

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Anderson County

Honorable Daniel D. Hall, Circuit Court Judge

RAEFORD D. WIDEMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002426

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	2015-GS-04-01191
COUNTY OF ANDERSON	)	GENERAL SESSIONS COURT
-----	)	

THE STATE OF SOUTH CAROLINA)	
PLAINTIFF)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
RAEFORD DERRANE WIDEMAN,)	
DEFENDANT)	
-----	)

NOVEMBER 13TH - NOVEMBER 16TH, 2017
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH

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

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MORGAN DAWN PAGE, ESQUIRE
ASSISTANT SOLICITORS

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ATTORNEY FOR DEFENDANT

VIVIAN CROSS,
CIRCUIT COURT REPORTER

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* * * NOVEMBER 13, 2017 * * *
DAY 1 OF TRIAL

THE COURT: Mr. Overby, is the State ready to proceed?

MR. OVERBY: Yes, Your Honor.

THE COURT: Mr. Robinson, is the defense ready to proceed?

MR. ROBINSON: The defense is ready, Your Honor.

THE COURT: Okay. Would you call your first case, please, sir.

MR. OVERBY: Yes, Your Honor. Before the court now is indictment number 2015-GS-04-01191, the State vs. Raeford Derrane Wideman. He is charged with the crime of murder, Your Honor.

THE COURT: Please pass that indictment forward, please, sir.

MR. OVERBY: Yes, Your Honor.

THE COURT: All right. Ladies and gentlemen, we're about to begin jury selection in the case of the State of South Carolina vs. Raeford Derrane Wideman, who as you heard, has been charged with murder. Let me further point out that this is what is called an indictment. The fact that this gentleman was indicted does not raise any inferences of guilt or presumptions of guilt, it is simply the mechanism by which the State

1 of South Carolina brings a person before the court and
2 a trial and a determination of guilt or innocence.

3 Before we go forward, I have questions I need to
4 ask. And unlike before, they are not such personal
5 questions that you need to come forward unless you feel
6 like you absolutely have to. If you don't, if you
7 would stand up like you did before, give us your jury
8 number, give us your responses to the question we had
9 asked, and we can go forward from there. Can everyone
10 still hear me okay?

11 (No response).

12 THE COURT: If you can't, please let me know and
13 I'll be glad to rephrase the question such that you
14 can.

15 All right. Ladies and gentlemen, the first
16 question, has anyone ever been related by blood or
17 marriage -- blood or marriage to either Raeford Derrane
18 Wideman or Ryan Tatum? Did y'all get those names? If
19 so, would you please stand? If you have ever been
20 related by blood or marriage to either Mr. Wideman or
21 Mr. Tatum, please stand.

22 (No response.)

23 THE COURT: Has any member of the jury panel ever
24 had a close personal or social relationship with either
25 Raeford Derrane Wideman or Ryan Tatum; if so, would you

1 please stand?

2 (No response.)

3 THE COURT: All right. Ladies and gentlemen, the
4 following folks are people who may be called to testify
5 in this case. I'm going to go through the entire list
6 which consists of 11 names. Listen to them closely.
7 Let me know if you do not get a name, then I'll ask you
8 the follow-up question. The following potential
9 witnesses may -- witnesses may testify in this case:

10 David Stipe, Anderson County Sheriff's Office;
11 Don McCown, Coroner; Nathan Mitchell, Anderson County
12 Sheriff's Office; Scotty Hill, Anderson County
13 Sheriff's Office; Nikki Branch Gregory; Lieutenant
14 Todd Caron, Anderson County Sheriff's Office; James
15 Armstrong, Greenville Forensics; Rob Gebing, Anderson
16 County Sheriff's Office; Brianna Blassingame; Willie
17 McDonald; Sharon Stanton, dispatch.

18 Did everyone get those names? Is there any
19 member of the jury panel who did not get those names?
20 If so, raise your hand.

21 (No response.)

22 THE COURT: Very good. All right. Ladies and
23 gentlemen, has any member of the jury panel ever been
24 related by blood or marriage to any of the potential
25 witnesses I've just given to you? If so, would you

1 please stand?

2 (No response.)

3 THE COURT: Has any member of the jury panel ever
4 had a close personal or social relationship with any of
5 the potential witnesses I have just given to you. If
6 so, would you please stand? All right, sir, what is
7 your jury number, please?

8 POTENTIAL JUROR: One eighty-three.

9 THE COURT: It's 183. You're Mr. Silvey?

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: And which one of those witness -- or
12 witnesses plural do you have a close personal or social
13 relationship with?

14 POTENTIAL JUROR: Todd Caron, pastor.

15 THE COURT: Okay, sir, and how long has he been a
16 member of your church?

17 POTENTIAL JUROR: About six years.

18 THE COURT: About six years?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: And outside the confines of your
21 church or church related activities, do you socialize
22 with him?

23 POTENTIAL JUROR: No, sir.

24 THE COURT: And would the fact that Mr. Caron, if
25 he testifies in this case, would you believe his

1 testimony over somebody else who may testify because of
2 your relationship?

3 POTENTIAL JUROR: I would try to be objective,
4 sir.

5 THE COURT: Well you got -- you've got to be
6 objective. It's more than just try. Can you or can
7 you not be objective?

8 POTENTIAL JUROR: I can be objective.

9 THE COURT: Okay, sir. Any additional voir dire
10 on this witness from the State?

11 MR. OVERBY: None from the state, Your Honor.

12 THE COURT: From the defense?

13 MR. ROBINSON: No, sir, Judge.

14 THE COURT: And let me follow-up with one question
15 of my own, if I may please, sir -- can you be fair and
16 impartial to both the State of South Carolina and to
17 this Defendant if you are selected to serve in the
18 trial of this matter?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: Thank you so much. All right, sir.
21 In the gray.

22 POTENTIAL JUROR: Juror number 176.

23 THE COURT: Seventy-six?

24 POTENTIAL JUROR: One-seven-six.

25 THE COURT: One seventy-six. Okay.

1 POTENTIAL JUROR: Yes, I knew Mr. Stipe in high
2 school. And although it's been years, I know some of
3 his family.

4 THE COURT: How did you know Mr. Stipe, did y'all
5 go to school together?

6 POTENTIAL JUROR: Yeah, volunteer fire department
7 for a little while together, but friends in the social
8 setting, but nothing --

9 THE COURT: And you said this has been years?

10 POTENTIAL JUROR: Yeah, years.

11 THE COURT: And do you socialize with him or have
12 any communication with him now?

13 POTENTIAL JUROR: No, sir.

14 THE COURT: Would the fact that you hear Mr. Stipe
15 testify, because of this prior relationship, would you
16 believe his testimony over the testimony of any other
17 witness?

18 POTENTIAL JUROR: No, sir.

19 THE COURT: And do you feel like you can be fair
20 and impartial to both the State of South Carolina and
21 to this Defendant?

22 POTENTIAL JUROR: I do.

23 THE COURT: Any additional voir dire from any of
24 the attorneys?

25 MR. OVERBY: None from the State, Your Honor.

1 MR. ROBINSON: No, sir, Your Honor.

2 THE COURT: All right. If you do -- thank you,
3 sir. If you do wish to have any, let me know.
4 Otherwise, I'm assuming you don't. Okay. Over here in
5 the vest, what's your jury number?

6 POTENTIAL JUROR: Fourteen.

7 THE COURT: Fourteen. Okay, sir. Mr. Bolton?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Which one of the witnesses or more
10 than one?

11 POTENTIAL JUROR: Don McCown.

12 THE COURT: Okay. And what is the nature of your
13 relationship with Mr. McCown?

14 POTENTIAL JUROR: I worked with him a number of
15 years ago.

16 THE COURT: In what capacity?

17 POTENTIAL JUROR: We worked EMS together.

18 THE COURT: EMS?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: And how long has that been?

21 POTENTIAL JUROR: A number of years, probably 15.

22 THE COURT: Fifteen?

23 POTENTIAL JUROR: Fifteen.

24 THE COURT: Okay. So, you haven't even
25 communicated with him over the years since then?

1 POTENTIAL JUROR: I have.

2 THE COURT: Do you socialize with him?

3 POTENTIAL JUROR: I do not.

4 THE COURT: If he comes and testifies in the trial
5 of this matter, would you believe his testimony over
6 any other witnesses just because of that relationship?

7 POTENTIAL JUROR: No, sir.

8 THE COURT: And you feel like you can be fair and
9 impartial to both the State and to this Defendant?

10 POTENTIAL JUROR: I do.

11 THE COURT: All right. Any additional voir dire,
12 just let me know. Okay. Thank you, sir. Yes, ma'am,
13 what is your jury number?

14 POTENTIAL JUROR: Two-0-six?

15 THE COURT: What?

16 POTENTIAL JUROR: Two-0-six.

17 THE COURT: Two-0-six. All right. Are you Ms.
18 Upton?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: Okay. Which one?

21 POTENTIAL JUROR: Todd Caron.

22 THE COURT: Okay.

23 POTENTIAL JUROR: I go to church with Mr. Caron.
24 But also his wife is in the Bible study that I lead
25 every Saturday morning, so I know his wife very well.

1 THE COURT: Okay. And like I have asked the other
2 folks, the goal -- what we're looking for is to find
3 jurors who can see both sides of this case, a fair and
4 impartial trial, without any bias or prejudice one way
5 or the other. Okay. If Mr. Caron were to testify in
6 this case, would you believe his testimony over
7 someone's else just because of that relationship?

8 POTENTIAL JUROR: No, sir.

9 THE COURT: Ma'am?

10 POTENTIAL JUROR: No, sir.

11 THE COURT: And do you feel like you can be fair
12 and impartial to both the State and to this Defendant?

13 POTENTIAL JUROR: Yes, sir.

14 THE COURT: All right. Thank you, ma'am. All
15 right. Anyone else?

16 (No response.)

17 THE COURT: All right. Mr. Robinson, would you
18 stand up and introduce yourself and your client,
19 please, sir.

20 MR. ROBINSON: Thank you, Your Honor. Good
21 morning, my name is Scott Robinson, and I'm an attorney
22 from Greenville. And I represent Raeford Wideman.
23 Stand up. (Pause.) Thank you very much.

24 THE COURT: Mr. Overby, will you do the same for
25 the State?

1 MR. OVERBY: May it please the court, Your Honor.
2 Good morning. My name is Stan Overby. I'm the
3 Assistant Solicitor with the 10th Circuit Solicitor's
4 Office. With me here today is Morgan Page from my
5 office. Nathan Mitchell and -- from the Anderson
6 County Sheriff's Office. And my boss, David Wagner,
7 from the 10th Circuit Solicitor's Office.

8 THE COURT: All right. Ladies and gentlemen, has
9 any member of the jury panel ever been represented by,
10 or are you currently being represented by any of the
11 attorneys here in this courtroom or any other attorney
12 who might have worked or works for the 10th Judicial
13 Circuit Solicitor's Office. If so, would you please
14 stand?

15 (No response.)

16 THE COURT: Has any member of the jury panel ever
17 been related by blood or marriage, or have you ever had
18 a close personal or social relationship with any of the
19 attorneys here in the courtroom or any attorney that
20 works with the 10th Judicial Circuit Solicitor's
21 Office. If so, would you please stand? All right,
22 sir. What is your jury number?

23 POTENTIAL JUROR: It's 175.

24 THE COURT: One seventy-five.

25 POTENTIAL JUROR: Yes.

1 THE COURT: You're Mr. Scott?

2 POTENTIAL JUROR: Yes.

3 THE COURT: And who have you had a relationship
4 with or related to?

5 POTENTIAL JUROR: I'm not sure if I'm out of
6 order, but I'm a volunteer for Mr. Wagner for the
7 juvenile arbitration.

8 THE COURT: Judicial arbitration?

9 POTENTIAL JUROR: Program, yes, sir.

10 THE COURT: Is that with the Department of
11 Juvenile Justice that you do that?

12 POTENTIAL JUROR: It's volunteer.

13 THE COURT: Okay. I tell you what, I think I
14 might excuse you from the trial of this case just
15 because of that. And probably since we're in criminal
16 court this week, I might, Mr. Scott, just transfer you
17 to another term. Okay. That way you don't have to
18 have that problem.

19 POTENTIAL JUROR: Okay.

20 THE COURT: All right. Thank you for letting me
21 know. If there is a particular week that's better for
22 you than others? I know none of them are very good.

23 POTENTIAL JUROR: It don't matter. Probably about
24 November, since it's close to Thanksgiving.

25 THE COURT: Right.

1 POTENTIAL JUROR: I'm a business man, summer will
2 be good -- or either time December or January.

3 THE COURT: Okay. What time next -- in 2018 is
4 our first Common Pleas term of court, which is civil.

5 THE CLERK: The 17th, Judge.

6 THE COURT: Of January?

7 THE CLERK: Yes, sir. That's a Tuesday.

8 THE COURT: You want that then January 17th.
9 You'll come in on Tuesday. It's a short week.

10 POTENTIAL JUROR: That will be great.

11 THE COURT: All right. Sir, thank you for being
12 here and thank you for the candor, and I'll excuse you
13 the rest of this week. Thank you. Anyone else?

14 (No response.)

15 THE COURT: Ladies and gentlemen, has any member
16 of the jury panel read, heard or seen anything about
17 the case the State of South Carolina vs. Raeford
18 Derrane Wideman prior to coming to court today? Did
19 you receive it in any form or fashion from any type of
20 media or anywhere? If so, would you please stand?

21 (No response.)

22 THE COURT: To follow-up on that, has any member
23 of jury panel formed or expressed an opinion about any
24 issue or matter involved in the case of the State of
25 South Carolina vs. Raeford Derrane Wideman prior to

1 today. If so, would you please stand?

2 (No response.)

3 THE COURT: Is any member of the jury panel aware
4 of any bias or prejudice that they may harbor towards
5 either the State of South Carolina, towards this
6 Defendant, or their attorneys? If so, would you please
7 stand?

8 (No response.)

9 THE COURT: Is there any member of the jury panel
10 who is a member of the Anderson County Grand Jury that
11 issued the indictment in this case? If so, would you
12 please stand?

13 (No response.)

14 THE COURT: Ladies and gentlemen, is there any
15 member of the jury panel who is a member of or a
16 contributor to any group which has, as its primary
17 concern, the promotion of law enforcement or victim's
18 rights? Examples, but certainly not an exhaustive list
19 of such groups, would be MADD, SADD, or CAV? If you
20 are a member of or a contributor to any group which has
21 as its primary concern the enforcement of law
22 enforcement or the victim's rights, would you please
23 stand -- in the promotion of the law enforcement or
24 victim's rights?

25 (No response.)

1 THE COURT: Very good. Does any member of the
2 jury panel know of any reason whatsoever why he or she
3 should not be selected to serve on the trial of this
4 case with a particular emphasis being placed upon your
5 ability to be fair and impartial to both the State of
6 South Carolina and to this Defendant? If so, if you
7 feel there is any reason why you shouldn't serve, would
8 you please stand?

9 (No response.)

10 THE COURT: All right. Any additional voir dire
11 from the State?

12 MR. OVERBY: None from the State, Your Honor.

13 THE COURT: From the defense?

14 MR. ROBINSON: No, sir, Judge.

15 THE COURT: All right. Ladies and gentlemen, back
16 before when I didn't have gray hair, the way we used to
17 select juries, we had somebody draw a name out of this
18 spindle who could not read or write, to get a fair and
19 impartial draw.

20 Now, we have a computer that will draw out the
21 names of a certain amount of you, and the clerk will
22 read those names. And the parties or their clients
23 will not have a copy of it. But if your name is called
24 out, I'm going to ask that you bring any personal
25 belongings that you may have in the courtroom with you.

1 Come through the bar or the swinging doors and stand
2 between Mr. Shirley and my court reporter, and face the
3 State and face the defense, and they will make a
4 determination as whether or not you will be selected to
5 serve in the trial of this matter.

6 All right. Madam Clerk, whenever you're ready.

7 THE COURT: While we're doing that, the defense
8 has the ten, State has five. On the alternates, the
9 defense has two, the State has one; right?

10 MR. OVERBY: Yes, Your Honor.

11 THE COURT: We're going to do two alternates.

12 THE CLERK: If it please the court?

13 THE COURT: Yes, sir.

14 THE CLERK: All right. Ladies and gentlemen, like
15 the Judge said, when I call your name, if you'll just
16 come stand in front of me and turn around face the
17 audience first.

18 Our first potential juror is number 201, Kenneth
19 R. Thomas. (Pause.) What say ye for the State?

20 MR. OVERBY: Please present the juror.

21 THE CLERK: What say ye for the defense?

22 MR. ROBINSON: Please excuse this juror.

23 THE CLERK: You can have a seat back in the
24 audience, please. Juror number 221, Sherry L. Winburn.
25 (Pause.) What say ye for the State?

1 MR. OVERBY: Please present the juror.

2 THE CLERK: What say ye for the defense?

3 MR. ROBINSON: Please seat this juror.

4 THE CLERK: You can have -- right this way. Thank
5 you. Juror number 102, Kathy J. Johnson. (Pause.)

6 What say ye for the State?

7 MR. OVERBY: Please present the juror.

8 THE CLERK: What say ye the defense?

9 MR. ROBINSON: Please excuse this juror.

10 THE CLERK: You can have a seat back in the
11 audience, please, ma'am. Juror number 18, Danny A.
12 Brooks. (Pause.) What say ye for the State?

13 MR. OVERBY: Please present this juror.

14 THE CLERK: What say ye for the defense?

15 MR. ROBINSON: Please excuse this juror.

16 THE COURT: You can have a seat back out in the
17 audience, please. Juror 160 Bradley G. Ricketts.
18 (Pause.) What say ye for the State?

19 MR. OVERBY: Please present the juror.

20 THE CLERK: What say ye for the defense?

21 MR. ROBINSON: Please excuse this juror.

22 THE CLERK: You can have a seat in the audience
23 please, sir. Juror number 31, Debbie F. Childs.
24 (Pause.) What say ye for the state?

25 MR. OVERBY: Please present the juror.

1 THE CLERK: What say ye for the defense?

2 MR. ROBINSON: Please excuse this juror.

3 THE CLERK: You can have a seat in the audience.

4 Juror number 15, Theresa W. Bowen. (Pause.) What say
5 ye for the State?

6 MR. OVERBY: Please present the juror.

7 THE CLERK: What say ye for the defense?

8 MR. ROBINSON: Please seat this juror.

9 THE CLERK: This way please, ma'am. Juror number
10 146, David R. Osborne. (Pause.) What say ye for the
11 State?

12 MR. OVERBY: Please present the juror.

13 THE CLERK: What say ye for the defense?

14 MR. ROBINSON: Please seat this juror.

15 THE CLERK: Right that way please, Mr. Osborne.
16 Juror number 60, Rebecca P. Fredericks. (Pause.) What
17 say ye for the State?

18 MR. OVERBY: Please present this juror.

19 THE CLERK: What say ye for the defense?

20 MR. ROBINSON: Please excuse this juror.

21 THE CLERK: You can have a seat back out there.

22 Juror number eight, Glenn R. Bannister. (Pause.) What
23 say ye for the state?

24 MR. OVERBY: Please present the juror.

25 THE CLERK: What say ye for the defense?

1 MR. ROBINSON: Please excuse the juror.

2 THE CLERK: You can have a seat. Juror number 42,
3 Robert J. Crovello. (Pause.) What say ye for the
4 State?

5 MR. OVERBY: Please present this juror.

6 THE CLERK: What say ye for the defense?

7 MR. ROBINSON: Excuse this juror.

8 THE CLERK: You can have a seat in the audience.
9 Juror number 103, Susan L. Johnson. (Pause.) What say
10 ye for the State?

11 MR. OVERBY: Please present this juror.

12 THE CLERK: What say ye for the defense?

13 MR. ROBINSON: Please excuse this juror.

14 THE CLERK: You can have a seat in the audience.
15 Juror number 49, Seglinde A Dickson. (Pause.) What
16 say ye for the State?

17 MR. OVERBY: Please present the juror.

18 THE CLERK: What say ye for the defense?

19 MR. ROBINSON: Please seat this juror.

20 THE CLERK: Juror number 157, Jason F. Reese.
21 (Pause.) What say ye for the State?

22 MR. OVERBY: Please present this juror.

23 THE CLERK: What say ye for the defense?

24 MR. ROBINSON: Please seat this juror.

25 THE CLERK: Juror number 215, Christopher R.

1 White. (Pause.) What say ye for the State?

2 MR. OVERBY: Please present this juror.

3 THE CLERK: What say ye for the defense?

4 MR. ROBINSON: Please seat this juror.

5 THE CLERK: Juror number 150, William W. Payne,
6 Jr. (Pause.) What say ye for the State?

7 MR. OVERBY: Please present this juror.

8 THE CLERK: What say ye for the defense?

9 MR. ROBINSON: Please seat this juror.

10 THE CLERK: That way, please, sir. Juror number
11 96, Ellen D. Jackson. (Pause.) What say ye for the
12 State?

13 MR. OVERBY: Please present this juror.

14 THE CLERK: What say ye for the defense?

15 MR. ROBINSON: Please seat this juror.

16 THE CLERK: Juror number 20, Rio T. Brownlee.
17 (Pause.) What say ye for the State?

18 MR. OVERBY: Please seat this juror.

19 THE CLERK: What say ye for the defense?

20 MR. ROBINSON: Please seat this juror.

21 THE CLERK: Juror number 167, Betsy Santos-Lozada.
22 (Pause.) What sayeth for the State?

23 MR. OVERBY: Please present this juror.

24 THE CLERK: What say ye for the defense?

25 MR. ROBINSON: Please excuse this juror.

1 THE CLERK: You can have a seat in the audience,
2 please, ma'am.

3 THE CLERK: Juror 17, Stephanie S. Seymore.

4 (Pause.) What sayeth for the State?

5 MR. OVERBY: Please present this juror.

6 THE CLERK: Any cause?

7 MR. ROBINSON: Please seat this juror.

8 THE CLERK: That way please, sir. Juror 183 --
9 juror 183, Steven S. Silvey. (Pause.) What say ye for
10 the State?

11 MR. OVERBY: Please present this juror.

12 THE CLERK: Any cause?

13 MR. ROBINSON: Please seat this juror.

14 THE CLERK: That way. Juror number 50, Shandra L.
15 Doolittle. What say ye for the State?

16 MR. OVERBY: Please excuse this juror from the
17 trial of this case.

18 THE CLERK: Juror number 148, Brittaney D. Parks.
19 (Pause.) What say ye for the State?

20 MR. OVERBY: Please present this juror.

21 THE CLERK: Any cause?

22 MR. ROBINSON: Please seat this juror.

23 THE CLERK: This way, Ms. Parks. Your Honor, that
24 is 12. We'll move now for alternates. First potential
25 juror alternate juror number 124, Lisa B. Maulson.

1 (Pause.) What say ye for the State?

2 MR. OVERBY: Please present this juror.

3 THE CLERK: What say ye for the defendant?

4 MR. ROBINSON: Please excuse this juror.

5 THE CLERK: You can have a seat back in the
6 audience. Juror 101, Jordon T. Johnson. (Pause.)

7 What say ye for the State?

8 MR. OVERBY: Please present this juror.

9 THE CLERK: What say ye for the defendant?

10 MR. ROBINSON: Please seat this juror.

11 THE CLERK: That way please. Juror number 114,
12 Annette J. Compton Lance. What say ye for the State?

13 MR. OVERBY: Please present this juror.

14 THE CLERK: What say ye for the defense?

15 MR. ROBINSON: Please seat this juror.

16 THE CLERK: Your Honor, I believe that is 12
17 jurors and two alternates.

18 THE COURT: Any motion from the State or defense
19 with regard to the jury selection process?

20 MR. OVERBY: None from the State, Your Honor.

21 MR. ROBINSON: None from the defense, Your Honor.

22 THE COURT: All right. Ladies and gentlemen of
23 the jury who have been selected in this matter, I ask
24 that you go back to your jury room now, that you pick
25 someone to be the jury foreperson. The foreperson will

1 be the one who communicates with the court any time
2 throughout the trial that there needs to be
3 communication. And also the person who will reside
4 over the deliberations at the end of the case.

5 Now, our two alternates over here, you have the
6 right to vote on the foreperson, but you may not serve
7 as the foreperson. And it doesn't have to be
8 unanimous, but by a simple majority.

9 Once you select a foreperson for this trial, I'm
10 going to ask the person who was selected to write their
11 name down on a piece of paper, and turn around and
12 check with your fellow jurors to determine whom, if
13 anyone, would like to have pad and pen to take notes
14 with during the course of this trial.

15 And so once you get that figure, if it's 10,
16 just write the number 10 down next to your name, and if
17 it's zero, write zero. Once you have all that
18 information, knock on the door, and we'll receive you
19 back here in the courtroom with a little bit of
20 additional instruction.

21 If you would go back with our bailiff, please.

22 (Whereupon, the jury left the courtroom at 12:26
23 p.m.)

24 THE COURT: The remaining potential jurors, I can
25 see the disappointment in your face with not having

1 been selected. I'm going to give you another chance
2 though. Again, we may have one or two more trials this
3 week. If you would, before we leave here, my clerk is
4 going to give out a sheet of paper that has a number.
5 And if you would after 6:00 each night, beginning
6 tonight, if you would call in, there will be a message
7 as to whether or not you need to return the next day,
8 or there will be a message you may need to return two
9 days from now.

10 But if you would do that each day this week,
11 after 6:00 until you have a message from my clerk
12 saying you have been excused, and thank you for your
13 service. In the event, I don't see you again for the
14 remainder of the week, which I think I probably will, I
15 want to thank each and every one of you for being here.
16 I am serious, without you the system does not work, but
17 thank you very much. If you will wait before you leave
18 to get the handout from my clerk.

19 THE CLERK: The telephone number -- it's usually
20 me on the phone. And I always say thank you for
21 calling the information line, it is Monday, November
22 13th, so that you know that you're hearing an updated
23 message. The one that is on there is old, so make sure
24 it says it is Monday, November 13th. And it will be
25 very specific as to what you need to do. Okay. And

1 once you have your telephone number, you are free to
2 go.

3 (Pause.)

4 THE COURT: It's my understanding -- my
5 understanding is we need to have a Jackson Denno
6 hearing?

7 MR. OVERBY: Certainly from the State, Your Honor,
8 a Jackson vs. Denno hearing is going to be necessary as
9 far as statements that were made by this defendant to
10 law enforcement under -- under Miranda, so that will be
11 necessary from the State's perspective.

12 THE COURT: Okay. Let's sequester witnesses for
13 all the pretrial hearings and for the trial, so that we
14 can look up -- obviously your investigator obviously
15 can remain. Anybody else -- we need to look around and
16 make sure if somebody needs to be sequestered, they
17 are, in fact, sequestered.

18 MR. OVERBY: They -- I believe that we've already
19 had our two witnesses go on outside. And that's --
20 that's it from the State as far as that hearing is
21 concerned.

22 THE COURT: Okay.

23 MR. ROBINSON: Your Honor, before we go ahead with
24 the -- the Castle Doctrine -- could I speak with my
25 client for one second?

1 THE COURT: Say that again?

2 MR. ROBINSON: Before we continue with the Castle
3 Doctrine hearing, can I speak with my client first
4 about the facts potentially -- just to make sure we
5 need to go ahead.

6 THE COURT: For some reason, Scott, come up here.

7 MR. ROBINSON: Can you hear me now?

8 THE COURT: Yes.

9 MR. ROBINSON: Yeah, because I don't want to waste
10 the court's time if I don't need to, if I could speak
11 to my client for a second just about the facts.

12 THE COURT: Sure. Sure. By the way, Mr. Clerk,
13 14 people want pad and pen. Juror number 157 is our
14 foreperson.

15 (Pause. Court's Exhibit 1, jury note, marked.)

16 THE COURT: Mr. Robinson, let me do this, let me
17 start you right quick. I'm going to bring the jury in,
18 and excuse them. Let me ask you this -- how long do
19 you think you guys will take for the Jackson vs. Denno
20 and the Castle Doctrine?

21 MR. OVERBY: Well, the interviews themselves, Your
22 Honor, the testimony will be very short. The
23 interviews are -- and in total between the two of
24 them -- about an hour and 45 minutes. So depending on
25 your position with regards to watching that, if you

1 want to see the entire footage before you make your
2 determination about the ruling, everything along those
3 lines, that -- that's what it would take.

4 MR. ROBINSON: Judge, we -- Mr. -- the Solicitor
5 and I have gone through these videos and redacted. We
6 have spent some time a couple of weeks or so to redact
7 the hearsay part. We've got stipulations on that. I
8 don't think that it will take a more -- we stipulated
9 to -- I mean, we have taken out and redacted parts just
10 to make sure --

11 THE COURT: Well, how long do you think it will
12 last, Mr. Robinson?

13 MR. ROBINSON: I think without that chunk in
14 there, I think it will be about an hour -- not that
15 long -- because we really -- Stan and I worked
16 together to redact the bad parts.

17 THE COURT: Did I understand you guys to tell me
18 that you thought that the Jackson Denno hearing and the
19 Castle Doctrine hearing really are one in the same --
20 not one in the same, obviously, but at the same time?

21 MR. OVERBY: Correct, Your Honor. Part of the
22 State's record in terms of the Castle Doctrine hearing
23 would be the admission of the statements of the
24 defendant as to his -- as to his recantation of what
25 happened on that evening to law enforcement at the

1 time. So in addition to handling that aspect of
2 things, the Jackson vs. Denno hearing, the
3 voluntariness determination can certainly be made
4 through that entire process as well, essentially
5 combining the two. As a matter of fact, all I would do
6 is I would just simply ask additional questions to my
7 investigators who took those statements in order to
8 have the court have the record in making the
9 determination.

10 THE COURT: Do you anticipate calling anybody on
11 the Castle Doctrine?

12 MR. ROBINSON: Just my client, Your Honor.

13 THE COURT: What?

14 MR. ROBINSON: Just my client -- just my client.
15 And, Judge, if I could, in terms of the Jackson v.
16 Denno, we agree it was a voluntary statement. We agree
17 that it was a voluntary statement. We're not
18 complaining about that.

19 In fact, we're -- we want, with the redactions
20 done, we want the statement to come in.

21 THE COURT: So do you feel like we need to have a
22 Jackson Denno hearing?

23 MR. ROBINSON: I don't know the reason why we need
24 to other than that that -- as I told the Solicitor
25 before him, there is -- when they redacted it, it kind

1 of put some things out of line a little bit, so we need
2 to talk about that. But we're not disputing the
3 statement, call to the police, so --

4 MR. OVERBY: I think my only concern is, Your
5 Honor, is that the facts of the case will clearly show
6 that he is in custodial interrogation during the course
7 of this matter. I mean, the formal Miranda rights were
8 waived. The initial officer who spoke with him
9 actually tells him he is not free to get out of the
10 car, which is clearly a custodial matter at that point.
11 So I believe that in terms of the actual necessity of
12 the hearing, because those aspects are engaged, I think
13 the court has to make a formal determination about the
14 voluntariness of the statement. And that would be my
15 only concern for appellate review.

16 THE COURT: I think I have to.

17 MR. OVERBY: I believe so.

18 THE COURT: With the defendant's stipulation, made
19 a voluntarily statement?

20 MR. OVERBY: Well, if we do it by stipulation,
21 then obviously I think that probably satisfies.

22 THE COURT: Well, what I understand Mr. Robinson
23 is saying that his client is stipulating that he made a
24 voluntary statement.

25 MR. ROBINSON: Oh, absolutely, Judge. It's --

1 it's all on the tape and so forth. We just have to
2 tweet the redactions. Otherwise, everything should
3 come in.

4 THE COURT: Let me do something right quick. Mr.
5 Wideman, raise your right hand.

6 REAFORD DERRANE WIDEMAN,
7 having been first duly sworn, testified as follows:

8 THE COURT: All right, sir. I -- I don't want you
9 to tell me anything about any of the facts except with
10 regard to what your attorney is telling me, and that is
11 that the statement you made to law enforcement after
12 you were in law enforcement custody, was freely given
13 to them; is that correct?

14 THE DEFENDANT: Yes, sir, Your Honor.

15 THE COURT: And -- and do you understand that
16 under the case of Jackson V. Denno, we have -- you have
17 a right to require the State to go forward and for us
18 to conduct a hearing, and we look at voluntary factors,
19 you know, whether you were coerced by police,
20 whether -- how long the interrogation was, or where the
21 interrogation was, basically your maturity level;
22 educational level; whether you were injured or in bad
23 health for some reason that night, or influenced with
24 medication or drugs; your mental health, your
25 experience in the court system; the misrepresentation

1 to you by law enforcement; threats of violence to you
2 by law enforcement; promises of leniency. If you were
3 a minor, isolation from your parents, those are things
4 that we would look at to determine whether or not
5 that's a voluntary statement. But Mr. Robinson is
6 saying, I don't want to have that hearing, I gave the
7 statement and it was my own free statement; is that
8 correct?

9 THE DEFENDANT: Well, Your Honor, I was not -- you
10 know --

11 THE COURT: Hang on. Hang on. If there's any
12 qualification about it, then you need to talk to Mr.
13 Robinson, and we'll have the hearing. I don't want --
14 I mean, if you agree, and I'm not -- you have that
15 right. And I want you to have it. Okay?

16 THE DEFENDANT: Yes, sir, Your Honor.

17 THE COURT: But if you feel any kind of
18 qualification about it, I -- I think that I'll agree
19 with Mr. Overby, let's go ahead and have the hearing.
20 And that way, we're safe and not sorry.

21 Do you want to talk to Mr. Robinson right quick?

22 THE DEFENDANT: Yes, sir.

23 (Pause.)

24 THE DEFENDANT: Your Honor, I would like to say
25 that I was, you know, at that time giving a voluntary

1 statement. My whole, you know -- my place of education
2 about the justice system, I never even had a criminal
3 record, and I was kind of just willing -- and I didn't
4 understand, you know, the whole justice system, but I
5 did give a voluntary statement.

6 THE COURT: I tell you what, just out of an
7 abundance of caution, do you agree Mr. Overby -- thank
8 you, sir.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Overby, that the redacted portion
11 of the statement is all that needs be done; does the
12 State agree to that?

13 MR. OVERBY: Yes -- yes, Your Honor. I do -- I do
14 want to clarify one thing, though, as far as the
15 stipulations -- I think there were two portions of the
16 video that we did not agree upon, at least the last
17 time that I spoke -- at least the last time we spoke.
18 I don't know if that has changed at this point, if I
19 can consult with Mr. Robinson very briefly --

20 MR. ROBINSON: That hasn't change -- that hasn't
21 changed.

22 (Pause.)

23 MR. OVERBY: It sounds like the video as it is
24 would probably suffice in terms of the exhibit that we
25 intend to put in.

1 THE COURT: Well, the question I'm asking --

2 MR. OVERBY: Sure.

3 THE COURT: -- is Mr. Robinson said y'all spent a
4 lot of time together, y'all agreed to certain edits to
5 it since that's now about 25 minutes -- do you agree --
6 I don't know -- do y'all agree that that is -- the
7 redacted portion of the videos is what is going to be
8 used in this hearing?

9 MR. OVERBY: We agree that that is the redacted
10 portion of the video that will be used in the hearing.
11 I think that it's longer than that. I mean, it's
12 definitely not under an hour in terms of that whole
13 thing, so that's -- that's the primary concern. But,
14 yes, the redacted portion of the video, that's what we
15 would use.

16 THE COURT: All right. Bring the jury in.

17 (Whereupon, the jury entered the courtroom at
18 12:23 p.m.)

19 THE COURT: All right, sir. Are you juror number
20 157? You are our foreperson?

21 JURY FOREMAN: Yes, Your Honor.

22 THE COURT: All right. Thank you. Each time you
23 come back, if you would use that seat, I would greatly
24 appreciate it. Our alternates, -- the two alternates,
25 if you would use those seats. All right. The rest of

1 you, when you come in and out, you can take any of
2 those seats. My understanding is that there is a
3 request for 14 pads and pens; is that correct?

4 JURY FOREMAN: That's correct.

5 THE COURT: All right. Ladies and gentlemen, I'm
6 going -- I'm getting ready to break for lunch. I'm
7 going to ask that you be back in your jury room at
8 2:30. Before we give you -- or release you for lunch,
9 let me give you some instructions that I'm required to
10 give in each case.

11 Number one, from this point forward, you may not
12 speak with anyone about this case, and that includes
13 each other, during breaks, during lunch time. I'm
14 married and have a little girl, and I know if I was
15 selected on a jury, they would be asking me all about
16 it. If you wait until after you have been discharged
17 from your duties from this case before you speak to
18 anybody about this case. Likewise, not amongst
19 yourselves, not tonight or the lunch break, or at any
20 time we are breaking in the morning or in the afternoon
21 during this case, don't speak to each other about the
22 case, what you just saw, what happened, what you
23 thought you saw, or something going on in the case.

24 And the reason being, we don't want you guys
25 amongst yourselves to reach a conclusion about what the

1 facts in this case are. We also don't want you to have
2 any outside influences by someone else that we don't
3 have any control over. We want you to make a decision
4 based on the testimony and the evidence that you hear
5 here in this courtroom, any exhibits outlined in
6 evidence, as well as according to the laws as I give it
7 to you.

8 Now, also, I don't know if this is going to be a
9 matter -- but from this point forward, you may not
10 read, hear, or listen to any news or anything about
11 this case, in the event there is any type of media,
12 whether it be on the TV, newspapers, or some other form
13 of communication, just do not see, hear, or listen to
14 anything about this case.

15 And, also, do not look up anything about the
16 court personnel, any issues involved in this case, or
17 any issues that you think may be helpful in this case.
18 Again, the reason being, we want you to make your
19 decision based solely on the testimony and evidence
20 that you hear here in this courtroom and according to
21 the law as I give it to you at the end of this case.

22 With that being said, if you will be back in
23 your jury room -- let's make it 2:45, then we'll start
24 with opening statements, and I'll give you the charge
25 of the law at that time. If you'll go with the bailiff

1 at this time.

2 (Whereupon, the jury left the courtroom at 12:26
3 p.m.)

4 THE COURT: Any additions or exceptions to the
5 jury charge?

6 MR. OVERBY: None from State, Your Honor.

7 MR. ROBINSON: None from the defense.

8 THE COURT: What will be your pleasure -- if I'm
9 reading -- or hearing what you guys are telling me, it
10 is going to be about an hour long hearing, and that is
11 going to be for both combined; is that about right, Mr.
12 Overby?

13 MR. OVERBY: I think that's probably pretty
14 accurate, an hour to an hour and a half.

15 THE COURT: Let's make sure we don't let it drag
16 on if we got a jury waiting.

17 MR. OVERBY: I understand.

18 THE COURT: Do you agree with that, Mr. Robinson?

19 MR. ROBINSON: I do.

20 THE COURT: All right. Be back at 1:30.

21 MR. OVERBY: Okay. Thank you. Thank you.

22 (Whereupon, after a lunch recess, court
23 reconvened.)

24 THE COURT: Please be seated. Okay.

25 MR. ROBINSON: Judge, my client looked at the -- I

1 gave him a copy of the paperwork to look at before he
2 went down -- I gave him --

3 THE COURT: Okay.

4 MR. ROBINSON: I gave him a copy of some paperwork
5 to look at, so the -- the Castle Doctrine and stuff.
6 And they took it away from him -- for him to look at.
7 So can he have a moment to look at it real quick?

8 THE COURT: Yeah.

9 MR. OVERBY: Your Honor, while we're waiting on
10 that, it may be good to just do a couple of
11 housekeeping matters in terms of the -- in terms of
12 some stipulations that the State thinks has happened --

13 THE COURT: Okay.

14 MR. OVERBY: -- in this case. The State and
15 defense have entered into two stipulations with regards
16 to this case, Judge. The first is that there will be a
17 physical evidence -- there will be physical evidence in
18 this case concerning a firearm and its projective shell
19 casings that were sent to the Greenville County Crime
20 Lab for ballistics review.

21 The State and defense are stipulating as to
22 chain of custody of that firearm up to the -- up to the
23 Greenville Crime Labs. So in other words, not
24 requiring the presence of any of the witnesses who --
25 of any of the property and evidence folks from the

1 Greenville Crime Lab.

2 THE COURT: Is that correct, Mr. Robinson?

3 MR. ROBINSON: That is correct.

4 MR. OVERBY: And I have -- we have some
5 stipulations, we decided to make it a court's exhibit.

6 THE COURT: That sounds good.

7 MR. OVERBY: And that will be Court's Exhibit 1 --

8 THE COURT: Two.

9 COURT REPORTER: Court's Exhibit 2.

10 MR. OVERBY: Two. Court's Exhibit 2. I
11 apologize.

12 (Court's Exhibit No. 2 marked.)

13 THE COURT: All right.

14 MR. OVERBY: And then the second stipulation, for
15 the record, Your Honor, Dr. Brett Woodard is the
16 medical examiner, the forensic pathologist who was
17 involved in this particular case. He unfortunately had
18 surgery this week. But the contention between the
19 parties is that there's not really an issue of material
20 fact as to his expert opinion and his expert
21 conclusions, so the State and the defense are
22 stipulating as to the autopsy report in this case,
23 subsequent to one redaction, that the word "homicide"
24 would be redacted as a -- as a potentially misleading
25 aspect of these -- of this case.

1 And, in addition, that these were what -- the
2 expert conclusions of the forensic pathologist.

3 THE COURT: Is that correct?

4 MR. ROBINSON: That's correct, Judge.

5 MR. OVERBY: And that is -- that is State's No. 5
6 that I will be putting into evidence in the trial of
7 the case, but the stipulation would be Court's Exhibit
8 No. 3. And for the record, State's Exhibit No. 5 is
9 directly reflected in Court's Exhibit No. 3 as being
10 the stipulated item.

11 THE COURT: Okay.

12 (Court's Exhibit No. 3 marked.)

13 THE COURT: Mr. Robinson, are you ready to
14 proceed?

15 MR. ROBINSON: Ready to proceed, Judge.

16 THE COURT: All right. What -- since we're
17 combining the Jackson Denno and the Castle Doctrine
18 hearing, any particular order that you want to go in,
19 or -- your client has the burden in the Castle and you
20 have the burden in the Jackson Denno, so...

21 MR. OVERBY: My proposal on this, Your Honor, is
22 because the response of -- because the response to the
23 Castle Doctrine motion involves the defendant's
24 statements, and since he obviously has the burden of
25 proof on that issue, perhaps it's best for him to go

1 ahead and go forward on his Castle Doctrine motion.
2 And at that point, I can respond with my witnesses in
3 turn, and then we can incorporate the Castle -- the
4 Jackson v. Denno on that.

5 THE COURT: Do you agree with that?

6 MR. ROBINSON: That's fine.

7 THE COURT: Do we still have everyone sequestered
8 from the courtroom who needs to be?

9 MR. OVERBY: Yes, I believe so, Your Honor.

10 THE COURT: All right. Call your witness, please
11 sir.

12 MR. ROBINSON: If it please the court, Your Honor,
13 we call Raeford Wideman to the stand.

14 THE CLERK: Right here please, sir.

15 RAEFORD WIDEMAN, having been
16 first duly sworn, testified as follows:

17 THE CLERK: Take the witness stand, please, sir,
18 and state your name and spell your last name for the
19 reporter, please.

20 THE WITNESS: Raeford Wideman, last name --
21 Raeford Wideman. Last name is spelled W-i-d-e-m-a-n.

22 MR. ROBINSON: May it please the court?

23 THE COURT: Yes, sir.

24 **DIRECT EXAMINATION BY MR. ROBINSON:**

25 Q. Raeford, at the time of this incident that

1 we're here for today, where were you living?

2 A. 2316 South McDuffie Street.

3 Q. Is that here in Anderson County?

4 A. Yes, sir.

5 Q. Who were you living with at the time?

6 A. My parents.

7 Q. Okay. And did you reside there at the time?

8 A. Yes, sir.

9 Q. Okay. Anyone else residing there besides you
10 and your parents?

11 A. No, sir.

12 Q. Okay. Raeford, I want to take you back to why
13 we're here today, the incident in question. Tell me
14 what happened that night -- or tell the court what
15 happened that night?

16 A. Well, on the night on March 15th -- 15th, it
17 was about 3:00 in the morning. I was awoken by a loud
18 noise. The noise came from two guys sitting outside in
19 front of my yard I did not know. I seen these guys on
20 -- as I approached my front door -- as I approached the
21 front door.

22 And I opened the front door because our front
23 door is like a window, and you can see out of it, you
24 know, from the inside, so I opened the front door. And
25 I did have my registered handgun with me. I didn't

1 know these guys because, you know, they just came with
2 my -- they came from -- one of the guys came with my
3 sister and my -- my -- and Brianna. And I asked the
4 guy what -- what -- what he was doing in the yard. I
5 asked both of the guys what they was doing in the yard.
6 They did not -- they did not respond.

7 At that time, I asked -- at that time, Brianna
8 came from her SUV, and I asked her what was these guys
9 doing in the yard and where was my sister. You know, I
10 didn't see my sister, so I'm asking Brianna because she
11 was with my sister. She came with my sister earlier
12 that day, to drop my niece and nephews off.

13 Q. Who -- let me ask you, who is your sister?

14 A. Taquana Blassingame.

15 Q. Taquana Blassingame. Okay. Go ahead.

16 A. So when I asked Brianna where my sister was
17 at, she was kind of nonchalant, you know, she was slow
18 to -- you know, respond. So I asked her several times
19 where my sister was at. And she told me my sister was
20 in the car. You know, I didn't even know my sister's
21 car was in the yard until I looked to the left.
22 Because my driveway was on the left. And -- and the --
23 her SUV was on the right side of the yard. So once I
24 finally found my sister -- found my sister's car to the
25 left, I looked in the car and I approached the car, and

1 by the time I approached -- about the time I approached
2 the car, the guy that was with my sister and Brianna,
3 Ryan Tatum, he -- he started, you know -- see him
4 walking toward the car also. So I go around to the
5 passenger side, the back door of the passenger side,
6 and Ryan Tatum he -- he heads straight to the driver's
7 seat. And I'm asking him -- at that time, I asked him
8 to turn the car off because he had the car crunk up and
9 everything. And he just turned and -- and looked at
10 Brianna and asked Brianna who was I, you know.

11 Before we even got to the car, I'm telling him
12 who I am and asking him, you know, where my sister is,
13 you know. But by the time he looked at Brianna and
14 asked Brianna who was I, my sister was passed out in
15 the back seat. And she was kind of in the seat and in
16 the floor of the car. And she was unresponsive. And
17 --

18 Q. Okay. Let me ask you this, what -- what -- in
19 viewing your sister -- viewing, you know, her in the
20 back seat, what did you think was wrong with her?

21 A. I didn't know what exactly was wrong with her.
22 I didn't know if she was hurt, if she was injured. I
23 didn't know, you know, exactly what was wrong with her,
24 but I know she wasn't responding when I called her
25 name.

1 Q. Okay.

2 A. And at that time, my -- my parent -- my dad
3 came to the front porch. And I asked -- I asked my dad
4 to come to the car. And I told my dad that my sister,
5 his daughter, was passed out in the back seat and this
6 guy is just trying to take off, you know, with her in
7 the back seat. And I asked the -- my dad actually came
8 to the car and asked the guy to turn the car off and
9 give him the keys. This is his car. This is his
10 vehicle because the car actually -- it belongs to my
11 dad. It's in my dad's name.

12 And I -- I asked the guy again to turn the car
13 off. And he just turned and looked at me, you know,
14 and he -- he said "F you", you know. And by that time
15 I was trying to reach down and get my sister out of the
16 car. I had my firearm in my left hand. And I'm right
17 handed. I was trying to get my sister out of the car
18 and the door of the car -- he -- he steps on the gas,
19 and the door of the car -- the back passenger door of
20 the car hits -- hits my whole right side, you know. I
21 -- I did fire at the suspect, but in the business of me
22 firing, the door of the car hit me also so I fired more
23 than I wanted to.

24 And it -- it caused the car -- with him stepping
25 on the gas, it caused the car to go out of the driveway

1 into this -- this trailer park -- this trailer. And I
2 did-- I did chase after the car. And, you know, my
3 sister was in the back seat of the car. Brianna wasn't
4 in the car at that time. The driver, Ryan, was still
5 in the car. And you know I didn't, you know, want to
6 shoot. You know, I was led -- pretty much -- at that
7 time, I didn't have time to think or do anything, you
8 know.

9 So I know my sister was in the back seat. I
10 didn't want to shoot her also, you know. The gun, you
11 know, could have -- could have shot her because, you
12 know, him stepping on the gas. But the gun -- I did
13 shoot the gun in order to, you know, -- because at that
14 time, I felt my life was in danger and my sister's life
15 was in danger also.

16 And the car was in the trailer. The car backed
17 up into the trailer. I ran out to the car and I
18 checked on -- on the -- the Ryan Tatum and I checked on
19 my sister. And the car was still in reverse. The car
20 actually backed up and hit the thing that -- this was
21 an old trailer, so the car actually backed up and hit
22 the -- the thing that you attach the trailer on to take
23 it to this -- to the landing it's going to be on, you
24 know.

25 I -- the car was still in reverse. I put the

1 car in park. And I went and checked on my sister. I'm
2 almost -- and I'm shaken to the core because of this
3 whole incident. I go and you know -- you know, back to
4 the house -- to my house. And my parents by that time
5 had already called the police officers. And that was
6 -- there was another guy in the yard, as I mentioned,
7 there was another guy that took off out the yard before
8 the shooting occurred.

9 I don't exactly -- he went -- I don't exactly
10 know where he went, but I know that he was out of the
11 yard at the time and he -- he went to -- to the right
12 -- if you're stepping into my yard, he went to the
13 right. And at that time, my -- my parents had called
14 the police officers, and that was pretty much all that
15 went on.

16 Q. Raeford, let me ask you this -- let's -- let's
17 get to why you were out there. Why did you -- why did
18 you get your gun when you heard the noise?

19 A. Because I -- I didn't know what was going on.
20 I didn't know what was taking place.

21 Q. What kind of -- describe to the court the kind
22 of noises that you heard?

23 A. It's like a banging.

24 Q. This is at what time of morning?

25 A. About three -- anywhere from 3:00 to 4:00 in

1 the morning.

2 Q. Okay. And you went outside -- right -- went
3 outside?

4 A. Yes, sir.

5 Q. And you saw your -- at some point you saw your
6 sister in the back of the car; correct?

7 A. Yes, sir.

8 Q. Was the car still on your property?

9 A. Yes, sir.

10 Q. Okay. What did you -- why were -- why were
11 you fearful for her? Why --

12 A. Because she was nonresponsive.

13 Q. What did you think was going to happen?

14 A. I just -- I thought, you know, what had
15 already taken place. You know, I thought she was
16 already -- you know, possibly hurt, you know. And --
17 and -- and with this -- this guy, you know, not wanting
18 to stop the car, you know, I didn't even -- I didn't
19 have any wrong endeavor towards this guy. I didn't say
20 one harsh word to him. I was just trying, you know,
21 get him to stop the car. And with him not -- you know,
22 complying to what I'm telling him or what my dad was
23 telling him, you know, I didn't --- I really don't know
24 what he had in his mind or what he was thinking about
25 doing because my sister was at home. She was at her

1 parents' house already, you know. So I don't know why
2 he, you know, felt the nerves to -- or felt the urge to
3 leave and -- and -- and take off, you know, with her in
4 the back seat or not stop the car, or not get out the
5 car and give my dad the keys.

6 Q. Now, why were you in fear?

7 A. Because the car backed up into me with the --
8 the passenger -- the back door on the passenger side
9 hit me.

10 Q. What did you think was going to happen when
11 that door hit you?

12 A. I mean, I could have at any time -- the way
13 our yard is -- is formed is -- there's a big drop off
14 where he was at. And the driveway -- the driveway is
15 long. We have a pretty long driveway. And it's like a
16 big molt, you know, where the car was at. And that the
17 car could have, you know, backed up and I could have
18 went up under the car, up under the tires. And -- and
19 not just that, but the car could have went over that
20 big ditch -- that big molt and fell on top of me or,
21 you know, or could have crushed me or could have hurt
22 me or could have hurt all of us.

23 MR. ROBINSON: That's all I have, Raeford. Answer
24 any questions that the Assistant Solicitor has for you.

25 MR. OVERBY: May it please the court, Your Honor?

1 THE COURT: Yes, sir.

2 CROSS EXAMINATION BY MR. OVERBY:

3 Q. Mr. Wideman?

4 A. Yes, sir.

5 Q. You said your sister was already home, and
6 that that was a large reason why you felt the necessity
7 for Mr. Tatum to get out of the vehicle, didn't
8 understand why at that point; is that correct?

9 A. I didn't understand why he didn't turn the car
10 off and give my dad the keys.

11 Q. Okay. Well, the thing -- the fact of the
12 matter is, is your sister didn't live at that residence
13 at that time; isn't that correct?

14 A. She didn't.

15 Q. Okay. That's right, because she dropped the
16 kids off at the residence earlier in the evening?

17 A. Correct.

18 Q. Before she went to go to Greenville with
19 Brianna; isn't that right?

20 A. I guess that's what it ended up. I don't --
21 she didn't tell me exactly where they was going.

22 Q. Well, you said she was going to play in a
23 prior statement?

24 A. Right. But she didn't say nothing about
25 Greenville.

1 Q. Okay. But she did say she was going to play?

2 A. Yes, sir.

3 Q. That was a pretty common thing, so she wasn't
4 living there at the time. And Brianna -- you were
5 indicating that he wouldn't get out of the car -- he
6 wouldn't -- well, first of all, you're indicating that
7 he was not in the car at the time that you came out of
8 the house; is that correct?

9 A. That's correct.

10 Q. Well, that's pretty inconsistent with your
11 statement that you made previously, isn't it, Mr.
12 Wideman?

13 A. What statement is that?

14 Q. Well, two statements actually, Mr. Wideman,
15 both of which are going to be played before this court
16 in just a moment here. But Mr. -- but Mr. Tatum was
17 not -- you indicated Mr. Tatum was not out of the car
18 prior to this whole thing during that statement?

19 A. He was -- he was in the front yard.

20 Q. Okay.

21 A. He was not in the car when I first came
22 outside.

23 Q. Fair enough. So you would acknowledge that
24 you first made a statement that you felt like this was
25 -- that -- you also made a statement that this was not

1 you who shot somebody -- shot Mr. Tatum; is that
2 correct?

3 A. That's correct.

4 Q. Did you tell the officer that you did not
5 shoot him, that some other random other person came up
6 and shot him?

7 A. That's correct.

8 Q. Okay. And on top of that, did you go inside
9 and hide this gun in the house?

10 A. I didn't hide it. I just -- you know, put it
11 up under my dresser drawer. I wasn't, you know, in a
12 right state of mind. I was in a traumatized mind state
13 at the time of this whole incident. And I was not on
14 -- thinking clearly, so I did put it up under my
15 dresser drawer.

16 Q. Well, respectively, Mr. Wideman, until you
17 were caught in your lie by law enforcement who
18 interrogated you at the scene, you weren't going to
19 show them where that gun was, were you?

20 A. I -- I was -- I don't -- I'm not going to say
21 that I wasn't because the gun, it's registered in my
22 name. I didn't, you know, have a reason to just not
23 tell them.

24 Q. Well, you did have a reason to not tell them,
25 otherwise you would have came forward at the initial

1 interview that you provided to law enforcement, and
2 said that this guy tried to kidnap my sister and that's
3 why I fired the shots; isn't that correct?

4 A. Yes, sir. I should have said that in the
5 beginning, but I did not --

6 Q. And you didn't say that on that evening,
7 either, did you? As a matter of fact, you never said
8 one thing about that aspect that evening?

9 A. I was not -- you know, I -- like I mentioned
10 earlier, I was not, you know, aware -- not you know
11 educated to -- to the point of knowing the law and
12 knowing the justice system and this whole legal system,
13 sir.

14 Q. Well, the law and the justice system isn't
15 designed -- is designed for the facts to fit the law,
16 not for the law to fit the set of facts if you -- if
17 you kind of get what I'm saying. In other words, you
18 didn't say -- your statements now are different from
19 what your statements were at that time, which were even
20 different from the first statement that you provided on
21 that evening; is that correct?

22 A. In what -- what -- what -- what time and what
23 -- what are you referring to at that time about the
24 statements?

25 Q. I'm referring to the fact that you are now

1 here today indicating that your sister was passed out
2 in the back seat and that you were afraid that harm was
3 going to come to her by Mr. Tatum; that is the first
4 time you have made that statement; is that not correct?

5 A. I've actually said that in an interview when I
6 was interviewed in the police --

7 Q. But you've also said it was an accident?

8 A. -- in the police interrogating room. Well, in
9 that -- in -- when you look at it from the aspect of
10 the car backing up into me, and me shooting the gun
11 because of the car backing up into me, I didn't -- what
12 I was referring to was me not willingly or wanting to
13 shoot this guy, but it just happened in the spur of the
14 moment with this guy backing up into me with the car
15 and the door of the car hitting me.

16 Q. It reminds me of a question that I want to ask
17 you: You clarified that you shot with your left hand;
18 is that correct?

19 A. Yes, sir.

20 Q. And your hand -- your other hand was right
21 here?

22 A. Yes, sir.

23 Q. And you were inside the car?

24 A. I was in the door of the car.

25 Q. You were in the door of the car?

1 A. Yes, sir.

2 Q. Okay. And you said that it hit you and you
3 fired more than you wanted to; is that what you said?

4 A. Yes, sir.

5 Q. Okay. Well, if you're here, and you're here,
6 and then how is the vehicle causing -- hitting your
7 hand at all in this matter?

8 A. The vehicle hit the whole right side of --

9 Q. Okay.

10 A. -- of my body.

11 Q. And it caused you to go naturally -- speaking
12 if that were the case -- then your body would have gone
13 in this direction with the vehicle, is that correct?

14 A. That's not correct. Because me being bent
15 down trying to check on my sister --

16 Q. Who was passed out in the back seat?

17 A. Right. I was bent down and the door, at the
18 angle that it hit me, I wasn't -- I wasn't -- just
19 trying to -- I was trying to get out of the way of the
20 car at the same time to catch my balance at the same
21 time, and I had all of these fears and being scared,
22 you know, of the car backing up into me. So when the
23 door hit me, it actually -- with me trying to back up
24 out of the door of the car, it is just natural reflexes
25 and -- and just reflexes caused me to, you know, pull

1 the gun, just clutch the trigger pretty much.

2 Q. Okay. So you pulled the gun; is that what
3 you're saying now? You pulled the gun? You actually
4 drew it or did you have the gun like this (indicating)
5 because that's different too?

6 A. No. I'm talking about pulling the trigger.

7 Q. Okay. Now, the other question I have is this:
8 What kind of vehicle does your sister have?

9 A. She had a -- I want to say Madza 2015 -- 2015
10 Madza.

11 Q. Blue -- or is it a four door sedan --

12 A. Or Mitsubishi.

13 Q. Four door Sedan?

14 A. Yes, sir.

15 Q. Small or big?

16 A. A small -- yes, sir, a small vehicle.

17 Q. Okay. You're not concerned about your
18 sister's safety discharging the firearm into a vehicle
19 multiple times too much, are you?

20 A. I actually was. That's why I did not shoot --

21 Q. Okay. Well, your sister was in the back seat;
22 is that correct?

23 A. That's right.

24 Q. Okay. And she was lying down in the back
25 seat?

1 A. Correct.

2 Q. Nonresponsive?

3 A. Correct.

4 Q. And this vehicle, this driver is backing up
5 into you, coming backwards, and the door -- the
6 passenger side door, that passenger side door is coming
7 in at you and your gun is like this (indicating)?

8 A. That's --

9 Q. Aren't you concern that the gun is going to
10 start pointing towards Ms. Blatt (ph), towards your
11 sister at some point in that time?

12 A. I -- I was. I -- the gun was actually
13 pointing down -- the gun was pointing downward. And I
14 was not trying to, you know, shoot this guy or shoot my
15 gun at all, you know, for that matter. It just
16 happened when he backed the car up and it -- it just --
17 it just happened.

18 Q. This trailer that the vehicle ran into, okay,
19 that's across the street from your house; right?

20 A. That's correct.

21 Q. It actually is not directly across the street,
22 but almost cattycorner to your house; is that right?

23 A. Yes. It's -- it's right in front of my house,
24 the trailer.

25 Q. You're telling me that vehicle did not turn at

1 all -- did not turn at all and back into that trailer?

2 A. I'm not saying that it did or -- it wasn't in
3 like a cattycorner position.

4 Q. Okay. It wasn't much damage done to that
5 trailer, was there?

6 A. No. Because it bumped out -- it bumped this
7 whole rail. It didn't bump the rail -- it bumped this
8 big rail that was attached to the trailer.

9 Q. It bumped this big rail that is attached to
10 the trailer?

11 A. Yes, sir.

12 Q. The car running into the trailer is going to
13 leave some damage, isn't it?

14 A. But it didn't hit the trailer.

15 Q. Well, the car didn't have any damage to it
16 either, did it?

17 A. I'm not sure.

18 Q. Not very much. So, he must not have been
19 going all that fast?

20 A. I mean, he was -- he was -- he was going fast
21 enough to hurt us.

22 MR. OVERBY: Judge, I have nothing further of this
23 witness.

24 THE COURT: Redirect?

25 MR. ROBINSON: I have one question.

REDIRECT EXAMINATION BY MR. ROBINSON:

Q. Raeford, did you feel like you were able to -- any other option in this case besides -- besides getting out of the way of the going of the car?

A. Being in that position?

Q. Yes.

A. I really don't -- I really don't feel like I had another option because if I did, I wouldn't be here.

MR. ROBINSON: That's all the questions I have.

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

THE WITNESS: Thank you, Your Honor.

THE COURT: Yes, sir. Call your next witness, Mr. Robinson.

MR. ROBINSON: Your Honor, that is -- that is our case.

THE COURT: Okay. All right, Mr. Overby.

MR. OVERBY: May it please the court, Your Honor. The State calls Brianna Ware to the stand -- Brianna Blassingame.

BRIANNA WARE, having been first duly sworn, testified as follows --

THE CLERK: If you'll take the witness stand back here, please, ma'am, and state state your name and spell your last name for the reporter, please.

1 THE WITNESS: Brianna Ware, W-a-r-e.

2 DIRECT EXAMINATION BY MR. OVERBY:

3 Q. How are you today, Ms. Ware?

4 A. I'm good.

5 Q. Okay. You're also Brianna Blassingame, is
6 that correct?

7 A. That's my daddy's last name.

8 Q. Your daddy's last name. You sometimes go by
9 that?

10 A. Sir?

11 Q. Do you sometimes go by that?

12 A. People that know me, call me by that last
13 name, yeah.

14 Q. Okay. Well, I'm going to ask you to kind of
15 speak up so the courter reporter can hear you. Okay?

16 A. Okay.

17 Q. On the night of March 15th -- well, first of
18 all, how are you related to the defendant in this case?

19 A. That's my cousin.

20 Q. That's your cousin. Okay. On the night of
21 March 15th, 2015, who were you with that day -- or in
22 the early morning hours of March 15, 2015?

23 A. I was with my cousin, T-T, and Ryan and some
24 other people at a bar.

25 Q. Okay. And Ryan Tatum is the victim in this

1 case; is that correct?

