

RECEIVED

Apr 16 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
Honorable Bentley Price, Circuit Court Judge
Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIS TERREL IVEY,

APPELLANT

APPELLATE CASE NO. 2024-001916

RECORD ON APPEAL

MOLLY M KEEGAN
Appellate Defender

ALAN WILSON
Attorney General

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

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PO Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street, Suite 400
O.T. Wallace Building
Charleston, SC 29401
(843) 958-1900

ATTORNEYS FOR RESPONDENT

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

State’s Exhibits #2 (Map), #3 (Map), #4 (Map), #6 (Photograph), #7 (Photograph), #8 (Photograph), #9 (Photograph), #10 (Photograph), #11 (Photograph), #15 (Photograph), #16 (Photograph), #17 (Photograph), #18 (Photograph), #19 (Photograph), #27 (Recordings), #28 (Recording), and #29 (Recording);

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) **IN THE COURT OF GENERAL SESSIONS**
) **FOR THE NINTH JUDICIAL CIRCUIT**
) Case No(s):
Warrant No(s): 2018A1021000405;
2018A1021000406; 2017A1010207309;
2017A1010207310; 2018A1010203351;
64510HA; 2018A1010203365
Charge(s): Murder / Murder (2 Counts);
Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or death
(2 Counts); Resisting / Assault, beat, or wound
police officer serving process or while resisting
arrest; Traffic / Failure to stop for a blue light, no
injury or death - 1st offense; Weapons / unlawful
taking of firearm or weapon from a law
enforcement officer

STATE OF SOUTH CAROLINA)

vs.)

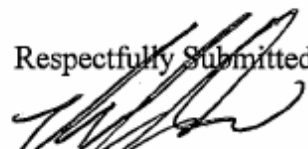
WILLIS TERRELL IVEY,)

Defendant)

NOTICE OF APPEARANCE
(Public Defender Representation)

The Charleston County Public Defender's Office hereby informs the Court that attorney
Rodney D Davis represents the Defendant in the above-referenced matter.

Respectfully Submitted,


Rodney D Davis
Assistant Public Defender
Attorney for Defendant

Charleston, South Carolina

Dated: 11/20/18

FILED
2018 NOV 21 PM 2:59
CHIEF J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

-VS-

WILLIS TERRELL IVEY
DEFENDANT

IN THE COURT OF GENERAL SESSIONS
MOTION COVERSHEET

WARRANT/TICKET/

INDICTMENT #'s

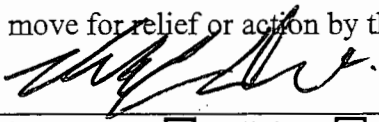
2018A1021000405;-406;

2017M1010207309;-10;

2018A1010202351;

64510HA;

2018A1010202365

Solicitor: <u>BURNS Wetmore</u>, Bar No. _____ Address: <u>101 Meeting St., Charleston, SC 29401</u> Phone: <u>(843)958-1900</u> E-mail: <u>WetmoreB@scsolicitor9.org</u>	Defendant's Attorney: <u>RODNEY D. DAVIS</u>, Bar No. <u>12396</u> Address: <u>101 Meeting St., Charleston, SC 29401</u> Phone: <u>(843)958-1850</u> E-mail: <u>RDavis@charlestoncounty.org</u>
☒ MOTION HEARING REQUESTED ☐ FORM MOTION, NO HEARING REQUESTED ☐ PROPOSED ORDER/CONSENT ORDER	
SECTION I: Hearing Information	
Nature of Motion: <u>Dismiss</u> Estimated Time Needed: <u>20 minutes</u> Court Reporter Needed: ☒ YES / ☐ NO	
SECTION II: Motion/Order Type	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 _____ Signature of ☐ Solicitor ☒ Attorney for Defendant	<u>4/22/19</u> _____ Date submitted

FILED

2019 APR 22 PM 2:24

JULIA A. STRONG
CLERK OF COURT

BY 

FILED
 2019 APR 22 PM 2: 24
 COUNTY OF CHARLESTON

JULIE J. ARMSTRONG
 CLERK OF COURT

BY _____

) **IN THE COURT OF GENERAL SESSIONS**
) **FOR THE NINTH JUDICIAL CIRCUIT**
)

) Warrant Nos.: 2018A1021000405; -406;
) 2017A1010207309; -10;
) 2018A1010203351;
) 64510HA;
) 2018A1010203365

) Charges: Murder (X2);
) Poss. Weapon During Violent Crime (X2);
) Assault, Beat, Wound Officer;
) FTSBL – 1st;
) Unlawful Taking of Weapon from Officer
)

STATE OF SOUTH CAROLINA,

vs.

WILLIS TERRELL IVEY,

Defendant.

**MOTION TO
 DISMISS CHARGE**

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through the undersigned attorney, will move before the Presiding Judge of the Court of General Sessions at the Charleston County Judicial Center, 100 Broad Street, Charleston, South Carolina, as soon as the matter may be heard for an Order dismissing the above-referenced charge.

Willis Terrell Ivey was arrested on June 14, 2018 on the above-listed warrant. On November 26, 2018, the Defendant, through his undersigned attorney, requested through motion that the State produce and send to the defense, any evidence necessary pursuant to Rule 5 of the SCRCrimP. (Exhibit 1). One hundred and forty-eight days have elapsed between the date of the defense's request and today. The State, in regards to this case, has failed to produce evidence that is required pursuant to the aforementioned request, which violates Rule 5(a)(3) of the SCRCrimP. Rule 5(a)(3) of the SCRCrimP, states that "the prosecution shall respond to the defendant's request for disclosure no later than thirty (30) days after the request is made, or within such other time as may be ordered by the court." There is no evidence that the State requested or were permitted an extension by the Court.

FURTHERMORE, since the prosecution has not produced the necessary evidence in the one hundred and forty-eight days that have been given, they are in violation of the Amended

Administrative Order set forth by The Honorable Judge R. Markley Dennis, Jr., the Chief Administrative Judge for the Ninth Judicial Circuit, on June 12, 2017. This order states in § (B)(2) that “defense discovery packets shall be prepared and provided by the Solicitor’s Office within sixty (60) days of arrest to all attorneys that have filed a general letter of representation along with the appropriate discovery requests with the Solicitor’s Office.” Since the undersigned attorney for the Defendant did in fact submit both a general letter of representation along with the attached request for discovery, the Defense would have had sixty (60) days since the date of the Defendant’s arrest as quoted above. The State has exhausted their sixty (60) day time frame and as such, the defendant will hereby motion for dismissal of the aforementioned charge based on the Amended Administrative Order § (B)(3), which states that “if the law enforcement agency fails to provide discovery within this deadline, the warrant(s) may be dismissed without prejudice.”

AT THIS TIME, pursuant to the violation of the South Carolina Rules of Criminal Procedure as mentioned above, and the Amended Administrative Order of the Honorable Judge R. Markley Dennis, Jr., the Defendant, through his undersigned attorney, moves for an Order dismissing the above-listed warrant and charge or in the alternative, moves for a reduction of bond based on the length of time that the Defendant has been held in jail.

Dated: 4/22/19
Charleston, South Carolina

Respectfully Submitted,



Rodney D. Davis
Attorney for Defendant

FILED
2019 APR 22 PM 2:24
CLERK OF COURT
BY 

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

WILLIS TERREL IVEY

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

CONSENT SCHEDULING ORDER

Arrest Warrants
 2018A1021000405-06
 2017A1010207309-10
 2018A1010203365
 64510HA
 2018A1010203351

2020 JAN 10 PM 1:23
 FILED
 CLERK OF COURT

Upon motion of Assistant Solicitor, Burns Malone Wetmore, and with the consent of Rodney Duane Davis, attorney for the Defendant, the parties submit this proposed scheduling order for the Court's consideration:

1. On June 14, 2018, WILLIS TERREL IVEY was arrested and charged with Murder (2 counts), Possession of Weapon During Commission of Violent Crime (2 counts), Attempted Taking Firearm, Resisting Arrest and Failure to Stop for Blue Lights.
2. Disposition of the charges against the Defendant has not been accomplished and has been delayed because physical evidence has not been forensically tested. The results of this testing are essential to the preparation of both the State and the Defendant.
3. Further, the parties intend to explore the possibility of a resolution without a jury trial. Now upon motion of the State, and with the consent of the Defendant's Attorney, it is hereby ORDERED that the cases against the Defendant shall not be tried before 6/29/2020.

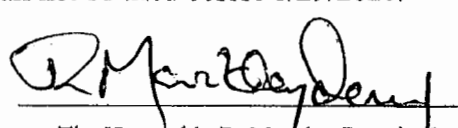
AND IT IS SO ORDERED!

I SO MOVE:

Burns Malone Wetmore, Assistant Solicitor

I CONSENT:

Rodney Duane Davis, Attorney for the Defendant


 The Honorable R. Markley Dennis, Jr.
 Chief Administrative Judge
 Ninth Judicial Circuit

1/10/2020

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

WILLIS TERREL IVEY

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

CONSENT SCHEDULING ORDER

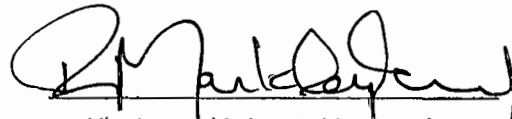
Arrest Warrants
 2018A1021000405-06
 2017A1010207309-10
 2018A1010203365
 64510HA
 2018A1010203351
 8

Upon motion of Assistant Solicitor, Burns Malone Wetmore, and with the consent of Rodney Duane Davis, attorney for the Defendant, the parties submit this proposed scheduling order for the Court's consideration:

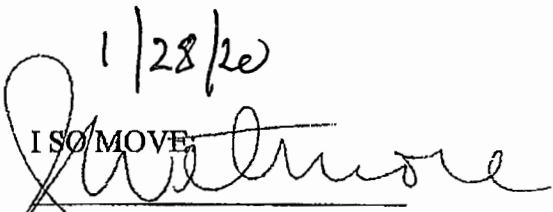
1. On June 14, 2018, WILLIS TERREL IVEY was arrested and charged with Murder (2 counts), Possession of Weapon During Commission of Violent Crime (2 counts), Attempted Taking Firearm, Resisting Arrest and Failure to Stop for Blue Lights.
2. Disposition of the charges against the Defendant has not been accomplished and has been delayed because physical evidence has not been forensically tested. The results of this testing are essential to the preparation of both the State and the Defendant.
3. Further, the parties intend to explore the possibility of a resolution without a jury trial.

Now upon motion of the State, and with the consent of the Defendant's Attorney, it is hereby ORDERED that the cases against the Defendant shall not be tried before 6/29/2020.

AND IT IS SO ORDERED!


 The Honorable R. Markley Dennis, Jr.
 Chief Administrative Judge
 Ninth Judicial Circuit

I SO/MOVE:


 Burns Malone Wetmore, Assistant Solicitor

I CONSENT:


 Rodney Duane Davis, Attorney for the Defendant

2020 JAN 28 PM 11:51
 CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA,)

BOND ORDER

-VS-)

WILLIS TERREL IVEY)

Warrant/Indictment #'s: 2017A1010207309; -7310; 2018A1010203365; 2018A1021000405; -0406;
64510HA

Charges / Offenses: **MURDER; POSS. WEAPON DURING VIOLENT CRIME; ATTEMPTED
UNLAWFUL TAKING OF FIREARM; MURDER; POSS WEAPON DURING VIOLENT CRIME;
FAILURE TO STOP FOR A BLUE LIGHT**

This matter is before the court on a: ☐ motion to reduce bond ☒ motion to set bond ☐ motion to revoke
bond.

Having now determined this matter, the court orders as follows:

☐ the motion(s) is/are hereby **granted**.

☒ the motion(s) is/are hereby **denied**.

☐ set or reduce bond on _____ charges.

☐ Bond is hereby ordered as follows: _____

☐ This order represents one consolidated bond on all the listed charges.

☐ This order requires separate bonds on each listed charge.

☐ All bond conditions previously ordered shall be part of this order.

☐ Other Conditions imposed:

☐ the motion has either been withdrawn or counsel failed to appear at the time this matter was
scheduled; therefore, the motion is denied and shall not be rescheduled except as ordered by this
Court.

☐ this bond matter was previously heard in the circuit court; the court declines to modify the
order of another circuit judge and the request is denied.

The defendant shall not be released until execution and filing of the appropriate bond documents with the
Court.

IT IS SO ORDERED

Presiding Judge

Date Ordered

FILED
2020 FEB -7 PM 3:30
JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JULIE J. ARMSTRONG
CLERK OF COURT

BY

*JJ*IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUITWarrant(s): 2017A1010207309-10;
2018A1021000405-06; 2018A1010203351;
2018A1010203365; & 64510HACharge(s): Murder (x2); Poss. Weapon during
Violent Crime (x2); Assault while Resisting
Arrest; Taking Firearm from Law Enforcement;
& FTSBL

STATE OF SOUTH CAROLINA

vs.

WILLIS IVEY,

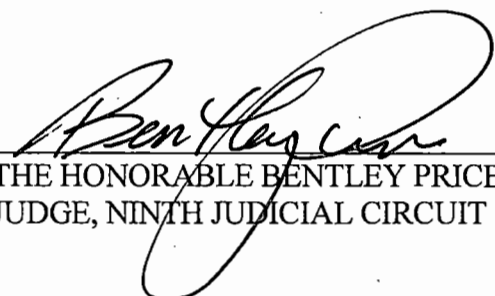
Defendant

**ORDER
DENYING BOND**

UPON MOTION of the undersigned attorney for the Defendant in the above-referenced matter, the request for a bond on the above-listed charges is denied.

However, if the State does not bring a murder case to trial within six (6) months from the date of this order (or if the Defendant's charges are not otherwise disposed of) then this order denying bond shall be reconsidered.

AND IT IS SO ORDERED.


 THE HONORABLE BENTLEY PRICE
 JUDGE, NINTH JUDICIAL CIRCUIT

Charleston, South Carolina

Dated:

August 20th, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) **IN THE COURT OF GENERAL SESSIONS**
) **FOR THE NINTH JUDICIAL CIRCUIT**
) **Warrant(s):** 2017A1010207309-10;
2018A1021000405-06; 2018A1010203351;
2018A1010203365; & 64510HA

Charge(s): Murder (x2); Poss. Weapon during
Violent Crime (x2); Assault while Resisting
Arrest; Taking Firearm from Law Enforcement;
& FTSBL

STATE OF SOUTH CAROLINA)

vs.)

WILLIS IVEY,)

Defendant)

**ORDER
DENYING BOND**

UPON MOTION of the undersigned attorney for the Defendant in the above-referenced matter, the request for a bond on the above-listed charges is denied.

AND IT IS SO ORDERED.

ROGER M. YOUNG, SR.,
JUDGE, NINTH JUDICIAL CIRCUIT

Charleston, South Carolina

Dated: 6/1/20

FILED
2021 JUN - 1 PM 1:24
JULIE J. ARMSTRONG
CLERK OF COURT
BY [Signature]

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

Warrant Nos.: 2017A1010207309-310;
2018A1010203351, 3365;
2018A1021000405-406; 64510HA

STATE OF SOUTH CAROLINA,)

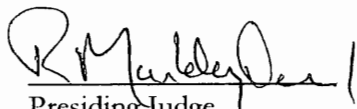
v.)

WILLIS IVEY,)

Defendant.)

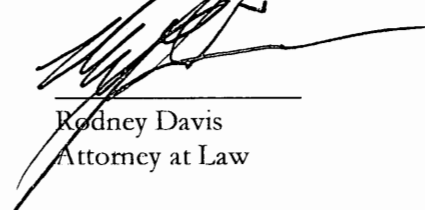
CONSENT ORDER SUBSTITUTING COUNSEL

IT APPEARING to this Court that the Defendant above-captioned has retained counsel, it is hereby ORDERED, ADJUDGED AND DECREED that Grant B. Smaldone be and is hereby substituted as counsel of record for the above-captioned Defendant. Attorney Rodney Davis is hereby relieved of all further duties of representation of the above-captioned Defendant. IT IS SO ORDERED!


Presiding Judge
Ninth Judicial Circuit

I SO MOVE.


Grant B. Smaldone
Attorney for Defendant

FILED
2021 JUN 18 AM 8:57
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____
I SO CONSENT

Rodney Davis
Attorney at Law

June 17, 2021

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

WILLIS TERREL IVEY,

Defendant.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

CONSENT SCHEDULING ORDER

WARRANT #: 2017A1010207309—310;
 2018A1021000405—406;
 64510HA; 2018A1010203351;
 2018A1010203365

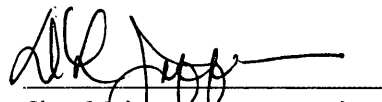
INDICTMENT #: 2018GS1005306—309;
 2018GS1005616; 2018GS1005618—619

CHARGES: Murder **x2**; Possession of
 Weapon During the Commission of a
 Violent Crime **x2**; FTSBL; Assaulting a
 Police Officer while Resisting Arrest;
 Unlawful Taking of Firearm from Law
 Enforcement Officer

NOW COMES BEFORE ME by way of a consent agreement between Daniel W. Cooper,
 Assistant Solicitor for the Ninth Judicial Circuit, and Grant Smaldone, Attorney for Defendant, for an
 order of the Court setting the following schedule for the aforementioned matter:

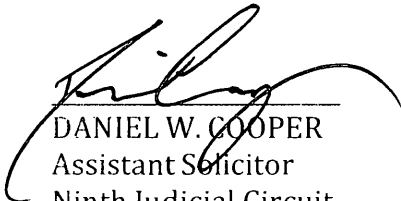
- 1) Mr. Smaldone was retained as the counsel of record for Defendant in June 2021.
- 2) In order to allow the State and Defense an opportunity to attempt to resolve the above-captioned charges via plea, the above-captioned charges shall be removed from any current and upcoming trial dockets and shall not be scheduled for trial until after February 1, 2022.

IT IS SO ORDERED.


 Chief Administrative Judge
 Ninth Judicial Circuit

This 12th day of August, 2021.
 Charleston, South Carolina

I CONSENT:


 DANIEL W. COOPER
 Assistant Solicitor
 Ninth Judicial Circuit

I CONSENT:


 GRANT SMALDONE
 Attorney for Defendant

FILED
 2021 AUG 12 PM 1:15
 JUDGE ARMSTRONG
 CLERK OF COURT

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

Warrant Nos.: 2017A1010207309-710
2018A1010203351
2018A1010203365
2018A101000405-06
2021A1010203854
64510HA

✓

JULIE J. ARNSTADT
CLERK OF COURT

100-443887-100

STATE OF SOUTH CAROLINA,

v.

WILLIS IVEY,

Defendant.

ORDER DENYING BOND

This matter comes before the Court on March 9th, 2022 on the motion of the Defendant to set bond. The Defendant has been held without bond since his arrest.

The Court has considered the nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, length of residence in the community, record of convictions, and record of flight or failure to appear.

Bond is denied at this time. Upon receipt of SLED DNA analysis, Defendant may petition the court for bond to be reconsidered.

IT IS ORDERED.

March 7, 2022

Presiding Judge, Ninth Judicial Circuit

Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT
)

) Warrant No(s): 2017A1010207309-310
)

) Charge(s) Murder, PWDVC
)

STATE OF SOUTH CAROLINA)
)

vs.)
)

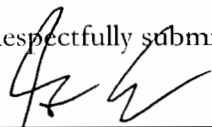
WILLIS IVEY,)
)

Defendant.)
)
_____)

MOTION FOR SPEEDY TRIAL

Now comes Defendant, by and through his undersigned attorney, who respectfully moves before this Court for an Order granting him a speedy trial on the above-captioned pending charge. Defendant asserts his right to a Speedy Trial under the United States and South Carolina Constitutions.

Respectfully submitted,



Grant Smaldone, Bar #100410
Attorney for Defendant
142 Williman St
Charleston, SC 29403
Office: (843)808-2100
Fax: (843) 589-1288
grant@gbslawfirm.com

Dated: 9-12-22

2022 SEP 12 PM 3:19
JULIE J. ARMSTRONG
CLERK OF COURT
BY KLH

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT
)

) Warrant No(s): 2017A1010207309- 7310;
2018A1010203351,
2018A1010203365,
2018A1021000405-406,
2021A1010203854

)

Charge(s) Murder, PWDVC, etc.

STATE OF SOUTH CAROLINA

vs.

WILLIS IVEY,

Defendant.

2023 JAN -6 PM 1:34
JULIE J. ARMSTRONG
CLERK OF COURT
BY ELN

FILED

MOTION TO DISMISS CASE WITHOUT PREJUDICE; or in the alternative, MOTION TO SET REASONABLE BOND

Now comes Defendant, by and through his undersigned attorney, who respectfully moves before this Court for an Order dismissing the above-captioned actions due to noncompliance with the 2017 Charleston County Case Management Order.

Defendant was arrested on June 15th, 2018 and charged with Assault on a Police Officer While Resisting Arrest, Attempted Taking Weapon from Law Enforcement, Failure to Stop for Blue Light, Possession of a Weapon During a Violent Crime, Unlawful Carry of a Pistol, and two counts of Murder. Defendant was subsequently charged with Assault and Battery of a High and Aggravated Nature while in the Al Cannon Detention Center in July 2018. Defendant has been incarcerated since his initial arrest nearly five years ago in 2018.

In December 2018, a Case Management Order for the Ninth Judicial Circuit was submitted to and approved by the Supreme Court of South Carolina. This Order dictates the process, speed, and procedure that cases move the Court of General Sessions in Charleston County. It ordered, amongst many additional components, that Discovery be sent from Law Enforcement to the Solicitor's Office within thirty (30) days from the date of arrest, and that discovery be provided to defense counsel within sixty (60) days from receipt of a Discovery Request from defense counsel. Additionally, this Order states that defense counsel may file a Motion to Dismiss Without Prejudice if discovery has not been transmitted by law enforcement to defense counsel within sixty (60) days.

In this matter, a SLED DNA analysis is still allegedly pending. This analysis may prove to be dispositive of this matter. Although defense counsel is unsure of when the DNA samples were submitted to SLED, defense counsel submits that the fact that Defendant was arrested for these charges in 2018 is indicative of a lack of communication between SLED and the solicitor's office or a failure to test material after a period of nearly five years, thereby a failure to prosecute this matter.

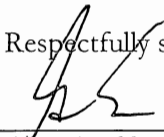
The Case Management Order states that plea offers—or the intention to not make a plea offer-- must be communicated within 150 days from the date of arrest. To date, Defendant has not received an offer—or the intent not to seek an offer—in this matter. Counsel is aware that any offer may be predicated by the results of the SLED DNA analysis, but such analysis has not been provided to defense counsel.

Due to reasons listed above, Defendant respectfully requests this matter be dismissed without prejudice and respectfully requests a hearing in this matter.

IN THE ALTERNATIVE:

Defendant has been incarcerated for nearly five years on the above-listed charges. Defendant submits that he is not a flight risk nor is he a danger to the community. Defendant respectfully requests a bond be set in these matters and requests a hearing to address the issue.

Respectfully submitted,



Grant Smaldone, Bar #100410
 Attorney for Defendant
 142 Williman St
 Charleston, SC 29403
 Office: (843)808-2100
 Fax: (843) 589-1288
 grant@gbslawfirm.com

Dated: 1/6/23

FILED
 2023 JAN -6 PM 1:34
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY ELN

State of South Carolina	)	Court of General Sessions
County of Charleston	)	Ninth Judicial Circuit
	)	
STATE OF SOUTH CAROLINA,	)	Case Numbers:
	)	2018-GS-10-05306
Plaintiff,	)	2018-GS-10-05307
	)	2018-GS-10-05308
vs.	)	2018-GS-10-05309
	)	2024-GS-10-04455
WILLIS T. IVEY,	)	2024-GS-10-04456
	)	2024-GS-10-04457
Defendant.	)	2024-GS-10-04458
_____	)	

HEARING ON DEFENDANT'S MOTION FOR SPEEDY TRIAL

TRANSCRIPT OF RECORD

February 2, 2023
Charleston, South Carolina

B E F O R E:

The Honorable Bentley D. Price

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

MR. DANIEL W. COOPER,
Assistant Solicitor,
for the Plaintiff;

MR. GRANT B. SMALDONE,
Assistant Public Defender,
for the Defendant.

Jamie Bickett
Official Court Reporter

1 (The following proceedings were had in open court.)

2 THE COURT: All right. Who do we have here?

3 MR. COOPER: This is the State of South Carolina versus
4 Willis Ivey.

5 THE COURT: All right. And what -- is this a motion to
6 clarify?

7 MR. COOPER: Speedy trial.

8 THE COURT: Speedy trial motion? All right.

9 All right. Yes, sir?

10 MR. SMALDONE: All right. Thank you, your Honor. May
11 it please the Court.

12 Just procedurally, I filed a -- well, procedurally,
13 starting at the beginning, Mr. Ivey was arrested and has been
14 incarcerated since June 15 of 2018, coming up on five years.
15 He's had several bond hearings.

16 Procedurally, regarding this motion, I filed a speedy
17 trial motion in September of 2022. Subsequently, on June --
18 I'm sorry. Subsequently, on January 6 of 2023, I filed an
19 amended speedy trial, a motion to set bond, and an
20 alternative motion to dismiss pursuant to the chief
21 administrative -- pursuant to the case management order of
22 2018, your Honor.

23 So I think -- I don't know exactly what's scheduled. It
24 says "speedy trial" through the clerk. I'm ready to argue
25 speedy trial. I'm ready to argue everything else. Whatever

1 your Honor wants. Whatever --

2 THE COURT: Whatever's outstanding we'll be happy to
3 hear.

4 MR. SMALDONE: Okay. So I suppose I --

5 MR. COOPER: Well, your Honor, I think this wouldn't be
6 appropriate to do anything other than a speedy trial. That's
7 what the State was noticed on.

8 THE COURT: What else is out there?

9 MR. COOPER: Sir?

10 MR. SMALDONE: There's a dismissal motion pursuant to
11 the case management order. Also, bond.

12 THE COURT: All right.

13 MR. SMALDONE: That's from January 6.

14 THE COURT: It's all in one. Go ahead.

15 MR. SMALDONE: Okay. So regarding speedy trial, your
16 Honor, I think it speaks for itself.

17 He's been incarcerated since June 15 of 2018 on these
18 charges. As I said, it's coming up on five years. There's
19 still discovery outstanding. There's a DNA test that we've
20 been waiting for that could be dispositive on the case.
21 We've been waiting for it since, I submit, June 15 of 2018.
22 SLED has just been sitting on it.

23 I understand the solicitor's position is it's not the
24 solicitor's office's fault. But the solicitor is kind of the
25 contact point through all of law enforcement, so someone's

1 got to take the blame for it. And the fact that there's a
2 DNA test from five years ago, not to mention any kind of
3 spoliation issues, tampering issues, it's just -- it's unfair
4 to have someone sit in jail and say, "We'll get to you when
5 we get to you," and have everyone else skip them because SLED
6 doesn't want to test for DNA.

7 Your Honor, that's the speedy trial motion. I ask that
8 a speedy trial be granted, or in the alternative, that he be
9 released on PR bond if not tried within your Honor's
10 discretion.

11 Additionally, a bond motion was filed January 6. I
12 would ask for a bond to be set in this matter -- a reasonable
13 bond to be set in this matter.

14 He is 31 years -- turns 31 on Saturday. He has lived
15 here his whole life. His family is present. His mother is
16 here. He would live with his mother in Huger, South
17 Carolina, in a relatively rural area. She has just opened up
18 her own restaurant in Huger, and I hope that does well. She
19 would ask for his help in this. Also, he has potential to
20 work with his uncle.

21 May it please the Court, your Honor. I want to make
22 sure I can read my writing.

23 He does have five children that he would take care of.

24 He would certainly abide by any conditions your Honor
25 would set, including house arrest, GPS. We understand that

1 that might be prudent in this case.

2 However, this brings us to the last issue is the case
3 management order.

4 This case is a mid-2018 case. It's been past a year.
5 It's been past two years. It's been past anything even
6 mentioned in the case management order. In the case
7 management order it says discovery is to be completed within
8 -- I can't remember if it's 90 days or 185 days.

9 THE COURT: It's 180.

10 MR. SMALDONE: A hundred and eighty days. It's been ten
11 times that -- er, nine times that at this point.

12 I have -- I do have it filed. It's not that the
13 solicitor's office hasn't given me anything, but really one
14 of the most important things you can have in the case is DNA.
15 The fact that we waited nine times the case management
16 order's declaration is unfair to the defense. It's
17 prejudicial to our defense. It's certainly prejudicial every
18 day that Mr. Ivey has to wake up in jail, to be away from his
19 family.

20 So, your Honor, pursuant to the case management order,
21 if that is not done, the remedy is dismissal without
22 prejudice. So we would ask for all these things, but we
23 would ask that it be dismissed without prejudice because we
24 don't -- we can't litigate this case without DNA. If the
25 State wants to re-bring it up at some point, that's also in

1 the case management order. But at this point, we're just
2 sitting around, and that's unfair.

3 THE COURT: All right.

4 MR. COOPER: Judge, I think it's important that we
5 clarify that we know exactly what we're talking about.

6 When it comes to discovery, the State has in every way
7 complied with the rules of discovery. Mr. Smaldone and I
8 have linked. I think he actually gave me a hard drive of his
9 to make sure I put everything on there. The State has not
10 not given him anything. I want to make that very clear.
11 He's not alleging that, I don't think.

12 I can't give him what I don't have. We heard yesterday
13 at the status conferences I think Ms. Norvell has a 2019 case
14 and the DNA's been up there since 2019. This has been
15 assigned to an analyst since January of 2020. They're in the
16 throes of moving to a new lab. I wish it was quicker too,
17 but there's nothing I can do about that.

18 When it comes to -- I think it's important, Judge, yes,
19 he's been in jail for five years almost. Part of the reason
20 is he stands charged with two separate charges of murder.
21 But also along with that, there's possession of a weapon
22 charge in two separate incidences in 2017. He was arrested
23 for failure to stop and assaulting a police officer while
24 resisting arrest. And they were probably able to then serve
25 those two murder warrants. He picked up an ABHAN charge

1 inside the jail.

2 I was not prepared to argue a bond hearing today. I
3 don't have the victim's family present. My understanding was
4 it was a speedy trial motion, but if your Honor's considering
5 bond, the reason he's been sitting in jail is the charges
6 he's accrued, both out of jail and in jail.

7 His record, your Honor, even being --

8 THE COURT: I'm not worried about his record.

9 MR. COOPER: Well, Judge, I would say if we're going to
10 do a bond, that needs to be another time.

11 THE COURT: I'm not going to -- I'm doing a bond
12 hearing. He just said he wanted to go ahead and get it done,
13 and so that's fine.

14 MR. COOPER: But Judge, we weren't --

15 THE COURT: Well, what's the issue with the case? I
16 mean, it's 2018.

17 MR. COOPER: There are both -- both murder cases have
18 DNA evidence at SLED waiting to be examined that I believe
19 will be dispositive one way or the other. That's the biggest
20 problem. I have DNA in two separate murder cases that I'm
21 waiting for. I want this back as much as Mr. Smaldone does,
22 but I can't -- that's not the State's fault. As soon as we
23 get it back --

24 THE COURT: No, it's definitely y'all's fault. And I
25 mean, in *Langford* it addresses all of the prejudices that go

1 along with all of this. I mean, he hits all of them. You
2 know?

3 MR. COOPER: But Judge, I understand that being a
4 solicitor we are a part of the State with SLED, but there's
5 nothing the State is doing inappropriately. I would like
6 to --

7 THE COURT: *Langford* doesn't say you have to do anything
8 inappropriately. It doesn't have any type of issue apart
9 from it's just an undue delay. And I think a 2018 case is
10 certainly undue delay.

11 MR. COOPER: And Judge, part of the problem is that SLED
12 can't give anybody DNA results right now. They can't give
13 anybody DNA results. I appreciate the length of time this
14 has lasted. I appreciate that he's been in custody since
15 that time. Other than that, there's --

16 THE COURT: I mean --

17 MR. COOPER: And Judge, I think it would just be a
18 miscarriage of justice to do --

19 THE COURT: All this sounds great for your press
20 release.

21 MR. COOPER: I'm not worried about that, Judge. I'm
22 trying to protect the interests of the victims. They're also
23 waiting as a result of this. It's not like we failed to do
24 something. It's not that we've not made a decision to do
25 that. I wish we had another DNA lab down here. I know the

1 higher powers-that-be are working on that. I wish we had
2 that, but this isn't a fault of the State.

3 THE COURT: Yes, it is. Let's be clear. This is
4 100 percent the fault of the State, and he is being
5 prejudiced by that by sitting in there for five years.
6 Period.

7 Notify your victims. Notify Mr. Smaldone. We're going
8 to have a bond hearing, and I'm granting his speedy trial
9 motion. I will determine the date once we have a bond
10 hearing. Understand?

11 See you then.

12 And also, I think you might want to remind everybody
13 what the ramifications and what is going to be my -- what can
14 be my ultimate resolution if I grant the speedy trial motion
15 and it's not adhered to.

16 (End of proceedings.)

17

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CERTIFICATE OF REPORTER

State of South Carolina

County of Charleston

I, Jamie L. Bickett, an Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case in the Ninth Judicial Circuit, the Court of General Sessions for Charleston County, South Carolina.



Official Court Reporter

Dated this 21st day
of August, 2025.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED
2023 FEB 14 AM 11:58
JULIE J. ARMSTRONG
CLERK OF COURT
BY

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

Warrant No(s): 2017A1010207309- 7310;
2018A1010203351,
2018A1010203365,
2018A1021000405-406,
2021A21010203854

Charge(s) Murder x2, etc

STATE OF SOUTH CAROLINA

vs.

WILLIS IVEY,

Defendant.

ORDER GRANTING SPEEDY TRIAL

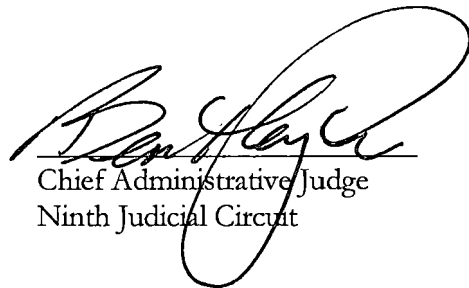
Appeared before this Honorable Court on February 2nd, 2023 the Defendant, Willis Ivey, represented by his attorney, Grant B. Smaldone, moving for an Order granting a speedy trial in this matter.

The Court grants Defendant's motion. Defendant is to be tried within 90 days of the date of this hearing.

Furthermore, Defendant is to receive a hearing to address the issue of his bond. Defendant has been held without bond since his initial arrest in 2018.

IT IS SO ORDERED!

Dated: 2.14.23


Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

) **IN THE COURT OF GENERAL SESSIONS**
) **FOR THE NINTH JUDICIAL CIRCUIT**) Warrant No(s): 2017A1010207309- 7310;
2018A1010203351,
2018A1010203365,
2018A1021000405-406,
2021A21010203854) Charge(s) Murder, PWDVC

STATE OF SOUTH CAROLINA

vs.

WILLIS IVEY,

Defendant.

MOTION TO DISMISS CASE

Now comes Defendant, by and through his undersigned attorney, who respectfully moves before this Court for an Order dismissing the above-captioned actions due to Defendant not receiving a Speedy Trial.

Defendant was arrested on June 15th, 2018 and charged with Assault on a Police Officer While Resisting Arrest, Attempted Taking Weapon from Law Enforcement, Failure to Stop for Blue Light, Possession of a Weapon During a Violent Crime, Unlawful Carry of a Pistol, and two counts of Murder. Defendant was subsequently charged with Assault and Battery of a High and Aggravated Nature while in the Al Cannon Detention Center in July 2018. Defendant has been incarcerated since his initial arrest nearly five years ago in 2018.

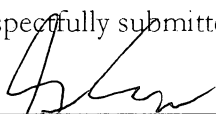
On February 14th, 2023, an Order was issued that granted Defendant a Speedy Trial in this case. As of today's date—May 25th, 2023, Defendant has not been tried for any of his alleged offenses.

Due to reasons listed above, Defendant respectfully requests this matter be dismissed with prejudice and respectfully requests a hearing in this matter.

Signature Page to Follow

FILED
2023 MAY 25 PM 3:29
JULIE J. ARMSTRONG
CLERK OF COURT
BY SS

Respectfully submitted,



Grant Smaldone, Bar #100410
Attorney for Defendant
142 Williman St
Charleston, SC 29403
Office: (843)808-2100
Fax: (843) 589-1288
grant@gbslawfirm.com

Dated: May 25th 2023

FILED

2023 MAY 25 PM 3:29

JULIE J. ARMSTRONG
CLERK OF COURT

BY SSS

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON 2833

**IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT**

Warrant No(s): 2017A1010207309- 7310;
2018A1010203351,
2018A1010203365,
2018A1021000405-406,
2021A1010203854, 64510HA

Charge(s)	<u>Murder x2, etc</u>

STATE OF SOUTH CAROLINA

VS.

WILLIS IVEY,

Defendant.

ORDER DENYING BOND

This matter comes before the Court on June 6th, 2023 on the motion of the Defendant to set a reasonable bond.

The Court has considered the nature and circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, length of residence in the community, record of convictions, and record of flight or failure to appear.

Bond is denied at this time. However, if Defendant's cases are not disposed of prior to July 31st, 2023, a bond shall be set on these matters.

IT IS SO ORDERED!

The Hon. Bentley Price
Chief Administrative Judge for General Sessions
Ninth Judicial Circuit

7.18, 2023

Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

WILLIS TERREL IVEY,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

BOND ORDERWARRANT #: 2017A1010207309-7310WARRANT #: 2018A1010203351.3365.2018A1021000406, 2021A1010203854INDICTMENT #: 2018-GS-10-05308INDICTMENT #: 2018-GS-10-05309

This matter is before the Court (Judge Bentley Price) on a:

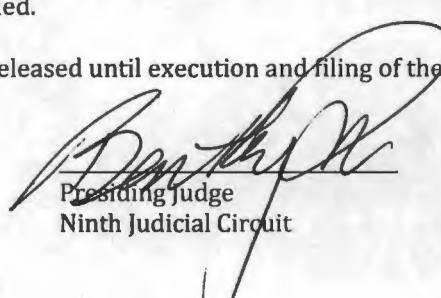
☐ Motion to Reduce Bond☒ Motion to Set Bond☐ Motion to Revoke Bond**Appeared for the State:** Assistant Solicitor Daniel West Cooper **Appeared for the Defendant:** Grant B. Smaldone

Having now determined this matter, the Court orders that the Motion(s) is/are hereby:

☐ **Granted** () ☒ **Denied** () ☐ **Continued** ()☐ Set or Reduce Bond on Voluntary Manslaughter and Possession Of A Weapon During The Commission Of A Violent Crime charges.Bond is hereby ordered as follows: ☐ Surety ☐ Personal Recognizance☐ This order represents one consolidated bond on all the listed charges.☐ This order requires separate bonds on each listed charge.☐ All bond conditions previously ordered shall be part of this order.**Other Conditions Imposed:**☐ GPS Monitoring☐ House Arrest (can only leave for medical or legal appointments)☐ Curfew: _____☐ Can leave for: _____☐ No Contact: _____☐ Miscellaneous: _____☐ The motion has either been withdrawn or counsel failed to appear at the time this matter was scheduled; therefore, the motion is denied and shall not be rescheduled except as ordered by this Court.☐ This bond matter was previously heard in the circuit court; the court declines to modify the order of another circuit judge and the request is denied.

The Defendant shall not be released until execution and filing of the appropriate bond document with the Court.

IT IS SO ORDERED!


Presiding Judge
Ninth Judicial CircuitThis 31 day of Oct., 2023
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED

2024 MAR 20 PM 4: 02

STATE OF SOUTH CAROLINA

JULIE J. ARMSTRONG
CLERK OF COURT

vs.

BY mss

WILLIS IVEY,

Defendant.

COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

WARRANT(S): 2017A1010207309- 7310;
2018A1010203351, 2018A1010203365,
2018A1021000405-406, 2021A1010203854,
64510HA

CHARGES: Murder x2, PWDVC, FTSBL,
ABHAN, etc.

MOTION TO DISMISS CASE FOR SPEEDY TRIAL VIOLATIONS

Now comes Defendant, by and through his undersigned attorney, who respectfully moves before this Court for an Order dismissing the above-captioned actions due to Defendant not receiving a Speedy Trial.

Background

Defendant was arrested on June 15th, 2018, and charged with Assault on a Police Officer While Resisting Arrest, Attempted Taking Weapon from Law Enforcement, Failure to Stop for Blue Light, Possession of a Weapon During a Violent Crime, Unlawful Carry of a Pistol, and two counts of Murder. Defendant was subsequently charged with Assault and Battery of a High and Aggravated Nature while in the Al Cannon Detention Center on July 21st, 2021. Defendant has been incarcerated without bond since his initial arrest nearly six years ago.

Defendant waived his bond hearing in magistrate court after his initial arrest, and bond was denied after being served the warrant for Assault and Battery of a High and Aggravated Nature. Defendant was denied bond by the Circuit Court in February 2020, August 2020, June 2021, March 2022, July 2023, and October 2023. Consent scheduling orders were entered into on or about January 10th, 2020 and August 12th, 2021. These orders, seemingly entered into during the height of the COVID-19 pandemic, amount for continuances of approximately 11 months, cumulatively.

A motion requesting a speedy trial was filed on September 12th, 2022. After argument, the Honorable Bentley Price issued an order that granted Defendant a Speedy Trial on all warrants in this case (filed on February 14th, 2023). To date, no relief has been granted. Defendant has not waived this right to speedy trial under the United States and South Carolina Constitutions. All known pleadings in this case are attached.

Law

The right to a speedy trial is "fundamental" and is imposed by the Due Process Clause of the Fourteenth Amendment on the States, *Klopfer v. North Carolina*, 386 U.S. 213 (1967), and was recognized by the South Carolina Supreme Court in *Wheeler v. State*, 247 S.C. 393, 147 S.E.2d 627 (1966). The controlling considerations when dealing with a Defendant's right to a speedy trial are outlined in *Barker v. Wingo*, 407 U.S. 514 (1972). *State v. Foster*, 260 S.C. 511, 197 S.E.2d 280 (S.C. 1973).

The right to a speedy trial requires a functional analysis in the particular context of each case. *Barker*, 407 U.S. at 530. The factors to be considered are: 1) the length of delay; 2) the reason for the delay; 3) the Defendant's assertion of her right; and 4) prejudice to the Defendant. *Id.*

Prejudice to the Defendant should be "assessed in the light of the interests of defendants which the speedy trial right was intended or protect". *Barker*, 407 U.S. at 532. Those interests include preventing "oppressive pre-trial incarceration," "anxiety and concern for the accused," and "the possibility that the [accused's] defense will be impaired" by the loss of memories. *Id.*

If a court determines a defendant's rights to a speedy trial have been violated, a dismissal of the charges "is the only possible remedy." *Barker*, 407 U.S. at 522.

Analysis

A.) Length of Delay

Defendant submits to the court that the extreme length of the delay in this case—approximately six year for the controlling cases and three years for the ABHAN-- is enough for the first prong (length of delay) to be triggered, thus mandating a speedy trial analysis.

B.) Reason for the delay

This case was partially delayed due to the COVID-19 pandemic. However, trials have been proceeding in Charleston County for approximately three years after they were initially shut down. Apart from the delay that Defendant consented to in two separate scheduling orders, Defendant would submit to the court that any delay is not the fault of Defendant.

C.) Assertion of Right to Speedy Trial

Defendant has some responsibility in asserting his right to a speedy trial and his assertion of the right is one of the factors that courts consider in determining whether the right has been denied. *Barker*, 407 U.S. at 529. However, a defendant who fails to make a demand for a speedy trial is not automatically deemed to have waived that right forever. *Id.* at 528-30 (rejecting the demand-waiver rule as insensitive to a right deemed fundamental). In their analysis, courts are to consider the circumstances of each case and the manner in which a defendant has exercised his right. *Waites*, 270 S.C. at 108. However, "[merely indicating readiness to proceed with trial does not in itself constitute a formal demand of that right." *Waites*, 270 S.C. at 109 (quoting *People v. Wyatt*, 365 N.E.2d 373, 375 (III. App. Ct. 1st Dist. 1977)). However, in this case, Defendant clearly asserted his right to a speedy trial as early as September 2022. The court granted his motion, but Defendant has seen no relief to date.

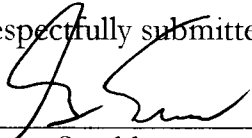
D.) Prejudice to Defendant

The Constitutional right to a speedy trial was intended to prevent injustice and protect the interests of the Defendant from government overreach. This Court has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to minimize the possibility that the defense will be impaired." In this case, Defendant is charged with two counts of Murder. The loss of employment, the stigma of being labeled a murderer, the extended period of time away from his children while they grow and mature, and the length of the pretrial detention that Defendant has already endured has amounts to extreme prejudice that he has suffered through.

Relief

Defendant has suffered extreme delay in the resolution of this case, and due to the delay, has suffered immensely due to the length of his pretrial detention. Defendant has asserted his right to a speedy trial—and it has even been granted by the Court. Defendant's right to a speedy trial has been infringed. Therefore, Defendant moves before this Court for an Order dismissing—with prejudice—his pending Charleston County General Sessions charges.

Respectfully submitted,



Grant Smaldone

Bar #100410

Attorney for Defendant

142 Williman Street

Charleston, SC 29403

Office: (843)808-2100

Fax: (843) 589-1288

grant@gbslawfirm.com

Dated: March 19th 2024

FILED
2024 MAR 20 PM 4:02
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

INDICTMENT # 2024-GS-10-5276⁰

STATE OF SOUTH CAROLINA,

CHARGES: Assault and Battery of a High and
Aggravated Nature

vs.

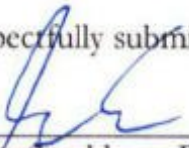
WILLIS IVEY,

NOTICE OF APPEARANCE

Defendant.

The undersigned hereby respectfully enters his appearance as attorney for Defendant, WILLIS IVEY, in the above-entitled matter.

Respectfully submitted,



Grant Smaldone, Bar #100410
Attorney for Defendant
165 King Street, Second Floor
Charleston, SC 29401
Office: (843)808-2100
Fax: (843) 321-9904
grant@gbslawfirm.com

Dated: 10-11-24

FILED
2024 OCT 17 PM 4:31
JULIE J. ARMSTRONG
CLERK OF COURT
BY 

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED

2024 OCT 31 PM 2:05

JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA,

BY: *MISS*

vs.

WILLIS IVEY,

Defendant.

COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

INDICTMENTS: 2024GS1004455—456,
2024GS1005276

MOTION TO DISMISS CASE FOR SPEEDY TRIAL VIOLATIONS

Now comes Defendant, by and through his undersigned attorney, who respectfully moves before this Court for an Order dismissing the above-captioned actions due to Defendant not receiving a Speedy Trial.

Background

Defendant was arrested on June 15th, 2018, and charged with Failure to Stop for a Blue Light and Attempted Unlawful Taking of a Weapon From a Law Enforcement Officer. Defendant was subsequently charged with Assault and Battery of a High and Aggravated Nature while in the Al Cannon Detention Center on July 21st, 2021. On October 24th, 2024, Defendant was directly indicted for Assault and Battery of a High and Aggravated Nature that is alleged to have occurred during his arrest in 2018. Defendant has been incarcerated since his initial arrest more than six years ago.

Defendant waived his bond hearing in magistrate court after his initial arrest, and bond was denied after being served the warrant for Assault and Battery of a High and Aggravated Nature. Defendant was denied bond by the Circuit Court in February 2020, August 2020, June 2021, March 2022, July 2023, and October 2023. Consent scheduling orders were entered into on or about January 10th, 2020 and August 12th, 2021. These orders, entered into during the height of the COVID-19 pandemic, amount for continuances of approximately 11 months, cumulatively.

On February 14th, 2023, an Order was issued that granted Defendant a Speedy Trial on all warrants in this case. To date, no relief has been seen. Defendant has not waived this right to speedy trial under the United States and South Carolina Constitutions.

Law

The right to a speedy trial is "fundamental" and is imposed by the Due Process Clause of the Fourteenth Amendment on the States, *Klopfer v. North Carolina*, 386 U.S. 213 (1967), and was recognized by the South Carolina Supreme Court in *Wheeler v. State*, 247 S.C. 393, 147 S.E.2d 627 (1966). The controlling considerations when dealing with a Defendant's right to a speedy trial are outlined in *Barker v. Wingo*, 407 U.S. 514 (1972). *State v. Foster*, 260 S.C. 511, 197 S.E.2d 280 (S.C. 1973).

The right to a speedy trial requires a functional analysis in the particular context of each case. *Barker*, 407 U.S. at 530. The factors to be considered are: 1) the length of delay; 2) the reason for the delay; 3) the Defendant's assertion of their right; and 4) prejudice to the Defendant. *Id.*

Prejudice to the Defendant should be "assessed in the light of the interests of defendants which the speedy trial right was intended or protect". *Barker*, 407 U.S. at 532. Those interests include preventing "oppressive pre-trial incarceration," "anxiety and concern for the accused," and "the possibility that the [accused's] defense will be impaired" by the loss of memories. *Id.*

If a court determines a defendant's rights to a speedy trial have been violated, a dismissal of the charges "is the only possible remedy." *Barker*, 407 U.S. at 522.

Analysis

A.) Length of Delay

Defendant submits to the court that the extreme length of the delay in this case—approximately six year for the controlling cases and three years for the ABHAN— is enough for the first prong (length of delay) to be triggered, thus mandating a speedy trial analysis.

B.) Reason for the delay

This case was partially delayed due to the COVID-19 pandemic. However, trials have been proceeding in Charleston County for approximately three years after they were initially shut down. Apart from the delay that Defendant consented to in two separate scheduling orders, Defendant would submit to the court that any delay is not the fault of Defendant.

C.) Assertion of Right to Speedy Trial

Defendant has some responsibility in asserting his right to a speedy trial and his

assertion of the right is one of the factors that courts consider in determining whether the right has been denied. *Barker*, 407 U.S. at 529. However, a defendant who fails to make a demand for a speedy trial is not automatically deemed to have waived that right forever. *Id.* at 528-30 (rejecting the demand-waiver rule as insensitive to a right deemed fundamental). In their analysis, courts are to consider the circumstances of each case and the manner in which a defendant has exercised his right. *Waites*, 270 S.C. at 108. However, "[merely indicating readiness to proceed with trial does not in itself constitute a formal demand of that right." *Waites*, 270 S.C. at 109 (quoting *People v. Wyatt*, 365 N.E.2d 373, 375 (Ill. App. Ct. 1st Dist. 1977)). However, in this case, Defendant clearly asserted his right to a speedy trial as early as September 2022. The court granted his motion, but Defendant has seen no relief to date.

D.) Prejudice to Defendant

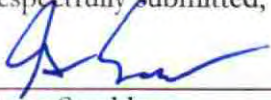
The Constitutional right to a speedy trial was intended to prevent injustice and protect the interests of the Defendant from government overreach. This Court has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to minimize the possibility that the defense will be impaired." The loss of employment, the extended period of time away from his children while they grow and mature, and the length of the pretrial detention that Defendant has already endured has amounts to extreme prejudice that he has suffered through.

Relief

Defendant has suffered extreme delay in the resolution of this case, and due to the delay, has suffered immensely due to the length of his pretrial detention. Defendant has asserted his right to a speedy trial—and it has even been granted by the Court. Defendant's right to a speedy trial has been infringed. Therefore, Defendant moves before this Court for an Order dismissing—with prejudice—his pending Charleston County General Sessions charges.

Signature Page to Follow

Respectfully submitted,



Grant Smaldone

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October 31st, 2024

FILED
2024 OCT 31 PM 2:05
JULIE J. ARMSTRONG
CLERK OF COURT
RY _____

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 9
COUNTY OF CHARLESTON) DOCKET NO. 2024-GS-10-05276

THE STATE OF SOUTH CAROLINA,	)
Plaintiff,	)
versus	)
WILLIS TERREL IVEY,	)
Defendant.	)

H E A R I N G
BEFORE THE HONORABLE Heath P. Taylor

DATE: November 4 - 6, 2024.
TIME: 2:07 P.M.
LOCATION: SOUTH CAROLINA CIRCUIT COURT 9
TRANSCRIBED BY: Latasha Jefferson

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1 PROCEEDINGS - NOVEMBER 4, 2024.

