Yes, sir.

19 Q: And Man-Man is Quinterris Carmichael; is that right?

20 A: Yes, sir.

21 Q: Now, during this time -- and you realize that an
22 altercation is about to occur; correct?

23 A: Yeah. Yes, sir.

24 Q: And during that time, where were you seated or where were
25 you when that --

TYRIN JONES - DIRECT BY MR. WHITE

1 A: Still in the car.

2 Q: And then that's the front passenger side?

3 A: Yes, sir.

4 Q: Correct? I am going to show you and get you -- well,
5 I'll tell you what. I'm not going to get you to step down
6 just yet, but I am going to show you a piece of evidence. I'm
7 going to show you State's Exhibit 86, and could you tell me do
8 you recognize that area?

9 A: Yes, sir.

10 Q: Okay. And where is that? What are we looking at?

11 A: Tiger Mart.

12 Q: Okay. I know it's pretty self-explanatory, but I still
13 have to put it on the record.

14 A: Yes.

15 Q: And is that the location where you were that evening?

16 A: Yes, sir.

17 Q: And you're intimately familiar with this area? You
18 recognized it immediately?

19 A: Yes, sir.

20 MR. WHITE: Judge, at this time I'd move State's Exhibit
21 86 into evidence.

22 THE COURT: Any objection, Mr. Edgeworth?

23 MR. EDGEWORTH: No objection, Your Honor.

24 THE COURT: Mr. Ammons?

25 MR. AMMONS: No objection.

TYRIN JONES - DIRECT BY MR. WHITE

1 THE COURT: So admitted, 86.

2 (WHEREUPON, State's Exhibit Number 86, large photo, was
3 admitted into evidence.)

4 BY MR. WHITE:

5 Q: Now, the individual there with hood on -- and I know this
6 is -- it's repetitive, but I've got to -- I have to do it.
7 Who was that with the hood on?

8 A: Man-Man.

9 Q: Now, during this time, obviously, you've got a pretty
10 front-row seat to that; am I right?

11 A: Yes, sir.

12 Q: Did it appear that Man-Man was instigating something with
13 these individuals?

14 A: In the car, I couldn't hear the conversation.

15 Q: Okay.

16 A: But yeah. Yes, sir.

17 MR. EDGEWORTH: Your Honor, may we approach briefly?

18 THE COURT: Yes.

19 (WHEREUPON, a bench conference was held as follows.)

20 THE COURT: Yes?

21 MR. EDGEWORTH: Thank you, Judge. Can I ask that the
22 State refrain from using the street name. I understand if the
23 witnesses have to use it because that's what they know him by,
24 but I think it's just inflammatory that we keep on calling my
25 client Man-Man instead of his name.

TYRIN JONES - DIRECT BY MR. WHITE

1 THE COURT: Well, I mean, they keep referring to him --

2 MR. WHITE: Yeah. I've been trying to avoid it, but they
3 keep bringing it up.

4 THE COURT: And when he says Man-Man, then he has to
5 clarify you're talking about Mr. Carmichael.

6 MR. EDGEWORTH: Okay. All right. Understood.

7 THE COURT: Can you --

8 MR. WHITE: I'll try. I'll do my best, Your Honor.

9 MR. EDGEWORTH: Okay.

10 MR. WHITE: I hear what you're saying.

11 MR. EDGEWORTH: Thank you.

12 (WHEREUPON, the bench conference ended, and the
13 proceedings resumed as follows with the video being
14 played.)

15 BY MR. WHITE:

16 Q: So, again, during this altercation here in the beginning
17 stages, you're still seated in that front passenger seat; is
18 that right?

19 A: Yes, sir.

20 Q: And is it safe to assume you saw the entirety of the
21 beginning of that incident?

22 A: Only the part, like, right where the window is.

23 Q: Gotcha. I'm going to play it again. Now, at that point
24 when the punch is thrown, who all is standing there?

25 A: When he first hit him, it was only them three, but after

1 he hit him, that's when Ty got out.

2 Q: So when you say them three, are we talking about

3 Quinterris Carmichael?

4 A: Yeah.

5 Q: And then the victim, Tydrecus Williams?

6 A: Yes, sir.

7 Q: And then Kareem Jones, who was standing there as well?

8 A: Yes, sir.

9 Q: So it's just the three of them. Eventually, do you lose

10 sight of them as they go around the corner?

11 A: Yes, sir.

12 Q: Now, was there anybody else who also went around that

13 side of the building at the same time that those three

14 individuals did?

15 A: That's when all four of them.

16 Q: Okay. And who was the fourth?

17 A: Ty.

18 Q: And let's -- let's use his full name.

19 A: Tirik.

20 Q: And I know it's repetitive. Is it Tirik Johnson-Epps?

21 A: Yes, sir.

22 Q: If you'll take a look at that video, Tyrin? Is that

23 Tirik Johnson-Epps there?

24 A: Yes, sir.

25 Q: And is this the point where he is walking and following

TYRIN JONES - DIRECT BY MR. WHITE

1 them around the corner?

2 A: Yes, sir.

3 Q: And do you -- do you see in that video something is in
4 his hand?

5 A: Yes, sir.

6 Q: Is it a drink or a beer?

7 A: Yeah, it's a drink.

8 Q: Okay. And you see the timestamp on that. It's almost
9 immediately around the corner that you see them go, but again,
10 you lose sight of them at that point; is that right?

11 A: Yes, sir.

12 Q: Okay. And I want you, Tyrin, to give me a second. I'm
13 going to set this up, and I'm going to ask you to come down
14 and show us exactly what occurred. I'm going to get you to
15 stand on the opposite side of this podium. And what you've
16 got to do, Tyrin, is you've got to speak nice and clear and
17 loud so the court reporter can hear you.

18 MR. WHITE: And I'm going to show her, Judge, what's been
19 moved into evidence as State's Exhibit 86. Permission to
20 publish to the jury?

21 THE COURT: Yes.

22 BY MR. WHITE:

23 Q: All right. Tyrin, come hang out with me down here for a
24 second, if you don't mind, if you'll stand right here. All
25 right? And just kind of convey your voice to the court

TYRIN JONES - DIRECT BY MR. WHITE

1 reporter so she can hear. Now, is this the area where the
2 vehicle comes in initially?

3 A: Yes, sir.

4 Q: And is this the area where you all parked?

5 A: Yes, sir.

6 Q: Now, where, if you can show us on the map, is that self
7 -- or the little window where you go after hours? Right
8 there?

9 A: Uh-huh.

10 Q: Is this the area where you see the punch?

11 A: Yes, sir.

12 Q: And at this point when you see the punch, three
13 individuals are standing there, and you named them as
14 Quinterris Carmichael, Tydrecus Williams, and also Kareem
15 Jones, is that right?

16 A: Yes, sir.

17 Q: And then they start to go around the side; is that right?

18 A: Yes, sir.

19 Q: And then a fourth, being Tirik Johnson-Epps, gets out of
20 the car; correct?

21 A: Yes, sir.

22 Q: And the four of them go around the side?

23 A: Yes, sir.

24 Q: Are those the only four that you saw moving to around
25 that corner?

TYRIN JONES - DIRECT BY MR. WHITE

1 A: Yes, sir.

2 Q: And again, you lost sight of them when they moved around
3 that corner?

4 A: Yeah.

5 Q: Okay. Very good. You can have a seat, and I'm going to
6 ask you just a few more questions.

7 Okay. Once they go around that corner and it doesn't
8 take very long, what happens next? What did you hear?

9 A: They go around the corner, they start fighting, I guess
10 still, and then that's when you hear a shooting.

11 Q: Okay. And you said you guess they were still fighting,
12 but once they went around that corner --

13 A: Yeah.

14 Q: -- you didn't -- you couldn't see?

15 A: No.

16 Q: But you did hear gunshots; is that right?

17 A: Yes, sir.

18 Q: Now, I'm going to go back -- well, go forward. Excuse
19 me. If you could watch the video right there, just moments
20 later, is that Tirik Johnson-Epps getting back in the vehicle?

21 A: Yes, sir.

22 Q: When he's on the way to the vehicle, is he coming back
23 around from that corner?

24 A: Yes, sir.

25 Q: And did you notice at that time, without paying attention

TYRIN JONES - DIRECT BY MR. WHITE

1 to the video, did you know at that time whether or not he
2 still had that bottle in his hand, the drink?

3 A: He still had it in his hand, yeah.

4 Q: Okay. And why did that stick out to you? Why did you
5 notice it?

6 A: Because of how he was holding it.

7 Q: Okay.

8 A: Like, it waste or something.

9 Q: And what do you mean by that? It waste or something?

10 A: Like, you know, when you have a drink, it fizzes, spilled
11 or whatnot, you're going to hold it out.

12 Q: Okay.

13 A: He was just holding it, but I mean, it still was -- from
14 what I remember, it still was in his hand.

15 Q: Okay. And when you -- I think you said it was spilling
16 over?

17 A: Yes, sir.

18 Q: Okay. And you could see it spilling over on his hand?

19 A: Yes, sir.

20 Q: Okay. And at that point, he gets in the vehicle and
21 y'all drive away; is that right?

22 A: Yes, sir.

23 Q: But you don't -- did you make it very far before you
24 stopped again?

25 A: Yeah. No. We didn't -- I mean, it was still, like, on

TYRIN JONES - DIRECT BY MR. WHITE

1 the road part --

2 Q: Okay.

3 A: -- when we first stopped. Then we went to the light.

4 Q: I gotcha. And when y'all pull out -- well, I can show
5 you, but when y'all pull out, who is in the car when y'all
6 pull out of the Tiger Mart after you hear those initial shots?

7 A: Me, Tirik, and Kami.

8 Q: Okay. And then you pull up and you stop a distance
9 away. Who then gets in the car?

10 A: Quinterris.

11 Q: Quinterris Carmichael?

12 A: Uh-huh.

13 MR. WHITE: I beg the Court's indulgence.

14 THE COURT: Is that a yes?

15 THE WITNESS: Yes, sir.

16 THE COURT: Thank you.

17 THE WITNESS: I'm sorry.

18 THE COURT: That's okay.

19 MR. WHITE: Just one second.

20 BY MR. WHITE:

21 Q: And when you're in that car, things changed really
22 quickly; is that right?

23 A: Yes, sir.

24 Q: How were you feeling when you were in that car driving
25 away from the Tiger Mart?

TYRIN JONES - DIRECT BY MR. WHITE

1 A: Scared, but I was also drinking. So it was, like, a lot
2 going on, but scared and not really knowing.

3 Q: Okay. And then later on when you met with law
4 enforcement, you did talk to law enforcement; is that right?

5 A: Yes, sir.

6 Q: How were you feeling when you initially spoke to law
7 enforcement?

8 A: Scared.

9 Q: Okay. Now, Tyrin, important question. Everything you've
10 told us here today, is it the truth?

11 A: Yes, sir.

12 Q: Okay. And in fact, it's corroborated by what's on that
13 video; is that right?

14 A: Yes, sir.

15 Q: Okay. Thank you, Tyrin. I don't have anything else for
16 you. Please answer any questions that these defense attorneys
17 may have for you. All right?

18 A: Yes, sir.

19 Q: Okay.

20 MR. WHITE: Thank you.

21 THE COURT: Mr. Edgeworth?

22 MR. EDGEWORTH: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. EDGEWORTH:

25 Q: Okay. Ms. Jones, I probably need to break down your

TYRIN JONES - CROSS BY MR. EDGEWORTH

1 whole experience in a different way so we make sure that the
2 jury understands. So on this particular night when you went
3 to the store at the Tiger Mart, you were there to get some
4 cigarettes?

5 A: Yes, sir.

6 Q: Okay. And maybe get some drinks?

7 A: Yes, sir.

8 Q: Okay. Y'all were kind of winding down the night from
9 your party?

10 A: Yes, sir.

11 Q: Or your cookout? Okay. And when you get there, did you
12 get out the car at all?

13 A: At first.

14 Q: Okay.

15 A: When we first got there.

16 Q: Okay. And in fact, there was a point in time when you
17 went up to that window you're referring to and got yourself
18 some cigarettes or whatever?

19 A: Yes, sir.

20 Q: Okay. And then you made your way back to the -- to the
21 car?

22 A: Yes, sir.

23 Q: Did you get back in the car?

24 A: After I left the window, yes, sir.

25 Q: Okay. Was there any time that you got back out of the

TYRIN JONES - CROSS BY MR. EDGEWORTH

1 car again?

2 A: Yes, sir.

3 Q: Okay. And what did you do?

4 A: I was telling Kami to get in the car.

5 Q: Okay. But did you leave from the vicinity of the car?

6 A: The only time I left was when I went to the window to get

7 the cigarettes.

8 Q: Okay.

9 A: The only time I got out besides the time I just said with

10 Kami is when I got -- when I got back in the car.

11 Q: Okay.

12 A: So once I went to the window, I got back in the car.

13 Q: Okay. And so at no point in time during your trip did

14 you ever go around the corner, did you not?

15 A: No, sir.

16 Q: Okay. So you don't know what was over there?

17 A: No, sir.

18 Q: You don't know if there were people hanging out?

19 A: No, sir.

20 Q: Okay. You don't know if there were other cars over

21 there?

22 A: No, sir.

23 Q: Okay. Now, you were standing by the car, and you

24 explained that when you saw Mr. Williams and Mr. Jones come

25 up; correct?

TYRIN JONES - CROSS BY MR. EDGEWORTH

1 A: Yes, sir.

2 Q: Okay. And you stated that you heard -- could you hear
3 them talking?

4 A: No, sir.

5 Q: So you have no idea really what everybody was talking
6 about during the -- around the window; right?

7 A: No, sir.

8 Q: Okay. And that went on for a few minutes?

9 A: Yes, sir.

10 Q: Okay. But you weren't paying attention to it, were you?

11 A: Not -- not really, no.

12 Q: Now, at some point in time, you testified that my client,
13 Mr. Carmichael, punched somebody; right?

14 A: Yes, sir.

15 Q: Okay. That was Mr. Jones, was it not?

16 A: Yes, sir.

17 Q: It wasn't the individual that died, was it?

18 A: No, sir.

19 Q: And it didn't appear at any time while you were -- you
20 were watching that Mr. Carmichael had a problem with Mr.
21 Williams, did he? The person that died?

22 A: No, I didn't know that.

23 Q: Right. And the only time you saw anything, if anything
24 at all, was the fact that Mr. Carmichael knocked the drink out
25 of the hand and punched Mr. Jones?

TYRIN JONES - CROSS BY MR. EDGEWORTH

- 1 A: Yes, sir.
- 2 Q: Now, there was no beef with Mr. Tydrecus Williams;
- 3 correct?
- 4 A: Not to my knowledge, no, sir.
- 5 Q: Okay. At some point in time after Mr. Johnson-Epps got
- 6 out of the vehicle, people went around the corner; correct?
- 7 A: Yes, sir.
- 8 Q: And you saw nothing else?
- 9 A: No, sir.
- 10 Q: You did hear gunshots, you say?
- 11 A: Yes, sir.
- 12 Q: You didn't see who shot those gunshots, did you?
- 13 A: No, sir.
- 14 Q: Okay. After the gunshots, Mr. Epps came back to the car,
- 15 did he not?
- 16 A: Yes, sir.
- 17 Q: Okay. And y'all got in the car and started driving off?
- 18 A: Yes, sir.
- 19 Q: But you didn't leave, did you?
- 20 A: Not right then and there.
- 21 Q: Okay. I'm going to ask you a couple of additional
- 22 questions, and I'm going to use the State's little handy-dandy
- 23 old-school easel, since their newfangled easel wasn't working
- 24 yesterday.
- 25 MR. EDGEWORTH: Let's see if there will be a better photo

TYRIN JONES - CROSS BY MR. EDGEWORTH

1 here.

2 THE COURT: What exhibit is that, Mr. Edgeworth?

3 MR. EDGEWORTH: Yes, sir. Your Honor, this is State's
4 Exhibit 81.

5 With the Court's permission, would you please step down
6 here for us?

7 MR. WHITE: And, Judge, just for clarification, I may
8 have already done it, but I'm not sure. I don't know if I
9 moved 81 into evidence or not. No?

10 THE COURT: Is it in?

11 MR. EDGEWORTH: I thought it was in.

12 MR. WHITE: Okay. I just wanted to doublecheck.

13 MR. EDGEWORTH: Okay.

14 THE COURT: It's been admitted.

15 MR. EDGEWORTH: Okay. I'll let you stand right here.

16 BY MR. EDGEWORTH:

17 Q: Now, does this look familiar to you as the Tiger Mart?

18 A: Yes, sir.

19 Q: Okay. And this is the front side right here where your
20 car was parked and that window is?

21 A: Yes, sir.

22 Q: Okay. And this is around the corner that you could no
23 longer see anything?

24 A: Yes, sir.

25 Q: And then you -- y'all got back in the car and you left

TYRIN JONES - CROSS BY MR. EDGEWORTH

1 out of the parking lot?

2 A: Yes, sir.

3 Q: Okay. Now, when you left out of the parking lot, can you
4 see on this photo the stoplight?

5 A: No. You can't see it on this, no, sir.

6 Q: Okay. And where -- or excuse me. My apologies for
7 standing that way. Is the stoplight out of this picture going
8 this way or are we talking about the stoplight here?

9 A: That way.

10 Q: Okay. And when y'all left out, did y'all stop in this
11 area? You stopped right in here?

12 A: Yes, sir.

13 Q: Okay. So not off the -- off the picture; correct?

14 A: No.

15 Q: Okay. So you stopped here; correct? Or no?

16 A: Yes. Somewhere in -- over here somewhere is where we
17 stopped or rolled because it wasn't, like, a long stop.

18 Q: Right. You were on the roadway? You didn't leave very
19 far when you pulled out of the lot; correct?

20 A: Yes, sir.

21 Q: Okay. Now, do you -- and you can go back.

22 Now, after this incident, you were questioned by law
23 enforcement, were you not?

24 A: Yes, sir.

25 Q: Okay. And do you recall during that conversation with

TYRIN JONES - CROSS BY MR. EDGEWORTH

1 law enforcement that initially you didn't want to talk;
2 correct?

3 A: Yes, sir.

4 Q: And that was primarily because you were in a relationship
5 with Mr. Johnson-Epps?

6 A: That wasn't the reason. No, sir.

7 Q: Was that the reason, better asked?

8 A: No, sir.

9 Q: Okay. And was it because you didn't really know
10 anything?

11 A: That, and I was scared.

12 Q: Okay. Do you recall talking to them -- talking to law
13 enforcement about when you left out of the parking lot?

14 A: About stopping?

15 Q: Yes, ma'am.

16 A: Yes, sir.

17 Q: Okay. And do you recall at that time one of -- one of
18 the law enforcement officers was up kind of drawing a diagram?

19 A: Yes, sir.

20 Q: Do you remember that?

21 A: Uh-huh.

22 Q: And they made a notation as to where they -- where you
23 stopped?

24 A: Yes, sir.

25 Q: Okay. Do you recall telling them that Mr. Johnson-Epps

TYRIN JONES - CROSS BY MR. EDGEWORTH

1 got out of the vehicle at that time?

2 A: Yeah. Yes, sir.

3 Q: Okay.

4 MR. EDGEWORTH: No further questions, Your Honor.

5 THE COURT: Mr. Ammons?

6 MR. AMMONS: Thank you, Your Honor. May it please the
7 Court.

8 CROSS-EXAMINATION

9 BY MR. AMMONS:

10 Q: Good morning, Ms. Jones. So as you guys were hanging out
11 earlier that day, there was no -- when I say you guys, I'm
12 talking about you and Kami and Mr. Epps and Mr. Carmichael.
13 There was no discussion about wanting to go up to the Tiger
14 Mart and get in an altercation?

15 A: No, sir.

16 Q: There was no discussion about Tydrecus Williams, was
17 there?

18 A: No, sir.

19 Q: There was no discussion about Kareem Jones?

20 A: No, sir.

21 Q: No discussion about wanting to shoot anyone?

22 A: No, sir.

23 Q: So the reason for going to the Tiger Mart was just to get
24 some cigarettes and some drinks?

25 A: Yes, sir.

TYRIN JONES - CROSS BY MR. AMMONS

1 Q: And when the altercation or the exchanges started
2 happening between Mr. Carmichael and Mr. Williams and Mr.
3 Jones, you said you were in the car at that time; right?

4 A: Yes, sir.

5 Q: All right. And Mr. Epps was in the car at that time;
6 right?

7 A: Yes, sir.

8 Q: He wasn't involved in that exchange at all, was he?

9 A: No, sir.

10 Q: And he didn't initiate any conversations or argument
11 between or with Mr. Kareem Jones and Mr. Tydrecus Williams?

12 A: No, sir.

13 Q: All right. And he wasn't encouraging Mr. Carmichael to
14 get into any altercation, was he?

15 A: No, sir.

16 Q: All right. Mr. Carmichael was acting on his own will at
17 that time?

18 A: Yes, sir.

19 Q: All right. And in fact, you and Kami and Mr. Epps, y'all
20 were ready to go, weren't you?

21 A: Yes, sir.

22 Q: All right. You were at the station for quite a while,
23 weren't you? Ten or 15 minutes?

24 A: Not that long, but --

25 Q: There were several people there when you got there;

1 right?

2 A: Yes, sir.

3 Q: And there were conversations with other people other than

4 Mr. Jones and Mr. Williams?

5 A: Yes, sir.

6 Q: There were no altercations with any of those folks?

7 A: No, sir.

8 Q: And as you said, after -- after the altercation happened

9 and the folks went around the corner, you didn't see anything

10 more?

11 A: No, sir.

12 Q: You didn't see what happened?

13 A: No, sir.

14 Q: You didn't see anyone shoot a gun?

15 A: No, sir.

16 Q: All right. You heard shots?

17 A: Yes, sir.

18 Q: Four shots?

19 A: I don't know.

20 Q: Okay. And then Mr. Epps got back in the car without Mr.

21 Carmichael?

22 A: Yes, sir.

23 Q: And y'all speed out of the parking lot?

24 A: Yes, sir.

25 Q: And turn onto Lucas Street, just out of the parking lot

TYRIN JONES - CROSS BY MR. AMMONS

1 on Lucas Street?

2 A: Yes, sir.

3 Q: And then you go a little -- little ways and stop?

4 A: Yes, sir.

5 Q: To wait for Mr. Carmichael to get back in?

6 A: Stopped to get him, yes, sir.

7 Q: All right. And you said Mr. Jones got out of the car,
8 but he didn't go far; right?

9 A: Who?

10 Q: I mean, Mr. Epps.

11 A: Yes, sir.

12 Q: He got out of the car?

13 A: Yes, sir.

14 Q: But did he -- he stayed close by the car; right?

15 A: Yes, sir.

16 Q: All right. He didn't go all the way back to where Mr.
17 Carmichael was?

18 A: I don't --

19 Q: All right.

20 A: I don't -- I don't think so. That's one thing I'm trying
21 to fully -- because I don't know how far he went, but it
22 wasn't long.

23 Q: All right. You weren't stopped for a long time?

24 Q: No, sir.

25 Q: The car wasn't unattended? I mean, you -- you and Ms.

1 Mitchell were in the car?

2 A: Yes, sir.

3 Q: All right. You didn't see Mr. Epps shoot anyone when he
4 got out of the car?

5 A: No, sir.

6 Q: He didn't get out to go shoot?

7 A: No, sir.

8 Q: Do you recall telling law enforcement that you did look
9 out of the window and you saw --

10 A: I corrected that all. I corrected that. I looked out
11 and saw someone, but I didn't see a motion of all the other
12 things.

13 Q: And you said you were scared you had -- once everybody
14 got back in the car, you were scared at that point?

15 A: Yes, sir.

16 Q: But you said you had been drinking, so --

17 A: Yes, sir.

18 Q: All right. Did that drinking impair your ability to
19 remember what went on?

20 A: I'm sorry? Could you repeat that?

21 Q: How much had you been drinking?

22 A: I can't remember, but it was, like, a good bit, like.

23 Q: All right. So enough that your memory is probably not
24 the best?

25 A: No, sir.

TYRIN JONES - CROSS BY MR. AMMONS

1 Q: Not that much?

2 A: Could you ask it?

3 Q: I said you drank enough that it impaired your ability to
4 remember exactly what happened?

5 A: Yes, and then I just didn't know.

6 MR. AMMONS: No further questions, Your Honor.

7 THE COURT: Mr. White?

8 REDIRECT EXAMINATION

9 BY MR. WHITE:

10 Q: But you didn't drink so much that you can't recall things
11 that you've testified to?

12 A: Yes, sir.

13 Q: Everything you testified to you remember clearly; is that
14 right?

15 A: Yes, sir.

16 Q: And again, I just want to reiterate, moments before you
17 hear those four shots or however many shots that occurred,
18 there were four individuals who go around that corner
19 together; right?

20 A: Yes, sir.

21 Q: And prior to that, Tydrecus Williams and Kareem Jones --
22 they arrived together; correct?

23 A: Yes, sir.

24 Q: And then Quinterris Carmichael and Tirik Johnson-Epps --
25 they arrived together; right?

TYRIN JONES - REDIRECT BY MR. WHITE

1 A: Yes, sir.

2 Q: And they're boys; right? They're best friends?

3 MR. EDGEWORTH: Objection. Leading.

4 BY MR. WHITE:

5 Q: Are they best friends?

6 A: I'm not sure. They're close though.

7 Q: Close?

8 A: They were.

9 Q: And again, they arrived together?

10 A: Yes, sir.

11 Q: And the four of them went around that corner; is that

12 right?

13 A: Yes, sir.

14 MR. WHITE: I beg the Court's indulgence for just a

15 moment.

16 Tyin, that's all I have for you. Thank you very much.

17 THE COURT: Anything else, Mr. Edgeworth?

18 MR. EDGEWORTH: Nothing further, Your Honor.

19 THE COURT: Mr. Ammons?

20 MR. AMMONS: Nothing further, Your Honor.

21 THE COURT: Ma'am, you may step down. Thank you.

22 THE WITNESS: Thank you.

23 MR. WHITE: Judge, I would ask if Ms. Jones can be

24 released from her subpoena.

25 THE COURT: Any objection, Mr. Edgeworth?

1 MR. EDGEWORTH: One second, Your Honor. No objection,
2 Your Honor.

3 THE COURT: Mr. Ammons?

4 MR. AMMONS: No objection.

5 THE COURT: All right. Very well.

6 All right. Ladies and gentlemen, what we are going to
7 do, I'm going to -- we're going to take a short break. I'm
8 going to ask you to step to the jury room. Do not discuss the
9 case at all. I'll get you back out here as quickly as
10 possible.

11 One thing I've asked my deputy clerk over here to do,
12 we're going to eat lunch here today. So I'm going to have the
13 clerk come back and take your lunch order for today rather
14 than -- I know it's kind of -- the weather, kind of raining,
15 not raining, raining, not raining, and in an effort to try to
16 keep moving things along, we're going to order lunch in today.
17 So she'll come back there and get your lunch order, and then
18 we'll resume as quickly as possible. Okay?

19 (WHEREUPON, the jury exited the courtroom at 10:25 a.m.)

20 THE COURT: All right. We'll stand down a few minutes.

21 MR. WHITE: Thank you, Judge.

22 MR. AMMONS: Thank you, Your Honor.

23 (WHEREUPON, there was a break in the proceedings at 10:25
24 a.m.)
25

1 (WHEREUPON, the record of this proceedings is continued
2 in a separate transcript taken down by a different court
3 reporter on January 25th through 27th, 2023.)
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I, the undersigned, Krystal J. Smith, Notary Public and Official Circuit Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 238, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Florence County, South Carolina, on the 23rd through the morning of the 25th days of January, 2023.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

s/ Krystal J. Smith

Court Reporter

Florence, South Carolina

June 5, 2023

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2021-GS-21-00472
	)	2021-GS-21-00473
	)	2021-GS-21-00474
	)	2021-GS-21-00475
	)	
	)	
State Of South Carolina	)	TRANSCRIPT OF RECORD
vs.	)	
Quinterris J. Carmichael	)	
Tirik J. Johnson-Epps	)	Florence, South Carolina
<u>DEFENDANT</u>	)	January 25-27, 2023

B E F O R E:

THE HONORABLE D. CRAIG BROWN and a jury.

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KESHIA REED
Official Court Reporter

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3	S-50	Photo		44
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1 THE COURT: All right. Before I bring the jury
2 back out, issue came up yesterday as it relates to the
3 impeachment of, I believe, the State's next witness
4 Mr. Kareem Jones. On his record, there is a prior
5 conviction for strong arm robbery. I conveyed to the
6 lawyers yesterday, that it was -- that I was incline not
7 to admit it. However, I wanted to look at a few things
8 during the overnight break. As well, Mr. Edgeworth
9 submitted a memorandum to me along with a couple of cases.
10 After looking at everything again last night and this
11 morning and meeting with the attorneys back in chambers
12 before we started this morning, I told the lawyers that I
13 had -- that I was incline now at this point to allow this
14 witness to be asked about that conviction. The State has
15 expected -- voice their objection in chambers, and so I
16 note their objection to this for the record.

17 In looking at Rule 609(a)(1) in the South
18 Carolina Rules of Evidence handbook annotated, I'm looking
19 at the 2019, 2020 addition. In the notes in that book to
20 609(a)(1), the book cites Warren Moise (sic) stating that
21 the analysis for the admissibility of impeachment evidence
22 differs depending on whether its admission sought against
23 a witness or a criminal defendant, goes on to say that
24 liberal thrust toward admissibility only if the probative
25 value of the conviction is substantially outweighed by

1 counter-veiling factors. Thus, criminal convictions of a
2 party or a witness other than the accused in a criminal
3 trial rarely should be excluded in Rule 403. There is a
4 different analysis depending upon whether it's an accused
5 or a witness in a trial. In light of having said that,
6 the Court is still tasked with -- bear with me just a
7 second here. The factors set forth in State vs. Colf
8 C-O-L-F. I believe the citation on that case is 828
9 Southeastern Second 2011 talks about in those factors --
10 which the Court is not required to go through each one of
11 those factors, but I'll state the factors on the record
12 stated in Colf. The impeachment value of the crime -- the
13 pointed time of conviction of the witnesses subsequent
14 history similarity between the past crime and the charged
15 crime, the importance of the defendant's testimony, the
16 centrality of the credibility issue.

17 One of the cases that was provided by
18 Mr. Edgeworth attached to his memorandum was the case of
19 State v. Williams 380 SC 336. In that particular case,
20 and I'll just kind of hit on the high notes there. It's a
21 confidential informant who's testifying. Judge Markley
22 Dennis presided over the trial of that case. In that
23 trial, he had limited any impeachment convictions to ten
24 years pursuant to the rule. However, the confidential
25 informant got on the stand and testified that he had in

1 essence spent the better part of his life in jail. At
2 that juncture, defense counsel argued that the
3 confidential informant had open the door to the prior
4 convictions and that was one of the appellate issues in
5 the State v. Tydrecus Williams case. The Court concluded
6 in that case that even if it was an error, that it was
7 harmless due to other evidence that came in during the
8 course of that trial.

9 I believe one that if I were to exclude it if it
10 was an error at all, it would be harmless in light of the
11 evidence that has been elicited, testified to by virtue of
12 witnesses and by virtue of the playing of the video from
13 the incident. Again, I'm going to allow certainly just
14 the question as it relates to the conviction, not exactly
15 sure, and I'm not convinced of the impeachment value of
16 it. But certainly in my charge to the jury, there would
17 be a charge to them that it goes to credibility. This
18 individual's prior conviction was in '18, don't remember
19 exactly when -- December of 2018. This incident occurred
20 that we're here in trial for in September of 2019. The
21 witness' conviction was for strong arm robbery. The
22 defendant's here are charged with murder and possession of
23 a weapon during the commission of a violent crime.

24 I will also say that in addition when this issue
25 comes up, the burden is on the opponent as to why it

1 should not be admitted. And that being the case, it would
2 be on the State as to why it should not be admitted. The
3 importance of the witness' testimony to some extent I
4 think it will be cumulative in light of the testimony
5 that's already been elicited as well as the video
6 evidence. The centrality of the credibility issue, I
7 think it could possibly go to the credibility of what
8 transpired leading up to the event, and therefore I am
9 going to allow it. But the State's objection is so noted
10 for the record.

11 MR. WHITE: Thank you, Judge.

12 THE COURT: All right. Anything further before
13 I bring the jury out, Mr. White?

14 MR. WHITE: Judge, just to be clear, and I plan
15 to elicit the testimony myself. My question will simply
16 be back in 2018 isn't it true that you were convicted for
17 common law robbery, and then leave it at that. And I
18 would furthermore, you know, I think any questions after
19 that would be asked and answered. I think we would have
20 covered it.

21 THE COURT: Mr. Edgeworth.

22 MR. EDGEWORTH: Well, your Honor, I would ask
23 the opportunity to inquire whether he had a firearm during
24 the commission of the crime. He can say no. I don't
25 think I'm allowed to dig after.

1 THE COURT: The strong arm robbery conviction
2 does not include a firearm, that is not one of the
3 elements of that offense. He's convicted of strong arm,
4 so I'm not going to allow you to do that, but your
5 objection is noted for the record.

6 MR. EDGEWORTH: Thank you, sir.

7 THE COURT: Mr. Ammons.

8 MR. AMMONS: Nothing, Judge.

9 THE COURT: All right, bring me the jury please,
10 ma'am.

11 (WHEREUPON, the jury came into open court.)

12 THE COURT: Ladies and gentlemen, there was no
13 intention to keep you in the jury room as long you just
14 stayed back there, and I apologize for that. If you'll
15 notice, I have a new court reporter now, okay. My prior
16 court reporter was not feeling well. And unfortunately we
17 don't have court reporters sitting in the back waiting if
18 we have an issue that comes up. So I had to go next door
19 and get Ms. Keshia from Judge Seals next door. It took
20 some time to wind that up and get what was happening over
21 there and get her over here. So I apologize for making
22 you all wait, that is absolutely that was not my intention
23 when you all -- when I sent you out for your break. It
24 was to be a short break and turned out to be quite a
25 lengthy break, so I apologize and I hope you understand.

1 And at this time though we are ready to proceed, and I
2 recognize the State call your next witness please.

3 MR. WHITE: Thank you, Judge. At this time the
4 State would call Kareem Jones.

5 THE COURT: Sir, if you come on up here to be
6 sworn please.

7 THE CLERK: Please place your left hand on the
8 Bible and raise your hand. Do you swear that the
9 testimony you would give in this case will be the truth,
10 the whole truth, and nothing but the truth so help you
11 God?

12 THE WITNESS: Yes, ma'am.

13 THE CLERK: Please be seated on the witness
14 stand and state your full name for the record.

15 THE WITNESS: My name is Kareem Jones. I'm born
16 July [REDACTED] 2001.

17 WHEREUPON,

18 Kareem Jones,
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. WHITE:

22 Q Thank you, Kareem. And we had a lot of soft spoken
23 witnesses, and you're no different. But just make sure
24 you speak nice and loud and clearly into the microphone so
25 everybody can hear you, okay. Kareem, where you from?

1 A Florence.

2 Q How long you been living in Florence?

3 A All my life.

4 Q Do you know the victim in this case Tydrecus
5 Williams?

6 A Yes, sir.

7 Q And how do you know him?

8 A My best friend.

9 Q Now, I want to get something out the way, and I'm
10 sorry I have to ask personal questions sometimes in the
11 course of my job, but I do have to ask you a personal
12 question, okay. Back in 2018 before all this, isn't it
13 true that you were convicted of common law robbery?

14 A Yes, sir.

15 Q All right. We got that out the way. Now,
16 September 12th 2019, were you hanging out with Tydrecus
17 Williams?

18 A Yes, sir.

19 Q And where were y'all hanging out?

20 A At his girlfriend house.

21 Q And is that Antecia Lawson?

22 A Yes, sir.

23 Q Why did you go over there?

24 A Because I had me and my girlfriend we had just got
25 into it, and she had left me. So I went over there to go

1 chill with him.

2 Q And what were you going to do just talk about what
3 had happened?

4 A Yes, sir.

5 Q And is that what y'all were doing?

6 A Yes, sir.

7 Q At some point did y'all make the decision to leave?

8 A Go to the store.

9 Q Okay. And what were y'all going to the store for?

10 A A Black & Mild.

11 Q All right. And is that something y'all normally
12 would do walk to the store?

13 A Yes, sir.

14 Q And to be clear, we're talking about the Speedy Mart.
15 Some people call it the Tiger Mart just around the corner
16 from Antecia's house, is that right?

17 A Yes, sir.

18 Q All right. When you get there, did you have any idea
19 who all would be there?

20 A No, sir.

21 Q Were you paying attention to anybody when you walked
22 up?

23 A No, sir.

24 Q Okay. And make sure you speak nice and loud, okay.
25 The microphone is catching a good bit of it, but the court

1 reporter has got to get it all down.

2 A I got you.

3 Q All right. Thank you, Kareem. Kareem, I'm going to
4 show you you were aware that the incident that took place
5 was captured on video surveillance?

6 A Yes, sir.

7 Q All right. I'm going to show you that video
8 surveillance. I just need you to identify some people on
9 the video, okay.

10 THE COURT: Mr. Jones, as he's stepping back
11 there to do that, when a question is asked of you, if you
12 would give either yes or no. And if you need to explain,
13 you certainly can do that, give us a yes or no as oppose
14 to uh-huh or uh-uh or even shaking your head yes or no,
15 okay. It's important that we have a verbal response from
16 you, so that it's taken down properly by the court
17 reporter, okay.

18 THE WITNESS: Yes, sir.

19 THE COURT: Mr. White.

20 MR. WHITE: Thank you, Judge.

21 BY MR. WHITE:

22 Q And I do need to back up and make sure I identify,
23 Kareem, one second what I'm playing.

24 MR. WHITE: Judge, permission to publish what's
25 already been admitted into evidence State's Exhibit 3.

1 THE COURT: Yes, sir.

2 BY MR. WHITE:

3 Q Kareem, do you see that on your screen, okay?

4 A Yes, sir.

5 (WHEREUPON, State's Exhibit 3 is being played.)

6 BY MR. WHITE:

7 Q Now, who are those two individuals?

8 A Me and Tydrecus.

9 Q And what are you wearing in that?

10 A A blue and white jacket.

11 Q And Tydrecus Williams is the one wearing the red?

12 A Yes, sir.

13 Q And how long have you and Tydrecus been best friends?

14 A Since seventh grade.

15 Q And at that point when y'all walk over there, did you
16 have any weapons on you?

17 A No, sir.

18 Q Did Tydrecus have any weapons on him?

19 A No, sir.

20 Q Okay.

21 (WHEREUPON, State's Exhibit 3 is being played.)

22 BY MR. WHITE:

23 Q Right there it sounds to me like he's asking y'all if
24 y'all want smoke, is that your recollection of it?

25 A Yes, sir.

1 Q Had you spoken to him at all before he made that
2 comment?

3 A No, sir.

4 (WHEREUPON, State's Exhibit 3 is being played.)

5 BY MR. WHITE:

6 Q And I think I heard him say what's good, what you got
7 in your pockets, is that right?

8 A Yes, sir.

9 Q And what did you respond with?

10 A You ain't taking nothing from me.

11 Q What did you think he meant by what's in your
12 pockets?

13 A I don't know. I just -- he wanted to take something
14 from me.

15 (WHEREUPON, State's Exhibit 3 is being played.)

16 BY MR. WHITE:

17 Q And at this point you can see him he walks back to
18 the car, is that right?

19 A Yes, sir.

20 Q But despite walking back to the car is he continuing
21 to talk to you?

22 A Yes, sir.

23 Q Say things toward you and Tydrecus Williams?

24 A Yes, sir.

25 (WHEREUPON, State's Exhibit 3 is being played.)

1 BY MR. WHITE:

2 Q And what were y'all standing there at the counter,
3 what were y'all waiting on?

4 A We were waiting on the lady to come to the window.

5 Q Okay. And, you know, I mean, correct me if I'm
6 wrong, it didn't seem like you were saying much at all
7 back towards him?

8 A No, sir.

9 Q Were you trying to diffuse the situation?

10 A Yes, sir.

11 Q And, Kareem, I know you are soft spoken, but if
12 you'll just speak up, direct that -- your voice right into
13 that microphone. We can make sure we can hear you.

14 (WHEREUPON, State's Exhibit 3 is being played.)

15 BY MR. WHITE:

16 Q He ask you what you are clutching on here. Were you
17 clutching on anything?

18 A No, sir.

19 Q And in fact that's what you said to him, right? I'm
20 not clutching on anything?

21 A Yes, sir.

22 (WHEREUPON, State's Exhibit 3 is being played.)

23 BY MR. WHITE:

24 Q Now, right here he hits you, right?

25 A Yes, sir.

1 Q And, I mean, you look like a guy that can take care
2 of himself. Why didn't you hit him back?

3 A Cause it wouldn't been a smart thing to do.

4 Q Okay. And why wouldn't it have been a smart thing to
5 do?

6 A I don't know if he had a gun or not.

7 Q Okay. When y'all -- at that point when he hits you,
8 who all was standing there?

9 A Me, him and Tydrecus.

10 Q Okay. And then y'all kind of go around the corner,
11 is that right?

12 A Yes, sir.

13 Q And at that point do you see a gun in anybody's hand?

14 A I seen him kind of clutching.

15 Q Okay. Who was that?

16 A Man Man.

17 Q Okay. And is Man Man go by Quinterris Carmichael?

18 A Yes, sir, I guess so.

19 Q Okay. Now, when y'all go around that corner, was it
20 just y'all three or did somebody walk with y'all?

21 A Somebody came.

22 Q Okay. And was it, Tirik Johnson-Epps, the guy with
23 dreads?

24 A Yes, sir.

25 Q Okay. When y'all go around that corner, was it just

1 the four of you?

2 A Yes, sir.

3 (WHEREUPON, State's Exhibit 3 is being played.)

4 BY MR. WHITE:

5 Q So right here, and you see the guy with dreads there
6 walk by at the bottom, but right here at this time stamp
7 which four individuals are just below that camera?

8 A Us. All four of us.

9 Q Okay. Let's name them if we can?

10 A Me, Tydrecus, and Tirik and Man Man.

11 Q And, again, that's Quinterris Carmichael, correct?

12 A Yes, sir.

13 Q And then shortly thereafter...

14 (WHEREUPON, State's Exhibit 3 is being played.)

15 BY MR. WHITE:

16 Q Now, at that point did we hear you say ain't no way
17 you're doing this in front of the camera?

18 A Yes, sir.

19 Q All right.

20 (WHEREUPON, State's exhibit 3 is being played.)

21 BY MR. WHITE:

22 Q When you hear those shots what, if anything, did you
23 do?

24 A I ran.

25 Q If you'll watch is that you running away?

1 A Yes, sir.

2 Q Kareem, I may have already asked you this. Did
3 Tydrecus -- and I know you guys were close since seventh
4 grade. Did he have a nickname for you?

5 A Yeah, a couple nicknames.

6 Q What was the one he used most often?

7 A Tygee.

8 Q Did he every call you Keem?

9 A Yes, sir.

10 (WHEREUPON, State's Exhibit 3 is being played.)

11 BY MR. WHITE:

12 Q Right there, Kareem, you hear a voice yell out Keem,
13 did you hear it? Was that Tydrecus yelling for you?

14 A Yes, sir.

15 Q After that when you run off, where did you run to?

16 A Antecia crib.

17 Q Did you tell her what happened?

18 A Yes, sir.

19 Q And did she call law enforcement?

20 A Yes, sir.

21 Q And ultimately later did you speak to law enforcement
22 about what had happened?

23 A Yes, sir.

24 MR. WHITE: Beg the Court's indulgence. Kareem,
25 thank you so much. Now, you got to answer any of these

1 questions that the defense attorneys may have.

2 THE COURT: Mr. Edgeworth.

3 MR. EDGEWORTH: Thank you, your Honor.

4 CROSS-EXAMINATION

5 BY MR. EDGEWORTH:

6 Q Mr. Jones, when you walked up to get the Black & Mild
7 that was around 3:30 in the morning?

8 A Yes, sir.

9 Q And do you recall when you got over to Ms. Lawson's
10 house after you had got in a fight with your girlfriend?

11 A I don't recall the time.

12 Q Okay. But at some point in time around 3:30 you go
13 over to Tiger Mart?

14 A Yes, sir.

15 Q Now, the State has asked several times, and you've
16 acknowledged and they pointed out that you say things on
17 the video that you were aware cameras being at the Tiger
18 Mart, correct?

19 A Yes, sir.

20 Q And you testified you been there numerous times,
21 right?

22 A Yes, sir.

23 Q Okay. Had you ever been there before when there was
24 some other type of altercation?

25 A No, sir.

1 Q You never been there in the entire time you gone to
2 that store you never seen any other altercations?

3 A Talking about like had something to do with me?

4 Q Just any in general?

5 A That's North Florence, you know.

6 Q Say that again?

7 A I say that's North Florence, you always see
8 something.

9 Q Okay. So it's fair to say that there a lot of kind
10 of violent and other things that go on ---

11 MR. WHITE: Judge, I would object as to
12 relevance here.

13 THE COURT: Let him finish his question first
14 please. Go ahead, Mr. Edgeworth.

15 BY MR. EDGEWORTH:

16 Q You are aware of other things that have gone on over
17 at the Tiger Mart, correct?

18 A Yes, sir.

19 Q You might not have necessarily been involve ---

20 THE COURT: Hold on, hold on. Yes, sir.

21 MR. WHITE: I would object as to relevance, and
22 it also exceeds the scope of my direct.

23 THE COURT: Well, it is cross-examination. Can
24 the lawyers approach a minute please.

25

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 THE COURT: You may continue, Mr. Edgeworth.

5 MR. EDGEWORTH: Thank you, your Honor.

6 BY MR. EDGEWORTH:

7 Q Prior to your contact with, Mr. Carmichael, did you
8 know who he was?

9 A No, sir.

10 Q No, okay. And, obviously, you guys were going on
11 about something, right?

12 A Yes, sir.

13 Q Okay. And at some point in time he walks up to you
14 and knocks your drink out of the your hand?

15 A Yes, sir.

16 Q And then punches you?

17 A Yes, sir.

18 Q Okay. Shortly thereafter everybody goes around the
19 corner, is that right?

20 A Yes, sir.

21 Q Do you physically make it around the corner?

22 A Yes, sir.

23 Q Okay. Now, you testified that you saw my client
24 Mr. Carmichael with a gun, is that correct?

25 A Yes, sir.

1 Q Why in the world would you go around the corner?

2 A Because Tydrecus went around the corner.

3 Q Okay. But after something went down, you went
4 running, right?

5 A Yes, sir.

6 Q Okay. And you only heard gunshots, correct?

7 A Yes, sir.

8 Q Okay. And you don't know who took the shots that we
9 heard on the video, correct?

10 THE COURT: Is that a no?

11 A No, sir.

12 Q Thank you. Were you aware that there was video
13 cameras on the far side of the building?

14 A Yes, sir.

15 Q And is that why you made the comment why are you
16 doing this when there's cameras?

17 A I been knew there was cameras.

18 Q You already knew there were cameras, but is that why
19 you made the comment?

20 A Yes, sir.

21 MR. EDGEWORTH: Court beg the Court's
22 indulgence, your Honor.

23 THE COURT: Yes, sir.

24 (WHEREUPON, a pause in the proceedings.)

25

1 BY MR. EDGEWORTH:

2 Q Now, did you see anyone else with a gun while you are
3 there?

4 A At which time?

5 Q Excuse me?

6 A At which time? At which time?

7 Q Well, when you were there during this incident?

8 A Yes, sir.

9 Q Yes.

10 A Yes, sir.

11 Q Who else had a gun?

12 A Both of them had a gun.

13 Q Okay. And when would you have seen two people with a
14 gun?

15 A I seen both of them with a gun at different times.

16 Q Okay. And when was that?

17 A I seen Man Man with a gun when we went around the
18 corner. I seen Tydrecus with a gun when he stood up in
19 front of the door at the car.

20 Q When he stood up where?

21 A In front of -- like when he stood out the car.

22 Q Is it your testimony that Mr. Johnson-Epps brandish
23 a firearm while you're standing near the car?

24 A Yes, sir.

25 Q Okay. And you recall that all this is recorded,

1 right?

2 A Yes, sir.

3 Q Okay. And your testimony again is -- that was before
4 everybody went around the corner, right?

5 A Yes, sir.

6 Q Okay. And so then at some point in time your
7 testimony is is that Mr. Carmicheal brandished a gun,
8 correct.

9 A Yes, sir.

10 Q And yet you still went around corner with him, right?

11 A Yes, sir.

12 Q Okay. Are you certain that you didn't have a firearm
13 on you?

14 A Yes, sir.

15 Q Are you certain that Mr. Williams didn't have a
16 firearm on him?

17 A Yes, sir.

18 Q Okay. When y'all were at the house, did you -- were
19 you watching him the whole time?

20 A Yes, sir.

21 Q You were watching Mr. Williams the whole time?

22 A Yes, sir.

23 Q It's not possible that he had a gun?

24 A No, sir.

25 Q Okay. Had you ever had a gun?

1 A No, sir.

2 MR. WHITE: Objection, Judge. Can we approach?

3 (WHEREUPON, a bench conference was held in the
4 presence of the jury, but out of the hearing of the
5 jury.)

6 THE COURT: Objection sustained. Next question.

7 MR. EDGEWORTH: Thank you, Judge.

8 BY MR. EDGEWORTH:

9 Q Few more questions, Mr. Jones. You acknowledge on
10 direct examination that you were convicted of common law
11 robbery in December of 2018, is that correct?

12 A Yes, sir.

13 Q And you're aware that it's also referred to as strong
14 arm robbery?

15 A Yes, sir.

16 MR. EDGEWORTH: No further questions, your
17 Honor.

18 THE COURT: Mr. Ammons.

19 MR. AMMONS: Thank you, your Honor.

20 CROSS-EXAMINATION

21 BY MR. AMMONS:

22 Q Mr. Jones, when you and Mr. Williams or Tydrecus got
23 to the Tiger Mart, there was a good bit of people there,
24 wasn't it?

25 A Yes, sir, it was a little bit.

1 Q All right. And why y'all were standing at the
2 window, people were coming around other than
3 Mr. Carmichael and Mr. Epps, correct?

4 A I didn't see them.

5 Q All right. You didn't see them in the video that he
6 just showed you?

7 A I seen the video, but not at that time.

8 Q All right. You don't recall seeing them that night,
9 but you do recall seeing them on the video?

10 A Yes, sir.

11 Q Okay. Safe to say, there's other things that you
12 didn't see on the video that -- or that happen that night
13 that you may not have seen at the incident?

14 A Can you say that again?

15 Q I'm saying you don't remember clearly everything that
16 was on that -- everything that happened except for seeing
17 it on the video, correct?

18 A I do.

19 Q All right. But there were people there that you
20 don't recall that you didn't testify recalling it, but you
21 actually see them on the video?

22 MR. WHITE: Objection asked and answer.

23 MR. AMMONS: I'm just trying to get clarity.

24 THE COURT: I'll allow it. Go ahead.

25 A Can you ask your question again?

1 Q There are people there that you don't recall that
2 were there. The only reason you know they were there now
3 is because they were on the video, correct?

4 A Yes, sir.

5 Q All right. So your recollection of the incident may
6 not be that clear?

7 A It is.

8 Q You saw on the video as well when you guys were
9 walking up Tydrecus kept pulling at his shirt in the back.
10 You notice that on the video?

11 A I notice he was pulling his pants up.

12 Q Kind of look like he was pulling his shirt down to
13 cover something up?

14 MR. WHITE: Objection.

15 THE COURT: Sustained. Objection sustained.

16 A I don't know. I don't see that.

17 Q Okay. Now, when you and Mr. Carmichael were having
18 words, Mr. Epps wasn't talking with you at that point in
19 time?

20 A No, sir.

21 Q He was just over by the car, correct?

22 A Yes, sir.

23 Q Okay. And you said you saw a gun on him there, but
24 you didn't see that on the video, did you?

25 A Yes, sir, I seen this on the video.

1 Q You saw the gun on video?

2 A Yes, sir.

3 Q By the car you see it?

4 A Yes, sir.

5 Q Now, you testified that when you went around the
6 building that the four of you went around the building?

7 A Correct.

8 Q And there was nobody else around the building?

9 A Yes, it was.

10 Q There was other people around the building?

11 A We could see it on the video there was other people
12 around.

13 Q Okay. Were there other people that weren't on the
14 video?

15 A What you mean?

16 Q Are there people around the side that the video
17 didn't pick up on?

18 A No, sir.

19 Q Are you certain about that?

20 A Yes, sir.

21 Q Okay. And once you went around the building, and
22 there was some more fighting, you didn't see the actual
23 shooting though?

24 A No, sir.

25 Q All right. You don't know who shot?

1 A I didn't see, I ran.

2 Q Okay. Now, you said that you thought Mr. Carmichael
3 was clutching. You saw him clutching?

4 A Yes, sir.

5 Q And by clutching, you mean clutching a gun?

6 A Yes, sir.

7 Q Is that common terminology?

8 A He brandish the gun if you want me to put it that way
9 for you.

10 Q I'm asking you about the terminology?

11 A He brandish the gun, yeah.

12 Q I'm asking you you said clutching, and I want to know
13 specifically about the term clutching, that phrase means
14 brandishing a gun?

