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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to Allendale County
Court of Common Pleas

The Honorable Frank Addy, Jr., PCR Judge

Appellate Case No. 2025-001289

JAMEL WILLIAMS.....Petitioner,

v.

STATE OF SOUTH CAROLINA.....Respondent.

APPENDIX

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CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 A Yes, sir. Yes, sir.

2 Q Okay. So, then that situation is over and you are
3 inside, correct?

4 A Actually, I don't know if that situation was over
5 or not. Because when I went in the house I tried to get
6 Bernard to come in the house too. But he didn't make it
7 into the house, so I can't tell you what happened outside
8 the door with Mr. Granger and Bernard.

9 Q Well, you just told this jury that you were
10 telling Bernard to stay put until the situation was over, so
11 you were inside the house and the robbery that you were
12 talking about had ended?

13 A No, sir. At the time of the robbery we was on the
14 front porch.

15 Q After this robbery that you talked about?

16 A After the robbery I went into the house and trying
17 to get Bernard to come in the house. Instead of Bernard
18 coming into the house Mr. Tyrek came into the house, behind
19 me, and slammed the door.

20 Q You didn't tell me that you rushed inside to
21 holdup?

22 A Why would I rush into my own house?

23 Q Because you had just seen somebody get robbed
24 right outside of it with a gun?

25 A I'm trying to get them to leave.

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 Q But you didn't pull a gun at that point?

2 A No, sir, I didn't thought necessarily of pulling
3 the gun because I kept asking them to leave, along with
4 everybody else.

5 Q You never --

6 A I didn't know that it was going to escalate to
7 that point right there.

8 Q So, these people are waiving guns around for an
9 extended period of time and you have a gun. You never use
10 it to just show it. (demonstrating) You are just holding
11 it, hidden in your pants, and you just keep asking them to
12 leave?

13 A Yes, sir.

14 Q And you never call the police?

15 A I mean, I didn't have the chance. My phone was
16 dead.

17 Q Never asked anybody else to call the police?

18 A I mean, they never did call the police neither.

19 Q But you -- exactly. Nobody else called the police
20 until after you shot Ty and Raheme?

21 A Nobody called the police when they say the tablet
22 was missing.

23 Q Couldn't that be because nobody else was afraid?

24 A Could that be, could that believe -- could that be
25 because they wanted to take the law into their own hands?

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 Q I would like an answer to my question, not another
2 question.

3 MR. PLEXICO: I believe that was an appropriate
4 answer, Your Honor.

5 THE COURT: Please answer the question.

6 BY MR. EVANS:

7 Q Could that be because nobody else was afraid,
8 except you claiming to be so today?

9 A I mean.

10 THE COURT: Sir, you need to answer yes or no and
11 then explain.

12 A I don't know.

13 BY MR. EVANS:

14 Q In the moments leading up to the shooting of Ty,
15 you testified on direct examination that Raheme was not in
16 the home; is that right?

17 A Can you repeat your question again, sir?

18 Q In the moments before the shooting of Ty, you
19 testified on direct, to your lawyer, Mr. Plexico, a moment
20 ago that Raheme Granger was not in your home; is that
21 correct?

22 A Like, what are you asking me? Like, before the
23 shooting took place or during the shooting?

24 Q I'm asking you, in the moments before the shooting
25 of Ty, Raheme Granger was not in your home; is that correct?

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 Was that your testimony?

2 A He was left outside with Bernard Elmore on the
3 front porch.

4 Q He was left outside, and you were inside?

5 A Yes, sir.

6 Q You said that Ty said that he would air this bitch
7 out?

8 A Yes, sir.

9 Q Referring to his gun?

10 A Yes, sir.

11 Q What kind of gun was it?

12 A I mean, like I say, I don't know what type of a
13 gun it was. I never seen his gun. The only time I seen his
14 gun, he lift his shirt up. But he never did fully pull it
15 out.

16 Q Was it a revolver?

17 A I mean, I don't know.

18 Q You said that he would air this bitch out, and
19 that is what you tried to do; isn't that right?

20 A No, sir.

21 Q You shot off five rounds?

22 A No, sir.

23 Q There is five empty shells in there.

24 A I mean, I can't dispute how many shell cases in
25 that gun. All I can say, I shot Tyrek Mitchell three times

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 and Mr. Granger one time. Four shots.

2 Q And you didn't know where the first shot went, a
3 gun just went off; that is what you testified to, is that
4 right?

5 A I don't know.

6 Q But you know that there were no shell casings
7 found?

8 A I don't know that, because I don't know anything
9 about the crime scene after I left.

10 Q The -- one of the bullets was misfired?

11 A I don't know that either. I only go off of what
12 you are telling me.

13 Q So you kept pulling the trigger?

14 A No, sir. After I shot Mr. Granger I dropped my
15 weapon and I ran.

16 Q Where did you drop it?

17 A All I can tell you is, I dropped it somewhere in
18 the living room. I can't tell you the exact spot.

19 Q And you locked the door?

20 A No, sir, I never locked the door. If I would have
21 locked the door Mr. Granger would never be able to try to
22 attempt to come in.

23 Q And you left the scene?

24 A I mean, I left the scene because the family, the
25 victim family got there before the officer did.

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 Q So, you did -- you lingered at the scene enough
2 time to see the family of the man that you just killed?

3 A No, sir, I ran straight to the woods and hid in
4 the woods.

5 Q Which is it?

6 A I hid in the woods until the next following
7 morning and I turn myself in.

8 Q If this is your home and you are defending it, you
9 don't know that the danger is over because you saw Mr.
10 Granger run, right?

11 A Yes, sir.

12 Q So you knew he wasn't dead?

13 A There was no need to chase Mr. Granger and shoot
14 Mr. Granger again, when he clearly dropped his weapon.

15 Q He clearly dropped his weapon?

16 A Yes, sir.

17 Q So there is three guns total?

18 A Yes, sir.

19 Q And you ask this jury to believe that somehow two
20 went missing and it is the right two to frame you?

21 A I'm not asking the jury to believe that, because
22 honestly I don't know what happened to those guns. The
23 paper say silver revolver, that is a black revolver.

24 Q You asked Katie McCallister about the car?

25 A Yes, sir.

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 Q What did she tell you?

2 A She told me that she searched the car.

3 Q Didn't find a gun?

4 A I mean, I can't dispute what happened to the gun.

5 Q They only found the gun that you admit today was
6 yours, that you used?

7 A I understand that. But if you recall back to
8 Mr. Granger's testimony, he said that he went back into the
9 house to retrieve keys. And Ms. Katie testified she
10 received his property, but she didn't come up with no keys.

11 Q When did the lights come back on?

12 A I can't tell you that because after --

13 Q Because you ran?

14 A Yes, sir.

15 Q Ran away from your home?

16 A I mean, if I would have stayed and then I would
17 have probably got shot and killed, who would be on this
18 stand here today to tell the truth.

19 Q You had a loaded gun?

20 A I mean, everyone had a loaded gun.

21 Q Everyone?

22 A Mr. Granger, Tyrek Mitchell, and I.

23 Q So, everyone had a loaded gun and you had just
24 shot --

25 A And they use to me --

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 Q Hang on. Everyone had a loaded gun, you had just
2 shot two people and you decided to run away, but leave your
3 gun?

4 A I mean, I ran out in the field. After I shot
5 Mr. Granger, I dropped the weapon and ran.

6 Q So, we agree. So, the danger to you must have
7 been over, otherwise why would you give up your protection?

8 A I mean --

9 Q But everybody had a gun.

10 You testified, I just want to make it clear.
11 You testified on direct that you don't know where that first
12 shot came from when you were struggling?

13 A I don't know, because both of our hands was on the
14 gun.

15 Q Both of your hands were on the gun?

16 A Yes, sir, but I can't leave myself out to say that
17 I wasn't involved in the first shooting, my hand was on the
18 gun. But I know for sure I shot the second, third, and
19 fourth shot.

20 Q And the fifth --

21 A I never did shoot the fifth shot.

22 Q -- that is in Mr. Granger?

23 A If I shot the fifth shot, who did it hit, where it
24 went? I know for sure I didn't shoot the fifth shot.

25 Q In Mr. Granger's face.

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 A You are saying that the fifth shot went into
2 Mr. Granger's face?

3 Q He was shot, correct?

4 A You are saying that the fifth shot went into
5 Mr. Granger's face?

6 Q There's -- there's five empty shells.

7 A I know, you just told me that. But you just also
8 said that the fifth shot went into Mr. Granger's face.

9 Q You admitted to shooting Mr. Granger in the face?

10 A With the fourth shot.

11 Q With the fourth shot. So, that means that of the
12 five empty shells in this gun, when APD found it, you are
13 not responsible for them?

14 A I mean, once I left the scene I dropped that gun.
15 So I can't tell you who touched that gun or did anything,
16 because it clearly in paperwork that other people's hands
17 was on that gun also.

18 Q Not Tyrek Mitchell's?

19 A I mean, to my knowledge it was.

20 Q And you -- not on the trigger.

21 A I mean.

22 Q Your DNA is on that trigger?

23 A Both our hands was on it.

24 Q Other hands were on it and you said that you
25 received it from somebody else; is that right?

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 A I did say that, I'm not going to lie. I had said
2 that, I had said that out of fear because I'm not supposed
3 to have a gun. I am a convicted felon.

4 Q You are. And you got out of prison recently,
5 isn't that right, before this event?

6 A Yes, sir.

7 Q And you came out a man?

8 A Yes, sir.

9 Q You are proud of that?

10 A I'm proud of that because I was immature. And I
11 was just like Mr. Loadholt and all of the rest of these
12 gentlemen before I went in. But I can truly say, I am a
13 changed man. I am not like that anymore.

14 Q You are not like that anymore, but you did go to
15 the police and lie?

16 A I mean, if you want to say that I lied,
17 Mr. Granger also lied. Mr. Granger said two female --

18 Q No, Mr. Williams, I'm talking to you, I'm asking
19 about you.

20 A Can I make a statement?

21 THE COURT: You need to answer the question.

22 THE WITNESS: I had answered the question.

23 THE COURT: Rephrase the question.

24 BY MR. EVANS:

25 Q You lied to the police, did you not?

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 A Yes, sir.

2 Q You didn't say, tell them that you did this until
3 they told you about self-defense and protecting the babies;
4 is that right?

5 A I mean.

6 Q Is that right?

7 A I didn't know anything about self-defense, but
8 yes, sir. Which is the truth?

9 Q You had two days to think about it.

10 A No, sir, I been asking to speak with the agents,
11 but I didn't have their number or anything.

12 Q But it was two days between the two interviews?

13 A I don't -- I don't know.

14 THE WITNESS: Your Honor, can I say something?

15 THE COURT: Sir, no, it has to be in response to a
16 question. Your attorney is going to get an opportunity
17 to question you.

18 THE WITNESS: It was in response to a question.

19 THE COURT: I said that it needs to be in response
20 to a question, just wait.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: That's all of the questions that I
23 have, Your Honor.

24 THE COURT: Mr. Plexico, any redirect?

25 MR. PLEXICO: None, Your Honor.

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 THE COURT: Okay. You may step down, sir.

2 THE COURT: Anything further, Mr. Plexico?

3 MR. PLEXICO: The Defense rests, Your Honor.

4 THE COURT: Ladies and gentlemen, at this time the
5 Defense has rested its case as well. Are there any
6 further witnesses for the State?

7 MR. EVANS: May I have a moment briefly?

8 THE COURT: You may.

9 (Pause.)

10 MR. EVANS: No, ma'am.

11 THE COURT: Ladies and gentlemen, at this time the
12 Defense has now rested their case. And what we have
13 left to do in this trial is you hear the closing
14 arguments of the lawyers and then I'll charge you on
15 the law that is applicable to this case. However,
16 there's a matter of law that I need to take up with the
17 attorneys before we can do that. So, ladies and
18 gentlemen, I will ask you to go back to your jury room
19 and refresh yourselves.

20 I am going to remind you, do not discuss this
21 case. Again, while you have heard all of the evidence,
22 you have not heard the arguments of the lawyers and I
23 have not charged you on the law that is applicable and
24 it would not be appropriate for you to discuss this
25 case at this time. Again, we will be back with you

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 shortly to let you know where we are going from here.

2 Okay. You are excused back to your jury room.

3 (The jury exits courtroom at 11:06 a.m.)

4 THE COURT: Okay. Any motions?

5 MR. PLEXICO: Your Honor, I would renew my prior
6 motion based on a preponderance of the evidence
7 standard for a directed verdict for attempted murder
8 and murder and possession of a weapon during commission
9 of a violent crime, in that I don't believe that the
10 jury has any more evidence that would allow them to do
11 more than speculate as to my client's guilt, Your
12 Honor. And I would move for a directed verdict of not
13 guilty based on that.

14 THE COURT: Mr. Evans.

15 MR. EVANS: I renew my previous arguments.

16 THE COURT: All right. Respectfully, again, I'm
17 going to deny your motions. You both were given a copy
18 last night of the proposed jury charges and I
19 understand that you both agree and want him a defense
20 of habitation, which we have put in. Also, as to the
21 attempted murder charge, have they seen what is now
22 being put in?

23 MR. EVANS: I haven't had a chance to print it,
24 Judge, but I'll look at it.

25 MR. PLEXICO: I haven't looked at it, Judge.

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 THE COURT: Okay. What we will do is this: We
2 are going to go ahead and take about ten minutes, 10 or
3 15 minutes, and you two look at it and get yourselves
4 prepared for closing arguments. And by the clock in
5 the back of the courtroom it is 11:10, so let's come
6 back at 11:25 and we will go ahead and do closing
7 arguments.

8 All right. We will be at ease for 15 minutes.

9 (Brief recess.)

10 THE COURT: Any exceptions or additions to the
11 charges from the State?

12 MR. EVANS: No, ma'am. My primary concern was
13 just making sure that we had that fresh State V King
14 language in the attempted murder, and I think it's
15 covered now.

16 THE COURT: Okay. Mr. Plexico, any exceptions or
17 additions?

18 MR. PLEXICO: Yes, Your Honor. Let me get it in
19 order here by page number. Page 8, on attempted
20 murder, the third paragraph, after -- in the third
21 paragraph, after the first sentence, I believe that the
22 rest of the paragraph reads like an implied malice
23 charge. And I believe that it'll be confusing to the
24 jury. And I think that it borders on implied malice
25 and I would ask that the rest of that third paragraph

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 of item two, attempted murder, on Page 8, be stricken
2 from the jury charge.

3 THE COURT: Okay, I think it's appropriate. I
4 think the only way that you can say or show that
5 someone has specific intent to commit attempted murder
6 is by the act. And, of course, the acts and conduct
7 would be the use of a gun, the use of shooting three
8 times. I think that that can only be shown by the
9 facts and circumstances that the jury finds. So,
10 again, I think it is appropriate.

11 MR. PLEXICO: My next exception is number 11, on
12 Page 11, excuse me.

13 THE COURT: Let me get to it, hang on? What is
14 this about?

15 MR. PLEXICO: It is -- after the first -- after
16 the first full paragraph, beginning the next paragraph
17 begins with examples and ends with -- excuse me, the
18 first sentence of the next paragraph begins with
19 examples and ends with place. I believe that those are
20 comments on the facts and I would ask that those be
21 stricken. And it is a limited -- it appears to be a
22 limited -- I think that the effect would be that it
23 would confuse the jury and it would be limited.

24 THE COURT: I agree with you. I think that
25 pointing a gun goes too close to commenting on the

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 facts.

2 MR. PLEXICO: I would ask for the whole sentence
3 to be struck.

4 THE COURT: Which whole sentence?

5 MR. PLEXICO: "Examples of assault would include."

6 THE COURT: Two sentences, you want all of that
7 struck?

8 MR. PLEXICO: Yes.

9 THE COURT: I will strike that, I agree. That is
10 too close to the potential facts that the jury will get
11 from some of the testimony. Okay.

12 MR. PLEXICO: Then, on Page 13, I believe that on
13 the defense of habitation and the second paragraph in
14 the second sentence, I think that the word "or a guest"
15 should be added because it seems to be limiting it to a
16 defendant or a member of the household. I believe that
17 it should read, and I think it's proper under the law,
18 that a Defendant or a member of the Defendant's
19 household or a guest is attacked in the Defendant's
20 home.

21 THE COURT: We took this straight from what you
22 gave us.

23 MR. PLEXICO: Well, I guess I wanted to improve
24 it.

25 THE COURT: So, where do you want to put it?

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 MR. PLEXICO: Just after a member -- or a member
2 of the Defendant's household, comma, or a guest.

3 THE COURT: Or their guest.

4 MR. PLEXICO: Or their guest. That would be fine.

5 MR. EVANS: May I, Your Honor?

6 THE COURT: Yes.

7 MR. EVANS: I think that's all covered by the
8 defense of others and self-defense.

9 THE COURT: I think it is too.

10 MR. EVANS: The defense of habitation, if it means
11 anything, is different and applies to your home. If he
12 wanted just self -- I mean, he has got self-defense
13 that applies universally already in a separate defense.

14 THE COURT: I'm not the one that put defense of
15 habitation in there. I'm putting it in there because
16 you requested it. I took it out. Because I believe
17 the original charge was the best about self-defense of
18 themselves and other people. I mean, we discussed when
19 you are in your house there is no duty to retreat. You
20 are the one requesting it.

21 MR. PLEXICO: Yes, Your Honor. Further, Your
22 Honor, the last two paragraphs of my defense of
23 habitation charge were left out and I think that they
24 are necessary. They were on the following page and was
25 not the law. I think that they were omitted

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 accidentally on my defense of habitation, because it's
2 not the part that starts with -- on mine, do you have
3 mine up there?

4 THE COURT: Yes.

5 MR. PLEXICO: Page 2, the two paragraphs ending
6 the actual jury charge were left out. And I believe
7 those were necessary to have a complete charge of
8 defense of habitation.

9 THE COURT: Okay. Is that because, just so I
10 understand it, is that because there was alleged
11 testimony that the shooting of Mr. Granger, I heard
12 some testimony that occurred on the doorstep, and there
13 was a question of whether or not it was in or outside
14 of the door.

15 MR. EVANS: I think that is a question for them
16 and I -- I will concede that these two paragraphs are
17 fair because of that, and I recognize them from the
18 charge, so I think they are.

19 THE COURT: Okay, we will go ahead and put those
20 back in. Okay.

21 MR. PLEXICO: Thank you, Your Honor.

22 THE COURT: Absolutely. Anything further?

23 MR. PLEXICO: Since my client fortunately brought
24 it up, I would ask that you charge my charge, number
25 14, unlawful possession of a firearm. A person can be

CROSS EXAMINATION OF JAMEL WILLIAMS BY MR. EVANS

1 acting lawfully even if he's in unlawful possession of
2 a weapon he's entitled to arm himself in self-defense
3 at the time of the shooting. That is my 14 and my
4 client fortunately brought it up.

5 THE COURT: I think it is appropriate as well.

6 MR. PLEXICO: With that, I'm prepared to go
7 forward if the Solicitor has nothing else.

8 THE COURT: All right. And we will bring the jury
9 in.

10 (The jury enters the courtroom.)

11 THE COURT: All right. Welcome back, ladies and
12 gentlemen. At this time what we are going to do is
13 hear the closing arguments of the attorneys, I'll
14 charge you on the law applicable to this case. And
15 your Clerk of Court, Ms. Sabb, has ordered, as I
16 understand, some pizza, and it'll hopefully be here
17 around 1:00 or so. And whenever it comes we will break
18 and get it to you so it's hot. Thank you all. If you
19 will give your attention to Mr. Evans.

20 CLOSING ARGUMENT BY THE STATE

21 MR. EVANS: Thank you, Your Honor. May it please
22 the Court, Your Honor.

23 THE COURT: Yes, sir.

24 MR. EVANS: Mr. Plexico. Ladies and gentlemen of
25 the jury.

CLOSING ARGUMENT BY THE STATE

1 (Video playing.)

2 That is not a man concerned with the safety of
3 others. That is not a man who walked in to admit
4 responsibility. That is not a man who came in because
5 other people were threatening him. That is a man who
6 feels confident that he's talking his way out of the
7 murder.

8 That is not a man who just confessed to shooting
9 somebody outside to a SLED agent. This is serious
10 business and he's resting his head and grinning. I
11 know y'all have taken this seriously. We have been
12 here for days. And I know that you know that you have
13 some serious business left to do.

14 When I'm through talking and Mr. Plexico is
15 through talking, the Judge is going to tell you about
16 that business. She is going to tell you what the law
17 is. She is going to say that you are here to consider
18 whether Jamel Williams is guilty of the murder of Tyrek
19 Mitchell, the attempted murder of Raheme Granger, and
20 possession of a weapon during the commission of a
21 violent crime.

22 She is going to explain what those crimes are.
23 She is going to say that murder is the killing of
24 another person with malice aforethought. What is
25 malice? An evil intent. It doesn't have to be planned

CLOSING ARGUMENT BY THE STATE

1 for a weekend. It can exist for a very short period of
2 time before you take the fatal action.

3 What is attempted murder? Basically, just what it
4 sounds like, you are trying to commit a murder, in this
5 case, another murder, and but for a happy accident you
6 would have succeeded. It is a miracle that you were
7 able to hear from that victim two days ago, that he's
8 able to be here in this courthouse. Those are going to
9 be hard decisions.

10 The good news, maybe the only good news this
11 morning is that your third decision is possession of a
12 weapon during the commission of a violent crime. That
13 is going to be easy. This crime could only have been
14 committed with a firearm, with this firearm. And
15 Mr. Williams told you today that that is what he did.
16 So, if you find either of those two first offenses, if
17 you find him guilty of either of those, easy decision
18 on the third one.

19 But the Judge is going to tell you all about the
20 law. She is the judge of the law, you are the judge of
21 the facts. I'm only the prosecutor. So, if she says
22 anything different than what I say or Mr. Plexico says,
23 listen to her. Okay.

24 Let's talk about the facts. Let's talk about what
25 we heard from this witness stand and in these exhibits.

CLOSING ARGUMENT BY THE STATE

1 And remember, that is what you have to evaluate when
2 you are considering the evidence that is before you
3 this week. Who did we hear from? It started with
4 Ervin Ford, veteran police officer from Allendale PD,
5 good cop, tough guy, big guy. You saw how this
6 affected him. This isn't even his case. This was
7 turned over to SLED. So, Allendale PD doesn't even
8 have a dog in the fight.

9 And while we are on this subject, this is
10 something that the Judge is going to talk to you about,
11 the credibility of the witnesses. Because obviously
12 y'all already know, some of this testimony is going to
13 go against each other. You have to determine who to
14 believe, what to believe. You can believe some of a
15 witness' testimony and not other parts. You can
16 believe all of it, you can believe none of it. How do
17 you make that determination to decide who is credible?
18 How do you decide that? Who has something to gain, who
19 has something to lose?

20 Ervin Ford has nothing to gain. He got there, he
21 secured the scene. He made sure that our next witness,
22 John Lawson, and his people with the EMS crew could get
23 in there safely and try to save Tyrek Mitchell's life.
24 That is what he did. That is what he was there for.
25 But he served another important purpose, he didn't just

CLOSING ARGUMENT BY THE STATE

1 secure the scene, he secured this. He saw this gun
2 next to Tyrek Mitchell, picked it up and made sure that
3 it was safe. Because it was important. He did not see
4 any other gun on the scene.

5 I already told you about John Lawson. He's not
6 here to prove guilt or innocence. He doesn't know
7 anything about who shot who or why. But he told y'all
8 about how Tyrek Mitchell was still alive when he got
9 there, laying on the floor gasping, dying. And how
10 they did everything they could.

11 Next, we heard from our first witness from SLED.
12 Nicklaus Sprouse. Again, not really a dog in the
13 fight. He doesn't make the decisions about who to
14 arrest, why this happened. He is an information
15 gatherer. He's doing his job. He's good at it. Y'all
16 can tell that. You see how he presented himself, how
17 he was able to tell me what he did so clearly. He
18 knows what he is doing, and he did it. And what did he
19 tell you? First of all, he's thorough, he searched the
20 whole place.

21 What did he find? Blood, a lot of it, all over.
22 Went inside, right, marker A, which is on the couch,
23 and the victim's blood saturating that carpet. Blood
24 outside B, C, D, E and F. He said that it looked like
25 a trail of blood. And he told you that based on his

CLOSING ARGUMENT BY THE STATE

1 experience because he goes to crime scenes all over the
2 state, sees blood more times in a week probably than we
3 see in a lifetime, but he said it was a spitting
4 pattern. Whose blood could that be? Raheme Granger is
5 shot in the mouth, that he's spitting.

6 And what did they do with that blood? Well, we
7 will get there. But they collected it. He's thorough
8 but he has got common sense too. He knows that he
9 doesn't need to collect the blood saturating the
10 carpet, because he has only got five, he can give five
11 samples to the lab.

12 And he found some weird blood on the couch, he
13 collected that. That is neither Mr. William's or
14 Mitchell's, but it shows you how thorough they are. If
15 you look at that photo -- and by the way, you will have
16 all of these photos in the jury room with you. That is
17 why they are printed out. You can take them back. If
18 you look at that photo, you can't even tell that it is
19 blood. That is how good they are. Folks who can find
20 blood that small in a scene that is secure within
21 minutes, if there were two other guns, they would have
22 found them.

23 If there were shells from a different gun on the
24 floor or in the parking lot, they would have found
25 them. They do this everywhere, everyday. And they

CLOSING ARGUMENT BY THE STATE

1 found one gun. There are nine bullets. And it was
2 fully loaded with the exception of the bullets that
3 were already fired.

4 And then you heard from a man that I don't want
5 you to forgot because this is a murder trial. And I
6 know Mr. Granger would say that it is about Tyrek
7 Mitchell most of all, but it's about him too. He came
8 down here from New York just like he did two years ago,
9 not for his family this time, but to tell y'all the
10 truth. He didn't know any of these people. He had a
11 tablet with him. Why? Because he took the train,
12 13-hour ride, it gets a little dull, needs something to
13 entertain him.

14 It used to be that we would bring books, don't
15 need to do that anymore. If you have got a tablet you
16 can watch a movie, you can play a game. Get tired of
17 that one, you can move to the next one, not like a
18 book. That is what the tablet is brought for. When it
19 went missing, he wanted it. A couple of hundred
20 dollars. Not unreasonable to want to figure out where
21 that is.

22 So, they go back to the people who had last been
23 seen with it. Not seen with it, but seen in the area
24 in the car with it. All right. Go back to where they
25 dropped them off, Pinewood Apartments.

CLOSING ARGUMENT BY THE STATE

1 They knew that they were going to go and start
2 waving guns around, don't you think they might have
3 reconsidered looking for that tablet if they knew that
4 one of them wasn't coming home? But he didn't start a
5 fight. He didn't make any threats. He didn't pull a
6 gun. He asked people. He didn't even accuse them of
7 stealing. He asked Bernard Elmore, Smack, Hey, have
8 you seen my tablet, you were in the car. Smack gave
9 him \$80. Okay. Argument is over.