2 THE COURT: All right. Ladies and gentlemen, we are
3 about to select the jury for the trial of the case of the
4 State of South Carolina versus Willis Terrel Ivey. Mr. Ivey
5 is charged with assault and battery of a high and aggravated
6 nature, attempted unlawful taking of a firearm, and failure
7 to stop for a blue light. I have to ask you a few more
8 questions in addition to the ones I did earlier today. So --
9 and I'm going to remind you that you are still under oath
10 from this morning.

11 Is any member of the jury panel related by blood or
12 marriage or a close personal friend of Mr. Ivey? I'm going
13 to read you a list of potential witnesses in this case.
14 Those are Cory Wilson, George Fogle, Rob Kruger, Trooper
15 Wilson Bishop, Deputy Austin Rissanen, Officer Sam Souther,
16 Major Michael Aiken, Jason Pifer (ph), Marshal Robert Roe, or
17 Dr. Barry Weissglass. Is any member related -- of the panel
18 related by blood or marriage or have any close personal or
19 social relationship with any of those witnesses? All right.
20 Counsel, State wants to introduce yourself.

21 MR. COOPER: Thank you, Judge. Good afternoon. My
22 name is David Cooper, I'm one of the assistant solicitors
23 here in Charleston County. We work for a more (inaudible)
24 solicitor, Scarlett Wilson. With me is -- to try this case
25 this week is Assistant Solicitor Jewell Gearding, and then my

1 Subway, like, two blocks that way, there's quality.

2 THE COURT: Okay. All right. We'll find --

3 MR. COOPER: Blind Tiger (Inaudible) is --

4 THE COURT: Yeah, I've been to Blind Tiger. All right.
5 I might walk down there. All right. Let's plan on doing the
6 best we can to be back, ready to go about 3:30, but
7 understanding that everybody has got to get lunch and all
8 that good stuff.

9 MR. COOPER: Thank you, Judge.

10 THE COURT: All right.

11 UNIDENTIFIED SPEAKER: Thank you.

12 (Off the record at 2:37 p.m.)

13 (On the record at 3:37 p.m.)

14 THE COURT: Okay. We got some motions?

15 MR. COOPER: Thank you, Judge. State has two brief
16 matters. First, I would like to move to amend Indictment
17 Number 2024-GS-10-05276, that was a true-billed direct
18 indictment for assault and battery of a high and aggravated
19 nature. I'd like to admit pursuant to 17-19-100 in State v
20 Meyer, which is 313 S.C. 391 from 1993, which basically says
21 we can amend and type it as long as there's not a material
22 change to what needs to be proven. And in this case, Judge,
23 I mistakenly believed when I wrote the indictment that my now
24 trooper's name was Bishop Wilson. It's Wilson Bishop.

25 THE COURT: Okay.

1 MR. COOPER: And I would just ask that those two words
2 be reversed.

3 THE COURT: Mr. Smaldone?

4 MR. SMALDONE: Your Honor, I -- I was researching a
5 similar issue last week. So I -- I'll leave it in the
6 Court's discretion.

7 THE COURT: Okay. I -- I'll permit the amendment.
8 That 17-19-100 seems to suggest that amendment should be
9 freely granted as long as it doesn't create some sort of
10 unfair surprise. I think just having the name backwards
11 probably does not constitute unfair surprise. He was put on
12 notice of what the charge was, and I'm sure throughout the
13 discovery, it was very obvious who it was. All right.
14 What's next?

15 MR. COOPER: The same thing, Judge. I believe the
16 Defense, and I -- if I'm -- if I miss -- misspeak, just
17 correct me. Our agreement. I want to put on the record and
18 I put it in my brief regarding the mentioning of the fact
19 that Mr. Ivey had pending warrants, it was in status of
20 fugitive at the time of arrest. The State in no way seeks --
21 will seek to elicit testimony. I don't -- can't really think
22 it's proper for us to get into the facts of what those
23 warrants were for, which were for murder, possession of a
24 weapon, I believe, drug charges as well. Nor do we even plan
25 -- I've instructed my witnesses appropriately not to mention

1 it was even a violent crime.

2 Certainly, when you look under the rest of the State's
3 theory in State v Adams, which is 322 S.C. 114 in our Supreme
4 Court '96, that talks about things that are so intertwined
5 with the facts of the case that fragment the case to not have
6 the jury know that information. And certainly, Judge, in
7 this case, what we're going to -- what the jury will see on
8 the videos and hear in testimony is not just a traffic stop,
9 but it is the convergence of United States Marshal Fugitive
10 Task Force that involves upwards of five law enforcement
11 vehicles that converge -- converge on Mr. Ivey.

12 Mr. Ivey then ultimately is able to escape, goes the
13 wrong way down Rivers Avenue, then crashes into Wilson
14 Bishop's Tahoe. Certainly, the jury may have questions or be
15 concerned at the law enforcement presence and knowing that he
16 was of a fugitive status, there had been warrants, I think
17 it's important. And then also, certainly Judge, explains why
18 they were stopping him in the first place, which is the
19 natural question that's begged that the failure to stop for a
20 blue light.

21 But again, I have made Mr. Smaldone aware, and I've
22 instructed my witnesses and I even asked for some grace from
23 the Defense if I leave my witnesses to ensure that they do
24 not say "murder" and they do not say "violent" unless that
25 door is opened.

1 So we just ask the Court's permission to characterize
2 that he had pending warrants, and that the Marshals Fugitive
3 Task Force -- which actually is called the Violent Crime
4 Fugitive Task Force, I'd be able to say "fugitive" because I
5 think that adequately describes this situation. I think
6 that's within the confines of State v Adams. And then also,
7 I think I put it in my brief, State v Wood at our Court of
8 Appeals, 362 S.C. 520.

9 In 2004, a very similar situation where Anderson County
10 got involved chasing a defendant who had shot and killed a
11 Greenwood County Deputy. And the Court restricted that
12 information coming in and being described as an incident.
13 That way, they could explain why Anderson County was looking
14 for him. And it also explained -- I think it's similar in
15 this case, which is why the Defendant fled both in his
16 vehicle and on foot, why law enforcement was concerned that
17 he may have a weapon, and explains the law enforcement
18 presence.

19 So I think it explains both the officer's actions, the
20 Defendant's motive, and gives the jury the full context
21 without being too unfairly prejudicial to Mr. Ivey.

22 THE COURT: Mr. Smaldone?

23 MR. SMALDONE: Yes, your Honor. And -- and -- and
24 honestly, I -- I mostly agree. I would just ask that -- and
25 I'm -- I'm sure the State has prepped their witnesses

1 accordingly, but I would just ask for an actual order, maybe
2 not written, but an order from the bench saying "witnesses"
3 -- unless I mess up and open the door, "witnesses are
4 prohibited from mentioning what any warrants were for."

5 Anything about the -- anything about him possibly being
6 armed or -- yeah, the word "Violent Crime Task Force," I
7 appreciate him basically changing that so that -- that -- I
8 mostly agree with the State, but I would just ask that it is
9 actually ordered so there's some teeth to witnesses failing
10 to abide by that.

11 THE COURT: Okay. Now, you did mention "armed," right?

12 MR. COOPER: Yes, your Honor. That's the -- I -- I --
13 I have no objection to his request other than that because in
14 the United States, Marshal Robert's testimony, when he gives
15 chase, he sees the Defendant move, make further movements
16 towards his waist where he has encountered people that have
17 had weapons and throw items out. So I think that's more of a
18 natural concern of chasing someone not so much related to the
19 actual charge itself.

20 So I think they're concerned about someone being armed
21 and taking down someone that does have warrants. I think
22 it's appropriate -- an appropriate topic for my witnesses.
23 But certainly, it's only in that sense of how they prepare,
24 what they're concerned about, not anything related to the
25 nature of his pending charges. They have been duly

1 instructed, and they will be instructed again.

2 THE COURT: Okay. Sir?

3 MR. SMALDONE: I understand what the State's saying. I
4 think I -- I, again, I think I agree, I just don't want them
5 saying, "We had information that a suspect may be armed and
6 dangerous." Because that would be improper and also hearsay.
7 Mostly improper.

8 THE COURT: So I -- I think I tend to agree with both
9 of you that -- I think he could say in his -- the testimony
10 could be tailored such that in my experience, folks that have
11 pending warrants may or may not. I think that's what the
12 State wanted to do, is to explain why the convergence. I
13 don't want him -- I mean, conversely, as Mr. Smaldone is
14 asking, "I don't want him saying we thought he might be
15 armed. We" -- no, not thought, I mean, "We had information
16 that he was armed because of his prior" -- whatever the prior
17 charge was. Just stay away from that. Stay away, of course,
18 from the word "murder," "violent crime," all that good stuff.

19 MR. COOPER: And now would be an issue, Judge. Because
20 that actually is -- isn't even the factual part of it. They
21 -- they only have concern. He might have been armed because
22 that's their experience with fugitives. They had no special
23 information he was going to be armed. It's just a concern
24 they have.

25 THE COURT: Okay. Well, I think -- I think you all are

1 on the same page there. Just -- just stay away from that.
2 And it'll be fine.

3 MR. COOPER: Thank you, Judge. That -- that is all
4 that the State has, pretrial.

5 THE COURT: How about you?

6 MR. SMALDONE: Yes, your Honor. May it please the
7 Court? I believe I sent your Honor my pretrial motion for
8 dismissal, motion to dismiss based on speedy trial issue.
9 And your Honor, I ask if you don't hold this against us, I
10 did not -- I filed this motion at least six months ago. This
11 was not -- and I filed a speedy trial -- initially filed a
12 speedy trial about over two years ago, it was granted.

13 I filed a motion to dismiss because of violations of it
14 shortly after. Then I filed another one. And I can get
15 dates for those in just a second. So this was not intended
16 to be a -- a pretrial issue. But here we are. As your Honor
17 may or may not know, with respect to everyone that works in
18 this courthouse and is on the bench or in any position,
19 motion practice in Charleston and the scheduling of motions
20 is extremely difficult.

21 THE COURT: That's what I understand. Takes a minute.

22 MR. SMALDONE: And if, your Honor -- if you just look
23 -- if your Honor looks at a bond docket, for example, it has
24 the date that the bond is filed and there's a average delay
25 of about seven months to have a bond hearing, that's just for

1 bond. So I -- I hate arguing this when a jury is sitting
2 here because it's easy to say, "Well, he's getting a speedy
3 trial," but he's not. As your Honor may be aware, this case
4 is from 2018. He was -- my client was arrested on scene with
5 the charge -- and charge for this trial, amongst the other
6 charges, your Honor heard about.

7 A speedy trial motion was filed -- I beg the Court's
8 indulgence on that. It was initially filed in 2022. And
9 then it was ordered -- it was ordered on February 14, 2023.
10 I have that here. Apologize. A speedy trial was ordered,
11 and so long ago that if he was arrested on that date, it
12 would already have triggered another speedy trial analysis
13 under the U.S. Supreme Court case. Because delays of more
14 than a year are presumed prejudicial. So I don't think
15 there's any delay -- I'm sorry, I don't think there's any
16 ambiguity as to whether my client has asserted his right.

17 Additionally, your Honor, as your Honor heard, he is --
18 he's been in jail more than six years. If that's not
19 prejudicial, I can't imagine what it is. The reasons for the
20 delay, I understand COVID happened during the middle of this.
21 Well, COVID is a pretty distant memory. And, your Honor,
22 there's -- this case has been delayed, delayed, reassigned,
23 delayed, SLED didn't test the evidence until they had it for
24 about five years on -- on the related charge.

25 So, your Honor, the -- I don't know of a reason for

1 delay from the State. Not necessarily Mr. -- Mr. Cooper, not
2 necessarily even Solicitor Wilson, but the State in general,
3 whoever it may be, has to be responsible for this. So the
4 fact that -- I think even without me even asking for the
5 speedy trial, or -- or filing a motion for a speedy trial at
6 any point, I still think this would be a -- a speedy trial
7 case that would merit dismissal.

8 However, not only has my client asked for it, it has
9 been ordered possibly twice. But I -- I -- I have an order
10 from 2023 where it was ordered within 90 days and that was --
11 I'm not good at math, 18, 22 months ago, I think. So what?
12 Good. And I have that order if your Honor wants, because I
13 don't think -- for some reason, ProDocs -- not ProDocs, our
14 system doesn't have it online, has everything else other than
15 this order. So if you're online, see the order.

16 THE COURT: Sure.

17 MR. SMALDONE: I can make it a Court's exhibit
18 actually.

19 THE COURT: Okay.

20 MR. COOPER: I think you gave me that. Yeah.

21 MR. SMALDONE: Make this a Court's Exhibit 1
22 (inaudible).

23 (Court's Exhibit 1 marked for identification.)

24 THE COURT: All right. What else?

25 MR. SMALDONE: Your Honor, just -- obviously my client

1 was direct indicted within the last several weeks on this --
2 on the ABHAN charge, but it has a 2024 indictment number. I
3 would submit that doesn't change anything. This is based off
4 of the same set of facts. It's just a new method of bringing
5 him to court. So I would -- I would argue that that would --
6 the speedy trial violation would -- would encompass the 2024
7 indictment since nothing has changed. It's just a new charge
8 from this -- the set of facts we've known all along.

9 THE COURT: Well, is it -- are -- I don't have the
10 warrant numbers, but are the -- are the warrant number -- you
11 just said there was an indictment on the ABHAN. Are the
12 warrant numbers in this order that are -- that deal with this
13 case? Because I see -- I mean, it looks like Judge Price had
14 murder. Obviously, we're not dealing with that.

15 MR. SMALDONE: Right. It has the -- the failure to
16 stop, the taking of weapon from law enforcement, but not the
17 ABHAN, because that's a new charge was his -- that he was
18 direct indicted on, no warrant.

19 THE COURT: Yeah. Okay. All right. Anything else?

20 MR. SMALDONE: No, your Honor.

21 THE COURT: Mr. Cooper?

22 MR. COOPER: Thank you, Judge. May it please the
23 Court?

24 THE COURT: Yes, sir.

25 MR. COOPER: I think it's proper to start off with a

1 little background. As your Court is aware of the reading the
2 State's trial in this case, the murders occurred separately
3 in October, December of 2017. Warrants were sought end of
4 the year, and then another warrant for the second murder was
5 sought later in 2018. This defendant was located by
6 Marshals, arrested June 15, 2018.

7 That case was assigned, initially, to a different
8 prosecutor. There were DNA items in both cases that were not
9 initially through -- it ended up being a fault of the State,
10 but whether it was law enforcement, our office not ensuring
11 that, I don't think it was sent up until about 2019 or 2020.
12 I inherited the case end of 2020 when that prosecutor left
13 our office. And they sat at SLED. As your Honor is well
14 aware, as Mr. Smaldone is well aware, as the entire State is
15 well aware, SLED is incredibly backlogged.

16 And -- and -- and bang on the tables as we might, they
17 still have to take things the order that they come and they
18 only can work so fast. This motion came up in February of
19 2013. I think it was actually at the course of a bond
20 hearing coming at the same time. And that's why I explained
21 to Judge Price that it was in SLED, it was unassigned, we
22 called. What SLED wants -- just by the way of background, is
23 a trial date. I can't even give a trial date if I don't know
24 what the evidence is. And I don't think the Defense would
25 accept or consider a plea without putting all the

1 information.

2 So that was kind of the -- the rub we were in, in a lot
3 of situations with SLED. SLED came back with DNA results.
4 It was either late July, early August of 2023. They were not
5 favorable for the State. They were favorable for the
6 Defense, which I think speaks one to the value of waiting for
7 that. While that was pending, this defendant was arrested
8 while incarcerated in jail for assault matter of high nature
9 for stabbing a fellow inmate in 2021.

10 So then you have a new charge to try to -- as we always
11 try to do, figure out, we can have a global resolution. We
12 got those DNA results back, as I mentioned, in late July or
13 early August of 2023. By September 7th, we had an offer to
14 the Defense that was rejected on the record. We had further
15 discussions. We made a second offer by November the 10th of
16 2023. That was also rejected in the record. So I -- I do
17 think that's important, Judge, to show that once we have full
18 evidence, which is what the State uses to make its
19 determination and what Mr. Smaldone and Mr. Ivey refused to
20 determine whether they want to plead guilty or not, we acted
21 very quickly.

22 And so, I -- the pandemic did -- did knock us down a
23 bit. I was the last trial out in March of 2020. We didn't
24 have another one until September of 2021. We were one of the
25 slowest ones in the State to get back to trying cases. So

1 that's part of the delay as well. Once we realized that this
2 was going to be a trial in some fashion at the end of 2023,
3 obviously, our sites looked to 2024 for a trial by the -- by
4 November, December, the first couple months of trial already
5 been scheduled. I know I was scheduled to try 2017 murder
6 from Summerville. The Court -- the Supreme Court reversed in
7 March, so I couldn't put this on them. That pled the week
8 before.

9 We had it on dockets as most recently as September. I
10 had another murder that I have. And it's been on September.
11 It's been on list dockets, on December dockets. I -- I think
12 it's important, Judge, the State is doing the best we can
13 with as much been made up -- the court's time. We've had
14 some of these other factors that are the State, but not the
15 State. And so, I think that's important to note.

16 I also think, Judge, it's important to note that once
17 the offers were rejected, this defendant had two separate
18 murder cases, a high-level assault charge in the jail, and in
19 this failure to stop case, trying to figure out which case we
20 could try, and in good faith, bring in a case that I can
21 prove to a jury. By way of background, the Applicant from
22 the jail, that inmate is in federal prison in Virginia.

23 And I'm sure your Honor is well aware of how pretty
24 difficult even from the State to get in touch with an inmate
25 in federal prison. That took some time. Locating those

1 witnesses that are in prison took some time, evaluating that
2 charge, and depending how this goes this week, we may be
3 teeing that up next. I think that's all important to
4 consider.

5 But certainly, Judge, the State is endeavored to do
6 what it can to try this case. I hate that it's taken this
7 long. But that was through no fault of mine or my office.
8 There are things outside our control. Since we have gotten
9 the information that gave us the clearest picture of the
10 case, we acted, and we acted quickly. In the three months
11 since we got those DNA results, two offers, not just
12 extended, but rejected. And on the record, that takes
13 several weeks to kind of get that sent, let them consider it,
14 schedule it, and then we started getting ready to try cases.

15 And so, Judge, I -- I do think -- I know that it's a
16 long time. I know the shock value of six years and I guess
17 at this point, it's almost five months in jail. But it's
18 worth noting some of that is the Defendant's own actions, the
19 new assault in the jail. But certainly, Judge, the State is
20 trying everything it can to try to get them ready. I tried
21 to explain that to Judge Price.

22 Thank goodness we have the new CPD DNA lab opening up
23 down here hopefully early next year to help alleviate some of
24 that. Because we face that in a lot of these high-value
25 cases, these serious cases. He's waiting on SLED. And it

1 was to his benefit that we waited because they came back for
2 him and not for us. Judge, I just think all that's important
3 to note, that there's not been a violation of speedy trial by
4 the State. It's more of a result of the circumstances.

5 I -- I have -- and I can provide the Court with dockets
6 to show murders and all the things that I had scheduled for
7 trial before then. So it just naturally kind of fell to the
8 second half of this year, was when we could add to dockets --
9 and add it to dockets we have. September, October, November,
10 December, and I get it, how this case goes, why its dockets
11 next year for the -- and the (inaudible).

12 So I do think, Judge, that shock value is there, but
13 certainly, the State has not violated the order purposefully.
14 More just the situation that we were dealt with. So I think
15 taking all that into consideration, we have acted as we could
16 when we could. As a result of that, Judge, I would ask you
17 to deny this motion. He wants his day in court. Got a jury.

18 THE COURT: Anything else, Mr. Smaldone?

19 MR. SMALDONE: Your Honor, we would certainly
20 understand that. I'm not arguing today that -- that it's
21 malicious. I'm not arguing at any sort of intent level. But
22 the issue is, it's been over six years. He's been in jail.
23 He's entitled to his speedy trial. He never got. And the
24 trial -- should it occur, won't be speedy even if it does
25 happen. So we -- that would -- that would be our argument.

1 And -- and we're just asking that the case be dismissed under
2 those grounds.

3 THE COURT: All right. I'm going to do a little
4 research on it. I'll just take it under advisement. But my
5 initial analysis is if -- if this were just a standalone
6 motion in front of me, and Mr. Cooper was telling me, "I
7 don't know, Judge. It might be next month. It might be next
8 May," just again off the cuff, I -- I would probably -- it --
9 it would be a different animal than the fact that we are --
10 we just picked the jury and we're ready to start tomorrow
11 morning. But I -- I do want to do a little bit of research
12 and look at it. So I'll take that under advisement, I'll let
13 you all know something. All right. What's next?

14 MR. SMALDONE: All right. Your Honor, other -- I would
15 ask witnesses be sequestered.

16 THE COURT: Okay.

17 MR. SMALDONE: But other than that, I don't have any
18 pretrial motions, so -- further pretrial motion.

19 MR. COOPER: No other -- well, maybe one more thing. I
20 beg the Court's indulgence? I think that's all pretrial
21 matters, Judge.

22 THE COURT: Okay. Well, I'll see you all in the
23 morning at 9:00.

24 THE CLERK: 9:00?

25 MR. COOPER: Thank you, Judge. Appreciate it.

1 THE COURT: I -- I told the jury 9:00, didn't I?

2 THE CLERK: Yeah, you did.

3

4 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

5 3:59 P.M.)

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1 CONTINUATION OF PROCEEDINGS - NOVEMBER 5, 2024.

2 THE COURT: Is there anything we need to take up from
3 the State before we get started?

4 MR. COOPER: Just one thing, Judge, I think the Defense
5 and I have come to an agreement regarding the photos. I'm
6 going to agree to move in 1 through 23 --

7 THE COURT: Okay.

8 MR. COOPER: -- by consent. 24, 25, and 26 are the
9 ones I think they have an objection to. We'll take up with
10 that testimony. But 1 through 23, we'd ask to admit -- well,
11 I believe without objection.

12 THE COURT: Okay.

13 MR. SMALDONE: And that's correct, your Honor.

14 THE COURT: Okay.

15 MR. SMALDONE: Well, I -- you -- I would want some kind
16 of foundation and whatnot, but I don't anticipate -- I'm not
17 going to object under 403 or anything like that, assuming
18 everything is proper with that. But I don't want to just
19 admit them all now. I did that once by accident in the drug
20 case and...

21 THE COURT: All right. Anything else?

22 MR. COOPER: Thank you.

23 MR. SMALDONE: Only yesterday's pretrial issues, but
24 other than that, no. Nothing new.

25 THE COURT: Okay.

1 MR. SMALDONE: No new business.

2 THE COURT: Well, I was going to -- I note -- with your
3 motion to dismiss based on the right to speedy trial, I do
4 need to make some findings on the record. Overnight, I
5 reviewed, primarily, State v Langford and -- which is
6 everybody's favorite case. And State v Hunsberger, I -- I
7 think the analysis from both parties as far as the factors
8 was correct. The four factors I have to consider are length
9 of the delay, the reason for delay, the assertion of the
10 right to a speedy trial, as well as any prejudice. I think
11 Langford is pretty clear that a speedy trial does not mean an
12 immediate trial. It certainly -- the State is entitled
13 reasonable time to prepare its case.

14 As far as the factors are concerned, I would note too
15 that they all must be considered together, and the case law
16 considers them all to be related. And it -- therefore then
17 I'm called the way the conduct of the Prosecution and
18 Defense. Certainly, I think all the case law is clear that
19 the triggering mechanism, if you will, is the length of the
20 -- the delay. You know, if it was six weeks, we wouldn't be
21 talking about this. Here we're talking about six years. So
22 I think that is a trigger that requires an analysis of the
23 other three factors.

24 Langford was pretty clear that the -- the -- I guess,
25 technically the second factor, the reason for the delay, if

1 it was deliberate on the part of the State, that certainly
2 weighs heavily against it. There are other neutral reasons
3 that I must consider, such as overcrowded dockets and
4 negligence. In this case, COVID would come to mind. I know
5 in his oral argument, Mr. Cooper, seemed like about 16 months
6 before you all tried a case here, was that right?

7 MR. COOPER: Thereabouts, Judge. Yes, sir.

8 THE COURT: But I know -- I mean, it's uncontroverted
9 that the courts were shut down for 10 months. I remember
10 when I was being sworn in, Judge Dixon, whose place I took,
11 told me it was going to take us three years to dig out of the
12 COVID hole. Now, after serving a -- a year as an
13 administrative judge, I fully believe him. Because we're
14 still not out.

15 Also, to consider delays by the Defendant, here, the
16 Defendant consented to effectively two continuances by
17 scheduling orders. I understand that was somewhat
18 complicated with the COVID issue. So I don't entirely blame
19 the Defense on that, but that is a factor I have to consider.

20 Certainly, the alleged commission of another crime
21 while incarcerated complicated matters as well. So those are
22 things that weigh against the Defendant. Then we still have
23 the issue of the DNA from SLED, which is nobody in this
24 room's fault. So as far as the reason for delay, I think
25 that's a wash between the parties.

1 The assertion of the speedy trial right, there --
2 there was certainly a motion obviously made in early 2023 and
3 an order. I -- I don't have any idea why. Nothing was done
4 pursuant to Judge Price's order. There are certainly no
5 other motions filed. That's over a year.

6 Finally, we get to prejudice. There's -- the courts
7 were -- I guess, between Hunsberger and Langford, Langford
8 focused almost solely on actual prejudice, where Hunsberger
9 focused on this notion of presumptive prejudice. Basically,
10 the excessive delay presumptively compromises the reliability
11 of the trial. But to get -- but Hunsberger also noted that
12 presumptive prejudice does not, alone, support a dismissal.

13 And I think -- and -- and that's sort of where I find
14 this -- is it -- it basically upon -- or -- or Mr. Smaldone's
15 argument, I think is -- is largely focused on just the length
16 of the delay. And I get it. And I think in -- in
17 Hunsberger, the Court makes it clear that just the length of
18 the delay alone does not support a dismissal.

19 Hunsberger seemed to focus on not merely a negligence
20 or a docket overcrowding or COVID or whatever you want to
21 call it, but in -- in Hunsberger, there appeared to be an
22 intentional delay, some intentional actions on the part of
23 the State to delay the case. And I don't find any of that in
24 -- in the record before me. So based thereon, I'm going to
25 deny the motion to dismiss, and we'll proceed to trial.

1 MR. COOPER: And there's one brief thing before, just
2 for your Honor's scheduling purposes. The State anticipates
3 probably three quick witnesses. Somewhat quick witnesses.
4 The fourth one, if he gets here on time, would be quick. My
5 fifth one and the final one for the day is the United States
6 Marshal, will be a little bit longer.

7 THE COURT: Okay.

8 MR. COOPER: I don't know if that'll be before or after
9 lunch, but then my last witness is the Trooper that couldn't
10 be here until tomorrow morning.

11 THE COURT: Okay.

12 MR. COOPER: Just for your Honor's identification.

13 THE COURT: Okay. All right. Everybody ready? All
14 right. Bring in the jury, please, sir.

15 (Jury enters at 9:07 a.m.)

16 THE COURT: You can be seated. They're standing for
17 you all, not the other way around.

18 THE BAILIFF: All the jurors are present, your Honor.

19 THE COURT: Very good, sir. Thank you. Let's keep in
20 mind. Yeah. Anything else before we swear in the jury?

21 MR. COOPER: Nothing from the State, Judge.

22 MR. SMALDONE: No, your Honor.

23 THE COURT: Madam Clerk, please swear in the jury.

24 THE CLERK: Ladies and gentlemen of the jury, please
25 stand and raise your right hand to be sworn.

1 (Jury Sworn in at 9:08 a.m.)

2 THE CLERK: If you have accepted oath, please be
3 seated. If you have not accepted this oath, please remain
4 standing. Let the record reflect all the jurors have seated.

5 THE COURT: Very good. Ladies and gentlemen, we're
6 about to begin the case of the State of South Carolina versus
7 Willis Ivey. I want to thank you again for accepting the
8 important responsibility of serving as jurors. As I told you
9 all in the jury room -- our jury assembly room, we can't do
10 our job without folks like you being willing to show up and
11 do your -- your civic duty, and our -- our system of justice
12 simply cannot function without folks willing to show up. So,
13 again, I appreciate it on behalf of the State and the
14 Defense, which I'm -- I'm sure they'll thank you in their own
15 right. But again, it's an important duty and we appreciate
16 it.

17 What I'm going to give you now is essentially an
18 introduction to the trial and the procedures we're going to
19 follow. I'm not telling you right now specifically what the
20 law is. At the end of the case, I will charge you on the law
21 applicable as -- to the facts of the case as it plays out,
22 and the -- the evidence that is presented to you. What I'm
23 going to give you now is merely an explanation of the
24 procedure we'll follow during trial to help you better
25 understand what's happening and what to expect.

1 I'm going to ask that you not take any notes during
2 this trial. I don't anticipate that it's going to be a very
3 long one. So it's not going to be something I will be taking
4 notes. The Defendant is charged by warrants and subsequent
5 indictments in this court, with the crimes of failure to stop
6 for a blue light, assaulting a police officer while resisting
7 arrest, and assault and battery of a high and aggravated
8 nature.

9 MR. COOPER: No. The State is not going forward in the
10 assault against a police officer while resisting arrest. The
11 other one is the attempted unlawful taking of a firearm.

12 THE COURT: Okay. And the -- all right. So assault
13 and battery of a high and aggravated nature, attempted
14 unlawful taking of a firearm from a law enforcement officer,
15 and failure to stop for a blue light. The warrants and
16 indictments are simply the charge by which the case is
17 brought into court, and not in any sense the evidence -- or
18 aren't in any sense evidence of any of the allegations
19 contained in the indictments.

20 The Defendant has pled not guilty to those indictments.
21 Therefore, the State has the burden of proving each of the
22 elements of the crime beyond a reasonable doubt. And it is
23 your duty, ladies and gentlemen, to decide whether the State
24 has met that burden. The purpose of jurors is to find and
25 determine the facts. You are the sole judge of the facts.

1 If any time I make a comment regarding the facts, you must
2 disregard it. You're determining the facts from the
3 testimony you hear from this witness stand and any other
4 evidence that's going to be introduced in court.

5 It's up to you to determine the inferences which you
6 feel may properly be drawn from the evidence presented to
7 you. It's especially important that you perform your duty of
8 determining the facts diligently and conscientiously, because
9 ordinarily there is no way to correct an erroneous
10 determination of the facts by a jury. If I make an error of
11 law, there are a handful of folks in Columbia that will tell
12 me very quickly that I'm wrong in our appellate courts. But
13 again, we can't invade the province of the jury. So it's
14 important that you do your job diligently and
15 conscientiously.

16 On the other hand, with equal emphasis, the same rules
17 that make you the judge of the facts, make me the judge of
18 the law. The law is given by this court is the only law you
19 may consider. You must accept and follow it even though you
20 may disagree with it. I cannot tell you what the facts are
21 and you cannot disagree with me about what the law is or
22 should be. Your job is to take the law as I give it to you,
23 and apply it to the facts as you find them from the testimony
24 of the witnesses and any other evidence that is introduced.

25 After doing that, you will render the verdict under the

1 oath that you just took as jurors. Until I be -- instruct
2 you to begin deliberations, you must not discuss the case
3 with anyone, including your fellow jurors. Again, and I'll
4 -- I'll remind you this every time you go out -- but you
5 don't discuss the case until you've received all the
6 evidence, the law as instructed by me, and then I'll tell you
7 when it's time to begin. Otherwise, talk about -- well, I --
8 don't talk about politics, but we -- talk about Gamecocks and
9 Tigers, and all that good stuff and what a -- what a great
10 football weekend it was, depending on your perspective, I
11 guess.

12 Finally, you must decide the case based solely on the
13 evidence presented in this courtroom. That means that during
14 the trial, you must not conduct any independent research
15 about the case through the internet, websites, blogs,
16 anything else, social media. If you -- after the case is
17 submitted to you, you must discuss it only in the jury room
18 with your fellow jurors. The attorneys and parties in this
19 case have been advised not to talk to you at all.

20 So if you see anyone involved in the case and they
21 don't even say "hello," they're not being unfriendly, they're
22 just following the instructions that I've given them. It's
23 important that you keep an open mind and not decide any issue
24 in the case until all the evidence has been presented, the
25 parties have made their closing arguments and I have

1 instructed you on the law. If you become aware of anyone
2 violating any of these -- these instructions, please inform
3 me immediately.

4 It is your responsibility to determine the guilt or
5 innocence of the Defendant. And your verdict must be based
6 solely on the evidence at is -- as it is presented to you in
7 this courtroom during the trial, and on the law, as I --
8 Instruct you at the close of the trial. In just a moment,
9 the Solicitor will make what's called an opening statement in
10 which the Solicitor will explain to you the issues in the
11 case, or at least what the Solicitor thinks the issues are in
12 the case.

13 The attorney for the Defendant may also make an opening
14 statement, although he's not required to do so. What the
15 attorneys tell you during their opening statement is not
16 evidence. It is only their contention as to what the issues
17 are of what they believe the evidence will show or they can
18 prove. The evidence will be presented to you by the
19 testimony of sworn witnesses from the witness stand and by
20 exhibits that may be introduced into evidence.

21 From time to time during the trial, you may hear one of
22 the lawyers say something like, "Your Honor, I believe we
23 have a question of law or a matter of law discussed with
24 you." Or, "May we approach the bench?" Or sometimes I
25 myself might find it necessary to excuse you from the

1 courtroom for a short while, so the attorneys and I can
2 discuss as a matter -- discuss a matter of law.

3 The reason for this is you are the judges of the facts
4 in the case. And sometimes when I'm discussing matters of
5 law with the lawyers, it may be necessary for me to make some
6 comment as to the facts in connection with a ruling as to
7 whether or not a particular law applies. I'm not supposed to
8 tell you what the facts are, so I will excuse you from the
9 courtroom while these discussions take place. So what --
10 what I think will in no way influence anything that you may
11 be considering as evidence.

12 And again, sometimes that takes a minute. If it's a
13 complicated issue, it may take a while. I may have to go
14 back in chambers and -- and do some research or something
15 like that. But -- but please believe me when I tell you, you
16 all are back there, I -- I'm mindful of your time. I'm not
17 letting the lawyers sit out here and, you know, drink coffee
18 and hang out while you all are waiting back there. And we
19 are not out here talking about the Gamecocks and the Tigers
20 we're working. So please understand. Because sometimes you
21 probably would feel like that we are wasting your time. And
22 I promise we're not. I'm -- I'm -- I don't run my or -- not
23 my, our courtroom that way.

24 Finally, in determine what the facts are in the case,
25 you must decide whether or not the testimony of a witness is

1 -- whether or not the testimony of a witness is believable.
2 It would be my responsibility to rule as a matter of law as
3 to whether certain testimony is admissible. But once the
4 testimony is admitted, it is solely for you to determine the
5 believability of the witness testimony.

6 In deciding whether to believe a witness, you have the
7 right to consider the interest of any witness, the bias of
8 any witness, the prejudice of any witness, the opportunity
9 for the witness to have seen the matters and things about the
10 -- about which the witness may testify, and the way the
11 witness acts on the witness stand.

12 You have a right to consider anything that is in the
13 record that will help you evaluate the testimony of the
14 witnesses. That means you must pay close attention to these
15 witnesses, observe -- observe the witnesses, listen to the
16 witnesses, and pay close attention to the attorneys and the
17 Court.

18 Please don't let your thoughts wander, and give strict
19 attention to the testimony in the case, so at the end of all
20 the testimony after the arguments of Counsel and my charge on
21 the law, you'll then be in a position to determine what the
22 applicable facts are and apply the law to those facts and
23 then render a verdict. All right. Ma'am here, what's your
24 juror number?

25 JUROR NUMBER 133: 133.

1 THE COURT: 133. All right. You are our foreperson.
2 You picked the magic chair. That -- you don't -- not going
3 to get paid anymore, anything like that. But it'll be your
4 duty to preside in the jury room and be the jury spokesperson
5 here in court. You also -- it'll also be your duty to write
6 the verdict, but I'll give you further instructions on that
7 at the conclusion of the case. Any exceptions, anything I
8 have said to the jury, from the State?

9 MR. COOPER: Not from the State, Judge.

10 THE COURT: Anything from the Defense?

11 MR. SMALDONE: None from the Defense, your Honor.

12 THE COURT: All right. Let's begin. Mr. Cooper? Oh,
13 okay. Ms. Gearding?

14 MS. GEARDING: May it please the Court?

15 THE COURT: Yes, ma'am.

16 MS. GEARDING: On June 14, 2018, law enforcement was
17 looking for the Defendant, Willis Ivey. Now, at this time,
18 he had a warrant out for his arrest. Well, Officer Kruger,
19 who will testify during this trial, received a tip from a
20 confidential informant regarding the whereabouts of Mr. Ivey.
21 That tip got passed along to the U.S. Marshals Fugitive Task
22 Force. At that time, they rounded everyone up, tried to go
23 find Mr. Ivey.

24 Almost immediately, they see him driving down Montague
25 in a black Toyota. They pull up behind him and they turn on

1 their lights and sirens. They wanted to get him to stop. He
2 did the exact opposite. He begins to drive faster and
3 faster, driving down Montague, Morningside Road, Rivers
4 Avenue, to try and get on I-526. As more and more officers
5 get behind him, he begins to drive more erratic, driving into
6 oncoming traffic at speeds of up to 100 miles per hour.

7 He was determined to get away. The only thing standing
8 between Mr. Ivey and that interstate was Trooper Bishop and
9 K-9 Nero. They're sitting in their vehicle parked right
10 beside the interstate, waiting for the Defendant to drive by.
11 While Ivey sees this, still determined to get away, he
12 proceeds to drive straight to Trooper Bishop, slamming into
13 that car. It flips and gets thrown down the side of the road
14 with both Trooper Bishop and K-9 Nero locked inside.

15 Well, this crash was so severe that it completely
16 disabled Trooper Bishop's vehicle and it completely disabled
17 Willis Ivey's. While he was still determined, determined to
18 get away, so he opens up that passenger side door of his car,
19 and he leaps out, and he takes off on foot. He flees, and he
20 goes to the first place that he can find where he thinks that
21 he can hide, into waist-deep marsh water.

22 Well, that doesn't stop law enforcement. They go
23 straight in after him. And as soon as they can find him,
24 Willis Ivey begins to put up a fight. He begins to resist.
25 He begins to push and he begins to try to grab Deputy Rob's

1 gun, which is attached to his side here. Well, luckily, law
2 enforcement was able to stop him this day. They were able to
3 stop him from getting away, and they were able to stop him
4 from taking that gun.

5 Now, as a result of all of this, Willis Ivey is on
6 trial today for failure to stop for blue light, attempted
7 unlawful taking of firearm from a law enforcement officer,
8 and assault and battery of a high and aggravated nature.
9 Now, as you heard the Judge, he'll instruct you on the law
10 just a little later and you'll hear it again from Mr. Cooper
11 and Mr. Smaldone. And I'm going to briefly tell you what it
12 is that you need to listen for.

13 Now, for the charge of failure to stop for blue lights,
14 it's fairly simple. The State needs to prove that the
15 Defendant is driving his car. Law enforcement signaled for
16 him to stop and he failed to do so. You'll hear from
17 multiple officers during the course of this trial. Listen to
18 what they are saying, listen to how fast they had to go, how
19 far they had to go, listen to how they had their signal on,
20 their sirens, their lights. How Ivey failed to stop. He had
21 plenty of opportunities to stop safely, and he failed to do
22 that.

23 Now, the next charge is attempted unlawful taking of a
24 firearm from a law enforcement officer. Simple as it sounds,
25 the Judge will go into more detail a little later. But

1 essentially the State needs to prove that Willis Ivey
2 attempted to take a firearm from a law enforcement officer.
3 Now, Deputy Rob will be here to testify during the trial this
4 week as well. Listen to his testimony closely. Listen to
5 how he describes that interaction in the water. Listen to
6 how he describes feeling Ivey grabbing for his gun on his
7 side. Listen to how that made him feel. The dangerousness
8 of that situation.

9 Finally, Willis Ivey was charged with assault and
10 battery of a high and aggravated nature. Now, for this
11 charge, the State needs to prove that Willis Ivey unlawfully
12 injured another person, and that act was accomplished by
13 means likely to cause death or great bodily injury. Trooper
14 Bishop will be here, he'll testify. He'll tell you -- and
15 you'll listen, he will tell you where he was parked, what his
16 goal was. He will tell you how he saw Willis Ivey coming for
17 him. He'll tell you how he felt when that car was flipped
18 and thrown down the road with him and K-9 Nero both locked
19 inside.

20 You'll hear from the doctor as well. The doctor
21 treated Bishop after that incident. He'll tell you how he
22 had to treat other officers for the same situation in the
23 past. And that result was entirely different. Now, Trooper
24 Bishop and K-9 Nero were lucky this day, but just because
25 they were lucky does not mean that Willis Ivey is not guilty.

1 Now, this trial will end tomorrow. It's fairly short.
2 You'll hear from all the officers involved. They'll tell you
3 about the chase, they'll tell you about the stop, they'll
4 tell you about everything. You'll watch dash cam footage on
5 this screen. Watch it closely. It'll show the chase, it'll
6 show the lights. You'll also watch body cam footage also on
7 that screen.

8 Now, that body cam footage is going to show you that
9 interaction with the water. Listen closely to that. You'll
10 also see photos of the damage that Willis Ivey's assault
11 caused them. In the end of all of the testimony tomorrow,
12 you, the jury, will be firmly convinced of Willis Ivey's
13 guilt on all charges. Thank you.

14 THE COURT: Thank you, Counsel. Mr. Smaldone?

15 MR. SMALDONE: Thank you, your Honor. May it please
16 the Court?

17 THE COURT: Yes, sir.

18 MR. SMALDONE: All right. Good morning. There was
19 some -- I don't know who, but some old person, probably dead
20 by now, long time ago, said something like, "Next to military
21 service, jury service is the greatest thing you could do for
22 your country." And all the time judges say that in the
23 opening -- you know, in their opening remarks. Some judges
24 do, some judges don't. And, you know, I always feel like the
25 older people kind of nodding their head. I don't know why.

1 But they -- they seem to be more into that. I think they're
2 taught civics more. But that's true.

3 But it brings -- I don't know if it rings a little bit
4 more hallow or -- or more importantly because you all are
5 here on a presidential election day, which is really weird to
6 me. But it is what it is. And that's not just Taylor's
7 fault, that's not my fault. But basically, that's my way of
8 saying thank you for being here and don't blame me for being
9 here. So I'm a lawyer. The State is represented by lawyers,
10 and a couple things are true of lawyers. We made B's instead
11 of A's in college and -- oh, bad math. So -- and we like to
12 talk.

13 So last night and last week, I'm trying to craft a nice
14 opening statement and trying to think of allegories and maybe
15 a nice folksy story about how this applies. And -- and I'm
16 stuck. Because -- the reason I'm stuck is the whole thing is
17 on video. All right? The whole thing is on video that you
18 all are -- assume -- I assume you all are going to get to
19 see, and you're going to get to decide what you see. You're
20 going to get to decide what's true and what's false.

21 So I'm going to shock you all, what's true is -- I
22 think at the end of the day, at the end of this trial, I
23 think there's probably grounds to believe that possibly my
24 client failed to stop for blue lights. I'm going to just go
25 ahead and concede that, this is not the Shaggy defense. This

1 is not the "it wasn't me" argument. Yeah, he failed to stop
2 for blue lights. Was that a smart choice? No.

3 And he'll -- he'll deal with the consequences of that.
4 That's on video. What's not on video is anything about --
5 and you'll watch it. Anything you see with him trying to
6 take the gun. Anything like that. You all see body cam, but
7 you don't see him try to take the gun. You're going to hear
8 assumptions. You're going to hear officer testify to
9 something, but you get to see it yourself. You get to see
10 one: Did you -- do you see him try to take the gun? And two:
11 Do you think it would be reasonable for him to try to take a
12 gun in the circumstances that he was in?

13 You heard he was in waist-deep water surrounded by law
14 enforcement. You saw it, you'll see. You'll see nothing
15 about him trying to take a gun, and using -- putting some
16 things together, you'll see that there's -- there's no way he
17 could have tried to take a gun. All right? Also, what you
18 see, when he is running from law enforcement, there was a car
19 accident, there was a collision. Is Willis to blame for
20 that? Yes. Yes. Yes. But is that an assault and battery
21 of a high and aggravated nature? No.

22 Also on video you have to ask yourself, do you see on
23 video him attempt or him have any sort of intent to hit a
24 car? And also, like I said earlier, put together some common
25 sense. Do you think it would make sense for a car that you

1 see on video, would that make sense while he's fleeing from
2 law enforcement to hit a car, an SUV much larger than his,
3 you'll see. It makes no sense.

4 So, like I said, trying to think of some grand story,
5 but I'm going to just dumb it down for you and simple it up.
6 It's on video. Watch it. At the end of the day, you'll see
7 some things can be proven and some things can't be proven
8 because they didn't happen, and they don't make any sense.
9 Did he run from law enforcement? Okay. Yes. Probably. Did
10 any of the other stuff happen? Can they prove it? No way.
11 I look forward to you all seeing this. I'm excited.

12 Like I said earlier, I like to talk, but I'm going to
13 limit myself right now and I want to be quiet. Because I'm
14 going to let the State present its case. At the end of that
15 case, at the end of this trial, you'll find him not guilty of
16 assault and battery of a high and aggravated nature or any
17 kind of assault and battery. You'll be with the law on that.
18 And not guilty of attempt to take a firearm from law
19 enforcement. It's not on video. It didn't happen. So watch
20 and learn. Thank you all.

21 THE COURT: State ready to call the first witness?

22 MS. GEARDING: State calls Rob Kruger.

23 THE CLERK: Please raise your right hand and place your
24 left hand on the Bible.

25 OFFICER ROB KRUGER,

1 being duly sworn, testified as follows:

2 THE CLERK: Please be seated. Please state your full
3 name, spell your last name directly in the microphone.

4 THE WITNESS: It's Rob Kruger. And it's K-R-U-G-E-R.

5 DIRECT EXAMINATION

6 BY MS. GEARDING:

7 Q. All right. Kruger, where do you currently work?

8 A. I -- currently, I'm a retired police officer, so I
9 teach a driver's ed with a community and in the area.

10 Q. And where were you working in 2018?

11 A. City of North Charleston.

12 Q. And in what capacity?

13 A. I was on a -- on an Intelligence-Led Policing
14 Unit.

15 Q. Can you go ahead and do me a favor? Pull that mic
16 just a little closer to you.

17 A. Oh, okay. Yep, there we go.

18 Q. You can pull it down too if you need to.

19 A. Okay. Okay, yes.

20 Q. All right. And can you explain what those duties
21 entailed at North Charleston?

22 A. Intelligence-Led Policing Unit, it was to pull
23 intelligence on individuals to see what they're up to,
24 whether if they're incarcerated and getting out of
25 incarcerated. We tried to stop the current trends so they

1 don't go back to jail. We offer resources and, like, stuff
2 to help kids and their families and stuff. We try to make
3 sure people are back on track when they get out.

4 But if we see they're taking the wrong path and going
5 back into our society and going back after people, causing
6 harm and stuff like that, then we try to stop that. And then
7 a lot of times we wind up -- you know, doing search warrants
8 or -- or arresting or for other offenses because they're
9 going right back to that cycle of violence.

10 Q. Now, on the night of June 14, 2018, what
11 information did you receive about the Defendant, Willis Ivey?

12 A. I received information that Willis Ivey was -- he
13 was wanted with our city on warrants, and we were just
14 advised by someone. He was in the area circling the Liberty
15 Hill community, and he was in that area. So at that time, I
16 noticed the -- I advised -- because us, we have the Marshals
17 Task Force, so I advised the U.S. Marshals that people
18 spotted Willis in the area of Liberty Hill.

19 Q. And then what happened earlier?

20 A. At that time, a bunch of the officers, a bunch of
21 U.S. Marshal Task Force guys, Charleston County Sheriff's
22 Office, North Charleston or my team, we all responded to the
23 area, and then the one of -- a couple of marshals set up
24 surveillance in the area and that's when they observed
25 Mr. Willis.

1 Q. Okay. What happened when they observed him?

2 A. They observed Mr. Willis. He's driving down --
3 down the road. So at that time they -- you know, did a
4 response on the radio like, "Hey, we're going to conduct a
5 traffic stop and ID this guy, make sure this is our target
6 because it looks like him, fits the description, vehicle
7 license." And then they went to stop him and he fled.

8 Q. Now, when they went to stop him, did they have
9 their lights turned on?

10 A. Yes.

11 Q. Did they have their sirens turned on?

12 A. Yes.

13 Q. Now, can you recall if this happened during the
14 daytime or nighttime hours?

15 A. It was still light out.

16 Q. Okay. Now, were you the first on scene there?

17 A. No.

18 Q. So were there other officers already there when
19 you responded?

20 A. Yes.

21 Q. Okay. Can you remember how long this defendant
22 fled?

23 A. It was just a brief period of time. We had our
24 eyes on him the whole time.

25 Q. Did he stay on one street? Did he go down

1 multiple? Can you remember?

2 A. He went down Montague, I think proceeded onto
3 Rivers and then he crashed and fled. Yeah.

4 Q. And then he did what? I'm sorry.

5 A. He -- he -- he -- he tried to elude police, and
6 that's when he tried making evasive moves recklessly and he
7 cut across traffic and he struck another vehicle which caused
8 it -- I believe, to flip that day.

9 Q. Now, have you chased people in your vehicle
10 before?

11 A. Yes.

12 Q. Would you say that this is dangerous?

13 A. Extremely.

14 Q. Why do you say that?

15 A. Because you disregard the safety of the entire
16 community. You know, we got old people on our roadways, we
17 got women with kids and people doing a lot of different stuff
18 and they're really not looking for a vehicle that's in and
19 out of traffic doing 90 and a -- I think it's like 35, 40
20 mile an hour zone, you know. So it's dangerous.

21 Q. You said that the Defendant ended up taking off on
22 foot. Did you follow him?

23 A. I was in a -- a little brief distance, but yes, I
24 did jump out of my Tahoe -- police Tahoe and proceed in that
25 direction.

1 Q. And have you followed people on foot before?

2 A. Yes.

3 Q. Would you say that that's dangerous?

4 A. Yes.

5 Q. Why?

6 A. Because we already know he has warrants. So he
7 has warrants. He already tried to elude police. He already
8 put society at risk by making all these evasive maneuvers and
9 driving reckless. So he disregarded everything.

10 So once we take off on foot, we still got to remember
11 our safety, what he -- what he might do. Does he have a gun?
12 Because we haven't -- we don't know if he has firearms or
13 knives or weapons or what. So when we're going into a wooded
14 area, or to a marsh area, you know, we try to keep visual
15 eyes on the guy the whole time, but they could have anything
16 unknown.

17 Q. So you said this initially happened on Montague
18 and then crashed near the interstate?

19 A. Yes.

20 Q. Do you know what county that was in?

21 A. Charleston County

22 MS. GEARDING: I beg Court's indulgence. All right. I
23 have no further questions. If you'll please answer any that
24 the Defense may have.

25 THE WITNESS: Yes.

1 THE COURT: Anything on cross-examination?

2 MR. SMALDONE: Nothing for this witness. No.

3 THE COURT: Very good. You may step down, sir.

4 THE WITNESS: Yes, sir.

5 THE COURT: Nice for being here.

6 THE WITNESS: Thank you, your Honor.

7 THE COURT: Call your next witness.

8 MS. GEARDING: State calls George Fogle.

9 THE CLERK: Please raise your right hand and place your
10 left hand on the Bible.

11 OFFICER GEORGE DONALD FOGLE, III,
12 being duly sworn, testified as follows:

13 THE CLERK: Please be seated. Please State your full
14 name, spelling your last name directly into the microphone.

15 THE WITNESS: George Donald Fogle, III. F-O-G-L-E.

16 DIRECT EXAMINATION

17 BY MS. GEARDING:

18 Q. Where do you currently work?

19 A. Walmart Distribution Center in Ridgeville.

20 Q. And where did you work in 2018?

21 A. With the North Charleston Police Department.

22 Q. And in what capacity was that?

23 A. I was assigned to the Intelligence-Led Policing
24 Unit.

25 Q. And can you please describe for the jury what that

1 entails?

