

VOLUME II of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Jocelyn J. Newman, Circuit Court Judge

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Aug 19 2026

S.C. SUPREME COURT

MONTRELLE CAMPBELL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-000753

APPENDIX

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Direct Examination of Mr. Simmonds by Ast. Sol. Simpson

501

1 Q. I have regressed to just printing it on paper?

2 A. That's what it appears to be.

3 AST. SOL. SIMPSON: Your Honor, I apologize not doing
4 this in advance. But I just marked this for ID only State's
5 141.

6 THE COURT: I'm sorry.

7 AST. SOL. SIMPSON: I just marked this as ID only for
8 State's 141.

9 THE COURT: You can if you want to since this is an
10 in-camera hearing. If you want to make a copy and we can
11 mark it as a Court's exhibit. What is that exactly? I'm
12 sorry.

13 AST. SOL. SIMPSON: This is aid that he presented to
14 our office for his testimony to assist in his testimony as a
15 demonstrative exhibit. It helps explain ---

16 THE COURT: How it's collected?

17 AST. SOL. SIMPSON: Explains the methodology of what he
18 does. And I thought it would be helpful to this issue.

19 THE COURT: Yet. For now, we'll mark it as ID only.
20 And then we might need to market as a Court's exhibit but
21 I'll figure that out. I'll copy it.

22 AST. SOL. SIMPSON: I can prepare another copy.

23 THE COURT: That would be helpful.

24 AST. SOL. SIMPSON: Thank you, Your Honor.

25 THE COURT: You're welcome. You may proceed.

1 BY AST. SOL. SIMPSON: (Continuing)

2 Q. Agent Simmonds, you said you testified before, right?

3 A. That's correct.

4 Q. Going to ask you because you're way better at this than
5 me.

6 THE COURT: Actually, what we'll do is we'll mark a
7 carbon copy is a Court's exhibit for the purposes of this
8 in-camera hearing. And you don't have to mark that. You
9 could just keep yours marked as 141. And then depending on
10 whether the testimony is admitted, then you could just use
11 that. Does that make sense what I just said?

12 AST. SOL. SIMPSON: Yes.

13 Q. So agent Simmonds, you've done this before. I'm going
14 to ask you a very general question so I don't butcher it.
15 If you could explain -- cell phone records are admitted to
16 you. Explain the methodology to the Court as to exactly
17 what it is you're doing with those records in order to
18 produce the maps of that.

19 A. Sure. So when somebody from your agency, local law
20 enforcement, whoever it may be, asks for an analysis of call
21 detail records. I'm going to call them call detail records
22 because it's what I most familiar with calling them. Call
23 detail records as an explanation point is basically --
24 nobody gets a self and Bill anymore. I don't. So they're
25 basically like your old cell phone bills. They give you the

1 date, time, duration, who you called or that person called
2 you, that information on there. The only difference between
3 call detail records is that they give you a little bit more
4 information which tells you what tower and sector of that
5 tower of that tower -- what tower and what sector on that
6 tower was utilized at the time that call was made. And from
7 that -- from this records and using the tower list that is
8 provided by the service provider, T-Mobile, AT&T, whoever,
9 we marry those two documents up to basically give you a
10 visual depiction of what the cell phone record -- where that
11 self and was at that particular time.

12 Q. Are there any particular images or anything in your
13 presentation here that might assist the judge of
14 understanding what you're talking about?

15 A. Sure. Page two will gives a general explanation. Page
16 two gives an explanation of how, the methodology of what we
17 did, the time frame I was asked to analyze. How we came up
18 with it. And then the following pages are just the actual
19 depiction of it. This page here is just a picture of a
20 general cell tower that we're all familiar with. Basically
21 saying that the cell towers are generally divided up in
22 three sectors. They've divided up into approximately
23 hundred and 20-degree sectors to cover 360-degrees. And is
24 just how the networks will label them as either sector one
25 sector two, or sector three. Are sometimes engineers call

1 them alpha-beta or gamma.

2 Q. And depending on which side these hit on, that can give
3 you some directionality to where the cell phone might've
4 been?

5 A. Correct. If a record says phone A used tower A, B, C,
6 1, 2, 3 sector one, in this picture is displayed here, we
7 know it would be in the north south of that tower.

8 Q. Okay.

9 A. The slide here just is an explanation of how we come up
10 to the hundred and 20-degree sectors for each one. So
11 within the phone records and/or the tower list, they have
12 the azimuth which is the center direction the energy coming
13 off that sector. How many degrees is at center sector at.
14 So we look at it as a clock and in saying that twelve
15 o'clock would be either zero or 360 then every after is
16 30 degrees. So if you have a set of records that say the
17 azimuth is zero, your center point would be the twelve
18 o'clock and then you get 60 degrees on either side of that.
19 So two o'clock and ten o'clock to give you that particular
20 sector.

21 This just explains how the calls -- when the phone
22 utilizes a tower in one sector how the illustrations will be
23 displayed on the following maps. We placed this in here
24 because the blue shaded section, I don't want anybody to be
25 confused that that is the footprint of that tower. I'm

1 saying that's where the energy comes from and it turns out
2 from there. So that fen would not necessarily rely just in
3 the blue center -- sector. A lie somewhere in between the
4 two arms.

5 Q. And that's an important point. You don't hold out that
6 the data allows you to pinpoint a person's location, do you?

7 A. No. It just allows me to get a general location of
8 where the phone is at that particular time knowing that it's
9 either on the north, south, east side or the northwest side
10 of a particular tower. And is using that particular tower
11 and sector at that time.

12 Q. Okay. And why we're noting, you know, limitations in
13 this technology, does a cell phone always 100 percent of the
14 time go to the closest tower?

15 A. The phone uses the tower that provides the strongest,
16 clearest signal at that particular time. There are things
17 that affect RF, radio frequency, such as buildings, terrain.
18 And if you're in Denver and you're in the Rocky Mountains,
19 there may be a tower that's right beside you but there's a
20 mountain that's blocking it, but the tower on top of the
21 mountain shooting down might be the one that provides the
22 strongest clear signal to you. So it may utilize that tower
23 instead. So there were things that will affect RF
24 frequency. But the phone is always searching to try to find
25 the strongest, clearest signal because of service companies

1 want to get service to you and you not drop calls and they
2 get aggravated switch to another company that provides
3 better service.

4 Q. Okay. Might you be able to more urban setting with
5 more towers, however, give at least a more confident view?
6 How does that affect your . . .

7 A. Sure. Here in downtown Charleston we're going to have
8 towers that are closer together, a little closer together.
9 There are more people down here utilizing services. Towers
10 are set up and placed strategically throughout an area to
11 provide the best possible service. And the more demand that
12 there is on the network for cell service, the more towers
13 they are going to put up. So in Charleston downtown, we're
14 going to have a little bit more than what they may have in
15 Hollywood, South Carolina. New York City is definitely
16 going to have a lot more people asking for resources for
17 cell tells. So they may have them even closer together
18 than what they would have here in downtown Charleston.

19 Q. Okay. Again, don't be offended by this question. But,
20 you know, your testimony to the jury you intend to address
21 the limitations of this technology, correct.

22 A. Sure. I mean, there's limitations to almost anything
23 you offer.

24 Q. Okay. And just to show the judge an example of what it
25 is you do with this cell tower like you just explained using

1 that methodology. And, again, probably will have to fix
2 this -- cut off some the margins here. But what are we
3 looking at here?

4 A. Sure. This is the cell phone -- the phone records that
5 were provided to me. I believe the number is [REDACTED].

6 Basically, I was asked to look at the time frame between
7 11:59 p.m. on September 17 to 1:13 a.m. on September 18.

8 What towers did that phone use at that particular time? And
9 this just provides a visual depiction of what cell towers
10 were used during that time frame.

11 Q. I asked you some of these in the presence of the jury.
12 But as a member of the CAST team, you said you've been
13 qualified as an expert in this before?

14 A. I have.

15 Q. And the science has been -- you have personal knowledge
16 that the science has been generally accepted by courts of
17 law.?

18 A. I have.

19 Q. In fact, you remembered a team, you testified earlier,
20 that testifies all over the nation. And correct me if I'm
21 wrong, but I believe you said every day somewhere?

22 A. Somebody's usually doing it .

23 Q. Okay. So you have personal knowledge that this has
24 been offered as a reliable -- within the limitations you
25 just described this is been offered as reliable evidence in

1 trials before?

2 A. That's correct.

3 Q. And fair to say frequently?

4 A. Very frequently.

5 Q. And again -- not to repeat this before -- this is the
6 very people that maintain and come up with this technology
7 that are involved in your training. Is that correct?

8 A. Yeah. We're trained by the engineers and the law
9 enforcement relations personnel that provide the records to
10 us. They handle all that training and certification.

11 Q. Okay. So speaking of science, is the actual scientists
12 who are training you?

13 A. The engineers. Yes, sir.

14 Q. The engineers. Okay.

15 AST. SOL. SIMPSON: Court's indulgence.

16 THE COURT: Yes, sir.

17 Q. So your training is up to the state-of-the-art. Did
18 your training continue in this field?

19 A. Yes. The other training -- we have to be recertified.
20 We have to attend. We have to get recertified. And, again,
21 we bring in the personnel and the engineers from the service
22 providers to give us any updates. So, like, when the
23 networks went from 2G to 3G to 4G they would bring in this
24 view records and provide us updates with their networks.

25 Q. Okay. So you feel that your agency maintains you on

1 the current state-of-the-art in this field?

2 A. Yes.

3 Q. And to your personal knowledge, members of your team
4 train the same way you are and testify frequently.

5 A. Yeah. We all have the same -- we all have the same
6 standard. You know, some of us may go to training a little
7 more often. Or we have a difference between CAST personnel.
8 We have national assets which their job is to do nothing but
9 CAST work. While me, as a field asset, I also have to do
10 the bank robberies and gang cases and other activities that
11 come up. But I you cell phone records daily in my
12 investigations, and request and receive from law
13 enforcement.

14 Q. Throughout all this training, are you provided like
15 written training materials.

16 A. Yeah. I'm actually -- I'll be one of the instructors
17 or classes to teach the basics of cell phone analysis. I'm
18 one of the instructors. When I was at FBI quarters as a
19 supervisor with the CAST program, I was in charge selecting
20 individuals he would attend the training and would
21 participate in assisting them if they're getting stuck or
22 having a hard time reading records.

23 Q. And are these training materials publications subject
24 to peer review. Do other people review them?

25 A. Sure. Every time we are in this kind of environment

1 where I'm going to come testify, needed for court purposes,
2 I do my initial analysis and send it off to have another
3 CAST agent peer review it and make sure I haven't made any
4 mistakes or missed something.

5 AST. SOL. SIMPSON: I have no further questions as to
6 the reliability of the . . .

7 THE COURT: You may proceed.

8 CROSS-EXAMINATION

9 BY MS. FORD:

10 Q. Hi.

11 A. Hello.

12 Q. You were starting to get into this at the end. I would
13 ask you to talk a little bit more about peer review. He
14 said your work is typically peer-reviewed?

15 A. Yes, ma'am.

16 Q. Was it done so in this case?

17 A. Yes, ma'am.

18 Q. Is it done in every case?

19 A. Every case that we're going to do testimony for or that
20 will be used for some sort of legal purpose. So light just
21 to kind of clear it up a little bit. So if I am looking for
22 a fugitive and I have cell phone records and I'm trying to
23 locate where that fugitive is, I would not send that out for
24 peer review. But for court testimony and things of that
25 nature, I would.

1 Q. Can you tell us what -- you know what a drive test is?

2 A. Yes, ma'am.

3 Q. Can you explain to us but that is?

4 A. Sure. A drive test technique used to give you
5 footprint of that particular cell tower. It's a piece of
6 equipment that is placed in your car, truck, whatever it is
7 that your driving. And it receives the radio frequency
8 signal from the tower's that you're looking to analyze the
9 footprint on the particular tower.

10 Q. Does not help in establishing accuracy?

11 A. It can. Many times it can. Is the footprint of that
12 tower that particular date and time that your drive testing
13 that particular area. It will actually give you what the
14 actual footprint of the tower was set at that particular
15 time. I didn't do a drive test in this particular case
16 because I just received the records in November. And this
17 case was two years old. And the networks update their tower
18 list, update towers. Most of them do it about every
19 quarter. And so I wasn't going to drive test this
20 particular case because of the age.

21 Q. Okay. So going to that, so is it fair to say, I guess
22 the landscape of cell towers in Charleston, has that changed
23 over the past two and a half years?

24 A. They could. They sure could have. With the growth of
25 Charleston and more people coming into town, they could've

1 erected another cell tower. Or maybe they changed the tilt
2 of an antenna. Maybe they had an issue where they were
3 getting complaints about not receiving service. So maybe
4 they went and changed the orientation a little bit of the
5 tower just to provide better service.

6 Q. Do you know -- did you go back and look to see if
7 anything had changed between September 2015 and now whenever
8 you did your testing?

9 A. Yeah. I do believe that T-Mobile has added a tower or
10 two to the Charleston market. I also realized in doing the
11 analysis that their tower list that T-Mobile did have a
12 tower that was utilized in 2015 not in their tower list.
13 And I had to ask them to provide me a location of a tower.

14 Q. So things are a little different now than they were
15 back in 2015?

16 A. With T-Mobile, yes.

17 Q. And you said that you work with the cell phone
18 companies like T-Mobile. Are they the ones who actually
19 come up with the maps that you have or the radius?

20 A. I don't understand. The radius of what?

21 Q. When you come up with a point and you go on say this
22 covers this area. It can be somewhere in this area,
23 correct? It's not a specific plane. It's a general area,
24 correct?

25 A. Sure.

1 Q. Do the cell phone companies tell you what that area is?

2 A. Yeah. So they -- when you're looking at the tower
3 list, there's what they call a lack of location area code
4 they cell identification towers. So when you marry those
5 two things and there's not another one anywhere within the
6 network in the country for that so that is a unique
7 identifier for that particular cell phone tower. With that
8 it provides us with the latitude and longitude of the
9 towers. So where it would put the little dot on the map.
10 Then it provides the azimuth, which is the direction of the
11 energy coming off up that sector of that particular tower.
12 And with the general concept that cell towers cover
13 360 degrees and I've yet not see 3sector cell tower in South
14 Carolina. We developed -- the sectors 120-degree --
15 approximately 120-degrees in coverage. So that's how the
16 direction of where the energy is coming from that tower is
17 developed. So, yes, it comes from their records.

18 Q. But it's just -- they're not the ones he came up with
19 these records, for example. You did that or was it from the
20 company's? Like, I know you used the data from the
21 company's.

22 A. The maps themselves, no. It's put into a mapping
23 software that we have access to and draws out the sectors
24 that are placed. But it's placed on the data that's
25 provided by the service provider.

1 Q. Is it fair to say that the coverage that a cell tower
2 has, it's not necessarily exact; it's an approximation? Is
3 that fair to say? Like there's not actual cut off, a
4 literal cutoff point?

5 A. No. Because cell towers are based on a frequency.
6 Frequency goes and goes and goes until it's not useful
7 anymore. So, again, cell phones want to listen to towers
8 that provide the cleanest, strongest signal so the further
9 way that you get from that particular tower in question the
10 cell phone will not see that tower very clearly it will go
11 next tower that it does see clearly and utilize that
12 particular tower. But RF frequency, the sectors the perfect
13 little pilings that are displayed the map.

14 Q. Well, yeah ---

15 A. It's --

16 Q. --- asking.

17 A. I describe it when you do the drive test and you get
18 the data it's kind of irregular shaped polygon is the way I
19 like to kind of describe them. But the footprint of that
20 tower is generally in that 120 degrees sector that is drawn
21 on the maps.

22 Q. Okay. Generally, in that area, correct?

23 A. Sure.

24 Q. And you said there are different things that could
25 affect the ability of a phone to be able to pick up on a

1 cell tower, correct?

2 A. Sure.

3 Q. And it could even be the make and model of the phone
4 itself can affect?

5 A. It just depends. I mean, it just depends on, you know,
6 the phone and how strong the signal the phone is giving back
7 to that tower.

8 Q. It's impossible to determine the actual distance the
9 phone is from the cell tower, correct?

10 A. That's correct. That's why I said when the -- edges
11 are rough up there on this particular maps. I would testify
12 that the phone is somewhere within that sector. If you had
13 a specific house or a location and you asked me can you tell
14 me specifically if the phone was at that house, I would not
15 be able to tell you specifically at that particular time.

16 Q. And can you say how much -- like what's the radius?
17 How much area does a cell tower actually cover or does
18 that . . .

19 A. We base it off where the next tower is. So, again,
20 going back to the analogy that I had earlier. Towers will
21 be a little closer here in downtown Charleston than they
22 will be out in rural Hollywood. Towers are going to be a
23 lot closer New York City than they will ever think about
24 being here in Charleston, South Carolina because it's all
25 about demand and capacity. So in New York he may have a

1 tower that covers half a city block because there's
2 8 million people in New York. While in downtown Charleston,
3 might have one that's half a mile -- covers a half a mile, a
4 mile, maybe 2 miles. And then you got out to Hollywood, a
5 rural area like Hollywood it covers 5, 6, 7, 8 miles.

6 Q. But it can cover several miles?

7 A. It could. It just depends on the makeup of the
8 networks. So the network is set up provide the best
9 coverage. Again, they don't want their customers getting
10 aggravated and switching to a company that will provide
11 better coverage. I'd use the analogy of the network it is
12 set up like a sprinkler system. Most people have sprinkler
13 systems or when they water their lawns they have sprinklers
14 that they know cover this area and then they have to move to
15 get cover the other areas. Cell phone networks are the same
16 way. They set up towers throughout their locations to
17 provide the best possible coverage. And each tower is going
18 to overlap a little bit with the next tower to it so you
19 won't have any dead spots when you're making calls. So if
20 you travel from location to location, you get a a clean
21 service, for lack of a better word, and you don't drop those
22 calls. Or for my sprinkler analogy, you don't have dead
23 spots in your yard.

24 Q. Okay.

25 MS. FORD: Beg the Court's indulgence.

1 THE COURT: Yes, ma'am.

2 MS. FORD: No further questions, Your Honor.

3 THE COURT: Any questions for the witness?

4 AST. SOL. SIMPSON: Not on this topic. No, Your Honor.

5 THE COURT: Okay. Glad to hear any arguments.

6 AST. SOL. SIMPSON: Your Honor, thank you. I think ---

7 THE COURT: Well, let's determine -- Ms. Ford, do you
8 have an objection?

9 MS. FORD: Yes, Your Honor. I would just object just
10 because it's so not precise and covers such a wide
11 difference. It's just vary so much. In this particular
12 case, some of the cell tower coverage has changed over the
13 past two years. I think when the test is done more than two
14 years later, it does make it less reliable, Your Honor.
15 Because it's so in -- and so broad, I would argue that it's
16 not relevant.

17 THE COURT: Would you like to respond, Mr. Simpson?

18 AST. SOL. SIMPSON: Yes, just briefly. I hope I
19 didn't -- testimony, but I think the witness was clear that
20 the mapping he did was based on tower locations he hit at
21 the time, not -- he admitted there had been changes between
22 2015 and today, but the mapping he did for this case took
23 into account those changes. I was looking at this more of a
24 challenge based on basic reliability of the science --

25 THE COURT: I think that's -- yeah, that's -- he's been

1 admitted as an expert without objection.

2 AST. SOL. SIMPSON: Oh, right.

3 THE COURT: So her objection is based on the
4 reliability of the science but not as I understand it. If
5 I'm inaccurate, please correct me.

6 MS. FORD: That's correct, Your Honor.

7 AST. SOL. SIMPSON: I think, you know, as to those
8 accuracies I think he was very forthcoming as was elicited
9 in both my questioning and the defense. It certainly
10 doesn't render inadmissible the fact that all technology do
11 have some limitations as long as the witness is able to
12 acknowledge those. This is the type of testimony that is
13 commonly, as you've heard from the witness, accepted in
14 court after court, almost every day in some court in this
15 country. I apologize Your Honor for not having -- what was
16 going on to pull the actual cases. But I agree with you.
17 I believe -- more than one case even in the Fourth Circuit
18 that has approved this order testimony before. I think it
19 is peer-reviewed. Is been a long time since I've had -- her
20 classes Your Honor. It's peer-reviewed and it is
21 scientifically -- generally, scientifically accepted and
22 commonly accepted by the courts as proper relevant
23 testimony, Your Honor.

24 THE COURT: Anything further?

25 AST. SOL. SIMPSON: Not from the State, Your Honor.

1 MS. FORD: No, Your Honor.

2 THE COURT: The first part of this analysis as required
3 by the Supreme Court requires the courts to make the
4 following inquiry before admitting scientific evidence
5 pursuant to Rule 702. First, the Court must determine if
6 the evidence will assist the trier of fact. And, clearly,
7 it will assist with the trier of fact as it would, under the
8 State's theory as I anticipated, placing the defendant
9 within a certain distance or parameter within blocks of
10 where the incident occurred. The next step is whether the
11 expert is qualified. And he has already been qualified
12 without objection to his expertise as a cell phone analyst.
13 And is already testified that he's had 400 hours of training
14 and he certified as a CAST special agent and as part of that
15 team. So, clearly, he has the expertise required of someone
16 who has specialized training and experience such that the
17 information he would testify to beyond the ambit of common
18 experience of that of the common juror's knowledge.

19 And then the next hurdle that the Court or the next
20 criteria is whether the science is reliable. And when
21 looking at the reliability of science the Court is required
22 look at the Jones factors. And even once meeting those
23 factors, the Court must still determine whether the evidence
24 is relevant. And I would say it is relevant as it makes it
25 an fact an issue in this case more probable -- makes an

1 issue of relevance in this case more or less probable. And
2 then the Court has to determine whether the prejudicial
3 effect outweighs probative value. And I would find the
4 probative value testimony is not outweighed any by prejudice
5 or potential prejudice.

6 Now, looking at the reliability of the signs, the Court
7 is required to look at the following criteria, which have
8 already addressed, which it's relevant and culpable to the
9 jury. The other part of it deals with reliability, which
10 then deals with the criteria of the scientific methodology
11 which the witness has already articulated for the record and
12 also corroborated based on his 400 hours of experience in
13 not only training in this methodology, but also him being
14 trained and also training others regarding the criteria that
15 is employed of the scientific methodology that is employed
16 in assessing this information. The other is peer-reviewed,
17 which he's testified not only does he compile -- is the word
18 I was looking for -- not only has he compiled the
19 information, but prior to him being able to testify
20 regarding that he sent it off to another entity to
21 peer-reviewed his findings. And all peer review of course
22 designed as a second set of eyes regarding certain criteria
23 to make sure that any industry-wide standards have been
24 adhered to.

25 The next is consideration of general acceptance. And

1 the witness has testified, and his testimony is
2 uncontroverted, that it's widely accepted. He's testified
3 in Charleston, Berkeley, Aiken and the District of Columbia
4 regarding this issue. And he is part of a team that
5 testifies regarding this information nationwide and that it
6 is of general acceptance. He's also testified regarding the
7 rate of error of a particular technique. And he has
8 acknowledged just as with any science that it is not
9 100 percent that there certain rates of error that are
10 anticipated and accounted for that he will readily admit
11 to -- I'm just sort of welling it down for the sake of time.
12 I'm not using his exact words that the witness used but that
13 assesses it. And in considering that criteria, although
14 there's been no testimony regarding publications I think we
15 would all agree that in order for there to be 400 hours
16 training on the subject there must be multiple publications
17 regarding it. It's already dealt with prior application of
18 the method of the type and the quality control procedures
19 that being peer review and the consistency of it recognized
20 throughout the country.

21 And based on that criteria, based on, although our
22 state does not adopt Dolbert in it's totality. It has
23 indicated that our rules of evidence, that being rule 702,
24 deal with how we assess reliability and also in conjunction
25 with the Jones criteria's as well as State's versus Counsel

1 state versus Jones. Clearly, science is reliable, and it is
2 one that is generally recognized subject to peer review.
3 And therefore the motion to omit the evidence is denied.

4 Now, any of the issues -- really most of the issues
5 that Ms. Ford raised really deal with the weight of the
6 testimony. Although, our courts have been clear that you
7 can't rely on the mantra that it's more -- that the
8 objection goes to weight not admissibility. Certainly these
9 are matters that she can fully cross-examine the witness on
10 and fully examine the weight to be accorded to his testimony
11 and be able to argue that to the jury. And I think that's
12 preserved.

13 All right. Is there anything else we need to take up
14 before we adjourn for the evening? From the State?

15 AST. SOL. SIMPSON: No, Your Honor. Thank you.

16 THE COURT: From the defense?

17 MS. FORD: No, Your Honor.

18 THE COURT: Sir, if you can rejoin us in the morning.
19 I'll remind you you're still under oath, and if you will
20 accommodate the Court by not discussing your testimony with
21 anyone.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Have a good evening.

24 (The proceedings adjourned for the evening.)

25 - - - - -

1 (The proceedings resumed Thursday, January 11, 2018)

2 AST. SOL. SIMPSON: Last night, you know, we had made
3 some references to subscriber and phone and the names and
4 things of that nature yesterday -- and I think it was a
5 pretty embarrassing oversight on both my part -- but we
6 worked hard -- the phone records that we received that were
7 certified as authentic to contain subscriber information in
8 the name of Trivell Richardson and Montrelle Campbell.
9 Nevertheless, we would -- would like to proceed as the Court
10 advised yesterday.

11 THE COURT: You know, it's up to you. I don't want to
12 interfere in how try your case. Y'all presented me with a
13 problem. I tried the best I could to find a fair and
14 equitable solution to it. But if y'all can figure something
15 else out, I don't have a dog in the fight.

16 AST. SOL. SIMPSON: We appreciate it. I think we're
17 going to call, as suggested to me, Ms. President. Have her
18 name the number. She's outside looking at the video now.

19 THE COURT: Okay. Have y'all arranged for
20 Mr. Richardson to see the video as well?

21 AST. SOL. SIMPSON: We want to -- Mr. Archer yet
22 though. I don't want to talk to him unless his lawyer is
23 present.

24 THE COURT: He might be in stuck in traffic too. It
25 took me 45 minutes to come a full mile. So I don't know. I

1 don't know what's going on with the highways. I'm not even
2 going to try to figure it out. But as soon as he gets here,
3 I think we'll have more than adequate time to watch it. But
4 as soon as the jury gets here, unless you have something
5 else we need to do, that's when we'll get started.

6 Ms. Ford, do we need to take up anything else before
7 we resume testimony?

8 MS. FORD: No, Your Honor.

9 THE COURT: Okay, guys. As soon as that juror gets
10 here, we'll get started.

11 AST. SOL. SIMPSON: Thank you, Your Honor.

12 THE COURT: Thank y'all.

13 (Brief pause.)

14 AST. SOL. SIMPSON: Your Honor, my cocounsel is
15 currently speaking with Mr. Richardson as we talked about
16 yesterday. I am, and if the Court chooses to, prepared to
17 go forward with our first witness.

18 THE COURT: Yeah. What a did y'all work out? You were
19 saying you and Ms. Ford worked out something yesterday.

20 AST. SOL. SIMPSON: We were looking ahead to the
21 testimony of Agent Simmonds. And the diagram he presented,
22 we agreed ---

23 THE COURT: Okay. What number is that?

24 AST. SOL. SIMPSON: Okay. I'm glad you reminded me.
25 It was referred to as 142 for ID only in our hearing

1 yesterday. But we've remarked it as a Court's exhibit, Your
2 Honor.

3 THE COURT: Okay.

4 AST. SOL. SIMPSON: We reprinted another copy marked as
5 a Court's exhibit. And that entire packet is now a Court's
6 exhibit.

7 THE COURT: Okay.

8 AST. SOL. SIMPSON: What we've done this morning at the
9 defense's request is we're going to use roughly the first
10 half of that packet as demonstrative evidence only.

11 THE COURT: Okay.

12 AST. SOL. SIMPSON: On the actual maps, we've marked
13 individually as State's 142 -- I think 142 and 145. And,
14 you know, obviously subject to objections.

15 THE COURT: Do you have any objections to that? I
16 guess I'm asking did y'all agree for it to come in or did
17 you not?

18 AST. SOL. SIMPSON: I think we just agreed that I would
19 try to get it in individually. I don't that she's
20 consenting to it. In fact, she's got some previous
21 objections to it.

22 MS. FORD: Yes, Your Honor. I think we'll just go about
23 it in the natural course of the testimony. My concern is
24 just that it be appropriate for the demonstrative -- like
25 the instructions and you know the . . .

1 AST. SOL. SIMPSON: And that part we agreed to, what
2 doesn't come in. So I just kind of have to mark it and
3 anticipate.

4 THE COURT: Okay. So y'all don't have any additional
5 exhibits that are coming in without objection is what you're
6 telling me?

7 AST. SOL. SIMPSON: Yes, Your Honor.

8 THE COURT: All right. Are we ready for the witness?

9 AST. SOL. SIMPSON: We are, Your Honor. Give me one
10 minute just to go out in the hall . . .

11 (Brief pause.)

12 (The jury enters the courtroom at 10:05 a.m.)

13 THE COURT: Thank you. You may be seated. Good
14 morning, ladies and gentlemen. I hope everybody had a
15 pleasant evening. I know traffic was a nightmare this
16 morning, and I'm just glad that everybody arrived safely.
17 We're now going to resume testimony. State may call its
18 next witness.

19 AST. SOL. SIMPSON: Thank you, Your Honor. The State
20 would recall Tomeka President.

21 THE COURT: Ma'am, if you would come to the witness
22 stand to be sworn.

23 (TOMEKA PRESIDENT, was duly sworn and provided the
24 following testimony.)

25 CLERK: Please take your seat.

Direct Examination of Ms. President by Ast. Sol. Simpson

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1 THE COURT: If you will state your full name for the
2 record, spelling your last name for the court reporter.

3 THE WITNESS: Tomeka President, T-O-M-E-K-A,
4 P-R-E-S-I-D-E-N-T.

5 THE COURT: You may proceed.

6 AST. SOL. SIMPSON: Thank you, Your Honor.

7 THE COURT: You're welcome.

8 DIRECT EXAMINATION

9 BY AST. SOL. SIMPSON:

10 Q. Ms. President, good morning.

11 A. Good morning.

12 Q. Still maintain a pretty good recollection of your
13 earlier testimony in this case?

14 A. Somewhat.

15 Q. Do you remember telling this jury at that time back in
16 September you were asked if you had a phone number for
17 Montrelle Campbell and you gave them that number?

18 A. Yes . . .

19 Q. Okay. What I'm going ask you this morning is did you
20 watch a video of that exchange?

21 A. Uh-huh.

22 Q. Okay. And I'm handing you what's marked as ID only as
23 State's 147. Do you recognize that?

24 A. Yes.

25 Q. Okay. Is that the video that you watched this morning?

1 A. Yes, sir.

2 Q. How can you tell it's the video?

3 A. My initial and the number.

4 Q. Okay. And what's the number?

5 A. [REDACTED].

6 Q. Okay. And that's the number that in September of 2015
7 you had in your phone for Mr. Campbell?

8 A. Yes.

9 Q. Okay.

10 AST. SOL. SIMPSON: I have no further questions, Your
11 Honor.

12 THE COURT: Would counsel approach for me, please.

13 (A bench conference was held off the record and out of
14 the hearing of the jury panel.)

15 THE COURT: All right. Ms. Ford, do you have any
16 questions of the witness?

17 MS. FORD: No, Your Honor.

18 THE COURT: Any objection to the witness being excused?
19 From the State?

20 AST. SOL. SIMPSON: No, Your Honor.

21 THE COURT: From the defense?

22 MS. FORD: No, Your Honor.

23 THE COURT: Ma'am, you're excused. Have a good day.
24 You may proceed.

25 AST. SOL. SIMPSON: Your Honor, may I approach?

1 THE COURT: Yeah.

2 (Brief pause.)

3 AST. SOL. SIMPSON: Your Honor, at this point, the
4 State would call Trivell Richardson.

5 THE COURT: Approach again. I need to tell y'all one
6 more thing.

7 (A bench conference was held off the record and out of
8 the hearing of the jury panel.)

9 THE COURT: Proceed.

10 AST. SOL. SIMPSON: Thank you, Your Honor. The State
11 would call Trivell Richardson.

12 (TRIVELL RICHARDSON, was duly sworn and provided the
13 following testimony.)

14 CLERK: Please take your seat. Spell your first and
15 last name for the record.

16 THE COURT: Sir, if you would state your name for the
17 record.

18 THE WITNESS: Trivell Richardson.

19 THE COURT: Spell your last name for the court
20 reporter.

21 THE WITNESS: R-I-C-H-A-R-D-S-O-N.

22 THE COURT: You may proceed.

23 AST. SOL. SIMPSON: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 DIRECT EXAMINATION

1 BY AST. SOL. SIMPSON:

2 Q. Mr. Richardson, do you recall your previous testimony
3 in this case?

4 A. Yes, sir.

5 Q. Do you recall explaining to this jury that during an
6 interview you freely and voluntarily gave a phone number
7 that you had in September of 2015 to Detective Tuttle?

8 A. Yes, sir.

9 Q. Okay. Do you recall what that number was that you gave
10 him?

11 A. [REDACTED].

12 Q. And what area code?

13 A. [REDACTED].

14 Q. Okay. Were you sort of reminded of that number with a
15 clip this morning?

16 A. I knew the number.

17 Q. Oh, you knew it anyway?

18 A. (Nonverbal response.)

19 Q. Okay. All right.

20 AST. SOL. SIMPSON: Your Honor, I have no further
21 questions.

22 THE COURT: Any questions for the witness?

23 MS. FORD: No, Your Honor.

24 THE COURT: Any objection to the witness being excused?
25 From the State?

1 AST. SOL. SIMPSON: No, Your Honor.

2 THE COURT: From the defense?

3 MS. FORD: No, Your Honor.

4 THE COURT: Sir, you're excused. State may proceed.

5 (Brief pause.) The State can call its next witness.

6 AST. SOL. SIMPSON: Thank you, Your Honor. The State
7 would recall Detective Tuttle.

8 THE COURT: Detective Tuttle, if you would come to the
9 stand to be sworn.

10 (ERIC TUTTLE, was duly sworn and provided the following
11 testimony.)

12 CLERK: Please take a seat. Spell your first and last
13 name for the record.

14 THE WITNESS: E-R-I-C, T-U-T-T-L-E.

15 THE COURT: You may proceed.

16 AST. SOL. SIMPSON: Thank you, Your Honor.

17 THE COURT: You're welcome.

18 DIRECT EXAMINATION

19 BY AST. SOL. SIMPSON:

20 Q. Good morning, Detective Tuttle?

21 A. Good morning.

22 Q. Do you recall your previous testimony in this case?

23 A. Yes, sir.

24 Q. Do you recall explaining to this jury a little bit
25 about some search warrants for some phone records?

1 A. Yes, sir.

2 Q. Okay. Let's just sort of recap that a little bit. Did
3 you have an occasion during your investigation to come to
4 associate certain numbers for Montrelle Campbell?

5 A. Yes, sir. I did.

6 Q. And do you recall what that number was?

7 A. Are you talking about this [REDACTED]?

8 Q. [REDACTED]?

9 A. Yes.

10 Q. Did you during the course of your investigation to
11 associate a number with Trivell Richardson?

12 A. I did.

13 Q. And how did you get that number?

14 A. A number of ways. His mother, himself.

15 Q. Okay.

16 A. And I spoke to him on it.

17 Q. And what do you recall, if you recall, what number that
18 would be?

19 A. [REDACTED].

20 Q. Thank you. Just so we have this down, 6691 -- which is
21 the last four digits and is how I'm going to refer to it
22 from time to time -- 6691 is the number you had associated
23 with Montrelle Campbell?

24 A. Correct.

25 Q. And 1390, the number you had associated with Trivell

1 Richardson?

2 A. Yes, sir.

3 Q. Okay. Did you obtain search warrants for these for
4 phone records for those phone numbers?

5 A. The first thing I did was confirm which service
6 provider they were, which is finding out with just
7 PhoneFinder.net, and calling that service provider and then
8 confirming that they did service that phone number at the
9 time.

10 Q. Okay. And after confirming that information, what did
11 you do?

12 A. Obtained a search warrant.

13 Q. Okay. And did you send that search warrant to the
14 legal department of those respective companies?

15 A. I did.

16 Q. Did you receive responses to those search warrants?

17 A. I did.

18 Q. Okay. Did those responses comport with your request?

19 A. They did.

20 Q. And which is what?

21 A. You request call detail records that include incoming
22 and outgoing calls. Basically, any time a cell phone
23 interacts with cell towers. So it would be calls, text
24 messages. It could just be the phone checking into the cell
25 tower. And that in turn not only tells who the person was

1 communicating with, but also a general area of where they
2 may be at at that time.

3 Q. Are you an expert in cell tower networks?

4 A. No, sir.

5 Q. Okay. But you mentioned also that you get ingoing and
6 outgoing calls and things of that nature in the response?

7 A. Yes, sir.

8 Q. Okay.

9 AST. SOL. SIMPSON: May I approach the witness, Your
10 Honor?

11 THE COURT: You may.

12 Q. Detective Tuttle, I'm showing you what's been marked
13 for ID only State's 137 and 139. Do you recognize those
14 lists?

15 A. Exhibit 137 is Mr. Montrelle Campbell's phone records.
16 And exhibit 139 is Mr. Trivell Richardson's phone records.

17 Q. Now, let's be clear. Are those the entirety of the
18 records you received?

19 A. No. This is a snapshot of them around the time of the
20 murder?

21 Q. Okay. So that's a pretty small portion of the overall
22 phone records?

23 A. Yes.

24 Q. And you said the sort of time frame you see depicted
25 there is what?

1 A. It's at the time of the murders. Around the time.

2 Q. I'm sure this jury really wants us to hear about talk

3 times again. I'm sure they're very excited about that.

4 Does every service provider maintain their phone records in

5 the same time zone?

6 A. Most are in UTC which is a universal time zone. So

7 it's four or five hours to Eastern Standard.

8 Q. Okay. You said four or five hours, does that mean you

9 just pick one?

10 A. Daylight savings time is the marker for that.

11 Q. Okay. So if the phone records are in UTC on

12 September 19, 2015, what's the difference between the time?

13 A. Four hours.

14 Q. Okay. Do some of the phone companies present the phone

15 records in the time zone of the call?

16 A. They do.

17 Q. Okay. Any information conveyed to you from the

18 companies about these records?

19 A. For Montrelle's records they are in Eastern Standard

20 Time zone. For Trivell's records, they are in UTC.

21 Q. Okay. And UTC, for people that are over 40, that used

22 to be Greenwich mean time?

23 A. I believe it's the same. Yes, sir.

24 Q. Particularly, when we get down to around this time zone

25 to around the time of the murder, what we're you looking for

1 in those phone records?

2 A. I was looking for connections between the two
3 established relationship, if they were communicating, which
4 I knew . . .

5 Q. Okay. Did you review all of these phone records or
6 just a snapshot from it?

7 A. I reviewed all of the records.

8 Q. Okay. Did you see -- previous to this murder, did you
9 see contact between these two numbers?

10 A. I did.

11 Q. Was it more than once?

12 A. It was.

13 Q. More than ten times?

14 A. There were numerous times. I only got to that. I'm not
15 sure of the exact times. But I think could be more than
16 ten.

17 Q. But you didn't go back to here, did you?

18 A. No. I think I went back a few days before, maybe a
19 week after.

20 Q. Okay. But you did see some contact between the two
21 before the murder?

22 A. I did.

23 Q. Okay. Did you see contact between the two right around
24 the time of the murder?

25 A. Right before, minutes before.

1 Q. Okay. And what were the times of that contact?

2 A. I'll refer to Montrelle's since they're in Eastern
3 Standard. But there are two calls between 1390 and 6691 at
4 6:13:22 and 6:15:22. That would be 6:00 a.m. on both of
5 those on September 19, 2015.

6 Q. Okay. Did you find that corresponding contact on the
7 phone records of Trivell Richardson?

8 A. In order to corroborate that, Mr. Richardson's records,
9 which are in UTC, there's a phone call on that date at 10:15
10 and 10:23 according to the records. You subtract four
11 hours, that would be 6:00 a.m.

12 AST. SOL. SIMPSON: May I approach, Your Honor?

13 THE COURT: You may.

14 AST. SOL. SIMPSON: Your Honor, at this point time, the
15 State would seek to admit State's 137 and 139 into evidence.

16 THE COURT: Any objection?

17 MS. FORD: Your Honor, I need to see them. (Brief
18 pause.) No objection, Your Honor.

19 THE COURT: Marked and admitted without objection.

20 That was 137 and 139, correct?

21 AST. SOL. SIMPSON: Yes, Your Honor.

22 (State's Exhibit Numbers 137 and 139, Phone Records,
23 were received into evidence.)

24 Q. Detective Tuttle, I'm going to do something on the fly
25 here in a very low-tech manner.

1 A. Yes, sir.

2 Q. Just so we have a reference -- I'm going to give you a
3 blank piece of paper marked for ID only, State's 148. Could
4 you write the name Montrelle and the actual number that you
5 obtained associated with those and the name Trivell and the
6 number associated with him. If it will refresh your
7 recollection, refer to the subscriber info that you
8 obtained.

9 A. Name and number?

10 Q. Yeah.

11 A. (Witness complies.)

12 AST. SOL. SIMPSON: Your Honor, at this point, I would
13 just like to, so it's in there for reference, admit State's
14 148.

15 MS. FORD: I object, your Honor.

16 THE COURT: Approach.

17 (A bench conference was held off the record and out of
18 the hearing of the jury panel.)

19 THE COURT: The objection is sustained.

20 Q. Detective, I'm going to show you what's been marked as
21 -- we're going to mark as State's 148, 149 and 150. Gonna
22 mark as 150 and 151.

23 AST. SOL. SIMPSON: May I approach, Your Honor?

24 THE COURT: Uh-huh.

25 Q. Do you recognize those two pages?

Direct Examination of Mr. Tuttle by Ast. Sol. Simpson

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1 A. I do.

2 Q. And what are those?

3 A. Along with the information I requested in the search
4 warrant, they also provide subscriber information. That's
5 how the company bills. And in this case for the 1390
6 number, it was registered to Trivell Richardson. And the
7 6691 number was registered to Mr. Montrelle Campbell.

8 Q. Thank you, Detective.

9 AST. SOL. SIMPSON: At this point the State would seek
10 to introduce State's 150 and 151 into evidence.

11 THE COURT: -- did you show it to Ms. . . .

12 (Brief pause.)

13 AST. SOL. SIMPSON: I agree with her qualification.

14 THE COURT: So are you withdrawing?

15 AST. SOL. SIMPSON: Oh, no. No. She just wanted to do
16 the single page, and I'm fine with that. Admitting 150 and
17 151?

18 THE COURT: Any objection?

19 MS. FORD: No, Your Honor.

20 THE COURT: Marked and admitted without objection. Did
21 you say 150 and 151?

22 AST. SOL. SIMPSON: Yes, ma'am.

23 (State's Exhibit Numbers 150 and 151, Cell Phone
24 Records, were received into evidence.)