10 What does he tell you that he did next? He stayed
11 outside and he had a cigarette. This brings up another
12 point that y'all are going to have to consider, where
13 do the witnesses corroborate each other, whose
14 testimony matches. The testimony of two different
15 people matches up, that makes it stronger.

16 Who else told you that Jamel Williams was outside
17 smoking a cigarette? Joe Loadholt said that he was
18 smoking a cigarette. Takes him about 15 minutes he
19 said. He got about halfway through, seven minutes at
20 least. He's outside minding his business smoking his
21 cigarette. He's not in the house, he's not robbing
22 people, he is just having a cigarette until
23 (demonstrating) gunshots from where his cousin is.
24 What would any of us do?

25 He ran to the house. Afraid of what is happening,

CLOSING ARGUMENT BY THE STATE

1 afraid of what might happen to his cousin that he knows
2 is still in there. And what happens to him when he
3 gets to the door? That is a fine welcome to South
4 Carolina, he gets shot in the mouth. Spitting blood
5 all over. But they want you to believe that he's
6 composed enough to drop his gun that he supposedly
7 has -- first of all, if he drops it, that is not
8 exactly a great way of hiding it. And it's gone when
9 the police get there. But okay, yeah, he drops his
10 gun, runs away, then somehow we are supposed to believe
11 that he took Ty's gun, which nobody else saw, except
12 one guy. We will get to him though, don't worry.

13 He is spitting up blood all over the parking lot.
14 He has been shot in the mouth. But he has got a master
15 plan. That is what they want you to believe. Use your
16 common sense, folks. You are not required to check
17 that at the courthouse door.

18 Mr. Granger also, I think this is significant.
19 And normally prosecutors look to people who can make
20 identifications and Mr. Granger couldn't. That makes
21 him more credible. Why? Because if he was here to lie
22 and put away somebody for something they didn't do,
23 wouldn't he have stood up and said, That is the guy.
24 But he's not here to lie, he is here to tell the truth.

25 Another witness, who is credible for a weird

CLOSING ARGUMENT BY THE STATE

1 reason I think, is Joe Loadholt. He did not want to be
2 here to talk to me and talk to y'all. Again, that
3 makes him more credible. If he wanted to come in and
4 put Jamel Williams away for something that he didn't
5 do, wouldn't he have seemed a bit more enthusiastic?
6 What did Joe Loadholt say? Yeah, there were kids
7 there, kids live there. But what did Jamel do? He
8 locked the door.

9 If you are trying to get people out of your house
10 who are in your house, why are you locking the door?
11 He said that Jamel pulled out a gun and said, I'm going
12 to air this bitch out. Now, where else have we heard
13 that before, or in this case, in this trial later? We
14 heard that phrase again on this screen and this morning
15 from that witness stand. Jamel Williams used that
16 phrase. He is saying Ty said it. It is a funny thing
17 about phrases, when you use them, they come up in your
18 head.

19 So, Joe Loadholt said, You have got 30 seconds or
20 I'm going to air this bitch out. He's going to empty
21 that gun. What did he say that Ty said? He said that
22 Ty fell. And he said that he was begging for his life.
23 And that testimony was not challenged. I've got more,
24 but that ought to be enough right there.

25 He said he saw Jamel shoot his best friend in the

CLOSING ARGUMENT BY THE STATE

1 head more than once. That is malice. He shot him in
2 the arm and then he ran out the door. And Joe Loadholt
3 knows who Jamel Williams is, he IDd him in court, he
4 IDd him in the line-up. There's no mistaken identity
5 here.

6 I have already went over this, but he told y'all
7 Raheme Granger, who he didn't know before but he knew
8 he was Ty's relative, he was outside smoking a
9 cigarette, not inside. He never saw either of them
10 with a gun. Well, maybe you say, he just met Raheme
11 Granger. But what did he know about Ty? Who was Ty to
12 him? His best friend. He said it right there. First
13 thing he said.

14 You also heard from family of Mr. Williams, two
15 ladies. That makes them credible because you know that
16 they don't want to be here. They are here because they
17 have to tell the truth. Ronisha Hightower. What did
18 she say about this argument? It was not violent. It
19 was not an armed robbery. An armed robbery takes place
20 in a parking lot of an apartment complex where there
21 are all of these people around and no one is going to
22 know except for the man on trial. She wasn't afraid
23 for her safety. She wasn't afraid for the babies'
24 safety. She didn't see any guns.

25 Yes, they asked them to leave. You can ask

CLOSING ARGUMENT BY THE STATE

1 somebody to leave for anything, for being a jerk. If
2 somebody has got a gun in your home, you act
3 differently. She said that she was in the kitchen with
4 the children and with Laquia, her sister, when the
5 shots went off. And she heard no threats, no struggle.
6 She certainly didn't hear Tyrek Mitchell and Raheme
7 Granger saying that they would bring people down from
8 New York and kill everybody in the house.

9 And she didn't see Jamel Williams after the shots.
10 He ran away. You heard from Latoya Patterson, the
11 actual tenant of apartment [REDACTED]. She told you Jamel
12 stayed there sometimes, other times he stayed with his
13 mama. Counsel told you that his address is in Fairfax.
14 More importantly, she and somebody agreed they were not
15 afraid, they didn't think anything like this would
16 happen, they didn't see any guns.

17 And where was she when the shots were fired?
18 Outside where apparently Raheme Granger is putting guns
19 up to everybody's head, or at least to Bernard Elmore's
20 head and demanding money. Did she see any of that?
21 Wouldn't that be important to tell y'all if she saw it
22 with her cousin inside? She didn't see any guns and
23 she didn't see Jamel Williams after the shooting
24 either.

25 Again, he fled what is supposed to be his home

CLOSING ARGUMENT BY THE STATE

1 that he is protecting. And that was everybody who was
2 on the scene. Now, we get to the most credible folks
3 of all, the expert witnesses. I'm not telling you that
4 they are credible just because they are smart, they
5 have had training, but again, remember, they don't have
6 a dog in the fight.

7 The most credible witness in this whole case is
8 Dr. Ross. She's done so many autopsies she can't even
9 count. She knows what is going on. And Mr. Plexico
10 didn't challenge her testimony because it's right. And
11 she told you that Ty Mitchell died because there was a
12 bullet in his brain. And she pulled it out.

13 What else did she tell you? There was no soot or
14 stippling on any of these wounds. Why does that
15 matter? Because it means it is not a shot at close
16 range. When you shoot a gun more than the bullet comes
17 out, gunpowder and heat come with it. And that leaves
18 a mark if you are close enough. None of that. None.

19 Mr. Plexico didn't ask about that. He asked her
20 about the drugs that were in his system. First of all,
21 that is not her area. The next witness testified to
22 that. He just wants you to think Ty uses illicit drugs,
23 marijuana. Just like his client.

24 That is not what this case is about. Ty didn't
25 get shot because he uses marijuana and no one is going

CLOSING ARGUMENT BY THE STATE

1 to shoot because he uses marijuana, okay. He wanted to
2 make you think that Ty was an elicited drug user, so he
3 asks about the Morphine. They took him to the
4 hospital. They were trying to save his life. They
5 tried to ease the pain.

6 Then you heard from Tracy McKinnon who actually
7 found those things. You heard from Ryan Dewane, also
8 from SLED, an expert in DNA. She knows what she's
9 doing, she knows what she's looking for. And what did
10 she tell you? First of all, she told you that Ty and
11 Jamel did not have any blood outside except marker F,
12 marker F right by the car, that has got Ty's blood on
13 it. Yes, it does. That was the highest number she
14 gave y'all.

15 Who cares how the keys got outside? Mr. Plexico
16 wanted to challenge Mr. Granger on, did he go get the
17 keys or did somebody else get the keys. Mr. Granger
18 remembered the gay guy getting the keys. Who cares.
19 We know he was in his car, that is where he met the
20 police. That is where he met Erwin Ford. The victim's
21 blood was found on those keys next to where? The car.
22 But there's no gun.

23 What Mr. Plexico wants you to believe is that he
24 took the gun, I don't know which gun because there is
25 so many at this point, he took a gun Ty had. Well, he

CLOSING ARGUMENT BY THE STATE

1 magically didn't take it, I guess, until his other
2 witness saw it first. Oh, don't worry, I'll get to
3 that. And then managed to hide it. Again while he's
4 spitting. Excuse me, I don't want to spit in the
5 courtroom. And y'all, it's logic, it's common sense.
6 You have to believe so much to buy into his story.

7 What else do we know about this blood? I guess
8 that we know that it's Raheme Granger's blood because
9 Ty and Jamel were excluded. They are the ones that she
10 had the known samples for. They didn't need a known
11 sample for Raheme Granger because he says that he's
12 spitting blood. Sprouse says that the blood is in a
13 spit pattern. And y'all Can see it for yourself.
14 Raheme's blood.

15 Where was Raheme's blood not? It is not inside.
16 And it is not on his face, it is in his mouth. Ford
17 didn't even know that he was hurt. Nobody knew that he
18 was hurt when they got there. He had to tell them.

19 What else did Ryan Dewane tell us? She told us
20 about DNA that she looked for here. She examined --
21 she didn't hold the gun, you all know that. She had a
22 swab that other people had made for her. She examinaed
23 a swab from here, the trigger, the grip, and the
24 handle. What did she tell you? What did she tell you
25 about that trigger? Jamel Williams 580 times more

CLOSING ARGUMENT BY THE STATE

1 likely than not contributed to the mixture. Okay. We
2 know that it is a mixture. We know more than one
3 person has touched it. We also know that Jamel got it
4 from somebody else because he told you that.

5 What did she tell you about Ty's DNA? It is
6 excluded from the trigger. Not on it. Last witness
7 you heard from from SLED, Chad Smith. And not only is
8 this guy a credible witness, but he's got what sounds
9 like a real fun job, he gets to shoot guns all day and
10 not hurt anybody. He told you that, revolvers are
11 different. If it's a gun that expels shells, they can
12 take a shell and compare it to a test shell that they
13 have fired in the lab. Can't do that. Can't do that.
14 Wish we could. Because the shells are still in the gun
15 when they get it. So you can't say that this shell
16 came from this gun because we already know it.

17 He told that you this gun was in good working
18 order. And he told you that these are the kinds of
19 bullets and shells that work with this gun. And he
20 told you -- he examined these items, and they are too
21 damaged for him to say that they definitely came from
22 that gun. Because ironically, as these bullets are
23 tearing up Raheme and tearing up Ty's head, the head is
24 tearing up the bullets. But they are consistent with
25 this type of gun. And we now know this morning that

CLOSING ARGUMENT BY THE STATE

1 Jamel Williams says, Yeah, that is the gun that I used.
2 So I would like this to come from Chad Smith if he had
3 the science to say so, but we know this is the murder
4 weapon.

5 That was our case. Mr. Plexico and the Judge are
6 going to have more to say to you about defenses,
7 self-defense, defense of others, and defense of
8 habitation. Y'all basically know what these are
9 already. The Judge is going to instruct you in great
10 detail. She is going to tell you that for self-defense
11 to apply the Defendant, the accused, must be without
12 fault in bringing on the difficulty, without fault
13 after he locked the door and pulled the gun out and
14 said, I'm going to air this bitch out.

15 He's got to -- you have got to believe that there
16 was actual imminent danger and that there was no other
17 way to avoid it other than taking a life, or trying to
18 in the case of Mr. Granger. Actual imminent danger or
19 a reasonable belief, a belief that a reasonable,
20 prudent person would have. This kid is in your house,
21 he is acting like an idiot. Is that actual imminent
22 danger? Is there no way to avoid it other than locking
23 the door and not letting him leave and shooting him in
24 the head?

25 This guy from New York who you don't know is

CLOSING ARGUMENT BY THE STATE

1 outside for seven minutes. Is that imminent danger?
2 Then he's coming to check on his cousin that you just
3 shot, and that is automatically a threat to you? You
4 can't find self-defense if you don't find these other
5 missing, mystery guns. Period.

6 The Judge and Mr. Plexico are going to talk to
7 you about defense of others too. That is -- I mean,
8 again, she is going to explain in great detail, but
9 it's really pretty simple, self-defense from somebody
10 else. That is a good thing, you want people to protect
11 you. That is a good thing. It is not a good thing of
12 using it when those people were not in danger, because
13 they were not in the house. Latoya said that she had a
14 baby outside, or not in the room where Ronisha said she
15 was with the others. They were in the kitchen.

16 They were not in the room where the shooting
17 happened. She didn't even hear any of this. And yet
18 he wants y'all to believe that he's defending other
19 people by shooting wildly in the dark through these
20 walls Mr. Plexico keeps bringing up that bullets can
21 fly right through apparently. If they can fly right
22 through from Ty allegedly, they can fly right through
23 from this gun if you are shooting randomly in the dark.
24 That is what he told you. How does he defend the
25 others who are not even in the house? They are

CLOSING ARGUMENT BY THE STATE

1 outside.

2 He is also going to talk to you about the defense
3 of habitation. Pretty similar. These are all kind of
4 built on each other. But again, you have to use
5 reasonable force to expel a trespasser or an unwelcome
6 guest, someone who is out standing -- reasonable force.
7 You can't just use deadly force because you don't like
8 what they are saying. You can't just use deadly force
9 because you are tired and you want to go to bed. You
10 can call the cops. You can maybe even grab them and
11 throw them out the door. That is not deadly force.

12 All of these self-defense, defense of others,
13 defense of habitation, what you have to keep in mind is
14 reasonableness and proportionality. Proportionality
15 means meeting force on an equal level. That is why you
16 can't just shoot someone for being a jerk, getting in
17 an argument. Even if they both say they are welcome.
18 Ben Franklin said fish and guests stink after three
19 days. Wasn't wrong. What he didn't say was, blow the
20 fishes brains out.

21 Let's talk about Timothy Myers. Other than the
22 man who is on trial, this is the only person who came
23 in here and said he saw a second gun. The only person.
24 And by the way, after this morning, we are looking for
25 three, okay. He didn't say that he saw a third.

CLOSING ARGUMENT BY THE STATE

1 Mr. Williams' other witness doesn't match his own
2 testimony. And he is -- this guy is a man with 20/20
3 vision but the lousy hearing because he heard one shot
4 and we know there were five because there's five empty
5 cartridges and four wounds in people. But he heard
6 one. But he gets to the door and he sees a man dying
7 on the floor and he sees one gun, a revolver, and then
8 study that, that is a Smith and Wesson. From outside,
9 from outside he looks in and he can see two guns.

10 Now bear in mind, obviously this photo was later,
11 the body and the murder weapon has been removed, okay,
12 but it shows you the perspective that he's talking
13 about. You cannot even see the bloodstain from this
14 angle, let alone the bloodstain, obviously, where the
15 victim was -- let alone the rest of this scene from
16 further inside. This is State's 9. That is where that
17 gun would have been. And you -- and these pictures,
18 State's 9 from inside and State's 5 from outside.
19 These don't match.

20 He could not have seen some other magic gun, Smith
21 and Wesson, and he sure as heck fire couldn't have read
22 the little logo on the gun to know what it was. That
23 is not believable. This man is a relative of the
24 defendant who told you that. He has an interest to see
25 this guy set free. This story is just wild. It's

CLOSING ARGUMENT BY THE STATE

1 wild. And what is even wilder is, just like we heard
2 this morning from his counsel, oh yeah, I already
3 talked to him, I already talked to him, shooting in
4 Allendale. Allendale City turned over to SLED. Who
5 did you talk to? Fairfax Police Department. Who else
6 would you talk to about a shooting in Allendale but the
7 Fairfax Police? An officer that he couldn't name.
8 Bounced around a couple of different names. Do we
9 really believe -- do we really believe? This is a
10 small town. This is a tight-knit community, and that
11 goes double for law enforcement. Do we really believe
12 he said, Hey, I saw a second gun at that shooting, and
13 that Fairfax wouldn't have told SLED or at least
14 Allendale PD? Come on.

15 To believe him, you have to believe that somebody,
16 Mr. Granger, or somebody else came up to the apartment,
17 saw three guns, knew which was the right one to leave
18 behind to frame Jamel Williams. You get to the scene
19 and you see someone with a gunshot to the head, they
20 don't know which one did it. But they knew which was
21 the right one to take. And took two guns. Well,
22 actually, he said only one gun. It is just not
23 credible at all. It defies logic.

24 And that is because he came here, did y'all notice
25 this, to tell his truth. That is what he said. He

CLOSING ARGUMENT BY THE STATE

1 said, I am here to tell my truth. Not the truth, my
2 truth. And he's got that in common with somebody else,
3 the last witness. The most important one of all. You
4 heard from the Defendant three times. An interview not
5 even 24 hours after, the morning after. This one right
6 here. I don't think that that time stamp is correct.
7 Supposedly it was around 11, I think was the testimony.
8 But we know that the date is right. 3-22-18. The
9 shooting, the murder was the night before. This was
10 the perfect opportunity. Well, maybe not perfect.
11 Perfect would have been, shoot somebody, shoot another
12 guy, go back and lock yourself in your own room with
13 the gun and call the police. That would be perfect.
14 That would be the perfect way to do self-defense,
15 defense of others, defense of habitation. Not to flee.
16 How do you defend your home by fleeing? That would be
17 perfect.

18 But let's just say, let's just say that he came in
19 on this morning and didn't just sit there asking, What
20 happened? Oh, somebody got hit? How many people got
21 hit? You know that. When they say somebody got hit he
22 said, How many people? Because he knows that he shot
23 them both. They didn't say that two people were dead.
24 He knows exactly what is going on. And he knows that
25 he's about to spin a whopper. He says he was outside

CLOSING ARGUMENT BY THE STATE

1 when the shots went off. And then he ran, well, yeah,
2 I mean, you ran way from your home and you are outside
3 and you hear shots going off and you don't know where
4 they are coming from. I get that. But that is just
5 the first story.

6 He keeps going. It is a different story every
7 time. But let's just say that he did come in and told
8 the chief, my truth, all right. Let's say that he came
9 in and said, Oh my God, I have got to tell y'all, and
10 oh, by the way, I just told the officer outside too,
11 who walked me in and introduced me, but I'm here, I
12 cannot believe the last half day, 14 hours, whatever.
13 I never thought this would happen. I shot two people.
14 I can't believe it. I guess maybe I have heard, you
15 know, heard around that I may have killed this guy.
16 And I shot another guy. I'm so sorry, I'm hear to
17 answer any question that you have.

18 But they were waving guns around. They were
19 attacking me. They were robbing my friends. And I
20 have little children in the house. And I just felt,
21 when they pulled the gun out for the last time, that I
22 needed to do something about it in my home. Let's say
23 that he told that story on the 22nd, that would make
24 sense. If that were true. The perfect opportunity.
25 And what is he doing? Lounging and smiling.

CLOSING ARGUMENT BY THE STATE

1 Two days later he has had a chance to think and he
2 knows he's in trouble now, he asks to speak with them
3 again. And so, when we start that interview, you are
4 thinking, okay, he's going to, he's going to come
5 clean. It takes an hour -- y'all watched the whole
6 thing. It takes him an hour to even say that he pulled
7 the trigger. He doesn't come up with it on his own.
8 Special Agent McCallister, she told you the technique,
9 you offer him an out. Because any information is good
10 information. We need to know, so if they will keep
11 talking, we want them to talk.

12 So, she offers up that hypothesis. Because, what
13 does he say before? Where is the gun that shot them,
14 where is the gun that shot them? He knows where the
15 gun that shot them is, he told you this morning. He
16 told you this morning, he dropped it right where he did
17 it. But he's asking them, where is the gun that shot
18 them. I can't figure that out.

19 He's not confessing, not for an hour, not until
20 she pulls it out of him like a string. Can you really
21 believe that? If he had a guilty conscious and if he
22 knew that he had done something tragic, would it have
23 taken him that long? Now, I know that he cried. I
24 watched it. I saw him cry. What was he saying when he
25 cried? "My life is over". No, no, no, no. His life

CLOSING ARGUMENT BY THE STATE

1 is over. He has never cried about what he did to Ty.
2 He said, They are setting me up. It can't be a set-up
3 and self-defense, defense of others, defense of
4 habitation. It cannot be the same.

5 Did he show remorse? Did he show fear? He showed
6 remorse for getting caught. He said that, Everybody
7 knew that that boy was connected to powerful people, I
8 think that's what he said. Powerful people from New
9 York. He said that they said that they were going to
10 bring people and kill everyone in the house. One
11 minute later, what does he say, well, I didn't know his
12 family. He literally said that. Everybody knew, but I
13 didn't know that. How could he rely on everybody knew
14 their reputation, these guys were dangerous and serious
15 people. But he didn't know it at the time, he only
16 found out later. You can't use it if you didn't know
17 about it. It doesn't make sense.

18 And by the way, who are these people? A kid, a
19 high school senior from Allendale. Everybody knew that
20 he had powerful people in New York. The guy from New
21 York is from New York, so he's half right. He doesn't
22 know him. Nobody knows him. Nobody even knew his
23 name. And everybody who saw him said he was cool. He
24 was asking about the tablet. He wasn't threatening
25 anybody, he wasn't starting anything. It doesn't make

CLOSING ARGUMENT BY THE STATE

1 sense.

2 More than half an hour into that interview he's
3 still saying that he heard the shots. Nearly an hour
4 in, I know it's here, he finally said he shot him. One
5 minute later, he said, No, I didn't shoot him. He's
6 not telling them, I am sorry, I exercised self-defense
7 and I want to help you. He's trying to get out of it
8 because he knows he's at fault. That is why he's
9 crying.

10 And it continued today. He said that the shots
11 were with the lights off in a crowded room. He didn't
12 know where the shot went, he didn't know what gun. He
13 didn't know which gun was that first shot. Just on and
14 on and on and on. He says that he, right before this,
15 he told us today, yeah, I told the officer outside that
16 I was involved in the shooting. And then he came in
17 and he denied everything.

18 He went there, and then he called two days later,
19 Katie McCallister, and then he came up on this stand to
20 tell his truth. You are going to go in the jury room
21 and tell us the truth. What is that truth? The truth
22 is that he senselessly stole Tyrek Mitchell's life. He
23 shot a young man, a student, in the head twice and in
24 the arm. He fled the home he claims to be protecting.
25 He shot another man that he hadn't seen in several

CLOSING ARGUMENT BY THE STATE

1 minutes who was checking on his cousin, shot him in the
2 mouth and dropped the gun.

3 Remember what else Chad Smith told you? There's a
4 misfired bullet. He kept shooting. And it is a
5 miracle that this isn't a double murder. Let's say,
6 let's just say that you believe all of this stuff about
7 Ty, let's just say you do for the sake of argument,
8 then this man, I don't want you to forget him, I
9 definitely don't want you to forget his cousin, but you
10 do not forget him either, he comes to protect his
11 cousin and he gets shot in the face. How do you commit
12 self-defense in two directions if there was no other
13 gun?

14 Let's just say, let's just say that you decide to
15 acquit him for murder, you cannot -- you cannot say
16 that this was not an attempted murder right there
17 because he is not defending himself, he has not seen
18 this man. And it is not imminent. And there's not no
19 other way to avoid the danger, period. He shot them
20 both and he meant to do it, he did it in cold blood,
21 and then he ran away. And then he lied and he lied and
22 he lied. Why? The truth shall set you free, so why
23 lie? He lied because he was wrong.

24 Mr. Plexico likes to talk about how he defended
25 America. This was wrong in America. This was wrong in

CLOSING ARGUMENT BY THE STATE

1 South Carolina. And this is wrong in Allendale. Go
2 into that jury room, tell us the truth and give justice
3 to these men.

4 THE COURT: Mr. Plexico.

5 MR. PLEXICO: May it please the Court, Your Honor.

6 THE COURT: Yes, sir.

7 CLOSING ARGUMENT BY THE DEFENSE

8 MR. PLEXICO: Mr. Solicitor, Madam Forelady,
9 ladies and gentlemen of the jury, I'm delighted to be
10 here. And I know that I have a lot to talk about.
11 Don't get angry at me if you get hungry now. I get to
12 get my fair shot too. I want to make this real easy
13 for you.

14 I appreciate Mr. Evans going over all of the stuff
15 in detail. But I'll begin with, give y'all some food
16 for thought. I don't care if the other people had a
17 gun. First off, what do we have? We have got a group
18 that came over. I think that no reasonable juror could
19 disagree with that. We have the apartment number too.
20 Who lives there? My client, the women, and the
21 children.

22 No reasonable juror could disagree with the fact
23 that this group, including Mr. Granger, Tyrek, and Man
24 Man, Devontre Priester, did not live in that apartment.
25 So, we have got the people in the home. We have got

CLOSING ARGUMENT BY THE DEFENSE

1 the other group. Okay. I don't think that there's
2 anything to dispute. Okay.

3 Now, a person in the home, I don't care whose
4 home, in America or Allendale or Kentucky or wherever
5 else it is, now you can't have people walking in your
6 house. What do you do? Hey Beau, you hit the road
7 walking, what are you doing in my home. You get out.
8 Nobody is going to disagree with that. That would be
9 the homeowner's right. That would be the person who
10 lives there. Fellow, hit the road walking, get out.
11 They have got a right to eject you. All right. We all
12 agree there. Nobody. How many times did you have to
13 hear from the witness stand, nobody invited them in.
14 They barged in, bum rushed. All right.

15 Now, we have got Tyrek inside unquestionably. No
16 reasonable jurors are going to say that somebody
17 invited them in. No reasonable juror is going to say
18 that. So, we have got a man in his home. Okay. Now,
19 he's in his home ordering an invader to leave who comes
20 up, assaults him and attempts to take an item from him.
21 I don't care if it's a candy bar. You know what I call
22 that in America? A robbery.

23 When you try to take my gun from me in my home as
24 I order you to leave my home and you attack me, what is
25 going to happen? Bam, bam, bam, bam. And I have got

CLOSING ARGUMENT BY THE DEFENSE

1 every right to do it. And no reasonable juror can
2 disagree with that.

3 Now, that takes care of Tyrek. Now, let's address
4 him. When the other invader, who has already been put
5 out, comes back in my house after I just shot that man
6 and he's coming in uninvited, bam. He is getting a pop
7 in the head too. And who is going to say that is
8 wrong? Who is going to say that you cannot defend your
9 home? Who is going to say that you have to stand there
10 in your own home and have stuff stolen off of you?
11 Where is that going to happen? Not in America. Not in
12 America.

13 They read this case wrong from the start. What
14 has happened to that man is just wrong, wrong. And of
15 course he freaked out. They want to concentrate on all
16 of this other stuff. He is not a smart man, but nobody
17 can dispute what I just said. It just can't be
18 happening.

19 And then he doesn't have -- you don't have rights
20 because you are white or you are black or you are rich,
21 or you are poor or you are powerful in Washington or
22 you are a peon here somewhere under a rock. We all
23 have the same right to defend ourselves, to keep our
24 property. And you can't just barge into somebody's
25 house, attack them and take stuff off of them.

CLOSING ARGUMENT BY THE DEFENSE

1 What is wrong with this prosecution? From the
2 start, a hundred percent, everything. It is just
3 wrong. It is just -- it is discombobulated. I cannot
4 understand what is happening in this case, why this man
5 is on trial today.