2 A. Basically, the unit was designed to do warrant
3 services. That's pretty much it.

4 Q. And when you say, "designed to do warrant
5 services," what does that mean?

6 A. Anyone with outstanding warrants within the city,
7 we attempted to serve those warrants.

8 Q. Now, how did you initially become involved in the
9 case that we're here to talk about today?

10 A. We received information from someone with the
11 Marshals Service about a wanted party in the area and we
12 basically converged on the area set up and attempted to
13 apprehend the suspect.

14 Q. Now, whenever you attempted to apprehend the
15 suspect, can you recall if officer lights were on?

16 A. Yes, ma'am, they were.

17 Q. And can you recall if sirens were also on?

18 A. After the initial attempt of the traffic stop, the
19 sirens were on.

20 Q. Okay. Now, did that defendant initially stop?

21 A. The Defendant was stopped in an intersection, and
22 after the emergency equipment was initiated, then the suspect
23 took off.

24 Q. And when you say he took off, what do you mean?

25 A. Attempted to flee the traffic stop.

1 Q. Can you remember where he fled?

2 A. Yes. We were at the intersection of Morningside
3 and Rivers Avenue. After the traffic stop was initiated, he
4 fled westbound in the eastbound lanes on Rivers Avenue.

5 Q. Now, when you say "westbound in eastbound lanes,"
6 what do you mean?

7 A. He was traveling in the opposite direction of
8 traffic.

9 Q. So he was driving into oncoming traffic?

10 A. Yes, ma'am.

11 Q. Now, did you follow him when he did that?

12 A. I did.

13 Q. And why did you do that?

14 A. There was a marshal that was ahead of me, and it
15 was to back him up.

16 Q. Now, were you and the marshal the only officers on
17 the road at this time?

18 A. On that side of the road? Yes, ma'am.

19 Q. But in general?

20 A. There were other police officers traveling on the
21 correct side of the road.

22 Q. Now, did this defendant eventually stop?

23 A. He collided with a police vehicle near 526.

24 Q. And then what happened?

25 A. After the vehicles were disabled, he fled the stop

1 on foot.

2 Q. Did you follow him?

3 A. I did.

4 Q. Can you describe what happened when you tried to
5 follow him?

6 A. There's a marshy area near the overpass on 526, he
7 fled into that area and we ended up in the water.

8 Q. Now, what happened when you guys were all in the
9 water?

10 A. He attempted to conceal himself in the water.
11 After he was discovered, a brief struggle ensued and he
12 attempted to grab another officer's weapon.

13 Q. Okay. Now, at this time, did the vehicle that you
14 were driving have a dash cam?

15 A. It did.

16 Q. Was it on and operating at that time?

17 A. Yes, ma'am, it was.

18 Q. Now, did you also have a body cam?

19 A. I did.

20 Q. And was that on and operating?

21 A. Yes, ma'am, it was.

22 Q. I'm now going to show you what has been marked,
23 for ID purposes, as State's Exhibit 27.

24 A. Yes, ma'am.

25 Q. Do you know what this is?

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

2 Q. And what is that?

3 A. It's a copy of the dash video.

4 Q. Is your body camera also on here?

5 A. Yes, ma'am, it is.

6 Q. And how are you able to recognize this?

7 A. I could identify the interior of my police vehicle
8 and my voice on the cameras.

9 Q. And did you have the opportunity to review your
10 (inaudible) body cam before coming in here today?

11 A. I did.

12 Q. And in your review, did that footage appear to be
13 altered or modified in any way?

14 A. It did not.

15 Q. And was it an accurate depiction of the events
16 that occurred that night?

17 A. Yes, ma'am. It was.

18 MS. GEARDING: Your Honor, at this time, the State
19 would move to admit State's 27.

20 THE COURT: Any objection from Defense?

21 MR. SMALDONE: None, your Honor.

22 THE COURT: Very good.

23 MS. GEARDING: Permission to publish?

24 THE COURT: Yes, ma'am. It'll be admitted as State's
25 27 without objection.

1 (State's Exhibit 27 admitted into evidence.)

2 (Video starts at 9:42:57 a.m.)

3 (Video stops at 9:43:11 a.m.)

4 BY MS. GEARDING:

5 Q. Can you recall what date this was?

6 A. I believe it was June 14th.

7 Q. Of what year?

8 A. 2018.

9 Q. Now, were all these vehicles showed in this video,
10 were they all a part of the chase?

11 A. Yes, ma'am.

12 Q. Can you recall what time of day this took place?

13 A. I believe it was around 9:00 p.m.

14 Q. Now, what's happening here?

15 A. This is where he is traveling westbound and the
16 eastbound lanes of Rivers Avenue.

17 Q. Were there other vehicles on the road at this
18 time?

19 A. Yes, ma'am, there were.

20 Q. Now, looking at your speed here, did it look like
21 you had to increase your speed?

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

23 Q. Can you recall what speed you have to go to?

24 A. It was around 90 miles an hour.

25 (Video starts at 9:44:04 a.m.)

1 (Video stops at 9:44:36 a.m.)

2 BY MS. GEARDING:

3 Q. Now, do you know what that smoke is from?

4 A. That's from the -- Officer Bishop's Tahoe. He's
5 the K-9 officer that was assisting with this apprehension.

6 Q. Now, we just saw a person run across the front of
7 that dash cam. Do you know who that was?

8 A. Yes, ma'am.

9 Q. Who was that?

10 A. That's the suspect that we were attempting to
11 apprehend.

12 Q. And is he in the courtroom today?

13 A. Yes, ma'am, he is.

14 Q. Can you point him out for the jury?

15 MS. GEARDING: Please, let the record reflect the
16 Defendant was identified.

17 THE COURT: So noted.

18 BY MS. GEARDING:

19 Q. All right. Let's go ahead and play your body cam
20 from that night.

21 (Video starts at 9:45:30 a.m.)

22 (Video stops at 9:46:09 a.m.)

23 BY MS. GEARDING:

24 Q. Is this from (inaudible).

25 A. Yes, ma'am.

1 (Video starts at 9:46:11 a.m.)

2 (Video stops at 9:46:52 a.m.)

3 BY MS. GEARDING:

4 Q. What was that noise?

5 A. That was me falling in the water.

6 (Video starts at 9:46:55 a.m.)

7 (Video stops at 9:47:17 a.m.)

8 BY MS. GEARDING:

9 Q. Now, is that an accurate depiction of what
10 happened in the water?

11 A. Yes, ma'am, it is.

12 Q. Now, have you had to chased people on foot before
13 as well?

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

15 Q. And would you say that that's dangerous?

16 A. It absolutely is.

17 Q. Why is that?

18 A. Just the danger level. You don't know what's on
19 their mind. You don't know why they're running a lot of the
20 times. It's -- it's just a dangerous situation.

21 Q. Now, have fights ever happened in the past before
22 this happened?

23 A. Yes, ma'am.

24 MS. GEARDING: Thank you. I beg the Court's
25 indulgence. I have no further questions. Please answer any

1 that the Defense may have.

2 THE COURT: Cross-examination?

3 CROSS-EXAMINATION

4 BY MR. SMALDONE:

5 Q. All right. Good morning.

6 A. Good morning.

7 Q. All right. So your role -- just to clarify, were
8 you the first one to activate blue lights?

9 A. I can't say with any certainty that I was the
10 first one to activate mine.

11 Q. Okay. But you were one of the chasing vehicles,
12 right?

13 A. Yes, sir.

14 Q. All right. And where -- and you were with North
15 Charleston Police Department at the time?

16 A. Yes, sir.

17 Q. Okay. So fair to say chasing for a few miles?

18 A. It probably wasn't even a full mile up that road.

19 Q. Okay. And about how far away was the marsh that
20 you all -- you all found him in from the -- where the car
21 stopped?

22 A. Maybe about 50 yards, roughly.

23 Q. Okay. 50 yards-ish?

24 A. Yes, sir.

25 Q. All right. When you were -- and you were the

1 first one to notice that he was in the marsh?

2 A. Yes, sir.

3 Q. About how deep was the water in the marsh?

4 A. It's about belly button deep.

5 Q. Okay. So a little more than waist?

6 A. Yes, sir.

7 Q. And that was your -- your body cam footage,
8 correct?

9 A. Yes, sir.

10 Q. All right. You reviewed it and saw it, correct?

11 A. Yes, sir.

12 Q. All right. And now you see what I see appears
13 someone is -- someone is choking him. It doesn't look like
14 you -- someone else is choking him, correct?

15 A. I'm not a hundred percent sure.

16 Q. We saw -- maybe choke is a conclusive, but we saw
17 someone's hand around his neck area, correct?

18 A. Yes, sir, we did.

19 Q. Okay. It is what it is. I'm not -- we're not
20 here for excessive force, but someone's arm was around his
21 neck, right?

22 A. Yes, sir.

23 Q. All right. But not yours, right?

24 A. No, sir.

25 Q. All right. And then you saw him -- it appears you

1 saw him. Was he standing in the water when -- when the arm
2 was on ground, his neck? Or was he kind of floating or did
3 you notice -- what was the general position?

4 A. I mean, he appeared to be laying back.

5 Q. Laying back?

6 A. Yes, sir.

7 Q. And belly button, deep water, right?

8 A. Yes, sir.

9 Q. All right. And it looks like you all flipped him
10 over, correct?

11 A. Honestly, I don't recall. It was a lot going on
12 and I know we -- we were attempting to, but...

13 Q. Right, there was -- there was a struggle, right?

14 A. Yes, sir.

15 Q. All right. And someone says, "Don't go," --
16 something along the lines, "Don't go for the gun." Right?
17 Something like that?

18 A. Yes, sir.

19 Q. Did you ever see the gun in his hand?

20 A. No, sir. I didn't.

21 Q. Okay. Did you personally -- you didn't personally
22 witness which side of the firearm was on -- of -- of the
23 marshals?

24 A. No, sir.

25 Q. Okay. So you don't know which side it was on?

1 A. No, sir.

2 Q. All right. Did you witness him, what you would
3 say, touch the -- the holster?

4 A. I can't say that I did.

5 Q. All right. You just acted on what you heard,
6 correct?

7 A. Yes, sir.

8 Q. All right. So you did not personally witness him
9 going for any firearm, correct?

10 A. No, sir.

11 MR. SMALDONE: All right. No further questions.

12 THE COURT: Anything in re-direct?

13 MS. GEARDING: No further questions for this witness,
14 your Honor.

15 THE COURT: All right. Sir, you can step down.

16 THE CLERK: Please raise your right hand.

17 SERGEANT JOSHUA RANCK,

18 being duly sworn, testified as follows:

19 THE CLERK: Please be seated. Please state your full
20 name, spelling your last name directly in the microphone.

21 THE WITNESS: Yes, ma'am. My name is Sergeant Joshua
22 Ranck. R-A-N-C-K.

23 DIRECT EXAMINATION

24 BY MS. GEARDING:

25 Q. Joshua Ranck, where do you currently work?

1 A. I work City of North Charleston Police Department.

2 Q. And were you also working there in 2018?

3 A. I was.

4 Q. Okay. And in what capacity do you work at
5 North Charleston Police Department?

6 A. I am the -- the agency's technology coordinator.

7 Q. And can you please describe for the jury what
8 exactly that means?

9 A. My job is to implement and maintain all
10 technology-related items that we procure for the police
11 department and officers' use on the street, also manage the
12 vehicle fleet.

13 Q. Okay. Now, I'm going to focus your attention to
14 June of 2018. Did officers employed through North Charleston
15 have dash cam footage at this time?

16 A. They did.

17 Q. And what exactly is dash cam footage?

18 A. Dash cam footage is a fixed camera system inside
19 the vehicle that is mounted into the trunk. There is a
20 front-facing camera in the windshield of the vehicle as well
21 as a rear-facing camera in the back seat area of a patrol
22 vehicle.

23 Q. Now, is that footage maintained?

24 A. The footage, it -- at that time, the footage was
25 maintained on a local server at the police department.

1 Q. And what would your involvement have been with
2 other officers' dash cams?

3 A. Typically, my job would be to ensure that the
4 systems were functioning properly and videos were being
5 stored correctly. And if there were any maintenance issues
6 with that system, I would then correct it. I would also
7 provide videos to other entities that requested it, such as
8 the solicitor's office or defense attorneys.

9 Q. Now, how do you, yourself, get the dash cam from
10 other officers?

11 A. So the dash camera automatically uploaded from the
12 vehicle to the server via a Wi-Fi signal at the police
13 department.

14 Q. Okay. Now, I'm going to focus your attention
15 again to this case. Now, did you have the occasion to
16 maintain any dash camera footage from Officer Greenawalt?

17 A. I did.

18 Q. And how did you get that footage?

19 A. It was uploaded to the server via the -- the Wi-Fi
20 signal.

21 Q. And did you have an opportunity to review that
22 dash cam before trial?

23 A. I have not seen it or that I can remember.

24 Q. Okay. Maybe this will help. I'm going to show
25 you what has been marked, for ID purposes, as State's Exhibit

1 28.

2 A. Okay. Yes, ma'am.

3 Q. Okay. Do you know what this is?

4 A. That is a DVD.

5 Q. And what is depicted on this DVD?

6 A. I believe that's in-car camera footage.

7 Q. And would this be from Officer Greenawalt?

8 A. I'm -- I'm not sure.

9 Q. Let me show you one more time.

10 A. It -- it is marked that as Officer Greenawalt's
11 dash cam.

12 Q. Now, you said that these are maintained camera
13 footage from the dash cams?

14 A. That is correct.

15 Q. And you would have been maintaining dash cam
16 footage?

17 A. Yes, ma'am.

18 MS. GEARDING: State moves to admit State's 28.

19 MR. SMALDONE: No objection.

20 THE COURT: All right. It'll be admitted as State's 28
21 without objection.

22 (State's Exhibit 28 admitted into evidence.)

23 BY MS. GEARDING:

24 Q. I'm also going to show you State's 29, for ID
25 purposes.

1 A. Officer Bishop's dash cam.

2 Q. Say that one more time for me?

3 A. Officer Bishop's dash cam.

4 Q. Now, would this have also been something that you
5 would've maintained at this time?

6 A. Yes, ma'am.

7 MS. GEARDING: State would also move to admit State's
8 29.

9 MR. SMALDONE: No objection, your Honor.

10 THE COURT: It would be admitted as State's 29 without
11 objection.

12 (State's Exhibit 29 admitted into evidence.)

13 MS. GEARDING: Thank you. I have no further questions.
14 Please answer any that the Defense may have.

15 THE WITNESS: Yes, ma'am.

16 MR. SMALDONE: Nothing for this witness.

17 THE COURT: You may step down, sir.

18 THE WITNESS: Thank you.

19 MR. COOPER: Judge, could we approach, briefly?

20 THE COURT: Yes, sir.

21 (Bench conference at 9:56 a.m.)

22 THE COURT: All right. All right, ladies and
23 gentlemen. Now is a good time for a short break. Let
24 everyone refresh themselves. As I mentioned earlier, don't
25 discuss the case amongst yourselves. If anyone talks about

1 it, please let me know. But again, we're going to take about
2 a 15-minute break, and we'll be back with you very shortly.

3 (Jury exits at 9:57 a.m.)

4 THE COURT: All right. We'll be at ease until about
5 10:10.

6 MR. COOPER: Thank you, Judge.

7 (Off the record at 9:57 a.m.)

8 (On the record at 10:15 a.m.)

9 MR. COOPER: Because of Deputy Roe's testimony about
10 his holster and firearm, I had him bring the holster and a
11 training firearm. It's not a real firearm.

12 THE COURT: Okay.

13 MR. COOPER: But I've already cleared it with security,
14 and they're just going to let (inaudible).

15 THE COURT: Very good. State ready to proceed?

16 MR. COOPER: Yes, Judge.

17 THE COURT: Okay. Bring in the jury, please, sir. I'm
18 sorry, Mr. Smaldone, I didn't ask you. Are you ready to
19 proceed?

20 MR. SMALDONE: I'm just the Defense, your Honor. I'm
21 always -- I always have to be ready for whatever. Yes, your
22 Honor.

23 THE COURT: I know you're very capable.

24 (Jury enters at 10:17 a.m.)

25 THE BAILIFF: All jurors are present, your Honor.

1 THE COURT: Thank you, sir. Call your next witness,
2 please, sir.

3 MR. COOPER: Thank you, Judge. State calls Deputy
4 United States Marshal Robert Roe.

5 THE CLERK: Please raise your right hand and place your
6 left hand on the Bible.

7 DEPUTY UNITED STATES MARSHAL ROBERT ROE,
8 being duly sworn, testified as follows:

9 THE CLERK: Please be seated.

10 THE WITNESS: Thank you.

11 THE CLERK: Please state your full name, spelling your
12 last name directly in the microphone.

13 THE WITNESS: Robert Roe. Last name spelled R-O-E.

14 DIRECT EXAMINATION

15 BY MR. COOPER:

16 Q. Good morning, Deputy. How are you?

17 A. Good, sir. Thank you.

18 Q. Doing well. Thank you. Will you tell the jury
19 where you are currently employed?

20 A. I'm currently employed with the United States
21 Marshals Service.

22 Q. And how long have you been with the Marshals?

23 A. Just over 22 years.

24 Q. And what is your current role at the Marshals
25 Service?

1 A. I am in the position of a -- it's called "a senior
2 inspector," and I'm on the Carolinas Regional Fugitive Task
3 Force as a street-level supervisor.

4 Q. Will you describe for the jury what those roles
5 entail?

6 A. Yes. So I'm part of the U.S. Marshals Fugitive
7 Task Force, and what we are is, we're a team comprised of
8 myself as a deputy U.S. Marshal. I'm the street-level
9 supervisor and we oversee -- I oversee the other task force
10 officers that are on our task force. We have the Summerville
11 Police Department. We have a representative from them,
12 Charleston County Sheriff's Department, Berkeley County
13 Sheriff's Department, ATF agent, two North Charleston Police
14 Officers, and Summerville, if I didn't say it.

15 So what we are is, we have representative from each of
16 the departments around the area. They come sit in our office
17 where we're located as a fugitive task force. And what we do
18 is, we adopt the cases that they bring to the office and we
19 go out and look for individuals who are wanted on warrants.

20 Q. What other roles have you had with the Marshals
21 Service during the time there?

22 A. I'm a tactical training officer. I teach weapons
23 and tactics. I'm a firearms instructor. I'm a fitness
24 instructor, a less-lethal instructor. I instruct and certify
25 officers in Charlotte, North Carolina. So the Carolinas

1 Regional Fugitive Task Force, although I sit in Charleston,
2 we have an office in Charleston, Myrtle Beach, Florence,
3 Columbia, and Greenville. Those are offices in South
4 Carolina.

5 The Carolinas Regional incorporates North Carolina as
6 well. It's a congressionally funded task force, funded by
7 Congress. And each office is comprised of state and local
8 officers who are from the jurisdictions within the area. So
9 I move -- I go to Charlotte and I teach at the Charlotte,
10 that's our headquarters for the Carolinas Regional. And I
11 teach building entry and tactics, vehicle tactics,
12 scenario-based shootings, anything that an officer might find
13 themselves in.

14 I also travel to Georgia. I teach at the FLETC Academy
15 in Georgia. I've traveled to Atlanta, Georgia as well, and I
16 teach the Atlanta Task Force. They have their own task force
17 separate from us.

18 Q. Were you involved in law enforcement prior to
19 being with the Marshals?

20 A. Yes, sir, I was. Prior to being in the U.S.
21 Marshals, I was a Greenville City, South Carolina police
22 officer, where I was a police officer for one year. After
23 one year on the task force -- or I'm sorry, after one year of
24 being with the police department, I got a phone call from the
25 U.S. Marshals. I had applied and I left the Greenville City,

1 South Carolina Police Department, for the Marshals. Prior to
2 that, I was in the Marine Corps. I was a Marine Corps
3 military police officer for four years.

4 Q. All right. Tell the jury what, if any, degrees do
5 you hold?

6 A. I have a bachelor's in Criminal Justice out of
7 Columbia College, and I have a master's in criminal justice
8 at Columbia College as well.

9 Q. Okay. And now I want to focus your attention to
10 June 14, 2018. Were you in the same role as you currently
11 are?

12 A. Yes, sir.

13 Q. How did you get involved in this case?

14 A. So like this case and many others, how we get
15 involved in it, being the U.S. Marshals Service, we're a
16 federal agency, but being part of the Carolinas Regional
17 Fugitive Task Force, our role is to assist state and local
18 jurisdictions when they have individuals that they're looking
19 for.

20 So in this case, I was notified by a North Charleston
21 police officer who reached out to me and said, "We have an
22 individual that we're looking for. Can you look at the case
23 and see if it's something that U.S. Marshals could help us
24 out with?" So the case was brought to my attention. I did
25 some research. I -- it -- it was a case that I decided,

85

1 "Let's take it." When we take that case on, although it's a
2 North Charleston warrant, they -- they -- they relinquish
3 apprehension authority. And what they do is, they turn the
4 authority over to the U.S. Marshals Service to say, "Can you
5 guys go find them?"

6 Although they are the ones holding the State warrant,
7 we're just helping them find an individual. And with that, I
8 use the -- the rest of the task force officers that we have:
9 Summerville, Berkeley, North Charleston, Charleston County.
10 I bring all those guys in and we sit in the office, we
11 dissect the case, and then we try to go find this individual.
12 In this case, Mr. Ivey's case was the one that we were
13 looking for.

14 Q. And that's the Defendant in the courtroom today?

15 A. Yes, sir.

16 Q. Going back to what you mentioned about going to
17 North Charleston, about his location, what did you learn?

18 A. On the night of his location?

19 Q. Yes.

20 A. Okay.. So being part of the Marshals Task Force, I
21 don't have set hours. I don't work 9:00 to 5:00. I don't
22 clock in, clock out. And I typically don't wear this. You
23 know, we have to be very sneaky, very undercover. We're
24 looking for people that are wanted. So we always have to be
25 ready at that last minute phone call that we get when they

1 say, "Hey, I got a tip on somebody, he's going to be at a
2 particular location."

3 So in this case, I received a phone call at about 8:10
4 p.m. that evening, that said Mr. Ivey was going to be in the
5 area of East Montague and Family Dollar, which is an area I'm
6 very familiar with. So I received that phone call and after
7 that what I do is I reach out to the rest of my team and I
8 send either a mass text or I'll start calling them
9 individually and say, "Hey, we got a tip on Ivey."

10 And how that works is, we have to research that case
11 prior to that tip coming in. Because if I get that tip and
12 say, "8:10, Mr. Ivey is going to be at a particular
13 location," but that's not the time for me to get you up to
14 speed of who is he. So I sent out the text, got a tip on Mr.
15 Ivey, got information, "He's going to be in the area of East
16 Montague Avenue, near Family Dollar, who's available? Get on
17 our secured channel." And from there, everybody gets
18 dressed, gets ready, and then we listen to the radio to see
19 how many of my guys end up showing, so we can go work the
20 case.

21 Q. Describe to the jury what that procedure is like.
22 As you are waiting for a location and waiting for someone
23 potential to come to that location, how does that work?

24 A. Yes, sir. It's very fluid. Things are always
25 changing and we have to be ready. So as a street-level

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1 supervisor, I want to put myself at the 10,000-foot view, per
2 se. I want to be above what's going on so I can oversee and
3 I can watch what's going to unfold, what's going to change?
4 Location might change. The vehicle might change. Is our
5 target that we're looking for going to be the one in the
6 driver's seat? Is he going to be the one in the passenger
7 seat? Is he going to stop at a location that's going to be a
8 house? Is he going to be in a vehicle? Is he going to stop
9 at a restaurant?

10 So these are things that are always changing, and I --
11 I have to advise the team to stay very fluid. So what we do
12 is, we get on this secured channel where we can all talk
13 amongst our team. So in this case, when I received the
14 information at 8:10, I headed in the direction of East
15 Montague and I positioned myself across the street from the
16 Family Dollar or Dollar General. Family Dollar East
17 Montague. And that was the information I got, that he was
18 going to be at the Family Dollar.

19 So I set myself up in a position to sit across the
20 street. I'm watching in a very dark spot, undercover. And
21 it -- and during that time, I'm directing my guys to start
22 coming into the area. And what they'll do is, they'll come
23 on the radio and they say -- Officer Kruger, which I think he
24 was in here earlier, he was one of them involved that night
25 as well. They'll get on the radio and let them know and say,

1 "Hey Rob, I'm in the area. Where do you need me? Can I get
2 you to sit down at this intersection right here?"

3 Another guy will come on the radio, task force officer,
4 Sam Souther, he's with the U.S. Marshals Task Force as well.
5 At the time, he'd get on the radio, "Hey Sam, can you sit at
6 this intersection?" So what I'm trying to do is watch the
7 operation from above, but also place people in the positions
8 in case somebody sees him at a different location because
9 it's never exactly how it comes out when we get the
10 information, it's third party.

11 So in this case, I sat myself across from the Family
12 Dollar, across from Upjohn, which is a -- a street and an
13 apartment complex down that we're very familiar with in the
14 North Charleston area. I set myself up to start watching and
15 get my guys as well because we knew this was going to happen
16 very fast. Somebody is going to stop in the car and they're
17 going to drive off, and you got one shot to do it. And if
18 it's not the time, it's not the time. Let them go.

19 Q. What do you mean by that, "If it's not the time,
20 it's not the time. Let them go"?

21 A. So safety's a priority for us. You know, we're
22 not just trying to look for somebody because they have a
23 warrant and do anything we can to go get this person.
24 There's been many times -- I've worked for 22 years, I've
25 been in the Marshals, Greenville City Police Department and

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1 the Marine Corps, mainly the Marshals, that we see somebody
2 and we just decide, "Today's not the day to take them because
3 they might be dropping their kid off at a daycare. I'm not
4 going to get that guy. I don't -- I'm not going to get him
5 at a daycare."

6 He might stop at a gas station and the gas station
7 might be filled with family and kids. I'm going to let him
8 go. It might be an intersection that is -- has civilian
9 vehicles within the vehicle that our target is driving, and
10 we'll decide "Today's not the day."

11 So what we'll do -- and I make that decision because
12 it's not just the warrant. I'm -- I -- I've got to look out
13 for the public, I got to look out for the public safety. I
14 got to look out for the kids. East Montague is an area that
15 I'm very familiar with. There's a lot of foot traffic on
16 East Montague. There's a lot of bicycles on East Montague.
17 There's a lot of people who travel on East Montague, even in
18 the evening time at 8:00, that we're constantly looking for
19 something to say, "Abort, we're not going to do it today.
20 It's not safe. Let's get him another time."

21 Q. Okay. Assuming you see (inaudible) coming to the
22 position, how do you all converge? What do you all do after
23 that?

24 A. So in this case, I was -- the -- the information I
25 got was a sedan with a Maryland tag. So being that it was a

1 Maryland tag was -- and it's dark at night, I did see the
2 vehicle in -- that was -- that I was told he was going to be
3 in. I didn't recognize the vehicle at first. It did not
4 stop at the Family -- excuse me. It did not stop at the
5 Family Dollar. I just happened to be doing surveillance and
6 out of nowhere I saw a vehicle drive by. I'm still watching
7 the Family Dollar. I looked to my left, there goes a sedan,
8 but I noticed a Maryland tag.

9 That caught my attention. I said, "How many vehicles
10 are going to be in the area with a Maryland tag at the time
11 that we're supposed to get a tip that Mr. Ivey's going to be
12 in the area?" So I -- from my position where I'm at, I see
13 the vehicle traveling East Montague, in the direction of
14 Rivers Avenue, and the direction that if you're going to go
15 over the Interstate bridge. At that time, I came on the
16 radio and I let everybody know, "Hey, I've got the vehicle.
17 It just passed by me. Let's start getting into position."

18 MR. COOPER: Your Honor, may I approach the witness?

19 THE COURT: Yes, sir.

20 BY MR. COOPER:

21 Q. Deputy Roe, let me show you what's been marked,
22 for ID purposes only, as State's 2 and 3.

23 A. Yes, sir.

24 Q. Do you recognize -- recognize those?

25 A. I do.

1 Q. And what are they?

2 A. That is the East Montague -- let's see, I -- I
3 almost went like this. If I could zoom in the Family Dollar
4 over in this area, this is the intersection where we
5 attempted to do a vehicle stop on Mr. Ivey. The next
6 exhibit, Exhibit 3, that is a closeup of the intersection of
7 where we attempt to do the vehicle stop on Mr. Ivey.

8 Q. And you're familiar with these locations?

9 A. Yes, sir.

10 MR. COOPER: All right. Your Honor, at this time, the
11 State offers, for ID purposes only, the State's 2 and 3 into
12 evidence.

13 THE COURT: Any objection?

14 MR. SMALDONE: No, your Honor.

15 THE COURT: All right. They'll be admitted as State's
16 2 and State's 3 without objection.

17 (State's Exhibits 2 and 3 admitted into evidence.)

18 MR. COOPER: Request to publish?

19 THE COURT: Yes, sir.

20 BY MR. COOPER:

21 Q. It'll show State's Exhibit 2. It should pop up on
22 the screen in front of you.

23 A. Yes, sir.

24 Q. And since it's a map, you could draw it like it's
25 Monday Night Football. And so, if you will indicate for us

1 how (inaudible) to where we're at and where this shows the
2 progression of where you were that night.

3 A. Sure. You would -- would you like me to start
4 where I was parked and...?

5 Q. Yes.

6 A. Okay. So this location right here, that's the
7 Family Dollar. That's the -- that was the tip that I got
8 that Mr. Ivey was supposed to be at the Family Dollar. And
9 that's the location that I wanted to watch. I positioned
10 myself on this street right here. It was dark. I backed
11 myself down. Easy spot to sit on. Family Dollar is across
12 the street. I could see into the direction of where the
13 Family Dollar is, and that was where I positioned myself
14 while waiting on some of the other task force officers to get
15 into the area.

16 Upjohn Apartments are back in this area here. It's
17 well known to us. We -- we do a lot of interviews back there
18 where -- we're -- I've been here for 22 years. When they say
19 the Upjohn Apartments, I'm familiar with the exits of where
20 they're going to come. And what I -- what I did this night
21 was I positioned myself here because if I see him in that
22 parking lot, I'm going to make the call to say, "Hey, let's
23 converge on the place." Or I'm going to watch that store to
24 say, "Hey a mother and two kids just pull -- pushed a
25 stroller up there and they walked inside. We're not going to

1 do it."

2 Civilian vehicles, I'm watching to see who's pulling
3 in. I want to see how many people are going to be in that
4 parking lot. And I want to see if that's the location where
5 we're actually going to do it. Because if you think about
6 somebody stopping at the Family Dollar, we -- we've got what
7 we call "long stops and short stops" when it comes to
8 fugitive takedowns.

9 Long stops and short stops are, if they're stopping at
10 a gas station, it's a short stop. If they're stopping at a
11 Family Dollar, it's probably a short stop. You got a quick
12 second to do something or just watch him until he gets to the
13 next location. The long stops, we might say, "Hey, we know
14 he's got a family member at the other end of the street."
15 Let's see if he goes to that family member's house when they
16 pull in. That's probably going to be a long stop. We might
17 have a little more planning that we could do."

18 So in this case, this was a short stop. Mr. Ivey --
19 the information was the Family Dollar. So I would -- I don't
20 know exactly where I put my guys, but I would have put them
21 in the directions of where are the exits if he was to leave
22 in this direction. We've got an eye -- we call it the
23 eyeball. If he goes in this direction, we got eyeball on
24 River, that there's nowhere he can go off East Montague
25 without us saying somebody has seen the car.

1 Q. You mentioned trying to -- to make sure you've got
2 someone in all the exits. One, are all the vehicles involved
3 marked?

4 A. No, sir.

5 Q. Are some of them marked?

6 A. Some of -- some of them are marked. So, we can't
7 catch people if we drive around dressed in suits and marked
8 vehicles that say "U.S. Marshals" on the side. We just
9 can't. We have to be very sneaky. We have to be very
10 creative of how we find people. So our vehicles that we use,
11 we have a lot of vehicles at our disposal, and we rotate our
12 vehicles so people don't know what we have. For obvious
13 reasons.

14 On this night, we had several undercover vehicles that
15 are not marked. They do have lights and sirens. We can
16 activate those when it comes time of an emergency. But in
17 this situation, where we want to put our people that have
18 vehicles that are not marked, I want to put you in places
19 where you can see that if somebody is driving by -- let's
20 just say he's driving down East Montague and I station marked
21 police cars all up and down East Montague. Do you want me to
22 pause, your Honor?

23 THE COURT: Yeah, we need to take a break? Okay.

24 THE WITNESS: Is there a way for me to erase my marks?
25 Thank you.

1 (Pause at 10:34 a.m.)

2 THE COURT: All good? All right. Mr. Cooper?

3 MR. COOPER: Thank you, Judge.

4 BY MR. COOPER:

5 Q. I know we caught you in the middle of what you
6 were saying, but I want you to say -- go back and ask
7 something.

8 A. Yes, sir.

9 Q. You mentioned talking about you can't get people
10 pulled over if you were in suits and marked vehicles.
11 Describe for the jury what the difference is between a
12 situation like this, deploying every ordinary (inaudible)
13 like speeding in a marked vehicle."

14 A. So I -- I don't do -- I'm not a traffic
15 enforcement. I don't -- I don't pull people over for traffic
16 offenses, although I carry a badge and gun, I'm in law
17 enforcement. Somebody cuts me off on traffic, somebody blows
18 a red light, somebody's speeding, I -- that's not my -- my
19 lane, that's not my jurisdiction. When we adopt a case for
20 the Marshals Task Force, we are adopting cases with that --
21 people already have a warrant.

22 We're assuming they know they have the warrant and
23 we're gathering information about the person to figure out,
24 "Is this person somebody we can get in a traffic stop? Are
25 they actually going to pull over? Are they a person that we

1 should get inside a house? Are they a person that we should
2 get inside a vehicle?" I mentioned earlier about, "Is the
3 person in the passenger seat or is the person in the driver's
4 seat?"

5 So if our target's in the driver's seat, that might go
6 into consideration when it comes to doing a -- a vehicle
7 stop. So what I don't want to do is I don't want a marked
8 unit to come up behind a person and say, "Hey, can you light
9 them up with the blue lights?" Because what we're doing is
10 that we're -- we're introducing what we call a -- a -- we
11 treat a vehicle like a 10,000-pound weapon. A vehicle is --
12 if you turn on the blue lights and he takes off and there's a
13 vehicle pursuit, we created that. Like, "Let me -- let me
14 step back and see if this guy is somebody that I should get
15 in a vehicle or somebody that I should get in the house."

16 So there's a lot of things, as I said, going back --
17 there's a small window that you have to take it all into
18 consideration to determine what kind of traffic stop am I
19 going to do on this. In this case, Mr. Ivey, we decided we
20 were not going to do a marked unit. I could get on the radio
21 and say, "North Charleston, do you mind? Here comes the
22 vehicle. It's got a Maryland tag. Can -- can you pull that
23 vehicle over?" That was not a consideration that I was going
24 to do that night.

25 So what we talked about was "short stop, long stop." I

1 want to know if he was going to be at the shortstop long stop
2 and we were going to do a containment, whether it be at a
3 residence or if it was a short stop at a gas station. Maybe
4 nobody else is there, will get you when you're leaving or get
5 you when you're pumping gas.

6 In Mr. Ivey's case, he was in a vehicle. So I decided
7 to do what we call "a vehicle takedown," or "a vehicle box
8 maneuver." That's something that I teach as a tactical
9 training officer, is how to take a vehicle down at an
10 intersection or how to take a vehicle down when somebody is
11 in a mobile -- vehicle that's mobile.

12 Q. Can you show the jury where that vehicle was taken
13 out? It says the vehicle was taken out. Where it occurred.

14 A. Yes, sir. It was right here at this intersection.
15 So traveling from where we were at short distance, I decided,
16 "Let's go ahead and do it." Here's where I was watching,
17 here's where I was sitting. I picked the vehicle up about
18 right here as it was passing by, just enough to say, "there's
19 the Maryland tag." It was dark outside. There was just
20 enough illuminating on the rear license plate that I could
21 see that it was a Maryland tag. From there, I pulled out,
22 Mr. Ivey came down, turned left, and came here. Very short
23 distance to get all my guys that are strategically placed
24 around this area to say, "Let's converge and let's move in."

25 So -- so timing was important on this one. When

1 Mr. Ivey got to this intersection here, we noticed that it
2 was a -- a red light. A red light is something that I look
3 for. I look for something -- if I'm going to do a vehicle
4 takedown and I'm going to instruct my guys, "Hey, we're going
5 to do a takedown. We're going to do a box maneuver on this
6 vehicle," I'm looking for a natural stop.

7 A natural stop is something as he stopped at a red
8 light because it's red. He stopped at a stop sign because
9 he's coming up to an intersection. At that time, you have,
10 "Yay or nay, are we going to do this?" And at any second,
11 I'll call abort, "Let it go." Which I have many, many times
12 or I'll look around. No civilian vehicles in the area, no
13 pedestrians, nobody crossing the street, no school buses
14 dropping kids? "Let's go." And at that time, we got to move
15 in real fast. You get one shot to do a vehicle takedown.

16 Q. You mentioned that you teach you -- do you teach
17 vehicle takedown?

18 A. I do. Yes, sir.

19 MR. COOPER: Your Honor, at this time, I would ask that
20 he be able to step off the stand. I've got a whiteboard that
21 -- and show the jury what he teaches and what they're trying
22 to do that night.

23 THE COURT: Very good.

24 THE WITNESS: You mind if I remove this jacket, your
25 Honor?

1 THE COURT: Sure.

2 THE WITNESS: Thank you, sir.

3 BY MR. COOPER:

4 Q. All right. So we talked about vehicle takedown.
5 Can you describe for the jury what you were trying to
6 accomplish that night?

7 A. So a vehicle takedown is, as I said, a vehicle is
8 a -- it is -- we treat it like it's a weapon. It's a
9 thousand-pound object that I let you get behind that wheel
10 and you take off in the direction of school, or there is
11 people crossing the street, or there's another vehicle in
12 front of you that -- that's loaded with civilians. That
13 vehicle hitting somebody could cause damage. It could cause
14 death. I'm responsible for that.

15 If I make a call and I track a school bus in between
16 what we're doing, that I want to get you in a position to
17 where I'm going to box your car, and all around you is just
18 law enforcement vehicles. I don't want to do that stop. And
19 I'll show you a drawing here of what we were trying to
20 accomplish that night that if there was a vehicle in between
21 there, it's a bad day for the civilian who's sitting there
22 and a bad day for us.

23 Because, now, the safety of that person that's in the
24 middle of my box maneuver that we have to look out for. So
25 in this case here, the intersection that I pointed out,

1 Mr. Ivey's vehicle is here. And I'm going to put this S this
2 is how I teach it. S for the suspect.

3 So what we're trying to do is I'm trying to immobilize .
4 this vehicle. So think about if -- if this person is in this
5 vehicle versus they're in their -- their own house or their
6 mom's house or grandma's house, the average size house, let's
7 just throw it out there. 2000 square feet. If a person
8 hides in that 2000 square feet and U.S. Marshals adopt that
9 case, and I got to get you out of the house, you've got 2000
10 square feet of hide and seek that you can find a spot pot.

11 It's very dangerous. Very, very dangerous for us to go
12 in a house. Elevated positions that people can have on us .
13 when they're looking out the window. We prefer to get you
14 inside of the vehicle because think about the size of the
15 vehicle compared to 2000 square feet of a house. Size of the
16 vehicle is about the size of the bathroom. If I can get the
17 rest of in the bathroom versus somewhere in 2000 square foot
18 house, I got you inside a bathroom with a bunch of windows
19 around it. But I can actually look at you, and you can look
20 at me, we can make eye contact and just say, "Hey, God, it's
21 over -- today, it's over. We got you. Let's" -- Okay.
22 That's it.

23 So I want to get you inside this vehicle because this
24 is a little small bathroom area and it's safer for us. In
25 doing so, with this suspect vehicle at this intersection

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1 here, here's the red light that Mr. Ivey came up to. Here's
2 the suspect vehicle. He's sitting in a natural red light.
3 As I was coming around in this direction here, my guys
4 started coming out because as we round, it's a long distance
5 from where the intersection is of the red light where it came
6 off East Montague that you -- you round that bend and you can
7 see ahead. The light at -- the light has just turned from
8 green and it turned red. We know we probably got a minute
9 that he's going to sit at that intersection.

10 Now, if we round the bend and we see that that light is
11 what we call it, stale red, I don't know how long it's been
12 red. So if I say, "Go as soon as you get up there," and it
13 gets to a stop and it turns green and you got a bunch of law
14 enforcement cars and we couldn't get into position, they're
15 going to take off. So that's taken into consideration as
16 soon as we come around the corner. Did notice that there was
17 enough timing on that light to say, "This is it, we're going
18 to do it." What I want to do is, I want to get a vehicle
19 back here, I want to get a vehicle up here, and I want to get
20 a vehicle right here.

21 Q. What's the significance of those four positions?

22 A. So we call these -- this is our box maneuver. If
23 I can get a vehicle in front of the suspect vehicle, what
24 that's doing is if the suspect decides, "I'm going to go
25 ahead and take off," they going to ram our vehicle. So I'm

1 authorized to take my government vehicle forward of a driver
2 that is driving the vehicle. So what I want to do is I want
3 put my vehicle in front that if they were to hit the gas and
4 they run into the back of my vehicle or one of the vehicles
5 that I'm telling my guys to get up there, they're going to
6 hit that vehicle. So what we do is, we call that "positive
7 contact." Once they make positive contact, it creates space
8 back here.

9 So what do I want the guy in the rear to do? I want
10 the guy in the rear to make contact as well. So think about
11 somebody who's in the middle of the vehicle. If we can get a
12 vehicle in the front and the rear and I can what we call "pin
13 you," and if they try to take off, their tires are going to
14 spin. Essentially, it's like a train moving back and forth.

15 If they put it in reverse and they smashed into this
16 vehicle, this guy's role is to go into reverse as well. I
17 want you to make positive contact. I want you to ram those.
18 We could -- we call it "positive contact," not "ram," but I
19 want the contact to where if there's a -- and I've been
20 involved in several that have done this to where they try to
21 get away. It's usually they end up spinning their wheels
22 out.

23 They can turn left, they can turn right, the wheels are
24 spinning, but they can't create space. The vehicle that's on
25 the driver's side here, the vehicle on the passenger side

1 here, the reason I want that person here is think about this
2 driver's door. If we create this and the suspect is in the
3 passenger seat or the driver's seat, if they were to open up
4 the -- the door and take off running, if I can get a vehicle
5 that's right here, if they open up that door, they're going
6 to hit the bumper of that car where they can't get out.

7 So what they're trying to do is they're trying to get
8 as close as they can without making contact to where when
9 they open the doors up, the person can't go out and run.
10 Now, if suspect vehicle starts to ram forward, ram back and
11 tries to get out, these drivers are instructed to turn their
12 wheel all the way in and then crunch the doors. Actually,
13 make contact with the doors. Because think about if the "
14 vehicle is moving left and right, the vehicle is on the side,
15 if they were to actually make contact and push into the
16 driver's side and passenger side, it locks that vehicle in
17 place and now it cannot move.

18 So what we're trying to do is, the whole goal of this
19 is to eliminate this vehicle as a vehicle fleeing down the
20 street. The whole purpose of a vehicle takedown is to
21 eliminate a car chase, stop that vehicle from fleeing and
22 everybody else around here to public safety. We now have it
23 here stuck at this intersection rather than chasing somebody
24 through the streets of North Charleston or -- or through a
25 neighborhood.

1 Now, you can see it's important here that if one of
2 y'all were driving and you got positioned in between my
3 vehicle that's in the back or in between my vehicle that's in
4 the front. Could you imagine if you got stuck in between
5 there and you got the U.S. Marshals doing a vehicle takedown
6 of -- how would that -- how would that -- how would I explain
7 that? I can't, and I can't put anybody into that position.

8 So in this night here, the goal was to get this. Now,
9 what ended up happening was one of the vehicles did not come
10 up to the front and block the front of that vehicle like we
11 turned. If we could have got a vehicle in front of here, I
12 ideally, I want the vehicle facing away from the driver. I
13 want that vehicle to go in reverse or that vehicle comes
14 forward, that's where they make positive contact. Because
15 Mr. Ivey was already at the intersection, we couldn't get a
16 vehicle in front of him. The other alternative was, one of
17 my guys' vehicles to come around here and I want you to park
18 completely sideways in front of him.

19 Now, how does that look as the driver of this vehicle?
20 Where does that put him as the driver? He's looking right
21 into the windshield of this vehicle right here. So this guy
22 is instructed, "I want you to park T-boned in front of him.
23 If he was to ram you, he's going to ram this vehicle. We
24 don't care about the vehicle. Vehicles can be fixed,
25 vehicles can be applied -- replaced, lives can't. Get out of

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1 that vehicle, open the door, I don't want you to come around
2 here. Leave your vehicle completely and middle the
3 intersection."

4 Q. Is that what happened that night?

5 A. This did not happen that night. This vehicle here
6 did not get into position before Mr. Ivey realized cops are
7 all around me. So this night, one of our vehicles -- one of
8 our vehicles came around the passenger side, came up to here,
9 didn't get the reverse and didn't get sideways. I don't want
10 that vehicle coming sideways from the passenger side for
11 obvious reasons. The driver is sitting right there, and then
12 you can't get the driver's door open. You got a problem with
13 the passenger side come out.

14 It's very -- this is a very dangerous operation. It's
15 very -- very fluid, a lot of moving parts. You're acting
16 really fast, really quick on getting into the position and
17 you hope you get that vehicle locked down. In this case,
18 this is where this -- one of the vehicles ended up and
19 Mr. Ivey just turned left, and there was a hole right here.
20 That's how Mr. Ivey escaped that traffic stop.

21 And if you watch the video, the video looks very
22 unorganized. It looks like a mess. It looks like an episode
23 of cops of, "What -- what -- what the heck are these guys
24 doing?" But if you look at what we were actually trying to
25 do, we really had a plan. We had a plan at that intersection

1 and we wanted to stop the vehicle pursuit. We wanted to stop
2 the vehicle chase. We wanted to immobilize that vehicle and
3 take it out.

4 They're not -- they don't always work. That was our
5 one shot. That was our one shot. We tried later that night
6 to go get Mr. Ivey. These -- his spies are going to be up
7 and he's going to know there's a bunch of vehicles around
8 him, something's about to happen.

9 Q. Thank you.

10 A. Yes, sir.

11 Q. Do you want to retake the stand? I'm going to
12 actually play that video that you mentioned. We'll bring up
13 the State (inaudible) provisions.

14 (Video plays at 10:50:37 a.m.)

15 (Video stops at 10:51:11 a.m.)

16 BY MR. COOPER:

17 Q. And so, describe for the jury what we're seeing in
18 the video?

19 A. So this right here is we're getting in play.
20 We're rounding that bend and we're looking at the red light
21 coming up in front of us right here. Right here, we're
22 seeing where the light is. We're timing the light and
23 saying, "It's go time." All the other vehicles are racing up
24 behind right now. Vehicle number one is getting in place,
25 which is the Tahoe. And then you'll see vehicle, we call it

1 "three and four." They're going to get on the left side,
2 driver's side. Here we go. They're coming around trying to
3 box the door. Vehicle in the back gets in place. If that
4 front vehicle --

5 (Video plays at 10:51:31 a.m.)

6 (Video stops at 10:51:54 a.m.)

7 BY MR. COOPER:

8 Q. So what were you saying? Is the car (inaudible)?

9 A. Yes, sir. And if -- if you go back to what I was
10 showing on the screen, that gray pickup truck that came
11 around the right-hand side, if they would have turned all the
12 way to the left -- think of where he's positioned, and he
13 can't get the door out, he put himself into a position to
14 where -- it's -- it's unsafe. So leaving that open gap,
15 that's the best option for that driver who's there.

16 Now, what should have happened is a vehicle should have
17 come around the left side, and if he would have come on the
18 left side, he would have been able to block Mr. Ivey, he
19 would have not have had a hole to get out. And the driver of
20 that vehicle as well would have been able to open their door
21 and they could have safely got out of the way.

22 So what we try to do is, we -- we try to -- let's just
23 say something bad happens and we all have to shoot in a
24 particular direction. If you have a 360 of cops all facing
25 each other, nobody's in a safe position. So we try to leave

1 the front open, and the front open is block that vehicle, get
2 out of the way, the whole front of that vehicle is open to
3 where there's a -- there's a safe direction if something was
4 to -- to happen.

5 Q. So what do you do now? How does the whole
6 operation change now that there's a legal pursuit?

7 A. So when we get the cases brought to us, as I -- as
8 I mentioned earlier, departments rely on us to help them out.
9 And we wouldn't be a fugitive task force if it wasn't for the
10 state and local jurisdictions. They bring warrants to us.
11 We work them, we take on the apprehension authority, but they
12 ultimately hold the warrant to the department. When we find
13 an individual that they would like to be found, we hand them
14 back over to the department and say, "Hey, we found
15 Mr. Ivey." And then from there, our case is -- our -- our
16 case is over.

17 Part of the briefing is, we are authorized to do these
18 vehicle tactics, vehicle takedown. As I said, I teach it to
19 all my guys and we do it because it's -- it's effective and
20 it's safe. Other departments cannot do it. So all up until
21 this point, I've got the apprehension responsibility on that
22 with the U.S. Marshals. What we also brief is, if this
23 vehicle goes into a vehicle pursuit, will you guys chase it?
24 So I do not have a vehicle. The U.S. Marshals do not have a
25 vehicle chase policy.

1 I'm not allowed to chase a vehicle as a lead vehicle.
2 My vehicle's not marked. I don't have markings on the side.
3 And we have so many undercover vehicles that if you saw us
4 coming down the road, blue lights and siren, you probably
5 wouldn't stop and you wouldn't know who we are. Whereas we
6 want the marked unit with North Charleston, the markings on
7 the side, they have radio comms to dispatch. Because we want
8 dispatch to now listen.

9 So with this case here, it was briefed, "If Mr. Ivey
10 breaks our box, North Charleston, will you chase?" They said
11 they would. So as soon as Mr. Ivey broke our box and it goes
12 into a vehicle pursuit, I then take myself from the
13 10,000-foot view over my guys. I'm bringing myself down,
14 North Charleston is now in charge of that vehicle pursuit.
15 They're -- they're calling the shots. And if they say abort,
16 "Hey look, it's unsafe," we -- we stop as well, and we'll go
17 get them on another day.

18 Q. Where did -- where did the Defendant head after
19 making it out of the box maneuver?

20 A. From the box maneuver, if you've got the inter --
21 can you pull that map back up?

22 Q. State's -- State's 2, please.

23 A. So the takedown was here at the red light. When
24 he broke the box maneuver -- this is the direction of
25 traffic. If you are following the traffic patterns on Rivers

1 Avenue, this one here goes in the direction of 526. If you
2 were to turn and take a right, you'd go 526. If you follow
3 this arrow down here, you'd be going Rivers Avenue towards
4 downtown Charleston. Mr. Ivey's vehicle came across this
5 intersection over to the -- where he should have taken a left
6 if he was following the -- the traffic pattern of the natural
7 flow of traffic. And he proceeded to take a right in the
8 direction of oncoming traffic.

9 Q. Did he get chased?

10 A. I followed. And then I realized -- I followed his
11 vehicle, and at -- when I got on this side here, I realized
12 I'm in the wrong direction of traffic. And yes, I followed
13 him down Rivers Avenue North Charleston's taken over the
14 chase. They headed in this direction with the flow of
15 traffic, and I followed in this direction.

16 Q. About how long did the chase go?

17 A. Very short. I don't know the exact distance. It
18 was 45 seconds. Less than a minute, maybe. It -- it's -- to
19 the up here is the Interstate 526 bridge, the entrance to get
20 onto Mount Pleasant. It -- there was a crash at that
21 intersection, which is maybe a half mile.

22 Q. I'm showing you what's been marked, for ID
23 purpose, as State's 4. Do you recognize that?

24 A. I do. Yes, sir.

25 Q. What is that intersection?

1 A. That is the intersection where the accident
2 happened and foot pursuit.

3 MR. COOPER: Your Honor, at this time, the state would
4 offer, for ID purposes only, State's 4 into evidence.

5 THE COURT: Any objection from Defense?

6 MR. SMALDONE: No objection.

7 THE COURT: It's marked -- or admitted as State's 4
8 without objection.

9 (State's Exhibit 4 admitted into evidence.)