2 A. Uh-huh.

3 Q. And T-T?

4 COURT REPORTER: Say yes or no, please.

5 A. Yes.

6 BY MR. OVERBY:

7 Q. And T-T is Taquana Blassingame; is that
8 correct?

9 A. Yes.

10 Q. Is that Mr. Wideman's sister?

11 A. Yes.

12 Q. Okay. You said you were at a bar, where was
13 this bar?

14 A. In Greenville.

15 Q. Okay. And how did you get to this bar?

16 A. Me and Taquana drove up there.

17 Q. Okay.

18 A. She drove -- we drove up there.

19 Q. And it was just you two; is that correct?

20 A. Yes, sir.

21 Q. Where did you leave from?

22 A. We left from the bar. We left from another
23 bar, but it was like an -- it was a house, but it was a
24 bar. We left from there.

25 Q. Okay. And I apologize, I actually meant where

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1 did you leave to go to Greenville from?

2 A. We were at our other cousin's house.

3 Q. Okay. Is that -- well, let me ask you this:

4 Where did you leave your vehicle before going to
5 Greenville?

6 A. At my cousin's -- at T-T's momma's house.

7 Q. Okay. And that's Mr. Wideman's house?

8 A. Uh-huh.

9 Q. Where was that vehicle when you left it?

10 A. It was in the grass.

11 Q. Okay. Now, as far as the vehicle is
12 concerned -- as far as that vehicle is concerned, you
13 said you went to Greenville?

14 A. Uh-huh.

15 Q. And Mr. Tatum was not with you when you left
16 to go to Greenville?

17 A. No, sir.

18 Q. Where -- did you meet him in Greenville?

19 A. Uh-huh.

20 COURT REPORTER: Yes or no, please?

21 A. Yes, sir.

22 BY MR. OVERBY:

23 Q. And who was Mr. Tatum?

24 A. It was Taquana's boyfriend, friend.

25 Q. Okay. Do you have any idea how long they had

1 been dating at that time?

2 A. No, sir.

3 Q. Okay. But it had not been just overnight;
4 correct?

5 A. No, sir.

6 Q. They had been together for a bit?

7 A. Uh-huh.

8 COURT REPORTER: Yes or no, please.

9 A. Yes, sir.

10 BY MR. OVERBY:

11 Q. All right. Who drove -- y'all went out, had
12 fun, did that kind of stuff; is that correct?

13 A. Uh-huh, yes, sir.

14 Q. Who drove back from Greenville to Anderson?

15 A. Ryan did.

16 Q. Ryan did.

17 A. Uh-huh.

18 Q. So Ryan volunteered to do so?

19 A. Yeah, because Taquana was just intoxicated and
20 I didn't know my way around up there.

21 Q. Okay. So, Ryan agreed to drive everybody back
22 to Anderson?

23 A. Uh-huh, yes, sir.

24 Q. Had full consent of everybody in the car to do
25 so?

1 A. Yes, sir.

2 Q. Now, I'll get back to Anderson, and where do
3 you go?

4 A. We went to T-T's momma's house to get my car.

5 Q. Okay. So that's Mr. Wideman's house?

6 A. Yes, sir.

7 Q. And that is 2316 South McDuffie Street --

8 A. Yes, sir.

9 Q. -- is that correct?

10 A. Yes.

11 Q. And that's in Anderson County?

12 A. Yes, sir.

13 Q. So, when you get back, what -- what happens as
14 far as your vehicle is concerned?

15 A. When we got back, I was going to get my car so
16 I can follow them to Taquana's house. But when we got
17 there, I can't get my car out the mud. So he got out
18 to help me, and we was trying to get it out, but we
19 couldn't get it out. So I told him, I would come and
20 get it in the morning.

21 Q. Okay. And he went to -- you had help from
22 another person?

23 A. Yes, sir. Somebody was walking down the road.

24 Q. Okay. Now, you decided you couldn't get the
25 car out of the mud, so you said, I'm going to -- so you

1 mentioned that you asked him for a ride; is that
2 correct?

3 A. Yeah. I told him I would just come and get
4 him in the morning, he can just take me home.

5 Q. Okay.

6 A. I was going to get my car in the morning.

7 Q. Okay. So, he got back -- you got back in your
8 car -- or in that car?

9 A. Uh-huh.

10 Q. The same -- it's a Mitsubishi Lancer; is that
11 correct?

12 A. Yes, sir.

13 Q. Okay. Now, was Mr. Wideman outside when you
14 got in that car?

15 A. When we got in the car, I looked up, he was at
16 the house door.

17 Q. Okay. But was he outside -- was Mr. -- let me
18 ask -- I guess this is my question: When Mr. Tatum got
19 in the driver's seat of the vehicle, was Mr. Wideman
20 outside yet?

21 A. No, sir.

22 Q. Okay. So, Mr. Wideman was not outside yet at
23 the time when that occurred, and you were in the
24 passenger seat --

25 A. Uh-huh.

1 Q. -- and Ryan was in the driver's seat?

2 A. Yes, sir.

3 Q. And Ms. Blassingame was in the back seat; is
4 that correct?

5 A. Yes, sir.

6 Q. T-T was?

7 A. Uh-huh.

8 Q. What happened at that point?

9 A. We got in the car, and that's when my cousin
10 came to the door, that's when he walked out to the car.

11 Q. And I'm sorry, T-T -- or, I'm sorry for
12 interrupting you -- but when you say "your cousin", you
13 mean the defendant in this case?

14 A. Yes, sir.

15 Q. Go ahead.

16 A. He walked out to the car. He asked what was
17 going on, and who was the dude that was driving the car
18 and why was Taquana in the back seat passed out. And I
19 told him he was about ready to go home, and it was
20 Taquana's boyfriend, and it was okay. We was okay.

21 Q. Okay. So you told him it was Taquana's
22 boyfriend and you were okay, you were straight?

23 A. Yes, sir.

24 Q. -- is that correct -- and, Mr. Tatum, did he
25 say anything animus?

1 A. No, sir.

2 Q. Did he make any kind of movement or threat?

3 A. No, sir --

4 MR. ROBINSON: Object -- objection, Your Honor.

5 That's leading.

6 THE COURT: Rephrase it please, sir.

7 MR. OVERBY: Yes, Your Honor.

8 BY MR. OVERBY:

9 Q. Was -- what, if any, threatening action did
10 Mr. Tatum take?

11 A. None.

12 Q. Where was Mr. Wideman when all of this was
13 going on in relation to the vehicle?

14 A. He was on my side talking to me.

15 Q. He was on your side talking?

16 A. Uh-huh.

17 Q. Okay. And was he in the path of the vehicle
18 at all?

19 A. What you mean?

20 Q. Like, in other words, was he -- he wasn't
21 behind the wheel?

22 A. No, sir.

23 Q. Okay. He wasn't -- was he in front?

24 A. No. He was just like on the side.

25 Q. On the side?

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1 A. Uh-huh.

2 Q. Right like this?

3 A. Uh-huh.

4 COURT REPORTER: Yes or no, please.

5 A. Yes, sir.

6 BY MR. OVERBY:

7 Q. All right. What happened after that?

8 A. After that, when I told him we was okay, and
9 that was his boyfriend -- that was Taquana -- I mean,
10 she was intoxicated. Ryan put the car in reverse and
11 just backed up, and all I heard was gunshots. And I
12 was just thinking, dodging and screaming.

13 Q. Did he floor it?

14 A. No. He put it in reverse.

15 Q. He just put it in the reverse?

16 A. Uh-huh.

17 Q. But he didn't floor it?

18 A. No, it -- not fast, no.

19 Q. Okay. And the next thing you heard was
20 gunshots?

21 A. Uh-huh.

22 Q. Did you ever see Mr. Wideman with a gun?

23 A. No, because at the same time I'm thinking, I'm
24 dodging, I'm screaming, so --

25 Q. Okay. So, did you see Mr. Tatum with a gun?

1 A. Uh-uh --

2 COURT REPORTER: Yes or no, please.

3 A. No.

4 BY MR. OVERBY:

5 Q. Okay. And what happened after that set of
6 circumstances went down?

7 A. I thought I heard more gunshots. I dropped
8 out the car, and I took off running. And I turned back
9 around and the car was still rolling.

10 Q. Okay. And where did it eventually come to
11 rest; do you remember?

12 A. It hit a trailer.

13 Q. Okay. And that was across the street?

14 A. Uh-huh, yes, sir.

15 Q. Okay. What happened at that point?

16 A. I ran in the house.

17 Q. Okay.

18 A. And I ran in the house to get his momma, and
19 she was asking what was going on, and that was it.

20 Q. Okay. Did Mr. Wideman come back in the house
21 afterwards?

22 A. Yeah, he came back in.

23 Q. Where did he go?

24 A. He was at the -- we was all at the living
25 room.

1 Q. Okay. And did he disappear from sight for a
2 little bit, to your recollection?

3 A. No, sir.

4 Q. Okay. And, Mr. Tatum, you don't remember Mr.
5 Tatum acting threatening in any way?

6 MR. ROBINSON: Objection, Your Honor. That's
7 leading.

8 THE COURT: Overruled. Go ahead.

9 BY MR. OVERBY:

10 Q. You don't remember Mr. Tatum acting
11 threatening in any way?

12 A. No, sir.

13 Q. Okay.

14 MR. OVERBY: I have no further questions for this
15 witness. Please answer any questions that Mr. Robinson
16 has for you, okay.

17 THE COURT: All right. Cross examination.

18 **CROSS EXAMINATION BY MR. ROBINSON:**

19 Q. Mr. Blassingame, you would admit that you were
20 drinking that night; weren't you?

21 A. Uh-huh, yes, sir.

22 Q. And when you and -- you and your cousin came
23 back in that car, you didn't drive the car because you
24 were drunk, weren't you?

25 A. I didn't drive the car because I didn't know

1 where I was at in Greenville.

2 Q. Okay.

3 A. I didn't know from back there where I was at.

4 Q. Okay. Let's go back to how much you drank
5 that night. Before coming back to -- to Anderson, how
6 much did you have to drink?

7 A. I didn't drink that much, like four cups. I
8 didn't drink that much.

9 Q. Like four Cokes?

10 A. Cups.

11 Q. Four cups of what?

12 A. Hennessy and coke.

13 Q. Okay. Hennessy is what?

14 A. Liquor, alcohol.

15 Q. Oh, okay. How big were the cups?

16 A. Not that big.

17 Q. And you had four cups?

18 A. Uh-huh. Yes, sir.

19 Q. Okay. And would you -- would you agree with
20 me that your cousin in the back seat was pretty drunk?

21 A. Yes, sir, she was intoxicated.

22 Q. Was she pretty unresponsive?

23 A. Not on the way home, she wasn't.

24 Q. But when she got -- when you got to McDuffie
25 Street, was she unresponsive?

1 A. Yes, sir.

2 Q. And she wasn't moving pretty much, was she?

3 A. No, sir.

4 Q. Did you know what was wrong with her?

5 A. She was drunk.

6 Q. Did she -- were you able to talk with her at
7 that time?

8 A. At that time, no. I couldn't wake her up.

9 Q. So she wasn't speaking, she wasn't making any
10 movements toward you, was she?

11 A. I mean, she was budging a little bit. But,
12 no, I could not get her woke.

13 Q. Can you repeat that please?

14 A. She was budging and moving a little bit. But,
15 no, I could not get her woke.

16 Q. In terms of the -- where Mr. Wideman, your
17 cousin was on the side of the car, he was in the back
18 passenger door looking after his sister, wasn't he?

19 A. He was at my passenger -- he was at my side on
20 my passenger door.

21 Q. Your side of your car?

22 A. Uh-huh.

23 Q. Where you were?

24 A. I was the passenger --

25 Q. Wasn't he back with his sister?

1 A. No. It was right there on the passenger side
2 of my door.

3 Q. Do you remember giving a statement to the
4 police, ma'am?

5 A. Did I give a statement -- yeah, I remember
6 giving a statement to the police.

7 Q. I'm sorry.

8 A. I remember giving a statement to the police,
9 yes.

10 Q. You never -- you never said that he was in the
11 passenger door on your side of that, at any point, did
12 you?

13 A. What I'm telling you now is the sorry I have
14 always given, he was on my passenger side. He was on
15 my passenger side door.

16 Q. But you never told the police in your
17 statement to them, that he was in your passenger door;
18 you told them he was in your cousin's passenger door,
19 in the back, isn't that right?

20 A. I never said that.

21 Q. You never said that. You never -- you said
22 that you never saw Raeford with a gun, did you?

23 A. At the time I was in the car, I never saw him
24 with a gun.

25 Q. You never saw him shoot this victim, did you?

1 A. All I was heard gunshots and I was looking and
2 dodging.

3 Q. Okay. Okay. Now, there was no one out there
4 with you at that time, was there, besides you, Mr.
5 Tatum, and the drunk cousin in the back seat and Mr.
6 Wideman, that was it, wasn't it?

7 A. Yes.

8 Q. No one -- no one else was in there?

9 A. No.

10 Q. No one was around the area that you saw
11 anyway?

12 A. The only person that helped with my car, but
13 he was gone down the road after we finished.

14 Q. He was gone off after you finished with the --
15 getting the car?

16 A. Yes.

17 Q. Is that right -- so at the time this shooting
18 happened, he was nowhere around, was he?

19 A. I didn't see him until I got -- came in from
20 the house -- from out of the house when it all
21 happened -- after it happened, that's when I seen him
22 back out there.

23 Q. So at the time -- at the time the shooting
24 happened, when you heard the shots, you never saw this
25 other fellow around, did you?

1 A. No.

2 Q. In terms of -- Mr. Overby asked you about the
3 pushing the pedal down, pushing the gas down, you
4 didn't actually see this pedal being pushed down, did
5 you?

6 A. No, but I know -- we wasn't going that fast.

7 Q. The question is this, ma'am: You did not see
8 the pedal --

9 A. No, sir.

10 Q. -- Mr. Tatum put his foot on the gas, you did
11 not see him do that?

12 A. No, sir.

13 Q. So you really don't know whether or not he
14 pushed it hard or not?

15 A. No, sir.

16 Q. Now, this -- Mr. Tatum had -- when y'all came
17 back to Raeford's residence to get your car that night,
18 Mr. Wideman didn't know this Mr. Tatum, did he?

19 A. I thought maybe all the family probably know
20 him. I don't know if he knowed him or not. I thought
21 maybe all of the family knew him.

22 Q. He didn't act like he knew him, did he?

23 A. No, sir.

24 MR. ROBINSON: Beg the court's indulgence.

25 (Pause.) I have no other questions, Your Honor. Thank

1 you.

2 THE COURT: Redirect?

3 **REDIRECT EXAMINATION BY MR. OVERBY:**

4 Q. Ms. Ware, your brother was pretty close to you
5 when all of this was -- or Mr. Wideman was pretty close
6 to you when all of this was going on; is that correct?

7 A. Yes, sir.

8 Q. In other words, he's on the passenger side of
9 the vehicle?

10 A. Uh-huh.

11 COURT REPORTER: Yes or no, please.

12 A. Yes, sir. Yes, sir.

13 BY MR. OVERBY:

14 Q. Your attention was pretty much focused on him
15 during that time; is that right?

16 A. Yes, sir. And tell him that we was okay, yes,
17 sir.

18 MR. OVERBY: I don't have any further questions.

19 THE COURT: All right. Thank you, ma'am. You may
20 step down. Any other witnesses?

21 MR. OVERBY: Yes, Your Honor. At this time, the
22 State calls Donnie McCown to the stand.

23 DONALD MCCOWN, having been
24 first duly sworn, testified as follows:

25 THE COURT: How about would y'all keep it down

1 back there please.

2 THE CLERK: Take the witness stand and state your
3 name and spell your last name for the reporter, please.

4 THE WITNESS: Donald McCown, M-c-c-o-w-n.

5 **DIRECT EXAMINATION BY MR. OVERBY:**

6 Q. Where do you work, sir?

7 A. I'm employed with the Anderson County
8 Coroner's Office.

9 Q. Okay. What is your position there at Anderson
10 County?

11 A. I am a full time Deputy Coroner.

12 Q. Okay. How long have you been employed at the
13 Anderson County Coroner's Office?

14 A. I have been employed 15 years, and two years
15 as a volunteer.

16 Q. Okay. And what are your duties as Deputy
17 Coroner at the Anderson County Coroner's Office?

18 A. The Coroner's Office is primarily responsible
19 for determining the manner and cause of death to
20 anybody that dies within the jurisdictional boundaries
21 of Anderson County.

22 Q. Okay. What training have you undergone to
23 assist you in your duties?

24 A. Numerous. I typically attend approximately
25 100 hours of training a week just in keeping up-to-date

D. MCCOWN -- DIRECT

1 with stuff. I'm board certified by the American Board
2 of Medical Legal Death Investigators. I'm also a
3 nationally registered paramedic for almost 40 years. I
4 hold an unbelievable amount of instructor's
5 certifications. I frequently teach at the Coroner's
6 Academy at the South Carolina Criminal Justice Academy,
7 and attend training programs throughout everything from
8 Advanced Homicide to Advanced Child Death
9 Investigations to much wider.

10 Q. Okay. And what additional experience do you
11 have, if any, in death investigations?

12 A. I have -- I have been a police officer,
13 firefighter and paramedic, so I -- not only just the
14 paramedic has prepared me a lot primarily because it
15 also instructs trauma care.

16 Q. Okay. What is role of the coroner in terms of
17 death investigation?

18 A. The primary role of the coroner is really a
19 fact finder. They predominately are responsible for
20 determining the cause and manner of death, and that
21 only. So, therefore, in the State of South Carolina,
22 death is classified into five categories. And the
23 coroner's ultimate responsibility is to determine if
24 somebody falls within those five categories for a
25 classification.

1 Q. Okay. And what do you do typically when you
2 respond to a scene?

3 A. Well, it really depends a lot on the scene.
4 You are typically notified prior to getting there by
5 either the local emergency medical services or the
6 local law enforcement that was first to arrive on the
7 scene, they would give you an idea of what type of call
8 you're going to. And then once you arrive, you
9 typically get a briefing by the EMS personnel, who was
10 first on the scene, which would dictate at what time
11 they pronounced the victim deceased, what they found
12 when they got there, and then you typically will speak
13 to the first responding officer to find what he
14 observed upon his arrival.

15 Q. And were you in this position in the early
16 morning hours of March 15, 2015?

17 A. Yes, sir.

18 Q. Okay. Were you on call during this time
19 period?

20 A. Yes, sir.

21 Q. Okay. And were you called out to an incident
22 scene at 2316 McDuffie Street?

23 A. Yes, sir.

24 Q. Okay. Is that located in Anderson County?

25 A. Yes, sir.

D. MCCOWN -- DIRECT

1 Q. And what did you observe when you arrived?

2 A. Well, upon arriving at the scene on that day,
3 it was foggy, dark still. I was met by forensics
4 officer, Blair Hill, and a couple of first responding
5 officers, Carla King, who is a paramedic with Midshore
6 Ambulance Service, who informed me that I had a victim
7 in a vehicle that had sustained gunshot wounds.

8 Q. Okay. I'm going to show you a series of
9 photographs here.

10 MR. OVERBY: Your Honor, these photographs are
11 marked for identification purposes for the trial as
12 State's Exhibit 3-a through 3-d.

13 THE COURT: All right, sir.

14 BY MR. OVERBY:

15 Q. What are those photographs?

16 A. These photographs appear to be photographs of
17 the scene of the incident that I responded to on
18 McDuffie Street -- on South McDuffie Street.

19 Q. Do they fairly and accurately represent what
20 you observed that particular evening?

21 A. Yes, sir.

22 MR. OVERBY: Okay. At this time, I would like to
23 move these photographs into evidence for the limited
24 purpose of this hearing, Your Honor.

25 THE COURT: Any objection for the limited purpose

1 of this hearing?

2 MR. ROBINSON: I apologize. I apologize.

3 (Pause.)

4 MR. ROBINSON: No objection.

5 THE COURT: All right. They will be admitted for
6 the purposes of this hearing only.

7 (State's Exhibits Nos. 3-a through 3-d
8 admitted.)

9 MR. OVERBY: The court's indulgence, Your Honor.

10 (Pause.)

11 BY MR. OVERBY:

12 Q. Mr. McCown, I'm going to ask you to step down
13 for me please, sir.

14 A. Yes, sir.

15 Q. I would like for you to come over here and
16 utilize this photograph. This fairly and accurately
17 represents what you saw at the scene; is that correct?

18 A. Yes, sir.

19 Q. And what is this that's over here?

20 A. This is a small blue car that appears to be
21 backed up against a mobile home.

22 Q. Okay. And is that the location where you
23 found Mr. Tatum?

24 A. Yes, sir.

25 Q. Okay. That's where you found the body?

1 A. Yes, sir.

2 Q. Does this photograph represents the scene as
3 you recall?

4 A. Yes, sir.

5 Q. Okay. What can you tell me about that
6 photograph?

7 A. This is the residence that the vehicle
8 reportedly -- from the bystanders -- told me was
9 sitting in the driveway, and came out, and then backed
10 into the mobile home.

11 Q. Okay. And what is this a photograph of?

12 A. This is the blue vehicle that the decedent was
13 found in.

14 Q. Okay. Where was he found?

15 A. In the driver's seat.

16 Q. So, right here?

17 A. Yes, sir.

18 Q. Okay. And what is this a photograph of?

19 A. This is a photograph of the passenger's side
20 of the vehicle.

21 Q. Okay. Was this window up when you got there?

22 A. The one in the back?

23 Q. Yes.

24 A. Yes, sir.

25 Q. Okay. All right. I'm going to show you a few

1 more exhibits here.

2 MR. OVERBY: These are marked for identification
3 purposes State's 3-e and 3-f, Your Honor.

4 BY MR. OVERBY:

5 Q. What are those photographs of?

6 A. Photograph -- this was a picture of the
7 decedent slumped over in the driver's seat of the
8 vehicle. The second photograph is a picture of the
9 decedent's driver's license.

10 Q. Okay. And do they fairly and accurately
11 represent what you observed?

12 A. Yes, sir.

13 MR. OVERBY: I would like to move these into
14 evidence for the purposes of this hearing.

15 MR. ROBINSON: No objection.

16 THE COURT: Admitted for this hearing only.

17 (State's Exhibits 3-e & 3-F admitted.)

18 BY MR. OVERBY:

19 Q. What is that photograph of, sir?

20 A. This is a photograph of the decedent slumped
21 over in the driver's seat of the vehicle.

22 Q. Is that how you found him?

23 A. Yes, sir.

24 Q. Okay. So, he was slumped over in the driver's
25 seat of the vehicle at the time -- at the time this

1 incident occurred?

2 A. Yes.

3 Q. Or when you arrived -- was the seat belt
4 engaged?

5 A. Yes, sir.

6 Q. Okay. And this is how -- did you use this to
7 help identify the individual?

8 A. I did.

9 Q. Okay. Can you tell me where he was from?

10 A. He was from Mauldin, South Carolina.

11 Q. Okay. I show you these additional
12 photographs. These are marked for identification
13 purposes State's Exhibit 3-g and 3-h.

14 MR. ROBINSON: No objection for the purposes of
15 this hearing, Your Honor.

16 THE COURT: Admitted for that purpose.

17 (State's Exhibits 3-g & 3-h admitted.)

18 BY MR. OVERBY:

19 Q. What is that photograph, sir?

20 A. This is a photograph of the decedent sitting
21 in the driver's seat of the vehicle.

22 Q. Okay. What is this a photograph of?

23 A. This is a photograph of an apparent gunshot
24 wound to the back of the decedent.

25 Q. Okay. Do they fairly and accurately represent

1 what you observed on that evening?

2 A. Yes, sir.

3 Q. Okay. With regards to these photographs, this
4 photo right here, first, and in sequence, this
5 photograph here, okay.

6 A. Yes, sir.

7 Q. You said Mr. Tatum's body was slumped over at
8 the time of this incident; correct?

9 A. Yes, sir.

10 Q. Okay. Did you move the body subsequently?

11 A. I did.

12 Q. Okay. Why did you do that?

13 A. So I can see the back of the -- in order to
14 observe the wounds on the anterior shaft.

15 Q. So, he -- so, you slumped -- you set him back
16 up as if he was sitting in the vehicle?

17 A. Yes, sir.

18 Q. -- is that correct -- and in this photograph,
19 what is it that you observed?

20 A. I observed a gunshot wound to the back near
21 the right shoulder -- upper shoulder that appears to be
22 a gunshot wound of entrance, and then apparently exited
23 the front of the chest.

24 Q. Now, you know that from your experience and
25 training?

1 A. Yes, sir.

2 Q. And that is the exit point; is that correct?

3 A. Yes, sir.

4 Q. All right. I'm going to show you finally
5 what's been marked as State's Exhibit 3-i through 3-L.

6 MR. ROBINSON: No objection.

7 BY MR. OVERBY:

8 Q. What are these photographs of, sir?

9 A. These are photographs of what I interpret as
10 bullet holes.

11 Q. Okay. And do they fairly and accurately
12 depict what you observed on that particular evening?

13 A. Yes, sir.

14 Q. Where are those located?

15 A. Two of the bullet holes are noted -- I'm
16 sorry -- one bullet hole is noted in the driver's side
17 door. And another bullet hole that did not exit is
18 noted in the driver's side door.

19 Q. Okay.

20 A. A bullet hole into the interior driver's side
21 door.

22 Q. If I can have the photographs real quick. I
23 just want to move to make sure -- I move -- the State
24 would like to move these photographs into evidence.

25 THE COURT: What are the numbers again? What are

1 their numbers again, Your Honor?

2 MR. OVERBY: Yes, sir. These are 3-i through 3-L.

3 THE COURT: Three-L. Okay. Admitted for this
4 hearing.

5 (State's Exhibits 3-f through 3-L admitted.)

6 MR. OVERBY: And I apologize.

7 THE COURT: That's okay.

8 BY MR. OVERBY:

9 Q. Now, can you tell me -- highlight to me what
10 these mean to you -- these bullet holes, these --

11 A. These are actually -- appear to be bullet
12 holes to me.

13 Q. Okay.

14 A. One bullet hole is obviously on this side. It
15 has exited. The other other bullet hole did not exit
16 the door.

17 Q. Okay. What is that a photograph of?

18 A. This is a photograph of the interior side of
19 the driver's door, and I have actually scaled what
20 appears to be a bullet hole through the panel.

21 Q. Okay. So this is the -- that is the same door
22 --

23 A. Yes, sir.

24 Q. -- is that correct -- all right. And what is
25 that?

1 A. This is another bullet hole to the interior
2 side of the driver's door.

3 Q. Okay. All and all, how many bullet holes were
4 in the door?

5 A. Two bullet holes were in the door.

6 Q. Okay. Were there any other bullet holes to
7 your recollection in the door?

8 A. No, sir, not in the door.

9 Q. Okay. And these are all -- you can take --
10 step back.

11 A. Thank you, sir.

12 Q. Did you go to the autopsy in this case?

13 A. I'm sorry, sir?

14 Q. Did you go to the autopsy in this case?

15 A. Yes, sir.

16 Q. Okay. So you were present when the medical
17 examiner was conducting his findings?

18 A. Yes, sir.

19 MR. OVERBY: Your Honor, at this time, pursuit to
20 stipulation, I would like to move State's Exhibit No. 5
21 into evidence, which is the autopsy report.

22 THE COURT: Okay. Admitted.

23 (State's Exhibit No. 5 admitted.)

24 BY MR. OVERBY:

25 Q. Talk about the interrelation between the

1 medical examiner's testimony and that of the
2 investigation of deputy --

3 COURT REPORTER: Deputy who?

4 A. I'm sorry, sir.

5 BY MR. OVERBY:

6 Q. I apologize. Talk about the interrelation
7 between your investigation and the examination by the
8 the medical examiner.

9 A. Okay. We have a two tone approach in our
10 county, which is typically across the United States,
11 which is you have an investigative staff that proceeds
12 the same -- correlates with all the information at the
13 scene, and then presents that information to the
14 pathologist, who is a physician, who is trained to
15 analyze wounds and injuries to the body.

16 He basically takes that information along with
17 the information that's achieved at the scene or
18 gathered at the scene, and then correlates to what we
19 believe happened. That's the same way the
20 investigative officer, when we are there, we take what
21 the pathologist says, you know, what we find at the
22 scene, and we mirror that together to make sure it
23 comes up to the conclusion -- or a workable analysis of
24 what we determine happened at the scene.

25 Q. Okay. Are you aware of what the pathologist

1 made as the determination as to the -- in regards to
2 the death of the individual?

3 A. Yes, sir.

4 Q. What was that?

5 A. That the victim had sustained three gunshot
6 wounds.

7 Q. Okay.

8 A. One gunshot basically entered the upper part
9 of the right side of the back, exited the left anterior
10 chest. One bullet hole had entered the right forearm,
11 exited out. And one bullet hole had entered the left
12 leg, just below the knee cap, and exited out.

13 Q. Okay. And those -- the one that hit him in
14 the shoulder, through the chest, those are what we saw
15 on the screen here, the photographs?

16 A. Yes, sir.

17 Q. And that's what is eventually killed Mr.
18 Tatum?

19 A. Yes, sir.

20 Q. -- is that correct -- and all three of these
21 injuries, they are on his arm and his knee; is that
22 correct?

23 A. Two -- one's on his arm and one is on his
24 knee, and then one in the chest.

25 Q. One in the shoulder?

1 A. Or one in the shoulder, yes.

2 Q. In through the chest. And what direction is
3 that going?

4 A. The trajectory analysis indicates a downward
5 trajectory that indicates that the bullet went through
6 the shoulder, out the anterior chest, into the door of
7 the car.

8 Q. Okay. So shot him in the back?

9 A. Yes, sir.

10 Q. Did did -- you draw any blood from the victim
11 in this particular case?

12 A. Yes, sir.

13 Q. Is that standard practice?

14 A. It is.

15 Q. Did you send that off for testing?

16 A. Yes, sir.

17 Q. Where did you send that?

18 A. That went to SLED, South Carolina Law
19 Enforcement Division, Toxicology Unit.

20 Q. Are you familiar with what the results of that
21 blood test were of the victim?

22 A. Yes, sir.

23 Q. Okay. Can you tell me -- the court?

24 A. He was negative on drugs, which we also did at
25 the scene, which was negative. And then his blood

1 alcohol came back two twenty-nine.

2 MR. OVERBY: I have no further questions for you.
3 Please answer any questions defense counsel has for
4 you.

5 A. Yes, sir.

6 THE COURT: Cross examination.

7 MR. ROBINSON: Please the court.

8 **CROSS EXAMINATION BY MR. ROBINSON:**

9 Q. Deputy Coroner, you have a copy of your
10 Coroner Summary, don't you?

11 A. Yes, sir.

12 Q. Can you do me a favor -- can you turn to page
13 4 if you don't mind.

14 A. Yes, sir.

15 Q. At -- excuse me -- at the top of the page, it
16 has "nose, mouth and neck".

17 A. Where -- I'm looking at the examination, sir.

18 Q. Yeah.

19 A. Yes, sir.

20 Q. So you're on page 4 and we're looking at the
21 same page. Okay. Let's go down to -- this is -- you
22 typed this report up yourself, didn't you?

23 A. I'm sorry, sir?

24 Q. Okay. This is your findings, your report,
25 right?

1 A. Yes, sir.

2 Q. Okay. Let's look at the first -- it's going
3 to be the first large paragraph, and it starts with the
4 "decedent appears"; do you see that paragraph?

5 A. I'm sorry, sir. I didn't understand the
6 question.

7 Q. Let's look down the page at the first full
8 paragraph.

9 A. Yes, sir.

10 Q. It starts with the two words "the decedent",
11 do you see it?

12 A. Okay.

13 Q. Okay. And let's talk about in the second
14 sentence, it's with "it is the opinion of this
15 investigator" -- is that you talking -- is that you
16 saying that?

17 A. Yes, sir.

18 Q. And tell me what you said in your -- your
19 coroner's summary report?

20 A. "The decedent appears to have brought the
21 female to her residence and was confronted by the
22 brother of the female. It's the opinion of this
23 investigator that Raeford Derrane Wideman was standing
24 on the passenger side of the vehicle, near the rear
25 passenger door, when this firearm fired a minimum of

1 three shots into the vehicle, striking the decedent in
2 the right posterior aspect of his back, with travel
3 through the decedent's body, next to anterior chest,
4 and struck interior driver's side door."

5 Q. Okay. So we agree -- so you would agree that
6 in your opinion --- based on your experiments and so
7 forth, that he was standing in the right rear passenger
8 door when the shooting took place?

9 A. He was standing on the passenger side of the
10 vehicle, yes, sir.

11 Q. Also, but -- let's be careful -- passenger
12 side of the vehicle at the rear passenger door, that's
13 what you say?

14 A. Yes, sir.

15 Q. So he was standing, according to you in your
16 report that you typed up yourself, he was standing
17 according to your opinion in the rear passenger door
18 when the firearm went off, right?

19 A. Yes, sir.

20 Q. And as far as the -- as far as the direction
21 of the bullets go, you would agree that the bullets
22 were going in a downward direction; is that correct?

23 A. Yes, sir.

24 Q. Okay. Now, in terms of the -- Mr. Overby
25 talked about the bullets -- the three bullets that were

1 fired, do you know -- do you know the time or do you
2 have any idea which bullet went first, which bullet
3 went second and which bullet went third?

4 A. No, sir.

5 Q. So you have no idea -- you cannot give an
6 opinion; correct?

7 A. No, sir.

8 Q. But you would agree one bullet went in a
9 downward direction, went in the left leg; right? Left
10 leg, below the knee I think, right?

11 A. Yes, sir.

12 Q. And also the -- the right forearm, right?

13 A. Yes, sir.

14 Q. And also one went through the shoulder, down
15 through the chest; is that correct?

16 A. Yes, sir.

17 Q. And you're not sure which one happened first;
18 correct?

19 A. No, sir.

20 Q. Mr. Overby let you look at a -- look at a
21 picture of the window; do you remember that picture
22 that you looked at?

23 A. I'm sorry, sir.

24 Q. Mr. Overby showed you a picture of the window
25 of the car?

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1 A. Yes, sir.

2 Q. Do you remember that. You don't know when
3 that window was -- was put up or anything, do you?

4 A. I do not, no, sir.

5 Q. You -- so you have no idea whether it was down
6 before or up before, do you?

7 A. No, sir.

8 MR. ROBINSON: That's all I have. Thank you.

9 MR. OVERBY: No redirect.

10 THE COURT: All right. Thank you, sir. You may
11 step down. Any other witnesses?

12 MR. OVERBY: Yes, Your Honor. The State would
13 call investigator Nathan Mitchell to the stand.

14 NATHAN MITCHELL, having been
15 first duly sworn, testified as follows:

16 THE CLERK: If you would take the witness stand,
17 please, sir, and state your name and spell your last
18 name for the reporter, please.

19 THE WITNESS: Nathan Mitchell. M-i-t-c-h-e-l-l.

20 **DIRECT EXAMINATION BY MR. OVERBY:**

21 Q. Where are you employed, sir?

22 A. Anderson County Sheriff's Office.

23 Q. How long have you been employed with the
24 Anderson County Sheriff's Office?

25 A. Fourteen years or so.

1 Q. Okay. And what are your duties as a homicide
2 investigator with Anderson County Sheriff's Office?

3 A. Homicide Investigator takes routine call every
4 so many weeks, get called to scenes to investigate any
5 kind of suspicious death or any kind of death really.

6 Q. And were you in this role on the night of
7 March 15, 2015?

8 A. Yes, sir.

9 Q. Okay. Were you on-call during that time?

10 A. Yes, sir.

11 Q. Did you respond to a shooting that occurred on
12 that particular evening on 2316 South McDuffie Street?

13 A. Yes, sir.

14 Q. Okay. Who assisted you -- who assisted you on
15 the scene investigation from the Sheriff's Office?

16 A. There was a few road officers there. Then at
17 the time, Sgt. Rob. Gebing arrived, interviewed
18 witnesses. Deputy Coroner McCown was there. Nikki
19 Branch, who was forensics with our Sheriff's Office at
20 the time was there. There were two other investigators
21 that were on call as well, they responded. Detective
22 Scotty Hill and Detective Jeremy Garret.

23 Q. Okay. And what did you observe when you
24 arrived?

25 A. When I arrived, it was still -- it has not got

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1 quite daylight. When I arrived, I saw crime scene tape
2 on one side of the road, and really going across the
3 road. As I arrived, the vehicle was to the left, and
4 it was a -- a vehicle was backed into a trailer on the
5 left side of the road, typical scene other than that.

6 Q. Okay. So then -- in those photographs that
7 you saw earlier from Investigator McCown, those were
8 representative of the scene?

9 A. Yes, sir.

10 Q. What did you do?

11 A. I started collecting -- trying to figure out
12 my resources, talked to people, figure what direction
13 it would go in, make sure that resources were coming
14 that we needed as far as crime scene, and all that good
15 stuff. And once all that was established, I started
16 interviewing witnesses.

17 Q. Okay. And were -- you were made aware that
18 there were witnesses -- how many?

19 A. Two that I know of.

20 Q. Okay. And who were they?

21 A. Willie McDonald and a Brianna Blassingame.

22 Q. Okay. And who did you speak with on the
23 scene? Did you speak with both of them?

24 A. Yes, sir.

25 Q. Okay. Based on those conversations, did you

1 come up with a potential suspect in this matter?

2 A. Yes, sir.

3 Q. Okay. Who was that?

4 A. Mr. -- Mr. Wideman.

5 Q. Okay. And what did you do at that time -- or
6 what was done with Mr. Wideman at that time?

7 A. By the time I learned of -- or when I was
8 talking with the witness, then Sgt. Gebing was -- had
9 already spoke with Mr. Wideman.

10 Q. Okay.

11 A. He was detained. And I spoke with Sgt. Gebing
12 at the time. And later on that morning, we asked him
13 to come back to the office for a formal interview.

14 Q. Okay. Was a search warrant executed on the
15 house?

16 A. Yes, sir. Detective Scotty Hill and Jeremy
17 Garrett.

18 Q. Okay. And was a gun found in this particular
19 case?

20 A. Yes, sir.

21 Q. Okay. And who collected that?

22 A. I wasn't at the house then.

23 Q. Okay. But the gun was collected from the --

24 A. Yes. Yes, sir.

25 Q. -- house and placed in property --

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1 A. Yes, sir.

2 Q. -- and that was part of this investigation.
3 Okay. You did interview with the defendant in this
4 case?

5 A. Yes, sir.

6 Q. Where was that -- where did interview take
7 place?

8 A. It took place at the Anderson County Sheriff's
9 Office in our interview room.

10 Q. Okay. Who all was present during that time?

11 A. Myself and Rob Gebing.

12 Q. Okay. Let me show you what's been marked as
13 State's Exhibit 6 for identification purposes; can you
14 tell me what that is?

15 A. This is a Standard Advisory Rights form and
16 Waiver of Rights form that we use.

17 Q. Okay. And that Advisory of Rights form --
18 well, let me just ask you an additional question about
19 that. It's a standard form, but is it specific to this
20 case in some way?

21 A. Yes, sir. Every time we go through this form,
22 I fill in the person's name I interviewed and the date
23 and where we're at. Up at the top, you can't see, but
24 I ask the highest level of education. These marks over
25 on the side, I ask the person I'm talking to to read

1 these two sentences out loud. And that inherent
2 coercion, I underline the word "coercion" and explain
3 "coercion" because that's not a word that a lot of
4 people use.

5 Q. Who did you present that to?

6 A. Mr. Wideman.

7 Q. Mr. Wideman. Okay. And you went through all
8 of that with him?

9 A. Yes, sir.

10 Q. Why do you do that?

11 A. To make sure he clearly understands his
12 rights.

13 Q. Okay. That he -- his Miranda Warnings?

14 A. Yes, sir.

15 Q. Essentially, did he appear to understand?

16 A. Yes, sir.

17 Q. Okay. Did he agree to provide you with a
18 voluntary statement?

19 A. Yes, sir.

20 Q. And was he in custody at this time?

21 A. He was detained. I mean, -- it was perceived
22 custody.

23 Q. Okay. So -- but he knew that?

24 A. Yes, sir.

25 Q. And he was given the information -- he was

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1 given that form to read?

2 A. Yes, sir.

3 Q. And explained to him?

4 A. Yes, sir.

5 Q. And this is at the Sheriff's Office?

6 A. Yes, sir.

7 Q. Who was with you conducting this particular
8 interview?

9 A. Rob Gebing.

10 MR. OVERBY: Okay. Your Honor, at this time, I
11 would like to move State's Exhibit No. 6 into evidence
12 for the purposes of this hearing.

13 MR. ROBINSON: No objection, Your Honor.

14 THE COURT: Admitted.

15 (State's Exhibit No. 6 admitted.)

16 BY MR. OVERBY:

17 Q. Rob Gebing was there?

18 A. Yes, sir.

19 Q. Was this interview -- did he video record it?

20 A. Yes, sir.

21 Q. Okay. Have you had an opportunity to review
22 the video recording?

23 A. A few times.

24 Q. Okay. Does it fairly and accurately depict
25 that which you observed on that particular day?

1 A. Yes, sir.

2 Q. Or in that conversation?

3 A. Yes.

4 MR. OVERBY: Your Honor, at this time, I'm
5 actually going to move State's Exhibit No. 7 -- move
6 this into evidence, Judge, State's Exhibit No. 7. This
7 is our -- we're outside the presence of the jury --
8 this is our redacted interview of this. I'm actually
9 going to play it through the next witness, though, Your
10 Honor.

11 THE COURT: Okay, sir. Is there any objection,
12 Mr. Robinson?

13 MR. ROBINSON: No, sir.

14 THE COURT: For purposes of this hearing.

15 (State's Exhibit No. 7 admitted.)

16 BY MR. OVERBY:

17 Q. Did you process the vehicle in this particular
18 case?

19 A. I did not process it.

20 Q. Well, were you there when it was being
21 processed?

22 A. Yes, sir.

23 Q. Okay. So you were observing -- let me take
24 that back in terms of processing -- what does
25 processing means in terms of -- in your mindset?

1 A. In my mindset, processing means actually
2 looking for fingerprints, collecting evidence, taking
3 photographs, actually working with the vehicle.

4 Q. Okay. So you have an investigator -- forensic
5 investigator who does that aspect?

6 A. Yes, sir.

7 Q. But you're the primary investigator and so you
8 take conclusions based on that as well?

9 A. Yes, sir.

10 Q. Right.

11 A. I stand by it and observe their findings.

12 Q. Did you observe anything about the driver's
13 side door of this vehicle?

14 A. Yes, sir. The driver's side door has a couple
15 of bullet strikes.

16 Q. Okay. Do you know how many bullet holes it
17 had there?

18 A. Two to my memory.

19 Q. Okay. I'm going to show you these photographs
20 and see if that might refresh your recollection? These
21 are photographs 8-f and 8-g.

22 MR. ROBINSON: No objection for this hearing.

23 THE COURT: All right. Very good.

24 (State's Exhibits 8-f and 8-g admitted.)
25

1 BY MR. OVERBY:

2 Q. Are those photographs of the doors you
3 remember?

4 A. Yes, sir.

5 Q. Okay. How many bullet holes were there?

6 A. There's three inside the driver's door.

7 Q. Okay. Does that fairly and accurately depict
8 the vehicle -- the bullet holes in the vehicle in
9 question that you recall?

10 A. Yes, sir.

11 Q. Now, in these photographs, what are these
12 things that are placed inside the doors?

13 A. Trajectory rods.

14 Q. Okay. What is their purpose?

15 A. They're rods that show the path the bullet
16 traveled.

17 Q. Okay. And do you use those in most gunshot
18 investigations?

19 A. Yes, sir.

20 Q. So you had three shots, correct?

21 A. Yes, sir.

22 Q. All right. And three rods that were placed
23 inside this door?

24 A. Yes, sir.

25 Q. Okay. And can you advise as to the direction

N. MITCHELL -- DIRECT

1 in which those trajectory rods appear to be angling?

2 A. It appears that based on the trajectory of the
3 rods that the shooter -- or the gun would be in the
4 back passenger area of the car.

5 Q. Okay.

6 A. Inside the vehicle.

7 Q. And shooting in a downward direction?

8 A. Yes, sir.

9 MR. OVERBY: Detective, I have no further
10 questions for you. Please answer any questions defense
11 counsel has for you.

12 THE WITNESS: Yes, sir.

13 MR. ROBINSON: I have no questions.

14 THE COURT: All right. Thank you, sir. You may
15 step down.

16 THE WITNESS: Thank you, sir.

17 THE COURT: Call your next witness.

18 MR. OVERBY: May it please the court, Your Honor.
19 The State now calls Lt. Rob Gebing.

20 ROBERT GEBING, having been
21 first duly sworn, testified as follows:

22 THE CLERK: If you'll take the witness stand,
23 please, sir, and state your name and spell your last
24 name for the reporter, please.

25 THE WITNESS: My name is Robert Gebing,

1 G-e-b-i-n-g.

2 **DIRECT EXAMINATION BY MR. OVERBY:**

3 Q. Where are you presently employed, sir?

4 A. I've employed by the Anderson County Sheriff's
5 Office.

6 Q. In what capacity?

7 A. I'm a Lieutenant with Criminal Investigations
8 Division.

9 Q. Okay. How long have you been a Lieutenant
10 with Criminal Investigations Division?

11 A. Since January of this year.

12 Q. Okay. What did you do prior to that?

13 A. Prior to that, I was a sergeant with the
14 agency. I spent about a year and a half working in the
15 gang unit. Prior to that, I was a sergeant with the
16 criminal investigations division. I've been with the
17 criminal investigations since 2 -- 2005.

18 Q. Okay. And part of your role, do you get --
19 are you involved in the investigations of homicides?

20 A. At times, yes, sir.

21 Q. Okay. When you are involved in these
22 investigations, what kind of role do you -- what
23 typically do you do when you come on the scene?

24 A. Are you talking about before my supervisory
25 role or after?

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1 Q. Before your supervisory.

2 A. When I was working as a homicide investigator,
3 upon arriving at the scene, you kind of take over the
4 scene. It's going to be your case, so you kind of have
5 to start kind of prioritizing your -- you know, your
6 work and figuring out who needs to be interviewed and
7 what needs to be done. You kind of run the entire
8 operation because it's your case.

9 Q. And at the time when -- on the date of March
10 15, 2015, in the early morning hours, were you in your
11 role as a homicide investigator?

12 A. I was a supervisor at that time, sir.

13 Q. You were a supervisor?

14 A. Yes, sir.

15 Q. Okay. But did you assist in the investigation
16 of the shooting at 2316 South McDuffie Street?

17 A. Yes, sir.

18 Q. Okay. What did you do once you got there?

19 A. I met with Detective Mitchell and kind of got
20 a brief understanding of what was going on, what had
21 been done at that point, what needed to be done; and
22 then I offered to assist and began conducting some
23 interviews.

24 Q. Okay. And in what manner did you assist?

25 A. Again, just as an additional resource, you --

1 I came and started helping with some of the interviews
2 with some of the persons involved.

3 Q. Okay. Did you ever have an opportunity to
4 have an interview with Mr. Wideman, who is the
5 defendant in this case?

6 A. I did.

7 Q. Okay. I want to show you what's been marked as
8 State's Exhibit ID -- Exhibit 18 for identification
9 purposes.

10 MR. ROBINSON: No objection.

11 THE COURT: Admitted for this hearing.

12 (State's Exhibit No. 18 admitted.)

13 BY MR. OVERBY:

14 Q. What is that?

15 A. This is a copy of an Anderson County Sheriff's
16 Office Advisory of Rights.

17 Q. Okay. And who's -- who was that specifically
18 provided to?

19 A. This was to the defendant, Mr. Wideman.

20 Q. And how do you know -- how do you know that?

21 A. This is all written in my hand. This is the
22 form that I filled out, so this is my writing. This is
23 my signature. This is my writing.

24 Q. And that is something that you provided to Mr.
25 Wideman specifically?

1 A. Yes, sir. Commonly referred as to the Miranda
2 Rights. This is how, as a matter of practice, we go
3 through them. We have the standardized form which all
4 the detectives and all the officers use, and this is a
5 copy of it, sir.

6 Q. Okay. And you asked him all of the questions
7 -- you went through that form with him?

8 A. I did.

9 Q. Okay. Was he free to leave at the time that
10 you were asking him that question?

11 A. Unfortunately he was not. I explained that to
12 him as we were going through it. It was still rather
13 early in the investigation. And because he was not
14 free to leave, that I needed to go through this portion
15 of it before we talked.

16 Q. Did he understand that?

17 A. Yes, sir.

18 Q. Did he agree to provide you with a voluntary
19 statement?

20 A. As indicated by his signature and willing to
21 talk, yes, sir.

22 Q. Okay. And he knew that you did -- and he knew
23 the various rights that you advised him of based off
24 that form?

25 A. Yes, sir. Part of -- part of the procedures

1 I'm going through this again I clarify as far as his
2 level of education, does he have the ability to read
3 and write. And I even asked him, hey, can you read
4 these lines out loud for me. I'll ask him to sign and
5 initial a few places. That does a couple of things for
6 me, it verifies that they are not struggling to read or
7 write, they don't need glasses or contacts, and that
8 they can then follow some simple instructions by, you
9 know, initialing and reading what I ask them to. So
10 taking all things into consideration, I felt like he
11 understood what we were doing.

12 Q. Okay. And you gave him -- and he gave you a
13 statement thereafter?

14 A. He did.

15 Q. Okay.

16 MR. OVERBY: Your Honor, I believe you've already
17 ruled that this is in evidence, State's Exhibit No. 18
18 for purposes of this hearing.

19 BY MR. OVERBY:

20 Q. Was this interview audio recorded?

21 A. Yes, sir.

22 Q. Okay. Did you -- have you had an opportunity
23 to listen to this audio recording?

24 A. I have, yes, sir.

25 Q. Did it fairly -- does it fairly and accurately

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1 reflect that which you observed of your conversation?

2 A. Oh, yes, yes, sir.

3 MR. ROBINSON: No objection as it's redacted --

4 THE COURT: Say that again.

5 MR. ROBINSON: Your Honor, he has -- has advised
6 us this is a redacted copy, so I have no objection.

7 THE COURT: What exhibit number is that?

8 MR. OVERBY: This is exhibit number 19 -- State's
9 Exhibit No. 19.

10 THE COURT: Okay. Admitted for this hearing.

11 MR. OVERBY: Thank you.

12 (State's Exhibit No. 19 admitted.)

13 MR. OVERBY: At this time, the State wishes to
14 publish exhibit number 19 for Jackson v. Denno as to
15 the Castle Doctrine.

16 THE COURT: Okay, sir.

17 MR. OVERBY: The court's indulgence, Your Honor.

18 (Pause.)

19 (Whereupon, State's Exhibit No. 19 was played in
20 open court.)

21 BY MR. OVERBY:

22 Q. Lt. Gebing, was the -- was Mr. Wideman telling
23 the truth about the firearm?

24 A. I mean, initially he did not. But later he
25 told us approximately where it was at. But if I

1 recall, there was still some discrepancy or at least
2 what I was told.

3 Q. But you did find the firearm?

4 A. We did find the firearm, yes, sir.

5 Q. Okay. Now, did you -- where -- did you take
6 part in a subsequent interview with the defendant?

7 A. We did later -- at a later time at the
8 Sheriff's Office.

9 Q. Okay. And who were you with at that time?

10 A. Detective Mitchell joined us at that time.

11 Q. Okay. In your estimate, you did not read him
12 the Miranda Rights in that interview; is that correct?

13 A. That one I did not. Detective Mitchell did
14 that one.

15 Q. Okay. And -- but in your estimate, was there
16 any issue with regards to providing a voluntary
17 statement?

18 A. No -- no, other than the fact there had been a
19 little bit of a break in the time since the first
20 Miranda and the second. That was the only thing I --
21 was to be concerned about --

22 Q. Did -- did he indicate to you in any way that
23 he was concerned about providing the second statement?

24 A. Oh, no. He was -- he was very forthcoming.

25 Q. Okay.

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1 MR. OVERBY: Your Honor, at this time, I would
2 like to publish State's Exhibit No. 19, which is a
3 subsequent interview.

4 THE COURT: How long is this?

5 MR. OVERBY: This one is about an hour and 20
6 minutes.

7 THE COURT: No, sir. Let me see the attorneys
8 back here.

9 (Whereupon, a bench conference was held.)

10 (After a recess, Court reconvened.)

11 THE COURT: Would you bring the jury in, please
12 ma'am.

13 (Whereupon, the jury entered the courtroom at
14 3:44 p.m.)

15 THE COURT: All right. Ladies and gentlemen of
16 the jury, first let me apologize to you. I
17 miscalculated on some things that I thought would go a
18 little bit quicker than -- than they have, and so
19 that's my fault. Sometimes when you do this, it's kind
20 of like a guess. But that being said, it's still going
21 to take longer. I don't like letting y'all sit back in
22 the back room doing nothing. I'm going to excuse you
23 for today. Any reason why anyone on the jury can't be
24 back here at 9:30 in the morning or before?

25 Okay. I'm going to excuse you today and remind

1 you, don't look, listen, or hear anything about the
2 case. Don't talk to anybody about the case, don't read
3 anything about it, and we'll resume in the morning.
4 Thank you very much and thank you for your patience.

5 (Whereupon, the jury left the courtroom at 3:46
6 p.m.)

7 THE COURT: All right. Officer Gebing, come right
8 here please, sir. Mr. Overby, you may resume.

9 MR. OVERBY: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 BY MR. OVERBY:

12 Q. Officer Gebing, did you take part in a
13 interview of the defendant subsequently at the Anderson
14 County Sheriff's Office?

15 A. Yes.

16 Q. Did that begin on that day?

17 A. It did.

18 Q. Okay. Have you had an opportunity to review
19 the recording in your own right?

20 A. I have.

21 Q. Does it fairly and accurately depict your
22 conversation with the defendant?

23 A. It does.

24 Q. Okay.

25 MR. OVERBY: At this time, Your Honor, the State

1 is publishing -- would like to publish State's Exhibit
2 No. 19 for consideration.

3 MR. ROBINSON: No objection, Judge.

4 THE COURT: All right.

5 MR. OVERBY: I misspoke on the exhibit number,
6 Your Honor. State's Exhibit No. 19 is what we just
7 listened to. State's Exhibit No. 7 is what's been
8 admitted into evidence through Investigator Mitchell,
9 and that is what we have got.

10 (Whereupon, State's Exhibit No. 7 was played in
11 open court.)

12 MR. OVERBY: Your Honor, we're going to fast
13 forward just a little bit.

14 (Whereupon, State's Exhibit No. 7 continued to
15 play.)

16 MR. OVERBY: Your Honor, that's the extent of any
17 affirmative statements. All right. I have no further
18 questions for Investigator Gebing.

19 THE COURT: Cross examination?

20 MR. ROBINSON: I have no cross, Your Honor.

21 THE COURT: All right. Thank you, sir. You may
22 step down.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: Anything further?

25 MR. OVERBY: No, Your Honor. That concludes the

1 State's proffer in this matter.

2 THE COURT: All right. As to the Castle Doctrine
3 defense, I think there's just too much conflict in
4 evidence in the case, and that's just going to be a
5 question for the jury under the self defense, depending
6 on what state of the evidence is during the course of
7 trial.

8 And somewhat, I feel, the Curry case has all the
9 different burdens that would have happened in this
10 case. It's similar and akin to that. Even under the
11 most favorable view of it, this just doesn't seem that
12 it amounts to it, and as such your client has not met
13 his burden of proof by a preponderance of the evidence
14 that the Castle Doctrine applies. I'm not going to
15 prohibit him from raising self defense. I think that
16 depends on the facts and the evidence.

17 Also, I think -- you know, he as much admitted
18 that it was voluntary statement, but it was a voluntary
19 statement. There was no coercion. It was somewhat
20 lengthy, but not -- not unduly so, and the location was
21 such that they actually took him from one place to
22 another place, gave a chance for breaks, offered him
23 water. He's somewhat mature. I don't know his
24 educational level or his experience, but there's
25 nothing indicating to me he had any kind of mental

1 health issues going on, and certainly no
2 misrepresentations, any threats or promises of
3 leniency, and quite the opposite. So I'm going to
4 find that those statements will be admissible during
5 the trial. It will be up to the jury to give it what
6 weight they feel they're entitled to.

7 THE COURT: With that being said, anything further
8 from the State before we break?

9 MR. OVERBY: Nothing further from the State, Your
10 Honor.

11 THE COURT: From the defense?

12 MR. ROBINSON: No, judge.

13 THE COURT: All right. Thank you, gentlemen.

14 (Whereupon, the hearing adjourned for the day.)
15 _____
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* * * NOVEMBER 14, 2017 * * *
DAY 2 OF TRIAL

THE COURT: Please be seated.

MR. OVERBY: Good morning, Your Honor.

THE COURT: Morning. While we're missing jurors -- all right. Mr. Robinson, you wanted to supplement the record from yesterday's hearing, you go right ahead.

MR. ROBINSON: Yes, Your Honor. Your Honor, yesterday at the -- at the end of the day, you heard the Castle Doctrine argument, motion, also heard the Jackson v. Denno, kind of all combined. We finished kind of later in the day. According I think -- maybe I didn't get an opportunity to place on the record my Castle Doctrine argument, and if I can do that today.

THE COURT: Absolutely.

MR. ROBINSON: Judge, this is where -- this is where -- where I am coming from -- or we're coming from in this case. He testified yesterday he was a resident at that location. He testified that -- that he felt that he was -- the way he felt when he was run into or ran over by the back door of the car. What he was doing was trying to protect his sister, who was in the back seat of the car. He was not sure exactly what was wrong with her. To his knowledge, she thought -- he

1 thought she could be in danger. She was out. But
2 Judge, he was trying to protect someone in that car.
3 He was a resident at that location and I believe that
4 he -- that the statute, Section A of the statute,
5 applies to the case.

6 And I think the standard, obviously, is whether
7 or not by the preponderance of evidence we can
8 establish that he -- that he is someone who is -- who
9 the -- who the statute says, he is a resident in this
10 case. Applying that standard in this case under
11 Section A in this matter, it was clear that he was a
12 resident, that he was in danger trying to protect
13 himself, and -- there were three shots in this case
14 according to the -- according to the coroner yesterday,
15 he couldn't figure out exactly when shots were, but I
16 would speculate in this matter that one shot -- the
17 first two shots hit the knee and the forearm. The shot
18 that stopped the vehicle was a shot to the shoulder
19 through the aorta of the chest.

20 We would -- we would submit this is a perfect
21 Castle Doctrine argument or Castle Doctrine motion in
22 this case for immunity for my client because he was a
23 resident, and he had the right not to retreat and to
24 protect himself in this matter.

25 And I think the court said yesterday there were

1 conflicting -- conflicting views, of course, that there
2 --

3 THE COURT: No. There was conflicting statements
4 by your client -- multiple conflicting statements.

5 MR. ROBINSON: That's correct, Your Honor. But as
6 it stands, what our argument is, though, it's because
7 he was a resident at that time. He did have the right
8 to protect himself in this matter. And by the
9 preponderance of evidence, we believe that we've
10 established that in this case.

11 And the case that I had cited yesterday was
12 State v. Westmoreland. I think that was a 2017 case.
13 And I think -- I think the court used the Curry case,
14 which is the case that is also cited in the
15 Westmoreland case. But I would submit -- I would ask
16 the court to dismiss this case and grant the defendant
17 immunity in this matter from prosecution.

18 THE COURT: All right. Thank you. I thought the
19 situation was more akin to the -- the Curry case where
20 there are multiple statements by the defendant at
21 different times.

22 MR. ROBINSON: Yes, sir.

23 THE COURT: So I would -- I would be more inclined
24 to agree with you if the testimony was consistent
25 throughout.

1 MR. ROBINSON: Yes, sir.

2 THE COURT: That he was trying -- the gun went off
3 when he was trying to, you know, get out of the car
4 backing up on him. But in this situation, I just don't
5 think that the Castle Doctrine is appropriate. And,
6 you know, depending on the testimony we hear during the
7 trial, which I think we will, that a self defense or
8 accident very well may be appropriate, but I'm going to
9 deny your motion. All right.

10 Is the State ready to proceed?

11 MR. OVERBY: Yes, Your Honor.

12 THE COURT: Is the defense ready to proceed?

13 MR. ROBINSON: The defense is ready, Your Honor.

14 THE COURT: Do you have your technology up and
15 running?

16 MR. OVERBY: I do, Your Honor.

17 THE COURT: Is the jury here?

18 THE BAILIFF: Yes.

19 THE COURT: All right. Would you bring them in,
20 please.

21 (Whereupon, the jury entered the courtroom at
22 9:38 a.m.)

23 THE COURT: Thank you, sir. All right. Good
24 morning, ladies and gentlemen. I hope you had a nice
25 evening. Mr. Clerk, before we get started, would you

1 swear our jury in, please, sir.

2 (Whereupon, the jury was sworn.)

3 THE COURT: All right. Ladies and gentlemen,
4 everyone who requested pad and pen, I -- you have your
5 pad and pen. Very good.

6 All right. Before we get started, Mr. Foreman,
7 ladies and gentlemen, if at any time during the course
8 of this trial, you can't see or hear, would you
9 indicate so we can stop and make suitable arrangements
10 so that you both can see and hear the proceedings.

11 Also, Mr. Foreman, if your jury ever needs a
12 break before I take a break, sometimes I have a
13 tendency to go a little bit long, if your jury needs a
14 break, let me know. We'll stop and give you as long a
15 break as you need. If I ever ask you to come back
16 before your jury is ready, just send us word back. And
17 if you need anything back there, ask our bailiff -- not
18 our security, but our bailiff who will be back there
19 with you and they'll reasonably try to get it for you.
20 Okay.

21 Now, ladies and gentlemen, I told you yesterday
22 that I would charge you on the law that applies.
23 Technically, the law that you will apply in this case
24 will be charged at the end of the case. What I'm
25 telling you now is basically the procedure that you'll

1 go through so you'll generally understand what the
2 process is that you're going through.

3 I don't know if any of you have ever been
4 involved in a trial before, whether as a spectator or
5 participant or otherwise, I do expect -- I mean I do
6 think that probably each and every one of you has
7 watched on TV, or the movies, something that purports
8 to be a trial. But let me quickly dispel you of any
9 notions you may have watched at the movies or on TV,
10 what you're about to engage in is nothing like that.
11 Trials are often very slow, they're very deliberate and
12 they're very methodical. They are a fundamental part
13 of our democracy and they're certainly not
14 entertainment.

15 Ladies and gentlemen, the attorneys you have in
16 this courtroom today are fine attorneys. And like all
17 attorneys, when they're sworn in, they are sworn to be
18 advocates for their clients, and you can expect no less
19 of them in this case. But they're also officers of
20 this court. What that means is you expect them to be
21 competent and professional and ethical to one another,
22 to myself, to any witnesses that appear before the
23 court.

24 Now, you have just taken the oath that you would
25 try to reach a fair and just verdict in this matter.

1 What that means is that the parties, the court, have a
2 right to expect a view, that you will be fair and that
3 you will be ethical and you will be impartial in your
4 dealings in this matter, and you'll follow the rules
5 and instructions from this court.

6 And, again, what I tell you is not the law that
7 you will apply, you will apply that and hear that at
8 the end of the case. This is merely an explanation of
9 the procedure.