25 Q. Detective Tuttle, you said you requested also about a

1 week after this incident?

2 A. It was a short time frame after the murder. Yes, sir.

3 Q. Any phone contact between the two after the incident?

4 A. Communication between them quickly dissipated.

5 Q. Okay. Dissipated. So there was none?

6 A. There was . . .

7 Q. Okay. But less frequent?

8 A. --

9 AST. SOL. SIMPSON: Your Honor, no further -- I'm
10 sorry. Court's indulgence.

11 No further questions of this witness on the subject.

12 THE COURT: Any questions for the witness?

13 MS. FORD: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. FORD:

16 Q. Detective Tuttle, when Trivell Richardson gave you that
17 number, that's when he was still denying that he was present
18 downtown, correct?

19 A. So I interviewed him a couple of times. I spoke to him
20 on that number and I ---

21 Q. It was his first interview?

22 A. His first interview, yes.

23 Q. Okay.

24 A. So he was still denying that.

25 MS. FORD: Beg the Court's indulgence.

1 THE COURT: Yes, ma'am.

2 MS. FORD: No further questions, Your Honor.

3 THE COURT: Any objections to the witness being
4 excused. From the State?

5 AST. SOL. SIMPSON: No, Your Honor.

6 THE COURT: From the defense?

7 MS. FORD: No, Your Honor.

8 THE COURT: Well, I assumed there was no redirect as
9 well?

10 AST. SOL. SIMPSON: No, Your Honor.

11 THE COURT: Sir, you're excused.

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Call you next witness.

14 AST. SOL. SIMPSON: Thank you, Your Honor. The State
15 would call Special Agent Clay Simmonds of the Federal Bureau
16 of Investigation.

17 (ROBERT CLAYTON SIMMONDS, was duly sworn and provided
18 the following testimony.)

19 CLERK: Take your seat. Spell your first and last name
20 for the record.

21 THE WITNESS: Full name is Robert Clayton Simmonds.

22 R-O-B-E-R-T, C-L-A-Y-T-O-N, S-I-M-M-O-N-D-S.

23 THE COURT: You may proceed.

24 AST. SOL. SIMPSON: Thank you, Your Honor.

25 THE COURT: You're welcome.

1 DIRECT EXAMINATION

2 BY AST. SOL. SIMPSON:

3 Q. Agent Simmonds, good morning.

4 A. Good morning.

5 Q. We spoke yesterday in front of this jury, correct?

6 A. Yes, sir.

7 Q. And I believe we sort of concluded with you being
8 qualified as an expert testify?

9 A. That's my understanding. Yes, sir.

10 Q. Just by way of a reminder, what is it that you do for
11 the FBI?

12 A. I'm a special agent with the FBI. I'm assigned to the
13 cellular analysis survey team. Basically, the acronym is
14 CAST. And I analyze cell phone records and provide a visual
15 depiction of the cell phone usage over period of time.

16 Q. You're part of a team called the CAST team?

17 A. Sure. FBI has a group agents that are specially
18 trained in analyzing cell phone records to assist in
19 locating missing children, kidnap victims, fugitives,
20 evidence, almost anything under the sun. There is about 61
21 of us out there spread throughout the country from New York
22 all the way down to Florida all the way out to the West
23 Coast.

24 Q. And you say members of your team are accepted as expert
25 testimony in courts almost -- how frequently?

1 A. Routinely. Basically, every day one of us is usually
2 in a courtroom testifying about cell phone records or cell
3 phones in general.

4 Q. And in your expert opinion, is your training up to the
5 state-of-the-art science in this area?

6 A. Sure. Our training takes a couple of years to become
7 completely certified. Just depends on how quickly the
8 classes take place. That we certify through our own peers,
9 but we also have the cellular providers come and train us.
10 People in our law enforcement relations group that can
11 divide the self and record service and the engineers who
12 make up the network can explain how the network is made up,
13 how the towers are oriented, you know, what data is
14 available to us. So they're also in our training. And
15 every year we go back and recertify by the same law
16 enforcement personnel and engineers for the network
17 providers.

18 Q. And is that recertification provide you with any
19 updates in the field and things of that nature?

20 A. Sure. So as any technology keeps involving, we learn
21 the new techniques that are out there, new technology that
22 is out there, how the records have changed from in the past,
23 and they keep us up to date on changes.

24 Q. Agent Simmonds, were you asked to perform some work in
25 this field in the specific case?

1 A. Sure. Your office asked me to look at two cell phones
2 over a couple of periods of time and provide that digital
3 depiction as I mentioned earlier of where those phones were.

4 Q. Okay. In a moment, I'm going to have you first sort of
5 educate the jury as to sort of the methodology you use in
6 doing what you do, and then transition that conversation
7 into explaining, you know, the actual results of your work
8 on the specific case. Into the vain, I'm showing you what's
9 been marked for ID only as State's 141. Will you take a
10 minute and acquaint yourself with that exhibit.

11 A. (Witness complies.) This is the presentation that I
12 provided to your office.

13 Q. And would this presentation assist you in a
14 demonstrative way only to sort of demonstrate to this jury
15 what you're talking about as far as methodology going into
16 your actual work on this case?

17 A. Most definitely.

18 Q. Okay.

19 AST. SOL. SIMPSON: Your Honor, at this point the State
20 would seek for demonstrative purposes only to publish
21 State's 141 to the jury.

22 THE COURT: You may proceed.

23 Q. Now, agent Simmonds, first off, did you give this to us
24 on paper or did you have ---

25 A. --

1 Q. Correct. And I was the one that printed ---

2 A. Yeah, you printed it. It was a PowerPoint initially
3 and . . .

4 Q. Okay. To start with on the first page here, what
5 numbers were you asked to analyze?

6 A. The first time numbers I was asked -- this is just our
7 cover sheet showing who did it, what organization was part
8 of it, the date that I performed the analysis, and the two
9 phone numbers that were asked to be analyzed. The first one
10 is a Sprint cell phone number of [REDACTED] and the second
11 one is a T-Mobile number of [REDACTED].

12 Q. --- can be pretty voluminous. Is that correct?

13 A. They can be. Depends on how far back you ask for.

14 Q. Maybe I'm jumping ahead. Let's move on to the next
15 page and see if this will assist you at all. Explain to
16 this jury, educate them, as far as what it is you're
17 actually doing, the methodology.

18 A. Sure. This presentation just explains what numbers I
19 was asked to analyze, the time period that I was asked to
20 analyze those phones for, how we analyze those records. And
21 the conclusions will be on the following pages. So, again,
22 I was asked analyzed a Sprint phone of [REDACTED] and the
23 T-Mobile number of [REDACTED] for the time period of
24 September 18 -- 17th and 18th of 2015 from 11:59 p.m. to
25 1:13 a.m.; then again at 3:20 to 6:35 in the morning. The

1 last date frame by September 19 from 4:37 a.m. to 8:00 a.m.
2 in 2015.

3 Q. Now, we see some sort of weird times right there, like
4 4:37. Are those arbitrary or they sort of using . . .

5 A. Those are based on the phone records. I could have
6 made it a little simpler and made it for 4:30 to
7 eight o'clock but those are based on phone records of when
8 the phone is actually utilizing those towers, and we had
9 tower information for it. That's the reason for those
10 times.

11 Q. Explain to the jury what we're looking at here.

12 A. So the slide for this piece of paper here is used to
13 explain what the typical three sector tower looks like.
14 Most everybody has seen them driving up and down the
15 highway. Maybe you live close by one. It's a big tall pole
16 and it's got antennas on each side of it. Most towers --
17 and I have yet to see a tower that has more than three
18 sides, and in South Carolina most of the towers are divided
19 into three sectors -- they're divided into a 120 degrees
20 sectors so you get a 360-degree coverage have that
21 particular area. And the engineers or the phone network
22 providers will label each sector Sector 1, Sector 2, Sector
23 3, or some of them will be called an alpha-beta or gamma.

24 Q. And the next page?

25 A. And so this page here gives you an explanation of how

1 we come up with the orientation of their sectors. Not all
2 of them are oriented at perfect zero meaning due north and
3 then to the southeast and southwest. They are not all that
4 way. So when we're looking at the records, the two things
5 that we need to analyze the records are the call detail
6 records, the phone records of the particular phone that
7 we're analyzing, and we need the tower list for the time
8 period that we need. So when looking at this is looking at
9 the tower list in 2015.

10 On the tower list, it gives us latitude and longitude,
11 the location of the tower we need, the orientation or what
12 they call the azimuth for those particular sectors. And
13 then also it gives us terminology such as location area code
14 and cell side ID or cellular ID. And why we need that is
15 that to combine the lat and the cellular ID together. You
16 won't find another one anywhere on that particular company's
17 network. So if the lat is ABC and the cell side ID is 123,
18 you won't find that anywhere else in the country on Sprint,
19 T-Mobile, AT&T's network. That is unique to that particular
20 area. And so we need that to identify the towers. And
21 then, of course, the latitude and longitude tells us where
22 the towers are located. And the reason why we need to know
23 the azimuth is, again, I said not all of these towers are
24 oriented perfectly north or perfectly to the south. They
25 are oriented by degrees. And when you kind of think of

1 degrees as numbers on the clock with 12 being 360 or zero
2 and then every hour after that is 30 degrees. So for this
3 presentation if you have orientation of zero, strongest
4 point about sector is going to be at twelve o'clock. And
5 when you divide 120 degree coverage area, we get 60 degrees
6 to the right, a 60 degrees to the left where the sector
7 would end up at two o'clock to get us a 120 degrees. So
8 therefore, likewise, it would go the other way. So we we're
9 looking at in this particular example at this sector here
10 and we saw that as 120-degrees, well center point will be at
11 four o'clock and we get 60 degrees to the left, 60 degrees
12 to the right to get our 120-degree sectors.

13 Q. What are you explaining here, Agent Simmonds?

14 A. So this is to show how the sectors will be represented
15 on the maps that were produced. I showed these because when
16 we have multiple phones on a map, we will use different
17 colors so we can differentiate the phones there. But the
18 main portion of this is to show that the little blue area
19 here is not the coverage area for that particular cell phone
20 sector at that time. We just want to show that's the energy
21 coming off of the tower and what direction that it's going
22 to. So, therefore, the phone does not necessarily have to
23 be in this blue area. It can be anywhere within the two
24 arms of that sector.

25 Q. Okay. That's a good segue to what I wanted to ask you

1 next. The mapping that you do, does it provide exact
2 pinpoint locations of where a cell phone is when it's used?

3 A. No, sir. It gives us the sector that was utilized at
4 that time. So we take that information and plot it and say
5 that the phone can be anywhere within that sector. We know
6 from investigation, like if we're trying to find fugitives,
7 there will be additional information to support it.

8 Q. An address?

9 A. An address, a known hang out or something of that
10 nature which might give us a more reasonable belief to
11 believe that that person would be at that particular
12 location. So if the phone utilized a tower and hovers an
13 area that you're interested in, and if they were a fugitive,
14 that would probably be the place I would look first, or if
15 it was a child that was missing or anything of that nature.

16 Q. Okay. Does the frequency of the number of towers in an
17 area allow you to sort of dwindle the location down a little
18 bit?

19 A. Sure. Because the way that the network set up their
20 cell phone system is they don't want to have dead spots.
21 Dead spots aggravate you, me, anybody that uses a cell phone
22 because what happens is you drop your phone call. If y'all
23 remember early on with the advent of cell phones, always get
24 to that point where we are driving down the road and you're
25 like, hey, I'll call you back in just one second; I'm going

1 to lose you. And you drop your phone. As cell phones
2 became more popular and the demand became about, cell phones
3 didn't want to lose business. It's a billion-dollar
4 industry every year, so they don't want to lose business.
5 So they started erecting more cell towers to provide more
6 capacity to provide services to more users that are out
7 there to meet the demand.

8 So the way that the networks are set up is you kinda
9 have to take it on as like a sprinkler system. You don't
10 want dead spots in your grass, so you have your sprinkler
11 head set up all throughout your yard. And the sprinkler
12 over here on the left and the sprinkler over here on the
13 right, their paths may overlap each other so you don't have
14 that piece of dead grass right there in the middle. Cell
15 phone networks are basically the same way. They try to have
16 that overlap so as you travel place to place you don't lose
17 your cell coverage.

18 Q. Explain a little bit -- you did some of this yesterday.
19 Explain a little bit about just the basics. If I make a
20 call, what happens? What does my cell phone do?

21 A. So, basically your cell phone, as it sits idle -- the
22 one I have on me, it sits idle. It's actually looking for I
23 tower that provides the cleanest, strongest signal. Cell
24 phones don't like disturbances; don't like noises that
25 interfere with the signal. So it's constantly looking for

1 the cleanest, strongest signal. So as your phone is idle
2 and waits on a call or you pick it up and you start to dial,
3 it starts surveying the area to see which tower provides
4 that signal; cleanest, strongest signal. And when you hit
5 the send button or you hit the answer button to execute a
6 phone call or you text, it reaches out to that tower and
7 says, I have a call, I have resources that I need to use; I
8 see this tower has the cleanest, strongest one; may I have
9 service? And the tower grants it to them and you complete
10 your call. This is done in microseconds.

11 Q. Okay. It is the cleanest signal, generally speaking,
12 from the closest tower?

13 A. Usually it is. Because it's line of sight. Cell
14 phones try and go by line of sight. So whichever tower is
15 usually the closest, it's probably going to be that
16 particular one but it's not always. There's things that can
17 affect the tower being utilized such as one is -- you're in
18 a mountainous region such as the Rocky Mountains,
19 Appalachian Mountains around here, and there's a mountain in
20 the way. You're in New York in a new tall building and it
21 happens to be in the way. There may be a tower that's
22 closer, but the one that's behind you that's up a little bit
23 taller provides the better signal but it may be a little
24 further away.

25 Q. Okay. So when we look at your conclusion, we should

1 say, you know, as a generality we're for going to the
2 closest if there's nothing to obstruct it. But it's not
3 100 percent always?

4 A. No. It's not a hundred percent always ---

5 Q. --- is fair to say?

6 A. Yes.

7 Q. We're going to transition here now to the more specific
8 work you did in the present case. Showing the next slide of
9 your presentation. What are we looking at here?

10 A. Just basically legend of what is going to be depicted.
11 So the red flag is our crime scene of 32 Norman Street. The
12 green dots are the towers for T-Mobile. And the black dots
13 are the towers Sprint. And this picture is just to show
14 that, you know, there's more than one tower out there. And
15 the cell phone companies can get away with it. They have
16 one big tower because towers are expensive and to erect and
17 maintain.

18 Q. Now, as a Sprint subscriber, is my phone typically
19 gonna try to find a Sprint tower?

20 A. Your phone always try to find the tower that is in your
21 network. If for some reason Sprint does not provide
22 coverage in that particular area, they may run them on
23 another network.

24 Q. I think we all know what it means. Is that what
25 roaming means? You're out of your network so you're using

1 another?

2 A. Yes. Just because say there's not Sprint and the
3 panhandle of Texas. But the technology that Sprint uses in
4 the technology of another company of the same, they will
5 allow them to run on that network.

6 Q. Is it a fair statement that for cell phones in a
7 metropolitan area like Charleston these are covered by all
8 the major companies?

9 A. They are. Charleston is covered by every major service
10 provider in the US . . .

11 Q. So right now if I call on Verizon, it's going to post
12 on a Verizon tower. If you ever Sprint phone, it's going to
13 hit a Sprint tower with the caveat that you've already
14 explained?

15 A. It's going to hit the tower with the clearest phone
16 signal.

17 Q. Okay. Or my provider?

18 A. Or your provider, yes.

19 Q. Okay. Thank you. I did a poor job cutting off the
20 margins here. They can you explain what's been marked
21 ID -- Agent Simmonds, I'm handing you what's been marked ID
22 only. It State's 142, 143, 144, and 145. Do you recognize
23 these?

24 A. Yes. This is part of the same documents that you gave
25 me earlier and it's one of the presentations that I

1 provided.

2 Q. Okay. Is this the part where he really get into the
3 meat of your actual work on this case?

4 A. Yeah. This will be the actual visual depiction of the
5 cell phone usage over time.

6 Q. Okay.

7 AST. SOL. SIMPSON: Your Honor, at this point the State
8 would seek to admit 142 through 145 as exhibits.

9 THE COURT: Any objection?

10 MS. FORD: Just subject to my prior objection -- Your
11 Honor.

12 THE COURT: Overruled. Any other objection to the
13 documents?

14 MS. FORD: No, Your Honor. We have no additional
15 objections.

16 THE COURT: Marked and admitted.

17 AST. SOL. SIMPSON: Thank you, Your Honor.

18 (State's Exhibit Numbers 142-145, Cell Phone Analysis
19 Documents, were received into evidence.)

20 Q. Agent Simmonds, I'm showing you what's been admitted in
21 evidence State's 142. And even with my poor cropping I
22 think you can review that. What are we looking at here?

23 A. So this is the towers that were utilized by the Sprint
24 cell phone, [REDACTED], for the time period that I alluded to
25 earlier, September 17, 2015, from 11:59 p.m. until

1 September 18th at 1:13 a.m.

2 Q. And what does the red sort of icon there?

3 A. The red icon again is ■ Norman Street which is the
4 crime scene for this particular case. So basically, you
5 know, the phone starts out in the West Ashley area. It's
6 basically on the side. This side here. Travels over to the
7 downtown area and then eventually travels up north North
8 Charleston, the North Charleston area.

9 Q. And that covers through the night September 17th
10 caring into morning of September 18th?

11 A. That's correct.

12 Q. And this particular plotting was done with just one of
13 the phones, right?

14 A. Yeah. Only on the Sprint phone.

15 Q. Okay. And that's the 6691?

16 A. That's correct.

17 Q. And that particular one stops at 1:13. Moving to the
18 next. I think you could tell this even though I cropped
19 some of it out. Is this the same phone?

20 A. This appears to be the same phone. A little bit later
21 on during the evening September 18th from 3:20 a.m. to
22 6:34 a.m. it appears the phone was in the downtown area have
23 Charleston surrounding ■ Norman Street. And then
24 eventually at 6:30 in the morning it was up in the North
25 Charleston area.

1 Q. Okay. We're moving now to State's 144 admitted into
2 evidence in. This is an additional phone added to this
3 analysis?

4 A. Sure. This is the T-Mobile phone that I spoke of
5 earlier; the [REDACTED]. So that particular phone is
6 represented by the green dots and the green pie sectors that
7 are displayed on here. The green writing on the callout
8 boxes are specifically for that T-Mobile number while the
9 callout boxes that have black writing is for the Sprint
10 phone that we've been speaking of. So, again, basically
11 this shows me at one particular point the T-Mobile phone was
12 up here in the North Charleston area. Eventually, it
13 started traveling southwards towards downtown utilizing this
14 tower. And then it eventually around 6:15 it's down here in
15 the downtown area. And then eventually went back up around
16 seven o'clock back here to -- in this area around seven
17 o'clock at the Charleston International Airport. While the
18 Sprint phone was downtown at 5:51 in the morning down here
19 then eventually at 6:54 it was up here at the North
20 Charleston area.

21 Q. And, again, if you're Sprint and I'm T-Mobile and we're
22 hanging out together and we both make a call, I'm going to
23 the closest Sprint tower, you're going to the closest
24 T-Mobile tower; right?

25 A. And they could be the same if they share specs. So

1 companies will put share space on a tower. But it doesn't
2 appear this way that they share towers.

3 Q. So, for instance, you see this area by the airport
4 appear receive the green dot and in the black dot right next
5 to it. This are the two companies, different towers?

6 A. Yeah. So ---

7 Q. Seem to be in the same area?

8 A. So this particular one right here it seems to be a
9 tower that shares space.

10 Q. Okay. Now if there's a gap in usage of my phone, are
11 you going to see tower records for those phones?

12 A. If the phone gets routed to voice mail or gets ignored
13 for whatever reason or the phone is off, Sprint -- most
14 companies don't provide cell tower information for that.
15 Sprint is one of them. They usually will list the records
16 that is routed. I think Verizon uses a number five to say
17 forwarded -- cell tower information.

18 Q. That's a good segue to what's previously been entered
19 into evidence is 137 and 139. I'm not trying to make you go
20 blind here. I want to draw your attention to the to these
21 two phone records starting here. I'm just going to ask you
22 to make an assumption for me here that 137 is Eastern
23 Standard Time in 139 is a four hour difference.

24 A. I don't have to make that -- I know. I had to
25 reference it to generate this map. Yeah, T-Mobile provides

1 their records in UTC time, universal time code. I think for
2 anybody that was probably in the military a while back, GMT,
3 Greenwich mean time, was another way to determine. The
4 Sprint provides them an Eastern time or the local time that
5 the phone call took place, while T-Mobile processes it in
6 UTC, which is, during this time frame, is four hours. If we
7 were talking about it today, it would be five hour
8 difference.

9 Q. And that's daylight saving time?

10 A. That is correct.

11 Q. Okay. So I want to draw your attention first Eastern
12 Standard Time records there to phone calls at 6:15 a.m.
13 Eastern standard Time.

14 A. Okay.

15 Q. And 6:15 a.m. Eastern standard Time. Do you see those
16 two back-to-back calls?

17 A. Yes.

18 Q. Are those made to the other number that you analyzed?

19 A. Your top headings are off. But this is an incoming
20 call to the Sprint number, the [REDACTED]. And the number
21 called was the other number, [REDACTED].

22 Q. Now, the calling you plotted on the map. Is that
23 correct?

24 A. That's correct.

25 Q. Okay. The receiving number you did not plot on the

1 map. And I think you just answer this question, but can you
2 plot routing calls?

3 A. Not with Sprint. Sprint does not provide -- usually
4 does not provide tower information. And on these particular
5 calls in question, you look at it and the two columns which
6 are the J and K that provide tower information, they're
7 zeros.

8 Q. Okay. So you had no tower information from the
9 receiver ---

10 A. From the Sprint phone. That's correct.

11 Q. Thank you. It still doesn't mean that those calls
12 weren't made, right and make?

13 A. Well, the calls were made because it's an -- there's
14 just no tower information for that Sprint phone.

15 Q. Moving on to State's 145. What are we looking at here?

16 A. So this is just a closer review of the towers that were
17 utilized in downtown Charleston between 5:51 a.m. and
18 6:15 a.m. The Sprint phone Sprint Tower 752 at 5:51 in the
19 morning, while T-Mobile phone use tower 8659 and 46694
20 between 6:15 -- 6:13 and 6:23 in the morning.

21 Q. And so we have about -- let's see, the last on there,
22 6:23 in this general area -- getting them mixed up -- I'll
23 call it the green phone -- and 5:51 for the black phone?

24 A. That's correct.

25 Q. Going back to State's 145, that is 6:23 and 5:51, you

1 then move ahead in whatever the green phone is in, the 1390
2 phone in ---

3 A. It's up -- at 7:15 an hour after 6:15 call, it's up in
4 the North Charleston near the airport.

5 Q. It's using this tower?

6 A. That's correct.

7 Q. What about the other phone at 6:54?

8 A. It's using tower 530.

9 Q. So both these two phones -- right around the hours of
10 7:00 a.m. that morning are using these two phones in the
11 North Charleston area?

12 A. That is correct.

13 AST. SOL. SIMPSON: Court's indulgence.

14 THE COURT: Yes, sir.

15 AST. SOL. SIMPSON: Agent Simmonds, answer any
16 questions that Ms. Ford has.

17 THE COURT: You may proceed.

18 MS. FORD: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 CROSS-EXAMINATION

21 BY MS. FORD:

22 Q. Hello, Agent.

23 A. Hello.

24 Q. Agent Simmonds, you prepared -- what you've shown us
25 today based on phone numbers, correct?

1 A. Phone numbers and the tower list.

2 Q. Right. And because your work is able to attempt to
3 trace a phone, an object, correct?

4 A. Yeah. My whole testimony about the phone. The phone
5 was utilized during those times utilizing this towers at
6 this particular times. I don't know -- I cannot personally
7 say because I wasn't involved in the actual investigation
8 itself who was utilizing the phone at the time.

9 Q. So your work it just tracks the phone not necessarily a
10 person? Just someone using a phone.

11 A. Well, I mean, yes. It's a person using the phone, of
12 course. But my testimony is strictly just on the phone
13 usage because, again, like I said, I wasn't involved actual
14 investigation of who was utilizing at the times that were
15 plotted on that.

16 Q. And from what we just looked at, the 557 number, that
17 looks to have been in the downtown area at 5:51 a.m.?

18 A. On September --

19 Q. 19th.

20 A. Yes, ma'am.

21 Q. And then it looks to be going to North Charleston area
22 is the next time you can track it at nearly 7:00 a.m.?

23 A. Yes. At 6:54 it's up towards North Charleston.

24 Q. And this phone, we looked at the 557 number, it was
25 also in the downtown area the evening before on the 18th,

1 correct?

2 A. That's correct.

3 Q. And according to your work, it was downtown in the
4 early morning hours as well as late as 3:50 a.m., correct?

5 A. On the 18th?

6 Q. Yes.

7 A. Yes, ma'am.

8 Q. And then you just know at some point after that time it
9 ended up being in North Charleston around 6:30 in the
10 morning?

11 A. That's correct. Without looking at the phone records,
12 I couldn't tell you how long it stayed. It's my belief, but
13 I like to look at the phone records again to refresh my
14 memory that there is no activity on the phone after
15 3:58 a.m. until 6:30.

16 Q. But this phone was in the area at nearly 4:00 a.m.
17 downtown Charleston, correct?

18 A. On the 18th. Yes, ma'am.

19 Q. And you told us that your work, there is no way to
20 determine the precise location, correct?

21 A. Not based on the historical cell site records. It just
22 gives us the tower and sector so we know what side of the
23 tower to -- if we were going to look for somebody, what side
24 of the tower to start or look.

25 Q. It just gives you the general area of where a phone is

1 being used?

2 A. Sure. I couldn't tell you exact, you know, 123 Main
3 Street if all I had was tower sector at the particular time.

4 Q. So when you were looking, you referred everything or
5 had as a reference point ■ Norman Street, correct?

6 A. Yes, ma'am.

7 Q. But it's possible that someone was not actually at ■
8 Norman Street at the time of the call?

9 A. The phone utilized a tower and sector that covers ■
10 Norman Street. But, again, the phone could have been
11 anywhere within that sector on there. Unless there's other
12 information that I'm not aware of. I personally cannot tell
13 you that that thing is that ■ Norman Street on up
14 particular date.

15 Q. Norman Street doesn't have it's own cell tower. Is
16 that fair to say?

17 A. Very fair to say.

18 Q. And a cell tower can cover actually several miles. Is
19 that fair to say that that's possible?

20 A. Well, again, cell phone networks are set out to provide
21 the best possible coverage for their customers. So when
22 downtown Charleston your cell phone towers will be a little
23 bit closer due to the urban environment that we have here.
24 But if you go out into a rural area, Berkeley County,
25 Hollywood, South Carolina than they cover -- they're further

1 apart because there's less demand and need for services out
2 there. Again, if we were up in New York City were there's
3 8 million people just in the city, you might have a cell
4 tower every block or half block to provide that coverage.

5 But, yes, it can vary from -- depending on the location and
6 the terrain and, you know, other factors that would affect
7 the quality of service a company can give.

8 Q. And a cell phone picks up what it deems to be the best
9 signal, which is often the closest tower but not necessarily
10 the closest tower, correct?

11 A. The phone is always trying to find the cleanest,
12 strongest signal. But the phone also has to be within the
13 footprint of that tower to be able to get the cleanest,
14 strongest signal. So if the phone is West Ashley and
15 there's no way on God's green earth that it will ever use a
16 tower in downtown Charleston. I cannot see it. You cannot
17 hear it. It will not provide a cleanest, strongest signal.
18 It would have to use a tower where that phone is located
19 that it sees as the cleanest, strongest signal.

20 Q. Distance between two towers, that doesn't necessarily
21 determine how much coverage each tower has. Is that fair to
22 say?

23 A. Right. I mean, because the way the networks are set up
24 are going to vary from location to location. You may -- in
25 rural Kansas, you may be able to put up one tower and it

1 will cover for miles because, if you've ever been in Kansas,
2 there's nothing out there in rural Kansas. But you couldn't
3 do that in downtown Charleston. You can't do that in
4 Columbia. You can't do that in New York. Because there are
5 so many other factors that will affect the quality of the
6 signal that they don't want to lose customers. So they put
7 up other cell towers that may be closer -- closer together.
8 But, you know, towers the way they're set up, again, they're
9 set up to overlap so you don't have those dead spots in the
10 network. But you can't have the two of them competing and
11 one overpowering the other because then the other ones
12 become useless because it can't find that clean signal.

13 Q. And theres' overlap. So if someone's near the edge of
14 a certain cell tower coverage then it could actually be
15 looking for the tower and the next ---

16 A. Sure. It's always looking for a tower. Your phone is
17 always looking for towers when it's in idle mode. And when
18 the call, text -- you decide to make a call or a text and
19 you press the green button, it will select the tower that
20 has the cleanest phone signal. Now, if you're in one of
21 those overlaps and you stay in that overlap there for a
22 period of time, you may see -- it likes tower one, you know,
23 two calls; it likes tower two for two to three calls. And
24 you keep bouncing back and forth. Again, if I was going to
25 look for somebody, I'd be looking into that overlap of where

1 that phone was utilized.

2 Q. And the maps you've shown us -- you explained to us you
3 have this little area that shows -- arms, correct?

4 A. That's correct.

5 Q. But in reality, your coverage is not necessarily
6 perfectly -- it's not designed. It's sort of like a stake
7 on a map. You don't necessarily have straight lines?

8 A. That's correct. So the wedges, the long wedges, I call
9 them pie wedges, that I've had drawn on these maps to
10 represent the coverage area of that cell tower, or that cell
11 sector I should say. If I was to go out and actually drive
12 test and get a footprint of that particular tower, it would
13 be kind of like an amoeba shape or an irregular shaped
14 polygon. Most of it would fall within the two lines that I
15 have. You might have a little bit to the left, a little bit
16 to the right of it. But generally it's in that 120 degrees
17 sector . . .

18 Q. And you mentioned a drive test. Is that something you
19 can do to try to confirm the coverage area that you're
20 looking at?

21 A. Sure. We have equipment that's capable of being hooked
22 up and sing with the actual footprint of cell phone towers
23 are. We usually will do that closer to when a crime took
24 place or just try to figure out the coverage area of up
25 particular spot. I didn't receive these records until I

1 believe late November early December. And with the passage
2 of time being almost two years, I didn't feel it was
3 necessary to apply the drive test to this case.

4 Q. It may not be accurate since things have changed since
5 over two years, correct?

6 A. Sure. It would be, in my opinion and the assumption
7 that I would've made, I would have to confirm it with the
8 networks, but the growth that Charleston has had, you know,
9 the engineers could have changed the orientation of an
10 antenna or the azimuth of a tower are taking one down or
11 expanding one, add another layer on an existing tower. So
12 that's why I didn't drive test it. So I just sort of --
13 most accurately to represent the records.

14 Q. You couldn't test it because of the time ---

15 A. In my opinion, is too long of a gap from when the crime
16 took place to when I received the records.

17 MS. FORD: Beg the Court's indulgence.

18 THE COURT: That's fine.

19 (Brief pause.)

20 MS. FORD: I have no further questions from this
21 witness, Your Honor.

22 THE COURT: Any redirect?

23 AST. SOL. SIMPSON: Yes, Your Honor. Thank you.

24 THE COURT: You may proceed.

25 REDIRECT EXAMINATION

1 BY AST. SOL. SIMPSON:

2 Q. Agent Simmonds, you're a qualified expert in this area,
3 correct?

4 A. Yes, sir.

5 Q. You have over 400 hours of training?

6 A. That's correct.

7 Q. Familiar with the state-of-the-art of this technology?

8 A. Most recent. Yes, sir.

9 Q. Does your absence of a drive test in this particular
10 cause you any doubt as to the reliability of what you
11 presented to this jury?

12 A. Not at all.

13 Q. Did you use the towers that existed in 2015 for the
14 materials that you presented?

15 A. That's correct?

16 Q. Showing you what's been entered -- a copy because I
17 tend to mark on it -- but State's 144. This admittedly is
18 not going to be the best. Are you familiar with the
19 Charleston area?

20 A. Yeah. I was a police officer there for five years and
21 patrol downtown.

22 Q. Right. We see here 17 crossing the Cooper River. What
23 is that? You see Highway 17 going over the river here, what
24 is that? Is that the Cooper River Bridge?

25 A. Yeah. It's the Cooper River Bridge?

1 Q. I'm going to mark here at a approximately where that
2 hits 526 here. You say you lived here long time. So you
3 know where that is. Is that correct?

4 A. Sure.

5 Q. Now for my Sprint carrier making a Sprint phone call
6 around in that area, where would you in your expertise think
7 the most logical tower for me to be pinging off of would be?

8 A. In your ---

9 Q. Sprint?

10 A. It's going to be one of these towers here.

11 Q. Okay.

12 A. You know, sometimes this mapping program doesn't show
13 both if they're colocated towers. So if this is a colocated
14 tower with Sprint and T-Mobile antennas on it, it could also
15 use this.

16 Q. Okay. Understanding that we're not talking absolutes
17 here. But would you in your expertise think a Sprint call
18 in that location would be utilizing this tower at all?

19 MS. FORD: Your Honor, I have to object. Speculation.

20 THE COURT: Please approach.

21 (A bench conference was held off the record and out of
22 the hearing of the jury panel.)

23 THE COURT: Proceed.

24 AST. SOL. SIMPSON: Thank you, Your Honor.

25 MS. FORD: I'm sorry. I also object that is going out

1 beyond scope of the cross.

2 THE COURT: Overruled.

3 Q. Agent Simmonds, are you able to look at a location sort
4 of like the dot I put here and identify likely towers that
5 that phone would be using? Are you comfortable with this
6 line of questioning?

7 A. Sure. Because, again, the networks are set up -- I'll
8 go back to the sprinkler system analogy. They are set out
9 to provide overlapping coverage so we can move from area to
10 area and you don't lose coverage. In your sprinkler system,
11 you're not going to have one on the far east side of your
12 yard trying to cover the west side of your yard when you
13 have other sprinkler heads on that side.

14 Q. Okay. So to that, circle for the jury or point out to
15 the jury some of the likely towers you would pick?

16 A. If this is the phone here, this tower, this tower, and
17 that possibly that one because it's colocated with T-Mobile.

18 Q. And I'm correct to say that this is not one of the
19 likely towers you identified?

20 A. No. Because it would be way too much interference
21 between this tower here for the phone to read this tower
22 with a clear signal.

23 AST. SOL. SIMPSON: Court's indulgence.

24 THE COURT: Yes, sir.

25 AST. SOL. SIMPSON: Agent Simmonds, I have no further

1 questions.

2 THE COURT: Any objection to the witness being excused?
3 From the State?

4 AST. SOL. SIMPSON: No, Your Honor.

5 THE COURT: From the defense?

6 MS. FORD: No, Your Honor.

7 THE COURT: Sir, you're excused.

8 THE WITNESS: Thank you.

9 THE COURT: You're welcome. The State may proceed.

10 AST. SOL. SIMPSON: Thank you, Your Honor. Court's
11 indulgence (Brief pause.) Your Honor, at this time, the
12 State rests.

13 THE COURT: Mr. Foreman, ladies and gentlemen, the
14 State has rested their case. I have some matters of law I
15 need to take up. During the break please do not discuss the
16 case. Please leave your notepads in your seats. And we
17 appreciate your patience during this brief recess.

18 (The jury exits the courtroom at 11:15 a.m.)

19 THE COURT: You may be seated. The State has rested
20 their case. Are there any motions?

21 MS. FORD: Yes, Your Honor. At this time I would ask
22 for directed verdict. First of all, on the attempted murder
23 charges, I don't believe there is been shown to be specific
24 intent. The law seems to be clear at this point that
25 specific intent is needed for attempted murder. It's a

1 different standard than murder. While shooting into a
2 house, you know, there's a charge that shooting into a
3 dwelling. Obviously, it can be known that someone can die.
4 So for murder it's a different standard. For attempted
5 murder, I don't think the State has met its burden because I
6 don't think there's any way to determine the fact that
7 someone necessarily was intending to kill someone. It could
8 have been just to scare someone or whatever. And so just
9 because the burden is so high for attempt at murder, I'm
10 asking for those charges to be dismissed, Your Honor.

11 In general, I would ask for all of the charges to be
12 dismissed. This case -- circumstantial. There is no
13 witness to say that Montrelle was the actual shooter. There
14 are witnesses and evidence to show he was downtown at the
15 time of the shooting, that he was seen with a gun shortly
16 after the shooting, there's this motive that so trivial,
17 Your Honor. The victim testified that she didn't even --
18 she didn't call the police. Why people don't typically call
19 the police, she didn't really you know -- it was over. It
20 came to her mind simply because of recency rather than
21 because of the nature of it.

22 I believe this is a circumstantial evidence case, Your
23 Honor. And when we have a circumstantial-evidence case,
24 near suspicion is not enough. I think that if you look at
25 Logan, Your Honor, the long circumstantial evidence when

1 taken together the evidence point conclusively to the guilt
2 of the accused beyond a reasonable doubt and the
3 circumstances merely betray -- behavior suspicious, the
4 proof failed. And I think that's all we have here is
5 suspicious behavior. Again, there is no witness to say he
6 was a shooter. There's not actually any evidence that the
7 man with the Italia shirt who Trivell identified as
8 Montrelle that he was the shooter. The surveillance footage
9 does not shed that man specifically coming from the Norman
10 Street area. It shows him coming from the general area.
11 But there's no witness, I saw a man in a Italia shirt shoot
12 up Katrina's apartment. There's nothing of that nature.
13 It's just speculation because the man in the Italian shirt
14 had a gun. So I don't think there's enough evidence -- I
15 don't think the State has met its burden so we would ask for
16 directed verdict on all charges based on these reasons, Your
17 Honor.

18 THE COURT: Would the State like to respond?

19 AST. SOL. SIMPSON: Briefly, Your Honor. Thank you.

20 THE COURT: You're welcome.

21 AST. SOL. SIMPSON: As to Ms. Ford's first point for
22 charges of attempted murder, we do understand -- of course
23 in the last trial that was before Your Honor the issue came
24 up -- the new -- I wouldn't even call it now. The
25 clarification to the attempted murder law requiring specific

1 intent. That requires a specific intent to kill. It
2 doesn't require specific intent to kill a particular victim.
3 The doctrine of transfer of intent I don't believe in any
4 way is altered by recent developments in the attempted
5 murder law. What we have here is some firing an assault
6 rifle into the house. And I think we've established, at
7 least considering our any evidence standard, which we are to
8 at this stage, that he was coming there to harm a particular
9 person that being Katrina Brown who he punched in the head
10 and knocked to the ground 24 hours before when she wasn't
11 looking. So I think we put forth evidence of motive,
12 evidence of a specific intent. Obviously, one can infer
13 that intent from the use of an assault rifle, the number of
14 rounds, the damage he caused to the house. This wasn't a
15 drive-by pop a shot into a wall. This is standing, your
16 feet outside, and unloading a clip of an assault rifle into
17 an occupied dwelling. That I think meets our burden for the
18 specific intent to kill. And as to the individual who
19 tragically ended up deceased from that, we are not required
20 to prove that he specifically intended to kill that person
21 or specifically intended harm in the attempted situations to
22 the other Brown sisters who ended up being injured. We
23 merely have to show he possessed a specific intent to kill
24 which we think our evidence certainly has -- enough to
25 overcome this stage of the case and of this stand, any

1 evidence standard, because the doctrine of transfer of
2 intent left untouched by -- in the attempted murder statute.

3 As to the Logan standard, obviously we understand the
4 law of circumstantial evidence. But I would just again
5 point to the state we're at now. I think we presented more
6 than enough circumstantial evidence to overcome mere
7 suspicion. We have a person who has been identified -- you
8 know there's an expression, "Where's the smoking gun?" This
9 is one of the few opportunities I've ever seen where we
10 actually have one. We have the person identified as the
11 defendant holding a smoking gun seconds, just over a minute,
12 after a shooting occurred. And it just happens a person who
13 had an altercation with a specific address that got shot up
14 the day before. And we think that that among other things,
15 cell phone, contact between the codefendant and himself,
16 meets our standard. Prosecutors love to repeat at this
17 stage, and that standard being the any evidence standard at
18 this stage. We've overcome the legal hurdle. And I think
19 it's time to send this to jury, Your Honor. Thank you.

20 THE COURT: You're welcome. Considering the evidence
21 most favorable to the State as the Court is required to do,
22 in addition to that, the Court is required to determine if
23 there is any direct or any substantial circumstantial
24 evidence reasonably tending to prove the defendant's guilt.
25 The Court is not the finder of fact. It is not for me to

1 weigh evidence. It's not for me to determine the
2 credibility or believability of witnesses. That is solely
3 within the fact-finding province of the jury. And without
4 belaboring our time as it's at a premium, while Ms. Ford is
5 correct that there is a requirement of specific intent,
6 that's a factual issue for the jury to resolve, not for this
7 court to resolve. In addition, there is direct evidence in
8 the testimony of the codefendant. That would be
9 Mr. Richardson. As well as substantial circumstantial
10 evidence reasonably tending to prove the defendant's guilt.
11 Everything that is been raised by the defense in this
12 directed verdict motion amount to factual issues to be
13 resolved by the jury. And they are certainly free to argue
14 all the deficits they feel exist in the State's case. And
15 therefore the motion is denied.

16 Sorry, if you would stand for me to please. I'll
17 remind you you're still under oath. Yesterday I explained
18 to you certain of your constitutional rights those being
19 your rights to testify. Did you understand your rights as I
20 explained them to you on yesterday?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Do you need to ask me any more questions at
23 this time regarding what I explained to you?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Have you talked with your lawyers whether

1 you should or should not testify?

2 THE DEFENDANT: Yes.

3 THE COURT: And do you need to speak with them anymore
4 at this time?

5 THE DEFENDANT: No.

6 THE COURT: And, sir, do you wish to testify?

7 THE DEFENDANT: No.

8 THE COURT: Okay. You can take your seat. Ms. Ford,
9 is that correct? That you fully explained to your client
10 his right to testify?

11 MS. FORD: Yes, Your Honor.

12 THE COURT: Has his answers to my questions been
13 accurate?

14 MS. FORD: Yes, ma'am.

15 THE COURT: Do you feel the need to speak with him any
16 further?

17 MS. FORD: I would appreciate the opportunity to speak
18 with him briefly before I start my case.

19 THE COURT: I mean regarding his right to testify.

20 MS. FORD: No, Your Honor.

21 THE COURT: How many witnesses does the defense plan to
22 call based on the list you provided to the Court? I guess
23 its' better to ask: Do you plan to call Mr. Wilson as a
24 witness?