15 A Yes, sir.

16 Q All right. And the whole time we heard on the video
17 Mr. Carmichael was asking both you and Tydrecus what you
18 clutching?

19 A Yes, sir. Do you see me clutch on something?

20 Q I'm asking you. So when he ask you what you
21 clutching, you knew what he was asking?

22 A Yes, sir.

23 Q All right. And you thought he was clutching, and he
24 thought you were clutching, but you didn't leave?

25 A I didn't think. I knew. I seen with my own eyes.

1 Q And you didn't leave?

2 A No, sir.

3 Q Okay. You went around the corner, and you and
4 Tydrecus not clutching went around the corner with someone
5 you knew was clutching?

6 A Yes, sir.

7 MR. AMMONS: No further questions, your Honor.

8 THE COURT: Any redirect?

9 MR. WHITE: Yes, sir, briefly, Judge.

10 REDIRECT EXAMINATION

11 BY MR. WHITE:

12 Q Kareem, I'm going to ask you a few questions. All
13 right. When you say the first time you saw somebody with
14 a gun, are you referring to when Tirik Johnson-Epps was
15 standing in the doorway of the car?

16 A Yes, sir.

17 (WHEREUPON, State's Exhibit 3 is being played.)

18 BY MR. WHITE:

19 Q Is that right there where you referring to?

20 A Yes, sir.

21 Q In fact, you can see a little bit of chrome poking
22 through, can't you?

23 MR. EDGEWORTH: Objection leading.

24 MR. AMMONS: Objection.

25 THE COURT: Sustained.

1 BY MR. WHITE:

2 Q Could you see the chrome poking through?

3 A Yes, sir.

4 Q Now, just want to be clear the four of you after
5 being punched by this guy right here, are the only people
6 went around the corner, correct?

7 A Yes, sir.

8 Q And they want keep saying that you were talking back,
9 but you weren't really saying anything back to these
10 folks, were you?

11 A No, sir.

12 Q And the fact I heard it on there, correct me if I'm
13 wrong, when they ask you what you clutching on, you told
14 them I'm not clutching on anything, isn't that right?

15 A Yes, sir.

16 Q Okay. So the four of y'all go around the corner.
17 They want to imply that, I guess, because you ---

18 MR. EDGEWORTH: Objection, your Honor. The
19 State continuously and has for a long time is testifying
20 in that fact. I just got to ask we ---

21 THE COURT: Hold on a minute. State the grounds
22 for your objection.

23 MR. EDGEWORTH: Yes, your Honor. Objection
24 leading the State is testifying.

25 THE COURT: Okay.

1 MR. WHITE: I'll rephrase.

2 THE COURT: Rephrase your question please.

3 Sustained.

4 BY MR. WHITE:

5 Q Okay. Kareem, did you hear yourself on the camera
6 saying no way you're doing this in front of the cameras?

7 A Yes, sir.

8 Q What were you trying to do by saying that?

9 A Diffuse the situation.

10 Q Okay. So were you trying to get them to stop?

11 A Yes, sir.

12 Q Were you trying to make them aware that they were
13 about to do something in front of a camera?

14 A Yes, sir.

15 Q Were you trying to save Tydrecus Williams life?

16 A Yes, sir.

17 Q Now, they also brought up that this area can be, I
18 guess, a dangerous place, is that right?

19 A Yes, sir.

20 Q But it's not the area is it that's dangerous?

21 A No, sir.

22 Q It's people like this that make it dangerous, isn't
23 that right?

24 MR. EDGEWORTH: Objection, you're arguing.

25 A Yes, sir.

1 THE COURT: Objection sustained.

2 MR. WHITE: I have nothing further, Judge.

3 THE COURT: Anything else, Mr. Edgeworth?

4 MR. EDGEWORTH: No, your Honor.

5 THE COURT: Mr. Ammons.

6 MR. AMMONS: Nothing, your Honor.

7 THE COURT: Sir, you may step down. Thank you.

8 (WHEREUPON, the witness leaves the witness
9 stand.)

10 THE COURT: Can the lawyers approach while he is
11 stepping away please. You're requesting that he be
12 excused?

13 MR. WHITE: Yes, sir, if he can be released from
14 his subpoena.

15 THE COURT: Any objection?

16 MR. EDGEWORTH: No objection, your Honor.

17 MR. AMMONS: No objection.

18 THE COURT: Sir, you're free to go. You're
19 excused from your subpoena.

20 (WHEREUPON, a bench conference was held in the
21 presence of the jury, but out of the hearing of the
22 jury.)

23 THE COURT: All right. Ladies and gentlemen,
24 what I was inquiring about as far as who was the next
25 witness and how long that witness may take. I've also

1 inquired about the status of your lunch. I do know I've
2 been informed that they have gone to pick up your lunch,
3 okay. So they should be back momentarily with your lunch.
4 What we're going to do right now is I'm going to go ahead
5 and send you to the jury room rather than take a chance of
6 us being out here for an extended period of time with your
7 lunch get tremendously cold or ice cold before you get it.
8 Now, some of you may have gotten a salad and cold may not
9 matter to you, but for those of you who did not, I'm going
10 to go ahead and send you back so when the lunch gets here
11 it can be immediately given to you. And it should be here
12 in the next few minutes, okay. Do not discuss the case.
13 Once -- let me give you this instruction. Once your food
14 is given to you, and you all have eaten and are ready to
15 come back out here, knock on the door, and let
16 Ms. Frances, the bailiff, know that you all are ready to
17 proceed. And we'll get you back out here as quickly as
18 possible.

19 Also, if you would do this for me while you all
20 are back there over lunch, if you would elect a foreperson
21 for this jury. And once you elect a foreperson, put that
22 in writing and give it to Ms. Frances, so she can give it
23 to me, so we'll know who the foreperson on the jury is
24 going to be, okay. You all step to the jury room again.
25 Do not discuss case, but let us know when you finish

1 eating and we'll get you back out here.

2 (WHEREUPON, the jury retire to the jury room.)

3 THE COURT: All right. Before we stand down for
4 lunch, let me say this. Before we started the trial of
5 the case, I advise everybody out in the gallery that I
6 didn't want to see any gestures, shaking of heads whether
7 it be agreement or disagreement. I've seen some of that
8 during the last testimony. Please make sure -- and I know
9 this is a very emotionally charged trial for everybody
10 involved, but you're instructed to keep your emotions in
11 check. And while you may agree -- keep forgetting to cut
12 my microphone back on. While you may agree or not agree
13 with what's being said, keep your emotions in check. If
14 you can't do so, I'm going to have to ask you to leave,
15 okay. So just be clear on that. All right. Anything
16 from the State before we stand down?

17 MR. WHITE: No, sir, Judge.

18 THE COURT: Mr. Edgeworth.

19 MR. EDGEWORTH: No, your Honor.

20 MR. AMMONS: No, your Honor.

21 THE COURT: All right. We'll stand down.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: Anything from the State before I
24 bring the jury back out?

25 MR. WHITE: Yes, sir. Mr. Tucker brings up a

1 good point. I do want to talk about scheduling briefly,
2 Judge, what we have left this afternoon. We have our SLED
3 analyst here firearms and DNA. Next up will be crime
4 scene and Feagin, that will probably be a lengthy witness,
5 then the SLED agents, then pathology. I didn't know if
6 that was perhaps a good place to start. Keeping in mind,
7 that we will only have two witnesses left Investigator
8 Shelley with the statement and Investigator Chatlosh who
9 is our lead investigator. Depending on what defense may
10 want to do, you know, we could wrap things up tomorrow
11 early, and then break and argue and charge first thing
12 Friday morning if the Court is amenable to it. I just
13 want to propose that schedule.

14 THE COURT: Mr. Edgeworth.

15 MR. EDGEWORTH: I have no objection, your Honor,
16 if that's what the Court would like to do.

17 MR. AMMONS: That suits us.

18 THE COURT: Well, in light of the issues we've
19 had going on here, I'd like for you all to be ready to
20 argue and charge tomorrow.

21 MR. WHITE: Yes, sir, Judge.

22 THE COURT: I feel like the sooner we can get
23 this case to the jury, the better everybody involved will
24 be.

25 MR. WHITE: Yes, sir, Judge.

1 THE COURT: I plan on ordering lunch out for the
2 jury again tomorrow, all right.

3 MR. WHITE: Yes, sir.

4 THE COURT: All right, bring me the jury please.

5 (WHEREUPON, the jury came into open court.)

6 THE COURT: All right, juror number 93 has been
7 selected as our forelady, that will be your assign seat
8 throughout the remainder of the trial, okay.

9 FORELADY: Yes, sir.

10 THE COURT: All right. We are going to proceed.
11 I hope you all had a nice lunch and are ready to proceed
12 here this afternoon. I notice after we got our lunch the
13 bottom dropped out outside, so I was glad we stayed in
14 here. So at this time we going to continue the trial of
15 this case. The State's recognize call your next witness
16 please.

17 MR. WHITE: Thank you, Judge. At this time the
18 State would call Officer Justin Feagin to the stand.

19 THE CLERK: Place your left hand on the Bible
20 and raise your right hand. Do you swear that the
21 testimony that you will give in this case will be the
22 truth, the whole truth, and nothing but the truth so help
23 you God.

24 THE WITNESS: I do.

25 THE CLERK: Please be seated on the witness

1 stand and state your full name for the record.

2 WHEREUPON,

3 Justin Feagin,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. WHITE:

7 Q You'll state your full name for the record?

8 A Justin Feagin.

9 Q Officer Feagin, where are you employed?

10 A The City of Florence police department.

11 Q And how long have you been employed there?

12 A Ten years.

13 THE COURT: Hold on a minute. Can you move a
14 little closer to that microphone please make sure
15 everybody hears, okay.

16 BY MR. WHITE:

17 Q And in what capacity are you currently employed?

18 A Frontline supervisor on patrol right now?

19 Q Now, back in September of 12th 2019, were you
20 involved in the investigation of a shooting that occurred
21 at the Speedy Mart or Tiger Mart convenient store here in
22 Florence?

23 A Yes, sir.

24 Q At that time what was your role for the City of
25 Florence?

1 A I was a crime scene technician.

2 Q And what is a crime scene technician do?

3 A They usually assist the investigators with
4 photographing the scene, collecting evidence, collecting
5 any kind of or identifying any kind of evidence on the
6 scene whether that be fingerprints, blood, any other body
7 fluids, hair, and then maintaining that custody as far as
8 logging into evidence.

9 Q So documenting the scene, collecting evidence and
10 logging it in, is that essentially your task?

11 A Yes, sir.

12 Q Now, in documenting the scene, what do you do or what
13 do you use to document a crime scene?

14 A Usually, in that case, I use my digital camera which
15 was the department, and then evidence markers where the
16 evidence or items might be and then collecting that.

17 Q Now, in this particular case, you mentioned you took
18 photographs of the scene?

19 A Yes, sir.

20 Q Did you take photographs of evidence as you collected
21 it as well?

22 A Yes, sir.

23 Q I'm going to show you if I could State's Exhibits 6
24 through State's Exhibit 79. If you just flip through
25 those briefly and tell me if you recognize these

1 particular photographs?

2 A I do.

3 Q And how do you recognize them?

4 A These are the photos that were taken by me.

5 Q Okay. And is it a fair and accurate depiction of the
6 different scene -- of the scene as well as the items that
7 were collected throughout the investigation?

8 A Yes.

9 Q And have there been any altercations or deletions
10 made to those photographs?

11 A No, sir.

12 MR. WHITE: Judge, at this time I move State's
13 Exhibit 6 through 79 into evidence.

14 THE COURT: Mr. Edgeworth, have you seen the
15 photographs?

16 MR. EDGEWORTH: I believe they were the ones we
17 checked before. Let me look one more time, your Honor.

18 THE COURT: Mr. Ammons, if you walk over there,
19 so you all can look at them together please or vice versa.

20 MR. EDGEWORTH: No objection, your Honor.

21 MR. AMMONS: No objection.

22 THE COURT: Very well. So admitted without
23 objection.

24 (WHEREUPON, State's Exhibits Nos. 6-79 were
25 admitted into evidence.)

1 MR. WHITE: Thank you, Judge. And I would ask
2 for permission to publish these photographs to the jury.

3 THE COURT: Yes, sir.

4 BY MR. WHITE:

5 Q All right, Officer Feagin, we're just going to walk
6 through these kind of one by one. The first tell me how
7 do you document a crime scene? What is your process and
8 what are you looking for?

9 A So first we usually walk through the scene with an
10 investigator. I identify the items that need to be taken
11 if not, and then usually I'll lay out or I'll take general
12 photos of the incident location. And then I'll move in
13 further and take closer photos of the items that are going
14 to be collected.

15 Q Very good. And you're looking for things of
16 evidentiary value as you go, is that right?

17 A Yes.

18 Q I'm going to show you State's Exhibit 6. First, I
19 want to make sure everybody can see that. What do we have
20 here? What is this photograph depict?

21 A That is the Speedy Mart sign in front of the store.

22 Q And is that the incident location?

23 A Correct, yes, sir.

24 Q And do you have the address for that particular
25 location?

1 A That is 207 West Lucas Street.

2 Q Is that in the City of Florence?

3 A Yes.

4 Q In the County of Florence?

5 A Yes.

6 Q State's Exhibit 7 what is that depict?

7 A That is the front picture of the store.

8 Q State's Exhibit 8 what we see here?

9 A That is the left side of that building.

10 Q Now, what side of the road or which road is that side
11 of the building face?

12 A West Lucas Street.

13 Q State's Exhibit 9 is that another photograph ---

14 A That's the same side of that building.

15 Q Are you spanning kind of towards the left as you go?

16 A Correct. I'm trying to get all that evidence in that
17 photograph which is -- if you can look to the left of that
18 photo, there's a really small square yellow evidence
19 marker and that's trying to get that damaged magazine that
20 was left in the road.

21 Q And that brings up a good point. We're going to see
22 those evidence markers in just a minute, but what draws
23 your attention and makes you decide to put down an
24 evidence marker?

25 A If it appears to be have some kind significance to

1 the actual incident itself or if we see something that
2 this might be related to the case as well.

3 Q So sometimes you may document something or put down
4 an evidence marker on something that has no evidentiary
5 value, is that correct?

6 A Sometimes, yes.

7 Q State's Exhibit 10 is that again you're just kind of
8 traveling to the left?

9 A Yes, sir.

10 Q State's Exhibit 11 what we see here?

11 A That is just a square on shot of that side of that
12 building.

13 Q Is it starting to get closer to those evidentiary
14 markers?

15 A Yes, sir.

16 Q And you can kind of see them there on the pavement,
17 is that right?

18 A That's right.

19 Q State's Exhibit 12, again, you're just spanning to
20 the left, is that right?

21 A Yes, sir.

22 Q State's Exhibit 13?

23 A Just the backside of that looking back the other way.

24 Q State's Exhibit 14. I'm going to draw your attention
25 if I could, Officer Feagin. You see that PVC pipe there

1 in the background?

2 A Yes, sir.

3 Q What is that?

4 A That is a piece of a scene -- a curtain that's hiding
5 stuff that we don't want the public to see?

6 Q And in this case is that scene curtain covering up
7 the body of Tydrecus Williams?

8 A Yes.

9 Q So if you can look at that photograph just there to
10 the left is that where his body is laying?

11 A Yes, sir.

12 Q State's Exhibit 15 what is that depict there?

13 A That's just another general photo of that trying to
14 get all that in there, that's all.

15 Q Let's zoom in on your next photograph State's Exhibit
16 16. What evidentiary marker is that?

17 A That is evidence marker number one which is marking
18 the two sandals or flip flops that were collected.

19 Q State's Exhibit 17?

20 A That's just putting one into how they relate to each
21 other. Marker number one to marker number two.

22 Q And then State's Exhibit 2 what do we have there?

23 A That is a cell phone that I collected as well.

24 Q And it looks there's a piece of change there to the
25 right, is that correct?

1 A Yes, sir.

2 Q And, again, correct me if I'm wrong, but you are
3 taking general photographs of the scene, and then you kind
4 of zoom into evidence and zoom back out to show it's
5 relation to other pieces of evidence and to the general
6 crime scene, is that right?

7 A Yes, sir.

8 Q Now, you mention it before this is State's Exhibit 3,
9 is that right?

10 A Yes, sir.

11 Q Or excuse me evidentiary marker three. This is
12 State's Exhibit 20. And going back to State's Exhibit 19
13 can you see evidentiary marker three there in its relation
14 to those particular items?

15 A Yes, I can see it through the two yellow golds right
16 there.

17 Q Okay. Now, State's Exhibit 20 and that's the
18 magazine that was recovered, correct?

19 A Yes, sir.

20 Q Okay. When you -- in State's Exhibit 21, that's just
21 a close up photograph of the same. When you get evidence
22 and you documenting evidence, you come along evidence what
23 do you do with it? You don't just leave it there, do you?

24 A No, sir.

25 Q What do you do you collect it?

1 A I collect it, yes, sir. And then secure it in my
2 patrol vehicle or at that time my crime scene vehicle, and
3 then I take it back to my locker in the CSU lab.

4 Q Okay. In this particular piece of evidence marker
5 three on State's Exhibit 21, and it appeared that that
6 magazine had been run over?

7 A Yes, sir. It appear it had been damaged by
8 something, yes, sir.

9 Q State's Exhibit 22 is that a picture of the same in
10 its to other pieces of evidence?

11 A Yes.

12 Q State's Exhibit 3 or State's Exhibit 23 marker three
13 and that's the spring from the magazine, is that right?

14 A Correct, yes, sir.

15 Q Could you tell -- would have any knowledge of how
16 long that particular item was out there in the roadway?

17 A No, sir.

18 Q Could it have been out there for a day?

19 MR. EDGEWORTH: Objection calls for speculation.

20 THE COURT: He's already answered the question.

21 MR. WHITE: Yes, sir.

22 THE COURT: Move on please.

23 MR. WHITE: Yes, sir.

24 BY MR. WHITE:

25 Q And in State's Exhibit 24 the other picture of the

1 same, correct?

2 A Yes, sir, that is.

3 Q Okay. Now, we're getting into State's Exhibit 25,
4 and you're evidentiary marker four. What is that depict?

5 A That is a photo of a spint casing.

6 Q Okay. And did you find several spint casings there
7 on scene?

8 A I located some and so did patrol.

9 Q Okay. State's Exhibit 26 is that a close up of the
10 same?

11 A Yes, sir.

12 Q State's Exhibit 27 depicts evidentiary marker four,
13 five, six, seven, eight and nine and that's a good picture
14 it shows the relation of all those items to one another.
15 What were all those items?

16 A Most of them were spent casings. I think number nine
17 was something else.

18 Q Okay. We'll go through it, and we'll double check.

19 A Okay.

20 Q State's Exhibit 28 so five would have been a spent
21 casing, is that right?

22 A Yes, sir.

23 Q State's Exhibit 29 that's five and six in their
24 relation to one another?

25 A Yes, sir.

1 Q State's Exhibit 30 your marker six what is that
2 particular item?

3 A Another spent casing.

4 Q State's Exhibit 31 your marker six, and it's relation
5 to the other markers, is that right?

6 A Yes, sir.

7 Q State's Exhibit 32 your marker seven what do we have
8 here?

9 A A spent casing.

10 Q Okay. State's Exhibit 33 marker seven and eight what
11 do we have on this particular photograph?

12 A Just how marker number seven relates to number eight,
13 but they're both spent casing.

14 Q State's Exhibit 34 number eight you testified is a
15 spent casing, is that right?

16 A Yes, sir.

17 Q State's Exhibit 35 eight, seven and nine, and their
18 relation to one another, is that right?

19 A Yes, sir.

20 Q And those were all shell casings that we just
21 covered, is that correct?

22 A Yes, sir.

23 Q Now, I want to show you State's Exhibit 36 and that's
24 your marker nine?

25 A That's right, yes, sir.

1 Q Okay. So we saw that photograph earlier nine was on
2 the ground, but that was just to show the relation because
3 you can't hold nine up, is that correct?

4 A Correct, yes, sir.

5 Q Now, did you have any idea what this hole in the wall
6 is?

7 A It appears to be a bullet hole, I'm unsure.

8 Q But it could not be a bullet hole, correct?

9 A It could.

10 Q Now, where did you say you work and what division are
11 you working now in the City of Florence?

12 A Patrol unit.

13 Q Okay. And so you really don't know how long that
14 hole has been there, do you?

15 A No, sir.

16 Q Okay. You don't know if it was made that night or
17 other night entirely?

18 A That's correct.

19 Q And you also don't know if it's a bullet hole or if
20 it's not?

21 MR. AMMONS: Objection leading.

22 BY MR. WHITE:

23 Q Do you know whether or not that's a bullet hole?

24 A Not definitively, no.

25 Q State's Exhibit 37 and, again, I know it's

1 monotonous, but, you know, I want to paint a picture of
2 the scene. This is in relation of all the items that we
3 previously mentioned, correct?

4 A That's right.

5 Q State's Exhibit 38 your mark ten what do we have
6 there?

7 A A spent casing.

8 Q State's Exhibit 39 your marker ten, 11, and 12. What
9 do we have here.

10 A I'm just showing how ten relates to 11 and 12.

11 Q State's Exhibit 40 marker 11 what does that depict?

12 A A spent casing.

13 Q State's Exhibit 41 this another relation?

14 A Relation, yes, sir.

15 Q Okay. State's Exhibit 42 your marker 12 what is that
16 photograph depict?

17 A A spent casing.

18 Q State's Exhibit 43 is that close up of the same?

19 A Yes, sir.

20 Q Now, we're kind of on the other side of that crime
21 scene curtain that you mentioned earlier State's Exhibit
22 44. This is on the other side of what we just looked at
23 earlier, is that correct?

24 A That's right.

25 Q And is that the crime scene curtain to the left and

1 Mr. Williams body to the right?

2 A Correct.

3 Q State's Exhibit 45 I see you have a marker there
4 marker 13. What is marker 13 indicate?

5 A That labeled as the victim.

6 Q State's Exhibit 46 is that another angle?

7 A Yes, sir.

8 Q State's Exhibit 47 what do we have here, Officer
9 Feagin?

10 A Appear to be items that came from the victim.

11 Q Okay. And they were -- and you can see the blood
12 spots. Those were close to this young man's body?

13 A Yes, sir.

14 Q And I want to draw your attention to the comb there,
15 and then ask you State's Exhibit 48 what does that depict
16 beside the comb?

17 A Some change a nickel and a dime.

18 Q Okay. State's Exhibit 49 and at this point had Mr.
19 Williams body been removed from the scene?

20 A Yes, sir.

21 Q Is that photograph to continue to depict everything
22 you're trying to capture but also the amount of blood?

23 A Yes, sir.

24 Q State's Exhibit 50 you working back toward the
25 roadway, is that right?

1 A That's right.

2 Q And there's some items of evidence a little closer to
3 the road?

4 A Yes, sir.

5 Q State's Exhibit 1 is that one of those items?

6 A Yes, sir.

7 Q State's Exhibit 52 your marker 14, is that right?

8 A Yes, sir.

9 Q State's Exhibit 53 and, again, your marker 14. What
10 was marker 14?

11 A A spent casing.

12 Q State's Exhibit 54 what do we have here?

13 A Just the 14 how it relates to marker number 15.

14 Q And State's Exhibit 55 marker 15 what do we have?

15 A A spent casing.

16 Q Now, how many shell casings were recovered from the
17 scene, do you recall? I told you there were ten will that
18 refresh your recollection?

19 A It sounds right, yes, sir.

20 Q Now, the shell casings specifically what, if
21 anything, did you do with them once you bagged them at the
22 scene?

23 A So as soon as I collected those items, I secured them
24 in my truck, and then took them back to the lab in my
25 locker.

1 Q Are you aware that those items of evidence were then
2 sent to SLED laboratory South Carolina Law Enforcement
3 Division for analysis?

4 A Some of those items, yes, sir.

5 Q Okay. Now, as part of your job duties, obviously we
6 just showed you documenting a scene, correct, but
7 sometimes in investigations there were more than one
8 scenes, right?

9 A Yes, sir.

10 Q And it's not always the incident location?

11 A Correct.

12 Q Is one of your job duties documenting evidence that's
13 collected when a search warrant is executed?

14 A Yes, sir.

15 Q And did you do that in this particular case?

16 A Yes, sir.

17 Q Do you recall executing a search warrant at Sanborn
18 Street which was the residence of Defendant Tirik
19 Johnson-Epps?

20 A Yes, sir.

21 Q And did you document that scene and things that you
22 recovered?

23 A Yes, sir, I did.

24 Q And were you aware of what you were looking for what
25 was specified in the warrant?

1 A Usually, the lead investigators and other
2 investigators they usually are searching those items, and
3 I'm just there to document it and collect those items.

4 Q I understand. Is one of the things that you
5 generally are looking for in any given search warrant is
6 clothes that match the description from the incident?

7 A Yes, sir.

8 Q And is another one ammunition or firearms that may be
9 used in the commission of the crime?

10 A Yes, sir.

11 Q I'm going to show you State's Exhibit 56.

12 MR. AMMONS: Your Honor, at this time I just
13 renew my objection from the previous motion.

14 THE COURT: So noted for the record.

15 BY MR. WHITE:

16 Q State's Exhibit 56 is this inside the home of Tirik
17 Johnson-Epps?

18 A Yes, sir.

19 Q And that's the -- and obviously you took a lot of
20 photographs at that scene, correct?

21 A Yes, sir.

22 Q But specifically the items that you were looking for
23 you always photographed those, right?

24 A Correct.

25 Q State's Exhibit 57 were those jeans there on the

1 hamper were those a particular item of interest?

2 A Yes, sir.

3 Q Is that why you photographed them?

4 A Yes, sir.

5 Q And are these whitewash jeans that were believed to
6 have been worn by Tirik Johnson-Epps?

7 MR. EDGEWORTH: Objection leading.

8 THE COURT: Rephrase your question.

9 BY MR. WHITE:

10 Q Were these jeans believe to been worn ---

11 MR. EDGEWORTH: Objection calls for speculation.

12 THE COURT: Can you all approach please.

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury on the record, but out of the
15 hearing of the jury.)

16 MR. EDGEWORTH: Your Honor, just asking why he
17 photographed the jeans. I don't even think there's been
18 testimony that these things even of interest yet.

19 THE COURT: Well, I'm going to allow him to ask
20 that question. I mean, he can answer it.

21 MR. EDGEWORTH: May I object to facts not in
22 evidence?

23 THE COURT: You can.

24 (WHEREUPON, end of bench conference.)

25 MR. EDGEWORTH: Your Honor, at this time I'd

1 like to object to facts are not in evidence to support
2 the testimony seek to be elicited by the State.

3 THE COURT: Objection so noted for the record
4 overruled. You may ask the question.

5 MR. EDGEWORTH: Thank you, your Honor.

6 BY MR. WHITE:

7 Q Officer Feagin, are you aware that this incident
8 happened at the Speedy Mart where you were documenting?

9 A Yes, sir.

10 Q Are you aware that the incident was captured on video
11 surveillance?

12 A Yes, sir.

13 Q If I showed you a still photograph of that video
14 surveillance, could you tell me whether or not it's a fair
15 and accurate depiction of the crime scene?

16 A Yes, sir.

17 Q I'm going to show you State's Exhibit 87. And if you
18 could, tell me if you recognize that location? And if
19 it's the location that you were documenting on September
20 12th 2019?

21 A That is the location, yes, sir.

22 Q And is it a fair and accurate depiction of that
23 incident location?

24 A Yes, sir.

25 MR. WHITE: Judge, at this time I would move

1 State's Exhibit 87 into evidence. I apologize, Judge.

2 THE COURT: Any objection, Mr. Edgeworth?

3 MR. EDGEWORTH: No objection, your Honor.

4 MR. AMMONS: No objection.

5 THE COURT: Without objection so admitted. What
6 number is that again?

7 MR. WHITE: I'm sorry, Judge, that's State's
8 Exhibit 87.

9 THE COURT: All right.

10 MR. WHITE: Permission to publish.

11 THE COURT: Yes, sir.

12 (WHEREUPON, State's Exhibit No. 87 was admitted
13 into evidence.)

14 BY MR. WHITE:

15 Q Now, Officer Feagin, the gentleman with looks like a
16 cigar hanging out of his mouth, do you see his pants?

17 A Yes, sir.

18 Q I'm going to show you State's Exhibit 58. Are those
19 pants y'all were looking for?

20 A Yes, sir.

21 Q State's Exhibit 59 more of the same?

22 A Yes, sir.

23 Q And, again, just to be clear, this warrant was
24 executed at the home of Tirik Johnson-Epps at Sanborn
25 Street, is that correct?

1 A Yes, sir.

2 Q State's Exhibit 60 those the pants again?

3 A Yes, sir.

4 Q And one of the reasons -- let me ask you this is one
5 of the reasons why you are so careful to document anything
6 really is because -- is it because you take it back to the
7 lab and then document it again?

8 A Yes, sir.

9 Q State's Exhibit 61 now I'm going to show you State's
10 Exhibit 62. What were these items that you found?

11 A That's ammunition and money.

12 Q And here State's Exhibit 63?

13 A That's the same .22 caliber ammunition and money.

14 Q And you said it's a .22 caliber ammunition. If you
15 could recall back to the crime scene that magazine that
16 you found, what was the ammunition in that particular
17 item?

18 A A .22 caliber.

19 Q State's Exhibit 64?

20 A Just another shot of those same items.

21 Q And State's Exhibit 65?

22 A The same item, yes, sir.

23 Q Now, let's turn our focus to those pants. Once you
24 secure those pants there at Mr. Johnson-Epps house, what,
25 if anything, do you do with them?

1 A They are taken back to the lab and secured in my
2 locker.

3 Q Okay. And then do you begin to process those -- that
4 item?

5 A Usually on a later date, yes, sir.

6 Q I'm going to show you State's Exhibit 66. Is this
7 photograph taken inside your lab?

8 A Correct, yes, sir.

9 Q State's Exhibit 67 are these the pants in question?

10 A Yes, sir.

11 Q State's Exhibit 68 the same thing?

12 A Yes, sir.

13 Q State's Exhibit 69 why are you taking so many
14 photographs of the pants?

15 A Usually, as I'm taking all these photos, I'm doing
16 invisible inspection of them just to see if I see anything
17 that pops to me.

18 Q State's Exhibit 70 are you continuing to do just
19 that?

20 A Yes, sir.

21 Q State's Exhibit 71 just taking a photo of the actual
22 tag on the back. And you said you're doing your visuals
23 scan, and is your visual scan produce any results?

24 A Yes, sir, I did locate a dark stain at the bottom of
25 the right pants leg.

1 Q State's Exhibit 72 is that the stain you're referring
2 to?

3 A Yes, sir.

4 Q State's Exhibit 73 are you trying to orient that
5 particular stain?

6 A Just showing where I located that on the pants, yes,
7 sir.

8 Q State's Exhibit 74 what are doing here, Officer
9 Feagin?

10 A Taking photos of that syringe are the actual scapula
11 that I use to cut that sample out.

12 Q State's Exhibit 75?

13 A Just the backside of it until, you know, it was still
14 sealed.

15 Q State's Exhibit 76?

16 A Just another photo of where I located it.

17 Q And State's Exhibit 77 what do we have going on here?

18 A That is the piece removed from the actual pair of
19 jeans.

20 Q This is after you cut it out?

21 A Correct.

22 Q State's Exhibit 78?

23 A Just another picture of where it came from and how it
24 relates.

25 Q And State's Exhibit 79?

1 A All the items used and where that piece of evidence
2 is going to be secured.

3 Q Now, once you cut that piece of pants out what, if
4 anything, did you do with it again?

5 A I packaged it, and then logged into evidence to be
6 sent to SLED.

7 Q Okay. And are you aware if it was in fact sent to
8 SLED?

9 A Yes, sir.

10 Q And who transports those items to SLED is it someone
11 from inside evidence?

12 A Yes, sir.

13 Q And are you aware that that blood spot is tested?

14 A Yes, sir.

15 Q Are you aware that it was tested against the blood of
16 the victim Tydrecus Williams?

17 A Yes, sir.

18 MR. WHITE: Beg the Court's indulgence.

19 BY MR. WHITE:

20 Q Now, after you send items to SLED, they typically
21 send them back to you once they've completed their
22 analysis, is that right?

23 A Yes, sir.

24 Q And going to show you State's Exhibit 85 -- 84 and 85
25 could you tell me do you recognize those particular items?

1 A I do.

2 Q And are those items -- and let me ask you
3 specifically, are those items that you tested or came back
4 to the lab with you, you logged into evidence and then
5 sent to SLED?

6 A Yes, sir.

7 Q Is this how they send them back to you from SLED?

8 A Yes, sir.

9 Q Now, I'm going to show you 88, Officer Feagin. Tell
10 me if you recognize that item?

11 A Yes, sir.

12 Q And is that more items that were collected from the
13 scene and process by you, taken to your lab, and then
14 stored into evidence?

15 A Yes, sir.

16 Q I'm going to show you State's Exhibit 89. Do you
17 recognize that one as well?

18 A Yes, sir, both of those.

19 Q And these two that I have in my hand 88 and 89 are
20 these the shell casings and projectiles that were
21 recovered from the scene at Mr. Williams body?

22 A Yes, sir.

23 Q And these items of evidence that I showed you 84 as
24 well as 85 are these the items, the cutting of the blood
25 spot in a blood spot in which to test Tydrecus Williams?

1 A Yes, sir.

2 MR. WHITE: Beg the Court's indulgence just one
3 moment.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MR. WHITE:

6 Q Before I get you down, Officer Feagin, or turn you
7 over to defense attorneys, tell us a little bit about how
8 evidence is stored there at the City of Florence?

9 A Before I'm able to process it within our lab, it's
10 stored in my crime scene locker. And then after, I'm
11 packaging those items, then I log it into our evidence
12 locker. And those are stored until trial or those items
13 be sent to SLED.

14 Q Now, those items are they secured?

15 A Yes, sir.

16 Q Is just anybody have access to those items?

17 A No, sir.

18 Q Is it secured in a locked facility?

19 A Yes, sir.

20 MR. WHITE: Beg the Court's indulgence. Officer
21 Feagin, I have nothing more for you. Please answer any
22 questions the defense may have okay.

23 THE COURT: Mr. Edgeworth.

24 MR. EDGEWORTH: Thank you, your Honor. Please
25 the Court.

CROSS-EXAMINATION

BY MR. EDGEWORTH:

Q All right. Officer Feagin, on the early morning hours of September 12th 2019, you arrived on the scene. Do you recall about when you did that?

A As far as the time?

Q Yes, sir.

A I'm not sure. Maybe, it was after three o'clock had to be three o'clock in the morning.

Q Okay. Well, when you came on the scene, they're already officers and responders on the scene, correct?

A Yes, sir.

Q Okay. You weren't the first one on the scene?

A No, sir.

Q Okay. In fact, you probably had to be called to come out there, right?

A I did, yes, sir.

Q And tell me I maybe wrong, but would there had been an investigator already on the scene?

A Yes, sir.

Q Okay. And when you come out on the scene, you weren't together with the investigator, correct?

A Yes, sir.

Q Okay. Do y'all typically go around together?

A Most of the time, yes, sir, unless they're busy.

1 Q Sure. But when you get there, you have a discussion
2 with the investigator, correct?

3 A Yes, sir.

4 Q And he might have already gone around and identified
5 certain things that you need to take pictures of, isn't
6 that true?

7 A Yes, sir.

8 Q Okay. Now, if there comes a time that you identified
9 something that you think needs to take a picture, you
10 would discuss that with the investigator, correct?

11 A Yes, sir.

12 Q Okay. So you work in a team?

13 A Correct.

14 Q All right. Now, you were shown a bunch of photos,
15 and I like to go through a couple of them with you. Is
16 that okay?

17 A Yes, sir.

18 Q Okay. This has been entered into evidence as State's
19 Exhibit Number 12, and you've already identified that
20 photograph, correct?

21 A Yes, sir.

22 Q Okay. And this is out by the roadway, correct?

23 A Yes, sir.

24 Q Okay. So we're actually looking at Lucas Street,
25 isn't that true?

1 A Correct, yes, sir.

2 Q And you got that marker -- we can see a marker, and
3 I'm sorry if I'm touching that thing. We see a marker in
4 that photo, correct?

5 A Yes, sir.

6 Q And do you recall what that marker was?

7 A That was the damage magazine.

8 Q The magazine. When you came out here to the scene,
9 were you told anything about the events that had taken
10 place other than there had been a shooting?

11 A I can't recall. I'm pretty sure, yes, sir.

12 Q Okay. No problem. I'm going to show you again.
13 It's been introduced as number 17, and you identified a
14 pair of, I guess, flip flops?

15 A Yes, sir.

16 Q Took a photo of those?

17 A Yes, sir.

18 Q Okay. And then going towards Lucas Street, there's a
19 photo what you have noted as number two, marker number two
20 and that was a phone?

21 A Yes, sir.

22 Q Okay. Going towards Lucas Street, correct? Close up
23 of that on State's number 18?

24 A Yes, sir.

25 Q That's the same phone?

1 A Uh-huh.

2 Q Again going towards Lucas Street?

3 A Yes, sir.

4 Q In fact, you can see the curb right there or at least
5 where the sidewalk end where it breaks up?

6 A The crack right here at the bottom left?

7 Q Yes, sir.

8 A I think that's still the parking lot.

9 Q But, again, you're standing on the Lucas Street side,
10 correct?

11 A Yes, sir, it's on the side.

12 Q Going back State's Exhibit 12 with that number three
13 marker again the street that now we're in Lucas Street,
14 correct?

15 A Yes, sir.

16 Q You would agree with me that it appears there is a
17 trail of evidence leading to Lucas Street?

18 A Yes, sir.

19 Q There's a close up of number three in Lucas Street
20 State's 20?

21 A Yes, sir.

22 Q Okay. Now, as part of your duties at any time were
23 you privy to or did you watch the surveillance video
24 related -- that's been introduced in this case?

25 A Yes, sir.

1 Q Okay. Did you watch the portion of the video of
2 Mr. Williams getting shot?

3 A Partially, yes, sir. I don't think the full incident
4 was on there, yes, sir.

5 Q Well, just so we're clear which portion did you see?

6 A Where the cameras were on that side of that building.

7 Q Understood. But the State has introduced a piece of
8 evidence that shows gunshots towards Mr. Williams?

9 A Correct.

10 Q And you saw that video?

11 A Yes, sir, I saw that video, yeah.

12 Q Which direction or should we say was Mr. Williams
13 going towards Lucas Street when he was getting shot?

14 A Yes, sir.

15 Q And isn't it true that he actually ended up in Lucas
16 Street?

17 A Yes, sir.

18 Q Do you have any independent knowledge whether that
19 magazine came from Mr. Williams?

20 A No, sir.

21 Q Okay. I'm going to show you what's been introduced
22 as State's Exhibit 36 see that again you've already
23 identified that?

24 A Yes, sir.

25 Q And you took that photo because you identified or

1 believed it to be a bullet hole?

2 A Correct.

3 Q Okay. Do you have any knowledge whether there was
4 any independent testing related to that particular item?
5 There was not, correct?

6 A Correct.

7 Q Okay. Is it fair to say you -- this particular --
8 let me go back a good picture. Here's a picture of that
9 side of the building that far left side of the building,
10 is that right?

11 A That's right, yes, sir.

12 Q And the bullet hole would have been on that far left
13 side of the building?

14 A Yes, sir.

15 Q Back towards -- going looking back towards Lucas
16 Street like from Lucas Street looking towards the
17 building, correct?

18 A Yes, sir.

19 Q So that was a bullet hole it came from Lucas Street?

20 A Yes, sir.

21 Q Since, there was no testing done on the bullet hole
22 that was in the wall, we don't know what caliber of bullet
23 could have caused that, correct?

24 A No, sir.

25 Q We don't know whether it was a .22?

1 A No, sir.

2 Q Now, you took some photos of some personal items that
3 were near Mr. Williams' body, is that true?

4 A Yes, sir.

5 MR. EDGEWORTH: One second, your Honor.

6 (WHEREUPON, a pause in the proceedings.)

7 BY MR. EDGEWORTH:

8 Q Introduce as State's Exhibit 45 and paying attention
9 to facing it any ways be on the left-hand side with the
10 right hand?

11 A Yes, sir.

12 Q Can you see that?

13 A Uh-huh.

14 Q Does it appear to you that there could have been a
15 gun in that hand?

16 MR. WHITE: Judge, objection calls for
17 speculation.

18 MR. AMMONS: Sustained.

19 BY MR. EDGEWORTH:

20 Q Now, you presented to aid and assist in the execution
21 of the search warrant, that you just testified to you just
22 testified to?

23 A Yes, sir.

24 Q And you retrieved items, documented those items, and
25 then subsequently had some set off, correct?

1 A Yes, sir.

2 Q Did you participate in the execution of -- let me ask
3 this a different way. You didn't aid or assist in any
4 other search warrants and obtained any items that
5 purportedly were owned by Mr. Carmichael, did you?

6 A No, sir.

7 MR. EDGEWORTH: No further questions of this
8 witness, your Honor.

9 THE COURT: Mr. Ammons.

10 MR. AMMONS: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MR. AMMONS:

13 Q Told the jury yesterday that these gentlemen had done
14 a pretty good job. I won't have too much I believe, but I
15 will walk back up here. Officer Feagin, some pictures
16 shown to you about orienting the scene. I'm trying to
17 figure out which one it is here. But I want to ask you
18 first about your job as a crime scene tech. Is part of
19 that job to collect fingerprints?

20 A Yes, sir.

21 Q All right. And did you collect -- you didn't collect
22 any fingerprints on this scene?

23 A No, sir.

24 Q All right. Particularly, you didn't collect any
25 fingerprints on that .22 magazine, did you?

1 A No, sir.

2 Q And you didn't collect any fingerprints on the .22
3 bullets found at the address at Sanborn, is that correct?

4 A No, sir.

5 Q All right. You recall taking pictures of the
6 magazine back at the crime scene lab?

7 A Uh-huh.

8 Q And those weren't introduced into evidence today,
9 were they?

10 A No, sir.

11 Q All right. But do you recall that that was a -- do
12 you recall that magazine was a Winchester Super Long
13 Riffle .22 magazine?

14 A I know it was a .22 I'm not sure.

15 Q But it could have been a .22 long riffle. Can you
16 tell from the picture?

17 MR. AMMONS: I beg the Court's indulgence. I
18 have a lot of pictures right here.

19 (WHEREUPON, a pause in the proceedings.)

20 BY MR. AMMONS:

21 Q That State's Exhibit 20 you can't tell from that
22 picture, can you?

23 A No, sir.

24 Q All right. But the picture you took in the lab would
25 have a much closer up picture, is that correct?

1 A Yes, sir.

2 Q All right. Do you recall what kind of .22 bullets
3 that were recovered from the house on Sanborn? I'll pull
4 up the picture for you. I think it's State's Exhibit 62.
5 That's State's Exhibit 62. Can you see that?

6 A Uh-huh.

7 Q Now, what kind of .22 bullets are those?

8 A I can't tell by that picture. I think it says short.

9 Q All right. Does it say -- it actually says hollow
10 point .22 short.

11 A Okay.

12 Q All right. That's different from a .22 long,
13 correct?

14 A Uh-huh.

15 Q And those wouldn't be compatible, would they?

16 A No.

17 Q Here's State's Exhibit 63, it's a little bit clearer
18 one, but it does clarify that's hollowed point .22 short,
19 right?

20 A Yes, sir.

21 Q Those are not Winchester?

22 A No.

23 Q Okay. As part of a crime scene investigation, you do
24 collect gunshot residue?

25 A Sometimes, yes, sir.

1 Q And gunshot residue that's just -- it's found
2 typically on the hands correct or even on the body?

3 A Yes, sir.

4 Q And that indicates that you -- it could indicate that
5 you actually fired a weapon or had a weapon fired in very
6 close proximity, is that correct?

7 A Yes, sir.

8 Q All right. You didn't do any GSR test on
9 Mr. Williams, did you?

10 A No, sir.

11 Q Okay. That might have been helpful?

12 MR. WHITE: Judge, objection.

13 THE COURT: Objection sustained.

14 THE WITNESS: May I answer that, your Honor?

15 THE COURT: Sir.

16 THE WITNESS: May I answer that?

17 THE COURT: No, sir.

18 BY MR. AMMONS:

19 Q Show you State's Exhibit 22 again. This magazine is
20 in the forefront of the picture right close to the bottom,
21 is that correct?

22 A Yes, sir.

23 Q And the marker is extended way up several feet away,
24 correct?

25 A Uh-huh.

1 Q And that's because that's where the spring was?

2 A Yeah, that's where the actual magazine was. I think
3 this is a piece of it that broke off.

4 Q And that marker -- what I'm trying to figure out is
5 this exhibit or this marker number three shows the spring?

6 A Yes, sir.

7 Q Okay. And this marker number three shows the
8 magazine?

9 A Yes, sir.

10 Q Was that marker moved to?

11 A Correct. All those items were in the general area of
12 that location.

13 Q So that marker is moved around to sit close to the
14 item?

15 A Correct.

16 Q So the magazine was actually the distance from the
17 spring?

18 A Yes, sir.

19 Q Okay. And the magazine -- see if I could find the
20 one kind of setting the scene State's showed you this one
21 State's Exhibit 19 shows that marker on the far side of
22 those telephone guidewire lines, is that correct?

23 A Yes, sir.

24 Q But with the mark there if that's sitting by the
25 spring, the magazine was actually a lot further down

1 closer to the marker number two, is that correct, right?

2 A Say it again?

3 Q So marker -- the marker if it's sitting by the
4 spring?

5 A At that spot?

6 Q At that point. Then the magazine is actually much
7 closer marker number two down closer back there on Lucas
8 Street, correct?

9 A I believe at that time that was -- it was actual the
10 magazine itself. I think it took us a while to find the
11 spring in the roadway, that's why it was moved.

12 Q You're not certain of that?

13 A What's that?

14 Q I say you're not certain of that?

15 A That marker is marking the magazine?

16 Q Yes.

17 A I'm certain at that photo, yes, sir.

18 Q Okay. And you are aware from the video that
19 Mr. Williams actually stumbled into the street?

20 A Yes, sir.

21 MR. AMMONS: All right. Beg the Court's
22 indulgence.

23 THE COURT: Yes, sir.

24 BY MR. AMMONS:

25 Q Did you notice how many bullets were in that

1 magazine?

2 A Not off the top of my head, no, sir.

3 Q State's Exhibit 21 in front of you. Can you tell how
4 many bullets are in that magazine?

5 A Seven.

6 Q All right. How many -- that magazine holds more than
7 seven bullets, correct?

8 A Yes, sir.

9 Q So there were bullets missing from that magazine? Is
10 that a yes?

11 A If it was filled all the way up, yes, sir.

12 Q All right. But it's clear that this photo it is not
13 full here?

14 A Correct, yes, sir.

15 MR. AMMONS: I don't have any more questions,
16 your Honor.

17 REDIRECT EXAMINATION

18 BY MR. WHITE:

19 Q Officer Feagin, just briefly. You can't tell if that
20 magazine found in the roadway had anything to do with this
21 incident whatsoever, can you?

22 A No, sir.

23 Q And in fact you said you watched the video. You
24 don't ever see the victim with a gun, do you?

25 A No, sir.

1 Q You don't ever see him firing a gun, do you?

2 A No, sir.

3 Q You know you explain to us a pretty exhaustive
4 process in processing the scene, is that right?

5 A Yes, sir.

6 Q When you are processing this scene, did you see a gun
7 anywhere?

8 A No, sir.

9 Q Did you see a gun close to the victim's body?

10 A No, sir.

11 Q Did you see a gun in his pocket?

12 A No, sir.

13 Q Did you see a gun in his hand?

14 A No, sir.

15 Q I want to talk to you a little bit about GSR. Are
16 you aware that victims of gun fire always have GSR on
17 them?

18 A Yes, sir.

19 Q And for that reason that's why SLED no longer test
20 victim GSR, is that right?

21 A Yes, sir.

22 Q So it would have been unfruitful to test GSR ---

23 MR. EDGEWORTH: Objection, your Honor.

24 MR. AMMONS: Objection.

25

1 BY MR. WHITE:

2 Q Would it have been unfruitful to test the GSR?

3 MR. EDGEWORTH: Calls for speculation?

4 THE COURT: Sustained.

5 BY MR. WHITE:

6 Q You did not find a gun on scene or in his hand?

7 A No, sir.

8 Q But you did find blood on the Defendant Tirik
9 Johnson-Epps pants, is that right?

10 A Yes, sir.

11 Q And that was sent to SLED?

12 A Yes, sir.

13 Q To test against the victim's blood, is that right?

14 A Yes, sir.

15 MR. WHITE: Judge, I have nothing further.

16 MR. EDGEWORTH: Your Honor, may I have
17 permission to briefly recross?

18 THE COURT: That's why I looked at you. I'm
19 sorry, Mr. Edgeworth. Go ahead, yes, sir.

20 RECROSS-EXAMINATION

21 BY MR. EDGEWORTH:

22 Q Officer Feagin, are you aware that after Mr. Williams
23 stumbles into the street on video that there is a 16
24 second gap in the video?

25 A I don't know long it was, but, yes, sir, I think it's

1 motion detected. Yes, sir.

2 Q Okay. So we have no idea what happened from the time
3 Mr. Williams went to the street until approximately 16
4 seconds later, correct?

5 A Yes, sir.

6 THE COURT: Mr. Ammons.

7 MR. AMMONS: Beg the Court's indulgence.

8 RECROSS EXAMINATION

9 BY MR. AMMONS:

10 Q You testified you had no idea whether or not that .22
11 magazine had anything to do with a crime?

12 A Correct.

13 Q All right. By that same measure, you have no idea
14 whether those .9 millimeter casings had anything to do
15 with that crime? Correct?

16 A Okay, yes, sir.

17 MR. AMMONS: Nothing further.

18 THE COURT: Sir, you may step down witness.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 THE COURT: All right, as he's stepping down,
22 ladies and gentlemen of the jury, we're going to take a
23 short break. We been going about an hour and a half. I
24 could use a stand up for a few minutes myself. I'm going
25 to let you step to the jury room. Do not discuss the case.

1 I'll get you back out here in just a few minutes.

2 (WHEREUPON, the jury retire to the jury room.)

3 THE COURT: All right. We'll stand down for a
4 few minutes.

5 (WHEREUPON, a break was taken.)

6 THE COURT: All right, the defendants anything
7 from the State before I bring the jury back out.

8 MR. WHITE: No, sir, Judge.

9 THE COURT: Mr. Edgeworth.

10 MR. EDGEWORTH: Nothing, your Honor.

11 MR. AMMONS: No, your Honor.

12 THE COURT: Bring me the jury please, ma'am.

13 (WHEREUPON, the jury came into open court.)

14 THE COURT: All right. We have all the jurors
15 back in the courtroom. Madam forelady and ladies and
16 gentlemen of the jury, we are at this time going to
17 continue the trial of the case. State's recognize call
18 your next witness please.

19 MR. WHITE: Thank you, Judge. At this time the
20 State would call Sara Zapata.

21 THE CLERK: Ma'am, if you'll please place your
22 left hand on the Bible and raise your right hand. Do you
23 swear or affirm the testimony you give in this case to be
24 the truth, the whole truth and nothing but the truth so
25 help you God?

1 THE WITNESS: I do.

2 THE CLERK: Please be seated and state your full
3 name for the record.

4 THE WITNESS: Sarah Zapata, that's Z-A-P-A-T-A.

5 DIRECT EXAMINATION

6 BY MR. WHITE:

7 Q Ms. Zapata, where are you employed?

8 A At the South Carolina Law Enforcement Division
9 commonly known as SLED.

10 Q And how long have you been employed there?

11 A About seven and a half years.

12 Q And what do you do for South Carolina Law Enforcement
13 Division?

14 A I am a DNA analyst in the DNA case work department.

15 Q And what is a typical day look like for you? What do
16 you guys do in the DNA department?

17 A We receive evidence either from evidence control or
18 from our serologist. And we'll take evidence through all
19 of our laboratory procedures to try to develop a profile.
20 We'll determine if that profile is suitable for
21 interpretation. We'll also take known standards. So
22 that's a sample from a known individual to compare to the
23 unknown profiles from the evidence. And we will take that
24 sample through all of the same procedures that we took the
25 evidence to also develop a profile, and then we will make

1 comparisons, calculate statistics and prepare a report.

2 Q And are agencies across the state sending you guys
3 DNA to analyze in that capacity?

4 A Yes.

5 Q Now, how does one become a DNA analyst for SLED?

6 A What like the training process?

7 Q Yeah, walk us through your training and education if
8 you would?

9 A Sure. I have a bachelor of science in forensic
10 science from the Pennsylvania State University. And then
11 upon employment at SLED, I went through a training process
12 for approximately a year and a half under a court
13 qualified analyst.