6 Now, I want to go into some of the detail. Don't
7 forget the way that I opened because there's no way
8 that they are -- the other people were just in the
9 wrong. You try to do stupid stuff, you try to rob a
10 man in his home, you might get shot. Okay. You might
11 get shot. And if you do and you know, don't go
12 uninvited into people's homes and try to take stuff off
13 of them. All right.

14 Now, I have to catch my breath after that. If you
15 give me a second. Now, they have to disprove beyond a
16 reasonable doubt self-defense. All right.
17 Self-defense is without fault in bringing on the
18 problem. He wasn't invited over. Tyrek wasn't invited
19 over. Okay. Did he bring the problem over? No. What
20 did he do? Leave. Leave. Leave. But they were not
21 leaving, as Joe said, until they got something. And
22 money wasn't enough.

23 My client says they are armed. I have no doubt.
24 Now, why they didn't take the other gun, I don't know.
25 Remember, you had Joe in there, his best friend. Is he

CLOSING ARGUMENT BY THE DEFENSE

1 going to take his friend's gun? Probably. My client
2 freaked out and ran. And they want to blame him for
3 that. Well, it was a horrible experience. Think about
4 how a normal person would react after shooting a couple
5 of people. You know, these are no trained soldiers.
6 Okay.

7 You know, when Captian Ford got there, and one
8 thing that we figured out together, it was about 11
9 minutes plus. All right. So, there was a lot of
10 people around. Anybody could have been in and out.
11 Anybody could have. He had to retrieve his gun, okay,
12 or somebody did, Devontre did. Okay. Someone had
13 plenty of opportunities with all of these people that
14 are standing around.

15 Now, then I would submit where marker F is here on
16 one of these photographs, what makes sense is, by his
17 car he is the one that went in and got the blood on his
18 feet of Tyrek Mitchell and he's over by his car.

19 Now, you know what disturbs me about Mr. Granger?
20 Is that if Mitchell was at school that day and y'all
21 believe, you know, he probably did have that gun. He
22 may have had that gun, did he carry it to school? If
23 he had a mind, he shoots you. There is a guy that I
24 ain't getting along with over in that other class. Or
25 did the big, fancy man from New York have the gun for

CLOSING ARGUMENT BY THE DEFENSE

1 him? Okay. Where did that gun come from? Who was
2 holding it for him? Now, picked him up from school and
3 hung out all day. So, if y'all think he had a gun,
4 what older person is helping him with that? Think
5 about it. In their car. Okay.

6 You know who I would like to have heard from,
7 Bernard Elmore. Who is he? Where is he? In a ditch?
8 I don't know. Devontre Priester didn't come. Now, why
9 couldn't they call the police about the tablet? What
10 was on the tablet? Becuase, you know, the police would
11 want to see the tablet. Was there something on it that
12 they couldn't see? What kind of important information?
13 The man from New York down here in little old
14 Allendale. Okay. What kind of important info did he
15 have on this? I was curious about that, but that is
16 something that we will never know.

17 And how did Granger get in if my client locked the
18 door? That ain't what happened. Give me a minute.

19 (Pause.)

20 MR. PLEXICO: All right. Now, it's kind of
21 laughable, you know. You get a kid, they are easy to
22 impress, you are from Brooklyn, you are a tough guy.
23 Okay. And now it is funny because he can't drive and,
24 you know, he is hoofing it on foot and, you know, he
25 can talk a good game I am sure being from Brooklyn, but

CLOSING ARGUMENT BY THE DEFENSE

1 you know, from his bicycle going down the road. And,
2 you know, he wants to be something that he's not. And
3 he is not a powerful man from New York, he is a guy
4 hitching a ride and riding a bicycle, all right. And
5 that is probably the best way to see him.

6 But children are easy -- young people are easy to
7 impress. You had Ty Mitchell and his best friend,
8 Mr. Loadholt, and what a presentation as a witness for
9 Mr. Loadholt, Joe Loadholt. I won't ever forget that
10 one in my career, and I have been doing this for 30
11 years.

12 Now, why are people best friends? People are best
13 friends because they think alike, they act alike.
14 Okay. They can about predict each other's sentences
15 and finish them for them. You know, that is why --
16 that is what a best friend is. You have the same
17 values. Okay. That is why you get along together.
18 Okay. Okay, all right. That goes for girls and guys.
19 You know, you are just alike.

20 What was his attitude? Joe said, my dog, my dog
21 didn't back down. So you know that he attacked the
22 man, the homeowner. You might as well call it the
23 homeowner, whatever. All right. Let's give a renter,
24 an apartment dweller, and a guy in a trailer, and a
25 lady in a trailer and a man living in a truck the same

CLOSING ARGUMENT BY THE DEFENSE

1 dignity as a homeowner has. Why? Because they all
2 deserve it. No matter how rich or poor, you are living
3 in the White House or the poor house, you have for the
4 same right, the same dignity as the homeowner. All
5 right.

6 Now, so they are good friends. And he says my
7 client, my client was attacking him. Okay. He went up
8 and tussled with him over his own gun in his own home.
9 Who the heck are to do that when you are not even
10 invited and you are not getting out. He stood his
11 ground. He didn't say he was blocked from leaving. He
12 stood his ground and attacked. That is what his dog
13 did, stood his ground and the dog attacked. Joe's dog
14 attacked the homeowner as he was armed in an attempt to
15 take his own gun. You have got to be kidding.

16 What happens when you do something like that?
17 That is how you get shot dead. Why? Becuase it is
18 justified. You go into a home and steal the man's gun
19 out of his hand, not from under his pillow while he
20 sleeps, but steal the gun from his hand. That is an
21 assault and a robbery. Come on. How crazy is that?
22 They read the entire case wrong.

23 Now, who is going to go to the projects at night
24 in a town you don't know? Okay. To find somebody to
25 go collect merchandise that you don't want the police

CLOSING ARGUMENT BY THE DEFENSE

1 to know about, at night, in the projects, unarmed? I
2 would suggest that don't make a whole lot of sense to
3 me. All right. He ain't that big of a guy. All
4 right. You know they had a gun. You know in your
5 heart for them to be that brassy, they had to have a
6 gun because you ain't doing that unarmed. Because you
7 have got some back up. Common sense.

8 Solicitor wanted you to, Could you pretty please
9 give me back the stuff that you stole from me? Come
10 on. They want to portray him like he is just a New
11 York gentleman in a top hat and a cane going to dinner,
12 but you know the truth is not that. The truth is not
13 that.

14 Now, he claimed that he never went in. Everybody
15 else disagreed with that. People that are respectful.
16 That means people who live there. Okay. You know, he
17 testified himself that he said, Don't play with me and
18 he made physical gestures. All right. Well, you know,
19 he got money from Elmore but he denied taking it from
20 him. Now, I don't owe you anything, I did not steal
21 your property. How are you going to get money off of
22 me when you are going to thug me? I am sitting here
23 crying. Do you doubt that he was crying? No. He
24 didn't want to go outside because he knew that
25 something bad was going to happen to him. Okay.

CLOSING ARGUMENT BY THE DEFENSE

1 A mob is running a rich man down by my house. I
2 let him in. The mob comes to my house. I get out my
3 gun and fire in the air and say disperse. Forget that,
4 I get out my gun and point at the mob. Okay. I don't
5 need to say nothing, my gun speaks for me. All right.
6 Now, they come on in to get the rich man, bam, bam, bam
7 because you ain't invading my home. Am I going to
8 jail?

9 Say it was a poor man, say it was a black man, say
10 it was a white man, say it was a widow, say it was a
11 widower I was protecting, I wouldn't go to jail, would
12 I? Because you can't go and invade people's homes and
13 property. You can't do that. I don't care who you
14 are, you can't do it. And I don't care who that
15 homeowner is, they have got a right to stand their
16 ground there. If you ain't safe in your house, they
17 ain't a whole lot of places to go to.

18 Now, how intense had this gotten if he's outside
19 seven to ten minutes. Ronisha said that she was gone
20 for about 30. Okay. And this is going on and on and
21 on and perculating like coffee, and building up. That
22 is what led to the shooting, they wouldn't let it go.
23 What did Joe Loadholt say? He wasn't letting it go
24 until he got the tablet. But there was no tablet. So,
25 there was nothing else for him to do except escalate

CLOSING ARGUMENT BY THE DEFENSE

1 the matter. I don't care who saw his gun or didn't.
2 You heard from two witnesses that said they did have a
3 gun. Okay. And I can flash that up and show you my
4 gun or not. Okay.

5 Now, how quick does that go back down? That
6 doesn't mean Ronisha saw anything, that doesn't mean
7 Latoya saw a gun. Okay. But you know this, they were
8 worried about what was happening and how hyped up Ty
9 was. That was the general description. Okay.

10 Now, you know, he admits, Mr. Granger admits
11 running in that apartment because that is when he got
12 shot. And remember, you know, I pour the concrete, all
13 right, I build the porch, I make sure that it's square
14 to the house and my wife is not breaking her ankle.
15 All right. I put my bench out there. That is my
16 porch. Okay. I go rent a house with a porch, I rent
17 an apartment with a porch, that is my porch. You need
18 my permission to come up on it.

19 And you don't come after being ordered out of my
20 house to barge back in after I had to shoot somebody.
21 Hey, I know what time it is. He is getting plugged
22 too. He is getting plugged too. Because he ain't
23 coming to help me. He ain't coming to console me.
24 That is what happened to him, over a situation that he
25 created over his silliness over a pad and then left

CLOSING ARGUMENT BY THE DEFENSE

1 that young man in there thugging those people in their
2 own home. Okay.

3 So, if you are going to be a robber, be a man
4 about it. Left a boy to do an adult robber's job that
5 he wouldn't do. Put it on the kid. Put it on the
6 teenager. Yeah, we lost a teenager, it is sad. But,
7 you know, you don't go robbing people in their homes.
8 Sorry he put him up to it. He couldn't have said, Boy,
9 you come on with me, I got my money, I am happy. He
10 wasn't happy. He left him to do the job. That is what
11 happened. Think about it.

12 And what did Joe say? They better come up with
13 the tablet. He didn't care about nothing but that.
14 Not the kids, not anybody that would expect to have
15 habitation in their houses or anything else. He said
16 that the house was packed full. He admitted that
17 Elmore was going to get hurt. He was worried, yeah,
18 that he was going to get hurt. Because that is where
19 it was angled. If I give refuge to somebody in my
20 home, ain't nobody coming in there to hurt them. That
21 is just the way that it's going to be. Okay.

22 If you are running down the street and there is a
23 mob after you and I say, Beau, come here. All right.
24 It is like, I don't care if it's a mob or a pack of
25 dogs, I don't have to let a neighbor, just somebody

CLOSING ARGUMENT BY THE DEFENSE

1 that I take a liken to. Okay. If I give -- you know,
2 what do you call that? Human decency. Okay. Oh, no,
3 you have got to go on and get eaten up by that pack of
4 wolves. What has become of us? He wanted to let
5 Elmore stay there, he's crying, he knows that he's
6 going to get hurt, but at least he's doing the decent
7 thing. But now he is a bad man. That is just absurd,
8 totally absurd.

9 You know, and he admitted checking up on his boy.
10 Okay. After the shooting. Another opportunity to take
11 the gun. And remember the other people that were
12 around. So, you know, nobody is there guarding the
13 stuff, ain't no telling what was happening. And you
14 know he bragged about him attacking my client and
15 standing his ground. Okay. And this thing that I
16 heard repeatedly was, It got silent. Okay. And then
17 they heard a gunshot or a break and more gunshots.
18 Silence. There was nobody begging for their life or
19 the women could have heard that. Joe is the only one
20 who said they would want to dramatize it. Okay. Who
21 lost his friend in that thuginess instead of going up
22 and stopping the boy and saying, get out of here, I'm
23 going with you, Dude, you are my bud, ain't nothing
24 going to happen bad here. Okay. Because that is what
25 he should have done. No. No. I mean, think about it.

CLOSING ARGUMENT BY THE DEFENSE

1 None of this stuff here makes a whole lot of sense.

2 So, he couldn't have said that or somebody else would
3 have heard it.

4 And he said Bernard Elmore, crying like a baby or
5 sobbed like a woman. I thought that was sexist, but
6 you know, men can cry too, because they can get scared.
7 They can get scared as a child. A woman can cry. She
8 can get scared as a child. Okay. All right. There's
9 nothing wrong with people having emotions. He was
10 scared. And I am glad that he had an emotion, because
11 it showed his fear. Because that is what it was. All
12 right. And I'm innocent. I'm innocent is what he is
13 saying. He didn't get -- he wasn't going to get a
14 trial. You heard from Ronisha. Ronisha tried to get
15 them out repeatedly. Okay.

16 And the robbery happened, she was inside. Okay.
17 Now, the robbery happened on the stoop. They wouldn't
18 have known about that. Okay. Then the stuff moved
19 inside. And then he leaves, leaving Tyrek in there
20 after Tyrek rushes in. You know, she was never asked
21 by the solicitor exactly what she heard. You know,
22 they simply -- Ty may simply not have flashed his gun
23 in front of her. All right. Who was the point?
24 Bernard and Jamel, that was the point. Okay.

25 Now, you heard from Latoya. All right. She

CLOSING ARGUMENT BY THE DEFENSE

1 wasn't asked exactly what she heard either. She said
2 that Bernard let himself in, and that was unusual. He
3 was seeking some help. Jamel lived there, you know.
4 He bought household goods. Everyone told him to leave.
5 She told him to leave five or six times herself.

6 And she talked about how hyped up Ty Mitchell was.
7 And that is the one that you see in the picture over
8 here. All right. And how he had taken his jacket off.
9 And they were determined to get what they wanted. And
10 she doesn't know what happened after she left. She was
11 gone, she says, about 30 minutes. Okay.

12 And after the shooting the door was wide open.
13 You know, I'll talk to you a little bit about -- I'm
14 sure that there is a lot of stuff that I've missed. I
15 know that you are hungry and I thank you for being
16 patient with me. You know, Jamel loved those kids, and
17 that is true.

18 And I have another supposition for you. And of
19 course, essentially what the SLED agent testified to,
20 Ms. McCallister, is we give somebody an out. In other
21 words, we mislead you and lie to you, okay, to get a
22 confession from you. Okay. We give you an out in
23 order so you say you did it because this is an
24 investigative technique, lying is okay if you are a
25 government officer. Okay.

CLOSING ARGUMENT BY THE DEFENSE

1 Well, what happens when what they are trying, they
2 are using, the fact that they are using is the same
3 fact that motivated you to act? Does that make why he
4 did it in the first place a lie? Who was in the house?
5 Jamel, the kids, and the women. And like I said, I
6 respect a man that stands up for women and children in
7 America today because it doesn't look like to me I see
8 a whole lot of people do it, unfortunately. All right.
9 You know, all you see are broken homes and divorces and
10 just unhappy people it seems like. I wish we had more
11 togetherness and family, unfortunately we don't.

12 But, you know, the man testified, I don't have any
13 children. I tried, but I, you know, keep coming up
14 short. You know, that happens to some of us. But, you
15 know, he is welcome over there, he contributes to the
16 household, takes care of the kids, acts like an
17 appropriate parent. Okay. I'm sure that he's enjoying
18 that little bit of fatherhood because that is
19 probably -- which was taken away from him -- probably
20 all that he is going to get. He won't ever have his
21 own kids.

22 There's nothing wrong with that. Because they hit
23 on that and used that, that is fine, it doesn't make it
24 less true. It doesn't give him less of a right. I
25 don't care who Johnny or Javare Homeowner is, with his

CLOSING ARGUMENT BY THE DEFENSE

1 sister staying there or/and their children, I don't
2 care where it is at, whether it is at that apartment or
3 anywhere else, he would have a right to defend his
4 sisters and defend his nieces and nephews. Wouldn't
5 he? I don't care if it's Johnny, Javare or a fellow
6 named Jamel. They would all have the same right.
7 Okay. And we can't let him lose that right. That is
8 very important.

9 I'll talk to you a little bit about the law. The
10 Defendant is presumed to be innocent. They have to
11 take away -- this is like a robe of righteousness, the
12 Judge I think will tell you. Whatever I say about the
13 law doesn't matter, what Her Honor says about the law,
14 she is the judge of the law. Y'all take that as
15 scripture. Not what I say or what the Solicitor says.

16 Y'all are the judges of the fact. Y'all determine
17 what the facts are in view of what the law is. And
18 nobody can take that right away from you. Individually
19 your conscious must be clear that you have followed
20 your oath. And as a group you need to be clear you
21 have followed your oath and done what was right.

22 And that presumption of innocence, they have to
23 overcome that. That by itself, you can just stop it
24 and say, no, not guilty. All right. Now, they have to
25 disprove self-defense beyond a reasonable doubt. There

CLOSING ARGUMENT BY THE DEFENSE

1 ain't no question about, did my client shoot them.

2 Yeah. Is there self-defense? That is number one. Can
3 I attack a man in his own home and rob him of any
4 chattel, of any goods, of anything after I have been
5 ordered to leave? That is ridiculous. That is just
6 crazy. Of course not. Of course he has got to have
7 self-defense. It just stops there.

8 Then can he invade my client's home to back up the
9 man I just had -- was justified in shooting? Blank no.
10 He gets shot too. That is over and done with. All
11 right. Who caused the problem. Because I leave my
12 back-up nearby when I rob the bank doesn't make me less
13 of a bank robber, does it? No. No. Just think
14 general here, common sense. Common sense.

15 Okay. Now, he also -- you have to overcome
16 defense of others. What about the nut? Just how nutty
17 was Joe going to get? He can act on appearances. If I
18 think he's getting nutty and I'm getting threatened, I
19 am getting assaulted, the women or the children can
20 easily be hurt, and he also has a right to defend them.
21 Because you can't do that in someone's home.

22 And then you have defense of habitation. Defense
23 of habitation is different. Okay. You think that you
24 are going to reasonably get assaulted. Okay. You or
25 an occupant or a guest, you have got a right to defend

CLOSING ARGUMENT BY THE DEFENSE

1 yourself and your home and the curtilage. The
2 curtilage is the garden, the yard, the door stoop, the
3 porch. Okay. The foyer. Whatever you have an
4 exclusive right to the curtilage around the building.
5 Okay. It is called defense of habitation. Okay.
6 Listen to that.

7 You have got self-defense, defense of others, and
8 then you have defense of habitation. That is when,
9 what happened in one of those movies with the little
10 middle earth and lower earth and upper earth where they
11 fell back through the keep. Remember the knights got
12 out and they got on their horses and fell back through
13 the keep. And then the little midgets and all came and
14 attacked the keep. What was that? It was the cas --
15 the keep was the big castle carved into the rock.
16 Okay. Your final stand. A man's castle is his home.
17 That is your final stand. It is called defense of
18 habitation. You defend it like a castle. Listen to
19 her standards when she gives you that on defense of
20 habitation. And you will see that that is also a
21 defense to my client's actions in his own home.

22 Now, I know there's another thing. To find a
23 murder of Tyrek Mitchell, it is the -- murder is the
24 unlawful taking of a life by another with malice
25 aforethought, all right, expressed or implied. Now,

CLOSING ARGUMENT BY THE DEFENSE

1 that is what you have got to have for murder. Now, I
2 pull out my gun and just shoot Joe, I mean to do it.
3 You can have that malice just for a second. But I
4 stand there and I'm ordering you out of my house, and
5 then you attack me. How could that man ever have
6 malice? He couldn't have malice. They ain't supposed
7 to be there to start with. He couldn't have malice.
8 All right.

9 And he has to intend to kill him with an evil
10 heart. Not when you are ordering somebody off of your
11 property and they attack you, that is not malice. It
12 couldn't be murder.

13 Then you have got attempted murder where you have
14 to have, not malice expressed or implied, but you have
15 got to have for attempted murder a specific intent to
16 commit murder. It is an intent to commit murder, a
17 specific intent. When that man invaded, came back to
18 re-invade the house after you shot somebody that wasn't
19 a murder, you couldn't have that specific intent to
20 murder. You meant to stop him and defend your castle,
21 defend your keep, defend yourself, defend the children,
22 and defend the women.

23 And for self-defense, you have got to be without
24 fault in bringing on the difficulty. He wasn't part of
25 that craziness that they brought over. I just -- I

CLOSING ARGUMENT BY THE DEFENSE

1 just happened on the door step from somebody who was
2 trying to get to safety who said that you are accusing
3 me wrongly. And then you have got -- he had to be in
4 imminent danger. I mean, yeah, if you attack a man who
5 is holding a gun and you are trying to take a gun from
6 him, let's say that I'm not even armed, that is
7 dangerous. And I'm being ordered out, out of the house
8 and I go on the attack. Yeah. That is what happens.
9 Okay. That is how you get shot. Okay.

10 Now, you have a right to act on appearances.
11 Okay. And something else is, let me say this before I
12 move to that: Words, okay, combined with actions, you
13 can, I am going to F this place up, you are going to
14 get hurt, I'm getting my tablet or whatever evil was
15 testified to that he was saying, I can act on that.
16 Okay.

17 You ain't supposed to be here anyway. You coming
18 in and saying somebody is going down. Whoa, man, this
19 is my keep, this is my castle. All right. You come
20 play with me, you are playing for keepsies in my
21 castle. All right. I mean, that is just wrong. You
22 have got a right to stand your ground.

23 The Judge is going to tell you, I believe, that
24 you have the right to act on appearances in
25 self-defense. All right. And you have got to look at

CLOSING ARGUMENT BY THE DEFENSE

1 all of those hostile acts. And you put the words with
2 the hostile acts about, He is going to get it or else,
3 that is -- you can act on that. And act in
4 self-defense. Of course, it always has to be
5 reasonable. But if I'm threatening your life or the
6 life of others, well you know, one for the other.

7 What did Joe Loadholt say? Take a life to keep a
8 life, as if the invader -- I mean, this is street talk.
9 As if the invader of the castle could go shoot the
10 knight defending the gates and say, Take a life to keep
11 a life. This isn't the way it works. Okay.

12 And, you know, prior difficulties. I woke up in
13 bed last night and sat up. I do that sometimes. And I
14 just didn't think prior difficulties fit into the case.
15 Once he left and the difficulty was him robbing
16 somebody on his stoop was gone, that severed it, it was
17 over. When he ran back up, based on the fact that he
18 got that money, okay, through a gun, threats, what have
19 you. You don't even have to believe it was a gun,
20 because it could have been a common law robbery. A
21 robbery is a robbery, whether it's armed, okay, or it's
22 just a snatch and grab. All right. A robbery is a
23 robbery.

24 Now, okay, he just witnessed a robbery. You know
25 he got the money. All right. From an unwilling man

CLOSING ARGUMENT BY THE DEFENSE

1 that took persuading. And you know it wasn't lawful.
2 Now, you just witnessed that. That is a prior
3 difficulty. Now, prior difficulty with Mr. Granger is,
4 he is a robber, I just had to shoot his accomplice,
5 okay, and he's invading my house. Bam. Completely
6 justified. Completely justified. Completely
7 justified. Then threats can be considered. Don't
8 think about those threats.

9 Now, the Judge is also going to tell you there is
10 no other way to -- you know, you are going to have to
11 find he didn't have any other way to avoid the danger.
12 When he got out his gun and said, Hey, you are not
13 hurting anybody in here, you have got to get out, and
14 then he gets attacked. What can he do? There is no
15 other way to avoid the danger. He didn't cause it. He
16 has got a right to protect his home. Unless, of
17 course, you want to say, him, that citizen, for some
18 reason, doesn't have a right to protect himself. Okay.

19 And everybody has a right to self-defense. I
20 don't care if you are a prior criminal or not. Okay.
21 And I don't care if you are in lawful possession of a
22 gun, it could be a stolen gun. I don't care. I'm not
23 in possession of it lawfully. But I think that you
24 should consider that everybody has the right to
25 self-defense. And you can lawfully defend yourself

CLOSING ARGUMENT BY THE DEFENSE

1 whether you are supposed to have a gun or not. I think
2 that is an important issue.

3 Remember what I said to start with. Just take
4 away all of this. Okay. Just get down to the real,
5 bear facts. You can't come in the home, okay, being
6 ordered to leave, uninvited, and start taking property.
7 When I go in your house, or not your house, but I go in
8 a house, uninvited and take property, Mr. Plexico goes
9 to jail for burglary if you are not home. And if I'm
10 taking your wallet or your ring off your finger or the
11 cake or the gun out of your hand, then I'm going to
12 jail for robbery. And if I have a gun, I'm going to
13 jail for burglary and armed robbery. That is what
14 happened to these people. And they didn't see it, they
15 didn't get it.

16 You get in a fight. I might not start it. I win
17 the fight. I pulverize the other guy. Well, you know,
18 he shouldn't have been jumping on me. He won't be
19 doing it in here, I assure you. All right. But I'm
20 reasonable. But, you know, I twist my fist, my fist a
21 little better when I pop him above his eye and that
22 cuts your eye. Okay. They teach boxers to do that.
23 All right. And he's all bloody. You know. I can
24 dance better than him. Okay. I'm not hurt. I got a
25 bloody lip. They look at him and go, Oh, he was

CLOSING ARGUMENT BY THE DEFENSE

1 excessive. The police would misread the situation by
2 arresting me, okay, and not investigating further.

3 They jump the gun and did the easy thing. All
4 right. They didn't read the situation right. Give him
5 his rights back. Think for the police. You cannot
6 abandon the fact that he has a right to defend himself
7 and they are just all clearly in the wrong. He has
8 nowhere else to go.

9 I can appeal. I don't think I have ever heard of
10 a successful appeal with the Judge, but if she makes an
11 error of law you can appeal an error of law to the
12 appellate court. And they will correct an error of
13 law. There is no such thing as an error of fact. And
14 what is your sworn duty? It is to decide what the
15 facts are. If you misapply the law and misapply the
16 facts to the law and come up with the wrong verdict,
17 you can never change it. Stand your ground.

18 I am asking you, return a verdict of not guilty.
19 They could not, in all honesty, have proved beyond a
20 reasonable doubt, a doubt for which you can give a
21 reason, he did not have the right to self-defense,
22 defense of others. And he did not have the right to
23 defense of habitation. Then, even if you don't, can't
24 agree on that, in this situation, there is no malice
25 that is required for murder. And there's no expressed

CLOSING ARGUMENT BY THE DEFENSE

1 malice that is required for attempted murder.

2 And if you don't find him guilty of murder or
3 attempted murder, he can't be found guilty of
4 possession of a weapon during the commission of a
5 violent crime because that is the two violent crimes.
6 The predicate must come first before he can be guilty
7 of having a weapon when he did them. Possession of a
8 weapon is like an Adam charge. Okay. But then -- it
9 is okay that they had a weapon, he didn't commit
10 murder, he can't be guilty of the third one.

11 And he didn't commit attempted murder. I don't
12 think they crossed the bar, nearly, that they needed to
13 prove beyond a reasonable doubt that he's guilty. It
14 would be incredulous and wrong to bring back guilty
15 verdicts in this case.

16 I want to thank y'all for your time. And I'm
17 sorry for losing my breath to start with, but I just
18 feel impassioned about the case and that is -- you
19 know, I have to argue it from the heart. Thank you
20 very much.