25 MS. FORD: No, Your Honor.

1 THE COURT: Mr. Seagers?

2 MS. FORD: It depends on Ms. Blake's testimony, Your
3 Honor.

4 THE COURT: Ms. Blake is present?

5 MS. FORD: She is here.

6 THE COURT: And the only other person -- that's the
7 only person I had was Ms. Blake and Ms. Seagers and
8 potentially Mr. Wilson. You indicated you are not calling
9 Ms. Middleton, Ms. Campbell -- and Ms. Campbell or any CPD
10 officers. Is that correct?

11 MS. FORD: Yes, Your Honor.

12 THE COURT: Okay. Is Ms. Blake here ready to go
13 forward?

14 MS. FORD: She is.

15 THE COURT: Okay. And he said -- how long do you need
16 to talk with your client?

17 MS. FORD: Well, I need to go to the restroom as well.

18 THE COURT: I'm going to give y'all a break.

19 MS. FORD: Not long, Your Honor. Just a few minutes.

20 THE COURT: Okay. We'll be at ease for ten minutes.
21 You stood up for a reason?

22 AST. SOL. SIMPSON: Yes, Your Honor. Just to briefly
23 put on the record in my direct with Agent Simmonds, I marked
24 a copy of State's 145.

25 THE COURT: You need to substitute a clean copy.

1 AST. SOL. SIMPSON: For review, the marked copy I'm
2 going to enter as a Court's Exhibit.

3 THE COURT: You need to substitute it with a clean
4 copy, correct.

5 AST. SOL. SIMPSON: I mean, I have a clean copy --
6 State's 145 is clean. It's an evidence.

7 THE COURT: Okay.

8 AST. SOL. SIMPSON: I did not enter the marked up copy.

9 THE COURT: Why not?

10 AST. SOL. SIMPSON: I'll just make it -- because
11 Ms. Ford objected and I just didn't. If it ever came up in
12 the future but I was --

13 THE COURT: That's fine. You can mark it for ID only.

14 AST. SOL. SIMPSON: For ID only?

15 THE COURT: Uh-huh.

16 AST. SOL. SIMPSON: You want it as a State's Exhibit or
17 Court's exhibit?

18 THE COURT: That would be a State's exhibit if you used
19 it demonstratively and she objected to it. It's not a
20 Court's exhibit.

21 AST. SOL. SIMPSON: Okay. Thank you, Your Honor.

22 THE COURT: But it's ID only. Well, did you move to
23 admit that?

24 AST. SOL. SIMPSON: 145, is it in evidence?

25 THE COURT: Yeah.

1 AST. SOL. SIMPSON: I did not move to admit it, no. It
2 was just the subject of some objection. I'm just making a
3 clean record. It's marked as 146 for ID only. I don't
4 think it was my markings that were objected to. It was ---

5 THE COURT: But I don't recall her objecting to it and
6 I don't recall you trying to admit it.

7 AST. SOL. SIMPSON: She was objecting to the
8 testimony --

9 THE COURT: Yeah. And I've already ruled.

10 AST. SOL. SIMPSON: And I just thought it would be very
11 confusing if anybody needed to look at it to not know what I
12 was doing on this copy.

13 THE COURT: That's fine. All right. We'll be at ease
14 for about ten minutes.

15 (A brief recess was taken from 11:25 until 11:35 a.m.)

16 THE COURT: Ms. Ford, have you had adequate time to
17 conference with your client?

18 MS. FORD: Yes, Your Honor.

19 THE COURT: Do you need any more time? Any further
20 time to speak with him.

21 MS. FORD: No, Your Honor.

22 THE COURT: Are you ready to proceed?

23 MS. FORD: Yes. We have a brief matter about a rap
24 sheet for Mr. Seagers she he testify.

25 THE COURT: Well, I'll take that up if he testifies.

1 But right now you said you're calling Ms. Blake, right?

2 MS. FORD: Yes, ma'am.

3 THE COURT: Let's deal with that.

4 MS. FORD: Yes, ma'am.

5 THE COURT: Get the jury for me.

6 You plan to call Mr. Blake -- Mr. Seagers as a witness?

7 MS. FORD: Your Honor, I'll make that decision after

8 Ms. Blake.

9 THE COURT: Okay. I'm trying to make use of the time
10 while they're bringing them down the hallway. What record
11 does Mr. Seagers have?

12 MS. FORD: I believe the issue is the age of the case
13 -- age of the charges. He does have a trafficking set of
14 charges from '03. But he did quite a bit of time in jail so
15 that would be within the ten years. The issue the State has
16 is that he has a couple of false info to police charges from
17 the late '90s. They did not know of this witness, in
18 fairness, until Sunday.

19 THE COURT: I'm looking while you're talking. Go
20 ahead.

21 AST. SOL. SIMPSON: Our argument is ---

22 THE COURT: Well, was she finished?

23 MS. FORD: Well, I think just the issue then ---

24 THE COURT: I'm sorry. We'll finish it . . .

25 (The jury enters the courtroom.)

1 THE COURT: You may be seated. Ladies and gentlemen,
2 we appreciate your patience as we dealt with those matters
3 of law. We'll now resume trial testimony. You may proceed,
4 Ms. Ford.

5 MS. FORD: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 MS. FORD: May it please the court?

8 THE COURT: Yes, ma'am.

9 MS. FORD: The defense calls Peggy Blake to the stand.

10 THE COURT: Ma'am, if you would come forward to be
11 sworn. Is she outside?

12 MS. FORD: She's right here.

13 THE COURT: Okay. Come forward, ma'am.

14 (PEGGY BLAKE, was duly sworn and provided the following
15 testimony.)

16 CLERK: Please take your seat. Spell your first name
17 and last name for the record.

18 THE WITNESS: My name is Peggy Blake, P-E-G-G-Y,
19 B-L-A-K-E.

20 THE COURT: You may proceed.

21 MS. FORD: Thank you.

22 THE COURT: You're welcome.

23 DIRECT EXAMINATION

24 BY MS. FORD:

25 Q. Ms. Blake, where were you living in September of 2015?

1 A. [REDACTED] Bogard Street.

2 Q. And where was that in relation -- or do you know
3 Katrina Brown?

4 A. No. Actually, I just know her by name. She's a
5 neighbor actually.

6 Q. Okay. But you know who I'm talking about ---

7 A. Yes.

8 Q. -- -- when I say Katrina Brown? And where do you live
9 in relation to her?

10 A. I live at [REDACTED] Bogard Street. She stayed across the
11 street from the projects.

12 Q. And I'm going to show you a map that may be able to
13 help us show where you lived, okay?

14 A. Yes.

15 Q. On this, can you see where you live?

16 THE COURT: You need to make sure you make reference to
17 the exhibit.

18 MS. FORD: Yes, Your Honor.

19 Q. I'm showing you what's been marked as State's
20 Exhibit 4.

21 A. Can you ask me the question again?

22 Q. Sorry. Yes, ma'am. Okay. So you live in that house?

23 A. Yes.

24 Q. And do you know where Katrina lives?

25 A. She stays in the pink building.

1 Q. Do you know -- are you aware of a shooting that
2 happened at Katrina's house?

3 A. Yes. I went to bed around -- because I was braiding my
4 hair. And when I layed down to rest, I was disturbed by a
5 noise that sounded like a bomb. And actually, I thought it
6 was ISIS. So my son ran to my bedroom. I was thinking the
7 same thing, was trying to run to see if he was okay because
8 I thought it was in the house. And I crawled to my son's
9 bedroom. And when the bomb noise stopped, I cracked the
10 blind and peeked and there was this man. I'd say he's about
11 five-eight or eleven. I'm not really good with
12 measurements. But I'm five-one. And the person was in
13 dark, you know, kind of dark, not particularly light. And
14 he had on a like a hoodie. So I couldn't really see, you
15 know, the identity because he was hiding. It was kind of
16 spooky. And I was just kind of -- because of a lot of
17 bombing sounds. And I said I know a lot of people dead out
18 there.

19 Q. Okay. What did you do after hearing those noises?

20 A. Like I said, I was on the floor.

21 Q. Did you call anyone?

22 A. I dialed 911. I didn't know what was out there. I was
23 like, you know, I hope it's not coming in my house. Because
24 my son was in my house -- I didn't know who was out there.
25 It was somebody just out there shooting. Just, you know,

1 crazy.

2 Q. When you looked outside, did you see anyone?

3 A. Yes. I saw person, you know, leaving after, you know,
4 bombing the place. I saw a lime green car and drove off
5 slowly like nothing -- like nobody saw anything.

6 Q. Where was he coming from?

7 A. He was coming from the projects.

8 Q. And how was he dressed?

9 A. In black, all-black. Had a hoodie on so I couldn't see
10 his face.

11 Q. Okay. Could you tell was he a black man or a white
12 man?

13 A. Black. African American.

14 Q. And could you tell what his skin coloring was?

15 A. Dark skin.

16 Q. And did you see anything in his hand?

17 A. I thought it was a rifle. I don't really know. I
18 don't know much about guns, but it was sporty rifle.

19 Q. Okay. And maybe it will help if I show you this
20 picture again, State's Exhibit 4. Where was that -- you
21 testified that he got into a lime green car. Where was that
22 car? Can you tell from that map?

23 A. The car was parked right across the street.

24 Q. And what street is that?

25 A. It's Bogard.

1 Q. Okay. So that's the same street your house is on.

2 Your house is right beside that dot, correct? Can you mark
3 that for us again, please.

4 A. Yes.

5 Q. And when you called 911, did you indicate to them
6 anything about seeing somebody?

7 A. Well, I called them and I was like, you know, someone,
8 is bombing the neighborhood. Y'all need to get here fast.
9 I told them there was a man in dark clothes. I don't know
10 who he was. I couldn't identify them. But I said he was
11 lighting Norman Street . . .

12 Q. Did you tell them what kind of car it was?

13 A. Yes. I told them it was a lime green car. They need
14 to go catch him.

15 Q. And did you end up going outside and talking to police
16 that evening?

17 A. Well, after sirens and everything came, everybody came
18 out their house. Everybody was on the street, you know.
19 Everybody was concerned.

20 Q. Did you talk to police that evening?

21 A. Yes.

22 Q. And did you tell them what you had seen?

23 A. Yes.

24 Q. Do you remember if you mentioned the gun at all?

25 A. I told them everything.

- 1 Q. Did they ask you for a written statement?
- 2 A. They wrote, you know . . .
- 3 Q. Well, they were taking notes. But did they have you
- 4 write a statement?
- 5 A. No.
- 6 Q. Or did they have you sign a statement that they wrote?
- 7 A. No.
- 8 Q. Did someone come to try to record a statement?
- 9 A. Later.
- 10 Q. From the police or from my office?
- 11 A. I think the Charleston Police Department investigator
- 12 came. I forgot his name. It's been so long.
- 13 Q. Did they try to get you to write a statement?
- 14 A. No.
- 15 Q. Okay. Did they try to record a statement?
- 16 A. No. Because I told him that I didn't really want to be
- 17 involved.
- 18 Q. Okay. But you called 911 that night?
- 19 A. Yes.
- 20 Q. And you did talk to an officer that night, correct?
- 21 A. Yes.
- 22 Q. And you told us though you're not necessarily friends
- 23 with Katrina?
- 24 A. No, I'm not. Just neighbors.
- 25 Q. What name do you know her by?

1 A. Trina.

2 Q. And have you ever been to her house?

3 A. No. But I've had conversations with her. You know,
4 everybody was just family, you know --

5 Q. Okay. But you had never been to her house personally?

6 A. No.

7 Q. Had you been invited to her house at all?

8 A. She did invite me to a party, but I didn't go.

9 Q. Okay. And do you know when that was?

10 A. The same night.

11 Q. Okay. So you were invited to a party that night, but
12 you did not go?

13 A. No. That's how it is, I mean, like, people have
14 something up there, they invite you over, you know.

15 Q. And being her neighbor, did she often have parties?

16 AST. SOL. SIMPSON: Objection, Your Honor.

17 THE COURT: Basis?

18 A. Yeah. She did.

19 THE COURT: Ma'am, there's an objection pending so
20 please don't answer. Basis of the objection?

21 AST. SOL. SIMPSON: Relevance.

22 THE COURT: It is relevant. Overruled.

23 Q. So would she often have parties?

24 A. Yes.

25 Q. And how late would these parties last?

1 A. Until four, five, the next day.

2 Q. And how many people would typically go to these
3 parties?

4 A. Well, that particular day when all that happened, there
5 was a lot of people there, even people that I know through
6 the neighborhood that said they left because they started
7 fighting.

8 Q. Did you -- did you see anyone?

9 A. No. I wasn't there.

10 Q. Did you -- from your house, could you see anyone out there?
11 Could you hear or see them --

12 A. No. I was inside --

13 Q. When you saw the man walk away from Trina's place, did
14 you recognize him at all?

15 A. No. He was in heavy, black heavy -- I mean, you can't
16 even see anyone's face.

17 MS. FORD: Beg the Court's indulgence.

18 THE COURT: Uh-huh.

19 Q. And this car -- so we know. Do you know what kind of
20 car it was?

21 A. Not really. But it was a small car. I'm gonna
22 consider it Civic, Nissan.

23 Q. Okay. And what color was it?

24 A. It was a lime green.

25 Q. Lime green?

1 A. Yes.

2 MS. FORD: No further questions, Your Honor.

3 THE COURT: Any questions for the witness?

4 AST. SOL. SIMPSON: Yes, Your Honor. Thank you.

5 THE COURT: You may proceed. You're welcome.

6 CROSS-EXAMINATION

7 BY AST. SOL. SIMPSON:

8 Q. Good afternoon, Ms. Blake.

9 A. Hi.

10 Q. Thank you for being with us today.

11 A. Yes, sir.

12 Q. While this exhibit is up there -- can you see this well
13 on the screen in front of you?

14 A. Yes.

15 Q. If I understand correctly, this is your house here?

16 A. Across the street.

17 Q. Right there?

18 A. Yes.

19 Q. And you said that this lime green car, would it have
20 been parked sort of where ---

21 A. Over some.

22 Q. Towards this way?

23 A. Right -- move it a little.

24 Q. I moved it the wrong one?

25 A. Yes . . .

1 Q. And you said you saw the man in the hoodie get in the
2 car?

3 A. And he drove off really slow.

4 Q. And he drove off really slow?

5 A. Yeah.

6 Q. Okay. And then took a right on Norman Street here?

7 A. Yes.

8 Q. And then presumptively would've taken either on Line,
9 either a left or right on Line Street?

10 AST. SOL. SIMPSON: Objection. Speculation.

11 THE COURT: Overruled. Based on her rational
12 perception of what she reported she saw.

13 Q. And he drove off kind of slowly?

14 A. Yes.

15 Q. Okay. Now, let's talk a little bit -- can I ask you
16 just talk about sort of how your house is. Have you lived
17 there a long time?

18 A. Eight years.

19 Q. Okay. And you live there with your son. Is that
20 correct?

21 A. Yes. It's my son.

22 Q. And where in the house is your bedroom?

23 A. In the front.

24 Q. It's in the front there?

25 A. Yeah. I don't sleep in the front. I sleep in the

1 back.

2 Q. And where does your son sleep?

3 A. He sleeps like -- his room is like not too close to the
4 front of Bogard Street.

5 Q. Okay. Not too close or is your son's room further the
6 back in the house?

7 A. Yeah. My bedroom is right there in front.

8 Q. Okay.

9 A. --

10 Q. If I understand your direct testimony right, you heard
11 a loud noise. Is that correct?

12 A. Yes.

13 Q. And you thought it might be a bombing?

14 A. Yes.

15 Q. And you thought maybe ISIS?

16 A. Yes.

17 Q. Like an ISIS attack. And so like any good parent,
18 you're first concern was for your son. Is that correct?

19 A. Right.

20 Q. And you said that you got down on the floor?

21 A. Yes.

22 Q. To protect yourself?

23 A. Yes.

24 Q. And you crawled to your son?

25 A. Right. But he was coming towards me. He was like

1 running. I said get down, get down.

2 Q. Okay. So you crawled to your son. And were you both
3 on the floor together?

4 A. Yes.

5 Q. And was the sound still going on at that time?

6 A. Yes.

7 Q. Okay.

8 A. When it stopped that's when I crawled to the bedroom to
9 peek out the blinds.

10 Q. Okay.

11 AST. SOL. SIMPSON: May I approach, Your Honor?

12 THE COURT: You may.

13 Q. Showing you what's been marked for ID, State's 152.

14 A. Yeah. That's my house.

15 Q. Okay.

16 AST. SOL. SIMPSON: I seek to admit State's 152.

17 THE COURT: Any objection?

18 MS. FORD: No, Your Honor.

19 THE COURT: Without objection, 152.

20 (State's Exhibit No. 152, Photograph , was received
21 into evidence.)

22 Q. Are these the windows, Ms. Blake?

23 A. Yes.

24 Q. Is there something on them?

25 A. Just some Christmas stuff that I never took down.

1 Q. Okay. I'm sorry. It's not my intention to embarrass
2 you. Is that sort of still on the windows there like it was
3 back in September of 2015?

4 A. No. I took it down after I moved.

5 Q. Oh, okay. Would that have been on your windows in
6 2015?

7 A. No.

8 Q. Okay. So let's talk about -- when did you call 911 --
9 talking to them?

10 A. Around six when the shooting stopped.

11 Q. After the shooting -- I mean, where you at the window
12 looking out the blinds when you were on the phone with 911?

13 A. No.

14 Q. No? It was after?

15 A. Right.

16 Q. Okay. It's your testimony for the jury here today that
17 you told them on your 911 call about this man?

18 A. Yes.

19 Q. Okay. You told them you saw a person with a gun get
20 into that car?

21 A. Uh-huh.

22 Q. Okay. again, it's not my intention make you
23 uncomfortable right there. Are you sure you told them about
24 that?

25 A. Yes, sir.

1 Q. Are you sure you told them about the man in the hoodie
2 when you called 911?

3 A. Oh, yes. Yes.

4 Q. Would it help you or refresh your recollection a little
5 bit if you were given an opportunity to listen to your 911
6 call?

7 A. Yes.

8 Q. And would you be able to definitely recognize that's me
9 on the phone and that's me talking to 911?

10 A. Yes.

11 Q. Okay. We may do that. Now, before we moved to that,
12 let me ask you a question. You said that you described that
13 you thought the guy in the hoodie had a rifle?

14 A. That's what I thought it was . . .like a sporty
15 rifle . . .

16 Q. Well, that's what I was going to ask you. You said --
17 did I get the work right -- like a sporty rifle?

18 A. Yeah.

19 Q. Would that be kind of like a hunting rifle?

20 A. No. Just sporty like, you know, it's really different
21 like, you know. I would say unique. It was different.

22 Q. Okay.

23 A. It was kind of . . .

24 Q. And you described this man and this rifle in your 911
25 call?

1 A. Yes.

2 Q. Okay. And, again, who did you think might be bombing
3 the neighborhood when this happened?

4 A. I thought it was actually Isis. Because I mean, you
5 know . . .

6 Q. Do you recall in your 911 call -- maybe you do, maybe
7 you do not -- but do you recall telling the people on the
8 911 call that they needed to go look at that camera?

9 A. Yes, I did.

10 Q. And it was your belief that the lime green car would
11 certainly be on one of the cameras if they took the time to
12 go look at it?

13 A. On Bogard and Norman. They got a camera right there on
14 President. And there's one Norman.

15 Q. And the car was moving pretty slowly?

16 A. Slow, yeah.

17 Q. Like very slow or . . .

18 A. Very slow.

19 Q. Okay. This lime green car is moving very slow through
20 an area that you know there's cameras?

21 A. Yes.

22 Q. So you recommend to them on the 911 call you need to go
23 look at those cameras?

24 A. Yes.

25 Q. Okay. And you said that you were invited by Trina to a

1 party that night?

2 A. Yes, but I didn't go.

3 Q. Okay. Did she invite you to parties frequently or was
4 this just a special thing or . . .

5 A. No. Second time. I moved there in 2008. So is 2012,
6 you know, she had something that . . .

7 Q. Okay. And you said that you did go -- later you went
8 and talked to the police. Is that true?

9 A. That same morning, six in the morning -- and even, you
10 know, friends and family, they were like upset and concerned
11 like -- drives by in a car. And, you know, the look on
12 their face it was like they knew who the car like belonged
13 to. So I just, you know, assumed they owned it. They were
14 that person.

15 AST. SOL. SIMPSON: Court's indulgence.

16 Q. And you said it might help refresh your recollection if
17 you heard yourself on the 911 call?

18 A. Yeah.

19 Q. It's been a while, correct?

20 A. Yeah.

21 Q. What maybe you said and what may you didn't say?

22 A. I mean, I'm quite sure everything I said. I told them
23 what I saw. Around -- but I was told like 38 shells or
24 something that hit ---

25 MS. FORD: Objection.

1 THE COURT: Sustained. Hearsay.

2 Q. You said you would be able to recognize your voice on a
3 911 call?

4 A. Yes. I was told it was several calls.

5 AST. SOL. SIMPSON: Your Honor. I would like to create
6 an exhibit after the fact. I would like to play the portion
7 of the 911 calls to see if she recognizes her voice.

8 MS. FORD: I object to improper impeachment, Your
9 Honor. She said she didn't say ---

10 THE COURT: He can make an extraneous statement.
11 Overruled.

12 (911 call played at 12:15 p.m.)

13 Q. Is that your voice, Ms. Blake?

14 A. Yes.

15 Q. Did you call the 911?

16 A. Yes, sir.

17 Q. And let me just ask you. At that point did you say
18 that you are away from the front of the street in the back
19 room or the bathroom?

20 A. The bathroom.

21 Q. Okay. What room in your house is in the back?

22 A. My bedroom is in the front part.

23 Q. Correct. Okay.

24 (911 calls resumes.)

25 Q. Is at the entirety of your 911 call?

1 A. Yes, sir.

2 Q. And again, was a long time ago. I understand. But did
3 you ever mention seeing a man in hoodie in that call?

4 A. -- dark clothes.

5 Q. Okay. But my question is in the phone call that you
6 made at the time, did you convey at that time that you saw a
7 man holding a sporty rifle and a black hoodie? Or at the
8 time did you just say you've seen a lime green car?

9 A. I told crime scene personnel.

10 Q. Okay. So you said later you went and there might've
11 been like a crime scene agent?

12 A. Yeah. Out there that morning.

13 Q. And later that morning, you said, you added, that you
14 had seen a man in a black hoodie?

15 A. Yes. I described what I saw.

16 Q. And do you remember saying you approximated that you
17 heard six shots at that time?

18 A. No. It was ten.

19 Q. Ten? Okay. And do you remember recommending that they
20 look at the cameras so they would see this slowly moving
21 lime green car?

22 A. Yes. Somewhere and see the person. More like someone
23 that done something like that -- from the records. Most of
24 the time they have mugshots . . .

25 Q. All right. Thank you.

1 AST. SOL. SIMPSON: One second. Court's indulgence.

2 THE COURT: Yes, sir.

3 AST. SOL. SIMPSON: Ms. Blake, thank you so much for
4 your time and I appreciate your willingness to come here.
5 Thank you.

6 THE COURT: Any redirect?

7 MS. FORD: Yes, Your Honor. Beg the Court's
8 indulgence?

9 THE COURT: Yes, ma'am.

10 (Brief pause.)

11 REDIRECT EXAMINATION

12 BY MS. FORD:

13 Q. Ms. Blake, just a few more questions. When you called
14 911. Is it fair to say -- that the 911 operator was telling
15 you we have somebody coming already. We'll take care of it.
16 Is that fair to say?

17 A. Well, I guess there were probably you know other 911
18 calls as well. So, you know -- know what was going on.

19 Q. She didn't ask you as many questions, correct?

20 A. Right.

21 Q. She didn't ask you what this man looked like, correct?

22 A. No.

23 Q. She didn't ask you did you see a weapon, correct?

24 A. No.

25 Q. But you did tell them he got in a lime car, correct?

1 A. Yes. He had rifle . . .

2 Q. And how did you know that man got in a lime green car?

3 A. Because I --

4 Q. Were you -- you testified that you looked out the
5 window?

6 A. Yes. I cracked the blinds and looked out the window.

7 Q. And I know the State showed you picture. But are you
8 able -- are those the windows that you looked out of?

9 A. My son -- not my bedroom -- my son, cracked his window.
10 His window is not too far from the front of the house. When
11 you look at the house, you see a bedroom is back. Mine is
12 facing like right in front.

13 Q. Okay. This is the picture?

14 A. That's my bedroom. And my son's bedroom is like on the
15 other side where the arch of my doorway sits right there you
16 know away from the front side.

17 Q. Okay. And so is that the window you were able to see
18 the lime green car out of?

19 A. Yes.

20 Q. And that was State's Exhibit 152 just for the record.
21 Ms. Blake, did you call police that morning to make up a
22 story about someone getting into a lime green card?

23 A. No. Everything was true. Everybody, you know, was
24 happy, you know, that knew someone that -- some type of
25 situation -- what is going on -- and, you know, my

1 neighbors, they were injured. You know everybody thought
2 that they all were actually, you know, dying -- but later we
3 understand that only one person died and they were just --
4 one had arm -- Trina got shot in the neck. It was just --

5 Q. And how long have you known Trina?

6 A. I'm going to say three years since I moved here in
7 2008. When you live on -- you kind of get acquainted with
8 neighbors and people and just kind of learn names and you
9 know -- almost like a family type of thing. It's like
10 knowing your neighbors, start knowing everybody and learning
11 family names. So it was like I knew her mother, her
12 daughter -- children.

13 Q. What was your intent when you called 911? What was
14 your intent when you called 911?

15 A. Basically to protect my life. I mean -- a gun was -- I
16 didn't know what was going on. I was like, get professional
17 help -- military, somebody.

18 Q. And do you remember -- it was over two years ago. Do
19 you remember exactly everything you said back then?

20 A. Yes. Pretty much.

21 Q. But is there any reason that you would've lied about
22 seeing ---

23 A. No. Not like that -- at night when I told everyone,
24 you know, it was a lime green. Everybody know that car.
25 You know, they said fellows -- who I was talking ---

Redirect Examination of Ms. Blake by Ms. Ford

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1 MS. FORD: Objection, Your Honor. Speculation.

2 THE COURT: I'm going to give her a little latitude.

3 Q. You've always maintained that you saw the shooter get
4 into a lime green car, correct?

5 A. Yeah. It was lime green car.

6 Q. And you did indicate on the 911 call you saw the
7 shooter, you saw the man get into the car?

8 A. Yes --

9 MS. FORD: Beg the Court's indulgence.

10 THE COURT: Yes, ma'am.

11 MS. FORD: Have no further questions, Your Honor.

12 THE COURT: Any objection to the witness being excused?
13 From the State?

14 MS. FORD: No, Your Honor.

15 THE COURT: From the defense?

16 MS. FORD: No, Your Honor.

17 THE COURT: Ma'am, your excused. The defense may
18 proceed.

19 MS. FORD: Beg the Court's indulgence. (Brief pause.)
20 Your Honor, at this time, the defense rests.

21 THE COURT: We're going to reserve motions. Is there
22 any rebuttal testimony?

23 AST. SOL. SIMPSON: Yes, Your Honor.

24 THE COURT: You may proceed.

25 AST. SOL. SIMPSON: The State would recall Detective

1 Eric Tuttle.

2 (ERIC TUTTLE, was duly sworn and provided the following
3 testimony.)

4 CLERK: Please take your seat. Spell your first and
5 last name for the record.

6 THE WITNESS: E-R-I-C, T-U-T-T-L-E.

7 THE COURT: You may proceed.

8 AST. SOL. SIMPSON: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 DIRECT EXAMINATION

11 BY AST. SOL. SIMPSON:

12 Q. Detective Tuttle, good afternoon.

13 A. Good afternoon, sir.

14 Q. We won't belabor the point. But you mentioned earlier
15 that part of your role in this investigation was to both
16 canvas the neighborhood and have other people canvas the
17 neighborhood around Norman Street?

18 A. Yes, sir.

19 Q. Did you do that?

20 A. Yes, sir.

21 Q. Did you attempt to be as thorough as possible in
22 conducting that canvas be it you or people working under
23 your direction?

24 A. Yes, sir.

25 Q. If you could just estimate, how many people did you

1 talk to in that area?

2 A. In Gadsden Green, I believe not even -- more than 30.

3 Just knocking on every door and leaving business cards.

4 Q. Okay. Did you personally speak to Peggy Blake?

5 A. At that time?

6 Q. At that time.

7 A. I've spoken to her many times but not that time.

8 Q. Okay. You've spoken with Ms. Blake many times before?

9 A. Many times.

10 Q. Do you want to as lead detective, do you want sort of
11 pursue leads as a lead detective?

12 A. Yes, sir.

13 Q. Does that even include leads you may personally find
14 dubious?

15 MS. FORD: Objection.

16 THE COURT: Basis?

17 MS. FORD: Your Honor, he's trying to bolster -- may we
18 approach?

19 THE COURT: You may.

20 AST. SOL. SIMPSON: I'll just withdraw.

21 THE COURT: Question withdrawn. Rephrase.

22 Q. Is it important to you as a lead investigator to follow
23 every lead that might come up?

24 A. Yes.

25 Q. Did you review the 911 calls in this case?

1 A. All of them.

2 Q. Okay. Did you review the city camera footage in this
3 case?

4 A. I did.

5 Q. Did you or others are in concert with others at the
6 time closer to the shooting review all that city camera
7 footage?

8 A. Yes, sir.

9 Q. Were you aware of that time that there had been a call
10 indicating a lime green car?

11 A. I was.

12 Q. Okay. Was that part of your review of all of that city
13 camera footage?

14 A. We took the lead and we investigated it by reviewing
15 city cameras. There's a camera with a PTZ function on both
16 -- captures portion as you had highlighted and it's on both
17 Norman and Line Street in the direction that she said it
18 fled slowly. And there was no lime green car observed on
19 the city camera footage after a thorough review.

20 Q. Is this approximately the location of ■ Norman Street,
21 approximately?

22 A. Approximately. Yes, sir.

23 Q. Okay. And what do the red dots indicate to your
24 personal knowledge? Showing what's already been entered as
25 State's 154.

1 A. It's the CPD safety and security cameras.

2 Q. And we've seen some footage from those cameras, right?

3 A. We've seen --

4 Q. Okay. Did you review around the time of the shooting
5 footage of all of this cameras?

6 A. I did, sir.

7 Q. At any time did you see a car meeting the description
8 of a small lime green specific or small car?

9 A. No, sir. I took a snapshot of cars that I observed on
10 the cameras before and after the shooting -- time frame.

11 AST. SOL. SIMPSON: May I approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 Q. Showing you it's been marked for ID only State's 153.
15 Was does that folder contain? Do you recognize the images
16 in that folder?

17 A. I do.

18 Q. Okay. And what are they?

19 A. These are images clips taken from the CPD safety and
20 security cameras?

21 Q. Of?

22 A. Of any vehicles in the vicinity of the cameras that
23 we're looking at around the time frame of the incident.

24 Q. And you took those clips recently. Is that correct?

25 A. I did take these clips recently.

1 Q. And I was in preparation what you anticipated might be
2 testimony today. Is that true?

3 A. That is true.

4 Q. But I also believe it's your testimony, you also
5 reviewed the city camera footage back then for cars . . .

6 A. We did.

7 Q. Okay. At any time between the time the shooting and
8 today, your testimony today, have you ever been able to
9 locate any lime green car on any of this footage?

10 A. No lime green cars and specifically no lime green small
11 sedans . . .

12 AST. SOL. SIMPSON: May I approach the witness.

13 THE COURT: You may.

14 AST. SOL. SIMPSON: Your Honor, the State would seek to
15 admit State's 153.

16 MS. FORD: I object.

17 THE COURT: Basis?

18 MS. FORD: It was not presented ---

19 THE COURT: Please approach.

20 (A bench conference was held off the record and out of
21 the hearing of the jury panel.)

22 THE COURT: The request is withdrawn. State's 124 ID
23 only.

24 AST. SOL. SIMPSON: 153.

25 THE COURT: 153. I'm sorry.

Cross-Examination of Mr. Tuttle by Ms. Ford

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1 AST. SOL. SIMPSON: Thank you, Detective Tuttle. I
2 have no further questions.

3 THE WITNESS: Yes.

4 THE COURT: Any cross-examination of the witness?

5 MS. FORD: Yes, Your Honor.

6 THE COURT: You may proceed.

7 CROSS-EXAMINATION

8 BY MS. FORD:

9 Q. Detective Tuttle?

10 A. Yes, ma'am.

11 Q. You, apparently, ran through a lot of footage recently
12 to see if you could find a lime green car and took these
13 still images of cars that we saw, correct?

14 A. I'm sorry. There's ---

15 Q. The State presented to a folder.

16 A. Yes.

17 Q. Of still photos, correct?

18 A. The snapshots were taken recently. Yes, ma'am.

19 Q. You did that recently in anticipation of Ms. Blake's
20 testimony, correct?

21 A. Yes, ma'am.

22 Q. At the time, you testified earlier I had asked you
23 about Ms. Blake calling 911, correct?

24 A. Yes, ma'am. You did.

25 Q. And that an on-scene officer talk to her but no

1 detective went out to talk to her, correct?

2 A. And officer did speak with her on scene. Yes, ma'am.

3 Q. You wrote numerous police reports documenting your
4 investigation in this case. Is that fair to say?

5 A. There were reports. Yes, ma'am.

6 Q. You personally wrote numerous reports?

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

8 Q. And you detailed your investigation of what you did,
9 correct?

10 A. Yes, I did.

11 Q. And part of that is you document it when you looked
12 into something that panned out to be nothing, correct?

13 A. I did.

14 Q. So for example, Trivell Richardson numerous supposed
15 alibis ---

16 AST. SOL. SIMPSON: Objection, Your Honor.

17 THE COURT: Basis?

18 AST. SOL. SIMPSON: Outside the scope of cross.

19 THE COURT: I'll give you little latitude but be
20 careful.

21 Q. You talked to several people that he directed you to
22 and you document it but was said, correct?

23 A. Yes, ma'am.

24 Q. When you ended up finding a few people with an Italia
25 shirt on and talked to them, you documented it talking to

1 them, correct?

2 A. Yes, ma'am.

3 Q. So you document everything -- you tried to document
4 almost everything you did because as an officer it's
5 important to document so that we call things more than two
6 years later, correct?

7 A. Yes, ma'am.

8 Q. You're trained when you go to the police academy to
9 write reports for that reason?

10 A. In my training, I tape record to refresh my memory on
11 the investigation. At the Academy, I don't remember much
12 about that specific . . .

13 Q. You're supposed to write ---

14 A. I do. I try to be as thorough as possible. I don't --
15 reading this.

16 Q. You're very thorough, correct?

17 A. As thorough as humanly possible. I'm sure that I miss
18 minute details are in error here there.

19 Q. Well, in your report, you never mention Peggy Blake at
20 all.

21 A. What I did mention was that I was told that a 911 call
22 had a lime green car.

23 Q. You mentioned that on your report.

24 A. I believe I summarized that the car she observed, the
25 lime green car -- I could be wrong. I also review every

1 other supplemental report that's admitted by any other
2 officer. So I know it's in the incident report itself that
3 a lime green car. And I also documented that I reviewed the
4 911 calls and noted that Peggy Blake one of those callers.
5 And the information was easily corroborated by reviewing the
6 city cameras ---

7 Q. You never -- you never documented that you reviewed
8 cameras to look for a lime green car, correct?

9 A. What I did document is that we reviewed the city
10 cameras when requested which was nearly 48 hours of footage
11 specifically reviewed at the time frame of the murder on
12 these five cameras.

13 Q. And you never commented in your report, in your
14 thorough investigation, that you were looking for a lime
15 green car and did not see one, correct?

16 A. Right. So we can look at where the evidence -- so when
17 we followed the shooter from Norman Street and President and
18 Line, that's logical to say that he shows up on a the Lee
19 Lee's camera and an assault rifle is clearly visible, and
20 he's also visible getting into a gold sedan. And no other
21 individuals were observed with a assault rifle and no other
22 lime green cars or suspect vehicles were observed on the
23 numerous cameras that we obtained.

24 Q. You were not specifically looking for a lime green car
25 back in 2015 when you were investigating this case?

1 A. Oh, absolutely.

2 Q. You did not in any of the reports mention that you
3 found out that Peggy Blake's 911 call and information . . .

4 A. Right. Because the more impact factor was what the
5 evidence showed.

6 Q. Okay.

7 A. And just because I didn't document that doesn't mean --
8 I noted that. I reviewed the city camera. So I looked at
9 with the evidence showed and I followed the most probative
10 leads.

11 Q. You did not follow up with Peggy Blake, correct?

12 A. ---

13 Q. You did not go talk to Ms. Peggy Blake, correct?

14 A. No.

15 Q. You did not send a detective to go follow up with
16 Ms. Peggy Blake, correct?

17 A. I didn't and that's because in my experience ---

18 Q. You didn't do it, did you?

19 A. In my experience, she has provided misleading
20 information ---

21 Q. That is not --

22 MS. FORD: Objection, Your Honor.

23 THE COURT: Please don't instruct the witness. Sir, if
24 you would answer the question yes or no. You may explain
25 your answer. Restate the question.

1 Q. You did not follow up?

2 A. I did follow up on it.

3 Q. You did not go talk to her, correct?

4 A. Her information was that a lime green car was observed
5 on Bogard turning right onto Norman Street. We have cameras
6 that could easily confirm or deny that fact. And it was
7 denying. To me the lead, there is no necessary information
8 to follow up when something more important like observing
9 the shooter on some camera.

10 Q. Observing a man with a gun?

11 A. I observed the shooter on the camera.

12 Q. You observed a man with a gun?

13 A. I observed ---

14 THE COURT: Is there a question? You need to put it in
15 the form of question and not an editory statement.

16 MS. FORD: Yes, Your Honor.

17 Q. Detective Tuttle, the camera that you mentioned, they
18 turn around a lot, correct? Or they move around. We've
19 been over that testimony.

20 A. Yes, ma'am.

21 Q. So they do not -- for example, the one footage that you
22 commented on you can see Trivell, and he is walking down the
23 street near the apartment. And at that point that you say
24 you saw a light that you believed was the shooting, correct?

25 A. (Nonverbal response.)

1 Q. And the camera moved ---

2 A. You're talking about a couple of different camera
3 angles. So Trivell and ACE were observed on the Lee Lee's
4 and then at the President and Line Street cameras. They
5 were never observed on the Norman and Ashton Street cameras.

6 Q. The point is simply that the camera was zoomed in on
7 somebody and that it just turned. But cameras do that.
8 They just turn ---

9 A. --- PTZ function. Yes, ma'am. They do have the pan,
10 tilt, zoom function.

11 Q. They move around, correct?

12 A. On patrol. Yes, ma'am.

13 Q. So they don't capture everything?

14 A. They don't capture everything, yes.

15 Q. Correct?

16 A. Correct. Yes.

17 Q. Okay.

18 A. Sorry.

19 MS. FORD: Beg the Court's indulgence.

20 THE COURT: Yes, ma'am.

21 (Brief pause.)

22 MS. FORD: I have no further questions.

23 THE COURT: Any redirect?

24 AST. SOL. SIMPSON: Just briefly, Your Honor.

25 THE COURT: You're welcome. You may proceed.

1 REDIRECT EXAMINATION

2 BY AST. SOL. SIMPSON:

3 Q. Detective Tuttle, did you review all of five Gadsden
4 Green cameras all around the time this incident occurred?

5 A. Yes, sir.

6 Q. And was one of the many factors you had in mind to be
7 looking for was this lime green car?

8 A. That was one of the factors. Yes, sir.

9 Q. According to Ms. Blake, was this car was moving -- was
10 it flying out of that neighborhood to get out of there? Or
11 how was this car moving?

12 A. Slowly.

13 Q. Slowly? Would a car moving ---

14 A. So her house is just to the left of that President --
15 right where your hand is, that's her home.

16 Q. The car moving here initially. Could a car parked here
17 be seen by a pan, tilt, zoom camera if it was parked when
18 the zoom was on?

19 MS. FORD: Objection. Speculation.

20 THE COURT: You need to establish his foundation and
21 knowledge.

22 Q. Do you have -- do you have, through your training and
23 experience, a working knowledge these cameras?

24 A. This is a huge part of our job is dealing with cameras
25 on every investigation?

1 Q. In Ms. Ford's questioning, you know, expressing
2 familiarity with the fact that these cameras pan around to
3 different angles?

4 A. Yes.

5 Q. How would you estimate how many hours that you looked
6 at this particular footage for this case?

7 A. Numerous. Numerous. I mean, I couldn't even tell you.

8 Q. And are you familiar with this area in real life? Have
9 you been out to this area a lot?

10 A. I've walked the streets day in and day out.

11 Q. So are you familiar with the area out there that is
12 captured by these cameras on their different angles?

13 A. Very familiar.

14 Q. Okay. So let's just go through this. Would a parked
15 lime green car here, assuming it, you know, it stays parked,
16 fall within the pan-tilt-zoom function of this camera?

17 A. Yes, sir. It could.

18 Q. Would a car moving slowly up Norman Street taking this
19 turn here fall within pan-tilt-zoom function of this camera?

20 MS. FORD: Objection. Speculation, Your Honor.

21 THE COURT: Overruled. 701.

22 Q. If the car has to either take a left or right here,
23 correct? On Line?

24 A. Yes, sir. We discussed the overlapping fields of view.

25 Q. Would that turn be caught on this camera or this camera

1 if the camera was paned toward that way at that time?

2 A. Yes, sir.

3 Q. What if they took a right and we're here, would the
4 lime green car be caught on this camera from various angles,
5 more than one?

6 A. Yes.

7 Q. If they took a left, would the car be caught on this
8 camera from various angles, more than one?

9 A. Yes, sir.

10 Q. If they decided to come back into, back to Green here,
11 would that have been caught on this camera from one of the
12 angles?

13 A. Yes, sir. It would.

14 Q. Did, in your hours of reviewing this video footage of
15 all of those cameras, did you ever see a car matching the
16 description given by Peggy Blake?

17 A. I did not, sir.

18 AST. SOL. SIMPSON: Nothing further, Your Honor.

19 THE COURT: Any objection -- well, sir, you may step
20 down.

21 THE WITNESS: Thank you, ma'am.

22 THE COURT: You're welcome. Anything further in
23 rebuttal from the State?

24 AST. SOL. SIMPSON: No, Your Honor.

25 THE COURT: Does the State rest?

Redirect Examination of Mr. Tuttle by Ast. Sol. Simpson

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1 AST. SOL. SIMPSON: Yes, ma'am.

2 THE COURT: Mr. Foreman, ladies and gentlemen, but the
3 State and the defense have rested their cases. The next
4 part of the process is closing argument and then
5 instruction. We've ordered your lunch and it's arrived and
6 we've already put it in the jury room. There are some
7 matters of law that counsel and I need to, however, dispose
8 of before we're able to eat and have a little bit of a rest
9 before lunch and closings. So we're going to recess for
10 about an hour and 15 minutes. As I've indicated, your lunch
11 is in the jury room. However, you can walk around if you
12 want to. You can leave the courthouse. But just return
13 your jury room by 1:15.