14 THE COURT: All right. Everybody step to the
15 jury room. Do not discuss the case.

16 (WHEREUPON, the jury retire to the jury room.)

17 THE COURT: I'm going to ask you to step down.
18 Do not discuss your case.

19 (WHEREUPON, the witness stepped down from the
20 witness stand.)

21 THE COURT: We going to stand down a few
22 minutes. I've asked court personnel to get the cleaning
23 staff up here. She did throw up. How much I don't know.
24 I'm not going over there to look. I'll let them deal with
25 that, but we'll stand down -- that's got to be cleaned up,

1 so we'll stand down.

2 (WHEREUPON, a break was taken.)

3 THE COURT: I talk with the lawyers back in
4 chambers. I think everybody in the courtroom for the most
5 part saw what happened, had a juror that vomited in the
6 courtroom in the jury box. I immediately send all the
7 jurors out. I instructed Ms. Frances to tell her to
8 remain in the restroom instead of placing her back in the
9 jury room with all the jurors. In talking to the lawyers
10 back in chambers, I am going to send or bring out the 11
11 jurors to start with. I'm going to send them home for the
12 balance of the day. And I'm going to bring this final
13 juror out and send her home, and ask them to be back
14 tomorrow morning at nine o'clock to see hopefully she'll
15 be feeling fine at that point. Anything from the State?

16 MR. WHITE: Judge, I just want to mention a
17 quick conflict, scheduling conflict that we have with our
18 pathologist. She has something to do tomorrow morning
19 from eight to ten. She said she'd be here at noon. I
20 just want to let the Court know.

21 MR. TUCKER: Judge, for the record, she teaches
22 in addition to her duties as a pathologist. And she says
23 she has no one to cover for her and that class is pretty
24 important to that curriculum, but she can be here at noon
25 at the latest.

1 THE COURT: Okay. All right. If you'll bring
2 the 11 in, tell them they don't have to go in the jury
3 box. They can just stand right here.

4 (WHEREUPON, the jury came into open court.)

5 THE COURT: All right. Ladies and gentlemen,
6 what I'm going to do is send you home for the balance of
7 the day to ensure that this juror is okay. And do
8 whatever we need to do for cleaning purposes up here,
9 okay. I'm going to ask you don't discuss this case at all
10 with anybody. Again, no one is suppose to contact you or
11 try to discuss this case with you. Do not do any
12 independent investigation on your own. As I've said from
13 the outset, you are to decide this case based solely upon
14 evidence and testimony presented in this courtroom and
15 nowhere else. You all be back here tomorrow morning at
16 9:30, 9:30, okay.

17 (WHEREUPON, the jury is excused for the day.)

18 THE COURT: This is juror number 157. Ma'am,
19 I'm going to send you home for the day or the evening.
20 I've instructed the remaining jurors to be back tomorrow
21 morning at 9:30. I'm going to give you the overnight hope
22 you feel better. As I told you from the outset and I told
23 the other jurors before I release them, do not discuss the
24 case at all with anyone. Do not do any independent
25 investigation on your own. As I have said, you are to

1 decide this case based solely upon the evidence and
2 testimony presented in this courtroom, but please be back
3 tomorrow morning at 9:30. If there's an issue, I ask my
4 deputy clerk of court to make sure that you have the
5 appropriate phone numbers to reach out to, but I'm going
6 to send you home for the evening in hopes that you feel
7 better.

8 JUROR: Thank you.

9 (WHEREUPON, juror number 157 is excused for the
10 day.)

11 THE COURT: Okay. All right. Anything further
12 from the State?

13 MR. WHITE: No, sir, Judge.

14 THE COURT: Mr. Edgeworth.

15 MR. EDGEWORTH: Nothing, your Honor.

16 THE COURT: Mr. Ammons.

17 MR. AMMONS: No, your Honor.

18 THE COURT: All right. We'll stand at ease. I
19 think we had talked about nine o'clock in the morning --
20 9:30 because I know individual that was on the stand I'm
21 assuming they live in Columbia at SLED.

22 MR. TUCKER: They both assured me they could be
23 here at nine, your Honor.

24 THE COURT: Well, I told them 9:30 just to --
25 taking into consideration that they're coming from

1 Columbia as well. All right. So I guess we'll stand down
2 until 9:30 in the morning. Everybody remain seated let me
3 make sure the jury is out of here and clear.

4 (WHEREUPON, a pause in the proceedings.)

5 THE COURT: Jury is out of here and clear.

6 (WHEREUPON, the proceedings were concluded for
7 the day to be reconvened on January 26, 2023.)

8 THE COURT: All right. Anything from the State
9 before I bring the jury out?

10 MR. WHITE: No, sir, Judge.

11 THE COURT: Mr. Edgeworth.

12 MR. EDGEWORTH: Very briefly in review of my
13 notes last night, I was not clear on whether I joined in
14 defenses renewed motion as to suppressing that search
15 warrant, and I want to make sure that that was clear on
16 the record that I was in fact joining in on the motion.

17 THE COURT: All right, so noted for the record.

18 MR. EDGEWORTH: Thank you, Judge.

19 THE COURT: Mr. Ammons, anything?

20 MR. AMMONS: Nothing, your Honor.

21 THE COURT: Bring me the jury please, ma'am.

22 MR. WHITE: Judge, I think we are waiting on Ms.
23 Elaine who will need to operate the Elmo when she gets
24 back.

25 THE COURT: Well, hold on.

1 (WHEREUPON, a pause in the proceedings.)

2 THE COURT: All right, bring me the jury please
3 ma'am. Come on back up here -- I'm sorry what was her
4 name again?

5 MR. WHITE: Zapata.

6 THE COURT: Ms. Zapata, come on up here and take
7 the stand, so when the jury comes out you'll be on the
8 stand like we were yesterday when we broke, all right.

9 (WHEREUPON, the jury came into open court.)

10 THE COURT: Good morning, ladies and gentlemen,
11 I hope everyone is well today and is ready to proceed here
12 today. At this time I will recognize the State to
13 continue direct examination of this witness.

14 MR. WHITE: Thank you, Judge.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. WHITE:

17 Q Ms. Zapata, let's pick up right where we left off,
18 and you testified yesterday that you're from SLED and you
19 are in the DNA department, is that right?

20 A Yes.

21 Q Could you go over your background, your education and
22 how you came to be in that department?

23 A I have a bachelor of science in forensic science from
24 the Pennsylvania State University. And then upon
25 employment at SLED, I went through a training process for

1 approximately for a year and a half under a court
2 qualified DNA analyst and that covered all of our
3 laboratory procedures, our interpretation process,
4 statistics, writing a report. And then I had to complete
5 several mock cases several were in a oral exam, mock
6 court. And then competency exam before I was actually
7 able to perform case work for real.

8 Q And have you ever been qualified in state court in
9 the field of DNA analysis?

10 A I have.

11 Q About how many times?

12 A 18 I believe.

13 MR. WHITE: Judge, at this time I would move Ms.
14 Zapata as an expert in the field of DNA analysis.

15 THE COURT: Mr. Edgeworth, anything?

16 MR. EDGEWORTH: I have no objections, your
17 Honor.

18 THE COURT: Mr. Ammons.

19 MR. AMMONS: No objection.

20 THE COURT: All right. Ladies and gentlemen,
21 before we proceed any further with this witness'
22 testimony, let me tell you that normally a person cannot
23 give opinion testimony. Normally, when a person
24 testifies, they must testify to what they either saw,
25 heard or sense by smell or something of that nature.

1 However, there is an exception when someone is qualified
2 as an expert because of education or experience. In those
3 situations, they are permitted to give their opinion in
4 certain areas if the Court qualifies them to do so. This
5 witness is being qualified as an expert in DNA analysis to
6 give opinion testimony in that area, that does not mean
7 that you must accept the opinion, but it is evidence for
8 you to use in any way that you see fit and give it the
9 weight and credibility that you believe is appropriate.
10 Mr. White, you may continue.

11 MR. WHITE: Thank you, Judge.

12 BY MR. WHITE:

13 Q Ms. Zapata, how are items of evidence that you are
14 going to test DNA purposes received at SLED?

15 A They are logged in through our evidence control
16 department.

17 Q And do you keep a record of such?

18 A Yes, there is a chain of custody which is our
19 electronic record of how things are received and how
20 things move throughout the laboratory.

21 Q And is that document kept in the ordinary course of
22 business?

23 A Yes.

24 Q And is it show each stop that each item of evidence
25 makes on its way to your laboratory?

1 A From when it is logged into the laboratory as it
2 moves throughout the laboratory until it is returned to
3 the agency that submitted it.

4 Q Very good. I'm going to show you what's been marked
5 as State's Exhibit 90. If you could, tell me if you
6 recognize that particular document?

7 A It looks like the chain of custody four items in this
8 case.

9 Q And is it in fact the chain custody for the items in
10 this case? Does it have the same number?

11 A Yes, it has laboratory case number for this case.

12 MR. WHITE: Judge, I would move State's Exhibit
13 90 chain custody of these items of evidence into evidence.

14 THE COURT: Any objection, Mr. Edgeworth?

15 MR. EDGEWORTH: No, your Honor.

16 THE COURT: Mr. Ammons.

17 MR. AMMONS: No, your Honor.

18 THE COURT: Without objection so admitted.

19 (WHEREUPON, State's Exhibit No. 90 was admitted
20 into evidence.)

21 BY MR. WHITE:

22 Q Now, there were several items tested, is that
23 correct?

24 A Yes.

25 Q But the big ticket item was that cutting from the

1 jeans, is that correct?

2 A Item one.

3 Q Yes, ma'am. I think item one may have been ---

4 A Cutting from the pants.

5 Q Right. Correct. I'm going to show you if I could
6 State's Exhibit 85. If you could tell me if you recognize
7 that particular item?

8 A Yes.

9 Q And is that the item that we're referring to?

10 A Yes, this is a container that has the cutting from
11 the jeans, and then also my extract from the jeans.

12 Q And what is it in? What is that bag?

13 A It's a heat seal pouch.

14 Q And is that how you send it back to the agency as it
15 awaits for trial?

16 A Yes.

17 MR. WHITE: Judge, I would move State's Exhibit
18 85 into evidence.

19 THE COURT: Mr. Edgeworth, any objection?

20 MR. EDGEWORTH: Yes, approach, your Honor.

21 MR. WHITE: This is the cutting of the jeans.

22 THE COURT: Mr. Ammons.

23 MR. AMMONS: No objection.

24 THE COURT: Without objection so admitted.

25

1 (WHEREUPON, State's Exhibit No. 85 was admitted
2 into evidence.)

3 BY MR. WHITE:

4 Q And then when the item such as that cutting from the
5 whitewash jeans comes in, you have to compare against
6 something, is that right?

7 A Yes.

8 Q And what would you be comparing it to in this
9 particular case?

10 A In this case, I received a blood spot ---

11 MR. EDGEWORTH: Objection, your Honor. There's
12 a lack of foundation for this particular portion of the
13 testimony.

14 THE COURT: Restate your question.

15 BY MR. WHITE:

16 Q What did you receive for comparison purposes to
17 compare against the whitewash jeans?

18 A The ---

19 MR. EDGEWORTH: The same objection, your Honor.

20 THE COURT: All right, so noted overruled. You
21 may proceed.

22 A The standard I received for this case was item two
23 blood spot from Tydrecus Williams.

24 Q Is that a blood spot that is drawn from his body?

25 A Yes.

1 Q And that's what you compare against the DNA from the
2 jeans, is that right?

3 A Yes, so we developed a DNA profile from the evidence.
4 And then if there is a profile that is suitable for
5 comparison, we will also develop a profile DNA from the
6 standard to compare.

7 Q I'm going to show you State's Exhibit 84. If you can
8 tell me if you recognize that particular item?

9 A Yes.

10 Q And what is that item?

11 A This is the pouches that was received item two the
12 blood spot, and then my extract all in a heat seal pouch.

13 Q And that's how you send it back the agency, is that
14 correct?

15 A Yes.

16 MR. WHITE: Judge, I move State's Exhibit 84
17 into evidence.

18 THE COURT: Any objection?

19 MR. EDGEWORTH: Yes, your Honor, objection to
20 the lack of foundation for this particular piece of
21 evidence.

22 THE COURT: So noted for the record overruled.
23 Mr. Ammons.

24 MR. AMMONS: Same objection.

25 THE COURT: So noted.

1 (WHEREUPON, State's Exhibit No. 84 was admitted
2 into evidence.)

3 BY MR. WHITE:

4 Q Ms. Zapata, when you're doing your analysis, do you
5 document your findings?

6 A Yes.

7 Q And how do you document your findings?

8 A We prepare a report.

9 Q Is that report then turned over to the agency, and
10 the Solicitor's office who's prosecuting the case?

11 A Yes.

12 Q I'm going to show you State's Exhibit 91. Could you
13 tell me if you recognize that item?

14 A It is the copy of my report for this case.

15 Q Is it accurately depict your findings that you made
16 in your analysis?

17 A Yes.

18 MR. WHITE: Judge, at this time I'd move State's
19 Exhibit 91 report of DNA analysis into the record.

20 THE COURT: Any objection, Mr. Edgeworth?

21 MR. EDGEWORTH: Yes, your Honor. I object to
22 the lack of foundation based on the fact that some of this
23 report includes the previously objectionable evidence.

24 THE COURT: So noted for the record overruled.

25 MR. AMMONS: Join in the same objection.

1 THE COURT: All right, very well.

2 (WHEREUPON, State's Exhibit No. 91 was admitted
3 into evidence.)

4 BY MR. WHITE:

5 Q Now, there were several items tested, is that right?

6 A Yes.

7 Q And they were all -- were they all tested against
8 that blood spot of Tydrecus Williams?

9 A So the only item that was suitable for comparison was
10 the cutting from the pants. There was also an item which
11 was M-Vac collection from items five through 14, which
12 were .9 millimeter casings collected from the scene. And
13 for that item there was no human DNA detected, so there
14 was just not any DNA that was detected by our instruments,
15 so I couldn't make any comparisons to that. And then some
16 swabs from bullets where there was no analysis performed.

17 Q Okay. So the swabs from the bullet, and the shell
18 casings that were recovered, you didn't render any opinion
19 as to those items, is that right?

20 A Correct.

21 Q But you did render an opinion on the cutting of the
22 jeans, is that right?

23 A Yes.

24 Q And I'm going to?

25 MR. WHITE: If I could, Judge, publish State's

1 Exhibit 91.

2 BY MR. WHITE:

3 Q I'm going to turn over, Ms. Zapata, to page two that
4 shows your findings. And, Ms. Zapata, if you could, give
5 you us a break down of your analysis between that cutting
6 from the pants and the blood spot of Tydrecus Williams?

7 A Okay. So the very first thing that we do is once we
8 have the DNA profile is determine is it suitable for
9 comparison according to our protocols. If it is suitable
10 for comparison, then we will calculate a statistic which
11 is called a likelihood ratio. And that statistic is just
12 a comparison of one scenario over another scenario. And
13 it is going to give weight to one scenario over another.
14 And so the first thing that you will see here under the
15 proposition set, it just tells you how many people is this
16 DNA profile. And so the DNA profile was interpreted as
17 single source, so that means DNA from one individual. And
18 then the next two bullet points will be the two scenarios
19 that we are evaluating. And so the first scenario is
20 Tydrecus Williams contributed the DNA profile. And then
21 the second scenario is an unidentified unrelated
22 individual contributed the DNA profile. And then the
23 result of that comparison will be in support of one of
24 those scenarios over the other. So that next bullet point
25 is the DNA profile is approximately 990 octillion times

1 more likely if Tydrecus Williams contributed the profile
2 than if an unidentified unrelated individual contributed
3 the profile.

4 Q And I might have been straightforward, but I want to
5 make sure I cover it. The DNA that we're discussing here
6 on that cut out on those pants is blood that we're
7 discussing, is that correct?

8 A It was presumptive positive for blood.

9 Q And I'm going to flip over to page three, Ms. Zapata,
10 if you could tell me this chart at the top what is that
11 chart?

12 A This chart is a verbal scale that we use to try to
13 further explain what the numbers that we obtained from our
14 statistical comparison mean. And so if you look at that
15 first section of the chart, the supported proposition is
16 the first proposition in this case. So the scale -- the
17 highest value on that scale is one million and that we
18 consider very strong support.

19 Q And to break it down what we're discussing is -- let
20 me ask you are -- is what we're discussing how likely that
21 that blood spot is the blood of Tydrecus Williams?

22 A The way that we calculate the statistic we can't
23 definitely say that it's blood. We can say that it was
24 presumptive positive for blood, and that the DNA profile
25 developed from that spot is approximately 990 octillion

1 times more likely if Tydrecus Williams contributed the
2 profile than if an unidentified unrelated individual
3 contributed the profile.

4 Q And you mention it before, but the strongest support
5 in your analysis or in that likelihood ratio is listed as
6 very strong support, is that correct?

7 A Right. On the chart, the highest we'll go is very
8 strong support and that is capped at one million. And
9 this is 990 octillion. So it is greater than that one
10 million on the scale.

11 Q So very strong support is just one million, correct?

12 A Yes.

13 Q And this is 990 octillion, is that right?

14 A Yes.

15 Q Is that a good bit more than one million.

16 A That would be 27 zeros after 990 and the million is
17 six zeros.

18 MR. WHITE: Beg the Court's for one moment.

19 (WHEREUPON, a pause in the proceedings.)

20 MR. WHITE: Ms. Zapata, excuse me for my voice,
21 but I don't have any more questions for you. Please
22 answer any questions the defense may have.

23 THE COURT: Mr. Edgeworth.

24 MR. EDGEWORTH: Thank you, your Honor. May it
25 please the Court.

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. EDGEWORTH:

4 Q Ms. Zapata, refer in a moment to some of these pieces
5 of evidence. And I want to show you what's been entered
6 as State's Exhibit 90, which is the SLED chain of custody.
7 You hold that for a second. This is a document that's
8 generated at SLED?

9 A Yes.

10 Q So the information that would be in this document is
11 something that would have been created by some personnel
12 at your office?

13 A Correct.

14 Q Okay. And when items come in is it true that there's
15 a system in place that says you know like every time
16 something's checked out it's logged in and that's why you
17 had that kind of logged scenario with the time stamped?

18 A Right, every time the item moves, it's scanned either
19 from an individual to a location or from a location to an
20 individual or from an individual to another individual,
21 and that's electronically captured.

22 Q Sorry, I didn't mean to interrupt. So the notations
23 that are in the chain of custody, those are drafted by an
24 in-take person at SLED?

25 A I'm not sure what you mean. Do you mean the item

1 description?

2 Q Yeah, so item number one, there's a kind of grayed
3 out area. Who puts that information in there?

4 A The individual submitting the item.

5 Q Okay. And individual submitting such as the agency?

6 A Yes.

7 Q Okay. And in that particular notation, we're talking
8 about item one which is I believe -- you testified as to
9 the cutting?

10 A Yes.

11 Q Okay. Is it -- isn't it true or does it not note
12 that that piece of evidence or the item was not tested
13 prior to you receiving or SLED receiving it?

14 A Yes, that's how they logged it in.

15 Q So they would have done nothing to that piece -- to
16 the cutting prior to or no test on it prior to SLED
17 receiving it?

18 A That is what -- that is how it was logged in.

19 Q Okay. And, I guess, what you're saying is you don't
20 have knowledge, but that's what it says?

21 A Right.

22 Q Okay, thank you. And that would have been from this
23 particular Florence police department? Sorry, I took it
24 away from you.

25 A Sorry, I have a copy as well. Yes.

1 Q Okay. So the Florence police department is not doing
2 the testing, correct?

3 A That is what they told us when they logged in the
4 item.

5 Q Okay. Now, other than receiving the pieces of
6 evidence that you referred to, do you inquire as to where
7 it comes from otherwise?

8 A It depends on the situation if we need more
9 information on how to test an item. Sometimes we ask for
10 more information.

11 Q Okay. And in this particular case, you didn't ask
12 the Florence police department where the cutting came
13 from, correct?

14 A No, I do not believe I did.

15 Q And I noted on the chain of custody that there's
16 several entries prior to you receiving it, and then some
17 entries after you received it, correct?

18 A Yes.

19 Q Okay. Were you the only individual that performed
20 test on this particular item?

21 A No, one of our forensic serologists, Rachel Wynn, did
22 the blood testing on the item. And then I use the results
23 of her testing to continue the DNA analysis.

24 Q And when you say blood testing are you talking about
25 the analysis that you just testified to?

1 A She did the presumptive test for blood, yes.

2 Q Okay. And the presumptive test is the one you just
3 talked about where you don't actually know that it's
4 blood. It just has DNA material, correct?

5 A Correct.

6 Q As you sit here today, you can't affirmatively
7 testify to absolutely whatever it was on that cutting was
8 in fact blood, correct?

9 A Right. I can say that it was presumptive positive
10 for blood, but there is not a confirmatory test performed,
11 and that is what would tell us definitively that it is
12 human blood or that it is blood, but in our typical work
13 flow if something is positive, presumptive positive for
14 blood, we'll move forward to DNA analysis.

15 Q Understood. But you did not perform a confirmatory
16 test in this particular example, correct?

17 A No.

18 Q Okay. And therefore you can't rule out that the DNA
19 that you extracted from that actually came from blood,
20 correct?

21 A Can you repeat that?

22 Q You evaluated DNA material, that's how you got your
23 results?

24 A Right.

25 Q But you can't say that that particular item was in

1 fact blood as you sit here today, correct?

2 A Correct.

3 MR. EDGEWORTH: Thank you. No further
4 questions.

5 THE COURT: Mr. Ammons.

6 MR. AMMONS: I don't have any questions for this
7 witness, your Honor.

8 THE COURT: Any redirect? Thank you, Mr.
9 Ammons.

10 REDIRECT EXAMINATION

11 BY MR. WHITE:

12 Q The spot on those jeans presumptive positive for
13 blood?

14 A Yes.

15 Q And regardless, it was DNA? You could develop a DNA
16 profile?

17 A Yes, there was a single source DNA profile.

18 Q And, again, it was 990 octillion times more likely
19 that it's Tydrecus Williams, is that correct?

20 A The DNA is approximately 990 octillion times more
21 likely if Tydrecus Williams contributed the profile than
22 if an unidentified unrelated individual contributed the
23 profile.

24 MR. WHITE: Very good. Thank you, Ms. Zapata.

25 THE COURT: Mr. Edgeworth, anything else?

1 MR. EDGEWORTH: Nothing further, your Honor.

2 THE COURT: You may step down. Thank you.

3 (WHEREUPON, the witness leaves the witness
4 stand.)

5 MR. WHITE: Judge, I would ask if Ms. Zapata
6 could be released from her subpoena?

7 THE COURT: Any objection?

8 MR. EDGEWORTH: No objection, your Honor.

9 MR. AMMONS: No, your Honor.

10 THE COURT: Ma'am, you're released from you
11 subpoena. You're free to go. Thank you. Call your next
12 witness please.

13 (WHEREUPON, the witness leaves the witness
14 stand.)

15 MR. WHITE: Judge, at this time the State would
16 call Suzann Cromer to the stand.

17 THE CLERK: Please place your left hand on the
18 Bible and raise your right hand. Do you swear that the
19 testimony you will give in this case will be the truth,
20 the whole truth, and nothing but the truth so help you
21 God?

22 THE WITNESS: I do.

23 THE CLERK: Please be seat on the witness stand
24 and state your full name for the record.

25 THE WITNESS: My name is Suzann Cromer

1 C-R-O-M-E-R.

2 WHEREUPON,

3 Suzann Cromer,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. WHITE:

7 Q Ms. Cromer, where are you employed?

8 A I'm employed by the South Carolina Law Enforcement
9 Division commonly referred to as SLED as a firearm and
10 tool mark examiner in the forensic services laboratory.

11 Q And how long have you been employed in that capacity?

12 A I have been at SLED for 24 years. I started the
13 firearm and tool mark examiner training in 2000.

14 Q Now, obviously, 24 years is a long time. You had a
15 lot of experience, but prior to that, what kind of
16 education and training did you have to get into that
17 field?

18 A I have a bachelors degree from Clemson University. I
19 did some graduate work at the University of South Carolina
20 in criminal justice. And during that program, I did an
21 internship in the SLED firearms department. I was hired
22 on to SLED, and I did their in-house training program,
23 which is a multiyear more of an apprenticeship if you will
24 where we studied under other court qualified firearms
25 examiners. We take written tests, oral tests, practical

1 exercises for each module of our training manual. And
2 then when we complete the training manual we're given a
3 comprehensive final exam that covers terms, practical
4 knowledge, and mock case work. That's graded by our
5 training officer and our lieutenant before we are allowed
6 to receive case work. I have attended numerous seminars
7 with the association of firearm and tool mark examiners,
8 which we call AFTE. AFTE is an international professional
9 organization. We meet once a year for a week-long seminar
10 to discuss relevant fields in our topic. They also offer
11 extra workshops. I've attended such workshops as
12 sub-machine gun conversion, barrel making, high-point
13 firearms familiarization, ethics. I've also taken classes
14 with the South Carolina Chapter of the International
15 Associate of Identification most pertinent being two
16 separate three-day shooting scene reconstruction
17 workshops. I've taken classes with the Bureau of Alcohol
18 Tobacco Firearms and Explosives commonly referred to as
19 the ATF. And serial number restoration and in the
20 National Intergrated Ballistics Information Network, which
21 we call NIBIN. NIBIN is a digital data base for images of
22 cartridge cases whether they are test fired or evidence
23 from a crime scene. I am the NIBIN program administrator
24 for SLED. And I'm also the representative for North and
25 South Carolina for that users group. I've also toured

1 numerous firearm manufactures such as FN, Smith & Wesson,
2 Ruger, Daniel Defense, Para USA. I've toured tool
3 manufacturers such as Ontario Knife Factory, KA-BAR,
4 Cutco, Crescent Tools just to name a few.

5 Q And this probably -- I can probably guess the answer
6 to this next question, but have you ever testified as an
7 expert in state court before?

8 A Yes, I have.

9 Q Do you have any idea how many times?

10 A It's been over 130 times in state and federal court
11 combine.

12 MR. WHITE: Thank you, very much. Judge, at
13 this time I'd move Ms. Cromer as an expert in the field of
14 firearm analysis.

15 THE COURT: Mr. Edgeworth.

16 MR. EDGEWORTH: No objection, your Honor.

17 THE COURT: Mr. Ammons.

18 MR. AMMONS: No objection.

19 THE COURT: All right. Ladies and gentlemen,
20 this individual is being qualified as an expert in the
21 area of firearms examination.

22 MR. WHITE: Yes, sir, Judge.

23 THE COURT: To expert or give an opinion. The
24 previous charge I gave to you as it relates to expert
25 opinion testimony or opinion testimony remains the same,

1 okay. Mr. White, you may continue.

2 MR. WHITE: Thank you, Judge.

3 BY MR. WHITE:

4 Q Now, Ms. Cromer, were you asked to analyze firearm
5 material in this particular case?

6 A Yes, I was.

7 Q Were you asked to analyze shell casings?

8 A Yes, I was.

9 Q Were you also asked to analyze shell casings?

10 A Yes, I was.

11 Q And were you also asked to analyze projectiles?

12 A Yes, I was.

13 MR. EDGEWORTH: Objection, your Honor. No
14 foundation for the evidence referred to in his
15 questioning.

16 THE COURT: I'll allow it at this juncture right
17 now. Objection is noted for the record.

18 MR. EDGEWORTH: Thank you, your Honor.

19 THE COURT: See where he's going.

20 MR. WHITE: Thank you, Judge.

21 BY MR. WHITE:

22 Q I'm going to show you what's been marked as State's
23 Exhibit 88. Could you tell me if you recognize that
24 particular item?

25 A State's Exhibit 88 was my container number B in this

1 case with the ten cartridge cases that I receive to
2 analyze.

3 Q And where did you receive those items from?

4 A I actually received it from another firearms examiner
5 in our department Paul Grier.

6 Q And how are items received and stored and logged in
7 SLED -- at SLED?

8 A When evidence comes into the SLED laboratory, it
9 usually comes in from the submitting agency. In this
10 case, Florence PD brings the evidence to SLED. And then
11 those technicians in our evidence control department
12 determine where it needs to go. If they want DNA testing,
13 it has to go through the evidence processing. If they
14 want fingerprints, it has to go through latent prints.
15 The firearms department is usually the last person to get
16 the evidence. So it's all logged into a computer system,
17 and then we see our assignments from there. So we know
18 that we have a case and where it has to go first before it
19 comes to us. So we will go to evidence control and pick
20 up that evidence from there.

21 Q And is it documented and logged and stored
22 information of where the items travel?

23 A Yes. As you can see this yellow bar code each piece
24 of evidence or each container has a bar code. So any time
25 this piece of -- this envelope moves from like myself to

1 take it to evidence control, we scan that bar code and
2 have to put in a password. So every place it's gone is
3 documented date and time.

4 Q And then do you seal it and send it back to the
5 agency at that point?

6 A I will seal it when I finish with my exam and take it
7 back to our evidence control department, and they can
8 return it to the agency there.

9 Q And the item that you hold in your hand are those the
10 shell casings that you received or SLED received from the
11 Florence Police Department?

12 A It is, and it's still sealed with my initials and
13 seal dates from when I returned it.

14 Q Thank you very much.

15 MR. WHITE: Judge, at this move I would State's
16 Exhibit 88 into evidence.

17 THE COURT: Any objection?

18 MR. EDGEWORTH: Yes, your Honor. There's a lack
19 of foundation for this evidence.

20 THE COURT: Can the lawyers approach a minute
21 please.

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury, but out of the hearing of the
24 jury, but on the record has began.)

25 MR. EDGEWORTH: There's been no testimony to any

1 of this being collected.

2 MR. WHITE: I think it was by Feagin.

3 MR. EDGEWORTH: No, he said he took pictures of
4 it.

5 MR. WHITE: And he collected it on scene and he
6 logged it into the locker.

7 THE COURT: That's my understanding and it was
8 subsequently transported to SLED.

9 MR. EDGEWORTH: Well, no one has testified as to
10 the fragments where they came from.

11 MR. WHITE: We talking about shell casings right
12 now.

13 MR. EDGEWORTH: I'm sure you're going to get to
14 that, that's in the report, what's why I say it's in the
15 report.

16 MR. AMMONS: The fragments that hasn't been
17 entered in.

18 THE COURT: That would have been collected
19 during the medical examination.

20 MR. WHITE: Correct, and the pathologist is
21 going to testify.

22 THE COURT: Okay.

23 (WHEREUPON, a bench conference was held in the
24 presence of the jury, but out of the hearing of the
25 jury, but on the record has ended.)

1 MR. WHITE: Judge, I would move State's Exhibit
2 88 shell casings collected from the scene into evidence.

3 THE COURT: Subject to the objection.

4 MR. EDGEWORTH: Yes, your Honor.

5 MR. AMMONS: No objection, Your Honor.

6 THE COURT: So noted and overruled.

7 (WHEREUPON, State's Exhibit No. 88 was admitted
8 into evidence.)

9 BY MR. WHITE:

10 Q I'm going to show you State's Exhibit 89. If you
11 could tell me, Ms. Cromer, if you recognize that
12 particular item?

13 A State's Exhibit 89 was my container A in this case.
14 You can see my bar code. And then my initials and seal
15 date. It contained the projectiles that I examined in
16 this case.

17 Q Now, as it relates to the shell casings, is it true
18 that sometimes you process items that are collected from a
19 scene of the crime?

20 A Yes.

21 Q Do you also collect items that are received after the
22 course of an autopsy from a body as it were?

23 A Yes, I do.

24 Q And is that what happened in this particular case?

25 A Yes, it was.

1 MR. WHITE: And, Judge, if I could at this time,
2 I would move State's Exhibit 89 into evidence.

3 MR. EDGEWORTH: Same objection, your Honor.

4 THE COURT: All right.

5 MR. AMMONS: Join in that objection.

6 THE COURT: So noted overruled.

7 (WHEREUPON, State's Exhibit No. 89 was admitted
8 into evidence.)

9 BY MR. WHITE:

10 Q Now, Ms. Cromer, when you are doing your analysis,
11 did you prepare a report?

12 A Yes, I do.

13 Q And does it accurately reflect -- well, let me show
14 it to you first. State's Exhibit 92 is that the report
15 that you drafted that shows your analysis in this
16 particular case?

17 A Yes, it is.

18 Q Does it show your analysis of the shell casings as
19 well as the projectiles?

20 A Yes, it does.

21 MR. WHITE: Judge, I move State's Exhibit 92
22 into evidence analysis for Ms. Cromer.

23 MR. EDGEWORTH: Same objection, your Honor.

24 THE COURT: So noted overruled.

25 MR. AMMONS: Same objection.

1 (WHEREUPON, State's Exhibit No. 92 was admitted
2 into evidence.)

3 BY MR. WHITE:

4 Q Ms. Cromer, if I could, I know that you analyzed or
5 at least in your report it list the projectiles first. If
6 it's all right with you, I like to start with the shell
7 casings?

8 A That's fine.

9 Q And I'm going to show you just so the records clear
10 ---

11 MR. WHITE: Judge, State's Exhibit 92 page two
12 items five through 14.

13 BY MR. WHITE:

14 Q Could you tell us everything about your analysis and
15 what you found as it pertains to those shell casings?

16 A Okay, when I receive evidence like this for a case,
17 what I do when I first get that container and start my
18 analysis is I take a picture of the packaging and make
19 sure that I document, that it's sealed. So then I open it
20 up and then I take pictures all the way through to until I
21 get down to my actual evidence. So I'm photo documenting
22 every step of the way. So I opened up each of these
23 cartridge casings individually and took pictures and I
24 take notes. I note the caliber. I note the construction
25 of these cartridge cases, what they're consistent with

1 being made of, what the primer of the cartridge case is
2 made of and the brand of manufacture. Then I actually
3 look at the markers on those cartridge case, what type
4 firing pin impression, what type of breach face markings.
5 Those are markings that are left on that cartridge case by
6 the firing processing. So once I note that they're all
7 the same caliber, then I go to my comparison microscope.
8 And I actually look at these items versus each other to
9 determine whether they were fired by the same firearm or
10 not fired by the same firearm, how many firearms could
11 have been represented in these cartridge cases. We render
12 one of four conclusions. Positive, yes, they were fired
13 by the same gun. Negative, no, these weren't fired by the
14 same gun. Unsuitable, they were too damaged to make a
15 call either way or inconclusive. And so I render my
16 conclusion. And then once I reach a conclusion, and I
17 write it down, I have a second firearms examiner come do
18 the same comparison on the microscope. They have to
19 render a conclusion as long as our conclusions agree, then
20 I can issue my report.

21 Q And what was your opinion as to these particular
22 items of evidence?

23 A It was my opinion that the individual identifying
24 markings were good enough for me to say that these
25 cartridge cases were all fired by one firearm.

1 Q Now, I want to turn our attention to items three and
2 four, and that's on the first page of State's Exhibit 92.
3 Ms. Cromer, could you tell us how you reached your opinion
4 and your analysis in these particular items?

5 A Bullets are a little different. I did the same photo
6 documenting the packing and opening it up, but we do
7 measurements and weigh these projectiles to determine its
8 caliber. And then we look at the actual riffling markings
9 that were left on the gun -- on the bullet by the gun.
10 Riffling is what's put in the gun barrel by the
11 manufacture to put rotary motion on that bullet. Very
12 similar to a quarter back who throws a football, he wants
13 it to go into a tight spiral, so it'll go more accurately
14 towards the target, that's what the riffling is doing. It
15 spins that bullet, so it will fly more accurately through
16 the air. And riffling is made up of different lands and
17 groves raised and depressed areas. So we're looking at
18 first what type of riffling because there's two types of
19 riffling. And then we look at how many lands and groves
20 are represented in that riffling. Then we look at which
21 way it's going to cause the bullet to spin. Is it going
22 to cause it to spin to the right or to the left. So I
23 kind of call it climbing the ladder to be my microscope.
24 So first I determine the caliber. I determine that these
25 bullets were consistent with .9 millimeter Luger caliber

1 bullets. Then I look riffling to see if they have the
2 same type of riffling. These both had conventional
3 riffling. Then I look at how many numbers, lands and
4 groves because you can have three or four, five. You can
5 have up to microgrove, which is in the 20s. So these both
6 had seven lands and groves, and they both were -- had
7 right twists. So meaning it was going to spin to the
8 right. So if anywhere along the way something is
9 different, I don't have to go to my microscope because
10 they couldn't have been fired by the same gun. But these
11 bullets all had the same class characteristics. They were
12 .9 millimeter Luger. They both had conventional riffling.
13 They both has seven lands and groves. They both had right
14 twists. So I went to my microscope and I did my
15 comparison. And in this case I was inconclusive as to
16 whether these were fired by the same gun. And
17 inconclusive means I can't rule them out. I can't say
18 they weren't fired by the same gun, but I can't say they
19 were either. There just wasn't enough information in
20 those individual markings because of damage for me to say
21 either way.

22 Q Now, in order to perform the test that could have
23 given you that information of whether or not it was fired
24 by the same gun, what would you have needed?

25 A To do my exam, I use a -- first, I use a balance to

1 weigh them. Then I use a micrometer to measure the
2 diameter. And then I use the comparison microscope to do
3 my actual physical exam.

4 Q And would it have been helpful in order to test those
5 projectiles to have the gun that was used to fire those
6 projectiles?

7 A If I have a firearm, then I can test fire that
8 firearm and compare those bullets to those test fires and
9 the cartridge cases as well.

10 Q I am going to show you if I could what's been entered
11 into evidence as State's Exhibit 20. Ms. Cromer, have you
12 ever taken a look at this photograph?

13 A No, I haven't.

14 Q I'm also going to show you a close up State's Exhibit
15 21. Have you ever seen this photograph?

16 A No, I haven't.

17 Q It's been previously testified that this is a
18 magazine that was collected from the scene .22 caliber
19 magazine. And I'm going to ask you your opinion as an
20 expert, Ms. Cromer. Could you tell what type of gun this
21 magazine came from?

22 A No, I would assume from a semiautomatic pistol. They
23 usually are loaded by a magazine. It could have been
24 there are some .22 riffles that use a magazine as well.

25 Q So this could have come out of a riffle?

1 A It could have.

2 Q It could have come out of the pistol?

3 A Yes.

4 Q But regardless if it came out of a riffle or a pistol
5 in your expert opinion if there would have been a gun that
6 fired from this magazine, would it have expelled a shell
7 casing?

8 A It should have, yes.

9 MR. WHITE: Beg the Court's indulgence.

10 (WHEREUPON, a pause in the proceedings.)

11 BY MR. WHITE:

12 Q Well, just to make sure, I think you testified to it,
13 Ms. Cromer. If you did, I apologize. But when you
14 testified as to the projectiles, you did say that it were
15 most consistent with a .9 millimeter Luger, is that right?

16 A That is correct?

17 MR. WHITE: Thank you so much, Ms. Cromer. I
18 don't have anything more for you. Please answer any
19 questions the defense may have.

20 THE COURT: Mr. Edgeworth.

21 MR. EDGEWORTH: Thank you, your Honor. May it
22 please the Court.

23 CROSS-EXAMINATION

24 BY MR. EDGEWORTH:

25 Q Good morning, Ms. Cromer.

1 A Good morning.

2 Q Obviously, you were charged with utilizing your
3 skills. And I want to ask you a few things about this.
4 So starting with the items that you listed in your report
5 items five through 14.

6 A Yes, sir.

7 Q Those are the shell casings that you're referring to?

8 A Yes, sir.

9 Q And in your opinion, of course, that those all came
10 from the same file?

11 A That is correct.

12 Q When we go back to the items, I think they been noted
13 as three and four the projectiles. They are of the same
14 caliber?

15 A That's correct.

16 Q And your opinion is that it's .9 millimeter Luger
17 caliber cartridges?

18 A That's correct.

19 Q And that is the same as the cartridges in items five
20 through 14 the shell casings?

21 A That is correct.

22 Q Okay. Now, in your report, I want to make sure the
23 jury understands this. You state that it's due to damage
24 that you cannot confirm whether or not it came from a
25 specific firearm, correct?

1 A Due to damage and insufficient matching individual
2 characteristics.

3 Q Okay. And damage could have come from the fact that
4 it was retrieved from the body?

5 A It could have. It could have been that, you know, it
6 hit something it bounced. Damage can come -- it can be
7 microscopic as well.

8 Q Okay. Either way you were not able to make any
9 further opinions as to where it came from?

10 A That's correct.

11 Q Okay. Now, I note for the purposes of your report,
12 you say -- and if you don't mind, I'll read it to you. It
13 could not be determined whether items three and four those
14 bullets were fired by one firearm or by two different
15 firearms with similar riffling and characteristics, that
16 is an opinion you rendered, right?

17 A Yes, sir.

18 Q Okay. It's fair to say though that you couldn't --
19 you can't rule out because you said it's inconclusive
20 then it could have come from the same gun, correct?

21 A It could have. I couldn't say they came from the
22 same gun, but I can't say they didn't either.

23 Q Understood. But the reason why you said two firearms
24 is because there were two bullets, correct?

25 A Correct.

1 Q Okay. You wouldn't have put in your report, well, it
2 could have come from one or three different guns, correct?

3 A Correct.

4 Q Okay. So the only reason why you put that in the
5 report was to reference the fact there were two bullets?

6 A Correct.

7 Q Okay. You weren't making an opinion or suggestion or
8 an expert opinion that it could have been two, right?

9 A Right.

10 Q You just simply said that because it obviously
11 couldn't have been three?

12 A Right. We only had two bullets.

13 MR. EDGEWORTH: No further questions, your
14 Honor.

15 THE COURT: Mr. Ammons.

16 MR. AMMONS: Thank you, your Honor. May it
17 please the Court.

18 CROSS-EXAMINATION

19 BY MR. AMMONS:

20 Q Ms. Cromer, I'll try to be brief. These gentlemen
21 have done a good job of questioning you so far. As far as
22 the shell casings, you are able to determine that they all
23 were fired from the same gun, correct?

24 A That is correct.

25 Q But you can't determine if they were all fired at the

1 same time?

2 A No, I cannot.

3 Q Simultaneously, you can't tell that?

4 A No.

5 Q All right. You can't determine who fired them?

6 A No, I cannot.

7 Q All right. You can't determine what gun they came
8 from unless you have a gun, correct?

9 A That is correct.

10 Q And you don't have a gun in this case?

11 A No, I did not.

12 Q So you don't know what gun it came from? Correct?

13 A That is correct.

14 Q All right. And you don't have any idea how long it
15 had been since those shells had been fired?

16 A No, I don't.

17 Q All right. So remind me again of the date that you
18 received those?

19 A Date they came to SLED or the date that I receive
20 them?

21 Q The date that they came to SLED?

22 A Let me check my notes please. The cartridge cases
23 were received by Bethany Davidson in our evidence control
24 department on 10-4 of 2019.

25 Q And you have no way of knowing whether or not those

1 cartridges were fired on September 12th of 2019?

2 A No, sir, I do not.

3 Q Okay. And you don't have any way of knowing whether
4 those bullets fragments match those casings?

5 A No, we cannot tell if this is from one gun the
6 bullets and cartridge cases or two guns without a firearm.
7 So there is no exam to match fired projectiles back to the
8 cartridge case.

9 MR. AMMONS: No further questions, your Honor.

10 THE COURT: Mr. White, any redirect?

11 MR. WHITE: Maybe, Judge. I would beg the
12 Court's indulgence for just one moment. I'm sorry, Ms.
13 Cromer.

14 (WHEREUPON, a pause in the proceedings.)

15 REDIRECT EXAMINATION

16 BY MR. WHITE:

17 Q And just briefly, Ms. Cromer.

18 A Yes.

19 Q Items three and four you are able to tell to a great
20 degree of specificity the manufacture for those particular
21 items, is that correct?

22 A That is correct.

23 Q What was that manufacture?

24 A I determine that the only known manufacture at this
25 time to use those rufflings specifications on items three

1 and four projectiles was a SCCY firearm.

2 Q And, again, all the shell casings that you tested in
3 your opinion that they were fired from the same gun?

4 A That is correct.

5 Q But you were not able to tell about the bullets that
6 were recovered from Tydrecus Williams body?

7 A That is correct?

8 MR. WHITE: Thank you, Judge. I have nothing
9 further.

10 THE COURT: Mr. Edgeworth, anything else?

11 MR. EDGEWORTH: One moment, your Honor.

12 THE COURT: Yes, sir.

13 (WHEREUPON, a pause in the proceedings.)

14 MR. EDGEWORTH: No further questions, your
15 Honor.

16 MR. AMMONS: No questions, your Honor.

17 THE COURT: You may step down. Thank you.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 MR. WHITE: Judge, I would ask if Ms. Cromer can
21 be released from her subpoena.

22 THE COURT: Any objection, Mr. Edgeworth?

23 MR. EDGEWORTH: No, your Honor.

24 THE COURT: Mr. Ammons.

25 MR. AMMONS: No, your Honor.

1 THE COURT: Ma'am, you are released from your
2 subpoena. You're free to go. Thank you.

3 MR. WHITE: Judge, may we approach for just a
4 moment.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury, but out of the hearing of the
7 jury.)

8 THE COURT: All right, ladies and gentlemen,
9 before we move on to the next witness, we're going to take
10 a short break, ask you to step to the jury room. Do not
11 discuss the case at all get you back out here when you all
12 are ready to come back. Madam forelady, if you'll knock
13 on the door and let my bailiff know, and we'll get you
14 back in here as promptly as possible, okay. Do not
15 discuss the case.

16 (WHEREUPON, the jury retire to the jury room.)

17 THE COURT: We'll stand down for a few minutes.

18 MR. WHITE: Thank you, Judge.

19 (WHEREUPON, a break was taken.)

20 THE COURT: Anything from the State before I
21 bring the jury out?

22 MR. WHITE: No, sir, Judge.

23 THE COURT: Mr. Edgeworth.

24 MR. EDGEWORTH: No, sir.

25 THE COURT: Mr. Ammons.

1 MR. AMMONS: No, your Honor.

2 THE COURT: Bring me the jury please, ma'am.

3 (WHEREUPON, the jury came into the open
4 courtroom.)

5 THE COURT: All right. We have all the jurors
6 back in the courtroom. At this time we'll continue the
7 trial of the case. Mr. White, you recognize call your
8 next witness please.

9 MR. WHITE: Thank you, Judge. At this time the
10 State would call Investigator Ashley Shelley to the stand.

11 THE CLERK: Sir, please place your left hand on
12 the Bible and raise your right hand. Do you swear that
13 the testimony you will give in this case to be the truth,
14 the whole truth, and nothing but the truth so help you
15 God?

16 THE WITNESS: I do.

17 THE CLERK: Please be seated on the witness
18 stand and state your full name for the record.

19 THE WITNESS: Sheldon Shelley.

20 WHEREUPON,

21 Sheldon Ashley Shelley,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. WHITE:

25 Q Investigator Shelley, where are you employed?

1 A City of Florence Police Department.

2 Q And how long have you been employed there?

3 A Since November of 2009.

4 Q And in what capacity are you employed? What's your
5 role in the City of Florence at this moment?

6 A Currently, Sergeant in evidence.

7 Q Now, back in September of 2019 and specifically
8 September 12th of 2019 in what capacity were you employed
9 at that time?

10 A I was a corporal in the criminal investigations
11 division.

12 Q And did you have occasion to respond to an incident
13 that occurred in the incident location being Speedy Mart
14 sometime referred to as Tiger Mart in the City of
15 Florence?

16 A Correct.

17 Q And that was on September 12th 2019, is that right?

18 A Correct.

19 Q And that is in the City of Florence?

20 A It is City of Florence.

21 Q Is it in Florence County?

22 A It is.

23 Q Now, were you lead investigator in this case?

24 A No, sir.

25 Q Who was the lead investigator?

1 A Investigator Chatlosh.

2 Q And if you were not the lead investigator but you're
3 assisting, what were your roles in a particular
4 investigation?

5 A It varies in a situation like this or depending on
6 the complexity of the case whoever's the supervisor --
7 supervising investigator on the scene will delegate
8 different responsibilities and that can vary from incident
9 to incident.

10 Q Now, correct me if I'm wrong, but in an investigation
11 like this is the lead investigator kind of point guard
12 running point?

13 A Correct.

14 Q And everybody else is just assisting, is that right?

15 A Correct.

16 Q Was that your role here?

17 A Correct.

18 Q Okay. Now, did you become aware at some point on
19 September 12th 2019, that the Speedy Tiger Mart had video
20 surveillance?

21 A Yes.

22 Q And did you watch that video surveillance?

23 A Yes.

24 Q And did recognize anyone on the video?

25 A Yes.

1 Q And who did you recognize?

2 A Quinterris Carmichael.

3 Q Now, based on the video and based on your
4 identification and subsequent identifications of
5 Mr. Carmichael, was he -- arrest warrant sought for
6 Mr. Carmichael?

7 A In this case, yes, sir.

8 Q And then at some point were you involved in taking
9 him into custody and then ultimately interviewing him?

10 A Yes, sir.

11 Q I'm going to show you State's Exhibit 1. If you
12 could tell me if you could recognize that document?

13 A Yes, sir.

14 Q And what is that document?

15 A Standard Florence Police Department waiver of rights
16 form.

17 Q And is that -- let's talk about the waiver of rights
18 the Miranda rights. What are someone's Miranda rights?

19 A Miranda rights are a set of rights that we would read
20 to someone who is lost their freedom of movement or is in
21 custody or that we're gone interrogate that we intend to
22 ask questions that maybe incriminating if that person
23 answer that question, so prior to asking those questions
24 inform that person of their rights. And they have the
25 right to legal counsel. And in short, you know, that

1 we're the police department, and they don't have to speak
2 to us if they don't wish to.

3 Q Now, you don't have to have a form like this when you
4 read someone your Miranda rights, do you?

5 A No, sir.

6 Q But do you keep one of these so that you can go over
7 each and every right?

8 A Yes, sir, read it from the sheet.

9 Q And is this a sheet that you went over Mr. Quinterris
10 Carmichael?

11 A Yes, sir, that is my signature.

12 Q And did he acknowledge each and every one of the
13 rights as you explain them to him?

14 A Yes, sir.

15 Q And did he sign a waiver of those rights at the
16 bottom here?

17 A Yes, sir.

18 MR. WHITE: And, Judge, I would move State's
19 Exhibit 1 Florence Police Department waiver of rights form
20 into evidence.

21 THE COURT: Any objection, Mr. Edgeworth?

22 MR. EDGEWORTH: No objection.

23 THE COURT: Mr. Ammons.

24 MR. AMMONS: No objection.

25 THE COURT: All right, so admitted. What number

1 is that again?

2 MR. WHITE: I'm sorry, Judge, that's State's
3 Exhibit 1.

4 THE COURT: All right, thank you.

5 (WHEREUPON, State's Exhibit No. 1 was admitted
6 into evidence.)

7 BY MR. WHITE:

8 Q Now, this incident occurred when?

9 A The incident occurred September the 12th 2019.

10 Q And I'll hand you the State's Exhibit 1 a reference.
11 When was Mr. Carmichael ultimately taken into custody?

12 A The Miranda form is dated September the 20th 2019.

13 Q Okay. On that time after you've read him his Miranda
14 rights, do you then conduct an interview with Quinterris
15 Carmichael?

16 A Yes, sir.

17 Q And was it audio-video recorded?

18 A Yes, sir.

19 Q And did that recording save to the evidence log the
20 City of Florence and then turned over to the Solicitor's
21 office?

22 A Yes, sir.

23 Q I'm going to show you what's been mark State's
24 Exhibit 2. If you can tell me that's the video and audio
25 in question?

1 A Yes, sir, it is.

2 Q And is it a fair depiction of the interview that you
3 conducted with Quinterris Carmichael on September 20th
4 2019?

5 A Yes, sir.

6 MR. WHITE: Judge, I would move State's Exhibit
7 2 into evidence.

8 THE COURT: Any objection, Mr. Edgeworth?

9 MR. EDGEWORTH: Yes, your Honor, subject to my
10 previous objection.

11 THE COURT: So noted for the record. Court's
12 ruling remain the same.

13 MR. AMMONS: Join in that objection.

14 (WHEREUPON, State's Exhibit No. 2 was admitted
15 into evidence.)

16 MR. WHITE: Judge, at this time I would ask to
17 publish the video.

18 THE COURT: All right, ladies and gentlemen,
19 before this video is published to you all, I'm going to
20 tell you that there may seem to be some redactions in
21 there. And I will tell you they are pursuant to some
22 rulings, some evidentiary rulings by the Court. It's not
23 something intentionally trying to be hidden from you by
24 the Court or anything based upon some evidentiary rulings
25 that this Court made certain things within there were not

1 to be played in front of you, and therefore they were
2 ordered to be redacted and that's why that's the case,
3 okay. Any objection or exception to what I said to the
4 jury from you, Mr. White?