21 THE COURT: All right. Ladies and gentlemen, your
22 pizza is back there. So what we are going to do right
23 now is we are going to go ahead and take a break, I'll
24 send you back to your jury room. I want you to eat
25 your pizza. Do not begin discussing the case. I have

CLOSING ARGUMENT BY THE DEFENSE

1 not charged you on the law applicable to it. Grab a
2 bite.

3 Ladies and gentlemen, I just need you to knock on
4 the door when you are ready to come back in. Okay?
5 And again, go ahead and eat. And as soon as you are
6 done, ladies and gentlemen, let us know because we will
7 be waiting on you. Okay. Thank you. And do not
8 discuss the case.

9 (The jury exits the courtroom at 1:25 p.m.)

10 THE COURT: We will be in recess for about 20
11 minutes or so. I am going to ask, I don't want y'all
12 to go anywhere. I think they will be back pretty
13 quick. And we can charge, and once I charge I think
14 that they are going to need a little bit of time, so at
15 that point if you want to run home and grab a bite you
16 can. But let's just sit tight. If you have something
17 in the building or around, that will be fine. Okay?

18 MR. EVANS: Thank you, Judge. Just for the
19 record, I guess the bell is rung, but I was planning to
20 offer a brief rebuttal. I do realize that we went
21 long.

22 THE COURT: I apologize. I didn't mean to cut you
23 off. You can go ahead and do a brief rebuttal. Let
24 them eat and then I'll let you do a brief rebuttal. I
25 apologize. Absolutely, absolutely. Okay.

CLOSING ARGUMENT BY THE DEFENSE

1 MR. EVANS: Thank you.

2 (Brief recess.)

3 THE COURT: Please be seated. Wait a sec, we
4 need your client.

5 MR. PLEXICO: Yes, ma'am.

6 THE COURT: No objection?

7 MR. EVANS: No, Your Honor.

8 THE COURT: Okay. Mr. Plexico, the law clerk
9 showed you the verdict forms. Any objection?

10 MR. PLEXICO: No objection.

11 THE COURT: Okay. I will come out and tell the
12 jury that you are allowed rebuttal because you carry
13 the burden and then I'll start the charge. All right.
14 So, let them in.

15 (The jury enters the courtroom.)

16 THE COURT: Thank you, Your Honor. Welcome back,
17 ladies and gentlemen. I hope that you had a chance to
18 grab a bite of pizza. Ladies and gentlemen, at this
19 time the Plaintiff has an opportunity to respond to the
20 defense because, that is the State, and the reason is,
21 is the State has the burden of proving the Defendant's
22 guilt on all of the charges beyond a reasonable doubt
23 so he is allowed a short response to what the Defendant
24 said in his closing. So, Mr. Evans, whenever you are
25 ready. And just after that I will charge.

REBUTTAL CLOSING ARGUMENT BY THE STATE

1 REBUTTAL CLOSING ARGUMENT BY THE STATE

2 MR. EVANS: May it please the Court. Mr. Plexico.
3 Ladies and gentlemen, I will be brief. Mr. Plexico's
4 closing argument dealt a lot, talked a lot about what
5 it means to be a man. Well, man doesn't lie if he's
6 done the right thing. He talked to you about his
7 castle. A man doesn't flee his castle. That is the
8 point. And he did.

9 A man can beg for his life. Still nothing
10 contradicting that testimony. Ty begged for his life.
11 He asked you, how did Granger get in if my client
12 locked the door. He didn't get in. His blood was all
13 outside. He wants to have it both ways. He wants you
14 to believe that Joe Loadholt stole that gun. But he
15 also wants you to believe that his witness, Myers, saw
16 the same gun. Loadholt was in the room. Myers said he
17 heard it from his car. You can't have it both ways,
18 ladies and gentlemen. It doesn't add up, just like the
19 rest of the story.

20 It is his truth. Tell us the truth. Go find him
21 guilty.

22 JURY CHARGE

23 THE COURT: Ladies and gentlemen, you have
24 followed very patiently and listened very attentively
25 to the presentation of the evidence in this case, and I

JURY CHARGE

1 want to thank you for that. It now becomes the duty of
2 the trial judge to charge and instruct you on the law
3 that is applicable to this case. And as jurors, it is
4 your duty to accept and apply the law as the Court will
5 now state it to you. As jurors, it is your exclusive
6 duty to determine all issues of fact in this case. You
7 must determine the effect, the value, and the weight of
8 the evidence.

9 Now, both the State and the Defendant, Mr.
10 Williams, have the right to expect that you will
11 carefully consider and evaluate the evidence and apply
12 the law of the case to the evidence. And by doing
13 this, both the State and the Defendant will receive a
14 fair and impartial trial in this matter.

15 Now, the State of South Carolina, by the Bills of
16 Indictment in this case, charges the Defendant Jamel
17 Williams with the offenses of murder, attempted murder,
18 and possession of a weapon during the commission of a
19 violent crime.

20 Now, I remind you that the fact that the Defendant
21 was arrested, charged, and indicted in this case is not
22 evidence in this case and cannot be considered by you
23 as evidence of guilt in this case. Nor does it create
24 any presumption or inference of guilt.

25 An indictment is simply the formal written

JURY CHARGE

1 instrument which contains the charge made against the
2 Defendant. It is the formal document by which the case
3 is brought into this courtroom.

4 Now, the Defendant, Mr. Williams, has pled not
5 guilty to these indictments. And that plea puts the
6 burden on the State to prove the Defendant guilty
7 beyond a reasonable doubt. Now, a person charged with
8 committing a criminal offense in South Carolina is
9 never required to prove himself innocent.

10 I charge you that it is an important rule of law
11 that a Defendant in a criminal trial, no matter what
12 the seriousness of the charge may be, will always be
13 presumed innocent of the crime for which an indictment
14 was issued unless guilt has been proven by evidence
15 satisfying you, the jury, of that guilt beyond a
16 reasonable doubt. And this presumption of innocence
17 does not end when you begin your deliberations, but it
18 accompanies the Defendant throughout the trial until
19 you reach a verdict of guilt based on evidence
20 satisfying you of that guilt beyond a reasonable doubt.

21 Now, the presumption of innocence is like a robe
22 of righteousness that is placed about the shoulders of
23 the Defendant and it remains with the Defendant until
24 it has been stripped away by evidence satisfying you of
25 the Defendant's guilt beyond a reasonable doubt.

JURY CHARGE

1 The presumption of innocence is not a mere legal
2 theory. It is not just a legal phrase we use. It is a
3 substantial right to which every Defendant is entitled
4 unless you, the jury, are satisfied, from the evidence
5 of the Defendant's guilt beyond a reasonable doubt.

6 So, what is a reasonable doubt in the law? A
7 reasonable doubt is the kind of doubt that would cause
8 a reasonable person to hesitate to act in their most
9 important decisions.

10 The State has the burden of proving the Defendant
11 guilty beyond a reasonable doubt. And, again, the term
12 must be given its plain and ordinary meaning. Again,
13 to the extent that I may define it for you, a
14 reasonable doubt is the kind of doubt that would cause
15 a reasonable person to hesitate to act in the most
16 important of their personal decisions. The Defendant
17 is entitled to every reasonable doubt arising in this
18 case. If, upon any issue of fact essential to a
19 conviction, you have a reasonable doubt as to how that
20 issue should be resolved, you must resolve that
21 reasonable doubt in favor of the Defendant.

22 Now, some of you may have served as jurors in
23 civil cases where you were told that it was only
24 necessary to prove that a fact is more likely true than
25 not true, and we call that by the greater weight or the

JURY CHARGE

1 preponderance of the evidence. In criminal cases, the
2 State's proof must be more powerful than that. It must
3 be beyond a reasonable doubt.

4 Suspicion, no matter how strong, is insufficient
5 to convict a person charged with a crime. That the
6 facts and circumstances presented may seem suspicious
7 and the Defendant's guilt may seem probable, this is
8 not sufficient in the law to convict.

9 Proof beyond a reasonable doubt is proof that
10 leaves you firmly convinced of the Defendant's guilt.
11 Now, ladies and gentlemen, there are very few things in
12 this world that we know with absolute certainty. And
13 in criminal cases the law does not require that proof
14 overcomes every possible doubt. If, based on your
15 consideration of the evidence, you are firmly convinced
16 the Defendant is guilty of the crime charged, you must
17 find the Defendant guilty. If, on the other hand, you
18 think there is a real possibility that the Defendant is
19 not guilty, you must give the Defendant the benefit of
20 the doubt and find him not guilty.

21 Now, I remind you that, during this trial, you and
22 I have certain duties to perform. As a judge it is my
23 responsibility to preside over the trial of this case,
24 and I also have the duty to rule on the admissibility
25 of evidence that was offered. You are to consider only

JURY CHARGE

1 the competent evidence before you. You are to consider
2 only the testimony which has been presented from the
3 witness stand and any other exhibits which have been
4 made a part of the record.

5 I have the additional duty to charge you the law
6 that is applicable in this case. I am the sole judge
7 of the law. And it is your duty as jurors to accept
8 and apply it as I now state it to you. If you have any
9 idea as to what the law is or what you think the law
10 ought to be and it does not agree with what I now tell
11 you the law is, you must abandon this idea because you
12 are sworn to accept the law and apply the law exactly
13 as I state it to you.

14 In every case tried in this court before a jury,
15 the jury is the sole and exclusive judge of the facts.
16 A trial judge cannot intimate, comment on, or make any
17 statement to a trial jury about the facts in a case.
18 And since you, the jury, are the sole judge of the
19 facts in this case you are not to infer from what I
20 have said during the progress of this trial, in ruling
21 upon the admissibility of evidence, or otherwise, or
22 anything that I say now during the course of this
23 instruction to you that I have an opinion about the
24 facts in this case. The law does not allow me to have
25 an opinion about the facts in this case. Again, this

JURY CHARGE

1 is a matter solely for you, the jury, to determine.

2 Now, you must not consider for any purpose any
3 offer of evidence that was rejected or stricken by the
4 Court, or that you were told by the Court to disregard
5 as not appropriate. Such matter is to be treated as
6 though you had never known of it. You are to consider
7 only the competent evidence before you. And if there
8 was any testimony ordered stricken from the record
9 during the trial, you must disregard that testimony.
10 You are to consider only the testimony presented from
11 the witness stand, and any exhibits which have been
12 made a part of the record, and any stipulations of
13 counsel.

14 Now, there are two types of evidence which are
15 generally presented during a trial: direct evidence and
16 circumstantial evidence. Direct evidence is the
17 testimony of a person who claims to have actual
18 knowledge of a fact, such as an eyewitness. It is
19 evidence which immediately establishes a main fact to
20 be proved. Circumstantial evidence is proof of a chain
21 of facts and circumstances indicating the existence of
22 a fact. It is evidence which immediately establishes
23 collateral facts from which the main fact may be
24 inferred. Circumstantial evidence is based on
25 inference and not on personal knowledge or observation.

JURY CHARGE

1 Ladies and gentlemen, crimes may be proven by
2 circumstantial evidence. The law makes no distinction
3 between the weight or value to be given to either
4 direct or circumstantial evidence. However, to the
5 extent the State relies on circumstantial evidence, all
6 of the circumstances must be consistent with each
7 other, and when taken together, point conclusively to
8 the guilt of the accused beyond a reasonable doubt. If
9 these circumstances merely portray the Defendant's
10 behavior as suspicious, the proof has failed.

11 The State has the burden of proving the Defendant
12 guilty beyond a reasonable doubt. And this burden
13 rests with the State regardless of whether the State
14 relies on direct evidence, circumstantial evidence, or
15 some combination of the two.

16 Now, ladies and gentlemen, it is your duty to
17 determine the credibility of the witnesses who have
18 testified in this case. And credibility simply means
19 believability. It is your duty as jurors to analyze
20 and to evaluate the evidence and determine which
21 evidence convinces you of its truth.

22 In determining the believability of witnesses who
23 have testified in this case, you may believe one
24 witness over several witnesses or several witnesses
25 over one witness. You may believe part of the

JURY CHARGE

1 testimony of a witness and reject the remaining part of
2 the testimony of that same witness. You may believe
3 the testimony of a witness in its entirety or reject
4 the testimony of a witness in its entirety. And you
5 may consider whether any witness has exhibited to you
6 any interest, bias, prejudice, or other motive in this
7 case. And you may also consider the appearance and
8 manner of a witness while on the witness stand.

9 Now, ladies and gentlemen, in determining whether
10 any statement made by the Defendant was made
11 voluntarily, you should consider both the
12 characteristics of the accused and the details of the
13 interrogation. Some of the factors you may consider
14 are: The age and youth of the accused; his education
15 or lack thereof; his mental ability and capacity; his
16 background and environment; the advice, or lack
17 thereof, to the accused regarding his constitutional
18 rights.

19 And these rights include, but are not limited to:
20 procedural safeguards, known as Miranda rights, which
21 concern the accused's right to remain silent, his right
22 to know any statement he makes could be used against
23 him, his right to have a lawyer present, his right to
24 stop making a statement or answering questions at any
25 time, and if indigent, then he has a right to have a

JURY CHARGE

1 lawyer appointed to represent him for no cost; his
2 ability to understand any Miranda warnings that were
3 given; and to understand the effect of waiving his
4 constitutional rights. And you can also look at the
5 place and length of detention and the nature of the
6 questioning.

7 You, the jury, must carefully scrutinize all the
8 surrounding circumstances. Before you give any weight
9 to any alleged statement made by the Defendant, you
10 must be satisfied beyond a reasonable doubt that it was
11 made by the accused when he was uninfluenced by the
12 promise of reward, threat of injury, or diminution of
13 his rights.

14 It is for you, the jury, to determine if the
15 accused in this case had the ability or capacity to
16 comprehend the meaning and effect of waiving his
17 constitutional rights; and, if so, whether any
18 subsequent statement was made freely and voluntarily.

19 If you should find, pursuant to the guidelines
20 just instructed, that the statement was not voluntarily
21 and freely given, then you should disregard it and give
22 it no consideration whatsoever in your deliberations.
23 If you should find that these guidelines have been
24 satisfied, it is then up to you to determine what
25 weight, if any, to give that statement.

JURY CHARGE

1 Normally, ladies and gentlemen, normally in a
2 trial a person cannot give opinion testimony. Normally
3 when a person testifies they must testify as to what
4 they either saw, heard, did, or sensed by smell, or
5 something of that nature. However, there is an
6 exception when someone is qualified because of
7 education and/or experience. They are permitted to
8 give their opinion in certain areas if the Court
9 qualifies them that way. And that evidence is for you
10 to use in any way you see fit, and give it the weight
11 and credibility you believe is appropriate.

12 And ladies and gentlemen, there are three
13 indictments in this case. And each indictment charges
14 a separate and distinct offense. You must decide each
15 indictment separately on the evidence and the law
16 applicable to it. The Defendant may be convicted or
17 acquitted of any or all of the offenses charged. And,
18 Madam Foreperson, you will be asked to write a separate
19 verdict of guilty or not guilty for each indictment.

20 Now, the first offense the Defendant, Mr.
21 Williams, is charged with is the murder of Tyrek
22 Mitchell. Ladies and gentlemen, murder is the killing
23 of any person with malice aforethought, either
24 expressed or implied.

25 Malice is hatred, ill will, or hostility towards

JURY CHARGE

1 another person. It is the intentional doing of a
2 wrongful act without just cause or excuse and with an
3 intent to inflict an injury or under circumstances that
4 the law will infer an evil intent.

5 Malice aforethought does not require that malice
6 exists for any particular time before the act is
7 committed, but malice must exist in the mind of a
8 Defendant just before and at the time the act is
9 committed. Therefore, there must be a combination of
10 the previous evil intent and the act.

11 Ladies and gentlemen, malice aforethought may be
12 expressed or inferred. And these terms, "express" and
13 "inferred" do not mean different kinds of malice but
14 merely the manner in which malice may be shown to
15 exist. That is either by direct evidence or by
16 inference from the facts and circumstances which are
17 proved. Malice may be inferred from conduct showing a
18 total disregard for human life.

19 Now, ladies and gentlemen, the Defendant is also
20 charged with the attempted murder of Rahame Granger.
21 In order to prove this crime, the State must prove the
22 Defendant attempted to kill another person with malice
23 aforethought.

24 Again, ladies and gentlemen, malice is hatred, ill
25 will, or hostility towards another person. It is the

JURY CHARGE

1 intentional doing of a wrongful act without just cause
2 or excuse, and with an intent to inflict an injury or
3 un -- excuse me, under circumstances that the law will
4 infer evil intent.

5 Now, to prove this charge, the Defendant must have
6 had a specific intent to kill. An intent means
7 intending the result which actually occurs; not
8 accidentally or involuntary. Intent may be shown by
9 acts and conduct of the Defendant and other
10 circumstances from which you may naturally and
11 reasonably infer intent. Evidence of the character of
12 the act, the character of the instrument used, the
13 manner in which it was used, the purpose to be
14 accomplished, and the resulting wounds or injuries may
15 be considered in determining the intent with which the
16 act was committed. Intent may also be inferred when it
17 is demonstrated that the Defendant voluntarily and
18 willfully commits an act, the natural tendency of which
19 is to destroy another's life.

20 Ladies and gentlemen, malice aforethought, again,
21 does not require that malice exists for any particular
22 time before the act is committed. But, again, malice
23 must exist in the mind of the Defendant just before and
24 at the time the act is committed. Therefore, there
25 must be a combination of the previous evil intent and

JURY CHARGE

1 the act.

2 Now, last, ladies and gentlemen, the Defendant is
3 charged with possession of a weapon during the
4 commission of a violent crime. To prove this charge,
5 the State must prove beyond a reasonable doubt the
6 Defendant was in possession of a firearm or visibly
7 displayed what appeared to be a firearm during the
8 commission of a violent crime.

9 Ladies and gentlemen, a firearm means any machine
10 gun, automatic rifle, revolver, pistol, or any other
11 weapon which will, is designed to, or may be readily
12 converted to, expel a projectile.

13 Now, in order to find the Defendant guilty of
14 possession of a weapon during the commission of a
15 violent crime, you must first find the Defendant guilty
16 of committing a violent crime. Ladies and gentlemen,
17 therefore under -- I instruct you that under the laws
18 of the State of South Carolina, the offenses of murder
19 and attempted murder are violent crimes.

20 Ladies and gentlemen, lastly, to prove possession
21 of a weapon during the commission of a violent crime,
22 the State must prove that the weapon furthered,
23 advanced, or helped in the commission of the crime.

24 Now, ladies and gentlemen, in this case the
25 Defendant has made a claim that he acted in

JURY CHARGE

1 self-defense. Self-defense is a complete defense and,
2 if established, you must find the Defendant not guilty.

3 The State has the burden of disproving
4 self-defense by proof beyond a reasonable doubt. If
5 you have a reasonable doubt of the Defendant's guilt
6 after considering all the evidence, including the
7 evidence of self-defense, then you must find the
8 Defendant not guilty. On the other hand, if you have
9 no reasonable doubt of the Defendant's guilt after
10 considering all the evidence, including the evidence of
11 self-defense, then you must find the Defendant guilty.
12 Now, the following elements are required to establish
13 self-defense. The State must disprove only one of the
14 elements of self-defense for it not to apply.

15 First, the Defendant must be without fault in
16 bringing on the difficulty. If the Defendant's conduct
17 was the type which was reasonably calculated to, and
18 did, provoke a deadly assault, the Defendant would be
19 at fault in bringing on the difficulty and would not be
20 entitled to an acquittal based on self-defense.

21 The second element of self-defense is that the
22 Defendant was actually in imminent danger of death or
23 serious bodily injury or that the Defendant actually
24 believed he was in imminent danger of death or serious
25 bodily injury.

JURY CHARGE

1 If the Defendant was actually in imminent danger,
2 it must be shown that the circumstances would have
3 warranted a person of ordinary firmness and courage to
4 strike a blow to prevent death or serious bodily
5 injury. If the Defendant believed he was in imminent
6 danger of death or serious bodily injury, it must be
7 shown that a reasonably prudent person of ordinary
8 firmness and courage would have had that same belief.

9 Whether the Defendant actually was, or believed he
10 was, in imminent danger of death or serious bodily
11 injury, you should consider all the facts and
12 circumstances surrounding the crime, including the
13 physical condition and characteristics of the Defendant
14 and the victims.

15 Now, under the law of self-defense, the Defendant
16 may take another's life in the defense of others. The
17 right to intervene to protect another person is subject
18 to the same rights and limitations as the right of
19 self-defense.

20 The Defendant may take the life of a person who
21 assaults a friend, relative, or bystander if that
22 friend, relative, or bystander would have had the right
23 of self-defense.

24 Ladies and gentlemen, assault is the intentional
25 creation of fear of immediate bodily harm. It is not

JURY CHARGE

1 necessary that the attempted injury or harm actually
2 takes place. For example, ladies and gentlemen, if I
3 walk up to you, and when we are within arm's reach of
4 me, I draw my hand back to hit you, that is an assault.

5 Now, while words alone do not constitute an
6 assault, if by words and conduct a person intentionally
7 creates a reasonable fear of bodily harm, it is an
8 assault.

9 To show that the person being defended had the
10 right of self-defense, it must first be shown that the
11 person being defended and the Defendant were both
12 without fault in bringing on the difficulty. If the
13 conduct of the person defended or the Defendant was the
14 type which was reasonably calculated to, and did,
15 provoke a deadly assault, the person would be at fault
16 in bringing on the difficulty and would not have the
17 right of self-defense. Therefore, the Defendant would
18 not have the right to use deadly force in defending
19 that person.

20 The defense of another person is excusable if the
21 Defendant had reasonable grounds to believe, and in
22 good faith did believe, that the person being defended
23 was in imminent danger of death or serious bodily harm
24 from the victims.

25 Now, in deciding whether the person defended

JURY CHARGE

1 actually was, or that the Defendant actually believed
2 the person was, in imminent danger of death or serious
3 bodily injury, you should consider all the facts and
4 circumstances surrounding the crime, including the
5 physical condition and characteristics of the parties.

6 Now, the Defendant does not have to show that he
7 was actually in danger. It is enough if the Defendant
8 believed he was in imminent danger and a reasonably
9 prudent person of ordinary firmness and courage would
10 have had that same belief. The Defendant has the right
11 to act on appearances, even though the Defendant's
12 beliefs may have been mistaken. It is for you, the
13 jury, to decide whether the Defendant's fear of
14 immediate danger of death or serious bodily injury was
15 reasonable and would have been felt by an ordinary
16 person in the same situation.

17 Now, words accompanied by hostile acts may,
18 depending on the circumstances, establish self-defense.

19 And evidence of prior difficulties between the
20 Defendant and the victims may be considered in deciding
21 whether a threat existed, whether the Defendant had a
22 reason to believe a threat existed, and how serious
23 that threat was.

24 The relative size, ages, and weights of the
25 Defendant and the victims may be considered in deciding

JURY CHARGE

1 the apparent or actual need for force in self-defense,
2 and the amount of force needed.

3 Now, the reputation of the victims may be
4 considered in deciding whether there was a need for
5 force, whether the Defendant had reason to believe
6 there was a need for force, and whether deadly force
7 was reasonably necessary.

8 Now, threats made by the victims may be considered
9 in determining whether the Defendant actually was, or
10 believed he was, in imminent danger.

11 Now, ladies and gentlemen, the final element of
12 self-defense is that the Defendant had no other
13 probable way to avoid the danger of death or serious
14 bodily injury than to act as the Defendant did in this
15 particular instance. Ordinarily one is not justified in
16 shooting or employing a deadly weapon after an
17 adversary has been disarmed or disabled. However, when
18 a person is justified in firing the first shot, he is
19 justified in continuing to shoot until it is apparent
20 that the danger to his life and body has ceased.

21 Also if the Defendant is in a place where he is
22 rightfully allowed to be, such as his home or place of
23 business, then the Defendant has no duty to retreat
24 before acting in self-defense, because there is no duty
25 to retreat where an attack occurs in one's home or

JURY CHARGE

1 place of business. Additionally, once the right to
2 fire or respond with deadly force in self-defense
3 arises, the Defendant is not required to wait until his
4 adversary is on equal terms or until his adversary has
5 fired or aimed his weapon or leveled a blow upon him.

6 Now, ladies and gentlemen, I instruct you that it
7 is the law of this state that a person can be acting
8 lawfully, even if he is in unlawful possession of a
9 weapon, if he was entitled to arm himself in
10 self-defense at the time of the shooting.

11 Now, lastly the Defendant has raised the defense
12 of habitation. The defense of habitation is the
13 defense of one's dwelling house. If the Defendant or a
14 member of the Defendant's household or their guest is
15 attacked in the Defendant's own home, the Defendant may
16 use the force which appears to be needed to protect
17 himself or his household from death or serious bodily
18 injury. When attacked in his own house, the Defendant
19 may justify or excuse the killing of his assailant if
20 such act is apparently necessary to save his own life
21 under -- or to protect himself from great bodily
22 injury.

23 If a trespasser refuses to leave the dwelling
24 house at the request of the householder Defendant, the
25 Defendant may use the necessary force to eject the

JURY CHARGE

1 trespasser. If, in the effort to eject the trespasser,
2 the life or safety of the Defendant or a member of the
3 Defendant's household is jeopardized, the Defendant may
4 kill the trespasser. However, the Defendant may not
5 use more force than is reasonably necessary to eject
6 the person from the premises.

7 The Defendant should not in the first instance
8 resort to immediate force to repel the intruder. The
9 kind and degree of force which are justified depend on
10 the conduct of the intruder.

11 Even though a person has entered the dwelling at
12 the invitation of a Defendant or a member of the
13 household, his subsequent conduct may be such as to
14 justify the Defendant in ordering his departure. The
15 person becomes a trespasser if the person refuses to
16 leave when asked. Upon the person's refusal to depart,
17 the Defendant is not required to yield as a mode of
18 avoiding an altercation and apprehended violence, but
19 may use force reasonably necessary or apparently
20 necessary to eject him, and no more. The defendant
21 should not, in the first instance, resort to force to
22 repel the intruder. The kind and degree of force which
23 are justified depend on the conduct of the intruder.

24 If, while legitimately exercising in good faith
25 the right to eject a trespasser, the Defendant is

JURY CHARGE

1 attacked by the trespasser and fears death or serious
2 bodily harm, the Defendant would be without fault in
3 bringing on the difficulty. An element that is
4 necessary to the defense of habitation is that the
5 Defendant be without fault in bringing about the
6 difficulty. Whether the Defendant was acting in good
7 faith in attempting to eject the victim and was
8 attacked in the process is a question for you, the
9 jury, to determine.

10 The law permits the occupant of a home to use such
11 force, even to the taking of human life, as may be
12 reasonably necessary to accomplish an expulsion. If
13 engaged in the exercise in good faith of his right to
14 eject such trespasser, he is without fault in bringing
15 on the difficulty. He would not have a duty to
16 retreat. The belief in the necessity of using deadly
17 force in the defense of habitation must be reasonable.
18 The right of an occupant to expel a trespasser and to
19 use such force as is necessary, even to killing him, is
20 limited to the place of habitation and curtilage.