14 While you've heard all the evidence in this case, you
15 have not heard counsels' arguments or the Court's
16 instruction. So it is absolutely essential that you have no
17 discussion about this case among yourselves or with anyone
18 else. That during the break, do not allow yourselves to be
19 exposed to any media coverage whether that is newspaper,
20 radio, television, or Internet. And please don't do any
21 independent research on the Internet. And likewise, please
22 don't make any comments regarding your jury service on any
23 social networking sites.

24 Oh, I'm sorry. I can't count. 2:15, I'm sorry. Tell
25 y'all a funny story. One time I sent a jury out for two

1 hours and my clerk didn't tell me. An hour later I was
2 thumping my fingers going, "Where's the jury?" She was
3 like, "Well, you kind of let them go for two hours." I was
4 like, "Why didn't you stop me? You know I can't count."
5 Laughter makes the heart merry. You have to be able to
6 laugh at yourself.

7 Okay. So if you all will come back in an hour and 15
8 minutes, that will be 2:15. And, again, follow the Court's
9 instructions. If you will leave your notepads in your
10 seats, we will see you then. Have a good lunch.

11 (The jury exits the courtroom at 12:45 p.m.)

12 THE COURT: You may be seated. Right. When the
13 defense closed their case, I reserved motions. Are there
14 any motions? You may proceed.

15 MS. FORD: Just renewing all the prior motions, Your
16 Honor.

17 THE COURT: Anything further from State?

18 AST. SOL. SIMPSON: Nothing further, Your Honor.

19 THE COURT: The Court finds there is direct and
20 circumstantial evidence reasonably tending to prove the
21 defendant's guilt. Therefore the motion -- the renewed
22 motions are denied. And the Court incorporates its
23 specific findings of fact and conclusions within this
24 portion of the record as it is stated verbatim.

25 Now, do any of the videos that have been used require

1 special software to be played?

2 AST. SOL. SIMPSON: We prefer -- the clips, which I
3 think you've seen all the relevant, I think will play on
4 your typical media ---

5 THE COURT: Yeah. That's what I need to.

6 AST. SOL. SIMPSON: We prefer the VLC player because it
7 plays them all better.

8 THE COURT: What's the VLC player?

9 AST. SOL. SIMPSON: It's just a certain software that
10 in my experience works way better?

11 THE COURT: Do you all have that available to load it
12 onto something?

13 AST. SOL. SIMPSON: It's free online.

14 CLERK: We have that.

15 THE COURT: All right. Then we are good.

16 AST. SOL. SIMPSON: Excellent.

17 THE COURT: Okay. That's what I needed to know.

18 AST. SOL. SIMPSON: If the clerk's office was
19 assisting, we might suggest that they open it with the VLC.
20 Everything looks better in that program.

21 THE COURT: Okay. I needed to cover that. Okay. Got
22 that out of the way.

23 And the State has now rested again. Are there any
24 motions?

25 AST. SOL. SIMPSON: No, Your Honor.

1 MS. FORD: No, Your Honor. Just my prior motions.

2 THE COURT: They'll be marked renewed and denied based
3 on the Court's previous ruling -- rulings. Now is there
4 going to be any requests for any lesser included offenses?

5 AST. SOL. SIMPSON: Not from the State, Your Honor.

6 THE COURT: From the defense?

7 MS. FORD: No, Your Honor.

8 (Brief pause.)

9 THE COURT: I'm going to give the jury a general
10 instruction regarding their responsibility and my
11 responsibility, how they are to judge witness credibility
12 and believability. I'll give them a general instruction
13 regarding expert witness testimony as well as direct and
14 circumstantial evidence. I'll give them a general
15 instruction regarding the arrest from the indictment not
16 being evident as well as on the presumption of innocence.
17 Charge Victor versus Nebraska on reasonable doubt as well as
18 give them an instruction regarding no inference or prejudice
19 to the defendant and not testifying. I'll then instruct
20 them on the elements of murder, which I think we all know.
21 Since there's no mitigation that's been raised by the
22 defendant or any defense of self-defense, inferred malice is
23 appropriately instructed that being the use of a deadly
24 weapon. I'll also instruct on transferred intent.

25 I'll then instruct on the elements of attempted murder

1 which is 16-3-29. I think we all know this elements as
2 well. The inference is also, likewise, applicable. There
3 has been no mitigation presented or raised. I will then use
4 the following language on criminal intent which with the
5 help of counsel -- defense counsel as well as the State I've
6 used recently, and it seems to work for everyone. And that
7 being pursuant to State versus King. In conjunction with
8 that, though, I will likewise instruct that intent means
9 intending the result which actually occurs not accidentally
10 or involuntarily. Intent may be shown by acts and conduct
11 of the defendant and other circumstances from which you may
12 naturally and reasonably infer intent -- for intent.
13 Evidence of the character of the acts, the character of the
14 instrument used, the manner in which it was used, the
15 purpose to be accomplished, and the resulting wounds or
16 injuries may be considered in determining the intent of
17 which the act was committed. Intent may also be inferred
18 when it is demonstrated that the defendant voluntarily and
19 willfully commits an act, an natural tendency of which is to
20 destroy another's life. I will then instruct a criminal
21 intent is a mental state; a consciousness of wrongdoing. It
22 is up to you determine what the defendant intended to do
23 based on the circumstances shown to have existed. To find
24 the defendant guilty of attempted murder, the State must
25 prove beyond a reasonable doubt that the defendant had an

1 intent to kill the victim.

2 I'll then instruct or give a general instruction on
3 attempt which is the effort to accomplish the crime which
4 does not succeed. An attempt includes a specific intent to
5 do a particular criminal act along with an act falling short
6 of the act intended. The State must show more than mere
7 preparation and intent. There must be some overt act
8 committed in the effort to commit the crime. Intent means
9 intending the result which actually occurs, not accidentally
10 or involuntarily. Intent may be shown by acts and conduct
11 of the defendant and other circumstances from which you may
12 naturally and reasonably infer intent.

13 I will also instruct accomplice liability, which is the
14 hand of one is the hand of all. I'll instruct on
15 identification and mere presence. I'll then instruct on
16 there being multiple charges and the State has the burden of
17 proving each separate indictment beyond a reasonable doubt
18 and that the defendant may be convicted or acquitted on any
19 or all of the indictments. I will also give a general
20 instruction that there's been reference to penalty, but
21 that's not a matter appropriate for their consideration.
22 That's a matter solely for the Court and it's not to affect
23 their determination of whether the State has met its burden
24 beyond a reasonable doubt.

25 I will also instruct regarding witnesses criminal

1 records, which will simply indicate that a person who has a
2 past criminal record is competent to testify. A past record
3 does not affect the ability of that witness to testify
4 cannot. But the jury can consider, if at all, in their
5 fact-finding providence on the witnesses believability.
6 I'll then instruct on the form of the verdict.

7 Are there any exceptions to the charges proposed? From
8 the State?

9 AST. SOL. SIMPSON: No, Your Honor.

10 MS. FORD: Yes, Your Honor.

11 THE COURT: I haven't gotten to you yet. If you can
12 wait for me, please. Any exceptions from the defense?

13 MS. FORD: Yes, Your Honor. First of all, I object to
14 the accomplice liability. The State -- codefendant Trivell
15 Richardson, his testimony demonstrated or the State's case
16 that he had no involvement in anything, didn't know of
17 anything beforehand. At most, accessory after the fact, if
18 that. But he clearly said he had no knowledge of anything.
19 He never saw anything. He never saw Montrelle leave with
20 the gun. He didn't know of anything. He actually was told
21 to park the car around the corner. He clearly wasn't
22 instructed to stay at the car to be a getaway driver since
23 he left and was walking on the street with the other
24 gentlemen, Your Honor.

25 So the State -- from the evidence in the crime scene,

1 there's no suggestion that a second party was involved.
2 There's no witness to say they saw two parties shooting or
3 that two people we're there. The only evidence is the
4 second person, Trivell. And, again, the State's own
5 evidence says that he had no knowledge of -- so he would not
6 of been an accomplice to Mr. Campbell under his testimony.
7 And so I think it would be an inappropriate. It would be
8 based merely on just speculating on, well, maybe this
9 could've happened. It would be inappropriate because there
10 is no evidence of all of a second party, Your Honor.

11 Also just to under the Belcher case ---

12 THE COURT: I'm sorry. I didn't hear you. Repeat
13 that.

14 MS. FORD: Under the Belcher case, just the gun
15 implying malice, Your Honor.

16 THE COURT: Belcher is only applicable when there is
17 some mitigation which is self-defense or stand your ground.
18 There is none in this case. Belcher very clearly
19 articulates that where there's no mitigation, the inference
20 is still appropriate in instructing.

21 MS. FORD: Well, I still would object. And also,
22 specifically, with that charge in regard to the attempted
23 murders since there is -- the attempted murder does have a
24 different burden. Since it's burden is higher, I think
25 having that instruction basically is counter somewhat to

1 that different burden.

2 THE COURT: Anything further regarding the
3 instructions?

4 MS. FORD: No, Your Honor.

5 THE COURT: Be glad to hear from the State.

6 AST. SOL. SIMPSON: Thank you, Your Honor. I think as
7 to the hand of one charge we got sort of two levels of
8 analysis here. First, the proper analysis here is not what,
9 you know, married to the State's theory of the case -- any
10 evidence standard of what a reasonable juror could infer
11 from the evidence presented by both the State and the
12 defense. We have certainly a codefendant case where we have
13 three individuals that some could infer were involved in
14 this case: Mr. Richardson, Mr. Rivers and Mr. Campbell.
15 Certainly, we presented evidence, I think is substantial
16 evidence, that Mr. Campbell is the shooter. But a juror
17 under the evidence presented and arguments present by the
18 defense could assume otherwise based on the fact even in the
19 openings, and I'm certain the closing, Ms. Ford going to
20 suggest that Mr. Campbell is not involved and that it
21 was . . .

22 So as to the first glare of the hand of one charge, we
23 have reasonable jurors could be asking the question based on
24 the defenses own arguments, no one saw Montrelle shoot, so
25 couldn't have one of these other people have shot. And it's

1 very, very crucially important that the jurors understand
2 that does not necessarily relieve Mr. Campbell of the murder
3 charges that he stands here. And the hand of one is how you
4 accomplish that in the jury's mind.

5 Secondly, and I think more obviously, Your Honor, hand
6 of one objection is appropriate here by the defense's on
7 case that they put on. We now injected a hooded person
8 carrying a sporty rifle away from the scene. So by their
9 own case, we have two people fleeing the scene, both caring
10 rifles. Ms. Ford just said to the Court there's been no
11 evidence presented that there were two people shooting at
12 the scene. On the contrary. There was a second person
13 introduced into this case that could've also played a role
14 by their own case. We have video of one individual carrying
15 an assault rifle, Montrelle Campbell, and minute and a half
16 after the shooting. And we have evidence now presented by
17 the defense of a hooded individual getting into a lime green
18 car with a sporty rifle minutes after the shooting. I think
19 under that presentation of evidence from both the State and
20 the defense, certainly the hand of one charge is
21 appropriate.

22 As to the Belcher thing, I have nothing further to
23 add. I think Your Honor was correct in that that is a
24 proper charge.

25 THE COURT: The Court will note defense's exceptions.

1 And the Court will still instruct the hand of one. It is
2 clearly, factually supported as the case has been presented
3 to the jury. The Court is required to charge the accurate
4 law. You cannot leave the jury ill-equipped to make its
5 factual decisions. While it is correct regarding the
6 testimony of Mr. Richardson, the jury doesn't have to
7 believe his testimony. They can believe the truth lies
8 somewhere between. They can believe he is being dishonest
9 and if he Mr. Campbell equally participated in this crime.
10 A principal in a crime is one who either ask -- who either
11 actually commits the crime or he was present aiding,
12 abetting, or assisting in committing a crime. When a person
13 does the act in the presence of and the assistance of
14 another, as we know the act is done by both. The law on
15 accomplice liability does not require that there be some
16 premeditation for a particular amount of time. It only
17 requires a common scheme and plan. Inherent within that
18 instruction is the negation of the participation by mere
19 presence. So I think under -- clearly under the facts as
20 they have been presented, hand of one, hand of all, is a
21 properly instructed to the jury. And if the defense's
22 theory is correct, then it will be an inapplicable when the
23 situation.

24 The Court stands by its interpretation of Belcher.
25 I'm not aware of any recent cases that of come out that have

1 said anything differently other than what has been
2 articulated by the Supreme Court regarding that precedent.
3 And they have been very clear that where evidence is
4 presented that would reduce, mitigate, excuse, or justify a
5 homicide or other type crime by the use of a deadly weapon,
6 malice should not -- inferred malice is not a appropriately
7 instructed to the jury. I'm not aware of anything -- any
8 case law that has come out recently or within the period of
9 Belcher or King that has inferred malice is not
10 appropriately instructed on an attempted murder charge.
11 Because attempted murder and murder basically are the same
12 with the exception of the murder falling short of its
13 actual -- actually being accomplished.

14 And noting the exception, the Court -- I don't agree
15 that somehow the instructions are opposite of one another.
16 Because I'm going to specifically instruct the jury that
17 intent is required. And I'm specifically going to instruct
18 them as to what content requires that the State must prove
19 intent beyond a reasonable doubt. So the Court will note
20 the exceptions and overrule them.

21 Now, can you all get with the court reporter and make
22 sure all of the evidence is accounted for. Maybe I'll
23 need -- how long do you think you'll need for them to do
24 that.

25 COURT REPORTER: I think we've got it pretty much --

1 about ten minutes?

2 THE COURT: About ten minutes. Now, if you all will
3 approach so you can review the verdict forms.

4 Okay, guys. Have a good lunch. I'll see you at 2:15.
5 I assume the State is going to open and close?

6 AST. SOL. SIMPSON: Yes, Your Honor.

7 THE COURT: How long do you think your arguments will
8 last? Just give me a rough estimate.

9 AST. SOL. SIMPSON: Thirty minutes.

10 THE COURT: For open and close.

11 AST. SOL. SIMPSON: Thirty minutes, ten minutes.

12 THE COURT: How long do you think will be, Ms. Ford?

13 MS. FORD: Probably the same, 30 to 45 minutes.

14 THE COURT: And just so you all know for your planning
15 purposes, we don't have any options for dinner. I've
16 ordered the jury lunch, and I'm going to give them the
17 opportunity to go home if we going -- if their deliberations
18 get past five o'clock. And they can make the choice whether
19 they want to go home or whether they want to stay.

20 Have a good lunch. And if you all could again, before
21 we get started with closings, make sure you go over the
22 evidence and make sure everything is accounted for and that
23 the court reporter has everything.

24 (Lunch recess until 2:15 p.m.)

25 THE COURT: All right. State ready to proceed?

1 AST. SOL. SIMPSON: Yes, ma'am.

2 THE COURT: Is the defense ready to proceed?

3 MS. FORD: Yes, Your Honor.

4 THE COURT: Please bring me the jury.

5 (The jury enters the courtroom at 2:25 p.m.)

6 THE COURT: You may be seated. I hope you all had a
7 pleasant lunch. As I indicated before we broke, both the
8 State and the defense have rested their cases. We have now
9 reached the stage of the trial where we will have closing
10 arguments in the Court's instructions on the law. I would
11 ask that you give counsel your attention. In argument, you
12 will hear from the State followed by the defense the last
13 closing will be given by the State. Under rules of
14 procedure, the party with the burden of proof gets the last
15 say so to speak. After I which I will instruct you on the
16 law applicable to this case. Just so that you know for your
17 planning purposes, I will give you the option if we reach
18 close to 5:00/5:30 to give the option to go home and resume
19 the proceedings in the morning if you so desire.

20 I would ask again that you give counsel your undivided
21 attention. Mr. Simpson, you may proceed.

22 AST. SOL. SIMPSON: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 CLOSING ARGUMENTS

25 AST. SOL. SIMPSON: Ladies and gentlemen of the jury,

1 good afternoon. Thank you, again -- for your time this
2 week. I won't go on and on about it -- we understand this
3 is a huge sacrifice for you. And I think even though your
4 real work is yet to begin, I think already at this stage you
5 understand how important you are to the system. How
6 fortunate we are that we have 12 reasonable people,
7 citizens, to sit here and look at the evidence and determine
8 the facts, apply the law of the case. And I'm sure I speak
9 for everyone in here, we do appreciate your time.

10 About 6:32 a.m. on September 19, 2015, Montrelle
11 Campbell turned [REDACTED] Norman Street for a brief period of
12 time into a hell on earth. I said that in my opening
13 statement. I know some you thought I was being hyperbolic
14 or exaggerating or trying to be dramatic. I wasn't. You've
15 seen that now. You have seen what bullets do and it's
16 horrifying. It isn't like the movies or TV where someone
17 gets shot and just falls down -- we've seen this house after
18 what we believe, and we have evidence of this, at least 14
19 assault rifle rounds like a war zone when into the rear of
20 that residence. You seen the windows, the doors, the
21 microwave, the refrigerator, the cereal boxes. Not tiny
22 little bullet holes, but shards of metal flying everywhere
23 going through the bookshelves, through the living room, out
24 the front door, and cause damage on the apartment building
25 from the other side in an area where a lot of people live.

1 And it's not the nicest area and it's not the richest area,
2 but you've heard from several people that this is a
3 community that a lot of people call home. And Montrelle
4 Campbell sent metal, a storm of metal, flying through [REDACTED]
5 Norman Street. Just [REDACTED] Norman Street. It was not random.

6 Shards of metal hit Kerri in the head. She had blood
7 all of her face as she cradled her child. There is a bullet
8 still in Tierra's arm as we speak today. And then the
9 saddest and most tragic example, of course, of the storm of
10 metal and what bullets do in real life, you saw the chest
11 X-ray damage of Antwan Frost. And I'm sorry to stress that
12 and point that out. But you saw the X-ray of a chest
13 cavity -- Montrelle Campbell did that.

14 Let's backup because of course the story starts on
15 Thursday night. Thursday night when a person that Kerri,
16 Tierra, Katrina hardly knew just walked in the house. And
17 you guys think back, you got to meet Katrina. I'm a fan of
18 Katrina, but, you know, Katrina ---

19 MS. FORD: Objection. Vouching.

20 AST. SOL. SIMPSON: Withdrawn.

21 THE COURT: I'm going to sustain the objection. Ladies
22 and gentlemen, you are to disregard and disabuse in your
23 mind the last comment made by the solicitor and give it
24 absolutely no consideration in your deliberation. And it
25 will also be withdrawn. You may proceed, Mr. Simpson.

1 AST. SOL. SIMPSON: Thank you, Your Honor.

2 THE COURT: You're welcome.

3 AST. SOL. SIMPSON: You saw examples of Katrina
4 speaking her mind -- and when Montrelle Campbell helped
5 himself into her home and made it sound like he belonged
6 there and didn't have to extend the basic courtesy, she
7 likely gave him a piece of her mind. Right? That's part of
8 life. Sometimes you have to get that from people, okay.
9 Sometimes we get angry with people. But how did Montrelle
10 Campbell react? What effect emotionally did this have on
11 Montrelle Campbell? It enraged him enough for him to
12 blindside a female with a punch to the head that knocked her
13 to the ground. People saw it. You heard about words being
14 exchanged, people coming out, people gathering. People saw
15 it and that made him angry.

16 Now, I'm going to stop here and point out the common
17 fallacy that I hear from time to time, and I anticipate that
18 we're going to hear in this case. Well, that's not enough
19 to make a person do this. That doesn't make sense to make a
20 person do something like this with an assault rifle. Well,
21 yeah, you're right, it doesn't. That's why we're here,
22 okay. Is not enough to make a regular person react in this
23 way. That's why we're here in a criminal courtroom
24 punishing him. You don't say, we'll, that's not enough to
25 make you say, oh, he must not have done it. We want to

1 believe that about everybody, but it's just not the case.
2 And that's note the -- Montrelle was a -- that night. His
3 sister left, tried to get him to leave. He didn't leave.
4 He stayed and stewed. We see him in the phone records still
5 down there, like, in the area into the morning. But that's
6 all --

7 Let's get down to September 19, 2015. And, of course,
8 like any case part -- you know we really don't have to in
9 this case, thankfully. And that's what I'm talking about.
10 But part of what you're going to have to do in this case, or
11 to me you're going to have to do, is weigh the credibility.
12 Weigh who you believe and what you believe that you heard in
13 this case on the stand. I suggest to you you heard from
14 Tomeka President who if any -- has any dog in this fight, he
15 sitting over there. You heard from her. She stayed with
16 Montrelle after that. She stayed in touch with him. She
17 visited him. She continued to talk to him. She's no fan of
18 ours. She took the stand. She has no reason to -- She told
19 you, I'm not trying to hurt Montrelle. She took the stand
20 and told you some things. We'll talk about them. They're
21 important.

22 We'll talk about bias of a witness. I suggest to you
23 her bias is against her side. She told you some important
24 things. Then, of course, she talked about Trivell. And
25 you're in that position where you have to weigh the

1 credibility of Trivell. Does Trivell have a reason to lie
2 in this case? I didn't run from it, and neither did he.
3 Yes, he does. He is facing the same murder charge. He
4 didn't run from it. He put it right up there and we told
5 you about it. He admitted it. I'm always amazed, I see
6 prosecutors in my line of work to have a witness like that
7 and try to say you're just doing this because you're a good
8 person. I'm not going to insult your intelligence, okay.
9 Trivell wants a benefit. And that's why he's saying that.
10 So how do we gauge the credibility of somebody who has
11 something to gain? We do it every day. We do it every day.
12 I'm fortunate enough in this case, that I can do it spades.
13 We take the things that the witness says, and we compare
14 them try to fit them together with the things we know and
15 the things that he can't lie about. And that's what we're
16 going to be a lot in his closing argument. We are going to
17 be taking Trivell's story and put it together piece by
18 piece. All these pieces we put together, ladies and
19 gentlemen, what you're going to see is a -- just like that.
20 That's how you weigh credibility. You trust somebody when
21 they tell you something and if it fits with everything else
22 then you know.

23 September 19, 2005, [sic] what do we know? What do we
24 know that he can't lie about? Trivell Richardson told you.
25 What was he doing that night? I went to a party up in North

1 Charleston. After the party, I went to a strip club. Just
2 hanging out. Sounded like a pretty long night for Trivell.
3 Well, gosh, where is Trivell in the early morning hours of
4 September 19th? Right where he said he was going to be.
5 Right where he said he was. It got close to -- aright
6 around five o'clock, 5:30, it's time to go home. I got a
7 ride home. He's on the move. There you go. Trivell, right
8 where he said he was going to be. Early morning hours, five
9 o'clock. Where's Montrelle? We don't know because we don't
10 have phone records there. But we have a reliable witness
11 telling us where Montrelle was. We have Tomeka President.
12 He came over that night. He stayed with me. He stayed at
13 my house. And we know he lives up there in North Charleston
14 as well. That's where he stays. Trivell says he's coming
15 home around this time. He runs into Montrelle. Montrelle
16 is in the car. Whose car? Tomeka's car. It's a Buick. He
17 knows it. He's been in it. He's ridden in it before.
18 We're going to see it later. Tomeka saw it. And, you know,
19 of course you can't -- of all the Buicks in the world, she
20 doesn't say that's mine. She said that is just like my
21 Buick. And Trivell -- and he says it was hers. And who was
22 the only person that night that had access to that Buick?
23 Tomeka who was asleep and Montrelle Campbell who was staying
24 there. She says she leaves her keys on the counter, and he
25 was staying there that night.

1 So Trivell tells you he meets with Montrelle, and
2 Montrelle says, hey, come ride with me to the store. And
3 before he knows it, he's rolling up a joint at the time and
4 before he knows it, they're on the I on the way downtown.
5 And sure enough, there you go. And now we've got Montrelle.
6 Joins the story on the records that don't lie. Downtown in
7 the area here, 5:51 a.m. Trivell is there too. We're going
8 tie this in a minute. Remember Trivell says, why would
9 Trivell be calling Montrelle on his phone when they're
10 together? He wouldn't. But it fits because what happens?
11 Trivell just dropped Montrelle off and said I called him
12 that morning to see where I needed to take these keys after
13 I put the car where you told me. And there we go.

14 Why aren't these two calls mapped on Montrelle's
15 record? You heard from Clay Simmonds when a call is
16 answered, as Trivell told you these were, and voice mails
17 were left, the call gets routed and it won't show up on the
18 other call records. No mystery there. You can look at the
19 two. Won't show up on a map of the records. You can look
20 at the two phone records and these calls show up on both.
21 Calls from Trivell to Montrelle at 6:15 a.m. And an
22 additional call at 6:23 a.m. also placing Trivell. Trivell
23 and Montrelle at a very odd hour down at the back of Green
24 hitting off the cell towers encompassing this crime scene.
25 A better illustration of the cell towers being hit and these

1 calls, the red square indicating [REDACTED] Norman Street. 5:51,
2 Montrelle is there; 6:13, 6:15, Trivell is calling
3 Montrelle; 6:23 Trivell is there as well.

4 And it seems a lot. I know. I don't mean to be
5 tedious, but let's just sort of get our bearings here
6 because we're looking at locations. Lee Lee's kitchen,
7 three cameras. President and Line city camera. The empty
8 lot described as where Montrelle Campbell was dropped off.
9 [REDACTED] Norman Street, city camera at Norman and Ashton which
10 has a certain rotation that looks in the direction of [REDACTED]
11 Norman Street. This gets boring, but it is somewhat
12 important. I'm going go through quick because he heard some
13 pretty tedious conversation on the stand. All right.

14 Clocks are different. You all understand that.
15 Detective Tuttle chose to use the city camera as the
16 baseline. Is that the perfect time? No. But it's the time
17 that shows what we believe to be the actual shooting, so
18 let's adjust the other cameras to match that. And you heard
19 about how that's done. One incident is shown in two
20 cameras, you just look at the timestamps and correct them.
21 And so I do that by, as the testimony said, plus two minutes
22 and 27 seconds on the Lee Lee's camera, minus nine -- but
23 we've got to add the six minutes and 43 seconds minus to
24 take the Nunan camera and match it to . . . Because when
25 you do this, the picture is -- when you fix the times and

1 you synched them up on the synched time -- Montrelle's drop
2 off, time unknown. That's important. Looks from the phone
3 records they're just hanging out -- they're in the parking
4 lot. 5:51 we know Montrelle is in the area. We don't know
5 exactly when he went off and exactly when Trivell left to go
6 park the car. But we do know it's consistent with exactly
7 Trivell story. Here comes a car occupied by Andrew, Ace,
8 Andrew Rivers who they saw down at the parking lot, and
9 Trivell. We see the Nunan Street clock. We correct it
10 6:19:15, Nunan Street. Lee Lee's side camera onto Nunan
11 Street, you see the first appearance of the Buick, 6:20:06.
12 Seconds after we saw it past Nunan Street. Ace and Trivell
13 exit the car. They round the corner. They proceed down
14 President Street. Let's take a look at the gait, nothing
15 particularly urgent. It would appear all these video clips
16 are in evidence for your review. Time 6:23:06. City cam,
17 here we don't have to do adjustments. We're just using this
18 time right off the clock. Just seconds later, 6:23:22, we
19 see the two coming down President. Again, talking about
20 fitness together, let's pause for a second to look at
21 Trivell's story. Phone records, video records, timestamps
22 all fitting together of what you heard from Trivell on the
23 stand. Further down President Street, we see him over on
24 the corner, across from the corner where the error indicates
25 here. Trivell told you he and Ace walked down to -- walked

1 down President straight out of the camera, just like you see
2 on the video, to around where the office building is down
3 here, and we're standing when [REDACTED] Norman Street 6:32:02,
4 63202:00 a.m.

5 Camera city camera, Asher and Norman. All these
6 clips -- I don't want to get this wrong -- I believe are
7 State's 95. If I'm wrong the CD of the video clips. Every
8 clip that you saw, you have watched, is in evidence and can
9 be watched by you if you want at your request. Watch the
10 trash cans; see the movement, see what looks like white on
11 the back of his shirt and the flash. 6:32:02, 03, 04.
12 6:32:02 a.m., seconds later Trivell comes crossing. There's
13 multiple images of this in the video. Look at his hands.
14 This is seconds after the shooting. Is he holding
15 something? Is he carrying anything? He says Ace took off
16 one way and I took off the other. He looks like just like
17 he did when he got there. Better images. But seconds after
18 him, here comes someone else. And someone else, according
19 to Trivell Richardson, Montrelle Campbell, the person that
20 knows him, the person that rode down with him, is carrying
21 something seconds later. Going in this direction up
22 President Street, you see the figure there. And you'll be
23 able to watch in motion and watch what's in his hand.
24 Shooting, 6:32 a.m. One minute and seven seconds later
25 after an apartment where he was in, where he punched someone

1 the night before, got shot up with an assault rifle, one
2 minute and seven seconds later Montrelle Campbell is running
3 away from that location with an assault rifle. Trivell,
4 he's getting out of there. He's hearing shots but he's, you
5 know -- running here. Look at the hands. Was Trivell
6 armed? 6:33:01 a.m. -- according to Trivell Richardson, the
7 person who story up to this point, he corroborated every
8 individual piece of evidence: phone records, video evidence.
9 Says that at this point Montrelle Campbell -- remember the
10 car faced the wrong way. Montrelle Campbell gets into the
11 passenger seat of the Buick. His girlfriend's Buick. A car
12 that only he and Tomeka, who was sleeping at home, had
13 access to. He gets into it with a smoking gun.

14 I'm not making light of the situation. But as a
15 prosecutor, we use that as a phrase, as a phrase for a case
16 that's proven beyond a reasonable doubt. Where is the
17 smoking gun? I can tell you 15 years of doing this, I've
18 never had a case where I can stand in front of the jury and
19 say we have a literal smoking gun minutes after a residence
20 was shot up with an assault rifle. A smoking gun getting
21 into a Buick that belonged to Montrelle Campbell's
22 girlfriend. A smoking gun driven by a guy he knew Montrelle
23 Campbell and said that's Montrelle Campbell. I rode down
24 with him. That's him right there.

25 6:33:22 a.m., finally, the Buick exiting the wrong way

1 down Nunan Street at 6:34:31 a.m. Well, gosh though,
2 Trivell said after that he just drove back home. What do
3 our phone records tell us about that? Back up to North
4 Charleston. Back up to that area just like he said. Oh,
5 yeah, yeah, what about Montrelle? Right there with him.
6 Getting off the tower right next door because he's got a
7 different cell phone provider. 6:54:39 a.m., in the area
8 and times around it, Trivell and Montrelle together just
9 like Trivell explained to you. What's the best way to judge
10 the credibility of a witness? Sure, look at the lies.
11 Consider that he had something to gain. But also look at
12 the fact that his testimony fits with every piece of
13 incontrovertible evidence that you heard in this case. It's
14 called corroboration and it's important when you want to
15 believe somebody. You do it every day.

16 Finally, we have testimony from a witness as we talked
17 about before, Tomeka President. What happens to Tomeka
18 President the next day when she wakes up having stayed the
19 night before at her boyfriend's? Is her boyfriend there?
20 No, he's not. She said she had to be at work at seven. You
21 know, I'm not sure that she said this, but where do you wake
22 up in the morning if you got to be at work at seven? And
23 where do we know from this case where Montrelle is between
24 the hours six and seven? Okay. All right. Well, he's
25 gone. And I'm getting ready to go to work. What's the

1 problem? Why can't you go to work? Her Buick is gone.
2 Where do we know her Buick is? She's so late and angry, she
3 calls a cab. An hour late for work. She had to open. She
4 had open the business register. She's mad. She's an hour
5 -- what did she say? I said where you an hour late for
6 work. No. I was an hour and nine minutes late for work.
7 That was her testimony. States that when she went out to
8 the cab, the car is back. But where are the keys? Back on
9 the counter? No. Her keys are just laying in the front
10 seat. Look at the time. Montrelle, Trivell, back in North
11 Charleston.

12 In a lot of cases, a lot of murder cases, we spent a
13 lot of time talking the law and things like malice. I hope
14 I don't do disservice by skipping it over it. In order to
15 prove murder, you have to prove a concept called malice.
16 Somebody did something -- it's called malice. It's called
17 doing something out of ill will. Doing something out of
18 meanness, hatred. When a person unloads 14 bullets into a
19 residency full of people, that's malice. You're going to
20 hear from the judge you can infer malice if a gun is used.
21 You can certainly infer malice if an assault rifle of 14
22 bullets is used. That's a decision for you to make. But I
23 submit to you -- there's no such thing. For attempted
24 murder, because he was charged with murder and two counts of
25 attempted murder, I have to prove sort of a different

1 intent. I have to prove what is called a specific intent to
2 kill, okay. So here's a little wrinkle that I think is
3 important that you understand. Again, you're going to hear
4 a charge that to prove a specific intent to kill, you need
5 to be common sense, reasonable people, if a person does
6 something and the natural consequences of that act is that
7 someone dies, you can offer that that person intended the
8 natural consequences of that act. Which is a fancy way of
9 saying when someone puts a whole bunch of bullets in a house
10 and someone gets hurt, you can infer the intent you wanted
11 to kill somebody.

12 There's another legal document at play here there,
13 though, and it's import that you understand. It's specific
14 intent. And specific intent -- it's an idea called transfer
15 of intent. Which is specific intent -- okay. Sometimes it
16 might be argued, well, he didn't intend to kill this person.
17 That's a fair thing to say in this case. Luckily, that's,
18 -- I hope you all are like, the law can't mean that --
19 transfer of intent means when you seek out to kill another
20 person, when you have that intent to kill and by through no
21 fault you miss or something goes awry and you end up killing
22 through that act another person, that intent to kill one
23 transfers to another. Transferred intent. So the fact that
24 Montrelle Campbell did not know Antwan Frost, you know,
25 might not know he was there doesn't negate the specific

1 intent of malice nor does it negate the fact that Tierra
2 and Kerry got hurt in order to negate that intent to that.
3 Because with every intent he had firing 14 bullets in the
4 back of a house transfers to whoever got hit.

5 There's another legal document that's going to be
6 important, okay. And that's a legal document called an
7 accomplice or accessory liability or it's often referred
8 to, sort of it's old term, just a hand of one. That means
9 the hand of one is the hand of all. It means if more than
10 one person set out to accomplish something, both, as long as
11 they both do so willingly and knowingly, they both are
12 liable for the natural consequences of that. You know, we
13 referred to that a little bit. Talk about Trivell being
14 charged with murder under the theory that two people set
15 out -- they set out to do something that night, they're both
16 guilty. Trivell's story, of course you heard it, says he
17 didn't. But why is that important in this case? Montrelle
18 Campbell shot up [REDACTED] Norman Street that night. That is our
19 case and that is certainly the case that we presented to
20 you. However, if some of you are asking the question, well,
21 what if Trivell was more involved -- what of Trivell's
22 involvement, knowledge of what he did was a little bit more
23 than what he told you. If some of you are thinking that, as
24 long as you believe Montrelle Campbell was a part of it,
25 both are guilty. And today is Montrelle Campbell's day in

1 court. The hand of one is the hand of all.

2 I'm not going to laugh and make light of it. I have my
3 own opinion of it. I thing she's a sweet woman, but the
4 Peggy Blake --

5 MS. FORD: Objection. Vouching.

6 AST. SOL. SIMPSON: --- for your witness.

7 THE COURT: The objection is sustained.

8 AST. SOL. SIMPSON: Sorry, Your Honor.

9 THE COURT: Confine it to the evidence without making
10 any characterizations.

11 Ladies and gentlemen, you are to disregard the last
12 comment. You may proceed.

13 AST. SOL. SIMPSON: Peggy Blake came down to testify.
14 And she told you about a hooded figure getting into a lime
15 green car with a rifle. There were many things about that
16 testimony, not to speak ill of her, that seemed odd. She
17 did not say a lot of those details that night in her 911
18 call. She changed her story while -- two years later and 20
19 minutes she was on the stand, she changed her story
20 significantly by saying that she was looking out the front
21 window of her bedroom, and -- the window in her son's room.
22 Saying all this occurred while she was on the ground at one
23 point and then standing up. She left out significant
24 details before. She talks about a lime green car that's
25 captured in none of the cameras and driving slowly through

1 this. I submit to you -- I don't think she's intending to
2 be -- when you do what we've done with Trivell and take
3 every thing we know and have it all lock together, when you
4 do that with Peggy, it's just a bunch of pieces of different
5 puzzle. They're not -- okay. Why am I bringing this up
6 now? Should you believe though this second guy with the
7 gun? You know, Peggy saw one guy run one way and you see
8 Montrelle run the other way. As long as both we're
9 involved, both are guilty. And it's your job today to
10 determine the guilt of this man. And if both of them, the
11 mystery man of Peggy Blake and Montrelle are guilty, the
12 verdict is guilty.

13 The hand of one is the hand of all. Make no mistake.
14 You have been presented with substantial evidence that
15 Montrelle Campbell shot at that house that night. But if
16 you think the involvement of another individual is more than
17 they let on and there might ACE or someone else might have
18 had a role in it, might have even been the shooter that
19 handed them the gun, as long as he's involved in the hand of
20 one document, knowingly involved, he's guilty. And you'll
21 hear that -- when you will get charged on the law from the
22 judge, you're going to hear that. You'll hear it from the
23 judge.

24 Montrelle Campbell turned [REDACTED] Norman Street into hell
25 on earth back in 2015. And today's the day -- because

1 something always gets lost and it really gets lost in this
2 story. I'm sure you've thought of it. I'm sure it's popped
3 in your head -- we got to meet them. Talked a lot about
4 Montrelle. Talked a lot about Tomeka President. We talked
5 a lot Trivell Richardson. We didn't get to talk about
6 Antwan Frost. This just isn't Montrelle Campbell's day,
7 it's Brother Dusty's day as well. I ask you all to do your
8 job, be diligent. I'm sure you will. What you're doing is
9 never easy. You should never -- we don't ask you to feel
10 vengeful or feel good that judging another human being.
11 It's hard. But we do ask you to do what you promised you
12 would which is look at the evidence laid out. You know what
13 I'm talking about. Ask yourself what fits and what makes
14 sense. If it comes with a difficult conclusion, it's hard
15 as human beings to do it, but we ask you to do it because
16 it's the right thing -- find the defendant guilty as
17 charged. I'll get a brief opportunity to talk to you
18 following Ms. Ford's closing. Thank you for your time.

19 THE COURT: Ms. Ford.

20 MS. FORD: Thank you, Your Honor.

21 THE COURT: You're welcome. (Brief pause.) I apologize
22 is everyone comfortable? Does anyone need a restroom break?
23 (No response.) You may continue.

24 MS. FORD: Thank you.

25 THE COURT: You're welcome.

1 MS. FORD: Good afternoon, everyone. People often see
2 what they want. And it's not necessarily deliberate. It's
3 human nature. When Katrina Brown's apartment was shot up,
4 the obvious question was why did this happen? There had
5 been no threats of something like this happening. Since
6 Katrina was the main resident, the adult resident, the
7 police -- on her. And they talked to her. They questioned
8 her -- why this may have happened. She thought -- not
9 because of the significance of what had happened, but merely
10 because -- that something happened just the night before.
11 But we didn't know where else to turn. Until after that,
12 they focused on Montrelle and interpreted every single thing
13 through that lens. And nothing demonstrates that more than
14 Detective Tuttle's testimony on the stand today. It was
15 clear that that was his point or his purpose from the very
16 beginning. When he looked at surveillance videos, when he
17 first saw a guy -- the guy that he never could identify on
18 his own. There's no way. He didn't know Montrelle
19 Campbell. He obviously got very suspicious, of course. He
20 focused on that and he focused on Montrelle Campbell. But
21 what about all the other possibilities that were discarded?
22 Trina was not the only person in the apartment that
23 night. Even though she was the main resident, there were
24 many people there. Peggy indicated, you know, she would
25 have parties. She had people there, not many, but the night

1 before. The mere fact that Antwan Frost went over there
2 that night proved that it was well known that people knew
3 that she was having a party. Katrina told you that she had
4 not seen her in years, that she -- Kerri hadn't seen him in
5 like ten years. So really she didn't know him. So how did
6 he end up there at Katrina's? Well, we don't know, but
7 obviously somebody is talking about it whether they were
8 posting about it on social media or whether one of the other
9 people in the apartment invited him. We don't know. We
10 know he came, not invited by Katrina. But not specifically
11 invited. We know that the gentleman, Mr. Taylor, some
12 people call him Hetty, he came just beforehand. Another
13 individual named -- whose nickname was -- he came a little
14 earlier than that. There had been people there earlier in
15 the evening such as her mom. It's clear people knew there
16 was a party. And what do we know about all the people in
17 the house that were there at the time of the shooting?

18 You only heard from three of them. And, unfortunately,
19 Mr. Frost cannot be here to talk. But there were eight
20 other people in that apartment that night. You heard from
21 three of them. One was a small child, so obviously it would
22 make sense he wouldn't be here. Then there are the teenage
23 boys probably, probably out of school by now, but you
24 know -- she moved out of state. So that's understandable.
25 But what about the three young men in the house that night?

1 One was not just some random guy. It was their cousin.
2 Kinard -- he's the cousin to Katrina and to Kerri, and
3 Tierra Brown. He wouldn't talk to police back at the
4 beginning. And still more than two years later, he has not
5 come forward to talk. He was not willing to testify even
6 though his cousin was shot at. Even two of his cousins
7 we're injured. Why?

8 Then you have his two friends Delano McPherson and
9 Jerell Risher. We didn't hear from either of them during
10 this trial either. The police did speak to one -- at a
11 time, but he never -- and the other they've never talk to.
12 So what was going on with them? That was never presented.
13 Not excluded as a possibility. Perhaps Katrina was not even
14 the target that night. Many people were there.

15 I want to talk about -- well, first I want to talk a
16 little bit about some other things that Mr. Williams did not
17 follow up on. Because they already had -- one thing you
18 heard is that the search warrant was presented on Tomeka's
19 car and they actually used -- you heard from the officer he
20 collected the evidence that he personally can't analyze.
21 Well, did they send that off to get it tested to see if
22 anything was there? No. Nothing. They didn't follow it.
23 There were two cell phones found in the -- where the shell
24 casings were. Did police present any evidence about that?
25 Who did those phones belong to? No. They didn't present

1 any of that. They did not go into looking down by -- why?
2 Because they were focused on Montrelle Campbell.

3 You heard from Peggy, she's not associated with
4 Montrelle Campbell. If anything, she's more friendly with
5 Katrina. Doesn't sound like they're great friends or
6 anything, but they both lived in the same area for quite
7 some time. But I believe Peggy said maybe she'd been there
8 since '08. Katrina said she lived there -- so the time it
9 happened, fair to say that they had been neighbors for about
10 five years. Peggy had been invited to her house, you know,
11 several times. They're all friendly. You heard that she
12 was actually invited to the party that night. So under
13 different circumstances, she could have been a victim as
14 well. She's not the magic witness I pulled out of the air
15 to help Montrelle. She called 911. And she's just didn't
16 stay in her house and hide and say I'm not going to get
17 involved. She actually talked to an officer that evening,
18 and she told them. Mr. Simpson acted like she had this
19 great change of story that that's not true because you know
20 in the 911 call that was a very limited conversation. The
21 911 operator clearly had talked to other people. She told
22 her we know of the situation, we have an under hand. So she
23 didn't even ask, like, for more details about this person.
24 That this wasn't a police interview. It was a 911 call and
25 the 911 operator thought that they had it under control

1 because she knew officers where already on their way. So
2 just because she didn't mention things in her 911 call
3 doesn't mean she's changing her story. And somethings might
4 be a little fuzzier two years later. But the bottom line is
5 that police did not send anyone out, the detective or
6 anyone. They talked to numerous people, other people;
7 people that had nothing to do with this case just to, like,
8 little things to checkup on. They didn't bother talking to
9 her. Even over two years later up to this trial, they
10 didn't bother talking to her.