10 For those of you who are taking notes, let me
11 caution you, that part of your function, as I will tell
12 you, is to be finders of fact. In other word, you, and
13 you alone, will determine what the facts are in this
14 case. And in doing that you have to evaluate and look
15 at the witness' demeanor while they're on the witness
16 stand. So if you become so engrossed in taking your
17 notes, that you miss somebody's subtle reaction on the
18 witness stand, you may miss something that would be
19 important to you in determining whether or not you want
20 to believe or disbelieve any or all, or part of a
21 witness' testimony that you hear in this courtroom.

22 Also, Mr. Foreman, the fact that something may
23 appear in somebody's note, as opposed to somebody's
24 memory of that issue, does not mean that the note
25 trumps somebody's memory. And that's why there are

1 deliberations. And at the end of the case, I will
2 remind you of that. And you will just have to hash the
3 differences out. Okay.

4 Ladies and gentlemen, as you know, this is the
5 case of the State of South Carolina vs. Raeford Derrane
6 Wideman, who's been indicted for murder. I will remind
7 you that the indictment is not evidence of guilt, it is
8 not -- does not raise an inference or any kind of
9 presumption in this case, it is simply the charge and
10 mechanism by which the State of South Carolina will
11 bring a defendant, such as Mr. Wideman, before the
12 court and a trial and determination of guilt or
13 innocence.

14 And in this case, in fact, Mr. Wideman, he says,
15 I'm not guilty. That means he is presumed innocent
16 throughout the course of this case, and I will tell you
17 more about that. Therefore, that places the burden on
18 the State of South Carolina to prove the elements, all
19 of the elements of the charge against him by proof
20 beyond a reasonable doubt.

21 And at the end of the day, you'll be called upon
22 to determine whether or not the State has met its
23 burden of proof. So let me give you a brief definition
24 of what a reasonable doubt is so you'll have that in
25 mind throughout the course of this case.

1 A reasonable doubt is the kind of doubt that
2 would cause a reasonable person to hesitate to act in
3 an important matter in their own affairs. Now, the
4 State as I tell you -- as I told you -- has the burden
5 of proving the defendant guilty by proof beyond a
6 reasonable doubt.

7 If any of you have ever been involved in a civil
8 case, the burden in a civil case is a preponderance or
9 simply the greater weight of the evidence. If you
10 imagine a set of scales, if they tilt ever so slightly
11 in favor of one side or the other, that is the greater
12 weight of the evidence.

13 In criminal cases, the burden of proof is much
14 higher. It's proof beyond a reasonable doubt. It is
15 proof that leaves you firmly convinced of the
16 defendant's guilt. Now, ladies and gentlemen, there
17 are very few things in this world that we know with
18 absolute certainty, and the law does not require the
19 State to overcome every possible doubt that may appear
20 in a case. At the end of this matter when you're told
21 to begin your deliberations, if you are firmly
22 convinced of the defendant's guilt, it will be your
23 duty to find him guilty.

24 On the other hand, if you think there's a real
25 possibly that the defendant is not guilty, then you

1 must give the defendant the benefit of the doubt and
2 find him not guilty. Again, you'll be charged more
3 fully on what a reasonable doubt is at the end of this
4 case.

5 Now, ladies and gentlemen, as I told you, your
6 purpose as jurors are to be the -- to be the fact
7 finders. In the vernacular of lawyers, you're the sole
8 judges of what the facts are. If any time throughout
9 the course of this trial, I say or do anything that
10 seems to indicate to you the verdict you're supposed to
11 reach or the facts as you're supposed to find, I'm
12 going to ask you, but also instruct you, to disregard
13 them.

14 Our Constitution in South Carolina does not
15 allow a trial judge to express an opinion about the
16 facts of any case. You, and you alone, are the judges
17 of the facts, and no one, including myself, has the
18 right to invade your sole province in determining what
19 the facts are. And you will determine what those facts
20 are from the testimony you hear from this witness stand
21 and from any exhibits I'll allow into evidence in this
22 matter, and you're not to be influenced by anything you
23 see outside of the courtroom.

24 I remind you, ladies and gentlemen, and you're
25 not to engage in outside jury research. You're not to

1 speak with each other throughout the course of this
2 case, and you're not to listen, hear or read anything
3 about this matter while you're jurors on this case.

4 Now, the law that makes you the sole judges of
5 the facts, makes me the sole judge of the law. You
6 must accept the law as I give it to you. You may
7 disagree with what the law is as I give it to you, I
8 will tell you that there are crowds in Columbia in the
9 Court of Appeals or the Supreme Court, who will correct
10 an error at law that I make. But you, the jury, in
11 performing your duties as jurors, must accept it as I
12 give it to you even if you disagree -- even if you
13 disagree with it. I can't invade your province of
14 being finders of fact, and you can't invade my province
15 in giving you the law as you must apply in this case.

16 Now, in any case, ladies and gentlemen, there
17 will be five phases and in this case -- there will be
18 five phases. In just a minute, the State will give you
19 an opening statement. The defendant may, but is not
20 required, to give you an opening statement because the
21 burden remains on the State to prove the defendant's
22 guilt at all times.

23 After opening statements, we'll go to the
24 presentation of the evidence. Then there will be
25 closing arguments by the attorneys. I'll then charge

1 you on the law. And then you'll be given clear word to
2 begin your deliberations. I tell you that so you know
3 generally where you are at any time during the course
4 of this trial.

5 Now, in just a minute, when the State gives you
6 their opening statement, and if the defendant decides
7 they want to giving an opening statement, what the
8 attorneys tell you then and throughout the course of
9 this trial is not evidence. The only true evidence
10 that you may consider as evidence is the testimony that
11 you hear from the witness stand, either through direct
12 evidence -- direct examination or cross examination,
13 and any exhibits allowed in. That's the only true
14 evidence. And that's not to minimize what these
15 lawyers say or do, but what they tell you in their
16 opening or their closing, or in their questions, it is
17 not evidence. It's just helpful to help you to
18 understand what their contentions are in this case, but
19 it is not evidence as defined in our law.

20 Now, in every case I've ever been involved with
21 as a lawyer, and I expect in this case as well, there
22 will be objections. I will tell you that a lawyer is
23 ethically bound to object any time he or she sees
24 something in the courtroom they fell like is
25 inappropriate. Mr. Foreman, the fact that a lawyer has

1 an objection is not proper discussion -- a topic of
2 discussion for you, the jury. At the end of this case,
3 and I'll remind you of that, if any of your jurors try
4 to raise that issue, it'll be your job to stop it.

5 Also, to the extent I let you stay here in the
6 courtroom to see my ruling on that objection, likewise,
7 that is not to be the proper subject of your
8 deliberations. For -- it is the process that goes on
9 in every case. Objections will always be there because
10 that is a lawyer's duty.

11 Now, to make sure that I have given you all that
12 I need to do, let me send you back to your jury room
13 for a brief moment to converse with these lawyers, and
14 then we'll bring you back for an opening statement from
15 the State and possibly the defendant. If you'll go
16 back to your jury room, please.

17 (Whereupon, the jury left the courtroom at 9:50
18 a.m.)

19 THE COURT: Additions or exceptions from the
20 State?

21 MR. OVERBY: None, Your Honor.

22 THE COURT: From the defense?

23 MR. ROBINSON: No, sir, Judge.

24 THE COURT: All right. Are your witnesses
25 properly sequestered?

1 MR. OVERBY: Yes, Your Honor.

2 MR. ROBINSON: Yes, Your Honor.

3 THE COURT: And you -- you are basing yours off of
4 his witness list if I'm not mistaken, is that correct?

5 MR. ROBINSON: That is correct, Your Honor.

6 THE COURT: Do you need a break before you do your
7 opening statement or are you ready to go?

8 MR. OVERBY: No, Your Honor, I'm ready to proceed.

9 THE COURT: Mr. Robinson?

10 MR. ROBINSON: All set.

11 THE COURT: All right. Bring the jury back,
12 please.

13 (Whereupon, the jury entered the courtroom at
14 9:52.)

15 THE COURT: All right. Let me remind you again,
16 if you're not ready to come back, just say, we'll be
17 there in just a minute. Also, ladies and gentlemen,
18 one final reminder, if you would, when we take breaks
19 during the trial in the morning and the afternoon,
20 which is my practice, leave your pads here in the jury
21 room at lunch and overnight. If you leave your pads in
22 the jury room, they'll be locked up and secured. All
23 right.

24 Is the State ready to proceed?

25 MR. OVERBY: Yes, Your Honor.

1 THE COURT: Very good. Is the defense ready to
2 proceed?

3 MR. ROBINSON: Yes, sir, judge.

4 MR. OVERBY: May it please the court, Your Honor.

5 THE COURT: Yes, sir.

6 MR. OVERBY: Mr. Robinson, ladies and gentlemen of
7 the jury, why does a man shoot another man -- shoot at
8 another man multiple times in close proximity while it
9 -- while his back was turned, that's the question I
10 want y'all to consider today as you listen to all the
11 evidence that comes in in this case.

12 The defendant, Mr. Raeford Derrane Wideman, is
13 charged with murder. Murder is the unlawful killing of
14 another with malice aforethought. And the judge is
15 going to give you the instruction on what all of that
16 means at the end of the trial. But the key when you
17 have all of the evidence, and when it comes time to
18 deliberate, is going to be answering that question.
19 Why does a man shoot another man multiple times in the
20 back at close proximity. That's the question.

21 Now, the evidence in this case is going to come
22 through about ten witnesses. It's going to come
23 through first responders who arrive at 2316 South
24 McDuffie Street in Anderson County, about 5:30 in the
25 morning on March 15, 2015.

1 It's going to start with Deputy David Stipe of
2 the Anderson County Sheriff's Office, who is the first
3 officer on scene. He's going to tell you what the
4 scene is like and he's going to tell you what he saw
5 that day.

6 You're going to hear from the deputy coroner of
7 Anderson County, Don McCown, who conducted a fatality
8 investigation pursuant to his duties as the coroner.

9 You're going to hear from an investigator,
10 Nathan Mitchell, who is a homicide investigator with
11 the Anderson County Sheriff's Office, and he's going to
12 talk to you about his investigation and the witnesses
13 to this crime and to what those witnesses necessarily
14 may have led him to conclude. Most notably, that this
15 defendant was the individual who shot. In this case,
16 this will not be a question of who shot Mr. Ryan Tatum,
17 the victim in this case, this will be a question of
18 why. That's what you will have to determine here
19 today.

20 You'll also hear from Investigator Scotty Hill
21 with the Anderson County Sheriff's Office and from
22 Nikki James Gregory or Nikki Branch Gregory -- pardon
23 me -- who is a forensics investigator. They helped to
24 collect evidence in this case which includes the
25 firearm that was used to kill Mr. Tatum.

1 And finally, and in addition, you're going to
2 hear from a ballistics expert from the Greenville
3 County Crime Lab, James Armstrong, who is going to
4 provide you with some details about how we know that.

5 You're going to hear from Investigator Rob
6 Gebing with the Anderson County Sheriff's Office who
7 spoke to Mr. Wideman and Mr. Wideman admitted to
8 shooting to Mr. Tatum, and you're going to get to hear
9 those statements from Mr. Wideman on the night of that
10 particular incident, both on the scene and in a later
11 interview at the Anderson County Sheriff's Office.

12 And when all of that is entered, and you had all
13 that to consider, the State is going to present the
14 witnesses to this encounter. Most notably, Brianna
15 Ware Blassingame, who is directly close by to where the
16 shooting occurred, which was inside of a Mitsubishi
17 Lancer vehicle, she was in the front passenger seat.
18 Mr. Tatum, the victim, was in the driver's seat. And
19 you're going to hear from Willie McDonald, who also
20 observed this incident.

21 Now, ladies and gentlemen, I'm going to let the
22 facts speak for themselves as the evidence comes into
23 the case because your job is to deliberate on the -- to
24 deliberate on them at the end of this trial. It's
25 important that you pay close attention. This is an

1 important day for the State of South Carolina and it's
2 an important day for Mr. Wideman because Mr. Wideman is
3 innocent until proven guilty under the United States
4 Constitution. And it is my burden, as the State's
5 attorney, to prove beyond a reasonable doubt that he is
6 guilty of this crime, and that's a burden that I take
7 very seriously.

8 But what I want you to remember is this:
9 Reasonable doubt is not a fanciful doubt, it's not an
10 imaginary doubt, it's a common sense doubt. And that's
11 why you all are here today, to bring your experiences,
12 as jurors, to help us make the determination in this
13 matter. At the end of the trial, I think you're going
14 to be able to answer the question that I've asked you
15 to answer, why does a man shoot at a man multiple
16 times, close proximity, while his back is turned. And
17 I think when you answer that question, you'll find Mr.
18 Wideman is guilty of murder.

19 THE COURT: Mr. Robinson, does the defense wish to
20 have an opening statement?

21 MR. ROBINSON: I do, Judge. Thank you very much.
22 Good morning. My name is Scott Robinson and I practice
23 law in South Carolina. I have an injury that has kind
24 of prevented me getting up and walking around the --
25 Mr. Overby's desk.

1 I want to tell you a little bit about this case,
2 it's kind of a simple case, really, if you look at it.
3 The Judge informed you a few moments ago about
4 reasonable doubt in this matter. This is Raeford
5 Wideman, my client. Raeford is 29 right now. He's a
6 long time resident of Anderson County. He has lived
7 here his whole life. He has one child. He has his
8 family here in the courtroom today with him to support
9 him.

10 The question that Mr. Overby asks is a question
11 that can be answered pretty quickly and pretty simply.
12 Let me tell you what happened that night in this case.
13 At around 3:00 or 4:00 in the morning, the driver, Mr.
14 -- the victim in this case, he was sitting in the front
15 seat of the passenger car and sitting in the residence
16 -- the lawn of the residence of Raeford's house.

17 At some point, a vehicle gets stuck in the yard.
18 There's engines going, there's noise outside. Raeford
19 and his parents hear the noise. Raeford gets his gun
20 not knowing what was going on outside. He was fearful.

21 He goes outside and at some point, he sees the
22 car, this Mitsubishi car. He sees his sister in the
23 back seat unconscious. He doesn't know what's going
24 on. He thinks either she's -- something is wrong with
25 her, she's -- whatever it is, he's really concerned.

1 The driver in this case is the victim. He's
2 sitting in the front driver's seat. Raeford opens up
3 the back of the rear passenger door on the rear -- in
4 the rear of the car. He tells the victim, stop, get
5 out of the car. My sister -- I'm worried about my
6 sister. There's something wrong with her.

7 You'd simply, you would think, that he would
8 stop, take the keys out of the car, and that would be
9 all. It would end. He doesn't do that. Raeford asked
10 him to do it. The driver says "f-u" -- f-u-c-k- -- you
11 don't have to use the whole word.

12 Raeford's in the back trying to take care of his
13 sister. She's there, but he's not sure who this guy
14 is. He doesn't really know him. The guy jams the --
15 jams the accelerator, putting the car in reverse. The
16 gun goes off. He hits the guy in the forearm, the
17 right forearm; the left knee, and then finally the last
18 bullet hits him in the shoulder going downward in the
19 chest, killing him.

20 Raeford didn't know this guy. Raeford didn't
21 intentionally kill this guy. This was an accident in
22 this case. This never should have happened if the
23 victim had just stopped the car, and got out of the
24 car, and given him the keys so he could take care of
25 his sister. That's the whole case. That's our case in

1 this case.

2 As far as the question that Mr. Overby asked,
3 why would you shoot a guy in the back multiple times.
4 He didn't intentionally shoot him in the back, it was
5 an accident. He jammed the car in reverse, the gun
6 went off, that's how it happened. That's the position
7 that we would submit in this case is the case of
8 accident.

9 Ladies and gentlemen of the jury, the judge has
10 given you instructions on reasonable doubt in this
11 case. Raeford sitting here is presumed innocent. The
12 State has to establish to you in your collective wisdom
13 and common sense and so forth, their case, every
14 element of their case has to be shown to you beyond a
15 reasonable doubt.

16 That's kind of like looking, taking a pair of
17 glasses -- a pair of glasses and tinting them with
18 reasonable doubt. Because you have to look at
19 everything with a very careful consideration, knowing
20 that the State has to prove to you beyond a reasonable
21 doubt.

22 And at the end of this case, you will be able to
23 answer that question Mr. Overby put to you, and you
24 will find that Raeford Wideman is not guilty of this.
25 It was a horrible thing that happened out there that

D. STIPE -- DIRECT

1 night, but he didn't cause it. He didn't cause this
2 horrible thing. This was an accident. And you'll see
3 that at the end of this case, and I hope that you use
4 your collective wisdom and common sense, and render a
5 verdict in that way. Thank you.

6 THE COURT: Call your first witness, please, sir.

7 MR. OVERBY: Thank you, Your Honor. At this time,
8 the State calls Deputy David Stipe to the stand.

9 DAVID STIPE, having been first
10 duly sworn, testified as follows:

11 THE CLERK: If you'll take the witness stand,
12 please, sir, and state your name and spell last name
13 for the reporter, please.

14 THE WITNESS: David Stipe, S-t-i-p-e.

15 **DIRECT EXAMINATION BY MR. OVERBY:**

16 Q. Where are you employed, sir?

17 A. Anderson County Sheriff's Office.

18 Q. And in what position?

19 A. Road deputy.

20 Q. Okay. What are your responsibilities and
21 duties as a road deputy?

22 A. Answering calls for service.

23 Q. Okay. What is that -- what kind of calls for
24 service are you referring to -- what are some examples?

25 A. Any 911 emergency calls that come into

1 dispatch. It could be anything from taking report
2 calls to anything in progress.

3 Q. Okay. So "report calls" mean we're taking
4 domestic relations incidents --

5 A. Domestic relations, anything that's already
6 occurred.

7 Q. Would that include gunshots -- would that
8 include shootings?

9 A. Yes, sir.

10 Q. Okay. Were you on duty on the night -- or the
11 early morning hours rather -- of March 15, 2015?

12 A. Yes, sir.

13 Q. Were you called out to an incident at a --
14 were you called out to an incident scene at 2316
15 McDuffie Street on that morning?

16 A. Yes, sir.

17 Q. Is that in Anderson County, sir?

18 A. Yes, sir, it is.

19 Q. Okay. What was your responsibility or what
20 were you thinking you were going into at that point in
21 time?

22 A. It was unknown. It came out of the shooting.
23 We didn't have very -- very much information at all.

24 Q. Okay. But you knew there was a shooting?

25 A. Yes, sir. There was a shooting.

D. STIPE -- DIRECT

1 Q. Okay. I'm going to show you what's been
2 premarked for identification as State's Exhibit No. 1.
3 Okay.

4 MR. ROBINSON: No objection.

5 BY MR. OVERBY:

6 Q. Can you tell me what that is, Mr. Stipe?

7 A. Yeah. This is the overview of the
8 neighborhood where the incident took place.

9 Q. Okay. And you're familiar with that
10 neighborhood?

11 A. Yes, sir.

12 Q. And does that overview fairly and accurately
13 represent your knowledge of that particular
14 neighborhood?

15 A. Yes, sir.

16 Q. Okay.

17 MR. OVERBY: Your Honor, at this time, I would
18 like to move State's Exhibit No. 1 into evidence.

19 MR. ROBINSON: No objection to that.

20 THE COURT: Admitted.

21 (State's Exhibit No. 1 admitted into evidence.)

22 BY MR. OVERBY:

23 Q. Now, Deputy Stipe, I would ask you to come
24 down if you would. Please tell me what you observed
25 when you got on the scene?

1 A. When I arrived on the scene, it was --

2 Q. Address the jury.

3 A. It was dark. I observed a blue car that was
4 backed up against a mobile home. I observed a black
5 male that was unresponsive in the driver's seat. No
6 signs of life. I observed a female in the back seat
7 laying down, kind of like she was covering her face.
8 She was unresponsive, wouldn't respond to anything. I
9 primarily just secured the scene.

10 Other deputies started arriving on the scene.
11 Once it was safe, had EMS enter for the victims inside
12 the vehicle.

13 Q. Was the individual -- now, where was this --
14 you mentioned this vehicle, do you remember the make
15 and model of the vehicle?

16 A. Yes, sir. I believe it was a blue Mitsubishi
17 Lancer.

18 Q. Okay. And where was -- can you show me on
19 this particular map where this vehicle was -- or where
20 this vehicle had run into?

21 A. Yes, sir. I believe it was right here in this
22 general area.

23 Q. Right here in this general area?

24 A. Yeah. I would 23 the actual address of the
25 mobile home.

D. STIPE -- DIRECT

1 Q. Okay. Well, was it on Searay Drive that this
2 mobile home was on?

3 A. I believe it was the interaction of South
4 McDuffie and Brunswick.

5 Q. Okay. So this area here is where you --

6 A. Yes, sir.

7 Q. -- it's where all the incidents occurred?

8 A. Yes, sir.

9 Q. Okay. Thank you, Deputy Stipe. You can step
10 back. What sort of responsibilities do you have once
11 you have an individual who's been shot in terms of the
12 investigation -- your investigation?

13 A. Rendering aid to the victim, if there's any, but
14 having EMS in route immediately.

15 Q. Was there -- was this victim -- was this
16 victim deceased when you arrived?

17 A. Not to my knowledge.

18 Q. Okay. But did you see -- did you render any
19 aid to the victim in this case?

20 A. We did very minimal because EMS was
21 practically right on scene at the time I got on scene.

22 Q. Okay. So EMS got there very quickly?

23 A. Yes, sir.

24 Q. What sort of responsibilities do you have in
25 terms of keeping tabs of who comes into a crime scene?

1 A. I began a crime scene log, something we do for
2 crime scenes.

3 Q. What is -- what is a crime scene log?

4 A. It's a log that we start for purposes to show
5 who enters the crime scene, what their reasoning was,
6 and it keeps up with the times on when they were at the
7 crime scene and when they left.

8 Q. Okay. And you start that?

9 A. Yes, sir.

10 Q. Do you maintain that?

11 A. Yes, sir.

12 Q. Okay. At this time, I would like to show you,
13 Deputy Stipe, what's been marked for identification
14 purposes as State's Exhibit No. 2. Can you tell me
15 what that is?

16 A. Yes, sir. It's the crime scene log that I
17 started that morning.

18 Q. And how do you know that, sir?

19 A. I recognize it and it's also got my name on it
20 as the log officer.

21 Q. Okay.

22 MR. OVERBY: At this time, Your Honor, I would
23 like to move State's Exhibit No. 2 into evidence.

24 MR. ROBINSON: No objection.

25 THE COURT: Admitted.

D. STIPE -- DIRECT

1 (State's Exhibit No. 2 admitted into evidence.)

2 BY MR. OVERBY:

3 Q. Did you have any other responsibilities in
4 this particular -- well, first let me ask you -- I'm
5 going to reference you to State's Exhibit No. 2 --
6 about what time did you get there?

7 A. Arrived on scene at 5:55.

8 Q. Okay. So you arrived at scene at 5:55. And
9 you said EMS got there pretty quickly after that?

10 A. Yes, sir.

11 Q. Did you have any other responsibilities as far
12 as the investigation of this matter?

13 A. I secured the scene with crime scene tape and
14 begin that log. I was instructed shortly after to
15 follow the ambulance, with the victim in the back seat
16 to the hospital.

17 Q. Okay. Well, when you say the individual in
18 the back seat, who do you mean by that?

19 A. I don't have -- I didn't never have her name
20 that morning, but she was --

21 Q. But you were instructed to go with this
22 individual at that time?

23 A. Yes, sir.

24 Q. Okay. Thank you.

25 MR. OVERBY: I have no further questions of this

1 witness. Please answer any questions that Mr. Robinson
2 has.

3 MR. ROBINSON: Please the court?

4 THE COURT: Yes, sir.

5 **CROSS EXAMINATION BY MR. ROBINSON:**

6 Q. Officer Stipe, do you have your report with
7 you up there?

8 A. No, sir, I do not.

9 Q. You did do a supplemental report in this case;
10 is that right -- a report --

11 A. Yes, sir.

12 Q. Is that right?

13 A. Yes, sir.

14 Q. Okay.

15 MR. ROBINSON: Approach the witness, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. ROBINSON:

18 Q. Officer Stipe, I'm going to pass you up a copy
19 of your report; do you recognize that?

20 A. Yes, sir, I do.

21 Q. Is that your supplemental report?

22 A. Yes, sir.

23 Q. And that's what you filled out when -- later
24 on to -- to put down what you saw at the scene that
25 night; is that right?

1 A. Yes, sir.

2 Q. Now, I highlighted on there for your benefit
3 the section that I want you to read to the jury. Why
4 don't you read to the jury what you said in your -- in
5 your statement in this case.

6 A. It says, "I noticed that she was breathing,
7 but was unresponsive. I made several attempts to get
8 her to wake up by giving loud verbal commands for her
9 to exit the vehicle, but was unsuccessful."

10 Q. And this was a person that was in the back
11 seat; correct?

12 A. Yes.

13 Q. This is a female?

14 A. Yes, sir.

15 Q. Can you hand that back?

16 A. Yes.

17 Q. I think a few moments ago when -- when Mr.
18 Overby asked you about the hospital, did you - did you
19 take this woman to the hospital that was in the back
20 seat unconscious?

21 A. No, sir, I did not.

22 Q. But she was directed to go to the hospital?

23 A. Yes, sir.

24 Q. Okay. So you put into your report, you found
25 a -- this female was unconscious in the back seat of

1 the vehicle and she was not -- you made several
2 attempts to wake her up and she wouldn't wake up; is
3 that right?

4 A. Correct.

5 Q. Were you concerned for her safety?

6 A. Yes, sir. EMS was notified.

7 Q. Okay. Do you -- to your knowledge know that
8 the female, they took her to the hospital?

9 A. Yes, sir. I followed the ambulance that she
10 got in to the hospital.

11 Q. That's all the questions I have. Thank you.

12 THE COURT: Redirect.

13 **REDIRECT EXAMINATION BY MR. OVERBY:**

14 Q. When you arrived as the first responder, are
15 you aware of all of the facts of what's going on the
16 scene necessarily?

17 A. No, sir.

18 Q. Okay.

19 MR. OVERBY: I have no further questions.

20 THE COURT: May this witness be excused?

21 MR. OVERBY: Yes, Your Honor.

22 THE COURT: Any objection?

23 MR. ROBINSON: No objection.

24 THE COURT: Thank you, sir. You are excused.

25 Call your next witness, please.

1 MR. OVERBY: May it please the court, Your Honor,
2 the State calls Deputy Coroner Don McCown.

3 DONALD MCCOWN, JR., having
4 been first duly sworn, testified as follows:

5 THE CLERK: If you would take the stand, please,
6 sir, and state your name and spell your last name for
7 the reporter, please.

8 THE WITNESS: Donald Lee McCown, Jr. The last
9 name is spelled M-c-c-o-w-n.

10 **DIRECT EXAMINATION BY MR. OVERBY:**

11 Q. What is your occupation, sir?

12 A. I am Deputy Coroner with Anderson County
13 Coroner's Office.

14 Q. And how long have you been employed with the
15 Anderson County Coroner's Office?

16 A. I've been employed for 15 years as Deputy
17 Coroner, two years as a volunteer.

18 Q. What are your duties as Deputy Coroner with
19 Anderson County Coroner's Office?

20 A. The coroner's office is responsible for
21 determining the cause and manner of death in any person
22 that dies within the jurisdictional boundaries of
23 Anderson County.

24 Q. Okay. And what training have you undergone to
25 assist you in your duties?

1 A. Board certified by the American Board of
2 Medical/Legal Death Investigators. I've attended
3 training that's advanced homicide, basic homicide,
4 basic Coroner's Academy, advanced Coroner's Academy. I
5 instruct at the Coroner's Academy for the South
6 Carolina Criminal Justice System, and pretty much go to
7 basically about 100 hours training a year in various
8 aspects of death investigation.

9 Q. Okay. And what additional experience do you
10 have in medical death investigations?

11 A. I've been a police officer, fire fighter and
12 paramedic. I've been a paramedic for 40 years. I'm
13 still actively involved in the field of emergency
14 medical services. I'm a paramedic instructor, EMT
15 Instructor and teach a variety of EMS courses,
16 everything from trauma life support to advance cardiac
17 life support.

18 Q. And have you had a substantial amount of
19 experience in conducting death investigations?

20 A. Yes, sir.

21 Q. Okay. Approximately how much?

22 A. Well, 30 years I've been involved in death
23 investigations.

24 Q. What is the role of the coroner in terms of
25 the death investigation?

1 A. The coroner is ultimately responsible for
2 determining the manner and cause of how somebody dies.
3 Essentially, what happens is when they go to the scene,
4 they make a determination whether foul play, non foul
5 play, whether it's a natural disease process, non
6 natural disease process. Essentially, you bring
7 something for the death certificate and how that person
8 died and by what means they died.

9 Q. Okay. Now, is this a -- you are actually a
10 responder to scenes; is that correct?

11 A. Yes, sir.

12 Q. Okay. And what is your primary role when you
13 respond to a scene?

14 A. Well, when the Deputy Coroner responds to a
15 scene or a member of the coroner's office responds,
16 they are responsible for basically assessment of the
17 same -- assessment of the individual that's deceased,
18 determine the factors involved in the death, and then
19 essentially do an assessment of injuries, what they're
20 probable cause of death is, and talking to witnesses,
21 bystanders, et cetera.

22 Q. So you're a fact finder when it comes to --

23 A. Yes, sir. The Coroner's Office is essentially
24 a fact finder.

25 Q. Okay. Were you in this position during the

1 early morning hours of March 15, 2015?

2 A. Yes, sir.

3 Q. Okay. Were you on-call during this time?

4 A. Yes, sir.

5 Q. And were you called out to an incident at 2316
6 McDuffie Street on that morning?

7 A. Yes, sir.

8 Q. Okay. I'm going to show you a series of
9 photographs that have been marked for identification
10 purposes State's Exhibit 3-a through 3-d, can you tell
11 me what that series of photographs are of, sir?

12 A. This is a series of photographs that were
13 taken on the morning on the incident in which I
14 responded to involving -- at this time, there was a
15 vehicle next to a mobile home and then a house which --
16 according to witnesses where the vehicle rolled from
17 back out of the driveway.

18 Q. Okay. And so does that fairly and accurately
19 depict what you observed on that particular morning?

20 A. Yes, sir.

21 Q. Deputy Coroner McCown, I'm going to --

22 THE COURT: Before you -- before you publish them,
23 are you seeking to have exhibits 3-a through d admitted
24 into evidence?

25 MR. OVERBY: Yes, Your Honor. I'm seeking to

1 admit these into evidence.

2 THE COURT: Any objection?

3 MR. ROBINSON: No objection.

4 THE COURT: Okay. Admitted.

5 (State's Exhibits 3-a through 3-d admitted into
6 evidence.)

7 THE COURT: Okay. Go ahead.

8 BY MR. OVERBY:

9 Q. Would you step down here?

10 A. Yes, sir.

11 Q. What are we looking at in this photograph,
12 sir?

13 A. This photograph here is essentially -- overall
14 the same, it shows a Mitsubishi blue vehicle up against
15 a mobile home.

16 Q. Okay. And that fairly and accurately
17 represents what you observed; correct?

18 A. Yes, sir.

19 Q. Okay. And what are we looking at in this
20 photograph?

21 A. This photograph is a photograph of another
22 part of the scene in which the actual incident
23 supposedly took place in the driveway of this
24 residence.

25 Q. Okay. And in relation to this residence, do

1 you know where this particular -- do you know where
2 this particular trailer is in relation to that
3 residence?

4 A. Yes, sir. It's across the street from the
5 primary residence.

6 Q. Okay. Thank you. What are we looking at in
7 this photograph?

8 A. This was a blue vehicle that supposedly rolled
9 out of the driveway and is up against the mobile home.

10 Q. Okay. And what are we looking at in this
11 photograph?

12 A. The same thing. This is the passenger side of
13 the vehicle which is up against the mobile home.

14 Q. Okay. What was the significance of this
15 particular vehicle, Deputy Coroner McCown?

16 A. The vehicle was involved in a shooting
17 incident in which the victim that sustained gunshot
18 wounds was in the driver's side -- or driver's front
19 seat of the vehicle.

20 Q. Do you remember -- let me ask you this -- do
21 you remember approximately what time you arrived at the
22 scene?

23 A. It was approximately 6:28 a.m.

24 Q. Okay. At that time, was the -- when -- did
25 you go inspect that vehicle?

1 A. Not immediately.

2 Q. Okay. What did you do at that time?

3 A. I essentially -- when we first arrived, as the
4 deputy coroner, the first thing you do is you start
5 talking to the individual that is present, such as the
6 law enforcement officer that is on scene and the
7 paramedics. The paramedics identified a male subject
8 that was in the vehicle that sustained multiple
9 gunshots wounds. At that time, in talking with the
10 other investigators, then we decided that a search
11 warrant was going to be obtained, so we essentially
12 wait for the search warrant.

13 Q. Okay. Once that search warrant was obtained,
14 what -- what did you do?

15 A. Essentially after the search warrant was
16 obtained, we get with the forensics investigator, who
17 is also working with the deputy coroner, and we start
18 an analysis of the overall scene, which is basically
19 photograph the scene first, all aspects of it, then
20 work our way into where the victim is. Once we move
21 into the victim, then we'll photograph the victim. And
22 then I have a variety of things I have to do, such as
23 body temperature, drug screens, alcohol screens,
24 examination of the body. That sort of thing.

25 Q. Okay. Where was -- and was the victim in this

1 case in the vehicle?

2 A. Yes, sir. The victim was in the driver's seat
3 of the vehicle.

4 Q. The driver's seat of the vehicle when you
5 found him?

6 A. Yes, sir.

7 Q. I'm going to show you what's been marked for
8 identification purposes as State's Exhibit 3-e and 3-f.

9 A. Yes, sir.

10 Q. What are those photographs of?

11 A. These photographs show the position of the
12 victim inside the vehicle. And then it also shows a
13 picture of his driver's license, which I use as a
14 secondary identification.

15 Q. Okay.

16 MR. OVERBY: Your Honor, at this time, I would
17 like to move 3-e and 3-f into evidence.

18 THE COURT: Any objection?

19 MR. ROBINSON: No objection.

20 THE COURT: Admitted.

21 (State's Exhibit Nos. 3-e & 3-f admitted into
22 evidence.)

23 BY MR. OVERBY:

24 Q. Now, I'm displaying photograph 3-e here. You
25 can step down, sir. Does that fairly depict where the

1 body was when you found it?

2 A. Yes, sir.

3 Q. Okay. And you said that you found his
4 identification. And he was not touched at that time;
5 is that correct?

6 A. No, sir.

7 Q. Okay. So that is where everybody found him?

8 A. Yes, sir.

9 Q. Okay. So you --- you said that you utilized
10 the secondary form of identification in order to
11 identify him, what's your primary means of identifying
12 the deceased?

13 A. The primary means on this subject was use the
14 fingerprints, which we have fingerprint scanners that
15 we use on the --

16 COURT REPORTER: I'm sorry, what was used?

17 THE WITNESS: A fingerprint scanner.

18 BY MR. OVERBY:

19 Q. But that fingerprint scanner confirmed that
20 the victim was this individual; is that correct?

21 A. Yes, sir.

22 Q. And what is his address?

23 A. Mauldin, South Carolina.

24 Q. Okay. That's not in Anderson County, right?

25 A. That's correct, sir.

1 Q. It's in Greenville, isn't it?

2 A. Yes, sir.

3 Q. Okay. You can step back up, sir. Did you
4 eventually move the deceased while you were on the
5 scene?

6 A. Yes, sir.

7 Q. Okay. Why did you do that?

8 A. First of all to assess all of his injuries,
9 document those injuries, and then to basically look at
10 the trajectory analysis of the bullet wounds.

11 Q. Okay. And was he, in fact, deceased on the
12 scene?

13 A. Yes, sir.

14 Q. Okay. How did you move him?

15 A. I initially set the victim back up in the
16 vehicle, sitting up into the driver's seat so that I
17 could look at the trajectory analysis of what I thought
18 the bullets would have come through. And then, of
19 course, I moved the victim around in order to see if
20 there were wounds to his back, or other places that he
21 could have sustained injuries.

22 Q. Let me ask you this -- this actually brings me
23 to another point I wanted to ask you about with regards
24 to State's Exhibit 3-e. If you would, again, sir, I
25 apologize --

1 A. That's no problem, sir.

2 Q. Do you notice about the -- do you notice
3 anything about the victim as he's sitting in the
4 vehicle?

5 A. Well, it's several things, but the -- the
6 thing that stood out to me immediately was the fact
7 that he was still wearing his seat belt.

8 Q. The fact that he was still wearing his seat
9 belt at that time -- okay. That's one thing I wanted
10 to make sure I got -- so he's still wearing his seat
11 belt and he's slumped over, how is that -- how is that
12 important to you in terms of your analysis?

13 A. Well, I'm sure -- I'm sorry, I don't quite
14 understand your question.

15 Q. Okay. Well, if he's still wearing his seat
16 belt when he was slumped over in the vehicle, why is
17 that important to you?

18 A. The fact that he never exited the vehicle, it
19 plays a role when I'm trying to do an assessment on the
20 victim to understand whether they have any defense
21 wounds, or they were involved in any kind of
22 altercation, et cetera. This tells me that the victim
23 never got out of the car and there was never actually
24 any physical altercation at this point.

25 Q. Does it also tell you that he died in that

1 driver's seat?

2 A. Yes, sir.

3 Q. Okay.

4 MR. ROBINSON: Your Honor, I have a matter that I
5 need to take up outside of the jury --

6 THE COURT: All right. Mr. Foreman, would you
7 take your jury back to the jury room please, sir.

8 (Whereupon, the jury left the courtroom at 10:30
9 a.m.)

10 THE COURT: All right, sir.

11 MR. ROBINSON: Judge, my objection to those
12 primarily --

13 THE COURT: I don't know what they are, so they
14 have not been identified to me, so --

15 MR. ROBINSON: Okay. If Mr. Overby can pass those
16 up.

17 MR. OVERBY: Sure, Your Honor. These are State's
18 Exhibits No. 3-h and 3-g. They are -- 3-h and 3-g,
19 they are victims -- or they are pictures depicting the
20 deceased as he was sitting in the vehicle after the
21 coroner moved him.

22 THE COURT: Okay, sir, what is your objection?

23 MR. ROBINSON: The objection, Judge, is I think
24 that they're very -- I think they can be very
25 inflammatory in the jury's eyes in terms of you've got

1 a victim who is deceased, who has been shot and so
2 forth, I think they're -- they can be inflammatory in
3 this case and prejudice my client in this matter for
4 the inflammatory nature.

5 THE COURT: I'll note for the record that the --
6 the one that shows the shoulder shot, that shows the
7 measurement around it, doesn't have particularly any
8 blood in it, does show a hole in the victim. The front
9 -- the exit wound through the chest -- and I don't know
10 which one -- if that's h or g -- which one --

11 MR. OVERBY: It's --

12 THE COURT: I guess g is the one that exit wound
13 -- does have some blood to it, but it's not such that
14 it's to be extreme. I'll note your objection. I'm
15 going to overrule it. Okay.

16 MR. ROBINSON: Thank you, Your Honor.

17 THE COURT: Yes, sir. Bring the jury back in.
18 You'll need to move that into evidence when the jury
19 comes in.

20 MR. OVERBY: Yes. Yes, Your Honor. I understand.

21 THE COURT: Okay. Let's take about a ten minute
22 break. Mr. McCown, you can step down, but don't speak
23 with anybody about your testimony please, sir.

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. We'll be in recess for ten

1 minutes.

2 MR. OVERBY: Thank you, Your Honor.

3 (After a recess, Court reconvened.)

4 THE COURT: Be seated.

5 (Whereupon, the jury entered the courtroom at
6 10:54 a.m.)

7 MR. OVERBY: Your Honor? Your Honor, may the
8 attorneys approach?

9 THE COURT: Sir?

10 MR. OVERBY: May the attorneys approach briefly?

11 THE COURT: Sure.

12 (Whereupon, a bench conference was held.)

13 THE COURT: All right, Mr. Overby.

14 MR. OVERBY: Thank you, Your Honor. May it please
15 the court.

16 THE COURT: Yes, sir.

17 BY MR. OVERBY:

18 Q. Deputy McCown, you mentioned that you moved
19 the body the last we were speaking; is that correct?

20 A. Yes, sir.

21 Q. Okay. And what did you notice and you -- you
22 said you do that primarily because you're attempting to
23 ascertain injury?

24 A. Yes, sir.

25 Q. Okay. What did you notice about potential --

1 about injuries to the victim in this case?

2 A. During this assessment, the victim had
3 sustained a gunshot wound to the back that apparently
4 exited the chest. He had a gunshot wound to the right
5 forearm that entered and exited, and he had a gunshot
6 wound to the left leg.

7 Q. Okay. Deputy Coroner McCown, I'm going to
8 show you what's been marked as State's Exhibit 3-g and
9 3-h, what are those photographs of?

10 A. These are photographs of the victim who has
11 sustained -- one picture shows the gunshot wound
12 entrance to the back. The other picture shows the
13 gunshot wound of exit to the anterior chest.

14 Q. Do they fairly and accurately depict that
15 which you observed on that day?

16 A. Yes, sir.

17 MR. OVERBY: Okay. At this time, I would like to
18 move State's Exhibit 3-g and 3-h into evidence, Your
19 Honor.

20 THE COURT: All right. Subject to prior ruling,
21 it will be admitted.

22 MR. OVERBY: Thank you.

23 (State's Exhibit Nos. 3-g & 3-h admitted into
24 evidence.)

25

1 BY MR. OVERBY:

2 Q. Step down, sir. What are we looking at here?

3 A. This is a gunshot wound of entrance that
4 enters the decedent's back, right almost near the right
5 shoulder.

6 Q. Okay. How do you know it's a gunshot wound of
7 exit?

8 A. Based on multiple years of experience and
9 courses and the fact that I do this for a living. This
10 is my job.

11 Q. Okay. I want to show you State's Exhibit 3-g.
12 What does this depict?

13 A. This is a gunshot wound of exit.

14 Q. Okay.

15 A. It's probably a gunshot coming through the
16 shoulder and exits the front of the chest.

17 Q. Okay. And how do you know that's a gunshot
18 wound of exit?

19 A. Well, obviously the gunshot wound to the back
20 is round and indicative of gunshot. The one to the
21 front, the reason I know it is an exit because it is
22 distorted a little bit, and kind of more of an oblong
23 type of position I guess you could say.

24 Q. Okay. Thank you, Deputy Coroner McCown. Do
25 you inspect the vehicle as well in your investigation?

1 A. Yes, sir.

2 Q. Okay. I'm going to show you what's been
3 marked for identification purposes State's Exhibit 3-i
4 through 3-l. What are those photographs of, sir?

5 A. These are photographs of damage to a vehicle
6 that are due to bullet holes.

7 Q. Okay. Do they fairly and accurately depict
8 that which you observed on that day?

9 A. Yes, sir.

10 MR. OVERBY: At this time, I would like to move
11 State's Exhibit 3-i through 3-l into evidence.

12 MR. ROBINSON: No objection.

13 THE COURT: Admitted.

14 (State's Exhibit Nos. 3-i through 3-L admitted
15 into evidence.)

16 BY MR. OVERBY:

17 Q. What are we looking at here in State's Exhibit
18 3-i?

19 A. This is the driver's side door of the vehicle
20 in which the decedent is laying. The two marks that
21 you note here -- may I point?

22 Q. Yes. You absolutely may.

23 A. These marks here are indicative of bullet
24 strikes. This is an exit hole, and this is a bullet
25 that hit inside the door, but did not exit.

1 Q. Okay. So that would indicate that a couple of
2 shots were fired?

3 A. Yes, sir.

4 Q. Okay. I'm going to show you State's Exhibit
5 3-j, what are we looking at here?

6 A. Here, you see that I'm measuring the inside
7 bullet hole. This is where the bullet exits. I
8 believe it exits in the victim's chest and then strikes
9 in the door frame.

10 Q. Okay. And State's Exhibit 3-k?

11 A. This is another bullet hole that enters that
12 interior door. And we believe this is the one that
13 comes through the knee or through the leg, hits the
14 door frame and goes out the door.

15 Q. Okay. Now, you mentioned multiple injuries,
16 correct?

17 A. I'm sorry, sir.

18 Q. You mentioned multiple injuries; is that
19 correct?

20 A. That's correct, sir.

21 Q. So not just -- so the injuries in this
22 particular case are not solely related to the back of
23 the front chest; is that correct?

24 A. I'm sorry. I didn't quite understand you.

25 Q. In other words -- in other words you have an

1 injury wound in the back shoulder, and an exit wound in
2 the front chest, but that's not the only injury on the
3 victim?

4 A. Yes, sir.

5 Q. Is that correct?

6 A. That's correct.

7 Q. What other injuries were present?

8 A. I did -- he sustained not only the gunshot
9 wound on the chest, but he also sustained a gunshot
10 wound to the right forearm that enters and exits. And
11 then he also sustained a gunshot wound to the left leg
12 around the knee region that goes in and exits, too.

13 Q. Okay. As far as your involvement into the
14 investigation of the actual incident scene, was there
15 anything else that you did in this matter?

16 A. I -- obviously I have taken the decedent's
17 temperature at the scene to determine how long he's
18 been down. I also do -- it is our standard procedure
19 to do a presumptive drug and alcohol screen to show
20 that drugs were present or alcohol was present. And
21 then, of course, once we photographed and identified
22 the injuries, we would shell the body bag in order to
23 send for an autopsy.

24 Q. Okay. And you mentioned that the -- there's
25 an autopsy that's conducted later; is that correct?

1 A. Yes, sir.

2 Q. Who conducts that autopsy?

3 A. Autopsies are conducted by a forensic
4 pathologist, which is a physician that is specifically
5 trained in determining any type of injuries and
6 illnesses.

7 Q. And what is -- what is your relation, in terms
8 of your investigation, to that of a forensic
9 pathologist?

10 A. A forensic pathologist is a physician, so he
11 actually takes the information that is supplied by the
12 death investigator, and try to correlate everything
13 that we find at the scene and what we note is the
14 injuries, and see if it matches up during the actual
15 examination of the body or the autopsy so-to-speak.
16 The autopsy only counts in most situations for about
17 ten percent of your information. Most of your
18 information is detailed from your scene investigation
19 and ties that in. And in the county of Anderson, we do
20 about 2100 deaths a year. So that tells you how busy
21 our pathologist is and -- there's only a couple of
22 things that a pathologist has to do in an autopsy on,
23 which is homicides and child deaths. So all homicides
24 are taken to a forensic pathologist.

25 Q. Okay. And do you attend these autopsies?

1 A. Yes, sir.

2 Q. Okay. Did you attend this autopsy?

3 A. I did.

4 Q. Okay.

5 MR. ROBINSON: The same objection I had before,
6 Your Honor.

7 THE COURT: Yes, sir. Let me -- pass those
8 forward.

9 MR. OVERBY: Yes, Your Honor.

10 THE COURT: Your objection would be noted for the
11 record. Go ahead, sir.

12 MR. OVERBY: Thank you, Your Honor.

13 BY MR. OVERBY:

14 Q. Were photographs taken of the autopsies?

15 A. Yes, sir.

16 Q. Was that your opportunity to be able to
17 observe the injury -- one of your opportunities to be
18 able to observe the injury?

19 A. Again, yes, sir.

20 Q. Okay. Let me show you what's been marked as
21 State's Exhibit 4-a and 4-b.

22 A. Yes, sir.

23 Q. What are those photographs of?

24 A. It appears one is a photograph of the apparent
25 gunshot wound to the left leg that's right at the knee

1 cap on the victim. The other one appears to be a
2 gunshot wound to the forearm.

3 Q. Do they fairly and accurately depict that's
4 what you observed that day?

5 A. Yes, sir.

6 Q. Okay.

7 MR. OVERBY: I would like to move these into
8 evidence, Your Honor.

9 THE COURT: Admitted subject to objection.

10 MR. OVERBY: That's State's Exhibits 4-a and 4-b
11 for the record.

12 (State's Exhibit Nos. 4-a & 4-b admitted into
13 evidence.)

14 BY MR. OVERBY:

15 Q. This photograph of the knee, this photograph
16 of the forearm, so we have three injuries in this
17 particular case; is that correct?

18 A. Yes, sir.

19 Q. Okay. And at least two shots at this point
20 that we know about; is that correct?

21 A. A minimum of three shots at this point, yes,
22 sir.

23 Q. A minimum of three shots at this point. And
24 in terms of your analysis, you mentioned that -- in
25 terms of your analysis, you mentioned that you believe

1 the shot came through the back shoulder out of the
2 chest; is that correct?

3 A. Yes, sir.

4 Q. And that it went into the door?

5 A. Yes, sir.

6 Q. These shots have a downward trajectory; is
7 that correct?

8 A. That's what our investigation revealed, yes,
9 sir.

10 Q. When you compare this with the autopsy and the
11 forensic pathologist, what is -- what is the conclusion
12 that comes out of that?

13 A. We're conclusive that the trajectory is a
14 downward angle, as a result of what we found at the
15 scene, and what he shows on the autopsy are all
16 conclusive.

17 Q. I'm going to present to you what's been marked
18 as State's Exhibit No. 5; can you tell me what that is,
19 sir?

20 A. Yes, sir. This is an autopsy report with the
21 final conclusions.

22 MR. OVERBY: Your Honor, I'd like to move this
23 into evidence at this time as State's Exhibit No. 5
24 pursuant to stipulation.

25 MR. ROBINSON: No objection.

1 THE COURT: Admitted.

2 (State's Exhibit No. 5 admitted into evidence.)

3 BY MR. OVERBY:

4 Q. I'm going to direct you to this paragraph
5 here.

6 A. Okay. "The autopsy demonstrates"...?

7 Q. Yes. Beginning with that, would you please
8 read that?

9 A. Yes, sir. The autopsy completed by Dr.
10 Woodard. It says "The autopsy demonstrates evidence of
11 three gunshot wounds" --

12 COURT REPORTER: Slow down please.

13 THE COURT: Just do it again. She's having a hard
14 time following you.

15 THE WITNESS: I'm sorry.

16 A. This is an autopsy report completed by Dr.
17 Brett Woodward at AnMed Health. It states "The autopsy
18 demonstrates evidence of three gunshot wounds. The
19 most significant wound was associated with a gunshot
20 wound entering the right back, going through the
21 victim's posterior to anterior front to back" -- I mean
22 "back to front, right to left path, with a slightly
23 downward direction. This was associated with a
24 fracture of the thoracic spinal column, contusion of
25 the thoracic spinal cord, laceration of the aorta,

1 hemothorax and laceration of the left upper lobe of the
2 lung."

3 "A second gunshot wound was observed through the
4 right forearm, which passed from the victim's ventral
5 to the victim's dorsal forearm, going from the radial
6 to the ulna side. Fractured the right radius with soft
7 tissue injuries, hematoma lacerations were observed."

8 "A third gunshot wound was a grazing superficial
9 wound through the soft tissues associated with the left
10 knee going right to left and downward."

11 Q. So injuries are going downward and the
12 eventual fatal shot was a downward direction to the
13 back left shoulder?

14 A. Yes, sir.

15 Q. Okay. And is that consistent with your
16 findings?

17 A. Yes, sir.

18 Q. Okay. At this time -- oh, one last question
19 -- you mentioned that you obtained blood samples from
20 the deceased, what do you do with that information?

21 A. Blood samples are obtained on every death we
22 investigate. These cases are sent to SLED for
23 toxicology analysis and then we get the results back.

24 Q. Okay. And what did you learn about the blood
25 samples?

1 A. The blood samples on my victim showed he had
2 an alcohol level of two twenty-nine.

3 Q. Okay. And that's pretty high, isn't it?

4 A. That's extremely high, yes, sir.

5 Q. Okay. I have no further questions for you,
6 Deputy Coroner McCown. Please answer any questions
7 defense counsel has.

8 A. Yes, sir.

9 THE COURT: Mr. Robinson.

10 **CROSS EXAMINATION BY MR. ROBINSON:**

11 Q. Good morning, sir. Okay. Let me just go back
12 a little bit, and I want to make sure. Do you have
13 your report in front of you?

14 A. I'm sorry, sir.

15 Q. Do you have your report?

16 A. I do.

17 Q. Okay. So the shots came in through the back
18 -- right through the back, and they were going downward
19 and they were going in the direction of right to left;
20 is that correct?

21 A. Yes, sir.

22 Q. Okay. And let's see. Let's go to your --
23 your report if you don't mind. This will be page 4 of
24 your Coroner's Summary Report. And I want to also
25 clarify something because I don't think this was asked

1 of you. You don't know which bullet was fired first,
2 do you?

3 A. No, sir.

4 Q. So you have no idea of the three shots that
5 we're talking about, the shoulder, the forearm or the
6 knee, you don't know which one came first; correct?

7 A. Yes, sir.

8 Q. You don't know that, do you?

9 A. That's correct.

10 Q. Okay. So actually any of those shots could
11 have done -- any of the three shots could have come
12 first; is that correct?

13 A. Yes, sir.

14 Q. It could have been the forearm first, it could
15 have been the knee first; isn't that right?

16 A. Yes, sir.

17 Q. Okay. And the last shot could have been the
18 shot that went through the shoulder; isn't that right?

19 A. Yes, sir.

20 Q. Okay. Now, you -- let's look at page 4 of
21 your report, which is going to be the first full
22 paragraph. And I think in the second sentence you have
23 an opinion; is that right? Do you see that?

24 A. Give me an idea of where you are, please.

25 Q. The fourth page.

1 A. Uh-huh.

2 Q. The first full paragraph down after the --
3 after you've made certain observations, it's the
4 paragraph next -- after "investigative findings".

5 A. Yes, sir.

6 Q. Okay. And you say it begins -- the sentence
7 begins "it is the opinion" -- can you tell the jury
8 what that opinion is, it is the opinion -- what do you
9 say? Read that out loud, please.

10 A. Okay. "The decedent appears to have brought a
11 female to her -- brought the female to her residence
12 and was confronted by a brother of the female. It is
13 the opinion of this investigator that Raeford Derrane
14 Wideman was standing on the passenger side of the
15 vehicle, near -- at the rear passenger with a firearm
16 and fired a minimum of three gunshots into the vehicle,
17 striking decedent in the right posterior aspect of the
18 back, which traveled through the decedent's body, exit
19 anterior left chest, and then struck the interior
20 driver's side door."

21 Q. So according to your opinion is that he was
22 standing -- Raeford would have been standing in the
23 rear passenger door; isn't that right?

24 A. Near the rear passenger door, yes.

25 Q. Got you. And let's look at the -- let's look

1 at the -- the -- there is two sentences or two
2 paragraphs down, you state in your -- this is page four
3 of your Coroner's Summary Report, and it begins the
4 decedent presented -- do you see that part?

5 A. "The decedent presents with no evidence of
6 physical confrontation or defense wounds."

7 Q. So yeah -- no evidence of physical
8 confrontation; correct?

9 A. That's correct.

10 Q. Okay. And, also, too, going back to page 4
11 again, "Investigative findings", are you there? Page 4
12 "Investigative findings".

13 A. Yes, sir.

14 Q. Do you see that. The second sentence, "It
15 appears that the female" -- start there and read that.

16 A. I'm sorry. I'm trying to make sure -- "it
17 appears the decedent was driving a vehicle belonging to
18 one of the females in the vehicle" --

19 Q. Okay. What's the next sentence?

20 A. If the female -- it appears the female owner
21 of the vehicle was intoxicated and passed out in the
22 rear passenger seat".

23 Q. Okay. And I think one of the last things that
24 you testified to, you said the victim's blood alcohol
25 was extremely high; is that correct?

1 A. Two twenty-nine.

2 Q. What's the legal limit for alcohol?

3 A. Point zero eight -- 80 milligrams vs. 229.

4 Q. So is that about three times the legal limit?

5 A. Yes, sir.

6 MR. ROBINSON: Okay. Thanks all the questions I
7 have. Thank you.

8 THE COURT: Redirect?

9 **REDIRECT EXAMINATION BY MR. OVERBY:**

10 Q. You said the victim -- there is no evidence of
11 physical confrontation; is that correct?

12 A. Yes, sir.

13 Q. Okay. And based on your analysis of looking
14 at the deceased, his back was turned to him the entire
15 time; is that correct?

16 A. Yes, sir.

17 Q. Okay. And these indications about who the
18 vehicle belonged to and everything along those lines,
19 you don't have any personal knowledge about those?

20 A. No, sir. That was third hand knowledge.
21 That's why it says "it appears" in my report.

22 Q. Okay. Thank you. No further questions.

23 THE COURT: May this witness be excused?

24 MR. OVERBY: Yes, Your Honor.

25 MR. ROBINSON: Yes, sir.

N. MITCHELL -- DIRECT

1 THE COURT: Thank you, sir. You're excused. The
2 next witness please, sir.

3 MR. OVERBY: Yes, Your Honor. The State calls
4 Detective Nathan Mitchell to the stand.

5 NATHAN MITCHELL, having been
6 first duly sworn, testified as follows:

7 THE CLERK: If you'll take the witness stand,
8 please, sir, and state your name, and spell your last
9 name for the reporter, please.

10 THE WITNESS: Nathan Mitchell, M-i-t-c-h-e-l-l.

11 **DIRECT EXAMINATION BY MR. OVERBY:**

12 Q. What is your occupation, sir?

13 A. I am a Detective with the Anderson County
14 Sheriff's Office.

15 Q. And how long have you been employed with the
16 Anderson County Sheriff's Department?

17 A. About 14 years or so.

18 Q. I'm sorry, sir?

19 A. About 14 years or so.

20 Q. Okay. What are your duties as a homicide
21 investigator with the Anderson County Sheriff's Office?

22 A. As a homicide investigator, we take call every
23 so often -- every so many weeks. The primary duties
24 are we're called out to any kind of death or any
25 suspicious death to include homicide.

1 Q. Okay. And what training have you undergone to
2 assist in your duties?

3 A. Throughout the years, I've had several
4 different classes, basic homicide, advanced homicide
5 investigations, child fatalities, stuff like that.

6 Q. And what additional experience do you have, if
7 any, in death investigations?

8 A. Just the past 19 years, I've been an
9 investigator. I've worked many different aspects of
10 cases, several different homicides.

11 Q. What is your role in terms of death
12 investigation when you are called to a scene?

13 A. When we're called to the scene, the primary
14 role is to -- when we get there, to establish --
15 establish the scene, and figure out what's going on
16 with it, figure out what resources were needed. If we
17 need search warrants, if we need additional personnel,
18 if we need forensics, just try to get a game plan of
19 what -- what happened, and then we try to execute that
20 game plan.

21 Q. And were you in this position during the early
22 morning hours of March 15, 2015?

23 A. Yes, sir.

24 Q. Okay. And were you on-call during this time?

25 A. Yes, sir.

N. MITCHELL -- DIRECT

1 Q. All right. And were you called out to an
2 incident scene it 2316 McDuffie Street?

3 A. Yes, sir.

4 Q. Okay. Do you remember about what time you got
5 there, sir?

6 A. Just before daylight.

7 Q. Okay. I'm going to show you -- I'm going to
8 show you State's Exhibit No. 2 to see if that will
9 refresh your recollection of an exact time; do you see
10 your name on that list, sir?

11 A. Yes, sir.

12 Q. And is that the crime scene log that was
13 started by Deputy Stipe?

14 A. It is.

15 Q. And what time does that say that you got
16 there?

17 A. It's 0637.

18 Q. Okay. Thank you, sir. So, shortly before
19 daylight?

20 A. Yes, sir.

21 Q. And on that particular day?

22 A. Yes.

23 Q. What did you observe when you got there?

24 A. When I got there, I -- it was sort of like a
25 regular crime scene. There was crime scene tape across

1 the road in the yard. But what got my attention was
2 over -- as I arrived on McDuffie Street, the car to the
3 left was backed up against the mobile home.

4 Q. And that's a blue Mitsubishi Lancer?

5 A. It was.

6 Q. It was involved in this case?

7 A. Yes.

8 Q. Were any other Sheriff's Office personnel
9 there to assist you?

10 A. There was several different officers there.
11 There was a road supervisor, Deputy Stipe; Coroner
12 McCown arrived; Investigator Branch was with forensics
13 that day she -- she came. Detective Hill, Detective
14 Garrett, and I'm sure there's some others I left out.

15 Q. Okay. And what about -- what about Sgt.
16 Gebing, was he there?

17 A. Oh, yeah, yes, sir.

18 Q. Okay. What did -- did you instruct Detective
19 Hill to do anything?

20 A. Detective Hill, we asked him to secure a
21 search warrant for the -- for the vehicle that had the
22 deceased in it, and for the residence of where the
23 defendant lived.

24 Q. And did you become aware of that -- that
25 residence was involved in some way, shape, or form?

N. MITCHELL -- DIRECT

1 A. Yes. Through -- through the investigation and
2 through the interview of witnesses, we learned.

3 Q. Okay. Do you have a search warrant in pretty
4 much everyone -- in any situation along those lines; is
5 that correct?

6 A. Most often.

7 Q. Okay. So, once the search warrant was
8 obtained, what did you do at that point?

9 A. Once the search warrant was obtained for the
10 car, you know, the car was processed accordingly.
11 Detective Hill, Detective Garrett processed the house.

12 Q. Okay. And what did you do?

13 A. Most of my duties included interviewing the
14 witnesses, different witnesses. I interviewed the
15 Defendant. I was there when the car was processed and
16 the evidence was collected out of the car.

17 Q. Well, let's keep it at the scene for right
18 now.

19 A. Okay. I'm sorry.

20 Q. You became aware of witnesses, you said, how
21 many witnesses?

22 A. Two.

23 Q. Okay. What were those witnesses' names?

24 A. One was Brianna Blassingame. The other was
25 Willie McDonald.

1 Q. Okay. At that time, did you become aware of
2 the potential person who was the shooter in this case?

3 A. Yes, sir.

4 Q. Who -- who was that person?

5 A. The defendant, Raeford Wideman.

6 Q. And is he in the courtroom here today?

7 A. Yes, sir.

8 MR. OVERBY: Your Honor, I'm reflecting -- letting
9 the record reflect that Investigator Mitchell has
10 identified the defendant.

11 THE COURT: So reflects.

12 BY MR. OVERBY:

13 Q. You spoke to the two witnesses, and who spoke
14 with Mr. Wideman first?

15 A. Sgt. Gebing.

16 Q. Okay. And what else did you do while you were
17 at the scene?

18 A. After speaking with the witnesses, we -- I
19 assisted Investigator Branch and McCown with the
20 overall initial looking at the vehicle, removal of the
21 body, observing the wounds to him.

22 Q. And everything that you observed was reflected
23 in Deputy McCown's testimony?

24 A. Yes, sir.

25 Q. Now, the -- in regards to -- you said that you

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1 eventually spoke with the suspect, was the suspect
2 detained at that point?

3 A. Yes, sir.

4 Q. Okay. So, Mr. Wideman was detained. What was
5 done with him once it became apparent that he had an
6 involvement?

7 A. He was originally interviewed by Sgt. Gebing
8 on scene. It was determined that he had an
9 involvement. He was then asked to come back to the
10 Sheriff's Office for a formal interview.

11 Q. Okay. And did you go and participate in that
12 formal interview?

13 A. Yes, sir.

14 Q. Investigator Mitchell, I'm showing you what
15 has been marked as State's Exhibit No. 6 for
16 identification purposes; can you tell me what that is?