21 Ladies and gentlemen, there is no duty to retreat
22 where an attack occurs in one's home or place of
23 business. The absence of a duty to retreat also
24 extends to the curtilage of a home. Curtilage is the
25 space that is necessary and convenient, and is

JURY CHARGE

1 habitually used for family purposes, including the
2 adequate yard and garden and room for necessary
3 outbuildings around a home. Curtilage includes
4 outbuildings, yards around the dwelling, and gardens.
5 It includes garages, driveways, courtyards, and parking
6 areas. Yards, courtyards, in apartment houses,
7 condominiums, or other such complexes with other
8 occupants constitute a part of the curtilage of a
9 specifically described apartment or condominium or
10 living unit therein.

11 Ladies and gentlemen of the jury, as you retire to
12 begin your deliberation in this case, I wish to express
13 the hope that y'all are mindful of the importance of
14 your responsibility here today. You are not called
15 upon very often to serve as jurors, and the proper
16 performance of that duty requires that each of you
17 reach the height of freeing your mind of all improper
18 influences.

19 Please don't get the idea that I am trying to
20 intimate to you how I think you should decide this
21 case. As I have already told you, under the laws of
22 this state, you, the Jury, are the sole judge of all
23 facts in this case. And it would be highly improper
24 for me to try to influence you in your performance of
25 that duty.

JURY CHARGE

1 However, ladies and gentlemen, I am vitally
2 concerned as the officer of this court that you confine
3 your deliberations and your consideration in this case
4 to the evidence you have heard here in this courtroom,
5 weighing it fairly and impartially, as I have every
6 confidence that you will. Ladies and gentlemen, you
7 owe no support or symptahy to anyone.

8 Now, Madam Foreperson, I remind you that your
9 verdict must be unanimous, it must be the verdict of
10 all 12 jurors. So, you all must be in agreement. And
11 the verdict form has the case caption, it says the
12 State of South Carolina versus Jamel Williams and it
13 has three questions, all of which you must ask --
14 answer. Okay? The first question says, as to the
15 charge of the murder of Tyrek Mitchell, we find the
16 Defendant, Jamel Williams, and it says either not
17 guilty or guilty. Ladies and gentlemen, please don't
18 infer the way I put not guilty or guilty first. Every
19 trial we just reverse them, okay.

20 The second question is, As to the charge of
21 attempted murder of Raheme Granger, we find the
22 Defendant, Jamel Williams, and again you check either
23 not guilty or guilty.

24 And then, lastly, as to the charge of possession
25 of a weapon during commission of a violent crime, we

JURY CHARGE

1 find the Defendant, Jamel Williams, either not guilty
2 or guilty. There is a little asterick, Madam
3 Foreperson, that says: Reminder, the Defendant cannot
4 be guilty, found guilty of this charge, this last
5 charge of possession of a weapon during the commission
6 of a violent crime, without the jury first finding the
7 Defendant guilty of one of the two charges, one of the
8 two first. Okay?

9 So, after that, Madam Foreperson, there is a line
10 for you to sign and also date at the bottom of this
11 form. When the jury has reached a unanimous verdict
12 and the foreperson has filled out this form, signed it
13 and date it, I am asking that you knock on the jury
14 room door. We are going to accept you back in the jury
15 room to take your verdict.

16 Madam Foreperson, I will also tell you a couple
17 more things just so you know and know what to expect.
18 You are going to have all of the evidence that has been
19 submitted in this case back in the jury room with you.
20 If it is not back there with you, you are not entitled
21 to it and you can't ask for it, okay, because it is not
22 in evidence.

23 Secondly, while my court reporter has been taking
24 down everything anyone says in this courtroom, there is
25 not a typed transcript of these proceedings. If you

JURY CHARGE

1 want certain testimony played back, what we can do is
2 bring you back into the courtroom and we will play the
3 audiotape of it back for you. I just need to caution
4 you or tell you, if you ask me for a specific witness'
5 testimony, I am required to play that witness' entire
6 testimony which means the direct examination, the cross
7 examination, any redirect, and recross. All right?

8 Additionally, ladies and gentlemen, I know that we
9 have shown you some videos. If there is any of those
10 video, either interviews or tapes or anything that you
11 would like to have seen again, I can bring you back in
12 here and play them for you again. Okay? So, Madam
13 Foreperson, if you need to ask me any of those
14 questions, you are welcome to. Okay?

15 You will have paper and pens so if there is any
16 issue or any questions you may have, you can ask me.
17 And I am just going to write simply back to you what I
18 can and cannot do. There could be something I say, you
19 know, "I am not premitted to do that. You have
20 everything you need to decide this case." Or, again,
21 if it is something that has been presented to you
22 during trial I will bring you back out here and we will
23 show it to you again. Okay? Everyone fine?

24 I am going to go ahead and excuse you back to your
25 jury room. For the very last time I am going to tell

JURY CHARGE

1 you, do not discuss this case. When you leave I am
2 going to ask these lawyers whether or not there is
3 anything further on the law they want me to charge you.
4 If there is, I am going to bring you back out and I am
5 going to charge you further. If not, Madam Foreperson,
6 you are going to get the verdict form and you are going
7 to get all of the evidence that is in this case and
8 that is going to be your signal to start talking about
9 the case and to start beliberating. Okay?

10 All right, ladies and gentlemen, you are excused
11 back to your jury room. We will be right back with you
12 shortly. Okay? And, again, when you get the verdict
13 form and the evidence, start your deliberations. Okay?
14 Thank you.

15 (The jury exits the courtroom.)

16 THE COURT: Any exceptions or additions from the
17 State?

18 MR. EVANS: Not from the State.

19 THE COURT: From the Defense?

20 MR. PLEXICO: None.

21 THE COURT: Okay. Go through the evidence and
22 make sure that we have everything that is entered.

23 THE COURT: All right.

24 (Evidence goes back to the jury at 2:40 p.m. Jury
25 begins deliberating.)

VERDICT

1 THE COURT: All right. Ladies and gentlemen,
2 those of you that are here watching the court
3 proceeding, obviously we don't know what the jury's
4 verdict is. I just want to make sure that whenever the
5 verdict is read, whatever it is, that everyone can
6 contain themselves. If for some reason you have any
7 type of outburst, regardless of what it is, we are
8 going to have to take you into custody. And you can
9 see that there's a lot of deputies around here to do
10 it. Okay?

11 I would hate to have to do that, but of course we
12 have to keep ourselves collected and exercise courtroom
13 decorum. So, I just want to make sure that you all
14 understand that. If for any reason you think you can't
15 contain yourselves, I'm asking you right now to leave
16 the courtroom. Again, I don't want to have to put
17 anyone in custody. Okay?

18 Thank you. Let's bring the jury in.

19 (The jury enters the courtroom.)

20 THE COURT: Madam foreperson, Members of the Jury,
21 thank you. I understand that you have reached a
22 verdict. And I'm going to have Ms. Sabb, Clerk of
23 Court, publish it. Okay? I need you to please rise,
24 sir.

25 THE CLERK: In the Court of General Sessions, the

VERDICT

1 14th Circuit, the County of Allendale, the State of
2 South Carolina versus Jamel Williams. Please -- as to
3 the charge of murder of Tyrek Mitchell, we find we, the
4 Defendant, Jamel Williams, guilty. As of to the charge
5 of attempted murder of Raheme Granger, we find the
6 Defendant, Jamel Williams, guilty. As of to the charge
7 of possession of a weapon during a violent crime, we
8 find the Defendant, Jamel Williams, guilty.

9 THE COURT: Signed by the foreperson?

10 THE CLERK: Yes, certified for the Court.

11 THE COURT: Thank you. All right, Mr. Plexico, if
12 you and your client will take a seat, I am going to
13 poll this jury. Ladies and gentlemen, what is going to
14 happen at this time is I am going to call your number
15 and your name, and I'm going to ask you if this is your
16 verdict and is it still your verdict. All right? So,
17 what I'm going to ask you is just wave to me so I know
18 who I'm speaking with as to each one of you. Okay?

19 Juror No. 168, Ms. Hurt, ma'am, is this your
20 verdict?

21 THE JUROR: Yes.

22 THE COURT: Is it still your verdict?

23 THE JUROR: Yes.

24 THE COURT: Thank you.

25 Juror No. 255, Mr. Redd. Sir, is this your

POLLING OF THE JURY

1 verdict?

2 THE JUROR: Yes.

3 THE COURT: Is it still your verdict?

4 THE JUROR: Yes.

5 THE COURT: All right. And I apologize, I have to
6 ask you to speak up. I can hear you, but I have to
7 make sure that it's on the record.

8 Juror No. 274, Mr. Robinson. Mr. Robinson, sir,
9 is this your verdict?

10 THE JUROR: Yes.

11 THE COURT: Is it still your verdict?

12 THE JUROR: Yes.

13 THE COURT: Is that a yes?

14 THE JUROR: Yes.

15 THE COURT: Okay.

16 Ms. Carter, ma'am, is this your verdict?

17 THE JUROR: Yes.

18 THE COURT: Is it still your verdict?

19 THE JUROR: Yes.

20 THE COURT: Thank you.

21 Mr. Williams, sir, is this your verdict?

22 THE JUROR: Yes.

23 THE COURT: Is it still your verdict?

24 THE JUROR: Yes.

25 THE COURT: Mr. Hurst, sir, is this your verdict?

POLLING OF THE JURY

1 THE JUROR: Yes.

2 THE COURT: Is it still your verdict?

3 THE JUROR: Yes.

4 THE COURT: Thank you, sir.

5 Mr. Capers, sir, is this your verdict?

6 THE JUROR: Yes.

7 THE COURT: Is it still your verdict?

8 THE JUROR: Yes.

9 THE COURT: Mr. Badger, sir, is this your verdict?

10 THE JUROR: Yes.

11 THE COURT: Is it still your verdict?

12 THE JUROR: Yes.

13 THE COURT: Ms. Broom, is this your verdict?

14 THE JUROR: Yes.

15 THE COURT: Is it still your verdict?

16 THE JUROR: Yes.

17 THE COURT: Ms. Gray, is this your verdict?

18 THE JUROR: Yes.

19 THE COURT: Is it still your verdict?

20 THE JUROR: Yes.

21 THE COURT: Mr. Graham, sir, is this your verdict?

22 THE JUROR: Yes.

23 THE COURT: Is it still your verdict?

24 THE JUROR: Yes.

25 THE COURT: And lastly, Ms. Doe, is this your

POLLING OF THE JURY

1 verdict?

2 THE JUROR: Yes.

3 THE COURT: Is it still your verdict?

4 THE JUROR: Yes.

5 THE COURT: Thank you, ma'am. Anything further
6 required of the jury by the State?

7 MR. EVANS: Not from the State.

8 THE COURT: From the Defense?

9 MR. PLEXICO: No, Your Honor.

10 THE COURT: Ladies and gentlemen, at this time
11 I'll excuse you for the remainder of the week, with
12 your thanks and my thanks, ladies and gentlemen. You
13 have resolved this case for us. And I will tell you
14 that for the rest of the afternoon and tomorrow I'll be
15 hearing guilty pleas and setting bonds and other things
16 to dispose of other matters here in Allendale County.
17 But at this time we are going to go ahead and excuse
18 you and make sure that everyone gets to their car.
19 Everyone here remain seated. No one leaves the
20 courtroom. You all are excused. If you need a work
21 excuse, simply ask the bailiffs and they will provide
22 you one, all right. Thank you.

23 And I'll also tell you, you are permitted now,
24 when you go home, to discuss what you have been doing
25 here. You are not required to tell anyone anything,

SENTENCING

1 but please understand that when you do go home you can
2 speak of the issues. All right. Thank you. You are
3 excused.

4 MADAM FORELADY: Thank you.

5 (Jury exits the courtroom.)

6 THE COURT: All right. Do you need a moment?

7 MR. EVANS: They are on the printer, ma'am.

8 THE COURT: Mr. Plexico, if you would like to
9 speak to his family to see if anyone wants to speak on
10 his behalf.

11 MR. PLEXICO: Yes. Here or at the table?

12 THE COURT: That is fine. And if you could
13 identify yourself.

14 MS. ESTHER DEVOE: Esther Devoe and I'm Jamel's
15 aunt.

16 THE COURT: What would you like to tell me?

17 MS. ESTHER DEVOE: From a child he always was a
18 quiet child and he always will like to stay with
19 himself. You know, he would play with the children,
20 but he was off to himself a lot. And he was very
21 respectful.

22 THE COURT: Thank you.

23 MS. DAISY ROBERTS: My name is Daisy Roberts, I'm
24 Jamel's mother. And Jamel always was a home child. I
25 really never had no problem with him coming up. You

SENTENCING

1 know, he was always well mannered and he always had
2 respect of me. That is all that I have to say.

3 THE COURT: Thank you, ladies. I appreciate it.
4 Mr. Plexico.

5 MR. PLEXICO: I think Jamel testified he's 30,
6 Judge. He was helping out family, keeping the
7 children. This did happen at his house, at his
8 property, with people that were uninvited, who were
9 uninvited. And he didn't go out and find this problem,
10 Judge. And we would ask that you give him a
11 sentence -- this is a minimum of 30 years on the
12 murder, and we would ask that you give him the lighter
13 sentence on the attempted murder and make the
14 possession of a weapon during the commission of a
15 violent crime, make that concurrent with whatever
16 sentence you decide to give him. And we would ask for
17 a ten-year sentence on the attempted murder. Thank
18 you, Your Honor.

19 THE COURT: Okay. Do the victims want to speak or
20 anyone? Obviously I heard Mr. Granger's testimony, so
21 I certainly know about it, but I am glad to hear
22 whatever from him if he wants.

23 MR. EVANS: I do believe that he does, and at
24 least one other member.

25 THE COURT: Okay. That is fine. Let's just --

SENTENCING

1 I'll keep you there at the bar, and of course, sir, I
2 know that you are Mr. Granger, you have been here
3 during the entire trial. What would you like to tell
4 me, sir?

5 MR. GRANGER: I am happy with the verdict. It's
6 bad that my little cousin was not here. I would ask
7 you not go light on the sentence. Coming to the
8 evidence and finding out that he tried to shoot me
9 again and that would have been my life. Come to find
10 out in the record like the gun, the guy said it is very
11 rare and, you know, my family always tells me that I'm
12 lucky. I'm not lucky, I'm blessed. I have worked for
13 everything that I have in my life. And the Lord spared
14 me, so that is my opinion. Other than that I wasn't
15 the one that caused the whole, caused the whole on his
16 (inaudible).

17 THE COURT: Okay. Who else would like to speak?
18 Identify yourself and relationship to the victim.

19 TYREK'S SISTER: Tyrek was my brother and I was
20 (inaudible), and I was also guardian because at an
21 early age. I bust my butt for my siblings and to see
22 him dying because school was like a fast pace and I
23 couldn't do it myself, but to know that he came down
24 here and he was actually graduating and he was
25 finished, and his life was taken over a tablet. From

SENTENCING

1 a -- and to hear people say that this guy locked the
2 door and not shot my brother only once, but multiple
3 times. And his parents still get to see him and speak
4 to him. I will never be able to speak to my brother
5 again.

6 THE COURT: Thank you. Does the Defendant want to
7 speak, Mr. Plexico?

8 MR. PLEXICO: Do you want to speak?

9 THE DEFENDANT: Yes.

10 MR. PLEXICO: He wants to speak.

11 THE DEFENDANT: Ma'am, for the record, I know I am
12 innocent because at the end of the day I don't feel
13 sorry for protecting those kids. (Inaudible) whatever.

14 MR. PLEXICO: I would ask for leniency based on
15 that.

16 THE COURT: On Indictment 2018GS3045, it is for
17 murder, the sentence of this Court is that you be
18 committed to the Department of Corrections for a period
19 of life. For Indictment 2018GS-3044, on the sentence
20 of attempted murder, the sentence of this Court is that
21 you shall be committed to the Department of Corrections
22 for a period of 30 years.

23 And on Indictment 2018GS-3043, for possession of a
24 weapon during the commission of a violent crime, the
25 sentence is Department of Corrections for a period of

SENTENCING

1 five years. Those are all to run concurrent to each
2 other. Good luck to you, sir.

3 MR. PLEXICO: Thank you, Your Honor.

4 MR. EVANS: Thank you, Your Honor.

5 THE DEFENDANT: (Inaudible).

6 THE COURT: Here is the sentencing sheet. And we
7 will be at ease until 11:30, roughly, tomorrow morning.

8 (Trial concluded.)

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SENTENCING

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 27th day of April, 2020.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

Circuit Reporter for the 14th Circuit

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Allendale County

Honorable Carmen T. Mullen, Circuit Court Judge

RECEIVED

Dec 01 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMEL DAJOUR WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2020-000101

ANDERS BRIEF OF APPELLANT

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<i>State v. Price</i> , 368 S.C. 494, 629 S.E.2d 363 (2006)	3
<i>State v. White</i> , 382 S.C. 265, 676 S.E.2d 684 (2009)	7
<i>Watson v. Ford Motor Co.</i> , 389 S.C. 434, 699 S.E.2d 169 (2010)	6, 7

Statutes

Rule 702, SCORE	6, 7
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STATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion in qualifying the state's expert in forensic toxicology over defense counsel's objection where the witness had a Master of Science but did not testify to any specialized training or further education in forensic toxicology?

STATEMENT OF THE CASE

On March 14, 2019, an Allendale County grand jury indicted appellant for murder, attempted murder, and possession of a weapon during the commission of a violent crime. R. 615-617. Appellant's case was called to trial on January 6, 2020, before the Honorable Carmen Mullen and a jury. R. 1. Steve Plexico represented appellant. R. 2. Reed Evans, assistant solicitor, and Melissa Duque, assistant solicitor, represented the state. R. 2.

On January 9, 2020, the jury found appellant guilty of murder, attempted murder, and possession of a weapon during the commission of a violent crime. R. 602. Judge Mullen sentenced appellant to concurrent terms of life imprisonment for murder, thirty years' imprisonment for attempted murder, and five years' imprisonment for possession of a weapon during the commission of a violent crime. R. 609.

This appeal follows.

STANDARD OF REVIEW

The decision of whether to admit or exclude testimony from an expert witness is within the sound discretion of the circuit court. *State v. Price*, 368 S.C. 494, 498, 629 S.E.2d 363, 365 (2006) (citations omitted). The circuit court's decision to admit expert testimony will not be reversed on appeal absent "a manifest abuse of discretion accompanied by probable prejudice." *State v. Douglas*, 369 S.C. 424, 429, 632 S.E.2d 845, 847–48 (2006) (citations omitted). An abuse of discretion occurs when the circuit court's conclusions "either lack evidentiary support or are controlled by an error of law." *State v. Kromah*, 401 S.C. 340, 349, 737 S.E.2d 490, 495 (2013) (quoting *Douglas*, 369 S.C. at 429–30, 632 S.E.2d at 848) (internal quotation marks omitted). "A [circuit] court's ruling on the admissibility of an expert's testimony constitutes an abuse of discretion where the ruling is manifestly arbitrary, unreasonable, or unfair." *State v. Grubbs*, 353 S.C. 374, 379, 577 S.E.2d 493, 496 (Ct. App. 2003) (citing *Means v. Gates*, 348 S.C. 161, 166, 558 S.E.2d 921, 924 (Ct. App. 2001)). To show prejudice, the appellant must prove "that there is a reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof." *Fields v. Reg'l Med. Ctr. Orangeburg*, 363 S.C. 19, 26, 609 S.E.2d 506, 509 (2005) (citing *Means*, 348 S.C. at 166, 558 S.E.2d at 924).

ARGUMENT

The trial court abused its discretion in qualifying the state's expert in forensic toxicology over defense counsel's objection where the witness had Master of Science but did not testify to any specialized training or further education in forensic toxicology.

Relevant facts

On the evening of March 21, 2018, Tyrek Mitchell, Raheme Granger, and Devontre Priester showed up to appellant's apartment. Also living in the apartment with appellant were two women, Latoya Patterson and Laquia Patterson, and two young children. Mitchell, Granger, and Priester were searching for a Samsung tablet belonging to Granger that they believed had been stolen by Bernard Elmore, another resident of the apartment complex.¹ Elmore denied that he took the tablet, however, the situation continued to escalate. Appellant asked the three men to leave his apartment numerous times, and they refused to leave without the missing tablet. R. 187-92; 374, l. 3-375, l. 18; 376, l. 10-378, l. 16; 469-74.

Appellant testified at trial that he could see that Mitchell was armed and Mitchell threatened to shoot up the place if he and Granger did not recover the tablet. Appellant pulled out a gun and asked them to leave again. Mitchell and appellant struggled over the gun. One shot was fired during the struggle and after Mitchell fell appellant shot him twice more. When Granger attempted to come inside the apartment from outside on the porch, appellant shot him. R. 473-83. Mitchell died in the hospital the following day, and Granger sustained a minor injury to his mouth. R. 119-22. Appellant left the scene, but two days later appellant went to give a statement to police and was arrested.

¹ Bernard is referred to by his nickname "Smack" throughout the transcript.

State's expert

At trial, the state presented testimony from Tracy McKinnon, forensic toxicologist with the State Law Enforcement Division (SLED). McKinnon testified that his job entailed analyzing biological specimens such as blood or urine for the presence of absence of drugs, alcohol, or poisons and then interpreting those findings in court. R. 389, ll. 6-14. McKinnon's education included a Bachelor of Science with a Chemistry major and a Master of Science in Forensic Science. McKinnon testified that he had worked in this capacity for SLED for fourteen years and that he had previously been qualified as an expert in forensic toxicology. R. 389, l. 15-390, l. 5. McKinnon stated he did not have a Ph.D. nor was he a medical doctor but claimed that based on his education and training he was able to interpret the analysis of biological specimens within a reasonable degree of scientific certainty. R. 390, l. 14-391, l. 14. McKinnon admitted that he would not be able to say how a drug might affect a specific person but could give a general impression of the effect a drug might have on an average person. R. 395, ll. 6-17.

After cross-examining McKinnon regarding his qualifications, defense counsel objected to McKinnon being qualified as an expert, arguing McKinnon was only qualified to read the results of a machine not to interpret them. Without further argument or response from the state, the court summarily overruled the objection and allowed McKinnon to testify as an expert in the area of forensic toxicology. R. 395, ll. 18-25

McKinnon testified that in this case he analyzed a blood sample taken from Mitchell, the decedent, for alcohol and for drugs. R. 396, ll. 8-14. The sample was negative for alcohol but positive for marijuana, morphine, and midazolam. R. 397, l. 9-398, l. 25. McKinnon opined that typically when morphine and midazolam show up in a death case, it indicates to the him that this person was treated in a hospital setting. Defense counsel objected to that portion of his

testimony, arguing that McKinnon was not qualified to testify to what happens in a hospital setting because he was not a medical professional. The court immediately overruled the objection without any further argument. McKinnon went on to testify that the two drugs are commonly used during resuscitative measure in emergency situations. R. 399, ll. 1-16.

Before deliberation the jury was instructed on self-defense, defense of others, and the defense of habitation. R. 588-96. Ultimately, the jury found appellant guilty as indicted, and the court sentenced appellant to life imprisonment for murder, thirty years' imprisonment for attempted murder, and five years' imprisonment for possession of a weapon during the commission of a violent crime. R. 602; 609.

Discussion

In a trial the jury serves as the fact finder and is charged with weighing the evidence admitted at trial and reaching a verdict. *Watson v. Ford Motor Co.*, 389 S.C. 434, 445–47, 699 S.E.2d 169, 174–75 (2010). The trial court, on the other hand, is charged with the duty of determining issues of law. *Id.* As a part of this duty, the trial court serves as the gatekeeper and must decide whether the evidence submitted by a party is admissible pursuant to the Rules of Evidence as a matter of law. *Id.*

The admission of expert testimony is governed by Rule 702, SCRE, which provides:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Rule 702, SCRE.

Expert testimony receives added scrutiny relative to other evidentiary decisions. *Watson v. Ford Motor Co.*, 389 S.C. 434, 445–47, 699 S.E.2d 169, 174–75 (2010). Specifically, in executing its gatekeeping duties, the trial court must make three key preliminary findings which

are fundamental to Rule 702 before the jury may consider expert testimony. *Id.* First, the trial court must find that the subject matter is beyond the ordinary knowledge of the jury. *See State v. Douglas*, 380 S.C. 499, 671 S.E.2d 606 (2009) (holding that the witness was improperly qualified as a forensic interviewing expert where the nature of her testimony was based on personal observations and discussions with the child victim). Next, the trial court must find that the expert has acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter. *See Gooding v. St. Francis Xavier Hosp.*, 326 S.C. 248, 252–53, 487 S.E.2d 596, 598 (1997) (observing that to be competent to testify as an expert, a witness must have acquired by reason of study or experience such knowledge and skill in a profession or science that he is better qualified than the jury to form an opinion on the particular subject of his testimony). Lastly, the trial court must evaluate the substance of the testimony and determine whether it is reliable. *See State v. Council*, 335 S.C. 1, 20, 515 S.E.2d 508, 518 (1999) (evaluating whether expert testimony on DNA analysis met the reliability requirements). Expert testimony is not admissible unless it satisfies all three requirements with respect to subject matter, expert qualifications, and reliability. *See State v. White*, 382 S.C. 265, 676 S.E.2d 684 (2009); *Watson v. Ford Motor Co.*, 389 S.C. 434, 445–47, 699 S.E.2d 169, 174–75 (2010).

Here the trial court abused its discretion in failing to perform its gatekeeping function where it made no findings regarding McKinnon’s credentials and promptly qualified McKinnon as an expert in forensic toxicology over defense counsel’s objection. It is true forensic toxicology is likely “beyond the ordinary knowledge of the jury.” However, it is not clear from the limited *voir dire* in the record that McKinnon had the requisite knowledge and skill to qualify as an expert in forensic toxicology. McKinnon testified that he had a Master of Science degree and had testified in court many times. McKinnon also referenced “training” and “continuing

education.” However, he never specified what training or continuing education he completed. Additionally, defense counsel pointed out that the witness was simply regurgitating results read from a machine and questioned how reading results required any interpretation. The court overruled defense counsel’s objection to McKinnon’s qualification as an expert, on limited information, and summarily qualified McKinnon as an expert in forensic toxicology.

CONCLUSION

For the foregoing reasons, this Court should reverse appellant's convictions and remand for a new trial.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of December, 2020.

**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.

Jamel Dajour Williams, Appellant.

Appellate Case No. 2020-000101

Appeal From Allendale County
Carmen T. Mullen, Circuit Court Judge

Unpublished Opinion No. 2022-UP-017
Submitted November 1, 2021 – Filed January 12, 2022

APPEAL DISMISSED

Appellate Defender Sarah Elizabeth Shipe, of Columbia,
and Jamel Dajour Williams, pro se, both 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 consideration of Appellant's pro se briefs and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.¹

WILLIAMS, A.C.J., MCDONALD, J., and LOCKEMY, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

The State of South Carolina	In The Court of Appeals
State of South Carolina	
County of Allendale	Appellate Case NO. 2020-
	000101
Jamel DaJour Williams Defendant	Motion of
vs.	writ of Certiorari
State of South Carolina Respondent	

Please be advise that; this writ of certiorari was being written with good faith stating that I Defendant wishes to Appeal the Dismissal of the Court of Appeal decision; Due to the High profile case of Judge misconduct of Judge Carmen T. Mullen; which violated U.S Constitution 5th, 8th and 14th Amendment. Appeal should be review and A New Trial should be granted infavorable to the defendant with all due of respect.