5 MR. WHITE: No, sir, Judge.

6 MR. EDGEWORTH: No, your Honor.

7 THE COURT: Mr. Ammons.

8 MR. AMMONS: No, your Honor.

9 THE COURT: All right, you may publish it.

10 MR. WHITE: Can everyone see?

11 (WHEREUPON, State's Exhibit 2, a video, played
12 for the jury.)

13 BY MR. WHITE:

14 Q Investigator Shelley, is that you conducting the
15 interview?

16 A Yes, sir.

17 Q And who is the other officer in there with you?

18 A That's Lieutenant William Nida.

19 Q What's his role?

20 A He's the supervisor over on the criminal
21 investigations division.

22 MR. WHITE: Beg the Court's indulgence. Thank
23 you, Investigator Shelley. I don't have anything else
24 please answer any questions the defense may have.

25 THE COURT: Mr. Edgeworth.

1 MR. EDGEWORTH: Thank you, your Honor. May it
2 please the Court.

3 CROSS-EXAMINATION

4 BY MR. EDGEWORTH:

5 Q Sergeant Shelley, interrogation that we just watched
6 occurred on September 20th of 2019, is that correct?

7 A Correct.

8 Q Okay. And you agree with me that Mr. Carmichael was
9 in police custody at the time?

10 A Correct.

11 Q In fact, he was in handcuffs?

12 A Correct.

13 Q And you had gone in there and you moved him from the
14 back to the front, didn't you?

15 A Correct.

16 Q Now, as we just seen very early on in the
17 conversation, my client asked for a lawyer?

18 MR. WHITE: Judge, we may approach for just a
19 minute.

20 (WHEREUPON, a bench conference was held in the
21 presence of the jury, but out of the hearing of the
22 jury.)

23 THE COURT: You may continue, Mr. Edgeworth.

24 MR. EDGEWORTH: Thank you, your Honor.

25

1 BY MR. EDGEWORTH:

2 Q So, Sergeant Shelley, again, early on in that video
3 there was initial conversation about a lawyer, correct?

4 A Correct. He did made mention of a lawyer.

5 Q Okay. And then your response to him was if you have
6 one on retainer, is that correct?

7 A Correct.

8 Q Okay. And then you just blew past that and went back
9 into your colloquy or conversation about what you termed
10 was the waiver, is that right?

11 MR. WHITE: Objection as to the
12 mis-characterization of him blowing past. I think he
13 adequately covered his rights. I don't think anybody blew
14 past his rights. They were adequately read to him.

15 THE COURT: Rephrase your question please.

16 MR. EDGEWORTH: Sure.

17 BY MR. EDGEWORTH:

18 Q After that, you went back into the conversation about
19 the form that you were using, is that correct?

20 A Yes, sir.

21 Q Because you hadn't even finished the form before he
22 mentioned something about a lawyer, correct?

23 A Yes, sir.

24 Q Okay. So I'm assuming having seen the video, again,
25 it refreshes your recollection as to what actually took

1 place during that conversation -- that custodial
2 interrogation, correct?

3 A Yes, sir.

4 Q Okay. Now, do you recall having watch this now that
5 you told Mr. Carmichael that this document was simply just
6 so he can understand his rights?

7 A I told him I would read him his waiver of rights form
8 and that his signature would indicate that he understood
9 it. And that if he didn't and he wanted to ask me
10 questions for further clarification, that would be fine.

11 Q Okay. Do you recall having listen to this again that
12 you told him that this was simply to understand his rights
13 on three separate occasions?

14 A I don't recall the exact amount of times that I told
15 him that, but I do remember telling him that at minimum
16 once, yes, sir.

17 Q Okay. And part of this -- what is written at the top
18 of the waiver can you read the third bullet point into the
19 record?

20 A You have the right to talk to a lawyer and to have
21 him present with you while you're being questioned.

22 Q Cause that is in fact his right, correct?

23 A As a portion of them, yes, sir.

24 Q And so after when you handed him the document -- make
25 sure I say this correctly. Do you recall when you handed

1 him the document then you said sign this if you understand
2 your rights?

3 A I don't recall if I said it specifically that way,
4 but typically, yes, I would inform someone that's signing
5 the document is indicating that they understand what I've
6 read to them and that if they don't understand it to
7 please ask me and I clarify for them.

8 Q I understand that. So do you agree with me that
9 that's not the same thing as saying sign this indicating
10 that you are waiving your rights?

11 A I would agree with that.

12 Q Okay. So now during the conversation that you had
13 with Mr. Carmichael, you agree with me that he never
14 raised his voice?

15 A No, sir.

16 Q He answered your questions although it might not have
17 been in the way you wanted him to answer the questions?

18 A Sure.

19 Q Okay. He did not stand up and yell at you?

20 A No, sir.

21 Q He wasn't combative?

22 A No, sir.

23 Q Okay. Ultimately, he stated that he struck the
24 individual and only thing he deserved was an assault
25 warrant, is that correct?

1 A That's correct.

2 Q And toward the end you terminated the conversation
3 because you believe that you were not no longer going to
4 get any information from him, is that correct?

5 A I think the term he said I want my lawyer.

6 Q At that point you now understood that he was wanting
7 his lawyer, is that correct?

8 A Correct.

9 Q So the conversation was terminated?

10 A You know, we couldn't speak any more after that.

11 Q Okay. Now, you recall in that recording since we're
12 stopping this conversation, I've already got the murder
13 warrant ready for you?

14 A I informed him that he did have the warrant for his
15 arrest, that's what he was brought in on, that's why he
16 was in handcuffs.

17 Q He hadn't been served that warrant at that time
18 though, correct?

19 A Correct. I made that statement as well it was about
20 to be read to him.

21 Q Right. So what I'm saying is that you went into this
22 custodial interrogation already knowing that you had
23 obtained a murder warrant for his arrest, correct?

24 A Correct.

25 Q And you didn't tell him that until the end, correct?

1 A I don't recall if I told him he had a warrant or what
2 the warrant was for at that time, no, sir.

3 Q But you do recall that you told him at the end?

4 A I do, yes, sir.

5 MR. EDGEWORTH: Your Honor, I have no further
6 questions for this witness.

7 MR. WHITE: Judge, may we approach for just a
8 minute.

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury, but out of the hearing of the
11 jury.)

12 THE COURT: Mr. Ammons.

13 MR. AMMONS: I have nothing for this witness,
14 your Honor.

15 THE COURT: Any redirect?

16 MR. WHITE: Yes, sir, Judge, briefly.

17 REDIRECT EXAMINATION

18 BY MR. WHITE:

19 Q Investigator Shelley, each right that's covered in
20 the Miranda form, did you go over each and every one of
21 those rights with Quinterris Carmichael?

22 A Yes, sir.

23 Q And did he acknowledge that he understand those
24 rights?

25 A Yes, sir.

1 Q And despite that did he continue to speak to you?

2 A Yes, sir.

3 Q What he said in that video and we watched the
4 surveillance video is what he said in that video or that
5 confession or that statement inconsistent with what you
6 see on the video surveillance?

7 MR. EDGEWORTH: Objection calls for speculation.

8 THE COURT: I'll overrule allow him to answer if
9 he knows the answer to it or if he could answer it.

10 A Ask it again?

11 Q Is what Mr. Carmichael said in his statement
12 inconsistent with what all seen in the video surveillance?

13 A Not entirely by mostly, yes.

14 MR. WHITE: Thank you, Investigator Shelley. I
15 don't have anything further.

16 THE COURT: All right, Mr. Edgeworth, anything?

17 MR. EDGEWORTH: Nothing further, your Honor.

18 THE COURT: Sir, you may step down. Thank you.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 THE COURT: Call your next witness please.

22 MR. WHITE: Judge, I would ask if Investigator
23 Shelley could be released from his subpoena?

24 MR. EDGEWORTH: No objection.

25 MR. AMMONS: No objection.

1 THE COURT: Sir, you are released from your
2 subpoena. You're free to go. Thank you.

3 MR. WHITE: At this time the State would call
4 Investigator Justin Chatlosh to the stand.

5 THE CLERK: Sir, please place your left hand on
6 the Bible and raise your right hand. Do you swear that
7 the testimony you give in this case to be the truth, the
8 whole truth, and nothing but the truth so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please be seated on the witness
11 stand and state your full name for the record.

12 THE WITNESS: Justin Chatlosh.

13 WHEREUPON,

14 Justin Chatlosh,
15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. WHITE:

18 Q Investigator Chatlosh, where are you employed?

19 A City of Florence Police Department.

20 Q And how long have you been employed there?

21 A For approximately nine and a half years.

22 Q And in what capacity are you currently employed?

23 A I'm an investigator with the City of Florence Police
24 Department.

25 Q And back in September and specifically September 12th

1 of 2019, were you employed in a similar capacity?

2 A Yes, I was in investigation with the City of Florence
3 Police Department.

4 Q And at that time when law enforcement and everybody
5 is responding to the incident location where this
6 occurred, what was your role how -- did you get called out
7 to the scene?

8 A I was called by the patrol supervisor that was
9 working night shift that night to respond to the scene in
10 reference to a homicide that had just occurred.

11 Q And is that mean you were the on-call investigator?

12 A Yes, I was.

13 Q And is that make you also the lead investigator on
14 this case?

15 A Yes, it does.

16 Q And what's your role as a lead investigator?

17 A Normally, once you get to the scene, you talk to one
18 of the -- either the supervisor that's on scene or the
19 initial officer that got to the scene. They kind of walk
20 you through what they've seen, what they've already marked
21 at the scene, and they also -- and then once you see what
22 you have on the scene, then you notify the proper -- other
23 personnel that needs to come out to assist you with the
24 scene.

25 Q Now, were you made aware when you arrived on scene

1 that there was video surveillance from that location?

2 A Yes, I was.

3 Q Now, did that video surveillance become key in the
4 course of this investigation?

5 A Yes, it did.

6 Q And did you have an opportunity to review that video?

7 A Yes, I did.

8 Q Did other officers on scene and back at the city
9 police department have an opportunity to review that
10 video?

11 A Yes.

12 Q Was one person in particular identified almost
13 immediately from that video surveillance?

14 A Yes, there was.

15 Q And who was that?

16 A Quinteris Carmichael.

17 Q At this point do you all start work on identifying
18 the other individuals in this video surveillance?

19 A Yes, I did.

20 Q And where do you work start?

21 A First, we -- once we identified the first person, we
22 normally go to different avenues on social media to see if
23 we're able to identify anybody else from possibly his
24 friends or anything like that he's linked to on social
25 media groups. And then typically after that we venture

1 more into the -- sometimes we go more into other avenues.
2 In this case, we were able to use his social media. One
3 of the other investigators was able to find Facebook. It
4 was through Facebook was friends of his that we were able
5 to link to other people that were in the vehicle along
6 with him.

7 Q Okay. And was one of those individuals that you
8 later identified Tirik Johson-Epps?

9 A Yes.

10 Q And you also see the vehicle that they arrive in, is
11 that correct?

12 A Yes.

13 Q And were you able to identify who the owner of that
14 vehicle was?

15 A Yes, we were.

16 Q And who was the owner of that vehicle?

17 A Tyrin Jones.

18 Q And did you -- were you all -- and I ask this
19 question of Investigator Shelley, but lead investigator
20 are you kind of point guard on each investigation?

21 A Yes.

22 Q Well, not each investigation, but the ones that you
23 are lead on?

24 A Yes.

25 Q And so a lot things are happening behind the scene,

1 is that right?

2 A Correct.

3 Q And based on identifying Tyrin Jones' vehicle, did
4 you or someone in investigations interview Tyrin Jones?

5 A Yes, she was interviewed.

6 Q And did you -- were you able to identify the fourth
7 passenger of that vehicle?

8 A Yes, we were able to identify the fourth one of that
9 vehicle.

10 Q And who was that fourth passenger?

11 A The fourth passenger -- which passenger are you
12 talking about?

13 Q So we discussed Tirik Johnson-Epps, correct?

14 A Yes.

15 Q We've discussed Quinterris Carmichael, correct?

16 A Yes.

17 Q And then Tyrin Jones. Then there's fourth in the
18 vehicle who would that be?

19 A That would be Kami Mitchell.

20 Q And did you bring her in for an interview?

21 A Yes.

22 Q Now, once you identify Tirik Johnson-Epps on that
23 video, do you work to secure an arrest warrant for him?

24 A Yes.

25 Q And were you actively searching for him and for

1 Quinterris Carmichael?

2 A Yes.

3 Q And how's that process work? How do you look for
4 someone?

5 A Normally, once we obtain the arrest warrant for them,
6 we enter them into our data base as wanted which means any
7 agency that gets out with them will get hit back stating
8 that they are wanted. And we will be notified at that
9 point. We use -- there's many different avenues and
10 different agencies that help with the looking for wanted
11 suspects.

12 Q And one particular avenue as far as looking for
13 suspects is that going to their last known address?

14 A Correct.

15 Q And was one of the last known addresses for Tirik
16 Johnson-Epps that residence on Sanborn Street?

17 A Yes.

18 Q And what was that address do you recall?

19 A That was [REDACTED] Sanborn Street.

20 Q And did you execute a search warrant at that
21 particular address?

22 A Yes, we did.

23 Q Were you looking for Tirik Johnson-Epps?

24 A Yes.

25 Q Did you find Tirik Johnson-Epps?

1 A No, we did not.

2 Q You did find a pair of whitewash jeans, is that
3 right?

4 A Yes.

5 Q And did you take those into custody?

6 A Yes, we did.

7 Q And did you log them at the City of Florence Police
8 department?

9 A Yes, they were.

10 Q And was a cutting from those pants ultimately sent to
11 SLED?

12 A Yes.

13 Q And you were in here, you've read the report Tydrecus
14 Williams blood was found on those pants, is that right?

15 A Correct.

16 Q There was also some ammunition found at the home of
17 Mr. Johnson-Epps, is that right?

18 A Yes.

19 Q Do you recall what the caliber was?

20 A It was .22 caliber.

21 Q And, again, you didn't find Tirik Johnson-Epps there
22 when you executed that search warrant?

23 A No, he was not.

24 Q How long did it take you to find Tirik Johnson-Epps?

25 A I believe it was a little bit of time. I can tell

1 you the exact date that he was located.

2 Q That would be great. Thank you, Investigator
3 Chatlosh.

4 A He was located on Friday, October 11th of 2019.

5 Q Is that roughly a month after the incident?

6 A Correct.

7 Q And during that time were you actively looking for
8 him?

9 A Myself or other investigators with the police
10 department or other agencies, yes.

11 Q Were you unable to find him?

12 A Yes.

13 Q Now, we watch the video. You watch the video
14 previously, correct?

15 A Yes.

16 Q And do you see Tirik Johnson-Epps on that video?

17 A Yes.

18 Q And what is the hair style at that time?

19 A He's got dreads, and it looks like it's kind of criss
20 cross together, and it's longer.

21 Q And when you ultimately took Tirik Johnson-Epps into
22 custody a month later, did he have that same hair style?

23 A I was not there when he was actually taken into
24 custody, but the other investigators informed me that he
25 had cut all of his hair off at that point.

1 Q So all the dreads that he had in the video had been
2 removed?

3 A Correct.

4 Q Okay. Now, Quinterris Carmichael during the time
5 between the incident and the time you took him into
6 custody, were you also actively searching for him?

7 A Yes.

8 Q And were you unable to find him?

9 A Correct.

10 Q Now, it's been some talk about State's Exhibit 20 and
11 Investigator Feagin's evidentiary marker three, which is
12 that .22 caliber. Do you recognize that particular item
13 of evidence?

14 A Yes, I do.

15 Q And do you have any way to know how long that item
16 had been there?

17 A No, I do not.

18 Q And is that -- what road is that on?

19 A That's on Lucas Street.

20 Q And is Lucas Street -- does it run -- 52 Highway,
21 correct?

22 A Correct.

23 Q And is it fair to say there's a lot of traffic going
24 through that location?

25 A I would say, yes.

1 Q And, again, you have no idea how long that particular
2 item had been out there?

3 A No, sir.

4 Q And did you -- were you in the courtroom when the
5 SLED firearm expert testified?

6 A Yes, I was.

7 Q Did you hear her say that if that gun holding that
8 magazine had been fired it would have expelled a .22
9 caliber shell casing?

10 A Yes.

11 Q Did you find any .22 shell casings at the scene?

12 A No, we did not.

13 Q Were you also present in the courtroom when we
14 discussed that defect in the wall there at Tiger Mart or
15 Speedy Mart?

16 A Yes.

17 Q Do you have any idea whether or not that would be a
18 bullet hole or just defect?

19 A I do not know.

20 Q So it could have been a weed eater kicked up a rock?

21 MR. EDGEWORTH: Objection calls from
22 speculation.

23 MR. WHITE: I'll withdraw.

24 THE COURT: Sustained.
25

1 BY MR. WHITE:

2 Q But you have no idea what made that defect, is that
3 right?

4 A I do not.

5 Q And you have no idea how long that defect had been
6 there, is that correct?

7 A I do not.

8 Q Okay. But no .22 caliber shell casings recovered
9 from the scene, is that right?

10 A No, sir.

11 Q The only shell casings recovered from the scene were
12 what?

13 A Nine millimeter.

14 Q And I think we saw a photograph, and I don't have to
15 flip through there, but obviously you were on scene,
16 correct?

17 A Yes.

18 Q How quickly were you on scene?

19 A I don't remember exactly how long it took me to get
20 from -- to get on scene after I received the phone call.
21 I would say it's probably within 30 minutes at the most.

22 Q And Investigator Feagin testified that when he's
23 processing the scene you guys kind of walk through it
24 together, is that right?

25 A Correct.

1 Q So you're covering that scene in its entirety, is
2 that right?

3 A Yes.

4 Q Did you locate a weapon at all?

5 A No, I did not.

6 Q Did you locate a gun near the victim in this case?

7 A I did not.

8 MR. WHITE: Beg the Court's indulgence one
9 moment.

10 (WHEREUPON, a pause in the proceedings.)

11 BY MR. WHITE:

12 Q I've asked you this many times I'm sorry,
13 Investigator Chatlosh, but you watched the video several
14 times?

15 A Yes.

16 Q And you watched the video in its entirety?

17 A Yes.

18 Q And you been in law enforcement a while, correct?

19 A Correct.

20 Q Are you familiar with handguns and the like?

21 A Yes.

22 Q But you're not an expert, but you carry one and you
23 deal with them on a regular basis?

24 A Yes.

25 Q Did you see on the video where Tirik Johnson-Epps was

1 firing that handgun?

2 A Yes, I did.

3 Q Do you see where he was positioned?

4 A Yes.

5 Q Is it fair to say that the majority of the shell
6 casings were kicked out just to the right of where he was
7 firing?

8 MR. EDGEWORTH: Object to leading.

9 THE COURT: Sustained rephrase your question.

10 BY MR. WHITE:

11 Q In which direction compared to where he was standing
12 were the majority of the shell casings recovered?

13 A To the right of where he was standing.

14 MR. WHITE: Beg the Court's indulgence.

15 Investigator Chatlosh, thank you so much. Please answer
16 any questions the defense may have, okay.

17 THE COURT: Mr. Edgeworth.

18 MR. EDGEWORTH: Thank you, your Honor.

19 CROSS-EXAMINATION

20 BY MR. EDGEWORTH:

21 Q Investigator Chatlosh, you came on the scene
22 approximately 4:02 a.m., is that correct?

23 A I can't remember exactly what time I came on scene.

24 Q Okay. All right. So you don't recall when you came
25 on. I assume you started working right away?

1 A Yes.

2 Q All right. Now, when you were walking the scene and
3 identifying pieces of information -- what you believe to
4 be evidence, right?

5 A Yes.

6 Q Okay. And at that time due to your training or
7 otherwise, you know what to look for, right?

8 A For the most part right, yes, sir.

9 Q And what do you mean by for the most part?

10 A I mean, sometimes I don't catch all pieces of
11 evidence whenever I'm walking through the scene, that's
12 why there's multiple officers that walk through the scene
13 to make sure that we see everything that we need to.

14 Q Understood. So you have other people that are also
15 looking, but you have knowledge though?

16 A Yes.

17 Q Okay. And as part of that knowledge, that's the
18 reason why you have these little evidence markers,
19 correct?

20 A I don't personally have them, but crime scene has the
21 evidence markers, yes, sir.

22 Q But you're working with the crime scene technician in
23 order to identify certain things that you believe is
24 evidence?

25 A Yes.

1 Q Okay. But you wouldn't like go and take one of those
2 things and put it by something that you did not believe
3 was evidence, correct?

4 A No.

5 Q That would be a waste of your time?

6 A Correct.

7 Q Okay. Now, you -- there was evidence marker near the
8 magazine that's been pictured in State's Exhibit 20
9 though, correct?

10 A Yes, sir.

11 Q Okay. And there was evidence marker put up there
12 near the hole in the wall, correct?

13 A Yes, sir.

14 Q There was evidence markers near the shell casings,
15 correct?

16 A Yes, sir.

17 Q All because you thought that was important?

18 A Yes, sir.

19 Q Okay. Now, when you were on scene, you actually
20 looked at the victim's body, Mr. Williams' body, correct?

21 A Yes, sir.

22 Q Okay. And you took that in for whatever its worth
23 looking for pieces of evidence?

24 A Yes, sir.

25 Q Okay. Sometimes isn't it true that there may be

1 things that you believe to be evidence that is not there?

2 A Can you restate that question?

3 Q Sure. I'll give you an example. So you were looking
4 for a firearm, correct?

5 A Yes.

6 Q Okay. Did not find one?

7 A Correct.

8 Q Okay. And you did that because the individual had
9 appeared to have been shot, correct?

10 A Correct.

11 Q Okay. When you were looking at the body, did you
12 notice his position?

13 A Yes.

14 Q Okay. Did you notice how his legs were laid?

15 A Yes, sir.

16 Q Were you notice how his legs were laid?

17 A Yes, sir.

18 Q Isn't it true that on his right hand ---

19 MR. WHITE: Objection.

20 Q --- it look like he was holding a gun?

21 MR. WHITE: Objection calls for speculation. We
22 have the pathologist who will testify if he wants to talk
23 ---

24 THE COURT: Hold on a minute. State the grounds
25 for your objection, that's the only thing I want to hear.

1 MR. WHITE: Calls for speculation, Judge.

2 THE COURT: Sustained.

3 BY MR. EDGEWORTH:

4 Q You were asked on direct examination to point out the
5 fact there was no gun near the victim, correct?

6 A Yes.

7 Q Could that be because it was taken away from the
8 scene?

9 MR. WHITE: Objection calls for speculation.

10 THE COURT: Sustained.

11 BY MR. EDGEWORTH:

12 Q The State's also elicited testimony from you about
13 your searches for or search in my case -- search for my
14 client Mr. Carmichael, correct?

15 A Yes.

16 Q Okay. And when -- at some point in time during your
17 investigation, you identified him as a person of interest,
18 correct?

19 A Yes.

20 Q Okay. And you as part your process you put it in the
21 data basis, right?

22 A Yes.

23 Q But you're not using every single man hour of your
24 day physically going from this house to this house to this
25 house actively searching for him, are you?

1 A In this case, I can't say a hundred percent there was
2 shortly after this incident happen I had training that was
3 already prearranged, so I was gone for a week and that was
4 during the week that they were looking for Mr. Carmichael.

5 Q Okay. You so don't have any knowledge as to what if
6 any actual affirmative things they were doing to look for
7 Mr. Carmichael?

8 A The officers that were looking for Mr. Carmichael I
9 was still on the phone with him on a regular basis
10 throughout that week, and they were telling me different
11 things that they were doing throughout that entire week
12 that I was not present in Florence for training that they
13 were still looking for him.

14 Q Understood. Okay. So Mr. Carmichael was taken into
15 custody on September 20th?

16 A Yes, sir.

17 Q Okay, because that's when he was interviewed we just
18 saw that?

19 A Yes, sir.

20 Q Okay. That's approximately seven, eight days after
21 the incident?

22 A Correct.

23 Q Okay. That's not unusual is it that you take a
24 person into custody within eight days of an incident?

25 A It depends on the case. It varies between cases.

1 Q Right. But it's not uncommon?

2 A It completely varies between the cases. I mean, some
3 cases we take them into custody within a day or so and
4 some cases it takes longer.

5 Q Okay. Well, in this particular case, he got taken
6 into custody within approximately seven to eight days,
7 that's not unusual, is it not?

8 MR. WHITE: Asked and answered.

9 THE COURT: Go ahead and answer the question.

10 A It varies between case to case. There's no set days
11 of how many days it takes to take somebody into custody.

12 MR. EDGEWORTH: All right. Well, I have further
13 questions. Thank you.

14 THE COURT: Mr. Ammons.

15 MR. AMMONS: Thank you, your Honor.

16 CROSS-EXAMINATION

17 BY MR. AMMONS:

18 Q Investigator Chatlosh, just to start off with
19 Mr. White just ask you a question. And when he ask you
20 the question, he said when Mr. Johnson-Epps shot Tydrecus.
21 There's been no witnesses this week that have said that
22 Mr. Johnson-Epps shot Tydrecus, is that correct?

23 A Correct.

24 Q All right. And the video is inconclusive as to who
25 shot, correct?

1 A From watching the video, we're able to see
2 Mr. Johnson-Epps standing just barely on frame with the
3 drink in his hand and also firing a firearm. You can see
4 his dreads as he's walking through too.

5 Q You can see dreads. And you can see a drink in a
6 hand?

7 A I can see what appears to be the drink that he's
8 carrying from the front camera angle to the side camera
9 angle.

10 Q You're not certain what kind of drink that is?

11 A No, I am not.

12 Q Okay. You can't make out whose arm that is. You
13 just see a drink in the screen, correct?

14 A Yes, sir.

15 Q All right. So you're making the assumption that
16 Mr. Johnson-Epps who's firing?

17 A Yes, sir.

18 Q All right. Now, a lot has been made of the video
19 surveillance this week of this store at Tiger Mart. Those
20 camera angles they do not cover that whole premises,
21 correct?

22 A Correct.

23 Q All right. And the one camera angle that we see the
24 shooting on obviously doesn't cover the rest of the
25 property, correct?

1 A Correct.

2 Q All right. And there's a great bit of property it
3 don't show -- let me rephrase it doesn't show where
4 Mr. Williams body ultimately ends up, does it?

5 A Correct.

6 Q All right. And back there's a whole vacant lot,
7 correct?

8 A I believe there's a building on that lot.

9 Q An abandon building?

10 A Correct.

11 Q All right. And there's no camera view of that
12 building?

13 A No, sir.

14 Q And it's dark back there?

15 A Yes, sir.

16 Q At night at least. And there's no way to tell if
17 anyone came up from the backside of that building, is
18 there?

19 A Not from the camera angles.

20 Q All right. So there's no way to tell if someone
21 came up at all and was there witnessing the shooting or
22 participating in the shooting?

23 A Not from the camera angles.

24 Q All right. Now, the cameras did pick up a lot of
25 people -- several people, correct?

1 A Yes, sir.

2 Q And I'm talking about during the course of that 13 or
3 14, 15 minute video? There's several people.

4 A Throughout the whole entire time that they were
5 there, yes, there was several people coming and going from
6 there.

7 Q Do you have any idea how many people?

8 A I do not.

9 Q Okay. Would it surprise you if it were 14 people?

10 A Not really.

11 Q All right. There were people still there at the time
12 of the shooting on the video as well?

13 A Yes, sir.

14 Q All right. More than just four people -- more than
15 just Tyrin Jones, Kami Mitchell, Tirik Johnson-Epps,
16 Quinterris Carmichael, Tydrecus Williams, and Kareem
17 Jones, there was more than those six people on the
18 premises at that time?

19 A Yes, sir.

20 Q All right. And we haven't heard from any of those
21 people in this trial?

22 A No, sir.

23 Q All right. But you know who some of those people
24 are?

25 A Yes, sir.

1 Q Okay. And you talked to several of them, didn't you?

2 A I talk to some of them, yes, sir.

3 Q Okay. And there a Cadillac right beside where you
4 could see that shooting, right?

5 A Yes.

6 Q Like a Cadillac SUV?

7 A Yes, sir.

8 Q And there were people in that vehicle, weren't there?

9 A Yes.

10 Q All right. We don't know how many people were in
11 that vehicle?

12 A There was two in that vehicle.

13 Q All right. So there's at least two people in that
14 vehicle that were right beside where the shooting
15 happened?

16 A Yes, sir.

17 Q All right. But we hadn't heard from them yet?

18 A No, sir.

19 Q And you said there were no weapons located, but you
20 guys tried to mark everything might be evidentiary,
21 correct?

22 A Yes, sir.

23 Q All right. But you did find a .22 magazine, correct?

24 A Yes, sir.

25 Q Okay. You testified you don't know how long it had

1 been there?

2 A Correct.

3 Q And by that same measure you don't know how long any
4 of the evidence on that scene had been there?

5 A No, sir.

6 Q Okay. All right. We don't know for certain how long
7 those shell casings had been there?

8 A I mean, we do have video of the gun that was fired at
9 the incident location, and you can hear it on the audio of
10 the gun being fired.

11 Q Okay. I got here State's Exhibit 24. It shows that
12 magazine this marker number three, evidence marker number
13 three. Is there another item in that video view? I mean,
14 in that picture view?

15 A Looks like there was possibly a beer bottle.

16 Q All right. Is that marked as evidence?

17 A I do not believe so.

18 Q Okay. Wouldn't it be important -- you don't think
19 that has any evidentiary value?

20 A Not while we were at the scene, no, sir.

21 Q Okay. But there was testimony that Mr. Johnson-Epps
22 had a -- or someone the shooter had some sort of what
23 appeared to be a bottle in his hand?

24 A Yes, sir.

25 Q Okay. Wouldn't there have been some sort of -- if it

1 had in fact been the bottle of the shooter that there
2 might have been some sort of evidentiary value in that?

3 A Yes, sir, there possibly could be.

4 Q And that bottle was also right in the line of where
5 Mr. Williams walk through on -- and stumbled out into the
6 road where he ultimately fell in the road?

7 A Yes, sir.

8 Q Okay. And on that video there was -- when Mr.
9 Williams was actually lying in the road right there .22
10 magazine was, there's a 16 second skip in the video,
11 right?

12 A I don't know exactly how long of a skip, but I do
13 realize the cameras are motion activated, and then there
14 was a skip.

15 Q And when it comes back in Mr. Williams isn't there
16 any more?

17 A Correct.

18 Q So he's move from that spot somewhere else?

19 A Yes, sir.

20 Q We don't know what happened during that time period?

21 A No, sir.

22 Q Okay. We do know at that time period
23 Mr. Johnson-Epps was in the car that had left the scene,
24 correct?

25 A I believe he was getting back into the vehicle and

1 leaving out of the scene, yes, sir.

2 Q Someone at some point made point of the fact that
3 that magazine, that .22 magazine looked like it had been
4 run over. Now, in the video after Mr. Williams is shot
5 and before law enforcement arrived, several cars go back
6 and forth right through that same area, don't they?

7 A I believe so.

8 Q All right. Right in that same lane where
9 Mr. Williams was laying?

10 A I believe so.

11 Q Okay. And no one did any fingerprints on that
12 magazine?

13 A No, sir.

14 Q Well, that could have yielded some evidence, couldn't
15 it?

16 A Possibly.

17 Q Okay. I mean, it would have been important that
18 magazine revealed fingerprints of someone who was on
19 scene, right?

20 A Possibly could have.

21 Q Okay. And just to clarify the ammunition that was in
22 that magazine though it were .22 caliber rounds, they were
23 different type of rounds then the ones in -- located in
24 the -- that were found in the search -- execution of a
25 search warrant?

1 A I did not actually examine the rounds that were
2 actually taken out of the magazine, that was the crime
3 scene tech, but I do believe they were different, yes,
4 sir.

5 Q All right.

6 MR. AMMONS: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 (WHEREUPON, a pause in the proceedings.)

9 BY MR. AMMONS:

10 Q Having miss that bottle or not mark that bottle as
11 evidence on the scene was quite possible there was other
12 evidence not found on the scene?

13 A I mean, there's always a possibility that there could
14 be evidence that we do not see because we don't see
15 everything on every single scene.

16 Q There was -- you testified earlier there was blood on
17 the pants found at Mr. Johnson-Epps house, is that
18 correct?

19 A Yes.

20 Q Actually, it's presumptive blood, right?

21 A Correct.

22 Q Which means it could be something else?

23 A Correct.

24 Q All right. So to call it blood really a misnomer?

25 A Yes, sir.

1 Q All right. Be more appropriate to call it DNA
2 material?

3 A Yes, sir.

4 MR. AMMONS: Beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 (WHEREUPON, a pause in the proceedings.)

7 BY MR. AMMONS:

8 Q You said earlier that Mr. Johnson-Epps was on the
9 scene when the shots were fired, is that correct?

10 A Yes, sir.

11 Q And when you say shots, you're only referring to the
12 four that are captured on the video, correct?

13 A Yes, sir.

14 Q All right. And when you say scene, he's on the
15 premises?

16 A He's in camera view, yes, sir.

17 Q He is in camera view at the time of the shooting?

18 A Of the -- he's on the premises when the shots are
19 fired, yes, sir.

20 Q All right. But you can't be certain that's him
21 firing that gun?

22 A I can't say a hundred percent that it's him, but
23 from watching the other camera angles and watching the
24 person that at the angle of the camera that is partially
25 off screen, it appears to be him.

1 MR. AMMONS: All right. I think that's all I
2 have, your Honor.

3 THE COURT: Any redirect?

4 MR. WHITE: Yes, sir, Judge.

5 REDIRECT EXAMINATION

6 BY MR. WHITE:

7 Q I just want to cover a few things with you,
8 Investigator Chatlosh. Mr. Ammons mentioned you can't say
9 it's blood. We got to say it's DNA material. Was DNA
10 material found on the pants of Tirik Johnson-Epps?

11 A Yes.

12 Q Was it presumptive positive for blood?

13 A Yes.

14 Q Did it look like blood?

15 A Yes.

16 Q Okay. Now, when you're going over scenes and when
17 crime scene's going over a scene, you don't know what's
18 important at that point, do you?

19 A No, sir.

20 Q You're documenting everything, is that right?

21 A Yes, sir.

22 Q But, again, what you didn't document you didn't
23 document any weapons, correct?

24 A No, sir.

25 Q Did you document any .22 caliber shell casings?

1 A No, sir.

2 Q Okay. Now, your assertion that it was Tirik
3 Johnson-Epps firing those shots is based on viewing the
4 video in its entirety, is that right?

5 A Correct.

6 Q Is it also based on your statements taken from the
7 witnesses?

8 A Yes.

9 Q Did you speak to any witnesses at all during the
10 course of your investigation that could place a handgun on
11 Kareem Jones or Tydrecus Williams?

12 MR. EDGEWORTH: Objection calls for hearsay.

13 MR. WHITE: I'll withdraw.

14 THE COURT: Sustained.

15 BY MR. WHITE:

16 Q On that video, they wanted to make a big deal that
17 there was a lot of people around, but just prior to that
18 punch, do you see a lot of people leaving?

19 A There's several people leaving at the time.

20 Q And then when the shots are fired do you see
21 everybody else scattering?

22 A Yes, sir.

23 Q Do you see anybody else other than Quinterris
24 Carmichael assaulting Kareem Jones?

25 A No, sir.

1 Q When everybody -- when the shots are fired, everybody
2 scattering. Does Quinterris Carmichael scatter?

3 A No, sir.

4 Q Does he barely flinch?

5 A Yes, sir.

6 Q You mentioned that those -- that video on the side is
7 motion activated is that your understanding?

8 A From my previous experience with using that location,
9 and I believe speaking with the owner of the location it
10 is all motion activated.

11 Q And that's the side angle, correct?

12 A Yes.

13 Q And is that why it sometimes can be a little bit
14 glitchy?

15 A Yes.

16 Q We mentioned all that's based on witness statements
17 and your review of the entirety of the video. I'm going
18 to show you that video, okay.

19 A Yes.

20 MR. WHITE: Permission to publish, Judge.

21 MR. EDGEWORTH: Your Honor, I object. We played
22 it several times. It's cumulative at this point.

23 THE COURT: I'm going to allow it on redirect.
24 based upon cross-examination.

25 MR. WHITE: Thank you, Judge. For the record,

1 that's State's Exhibit 3.

2 (WHEREUPON, State's Exhibit 3 played for the
3 jury.)

4 BY MR. WHITE:

5 Q Can you see it on there, Investigator Chatlosh?

6 A Yes.

7 Q Who is that on screen walking away from the vehicle
8 with the dreads?

9 A Tirik Johnson-Epps.

10 Q And is that the drink in his hand that we are
11 referring to?

12 A Yes.

13 Q I want you to tell me what that time stamp says on
14 there, Investigation Chatlosh?

15 A 0342 and 17 seconds.

16 Q How about now?

17 A 0342 and 19 seconds.

18 Q Thank you, Investigator Chatlosh. And if you could,
19 I'm going to show you what's been marked State's Exhibit
20 86. And ask if you'll with the Court's permission if you
21 can step down here with me for just a moment. When you
22 come down here, Investigator Chatlosh, if you'll stand
23 right here and just speak up so Ms. Keshia Can hear you,
24 all right. Okay, you just saw the video that I played.
25 If you'll back up just a hair so everybody can see. Is

1 this the area where the vehicle was parked?

2 A Yes, sir.

3 Q And that, you know, at the 19 second mark is when you
4 Tirik Johnson-Epps getting out of the car walking, is that
5 correct?

6 A I believe it's at the 17 seconds, and he goes off
7 camera at the 19 seconds.

8 Q Very good. And in what direction is he walking?

9 A He's walking from the location to the south side of
10 the location.

11 Q So is it correct to say he's walking from here to
12 here?

13 A Yes, sir.

14 Q Okay. You can have a seat. Thank you. If you can
15 tell me one more time just so the jury I want them to
16 know? What's the time stamp on that when he is just off
17 camera?

18 A 3:42 and 19 seconds.

19 (WHEREUPON, State's Exhibit 3 is being played
20 for the jury.)

21 BY MR. WHITE:

22 Q What's the time stamp there?

23 A 3:42 and 21 seconds.

24 Q So two seconds later?

25 A Correct.

1 Q And when you said he's walking in that direction to
2 that side of the building, that's where you're referring
3 to, is that right?

4 A Correct.

5 (WHEREUPON, State's Exhibit 3 is being played
6 for the jury.)

7 BY MR. WHITE:

8 Q You see the top of someone's head in that video?

9 A Yes.

10 Q I'm trying to go frame by frame if I can. Is that
11 the one you're referring to as you see dreads?

12 A Yes.

13 Q And, again, this is two seconds after you see him
14 walk off frame and in that direction, correct?

15 A Correct.

16 (WHEREUPON, State's Exhibit 3 is being played
17 for the jury.)

18 BY MR. WHITE:

19 Q And we slowed it down, but do you see on that camera
20 when that beer bottled fizzes up as the shooter is
21 shooting?

22 A Yes.

23 Q Were you in here when Tyrin Jones testified that when
24 Tirik Johnson-Epps gets back in the vehicle that the
25 bottle he was carrying sudding over, sudsing up?

1 A Yes.

2 Q Now, at this point the place is kind of cleared out,
3 is it not?

4 A Yes, sir.

5 Q But we do see ---

6 (WHEREUPON, State's Exhibit 3 is being played
7 for the jury.)

8 BY MR. WHITE:

9 Q We see several things on that video. Number one, the
10 area where the .22 caliber magazine is found are you
11 familiar where the area is?

12 A Yes.

13 Q And, again, that's a high traffic area, right?

14 A Correct.

15 Q That area is right where that magazine is found is
16 also where you see the suspect vehicle riding by, is that
17 correct?

18 A Yes.

19 Q Now, another thing you see on that video is you are
20 aware where Tydrecus Williams body ultimately lies,
21 correct?

22 A Yes.

23 Q Do you see Quinterris Carmichael walking in that
24 direction?

25 A Yes.

1 Q Although, we don't know what happened off the screen.
2 We do know he was shot more times, correct?

3 A Yes.

4 Q Okay. That Cadillac the defense has mentioned, did
5 you interview folks in that Cadillac?

6 A I did not. Lieutenant Nida and Sergeant Clark did?

7 Q They were interviewed?

8 A Yes.

9 Q Did you review the notes and the interview during the
10 course of your investigation?

11 MR. EDGEWORTH: Objection, your Honor. He's
12 trying to elicit hearsay testimony.

13 MR. WHITE: But I'm not.

14 THE COURT: Hadn't gotten there yet.

15 A Restate the question please?

16 Q Are you aware of what they said in their statements
17 to law enforcement?

18 A Yes.

19 Q And are you aware that the primary witness in that
20 vehicle was a Ms. Merlietha Geathers?

21 A Yes.

22 Q Are you aware that we had no idea where Ms. Geathers
23 is?

24 A Correct.

25 Q Based on the entirety of your investigation and the

1 statement taken from Ms. Geathers who would have had a
2 great view, did you develop any other suspects at all ---

3 MR. EDGEWORTH: Objection, your Honor ---

4 Q --- other than Tirik Johnson-Epps?

5 MR. EDGEWORTH: --- hearsay testimony.

6 THE COURT: First, let him finish his question
7 please before you object. I can't have two people talking
8 at the same time makes it very difficult on my court
9 reporter. So make sure please that you let him finish his
10 question.

11 MR. EDGEWORTH: Yes, sir.

12 THE COURT: Based upon that question respecting
13 your objection, I'm going to overrule it okay.

14 BY MR. WHITE:

15 Q You spoke -- or Ms. Geathers was interviewed?

16 A Yes.

17 Q And we don't know where she is to get her here?

18 A Correct.

19 Q But based on that interview in the entirety of your
20 investigation, were you able to develop any other suspects
21 other than two these individuals?

22 A No, sir.

23 MR. EDGEWORTH: Objection once again the same.

24 THE COURT: So noted for the record overruled.

25 A No, sir.

1 Q And correct me if I'm wrong, we saw on that video Ms.
2 Geathers would have had a birds eye view?

3 MR. EDGEWORTH: Objection calls for speculation.

4 THE COURT: Sustained.

5 MR. WHITE: Thank you. Beg the Court's
6 indulgence. Judge, I don't have nothing further.

7 MR. EDGEWORTH: Nothing further, your Honor.

8 THE COURT: Mr. Ammons.

9 MR. AMMONS: Nothing further, your Honor.

10 THE COURT: Sir, you may step down. Thank you.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 MR. WHITE: Judge, our witness is Dr. Presnell
14 the pathologist. Her arrival is imminent, but she is not
15 presently at the courthouse.

16 THE COURT: Can the lawyers approach please?

17 (WHEREUPON, a bench conference was held in the
18 presence of the jury, but out of the hearing of the
19 jury.)

20 THE COURT: Ladies and gentlemen, you heard
21 Mr. White, the Solicitor, indicated that we're waiting on
22 the pathologist to get here who's coming from Charleston.
23 It's my understanding -- I been informed just now that
24 they pulling up with your lunch. So rather than make you
25 wait on lunch, I'm going to go ahead and let you go to the

1 jury room and eat your lunch. Madam forelady, if you'll
2 knock on the door and let my bailiff know when you all are
3 finished eating and are ready to come back hopefully by
4 then doctor -- the doctor will be here, and we can proceed
5 immediately. Again, do not discuss the case at all. Do
6 not discuss the case at all until you are instructed to do
7 so. You all enjoy your lunch, and we'll see you back here
8 shortly.

9 (WHEREUPON, the jury retire to the jury room.)

10 THE COURT: All right. We'll stand down.

11 MR. WHITE: Yes, sir, Judge.

12 MR. EDGEWORTH: Thank you, Judge.

13 MR. AMMONS: Thank you.

14 (WHEREUPON, a lunch break was taken.)

15 THE COURT: All right. Anything from the State
16 before I bring my jury out?

17 MR. WHITE: No, sir, Judge.

18 THE COURT: Mr. Edgeworth.

19 MR. EDGEWORTH: Briefly, your Honor, just so the
20 Court is aware, and I mention this to the Solicitor's
21 office. When I was leaving for lunch, I was stopped by a
22 vehicle asking if the jury trial was going to lunch. I
23 didn't identify myself or anything. They just stopped and
24 asked me as I was walking. I said, yeah, they're gone to
25 lunch now. The individual said, well, can I go get them

1 some lunch, and I said who and he said a name. I don't
2 remember the name. I said if they're part of the jury,
3 they're being brought in lunch, that was the end of the
4 conversation. I didn't even identify myself, but I want
5 to make sure the Court was aware of that conversation.

6 THE COURT: Okay. Mr. Ammons, anything?

7 MR. AMMONS: Nothing, your Honor.

8 THE COURT: Anything in response to that?

9 MR. WHITE: No, sir, Judge.

10 THE COURT: All right, bring me the jury please,
11 ma'am. And I e-mailed you all the proposed jury charge.
12 Well, let me rephrase that, I sent it to my law clerk, and
13 she in turn sent the charge to you all. She ain't sent it
14 yet.

15 (WHEREUPON, the jury came into open court.)

16 THE COURT: Madam forelady and ladies and
17 gentlemen of the jury, I hope you all had an enjoyable
18 lunch and are ready to proceed here this afternoon. At
19 this time, I will recognize the State call your next
20 witness please.

21 MR. WHITE: Thank you, Judge. At this time the
22 State would call Dr. Erin Presnell.

23 THE CLERK: Ma'am, please place your left hand
24 on the Bible and raise your right hand. Do you swear that
25 the testimony you give in this case will be the truth, the

1 whole truth, and nothing but the truth so help you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Please be seated on the witness
4 stand and state your full name for the record.

5 THE WITNESS: Good afternoon. My name is Susan
6 Erin Presnell. It's P-R-E-S-N-E-L-L.

7 WHEREUPON,

8 Dr. Susan Erin Presnell,
9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. WHITE:

12 Q Dr. Presnell, thank you for being with us. If you
13 could tell us where are you employed?

14 A I'm a forensic pathologist. I work at MUSC in
15 Charleston, South Carolina.

16 Q And how long have you been employed there?

17 A I was hired on as faculty in forensic pathologist in
18 1999, so almost 23 and a half years.

19 Q And what does a forensic pathologist do?

20 A Well, I always like to back it up a little bit and
21 just talk about pathology, and pathology means a study of
22 disease. And so pathologist most general pathologist
23 diagnose disease. So if you get a biopsy or if you get
24 surgery and get some tissues taken out, the pathologist
25 looks at it, looks under the microscope diagnosis disease,

1 cancer, infection et cetera. So I'm trained in general
2 pathology, but then I did an additional subspeciality in
3 forensic pathology where we're not just looking at a piece
4 of tissue or some organ that's removed. Instead, we're
5 looking at the entire body of someone who's passed. We
6 are looking for disease, but we also evaluate trauma. And
7 ultimately through the process of the autopsy, we'll
8 decide our opinion on the cause and manner of death.

9 Q And you touched on it a little bit. Could you
10 expound on some your training and your expertise in the
11 field?

12 A Let's see so I went to Clemson a long time ago, and a
13 majored in microbiology. And then I moved to MUSC in
14 Charleston for medical school and that's where I stayed.
15 So I did my four years of medical school there and then
16 chose pathology. Pathology was five years training, and
17 then subspecialty of forensic pathology, so that was an
18 additional year. And then I stayed on as faculty during.
19 So during this process, I took the board. So I'm board
20 certified in general pathology as well as forensic
21 pathology.

22 Q And have you ever testified as an expert in forensic
23 pathology in state court?

24 A Yes.

25 Q Do you have any idea about how many times?

1 A It is an estimate, and I'm estimating a 150.

2 MR. WHITE: Judge, at this time I would move Dr.
3 Presnell as an expert in the field of forensic pathology.

4 THE COURT: Mr. Edgeworth.

5 MR. EDGEWORTH: No objection, your Honor.

6 THE COURT: Mr. Ammons.

7 MR. AMMONS: No objection.

8 THE COURT: All right. Ladies and gentlemen of
9 the jury, this doctor is being qualified as an expert in
10 the area of forensic pathology. The previous instruction
11 I gave you as it relates to expert witnesses qualifies for
12 this witness as well. You may continue.

13 MR. WHITE: Thank you, Judge.

14 BY MR. WHITE:

15 Q Dr. Presnell, specifically dealing with an autopsy in
16 this particular case, is that correct?

17 A Yes.

18 Q And is that autopsy of the victim in this case
19 Tydrecus Williams?

20 A Yes, the coroner of Florence County referred Mr.
21 Williams to us for autopsy and transported him to
22 Charleston for us to do the autopsy.

23 Q And just generally, how do you -- where do you start
24 when you're conducting an autopsy, how does that process
25 work?

1 A Well, a standardize autopsy is you received the body
2 as it is. You take photographs document how they arrive.
3 Then next we would take all the clothing off and clean the
4 body again photographs. I do diagrams helps me dictate
5 the report later on. Then we'll document all the injuries
6 if there injuries or diseases. Then after that we go
7 inside, so we look at all the organs again disease or
8 trauma. That also includes the brain. In some cases, we
9 might sample some tissues to look at under the microscope
10 and all of the cases will -- pretty much all will get
11 blood to test for drugs and alcohol. And then so that
12 will be the end of the first part of -- well, the end of
13 the autopsy. And then once we get all the results back if
14 there's tissues to look at under the microscope or the
15 toxicology results, then we put it all together in a final
16 autopsy report.

17 Q I think you mentioned it previously, but your
18 ultimate goal is to determine cause and manner of death,
19 is that right?

20 A Well, part of its interpretation of injuries. So
21 like, you know, the cause death might be obvious, but, you
22 know, interpreting any gunshot wound how many of the holes
23 are entrances, how many are exits, what direction are they
24 going, are they close range distance. It is cause and
25 manner of death, but also like I said interpretation of

1 the injuries.

2 Q And in this case you mentioned before, that you
3 completed a diagram. Let me show you State's Exhibit 93.
4 Could you tell me if you recognize that item?

5 A Yes, so these two pages are copies of one of the
6 diagrams or two of the diagrams I did at autopsy except I
7 kind of -- not kind of. I have written on the front copy
8 to try to put all the gunshot wounds on one page instead
9 of trying to flip back and forth between the two pages.

10 MR. WHITE: Judge, at this time I would move
11 Dr. Presnell's diagram which is State's Exhibit 93 into
12 evidence.

13 THE COURT: Any objection, Mr. Edgeworth?

14 MR. EDGEWORTH: No objection, your Honor.

15 THE COURT: Mr. Ammons.

16 MR. AMMONS: No objection.

17 THE COURT: Without objection so admitted.

18 BY MR. WHITE:

19 Q Dr. Presnell, I'm going to put this on your screen
20 and jury screen. And I was wondering if you could walk us
21 through the evidence of injury that Tydrecus Williams
22 sustained?

23 A Can you straighten it a little?

24 Q Sure.

25 A He's crooked. All right. Okay, so let's see if I

1 can, okay. So what I'll do is we'll go through the
2 gunshot wounds just in order that I'm going to describe
3 them not necessarily the order that they were received,
4 and then we backtrack to any specific ones that would like
5 to be discussed. All right. So we'll start with the
6 head. We're going to go from the head down the right side
7 of the body, and then up the left side of the body. So
8 first -- I don't mean first as in this is the first one,
9 but we have a gunshot wound to the back of the head,
10 that's labeled K, and that is going towards his left
11 temple. So the bullet goes in through the back of his
12 head through the brain and out his left temple. Something
13 else I like to do is kind of pre-label. These are the
14 right sides of his body because flipping the body makes
15 the right and left change sizes there and that's the left
16 side of the body. All right, so we did the one to the
17 back of the head. Then there's one to the right side of
18 the neck that goes through the neck and through the jaw
19 and exits the left side of the jaw. So in through the
20 right side of the neck out through the left jaw breaking
21 the jaw. Another one on the right goes in through the
22 right upper arm, goes through the bone, the humerus, exits
23 the inside of the right upper arm. Then I know it's on
24 this sides of the diagram, but it's also on his right
25 side. It goes on the right butt hip area and goes up and

1 back, and it's just going through some tissue and exits
2 right there. This side of the diagram we have in and out
3 just through soft tissue on the right thigh. Another in
4 and out through soft on the right lower leg. On the left
5 side of the body, we have a gunshot wound on the side of
6 the left thigh that goes in through the femur, breaks the
7 femur and exits. And then we have this of holes right
8 here. And this actually -- there's a gunshot goes into
9 the left thigh exits, reenters and goes into the body
10 through the intestines, through the stomach, and the
11 bullet stops at this -- the chest wall in front of the
12 body. And then the last one that I documented was this
13 gunshot wound to the left hand. I mention the bullet
14 where the X is, that was what we retrieved. And also we
15 got some bullet fragments, chunks of bullet out of the
16 gunshot wound that broke the femur.

17 Q It's a good time to ask you what, if anything, did
18 you do with those fragments?

19 A Well, so the bullet and the bullet fragments
20 transferred to the officer that attended the autopsy.

21 Q Now, Dr. Presnell, turning your attention to some of
22 these wounds specifically, I want to jump to the gunshot
23 wound that severed the femur. What impact, based on your
24 expert in the field, what impact would that have had on
25 the body?