11 And Marty (ph), well, her observations are not
12 consistent. We don't get to hear -- that the State has,
13 that Detective Tuttle has. They pretty much wrote her off.
14 I mean, she's kooky, you know. So they don't think she's
15 the most reliable. But just because she believed that, you
16 know, hearing a whole bunch of gunshots might mean that ISIS
17 is involved doesn't mean that she's not a credible person.
18 It doesn't mean that she would take it upon herself when she
19 was seeing to her son, when she was clearly startled and
20 shaken up herself, that she would just call police and just
21 make up something or say something that wasn't true. For
22 what purpose? Why would she make -- why would she put
23 herself, get herself involved? She went out and talked to
24 place that night. It is not as though she was trying to get
25 involved in like, you know, running down to the police

1 station saying I want to be involved, hear me out. She
2 thought that they knew what was going on so she let it go.
3 She wasn't seeking attention or anything like that.

4 And you heard from Detective Tuttle today trying to
5 repeat the testimony about the car. Well, cameras don't
6 pick up everything. We know that because sometimes they'll
7 seem to be getting somewhere and it moves around. This car
8 pulled off. It wasn't speeding in a weird way. It could've
9 pulled off and stopped for all we know. She doesn't know.
10 She just saw it pulled over. And the city cams, they don't
11 necessarily show color. So even though Detective Tuttle may
12 have gone back two years later to look to see if he could
13 find the lime green car, maybe the color just didn't come
14 off that well. It doesn't mean it doesn't exist. Because
15 at the end of the day, does it makes sense that Peggy Blake
16 would have just lied about that. That makes zero sense.

17 The reason the police were stuck on Montrelle is
18 because of the -- so I want to talk about that. And
19 Mr. Simpson stated this, but yeah, I mean it does not make
20 sense at all. Based on this minor altercation that
21 Montrelle would've gone back the next night and shot up the
22 place. It just makes no sense. So what we know about that
23 Thursday evening is that Kadeshia, Montrelle's sister, went
24 over to Katrina's. She was really more friends with Kerri
25 and Katrina. They hadn't seen each other in a while because

1 Katrina -- or Kerri had been living out of town. They go
2 over there showing -- they get together though like the next
3 night. So a lady comes in and says, hey, Kadeshia, your
4 brother wants to talk to you. And so Kadeshia is still
5 catching up with her old good friend. So hey go outside and
6 so a man walks in. He and Kadeshia clearly know each other.
7 He doesn't try to start a scene, he doesn't say anything to
8 anyone. You know, he's there to see his sister. And
9 they're acting like this is some horrible person who barged
10 in her house without permission. I mean, even if, you know,
11 on that night Katrina didn't let just random people in.
12 Clearly, that's not something that is uncommon. He went
13 into see his sister.

14 Katrina tried to minimize things, but I think she
15 ultimately admitting that State -- information from her --
16 that she is somebody -- but he left. He didn't say
17 anything. He left. But she wasn't done yet. She was still
18 upset, and she admitted that she and Kadeshia had words at
19 the time. That she felt Kadeshia should apologize to her
20 brother. But could Kadeshia was like, what you talking
21 about. And so they had words, Kadeshia left. Well,
22 initially, Trina said she went outside to smoke a cigarette.
23 But then she admitted that initially she did tell the
24 officer that she did follow Katrina -- or Kadeshia. That
25 her intent, at least what she had told Detective Tuttle, was

1 to apologize for overreacting essentially. But she did say
2 and she told us that it is possible that Montrelle hit her.
3 He could have been thinking that she was going after his
4 sister. And that's very likely what happened. The State
5 has made it sound like he's a monster and he just hit her
6 just because he was mad that she asked him to leave. While
7 a man should never hit a woman -- I mean, I'm not trying
8 it's appropriate or the right thing to do -- he was
9 defending his sister. And we heard again from Trina that
10 she can get -- that's very possible that she went out there,
11 she approached Trina to attack. So that's what happened
12 that night. Yes, she was hit. She fell down. But she
13 didn't grab any -- she didn't call police. And then we
14 heard typically people are not just going to call the police
15 just, you know, for something like that. But she also said
16 pretty much, you know, it was over, whatever. It wasn't a
17 big to do. She actually sad there weren't many people
18 outside. It wasn't a big deal. Why would he had to have
19 been so threatened or feel so much shame or be mad when he
20 was just defending his sister. It makes no sense, zero
21 sense, that that would be a motive. They kind of suggested
22 that maybe he looked to be reaching or something. But he
23 never presented a gun that night. He never threatened them.
24 He didn't say anything, you know, I'll be back to get you.
25 None of that. Nothing to indicate that he was going to come

1 back the next night to do this horrible thing.

2 The State's case against Montrelle primarily -- because
3 just an incident happening the day before obviously is not
4 evidence that he's the one who did this. And obviously you
5 can believe a man with a gun assuming that he is the shooter
6 if you do assume that, and we'll get to that later, but
7 there's -- identify that person as Montrelle but Trivell.
8 Detective Tuttle tried to act like they looked similar. I
9 mean, yes, they are black men. They have facial hair.
10 That's his description of the people. He tried to say, oh,
11 they're 6-feet tall. But there's no way you can see from
12 that video how tall that man was. Is not like a -- where
13 you can walk out and they have that ruler -- he tried to
14 act -- about Montrelle. The police talked to people. They
15 talked to his sister. They talked to Tomeka who you heard
16 from. Someone who sounds like they had not been dating
17 long, but they had known each other for quite some time.
18 And even though she was the person who testified in this
19 trial who probably knows him best, she did not identify that
20 man -- as Montrelle. She did not a identify that shirt as
21 belonging to Montrelle. Only Trivell identifies that person
22 as being Montrelle. And did he do that back in 2015? No,
23 he didn't. Quite the contrary.

24 He adamantly denies that he was even downtown. He got
25 on the stand and he seems to take his testimony seriously.

1 He did. He swore on the Bible and he told his version of
2 what happened, or today's version. But we know from him and
3 Detective Tuttle that was not the version he gave over two
4 years ago. And while he swore on the Bible in court, back
5 then he swore on his -- on my kid, I was not there. He was
6 adamant. Even when he was shown pictures, even when they
7 said we have DNA evidence -- adamant he was not there. He
8 did eventually admit, well, okay, I was there. But that's
9 still -- but I was downtown. I walked there. I was
10 certainly not in that car. He talked to Detective Tuttle
11 several times after that. Still didn't admit that he was
12 there. That he had any knowledge of this. So a year and a
13 half goes by that he's sitting in jail under no bond. Even
14 if he was to get -- couldn't bond out because his bond has
15 been revoked from his previous charge, and he didn't have a
16 bond on the murder charge. So year and a half, over a year
17 and a half or about that, he decides to give the State what
18 they wanted to hear.

19 Now, I mean, obviously, I'm not suggesting that the
20 State said this is going to be mentioned here. Of course
21 not. And the State did not make comment with him that this
22 is what we'll give you. But he's a smart guy. I mean, he
23 knows what they want to hear. He's charged with -- he knows
24 what they're saying happened. I mean, obviously, he knows
25 Montrelle is charged. He knows what they want to hear.

1 And, yes, he said the bargain is dependent on telling the
2 truth. But what is the truth? Mr. Simpson wasn't there
3 that evening. Detective Tuttle wasn't there. They don't
4 know the truth. They can only speculate. So there's no way
5 they can ask a witness of the truth. There are certain
6 things that they can say, no, we know you're there and there
7 by the video of, you know, the phone maps. But they do not
8 know the truth because they were not there. And Mr. Simpson
9 pointed out that a lot of what he said was corroborated. It
10 is corroborated. It's corroborated that he was there, not
11 Montrelle. Nothing he said other than him pointing out at
12 the man and saying that's Montrelle. Nothing is
13 corroborated about Montrelle. It's just him, his
14 whereabouts.

15 You heard from Ms. President that she thought Montrelle
16 was with Trivell. That they live -- like he basically lives
17 in the back, or she lived in some apartments. I think the
18 testimony said he pretty much lived behind her. Even as the
19 State argued that Montrelle lived in North Charleston, that
20 is actually -- there is no evidence of that. Tomeka said
21 that he stayed there once, actually. And you heard from
22 Tomeka and Detective Tuttle that his family home, you know,
23 is on Cedar Street downtown Charleston. So even though we
24 know he came down to North Charleston from Tomeka, no one
25 actually said he lived there. Tomeka said he had a couple

1 of outfits there. She was clear that he did not live there.
2 So it is possible that Trivell could have gotten this car
3 from someone giving him the key in North Charleston or very
4 possible that Montrelle did not leave with him. From
5 Montrelle records that night, I believe it shows that he
6 was -- Tomeka testified he went to bed with her about
7 midnight. She wakes up later when she gets up for work --
8 and he's not there. But it's unknown when he left the
9 house. The record, I think, show that he was downtown at
10 5:50 a.m. But that's it. But we don't know exactly where
11 he was. We do know from the night before that it's not
12 unusual for Montrelle to be downtown. The State said, oh,
13 he was stewing for several hours. There's no evidence of
14 that. What the phone records show from the night before is
15 that Montrelle hangs out and stays out late. I think it was
16 almost 4:00 a.m. when he was last using his phone in
17 downtown Charleston. And then it was close to 7:00 a.m.
18 that he was back in North Charleston, but obviously awake
19 because he was using his phone that morning. So Montrelle
20 hanging out downtown in the early morning hours and then
21 going back to North Charleston fairly early in the morning,
22 the evidence actually suggests that's not unusual because
23 the same thing happened the night before.

24 Even though Trivell has not been promised anything yet,
25 we know that he has already gotten the benefit. And,

1 unfortunately, you know, he hasn't been able to make the
2 bond, he did get a very significant advantage -- initially
3 he had no bond. And yet after, and only after he talked to
4 the State, he came to court for a bond hearing to have the
5 bond reconsidered to see if the bond could be set. And the
6 judge set the bond for murder, two counts of attempted
7 murder, and then two other pending charges he had, for
8 \$50,000. And he told you -- and my point in asking him the
9 question, you've been in jail since -- which is he knows
10 from everybody talking about the low bond. He admitted
11 that. He as like I know that's a low bond, I just can't
12 make it. So he had gotten a benefit. And so he has every
13 reason to believe that if he got on the stand that he would
14 get a major benefit from doing so and from saying what he
15 knows the State wants to hear.

16 Trivell has also been charged with murder. But the
17 State made it clear that he was never accused of being the
18 shooter. He was charged more for being there, you know,
19 being in that car I guess with the other witness. But that
20 doesn't make sense from the evidence, the surveillance
21 video, or from his testimony. And I say that because --
22 like the State is mainly saying that Montrelle more or less
23 had some plan to go down there and do this. And that does
24 not add up. Even if you believe that the man in the jersey
25 is on trial, it doesn't make sense that he goes -- well,

1 first of all, he decides to go shoot up a house wearing a
2 very distinctive outfit. I mean, that is like the last
3 outfit that anybody would wear I would think to go shoot up
4 an apartment. You wear the basic black and white, whatever,
5 something generic; not something so very distinctive and
6 attention grabbing. But he tells Trivell to go move the
7 car. And so the surveillance shows that he moves the car,
8 but it doesn't show that there's anything suggesting that it
9 was done to get away. Because first of all, he didn't stay
10 in the car. He left. You can see he's just roaming about.
11 He doesn't look in a hurry. He didn't rush. He's just
12 chilling with Ace. And we also know the car was parked the
13 wrong way. So that's just a little unusual because if
14 you're trying to get away, just doesn't make sense you're
15 going to parking in a a way that could be difficult. But it
16 makes no sense that he's the getaway driver if he wasn't
17 sitting in the car. Like he just got out and was just
18 walking.

19 So, ultimately, Trivell doesn't even point to Montrelle
20 as being the shooter. He doesn't say he saw Montrelle shoot
21 anybody. He doesn't say that he heard Montrelle talk about
22 shooting anyone either before or after. He said that he and
23 Montrelle went downtown. They were supposed to go to the
24 store but didn't. The State tried to elicit that it was
25 enough concern, but he was like -- really didn't think

1 anything of it. They get downtown and -- so they got
2 downtown. Montrelle gets out of the car. Doesn't say
3 anything about seeing a gun, certainly not gun like you see
4 in the surveillance footage. But they get out of the car --
5 or Montrelle gets out and, you know, walks away. Tells him
6 to park and he does it. They stay in the car and anything
7 like that. And he says that -- and you see from the
8 surveillance, that the State showed you they do something
9 what looks like Ace and Trivell were walking. You know, you
10 get a shot from the distance. They had it zoomed in of him
11 going down there. And then they're trying -- see the shot.
12 You do not see a man with an Italia jersey shoot up [REDACTED]
13 Norman Street. That is not on the video. Obviously, if
14 that was on that video, there would be all kind of --
15 zooming. Something that -- it doesn't show that. Again,
16 it's people trying to see something that's not there.
17 Seeing what they want to see after not being able to find
18 something out. And again, it's not necessarily intentional.
19 I'm not suggesting that. It's just human nature. And it
20 doesn't look like from that -- surveillance video that
21 Trivell and Ace, again, they're just walking and chilling.
22 It doesn't look like they're, like, on the lookout. It
23 doesn't look like they stopped because they see someone like
24 Montrelle who they recognized. They're just walking past.
25 Doesn't make sense that if Montrelle was the shooter --

1 they're just walking past. There's no connect here from
2 that video to suggest that they saw somebody that they knew.

3 The State also -- another thing he provided was this so
4 called smoking gun. Okay. But that does not make any
5 sense. Mr. Simpson showed you -- so it would've been
6 several minutes before the man with the gun got to Trivell's
7 car. Several minutes after the shooting, at least a couple
8 of minutes. A gun does not smoke that long. You didn't
9 hear from a firearms expert -- but a gun does not smoke for
10 minutes longer. It just doesn't. That was said for
11 dramatization. It didn't happen. He said that because it
12 sounds good. Because it sounds like, just like Mr. Simpson
13 said, the smoking gun.

14 So in the end, Trivell doesn't even really offer actual
15 direct evidence against Montrelle. Again, if you believe
16 that that person is Montrelle, even though, again, no
17 evidence other than Trivell saying it's him, you have
18 someone in the general area there for an unknown amount of
19 time. Mr. Simpson indicated they weren't quite sure how
20 long or what time that he would've been dropped off on Nunan
21 Street. You have no talk of a plan, no hint of a plan. You
22 don't see anybody get out of the car with a gun, but it's
23 Trivell. There's no indication there's any conspiracy. You
24 have in the night before that it's typical for him to be
25 hanging out downtown at weird hours of the night and then

1 going up to North Charleston when he happened to come into
2 possession of a gun at some point. But you don't know how
3 it came to be. You know he left the car without it. He
4 came back with it, but who knows the circumstance. And I
5 know it's frustrating sometimes when you're talking in ifs
6 and who knows, but at the end of the day, the State has the
7 burden to prove to you of what happened. And he can't do it
8 in this case. They can't do it because there are many
9 unanswered questions . . .

10 Much of -- you may have heard me, I know I objected on
11 multiple times occasions throughout this trial. And one
12 objection was speculation. And that objection is just like
13 -- I am basically saying they're speculating and he
14 shouldn't be able to testify about it. Because in the court
15 of law, you're not supposed to speculate. A witness
16 certainly isn't suppose to speculate. They're supposed to
17 testify to that, to what they actually know from their
18 personal observation. And in this case, there is a lot of
19 speculation because they're simply isn't true. Detective
20 Tuttle, they made assumptions based on what they want to
21 believe. Detective Tuttle assumed that the man in the photo
22 with a gun was the shooter. And, yeah, I mean, obviously,
23 crazy suspicion. He was right when he was reviewing the
24 surveillance footage to say, wow, there's a man with a gun.
25 But it doesn't mean that there are no other possibilities.

1 And perhaps -- other things to look at like talking to other
2 people, them talking to Peggy Black instead of just brushing
3 her off like she's no one, may be something could have come
4 from that. It's simply, at the time, Montrelle Campbell was
5 just the lead that they had from Katrina. I mean, you're
6 looking at if the State has proven to you that Montrelle
7 Campbell is guilty beyond a reasonable doubt. You can look
8 to things such as credibility -- and he would argue that
9 Trivell is credible simply because the evidence backs it up.
10 Again, it backs up that he was there. But Trivell is not
11 credible. He has much to lose. He has everything to gain
12 by testifying against Montrelle. And while the two we're
13 friendly, they weren't great friends. The State asked about
14 their communication, like how they communicated. And
15 Trivell had indicated that Montrelle, he would call him if
16 he wanted -- and obviously Montrelle had just started dating
17 Tomeka about a month or so earlier. And Trivell lived
18 nearby, so they were probably talking then. But it's not
19 unusual that their conversations stopped or they wouldn't be
20 talking much. They were not great friends. Again, hey,
21 dude, cut my hair. That's the type of friends they were.
22 Chilling, hanging out, nothing suggests that they're tight
23 buddies. And that is a big deal for Trivell to testify
24 against Montrelle.

25 This is very much a circumstantial evidence case. and

1 Judge Jefferson will explain that as well to you. But I do
2 want to go over it again as well. So direct evidence is
3 that there's something directly, like someone were to say, I
4 saw Montrelle Campbell shoot at the apartment, if they
5 directly see that. We don't have that here. Sometimes you
6 are allowed to take different circumstances, a couple, and
7 if you put them together and say based on everything I
8 believe that he's -- guilty beyond a reasonable doubt. But
9 to the extent that the State relies on circumstantial
10 evidence, all the circumstances must be consistent with each
11 other, and when taken together point conclusively to the
12 guilt of the accused beyond a reasonable doubt. If the
13 circumstances merely portray the defendant's behavior as
14 suspicious, the proof has failed. So here, while things may
15 be suspicious, the evidence certainly does not lead
16 conclusively that he's guilty. And that's not consistent
17 because we have Peggy Blake. And again, even though some
18 may -- they think she's kooky, zero motive why she would
19 call the police that night and say that she saw a man with a
20 rifle get into a lime green car. She is the most credible
21 person you've heard because she has literally nothing to
22 gain or lose from this. If anything, to lose, you know,
23 nobody really wants to testify. She has nothing to lose.

24 Another legal concept the judge will instruct you on is
25 mere presence. And that does mean that mere presence is not

1 sufficient to establish guilt -- or better. Because that's
2 the other thing Mr. Simpson went into is the hand of one is
3 the hand of all. The tricky thing about that is there has
4 to be proof that there was some type of plan or conspiracy.
5 You have to believe that -- there has to be evidence that
6 more than one person -- here, they don't necessarily have to
7 be charged, but it does have to be evident. Peggy Blake is
8 another person. Clearly, that person was not the person in
9 the Italia shirt. Clearly, that man was dark-skinned,
10 wearing dark clothing with a hoodie. Clearly, not the
11 person in the Italia shirt. But she doesn't say I saw him
12 talking to another man. There's no evidence that that man
13 was . . .

14 And then you have Trivell Richardson. He's charged.
15 He's the codefendant, which no one else is charged in the
16 case. But according to his testimony, he didn't know
17 anything. He knew nothing; nothing at all. He didn't --
18 doesn't involve. And he didn't know anything. That's his
19 testimony. So he is saying that he's not guilty and the
20 State hasn't presented any evidence to the contrary that
21 he's guilty either. So there's no other person that you can
22 see that or that you heard of to establish that there was a
23 plan to do this. Nothing like that. There's no evidence
24 that he aided someone or contributed. Even though there is
25 a gun that, again, if you believe that person was Montrelle,

1 which it wasn't, but if you believe that person was
2 Montrelle, you don't know exactly when that person came into
3 contact with that gun. Yet there's a very short turnaround.

4 But things are crazy. Obviously, it was super crazy.
5 People in the apartment was shot at. You saw the video; it
6 was very traumatic inside. The outside was very scary too.
7 It was scary for people who called the police who heard all
8 those shots. Multiple people called the police. That's a
9 really scary thing to wake up to -- see someone that
10 something shot up, you're going to get the hell out of
11 there. Who's gonna stick around for that? So someone could
12 have just run to get away doesn't mean that they knew what
13 happened. Because that's the thing, he would've had to have
14 known beforehand what was going to happen -- but here we
15 don't have that. There's no testimony from anyone including
16 Trivell Richardson that there was any type of plan
17 beforehand. There's no evidence of a plan. And so to find
18 him guilty on the hand of one, the hand of all, makes no
19 sense at all. It's simply -- the State did not present any
20 evidence to that. And again, the person that Peggy talked
21 about, there's no indication that he was . . .

22 It is horrific -- obviously -- it's a tragic ending for
23 his mom -- for family and for all involved. It's very
24 difficult -- and I hope to never be in that position.
25 Something traumatic happened for Mr. Frost and the Browns

1 and other people in that apartment that night. It's natural
2 to them to -- to Antwan Frost. That's understandable. And
3 the State says that it's his day too. And it's natural to
4 feel that way, but at the end of the day this trial is not
5 about determining something-- this trial -- and we're not
6 disputing that there was a murder. This trial is not to
7 determine if he was murdered -- this trial is to determine
8 if the State has proven beyond a reasonable doubt, the
9 highest burden there is, that Montrelle Campbell is the one
10 who did it. The facts don't prove Montrelle did it. The
11 evidence shows Peggy Blake -- saw the shooter. Large black
12 man in a hoodie with a rifle. She saw him go to his lime
13 green car. That's the shooter. Not the man in the Italia
14 shirt and not Montrelle. Montrelle was shown to be downtown
15 at around 5:50 a.m. I believe was the time, 5:51 perhaps.
16 But there's no proof that he was downtown at that moment
17 other than Trivell's word -- and Trivelle -- someone who
18 swore on his family that he' telling the truth when he later
19 changed his mind. Someone who is adamantly deny -- someone
20 who tried to get his mom involved -- someone who sent the
21 police on a wild goose chase talking to the child's mother,
22 other people about his supposed whereabouts. He didn't
23 think -- so why would he think twice in falsely accusing
24 Montrelle. It just means at the end of the day that he
25 did -- that his charges are dismissed, which are all . . .

1 The facts do not conclusively point -- of Montrelle.
2 The reason they don't conclusively point to that is because
3 Montrelle Campbell is not guilty. And again, I totally
4 understand the nature of what you're going to have to do, we
5 ask you to please consider everything we talked about. And
6 after, you return a verdict of not guilty on all charges.
7 Because it's simply not true, and the State has not proven
8 his guilt.

9 THE COURT: Is everybody so comfortable. Does anybody
10 need a restroom break? (No response.) Okay. You may
11 proceed.

12 AST. SOL. SIMPSON: Thank you, Your Honor.

13 THE COURT: You're welcome.

14 AST. SOL. SIMPSON: Ladies and gentlemen, it has been a
15 long week and it's been a long day. So I'm going to take
16 the opportunity -- to address some points -- take a few
17 moments to case in point to address this. One point made by
18 Ms. Ford is is he happens to -- presence of Katrina and
19 them. You didn't hear from them. You did hear, however,
20 testimony about Katrina being punched in the head the night
21 before and falling to the ground and her not calling the
22 police. And most of us -- like, why would -- why has he
23 knocked you to the ground in front of people -- you heard
24 it. It's not in dispute that happened -- why would you not
25 call the police? In the Gadsden Green area, I asked her and

1 she explained it to you, because contact with police is not
2 really encouraged down there. Okay. And the more serious
3 the event, the less likely people want to entangled in it.
4 And so in that respect, I -- it happens. And so we get the
5 witnesses that are willing to come in and cooperate. It's
6 not -- that community is not really . . .

7 Mary Ford keeps referring to that, however, getting
8 punched in the head by man, blindsided, knocked on to the
9 ground. It's a minor altercation. I don't think that's a
10 real minor altercation. In fact, I think that's a pretty
11 telling event. Because I had addressed with you in my
12 closing argument, murder is not rational. That's why we
13 punish it. That's why we call it murder. It's not about
14 the outfit of the shooter. Yeah, that was dumb. That's not
15 rational. Going in and shooting up a house because you were
16 disrespected is not rational. You know, a lot of this when
17 we're disrespected, we handle it by just ignoring it. Some
18 people handle it by, like Katrina and others, by speaking
19 her mind. That's a rational way to do it. Murder and
20 violence isn't. Punching someone in the head as Montrelle
21 did and then shooting up a house as Montrelle certainly did
22 isn't -- the murder isn't rational. That's why we punish
23 it. You don't look at it and say, oh, that doesn't make
24 sense; you must not be guilty of that.

25 And so we really get through and sum up the defense's

1 closing. To really whittle it down, it comes down to this:
2 Only Trivell identified Montrelle. Only Trivell. In order
3 to go back there and find him guilty, you just have to take
4 Trivell's word for it. Wasn't that sort of the basic
5 closing that you just got from Ms. Ford? But don't forget
6 how I went through slide by slide, point by point, only
7 Trivell, only Trivell, points to the gunman as Montrelle
8 Campbell? You have to believe Trivell? Only Trivell and
9 Montrelle's phone calls, contact between the two while
10 Trivell is parking the car. Only Trivell in the car that
11 belongs to Tomeka President. The car who the only people
12 who had access to were Tomeka President and the gentleman
13 sitting right there because the keys were in his
14 apartment -- her apartment on her counter. But only
15 Trivell; just take Trivell's word for it. Only Trivell and
16 the cell tower records that showed Montrelle right there in
17 the area of Gadsden Green not the area of his grandmother's
18 house downtown, but the area of Gadsden Green. Only Trivell
19 and the cell tower record that show him down right in the
20 area at 5:51 and then right after, right backs up there was
21 Trivell back to where he had -- he better have gotten that
22 Buick back because his girlfriend had to get to work an hour
23 and nine minutes later. But you only have to rely on the
24 word of Trivell. And Tomeka President at the time, no dog
25 in the fight, wakes up, Montrelle's gone. Her car is gone.

1 The car we see downtown that show up mysteriously late.
2 Only Trivell and all the other evidence we have spent a week
3 of your time presenting to you pointing to the guilt of
4 Montrelle Campbell.

5 When you hear testimony, you don't hear it in a vacuum.
6 You take and you're like, I wonder if I believe this or not.
7 And you fit it with the other evidence. And when it fits
8 and when it corroborates, you know it is the truth. What's
9 required of hand of one, this is not a conspiracy case, but
10 what is required for guilt under hand of one is knowing
11 participation in something. You know, you don't have to
12 have evidence that, oh, at 9:00 a.m. we met at a conference
13 room and discussed the pros and cons of committing a murder
14 and decided that after two deliberations we decided to
15 commence this offense. What's required for hand of one is
16 participation. Participation like, hey, drive me downtown.
17 Participation like caring AR15 on a video. Participation
18 like talking on the phone to other participants.
19 Participation like getting in the car and saying, go, drive.
20 That's the kind of thing required in evidence for guilt
21 under hand of one. You don't have to rely on Trivell.
22 Please do rely on Trivell, but rely on Trivell confidently
23 knowing that you're relying on Trivell and all of this which
24 points to the guilt of Montrelle Campbell.

25 People in different situations have some type --

1 theories. Peggy Blake gave a statement about a lime green
2 car. I would suggest to you -- you heard some phrases from
3 Ms. Ford. She's doing her job. She's doing a good job.
4 You head her say a couple of phrases that I want you to
5 think about. She said, they just thought she was a liar;
6 they just went and wrote her off; and, finally, they just
7 brushed her off like a no one. We heard testimony. There
8 as skepticism. There was some healthy skepticism. But we
9 heard testimony that they spent hours -- they're looking for
10 a lot of things -- but one of the things they're looking
11 for, a lime green car, hours scouring the city cams. And
12 you saw them. They rotate. But we're not talking about a
13 rotating camera. We're talking about five rotating cameras
14 that even when they rotate down one street, we'll see it in
15 the clip, they did turn and rotate down the other. And you
16 see the map, in the map there of, of Gadsden Green -- on all
17 these corners. And this -- this fictitious lime green car
18 drives past, depending on where they went, anywhere between
19 two and all five of them, no lime green car. No one wrote
20 her off. No one brushed her aside like she was no one. It
21 was -- I believe Ms. Ford said something like, oh, just
22 because she's little kooky doesn't mean she's a liar. You
23 know who agrees with that statement? Me, Detective Tuttle,
24 the Charleston Police Department. They thought she was
25 little kooky, but nobody wrote her off like a liar. They

1 went and followed up. And it's a great contrast. It's such
2 a contrast. Trivell's story, everything fitting: cell tower
3 Records, video surveillance, timing, everything coming
4 together. Peggy Blake's story, none of that. Peggy Blake
5 who even in the 15 minutes she was on the stand couldn't
6 keep her story straight. I looked out the front window of
7 that great view. No, it wasn't in the front window; it was
8 the back room. I told the police. I called 911. I told
9 them I saw a guy in a hoodie with a gun. You heard the 911
10 tape. She didn't mention the lime green car. She didn't
11 mention anything. She just has a hard time keeping things
12 together. And you've gotta see it in a ten-minute span, not
13 to mention a two-year span. The one way you determine truth
14 is to take what you hear and put it with the evidence. If
15 it fits, believe it. And when nothing fits, as with Peggy
16 Blake, to not believe it. Sweet lady, but it's . . .

17 Thank you so much for your time -- it's Montrelle
18 Campbell's day. I know you are going to take it seriously.
19 It's also Antwan Frost's day, Brother Dusty. You have to do
20 something hard. But go there, work hard, do your duty, and
21 I am confident you will return a just, a difficult, but just
22 and fair verdict in this case which is Montrelle Campbell is
23 guilty of murder and two counts of attempted murder. Thank
24 you.

25 THE COURT: Mr. Foreman, ladies and gentlemen, I'm

1 going to give you a brief comfort break. During this break,
2 please do not discuss the case. Please leave your notepads
3 in your seats. As soon as everyone is refreshed we will
4 resume with the Court's instruction. If you will go with
5 the bailiff, please.

6 (The jury exits the courtroom.)

7 THE COURT: You may take your seats. I'm thinking I'll
8 take them probably five minutes depending on how many
9 restrooms are available. And I think they needed to walk
10 around a bit. They looked a little sleepy. So we'll resume
11 as soon as indicate to me they're ready which I think should
12 be about five minutes. We'll be at ease. I had no.

13 (Brief recess.)

14 THE COURT: You may be seated. State ready to proceed?

15 AST. SOL. SIMPSON: Yes, Your Honor.

16 THE COURT: Defense ready to proceed.

17 MS. FORD: Yes, Your Honor.

18 (The jury enters the courtroom.)

19 JURY CHARGE

20 THE COURT: You may be seated. During this trial
21 ladies and gentlemen, you and I have certain duties to
22 perform. As the trial judge, it is my responsibility to
23 preside over the trial of the case. I also have the duty to
24 rule on the admissibility of evidence offered during this
25 trial. You are to consider only the competent evidence that

1 is before you. And you are to disregard and disabuse from
2 your mind any testimony ordered stricken from the record in
3 this case during the progress of this trial. You are to
4 consider only the testimony which has been presented from
5 the witness stand together with any exhibits which have been
6 introduce or made a part of the record in this case.

7 I also have the additional duty to charge or instruct
8 you on the law applicable to this case. As the presiding
9 judge, I'm the sole judge of the law in this case, and it is
10 your duty as jurors to accept and apply the law as I now
11 state it to you. If you have a preconceived ideas as to
12 what the law is or what the law ought to be in a case, or in
13 this case, and it should not agree with what I now tell you
14 the law is, you are obligated under your oath to abandon
15 this preconception on your part because you are sworn to
16 accept the law and apply the law precisely as I now state it
17 to you.

18 In every case tried in this court before a jury, the
19 jury becomes the sole and the exclusive judges of the facts.
20 You the jury are the judges of the facts in this case. This
21 court is the judge of the law. The constitution of our
22 State has declared that a trial judge shall not intimate,
23 state, comment upon, or make any statement to a trial jury
24 about the facts in a case. Since you the jury are the sole
25 judges of the facts in this case, you are not to infer

1 anything from what I've said during the progress of this
2 trial in ruling upon the admissibility of evidence or
3 otherwise, or anything that I say now to you during the
4 course of this instruction that I have any opinion about the
5 facts. The law does not permit me to have an opinion about
6 the facts. This is a matter solely for you the jury to
7 determine.

8 As jurors then it is your duty as I've instructed to
9 determine the effect, the value, the weight, and the truth
10 of the evidence presented during this trial. Necessarily,
11 you must assess the credibility of witnesses who have
12 testified in this case. Credibility is simply a legalistic
13 term which means believability. It becomes your duty as
14 jurors to analyze and to evaluate the evidence. Some of the
15 things you may consider as you decide whether or not to
16 believe a witnesses testimony about a particular matter
17 include: What was the manner and appearance of the witness
18 who testified? Was he or she straight forward or hesitant
19 in answering? Was the testimony of a witness consistent or
20 inconsistent? How did the witness come to know the facts
21 that he or she testified to? Or what was his or her ability
22 to know these facts? Is there some reason a witness would
23 want to give testimony which would help or hurt one fact or
24 the other? In other words, was the witness biased or
25 prejudiced? And was the testimony of a witness strengthened

1 or weakened by other testimony or evidence?

2 I further instruct you that in determining the
3 questioning of the credibility or believability of witnesses
4 who have testified, you may believe one witness as against
5 several witnesses, or several witnesses as against one
6 witness. You may believe a part of the testimony of a
7 witness and reject the remaining part of the testimony of
8 that same witness. If you have good and sound reason, you
9 may believe the testimony of a witness in its entirety or
10 reject the testimony of a witness in its entirety. You can
11 believe as much or as little of each witnesses testimony as
12 you think proper. You may consider the demeanor of a
13 witness. That is the manner and the appearance of the
14 witness from the witness stand.

15 I further instruct you that a person who has a past
16 criminal record is competent to testify. A past record does
17 that affect the ability of that witness to testify. The
18 past record may only be considered by you if at all in
19 determining the witnesses believability. Remember, ladies
20 and gentlemen, you are the sole judges of the facts in this
21 case and the believability of any and all of the witnesses.

22 Our rules of evidence ordinarily do not permit
23 witnesses to testify to opinions or conclusions. An
24 exception to this rule exists for witnesses we call expert
25 witnesses. A witness who by their education, training, and

1 experience has become an expert in some art, science,
2 profession, or calling may state an opinion as to relevant
3 and material matters in which the witness claims to be an
4 expert. And they also state the reasons for the opinion.
5 You should consider any expert opinion received in evidence
6 in this case like any other evidence, give it the weight
7 that you think it deserves. If you decide that the opinion
8 of an expert witness is not based on sufficient education,
9 training, and experience, or if you conclude that the
10 reasons given in support of the opinion are not sound, or
11 that the opinion is outweighed by other evidence, you may
12 disregard the opinion entirely. An expert witness's
13 testimony is to be given no greater weight than that of
14 other witnesses simply because the witnesses is an expert.
15 Further, you are not required to accept an expert's opinion
16 even though it is uncontradicted.

17 Ladies and gentlemen, there are two types of evidence
18 which are generally presented during a trial: direct
19 evidence and circumstantial evidence. Direct evidence is
20 the testimony of a person who asserts or claims to have
21 actual knowledge of a fact such as an eyewitness.
22 Circumstantial evidence is proof of a chain of facts and
23 circumstances indicating the existence of a fact. The law
24 makes absolutely no distinction between the weight or value
25 to be given to either direct or circumstantial evidence. Nor

1 is a greater degree of certainty required of circumstantial
2 evidence than of direct evidence. And as I instruct it,
3 crimes may be proven by circumstantial evidence. And again,
4 the law makes no distinction between the weight or value to
5 be given to either direct or circumstantial evidence.

6 However, to the extent the State relies on
7 circumstantial evidence, all of the circumstances must be
8 consistent with each other. And when taken together quite
9 conclusively to the guilt of the accused beyond a reasonable
10 doubt. If these circumstances merely portray the
11 defendant's behavior as suspicious, the proof has failed.
12 The State has the burden of proving the defendant guilty
13 beyond a reasonable doubt. This burden rests with the State
14 regardless of whether the State relies on direct evidence,
15 circumstantial evidence, or some combination of the two.

16 Ladies and gentlemen, you should weigh all of the
17 evidence in the case. After weighing all of the evidence,
18 if you are not convinced of the guilt of the defendant
19 beyond a reasonable doubt, you must find the defendant not
20 guilty. Conversely, if you convinced of the guilt of the
21 defendant beyond a reasonable doubt, then you must find him
22 guilty.

23 I instruct you that the fact that the defendant was
24 arrested, charged and indicted is not evidence in this case,
25 and cannot be considered by you as evidence of guilt in this

1 case, nor does it create any presumption or inference of
2 guilt. This documentation, ladies and gentlemen, are simply
3 the formal written instrument which contain the charge or
4 charges made against the defendant. They simply serve as
5 the formal documentation by which the case is processed or
6 brought into the court. The defendant has pled not guilty
7 to the indictments. And that plea casts the burden on the
8 State to prove the defendant guilty. Because the person
9 charged with committing a criminal offense in South Carolina
10 is never required to prove himself innocent. I instruct you
11 that it is an important rule of the law of evidence. That a
12 defendant in a criminal trial, no matter what the
13 seriousness of the charge or charges made against him may
14 be, will always be presumed to be innocent of the crime for
15 which he is indicted unless his guilt has been proven by
16 evidence satisfying you that guilt beyond a reasonable
17 doubt. This presumption of innocence does not cease when
18 you retire to deliberate, but it accompanies the defendant
19 from the time of his appearance throughout the trial until
20 you reach a verdict in this case. Our Supreme Court has
21 said that the presumption of innocence is like a robe of
22 righteousness placed about the shoulders of the defendant,
23 and it remains with him and it -- him -- the innocent until
24 the presumptive robe of righteousness has been stripped from
25 his person by evidence satisfying view that guilt beyond a

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

6 The State has the burden of proving the defendant
7 guilty beyond a reasonable doubt. Some of you may have
8 served as jurors in civil cases where you were told that it
9 is only necessary to prove that a fact as more likely true
10 than not true such as by the greater weight or the
11 preponderance of the evidence. In criminal cases, the
12 State's proof must be more powerful than that. It must be
13 beyond a reasonable doubt. Proof beyond a reasonable doubt
14 is proof that leaves you firmly convinced of the defendant's
15 guilt. There are very few things in this world that we know
16 with absolute certainty. And in criminal cases, the law
17 does not require proof that overcomes every possible doubt.
18 If based on your consideration of the evidence you are
19 firmly convinced that the defendant is guilty of the crime
20 charged, you must find the defendant guilty. If on the
21 other hand you think there is a real possibility that the
22 defendant is not guilty, you must give the defendant the
23 benefit of the doubt and find him not guilty.

24 I instruct you and emphasize that the fact that the
25 defendant did not testify is not a factor to be considered

1 by you in any manner whatsoever in your deliberation of this
2 case, and in your consideration on the question of whether
3 the State has met its burden of proof in this case. It must
4 not be considered by you in any manner whatsoever. A
5 defendant has the constitutional right to remain silent.
6 And the assertion of this right must not be considered by
7 you in your deliberations. I repeat, under your oath, you
8 are to draw no conclusion whatsoever from the fact that the
9 defendant in this case did not testify. The fact that this
10 defendant did not test should not be discussed in any manner
11 whatsoever during your jury deliberations. The burden of
12 proof as I have instructed to you is on the State. The
13 defendant is not required to prove his innocence. The
14 burden of proof remains on the State to prove his guilt
15 beyond a reasonable doubt.

16 The defendant is charged with murder. The State must
17 prove beyond a reasonable doubt that the defendant killed
18 another person with malice aforethought. Malice is hatred,
19 ill will, or hostility towards another person. It is the
20 intentional doing of a wrongful act without just cause or
21 excuse and with an intent to inflict an injury or under
22 circumstances that the law will infer an evil intent.
23 Malice aforethought does not require that malice exists for
24 any particular time before the act is committed. But malice
25 must exit in the mind of the defendant just before and at

1 the time the act is committed. Therefore, there must be a
2 combination of the previous evil intent and the act.

3 Malice aforethought may be expressed or inferred.

4 These terms express and infer do not mean different kinds of
5 malice but merely the manner in which malice may be shown to
6 exist. That is either by direct evidence or by inference
7 from the facts and circumstances which are proven.

8 Expressed malice is shown when a person speaks words
9 which express hatred or ill will for another or when the
10 person prepared beforehand to do the act which was later
11 accomplished. For example, lying in wait for a person or
12 any other acts of preparation going to show that the deed
13 was within the defendant's mind would be expressed malice.
14 Malice may be inferred from conduct showing a total
15 disregard for human life. Inferred malice may also arise
16 when the deed is done with a deadly weapon. A deadly weapon
17 is any article, instrument, or substance which is likely to
18 cause death or great bodily harm. Whether an instrument has
19 been used as a deadly weapon depends on the facts and
20 circumstances of each case. The following are examples of
21 instruments which may be a deadly weapons: a pistol, a
22 shotgun, a riffle, a dirk, a dagger, a knife, a slingshot,
23 metal knuckles, a razor, gasoline, a firebomb or Molotov
24 cocktail, and lighter fluid. A gun may be a deadly weapon
25 even if it is not operating. If facts are proven beyond a

1 reasonable doubt sufficient to raise an inference of malice
2 to your satisfaction, this inference, ladies and gentlemen,
3 would be simply an evidentiary fact to be taken into
4 consideration by you along with all the other evidence in
5 this case. And you may give it the weight, value, and
6 effect you decide it should received.

7 I further instructed that if the defendant with malice
8 aforethought attempts to kill another person that by mistake
9 injures or kills of different person, the defendant still
10 has -- I apologize. If the defendant with malice
11 aforethought attempts to kill another person that by mistake
12 injures or kills another person, the intent is transferred
13 from the original person the defendant intended to kill or
14 killed or injured. The defendant would be guilty of murder
15 as if it had resulted in the death or injury of the person
16 the defendant intended to kill.