10 MR. COOPER: Permission to publish?

11 THE COURT: Yes, sir.

12 MR. COOPER: Thank you. Publish State's 4.

13 BY MR. COOPER:

14 Q. Just point for the jury what we're looking at
15 here.

16 A. Okay. So from the arrows that I was drawing
17 earlier, this is the natural progression of traffic heading
18 in the direction of 526. If you went onto this ramp here,
19 you would be going onto the -- on-ramp to go towards Daniel
20 Island and -- and Mount Pleasant. This is the flow of
21 traffic that would be going towards downtown Charleston.

22 Q. And you mentioned it was about 8:00, 9:00 in the
23 island. Is there still plenty of traffic out?

24 A. There was traffic out. Yes, sir. Not -- not like
25 the five o'clock rush-hour traffic, but there was still

1 traffic out. It was around between 8:40, 9:00. It was -- it
2 was in that area when all of this went down.

3 Q. And then so, again, what happened when we get to
4 this intersection 526?

5 A. Okay. Mr. Ivey was driving in this direction, the
6 opposite direction of traffic. There were vehicles coming
7 down Rivers Avenue head on in the direction he was going. I
8 moved over to the right-hand side behind him. He was
9 creating a hole. Vehicles were moving out of the way as he
10 came up to this intersection. There was -- to my right
11 parallel in me was marked units. North Charleston marked
12 units were parallel in me on Rivers Avenue going in the same
13 direction we were.

14 When we got up to here, a North Charleston K-9 vehicle
15 was coming up in the same direction here and all at once,
16 Mr. Ivey cut his vehicle and cut across and it looked like
17 the only place he can go is an attempt to get on the 526
18 bridge to get on the interstate. When he headed in this
19 direction, made this abrupt turn to the right, right here is
20 where a collision happened with Mr. Ivey's vehicle and North
21 Charleston K-9's vehicle.

22 Q. Okay. (Inaudible) back and show you State's 29.
23 I'm going to play the dash cam from that cam (inaudible) for
24 you.

25 A. Yes, sir.

1 Q. Play half of them together.

2 A. Yes, sir.

3 (Video starts at 10:59:55 a.m.)

4 (Video stops at 11:00:13 a.m.)

5 BY MR. COOPER:

6 Q. Is that a Marshal vehicle?

7 A. That is one of our old ones. We don't have that
8 one anymore.

9 Q. And can you see a time at -- the current time at
10 the bottom?

11 A. Should I say 2050? 8:50?

12 Q. Okay.

13 (Video starts at 11:00:50 a.m.)

14 BY MR. COOPER:

15 Q. And does Mr. Ivey initially go with traffic
16 (inaudible) heading back?

17 A. The -- there's kind of -- it's kind of a weird
18 on-ramp the way you go. If he followed the direction he went
19 left, it looked like he was going to go towards downtown
20 Charleston, then he whipped a right and went in the direction
21 of traffic. Or head on the traffic.

22 Q. When you (inaudible).

23 A. I don't know their rules and policy. I -- I'd
24 hate to say and be wrong. I know that they all moved over to
25 the direction of traffic, which he should be driving.

1 Q. The speed on the right side, can you tell us?

2 A. 96, 97 miles an hour. 99 miles an hour. 100
3 miles an hour.

4 Q. Is it an approximate (inaudible)?

5 A. 102 miles an hour. Yes, sir. 88 miles an hour.
6 85, 73.

7 (Video stops at 11:01:50 a.m.)

8 BY MR. COOPER:

9 Q. What happened right there?

10 A. When -- it appeared, Mr. Ivey was cutting across
11 Rivers Avenue to get onto the on-ramp to go 526 towards Mount
12 Pleasant, it looked like K-9 realized he's coming over my
13 direction. Speed from 100 down to 70, they collided at that
14 intersection. And after colliding, I watched the vehicle
15 flip several -- the K-9 vehicle was flipped several times and
16 it was -- it was "Wow crashes over. I hope everybody's
17 okay." That was my initial thought. "I hope everybody's
18 okay."

19 Vehicle is disabled. We wanted to do a vehicle stop
20 technique because we wanted this to not happen. Luckily it
21 was us who were involved in it, law enforcement, not civilian
22 vehicles. And I pulled up, and to my surprise, Mr. Ivey was
23 crawling out of the driver's seat, over his passenger --
24 passenger door, and he was taking off, running on foot. I
25 couldn't believe somebody was not hurt in that car and stayed

1 and wait for medical attention.

2 But from there, you know, there's a lot of ups and
3 downs. We're about to box them in. It's going to be over.
4 There's a vehicle chase. We're -- we're now in a vehicle
5 pursuit. There's a vehicle accident. Now, we're, "Okay.
6 Let's make sure everybody is okay. Wait a minute. Our
7 suspect is running, now we're back into a foot pursuit." So
8 -- so at this point, once the crash had happened, I pulled
9 up, saw Mr. Ivey crawling over the -- the passenger -- out
10 the passenger door and he took off running in the direction
11 of a wooded area near the Interstate.

12 Q. I'm going to ask you to stop right now. I'm going
13 to show you State's Exhibit 28, which is different K-9 Tahoe
14 dash cams. That shows what you're talking about at the end.

15 (Video starts at 11:03:01 a.m.)

16 (Video stops at 11:03:26 a.m.)

17 BY MR. COOPER:

18 Q. Is the vehicle in front of us, does that appear to
19 be Bishop's K-9 vehicle that we just watched the video?

20 A. That appears to be the K-9 vehicle. Yes, sir.

21 Q. And his lights were on?

22 A. Yes. So if we could pause this, I'll -- I'll
23 point out one thing. So part of the box technique, if we
24 rounded that -- if we came off East Montague, and we were
25 coming around that road prior to coming up to the red light,

1 if we came around that road knowing Mr. Ivey was in that
2 vehicle with the Maryland tags, if we saw him immediately and
3 all -- all my guys came around the corner with their blue
4 lights on, he's going to see us coming.

5 So part of the technique that we do is -- if you
6 noticed, several of the vehicles got in line behind Mr. Ivey.
7 They also came out from hidden locations where we had people
8 strategically staged, waiting for this to happen. And what
9 we want to do is we want to get into that position, we want
10 to get you locked down and then let you know we're law
11 enforcement. That's when we turn on the lights, that's when
12 we turn on the sirens. That's when we let you know, "We got
13 you." So if -- if you see the delay in the blue lights, that
14 is a planned technique. And -- and that's how we train.

15 Q. Because again, what is your concern if you
16 (inaudible) the lights too far in advance?

17 A. If we turn the lights on too far in advance,
18 they're going to take off. That's like asking a marked unit
19 to just say, "Hey, can you do a traffic stop?" And if we
20 have five vehicles around this and he decided to run, just
21 think if we had one vehicle behind him and turn on the blue
22 lights, it would have been the same result. It would have
23 been a vehicle pursuit. We treat everybody like they're
24 going to take off and run when they're in a vehicle. So we
25 try to eliminate that vehicle, which was what we attempted

1 this night.

2 (Video starts at 11:04:33 a.m.)

3 (Video stops at 11:04:48 a.m.)

4 BY MR. COOPER:

5 Q. (Inaudible) you all have to turn around and go the
6 direction (inaudible), is that right?

7 A. Everybody was driving in different directions
8 trying to figure out where he is going. We thought he was
9 turning left to go towards downtown.

10 (Video starts at 11:04:43 a.m.)

11 (Video stops at 11:05:22 a.m.)

12 BY MR. COOPER:

13 Q. And what do we see (inaudible)?

14 A. That's Mr. Ivey crawling over his passenger, and
15 he's taken off, running into the woods.

16 Q. What does the passenger do?

17 A. Sir?

18 Q. What does the passenger do?

19 A. Looks like the passenger is staying in the
20 vehicle. I was running to the woods. I wasn't involved in
21 this part here, but it looks like they're taking the
22 passenger into custody.

23 Q. But you saw Mr. Ivey driving the car?

24 A. Yes, I'm the one who -- I chased him into the
25 woods. Yes, sir.

1 Q. Also, once before we get to what happened in the
2 woods, just showed you -- would you recognize the pictures
3 from the damage of that crime scene that I showed to you?

4 A. Yes, sir.

5 Q. I'll show you what's been marked, for ID purposes
6 only, as State's 5 through 8. Tell me if you recognized
7 those pictures.

8 A. Yes, sir. Exhibit 5 is Mr. Ivey's vehicle with
9 the Maryland tag. Exhibit 6 is the vehicle disabled with
10 significant damage to the front of the vehicle. Exhibit 7 is
11 the same. Another shot of the vehicle -- disabling damage to
12 the front of the vehicle. And Exhibit 8, same thing.
13 Disabling damage to Mr. Ivey's vehicle.

14 Q. And that makes the scene that you saw that night?

15 A. Yes, sir.

16 MR. COOPER: Your Honor, at this time, State will offer
17 all those marked for ID purposes only as State's 5 through 8
18 into evidence.

19 THE COURT: Any objection?

20 MR. SMALDONE: No objection.

21 THE COURT: It'll be admitted as State's 5, 6, 7, and 8
22 without objection.

23 (State's Exhibits 5 through 8 admitted into evidence.)

24 MR. COOPER: Can I publish?

25 THE COURT: Yes, sir.

1 BY MR. COOPER:

2 Q. What should be State's 5, please? What do we see
3 in this picture?

4 A. This is the rear of Mr. Ivey's vehicle with the
5 Maryland tag.

6 Q. Okay. State 6?

7 A. Mr. Ivey's vehicle with disabling damage to the
8 front of the vehicle.

9 Q. State's 7?

10 A. Mr. Ivey's vehicle with disabling damage to the
11 front.

12 Q. And you're able to see -- are those airbags
13 deployed inside the vehicle?

14 A. Yes, sir.

15 Q. And State's 8?

16 A. Mr. Ivey's vehicle with damage to the front.

17 Q. And that's the door you saw him crawl out of?

18 A. Yes, sir.

19 Q. Now, I'm going to show you what's been marked, for
20 ID purposes only, States 9 through -- 9, 10, and 11. See if
21 you recognize those.

22 A. Yes, sir. 9 is the rear view of the North
23 Charleston K-9 Tahoe. Exhibit 10 is driver's side shot of
24 the North Charleston K-9 Tahoe and Exhibit 11 is the front
25 view of North Charleston's K-9 Tahoe.

1 Q. And then 14 through 19 also marked for ID only.

2 A. Okay.

3 Q. How would you recognize those?

4 A. Exhibit 14 is an inside shot of the North
5 Charleston K-9 Tahoe. Exhibit 15 is the driver's side view
6 of damage to the Tahoe. Exhibit 16 is damage to the driver's
7 side of the Tahoe as well. Exhibit 17 is what appears to be
8 rollover damage rear of the SUV crushed from the North
9 Charleston Tahoe. Exhibit 18 is a view of the Tahoe with
10 what appears to be marks in the dirt where the Tahoe is
11 flipping. And Exhibit 19 is the Tahoe damage resting in its
12 final position.

13 Q. And can all these accurately depict the crime
14 scene as you remember that night?

15 A. Yes, sir.

16 MR. COOPER: Your Honor, at this time, the State would
17 offer, for ID purposes only, State's Exhibits 9 through 11
18 and 14 through 19 into evidence.

19 MR. SMALDONE: No objection.

20 THE COURT: All right. That'll be admitted as State's
21 9, 10, 11, and State's 14, 15, 16, 17, 18, and 19 without
22 objection.

23 (State's Exhibits 9, 10, 11, and 14 through 19 admitted into
24 evidence.)

25 MR. COOPER: Thank you. May I publish?

1 THE COURT: Yes, sir.

2 MR. COOPER: Just show State's 9, please.

3 BY MR. COOPER:

4 Q. What does this picture show us?

5 A. Rear of the North Charleston's K-9 Tahoe.

6 Q. I think we saw in the video. Where was he struck?

7 A. He was struck in the driver's side door area.

8 Q. Okay. State's 10?

9 A. That is the --

10 Q. Is that where the vehicle was struck?

11 A. Yes, sir -- yes, sir. Driver's side just by the
12 tire and the door area. And in this one you can see the
13 rollover damage to the rear of the Tahoe where it was crushed
14 from flipping.

15 Q. State's 11?

16 A. Front shot of the North Charleston K-9 Tahoe.

17 Q. And skipping to State's 14?

18 A. That's the interior shot of the North Charleston's
19 K-9 Tahoe showing airbag deployment.

20 Q. So it would be fair to say that both Officer
21 Bishop and the Defendant were lucky?

22 A. Very lucky -- very lucky.

23 Q. Showing State's 15.

24 A. That's the driver's side where initial impact to
25 the K-9 Tahoe.

1 Q. State's 16?

2 A. Closeup of impact from Mr. Ivey's car where it
3 struck the K-9 Tahoe.

4 Q. State's 17?

5 A. Rollover damage to the Tahoe.

6 Q. State's 18?

7 A. Showing Tahoe in its final resting position. And
8 you can see in the dirt where the vehicle hit and the
9 distance it was flipping before it came to its final resting
10 spot.

11 Q. And then can you indicate on here about where it
12 was that you chased the Defendant?

13 A. Yes, sir. It was back here in this -- it was on
14 the other side of the on-ramp, in the center where the
15 on-ramp connects. There's a large wooded area below the 526
16 bridge. This is in that area, headed in this direction.

17 Q. And that bridge is what?

18 A. That's the -- that's the 526 bridge we're seeing
19 up here on top. And this road right here is the on-ramp that
20 if you were to get on it, you'd go towards Daniel Island.

21 Q. And then the next one, State's 19? Just a closer
22 (inaudible) Tahoe?

23 A. Yes, sir.

24 Q. And I want to ask you before we move to what
25 happened on the foot, but have you been involved in chases

1 where accidents happen? People have actually been seriously
2 injured?

3 A. I have.

4 Q. People have been killed?

5 A. I can't remember one that I was involved where --
6 personally involved where a vehicle pursuit ended in a death.
7 I've been in several where they've ended in injury.

8 Q. It's these situations that your -- you and your
9 team are trying to avoid, is that right?

10 A. At all costs. We -- we don't want this to happen.
11 We don't want this to happen to an officer, the K-9 dog,
12 civilians, anybody. That's why we trained to do a vehicle
13 takedown and we set it up in -- in -- in a way that we want
14 to box you in. I want to disable that 10,000-pound weapon,
15 which is a vehicle. And once that goes mobile and they
16 decide let's turn it into a pursuit, I'm out of it at that
17 point and North Charleston takes it. But it -- it's our job
18 to -- to try to contain you and keep you so we don't end up
19 into this. We -- we didn't want this to happen.

20 Q. Now, I'm going to (inaudible) your attention back
21 to that foot chase.

22 A. Yes, sir.

23 Q. Describe for the jury how that unfolds.

24 A. So, as I said, when I got up to the vehicle, I was
25 very surprised when -- when there was somebody moving in the

1 vehicle. I -- I really thought this is -- somebody is
2 injured real bad. To see Mr. Ivey climbing over his
3 passenger, I -- I thought he's really trying to get away.
4 Foot -- went from zero to a hundred again, now we're back
5 into a foot chase. I thought I was coming down from that.
6 All the moving parts that are happening to, "Now, we're going
7 to get into a foot chase."

8 So when I saw him come out of the driver's -- the
9 passenger side of that vehicle and take off running on foot,
10 I immediately focused on him. I knew there was enough people
11 there that somebody was going to check on the K-9 officer,
12 somebody's going to check on the K-9, somebody's going to
13 check on the passenger in that vehicle. We had a lot of guys
14 out there that night. Myself and two other officers, we
15 chased Mr. Ivey into that wooded area, and ultimately back in
16 under the 526 bridge. And we ended up down in the water,
17 down in that dark wooded area.

18 Q. What concerns do you have as you're now engaged in
19 a foot chase with someone who has outstanding warrants?

20 A. So I've been in a lot of foot chases. I've been
21 in a lot of fugitive apprehended -- apprehensions. I -- I
22 couldn't even give you a number of how many I've been -- I've
23 been involved in. I've been behind people that I have
24 chased. And actually, just a couple of months prior to this,
25 almost the exact situation happened with a foot chase,

1 chasing a subject. I was up off College Park Road. I was
2 looking for a wanted subject. I was about the same distance
3 behind Mr. Ivey as I was behind this other individual that I
4 was in a pursuit with.

5 I believe it was May of 2018, if I -- if I got the
6 month -- the month right. It was just a few months prior to
7 this happening. Suspect saw me, he took off, he ran on foot.
8 It was me and my partner. We chased him about the exact same
9 distance. That night when I was chasing Mr. Ivey, he was
10 throwing things from his waistband. He was reaching into his
11 waistband. And I called it out to other officers. He's --
12 he's grabbing for something. What do I think as a --

13 Q. (Inaudible) concern when someone's grabbing their
14 waistband?

15 A. What do I think? Weapons. Because a lot of guys
16 keep guns in their waistbands. That's a natural spot where
17 they reach and grab. So my concern is weapon. I don't care
18 if you've got something else you want to throw. I don't care
19 if you've got some cell phones, some contraband. I -- I --
20 it doesn't bother me. Your cell phone's not going to hurt
21 me, your pile of money or if you have drugs you're trying to
22 get rid of, I don't care. It's the weapon I'm -- I'm -- I'm
23 worried about. Because that's what's going to hurt me and
24 others.

25 So going back just a couple of months prior to this

1 foot chase, I was involved in a foot chase, almost the exact
2 same distance. Suspect was wanted. It was warrants we
3 adopted. I was behind the guy running. Me and my partner
4 were chasing. As we're running, he's -- guy was reaching in
5 his waistband. And all of a sudden, he pulled a gun out. He
6 put it over his shoulder and he shot several shots at me. We
7 shot back. Suspect lived. He was injured. And it was the
8 gun from the waistband, because as he's running away, I can't
9 see your hands. I can't see the waistband at this night. It
10 was dark out that night. So it's a lot of low light. There
11 were lights from overhead lamps that are out there. As you
12 can see, there's headlights in all different directions. So
13 it was kind of limited visibility, but it wasn't completely
14 pitch black. It was enough that I could still see the
15 movement towards the waistband. I was worried about a weapon
16 that night.

17 Q. At some point, you ultimately catch up to
18 Mr. Ivey?

19 A. Yes. I believe -- I believe Officer Fogle was the
20 first one on him, but we were all running together. I say
21 "first one there," a couple of feet ahead. It ended up into
22 -- so do you have a picture of the overhead aerial view of
23 that intersection so I can kind of show the wooded area?

24 Q. Showing State's 4.

25 A. Perfect. So where the collision happened is in

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1 this intersection here. I believe the K-9 Tahoe rested in
2 its final position over here. When Mr. Ivey bailed out, he
3 went to this side of the on-ramp. This one here is the one
4 that's going to take you to Mount Pleasant. This ramp here
5 is going to -- no, this is the off-ramp from 526 to go
6 towards Rivers Avenue.

7 Mr. Ivey went across here. We chased him in this open
8 area where it's non-wooded. It was in between the road and
9 in between the wooded area. Off here is where I was -- I saw
10 Mr. Ivey throwing some items off into the wooded area.
11 Actually made me feel good. He's throwing some -- get rid of
12 it. I'm good with it. I -- I'm just here to arrest you. I
13 -- whatever you're getting rid of, we will not worry about
14 it.

15 Came around here. Ultimately, back here is where we
16 encountered Mr. Ivey and attempted to arrest him. As you
17 look in on this screen here, this is water that's back here.
18 It looks like a -- a ditch. It's very deceiving. It's
19 actually very deep water. It's wide. I didn't know it was
20 back there until that night, but where we ended up was right
21 there in that watered area where the woods met the water in
22 the open area where we were running. And as I -- as I said,
23 here is the open area where we are at. So that's where the
24 light was shining. There was enough to see -- we weren't in
25 the woods yet. We were running along the edge.

1 Q. So what happens as you get to Mr. Ivey?

2 A. So I get to Mr. Ivey. He's -- he's in the water.
3 And I don't know if he's trying to swim across the water. I
4 don't know if he's trying to hide under the water. It was
5 just all of a sudden, we're on top of each other, of -- we're
6 face-to-face. When I'm running and I'm going after a
7 suspect, my gun is out. I'm -- I'm -- I'm ready for whatever
8 is that I'm going to encounter. Action is faster than
9 reaction.

10 So I'm out just in case. When I realize Mr. Ivey is in
11 the water, I could see his hands, I'm putting my weapon away.
12 There's no reason to hold a gun out and try to arrest him at
13 the same time. His hands are what are going to hurt me. So
14 when I encountered him and I'm face-to-face with him, I could
15 see that his hands are there.

16 Another officer, Fogle, I think was the one who had an
17 arm. Officer Rissanen came in, had an arm, we're then trying
18 to get Mr. Ivey into handcuffs. Now, it's typical that I
19 encounter one of two things when we get to that point of,
20 "It's time to make an arrest." When you chase a suspect into
21 this position, sometimes when they realize they're caught,
22 "You got me, you got me. It's over." Others, which I've
23 been on the other end, is you get them to a corner, they turn
24 and then they take their aggression out on you. Which I've
25 had that happen as well.

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1 So Mr. Ivey was not at the point of, "Okay. Okay, it's
2 over. I'm up. I'm giving up." Those words didn't come out.
3 We've gotten a chase. He climbed over his passenger. We got
4 in a foot chase. He's throwing things. Now we're in the
5 water. It's still on. And that -- that's where we're at.
6 So my -- my role at that point is, "Let me put my gun away,
7 and now let's go hands on and let's try to get him into
8 handcuffs so it's over."

9 Q. What happens as you put your gun back in your
10 holster?

11 A. As I put my gun in the holster, I realized
12 Mr. Ivey had his hand on my gun as well. And I was yelling
13 to the other officers something along the lines of, "He's got
14 my gun," or, "Get off my gun." This was something along that
15 line, but he had my gun as I put it back down in my holster.
16 And so, at that point, now my gun, I'm trying to hold onto.
17 I don't want to give you my gun. I don't want you to take it
18 out of the holster. And I'm trying to keep that thing in
19 because I didn't need it up and out and about anymore,
20 because I could see his hands.

21 So once I'm putting it away, I'm trying to keep those
22 weapons out. "Now, let's just take you into custody and get
23 this over with," but I couldn't get my -- I had my gun in the
24 holster, but I could not take my hand off the gun. I was
25 afraid Mr. Ivey was going to take it out of the holster.

1 Q. What kind of holster were you wearing?

2 A. It's actually sitting right there on the table. I
3 wear a thigh rig. A thigh rig is something that drops down
4 between your waist and your knee. So if I can demonstrate?

5 Q. (Inaudible). This is a -- I think you said a
6 training gun, a rubber gun?

7 A. This is -- this is a -- so I'm a tactical training
8 officer, a firearms instructor. This is a rubber -- rubber
9 gun. There's nothing that can be inserted. There's no holes
10 in it. This is what I use for training purposes anytime I'm
11 working with my officers. This is the actual holster I was
12 wearing on that night. It is -- it's called a thigh rig.
13 And what it is -- what it is, it sits between your waist and
14 your knee.

15 So when I have a bulletproof vest, which I wear, the --
16 the vest comes here. And if I had a holster that sits on the
17 side of my waist, if I'm trying to grab a gun out, my -- my
18 -- my gear, I carry -- carry handcuffs, OC, taser, a med
19 pouch, tourniquets. I got a lot of stuff. So I can't have a
20 gun here because I wouldn't be able to get it out. So what
21 this does is, this weapon sits and I'll -- I'll demonstrate
22 it, put it on if you'd like.

23 Q. Please.

24 A. So again, I -- I don't wear suit and tie to work.
25 Typically, jeans and sometimes shorts, whatever I can do to

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1 blend in. But when it's go time, I put this on. Undercover,
2 I do carry a weapon concealed on my body in a -- in a place.
3 Sometimes I wear a couple of guns and you can't see them when
4 I'm out in public. When it's time for me to make an arrest,
5 I put this on because I'm -- I don't want to hide that I'm a
6 police officer when it's time for the (inaudible).

7 That night, I was wearing a bulletproof vest marked
8 "U.S. Marshals" on the back, "U.S. Marshals" on the front.
9 You'll clearly know who I am when I come up. So for this
10 purpose here, if I was to stand here and do an interview and
11 I come down, naturally, my hand is coming right here to my
12 weapon. This is where I want versus up here if I'm trying to
13 get it out and around, all that big, bulky gear that I carry.

14 So coming down here to my weapon, when I take it out --
15 I take it out, and if I was to use it, I bring it back and I
16 put it in. It was at this point right here when I put it
17 away that I felt Mr. Ivey pulling on my gun. And that's when
18 I -- I yelled and I think it's actually in one of the body
19 cam videos as well, that you could hear me yell, "He's got my
20 gun," or, "Get your hand off my gun."

21 So at that point, my partners are wondering, "Does he
22 have the gun? Did he take the gun?" Well, what's going
23 through their mind when -- if you hear, "He's got my gun,"
24 or, "He's taken my gun"? There's a lot of things going
25 through your mind. Oh shoot, now we got a gun in the middle

1 of trying to arrest somebody. And my job at this point, my
2 whole goal is, I'm going to hold this thing in and I'm
3 pushing down on this because I want to keep this in here. I
4 don't want to introduce this weapon back out this holster.
5 It's not coming out. So now I'm fighting to keep it in my
6 holster. That's what was going on in that video.

7 Q. How does your holster -- how does is it secure?
8 How do you get it out?

9 A. So with this -- there's many, many, many different
10 holsters out there. Not all are the same. And this
11 particular holster, to let you know, a flaw that this one has
12 is -- well, I wouldn't say it is a flaw. It's something that
13 I know about the holster because I'm a training officer and
14 I'm -- I try to teach "The holster that you're wearing has
15 this flaw. Holster that you're wearing, I can break it. The
16 holster you're wearing, I can pull it out backwards. The
17 holster you're wearing, I can pull it out forward."

18 We try to dissect those holsters to figure out, is it a
19 level -- is it at a level of setting in your waistband? You
20 can just reach up, you can take the weapon out. But if you
21 carry this kind, you got to push down, pull out to get it
22 out. So there's a lot of levels to holsters you got to try
23 to figure out. My holster knowing it, because it's the one I
24 wear is, it's got a hood right here and this hood right here,
25 if you were to come behind me, try to take out my weapon, try

1 to take it out. You can get it out.

2 So I know if you come up behind me, you grab this
3 weapon. We're going to be fighting for this. For me to get
4 it out, I got to push this little hood down and rock it
5 forward, and then the weapon will come out. So if you come
6 up behind me and you grab my weapon, and it's a -- it is a
7 rear approach, I know if I keep it in there, you're not going
8 to get it out.

9 Now, front approach is different. So this is the
10 direction that I'm doing this. I know that if he was to get
11 this hood down, he's going to take my gun out. Can you wear
12 my holster? I want to demonstrate if he is the officer. And
13 what my concern was that night after him holding my holster.

14 Q. (Inaudible).

15 A. (Inaudible). If you can remove your -- can you
16 take your jacket off? So if he's -- he's me wearing that
17 holster that night. And I'm here and somebody comes up from
18 behind as I said. You come, you are not getting this weapon
19 out of the holster. I don't care what you do. You ain't
20 getting it out. You might break the holster. That's what I
21 was mentioning earlier. If you have one, I'll show you how
22 to break it. If you have one, I'll show you a flaw that if
23 you snap it sideways, it'll break. So we tried to find the
24 flaws on these things.

25 This one here, if we are head on as Mr. Ivey was when I

1 encountered him, we were about this close and with hands
2 going up, I can grab Mr. Ivey. Mr. Ivey could have grabbed
3 that gun as quick as this because -- let's face the jury. If
4 I grab this gun and pull it, it ain't coming. But if that
5 hood -- if we're coming here, and I want to grab that gun,
6 it's one swoop. He's now got my gun. That's what I was
7 worried about that night when I yelled, "He's got my gun,"
8 or, "He's got his hand on my gun." Something along that
9 line.

10 If you push it down -- push it down and hold it in.
11 Now, if I'm coming here, now it's us fighting back and forth
12 and you want to stiff arm, I'm trying to stiff arm to hold
13 that thing in because once this comes out of the holster, now
14 we got a weapon in the middle of what I didn't want to
15 happen. I just, "Let's get this over with. We found you,
16 hide and seek, it's over. Let's put you in handcuffs. Hand
17 you over to North Charleston. We're done." Right here,
18 again, as I said earlier, we go 0 to 100. We have the highs
19 and lows at this point right here, "Oh shoot, my gun is about
20 to be pulled out of the holster." So that's -- that's --

21 Q. And he never actually had it out though?

22 A. No, he did not get it out. So that -- to go a
23 little bit further, if you look in the video, my concern is
24 -- I'm -- I'm right-handed, so I'm pushing down on my weapon,
25 and I'm pushing it -- I'm trying to hold it. I'm letting the

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1 other officers know that he's got my gun or something. It's
2 in the video of what I said about the gun. But I want to let
3 everybody know that my gun's about to come out. If you look
4 in the video, I'm actually pushing Mr. Ivey at the throat. I
5 grabbed him at the throat to keep him away.

6 So part of what officers do is, I don't want you in my
7 space right here when we're talking because -- put your hands
8 up. As soon as you put your hands up and I'm that close, I
9 can grab this thing out. Now keep your distance, hands back.
10 Now, if I was to come at that thing here and come in, you got
11 that little bit of distance. So me grabbing his throat, I'm
12 trying to create distance. I want to keep my gun, I want to
13 create that distance, and I'm trying to get back because I
14 need to secure the same and get this thing out of the fight.

15 Q. Okay. I -- I'll pull that video up. Do you want
16 to retake the same?

17 A. Yes, sir.

18 MR. COOPER: Thank you. Will you pull up 27
19 (inaudible), please?

20 THE BAILIFF: Your Honor?

21 THE COURT: Yes, sir.

22 THE BAILIFF: Could we have some break so --

23 THE COURT: Yeah. We've been going about an hour and
24 15 minutes. This is a good time for you to stop, take a
25 short break?

1 MR. COOPER: I'm almost done. But yes, sir, I'm happy
2 to do that as well.

3 THE COURT: Okay. Why don't -- because I -- I'm sure
4 Mr. Smaldone is going to have some cross-examination. So
5 let's take about a 10 to 15-minute break, and we'll get
6 started back to finish up the marshal's testimony. All
7 right. Don't discuss the case.

8 (Jury exits at 11:31 a.m.)

9 THE COURT: All right. We'll be at ease for about 10
10 or 15 minutes.

11 (Off the record at 11:32 a.m.)

12 (On the record at 11:49 a.m.)

13 (Jury enters at 11:50 a.m.)

14 THE BAILIFF: All the jurors are present.

15 THE COURT: All right. And ladies and gentlemen, I
16 don't know who alerted the bailiff, but that's okay. This
17 isn't an -- an endurance contest, so if somebody needs a
18 break, just -- just let them know. So anytime. We -- we
19 sort of get caught up in what we're doing up here and
20 sometimes forget that some folks might need a break. So
21 again, don't hesitate to let bailiff know if you need a
22 break. Mr. Cooper?

23 MR. COOPER: Thank you, Judge.

24 BY MR. COOPER:

25 Q. Deputy, I just got a few more questions for you.

1 A. Yes, sir.

2 Q. I think we've got that body cam. We'll play it
3 again. We'll play it for you to kind of have a -- orient the
4 jury of what we're seeing in the video (inaudible).

5 A. Yes, sir.

6 (Video starts at 11:53:13 a.m.)

7 UNIDENTIFIED SPEAKER: Hey (inaudible).

8 (Video stops at 11:54:51 a.m.)

9 BY MR. COOPER:

10 Q. You said that's you in the video we heard making
11 the comments about the firearm?

12 A. Yes, sir.

13 Q. And describe to the jury again, I know we saw the
14 video, your hand on his throat. Describe for -- why that
15 happened.

16 A. I'm trying to create distance. He's -- if he's
17 close enough that I can grab him and he can grab me and my
18 weapons being grabbed, I -- I'm -- I -- I'm trying to create
19 distance and holding back seconds. It's -- you know, I don't
20 know where -- I don't know where the other officers are at
21 here. My focus is on him. I'm grabbing him to create
22 distance to push back. This hand's locked. And from there,
23 I'm -- I -- I don't have another hand that I can put
24 handcuffs on him.

25 My hands are tied up. One holding the gun, one holding

1 the throat and trying to create that distance. If I could
2 backpedal and get out of the way, that is ultimately what I'm
3 trying to do. If I could push him away from me and create
4 distance, that's what I'm trying to do. When you -- when you
5 get up in that space and you get that close, you got to
6 create distance. And -- and that's what I was attempting to
7 do.

8 MR. COOPER: Deputy Roe, thank you for your time. I
9 have no further questions for you, but you'll answer anything
10 that Mr. Smaldone may have.

11 THE WITNESS: Yes, sir.

12 THE COURT: Mr. Smaldone?

13 MR. SMALDONE: All right. Thank you, your Honor. May
14 it please the Court?

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. SMALDONE:

18 Q. All right. Still morning. So good morning.

19 A. Good morning, sir.

20 Q. So as part of -- part of the preliminary process
21 in this case, you did -- you said you became aware of his
22 general movements, is that right?

23 A. Movements as his location?

24 Q. Right. Yes.

25 A. Yes, sir.

1 Q. Did -- did you do research on where -- what --
2 what his home address might be?

3 A. I know we would have, because I think we -- I --
4 I'm trying to think how long we had the case. I -- I -- it's
5 called, "we adopt the case."

6 Q. Right.

7 A. When a department gives us the case, there's an
8 adoption date that we put in the computer. So if North
9 Charleston gave us the case, and as soon as we get it, the
10 first thing we do is we create what we call a federal ID.
11 That federal ID is something that is created for life. Let's
12 just say somebody that I adopt on the case and they -- and we
13 make an arrest and two years later we get a notification from
14 a department and they say, "Would you help us out with this
15 particular warrant?"

16 The first thing I do is I go in my system to see if I
17 have arrested you before. And surprisingly we do make a lot
18 of repeated arrests. So people are in our system. So the
19 first thing I do is I create that federal ID and then we
20 start with the basics of, "Let me see where -- where your
21 girlfriend lives, your grandma lives, guys that you hang with
22 live, where's your home address, where's your driver's
23 license?" Et cetera. We start building a profile because I
24 want to learn everything I can about that person.

25 Q. All right. And you -- assuming you did this in

1 this case, I know it's been about six years, but you probably
2 did that -- did that in this case, correct?

3 A. I'm assuming we did it, because we -- we do it
4 with every case. Yes, sir.

5 Q. All right. So you would've learned that he -- he
6 lives in the Huger area?

7 A. Again, I don't remember, but if we did the
8 research, I would say we would know that. Yes, sir.

9 Q. Okay. And you were -- did you personally witness
10 the collision?

11 A. Yes. I was on -- I was behind Mr. Ivey when he
12 took the hard right. I -- I was -- I was behind him. And I
13 say "behind him," maybe 60, 80 feet, 100 feet, something
14 enough that I wasn't on his bumper, but I wasn't way back. I
15 -- it was -- I watched it happen. I remember pulling up and
16 thinking it's over. Now, it's time to start helping
17 whoever's injured and then close enough that I watched him
18 get out of the car and take off running.

19 Q. Right. Okay. But that -- was that your dash cam
20 that we saw or was it not yours?

21 A. No, sir. We don't -- U.S. Marshals, we don't have
22 dash cams.

23 Q. Right. And your -- but your view -- sounds like
24 your view was pretty similar to the view of the dash cam?

25 A. I -- I would say it was -- yeah. It -- it

1 happened quick and it was -- it was right in front of me.

2 Yes, sir.

3 Q. Okay. Also, you -- you said he took 526 towards
4 Mount Pleasant, or tried to take it, I guess you said?

5 A. That would be -- the direction he's going would be
6 -- if he was to get on -- now, if he followed the flow of
7 traffic, he would get on the ramp to go to Mount Pleasant.
8 But if he wanted to go against the traffic, he could have got
9 on that on-ramp that we were running in a foot pursuit. That
10 would be the opposite direction of traffic. So he'd be
11 driving the opposite way on I-26 towards West -- 526 towards
12 West Ashley. So he had two ramps. One goes to Mount
13 Pleasant, one would be head on with traffic.

14 Q. All right. So you don't know which one -- you
15 don't know which one he intended to be on?

16 A. No, sir.

17 Q. Kind of where it was?

18 A. No, sir.

19 Q. Are you aware one goes to Huger -- is the way
20 towards Huger?

21 A. You -- you could take -- let me -- yes, you could
22 go in the direction of Huger. Yes, sir.

23 Q. All right. And you said you were about 80 feet
24 behind your car -- behind Mr. Ivey's car?

25 A. I would -- I don't know how -- yeah, I don't want

1 to give an exact distance. It was close enough that I never
2 lost sight of -- I never lost sight of Mr. Ivey's car, enough
3 to watch the wreck, and enough to watch him get out of the
4 vehicle.

5 Q. Right. And I just want to make sure your point of
6 view, obviously, it was 90 feet or anything like that?

7 A. Yes, sir.

8 Q. So I just want to see your general view.

9 A. I understand. Yes, sir.

10 Q. So you also saw the -- the car that was ultimately
11 collided with, the SUV that was ultimately collided with?

12 A. Yes, sir. I watched that vehicle -- I was
13 watching the K-9 vehicle flip.

14 Q. Okay.

15 A. I actually -- I saw the -- it flipped and I -- I
16 think three or four times, I think they said it flipped. I
17 know it was a long distance because it was, like, it just
18 kept going.

19 Q. And you watched that on the dash cam, correct?

20 A. I did watch it after the fact. Yes, sir.

21 Q. And even in here, correct?

22 A. Yes, sir.

23 Q. All right. And that car was traveling -- I think
24 you said, according to the video, about 73 miles an hour?

25 A. It looked like the point of impact was at 73 miles

1 an hour. Yes, sir.

2 Q. All right. And I'm not an expert, but -- on
3 collisions, but it looks like you -- you assumed by the way
4 Mr. Ivey's car was headed that -- that looks like the other
5 vehicle was coming from his right -- the passenger side,
6 correct?

7 A. Say that again? I guess I'm not following. I'm
8 sorry.

9 Q. If I'm driving?

10 A. Yes, sir.

11 Q. All right. You would've been the -- at some
12 point, because it was a -- it was basically a T-bone
13 collision, correct?

14 A. Yes, sir.

15 Q. It's perpendicular, right?

16 A. Yes, sir.

17 Q. So it looks like -- at least from what I see on
18 the video, that the other car would've been coming from his
19 right side?

20 A. They were --

21 Q. Passenger side?

22 A. -- parallel in each other on the passenger side of
23 Mr. Ivey's car. Is -- is -- if that's what you're asking?

24 Q. No, when -- when he's -- when -- now I'm confused.
25 When the collision happened or immediately prior to the

1 collision, it looks like -- my understanding is he's coming
2 from -- the car that -- the SUV is traveling forward, but on
3 the -- Mr. Ivey's passenger side, so on his right side as Mr.
4 Ivey is moving forward, is that about it?

5 A. If Mr. Ivey was a little different -- if it didn't
6 happen when it happened, Mr. Ivey would've been struck in the
7 passenger side of his vehicle by the K-9. But the way it
8 happened is, Mr. Ivey struck the K-9 on his driver's side.
9 Is that what...

10 Q. Right -- right. So that -- yeah. That -- we're
11 all saying the same thing.

12 A. Okay. Yes, sir.

13 Q. So that would -- and that would be kind of
14 Mr. Ivey's blind side, correct?

15 A. Well, I guess if he -- the way he turned, it
16 wouldn't be a -- I don't think it'd be a -- the vehicle was
17 turned in a direction to go. So it would be off to his
18 right. I guess if you consider that a blind side. It -- it
19 was on his passenger side.

20 Q. Right. There was a passenger in the car too,
21 correct?

22 A. Yes, sir, there was.

23 Q. All right. I mean, you have no -- we don't know
24 one way or the other if Mr. Ivey saw that other vehicle,
25 correct?

1 A. No, I don't know that.

2 Q. All right.

3 A. I don't know if he saw it while that was
4 happening. No, sir, I do not.

5 Q. All right. Obviously, I want to talk about the
6 gun and the foot chase.

7 A. Yes, sir.

8 Q. What was -- do you remember what your uniform was
9 at the time?

10 A. Yes. I would've -- I'm either wearing --
11 typically I wear five. They're called Kuhl, K-U-H-L.
12 They're like a breathable law enforcement type pants.
13 They're they look like a khaki type pants. We wear those.
14 You can wear them with civilian clothes, or you can get in
15 law enforcement and you -- I -- I'm not bringing my jeans or
16 my -- my clothes from home. It's something the government
17 they give us. It's kind of our -- our uniform. T-shirt, it
18 looked like I was wearing a T-shirt in that video because I
19 can see my arm in that video.

20 And then as far as my vest, we have a -- I've got a
21 bulletproof vest. It's green, it says "U.S. Marshals." And
22 I've got a bunch of pouches. One, I keep a taser, I keep a
23 baton, I keep a couple of pairs of handcuffs, I keep extra
24 magazines, I keep a med kit for emergencies, and I keep a
25 tourniquet on the top. So I've got a lot of stuff going

1 around me. And then I have armored plates that are in the
2 front and in the rear as well. And then I had my -- my thigh
3 holster.

4 Q. Okay. Thigh holster. And that -- and that was
5 situated about where you did the demonstration? Is that --

6 A. That's where I wear it.

7 Q. It was on your right leg, right?

8 A. Yes, sir.

9 Q. Okay.

10 A. That -- yes. That's my -- that's my actual
11 holster.

12 Q. Okay. It only took you a few seconds to locate
13 Mr. Ivey once you got into the water, correct?

14 A. Correct.

15 Q. Do you recall how deep the water was?

16 A. It was deep. He -- in the video -- Mr. Ivey is
17 tall and it -- I noticed he was -- I couldn't tell because
18 the bubbling, he wasn't just standing to let me know exactly
19 how deep it was. So it was a -- a lot of movement. I could
20 tell it wasn't just something at his knees, and I could tell
21 it wasn't something where he's underwater and could not stand
22 without the water being over his head.

23 We actually got in the water after the fact, and I
24 think it was the fire department who came, the fire
25 department came and actually got in the water. And they

1 walked around inside that water and they were able to do so
2 without being under the water, they could stand.

3 Q. Okay. Was that the next day or?

4 A. No. It -- it was that night. As I said, as I was
5 chasing Mr. Ivey, I could see him throwing things. So the
6 fire department brought out I believe it was search and
7 rescue, because it -- it involving water. So they went down
8 there. We just wanted to see if there was something we could
9 recover because I said that I saw him throwing things. So
10 they actually went down into the water and they walked around
11 in there and they -- they did a search in that same water.

12 Q. Okay. I can't remember how deep you said it was.
13 Was it about waist-deep, though?

14 A. I -- yeah, I would say in between waist and chest
15 would be it. It was -- it was not a hard bottom. I do
16 remember EMS saying that it was very soft on the bottom. But
17 it wasn't to where they couldn't stand. I stood next to
18 them. I stayed out on the scene for several hours after the
19 fact.

20 And they went down inside, walked around in that area.
21 They walked -- they walked all around. They didn't have --
22 they brought, actually, their dive suits. They brought dive
23 suits and respirators and everything. Because when I told
24 them it was in the water, they thought they were actually
25 going to do like an underwater search and they didn't have to

1 bring any of that stuff out.

2 Q. Was it a poorly lit area?

3 A. Not the greatest lit. Enough that I never lost
4 sight of Mr. Ivey. It wasn't the best conditions like we are
5 here and it wasn't pitch black where we couldn't see anything
6 that once he took off, he was gone. There was still a little
7 bit of light from the night. There were car headlights that
8 were everywhere. I know there was lights on the top of 526.
9 Not well lit, but enough that we could -- we could operate.

10 Q. Okay. But it was obviously at night time,
11 correct?

12 A. It was. Yes, sir.

13 Q. All right. As soon as you saw him -- you had a
14 flashlight on him as soon as you saw him, correct?

15 A. I don't remember if that was my flashlight or one
16 of the other officers. I do carry a flashlight right here,
17 and being at night, obvious reasons, it -- you got to have it
18 and you -- you want to get it out as quick as you can. I
19 don't know if I had my flashlight out that night.

20 Q. All right. There was a light on his face though,
21 correct?

22 A. There was -- it looked like somebody had a green
23 light. It looked like a green, or maybe that's just the
24 video, the way it's showing up in the -- in the body cam.

25 Q. Okay. And it could have been yours, it could have

1 been someone else's, you're not sure?

2 A. Well, I had one hand on the gun and one on his
3 throat. So I -- I wouldn't have been able to turn the
4 flashlight on if I had it.

5 Q. Okay. And obviously we all saw the video. It
6 looks like your hand was on his throat pretty quickly during
7 that interaction, correct?

8 A. Once -- yeah -- yeah. Once -- once it was, you're
9 in my space, I got to create distance. Absolutely. Yes.

10 Q. Right. Once your hand was on his throat, was he
11 still kind of standing up vertically or was he kind of semi
12 floating in the water?

13 A. I wouldn't say floating, but the -- it was a -- it
14 wasn't hard ground like standing on concrete. It was -- it
15 was -- it's a -- it's a ditch. It's a -- I don't know where
16 that water comes from. We had to throw away all our clothes
17 afterwards. Don't know what kind of water it is. I don't
18 know if it was a sewer, but it was -- it was pretty bad. But
19 it was -- it wasn't stable ground where he's standing still
20 with a solid platform.

21 But again, me involved, Austin involved, and Mr. Fogle
22 -- Officer Fogle involved, and then Mr. Ivey, there was a lot
23 of moving. I couldn't decipher if he's trying to -- it
24 wasn't just standing still, but everybody's still moving. I
25 want to get your hands, is what we're ultimately trying to

1 do. We're trying to get to your hands. Once he's in
2 handcuffs, it's over. And that's what we were trying to do.

3 Q. Right. So looking at the video, we've seen I
4 think enough times, but if you need it, I'm sure they'll --
5 they'll play it for you. All right. Hand on the -- the neck
6 right away to create distance, correct?

7 A. Yes, sir.

8 Q. And it looks like he's being -- he was flipped
9 over. Was that by -- or -- in the process of being flipped
10 over, was that by you or by someone else who was at a joint
11 effort?

12 A. I don't -- I -- I don't remember the flipping
13 over, to be honest. I don't -- I didn't -- I know I didn't
14 flip him. I couldn't with -- I'm pushing away and holding a
15 gun. Ivey's a big dude. I can't flip him with one arm.

16 Q. Right. Well, I think -- I thought you all said
17 flip him over. I might be wrong. Didn't need turn -- did
18 you see him turn -- either get turned around or get flipped
19 over or something in the end of the video?

20 A. Yes, sir. And if -- and if -- and if that's
21 happening, your hands are behind your back. We don't --
22 we're not going to handcuff you in the front because your
23 hands are still free. So the -- the goal is, we got to get
24 you with your hands behind you, want you to turn around. So
25 I -- I would say in that video, the attempt was trying to get

1 him to turn around to get his hands. But me, myself, I -- I
2 -- I wasn't -- I couldn't flip him.

3 Q. Right. Okay. And that was -- that was
4 immediately prior -- I'm sorry, that was in -- my head, right
5 before you say that he went for your gun, correct?

6 A. I -- I think so. I guess so. I -- there's a lot
7 of moving parts in a couple of seconds.

8 Q. I -- I understand. I agree. Was he -- what do
9 you remember, was he in the process of being turned around or
10 turned around when you said he first went for your gun?

11 A. So I -- so when I -- when I got to him, Mr. Ivey
12 wasn't trying to still get away. It was a face-to-face
13 encounter. And again, I -- I -- I rely a lot on what
14 happened in the past. Learned from what happened on prior
15 arrests. Learned from what happened during certain
16 situations. And as I mentioned to the jury earlier, usually
17 when you get to the "I've got you cornered" situation, it's
18 either immediately "I'm done, I give up," or fight or flight.
19 They're -- they're ready to fight so they can get away.

20 Boxing in was one attempt to stop crashing. The
21 vehicle is another attempt to stop running away. Now, we're
22 in the water. He's not going to stop. Like, what -- what's
23 it going to take to -- to get him to stop? So my thought is,
24 once we are face-to-face with this -- I got in a vehicle
25 pursuit following through 526 and I'll let you know where my

1 thought process is with Mr. Ivey at this time. Same
2 situation.

3 We had a vehicle pursuit. The guy got out, fled on
4 foot. It was over off Highway 41 -- going towards Highway 41
5 up off Daniel Island. We got to a wooded area just like
6 this. I chased an individual all the way down to the woods.
7 He was heavier set. I was faster. I caught up to him. When
8 I finally got to the point to where I caught up to him, it
9 wasn't the, "I give up," he actually turned around and
10 charged me, and I had my weapon out. I did not have time to
11 bring my weapon back in. And I did everything I could to get
12 it in.

13 He charged and come on me. And the only thing I could
14 do was strike him with the gun. It was a use-of-force
15 incident. He received a cut and he gave up after that. When
16 I encountered Mr. Ivey down in the wooded area, there wasn't
17 the, "I'm done," it was the, "We're face-to-face again." And
18 then the hand on the gun, to me it is, "You're not done.
19 You're still trying to do what you can do. I need to get
20 away from these cops."

21 Q. So I want to clarify. I want to make sure.

22 A. Yes, sir.

23 Q. The thing you just talked about --

24 A. Yes, sir.

25 Q. -- earlier was another incident, correct?

1 A. Yes, sir -- yes, sir.

2 Q. Okay. So when you talked about someone you
3 couldn't get your gun in and things like that, that -- that
4 is not Mr. Ivey, correct?

5 A. No, sir.

6 Q. Okay. I just want to make sure.

7 A. It -- when -- when I -- when I encountered
8 Mr. Ivey, making an arrest, you try to learn from what
9 happened in prior arrests. What if they did this, what are
10 they most likely to do? What's going to happen at this
11 situation? Going down into the wooden area -- wooded area
12 and Mr. Ivey and I are face-to-face. You -- you -- you go
13 back to your training; you fall back to your level of
14 training. You don't rise to the occasion.

15 That's why we're always training. You're always going
16 to fall back to your level of training, and you're going to
17 fall back to your experience. And my experience is in this,
18 is the body turn, looking in our direction, coming at me hand
19 on the weapon. He's not giving up.

20 Q. Right.

21 A. That's -- that's where my mindset was.

22 Q. Okay. So your mindset was -- was to the case --
23 to a prior case. Someone almost came pretty close to your
24 weapon, correct?

25 A. Yes, sir -- yes, sir.

1 Q. And -- and for your safety, you thought it --
2 probably thought -- that case was probably pretty high in
3 your mind, right?

4 A. Absolutely.

5 Q. Yeah. And as for your safety, you're safe and --
6 and we're glad (inaudible) being sincere. But hand on the
7 throat, right?

8 A. Yes, sir.

9 Q. Light in the face, correct?

10 A. He had a light in his -- somebody had a light on
11 --

12 Q. Someone was lighting the face?

13 A. Yes, sir.

14 Q. Gun underwater or not underwater?

15 A. No. My gun was -- I don't think my gun was
16 underwater. No, because I was -- I think I had a little
17 higher ground than Mr. Ivey. I don't remember -- I know my
18 clothes got completely wet. My shoes, socks, clothes had to
19 be thrown away. I don't -- honestly, I don't remember me --
20 how far I went underwater, or whether I went under water
21 right away or after I -- I -- it's been six years. I -- I --
22 I don't remember, sir.

23 Q. All right. Is there anything that you've seen --
24 fair to say, nothing you've seen here, nothing here indicates
25 that he attempted to actually take the gun away from you and

1 use it for himself?

2 A. I didn't let him get my gun. I -- I didn't want
3 to get to that. I didn't want to find out what he was doing
4 with his hand. His hand on my gun? I'm thinking, "You're
5 trying to take my gun." I'm not going to let him get my gun.
6 I didn't let him my get -- get my gun.

7 I don't want to introduce a gun into an arrest if I
8 don't have to. It's very dangerous to introduce a gun.
9 We're just trying to put this gentleman into handcuffs for
10 what North Charleston wants him for. I want -- that gun was
11 put away because I de-escalated the situation. It's at a
12 point now. Put it away. Let's de-escalate. If my gun
13 would've come out of the holster by Mr. Ivey, I don't know
14 what the outcome would've been that night, but we prevented
15 that. I strong armed, held it in, held him back, and
16 ultimately, we were able to get him into handcuffs.