Notarize:

RECEIVED

MAR 14 2022

S.C. SUPREME COURT

All Rights Reserved

Respectfully submitted

Jamel D. Williams

March , 2022

Date:

The Supreme Court of South Carolina

The State, Respondent,

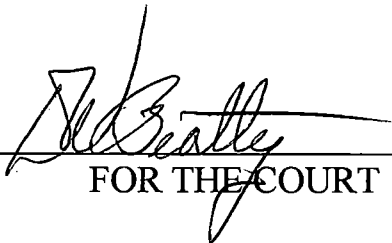
v.

Jamel Dajour Williams, Petitioner.

Appellate Case No. 2022-000292

ORDER

Petitioner has filed a petition for a writ of certiorari in this matter. Because Petitioner failed to file a petition for rehearing or reinstatement from the Court of Appeals' opinion and because the remittitur has now been sent pursuant to Rule 221 of the South Carolina Appellate Court Rules (SCACR), Petitioner's petition for a writ of certiorari is stricken and dismissed. *See* Rule 242(a), SCACR (providing this Court will only review a final decision of the Court of Appeals); Rule 242(c), SCACR (providing a decision is not final for the purposes of review until a petition for rehearing or reinstatement has been acted on by the Court of Appeals); *Stogsdill v. S.C. Dep't of Health & Human Servs.*, 415 S.C. 568, 784 S.E.2d 669 (2016) (stating the sending of the remittitur ends appellate jurisdiction over a case).



FOR THE COURT C.J.

Columbia, South Carolina

March 23, 2022

cc:

Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
Jamel D. Williams, 00348445

FORM 5

2022-CP-03-057

STATE OF SOUTH CAROLINA

County of AllendaleJamel Dabour Williams #348445
Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

FILED FOR RECORD
2022 APR - A 0:13
CLERK OF COURT
ALLENDALE COUNTY, S.C.
APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Allendale County Detention Center
2. Name and location of Court which imposed sentence Allendale County Court, P.O. Box 126, Allendale, SC 29810
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2018-GS-03-00043 for Possession of a weapon during Violent Crime
 - (b) 2018-GS-03-00044 for Att. murder

- (c) 2015-GS-03-00045 for murder
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) January 9, 2020 - 5 years
- (b) January 9, 2020 - 30 years
- (c) January 9, 2020 - life
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere N/A
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. Ct. OF Appeals.
- ii. N/A
- iii. N/A
- (b) the result in each such Court to which you appealed:
- i. Dismissed!
- ii. N/A
- iii. N/A
- (c) the date of each such result:
- i. January 12, 2022
- ii. N/A
- iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Anders v. California, Rule 215, SCACR
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A

- (c) N/A
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) Due Process Violation
- (c) Prosecutorial Misconduct
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached Page 'A'
- (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? Yes!
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no!
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no!
- (d) any other petitions, motions or applications in this or any other Court? no!
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Direct Appeal
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. S.C. Ct. of Appeal
- ii. N/A
- iii. N/A
- iv. N/A

Page 'A'

11. (a) Counsel was ineffective for failing to challenge the credibility of the expert witness on cross examination; The jury found Applicant guilty per this testimony; Counsel was ineffective for failing to object to solicitor "vouchers" during closing/ and rebuttal argument.
- (b) Due Process was violated where the judge should not have qualified the expert.
- (c). The solicitor offered the witness as expert knowing that the expert was not qualified.

(c) the disposition thereof:

i. Dismissed!

ii. N/A

iii. N/A

iv. N/A

(d) the date of each such disposition:

i. January 12, 2022

ii. N/A

iii. N/A

iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. Anders v. California, Rule 215, SCACR

ii. N/A

iii. N/A

iv. N/A

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!

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. N/A

iii. N/A

(b) the proceedings in which each ground was raised:

i. N/A

ii. N/A

iii. N/A

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) These are P.C.R. issues.
 - (b) N/A
 - (c) N/A
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? N/A
 - (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? N/A
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. Stephen Plexico, Public defender, Allendale County P.O. Box 126, Allendale, SC 29510
 - ii. N/A
 - iii. Sarah E. Shipe, Appellate Defender, Division of Appellate Defense P.O. Box 11589, Columbia, SC 29211
 - (b) the proceedings at which each such attorney represented you:
 - i. trial and sentencing
 - ii. N/A
 - iii. Court of Appeal

19. State clearly the relief you seek in filing this application:

Dismiss all criminal charges with Prejudice
and/or retrial excluding expert witness

20. Are you now under sentence from any other court that you have not challenged?

NO!

STATE OF SOUTH CAROLINA)

County of Allendale)

VERIFICATION

I, Tamel DaSouz Williams, 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.

Tamel Williams

SWORN to and subscribed before me this 1st
 day of April, 2022.

Linda K. B. (L.S.)
 Notary Public

My Commission Expires: 6-28-26

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Jamel DaJour Williams, 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.

Jamel Williams
Applicant

SWORN or affirmed to and subscribed before me this
1st day of April, 2022.

Linda K. Be
Notary Public

My Commission Expires: 6-20-26

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
Jamel D. Williams, SCDC #348445,	)	
	)	Case No. 2022-CP-03-00057
Applicant,	)	
	)	RETURN TO APPLICATION FOR
v.	)	POST-CONVICTION RELIEF, PARTIAL
	)	MOTION TO DISMISS, AND MOTION
State of South Carolina,	)	FOR A MORE DEFINITE STATMENT
	)	(Counsel Already Appointed)
Respondent.	)	

Respondent the State of South Carolina, making its return¹ to the application for post-conviction relief filed by Applicant Jamel D. Williams² on April 13, 2022, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. During its March 2019 term, the Allendale County Grand Jury indicted Applicant for murder (2018-GS-03-00045), attempted murder (2018-GS-03-00044), and possession of a weapon during the commission of a violent crime (2018-GS-03-00043)

On January 6-9, 2020, Applicant proceeded to a jury trial before the Honorable Carmen Mullen. Stephen Plexico, Esquire, represented Applicant. Reed A. Evans and Melissa Duque of

¹ Respondent's return was due to be filed within ninety days of receipt of Applicant's instant post-conviction relief application. *See* Rule 12(a), SCRCP ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial."). Now, having completed the return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay, Respondent respectfully asks this Court to accept this return as timely filed. *See* S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application."); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court.).

² Applicant filed this post-conviction relief application *pro se*. Counsel, James K. Falk has since been appointed on October 10, 2022, to represent Applicant in this matter.

the Fourteenth Circuit Solicitor's Office prosecuted the case. The jury found Applicant guilty as indicted. Judge Mullen sentenced Applicant to concurrent terms of life imprisonment for murder, thirty years imprisonment for attempted murder, and five years for the weapons charge.

Applicant timely filed a notice of appeal and was represented on appeal by Appellate Defender Sarah E. Shipe (Appellate Counsel) of the South Carolina Commission on Indigent Defense – Division of Appellate Defense. Appellate Counsel filed a brief pursuant to *Anders*³ on Applicant's behalf and a petition to be relived as counsel. On appeal, Applicant raised one issue:

Did the trial court abuse its discretion in qualifying the state's expert in forensic toxicology over defense counsel's objection where the witness had a Master of Science but did not testify to any specialized training or further education in forensic toxicology?

On January 12, 2022, the South Carolina Court of Appeals dismissed the appeal in an unpublished opinion and granted Appellate Counsel's motion to be relieved as counsel. *State v. Williams*, 2022-UP-017 (S.C. Ct. App. filed January 12, 2022). The remittitur was returned to the circuit court on February 22, 2022.

II. Allegations Raised and Relief Sought in Post-Conviction Relief Application

Applicant timely commenced his PCR action on April 13, 2022. In his application for post-conviction relief, Applicant asserts that he is being held in custody unlawfully, alleging:

1. Ineffective Assistance of Counsel
 - a. "Counsel was ineffective for failing to challenge the credibility of the expert witness on cross examination";
 - b. "Counsel was ineffective for failing to object to Solicitor "vouchers" during closing/and rebuttal argument";
2. Due Process Violation
 - a. "Due Process was violated where the Judge should not have qualified the expert"; and
3. Prosecutorial Misconduct
 - a. "The Solicitor offered the witness as expert knowing that the expert was not qualified."

³ *Anders v. California*, 386 U.S. 738 (1967).

Applicant requests relief as follows:

“Dismiss all criminal charges with prejudice and/or retrial excluding expert witness”.

Attached to this return and incorporated by reference are the Allendale 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.

III. Partial Motion to Dismiss

Applicant alleges his due process rights were violated when the trial court errantly qualified an expert at trial. Applicant does not specify the name of the expert he references in his allegation. Respondent notes four persons were qualified as experts at trial, including: Dr. Janice Edwards Ross, who was qualified as an expert in the area of forensic pathology; Tracy Allen McKinnon, who was qualified as an expert in the area of forensic toxicology; Ryan DeWane, who was qualified as an expert in the area of DNA analysis and forensic serology; and Chad Smith, who was qualified as an expert in the area of firearms identification.

Response to Allegation Trial Court Errantly Qualified an Expert

Regardless of the expert to which Applicant refers, Respondent submits Applicant’s allegation that his due process rights were violated based on trial court error should be summarily dismissed for failure to state a cognizable claim under the Uniform Post-Conviction Procedure Act⁴ (the Act). *See, e.g., Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (“[PCR] is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.”).

⁴ S.C. Code Ann. § 17-27-10 to -160.

An applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. United States or the Constitution or laws of this State;
3. That the court was without jurisdiction to impose sentence;
4. That the sentence exceeds the maximum authorized by law;
5. 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;
6. 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
7. 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).

Post-conviction relief “is a proper avenue of relief *only when the applicant mounts a collateral attack challenging the validity of his conviction or sentence.*” *Al-Shabazz v. State*, 338 S.C. 354, 367, 527 S.E.2d 742, 749 (2000). Applicant’s allegations do not support a cognizable claim for post-conviction relief under any of the statutory grounds.

Post-conviction relief is not a substitute for remedies incident to the proceedings in the trial court or on direct appeal. S.C. Code Ann. § 17-27-20(B). An applicant can allege constitutional violations in a PCR action unless he could have raised the issue on direct appeal. *Gibson v. State*, 329 S.C. 37, 41, 495 S.E.2d 426, 428 (1998) (citing *Simmons v. State*, 264 S.C. 417, 215 S.E.2d 883 (1975) (affirming the PCR court’s denial of relief because the applicant could have argued on direct appeal that the trial court erred in admonishing applicant’s defense

attorney and that the State improperly commented on the applicant's failure to call his wife as a witness at trial); S.C. Code Ann. § 17-27-20(b) (1976)); *but see Fortune v. State*, 428 S.C. 545, 837 S.E.2d 37, 44 (2019) (instructing that, in some instances, an applicant may argue a claim for post-conviction relief based on constitutional violations other than a violation of his Sixth Amendment right to counsel due to the ineffective assistance of counsel; recognizing *Fortune* was entitled to a new trial because the State made improper statements during its closing arguments at trial).

However, because an application for post-conviction relief is not a substitute for a direct appeal, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the 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); *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).

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. *See Wolfe v. State*, 326 S.C. 158, 162 n.2, 485 S.E.2d 367, 369 n.2 (1997). Direct appeal issues which could have been reviewed on appeal and were not objected to at trial or during guilty plea proceeding may only be presented to support a claim of ineffective assistance of counsel, not as a separate ground for relief. *Hyman v. State*, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983).

Accordingly, the State moves to dismiss these allegations pursuant to Rule 12(b)(6), SCRCF, for failure to state a cognizable claim as this allegation should be dismissed as a matter of law.

Response to Allegation Regarding Solicitor's Alleged Fraud Upon the Court

Applicant additionally alleges the "solicitor offered the witness as [an] expert knowing that the expert was not qualified."⁵ Respondent submits this allegation should be summarily dismissed pursuant to section 17-27-70 of the South Carolina Code because there is no genuine issue of material fact which would necessitate an evidentiary hearing on the claims. See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief); *Sutton v. State*, 361 S.C. 644, 647, 606 S.E.2d 779, 780 (2004) ("A PCR action is a civil action generally subject to rules and statutes that apply in civil proceedings"), *abrogated on other grounds by Bray v. State*, 366 S.C. 137, 620 S.E.2d 743 (2005); see also *Welch v. MacDougall*, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (requiring a PCR applicant to make a *prima facie* showing he is entitled to relief before the court will hold an evidentiary hearing).

Though Applicant claims the solicitor committed fraud upon the court by knowingly offering 'the witness' as an expert and seeking to qualify 'the witness' as an expert, Applicant does not present any *prima facie* evidence to support this claim other than his unsupported allegation, or otherwise substantiate this claim with any supporting facts or evidence. Therefore, Respondent submits this allegation is without merit.

⁵ As noted above, four witnesses were qualified as experts during trial. However, Applicant fails to specify which expert the State offered with the knowledge the expert "was not qualified."

Before the Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing he is entitled to relief. *Welch*, 246 S.C. 258, 143 S.E.2d 455. Based on Applicant's unsupported allegations of what Respondent has interpreted as fraud upon the court and a *Brady* violation, there is no genuine issue of material fact which would necessitate a hearing on Applicant's claims. Accordingly, these allegations should be summarily dismissed pursuant to section 17-27-70.

IV. Response to Allegations of Ineffective Assistance of Counsel

Applicant asserts counsel was ineffective for failing to challenge the credibility of the expert witness⁶ on cross examination. Applicant additionally asserts counsel was ineffective for failing to object to the State's vouching during closing and rebuttal.

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

⁶ Again, Applicant does not specify the name of the expert he references in his allegation regarding counsel's alleged ineffectiveness for failing to challenge said expert's credibility. Respondent again notes four persons were qualified as experts at trial, including: Dr. Janice Edwards Ross, who was qualified as an expert in the area of forensic pathology; Tracy Allen McKinnon, who was qualified as an expert in the area of forensic toxicology; Ryan DeWane, who was qualified as an expert in the area of DNA analysis and forensic serology; and Chad Smith, who was qualified as an expert in the area of firearms identification. Because Applicant has not specified the name of the expert he references in his allegation, Respondent requests Applicant file an amended application, through appointed counsel, with more specific claims and facts to support this vague allegation as required by Rule 12(e), SCRCP, and the Post-Conviction Procedure Act.

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); Rule 71.1(e), SCRPC. 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 burden of rebutting this presumption ‘rests squarely on the [applicant],’ and ‘it should go without saying that the absence of evidence cannot overcome it.’” *Dunn v. Reeves*, No. 20-1084, 2021 WL 2742771, slip op. at *4 (U.S. July 2, 2021) (internal brackets omitted) (quoting *Burt v. Titlow*, 571 U.S. 12, 22–23 (2013)). In fact, “even if there is reason to think that counsel’s conduct ‘was far from exemplary,’ a court still may not grant relief if ‘the record does not reveal’ that counsel took an approach that *no competent lawyer would have chosen*.” *Id.* (emphasis added) (internal brackets omitted) (quoting *Titlow*, 571 U.S. at 23–24).

“When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

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. 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.”). “Defense lawyers have ‘limited’ time and resources, and so must choose from among ‘countless’ strategic options.” *Reeves*, slip op. at *4 (quoting *Harrington*, 562 U.S. at 106–107). “Such decisions are particularly difficult because certain tactics carry the risk of ‘harm[ing] the defense’ by undermining credibility with the jury or distracting from more important issues.” *Id.* (quoting *Harrington*, 562 U.S. at 108). 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. *Strickland*, 466 U.S. 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. *Id.* 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 (explaining that, 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. *Id.* 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”); cf. *United States v. Morrow*, 977 F.2d 222, 229 (6th Cir. 1992) (“[T]he threshold issue is not whether [the applicant’s] attorney was inadequate; rather, it is whether he was so manifestly ineffective that defeat was snatched from the hands of probable victory.”)

***Response to Allegation Counsel was Ineffective for Failing to
Challenge the Credibility of an Expert Witness on Cross-Examination***

Applicant contends counsel was ineffective for failing to “challenge the credibility of the expert witness on cross examination.” Respondent asserts Applicant’s allegation is likely without merit. However, Applicant fails to state specifically which expert witness counsel failed to effectively cross-examine and how Applicant was prejudiced. Without more definite facts and circumstances to support Applicant’s claims, it is impossible for Respondent to respond specifically to this vague allegation. Instead, Respondent responds generally and moves for Applicant, through appointed counsel, to file an amended application with specific allegations.

The manner and extent of cross-examination should not be second-guessed. See *Sallie v. North Carolina*, 587 F.2d 636, 640 (4th Cir. 1978) (*Marzullo* is not intended to promote judicial second guessing on questions of strategy as basic as handling of a witness); *United States v. Nersesian*, 824 F.2d 1294, 3121 (2d Cir. 1987) (“decisions whether to engage in cross-examination and if so to what extent and in what manner, are . . . strategic in nature” and will not support an ineffective assistance claim); *Gustave v. United States*, 627 F.2d 901, 906 (9th Cir. 1980). *Strickland* requires that trial counsel must be given leeway to make reasonable strategic decisions. 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 688-689.

The State submits Applicant can satisfy neither requirement of the *Strickland* standard. However, as discussed above, it is impossible for the State to adequately and specifically respond

to Applicant's allegations of ineffective assistance of counsel because Applicant has failed to provide any specific facts to support his allegations. Thus, the State moves to require Applicant, through appointed counsel, to provide a more definite statement of his allegations pursuant to Rule 12(e), SCRCF. Thereafter, 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).

Response to Allegation Counsel was Ineffective for Failing to Object to Solicitor's Vouching During Closing

Applicant further asserts counsel was ineffective for failing to object to the State's improper vouching during closing. Respondent asserts Applicant's allegation is likely without merit. However, Applicant fails to state specifically what counsel failed to object to and how Applicant was prejudiced. Without more definite facts and circumstances to support Applicant's claims, it is impossible for Respondent to respond specifically to this vague allegation. Instead, Respondent responds generally and moves for Applicant, through appointed counsel, to file an amended application with specific allegations.

Leaving an issue unpreserved does not automatically constitute ineffective assistance of counsel. *See Millidge v. State*, 422 S.C. 366, 374, 811 S.E.2d 769, 800–01 (2018) (stating an applicant must prove both deficiency and prejudice to establish ineffective assistance of counsel for failing to preserve an issue); *see also id.* at 380, 811 S.E.2d at 804 (“[T]he proper inquiry for determining prejudice . . . is whether there is evidence in the record to support the trial court’s finding If so, an appellate court would necessarily have affirmed the trial court’s [ruling] . . .”).

Similarly, “[a]n ineffective assistance claim based on a failure to object is tied to the admissibility of the underlying evidence.” *Hough v. Anderson*, 272 F.3d 878, 898 (7th Cir. 2001). “If evidence admitted without objection was admissible, then the complained of action fails both prongs of the *Strickland* test: failing to object to admissible evidence cannot be a professionally ‘unreasonable’ action, nor can it prejudice the defendant against whom the evidence was admitted.” *Id.*; see *Miller v. Keeney*, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both *Strickland* prongs); *U.S. ex rel. Link v. Lane*, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from failure to object unless there is a legally supportable argument for exclusion of the evidence).

Additionally, the solicitor’s closing argument “must be carefully tailored so as not to appeal to the personal bias of the juror nor calculated to arouse his passion or prejudice.” *State v. Linder*, 276 S.C. 304, 278 S.E.2d 335, 339 (1981). “The solicitor may not rely on statements not in evidence during closing argument.” *State v. Huggins*, 325 S.C. 103, 107, 481 S.E.2d 114, 116 (1997) However, [t]he solicitor has the right to give his version of the testimony and to comment on the weight to be given to the testimony of the defense witnesses.” *State v. Raffaldt*, 318 S.C. 110, 115, 456 S.E.2d 390, 393 (1995). “[C]onsiderable 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).

To prevail on a claim that trial counsel was ineffective for failing to object to a solicitor’s purportedly improper comment during closing argument, the PCR applicant “bears the burden of demonstrating the improper comment deprived him of a fair trial.” *Johnson v. State*, 325 S.C. 182, 187, 480 S.E.2d 733, 735 (1997). “Improper comments do not require reversal if they are not prejudicial . . . , and the [applicant] has the burden of proving he did not receive a fair trial

because of the alleged improper argument.” *Randall v. State*, 356 S.C. 639, 642, 591 S.E.2d 608, 610 (2004). In other words, the applicant must demonstrate that, had counsel objected, there is a “reasonable probability . . . that the [jury] would have had reasonable doubt respecting guilt.” *Strickland*, 466 U.S. at 695. “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.” *Huggins*, 325 S.C. at 107, 481 S.E.2d at 116.

The State submits Applicant can satisfy neither requirement of the *Strickland* standard. However, as discussed above, it is impossible for the State to adequately and specifically respond to Applicant’s allegations of ineffective assistance of counsel because Applicant has failed to provide any specific facts to support his allegations. Thus, the State moves to require Applicant, through appointed counsel, to provide a more definite statement of his allegations pursuant to Rule 12(e), SCRPC. Thereafter, 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. Motion for A More Definite Statement

The State submits Applicant’s allegations of ineffective assistance of counsel for failing to challenge the credibility of ‘the expert witness’ and for failing to object to the State’s vouching during closing argument are without merit. However, it is impossible for the State to adequately respond to this claim because Applicant has failed to explain with specificity the facts upon which his claim is based. S.C. Code Ann. § 17-27-50 (requiring an applicant to “specifically set forth the grounds upon which the application is based”); *see also Welch v.*

MacDougall, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (stating it is incumbent upon an applicant to make at least a prima facie showing entitling him to relief before an evidentiary hearing will be scheduled and held); *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”); Rule 8(a)(2), SCRCP (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), SCRCP (“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 appointed counsel, to amend his application to provide specific claims and facts to support this vague allegation pursuant to Rule 12(e), SCRCP, and the Post-Conviction Procedure Act.

VI. 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, SCRCP. *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.* 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, SCRCP; *see also* Rules 15(a)-(b), SCRCP. 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), SCRCP.

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. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

VII. Response to Any and All other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

[conclusion and signature on following page]

VIII. Conclusion

WHEREFORE, the State moves to dismiss the allegations of trial court error and prosecutorial misconduct and requests this Court grant its partial motion to dismiss as set forth in section III. Thereafter, the State respectfully requests this Court grant its motion for a more definite statement and allow the State an opportunity to respond to the more definite statement, if necessary. Once a more definite statement is provided, the State requests an evidentiary hearing be held on Applicant's amended allegations of ineffective assistance of counsel.

Respectfully submitted,

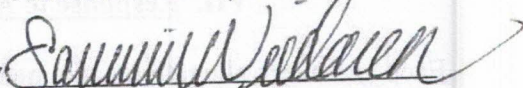
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October 11, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
	)	
	)	
Jamel Williams, #348445,	)	Case No.: 2022-CP-03-00057
Applicant,	)	
v.	)	APPLICANT'S AMENDED APPLICATION
State of South Carolina,	)	
Respondent.	)	
	)	

NOW COMES Applicant, Jamel Williams, amending his application filed April 13, 2022. In addition to the allegations raised in his initial application, Mr. Williams, through PCR Counsel, submits the following:

Amended Application Issues

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”).

Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel’s performance remains deferential towards defense counsel with a presumption that counsel acted competently. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so 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. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696.

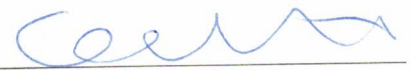
Mr. Williams submits that Counsel was constitutionally ineffective based upon the following grounds:

1. Counsel was constitutionally ineffective for failure to seek out a stand your ground hearing.
2. Counsel was constitutionally ineffective for failure to argue that the police statement was involuntary.
3. Counsel was constitutionally ineffective for failure to object to search for the truth language in the State's opening statement.
4. Counsel was constitutionally ineffective for failure to object to statements by Joe Loadholt because it went to the ultimate issue.
5. Counsel was constitutionally ineffective for failure to challenge the credibility of an expert witness on cross-examination.
6. Counsel was constitutionally ineffective for failure to object to the Solicitor's closing statement on the basis of burden-shifting.
7. Counsel was constitutionally ineffective for failure to procure a plea offer.
8. Counsel was constitutionally ineffective for failure to discuss trial strategy with Mr. Williams.
9. Counsel was constitutionally ineffective for failure to adequately prepare for trial.
10. Counsel was constitutionally ineffective for failure to properly communicate with his client.
11. Counsel was constitutionally ineffective for failure to get a proffer agreement.
12. Counsel was constitutionally ineffective for failure to object to the police officer crying on the stand during trial.
13. Counsel was constitutionally ineffective for failure to inform the jury that if he was found guilty he would be LWOPed.
14. Counsel was constitutionally ineffective for failure to ask for a mistrial once he realized that a juror had connections to the case.
15. Counsel was constitutionally ineffective for failure to ask for a mistrial when a non-juror went into the jury room because of a bomb threat. Mr. Williams submits that the person who went into the room told the jury he was guilty.
16. Counsel was constitutionally ineffective for failure to investigate the alleged tampering of witness Loadholt. Specifically, he submits that there was not sufficient evidence to find Mr. Williams' brother of tampering.

17. Counsel was constitutionally ineffective for failure to get Mr. Williams' in front of another judge. Specifically, he claims that his trial judge was also his bond judge and she denied him bond and said scathing things to him about the charges at the bond hearing. He also submits that the Judge thought he was guilty of the crimes before the trial and that the judge did not have sufficient knowledge of the case before trial.
18. Counsel was constitutionally ineffective for failure to request a voluntary manslaughter instruction.
19. Counsel was constitutionally ineffective for failure to adequately question the deceased's character.
20. Counsel was constitutionally ineffective for failure to question witness on pending attempted murder charges.
21. Counsel was constitutionally ineffective for failure to investigate unidentifiable blood for DNA evidence.
22. Counsel was constitutionally ineffective for failure to mitigate the sentence by stating that he was the primary caregiver for his children.
23. Counsel was constitutionally ineffective for failure to ask for full findings of fact and conclusions of law on all motions, including mistrial motions.
24. Counsel was constitutionally ineffective for failure to adequately impeach Loadholt during cross-examination.
25. Counsel was constitutionally ineffective for failure to move to prohibit Loadholt from testifying due to the tampering allegations.
26. Prosecutorial misconduct/vindictiveness because a sloppy investigation was conducted in this case.

Conclusion

Based upon the above, Mr. Williams requests that this Court grant relief, vacate the convictions, and remand the case to the court of general sessions for a new trial.



Chelsey F. Marto
Bar No. #104191

For Applicant Jamel Williams

November 8, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
	)	
	)	
Jamel Williams, #348445,	)	Case No.: 2022-CP-03-00057
Applicant,	)	
v.	)	APPLICANT'S AMENDED APPLICATION
State of South Carolina,	)	
Respondent.	)	
	)	

NOW COMES Applicant, Jamel Williams, amending his application filed April 13, 2022. In addition to the allegations raised in his initial application, Mr. Williams, through PCR Counsel, submits the following:

Amended Application Issues

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRCP (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”).

Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); see *Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel’s performance remains deferential towards defense counsel with a presumption that counsel acted competently. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so 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. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696.

Mr. Williams submits that Counsel was constitutionally ineffective based upon the following grounds:

1. Trial Counsel was constitutionally ineffective for failure to seek out a stand your ground/immunity hearing.
2. Trial Counsel was constitutionally ineffective for failure to object to improper bolstering and burden-shifting when the State addressed Captain Ford's emotional reaction and vouched for his credibility during closing argument.
3. Trial Counsel was constitutionally ineffective for failure to object to Captain Ford crying on the stand during trial.
4. Trial Counsel was constitutionally ineffective for failure to request a voluntary manslaughter instruction.
5. Appellate Counsel was constitutionally ineffective for failure to challenge the self-defense instruction.

Conclusion

Based upon the above, Mr. Williams requests that this Court grant relief, vacate the convictions, and remand the case to the court of general sessions for a new trial.



Chelsey F. Marto
Bar No. #104191

For Applicant Jamel Williams

July 1, 2024

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
2022-CP-03-00057

Jamel Williams,

Plaintiff,

VS.

State of South Carolina,

Defendant.

-----)

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

TRANSCRIPT OF HEARING

April 14, 2025
Beaufort, South Carolina

B E F O R E:

The Honorable Frank Addy, Judge Presiding

APPENDANCES:

For the Applicant -
Chelsey Marto, Esquire

For the State -
Danielle Dixon, Esquire

Cathy L. Young, CVR-M
Official Circuit Court Reporter
Post Office Box 4604
Beaufort, South Carolina 29903

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No exhibits were introduced in this hearing.

* * * * *

MS. DIXON: May it please the Court?

Danielle Dixon, Assistant Attorney General for the State of South Carolina. This is the case of Jamel Williams v. State, Docket Number 2022-CP-03-00057. Mr. Williams is currently serving an aggregate life sentence. He was indicted by the Allendale County Grand Jury in March 2019 for murder, attempted murder, and possession of a weapon during a violent crime. Those are Indictment Numbers 2018-GS-03-00045, 44 and 43. He did proceed to a jury trial before the Honorable Carmen Mullen. He was represented by Mr. Stephen Plexico, who was the Public Defender, and the case was prosecuted by Assistant Solicitor Reed Evans.

THE COURT: All right.

MS. DIXON: He --

THE COURT: Go ahead.

MS. DIXON: Oh, I'm sorry. He proceeded on a theory of self-defense. The jury did find him guilty as indicted, and Judge Mullen sentenced him to concurrent terms of life for murder, 30 years for imprisonment, for attempted murder, and five years

1 for the weapon charge. He timely filed a notice of
2 appeal that was perfected by Appellate Defender
3 Sarah Shipe. She filed a brief pursuant to Anders,
4 and on appeal raised the following issue: Did the
5 Court abuse its discretion in qualifying the State's
6 expert and forensic toxicology over defense
7 counsel's objection? The Court of Appeals dismissed
8 it pursuant to the Anders procedure. The remittitur
9 was sent February 22nd, 2022. Mr. Williams then
10 timely filed this PCR application on April 13th,
11 2022, raising various grounds of ineffective
12 assistance of counsel, due process violation, and
13 prosecutorial misconduct. Your Honor, the State did
14 move to partially dismiss some of those allegations.
15 It's our understanding they've now filed two amended
16 applications, and it's our understanding that they
17 only intend to go forward on the allegations in the
18 most recent one, which would be July 1st, 2024. And
19 at this time I'll turn it over to counsel for Ms.
20 Williams -- Mr. Williams.

21 THE COURT: All right, Ms. Marto?

22 MS. MARTO: Yes, Judge. It's our
23 understanding that we're proceeding forward on the
24 second amended application. I did talk to my client
25 in the back. He did request I give an oral motion

1 to the Court to open the floor for him to make a
2 brief statement for the record concerning a federal
3 issue involving due process and immunity rights, and
4 that he wants to be heard before he takes the stand
5 on what he wants to say concerning what he believes
6 to be due process violations. And he believes that
7 he should be heard before he proceeds to a full
8 hearing.

9 THE COURT: Okay. Any objection from the
10 State for me -- what -- it's a due process violation
11 that -- have you discussed this with him, or ---

12 MS. MARTO: Judge, it does go to the
13 failure to get an immunity hearing.

14 THE COURT: Okay.

15 MS. MARTO: He feels very strongly, and he
16 wants to address the Court.

17 MS. DIXON: I -- I would just say -- I
18 would ask him to be sworn in, just in the event that
19 he veers into what could be testimony.

20 THE COURT: Okay.

21 Mr. Williams, I'm happy to hear your
22 argument, but in the event that you reference
23 factual allegations, I do want you under oath, okay?
24 So just raise your right hand, if you don't mind,
25 for me. Do you swear to tell me the truth?

1 THE WITNESS: Yes, sir.

2 Jamel Williams,

3 having been duly sworn,

4 testifies as follows:

5 THE COURT: All right, very good. I'll
6 give you the floor, Mr. Williams.

7 MR. WILLIAMS: Your Honor, with all due
8 respect, even if this Court denied me today, my
9 right would be denied again. No matter what stage
10 we're in, I was entitled for a stand-your-ground
11 immunity hearing before trial, and it never
12 happened. The transcript on page 78 proved that --
13 that denied violating my Fourteenth Amendment of due
14 process right, and it still hasn't been corrected.
15 If the law is not enforced today, this violation
16 continues. That's all I needed to place on the
17 record at this time, Your Honor.

18 THE COURT: Okay. I understand your
19 position.

20 Essentially, if I'm understanding him
21 correctly, he's -- he's asserting that failure to
22 receive the immunity hearing implicated 14th
23 Amendment federal due process protections, and I
24 understand that's his position. Did you need to be
25 heard on that?

1 MS. DIXON: I would just say that the
2 State's position is that the due process would not
3 apply to this situation.

4 THE COURT: I understand your position.
5 All right, I assume you want to call Mr. Williams?

6 MS. MARTO: Yes, Your Honor.

7 THE COURT: All right.

8 MS. MARTO: I'll call Mr. Williams.

9 THE COURT: If you would, sir, come on up
10 here. You are already under oath, but if you'll
11 join me up here in the witness stand, please, Mr.
12 Williams.

13 THE WITNESS: (Complies.)

14 THE COURT: And just so that the record's
15 clear, I've got the Webex running here on my laptop,
16 and I think you indicated it was Ms. Shipe that we
17 might need to have testimony from at some point?

18 MS. MARTO: That's my understanding.

19 THE COURT: All right.

20 MS. MARTO: Thank you, Judge.

21 **DIRECT EXAMINATION**

22 BY MS. MARTO:

23 Q. Good afternoon, sir.

24 A. Good afternoon.

25 Q. So what charges did you go to trial on?

1 A. I went to trial on murder, attempted
2 murder, and possession of a weapon.

3 Q. Who were you represented by?

4 A. Mr. -- Mr. Plexico.

5 Q. And what happened at your trial?

6 A. What happened at my trial was ---

7 Q. In terms of what was the outcome?

8 A. The outcome was my right was violated.

9 Q But you were found guilty, right? The
10 jury found you guilty?

11 A. Yes, ma'am.

12 Q. And you got a life sentence?

13 A. Yes, ma'am.

14 Q. Now, your rights were violated. I think
15 you talked a little bit about that before, but do
16 you feel like your rights were violated because you
17 were denied an immunity hearing, right?

18 A. Yes, ma'am.

19 Q. And explain to me what happened in your
20 case that would have caused you to be entitled to an
21 immunity hearing?

22 A. Due to the fact that I was inside of my
23 own home, and also can prove -- be proven by the
24 record that the alleged victim, who the State has
25 represented and claimed that was a victim, never did

1 have the rights to be inside of my home, and was
2 told to leave several times, but they never did
3 leave. They forced their way into the inside of my
4 home, and under South Carolina Statute Code 16-11-
5 420, that statute could -- simply stated, that they
6 are an intruder or an attacker, but yet the State
7 has represented them as a victim and look at me as a
8 defendant.

9 Q. So your defense at trial was self-
10 defense, correct?

11 A. Self-defense, defense of other, and
12 defense of habitation.

13 Q. And did you talk to Mr. Plexico about
14 having an immunity hearing?

15 A. No, ma'am, this question was never
16 brought up. And it -- and it's clearly in the
17 record the way it was brought up to the attorney on
18 page 78, where Mr. Plexico told the Court that an
19 immunity hearing was never reviewed or never
20 requested, and the trial still proceeded on. The
21 defense of habitation under South Carolina Code 16-
22 11-440(C) gave me the right to an immunity hearing.
23 In State vs. Duncan, the Supreme Court held in 2011
24 that an immunity hearing is mandatory. It is not an
25 option. It is not a -- and it's -- hold up, the use

1 of the words should make the hearing mandatory when
2 an immunity is properly raised, and it is not a
3 pivotal defense for the jury but a question of law
4 for the Judge, but yet the Court still had to
5 proceed.

6 Q. And what do you think the outcome of the
7 immunity hearing would have been?

8 A. I would have been granted immunity.

9 Q. Okay. So you wouldn't have gone to
10 trial? You would have been granted ---

11 A. I wouldn't have gone to trial. Even --
12 even -- I feel like even if I -- I would have been
13 tried -- even if I wouldn't have received an
14 immunity hearing, I still -- the result would still
15 be different because I never received a lesser-
16 included offense. The only thing that ever was off
17 on the table was murder, attempted murder and
18 possession of a weapon when I was inside of my own
19 home. This person came to my house.

20 Q. And so that's another one of your
21 issues, right, that counsel didn't ask for a
22 voluntary instruction?

23 A. Yes, ma'am.

24 Q. And what do you think would have
25 happened had counsel asked for a voluntary

1 instruction?

2 A. I mean I can only give a theory, I can
3 only give an opinion of what I think would have
4 happened, but I -- truth be -- be told, I -- if I
5 feel like -- if we would have had immunity, we would
6 have never made it that far, because every evidence,
7 every witness that day ever presented on the stand
8 stated that I was living here, stated that I told
9 the individual to leave several times, and he
10 refused to leave, but they didn't want to hear that.
11 They was all about prosecuting me.

12 Q. Now, and I take your point that you're
13 saying that if you had an immunity hearing, you
14 wouldn't have gone to trial, but when it comes to
15 the trial itself, you also had issues with Captain
16 Ford being emotional, correct?

17 A. Yes, ma'am.

18 Q. And can you expand on that a little bit?

19 A. In closing -- in the closing argument by
20 the State, you know, Captain Ford took the stand and
21 cried on the stand, but my attorney didn't object to
22 it. I felt like he -- he really like patted him on
23 the back, felt sympathy for him, but then it was
24 turned around and -- well, the statement was turned
25 around and then used into the -- for the jury to

1 convict me due to his emotion. That is also in the
2 record in the closing argument.

3 Q. Okay, so it's two things, right? You're
4 saying Captain -- counsel should have objected to
5 Captain Ford crying during his testimony, right, but
6 you're ---

7 A. Yeah.

8 Q. -- also saying that the State during
9 closing arguments capitalized ---

10 A. Yes, ma'am. From the -- I feel like
11 from the jump, man, I'd already been painted as
12 guilty as a violent offender. When my attorney put
13 in a motion to squash my violent -- a violent charge
14 that the State had said that I was a violent
15 offender, but then the State would later then turn
16 around and use everything to convict me, the same
17 evidence that they used -- and I -- and I sent in a
18 motion to the Court of the evidence. They used a
19 DMV photo of a photo lineup to the -- and put it to
20 the jury. I mean they used the same photo and
21 presented to the witness, and a DMV photo on the
22 record to say I was a violent offender. And they
23 still used the evidence when the evidence should
24 have been objected to and should had been a, you
25 know, never should have been entered.

1 Q. And then you also had an issue with
2 appellate counsel; is that correct?

3 A. Yes, ma'am.

4 Q. Can you expand on what your issue with
5 appellate counsel was?

6 A. The -- the issue with appellate counsel
7 is, Mr. Plexico put in a motion for, you know, on a
8 direct appeal for all motion, etcetera, I can't
9 really remember off the top of the head, but to be
10 challenged. Instead of challenging the motion of
11 self-defense, the defense that I had petitioned
12 under South Carolina Statute Code 16-11-440(C), she
13 challenged a witness' testimony.

14 Q. So you had issues with the self-defense
15 instruction given; is that correct?

16 A. I never had an instruction. I never had
17 a problem with the instruction given to me, 'cause I
18 really don't agree -- I don't understand what you're
19 asking.

20 Q. You talk about ---

21 A. Can you break it down and explain it a
22 little bit more.

23 Q. -- forming this amendment, right?

24 A. Uh-huh.

25 Q. And the issue with appellate counsel was

1 constitutionally ineffective for failing to
2 challenge the self-defense instruction?

3 A. Yes, I feel like she would have
4 challenged the self-defense instruction under South
5 Carolina Statute Code 16-11-440(C), it would have --
6 it would have showed the Appellate Court that
7 immunity should have been grant -- granted, and by
8 the record, stated clearly in black and white right
9 there, excuse my language, on their transcript they
10 that immunity was never held clearly in open court.

11 Q. So one more time so that I -- everybody
12 understands, you're saying appellate counsel should
13 have raised the issue that you were obviously denied
14 an immunity hearing; is that ---

15 A. Yes, ma'am.

16 Q. -- what you're saying?

17 A. Yes, ma'am.

18 Q. Okay. Is there any other issues?
19 Anything else you want this Court to know?

20 A. Well, I mean I feel like not only was my
21 counsel ineffective, I feel like by you not raising
22 a mandatory issue of an immunity hearing, you denied
23 me a right to a fair -- receive a fair hearing as a
24 counsel. So it's just not about inference as a
25 counsel. As a counselor, you know, you swear under

1 oath that you will protect my right to the best of
2 your ability, but I feel like you denied that. You
3 denied me the opportunity to receive a fair hearing.
4 Not only the State denied me that right, but my
5 counsel, who, you know, who I -- I live up to right
6 now, who I really, you know, you -- and you denied
7 it. You didn't even give me a chance to receive a
8 fair hearing.

9 MS. MARTO: No further questions, Your
10 Honor.

11 THE COURT: Attorney General?

12 MS. DIXON: Nothing from the State.

13 THE COURT: All right, sir, thank you, you
14 can step down.

15 MS. MARTO: No further witnesses, Your
16 Honor.

17 THE COURT: Ms. Dixon?

18 MS. MARTO: Your Honor, the State calls Mr.
19 Stephen Plexico.

20 MR. PLEXICO: Can I take my transcript?

21 MS. MARTO: Yes. No, you can take it, I'm
22 sorry. No, you're good.

23 MR. PLEXICO: Sir, where do you want me to
24 be sworn in?

25 (Witness sworn.)

* * * * *

Stephen Plexico,

having been duly sworn,

testifies as follows:

* * * * *

DIRECT EXAMINATION

BY MS. DIXON:

Q. Mr. Plexico, how are you doing today?

A. Just fine, ma'am, I hope y'all are too.

Q. Thank you. And what is your current position?

A. I'm Assistant Public Defender in the Fourteenth Circuit Public Defender's Office.

Q. And how long have you been doing that job?

A. I've been a public defender since February 7th, I think, of 1990.

Q. 1990?

A. Yes.

Q. So about 35 years?

A. A little over.

Q. And during that time have you tried a lot of murder cases?

A. Yes, ma'am.

Q. So you're familiar with murder?

1 A. Yes, ma'am.

2 Q. Voluntary manslaughter?

3 A. Yes, ma'am.

4 Q. And self-defense?

5 A. Yes, ma'am.

6 Q. How did you become involved with Mr.
7 Williams' case?

8 A. Well, I didn't bring my -- may I step
9 down, Your Honor, and get my ---

10 THE COURT: Sure.

11 BY THE WITNESS:

12 A. We opened the file on April 30th, 2018.
13 On 5/1, the next day, I had my first jail interview,
14 and then we went from there.

15 Q. Okay. Do you know about how many times
16 you met with him? Just kind of a guess.

17 A. I spent many afternoons and evenings
18 with him. I did not write them all down. On this
19 one that we had, 6/26 did a bond motion, 6/27 a
20 check, no discovery. We had a prelim on 6/28,
21 that's within two months of being appointed. He was
22 present for the preliminary hearing. Less than two
23 weeks later we were good to go, again, for a bond
24 motion, but I didn't make any notes exactly on that
25 one.

1 Q. Do you feel like you had sufficient
2 time to discuss the evidence and the case with him?

3 A. I had the case 19 months, I had more
4 than enough time, and I did so.

5 Q. And then what was the State's primary
6 evidence that they presented at trial?

7 A. Well ---

8 Q. Just very brief.

9 A. Well, they had -- they had, of course,
10 the two victims, they had people who were in,
11 around, inside, or that sort of thing, you know, but
12 they obviously had enough to convince the jury that
13 they convicted him.

14 Q. This was primarily eyewitnesses,
15 correct?

16 A. Yes.

17 Q. And then -- and then he proceeded on
18 self-defense, correct?

19 A. Yes.

20 Q. Now, he's got that you were ineffective
21 for failing to seek a stand-your-ground immunity
22 hearing. Is that something you considered in
23 advance of trial as to whether you would request one
24 of those hearings?

25 A. I talked with my client about that.

1 And my opinion isn't real great on stand your ground
2 as far as that goes. Philosophically, they are --
3 they're routinely denied.

4 Q. Uh-huh.

5 A. And it's, basically, I mean I tell my
6 client, "Look, you're probably gonna get denied.
7 The bottom line is we're gonna wind up at trial, and
8 we're going to win it at trial, if it's -- if -- if
9 we walk out of this. All right. So you're giving
10 the Solicitor two bites at the apple to practice
11 burning you on the -- on the witness stand."

12 Q. Uh-huh.

13 A. What he misses the first time, and
14 these are professional people, they aren't gonna
15 miss it the second time, so it's foolish. And
16 that's my philosophy about it. I told him we could
17 do that, but I wasn't real hopeful about it, but,
18 yeah, he said, no, he just wanted to take the one
19 bite at the apple.

20 Q. Gotcha, okay.

21 A. That was his choice.

22 Q. Okay.

23 A. You can't complain about your choice
24 after you make it.

25 Q. And then he's got that you didn't

1 object when Captain Ford was crying on the stand.

2 Do you recall him -- Captain Ford getting emotional
3 at all?

4 A. It refreshed my memory when I went over
5 the transcript. I mean I was the one -- I think I
6 said, "Are you okay?" All right, but he wasn't a
7 key witness, and he didn't really hurt me. I mean
8 somebody's going to say, "Yeah, I got there and
9 found the light."

10 Q. Right. And were you ---

11 A. Okay, and the other gun was shot. I
12 mean -- but I didn't, you know ---

13 Q. And are you aware of any legal
14 objection you could have made to that?

15 A. Not that -- I mean nothing that would
16 have been relevant, because I mean it's not unusual,
17 in my career, to see people cry. I mean I've made
18 people cry on the witness stand, ---

19 Q. Right.

20 A. -- unfortunately, but that's just what
21 happens sometimes. I think he just got a bit
22 overwhelmed, and it was brief.

23 Q. Yeah.

24 A. I didn't see where that hurt him.

25 Q. Right. And then in that same vein,

1 when the State was arguing about his becoming
2 emotional, did you see any reason to object during
3 closing argument?

4 A. No, I didn't. I don't even recall
5 that. You would have to bring that to my attention
6 in the closing argument.

7 Q. Do you recall whether you considered
8 requesting a lesser-included offense in this case?

9 A. I go over that, generally, with my
10 client, because I mean that's my practice. That's
11 how you do these things.

12 Q. Uh-huh.

13 A. Okay? And it's -- it's an all or
14 nothing thing, all right? My -- what I tell my
15 clients is, and I don't remember, specifically,
16 telling him, but what I tell my clients is, if you
17 give them half the baby, they're going to give you
18 half the baby, okay? You're probably, you know, if
19 they're -- if they're not gonna out and out convict
20 you, they're going to give you half the baby.
21 They're not gonna, you know, you're not gonna get a
22 not guilty.

23 Q. Uh-huh.

24 A. They're gonna step down one, not two,
25 and let you off. So the bottom line is, you know,

1 you're looking 30 years on that 85 percent, so
2 that's 25 and a half years. And, routinely, I can't
3 recall a client that says, "Yeah, I want to go
4 through that." I mean they just don't do that.
5 People cannot get a -- such a, you know, two and a
6 half decades of serving time, that possibility, they
7 just can't. They don't want that. You know,
8 they're gamblers and they want to go all the way.
9 Do I have a specific memory? No, I don't. I'm
10 sorry, I didn't.

11 Q. But generally speaking, I believe you
12 testified it's a risky proposition.

13 A. Yeah.

14 Q. Okay.

15 A. I personally thought he'd be found not
16 guilty. Of course, I was obviously wrong.

17 Q. And then any plea negotiations here?

18 A. Generally, they don't do a plea
19 negotiation on a murder case from the Solicitor's
20 Office.

21 Q. Okay, anything he wanted you to try to
22 get, or anything like that?

23 A. No.

24 Q. Nothing? Okay.

25 A. No. On a murder case the Fourteenth

1 Circuit, generally, what they're gonna do as a --
2 their golden rule, all right, of course, there's
3 exceptions to everything, is, you know, they're
4 gonna -- they'll try and lose it. So if you've got
5 a murder case, you're gonna be just going to trial,
6 just go on and start that way.

7 Q. Okay.

8 MS. DIXON: I have nothing further from the
9 State, thank you.

10 **CROSS-EXAMINATION**

11 BY MS. MARTO:

12 Q. Good afternoon, sir.

13 A. Yes, ma'am.

14 Q. So you've done, safe to say, quite a
15 few murder trials in your time, right?

16 A. Yes, ma'am.

17 Q. And would -- would you say that more
18 likely than not those murder trials involve some
19 element of self-defense?

20 A. Some of them do, some of them don't.
21 Some of them is just to crush you. You know, your
22 guy is just in the wrong, you know. You're hoping,
23 what is it, the Hail Mary, they grab the football
24 into your end zone somehow.

25 Q. So you've done so many. Do some of the

1 specific details about each case kind of run
2 together, or are you able to remember specific
3 conversations you had with Mr. Williams himself?

4 A. I remember that specific conversation
5 for sure.

6 Q. Okay.

7 A. I remember that one, 'cause I was
8 asking here did he want to do that.

9 Q. You're talking about the immunity
10 hearing?

11 A. The immunity, right.

12 Q. And do you specifically recall talking
13 to him about voluntary manslaughter?

14 A. No, I do not, that's what I testified
15 to.

16 Q. Okay. You'd agree that a voluntary
17 manslaughter conviction is better than murder,
18 right?

19 A. Absolutely.

20 MS. MARTO: One moment, Your Honor.

21 BY MS. MARTO:

22 Q. And you ---

23 THE COURT: We'll let her ask the question.

24 MS. MARTO: Yeah.

25 BY MS. MARTO:

1 Q. You'd agree that defense's perspective
2 on the case was that Mr. Williams was the victim,
3 and that he was protecting himself, versus the
4 deceased, who was not the victim in the case?

5 A. Yes. Yes, but that's not, you know ---

6 Q. And when you ---

7 A. Others present did not seem to -- to
8 appreciate the situation with such gravity as my
9 client, and, apparently, the jury felt my client
10 overreacted.

11 Q. To the extent that you used the term
12 victim, you didn't mean that as a way of personally
13 placing blame on Mr. Williams?

14 A. Absolutely not. I mean I -- I thought
15 he should have been found not guilty, but, you know,
16 it's just -- that's not the way -- the -- I think the
17 jury just thought he, you know, he jumped to a
18 conclusion, and he started firing. I mean the other
19 thing, I don't ever know what a jury thinks, so
20 there are other things that, you know, probably
21 didn't make sense in the testimony for my client.
22 We hit a lot of evidence, so we didn't do that.

23 MS. DIXON: Nothing further, Your Honor.
24 Nothing further.

25 THE COURT: All right. Sir, thank you, you

1 can step down.

2 MS. DIXON: Your Honor, our next witness is
3 virtual, and I believe she's already online,
4 correct?

5 THE COURT: She is.

6 MS. DIXON: And it's Sarah Shipe.

7 THE COURT: I know we have a court
8 reporter, but I'll also have my AA record this for
9 posterity, just as a backup.

10 CLERK: If you add me to the courtroom, I
11 can get it up on the screen.

12 THE COURT: Okay. Greta, can you add the
13 Clerk? Let's see here. Yeah, go ahead, if you
14 want. She should be joining Greta.

15 CLERK: Give me just a second here. Okay.
16 Oh, I think we need your volume down.

17 THE COURT: I took it down.

18 CLERK: There we go.

19 MS. DIXON: Judge, I think if we can just
20 hear her, we can proceed, unless y'all -- can y'all
21 see her? I mean I don't need to look at her as long
22 as I can hear her.

23 THE COURT: All right, Ms. Shipe, go ahead
24 and -- there you go. Do you have a video?

25 MS. SHIPE: Yes. My apologies.

1 MS. DIXON: May it please the Court? Okay.

2 THE COURT: There we go. My law clerk, if
3 you wanted, we could just put her computer down
4 there, if that makes it easier for y'all both.

5 MS. DIXON: I think this is gonna be pretty
6 brief, so ---

7 THE COURT: Okay.

8 MS. DIXON: -- I'm good to just -- if I can
9 hear her, I'm good to do it that way.

10 THE COURT: All right.

11 MS. DIXON: Ms. Shipe, can you hear me?

12 THE COURT: Can you hear us, Ms. Shipe?

13 MS. SHIPE: I can now.

14 THE COURT: Okay. Let me get you under
15 oath.

16 (Witness sworn.)

17 * * * * *

18 **Sarah Shipe,**

19 **having been duly sworn,**

20 **testifies as follows:**

21 * * * * *

22 THE COURT: We're gonna have her -- the
23 Attorney General is going to speak into the
24 microphone. They can't see you, but I think they
25 should be able to hear you quite well, okay? So go

1 ahead and see if that mic works.

2 MS. DIXON: May it please the Court?

3 THE COURT: Did you hear that?

4 MS. SHIPE: I did not.

5 THE COURT: All right, she's not -- oh,
6 yeah, try unmuting yourself maybe, and that might
7 make it work. Okay, we're gonna try that again in a
8 second.