17 A. This is a standard form that we use, we call
18 it the Advisory of Rights form. Any time we speak with
19 a person of interest, it's commonly known as a Miranda
20 Rights form. Any time we speak with a person of
21 interest, or a suspect, we have this form that we go
22 through with the suspect or the person of interest, and
23 that way they have a clear understanding of the Miranda
24 Rights.

25 Q. And why do you do that?

1 A. To make sure they understand their rights, to
2 make sure they're competent, understand what's going
3 on.

4 Q. Okay. So, in other words, so that they can
5 make a determination about whether or not they want to
6 give you a statement voluntarily?

7 A. Yes, sir.

8 Q. And he was detained at the Sheriff's Office at
9 this time?

10 A. Yes, sir.

11 Q. Okay. And you advised him of those rights?

12 A. Yes, sir.

13 Q. How do you know that based on that document?

14 A. This is the form -- a copy of the form that I
15 used. When I get it, I fill in his name. I fill in
16 the date, the location. At the very top, you can't --
17 it's kind of faded a little bit, but I'll write the
18 highest level of education to make sure they can
19 understand, you know, read and write.

20 These next two lines, I make besides the next
21 two sentences, I have them read aloud. I mark those so
22 they know which two sentences to read, that way I
23 understand they can read.

24 I sign, I date it. At the bottom of the form is
25 a Waiver of Rights, it goes through and I underline the

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1 word coercion. Coercion is not a word that many people
2 use outside of law enforcement, I guess, so I explain
3 coercion to make sure they understand that word. And
4 then we sign and date it as well.

5 Q. Why is coercion important?

6 A. We want to make sure they understand the word
7 coercion so they know we're not trying to force them or
8 bribe them into a statement.

9 Q. Okay. And did he appear to understand those
10 rights?

11 A. Yes, sir.

12 Q. Okay. Did he appear -- did he want to provide
13 a statement to you at that time?

14 A. He did.

15 Q. Okay. Did you force him, in any way, to
16 provide that statement?

17 A. No, sir.

18 MR. OVERBY: Your Honor, at this time --

19 Q. And that form, that is the form that you
20 provided to Mr. Wideman; is that correct?

21 A. Yes.

22 MR. OVERBY: At this time, I would like to move
23 State's Exhibit No. 6 into evidence.

24 THE COURT: Any objection?

25 MR. ROBINSON: No, sir.

1 THE COURT: Admitted.

2 BY MR. OVERBY:

3 Q. Now, are these interviews video recorded?

4 A. The ones at the office, yes, sir.

5 Q. Okay. And this reflects your statements
6 specifically; is that correct?

7 A. Yes, sir.

8 Q. And have you had an opportunity to view that
9 video recording?

10 A. Yes, sir.

11 Q. Does it fairly and accurately reflect what you
12 -- what -- your interview with the defendant on that
13 particular day?

14 A. Yes, sir.

15 Q. Can you tell me what that is, sir?

16 A. It appears to be a copy of that recording.

17 Q. Okay.

18 MR. OVERBY: At this time, I would like to move
19 State's Exhibit No. 7 into evidence.

20 THE COURT: Any objection?

21 MR. ROBINSON: No objection, Judge.

22 (State's Exhibit No. 7 admitted into evidence.)

23 THE COURT: Seven will be admitted.

24 MR. OVERBY: Your Honor, at this time -- I would
25 publish State's Exhibit No. 7 at later time however.

N. MITCHELL -- DIRECT

1 THE COURT: Okay, sir.

2 BY MR. OVERBY:

3 Q. So he provided you a voluntary statement at
4 that point?

5 A. Yes, sir.

6 Q. Did he admit that he shot Mr. Tatum?

7 A. He did.

8 Q. Okay. Generally speaking, what did he say was
9 the reason for shooting the victim?

10 A. An accident.

11 Q. Okay. And what was done with Mr. Wideman at
12 the conclusion of the interview?

13 A. At the conclusion of the interview he was
14 taken into custody.

15 Q. Okay. What did you do after that as far as
16 the car is concerned?

17 A. We processed the vehicle.

18 Q. Okay. Now, what does processing mean?

19 A. Processing means the forensics investigator
20 will -- if necessary dust the car for prints, collect
21 any trace evidence, or collect projectiles, take
22 pictures, trajectory rods, scale, -- scale photographs
23 and such.

24 Q. And who does that processing, generally
25 speaking?

1 A. The forensics investigator.

2 Q. And in this case, that was who?

3 A. Nikki Branch.

4 Q. Okay. But you were present?

5 A. Yes, sir.

6 Q. Does this assist you in your investigation,
7 the processing?

8 A. It does.

9 Q. I'm going to show you what's been marked
10 State's Exhibit 8-a through e, can you tell me what
11 those are photographs of?

12 A. The blue Mitsubishi Lancer that was against
13 the mobile home that morning.

14 Q. And where were they taken?

15 A. This was at the -- at our Sheriff's Office
16 impound or evidence building.

17 Q. And so that's where you took the vehicle for
18 the processing, is the impound?

19 A. Yes, sir.

20 Q. Does those fairly and accurately depict that
21 what you observed that day?

22 A. Yes, sir.

23 Q. Okay.

24 MR. OVERBY: Your Honor, at this time, we would
25 like to move these exhibits into evidence.

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1 THE COURT: Which numbers?

2 MR. OVERBY: Exhibit 8-a through 8-e.

3 THE COURT: Any objection?

4 MR. ROBINSON: No objection.

5 THE COURT: Admitted.

6 MR. OVERBY: Thank you.

7 (State's Exhibit Nos. 8-a through 8-e admitted
8 into evidence.)

9 BY MR. OVERBY:

10 Q. And I would like to show you two additional
11 photographs, Judge -- or Investigator Mitchell, can you
12 tell me what these are photographs of, sir?

13 A. Of the trajectory rods on the inside of the
14 vehicle.

15 Q. Okay. What are trajectory rods?

16 A. Trajectory rods are stiff rods that will be
17 inserted into the bullet holes and shows the path of
18 the traveling bullet.

19 Q. Does these photographs fairly and accurately
20 depict those trajectory rods in the vehicle?

21 A. Yes, sir.

22 MR. OVERBY: I would like to move State's Exhibits
23 8-f and 8-g into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. ROBINSON: No objection.

1 THE COURT: Admitted.

2 (State's Exhibit No. 8-f & 8-g admitted into
3 evidence.)

4 BY MR. OVERBY:

5 Q. Investigator Mitchell, would you step down,
6 sir? Is this front picture of the Mitsubishi Lancer?

7 A. It is.

8 Q. Okay.

9 THE COURT: Would you refer to the exhibit number
10 for me please, sir?

11 MR. OVERBY: Yes, Your Honor.

12 BY MR. OVERBY:

13 Q. State's Exhibit 8-a, is that a front picture
14 of the Mitsubishi Lancer?

15 A. Yes, sir.

16 Q. And State's Exhibit 8-b?

17 A. That the driver's side of the car.

18 Q. Okay. State's Exhibit 8-c?

19 A. That's the rear.

20 Q. Okay. State's Exhibit 8-d?

21 A. The passenger side of the vehicle.

22 Q. State's Exhibit 8-e?

23 A. That would be the driver's side door.

24 Q. Okay. What do you note in that photograph?

25 A. There's two bullets strikes.

1 Q. And State's Exhibit 8-f?

2 A. That's showing a picture of the driver's side
3 door with the three trajectory rods.

4 Q. Right. So trajectory rods in this case, and
5 I'll show you State's Exhibit 8-g, what is that, sir?

6 A. That's the same photograph, just different
7 angle.

8 Q. Okay. What angle does those photos -- those
9 trajectory rods show?

10 A. It shows that the suspect -- or when the gun
11 was fired, would be in the rear passenger side of the
12 car, inside the vehicle looking toward the driver.

13 Q. So downward trajectory?

14 A. Yes.

15 Q. Do you know if any shell casings were found in
16 the vehicle?

17 A. Yes.

18 Q. Do you know how many shell casings were found?

19 A. There was more than one.

20 Q. Okay. And how many shots did it appear were
21 fired based on your observations?

22 A. At least three.

23 Q. Do you have any other -- any other involvement
24 in this particular matter, other than interviewing the
25 defendant and being in the processing of the vehicle?

1 A. No.

2 MR. OVERBY: I have no further questions. Please
3 answer any questions the defense counsel has.

4 THE COURT: Cross examination.

5 MR. ROBINSON: May it please the court?

6 THE COURT: Yes, sir.

7 **CROSS EXAMINATION BY MR. ROBINSON:**

8 Q. Officer, I wanted to be sure that I understand
9 this. You would agree with me he was cooperative;
10 correct?

11 A. Yes, sir.

12 Q. Very emotional?

13 A. Yes --

14 Q. -- correct. And I think he -- I believe he
15 cried a lot during the interview; is that correct?

16 A. Yes, sir.

17 Q. You also agree with me as well that -- I think
18 you just answered the question from the prosecutor, as
19 far as generally -- you said that he confessed it was
20 an accident; is that correct?

21 A. Yes, sir.

22 Q. Okay. And as far as the -- the investigation
23 you did in the car, you would agree that the -- that
24 Raeford would have been standing in the right rear, in
25 the rear passenger door; correct? Rear passenger?

S . H I L L - - D I R E C T

1 A. Yes, sir.

2 Q. And also the -- and the bullets would have
3 gone in the downward pattern right to left; isn't that
4 right?

5 A. Yes, sir.

6 Q. Okay.

7 MR. ROBINSON: Beg the court's indulgence.

8 THE COURT: Yes, sir.

9 MR. ROBINSON: I have no more questions. Thank
10 you.

11 THE COURT: Redirect?

12 MR. OVERBY: None, Your Honor.

13 THE COURT: All right. Thank you, sir. You may
14 step down.

15 THE WITNESS: Thank you.

16 THE COURT: How long is your next witness?

17 MR. OVERBY: Very short.

18 THE COURT: Go ahead and call your next witness,
19 please, sir.

20 MR. OVERBY: At this time, the State calls
21 Investigator Scotty Hill to the stand.

22 SCOTTY HILL, having been first
23 duly sworn, testified as follows:

24 THE CLERK: If you'll take the witness stand, and
25 state your name and spell your last name for the

1 reporter, please.

2 THE WITNESS: My name the Scotty Hill, it's
3 H-i-l-l.

4 THE COURT: Okay.

5 **DIRECT EXAMINATION BY MR. OVERBY:**

6 Q. Where -- what is your occupation, sir?

7 A. I'm a detective for the Anderson County
8 Sheriff's Office.

9 Q. And how long have you been employed with the
10 Anderson County Sheriff's Office?

11 A. Nine out of the last 10 years.

12 Q. Okay. What is your role at the Anderson
13 County Sheriff's Office?

14 A. Again, I'm a detective. I do property crime
15 and death investigations.

16 Q. So, you assist in homicide investigations?

17 A. Yes, sir.

18 Q. Okay. What are your duties as a death
19 investigator with the Sheriff's Office?

20 A. We're usually on-call every six weeks. And
21 during that call week, we respond out to any major
22 death investigation, anything that's suspicious,
23 suicides or homicides, stuff like that.

24 Q. Okay. And do you have training and have you
25 undergone training to assist you in your duties?

S. HILL -- DIRECT

1 A. Training -- we have on-the-job training, and
2 of course it takes several years as a regular detective
3 before you become a homicide detective, so a lot of
4 on-the-job training as far as that goes.

5 Q. A lot of experience?

6 A. Yes, sir.

7 Q. Were you in your position, and were you an
8 investigator with the Anderson County Sheriff's Office
9 during the early morning hours of March 15, 2015?

10 A. Yes, sir, I was.

11 Q. Okay. Were you called out to an incident
12 scene of 2316 McDuffie Street on this morning?

13 A. I was.

14 Q. Okay. What was your responsibility at the
15 scene?

16 A. When I arrived, I was asked by Det. Mitchell,
17 who was the lead investigator on the case, to obtain
18 search warrants for the house, that the incident
19 occurred at, and then the vehicle that was involved as
20 well.

21 Q. Okay. And did you go obtain those search
22 warrants?

23 A. I did, yes, sir.

24 Q. Okay. When you returned, what was your
25 responsibility?

1 A. Assisted in executing the search warrant on
2 the house, and then also canvased the area for
3 witnesses.

4 Q. Okay. I want to show you some photographs,
5 which have been marked State's Exhibit 9-a, 9-b. As a
6 matter of fact, I am going to show you 9-c through 9-k
7 as well. If you would flip through those photographs,
8 sir. What are those photographs of?

9 A. This is the incident location of the house
10 that the incident occurred at.

11 Q. Okay. And were those taken during your
12 execution of the search warrants?

13 A. Yes, sir, they were.

14 Q. Do they fairly and accurately represent what
15 you observed during the execution of the search
16 warrant?

17 A. Yes, sir.

18 MR. OVERBY: I would like to move State's Exhibit
19 9-a through 9-k into evidence.

20 THE COURT: Any objection?

21 MR. ROBINSON: No objection.

22 THE COURT: Admitted.

23 (State's Exhibits No. 9-a through 9-k admitted
24 into evidence.)

25

S . H I L L - - D I R E C T

1 BY MR. OVERBY:

2 Q. Would you step down, Investigator Hill.

3 A. Yes, sir.

4 Q. What are we looking at here on Exhibit 9-a,
5 sir?

6 A. That's the front door of the house.

7 Q. Okay. And that's 2316 South McDuffie Street?

8 A. Yes, sir.

9 Q. Okay. Are you aware of who lived at that
10 residence?

11 A. I know the defendant lived there.

12 Q. Mr. Wideman?

13 A. I believe his parents as well.

14 Q. Okay. What is this a photograph of?

15 A. That's the front yard.

16 Q. Was that white Jeep in the front yard?

17 A. It was.

18 Q. That morning?

19 A. Yes.

20 Q. And that's State's Exhibit 9-b; correct?

21 A. Yes.

22 Q. What's depicted in State's Exhibit 9-c?

23 A. That's the living room of the residence.

24 Q. Okay. And that's what you see when you come
25 in the door?

1 A. Yes, sir. That's right inside the front door.

2 Q. The same with State's Exhibit 9-d?

3 A. Yes, sir.

4 Q. What about -- what's State's Exhibit 9-e?

5 A. Being in the living room, just a different
6 angle.

7 Q. And State's Exhibit 9-f?

8 A. That's the dining room, and then a part of the
9 kitchen.

10 Q. Is all of that interconnected in the house?

11 A. Yes, sir.

12 Q. As far as this is concerned?

13 A. Yes.

14 Q. Now, during the excursion of the search
15 warrant, what was generally going on as that was
16 happening?

17 A. As far as?

18 Q. As far as --

19 A. Originally --

20 Q. -- as far as what you were doing, as far as
21 what other people were doing, and other people were
22 there --

23 A. Yes. I know inside the house was me and
24 another detective, and our forensics investigator. We
25 were looking for the primary weapons used in the

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1 incident inside the house. And I believe Sgt. Gebing
2 was talking to the defendant outside of the house.

3 Q. Okay. Eventually were you led -- actually
4 step up -- step up there real quick -- did Sgt. Gebing
5 eventually come into the home?

6 A. Yes, sir, he did.

7 Q. Okay. What did you learn upon him coming into
8 the residence?

9 MR. ROBINSON: Objection, Your Honor, hearsay.
10 It's going into hearsay.

11 THE COURT: Rephrase your question, please, sir.

12 MR. OVERBY: Yes, Your Honor.

13 BY MR. OVERBY:

14 Q. Were you directed to go somewhere in the house
15 at that point?

16 A. Yes, to a rear room.

17 Q. Okay. And why were you directed?

18 A. We were -- the -- there was a dresser back
19 there that the gun was supposedly on.

20 Q. Who provided that information to Sgt. Gebing?

21 A. The defendant.

22 Q. Okay. Now, if you would step down, sir, what
23 is depicted in State's Exhibit 9-g?

24 A. That's the room where we found the gun.

25 Q. Okay. And State's Exhibit 9-h?

1 A. That's like a -- I guess almost like a little
2 storage area in that room, like a door, a couch that
3 was in there.

4 Q. That's all in the same room; correct?

5 A. Yes, sir, it is.

6 Q. And State's Exhibit 9-i?

7 A. That's the dresser where we found the gun.

8 Q. Now, when you say you found the gun, where did
9 you find the gun in the dresser?

10 A. Where it is ready to pull out, in the bottom
11 drawers, and the gun was on one side and the magazine
12 was on the other side.

13 Q. So these two drawers here were still in place?

14 A. Yes.

15 Q. At the time you located the firearm?

16 A. Yes, sir.

17 Q. You actually pulled these out?

18 A. Yes, sir.

19 Q. Does this depict the firearm you located in
20 State's Exhibit 9-j?

21 A. Yes, sir, it does.

22 Q. State's Exhibit 9-k?

23 A. That's the magazine on the other side of the
24 dresser.

25 Q. Okay. What was done with the firearm at that

S. HILL -- DIRECT

1 that point?

2 A. It was collected and photographed by our
3 forensics investigator.

4 Q. Okay. Did you have other involvement in this
5 case?

6 A. I did go to our -- what we call the Sheriff's
7 Office Armory, which is just like.

8 Q. You can sit back down.

9 A. We went back to the Sheriff's Office Armory,
10 which is like an evidence lot, where we executed the
11 search warrant on the victim's vehicle. And I just
12 assisted in the that.

13 Q. And you assisted in the processing of that?

14 A. Yes, sir.

15 MR. OVERBY: I have no further questions for this
16 witness, judge. Please answer any questions that the
17 defense counsel has for you.

18 THE COURT: Cross examination.

19 MR. ROBINSON: I have no cross, Judge.

20 THE COURT: May this witness be excused?

21 MR. OVERBY: Yes, your Honor.

22 THE COURT: Thank you, sir. You are excused. How
23 long is your next witness?

24 MR. OVERBY: Short.

25 THE COURT: Okay. Call them please, sir.

1 MR. OVERBY: Yes, Your Honor. The State calls
2 Nikki Branch Gregory.

3 NIKKI BRANCH, having been
4 first duly sworn, testified as follows:

5 THE CLERK: If you would take the witness stand,
6 please, ma'am, and state your name and spell your last
7 name for the reporter, please.

8 THE WITNESS: Nikki Gregory Branch. Branch,
9 B-r-a-n-c-h.

10 **DIRECT EXAMINATION BY MR. OVERBY:**

11 Q. What is your present occupation, ma'am?

12 A. Office manager.

13 Q. Okay. Where are you employed now?

14 A. West Star Tire.

15 Q. Where were you formerly employed?

16 A. Anderson County Sheriff's Office.

17 Q. Okay. What was your role in that position?

18 A. A forensics investigator.

19 Q. What is the role of a forensics investigator?

20 A. We respond to a scene to preserve evidence,
21 preserve the crime scene; collect any evidence,
22 fingerprints, photographs, assist the investigators
23 execute search warrants.

24 Q. And how long were you in that role?

25 A. Almost five years.

N. BRANCH -- DIRECT

1 Q. Okay. Did you respond to a scene at 2316
2 McDuffie Street on the morning of March 15, 2015?

3 A. Yes, sir.

4 Q. Okay. What were your responsibilities at that
5 scene?

6 A. To photograph the scene, collect evidence,
7 assist the investigators, check for latents.

8 Q. So the photographs that are subject to this
9 case, you were actually the one that took those; is
10 that correct?

11 A. That's correct.

12 Q. Okay. Did you go into the residence at 2316
13 South McDuffie Street?

14 A. Yes, I did.

15 Q. Okay. What did you do when you were in there?

16 A. I photographed the search warrant, I
17 photographed the residence inside; collected evidence,
18 and assisted with what the investigators needed.

19 Q. And what kind of evidence did you collect?

20 A. Inside the residence?

21 Q. Inside the residence?

22 A. A firearm.

23 Q. A firearm?

24 A. Yes, sir.

25 Q. Okay. I'm going to show you what has already

1 been admitted as State's Exhibit 9-j, and I'm also --
2 is that the firearm you collected?

3 A. Yes.

4 Q. And I'm going to show you now what's been
5 marked for identification purposes as State's Exhibit
6 10; what is that a photograph of?

7 A. The serial number of the firearm.

8 Q. To this same firearm in the State's Exhibit
9 9-j?

10 A. That is correct.

11 Q. Okay. And does that fairly and accurately
12 depict what you observed on that particular day?

13 A. Yes.

14 Q. On that particular morning.

15 MR. OVERBY: Your Honor, I would like to move
16 State's Exhibit 10 into evidence.

17 MR. ROBINSON: No objection.

18 THE COURT: Admitted.

19 (State's Exhibit No. 10 admitted into evidence.)

20 BY MR. OVERBY:

21 Q. So that firearm -- does that firearm have a
22 specialized serial number in terms of to that firearm
23 itself?

24 A. Yes.

25 Q. I'm going to show you what has been marked --

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1 THE COURT: Just one second. Has that been
2 disabled?

3 MR. OVERBY: Yes, Your Honor.

4 THE COURT: Okay, sir.

5 MR. OVERBY: It has been.

6 THE COURT: And would you direct any witnesses,
7 assuming it gets into evidence, not to point it at the
8 jury or anyone in the courtroom please?

9 MR. OVERBY: Yes. Yes, Your Honor.

10 THE COURT: Thank you.

11 BY MR. OVERBY:

12 Q. I do not want you to direct this at anybody,
13 but I want you to confirm this is the firearm in this
14 case?

15 A. Yes, it is.

16 Q. How do you know?

17 A. The serial number is the same.

18 Q. Okay.

19 MR. OVERBY: At this time, I would like to move
20 State's Exhibit No. 11 into evidence.

21 THE COURT: Any objection?

22 MR. ROBINSON: No objection.

23 THE COURT: Admitted.

24 (State's Exhibit No. 11 admitted into evidence.)
25

1 BY MR. OVERBY:

2 Q. I'm going to show you State's Exhibit No. 12,
3 did you collect that clip as well?

4 A. Yes, I did. Okay.

5 MR. OVERBY: I would like to move State's Exhibit
6 No. 12 into evidence.

7 MR. ROBINSON: No objection.

8 THE COURT: Admitted.

9 (State's Exhibit No. 12 admitted into evidence.)

10 Q. Once you obtained this firearm from the house,
11 what was the next response -- what was your next
12 responsibility in terms of evidence collection?

13 A. Place the evidence in an evidence box; seal it
14 with tape; initial it; take it to evidence intake and
15 enter it.

16 Q. Okay. And did you assist in the processing of
17 the vehicle that was involved in this case, the
18 Mitsubishi Lancer?

19 A. Yes, I did.

20 Q. Okay. What did you obtain from that blue
21 Mitsubishi?

22 A. Photographs; some latents prints; some parts
23 of the upholstery in the vehicle, and some shell
24 casings and projectiles.

25 Q. Okay. So you obtained some shell casings and

N. BRANCH -- DIRECT

1 projectiles; is that correct?

2 A. That is correct.

3 Q. I'm going to show you what's been marked for
4 identification purposes as State's Exhibit 14 -- or 13,
5 14, 15, and 16; can you tell me what those are, ma'am?

6 A. These are shell casings that I collected from
7 inside of the vehicle.

8 Q. Where did you collect them from?

9 A. There was one, I believe, on the passenger
10 seat; one in between the passenger seat and the
11 console. There was one on the rear passenger side
12 floorboard that I recovered. And one -- I think there
13 were two in -- in the floor board on the back
14 passenger.

15 Q. But all of those were on the passenger side,
16 inside of the vehicle --

17 A. Yes --

18 Q. -- is that correct?

19 A. -- that is correct.

20 Q. Okay.

21 MR. OVERBY: At this time, I would like to move
22 State's Exhibit 13 through 16 into evidence.

23 THE COURT: Any objection?

24 MR. ROBINSON: No objection.

25 THE COURT: Admitted.

1 (State's Exhibits Nos. 13 - 16 admitted into
2 evidence.)

3 BY MR. OVERBY:

4 Q. Did you have any other involvement with this
5 case, ma'am?

6 A. Other than collecting and processing and
7 entering evidence, no, I did not.

8 MR. OVERBY: Okay. I have no further questions
9 for this witness, Your Honor. Please answer any
10 questions that Mr. Robinson has.

11 MR. ROBINSON: No questions.

12 THE COURT: May this witness be excused?

13 MR. OVERBY: Yes, your Honor.

14 THE COURT: All right. Thank you, ma'am. You are
15 excused. Thank you.

16 (Bench conference.)

17 THE COURT: All right, Mr. Foreman, I'm checking
18 with the attorneys to look into the logistics, both of
19 them say this is a good time to make a break -- or have
20 a break. If you would, let's come back about 1:15 and
21 we'll resume the testimony at 1:15 if you don't mind.
22 But if you leave your pads in the jury room, we will
23 excuse you for the lunch break.

24 (Whereupon, the jury left the courtroom at 11:55
25 p.m.)

1 THE COURT: All right, recess until 1:15. Either
2 one of guys -- or anybody need to get in the courtroom
3 during the break?

4 MR. OVERBY: I don't believe I do, Your Honor.

5 MR. ROBINSON: No.

6 THE COURT: All right, 1:15. Thank you, guys.

7 (After a recess, court reconvened.)

8 THE COURT: All right. Mr. Overby, anything from
9 the State before we get started?

10 MR. OVERBY: No, Your Honor. The State is ready
11 to proceed.

12 THE COURT: Thank you, sir. Mr. Robinson? No?

13 MR. ROBINSON: No.

14 (Whereupon, the jury entered the courtroom at
15 1:15 p.m.)

16 THE COURT: All right. Mr. Foreman, ladies and
17 gentlemen of the jury, does everybody have their pads
18 and pens with them and ready? All right. Mr. Overby,
19 is the State ready?

20 MR. OVERBY: Yes, Your Honor.

21 THE COURT: I understand we're changing the
22 batteries. Just one second.

23 (Pause.)

24 THE COURT: Are you ready to proceed?

25 MR. ROBINSON: Yes, sir.

1 THE COURT: All right. Very good. Call your next
2 witness.

3 MR. OVERBY: Thank you, Your Honor. The State
4 calls Lieutenant Todd Caron to the stand.

5 TODD CARON, having been first
6 duly sworn, testified as follows:

7 THE CLERK: If you'll take the witness stand,
8 please, sir, and state your name and spell your last
9 name for the reporter, please.

10 THE WITNESS: Todd Caron, C-a-r-o-n.

11 **DIRECT EXAMINATION BY MR. OVERBY:**

12 Q. Where are you employed, sir?

13 A. The Anderson County Sheriff's Office.

14 Q. In what capacity?

15 A. Lieutenant over Special Operations.

16 Q. Okay. Have you always been in that position?

17 A. I have not.

18 Q. Okay. What other positions have you served in
19 previously?

20 A. Prior to this, I was Sergeant over Property
21 and Evidence.

22 Q. Okay. And how long were you the sergeant over
23 Property and Evidence?

24 A. Five years, 2002.

25 Q. And what were your some of your duties and

1 responsibilities as sergeant over Property and
2 Evidence?

3 A. My primary job was to maintain all evidence
4 that came into the Sheriff's Office, to make sure that
5 it was properly stored -- sealed, stored, and put away.
6 If any evidence needed to go anywhere to be analyzed,
7 it was part of my job to take that evidence to be
8 analyzed.

9 Q. Okay. And part -- in order to assist you in
10 that endeavor, do y'all have a log-in system for the
11 evidence in question?

12 A. Yes. Yes. If -- when evidence is submitted,
13 the deputies will generally submit it on an evidence
14 sheet, or if it's one of our forensics techs that
15 collect the evidence, they would enter it into a
16 computer system called File On Cue (ph) that would
17 generate a barcode for each piece of evidence, and a
18 barcode number that we could track it with, similar to
19 a barcode that you would see in a grocery store that
20 you would scan. We have scanners that you scan it and
21 you could scan it out to certain locations to track it.

22 Q. Okay. I'm going to show you what's been
23 placed into evidence as State's Exhibit Nos. 11 through
24 16. If you would, sir, would you provide the record
25 the barcode numbers for each of the items that I have

1 provided to you, State's Exhibit 11 through 16?

2 A. Sure. This first one has got a barcode number
3 1146304.

4 Q. Can you tell me what that is?

5 A. Sure. Just one second. That is going to be
6 ammunition and a magazine.

7 Q. Okay. Is there anything else -- is there any
8 other barcodes that are associated with it?

9 A. Yes. There's also 1146302, which is a
10 Hi-Point nine millimeter.

11 Q. Okay.

12 A. 1146303, which is a magazine with live rounds.
13 And then 1146319 is a shell casing that was found
14 between the passenger seat and the console by
15 Investigator Nikki Gregory.

16 Q. 1146319 is a shell casing?

17 A. Yes, sir.

18 Q. Okay.

19 A. Yes, sir. 1146317 is a shell casing found on
20 the floor board behind the passenger seat also by
21 Investigator Gregory.

22 Q. Is that -- and please read the exhibit numbers
23 that are in question.

24 A. Oh, I'm sorry. Sure. That last one was 15.

25 Q. State's Exhibit 15?

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1 A. Yes, sir. And was 1146319 was Exhibit 16.
2 And the ones before that, these just say 11 and 12 --
3 okay, 11 is the gun, 12 says the magazine. I see
4 another one on here for the ammunition.

5 And then 1146316 -- there's a sticker covering
6 what it is -- the exhibit sticker, but it's Exhibit No.
7 14. That is going to be also a shell casing from the
8 front passenger seat. And then 1146309, nine
9 millimeter casing found under the front passenger seat
10 also by Investigator Gregory, and it's State's Exhibit
11 13.

12 Q. Okay. And all those were submitted by
13 Investigator Gregory; is that correct?

14 A. Yes, sir.

15 Q. Now, in reference to this case, did you have
16 the occasion to transport these items to anywhere for
17 analysis?

18 A. Yes.

19 Q. Where did you transport them?

20 A. They were taken to the Greenville County
21 Firearms Lab.

22 Q. Okay. And when was that done?

23 A. That was 4/20, April 20, 2015.

24 Q. Okay.

25 MR. OVERBY: I have no further questions for this

1 witness, Your Honor. Please answer any questions of
2 this witness.

3 THE COURT: Cross examination?

4 MR. ROBINSON: I have no cross, Your Honor.

5 THE COURT: May this witness be excused?

6 MR. OVERBY: Yes, your Honor.

7 THE COURT: Thank you, sir.

8 MR. OVERBY: Your Honor, at this time, the State
9 calls James Armstrong from the Greenville Crime Lab to
10 the witness Stand.

11 JAMES ARMSTRONG, having been
12 first duly sworn, testified as follows:

13 THE CLERK: If you would, take the witness stand,
14 please, sir, and state your name and spell your last
15 name for the reporter, please.

16 THE WITNESS: James Armstrong, A-r-m-s-t-r-o-n-g.

17 **DIRECT EXAMINATION BY MR. OVERBY:**

18 Q. Mr. Armstrong, where are you employed?

19 A. I'm employed with the Greenville County
20 Department of Public Safety and Forensics Division
21 Crime Laboratory.

22 Q. Okay. In what capacity?

23 A. I have a dual responsibility as a Forensics
24 Drug Chemist and a Forensics Firearm Examiner.

25 Q. Okay. And what sort of experience and

1 training do you have as a forensics firearm examiner?

2 A. I trained in the area of firearm
3 identification probably two years under the direction
4 of a retired firearm examiner from Philadelphia P.D. I
5 have attended 14 different manufacturing facilities
6 that manufacturer firearms. I watched the
7 manufacturing process from raw material to finished
8 product. I attended five different armors of schools
9 to learn how to work on various types of firearms and
10 their functionality.

11 I have been through four different ammunition
12 manufacturing facilities to see the same process as the
13 manufacturing process of ammo. And I have testified in
14 Federal and State courts at least 59 times as an expert
15 in the field of firearm identification.

16 Q. Okay. So, you said you have testified 59
17 times in the expert -- in the field of Forensic
18 Firearms Analysis?

19 A. Yes, sir, I have.

20 Q. Okay.

21 MR. OVERBY: Your Honor, at this time, I would
22 move to have James Armstrong qualified as an expert in
23 the field of Forensic Firearms Analysis.

24 MR. ROBINSON: I have no objection.

25 THE COURT: All right. Ladies and gentlemen,

1 normally a witness is not allowed to give their opinion
2 in the courtroom, except in very limited circumstances.
3 However, a person because they are experienced or
4 education, or a combinations of the two, who has
5 achieved an expertise in an area that would be helpful
6 to the jury, is allowed to give an opinion in the area
7 of their expertise. It is stipulated in this case that
8 Mr. Armstrong is an expert in Forensic Firearm
9 Examination and Identification. He'll be allowed to
10 give his opinion in those areas.

11 I'll tell you, ladies and gentlemen, that expert
12 testimony is just like any other testimony you will
13 hear in this case, you may accept it, you may reject
14 it, or give as much weight as you think it deserves.

15 MR. OVERBY: All right. Thank you.

16 BY MR. OVERBY:

17 Q. Generally speaking, are you familiar with the
18 process of ballistics testing as it relates to
19 comparing casings and projectiles to firearms?

20 A. Yes, sir, I am.

21 Q. Okay. Talk to the jury, tell the jury about
22 that process.

23 A. When a firearm is fired, it leaves a
24 manufacturing mark or imperfections that are
25 transferred from the firearm to the fire cartridge case

1 and projectile. Those are what we call the
2 fingerprints of the firearm.

3 The way we actually do the comparison, I take a
4 firearm and generate test shots from ammunition that I
5 purchased myself from a manufacturer, and collect those
6 as my test or known specimens.

7 I take the evidence that comes from a crime
8 scene or location and do a side-by-side comparison with
9 a comparison microscope of the unknowns to my knowns
10 that I generated. It's basically like putting a puzzle
11 together, trying to match those up, those strikes or
12 imperfections that are transferred to those items.

13 Q. So each gun has its own individual fingerprint
14 then?

15 A. That's correct.

16 Q. All right. Based on these microscopic
17 markings?

18 A. That's correct.

19 Q. Now, there are the multiple makes and models
20 of guns, obviously, correct?

21 A. Correct.

22 Q. What variation does that have from model to
23 model, make to make, is there any -- what is the --
24 what is the different -- are -- are all guns
25 specifically different?

1 A. All guns are different.

2 Q. Okay. So, not -- so you couldn't have one
3 Hi-Point nine millimeter and another Hi-Point nine
4 millimeter and they leave the same marking?

5 A. They would all be different.

6 Q. Okay. So, that's based on the firearm itself?

7 A. Yes.

8 Q. And you said you analyzed that
9 microscopically?

10 A. Yes, sir.

11 Q. Talk about that just a little bit more.

12 A. The comparison microscopic has a -- basically
13 a field where you actually see two items at one time,
14 side-by-side, and you kind of overlap them and you look
15 for -- like I said -- like a puzzle, any kind of
16 similarities that line up together.

17 Q. And is there -- in -- in terms of your
18 analysis in making the determination about these
19 things, do these -- sometimes are microscopic markings
20 not sufficient to be able to make the identification?

21 A. No, correct.

22 Q. Okay. How do you -- how does that deal with
23 your report when you are asked to do an analysis in
24 this case?

25 A. If I have a comparison, and I'm able to make a

1 definite match to the one item, I will say that, yes,
2 this was fired in or from that firearm -- or they were
3 fired in the same firearm. If I have insufficient
4 marks, I -- in my report I will state there may be some
5 similarities, but insufficient marks to make an
6 identification to it.

7 Q. Okay. Are -- were you -- are you asked by
8 other agencies to conduct a firearms analysis?

9 A. Yes, sir, I am.

10 Q. Okay. Were you asked to conduct a firearms
11 analysis on -- on a case from the Anderson County
12 Office with case number 2015-05407?

13 A. Yes, sir, I was.

14 Q. Okay. Can you state the name of the
15 defendant -- or the subject that was done in that
16 particular case -- the subject's name in that case?

17 A. The subject that I was given was Raeford
18 Derrane Wideman.

19 Q. Okay. And in reference to that case, who was
20 the -- what was the submitting agency again?

21 A. Anderson Sheriff's Office.

22 Q. Okay. And you have your own case number for
23 that; is that correct?

24 A. That's correct.

25 Q. All right. What items were submitted to you

1 for comparison?

2 A. I received an Anderson County item number
3 1146302, which is a Hi-Point Model C nine semiautomatic
4 pistol; 1146303, that was a pistol magazine containing
5 three nine millimeter luger cartridges; item 1146304, a
6 caliber nine millimeter luger cartridge; 1146309, a
7 nine millimeter luger fire cartridge case; 116 --
8 1146310, a fire bullet jacket fragment.

9 And then I had item 1146312-A is a caliber 38
10 nine millimeter fired bullet specimen; 1146312-B is a
11 fired bullet jacket fragment; and 1146312-C is three
12 fired bullet jacket fragments; and item 1146312-D is
13 consistent with a fired bullet pore (ph). It is not
14 suitable for microscopic comparison purposes.

15 Item 1146312-E is a metal fragment not suitable
16 for microscopic comparison purposes; item 1146314 is a
17 metal fragment, not suitable for microscopic comparison
18 purposes. Item 1146315, fired bullet jacket fragment.
19 Item 1146316 was a caliber nine millimeter luger fired
20 cartridge case; 1146317, another fired -- nine
21 millimeter luger fired cartridge case. And item
22 1146319 was an additional nine millimeter luger fired
23 cartridge case.

24 Q. Okay. I'm going to show you what's been
25 marked -- what's been entered into evidence as State's

1 Exhibit No. 11. Now, this is a firearm that I have
2 been instructed to make sure that you do not point it
3 towards the jury in any way.

4 THE COURT: Or anyone else.

5 MR. OVERBY: Or anyone else, yes, Your Honor.

6 BY MR. OVERBY:

7 Q. What you have is State's Exhibit No. 11; can
8 you tell me what that is?

9 A. Yes, sir. This is a Hi-Point Model C nine
10 semiautomatic pistol with serial number T1753847.

11 Q. Okay. Is that in reference to your report
12 item number 1146302?

13 A. Yes, sir, it is.

14 Q. Based on the serial number?

15 A. Based on the serial number, yes, sir.

16 Q. Okay. Thank you, sir. Now, I'm going to show
17 you item number 1146309, which is State's Exhibit 13;
18 is that a shell casing that was sent to you from the
19 Anderson County Sheriff's Office?

20 A. Yes, sir, it is.

21 Q. How do you know that?

22 A. One of the case numbers for Anderson County,
23 on the envelope here, had my initials and date where I
24 actually sealed the envelope and placed it back into
25 Property and Evidence.

1 Q. Okay. So that is one of the shell casings you
2 compared as part of this case?

3 A. Yes, sir, it is.

4 Q. Okay. I'm going to show you State's Exhibit
5 No. 14; is that one of the shell casings that you
6 observed in this particular case?

7 A. Yes, sir, it is.

8 Q. Which one is that?

9 A. This is the item 1146316.

10 Q. Okay, 1146316, and how do you know that's one
11 of yours?

12 A. Once again, the -- my initials and the date
13 where I actually opened it and sealed the package.

14 Q. Okay. Thank you, sir. I'm going to hand you
15 State's Exhibit No. 15; is that another one of the
16 shell casings?

17 A. Yes, sir, it is.

18 Q. Which one is that one?

19 A. This is a 1146317.

20 Q. Okay. And how do you know that that is one of
21 the shell casings?

22 A. With the item number and my initials and date.

23 Q. The same way?

24 A. Yes, sir.

25 Q. And, finally, I'm going to show you State's

1 Exhibit No. 16; is that the final shell casing?

2 A. Yes, sir, it is.

3 Q. Okay. And do you know from what -- which
4 number is that?

5 A. That is 1146319.

6 Q. Okay. And that is -- those are with your
7 initials?

8 A. Initials and marked, yes, sir.

9 Q. Okay. Now, all of these items were submitted
10 to you as evidence for comparison?

11 A. Yes, sir.

12 Q. And you explained that you essentially take
13 this firearm, test fire it with your own round, and
14 then compare it microscopically in order to make a
15 determination whether these individuals match the
16 markings on the test fire?

17 A. Correct.

18 Q. Is that correct?

19 A. That's correct.

20 Q. Did you generate a report?

21 A. I did.

22 Q. In reference to that?

23 A. Yes, sir, I did.

24 Q. Okay. What were the results of the report as
25 it pertains to the items that are in evidence here?

1 A. The item 1146302, pistol was examined, test
2 fired, and found to be operable. The items 1146309,
3 1146316, 1146317, and 1146319, fired cartridge cases,
4 were fired in the item 1146302 pistol.

5 Q. So, in other words, these shell casings were
6 fired by this gun?

7 A. That's correct.

8 Q. And is there any variance or any ability or
9 standard deviation of any kind as to that?

10 A. No, sir.

11 Q. Okay. Those bullets were fired in that gun?

12 A. Those fired cartridge cases were fired in that
13 firearm.

14 Q. Were you able to get a conclusive match on
15 anything else that was submitted to you?

16 A. No, sir.

17 Q. Okay. Let me ask you then -- first of all,
18 I'm going to ask you to take a look at this report.
19 I'm going to show you what's been marked as State's
20 Exhibit No. 17, Mr. Armstrong, can you tell me what
21 that is?

22 A. Yes, sir. This is a copy of my report for
23 this case.

24 Q. And how do you know?

25 A. Well, it has the -- my case number, the agency

1 case number for Anderson County, and the items.

2 MR. OVERBY: At this time, Your Honor, I would
3 like to move State's Exhibit No. 17 into evidence.

4 MR. ROBINSON: No objection.

5 THE COURT: Admitted.

6 (State's Exhibit No. 17 admitted into evidence.)

7 BY MR. OVERBY:

8 Q. Now, for demonstration purposes, again, so you
9 don't want to point it at anyone obviously. I would
10 like you to describe the manner in which this firearm
11 operates in terms of -- in terms of -- once you pull
12 the trigger, everything that happens after that.

13 A. The basic operation of a firearm, when a
14 firearm has a magazine that's unloaded, is inserted,
15 and then the slide is pulled back and released, it is
16 now -- the pistol is now loaded and ready to be fired.

17 Upon pulling the trigger, when you pull the
18 trigger, the firing pin then falls and hits what they
19 call the primer, which is on the base of the cartridge
20 case. This has a little small explosion inside. That
21 little small shot sensitive compound in there for -- on
22 a spark, which goes into the powder charge of the case,
23 to cause the powder to start burning at a rapid rate.

24 As that powder burns, the pressure builds up
25 inside the casing, which expands the casing in all

1 directions, forward, backwards, and out to the sides,
2 where it picks up the machine marks from where the
3 firearm was made, as well as pushing the projectile
4 down the barrel.

5 And then as the projectile is leaving the
6 barrel, then the slide retracts back -- back to the
7 rear position again, loads another round, and then the
8 same process when the trigger is pulled a second time.

9 Q. Okay. What happens to the shell casing that
10 is spent after the -- after the projectile from it is
11 ejected?

12 A. When a projectile comes out and the slide
13 comes to the rear, there is an extractor and ejector on
14 the firearm. It pulls the fired cartridge case from
15 the chamber, or the barrel of the firearm, and then it
16 hits the ejector and it is ejected off to the side.

17 Q. Okay.

18 A. Either up -- up to the right -- and up and to
19 the right of the shooter.

20 Q. Okay. So, in that -- where that red trigger
21 block is --

22 A. Right.

23 Q. -- the red slide block is, that's where the
24 ejection port is --

25 A. The ejection port here, yes, sir.

1 Q. Okay. You said that that ejects up and to the
2 right; is that correct?

3 A. Generally, if you're holding the firearm in a
4 traditional shooter stance, where it actually is in the
5 hand, and straight up and down, it ejects up and to the
6 right.

7 Q. Okay. So if the shooter has the gun, and he
8 is holding it in his left hand, then it would go -- and
9 this has a right hand ejection port; correct?

10 A. Correct.

11 Q. It would go up and to the right?

12 A. Correct.

13 Q. Like that (indicating)?

14 A. It might go off to the -- to the side, but
15 right beside him, to the right hand side.

16 Q. Okay. In regards to -- let me ask you a
17 question about the operation of the firearm itself; is
18 this firearm a single shot, a semi-automatic, or an
19 automatic?

20 A. It's a semi-automatic pistol.

21 Q. So what does that mean?

22 A. It will fire one round per pull of the
23 trigger.

24 Q. So, in other words, will it fire two rounds
25 with one pull of the trigger?

1 A. No, sir.

2 Q. Will it fire three rounds with one pull of the
3 trigger?

4 A. No, sir.

5 Q. Will it fire four rounds with one pull of the
6 trigger?

7 A. No, sir.

8 Q. How many pulls of the trigger would it take to
9 fire four rounds?

10 A. It would take four pulls of the trigger.

11 Q. So, in other words, four separate, distinct
12 pulls?

13 A. That's correct.

14 Q. Okay. Thank you, sir. What is your
15 experience with accidental discharges?

16 A. I do -- I do cases on occasion and try to
17 determine if there are accidental discharges on a
18 firearm.

19 Q. Okay. Do they ever involve multiple shell
20 casings?

21 A. Only in the case if there is --

22 MR. ROBINSON: Your Honor, I'm going to object. I
23 have a motion outside of the jury.

24 THE COURT: All right. Mr. Foreman, would you
25 take your jury back to the jury room, please, sir.

1 (Whereupon the jury left the courtroom at 1:45
2 p.m.)

3 THE COURT: All right. Mr. Robinson.

4 MR. ROBINSON: Judge, may it please the court,
5 Your Honor?

6 THE COURT: Yes, sir. You can stay seated.

7 MR. ROBINSON: I appreciate what Mr. Overby is
8 doing in terms of Mr. Armstrong, as an expert, in what
9 we say he is an expert in, but he's going far afield on
10 the accidental discharge stuff. I don't -- I don't
11 believe he is qualified to testify to that.

12 THE COURT: I -- I agree, you are going to have to
13 lay further foundation to develop an expertise for him
14 to be able to testify about accidental discharge. He
15 may be able to, I just -- right now, from what's
16 been -- what's been laid for his being qualified as an
17 expert, which he certainly is, doesn't include
18 accidental discharge. Okay.

19 MR. OVERBY: Very well, Your Honor. I will
20 withdraw the question.

21 THE COURT: Okay, sir.

22 MR. ROBINSON: Your Honor --

23 THE COURT: Are you --

24 MR. ROBINSON: If he would have proceeded further,
25 I would have asked for a proffer on that. But if he's

1 withdrawing the question about the accidental discharge
2 --

3 THE COURT: That's what I thought he said. You
4 are withdrawing the question?

5 MR. OVERBY: Yes, Your Honor. And I'll do so in
6 front of the jury.

7 THE COURT: All right. Are you ready to proceed
8 with this witness?

9 MR. OVERBY: Yes, Your Honor.

10 THE COURT: All right. Bring the witness -- I
11 mean the jury back, please.

12 (Whereupon, the jury entered the courtroom at
13 1:48 p.m.)

14 THE COURT: Mr. Overby.

15 MR. OVERBY: May it please the court, Your Honor.

16 THE COURT: Yes, sir.

17 MR. OVERBY: The State withdraws that last
18 question.

19 THE COURT: Okay.

20 MR. OVERBY: I have no further questions for this
21 witness. Please answer any questions defense counsel
22 has --

23 THE COURT: Cross -- excuse me -- cross
24 examination.

25 MR. ROBINSON: Please the court.

CROSS EXAMINATION BY MR. ROBINSON:

Q. Good morning -- or afternoon, Mr. Armstrong.

A. Afternoon.

Q. I'm sorry. I appreciate -- I have to say I appreciate your -- your -- your testimony. Let me ask you this though -- you would admit that if you get all this -- if you get all these firearms, you get the casings, the shells, the guns and things like that, you kind of operate in a vacuum, don't you? You don't know what went on in the case, or anything like that, you're just here just to say, I got a gun. I'm looking at the gun. It's operable. I'm looking at the shell casings, but I have no idea the context in which this happened; correct?

A. That's correct.

Q. So you have no idea whether it was anything other than just -- you've got a gun and you've got some shell casings; that is all you know?

A. That's correct.

Q. True? And as far as any -- any other things, you can't testify to that?

A. No, sir.

Q. You can't testify to anything else besides a gun and some shell casings; right?

A. That's correct.

1 Q. That's it. Okay.

2 MR. ROBINSON: That's all we have. Thank you.

3 THE COURT: Redirect?

4 MR. OVERBY: None, Your Honor.

5 THE COURT: May this witness be excused?

6 MR. OVERBY: Absolutely, Your Honor.

7 MR. ROBINSON: Yes, sir.

8 THE COURT: All right. Thank you, sir.

9 THE WITNESS: Thank you.

10 THE COURT: Call your next witness, please.

11 MR. OVERBY: Thank you, Your Honor. At this time,
12 the State calls investigator Rob Gebing.

13 ROBERT GEBING, having been
14 first duly sworn, testified as follows:

15 THE CLERK: Take the witness stand, please, sir,
16 and state your name and spell your last name for the
17 reporter, please.

18 THE WITNESS: My name is Robert Gebing,
19 G-e-b-i-n-g.

20 **DIRECT EXAMINATION BY MR. OVERBY:**

21 Q. Where are you employed, sir?

22 A. With the Anderson County Sheriff's Office here
23 in Anderson.

24 Q. And in what capacity?

25 A. Currently I'm a Lieutenant over the Criminal

1 Investigations Division.

2 Q. Have you always been in that position?

3 A. No. Just that position since January of this
4 year.

5 Q. Okay. What position were you in prior to
6 this?

7 A. I was a Sergeant with the Anderson County
8 Sheriff's Office.

9 Q. And how long were you a Sergeant with the
10 Anderson County Sheriff's Office?

11 A. Since about -- February of 2011, and I worked
12 over in the gang unit for a little while, also was a
13 sergeant there.

14 Q. Okay. What were some of your duties as the
15 sergeant in the Criminal Investigations Division?

16 A. That role is more supervisory in nature. When
17 I was a sergeant in Criminal Investigations, I had a
18 handful of guys that I supervised their day-to-day
19 operations, and then we also handled a period of call.
20 When you're on the on-call supervisor, if a major event
21 happens, you're expected to kind of steer -- steer
22 things a little bit and make sure that your guys are
23 doing what they're supposed to be doing and assist as
24 needed.

25 Q. Okay. And did you often -- you said assist as

1 needed?

2 A. Yes, sir.

3 Q. What do you mean by that?

4 A. I mean, if manpower is short, sometimes you
5 just have to throw in and help out, taking interviews
6 and collecting evidence, you know, identifying
7 witnesses. Sometimes you just have to take more of an
8 investigative role as opposed to a supervisory if
9 manpower is limited.

10 Q. Okay. And does that include going out to an
11 active shooting scene?

12 A. Often times, yes, sir.

13 Q. Or an inactive shooting scene?

14 A. Sometimes, yes, sir.

15 Q. Okay. Were you called out to assist in a --
16 in a death investigation on March 15, 2015, in the
17 early morning hours?

18 A. I was, yes, sir.

19 Q. Okay. Was this at 2316 McDuffie Street?

20 A. Yes, sir.

21 Q. Talk to us about how you ended up at that
22 scene?

23 A. I was -- I was the on-call supervisor that
24 week. Detective Mitchell called and notified me that
25 they had a fatal shooting. And I told them I would

R . G E B I N G - - D I R E C T

1 come down and kind of just see what was going on and
2 help out as needed. So that was what prompted my
3 response there.

4 Q. Okay. And when you went out there, what did
5 you -- what did you do? What was the first thing?

6 A. The first thing I got with Detective Mitchell
7 and kind of just got the -- the gist of what he had
8 learned so far, figured out what had been done, and
9 what still needed to be done and -- because, again,
10 it's a rather large scene, and there's only so many
11 people available. I, of course, offered my assistance.

12 Q. Okay. And what -- in what manner did you
13 offer your assistance eventually?

14 A. At that point, it was decided that I needed to
15 help with some interviews, help conduct some
16 interviews.

17 Q. Okay. And who did you conduct interviews
18 with?

19 A. I conducted interviews with a witness and with
20 the defendant.

21 Q. Okay. Now, you were informed that this
22 defendant may have been involved in the actual
23 shooting; is that correct?

24 A. Yes, sir. That was my understanding at the
25 time.

1 Q. Okay. And so when you went to speak with him,
2 where did you talk to him?

3 A. He was in the back of a patrol car from -- one
4 of the responding deputies had detained him in the back
5 of a patrol car.

6 Q. Okay. Was he by himself or was he with
7 anybody?

8 A. No. He was by himself in the back of the
9 patrol car.

10 Q. And where did you sit in relation to him?

11 A. If I recall, I was on the passenger side in
12 the back seat with him.

13 Q. Okay. And did you advise him of anything at
14 that time?

15 A. I did. I advised him of his -- what we
16 commonly refer to as Miranda Rights.

17 Q. Okay. I'm going to show you what's been
18 marked as State's Exhibit No. 18 for identification
19 purposes; can you tell me what that is?

20 A. This is a copy of the Anderson County
21 Sheriff's Office Advisory of Rights, or the Miranda
22 Rights. This is a copy of the form that I used that
23 day. It bears the information as far as who I was
24 speaking to, the locations, dates, times.

25 Q. Now, that is a copy of the Miranda Rights that

1 you provided to him?

2 A. Correct.

3 Q. Okay. And that was in the car -- in the car
4 in question; is that correct?

5 A. That's correct, sir.

6 Q. Did he -- was he free to leave at that time?

7 A. Unfortunately he was not.

8 Q. What did -- and so you provided those to him;
9 did he appear to understand them?

10 A. He did. As part of my practice, I typically
11 in speaking to somebody, I'll ask them a few questions,
12 one of which is how far did they go in school. I'll
13 ask them, you know, do they -- can they read and write
14 English, do they have any difficulties. Do they need
15 glasses, contacts, things of that nature. And as I'm
16 going through this form, I'll actually have a couple of
17 lines I'll make -- I'll ask them to read a few lines
18 out loud. I'll ask them to initial those lines. That
19 serves a couple of purposes.

20 One, is I would like to know how far their
21 formal education went, and then them being able to
22 demonstrate that they can read and write. Besides the
23 reading and writing, it also demonstrates that they can
24 follow some simple instructions, and it gives me an
25 opportunity to gauge their ability to understand what's

1 going on.

2 Q. Did he appear to have any issues understanding
3 what you were wanting to speak to him about?

4 A. He did not.

5 Q. Okay. Did he want to give you a voluntary
6 statement?

7 A. He was -- he was compliant. He was very
8 willing to speak to me.

9 Q. Okay. Were these statements audio recorded?

10 A. They were.

11 Q. And were they recorded on your -- how were
12 they recorded?

13 A. I have a digital recorder in my pocket that I
14 activate before I began speaking to him. So, you know,
15 even prior to reading him his rights, the entire
16 conversation was being audio recorded.

17 MR. OVERBY: Your Honor, I apologize, I would like
18 to move State's Exhibit No. 18 into evidence.

19 MR. ROBINSON: No objection.

20 THE COURT: Admitted.

21 (State's Exhibit No. 18 admitted into evidence.)

22 MR. OVERBY: Thank you.

23 BY MR. OVERBY:

24 Q. I'm going to show you what's been marked as
25 State's Exhibit No. 19.

R. GEBING -- DIRECT

1 MR. ROBINSON: No objection.

2 BY MR. OVERBY:

3 Q. Can you tell me what that is, sir?

4 A. This is a copy of the audio of that particular
5 interview. I -- knowing -- I know that because I've
6 had an opportunity to review this. It bears my
7 initials and my signature.

8 Q. Okay. Does it fairly and accurately reflect
9 your conversation with the defendant on that day in
10 question?

11 A. It does.

12 Q. Okay. At this time, permission to
13 publish State's -- I would like to move State's Exhibit
14 No. 19 into evidence and permission to publish for the
15 jury.

16 MR. ROBINSON: No objection.

17 THE COURT: Admitted and you may publish it.

18 (State's Exhibit No. 19 admitted into evidence.)

19 (Whereupon, State's Exhibit 19 was played in
20 open court.)

21 (Whereupon, the audio was paused.)

22 MR. OVERBY: The Court's indulgence, Your Honor.
23 Your Honor, may we take a short break?

24 THE COURT: Sure. Ladies and gentlemen, let's
25 take about a five minute break, please.

1 (Whereupon, the jury left the courtroom at 2:12
2 p.m.)

3 (After a recess, court reconvened.)

4 THE COURT: Be seated. You good?

5 MR. OVERBY: Yes, Your Honor.

6 THE COURT: You ready?

7 MR. OVERBY: Yes, Your Honor.

8 THE COURT: You ready?

9 MR. ROBINSON: Ready.

10 (Whereupon, the jury entered the courtroom at
11 2:24 p.m.)

12 THE COURT: All right. Mr. Overby.

13 MR. OVERBY: May it please the court, Your Honor?

14 THE COURT: Yes, sir.

15 (Whereupon, State's Exhibit 19, the audio
16 resumed playing in open court.)

17 BY MR. OVERBY:

18 Q. What did you do after that conversation?

19 A. I went and relayed what I learned about the
20 location of the gun to the detectives who were
21 conducting the search inside the house, advised
22 Detective Mitchell of my findings.

23 Q. And was the firearm located?

24 A. It was located. I was not present, but I --
25 it's my understanding it was located.

R. GEBING -- DIRECT

1 Q. It was located. Okay. And that was by the
2 folks who conducted the search on that particular --

3 A. Yes, sir.

4 Q. What did you do at that point?

5 A. After -- after the location of the gun, and
6 speaking to Detective Mitchell, I made one follow-up
7 interview with another witness, and then decided to
8 move back to the sheriff's office to continue our
9 investigation.

10 Q. Okay. And what did -- did you have any
11 further involvement at the scene other than that?

12 A. No. Very minimal, just again, conversations
13 with the other detectives that were working there, and
14 the one follow-up interview that I conducted with a
15 witness.

16 Q. Okay. And you said that you went back to the
17 sheriff's office at that point?

18 A. Yes, sir.

19 Q. Did you conduct a second interview with Mr.
20 Wideman?

21 A. We did, yes, sir.

22 Q. Okay. Who did you conduct that interview
23 with?

24 A. Detective Mitchell was present for this
25 follow-up interview. I wanted him to hear some of

1 these things firsthand and be able to, you know, ask
2 questions and get some input.

3 Q. Did Detective Mitchell advise him of his
4 rights?

5 A. He did, I did not. He did it, but I was
6 present when it was done.

7 Q. Okay. Was there any appearance that he did
8 not want to voluntarily speak with you at that point?

9 A. No. He seemed willing and compliant in
10 speaking with me, yes, sir.

11 Q. Okay. And you were present for the majority
12 of that interview?

13 A. For the majority, yes, sir.

14 Q. Okay. Where was this conducted again?

15 A. We have a couple of interview rooms on the
16 second floor of the Anderson County Sheriff's Office
17 that are audio and video recorded. We used interview
18 room number two.

19 Q. Okay. And audio and video recording on this
20 particular interview was taken; is that correct?

21 A. Yes, sir.

22 Q. Okay. Did you have an opportunity to see it?

23 A. I have reviewed it, yes, sir.

24 Q. Is this State's Exhibit No. 7 that you saw --
25 that is the video that you saw?

R. GEBING -- DIRECT

1 A. It is. I've had an opportunity to examine
2 that. And, again, it bears my initials and my
3 signature as well.

4 MR. OVERBY: Your Honor, at this time, permission
5 to publish State's Exhibit -- State's Exhibit 7 which
6 is already in evidence.

7 THE COURT: Yes, sir. You may publish it.

8 (Whereupon, State's Exhibit No. 7 was played in
9 open court.)

10 THE COURT: All right. Hang on a second. Let's
11 take about a ten minute break, ladies and gentlemen,
12 and then I'll bring you back and we'll continue
13 testimony.

14 (Whereupon, the jury left the courtroom at 3:39
15 p.m.)

16 THE COURT: Are you ready to proceed?

17 MR. OVERBY: Yes, Your Honor.

18 MR. ROBINSON: The defense is ready, Your Honor.

19 THE COURT: There you are. Okay. Bring the jury
20 in.

21 (Whereupon, the jury entered the courtroom at
22 4:00 p.m.)

23 THE COURT: Mr. Overby.

24 MR. OVERBY: May it please the court, Your Honor?

25 THE COURT: Yes, sir.

1 BY MR. OVERBY:

2 Q. Investigator Gebing, after you concluded your
3 involvement in this particular interview with the
4 defendant, did you have any other involvement in this
5 case?

6 A. I went over to our armory to observe the
7 search of the vehicle.

8 Q. And that was a 2015 Mitsubishi Lancer?

9 A. Yes, sir.

10 Q. What size vehicle would you describe that car
11 as?

12 A. It's a smaller car, a small four door type of
13 sedan.

14 Q. Okay.

15 MR. OVERBY: I have no further questions. Please
16 answer any questions defense counsel has.

17 THE WITNESS: Yes, sir.

18 THE COURT: Cross examination.

19 MR. ROBINSON: Yes, sir.

20 **CROSS EXAMINATION BY MR. ROBINSON:**

21 Q. Officer Gebing, I want to do some housekeeping
22 things with you real quick --

23 THE COURT: Just a second. Can the jury hear?
24 They can't hear you. Let's double check that, please.

25 (Pause.)

1 BY MR. ROBINSON:

2 Q. Officer Gebing, can you -- can me tell the
3 time of night this incident occurred?

4 A. I -- without having the report in front of me,
5 I don't know specifically the time of night --

6 Q. Can you look at your report, please?

7 A. Sir?

8 Q. Do you have your report with you?

9 A. I do not, sir.

10 Q. Did you bring it today?

11 A. No, sir.

12 Q. Okay. Would it be fair to say -- because you
13 listened -- you sat in court -- or you have a good
14 analogy of this case as the investigator, would it be
15 fair to say it was 3:00 or 4:00 in the morning?

16 A. I want to say we were dispatched after five.

17 Q. Dispatched after five?

18 A. Yes, sir.

19 Q. Now, this time of the morning in that time of
20 year, is it pretty dark outside or pretty light?

21 A. As I recall, it is still dark.

22 Q. It is still dark outside?

23 A. Yes, sir.

24 Q. Okay. Okay. So it's your estimation that you
25 got over there a little bit after five, I think,

1 dispatched said about five or six?

2 A. Five -- or yes, sir. I do remember it was
3 after five if I recall.

4 Q. It was dark outside. Okay. Now, as part of
5 this investigation, I want to ask you about Brianna
6 Blassingame.

7 A. Yes, sir.

8 Q. You all didn't do a toxicology report on her,
9 did you?

10 A. No, I did not, sir.

11 Q. Do you know if anyone took a toxicology report
12 on her?

13 A. I do not, sir.

14 Q. Okay. How about Mike McDonald, I think his
15 name was Peanut? Does that sound -- Peanut?

16 A. I did not speak to or take a toxicology report
17 from him neither, sir.

18 Q. Do you have any knowledge at all that any
19 toxicology report was ever taken?

20 A. I do not, sir.

21 Q. So -- so your role then was you went to the
22 scene, you took a statement of Mr. Wideman, and then
23 you took another statement at the police station, did
24 you do any other investigation besides that?

25 A. I spoke to another witness at the scene, yes,

1 sir.

2 Q. Other witnesses at the scene. Okay. Now,
3 this area at McDuffie Street, is that a pretty busy
4 area through there or no?