17 Q. Right. But again, you don't know that he was
18 actually trying to go through your gun or to take the gun for
19 his own use?

20 A. I don't know what he was going to do if he got my
21 gun out of the holster. My -- my thought is, "You got your
22 hand on my gun."

23 Q. Right. You -- you don't. But he was -- and at
24 least waist deep, maybe belly button deep water, correct?

25 A. He was in water. Yes, sir.

1 Q. With, like, a hand on the throat, right?

2 A. Yes, sir.

3 Q. Okay. Fair to say it was just reason for anything
4 to get -- to get some leverage?

5 A. I don't know what his -- he -- he -- he got away
6 from our box technique. He got in a car chase with us. He
7 wrecked out his vehicle. He climbed over his passenger who's
8 injured. He ran from law enforcement, and then he gets to
9 the water. And I -- I don't think he's coming down to say,
10 "All right. Now I'm ready to play nice, guys. Sorry." You
11 got your hand on my gun. I'm protecting my gun.

12 Q. Right.

13 A. My mentality is, I -- I've -- 100 percent in my
14 mind, absolutely, Mr. Ivey is reaching for my gun. I had it
15 out. There are flashlights. He could see we have guns and I
16 put it away. Next thing was -- as I'm putting away, his
17 hands on my gun, and if I would've let go, my gun would've
18 been in -- in Mr. Ivey's hands. I don't think that's the
19 point he'd just throw it aside and say, "My bad, now I'm
20 going to give up." He was trying to take my gun.

21 Q. Right. And did he -- he never got the gun, right?

22 A. I didn't let him get my gun.

23 Q. Right. And your -- the flashlights on him, like
24 you said, it was (inaudible) indicate that he knew where your
25 gun was?

1 A. I don't know what he's thinking, but he -- he had
2 his hand on my gun.

3 Q. Right.

4 A. I had -- I had the gun out, as we faced, I put it
5 away. Because I could see his hands, and from there,
6 immediately his hands on my gun. What he's thinking, fight
7 or flight. He's trying to get away. "I don't want to go to
8 jail." He's already showed me everything. Why am I thinking
9 he's going to play nice of "I'm just going to put my hand on
10 your gun," and "Why you got your hand on my gun? It's over.
11 It's over."

12 Q. Right.

13 A. Mine is the safety for the officers. Safety for
14 Mr. Ivey. I don't want to hurt Mr. Ivey. I don't want
15 Mr. Ivey to hurt himself. I don't want him to hurt anybody
16 else. Let's put this gun away and get it out of the fight.
17 Let's just stop.

18 Q. Right.

19 A. But the hand on the gun, I -- we can't stop at
20 that point. There's a hand on the gun. And you saw how fast
21 I got it out of the holster.

22 Q. And which hand was it?

23 A. Sir?

24 Q. Would you know which hand was it that he had on
25 the gun?

1 A. I don't know which one. I don't know if it -- it
2 was his left or right. I'm -- I'm --

3 Q. Did you see what the other hand was doing?

4 A. I don't -- I don't remember, sir.

5 Q. All right. But -- so is there anything specific
6 -- is there anything specifically that you know, that he was
7 trying to get the gun because it was a gun? Or if he was
8 just trying to hang onto anything because he -- he's choked,
9 you know, that flashlight in his eye, waist-deep water?

10 A. I don't know what he's thinking, but his actions
11 give me a suggestion of what he's thinking. All leading up
12 to that, that he's not giving up. He did not give up until
13 we got him into handcuffs. And that's -- that's how --
14 that's how the whole situation went from the time we tried to
15 box Mr. Ivey in until he was in handcuffs, it was never over
16 until he was in handcuffs. That's when we consider
17 everything's safe and everything's over.

18 It was not over at that point. There was -- there was
19 so many ups and downs, and so many dangerous situations that
20 Mr. Ivey put everybody in while we're trying to an attempt an
21 arrest. And the very last thing was, there's a hand on my
22 gun. That's -- that's pretty serious to every officer
23 involved. That's why I -- that's why you -- you yell that
24 out loud. You let officers know. You let them know about
25 your gun because that gun is what's going to hurt somebody.

1 That gun is what's going to kill somebody. That gun would
2 allow a suspect to get away.

3 And I -- I was not introducing that gun to Mr. Ivey.
4 What he was thinking personally in his head at that moment?
5 I'm -- I'm not in Mr. Ivey's head, but his actions -- his
6 actions tell me what he's thinking. That's what he's
7 thinking. He's trying to get my gun, and I'm not thinking
8 anything else. Once we got him in handcuffs, then it's over.
9 We were so glad it's over. Now, let's go back and check on
10 his passenger. Let's go back and check on the officer.
11 Let's go back and check on the K-9.

12 Q. All right. So was his hand on the gun or on the
13 holster?

14 A. It was on my gun. Not -- not on a holster. I had
15 to hold my gun in -- I had to hold my gun. I've got a big
16 hand. It's around my gun. When I have my gun in the
17 holster, I'm not holding my holster. I'm holding the -- the
18 magazine well of my gun. That's how you take it in and out.
19 And when I put it in, I'm holding it the same way. Pushing
20 down. Mr. Ivey has big hands as well. Our -- both our hands
21 are on that -- on that gun in the holster. It wasn't -- he
22 wasn't on my holster. He was on my hand, on my gun. That's
23 how I knew he had a hold of my gun. Is we're -- we're
24 holding hands.

25 MR. SMALDONE: Okay. Body cam. Yeah, body cam. All

1 right. So (inaudible) State's 27. Okay. You want -- I'll
2 pass. Oh. That's what we're looking.

3 (Video starts at 12:19:37 p.m.)

4 (Video stops at 12:19:48 p.m.)

5 BY MR. SMALDONE:

6 Q. All right. Okay. So go -- I'll -- I'll -- played
7 the video just a moment, correct?

8 A. Yes, sir.

9 Q. And -- and just to -- just -- because it seems odd
10 to just talk about a video for that long. It's 30 --

11 A. Sure.

12 Q. Seems most efficient for everyone.

13 A. Absolutely. Yes, sir.

14 Q. So -- but fair to say -- I mean, not fair to say.

15 We've seen the video I'm about to -- the interaction is he
16 did not go for your gun nor did you not say you went for your
17 gun right away, correct?

18 A. No. Because I had time to get it down and put it
19 into the holster. Like I'm -- I -- I run with my gun out.

20 Q. Okay.

21 A. All the way up to the point of "It's time to put
22 it away." Once the foot chase starts, weapons come out.
23 Like you're -- you're chasing somebody anticipating something
24 to happen. As I said, items were being thrown. Just a few
25 months prior. Same situation. There's a gun. If -- if

1 something is introduced, I don't then have time to go, "I'm
2 being shot at. Let me go get my gun. Now come out."

3 As an instructor, we teach action is faster than
4 reaction, that you have to react to what's going on. So my
5 weapon out running is because I have a lot of unknowns about
6 Mr. Ivey. He's running away, he's throwing things into the
7 woods. Once we got to that water area, I was -- that's when
8 I went to put it away. So when we first got face-to-face, I
9 would say, "No, he didn't grab my weapon right away," because
10 I put it away. I was trying to put it away.

11 Q. All right.

12 A. I -- I got it into the holster.

13 Q. Got into the holster?

14 A. Yes, sir.

15 Q. And that's before you say he went for it, correct?

16 A. Yes. I didn't feel him on my weapon until I had
17 my -- so as soon as I put it in the holster, I want to rock
18 the lock switch back down. As soon as it's in the holster, I
19 can put it back in the holster really quick. Put it in the
20 holster rock, it's lever, and its back in. And it's locked
21 down. I just remember us have -- Mr. Ivey and I -- both, our
22 hands are together on my weapon. And again, it all unfolded
23 so -- so quick, and a lot of moving parts.

24 But the him and I holding my gun in my holster at the
25 same time is why I yelled out on the body cam something along

1 the lines, "Let go of my gun" or, "He's got my gun." I was
2 trying to let the other officers know because with that
3 happening, this hand's out of the fight, I can't put on
4 handcuffs with one hand. And me telling the other officers
5 that -- let them know that I'm -- I'm down to one hand. Like
6 I can't do anything with this. I'm not going to let it go.

7 MR. SMALDONE: All right. I'll just ask the Exhibit
8 27B, correct? It's already been admitted into evidence.

9 (Video starts at 12:22:29 p.m.)

10 UNIDENTIFIED SPEAKER: (Inaudible).

11 OFFICER ROE: (Inaudible) my gun. Don't go for my gun.
12 (Inaudible) away.

13 (Video stops at 12:24:09 p.m.)

14 BY MR. SMALDONE:

15 Q. All right. So you talked about flip. I think you
16 said flip -- flip that (inaudible) or someone said that,
17 right? Not that I care about.

18 A. It's --

19 Q. I'm not sure.

20 A. Sounds, yeah. I'm -- I'm not, I don't know who --
21 it was either Fogle or Austin -- Austin. Yes, sir. That's
22 what it sounds like.

23 Q. And it looked like he was in the process of being
24 either flipped over or turned around, correct?

25 A. It appears that way. Yes, sir.

1 Q. And when you said, "Don't go for my gun," is that
2 about the time you say you thought you first touched it or
3 nothing going on for a while?

4 A. I don't -- I just -- I shouted that when I
5 realized him and I both have my weapon. How much prior to
6 that? How many seconds prior to that? I'm not -- I'm not
7 sure. I don't remember. How long did he have his hand on my
8 gun and us fight over it? I'm not sure. I -- it happened
9 really fast, and watching the video, I don't remember I did
10 -- I do now seeing the video. I was halfway down that bank.
11 That bank surprised us that it was back there and there was
12 water back there. And until seeing the video, I -- I didn't
13 remember I actually was in the water. It's been six years.

14 Q. Now, you said you -- let me rephrase the last
15 question just -- just so we -- brief answer. When you first
16 felt the -- when you first felt someone's hand on your gun.

17 A. Yes, sir

18 Q. Other than your own.

19 A. Yes, sir.

20 Q. Was it a pretty short time before? You said a
21 pretty short time. Or three or four. One to three or four
22 seconds. When you said -- when you announced that he's got
23 your gun?

24 A. I don't know. On seconds in time, I'm -- I'm --
25 I'd be throwing out a number there just to throw a number and

1 I -- I don't -- I don't want to just throw a number. I -- I
2 announced he's got his hand on my gun when he had his hand on
3 my gun.

4 How much -- how many seconds ahead of that was I
5 pulling back to get it away before I realized that I can't
6 get his hand off and then I let the officers know? Was it
7 immediately he touched it that I let the officers know? I --
8 I do not remember that. And I -- If I gave you a second, I'd
9 just be throwing a number out there, sir.

10 Q. And I'm sorry I wasn't asking this -- this
11 specific amount in seconds. I just meant is it, was it about
12 the same time?

13 A. It -- it was about that time when -- well, I said
14 it Because he did it. So It -- it was that time.

15 Q. Right. Now, did you -- did you see it or did you
16 just feel it?

17 A. I don't remember seeing it. I -- I obviously felt
18 it because I said it, but I -- I don't remember if I looked
19 down, I don't remember -- I don't remember that part. I just
20 know I was fighting to keep my gun in the holster while I was
21 creating distance. Both my hands at that point, those --
22 that's -- I'm out of the fight from there. One is holding
23 you back and one is holding a gun. And from there, the other
24 officers are going to be the ones that -- to try to control
25 him, get his hands and put them in handcuffs.

1 Q. How many other officers were around?

2 A. I know Officer Fogle was out there and Officer
3 Rissanen was out there. I know others showed up after the
4 fact because in that direction of running, we were just the
5 first three to get up to him quick. But several were coming
6 after that because they heard a struggle. They heard the
7 yelling and they knew -- they saw the flashlights over in
8 that direction. They're heading to where -- where we are at.
9 Ultimately how many ended up over there once he's in
10 handcuffs? I'm -- I'm not sure. There was a lot of -- there
11 was a lot of cops out there that night.

12 Q. Maybe I'm wrong, but doesn't it look like he's
13 kind of flipped over on his side when you first announced
14 that he has your gun?

15 A. I -- can I watch the video again?

16 MR. SMALDONE: Yeah. You can watch it. Can you make
17 -- if that's okay with everyone, make it start halfway,
18 Exhibit 27?

19 (Video starts at 12:27:49 p.m.)

20 (Video stops at 12:28:46 p.m.)

21 BY MR. SMALDONE:

22 Q. Doesn't he look -- pretty looked over at that
23 point?

24 A. Looks like we're trying to put him in handcuffs.
25 And looking back at the video now, and -- and again, this is

1 -- I didn't remember being down in the water, obviously I can
2 see I was in the water, and if you look at the distance to
3 where I'm at in the water and the distance to where he's at,
4 I'm actually closer than when we demonstrated to Mr. Cooper
5 of the weapon of how close. If you look at where my waist is
6 and you look at where Mr. Ivey is, I -- I was actually really
7 -- I didn't realize I was that close to him. We're very
8 close down in that water.

9 And again, I'm always conscious of that weapon. Every
10 officer knows where the weapon is at. How long prior of him
11 having his hand on my weapon, did he have it before I said
12 it? I don't remember. But if you look at this video of
13 where Mr. Ivey is and how close I am, we're down in the
14 water. We're right on top of each other.

15 So not only is my gun, something that officers think
16 about is, "I've got a taser right here. I've got a baton
17 right here. I've got bullets over here. I've got an
18 additional backup weapon hidden on my body that I keep in
19 various places." There are other things that come into play
20 that, "I need to get you away. This is -- this is a lot of
21 dangerous stuff to introduce." And that -- that was a very
22 close contact struggle with Mr. Ivey.

23 Q. Okay. You said you were in the water. Does that
24 mean -- was your gun underwater?

25 A. It looks -- it looks like it was not -- it didn't

1 look like it's underwater. It looked like -- it looks like
2 my knees are above water in the video. I wasn't down -- I
3 wasn't in the water as far as Mr. Ivey, from what appears
4 from the video and what I can remember. I do know I ended up
5 in the water far enough where I had to throw everything away.

6 But when he had his hand on my weapon, looking back at
7 the video as well, I'm not underwater at the same height of
8 him to where he's underwater, just grabbing something
9 underwater. As the video appears, and from what I remember
10 is, I'm not underwater with a weapon that he's feeling
11 underwater trying to swim to. There's a -- there's something
12 to grab onto. I'm a -- I'm above him.

13 Q. Okay. And in that video, he -- he's not even
14 looking at your weapon (inaudible) that he hasn't, correct?

15 A. I don't know what he is looking at.

16 Q. It looks like he's split the opposite way, right?

17 A. It looks like they were trying to put him into
18 handcuffs.

19 Q. And he looks like he was facing the opposite
20 direction as you?

21 A. It looks like they're trying to put him in
22 handcuffs. It -- it -- to put him in handcuffs, they would
23 roll him over. But it -- it looks like they're trying to get
24 him in handcuffs.

25 Q. Okay. Which direction is he facing?

1 A. I don't know. I'd have to look back at the video.
2 I'm -- I'm -- I'm watching my weapon. I'm watching his
3 hands. I'm watching the flashlights during that video. It's
4 a very short snip. I'm -- I -- I don't -- honestly, I don't
5 remember. I'd have to watch the video again. I hate to say
6 that to you all because you probably have seen it over and
7 over and over again. I just don't want to give the wrong
8 answer or just agree to agree. I want to give you the -- I
9 want to give you the truth and the best answer, sir.

10 Q. Oh, I understand. So I'm going to ask the last --
11 what? The last -- I think I counted the last 25 seconds.
12 Let's do the last 30 seconds (inaudible). And I promise this
13 the last time we're watching.

14 A. Hey, I'm sorry. I'm sorry to have to do this.

15 MR. SMALDONE: Last 40 seconds.

16 (Video starts at 12:32:09 p.m.)

17 OFFICER ROE: (Inaudible) my gun. (Inaudible) Right
18 now. (Inaudible).

19 (Video stops at 12:32:34 p.m.)

20 BY MR. SMALDONE:

21 Q. Just to make sure I understand, you're the person
22 who -- whose legs we see, correct?

23 A. Those are my legs. Yes, sir.

24 Q. All right.

25 A. It looks like I'm on the edge of the bank of -- I

1 -- I do remember trying to get my footing. I was surprised
2 it was that the -- that the water was there. I do remember
3 trying to get my footing and we're not on stable level
4 ground. A lot of moving parts. And during that couple of
5 seconds that we're seeing, a couple of things are happening.
6 Put the weapons away, secure the weapons, get Mr. Ivey into
7 handcuffs so we -- so we can end this.

8 MR. SMALDONE: All right. And I'm almost done. All
9 right. Well, no further questions.

10 THE WITNESS: Yes, sir.

11 THE COURT: Anything on re-direct?

12 MR. COOPER: No, your Honor.

13 THE COURT: All right. You may step down.

14 THE WITNESS: Thanks, sir.

15 THE COURT: Call your next witness.

16 MR. COOPER: State calls Dr. Barry Weissglass.

17 THE CLERK: Please raise your right hand and place your
18 left hand on the Bible.

19 DR. BARRY LEE WEISSGLASS,

20 being duly sworn, testified as follows:

21 THE CLERK: Thank you. Please be seated. Please state
22 your full name, spelling your last name directly in the
23 microphone.

24 THE WITNESS: My name is Barry Lee Weissglass
25 W-E-I-S-S-G-L-A-S-S.

1 DIRECT EXAMINATION

2 BY MR. COOPER:

3 Q. Good afternoon, Dr. Weissglass. Can you tell the
4 jury where you are currently employed?

5 A. Well, I'm actually just retired as of 12 hours
6 ago, but I am at the time of this event. I was working with
7 the Carolina Center for Occupational Health which was in
8 January -- rather July 1st of 2019 --

9 Q. Move just a little bit closer to that mic.

10 A. Okay. In July 1st 2019 was bought by Concentra
11 Urgent Care.

12 Q. And what is the Carolina Center for Occupational
13 Health?

14 A. It was an office in which I was the medical
15 director, providing occupational care, but also some primary
16 care and urgent care.

17 Q. What is meant by "family care" or "occupational
18 care"?

19 A. Well, family care is medical care given to people
20 of -- either adults or children for just general care, like
21 an internist might or just a family doctor. And then
22 occupational care is care that is given that is more
23 specifically tailored to the needs of folks who are employed,
24 and are at -- and the events associated with their
25 employment.

1 Q. And in your role, Carolina Center for Occupational
2 Health, did you contract with the -- the City of North
3 Charleston, North Charleston Police Department?

4 A. Yes.

5 Q. What -- what would you be involved within there?

6 A. It is providing medical services including
7 employment exams, evaluation for injuries, treatment for
8 injuries and management of the needs of their employees from
9 a medical point of view. I'm sorry, I just cleared my
10 throat.

11 Q. Could you briefly describe for the jury your
12 educational background?

13 A. Starting from?

14 Q. Sir?

15 A. Starting from where?

16 Q. College.

17 A. College? I went to Yale College, and graduated
18 there, and went to NYU School of Medicine where I got my MD
19 degree. Then I did an internship and residency in family
20 medicine at the Medical University of South Carolina. Later
21 on, I be -- I got a Master's in Public Health from the
22 Medical College of Wisconsin, and then took my boards in
23 occupational medicine as well as my boards in family
24 medicine.

25 Q. And how long have you been practicing medicine?

1 A. It's been about 40 years.

2 Q. I think you may mention, are you board certified
3 in the field of occupational medicine?

4 A. That's correct.

5 Q. Would you consider that one of your expertise?

6 A. Yes, sir.

7 Q. Have you been qualified as an expert in that field
8 before?

9 A. Yes, sir.

10 Q. Ballpark, approximately how many times?

11 A. Probably between 30 and 40 times, at least.

12 Q. Have you ever been offered as an expert in that
13 field and not found qualified by a judge?

14 A. No, sir.

15 MR. COOPER: Your Honor, at this time, the State offers
16 Dr. Weissglass as an expert in the field of occupational
17 medicine.

18 MR. SMALDONE: And that's with no objection from
19 Defense.

20 THE COURT: No objection? All right. I -- I'll find
21 that expert testimony is necessary to assist the jury in
22 resolving certain factual questions. Dr. Weissglass is
23 qualified in the area of occupational medicine and the
24 testimony and methodology behind it is reliable. Ladies and
25 gentlemen, normally, an individual can't offer opinion

1 testimony to you. Normally they have to testify as to
2 something they saw, heard, smell or something of that nature.

3 However, there's an exception when someone is qualified
4 because of their education or experience. They're permitted
5 to give you their opinion in certain areas if I qualify them
6 as an expert. Dr. Weiss class will be qualified in the area
7 of occupational medicine. And -- and he'll be able to give
8 you opinion testimony in that area. That does not mean you
9 have to accept the opinion. It is merely evidence for you to
10 use as you see fit and give it the weight and credibility
11 that you would any other evidence in the case. Mr. Cooper?

12 MR. COOPER: Thank you, Judge.

13 BY MR. COOPER:

14 Q. Dr. Weissglass, focusing your attentions in June
15 15, 2018, did you have the occasion to treat Officer Wilson
16 Bishop, North Charleston Police Department?

17 A. Yes, sir.

18 Q. How did he come into your care?

19 A. He was referred by the city of North Charleston
20 Police Department for follow-up from for an emergency room
21 visit he had had for a motor vehicle accident.

22 Q. Are you aware of what incident led to that?

23 A. He had mentioned that he had been essentially
24 T-boned, had been hit on the driver's side of his vehicle by
25 another vehicle.

1 Q. Did you observe him to have any injuries?

2 A. At that point, I think he just had some minor
3 abrasions and otherwise he was not injured.'

4 Q. Probably the airbags?

5 A. I believe that was the cause of it. Yes, sir.

6 Q. I want to show you what's already in evidence as
7 State's 14.

8 A. There's something -- oh, there it is. Okay.

9 Q. Do you recognize this picture?

10 A. I believe this is the inside the interior of the
11 vehicle in which the officer was injured.

12 Q. And those are the airbags you see in that picture?

13 A. Correct.

14 Q. And showing you State's 15, what does this appear
15 to be?

16 A. The outside of the vehicle at the point of impact.

17 Q. Is that what you understand the point of impact to
18 be?

19 A. Yes, sir.

20 Q. Given the nature -- actually I'll also show you
21 State's 9.

22 A. It's -- there we go. Okay. It's coming up.

23 Q. I know we're (inaudible) around.

24 A. This --

25 Q. This is the same vehicle from that night?

1 A. Yes. Sorry. This is the rear of that vehicle.

2 Q. Let me show you State's 7. Do you understand that
3 to be the vehicle that struck Officer Bishop?

4 A. That's my understanding. Yes, sir.

5 Q. So when Officer was coming in only having minor
6 abrasions would you characterize him lucky?

7 A. I'd say he's more than lucky.

8 Q. In your experience in your years of working in
9 medical field occupational medicine and working with the city
10 of Charleston have you been involved in incidents where you
11 (inaudible)?

12 A. Yes, sir.

13 Q. What kind of injuries could be sustained -- or
14 certainly ones that you've seen because of automobile
15 accidents and guns and things of that nature?

16 A. I've seen the wide range of everything from
17 someone being very lucky, as this officer was, to death.

18 Q. What kind of injuries would you expect from
19 someone that was in a collision like this?

20 A. Typically, though, at least from a physical point
21 of view, have musculoskeletal injuries. So what happens is
22 that even though somebody is restrained, the head and neck
23 are only sort of restrained. And when there's a significant
24 impact, the head is something like a -- essentially a ball on
25 the end of a rope and it will just wave back and forth, move

1 around, can cause significant injuries to the structure of
2 the spine itself, or of the soft tissues surrounding it.

3 This is intensified if there's a rollover component,
4 because the forces involved are so significant and so radical
5 that it puts a tremendous strain on the support systems for
6 the head and neck and other parts of the body. Sometimes
7 people's limbs will get entangled in the pedals or under the
8 dashboard of the vehicle and we sustain fractures of the leg,
9 ankle, foot, and even pelvis.

10 And then of course, in addition to the head and neck
11 component we've discussed, it's frequent for the head to
12 actually hit part of the vehicle or in rollovers if there's a
13 broken window actually hit the ground in the -- the tumbling
14 action. And that can cause everything from -- and there's --
15 I don't know if there is such a thing as a minor concussion,
16 but a concussion to significant traumatic brain injury to
17 death.

18 Q. All right. Are you aware of another crash
19 involving a North Charleston K-9 vehicle a (inaudible)?

20 A. I don't remember exactly the date of it, but I
21 remember very well another --

22 MR. SMALDONE: Object to relevance.

23 MR. COOPER: I think it goes to show exactly what could
24 have happened (inaudible).

25 THE COURT: I'll overrule. He can testify.

1 BY MR. COOPER:

2 Q. Could you please tell the jury who it was.

3 A. This was another officer -- K-9 officer and his
4 K-9 partner were involved in an accident. They were in a
5 vehicle very similar to this, and had a fairly similar event
6 take place. He -- the -- the human officer was -- had
7 significant musculoskeletal injuries and I -- I think it may
8 have taken close to a year before he recovered. And
9 extremely sadly, his K-9 officer partner died as a result of
10 those injuries -- of the injuries received in that accident.

11 Q. Were you aware -- was Officer Bishop transported
12 to MUSC the night before he saw you?

13 A. I believe it was MUSC. Yes, sir.

14 Q. Do you know if that was precautionary?

15 A. I'm sure that they wanted to make sure there were
16 no injuries that would not be obvious from an -- in the field
17 evaluation.

18 Q. It was part of your evaluation between whether or
19 not he was fit to return to duty?

20 A. Yes, sir.

21 Q. And what was your conclusion?

22 A. That he was fit to return to duty.

23 MR. COOPER: I beg the Court's indulgence for one
24 second. Dr. Weissglass, I thank you for your time. I have
25 no further questions for you. Please answer anything that

1 the Defense may have for you.

2 THE COURT: Cross-examination?

3 CROSS-EXAMINATION

4 BY MR. SMALDONE:

5 Q. All right. Good afternoon.

6 A. Good afternoon, sir.

7 Q. All right. So you -- you were in the second
8 position to see Deputy Wilson Bishop, the deputy in question,
9 or the officer in question?

10 A. I'm not sure if more than one physician in the
11 emergency room had seen him prior to my seeing him, I was the
12 -- but we were the second facility, if you would, where he
13 was seen.

14 Q. All right. And you saw him the day afterwards?

15 A. Yes, sir.

16 Q. And you marked him fit for duty?

17 A. Yes, sir.

18 Q. Without any delays or anything like that?

19 A. Correct. No limitations. Full duty.

20 Q. All right. And that's because he's not injured?

21 A. The injuries were not of a significant enough to
22 prevent him from performing duty. He had some minor
23 abrasions and things.

24 Q. All right. But it wasn't recommended for desk --
25 even desk-duty interviews?

1 A. No, sir. Full duty.

2 MR. SMALDONE: All right. No further questions.

3 THE COURT: Anything on re-direct?

4 MR. COOPER: No, sir.

5 THE COURT: All right. Doctor, you can step down.

6 Thank you for being here.

7 THE WITNESS: Thank you, sir.

8 THE COURT: All right. So it looks like a good time
9 our -- the time to break because I believe you -- you don't
10 -- your next witness can't be here until tomorrow morning?

11 MR. COOPER: And that would be, I believe, our last
12 witness, Judge. Yes, sir.

13 THE COURT: Okay. All right. Ladies and gentlemen,
14 I'm going to let you eat lunch today before 3:00. We are
15 going to break now for the day. We have one more witness
16 who, because of his schedule, could not be here this
17 afternoon. So we're going to take care of that witness first
18 thing in the morning. And then the -- the parties will -- I
19 -- I don't know what Defense is going to do from their
20 perspective. But if -- if we're all done, we'll go ahead and
21 do closing arguments and stuff, hopefully before lunch
22 tomorrow is our plan.

23 So enjoy the rest of your day. Don't discuss the case.
24 I'm going to ask you all to be back here at 9:15. I have one
25 other matter I have to take up right at 9:00. Hopefully

1 they'll be here a little early, and I can get started with it
2 earlier. But just be here about 9:15 and we'll get to you as
3 absolutely as quickly as we can. Enjoy your evening. Again,
4 don't discuss the case, don't do any research, anything of
5 that nature. All right. Thank you.

6 (Jury exits at 12:48 p.m.)

7 THE COURT: Probably, so. All right -- all right.
8 Let's go ahead. We not -- we need to wait on the clerk. I'm
9 going to go ahead and give Mr. Ivey his Fifth Amendment
10 advisement. Go ahead and have that out of the way. Madam
11 Clerk, will you swear in Mr. Ivey?

12 THE CLERK: Yes. Can you please raise your right hand;
13 left hand on the Bible?

14 WILLIS TERREL IVEY, DEFENDANT,
15 being duly sworn, testified as follows:

16 THE COURT: All right. Mr. Ivey, you can have a seat
17 on the stand. All right. Right now, I'm going to explain to
18 you your rights under the First -- or the Fifth Amendment
19 rather. If you don't understand anything I say, please let
20 me know. If you want me to explain anything in more detail,
21 also please let me know. Now, we -- we are nearing, we
22 haven't reached the stage of the trial where you may present
23 a defense.

24 You have the right to claim the protections of the
25 Fifth Amendment which states that, "No person shall be

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

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

15 If you decide to testify, this decision on your part
16 must be freely, voluntarily, and intelligently made, with
17 knowledge of the protections given to you by the Fifth
18 Amendment, and the consequences of your decision to testify.
19 If you decide not to testify, I will instruct the jury that
20 they cannot give the fact that you did not testify any
21 consideration whatsoever. And there's to be absolutely no
22 discussion of that fact or prejudice to you because you
23 didn't testify.

24 It's left entirely up to you whether or not you want to
25 testify. You may talk with your lawyer some more, you can

1 talk with your family, anyone else, but the final decision is
2 left entirely up to you. Do you understand what about -- I
3 have explained to you?

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. Well, I'm going -- you
6 obviously have the night to think it over. I'm not going to
7 put you on the spot right now. So if you need to talk to
8 Mr. Smaldone anymore, anybody in your family, you'll have the
9 night to do that. Anything else? Oh, obviously there will
10 be motions at the conclusion of the State's case, but we have
11 already prepared a draft charge that we will email you here
12 shortly.

13 Also, some verdict forms. Obviously, those can change
14 depending on where we go at closing State's case. But
15 that'll be something for you all to look at this afternoon.
16 If you have any questions, changes, suggestions, just let us
17 know.

18 MR. COOPER: Thank you.

19 THE COURT: All right. We'll see you all back ready to
20 go in the morning.

21 MR. COOPER: Thank you, Judge.

22 MS. GEARDING: Thank you.

23

24 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

25 12:52 P.M.)

1 CONTINUATION OF PROCEEDINGS - NOVEMBER 6, 2024.

2 MR. COOPER: Judge, there's two things the State would
3 ask. One, if you look at page 18, it is the end of the
4 charge for the attempted unlawful taking of a firearm from a
5 law enforcement officer. And this is a bit of a weird
6 request. I've never had this charge before. And in looking
7 at the statute, it does list those five factors.

8 THE COURT: Uh-huh.

9 MR. COOPER: The problem is, factor four is the law
10 enforcement officer's authorized by his employer to carry the
11 weapon in the line of duty, that applies to this case.
12 Subsection five is the law enforcement officer, correction
13 officer, is authorized by his employer to carry the weapon
14 while off duty, has to identify himself as a law enforcement
15 officer. That doesn't apply to our case. The top of the
16 statute says that all these things happen -- it says, "If all
17 the following circumstances exist at the time of the firearm
18 was taken." I think the statute was written incorrectly.
19 Because --

20 THE COURT: Well, I -- I -- I'll stop you there. I
21 commented to Caroline when we were drafting the charge, that
22 might be one of the most inartfully drafted statutes I've
23 ever seen. But it is what it is. It -- it -- it almost
24 looks like those factors should be "ors" instead of "ands."
25 And then it -- and the reason we put the definition of weapon

1 in there is because it talks about a firearm in the
2 beginning, and then refers to weapon throughout the rest.

3 MR. COOPER: Yes, sir.

4 THE COURT: I mean, it is -- but that's what they gave
5 you. So what was your suggestion before I interrupted?

6 MR. COOPER: My suggestion was going to be take out
7 subsection five, because I -- I don't think they can exist at
8 the same time. But if your Honor -- I understand why your
9 Honor may not be inclined to do that. Then I would be asking
10 permission to recall Robert Roe to ask him one question of if
11 he's allowed to carry it off duty. And I don't -- I haven't
12 had a chance to ask him that question. I was just looking at
13 it last night, and it seems like it should be an "or" because
14 those both cannot exist at the same time, which is what the
15 statute requires. So I would ask, would you take out number
16 five? Because it doesn't apply to this case.

17 THE COURT: Yeah, I -- I -- and I -- I don't even know
18 how to interpret number five.

19 MR. COOPER: I -- I -- I mean -- I guess it -- maybe
20 it's the long -- I don't know, Judge. (Inaudible) I have no
21 idea.

22 THE COURT: Mr. Smaldone, what is your position?

23 MR. SMALDONE: Your Honor, I -- I believe that the
24 legislature is -- is drafted a statute, and however odd that
25 statute may be, which I think applies to another statute

1 we're about to talk about, it is the statute. So I can't
2 just agree to amend the statute of all things a statute with
3 regards to -- I got to protect my client on that one.

4 MR. COOPER: I would ask your Honor if we're not
5 inclined to start admitting statutes, if I could have Robert
6 Roe answer that question via phone?

7 THE COURT: I -- I will permit you to recall him. I
8 mean, you -- you haven't rested, so that's your prerogative.
9 You can call any other witnesses you want. And I -- I know
10 quite often, for instance, in -- in -- in burglaries or -- or
11 there's some other charge, like the burglary charge where
12 they say "or," I'll -- we will frequently omit the
13 subsections that I find don't apply to the facts of the case.

14 But I think because the word "and" is in there, I -- I
15 have to charge the statute. If it said "or," I -- I could --
16 I think we can all agree -- we could agree that which may
17 apply and may not. But it says "and," and I think I have to
18 charge it as the legislature drafted it. And again, you
19 hadn't rested, so you can call whoever you need to call.

20 MR. COOPER: And this may be a question also for
21 Mr. Smaldone. Would your Honor or Mr. Smaldone have any
22 objection to doing that one or two questions by phone? I
23 don't know what his schedule is like today.

24 MR. SMALDONE: I -- I -- I got to protect my client. I
25 don't think I -- I -- I'll leave it in your Honor's

1 discretion, but I can't consent to that.

2 THE COURT: I mean, if he wants him here, I think that
3 gets into a confrontation issue that that's -- that's a
4 bridge too far from me. I mean, if you --

5 MR. SMALDONE: I understand.

6 THE COURT: And I -- I -- never mind. Go ahead. What
7 -- what's next?

8 MR. COOPER: The second thing, Judge, would be you have
9 the ABHAN charge in there. You also have your intent charge,
10 which talks about recklessness and negligence. In State v
11 Smith, which is 430 S.C. 226, I believe it was our Supreme
12 Court, indicated that ABHAN is a general intent crime.

13 And then there is -- it is State v Perry, which is 440
14 S.C. 396 from 2020 from our Supreme Court. It says, "Whereas
15 general intent is the State of mind required for the
16 commission of certain common law crimes, not requiring
17 specific intent. And it usually takes the form of
18 recklessness or negligence." And I would just ask your Honor
19 to add into the ABHAN charge, that ABHAN is a general intent
20 crime. It involves negligence or recklessness, because I
21 don't want the jury to be confused on what is required to
22 prove that intent.

23 THE COURT: Mr. Smaldone?

24 MR. SMALDONE: Your Honor, I'm not familiar. I might
25 have glanced at these cases last night, but I -- I would just

1 ask for a couple minutes to glance these --

2 THE COURT: I typically just charge it this way. I --
3 I mean, we define intent. I -- I normally don't add it to
4 the specific offense-related portion of the charge. I think
5 that's certainly something you can argue. I mean, I -- I
6 don't -- there's nothing in the charge that says it's a
7 specific intent, right?

8 MR. COOPER: Correct, Judge. It's just the -- the lack
9 of --

10 THE COURT: And (inaudible).

11 MR. COOPER: And certainly, I -- I'm -- I'm -- I'm
12 going to argue that. But I just think it would be helpful
13 because it has been declared a general intent crime, just to
14 make that clear for the jury -- just so they're not wondering
15 because you haven't said it that I'm wrong and that's not the
16 case.

17 THE COURT: Well, aren't they going to know what I'm
18 talking about if I say that?

19 MR. COOPER: Well, hopefully, they'll hear it from me,
20 they'll hear it from you. So that may make (inaudible), but
21 maybe not.

22 MR. SMALDONE: I -- I have plenty of other intent
23 arguments that -- that I'll submit that -- that now -- either
24 now or definitely directed verdict. But I -- I'm still kind
25 of glancing over these cases. I would object because I think

1 it's confusing because I still don't think, even with those
2 elements of intent, recklessness -- recklessness or
3 negligence, I still don't think that applies to this case.

4 So one, I think that confuses the jury. Certainly,
5 that's an argument of directed verdict as well. But I think
6 there's a difference between this case and what I'm trying to
7 catch up on with --

8 THE COURT: Well, I think I'm going to leave it like it
9 is on that. We'll just charge on intent. And I'm -- I'm not
10 going to add that -- because I mean, basically for ABHAN, I
11 have just charged the statute. They -- I think if -- if the
12 legislature wanted it to be part of the statute, they could
13 have put it in there. So I'm going -- I'm going to leave
14 that as is.

15 MR. COOPER: Understood. Yes, sir. Thank you. That's
16 the only (inaudible) the State had or questions the State
17 had.

18 MR. SMALDONE: All right. So I have -- and I prepared
19 these -- my directed verdict argument first, and we haven't
20 gotten to that point. So I'm trying to kind of separate
21 those two things. Because a couple things sort of apply, but
22 not. I would ask -- and it -- and it does go to intent. I
23 would ask that -- sorry. I'm trying to figure out which
24 applies to which.

25 Of course, I would -- I would object to any language

1 about recklessness or negligence because I think it confuses
2 the jury because I still don't think those elements or those
3 -- those factors apply to this case. I would say that
4 recklessness is negligence, as -- as firing a gun in the air,
5 firing a -- or swinging a -- a bottle in a fight, throwing
6 rock --

7 THE COURT: Driving down the wrong side of the road and
8 crashing into a patrol car.

9 MR. SMALDONE: It -- it could be, but it looks like in
10 this case, that didn't really play a -- the wrong side of the
11 road didn't really play a factor in this. But we'll -- we'll
12 get to the next witness. So I think that they don't apply,
13 however -- not however. Additionally, I would ask for
14 specific intent language on ABHAN as it relates to the means
15 accomplished by -- accomplished by means, substantially
16 likely, or -- to have inflicted great bodily injury or death.

17 The reason I ask for that is because, you know, the
18 State's position, and it seems -- it seems like attempted
19 murder is specific intent. ABHAN as it relates to the great
20 bodily injury is general intent. However, the section of
21 ABHAN that says "injury," and then it says "means likely to
22 have caused," that basically makes it an attempt statute.
23 And it -- all attempt statutes are specific intent --
24 specific intent, namely -- I mean, for example State v
25 McGowan, which came out 2020, and that's -- I believe that's

1 430 S.C. 373.

2 State v McGowan relates to A and B first. And it says
3 that basically someone shoots at a house they didn't know a
4 specific child was in there. They should have gotten a
5 directed verdict or can't remember. They should have got
6 directed verdict. They should have charged that. They had
7 to have hit that specific child.

8 ABHAN is kind of a strange and -- and kind of going
9 back to strangely written statutes, in my opinion. ABHAN has
10 the great bodily injury element, which probably general
11 intent. But when you say an injury of any sort and -- and
12 here it sounds like abrasions, but it could have caused
13 something else. Not could, sorry, substantially likely to
14 have caused something else. That really makes it an attempt
15 statute. It makes it a "Yeah, you scraped your knee, but you
16 could have -- could have gotten killed."

17 Well, that is -- that is an attempt statute and
18 anything otherwise is, I would say overbroad, it's --
19 additionally, I would say burden shifting. When you say --
20 when I have to argue against hypotheticals, what could have
21 happened? I think it puts an unfair burden on the Defendant,
22 because then we're not dealing with facts A and B first --

23 THE COURT: Well, I'm not sure I necessarily disagree
24 with you about the hypothetical part of it, but I don't get
25 to write them.

1 MR. SMALDONE: Correct. Well -- I mean, there's no --

2 THE COURT: Folks at Columbia do that.

3 MR. SMALDONE: Right.

4 THE COURT: And that's what they said the law is. I --

5 I -- I would be inclined on some level to agree with you that

6 you are having to defend against a hypothetical situation.

7 Fortunately for him, it is hypothetical.

8 MR. SMALDONE: Right.

9 THE COURT: But that's what the law is.

10 MR. SMALDONE: Well, the law -- I mean the -- the law

11 is -- is subject to interpretation. And the law is subject

12 to -- I mean, for example, A and B first, I mean, I can't --

13 I'll pull up the statute of A and B first, but -- I mean,

14 there's nothing in A and B first that says level of intent.

15 It's just written a lot like -- a lot like ABHAN. Now, the

16 Court of Appeals has said because it's an attempt statute, it

17 -- it is specific intent. And the same -- same exact thing

18 with this other than minor injury. It -- I -- I think it --

19 it applies.

20 THE COURT: Well, I -- I mean, I -- I think the case

21 law is pretty clear that ABHAN is a general intent, and until

22 there's something that says otherwise, you've got to charge

23 it that way. I -- I don't think there is a -- anything here

24 that warrants a specific intent at this juncture. Unless you

25 got a case that says so.

1 MR. SMALDONE: Well -- I mean, there's the McGowan
2 case, and then there's -- every -- basically every case that
3 I find is -- is the actual injury. And the issues in all
4 these cases that I -- that I've seen are, "Did the Defendant
5 intend to inflict the specific type of injury?" And courts
6 are generally clear that -- that that's not required. Well,
7 one, that doesn't -- Defendant didn't intend to inflict any
8 injury. So I think that's a directed verdict -- verdict
9 argument.

10 But when you combine -- he didn't intend to inflict any
11 injury plus the injury that didn't happen, or the injury that
12 did happen could have been worse. You have two different --
13 two different strange things combining together to create
14 just this unfair burden against us. Because we have to prove
15 -- they don't have to prove anything. They have to prove --
16 they don't have to prove that he intended to do it. And then
17 they -- they don't have to prove that the thing that he
18 didn't intend to -- to do caused an injury that didn't
19 happen.

20 THE COURT: I think they still have to prove intent.

21 MR. SMALDONE: I -- I -- I agree with that. Now, what
22 level of intent and what that -- that means is probably
23 something I'm still figuring out exactly what a negligent or
24 reckless intent is. Because I think intent means he intended
25 to do what happened. And -- and I think that's a directed

1 verdict argument because he didn't -- I think I'll -- I'll
2 say that one, though.

3 THE COURT: Okay.

4 MR. SMALDONE: And so, I have -- I have additionally,
5 since we're on charges, I kind of got in my directed verdict
6 mode for a second. There's a case and -- and I -- it is
7 dicta. Well, I'll -- I'll let your Honor read it. I don't
8 know if it's dicta or not. It's been a while since law
9 school. So in the case of -- apologize, do I have it? I
10 might just have it saved. Oh, no. Guderyon -- State v
11 Guderyon, G-U-D-E-R-Y-O-N, and that is 438 S.C. 476.

12 And that's a case that I -- that I was talking about.
13 The issue was -- this is the -- happened over at Carlos and
14 Charlie's at Broadway, the beach, in Horry County. Someone
15 punched someone in the head, they fell, they later died. And
16 then also another factor was the bouncers dragged him and
17 might have actually caused the injury.

18 This -- the Defense -- the State and Defense -- this is
19 a little strange because the State is arguing basically what
20 I would argue, the Defense is arguing otherwise because of
21 the way the case played out. Judge Culbertson is charge --
22 or in response to a jury question, I believe. Intent was an
23 issue, obviously. His -- and I would ask for this language,
24 and I beg the Court's indulgence. Because I --

25 MR. COOPER: What was that citation again?

1 MR. SMALDONE: Oh, sorry. 438 S.C. 476.

2 MR. COOPER: 476. Thank you.

3 MR. SMALDONE: It's Court of Appeals, but looks like --
4 I think it's (inaudible) status, I think. (Inaudible).
5 "Jury instruction to convict Defendant of ABHAN, the State
6 must prove beyond a reasonable doubt that the -- the
7 Defendant intended to unlawful -- unlawfully injure another
8 person." And now that is -- that was Judge -- that was Judge
9 Culbertson's charge, the trial level. But the Court of
10 Appeals said that was fine. So I would ask that the jury
11 charge say -- and I have proposed charges, the jury charge
12 say, "The Defendant intended to unlawfully injure another
13 person."

14 THE COURT: Well, I think that's sort of what the State
15 was asking part of to begin with, wasn't it?

16 MR. COOPER: I -- I'm happy with that. If you can just
17 include the part that says "general intent." Because I have
18 the Supreme Court cases to connect those dots, which gets us
19 back to recklessness. Because our Supreme Court is set in
20 two different cases. Just so it's on the record,
21 State v Smith, which is 430 S.C. 226, and it's actually in
22 footnote nine at the bottom, where they mentioned that ABHAN
23 is a general intent crime.

24 And then United States versus Clemons, which was also a
25 case from the Fourth Circuit. They had a federal question

1 that went to the Supreme Court. And in that case, they
2 talked about that both A and B second and ABHAN could be
3 convicted with the mens rea of recklessness. They have the
4 same language, it's just one's "moderate" and one's "great
5 bodily injury." But they said that you could be convicted
6 with the mens rea of recklessness for ABHAN and A and B
7 second.

8 So I think our Supreme Court has been very clear that
9 the intent required for ABHAN is general. And it can be
10 recklessness. So if Mr. Smaldone wants that language in
11 there, love to have it in there, but would love to have the
12 part that connects those dots that it's general intent and
13 that's recklessness. Could be recklessness.

14 MR. SMALDONE: And I'll -- I'll just add that the
15 Clemons -- the U.S. case, the federal question case is kind
16 of goes to what your Honor said earlier. They -- they do say
17 that, but then they mention the attempt part of the
18 A and B second statute is specific intent. So more reason
19 for my prior argument.

20 THE COURT: All right. I -- I think on the intent, I'm
21 just -- I'm just going to leave it like it is, and then if
22 I'm wrong, they can fix it in Columbia. All right. What's
23 next?

24 MR. SMALDONE: I would ask for -- because there's --
25 and it depends on the witness's testimony but I anticipate

1 the State arguing that there was an injury of some sort. So
2 I don't think A and B first would apply. But as far as
3 lesser included offenses, I would ask for A and B second --
4 well, first of all, this is an alternative argument. Because
5 directed verdict I would ask for something different, but I
6 anticipate that that argument fails that -- that for my
7 client's benefit A and B second as well as A and B third
8 should be charged to the jury.

9 THE COURT: What's the State's position on lesser
10 included?

11 MR. COOPER: Your Honor, and I -- I've been in this
12 situation before and I'll say it again. I may be talking to
13 myself out of a conviction. But I don't believe that's
14 appropriate. I think the facts in this case are, he did have
15 minor abrasions, but certainly with the impact of the vehicle
16 -- there's case law, I can find the case.

17 It talks about a weapon can be -- or a vehicle can be a
18 deadly weapon. I think it's ABHAN, I don't think you get --
19 I think it's great bodily injury or death. I don't think
20 that kind of instrumentality gets you down to A and B second
21 and A and B third. I -- I -- again, I could be talking to
22 myself about that conviction, but I think the appropriate one
23 is just ABHAN.

24 THE COURT: Okay. All right. I will -- I will look at
25 that and I would just --

1 MR. COOPER: Judge, I do have -- sorry, I can give you
2 that case that talks about "an automobile is a dangerous
3 instrumentality." That is State v Phillips, 226 S.C. 297.

4 THE COURT: Okay. No, I -- I'm -- I'm -- I agree with
5 you on that. I'll look at whether or not we'll charge A and
6 B second, A and B first as lesser included. Anything else?

7 MR. SMALDONE: Court's indulgence? Let me scroll
8 through. Not at this time, your Honor. I don't anticipate
9 anything additional.

10 THE COURT: You all ready to bring the jury in?

11 MR. COOPER: Yes, your Honor. I have the one witness
12 here, and then I'll assume by the time I'm done with that
13 witness, Deputy Roe will be back.

14 THE COURT: Okay. Very good. Bring in the jury,
15 please, sir. All right. You all, also, one of the
16 alternates called in sick today. It was an alternate, so I
17 don't think that -- obviously it's not changing the
18 composition of the jury. She -- so she's not here. Just
19 want to let you all know that.

20 MR. SMALDONE: I think I know which one.

21 THE COURT: It's the lady that had the -- been coughing
22 all yesterday. She called in and said she had an asthma
23 attack or something this morning. So doesn't change the
24 composition of the jury. Just want to get that on the
25 record.

1 (Jury enters at 10:36 a.m.)

2 THE BAILIFF: All jurors are present, your Honor.

3 THE COURT: Very good. Thank you, sir. All right.

4 Ladies and gentlemen, sorry to keep you waiting. We had a
5 matter that I had to address first thing this morning. It
6 went a little longer than I anticipated. So we -- and we
7 also took care of some administrative things that we need to
8 do for this trial rather than shuttle you back and forth
9 later. So -- but again, I -- I appreciate your patience and
10 I apologize for keeping you waiting. Mr. Cooper?

11 MR. COOPER: Thank you, Judge.

12 THE COURT: Call your next witness.

13 MR. COOPER: State calls Trooper Wilson Bishop.

14 THE CLERK: Please raise your right hand, place your
15 left hand on the Bible.

16 TROOPER WILSON BISHOP,

17 being duly sworn, testified as follows:

18 THE CLERK: Please be seated. Please state your full
19 name, spelling your last name directly in the microphone.

20 THE WITNESS: Wilson Bishop, B-I-S-H-O-P.

21 DIRECT EXAMINATION

22 BY MR. COOPER:

23 Q. Good morning, Trooper Bishop. How are you?

24 A. I'm good, thank you.

25 Q. Will you tell the jury where you are currently

1 employed?

2 A. Currently I work for the South Carolina Highway
3 Patrol. .

4 Q. How long have you been with Highway Patrol?

5 A. I just started over there a little over a year
6 ago.

7 Q. And where were you at before Highway Patrol?

8 A. I was with the Berkeley County Sheriff's Office
9 for about 11 months, and then with the North Charleston
10 Police Department for nine years before that.

11 Q. And you were at North Charleston in June, 2018?

12 A. Yes, sir.

13 Q. What was your role there?

14 A. I was a K-9 handler.

15 Q. Can you describe to the jury what that role
16 entailed?

17 A. So I was partnered with a K-9 officer -- well, he
18 was trained in narcotic detection, apprehension, building
19 searches, tracking, article searches and obedience. We would
20 go out on daily routine patrol, and then just assist other
21 teams within the department on anything they had, whether it
22 was tracking somebody, missing children, narcotics
23 detections, or if there was burglary to a residence, we'd
24 take the dog over there and we could clear the residence with
25 the dogs.

1 Q. What was the name of your K-9 officer?

2 A. Nero.

3 Q. How long had you been with Officer Nero?

4 A. Me and Nero were partnered up in 2016.

5 Q. Would you recognize pictures if I showed you
6 pictures of him?

7 A. Yes, sir.

8 MR. COOPER: May I approach the witness?

9 THE COURT: Yes, sir.

10 BY MR. COOPER:

11 Q. I'm going to show you what's been marked, for ID
12 purposes only, as State's 24 and 26. Can you tell me if you
13 recognize those photos?

14 A. Yes, sir.

15 Q. And how do you recognize them?

16 A. This one is Nero, and then this one is me and Nero
17 after doing a demonstration for students at a school.

18 MR. COOPER: Okay. Your Honor, at this time, the State
19 would offer what's marked, for ID purposes only, as
20 State's 24 and 26 into evidence.