17 Bear with me one second, ladies and gentlemen. (Brief
18 pause.)

19 I want you to disregard, ladies and gentlemen, any
20 reference I made to transferred intent because I think I
21 inadvertently made a mistake that I'm going to need to
22 correct. And I would ask that you bear with me. However,
23 I'm going to continue with the remainder of the instruction.
24 And that is as follows:

25 The defendant is charged with attempted murder. In

1 order to prove this crime the State must prove the defendant
2 attempted to kill another person with malice aforethought
3 either expressed or implied. Malice is hatred ill will or
4 hostility towards another person. It is the intentional
5 doing of wrongful act that just cause or excuse and with an
6 intent to inflict an injury or under circumstances that the
7 law will infer an evil intent. Malice aforethought does not
8 require that malice exist for any take your time before the
9 act is committed. That malice must exist in the mind of the
10 defendant just before and at the time the act is committed.
11 Therefore, there must be a combination of the previous evil
12 intent and the act. Malice aforethought may be expressed or
13 inferred by as I've explained. These terms express and
14 inferred do not mean different kinds of malice. But merely
15 the manner in which malice may be shown to exist. That is
16 either by direct evidence or by inference from the facts and
17 circumstances which are proven. Express malice is shown
18 when a person speaks words which express hatred or ill will
19 for another, or when the person prepared beforehand to do
20 the act which was later accomplished. For example lying in
21 wait for person or any other acts of preparation going to
22 show that the deed was within the defendant's mind would be
23 expressed malice. Malice may be inferred from conduct
24 showing a total disregard for human life. Inferred malice
25 may also arise when the deed is done with a deadly weapon.

1 A deadly weapon is any article, instrument, or substance
2 which is likely to cause death or great bodily harm.
3 Whether an instrument has been used as a deadly weapon
4 depends on the facts and circumstances of each case. Is
5 I've instructed, the following are examples of instruments
6 which may be deadly weapons: of pistol a shotgun, a rifle,
7 dirk, a dagger, a knife, a slingshot, metal knuckles, a
8 razor, gasoline, a firebomb or Molotov cocktail, and lighter
9 fluid. A gun may be a deadly weapon even if it is not
10 operating. If the facts are proven beyond a reasonable
11 doubt sufficient to raise an inference of malice to your
12 satisfaction this inference would simply -- would simply be
13 an evidentiary fact to be considered by you the jury along
14 with the other evidence in the case. And you may give it
15 the weight, value, and effect if any you decide it should
16 receive.

17 Intent means intending the result which actually
18 occurs, not accidentally or involuntarily. Intent may be
19 shown by acts and conduct of the defendant and of the
20 circumstances from which you may naturally and reasonably
21 infer intent. Evidence of the character of the act,
22 character of the instrument used, the manner in which it was
23 used, the purpose to be accomplished, and the resulting
24 wounds or injuries may be considered in determining the
25 intent for which the act was committed. Intent may also be

1 inferred when it is demonstrated that the defendant
2 voluntarily and willfully commits an act the natural
3 tendency of which is to destroy another's life.

4 I further instructed that an attempt is an effort to
5 accomplish a crime which does not succeed. And attempt
6 includes a specific intent to do a particular criminal act
7 along with an act falling short of the act intended. The
8 State must show more than mere preparation and intent.
9 There must be some overt act committed in the effort to
10 commit the crime. Intent means intending a result which
11 actually occurs, not accidentally or involuntarily. Intent
12 may be shown by acts and conduct of the defendant and other
13 circumstances in which you may naturally and reasonably
14 infer intent.

15 I further instruct, ladies and gentlemen, that criminal
16 intent is a mental state, a consciousness of wrongdoing. It
17 is up to you the jury to determine what the defendant
18 intended to do based on the circumstances shown to have
19 existed. I further instruct you to find the defendant
20 guilty of attempted murder, the State prove beyond a
21 reasonable doubt that the defendant had an intent to kill
22 the alleged victim.

23 (Brief pause.)

24 THE COURT: Would counsel approach for me, please. And
25 ladies and gentlemen, I apologize for this delay. It's my

1 oversight and I take full responsibility.

2 (A bench conference was held off the record and out of
3 the hearing of the jury panel.)

4 THE COURT: Ladies and gentlemen, we appreciate your
5 indulgence. And I further instruct you as follows:

6 If the defendant with malice aforethought attempts to
7 kill another person but by mistake injures or kills a
8 different person, the defendant still has the intent to
9 kill. The intent to kill is merely transferred from the
10 original person the defendant attempted to kill to the
11 actual person he killed or injured. The defendant would be
12 guilty of murder just as if he attempted -- just as if the
13 attempt had resulted in the death or injury of the person
14 that the defendant attempted to kill.

15 I further instructed, ladies and gentlemen, that if a
16 crime is committed by two or more people who are acting
17 together and committing a crime, the act of one is the act
18 of all. A person who joins with another to commit an
19 unlawful act is criminally responsible for everything done
20 by the other person which happens as a probable or natural
21 consequence of the act done in carrying out the common plan
22 and purpose. For example, two people can be guilty of
23 killing another person. When only one of the two had a gun,
24 there is only one bullet, and only one of the two fired the
25 shot that caused the death. If two or more people are

1 acting together, are together, acting together, assisting
2 each other and committing the offense, the act of one is the
3 act of all. Or it is sometimes said, the hand of one is the
4 hand of all.

5 Prior knowledge that a crime is going to be committed
6 without more is not sufficient to make a person guilty of
7 that crime. Mere knowledge that another person is going to
8 commit a crime, even if the defendant is present when the
9 crime is committed, is not sufficient to convict the
10 defendant as a principal. Guilt as a principal is shown by
11 actual or constructive presence at the scene as a result of
12 prior arrangement. Therefore, a finding of a prior arrange
13 plan or common scheme is necessary for a finding of guilt as
14 a principal. The State must prove beyond a reasonable doubt
15 by confident evidence the theory of the hand of one is the
16 hand of all. Principle of a crime is one who either
17 actually commits a crime or who was present aiding and
18 abetting or assisting in committing the crime. When a
19 person doesn't act in the presence of and with the
20 assistance of another, the act is done by both. Where two
21 or more acting with the common plan or intent to present at
22 the commission of a crime, does not matter who actually
23 commits the crime. All are guilty. The hand of one is the
24 hand of all.

25 Present at the commission of a crime means to be

1 sufficiently near to aid in the bed and assist in the
2 commission of the crime. However, mere presence at the
3 scene of the crime is not sufficient to convict one as a
4 principal on the theory of aiding and abetting. Intent is
5 also a necessary element, but there must be a common design
6 or intent to commit the crime. And the crime must've been
7 committed pursuant thereto with the person aiding and
8 abetting by some overt act. Intent means intending the
9 result which actually occurs, not accidentally or
10 involuntarily. Intent may be shown by acts and conduct of
11 the defendant and other circumstances from which you may
12 naturally and reasonably infer intent. The State must prove
13 these elements beyond a reasonable doubt.

14 Another issue in this case, ladies and gentlemen, is
15 the identification of the defendant as the person who
16 committed this crime charged. The State has the burden of
17 proving identity beyond a reasonable doubt. You must be
18 satisfied beyond a reasonable doubt that the accuracy of the
19 identification of the defendant before you may convict the
20 defendant. Identification testimony is an expression or
21 belief or an impression by a witness. You must determine
22 the accuracy of the identification of the defendant. You
23 must consider the believability of each identification
24 witness in the same way as any other witness. You may
25 consider whether the witnesses had an adequate opportunity

1 to observe the offender at the of the offense. This will be
2 affected by things like how long or short a time was
3 available, how far or close the witness was, the lighting
4 conditions, and whether the witness had a chance to see or
5 know the person in the past. Once again, I instruct you the
6 burden of proof on the State extends to every element of the
7 crime charged. And this specifically includes the burden of
8 proving beyond a reasonable doubt the identity of the
9 defendant as the person who committed the crime. If after
10 examining the testimony you have a reasonable doubt as to
11 the accuracy of the identification, you must find the
12 defendant not guilty.

13 I further instructed that mere presence at the scene is
14 not sufficient to prove someone guilty of a crime. And
15 defendants presence where crime is being committed or mere
16 association with the person who commits the crime does not
17 make a defendant and accomplice or aider and abettor of the
18 person committing the crime. The burden is on the State to
19 prove every element of the crime charged, that if you find
20 after viewing all of the evidence that the State has proven
21 that the defendant was only present at the scene of a crime
22 and that they have not proven beyond a reasonable doubt any
23 other participation in the crime, then you must find the
24 defendant not guilty. The law is that proof of at the scene
25 of the crime is not sufficient to find someone guilty.

1 Ladies and gentlemen, there are multiple indictments in
2 this case. They are indictments 2016-GS-10-2070, murder;
3 and 2071 and 2072 which are attempted murder. Each
4 indictment charges a separate and distinct offense. You
5 must decide each indictment separately on the evidence and
6 the law applicable uninfluenced by your decision as to any
7 other indictment. The defendant may be convicted or
8 acquitted on any or all of the offenses charged. And you
9 will be asked to write a separate verdict of guilty or not
10 guilty for each indictment.

11 Ladies and gentlemen, you've also heard reference to a
12 penalty a person can serve for the crimes alleged in the
13 indictments. In determining whether the State has met their
14 burden of proof regarding the defendant, you cannot consider
15 any possible penalty for any particular crime. The
16 punishment for crime is a matter of law for the Court
17 determine and should never be considered by you in any
18 manner whatsoever in arriving at a fair and impartial
19 verdict in this case.

20 There are two possible options for verdicts on each of
21 the indictments. And I will go through each of them with
22 you -- you don't have to try to write this down -- you don't
23 have to try and write it down. The verdict form will go
24 into the jury room with you. And I emphasize that there's
25 absolutely no significance to the order in which I state

1 these potential verdicts. It is simply that one must be
2 stated first. And the options for the verdicts are as
3 follows:

4 As to indictment 2016-GS-10-2070, we the jury by
5 unanimous consent find the defendant guilty of murder or not
6 guilty. And as to indictments 2071 and 2072, they both read
7 identically which is, "We the jury by unanimous consent find
8 the defendant guilty of attempted murder or not guilty."
9 Again, there is no significance whatsoever to the order in
10 which I state these potential verdicts. One simply must be
11 stated first.

12 Ladies and gentlemen, instructed that your verdict must
13 be unanimous which means all 12 of you must agree in order
14 to reach a verdict on each indictment. Mr. Foreman, once
15 the jury has reached a verdict, it will be your
16 responsibility to fill each verdict form out and sign and
17 date the form, and also knock on the door and advise the
18 bailiffs that the jury has reached a verdict on each
19 indictment.

20 It is also your responsibility to write out any
21 questions that the jury may have during deliberations. And
22 you should write those out on the notebook that you've been
23 provided and sign and date the note. Also, I will instruct
24 you that no note should ever reveal any numerical breakdown
25 of the jury. As jury deliberation should remain within the

1 confine of the jury room. Ladies and gentlemen, if you have
2 any questions during deliberations, please note that there
3 will be a delay in our response and that's because there's a
4 process that we have to follow in answering your questions.
5 So know if you have a question, there will be a delay.

6 Again ladies and gentlemen, I've instructed that your
7 verdict must be unanimous which means all 12 of you must
8 agree. I'm going to ask that you return to your jury room
9 but do not yet begin your deliberations. There are some
10 brief matters of law that I need to take it with counsel
11 that may require the Court to give an additional instruction
12 or to correct an instruction. However, if there's no
13 further instruction, we will send in your notebooks and the
14 evidence, and at that time will excuse the alternate, and
15 you will be allowed to begin your deliberation.

16 I also tell you advance that I know it's 4:33, we do
17 not have any options for dinner. I also recognize that you
18 all have may have familial or other obligations in the
19 evening. If you reach a point where you would like go home,
20 just let us know. And at that time you'll be allowed to
21 recess for the evening and return in the morning to resume
22 your deliberations. I just want you to know you're not
23 going to be held captive at the courthouse against her
24 wishes. So if you desire -- you know once you reached a
25 point where you think you may want to recess for the

1 evening, please let us know and we will accommodate that
2 request.

3 Again, if you'll go with the bailiffs, please. Please
4 do not yet begin your deliberations and leave your notepads
5 in your seats.

6 (The jury exits the courtroom.)

7 THE COURT: You can take your seats. I'm sorry. other
8 than what we covered in charge conference, any exceptions
9 from the State.

10 AST. SOL. SIMPSON: No, Your Honor.

11 THE COURT: From the defense?

12 MS. FORD: Not in addition to my prior objections.

13 THE COURT: Can y'all just one more time make sure for
14 me all of the evidence -- have y'all already done that
15 again?

16 AST. SOL. SIMPSON: We probably need to tidy it up a
17 little bit, Your Honor.

18 THE COURT: If you all can go ahead and get through
19 with court reporter. You might want to go get a cart
20 because it's a lot of it and go ahead and start putting it
21 on their. Go ahead and get the notebooks but the
22 alternate's on the banister so that we can excuse the
23 alternate and allow the jury to begin the deliberations.

24 (Brief pause.)

25 THE COURT: -- you time and your attention to this

1 case. I know being an alternate can seem thankless. You do
2 all the work that you don't, as they say, don't get any of
3 the glory I guess. That you've been attentive. Even
4 timely. And we appreciate your service. I hope it's been
5 educational for you. I hope you learned it's nothing like
6 what you see on TV and how very valuable you are, your
7 service, is to us. But you're welcome to hang around with
8 us if you want. We can put you in a room back here, one of
9 the we multipurpose rooms, so that you can relax while the
10 jury is deliberating. But you're also welcome to leave if
11 you'd like. The bailiffs will destroy your notes unless you
12 want to do it. It's up to you. They're adept at it. Do
13 you need a work excuse today?

14 JUROR: No, ma'am.

15 THE COURT: Okay. We'll mail that to you along with
16 your check. You're welcome to discuss this case if you
17 would like. But I would ask that you not do it until the
18 entire panel is excused. I hope you have a wonderful
19 afternoon and a wonderful rest of the year, and we thank you
20 for your time on behalf of both the State and the defense
21 for your service to his. Have a great day.

22 JUROR: Thank you.

23 THE COURT: You're welcome, ma'am. Okay. The record
24 should reflect that the alternate was excused at 4:40 and
25 the jury has begun his deliberations. Y'all stay close for

1 me, I'd appreciate it, in case they have any questions.

2 (Jury begins deliberations at 4:40 p.m.)

3

4 THE COURT: -- as follows: The jury has established the
5 process for deliberation but would like to start fresh on
6 Friday morning. Is this okay?

7 So they're in the hallway. I'm going to let them go
8 home and resume in the morning. Any exception from the
9 State?

10 AST. SOL. SIMPSON: No, Your Honor.

11 THE COURT: From the defense.

12 MS. FORD: No, Your Honor.

13 THE COURT: And I've had the note marked as a Court's
14 exhibit.

15 (Court's Exhibit No. 11, Jury Note, was marked for
16 identification.)

17 (The jury enters the courtroom at 5:07 p.m.)

18 THE COURT: You may be seated. We received your note,
19 ladies and gentlemen. And absolutely it is okay for you all
20 to start fresh in the morning. So I will excuse you for the
21 afternoon. I would emphasize that you should have no
22 discussion about this case with anyone else were among
23 yourselves. Please do not watch, read, or listen to any
24 media accounts about this case if there would be any in the
25 newspaper, on the radio, television, or Internet. And don't

1 do any independent of any type on the Internet. When you
2 return in the morning at 9:00, you will come directly to
3 your jury room. And again, please don't have any contact
4 with anyone in or about the courthouse. We would not want
5 an innocent conversation to be observed and misinterpreted.
6 Everything will be left in your jury room undisturbed. That
7 room will be locked. And as soon as all 12 have returned
8 then you'll be allowed to begin -- resume your
9 deliberations. Again, you will return in the morning at
10 9:00. Have a great evening.

11 (The jury exits the courtroom at 5:08 p.m. and are
12 excused for the evening.)

13 THE COURT: Anything before we break for the evening?
14 From the State?

15 AST. SOL. SIMPSON: No, Your Honor.

16 THE COURT: From the defense?

17 MS. FORD: No, Your Honor.

18 (The proceedings adjourned for the evening at 5:08 p.m.)

19 - - - - -

20 (The proceedings resume with deliberations on Friday,
21 January 12, 2018, at 9:04 a.m.)

22 (Questions from the jury at 11:05 a.m.)

23 THE COURT: All right. We have four notes from the
24 jury debt. Three are dated and have the times attached.
25 One is dated and doesn't have the time attached. I will

1 have each marked as court's exhibits:

2 Were fingerprints taken from shell casings? Is
3 evidence available? That is timed at 10:40.

4 Was the DNA from the two cigarettes but analyzed? Did
5 the DNA match that of Trivell Richardson? That's at 10:55.
6 Although they gave it to me all at one time.

7 Is the photograph Montrelle Campbell during the time of
8 the shooting and his arrest available to the jury? That is
9 timed eleven o'clock.

10 And the last: For the two cell phones collected at the
11 scene by Ms. Gladwell analyzed and identified?

12 My response to all four of these notes will be as
13 follows: Ladies and gentlemen of the jury, all of the
14 evidence in this case has been presented to you. The Court
15 cannot answer factual questions. You must only consider the
16 testimony and evidence that has been submitted into the
17 record for the purposes of your deliberations. You cannot
18 conduct your own independent investigation or fact-finding
19 outside of the evidence and testimony presented to you
20 during the course of this trial. You are not to speculate
21 or draw any inferences or conclusions from this response to
22 your inquiry during your deliberations. If you desire to
23 have any testimony -- to have the testimony of any witness
24 replayed or rehear any portions of the law, please advise
25 the bailiff and we will accommodate you your request

1 immediately.

2 Any exception from the State?

3 AST. SOL. SIMPSON: No, Your Honor.

4 THE COURT: From the defense?

5 MS. FORD: No, Your Honor.

6 THE COURT: Okay. I will mark each of those
7 individually. And then I'm going to attach -- well, I don't
8 know. All of these need to be marked individually. And
9 then I'll put them all together as court's exhibits.

10 (Court's Exhibit Numbers 12-15, Jury Notes, were
11 marked for identification.)

12 (Court's Exhibit No. 16, Judge's Response, was marked
13 for identification.)

14 (Proceedings at ease while deliberations continue.)

15 THE COURT: Please be seated. Okay. We have another
16 note. It says: Can the jury review the testimony of Tomeka
17 President?

18 I've already instructed the court reporter to queue up
19 both days of her testimony. Is there any exception from the
20 State?

21 AST. SOL. SIMPSON: No, Your Honor.

22 THE COURT: From the defense?

23 MS. FORD: No, ma'am.

24 THE COURT: How long is each part of the testimony?

25 COURT REPORTER: The first day was about 40 minutes.

1 The second day ---

2 THE COURT: Was about five minutes? Three minutes?
3 Something like that?

4 COURT REPORTER: Yeah.

5 THE COURT: And none of it would include any matters of
6 law? I can't remember. I left my notes in my office.

7 COURT REPORTER: I know yesterday didn't. But let me
8 look back at Wednesday. There was a short bench conference
9 on the first time. Real short. But it's at the end.

10 THE COURT: It's at the end?

11 COURT REPORTER: Uh-huh.

12 THE COURT: But there are no matters of law in her
13 testimony?

14 COURT REPORTER: No.

15 THE COURT: Okay. What I will do -- I'm going to send
16 the court reporter in with the bailiff to replay the
17 testimony. Any exception from the State?

18 AST. SOL. SIMPSON: No, Your Honor.

19 THE COURT: From the defense?

20 MS. FORD: No, Your Honor, as long as it's played in
21 full.

22 THE COURT: It will play until they indicate they don't
23 want to hear it anymore. I'm not going to tell them what to
24 do. They're entitled to relisten to the testimony, and if
25 they say to the court reporter we've heard all we want to

1 hear, that's going to be the end of it. I'm not going to
2 make them -- they're deliberating. It's deliberate process.
3 And if they were in the courtroom and they raised their hand
4 and said that's all we want to hear, they don't have to
5 listen to all of it. I don't have -- but the bailiff will
6 be in there. They will be instructed that they are not to
7 discuss the case at all. But if they tell her they want to
8 hear, then that's in the short of it -- then that's on them.

9 MS. FORD: Yes, Your Honor.

10 THE COURT: All right. And we'll have the note marked
11 as a court's exhibit.

12 (Court's Exhibit No. 17, Jury Note, was marked for
13 identification.)

14 (Proceedings at ease while deliberations continue.)

15 (Replay of Tomeka President's testimony begins play at
16 12:30 p.m.)

17 (The proceedings resume at 3:15 p.m.)

18 THE COURT: Is the State ready to proceed? Is the
19 State ready to proceed?

20 AST. SOL. SIMPSON: Yes, Your Honor.

21 THE COURT: Is a defense ready to proceed?

22 MS. FORD: Well, other than Mr. Williams.

23 THE COURT: He's second chair. Is he essential to the
24 proceedings to be taking a break?

25 MS. FORD: Well, I guess not, Your Honor.

1 (Brief pause.)

2 THE COURT: And I know that this might-- well not --
3 that this could be emotional for those in the gallery.
4 However, I do not expect there to be any audible responses
5 upon publication of the verdict. If you feel that this is
6 too difficult for you to handle, I would ask that you excuse
7 yourselves from the gallery at this time.

8 (The jury enters the courtroom at 3:15 p.m.)

9 VERDICT OF THE JURY

10 THE COURT: You may be seated. Mr. Foreman, is it
11 correct that the jury has reached a verdict?

12 FOREMAN: Yes, ma'am.

13 THE COURT: If you will give the verdict forms to the
14 bailiff for me, please.

15 Sir, if you would stand for the publication of the
16 verdicts.

17 THE CLERK: In the matter of state of South Carolina,
18 County of Charleston, Ninth Judicial Circuit, versus
19 Montrelle Lamont Campbell, as to indictment number
20 2016-GS-10-2070, we the jury unanimously -- by unanimous
21 consent find the defendant guilty of murder signed this day
22 January 12th by the foreperson of the jury.

23 In the matter of indictment number 2016-GS-10-2071,
24 the State of South Carolina versus Montrelle Lamont
25 Campbell, we the jury by unanimous consent find the

1 defendant guilty of attempted murder signed this day
2 January 12th by the foreperson -- 2018 by the foreperson of
3 the jury.

4 In the matter of the State of South Carolina versus
5 Montrelle Campbell as to indictment number 2016-GS-10-2072,
6 we the jury by unanimous consent from the defendant guilty
7 of attempted murder signed this day January 12, 2018,
8 foreperson of the jury.

9 THE COURT: Ladies and gentlemen, if this is your
10 verdict or these are your verdicts, please indicate by
11 raising your right hands.

12 (Jurors comply.)

13 THE COURT: Let the record reflect that all have raised
14 her right hands and the verdict stands. You may put your
15 right hand down. You may take your seat.

16 Is there any request for the State to poll the jury?

17 AST. SOL. SIMPSON: No, Your Honor.

18 THE COURT: From the defense?

19 MS. FORD: Yes, Your Honor.

20 THE COURT: Ladies and gentlemen, the clerk is going to
21 ask you two questions after calling your name and/or juror
22 number. One is, "Is this your verdict and is this still
23 your verdict?" And I would ask that that you follow his
24 instructions. You may proceed.

25 CLERK: Ladies and gentlemen of the jury, as Your Honor

1 has described, when I call your juror number, please raise
2 your right hand and signify that you recognize that when I
3 ask you if this is your verdict, please signify by saying
4 yes or no.

5 Juror number 302, Robert Starkweather. Is this your
6 verdict?

7 JUROR: Yes, it is.

8 CLERK: Is this still your verdict?

9 JUROR: Yes, it is.

10 CLERK: Juror number 27. Is this your verdict?

11 JUROR: Yes.

12 CLERK: Is this still your verdict?

13 JUROR: Yes.

14 CLERK: Juror number 62. Is this your verdict?

15 JUROR: Yes.

16 CLERK: Is this still your verdict?

17 JUROR: (Nonverbal response.)

18 CLERK: Juror number 114. Is this your verdict?

19 JUROR: Yes.

20 CLERK: Is this still your verdict?

21 JUROR: Yes.

22 CLERK: Juror number 160. Is this your verdict?

23 JUROR: Yes.

24 CLERK: Is a still your verdict?

25 JUROR: Yes.

1 CLERK: Juror number 194. Is this your verdict?
2 JUROR: Yes.
3 CLERK: Is this still your verdict?
4 JUROR: Yes.
5 CLERK: Juror number 216. Is this your verdict?
6 JUROR: Yes.
7 CLERK: Is this still your verdict?
8 JUROR: Yes.
9 CLERK: Juror number 230. Is this your verdict?
10 JUROR: Yes.
11 CLERK: Is this still your verdict?
12 JUROR: Yes.
13 CLERK: Juror number 232. Is this your verdict?
14 JUROR: Yes.
15 CLERK: Is this still your verdict?
16 JUROR: Yes.
17 CLERK: Juror number 304. Is this your verdict?
18 JUROR: Yes.
19 CLERK: Is this still your verdict?
20 JUROR: Yes.
21 CLERK: Juror number 311. Is this your verdict?
22 JUROR: Yes.
23 CLERK: Is this still your verdict?
24 JUROR: Yes.
25 CLERK: Juror number 324. Is this your verdict?

1 JUROR: Yes.

2 CLERK: Is this still your verdict?

3 JUROR: Yes.

4 CLERK: Your Honor, the jury has been polled and the
5 verdict stands.

6 THE COURT: Ladies and gentlemen, we thank you for your
7 time and your attention to this case. I know that jury
8 service is thankless. I hope, however, that this experience
9 has been educational for you. And I hope that you learned
10 that is nothing like what you see on television. Our system
11 is the only kind in the world where 12 ordinary citizens
12 listen to facts, determine what the facts are, and then
13 apply a very complex set of rules to those facts, and render
14 verdicts. So I hope you know how very valuable your
15 services to us.

16 You are welcome to discuss this case if you would like
17 as your jury service has ended. By the same token, you
18 don't have to discuss the case if you don't desire to.
19 Sometimes the lawyers will contact you to get your feedback,
20 sort of a common sense perspective, on the case and their
21 performance. But, again, if you'd like to, that's fine.
22 But you don't have to discuss the case if you have no desire
23 to do that.

24 Is there anyone that needs a work excuse on today -- we
25 will mail this to you along with your checks. You are

1 welcome to remain with us for sentencing if you so desire.
2 Is there any member of the panel that wishes to remain for
3 sentencing if you would just not me or indicate. If you
4 want to remain for sentencing, just remain in the jury box
5 after I've excused the panel. For those who do not wish to
6 remain, we thank you for your time and your attention to
7 this case. And your excused with the Court's profound
8 thanks. I hope you have a wonderful weekend.

9 (Jury panel is excused at 3:23 p.m.)

10 THE COURT: Will have post-trial sentencing and motions
11 in a moment.

12 (Brief pause.)

13 MS. FORD: -- motions, Your Honor.

14 THE COURT: Does the State want to respond to the
15 renewal of her motions?

16 AST. SOL. SIMPSON: We'll just stand by our early
17 arguments, Your Honor.?

18 THE COURT: Okay. The Court would find where there's
19 any evidence to support a jury's verdict is inappropriate
20 for the Court to stand in substitute for the jury's
21 judgment. And, clearly, there is direct and substantial
22 circumstantial evidence reasonably tending to prove the
23 defendant's guilt. Therefore, the verdict will stand and
24 the renewal of the motions made during trial and posttrial
25 are denied.

1 Be glad to hear from the State. You have some
2 sentencing sheets for me?

3 AST. SOL. SIMPSON: Yes, Your Honor (Brief pause.) May
4 I approach, Your Honor?

5 THE COURT: I'm sorry. Yes. Be glad to hear from the
6 State.

7 AST. SOL. SIMPSON: Thank you, Your Honor that I think
8 as an initial matter that we did raise, just want to give
9 you a heads on a legal issue that we have relating to
10 sentencing, Your Honor. Defendant's prior record: In 2001,
11 he was convicted of strong arm robbery and AWIK. That's not
12 an ABWIK, assault and battery with intent to kill, this
13 would be assault with intent to kill. I have the sentencing
14 sheets and the indictments from that that involved
15 threatening someone with a gun and physically trying to take
16 something from that person. But the person ran, was able to
17 get some distance, and the allegations were that the
18 defendant shot at the person he was fleeing him. I'm going
19 to continue with the rest of his record and we're going to
20 get back to that because, as we discussed, it's the State's
21 position that a AWIK would trigger mandatory life without
22 parole.

23 That was in 2001. In September 2002, he was convicted
24 of unlawful possession of a pistol. His parole was revoked
25 in March of 2003. In February of 2004, he was convicted of

1 resisting arrest. In June of 2004, he was convicted of an
2 additional count of resisting arrest. His parole was
3 revoked again in August of 2004. In October of 2005,
4 trespassing. In May of 2006, his parole was revoked again.
5 And I should note that these revocations were on the
6 previous YOA is what he received for the AWIK. So we had
7 reactivations of the YOA on those revocations.

8 In March 2007, he was charged again unlawfully
9 possessing a firearm. US government decided to take on the
10 prosecution of that case. He was federally prosecuted for
11 two counts of possession of a weapon by a felon as well as a
12 possession of marijuana and received a sentence of 8.75
13 years plus three years of supervised release. It's my
14 understanding at the time of this incident, he was still on
15 the supervised release.

16 THE COURT: What do they plan to do with his supervised
17 release?

18 AST. SOL. SIMPSON: I've had no discussions with the
19 federal authorities.

20 MS. FORD: He has a hold from them. So I'm not sure.
21 But I just checked today.

22 AST. SOL. SIMPSON: I won't belabor our arguments, Your
23 Honor. You know, I think take or leave them, they're pretty
24 simple. Our position is -- I did, after our discussion,
25 pulled the status of the life without parole statute from

1 2001 when that AWIK conviction occurred. At that time in
2 2001, it read, you know, things have been added to it but
3 it's substantially similar to that statuette as today, and
4 how ---

5 THE COURT: Was AWIK listed as a serious or most
6 mysterious offense?

7 AST. SOL. SIMPSON: It is not, Your Honor. At the
8 time, the section read and most serious offense means, at
9 the beginning, attempt of any offense enumerated --

10 THE COURT: Is AWIK enumerated?

11 AST. SOL. SIMPSON: It is not, Your Honor.

12 THE COURT: I don't think I can enlarge the meaning of
13 the statute.

14 AST. SOL. SIMPSON: Okay. We respect that decision.

15 THE COURT: I think truth in sentencing -- as a matter
16 of fact, I worked in some connection but those who were
17 dealing with that as well recent iteration and they've
18 been -- the legislature is pretty clear when they want to
19 say something. And my job is to interpret in plain and
20 ordinary language of statute. Not add to it or prepare it
21 or make it big or small. It's not ambiguous. And if they
22 meant to list AWIK, they would've listed it there.

23 AST. SOL. SIMPSON: I respect the Court's decision,
24 Your Honor. We'll move on from that and I'll just make the
25 point, Your Honor, you've been here all week. You've for

1 the nature of this crime. This was, you know, again, I
2 don't think I'm being hyperbolic when I say he made that, an
3 apartment with children and strangers and others hell on
4 earth. And the amazing thing about the facts of this case,
5 honestly, that only one person is deceased. You for the
6 egregious nature of these events and you've heard what is
7 quite a lengthy previous record and encounters with the law.
8 I'm going to reach out briefly to the victims or see if
9 anyone was her dress, Your Honor.

10 THE COURT: Certainly. It would be glad to hear from
11 any of them.

12 AST. SOL. SIMPSON: Ms. Frost stepped out of courtroom,
13 but I know she wanted to address ---

14 THE COURT: I'd be glad to hear from her.

15 AST. SOL. SIMPSON: Tomeka Frost, Antwan Frost's sister
16 would like to address you.

17 THE COURT: Certainly. Glad to hear from her as well.

18 SHANECQUA FROST: Hi, your Honor. My name is Shanecqua
19 Frost.?

20 THE COURT: Yes, ma'am. Spell your first name for us.

21 SHANECQUA FROST: S-H-A-N-A-C-Q-U-A.

22 THE COURT: Yes, ma'am. Thank you. Yes, ma'am.

23 SHANECQUA FROST: I am his only sister. We came --
24 Dusty -- that's what we call him. I'll never forget -- will
25 never forget September 15 -- September 19th of 2015. Every

1 Saturday morning when I get my daughter ready for the
2 ballet, I can only hear a phone call when my mom called me
3 and said that Dusty got shot. And for the life of me I
4 couldn't figure out who would want to kill my brother and
5 why because he's not that type of person. He does not get
6 into any trouble. No nothing. For 28 months, for 28 long
7 months, we've been waiting this jury to come up with a
8 guilty verdict. And I thank them so much what was right.
9 My mom has only seen my brother's graveyard once since he
10 passed away. Once. She can't even get herself up to to go
11 to Huger, South Carolina and see her son. Because who wants
12 to see their son in a graveyard. He wants to see their son
13 on top of -- in a graveyard. I don't know of anyone. I
14 can't -- I don't have the strength to go there.

15 It's been hard. I am his only sister. And I try my
16 hardest to be as strong as I can for my mother. But this is
17 one of the happiest days of my life. This is the happiest
18 day of my life. And I think that Montrelle Campbell, he
19 knows what he did. I think that since he took Dusty's life,
20 it's only right that he pays with his life. And life about
21 -- the only thing if a person who is trigger happy, who's
22 gun happy. He doesn't need to be on the streets of
23 Charleston.

24 THE COURT: Man, if you would tell us your name for the
25 record.

1 CAROLYN FROST: Carolyn Frost.

2 THE COURT: Yes, ma'am.

3 CAROLYN FROST: For two years and I'm still trying to
4 process the death of my son. The last time I spoke to
5 Antwan he told me, "Momma, I love you." When my son got
6 shot I still didn't . . . And when one of the officers told
7 me and what the coroners told me, I still didn't want to --
8 when I had to make final arrangements for my son, when I had
9 to pick out a casket, when I had to pick out a suit for him
10 to put on, when I had a good view his body before they
11 brought him up, that's when I realized he wasn't coming
12 back. And my heart is so broken. I miss Antwan so much.
13 He may not have been perfect, but he was my child. He gets
14 shot because he was invited into someone's house. He
15 probably didn't even know what happened. Never tried to
16 hurt nobody, take nothing from nobody. He was just an
17 outgoing, loving young man. And I'll never, never be
18 ever -- I'll never, never, never be able to get over this.
19 Never. My first born. My first born son.

20 THE COURT: Anything further, Mr. Simpson?

21 AST. SOL. SIMPSON: Your Honor, just in conclusion, I
22 believe that's it from the State as to sentencing. And, of
23 course, as you're well aware, a mandatory life without
24 patrol as the trigger, the State would still ask for a
25 sentencing to commiserate to just the egregiously violent

1 nature of this offense and the defendant's prior record.

2 Thank you, Your Honor.

3 THE COURT: You're welcome. Ms. Ford?

4 MS. FORD: Thank you, Your Honor.

5 THE COURT: You're welcome.

6 MS. FORD: Mr. Campbell is joined here by family
7 members as well.

8 THE COURT: I'm sorry, I can't hear you.

9 MS. FORD: Mr. Campbell is joined here by family
10 members as well including his mother. She's been here
11 throughout the trial. Montrelle would help her because she
12 is paralyzed, Your Honor. So he would often help her before
13 he was arrested. He has a lot of other people here in
14 support of him today as well. Your Honor, Montrelle has two
15 children. They're ages of 14 and two years old.
16 Unfortunately, the two-year-old, obviously, he hasn't really
17 gotten to spend much of anytime with Montrelle. He's had a
18 lot of support his child's mom, Ms. Mims. She's called me
19 and she stayed in contact throughout the duration of his
20 incarceration. So never her child, she's always been
21 concerned about Montrelle and supported because she's
22 thinking of her child and wanting him to have a father, Your
23 Honor.

24 At the time of his arrest he was working. He's working
25 at Morris Sokol Furniture -- excuse me -- Your Honor.

1 THE COURT: That's okay.

2 MS. FORD: You know, he didn't have much of an
3 education. He actually didn't even finish the eighth grade.
4 But he was able to obtain a GED when he was in federal
5 prison. So he did take advantage of some of the programs
6 that they offered him there. I would just view the State's
7 argument that he has a lengthy record. He did get into
8 quite some trouble when he was very young in early 2000 but
9 that attempted armed robbery, Your Honor, or the strong
10 armed robbery. But since the, he did have a few
11 misdemeanors and then he got in trouble with the gun charge.
12 Usually someone with a record like his it would have been
13 triggered in federal court. So I don't know what happened
14 there. But he did, obviously, do a lot of time for that gun
15 charge. But he doesn't have a history of being constantly
16 in trouble, Your Honor.

17 Even though we do understand that it was quite
18 significant when he was in trouble for, but that was
19 early -- nearly 20 years ago, Your Honor. So he's not
20 someone -- and obviously that don't involve shooting at
21 somebody. But he doesn't have a history losing his temper
22 necessarily, beating people up, things of that nature. And
23 I can say my dealings with them, Your Honor, he's a quiet
24 man. He has never indicated -- there's never been any
25 indication that he someone with a loose temper, Your Honor.

1 He's always thoughtful and considerate. He took this case
2 very seriously and looking at the discovery and discussing
3 it with me. But he was always just never demanding. And I
4 only say that -- obviously he would have a right to be
5 demanding because his wife is on the line. And I only say
6 that because I haven't found him to be someone who is quick
7 to lose his temper I would be angered easily, Your Honor.
8 So that's what I've learned of Montrelle.

9 He's always maintained his innocence, Your Honor. I
10 think there's a lot about that night that we don't know
11 about. Things that Trivell was not honest about, quite
12 frankly, or possibly more that he may have known. Whether
13 it's about Montrelle or someone else, I don't know, Your
14 Honor. But I do think there are still a lot of unanswered
15 questions. And we would ask you to consider a sentence of
16 30 years. Obviously, that's day for day. Montrelle would
17 be quite, you know, in a position in his life obviously ---

18 THE COURT: How old is he?

19 MS. FORD: He's currently 36. Yes. He is 36 years old
20 right now. So he would be well into his '60s, Your Honor.
21 So we would ask you to consider that. And I think he does
22 have a family member who would like to talk.

23 THE COURT: Sure. I would be glad to hear from them.

24 KAREN MIMS: My name is Karen Mims.

25 THE COURT: What did you say your last name was, ma'am?

1 KAREN MIMS: M-I-M-S.

2 THE COURT: Thank you, ma'am. You may proceed.

3 KAREN MIMS: I just want to say that Montrelle, I've
4 known him as to be a very quiet person. As all children,
5 they get into different things as they go through life. He
6 is the father of my grandson, the two-year-old. And he's
7 been a good father from what I can see. And I've seen him
8 grow when he came home -- maintaining a job. And he just
9 was a good person. One that I would want my grandson to
10 call father. And this situation is a bad situation. My
11 heart goes out to family he lost child because I know -- it
12 is. But I'm just asking you, Judge, just to be lenient on
13 him. And I think -- trial and I've seen things and I've had
14 questions, and they were unanswered questions that I could
15 not understand. I just want you to know that he is a good
16 person. He has a good heart. I've never seen him get angry
17 or hot headed. That's a side that I have not seen, that
18 hot-headed side on him ever, and I've known him for a while.
19 My heart goes out to both sides of the family, Montrelle's
20 side as well as the other family side. We just have to
21 leave it in the hands of God.

22 THE COURT: Thank, you ma'am.

23 Yes, ma'am. If you would state your name for the
24 record. (No response.)

25 All right. Ms. Ford, anything further?

1 MS. FORD: Just a moment. No, Your Honor.

2 THE COURT: Sir, is there anything that you'd like to
3 say for the record on your behalf?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: I can't hear you, sir.

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Sir, if would stand for sentencing. On
8 both attempted murder charges, you're sentenced to the State
9 Department of Corrections for a period of 30 years. On the
10 murder charge, you're sentenced to the State Department of
11 corrections for a period of life. The sentences run
12 concurrent with one another. You'll get credit for any time
13 that you served to be calculated and abided by the
14 Department of Corrections. Thank you very much.

15 - - - - -

16 (End of Record)

17

18

19

20

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22

23

24

25

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF REPORTER
COUNTY OF COLLETON)

I, REBECCA H. HILL, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had in the
trial of the captioned case, in the Court of General
Sessions for Charleston County, South Carolina, on the
8th-12th day(s) of January 2018.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

June 18, 2018

Rebecca H. Hill

Rebecca H. Hill
Official Court Reporter

Charleston County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Jefferson, Deandra L.
 TRIALTYPE :
 PANEL ID : 2016GS1002072
 COURTROOM

By DALLAS, ELERK
 DESCRIPTION : State V. Montrell Campbell

Sorted by: Random Nbr
 Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Wall, Savannah M	324	W	F	()	(✓)	()	1
2 Boone, Savard T Sr.	27	B	M	(✓)	(✓)	()	2
3 Young, Joseph R III	350	W	M	11	()	()	(11)
4 Nelson, Shameka L	232	B	F	(✓)	(✓)	()	3
5 Closser, Amy D	62	W	F	(✓)	(✓)	()	4
6 Kays, Christopher D	168	W	M	(✓)	(A1)	()	(A1)
7 Belton, Gloria G	15	B	F	12	()	()	(12)
8 Lavelle, Beatrice V	184	W	F	(✓)	(A2)	()	(A2)
9 Neilson, Lester S	230	W	M	(✓)	(✓)	()	5
10 Miller, Christopher S	216	W	M	(✓)	(✓)	()	6
11 Reynolds, Laura A	263	B	F	(✓)	(A3)	()	(A3)
12 Thomas, Michael H	311	W	M	(✓)	(✓)	()	7
13 Lubold, Nicole M	194	W	F	(✓)	(✓)	()	8
14 Morse, Maegan K	223	W	F	(✓)	(A4)	()	(A4)
15 Rodd, Dondra F	274	B	F	(✓)	(✓)	()	9
16 Negreiros, Llewellyn E	229	W	F	(✓)	(A5)	()	(A5)
17 Johnson, Heather C	160	W	F	(✓)	(✓)	()	10
18 Gadson, Joseph A	114	B	M	(✓)	(✓)	()	11
19 Simmons, Linda G	288	B	F	13	()	()	(13)
20 Starkweather, Robert C	302	W	M	(✓)	(✓)	()	12
21 Ranucci, Vincent J III	257	W	M	(✓)	(A1)	()	A1
22 Stewart, Amy P	304	W	F	(✓)	(✓)	()	ACT 1
23 Bocchino, Rachel T	24	W	F	(✓)	(✓)	()	ACT 2
24 Winters, Harold A II	344	W	M	()	()	()	

Charleston County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Jefferson, Deadra L.