5 A. At times of the day, it can be, yes, sir. It
6 is residential, but it is a slightly heavier traffic
7 street.

8 Q. Now, at -- at 4:00 in the morning -- let's
9 just say it is 5:00 in the morning, is it pretty busy
10 at that time of the morning or is it --

11 A. No, at 3:00 to 5:00 in the morning, it's --
12 it's not very busy, no, sir.

13 Q. Okay. Is there a gas station there around
14 that area?

15 A. There is one, yes, sir.

16 Q. And how far away is that gas -- let me ask you
17 this -- you have been a police officer for a long time.
18 At that time, are you familiar with that area?

19 A. I am.

20 Q. Okay. And how far would you estimate from the
21 Wideman's house to that gas station, how -- how far do
22 you think that was?

23 A. Maybe -- maybe 200 yards.

24 Q. Two hundred yards or so?

25 A. If not -- if not less, but yes, sir.

1 Q. Do you know if it was open at the time?

2 A. I do not.

3 Q. Okay. Would it surprise you if it was not
4 open at the time?

5 MR. OVERBY: Objection, it calls for speculation.

6 MR. ROBINSON: Withdraw, Your Honor. Withdraw.

7 THE COURT: Okay.

8 BY MR. ROBINSON:

9 Q. In terms of the witnesses you spoke to,
10 besides the two witnesses, this Peanut individual --
11 Mr. McDonald, Willie McDonald -- and Grandma
12 Blassingame that was in the car, there were no other
13 people in that area that you spoke to?

14 A. No. I did speak to one another person who was
15 outside when this went on, yes, sir.

16 Q. Okay. And that person is not listed -- that
17 person was not -- does that person know anything about
18 this case?

19 A. It Mr. Wideman's father, yes, he does.

20 Q. Okay. That's -- that's the person. Okay.
21 Besides Ms. Blassingame, Mr. McDonald, did anyone in
22 the neighborhood, in that area, hear anything?

23 A. Again, I'm not -- I'm not the one who canvased
24 or knocked on other doors. I can't testify whether
25 anybody did or did not.

1 Q. Okay. So, you talked to three witnesses, but
2 you did not canvas the area; is that right?

3 A. No. Other detectives, I believe, did, sir.
4 You're asking what I did. I -- as I recall, I think
5 Detective Garrett spoke to the person whose house who
6 was struck by the car.

7 Q. Okay.

8 A. There were other officers involved in this.

9 Q. Okay. So when you got there to the scene that
10 morning, you would agree that the car was across the
11 street at that time; is that correct?

12 A. Yes, sir.

13 Q. Okay. And actually backed up across the
14 street in reverse; correct?

15 A. Yes, sir.

16 Q. Okay. And did you -- did you see Mr.
17 Wideman's sister in the back seat of the car, or was
18 she already gone to the hospital?

19 A. As -- if I recall by the time I got there, she
20 was gone, sir.

21 Q. Where did she go, to the hospital?

22 A. Yes, sir.

23 MR. ROBINSON: Beg the court's indulgence just one
24 second?

25 THE COURT: Yes, sir.

1 (Pause.)

2 BY MR. ROBINSON:

3 Q. Now, Officer Gebing, I'm going to go back a
4 second, you had the opportunity to listen to this tape
5 or watch the video tape of Mr. Wideman, didn't you?

6 A. I have, yes, sir.

7 Q. How many times have you watched it?

8 A. Recently?

9 Q. Yeah.

10 A. This will be about the third time in about the
11 past week.

12 Q. Third time?

13 A. Yes, sir.

14 Q. I want you to deny or agree with this, would
15 you agree that on the tape you state -- you stated to
16 Mr. Wideman that you could see how this could be an
17 accident; do you recall that? It was at 11:35:32; do
18 you want me to play the tape for you, sir?

19 A. I would almost prefer you to, yes, sir.

20 THE WITNESS: Your Honor, may I step down to
21 observe this?

22 THE COURT: Yes, sir.

23 BY MR. ROBINSON:

24 Q. Mr. Gebing, I'm going to direct you to
25 11:35:32.

1 (Whereupon, tape was played at marker 11:35:32
2 in open court.)

3 (Whereupon, the audio was paused.)

4 BY MR. ROBINSON:

5 Q. Is that what you said, Officer Gebing?

6 A. I didn't say what you quoted me as saying.

7 Q. I think you, "no, I think you say it was an
8 accident"?

9 A. What you asked me earlier, I don't -- I mean,
10 it was close, but I don't think that was word for word.

11 Q. You said, "you know, I think like you, it was
12 an accident"?

13 A. I think like you say, it was an accident.

14 MR. ROBINSON: That's all I have of this witness,
15 Your Honor.

16 THE COURT: Redirect?

17 **REDIRECT EXAMINATION BY MR. OVERBY:**

18 Q. Detective Gebing?

19 A. Yes, sir.

20 Q. At the time you were conducting an
21 investigation into the matter on this particular day,
22 did you think that was an accident?

23 A. I do not.

24 Q. When you say, "I think this is an accident";
25 what do you mean by that?

1 A. I mean -- I mean I was agreeing with his
2 story, again, just trying to keep the -- the rapport
3 going, keep the conversation going. I don't want to
4 come on as too confrontational. I mean, we were still
5 trying to piece things together.

6 Q. So you would agree that your position is not
7 that this was not an accident?

8 A. It's still not.

9 MR. OVERBY: I have no further questions.

10 MR. ROBINSON: No reply, Judge.

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

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Can this witness be excused?

14 MR. OVERBY: Yes, Your Honor.

15 THE COURT: Thank you, sir.

16 THE WITNESS: Thank you, Your Honor.

17 COURT REPORTER: Your Honor, for reference, that
18 was from exhibit 7?

19 THE COURT: Ma'am?

20 COURT REPORTER: For reference, that was played
21 off of exhibit 7?

22 THE COURT: Right.

23 MR. OVERBY: That's correct, Your Honor. I
24 apologize.

25 THE COURT: How long is your next witness?

1 MR. OVERBY: The next witness may involve some --
2 the testimony from direct is not particularly long, but
3 there may be pretty significant cross.

4 (Whereupon, a bench conference was held.
5 Pause.)

6 THE COURT: Call your next witness.

7 MR. OVERBY: At this time, Your Honor, the State
8 calls Brianna Ware to the stand.

9 BRIANNA WARE, having been
10 first duly sworn, testified as follows:

11 THE CLERK: If you'll take the witness stand,
12 please, and state your name and spell your last name
13 for the reporter, please.

14 THE WITNESS: Brianna Ware, W-a-r-e.

15 **DIRECT EXAMINATION BY MR. OVERBY:**

16 Q. Good afternoon, Ms. Ware, how are you?

17 A. I'm good.

18 MR. ROBINSON: Your Honor, may I ask the witness
19 to speak into the microphone. We can't hear her.

20 THE COURT: Yes, ma'am. Would you please pull it
21 a little closer and don't speak directly into it
22 because it becomes distorted, but if you'd speak a
23 little louder, please ma'am.

24 MR. ROBINSON: Thank you, Your Honor.
25

1 BY MR. OVERBY:

2 Q. Ms. Ware, where do you reside? Do you reside
3 in Anderson?

4 A. Yes, sir.

5 Q. Okay. Are you from Anderson originally?

6 A. Yes, sir.

7 Q. How long have you lived in Anderson?

8 A. All my life.

9 Q. All your life. Okay. Are you related to the
10 defendant in this case?

11 A. Yes, sir.

12 Q. Okay. How are you related to him?

13 A. On my daddy's side.

14 Q. Okay. So you're related to him on your
15 daddy's side?

16 A. Yes, sir.

17 Q. Okay. In that way, you're also related to his
18 sister; is that correct?

19 A. Yes, sir.

20 Q. Okay. And what's her name?

21 A. Taquana Blassingame.

22 Q. Taquana Blassingame.

23 A. Okay.

24 Q. Now on -- now, are you and Taquana social? Do
25 y'all spend time together outside -- do y'all spend

1 time together going out, things of that nature?

2 A. We have, but not any more.

3 Q. Okay. But you -- did you go out -- or were
4 you going out and hanging out the night or the early
5 morning hours of the night of March 15, 2015?

6 A. Yes, sir.

7 Q. Okay. Tell us where did you first meet up
8 with Ms. Blassingame?

9 A. We went up to our other cousin's house.

10 Q. At your cousin's house?

11 A. Yes, sir.

12 Q. Okay. That's not your -- that's not Mr.
13 Wideman's residence, though?

14 A. No, sir.

15 Q. Do you know where Mr. Wideman lives?

16 A. Yes, sir. Where I would have parked my car.

17 Q. Okay. You parked your car over there -- did
18 you park your car over there that day?

19 A. That night, yes, sir.

20 Q. Okay. I'm going to show you what's been
21 marked as State's Exhibit 20 for identification; can
22 you tell me what that's a photograph of, ma'am?

23 A. That's my Jeep.

24 Q. That's your Jeep?

25 A. Uh-huh.

1 Q. Okay. Does that fairly -- and is that outside
2 of Mr. Wideman's house?

3 A. Yes, sir.

4 Q. Okay. Does that fairly and accurately depict
5 how your vehicle was that day?

6 A. Yes, sir, trying to get out, yes, sir.

7 Q. Okay. I want you to take me back to the night
8 of March 15th. Okay. You said you met at your
9 cousin's house. At some point you got your -- to the
10 defendant's house; is that right?

11 A. Yes, sir.

12 Q. Now, was Taquana living at that time house at
13 that time?

14 A. No, sir.

15 Q. Okay. Where was Taquana living? Do you
16 remember?

17 A. She was staying in an apartment complex.

18 Q. So she stayed in an apartment complex, she
19 didn't stay at that residence at that time?

20 A. No, sir.

21 Q. Okay. Do you remember why you went to that
22 residence?

23 A. To pick up my Jeep.

24 Q. Okay. Well, I'm talking about before that,
25 earlier in the evening?

B . W A R E - - D I R E C T

1 A. Oh, we went and dropped my Jeep off, and I got
2 in the car with her to go to Greenville.

3 Q. Okay. So you're going to Greenville; is that
4 right?

5 A. Yes, sir.

6 Q. And what were y'all going to do in Greenville?

7 A. We went to some bar.

8 Q. Okay. So y'all were looking to going out at
9 that time?

10 A. Yes, sir.

11 Q. Was anybody with you when you left Anderson?

12 A. No, sir, it was just me and T-T.

13 Q. Okay. All right. And T-T, just for the
14 record, is Taquana; correct?

15 A. Yes, sir.

16 Q. Okay. Now, did Ms. Blassingame have a
17 boyfriend on that night?

18 A. Yes, sir.

19 Q. What was his name?

20 A. Ryan.

21 Q. Ryan?

22 A. Uh-huh.

23 Q. And he is Ryan Tatum; is that correct?

24 A. Yes, sir.

25 Q. He is the individual who was shot in this

1 case?

2 A. Yes, sir.

3 Q. Okay. Did y'all -- where did y'all meet up
4 with Ryan?

5 A. In Greenville at a bar.

6 Q. In Greenville at a bar?

7 A. Yes, sir.

8 Q. Was Taquana excited about meeting up with Mr.
9 Tatum?

10 A. Yes, sir. We was -- yes, sir.

11 Q. Okay. So, she was excited about it. This is
12 -- had they been dating for -- had they been dating
13 more than a week?

14 A. From what I know of, yeah.

15 Q. They were just casual acquaintances; they were
16 dating?

17 A. Yes, sir.

18 Q. Okay. So, when y'all went out, did y'all stay
19 pretty late?

20 A. Yes, sir. We stayed over to like 2:00 in the
21 morning.

22 Q. Okay. Did you -- did you drink?

23 A. Yes, sir. I drank -- I drank a little bit.

24 Q. Did Mr. Tatum drink?

25 A. Yes, sir.

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1 Q. Did Ms. Blassingame -- did Taquana drink?

2 A. Yes, sir.

3 Q. Okay. And y'all stayed until 2:00 in the
4 morning?

5 A. Uh-huh.

6 Q. Talk about what happened in terms of getting
7 home? Was Mr. Tatum from Anderson?

8 A. No, sir.

9 Q. Where was he from to your knowledge?

10 A. From my knowledge, he was from Greenville.

11 Q. You know he was from Greenville?

12 A. Uh-huh.

13 COURT REPORTER: Is that a yes or a no, please?
14 You need to say --

15 A. Yes, sir.

16 BY MR. OVERBY:

17 Q. As far as what happened, how did you get back
18 to Anderson?

19 A. Ryan brought us home.

20 Q. Ryan brought you home?

21 A. Uh-huh.

22 Q. Okay. Did -- was there any -- did he
23 volunteer to do so?

24 A. Yes, sir.

25 Q. Did Taquana express any concern about allowing

1 him to drive home?

2 A. Yes, sir. He just noticed that she was too
3 intoxicated.

4 Q. So, he was trying to do a good thing?

5 A. (No response.)

6 Q. Ma'am?

7 A. Yes, sir.

8 Q. Eventually, y'all get back to Anderson?

9 A. Yes, sir.

10 Q. And it's just the two -- it's just you,
11 Taquana and --

12 A. And Ryan.

13 Q. -- and Ryan?

14 A. Uh-huh.

15 Q. What happens at that point?

16 A. We got back -- we got to my cousin's house to
17 pick up my Jeep. And I got out of the car to get it or
18 whatever, but I couldn't get it out of the mud, so he
19 got out to try and help me.

20 Q. Okay.

21 A. As we was trying to get it out, it was this
22 man walking down the road, and he came and tried to
23 help, but we still couldn't get it. So I told him that
24 I would come and get it in the morning.

25 Q. Okay.

1 A. And we got back in the car.

2 Q. I just want to slow down just very briefly on
3 this. Okay. Because this is important. You already
4 said that State's Exhibit 20 reflects your car,
5 correct?

6 A. Yes, sir.

7 Q. I'm sorry. I would like to enter State's
8 Exhibit 20 into evidence.

9 THE COURT: Any objection?

10 MR. ROBINSON: No objection.

11 THE COURT: Admitted.

12 (State's Exhibit No. 20 admitted into evidence.)

13 BY MR. OVERBY:

14 Q. So your car was stuck in the mud?

15 A. Yes, sir.

16 Q. And that was -- and you couldn't get it out?

17 A. No, sir.

18 Q. And you said that two individuals were helping
19 you to get this out, one of them was Mr. Tatum. Who
20 was the other person; do you know?

21 A. It was a man that was walking down the road,
22 but he know my momma, so he knew who I was.

23 Q. Okay. So he -- and he came up and he assisted
24 in trying to get your car stuck -- pulled out of the
25 mud?

1 A. Uh-huh -- yes, sir.

2 Q. Were you successful?

3 A. Yes, sir.

4 Q. Were you successful in getting the car out --
5 I'm sorry?

6 A. Yes, sir. What you mean?

7 Q. I'm sorry. Could you get the car out of the
8 mud?

9 A. Oh, no, we couldn't get it out. It was just
10 getting deeper and deeper, so we couldn't get it out.

11 Q. Okay. So what did you ask -- what happened
12 next?

13 A. I just told him I would come back and get it
14 in the morning.

15 Q. Okay. Told who?

16 A. Ryan and Peanut. That's what he go by, the
17 other man.

18 Q. Okay. And what -- what did you ask Ryan to
19 do?

20 A. Just to take me home.

21 Q. Okay. And he had already been driving all the
22 way from Greenville; is that right?

23 A. Yes, sir.

24 Q. So you asked him to take you home. What did
25 you do at that time?

B . W A R E - - D I R E C T

1 A. We got back in the car.

2 Q. Okay. And Ryan got where, in the driver's
3 seat?

4 A. Yes, sir.

5 Q. And where did you get?

6 A. In the passenger seat.

7 Q. The front passenger seat?

8 A. Uh-huh.

9 Q. Where was Taquana at this time?

10 A. In the back seat.

11 Q. Okay. And how was Taquana at that time? What
12 was her condition?

13 A. She was just laying down asleep.

14 Q. Okay. So she was asleep?

15 A. Uh-huh -- yes, sir.

16 Q. Was she intoxicated?

17 A. Yes, sir.

18 Q. Was she -- prior to that moment, about what
19 time was this; do you recall?

20 A. No, sir. I don't know remember. It was three
21 something in the morning.

22 Q. Okay. And prior to that, was there any
23 concern about her condition?

24 A. No, sir.

25 Q. Okay. She was responsive to you -- it was

1 three in the morning and she was intoxicated?

2 A. Yes, sir.

3 Q. When you got in the car seat -- when you got
4 in the car, was Mr. Wideman outside of the house?

5 A. Yes, sir. When I got in the car, he came to
6 the door.

7 Q. After you got in the car, he came out?

8 A. Yes, sir.

9 Q. Okay. And when he came out, what did he say?

10 A. When he came to the car door, he asked who was
11 the dude driving and why was his sister in the back
12 seat passed out.

13 Q. Okay. And which side of the car did he come
14 to?

15 A. On my side.

16 Q. On your side. And when you say "your side",
17 the passenger side?

18 A. Yes, sir.

19 Q. Okay. Did you tell him anything?

20 A. Well, he asked who was driving and why was his
21 sister in the back seat passed out. I told him it was
22 her boyfriend and she was fine. We was about ready to
23 go home.

24 Q. Okay. Did Mr. Tatum make any kind -- say
25 anything to him?

1 A. No, sir.

2 Q. Did Mr. Tatum make any kind of threats to him?

3 A. No, sir.

4 Q. Did Mr. Tatum in any way -- did Mr. Tatum say,
5 f-u, get out of the way?

6 A. No, sir.

7 Q. Okay. In any way, shape, or form, did Mr.
8 Tatum threaten --

9 MR. ROBINSON: Objection, Your Honor. Asked and
10 answered.

11 THE COURT: Sustained.

12 BY MR. OVERBY:

13 Q. Did you see any guns?

14 A. No, sir. I just heard gunshots.

15 Q. Okay. You didn't see Mr. Tatum with a gun?

16 A. No, sir.

17 Q. Talk about the gunshots; how did it happen?

18 A. All I remember is the car going in reverse,
19 and I was just hearing gunshots.

20 Q. So you heard the car go in reverse, and then
21 you heard gunshots?

22 A. Yes, sir.

23 Q. Did you hear a single shot? How many shots
24 did you hear?

25 A. It was back to back.

1 Q. So you heard more than one shot?

2 A. Yes, sir.

3 Q. What happened after that?

4 A. After I didn't hear any more gunshots, I
5 dropped out the car and took off running to the house.
6 And when I turned around and looked, the car was still
7 rolling.

8 Q. The car had started rolling -- was it rolling
9 fast?

10 A. It was going slow, not fast.

11 Q. So it didn't go very fast at that time. Did
12 you see it roll all the way to a stop?

13 A. To the trailer.

14 Q. Yeah. You saw it roll all the way and stopped
15 at the trailer?

16 A. No. I didn't see it on the trailer until I
17 came back outside.

18 Q. Okay. Okay. So you didn't see the gun, but
19 you heard gunshots?

20 A. Yes, sir.

21 Q. Was there anybody else outside at that time?

22 A. No, sir.

23 Q. There was no other person that was outside at
24 that time?

25 MR. ROBINSON: Your Honor, asked and answered.

1 THE COURT: Overruled. She did not answer. Go
2 ahead.

3 A. No, sir.

4 BY MR. OVERBY:

5 Q. Did you go in the house afterwards?

6 A. Yes, sir, I ran in the house.

7 Q. What did you do in the house?

8 A. I got his momma.

9 Q. And did you stay at the house?

10 A. Yes, sir.

11 Q. Okay. Until the police arrived?

12 A. Yes, sir.

13 Q. Inside the house?

14 A. We went outside. We went outside in front of
15 the door.

16 Q. Okay. Then you spoke to the authorities at
17 that point?

18 A. Yes, sir.

19 Q. Okay.

20 MR. OVERBY: I have no further questions, Ms.
21 Ware. Please answer any questions that the defense has
22 for you.

23 THE COURT: Cross examination.

24 **CROSS EXAMINATION BY MR. ROBINSON:**

25 Q. Ma'am, you just testified a moment ago that

1 before you got --

2 THE COURT: Just one second. They're having a
3 hard time hearing. Let's make sure we have you on
4 please, sir. Go ahead. Go ahead.

5 BY MR. ROBINSON:

6 Q. Ma'am, you just testified a moment ago that --
7 that the sister, Raeford's sister, was conscious or
8 responsive before she got back to McDuffie Street; is
9 that right?

10 A. No. I said she was intoxicated in the back
11 seat, sleeping. That's what I said.

12 Q. Asleep, okay. Okay. Would you agree that she
13 was so drunk, that -- I mean, how much did she have to
14 drink?

15 A. I don't know how much she had to drink at my
16 cousin's house. But when we got to the bar, we drunk
17 about the same amount of cups.

18 Q. The same amount of Cokes?

19 A. Cups.

20 Q. Cups. And what kind -- how many cups did she
21 drink?

22 A. About four or five.

23 Q. About four cups of what?

24 A. I had Hennessy and Coke. I can't remember
25 what she had.

1 Q. And you had -- so she, what she drank, could
2 not drive pretty much; is that fair to say?

3 A. Yes.

4 Q. She was -- she was -- you would agree she was
5 unresponsive in the back seat?

6 A. Not unresponsive. Like, I mean, she -- if I
7 were call her name or something, she would hear it.
8 She wasn't no unconscious or nothing, no.

9 Q. So why do you think that -- that she had to be
10 taken to the hospital to --

11 MR. OVERBY: Objection. It calls for speculation.

12 THE COURT: Sustained.

13 BY MR. ROBINSON:

14 Q. So, ma'am, you would agree then that you and
15 she had the same amount of alcohol; is that right?

16 A. Yes. And I just told you that before I got
17 with her at my other cousin's house, I don't know what
18 else she was drinking.

19 Q. So you drank Hennessy and what?

20 A. Coke.

21 Q. Hennessy is a cognac; is that right? Isn't
22 that right?

23 A. Yes.

24 Q. You had four Hennessies and Coke, and you
25 weren't drunk, too?

1 A. I wasn't drunk.

2 Q. So that is -- that does not have the affect to
3 make you drunk four -- four Hennessies and Coke -- four
4 cups of that?

5 A. No.

6 Q. But it makes -- it makes her drunk, right, but
7 not you. Okay. You didn't hear Raeford say anything
8 to the victim, did you -- talk to the victim or
9 anything?

10 A. He asked him to park the car.

11 Q. But he didn't say anything -- you didn't hear
12 him say anything else, did you, to the victim besides
13 park the car, give him the keys -- you didn't hear him
14 say anything else?

15 A. Uh-uh.

16 COURT REPORTER: Yes or no, please.

17 A. No, sir.

18 BY MR. ROBINSON:

19 Q. Was it still dark that time of night -- that
20 day, was it still dark when you got home in the
21 morning?

22 A. Yes, sir.

23 Q. It was still dark. And when this incident
24 occurred, when the shooting occurred, was it still dark
25 outside?

1 A. Yes, sir.

2 Q. So when you -- you didn't see the shooting,
3 you didn't see Raeford shoot this person, but you heard
4 the shots and you took off running; right?

5 A. Yes, sir.

6 Q. Okay. And you do agree that the car was
7 rolling -- was going backwards at the time; correct?

8 A. When I jumped out, yes, sir.

9 MR. ROBINSON: Okay. I beg the court's
10 indulgence, please.

11 (Pause.)

12 THE COURT: Yes, sir.

13 MR. ROBINSON: Judge, I have matter outside of the
14 presence of the jury.

15 THE COURT: What?

16 MR. ROBINSON: I have a matter outside of the
17 presence of the jury.

18 THE COURT: Just one second. Mr. Foreman, would
19 you take your jury to the jury room please.

20 (Whereupon, the jury left the courtroom at 4:34
21 p.m.)

22 MR. ROBINSON: Your Honor, before I -- before I
23 question her any more, I want -- I want -- I want to
24 make sure as far as impeachability goes, there's a -- I
25 have got previous charges that she's got for unlawful

1 false -- false information and so forth.

2 THE COURT: Well, false information and so forth,
3 what is the charge? False information to police?

4 MR. ROBINSON: It looks like it's false -- it
5 doesn't say who it was to -- it says false -- convicted
6 of giving false information two times. I don't know
7 who that is to.

8 THE COURT: What is your position on that?

9 MR. OVERBY: Well, this is my first look at this.
10 These are 2010 charges in terms of those particular
11 offenses, Your Honor. Furthermore, they are 30 day
12 offenses. They don't carry more than a year as far --
13 as far as I know. I guess they would go to her honesty
14 as far as that is concerned, but I -- I mean, I think
15 that probably -- I would contend that they probably are
16 not relevant to this.

17 THE COURT: Well, if they go to honesty, that's
18 the threshold to relevancy in the prior criminal
19 charges analysis; is it not?

20 MR. OVERBY: If I could look at it.

21 THE WITNESS: What do you mean by honesty? You
22 think I'm going to get up here and lie on my cousin --

23 THE COURT: No. No. No. You do not say anything
24 please, ma'am.

25 THE WITNESS: Man.

1 (Pause.)

2 MR. OVERBY: That's correct, Your Honor. I'll
3 concede that.

4 THE COURT: All right. Then you'll be able to
5 impeach her with those. Okay.

6 MR. ROBINSON: I just wanted to clarify those
7 issues.

8 THE COURT: All right. Bring the jury in, please.

9 THE WITNESS: This is bullshit.

10 THE COURT: Let me caution you, please. Go ahead.

11 (Whereupon, the jury entered the courtroom at
12 4:38 p.m.)

13 THE COURT: All right, Mr. Robinson.

14 **CROSS EXAMINATION BY MR. ROBINSON:**

15 Q. Ms. Blassingame, your name before you became
16 Blassingame was Brianna J. Ware; is that correct?

17 A. Correct.

18 Q. You are the same Brianna Ware that has
19 convictions for giving false information; is that you?

20 A. Correct.

21 Q. So do you admit that you have given false
22 information in the past?

23 THE COURT: You have to move forward now. She
24 admitted it. Go forward.

25 MR. ROBINSON: Yes, sir. That's all I have,

1 Judge.

2 THE COURT: Okay. Very good. Any further cross
3 examination, Mr. Robinson?

4 MR. ROBINSON: No, sir, Judge.

5 THE COURT: Redirect?

6 MR. OVERBY: Thank you, Your Honor.

7 **REDIRECT EXAMINATION BY MR. OVERBY:**

8 Q. Ms. Ware, did you have any reason to lie?

9 A. I have no reason to lie. You are right, I
10 don't want to be up here. That's my cousin. I have --
11 I have no reason to lie. I don't want to get up here
12 and lie about nothing like this, when I don't want to
13 do it, when that's my family sitting right there
14 listening. Come on, I have no reason to lie about
15 nothing.

16 MR. OVERBY: Okay. I have no further questions.

17 MR. ROBINSON: I have no further questions.

18 THE COURT: May this witness be excused?

19 MR. OVERBY: Yes, Your Honor.

20 THE COURT: Thank you, ma'am. Do you anticipate
21 your next witness will be fairly lengthily; is that
22 correct?

23 MR. OVERBY: I believe so, Your Honor.

24 THE COURT: All right. Mr. Foreman, ladies and
25 gentlemen, it's about 20 minutes to 5:00, I'm going to

1 go ahead and break court for the day. Counsel advises
2 that his next witness will be fairly long, so I'm going
3 to go ahead and excuse you. Any reason why any of you
4 cannot be here at 9:30 in the morning?

5 (No response.)

6 THE COURT: Just for your scheduling, I have a
7 prior thing that I cannot miss tomorrow. And it's me.
8 I will have to break court no later than 1:00, so we
9 will adjourn at 1:00 tomorrow and will conclude on
10 Thursday morning, so you can schedule your affairs.

11 Okay. If you would, leave your jury pads -- or
12 your notes pads in the jury room, and we will see you
13 at 9:00 in the morning.

14 JURY FOREMAN: Judge, 9:00 or 9:30?

15 THE COURT: 9:30, excuse me. I said 9:00 a.m.,
16 didn't it -- sorry.

17 (Whereupon, the jury left the courtroom at 4:38
18 p.m.)

19 THE COURT: All right. Anything from the State --
20 before we break, I want to go over a couple of things
21 with you before we break for the afternoon.

22 MR. OVERBY: There's nothing further from the
23 State.

24 THE COURT: From the defense?

25 MR. ROBINSON: No, sir, Judge. I was just going

1 to ask the court at some point if you have time today
2 to ask him whether he wants to testify. It looks like
3 we are coming down to a wrap.

4 THE COURT: That's a good idea. What I'm going to
5 do is have my clerk bring you up here the proposed
6 charge. I did notice one that I had notice of
7 appearance -- that I don't think I am going to charge
8 that -- otherwise we will go over that, too.

9 All right. Mr. Wideman, would you please stand
10 up, please, sir. Would you raise your right hand? Can
11 you hear me okay?

12 THE DEFENDANT: Yes, Your Honor.

13 RAEFORD WIDEMAN having been
14 first duly sworn, testified as follows:

15 THE COURT: Okay. You can be seated. All right,
16 Mr. Wideman, we are coming close or at that point in
17 the trial, very nearly where you have a right to
18 present a defense in your case, so I need to go over
19 with you certain fundamental constitutional rights that
20 you have. Okay, sir. And I'm sure your attorney has
21 gone over them.

22 First of all, has he explained to you your
23 rights under the 5th amendment under the United States
24 Constitution?

25 (Pause).

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Well, I want you to answer my
3 questions and not your attorney. Okay. So if you
4 don't understand my question, let me know. All right?

5 THE WITNESS: Yes, sir.

6 THE COURT: Okay. Now, Mr. Wideman, now do you
7 understand your rights -- or have they been explained
8 to you under the 5th amendment to the United States
9 Constitution -- I'm going to go over them with you -- I
10 just want to make sure that it has been explained to
11 you. Have they been explained to you?

12 THE DEFENDANT: Yes, sir, Your Honor.

13 THE COURT: Okay. Sir. Now, let me tell you or
14 read to you in part what the 5th Amendment to the
15 United States Constitution says. It says this, "that
16 no person shall be compelled in any criminal case to be
17 a witness against himself" -- do you understand what
18 that means?

19 THE DEFENDANT: I don't have to --

20 THE COURT: Sir?

21 THE DEFENDANT: I don't have to go take the stand.

22 THE COURT: That's right. You have a right to
23 remain silent. You don't have a right -- they can't
24 force you to get on the stand. The State cannot make
25 you get on the stand, your lawyer cannot make you get

1 on the stand. I can't make you get on the stand. Do
2 you understand that?

3 THE DEFENDANT: Yes, sir, Your Honor.

4 THE COURT: Now, you have the right to testify.
5 You have a right to present a defense in this case. If
6 you do testify, you'll be subject to the same rules as
7 other witnesses, which means that your attorney will
8 examine you or give you what we call direct
9 examination. And when he's done, the State will be
10 able to cross examine you; do you understand that?

11 THE DEFENDANT: Yes, sir, Your Honor.

12 THE COURT: And the State will try to impeach your
13 story and try to make your story -- or whatever you
14 said on direct examination -- or some other time, make
15 it in a bad light to the jury for the purposes of
16 showing that you're guilty; do you understand that?

17 THE DEFENDANT: Yes, sir, Your Honor.

18 THE COURT: Now, if I understand do -- am I
19 correct in saying that there is no criminal record that
20 this gentleman has?

21 MR. OVERBY: That's correct, Your Honor.

22 THE COURT: So the State would not seek to impeach
23 you on any prior convictions?

24 MR. OVERBY: No, Your Honor.

25 THE COURT: With all the same, the State will seek

1 to cross examine you on what you say in the courtroom,
2 what you said before, particularly in the -- in the
3 audio and audio visual recordings of your interrogation
4 with law enforcement; do you understand that?

5 THE DEFENDANT: Yes, sir, Your Honor.

6 THE COURT: And the idea would be to try to
7 impeach you or to shoot holes in what you're saying in
8 front of the jury; do you understand that? I'm trying
9 to put it in laymen's terms. Okay. Do you understand
10 that?

11 THE DEFENDANT: Yes, sir, Your Honor.

12 THE COURT: Now, the only person who can make the
13 decision as to whether or not you wish to testify in
14 this case is you. Now, you certainly have a right and
15 it's advisable that you consult with your attorney.
16 You have a right to consult with family and friends and
17 people who are reasonably close by to advise you and
18 help you make that call. But, ultimately -- ultimately
19 the decision of whether or not you wish to testify has
20 to be made by you. And you can only make that decision
21 if you do so in a knowing and intelligent and voluntary
22 manner, understanding your rights under the 5th
23 amendment, and also the consequences to you if you
24 decide to testify. Okay.

25 So, first, do you understand your rights under

1 the 5th Amendment as I have given them to you thus far?

2 THE DEFENDANT: Yes, sir, Your Honor.

3 THE COURT: Have you understood everything I've
4 told you thus far?

5 THE DEFENDANT: Yes, sir, Your Honor.

6 THE COURT: Do you have any questions?

7 THE DEFENDANT: (No response.)

8 THE COURT: Do you have any questions of me at
9 all?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay, sir -- let me tell you this.
12 I'm not -- I can't advise you, I'm certainly not trying
13 to. I have to make sure you understand your rights.
14 But if you decide you do not want to testify, in my
15 jury instruction, I will charge the jury that they may
16 not and they shall not consider your failure to testify
17 in any form or fashion. I'll tell the jury foreman
18 that if anybody tries to bring up that issue, that
19 he'll have to make them stop because the burden remains
20 on the State of South Carolina to prove you guilty by
21 proof beyond a reasonable doubt, and that burden always
22 remains on the State; do you understand that?

23 THE DEFENDANT: Yes, sir, Your Honor.

24 THE COURT: Do you have any questions about
25 anything I've told you thus far?

1 THE DEFENDANT: No, sir.

2 THE COURT: All right, Mr. Wideman. I'm not going
3 to ask you make a decision today because the State is
4 still doing its case, but it's a good juncture for us
5 to go ahead and go over your 5th Amendment rights. You
6 will be called upon to make that decision very shortly,
7 so I would recommend that you speak with your attorney
8 about it or whomever you feel like you need to. Okay,
9 sir?

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: Anything, Mr. Robinson, that you think
12 I need to add to the record that I did not?

13 THE DEFENDANT: No, sir.

14 THE COURT: Very good. Pass those out. Do you
15 have my mine -- we're not going to do a formal charge
16 conference right now, I just want to go over a couple
17 of things with you if I can.

18 First, the verdict form, the way I've got it is
19 murder, the first option is not guilty, the second is
20 guilty. Then you go to the lesser included of
21 voluntary manslaughter. If they do not find him guilty
22 of murder, the same options not guilty or guilty.

23 Then if they don't find voluntary manslaughter,
24 they can go to the lesser included of involuntary
25 manslaughter, the same options. Okay. The is the

1 proposed verdict form at this juncture.

2 I'll be glad to take arguments on it. I'm not
3 asking for them now. I'm just giving to you my
4 thoughts of what it is, so you can look at it.

5 The charge in this case will be that of murder.
6 I will delete any inferred malice with -- about the use
7 of weapons so that the only inferred charge will be
8 malice being inferred from the conduct showing a total
9 disregard of human life.

10 I give the charge on voluntary manslaughter,
11 involuntary manslaughter. The statement by the
12 defendant, self defense. The question I have is on
13 page 15 of my proposed charge -- and that would be the
14 right to act on appearances -- I mean that's the law,
15 but -- so just be ready to address that. Apparently
16 that is in there twice. We'll take that out. It
17 appears again on page 19. I would not charge it twice.
18 We have the law of accident -- maybe that's -- I mean,
19 then I would have to charge -- well, there is already a
20 charge on intoxication, I believe there is the charge.

21 Anyway, those are the proposed charges that we
22 have put together. I certainly will entertain any
23 requests to add or delete, but I wanted to give them to
24 you now so you can look at them. All right.

25 Anything from the State before we break for

1 trial -- for the day?

2 MR. OVERBY: Nothing from the State at this time,
3 Your Honor.

4 THE COURT: All right. From the defense.

5 MR. ROBINSON: No.

6 THE COURT: All right. Gentlemen, thank you.
7 I'll see you at morning at 9:30.

8 MR. OVERBY: Thank you, your Honor.

9 (Whereupon, the hearing adjourned for the day.)

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* * * NOVEMBER 15, 2017 * * *
DAY 3 OF TRIAL

THE COURT: All right. Mr. Overby, anything before we get started?

MR. OVERBY: Nothing at this time, Your Honor.

THE COURT: All right. Your client is on the way up?

MR. ROBINSON: Yes.

MR. OVERBY: Judge, I don't know if this is the time when you want to hear about the proposed jury charge. I just presented it --

THE COURT: No, I do not. I do not right now, but thank you though.

(Pause.)

THE COURT: All right. Mr. Robinson, anything from the defense before we bring the jury in?

MR. ROBINSON: No, sir, Judge. We're ready to go.

THE COURT: All right. Bring the jury in, please, sir.

(Whereupon, the jury entered the courtroom at 9:40 a.m.)

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, does everyone have their pad and pens if you need it?

1 JURY FOREMAN: Yes, Your Honor.

2 THE COURT: Very good. All right. Mr. Overby,
3 call your next witness, please, sir.

4 MR. OVERBY: Thank you, Your Honor. The State
5 calls Willie McDonald to the stand.

6 WILLIE MCDONALD, having been
7 first duly sworn, testified as follows:

8 THE CLERK: If you would take this witness stand
9 back here, please, sir, and state your name and spell
10 your last name for the reporter, please.

11 THE WITNESS: My name is Willie McDonald.
12 M-c-d-o-n-a-l-d.

13 **DIRECT EXAMINATION BY MR. OVERBY:**

14 Q. Mr. McDonald, where do you -- where
15 approximately do you reside, sir?

16 A. Meadow Hills.

17 Q. Meadow Hills?

18 A. Yes, sir.

19 Q. Is that near McDuffie Street?

20 A. McDuffie Street Extension, off of George
21 Albert Lake Road.

22 Q. Okay. McDuffie Street Extension. And that's
23 where you are now?

24 A. Yes.

25 Q. Was that where you were in March of 2015?

1 A. Yes.

2 Q. Especially on the evening -- or the late
3 evening or early morning hours of March, 2015?

4 A. Yes.

5 Q. Okay. In the early morning hours of March,
6 2015, did you have an opportunity to come across a
7 white Jeep that was stuck in the mud in front of a
8 residence on McDuffie Street?

9 A. Yes, sir.

10 Q. How did that happen?

11 A. From what I knowed, he was -- the guy -- the
12 deceased was supposed to be turning it around in the
13 back yard, but he went across the front yard and that's
14 how he got stuck.

15 Q. Well, talk -- bring me back a little bit.
16 Okay. I want to know what you did before that that led
17 you -- what you were doing before that that led you to
18 come up to that?

19 A. I was going to the convenience store up the
20 street from there.

21 Q. Okay.

22 A. To get me some cigarettes.

23 Q. And what was -- what was the convenience
24 store?

25 A. It was BP.

1 Q. Okay.

2 A. But it's shut down now.

3 Q. Okay. But it was open at that time?

4 A. Yes.

5 Q. Okay. And you were going to get some
6 cigarettes?

7 A. Yes.

8 Q. Now, which way did you walk on McDuffie Street
9 in order to get there?

10 A. Up towards the store, to the right.

11 Q. Up --

12 A. On the right shoulder of the road.

13 Q. On the right?

14 A. Yes.

15 Q. So you had to -- so this Jeep, when you passed
16 by this Jeep, was it on the left?

17 A. On the left, yes.

18 Q. It was on the left. Okay. And it was out in
19 front of a house?

20 A. Yes.

21 Q. Okay. And I'm going to show you what's in
22 evidence as State's Exhibit No. 1; is that the Jeep in
23 question?

24 A. This is it, yes, sir.

25 Q. Okay. I'm going to publish this to the jury

1 so they can see the exhibit, Your Honor, State's
2 Exhibit No. --

3 THE COURT: Okay.

4 BY MR. OVERBY:

5 Q. So that was the Jeep in question that you
6 assisted in getting the -- getting out of the mud?

7 A. Yes, sir.

8 Q. Talk to me about that whole process, just from
9 the beginning to end, as best as you can recall.

10 A. Well, when I come from the store, I seen them
11 in the front yard. But when I come back down, Bri
12 asked me to help her get her Jeep out. I knew it --
13 you know what I'm saying -- but I didn't know it was
14 stuck, so she called me over there to help her get her
15 Jeep out the yard.

16 Q. Okay.

17 A. So we put bricks, tree limbs, trying to put it
18 under the tire, and we still couldn't get it out. It
19 was marred down more in the mud. And that's when I
20 said, "Well, you're going to have to get a two truck or
21 somebody with a truck to help get out". I said -- he
22 said -- the deceased asked, "Can I use my car?" I
23 said, "No, man, it'll pull your whole rear end out.
24 That ain't going to work". I said, "You got to get
25 somebody with a truck to dig this out".

1 Q. Let me ask you this, okay, because I want to
2 be very clear on direction. All right. When you say
3 that you were coming back from the store --

4 A. Yeah, I was going home then.

5 Q. Was the Jeep, and the house with the Jeep, on
6 the right at that time?

7 A. Going down, yes, it's on the right.

8 Q. It's on the right. So you passed by it going
9 up on the left, and you passed by it going back on the
10 right?

11 A. Yes.

12 Q. And when you passed by it, back by it on the
13 right -- going back on the right, that's when you
14 actually went and got the -- that's when you actually
15 went and stopped and helped them to try --

16 A. Yes. That was -- trying to get it out then,
17 yes.

18 Q. Okay. So what happened after y'all were
19 unable to get the Jeep out?

20 A. Well, I got the extra stuff that was still in
21 the yard, I threw it back under the tree. They had
22 left and went in the house. So I was still moving the
23 stuff. So when I come out the yard, I was walking,
24 going back up the street, going home. And when they
25 came out, I said, "I'm sorry I couldn't help you get it

1 out". They said, well -- she said, "Well, I'll get my
2 uncle or somebody to help -- to help pull the Jeep
3 out." So I gave him that and I left.

4 Q. Okay. When -- and after you left, what do you
5 remember happening?

6 A. That's when I heard the front door bust open
7 and -- the defense, he run out to the car, and I heard
8 shots. You know, what I'm saying. I -- I ducked down,
9 like whoa, what's going on. And then I just stood
10 there on the side of the road -- you know, I got down
11 like that. And that's when the dude got in the car --
12 well, he was in the car. And he reversed it backwards,
13 all the way across the road, and hit that tongue of
14 that trailer. And I didn't know if everybody was shot
15 or what. I didn't know. And then Bri jumps out
16 screaming and hollering.

17 Q. How far were you from this vehicle when that
18 occurred?

19 A. This -- right across the street. Well -- when
20 they -- they come out after they hit the trailer.

21 Q. No. I'm talking about at -- when he came out
22 of the house?

23 A. Oh, I just walked in the road. I was just in
24 the road. I just had walked -- started going up the
25 street right there.

1 Q. Were you a football field away?

2 A. No.

3 Q. Less?

4 A. No. Just right in the highway, where the
5 brown trailer that he hit, I was right in front of it
6 on that side going -- a picket fence, I was right there
7 in front of it going up. I had got just passed it.

8 Q. Did you hear anything being said?

9 A. Yeah.

10 Q. What did you hear said?

11 A. Well, when I -- when he come out the house, I
12 heard "you going to die, mother f--" like that. And
13 that's when I -- I heard the shots at the same time.

14 Q. Okay. What side of the vehicle did he go to?

15 A. The driver's side.

16 Q. He went to the driver's side?

17 A. Yes.

18 Q. Are you sure about that?

19 A. Yes.

20 Q. Okay. Because -- did you give a statement to
21 Detective Mitchell in this particular case?

22 A. Yes, he wrote -- he was wroting (ph)
23 everything down, yes.

24 Q. Okay. And on -- in 2015 -- well, let me ask
25 you this. I'll get to that in just a moment. Okay.

1 After the shooting occurred, what did you do?

2 A. I stopped right there in the road. I didn't
3 even move until she jumps out -- Bri jumps out and
4 starts screaming and hollering. That's when -- when he
5 went back into the house, I walk -- I ran to her, I
6 grab her and said, "You all right, you all right?" She
7 said, "I don't know." I said, "You been shot?" So I
8 rolled my hands down her arms -- it was at night -- so
9 checking my hands to see if I had blood. And I did her
10 legs and her back to see if she had any blood. I said,
11 "You ain't got no blood on you". I said, "You must be
12 all right." So we walked back in the yard.

13 She said, "No, no, don't leave." I said, "Well,
14 somebody needs to call the police or ambulance,
15 something, because this guy ain't moving."

16 Q. Did you wait for the police to come?

17 A. Yes. I stayed there.

18 Q. All right. When the police came, did anybody
19 speak with you?

20 A. Just the officer, I can't remember his name.

21 Q. Okay. But you had a detective that was there
22 that you spoke with?

23 A. Yes. He came later on.

24 Q. Okay. And is that detective in the courtroom
25 here today?

1 A. Yes.

2 Q. Okay. Can you tell me which one he is?

3 A. I think my man.

4 MR. OVERBY: Okay. I would like the record to
5 reflect Mr. McDonald has identified Nathan Mitchell as
6 the detective he spoke with.

7 THE COURT: So reflects.

8 BY MR. OVERBY:

9 Q. Let me ask you this: In 2015, you gave a
10 statement to him; is that correct?

11 A. Yes.

12 Q. And you've said today that you were positive
13 it was on the driver's side?

14 A. Yes. Yes.

15 Q. Do you remember telling Detective Mitchell
16 that you did not actually see the shooting?

17 A. No. I didn't say that.

18 Q. Okay. Do remember telling Detective Mitchell
19 that you merely heard the words "you're going to die
20 tonight being mentioned"?

21 A. Yes.

22 Q. You did not actually see the shooting?

23 A. I seen when he bust out the door, when he came
24 out the door, he went straight to the -- that's when I
25 turned around, when I heard the door hit the side of

1 the house. I'm like, I looked back, you know what I'm
2 saying. And that's when I seen him running to the car.
3 What happened before that, I don't know.

4 Q. Do you -- let me ask you this: Do you have a
5 prior record, Mr. McDonald?

6 A. Yes.

7 Q. Okay. Specifically three charges in 2008;
8 assault and battery of a high and aggravated nature; a
9 2010 burglary second degree; and a 2012 shoplifting?

10 A. Yes.

11 Q. Have you been convicted of those charges?

12 A. I still got one pending.

13 Q. Okay. And how many charges do you have
14 pending; do you know?

15 A. Just that one. I'm waiting on court to go
16 through that.

17 Q. Well, you have -- you have four pending; is
18 that right?

19 A. Well, I mean actual active, just that one
20 burglary charge.

21 Q. But you also have failure to stop for blue
22 light; don't you?

23 A. Yes.

24 Q. Okay. And assault and battery third and a
25 petit larceny; those are smaller charges?

1 A. Yes, I did time for that. They dismissed it.

2 Q. Okay. And those occurred after this event;
3 didn't they?

4 A. Yes.

5 Q. Okay. But they were still pending in my
6 office?

7 A. Yes.

8 Q. Has anyone -- have you asked for assistance
9 with your testimony in regards to those charges for
10 being here today?

11 A. No.

12 Q. Have you asked -- have you asked any officers
13 or other members of the court for assistance with those
14 charges in exchange for your testimony here today?

15 A. No, sir.

16 Q. Are you sure about that?

17 A. Yes. I mean, I spoke with my other lawyer,
18 but that's it.

19 Q. Okay. Well, I don't want to hear about that,
20 but I want to know if you asked at any time if there
21 could be some help for your charges?

22 A. The old previous charges, yes.

23 Q. You did ask for help with those charges?

24 A. Yes.

25 Q. Okay. Have you been promised anything for

1 your testimony today?

2 A. Nope.

3 Q. Okay.

4 A. No, sir.

5 Q. So you have no promises whatever for your
6 testimony today?

7 A. None.

8 Q. And you spoke to law enforcement in 2015; is
9 that correct?

10 A. Yes.

11 Q. And none of that stuff was pending at the
12 time?

13 A. No, sir.

14 Q. And you indicated that the same individual,
15 the same words were uttered when that individual came
16 out of the house; is that correct?

17 A. Yes.

18 MR. OVERBY: I have no further questions. Please
19 answer any questions defense counsel has for you.

20 THE COURT: Cross examination.

21 MR. ROBINSON: Please the court.

22 THE COURT: Yes, sir.

23 **CROSS EXAMINATION BY MR. ROBINSON:**

24 Q. You go by Peanut, is that right? Peanut?

25 A. Yes.

1 Q. Is that old name -- or what would you like to
2 be referred to?

3 A. Willie.

4 Q. Peanut?

5 A. That's my nickname, yes.

6 Q. Okay. Is it Willie?

7 A. Yes.

8 Q. Willie, you don't know who said those words,
9 do you?

10 A. Yes, I do.

11 Q. You do? Who said those words?

12 A. It was the defense.

13 Q. And you're -- so your defense, though, the
14 person who said those words actually came out and
15 actually came to the driver's side of the vehicle and
16 shot; right?

17 A. Yes.

18 Q. And you -- you gave two statements in this
19 case, the first statement you didn't say you saw
20 anything; the second statement you said you saw
21 something; correct? Two different statements; correct?

22 A. I didn't give a statement -- the detective
23 wrote what I told him. I didn't sign or write
24 anything.

25 Q. But the detective had audio, didn't he, of

1 your statement? Your first statement?

2 A. I have no knowledge of that if he did or not.

3 Q. Well, regardless --

4 (Pause. Microphone/speaker malfunction.)

5 THE COURT: All right.

6 THE CLERK: We should be good.

7 MR. ROBINSON: Sorry about that.

8 BY MR. ROBINSON:

9 Q. Regardless of whether or not it was written
10 down or recorded, you gave a prior statement in 2015
11 where you said you did not see anything; didn't you?

12 A. No, I didn't say that.

13 Q. You didn't --

14 A. I told him exactly what I seen when I was
15 walking out the yard.

16 Q. So your testimony, under oath, you have just
17 given -- you have put yourself under oath before God,
18 you're testifying that you did not give a statement
19 back in 2015 where you said you didn't see anything?

20 A. No, that part I didn't say I didn't see
21 anything.

22 Q. And then you changed your statement in 2017
23 because you wanted something in return for your
24 statement; didn't you?

25 A. No. It wasn't exactly like that, no.

1 MR. ROBINSON: I beg the court's indulgence.

2 THE COURT: Yes, sir.

3 MR. ROBINSON: That's all the questions I have of
4 this witness, Your Honor. Thank you.

5 THE COURT: Very good. Redirect?

6 MR. OVERBY: Yes, Your Honor.

7 **REDIRECT EXAMINATION BY MR. OVERBY:**

8 Q. Mr. McDonald, is your memory better -- was
9 your memory better closer to the time of the event or
10 of -- after the time of the event?

11 A. I remember.

12 Q. Okay. Would it be better closer to the time
13 of the event or after the time of the event?

14 A. At the time of the event.

15 Q. Okay. Thank you.

16 A. I remember.

17 MR. OVERBY: No further questions.

18 THE COURT: May this witness be excused?

19 MR. OVERBY: Yes, Your Honor.

20 THE COURT: Thank you, sir. Call your next
21 witness.

22 MR. OVERBY: Your Honor, at this time, the State
23 rests.

24 THE COURT: All right. Very good. Mr. Foreman,
25 ladies and gentlemen of the jury, the State says they

1 rest, which means they have presented their case in --
2 its case in chief. I have some administrative duties
3 to take up at this point. If you'll go back to your
4 jury room, we'll bring you back out here and we'll
5 proceed after that.

6 (Whereupon, the jury left the courtroom at 9:57
7 a.m.)

8 THE COURT: All right. Motions?

9 MR. ROBINSON: Your Honor, at this time, we would
10 make a motion for a directed verdict -- acquittal as to
11 all charges, Judge. Judge, I think as to murder in
12 this case, there's been no malice presented here in
13 this case at all as far as on the record. We -- we --
14 I know we looked at the expressed or implied and so
15 forth, but there's been nothing implied or expressed in
16 this case regarding Mr. Wideman.

17 He didn't know this individual. There's been no
18 testimony that he knew this individual, he had any sort
19 of malice or anything like that. Nothing presented by
20 the State would indicate that -- that he had some sort
21 of beef with this guy or some sort of history or
22 something like that. Nothing. They basically have him
23 coming out of a -- basically having him say I shot the
24 guy. It was an accident. The car rolled and the car
25 came back, I thought I was in danger. I was protecting

1 my sister and so forth on my property. But there's no
2 evidence in this case that there was any malice at all
3 as far as murder goes in this matter. I think it would
4 be best that it be shown as involuntary manslaughter or
5 accident or something like that. But even taking the
6 record in the light most favorable to the prosecution
7 and the State, there's been nothing -- there's been no
8 evidence of murder in this case, so we would ask the
9 court to -- to acquit him on this case.

10 THE COURT: All right. Thank you, sir. I'm
11 denying that motion. Anything further from -- from the
12 motion perspective?

13 MR. OVERBY: Nothing from the State, Your Honor.

14 THE COURT: Have you spoke with your client about
15 testifying in this case?

16 MR. ROBINSON: I did last night, Your Honor.

17 THE COURT: And what is his -- what is his -- what
18 are his intentions with regard to testifying?

19 MR. ROBINSON: When I spoke to him last night, the
20 intention was not to testify.

21 THE COURT: He did not want to testify.

22 MR. ROBINSON: Not to testify.

23 THE COURT: All right. Mr. Wideman, raise your
24 right hand.

25 RAEFORD WIDEMAN, having been

1 first duly sworn, testified as follows:

2 THE COURT: All right. You can drop your hand.
3 You have -- be seated. I've -- I've given you your
4 rights under the 5th Amendment to the Constitution.
5 You told me yesterday you understood them; is that
6 correct?

7 THE DEFENDANT: Yes, sir, Your Honor.

8 THE COURT: You also told me that your attorney
9 explained them to you as well; is that correct?

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: You've had an opportunity to speak
12 with your attorney and -- and anyone else who is
13 reasonably available to you about whether or not you
14 wish to testify; is that correct?

15 THE DEFENDANT: Yes, sir, Your Honor.

16 THE COURT: Do you, in fact, wish to testify in
17 this matter?

18 THE DEFENDANT: No, sir, Your Honor.

19 THE COURT: Has anybody forced, threatened, or
20 promised you anything to get you not to testify?

21 THE DEFENDANT: No, sir, Your Honor.

22 THE COURT: Did you make that decision of your own
23 free will?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Freely and voluntarily?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: Very good. Okay. Do you have any
3 other witnesses you intend to call in this matter?

4 MR. ROBINSON: No, sir. We would rest on the
5 record.

6 THE COURT: All right. Very good. It would seem
7 to me that we want to -- we should do -- is bring the
8 jury in. Dismiss them, bring them back in the morning
9 at 9:30, and let's go ahead and have the charge
10 conference at this point.

11 MR. ROBINSON: Yes, sir.

12 MR. OVERBY: Yes, Your Honor.

13 THE COURT: Okay. Could you get me the jury back
14 out here, please, sir.

15 (Whereupon, the jury entered the courtroom at
16 10:01 a.m.)

17 THE COURT: Mr. Robinson, would you call your
18 first witness.

19 MR. ROBINSON: Thank you, Judge. Judge, at this
20 time, the defense rest.

21 THE COURT: The defense rests. Okay. Ladies and
22 gentlemen of the jury, the State has rested. The
23 defense rests, which means we have completed phase two
24 of the trial. Remember I told you there were five
25 phases, you had the opening statements, then the

1 presentation of the evidence. Next we'll go to closing
2 arguments. However, because of something that's been
3 pre-arranged and I can't get out of, I've got to --
4 have to break court today and bring you back in the
5 morning. At that time, we'll do closing arguments.
6 I'll charge you on the law and then you'll be able to
7 deliberate. Okay. I apologize to you. It's just
8 beyond my control.

9 But if you would, leave your pads in the jury
10 room. You'll be excused for the day. And if you come
11 back tomorrow at 9:30, we'll complete the trial then.
12 Thank you very much.

13 (Whereupon, the jury left the courtroom at 10:03
14 a.m.)

15 THE COURT: All right, gentlemen, let's take these
16 in order that I -- let's look at my charge, and I'll
17 look at your charges.

18 First, the charge of murder, without waiving
19 your objection, Mr. Robinson, -- do you have your -- I
20 numbered my charge for you. Do you have those -- did
21 it show up?

22 MR. OVERBY: Yes, Your Honor, on mine.

23 THE COURT: On page 2, I would simply take out any
24 inference about the use of a dangerous instrumentality
25 pursuant to case law.

1 MR. OVERBY: Yes, Your Honor.

2 THE COURT: Any objections or additional requests
3 as to the murder charge from the State?

4 MR. OVERBY: None from the State, Your Honor.

5 THE COURT: All right. Let's go to voluntary
6 manslaughter. Any requests for additions or
7 subtractions from the proposed charge? And that should
8 be --

9 MR. OVERBY: No, Your Honor.

10 THE COURT: So that's three through the top page
11 of five. Any additions or changes to that, Mr.
12 Robinson?

13 MR. ROBINSON: You're speaking to voluntary; is
14 that correct, Your Honor?

15 THE COURT: Sir?

16 MR. ROBINSON: You're speaking to voluntary
17 manslaughter?

18 THE COURT: I'm speaking of the voluntary
19 manslaughter charge.

20 MR. ROBINSON: No objection.

21 THE COURT: Okay. Then on page 5, middle of the
22 page, involuntary manslaughter. Anyone have any
23 objections or suggestions for additions or
24 subtractions from that particular charge?

25 MR. ROBINSON: None from the defendant.

1 THE COURT: On page 9, I will take out the last
2 sentence because it's applicable.

3 MR. OVERBY: Yes, Your Honor. I agree with that.
4 And I have no objection to the involuntary manslaughter
5 charges as it's written.

6 THE COURT: Okay. Mr. Robinson?

7 MR. ROBINSON: The same here, Your Honor.

8 THE COURT: Okay. Then that takes us over to the
9 statement by the defendant in this matter, for what
10 it's worth, I'm going to charge it since we did have a
11 Jackson Denno case. Then we have the self defense
12 charge. And we -- I went back and looked at it last
13 night, and the way that the appearances --
14 intoxication, and what it was done, is appropriate.
15 But that comes to -- that goes from page 13 to page 21
16 of my proposed charge.

17 MR. OVERBY: I have no objection.

18 THE COURT: And I think the way you got them --
19 because I had to change them around last night -- they
20 got a little bit turned around, 21 would actually have
21 been marked as 23 on your page.

22 MR. ROBINSON: Okay.

23 MR. OVERBY: I have no objection, Your Honor.

24 THE COURT: All right. Thank you. Mr. Robinson?

25 MR. ROBINSON: The same here, Your Honor.

1 THE COURT: And then finally accident.

2 MR. OVERBY: As far as the charge on accident is
3 concerned, I have no --

4 THE COURT: I know you don't want it to be
5 charged, and I'll hear you on that. But as far as the
6 charge is proposed, any objection to the wording of it?

7 MR. OVERBY: No, Your Honor. The only -- I do
8 have two objections in regards to -- in regards to the
9 defense of others charge. And, yes, I would object to
10 the accident charge, but those are my two objections.

11 THE COURT: All right. The defense of others
12 falls under the self defense charge. Okay. Tell me
13 where you are, what page, and what your objection is.

14 MR. OVERBY: Yes, Your Honor. I'm looking at --
15 on my copy, page number 18. And in regard to the
16 defense of others charge, Your Honor, the State argues
17 that no evidence has been presented that the individual
18 in the back seat, Ms. Taquana Blassingame, which is the
19 -- who I would assume is the primary reason for this
20 particular charge -- there's been no evidence that the
21 defendant -- or that the victim in this case actually
22 exerted any kind of physical force or threat on that --

23 THE COURT: Say that again, please.

24 MR. OVERBY: Yes. There's been no evidence that
25 the victim in this case exerted any kind of physical

1 force or made any kind of overt threat to the victim,
2 to Ms. Blassingame in the back seat of the case. All
3 the testimony has shown, and critical evidence has
4 shown, that no such threat was made in this matter.
5 The defendant feels -- the defendant has raised that as
6 part of his statement in this regard, but I would
7 contend that no evidence has been presented from the
8 record whatsoever to indicate that Ms. Blassingame was
9 actually placed in any kind of physical danger such
10 that a defense of others charge --

11 THE COURT: Well, let me ask you this: He was
12 point 229 blood alcohol content. She was passed out or
13 close to it drunk in the back seat, and he's attempting
14 to leave. I don't know if that raises to the -- it
15 certainly, in every day experiences, may not raise to
16 the level of the defense of others charge, but that's
17 -- that's the way I interpreted the evidence, is that's
18 why he was trying to stop her. What would be -- what
19 would be your response to that, Mr. Robinson?

20 MR. ROBINSON: Your Honor, I agree with the court.
21 He's driving this vehicle with three times the legal
22 limit of alcohol in his system.

23 THE COURT: So if somebody does, do they have a
24 right to kill them?

25 MR. ROBINSON: No, I think what --

1 THE COURT: I mean --

2 MR. ROBINSON: -- I think --

3 THE COURT: That's what -- that's what that is.

4 MR. ROBINSON: Yes, judge. I think that she was
5 in the back seat, and I think through the videos that
6 the State presented in this case and introduced --

7 THE COURT: Well, I mean, I understand my sister's
8 passed out. You're drunk. I don't want you driving.
9 That's my dad's car, et cetera, et cetera.

10 MR. ROBINSON: Yes, sir.

11 THE COURT: Is there any case law that you're
12 aware of that under those circumstances, he has a right
13 to take their life because he feels like that he's --
14 he's putting her life in danger by driving around drunk
15 with her passed out in the back of the car? I'm not
16 aware of any.

17 MR. ROBINSON: I don't think there are -- I don't
18 think that there's case law.

19 THE COURT: I tell you what, I'll take your motion
20 under advisement. I'll give you some time, you got the
21 rest of the day to find me some cases. That's why it's
22 in there because of that. Is there any other reason
23 it's in there other than the fact that she was passed
24 out in the back of the car and this guy had such a high
25 level of alcohol content?

1 MR. ROBINSON: I think going at the way I am
2 looking at it -- the way I've been looking at it --

3 THE COURT: Right.

4 MR. ROBINSON: He's -- there's testimony from him
5 -- that the record is replete with him talking about my
6 sister is in the back seat of the car. Something is
7 wrong with her. And this guy is -- this guy is --
8 doesn't really care, pushing -- pushing the breaks on
9 -- this guy, you know, he's -- as part of the self
10 defense, really, in this case.

11 THE COURT: I'm not -- yeah, I hear you and -- and
12 it may be something else is wrong with her. I don't
13 know. Anyway, if you want, give me some cases on it if
14 you can get them to me. I'll -- we'll look at them
15 before we have to leave here. I'm not going to rule.

16 But as you start thinking it through, I don't
17 know if there are any cases because he was drunk and
18 she was drunk, you have a right to take his life. I
19 mean, that's kind of extreme -- an extreme -- most
20 extreme. So that is under advisement.