21 THE COURT: Any objection?

22 MR. SMALDONE: Yeah, I object to relevance. And under
23 403, I don't think it's probative and it's prejudicial.

24 THE COURT: All right. I'm going to overrule the
25 objection. They'll be admitted subject to your objection as

1 State's 24 and 26.

2 (State's Exhibit 24 and 26 admitted into evidence.)

3 MR. COOPER: Thank you, Judge. Madam Clerk

4 (inaudible), we'll start with 24.

5 BY MR. COOPER:

6 Q. Is that Officer Nero?

7 A. Yes, sir.

8 Q. And then State's 26, that's you and Nero?

9 A. Yes, sir.

10 Q. Is he still in your department?

11 A. No, sir. He retired.

12 Q. And what happens when a K-9 retires?

13 A. So once they retire, they -- the department will
14 release all liability and ownership of the K-9 to the
15 handler. So Nero now lives at home with me, living out his
16 life.

17 Q. I want to focus your attention now to this case in
18 June 14, 2018. How did you get involved?

19 A. I received a phone call from our Intelligence-Led
20 Policing Unit, in reference to -- they were actively looking
21 for somebody and had information where that individual may be
22 at. So I met up with them and we went from there.

23 Q. Why -- as -- you as a K-9 officer, why were you
24 involved?

25 A. A couple reasons. So a lot of times when we may

1 be -- when we're looking for individuals with Intelligence-
2 Led Policing, there's a lot of risk. The individual may
3 flee, whether it's in a vehicle or on foot. If he flees on
4 foot, I'm there quickly to put Nero on the ground, and we can
5 track them. So that'll limit the time frame, so to say. So
6 it's going to be a fresher scent so we have more opportunity
7 of locating that individual.

8 If they flee in a vehicle, I can deploy K-9 Nero from
9 my vehicle. If that vehicle comes to a stop and they flee
10 from that vehicle on foot, depending on what the charges may
11 be in that, as long it falls within policy, that kind of is
12 there to protect the public where we can quickly apprehend
13 somebody.

14 Q. Did you happen later that night to be involved to
15 the traffic stop on Defendant's vehicle?

16 A. Yes, sir.

17 Q. Describe to the jury how that attempted traffic
18 stop went down?

19 A. So we -- I was behind the vehicle. Three cars,
20 two came on each side, one attempted to block in front. We
21 were going to block them in to reduce safety or to reduce any
22 danger to the citizens of it being a high-speed pursuit.
23 When we did that, suspect vehicle was able to come out of the
24 front and then it turned into a pursuit going down
25 Rivers Avenue into oncoming traffic.

1 With the policy that we had in place at North
2 Charleston, we're not pursuit into oncoming traffic, that is,
3 so we paralleled the vehicle. So I was in one side of the
4 road going with the flow of traffic with other officers still
5 pursuing the vehicle that was going into oncoming traffic.
6 Once we got up to the intersection of Rivers and 526, the
7 suspect vehicle cut across the median and T-boned my vehicle,
8 causing it to flip over.

9 Q. And you had a dash cam at that time?

10 A. Yes, sir.

11 Q. I'm gonna show you what's already been admitted as
12 State's 29, please. Showing your dash cam.

13 (Video starts at 10:43:33 a.m.)

14 BY MR. COOPER:

15 Q. As it plays, can you tell the jury what is going
16 on in the video?

17 A. Yes. So this truck in front is law enforcement.
18 This is my dash cam from mine and Nero's patrol car. Right
19 now, we're on Morningside Drive coming up the Rivers Avenue.
20 You're going to see this truck's going to come off to the
21 right, this Tahoe's going to come over to the left in just a
22 moment. That Tahoe is also law enforcement. This is going
23 to be our suspect vehicle right there in the middle. This
24 top -- this car on the right is law enforcement. That's us
25 attempting to block it in and as you can see, he evades that

1 through the front of it.

2 Q. Do we see blue lights -- blue lights on this, sir?

3 A. Yes, sir. Lights and sirens. And this is going
4 to be the suspect vehicle right there going back and
5 oncoming. So this is Rivers Avenue. We're headed westbound
6 on Rivers Avenue, suspect's traveling in the eastbound lanes
7 going westbound, though. Right now we're headed towards the
8 intersection of 526 and Rivers Avenue.

9 Q. How fast are you going at this point?

10 A. Right now we're doing 100 miles an hour. 102.
11 And this is Rivers and 526.

12 (Video stops at 10:45:35 a.m.)

13 Q. Can you tell the jury what was going through your
14 mind right as your car landed back on the ground?

15 A. Initially, "I'm alive" was the first thought. My
16 second thought was that my dog was dead. We had just lost a
17 K-9 a few months prior to that collision, and those dogs will
18 genuinely sacrifice their lives for us. And the only promise
19 I make to that dog is to bring them home. And I -- I thought
20 that wasn't going to be a problem, so I could uphold that
21 day. That's my concern as to Nero.

22 Q. Was he ultimately okay?

23 A. Ultimately, he was.

24 Q. What did you do once you got back on the ground?

25 A. I believe I told one of our officers, Souther,

1 that I was okay, and then had to find a way out the car, I
2 had to make sure Nero was -- because when inside of his
3 kennel, he just gets slung around. So I had to make sure --
4 that was my main priority, was that he was okay. Once I
5 heard him, I knew that we need to get out of the car.

6 Q. I'll show you what's been marked, for ID purposes
7 only, as State's 12 and 13. Tell me if you recognize those
8 exhibits, please, sir.

9 A. So this is Nero's kennel, and then this is our
10 toolbox that we carry in the back of our patrol vehicles.

11 Q. And that's from your vehicle?

12 A. Yes.

13 MR. COOPER: Your Honor, at this time, the State would
14 offer what's been marked, for ID purposes only, as
15 State's 12 and 13 into evidence.

16 THE COURT: Any objection from the Defense?

17 MR. SMALDONE: No objection.

18 THE COURT: All right. That'd be admitted as State's
19 12 and 13 without objection.

20 (State's Exhibits 12 and 13 admitted into evidence.)

21 MR. COOPER: Thank you, Judge. May I publish?

22 THE COURT: Yes, sir.

23 BY MR. COOPER:

24 Q. Just show us State's -- what does this picture
25 show us, sir?

1 A. So this picture's mainly -- well, it's our
2 toolbox. It carries everything from the dog's harnesses,
3 leashes, first aid kits, water bowls, water, everything we
4 need for that dog on a normal day of work. What this is
5 showing down here at the bottom of this toolbox --

6 Q. (Inaudible).

7 A. So this right here is a new reinforcement that we
8 had to go in and do. And February of 2018, K-9 Mojo and his
9 handler were involved in a collision. And ultimately this
10 toolbox is what took Mojo's life. It wasn't secured to the
11 frame and weighed probably 400 pounds, and just shot through
12 the back of the kennel and ultimately just crushed him. So
13 we had to go in there and figure out a way to secure this to
14 the frame of our cars. So we were able to get with the guys
15 at our shop and they were able to develop this and those are
16 now welded to the frames.

17 Q. Okay. So when your vehicle flipped over, it
18 didn't move?

19 A. Didn't budge.

20 Q. Didn't come off the frame? I'm showing you
21 State's 13. What does this picture show us?

22 A. That's Nero's kennel. The inside of the kennel.

23 Q. That's just behind you?

24 A. Yes, sir. That runs the whole length of the back
25 seat from the driver's side rear door to the rear passenger

1 door.

2 Q. Okay. Did you suffer any injuries as a result of
3 the crash?

4 A. Just mainly airbag abrasions from the airbag going
5 off, was really --

6 Q. Have you been involved in other chases where
7 individuals, either law enforcement or civilians have been
8 injured?

9 A. Yes.

10 Q. Can you describe one for us?

11 A. We had -- one of the most significant ones that
12 really stick out with me was in 2015 -- October 2015, in
13 Anderson, we were chasing a carjacking suspect. Ultimately,
14 he fled from the vehicle. One of my -- still to this day,
15 best friends who was a K-9 handler sent his K-9 to apprehend
16 the suspect and when he did, the suspect turned around and
17 shot and killed K-9. That's one that just clear as day I can
18 remember it like yesterday. There's been many times that
19 they end in collisions where officers are hurt. You can read
20 about it every day where K-9 police officers are killed in
21 car wrecks.

22 Q. Okay. What about in this case? You and Officer
23 Nero were okay?

24 A. Correct

25 MR. COOPER: I beg the Court's indulgence, one second.

1 Trooper Bishop, I have no further questions for you. If
2 you'll answer any that the Defense may have. Thank you.

3 THE COURT: Cross-examination, Mr. Smaldone?

4 CROSS-EXAMINATION

5 BY MR. SMALDONE:

6 Q. All right. Good morning.

7 A. Good morning, sir.

8 Q. Just a few questions. You were involved in the --
9 that was your dash cam, correct?

10 A. Yes, sir.

11 Q. All right. And you were -- were you directly --
12 directly behind Mr. Ivey's vehicle at the time of the boxing?

13 A. At the time of the boxing on Morningside? Yes,
14 sir. That was my patrol vehicle behind his.

15 Q. Okay. So and you were going with the flow of
16 traffic after that, correct?

17 A. Yes, sir.

18 Q. All right. And we saw the video, it looks like
19 you were going about -- at one point about 100 miles an hour,
20 correct?

21 A. Yes, sir.

22 Q. All right. It looks like through that
23 intersection you were going by; I think it was 73, is that
24 right?

25 A. I didn't look at the speed at the intersection.

1 Q. But if I told you 73, would you say more or less
2 about that?

3 A. Fair to say.

4 Q. Okay. And looking at that video, that -- that was
5 at an intersection, right?

6 A. Yes, sir.

7 Q. Okay. And then the light was red that you had,
8 correct?

9 A. Yes, sir.

10 Q. And when you say, "It crossed the median," he was
11 in -- he was in the road the whole time, correct?

12 A. No, sir. So the way that would've worked, he
13 would've had to come across the -- the way that interchange
14 works comes off of rivers eastbound and it actually curves
15 over, so he had to go across about, I'd estimate maybe 5 to 6
16 feet of grass to get onto that roadway.

17 Q. Okay. At the time of the collision, he was on the
18 road?

19 A. Yes, sir. He was.

20 Q. You were on the road? Right?

21 A. Yes, sir.

22 Q. Okay. And then you said only injuries are from
23 the airbags, that you had?

24 A. Yes, sir. The only physical injuries I had were
25 airbags.

1 Q. Okay. And you were cleared for duty I think
2 either that day or the next day, correct?

3 A. It was one of those. Yes, sir.

4 Q. Okay. Was it your -- was it your goal to -- to
5 box the car in when you were going through the intersection?

6 A. Going through the intersection?

7 Q. Right. Right before the collision, were you
8 intending to box the intersection? You trying to block the
9 intersection? I'm sorry.

10 A. No, sir. I was not trying to block the
11 intersection. The -- the way that it -- if you watched the
12 video, Officer Sam Souther, he had cleared that intersection
13 essentially, so that was why I was proceeding through that
14 red light right there and when he came across that median.

15 Q. All right. And -- and after the -- after the
16 collision, you weren't involved in foot chase or anything,
17 right?

18 A. No, sir.

19 MR. SMALDONE: All right. No further questions.

20 THE COURT: Anything on re-direct?

21 MR. COOPER: No, sir.

22 THE COURT: All right. Trooper Bishop, you can step
23 down. Thank you for being here.

24 THE WITNESS: Thank you, sir.

25 MR. COOPER: Your Honor, may we approach?

1 THE COURT: Yes, sir.

2 (Bench conference at 10:54 a.m.)

3 MR. COOPER: State calls Deputy United States Marshal
4 Robert Roe.

5 THE CLERK: Please raise your right hand and place your
6 left hand on the Bible.

7 DEPUTY UNITED STATES MARSHAL ROBERT ROE,
8 being duly sworn, testified as follows:

9 THE CLERK: Please be seated.

10 THE WITNESS: Good morning, sir.

11 THE COURT: Good morning.

12 THE CLERK: Please state your full name, spelling your
13 last name directly in the microphone.

14 THE WITNESS: Robert Roe. Last name is spelled R-O-E.

15 RE-DIRECT EXAMINATION

16 BY MR. COOPER:

17 Q. Thank you. Good morning, Deputy Roe. Sorry to
18 bring you back.

19 A. It's all good.

20 Q. I have a couple quick questions for you.

21 A. Yes, sir.

22 Q. The weapon that you had that night, were you
23 issued that by the Marshals Service?

24 A. Yes, I was.

25 Q. Do you keep that with you all the time?

1 A. I keep it with me when I am in uniform working
2 with the Marshals Service, and then in off-duty hours I have
3 additional weapons that I qualify with. Those are personally
4 owned weapons bought by me. And in order to carry those, I
5 qualify with the Marshals Service every six months. As long
6 as I qualify with those weapons, keep a score on file, I can
7 keep those while on duty as well as off duty. But in the
8 night in question, I did have my primary weapon, is what we
9 call it, the Glock 19 -- 19 or 17. I have -- I have two
10 issued by the Marshals Service. I did have that that night.

11 Q. I think you mentioned yesterday, you said your
12 vest had Marshals (inaudible)?

13 A. Yes, sir.

14 Q. Is that right?

15 A. Yes, sir. I have a marking in the front, it says,
16 "United States Marshals." It's a Velcro patch. As well as
17 on the backside, big letters, says, "U.S. Marshals."

18 MR. COOPER: I beg the Court's indulgence, one second.

19 THE WITNESS: Yes, sir.

20 MR. COOPER: I have no further questions. Thank you
21 for coming back.

22 THE WITNESS: Yes, sir.

23 MR. SMALDONE: No questions for this witness, Judge.

24 THE COURT: Okay. Very good. You can step down, sir.
25 Thank you for being here.

1 THE WITNESS: Yes, sir. Thank you, your Honor.

2 THE COURT: All right.

3 MR. COOPER: At this time, your Honor, the State would
4 rest.

5 THE COURT: Okay. All right. Ladies and gentlemen, I
6 am going to excuse you back to your jury room. The State has
7 rested, and I have some matters of law I need to take up
8 outside of your presence. We will be back with you as quick
9 as we possibly can. Again, still don't -- don't discuss the
10 case, same rule applies.

11 (Jury exits at 10:57 a.m.)

12 THE COURT: All right. Mr. Smaldone, I guess you got
13 some motions?

14 MR. SMALDONE: Yes, your Honor. At this time, the
15 Defense would move for directed verdict starting with assault
16 and battery of a high and aggravated nature. Assault and --
17 assault and battery of a high and aggravated nature in any
18 crime requires a level of intent. Intent is intending to
19 commit the act. In this case, there is -- we could analyze
20 levels of intent, but in this case, there is no intent.

21 It's pretty clear from the evidence, testimony and --
22 and especially video that there was no intent to hit another
23 vehicle. There was -- in fact, when you're fleeing from law
24 enforcement, fleeing is the goal not hitting or stopping. In
25 this case, it looks like he was trying to go home and hitting

1 a law enforcement vehicle while driving a car much smaller
2 than that vehicle is really the opposite of his goal.

3 So not only did he not intend to do this, this was the
4 last thing that he would intend because of the -- the nature
5 of failing to stop for a blue light. So there was no intent
6 to -- at -- at any level to commit the assault and battery of
7 a high and aggravated nature.

8 Furthermore, getting back to the intent levels and an
9 injury in this case, we've heard that there were minor
10 abrasions from an airbag, and he was cleared for duty the
11 next day, which is a good thing. But to charge my client
12 with assault and battery of a high and aggravated nature, I
13 presume because the State would argue that great bodily
14 injury, they would probably say -- I think at best could have
15 resulted, although that's not what the statute says, and I'll
16 get to that in a second.

17 But when we talk about things that could have resulted
18 or -- or substantially likely to have resolved it, that makes
19 it an attempt statute. Because either a crime is committed
20 or it is not committed. And when you talk about things that
21 didn't happen, that is what attempt means. So we have no
22 evidence that he intended to do that. And once you get into
23 an attempt statute or section of a statute like A and B
24 second, which mirrors this in most ways, once you get into
25 that, it requires a specific intent.

1 So not only did -- not only would he have to have
2 intended to hit the vehicle, which he didn't, he would've had
3 to intend to have hit the vehicle in order to cause -- with
4 intent to cause great bodily injury or death. And there's
5 nothing whatsoever -- in fact, there's the opposite that
6 would indicate that. Again, there's nothing to indicate that
7 at a general level. And -- and when you talk about what
8 could have happened, certainly nothing at the specific intent
9 level.

10 So getting back -- getting back into that, the statute
11 in this case says the -- what I call "the attempt portion,"
12 which is what says "means substantially likely to have
13 caused." We've heard in this case nothing --

14 THE COURT: I don't think the statute says
15 "substantially," does it?

16 MR. SMALDONE: I believe it does. I'll -- I'll look it
17 up. That's what -- I pulled it from there, and I might -- it
18 might say "likely," but it --

19 THE COURT: Yeah, it just says -- I'm looking at my
20 version of it, just says "likely." "Substantially likely"
21 and "likely," I -- I -- would be two different things.

22 MR. SMALDONE: Okay. I'll put it as "likely." Whether
23 it's substantially likely or likely, we have -- "likely"
24 means -- "likely," it means more like -- more probable than
25 not, I would say. In this case, we've heard that these

1 injuries can happen. We've heard these injuries can't happen
2 sometimes or don't happen, rather. In this case, we have a
3 didn't-happen case.

4 In fact, even the State, which I objected to, the
5 State's -- the doctor that testified, Doctor -- can't
6 remember, he testified about another case in which the person
7 had, I think it said, muscular problems for about a year.
8 Even that, the case that they're -- they're champion, the
9 case they used as -- as an example, that's still not great
10 bodily injury according to the statute. That's moderate at
11 best.

12 So we don't have anything on the record to talk about
13 what -- if these injuries are likely, if these injuries can
14 sometimes happen, these injuries usually happen, we don't
15 know. And I think to presume that they're likely or to
16 presume any sort of percentage or, you know, likelihood,
17 would be a burden -- a burden shift --

18 THE COURT: Well -- I mean, I don't think it's a
19 factual leap of faith to understand if you're going a hundred
20 miles an hour down the wrong side of the road, that something
21 bad can happen.

22 MR. SMALDONE: And it -- and it didn't, from this case,
23 for two reasons. One, client was turning -- it looked like a
24 fairly reasonable speed at the time. And the collision
25 happened when the officer was going 73 through an

1 intersection, which -- not blaming him for that, but that --
2 that is -- it is what it is. What happened, happened. So --
3 again, we're -- we're dealing with hypotheticals, and I'm
4 having to disprove hypotheticals.

5 THE COURT: Well, I -- I -- and we talked about that
6 earlier. I -- I -- I don't necessarily disagree with your
7 thought process there, but -- you know, I think we're stuck
8 with what the legislature said.

9 MR. SMALDONE: Well, and what the legislature said --
10 and it still draws back to the initial argument. Did he
11 intend to hit another vehicle? Did he intend -- well, not
12 even another vehicle, did he intend to hit the officer? And
13 there's -- there's nothing in the record that would support
14 that.

15 THE COURT: Okay. Mr. Cooper?

16 MR. COOPER: Thank you, Judge. May it please the
17 Court? Certainly, a motion for the directed verdict, as the
18 Court knows, the Court looks at the existence of the weight
19 of evidence and looks all that in the light most favorable to
20 the non-moving party, which is the State.

21 Regarding the ABHAN charge, Mr. Smaldone has talked
22 about the statute, and I -- I think he's conflating two
23 different things. The ABHAN statute reads, "A person commits
24 the offense of assault and battery of a high and aggravated
25 nature if the person unlawfully injures another person, and

1 great bodily injury to another person results or the act is
2 accomplished by means likely to produce death or great bodily
3 injury." That it's similar, but still different from A and B
4 second, which Mr. Smaldone relies on.

5 A and B second has that attempt language. ABHAN does
6 not. ABHAN is very much causes an unlawful injury, and it
7 was done by means likely to accomplish great bodily injury.
8 As we talked about before, State v Smith, our Supreme Court,
9 footnote nine, unequivocally, ABHAN is a general intent
10 crime. As we also talked about before, United States v.
11 Clemons, the Supreme Court answering a federal question,
12 talking about A and B second and ABHAN.

13 Again, general intent with the men's ray of
14 recklessness. And that's the theory the State's proceeding
15 off of that is in the intent charge we intend to present to
16 the jury. And whether or not he meant to hit him, his act of
17 running from the police, being reckless down the wrong side
18 of the highway, cutting back through traffic, I think a jury
19 certainly could find that he was being reckless, and that's
20 what led to the incident.

21 Dr. Weissglass did testify that people could suffer
22 serious or severe injuries or die from an impact like that,
23 certainly at the driver's door, with the kind of damage that
24 was done in this case. So I think there's certainly evidence
25 in the record that the jury could agree with the State. I

1 think that's what the Court's looking for. So I think we
2 have met our burden on ABHAN.

3 Regarding failure to stop for a blue light, the facts
4 of the case, Mr. Ivey's own lawyer admits that he -- he
5 committed failure to stop for a blue light. The video was
6 unequivocal. He was the driver of the car, ran from the
7 police when the lights came on.

8 The attempted unlawful taking of a firearm, still
9 working to reconcile number five in there, but we have proved
10 the elements. Deputy Roe was a law enforcement officer. He
11 knew that, either by the lights in the vehicle, the fact they
12 were chasing him, the marks on his chest, he knew he's law
13 enforcement officer that was in the course of his business.
14 It's a weapon he's allowed to carry. He does have a weapon
15 that he's allowed to carry when he is not working. Fifth --
16 fifth prong. But we proved all those.

17 So your Honor, I think there's ample evidence in the
18 record for a jury to believe and find this defendant guilty
19 for failure to stop for blue light. Deputy Roe's testimony
20 and his words on the body cam, "I'll -- get your hand --
21 don't touch my gun, don't touch my gun," certainly, goes to
22 that charge. And in the ABHAN.

23 Again, under the theory of general intent, he caused an
24 injury, and Black's Law dictionary includes abrasions in the
25 definition of injury. That's what they had from the airbag,

1 which was caused because the impact that defendant --
2 defendant's vehicle. And so, I think we have shown that
3 there is evidence in the record for every element of three
4 charges that we proceeded under. We ask that you let this
5 case go to the jury.

6 THE COURT: Anything else, Mr. Smaldone?

7 MR. SMALDONE: Just -- just briefly. I don't think --
8 I think it's clear that when you talk about if he's reckless,
9 then -- then everything that happens as a result of that is
10 -- is -- is his fault or is somehow another crime. I think
11 that -- that turns ABHAN into a strict liability offense,
12 which is not. At the end of the day, the Court -- there's no
13 evidence. And -- and I believe that the statute still
14 requires that they require some level of intent to hit the
15 vehicle. There has -- he has to have attempted -- I'm sorry,
16 he has to have intended to hit the vehicle.

17 And like the Guderyon case, intend to inflict an
18 injury. I don't think that you can go back and just presume
19 things because of another -- another crime. I don't think
20 that everything that happens is a result of -- I'm sorry. I
21 don't think that everything that happens during this event --
22 I still think that there needs to be a level of intent. How
23 -- and there needs to be an act. The act would be intending
24 to -- the hitting of the cop car. There's no intent behind
25 that particular act.

1 THE COURT: Well, under that theory, haven't we ever
2 prosecuted a felony DUI?

3 MR. SMALDONE: Well, with that, the act is not -- the
4 act is different than the result. The act is driving under
5 the influence. That is the act is raised. And as your Honor
6 knows, I know Your Honor did a lot of DUI cases, probably
7 more than anybody.

8 THE COURT: One or two.

9 MR. SMALDONE: The -- not what -- felony DUI it
10 requires another offense or -- or level of either negligence
11 and recklessness. So if I'm -- as your Honor knows, if I'm
12 driving drunk down the road, it doesn't matter if I'm a 0:3
13 --

14 THE COURT: To a degree, that there's never any intent.
15 I mean, I even noted -- when I'm doing the guilty plea, the
16 driver in a felony DUI never intended to hurt anyone when he
17 woke up that morning.

18 MR. SMALDONE: They intended to drive under the
19 influence. The -- the death is the result of it.

20 THE COURT: Well, he intended to drive a hundred plus
21 miles an hour.

22 MR. SMALDONE: That's why he's -- he should have been
23 prosecuted for failure to stop for blue light with great
24 bodily injury. But they don't want to because of what your
25 Honor heard during the speedy of trial motion. That's the

1 crux of it. And that's why the legislature would worry about
2 legislative intent. We know the intent of the legislature
3 because they made what he did, a crime that he is not being
4 prosecuted for. They have a crime, failure to -- failure to
5 stop for blue light that results in great bodily injury. I
6 don't even know if it has the could've attempt portion of it.
7 But they have that offense.

8 And that goes back to what I was saying with the act in
9 the -- in the attempt. With that statute, the act is failing
10 to stop for a blue light. The bodily injury is the result.
11 With this, the act is hitting the cop car. There's no intent
12 to do that. With failure to stop with felony DUI, the act is
13 driving drunk. The act is failing to stop. In this case,
14 the act is hitting the cop car. No intent for that. Intent
15 for the other two. That's the difference. And I think -- I
16 want to make sure I cover my basis here. That's -- that's
17 the difference. There's no -- again, there's no intent at
18 all. So that's why I would move for a directed verdict on
19 that charge.

20 I think the attempt to taking a weapon from law
21 enforcement, I would move for directed verdict. But I -- I
22 understand if the Court finds there's reason to -- to bring
23 that charge to the jury. Additionally, I just want -- you
24 know, I'm sure it was a misstatement.

25 The Clemons case that -- that State referenced, doesn't

1 -- it doesn't reference ABHAN. It references CDVHAN, or I
2 think it might be -- yeah, CDVHAN, because it's an old
3 (inaudible) question. I know it's DVHAN now, at the time it
4 was CDVHAN. I'm -- I may be wrong, but that -- those are the
5 two charges in front of him. And again, that's with the --
6 the A and B second. It talks about how the second portion of
7 the statute is a specific intent statute.

8 THE COURT: All right. Anything else, Mr. Cooper?

9 MR. COOPER: Just briefly, Judge. One, Mr. Smaldone is
10 correct. It's A and B second and CDVHAN. The comparison
11 from United States v Clemons, is they look at the first part,
12 which is the unlawful injury, which is the same language as
13 ABHAN. State v Smith in the footnote still unequivocally
14 says ABHAN is a general intent crime.

15 I do think it's interesting when you flee from the
16 police with reckless abandonment, I don't think you get to
17 weave your way through cars and say, "Didn't mean to hit
18 one." That's not how that works. You don't get to pick and
19 choose. I think the recklessness of his act is that intent.
20 He intended to drive off to go wherever the heck he was going
21 to go, and whoever got in his way, that's what was going to
22 happen.

23 When you drive recklessly, when you drive past the
24 speed limit, these things were foreseeable consequences. And
25 so, whether or not he meant to hit them, he meant to run from

1 the police, he meant to cut back to that intersection. And
2 so, I think that certainly is -- falls under intent.

3 Only if it makes a difference in here. But
4 recklessness is defined by State v Rowell, 321 S.C. 114.
5 "Recklessness is a state of mind in which the actor is aware
6 of his or her conduct, yet consciously disregards a risk
7 which his or her conduct is created. It is a conscious
8 failure to exercise due care or ordinary care, or a
9 conscience indifference to the rights and safety of others,
10 or reckless disregard thereof." That sounds exactly like
11 this case.

12 And so, Judge, I think the evidence is in the record,
13 certainly where a jury could believe that he intended to
14 flee. He was reckless in his actions. It led to that crash.
15 It led to the minor injury -- thank goodness, to Trooper
16 Bishop. But certainly, I think a jury could believe great
17 bodily injury or death could have resulted. And we're very
18 fortunate it did not in this case. So I think there's ample
19 evidence for this to go to the jury.

20 THE COURT: Anything else, Mr. Smaldone?

21 MR. SMALDONE: Yes. Again, they said, "Could have
22 resulted." The issue is likely, and there's no proof there.
23 Additionally, when Mr. Cooper talks about, "You shouldn't be
24 able to flee law enforcement and have no consequences for
25 injuries," I agree. And our legislature agrees, and the way

1 our legislature demonstrated that they agree is when they
2 passed the law for failure to stop for blue light with great
3 bodily injury.

4 We talk about intent. The intent is linked to the act.
5 Is there an intent to commit the act? There's an intent in
6 this case, probably, to -- to commit the act for failure to
7 stop for blue light, there's not an attempt to commit the act
8 of ABHAN. In fact, there's the avoidance of it really is --
9 is the crux of it. So, you know, we talk about levels of
10 intent, and that is important, but that -- the -- the nexus
11 between the two is just as important. No intent to commit
12 this act.

13 Mr. Cooper references the act of failing to stop for
14 blue light. The consequences are what makes it fall under
15 that statute. In this case, failing to stop for blue light,
16 the consequences if there was injury would've been the
17 injury. ABHAN is the act, the intent to commit the act is
18 not there.

19 THE COURT: All right. Well, as you're aware the
20 standard is very low, and I'm not a -- I'm constrained to
21 rule what that as far as the existence of evidence, not the
22 weight of it. So based on that, I will I'll deny your motion
23 for directed verdict. Are you going to present a case?

24 MR. SMALDONE: I -- I know my client wanted to speak
25 with me. They brought him in right before the jury, so I

1 want to talk to him.

2 THE COURT: Okay.

3 MR. SMALDONE: And then we will -- we'll get back to --
4 to your Honor on that --

5 THE COURT: Okay.

6 MR. SMALDONE: -- at an appropriate time.

7 THE COURT: All right. Let's -- I'll give you all --
8 I'll be back out in about 15 minutes. If you need more time
9 than that, certainly have it.

10 MR. SMALDONE: Thank you. All right.

11 (Off the record at 11:17 a.m.)

12 (On the record at 11:50 a.m.)

13 THE COURT: Well, have you had plenty of time to talk?

14 MR. SMALDONE: Yes, your Honor. We have.

15 THE COURT: Okay. All right. Are you going to present
16 a defense?

17 MR. SMALDONE: Your Honor, this -- I -- we do not is
18 the result.

19 THE COURT: Okay. All right. Mr. Ivey, we talked
20 yesterday about all your rights with regard to testifying.
21 Have you had plenty of time to talk to Mr. Smaldone about
22 that?

23 MR. IVEY: Yes, sir.

24 THE COURT: And it's your decision here today, that
25 you're not going to testify?

1 MR. IVEY: Yes, sir.

2 THE COURT: Very good. All right. So -- we'll and I
3 did modify the charge. I am going to charge on all three
4 levels of assault, or I guess four. So it'd be assault
5 first, second, and third as well. I think the standard is if
6 there's any evidence in the record that -- to suggest that he
7 may be guilty of a lesser included, I believe I'm required to
8 charge on. So keep the charge on those. Anything else?

9 MR. SMALDONE: Court's indulgence for one second? I
10 think there was one other issue, but I can't remember what it
11 was. I have to look at my checklist. And just for
12 housekeeping, did you all want me to -- do you all want to
13 bring in the jury, me close, bring them out, directed verdict
14 or just renew now, assuming that that means after I close?

15 THE COURT: Yeah. You can go ahead and renew
16 everything now.

17 MR. SMALDONE: Okay.

18 THE COURT: Instead of sending them back and forth.

19 MR. SMALDONE: All right. And your Honor, at this
20 time, I would renew all -- all my motions, including motion
21 for directed verdict for the same reasons.

22 THE COURT: All right. And for the same reasons, I
23 will respectfully deny them. All right. You all ready for
24 closing?

25 MR. COOPER: Yes, sir.

1 MR. SMALDONE: Give -- give me just a moment, your
2 Honor. I just want to -- I want to make charges a court's
3 exhibit because I don't know if I -- or at least say some --
4 some sort of -- keep some sort of record for the charges.
5 Right now would be the time to do that.

6 THE COURT: (Inaudible).

7 MR. SMALDONE: Okay. They have to set up stuff too,
8 so...

9 THE COURT: Okay. I mean, what -- what do you mean
10 make it a...

11 MR. SMALDONE: Make the -- the attempt -- I'm sorry,
12 the -- the language I asked for on -- for ABHAN intent to
13 cause an injury. I guess that would be the -- I mean, I
14 could say it, I would ask that the --

15 THE COURT: Well, I mean, it's -- we're on the record
16 on everything.

17 MR. SMALDONE: Right -- right. So I -- I guess I don't
18 need to -- to make a court's exhibit. I would ask that the
19 ABHAN language use the -- used the words "attempt to cause"
20 -- I'm sorry, ABHAN language used the -- used the language
21 "intent to cause injury."

22 THE COURT: Okay. Well, I -- I think intent is
23 adequately defined throughout and the statute does not have
24 it in there. So I -- I note your request and I'm going to
25 leave it as is.

1 MR. SMALDONE: And -- and additionally, I would ask
2 that the ABHAN language for the "or" mean -- "or" means --
3 "or" means likely to -- have caused great bodily injury. Add
4 the language -- I have it written so I'm sorry. The language
5 I would ask for would be "the Defendant intended to inflict
6 death or great bodily injury to another person."

7 THE COURT: Okay. I'll -- I'll note that for the
8 record. And I'm going to charge the statute as instructed.

9 MR. SMALDONE: All right.

10 THE COURT: All right. You all ready?

11 MR. SMALDONE: Yes -- yes, sir.

12 MR. COOPER: Yes.

13 THE COURT: All right. Bring in the jury, please, sir.

14 (Jury enters at 11:56 a.m.)

15 THE BAILIFF: All jurors are present, your Honor.

16 THE COURT: Thank you, sir. And Mr. Smaldone, just for
17 the record, the Defense is not presenting any case, correct?

18 MR. SMALDONE: Right. Defense rests at this time.

19 THE COURT: Very good. Ladies and gentlemen, the
20 parties have presented all of the evidence in the case. It's
21 now time for the lawyers to make their closing arguments.
22 The arguments, like the opening statements, are not evidence.
23 The Statements and arguments are meant to help you understand
24 the evidence and apply the law to that evidence. You should
25 disregard any remark, statement or argument which is not

1 supported by the evidence presented during the trial or the
2 law that I will explain to you after these arguments.

3 Mr. Cooper?

4 MR. COOPER: Thank you, Judge. May it please the
5 Court?

6 THE COURT: Yes, sir.

7 MR. COOPER: Ms. Gearding, Mr. Smaldone, ladies and
8 gentlemen, good afternoon. I'm going to start off first, I
9 apologize, going to see this back a little bit. I'm trying
10 to get caught from last week, four weeks for nobody. And so,
11 sorry for that, we take extra water along the way. But I
12 want to thank you all, first of all for being attentive today
13 and yesterday and dealing with those breaks. This is the
14 best criminal justice system in the world because people in
15 the community get to come in and decide what kind of conduct
16 society will allow and what they won't. And so, we
17 appreciate your service.

18 I'm going to go over briefly with you the three charges
19 this Defendant is charged with. And go to the law. Once I
20 get finished and Mr. Smaldone gets finished, the Judge will
21 go to the law. And then it gets to (inaudible). The first
22 charge that Defendant is charged with is failure to stop for
23 blue light. Now, sometimes lawyers have a way of making
24 things complicated. This one's pretty simple.

25 The Defendant was driving on the road in South

1 Carolina. Law enforcement tried to stop him with lights
2 and/or sirens. Don't need both, just one. And he did not
3 stop. I'm not going to show you all the video again. You
4 all have seen the video several times. But he was stopped
5 with blue lights and he took off, and he continued on until
6 he struck Trooper Bishop.

7 You will have all the videos that we watched back when
8 you deliberate. You have all the pictures. If you want to
9 watch them again, please watch as much as you want. What
10 you'll see every time you watch that video is they had the
11 blue lights and he ran. His own attorney -- I'll take my
12 word for it, his own attorney did as much yesterday. That's
13 failure to stop for a blue light.

14 Attempted unlawful taking of a firearm from a law
15 enforcement officer. So this is the one involving Deputy
16 U.S. Marshal Rob Roe. And the elements being approved is the
17 Defendant knew the person from who tried -- this says he
18 takes the weapon. It is an attempted statute. What that
19 means is he tried to do it but didn't succeed, okay? So I'm
20 going to go through this first and then we'll go into what
21 the attempt means. But the charge is taking a firearm from a
22 law enforcement officer.

23 So certainly, first Defendant has to know that works as
24 a law enforcement officer. There is no question that they
25 were chasing him with blue lights with Marshal on his chest

1 gun on his side, there was no question he knew that was a law
2 enforcement officer. The second one is an LE, stands for Law
3 Enforcement officer. Is the law enforcement officer
4 performing his duties as a law enforcement officer?

5 That was his job on the Fugitive Task Force was to go
6 find people that acted warrants that were fugitives and bring
7 them in. So he was absolutely in the course of his job when
8 this happened. The third one is that if it takes the firearm
9 without consent. Again, we are under the attempted statute,
10 which means he did not succeed, but he tried. So he didn't
11 take -- he didn't get it, but obviously you heard Deputy Roe
12 talk about how he tried to keep the gun in his holster so the
13 Defendant couldn't get it. Thank goodness he didn't.

14 The fourth one is did the law enforcement officers
15 authorize by his employer, federal government, to carry that
16 weapon in the line of duty? He is. The reason we had to
17 bring him back, and this is where lawyers make things
18 complicated. There is a fifth form of that that talks about
19 he's allowed to carry a weapon off duty. I had to ask the
20 question; I didn't ask that yesterday. I had to check the
21 box, but don't really apply for this case. But certainly, we
22 check all those boxes.

23 I know Mr. Smaldone made some -- there are questions
24 with Deputy Roe about, "(Inaudible) have seen on the gun?" I
25 think he may be getting. Maybe we will argue that if he made

1 it up, I don't know. But if that's where he's going to
2 argue, why would he make that up? You've got warrants;
3 they're going to arrest him. Why -- why make that up? You
4 hoard on the body cam as it's happening. He's like, "Get off
5 my gun. Get your hand off my gun." There's no reason to
6 make that up.

7 There's also no reason why anybody should have their
8 hand on the gun of an officer unless they are trying to take
9 it, which is what he was trying to do. You can tell from the
10 -- the body cam, but you also can tell by his actions the
11 entire time that he had involved with law enforcement. Every
12 turn, flee, get away. You heard Deputy Roe talk about when
13 the crash happened that it was over, and let's again. So
14 there's no reason to believe this defendant was going to
15 submit.

16 Deputy Roe actually talked about that too, that when he
17 is chasing the subject, it's one of two things. They're
18 either going to, "You got him or they're going to fight
19 back." And that's what you saw in the water, was the
20 resisting him going for the weapon. And Deputy Roe was able
21 to keep him away from the weapon and keep it in his holster.

22 And you saw with the demonstration yesterday, if he'd
23 have hit it just right, that gun would've came out. But
24 thank goodness it didn't. That is the attempt of taking a
25 weapon. When you look at attempt. So if the law requires

1 for that if the -- the Defendant makes some kind of effort to
2 accomplish that task. In this situation, it's pretty
3 straightforward. Is he had his hand on the gun. He was
4 trying to get it. He was just unsuccessful.

5 The second part is it requires more than mere presence
6 and attempt. That's more of situations where, "So they're
7 trying to break into a house, they didn't go to the door," or
8 something like that. This case is rather simplistic in the
9 sense of he had his hand there to get it. He was not able to
10 get it, thank goodness. And it must be some overt act. And
11 that just means some act in -- in the effort of covers of the
12 goal, which is taking the firearm.

13 His hand on that firearm is that effort. It is that
14 act. And he tried to get that weapon. And again, like I
15 said, thank goodness he did not. So he is charged with the
16 attempted unlawful taking of a firearm from a law enforcement
17 officer.

18 The one I -- I really want to talk to you all about is
19 assault and battery of a high and aggravated nature. This
20 charge involves several layers. This is for the crash that
21 you all saw for the Defense vehicle T-boned Trooper Bishop
22 flipping that car out. And again, thank goodness they both
23 were okay. The Trooper and Nero. Because -- I mean, I'm
24 sure in your own life you've seen car accidents can go
25 sideways quickly. Thank goodness that he was okay.

1 But what it requires is two things. It requires, one,
2 there's an injury, just any kind of injury. And the minor
3 abrasions that he -- that the Doctor testified about, that he
4 testified about today from the airbag for injury. Thank
5 goodness we didn't have more. But you just need some kind of
6 injury or injury. And we do have that from the airbags. And
7 that either great bodily injury results or if that was
8 accomplished by means likely to produce death or great bodily
9 injury.

10 What -- and again, lawyers have a way of making things
11 complicated. What that means is that the action the
12 Defendant did, it could have resulted in great bodily injury.
13 It could have resulted in death, or it did. Thank goodness
14 in this case it did not. But just because Trooper Bishop was
15 lucky, just because K-9 Nero was lucky, it doesn't mean he's
16 not guilty. That's what that statute entails, is situations
17 like this where something dangerous, something terrible
18 happens, thank goodness people are mostly okay, but that
19 crime is still there.

20 That T-bone of the officer and flipping his car over is
21 still there. That is the important part about this.
22 Luckily, there was no great bodily injury, but certainly the
23 doctor testified that there could have been. Heard testimony
24 about the accident had been on multiple occasions. Very
25 similar damage to a law enforcement vehicle. And that

1 officer suffered severe injuries. Deputy Trooper Bishop
2 testified today about K-9 Mojo as a dog that was killed
3 because of the box, the tool box that -- in his cage, and
4 they fixed that before this incident. But that -- that is
5 how the great bodily injury part works.

6 When you look at intent, the Judge is going to charge
7 intent. That is the mindset of the Defendant when he is
8 committing the crimes. To show, again, this is damage to the
9 Defendant's car. And I -- I think what that shows too is one
10 speed. As you remember he was going up the wrong way
11 Rivers Avenue cut back to get on the Interstate, going home
12 to Huger, I believe. But made a quick act to get on the
13 Interstate at a high rate of speed and caused that kind of
14 damage to his car.

15 Airbags deployed. Fortunately, the people in his car
16 were also mostly okay, but severe impact. And you can -- you
17 can see the injury to the deputy's car -- Trooper Bishop's
18 car. And it is amazing that he was not injured when it -- he
19 was because it struck right in that driver side. So if
20 you're looking at whether it could have caused death or great
21 bodily injury, the doctor told you it could have.
22 (Inaudible) just looked at the picture of the damages and see
23 the impact. And it certainly could have been a lot worse
24 than it was.

25 You got to zoom in picture of the door and the damage

1 that was caused there. The airbags deployed to cause those
2 abrasions on his face. And then he talked about yesterday.
3 You can see the path the car took to where it finally landed.
4 What a violent impact that must have been. And that's why
5 that statute has those two different parts, is because that
6 is criminal conduct. Whether or not Trooper Bishop was
7 severely injured or not, thank goodness he's not. Certainly,
8 what happened there could have been a lot worse for him and
9 K-9 Nero.

10 And so, I was talking about before the pictures. We
11 look at these charts. When you look at assault and battery
12 of a high and aggravated nature, we have to have what we call
13 intent. Defendant had to have the intent to do the crime.
14 Now, there are different layers of intent. If it were a
15 attempted murder case where somebody shot at somebody, they
16 had to have a specific intent to kill that person. They just
17 failed.

18 A charge like this ABHAN, assault and battery of a high
19 and aggravated nature, is what we call general intent. You
20 don't have to have that specific intent, but you just have
21 that intent to do the act. And in this case it is -- it can
22 be inferred from the circumstances shown to have existed.
23 It's a conscious wrongdoing, and it can arise from negligence
24 or recklessness.

25 And so, what that means is, you look at the facts of

1 the case. In this case, the Defendant was stopped, he fled.
2 He fled to the wrong side of the street, he fled against
3 traffic, and fled to a hundred miles an hour. That was
4 reckless in every way. Certainly, this was a foreseeable
5 result. So he may not have had the specific intent to hit
6 that car, but he had the intent to run. He had the intent to
7 flee. He had the intent to speed past cars that were going
8 the right way. That's the intent that he had. And that --
9 that satisfies the requirement under the law.

10 A conscious (inaudible) he made a decision to run. And
11 it can arise from negligence or recklessness. In this case,
12 it is that recklessness, it's that reckless abandonment that
13 the only concern for him was "I got to get out of here."
14 Because he didn't want to be arrested on his warrants. And
15 that's what controlled his actions. And that's why he ran,
16 that's why he struck the Trooper's vehicle. And that's why
17 this charge is like this.

18 I also want to talk to you all on circumstances. You
19 can also refer it that way. And you look at his -- at every
20 turn wanting to flee. This wasn't like somebody that was
21 driving out of a parking lot and accidentally hit somebody.
22 This was somebody that was not concerned about other people,
23 concerned about anybody's safety. You've seen the videos
24 again, you'll watch them back when you do your deliberations,
25 it's 9:00 at night in summer. There are still cars out.

1 Thank goodness we didn't have another collision. Thank
2 goodness no one was hurt greatly in this case. But he had
3 reckless (inaudible) to flee. And I think it's important you
4 think about that, the contrast with what Deputy Roe testified
5 about yesterday, because a lot of his testimony was about how
6 one professional the operation is, but that they are so
7 focused on safety. They're so focused on trying to contain
8 the environment. So focused on trying not to let this
9 incident get out into the general public because of
10 situations like this. Because of people like this.

11 They -- they didn't do it right. They didn't box them
12 in the right way. You saw that explained. But that's why
13 they plan. That's why they take the time. You heard him
14 talk about yesterday that there were times when you may only
15 get one shot but he was going to walk away for safety
16 reasons. Their concern was safety in every way.

17 Defendant's concern is to flee. Reckless abandonment.
18 Mr. Smaldone may appear to try -- try to convince you that
19 his client didn't mean to hit, didn't have the intent
20 (inaudible) we talked about. But again, when you're
21 committing a wrongful act, when you're driving with reckless
22 abandonment, those are the receivable consequences. That is
23 your intent. You are intending to break the law and drive
24 that fast on the wrong side of the road.

25 You don't get to do that and say, "I didn't mean to hit

1 the car." You're doing a wrong thing. You're driving like
2 crazy, like a (inaudible), and you hit somebody, and he's
3 going to say he didn't see him. You heard the trooper
4 testify, blue lights were on. You could see it in the
5 pictures, you could see on the video. He has lights on.
6 (Inaudible) right door, and it just disabled both cars. But
7 he had that intent. He had that intent.

8 One of the things the Judge would tell you when he
9 talks about intent is it is -- and a lot of things that will
10 end up being this way is it is not a certainty. There's no
11 mathematical form that we can create that will say what the
12 intent was. There's no doctrine that can go in and cut in
13 the brain and say, "Oh, there's the intent." You have to
14 look at it, who all the facts are around the situation. Look
15 at common sense. What do you think was happening? And in
16 this case, it was clear he wanted to flee, no matter what was
17 in his way. And he did that with Trooper Bishop. And that
18 is -- that is that criminal intent.

19 I think to -- as we've been doing this case, I've been
20 thinking about this, watching these videos of the police
21 chase. And I think that we oftentimes become a little bit
22 desensitized to it. From O.J. Simpson when I was a kid,
23 watching Cops growing up, watching the On Patrol Live, it's
24 almost like it's something fun to watch, but I think we
25 forget sometimes just how tragic that they can be.

1 Again, this case, it wasn't that, but it could have
2 been. And I ask when you deliberate that you remember that.
3 And that's part of what the assault matter statute has.
4 Because it could have caused that great bodily injury. It
5 could have caused that death. We could be here today talking
6 about a dead officer, a dead K-9, a dead civilian was
7 driving, could have died himself. Those are things that
8 absolutely could have happened. Fortunately, that wasn't the
9 case.

10 But that's why these kinds of acts are against the law
11 because you want to stop people from doing that. You don't
12 want people to drive with reckless abandonment in the wrong
13 way, plow through intersections, hit whoever comes in the
14 way. You don't want that. And so, when you're -- when
15 you're going back and thinking about that, thank goodness
16 that everybody was okay. But it doesn't always end up like
17 that.

18 And that's why we ask the questions about the other
19 incidents the officers had been involved in, the other
20 incidents the doctor knew about because it does happen. It
21 happens more than it should. But it does happen. And that's
22 something that absolutely could have happened in this case.
23 Unfortunately, it didn't.

24 There's no justification for this. There's no excuse.

1 There's no defense to it. We know who was driving the car.
2 One, his attorney told us that yesterday, Deputy Roe saw him
3 as the driver. You have the videos where you see him climb
4 out of the car over his passenger and take off on foot. And
5 the passenger does the right thing, gets out and goes down
6 the ground. We know he was driving.

7 All of this happened because of one man, Willis Ivey.
8 And his decision, his goal, his plan not to be caught led to
9 all this havoc. (Inaudible) Rivers Avenue. It starts and
10 ends in him being caught. Mr. Smaldone said yesterday,
11 "Didn't have a story to tell you because it's all video."
12 That's right. There isn't a story to tell. There isn't
13 anything to play. It's all right there, you can see. And
14 you can see it yourself.

15 And I'm encouraging you during deliberations, watch the
16 clips. Three different vehicles, one body cam, you get a
17 good look at what the officers were trying to do, what the
18 Defendant was able to do, and then the wreck that happened at
19 the end. Take your time, deliberate through that. But it's
20 all right there for you. All too often, we're in -- we're in
21 courtrooms for cases where it's, "Who done it?" Things like
22 that.

23 This is not -- we know the players; we know the rules.
24 He ran from the police. He tried to take the officer's gun,
25 and he struck Trooper Bishop with an act that could have

1 caused great bodily injury or death. I keep coming back to
2 thank goodness it didn't, but it could have. He was hellbent
3 on getting away.

4 There is -- when you talk about -- more than you have
5 to have what's called "malice." And I heard a lawyer
6 describe an old lawyer back in the day. They would describe
7 what malice is, is a heart bent on a mission. Now, this
8 isn't that case, but it's that -- it's that kind of mindset.
9 His heart was bent on a mission. He wanted to get away.
10 Everything else be damned. Consequences be damned, the
11 safety of officers, the safety of civilians, caution to the
12 wind. He wanted to get away. That's a heart bent on a
13 mission.

14 Throughout that night, he showed us what his intent
15 was. And I think that's what it's all come down to, is the
16 intent. He showed his intent was to run from the police in
17 the car. His intent was to run on foot. His intent was to
18 grab the gun, you heard the testimony from Deputy Roe. His
19 intent was to drive with reckless abandonment. Whatever
20 happens, happens. That was his intent. And it was to get
21 out of (inaudible).

22 He wanted to get home or wherever he was going. He
23 wanted to get away from law enforcement because he didn't
24 want to go to jail. That was his intent. So when you're
25 wondering (inaudible), that was the goal all along. Whatever

1 I have to do to make it out. Is it excusable? It's
2 dangerous, it's reckless.

3 And all I'm asking you all, again, see the videos.
4 Consider the testimony you've heard, pictures that you've
5 got. Take your time. But at the end of the day, the job as
6 a jury, hold him accountable. That's all I'm asking. Hold
7 him accountable for the actions that he did that night.
8 Thank you.

9 THE COURT: Mr. Smaldone?

10 MR. SMALDONE: Thank you. May it please the Court?

11 THE COURT: Yes, sir.

12 MR. SMALDONE: Ladies and gentlemen of the jury, good
13 afternoon. Told you all at the beginning of this case, all
14 the lawyers got to address you or -- or me and Mr. Cooper got
15 to address you. And I mentioned that failure to stop for a
16 blue light, we're not content -- we're not contesting that,
17 right? I'm not here, Willis is not here because it was wise
18 choices that night.

19 But we're here because we don't -- we don't agree with
20 what the State says. We don't agree there was any intent.
21 Never tried an intent case before. And it's difficult to do
22 because you have to get in the person's mind. But what I
23 said in the opening was watch the videos. Watch the videos,
24 you'll get a chance. You've seen them many times. I tried
25 to play them as little as possible. You've seen them plenty

1 of times, and you'll get to see them in the back room when
2 you deliberate. Watch the videos.

3 So first, Officer Roe or Deputy Roe from the U.S.
4 Marshals testified that he -- he believes Mr. Ivey grabbed
5 his gun, right? And he gave some testimony and he said that
6 he felt something on his gun. He said, "Get off it." That's
7 it. And then we watched the video. It seems a little
8 unlikely, right? You have -- to me, and to you all when you
9 watch, he's in the process of being flipped over. He's got a
10 hand on his neck; he's being choked out. No, they do what
11 they want to do. I'm not here because of police brutality.
12 He does that. I'm not arguing that. They're subduing him.

13 He's in the water. We're not sure if he's waist --
14 waist-deep water. We're not sure if he's standing up
15 vertically or if he's kind of, you know, falling back like
16 that. He's in no position to grab the gun. I don't know
17 much. But he is in no position to grab a gun. And if he did
18 grab a gun, if he touched the gun, which, as he said, "Don't
19 touch my gun." If he touched the gun, it certainly wasn't
20 with the intent to take it. He might have been falling back,
21 grabbing on the stuff.

22 I don't know what's going on. But the State -- the law
23 requires more than that. The law requires that he had to not
24 just grab this gun, but say, "I want this gun for my use."
25 One, that looks impossible by the video. And two, that it

1 just doesn't make logical sense. You've seen plenty of law
2 enforcement around him. Once he had a death wish, he's not
3 trying to grab a cop's gun and use it against him while he's
4 surrounded.

5 Also, you heard his lights in his eyes and it looks,
6 it's blackout. Could he have seen the guns? Could he have
7 seen anything? Better yet looked down, possibly even
8 through the water to have seen where the gun was and say,
9 "I'll take it," in a split second. Officer testified that,
10 you know, before he had a (inaudible) yes, that someone who
11 actually did try to take his gun. That's not good.

12 So obviously, the officer first thing in his mind -- I
13 think he said that first thing in his mind is safety, and,
14 "Someone is trying to touch my gun." He was acting out of
15 safety. He was acting out of what happened before. He
16 assumed he was trying to take his gun, but he wasn't. Was it
17 caught on one of the (inaudible)? Another officer touched
18 it, another officer tried to take it out of the confusion. I
19 don't know.

20 I know it's just impossible for Willis to take the gun
21 or try to -- even try to take the gun with the intent to use
22 it, with the intent not just to grab on to something because
23 you're falling back, not just to -- to get leverage because
24 you're being choked out, but to take the gun. Watch the
25 video. Look at his -- look at his face when he is being

1 choked out. I was trying to think what it reminds me of. He
2 looks like in the early 90s when -- when Homer would kind of
3 strangle Bart for a second on The Simpsons, he's got that
4 same face.

5 He's not the face -- he's not in this frame of mind to
6 contemplate, "I'll take the gun." That's -- it -- it just
7 doesn't make sense. I understand the officer's position, the
8 deputy's position and his -- his mindset at the time. And
9 I'm not saying he made anything up. He said he thought
10 something was on his gun, touching the gun. He acted
11 accordingly.

12 But I am saying that either Willis didn't touch it,
13 something else did in the confusion, or if Willis did touch
14 it, it was not with any sort of mean -- any sort of reason.
15 It wasn't, "I'll take the gun." Again, watch the video.
16 It's -- it's like four seconds. That's very clear that he's
17 in no position to take the gun.

18 Now, before that, you all have seen plenty of times the
19 accident, right? The collision. The State argues that we
20 can infer the intent on what happened, but I don't think we
21 need to infer anything. You kind of just see it, right?
22 Does it make any sense? Is it possible to make any sense
23 that Willis, in a Toyota Camry, in order to get away from law
24 enforcement, in order to flee law enforcement, says, "I'll
25 collide with an SUV. That's what's going to get --

1 surrounded by cops. I'll hit a cop. That'll get me home."

2 No, he's going home.

3 Going through -- up to the ramp 526 Mount Pleasant to
4 Huger. Pretty clear what he is trying to do. Intent is one
5 of those things that there's a lot of words and they don't
6 mean anything. You'll hear the Judge's charge in just a
7 minute. The only time that the Judge's charge really
8 addresses intent is when he -- the charge will define it more
9 or less. And it says -- the definition of intent. "Intent"
10 means intending the result which actually occurs. Not
11 accidentally or involuntary.

12 A lot of language on intent. But I think I'd ask you
13 to listen to that. And intent, it's kind of a -- an intent
14 is a -- I don't know if "vague" is the right word, but it's a
15 word I don't use much, but "intend" with a D. I intend to do
16 something. You have to ask, did Willis intend to hit police
17 car? The State's opening -- I -- I -- I was worried I heard
18 it and -- and I'm sure it was by accident, but I heard at
19 least three times that Willis in the car chase hit a parked
20 police car.

21 And I thought to myself, "Oh, no, I got -- I got a
22 different case." I -- I -- looked at the wrong video. But
23 you see on -- again, I'm sure it was -- it was a mistake.
24 They wouldn't lie to you. But the difference between that
25 and what you see is officer -- and look, I'm not trying to

1 say he -- he -- he's -- he needs a traffic ticket. I'm not
2 trying to blame him, but I'm just trying to say what the
3 intent level for Willis was. There's nothing.

4 Officer was going on his perpendicular way on Willis'
5 passenger side, he would've been more difficult to see him.
6 He drove 73 miles an hour through a red light. Again, I'm
7 not asking you all to give the officer a ticket, but I just
8 think that goes to the level of intent.

9 Now, Willis earlier was driving on the wrong side of
10 the road, or at this point, he was driving in a lane that was
11 appropriate. The turn lane, that traffic goes -- he was
12 going with traffic if you watched the video at that point,
13 once he turned into that turn lane. Does Willis deserve
14 driver of the year? No. Is he guilty of failure to stop for
15 blue lights? Yes. Did he intend the result, which actually
16 occurs? Did he -- he intend to ram into a police car? No.

17 You might not like him, you might be mad at him because
18 they -- they got the dog in the car. I love dogs. I got a
19 dog. She's wonderful. Is that a smoke screen, though? Is
20 that an attempt to play to your emotions? Have you all back
21 there (inaudible) the dog? I (inaudible) this. I love dogs.
22 But as jurors, you have to see through that and find it
23 correctly to find the truth. And the truth is, the State
24 cannot prove beyond a reasonable doubt crime of ABHAN,
25 because there's no intent.

1 The State also wants you to -- to play not only to
2 assume some level of intent, which didn't exist. They also
3 want you to play "could have, would have, should have," and
4 say, "Not only do we have to guess what he was thinking, we
5 also have to guess what could have happened." Right? They
6 say could -- it could have caused great bodily injury.
7 Right?

8 Now, that -- again, he said that three or four times,
9 and I'm sure it was a mistake. That's not -- there's a huge
10 difference. As lawyers, we like words, but the judge's
11 charge, he will tell you that the words "likely," right?
12 "Could have" and "likely" absolutely are different things.
13 And again, that's not what I'm resting my (inaudible), but
14 it's important to pay attention to the judge's charge rather
15 than just what the State says.

16 Is it likely to have caused great bodily injury? No,
17 because it happened. He was not injured. I don't deal with
18 "might haves." A jury shouldn't have to deal with "might
19 haves" or "could haves." I deal with what happened. The
20 difference between "could have" and "what happened" is when
21 the thing is done, right? If I buy a lottery ticket, I could
22 win. After the lottery is drawn, I can't win, because once
23 the thing happens, we know the result.

24 So you have to ask yourself what level of injury was
25 there. And there was -- he said minor abrasions from the

1 airbag. Again, that's a good thing. We're happy. But to
2 say that Willis not only tried to assault the officer that he
3 didn't see, but to try to blame him for what didn't happen,
4 something he didn't mean to do, and something that didn't
5 happen, it's not what this justice system is all about.
6 Officer was not injured. If he was, it was minor -- or he
7 said it was minor abrasions from the airbag. (Inaudible)
8 injury wasn't there. Again, that's a good thing.

9 So at the end of the day, you have questions, you
10 wonder -- you might wonder what he was thinking, what was
11 happening. They want you to ask what could have happened. I
12 say deal with reality. And it's important to remember --
13 you'll hear it in a minute, you've seen it a million times,
14 but it's important to remember that they not only have to
15 prove their case, they have to prove each element of every
16 crime charged beyond a reasonable doubt. And intent is an
17 element to every crime.

18 So not only if you're wondering what the intent is, if
19 they -- or probably, you know, "He probably wanted to grab
20 the gun," or whatever, which -- which you shouldn't, remember
21 that they not only have to show that, they not only have to
22 suggest that, they have to prove that beyond a reasonable
23 doubt. And that is the highest standard that we have in the
24 justice system. And there's a few levels.

25 There are levels of proof. There's kind of a

1 reasonable suspicion level that's any -- basically anything.
2 If a cop thinks or, you know, is reasonably suspicious or if
3 he's suspicious and is that suspicion reasonable, that's
4 about the standard to get pulled over, you know, maybe to get
5 questioned and then kind of higher than that, there's
6 probable cause standard. And that is -- I say someone
7 probable -- someone probably did something, right? More
8 likely than not, probable cause.

9 Additionally, there's preponderance of the evidence.
10 That is -- that is more likely than not. That's the
11 51 percent rule. So if you're back there and you say, "I
12 think probably, you know, Willis something, such and such,"
13 you must find him not guilty. That's what the law is. Even
14 above that, there's another rule, "clear and convincing
15 evidence," that's generally the level of evidence to take
16 your kids away. If the State thinks that you did something
17 and they can prove it by clear and convincing evidence, they
18 can take your kids away. (Inaudible).

19 This is even higher than that. This is beyond a
20 reasonable doubt. If you have any doubt, and if that doubt
21 is reasonable, you must find him not guilty. And that's kind
22 of the difference between citizens and jurors, right? As
23 citizens, you might read the newspaper, you might say --
24 watch TV, read the CNN -- read CNN or (inaudible) say such
25 and such arrested of crime. You might say, "This is good,

1 that's good. We -- we don't have to worry about anything."

2 And that's normal and that's okay to do that.

3 But as jurors, when you sit down and you take that
4 oath, you got to push that aside for a minute. You got to
5 push that normal instinct aside. You got to read that
6 article and say, "Prove it. That guy is innocent. What --
7 what can you do to prove to me beyond a reasonable doubt that
8 person is guilty?"

9 At the end of this trial, you go back to being people.
10 But as jurors, you took a higher oath to do that. Not only
11 presume that Willis is innocent of everything, you can
12 presume he's innocent for a failure to stop for a blue light
13 until you go back there and deliberate, which we're conceived
14 now. But you have to ask where's the proof, and where's the
15 proof that he intended to do this? It's not there.

16 Again, intent means doing the thing -- intending to do
17 the thing that actually happens, right? Not accident, not
18 involuntary. Intending the result which actually occurs.
19 When you run from law enforcement, which is stupid and we
20 will deal with that, when you run from law enforcement, the
21 last thing you want to do is what happened. This didn't go
22 as planned for Willis.

23 And again, he will be punished for that appropriately.
24 But to just say that he assaulted an officer that he didn't
25 see -- evidence shows he didn't see because the officer was

1 traveling quickly. And again, I'm not really blaming the
2 officer, I'm just saying when you travel at 73 miles an hour
3 through a red light, it is difficult for Willis to have
4 formed the intent to hit him.

5 In fact, he probably couldn't have even tried. It just
6 so happened that way. But it was an accident. It was an
7 accident that was his fault. But that's not a criminal
8 charge, that's not the appropriate criminal charge, at least.
9 This is not assaulting someone. Even if you find it is
10 assaulting someone, ask yourself not show a -- what could --
11 what did happen? What are his injuries?

12 You heard it. We don't have to guess. He said he was
13 cleared for duty the next day. But again, shouldn't matter
14 to you. He didn't mean to do it. (Inaudible) crime yet to
15 do the crime, (inaudible) do it. He meant to fail to stop
16 for blue lights. But to just lump everything in because of
17 that, it's not right.

18 So because of those reasons, because there's no intent,
19 because even without even the failure to stop -- sorry, not
20 failure to stop, even taking a weapon from law enforcement is
21 on video and is not there, use your own reason. Because of
22 that, I ask you to find Willis not guilty of attempt to take
23 a weapon from law enforcement and not guilty of assault and
24 battery of a high and aggravated nature because he didn't
25 intend to do it.

1 And the thing that he didn't intend to do caused a
2 minor injury, and we don't deal with hypotheticals here. No.
3 So ask -- I'm asking you to find him not guilty. Asking to
4 pay attention to the Judge's charge. Do the right thing.
5 Thank you, your Honor.

6 THE COURT: Ladies and gentleman of the jury, you've
7 heard the evidence as well as the arguments of both parties.
8 I'm now going to explain to you the law which you will apply
9 in this case. If it sometimes it seems like I'm reading to
10 you, it's because I am, there's a lot here and I need to make
11 sure I get it right. So as I told you from the beginning,
12 you and I have specific duties to perform.

13 As the trial judge, it is my responsibility to preside
14 of the trial. It's your responsibility to consider the
15 testimony which has been presented from the witnesses and the
16 exhibits introduced. I have the duty to charge the law
17 applicable in this case. As presiding judge, I am the sole
18 judge of the law and it's your duty as jurors to accept and
19 apply the law as I now state it to you.

20 If you already have an idea as to what the law is or
21 what the law ought to be, and it does not agree with what I
22 now tell you the law is, you must abandon your idea because
23 you are sworn to accept the law and apply the law exactly as
24 I state it to you. Your duty is to determine the facts. In
25 every case, the jury is the sole and exclusive judge of the

1 facts. A trial judge cannot suggest, state, comment on or
2 make any statement to a trial jury about the facts in the
3 case.

4 Since you the jury are the sole judges of the facts,
5 you are not to infer from what I have said during the
6 progress of this trial and ruling upon the admissibility of
7 evidence, or otherwise, or anything that I say, now, during
8 the course of this instruction to you, that I have any
9 opinion about the facts of this case. The law does not allow
10 me to have an opinion about the facts. This is a matter
11 solely for you to determine. As jurors, it is your duty to
12 -- to determine the effect, value, and weight of the evidence
13 presented during the trial.

14 The indictments charged the Defendant with one count of
15 assault and battery of a high and aggravated nature, one
16 count of failure to stop for a blue light, and one count of
17 attempted unlawful taking of a firearm from a law enforcement
18 officer.

19 The fact that the Defendant was arrested, charged, and
20 indicted is not evidence and cannot be considered by you as
21 evidence of guilt, nor does it create any presumption or
22 inference of guilt. The indictments are simply the formal
23 written instruments which contain the charge made against the
24 Defendant. It -- they are the formal documents by which this
25 case is brought into court.

1 The Defendant has pled not guilty to the indictments
2 and that plea puts the burden on the State to prove the
3 Defendant guilty beyond a reasonable doubt. A person charged
4 with committing a criminal offense in South Carolina is never
5 required to prove himself or herself innocent. I charge you
6 that it is a guiding rule of law that the defendant in a
7 criminal trial no matter how serious the charge, is always
8 presumed innocent of the crime for which the indictment was
9 issued. Unless guilt is proven by evidence satisfying you
10 that guilt beyond a reasonable doubt.

11 This presumption of innocence does not end when you
12 begin your deliberations, but it accompanies the Defendant
13 throughout the trial until you reach a verdict of guilt based
14 on evidence satisfying you of that guilt beyond a reasonable
15 doubt.

16 The presumption of innocence is like a robe of
17 righteousness placed about the shoulders of the Defendant,
18 which remains with the Defendant until it has been stripped
19 from the Defendant by evidence satisfying you of the
20 Defendant's guilt beyond a reasonable doubt.

21 The presumption of innocence is not mere legal theory.
22 It's not just a legal phrase. It is real -- it is a real and
23 substantial right, to which every defendant is entitled
24 unless you, the jury are satisfied from the evidence of the
25 Defendant's guilt beyond reasonable doubt.

1 What is "reasonable doubt" in the law? A reasonable
2 doubt is the kind of doubt that would cause a reasonable
3 person to hesitate to act. The State has the burden of
4 establishing every fact necessary to prove the Defendant
5 guilty beyond reasonable doubt.

6 The law presumes every person charged with a crime to
7 be innocent, and the burden of establishing guilt is placed
8 solely on the State. Some of you may have served as jurors
9 in civil cases before, where you were told is only necessary
10 to prove that a fact is more likely true than not true, such
11 as by the greater weight or preponderance of evidence.

12 Other civil cases use "the clear and convincing
13 evidence standard." In those cases, it's necessary to prove
14 that a fact is highly probable, but this is a criminal case
15 and the State's proof must be more powerful than those
16 burdens of proof. In a criminal -- in criminal cases, the
17 State's proof must be beyond a reasonable doubt.

18 Proof beyond a reasonable doubt is proof that leaves
19 you firmly convinced of the Defendant's guilt. There are few
20 things in this world that we know with absolute certainty and
21 in criminal cases the law does not require proof that
22 overcomes every possible doubt. If based on your
23 consideration of the evidence you are firmly convinced that
24 the Defendant is guilty of the crimes charged, you must find
25 the Defendant guilty.

1 The Defendant is not required to prove his innocence.
2 If on the other hand you think there is a real possibility
3 the Defendant is not guilty, you must give the Defendant the
4 benefit of every reasonable doubt and find him not guilty.

5 Necessarily, you must determine the credibility of
6 witnesses who have testified. Credibility simply means
7 believability. It is your duty as jurors to analyze and to
8 evaluate the evidence and determine which evidence convinces
9 you of its truth. In determining the believability of
10 witnesses who have testified in the case, you may believe one
11 witness over several witnesses, or several witnesses over one
12 witness.

13 You may believe part of the testimony of a witness and
14 reject the remaining part of the testimony of that same
15 witness. You may believe the testimony of a witness in its
16 entirety or reject the testimony of a witness in its
17 entirety. You may consider whether any witness has exhibited
18 you any interest, bias, prejudice, or other motive in the
19 case. You may also consider the appearance and manner of the
20 witness while on the witness stand.

21 In order to establish criminal liability, criminal
22 intent is required. For example, the mental state required
23 to be proven by the State for a particular crime might be
24 purpose, intent, knowledge, recklessness or criminal
25 negligence. Criminal intent must be proven by the State

1 beyond a reasonable doubt. Criminal intent is always a
2 matter that must be determined by the jury from the
3 circumstances existing at that time.

4 There's no way to prove intent to a mathematical
5 certainty. There's no way medical science can dissect a
6 person's brain and determine what the person had in mind. So
7 the law says, "Criminal intent may be inferred from the
8 circumstances shown to have existed." This is how you make a
9 determination of whether or not the element requiring intent
10 was present. It is not necessary to establish intent by
11 direct and positive evidence, but intent may be established
12 by inference in the same way as any other fact by taking into
13 consideration that acts of the parties and all the facts and
14 circumstances of the case.

15 Criminal intent is a mental state of conscious
16 wrongdoing. You must determine that the Defendant intend or
17 what the intent defendant intended to do based on the
18 circumstances existing at that time. Criminal intent can
19 arise from action or failure to act. It may arise from
20 negligence, recklessness, or an indifference to duty or to
21 consequences that are considered by the law to be the
22 equivalent of criminal intent.

23 There are two types of evidence which are generally
24 presented during a trial: Direct evidence and circumstantial
25 evidence. Direct evidence directly proves the existence of a

1 fact, and does not require deduction. Circumstantial
2 evidence is prove of a chain of facts and circumstances
3 indicating the existence of a fact.

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

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

18 As I told you during the trial, the rules of evidence
19 ordinarily do not permit witnesses to testify to opinions or
20 conclusions, an exception to these rules exist for witnesses
21 we call "Expert witnesses." A witness who by education and
22 experience has become expert in some art science profession
23 or calling may state an opinion as to relevant and material
24 matter in which the witness claims to be an expert. And the
25 witness may also state the reasons for the opinion.

1 You should consider any expert opinion received in
2 evidence in this case, and like any other evidence, give it
3 the weight you think it deserves. If you decide that the
4 opinion of an expert witness is not based on sufficient
5 education and experience, or if you conclude the reasons
6 given in support of the opinion are not sound or that the
7 opinion is outweighed by other evidence, you may disregard
8 the opinion entirely. An expert witness's testimony is to be
9 given no greater weight than that of other witnesses simply
10 because the witness is an expert. Further, you're not
11 required to accept an expert's opinion even though it is not
12 contradicted.

13 I instruct you and emphasize to you that the fact the
14 Defendant did not testify is not a factor to be considered by
15 you in any way in your deliberation, and in your
16 consideration on the questions of the guilt or innocence of
17 the Defendant, it must not be considered by you in any manner
18 whatsoever. The Defendant has the constitutional right to
19 remain silent, and the assertion of this right must not be
20 considered by you in your deliberations.

21 I repeat under your oath, you are to draw no
22 conclusions whatsoever from the fact that the Defendant did
23 not testify. The fact that the Defendant did not testify
24 should not even be discussed in the jury room. The burden of
25 proof, as I have stated to you, is on the State. The

1 Defendant is not required to prove his innocence. The burden
2 of proof remains on the State to prove guilt beyond a
3 reasonable doubt as to the charges against the Defendant.

4 The Defendant is charged with assault and battery of a
5 high and aggravated nature. A person commits the offense of
6 assault and battery of a high and aggravated nature if the
7 person unlawfully injures another, and great bodily injury to
8 another person results, or the act is accomplished by means
9 likely to produce death or great bodily injury. Great bodily
10 injury means bodily injury which causes a substantial risk of
11 death, or which causes serious permanent disfigurement or
12 protracted loss or impairment of the function of a bodily
13 member or organ.

14 If you find the State has failed to prove beyond a
15 reasonable doubt that the Defendant committed assault and
16 battery of a high and aggravated nature, you may consider
17 whether the State has proved beyond a reasonable doubt that
18 the Defendant committed assault and battery first degree.
19 The person may -- the offense of assault and battery in the
20 first degree if the person unlawfully offers or attempts to
21 injure another person with the present ability to do so, and
22 the act is accompanied by means likely to produce death or
23 great bodily injury.

24 Great bodily injury means bodily injury which causes a
25 substantial risk of death or which causes serious permanent

1 disfigurement or protracted loss or impairment of the
2 function of a bodily member or organ. If you find the State
3 has failed to prove to -- beyond reasonable doubt that the
4 Defendant committed assault and battery of a high and
5 aggravated nature, or assault and battery first degree, you
6 may consider whether the State has proved beyond a reasonable
7 doubt that the Defendant committed the offense of assault and
8 battery second degree.

9 A person commits the offense of assault and battery in
10 the second degree if the person unlawfully injures another
11 person or offers or attempts to injure another person with
12 the present ability to do so, and either moderate bodily
13 injury to another person results or moderate bodily injury to
14 another person could have resulted.

15 Moderate bodily injury means physical injury that
16 involves prolonged loss of consciousness or that causes
17 temporary or moderate disfigurement or temporary loss of the
18 functions of a bodily member or organ or injury that requires
19 medical treatment when the treatment requires the use of
20 lesion or general anesthesia or injury that results in a
21 fracture or dislocation. Moderate bodily injury does not
22 include one-time treatment and subsequent observation of
23 scratches, cuts, abrasions, bruises, burns, splinters, or any
24 other minor injury that not ordinarily require extensive
25 medical care.

1 If you find the State has failed to prove that --
2 beyond a reasonable doubt, the Defendant committed assault
3 and battery of a high and aggravated nature first degree --
4 or I'm sorry, assault and battery first degree, or assault
5 and battery second degree, you may consider whether the State
6 has proved beyond a reasonable doubt that defendant committed
7 assault and battery third degree. A person commits the
8 offense of assault and battery in the third degree if the
9 person unlawfully injures another person or offers or
10 attempts to injure another person with the present ability to
11 do so.

12 The Defendant is also charged with failing to stop for
13 a blue light in order to prove this crime. The State must
14 prove beyond a reasonable doubt that the Defendant was
15 driving a motor vehicle -- that the Defendant was driving a
16 motor vehicle on a road, street or highway of the state, that
17 the Defendant was signal to stop by a law enforcement vehicle
18 by means of siren or flashing light, and the Defendant did
19 not stop.

20 In determining whether or not there are mitigating
21 circumstances to which will justify the Defendant's failure
22 to stop from blue light, you may consider actual road
23 conditions, actual roadside conditions, other conditions such
24 as lighting and weather, officer, driver, and/or passenger
25 safety and any other circumstances you believe to reasonably

1 mitigate the alleged violation.

2 An official signal requiring a motorist to stop may be
3 a siren or flashing light, but both are not required. An
4 attempt to increase the speed of a vehicle or in some manner
5 avoid the pursuit law enforcement officer, or vehicle,
6 rather, when signal by a siren or flashing lights may be
7 considered as evidence of failure to stop for a blue light.
8 However, it is merely an evidentiary factor to be taken into
9 consideration by you along with all the other evidence in the
10 case, and to be given the weight that you think it should
11 receive.

12 Finally, the Defendant is charged with attempted
13 unlawful taking of a firearm from a law enforcement officer.
14 An attempt is an effort to accomplish a crime which does not
15 succeed. An attempt includes specific intent to do a
16 particular criminal act along with an act falling short of
17 the act intended. The State must show more than mere a
18 preparation and intent. There must be some overt act
19 committed in the effort to commit the crime. Intent means
20 intending the result which actually occurs not accidentally
21 or involuntary.

22 The intent may be shown by acts and conduct of the
23 Defendant and other circumstances from which you may
24 naturally and reasonably infer intent. It is unlawful for an
25 individual to take or attempt to take a firearm, stun gun or

1 taser device from the person of a law enforcement officer or
2 a corrections officer. If all the following circumstances
3 existed at the time the firearm is taken, the individual
4 knows or has reason to believe the person from whom the
5 weapon is taken is a law enforcement officer or a corrections
6 officer.

7 The law enforcement officer or corrections officer is
8 performing his duties as a law enforcement officer or a
9 corrections officer, or the individuals taking of the weapon
10 is directly related to the law enforcement officers or
11 correction officers professional responsibilities, the
12 individual takes the weapon without consent of the law
13 enforcement officer or corrections officer.

14 Law enforcement officers -- officer is authorized by
15 his employer to carry the weapon in the line of duty. And
16 law enforcement officer or corrections officer is authorized
17 by his employer to carry the weapon while off duty, and has
18 identified himself as a law enforcement officer. Weapon
19 means firearm, rifle, shotgun, pistol, or similar device that
20 propels a projectile through the energy of an explosive, a
21 blackjack, a metal pipe, or pole, or any other type of device
22 or object which may be used to inflict bodily injury or
23 death.

24 Ladies and gentlemen, I've declared the law to you
25 through these instructions to help guide you in your verdict.

1 Whether some of these instructions apply depends on what you
2 find to be the facts. The fact that I've instructed you on
3 various subjects in this case should not be taken as an
4 indication of an opinion of this court as to what you should
5 find the facts to be or as to what your verdict should be.

6 Your verdict must represent the considered judgment of
7 each juror. In order to return a verdict, it is necessary
8 that each juror agree. Your verdict must be unanimous. All
9 12 of you must agree on the verdict. Your verdict cannot be
10 based on sympathy, passion, prejudice, emotion, or any other
11 consideration not in evidence in the case.

12 Remember, at all times you are not partisan in favoring
13 one party over another. You are the Judges of the facts.
14 Your sole interest is to determine whether the State has
15 proven Defendant's guilt to the charges beyond a reasonable
16 doubt from the evidence presented to you. As I -- as I just
17 said, your verdict must be unanimous.

18 Madam Forelady, when the jury agrees on the verdict,
19 you'll write the verdict or check the verdict on the verdict
20 -- or circle it, rather, I think is how the verdict form is,
21 and sign your name as the foreperson. Then you'll knock on
22 the door, inform the bailiff, you've reached a verdict. At
23 that time, we'll bring you back in the courtroom to announce
24 the verdict.

25 I'm going to ask you to return to your jury room, but

1 don't begin deliberations until you are told by the clerk or
2 the bailiff to do so. There are some matters I need to
3 discuss with the attorneys very briefly before you begin your
4 deliberations. All right. So -- and the alternate, you can
5 stay with us. The jury can retire to your room, and we'll be
6 there very quickly. And I think maybe if -- if they -- lunch
7 here yet? And your lunch is here.

8 (Jury exits at 12:57 p.m.)

9 THE COURT: Can you all -- that's the jury verdict form
10 on the ABHAN and other -- unless --

11 UNIDENTIFIED SPEAKER: Can you see the other
12 (inaudible)?

13 THE COURT: Okay. Any exceptions to the charge from
14 the State?

15 MR. COOPER: Not from the State, Judge.

16 THE COURT: Anything from the Defense?

17 MR. SMALDONE: I would renew previous requests, but no,
18 nothing changed.

19 THE COURT: Okay. Very good. All right. Well, let's
20 get all the exhibits together, and do you all have a computer
21 or anything back there that they can watch the videos on?
22 How do you all do that here?

23 THE CLERK: Yes, we do.

24 THE COURT: Okay. Everywhere seems to be different.
25 Some folks have a clean computer they send back. You never

1 know.

2 All right. Sir, you are free to go. We appreciate
3 your service. Now that the trial is concluded, the alternate
4 doesn't get to participate in the deliberation. But again,
5 we appreciate your service. We can't do our job without
6 folks like you all being willing to show up. But I
7 appreciate you being here and doing your job.

8 You have the right to discuss the case. You can
9 research the case, you can talk to lawyers if you want to
10 talk to the lawyers, you can skip out the back door and not
11 talk to anybody. You can stay around for the verdict.
12 Whatever you want. Do you -- you're free to go. You should
13 have some lunch back there?

14 JUROR NUMBER 91: Yeah, I didn't know I was able to go
15 back there. There's -- they have my lunch order or I want --

16 THE COURT: We'll ask the bailiff to just to go in and
17 get his lunch order. You're not supposed to go back in
18 there.

19 JUROR NUMBER 91: Okay. All right.

20 THE COURT: All right. You all check the exhibits, and
21 then let's get everything back there.

22 (Off the record at 12:59 p.m.)

23 (On the record at 1:28 p.m.)

24 THE COURT: All right. We have a question from the
25 jury. Says, "We would like to request the law as read by the

1 Judge." So basically, they want the charge.

2 MR. COOPER: I have no objection to that.

3 THE COURT: I don't like sending the charge back. I
4 never have.

5 MR. COOPER: Okay.

6 THE COURT: What I'll do is, I'll bring them in and if
7 they have any specific thing they would like to be recharged
8 on, that's what I do. I mean, you all know how complicated
9 those things are. They can parse over the thing for an hour
10 and get hung up on one word. It doesn't matter. It's hard
11 enough for us to understand, so -- sometimes. All right. So
12 we'll make this Court's Exhibit 2, maybe? You already have
13 one?

14 (Court's Exhibit 2 marked for identification.)

15 UNIDENTIFIED SPEAKER: They just want to hear the law
16 again because they don't get a copy of.

17 THE COURT: All right. Let's get the jury back in.

18 (Jury enters at 1:32 p.m.)

19 THE BAILIFF: All jurors are present, your Honor.

20 THE COURT: Very good. Good to see you. Madam
21 Forelady, I've got a question from you that you would like to
22 -- as I understood, have a copy of what I charged you all on.
23 We typically do not send that document back to avoid any
24 confusion. I understand it is a ton to try to digest, even
25 for us that -- that do this every day. So if you have any

1 specific areas of the charge that you'd like me to recharge
2 you on, I can do that, if there's a particular area of the
3 law. If you want me to do that, I'm happy to do that.

4 JUROR NUMBER 133: I think we have a question of
5 intent.

6 THE COURT: Okay.

7 JUROR NUMBER 133: What kind of -- what the definition
8 of that is.

9 THE COURT: Okay. Well, I will -- any objection from
10 either of the party for me recharging them on the intent
11 section?

12 MR. COOPER: Not from the State.

13 THE COURT: All right.

14 MR. SMALDONE: I ask that we approach.

15 THE COURT: Okay.

16 MR. SMALDONE: Yeah.

17 (Bench conference at 1:33 p.m.)

18 THE COURT: All right. Ladies and gentlemen, I'm going
19 to recharge you on the intent section. In order to establish
20 criminal liability, criminal intent is required. For
21 example, the mental state required to be proven by the State
22 for a particular crime might be purpose, intent, knowledge,
23 recklessness, or criminal negligence. Criminal intent must
24 be proven by the State beyond a reasonable doubt. Criminal
25 intent is always a matter that must be determined by the jury

1 from the circumstances existing at the time.

2 There is no way to prove intent to a mathematical
3 certainty. There is no way medical science can dissect a
4 person's brain and determine what the person had in mind. So
5 the law says that criminal intent may be inferred from the
6 circumstances shown to have existed. This is how you make a
7 determination of whether or not the element requiring intent
8 was present.

9 It is not necessary to establish intent by direct and
10 positive evidence, but intent may be established by inference
11 in the same way as any other fact by taking into
12 consideration the acts of the parties and all the facts, and
13 circumstances of the case. Criminal intent is a mental state
14 of conscious wrongdoing. You must determine what the
15 Defendant intended to do based on the circumstances existing
16 at that time.

17 Criminal intent can arise from action or a failure to
18 act. It may arise from negligence, recklessness, or
19 indifference to duty or to consequences that are considered
20 by the law to be the equivalent of criminal intent.

21 All right. So that is the intent section. Is that all
22 you need right now? Okay. Well, if you have any other
23 questions, just let us know. All right. Thank you.

24 (Jury exits at 1:38 p.m.)

25 THE COURT: All right. Do you all need to put anything

1 on the record about that?

2 MR. SMALDONE: Yeah, I would just -- I would've
3 requested -- I did -- and previous to this we had a bench
4 conference. Defense requested that -- I don't recall the
5 specific language, but it was the intent section that I
6 referenced multiple times in closing. And the -- basically
7 the only real definition of intent that is in the jury
8 charge, I've requested that that would be read.

9 THE COURT: Okay. And I know that was part of the
10 attempted unlawful taking of a firearm charge. So -- and I
11 believe intent section that I read essentially covers it. It
12 just says it a different way in the attempt charge. So I
13 note your objection. Anything else?

14 MR. SMALDONE: Thank you.

15 THE COURT: All right. I guess we'll be at ease again.

16 (Off the record at 1:39 p.m.)

17 (On the record at 2:14 p.m.)

18 THE COURT: Get set up and ready to go and I probably
19 have a verdict in the other case. Go ahead and receive that
20 verdict and let that (inaudible) get cut loose. Bring in the
21 jury, please, sir.

22 (Jury enters at 2:17 p.m.)

23 THE COURT: All right. You can be seated. Madam
24 Forelady, do we have verdicts on all three charges?

25 JUROR NUMBER 133: Yes.

1 THE COURT: All right. If you'll hand those to the
2 bailiff, he'll -- he'll bring them up here to me. Thank you,
3 sir.

4 All right. Madam Clerk, please publish.

5 THE CLERK: "The State of South Carolina versus Willis
6 Terrel Ivey, Indictment Number 2024-GS-10-04455, we, the
7 jury, unanimously find the Defendant, Willis Terrel Ivey, as
8 to the charge of attempted unlawful taking of a firearm from
9 a law enforcement officer, not guilty." Signed by Mrs.
10 Foreperson, dated November 6, 2024.

11 "The State of South Carolina versus Willis Terrel Ivey,
12 Indictment Number 2024-GS-10-04456, we, the jury, unanimously
13 -- unanimously find the Defendant, Willis Terrel Ivey, as to
14 the charge of failure to stop for a blue light, guilty."
15 Signed by Mrs. Foreperson, dated November 6, 2024.

16 And "The State of South Carolina versus Willis Terrel
17 Ivey, Indictment Number 2024-GS-10-05276, we, the jury,
18 unanimously find the Defendant, Willis Terrel Ivey, as to the
19 charge of assault and battery of a high and aggravated --
20 aggravated nature, guilty." Signed by Mrs. Foreperson, dated
21 November 6, 2024. Ladies and gentlemen of the jury, if this
22 is your verdict, please raise your right hand. Let the
23 record reflect all hands are raised.

24 THE COURT: Anything from the Defense?

25 MR. SMALDONE: I'd ask the poll -- poll the jury.

1 THE COURT: All right. Madam Clerk, please poll.

2 THE CLERK: Ladies and gentlemen of the jury, if -- I

3 will call your juror number and when I do, please raise your

4 right hand. I'll then ask you each two questions. Please

5 answer yes or no. Juror Number 260, is this your verdict?

6 JUROR NUMBER 260: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR NUMBER 260: Yes.

9 THE CLERK: Juror Number 16, is this your verdict?

10 JUROR NUMBER 16: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR NUMBER 16: Yes.

13 THE CLERK: Juror Number 118, is this your verdict?

14 JUROR NUMBER 118: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR NUMBER 118: Yes.

17 THE CLERK: Juror Number 141, is this your verdict?

18 JUROR NUMBER 141: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR NUMBER 141: Yes.

21 THE CLERK: Juror Number 33, is this your verdict?

22 JUROR NUMBER 33: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR NUMBER 33: Yes.

25 THE CLERK: Juror Number 75, is this your verdict?

1 JUROR NUMBER 75: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR NUMBER 75: Yes.

4 THE CLERK: Juror Number 93, is this your verdict?

5 JUROR NUMBER 93: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR NUMBER 93: Yes.

8 THE CLERK: Juror Number 298, is this your verdict?

9 JUROR NUMBER 298: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR NUMBER 293: Yes.

12 THE CLERK: Juror Number 133.

13 JUROR NUMBER 133: Yes.

14 THE CLERK: Is this your verdict?

15 JUROR NUMBER 133: Yes.

16 THE CLERK: Is it still your verdict?

17 JUROR NUMBER 133: Yes.

18 THE CLERK: Juror Number 204, is this your verdict?

19 JUROR NUMBER 204: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR NUMBER 204: Yes.

22 THE CLERK: Juror Number 142, is this your verdict?

23 JUROR NUMBER 142: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR NUMBER 142: Yes.

1 THE CLERK: Juror Number 211, is this your verdict?
2 JUROR NUMBER 211: Yes.
3 THE CLERK: Is it still your verdict?
4 JUROR NUMBER 211: Yes.
5 THE CLERK: Your Honor, the jury has been polled, and
6 the verdict stands.
7 THE COURT: Very good. Anything else from the Defense?
8 MR. SMALDONE: Nothing at this time.
9 THE COURT: Okay. All right. You all got sentencing
10 sheets?
11 MR. COOPER: I have --
12 UNIDENTIFIED SPEAKER: Doing it right now.
13 THE COURT: Okay. Ladies and gentlemen, if you'll
14 retire to your chambers, I'll be back in just a few minutes
15 to release you.
16 (Jury exits at 2:22 p.m.)
17 THE COURT: You all want to go ahead and do sentencing?
18 No? Okay. All right. Once you get those, I'm -- I'm going
19 to go to release the jury.
20 UNIDENTIFIED SPEAKER: Perfect, Judge.
21 MR. SMALDONE: Thank you, Judge.
22 THE COURT: Anything else?
23 MR. COOPER: Nothing that requires a jury. Not really
24 much of anything.
25 THE COURT: Okay.

1 (Off the record at 2:22 p.m.)

2 (On the record at 2:28 p.m.)

3 THE BAILIFF: All rise.

4 THE COURT: Take a seat. You have the sentencing
5 sheet?

6 MS. GEARDING: She's bringing them down right now.

7 THE COURT: Okay.

8 MR. COOPER: Can I approach the Judge?

9 THE COURT: Yes, sir. All right. State needs to be
10 heard on sentencing?

11 MR. COOPER: Thank you, Judge. May it please the
12 Court?

13 THE COURT: Yes, sir.

14 MR. COOPER: Most information you're already aware of
15 from the speedy trial motion we had earlier this week. The
16 two pending murder charges that he had that he was arrested
17 on that night are candidly not the strongest cases. I don't
18 know if I will be able to try those.

19 He also has a 2021 ABHAN pending, from the inmate he
20 stabbed at the jail. Depending on the sentence of the Court
21 on this case, we may move forward and try that case. Judge,
22 this defendant in this case and the jail has been a danger to
23 the community of where he's been. Reckless abandonment on --
24 on this day and time. Thank goodness, no officer or K-9 was
25 seriously hurt, Judge, but I -- I would ask in your capacity

1 as the judge to protect society from him as long as we can.

2 I'd ask for 20 years, which is the maximum.

3 His prior record, Judge, is a 2011 possession of
4 marijuana. 2012, PWID marijuana. 2013, unlawful carrying of
5 a weapon, PWID cocaine base, PWID cocaine. Two counts of
6 possession of marijuana, driving under suspension. In 2015,
7 criminal domestic violence, first offense, driving under
8 suspension. In 2016, PWID cocaine and PWID cocaine base.
9 And in 2018, possession of marijuana. Nothing since then
10 because he's been incarcerated since this incident -- I think
11 it's 2,337 days ago.

12 And again, Judge, I would just reiterate the
13 seriousness and brazenness of this case. The fact that he
14 attacked an inmate in the jail, I -- I -- I think he's
15 deserving of those 20 years. And again, depending on the
16 sentence, we may move forward and try that case anyway. But
17 I'm hopeful this may be able to resolve those charges. And
18 then Trooper Bishop is back on the road. My investigator,
19 Jenny Butler, worked with him in North Charleston and has
20 spoken with him and would just like to say a few words on his
21 behalf as the victim of the ABHAN.

22 THE COURT: Very good. Happy to hear from you.

23 MS. BUTLER: Yes, your Honor. Trooper Bishop would
24 love to request maximum sentence on this case. We worked
25 together at the time. I actually responded on to the scene

1 to check on him and Nero at the time. And like Mr. Cooper
2 said, the dangers of the -- the danger of the Defendant to
3 society. And then while his injuries were minor that night,
4 the traumatic event of what occurred and the mental anguish
5 that he had to deal with and come back long after this
6 occurred has been truly devastating to him.

7 THE COURT: Anything else from the State?

8 MR. COOPER: Nothing from the State, Judge. Thank you,
9 sir.

10 THE COURT: All right. Mr. Smaldone, what'd you got on
11 sentencing?

12 MR. SMALDONE: Thank, your Honor. May it please the
13 Court? I've represented Mr. Ivey for a while now. I've --
14 I've gotten along with him probably better than most probably
15 almost everybody I've ever represented. The notion that he's
16 violent or -- or anything like that, is just completely out
17 of character. I -- I -- he's not, I would trust him in my --
18 I would trust him to house sit for me, and I mean that.

19 Your Honor, he's 32 years old. He's got five children.
20 He's from the Huger area. He -- as your Honor knows he is
21 been incarcerated a significant amount of time on this case.
22 I would ask your Honor to -- to -- and -- oh, additionally,
23 your Honor, I do have -- I have issues with the recitation of
24 his prior record. Looks like a good portion of those are,
25 you know, things double up with probation.

1 I believe a good portion of those, specifically the
2 2016 charges and maybe more, are PPP cases. So they're
3 duplicates. Because my understanding is he -- he had an IOA
4 in 2013, is that right? 2013. And that covers all those
5 charges.

6 Your Honor -- I would ask your Honor to punish the
7 conduct, is failure to stop for blue lights. Fortunately,
8 officer was not particularly injured. When we look at
9 sentencing, we look at legislative intent. The legislature
10 has decided that failure to stop for blue lights with great
11 bodily injury is an offense punishable by up to 10 years in
12 prison. That is with great bodily injury.

13 If the officer was injured, lost a spleen, something of
14 that nature, the maximum sentence would be 10 years. There's
15 not a lot of times we can determine legislative intent for
16 sentencing. This is one of the rare times when we can. 10
17 years is the maximum sentence. Assuming the officer got the
18 maximum injuries, if they -- if they charged an offense that
19 was frankly more applicable.

20 In this case, I'd ask your Honor to punish what
21 actually happened. I think a sentence around the range of
22 four years is appropriate because that adds time for failure
23 -- that's more than the failure to stop for a blue light and
24 it's just what's fair. Your Honor, we've heard a lot about
25 -- I'd ask your Honor not to consider charges that haven't

1 been proven. I think it's inappropriate to -- for the State
2 to say, "He's been charged with this, this, and this, and
3 when we can't prove it, so help us out on the front end or
4 the back end."

5 I -- I -- I don't think that's -- I don't think that's
6 fair to Willis. I don't think that's appropriate factors for
7 the State to even ask you to consider. Your Honor, so I -- I
8 think that bearing in mind that the maximum for the offense
9 that is more appropriate is 10 years. And that's with the
10 great bodily injury. The fact that he -- the officer did not
11 get great bodily injury is the -- one of the reasons why it's
12 ABHAN, because that statute says that it requires great
13 bodily injury. And there's no, could have, should have been
14 -- we discussed ad nauseum in that statute.

15 So because of that, they had to go with a different
16 statute. So I ask your Honor not to punish Mr. Ivey for a --
17 a better result for the officer. I -- I just, I can't twist
18 my mind around that logic. Like I said, he's a -- he -- he's
19 an asset to -- to -- to his family. And he's -- he's -- he's
20 a -- he's a friend to me. I -- I say a four-year sentence is
21 appropriate. It would send a message to the community that
22 we don't tolerate things like this. And that's about all I
23 have at this point.

24 THE COURT: Anything else from the State?

25 MR. COOPER: Just briefly, Judge. I would say in

1 response, and I think it's the light sentences we get on
2 charges like this, that why this still happens. I think the
3 community needs to be sent a message that we do not tolerate
4 this. We do not tolerate people that ended up taking shots
5 at cops, that reckless abandonment throughout the city. The
6 fact that people continue to get probation on them is
7 probably part of the reason it keeps happening. So I'd ask
8 you to send a message to him and the community that's not to
9 be tolerated. We'd ask for the maximum.

10 THE COURT: Well, failure to stop is one of my pet
11 peeves because that's easy. When you see the blue lights,
12 just pull over. It's not a hard concept. And what I do have
13 a serious problem with is a hundred miles an hour down the
14 wrong side of the road. That could have been my wife or kids
15 riding down that road. That could have been anybody in this
16 courtroom. That was just an indiscriminate, unconscious
17 indifference to all the people out there. And I -- I just --
18 I can't go past that.

19 You know, but for the grace of God that he's -- he
20 wasn't charged with something more serious and that officer
21 didn't get hurt worse than he did. That's just sheer luck.
22 How many days did you all say he had served?

23 MR. COOPER: 2,337.

24 THE COURT: Okay. All right. On the failure to stop
25 for a blue light, Defendant be committed to Department of

1 Corrections for a term of three years. He'll be given credit
2 for 2,337 days' time served. On the assault and battery of a
3 high and aggravated nature, Defendant be committed to
4 Department of Corrections for a term of 18 years, he'll be
5 given credit for 2,337 days' time served. Both of those will
6 be concurrent. Good luck to you, sir.

7 MR. COOPER: Thank you, Judge.

8 MS. GEARDING: Thank you.

9 MR. COOPER: Can we approach?

10 THE COURT: Yes.

11 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

12 2:43 P.M.)

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED
2023 FEB 14 AM 11:58
JULIE J. ARMSTRONG
CLERK OF COURT
BY JE

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

Warrant No(s): 2017A1010207309- 7310;
2018A1010203351,
2018A1010203365,
2018A1021000405-406,
2021A21010203854

Charge(s)

Murder x2, etc

STATE OF SOUTH CAROLINA

vs.

WILLIS IVEY,

Defendant.

ORDER GRANTING SPEEDY TRIAL

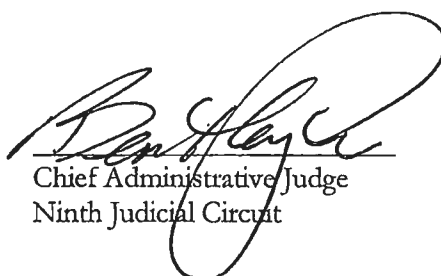
Appeared before this Honorable Court on February 2nd, 2023 the Defendant, Willis Ivey, represented by his attorney, Grant B. Smaldone, moving for an Order granting a speedy trial in this matter.

The Court grants Defendant's motion. Defendant is to be tried within 90 days of the date of this hearing.

Furthermore, Defendant is to receive a hearing to address the issue of his bond. Defendant has been held without bond since his initial arrest in 2018.

IT IS SO ORDERED!

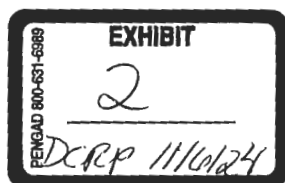
Dated: 2.14.23


Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina



- We would like to request the law, as read by the judge.
Emma Lynn



ARREST WARRANT

2017A1010207309

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE

against

Willis Terrel Ivey

Address: St

Goose Creek, SC 29445-3529

Phone: SSNSex: M Race: B Height: 6 2 Weight: 150DL State: SC DL #: DOB: Agency ORI #: SC0100800Prosecuting Agency: North Charleston Police DepartmentProsecuting Officer: Michael Sanchez - 0947Offense: Murder / MurderOffense Code: 0116Code/Ordinance Sec: 16-03-0010, 0020This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality of

is to be arrested and brought before me to be dealt with according to the law. The accused

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Willis Terrel Ivey on 6/14/18

Signature of Charleston Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

Charleston County Judicial Center

100 Broad Street, Suite 106

Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant Michael Sanchez being duly sworn deposes and says that defendant Willis Terrel Ivey did within this county and state on or about 12/13/2017 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston) in the following particulars:DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED

DEC 18 2017

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 2500 City Hall LaneNorth Charleston, SC 29406-Affiant's Telephone (843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/13/2017did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston)

as set forth below:

DESCRIPTION OF OFFENSE: Murder / MurderHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 12/18/2017

Signature of Issuing Judge

Alvin Earl Blighen

Judge Code: 5536

(L.S.)

Judge's Address 3831 Leeds Avenue, Ste 200North Charleston, SC 29405-Judge's Telephone (843)746-9822Issuing Court ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

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ORIGINAL

ORIGINAL
Form approved by
S.C. Attorney General
April 21, 2003
SCCA 518

BAIL set by

WITNESSES

309

Judge

on

Type and Amount

Name of Surety

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney

Decision

DISPOSITION before

Judge

on

by

(Indicate jury trial, bench trial, plea, not pros., etc.)

Disposition

Sentence

JURORS

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

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Telephone

Name

Address

Telephone

CODEFENDANTS

FILED
2018 JUN 21 PM 1:16
JULIE J. ARMSTRONG
CLERK OF COURT
BY

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTONOCA# 2017038214
INV: Det. M. Sanchez

Personally appeared before me, a magistrate of this County, one M. Powelko
who, first being duly sworn, deposes and says that

WILLIS TERREL IVEY

did within this County and State on December 13th, 2017
violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

Murder
16-3-10

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on December 13, 2017 while at 4136 Gaynor Avenue which is located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant, one **WILLIS TERREL IVEY**, did knowingly and unlawfully commit the offense of **Murder** in violation of **16-3-10** of the South Carolina Code of Laws 1976 as amended. In that the defendant did kill the victim, Malik Cooper with with a firearm.

Facts to establish the aforesaid are that on the above date and time officers with the North Charleston Police Department were dispatched to Gaynor Avenue in reference to a shooting. Officers arrived and located the victim lying in the roadway suffering from a gunshot wound to his chest. He was transported to the Medical University of South Carolina where he succumbed to his injuries. A witness observed the victim leaning into a red sedan prior to shots being fired. Once the shots were fired that same witness observed the victim running away from that vehicle before collapsing in the street. Another witness identified the defendant as being the owner and sole occupant of the red sedan when the victim was shot. That identification was made by a six pack photographix lineup. Based on the witness statements and the bullet trajectory of the wounds sustained by the victim, the injuries could only have been sustained from a weapon fired from the driver's side of the vehicle in which the defendant was identified to be the sole occupant and driver.

Det. M. Sanchez and witnesses to later be named in court are witness to prove the same. All this was done against the form of the Statute and against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me
This 8th day of Dec 2017

Signature of Judge:


(AFFIANT)

Address: 2500 City Hall Lane
North Charleston, S.C. 29406
Phone: 843-554-5700

ARREST WARRANT

2017A1010207310

311

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Charleston

THE STATE

against

Willis Terrel Ivey

Address: [REDACTED] St

Goose Creek, SC 29445-3529

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 6 2 Weight: 150

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Michael Sanchez - 0947

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Willis Terrel Ivey on 6/14/18

RETURN WARRANT TO:

General Sessions

Charleston County Judicial Center

100 Broad Street, Suite 106

Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

AFFIDAVIT

ORIGINAL

Form approved by
S.C. Attorney General
April 21, 2003
SCCA 518Personally appeared before me the affiant Michael Sanchez being duly sworn deposes and says that defendant Willis Terrel Ivey did within this county and state on or about 12/13/2017 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston) in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 2500 City Hall LaneNorth Charleston, SC 29406-Affiant's Telephone (843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/13/2017 defendant Willis Terrel Ivey did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Sworn to and subscribed before me on 12/18/2017

Signature of Issuing Judge

Alvin Earl Bligen

Judge Code: 5536

Judge's Address 3831 Leeds Avenue, Ste 200North Charleston, SC 29405-(843)746-9822

Judge's Telephone

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

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Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED
2018 JUN 21 PM 1:17
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

2018 JUN 21 PM 1:17

JULIE J. ARMSTRONG
CLERK OF COURT

BY _____

PRELIMINARY HEARING held by

Judge _____
on _____
Type and Amount: _____
Name of Surety: _____

Judge _____
on _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, not, pros., etc.)

Disposition: _____

Sentence: _____

JURORS

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

OCA# 2017038214
INV: Det. M. Sanchez

Personally appeared before me, a magistrate of this County, one M. POWITCHKO
who, first being duly sworn, deposes and says that

WILLIS TERREL IVEY

did within this County and State on December 13th, 2017
violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME
16-23-490

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on December 13, 2017 while at 4136 Gaynor Avenue which is located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant, one **WILLIS TERREL IVEY**, did knowingly and unlawfully commit the offense of **Murder** in violation of **16-3-10** of the South Carolina Code of Laws 1976 as amended. In that the defendant, while armed with a firearm kill the victim, Malik Cooper by shooting him in the chest.

Facts to establish the aforesaid are that on the above date and time officers with the North Charleston Police Department were dispatched to Gaynor Avenue in reference to a shooting. Officers arrived and located the victim lying in the roadway suffering from a gunshot wound to his chest. He was transported to the Medical University of South Carolina where he succumbed to his injuries. A witness observed the victim leaning into a red sedan prior to shots being fired. Once the shots were fired that same witness observed the victim running away from that vehicle before collapsing in the street. Another witness identified the defendant as being the owner and sole occupant of the red sedan when the victim was shot. That identification was made by a six pack photographix lineup. Based on the witness statements and the bullet trajectory of the wounds sustained by the victim, the injuries could only have been sustained from a weapon fired from the driver's side of the vehicle in which the defendant was identified to be the sole occupant and driver.

Det. M. Sanchez and witnesses to later be named in court are witness to prove the same. All this was done against the form of the Statute and against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me
This 18th day of Dec. 2017

Signature of Judge: _____


(AFFIANT)

Address: 2500 City Hall Lane
North Charleston, S.C. 29406
Phone: 843-554-5700

ARREST WARRANT

2018A1010203351

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE

against

Willis Terrel Ivey

Address:

Goose Creek, SC 29445-3529

Phone:

SSN

Sex: M Race: B Height: 6 2 Weight: 150

DL State: SC DL #:

DOB: [REDACTED] Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Officer Souther - 0788

Offense: Resisting / Assault, beat, or wound police officer
serving process or while resisting arrest

Offense Code: 0256

Code/Ordinance Sec: 16-09-0320(B)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

Charleston County Judicial Center

100 Broad Street, Suite 106

Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant being duly sworn deposes and says that defendant did within this county and state on or about State of South Carolina (or ordinance of in the following particulars:

Officer Souther
Willis Terrel Ivey

6/14/2018

☒ County/ ☐ Municipality of

Charleston

violate the criminal laws of the

DESCRIPTION OF OFFENSE: Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address
2500 City Hall Lane

North Charleston, SC 29406-

Affiant's Telephone
(843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/14/2018

defendant Willis Terrel Ivey

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Charleston

) as set forth below:

DESCRIPTION OF OFFENSE: Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Sworn to and subscribed before me on 6/15/2018

Signature of Issuing Judge

(L.S.)

Judge's Address
3831 Leeds Avenue, Ste 200

North Charleston, SC 29405-7469

Judge's Telephone
(843)746-9822

Judge Code: 5749

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge

Name: _____
Address: _____
Telephone: _____

315

Type and Amount

Name of Surety

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge

Telephone: _____

Name: _____

Address: _____

Defendant Attorney

Telephone: _____

Decision

Name: _____

Address: _____

DISPOSITION before

Judge

Telephone: _____

Name: _____

Address: _____

on

Telephone: _____

by _____
(Indicate jury trial, bench trial, plea, not pros., etc.)

Disposition

Name: _____

Address: _____

Sentence

Telephone: _____

JURORS

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

WITNESSES



FILED
2018 JUN 21 PM 1:17
JULIE J. ARMSTRONG
CLERK OF COURT

BY

STATE OF SOUTH CAROLINA**AFFIDAVIT****COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON****OCA # 2018017602****OFC Souther**

Personally appeared before me, a magistrate of this County, one R. E. Stone who first being duly sworn, deposes and says that (name of the defendant)

Willis Terrell Ivey

did within this County and State on the 14th day of June, 2018, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE
ASSAULT ON POLICE OFFICER
VIOLATION OF SECTION 16-9-320 (B)**

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

On June 14, 2018 at approximately 2100 hours while at Rivers Ave and I-526, located in the City of North Charleston, County of Charleston and State of South Carolina, the defendant, **WILLIS TERRELL IVEY**, did commit the offense of **Assault On Police Officer** in violation of section **16-9-320 (B)** of the South Carolina Code of Laws as amended 1976.

Facts to establish the aforesaid are that after a vehicle pursuit and brief foot pursuit in an attempt to elude capture officers struggled with the defendant in an attempt to place him under arrest for Murder warrants. When officers attempted to take the suspect down as he was still trying to elude capture the defendant grabbed hold of U.S. Marshal Rob Roe handgun and pulled multiple times. Charleston County Officer Rissanen assisted in trying to take the defendant into custody. The defendant pulled Officers Rissanen arm back multiple times causing an injury to Officer Rissen hand. Officer Rissanen was transported to the hospital and X-rays confirmed a broken hand bone.

Sgt Kruger and Pfc S. Souther are witnesses to prove the same. All of this done against the Law, Peace and Dignity of State of South Carolina.

Sworn to and Subscribed before me

this _____ day of _____
2018. JUN 15 2018


Signature of Judge


(AFFIANT)

Address: 2500 City Hall Ln
North Charleston, SC 29405
Phone: (843) 554-5700

ARREST WARRANT

2018A1010203365

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE

against

Willis Terrell Ivey

Address: Drive

Goose Creek, SC 29445-3529

Phone: SSNSex: M Race: B Height: 5 II Weight: 190DL State: SC DL #: DOB: Agency ORI #: SC0100000Prosecuting Agency: Charleston County SheriffProsecuting Officer: Deputy Rissanen - 0985Offense: Weapons / attempted unlawful taking of firearm or weapon from a law enforcement officerOffense Code: 3202Code/Ordinance Sec: 16-23-0415This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

Charleston County Judicial Center

100 Broad Street, Suite 106

Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant Deputy Rissanenbeing duly sworn deposes and says that defendant Willis Terrell Iveydid within this county and state on or about 6/14/2018State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Charleston)

in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / attempted unlawful taking of firearm or weapon from a law enforcement officer

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 3691 Leeds AvenueNorth Charleston, SC 29405-Affiant's Telephone (843)202-1700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/14/2018defendant Willis Terrell Ivey☒ County/ ☐ Municipality of Charleston) as set forth below.DESCRIPTION OF OFFENSE: Weapons / attempted unlawful taking of firearm or weapon from a law enforcement officer

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 6/15/2018

(L.S.)

Judge's Address

3831 Leeds Avenue, Ste 200
North Charleston, SC 29405-

Judge's Telephone

(843)746-9822Signature of Issuing Judge
Alvin Earl Blinger
Judge Code: 5536Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BALL set by

WITNESSES

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS



FILED

2018 JUN 21 PM 1:17

JULIE J. ARMSTRONG
CLERK OF COURT

BY

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT
OCA# 2018-009265
WARRANT # _____

Personally appeared before me, one _____ who, first being duly sworn, deposes and says that

WILLIS TERREL IVEY

did within this county and state on the 14th day of June 2018, violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
ATTEMPTED TAKING FIREARM FROM LAW ENFORCEMENT OFFICER
VIOLATION OF SECTION 16-23-415

The Affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

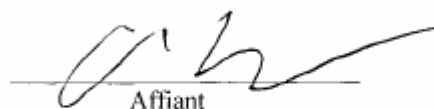
That on June 14th 2018 at around 2053 hours, while in a heavily wooded area near Rivers Avenue at I-526 (North Charleston), within the county and state aforesaid, the defendant, **Willis Terrel Ivey**, did violate section **16-23-415** of the South Carolina Code of Laws of 1976, as amended **ATTEMPTED TAKING FIREARM FROM LAW ENFORCEMENT OFFICER**, in that he did willfully, unlawfully, grab hold of a firearm that was holstered on the side of a law enforcement officer in attempt to take the weapon away, as he resisted arrest.

Facts to establish the same are that the US Marshal Task Force was investigating the defendant's whereabouts in regards to him being wanted by the North Charleston Police Department for two separate homicides. He was also wanted by SCPPP for a probation violation. The US Marshal Task Force learned through intelligence that the defendant was driving a vehicle in the Liberty Hill subdivision in North Charleston. Task force officers and officers with the North Charleston Police Department attempted to conduct a traffic stop at Morningside Drive near Rivers Avenue, however the defendant led law-enforcement on a high-speed vehicle pursuit that ended as a result of him colliding with a police vehicle (causing serious damage). The defendant fled on foot into a heavily wooded area and into a body of water. Deputy Rissanen (CCSO / TFO-USMS), Deputy Roe (USMS), and Officer Fogle (NCPD) pursued the defendant. The defendant then resisted arrest by pulling away and kicking at officers. As the defendant resisted he grabbed hold of Deputy US Marshal Roe's duty weapon that was holstered on his side. Despite having knowledge that he was under arrest, he intentionally attempted to take away the firearm from Deputy Roe. Deputy Rissanen who is a USMS task force officer and Deputy Sheriff with the Charleston County Sheriff's Office, witnessed this action, and struck the defendant causing him to let go of Deputy Roe's firearm, where he was then successfully taken into custody. This action also directly resulted in Deputy Rissanen breaking a bone in his right hand.

This is based on an official investigation conducted by Deputy Rissanen of the Charleston County Sheriff's Office. All of which is against the form of the statute as such cases made and provided.

Sworn to and subscribed before me
this 15th day of June 2018.

Signature of Judge


Affiant

Address: 3691 Leeds Avenue
North Charleston SC 29405
Phone: (843) 202-1700

ARREST WARRANT

2021A1010203854

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

THE STATE

against

Willis Terrell Ivey

Address: St

Goose Creek, SC 29445-3529

Phone: SSNSex: M Race: B Height: 5 9 Weight: 175DL State: SC DL #: Agency ORI #: SC0100000DOB: Prosecuting Agency: Charleston County SheriffProsecuting Officer: Carl W Muirheid, II - S00525Offense: Assault / Assault & Battery of a High &

Aggravated Nature

Offense Code: 3411Code/Ordinance Sec: 16-03-0600(B)(1)This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date: RETURN

A copy of this arrest warrant was delivered to

defendant on

RETURN

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

Charleston County Judicial Center

100 Broad Street, Suite 106

Charleston, SC 29401

320

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Personally appeared before me the affiant Carl W Muirheid, IIbeing duly sworn deposes and says that defendant Willis Terrell Iveydid within this county and state on or about 7/17/2021State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery of a High & Aggravated Nature

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

PLEASE SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Charleston

Affiant's Address 3691 Leeds Avenue

North Charleston, SC 29405-

Affiant's Telephone (843)202-1700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/17/2021 defendant Willis Terrell Ivey

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Charleston) as set forth below:DESCRIPTION OF OFFENSE: Assault / Assault & Battery of a High & Aggravated Nature

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 7/20/2021

Signature of Issuing Judge

Amanda Haselden

Judge Code: 7412Judge's Address 3841 Leeds Avenue

Charleston, SC 29405-

(843)746-9822

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

WITNESSE

Judge Amanda S. Haselden

Type and Amount:

7/20/2021
No bond

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, not, pros., etc.)

Disposition:

Sentence:

JURORS

Name: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____

Address:

Telephone: _____

Name: _____

Address:

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS

 $\propto \gamma$

JULIE J. ARMSTRONG
CLERK OF COURT

2021 JUL 23 PM 12:44

COUNTY OF CHARLESTON

Personally appeared before me, a magistrate of this County, one W. Muirheid who first being duly sworn, deposes and says that

WILLIS TERREL IVEY

did within this County and State on the day of July 17, 2021 violate the criminal laws of the State of South Carolina in the following particulars:

**ASSAULT AND BATTERY HIGH AND AGGRAVATED NATURE
16-3-600 (B)**

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on July 17, 2021 while at Al Cannon Detention Center, 3841 Leeds Avenue North Charleston, SC 29405, in County of Charleston and State of South Carolina, one, **WILLIS TERREL IVEY**, did commit the offense of **ASSAULT AND BATTERY HIGH AND AGGRAVATED NATURE** in violation of section 16-3-600 (B) of the South Carolina Code of Laws of 1976, as amended. In that the defendant did willfully and unlawfully strike the victim in the head with his head causing a laceration that required stitches as well as fashioning a piece of a light fixture into a sharp object used to plunge into the back of the victim.

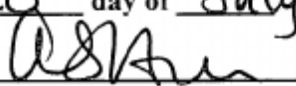
On July 17, 2021, the Charleston County Sheriff's Office responded to 3841 Leeds Ave, Al Cannon Detention Center, in reference to inmates involved in an assault. Upon arrival, Joseph Major was being transported to MUSC for treatment to a laceration above his left eye and a puncture wound to the middle of his back. Prior to being transported to MUSC, the victim advised that "Ivey" stabbed him in the back.

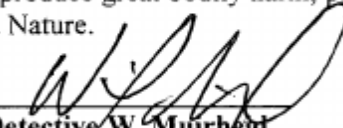
Upon investigation, a piece of a mechanical piece of a light bulb was located inside Major's cell, where the incident occurred. The piece was circular in shape and matched the outline of the puncture wound on Major's back. Once the defendant was interviewed, he advised post miranda that he was the only person that was fighting Major at the incident location.

The defendant advised that the physical altercation occurred because of accusations about stolen chips. In a recorded interview with Major, he advised the same. However, Major was adamant that once the defendant came into his cell he head-butted Major and stabbed him with an object unknown to Major at the time.

Based on the victim statement, the pattern of injury consistent with the fashioned sharp object, the post miranda confession made by the defendant, and the use of a weapon causing injury by means likely to produce great bodily harm, probable cause exists that the defendant did commit Assault and Battery of a High and Aggravated Nature.

Sworn to and Subscribed before me
this 20 day of July
2021.


Signature of Judge


Detective W. Muirheid
3691 Leeds Avenue
North Charleston, SC 29405
(843) 554-2238

ARREST WARRANT

2018A1021000405

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

North Charleston

2017031106

THE STATE

against

Willis Terrell Ivey

Address: [REDACTED] Street

Goose Creek, SC 29445-

Phone: (843)814-2362 SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 140

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: 184

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: David Pritchard # 4274-2895

Offense: Murder 16-3-10

Offense Code: 00116

Code/Ordinance Sec: 16-03-0010

This warrant is ☒ CERTIFIED ☐ FOR SERVICE in the ☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Willis Ivey on 6/14/18

Signature of Probation Law Enforcement Officer

RETURN WARRANT TO:

North Charleston Municipal Court
2500 City Hall Lane
North Charleston, SC 29406

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

North Charleston

AFFIDAVIT

Personally appeared before me the affiant David Pritchard # 4274-2895being duly sworn deposes and says that defendant Willis Terrell Iveydid within this county and state on 10/10/2017State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of North Charleston)

violate the criminal laws of the

in the following particulars:

DESCRIPTION OF OFFENSE:

Murder 16-3-10

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

COUNTY OF CHARLESTON

PLEASE SEE ATTACHED AFFIDAVIT

OCA #: 2017031106

LEB

MAY 02 2018

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

North Charleston

Affiant's Address: 2500 City Hall Lane

North Charleston, SC 29405-

Affiant's Telephone: (843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 10/10/2017 defendant Willis Terrell Ivey did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of North Charleston) as set forth below:

DESCRIPTION OF OFFENSE:

Murder 16-3-10

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 05/02/2018JOHN K. DUFFY, III (L.S.)

Signature of Issuing Judge

Judge Code: 8031

Judge's Address: 2500 City Hall Lane

North Charleston, SC 29406-

Judge's Telephone: (843)740-2601

Issuing Court: ☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

SCC IN 5-7-18

OPR 862

NCIC 5/2/18

836

NCIC # 4422700408

BAIL set by

WITNESSES

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

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Name: _____
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Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODIFIED 10001

FILED

2018 JUN 21 PM 1:17
JULIE J. ARMSTRONG
CLERK OF COURT

BY _____

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

OCA# 2017031106
INV: Det. D. Pritchard

Personally appeared before me, a magistrate of this County, one Det. D. Pritchard
who, first being duly sworn, deposes and says that

WILLIS TERRELL IVEY

ORIGINAL

did within this County and State on October 10th, 2017
violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

Murder
16-3-10

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on October 10, 2017 while near 1921 Redwood Street, which is located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant, one **WILLIS TERREL IVEY**, did knowingly and unlawfully commit the offense of **Murder** in violation of **16-3-10** of the South Carolina Code of Laws 1976 as amended. In that the defendant did kill the victim, Willie Duggans with malice aforethought.

Facts to establish the aforesaid are that on October 10, 2017 at approximately 3:30 p.m. officers with the North Charleston Police Department were dispatched to 1921 Redwood Street in reference to a shooting. Officers arrived and located the victim lying near the apartments suffering from several fatal gunshot wounds. Surveillance from the area was reviewed which showed a gold Chrysler 200 fleeing Redwood Street towards Union Heights seconds after the shooting. On May 1, 2018 a witness was interviewed. The witness advised that he watched the defendant and victim walk between 1919 and 1921 Redwood Street before hearing several gunshots. The witness then observed the defendant walk back towards a gold car carrying a black and brown revolver before fleeing the area.

Det. D. Pritchard and witnesses to later be named in court are witness to prove the same. All this was done against the form of the Statute and against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me

This 2 day of May 2018

Signature of Judge:

John L. Duffy, III

(AFFIANT)

Address: 2500 City Hall Lane
North Charleston, S.C. 29406
Phone: 843-554-5700

ARREST WARRANT

2018A1021000406

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

North Charleston

2017031106

THE STATE
against

Willis Terrell Ivey

Address: Street

Goose Creek, SC 29445-

Phone: (843)814-2362

SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 140DL State: SC DL #: [REDACTED]DOB: [REDACTED] Agency ORI #: 184Prosecuting Agency: North Charleston Police DepartmentProsecuting Officer: David Pritchard # 4274-2895Offense: Possession of Firearm During the Commission of aOffense Code: 00549Code/Ordinance Sec: 16-23-0490
 This warrant is ☒ CERTIFIED ☐ FOR SERVICE in the
☐ County/ ☐ Municipality of

 The accused
 is to be arrested and brought before me to be
 dealt with according to the law.

Signature of Judge

(L.S.)

Date: _____

RETURN

 A copy of this arrest warrant was delivered to
 defendant Willis Ivey
 on 6/14/18

 Signature of Constable/Law Enforcement Officer
[Signature]

RETURN WARRANT TO:

 North Charleston Municipal Court
 2500 City Hall Lane
 North Charleston, SC 29406

326

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

North Charleston

 Personally appeared before me the affiant David Pritchard # 4274-2895
 being duly sworn deposes and says that defendant Willis Terrell Ivey

 did within this county and state on 10/10/2017

 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of North Charleston
 in the following particulars:

DESCRIPTION OF OFFENSE:

Possession of Firearm During the Commission of a Violent Crime

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

COUNTY OF CHARLESTON

PLEASE SEE ATTACHED AFFIDAVIT

OCA #: 201 7031106

LEB

ORIGINAL

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

North Charleston

Affiant's Address 2500 City Hall LaneNorth Charleston, SC 29405-Affiant's Telephone (843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
 on 10/10/2017 defendant Willis Terrell Ivey

 did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of North Charleston) as set forth below:

DESCRIPTION OF OFFENSE:

Possession of Firearm During the Commission of a Violent Crime

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable

Sworn to and subscribed before me

on 05/09/2018
 Signature of Issuing Judge
[Signature] (L.S.)
Judge's Code: 6031

Judge's Address

2500 City Hall LaneNorth Charleston, SC 29406-

Judge's Telephone

(843)740-2601Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

WITNESSES

BALL set by

327

Judge

Name: _____
Address: _____
Telephone: _____

Type and Amount:

Name of Surety:

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge

Name: _____
Address: _____
Telephone: _____

on

Defendant Attorney:

Name: _____
Address: _____
Telephone: _____

Decision:

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge

Name: _____
Address: _____
Telephone: _____

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Name: _____
Address: _____
Telephone: _____

Sentence:

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

FILED
2018 JUN 21 PM 1:17
JULIE J. ARMSTRONG
CLERK OF COURT
BY

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

OCA# 2017031106
INV: Det. D. Pritchard

Personally appeared before me, a magistrate of this County, one ___Det. D. Pritchard___
who, first being duly sworn, deposes and says that

WILLIS TERRELL IVEY

did within this County and State on October 10th, 2017
violate the criminal laws of the State of South Carolina in the following particulars:

ORIGINAL

DESCRIPTION OF OFFENSE

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
16-23-490

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on October 10, 2017 while near 1921 Redwood Street, which is located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant, one **WILLIS TERREL IVEY**, did knowingly and unlawfully commit the offense of **possession of a firearm during commission of a violent crime** in violation of **16-23-490** of the South Carolina Code of Laws 1976 as amended. In that the defendant did kill the victim, Willie Duggans while armed with a firearm.

Facts to establish the aforesaid are that on October 10, 2017 at approximately 3:30 p.m. officers with the North Charleston Police Department were dispatched to 1921 Redwood Street in reference to a shooting. Officers arrived and located the victim lying near the apartments suffering from several fatal gunshot wounds. Surveillance from the area was reviewed which showed a gold Chrysler 200 fleeing Redwood Street towards Union Heights seconds after the shooting. On May 1, 2018 a witness was interviewed. The witness advised that he watched the defendant and victim walk between 1919 and 1921 Redwood Street before hearing several gunshots. The witness then observed the defendant walk back towards a gold car carrying a black and brown revolver before fleeing the area.

Det. D. Pritchard and witnesses to later be named in court are witness to prove the same. All this was done against the form of the Statute and against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me

This 2 day of May, 2018

Signature of Judge:

John L. Duffy, III

(AFFIANT)

Address: 2500 City Hall Lane
North Charleston, S.C. 29406
Phone: 843-554-5700

UNIFORM TRAFFIC TICKET

CITY OR COUNTY OF <u>N. CHAS</u>		VERSUS	
FIRST NAME <u>WILLIS</u>	MIDDLE NAME <u>TERRELL</u>	LAST NAME <u>IVEY</u>	
CITY <u>N. CHAS</u>		STATE <u>SC</u>	ZIP CODE <u>29405</u>
STATE LICENSED <u>SC</u>	DRIVER'S LICENSE NO. [REDACTED]	CDL ☐ YES ☒ NO	DRI. LIC. CLASS <u> </u>
STATE <u>SC</u>	MAKE OF VEH <u>MD TOYT</u>	YEAR <u> </u>	COMM. YEH ☒ AUTO
HAZ. MT. <u> </u>		MOPED ☐ MTRCYCL ☐	COMB. <u> </u>

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT <u>GSC</u>		STREET AND NO. <u>2500 CITY HALL LN.</u>	
DATE <u>6/14/2018</u>	OF TRIAL <u>TBS</u>	CITY <u>N. CHAS</u>	STATE <u>SC</u>
TIME OF TRIAL <u> </u>		ZIP CODE <u>29405</u>	

VIOLATION - COURT APPEARANCE REQUIRED. YES NO.	VIOLATION SECTION NO.
<u>FAILURE TO STOP FOR BLUE LIGHTS</u>	<u>56-5-750</u>

OWNER OF VEHICLE <u>ENTERPRISE</u>	DATE OF ARREST <u>6/14/2018</u>
ADDRESS OF OWNER <u> </u>	DATE OF VIOLATION <u>6/14/2018</u>

BAIL DEPOSITED <u>CASH</u>	NAME OF ARRESTING OFFICER <u>SCOTTER</u>	RANK <u>PIC</u>

DESCRIPTION OF ACCUSED		COUNTY <u>CHAS</u>	NUMBER <u>10</u>														
RACE <u>B</u>	SEX <u>M</u>	BADGE <u>156</u>	TROOP <u>6</u>														
DATE BAIL REC'D. <u> </u>	BY <u> </u>	<table border="1"> <tr> <td>MON</td><td>TUE</td><td>WED</td><td>THU</td><td>FRI</td><td>SAT</td><td>SUN</td> </tr> <tr> <td>☐</td><td>☐</td><td>☐</td><td>☐</td><td>☒</td><td>☐</td><td>☐</td> </tr> </table>		MON	TUE	WED	THU	FRI	SAT	SUN	☐	☐	☐	☐	☒	☐	☐
MON	TUE	WED	THU	FRI	SAT	SUN											
☐	☐	☐	☐	☒	☐	☐											

CASE BEFORE	MAGISTRATE ☐ MUN. COURT ☐	TIME OF VIOLATION <u>7:10 PM</u>	WEATHER <u>CL</u>
CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐		DISTANCE IN FEET FROM INTERSECTION OF <u>KING AVE</u>	
NAME OF TRIAL COURT <u> </u>		<u>1-576 EAST</u>	

DEFENDANT: DID NOT APPEAR ☐ APPEARED ☐	DISPOSITION	MILES	N E S W
NOLLE PROSSER ☐ GUILTY ☐	FORFEITED BOND ☐ PLED: NOLO CONTENDERE ☐		1 2 3 4
TRIAL BY: TRIAL JUDGE ☐ JURY ☐		HWY NO.	CITY <u>N. CHAS</u>

VERDICT OF TRIAL IF ANY	GUILTY ☐ NOT GUILTY ☐	DATE OF TRIAL IF ANY <u> </u>	Lat.
JAIL	SUSPEND	FINE	Long
AMT. COLLECTED	AMT. SUSPENDED		
COMMITTED TO:	Vehicle Searched	Arrest as Result of Collision	OFFENSE CODE
			B.A. LEVEL

CERTIFIED CORRECT	DATE <u> </u>

64510 HA

DOCKET NO. 2018-017602

BOND HEARING	
DATE	6/15/2018
JUDGE	Be
AMOUNT \$	
PR. ☐	BY
JURISDICTION Central	JULIE ARMSTRONG CLERK OF COURT
2018 JUN 21 PM 1:51 FILED	

DWC/0344297
WITNESSES

DOCKET NO. 2024-GS-10-04455

Charleston County Sheriff Office

The State of South Carolina

Bay M. Adkins BARNEY N. GOLDBSTEIN County of Charleston

AGENCY CASE NUMBER

2018-009265

FILED

COURT OF GENERAL SESSIONS

9/12/2024 11:46:58 AM

ARREST WARRANT NUMBER

2018A1010203365

SEPTEMBER TERM 2024

JULIE J. ARMSTRONG
CLERK OF COURT

DATE OF ARREST

06/14/2018

THE STATE

VS.

ACTION OF GRAND JURY
TRUE BILL

WILLIS TERREL IVEY
B/M DOB: [REDACTED]

M. L. 78 SEP 09 2024
Foreperson of Grand Jury Date:

VERDICT

Indictment for

ATTEMPTED UNLAWFUL TAKING OF
FIREARM OR WEAPON FROM A LAW
ENFORCEMENT OFFICER

Foreperson of Petit Jury Date:

SC Code: § 16-23-0415
CDR Code: 3202

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

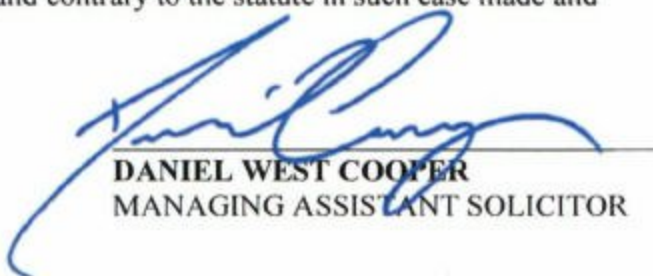
INDICTMENT

At a Court of General Sessions, convened September 2024, the Grand Jurors of Charleston County present upon their oath:

**ATTEMPTED UNLAWFUL TAKING OF FIREARM OR WEAPON
FROM A LAW ENFORCEMENT OFFICER**

That in Charleston County on or about June 14, 2018, the defendant, Willis Terrel Ivey, did take away, or attempt to takeaway, a firearm, stun gun, or taser device from the person of Robert Roe, a law enforcement or corrections officer. That, in addition, (1) the Defendant knew or had reason to believe the person from whom the weapon was taken was a law enforcement officer or a corrections officer; and (2) the law enforcement officer or corrections officer was performing duties as a law enforcement officer or a corrections officer, or the Defendant's taking of the weapon was directly related to the law enforcement officer's or corrections officer's professional responsibilities; and (3) the Defendant took the weapon without consent of the law enforcement officer or corrections officer; and (4) the law enforcement officer was authorized by his employer to carry the weapon in the line of duty; and (5) the law enforcement officer or corrections officer was authorized by his employer to carry the weapon while off duty and had identified himself as a law enforcement officer. This is in violation of Section 16-23-415 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DANIEL WEST COOPER
MANAGING ASSISTANT SOLICITOR

DWC/0344469
WITNESSES

North Charleston Police Department

Jan Ry / [Signature]

AGENCY CASE NUMBER

2018-017602

ARREST WARRANT NUMBER

64510HA

DATE OF ARREST

06/14/2018

ACTION OF GRAND JURY

TRUE BILL

M. C. [Signature]

SEP 10 2024

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2024-GS-10-04456

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2024

FILED

9/12/2024 11:46:58 AM

JULIE J. ARMSTRONG

CLERK OF COURT

THE STATE

VS.

WILLIS TERREL IVEY
B/M DOB: [REDACTED]

Indictment for

FAILURE TO STOP FOR A BLUE LIGHT

SC Code: § 56-05-0750(B)(1)

CDR Code: 0065

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened September 2024, the Grand Jurors of Charleston County present upon their oath:

FAILURE TO STOP FOR A BLUE LIGHT

That in Charleston County, South Carolina, on or about June 14, 2018, the Defendant, Willis Terrel Ivey, while driving a motor vehicle on a road, street, or highway of the State did, in the absence of mitigating circumstances, knowingly fail to stop after being signaled to do so by a law enforcement vehicle by means of flashing light and/or a siren, in violation of § 56-5-750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DANIEL WEST COOPER
MANAGING ASSISTANT SOLICITOR

DWC/0344469
WITNESSES

335

North Charleston Police Department

Jan 81

AGENCY CASE NUMBER

2018-017602

ARREST WARRANT NUMBER

2018A1010203351

DATE OF ARREST

06/14/2018

ACTION OF GRAND JURY

TRUE BILL

Mild R

SEP 10 2024

Foreperson of Grand Jury

Date:

VERDICT

DOCKET NO. 2024-GS-10-04457

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2024

FILED

9/12/2024 11:46:58 AM

JULIE J. ARMSTRONG
CLERK OF COURT

THE STATE

VS.

WILLIS TERRELL IVIEY
B/M DOB: [REDACTED]

Indictment for

**ASSAULTING POLICE OFFICER WHILE
RESISTING ARREST**

SC Code: § 16-09-0320(B)
CDR Code: 0256

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened September 2024, the Grand Jurors of Charleston County present upon their oath:

Assaulting Police Officer While Resisting Arrest

That in Charleston County, South Carolina, on or about June 14, 2018, the Defendant, Willis Terrel Ivey, knowingly and willfully did assault, beat, or wound Deputy Rissanen, a law enforcement officer, (1) while the officer was engaged in serving, executing or attempting to serve or execute a legal writ or process; or (2) while resisting the efforts of the officer to make a lawful arrest of the Defendant, when the Defendant knew or reasonably should have known the officer was a law enforcement officer. This is in violation of Section 16-9-320(B) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DANIEL WEST COOPER
ASSISTANT SOLICITOR

DWC/0381085
WITNESSES

DOCKET NO. 2024-GS-10-04458

Charleston County Sheriff Office

The State of South Carolina

B. M. Goldstein / BARRA N. Goldstein Charleston County of Charleston

AGENCY CASE NUMBER

2021-009236

FILED

9/12/2024 11:46:59 AM

ARREST WARRANT NUMBER

2021A1010203854

COURT OF GENERAL SESSIONS
SEPTEMBER TERM 2024

JULIE J. ARMSTRONG
CLERK OF COURT

DATE OF ARREST

07/20/2021

THE STATE

ACTION OF GRAND JURY

VS.

TRUE BILL

WILLIS TERRELL IVEY
B/M DOB: [REDACTED]

Micel 28 SEP 09 2024
Foreperson of Grand Jury Date:

VERDICT

Indictment for

ASSAULT & BATTERY OF A
HIGH & AGGRAVATED NATURE

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened September 2024, the Grand Jurors of Charleston County present upon their oath:

ASSAULT & BATTERY OF A HIGH & AGGRAVATED NATURE

That in Charleston County, South Carolina on or about July 17, 2021, the Defendant, Willis Terrel Ivey, did commit an unlawful act of injury upon the victim, Joseph Roberto Major, and as a result, the victim suffered great bodily injury or the act was accomplished by means likely to produce death or great bodily injury, in violation of Section 16-3-600(B)(1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DANIEL WEST COOPER
MANAGING ASSISTANT SOLICITOR

DWC/0344469
WITNESSES

339

North Charleston Police Department

C. Ross

AGENCY CASE NUMBER

2018-017602

ARREST WARRANT NUMBER

2024-GS-10-05276

DATE OF ARREST

06/14/2018

ACTION OF GRAND JURY

TRUE BILL

OCT 08 2024

W. E.

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2024-GS-10-05276

The State of South Carolina

County of Charleston

FILED

COURT OF GENERAL SESSIONS

OCTOBER TERM 2024

10/24/2024 4:54:02 PM
JULIE J. ARMSTRONG
CLERK OF COURT

THE STATE

VS.

WILLIS TERREL IVEY
B/M DOB: [REDACTED]

Indictment for

ASSAULT & BATTERY OF A HIGH &
AGGRAVATED NATURE

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened October 2024, the Grand Jurors of Charleston County present upon their oath:

ASSAULT & BATTERY OF A HIGH & AGGRAVATED NATURE

That in Charleston County, South Carolina on or about June 14, 2018, the Defendant, Willis Terrel Ivey, did commit an unlawful act of injury upon the victim, Officer Bishop Wilson, and as a result, the victim suffered great bodily injury or the act was accomplished by means likely to produce death or great bodily injury, in violation of Section 16-3-600(B)(1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DANIEL WEST COOPER
ASSISTANT SOLICITOR

BMW/0344470
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2017-031106

ARREST WARRANT NUMBER

2018A1021000405

DATE OF ARREST

06/15/2018

ACTION OF GRAND JURY
TRUE BILL

James P. Butler
Foreperson of Grand Jury

Date: OCT 02 2018

VERDICT

DOCKET NO. 2018-GS-10-05306

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2018

FILED

10/3/2018 3:47:21 PM

JULIE J. ARMSTRONG
CLERK OF COURT

THE STATE

VS.

WILLIS TERREL IVEY
B/M DOB [REDACTED]

Indictment for

MURDER

SC Code: § 16-03-0010

CDR Code: 0116

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

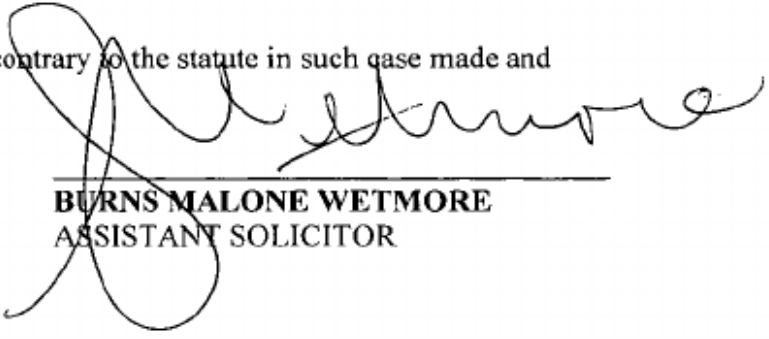
INDICTMENT

At a Court of General Sessions, convened October 2018, the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County, South Carolina on or about October 10, 2017, the defendant, Willis Terrel Ivey with malice aforethought did kill and murder Willie Duggans by means of shooting, and Willie Duggans did die in Charleston County as a proximate result thereof on or about October 10, 2017 in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BURNS MALONE WETMORE
ASSISTANT SOLICITOR

BMW/0344470
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2017-031106

ARREST WARRANT NUMBER

2018A1021000406

DATE OF ARREST

06/15/2018

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: OCT 02 2018

VERDICT

DOCKET NO. 2018-GS-10-05307

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2018

FILED

10/3/2018 3:47:21 PM

JULIE J. ARMSTRONG
CLERK OF COURT

THE STATE

VS.

WILLIS TERREL IVEY
B/M DOB [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT

CRIME

SC Code: § 16-23-0490

CDR Code: 0549

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

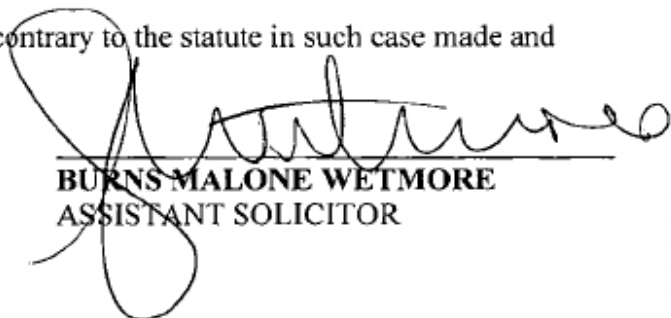
INDICTMENT

At a Court of General Sessions, convened October 2018, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about October 10, 2017, the Defendant, Willis Terrel Ivey, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BURNS MALONE WETMORE
ASSISTANT SOLICITOR

BMW/0344472
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2017-038214

ARREST WARRANT NUMBER

2017A1010207309

DATE OF ARREST

06/15/2018

ACTION OF GRAND JURY

TRUE BILL

Wendy Stiles

Foreperson of Grand Jury
Date: OCT 02 2018

VERDICT

DOCKET NO. 2018-GS-10-05308

The State of South Carolina

County of Charleston

FILED

10/3/2018 3:47:21 PM

JULIE J. ARMSTRONG

CLERK OF COURT

COURT OF GENERAL SESSIONS

OCTOBER TERM 2018

THE STATE

VS.

WILLIS TERREL IVEY

B/M DOB [REDACTED]

Indictment for

MURDER

SC Code: § 16-03-0010

CDR Code: 0116

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

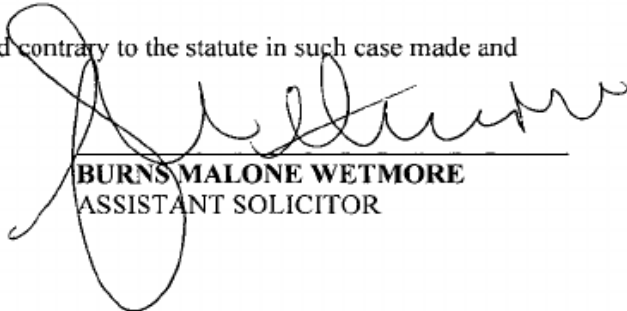
INDICTMENT

At a Court of General Sessions, convened October 2018, the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County, South Carolina on or about December 13, 2017, the defendant, Willis Terrel Ivey with malice aforethought did kill and murder Malik Cooper by means of shooting, and Malik Cooper did die in Charleston County as a proximate result thereof on or about December 13, 2017 in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BURNS MALONE WETMORE
ASSISTANT SOLICITOR

BMW/0344472
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2017-038214

ARREST WARRANT NUMBER

2017A1010207310

DATE OF ARREST

06/15/2018

ACTION OF GRAND JURY
TRUE BILL

Benjamin J. Stines
for person of Grand Jury
Date: OCT 02 2018

VERDICT

DOCKET NO. 2018-GS-10-05309

The State of South Carolina

County of Charleston

FILED

10/3/2018 3:47:21 PM

JULIE J. ARMSTRONG

CLERK OF COURT

COURT OF GENERAL SESSIONS

OCTOBER TERM 2018

THE STATE

VS.

WILLIS TERREL IVEY

B/M DOB [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT

CRIME

SC Code: § 16-23-0490

CDR Code: 0549

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

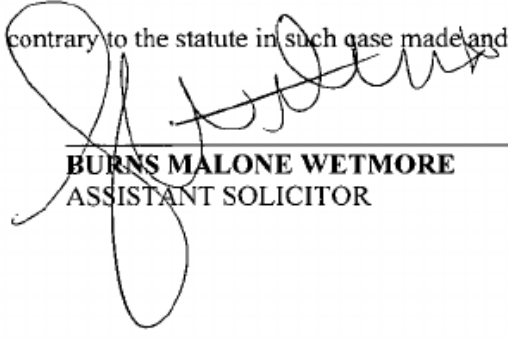
INDICTMENT

At a Court of General Sessions, convened October 2018, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about December 13, 2017, the Defendant, Willis Terrel Ivey, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BURNS MALONE WETMORE
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/ 2024-GS-10-04456
CASE#:

VS.

WILLIS TERRELL IVEYAKA: Willis Terrell Ivey, Willis T IveyA/W#: 6451011ADate of 06/14/2018

Offense:

S.C. Code §: 56-05-0750(B)(1)CDR Code #: 0065Race: Black Sex: M Age: 32DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] Street

City, State,

Zip: Goose Creek, SC 29445-3529DL# [REDACTED] SID SC01881890

#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐☐ Defendant Pro Se

SENTENCE SHEET

In disposition of the above indictment comes now the Defendant who

* WAS CONVICTED OF or ☐ PLEADSTO: Failure To Stop For A Blue Light 0-3 years

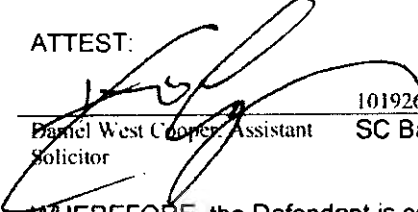
In violation of

§ 56-05-0750(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0065☐ 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.

The State's Position is:

☐ None☐ Negotiated and Agreed Upon Sentence: _____ Years, _____ Months, Probation for _____ Years, _____ Months☐ Negotiated and Agreed as to Charges Only☐ Recommended and Agreed Upon Sentence: _____ Years, _____ Months, Probation for _____ Years, _____ Months

ATTEST:


Daniel West Cooper, Assistant
Solicitor

101926

SC Bar #

Defendant

Attorney for Defendant

100410

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 3 Hours/Days/Months/Years. ☐ Time Served☐ Home Detention Program(HIP) ☐ MH Evaluation and Compliance ☐ Batterer's Treatment
☐ Domestic Abuse Counseling ☐ Drug Court ☐ Drug Program ☐ Alcohol Program ☐ Inpatient Facility
☐ Hold Until Bed Space Available ☐ Mental Health Court ☐ Balance Suspended with Drug Court
☐ Other: _____☐ Judicial Review _____ Days/ Months☐ Youthful Offender Act not to exceed _____ Days/ Months/ Years

STATE WILLIS TERREL INDICTMENT/CASE#: 2024-GS-10-04456
 VS. IVEY

And /Or to pay a fine of \$_____;

☐ Time Served

provided that upon the service of _____ Hours/Days/Months/Years

- ☐ Home Detention Program(HIP) ☐ MH Evaluation and Compliance ☐ Batterer's Treatment
☐ Domestic Abuse Counseling ☐ Drug Court ☐ Drug Program ☐ Alcohol Program ☐ Inpatient Facility
☐ Hold Until Bed Space Available ☐ Mental Health Court ☐ Balance Suspended with Drug Court
☐ Suspended To Batterer's Treatment
☐ Other: _____

And/ Or a payment of \$_____ ; plus costs and assessments as applicable*

the balance is suspended with probation for _____ Months/ Years

- ☐ Suspended During Probation ☐ Suspended During Drug Court ☐ Suspended During Batterer's Treatment
☐ Other: _____

and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/6/24

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

2337 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

Defendant has 10 days to apply for Home Detention Program or this will convert to an active sentence.

SPECIAL CONDITIONS:

☐ **PTUP** after _____ Months/Years ☐ Home Detention Program (HIP)

And Other Terms Listed Below:

- ☐ Conditional Discharge
☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

STATE WILLIS TERREL INDICTMENT/CASE#: 2024-GS-10-04456
 VS. IVEY

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine: _____ \$ _____
 Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____
 §14-1-206 (Assessments 107.5%) \$ _____
 §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ _____
 §14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
 §56-5-2995 (DUI Assessment) \$12 \$ _____
 §56-1-286 (DUI Breath Test) \$25 \$ _____
 §14-1-212 (Law Enforce. Funding) \$25 \$ _____
 §14-1-213 (Drug Court Surcharge) \$150 \$ _____
 §50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 3% to County (if paid in installments) TBD \$ _____
 Other Costs (As Authorized by Cost Code)*
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees \$500 \$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund TBD \$ _____

TOTAL \$ _____

Clerk of Court/Deputy Clerk: Curtis Aguirre
 Court Reporter: DORP

Presiding Judge: [Signature]
 Judge Code: 2775
 Sentence Date: 11/6/24

Specify Other Costs*

Cost Code	Cost Description	Amount
☐	_____	_____
☐	_____	_____
☐	_____	_____
☐	_____	_____
☐	_____	_____

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/ 2024-GS-10-05276
CASE#:

VS.

WILLIS TERRELL IVEYAKA: Willis Terrell Ivey, Willis T IveyA/W#: 2024-GS-10-05276Date of 06/14/2018

Offense:

S.C. Code §: 16-03-0600(B)(1)CDR Code #: 3411Race: Black Sex: M Age: 32DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] Street

City, State,

Zip: Goose Creek, SC 29445-3529DL# [REDACTED] SID SC01881890

#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐☐ Defendant Pro Se

SENTENCE SHEET

In disposition of the above indictment comes now the Defendant who ☒ WAS CONVICTED OF or ☐ PLEADSTO: Assault & Battery Of A High And Aggravated Nature 0-20 years

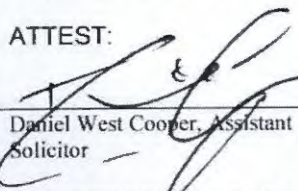
In violation of

§ 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The State's Position is:

☐ None☐ Negotiated and Agreed Upon Sentence: _____ Years, _____ Months, Probation for _____ Years, _____ Months☐ Negotiated and Agreed as to Charges Only☐ Recommended and Agreed Upon Sentence: _____ Years, _____ Months, Probation for _____ Years, _____ Months

ATTEST:

	181926		100410
Daniel West Cooper, Assistant 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 18 Hours/Days/Months/Years. ☐ Time Served
☐ Home Detention Program(HIP) ☐ MH Evaluation and Compliance ☐ Batterer's Treatment
☐ Domestic Abuse Counseling ☐ Drug Court ☐ Drug Program ☐ Alcohol Program ☐ Inpatient Facility
☐ Hold Until Bed Space Available ☐ Mental Health Court ☐ Balance Suspended with Drug Court
☐ Other: _____
☐ Judicial Review _____ Days/ Months☐ Youthful Offender Act not to exceed _____ Days/ Months/ Years

STATE WILLIS TERREL INDICTMENT/CASE#: 2024-GS-10-05276
 VS. IVEY

And /Or to pay a fine of \$_____;

☐ Time Served

provided that upon the service of _____ Hours/Days/Months/Years

- ☐ Home Detention Program(HIP) ☐ MH Evaluation and Compliance ☐ Batterer's Treatment
☐ Domestic Abuse Counseling ☐ Drug Court ☐ Drug Program ☐ Alcohol Program ☐ Inpatient Facility
☐ Hold Until Bed Space Available ☐ Mental Health Court ☐ Balance Suspended with Drug Court
☐ Suspended To Batterer's Treatment
☐ Other: _____

And/ Or a payment of \$_____ ; plus costs and assessments as applicable*
 the balance is suspended with probation for _____ Months/ Years

- ☐ Suspended During Probation ☐ Suspended During Drug Court ☐ Suspended During Batterer's Treatment
☐ Other: _____

and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/6/24

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
2337 days/months

- ☐ To include time spent on monitored house arrest prior to trial and sentencing.
☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

Defendant has 10 days to apply for Home Detention Program or this will convert to an active sentence.

SPECIAL CONDITIONS:

☐ PTUP after _____ Months/Years ☐ Home Detention Program (HIP)

And Other Terms Listed Below:

- ☐ Conditional Discharge
☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

STATE WILLIS TERREL INDICTMENT/CASE#: 2024-GS-10-05276
 VS. IVEY

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$ _____
§56-5-2995 (DUI Assessment)	\$12		\$ _____
§56-1-286 (DUI Breath Test)	\$25		\$ _____
§14-1-212 (Law Enforce. Funding)	\$25		\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ <u>3.75</u>
Other Costs (As Authorized by Cost Code)*			

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

\$500	\$ _____
TBD	\$ _____
TOTAL	\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: Cheryl Gregory
 Court Reporter: BCRP

Presiding Judge: [Signature]

Judge Code: 2775

Sentence Date: 11/6/24

Specify Other Costs*

Cost Code	Cost Description	Amount
☐ _____	_____	_____
☐ _____	_____	_____
☐ _____	_____	_____
☐ _____	_____	_____
☐ _____	_____	_____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment #: 2024-GS-10-04455

vs.

WILLIS TERREL IVEY,

VERDICT FORM NO. 1

DEFENDANT.

PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW.

1. We the jury unanimously find the Defendant, Willis Terrel Ivey, as to the charge of **Attempted Unlawful Taking of a Firearm from a Law Enforcement Officer:**

GUILTY

NOT GUILTY

Please sign and date.

Emma Jones
Jury Foreperson

11/6/24
Date

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment #: 2024-GS-10-04456

vs.

WILLIS TERREL IVEY,

VERDICT FORM NO. 2

DEFENDANT.

PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW.

1. We the jury unanimously find the Defendant, Willis Terrel Ivey, as to the charge of **Failure to Stop for a Blue Light**:

GUILTY

NOT GUILTY

Please sign and date.

Emmanuel Jones
Jury Foreperson

11/6/24
Date

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment #: 2024-GS-10-05276

vs.

WILLIS TERREL IVEY,

VERDICT FORM NO. 3

DEFENDANT.

PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW AND FOLLOW THE
ACCOMPANYING INSTRUCTIONS CAREFULLY.

1. We the jury unanimously find the Defendant, Willis Terrel Ivey, as to the charge of **Assault and Battery of a High and Aggravated Nature**:

☒ GUILTY

☐ NOT GUILTY

INSTRUCTIONS: If you found the Defendant NOT GUILTY of Assault and Battery of a High and Aggravated Nature, continue to question 2. If you found the Defendant GUILTY of Assault and Battery of a High and Aggravated Nature, you are finished. Please stop and end your deliberations.

2. We the jury unanimously find the Defendant, Willis Terrel Ivey, as to the charge of **Assault and Battery in the First Degree**:

☐ GUILTY

☐ NOT GUILTY

INSTRUCTIONS: If you found the Defendant NOT GUILTY of Assault and Battery in the First Degree, continue to question 3. If you found the Defendant GUILTY of Assault and Battery in the First Degree you are finished. Please stop and end your deliberations.

3. We the jury unanimously find the Defendant, Willis Terrel Ivey, as to the charge of **Assault and Battery in the Second Degree**:

GUILTY

NOT GUILTY

INSTRUCTIONS: If you found the Defendant NOT GUILTY of Assault and Battery in the Second Degree, continue to question 4. If you found the Defendant GUILTY of Assault and Battery in the Second Degree, you are finished. Please stop and end your deliberations.

4. We the jury unanimously find the Defendant, Willis Terrel Ivey, as to the charge of **Assault and Battery in the Third Degree**:

GUILTY

NOT GUILTY

Please sign and date.

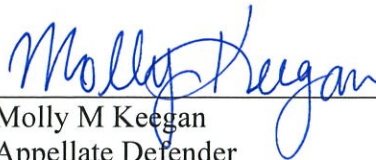
Emma Jones
Jury Foreperson

11/8/24
Date

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Molly M Keegan
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 16th day of April, 2026.