9 MS. DIXON: May it please the Court?

10 THE COURT: Did you hear that?

11 MS. SHIPE: I did not.

12 **DIRECT EXAMINATION**

13 BY MS. DIXON:

14 Q. Ms. Shipe, how are you today?

15 A. I can barely hear you, but I can see
16 you.

17 Q. Okay.

18 MS. DIXON: All right, let's try again.

19 BY MS. DIXON:

20 Q. All right, Ms. Shipe, how -- how is
21 that? Is that better?

22 A. That's better.

23 Q. Okay. If you have trouble hearing me,
24 just let me know, okay?

25 A. I'll -- I'll do it.

1 Q. All right. All right, Ms. Shipe, what
2 was your role in this case?

3 A. I represented Mr. Williams on an appeal
4 from his convictions.

5 Q. And when you got this case, what did
6 you do to prepare as a brief?

7 A. I reviewed the transcript of the trial.
8 I reviewed any relevant exhibits that were objected
9 to in the case. Then I did legal research on any of
10 the issues that were raised, and ended up submitting
11 an Anders brief, because there were no issues that I
12 felt had legal merit. So I argued, you know, the
13 arguable issue that I could find, which was
14 regarding the expert's qualifications.

15 Q. And do you recall -- or, I'm sorry, Mr.
16 Williams has alleged that you were ineffective for
17 not challenging the self-defense instruction. Do
18 you recall any objection to that charge?

19 A. There -- there was not an objection to
20 the charge. There were some -- some things asked
21 for that as near as I could tell were given. The
22 jury was instructed on self-defense, defense of
23 others, and the defense of habitation. And I
24 couldn't find where any objection was made to the
25 instructions as given, so it wasn't an issue that I

1 could raise on direct appeal.

2 Q. Okay. And then during his direct
3 testimony today, Mr. Williams has alleged you were
4 ineffective for not challenging the Court's failure
5 to hold an immunity hearing pretrial. Do you
6 believe that is a preserved issue you could have
7 raised on appeal?

8 A. I -- I didn't see where it was raised
9 by trial counsel. I -- to be candid with the Court,
10 it's been some time since I've looked at this case.
11 I did try to review it in preparation for this, but
12 I don't recall a motion being made for an immunity
13 hearing, so I couldn't have raised it on appeal
14 without it having been raised below.

15 Q. All right, thank you.

16 MS. DIXON: Nothing further.

17 **CROSS-EXAMINATION**

18 BY MS. MARTO:

19 Q. Hey, Ms. Shipe.

20 A. Good afternoon.

21 Q. Good afternoon. So if an immunity
22 hearing had taken place, would you have considered
23 raising that issue on appeal?

24 A. Well, it's -- it's kind of hard to
25 speak in hypotheticals about an immunity hearing.

1 It would have been on the Judge's ruling, and
2 whether or not there were actual bad findings made,
3 and whether or not, you know, I thought he defended
4 the law at all. It's -- it's hard for me to guess
5 whether or not I would have raised it without it
6 having been raised and having had a hearing.

7 Q. But it could have been a potential
8 issue given the right circumstances; is that fair?

9 A. It could have been an issue if trial
10 counsel had raised it, and -- and then -- and the
11 trial court had ruled, you know, where it defended
12 the law and stayed.

13 Q. Do you have a professional opinion on
14 whether an immunity hearing should be held in a
15 self-defense case?

16 MS. DIXON: I'm going to object. I believe
17 that there's case law that prohibits appellate
18 lawyers from, or attorneys in general, from acting
19 as experts in PCR cases. I believe that's State v.
20 Green, I don't have the cites off the top of my
21 head.

22 THE COURT: I'll overrule that for what
23 it's worth. If she has an opinion on whether,
24 generally, she's seen lots of these in the record,
25 I'll let her answer.

1 BY WITNESS:

2 A. Will you ask the question one more
3 time, I'm sorry?

4 Q. Yeah, the question was, do you have a
5 professional opinion on whether an immunity hearing
6 should be held in this kind of case?

7 A. I think they're often held in self-
8 defense cases where there are facts that support,
9 you know, the statutory law. That's -- that's
10 probably the best general answer I can give to that.

11 Q. So in your experience, that's what most
12 attorneys would do in maybe a similar case?

13 MS. DIXON: Object again to ---

14 BY THE WITNESS:

15 A. I don't know if I can give an opinion
16 on what most attorneys do at the trial level. I do
17 see immunity hearings held often in self-defense
18 cases. I can say that.

19 MS. MARTO: Nothing further, Your Honor.

20 MS. DIXON: Nothing further.

21 THE COURT: All right, great. Thank you
22 for joining us. Have a good day.

23 MS. SHIPE: Thank you.

24 THE COURT: Additional witnesses for the
25 State?

1 MS. DIXON: Nothing further.

2 THE COURT: Anything in reply?

3 MS. MARTO: My client would like to take
4 the stand.

5 THE COURT: Sir, if you'll come on back up
6 and have a seat up here, please.

7 **Jamel Williams,**
8 **having previously been sworn,**
9 **testifies as follows:**

10 * * * * *

11 **DIRECT EXAMINATION**

12 MS. MARTO: Thank you, Judge.

13 BY MS. MARTO:

14 Q. Sir, do you recall ever discussing an
15 immunity hearing with your attorney?

16 A. No, ma'am.

17 Q. Do you recall the conversation he
18 recalled?

19 A. No, ma'am.

20 Q. Do you recall discussing with him a
21 potential voluntary manslaughter instruction?

22 A. No, ma'am.

23 Q. Is there anything else you want to
24 address this Court in in response to what the State
25 has already said?

1 A. Yes, ma'am. I just want to make a
2 brief statement.

3 Your Honor, the record did not confirm that
4 I was denied a stand-your-ground immunity hearing
5 before trial, and it violated -- violated South
6 Carolina law and my constitutional rights of due
7 process under the Fourteenth Amendment. That
8 hearing was mandatory, and without it, the trial
9 court lacked lawful authority to proceed, therefore,
10 I respectfully move for immunity release of a V2 as
11 a conviction void. Not only do I feel like -- the
12 question -- the question -- the question is not
13 about if I didn't feel like I received a fair
14 hearing. It went to the disagreeing, Your Honor,
15 and I found in 1983, because I knew constitutional
16 law was violated. And I also have that paperwork
17 here today showing proof that I have a document in
18 the federal court of a 1983 claim for this same
19 issue, Your Honor.

20 Q. And so you're saying that you're filing
21 a civil lawsuit?

22 A. Yes, ma'am.

23 Q. And that's based upon in part anyway
24 the immunity hearing issue?

25 A. Yes, ma'am. Based -- based upon

1 birthright citizenship, it's because, ma'am, by my
2 birth certificate, I'm a United States citizen. On
3 my birth certificate it's stated I'm -- I was born
4 in the State of South Carolina, so, therefore, I was
5 entitled to an immunity hearing. A immunity hearing
6 is not opinion or is not an option, it's mandatory,
7 and the Supreme Court made that ruling in a 2011
8 case in State v. Duncan that immunity is mandatory.
9 It does not -- it should -- it should not be up to a
10 jury, it should be up to a judge. And clearly it
11 was on the record it was brought to the judge's
12 attention, and they still avoided it, so, therefore,
13 they lacked jurisdiction to proceed trial, but they
14 continued to proceed.

15 MS. MARTO: Nothing further, Your Honor.

16 MS. DIXON: Nothing further.

17 THE COURT: All right, sir, I think I
18 understand your position and your arguments. You
19 may step down, thank you.

20 WITNESS: Thank you.

21 MS. DIXON: No other witnesses.

22 THE COURT: No other witness?

23 MS. MARTO: No, Your Honor.

24 THE COURT: Very good. I will take this
25 case under advisement, and try to have a Form 4

1 issued before I leave town this week, okay?

2 MS. MARTO: Thnak you, Judge.

3 THE COURT: Thank you both.

4 MS. DIXON: Yeah.

5 THE COURT: Sir, your lawyer is going to be
6 in touch. I'm going to take the matter under
7 advisement, look a little bit harder at the
8 transcripts, since I only reviewed parts of it on --
9 on Saturday, so she'll be in touch with you about
10 what I decide and how I rule, okay, sir?

11 MR. WILLIAM: Yes, sir, I just wanted it on
12 the record to preserve for review.

13 THE COURT: I understand, and I think a
14 record's been made. So I think you're good. Thank
15 you, sir.

16 (Whereupon, the hearing was concluded.)

17 - - -END OF TRANSCRIPT- - -

18

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24

CERTIFICATE OF REPORTER

25

1 I, Cathy L. Young, CVR-M, for the
2 Fourteenth Judicial Circuit of the State of South
3 Carolina, do hereby certify that the foregoing is a
4 true, accurate and complete Transcript of Record of
5 introduced in the hearing of the captioned case,
6 relative to appear, in the Circuit Court for
7 Beaufort County, South Carolina, on the 14th day of
8 April, 2025.

9 I do further certify that I am neither of
10 kin, counsel nor interest to any party herein.

11
12 
13 -----

14 Cathy L. Young, CVR-M

15 Court Reporter and Notary

16 Public in and for South Carolina

17 My Commission expires: 3-28-2029
18
19
20
21
22
23

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

Jamel Williams, #348445,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT

FILED FOR RECORD

FILED FOR RECORD

CASE NO. 2022-CP-03-00057

FILED FOR RECORD

FILED FOR RECORD

ORDER OF DISMISSAL

THIS MATTER CAME BEFORE THE COURT by way of an application for post-conviction relief (PCR) filed by Jamel Williams (Applicant) on April 13, 2022. On April 14, 2025, an evidentiary hearing convened. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Danielle Dixon represented the State. At the hearing, the Court heard testimony from Applicant and Public Defender Stephen T Plexico (trial counsel) and Appellate Defender Sarah E. Shipe. Following a thorough review of the records before this Court and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In March 2019, the Allendale County Grand Jury indicted Applicant for murder (2018-GS-03-00045), attempted murder (-00044), and possession of a weapon during the commission of a violent crime (-00043). On January 6-9, 2020, Applicant proceeded to a jury trial before the Honorable Carmen Mullen. Public Defender Stephen Plexico represented Applicant, and Assistant Solicitor Reed Evans prosecuted the case. The jury convicted Applicant as indicted,

and Judge Mullen sentenced him to concurrent terms of life for murder, thirty years for attempted murder, and five years for the weapon charge.

Applicant timely filed a notice of appeal, which was perfected by Appellate Defender Sarah E. Shipe through the filing of a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed the appeal pursuant to Anders, and the remittitur was sent February 22, 2022.

CURRENT APPLICATION

On April 13, 2022, Applicant timely filed this application alleging:

1. Ineffective assistance of counsel:
 - a. Failed to challenge expert's credibility on cross-examination;
 - b. Failed to object to vouching during the State's closing argument.
2. Due Process violation: Due Process was violated by the Judge's qualification of the expert;
3. Prosecutorial Misconduct: The solicitor offered the witness as an expert knowing the witness was not qualified.

On November 13, 2023, Applicant filed an amended application alleging:

- a. Ineffective assistance of counsel:
 1. Failed to seek a stand your ground hearing;
 2. Failed to argue the police statement was involuntary;
 3. Failed to object to search-for-the-truth language;
 4. Failed to object to statements by Joe Loadholt that went to the ultimate issue;
 5. Failed to challenge the credibility of expert witness on cross-examination;
 6. Failed to object to the Solicitor's closing argument on the basis of burden-shifting;



7. Failed to procure a plea offer;
8. Failed to discuss trial strategy with Applicant;
9. Failed to adequately prepare for trial;
10. Failed to properly communicate with Applicant;
11. Failed to procure a plea offer;
12. Failed to object to police officer crying on stand;
13. Failed to inform the jury that if he was found guilty he'd be LWOPed;
14. Failed to request a mistrial upon realizing a juror had connections to the case;
15. Failed to request a mistrial when a non-juror entered the jury room due to a bomb threat. Applicant submits the person who went in the room told the jury he was guilty;
16. Failed to investigate alleged tampering of witness Loadholt. Specifically, Applicant submits there was not sufficient evidence to find Applicant's brother was tampering with evidence;
17. Failed to get Applicant in front of another judge. Specifically, Applicant claims his judge was also his bond judge and she denied him bond and said scathing things to him at the bond hearing. He also submits that the judge thought he was guilty of the crimes before trial and the judge did not have sufficient knowledge of the case before trial;
18. Failed to request voluntary manslaughter charge;
19. Failed to adequately question deceased's character;
20. Failed to question witness on pending attempted murder charges;
21. Failed to investigate unidentifiable blood for DNA evidence;
22. Failed to mitigate the sentence by stating he was the primary caregiver for his children;
23. Failed to ask for full findings of facts and conclusions of law on



all motions, including mistrial motions;

24. Failed to adequately impeach Loadholt;

25. Failed to move to prohibit Loadholt from testifying due to tampering allegations;

b. Prosecutorial misconduct/vindictiveness: A sloppy investigation was conducted in this case. Guilty of tampering.

On July 8, 2024, Applicant filed a second Amended Application alleging:

a. Ineffective assistance of trial counsel:

1. Counsel failed to request a pretrial immunity hearing;

2. Counsel failed to object to improper bolster and burden shifting when the State addressed Captain Ford's emotional reaction and vouched for his credibility during closing argument;

3. Counsel failed to object to Captain Ford crying on the stand;

4. Counsel failed to request a voluntary manslaughter instruction;

b. Ineffective assistance of appellate counsel: Counsel failed to challenge the self-defense instruction.

At the hearing, Applicant proceeded only on the allegations of his July 2024 amended application.

This Court finds Applicant has waived the remaining allegations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the records before it, including the Allendale County Clerk of Court records of the underlying convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant has

failed to carry his burden of proof. Below are this Court's findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudiced applicant. Strickland v. Washington, 466 U.S. 668 (1984). When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. To prove prejudice, an applicant must prove 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." Id. at 117-18, 386 S.E.2d at 625.

Failed to request pretrial immunity hearing

Applicant contends counsel was ineffective for failing to request a pretrial immunity hearing. Applicant did not prove this ground.

At the PCR hearing, Applicant testified his defense was self-defense, defense of habitation, and defense of others, and he averred counsel's failure to request a pretrial immunity hearing pursuant to the Protection of Persons and Property Act violated his 14th Amendment right to Due Process. Trial counsel credibly testified he advised Applicant about a pretrial immunity hearing, but counsel's normal practice was to forego such a hearing because it gives the solicitor "two bites



of the apple.” Specifically, it provides the State two opportunities to cross-examine a defendant, essentially giving the State a trial run. Trial counsel further credibly testified Applicant ultimately decided not to proceed with an immunity hearing. Although appellate counsel averred a trial lawyer should request an immunity hearing when “the facts are there,” and most self-defense cases now have pretrial immunity hearings, this Court finds trial counsel articulated a valid strategic reason for not requesting a pretrial immunity hearing. Specifically, in addition to providing the State sworn testimony that can be used for impeachment, a pretrial hearing also provides the State a preview of the defense. In a case where immunity is not likely to be granted—such as this one¹—an attorney’s decision to forego a pretrial immunity hearing can be a valid strategic move, and this Court finds counsel’s decision was certainly reasonable and within prevailing professional norms at the time of trial. Further, based on trial counsel’s credible testimony, Applicant was apprised that a pretrial immunity hearing was an option, but Applicant decided not to proceed with one. Applicant thus waived the hearing upon counsel’s valid, reasonable advice, and Applicant has not shown deficiency.

Finally, Applicant did not demonstrate prejudice because he was able to present the exact same defense at trial. Having been convicted of murder, an appellate court is extremely unlikely to find Applicant should have been granted immunity—especially under these facts—and thereby wholly disregard the findings of a jury that concluded the State disproved self-defense beyond a reasonable doubt. Applicant thus did not prove deficiency or prejudice, and this claim is denied.

¹ Specifically, eyewitness Loadholt—who was antagonistic to the State (Tr. 54, 63-64, 259) — testified victim begged for his life before he was shot. (Tr. 275). Applicant’s cousin Latoya Patterson stated she was not afraid and didn’t see any guns prior to the shooting. (Tr. 375, 379-81). Finally—and critically—in his initial statement to police, Applicant did not admit to being the shooter or claim he shot in self-defense; rather, he claimed he “heard shots and he ran.” (Tr. 352-54, 491-95).

Captain Ford crying on stand²

Applicant next contends trial counsel was ineffective for not objecting when Captain Ford began crying on the stand.³ He further avers counsel was ineffective for not objecting to improper bolstering and burden shifting when the State addressed Captain Ford's emotional reaction and vouched for his credibility during closing argument. Applicant did not prove this ground.

At the PCR hearing, trial counsel testified it is not uncommon for witnesses to get emotional on the stand, and he did not object to Captain Ford's testimony or the State's use of the testimony because he felt it was neither harmful nor helpful to the defense. After reviewing the trial transcript and considering the testimony, this Court finds Captain Ford's emotional response was not something to which counsel should have objected. Witnesses get emotional, and interposing an objection would have made counsel look like the quintessential heartless attorney in the eyes of the jury. Applicant thus did not prove deficiency. Further, Applicant did not set forth a valid, legal objection that would have reasonably excluded this emotional response and thus did not prove prejudice.

As to the State's closing argument, this Court finds the State's comments about Captain Ford's testimony were proper and did not constitute improper bolstering or burden shifting. (Tr. 522-23, 532-33, 550). See State v. Busse, 439 S.C. 104, 109, 886 S.E.2d 208, 211 (2023) ("A prosecutor arguing forcefully during closing argument that the jury should believe a particular witness is well within her proper role as a zealous advocate, so long as the argument is based on evidence admitted during trial."); id. at 111, 886 S.E.2d at 212 ("[A] prosecutor is expected to

² This section combines allegations two and three of the amended application, as set forth above.

³ Captain Ford was a responding officer from Allendale Police Department. When he testified about the condition of the victim upon his arrival—who was not yet deceased—trial counsel asked if he needed a minute. (Tr. 108). From context, it appears he was emotional on the stand.

comment on the credibility of the witnesses when making a closing argument. Far from improper, as previously explained, doing so is one of the fundamental responsibilities of a lawyer.”).

Finally, although any objection would have been futile, even if the foregoing was improper, it did not so infect the trial with unfairness as to violate due process. See Fortune v. State, 428 S.C. 545, 550, 837 S.E.2d 37, 40 (2019) (“Improper comments do not automatically require reversal if they are not prejudicial to the defendant. On appeal, the appellate court will view the alleged impropriety of the solicitor's argument in the context of the entire record The appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument. *The relevant question is whether the solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.*” (emphasis added)); Darden v. Wainwright, 477 U.S 168 (1986) (concluding that although the solicitor’s references to the capital defendant as “an animal” whose head he wished had been blown off with a shotgun were improper, they did not so infect the trial with unfairness as to violate due process). Applicant thus failed to prove deficiency or prejudice, and this claim is denied.

Failed to request voluntary manslaughter charge

Applicant contends counsel was ineffective for not requesting a voluntary manslaughter charge. At the PCR hearing, trial counsel testified he generally did not discuss a voluntary manslaughter charge with Applicant. However, counsel explained this case was an all or nothing type of situation. The objective here was a not guilty verdict, and counsel stated that in his experience, a jury considering these specific facts would have likely compromised on a voluntary manslaughter verdict had such an instruction been given. To expect the jury to “step down two” and reject both murder and voluntary manslaughter would have been too much to ask the jury. This Court, in its experience, concurs with counsel’s assessment, and this Court finds counsel

articulated a very valid trial strategy in not requesting a voluntary manslaughter charge. Applicant thus did not prove deficiency, and this claim is denied.

Ineffective assistance of appellate counsel

A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). When analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test. See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, the Court must consider whether appellate counsel's performance was deficient, and whether Applicant was prejudiced by appellate counsel's deficiency. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

Applicant contends appellate counsel was ineffective for not challenging the self-defense instruction. At the PCR hearing, appellate counsel testified trial counsel did not challenge the self-defense charge, and thus there was not a preserved issue related to it. The record supports this testimony, and this Court thus finds appellate counsel was not ineffective for failing to raise this issue. (Tr. 600). To the extent this can be construed as an allegation that trial counsel was ineffective for not objecting to the charge, this Court finds the charge was proper under the law that existed at the time of trial, and Applicant cannot demonstrate prejudice from counsel's failure to object. (Tr. 588-93). This claim is thus denied.

CONCLUSION

Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

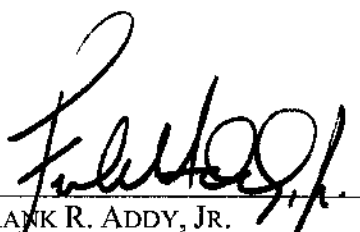


Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the State.

IT IS SO ORDERED THIS 15th day of May, 2025.


FRANK R. ADDY, JR.
Presiding Judge
Fourteenth Judicial Circuit

Greenwood, South Carolina

WITNESSES

K. McCallister, SLED

DOCKET NO. 2018GS0300045

The State of South Carolina

County of Allendale

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

March Term 2019

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2018A0310100031

Date of Arrest: March 24, 2018

ACTION OF GRAND JURY

Zane Bell

Judy P. Kinard

Foreperson of Grand Jury

Date: 03-14-2019

VERDICT

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

Defendant

Witness:

Foreperson of Petit Jury

Date:

INDICT

C.C.C. PLS. and G.S.

WITNESSES

K. McCallister, SLED

DOCKET NO. 2018GS0300043

The State of South Carolina

County of Allendale

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

March Term 2019

I hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

vs.

Jamel Dajour Williams

ARREST WARRANT NUMBER

2018A0310100029

Date of Arrest: March 24, 2018

Indictment For

**Possession of Weapon During
Violent Crime**

SC Code: 16-23-490

CDR Code: 0549

ACTION OF GRAND JURY

Ima Bill

Judy P. Kinard
Foreperson of Grand Jury

Date: *03-14-2019*

Defendant

VERDICT

Witness:

Foreperson of Petit Jury

Date:
INDICT

C.C.C. PLS. and G.S.

WITNESSES

K. McCallister, SLED

DOCKET NO. 2018GS0300044

The State of South Carolina

County of Allendale

After being fully advised of my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

March Term 2019

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

vs.

Jamel Dajour Williams

ARREST WARRANT NUMBER

20180A0310100030

Date of Arrest: March 24, 2018

ACTION OF GRAND JURY

True Bill

Joseph P. Kincaid

Foreperson of Grand Jury

Date: *03-14-2019*

VERDICT

Foreperson of Petit Jury

Date:

INDICT

Indictment For

Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Allendale

STATE

VS.

Jamel Dajour Williams

AKA:

Race: Black Sex: Male Age: 30DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED], Allendale, SCDL# [REDACTED] SID# [REDACTED]INDICTMENT/CASE#: 2018GS0300045A/W#: 2018A0310100031Date of Offense: 03/21/2018S.C. Code §: 16-3-10CDR Code #: 0116

) SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: MurderIn violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ MANDATORY GPS ☐ §17-25-45

(CSC within 1" or CSC within 3")

The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.ATTEST: Reed K Evans 79925

(Solicitor) (SC Bar #) (Defendant) (Attorney for Defendant) (SC Bar #)

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections☐ County Detention Center,for a determinate term of Life days/months/years or☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years and or payment of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/cach \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 123.75Clerk of Court/Deputy Clerk Elaine [Signature]
Court Reporter: None

MP-SCCA217 (04/2018)

☐ Obtain GED☐ Attend Voc. Rehab. Or Job Corp. _____☐ May serve W/E beginning _____☐ Substance Abuse Counseling _____☐ Random Drug/Alcohol Testing _____

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before any other fees.Presiding Judge: Carmela MullenJudge Code: 2192Sentence Date: 1/9/20

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Allendale

STATE

VS.

Jamel Dajour Williams

AKA:

Race: Black Sex: Male Age: 30DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] Allendale, SCDL# [REDACTED] SID# [REDACTED]) INDICTMENT/CASE#: 2018GS0300044) A/W#: 20180A0310100030) Date of Offense: 03/21/2018) S.C. Code §: 16-3-29) CDR Code #: 3410

) SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Attempted MurderIn violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45

(CSC within 1" or CSC within 3")

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Reed A. Evans 79925

(Solicitor) (SC Bar #) (Defendant) (Attorney for Defendant) (SC Bar #)
 WHEREFORE, the Defendant is committed to the State Department of Corrections ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ 0; provided that upon the service of _____ days/months/years and or payment of \$ _____
 plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of
 Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$12	\$ _____
§56-5-2995 (DUI Assessment)	\$25	\$ _____
§56-1-286 (DUI Breath Test)	\$500	\$ _____
Proviso 61.6 (Public Def/Prob)	\$25	\$ <u>25.00</u>
§14-1-212 (Law Enforce. Funding)	\$150	\$ _____
§14-1-213 (Drug Court Surcharge)	\$50	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$40/each	\$ <u>5.15</u>
§56-5-2942(J) (Vehicle Assessment)		\$ _____
3% to County (if paid in installments)		\$ <u>68.75</u>

☐ Obtain GED☐ Attend Voc. Rehab. Or Job Corp. _____☐ May serve W/E beginning _____☐ Substance Abuse Counseling _____☐ Random Drug/Alcohol Testing _____

Fines may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso requires \$500 be paid to Clerk
 during probation and shall be collected before any other fees.

TOTAL

\$ 68.75

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

MP-SCCA/217 (04/2018)

Presiding Judge: Carmen MullenJudge Code: 2142Sentence Date: 6/9/20

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Allendale

STATE

VS.

Jamel Dajour Williams

AKA:

Race: Black Sex: Male Age: 30DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] Allendale, SCDL# [REDACTED] SID# [REDACTED]) INDICTMENT/CASE#: 2018QS0300043) A/W#: 2018A0310100029) Date of Offense: 03/21/2018) S.C. Code §: 16-23-490) CDR Code #: 0549

) SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession of weapon during violent crime, if not also sentenced to life without parole or deathIn violation of § 16-23-490of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS☐ MOST SERIOUS☐ MANDATORY GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Read A Egan 79925

(Solicitor) (SC Bar #) (Defendant) (Attorney for Defendant) (SC Bar #)
 WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed 5 years
 and/or to pay a fine of \$ 100.00 provided that upon the service of 5 days/months/years and or payment of \$ 100.00
 plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of
 Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ 100.00 plus 20% fee: \$ 20.00 5 days/hours Public Service EmploymentPayment Terms: _____☐ Set by SCDPPPSRecipient: _____*Fine: _____§14-1-206 (Assessments 107.5%) \$ 100.00§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ 100.00§56-5-2995 (DUI Assessment) \$12 \$ 12.00§56-1-286 (DUI Breath Test) \$25 \$ 25.00Proviso 61.6 (Public Def/Prob) \$500 \$ 500.00§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00§50-21-114 (BUI Breath Test Fee) \$50 \$ 50.00§56-5-2942(I) (Vehicle Assessment) \$40/each \$ 40.003% to County (if paid in installments) \$ 3.75TOTAL \$ 125.75Clerk of Court/Deputy Clerk E. Lamin SaffarCourt Reporter: Mona Mackey

MP-SCCA/217 (04/2018)

☐ Obtain GED☐ Attend Voc. Rehab. Or Job Corp. _____☐ May serve W/E beginning _____☐ Substance Abuse Counseling _____☐ Random Drug/Alcohol Testing _____

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____\$ _____ Paid to Public Defender FundOther: _____
☐ Appointed PD or appointed other counsel,
 Proviso requires \$500 be paid to Clerk
 during probation and shall be collected before any other fees.
Presiding Judge: Carmen MullenJudge Code: 2192Sentence Date: 1/9/20