21 All right. Other than that, on page 18 -- is
22 that right --

23 MR. OVERBY: That was on page 18, Your Honor in
24 terms of -- in terms of -- well, I guess it's page 14,
25 15 and 16 in terms of that. And then -- that's on page

1 18. I apologize.

2 THE COURT: Okay.

3 MR. OVERBY: And I feel compelled to put on the
4 record that objection to the charge as an accident in
5 this case.

6 THE COURT: You can go ahead and object all you
7 want, it's going to be charged. Okay.

8 MR. OVERBY: I understand.

9 THE COURT: I understand that. And let me tell
10 you I had some -- I had some real question about it,
11 too, quite frankly, looking at the cases of -- it says
12 that he has to be acting lawfully. And I was looking
13 at it involuntary because you have to be acting --
14 either unlawfully -- unlawfully that wouldn't cause
15 great bodily harm not necessarily, or lawfully -- or
16 vice versa. But in looking at the cases, I think
17 there's a Burris case, there's a McCaskill (ph) case.
18 I had them here somewhere (pause) --

19 MR. OVERBY: The case the State would --

20 THE COURT: Hang on. Hang on. But they -- they
21 seem to indicate that -- an analysis seems to be
22 whether in the first instance they legally armed
23 themselves. And clearly this gentleman was at his
24 home. He had a right to arm himself. The -- you know,
25 it has nothing to do with the weapon itself, it was

1 registered. I was thinking you sticking a gun in a car
2 -- how could you be acting legally or in a manner that
3 doesn't cause people -- an activity that's lawful. And
4 the cases seem to belie that. Because they had one
5 that had a gun that was cocked, and they still said --
6 I think they was the Burris case, so go ahead. You
7 wanted to bring some cases to my attention.

8 MR. OVERBY: Yes, Your Honor. The only case that
9 I can present to the court on that matter -- I mean,
10 again, I understand that's the crux of the defendant's
11 case. It's going to be -- for the record, that is
12 Sullivan v. State 407 SC 241, 754 SE 2d 885. It's a
13 South Carolina Court of Appeals case.

14 And in this case, Your Honor, the court makes it
15 pretty clear that in viewing -- in this case you had
16 two individuals who essentially grabbed for a gun at
17 the same time, one of the guns went off -- the gun went
18 off and eventually killed one of the other individuals.

19 The court places a burden to demonstrate there
20 has to be evidence that the firearm went off
21 unintentionally. In this case, Your Honor, what we're
22 dealing with is a situation where it -- by -- while the
23 jury may -- while Mr. McDonald's (ph) intention is that
24 this firearm went off unintentionally for a reason that
25 he can't really explain -- or he could not really

1 explain in statements, all the evidence would indicate
2 that that gun had to have been fired intentionally, had
3 to have been pointed at him, had to have been fired at
4 least three times. And so the State would contend that
5 accident would not be an appropriate charge based on
6 that case, Your Honor.

7 MR. ROBINSON: May it please the court?

8 THE COURT: Yes, sir.

9 MR. ROBINSON: Your Honor, this case is
10 distinguishable, but the State had all the resources,
11 that they could bring someone in here and say, ok, we
12 did an analysis as far as the direction of the bullets,
13 where he was shot in the shoulder, in the knee, in the
14 forearm, and we did a big accident reconstruction on
15 this, and this is what we figured out. They said it is
16 not an accident.

17 They've never done that. They're saying that
18 they did. But saying, oh, no, it can't be an accident,
19 but they don't know. All they have are a bunch of
20 deputies -- they have deputies that took his statement
21 where he is saying it is an accident, but they didn't
22 bring one person in this building -- that's why I
23 stopped Mr. Armstrong because he has no -- he has no
24 background in accident construction. If they can't
25 show that, if they can't sit here and say, yeah, we

1 know it's not an accident -- they don't know anything.
2 All they know is that this guy, who fired this gun at
3 this guy, we have said it's an accident. It was self
4 -- all these things involved in this, they have nothing
5 that they can prove that can show this jury other than
6 the fact, well, how in the world did someone get shot
7 three times. Oh, it's obvious. He was hit by a car
8 that was going backwards, that was trying to take his
9 sister away, that's what it is. If they had -- they
10 could have taken the time and gotten an accident
11 reconstruction person in here and say, this was not an
12 accident, and they didn't do it.

13 THE COURT: Well, let me just say to me -- and I
14 -- in my juncture for me, the standard I have to look
15 at, is there any evidence in the record, not me making
16 comments or conclusions about the facts of the case,
17 that's for the jury to do. And it's clearly, from my
18 perspective, evidence in the record of accident rightly
19 or wrongly. I think it's appropriate to charge the
20 jury. And my intent is to charge it.

21 MR. OVERBY: Very well, Your Honor.

22 THE COURT: But, Mr. Overby, if you can convince
23 me between now and in the morning, that I shouldn't,
24 I'll be glad to hear anything further. And the same
25 goes to you, Mr. Robinson. All right.

1 That being said, there was a proposed charge by
2 Mr. Overby that the State's now required to prove
3 motive in the homicide prosecution. I mean, that's
4 good law. Any reason I can't charge that?

5 MR. ROBINSON: I -- I confirmed before we got into
6 this, no objections.

7 THE COURT: And the involuntary manslaughter
8 charge number 1, are these yours, Mr. Robinson?

9 MR. ROBINSON: I think I -- I think I presented
10 those --

11 THE COURT: Yeah. Proposed charge 1, 2, 3 --

12 MR. ROBINSON: Yes. That's fine.

13 THE COURT: Number 1 is included in my standard
14 charge.

15 MR. ROBINSON: Okay.

16 THE COURT: I think accident is still there. In
17 fact, on my accident charge, the jury -- those cases --
18 and I think it's McCassill or Burris or -- one of them
19 said that you have to tell the jury. It's not enough
20 just to say that he had a right to arm himself legally,
21 but that if you find -- if he armed himself legally,
22 and it is an accident, you have to find him not guilty.
23 I have included that in my proposed charge, I think.

24 Quite frankly, number 3, I'm not sure how -- it
25 says "the defendant must in order to act on appearance,

1 that he believed he was in imminent danger, not that he
2 was in actually such danger because he has a" -- I
3 mean, it just doesn't -- is that not included in my
4 charge?

5 MR. ROBINSON: It is. You can -- that's fine.
6 That's fine.

7 THE COURT: Okay. So, one through three are
8 included in my standard charge.

9 MR. ROBINSON: Yes, sir.

10 THE COURT: The State's proposed charge number 1
11 will be added to the murder charge. Any other request
12 to charge?

13 MR. OVERBY: None from the State, Your Honor.

14 MR. ROBINSON: No, sir, Judge.

15 THE COURT: All right. If you have any, do you
16 want to give me some additional things to consider,
17 just send them to my law clerk; 9:30 in the morning?

18 MR. OVERBY: 9:30 in the morning.

19 THE COURT: All right. Guys, thank you. I
20 appreciate it.

21 MR. OVERBY: Thank you, Your Honor.

22 (Whereupon, the hearing adjourned.)

23 _____

24

25

* * * NOVEMBER 16, 2017 * * *
DAY 4 OF TRIAL

THE COURT: Please be seated. Good morning.

MR. ROBINSON: Good morning, Your Honor.

THE COURT: All right. Before we get started, have you had a chance, Mr. Overby, to look at the proposed charge?

MR. OVERBY: In regards to?

THE COURT: The proposed charge I gave you yesterday.

MR. OVERBY: Yes, Your Honor, I have.

THE COURT: Okay. All right. Any objections to it?

MR. OVERBY: Your Honor, the only objection I would raise -- I noted yesterday I had objected to the offense of accident. At this time, after reviewing some of the case law, I think there is sufficient evidence to send that charge to the jury. I withdraw that objection.

THE COURT: Okay.

MR. OVERBY: However, I do renew and keep my objections to defense of others. I don't think -- I think the cases indicate that there has to be some sort of assault against the individual who you are claiming

1 -- you are defending in order for there to be a defense
2 of others claim. In this case, there is no evidence
3 that there was any kind of assault. The only evidence
4 is perhaps that Mr. Tatum, in his intoxication, could
5 have placed Ms. Blassingame in a dangerous situation.
6 But other than, it doesn't -- I don't think that that
7 rises to the level of the defense of others.

8 THE COURT: Do you have any cases you want to
9 submit to me to look at?

10 MR. OVERBY: Your Honor, I'm going to submit to
11 you two cases that I provided. There's really nothing
12 that's quite on point.

13 THE COURT: Well, that seems to be --

14 MR. OVERBY: To be honest with you. But I will
15 submit to you the case of Willie Lee Douglas vs. State.
16 That case number is -- that is a Supreme Court case
17 from 1997 -- or 1998. That cite is 332 SC 67, 504 SC
18 2d 307.

19 THE COURT: Let me ask you a term that you may not
20 know. Did you Sherpardize that?

21 MR. OVERBY: Yes, Your Honor. I did Sherpardize
22 it.

23 THE COURT: You did? You understand
24 Sherpardizing. My law clerk didn't know what it was.

25 MR. OVERBY: I very much so understand

1 Sherpardizing. It does have negative treatment, I will
2 acknowledge. However, that is only because it was
3 declined to be extended by another case that is not on
4 similar grounds.

5 THE COURT: Okay.

6 MR. OVERBY: And I have a case for your clerk as
7 well. And in addition, Your Honor, I would submit to
8 you the case of Boseman (ph) vs. State, for the record,
9 that 307 SC 172, 414 SC 2d 144, that is also a Supreme
10 Court case that was decided in 1992. And that one has
11 been Shepardized with no negative treatment.

12 THE COURT: All right. Well, have you seen any
13 cases, Mr. Overby, that expand on what assault is? I
14 mean, that's -- seems to be the crux of the argument?

15 MR. OVERBY: Right, Your Honor. And the truth of
16 the matter is I have not, but I know the traditional,
17 legal definition of that is, and that is that there has
18 to be some sort of action that places an individual in
19 fear of being struck. That's the traditional, legal
20 definition of assault in that regard. I believe on
21 the most common charges that I have heard is that you
22 actually raise your fist to pull it back, and that
23 places you in fear that you are going to be conducting
24 the ultimate battery.

25 In this particular circumstance, Judge --

1 THE COURT: I mean, I'm familiar with the facts in
2 that the driver was drunk. She's in the back passed
3 out -- the sister, the brother. He's trying to say,
4 let her out of the car, don't you drive off with her.

5 Mr. Robinson, what's your response?

6 MR. ROBINSON: Judge, I think that -- I think that
7 these cases are not on point, and I think that -- I
8 think the facts of this case -- it's apparent --

9 THE COURT: I -- I agree. I think that
10 classically what you just described, Mr. Overby, is
11 correct. But, you know, it's hard for me to imagine --
12 I've toyed with the idea of somebody drinking and
13 driving, somebody around me, put themselves up to being
14 shot and killed vs. brother saying, you know, the facts
15 of this case are don't drive off. Don't drive off.
16 Don't drive off. He was clearly intoxicated, so was
17 she. I mean, I think out of an abundance of caution,
18 there's sufficient evidence in the record I'm going to
19 charge defense of others. I note your objection.

20 MR. OVERBY: Thank you, Your Honor.

21 THE COURT: All right. Other than your objection
22 to the defense of others, any other objection to the
23 proposed charged?

24 MR. OVERBY: No, Your Honor. No other objection.

25 THE COURT: All right. Thank you, Mr. Overby.

1 Mr. Robinson, any objection to the proposed charged?

2 MR. ROBINSON: No, sir, Your Honor.

3 THE COURT: And following up on the verdict
4 form -- I didn't ask you that. Have you looked at the
5 verdict form?

6 MR. OVERBY: I have, Your Honor, and I have no
7 objection to the verdict form as drafted.

8 MR. ROBINSON: The same here, Judge.

9 THE COURT: All right. Did you present any
10 evidence in this case?

11 MR. ROBINSON: No, sir.

12 THE COURT: I don't think you did, did you?

13 MR. ROBINSON: No.

14 THE COURT: You had somebody look at a document,
15 but you took it back. So he gets last argument, do you
16 disagree?

17 MR. OVERBY: I do not disagree, Your Honor.

18 THE COURT: All right. Are you ready to go? Do
19 you need a minute?

20 MR. OVERBY: I'm ready to go, Your Honor.

21 THE COURT: Are you ready to go?

22 MR. ROBINSON: Judge, if I could just ask Mr.
23 Shirley to turn on my mic...

24 (Pause.)

25 THE COURT: All right. Bailiffs, if you would,

1 during the closing arguments and during my charge to
2 the jury, do not let anybody come or go from the
3 courtroom, or come in and go out, please. Okay. Could
4 we get in the jury in, please, sir.

5 (Whereupon, the jury entered the courtroom at
6 9:40 a.m.)

7 THE COURT: Ladies and gentlemen, good morning.
8 We have gone to the third phase of this case, which is
9 going to be the closing arguments. The State will go
10 first and then they will -- Mr. Robinson and the
11 defense will go last. After their closing arguments,
12 I'm going to give you an opportunity to take a break,
13 Mr. Foreman. If you do want to take a break, or you
14 can go forward and I'll charge you on the law, and I'll
15 ask at that time. After which, I will have a small
16 conference and then we'll send word back for you to
17 begin your deliberations. Remember, until you get that
18 word, do not begin your deliberations. Okay, sir.

19 All right. Mr. Overby, are you ready for your
20 closing?

21 MR. OVERBY: Yes, Your Honor.

22 THE COURT: Mr. Robinson, are you ready for your
23 closing?

24 MR. ROBINSON: Yes, sir, Your Honor.

25 THE COURT: All right. Mr. Overby.

1 MR. OVERBY: May it please the court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. OVERBY: Mr. Robinson. Ladies and gentlemen
4 of the jury, at the beginning of this trial I asked you
5 to answer a question. Why does a man shoot at another
6 man multiple times in close proximity while his back is
7 turned? And I asked that question for a very simple
8 reason because it helps you to provide a road map
9 through everything that you're going to have to decide
10 here this morning and this afternoon perhaps, because
11 you're going to receive instructions from the judge on
12 a variety of things, most notably murder, which is what
13 the defendant, Mr. Wideman, is charged with in this
14 case.

15 Murder is the unlawful killing of another with
16 malice aforethought, as I told you before. And to
17 expand on the definition, just like murder -- or malice
18 rather, it involves ill-will or hatred, something that
19 caused this individual to want to shoot Mr. Tatum. And
20 the number one thing about that is, is you need to
21 understand that malice can occur in the blink of an
22 eye. It doesn't have to be premeditated. It can occur
23 in a short amount of time.

24 Now, in addition to murder, because a number of
25 things have been said in this case about this killing

1 occurred. You're also going to have what are called
2 lesser included offenses. And lesser included offenses
3 are essentially offenses that are also related to
4 homicide.

5 Murder is the highest charge. The second charge
6 is voluntary manslaughter. Voluntary manslaughter is
7 the -- as the judge will instruct you -- is the killing
8 of another in the heat of passion with sufficient legal
9 provocation.

10 You're also going to have involuntary
11 manslaughter. Involuntary manslaughter is the
12 unintentional killing of another while engaged in
13 lawful activity with reckless disregard for the safety
14 of others. I know that's all a mouthful, but I want to
15 make this as easy as possible for you in terms of
16 understanding where you -- where to go from here.

17 In addition, you're going to have two
18 affirmative defenses. And I want you to understand
19 something, I have the burden of proof on all of this.
20 The State has the burden of proof beyond a reasonable
21 doubt on every single one of these things that you are
22 going to be asked to consider, and that includes
23 defenses. I have to prove beyond a reasonable doubt
24 this was not self defense. I have to prove beyond a
25 reasonable doubt this is not accident. And I tell you

1 these things because I believe you have the proof to
2 know that these don't apply. And frankly I think you
3 have the proof to know that this applies.

4 Now, self defense, to start with, involves --
5 requires that the defendant came into the situation --
6 or came into the matter without fault, and also came in
7 or experienced a reasonable fear -- actual or
8 reasonable concern of imminent harm. And what that
9 means is that there is evidence that he actually
10 experienced the potential for great bodily injury or
11 death, or he experienced a reasonable concern, and
12 that's the key -- that's the touchstone, whether his
13 belief was reasonable based on an objective standard.

14 And, finally, you have accident. An accident
15 involves the unintentional killing of another, acting
16 lawfully when reasonable care is used in the handling
17 of a weapon. In this case, a firearm. These are
18 affirmative defenses as I've said. So if you find that
19 either of these apply, he's not guilty. That's the
20 bottom line.

21 That's a mouthful. It's going to be even more
22 so when the judge goes into greater detail because he's
23 the master of the law. What I say is argument, what he
24 says is what you apply to the facts. But what I want
25 you to know is, as far as this is concerned, figuring

1 out how to get through or deal or evaluate all of these
2 various aspects of things, is as simple as asking --
3 answering the question I asked. Why does a man shoot
4 another man multiple times in close proximity while his
5 back is turned?

6 Well, the simple fact of the matter is, ladies
7 and gentlemen, is that you can pretty much rule out
8 accident unlike the defense suggests. And the reason
9 you can rule out accident is a gun doesn't go off four
10 times on accident. Okay. And the reason you can know
11 that has to do -- well, there's additional reasons that
12 you can also rule this out, and I'll actually show that
13 in the list. That's the primary reason. The gun
14 doesn't go off four times on accident.

15 James Armstrong told you it requires one trigger
16 pull at a time on a semi-automatic handgun. But
17 generally speaking, ladies and gentlemen, all you have
18 to do is look at the forensics in this case. And we
19 start with the line of fire. Because what's important
20 in this case, and what makes all of this somewhat
21 muddy, is that the manner in which these shots were
22 fired could not have been accident. And I invite you
23 to see these trajectory rods.

24 The principle of Occam's Razor is that the
25 solution with the least number of assumptions is often

1 the correct one. Okay. And firing a gun is as simple
2 as shooting -- as drawing a straight line. It's the
3 way a firearm works. That's why these trajectory rods
4 are valid for. They tell you what direction the
5 firearm -- the bullets came from. And as you can see,
6 they all are inside the door, angled back towards the
7 passenger side of the -- of the vehicle.

8 This is a better angle of that. That shows you
9 where these bullets are coming from. That's your first
10 point on the spectrum of the path of these fire -- of
11 these bullets, these projectiles.

12 The next point is the deceased. Don McCown told
13 you that's an exit wound. Okay. The enlarging of the
14 wound at the back end of the -- on the chest tells you
15 that the bullet came out in that place, on his left
16 pectoral.

17 And this is the entry wound. It went in through
18 his back, right shoulder. Okay. And it's important to
19 note, as he's sitting up, that is the path in which the
20 bullet traveled. And as the autopsy report, which
21 you'll have back there notes, it went through his
22 shoulder, into his heart, through his spine, and out of
23 his chest. That's your second point. Okay. Going in
24 this direction, driver, here, door, driver, coming
25 back.

1 The final aspect -- the final question is where
2 -- where did the shots originate from? And the answer
3 to that requires you to make a little bit of an
4 inference. Okay. And that is where James Armstrong
5 comes in. This gun is a Hi-Point nine millimeter
6 semi-automatic with a slide action. Okay.

7 When the trigger is depressed, a shell that is
8 already loaded in here is hit by the firing pin,
9 explodes and shoots the projectile out of the barrel.
10 And what happens is -- is the slide pops back, the
11 initial shell casing is ejected, and it is ejected up
12 and to the right. Okay. It doesn't go backwards, it
13 doesn't go off to the left, it goes up and to the
14 right.

15 And as the defendant has stated in this
16 statements, he was holding the gun with his left hand
17 while his right hand was on the doorway. Up and to the
18 right. This gun, with absolutely no depth whatsoever
19 fired these four shell casings which were all found in
20 the back and the passenger side of the vehicle. One of
21 them found in the front passenger seat, one of them
22 found in the area between the front passenger seat and
23 the console. Two of them found in the back floor board
24 of the passenger side of the vehicle. All four of them
25 found in there. What does that tell you?

1 Well, quite simply, ladies and gentlemen, it
2 tells you that that gun is inside the car, inside the
3 car. In other words, we're talking about a Mitsubishi
4 Lancer, a four door compact sedan. It's in there at
5 pretty close range, inside the car.

6 The bottom line is, how does -- how is three
7 aimed shots that we had there, four shell casings, and
8 an injury in the back right shoulder through the aorta
9 and out the front left pectoral an accident. It's not.
10 It would cause you -- you would have to have a wild
11 belief in order to believe that this was somehow an
12 unintentional act. A wild belief.

13 And in that sense as well, you can roll out
14 this: Because one is unintentional; and, two, he
15 didn't operate the thing in a reckless disregard of the
16 safety of others, he operated it just fine. It's just
17 that he meant to shoot it. That's what you know from
18 the forensics, which brings us to these matters here.

19 And let's talk about self defense. Self defense
20 requires that the State prove beyond a reasonable doubt
21 that the defendant did not -- that the defendant did
22 not come into this confrontation without fault. That's
23 my proof.

24 And the bottom line is, there's absolutely no
25 evidence in the record in terms of what I presented, in

1 terms of what is my -- what I show, that shows that Mr.
2 Tatum, the victim in this case, who the only thing you
3 can do is listen to all of the facts to get his side.
4 There's absolutely no evidence that he did anything,
5 anything to start this confrontation.

6 And you know that because of Brianna
7 Blassingame, Brianna Ware, who testified yesterday --
8 who testified on Tuesday -- Brianna Ware is Mr.
9 Wideman's cousin, blood relatives. What did she say?
10 She said that Mr. Tatum and them -- Mr. Tatum, and Ms.
11 Blassingame, Mr. Wideman's sister, went to a club in
12 Greenville. They actually met Mr. Tatum there in
13 Greenville. They did not meet him in Anderson. He's
14 from Greenville originally.

15 They went out, they had some drinks. There's no
16 question about that. Everybody's intoxicated to some
17 degree. Mr. Tatum is asked to drive these ladies back
18 home to Anderson, and he does so. He drives them back
19 to this residence where Ms. Ware had her car -- took
20 her car the night before. Because, remember, they
21 dropped Ms. Blassingame's kids off to go before they
22 went to Greenville. That's why her car was there. So
23 he drove them home to Anderson.

24 They get out of the car. They go to try to
25 extract Ms. Ware's vehicle from the front driveway --

1 or through the front -- from the front yard.

2 They can't do it. Willie McDonald is there
3 helping. Brianna Ware is there. And obviously Mr.
4 Tatum. You can't do it. You're going to have to get a
5 chain out there and pull that out of the mud.

6 So what does Ms. Ware tell you, she says that
7 she asked Mr. Tatum to drive her home. And Ms.
8 Blassingame did not live there. Ms. Blassingame did
9 not live at that residence at that time. She had her
10 own apartment. So he gets back in the car. Okay. He
11 gets back in the car. And at that point, Mr. Wideman
12 comes out.

13 Now, the thing is, is that Mr. Wideman in this
14 statement, indicated that Mr. Tatum was belligerent,
15 and that he was saying, "f-u, get out of the car", and
16 he wouldn't do it.

17 Well, let me ask y'all a question. Okay. If
18 Mr. Tatum was that belligerent, that awful, that
19 persistent that he was going to take that car that
20 evening, and he just wanted to go and didn't care about
21 anything, why did he take the time to buckle his seat
22 belt? Why did he take the time?

23 You can argue all you want that Mr. Tatum
24 shouldn't have been driving. I'm going to freely
25 acknowledge that. I prosecute driving under the

1 influence cases. That's a high alcohol concentration.
2 You could argue that all you want to. But the button
3 line is just because you got high alcohol concentration
4 doesn't mean you deserve to get shot in the back.
5 That's the whole thing here. There's got to be
6 something more than that. There's got to be something
7 more than that.

8 And, again, you know that he didn't make any
9 aggressive moves because of where he was shot. The
10 Coroner's report shows that. The Coroner testified to
11 that. The autopsy will show that. He's shot in the
12 back. He's not facing the defendant at all, in no way,
13 shape or form. He's straight, face forward in the
14 driver's seat. Face forward.

15 Are those the actions of a man who's saying
16 "f-u", I'm just going to go ahead and take this car, or
17 are they the actions of a man who said -- who, as Ms.
18 Ware said, she was saying, "we straight, we straight,
19 he's just taking me home".

20 Imminent fear, or fear -- or reasonable belief
21 of imminent harm -- pardon me -- one of the big things
22 that kind of gets thrown in here because, again -- and
23 I'll get to the defendant statements in a minute. One
24 of the big things that gets thrown in here in regards
25 to why this occurred, how this occurred, is that the

1 story consistently changes. And at the initial portion
2 of all of these interviews, it goes from I didn't do
3 it, to it's an accident. And then it goes from it's an
4 accident to, man, you started backing your car, which I
5 take to be he meant to do harm to you in some way by
6 the operation of the vehicle --

7 MR. ROBINSON: Your Honor, I object to the
8 personal opinion getting into this case --

9 THE COURT: Just rephrase your argument. I
10 sustain the objection.

11 MR. OVERBY: Yes, Your Honor. But you're dealing
12 with self defense, utilizing the car as a weapon
13 essentially. Mr. Wideman believes that the car was a
14 weapon and thus he had to use self defense, actual or
15 imminent harm, reasonable belief.

16 Let me ask you this about that aspect of things:
17 Mr. Wideman says that Mr. Tatum gunned the engine, he
18 hit 30, and then he actually brings it down to 25,
19 because it's a Mitsubishi Lancer, can't go 0 to 30 as
20 Sgt. Gebing points up. Then he brings it down to 15.

21 He's off to the side re -- actually we know that
22 he's got the gun inside the vehicle, but presuming --
23 the story, he's off to the side and he guns it, where
24 is the damage? This thing runs into a trailer.

25 Frankly, the trailer is actually off to the

1 side, so the vehicle had to make a turn motion. Does a
2 vehicle that's gunned do that? No, it doesn't. There
3 is no reasonable fear of imminent harm by the operation
4 of this vehicle. None. No reasonable fear.

5 And as for the sister passed out in the back
6 seat, there's absolutely no evidence that any threats
7 were made to the victim -- as a matter of fact, she
8 literally let him drive the car from Greenville back
9 home. And, yes, she was drunk in the back seat passed
10 out. I understand that, but shoot somebody over that?
11 It doesn't make any sense. As a result, you can rule
12 out self defense.

13 It leaves you with this: The killing is
14 intentional, absolutely he meant to shoot him. The
15 only question is, is there malice or not. And the
16 truth of the matter is, there's plenty of evidence that
17 malice exist here.

18 Because the bottom line is, is that you look at
19 the forensic evidence that shows that four shots were
20 fired in close proximity, and a guy who's back is
21 turned who has said absolutely nothing, has made
22 absolutely no threat whatsoever, is sitting in the
23 driver's seat. You have no provocation. Nothing.

24 But, finally, you have Willie McDonald. Now,
25 I'm not going to prop Willie as the greatest citizen in

1 the world. That's why I asked him all about his
2 record, that's why I asked him about pending charges in
3 our office. That's why I asked him about whether he
4 asked for some assistance to Detective Mitchell. But
5 those charges, that he has in my office, happened after
6 this. They happened after this.

7 And as far as Mr. McDonald is concerned, he's
8 the only one who has no relation to any -- to Mr.
9 Wideman. He's the only witness. He stopped. He
10 helped to try to get that truck out of the mud, and
11 he's on his way up the street to go get a pack of
12 cigarettes. When he came back down, he heard the words
13 "you're going to die tonight". That's what he heard.

14 Now, it's -- he's a little muddy on the details
15 of where this shooting occurred, or how the shooting
16 occurred. I'll give him that much. It's been a couple
17 of years. Okay. All the forensics show it was the
18 back passenger seat. It didn't come from the driver's
19 seat, but "you're going to die tonight". Why -- what
20 incentive does he have to make that up? None. None.

21 And quite truthfully, ladies and gentlemen, that
22 makes a heck of a lot more sense, a heck of a lot more
23 sense than anything the defendant said on the night of
24 this incident, so much more sense.

25 It wasn't me. I wasn't there. I was out. I

1 was asleep. I came outside, I saw these guys in the
2 yard. I told them to get out of the car. They
3 wouldn't get out of the car. I went back. I saw
4 another dude to run up and I heard gunshots. Sgt.
5 Gebing goes, Mr. Wideman, it would probably be better
6 if you just told us the truth. And then it becomes,
7 oh, I'm sorry, I'm sorry, it was an accident. The gun
8 just went off. I didn't mean for it, too. And that
9 progressed for a little while until finally we got to
10 the point, well, how did you fire three -- how did you
11 fire three shots, aim at somebody. Well, the gun hit
12 my hand when the car backed up and the gun went off.
13 And then it kind of went off two more times.

14 I'll show you the most honest portion of his
15 entire statement.

16 (Whereupon, a portion of the DVD police
17 interview was played in open court.)

18 MR. OVERBY: Does that make any sense? No. It
19 doesn't make any sense. One shot, pause, two more.
20 Think about for instance -- think about where the gun
21 was, think about how the body is sitting in there and
22 how the shots are aimed. It makes a lot more sense to
23 say, boom, boom, boom. And as a matter of fact, boom
24 on top of that because we know there were four shots
25 fired. So that's about the only truthful aspect of his

1 entire statement in terms of everything else. That's
2 the only thing that was true in all of those
3 statements, all of those reports.

4 Why does a man intentionally shoot at another
5 man multiple times, close proximity, while his back was
6 turned? Because he wanted to kill him because he came
7 out of that house, and he was angry, and he had his
8 gun, and he got it in the car, and he put it right up
9 there and he fired the shots and he wanted to kill him.
10 That's it.

11 The State doesn't have to prove motive. That's
12 going to be the instruction the judge is going to give
13 you. The State doesn't have to prove motive, but
14 you've got all the evidence you need to make that
15 determination. Guns don't go off four times aimed at
16 somebody in close proximity unless the person who fired
17 it wanted it to be, particularly not when the victim in
18 the case is not doing anything, does not provide a
19 provocation. The only evidence that there was any
20 provocation whatsoever comes from what the defendant
21 said happened.

22 Well, the evidence is the evidence, ladies and
23 gentlemen. The evidence tells you the side of Mr.
24 Tatum because he's not here today to do it and never
25 will be.

1 This gentleman -- I'm going to sit down now.
2 You're not going to hear from me again after this. Mr.
3 Robinson is going to present his argument on this.
4 Remember a reasonable doubt is a reasonable doubt. It
5 is not a fanciful, imagined doubt. It doesn't require
6 you to take a massive leap of faith. It has to be a
7 reasonable doubt.

8 This was no accident. It was not self defense.
9 This was absolutely a murder. Now, I ask that you
10 bring that jury -- verdict of guilty. Thank you.

11 THE COURT: Mr. Robinson.

12 MR. ROBINSON: If it please the court?

13 THE COURT: Yes, sir.

14 MR. ROBINSON: Good morning, ladies and gentlemen
15 of the jury. You know I hate sitting like this over
16 here but I can't really -- I have a difficult time
17 walking, so excuse me --

18 THE COURT: Stop for a second. We need to get you
19 miked up. I'm sorry.

20 THE CLERK: I'm trying.

21 (Pause.)

22 THE COURT: Go ahead.

23 MR. ROBINSON: I'm going to speak as loud as I can
24 to -- because this is not working.

25 THE CLERK: Do you want to use a table mike?

1 MR. ROBINSON: That's fine.

2 (Pause.)

3 MR. ROBINSON: Ladies and gentlemen of the jury, I
4 want to thank you on behalf of my client for listening
5 to the testimony for the last three days. You had the
6 opportunity to take notes and so forth. And if you
7 took notes, you know that the prosecutor's statement a
8 second ago that -- that Raeford was angry when he came
9 out that door, was not something that was presented in
10 evidence. There was no anger by Raeford coming out to
11 that car. If you go back to your notes, that's what
12 you'll see.

13 And I want to take a moment before I start my
14 closing to address one other thing. This idea from the
15 prosecutor that is telling you that this -- that this
16 Peanut individual, that was the last witness in this
17 case, has a little muddy memory, he was asked twice by
18 the prosecutor yesterday where did he shoot at? What
19 does he says twice -- he had to ask the question twice.
20 And the second question was, are you sure? And what
21 did he say?

22 He said, I saw him -- I saw him shoot through
23 the driver door. And you heard that just like anybody
24 else did, through the driver's door. That's not a
25 muddy memory. That is -- that is just preposterous.

1 So dispense with this whole muddy idea. This guy is a
2 -- from the evidence is a convicted felon. And you
3 listened as the prosecutor examined him, he had to pull
4 out of him that he had these pending charges hanging
5 over his head for burglary, and pointing and presenting
6 a firearm.

7 But when you heard him say he shot -- I saw him
8 shoot through the front driver door, you must have had
9 to go back to your notes and say, wait a second, the
10 deputy coroner, the medical examiner, Detectives Gebing
11 and Mitchell all said it came from the back rear
12 passenger door. That's where the bullets -- that's
13 where Raeford was standing when this fellow decided to
14 jam the accelerator in this car, and pull back with
15 Raeford and his sister in the car.

16 Now, I want to go through a couple of things as
17 far as the initial charges. The prosecutor here is
18 telling you what murder is, what voluntary manslaughter
19 is, we can dispense with murder pretty quick. He
20 didn't know this guy. Raeford didn't know this guy.
21 Did you hear anything that would ever indicate that
22 there was bad blood between these fellows? No, you
23 didn't. There was none. You had testimony the last
24 couple of days saying they didn't know each other.
25 Raeford testified him I saw him before; that's it.

1 They didn't know each other.

2 And here he is, at 3:00 or 4:00 in the morning,
3 three times the legal limit of alcohol. This guy was
4 not just drunk, he was seriously drunk. Three times
5 the legal limit of alcohol.

6 So, we dispensed with murder. Now, we got -- we
7 should turn to voluntary manslaughter, the heat of
8 passion in this case. I would submit to you that it's
9 not voluntary manslaughter. This falls in the area of
10 involuntary manslaughter. Involuntary manslaughter is
11 what this is, if anything. I'm going to ask at the end
12 of this presentation of mine to acquit on all the
13 charges in this case, everything.

14 Let's talk about the prosecutor's opening
15 statement he did on Monday. And he keeps repeating
16 this theme that he has in the case, saying -- question
17 that he has to you -- a simple question, but it's not a
18 simple question, and it sure as heck is not a simple
19 answer.

20 Question: Why does a man shoot another man
21 multiple times in close proximity while his back is
22 turned? Well, let's see. Raeford's sister is sitting
23 -- or is laying in the back seat of the car, passed
24 out, unconscious. Remember, she has to be taken to the
25 hospital after -- after the fact according to the

1 deputy coroner.

2 He comes out three or four in the morning, after
3 hearing noises, with his registered gun. He sees his
4 sister in the back seat of the vehicle like that. He
5 doesn't know what's going on with his sister. The
6 judge is going to charge you in a moment that the law
7 of appearance means that Raeford can take what he is
8 looking at, is something wrong is happening. Something
9 is wrong with his sister.

10 But that's not where the real danger is here.
11 The real danger is that you've got an individual who is
12 three times the legal limit, driving the car, with his
13 sister in it, to God knows where. And think to
14 yourself, too, why in the world would someone jam the
15 accelerator with another person in the rear passenger
16 side of the car? Why would you do that?

17 So let's talk about the defenses, the
18 affirmative defenses in this case that he's spoken of.
19 And I'm going to take the one that he seemed to spend a
20 lot of time with, accident. He said in his closing
21 statement that the forensics and the bullet trail, and
22 all this stuff about, well, that shows that it's not
23 accident.

24 Well, you know, with all the technology that
25 they have, with all the resources that they had in this

1 case, they didn't bring to this court one time anyone
2 that did an accident reconstruction, that did a crime
3 scene reconstruction in this matter, to say, oh, yeah,
4 this wasn't an accident. This was something else. You
5 didn't see anyone come to court -- this court and say
6 this was not an accident. This was something worse.
7 Not one person came to court to say that. They cannot
8 say to you that this can't be an accident because they
9 really don't know.

10 And you know, Mr. Armstrong, who testified I
11 believe Tuesday, the question I asked him after this
12 whole litany of questions regarding the shell and the
13 bullet, you know, as far as the bullet going up in the
14 air and to the right and so forth, the last question I
15 had for him, you have no idea the context of this. You
16 don't know what happened. You don't know what was
17 going on that night. You have no idea. All you can
18 say -- all he is qualified to say is there is a --
19 these are the bullets. This is the gun. That's all he
20 can talk about. He can't give you an opinion as far as
21 whether or not this was an accident or not. He can't
22 say that. He cannot -- Mr. Overby can sit here until
23 doomsday and talk about the forensics, the gun, the
24 shells, the casings, but there's nothing that ties it
25 together, that indicates that this is anything other

1 than an accident.

2 And Mr. Overby says that, oh, yeah, he's
3 inconsistent. No, he's not. You go back and listen to
4 these tapes. You listen. It is consistent. He says
5 the same thing almost all the time.

6 Raeford is 28 years old. Never had any trouble
7 in his whole life. He is brand new to this whole
8 thing. He's got a family. He has lived here his whole
9 life. He has a little job working at Papa Johns. And
10 what's he trying to do, he's trying to make enough
11 money -- one second --

12 (Pause.

13 MR. ROBINSON: -- to buy a house some day. That's
14 what he's trying to do. And to put him in this, as
15 he's some big criminal, that he knows what he's doing,
16 he doesn't know anything. He's like a deer in the
17 headlights in this case.

18 And you look at the -- you look at the tapes, go
19 ahead and look at the tapes. It's consistent. He
20 never meant to do this to this man. Look at the --
21 look at the remorse and the consciousness. Look at
22 what he did after this all happened, he's trying to
23 protect his sister. He's trying to protect himself.
24 What did he do? He called the police. He called the
25 police and he stayed there until the police got there.

1 Is that the mark of someone who is a criminal? Is it?

2 Besides the fact that he presented no evidence
3 that this is an accident, other than conjecture -- no
4 expert, no one came forward to say this was an
5 accident. They also have self defense -- we also have
6 self defense which is an affirmative defense in this
7 case.

8 And let me tell you what that means. That means
9 that if you find both -- either of these defenses,
10 there is no murder. There is no voluntary
11 manslaughter. There is no involuntary manslaughter.
12 That's it.

13 Let's talk about self defense then. You have a
14 victim who is seriously drunk, three times the legal
15 limit of alcohol. Suddenly, without any sort of
16 justification, pushed the accelerator to the floor
17 while Raeford and his sister were in the car. He had
18 the right to act on appearances. Think about it, if
19 someone is pointing -- or something happens, you assume
20 that something is going on, something is wrong. You
21 assume that your sister was unconscious in the back
22 seat. Something is wrong.

23 And the Judge is going to charge you in a moment
24 about the rights that you have as far as being a
25 property owner or someone that owns a property in this

1 case. Raeford had a right to defend himself and his
2 sister. He had a right to do that. And the Judge is
3 going to charge you in a moment, that the law is that
4 you have a right to shoot until the danger is gone,
5 until the danger is finished, meaning that Raeford had
6 a right, as the resident with a registered gun, to
7 shoot this individual until he stopped.

8 Mr. Overby went through the elements of self
9 defense in this case, and I'm going to go through these
10 elements. There's three different elements that he
11 went through.

12 First, the defendant was without fault in
13 bringing on the difficulty. Raeford didn't bring this
14 difficulty on. He went out at three or four in the
15 morning, after hearing sounds, he sees his sister in
16 the back seat of a car, unconscious with a drunk driver
17 driving the car. He didn't cause this guy to
18 accelerate and catch him in the car. He didn't do
19 that. He did not bring this upon himself.

20 Second, the defendant was actually in imminent
21 danger of death or serious bodily injury, or that he
22 actually believed he was danger. The testimony that
23 was presented, in the tapes in this case, the audio and
24 the video, are replete -- is replete -- excuse me --
25 with the danger that -- that Raeford felt in this case.

1 The danger that he faced with this individual, driving
2 the car drunk like he did, and suddenly stomping on the
3 accelerator like he did.

4 And, third, the defendant had no other way to
5 avoid the danger. He couldn't avoid the danger because
6 he's stuck in the door in the rear passenger side while
7 this fellow decides to jam the accelerator down. And
8 think about it, why? Why would he have to do that?
9 Why couldn't he just stop, give Raeford or his dad the
10 keys to the car, and just stop. Why couldn't he do
11 that? He's got three times the limit of alcohol in his
12 system. All he had to do was stop.

13 If Raeford had not done what he -- done what he
14 did, he could have been trampled on with the car. And
15 worse yet, what would have happened if this guy
16 decides, I'm going to drive off, get into a big
17 accident, the sister is killed or injured, and suffers
18 serious bodily harm. But Raeford had no idea what was
19 wrong with his sister. Why couldn't this guy just stop
20 and let him get his sister out of the car, take her to
21 the hospital and be done with it. Why couldn't he do
22 that because he's drunk out of his mind. So I submit
23 to you that he has satisfied all of the elements of
24 self defense in this case.

25 The defendant is justified defending himself or

1 others, his sister, in firing the first shot, the
2 defendant is also justified in continuing to shoot
3 until the danger of death or serious bodily injury is
4 completely ended. The Judge is going to charge you
5 that in a moment. I'm just -- I'm just the attorney.
6 Mr. Overby and I are just the attorneys in this case.
7 The Judge is the law. He is going to give you the law.
8 If my chart -- my statement to you is any different,
9 follow what the Judge says.

10 But let me -- let me submit to you the facts as
11 related to self defense so you can kind of get an idea
12 in your mind of how this may have happened. Raeford
13 hears something. He hears either shouting or a car
14 pulling off or something. He gets his gun, registered
15 gun, and goes outside to investigate. Now, this is
16 three or four in the morning. This is March. Okay.
17 Now, March, typically in the south, is a cooler month.

18 He goes outside. He sees his sister in the back
19 of the car. Asks the fellow, my sister, there's
20 something wrong, stop the car, give me the keys.

21 He gets in the back -- he's in the back tending
22 to his sister, with his gun out, the guys jams the
23 accelerator. Now, think back since you've been taking
24 notes in this case. The deputy coroner said he
25 couldn't tell which shot was the first shot or the

1 last. No idea what the sequence was.

2 The first shot -- because there were four shots
3 in this case. The first shot misses, hits the -- goes
4 through, hits the door. The car continues going
5 backwards because he's jammed the -- jammed the
6 accelerator, but we don't know exactly.

7 When Raeford was talking about the speed, he
8 doesn't know what the speed is. He's just estimating
9 what the speed was. He thought it was going fast.

10 The first bullet -- the first shot misses. It
11 hits the door. The second shot hits him in the knee,
12 the left knee, near the knee cap. It doesn't stop him.
13 He keeps going. He keeps going. He's still got his --
14 he's still got his right foot on the pedal, still going
15 backwards. He won't stop.

16 The third shot hits him in the forearm. He
17 doesn't stop. He keeps going. The guy does not -- he
18 -- he's got three times the legal alcohol in his
19 system. He's not going to stop.

20 Finally, Raeford shoots one more time, the
21 fourth shot. That hits the victim in the right back,
22 upper shoulder on this side, goes to his chest. He
23 stops the car. By this time, the car is almost all the
24 way over to the other side of the street, jacked up
25 against a neighbors -- some sort of aberration that

1 connects the trailer into what -- into a car. That's
2 when it stops.

3 That's self defense in this case. That's self
4 defense. This is not murder. And I want you also to
5 think about the fact -- think about where the bullets
6 struck. Think about where the shells were found. The
7 shells were found either under the passenger seat,
8 between the passenger seat and the console, and the
9 back -- the lower part of the floor board of the rear.
10 So that shows he was in the back passenger seat area
11 when the guy jammed -- jammed the accelerator.

12 But think about where the -- where the shots
13 were. If you're trying to kill somebody -- really
14 trying to kill somebody, you're not normally going to
15 shoot them in the knee, or shoot them in the forearm.
16 You're going to shoot them in the head or put a shot
17 directly in the back, right -- right where the heart
18 is. That's where you're going to shoot if you're going
19 to kill somebody. You don't have to shoot them in the
20 forearm, elbow, or the back of the -- upper part of the
21 back.

22 So think about that when you go back and
23 deliberate in this case. Because that's a very -- it's
24 very interesting. You know, in the beginning of this
25 case, both of us talked about common sense, and using

1 your common sense in this case.

2 But -- but here's what's interesting in this
3 matter when you -- you came into this court, like most
4 of us, in the mornings you typically -- or when you're
5 home, you're looking at the internet, you're looking on
6 your tablet, your phone, your TV. You look on the
7 Anderson Independent, the Greenville News, the Herald
8 Journal, when you see -- you see that the police or law
9 enforcement has caught somebody, and you make this
10 presumption at that point, you make the presumption
11 that this person is guilty because law enforcement has
12 arrested this person, or indicted this person, you
13 presume that the person is guilty. But that is not --
14 that is not the oath that you took in this case. That
15 presumption is gone. It's not -- when you -- when you
16 walk through the court -- the courtroom door there,
17 walked through the front, that's gone.

18 The presumption in this case is the exact
19 opposite, the presumption here is that Raeford Wideman
20 is innocent and the City has to prove their case to you
21 beyond a reasonable doubt.

22 And you know as -- as jury members, you can't
23 speculate. You can't say maybe he should have
24 possibly, things like that. You have to be firm. You
25 have to be firm in what you're -- what you're

1 deliberating to.

2 But in this case, I would ask you to look at the
3 two main defenses in this case, self defense and
4 accident, which are affirmative defenses. And with
5 those, if you find either of those, he's not guilty.
6 Not guilty.

7 I want to read a passage to you that kind of
8 exemplifies what we're doing here today. It's a quote
9 from a well known speaker, probably the preeminent
10 speakers in this century, I think. But -- and this is
11 true -- think -- think about this. "In justice
12 anywhere is injustice everywhere."

13 Ladies and gentlemen of the jury, I ask you on
14 behalf of Raeford Wideman, to do justice in this case.
15 I ask you to return a verdict of not guilty. And I
16 want to thank you very much for listening to this crazy
17 attorney talk to you like I did. So I appreciate it.
18 I appreciate your time for listening to me speak to
19 you. Thank you.

20 THE COURT: All right. Mr. Foreman, I told you I
21 was going to give you option to go forward or have a
22 break. I think we've been going a little bit. Let's
23 go ahead and have about a 15 minute break and then
24 we'll bring you back to charge on the law, please.

25 (Whereupon, the jury left the courtroom at 10:49

1 a.m.)

2 (After a recess, court reconvened.)

3 THE COURT: All right. Gentlemen, contrary to
4 instructions, I have questions from the jury, which
5 means they've been talking about it.

6 The questions are -- I'm not going to answer
7 them -- but I'm going to talk to y'all about the proper
8 procedure "What is the time of death? What time did
9 the 911 call come in? Who made the 911 call or whose
10 phones were found with the gun? Does the defendant
11 have a record? Are the sister's medical records
12 available? Was there harm to her? Did the victim have
13 a record?"

14 First, I'm going to tell them, remember, I told
15 you you cannot deliberate until I tell you to. And
16 that means -- the fact you're doing that means you have
17 been, so I'm going to chastise them a little bit, but
18 gently. Okay.

19 I'm not going to answer -- my -- I don't answer
20 the questions, but to tell them, yeah, you -- all the
21 evidence in this trial has been admitted into evidence
22 that's going to be admitted into evidence. There is
23 not going to be any more. You are going to make your
24 decision based on what's in the record and what you've
25 heard. And that would be basically the gist of what I

1 tell them.

2 Mr. Overby, any objection to that procedure?

3 MR. OVERBY: No, Your Honor. That's perfect.

4 THE COURT: Mr. Robinson?

5 MR. ROBINSON: That's fine. I'm -- I'm surprised
6 they started deliberating this --

7 THE COURT: You know, I had one time that -- I
8 know that sent questions out --

9 COURT REPORTER: Is this off the record?

10 THE COURT: No, that's fine. They asked -- the
11 foreman said can we remove juror number so-and-so and
12 so-and-so, he's an idiot.

13 All right. Let me say this before I give a
14 charge, I want to congratulate the lawyers on this
15 case. I thought you presented your cases on an
16 excellent basis. You did a fine job representing your
17 respective interests. And I want to say it now because
18 at the end of the case, you don't want to hear it from
19 me. All right. Ready for me to charge the jury?

20 MR. OVERBY: Yes, your Honor.

21 THE COURT: Are you ready?

22 MR. ROBINSON: Yes, Your Honor.

23 (Court's Exhibits 4 & 5 marked.)

24 (Whereupon, the jury entered the courtroom at
25 11:01 a.m.)

1 THE COURT: Now, ladies and gentlemen, during the
2 break, the foreperson -- I mean -- our clerk gave me
3 questions from the jury. Let me remind you, that I
4 told you that you're not to begin your deliberations
5 until I tell you to. Okay. The reason being you need
6 to hear the law that you have got to apply the facts.

7 Okay. The fact that you're asking me questions
8 means you're deliberating. I know you don't know that,
9 but I'm not going to answer your questions. Okay.

10 Number two, in response to your questions, let
11 me tell you this: All the evidence that is going to be
12 presented in this case has been presented in this case.
13 There will be no supplementation of the record. There
14 will be no more testimony, no more exhibits.
15 Everything that you have to make your decision is
16 before you now. Okay.

17 Now, Mr. Foreman, there are certain aspects of
18 the testimony that if you want to see it again, such as
19 the audio or video, you'll just need to ask and we'll
20 bring you in here in the courtroom and let you watch it
21 as often and as long as you want to. But the reason
22 that we bring you back out here, instead of letting you
23 look at it in your jury room, is we have to have a
24 clean computer, which none of us have. And so if you
25 were to get into some other things that you shouldn't

1 see, that would be a danger. So we will bring it out
2 here to make sure it's controlled, but we'll do it as
3 often as you need. Okay. All right.

4 That being said, any exceptions or additions
5 from the State to my response to the question?

6 MR. OVERBY: No, Your Honor.

7 THE COURT: From the defense?

8 MR. ROBINSON: No, sir, Judge.

9 THE COURT: All right. Ladies and gentlemen, it
10 now becomes incumbent upon me to charge you on the law.
11 My instructions will be in three different parts.
12 First, I'm going to give you the general rules that
13 define and control your duties as jurors. I'm going to
14 give you the substantive law next that applies in this
15 case, and that will be the law of murder, the law of
16 voluntary manslaughter, and the law of involuntary
17 manslaughter, and self defense, and accident.

18 After that, I'm going to go over some general
19 considerations about your deliberations. Mr. Foreman,
20 I will then go over the verdict form with you so you
21 know how to fill it out. And then we'll send you back
22 to your jury room. Once we do that, I'm going to ask
23 that our two alternates come back out and that you not
24 deliberate in front of your alternates. Okay.

25 And once we give you that, we will then send all

1 the exhibits back to you. Okay. There will be word --
2 and you'll know, now you begin your deliberations. Up
3 until that time, don't do it. Okay. All right.

4 Ladies and gentlemen, if you will recall at the
5 beginning of this case, I told you that you are to find
6 the facts from the evidence that you hear from this
7 witness stand either by testimony in direct or cross
8 examination, or the exhibits that I'll allow into
9 evidence. And to the facts as you, and you alone find
10 them to be, you must apply the law as I give it to you
11 now. And I told you, and I remind you, you may not be
12 concerned with what you think the law should be, but
13 only what it is. If I'm in error, I'll be corrected by
14 an appellate court in Columbia, South Carolina.

15 Also, ladies and gentlemen, you must not be
16 influenced by any personal likes or dislikes, opinions,
17 prejudice, or undue sympathy that you may have for one
18 side or the other in this case. That means that you
19 are to decide this case solely on the evidence before
20 you, and according to the law as I give it to you now.
21 And I remind you that when you took your oath, you
22 swore or affirmed that you would do that.

23 Now, in following my instructions, you have to
24 follow all of them. You can't pick out certain aspects
25 and say we agree with that, we are going to apply that

1 part of the instructions, but disregard others. They
2 are all equally important.

3 Also, if I have said or done anything throughout
4 the course of this trial that indicates to you how you
5 are to find facts, I'm going to ask you, but I'm also
6 going to instruct you, that you are to disregard that.
7 I have no opinions. I do not intend to express any
8 type of opinion as to any influence on your verdict in
9 this case. Our Constitution does not allow us to do
10 so. We are essentially like a referee to make sure
11 that there is an equal playing field, that each side
12 has a fair and impartial trial, that I instruct you on
13 the law that you will apply.

14 At the end of the day, when you're told to begin
15 your deliberations, you will have to go back and
16 evaluate and weigh all the testimony into evidence.
17 And when I say "evaluate and weigh the evidence", I
18 can't give you a set of scales. But it's -- in the
19 literal sense, it is entirely a mental process. But
20 when you begin your deliberations, you are to use your
21 common sense and your sound judgment that you bring
22 with you when you checked in as jurors.

23 Now, ladies and gentlemen, the only evidence
24 that you may consider as such, again, is the sworn
25 testimony from the witnesses, whether it be direct or

1 cross examination or redirect, or the exhibits that I
2 allow into evidence -- that I allowed into evidence.
3 And that's it. You may not consider anything as
4 evidence.

5 So, that leads me to what is not evidence.
6 First, as I told you, the arguments of these attorneys
7 in their openings and their closings, or other times in
8 this case, is helpful and is intended to guide you, but
9 it is not evidence. If what either or both of these
10 attorneys told you differs from your memory of that
11 issue or those facts, then your memory will control.

12 And, Mr. Foreman, I remind you, too, that just
13 because something may appear in one of your juror's
14 notes and somebody's memory differs from the note, the
15 note doesn't trump somebody's memory. That's why
16 they're called deliberations. You'll just have to hash
17 that out and ultimately -- hopefully come to a
18 resolution of that issue.

19 The questions by the attorneys themselves are
20 not -- is not evidence, only the responses from the
21 witnesses is evidence. Also, I mind you, that
22 attorneys have an obligation to object. That is the --
23 merely the process that goes on in every trial, and
24 this trial is no different. You are not to discuss or
25 deliberate the fact that there was an objection, or to

1 the extent that I let you see my ruling on it, that I
2 ruled on it in a certain way. That is simply the
3 process that goes on in every trial.

4 And, finally, anything that you have seen when
5 court was not in session is not evidence. So that
6 leads me to the types of evidence in South Carolina
7 that we recognize. There's two types, first there is
8 direct evidence, and second there is circumstantial
9 evidence. And I'm going to give you a definition and
10 example of both.

11 Direct evidence is evidence that directly proves
12 the existence of a fact and it does not require
13 deduction nor inference. To give you an example, if an
14 issue in a case was whether or not I ran a stop sign,
15 and my law clerk testified that she saw me run that
16 stop sign, that would immediately establish that fact.
17 That is direct evidence. She saw it. She doesn't have
18 to deduct, she doesn't have to infer anything. It
19 directly proves that point.

20 Now, circumstantial evidence is a little more
21 tricky. Circumstantial evidence is a proof of a chain
22 of facts and circumstances indicating the existence of
23 a fact. In other words, it's by deduction and
24 inference. For example, if you were to go to bed at
25 night and have a fresh sheet of snow in your front

1 yard. If you were to wake up in the morning, and see
2 tracks in that snow, you may reasonably infer that
3 someone or something walked through your yard during
4 the night, although you did not see it. The only
5 prohibition that you have is that the inference that
6 you draw cannot be conjecture or surmise. It has to be
7 with reasonable certainty.

8 Now, ladies and gentlemen, crimes may be proven
9 by circumstantial evidence and direct evidence, and the
10 law makes no distinction between the weight or the
11 value to be given either direct or circumstantial
12 evidence. However, to the extent the State relies on
13 circumstantial evidence in his case, all of the
14 circumstances must be consistent with each other. And
15 when taken together, point conclusively to the guilt of
16 the accused beyond a reasonable doubt.

17 If the circumstances merely portray the
18 defendant's behavior as suspicious, then the proof has
19 failed. The State has the burden of proving the
20 defendant guilty by proof beyond a reasonable doubt and
21 this burden rests with the State regardless of whether
22 or not it relies on direct evidence, circumstantial
23 evidence, or a combination of both of those.

24 Now, ladies and gentlemen, in deciding what the
25 facts are in this case, when I tell you in deciding

1 what the facts are, you being the sole judges of the
2 facts, that simply means your verdict.

3 Now, in deciding what the facts are, you have to
4 consider all the evidence. And in doing that, you have
5 to look at what testimony you wish to believe and
6 whether or not there's any testimony you wish not to
7 believe. You have a right to disbelieve all or part of
8 any witness that came before you, you can believe all
9 of any witness' testimony who came before you.

10 In making that determination of what we call the
11 credibility of the witnesses, or the credibility of the
12 evidence, you may take into account a certain number of
13 factors. And I'm going to give you a list of those.
14 You can ask yourself was the witness able to see or
15 hear or know the things about which that witness
16 testified. You can ask yourself how well was the
17 witness able to recall and describe the subject of
18 their testimony; what was their manner while they are
19 on the witness stand. In other words, what was their
20 demeanor.

21 You can ask yourself if there is a reason that a
22 witness would want to give testimony that would help or
23 hurt one side or the other. Did that witness have an
24 interest in the outcome of the case, or any bias or
25 prejudice towards either party, or any issue involved

1 in the case. You can ask how reasonable the witness'
2 testimony was in light of all the evidence presented
3 and whether the witness' testimony had been
4 contradicted by what that witness had said or done at
5 another time by other testimony or evidence in this
6 case.

7 And, ladies and gentlemen, those are just some
8 of the factors that you may consider in making this
9 determination of the credibility of the evidence or the
10 witnesses in this case. And, again, you do not check
11 your common sense at the door when you're sworn in as
12 jurors, and you shouldn't in this case. You should use
13 those things in your day-to-day lives that you find
14 indicative of truthfulness, and indicative of lack of
15 truthfulness when you make this determination of
16 believability of the evidence before you. One thing
17 you may not do, however, is add up the number of
18 witnesses that appeared in this case for one side or
19 the other in making this determination.

20 Ladies and gentlemen, you have heard testimony
21 from the persons who have been qualified as an expert.
22 I remind you that normally people may not give their
23 opinion in a case. However, if because of their
24 education or experience, a person has become educated
25 in the field that is beneficial and helpful to you, the

1 jury, they can give their opinions. But expert
2 opinions, ladies and gentlemen, should be -- should be
3 judged like any other testimony in this case. You have
4 a right to accept it, you have a right to reject it, or
5 give it as much weight as you think it deserves,
6 considering the witness' education, their experience,
7 the reason for their opinion, as well as all the other
8 evidence in this case.

9 Ladies and gentlemen, the indictment -- this is
10 the third time I've told you this -- will not be back
11 with you. It will not go back because it's not
12 evidence. The fact that this gentleman was arrested
13 and charged is not -- does not raise an inference or
14 any type of presumption of his guilt. It's simply the
15 mechanism by which he is brought before you for a trial
16 and a determination of guilt or innocence.

17 In fact, in this case, the defendant has said
18 I'm not guilty. That puts the burden on the State of
19 South Carolina to prove his guilt by proof beyond a
20 reasonable double. Now, I'll charge you that a person
21 charged with committing a criminal offense in this
22 State is never required to prove himself innocent.

23 And I charge you that it is an important rule of
24 law in a criminal trial that no matter what the
25 seriousness of the charge may be, a person will always

1 be presumed innocent of the crime for which they have
2 been indicted unless guilt has been proven by evidence
3 satisfying you of guilt beyond a reasonable doubt.

4 Now, this presumption of innocence does not end
5 when you begin your deliberations, but it accompanies
6 the defendant throughout the trial unless and until
7 you, the jury, unanimously reach a verdict of guilt
8 based on proof that satisfies you beyond a reasonable
9 doubt.

10 Now, the presumption of innocence is set in the
11 law, it is like a robe of righteousness that's placed
12 around the shoulders of the defendant, where it remains
13 until it has been striped by evidence satisfying you of
14 guilt beyond a reasonable doubt.

15 Ladies and gentlemen, the presumption of
16 innocence is not a mere legal theory, and it's not just
17 a nice little legal phrase, it is a substantial right
18 which every defendant is entitled to unless you, the
19 jury, are satisfied from the evidence of guilt --
20 satisfying you of guilt beyond a reasonable doubt.

21 So, let me recharge you on what a reasonable
22 doubt is. A reasonable doubt is the kind of doubt that
23 would cause a reasonable, sincere, honest, and
24 conscientious person to hesitate to act in an important
25 matter in their own affairs. Proof beyond reasonable

1 doubt is proof that leaves you firmly convinced of the
2 defendant's guilt. That said, ladies and gentlemen,
3 there are very few things in this world that we know
4 with absolute certainty. And in criminal cases, the
5 law does not require proof that overcomes every
6 possible doubt.

7 If, based on your consideration of the evidence,
8 you are firmly convinced that the Defendant is guilty
9 of the crime for which he has been charged, you must
10 find him guilty. On the other hand, if you think there
11 is a real possibility that the defendant is not guilty,
12 you must give the defendant the benefit of the doubt
13 and find him not guilty.

14 A reasonable doubt may arise from evidence or
15 from lack of evidence. I further instruct you that a
16 defendant is entitled to every reasonable doubt that
17 may arise in this case. And, ladies and gentlemen,
18 what that simply means is this -- is this: That if
19 upon any issue of fact essential to a conviction and a
20 verdict of guilt for the crime for which he has been
21 charged, if you have any reasonable doubt as to how
22 that issue should be resolved, it is your duty to
23 resolve that doubt in favor of the defendant.

24 Ladies and gentlemen, in order to establish
25 criminal liability or guilt, criminal intent is

1 required to be proven. For example, the mental state
2 required to be proven by the State for a particular
3 crime might be purpose, intent, knowledge, reckless or
4 criminal negligence. Criminal intent must be proven by
5 the State by proof beyond a reasonable doubt. Criminal
6 intent is always a matter that must be determined by
7 you, the jury, from the circumstances shown to be
8 existing surrounding the circumstances.

9 Now, ladies and gentlemen, there is no way to
10 prove intent to a mathematical certainty. There is no
11 way that medical science can dissect a person's brain
12 to determine what they had in mind. So the law says
13 that criminal intent may be inferred from the
14 circumstances shown to have existed.

15 And, ladies and gentlemen, that's how you make
16 the determination of whether or not the element
17 requiring intent is present. It is not necessary to
18 establish intent by direct and positive evidence, but
19 intent may be established by inference in the same way
20 as any other fact by taking into consideration the acts
21 of the parties and all the facts and circumstances of
22 the case.

23 Criminal intent is a mental state. It is a
24 conscious wrong doing. And, ladies and gentlemen, it
25 will be up to you to determine what the defendant

1 intended to do based on the circumstances shown to have
2 existed in this case. Criminal intent can arise from
3 action or from a failure to act. It may arise from
4 negligence, recklessness, or an indifference to duty,
5 or to the consequences that is to be considered by law
6 to be the equivalent of criminal intent.

7 And finally, Mr. Foreman, ladies and gentlemen
8 of the jury, I instruct -- I instruct you, and I
9 emphasize, that the fact that this defendant did not
10 testify may not and shall not be the subject of your
11 deliberations. You may not. If anybody tries to raise
12 that issue, it is up to you to stop it. The State has
13 the burden of proving his guilt by proof beyond a
14 reasonable doubt, and that's a right every citizen of
15 our State and country has. Okay. Now, that is the
16 general rules that find and control your duties as
17 jurors. And that's probably the more of the lengthier
18 parts.