Sorted by: Random Nbr

TRIALTYPE :

PANEL ID : 2016GS1002072

DESCRIPTION : State V. Montrell Campbell

Trial

COURTROOM

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Bunch, Kimberly A	46	W	F	()	()	()	
26 Fox, Mark A	108	W	M	()	()	()	
27 Galus, Janet P	116	W	F	()	()	()	
28 Letteney, Donna L	189	W	F	()	()	()	
29 Cunningham, Kevin P	73	W	M	()	()	()	
30 Bolling, Dorinda D	26	A	F	()	()	()	
31 Nesland, Travis O	234	W	M	()	()	()	
32 Dicken, Jennie R	86	W	F	()	()	()	
33 Ford, Brittany A	107	B	F	()	()	()	
34 Montoya, Sara D	219	W	F	()	()	()	
35 Smiley, Ryan E	294	W	F	()	()	()	
36 Reed, Danny R	259	W	M	()	()	()	
37 Bennerman, Samaria S	17	B	F	()	()	()	
38 Moore, Jean L	220	W	F	()	()	()	
39 Epps, Kathryn B	99	W	F	()	()	()	
40 Eubank, Jessie B	101	W	F	()	()	()	
41 Bramble, George H	35	W	M	()	()	()	
42 Grunstra, Donald H	128	W	M	()	()	()	
43 Aylor, David F	9	W	M	()	()	()	
44 Owens, Holly C	243	W	F	()	()	()	
45 Carey, Loretta B	51	W	F	()	()	()	
46 Johnson, Doris S	158	B	F	()	()	()	
47 Keogh, Denise A	173	W	F	()	()	()	

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

The State, Petitioner,

v.

Montrelle Lamont Campbell, Respondent.

Appellate Case No. 2022-000349

FILED
2024 AUG -2 PM 3:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Charleston County
Deadra L. Jefferson, Circuit Court Judge

Opinion No. 28219
Heard November 15, 2023 – Filed July 17, 2024

REVERSED)

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka, Senior Assistant
Deputy Attorney General Melody Jane Brown, and
Assistant Attorney General William Joseph Maye, all of
Columbia; and Solicitor Scarlett Anne Wilson, of
Charleston, for Petitioner.

Appellate Defender Lara Mary Caudy and Appellate
Defender David Alexander, both of Columbia, for
Respondent.

JUSTICE JAMES: In 2018, Respondent Montrelle Campbell was convicted of one count of murder and two counts of attempted murder. The issues before us concern (1) the trial court's instruction that malice aforethought may be inferred when the deed is done with a deadly weapon; (2) whether, under *State v. King*,¹ the State must prove expressed malice to obtain an attempted murder conviction; and (3) whether the trial court erred in giving an accomplice liability instruction.

The court of appeals reversed Campbell's convictions and remanded for a new trial. Citing our decision in *State v. Burdette*, 427 S.C. 490, 832 S.E.2d 575 (2019), the court of appeals held the trial court's deadly weapon inferred malice instruction was error and held the error was not harmless. *State v. Campbell*, 435 S.C. 528, 535-38, 868 S.E.2d 414, 418-19 (Ct. App. 2021). The court also held our holding in *King* requires proof of expressed malice to sustain an attempted murder conviction. *Id.* at 535, 868 S.E.2d at 418. The court also held the trial court erred in giving an accomplice liability instruction. *Id.* at 538-41, 868 S.E.2d at 419-21.

We reverse the court of appeals and hold (1) the trial court's erroneous instruction that malice may be inferred from the use of a deadly weapon was harmless, in light of the overwhelming evidence of malice in the record; (2) attempted murder can be proven by a showing of either expressed or implied malice, or both; and (3) there was sufficient circumstantial evidence in the record to support the accomplice liability instruction.

I. Background

On Thursday, September 17, 2015, Katrina Brown was at her Charleston apartment in a complex named Gadsden Green with her sister Kerri Brown and friend Tonya Mosely when a woman named Kadeshia arrived around 11:30 p.m. Kadeshia was an old friend of Kerri, and Katrina knew Kadeshia. Campbell, Kadeshia's brother, eventually arrived at the apartment.

Katrina did not know Campbell was Kadeshia's brother and asked him to leave. Campbell left without saying a word. Katrina later walked outside to smoke a cigarette, and Campbell walked up to her and knocked her to the ground. Campbell stood over Katrina and then walked to the middle of the street while Kerri and Tonya helped Katrina up. The women then "had a few words" with Campbell, but when Katrina saw Campbell reaching for something inside a car, the women went back to

¹ 422 S.C. 47, 56, 810 S.E.2d 18, 22 (2017).

Katrina's apartment.

Katrina hosted a party at her apartment the next night. The party ended on Saturday morning around 6:30 a.m.—before sunrise—when someone fired fourteen rifle rounds into the apartment. At the time, approximately twelve people were present. Kerri was struck in the head, Katrina's cousin Tierra Brown in the arm, and Katrina's friend Antwan Frost in the chest. Kerri and Tierra survived, but Frost died. Police asked Katrina if she knew of anyone who wanted to harm her. Katrina told police she did not have a conflict with anyone in the neighborhood, but she told the police of her encounter with Campbell.

Police obtained security camera footage from multiple locations showing the area at the time of the shooting. Much of the footage was played for the jury. Detective Eric Tuttle was the lead detective and identified a gold Buick Century parking on Nunan Street in the footage. He identified Trivell Richardson and Andrew "Ace" Rivers as the individuals exiting the gold Buick, walking down Nunan Street, and turning left on President Street toward Gadsden Green. The footage shows Richardson in a white tee shirt and Rivers in black clothing walking in the direction of Gadsden Green. Neither was carrying a long gun. Within a few minutes, the footage shows Richardson walking back to the gold car, still not carrying a long gun. Moments later, the footage shows a third individual, identified by Richardson as Campbell, wearing a blue shirt, a t-shirt on his head, and carrying an AR-15 rifle. This individual was walking the same route Richardson took back to the gold Buick.

Detective Tuttle testified Richardson's and Campbell's cellphone records showed calls between Campbell's and Richardson's cellphones at 6:13 a.m. and 6:15 a.m., minutes prior to the shooting, in addition to numerous calls between them on the days before and after the shooting. Fourteen rounds of high-caliber rifle ammunition were fired into the apartment, and police found fourteen rifle shell casings in the grass outside Katrina's apartment. Thirteen casings were of one brand and one was of another brand. Police also recovered two cellphones on the ground next to the shell casings. No guns were recovered, no ballistics evidence was presented, and no information was extracted from the cellphones.

The investigation soon led police to Tomeka President, Campbell's relatively new girlfriend. President testified she resided in an apartment on Austin Avenue in North Charleston at the time of the shooting and that she and Campbell went to bed around 11:45 p.m., roughly seven hours before the shooting. President testified Campbell was gone when she woke up early the next morning, her gold Buick Century was not parked where she had left it, and her car keys were missing. She

called a taxi so she could get to work. When she walked back out later when the taxi arrived, she saw her car parked in a different spot from where she had parked it. The car was unlocked and the keys were on the front seat. President testified the gold Buick Century in the video footage and still photos looked like hers.

Campbell was charged with the crimes about two weeks after the shooting. Richardson, who was also charged, testified during Campbell's trial that he left a North Charleston strip club around 4:00 a.m. the morning of the shooting. A friend dropped Richardson off near his home on Austin Avenue, and Richardson was walking the remaining distance when he encountered Campbell. Campbell asked Richardson if he would go with him to buy cigarettes, and they walked to a gold Buick Richardson recognized as Tomeka President's. As Campbell drove, Richardson had his head down rolling a joint, so he did not notice at first that Campbell had gotten onto I-26 toward Charleston instead of going to a nearby Kangaroo convenience store. Richardson testified he asked Campbell where he was going and that Campbell responded, "[J]ust chill. It'll be all right." Richardson testified Campbell parked President's car in a vacant lot at the corner of President Street and Kennedy Street, about one block away from Katrina's apartment. Richardson testified Campbell exited the vehicle and asked him to park the Buick on Nunan Street—about two blocks further away from Katrina's apartment—and wait. Campbell began walking in the direction of Katrina's apartment building, and Richardson drove toward Nunan Street in the Buick. He saw Ace Rivers walking on the street and asked him to ride with him. Richardson parked on Nunan and began walking with Rivers toward President Street. He testified he called Campbell so he could find him and give him the car keys so he—Richardson—could go home. As Richardson and Rivers were walking, Richardson heard at least five gunshots. Richardson testified he ran back to the Buick, and Rivers ran in the opposite direction. While Richardson was trying to crank the car, Campbell got in with a rifle and said "go." According to Richardson, the rifle "was smoking." Richardson testified he drove back to North Charleston to where he first encountered Campbell, got out of the car, and walked home. Richardson identified himself in video footage and still photos as the man in the white t-shirt wearing a Dallas Cowboys cap, Rivers as the man in dark clothing, and Campbell as the man in a blue shirt carrying a rifle. He also identified himself in still photos as the man in the white shirt parking the Buick on Nunan Street.

Campbell did not testify but presented testimony from Peggy Blake, who lived across the street from Katrina at the time of the shooting. Blake's testimony is critical to the accomplice liability issue. Blake testified she heard the gunshots, looked out a window, and saw a black man directly across the street in front of Katrina's

building wearing a gray hoodie and holding a "sporty rifle." She testified the man got into a lime green car and drove away. Detective Tuttle testified he did not see a lime green car in any of the camera footage. The video footage confirmed the gold Buick was parked several streets away, not in front of Katrina's apartment building.

Over Campbell's objections, the trial court instructed the jury that malice may be inferred from the use of a deadly weapon and instructed the jury on accomplice liability. The trial court also denied Campbell's request to charge the jury that attempted murder required proof of expressed malice.

II. Discussion

"'Murder' is the killing of any person with malice aforethought, either express or implied." S.C. Code Ann. §16-3-10 (2015). "A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder." S.C. Code Ann. §16-3-29 (2015). Our and the court of appeals' decisions refer to "implied malice" and "inferred malice" interchangeably. *See, e.g., Burdette*, 427 S.C. at 498, 832 S.E.2d at 580 (reviewing jury instruction that malice aforethought may be expressed or inferred); *State v. Taylor*, 434 S.C. 365, 367, 862 S.E.2d 924, 925 (Ct. App. 2021) (using both "implied" and "inferred").

The trial court correctly defined malice for the jury:

Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent.

The trial court correctly instructed the jury:

Malice aforethought may be expressed or inferred. These terms express[ed] or infer[red] do not mean different kinds of malice but merely the manner in which malice may be shown to exist Malice may be inferred from conduct showing a total disregard for human life.

However, the trial court included the following sentence after this instruction: "Inferred malice may also arise when the deed is done with a deadly weapon." At the time of Campbell's 2018 trial, that sentence was a proper instruction. However, in *Burdette*, we held such an instruction is an "improper court-sponsored emphasis of a fact in evidence" and "[r]egardless of the evidence presented at trial, trial courts shall not instruct a jury that the element of malice may be inferred when the deed is

done with a deadly weapon." 427 S.C. at 503-05, 832 S.E.2d at 582-83.

A. Malice Aforethought and Section 16-3-29

Citing *King*, the court of appeals held proof of expressed malice is required to sustain an attempted murder conviction. *Campbell*, 435 S.C at 535-36, 868 S.E.2d at 418. Citing the plain language of section 16-3-29, the State argues proof of either expressed or implied malice will sustain an attempted murder conviction. We agree with the State. Section 16-3-29 provides that "[a] person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder." We cannot write the specific reference to implied malice out of the statute. As the trial court instructed the jury, expressed malice and implied malice do not mean different kinds of malice, but rather the manner in which malice may be shown to exist. It is settled law that whether malice is implied or expressed, "[t]he term, 'malice' conveys the meaning of hatred, ill-will, or hostility toward another [M]alice has been frequently, substantially so defined as consisting of the intentional doing of a wrongful act toward another without legal justification or excuse." *State v. Leach*, 282 S.C. 178, 180, 318 S.E.2d 267, 268 (1984) (quoting *State v. Heyward*, 197 S.C. 371, 15 S.E.2d 669, 671 (1941)). The trial court's malice aforethought instruction was largely drawn from this language and was a correct statement of the law. Simply put, the "malice aforethought" specified in section 16-3-29 can be proven by direct evidence, circumstantial evidence, or by a combination of the two.

B. Inferred Malice and *Burdette*

As noted, the trial court instructed the jury that "[i]nferred malice may also arise when the deed is done with a deadly weapon." In *State v. Belcher*, we held this instruction is error if evidence is presented that would "reduce, mitigate, excuse or justify the homicide." 385 S.C. 597, 611, 685 S.E.2d 802, 809 (2009). There was no such evidence in this case, so the instruction was proper under *Belcher*. However, while Campbell's appeal was pending in the court of appeals, we held in *Burdette* that the trial court must never instruct the jury that malice can be inferred from the use of a deadly weapon. 427 S.C. at 504-05, 832 S.E.2d at 583. *Burdette* applies here because Campbell's appeal was pending when *Burdette* was decided and because Campbell preserved the issue. *See id.* ("Our ruling today is effective in this case and in those cases which are pending on direct review or are not yet final, so long as the issue is preserved."). The State concedes *Burdette* renders the instruction erroneous, but the State argues the error was harmless in light of the overwhelming evidence of malice in the record. We agree with the State.

Erroneous jury instructions are subject to a harmless error analysis. "When considering whether an error with respect to a jury instruction was harmless, we must 'determine beyond a reasonable doubt that the error complained of did not contribute to the verdict.'" *State v. Middleton*, 407 S.C. 312, 317, 755 S.E.2d 432, 435 (2014) (quoting *State v. Kerr*, 330 S.C. 132, 144-45, 498 S.E.2d 212, 218 (Ct. App. 1998)). "In making a harmless error analysis, our inquiry is not what the verdict would have been had the jury been given the correct charge, but whether the erroneous charge contributed to the verdict rendered." *Id.* (quoting *Kerr*, 330 S.C. at 145, 498 S.E.2d at 218). It is a fact-intensive inquiry. *Id.* (citing *State v. Jeffries*, 316 S.C. 13, 22, 446 S.E.2d 427, 432 (1994) ("[W]e must review the facts the jury actually heard and weigh those facts against the erroneous jury charge to determine what effect, if any, it had on the verdict.")).

The court of appeals compared the evidence of malice in this case with that in *State v. Brooks*² and concluded "the evidence of express malice is significantly less than the amount in *Brooks*." *Campbell*, 435 S.C. at 538, 868 S.E.2d at 419. We note the court of appeals chose to compare only the evidence of expressed malice in the two cases; in any event, we conclude that even if *Brooks* is an appropriate measuring stick for overwhelming evidence of malice, the evidence of malice in the instant case rivals or surpasses that in *Brooks*. In *Brooks*, the defendant fired a pistol at two men in the parking lot of a nightclub. 428 S.C. at 624, 837 S.E.2d at 239. One man was killed, and the defendant was tried for murder. *Id.* As was the case here, the trial court instructed the jury that malice may be inferred if the deed is done with a deadly weapon. *Id.* And as here, the charge was error in light of *Burdette*. *Id.* at 626, 837 S.E.2d at 240. In *Brooks*, the court of appeals determined that "aside from any inference of malice the jury may have drawn from Appellant's use of a deadly weapon, the evidence of Appellant's other conduct satisfied the definition of malice." *Id.* at 630, 837 S.E.2d at 242. Specifically, the *Brooks* court noted that "[a]side from his mere use of a deadly weapon, [the defendant's] reckless behavior began with a hail of gunfire" at the two men. *Id.* at 631, 837 S.E.2d at 242. Other indicia of malice noted by the *Brooks* court were the defendant's pacing back and forth in the parking lot, taunting his victim, ignoring his victim putting his hands up, ignoring his friend's plea that he not shoot, displaying his guns, and—after firing—running to a nearby vehicle and fleeing the scene. *Id.* at 630-31, 837 S.E.2d at 242-43. The court also noted the defendant lied to police about his whereabouts and lied about cutting his hair after the murder. *Id.* at 631-32, 837 S.E.2d at 243. Here, the court of appeals omitted any reference to *Campbell* stealing Tomeka President's vehicle to facilitate his attack and gave short shrift to the indiscriminate firing of a rifle

² 428 S.C. 618, 837 S.E.2d 236 (Ct. App. 2019).

fourteen times into an apartment where a party was going on, holding only that "Campbell's previous altercation with Katrina and Campbell driving across town is not a total disregard for human life like the defendant in *Brooks* displayed." *Campbell*, 435 S.C. at 538, 868 S.E.2d at 419.

Apart from the use of a deadly weapon, there is overwhelming evidence of malice in the record. We hold the erroneous inferred malice instruction did not contribute to the verdict. We therefore reverse the court of appeals on this issue.

C. Accomplice Liability

Over Campbell's objection, the trial court instructed the jury:

[I]f a crime is committed by two or more people who are acting together and committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the act done in carrying out the common plan and purpose If two or more people are acting together . . . assisting each other and committing the offense, the act of one is the act of all. Or it is sometimes said, the hand of one is the hand of all.

"If there is any evidence to warrant a jury instruction, a trial court must, upon request, give the instruction." *State v. Smith*, 391 S.C. 408, 412, 706 S.E.2d 12, 14 (2011) (citing *State v. Shuler*, 344 S.C. 604, 632, 545 S.E.2d 805, 819 (2001)). Accomplice liability can be proven by circumstantial evidence. "Under an accomplice liability theory, 'a person must personally commit the crime or be present at the scene of the crime and intentionally, or through a common design, aid, abet, or assist in the commission of that crime through some overt act.'" *State v. Condrey*, 349 S.C. 184, 194, 562 S.E.2d 320, 325 (Ct. App. 2002) (quoting *State v. Langley*, 334 S.C. 643, 648-49, 515 S.E.2d 98, 101 (1999)). "In order to establish the parties agreed to achieve an illegal purpose, thereby establishing presence by pre-arrangement, the State need not prove a formal expressed agreement, *but rather can prove the same by circumstantial evidence and the conduct of the parties.*" *State v. Gibson*, 390 S.C. 347, 354, 701 S.E.2d 766, 770 (Ct. App. 2010) (emphasis added) (citing *Condrey*, 349 S.C. at 193, 562 S.E.2d at 324).

The court of appeals held that based on the evidence presented, only Richardson could have been Campbell's accomplice, citing testimony that Richardson rode with Campbell from North Charleston to a point near Katrina's apartment, parked the car for Campbell, and drove Campbell back to North

Charleston. *Campbell*, 435 S.C. at 540, 868 S.E.2d at 421. However, the court of appeals held there must also be evidence Richardson was the shooter for the accomplice liability instruction to be proper as to Campbell. *Id.* at 541, 868 S.E.2d at 421. The court concluded there was no evidence Richardson was a shooter, noting video footage showed Richardson without a rifle at the time of the shooting, wearing a white t-shirt and ball cap, not a gray hoodie, and driving a gold Buick blocks from the scene, not a lime green car parked at the scene. *Id.* We agree with the court of appeals that Richardson's involvement, whatever it may have been, did not warrant an accomplice liability instruction as to Campbell, because there was no evidence Richardson was a shooter.

We turn to the man Peggy Blake saw immediately after the shooting in front of Katrina's apartment building holding "a sporty rifle" and leaving the scene in a lime green car. The court of appeals held that while there was evidence the man seen by Blake was the shooter, there was no evidence Campbell and the man seen by Blake were accomplices. *Id.* at 540-41, 868 S.E.2d at 420-21. We agree with the court of appeals there is sufficient evidence in the record to allow the jury to conclude that man was a shooter. Indeed, Campbell undoubtedly elicited Blake's testimony in the hope her testimony would lead the jury to completely discount Campbell's involvement and conclude the man in the lime green car was the *sole* shooter. However, we cannot ignore Richardson's identification of Campbell as the man seen in the video footage wearing a blue shirt, carrying an AR-15 rifle, and walking the same path as Richardson from the direction of Katrina's apartment back to the gold Buick parked on Nunan Street. That footage was captured within moments of the time his own witness, Blake, saw the other man outside Katrina's apartment carrying a rifle and getting into a lime green car. While Campbell argued at trial Richardson made up his story to escape criminal liability, Richardson's account—right up to his testimony of the proverbial "smoking gun"—allowed the jury to conclude Campbell was also a shooter.

Keeping in mind that accomplice liability can be proven by circumstantial evidence, we reach the critical question—whether there is sufficient circumstantial evidence in the record to allow the jury to reasonably conclude Campbell and the man seen by Blake were accomplices. The State's argument on this point is compelling. The State argues "the remarkable fact that two different individuals [one of whom was Campbell] were seen fleeing the same crime while carrying rifles, at the precise moment following a massive shooting committed by rifle fire, is undeniable circumstantial evidence" of two people acting as accomplices, and "[t]o suggest the jury could not infer such a scenario ... is to disregard the maxim that 'it is always for the jury to determine the facts and the inferences that are to be drawn

from those facts." See *Burdette*, 427 S.C. at 502, 832 S.E.2d at 582 (quoting *State v. Cheeks*, 401 S.C. 322, 328, 737 S.E.2d 480, 484 (2013)). We agree. We simply cannot ignore evidence of the arrival of two men outside the same apartment building at the same moment before dawn, both armed with rifles and firing into the same apartment. Had it not been for Blake's testimony, an accomplice liability instruction could well have been error. However, considering the evidence as a whole, the instruction was proper.

The court of appeals found that because there was evidence that Campbell was the shooter, the question—as in *State v. Washington*³—is whether the record contains "equivocal" evidence that the man seen by Blake was Campbell's accomplice. *Campbell*, 435 S.C. at 540, 868 S.E.2d at 420-21. In *Washington*, we held an accomplice liability instruction was improper under the facts of that particular case. 431 S.C. at 403, 410, 848 S.E.2d at 784, 787. We noted there was evidence the defendant was the shooter and that one Larry Kinloch was the only person who could have been his accomplice; however, there was no evidence Kinloch was armed. *Id.* at 409-11, 848 S.E.2d at 787-88. Therefore, we held the accomplice liability instruction was improper as to the defendant. *Id.* Our holding in *Washington*, as it must in every case in which accomplice liability is an issue, depended upon a review of the evidence presented. *Washington* does not create a template all other fact patterns must match in order for accomplice liability to be properly charged to the jury.

We hold the evidence in the record allowed the jury to reasonably conclude the man Blake saw holding a rifle and getting into the lime green car at the scene of the shooting at the exact time of the shooting was Campbell's accomplice. See *Gibson*, 390 S.C. at 354, 701 S.E.2d at 770 ("In order to establish the parties agreed to achieve an illegal purpose, thereby establishing presence by pre-arrangement, the State need not prove a formal expressed agreement, but rather can prove the same by circumstantial evidence and the conduct of the parties."). Therefore, we reverse the court of appeals and hold the trial court did not err in instructing the jury on accomplice liability.

III. Conclusion

We reverse the court of appeals. The erroneous instruction that malice could be inferred from the use of a deadly weapon was harmless in light of the overwhelming evidence of malice separate and apart from the mere use of a deadly

³ 431 S.C. 394, 406, 848 S.E.2d 779, 785 (2020).

weapon. We hold proof of either expressed malice or implied malice will sustain an attempted murder conviction. Malice aforethought can be proven by direct evidence, circumstantial evidence, or some combination of the two. The trial court properly instructed the jury on accomplice liability because there is sufficient circumstantial evidence in the record that the man Peggy Blake saw holding a rifle and getting into the lime green car was both a shooter and Campbell's accomplice.

REVERSED.

BEATTY, C.J., KITTREDGE, FEW, JJ., and Acting Justice Letitia H. Verdin, concur.

FILED
2024 AUG -2 PM 3:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA)

County of _____)

Montrelle Campbell #276819)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

2024-CP-10-4764
IN THE COURT OF COMMON PLEASFILED
2024 SEP 23 PM 12:21
JULIE J. HARRIS, CLERK OF COURT

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention McCormick Correctional Institution
2. Name and location of Court which imposed sentence Charleston County Circuit Court
3. Name(s) of co-defendant(s) (if any) Trivelle Richardson
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016-GS-10-2070, Murder
 - (b) 2016-GS-10-2071, Attempted Murder

(c) 2016-CRS-10-2072, Attempted Murder

5. The date upon which sentence was imposed and the terms of the sentence:

(a) January 12th, 2018 Attempted Murder: 30 years

(b) January 12th, 2018 Attempted Murder: 30 years

(c) January 12th, 2018 Murder: Life

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ☒ _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. Circuit Court/Court of Appeals

ii. South Carolina Supreme Court

iii. _____

(b) the result in each such Court to which you appealed:

i. Reversed and Remanded

ii. Reversed and sentence Affirmed.

iii. _____

(c) the date of each such result:

i. Reversed and Remanded, December 22nd, 2021

ii. Reversed, Affirming convictions, July 17th, 2024

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) I'm innocent, I did commit the crime held against me,
- (b) A Jury instruction that could mislead a Juror, should not be Read.
- (c) Two witnesses with two coerced stories was allowed to take stand under oath.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) I was never identified as the shooter during Trial, and I'm not the shooter or Accomplice
- (b) in State v. Burdette; no Judge shall ever charge that Jury instruction.
- (c) Both Trivell and Tameka President told lies under oath.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

11. A. I was never identified either at the crime scene or seen by any cameras entering or leaving from the Housing apartments where it happened. It was not clear who was that shooter, that was seen the night of the incident by Peggy Blake or who was his accomplices. I am not.

C. Trivelle was a known liar to law enforcement, who came up with this new story just weeks away from me receiving a Bond Hearing. His story was full of lies. The state withheld evidence of camera footage on the corner of president and Dunan streets, that will prove that Trivell was lying about a smoking gun. I saw this video footage.

Tomeka president took the stand and lied about having to be to work an hour earlier than she was supposed to in order for the state case to look good.

I think ms Mary Ford should be found ineffective assistance of counsel for not raising the issue of the video footage that was left out of evidence and not pointing out Tomeka's lies.

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes

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

(a) which grounds have been presented:

- i. A Jury instruction calculated to be mislead or could mislead a Juror
it could not be read.
- ii. _____
- iii. _____

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

- i. State v. Burdette
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Mary Ford was my Public Defender during Trial and sentencing
Charleston County Public Defender: 101 Meeting Street, Suite 5; Charleston, SC 29401
 ii. Lara Caudy was my appointed appellate defender;
S.C. Commission on Indigent Defense; Division of Appellate Defense;
 iii. P.O. Box 11589; Columbia, SC 29211-1589

 (b) the proceedings at which each such attorney represented you:
 i. Mary Ford Represented me during Trial and
Sentencing.
 ii. Lara Caudy Represented me on Direct appeal.

 iii. _____

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

I am seeking an vacation of my sentence or at least
A new trial, which will be a fair trial.

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

I have a 24 month Federal sentence due to the
conviction of my state trial for violation of my supervised release.

STATE OF SOUTH CAROLINA)

VERIFICATION

County of _____)

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this _____
 day of _____, _____.

Notary Public (L.S.)

My Commission Expires: _____

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

I, Montrelle Campbell, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Montrelle Campbell
Applicant

SWORN or affirmed to and subscribed before me this
_____ day of _____, _____.

Notary Public

My Commission Expires: _____

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) IN THE NINTH JUDICIAL CIRCUIT

Montrelle Campbell, #276819,

CASE NO: 2024-CP-10-04764

Applicant,

**RETURN AND PARTIAL
MOTION TO DISMISS**

v.

State of South Carolina,

(Counsel already appointed)

Respondent.

2025 JUN 20 PM 3:18
CLERK OF COURT
JUDICIAL CIRCUIT 9

In response to the application for post-conviction relief (PCR) filed by Montrelle Campbell (Applicant) on September 23, 2024, Respondent submits this return and partial motion to dismiss:¹

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In April 2016, the Charleston County Grand Jury indicated Applicant for murder (2016-GS-10-02070) and two counts of attempted murder (-02071, -02072). On January 8-12, 2018, Applicant proceeded to a jury trial before the Honorable Deadra L. Jefferson. Mary Ford, Esquire, represented Applicant. Assistant Solicitors Chad Simpson and Alex Ginsberg prosecuted the case. The jury convicted Applicant as indicted, and Judge Jefferson sentenced him to concurrent terms of life for murder and thirty years for each attempted murder charge.

Applicant filed a direct appeal, which was perfected by Appellate Defender Lara M. Caudy. On appeal, Applicant argued the trial court erred in instructing the jury on (1) inferred malice as

¹ This return was due to be filed within ninety days of service. See Rule 12(a), SCRCP (“[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within . . . 90 days if it arises out of a trial.”). Having now completed the return and in light of no demonstrable prejudice to Applicant due to any delay, Respondent respectfully asks this Court to accept this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the court may fix the time in which the State must respond); Guinyard v. State, 260 S.C. 220, 195 S.E.2D 392 (1973) (holding the statutory timeframe for filing a return is discretionary, not mandatory, and the circuit court may extend the time for filing).

when attempted murder is a specific intent crime and (2) accomplice liability when no evidence supported the charge. The Court of Appeals agreed with Applicant and issued an opinion reversing and remanding for a new trial. State v. Campbell, 435 S.C. 528, 868 S.E.2d 414 (Ct. App. 2021), overruled by State v. Campbell, 443 S.C. 182, 904 S.E.2d 441 (2024). Respondent filed a petition for rehearing, which was denied. Respondent then filed a petition for a writ of certiorari in the South Carolina Supreme Court, which was granted. The Supreme Court issued an opinion reversing the Court of Appeals and affirming the conviction. In doing so, the Court held (1) the inferred malice charge was improper but any error was harmless and (2) evidence supported a jury charge on accomplice liability. The remittitur was sent August 2, 2024.

CURRENT APPLICATION

On September 23, 2024, Applicant timely commenced this PCR action alleging:

- a. Actual innocence: I was never identified as the shooter during trial, and I'm not the shooter. I was never identified either at the crime scene or seen by any cameras entering or leaving from the housing apartments where it happened. It was not clear who was that shooter that was seen the night of the incident by Peggy Blake or who was his accomplices. I am not.;
- b. A jury instruction that could mislead a juror should not be read. See State v. Burdette; no judge shall never charge that jury instruction.
- c. Counsel was ineffective for failing to properly impeach Trivell and Tameka President: "Trivell was a known liar to law enforcement, who came up with a new story just weeks away from me receiving a bond hearing. His story was full of lies." "Tomeka President took the stand and lied about having to be to work an hour earlier than she was supposed to in order for the State case to look good."
- d. Counsel was ineffective for failing to raise the issue of the video footage that was left out of evidence: "The State withheld evidence of camera footage on the corner of President and Nunan Streets, that will prove that Trivell was lying about a smoking gun. I saw this video footage."

As relief, Applicant requests “vacation of my sentence or at least a new trial that will be a fair trial. For my case to be dismissed or reversed and remanded to trial court.” Attached to this return and incorporated by reference are the Charleston County Clerk of Court records of the underlying convictions, Applicant’s records from the Department of Corrections, the records from Applicant’s direct appeal, and the trial transcript. Respondent reserves the right to amend this return upon receipt of any additional relevant materials.

PARTIAL MOTION TO DISMISS

Respondent moves to summarily dismiss Applicant’s claims of actual innocence and trial court error because no genuine issue of material fact necessitates an evidentiary hearing on these claims. See S. Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief). Specifically, these claims are not cognizable PCR claims. Further, Applicant’s claim related to trial court error was addressed by the appellate courts and is thus barred by res judicata.

Respondent moves to dismiss allegation (a), as set forth above. Effectively, Applicant is asserting actual innocence. This is not a cognizable PCR claim. See S.C. Code Ann. § 17-27-(A)(6) (“[T]his section shall not be construed to permit collateral attack on the ground the evidence was insufficient to support a conviction.”). Thus, Respondent moves to summarily dismiss this claim.

Respondent moves to dismiss allegation (b), as set forth above. Applicant alleges trial court erred in charging the jury it could infer malice from the use of a deadly weapon. This is a direct appeal issue that is not appropriate for PCR. See Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974) (providing a PCR application is not a substitute for a direct appeal); Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (providing a PCR application cannot assert any issues that could have been raised at trial or on appeal). Further—and critically—this issue was

raised on direct appeal, and the South Carolina Supreme Court found that although the trial court erred in giving the charge, the error was harmless due to overwhelming evidence of malice. This issue has thus already been litigated and is barred by res judicata. See Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) (“Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties.”). Thus, Respondent moves to dismiss this claim.

INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

Respondent requests an evidentiary hearing on Applicant’s claims of ineffective assistance of trial counsel. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice because of counsel’s deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Here, the record likely does not refute or disprove Applicant’s claims; therefore, Respondent requests an evidentiary hearing. See Sharper, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record”).

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Respondent requests Applicant specify any claims he intends to raise in advance of the

hearing. Respondent further requests any exhibits and materials used to produce potential expert witness testimony be sent to Respondent in advance of the hearing. Respondent likewise requests in advance of the hearing the names of any witnesses Applicant intends to call and copies of any evidence Applicant intends to introduce. Respondent reserves the right to request a continuance and/or oppose witness testimony and exhibits that are withheld until the last minute.

ALL OTHER CLAIMS

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

CONCLUSION

WHEREFORE, Respondent requests an evidentiary hearing on Applicant's claims of ineffective assistance of counsel.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

D. RUSSELL BARLOW, III
Senior Assistant Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By:



For Danielle Dixon

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
803-734-3737

June 17, 2025

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Montrelle Campbell, #276819,

Applicant,

v.

State of South Carolina,

Respondent,

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICAL CIRCUIT

CASE NO. 2024-CP-10-04764

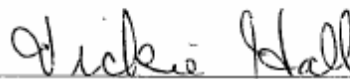
Certificate of Service by Mail

2025 JUN 20 PM 3:14R

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Return and Partial Motion to Dismiss in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Christopher L. Murphy, Esquire
Murphy Law Offices, LLC
146 Fairchild Street, Suite 130
Charleston, SC 29492

DATED this 17th day of June, 2025.



Vickie Hall, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 9
2 COUNTY OF CHARLESTON)
3)
4 MONTRELLE CAMPBELL) TRANSCRIPT OF RECORD
5) CASE NO: 2024-CP-10-04764
6 PLAINTIFF)
7 -VS-) January 21, 2026
8 STATE OF SOUTH CAROLINA)
9 DEFENDANT)
10 B E F O R E :
11 HONORABLE JOCELYN NEWMAN, JUDGE
12 A P P E A R A N C E S :
13 CHRISTOPHER MURPHY, ESQUIRE
14 ATTORNEY FOR THE PLAINTIFF
15
16 SYDNEY WILLINGHAM, ESQUIRE
17 KYLEE KANEALEY, ESQUIRE
18 ATTORNEY'S FOR THE DEFENDANT
19 TRANSCRIBED BY:
20 Sandra Allen
21 LEGAL EAGLE
22 Post Office Box 5682, Greenville, South Carolina 29606
23 864-467-1373 depos@legaleagleinc.com
24
25

1

I N D E X

2

WITNESSESPAGE

3

PROCEEDINGS

3

4

DIRECT EXAMINATION OF MONTRELLE CAMPBELL

5

5

DIRECT OF MARY FORD

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6

CROSS OF MARY FORD

17

7

CERTIFICATE OF TRANSCRIBER

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E X H I B I T S

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NO.DESCRIPTIONID.EV.

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NONE

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1 MS. WILLINGHAM: May it please the court?

2 **THE COURT:** Yes, ma'am.

3 MS. WILLINGHAM: Sydney Willingham on behalf of the
4 State. This is the post-conviction relief matter of Montrelle
5 Campbell versus the State. Docket number 2024-CP-10-4764 out
6 of Charleston County. The Applicant is presently confined in
7 the South Carolina Department of Corrections. During its
8 April 2016 term the Charleston Grand Jury indicted Applicant
9 for murder. That's indictment 2016-GS-10-2070 and two counts
10 of attempted murder. Those indictments in 2071 and 2072. And
11 then possession of a weapon by a violent felon and that ends
12 in 3023. The Applicant was represented by Mary Ford at this
13 trial. The case was prosecuted by Assistant Solicitor's Chad
14 Simpson and Alex Ginsberg of the Solicitor's Office. The
15 Applicant proceeded to a jury trial before the Honorable
16 Diedra Jefferson on January 8 through 12th of 2018. And he was
17 found guilty as indicted on all of the charges. Judge
18 Jefferson sentenced the Applicant to life for murder and 30
19 years for each attempted murder charge. All to be served
20 concurrently. He then filed a notice of appeal and was
21 represented by appellant defender Laurie Cauldy. On appeal
22 the Applicant argued that the trial court erred in instructing
23 the jury on (inaudible) malice as when attempted murder is a
24 specific intent crime and also that accomplice liability when
25 there is no evidence supporting the charge. The Court of

1 Appeals agreed with the Applicant and issued an opinion
2 reversing remanding for a new trial. The Respondent then
3 filed a petition for re-hearing which was denied and then
4 petition for writ assert to the Supreme Court which was
5 granted. The Supreme Court issued an opinion reversing the
6 Court of Appeals and affirming the conviction. In doing so,
7 the court held then (inaudible) charge was improper, but any
8 error was harmless and the evidence supported a jury charge on
9 accomplice liability. The remitter was sent on August 2,
10 2024. And then on September 23rd, 2024, the Applicant filed
11 this PCR action. On December 5th of 2024, Mr. Christopher
12 Murphy was appointed to represent the Applicant. And on
13 August 15th, 2025, an order granting the State's partial motion
14 to dismiss was filed dismissing Applicant's allegations of
15 actual innocence and trial court error. And at this time I'll
16 turn it over to Mr. Murphy to address the allegations in which
17 he intends to move forward on today.

18 **THE COURT: Mr. Murphy?**

19 MR. MURPHY: Thank you, Your Honor. May it please
20 the court. We are going to move forward on the issues, first
21 issue that there was a failure to impeach the State witness
22 Mr. Travell Richarson who was one of the co-defendants in this
23 case. The second issue is a failure to excuse a juror number
24 232 who had a relationship or was related by blood to one of
25 the witnesses in this case. And then also improper closing

1 arguments, failure to object. And those objections we would
2 rest on the record. Specifically, it's page 650. Page 675
3 and page 678 as inflammatory arguments, improper bolstering,
4 and improper appeal to a jurors emotions. We would call Mr.
5 Campbell to the stand as our first witness.

6 **THE COURT: Come on forward, Mr. Campbell. Mr.**
7 **Murphy, just to be clear this part about video footage.**

8 **MR. MURPHY: We're not raising that ---**

9 **THE COURT: Not going forward on that one, okay.**

10 **MR. MONTRELLE CAMPBELL SWORN IN AND TESTIFIES AS FOLLOWS:**

11 **CLERK: Please state your full name into the**
12 **microphone. Spell your last name for the court record.**

13 **MR. CAMPBELL: Montrelle Lamont Campbell. C-a-m-p-**
14 **b-e-l-l.**

15 **DIRECT EXAMINTION BY MR. MURPHY:**

16 **Q. All right. Mr. Campbell, you went to trial way back**
17 **in 2018 for these charges, is that correct?**

18 **A. Yes, sir.**

19 **Q. And you were represented by Ms. Mary Ford?**

20 **A. Yes.**

21 **Q. And how many times did you meet with Ms. Ford before**
22 **your trial?**

23 **A. I can't recall.**

24 **Q. Do you recall if the State offered you any type of**
25 **plea deal or negotiations?**

1 A. No.

2 Q. Were you interested in any plea deal or
3 negotiations?

4 A. No, sir.

5 Q. All right. So really the trial was your only option
6 going forward, right?

7 A. Yes, sir.

8 Q. All right. Now, there were a couple of key
9 witnesses in your trial. One was Travell Richardson; do you
10 know him?

11 A. Yes.

12 Q. And how do you know him?

13 A. He was my barber.

14 Q. Your what?

15 A. Barber.

16 Q. Barber, okay. And did you -- outside of cutting
17 your hair did you have any type of relationship? Were you
18 friends with him?

19 A. Me and his older brother was kind of close.

20 Q. Now, the first allegation that were talking about
21 that you allege is that your attorney failed to improperly
22 impeach Mr. Richardson.

23 A. Yes.

24 Q. And so, the key testimony, what was the testimony
25 that Mr. Richardson gave that really hurt your case? And if I

1 might I think he said that the gun was smoking?

2 A. Yeah, that was one thing.

3 Q. Okay.

4 A. He told -- he was the only person to identify me as
5 being the person in the still images and photographs in the
6 area around the time that shots were being fired.

7 Q. Okay. So in your case nobody actually saw you fire
8 the gun?

9 A. No, sir.

10 Q. And there were some images and Mr. Richardson said
11 that was you at the time, right?

12 A. Yes.

13 Q. And I think he also testified when you came back to
14 the car he saw a gun that was smoking?

15 A. Yes.

16 Q. Okay. And so, you wanted to impeach his credibility
17 and say the guys lying because he had a reason to lie, right?

18 A. Yes.

19 Q. And so specifically what do you believe your
20 attorney should have done to impeach him? What should she
21 have asked him about?

22 A. His prior convictions of lying to the law - law
23 enforcement.

24 Q. All right. So if he lied to the law in the past
25 he's probably lying right now, is that your argument?

1 A. Yeah and his past convictions for petite larceny
2 that fell within the 10-year timeframe.

3 Q. Okay. And what else did she not ask him about? I
4 think you raised some inconsistent statements that he gave to
5 the police?

6 A. Oh yeah he had some prior inconsistent statements.

7 Q. And that would have been when he was interviewed and
8 gave statements for when he was first arrested, correct?

9 A. Yes.

10 Q. And then if I understand he changed his testimony at
11 trial?

12 A. Yes. He changed his statement like 4 times. And
13 then at trial he said something totally different from each
14 one. Another made up one.

15 Q. And you're saying your attorney did not affectively
16 point out these inconsistencies?

17 A. Yes, sir.

18 Q. Now, there was also an allegation that you said that
19 he was not a Dallas Cowboy fan?

20 A. Right.

21 Q. And why is that relevant?

22 A. Because he was lying to (inaudible) at the time.

23 Q. And so I think the testimony that you raise that he
24 was wearing a Dallas Cowboy hat at the time?

25 A. Right.

1 Q. And so what you're saying is that that would be
2 another instance of him being not truthful?

3 A. Yes, sir.

4 Q. And if I understand you're saying your attorney
5 should have brought these untruths out at trial?

6 A. Yes, sir.

7 Q. And what would have changed the testimony?

8 A. Yes, sir.

9 Q. Okay. Now, the next issue that we're talking about
10 is the failure to excuse juror 232, correct?

11 A. Yes.

12 Q. And there was some testimony at the beginning of the
13 case, there's always the voir dire, the questions. Ladies and
14 gentlemen of the jury, do you know any of the witnesses?

15 A. Yes.

16 Q. And this juror said she did not know anybody?

17 A. Right, yes.

18 Q. After testimony started she wrote a note saying I
19 think I'm related to this guy, this person?

20 A. She said, the last witness is believed to be related
21 to my first cousin son father.

22 Q. Right. And that was Ms. Tamika President, correct?

23 A. Yes.

24 Q. And that's on page 339 to 341 of the transcript?

25 A. Yes. Trial transcript page 339 line 3 and 341 line

1 2.

2 Q. And so, you are saying that she should have been
3 excused at that point?

4 A. Yes, sir.

5 Q. And did your attorney move to excuse her?

6 A. No, sir.

7 Q. Okay. Was there any further issues with that
8 witness that came up in trial?

9 A. No, sir.

10 Q. And then finally you've alleged some improper
11 closing arguments by the State that your attorney did not
12 object to?