1 A Well, usually I start with fatal, but it broke the
2 femur in half. Certainly, it would be more difficult to
3 walk without a femur.

4 Q And how many in total gunshot wounds did Tydrecus
5 Williams sustain?

6 A That's a good question. There might be one or two
7 that might be a reentry. So then we'll go through them.
8 The one to the back of the head. One, number two to the
9 right side of the neck, three to the right upper arm, four
10 to the right thigh, five to the right lower leg, six to
11 the right hip butt, seven the one through the thigh, eight
12 the one that goes up into the body. And nine the hand,
13 but, again, that some of them might be like a reentry like
14 the one to the hand might have come out from -- the bullet
15 might have gone through after exiting another part of his
16 body, so up to nine.

17 Q And how many of those standing alone would you
18 estimate would have been fatal?

19 A Well, the one to the head that went through the brain
20 it's the fatal gunshot wound in this scenario. We also
21 have the one that entered the body that went through the
22 stomach and the intestines. I mean, eventually somebody
23 that didn't get medical treatment could have gotten an
24 infection and more bleeding, but in this instance, death
25 occurred before that, and it would have been from the

1 gunshot wound to the head.

2 Q And from the, you know just, above mid thigh up were
3 all those gunshot wounds in those patterns were they with
4 upper trajectory?

5 A Yes, so all the gunshot wound to the back of the
6 head, the right neck, the arm, the hip, thigh, and the
7 right lower leg they're all going in the upward direction.

8 MR. WHITE: Beg the Court's indulgence for one
9 moment. Thank you, Dr. Presnell that's all I have for
10 you. Please answer any questions ---

11 BY MR. WHITE:

12 Q Based on your expert medical opinion, do you have an
13 opinion as to cause and manner of death?

14 A I said that the cause of death was the brain
15 disruption due to the gunshot wound to his head and that
16 contributory were the multiple gunshot wounds to his torso
17 and extremities.

18 Q What was the manner of death?

19 A I'm sorry homicide meaning from my perspective death
20 at the hands of another.

21 MR. WHITE: Thank you, Dr. Presnell. Judge,
22 that's all I have.

23 THE COURT: Mr. Edgeworth.

24 MR. EDGEWORTH: I have no questions for this
25 witness, your Honor.

1 THE COURT: Mr. Ammons.

2 MR. AMMONS: I have no questions, your Honor.

3 THE COURT: All right. Doctor, you may step
4 down. Thank you.

5 MR. WHITE: I ask that Dr. Presnell be released
6 from her subpoena?

7 THE COURT: Any objection?

8 MR. EDGEWORTH: No objection.

9 THE COURT: Any objection, Mr. Ammons.

10 MR. AMMONS: No, objection, your Honor.

11 THE COURT: Doctor, you are released from your
12 subpoena. You're free to go. Thank you.

13 (WHEREUPON, the witness leaves the witness
14 stand.)

15 THE COURT: Mr. White.

16 MR. WHITE: Thank you, Judge. At this time the
17 State would rest.

18 THE COURT: All right, can the lawyers approach
19 a minute please.

20 (WHEREUPON, a bench conference was held in the
21 presence of the jury, but out of the hearing of the
22 jury.)

23 THE COURT: All right, ladies and gentlemen of
24 the jury, the State has rested its case. In light of the
25 State resting its case at this point, there are some

1 matters of law that we need to take up and needs to be
2 done outside your presence. I'm not exactly sure how long
3 that may take. But what I'm going to do is go ahead is
4 I'm going to go ahead and release you all for the balance
5 of the day. I'm going to release you for the balance of
6 the day and ask you to be back here tomorrow morning at
7 9:30. And we will move forward at that time with the
8 case. Anything from the State at this time?

9 MR. WHITE: No, sir, Judge.

10 THE COURT: Mr. Edgeworth?

11 MR. EDGEWORTH: No, your Honor.

12 MR. AMMONS: No, your Honor.

13 THE COURT: All right. As I've told you
14 throughout, ladies and gentlemen, don't discuss this case
15 with anyone. You are to decide this case based solely
16 upon evidence and testimony presented in this courtroom
17 and nowhere else. Not only are you not allowed to talk
18 about it with anyone, again, no one should be reaching out
19 to try to talk to you about this case, okay. As I told
20 you before, any violations please inform the Court
21 immediately. You all have a nice evening. I will see you
22 tomorrow morning at 9:30, okay.

23 (WHEREUPON, the jury is excused for the day.)

24 THE COURT: All right, Mr. Edgeworth, happy to
25 hear from you, sir.

1 MR. EDGEWORTH: Thank you, your Honor. May it
2 please the Court. Your Honor, at this time I would ask
3 the Court for a directed verdict on both indictments. The
4 record in this case or the evidence has been submitted in
5 this case is completely devoid of any direct evidence that
6 one my client was in possession of the firearm, two
7 discharged a firearm. Three was the shooter who killed
8 the victim in this case.

9 The only evidence that's in the record is that
10 my client was present, that evidence primarily coming
11 through law enforcement's identification. No
12 identification by a third party or a witness other than
13 placing him at the scene. There's no evidence in the
14 record or any direct evidence of my client doing any of
15 the acts other than punching the individual who is not the
16 decedent in this case. I would also in addition to that
17 my apologies stumbled on those words. I also do not
18 believe that any circumstantial evidence that's been
19 presented before the Court reaches the threshold of
20 allowing this case to go in front of the jury.
21 Circumstances that's been presented by the case is
22 essentially the same as direct evidence.

23 One, my client is there understood. Two,
24 somebody made some initial shots, but no one the State has
25 split a difference on who they believe did those shots.

1 The testimony has been that it could have been Mr. Epps.
2 Three, that circumstances played to the fact that
3 something may have happened after the fact, but there's no
4 other evidence. We got a video that truncates at the time
5 after the shots that are on camera, and I do not believe
6 it would be mere speculation and some type of suspicion by
7 the jury that it was my client that did anything other
8 than punch Mr. Jones. I don't think that the
9 circumstances of the case that the State has presented
10 leads anyone or could lead anyone in that jury to do
11 anything but suspect it could be Mr. Carmichael. And I
12 believe that that would allow and require the Court to
13 enter a directed verdict on not only the murder count, but
14 also the possession of a weapon during the commission of a
15 violent crime. And going back to that your Honor in
16 addition -- well, I believe I made my point, so thank you,
17 your Honor.

18 THE COURT: Thank you, Mr. Edgeworth. Mr.
19 Ammons.

20 MR. AMMONS: Thank you, your Honor. At this
21 point on behalf of the Defendant Tirik Johnson-Epps, I
22 would also -- we seek to enter a motion for directed
23 verdict or move for a directed verdict on both indictments
24 the murder and the possession of a weapon charge as well.

25 Your Honor, it was copious amounts of

1 circumstantial evidence presented, but there was no direct
2 evidence as to Mr. Epps being the actual shooter, that was
3 captured on the video. There no witnesses that positively
4 ID Mr. Epps as the shooter. No witnesses that even -- no
5 lay witnesses that even suspected he was the shooter.
6 Now, there was law enforcement that did speculate that he
7 could be the shooter, but even Chatlosh when he testified
8 said he could not be certain as to who the shooter is.

9 So there was as we said lots of circumstantial
10 evidence none of that would rise to the level of
11 substantial circumstantial evidence that he did in fact
12 commit the crime of murder. The circumstantial evidence
13 that we have is that you see the top of a head of someone
14 who may have dread locks that's in the vicinity, and we
15 see something that may or may not be a beer in the hand of
16 the shooter, that's the basis for identification of
17 Mr. Epps as the shooter. That simply just don't rise to
18 the level of substantial circumstantial evidence.

19 Now, beyond that, Mr. Epps wasn't even involved
20 in any of the altercation that led up to that, showing no
21 motivation. He was in the car the whole time or at the
22 edge of the car while prelude to these events were
23 unfolding. There was nothing indicating that he was going
24 to be involved in any shooting.

25 Your Honor, there was some DNA evidence. Again,

1 it's been called blood. It's called blood on the record,
2 but it was also stated that it could be something else,
3 and so people were around. He was present. He was in
4 close proximity to the victim. It could have been any
5 various number of items your Honor of DNA material that
6 got on to him at that point in time. Just his mere
7 presence there, it's not enough to rise to the level of
8 substantial circumstantial evidence. Additionally, as far
9 as the weapon, I mean, there was some testimony and that
10 there was some chrome flash now that was Mr. White who
11 actually said that, but beyond that, there's no real
12 evidence that Mr. Epps even had a gun. So just mere
13 speculation that the top of a head and a beer and a flash
14 of something that looks like chrome simply doesn't rise to
15 the level of substantial circumstantial evidence. For
16 those reasons, we'd ask that you would grant a directed
17 verdict on both charges.

18 THE COURT: Thank you, sir. Anything in
19 response, Mr. White?

20 MR. WHITE: Judge, obviously, we're dealing with
21 the existence of any evidence not the weight of the
22 evidence, but with that being said, respectfully the State
23 feels that there's an overwhelming amount of evidence.
24 And you have three independent witnesses who say that just
25 prior to the shooting four individuals go around that

1 corner and that there only four that go around that corner
2 and two of those are Tirik Johnson-Epps, Quinterris
3 Carmichael. Kareem Jones is seen fleeing the scene as
4 soon as he hears shots, and then the fourth is Tydrecus
5 Williams who is found shot to death a few feet away.

6 Judge, from where that initial -- those initial
7 shots were fired. Respectfully, Kareem puts guns in both
8 of these individuals hands, and not only that when you
9 view the video in its totality and consider the witness
10 statements, I mean there's really no one else that it
11 could be. Within seconds of Tirik Johnson-Epps getting
12 out of that vehicle, you can see an individual with the
13 same type of hair style walking around the corner, he
14 fired shots. And, Judge, not to mention the person who's
15 standing to his immediate left while he's firing shots is
16 Quinterris Carmichael, and he never flinches. He never
17 moves. Everybody else is running fleeing the scene. This
18 guy doesn't move an inch. You see that beer bottle as
19 soon as those shots are fired it fizzes over. You heard
20 from Tyrin Jones who says she remembers that beer bottle
21 because when he gets back in the car -- I can't remember
22 exactly what she says, but she thought it was wasted. I
23 said what do you mean by that and she said it was spewing
24 over. I mean, there's not enough coincidence in the
25 world.

1 And, Judge, and although we don't see what
2 happens outside the view of that last video, we know what
3 happens. He is shot several more times, and the final
4 shot being to his head execution style. People are
5 fleeing. Everyone's running away from the shots, away
6 from Tydrecus Williams. The only person walking towards
7 that body is Quinterris Carmichael, and he's stalking him.
8 And we know that he shoots him several times off camera.
9 Judge, we have witness statements video surveillance. We
10 also have despite a good argument to the contrary. I
11 mean, it's Tydrecus Williams' blood that's on Tirik
12 Johnson-Epps pants. And it's not just kind of like him.
13 I mean, we're talking about 990 octillion more people than
14 are on planet earth. So, Judge, respectfully, I believe,
15 that this case is an overwhelming evidence, and we'd ask
16 that it be submitted to the jury and get ready to argue
17 and charge in the morning.

18 THE COURT: All right. All right, as you all
19 know if the evidence merely raises a suspicion, the
20 defendants will certainly be entitled to a directed
21 verdict. The Court has to take into consideration whether
22 or not there was any direct evidence or substantial
23 circumstantial evidence reasonably tending to prove the
24 guilt of the accused. If that's the case, then the Court
25 is required by law to submit the case to the jury.

1 The Court after hearing all of the testimony in
2 this case, and I won't go through every witness'
3 testimony, but I believe the record is replete with
4 testimony as it relates to direct evidence as well as
5 substantial circumstantial evidence that reasonably tend
6 to prove the guilt of each of these defendants in which a
7 jury reasonably could return a verdict or could return a
8 verdict of guilt as to each of these charges. Therefore,
9 with all due respect, Mr. Edgeworth, Mr. Ammons, I'm
10 respectfully -- the Court's respectfully denying the
11 motion for direct verdict, but your motions are so noted
12 for the record, okay.

13 All right. At this time what I'm going to do is
14 I'm going to advise the defendants of their rights. I
15 would ask that Mr. Quinterris Javon Carmichael stand as
16 well as Mr. Tirik Jaquan Johnson-Epps. If each of you
17 would raise your right hand please. Do you swear to tell
18 the truth, the whole truth, and nothing but the truth so
19 help you God, Mr. Carmichael?

20 DEFENDANT CARMICHAEL: Yes, sir.

21 THE COURT: Mr. Epps?

22 DEFENDANT JOHNSON-EPPS: Yes, sir.

23 THE COURT: I need you to speak up okay, Mr.
24 Carmichael.

25 DEFENDANT CARMICHAEL: Yes, sir.

1 THE COURT: You can put your hands down, okay.
2 All right, Mr. Carmichael and Mr. Johnson-Epps, at this
3 time I'm going to explain to you certain of your rights.
4 If you do not understand anything that I say to you please
5 let me know. If you want me to explain anything in more
6 detail, please let me know that as well. Do you
7 understand that, Mr. Carmichael?

8 DEFENDANT CARMICHAEL: Yes, sir.

9 THE COURT: Mr. Epps?

10 DEFENDANT JOHNSON-EPPS: Yes, sir.

11 THE COURT: All right. We've now reached the
12 stage of the trial where you may present your defense. I
13 will tell you that each of you have the right to claim the
14 protections given to you by the Fifth Amendment to the
15 constitution of the United States. And that amendment
16 states in part that no person, no person shall be
17 compelled in any criminal case to be a witness against
18 himself. This means that you cannot be required to
19 testify in this case. You have the right to testify on
20 your own behalf. However, no can make you testify. This
21 is a personal right, and no one can waive this right
22 except you. Now, if either one of you decide to testify,
23 I'll tell you that will be subject to the same rules that
24 govern other witnesses, and you may be examined and
25 cross-examined on any relevant issue in this case. In

1 addition, if you have any convictions involving dishonesty
2 or false statement or for crimes punishable by
3 imprisonment for more than a year and this court
4 determines that the probative value of admitting this
5 evidence outweighs its prejudicial effect to you, the
6 prosecutor will be able to introduce your record to attack
7 your credibility. And if you decide to testify, this
8 decision on your part must be freely, voluntarily,
9 knowingly and intelligently made with knowledge of the
10 protections given to you by the Fifth Amendment and the
11 consequences of your decision to testify.

12 Now, if you decide not to testify, I will
13 instruct the jurors that they cannot, that they cannot
14 give the fact that you did not testify any consideration
15 whatsoever. And that there is to be absolutely no
16 prejudice to either one of you because you did not
17 testify. It's left entirely up to you whether or not you
18 testify. You may talk with your attorney, your family,
19 friends or anyone else, but the final decision as to
20 whether or not you testify will be left entirely up to
21 you. Do you understand what I've explain to you,
22 Mr. Carmichael?

23 DEFENDANT CARMICHAEL: Yes, sir.

24 THE COURT: Sir?

25 DEFENDANT CARMICHAEL: Yes, sir.

1 THE COURT: Mr. Epps?

2 DEFENDANT JOHNSON-EPPS: Yes, sir.

3 THE COURT: Do either one of you have any
4 questions about what I've explained to you, Mr.
5 Carmichael?

6 DEFENDANT CARMICHAEL: No, sir.

7 THE COURT: Mr. Epps?

8 DEFENDANT JOHNSON-EPPS: No, sir.

9 THE COURT: What I'm going to do is I am going
10 to give you all the overnight to speak with your
11 attorneys, whomever else you so desire concerning your
12 right to testify, and your decision to testify. When we
13 reconvene here tomorrow morning, I will expect an answer
14 from each of you at that time. Do you understand that,
15 Mr. Carmichael?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Epps?

18 DEFENDANT JOHNSON-EPPS: Yes, sir.

19 THE COURT: All right. Mr. Edgeworth, anything
20 further?

21 MR. EDGEWORTH: Nothing further, your Honor.

22 THE COURT: Mr. Ammons?

23 MR. AMMONS: No, your Honor.

24 THE COURT: All right. You all can be seated.
25 All right. As I told the lawyers up here at side bar, I

1 think that you all have gotten the charge now as well as
2 proposed verdict form. If you all will take a look at
3 that overnight, give you the overnight to look at that.
4 When we reconvene tomorrow morning, I ask that you all be
5 here by 8:45. I think I told you side bar 8:30, but 8:45
6 should give us sufficient time to discuss the jury charge
7 and for me to inquire of each of these defendants as far
8 as for their intentions of whether or not they intend to
9 testify in trial, okay.

10 All right. One other thing if something that --
11 I know Mr. Ammons tried a case in front of me sometime
12 back, I can't remember if I did this in that trial that he
13 tried. But I've kind of moved from the -- my initial
14 inclination when I first got on the bench was giving the
15 charge after arguments. And I've transition that to give
16 him the charge before arguments. Any thoughts one way or
17 the other, Mr. White?

18 MR. WHITE: Judge, it doesn't matter to me.

19 THE COURT: Mr. Edgeworth.

20 MR. EDGEWORTH: I have no objection to that,
21 your Honor.

22 MR. AMMONS: I have no preface either way, your
23 Honor.

24 THE COURT: Okay. Well, you know, unless
25 something changes, it would be my intention to charge the

1 jury on the law first, and then allow you all to hear --
2 give your closing statements, closing arguments. And once
3 you all finish with your closing arguments, then I will
4 give the jury a few conclusory remarks before we giving it
5 to them their deliberations, okay. All right. Anything
6 else, Mr. White?

7 MR. WHITE: No, sir, Judge.

8 THE COURT: Mr. Edgeworth.

9 MR. EDGEWORTH: No, sir.

10 THE COURT: Mr. Ammons.

11 MR. AMMONS: No, your Honor.

12 THE COURT: All right. We'll reconvene at 8:45
13 in the morning. Thank you.

14 (WHEREUPON, the proceedings were concluded for
15 the day to be reconvened on January 27, 2023.)

16 THE COURT: All right. Before we go into
17 talking about the charge, I'm going to ask that each of
18 the defendants stand up please. Mr. Carmichael, Mr. Epps,
19 I will remind both of you that you are still under oath.
20 Now, yesterday before we broke, I advised each of you of
21 your rights as it relates to testifying in this case. Do
22 you need me to go over those rights again with you,
23 Mr. Carmichael?

24 DEFENDANT CARMICHAEL: No, sir.

25 THE COURT: Mr. Epps?

1 DEFENDANT JOHNSON-EPPS: No, sir.

2 THE COURT: Have each of you had enough time to
3 talk to your lawyer concerning this issue, Mr. Carmichael?

4 DEFENDANT CARMICHAEL: Yes, sir.

5 THE COURT: Mr. Epps?

6 DEFENDANT JOHNSON-EPPS: Yes, sir.

7 THE COURT: Let me ask this, do you wish to
8 testify in the trial of your case, Mr. Carmichael?

9 THE DEFENDANT: No, sir.

10 THE COURT: Mr. Epps?

11 DEFENDANT JOHNSON-EPPS: No, sir.

12 THE COURT: All right, very well. You all may
13 be seated. Anything else from you, Mr. Edgeworth,
14 relating to that issue?

15 MR. EDGEWORTH: No, your Honor.

16 THE COURT: Mr. Ammons?

17 MR. AMMONS: No, your Honor.

18 THE COURT: All right. Now, moving on sent both
19 you all or excuse me -- all of three of you a copy of the
20 jury charge yesterday. Mr. Edgeworth pointed out a typo
21 as it relates to the murder portion of the -- murder
22 charge portion of the jury charge that has been corrected.
23 I apologize for not catching that myself, but that has
24 been corrected. I received -- my law clerk, I guess,
25 correspondence from Mr. White concerning charging the

1 felony murder rule. Let me hear from you, Mr. White, as
2 it relates to that issue please.

3 MR. WHITE: Judge, tired as I might last night,
4 I looked for that case. I know I read a case that's on
5 point and supports my position. We found cases from
6 Missouri, Michigan and Florida. Obviously, that doesn't
7 help me here. We're in South Carolina state court. And,
8 you know, I can't -- I couldn't find a case on point. I
9 would argue that, you know, because there is not a case on
10 point, it's entirely in your discretion. Judge, and I'm
11 happy with whatever you are incline to do.

12 THE COURT: Well, I couldn't find a case either.
13 I mean, I did research on it before. Before I left here
14 yesterday, on that issue and every case that I saw had a
15 separate and distinct felony charge for which a murder
16 resulted therefrom. And, I guess, the most recent case
17 was this case of State vs. Brown 881 SC 2D 771 wherein a
18 felony murder charge was given. And it's kind of strange
19 that the Court of Appeals in that particular case never
20 said it was error said if it was error, we don't find it
21 was prejudicial. Another case and I don't know the -- I
22 can't remember the name of it right off the top of my
23 head. It was a situation wherein one of the more recent
24 cases on an attempt to create in essence a felony
25 attempted murder charge, and the Supreme Court in essence

1 said absolutely not. So I didn't see anything that I
2 believed warranted giving the felony murder rule charge in
3 this particular case. Especially, since I couldn't find a
4 case relating to it. So I am not going to charge felony
5 murder rule. Separate and apart from that any other
6 exceptions or objections to the charge from the State?

7 MR. WHITE: None on behalf of the State, Judge.

8 THE COURT: All right. Mr. Edgeworth.

9 MR. EDGEWORTH: No, your Honor.

10 THE COURT: Mr. Ammons.

11 MR. AMMONS: No, your Honor.

12 THE COURT: All right. Now, Mr. Edgeworth, I
13 don't know if it was this morning or last night, sent to
14 my e-mail to my law clerk. And I'm assuming I didn't see
15 the e-mail, but I'm assuming he copied everybody
16 requesting that the verdict forms be separated out as to
17 each defendant with their respective indictment numbers.

18 MR. WHITE: Judge, I would argue that they
19 should remain on one for several reasons. I guess, the
20 first being the ease of the jurors not to confuse the
21 issues here. I mean, we are trying this under hand of one
22 of hand of all. These two individuals being tried
23 together. I'd ask that the verdict form reflect the same.

24 THE COURT: Anything in response, Mr. Edgeworth?

25 MR. EDGEWORTH: Just briefly, your Honor. I

1 mean, my position is fairly simple that it can be
2 confusing. And I think the least thing to do for the jury
3 is to prevent that because as it's read it could -- and we
4 don't want to confuse the jury say, well, you have to
5 reach a verdict to get to the next question. And I know
6 it says, you know, proceed et cetra, but I do think that
7 for the purposes of, you know, not non-prejudicial to each
8 of these clients the fact that there on two documents
9 doesn't preclude them from finding guilt or not guilty on
10 any of the charges. And I just feel like that in order to
11 keep any prejudice that may occur or confusion that may
12 occur because there are two individuals, two sets of
13 indictments, despite the fact that there's hand of one
14 charge.

15 THE COURT: Mr. Ammons.

16 MR. AMMONS: Mr. Edgeworth stated my opinion in
17 that regard.

18 THE COURT: Well, after looking at it, I am
19 going to separate them out because part of my charge also
20 too, you know, specifies that they're charged separately
21 and individually. And, you know, the State has to prove
22 guilt beyond a reasonable doubt as to each defendant as it
23 relates to each charge. And so I think the jury would
24 have no problem navigating through the two verdict forms.
25 And those done with the verdict form. My law clerk has

1 done the verdict forms, and they are up here for you all
2 to take a look at and review if you want to. So I have
3 made that change, okay.

4 MR. EDGEWORTH: Thank you, Judge.

5 MR. WHITE: Thank you, Judge.

6 THE COURT: All right. Anything else before --
7 well, let me say this in light of the fact that neither
8 one of the defendants are choosing to testify in the trial
9 of their case, what I've done in the past with my
10 intention would be is when the jury comes in here,
11 Mr. Edgeworth, I'll recognize you. You can indicate at
12 that time that the Defendant Carmichael rest its case and
13 simply state on the record renewing all prior motions and
14 objections. And likewise I'd recognize you Mr. Ammons,
15 and you do the same rest and state for the record that
16 you're renewing all prior motions and objections. And I
17 will simply at that juncture say -- well, tell you all
18 that the Court's rulings remain the same. And then we'll
19 move right into my jury charge to this jury. I will give
20 my charge first. Once my charge is completed, I'll
21 recognize Mr. White followed by Mr. Edgeworth and
22 Mr. Ammons. Defendants will get to argue last since they
23 put no evidence in the record, okay.

24 MR. WHITE: Yes, sir, Judge.

25 MR. EDGEWORTH: Just so I make sure I

1 understand, your Honor. Just procedurally should I allow
2 Mr. Ammons to rest, and then come back to me to renew or
3 do you want to just do it all together.

4 THE COURT: I don't think its -- I don't think
5 you need to wait until he rest. I mean, you're resting
6 your case ---

7 MR. EDGEWORTH: Yes, sir.

8 THE COURT: --- you know at that point, and so I
9 think you are -- I don't see how you would not be
10 protected because you've rested.

11 MR. EDGEWORTH: Okay. Thank you, sir.

12 THE COURT: Anything else, Mr. White?

13 MR. WHITE: No, sir, Judge.

14 THE COURT: Mr. Edgeworth, anything else?

15 MR. EDGEWORTH: No, your Honor. Thank you.

16 MR. AMMONS: No, your Honor.

17 THE COURT: You all can come up here and take a
18 look at these verdict forms. Let's make sure -- and one
19 thing since we have -- if you all could and maybe you're
20 still gathering your thoughts of work on your closing, I
21 don't know, but go through these items of evidence, so as
22 soon as you all finish arguments and I given my final
23 conclusory remarks to this jury, there's not an extended
24 period of time of them waiting to get the evidence back
25 there.

1 MR. WHITE: The only thing that I did not move
2 into evidence I think was 82 and 83.

3 THE COURT: Mr. Edgeworth, did you hear that?

4 MR. EDGEWORTH: No, sir.

5 THE COURT: The only thing he didn't move into
6 evidence was 82 and 83. What was that?

7 MR. AMMONS: The pants was 83.

8 MR. WHITE: Pants 83 and then one of the maps
9 82.

10 THE COURT: I'm assuming if they need to watch
11 any of these videos or listen to any of these, we're going
12 to bring them back in the courtroom.

13 MR. WHITE: I would prefer to bring them back in
14 the courtroom be my preface.

15 THE COURT: Okay. All right.

16 (WHEREUPON, a pause in the proceedings.)

17 THE COURT: All right. We'll stand down until
18 we get all the jurors here.

19 (WHEREUPON, a break was taken.)

20 THE COURT: All right. Anything from the State
21 before I bring the jury out?

22 MR. WHITE: Briefly, Judge, may we approach for
23 just one second?

24 THE COURT: Yes.
25

1 (WHEREUPON, a bench conference was held.)

2 THE COURT: All right. Anything else from the
3 State?

4 MR. WHITE: No, sir, Judge.

5 THE COURT: Mr. Edgeworth.

6 MR. EDGEWORTH: May I put my motion on the
7 record?

8 THE COURT: Yes. Yes.

9 MR. EDGEWORTH: Your Honor, at this time it's
10 come to my attention that the State intends to use what
11 amounts to a transcript of the conversation that arose out
12 of -- that's drawn from the video that's in evidence. My
13 position is is that that should be stricken from the
14 closing because the transcript whatever it reflects is not
15 in evidence. The best evidence in this particular example
16 is the video itself, and it should speak for itself. And
17 I don't think that it's appropriate even an argument to
18 argue to the jury what something means or what something
19 says that's not in evidence because I think they're going
20 beyond just arguing. They're saying that that is what
21 actually was said. And although it was brought up in
22 opening, the recitation that that is what it is, but it's
23 not in evidence now. We could have put up, you know,
24 someone who actually took the transcript and certified
25 that that's what, you know, he said and go under oath and

1 I could have an opportunity to cross-examine them as to
2 how they got that information, but I think it's
3 inappropriate to purport to the jury something that the
4 State believes is what said when it's not in evidence.

5 THE COURT: All right.

6 MR. AMMONS: We join in that motion, your Honor.

7 THE COURT: All right. I'm going to allow the
8 State to do it, but certainly will allow you to argue
9 otherwise to the jury about what's said in there, but your
10 objection so noted for the record.

11 MR. EDGEWORTH: Thank you, Judge.

12 THE COURT: All right. Let me say this to
13 everybody in the courtroom, I'm getting ready to bring
14 this jury back out. And when I bring the jury back out
15 and begin my jury charge and closing arguments of counsel,
16 I don't want anybody coming in and out of the courtroom.
17 I want the jury's full attention being given to me during
18 this charge. As well as to the lawyers as they make their
19 closing arguments, I don't want any distractions, okay.
20 Bring me the jury please, ma'am.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: All right. Madam forelady, ladies
23 and gentlemen of the jury, hope you all had a nice evening
24 yesterday and ready to proceed here today. Before we
25 broke yesterday and before I excused you all for the

1 balance of the day, the State rested its case. Pursuant
2 to the State resting it's case, I will now recognize
3 defense counsel Mr. Edgeworth for Mr. Carmichael.

4 MR. EDGEWORTH: Thank you, your Honor. On
5 behalf of my client Defendant Carmichael, we rest. And
6 also at this time we renew all prior motions, objections
7 previously before the Court.

8 THE COURT: All right. The State as it relates
9 to your prior motions and objections, the Court's ruling
10 remain the same as to such.

11 MR. EDGEWORTH: Thank you, Your Honor.

12 THE COURT: Mr. Ammons.

13 MR. AMMONS: Thank you, your Honor. At this
14 time, the defense on behalf of Tirik Jaquan Johnson-Epps
15 rests. And I also renewing all prior motions and
16 objections.

17 THE COURT: Very well. Thank you, Mr. Ammons.
18 As it relates to all of your prior motions and objections,
19 the Court's rulings remain the same as to those as well,
20 okay.

21 Now, ladies and gentlemen, as you've heard, the
22 defendants have rested as well. What I'm getting ready to
23 do is we're going to go straight into -- I'm going to give
24 you the charge on the law. Once I complete my charge on
25 the law as it relates to this case, then we'll move into

1 closing arguments. The State will go first followed by
2 Mr. Edgeworth and then Mr. Ammons. And then I will have a
3 few conclusory remarks to make to you prior to giving the
4 case to you to begin your deliberation, okay. Please
5 listen very carefully to this charge, ladies and
6 gentlemen.

7 Now, ladies and gentlemen, it is now my duty as
8 the trial judge under the Constitution of this state to
9 charge you and instruct you on the law applicable to this
10 case. It is your duty as jurors to accept and apply the
11 law the law as I will now state it to you. Furthermore,
12 it is your exclusive duty to decide all the issues of fact
13 in this case and to determine the effect, value, and
14 weight of the evidence. Both the State and the defendants
15 have a right to expect that you will carefully consider
16 and evaluate the evidence and apply the law of this case
17 to it so that in the end both the State of South Carolina
18 and the defendants will receive a fair and impartial
19 trial. I want you to understand that when I use the word
20 defendants I refer to Mr. Quinterris Javon Carmichael and
21 Tirik Jaquan Johnson-Epps.

22 Furthermore, it is important to understand that
23 the State of South Carolina charges each defendant with
24 murder and possession of a weapon during a violent crime.
25 And to these charges, the defendants have entered a plea

1 of not guilty. This plea of not guilty places the burden
2 of proof on the State to prove the guilt of the defendants
3 to you, the jury, beyond a reasonable doubt.

4 Now, during the trial, ladies and gentlemen, you
5 and I have separate duties to perform. As the trial
6 judge, it is my responsibility to preside over the trial
7 and also have the duty to rule upon the admissibility of
8 the evidence offered during the process of this trial. In
9 that regard, you are to consider only the competent
10 evidence before you. You are to consider only the
11 testimony which has been presented from this witness stand
12 together with any exhibits admitted into the record.

13 Furthermore, I have the additional duty to
14 charge you on the applicable law of this case, and in that
15 regard, I am the sole judge of the law in this case. It
16 is your duty to accept and apply the law as I state it to
17 you. If you have any preconceived ideas as to what the
18 law is or should be, you are obligated under your oath to
19 abandon these preconceptions because you are sworn to
20 accept the law precisely as I state it to you.

21 Now, ladies and gentlemen, I remind you of the
22 fact that the defendants were arrested, charged and
23 indicted in this case is not evidence in this case and
24 cannot be considered by you as evidence of guilt in this
25 case. Nor does it create any presumption or inference of

1 guilt. The indictment, ladies and gentlemen, is simply
2 the formal written instrument which contains the charges
3 made against each defendant. It is the formal document by
4 which this case is brought into this court. The
5 indictment in this case, ladies and gentlemen, allege
6 murder and possession of a weapon during a violent crime
7 against Quinterris Javon Carmichael and Tirik Jaquan
8 Johnson-Epps.

9 Each defendant or excuse me each indictment
10 charges a separate and distinct offense. You must decide
11 each indictment separately on the evidence and the law
12 applicable to it uninfluence by your decision as to any
13 other indictment. Each defendant may be convicted or
14 acquitted on any or all of the offenses charged. You will
15 be asked to write a separate verdict, madam forelady, of
16 guilty or not guilty for each indictment.

17 Now, there two indictments in this case each of
18 whom as I have told you before is charged with murder and
19 possession of a weapon during a violent crime. The case
20 of each defendant and the evidence and the law concerning
21 each defendant should be considered separately and
22 individually. Your verdict does not have to be the same
23 for both defendants. The fact that you may find one
24 defendant guilty or not guilty should not control your
25 verdict as to the other defendant. Where more than one

1 person is charged with a crime if the evidence warrants
2 it, you may convict one and acquit the other or you may
3 acquit both or you may convict both. It will depend upon
4 your view of the testimony and evidence. You must take
5 each defendant and consider the evidence as to that
6 defendant and my instructions to you on the law. You will
7 then write a separate verdict of guilty or not guilty for
8 each individual defendant as to each charge.

9 Now, ladies and gentlemen, during the trial as I
10 told you from the outset, your duty is to find the facts
11 in this case. You, ladies and gentlemen, are the sole and
12 exclusive judge of the facts. And as I've told you
13 before, I'm the judge of the law. Do not infer that I
14 have any opinion about the facts in this case from
15 anything that I have said during the course of this trial
16 in ruling upon the admissibility of evidence or otherwise
17 or from anything that I say during the course of this
18 charge to you. In this regard, the law simply does not
19 permit me to have an opinion about the facts. As jurors,
20 it is your duty alone to determine the effect, value and
21 weight of the evidence presented during the course of this
22 trial.

23 Now, in determining what the facts in this case
24 are, ladies and gentlemen, you must judge the credibility
25 which simply means the believability of the witnesses, and

1 the value of weight to be given to their testimony. You
2 alone must decide the force and effect of the testimony.
3 Now, in making this decision, there are many things that
4 you may and should take into consideration such as the
5 appearance and manner of the witness on the stand, a
6 characteristic often referred to as the demeanor of the
7 witness, was the witness forthright or hesitant, was the
8 witness' testimony consistent or did it contain
9 discrepancies, what was the ability of the witness to know
10 the facts about which he or she testified, did the witness
11 have a cause or reason to be biased and prejudice in favor
12 of the testimony he or she gave, was the testimony of the
13 witness corroborated or made stronger by other testimony
14 and evidence or was it made weaker impeached by such other
15 testimony and evidence.

16 As jurors, please understand that you have the
17 right to believe a small portion of a witness' testimony
18 and discard the larger portion or vice versa. You may
19 believe all of a witness' testimony or none. You may
20 believe the testimony of a single witness against that of
21 many witnesses or the other way around.

22 Now, in exercising your mental processes in
23 attempting to decide the verdict, the law simply requires
24 that you exercise your good judgment, your common sense,
25 your sense of logic and reason and your experiences in

1 life. You then apply these attributes to the evidence and
2 apply the law as I state it to you and thus arrive at a
3 verdict.

4 Now, ladies and gentlemen, it is vital, vital to
5 understand that a defendant is presumed under the law to
6 be innocent of the crimes for which he is charged. A
7 defendant has no obligation to prove his or her innocence.
8 It is a fundamental rule of our law that a defendant
9 irrespective of the seriousness of the charge against him
10 or her is always presumed innocent of the crimes for which
11 he or she is charged unless and until his or her guilt has
12 been proven by evidence that satisfies you, the jury,
13 beyond a reasonable doubt.

14 The presumption of innocence is not a mere legal
15 theory or a legal phrase. The presumption of innocence is
16 very important and you need to understand that this
17 presumption accompanies a defendant from the time of his
18 or her arrest and appearance in this court and continues
19 with a defendant even after you retire to the jury room to
20 deliberate. In other words, a defendant receives the
21 benefit of the presumption of innocence until the very end
22 of this trial when you, the jury, would deliberate upon
23 the evidence and decide whether the State has proven guilt
24 beyond a reasonable doubt.

25 Now, ladies and gentlemen, what is a reasonable

1 doubt in the law. A reasonable doubt is the kind of doubt
2 that would cause a reasonable person to hesitate to act.
3 Proof beyond a reasonable doubt is proof that leaves you
4 firmly convinced of the defendant's guilt. Now, there
5 very few things in this world we know with absolute
6 certainty, so even in criminal cases the law does not
7 require proof that overcomes every possible doubt. If
8 based on your consideration of the evidence, you are
9 firmly convinced that the defendant is guilty of the
10 crimes charged, you must find him or her guilty. If on
11 the other hand, you think there is a real possibility that
12 he or she is not guilty, you must give them the benefit of
13 the doubt and find them not guilty.

14 Please understand, ladies and gentlemen, that
15 reasonable doubt may arise from evidence which has been
16 presented in the case or from the lack of evidence in the
17 case. It is your responsibility to determine whether or
18 not reasonable doubt exists as to the guilt of each
19 defendant. Now, I charge you that each defendant is
20 entitled to every reasonable doubt arising in the whole
21 case. If upon any issues of fact essential to conviction
22 and a verdict of guilty, you have a reasonable doubt as to
23 how that issue should be resolved, it would be your duty
24 to resolve that reasonable doubt in favor of the
25 defendant. Thus in summary, it is important to understand

1 that a defendant is not required to prove his innocence.
2 Instead, the State is required by law to prove every
3 essential element of the offense charged against the
4 defendant by evidence which satisfies you of guilt beyond
5 a reasonable doubt, only then can you convict a defendant
6 and find him or her guilty.

7 Now, there are two types of evidence which are
8 generally presented during a trial direct evidence and
9 circumstantial evidence. Direct evidence directly proves
10 the existence of a fact and does not require deduction.
11 Direct evidence is the testimony of a person who claims to
12 have actual knowledge of a fact such as an eyewitness. It
13 is evidence which immediately establishes the main fact to
14 be proved. Circumstantial evidence is proof of a chain of
15 facts and circumstances indicating the existence of a
16 fact. It is evidence which immediately establishes
17 collateral facts from which the main fact may be inferred.

18 Circumstantial evidence is based on inference
19 and not on personal knowledge or observation. Crimes may
20 be proven by circumstantial evidence. However, to the
21 extent the State relies on circumstantial evidence all of
22 the circumstantial evidence must be consistent with each
23 other and when taken together point conclusively to the
24 guilt of the accused beyond a reasonable doubt. If these
25 circumstances merely portray the defendant's behavior as

1 suspicious, the proof has failed. The law makes
2 absolutely no distinction between the weight or value to
3 be given to either direct or circumstantial evidence. Nor
4 is a greater degree of certainty required of
5 circumstantial evidence than of direct evidence. You,
6 ladies and gentlemen, should weigh all of the evidence in
7 this case. If after weighing all the evidence you are not
8 convinced of the guilt of the beyond a reasonable doubt,
9 you must find the defendant not guilty. The burden rest
10 with the State regardless of whether the State relies on
11 direct evidence or circumstantial evidence or some
12 combination of the two. The State has the burden of
13 proving the defendant guilty beyond a reasonable doubt.

14 And during the trial, ladies and gentlemen, you
15 heard the testimony of a witnesses that were qualified as
16 expert witnesses. As I told you before, the rules of
17 evidence ordinarily do not permit witnesses to testify to
18 opinions or conclusions. An exception to this rule exist
19 for witnesses that we call expert witnesses. A witness
20 who by education and experience has become expert in some
21 art, science, profession or calling may state an opinion
22 as to a relevant and material matter in which the witness
23 claims to be an expert, and may also state the reason for
24 the opinion. You should consider any expert opinion
25 received in evidence in this case and like any other

1 evidence give it the weight that you think it deserves.
2 If you decide that the opinion of an expert is not based
3 on sufficient education and experience or if you conclude
4 that the reason given in support of the opinion are not
5 sound or that the opinion is outweighed by other evidence,
6 you may disregard the opinion entirely. Furthermore, an
7 expert witness' testimony is to be given no greater weight
8 then that of other witnesses simply because the witness is
9 an expert. Further, you are not required to accept an
10 expert's opinion even though it is not contradicted.

11 During the trial, ladies and gentlemen, you also
12 heard the testimony of an individual with a prior criminal
13 record. I will tell you that a person who has a past
14 criminal record is competent to testify during a trial. A
15 past record does not affect the ability of that witness to
16 testify. The past record may only be considered by you if
17 at all in determining the witness' believability.
18 Remember, you are the sole judges of the facts in this
19 case and of the believability of any and all of the
20 witnesses.

21 Now, you also, ladies and gentlemen, heard
22 evidence of an allege statement by Defendant Carmichael,
23 that particular statement was admitted into evidence in
24 this case. Now, while the Court has determine that the
25 statement is admissible, I instruct you that you make the

1 ultimate decision of whether or not the defendant made the
2 statement. If a defendant did make the statement, you
3 must determine whether the statement was made by the
4 defendant voluntary or voluntarily and of his own
5 freewill. This means that the statement was not caused by
6 pressure, force, fear threats, coercion or intimidation or
7 by hope or a promise of leniency or a reward of any kind.
8 In determining whether the statement was voluntary, you
9 should consider both the characteristics of the defendant
10 and the details of the questioning. Some of the factors
11 you must consider are the age of the defendant, the
12 defendant's education or lack of education, the
13 defendant's mental ability or capacity, defendant's IQ or
14 intelligence, the defendant's background and environment,
15 the place and length of detention, and the nature of the
16 questioning.

17 The State has the burden of proving beyond a
18 reasonable doubt that the allege statement was voluntary.
19 If you determine it was, you may give the statement any
20 further consideration that you deem proper. You must
21 decide what weight, if any, should be given to the allege
22 statement. If you determine that the allege statement was
23 not the free and voluntary statement of the defendant, you
24 should not consider the statement at all.

25 Now, ladies and gentlemen, I instruct you and I

1 emphasize that the fact that the defendants in this case
2 did not testify is not -- is not a factor to be considered
3 by you in any way during your deliberations. And in your
4 consideration on the question of the guilt or the
5 negligence of either defendant. It must not, ladies and
6 gentlemen, be considered by you in any manner whatsoever.
7 A defendant has the constitutional right to remain silent,
8 and the assertion of this right must not be considered by
9 you in your deliberations. I repeat under your oath you
10 are to draw no conclusion whatsoever from the fact that
11 the defendants in this case did not testify. The fact
12 that the defendants did not testify should not even be
13 discussed in the jury room.

14 The burden of proof as I have stated to you is
15 on the State. A defendant is not required to prove his
16 innocence. The burden of proof remains on the State to
17 prove guilt beyond a reasonable doubt.

18 Now, ladies and gentlemen, in order to establish
19 criminal liability, criminal intent is required. For
20 example, the mental state required to be proven by the
21 State for a particular crime might be purpose, intent,
22 knowledge, recklessness or criminal negligence. Criminal
23 intent must be proven by the State beyond a reasonable
24 doubt. Criminal intent is always a matter that must be
25 determined by the jury from the circumstances surrounding

1 the situation.

2 Now, ladies and gentlemen, there is no way to
3 prove intent to a mathematical certainty. There is no way
4 that medical science can dissect a person's brain and
5 determine what the person had in mind. So the law says
6 that criminal intent may be inferred from the
7 circumstances shown to have existed. This is how you make
8 a determination of whether or not the element requiring
9 intent was present. It is not necessary, ladies and
10 gentlemen, to establish intent by direct and positive
11 evidence. But intent may be establish by inference in the
12 same way as any other fact, by taking into consideration
13 the acts of the parties and all the facts and
14 circumstances of the case. Criminal intent is a mental
15 state, a conscious wrongdoing. It is up to you to
16 determine what the defendant intended to do based on the
17 circumstances shown to have existed. Criminal intent can
18 arise from action or a failure to act. It may arise from
19 negligence, recklessness or an indifference to duty or to
20 consequences that is considered by the law to be the
21 equivalent of criminal intent.

22 Now, as I told you, ladies and gentlemen, each
23 defendant is charged with the offense of murder. The
24 State must prove beyond a reasonable doubt that the
25 defendant killed another person with malice aforethought.

1 Malice is hatred ill will or hostility towards another
2 person. It is the intentional doing of a wrongful act
3 without just cause or excuse and with intent to inflict an
4 injury or under circumstances that the law will infer an
5 evil intent. Malice aforethought does not require that
6 malice exist for any particular time before the act is
7 committed, but malice must exist in the mind of the
8 defendant just before and at the time the act is
9 committed. Therefore, there must be a combination of the
10 previous evil intent and the act.

11 Malice aforethought may be expressed or
12 inferred. These terms express and inferred do not mean
13 different kinds of malice, but merely the manner in which
14 malice may be shown to exist. That is either by direct
15 evidence or by inference from the facts and circumstances
16 which are proved. Express malice is shown when a person
17 speaks words which express hatred or ill will for another
18 or when the person prepared beforehand to do the act which
19 was later accomplished. For example, lying in wait for
20 a person or any other acts of preparation going to show
21 that the deed was within the defendant's mind would be
22 express malice. Malice may be inferred from conduct
23 showing a total disregard for human life.

24 Now, as I told you before, each defendant is
25 also charged with possession of a weapon during the

1 commission of a violent crime. The State must prove
2 beyond a reasonable doubt that the defendant was in
3 possession of a firearm or visibly displayed what appeared
4 to be a firearm during the commission of a violent crime.
5 A firearm means any machine gun, automatic riffle,
6 revolver, pistol or any weapon which will as design to or
7 may be readily converted to expel a projectile. In order
8 to find the defendant guilty of possession of a weapon
9 during the commission of a violent crime, you must first
10 find the defendant guilty of committing a violent crime.
11 I will tell you that murder is a violent crime. The State
12 must prove beyond a reasonable doubt that the weapon
13 further advanced or helped in the commission of the crime.

14 Now, ladies and gentlemen, if a crime is
15 committed by two or more people who are acting together in
16 committing a crime, the act of one is the act of all. A
17 person who joins with another to commit an unlawful act is
18 criminally responsible for everything done by the other
19 person which happens as a probable or natural consequence
20 of the acts done in carrying out the common plan and
21 purpose. For example, two people can be guilty of killing
22 another person when only one of the two had a gun. There
23 was only one bullet and only one of the two fired the shot
24 that caused the death. If two or more people are acting
25 together -- are together assisting each other in

1 committing the offense, the act of one is the act of all
2 or as it is sometime said the hand of one is the hand of
3 all.

4 Prior knowledge that a crime is going to be
5 committed without more is not sufficient to make a person
6 guilty of that crime. Mere knowledge that another person
7 is going to commit a crime even if the defendant is
8 present when the crime is committed is not sufficient to
9 convict the defendant as a principal. Guilt as a
10 principal is shown by actual or constructive presence at
11 the scene as a result of prior arrangement. Therefore, a
12 finding of a prior arrange plan or common scheme is
13 necessary for a finding of guilt as a principal. The State
14 must prove beyond a reasonable doubt by competent evidence
15 the theory of the hand of one is the hand of all.

16 A principal in a crime is one who either
17 actually commits the crime or who is present aiding,
18 abetting or assisting in committing the crime. When a
19 person doesn't act in the presence of and with the
20 assistance of another, the act is done by both where two
21 or more acting with a common plan or intent are present at
22 the commission of a crime, it does not matter who actually
23 commits the crime all are guilty. The hand of one is the
24 hand of all. Present at the commission of a crime means
25 to be sufficiently near to aid and abet and assist in the

1 commission of the crime. However, mere presence at the
2 scene of a crime is not sufficient to convict one as a
3 principal on the theory of aiding and abetting. A
4 defendant's presence where a crime is being committed or
5 mere association with a person who commits a crime does
6 not make a defendant an accomplice or aider and abettor of
7 the person committing the crime.

8 Intent is also a necessary element, but there
9 must have been a common design to or intent to commit the
10 crime and the crime must have been committed pursuant
11 thereto with the person aiding and abetting by some overt
12 act. Intent means intending the result which actually
13 occurs not accidentally or involuntary. Intent may be
14 shown by acts and conduct of the defendant and other
15 circumstances from which you may naturally and reasonably
16 infer intent. The State must prove these elements beyond
17 a reasonable doubt.

18 If you find after reviewing all of the evidence
19 that the State has proven the defendant was only present
20 at the scene of a crime and that they have not proved
21 beyond a reasonable doubt any other participation in the
22 crime, then you must find the defendant not guilty. The
23 law is that proof of mere presence at the scene of the
24 crime is not sufficient to find someone guilty. Also,
25 ladies and gentlemen, a person who was present at the

1 scene of the crime and intentionally or through a common
2 plan aided, abetted or assisted in the commission of that
3 crime through some overt act is guilty as an accomplice.
4 To be liable as an accomplice, the defendant must have
5 knowledge of the principals criminal conduct. Again, mere
6 presence at the scene is not sufficient to establish guilt
7 as an accomplice. Intentionally means willfully intending
8 the result which actually occurs not accidentally or
9 involuntarily.

10 Now, ladies and gentlemen, I have given you the
11 charge on the law applicable to this case. What we are
12 going to do now is I told you before are closing
13 arguments. The State will go first followed by
14 Mr. Edgeworth on behalf of Mr. Carmichael. And Mr. Ammons
15 on behalf Mr. Epps. I will tell you, ladies and
16 gentlemen, that arguments of counsel are not evidence in
17 this case. It is not evidence in this case. As I've told
18 you before, the evidence in this case comes from this
19 witness stand and or by exhibits that are admitted during
20 the course of this trial. Any exception or objection to
21 anything I've said to the jury at this juncture by the
22 State?

23 MR. WHITE: None on behalf of the State, Judge.

24 THE COURT: Mr. Edgeworth.

25 MR. EDGEWORTH: None, your Honor.

1 THE COURT: Mr. Ammons.

2 MR. AMMONS: No, your Honor.

3 THE COURT: All right. We will now move into
4 closing arguments. The State so recognize.

5 MR. WHITE: Confrontational. You want smoke.
6 You want smoke. Aggressive. I will walk down on you,
7 Bruh. Murderous. I will pop you out your fucking shoes.
8 And unfortunately, ladies and gentlemen, that's exactly
9 what they did. They popped him right out his shoes. And
10 when they did, they took away a boyfriend, a son, a
11 brother and a best friend, and left him right on the
12 pavement a couple blocks from where we're seated here
13 today for nothing at all. And if you have any question
14 that people hurting, and they are reeling from the lost of
15 Tydrecus Williams. All you have to do is listen to his
16 girlfriend, Antecia, when she called 9-1-1, and you hear
17 her screams when law enforcement arrived.

18 (WHEREUPON, State's Exhibit 4 played for the
19 jury.)

20 MR. WHITE: Ladies and gentlemen, you've heard
21 it. You heard all the evidence from that witness stand.
22 And the defense in this case has done what defense
23 attorneys do, and they always will do to try to confuse
24 the issues. They try to present what's called a **red**
25 **herrings**. They want you to look over here instead of

1 looking at the big picture. An attorney in our office
2 says they want you focusing on the string bean hanging off
3 the plate instead of the meat and potatoes. And what were
4 they, there's that .22 caliber magazine laying in the
5 roadway. Ladies and gentlemen, there is not one shred of
6 evidence how that magazine got there. There is no
7 evidence when it got there, who's it was, what kind of gun
8 it came from, could it have been a riffle, could it have
9 been a pistol. But I'll tell you this there wasn't a .22
10 caliber shell casing showing that that magazine was in a
11 gun that had been fired. And there was no evidence
12 whatsoever at all that the victim, Tydrecus Williams, ever
13 had a gun on him. You heard it from the witnesses off
14 that witness stand. Antecia said and this is his
15 girlfriend. I never saw him with a gun. His best friend,
16 Kareem, said he never saw him with a gun. Watch the
17 video, you never see him with a gun ever. Law enforcement
18 gets to his body, there's no gun. You're going to see it.
19 You saw it there. You see it there's no gun around at
20 all.

21 And what type of person did they say he was.
22 They said he was laid back. He's soft spoken. You're
23 going to hear it in a second. You got to listen up to
24 hear him on that video. He's a laid back dude. Then what
25 was telling Kami Mitchell, who was dating Quinterris

1 Carmichael, at the time that these men murdered Tydrecus
2 Williams. She said, yeah, I knew of him. He was a laid
3 back guy. He wasn't about that life that everybody else
4 was about.

5 The other thing they want to point your
6 attention to is that defect in the wall, and that's all
7 you can say is that it's a defect in the wall. You can't
8 say that it's a bullet hole. And if it was a bullet hole,
9 you don't know when it got there. It could be a rock had
10 kicked up from the weed eater. And the last one that they
11 want you to pay attention to is sickening. It's that this
12 young man's hands are squeezing in a position that shows
13 that he had a gun in his hand. Ladies and gentlemen, one
14 of his hands has been shot, tendons severed. He has been
15 shot nine times. One of the bullets completely severing a
16 bone in his leg. He's then shot down like a dog in the
17 back of his head and in his throat. And if his hands are
18 gripped, it's because he was gripping onto the last bit of
19 his life.

20 The other thing they want to point your
21 attention to is that it happened after midnight, which is
22 a bad time of night. And it happened two blocks away from
23 here, so it's a bad part of town. There is no bad time of
24 day. There are no bad places in town. There are only bad
25 people. This is not a self-defense case, ladies and

1 gentlemen. You didn't hear the judge charge you on
2 self-defense because they can't claim it.

3 There's no evidence that Tydrecus Williams had a
4 gun, but if he did, he would have been able to claim it,
5 so let's call it what it is. Let's call it murder. And
6 you heard it from the judge. It's the willful, felonious
7 killing of a human being with malice aforethought either
8 express or implied. Malice is hatred or ill will intent
9 on injuring another person. Malice does not necessarily
10 mean ill will toward the individual injured but signifies
11 rather depraved or wicked spirit intent on doing wrong, you
12 going to see all that in that video just a second. Malice
13 may be conceived at the very moment the act occurs. You
14 can have malice in your heart like that and kill somebody
15 and that's murder or you can talk a bunch of junk that
16 some kids are just minding their own business. You can go
17 back to your car, and you can sit and you can think about
18 it. You can sit down in the car, and you can continue to
19 threaten them and tell them you gone kill them and that's
20 malice too. It can be expressed malice a deliberate
21 intention unlawfully -- to unlawfully to take the life of
22 another. It can be implied malice, reckless or wanton
23 disregard for human life. Ladies and gentlemen, they're
24 both present in this case.

25 The most important one if you want to hang your

1 hat on it hand of one is the hand of all. Ladies and
2 gentlemen, they arrive together. They're close friends.
3 And you can see it, and you watch it on that video. They
4 are covering each other at every turn. It's amazing when
5 you break down the video to see how well they move in
6 concert. One ask the other one is right there ready to
7 go. One's talking junk. The other one is waiting in the
8 apex of the door making sure things go the way they want
9 to.

10 And here they are and pay attention to the time
11 stamp because these stamps are going to be important, and
12 I want to draw your attention to them as we go along here
13 they are arriving. Tirik Johnson-Epps driving.
14 Quinterris Carmichael seated directly behind him. Kami
15 Mitchell beside Quinterris Carmichael. And then Tyrin
16 Jones in the front passenger seat and this is her vehicle.
17 If you have any questions about how these guys move in
18 concert, take a look at this video, ladies and gentlemen.

19 (WHEREUPON, State's Exhibit 3 is being played
20 for the jury.)

21 MR. WHITE: In for a penny, in for a pound.
22 3:39 34 Kareem Jones and Tydrecus Williams life is about
23 to change. You can see it. And you can see it. You can
24 see Quinterris Carmichael's attention diverts, and he
25 immediately fixates on the individuals coming up the

1 pathway.

2 Now, ladies and gentlemen, you are going to hear
3 a lot of discussion on that audio, that video that has the
4 audio on it. And I am not ashamed to say that I have
5 listen to that audio so much, that it keeps me up at
6 night. But I have written it out so when you go back to
7 that audio, and I play it for you, you can hear exactly
8 what's going on. Man Man when these boys walk up, he
9 immediately fixes on them. He says what's up. Tydrecus
10 says -- well, you can barely hear him. He says what's up.
11 Man Man says what you looking like that. Tydrecus, what
12 you mean? You can tell he's confused. Man Man, you want
13 smoke. You want smoke. Where's your strap at? You don't
14 want no smoke. Your hand in your pocket. I'll make you
15 strip right now. And does that sound like somebody who
16 doesn't want trouble or does that sound like somebody
17 who's seeking at all costs. Tydrecus -- and this is I
18 think particularly telling. He says are you on that Perc
19 on something. I mean, this guy he's talking about
20 Percocet. Are you high man? You ever had somebody walk
21 up to you on the street, and you're like, hey, are you
22 outside of your mind. What's going on. He's confused.
23 Man Man acknowledges it. Am I on that Perc or something.
24 Go with your move and get moved out the way. Yeah, I'm
25 high. Is you high? Do your thing, you gangster. You

1 talking real gangster. I'm like that. I'm real like
2 that. You know that. You feel me. Who that your brother
3 or something? That your little brother? And Kareem
4 they're not brothers, they're best friends. He said,
5 yeah, that's my brother. Man Man immediately what's up,
6 what you got in your pockets. Your good. Kareem -- I
7 mean, rightfully so you're not taking nothing from me.
8 What's in my pockets? You not taking nothing from me.
9 Man Man says, Kareem, you ain't taking nothing from me.
10 Man Man, what you mean? Kareem, you ain't taking nothing
11 from. Man Man, I understand. He walks back to the car.
12 He has made his mind up right there. He's been
13 disrespected in his mind, not in reality in his mind.

14 (WHEREUPON, State's Exhibit 3 is being played
15 for the jury.)

16 MR. WHITE: This the definition of minding their
17 own business. You see it the whole time Tirik
18 Johnson-Epps is watching, and it's interesting because
19 I've watched this guy's demeanor in the background. He's
20 trying to say bye to these guys he was just talking to and
21 realize. Hey, look at him, he realizes they fixated on
22 these guys now. And the defense wants to draw your
23 attention to there being all these people around. People
24 were leaving. The spots clearing out. The only people
25 left are two men bent on murder. And these two other guys

1 who just waiting on a lady to come to the window.

2 And, ladies and gentlemen, this is where Kareem
3 says he saw Tirik flashing a gun. Now, you'll see in just
4 a minute where he standing in the apex of that door is
5 very close to where Kareem is leaning on that counter
6 incredibly close. I want to make sure y'all get the
7 picture. Their vehicle is parked right here, ladies and
8 gentlemen, here is the counter. I'm going to show you a
9 clear picture in just a second. This is the counter.
10 They are a couple of feet away from each other. This is
11 the corner. Camera that has the audio video goes down
12 right here, and there's a camera that shows this side of
13 the car. And this camera captures the shooting. This is
14 how close they are to rounding that corner, and I will
15 further explain in a moment. And then when he walks back
16 to the car Man Man, Quinterris Carmichael, he keeps on
17 talking. He keeps on talking. You in front of the
18 cameras. You know, they wanted to make a big deal about
19 Kareem knowing that those -- they're the ones that knew
20 where the cameras were. We in front of the cameras I know
21 you gone tell. Kareem said I ain't snitching on nothing.
22 Man man, I know what time it is. And he did. He knew
23 what time it was. You know what time it is. You really
24 know what time it is. I'll beat this shit in the county
25 excuse my language. Meaning, whatever I'm about to do,

1 I'll beat it. You know, what time it is, I'll take the
2 shoes off your feet. And Kareem he's laughing trying to
3 diffuse the situation says for real. Man Man, you in
4 front of the cameras right now, you walking, Bruh. And
5 what he means by that, ladies and gentlemen, they're in
6 the car. They know that Kareem and Tydrecus walk there.
7 And what he saying is you walking, yeah, I'll pop you out
8 your fucking shoes. You got something to do with Little
9 Tyson. Huh, you got something to do with Little Tyson.
10 Kareem you can hear his confusion. Hell, no. I'll walk
11 down on you, Bruh. You think you gangster, I'll take your
12 chain. I'm awake. I ain't even got to be in the car.
13 He's saying I'll stand right here with you. I ain't got
14 to wait until you walk out and do a driveby, I'll do it
15 right here.

16 Kareem just says, I mean, to his credit he says
17 aw man, aw man. Man man, what you clutching? Kareem aw
18 man. You can hear Kami for the first time. She knows
19 who's in the wrong here. You can hear her say no, no.

20 (WHEREUPON, State's Exhibit 3 is being played
21 for the jury.)

22 MR. WHITE: You hear Kami no. And don't
23 discredit for a second this guy is drunk and high. And he
24 has become fixated on anything that will give him an
25 excuse to kill these boys. So when you hear him saying

1 what you clutching on or later drop the strap, drop the
2 strap because in his mind he's justifying murdering these
3 guys. It's not because they actually have a gun on them.
4 There's no evidence of that, none. I mean, Tydrecus you
5 couldn't have a less aggressive posture. I mean, he's
6 looking like he would prefer to be anywhere else in the
7 world. And you can see him walk back, and he's talking
8 the whole time. He don't ever stop. In an offense,
9 wanted to make it seem like Kareem was talking back.
10 Where do you hear that? Where do you hear anything other
11 than a guy trying to diffuse a situation with a mad man.

12 Judge, may we approach for just one moment?

13 JUROR: Use the restroom.

14 THE COURT: Somebody need to use the restroom?

15 JUROR: Yes, your Honor.

16 THE COURT: All right. I'm going to ask you all
17 to step to the jury room. Do not discuss the case. Knock
18 on the door whenever you're ready to come back out, okay.

19 (WHEREUPON, the jury retire to the jury room.)

20 THE COURT: Is that what you needed to approach
21 for?

22 MR. WHITE: Yes, sir, Judge. I'm sorry.

23 THE COURT: All right. We'll stand down for a
24 few minutes.

25 MR. WHITE: Thank you, Judge.

1 (WHEREUPON, a break was taken.)

2 THE COURT: All right, anything before I bring
3 the jury back out?

4 MR. WHITE: No, sir, Judge.

5 THE COURT: Mr. Edgeworth.

6 MR. EDGEWORTH: No, your Honor.

7 MR. AMMONS: No, your Honor.

8 THE COURT: Wait until the defendants get back
9 in here.

10 (WHEREUPON, a pause in the proceedings.)

11 THE COURT: We have the defendants back in the
12 courtroom. Bring me the jury please, ma'am.

13 (WHEREUPON, the jury came into open court.)

14 THE COURT: We have all the jurors back in the
15 courtroom. Mr. White, you may continue.

16 MR. WHITE: Thank you, Judge. Welcome back,
17 ladies and gentlemen, that was a perfect time for an
18 intermission because the first half of that I showed you
19 shows no doubt their intent. And the next half will leave
20 you firmly convinced that they're guilty of murder. Where,
21 we left off you can see Mr. Carmichael continuing to talk
22 Tirik Johnson-Epps waffe (sic). And I'm going to show you
23 just how close these individuals are to Tydrecus and
24 Kareem, but you can see he's just trying his best to
25 instigate a confrontation. And when he fails to get them

1 to react by his words, he chooses violence.

2 What you're going to hear next he says what you
3 clutching on Bruh. Again, they have given no reason.
4 Kareem's got his hands resting up on the counter. Tirik
5 is not even facing those guys. They are not even in any
6 kind of aggressive posture. They're trying to diffuse the
7 situation. He's obsessive with anything at all that jump
8 off, so he can kill him. And Kami knows it she's
9 screaming Man Man. You can hear her just a second.
10 Kareem walks up to him ain't nobody clutching or Kareem
11 says ain't nobody clutching on nothing. You hear it in
12 his voice, ladies and gentlemen. He's genuine ain't
13 nobody clutching on nothing man. I ain't taking nothing
14 from what. I ain't taking nothing from what. And Kareem
15 in front of the camera, Dog. And what he is saying by
16 that he's already heard them talking about the cameras.
17 So he wants to remind them, Hey, Man, you in front of the
18 cameras don't do it, don't kill us. And you hear him say
19 that in a minute when they're just about to murder
20 Tydrecus. Kami's screaming, Man Man, come on, Man Man.
21 Man Man give me that thing, give me your chain, ride out.
22 Kami chill chill.

23 (WHEREUPON, State's Exhibit 3 is being played
24 for the jury.)

25 MR. WHITE: Now, the defense at one point wanted

1 to make a big deal that Tydrecus and Kareem somehow choose
2 to go around this corner. You know, I think the question
3 was, well, then why did you go around the corner with
4 them. Ladies and gentlemen, where could they have gone.
5 You got one approaching them, striking them, and one
6 approaching with a gun what would have been option. Where
7 else they could have gone. But you heard for yourself
8 exactly what was said. You heard who said it and more
9 importantly who didn't say anything. Let's hear it from
10 Man Man.

11 (WHEREUPON, State's Exhibit 2 is being played
12 for the jury.)

13 MR. WHITE: That's his story he says. You got a
14 low tolerance for stuff like that. And this is the
15 orientation I want to draw your attention to. Ladies and
16 gentlemen, if you look there you can see the cup that was
17 knocked out of Kareem's hand, that silver metallic metal
18 there that's the counter. The vehicle is parked very
19 close right here. So I just want to show you how close
20 this car is and not only this window, but to this corner
21 here that goes around to the other side of the building,
22 look how close the car is. Look how close Tirik
23 Johnson-Epps is. He would have been close enough to see
24 if he had a gun and if he was showing it. I mean, this is
25 close. And you can see again the car is parked right

1 here. There's a ramp that goes right up there towards the
2 cup and towards the window. The car is parked just on the
3 other side of this ramp. And this is going around to the
4 left. So, again, I ask you where would they have gone. I
5 mean, they were forcing them through that area.

6 (WHEREUPON, State's Exhibit 3 is being played
7 for the jury.)

8 MR. WHITE: Then you see Tirik Johnson-Epps.
9 Ladies and gentlemen, pay very close attention to the
10 stamp. At 13, he gets out, beer in hand. At 19, he's
11 around that corner at 19 just on the other side of the
12 corner.

13 (WHEREUPON, a video is being played for the
14 jury.)

15 MR. WHITE: And just like Investigator Chatlosh
16 said -- you know, he said, yeah, maybe from this angle you
17 can't tell a hundred percent certainty that that's Tirik
18 Johnson-Epps. But what he also testified to is when you
19 look at it in its entirety, you can tell it's Tirik
20 Johnson-Epps. And if you slow it down, you can definitely
21 see it 42:19. So, again, 42:19 is when he's rounding the
22 corner. Look the locks on this person's head, that's
23 Tirik Johnson-Epps, ladies and gentlemen. Just seconds
24 later, you're going to see Man Man in a hood, here comes
25 Man Man. Right beside each other. The hand of one is the

1 hand of all. You can see Tydrecus at that point. It's
2 clear that one of those shots is the one that severed his
3 femur. You know, at that point any movement that he makes
4 is pure adrenaline, and it is going down. And it won't be
5 long before any movement he makes along that ground is
6 crawling. I'm going to slow it down again and draw
7 attention to the beer bottle, ladies and gentlemen. If
8 you look on the right side of the screen midway up right
9 where the gun comes in the picture you can see a beer
10 bottle and it spews as he's firing. Beer bottle spews.
11 Man Man there clearly, and you just see Tirik Johnson-Epps
12 walk up. You see him round that corner. You see him get
13 out of the car right here. You see him on camera round
14 that corner with a beer bottle in his hand at 19 mark. At
15 20, you see someone with dreadlocks walking here, come out
16 here, and then you see a bottle spew over. And remember,
17 ladies and gentlemen, Tyrin says that she remembers that
18 bottle because when he gets back in the car still beer in
19 hand she said it looked like he had wasted it. I said
20 what do you mean by that. She said it was spewing
21 everywhere. So let's put it together 15, 16, 17, 18, 19
22 rounding that corner 19, 20, here he comes.

23 (WHEREUPON, State's Exhibit 3 is being played
24 for the jury.)

25 MR. WHITE: And you hear in the background Kami

1 still screaming Man Man and you see the reverse lights.
2 That car right there law enforcement talk to those folks
3 remember that. They're getting out of there. Kareem you
4 going to see him in a second he's running out of there.
5 The guy with his hands up though right here waiting in
6 line. He's running out of there. There's nobody else
7 around. Everybody's running. Even Tirik Johnson-Epps
8 once he fires those shots, he runs to the car. But Man
9 Man never flinches. He's standing right beside Tirik
10 Johnson-Epps when he fires at Tydrecus. One of those
11 shots severing the bone in his leg. Does he run back to
12 the car, get in it, drive the other way. No, no, he
13 stays. He waits. And if you have any question that the
14 hand of one is the hand of all just look where they go
15 next, okay. He could have got in that car, they could
16 have driven away, but he stays. He tracks him like a deer
17 who had just been shot and needs to finish him off. Tirik
18 Johnson-Epps gets in the car and goes around waits on him
19 to be picked up. Here's Kareem running. The man was
20 waiting in line, running. The girl was getting back in
21 the car. Everybody is running, shots have been fired.
22 Here comes Tirik Johnson-Epps beer in hand rounding that
23 corner getting back in the car, pulling off, here comes
24 the car pulling away. And you see the break lights,
25 ladies and gentlemen. They don't go far.

1 (WHEREUPON, State's Exhibit 3 is being played
2 for the jury.)

3 MR. WHITE: So there's several things I want to
4 point your attention to on that video. You got to listen
5 clearly. Ms. Elaine, can we crank it up just a little
6 bit, turn it down because it was a little too loud
7 earlier just a bit.

8 The first thing I want to turn your attention to
9 is you can hear Tydrecus on this video and audio. You can
10 hear him screaming, and you can hear him scream Keem. You
11 can hear him screaming for his friend, that's the first
12 thing. Second thing, Quinterris Carmichael is still
13 obsess with drop the strap, drop the strap. Well, there's
14 always been -- even when there was no evidence that they
15 had guns on them, he's asking them you got the strap. You
16 got the strap. This is just an excuse in his mind. It's
17 no evidence that these guys had a gun in their hand. And
18 look how dark it is when he's walking here. And if you
19 can see the curtain, this is where Tydrecus ultimately
20 dies where that curtain is. Look how dark it is. And
21 that's the blue light.

22 Law enforcement is all over this scene. They
23 got blue lights lit up. It would have been darker. He
24 wouldn't have been able to see a gun in his hand walking
25 here with him limping. What he was probably reaching for

1 with his severed finger or maybe it was his mid section or
2 maybe it was his ankle. I mean, his body at this point is
3 riddled with bullets.

4 The next thing I want to draw your attention to
5 on this -- is the direction that he takes, and it's going
6 to be important when I show you where the shell cases land
7 very important. You can see him walk. He's walking
8 behind that car. He's got his hand like this. And he
9 starts to make his way in the direction of where Tydrecus'
10 body is ultimately found. You see that, but he makes a
11 sharp left this way'. And then the camera cuts, and you
12 heard Investigator Chatlosh say it's a motion sensor.
13 And you can see that in a second. If there's a lull and
14 there's nothing new, it would jump until there's movement,
15 that happens. But pay special attention to that, okay.
16 And pay special attention to the jump ahead it's about 16
17 seconds, all right. Right before the jump ahead when he's
18 walking to where Tirik would have parked the car, listen
19 to what's said. And right after listen to what's said,
20 and what's said is he's walking towards that car. Tirik
21 says you got him. And then right after that 16 seconds
22 later, you can hear Kami say, Baby, come on. And that's
23 important because 16 seconds after that break, he's still
24 at the body.

25 (WHEREUPON, State's Exhibit 3 is being played

1 for the jury.)

2 MR. WHITE: Your hear it, but I can play it
3 again. I will play it again. You hear just before it
4 breaks you got him. And just after 16 seconds after,
5 baby, come on, that's Kami. Quinterris Carmichael
6 is executing Tydrecus Williams.

7 (WHEREUPON, State's Exhibit 3 is being played
8 for the jury.)

9 MR. WHITE: And this shows how that camera
10 operates. I just want to bring your attention to it. You
11 can see it. If there's a lull, you'll see the jump. It
12 will jump to the next time car moves. It's motion
13 activated. I wish it wasn't, but just what it is. I
14 wish, you know, hear all the shots being fired, but we
15 know exactly what happened on that camera. At this point
16 Kareem has run home. Antecia has called law enforcement.
17 And they arrive quickly. They arrive. They are on the
18 scene within a matter of minutes. You see law
19 enforcement's already on scene. That's Antecia's cousin
20 the one dropped out of -- ran over with them. Officer
21 Davis body worn. You see the angle of the body here,
22 ladies and gentlemen, where he ultimately rests. The
23 shell casings, ladies and gentlemen, ten of them recovered
24 from the scene. And they are consistent with the State's
25 theory. This is where shots are fired just in here. So

1 shell casings that's in or the .9 millimeter shell casings
2 would have kicked to the right as Tirik Johnson-Epps is
3 firing. Fires four times one, two, three, four, but then
4 you going to see, ladies and gentlemen, there's more shell
5 casings around this area. And the reason is because in
6 just a second you can see how close his body is to where
7 he's first shot, okay. He's first shot here. He runs
8 here, and then he's crawling back this way. So if you
9 shooting here this way shell casings are going to kick to
10 right here. And if you're shooting this way, shell
11 casings are going to kick to the right here. And what's
12 back here where he was crawling to, he was trying to get
13 home, but he never made it. There he is there, ladies and
14 gentlemen.

15 And then there's two shell casings at the road.
16 And I always wondered what explains those two shell
17 casings, and it dawned on me. It dawned on me when I saw
18 the way Quinterris Carmichael is walking towards the body,
19 and he makes a sharp turn to where Tirik Johnson-Epps is
20 parked and you hear you got him. He's handing him the
21 gun. He's handing him that nine. Although, Kareem
22 testified both had guns on them, but it's a rule in the
23 streets. One body one gun. One body one gun. You
24 already got shell casings on the scene, give me that. He
25 grabs it, ladies and gentlemen, and he fires his first two

1 shots from here.

2 At this point, ladies and gentlemen, Tydrecus is
3 trying to get away. He's been shot. He is injured badly
4 and he's shot again. One bullet misses because it's a
5 good distance. One bullet hits him. And this is where
6 the shell casings would be, and that's where he fires
7 first. And he walks up on him. Look at how the body is
8 positioned, ladies and gentlemen. Somebody who is shot in
9 the back of the head does not fall like that, okay. He's
10 crawling. His finger severed. He's crawling away. And
11 Quinterris Carmichael comes up behind him and shoots him
12 right in the back of his head. What did the pathologist
13 tell you said there was upward trajectory to the back of
14 the wound to the head shot. That's the only way to
15 achieve that trajectory. He falls, and then he is turned
16 over, but his leg bent and his face to the right, he shot
17 one last time in his neck coming out of his jaw.

18 The last piece of evidence that you have to tie
19 together is how Tirik Johnson-Epps fires from here while
20 Tydrecus is running away. And then Quinterris Carmichael
21 fires the fatal shots. That was Tydrecus' blood get on
22 Tirik's pants. It's easy. It's easy. He went through
23 his pockets, sets that gun down in his blood. He riffles
24 through his pockets, and you could see his credit card,
25 his Chapstick, his comb, change was lying around him, and

1 went through his pockets, and he did laid that gun down.

2 Then whenever they got back wherever they were
3 going he hands that handgun back to Tirik and the blood
4 drops on his pants. And they want to make a big deal and
5 say, well, it's DNA, and it's maybe not blood. Ladies and
6 gentlemen, that's blood, all right. It was presumptive
7 positive for blood. The DNA SLED analyst does not have a
8 dog in this fight who's an expert in her field said it's
9 990 octillion. The blood on the pants retrieved from
10 Tirik Johnson-Epps bedroom belongs to the victim who was
11 shot down and execute a couple blocks from here.

12 Ladies and gentlemen, the defense can say
13 whatever they like to, and they have to that's their job.
14 And listen to them and be respectful by all means, but
15 there is nothing that can change the facts of this thing.
16 There's no evidence of a gun even if there was still be
17 murder. And it still be a cold blooded, calculated,
18 devastating execution style murder of an 18-year-old kid.
19 Times are not dangerous. Places are not dangerous.
20 People are dangerous. And when dangerous people commit
21 murder, that's what we call it when we find them guilty of
22 murder. Thank you.

23 THE COURT: Mr. Edgeworth.

24 MR. EDGEWORTH: Thank you, your Honor. Ladies
25 and gentlemen of the jury, you stood up and down a lot

1 throughout the trial, heard a lot, says a few things about
2 myself and talk about my client. My name is Josh
3 Edgeworth. I'm from Florence. I now live in Quinby. I
4 grew up playing church league basketball for Saint Paul.
5 I played baseball for West Florence, went off to college
6 became a lawyer, and probably not for the reason that you
7 think.

8 When I was five years old, I went to my great
9 grandfather's birthday party. It's because he was turning
10 a hundred. And I never met him before and found out that
11 he was a lawyer. I was like I would like to live to be a
12 hundred, so I want to be a lawyer. I didn't know what it
13 was. Fast forward four years later, and here I am in my
14 chosen profession doing what I'm here to do, which is to
15 stand up for a system of justice and stand up for
16 Mr. Carmichael.

17 Now, that system of justice has one of the most
18 spectacular component and that is that each and every one
19 of you have to find each and every component of this case
20 beyond a reasonable doubt in order to convict. This man
21 right here is sitting there innocent, doesn't matter all
22 the stuff you've heard this far. You have not made it to
23 your jury room. He is innocent. And I told you in my
24 opening that I wish I could stand, so instead I bring this
25 ladder that I'm now going to call a ladder of justice.

1 When you determine the facts of this case, each and every
2 one of them have to be beyond a reasonable doubt which is
3 this step here beyond a reasonable doubt. And what does
4 every single ladder have on the top step a warning, a
5 warning. That is that hesitation that the judge talk to
6 you about. Does a reasonable man hesitate to act. Does a
7 reasonable man hesitate before they go to the top step.
8 That is reasonable doubt. If you can't make a decision in
9 this case on each and every element by taking that last
10 step, you have to find Mr. Carmichael not guilty. So how
11 do we get there.

12 Now, the State has conveniently now turned your
13 eyes from the beginning of this case telling you you're
14 going to see, you're going to see. Now, they're telling
15 you not to look. They won't you to take the step to that
16 top rung there because you can't see what has happened.
17 They want you to ignore that hesitation, ignore it. They
18 kind of jumped the gun here right and said the defense has
19 done, and the defense has done that. That's because
20 there's reasonable doubt. It is a top step.

21 What did we actually hear? Ms. Kami
22 Mitchell testified the first person up there. She was
23 purported the friend or girlfriend or whatever of
24 Mr. Carmichael, but what did she actually tell you. She's
25 waiting to go home to have sex. And there ain't no time

1 throughout any of this transaction did you not hear her
2 refer to him as Man Man, right. The State went out of
3 their way to keep on calling him Man Man. A name he has
4 actually had since he was born, a nickname. But now at
5 the end of this case and they're trying to tell you that
6 something, you know, real suspect is going on, that all of
7 a sudden she calls out from the car, Baby, come on. No
8 way. She wouldn't do that.

9 You heard from Ms. Lawson. She lost a mother no
10 one disputes that, no one. That she didn't see anything.
11 She said she heard some gunshots when she was at home.
12 She don't know where they came from. And she said that
13 her cousin woke up, I guess, and ran over there. I'm sure
14 that you saw when that last video was played that the
15 cousin beat everyone over there, even the cops. And when
16 that video turns around, and you see her coming and the
17 cop has to hold her back after Officer Davis got there and
18 drops a couple of F bombs because of the scene. Do you
19 see the cousin? He is nowhere to be found. And if
20 Mr. Williams had a gun, and he came up on that body rest
21 assured he took it. You heard from Ms. Jones. Girlfriend
22 of Mr. Epps didn't really have a whole lot to say because
23 she was standing at the car for the most part. She did go
24 up and get some cigarettes or whatever she got Black &
25 Mild as they called them. And when the action went around

1 the corner, she doesn't see anything else. She has no
2 idea what happened. She doesn't know who shot what or who
3 or when or how. What she does say is that when they got
4 in the car, and they drove away, that they stopped just
5 beyond that power pole and Mr. Epps got out. Baby, come
6 on, not Man Man. Baby, come on. You heard from
7 Mr. Kareem Jones the friend.

8 And as much as the State wants you to believe
9 all of those narratives that were shown during their
10 closing, what was said, that is not evidence. In fact,
11 you shouldn't even consider any of that. That is his
12 argument. That's what he believes it says. No one
13 testified of that. In fact, most of the time they
14 testified they couldn't even hear what was going on. And
15 when Kami gets out the car and yells at my client, that's
16 because he punched someone, punched someone, far cry from
17 killing someone. And he admitted that with law
18 enforcement took him in to talk. I don't have nothing to
19 do with anything. I hit him if anything give me a warrant
20 for assault. He admitted to that.

21 Now, that the State has shifted their focus from
22 what you can see or will see since you didn't see it let's
23 talk what you don't see. Well, let's talk about it. Just
24 because the evidence doesn't show that they had a gun
25 meaning Kareem Jones and Tydrecus Williams, does not mean

1 that they didn't have one. Let's talk about why, okay.
2 Well, Mr. Kareem Jones was out late at night with his
3 friend as the State tells you he knows he's in this
4 argument. He's in an argument with this fellow and it
5 became physical, but not deadly. Mr. Jones isn't dead.
6 Yet, after allegedly seeing the gun on Mr. Epps, he
7 decides, yeah, let's go around the corner together. The
8 State would have you believe that there was nowhere to go.
9 I beg to differ. You see on that video. They came from
10 one direction. They could have sure as hell left that
11 direction. No one stopped him. So if you believe someone
12 has a gun, and you going to go around the corner with them
13 if you ain't got one I don't think so. I don't think so.
14 Just because Mr. Jones said he and Mr. Williams didn't
15 have a gun doesn't mean that he didn't or they didn't.
16 Every bit of reason to not tell truth on that one. His
17 friends did. He ran away.

18 Again, I bring your attention back, and I will
19 do it over and over until I'm done. The State starts out
20 telling you this is what you're going to see. And now I
21 don't want you to look at it. Law enforcement testifies
22 they go out there, and they identify pertinent pieces of
23 evidence and they mark them. They don't mark them if they
24 don't think they're important. The State now wants you to
25 believe it's no longer important. It was some fancy

1 lawyer trick that I invent that evidence. Law enforcement
2 took pictures. They thought it was important, but what
3 did they not do, follow up on them. Not one lick of
4 following up on anything. They found a magazine in a road
5 where Mr. Williams fell. You all of saw it. A .22
6 caliber not the gun used. That was a .9 millimeter. They
7 didn't have it tested. They didn't dust it for
8 fingerprints. They didn't swab it for DNA, did absolutely
9 jack.

10 Officer Feagin and Investigator Chatlosh
11 identified what appears to be a bullet hole in the wall
12 back towards the place where it would presumably be coming
13 from Mr. Williams out at the road. The State keeps
14 telling you the magazine was full. We don't know. We
15 have no idea. They didn't do anything with the gun. You
16 see bullets in it, but we don't know. It could have been
17 fired. They didn't test it. But they identify it, and
18 then what do they do jack nothing. Oh, well, no big deal.
19 No big deal. And today guess what happened here we didn't
20 do anything with it just ignore it. It's not important,
21 has nothing to do with anything. Keep moving on folks
22 don't look here.

23 I'm not trying to make light. I'm just trying
24 to say -- we're sitting here saying if we had more
25 information. What's another good piece of information we

1 could use. Almost laughable. And again, I'm not laughing
2 at the fact that a person is dead, but I almost laugh when
3 they said we don't test for GSR any more on victims,
4 that's the most insane thing I've ever heard. I seen it
5 numerous times where you go and see a trash bag over the
6 hands. They transport them down to MUSC to do the
7 autopsy, and they have to take the bags off and take
8 pictures just like you saw on plenty of dead people. They
9 did not do that here. This is not worth our time no big
10 deal. Keep on moving nothing to see here. Had they done
11 that, they could have told us something. They make it
12 seem like it doesn't take anything. Did he have shotgun
13 GSR on the hand. The hand where in the picture it looks
14 like he could have had a gun in his hand. You cannot
15 dispute that. It looks like it. I don't know. They're
16 asking you to believe the narrative here too. But they
17 have to prove it I don't.

18 The cousin runs in front of everybody and beats
19 everyone there. You don't think if he saw a gun in his
20 cousin's hand that he's not taking it out or running away
21 because that's what it look like on the video to me. But
22 we didn't hear from him from the witness stand. He ain't
23 here to say what happened, wonder why, wonder why. They
24 say they talked to everybody. They want you to ignore
25 things that they didn't put up and try to say it's our

1 fault that we proved it. They didn't prove it, but that's
2 not the burden. That's not how this works. They have to
3 prove it. They have to take that cloak as they call it of
4 innocence off of my client, and they ain't done it. They
5 want you to jump up there hope the ladder don't fall over.

6 Some of the things that no one disputes they
7 brought in experts. Pathologist said Mr. Williams was
8 killed with multiple gunshots, that the shot probably
9 killed him was the one to the head. No one disputes that
10 whatsoever. Young man is dead. I feel terrible for his
11 family. It's been many years coming to get to these days,
12 but the same for my client too to have his day. A day for
13 you guys to evaluate this evidence.

14 The firearms expert and I think you all could
15 agree highly knowledgeable in her field, tons of
16 experience. And she says that the projectiles all ten of
17 them that they collected came from the same gun, same gun.
18 I believe that the projectiles that were removed, it was
19 just inconclusive. But all of the shell casings that were
20 found came from the same gun. In the beginning of this
21 case, the State theorize that both people had a gun.
22 Magically, today there was some epiphany that says there
23 was a random hand off. And why do you think they doing
24 that because without a hand off, they can't fix the fact
25 that one gun killed this man. And without the hand off

1 they can't try to have the hand of one.

2 You heard the State it came to me where was that
3 when we were having people testify. We didn't hear any of
4 that, that is a theory. They just came up with that. And
5 they are hoping, they are hoping that that will connect
6 the dot for you. But that ain't evidence, that you can't
7 use that. There's no fact anywhere and no one testified
8 to that hand off nothing. They are trying to fill the
9 holes in this chain of circumstantial evidence. You heard
10 the, Judge. These links they have to connect those beyond
11 a reasonable doubt, to the top rung, past the hesitation
12 and the warning.

13 Now, you heard I think it's Sergeant Shelley
14 testify about my client's statement, and he told them what
15 he did. They just didn't want to believe it, that's why
16 he went on. They were waiting for him to tell something
17 different because that ain't what they want to hear. If
18 it doesn't fit their theory, it's not the truth. That
19 ain't how this works. They're the ones who stopped
20 analyzing the evidence. They're the ones who decided not
21 to interview other people. The State isn't the ones who
22 didn't bring up other witnesses that maybe could have fill
23 holes for them, but they just want you to believe their
24 argument. And that's not how it works.

25 There are no facts to support anything beyond my

1 client punched Mr. Jones. Mr. Carmichael punched Mr.
2 Jones he did that. We all saw it. The State wants you to
3 believe he was some antagonistic, you know, out to kill
4 somebody from the moment he got there. He was there
5 first. Ain't gone ride up on them. They were there
6 first.

7 And I can't stress it enough the testimony that
8 you heard from law enforcement. You did not hear them say
9 that they spoke to anyone, saw anyone, got evidence
10 otherwise that says Mr. Carmichael shot Mr. Williams,
11 that's just what they want you to believe. That is not
12 evidence. That is theory. That is their investigation.
13 We have to think of something. How did it happen. They
14 just want you to believe that and that is not your job.
15 This isn't a faith base. It's evidence base. And unless
16 you can get to that top rung with no hesitation, you have
17 to find him not guilty.

18 So those are the facts. That's the evidence in
19 the record. The judge has told you that's what you're
20 going to use to make your decision. It's not the
21 speculation from the State. It's not the story that they
22 come up with to fit the holes in their case. It's a tough
23 job. No one's disputing that.

24 There were gunshots that were fired but not by
25 my client. And the State wants you to believe that

1 another set of shots were fired but not by my client. The
2 State wants you to believe that there was some magical
3 hand off to fill a hole in their case not by my client.
4 He got left where was he suppose to go. The first shots
5 were fired that person ran. They want to say because he
6 didn't run, he didn't do it or he did it. How does that
7 make sense. The other person they say that did shoot did
8 run, which way do you have it. You can't have it both
9 ways. They want you to convict two people because they
10 don't have to know who did it. Does that feel right to
11 you. Zero. Zero direct evidence that that young man
12 right there did anything other than punch Mr. Jones.
13 Zero.

14 The rest is him asking you to make steps of
15 faith when the job is to make all the dots connect beyond
16 a reasonable doubt, beyond the hesitation to say did they
17 prove that. Did they prove that? That's hesitation. Ask
18 yourself a question that's hesitation, but you can't
19 resolve the question it's hesitation. Hesitating to act
20 means you don't make it clear, and that means
21 Mr. Carmichael is not guilty of either of the crimes.
22 Thank you, your Honor.

23 THE COURT: Mr. Ammons.

24 MR. AMMONS: Thank you, your Honor. May it
25 please the Court.

1 THE COURT: Yes, sir.

2 MR. AMMONS: Counsel. Ladies and gentlemen of
3 the jury, well, it's been a long week, a difficult week I
4 think for all of us. We been dealing with a difficult, a
5 tragic topic. And I'm sure that your hearts go out to the
6 family and love ones of Mr. Tydrecus Williams as do mine.

7 We've heard all the evidence now. You've heard
8 it, seen all the evidence. And as I told you at the first
9 of the week, I'm kind of batting clean up, and so here I
10 am here again and this is the last to that. You paid
11 attention like I ask you to do, I know you have. And I
12 want to thank you for that.

13 You heard a lot about the law. The judge
14 instructed you on the law. Mr. White instructed you on
15 the law. Mr. Edgeworth instructed you and told you about
16 the law. And so I'm not going to beat you over the head
17 with it any more. I do want to tell you that just like I
18 told you at the very beginning of the week as he sat there
19 Tuesday, there's a presumption of innocence. He was
20 innocent as he sat there. And the judge has already told
21 you that presumption still applies right now as he's
22 sitting there. And, obviously, you've heard about
23 reasonable doubt, and Mr. Edgeworth did a great job
24 illustrating that for you guys. The same principles apply
25 to Mr. Epps.

1 I want you to imagine that if everything said
2 here this week was transcribed and written out in a book
3 or something. I want you to imagine that everything said
4 this week by Mr. White in that book is written in red.
5 And everything said by the witnesses written in black, and
6 I know a lot of you probably thinking this imaginary of
7 the Bible. I love Mr. White. I think lot of him. I'm
8 not trying to equate Mr. White with Jesus, but I do want
9 you to imagine everything he said in red. Overwhelmingly
10 everything that's been said this week has been about
11 Mr. White. More than what the witnesses testify to
12 themselves. And why is that. Because he was spoon
13 feeding them the whole way, guiding them on what to say.
14 I'm going to give you a couple of examples. The first
15 example Ms. Kami Mitchell. You see that fizzy beer in his
16 hand right there don't you. That wasn't her idea. She
17 didn't see the fizzy beer. He gave that to her, right.
18 And he did that same thing with you today. Majority of
19 what he told you today was theory that he was planting in
20 your head not evidence.

21 Now, I told you at the first of the week that
22 the State was trying to print -- trying to paint a picture
23 for you. And I told you they wouldn't be able to complete
24 that picture. Well, the State is trying to show you
25 something this week that they think look like this. They

1 think they've given you a Mona Lisa, a master piece, but
2 the truth is they didn't have all paint to paint this
3 picture. They didn't have the right brushes, the right
4 pools to complete this picture for you. What they have
5 given you looks a little more like this. They want you to
6 fill it in. They want you to make assumptions, that would
7 eventually affect the lives of these two defendants.
8 Particularly, the life of Mr. Johson-Epps. But we're not
9 dealing in art here. This is the court of law. We deal
10 with laws. We deal with facts, deal with evidence. So I
11 want to run through with you a little bit of what we have
12 been presented. Point out some key points.

13 Now, the story's been told over and over this
14 week. Pardon me. Story's been told over and over this
15 week about them arriving Mr. Epps, Mr. Carmichael, Ms.
16 Kami Mitchell, and Ms. Tyrin Jones arriving at the store.
17 Now, they arrive at the Tiger Mart a little bit before
18 3:30 in the morning. I think it was around 3:27. They
19 weren't having any altercations with anybody. They were
20 talking friendly jovial with everyone, no issues. About
21 ten or so minutes later, Mr. Williams, Tydrecus Williams
22 and Kareem Jones come up and you see it clearly on the
23 video. There are some verbal exchanges. Now, I don't
24 know that we can make out all of what was said. I think
25 Mr. White's done an exemplary job trying, but that's not

1 evidence. But there was an altercation at which time
2 Mr. Johnson-Epps was in or at the car, not starting
3 anything with anybody, mind his own business. Now, the
4 State wants you to believe that because they both got out
5 of the car at the same time somehow that means they had
6 some scheme, some plan to create some havoc, but you heard
7 both of the ladies that were in the car testified. It was
8 no plan. There was no talk of going to the store and
9 causing any trouble. They were simply going to the store
10 to get some Black & Mild's and something to drink. There
11 was no plan, no scheme, no intent to do anything except
12 get some smokes some Black & Milds.

13 We know the altercation goes around the corner.
14 We know there four shots fired. That's all the video
15 shows. The video don't show who made those shots.

16 Now, the State's done a great job of trying to
17 push this fizzy beer theory that gives a positive ID to
18 who the shooter was. We don't know. We do know Mr. Epps
19 gets in the car, leaves the site, drives out of view with
20 Ms. Jones and Ms. Mitchell. We know at that time
21 Mr. Carmichael still on the scene. We did hear testimony
22 that at some point they reunite with Mr. Carmichael,
23 that's the extent of what we know. Everything else is
24 theory. Part of this painting the State's tried to create
25 for you.

1 Now, I want to talk a little bit about some of
2 what these witnesses told us. First witness we saw is
3 Kami Mitchell. She told us no plans to get in any
4 trouble. She told us she didn't see anyone shoot. She
5 told us that they drove off. Mr. Epps, Mr. Jones, and Ms.
6 Mitchell the three of them drove off. She told you
7 Mr. Epps didn't get out of the car when they stopped. She
8 also told you she was ready to go. They were ready to go
9 that's why she was calling. Come on, they were ready to
10 go. She said Mr. Epps was ready to go. I asked her is
11 Mr. Epps ready to go. She said we all were. We were all
12 ready to go. There was no plan for anything to happen.
13 Ms. Mitchell gave us some reasonable doubt. We have Ms.
14 Robinson.

15 Of course, we had Mr. Darius Davis and Ms. Lizzy
16 Robertson. I contend that Mr. Davis only purpose for
17 putting him up was to get his body cam in so that you can
18 see Ms. Lawson cry, so that you can see the body and hear
19 his reaction. It was just to get a reaction to create
20 some sort feeling in you. It had no evidentiary value.
21 There's nothing evidentiary about that.

22 Then we have Ms. Robertson 9-1-1. She was here
23 simply so we could get the 9-1-1 call into evidence.
24 Again, so you could hear Ms. Lawson on the phone crying to
25 evoke some emotion out of you. Then we have Ms. Lawson

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Sep 23 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT

APPELLATE CASE NO. 2023-000162

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT: STATE’S
EXHIBIT NO. 2 (VIDEO STATEMENT ON DISK) AND STATE’S EXHIBIT NO. 3
(VIDEO SURVEILLANCE)]**

1 herself, again, feel bad for Ms. Lawson, I really do. Her
2 testimony didn't add any evidence. We just got to see her
3 be upset having to listen to the thing again.

4 Then we had Tyrin Jones. She was in the car
5 too. She confirmed what Ms. Mitchell said there was no
6 plan, scheme to go get into any trouble. That it was
7 Mr. Carmichael who was having the altercation outside the
8 car. That Mr. Epps was there by the car, all that's
9 confirm again. She did indicate that Mr. Epps went around
10 the corner, but she knows -- has no idea what happened
11 around the corner. She heard shots. Mr. Epps got back in
12 the car. She said he had a beer. Got back in the car,
13 they leave. They head out of the parking lot. She says
14 they go down to the stoplight significantly down the road
15 and they wait for Mr. Carmichael.

16 Now, unlike Ms. Mitchell she said Mr. Epps did
17 get out of the car. She couldn't testify to where he
18 went, how far he went. One thing interesting that she
19 said is Mr. White asked her how did you feel when
20 everybody got back in the car. Were you scared? She said
21 I was scared, but I was drunk so. And I asked her about
22 it. I said, you had a lot to drink. She said I had a
23 good bit to drink. So how much of her story can we count
24 on. I submit to you that Ms. Mitchell was more credible
25 witness than Ms. Jones.

1 Then we had Kareem Jones. And by the way with
2 Ms. Tyrin Jones, there's more reasonable doubt. There's
3 plenty of reasonable doubt in her testimony too.
4 Mr. Kareem Jones I think he's got some credibility issues.
5 He told you he didn't see anybody around the corner other
6 than the four that went around the corner. That was his
7 initial comment, but then after seeing the video, he did
8 see that there was a gentlemen there standing on the
9 screen. There was also a car right beside the shooter,
10 that he didn't recall seeing that that wasn't part of his
11 initial testimony. What else didn't he see, who else
12 didn't he see. What doesn't he remember. Does he not
13 remember that he had a gun. He told us he didn't have a
14 gun.

15 Mr. Carmichael was asking him from the start
16 what you clutching. Now, when Mr. White questioned him
17 and asked him what he meant by that, he said I don't know.
18 I think maybe he wanted something I had. But later in the
19 same testimony when Mr. White was questioning him, he said
20 I saw them clutching. The same comment that he said he
21 didn't know what clutching meant, and then he said he saw
22 them clutching. So I asked him what's clutching mean, he
23 said brandishing. So if Mr. Carmichael was asking him
24 what you clutching, was he asking what's he brandishing.
25 He obviously thought he had a gun. You saw on the video

1 Mr. Williams walking in the video, pulling his shirt,
2 adjusting his shirt the whole time. Whole time,
3 Mr. Carmichael's talking to him, rubbing his pants,
4 holding his pants, pulling at his shirt. Mr. Kareem Jones
5 when he says what you clutching, Mr. Kareem Jones turns
6 and does like that. He said what you clutching. He said
7 aw man. I think, there's plenty of evidence to suggest
8 that they might have been clutching, but even he went
9 around the corner knowing -- he said I know that they were
10 clutching. Because I asked him I said they thought you
11 were clutching. You thought they were clutching. He
12 said, no, I know they were clutching. Yet, he went around
13 the corner. When he was asked why he went around the
14 corner, he said because Tydrecus went around the corner.

15 And by that same measure, we're suppose to
16 assume that because Mr. Epps went around the corner when
17 his friend went around the corner just like Mr. Jones went
18 around the corner when his friend went around the corner,
19 that he had to go around the corner to do something
20 nefarious to shoot, to murder someone. That's the leek
21 that the State's trying to get you to believe to make, to
22 make that leap that it's okay for Mr. Jones to go around
23 the corner with his friend but not Mr. Epps, more
24 reasonable doubt.

25 Then we had Officer Feagin. He was crime scene

1 investigator, and I questioned him about .22 magazine,
2 question him about fingerprints, no fingerprints taken on
3 that magazine. The magazine that was found right where
4 Mr. Williams body fell the first time. The State's tried
5 to tell you that look like it's been run over. Of course,
6 we saw the cars come by in the video right after he fell
7 down. We also saw Mr. Feagin testified look like there
8 were bullets missing from that magazine. And he testified
9 that they did know about gunshot residue test. Why.

10 Then we heard from Ms. Zapata about the
11 presumptive blood said it could have been any DNA
12 material, but it's presumptive blood. But Mr. White ask
13 you a question he asked her what was the big ticket item
14 that was sent to you for testing. The big ticket. You
15 saw it look like the size of a ink dot on those pants, big
16 ticket. You saw the scene blood everywhere. Mr. Epps had
17 been around that body. There more than that dot on those
18 pants. He was not around that body. He was around Mr.
19 Williams when they all went around the corner at first
20 right. There was some punches thrown, some scuffling. It
21 would have been very reasonable that some DNA material
22 dropped to his pants at that moment.

23 Next person we have was Miss -- and that's again
24 more reasonable doubt. We're just stacking reasonable
25 doubt. Next witness Ms. Suzann Cromer firearms expert.

1 She testified that that shell casings -- the ten shell
2 casings would have been fired from the same gun. She
3 couldn't give any identification as to the gun, as to who
4 fired the gun, as to how long it had been since the shell
5 casings had been fired as to how long they had been on the
6 ground. And she couldn't match the bullet fragments
7 found in Mr. Williams to any shell casings. Again, more
8 reasonable doubt.

9 We had Sergeant Shelley and I think
10 Mr. Edgeworth covered that one with you, but he was
11 primarily dealing with his conversation with
12 Mr. Carmichael. Then we had Investigator Chatlosh who if
13 we talked about the crime scene, and we talked about he
14 said -- I want to make sure I say exactly what he said.
15 He acknowledged that they don't catch all the pieces of
16 evidence on the scene. The State wants to keep talking
17 about no .22 casings found. Now, I told you before there
18 were cars coming up and down the road right around where
19 that magazine was.

20 You saw a bottle in a picture without an
21 evidence marker by it. There's no telling what kind of
22 evidentiary material might have been on that. The State
23 didn't think it was necessary to do any kind of
24 investigation into that. He also acknowledged that the
25 cameras there don't cover the entire scene. In fact, all

1 we get from the shooting is a hand with a gun. I don't
2 know what this is. They call it a fizzy beer. I don't
3 see it. But the cameras don't go beyond that. They don't
4 go to where the body finally ended up, where Mr. Williams
5 finally ended up.

6 They don't show the sidewalk at all. There's a
7 sidewalk down that side of the building. You don't see
8 that sidewalk. You don't know who's there. We have no
9 idea who's there. Mr. Jones doesn't know who's there. He
10 said it was only four people there. We know that's not
11 true.

12 We do know there was a Cadillac there. The
13 Cadillac was right beside the shooter, right beside
14 shooter. I don't know if there's one or two shooters.
15 The State doesn't know. Whoever the shooter is it was a
16 Cadillac right beside that person. The State talks to
17 them. They had the best view of anybody, better than the
18 cameras to tell us what happened who shot. We didn't hear
19 from them. The next best view the guy who's standing
20 there watching and he takes off running. We don't hear
21 from him. He would have been a good person to talk to to
22 hear from.

23 One key thing Mr. Investigator Chatlosh said, I
24 asked him you can't be sure that that person fires those
25 first shots, that shooter. You can't be sure that's Tirik

1 Johnson-Epps. He said no. He can't be sure. That's
2 reasonable doubt. Not a single witness testified that
3 they saw who the shooter was not a single witness. The
4 only testimony as to who the shooter is and from law
5 enforcement was trying to tell us because they don't know
6 that that person, that hand belong to Mr. Johnson-Epps.
7 But they don't know, that's reasonable doubt.

8 The last witness we had was Dr. Presnell. And
9 she testified that the cause of death was gunshot wound
10 to the head cerebral disruption, that shot ended his life.
11 There were some other shots that had upward trajectory.
12 One that went into the thigh into the chest cavity. That
13 she said could have killed if they were not treated. If
14 they were not treated and they got infected, that was her
15 testimony then could have been the cause death. But the
16 defendant didn't cause the death. It was a gun shot wound
17 to the head. That did not happen from the four shots that
18 we see on the video. Four shots that the State's trying
19 to tell you Mr. Johnson-Epps shot to the head, any shot
20 that killed did not come from that first shooter, and I
21 don't know who the first shooter is or who fired those
22 first four shots. But whoever it was those first four
23 shots did not kill Mr. Tydrecus Williams.

24 I told you to listen, to pay attention to what
25 you see, what you hear. Mr. Johnson-Epps was not

1 identified by any witness that was there at the scene as
2 the shooter. The video doesn't show who the shooter is,
3 and law enforcement admitted that you can't be sure.
4 There were a ton of people there. I mean, at a minimum 14
5 people there. You heard from three of them, and those
6 three didn't see anything. They heard. They didn't see.
7 They heard shots. See on the video the whole time
8 Mr. Epps is not the aggressor. He is not instigating
9 anything. The only thing he did was go around the corner
10 like Kareem Jones when his friend went around the corner.
11 That's not a plan or intent to do harm. Mr. Epps left
12 after the first shots. He left the scene. The only thing
13 we know about Mr. Epps' involvement at the time of the
14 shooting said he was merely present. He was there. So
15 was Mr. Jones. So was Mr. Carmichael, so was Tyrin Jones,
16 and Kami Mitchell. So was two people in the Cadillac. So
17 is another man standing with his hands up and whoever else
18 might not have been on that video, not to mention the
19 clerk inside the store. You hadn't heard anything from
20 that person either.

21 One thing the State said in their closing that I
22 want to touch on. Scratch that. I do want to say the
23 State told you in the beginning they laid out. You have
24 multiple theories. Multiple charges counts on which to
25 find these people, these two defendants guilty. Why they

1 do that because they don't have a clear theory. They
2 don't know. They're trying to throw a bunch at you to see
3 what sticks. It's all part of that painting that they
4 think -- they think they've given you the Mona Lisa the
5 master piece, that's what you got. It's a lot of debate
6 about what to call this picture. What the title of it is.
7 One option was not proving your case, but a better title
8 for that picture came up not guilty. The State has not
9 proven their case. We ask that you find Mr. Epps not
10 guilty on both counts.

11 THE COURT: All right. Ladies and gentlemen,
12 now that you've heard the closing arguments of counsel let
13 me give you a few brief final instructions here. I want
14 you all, ladies and gentlemen, to clearly understand that
15 you are not partisans or advocates for the State of South
16 Carolina or the defendants. It is your duty by your joint
17 deliberation to determine the facts in this case giving to
18 the defendants the benefit of every reasonable doubt on
19 each and every issue. Then to the facts which you
20 determine to be true, you should take and apply the law
21 which has been given to you by this court, and thus arrive
22 at a verdict in the case as to each charge. Thus, when
23 you have accomplished these responsibilities, you will
24 have satisfied your oath as jurors, and you will have
25 discharged your duty to this court.

1 And once you retire to the jury room, the
2 bailiff, madam forelady, will give the verdict forms to
3 you. When you, the jury, arrive at a verdict as to the
4 offenses charged in this case, the forelady will select
5 the verdict as to that offense on the verdict form. If
6 the State has failed to prove guilt defendant's beyond a
7 reasonable doubt, your verdict will be not guilty.
8 Likewise, if the State has proven the guilt of the
9 defendants beyond a reasonable doubt, your verdict will be
10 guilty.

11 Now, once a decision has been made, madam
12 forelady, you will check whichever choice is the verdict
13 of the jury as to the offenses charged. The verdict that
14 you render in this case, ladies and gentlemen, must be the
15 verdict of each and every juror. It must be your
16 unanimous verdict. All 12 of you must agree on the
17 verdict which you authorize the forelady to write for the
18 jury.

19 Now, ladies and gentlemen, I want you to further
20 understand that the order in which the choices of verdict
21 appear on the verdict form are not suggestive of any
22 verdict on the part of this court. The verdict in this
23 case is to be determined by you, the jury, not the Court.
24 Furthermore, please understand that even though I will
25 give the verdict form to the forelady, it is not her

1 verdict alone. It is the verdict of all 12 of you, and I
2 emphasize again that your verdict must be unanimous.

3 I'm also going to give you all a copy of these
4 instructions in written form. During your deliberation
5 you may refer to the instructions to guide your decision
6 making. You must consider the instructions as a whole and
7 not follow some and ignore others. Please, madam
8 forelady, return these instructions to the Court at the
9 time that your verdict is rendered.

10 Now, I'm going to ask you all to step to the
11 jury room, but do not, do not begin your deliberations
12 until you are told to do so. The law requires that I
13 consult with the attorneys to make sure that I have not
14 left anything out of these instructions. After I've
15 spoken with the attorneys, the bailiff will bring in a
16 copy of these instructions along with the verdict forms
17 and the items of evidence which have been introduced
18 during the course of this trial. And should you have any
19 instructions or excuse me any questions during
20 deliberations, madam forelady, it will be your
21 responsibility to reduce such question to writing, knock
22 on the door let my bailiff know that you have a question
23 give it to her. She will in turn give it to me, and after
24 I consult with the attorneys, will determine how to answer
25 the question if need be.

1 Likewise, the bailiff will be right outside the
2 jury door. Once you all have reached a verdict as to the
3 charges in this case as to each defendant and you have
4 filled out the verdict forms, signed and dated those
5 verdict forms, if you will knock on the door and let the
6 bailiff know that you all have reached an unanimous
7 verdict. And we will get you in the courtroom -- back in
8 the courtroom as quickly as possible.

9 I know that more than one item of evidence was
10 introduced that were on CDs, okay. If you all find a need
11 to either watch or listen to those CDs again, if you let
12 the bailiff know by virtue of writing that down. And we
13 can bring you back in the courtroom for you to view or
14 listen to any CDs that were introduced as evidence during
15 this trial, okay. Now, again, I'm going to ask you to
16 step to the jury room. Do not begin your deliberations
17 until you're instructed to do so, okay.

18 (WHEREUPON, the jury retire to the jury room.)

19 THE COURT: All right. Any exceptions,
20 objections or anything from the State at this time?

21 MR. WHITE: No, sir, Judge. Thank you.

22 THE COURT: Mr. Edgeworth.

23 MR. EDGEWORTH: Nothing, your Honor.

24 THE COURT: Mr. Ammons.

25 MR. AMMONS: No, your Honor.

1 THE COURT: All right. Have you all gone
2 through all these items of evidence everything in order.
3 You all look at the verdict forms.

4 MR. WHITE: Yes, sir.

5 MR. AMMONS: Yes, sir.

6 THE COURT: All right. We'll stand at ease.

7 (WHEREUPON, the jury begin deliberations at
8 12:34 pm.)

9 THE COURT: All right. It's my understanding
10 that the jury has reached a verdict in this case. I'm
11 going to tell everybody in the courtroom that no matter
12 what the verdict is keep your emotions in check. Failure
13 to do so could result in you being held in contempt of
14 court. Sentence to a period of incarceration and or a
15 fine. If you do not believe you can keep your emotions in
16 check, now is your time to leave the courtroom. Anything
17 from the State before I bring the jury out?

18 MR. WHITE: No, sir, Judge.

19 THE COURT: Defense, Mr. Edgeworth?

20 MR. EDGEWORTH: No, your Honor.

21 THE COURT: Mr. Ammons?

22 MR. AMMONS: No, your Honor.

23 THE COURT: All right. Bring me the jury please
24 ma'am.

25

1 (WHEREUPON, the jury came into open court at
2 2:30 pm with a verdict.)

3 THE CLERK: Madam forelady, has the jury a
4 reached verdict?

5 FORELADY: Yes, ma'am.

6 THE COURT: All right. The verdicts appear to
7 be in order. The State of South Carolina vs. Quinterris
8 Javon Carmichael on indictments 2021-GS-21-00472 and
9 2021-GS-21-00473, as to the charge of murder: We, the
10 jury, unanimously find beyond a reasonable doubt the
11 Defendant Quinterris Javon Carmichael guilty. As to the
12 charge of possession of a weapon during a violent crime:
13 We, the jury, unanimously find beyond a reasonable doubt
14 the Defendant Quinterris Javon Carmichael.

15 The State of South Carolina Tirik Jaquan
16 Johnson-Epps indictment number 2021-GS-21-00474 and
17 2021-GS-21-00475 this is the charge of murder: We, the
18 jury, unanimously find beyond a reasonable doubt that the
19 Defendant Tirik Jaquan Johnson-Epps guilty. As to the
20 charge of possession of a weapon during a violent crime:
21 We, the jury, unanimously find beyond a reasonable doubt
22 the Defendant Tirik Jaquan Johnson-Epps guilty.

23 Madam forelady, ladies and gentlemen of the
24 jury, if this was and still is your verdict, please
25 indicate by raising your right hand. All right, let the

1 record reflect that all 12 jurors have raised their hand
2 pursuant to the question that I've asked of this jury.
3 All right, at this time anything, Mr. Edgeworth, at this
4 time?

5 MR. EDGEWORTH: Your Honor, I'd move to have
6 each of the jurors individually polled.

7 THE COURT: All right, Mr. Ammons?

8 MR. AMMONS: I join in that motion, your Honor.

9 THE COURT: All right. Can the lawyers approach
10 please?

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury, but out of the hearing of the
13 jury.)

14 THE COURT: All right, defense counsel has asked
15 that each individual juror be polled. I have previously
16 asked this jury whether or not this is their verdict and
17 whether or not it is still their verdict, as I indicated
18 on the record, each of those 12 jurors have raised their
19 hands. I believe that that is sufficient under the
20 circumstances, and therefore I'm not going to individually
21 poll each juror. I've given an opportunity for them to
22 respond pursuant to my question, and they've responded and
23 I think that's appropriate under the circumstances.

24 MR. EDGEWORTH: Thank you, your Honor.

25 MR. AMMONS: Thank you.

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

3 MR. WHITE: No, sir, Judge.

4 THE COURT: All right. Ladies and gentlemen of
5 the jury, I want to thank you for your service this week.
6 I know jury service never ever comes at a convenient time,
7 but I can't stress to you how vitally important your
8 service as a juror is. I tell people that jury service is
9 really the only true remaining service that we have as
10 citizens in this country any more. It's not a situation
11 where individuals can be drafted and sent off in the
12 military like individuals were years ago.

13 In jury service, you can only be summons at
14 least up here once every three years. And that doesn't
15 mean you can't get summoned in city court, magistrate's
16 court or federal court, but I hope if you're summoned to
17 serve again, you'll willing to serve like you did this
18 particular week. What I'm going to do -- what we will do
19 now is we will move into the sentencing part of this
20 matter. You are welcome to stay, but you are not required
21 to stay. If you do not wish to stay in the courtroom
22 during the sentencing, I'm going to ask you to step back
23 to the jury room and remain in there until that process is
24 complete. And then I will release at you at that time.
25 If you wish to stay in here, you certainly may. If not,

1 you can step out to the jury room.

2 (WHEREUPON, the jury retired to the jury room.)

3 THE COURT: All right, Mr. White.

4 MR. WHITE: Thank you, Judge. I'm going to pass
5 up the sentencing sheets now.

6 MR. EDGEWORTH: Your Honor, before we move into
7 sentencing, I do have a motion.

8 THE COURT: Go ahead.

9 MR. EDGEWORTH: Thank you, your Honor. May it
10 please the Court. Your Honor, at this time I would move
11 for a new trial. The basis for this motion is I believe
12 the jury verdict is the result of inflamed passion and the
13 resulting prejudice that arose from a couple of the
14 following things. One is the State's use in closing of
15 the transcript of the video from the scene of the incident
16 that in discovery that was provided is largely inaudible.
17 And when it was played even during the modified version
18 that was in during the trial still largely inaudible.

19 Yet, the State chose to use a transcript that
20 they created was never introduced by a competent witness
21 so that my client's Sixth Amendment confrontation ability
22 to confront any witness against him could be asserted. We
23 don't know where the transcript came from other than the
24 Solicitor's office. We don't know who validated it,
25 corroborated it and even sworn to its veracity much like a

1 transcript of sworn under oath. It was used by the State
2 for the sole purpose to inflame this jury. And I think
3 the resulting -- it was something that quite honestly your
4 Honor was largely unable to be overcome by any assertion
5 by myself or defense counsel to say, well, just ignore it
6 because it's not evidence.

7 Well, it was overlayed on top of evidence that
8 was in the record. And I believe that that was something
9 insurmountable. It baffles my mind that they would even
10 choose to do that because it's not there. It's their
11 opinion. It's not even argument when you overlay on top
12 of evidence and not having the opportunity to inquire into
13 any nature as it relates to that piece of evidence, I
14 think push the burden. Quite honestly, I thought whenever
15 they chose -- the State chose to back-door hearsay
16 evidence where they had the opportunity to bring what they
17 put in discovery was an eyewitness allegedly pointing to
18 my client.

19 They had every opportunity on the planet to
20 bring that person and have that person testify before your
21 Honor and this court. And they throw their arms up and
22 say, well, we can't find them. So what we'll do we'll
23 have Investigator Chatlosh testify that he interviewed
24 multiple people, and then in a way to bolster what would
25 have been her testimony, and now the absence thereof say,

1 well, we didn't have any other witness that didn't which
2 is negative inference that didn't change our mind about
3 what the theory was. Again, confrontation issue. I can't
4 cross-examine that. I can't cross-examine someone who is
5 just bolstering someone that's one not there. And I quite
6 honestly, again, I can't even believe they even tried to
7 do that. They didn't need to do that.

8 So, again, all of in an effort to prejudice this
9 jury, so that they ignore what were the facts in evidence
10 and instead take things that they told the jury as
11 evidence. And I don't think there's any way around saying
12 that that wasn't the purpose and the intent of using not
13 only the testimony. It was the last witness, so what are
14 we going to do throw it in there. And then what are we
15 going to do. If I hadn't seen out the corner of my eye
16 while they were practicing this thing, they didn't tell us
17 in advance. I mean, normally what you would do if you're
18 going to do some type of like demonstrative evidence is
19 you would under the rules bring it to, you know, your
20 Honor or myself and give us the opportunity to review it
21 and make any argument that could or should have been made
22 and to make sure that quite honestly that it was
23 verifiable. We got no opportunity, zero. And so
24 understanding your Honor's in the moment ruling, I just
25 don't think that -- that there was no other reason for

1 that piece -- that to be done other than to prejudice this
2 jury. And I would ask the Court to grant a new trial on
3 that basis.

4 THE COURT: Thank you, Mr. Edgeworth.

5 MR. EDGEWORTH: Thank you, your Honor.

6 THE COURT: Mr. Ammons, anything?

7 MR. AMMONS: Nothing, your Honor.

8 THE COURT: Any reply from the State?

9 MR. WHITE: No, sir, Judge.

10 THE COURT: All right. With all due respect,
11 Mr. Edgeworth, I'm going to respectfully deny your motion,
12 and I'll try to in part the record speaks for itself. And
13 you made your argument, a very good argument I would say,
14 but I think the evidence in this case while there's no
15 direct evidence of either one of these defendants killing
16 the victim in this case. There is substantial
17 circumstantial evidence in this case.

18 Ms. Mitchell, Mr. Jones, Ms. Jones each of which
19 identified both defendants being with them, dating them in
20 some capacity getting out of the car. The video in this
21 case of the individual identified is Tirik Johnson-Epps
22 shooting at the victim. The video of Mr. Quinterris
23 Carmichael continuing to walk in the direction of where
24 the victim ran and was ultimately found. That in and of
25 itself separate and apart is circumstantial evidence. You

1 have some direct evidence of the shooting. You got
2 substantial circumstantial evidence of what ultimately
3 happen to the victim here. With regards to -- so I do
4 believe that there was, again, and at the directed verdict
5 stage respectfully denied such indicating that I believe
6 that there was more than mere suspicion here that that
7 there was direct evidence as well as substantial
8 circumstantial evidence reasonably tending to prove the
9 guilt of each of these individuals.

10 As it relates to the testimony of Officer
11 Chatlosh which you argue to the Court, again, with all due
12 respect, I think that an officer, any officer has the
13 right come in here and in essence testify that through
14 their investigation that they did not develop any other
15 suspects. That coupled with what was seen on the video of
16 what happened out there that night, I don't think that it
17 had ran a foul of any Sixth Amendment right of your
18 client, but, again, I respect your argument on that as
19 well. But I'm making my rulings on the record, okay.

20 Now, with regards to the demonstrative evidence
21 as far as the transcript of what happened out there that
22 night, certainly that was argued beforehand and do believe
23 that that in and of itself could have been attacked in
24 some way by replaying that audio for the jury and your
25 closing argument addressing the issue or your concerns

1 about the ability to interpret and decipher what exactly
2 was being said. So for those reasons, I respectfully deny
3 your motion, but they are so noted for the record.

4 MR. EDGEWORTH: Thank you, your Honor.

5 THE COURT: All right.

6 MR. WHITE: Thank you, Judge. May I pass up the
7 sentencing sheets now. Judge, the victim, Mr. Tydrecus
8 Williams, family is present in the courtroom and present
9 all week, and they been patient with our office through
10 Covid. And they're some of the nicest people you ever
11 want to meet. And two of them would like to speak his
12 mother and his brother would like to address the Court at
13 the appropriate time.

14 THE COURT: Hold on just a second. Bennett, can
15 you come up here just a second.

16 (WHEREUPON, a bench conference was held.)

17 THE COURT: Can the lawyers approach a minute
18 please?

19 (WHEREUPON, a bench conference was held.)

20 THE COURT: All right. I'm going to stand down
21 for just a minute.

22 (WHEREUPON, a break was taken.)

23 THE COURT: Be seated please.

24 MR. AMMONS: Your Honor, I would like to clarify
25 one thing. I would join with Mr. Edgeworth in his motion.

1 THE COURT: So noted. And also I don't know you
2 specifically did it, but I want to make sure and I'm going
3 to state on the record that all of the defendants prior
4 motions and objections, and this court states that they
5 been renewed once again and the Court's rulings remain the
6 same as it relates to all of those. But I want to make it
7 clear that that's the way the Court's proceeding not only
8 your motion for new trial, but those prior motions and
9 objections as well.

10 MR. EDGEWORTH: Thank you, your Honor.

11 MR. AMMONS: Thank you, your Honor.

12 THE COURT: All right, now, Mr. White.

13 MR. WHITE: Thank you, Judge. You heard the
14 facts. I want belabor the point. Your Honor, defense
15 counsel mention in his opening that there were just some
16 places in Florence that after hours you can kind of expect
17 to be shot and killed. And, you know, I'm on a mission to
18 make sure that that's not the case. Judge, there is no
19 such thing as dangerous places. There's just dangerous
20 people. And, Judge, you had in your courtroom this week
21 two of those dangerous folks.

22 And the senselessness of this tragedy cannot go
23 overstated. I mean, this young man, Tydrecus Williams,
24 you can see the body language on the video. He at not
25 once postures in a way where he intends anybody harm. And

1 you heard from several witnesses about his laid back
2 nature and that is echoed from each and every person that
3 we have spoken to in regards to this case. His family
4 echos those sentiments. I mean, this from all advantage
5 points was a kid who was just soft spoken and as nice as
6 he could be, and they shot him down like a dog, executed
7 him not two blocks from where we are here today. Judge,
8 this is quite frankly a life case, and that's what we're
9 asking for lifetime two for Carmichael and for
10 Johnson-Epps. At this time I'd ask for you to hear from
11 the family who would like to address the Court.

12 THE COURT: All right. Tell me your name for
13 the record please?

14 RASHEEDA KEITH: Rasheeda Keith.

15 THE COURT: You can take your mask down while
16 you talk to me.

17 RASHEEDA KEITH: Rasheed Keith.

18 THE COURT: Keith.

19 RASHEEDA KEITH: K-E-I-T-H.

20 THE COURT: Thank you, ma'am. Yes, ma'am, Ms.
21 Keith.

22 RASHEEDA KEITH: I'm Tydrecus Williams' mom. So
23 this is the day. I waited three years still didn't get an
24 answer why. I don't understand. He is missed. He would
25 be missed. I asked for the max. I ask that they are not

1 able to harm anyone else for my son. He didn't do
2 anything. And like they said places and time don't punish
3 people. He just started leaving the house a few months
4 before that. He always was with me. He was my twin. He
5 was always with me. He had a heart. He had a heart beat.
6 Even when this case is over, it won't be over for me. I
7 have three other kids and eight grands. I'm just glad
8 that this day came. And I'm glad that I'm still here for
9 when it came.

10 THE COURT: Thank you, Ms. Keith. Tell me your
11 name please, sir?

12 TYSHAWN KEITH: Tyshawn Keith.

13 THE COURT: Spell your first name?

14 TYSHAWN KEITH: T-Y-S-H-A-W-N.

15 THE COURT: Keith?

16 TYSHAWN KEITH: Yes, sir.

17 THE COURT: Yes, sir, Mr. Keith.

18 TYSHAWN KEITH: Before this happened, he was
19 coming to stay with me because I had move out of Florence.
20 Because when I was younger, I got in some trouble, but I
21 change my whole life around like he seen that. He would
22 like -- we was just got a bed everything. So when they
23 call me, I ain't believe it at first, you know. But I was
24 like he ain't -- who he was with like ain't no way. You
25 all lying. And when I found out it did really happen, I

1 ain't hit me. Like, I ain't never cried around about it.
2 I'm tearing up now three years, I ain't never shed a tear
3 around nobody because like I'm muscle like family like.
4 So I couldn't protect him like, and it did something to
5 me. But I put in my heart that I never harm nobody
6 family. Like, he ain't deserve this. I can't say too
7 much because I feel like say something wrong, so I'm going
8 to sit down. But he ain't deserve this, but it's over
9 with now.

10 THE COURT: Thank you, Mr. Keith. Anything
11 further, Mr. White?

12 MR. WHITE: No, sir, Judge.

13 THE COURT: Mr. Edgeworth.

14 MR. EDGEWORTH: Thank you, your Honor. May it
15 please the Court. First, I would like to address the fact
16 I don't understand why the State after obtaining a
17 conviction would almost maliciously mischaracterize a
18 comment that I made in opening. At no time did I ever
19 suggest that someone deserve to be killed because they
20 went somewhere late at night. I'm sure the record will
21 reflect that I said no such thing, and I don't know what
22 they sought to achieve by saying that.

23 That being said, your Honor, obviously, it's a
24 very difficult situation. My client is a young man just
25 like the victim in this case. I choose to believe that we

1 no longer live in an eye for eye society. At some point
2 individuals would be given an opportunity to show that
3 they can be rehabilitated and possibly be a productive
4 member of society. I know that the gravity of the facts
5 and circumstances that were before this court, and I'm not
6 trying to minimize those, but I would ask the Court to
7 consider as much mercy as the Court could find and noting
8 that -- not that -- it's a substantial amount of time, but
9 Mr. Carmichael has 1,226 days in jail today.

10 THE COURT: How many? I'm sorry.

11 MR. EDGEWORTH: Sorry, 1,226 days, your Honor
12 to date. And, again, I would just the Court to look to
13 see what, if any, kind of mercy it may grant in this
14 particular situation. Thank you, your Honor.

15 THE COURT: Thank you. Mr. Edgeworth, is your
16 client wish to say anything?

17 MR. EDGEWORTH: No, he does not, your Honor.

18 THE COURT: Very well. Mr. Ammons.

19 MR. AMMONS: Thank you, your Honor. Obviously,
20 I share the sentiments this is a tragic incident that
21 happened, but like Mr. Carmichael, Mr. Epps is a young
22 man. He is 23 years old. I've gotten to know Mr. Epps
23 quite a bit over the past two and half years.

24 Your Honor, and the man I know is soft spoken,
25 quiet, humble not the same person that you or anyone might

1 have seen and associated with this incident your Honor.
2 And I certainly believe that he at some point could be
3 able to contribute to society your Honor. Certainly do
4 believe in rehabilitation. I think that process has
5 started during 1,068 days that he has served to date.
6 Your Honor, I think he's told me on several occasions that
7 he knows that he was too impressionable at a younger age.
8 And certainly understands at this point that it's time to
9 not be a follower but to be a leader, Your Honor. And so
10 for those reasons we'd ask for as much mercy as the Court
11 can muster your Honor. Thank you.

12 THE COURT: All right. Mr. Edgeworth and Mr.
13 Ammons, I didn't ask you all this. I know a couple family
14 members spoke on behalf of the victim. Anybody from the
15 defendants family wish to say anything?

16 MR. EDGEWORTH: Your Honor, I have been
17 indicated that one of my client's family members would
18 like to address the Court.

19 THE COURT: Tell me your name please, ma'am?

20 JOCELYN WILSON: Hello, my name is Jocelyn
21 Wilson.

22 THE COURT: Yes, ma'am.

23 JOCELYN WILSON: I'm Quinterris older sister.
24 First off, I would like to apologize for the family
25 wholeheartedly, wholeheartedly. The type of person my

1 brother is. He's very genuine. My brother looks out for
2 anybody that's, you know, that he hangs with family. He
3 loves love. Yes, my brother does act out. He does in the
4 video he said what he did. And I wholeheartedly believe
5 my brother not because he's my brother because I'm the
6 type of person right is right and wrong is wrong and
7 that's simple. But my brother since day one he said he
8 has not done it. I believe him. Facts shown my brother
9 has not had a gun in his hand. That's what been shown all
10 week.

11 I have not seen my brother is going on five
12 years today. I have not seen my brother just on video
13 call, but just speaking on his behalf, I feel as though I
14 would ask the Court to show mercy to my brother because,
15 yes, he has been incarcerated for almost five years now.
16 He hasn't -- he's been in there without bond. He's not a
17 flight risk. And I know for me I don't do drama. I don't
18 be out in the streets. My brother knows that. Everybody
19 knows that.

20 And if you guys show mercy on my brother today,
21 I will make sure that my brother does what's right, that
22 he get another chance out in the world because growing up
23 as a young black male is hard for you because there is
24 always people to even -- just off how you act in public or
25 how you speak, how you look. You're getting judged. And

1 I'm not trying to play the race card, but it's proven
2 facts from that case years whatever. I just ask that you
3 guys show mercy. And, again, I am sorry to each and every
4 one of you all because I can't imagine life without my
5 brother or my sibling, my kids.

6 I have two sons, so I don't know how she feels,
7 but it's hard to go through this situation to lose a love
8 one, to lose a love one that was innocent. But, again, my
9 brother has not shown that he had a gun that he did not
10 shoot. Yes, he stayed at the scene, but he didn't go
11 outside of that sidewalk. He didn't go outside that
12 sidewalk. He stayed in the scene, that's what
13 incriminates him because he stayed at the scene.
14 Everybody left. Every single body left.

15 It's hard, you know, being a male with a
16 background and not having nobody believe you that you
17 didn't do it because you been in trouble before, but
18 wholeheartedly believe my brother is innocent, and I will
19 speak to that to the end. If anything was to happen to
20 me, I will go down six feet knowing that my brother was
21 innocent, happily because I know he was. I know he was.

22 I'm a spiritual person, so I just -- I mean, you
23 know, I can't say that I know that my brother did it for
24 sure, but just looking at the evidence and knowing my
25 brother, I know he didn't do it. Yes, he stayed at the

1 scene. Yes, he instigated it. He started it, but he did
2 not shoot.

3 THE COURT: Thank you, ma'am.

4 JOCELYN WILSON: You're welcome.

5 THE COURT: Anyone else, Mr. Edgeworth?

6 MR. EDGEWORTH: No, your Honor.

7 THE COURT: Mr. Ammons.

8 MR. AMMONS: No, your Honor, but I would like to
9 just add that I meant to include that I would like the
10 Court to consider that Mr. Epps was not the instigator
11 of the action as well.

12 MR. WHITE: Judge, if I could, I neglected to
13 put these individuals records into the record. Tirik
14 Johnson-Epps has a prior conviction 2017 for unlawful
15 carry of a weapon. And he has an arrest for domestic
16 violence second degree, and then these charges here,
17 Judge.

18 As it pertains to Quinterris Carmichael, in
19 2015, he was convicted of petty larceny, possession of a
20 stolen pistol, giving false information, 2016 shoplifting,
21 2017 malicious injury to real property. 2017 he was
22 charged with three counts of attempted murder, possession
23 of a weapon during a violent crime, conspiracy. 2018 he
24 was charged with arm robbery with a deadly weapon. And I
25 don't have to remind the Court, but I do want to, you

1 know, reiterate discussion we had earlier in the week that
2 Mr. Carmichael was captured on the jail phones seemingly
3 tampering with this jury an issue that we had throughout
4 the duration of this trial and caused increased security
5 throughout the courthouse.

6 THE COURT: I'm going to put this on the record,
7 but I want to make it abundantly clear. There's no
8 evidence -- right now there's no evidence that either one
9 of these defendants had anything to do with things that
10 happened this week. During this trial that in the 13
11 years I've been on the bench, I've never had happen.
12 During jury qualification on Monday and as I do with every
13 jury, ask them a series of questions to determine their
14 qualification to serve on this jury. And one of the
15 questions that I always ask is whether or not the panel
16 knows of any reason, any reason whatsoever why he or she
17 should not serve on that particular jury, with particular
18 emphasis being placed upon their ability to be fair and
19 impartial to both the State and the defendants.

20 On Tuesday morning, there were two jurors that
21 said that they did not feel comfortable -- we selected the
22 jury Monday. The jury was released after they were
23 selected. When the jury returned Tuesday morning, I
24 received word from the bailiffs that two jurors indicated
25 that they did not feel comfortable serving on this jury,

1 brought each of those jurors into the courtroom
2 individually. One of those jurors was excused after my
3 questioning of the juror, and observing that she was --
4 appeared to be very shaken to the point that she was
5 crying as she talked to me. Certainly, I asked her if
6 anyone reached out to her, and she said that they had not.
7 So I respected that, but in any event, I released her from
8 this jury panel. Pursuant to my releasing of her from the
9 panel, an alternate was seated.

10 It was on Wednesday -- I don't recall if it was
11 Tuesday or Wednesday. I think it was on Wednesday, but
12 I'm not sure the record can reflect. The alternate that
13 had been seated on the jury received a message via
14 Facebook and that message did not appear to be -- and I
15 read that message into the record, but it was not a
16 message that was beneficial or would have appeared to have
17 been coming anybody from the defendant side.

18 In any event of out of an abundance of caution
19 after what transpired with that, I restricted anyone
20 coming into the courtroom to observe this trial unless
21 they were mother, father, brother, sister or grandparent
22 of the victims or the defendants before. Before that,
23 there was a multitude of individuals in the audience that
24 after having implemented that restriction did not reappear
25 in court. That was done out of my concern and in an

1 effort to make sure that these proceedings were protected.
2 It was brought to my attention that I believe that law
3 enforcement received a list of individuals who were --
4 fell into that category of mother, father, brother, sister
5 or grandparent. One of the individuals that was listed as
6 a sibling of Defendant Carmichael by Mr. Carmichael was
7 not in fact his brother. Law enforcement in their efforts
8 confirmed that.

9 I know it was provided to me Wednesday morning
10 sent to me by Mr. White. I believe copied Mr. Edgeworth
11 and Mr. Ammons on the jail recording. And in that jail
12 recording quite honestly, I couldn't make out what the
13 other individual who Mr. Carmichael allegedly or who he
14 was talking to. But was able to make out certain parts of
15 it and did hear them discussing the jury or a juror on
16 there was certainly gave me some concerns, which again
17 played into my decision of restricting those in attendance
18 of this trial to immediate family so to speak.

19 Today, during the break or after the case went
20 to the jury, it was brought to my attention that four
21 rounds of ammunition were found in the men's bathroom up
22 here. In discussing that issue with law enforcement, I
23 believe law enforcement in essence cleared the building
24 had everyone come back through downstairs screening. And
25 that was done in an effort to make sure that everyone in

1 these proceedings were protected not only victims family
2 but defendants as well.

3 In addition, I had this courtroom searched by
4 law enforcement under seats, under chairs, under desks
5 everything before anyone was allowed back in the
6 courtroom. US Marshall's office brought their dog over
7 here to go through the courtroom as well. I believe that
8 the sheriff's department brought their dog up here as
9 well. And from my understanding, no firearm was found in
10 the courthouse. And I'm putting all of that on the record
11 in an effort to explain my limitations of who was in this
12 courtroom as well as concerns that I had throughout the
13 trial. And let me make it abundantly clear, there's no
14 indication that either one of these defendants or anybody
15 on their behalf had anything to do with that. But it was
16 done out of an effort to ensure that everyone was safe
17 during these proceedings.

18 As I listen to the testimony over the last few
19 days as it relates to this case and watched the video
20 surveillance of what was captured on the night of this
21 incident, it was disturbing to me of the complete and
22 utter disregard for human life. Unfortunately, if you
23 turn on the television, pretty prevalent there as well.
24 And unfortunately that seems to be where we are as a
25 society. I can't imagine what the victim's family has

1 gone through here in losing a son under such
2 circumstances. And likewise, I can't what the defendants
3 family must be dealing with either. There's absolutely no
4 winners, no winners at all under these circumstances.

5 As it pertains to the State of South Carolina
6 vs. Quinterris Javon Carmichael 2021-GS-21-21472, the
7 State of South Carolina vs. Tirik Jaquan Johnson-Epps
8 under indictment 2021-GS-21-00547, each of those charges
9 are indictment numbers pertaining to the murder
10 conviction, each of those defendants are hereby sentenced
11 to the state department of corrections for the balance of
12 their natural life.

13 As it pertains to Mr. Carmichael under
14 2021-GS-21-00473, Mr. Epps on 2021-GS21-00475 each of
15 those indictments pertaining to the possession of a weapon
16 during a violent crime, pursuant to the life sentence as
17 it relates to the murder section 16-23-490(a) does not
18 authority a sentence being imposed on those particular
19 indictments, therefore no sentence is being imposed on
20 them. On each of those sentences as it relates to the
21 murder conviction, each of those defendants -- each of the
22 defendants have been given credit for the days that
23 they've done and the number of days as provided to me by
24 their respective attorneys. Anything further from the
25 State?

1 MR. WHITE: No, sir, Judge.

2 THE COURT: Mr. Edgeworth.

3 MR. EDGEWORTH: No, your Honor.

4 THE COURT: Mr. Ammons.

5 MR. AMMONS: Nothing, your Honor.

6 THE COURT: All right. Thank you.

7 END OF REQUESTED TRANSCRIPT

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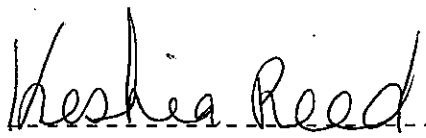
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 313, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of General Sessions for Florence County, South Carolina, on the 25-27 days of January, 2023.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 17th day of June 2023.



Keshia Reed, Court Reporter

WITNESSES

Just Chatlosh Florence Police Department

530

DOCKET NO. 2021-GS-21-00472

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

MAY TERM 2021

THE STATE

vs.

QUINTERRIS JAVON CARMICHAEL

Indictment for

MURDER

FILED

2021 MAY - 5 12 5 13

DONIC POLLOS OFFICIAL
COCOP & GS
FLORENCE COUNTY, SC

APPX550

ARREST WARRANT NUMBER

2019A2120201720

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5/6/21

VERDICT

Foreperson of Petit Jury

Date.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

INDICTMENT FOR
MURDER

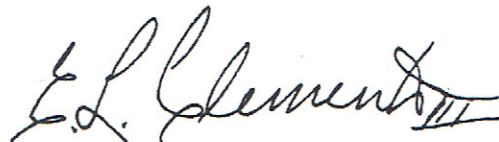
At a Court of General Sessions, convened on MAY 6, 2021 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE - MURDER

CDR: 0116 16-03-0010,0020

That Quinterris Javon Carmichael did in Florence County, on or about September 12, 2019, willfully, feloniously, and intentionally kill the victim, Tydrecus Williams, with malice aforethought, either express or implied, by means of gunshot, and the victim did die as a proximate result thereof on or about September 12, 2019 in Florence County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

WITNESSES

Justin Chatlosh Florence Police Department

54

Ryan White

ARREST WARRANT NUMBER

2019A2120201721

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5/6/21

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-21-00473

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

May TERM 2021

THE STATE

vs.

QUINTERRIS JAVON CARMICHAEL

Indictment for

Possession of a Weapon During a Violent
Crime

FILED
2021 MAY 6 P 5 13
CLERK FLORENCE COUNTY
FLORENCE COUNTY, SC

APPX552

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

INDICTMENT FOR

Possession of a Weapon During a Violent Crime

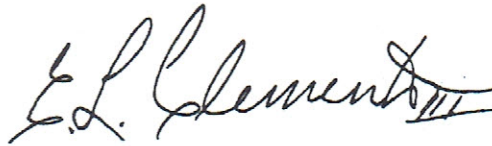
At a Court of General Sessions, convened on May 6, 2021 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE – POSSESSION OF A WEAPON DURING A VIOLENT CRIME

CDR: 0549 16-23-0490

That Quinterris Javon Carmichael did in Florence County, on or about September 12, 2019, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

RECEIVED

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Florence

FEB 02 2023

STATE

SC Court of Appeals

INDICTMENT/CASE#: 2021-GS-21-00472

VS.

Quinterris Javon Carmichael

AKA:

A/W#: 2019A2120201720Race: BlackSex: MAge: 24Date of Offense: 9/12/2019DOB: SS#: S.C. Code §: 16-03-0010; 16-03-0020Address: CDR Code #: 0116City, State, Zip:

SENTENCE SHEET

DL#* SID# *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murder36 - LifeIn violation of § 16-03-0010; 16-03-0020 the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 102584
 Solicitor SC Bar # Defendant

Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of Life days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run:

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ 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.1068 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.

DCB
2.19.22

STATE VS. Quinterris Javon Carmichael INDICTMENT/CASE#: 2021-GS-21-00472

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____ \$ _____

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 375
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ 40.00

TOTAL \$ 168.75

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Presiding Judge: _____
Judge Code: _____
Sentence Date: 1-27-23

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Florence

STATE

VS.

FEB 02 2023

INDICTMENT/CASE#: 2021-GS-21-00473

Quinterris Javon Carmichael

SC Court of Appeals

AW#: 2019A2120201721

AKA:

Race: BlackSex: MAge: 24

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#

Date of Offense: 9/12/2019S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death 0-5In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45*No sentence imposed due to life sentence on 2021 GS-21-472 and*
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. Section 16-25-490 (D) (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar # 102584

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction ☐ County Detention Center,for a determinate term of _____ 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. _____ 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.

*DCB
1.1.17*

STATE VS. Quinternis Javon Carmichael INDICTMENT/CASE#: 2021-GS-21-00473

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

\$14-1-206 (Assessments 107.5%)		\$
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100 ^W
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\$56-5-2995 (DUI Assessment)	\$12	\$
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\$14-1-212 (Law Enforce. Funding)	\$25	\$ 30 ^W
\$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	\$
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3% to County (if paid in installments)	TBD	\$ 30
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
	TOTAL	\$ 128.75

Clerk of Court/Deputy Clerk: K. Reed
Court Reporter: K. ReedPresiding Judge: D. [Signature]
Judge Code: 2160
Sentence Date: 1-27-23Def
1.2.22

547

Date: 9/20/19

Location:

Age 21

Time: Begin 4:12 / End 4:29

- You have the right to remain silent.
- Anything you say can and will be used against you in a court of law.
- You have the right to talk to a lawyer and have him present with you while you are being questioned.
- If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
- You can decide at any time to exercise these rights and not answer any questions or make any statements.

IMPORTANT NOTICE: If you do not understand any part of this form, **do not** sign until you do.

Signature _____

Date _____

Witness

9/20/19
Date

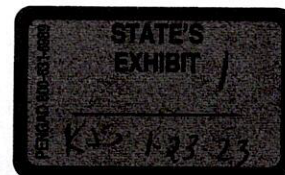
Witness

9-20-19

Date _____

Witness

Date _____



P-091

CERTIFICATE OF COUNSEL FOR APPELLANT

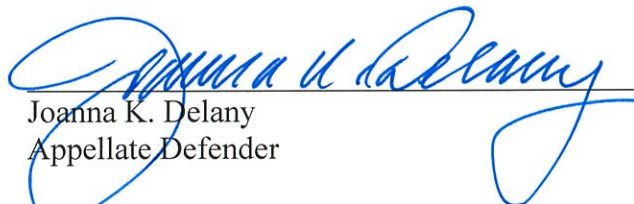
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Sep 23 2024

SC Court of Appeals



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 23rd day of September, 2024.

RECEIVED

Sep 23 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT

APPELLATE CASE NO. 2023-000162

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon W. Joseph Maye, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 23rd day of September, 2024.



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

Oct 11 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT

APPELLATE CASE NO. 2023-000162

FINAL BRIEF OF APPELLANT

JOANNA K. DELANY
Appellate Defender

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

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1.

Whether the trial court erred by refusing Appellant's request to individually poll the jurors, since a poll must be taken if a request for polling is made?

2.

Whether the trial court erred by admitting a recorded custodial interrogation of Appellant, where Appellant invoked his right to counsel, but law enforcement, in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966), told Appellant he could only have a lawyer if he "ha[d] one on retainer," since the resulting statement was not knowingly, voluntarily, and intelligently given?

3.

Whether the trial court erred by admitting the testimony of one law enforcement officer, that based on other officers' interviews of witnesses in a Cadillac, Appellant and his codefendant were the only suspects developed, where Rule 802, SCRE, prohibits the introduction of hearsay absent an exception, since the testimony was inadmissible hearsay?

STATEMENT OF THE CASE

During the May term of 2021, a Florence County Grand Jury indicted Quinterris Carmichael, Appellant, for murder and possession of a weapon during the commission of a violent crime. Appellant was tried jointly with his codefendant, Tirik Johnson-Epps, before the Honorable D. Craig Brown and a jury, from January 23 – 27, 2023. Appellant was represented by William “Josh” Edgeworth, III. Gregory Ammons represented Johnson-Epps. J. Ryan White and Todd Tucker prosecuted the case. Appellant was convicted as indicted, and he was sentenced to life imprisonment without parole for murder. No sentence was imposed for the weapons charge.¹

This appeal follows.

¹ R. 539 – 542; R. 1; R. 226; R. 514, ll. 6-14; R. 536, ll. 5-20; R. 543 – 546.

ARGUMENT

1.

The trial court erred by refusing Appellant's request to individually poll the jurors, since a poll must be taken if a request for polling is made.

Appellant timely requested the jurors be individually polled. The court refused the request to poll. This error was reversible per se.

Standard of review

The appellate courts of South Carolina review questions of law de novo. *State v. Adams*, 409 S.C. 641, 647, 763 S.E.2d 341, 344 (2014); *Jordan v. State*, 406 S.C. 443, 448, 752 S.E.2d 538, 540 (2013). “We clarify that appellate courts review questions of law de novo, with no deference to trial courts.” *Smalls v. State*, 422 S.C. 174, 181, 810 S.E.2d 836, 840 (2018).

Relevant facts

After the verdicts were announced, the court conducted the common practice of collective polling. It addressed the jury as a body, asking: “if this was and still is your verdict, please indicate by raising your right hand.” The court then stated,

All right, let the record reflect that all 12 jurors have raised their hand pursuant to the question that I've asked of this jury. All right, at this time anything, Mr. Edgeworth, at this time?

MR. EDGEWORTH: Your Honor, I'd move to have each of the jurors individually polled.

THE COURT: All right, Mr. Ammons?

MR. AMMONS: I join in that motion, your Honor.

THE COURT: All right. Can the lawyers approach please?

(WHEREUPON, a bench conference was held in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right, defense counsel has asked that each individual juror be polled. I have previously asked this jury whether or not this is their verdict and whether or not it is still their verdict, as I indicated on the record, each of those 12 jurors have raised their hands. I believe that that is sufficient under the circumstances, and therefore **I'm not going to individually poll each juror**. I've given an opportunity for them to respond pursuant to my question, and they've responded and I think that's appropriate under the circumstances.²

Discussion

Polling is a means to ensure the validity of the verdict, by addressing each juror separately as to his or her concurrence in the verdict. “Polling is a practice whereby the court determines from the jurors individually whether they assented and still assent to the verdict.” *State v. Linder*, 276 S.C. 304, 308, 278 S.E.2d 335, 338 (1981) (citing *Sanders v. Charleston Consol. Ry. & Lighting Co.*, 154 S.C. 220, 151 S.E.2d 438 (1930)). “‘Individual’ polling requires each juror to be individually questioned as to whether they ‘assented and still assent to the verdict.’” *State v. Wright*, 439 S.C. 101, 102, 886 S.E.2d 206, 207 (2023) (quoting *Linder*, *supra*). “Individual polling is commonly accomplished by separately asking each juror, ‘Was this your verdict?’ If the answer to that question is ‘yes,’ the customary follow-up question is, ‘Is this still your verdict?’” *Wright*, 439 S.C. at 102–03, 886 S.E.2d at 207. In this case, the jurors were not polled—they were not individually asked, “Was this your verdict?” and “Is it still your verdict?”

A request for polling must be timely. “We note the common practice for collective polling to be conducted immediately after the verdict is published; when collective polling is conducted, the request, if any, for individual polling must take place immediately after the collective polling is concluded.” *Wright*, 439 S.C. at 103, 886 S.E.2d at 207. Appellant’s request

² R. 514, l. 23 – 515, l. 23 (emphasis added).

for an individual poll was timely: it was made immediately after the collective polling was concluded.

Polling safeguards important rights. “The right to poll the jury is not in itself a constitutional right but a procedural protection of the defendant’s constitutional right to a unanimous verdict.” *State v. Wright*, 432 S.C. 365, 369, 852 S.E.2d 468, 470 (Ct. App. 2020), *aff’d*, 439 S.C. 101, 886 S.E.2d 206 (2023) (citing *State v. Pare*, 755 A.2d 180, 188 (Conn. 2000)). “It also safeguards the right to a public trial. If the poll reveals the jury’s announced verdict is not in fact unanimous, the verdict cannot stand, and the trial court may, as circumstances warrant, direct further deliberation or declare a mistrial. *Wright*, 432 S.C. at 369, 852 S.E.2d at 470 (citing *State v. Kelly*, 372 S.C. 167, 170–71, 641 S.E.2d 468, 470 (Ct. App. 2007)).

Whether to individually poll the jury is not discretionary. If the request is made, polling is mandatory. “Whether a poll of the jury will be conducted is discretionary with the trial judge unless a polling is requested. If the request is made, a poll must be taken. We establish this rule to dispel any doubt a party might entertain as to the propriety of a jury verdict as rendered.” *Linder*, 276 S.C. at 308, 278 S.E.2d at 338. Appellant requested, and was denied, individual polling of the jury. The verdict was therefore improper. It was not within the judge’s discretion to deny Appellant individual polling.

The denial of a timely request to poll the jury necessitates reversal. Denial of a poll defies harmless error analysis. *Wright*, 432 S.C. at 371, 852 S.E.2d at 472. “[T]he denial of a defendant’s request for individual polling is reversible per se.” *Wright*, 439 S.C. at 103, 886 S.E.2d at 207. The error in this case requires reversal. *Wright*, 439 S.C. at 103, 886 S.E.2d at 207.

The trial court erred by admitting a recorded custodial interrogation of Appellant, where Appellant invoked his right to counsel, but law enforcement, in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966), told Appellant he could only have a lawyer if he “ha[d] one on retainer,” since the resulting statement was not knowingly, voluntarily, and intelligently given.

Appellant was in custody, his statement was made in response to interrogation, and he had invoked his right to counsel. Investigator Shelley improperly negated the *Miranda* warnings that had just been provided. (Appellant: “Can I um, I get my lawyer up here right now? Shelley: I mean, if you have one on retainer, they can come up here.”) Appellant’s subsequent statement was admitted in violation of *Miranda*, was involuntarily made under the totality of the circumstances, and was admitted in error.

Standard of review

“[W]e take this opportunity to revisit and clarify the appropriate standard of review for determining the voluntariness of a criminal defendant’s statement.” *State v. Miller*, 441 S.C. 106, 118, 893 S.E.2d 306, 312 (2023). “We agree with those jurisdictions that have found voluntariness presents a mixed question of law and fact.” *Id.* at 119, 893 S.E.2d at 313. “[W]e will review the trial court’s factual findings regarding voluntariness for any evidentiary support. However, the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review.” *Id.*

Relevant facts

At approximately 3:30 a.m. on September 12, 2019, eighteen-year-old Tydrecus Williams (Decedent) was shot and killed outside the Tiger Mart (also called the Speedy Mart) in Florence.

Decedent and his friend, Kareem Jones (Jones), walked to the Tiger Mart to buy cigars. The State alleged that surveillance footage³ from cameras outside the Tiger Mart captured the following: Appellant and his codefendant, Johnson-Epps, went to the Tiger Mart in a car with two women. Appellant and Johnson-Epps got out of the car. Appellant and Jones argued, and Appellant struck Jones. Part of Johnson-Epps's body appeared on camera and his hand fired shots at Decedent. Decedent ran toward the road and collapsed. The surveillance system, which was motion-triggered, stopped recording. When recording resumed, Decedent was gone, out of frame. Appellant and Johnson-Epps jointly stood trial for murder.⁴

The State alleged that Johnson-Epps and Appellant went around the corner of the building. Shortly thereafter, Johnson-Epps got back in the car with the women, drove a short distance away, and stopped to wait for Appellant to get back in the car. All four left. Law enforcement arrived almost immediately, and found Decedent's body near the store, off-camera. Decedent had been shot approximately eight or nine times and died at the scene. Authorities collected a pair of jeans from Johnson-Epps's home that had a spot of Decedent's blood on them. Appellant was arrested and interrogated approximately a week later. The admissibility of that interrogation is the subject of this discussion.⁵

³ The surveillance footage is State's Exhibit #3 and is on file with this Court.

⁴ State's Exhibit #3; R. 248, l. 6-7; R. 403, l. 2 – 407, l. 3; R. 88, l. 15 – 92, l. 9; R. 101, l. 6 – 115, l. 3; R. 101, l. 15 – 133, l. 21; R. 184, l. 6 – 192, l. 23; R. 1.

⁵ State's Exhibit #3; R. 111, l. 12 – 116, l. 4; R. 181, l. 4 – 182, l. 20; R. 282, l. 17 – 290, l. 17; R. 320, l. 22 – 328, l. 3; R. 19, l. 6 – 20, l. 11.

During the pretrial *Jackson v. Denno*⁶ hearing, the court heard argument and testimony on the admissibility of Appellant's recorded statement to police officers about the crime. It was undisputed Appellant was in custody and being interrogated when he was interviewed by Investigator Shelley on September 20, 2019. Appellant was handcuffed. A second officer was also present in the room with Appellant and Shelley. State's Exhibit #2 is the video and audio recording of Investigator Shelley's interrogation of Appellant as it was redacted before the trial judge and the jury, and it is on file with this Court.⁷

Shelley began the interview by filling out a *Miranda* waiver form and stating, "What this is, a waiver of rights form."⁸ Shelley stated that Appellant's name had come up during an investigation. Then Shelley read Appellant his *Miranda* rights, and Appellant invoked his right to counsel. The interview proceeded as follows.

Shelley: Do you understand what your waiver of rights is; I'm going to read you what your constitutional rights are. Okay. I'm going to read them aloud to you. This is, before we ask you any questions, you must understand your rights. All this is a cover form. I'm gonna ask you to sign it when we're finished, and the only thing your signature is indicating is I read it to you, you understood what I read to you, and that if you didn't understand what I read to you, please tell me and I'll try to clarify it for you. Okay? Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say, can and will be used against you in a court of law. You have the right to talk to a lawyer, and have him or her present with you while you're being questioned. **If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.** You can decide at any time to exercise these rights and not answer any questions or make any statements. Do you understand that part of it?

Appellant: **Can I um, I get my lawyer up here right now?**

⁶ *Jackson v. Denno*, 378 U.S. 368 (1964).

⁷ R. 23, l. 19 – 24, l. 8; State's Exhibit #2.

⁸ The *Miranda* form was admitted as State's Exhibit #1 and is located at p. 547 of the Record on Appeal.

Shelley: **I mean, if you have one on retainer, they can come up here.** Let me read the next part for you. I, then we get you to put your name there, Quinterris Javon Carmichael, voluntarily, without threats, duress, force, promises of immunity or reward, agree to be questioned by the Florence Police Department. Do you understand what that part means?

Appellant: Say that one more time?

Shelley: I, Quinterris Javon Carmichael, voluntarily, without threats, duress, force, promises of immunity or reward, agree to be questioned by the Florence Police Department. That just means I'm not holding a gun to your head, make you answer any questions for me, not promising you anything to make you answer questions for me. Nothing like that. Okay? This is a completely voluntary meeting between you and I. You've got a story to tell. I want to hear it. You're grown, so you can make the decision whether or not you want me to hear your side of the story, or you don't. I'm not in here to trick you. Not in here to lie to you. This stuff's in the news. You know why we're here. It's been [unintelligible] to you. You've seen the media. I know why we're here. So, we're not, neither one of us going to act like we don't. Okay.

Appellant: [unintelligible].

Shelley: Okay. So what I want you to do for me, the only thing we're doing right now is just, what your rights are, okay, and that you understand them.

Appellant: **My lawyer can still come?**

Shelley: Any time that you want a lawyer, you can ask for a lawyer. What you need to understand is, any time that you ask us for a lawyer, that you don't want to talk to us anymore, we're done. I can't talk to you anymore. I can't hear anything else you've got to say, from that point forward.

Appellant: Where do I have to sign?

Shelley: Just print your name there, and sign your name right there for me. The only thing that this right here indicates, is that we went over this, and that you told me you understand it, that you don't have any questions about it. Is that true? Okay.⁹

⁹ State's Exhibit #2.

Despite Appellant's three recorded requests¹⁰ for a lawyer (located at approximately 05:29, 06:47, and 12:57 of the recording, State's Exhibit #2), Shelley continued to interrogate Appellant. Appellant signed the form. Shelley questioned Appellant about the murder, and Appellant made incriminating statements: Appellant admitted being at the scene at the time shots were fired. Appellant stated he was confronted by, and hit, a "little dude." Appellant stated: "I'll take a assault charge." Later in the interview, Appellant stated, "I need my lawyer, bro." The video recording, as redacted by the solicitor, ended shortly afterwards.¹¹

At the *Jackson v. Denno* hearing, when asked why he did not end the interrogation when Appellant first invoked his right to counsel, Shelley dissembled, claiming he could not give Appellant legal advice as to whether he needed an attorney: "I will have people who aren't familiar with the system that may ask that question, you know, do you think I should get an attorney, and I can't give them legal advice. I can only tell them that they have the right to an attorney, if they want one."¹² As seen, however, Appellant did not ask whether he should get an attorney, he asked for an attorney.

Appellant moved to suppress the statement. "It's a complete and utter violation of my client's Fifth Amendment rights." "[W]hen my client asked for counsel, asked to call his attorney, it's kind of sidestepped and continued on . . . there was no cooling off period for him to

¹⁰ Appellant made a total of five requests for a lawyer during the interview, but two were redacted out of the recorded interview by the solicitor. The interrogation continued for another thirteen minutes past Appellant's statement, "I need my lawyer, bro," but that portion was also redacted out. An unredacted version of the interview was not made a part of the record. R. 27, l. 17 – 30, l. 7; R. 35, ll. 1-21.

¹¹ State's Exhibit #2.

¹² R. 30, l. 12 – 32, l. 4.

continue to talk, which would be required.” “[H]e asked for his attorney on multiple occasions.” The solicitor responded by arguing Appellant did not make an unambiguous request for counsel until he stated, “I need my lawyer.”¹³

The court ruled the statement voluntary and admissible. The court found Appellant did not make an unambiguous request for counsel until just before the end of the recording (i.e., the 12:57 mark). The court ruled it was “bother[ed]” by Shelley’s statement that Appellant could have a lawyer only if he had one on retainer, but concluded, “‘I can get my lawyer up here right now’ is not an unambiguous request for counsel. Furthermore . . . law enforcement proceeded to advise the defendant of his rights pursuant to *Miranda*, and the defendant initialed the *Miranda* form, signed the *Miranda* form, after being advised of his rights.” The court found the statement voluntary under the totality of the circumstances.¹⁴

Discussion

“There are two constitutional bases requiring any confessions admitted into evidence to be voluntary: the Due Process Clause of the Fourteenth Amendment and the Fifth Amendment right against self-incrimination.” *State v. Miller*, 441 S.C. 106, 120, 893 S.E.2d 306, 313 (2023) (citing *Dickerson v. United States*, 530 U.S. 428, 433 (2000)). It is “axiomatic that a defendant in a criminal case is deprived of due process of law if his conviction is founded, in whole or in part, upon an involuntary confession, without regard for the truth or falsity of the confession.” *Jackson v. Denno*, 378 U.S. at 385 (citing *Rogers v. Richmond*, 365 U.S. 534 (1961)). The standard for determining the voluntariness of a confession is whether, under the totality of the circumstances, the confession is the product of an essentially free and unconstrained choice by

¹³ R. 34, l. 18 – 35, l. 22; R. 36, l. 10 – 37, l. 5.

¹⁴ R. 64, l. 23 – 68, l. 4.

its maker or whether his free will has been overborne and his capacity for self-determination critically impaired. *Schneckloth v. Bustamonte*, 412 U.S. 218, 225-26 (1973). “In analyzing whether a defendant’s will was overborne and the resulting confession was offensive to due process, courts must consider the totality of the circumstances, including the details of the interrogation and the characteristics of the defendant. *Miller*, 441 S.C. at 120, 893 S.E.2d at 313–14 (citing *Schneckloth v. Bustamonte*, *supra*).

“In *Miranda v. Arizona*, the Court determined that the Fifth and Fourteenth Amendments’ prohibition against compelled self-incrimination required that custodial interrogation be preceded by advice to the putative defendant that he has the right to remain silent and also the right to the presence of an attorney.” *Edwards v. Arizona*, 451 U.S. 477, 481–82 (1981) (citing *Miranda*, *supra*). A suspect “must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. Opportunity to exercise these rights must be afforded to him throughout the interrogation.” *Miranda*, 384 U.S. at 479. “After such warnings have been given, and such opportunity afforded him, the individual may knowingly and intelligently waive these rights and agree to answer questions or make a statement. But unless and until such warnings and waiver are demonstrated by the prosecution at trial, no evidence obtained as a result of interrogation can be used against him.” *Id.*

A defendant has the right to “object to the use of the confession and to have a fair hearing and a reliable determination on the issue of voluntariness[.]” *Jackson v. Denno*, 378 U.S. at 377 (citing *Rogers v. Richmond*, *supra*). “In order to secure the admission of a defendant’s statement, the State must affirmatively show the statement was voluntary *and* taken in compliance with

Miranda.” *State v. Middleton*, 288 S.C. 21, 25, 339 S.E.2d 692, 694 (1986) (citations omitted) (emphasis in original). “If the State establishes that a *Miranda* warning was given and the accused made an uncoerced statement, this showing, standing alone, is insufficient to demonstrate a valid waiver of *Miranda* rights. The prosecution must make the additional showing that the accused understood these rights.” *Berghuis v. Thompson*, 560 U.S. 370, 384 (2010) (cleaned up). “The State bears the burden of proving by a preponderance of the evidence that a statement allegedly given by an accused was voluntary and that the accused voluntarily, knowingly, and intelligently waived his rights to silence and to have counsel present during interrogation.” *State v. Henderson*, 286 S.C. 465, 470, 334 S.E.2d 519, 522 (Ct. App. 1985) (citations omitted).

A “waiver must be voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception, and made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.” *Berghuis v. Thompson*, 560 U.S. at 382–83 (cleaned up). “[W]aivers of counsel must not only be voluntary, but must also constitute a knowing and intelligent relinquishment or abandonment of a known right or privilege, a matter which depends in each case upon the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the accused.” *Edwards v. Arizona*, 451 U.S. at 482 (cleaned up).

“[L]aw enforcement officers must immediately cease questioning a suspect who has clearly asserted his right to have counsel present during custodial interrogation.” *Davis v. United States*, 512 U.S. 452, 454 (1994). “If the accused indicates that he wishes to remain silent, the interrogation must cease. If he requests counsel, the interrogation must cease until an attorney is present.” *Edwards v. Arizona*, 451 U.S. at 482 (cleaned up). The authorities may not, “at their

instance, [] reinterrogate an accused in custody if he has clearly asserted his right to counsel.” *Edwards v. Arizona*, 451 U.S. at 485.

The trial court erred when it determined that Appellant’s requests for counsel were ambiguous. In the context of invoking the right to counsel, a suspect must do so “unambiguously.” *Davis v. United States*, 512 U.S. at 459. “[H]e must articulate his desire to have counsel present sufficiently clearly that a reasonable police officer in the circumstances would understand the statement to be a request for an attorney. If the statement fails to meet the requisite level of clarity, *Edwards* does not require that the officers stop questioning the suspect.” *Id.* (citing *Moran v. Burbine*, 475 U.S. 412, 433 n. 4 (1986)). The *Edwards* prophylactic rule applies only when the suspect’s request “can reasonably be construed to be an expression of a desire for the assistance of an attorney.” *McNeil v. Wisconsin*, 501 U.S. 171, 178 (1991) (emphasis removed) (citing *Edwards, supra*).

Appellant stated, “Can I um, I get my lawyer up here right now?” *Shelley plainly understood Appellant had invoked his right to counsel since he told Appellant he could only have a lawyer if he had one on retainer. See State v. Kennedy*, 333 S.C. 426, 430, 510 S.E.2d 714, 715 (1998) (“it is obvious from the record the solicitor and everyone involved viewed petitioner’s request as an invocation of his right to counsel”). Unambiguous assertions of the right to counsel during custodial interrogation have been found in *State v. Kennedy*, 333 S.C. 426, 429-31, 510 S.E.2d 714, 715 (1998) (“Well, I think I need a lawyer”); *State v. Henderson*, 286 S.C. 465, 469, 334 S.E.2d 519, 521-22 (Ct. App. 1985) (defendant asserted he would make no statement until he spoke with an attorney); *State v. Cox*, 287 S.C. 260, 262, 335 S.E.2d 809, 810 (Ct. App. 1985), *aff’d in part, rev’d in part on other grounds*, 290 S.C. 489, 351 S.E.2d 570 (1986) (“I’ll tell you about it when I talk to my lawyer”). Appellant’s invocations (“Can I um, I get my lawyer

up here right now?"; "My lawyer can still come?") were, like the above invocations, unambiguous assertions of his right to counsel. *Compare Davis v. United States*, 512 U.S. at 462 ("Maybe I should talk to a lawyer" was not an unambiguous request for counsel.).

The trial court's ruling, that any error was cured by subsequent signing of the form was also erroneous. Appellant's statement was taken after his *Miranda* right was invoked, in violation of the Fifth Amendment. Shelley's misrepresentation about the retainer directly contradicted and neutralized the *Miranda* warnings. *Shelley never thereafter advised Appellant he could have a lawyer even if he could not afford one*. Shelley was required to cease questioning once Appellant asserted his right to counsel. U.S. Const. amend. V; *Davis v. United States*, 512 U.S. at 454; *Edwards v. Arizona*, 451 U.S. at 482.

Appellant's statement was involuntary under the totality of the circumstances. U.S. Const. amend. XIV. It was not the product of a "free and unconstrained choice" given Appellant's invocations and Shelley's misrepresentation. *Schneckloth v. Bustamonte*, 412 U.S. at 225-26. The signing of the form was instead the product of "intimidation, coercion, or deception." *Berghuis v. Thompson*, 560 U.S. at 382 (emphasis added). The State did not show Appellant "voluntarily, knowingly, and intelligently waived his right[] . . . to have counsel present during interrogation." *State v. Henderson*, 286 S.C. at 470, 334 S.E.2d at 522.¹⁵

In sum, Shelley asked Appellant if he understood his rights, and Appellant asked for a lawyer. Shelley told Appellant he could not have a lawyer unless he had counsel on retainer. That was the wrong answer, and it was an answer which negated the provision of *Miranda* warnings. The resulting statement was involuntary under the totality of the circumstances and

¹⁵ Problematically, Shelley also told Appellant: "I'm not in here to trick you. Not in here to lie to you," in connection with his *Miranda* rights; and Shelley told Appellant that signing the *Miranda* form was simply a reflection that Appellant understood his rights. Signing the form was instead a reflection that Appellant waived those rights. State's Exhibit #2.

thus it should have been excluded. *Miranda*, 384 U.S. at 479; *Jackson v. Denno*, 378 U.S. at 385; *Edwards v. Arizona*, 451 U.S. at 482; *State v. Miller*, 441 S.C. at 120, 893 S.E.2d at 313–14; U.S. Const. amend. V; US. Const. amend. XIV.

3.

The trial court erred by admitting the testimony of one law enforcement officer, that based on other officers' interviews of witnesses in a Cadillac, Appellant and his codefendant were the only suspects developed, since this was inadmissible hearsay.

Investigator Chatlosh was improperly permitted to testify to what eyewitnesses told other police officers, according to those officers' notes and the witnesses' written statements. Those eyewitnesses purportedly had a "great view" of the crime.

Standard of review

"The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse of discretion accompanied by probable prejudice." *State v. Douglas*, 369 S.C. 424, 429, 632 S.E.2d 845, 847–48 (2006). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *Id.* at 429–30, 632 S.E.2d at 848.

Relevant facts

Decedent was killed off-camera, around the corner of the convenience store. During Investigator Chatlosh's testimony, the codefendant elicited that at least two people were in a Cadillac "right beside where the shooting happened." This would have given them an exclusive viewpoint of the killing. Those witnesses did not testify at trial. During redirect examination, the solicitor asked Chatlosh what law enforcement had learned from the witnesses in the Cadillac.¹⁶

Q Okay. That Cadillac the defense has mentioned, did you interview folks in that Cadillac?

A I did not. Lieutenant Nida and Sergeant Clark did?

Q They were interviewed?

¹⁶ R. 394, ll. 3-18; R. 407, l. 4 – 408, l. 25.

A Yes.

Q Did you review the notes and the interview during the course of your investigation?

MR. EDGEWORTH: Objection, your Honor. He's trying to elicit hearsay testimony.

MR. WHITE: But I'm not.

THE COURT: Hadn't gotten there yet.

A Restate the question please?

Q Are you aware of what they said in their statements to law enforcement?

A Yes.

Q And are you aware that the primary witness in that vehicle was a Ms. Merlietha Geathers?

A Yes.

Q Are you aware that we had no idea where Ms. Geathers is?

A Correct.

Q Based on the entirety of your investigation and the statement taken from Ms. Geathers who would have had a great view, did you develop any other suspects at all –

MR. EDGEWORTH: Objection, your Honor—

Q – other than Tirik Johnson-Epps?

MR. EDGEWORTH: – hearsay testimony.

THE COURT: First, let him finish his question please before you object. I can't have two people talking at the same time makes it very difficult on my court reporter. So make sure please that you let him finish his question.

MR. EDGEWORTH: Yes, sir.

THE COURT: Based upon that question respecting your objection, I'm going to overrule it okay.

BY MR. WHITE:

Q You spoke—or Ms. Geathers was interviewed?

A Yes.

Q And we don't know where she is to get her here?

A Correct.

Q But based on that interview in the entirety of your investigation, were you able to develop any other suspects other than these two individuals?

A No, sir.

MR. EDGEWORTH: Objection once again the same.

THE COURT: So noted for the record overruled.

A No, sir.¹⁷

Discussion

Chatlosh's testimony about this matter was inadmissible hearsay. "'Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Rule 801(c), SCRE. "Hearsay is a statement, which may be written, other than one made by the declarant while testifying at trial, offered in evidence to prove the truth of the matter asserted." *State v. Brockmeyer*, 406 S.C. 324, 351, 751 S.E.2d 645, 659 (2013) (cleaned up). "Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court of this State or by statute." Rule 802, SCRE.

The murder took place around the corner of the building, off-camera. None of the witnesses who testified saw the fatal shots. The occupants of the Cadillac were, in the solicitor's words, in a "great" position to know who killed Decedent. The Cadillac's occupants were not

¹⁷ R. 407, l. 4 – 408, l. 25.

present in court. The substance of their statements was offered for the truth of the matter asserted—that no other suspects were developed; the defendants were the shooters. It does not matter Chatlosh did not testify to exactly what the witnesses said, his testimony had no purpose other than to prove the truth of the matter asserted. Rule 801(c), SCRE; *see State v. Williams*, 285 S.C. 544, 550–51, 331 S.E.2d 354, 358 (Ct. App. 1985) (police officers’ testimony “amounted to their saying what they had been told outside of court and, even though they did not testify as to exactly what had been said, their testimony had no purpose other than to prove the truth of the matters asserted”).

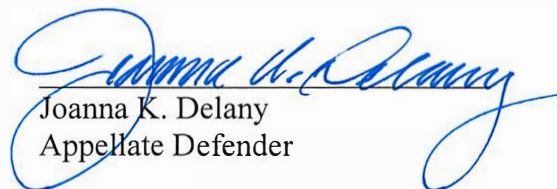
Chatlosh’s testimony was not proper simply because it regarded the investigation. “Investigative information” may not be used to circumvent the rules against hearsay. *State v. King*, 422 S.C. 47, 66–67, 810 S.E.2d 18, 28 (2017). *See, e.g., State v. Thompson*, 352 S.C. 552, 559, 575 S.E.2d 77, 81 (Ct. App. 2003) (officers’ testimony regarding statements made by bystander were not entered for truth but to explain and outline officers’ investigation and reasons for going to defendant’s home. Thus, the evidence was not hearsay.); *State v. Brown*, 317 S.C. 55, 63, 451 S.E.2d 888, 894 (1994) (statements were not entered for their truth but rather to explain why the officers began their surveillance). “[W]e caution against the use and admission of ‘investigative information.’ While it may be couched in terms of explaining an officer’s conduct during an investigation, it may not be used to offer the substance of an out-of-court statement that would otherwise violate our state’s rules against hearsay.” *King*, 422 S.C. at 68, 810 S.E.2d at 29.

Chatlosh’s testimony was offered to enter hearsay. Notably, it contained two levels of hearsay: from the witnesses to other police officers and from other police officers to Chatlosh. The State did not identify exceptions to the hearsay rule that would make this testimony

admissible. *See King*, 422 S.C. at 66, 810 S.E.2d at 28 (“officer’s testimony was hearsay as it was based exclusively on what witnesses told her during neighborhood canvas and was offered to prove that defendant fired more than one gunshot; State has not cited any exception to hearsay rule that would provide for admissibility). The admission of this evidence was error. Rule 801, SCRE.

CONCLUSION

Based on the foregoing arguments, Appellant respectfully requests this Court reverse his convictions and sentence and remand for a new trial.



Joanna K. Delany
Appellate Defender

ATTORNEY FOR APPELLANT

This 11th day of October, 2024.

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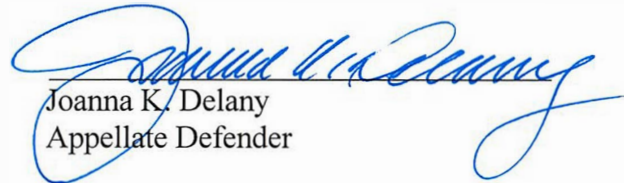
Oct 11 2024

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 11, 2024.



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Oct 11 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

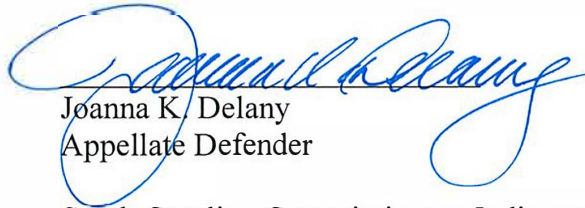
QUINTERRIS JAVON CARMICHAEL,

APPELLANT

APPELLATE CASE NO. 2023-000162

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above-referenced case has been served upon W. Joseph Maye, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 11th day of October, 2024.



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Oct 14 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
The Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT.

Appellate Case No. 2023-000162

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APPELLANT'S ISSUE PRESENTED

I.

Whether the trial court erred by refusing Appellant's request to individually poll the jurors, since a poll must be taken if a request for polling is made?

II.

Whether the trial court erred by admitting a recorded custodial interrogation of Appellant, where Appellant invoked his right to counsel, but law enforcement, in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966), told Appellant he could only have a lawyer if he "ha[d] one on retainer," since the resulting statement was not knowingly, voluntarily, and intelligently given?

III.

Whether the trial court erred by admitting the testimony of one law enforcement officer, the based on other officers' interviews of witnesses in a Cadillac, Appellant and his codefendant were the only suspects developed, where Rule 802, SCRE, prohibits the introduction of hearsay absent an exception, since the testimony was inadmissible hearsay?

STATEMENT OF THE CASE

Quinterris Javon Carmichael (hereinafter “Appellant”) was indicted at the May 6, 2021, term of the Florence County grand jury for murder (2021-GS-21-00472) and possession of a weapon during a violent crime (2021-GS-21-00473). Appellant and co-defendant, Tirik Jacquan Johnson-Epps (hereinafter “Johnson-Epps”), were tried from January 23-27, 2023, before the Honorable D. Craig Brown, and a jury. Appellant was represented by William “Josh” Edgeworth, III. Gregory Ammons represented co-defendant Johnson-Epps. Assistant Solicitor J. Ryan White prosecuted the case on behalf of the State.

On January 27, 2023, Appellant and Carmichael were both found guilty of murder and possession of a weapon during a violent crime by the jury. (R. p. 514, lines 6-22). Appellant and Johnson-Epps were sentenced to life imprisonment for murder. (R. p. 536, lines 5-12). This appeal followed.

STATEMENT OF FACTS

The Murder

At approximately 3:30 AM on September 13, 2019, Appellant and Johnson-Epps, along with two black females arrived at the Tiger Mart gas station and convenience store in Florence, South Carolina. The quartet had come from a club named “Willy’s” and had been “partying a little bit.” (R. p. 103, line 15; p. 196, lines 17-18). Kareem Jones, a friend of the victim who was with him that night, testified that Appellant approached he and the victim and asked if they “wanted smoke.” (R.p. 242, line 23-p. 243, line 3). Appellant then proceeded to unleash a profanity laced tirade at Jones and the victim, stating that he would pop them out of their “f*****g shoes.” (R. p. 87, line 22-p. 88, line 14).

Jones and the victim tried to ignore Appellant’s outburst and diffuse the situation, opting to wait for the store clerk to serve them, but their efforts were to no avail. (R.p. 244, lines 2-10).

Appellant then turned the incident violent by striking Jones. (R.p. 244, lines 24-25). Jones did not strike back, fearing that Appellant had a gun. (R.p. 245, lines 1-6). At this point, Appellant, the victim, and Jones were standing together. (R.p. 245, line 9). The trio went behind the store, with Johnson-Epps following them. (R.p. 245, lines 19-24). From the surveillance footage, the jury was able to hear Jones say “ain’t no way you’re doing this in front of the camera.” (R.p. 246, lines 16-18). Once they were around the corner of the Tiger Mart, Johnson-Epps opened fire on the victim, and Jones fled from the scene back to the victim’s girlfriend’s apartment where he and the victim had left from. (R.p. 246, lines 22-24; p. 247, lines 12-18).

Dr. Presnell, a forensic pathologist at the Medical University of South Carolina in Charleston, testified that the victim was shot up to 9 times. (R. p. 419, line 16). The lethal shot was a gunshot to the back of the head that went through the brain and exited through the left temple. (R.p. 419, lines 19-20). She would also testify that one of the shots that went through the stomach and intestines would also have killed the victim, but he was already dead when this shot went through his body. (R.p. 419, line 20-p. 420, line 1).

Identification of Appellant and Carmichael as Suspects

The State produced a substantial amount of evidence linking Appellant and Johnson-Epps to the shooting at the Tiger Mart. The first piece of evidence was video surveillance from the Tiger Mart on that evening. According to the lead investigator in the case, Officer Justin Chatlosh, police were able to identify Appellant “almost immediately” from the video surveillance footage. (R.p. 149, lines 2-16). After identifying Appellant, officers used social media to identify the other three passengers in the car, including Johnson-Epps. (R.p. 375, lines 2-9). Warrants were subsequently issued for the arrest of Appellant and Johnson-Epps. (R.p. 376, line 22-p. 377, line 11). When

Johnson-Epps was apprehended, he had shaved off the dreadlock hairstyle he wore at the time of the murder. (R.p. 379, lines 21-25).

Witness testimony also identified Appellant and Johnson-Epps as the perpetrators of the murder. Kareem Jones was with the victim the night of the shooting. When the surveillance video, State's Exhibit 3, was played in court, Jones identified himself, the victim, "Tirik" (Johnson-Epps), and "Man-Man" (Appellant) as the individuals in the footage. (R. p. 246, lines 5-12). Jones was struck by Appellant, and escorted around the corner by him, where Johnson-Epps would fire fatal shots at the victim. (R. p. 244, line 24-p. 246, line 24).

Kami Mitchell, an associate of Appellant's who had "sexual dealings" with him, was with Appellant and Johnson-Epps the night of the murder. (R.p. 101, lines 6-20). She testified that Appellant was known to use drugs, something he stated to Jones and the victim during his altercation with them. (R.p. 102, lines 7-8; *see* p. 87, lines 24-25). Mitchell detailed that Appellant and Johnson-Epps knew Jones and the victim from school. (R.p. 104-105). Mitchell testified that she attempted to corral Appellant back to the car so they could "go have sex". (R. p. 107, lines 6-7). Appellant, however, continued to escalate the situation, prompting Johnson-Epps and Mitchell to exit Mitchell's car. (R.p. 109, line 24-p. 110, line 8). Mitchell testified that Appellant and Johnson-Epps, both of whom she identified in court, went around the side of the building, which is where the murder eventually took place. (R.p. 111-116; *see* p. 117, lines 16-25).

Much the same, Tyrin Jones identified Appellant and Johnson-Epps as the perpetrators of the murder. Jones was with "Ty [Johnson-Epps], Man-Man [Appellant], and Kami [Kami Mitchell]" on the night of the murder. (R.p. 195, line 20-p. 196, line 14). She testified to owning the vehicle the quartet used that night, Johnson-Epps was the driver of the vehicle. (R.p. 197, lines 16-21). She stated that after Appellant hit Kareem Jones and began to proceed around the corner

with Kareem Jones and the victim, Johnson-Epps exited the vehicle and followed. (R. p. 201, line 23-p.202, line 17). Appellant, Johnson-Epps, Kareem Jones, and the victim were the only four individuals who went around the corner at the time of the murder. (R. p. 204, line 24-p.205, line 1).

Other evidence pinned Appellant and Johnson-Epps as the primary suspects in the murder. Officer Justin Feagin executed the search warrant on Johnson-Epps' residence. (R.p. 282, lines 17-20). Whitewashed jeans were photographed on the scene and seized by officer Feagin; they were secured by Feagin. (R.p. 287, line 22-p. 288, line 2). A portion of the pants with what appeared to be a blood stain was cut out and sent to SLED. (R.p. 289, line 17-p. 290, line 9). SLED analyst Sarah Zapata, a qualified expert on DNA analysis, testified that the blood spot from the jeans was compared with the victim's blood. (R. p. 324, lines 22-25). Using a two-scenario outcome—one scenario being the likelihood that the victim's blood was the one identified on the jeans and the other being that the blood on the jeans came from another, unidentified individual—Zapata concluded that it was *990 octillion* times more likely that the victim contributed to the blood profile than another individual. (R. p. 326, line 7-p. 327, line 3).

Moreover, Suzann Cromer, a SLED firearm and tool mark examiner in SLED's forensic services laboratory, testified that it was likely that all cartridges found on the scene around the victim's body were fired by the same gun. (R.p. 345, lines 23-25). Although the murder weapon was never found, and the bullets lodged in the victim were unable to be analyzed due to damage, Cromer, who has testified over 130 times as an expert in firearm examination at the state and federal level, stated with a high degree of certainty that the shell casings were from the same firearm. (R.p. 355, lines 2-7).

Jury Polling

After two hours of deliberation, the jury returned to court with a verdict. (R.p. 514, lines 1-2). Appellant was unanimously found guilty of murder and possession of a weapon during a violent crime. (R.p. 514, lines 6-14). Johnson-Epps was found guilty of the same crimes. (R.p. 514, lines 15-22).

Following the reading of the verdict, Judge Brown polled the jury by asking the jury members to raise their hand if the guilty verdict was and remained each juror's respective verdict. The record demonstrates that all jurors complied and that all twelve jurors raised their hand to individually confirm their verdict. (R. p. 514, line 23-p. 515, line 2). Defense counsel then moved for the court to poll the jurors individually. (R.p. 515, lines 5-8). A bench conference was held after Appellant's and Johnson-Epps' respective counsels motioned for individual polling. (R.p. 515, lines 11-13). It is unclear what occurred during the bench conference. However, after the conference, Judge Brown declined to poll the jury further. (R. p. 515, lines 14-21). Judge Brown stated that the raising of hands by each juror was "sufficient under the circumstances." (R.p. 515, lines 19-20). Further, he stated, "I've given an opportunity for them to respond pursuant to my question, and they've responded, and I think that's appropriate under the circumstances." (R.p. 515, lines 21-23).

The circumstances alluded to by the court are a likely reference to the numerous bizarre occurrences that took place during the trial. During pre-trial, and on the record, Mr. White stated that witnesses had been getting phone calls from "no caller ID numbers." (R.p. 75, lines 15-16). Mr. White stated that the people on the other end of those calls would simply say "do not go," after which they would hang up. (R. p. 75, lines 17-18). Phones also had to be confiscated from individuals in the gallery. (R.p. 137, line 12-p. 138, line 6).

One juror was dismissed because he was sent a Facebook message about the trial. The message read: “Eric, both [sic] them boys killed Mrs. Betty’s grandson, bug son. Shot him 11 times and one in the head. I had to leave and go to work. Please give them the justice they deserve.” (R.p. 140, lines 7-9). This juror was dismissed based on *Remmer v. United States*, which stated that when there’s improper contact by a third party, there’s a presumption of prejudice. Judge Brown ruled that only immediate family would be allowed in the courtroom because of concerns with jury tainting. (R.p. 177, lines 5-10).

Additionally, Mr. White alleged that Appellant used a jail phone to contact another individual. (R.p. 177, lines 18-19). He reportedly told another individual not to “worry about looking for Dee’s [a juror who had been excused] girlfriend anymore.” (R. p. 177, lines 20-21). Judge Brown then admonished the conduct of attendees, and potentially one of the defendants, stating:

Well, the Court is vitally concerned and tremendously disturbed about what may be going on here. Therefore, I want to do everything within my power to protect the integrity of this process and ensure to the best of my ability that there is no improper contact by anyone with these jurors, that these defendants receive a fair and impartial trial, and that this jury decide his case based upon the evidence and testimony presented in this courtroom, uninfluenced by anything outside of this courtroom.

(R. p. 178, lines 5-13). Clearly, Judge Brown was concerned throughout the trial with issues of jury tampering and potential interference.

Judge Brown would state after the trial that there were things that happened during the trial that he had never seen in his thirteen years on the bench. (R.p. 532, lines 7-11). One juror was dismissed after stating she did not feel comfortable serving on the jury. (R.p. 533, line 2). During questioning by Judge Brown, the Judge stated that she appeared to be “shaken to the point that she was crying as she talked to me.” (R.p. 533, lines 2-5). However, she stated that no one had reached out to her and Judge Brown respected that. (R.p. 533, lines 5-6). Nevertheless, she was released

from the jury panel, and an alternate was seated. This alternate was the one who received the Facebook message, which Judge Brown stated on the record did not come from either defendant based on the content. (R.p. 533, lines 7-9).

Moreover, because of these events, Judge Brown ordered that only immediate family would be allowed in the courtroom. (R.p. 533, lines 18-22). After that order, a “multitude of individuals” who were previously present did not reappear. (R.p. 533, lines 22-25). Judge Brown made the order to ensure that the proceedings were properly insulated from impropriety. (R.p. 534, line 1). One individual listed as a sibling of Appellant was not, in fact, his brother, which was confirmed by law enforcement. (R.p. 534, lines 5-8).

Regarding the phone call from Appellant, Judge Brown stated that he was unable to make out the entirety of the phone conversation, but he did hear certain parts where Appellant was discussing the “jury or a juror.” (R.p. 534, lines 9-18). Judge Brown stated that the phone call from Appellant factored into his order to restrict access to the proceedings.

Additionally, after the case went to the jury, it was brought to the Judge’s attention that four rounds of ammunition were found in the men’s bathroom on the floor of the courthouse where the proceedings were being held. (R.p. 534, lines 19-22). This prompted Judge Brown to order law enforcement to evacuate the building and have all attendees come through “downstairs screening.” (R.p. 534, lines 22-24). The courtroom was thoroughly searched by law enforcement and the US Marshalls and local Sheriff’s Office both brought in a dog to go through the courtroom. (R.p. 535, lines 3-9). Fortunately, no firearm was found at the courthouse. (R.p. 535, lines 9-10).

Regarding these many issues of potential impropriety, Judge Brown stated, “I’m putting all of that on the record in an effort to explain my limitations of who was in this courtroom as well as concerns I had throughout the trial.” (R.p. 535, lines 10-13).

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. *State v. Elwell*, 403 S.C. 606, 609, 743 S.E.2d 802, 804 (2013). Therefore, this Court is bound by the trial court's factual findings unless the appellant can demonstrate that the trial court's conclusions either lack evidentiary support or are controlled by an error of law. *Id.* “Rulings on the admissibility of evidence are within the trial court's sound discretion and will not be disturbed on appeal absent an abuse of that discretion resulting in prejudice to the complaining party.” *State v. LaCoste*, 347 S.C. 153, 160, 553 S.E.2d 464, 468 (Ct. App. 2001).

ARGUMENTS

I. The trial court committed reversible error under existing law, but juror polling should not be a structural error issue warranting per se reversible error review.

While the record demonstrates that each of the jurors individually confirmed their guilty verdict at the request of the trial court, and there is nothing within the record to suggest that Appellant's conviction was not unanimously reached and delivered, Respondent acknowledges that the trial court's ruling was reversible error in light of the South Carolina Court of Appeals holding in *State v. Wright* that was in effect at the time.

In *Wright* the clerk collectively asked the jury to individually assent to their verdict by a raising of their right hand. Each juror did so. This was then followed by an individualized polling request from defense counsel that was denied. The case at hand presents the same scenario, with the only difference being the trial court, rather than the clerk, posing the question to the jury.¹

¹ At the time of trial, the State's petition for writ of certiorari in *State v. Wright* had been granted and was pending review at the time of Appellant's trial. (June 28, 2022 Order, Appellate Case No. 2021-000146).

In review of the issue in *Wright*, this Court found that the trial court’s method of polling was insufficient and set forth the holding that a request for individualized polling requires that each juror be separately asked to verbally confirm the verdict in question. *State v. Wright*, 432 S.C. 365, 370, 852 S.E.2d 468, 472 (Ct. App. 2020), *aff’d*, 439 S.C. 101, 886 S.E.2d 206 (2023). This Court went on to hold that “[i]t is our firm view that depriving a defendant of his or her polling right is not a technicality, but a material and prejudicial error.” *Id.* In so holding, this Court found that the denial of a requested individual polling of the jury is a “structural” error in a defendant’s trial that constitutes “per se” reversible error. *Id.* at 372-73. Respectfully, this Court’s application of the structural error doctrine in *Wright* was flawed.

The structural error in question is not whether a specified means of polling is conducted, but whether the defendant’s right to a unanimous verdict conviction was protected. *Weaver v. Massachusetts*, 582 U.S. 286, 295, 137 S. Ct. 1899, 1907, 198 L. Ed. 2d 420 (2017) (“The structural error doctrine is to ensure insistence on certain basic, constitutional guarantees that should define the framework of any criminal trial.”). This Court acknowledged that jury polling was not, in and of itself, a *constitutional* right. *Wright*, 432 S.C. at 369, 852 S.E.2d at 470. It is merely a trial court right designed to protect the structural right to unanimous guilty verdicts. It is here that Respondent respectfully submits a per se finding of error fails – because the right *can be* proven protected even if the highly specific “verbal” approach is not used.² This Court’s structural error analysis was therefore flawed.³

² Under *Linder*, this was a right protected by the court to the satisfaction of the court, with discretion as to the manner of polling once such a trial court right was invoked. *State v. Linder*, 276 S.C. 304, 309, 278 S.E.2d 335, 338 (1981). While the Court in *Linder* framed the issue correctly, Respondent would respectfully submit that *Wright* drew the issue too narrowly to question whether polling was *optimal*, not whether the constitutional right to a unanimous verdict was ensured.

³ The various forms of “structural error” addressed by courts, such as the denial of the right to an attorney, denial of the right to self-representation, and denial of the right to public trial, all share a

This Court's legal holding falters when a closer examination is taken of structural error, and how *Weaver v. Massachusetts* was applied in *Wright*. This Court first noted that *Weaver* offered a "rational way out" of the structural error/trial error dilemma by harkening to the 3-point analysis for identifying structural error, and finding all three points present in *Wright*'s case.

Weaver instructs that a structural error can include instances where "the right at issue is not designed to protect the defendant from erroneous conviction but instead protects some other interest." *Id.*, 582 U.S. at 295. This Court asserted that *Wright*'s case met this standard. Yet, assuring the jury reached a unanimous verdict of guilty *can only be considered* a right protecting against an erroneous conviction. Unanimity is the structural requirement, not the specific method of polling. The implementation of a per se error standard *as to the method of polling*, is to confuse the two and draw the issue too narrowly under *Weaver*.

Weaver next instructs that an error can be deemed structural if the effects of the error are simply too hard to measure. *Id.* The structural error is the right to unanimity of a guilty verdict. Such an error could not be more easily measured. If the right was not protected, the verdict was improper. However, even if this question were applied to the non-structural issue of polling methodology, this Court's analysis in *Wright* erred in the presumption that the unanimity needed to be *further* measured at all. The verdict was reported and each juror independently confirmed

common characteristic of being binary in nature. They are either provided or not provided. Denial of a unanimous guilty verdict is likewise a binary structural error, but this Court's analysis in *Wright* strayed from a focus on whether that right was ensured, to whether the method of polling was optimal. Error can potentially arise in a trial court's handling of polling methodology, but to deem such per se reversible error is to assign the right law to the wrong target. Per se reversible error should be reserved for cases where the right to unanimous verdict was not protected, not for cases where there is record proof of each juror's attestation to the verdict, but such was simply not obtained verbally.

that verdict in open court. Unanimity is the structural requirement, not the specific polling method, and per se reversal for such is improper.

Lastly, *Weaver* sets forth the notion that structural error does not necessarily lead to fundamental unfairness in every case. *Id.*, at 296. However, the denial of a the right to unanimity of a verdict will always be fundamental unfair. Here, as in *Wright*, the record set forth fundamental unfairness was avoided *because* the court conducted a polling of the jury to confirm each juror's verdict. Unanimity is the structural requirement, not the specific polling method, and the rule requiring per se reversal deserves reconsideration.

Respondent acknowledges that South Carolina jurisprudence, as it existed at the time of trial, requires reversal of Appellant's convictions and a remand for new trial. However, if this Court is interested in revisiting this issue, which Respondent urges, Respondent would seek to argue against precedent as detailed above.

II. The trial court did not err in admitting Appellant's recorded interview.

Appellant was fully advised of his *Miranda* rights and he was not advised that his right to an attorney was only applicable to retained counsel. There is no error in relation to admitting Appellant's recorded interview.

The record demonstrates that Appellant was read his *Miranda* rights before questioning began. (State's Ex. 2, 5:10). During the reading of his *Miranda* rights he asked for clarification of his right to counsel by asking "I can get my lawyer up here right now?" to which Officer Shelley correctly stated that "if you have one on retainer, he can come up here." (State's Ex. 2, 5:30-6:00). This was an accurate response that juxtaposed the difference between the immediate availability

of an attorney on retainer, and the time that obtaining assigned counsel would require.⁴ It was in no way an assertion that Appellant *only had the right to retained counsel*, and that point was made clear to Appellant moments later. To wit, Officer Shelley provided *further clarification* by explicitly stating that “any time you want a lawyer, you can ask for a lawyer. Now what you need to understand is, any time you ask us for a lawyer, we’re done. I can’t talk to you anymore. I can’t hear anything you’ve got to say.” (State’s Ex. 2, 6:49-7:02). All of this took place during the reading of his *Miranda* rights and prior to substantive questioning. Appellant thereafter agreed to participate in a voluntary interview with police.

The trial court correctly concluded that the Appellant’s question on whether “[he] can get [his] lawyer up here right now?” was not an unequivocal request for counsel. The trial court did express some initial concern regarding the mention of having an attorney on retainer, in isolation, but noted that the continued advisement of the right to counsel and the implications of invoking that right cured any such concern and made Appellant’s statements thereafter voluntary and admissible. (R.p. 66-68).

The trial court’s ruling was correct under *State v. Kennedy*, 333 S.C. 426, 430, 510 S.E.2d 714, 715 (1998) and its progeny. A defendant’s request for an attorney must be unequivocal; Appellant’s was not. *Id.* A defendant has the right to an attorney and may invoke that right to end questioning from police; Appellant was so informed.

III. The trial court did not err in admitting the testimony of Investigator Chatlosh.

Investigator Chatlosh did not provide any hearsay testimony. He was not asked questions that sought to elicit the out-of-court statements of another individual, and his responses to

⁴ Had Officer Shelley simply said “yes”, as Appellant argues, he would have been misinforming Appellant because assigned counsel is not immediately available in the fashion that Appellant was asking.

questions did not include such. Instead, the *questions* objected to during trial (which are not evidence) sought information concerning the investigative efforts and development of suspects taken by police officers in this case in light of the interviews and information they had available. See *State v. Saltz*, 346 S.C. 114, 137, 551 S.E.2d 240, 252 (2001) (“[A]ttorney’s questions do not constitute evidence.”). Such fails the “out-of-court statement” element and the “admitted for the truth of the matter asserted” elements required to constitute hearsay. The trial court’s holding was a proper application of *State v. Weaver*, 361 S.C. 73, 85, 602 S.E.2d 786, 792 (Ct. App. 2004), *aff’d as modified*, 374 S.C. 313, 649 S.E.2d 479 (2007) (holding that police officer’s testimony that all the evidence pointed to the defendant, despite the conclusion being based on what witnesses told officers during the investigation, does not constitute inadmissible hearsay since the officer did not repeat the statements and his testimony was only his investigative conclusion reached in consideration of the evidence); see also *State v. Kromah*, 401 S.C. 340, 355, 737 S.E.2d 490, 498 (2013).

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that Appellant’s conviction is subject to reversal under existing law, should this Court not wish to reconsider its holding from *State v. Wright*.

Respectfully submitted,

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October 14, 2024

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Oct 14 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
The Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT.

Appellate Case No. 2023-000162

PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to W. Joseph Maye, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Final Brief of Respondent has been forwarded to Appellant's counsel, Joanna K. Delany, Esq., via email today, October 14, 2024 to JDelany@sccid.sc.gov, and to her assistant at smcinnis@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 14th day of October, 2024.

s/ Donna D'Alessio

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Oct 11 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
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Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT

APPELLATE CASE NO. 2023-000162

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ARGUMENTS IN REPLY

1.

The trial court erred by refusing Appellant's request to individually poll the jurors, since a poll must be taken if a request for polling is made.

The State concedes the trial court reversibly erred. *See* Brief of Respondent at 10. Nevertheless, the State asks this Court to overturn its decision in *State v. Wright*, 432 S.C. 365, 373, 852 S.E.2d 468, 472 (Ct. App. 2020), *aff'd*, 439 S.C. 101, 886 S.E.2d 206 (2023). However, the State does not address how that could happen since the South Carolina Supreme Court affirmed this Court's decision in *Wright*, and held: "we agree with the court of appeals that the denial of a defendant's request for individual polling is reversible per se." *State v. Wright*, 439 S.C. 101, 103, 886 S.E.2d 206, 207 (2023). The Supreme Court also noted this Court's opinion in *Wright* was "well-reasoned." *Id.* This error requires a new trial.

2.

The trial court erred by admitting a recorded custodial interrogation of Appellant, where Appellant invoked his right to counsel, but law enforcement, in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966), told Appellant he could only have a lawyer if he "ha[d] one on retainer," since the resulting statement was not knowingly, voluntarily, and intelligently given.

Upon being provided with *Miranda* warnings,¹ Appellant invoked his right to counsel: he asked Investigator Shelley for a lawyer "right now." However, Shelley lied to Appellant and told him he could only have a lawyer present during questioning if he had one "on retainer." Appellant invoked his right to counsel five times during the interrogation: "Can I um, I get my

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

lawyer up here right now?"; "My lawyer can still come?"; "I need my lawyer, bro;" as well as two later invocations, the verbiage of which did not make it into the record. State's Exhibit #2; R. 27, l. 17 – 30, l. 7; R. 35, ll. 1-21. Yet, Shelley continued his recorded interrogation. His contempt for the rule of law in this regard was breathtaking. The State sees no problem with it.

The State argues that Shelley's response to Appellant's request for counsel during questioning: "if you have one on retainer, they can come up here," "was an accurate response that juxtaposed the difference between the immediate availability of an attorney on retainer, and the time that obtaining assigned counsel would require." The State continues in this vein, arguing that, "Had Officer Shelley simply said 'yes', as Appellant argues, he would have been misinforming Appellant because assigned counsel is not immediately available in the fashion that Appellant was asking."² See Brief of Respondent at 13. That argument is misguided. Appellant was entitled to have an attorney present during questioning even if it took one a while to get there. U.S. Const. amend. XIV; U.S. Const. amend. V; e.g., *Edwards v. Arizona*, 451 U.S. 477, 82 (1981) (when accused requests counsel, interrogation must cease until attorney is present).

The South Carolina Supreme Court has recently explained how false statements by a law enforcement officer in the context of *Miranda* warnings may render a subsequent statement involuntary. See *State v. Collins*, 442 S.C. 444, 461, 900 S.E.2d 426, 435 (2024) ("[O]fficers may not mislead a suspect about the law, particularly their constitutional rights."). Tellingly, the State does not attempt to grapple with this recent, unanimous holding. The accused in *Collins* was provided with *Miranda* warnings at the start of his interrogation. However, as the interview

² The State does not give any citation to the record or to any other references for the argument appointed counsel could not make a timely appearance, although that is frankly irrelevant. Appellant's invocation of his right to counsel trumped Investigator Shelley's preferences on the interrogation's timing.

progressed, officers told Collins the interview was confidential, and reassured him that anything he told them would not “leave this room.” Collins’s subsequent statement was admitted over objection at his trial. The Supreme Court held the intentional misrepresentation of the law regarding the legal consequences and risks of proceeding with an interrogation violated due process. “A false assurance of confidentiality from law enforcement is inherently coercive because it interferes with a layperson’s ability to make a fully informed decision whether to engage in an interview under such circumstances.” *State v. Collins*, 442 S.C. at 455, 900 S.E.2d at 432.

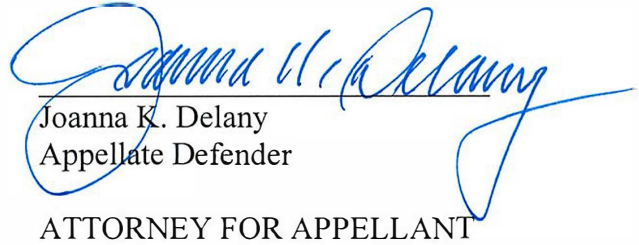
In this case, Shelley’s false statement that Appellant could have a lawyer present for questioning only if he had one on retainer rendered Appellant’s subsequent statement the involuntary product of deception rather than the result of an intelligent waiver. It negated the provision of *Miranda* warnings and interfered with Appellant’s ability to make an informed decision whether to answer questions. *Collins*, 442 S.C. at 455, 900 S.E.2d at 432; *see Berghuis v. Thompkins*, 560 U.S. 370, 382-83 (2010) (waiver must be the product of a free and deliberate choice rather than intimidation, coercion, or deception, and must be made with a full awareness of both the nature of the right being abandoned and the consequences of abandoning it).

The State baldly asserts, without any exposition, that Appellant’s invocation of the right to counsel was ambiguous. *See* Brief of Respondent at 13. It makes no rebuttal to Appellant’s argument that Shelley plainly understood Appellant had invoked his right to counsel since he told Appellant he could only have counsel if he had one on retainer. That is because there is no legitimate response that can be made. *See* Brief of Appellant at 14; *State v. Kennedy*, 333 S.C. 426, 430, 510 S.E.2d 714, 715 (1998) (“it is obvious from the record the solicitor and everyone involved viewed petitioner’s request as an invocation of his right to counsel”).

Appellant's statement was involuntary under the totality of the circumstances and should have been excluded. *Miranda*, 384 U.S. at 479; *Jackson v. Denno*, 378 U.S. 368, 385 (1964); *Edwards v. Arizona*, 451 U.S. at 482; U.S. Const. amend. V; US. Const. amend. XIV.

CONCLUSION

Based on the foregoing argument, and for the reasons contained in Appellant's principal brief, Appellant respectfully requests this Court reverse his convictions and sentences and remand for a new trial.


Joanna K. Delany
Appellate Defender
ATTORNEY FOR APPELLANT

This 11th day of October, 2024.

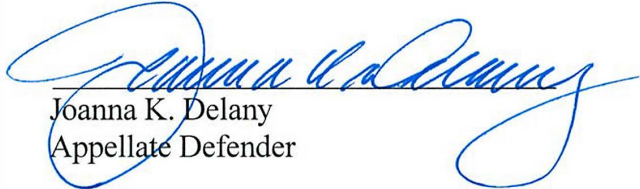
Oct 11 2024

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Reply Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 11, 2024.



Joanna K. Delany
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
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Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Oct 11 2024
SC Court of Appeals

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

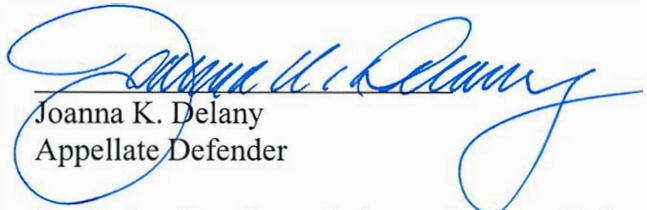
QUINTERRIS JAVON CARMICHAEL,

APPELLANT

APPELLATE CASE NO. 2023-000162

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Reply Brief of Appellant in the above-referenced case has been served upon W. Joseph Maye, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 11th day of October, 2024.



Joanna K. Delany
Appellate Defender

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

ATTORNEY FOR APPELLANT

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Quinterris Javon Carmichael, Appellant.

Appellate Case No. 2023-000162

Appeal From Florence County
D. Craig Brown, Circuit Court Judge

Unpublished Opinion No. 2025-UP-136
Submitted April 16, 2025 – Filed April 23, 2025

REVERSED AND REMANDED

Appellate Defender Joanna Katherine Delany, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka, Senior Assistant
Deputy Attorney General Melody Jane Brown, and
Assistant Attorney General William Joseph Maye, all of
Columbia, and Solicitor Edgar L. Clements, III, of
Florence, all for Respondent.

PER CURIAM: Quinterris Javon Carmichael appeals his convictions for murder and possession of a weapon during a violent crime and sentence of life imprisonment. We reverse and remand pursuant to Rule 220(b), SCACR.

We hold the trial court erred by denying Carmichael's request to individually poll the jurors because the denial of his right to an individual poll of each juror is reversible per se. *See State v. Adams*, 409 S.C. 641, 647, 763 S.E.2d 341, 344 (2014) ("[An appellate] court reviews questions of law de novo."); *State v. Wright*, 439 S.C. 101, 102, 886 S.E.2d 206, 207 (2023) ("The denial of a defendant's request [that the jury be individually polled] is reversible per se."). Because we reverse the trial court's finding regarding individual jury polling, we decline to address Carmichael's remaining arguments. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (declining to address remaining issues when resolution of a different issue was dispositive).

REVERSED AND REMANDED.¹

KONDUROS, MCDONALD, and HEWITT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

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May 08 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
The Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT.

Appellate Case No. 2023-000162

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, counsel for Respondent petitions this Court for rehearing.¹ Counsel respectfully submits that this Court has misapprehended certain factual and legal matters in arriving at its holding. Respondent would respectfully argue:

1. While Respondent acknowledges that this Court is obliged to follow established precedent from the South Carolina Supreme Court, the unusual circumstances of this case warranted the trial court's decision to forego verbal jury polling in favor of relying upon the raising of hands by each juror. As the trial court noted, "in the 13 years [he's] been on the bench" he had never had anything happen like what took place during the course of this trial. (R. p. 412). The numerous occurrences impacting juror safety, courthouse safety, and juror

¹ A Petition for Rehearing is required before a party can seek a Writ of Certiorari from the South Carolina Supreme Court. Rule 242, SCACR.

tampering created a basis for distinction from *Wright* and an environment wherein departure from the verbal affirmation was necessary. As the record demonstrates conclusively that Appellant's guilty verdict was unanimous, there is no reversible error stemming from "structural error."

2. As Respondent argued, the potential for structural error does not exist within the *method* of polling, but in the black and white assurance that a unanimous verdict was secured. The distinction is a vital one, and it demonstrates the underlying error that is set forth in *State v. Wright*, 439 S.C. 101, 886 S.E.2d 206 (2023). The jury delivered a unanimous verdict. The record demonstrates that there is *no evidence* to the contrary, and the trial court polled the jury to further ensure such. No structural error exists that warrants the overturning of the jury's conviction.

CONCLUSION

Based upon the above arguments, Respondent asserts that this Court has misapprehended certain facts and law that led to an improper result in this case. Respondent respectfully petitions for rehearing on this matter, and that for all the foregoing reasons, the judgments of the trial court, along with the defendant's convictions and sentences should be affirmed.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

W. JOSEPH MAYE
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May 8, 2025.

By: s/W. Joseph Maye
ATTORNEYS FOR RESPONDENT

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May 08 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
The Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

QUINTERRIS JAVON CARMICHAEL,

APPELLANT.

Appellate Case No. 2023-000162

PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to W. Joseph Maye, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Petition for Rehearing has been forwarded to Appellant's counsel, Laura M. Caudy, Esq., via email today, May 8, 2025 to lcaudy@sccid.sc.gov and to her assistant at smcinnis@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 8th day of May, 2025.

s/ Donna D'Alessio

Donna D'Alessio, Legal Assistant to
W. Joseph Maye,
Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549
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The South Carolina Court of Appeals

The State, Respondent,

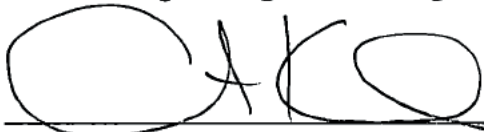
v.

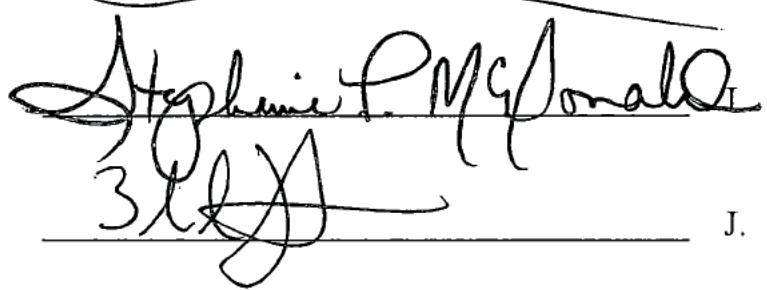
Quinterris Javon Carmichael, Appellant.

Appellate Case No. 2023-000162

ORDER

After careful consideration of the petition for rehearing, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.


J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
Donald J. Zelenka, Esquire
Melody Jane Brown, Esquire
William Joseph Maye, Esquire
Edgar Lewis Clements, III, Esquire

FILED
May 22 2025

Joanna Katherine Delany, Esquire
The Honorable D. Craig Brown