19 I am going to now charge you on the law of
20 murder, voluntary manslaughter, involuntary
21 manslaughter, self defense and accident. But before I
22 do so, check with your jury to see if they want to take
23 a quick break, or they want to stand up, or continue.

24 (Pause.)

25 JURY FOREMAN: We're ready to continue, Your

1 Honor.

2 THE COURT: I knew you were going to say that.
3 Okay. All right. And, Mr. Foreman, these charges will
4 not be sent back to you. I will go over them with you
5 as many times as you want.

6 But this is the law of murder. The defendant is
7 charged with murder. The State must prove beyond a
8 reasonable doubt that the defendant killed another
9 person with malice aforethought. Malice is hatred, ill
10 will, or hostility towards another person. It is the
11 intentional doing of a wrongful act without just cause
12 or excuse, and with an intent to inflict an injury, or
13 under circumstances that the law will infer an evil
14 intent.

15 Malice aforethought does not require that malice
16 exist for any particular time before the act is
17 committed, but malice must exist in the mind of the
18 defendant just before and at the time the act is
19 committed. Therefore, there must be a combination of
20 the previous evil intent and the act.

21 Malice aforethought may be expressed or
22 inferred. Now, these terms "expressed" and "inferred"
23 do not mean different kinds of malice, but merely the
24 manner in which malice may be shown to exist. That is
25 either by direct evidence or by inference from the

1 facts and circumstances which are proven.

2 Express malice is shown when a person speaks
3 words which express hatred or ill will for another, or
4 when a person prepared beforehand to do the act which
5 was later accomplished.

6 For example, laying in wait for a person or any
7 other acts of preparation going to show that the deed
8 was within the defendant's mind would be expressed
9 malice. Malice also may be inferred from conduct
10 showing a total disregard for human life. That is the
11 law of murder. I will tell you further as to the
12 charge of murder, that the State is not required to
13 prove motive in a homicide prosecution.

14 Next, ladies and gentlemen, is the law of
15 voluntary manslaughter. If you find that the State has
16 failed to prove beyond a reasonable doubt that the
17 defendant committed murder, you may consider whether
18 the State has proved beyond a reasonable doubt whether
19 the defendant committed the lesser included offense of
20 voluntary manslaughter. To prove voluntary
21 manslaughter, the State must prove beyond a reasonable
22 doubt that the defendant took the life of another
23 person in the sudden heat of passion based on
24 sufficient legal provocation. Both heat of passion and
25 sufficient legal provocation must be present at the

1 time of the killing to constitute voluntary
2 manslaughter.

3 Sudden heat of passion may for a time affect a
4 person's self control and temporarily disturb a
5 person's reason. The sudden heat of passion must be
6 the type that would make an ordinary person unable to
7 coolly reflect on his actions and would produce
8 uncontrollable impulse to do violence.

9 Sufficient legal provocation must be the type
10 that would make a person of ordinary reason and caution
11 become enraged and to loose control temporarily. The
12 provocation needed for voluntary manslaughter must come
13 from some act of or related to the victim.

14 Ladies and gentlemen, words alone, however
15 vulgar or insulting, are not enough to be legal
16 provocation. Where death is caused by the use of a
17 deadly weapon, the words must be accompanied by some
18 overt act, a threatening act, which could have produced
19 the heat of passion.

20 The exercise of a legal right, no matter how
21 offensive it is to another, is never sufficient legal
22 provocation for voluntary manslaughter. If the heat of
23 passion had cooled, or if there was enough time between
24 the provocation, if any, and the killing for the
25 passion of a reasonable person to cool, the killing

1 would not be voluntary manslaughter. In deciding
2 whether a reasonable person would have had enough time
3 to cool off, you should consider all the circumstances
4 surrounding the killing.

5 You may consider the nature of the provocation,
6 if any; the defendant's mental and physical state, and
7 the circumstances and relationship between the parties.
8 All right. Mr. Foreman, that is the law of voluntary
9 manslaughter.

10 The next will be the third -- or second lesser
11 included of involuntary manslaughter. If you find that
12 the State has failed to prove beyond a reasonable doubt
13 that the defendant committed voluntary manslaughter,
14 you must consider whether the State has proved beyond a
15 reasonable doubt that the defendant committed the
16 lesser included offense of involuntary manslaughter.

17 To prove involuntary manslaughter, the State
18 must prove beyond a reasonable doubt that the defendant
19 unintentionally killed the victim without malice, but
20 while engaged in an unlawful activity, not naturally
21 intending to cause death or great bodily harm, or that
22 the defendant unintentionally killed the victim without
23 malice while engaged in a lawful activity with reckless
24 disregard for the safety of others.

25 Unintentional means that the defendant did not

1 intend for anyone to be killed or seriously injured.
2 Reckless disregard for the safety of others is more
3 than the mere negligence or carelessness. Mere
4 negligence or carelessness is the failure to use the
5 care that a person of ordinary reason would use under
6 the same circumstances.

7 Recklessness is a conscious failure to use
8 ordinary care. Reckless disregard for the safety of
9 others means that you are not interested in the
10 consequences of your acts, or the rights and safety of
11 others. If a person knows, or should know, that
12 ordinary care requires certain precautions be taken for
13 the safety of the others when using a dangerous
14 instrumentality, but that person fails to use those
15 precautions without concern, the person's actions are
16 considered reckless.

17 The State must also prove beyond a reasonable
18 doubt that the defendant's act was the proximate cause
19 of death. The proximate cause is the direct cause. It
20 is the immediate cause. It is the officiant cause. It
21 is that cause without which the death of the victim
22 would not have resulted. There must be a chain of
23 causation from the time of the injury -- excuse me --
24 there must be a chain of causation from the time of the
25 injury inflicted by the defendant until the time of the

1 defendant's death. Proximate cause does not
2 necessarily mean that it occurred immediately prior to
3 the death.

4 There may be more than one proximate cause. The
5 acts of two or more people may combine together to be
6 the proximate cause of the death of a person. The
7 defendant's act may be regarded as the proximate cause
8 if it is a contributing cause of the death of the
9 victim.

10 The fact that other causes also contribute to
11 the death of the victim does not relieve the defendant
12 from responsibility. The defendant's act need not be
13 the sole cause of the death, but must be a proximate
14 cause contributing to the death of the victim.

15 It is not a defense to show that the victim
16 might have recovered had he been treated according to
17 the most approved medical or surgical standards, as a
18 reasonably prudent doctor would have treated the case,
19 or even by showing that the treatment was negligent.

20 If, however, the death was caused not by the
21 wound or injury that the victim had, but was caused by
22 gross, erroneous, wilful or deliberate treatment, the
23 defendant would not be liable. In other words,
24 negligence on the part of someone else would not
25 relieve the defendant from liability if the injury was

1 the proximate cause of the defendant's death. However,
2 gross negligence or intentional activity on the part of
3 a practitioner would relieve the defendant from
4 liability. Now, those are the three charges that will
5 be before you and I'll go over those again with you
6 when I go over the verdict form, Mr. Foreman.

7 Now, ladies and gentlemen, in this case, there
8 is a statement alleged to have been made by the
9 defendant has been admitted into evidence. Now, while
10 the court has determined that the statement is
11 admissible, I instruct you that you make the ultimate
12 decision of whether or not the defendant made the
13 statement. If the defendant did make the statement,
14 you must determine whether the statement was made by
15 the defendant voluntarily and of his own free will.

16 That means that the statement was not caused by
17 pressure, force, fear, threats, coercion, or
18 intimidation, or by hope or a promise of leniency, or
19 reward of any kind. In determining whether the
20 statement was voluntary, you should consider both the
21 characteristics of the defendant and the details of the
22 questioning.

23 Some of the factors that you must consider are
24 the age of the defendant; the defendant's education or
25 lack of education; the defendant's mental health or

1 capacity; his IQ or intelligence; his background and
2 environment; the place and length of detention; the
3 nature of the questioning and the advice or lack
4 thereof to the defendant of his Constitutional rights,
5 which would include, but not be limited to, the right
6 to remain silent. That any statement could be used
7 against him in a Court of law. The right to have a
8 lawyer present. That if he could not afford a lawyer,
9 a lawyer would be appointed to represent him at no
10 cost, and that he could stop making a statement at any
11 time.

12 You must carefully consider all the surrounding
13 circumstances before you give any weight to a
14 statement. The State has the burden of proving beyond
15 a reasonable doubt that the alleged statement was
16 voluntary. If you determine it was voluntary, you may
17 give the statement any further consideration and weight
18 that you deem proper. You must decide what weight, if
19 any, should be given to the alleged statement. If you
20 determine that the alleged statement was not the free
21 and voluntary statement of the defendant, you should
22 not consider the statement at all.

23 In this case, ladies and gentlemen, the
24 defendant has raised the defense of self defense. Self
25 defense is a complete defense. And if it is

1 established, you must find the defendant not guilty.
2 The State has the burden of disproving self defense by
3 proof beyond a reasonable doubt.

4 If you have a reasonable doubt of the
5 defendant's guilt after considering all the evidence,
6 including the evidence of self defense, then you must
7 find the defendant not guilty.

8 On the other hand, if you have no reasonable
9 doubt of the defendant's guilt, after considering all
10 the evidence including the evidence of self defense,
11 then you must find the defendant guilty. The following
12 elements are required to establish self defense.

13 First, the defendant must be without fault in
14 bringing on the difficulty. If the defendant's conduct
15 was the type which was reasonably calculated to and did
16 provoke a deadly assault, the defendant would be at
17 fault in bringing on the difficulty and would not be
18 entitled to an acquittal based on self defense.

19 The second element of self defense is that the
20 defendant was actually in imminent danger of death or
21 serious bodily injury, or that the defendant actually
22 believed he was in imminent danger of death or serious
23 bodily injury.

24 If the defendant was actually in imminent
25 danger, it must be shown that the circumstances would

1 have warranted a person of ordinary firmness and
2 courage to strike the fatal blow to prevent death or
3 serious bodily injury.

4 If the defendant believed he was in imminent
5 danger of death or serious bodily injury, it must be
6 shown that a reasonably prudent person of ordinary
7 firmness and courage would have had the same belief.
8 In deciding whether the defendant actually was or
9 believed he was in imminent danger of death or serious
10 bodily injury, you should consider all the facts and
11 circumstances surrounding the crime, including the
12 physical condition and characteristics of the defendant
13 and victim.

14 The defendant does not have to show that he was
15 actually in danger. It is enough if the defendant
16 believed he was imminent danger and a reasonably
17 prudent person of ordinary firmness and courage would
18 have had the same belief.

19 The defendant has a right to act on appearances
20 even though the defendant's belief may have been
21 mistaken. It is for you, the jury, to decide whether
22 the defendant's fear of immediate danger of death or
23 serious bodily injury was reasonable and would have
24 been felt by an ordinary person in the same situation.
25 The intoxication of the victim may be considered in

1 deciding whether the defendant's fear of death or
2 serious bodily injury was reasonable.

3 Now, ladies and gentlemen, the final element of
4 self defense is that the defendant had no other
5 probable way to avoid the death -- danger of death or
6 serious bodily injury other than to act as he did in
7 the particular circumstances. But I'll charge you
8 further that if the defendant was on his own premises,
9 the defendant had no duty to retreat before acting in
10 self defense.

11 Now, a person in a self defense case is not
12 required to make an exact calculation as to the degree
13 or the amount of force which may be needed to avoid
14 death or serious bodily injury. Therefore, in self
15 defense, the defendant has a right to use the force
16 needed to avoid death or serious bodily harm. The
17 force used in self defense does not have to be limited
18 to the degree or amount of force use by the victim.
19 The defendant has the right to use so much force as
20 appeared to be necessary for complete self protection,
21 and which a person of ordinary reason and firmness
22 would have believed to be needed to prevent death or
23 serious bodily injury.

24 If the defendant is justified in defending
25 himself or others, and in firing the first shot, then

1 the defendant is also justified in continuing to shoot
2 until it is apparent that the danger of death or
3 serious bodily injury has completely ended.

4 Under the law of self defense, the defendant may
5 take another's life in the defense of others. The
6 right to intervene to protect another person is subject
7 to the same rights and limitations as the right of self
8 defense. The defendant may take the life of a person
9 who assaults a friend, relative, or bystander if that
10 friend, relative or bystander would have had the right
11 of self defense.

12 To show that the person being defended had the
13 right of self defense, it must first be shown that the
14 person being defended, and the defendant, were both
15 without fault in bringing on the difficulty. If the
16 conduct of the person defending or the defendant was
17 the type which was reasonably calculated to and did
18 provoke a deadly assault, the person would be at fault
19 in bringing on the difficulty and would not have the
20 right of self defense. Therefore, the defendant would
21 not have the right to use deadly force in defending
22 that person.

23 The defense of another person is excusable if
24 the defendant had reasonable grounds to believe, and in
25 good faith did believe, that the person being defended

1 was in imminent danger of death or serious bodily
2 injury from the victim. In deciding whether the person
3 defended actually was, or the -- the defendant actually
4 believed the person was in imminent danger of death or
5 serious bodily injury, you should consider all the
6 facts and circumstances surrounding the crime,
7 including the physical condition and characteristics of
8 the parties.

9 The defendant does not have to show that the
10 person the defendant defended was actually in danger.
11 It is enough if the defendant believed the person was
12 in imminent danger. The defendant has the right to act
13 on appearances even though the defendant's belief may
14 have been mistaken.

15 The defendant must show under the circumstances
16 as they appear to the defendant, that the defendant
17 believed the person defended was in danger and that a
18 reasonably prudent person of ordinary firmness and
19 courage would have had the same belief under the same
20 circumstances.

21 Now, Mr. Foreman, ladies and gentlemen, it is
22 for you, the jury, to determine whether or not the
23 defendant's fear of immediate danger of death or
24 serious bodily injury to the person defended was
25 reasonable, and would have been felt by an ordinary

1 person in the same situation. The defendant does not
2 have to wait until the victim gets the drop on the
3 person defended. The defendant has a right to act
4 under the law of self preservation to prevent the
5 victim from getting the drop on the person defended.
6 The intoxication of the victim may be considered in
7 deciding whether defendant's fear of death or bodily
8 harm to the person defended was reasonable. Ladies and
9 gentlemen, that's the law of self defense.

10 And, finally, we have the law of accident. The
11 defendant has raised the defense of accident. An act
12 may be excused on the ground of accident if it is shown
13 that the act was unintentional, that the defendant was
14 acting lawfully, and that reasonable care was used by
15 the defendant in the handling of the weapon.

16 For example, if a person is lawfully armed in
17 self defense, and the gun accidentally discharges, the
18 defense of accident would apply, and you would find the
19 defendant not guilty. The burden is on the State to
20 prove beyond a reasonable doubt that the act was not an
21 accident, but was caused by the negligence or
22 carelessness on the part of the defendant in the
23 handling of a dangerous instrumentality or by unlawful
24 activity of the defendant.

25 Ladies and gentlemen, that's the substantive law

1 you must apply in this case. And, again, if you need
2 me to go over any aspect or all of it again, I'll be
3 more than happy to do so as often as you would like.

4 So that leaves me to the final part of my charge
5 and that's some consideration about your deliberations.
6 First, when you went through the qualification process,
7 each of you represented expressly or impliedly that you
8 could be fair and impartial to both sides, and give a
9 fair and impartial trial, and make your decision based
10 on the testimony and evidence according to the law.

11 What that means is that you're not partisans or
12 advocates for one side or the other. You are the
13 judges of the facts. So when you begin your
14 deliberations, use your experiences in life and your
15 good common sense and sense of logic and reason when
16 you discuss the evidence, and hopefully come to an
17 unanimous verdict.

18 Let me say something about the deliberation.
19 This is the definition: It is a careful consideration
20 weighing up with a view to a decision. Now, regardless
21 of what any of you may think about our jury system, I
22 would submit to you that the genius of our jury system
23 is that it allows 12 men and women, such as yourselves,
24 who come from different backgrounds, who have different
25 life experiences and perspectives, to listen to the

1 testimony, to listen to the evidence, to listen to the
2 law and to ultimately reach a verdict.

3 Now, again, you're not partisans or advocates,
4 you're the sole judges of the facts. When you begin
5 your deliberations, I'm going to ask -- and I'm going
6 to instruct you, that you are to listen to everyone's
7 points and their points of view. Let them tell you why
8 they have a feeling about an issue, and what they are
9 basing that on. And let everyone go through and talk
10 about their feelings about this case in a calm and
11 courteous manner.

12 You should not be in a hurry to reach a
13 judgment. This is a very important case to both to the
14 State and defense. This is their only day in court.
15 They can't come back for a second bite at the apple.
16 This is their only day.

17 In order for you -- for your verdict to stand,
18 it has to be unanimous. However, with that being said,
19 each of you must decide this case on your own, but you
20 should do so after you have impartially listened to all
21 the evidence and considered it. You listen to other
22 people's points and points of view, and listen to their
23 perspectives. Don't be afraid to change your view as
24 to the weight of the evidence if your deliberations
25 convinces you that's the right thing to do.

1 On the other hand, do not change a firmly held
2 belief about the weight of the evidence simply to
3 appease your fellow jurors to reach a unanimous
4 verdict.

5 Now, Mr. Foreman, at any time during your
6 deliberations if you need anything, I'm going to ask
7 that you write it down like you have done, that you
8 sign it and knock on the door, and to give it to the
9 bailiff who will give it to us. And we will respond
10 accordingly here in the courtroom.

11 Also, never tell us where the jury is
12 numerically. If you've taken a vote, and you're
13 six/six or eight/four, or any other possible variation
14 of that, don't tell us. It's nobody's business but
15 your own. Okay, sir.

16 With that being said, ultimately, once the jury
17 has reached a verdict, you're going to have to fill out
18 the verdict form. That is your job. It is also your
19 job to preside over the deliberations.

20 But the choices that you have are as follows:
21 And the order that we have them in has some importance,
22 but the order that your choices are under each option
23 is of no consequence, because I have got to put them in
24 some order.

25 But it's on a cascading basis. You have murder,

1 then the lesser included of murder would be voluntary
2 manslaughter. The lesser included of voluntary
3 manslaughter would be involuntary. Okay. So, your
4 options in this case would be, as to the charge of
5 murder, we the jury, unanimously find the defendant
6 under Option A, not guilty. If that is your option,
7 your decision, you'll check that; or you go under B, we
8 unanimously find him guilty of murder. If that's your
9 decision, you'll check that. Stop your deliberations,
10 and you'll sign the verdict form, knock on the door,
11 and we'll receive you here in the courtroom.

12 If you find the defendant is not guilty of
13 murder, then you may consider whether or not the State
14 has proven the charge of -- the lesser included charge
15 of voluntarily manslaughter. And then your options
16 under that would be under A, we find the defendant not
17 guilty; and under B, would be guilty. If you find him
18 guilt of voluntary manslaughter, again, you stop your
19 deliberations, sign the form, and we'll receive you in
20 the courtroom.

21 If you find him not guilty on voluntary
22 manslaughter, then you would go to the last charge in
23 which is the lesser included of involuntary. And again
24 your option under A, is not guilty; and your option
25 under B, is guilty.

1 Once you reach a unanimous decision, sign the
2 form, fold it over and crease it. You keep in your
3 hand. Don't give it to the bailiff. I'll have you
4 hand it over in the courtroom. Okay.

5 That is the end of my charge. I know you are
6 glad to hear that. I'm going to send you back to your
7 jury room. Do not -- do not begin your deliberations
8 yet. I need to confer with these attorneys. When we
9 send the evidence and exhibits back, there will be word
10 for you begin your deliberations, or I might need to
11 bring you back.

12 Our alternates, when we bring the evidence back,
13 would you please come back out here, and not be in the
14 jury room. Okay. If you would go back to your jury
15 room now.

16 (Whereupon, the jury left the courtroom at 11:48
17 a.m.)

18 THE COURT: Any additions or exceptions from the
19 State?

20 MR. OVERBY: None, Your Honor.

21 THE COURT: From the defense?

22 MR. ROBINSON: No, sir.

23 THE COURT: All right. Thank you, gentlemen.
24 Again, I want to congratulate the lawyers on their
25 preparation and presentations in this case. Both did a

1 very good job. That being said, if you're going to
2 leave, give my law clerk your cell phone and don't go
3 too far, because I imagine we're going to have some
4 questions before it is over with. If not, we need to
5 get you back. All right. Thank you, ladies and
6 gentlemen. We are in recess.

7 (Exhibits sent to the jury to begin
8 deliberations.)

9 (After a recess, court reconvened.)

10 (Whereupon, the jury entered the courtroom at
11 1:07 p.m.)

12 THE COURT: All right. Mr. Foreman, the jury has
13 a question, and says that "I would like clarification
14 on the difference between murder and voluntary
15 manslaughter. And specifically can you reiterate the
16 meaning of legal provocation as referred to in the
17 definition of voluntary manslaughter."

18 Now, would you want me just to do that
19 definition, or do you want me to give you the charge of
20 murder and voluntary manslaughter, so you can compare
21 the two?

22 JURY FOREMAN: Both.

23 THE COURT: Both?

24 JURY FOREMAN: Provide both, yes.

25 THE COURT: Does the State agree with that?

1 MR. OVERBY: Yes, Your Honor.

2 THE COURT: Does the defense agree with that?

3 MR. ROBINSON: Yes, sir.

4 THE COURT: All right. Very good. All right.

5 This will be the charge of murder. The defendant is
6 charged with murder. The State must prove beyond a
7 reasonable doubt that the defendant killed another
8 person with malice aforethought. Malice is hatred, ill
9 will, or hostility towards another person. It is the
10 intentional doing of a wrongful act without just cause
11 or excuse, and with an intent to inflict an injury or
12 under circumstances that the law will infer an evil
13 intent.

14 Malice aforethought does not require that malice
15 exist for any particular time before the act is
16 committed, but malice must exist in the mind of the
17 defendant just before and at the time the act is
18 committed -- at the time the act is committed.
19 Therefore, there must be a combination of the previous
20 evil intent and the act.

21 Malice aforethought may be expressed or
22 inferred. These terms "expressed" and "inferred" do
23 not mean different kinds of malice, but merely the
24 manner in which malice may be shown to exist. That is
25 either by direct evidence or by inference from the

1 facts and circumstances which are proved.

2 Express malice is shown when a person speaks
3 words which express hatred or ill will for another, or
4 when the person prepared beforehand to do the act which
5 was later accomplished. For example, laying in wait
6 for a person or any other acts of preparation going to
7 show that the deed was within the defendant's mind
8 would be expressed malice. Malice may be inferred from
9 conduct showing a total disregard for human life.
10 That's the charge of murder.

11 Also, ladies and gentlemen, in murder the State
12 is not required to prove motive in a homicide
13 prosecution.

14 This is the law of voluntary manslaughter. If
15 you find that the defendant (ph) has failed to prove
16 beyond a reasonable doubt that the defendant committed
17 murder, you may consider whether the State has proved
18 beyond a reasonable doubt he committed the lesser
19 included offense of voluntary manslaughter.

20 To prove voluntary manslaughter, the State must
21 prove beyond a reasonable doubt that the defendant took
22 the life of another in sudden heat of passion based on
23 sufficient legal provocation. Both heat of passion and
24 sufficient legal provocation must be present at the
25 time of the killing to constitute voluntary

1 manslaughter.

2 Sudden heat of passion may for a time affect a
3 person's self control and temporarily disturb a
4 person's reason. The sudden heat of passion must be
5 the type that would make an ordinary person unable to
6 cooly reflect on his actions and would produce an
7 uncontrollable impulse to do violence.

8 Sufficient legal provocation must be the type
9 that would make a person of ordinary reason and caution
10 to become enraged and to lose control temporarily. The
11 provocation needed for voluntary manslaughter must come
12 from some act of or related to the victim. Words
13 alone, however vulgar or insulting, are not enough to
14 be legal provocation. Where death is caused by the use
15 of a deadly weapon, the words must be accompanied by
16 some overt act, threatening act, which could have
17 produced the heat of passion.

18 The exercise of a legal right, no matter how
19 offensive it is to another, is never sufficient legal
20 provocation for voluntary manslaughter. If the heat of
21 passion had cooled or if there was enough time between
22 the provocation, if any, and the killing for the
23 passion of a reasonable person to cool, the killing
24 would not be voluntary manslaughter.

25 In deciding whether a reasonable person would

1 have enough time to cool off, you should consider all
2 of the circumstances surrounding the killing. You may
3 consider the nature of the provocation, if any, the
4 defendant's mental and physical state, and the
5 circumstances and relationships between the parties.

6 Mr. Foreman, does that respond to the jury's
7 request? Would you check?

8 JURY FOREMAN: Yes, Your Honor.

9 THE COURT: Very good. All right. Any additions
10 or exceptions to my charge from the State?

11 MR. OVERBY: None from the State, Your Honor.

12 THE COURT: From the defense?

13 MR. ROBINSON: Nothing, Judge.

14 JURY FOREMAN: Your Honor, just one moment.

15 THE COURT: Yes, sir.

16 (Pause.)

17 JURY FOREMAN: Your Honor, can we have one more
18 clarification?

19 THE COURT: Yes, sir.

20 JURY FOREMAN: Civically, when it comes to legal
21 provocation, can you lay out for us what's included in
22 legal provocation?

23 THE COURT: I tell you what, go back -- let me
24 discuss that for a minute. Go back to your jury room
25 and we'll come up with a response. What is sufficient

1 legal provocation? Do you want examples?

2 JURY FOREMAN: Yes.

3 THE COURT: I don't know that I'm able to do that.
4 Let me look and see. Okay. Also, a clerk advises that
5 your lunch should be there any time now. Okay. So if
6 you'll go back to the jury room, we'll come up with an
7 answer.

8 (Whereupon, the jury left the courtroom at 1:14
9 p.m.)

10 THE COURT: All right. I don't think I can give
11 them examples without commenting on the facts in the
12 case.

13 MR. OVERBY: And quite honestly, Your Honor, I
14 would agree on that point. I think that the charge is
15 the charge as it stands. And in order to provide them
16 any examples, I think that would be too close to
17 commenting on the facts.

18 THE COURT: I agree. I mean it seems to me
19 they're looking -- they're grasping a little bit. And
20 it seems to be -- is that it's the kind of conduct that
21 would cause somebody that would be ordinarily of a good
22 reason and caution to become so enraged that they loose
23 control of their -- like they're saying -- on a
24 temporary basis. And there's so many different
25 examples out there, it's too many to enumerate and I'm

1 not allowed to do that.

2 MR. OVERBY: Correct, Your Honor.

3 THE COURT: Is that okay with you guys?

4 MR. OVERBY: I'm satisfied with that as well, Your
5 Honor.

6 THE COURT: All right. Tell them to bring them
7 out right quick.

8 (Whereupon, the jury entered the courtroom at
9 1:17 p.m.)

10 THE COURT: All right. Mr. Foreman, ladies and
11 gentlemen of the jury, the request came from one of the
12 jurors to give examples of sufficient legal
13 provocation. First, if you recall, I told you that I'm
14 not allowed to comment on the facts. And by giving
15 examples, I think I would step over the line of what
16 I'm allowed to do as judge, and I don't think it would
17 be appropriate.

18 But let me just point something out to you. You
19 are deliberating as a jury. The kind of conduct that
20 we're talking about was one that would cause somebody
21 who's been charged with murder -- or voluntary
22 manslaughter -- excuse me -- to become enraged,
23 somebody who was ordinarily reasonable and cautious, to
24 become enraged and temporarily lose control of
25 themselves. Okay. And you're going to have to debate

1 amongst yourselves whether the type of conduct involved
2 was such that would have caused that to happen in this
3 case. Okay. I wish I would be more exact and give you
4 A, B and C. But that's why you call them
5 deliberations. You're just going to have to hash it
6 out. Okay.

7 Any additions or exceptions from the State?

8 MR. OVERBY: No, Your Honor.

9 THE COURT: From the defense?

10 MR. ROBINSON: No, sir, Judge.

11 THE COURT: I'm going to ask you to go back to
12 your room and begin your deliberations. You're
13 certainly welcome to do so over lunch. Okay. Thank
14 you, sir.

15 (Whereupon, the jury left the courtroom at 1:18
16 p.m.)

17 THE COURT: All right. We're in recess until
18 1:30. You guys -- I mean 2:30. If you guys would
19 stand close by so we can get you if necessary.

20 MR. OVERBY: Yes, Your Honor.

21 (Court's Exhibit No. 6 marked.)

22 (After a lunch recess, court reconvened.)

23 (Bench conference between court and attorneys.)

24 (Whereupon, the jury entered the courtroom at
25 4:38 p.m.)

1 THE COURT: All right. Mr. Foreman, ladies and
2 gentlemen of the jury, my understanding based on a
3 report to one of our bailiffs is that the jury feels
4 like it cannot make a decision; is that correct?

5 JURY FOREMAN: We cannot make an unanimous
6 decision.

7 THE COURT: Sir?

8 JURY FOREMAN: We cannot make an unanimous
9 decision.

10 THE COURT: Well, let me ask you: You know, in
11 the charge, when we explained the law to you, you know,
12 we talked to you about listening to everybody's points
13 of view, going through all the evidence. Letting
14 people explain their points of view and why they have
15 them. Everybody banner back and forth in a calm and
16 courteous manner. Do you feel like that's been
17 happening?

18 JURY FOREMAN: One hundred percent.

19 THE COURT: And do you feel like you've made any
20 progress towards the resolution of this matter one way
21 or the other?

22 JURY FOREMAN: (No response.)

23 THE COURT: I mean, I want you to be honest. I
24 mean, that's why we're here.

25 JURY FOREMAN: We've made a lot of progress.

1 THE COURT: Okay.

2 JURY FOREMAN: But --

3 THE COURT: Let me do this -- I mean -- I know
4 it's not an easy thing. And quite -- believe it or
5 not, when I was a lawyer, I sat on a jury twice so I
6 know it's difficult and we don't understand a lot of
7 times what you're going through back there. But you
8 know, what we want is honest debate, honest discussion.
9 Think about all of the evidence and just keep trying to
10 work towards an unanimous decision if it can be done.
11 Okay.

12 I think at this point, I don't want to give an
13 additional charge, I would like to send them back for a
14 little bit more constructive work. Anybody have a
15 disagreement with that? Mr. Overby?

16 MR. OVERBY: No disagreement, Your Honor.

17 THE COURT: Mr. Robinson?

18 MR. ROBINSON: I agree, Judge.

19 THE COURT: I'm going to send y'all back and let
20 y'all try to work some more if you would. And then if
21 you need anything, write me a note. Don't tell the
22 bailiff, write a note. Okay. Thank you so much.

23 (Whereupon, the jury left the courtroom at 4:40
24 p.m.)

25 (Court's Exhibit No. 7 marked.)

1 THE COURT: All right. Guys, we're at ease.

2 MR. OVERBY: Thank you, Your Honor.

3 (After a recess, Court reconvened.)

4 THE COURT: Is Mr. Robinson and Mr. Overby around?

5 (Pause.)

6 THE COURT: Mr. Overby, Mr. Robinson, I was going
7 to let the jury stop making deliberations. They sent
8 word they had three jurors who need to get babysitters.

9 MR. OVERBY: Okay.

10 THE COURT: If we tell them to stop, go make
11 calls, and make those arrangements, is that
12 satisfactory to you guys?

13 MR. OVERBY: Absolutely, Your Honor.

14 THE COURT: Okay. Very good. Would you do that
15 for me, Mr. Clerk?

16 THE CLERK: Yes, sir.

17 THE COURT: Tell them to stop their deliberations
18 while they're doing that, though.

19 (After a recess, Court reconvened.)

20 THE COURT: Mr. Robinson, Mr. Overby, are you
21 still here?

22 MR. OVERBY: Yes, Your Honor.

23 THE COURT: A question came out, can an alternate
24 be requested? I told them no. Do you want me to
25 respond in any way other than that?

1 MR. OVERBY: No, Your Honor. That's sufficient
2 from the State.

3 MR. ROBINSON: I didn't hear you, Judge.

4 THE COURT: The question came out "can an
5 alternate be placed on the jury", and I said no. Do
6 you want me to bring the jury out and say anything more
7 than that?

8 MR. ROBINSON: No.

9 THE COURT: Are you okay?

10 MR. ROBINSON: I agree.

11 MR. OVERBY: That's fine, Your Honor.

12 THE COURT: All right.

13 (Court's Exhibit No. 8 marked.)

14 (After a recess, Court reconvened.)

15 (Whereupon, the jury entered the courtroom at
16 5:48 p.m.)

17 THE COURT: Mr. Foreman, I have been informed that
18 the jury has reached a verdict; is that correct?

19 JURY FOREMAN: That's correct, Your Honor.

20 THE COURT: Is it unanimous?

21 JURY FOREMAN: Yes, Your Honor.

22 THE COURT: Would you pass it to the bailiff,
23 please, sir, or to our Clerk?

24 (Pause.)

25 THE COURT: Would you publish the verdict, please,

1 sir.

2 THE CLERK: If it pleases the court. This is the
3 State of South Carolina, County of Anderson, in the
4 Court of General Sessions 10th Judicial Circuit, State
5 of South Carolina versus Raeford Derrane Wideman.
6 Indictment 2015-GS-04-01191. The Verdict form: Number
7 one, murder. As to the charge of the murder,
8 indictment number 2015-GS-04-01191, "we, the jury,
9 unanimously find the defendant guilty".

10 THE COURT: All right. Ladies and gentlemen of
11 the jury, if that was your verdict in the jury room and
12 if that is your verdict here in the courtroom, would
13 you raise your right hand?

14 (Jury complied.)

15 THE COURT: Okay. Let the record that all 12
16 responded in the affirmative. All right. Ladies and
17 gentlemen, if you would step back to your jury room for
18 two seconds, I need you to sign some paperwork. We're
19 going to sentence this gentleman in just a minute. You
20 have -- have a right to come back in. I'll explain
21 that to you in just a minute, but if you'll go back to
22 your jury room. Okay.

23 (Whereupon, the jury left the courtroom at 5:50
24 p.m.)

25 THE COURT: Mr. Overby, would you prepare the

1 paperwork?

2 MR. OVERBY: Yes, Your Honor.

3 (Judge spoke with jury in jury room.)

4 THE COURT: Please be seated. Just one moment. I
5 don't know if any of the jurors are going to come back
6 in, but I've given that option if they want to.

7 MR. OVERBY: Very well, Your Honor.

8 THE COURT: Do you have the paperwork?

9 MR. OVERBY: Yes, Your Honor. I actually turned
10 it into the Clerk.

11 THE COURT: He has no prior record, right?

12 MR. ROBINSON: No, Your Honor.

13 THE COURT: Are there any other members of the
14 jury who are going to come in -- do you know? No.

15 (Pause.)

16 THE COURT: All right. Come around, please, sir.
17 I tell you what, Mr. Robinson, you stand right here.
18 That's fine. Officers, you need to do what you got to
19 do.

20 My only option, Mr. Wideman, the minimum is 30
21 years, and that is going to be the sentence I impose,
22 is 30 years. You have ten days to appeal, and that's
23 excluding today. I wish you luck, but it's a 30 year
24 sentence. Is he entitled to credit for what, two
25 years, plus and months?

1 MR. OVERBY: It's 978 days total.

2 THE COURT: Nine hundred seventy-eight days,
3 credit for nine hundred seventy-eight days. Mr.
4 Wideman, I wish you luck.

5 MR. OVERBY: Your Honor, I apologize, for the
6 record, the victims would like to --

7 THE COURT: They do want to speak. I apologize.

8 MR. OVERBY: Yes, Your Honor.

9 THE COURT: Would the victims come around?

10 MR. OVERBY: Yes.

11 THE COURT: And thank you for letting me know
12 that.

13 MR. OVERBY: I apologize, Your Honor. And these
14 are the victims who wish to speak. There's three of
15 them.

16 THE COURT: Okay.

17 MR. OVERBY: One of them is -- Mr. Wright is Mr.
18 Tatum's brother-in-law. Ms. Neeley is Mr. Tatum's
19 foster mother. And Mr. Tatum is, the last one, is Mr.
20 Tatum's uncle.

21 THE COURT: All right. Lee Wright?

22 MR. WRIGHT: Yes, sir.

23 THE COURT: Gloria Neeley?

24 MS. NEELEY: Yes.

25 THE COURT: And Thomas Tatum?

1 MR. TATUM: Yes, sir.

2 THE COURT: And, Mr. Wright, you are a
3 brother-in-law; Ms. Neeley, you're a foster mother; and
4 Mr. Tatum, you're an uncle; is that right?

5 MR. TATUM: Yes, sir.

6 THE COURT: Who wants to go first? Let ladies go
7 first. That will be fine. Gloria Neeley.

8 MS. NEELEY: Your Honor, I want to thank the
9 court. I want to thank the jury and everybody else
10 that was involved. I know that it was tough, taken
11 from your day, and everything else. I just want to
12 say, as a foster parent, thank you.

13 I also wanted to say that Ryan Tatum was not a
14 high alcohol anybody. He was a person that was loved.
15 He was loved by his family, his children, and his
16 friends. We respected him and he respected us. He
17 loved life and he loved people.

18 Ryan did not deserve what he got. He -- even
19 the police, who's voted to serve and protect, is not
20 allowed to shoot an unarmed person in the back. And we
21 know this. And we feel like that Mr. Raeford did not
22 have a right to do that to Ryan. We just want the
23 court to know that he was not a nobody. He was a
24 person that God gave to us to love, and we did just
25 that.

1 THE COURT: Thank you, Ms. Neeley. All right.
2 Who wants to go next? Mr. Wright?

3 MR. WRIGHT: Yes, sir.

4 THE COURT: You are Lee Wright, correct?

5 MR. WRIGHT: Yes, sir.

6 THE COURT: L-e-e Wright?

7 MR. WRIGHT: Yes, sir.

8 THE COURT: Okay. I'll be glad to hear from you.

9 MR. WRIGHT: I just wanted to -- like she said --
10 thanks to the jury, thanks to you for taking your time
11 out of your day to really give us justice. Like Ryan
12 didn't deserve it. And when Mr. Raeford was saying he
13 was sorry, he's not one time tried to apologize to the
14 family or either let us know like he was sorry. So
15 like, we just -- we praise to the highest most that
16 justice was served today.

17 THE COURT: Thank you, sir. And last is Mr.
18 Thomas Tatum, and you're the uncle; correct?

19 MR. TATUM: Yes, sir.

20 THE COURT: All right. Mr. Tatum, I'll be glad --
21 were you ever here before me before?

22 MR. TATUM: When this happened?

23 THE COURT: Was there a bond hearing or something?

24 MR. TATUM: Yes.

25 THE COURT: You look familiar to me, that's --

1 MR. TATUM: Yes.

2 THE COURT: All right. I'll be glad to hear from
3 you.

4 MR. TATUM: Sir?

5 THE COURT: I said I'll be glad to hear what you
6 have to say.

7 MR. TATUM: Okay. Well, I just want to thank
8 everybody, but I just want people to say -- because my
9 nephew is not here to defend himself or to speak out,
10 and I want to be his voice. Like his stepmother and
11 everybody said, he wasn't a bad person at all. He
12 wasn't the type of person that carried guns. He wasn't
13 a hot headed person. I can go on and on about the good
14 things about him.

15 But what I really wanted to say is we got law
16 enforcement to handle situations that we can't handle.
17 Like you say, he wasn't a high alcohol level. It don't
18 take -- my nephew was about the size of Mr. Raeford.
19 And I don't think it would take much for anybody to
20 hold him down if it happened the way that they say it
21 happened, which I don't believe. I know better than
22 that. It don't take much to hold a drunk man down. At
23 that level, it should have been -- anybody holding down
24 -- especially more than one person, I don't think
25 nobody even take time out -- didn't take time out -- I

1 don't think Mr. Raeford didn't take time out to think
2 that -- you know, to call law enforcement. That's what
3 we got 911 for. That's what we got -- that's why we
4 call him to serve and protect us. We don't have to
5 take a fire arm out and just shoot someone in the back
6 because we feel like that he's a threat.

7 Sometimes people need to think more than just
8 being angry. I think he was just angry that night. I
9 don't know what it was for. The only thing on his mind
10 was to do what he did. I'm just going to cut it off
11 right there. I think that he deserves that -- the high
12 charge that you got for this case. I really do,
13 because he took a loving person from his kids.

14 He's got three kids, family that love him, and
15 he was just a great person. I'm not saying it because
16 he was my nephew, he was just a great person. I mean,
17 he was a hard working man, ain't been to jail before.
18 Ain't got no bad record. He's a good man -- was a good
19 man. That's all I got to say.

20 THE COURT: Thank you, sir. All right. Mr.
21 Robinson, does your client wish to make a statement?

22 MR. ROBINSON: Yes, sir.

23 THE DEFENDANT: If it please the court, Your
24 Honor?

25 THE COURT: Yes, sir.

1 THE DEFENDANT: I just want to state for the
2 family -- to the family, I never had the opportunity --
3 the opportunity to apologize to the family. I don't
4 know -- I've been locked up all this time. I just
5 thank them, thank the jury, just give me this
6 opportunity to have a right to a trial. You know God
7 says we all fall short of his glory. There's not one
8 that does good. You know, we're all sinners. And
9 we're all good. But by the grace of God, he gave us
10 his only son, Jesus Christ, that we may have eternal
11 life. So there's not one sin that's greater than
12 another -- than another. We all sin. And a sin is a
13 sin.

14 But I just -- I just thank for this time, and
15 thank God that he's still allowed me to be here
16 apologizing to the family and their loss. You know,
17 I'm sorry for what happened. I apologize for what
18 happened. If I could change it, I would.

19 THE COURT: All right. Thank you, sir. I do want
20 to remind you, you have ten days. And I will point out
21 to the family that he will serve day for day. You
22 don't get credits. You don't get anything. That is
23 day to day service of whatever I give him.

24 Quite frankly, I've done more murder trials than
25 I want to do. This is probably one of the most

1 heartbreaking cases I've seen because you're not a bad
2 person. I don't know what happened that night, but you
3 have no record. You're not a bad person. You seem
4 like you're doing a good thing.

5 This other gentleman, just because he had been
6 drinking and driving, didn't deserve to die either.
7 It's just a sad situation all the way go around. A lot
8 of the murders we see, people are just bad and depraved
9 hearts, and I don't think you have that.

10 That being said, the minimum is 30 years. I'm
11 going to sentence you to 30 years. The credit will be
12 978 days. Again, ten days to appeal. Good luck to
13 you, sir. All right. Thank you.

14 (Whereupon, the hearing adjourned.)

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CERTIFICATE OF REPORTER

I, SHARON D. JONES, CERTIFIED COURT REPORTER,
DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE,
ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF
THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF
GENERAL SESSIONS FOR ANDERSON COUNTY ON THE 13TH
THROUGH 16TH OF NOVEMBER 2017.

I DO FURTHER CERTIFY THAT I AM NEITHER OF
KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

5/29/2018

Sharon D. Jones

SHARON D. JONES,
CERTIFIED COURT REPORTER
MY COMMISSION EXPIRES
9/22/2024

**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.

Raeford Derrane Wideman, Appellant.

Appellate Case No. 2017-002470

Appeal From Anderson County
R. Lawton McIntosh, Circuit Court Judge

Unpublished Opinion No. 2020-UP-063
Submitted February 1, 2020 – Filed March 11, 2020

APPEAL DISMISSED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Melody Jane Brown,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.¹

APPEAL DISMISSED.

HUFF, THOMAS, and MCDONALD, JJ., concur.

RECEIVED
MAR 11 2020
APPELLATE DEFENSE

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA)

County of Anderson)

IN THE COURT OF COMMON PLEAS

Raeferd Derrane Wideman)

Full name and prison number (if any) of Applicant)

v.)

APPLICATION FOR

State of South Carolina)

Its Department and agents,)

Alan Wilson, Attorney)

General For South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Correctional Institution
4460 Broad River Rd. Columbia, South Carolina 29210
2. Name and location of Court which imposed sentence Anderson county General Sessions court
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Murder, (2015-GS-04-01191)
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Date of sentence: November 16, 2017
- (b) The terms of sentence: 30 years
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty yes
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. commission on Indigent Defense Division of
- ii. Appellate Defense
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. March 11, 2020
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. My appeal counsel filed an ANDERS BRIEF on my behalf
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I had my appeal
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Malice violation, Equal protection,
- (a) Ineffective Assistance of counsel, Due process, Immunity
- (b) violation, Castle Doctrine, Directed verdict violation,
- (c) Prosecutorial Misconduct, Mianda right violation,
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attachment Pages 1-39
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? This is my first PCR
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (3)? None
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. None
- ii. None
- iii. None
- iv. None
- (b) the name and location of the Court in which each was filed:
- i. None
- ii. None
- iii. None
- iv. None

(c) the disposition thereof:

i. None

ii. None

iii. None

iv. None

(d) the date of each such disposition:

i. None

ii. None

iii. None

iv. None

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. None

ii. None

iii. None

iv. None

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. None

ii. None

iii. None

(b) the proceedings in which each ground was raised:

i. None

ii. None

iii. None

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) This is my first PCR no grounds had be presented
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
None
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Scott David Robinson, P.O. Box 10042 Greenville, SC 29601
- ii. Kathrine Haggard Hudgins, P.O. Box 11584 Columbia, SC 29211-1589
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Trial: Scott David Robinson,
- ii. Appeal: Kathrine Haggard Hudgins
- iii. _____

19. State clearly the relief you seek in filing this application:

sentence to be remanded or vacated

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Anderson)

VERIFICATION

I, Raeford Derrane Wideman, # 374579, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Raeford Wideman

SWORN to and subscribed before me this 1st
day of May, 2020.

[Signature] (L.S.)
Notary Public

My Commission Expires: 10/16/2026

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Raeferd Derrane wideman # 374579, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Raeferd Wideman
Applicant

SWORN or affirmed to and subscribed before me this

12 day of May, 2020.

[Signature]
Notary Public

My Commission Expires: 10/16/2020

INEFFECTIVE ASSISTANCE OF COUNSEL

Appellate have have suffered a miscarriage of justice and his conviction only stands due to denial of due process and equal protection in the state courts in multiple and gross violation of the United States supreme court precedents and the United States constitution, that constitutes an outrage of mockery of Justice that Federal court who sworn to uphold the United States constitution should not tolerate.

Applicant's case is one of clear and plain manifest injustice, not only of his trial, but also thereafter to a gross degree. Applicant's trial was extremely unfair and than all review in the courts thereafter have not been meaningful, fair or served any degree of Justice.

No one can possibly read appellant's trial transcript, records and say that appellant had anything close to a fair trial. And no one can read the record of appeals action and say that he had a full, fair and meaningful opportunity to raise his constitutional claims of being denied a fair trial, due process of Law and effective assistance of trial counsel. The appellant have suffered a miscarriage of justice and is actually innocent and why his conviction only stands due to severe denial of due process and equal protection in the state courts.

Defendant case is one of clear plain manifest injustices not only of his trial but also thereafter to a gross degree. Defendant trial was extreme, unfair or served any degree of justice as chief justice.

Did defendant receive effective assistance or counsel in accordance with the sixth Amendment when his trial counsel was ineffective overall, when he failed to properly prepare for trial, investigate all the elements of alleged crime, crime scene, and challenges to the sufficiency of the indictment. Trial counsel failed to properly move to review the indictment in accordance with section 17-19-90 (2003).

Counsel assistance resulted in ineffective because he failed to render reasonably effective assistance under prevailing professional norms, and that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984), Porter v. State, 368 S.C. 378, 383, 629 S.E. 2d 353, 356 (2006). In order to prove prejudice, defendant will show "there is a reasonable probability that but for counsel's unprofessional errors the result of the proceeding would have been different." Cherry v. State, 300 S.C. at 117-18 386 S.E. 2d at 625.

"A reasonable probability is a probability sufficient to undermine confidence in outcome of trial Jackson v. State, 325 S.C. 182, 186, 480 S.E. 2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984)).

Applicant contends his trial counsel failed to investigate both factual and legal matter to determine if defense could be developed. It is a definitive objective description of the competency normally demanded of counsel in certain aspects of their service.

Due to defendant's illiteracy to the Law he was entitled to rely upon his counsel to make a reasonable decision pursuant to U.S. v. Dewalt, 92 F. 301209 without some authoritative guidance, the defendant cannot know whether he understood anything correctly at his trial. In this case the question before the court was whether or not there was prejudice to the defendant as result of insufficient factual allegations contained in the records.

Where a State obtains a criminal conviction in a trial in which the accused is deprived of the effective assistance of counsel the State unconstitutionally deprives the defendant of his liberty, Cuyler, 446 U.S. at 343, 100 S.Ct. at 1175 the right to the effective assistance of counsel is recognized not for its own sake but because of the effect it has on the ability of the accused to receive a fair trial, United States v. Cronin, 466 U.S. 658, 104 S.Ct. 2039, 2096 (1984).

The United States supreme court have recently recognized that defense counsel must conduct a reasonable investigation to discover all reasonable available mitigation evidence and evidence to rebut, any aggravating evidence that may be introduced by the prosecutor. Wiggins v. Smith, 539 U.S. 510, 123 S.Ct. 2527, 2537, 156 L.Ed. 2d 471 (2003) (citation omitted) Particularized prejudice inquiry unnecessary. Frett v. State, 298 S.C. 54, 56, 375 S.E. 2d 249, 251 (1988).

If the attorney make a serious mistake which could effect the verdict, reversal is required even if the attorney was general competent. Tromy v. Anderson, 439 F. Supp. 1250, 1256 (1977). Aff'd 584 F. 2d 807 (6th cir. 1978); Hyman v. Aiken, 924 F. 2d 1405 (4th cir. 1987).

Defndant further, contends that the State's evidence when viewed in the light must favorable to the prosecution, was so insufficient that no rational trier of fact could have found the essential elements beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2181, 61 L.Ed. 2d 560 (1991).

The benchmark for judging any claim of ineffective must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result. "Strickland v. Washington," 466 U.S. 668, 686 (1984). To prove ineffective assistance of counsel "the defendant will show that counsel's performance was deficient" and that the deficient performance prejudiced the defense. "Id." "When a convicted defendant complains of the ineffective of counsel's assistance, the defendant will show that counsel's representation fell below an objection standard of reasonableness. "Id." at 687-688. "[T]he performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances. "Id." at 688 concerning prejudice, "a defendant need not show that counsel's deficient conduct more likely than not altered the outcome in the case.

"Rather, "[t]he defendant will show that there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome. "Id. at 694 when trial counsel fails to impeach a witness with prior inconsistent statements, a defendant results see Driscoll v. Delo, 71 F. 3d 701, 710-11 (8th cir. 1995). Berryman v. Morton, 100 F. 3d 1089, 1097 (3d cir. 1996) (trial counsel failed to impeach with inconsistent eyewitness testimony.

Supporting facts: Counsel was ineffective overall, when he failed to properly prepared for trial, investigate all the elements of alleged crime, crime scene, and State's questionable circumstantial evidence, that he could have as an experienced trial attorney. In a method necessary to defend the defendant against the State's Powerful Resources of city, county, State, and Federal, resources used to present a case of circumstantial evidence, most favorable to the State against the defendant. Counsel failed to put up a defense and subject the State's case to the rigors of the adversary system of justice, necessary to ensure the defendant a full and fair trial, and valid conviction whether by intentional acts and omissions, or due to inexperience and lack of qualifications for such a trial counsel was gross ineffective, and the defendant was denied a fair trial that calls into question the verdict, that should be voided and set aside.

SIXTH AMENDMENT RIGHTS

The sixth Amendment guarantees that every criminal defendant shall receive "assistance of counsel" in establishing his defense U.S. const. Amend. VI. On May 14, 1984, the United States supreme court handed down two opinions holding that the sixth Amendment requires that the criminal defendant receive effective assistance of counsel. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed. 2d 657 (1984); Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984).

ARGUMENT IMMUNITY

The trial court erred in denying Appellant's motion for immunity from prosecution pursuant to the protection of persons and property Act.

The jury found Appellant guilty of the fatal shooting of Ryan Oneill Tatum. Appellant moved prior to trial for immunity from prosecution pursuant to the protection of persons and property Act. S.C. code § 16-11-410-450. [the Act] (R. p. 43-124).

During the hearing Appellant testified that at 3:00 A.M. early in the morning on March 15, 2015, he was awakened by a loud noise coming from his front yard of the home where he lived with his mother and father. (R. p. 44, lines 16-18). Appellant saw two men he did not recognize in his front yard. (R. p. 44, lines 18-21). Appellant armed himself with his registered handgun and went outside where he saw his cousin Branna Ware Blassingame, who had been with Appellant's sister, Taquana Blassingame, earlier that day. (R. p. 45, lines 1-15). Brianna the cousin was initially nonchalant about the where about of the sister of Appellant but finally told Appellant that his sister was in her own car over to the left (R. p. 45, lines 16-25). Appellant looked in the backseat and saw his sister passed out and unresponsive. (R. p. 46, lines 11-16).

Appellant testified. "I didn't know what exactly was wrong with her. I didn't know if she was hurt, if she was injured. I didn't know you know, exactly what was wrong with her, but I know she wasn't responding when I called her name. (R. p. 46, lines 21-25).

The victim got in the driver's side of the sister's car and stated the car. (R. p. 46, lines 6-9). Appellant asked the victim to turn off the car twice and the second time the victim responded with "fuck" you. (R. p. 47, lines 12-14). Appellant testified that as he was reaching in to get his sister out of the backseat, the victim stepped on the gas. (R. p. 47, lines 17-19). Appellant admitted having his gun in his left hand,

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even though he is right handed and admitted firing the gun.
(R. p. 47, lines 16-21).

Appellant testified that when the car went into reverse, the door hit him and cause him to fired more shots than he wanted to (R. p. 47, lines 19-23).

When asked why he was in fear, Appellant testified, we have a pretty long driveway and it's like a big molt, you know where the car was at. And that the car could have, you know backed up and and I could have went up under the car, up under the tires. And not just that but the car could have went over that big ditch - that big molt and fell on top of me or, you know or could have crushed me or could have hurt me or could have hurt all of us. (R. p. 51, lines 15-22).

The judge abused his discretion in refusing to find that Appellant was entitled to immunity pursuant to the Act. S.C. code § 16-11-440 provides:

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling residence, or occupied vehicle, or if he removes or is attempting to remove another person against his or her will from the dwelling residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(B) The presumption provided in subsection (A) does not apply if the person:

(1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, of occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or

(2) sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship, of the person against whom the deadly force is used; or

(3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) against whom the deadly force is used is a law enforcement officer who enters or attempts to enter a dwelling, residence, or occupied vehicle in the performance of his official duties, and he identifies himself in accordance with applicable Law or the person using force knows or reasonably should have known that the person entering or attempting to enter is a law enforcement.

(c) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believe it is necessary to prevent death or great bodily injury to himself or another or to prevent the commission of a violent crime as defined in section 16-1-60.

Appellant is entitled to immunity under subsection (c) of the Act. Appellant was not engaged in an unlawful activity and was attacked in his own yard, where he had a right to be, by forcing the victim backing up the sister's car, Appellant had a right to stand his ground and meet force with force as he reasonably believed it was necessary to prevent death or great bodily injury to both himself and his sister.

The trial judge's reliance on State v. Curry, 406 S.C. 364, 752 S.E. 2d 263 (2013) is misplaced. In Curry the testimony of the Appellant and the testimony of the State's witnesses varied substantially. In contrast, in the present case both Appellant and the State's witness, cousin Arianna, testified that the victim drove the car in reverse rather than stopping the car and allowing Appellant to remove his sister who was passed out R. p. 70, lines 8-12).

Appellant's initial varied statements to the police should not preclude him from immunity.

In State v. Douglas, 411 S.C. 307, 318, 768 S.E. 2d 232, 238 (Ct. App. 2014), the South Carolina court of Appelas wrote, "our supreme court has recently emphasized that immunity under the Act is predicated on an accused demonstrating the elements of self-defense to the satisfaction of the trial court by the preponderance of the evidence, save the duty to retreat. Curry, 406 S.C. at 371-72, 752 S.E. 2d at 266- 67. "During the hearing Appellant demonstrated that he met the elements of self-defense. As the court of Appeals wrote in Douglas: There are four elements required by Law to establish a case of self-defense.

First, the defendant must be without fault in bringing on the difficulty,

Second, the defendant must have actually believe he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger.

Third, if defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life.

Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. Id. at 371 n. 4, 752 S.E. 2d at 266 n. 4(citation omitted). Again, the last element, i.e. the duty to retreat, need not to be shown when seeking immunity under the Act.

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Id. at 371, 752 S.E. 2d at 266.

411 S.C. at 318, 768 S.E. 2d at 238-39.

Appellant was without fault in bringing on the difficulty. Appellant actually believed he was in imminent danger of losing his life or sustaining great bodily injury and he actually was in such imminent danger. A reasonably prudent man of ordinary firmness and courage would have entertained the same belief and the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Pursuant to the Act, Appellant had no duty to retreat.

The present case is more similar to Douglas where the trial court found by a preponderance of the evidence that Douglas reasonably believe shooting was necessary and acted in self-defense.

The court of Appeals affirmed the finding by the trial court. In the present case the trial judge abused his discretion in refusing to find by a preponderance of the evidence that Appellant reasonably believed that shooting was necessary and acted in self-defense. The court of Appeals affirmed the finding by the trial court. In the present case the trial judge abused his discretion in refusing to find by a preponderance of the evidence that Appellant reasonably believed that shooting was necessary and acted in self-defense. The record from the immunity hearing supports the finding that Appellant acted in self-defense and is entitled to immunity pursuant to the Act.

Based on the argument above.

CASTLE DOCTRINE

S.C. code Ann. § 16-11-420 (A) supp. 2010

The State argues the circuit court erred in making a pre-trial determination of immunity,

The Act provides, "It is the intent of the General Assembly to codify the common Law Castle Doctrine which recognizes that a person's home is his Castle ... "S.C. code Ann. § 16-11-420 (A) (Supp. 2010). The Act also states, the General Assembly finds that it is proper for Law-abiding citizen to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others. "S.C. code Ann. § 16-11-420 (B) Supp. 2010).

The Act further provides:

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle.

(2) Who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(3) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in section 16-1-60. S.C. code Ann. § 16-11-440(Supp. 2010).

The immunity provision at issue provides:

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Whether immunity under the Act should be determined prior to trial is an issue of first impression in this State. Further, the Act does not explicitly provide a procedure for determining immunity. In deciding this matter we find guidance from several other State's that have addressed similar statutory immunity provisions.

In Fair-v.-State, the supreme court of Georgia held the trial court erred in refusing to Rule on the defendants immunity prior to trial. Fair-v.-State, 284 Ga. 165, 166, 664 S.E. 2d 227, 230 (Ga. 2008). Particularly, the fair court found that by the plain meaning of "immune from prosecution, the statute must be construed to bar criminal proceedings against persons who used force under the circumstances set forth in the statute, and that this determination must be made before the trial commences. Id. In the recent decision of Dennis-v.-State, 51 So. 3d 456 (Fla. 2010). The supreme court of Florida approved the reasoning of Peterson-v.-Florida, 983 So. 2d 27 (Fla. 1st D.C.A. 2008). Where the First District court of Appeal found that by enacting a statute similar to the Act at issue here, the Legislature intended to establish a true immunity and not merely an affirmative defense. The Dennis court therefore found the plain language of the statute grants defendants a substantive right to assert immunity from prosecution and to avoid being subjected to a trial. Dennis, 51 So. 3d at 402, the Dennis court concluded that, where a defendant files a motion to dismiss on the basis of Florida's "stand your ground" statute, the trial court should conduct a pre-trial evidentiary hearing to decide the factual question of the applicability of the statutory immunity. Id. Likewise, we find that, by using the words immune from criminal prosecution," the Legislature intended to create a true immunity, and not simply an affirmative defense. We also look to the language of the statute that provides, the General Assembly finds that it is proper for Law-abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution of civil action for acting in defense of themselves and others.

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"We agree with the circuit court that the Legislature intended defendants be shielded from trial if they use deadly force as outlined under the Act. Immunity under the Act is therefore a bar to prosecution and upon motion of either party, must be decided prior to trial. Accordingly, we find the trial court properly made a pre-trial determination of respondent's immunity.

The State argues the circuit court erred in finding respondent was entitled to immunity under the Act. The circuit court found that, applying any standard of proof, respondent would be entitled to immunity under the Act.

The proper standard of proof in determining immunity under the Act is also a novel issue in this State, other States have addressed this matter. In Dennis, the Florida supreme court rejected the State's argument that the pre-trial hearing on immunity should test merely whether the State has probable cause to believe the defendant's use of force was not legally justified Dennis, 51-So.-3d-at-463. Specifically the Dennis court found the grant of immunity from "criminal prosecution "under the statute" must be interpreted in a manner that provides the defendant with more protection from prosecution for a justified use of force than the probable cause determination previously provided to the defendant by Rule. "Id.

Accordingly, the court found the procedure set out in Peterson Supra, best effectuated the intent of the Legislature.

The Peterson court held that when a defendant raises the question of statutory immunity pre-trial the trial court must determine whether the defendant has shown by a preponderance of the evidence that the immunity attacks. Peterson, 983-So.-2d-at-29.

Likewise, we hold that when a party raises the question of statutory immunity prior to trial, the proper standard for the circuit court to use in determining immunity under the ACT is a preponderance of the evidence. Turning to the facts of this case, we find there is evidence to support the circuit court's

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finding that respondent was entitled to immunity. Templeton's testimony and statements showed that, at the time the victim was shot, she was between the victim the dwelling. The victim, however, continued to force his way onto the porch, we find respondent showed by a preponderance of the evidence that the victim was in the process of [3] pursuant to subsection 16-23-490 (A) of the South Carolina code (2003), the trial court did not impose a sentence for possession of a weapon during the commission of a violent crime.

[4] We do not mean to imply Justice Moore made an incorrect statement of Law. In fact, the quote from Rye is not Justice Moore's statement at all but a portion of the trial court's jury charge in that case, from which Justice Moore quoted extensively in his dissent. Justice Moore did not quote the jury charge to say it was correct, but to support his argument that it adequately covered the Law on the subject of a proposed charge the trial court refused to give. See 375 S.C. at 134, 651 S.E. 2d at 328 (Moore, J., dissenting) (stating [1] it was unnecessary for the trial court to use the proposed charge when his charge to the jury adequately covered the contents of the proposed charge). Opposing force. Id. The supreme court found that the continuing to shoot language was consistent with the requested charge and thus the trial court's refusal to give proper charge.

State v. Rye, 375 S.C. 119, 651 S.E. 2d 321 (2007). I would like ... If the defendant is justified in defending himself or others and in firing the first shot, then the defendant is also justified in continuing to shoot until it is apparent that the danger of death or serious bodily injury has completely ended "373 S.C. at 134, 651 S.E. 2d at 328 (Moore, J., dissenting (quoting the jury charge from the trial of that case). The trial court denied both request. The jury found Moore guilty of murder and the trial court sentenced him to life in prison.

Appellant testified that when the car went in reverse, the door⁴³⁹ hit him and he fired more shots than he wanted to.
(R. p. 47, lines 19-23).

When asked why he was in fear, Appellant testified, "we have a pretty long driveway. And it's like a big molt, you know where the car was at. And that the car could have, you know backed up and I could have went up under the car, up under the tires. And not just that, but the car could have went over that big ditch - that big molt and fell on top of me or, you know or could have crushed defendant or could have hurt him or could have hurt all of us. (R. p. 51, lines 15-22).

The judge abused his discretion in refusing to find that Appellant was entitled to immunity pursuant to the Act. S.C. code § 16-11-440 provides:

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person.

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from dwelling, residence, or occupied vehicle; and

(2) Who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(A) A person who uses deadly force as permitted by the provisions of this article or another applicable provision of Law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force unless the person against whom deadly force was used is a Law enforcement officer.

The primary Rule of statutory construction is to ascertain and give effect to the intent of the Legislature. Mid-state-Auto Auction-of-Lexington, Inc.-v.-Altman, 324 S.C. 65, 59, 476 S.E. 2d 690, 692 (1996). Unless there is something in the statute requiring a different interpretation, the words used in a statute must be given their ordinary meaning. *Id.* When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning. Sloan-v.-Hardee, 371 S.C. 495, 498, 640 S.E. 2d 457, 459 (2007).

Black's Law Dictionary defines "immune" as "having immunity or being exempt from a duty or liability" Black's Law Dictionary (9th Ed, 2009). "Prosecution" is defined as a criminal proceeding in which an accused person is tried. *Id.*

That trial court found the plain meaning of the immunity provision was to shield a person from a full blown criminal trial. Accordingly, the trial court found the only way this statutorily granted right could be meaning fully enforced was for the defendant to be able to raise immunity in a pre-trial motion.

Whether immunity under the Act should be determined prior to trial is an issue of first impression in this State. Further, the Act does not explicitly provide a procedure for determining immunity. In deciding this matter we find guidance from several other States that have addressed similar statutory immunity provisions.

STATEMENT OF THE CASE

On July 21, 2015, the Anderson county Grand jury indicted Appellant Raeford Derrane Wideman, for murder indictment # 2015-GS-04-01191. On November 13, 2017, Appellant proceeded to jury trial before the Honorable R. Lawton McIntosh, Scott David Robinson, represented Appellant at trial. Stanford Lee Overby and Morgan Dawn Page presecuted the case. The jury returned a verdict of guilty, on November 16, 2017, judge McIntosh sentenced Appellant to thirty (30) years in prison. A timely notice of intent to appeal was served on November 27, 2017.

NO DEFENSE ARGUMENT

See Tr. p. 326, lines 6-25. Where the solicitor Mr. Overby:
I have your Honor, and I have no objection to the verdict form
as drafted. Mr. Robinson: The same here, judge.

THE COURT: All right. Did you present any evidence in this
case?

Mr. Robinson: No Sir.

THE COURT: I don't think you did, did you?

Mr. Robinson: Answer no.

State has an obligation to ensure that an indigent defendant
has a fair opportunity to present his defense, this includes
the assistance of an investigator. To obtain the appointment
of either an expert or an investigator, the defendant must file
a motion containing specific facts showing a particular need
for their services. In United States v. Patterson, the court
held that an expert should be appointed to assist the defendant
when the government's case rests heavily on the theory presented
by its own experts. In United States v. Durant, a case in which
video tape evidence was pivotal, the court held that an expert
should have been appointed to educate defense counsel as to
the technicalities of the video tape admitted so that his cross-
examination could be more effective.

Where a State obtains a criminal conviction in a trial in which
the accused is deprived of the effective assistance of counsel,
the State unconstitutionally deprives the defendant of his
Liberty Cuyler, 446 U.S. at 343, 100 S.Ct. at 1175. The right
to the effective assistance of counsel is recognized not for
its own sake but because of the effect it has on the ability
of the accused to receive a fair trial. United States v. Cronio,
466 U.S. 648, 658, 104 S.Ct. 2039, 2046 (1984).

The United States constitution guarantees a criminal defendant the right to present a complete defense through the due process clause of the fourteenth Amendment and the sixth Amendment. Crane v. Kentucky, 476 U.S. 683, 690 (1986); State v. Schmidt, 288 S.C. 301, 303, 342, S.E. 2d 401, 402 (1986) (holding the sixth Amendment "constitutionalizes" the right to present a defense in a criminal trial). [T]he constitution guarantees criminal defendants a meaningful opportunity to present a complete defense Crane 476 U.S. 683, 690 (quoting California v. Trombetta, 467 U.S. 479, 485 (1984)). South Carolina's constitution provides similarly. "Any person charged with an offense shall enjoy the right ... to be fully heard in his defense" S.C. const. Art. I, § 14; see also S.C. code ANN. § 17-23-60 ("Every person accused shall, at his trial be allowed to produce witnesses and proofs in his favor ...").

Few rights are more fundamental than that of an accused to present witnesses in his own defense. Taylor v. Illinois, 484 U.S. 400, 408 (1988) (citing Chambers v. Mississippi, 410 U.S. 284, 302 (1973)).

Taylor v. Illinois, 484 U.S. 400, 408 (1988) (citing Chambers v. Mississippi, 410 U.S. 284, 302 (1973)). The need to develop all relevant facts in the adversary system is both fundamental and comprehensive.

The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. Id. at 408 - 409 (quoting United States v. Nixon, 418 U.S. 683, 709 (1974)). The right to offer the testimony of witnesses ... is in plain terms the right to present a defense the right to present the defendant's version of the facts as well as the prosecution's to the jury so it may decide where the truth lies. Id. at 409 (quoting Washington v. Texas, 288 U.S. 14, 19 (1967)). Without question or hesitation, the United States supreme court declared [t]his right is a fundamental element of due process of law. Id. undermining the "ostensible integrity of the investigation" is one method by which a defendant may present a defense. See Kyles v. Whitley, 514 U.S. 419, 448 (1995).

PROSECUTORIAL MISCONDUCT

The prosecutor's duty in a criminal prosecution is to seek justice. Although the prosecutor should "prosecute with earnestness and vigor, he or she may not use "improper methods calculated to produce a wrongful conviction. "1742 generally, the use of such methods is grounds for mistrial or reversal of a conviction if it results in an unfair trial violating the Due process. If the prosecutorial misconduct is intended to cause a mistrial, the double jeopardy clause may bar further prosecution.

Improper comments to justify reversal of a conviction, it is not enough that the prosecutor's remarks or conduct were improper [t]he relevant question is whether the prosecutor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.

Due process as guaranteed by the fourteenth Amendment requires that no person shall be made to suffer the onus of a criminal conviction except upon sufficient proof defined as evidence necessary to convince a trier of facts beyond a reasonable doubt of the existence of every element of the offense. Jackson-v. Virginia, 443 U.S. 307, 316, 99 S.Ct. 2781, 2787 (1979). A strong case of ineffective representation of counsel must appear to warrant the intervention by the trial judge since such intervention itself may invade the accused's constitutional rights. State-v.-Lewis, 179 S.E. 2d 616, 255 S.C. 466. Where an accused's representation is patently inadequate and incompetent, trial judge is under a duty to interfere to extent of insuring that rights of accused are afforded adequate protection State-v.-Lewis, 179 S.E. 2d 616, 255 S.C. 466.

DIRECTED VERDICT

The trial court is concerned with the existence or nonexistence of evidence, not its weight, when ruling on a motion for a directed verdict. State v. Gaster, 349 S.C. 545, 555, 564 S.E. 2d 87, 92 (2002); State v. Rosemond, 348 S.C. 621, 626, 560 S.E. 2d 636, 639 (ct. App. 2002). A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged. State v. McKnight, 352 S.C. 635, 642, 576 S.E. 2d 168, 171 (2003); State v. Bothschild, 351 S.C. 238, 243, 569 S.E. 2d 346, 348 (2002). The judge should grant a directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. State v. Schrock, 283 S.C. 129, 132, 322 S.E. 450, 452 (1984); State v. Horne, 324 S.C. 372, 378 S.E. 2d 289 S.E. 2d 289, 293 (ct. App. 1996). However, if there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the court must find the case was properly submitted to the jury. State v. Harris, 351 S.C. 643, 653, 572 S.E. 2d 267, 273 (2002); State v. Condrey, 349 S.C. 184, 190, 562 S.E. 2d 320, 323 (ct. App. 2002).

When reviewing a denial of a directed verdict, this court must view the evidence and all reasonable inferences in the light most favorable to State. State v. Burdette, 335 S.C. 34, 46, 515 S.E. 2d 525, 531 (1999); State v. Morgan, 352 S.C. 359, 364, 574 S.E. 2d 203, 205 (ct. App. 2002). If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused an appellate court must find the case was properly submitted to the jury. State v. Venters, 300 S.C. 260, 260, 264, 387 S.E. 2d 270, 272-73 (1990); State v. Patterson, 337 S.C. 215, 232, 522 S.E. 2d 845, 853 (ct. App. 1999).

Wideman, contends the court erred in failing to grant a directed verdict on murder charged based upon the insufficiency of the evidence. Wideman specifically argues the State did not offer any evidence that he acted with malice.

Tr. p. 298, lines 4-15. Mr. Oberby: Okay, I would like the record to reflect Mr. Willie McDonald has identified Detective Nathan Mitchell, as the detective he spoke with.

THE COURT: So reflects.

BY MR. OBERBY:

Q. Let me ask you this in 2015, you gave a statement to Detective Nathan Mitchell, is that correct?

A. Yes.

Q. And you've said today that you were positive it was on the driver's side?

A. Yes, Yes.

Q. Do you remember telling Detective Mitchell that you did not actually see the shooting?

A. No. I didn't say that.

Q. Okay. Do you remember telling Detective Mitchell that you merely heard the words "you're going to die tonight being mentioned?

A. Yes.

Q. You did not actually see the shooting?

A. I seen when he bust out the door.

when he came out the door, he went straight to the -- that's when I turned around when I heard the door hit the side of the house. I'm like, I looked back you know what I'm saying. And that's when I seen him running to the car. What happened before that, I don't know.

Q. Do you -- let me ask you this; Do you have a prior record, Mr. McDonald?

A. Yes.

Q. Okay. Specifically three charges in 2008; assault and battery of a high and aggravated nature; a 2010, burglary second degree; and a 2012, shoplifting?

A. Yes.

Q. Have you been convicted of those charges?

A. I still got one pending.

Q. Okay. And how many charges do you have pending; do you know?

A. Just that one, I'm waiting on court to go through that.

Q. Well, you have -- you have four pending; is that right?

A. Well, I mean actual active, just that one burglary charge.

Q. But you also have failure to stop for blue light; don't you?

A. Yes.

Q. Okay. And assault and battery third and a petit larceny; those are smaller charges?

A. Yes. I did time for that, they dismissed it.

Q. Okay. And those occurred after this event; didn't they?

A. Yes.

Q. Okay. But they were still pending in my office?

A. Yes.

Q. Has anyone -- have you asked for assistance with your testimony in regards to those charges for being here today?

A. No.

Q. Have you asked -- have you asked any officers or other members of the court for assistance with those charges in exchange for your testimony here to day?

A. No, Sir.

Q. Are you sure about that?

A. Yes. I mean, I spoke with my other lawyer, but that's it.

Q. Okay. Well, I don't want to hear about that but I want to know if you asked at any time if there could be some help for your charges?

A. The old previous charges, Yes.

Q. You did ask for help with those charges?

A. Yes.

Q. Okay. Have you been promised anything for your testimony today?

A. Nope.

Q. Okay.

A. No, Sir.

Q. So you have no promises whatever for your testimony today?

A. None.

Q. And you spoke to Law enforcement in 2015, is that correct?

A. Yes.

Q. And none of that staff was pending at the time?

A. No, Sir.

Q. And you indicated that the some individual, the same words were uttered when that individual came out of the house; is that correct?

A. Yes.

MR. OVERBY: I have no further questions. Please answer any questions defense counsel has for you.

THE COURT: Cross examination.

MR. ROBINSON: Please the court.

THE COURT: Yes, Sir.

Cross Examination By Mr. Robinson:

Q. You go by Peanut, is that right? Peanut?

A. Yes.

Q. Is that old name -- or what would you like to be referred to?

A. Willie.

Q. Peanut?

A. That's my nickname, yes.

Q. Okay. Is it Willie?

A. Yes.

Q. Willie, you don't know who ynose words. do you?

A. Yes, I do.

Q. You do? Who said those words?

A. It was the defense.

Q. And you're -- so your defense, though, the person who said those words actually came out and actually came to the driver's side of the vehicle and shot, right?

A. Yes.

Q. And you -- you gave two statements in this case, the first statement you didn't say you saw anything; the second statements you said you saw something; correct? two different statements; correct?

A. I didn't give a statement -- the Detective wrote what I told him. I didn't sign or write anything.

Q. But the Detective had audio, didn't he of your statement? your first statement?

A. I have no knowledge of that if he did or not?

Q. Well, regardless --

(Pause:

THE COURT: All right.

THE COURT: We should be good

Mr. Robinson: sorry about that.

By Mr. Robinson:

Q. Regardless of whether or not it was written down or recorded, you gave a prior statement in 2015 where you said you did not see anything; didn't you?

A. NO. I didn't say that.

Q. You didn't --

A. I told him exactly what I seen when I was walking out the yard.

Q. So your testimony, under oath, you have just given -- you have put yourself under oath before God, you're testifying that you did not give a statement back in 2015 where you said you didn't see anything?

A. No, that part I didn't say I didn't see anything.

Q. And then you change your statement in 2017 because you wanted something in return for your statement, didn't you?

A. No. if wasn't exactly like that no.

Mr Robinson: I beg the court's indulgence.

THE COURT: Yes, Sir.

Mr. Robinson: That's all the questions I have of this witness, your Honor. Thank you.

THE COURT: Very good. Redirect?

MR. OVERBY: Yes, your Honor.

Q. Mr. McDonald, is your memory better -- was your memory better closer to the time of the event or of -- after the time of the event?

A. I remember.

Q. Okay. would it be better closer to the time of the event or after the time of the event?

A. At the time of the event.

Q. Okay. Thank you.

A. I remember.

MR. OVERBY: No further questions.

THE COURT: May this witness be excused?

MR. OVERBY: Yes, your Honor.

THE COURT: Thank you, Sir. call your next witness.

MR OVERBY: Your Honor, at this time, the State rests.

THE COURT: All right. very good. Mr. Foreman, ladies and gentlemen of the jury, the State says they rest, which means they have presented their case in -- it case in chief. I have some administrative duties to take up at this point. If you'll go back to your jury room, we'll bring you back out here and we'll proceed after that.

(whereupon, the jury left the courtroom at 9: 57 A.M.)

THE COURT: All right. motion?

Mr. Robinson: Your Honor, at this time, we would make a motion for a directed verdict -- acquittal as to all charges, judge

I think as to murder in this case there's been no malice presented here in this case at all as far as on the record. We -- we -- I know we looked at the expressed or implied and so forth, but there's been nothing implied or expressed in this case regarding Mr. Wideman. He didn't know this individual. There's been no testimony that he knew this individual he had any sort of malice or anything like that nothing presented by the State would indicate that -- that he had some sort of beef with this guy or some sort of history or something like that. Nothing. They basically have him coming out of a -- basically having him say I shot the guy. It was an accident. The car rolled and the car came back, I thought I was in danger. I was protecting myself and my sister and so forth on my property. But there's no evidence in this case that there was any malice at all as far as murder goes in this matter. I think it would be best that it be shown as involuntary manslaughter or accident or something like that. But even taking the record in the light most favorable to the prosecution and the State, there's been nothing -- there's been no evidence of murder in this case, so we would ask the court to acquit him on this case.

THE COURT: All right. Thank you Sir. I'm denying that motion.

Tr. p. 187, lines 18-25. After speaking with the witnesses we I assisted investigator Branch and Mccown with the overall initial looking at the vehicle, removal of the body, observing the wounds to him.

Q. And everything that you observed was reflected in Deputy Mccown's testimony?

A. Yes, Sir.

Q. Now, the -- in regards to -- you said that you eventually spoke with the suspect was the suspect detained at the point?

A. Yes, Sir.

Q. Okay, So Mr. Wideman was detained, what was done with once it became apparent that he had an involvement ?

The first interview with defendant at the crime scene by officer Nathan Mitchell, did not give him the miranda warning before the interview at the crime scene. See page 188, lines 7-6 officer Mitchell testimony indicated that he was originally interviewed by Sgt. Gebing on the scene. It was determined that he had an involvement. He was then asked to come back to the Sheriff's office for a formal interview. Okay, and did you go and participate in that formal interview? Officer Mitchell stated Yes, Sir.

A. He was originally interviewed by Sgt. Gebing on scene. It was determined that he had an involvement. He was never mirandaize on the scene. He was then asked to come back to the Sheriff's office for a formal interview.

Q. Okay, And did you go and participate in that formal interview?

A. Yes, Sir.

Q. Investigator Mitchell, I'm showing you what has been marked as state's Exhibit No. 6 for identification purposes; can you tell me what that is?

A. This is a standard form that we use , we call it the advisory of rights form. Any time we speak with a person of interest,

it's commonly known as a miranda rights form. Any time we speak with a person of interest, or a suspect we have this form that we go through with the suspect or the person of interest, and that way they have a clear understanding of the miranda rights.

A. To make sure they understand their rights, to make sure they're competent understand what's going on.

Anything further from -- the motion perspective?

MR. OVERBY: Nothing from the State, your Honor.

MIRANDA RIGHTS

In *Miranda v. Arizona*, the supreme court held that custodial interrogations have the potential to undermine the fifth Amendment privilege against self-incrimination by possibly exposing a suspect to physical or psychological coercion. To guard against such coercion the court established a prophylactic procedural mechanism that requires a suspect to receive a warning before custodial interrogation begins. The court held that unless the suspect is warned of his fifth Amendment rights, any pretrial statements elicited from the suspect are inadmissible at trial.

Under *Miranda*, before questioning suspect in custody, law enforcement officials must inform them that (1) they have the right to remain silent (2) their statements may be used against them at trial (3) they have the right to the presence of an attorney during questioning and (4) if they cannot afford an attorney, one will be appointed for them. No additional warnings are required. Warnings do not have to be given exactly as written in *Miranda* opinion, but law enforcement officials must convey *Miranda*'s essential message to suspect and procedures must be "at least as effective [as *Miranda* warnings] in apprising accused persons of their right of silence and in assuring a continuous opportunity to exercise it.

Miranda warnings must be given only when a suspect is both in custody and about to be subject to government interrogation. To introduce at trial a defendant's statements made in response to custodial interrogation, the prosecution must demonstrate either that the statements were obtained in compliance with *Miranda* or if *Miranda*'s requirements were not satisfied, that an exception applies.

CORONER'S STATEMENT

Testimony from the Deputy Donald McCown, office of Anderson county, Tr. p. 179, lines 21-25.

Q. So according to your opinion is that he was standing -- Raeferd would have been standing in the rear passenger door; isn't that right?

A. near the rear passenger door, yes,

Q. Got you, And let's look at the -- let's look at the -- there is two sentence of two paragraphs down, you state in your --

this is page four of your coroner's summary report, and it begins the decedent presented -- do you see that part?

A. "The decedent prsents with no evidence of physical cofrontation or defense wounds.

Q. So Yeah -- no evidence of physical confrontation; correct?

A. That 's correct.

Q. Okay, And, also too, going back to page 4 again, "investigative finding" are you there?
page 4 "Investigative findings.

A. Yes, Sir.

Q. Do you see that the second sentence "It appears that the female -- stret there and read that.

A. I'm Sorry. I'm trying to make sure -- it appears to one of the female in the vehicle --

Q. Okay, what's the next sentence?

A. If the female -- it appears the female ower of the vehicle was intoxicated and passed out inthe rear passenger seat.

Q. Okay, and I think one of the last things that you testified to, you said the victim's blood alcohol was extremely high; is that correct?

A. two twenty-nine.

Q. What's the legal limit for alcohol?

A. Point zero eight -- 80 milligrams vs. 229.

Q. So is that about three times the legal limit?

A. Yes, Sir.

Miranda 384 U.S. at 467; see also Fla.-v.-Powell, 130 S.Ct. 1195, 1204-05 (2011) waives form stating that defendant had both "the right to talk to a lawyer before answering any questions and the right to use any of those rights at any time during the interview " reasonably conveyed defendant's "right to have an attorney present, not only at the outset of interrogation but at all times"); Duckworth-v.-Eagan, 432 U.S. 195, 203-04 (1989).

EQUAL PROTECTION OF THE LAW

Equal protection clause protects all persons the equal protection of the Laws extends to the guilty as well as the innocent, and to the criminal as well as the Law abiding citizen. State v. Middleton, 207 S.C. 578, 36 S.E. 2d 742 (1946). The equal protection clause of the fourteenth Amendment was passed originally to secure the rights of new negro citizen, but it is obviously applicable to all citizens. Eslinger v. Thomas, 340 F. supp. 886 (DSC 1972), aff'd 476 F. 2d 225 4th cir. 1973).

STATUTE ISSUES

It is well established that interpreting a statute, the court's primary function is to ascertain the intention of the legislature when the terms of the statute are clear and unambiguous, the court must apply them according to their literal meaning.

Furthermore, in construing a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Finally when a statute is penal in nature, it must be construed strictly against the state and in favor of the defendant.

State v. Blackmon, 304 S.C. 270, 273, 403 S.C. 2d 660, 662 (1991) accord Kerr v. State, 345 S.C. 183, 547 S.E. 2d 494 92001).

CONFESSION WHILE IN CUSTODY

This court is not called upon to decide the guilt or innocence of the defendant, but only to determine from the preponderance of the evidence whether the defendant's statements were voluntarily made. Jackson v. Denno, 378 U.S. 368, 84 S.Ct. 1774, 12 L.Ed. 2d 908 (1964); Lego v. Twomey, 404 U.S. 477, 92 S.Ct. 619, 30 L.Ed. 2d 618 (1972). The truth or falsity of a confession is not at issue here, for it is well established that the fifth Amendment of the constitution dictates that a defendant in a criminal case is deprived of due process when his conviction is based in whole or in part, upon an involuntary confession. Rogers v. Richmond, 365 U.S. 534, 81 S.Ct. 735, 5 L.Ed. 2d 760 (1961).

The supreme court has established many standards for voluntariness. No single litmus-paper test for constitutionality impermissible interrogation has been envolved *** [t]he ultimate test remains *** the test of voluntariness. Is the confession the product of an essentially free and unconstrained choice by its maker? If it is, if he is willed to confess, it may be used against him. If it is not, if his will has been overborne and his capacity for self-determination critically impaired, the use of his confession offends due process [cites omitted.] The line of distinction is that at which governing self-direction is lost and compulsion, of whatever nature or however infused, propels or helps to propel the confession. Culombe v. Connecticut, 367 U.S. 568, 81 S.Ct. 1960, 6 L.Ed. 2d 1037 (1961).

In Townsend v. Sain, 372 U.S. 293, 83 S.Ct. 745, 9 L.Ed. 2d 770 (1963), the defendant, a 19 year old drug addict confessed to five separate crimes on three different occasions over a period of days while under the influence of drugs given by a police physician to ease withdrawal symptoms. The supreme court, in suppressing each confession, noted there are numerous tests for establishing admissibility of confessions into evidence and applied the following standard.

Petitioner has submitted many issues for review, challenging many of his counsel's actions and lack of actions during trial, but in me view, the essential issue in this case is as follows:

Did the trial judge err in finding that petitioner's sixth and fourteenth Amendment rights to counsel were not violated because defense counsel failed to sufficiently investigate, prepare and present the case?

Petitioner claims that the trial court erred in finding that his defense counsel were . . . ineffective for failing to prepare and present a defense as required under the sixth Amendment.

The very premise of our adversary system of criminal justice is that parrtisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free. Herring-v.-New-York, 422 U.S. 853, 862, 95 S.Ct.2550, 2555, 45 L. Ed. 2d 593 (1975).

The sixth Amendment guarantees that every criminal defendant shall receive "Assistance of counsel" in establishing his defense U.S. const. Amend. VI. On May 14, 1984, the UNITED STATES court handed down two opinion holding that the sixth Amendment requires that the criminal defendant receive effective assistance of counsel. United States-v.-Cronic, 466 U.S. 648, 64 S.Ct. 2039, 80 L.Ed. 2d 657 (1984); Strickland-v.-Wasington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984).

In Cronic, the court charaterized the protection that the sixth Amendment offords the defendant.

The right to the effective assistance of counsel is thus the right of the accused to require the prosecution's case to survive the crucible of meaning adversarial testing.

When a true adversarial criminal trial has been conducted -- even if defense counsel may have made demonstrable errors -- the kind of testing envisioned by the sixth Amendment has occurred. But if the process loses its character as a confrontation between adversaries, the constitutional guarantee is violated.

As judge Wyzanski has written. While a criminal trial is not a game in which the participants are expected to enter the ring with a near match in skills neither is it a sacrifice of unarmed prisoners to gladiators.

In *Strickland*, the court set forth a two part test for evaluating the effectiveness of the criminal defendant's attorney. To receive a new trial on the grounds of ineffectiveness of counsel, the petitioner must prove (1) that his counsel's representation was deficient and (2) that there is a reasonable probability that counsel's deficient conduct prejudiced the outcome of petitioner's trial. *Strickland*, 466 U.S. at 694, 104 S.Ct. at 2068. *Strickland* test, the prejudice element can be presumed. *Cronic*, 466 U.S. at 658-659, 104 S.Ct. at 2039.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	FOR THE TENTH JUDICIAL CIRCUIT
	)	
	)	
Raeford Wideman, SCDC #374579,	)	Case No. 2020-CP-04-1112
	)	
Applicant,	)	
	)	
v.	)	RETURN, PARTIAL MOTION TO
	)	DISMISS, AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
State of South Carolina,	)	(COUNSEL APPOINTED)
	)	
Respondent.	)	
	)	
	)	

In response to the post-conviction relief (PCR) action commenced by Raeford Wideman (Applicant) on May 18, 2020, the State makes this return:

I. FACTS & PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Anderson County Clerk of Court. Applicant was arrested on March 16, 2015, following an investigation into the shooting death of Ryan Tatum with a 9 mm handgun. During its July 2015 term, the Anderson County Grand Jury indicted Applicant for murder (2015-GS-04-1191). On November 13, 2017, Applicant proceeded to a jury trial before the Honorable R. Lawton McIntosh. Scott David Robinson, Esquire (Counsel) represented Applicant. Assistant Solicitors Stanford Lee Overby, Jr. and Morgan Dawn Page prosecuted the case. On November 16, 2017, the jury convicted Applicant as indicted. Judge McIntosh sentenced Applicant to thirty years' imprisonment.

Applicant filed a timely notice of appeal. Appellate Defender Kathrine H. Hudgins

perfected Applicant's appeal by filing an *Anders*¹ brief with the Court of Appeals, raising the following issue:

Did the trial court err in denying [Applicant]'s motion for immunity from prosecution pursuant to the Protection of Persons and Property Act?

Applicant did not file a *pro se Anders* brief in response. The Court affirmed Applicant's conviction pursuant to *Anders* review on March 11, 2020. *State v. Wideman*, 2020-UP-063, (S.C. Ct. App. filed March 11, 2020). The case was remitted back to the circuit court on May 4, 2020. Applicant commenced this PCR action on May 18, 2020.

II. CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following (verbatim):

1. Malice violation
2. Ineffective assistance of counsel
3. Due process
4. Immunity violation
5. Castle Doctrine
6. Directed verdict violation
7. Prosecutorial misconduct
8. Miranda right violation
9. Confession while in custodial interrogation

Applicant requests relief as follows:

“sentence to be remanded or vacated”

Attached to this return and incorporated by reference are the Anderson County Clerk of Court records regarding the subject convictions; Applicant's records from the South Carolina Department of Corrections; a full and complete record of Applicant's direct appeal, including the

¹ *Anders v. California*, 386 U.S. 738 (1967).

trial transcript; and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

III. PARTIAL MOTION TO DISMISS

As discussed below, the State requests Applicant, through counsel, provide specific claims and facts to support his vague allegations. However, Applicant's allegations of denial of due process and trial court error should be summarily dismissed for failure to state a cognizable claim under the Uniform Post-Conviction Procedure Act² (the Act). An applicant may commence a post-conviction relief action on the following grounds:

1. United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

However, because an application for post-conviction relief is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the

² S.C. Code Ann. § 17-27-10 to -160.

broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment to the Constitution of the United States. *See Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (noting that allegations of trial court error are not cognizable on PCR); *Simmons v. State*, 264 S.C. 417, 215 S.E.2d 883 (1975) (finding that alleged trial errors and sufficiency of evidence are direct appeal issues that are not cognizable PCR claims).

A. Trial Court Error

Applicant alleges the trial court erred in denying his motion for immunity from prosecution pursuant to the Protection of Persons and Property Act and in denying his motion for a directed verdict. Trial court error does not constitute an appropriate basis for a finding of ineffective assistance of counsel, and is not a cognizable claim for post-conviction relief. *Wolfe v. State*, 326 S.C. 158, 162 n.2., 485 S.E.2d 367, 369 n.2 (1997); *See generally Stepney v. State*, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel). As to the motion for immunity, appellate counsel raised **this exact issue** on appeal, which was dismissed by the Court of Appeals.

B. Due Process

Applicant’s allegation his due process rights were violated should have been raised on appeal, and is not a cognizable post-conviction relief claim. S.C. Code Ann. § 17-27-20(B); *Simmons v. State*, 264 S.C. 417, 215 S.E.2d 883 (1974). Applicant offers nothing in support of his due process allegation, and does not advance it under the umbrella of ineffective assistance of counsel. As such, the vague allegation that his due process rights were violated should be dismissed.

C. Conclusion and Action Requested

Accordingly, the State moves to dismiss Applicant's allegation of trial court error pursuant to Rule 12(b)(6), SCRCR, for failure to state a cognizable claim. The State further moves for summary dismissal of this claim pursuant to § 17-27-70 because there is no genuine issue of material fact which would necessitate an evidentiary hearing and this allegation should be dismissed as a matter of law.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

A. Ineffective Assistance of Trial Counsel, Generally

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668, 685 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel's conduct “was so ineffective as to require reversal” of the applicant's conviction. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625

(1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” *Padilla v. Kentucky*, 559 U.S. 356, 366 (2010). An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged *not* to have been the result of reasonable professional judgment.” *Strickland*, 466 U.S. at 690 (emphasis added). The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance” demanded of attorneys in criminal cases. *Id.* Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonably professional assistance.” *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Review of counsel’s actions is hallmarked by deference, as “it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” *Strickland*, 466 U.S. at 689; *see also Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). No particular set of

detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. *Strickland*, 466 U.S. at 688–89; *see id.* at 691 (“Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another.”). Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. *Id.* at 689. The ultimate question is not whether counsel's actions were reasonable, but whether there is any reasonable argument counsel satisfied *Strickland's* deferential standard.

The second, or “prejudice” prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. 466 U.S. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. *See id.*, at 695 (Where a defendant challenges his conviction, he must show that there exists “a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt”).

In determining prejudice, the reviewing court must consider the totality of the evidence before the jury. *Id.* at 695. It is not sufficient “to show [counsel's] errors had some conceivable effect” on the outcome of the proceeding—counsel's errors must be “so serious as to *deprive the defendant of a fair trial.*” *Id.* at 687 (emphasis added). “An error by counsel, even if professionally

unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment.” *Id.* at 691. Moreover, the South Carolina Supreme Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice. *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

The *Strickland* standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690. Courts must be wary of second guessing counsel’s trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant’s burden of proving both *Strickland* components is heavy in light of the strong presumption that counsel’s conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686; *see Nix v. Whiteside*, 475 U.S. 157, 175 (1986) (noting that under *Strickland*, the “benchmark” of the right to counsel is the “fairness of the adversary proceeding”).

B. Conclusion and Action Requested

Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant’s allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR

application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

V. RESPONSE TO ALLEGATION OF PROSECUTORIAL MISCONDUCT

Applicant further raises the issue of prosecutorial misconduct based on alleged improper remarks or conduct, but does not state which remarks were allegedly improper. *See generally State v. Huggins*, 325 S.C. 103, 107, 481 S.E.2d 114, 116 (1997) (“A new trial will not be granted unless the prosecutor’s comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.”). Moreover, “considerable latitude is generally allowed in matters of drawing and arguing inferences and deductions from evidence.” *Johnson v. Life Ins. Co. of Ga.*, 227 S.C. 351, 369, 88 S.E.2d 260, 269 (1955).

Applicant has further failed to present any evidence tending to establish bad faith or intent on the part of the prosecution. *See Alabama v. Smith*, 490 U.S. 794 (1989) (finding that, with regard to prosecutorial misconduct, the burden is on the defendant to prove actual vindictiveness). However, the record likely does not refute or disprove Applicant’s allegations of prosecutorial misconduct; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper*, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

VI. MOTION FOR A MORE DEFINITE STATEMENT

The State submits Applicant’s claims of ineffective assistance of counsel and prosecutorial misconduct are without merit. However, it is impossible for the State to adequately respond to Applicant’s allegations because Applicant has completely failed to provide any specific facts to support such claims. “[M]ere allegations of incompetency or ineffectiveness of counsel will not

ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the [applicant] that he was deprived of adequate and effective assistance of counsel is insufficient.” *Coardes v. State*, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974); *see* S.C. Code Ann. § 17-27-50 (2014) (requiring an applicant to “specifically set forth the grounds upon which the application is based”); *see also* Rule 8(a)(2), SCRPC (requiring all civil pleadings to include “a short and plain statement of the facts showing that the pleader is entitled to relief”); Rule 71.1(d), SCRPC (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”).

Accordingly, the State moves for Applicant, through counsel, to amend his application to provide a more definite statement of his allegations of ineffective assistance of counsel and prosecutorial misconduct pursuant to Rule 12(e), SCRPC and the Post-Conviction Procedure Act.

VII. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.*, 428 S.C. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

If Applicant fails to file a timely and responsive amended application setting forth specific

allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRCPP; *see also* Rules 15(a)-(b), SCRCPP. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRCPP.

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. The State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State.

VIII. GENERAL DENIAL

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

[Conclusion and signature on following page]

IX. CONCLUSION

WHEREFORE, the State respectfully requests this Court grant its motion for a more definite statement as set forth in section VI, and thereafter convene an evidentiary hearing on the allegation of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LILLIAN L. MEADOWS
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October 28, 2020

REQUEST OR MOTION AND ORDER

21 OCT 22 AM 11:11:30
Anderson, SC CDC, CP/SSATTORNEY SECTION:ANDERSON COUNTY PCR HEARINGS

Case Name: RAEFORD WIDEMAN (SCDC #374579) v. THE STATE, 2020-CP-04-01112

I am moving for a CONTINUANCE in the above-named case which is currently scheduled on the docket for October 21, 2021. I am requesting a continuance because I have requested and not received a copy of the previous attorney's trial file, and will need to request a discovery order to obtain the file from the solicitor's office. Review of both of these sets of information is central to the applicant's case.

My signature certifies the following, pursuant to Rule 11(a), SCRCP:

(1) I have communicated with all other attorneys involved in the case and there are no objections to this request;

; and

(2) I have filed a Motion for Continuance with the Clerk of Court and paid the appropriate filing fee, or, in criminal cases, notified the appropriate representative from the Office of the Solicitor of this request and this case is not set for trial at this term of court, S.C. Code Ann. § 1-7-330.

Upon receiving the completed Request/Motion and Order, I will confirm that the original is filed with the Clerk of Court and that copies have been provided to all attorneys involved in the case.

October 14, 2021


Attorney Making Request

Sarah M. Henry, 77907
Please Print Attorney's Name

10/14, 2021


Chief Administrative Judge
Tenth Judicial Circuit

Elizabeth Beasley

From: Elizabeth Beasley
Sent: Thursday, February 23, 2023 4:40 PM
To: Morgan Rogers; Reena L. Thomason
Subject: RE: [External]RE: Continuance Request, Raeford Wideman (PCR Term, March)

I'll mark it off the docket for next week.



*S. Elizabeth Beasley
 Common Pleas Docket Clerk & ADR Coordinator
 Anderson County Clerk of Court's Office
 P.O. Box 8002, Anderson, SC 29622
 864-260-4298/864-260-4718(fax)*

From: Morgan Rogers <mrogers@andersoncountysc.org>
Sent: Thursday, February 23, 2023 3:54 PM
To: Reena L. Thomason <cthomason@andersoncountysc.org>; Elizabeth Beasley <sebeasley@andersoncountysc.org>
Subject: FW: [External]RE: Continuance Request, Raeford Wideman (PCR Term, March)

From: Sprouse, R. Scott Law Clerk (Perry Rupert) <rssprouse1c@sccourts.org>
Sent: Thursday, February 23, 2023 3:41 PM
To: Sprouse, R. Scott Secretary (Katherine R. Hattenstein) <rssprouse1c@sccourts.org>; Sarah Henry <sarah@sarahmhenrylaw.com>; From: Taylor Smith <taylor-smith@scag.gov>; Reena L. Thomason <cthomason@andersoncountysc.org>; Morgan Rogers <mrogers@andersoncountysc.org>
Subject: [External]RE: Continuance Request, Raeford Wideman (PCR Term, March)

CAUTION: This email originated from outside of Anderson County's email system. Please do not click links or open attachments unless you recognize the sender and know the content is safe. If you have any questions, please contact the county helpdesk.

Good afternoon,
 Given that the state does not object, Judge Sprouse is happy to grant the continuance. I have copied the Clerk's office.
 Thank you.

From: Sprouse, R. Scott Secretary (Katherine R. Hattenstein) <rssprousescc@sccourts.org>
Sent: Thursday, February 23, 2023 3:15 PM
To: Sprouse, R. Scott Law Clerk (Perry Rupert) <rssprouselc@sccourts.org>
Subject: FW: Continuance Request, Raeford Wideman (PCR Term, March)

Renee Hattenstein
 Administrative Assistant to the Honorable R. Scott Sprouse
 South Carolina 10th Judicial Circuit Court
 P.O. Box 1277, Walhalla, SC 29691
 Office: 864.638.4266
 Fax: 864.638.4267

From: Sarah Henry <sarah@sarahmhenrylaw.com>
Sent: Thursday, February 23, 2023 3:13 PM
To: Sprouse, R. Scott Secretary (Katherine R. Hattenstein) <rssprousescc@sccourts.org>; Taylor Smith <taylor-smith@scag.gov>
Subject: Re: Continuance Request, Raeford Wideman (PCR Term, March)

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Judge Sprouse,

Please find my continuance request attached. The original attorney on this case is Scott Robinson. The state informed me that he has apparently taken a turn for the worse, and that is why he has not responded to requests for the file.

I am requesting a short continuance to next term to get a copy of the file from the solicitor's office.

I have included the state on this communication. It is my understanding that they do not oppose a continuance on this issue.

Sarah

--

Sarah M. Henry
 Attorney at Law
 406 Pettigru St.
 Greenville, SC 29601
 864.478.8324
 864.232.9555 (fax)

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

RAEFORD WIDEMAN  
SCDC#374579,  
APPLICANT,

VS.

THE STATE,  
RESPONDENT.

IN THE COURT OF COMMON PLEAS  
TENTH JUDICIAL CIRCUIT

CASE NO: 2020-CP-04-01112

AMENDED APPLICATION FOR POST  
CONVICTION RELIEF

This application is being brought pursuant to South Carolina Code of Laws Sec 17-27-10 et seq. and should be considered along with the original application filed on May 18, 2020.

1. The applicant is presently being held as an inmate with the South Carolina Department of Corrections.
2. On or about November 13 -16, 2017 Applicant was tried and convicted of murder and sentenced to the mandatory minimum of 30 years by Judge R. Lawton McIntosh.
3. Applicant filed a direct appeal on November 27, 2017 which was dismissed on March 11, 2020 and remittitur filed on May 4, 2020.
4. The applicant filed his original post conviction relief application in a timely manner.
5. The applicant has filed no action in federal court challenging his convictions.
6. Attorney Scott Robinson represented the applicant on these charges at trial.
7. In this application the applicant seeks an order vacating his conviction and remand for a new trial.
8. The applicant is amending his post conviction relief petition to include the following allegations:
  - a. Ineffective Assistance of Counsel
9. The applicant alleges that he was denied effective assistance of counsel and due process on both the above charges and submits the following facts to support his allegation:
  - a. Trial counsel pursued the defense of "accident" which was ineffective and not supported by the facts or the law, confusing the jury, decreasing the

defense's credibility with the jury, and weakening the primary defense in the case which was 'defense of others'.

- b. Trial counsel failed to call Taquana Blasingame and Rose Wideman in support of the Applicant's 'defense of others' defense.

Respectfully Submitted,

s/Sarah Henry  
Sarah M. Henry, SC Bar #77907  
406 Pettigru St.  
Greenville, SC 29601  
478-8324/232-9555 (fax)  
[sarah@sarahmhenrylaw.com](mailto:sarah@sarahmhenrylaw.com)  
Attorney for Applicant

August 15, 2023

**PROOF OF SERVICE**

ON THIS DATE, a copy of this document, Amended Application for Post Conviction Relief, was served by email upon counsel for the State of South Carolina at the following address:

**S.C. Attorney General's Office**  
Alan Wilson (Attorney General)  
Donald Zelinka (Deputy Attorney General)  
Office of the Attorney General  
PO box 11549  
Columbia SC 29211  
Telephone: 803-734-3601  
DZelinka@scag.gov

s/Sarah Henry  
Sarah M. Henry  
Date: August 15, 2023

'23 AUG 15 AM11:56:08  
Anderson, SC CDC, CP/GS

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

Raeferd Wideman, SCDC #374579,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE TENTH JUDICIAL CIRCUIT

Case No. 2020-CP-04-1112

**AMENDED RETURN**

Respondent State of South Carolina hereby makes an Amended Return. The Applicant filed an Amended Application dated August 15, 2023. The original pro se application was filed on May 18, 2020. The State made an original Return on October 28, 2023.

**I. FACTS & PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Anderson County Clerk of Court. Applicant was arrested on March 16, 2015, following an investigation into the shooting death of Ryan Tatum with a 9 mm handgun. During its July 2015 term, the Anderson County Grand Jury indicted Applicant for murder (2015-GS-04-1191). On November 13, 2017, Applicant proceeded to a jury trial before the Honorable R. Lawton McIntosh. Scott David Robinson, Esquire (Counsel) represented Applicant. Assistant Solicitors Stanford Lee Overby, Jr. and Morgan Dawn Page prosecuted the case. On November 16, 2017, the jury convicted Applicant as indicted. Judge McIntosh sentenced Applicant to thirty years' imprisonment.

Applicant filed a timely notice of appeal. Appellate Defender Kathrine H. Hudgins

'23 AUG 21 PM4:14:32  
Anderson, SC CDC, CP/GS



perfected Applicant's appeal by filing an *Anders*<sup>1</sup> brief with the Court of Appeals, raising the following issue:

Did the trial court err in denying [Applicant]'s motion for immunity from prosecution pursuant to the Protection of Persons and Property Act?

Applicant did not file a *pro se Anders* brief in response. The Court affirmed Applicant's conviction pursuant to *Anders* review on March 11, 2020. *State v. Wideman*, 2020-UP-063, (S.C. Ct. App. filed March 11, 2020). The case was remitted back to the circuit court on May 4, 2020. Applicant commenced this PCR action on May 18, 2020.

## II. CURRENT APPLICATION

In his original application for post-conviction relief, Applicant alleged he is being held in custody unlawfully based on the following (verbatim):

- 4  
42
1. Malice violation
  2. Ineffective assistance of counsel
  3. Due process
  4. Immunity violation
  5. Castle Doctrine
  6. Directed verdict violation
  7. Prosecutorial misconduct
  8. Miranda right violation
  9. Confession while in custodial interrogation

Applicant requested relief as follows:

"sentence to be remanded or vacated"

In the August 15, 2023, the Applicant makes the following allegations:

- I. Ineffective Assistance of Counsel
  - a. Trial counsel pursued the defense of "accident" which was ineffective and not supported by the facts or the law, confusing the jury, decreasing the defense's credibility with the jury, and weakening the primary defense in the case which was 'defense of

---

<sup>1</sup> *Anders v. California*, 386 U.S. 738 (1967).

others'.

- b. Trial counsel failed to call Taquana Blasingame and Rose Wideman in support of the Applicant's 'defense of others' defense.

The Respondent attached to the return and incorporated by reference are the Anderson County Clerk of Court records regarding the subject convictions; Applicant's records from the South Carolina Department of Corrections; a full and complete record of Applicant's direct appeal, including the trial transcript; and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

#### A. Trial Court Error

Applicant alleges the trial court erred in denying his motion for immunity from prosecution pursuant to the Protection of Persons and Property Act and in denying his motion for a directed verdict, Castle Doctrine, directed verdict violation, Miranda violation and a custodial confession. Trial court error does not constitute an appropriate basis for a finding of ineffective assistance of counsel, and is not a cognizable claim for post-conviction relief. *Wolfe v. State*, 326 S.C. 158, 162 n.2., 485 S.E.2d 367, 369 n.2 (1997); *See generally Stepney v. State*, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel).

As to the motion for immunity, appellate counsel raised **this exact issue** on appeal, which was dismissed by the Court of Appeals.

#### B. Due Process

Applicant's allegation his due process rights were violated should have been raised on appeal, and is not a cognizable post-conviction relief claim. S.C. Code Ann. § 17-27-20(B); *Simmons v. State*, 264 S.C. 417, 215 S.E.2d 883 (1974). Applicant offers nothing in support of his due process allegation, and does not advance it under the umbrella of ineffective assistance of counsel. As such, the vague allegation that his due process rights were violated should be

dismissed.

### C. Conclusion and Action Requested

Accordingly, the State moves to dismiss Applicant's allegation of trial court error pursuant to Rule 12(b)(6), SCRCP, for failure to state a cognizable claim. The State further moves for summary dismissal of this claim pursuant to § 17-27-70 because there is no genuine issue of material fact which would necessitate an evidentiary hearing and this allegation should be dismissed as a matter of law.

## IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

### A. Ineffective Assistance of Trial Counsel, Generally

M  
24.  
The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668, 685 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel's conduct “was so ineffective as to require reversal” of the applicant's conviction. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective

standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

(N) The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” *Padilla v. Kentucky*, 559 U.S. 356, 366 (2010). An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged *not* to have been the result of reasonable professional judgment.” *Strickland*, 466 U.S. at 690 (emphasis added). The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance” demanded of attorneys in criminal cases. *Id.* Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonably professional assistance.” *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Review of counsel's actions is hallmarked by deference, as “it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” *Strickland*, 466 U.S. at 689; *see*

also *Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). No particular set of detailed rules for counsel’s conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. *Strickland*, 466 U.S. at 688–89; *see id.* at 691 (“Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another.”). Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. *Id.* at 689. The ultimate question is not whether counsel’s actions were reasonable, but whether there is any reasonable argument counsel satisfied *Strickland*’s deferential standard.

*Ch. 10*  
The second, or “prejudice” prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. 466 U.S. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel’s deficient performance prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. *See id.*, at 695 (Where a defendant challenges his conviction, he must show that there exists “a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt”).

In determining prejudice, the reviewing court must consider the totality of the evidence before the jury. *Id.* at 695. It is not sufficient “to show [counsel’s] errors had some conceivable

effect” on the outcome of the proceeding—counsel’s errors must be “so serious as to *deprive the defendant of a fair trial*.” *Id.* at 687 (emphasis added). “An error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment.” *Id.* at 691. Moreover, the South Carolina Supreme Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice. *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

The *Strickland* standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690. Courts must be wary of second guessing counsel’s trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant’s burden of proving both *Strickland* components is heavy in light of the strong presumption that counsel’s conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686; *see Nix v. Whiteside*, 475 U.S. 157, 175 (1986) (noting that under *Strickland*, the “benchmark” of the right to counsel is the “fairness of the adversary proceeding”).

First, the Applicant alleges trial counsel pursued the defense of “accident” which was ineffective and not supported by the facts or the law, confusing the jury, decreasing the defense’s credibility with the jury, and weakening the primary defense in the case which was ‘defense of others.’ However, the trial judge determined that there was sufficient evidence to charge accident

as well as defense of others. Tr.p. 385 (defense of others) Tr. 387-388 (accident). Clearly, this was a strategic decision on the part of counsel that was supported by the evidence.

He further asserts that Taquana Blasingame and Rose Wideman in support of the Applicant's 'defense of others' defense. The record reveals the defense rested at the close of the State's case. Tr.p. 308-309. No witnesses were called. The evidence revealed that Taquanna Blasingame was intoxicated, asleep or unresponsive during the event. Tr.p. 45, 63-70, 259, 268.

#### **B. Conclusion and Action Requested**

Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

#### **V. RESPONSE TO ALLEGATION OF PROSECUTORIAL MISCONDUCT**

Applicant further raises the issue of prosecutorial misconduct based on alleged improper remarks or conduct, but does not state which remarks were allegedly improper. *See generally State v. Huggins*, 325 S.C. 103, 107, 481 S.E.2d 114, 116 (1997) ("A new trial will not be granted unless the prosecutor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process."). Moreover, "considerable latitude is generally allowed in matters of drawing and arguing inferences and deductions from evidence." *Johnson v. Life Ins. Co. of Ga.*, 227 S.C. 351, 369, 88 S.E.2d 260, 269 (1955).

Applicant has further failed to present any evidence tending to establish bad faith or intent on the part of the prosecution. *See Alabama v. Smith*, 490 U.S. 794 (1989) (finding that, with regard

to prosecutorial misconduct, the burden is on the defendant to prove actual vindictiveness). However, the record likely does not refute or disprove Applicant's allegations of prosecutorial misconduct; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper*, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

### VIII. GENERAL DENIAL

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

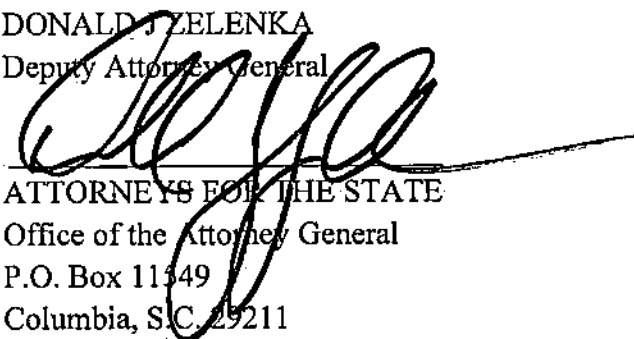
### CONCLUSION

WHEREFORE, the State respectfully requests an evidentiary hearing on the allegations of ineffective assistance of counsel and prosecutorial misconduct.

Respectfully submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

By: 

ATTORNEYS FOR THE STATE  
Office of the Attorney General  
P.O. Box 11549  
Columbia, S.C. 29211

August 20, 2023



STATE OF SOUTH CAROLINA )  
 COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
 TENTH JUDICIAL CIRCUIT

Raeferd Wideman, #374579 )

2020-CP-04-1112

Applicant, )

v. )

CERTIFICATE OF SERVICE

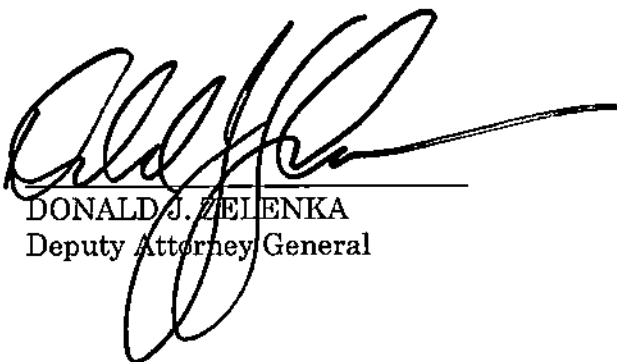
State of South Carolina, )

Respondent. )

1. I am counsel for Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Respondent's Amended Return** in the above-captioned matter on the following attorney via email on August 20, 2023 and personally this date in the Anderson County Courthouse;

Sarah M. Henry, Esq.  
 sarah@sarahmhenrylaw.com

DATED this 21<sup>st</sup> day of August, 2023.



DONALD J. ZELENKA  
 Deputy Attorney General

'23 AUG 21 PM4:15:01  
 Anderson, SC COC, CP/68

State of South Carolina  
County of Anderson

Court of Common Pleas

|                         |   |                      |
|-------------------------|---|----------------------|
| Raeferd Derrane Wideman | ) |                      |
|                         | ) |                      |
| Plaintiff,              | ) | Transcript of Record |
| v.                      | ) | 2020-CP-04-01112     |
|                         | ) |                      |
| State of South Carolina | ) |                      |
|                         | ) |                      |
| <u>Defendant.</u>       | ) |                      |

August 21, 2023  
Anderson, South Carolina

B E F O R E:

The Honorable Daniel D. Hall, Judge.

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

Sarah M. Henry, Esquire  
Attorney for the Applicant

Donald J. Zelenka, Esquire  
Attorney for the Respondent

Lisa Scott  
Circuit Court Reporter

I N D E X

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E X H I B I T S

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EVD.</u> |
|------------|--------------------|------------|-------------|
|------------|--------------------|------------|-------------|

No Exhibits.

P R O C E E D I N G S

\* \* \* \* \*

THE COURT: Ms. Henry, are you ready to proceed?

MS. HENRY: Yes, Your Honor.

THE COURT: Mr. Zelenka?

MR. ZELENKA: Yes, Your Honor. This is the matter of *Raeferd Wideman v. The State of South Carolina*.

I did an amended return last night, Your Honor, that I've provided to the Court. E-mailed it to opposing counsel last night, probably around seven o'clock. And then ---

THE COURT: All right. Let me -- let me -- let me preface this so the record is clear. We're on the record in the matter of 2020-CP-04-01112. This is a hearing, a post-conviction relief hearing. Raeferd Wideman, which is the applicant, who's represented by Sarah Henry. Representing the State of South Carolina in this PCR matter is Don Zelenka. I think we're ready to proceed.

Ms. Henry, you're -- is the applicant ready to proceed?

MS. HENRY: Yes, Your Honor. We are still missing three witnesses. I think that they thought

1           it was a break and went to lunch. They're on their  
2           way back.

3           THE COURT: They went to lunch?

4           MS. HENRY: That's what ---

5           THE COURT: Being over here in Anderson.

6           That's an assumption.

7           MS. HENRY: Yes, sir. I can certainly put  
8           Mr. Wideman up first, and they should be back by  
9           that point. But if they're not, I'd ask for a brief  
10          recess until they come back. Other than that, we're  
11          ready.

12          THE COURT: All right. Mr. Zelenka, anything  
13          you want to say about all of that?

14          MR. ZELENKA: I'm -- I'm ready.

15          THE COURT: All right. Then let's put up who  
16          you got, and we'll see where we are after that.  
17          Ms. Henry, call your first witness.

18          MS. HENRY: I call Raeford Wideman.

19          THE CLERK: Would you please come forward?

20          THE APPLICANT: (Complying.)

21          THE CLERK: If you're able to, please raise  
22          your right hand.

23          THE APPLICANT: (Complying.)

24          THE CLERK: Do you swear or affirm the  
25          testimony you're about to give shall be the truth,

1 the whole truth, and nothing but the truth?

2 THE APPLICANT: I do.

3 THE CLERK: Thank you. If you would, please  
4 take a seat there at the witness stand.

5 THE APPLICANT: (Complying.)

6 MS. HENRY: And, Your Honor, actually, before I  
7 begin questioning Mr. Wideman and, of course, with  
8 Mr. Zelenka's permission, my client filed a pretty  
9 extensive application, and I just want to go through  
10 that and if I may before we begin.

11 My understanding from my conversations with him  
12 is that he is comfortable with me withdrawing a  
13 series of those allegations to whittle down what the  
14 Court's going to be looking at today.

15 THE COURT: All right. Just put that on the  
16 record.

17 MS. HENRY: Thank you, sir. Okay. So we're  
18 still going forward with ineffective assistance of  
19 counsel, which is his first allegation, which also  
20 implicates his Sixth Amendment rights. We're  
21 withdrawing the allegations related to the trial  
22 court rulings, including the trial court's objection  
23 to the trial court's ruling on immunity and the  
24 castle doctrine. We're retaining the no defense  
25 argument. And we are withdrawing allegations -- the

1       allegations related to prosecutorial misconduct, and  
2       objection to the Court's ruling on directed verdict.

3               MR. ZELENKA:   Withdrawing?

4               MS. HENRY:    Yes.

5               MR. ZELENKA:   Okay.

6               MS. HENRY:    Just -- just as it relates to the  
7       Court's ruling.  We're withdrawing the objections to  
8       the Miranda warning violation.  I discussed with my  
9       client the -- that was remitted at trial.  None of  
10      the -- none of the statements pre-Miranda were  
11      admitted to the jury.  And there was a *Jackson v.*  
12      *Denno* hearing.  We're withdrawing the objection to  
13      the coroner's statement and confession while in  
14      custody.  And, Your Honor, we're moving forward on  
15      the remaining issues.

16              THE COURT:    All right.  Go ahead.

17              MS. HENRY:    Thank you, Your Honor.  One more  
18      issue, Your Honor.  I apologize.  I'm assuming that  
19      the Court got the copy -- has a copy of my amended  
20      petition, and I appreciate the amended return I  
21      received from Mr. Zelenka last night.

22              I -- I did want to let the Court know that on  
23      the same issues that I allege -- that he alleges in  
24      his original post-conviction application and the  
25      additional issues that I brought up in the amended



1 application, none of those issues have changed, but  
2 we're going to be calling an additional witness,  
3 Raeford Wideman, Sr.

4 THE COURT: I'm sorry. I didn't hear the last  
5 part.

6 MS. HENRY: We're going to move to call an  
7 additional witness, Raeford Wideman, Sr.

8 THE COURT: All right.

9 MS. HENRY: Okay. Thank you.

10 THE COURT: All right. Thank you. Let's  
11 proceed with this witness.

12 RAEFORD WIDEMAN, JR.,  
13 having been produced and first duly sworn as a  
14 witness on behalf of the Applicant, then testified  
15 as follows:

16 DIRECT EXAMINATION

17 BY MS. HENRY:

18 Q. Raeford, are you having any trouble hearing me?

19 A. Not -- not at all.

20 Q. Okay. All right. I want to take you back to  
21 the night that this happened. Do you remember -- do  
22 you remember March 15, 2015?

23 A. I do.

24 Q. Okay. Can you tell the Court how old you were  
25 that night?

1 A. Twenty-six.

2 Q. Okay. Can you walk the Court through what you  
3 were doing when all of this got started? Where were  
4 you?

5 A. I was at my room. I was in my bedroom. I was  
6 asleep.

7 Q. Where were you? Your bedroom was where?

8 A. At my parents' house, at home, 2316 South  
9 McDuffie Street.

10 Q. Okay. Who all lived in the house with you?

11 A. My parents; my girlfriend. My parents and my  
12 girlfriend.

13 Q. Okay. So can you tell the Court your parents'  
14 names?

15 A. Raeford and Rose Wideman.

16 Q. Okay. And they were both there that night?

17 A. Yes, ma'am.

18 Q. Okay. So you said -- you testified you were  
19 asleep?

20 A. I was asleep.

21 Q. Okay. What woke you up?

22 A. I was awakened by a loud -- lots of loud  
23 noise -- loud noise outside. Didn't know what was  
24 going on. Didn't know what, you know, was the cause  
25 of this noise. So I, you know, went out to the --

1 to the front room. And where the front room is,  
2 there is a -- the entrance, the door, and I actually  
3 looked out.

4 Before I left my bedroom -- before I left my  
5 bedroom, I -- I grabbed my handgun. And I looked  
6 out the front door. Went to the front room, looked  
7 out the front door, and I seen two guys just  
8 standing in the yard and kind of like going around  
9 the -- the cars, going around the SUV that was in  
10 the yard.

11 So at that time, I was alarmed. Didn't know  
12 what was -- you know, what was taking place. My --  
13 my girlfriend was in the house. As I said before,  
14 my parents were in the house. My nieces and nephews  
15 were in the house.

16 I -- I think I need to go back a little bit,  
17 backtrack a little bit, because earlier that day, my  
18 sister had called me and asked me if I could  
19 babysit. So once my nieces and nephew -- once my  
20 nieces and my nephew came to the house, she was also  
21 with -- my -- my -- my rel -- one of my relatives,  
22 Brianna. And that was earlier that day, probably  
23 three o'clock or something, around three o'clock in  
24 the evening. And that's how my nieces and nephews  
25 got there.

1           So my nieces and nephews were in the house.  
2       You know, I was babysitting them, but this took  
3       place about three o'clock in the morning, two or  
4       three o'clock in the morning.

5           And the noise -- I was awakened by the noise,  
6       and I went to the front door. And like I said, I  
7       had my handgun with me. And I seen these guys that  
8       I -- I -- I've never seen before. So I opened the  
9       door of the front door and asked the guys, you know,  
10      what were they doing. What's going on?

11           By this time, Brianna comes out of -- comes  
12      from around the vehicle. And I'm asking her what's  
13      going on, and she's real -- she's not really giving  
14      me any type of information. She's not really  
15      telling me anything.

16      Q.    Can you tell us why? Why were you not getting  
17      good information from Brianna Ware?

18      A.    I don't know if she was just belligerent or  
19      just intoxicated. I didn't even know what her  
20      situation at that time.

21      Q.    Was that normal for her?

22      A.    I believe so. I mean, I don't -- I never  
23      really had any conversations. We never really had a  
24      relationship. I mean, she's a distant relative, so  
25      I really don't know her in the aspect of what kind

1 of person she is, but I know she wasn't really  
2 giving me any type of information on what was going  
3 on and what were these -- what were these guys  
4 doing.

5 Eventually, she finally told me her car or  
6 something -- her car was stuck in the mud. Her car  
7 was stuck. They was trying to get the car out of  
8 the mud or something like that.

9 Q. Was Brianna talking normally? Was she loud?  
10 Was she quiet?

11 A. She was real -- she was kind of like just  
12 babbling, like kind of screaming obscenities,  
13 telling the guys to get -- we're not -- it's not  
14 going to get -- we're not going to be able to get  
15 the car out. And what the hell are y'all doing?  
16 You know, to that effect.

17 Q. And at this point in the story, where -- where  
18 are you? Are you still on ---

19 A. I'm still on the front porch in the door.

20 Q. Okay. What did you do next?

21 A. I come -- I -- I start looking around. I asked  
22 her where my -- I asked her where my sister was at.  
23 I'm still trying to wrap my mind around what's going  
24 on. It's -- you know, it's three o'clock in the  
25 morning, and my girlfriend was pregnant. You know,

1 I had -- I'm just -- I'm still trying to wrap my  
2 mind around what's going on. I mean, I -- I'm  
3 looking for my sister because I -- I see her, but,  
4 you know, I didn't see my sister, so I'm asking her  
5 where my sister, you know, where's Te-Te.

6 Q. Raeford, let me stop you just so the Court  
7 understands. Why are you asking Brianna where your  
8 sister is?

9 A. Because she was with my sister earlier that day  
10 when they dropped my nieces and nephews off.

11 Q. Oh, okay. So your sister had gone out with  
12 Brianna Ware?

13 A. They went out to ---

14 Q. When your sister let with Brianna Ware, was  
15 your sister -- were these two men with them?

16 A. No, they were not.

17 Q. Okay. All right. So and just to clarify this,  
18 as well, and I think this is probably obvious from  
19 your testimony, but did you know either one of these  
20 men?

21 A. No, I did not.

22 Q. Okay. All right. So you've got two strange  
23 men fiddling with the car in your front lawn?

24 A. Right.

25 Q. And you've got your cousin who's drunk and