13 A. Yes, sir.

14 Q. And we can't change the record, but you're saying
15 that those statements were inflammatory, improper bolstering,
16 and improper appeal to the jurors emotions, is that fair to
17 say?

18 A. Yes.

19 Q. All right. And so, in this case those are the
20 issues that you're raising at trial or for your PCR, correct?

21 A. Yes.

22 Q. Is there anything else I missed?

23 A. There was another witness, Delvin Seagars that
24 corroborated Ms. Peggy Blake's, but my trial counsel warned me
25 about bringing him to the stand because of his past criminal

1 history and that discouraged me from putting him on the stand.
2 Which I feel like would have helped me.

3 Q. But that would have been a trial strategy, a
4 decision you folks made at trial, right?

5 A. Yes.

6 Q. Okay. Now, let me just out of curiosity you didn't
7 take the stand in your trial did you?

8 A. No, sir.

9 Q. And why didn't you take the stand?

10 A. I don't know. My past history. Same reason she
11 didn't put Delvin Seagars on the stand.

12 Q. I got it. That was another trail strategy decision?

13 A. Yes.

14 MR. MURPHY: And that would be all I have, Your
15 Honor.

16 THE COURT: Cross-examination?

17 MS. WILLINGHAM: No questions for this witness, Your
18 Honor.

19 THE COURT: Okay. Thank you, you can sit back next
20 to your lawyer. Any additional witnesses for the Applicant?

21 MR. MURPHY: Nothing, Your Honor.

22 THE COURT: The State?

23 MS. WILLINGHAM: Yes, Your Honor. We would call
24 Mary Ford.

25 MS. MARY FORD SWORN IN AND TESTIFIES AS FOLLOWS:

1 CLERK: Please state your full name into the
2 microphone and spell your last name for the court record.

3 MS. FORD: Mary Alison Ford, F-o-r-d.

4 **DIRECT EXAMINATION BY MS. WILLINGHAM:**

5 Q. Good Morning, Ms. Ford?

6 A. Good morning.

7 Q. Were you present for the Applicant's testimony?

8 A. Yes.

9 Q. And did you represent him at his trial?

10 A. I did.

11 Q. How long have you been practicing law?

12 A. 20 years now, as of now.

13 Q. How much of it has been criminal law?

14 A. The full time.

15 Q. And were you appointed or were you retained to
16 represent the Applicant, Mr. Campbell?

17 A. I was appointed. I was actually his second
18 attorney. His initial attorney left the office, so I became
19 his attorney nearly 11 months into the case.

20 Q. All right. And roughly how long before the trial
21 was that?

22 A. That was in September of 2016 is when I received the
23 file. So I believe the trial was at the beginning of 2018, is
24 that correct? So a little year and few months I had this
25 case.

1 **Q. And at some point did you receive discovery from the**
2 **State or was it passed over to you from his prior attorney?**

3 A. Yes, but when I received the file I noticed - it
4 looked like there was a lot missing, so I reached out to the
5 Solicitor to get the missing documents.

6 **Q. Can you give a brief overview of what the State's**
7 **evidence was?**

8 A. So, in this case I believe the reason he was maybe
9 initially a suspect there had been the night before this
10 shooting like this was in the early morning hours I think it
11 was the full day before so not just a few hours prior but I'm
12 not totally certain on that. There had been a little house
13 party where the shooting incident took place and there was
14 some -- somewhat minimal -- an argument between my client and
15 one of the residents there. And then nothing much happened
16 from it or anything and then this shooting happened it was a
17 situation it was in the I guess essentially you call it the
18 projects downtown Charleston and someone shot up from outside
19 shot up one of the apartments. You know people were inside
20 and they were having a little party at that time as well. So
21 one gentleman did lose his life from that. And ultimately the
22 police looked at surveillance footage from around the area, so
23 they did capture one gentleman wearing an Italia shirt and he
24 was holding a gun. They were able to find some footage
25 leading them to Travell Richardson. I think they had DNA. I

1 know they said they had DNA. So I think that was truthful and
2 not just something they said. But they -- from a cigarette.
3 And they were able to talk to Travell. He actually initially
4 denied, denied, denied that he was -- initially denied he was
5 downtown at all then he changed his story and said he was
6 downtown, but he had walked downtown. Ultimately a few
7 minutes before trial he acknowledged that he was downtown --
8 he says with my client, and he identified my client from the
9 photo of the man -- as the man carrying the gun. But still
10 indicated he had not seen the actual shooting, and he didn't
11 indicate I believe anything about my client saying anything
12 about having shot anyone but essentially that was the case.
13 My client was identified as walking away from the incident
14 location with a gun. That was consistent with the gun used
15 for the shooting up of the apartment.

16 Q. Okay. And as far as Mr. Richardson he did testify
17 at the trial?

18 A. He did.

19 Q. And as far as that allegation in regards to cross-
20 examining him do you recall your cross-examination of Mr.
21 Richardson? Did you have a chance to review the record?

22 A. I did review his testimony from the transcript. I
23 mean -- it certainly looks like I did impeach him. The
24 Solicitor actually brought out initially that he had changed
25 his stories multiple times. But I did in my cross-

1 examination -- I did continue with that, so I just didn't
2 leave it from what the Solicitor said. And I pointed out the
3 various times he had changed his story. I think about the
4 Cowboy hat I don't know if I specifically said you have lied
5 about being a fan or anything like that but I did bring out
6 that he initially from the photo the police had of him, the
7 surveillance he was wearing some type of Cowboys hat and he
8 denied that was his hat and he said he didn't have any hats
9 and then ultimately he acknowledged it was him. So I brought
10 out all of that.

11 **Q. And you also asked him about his record?**

12 A. Yes. From what I recall from seeing the transcript,
13 I did.

14 **Q. All right. As far as the juror, juror 232. Do you**
15 **recall her passing up the note about that being brought up to**
16 **Judge Jefferson. Do you recall her asking the jurors and**
17 **questions there was a voir dire?**

18 A. From the transcript I do. I don't have an
19 independent recollection of that. But from the transcript I
20 certainly recall that.

21 **Q. In reviewing that and your memory do you believe**
22 **that was sufficient to cover any issues -- possible issues?**

23 A. I mean at the time I think my thinking was that she
24 had said that she could be fair and impartial, and the
25 relationship seemed kind of iffy. Like she knew somebody who

1 she believed new the witness. So I think that was what was
2 going through my mind at the time. I guess it certainly
3 wouldn't have hurt for me to just ask that she be excused. I
4 believe we still had alternates. So I don't know why I didn't
5 just do that just to be safe I guess you could say. But at
6 the time my thinking was just she had said she would be fair
7 and impartial, and the relationship didn't seem to close.

8 **Q. And did you also ask that the jury be polled?**

9 A. I believe so. I didn't read that part of the
10 transcript but that is my practice to do that.

11 **Q. And as far as the closing arguments, did you see any**
12 **basis to object to anything in closing?**

13 A. I know I did object at some point for vouching and
14 things like that. You know it's always tricky objecting in
15 closing you want to be a little conscientious of that. I'm
16 not certain. When I review it you know I see what the - my
17 client, my former client was saying I think the Solicitor was
18 more or less telling the jury to like -- almost like to forget
19 emotion to some extent and do their duty. I don't know that
20 -- I think that rises to the level of being improper. I do
21 that from the other side often. I say you can't let you
22 emotion get in the way; you have to follow the law
23 essentially. So, I'm not sure if I should have objected
24 during that portion or not.

25 MS. WILLINGHAM: Nothing further, Your Honor.

1 **THE COURT: Cross-examination?**

2 MR. MURPHY: Thank you, Your Honor. May it please
3 the court.

4 **CROSS-EXAMINATION BY MR. MURPHY:**

5 Q. Ms. Ford, there was no actual witness that saw Mr.
6 Campbell do the shooting, is that correct?

7 A. Correct.

8 Q. And so basically as I read this we are looking all
9 at inferences that could be drawn from the evidence presented,
10 is that fair?

11 A. Yes. More like circumstantial evidence.

12 Q. Better word. And so in this case really the key
13 witness was Travell Richardson that got my client named in
14 this -- involved in this whole mess, right?

15 A. Yes. There is some other evidence placing Montrelle
16 downtown and they have that incident before which was supposed
17 to be some type of motive. But yes the only actual witness
18 who sort of puts him with the gun is Travell.

19 Q. And Travell witness clearly had reason to lie in
20 this case?

21 A. Yes; definitely.

22 Q. And he clearly changed his story a number of times?

23 A. Numerous times, yes.

24 Q. And it would be important to effectively bring out
25 all of these untruths or lies to point out to a jury, correct?

1 A. Correct.

2 **Q. Okay. And I believe there was also some neutral**
3 **witness that kind of gave an opposite version of what's going**
4 **on. That this fellow walked a different way and the car was**
5 **different color?**

6 A. Yes. So there was Peggy Blake I believe her name
7 was and she was a 911 caller I think that's how we got here
8 and you know the State had pretty much ignored her. The
9 police didn't really follow up from my recollection. But when
10 we talked to her she had indicated that she had seen a
11 gentleman with a gun run into and get into a lime car and from
12 her description it wasn't possible that it would have been the
13 same car the Buick that Travell was waiting at. Because that
14 was in a completely different location. So, yes that's why I
15 brought her out to say that there was certainly somebody else.
16 Once again, nobody saw the shooting, I thought she was
17 important.

18 **Q. If I understand you saying her testimony was**
19 **different than what Travell was saying?**

20 A. Well, Travell -- I don't know if it was necessarily
21 different because Travell was not on seen. He was parked
22 somewhere around the corner. I can't recall how far away. He
23 just says he was downtown Montrelle had asked to go down there
24 and then at some point Montrelle walks away. He doesn't
25 mention seeing him again, but Montrelle came back at some

1 point after Travell heard the shooting, Montrelle came back
2 with a gun.

3 Q. Well, let me say it this way. Her testimony was
4 different than the State's case or their version of events,
5 would that be fair?

6 A. Yes. Her -- my thinking was that he testimony
7 presented this whole I guess you could say a third party. Who
8 certainly could have been responsible for the shooting because
9 there wasn't actually other evidence to say for certain that
10 my client was the shooter, there's no witness.

11 Q. And knowing her -- having her testimony that would
12 make it even more important that you properly impeach Travell
13 Richardson and show how much -- how his inconsistency and his
14 motivation for lying. Would you agree with that?

15 A. Yes.

16 Q. Okay. Now, moving onto the juror number 232. There
17 was a note that she had some relationship by blood to one of
18 the witnesses.

19 A. And I guess it's in the transcript so I'm not
20 certain but my recollection from just reading it. So maybe I
21 misunderstood. I think she was saying that her relation was
22 maybe a child's father or I'm not sure of the exact
23 relationship, but it was sort of -- I don't think the person
24 was saying she was -- the juror was blood with the witness. I
25 think it was a relationship through somebody's child's parent.

1 But I guess the record would speak for itself.

2 Q. Right. And this was a witness that the State put
3 on?

4 A. Yes. This was Tamika President who had been dating
5 my client at the time.

6 Q. All right. And Tamika President was this after your
7 cross-examination of Ms. President or before?

8 A. It was -- I believe afterwards. After she testified
9 the juror wrote a note that she thought maybe she knew Ms.
10 President.

11 Q. All right. And so you said you don't remember and I
12 don't want to put words in your mouth why you did not move to
13 excuse her?

14 A. Correct.

15 Q. If we go back, if I were to ask you how did you
16 examination of Ms. President go, what would you say?

17 A. Well, in looking at my cross-examination of her from
18 the transcript I was actually surprised because that I did not
19 better cross-examine her considering the information that I
20 had. There's one point, where she mentions like Montrelle,
21 not having any clothing at her house other than the shirt.

22 Q. If I could stop you there. I'm going to get right
23 back to that I promise. But I want to summarize, her -- Ms.
24 President's testimony in summary was that she was living with
25 Montrelle or Montrelle was staying the night with her. She

1 **woke up and her car keys were gone, and her car was gone as**
2 **well. Something along those lines, is that fair?**

3 A. She and Montrelle were dating. So I don't -- I
4 think he would just stay there but not -- I don't think he was
5 officially living there by any means. But in trial her
6 testimony is that she woke up, Montrelle had gone to sleep
7 with her, she woke up because she had to go to work in the
8 morning. Montrelle was not there at that point, and she
9 noticed her car keys were gone. And in the trial I believe
10 she specifically testified that she saw that he car was gone
11 so she called a cab and then when she was leaving with the cab
12 she enticed her car was back. Found her car keys in the car.
13 She does not see Montrelle, but she continues onto work with
14 the cab.

15 Q. **All right. Then you were talking about the Italia**
16 **shirt.**

17 A. Yes.

18 Q. **Why is that important?**

19 A. Well, initially, like she was clear I believe when
20 she talked to police when they were trying to get her to
21 identify him in some way when they were showing her pictures.
22 She could not identify him from the photos that the police
23 were showing her. And she -- I believe she specifically even
24 said she didn't recognize the Italia shirt. So I was going to
25 ask those questions. However in her testimony she made a

1 comment referring to the shirt in the picture like he didn't
2 have any clothes other than that. And so she did not say the
3 Italia shirt but at that point I actually do have a
4 recollection of this. I remember my thinking oh God is saying
5 she recognizes the Italia shirt. Certainly I could have
6 impeached her because previously she said she does not. But
7 my -- at that moment I decided to just by[pass it since she
8 had not specifically identified it. And I don't know if
9 that's why, but I think that is what sort of spooked me to a
10 degree and I was worried about asking her too many questions
11 because her story and slightly changed from when she talked to
12 police. And I certainly I should have -- I could have
13 impeached her is basically what I meant initially. But I
14 think I was just kind of spooked and so I was worried that she
15 would actually identify him in the photo from that shirt.
16 Which ultimately the Solicitor in re-direct also had the same
17 thinking and started to ask her about it and it became she was
18 talking about a different shirt. So it was not in fact -- she
19 was not identifying that shirt.

20 **Q. And so going back to your opinion of your testimony**
21 **how you would grade yourself. What were you saying?**

22 A. I mean I don't think I did a good job cross-examining Ms.
23 President just because I did not -- I didn't from my
24 recollection of reading the transcript I don't think I went
25 into all about how her story had changed. She -- well at

1 trial she said the car -- she saw that the car was gone to
2 police she had indicated that while she thought her car was
3 gone because the keys were gone and she assumed it was gone
4 when she actually looked outside the car was there and she
5 cancelled the cab. So her story was pretty different.

6 Q. And so we're going back to -- we have -- and tell me
7 if I'm wrong. Is we have Ms. Tamika President who was one of
8 the witnesses offering some pretty important evidence against
9 Campbell for the State's case. We have you not doing --
10 getting kind of spooked and not doing your A+ job on cross-
11 examination?

12 A. Yes.

13 Q. And then we also have a witness, a juror saying I
14 think I know this lady -- I think somehow. And you not saying
15 I want her excused. We can use one of the alternates. Is
16 that fair?

17 A. Correct, yes.

18 Q. Now, the next thing we talked about the closing
19 arguments, and they do speak for themselves we would rest on
20 the record. But you don't remember anything specific about
21 not objection to each -- to anything improper? I think you
22 said there was one objection you made but ---

23 A. There's at least one when I argued and the Judge
24 sustained it that the Solicitor seemed to be vouching. I
25 think he was trying to -- he was talking about Peggy. One was

1 his witness; one I think was my witness Ms. Blake. The Judge
2 sustained my motions.

3 **Q. All right.**

4 MR. MURPHY: That would be all I had. Thank you,
5 Ms. Ford.

6 **THE COURT: Any redirect?**

7 MS. WILLINGHAM: Noting on re-direct, Your Honor.

8 **THE COURT: Okay. Thank you. You can step down.**

9 **Any additional witnesses Ms. Willingham? Additional**
10 **witnesses?**

11 MS. WILLINGHAM: Nothing further from the State,
12 Your Honor.

13 MR. MURPHY: Nothing, Your Honor.

14 **THE COURT: All right. Let me hear argument, Mr.**
15 **Murphy?**

16 MR. MURPHY: Thank you, Your Honor. My client would
17 say that Ms. Ford breached her standard by failing to properly
18 impeach Travell Richardson. He was the key witness to this
19 case and had a lot of inconsistencies and prior records that
20 could have been more effectively used against him. We'd also
21 raise that it was an error not to exclude juror 232 as her
22 attorney -- his attorney stated. She was a key witness; she
23 did a less than proper job for cross-examination and we have a
24 juror that he has some relationship with her and not excusing
25 her. And then in terms of the closing arguments on page 650,

1 675 and 678 without objections we would ask that those
2 constitute ineffective assistance of counsel which would
3 entitle Mr. Campbell to a new trial.

4 **THE COURT: Ms. Willingham?**

5 MS. WILLINGHAM: Yes, Your Honor. We would just
6 reiterate that she did cross-examine Mr. Richardson. She also
7 cross-examined Ms. President and she impeached Mr. Richardson
8 if you review the record it shows that. She asked him about
9 his criminal records. She also indicated that the State asked
10 him about his inconsistent statements given to law enforcement
11 and this is all reflected in the record. Also, we would just
12 reiterate that cross-examination is a matter of trial
13 strategy, and she testified that there was reasoning for why
14 she did not go into further questioning on cross of Tamika
15 President. As far as the juror issue, the juror did not
16 intentionally conceal her connection between her cousin and
17 Tamika President. Also the court questioned the jury during
18 voir dire, and the defense counsel did ask the jury be polled
19 and moreover the juror is not here present today to testify in
20 regards to that issue or any possible impartiality. And
21 moreover the defense counsel testified that she did object to
22 portions of the Solicitor's closing statement and that is
23 another strategy on behalf of the Solicitor to give their
24 closing statement as she indicated. And then we would just
25 reiterate that Strickland specifies counsel's performances are

1 not to be viewed in the distort of view of hindsight. Nothing
2 further, Your Honor. Thank you.

3 THE COURT: Anything further Mr. Murphy?

4 MR. MURPHY: Nothing further.

5 THE COURT: The application is denied. I'd ask the
6 State to provide me with a purposed Order. This one in Word
7 format so that I can edit it, as necessary. I may need to
8 make some changes because I'm not giving you the reason right
9 now. Basically I agree with your arguments, but I may need to
10 make some adjustments.

11 MS. WILLINGHAM: Thank you, Your Honor.

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CERTIFICATE OF TRANSCRIBER

I, **SANDRA ALLEN**, a certified transcriber, do hereby
certify that the foregoing is a true, accurate, and complete
Transcript of Record of the proceedings had and evidenced
introduced in the trial of the captioned case, relative to
appeal, in the **Circuit Court, Charleston County, South
Carolina, on the 21st day of January 2026.**

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

May 14, 2026

Sandra Allen

Sandra Allen, Transcriber

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Montrelle Campbell, #276819,

Applicant,

V.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO. 2024-CP-10-04764

**ORDER OF DISMISSAL
WITH PREJUDICE**

FILED
2026 FEB 25 PM 5:00
JULIE J. ARMSTRONG
CLERK OF COURT

Presiding Judge:	Honorable Jocelyn Newman
Applicant's Attorney:	Christopher Murphy, Esq.
Respondent's Attorney:	Sydney Willingham, Esq.
Trial Counsel:	Mary Ford, Esq.
Date of Hearing:	January 21, 2026
Court Reporter:	Maria-Emanuel Klein, DCRP

This matter comes before the Court pursuant to an application for post-conviction relief (“PCR”) filed by Montrelle Campbell (“Applicant”) on September 23, 2024. Respondent filed its “Return and Partial Motion to Dismiss,” requesting that an evidentiary hearing be held on the allegations. On August 15, 2025, an “Order Granting Respondent’s Partial Motion to Dismiss” was filed—dismissing Applicant’s allegations of actual innocence and trial court error. On January 21, 2026, an evidentiary hearing was held at the Charleston County Courthouse before the Honorable Jocelyn Newman. Applicant was present and represented by Christopher Murphy, Esquire. Assistant Attorney General Sydney Willingham represented Respondent. In support of his claims, Applicant testified on his own behalf. Respondent presented testimony from Mary Ford, Esq. (Trial Counsel).

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional



violations or deprivations entitling him to relief and, accordingly, **DENIES** and **DISMISSES** this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In April 2016, the Charleston County Grand Jury indicated Applicant for murder (2016-GS-10-02070) and two counts of attempted murder (-02071, -02072). On January 8-12, 2018, Applicant proceeded to a jury trial before the Honorable Deadra L. Jefferson. Mary Ford, Esquire, represented Applicant. Assistant Solicitors Chad Simpson and Alex Ginsberg prosecuted the case. The jury convicted Applicant as indicted, and Judge Jefferson sentenced him to concurrent terms of life for murder and thirty years for each attempted murder charge.

Applicant filed a direct appeal, which was perfected by Appellate Defender Lara M. Caudy. On appeal, Applicant argued the trial court erred in instructing the jury on (1) inferred malice as when attempted murder is a specific intent crime and (2) accomplice liability when no evidence supported the charge. The Court of Appeals agreed with Applicant and issued an opinion reversing and remanding for a new trial. State v. Campbell, 435 S.C. 528, 868 S.E.2d 414 (Ct. App. 2021), overruled by State v. Campbell, 443 S.C. 182, 904 S.E.2d 441 (2024). Respondent filed a petition for rehearing, which was denied. Respondent then filed a petition for a writ of certiorari in the South Carolina Supreme Court, which was granted. The Supreme Court issued an opinion reversing the Court of Appeals and affirming the conviction. In doing so, the Court held (1) the inferred malice charge was improper but any error was harmless and (2) evidence supported a jury charge on accomplice liability. The remittitur was sent August 2, 2024.



CURRENT APPLICATION

On September 23, 2024, Applicant timely commenced this PCR action alleging:

- a. Actual innocence: I was never identified as the shooter during trial, and I'm not the shooter. I was never identified either at the crime scene or seen by any cameras entering or leaving from the housing apartments where it happened. It was not clear who was that shooter that was seen the night of the incident by Peggy Blake or who was his accomplices. I am not.¹
- b. A jury instruction that could mislead a juror should not be read. See State v. Burdette; no judge shall never charge that jury instruction.²
- c. Counsel was ineffective for failing to properly impeach Trivell and Tameka President: "Trivell was a known liar to law enforcement, who came up with a new story just weeks away from me receiving a bond hearing. His story was full of lies." "Tomeka[sic] President took the stand and lied about having to be to work an hour earlier than she was supposed to in order for the State case to look good."
- d. ~~Counsel was ineffective for failing to raise the issue of the video footage that was left out of evidence: "The State withheld evidence of camera footage on the corner of President and Nunan Streets, that will prove that Trivell was lying about a smoking gun. I saw this video footage."~~³

Applicant raised the following additional allegations at the evidentiary hearing:

- a. Counsel failed to excuse Juror 232.
- b. Counsel failed to object to statements made by the Solicitor in closing arguments.

As relief, Applicant requests "vacation of my sentence or at least a new trial that will be a fair trial. For my case to be dismissed or reversed and remanded to trial court." Attached to this Order and incorporated by reference are the Charleston County Clerk of Court records of the underlying convictions, Applicant's records from the Department of Corrections, the records from Applicant's direct appeal, and the trial transcript.

¹ This allegation was dismissed pursuant to "Order Granting Respondent's Partial Motion to Dismiss," filed on August 15, 2025.

² This allegation was dismissed pursuant to "Order Granting Respondent's Partial Motion to Dismiss," filed on August 15, 2025.

³ Applicant withdrew this allegation at his evidentiary hearing.

SUMMARY OF FACTS GIVING RISE TO THE CONVICTION

The following facts are adopted from the Court of Appeal's recitation in Applicant's direct appeal action:

On September 17, 2015, Katrina Brown was at her apartment in Gadsden Green with her sister Kerri Brown and her friend Tonya Mosely when a woman named Kadeshia arrived around 11:30 p.m. Kadeshia was an old friend of Kerri's, but Katrina knew her. While the women were visiting, a man knocked on Katrina's door and told Kadeshia that someone was waiting for her outside. Kadeshia told the man to "[t]ell them I'm coming" but continued her conversation in Katrina's apartment. Eventually, Kadeshia's brother, Campbell, walked into Katrina's apartment without permission. Campbell, also known as "Troll," sat down without saying anything.

Katrina asked Campbell to leave because she did not know him, and Campbell eventually left without saying a word. Katrina and Kadeshia then had a verbal altercation because Katrina believed Kadeshia should have apologized. Shortly after Kadeshia left, Katrina walked outside to smoke a cigarette. While Katrina was outside, Campbell hit her, knocking her to the ground. Campbell then stood over her and looked prepared to hit her again. Instead, Campbell moved back into the middle of the street while Kerri and Tonya helped Katrina up. Katrina, Kerri, and Tonya then followed Campbell into the middle of the street and "had a few words" with him. The women went back inside Katrina's apartment after she noticed Campbell looked prepared to reach for something inside of a car.

The next night, September 18, 2015, Katrina hosted a party at her apartment in Gadsden Green. The party ended around 6:30 a.m. on September 19, 2015, when a gunman shot at least fourteen bullets from a rifle into Katrina's apartment. The bullets struck Kerri in her head, Katrina's cousin Tierra Brown in her arm, and Katrina's friend Antwan Frost in the chest. Kerri and Tierra survived but Frost did not.

Because no one saw the shooter, police asked Katrina if she knew whether anyone wanted to harm her. Katrina testified she did not have a conflict with anyone in the neighborhood other than Campbell. While processing the crime scene, police recovered fourteen rifle shell casings and obtained security camera footage of the area around the time of the shooting from multiple locations.

The security footage showed a gold Buick parking on Nunan Street. Police determined Tomeka President owned the gold Buick in the security footage and identified Trivell "Vell" Richardson and Andrew "Ace" Rivers as the individuals exiting the car. The footage showed Richardson and Rivers walking toward Gadsden Green and Richardson eventually walking back to the car followed by a third individual holding a rifle. Richardson and Campbell were both charged with murder and two counts of attempted murder for the shooting at Katrina's apartment.

At Campbell's trial, President testified that Campbell was at her Austin Lakes apartment in North Charleston when she went to sleep around 11:45 p.m. the night before the shooting. President also stated Campbell was not there when she woke up the next morning and her car and car keys were missing.

Richardson testified he was at the Austin Lakes apartment complex in North Charleston during the early morning hours on the day of the shooting when Campbell approached him in President's gold Buick. Campbell asked Richardson to go with him to get cigarettes, and Richardson got in the car. However, Richardson recalled that instead of stopping at the gas station, Campbell got on the interstate and drove downtown.

After parking on Kennedy Street, Campbell exited the car, told Richardson to park it on Nunan Street, and began walking towards Gadsden Green. Richardson asked Rivers, who was on Kennedy Street when they arrived, to ride with him while he parked the car. Richardson and Rivers began walking towards Gadsden Green after parking the car on Nunan Street.

Richardson explained that he called Campbell to ask where he should leave the car keys because Richardson was uncomfortable being in Gadsden Green and wanted to leave. As Richardson and Rivers were walking toward Gadsden Green, Richardson said they heard gunshots. Richardson stated he returned to the car but Rivers ran in the opposite direction. While Richardson was trying to start the car, Campbell got in with a rifle and told him to "go." Richardson testified he then drove back to Austin Lakes in North Charleston.

Following the close of the State's case, the trial court denied Campbell's motion for a directed verdict. Campbell did not testify but presented testimony from Peggy Blake, who lived across the street from Katrina at the time of the shooting. Blake testified she heard the shooting and saw a black man wearing a hoodie and holding a "sporty rifle" get into a lime green car that drove away. However, police were unable to find a lime green car on the security camera footage.

State v. Campbell, 435 S.C. 528, 868 S.E.2d 414 (Ct. App. 2021), overruled by State v. Campbell, 443 S.C. 182, 904 S.E.2d 441 (2024).



STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act⁴ (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

⁴ S.C. Code Ann. §§ 17-27-10 to -160.

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCPP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct “was so [ineffective] as to require reversal” of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. When analyzing counsel’s performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption “by proving that his attorney’s representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy.” Kimmelman v. Morrison, 477 U.S. 365, 384 (1986); cf. Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the

presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate that "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To meet this burden, counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry, 300 S.C. at 117–18, 386 S.E.2d at 625; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different."). Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." Richter, 562 U.S. at 112.

Finally, the Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel's trial tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant's burden of proving both Strickland components is heavy in light of the strong presumption that counsel's conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel's conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. Id. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the “benchmark” of the right to counsel is the “fairness of the adversary proceeding”); cf. United States v. Morrow, 977 F.2d 222, 229 (6th Cir. 1992) (“[T]he threshold issue is not whether [the applicant's] attorney was inadequate; rather, it is whether he was so *manifestly* ineffective that defeat was snatched from the hands of probable victory.”).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his

application for post-conviction relief. See Rule 71.1(e), SCRPC (stating that in a post-conviction relief action, “[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) (“In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief.”); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (“The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.”).

Accordingly, set forth below are the relevant findings of fact and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds applicable the strong presumption that at all stages of Trial Counsel's representation of Applicant, she rendered adequate assistance and exercised reasonable professional judgment in her representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that “every effort be made to eliminate the distorting effects of hindsight” and evaluate counsel’s decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF COUNSEL

Allegation 1: Failure to impeach witnesses Trivell Richardson and Tamika President.

Applicant alleges Trial Counsel's representation was constitutionally ineffective for failing to properly impeach Trivell Richardson and Tamika President. This Court finds this allegation is without merit.

PCR Evidentiary Hearing

On direct examination, Trial Counsel testified she did impeach Trivell Richardson on cross-examination at trial. Further, Trial Counsel testified that Trivell Richardson's prior inconsistent statements were brought out at the trial.

On cross-examination, Trial Counsel testified her reasoning for not further questioning Tamika President on cross was she had concerns about asking her too many questions because she had a history of changing her story.

Findings

This Court notes that the approach and scope of cross-examination should not be second-guessed. See Sallie v. North Carolina, 587 F.2d 636, 640 (4th Cir. 1978) (Marzullo not intended to promote judicial second-guessing on questions of strategy as basic as handling of a witness); see also Dunham v. Travis, 313 F.3d 724, 732 (2d Cir. 2002) ("Decisions about 'whether to engage in cross-examination, and if so to what extent and in what manner, are ... strategic in nature' and generally will not support an ineffective assistance claim." (quoting United States v. Nersesian, 824 F.2d 1294, 1321 (2d Cir. 1987)); Johnson v. Hofbauer, 159 F.Supp.2d 582, 607 (E.D.Mich. 2001) ("Impeachment strategy is a matter of trial tactics, and tactical decisions are not ineffective assistance of counsel simply because in retrospect better tactics may have been available.") (citing Gallo v. Kernan, 933 F.Supp. 878, 881 (N.D.Cal.1996); aff'd 141 F.3d 1175 (9th Cir. 1998); cert. den. 525 U.S. 856 (1998)). This Court has thoroughly reviewed the cross-examination of Trivell Richardson and Tamika President and finds no deficiencies. Cross-examination is a matter of trial strategy; this Court finds Trial Counsel *credibly* testified why she did not further question Tamika President on cross-examination and articulated a reasonable trial strategy. Trial Counsel testified and the record reflects Trial Counsel did impeach Trivell Richardson on his record and prior

inconsistent statements (Trial Tr. pp. 377-394). Furthermore, Applicant failed to competently show how Trial Counsel's failure to "properly impeach" Trivell Richardson or Tamika President was prejudicial.

Notably, this Court highlights that Applicant has failed to produce Trivell Richardson or Tamika President for the additional question that Applicant alleges should have been asked during cross-examination. See Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). This Court cannot speculate as to how Trivell Richardson or Tamika President would have responded to any additional questions Applicant asserts Trial Counsel should have asked during cross-examination. See Glover v. State, 284 S.C. 152, 326 S.E.2d 150 (1985) (Applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice.) Further, Applicant failed to prove further cross-examination of either witness would have had a reasonable probability of changing the outcome of trial.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel's performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsel, or any prejudice flowing therefrom. Thus, these allegations must be **DENIED** and **DISMISSED**.

Allegation 2: Failure to excuse Juror 232.

Applicant alleges Trial Counsel's representation was constitutionally ineffective for failing to request that Juror 232 be excused. This Court finds this allegation is without merit.

“[A] criminal defendant has no right to a trial by any particular jury, but only a right to a trial by a competent and impartial jury.” Palacio v. State, 333 S.C. 506, 517, 511 S.E.2d 62, 68 (1999). “[I]n order to fully safeguard this protection, it is required that the jury render its verdict free from outside influences of whatever kind and nature.” State v. Bryant, 354 S.C. 390, 395, 581 S.E.2d 157, 160 (2003) (quoting State v. Cameron, 311 S.C. 204, 207, 428 S.E.2d 10, 12 (Ct.App.1993)).

Trial

After the testimony of Tamika President, Juror 232 handed a note to the court that reads as follows: “The last witness is believed to be related to my first cousin's son's father. The witness and I have no relationship or contact.” (Trial Tr. 339). Out of an abundance of caution, Judge Jefferson had a *voire dire* with Juror 232 on the record. (Trial Tr. 339-340). Juror 232 informed the court she had no relationship or contact with the last witness [Tamika President] and she only informed the court out of an abundance of caution. (Trial Tr. 339-340). Juror 232 believed she could be fair and impartial and would render a decision in the case based solely on the evidence. (Trial Tr. 340).

PCR Evidentiary Hearing

On direct examination, Applicant testified he believed Juror 232 should have been excused for knowing the witness, Tamika President.

On direct examination, Trial Counsel testified that she believed Juror 232 could be fair and impartial because the relationship between the juror and witness seemed to be “iffy.” Further, Trial Counsel testified she had the jury polled after they reached a verdict as that is her standard practice.

Findings

This Court finds that Applicant has failed to overcome the strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case.” Ard v. Catoe, *supra*. This Court additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel’s representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. This Court finds Juror 232 did not intentionally conceal the connection between her and Tameka President. The record supports Judge Jefferson questioned Juror 232 during voir dire regarding her ability to be impartial and fair. (Trial Tr. pp. 339-341). Applicant failed to provide any evidence at the evidentiary hearing of how excusing Juror 232 would have affected the outcome of trial. Therefore, this Court finds Trial Counsel was not ineffective for deciding not to request Juror 232 be excused. Under these circumstances, Trial Counsel’s decision was reasonable and well within the wide range of competent professional judgment. Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra*.

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonable effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsel or any prejudice flowing therefrom. Thus, this allegation is **DENIED** and **DISMISSED**.

Allegation 3: Failure to object to statements made by the Solicitor during closing arguments.

Applicant alleges Trial Counsel's representation was constitutionally ineffective for failing to object to statements made by the Solicitor in closing. (Trial Tr. pp. 650, 675, 678). Specifically, Applicant alleges Trial Counsel should have objected to the following excerpts from the Solicitor's closing for improperly appealing to emotions of jurors, bolstering, vouching, and being inflammatory:

"This isn't Montrelle Cambell's day, it's Brother Dusty's day as well. I ask you to do your job, be diligent."

"If it comes with a difficult conclusion, it's hard as human beings to do it, but we ask you to do it because it's the right thing – find the defendant guilty as charged."

(Trial Tr. p. 650 l. 6-8; 14-17).

"Only Trivell, points to the gunman as Montrelle Campbell? You have to believe Trivell?"

"But only Trivell; just take Trivell's word for it."

(Trial Tr. p. 675 l. 7-8; 14-15).

"[D]o your duty, and I am confident you will return a just, a difficult, but just and fair verdict in this case which is Montrelle Campbell is guilty of murder and two counts of attempted murder."

(Trial Tr. p. 678 l. 20-23).

"An ineffective assistance claim based on a failure to object is tied to the admissibility of the underlying evidence." Hough v. Anderson, 272 F.3d 878, 898 (7th Cir. 2001). "If evidence admitted without objection was admissible, then the complained of action fails both prongs of the Strickland test: failing to object to admissible evidence cannot be a professionally 'unreasonable'

action, nor can it prejudice the defendant against whom the evidence was admitted.” Id.; see Vieux v. Pepe, 184 F.3d 59, 64 (1st Cir. 1999) (finding “counsel’s performance was not deficient if he declined to pursue a futile tactic.”) (applying Strickland, 466 U.S. at 688, 694 (explaining that, in order to succeed on a claim of ineffective assistance, defendant must demonstrate both deficient performance and cognizable prejudice)); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence). Also, “[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment.” Strickland, 466 U.S. at 691.

The “use and timing of objections at trial is a quintessential matter of strategy and discretion on the part of the trial attorney and will very seldom constitute objectively deficient representation.” United States v. Nguyen, 379 F. App’x 177, 181 (3rd Cir. 2010); see Humphries v. Ozmint, 397 F.3d 206, 234 (4th Cir. 2005) (Luttig, J., concurring) (“[I]t is well established that failure to object to inadmissible or objectionable material for tactical reasons can constitute objectively reasonable trial strategy under Strickland.”) cf. Bergmann v. McCaughtry, 65 F.3d 1372, 1380 (7th Cir. 1995) (noting that deciding when to object is a matter of trial strategy that a lawyer has to make on the spot).

“A solicitor’s closing argument must not appeal to the personal biases of the jurors nor be calculated to arouse the jurors’ passions or prejudices, and its contents should stay within the record and reasonable inferences to it.” Simmons v. State, 331 S.C. 333, 338, 503 S.E.2d 164, 166 (1998) (finding the solicitor’s misstatement of the law concerning parole considerations that were not cured by the judge’s instructions were improper); See Randall v. State, 356 S.C. 639, 642, 591 S.E.2d 698, 610 (2004) (“A solicitor has a right to state his version of the testimony and to

comment on the weight to be given such testimony.”) “On appeal, the appellate court will review the alleged impropriety of the solicitor’s argument in the context of the entire record.” State v. Copeland, 321 S.C. 318, 324, 468 S.E.2d 620, 624-625 (1996).

“The relevant question is whether the solicitor’s comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.” Humphries v. State, 351 S.C. 362, 373, 570 S.E.2d 160, 166 (2002); See Randall, 356 S.C. at 643, 591 S.E.2d at 610-11) (finding the solicitor’s analogy comparing the defendant to a “dirty cockroach” did not infect the trial to make the resulting conviction a denial of due process, noting the objected argument encompassed ten lines of the transcript and was repeated, but an isolated reference).

In State v. Shuler, 344 S.C. 604, 545 S.E.2d 805, cert. denied, 534 U.S. 977, 122 S.Ct. 404, 151 L.Ed.2d 306 (2001), the Court explained that a solicitor:

cannot vouch for the credibility of a witness by expressing or implying his personal opinion concerning a witness’ truthfulness.... Improper vouching occurs when the prosecution places the government’s prestige behind a witness by making explicit personal assurances of a witness’ veracity, or where a prosecutor implicitly vouches for a witness’ veracity by indicating information not presented to the jury supports the testimony....

344 S.C. at 630, 545 S.E.2d at 818 (citations omitted). “Because a jury must make its own assessment on the credibility of witnesses, it is inappropriate for the State to assure the jury of a government witness’s credibility.” Gilchrist v. State, 350 S.C. 221, 227, 565 S.E.2d 281, 285 (2002).

PCR Evidentiary Hearing

On direct examination, Trial Counsel testified that she did object to portions of the Solicitor’s closing argument for vouching. Trial Counsel testified she remembered the Solicitor asking the jury to “do your duty” however, she did not think it rose to the level of being improper.



Findings

This Court finds that Applicant has failed to overcome the “strong presumption that counsel rendered adequate assistance of counsel and exercised reasonable professional judgment in making all significant decisions in [his] case.” Ard v. Catoc, *supra*. This Court additionally finds that Applicant has failed to overcome his burden in proving Trial Counsel’s representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Trial Counsel *credibly* testified she objected to vouching during closing arguments. (Trial Tr. p. 634). Trial Counsel *credibly* testified she did not believe the Solicitor’s statements rose to the level of being improper. This Court finds there was no legal basis for an objection to Solicitor Simpson’s statements during closing arguments on pages 650, 671, and 678 of the Trial Transcript. Further, any objection would have been non-meritorious. See Miller v. Keeney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence). Moreover, assuming *arguendo* that Trial Counsel had a basis to object, and had objected to the statements; there is not a reasonable probability the outcome of trial would have been different. Further, this Court finds any error would have been cured by the jury charge to only consider the evidence. See Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997) (finding trial court’s instruction that jury could not consider applicant’s failure to testify was sufficient to cure any alleged error). Thus, Applicant failed in his burden of proving deficiency or prejudice. See Glover, *supra*.

Based on the foregoing, this Court finds Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonable

effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel’s performance.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsel or any prejudice flowing therefrom. Thus, this allegation is **DENIED** and **DISMISSED**.

[CONCLUSION PAGE TO FOLLOW]


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CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE**.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.


 THE HONORABLE JOCELYN NEWMAN
 Presiding Judge
 Ninth Judicial Circuit

Charleston, South Carolina

February 25, 2026

800

BCS/0310557
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-16094

ARREST WARRANT NUMBER

2015A1010500010

DATE OF ARREST

11/02/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-02070

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

VS.

MONTRELLE LAMONT

CAMPBELL

B/M DOB: [REDACTED] 1981

Indictment for

MURDER

SC Code: § 16-03-0010

CDR Code: 0116

FILED

4/15/2016 9:25:46 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about September 19, 2015, the defendant, Montrelle Lamont Campbell, with malice aforethought, did kill and murder Antwan Lamont Frost by means of shooting him, and Antwan Lamont Frost did die in Charleston County as a proximate result thereof on or about September 19, 2015; 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.



BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR

~~802~~

BCS/0310557
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
2015-16094

ARREST WARRANT NUMBER
2015A1010900656

DATE OF ARREST

11/02/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-02071

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
APRIL TERM 2016

THE STATE

VS.

MONTRELLE LAMONT
CAMPBELL
B/M DOB: [REDACTED] 1981

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

FILED

4/15/2016 9:25:46 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

INDICTMENT

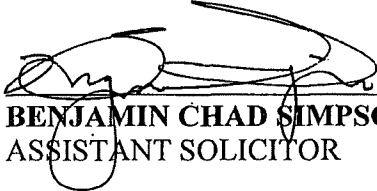
COUNTY OF CHARLESTON

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about September 19, 2015, the Defendant, Montrelle Lamont Campbell, did, with intent to kill and malice aforethought, attempt to kill Tierre Brown. This is in violation of Section 16-3-29 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.



BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR

804

BCS/0310557
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-16094

ARREST WARRANT NUMBER

2015A1010900660

DATE OF ARREST

11/02/2015

ACTION OF GRAND JURY

TRUE BILL

APR 17 2016

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-10-02072

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2016

THE STATE

VS.

MONTRELLE LAMONT

CAMPBELL

B/M DOB: [REDACTED] 1981

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029

CDR Code: 3410

FILED

4/15/2016 9:25:46 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2016, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED MURDER

That in Charleston County, South Carolina, on or about September 19, 2015, the Defendant, Montrelle Lamont Campbell, did, with intent to kill and malice aforethought, attempt to kill Kerri Brown. This is in violation of Section 16-3-29 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.


BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR