

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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**RECEIVED**  
**Sep 21 2026**  
**SC Court of Appeals**

Appeal from Greenville County

Honorable James R. Barber, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

DAVID LAMAR THOMPSON,

APPELLANT

APPELLATE CASE NO. 2025-001260

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RECORD ON APPEAL

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|                          | ) | 2015-GS-23-04584          |
| COUNTY OF GREENVILLE     | ) |                           |
|                          | ) |                           |
|                          | ) |                           |
|                          | ) |                           |
| STATE OF SOUTH CAROLINA, | ) |                           |
| PLAINTIFF,               | ) |                           |
|                          | ) |                           |
| vs.                      | ) | TRANSCRIPT OF RECORD      |
|                          | ) |                           |
| DAVID LAMAR THOMPSON,    | ) |                           |
| DEFENDANT.               | ) |                           |
| _____                    | ) |                           |

September 14, 15 and 16, 2015  
Greenville, South Carolina

B E F O R E:

THE HONORABLE JAMES R. BARBER, III, JUDGE

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

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Circuit Court Reporter



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P R O C E E D I N G S

MONDAY, SEPTEMBER 14, 2015

(WHEREUPON, State's Exhibit Nos. 1 through 20, 27 through 32 and 34 through 53 were premarked for identification.)

THE COURT: The State vs. David Lamar Thompson.

Mr. Thompson's been indicted for the offense of murder.

I've met with the attorneys on a pretrial to determine whether we have any motions that we need to take up. I'm told that the State -- there are a couple of statements. The State doesn't intend to use them in the trial; is that correct, Madam Solicitor?

MS. MUNSON: Correct.

THE COURT: So we don't need a Jackson v. Denno. Do you agree with that, Mr. Sarratt?

MR. SARRATT: I agree, Your Honor.

THE COURT: Apparently there is no identification problem, no other pretrials that we have, but I've been told by Mr. Sarratt that there is -- your client would like to make a motion. I assume it's an oral motion; is that correct?

MR. SARRATT: That's correct, Your Honor.

THE COURT: Concerning your representation; is that right?

MR. SARRATT: Yes.

THE COURT: Mr. Thompson, is that correct?

1 completed the trial.

2 All right. With that said, Solicitor, are you ready  
3 to go forward with your opening?

4 OPENING STATEMENTS

5 MS. MUNSON: Yes, Your Honor. May it please the  
6 Court, Mr. Sarratt, Mr. Erwin.

7 May 23, 2014, evidence in this case will show that  
8 that day started out like any other for Maria Usma.  
9 Evidence will also show that it ended like no other.  
10 Because when Maria Usma got to her Nix Circle home in  
11 Greenville County that afternoon after work, she found her  
12 25-year-old daughter, Jennifer Jill Youngblood, dead on the  
13 kitchen floor.

14 Mrs. Usma called 9-1-1, and emergency personnel  
15 responded. An investigation started. One of the early  
16 parts of the investigation was an autopsy on Jennifer  
17 Youngblood's body. And you will hear that the results of  
18 that autopsy showed that she died as a result of 17 stab  
19 wounds, wounds that punctured both of her lungs, cut her  
20 trachea and her esophagus, a wound that penetrated her  
21 heart. That and other evidence that you will hear during  
22 the course of this trial will leave you firmly convinced  
23 that the person responsible for the murder of Jennifer  
24 Youngblood is this man right here, David Lamar Thompson.

25 David and Jennifer had an on-again/off-again



1 relationship, kind of stormy, sometimes good, sometimes  
2 bad. And you will hear information about that as well.

3 Now, at the close of the case, I'm going to have a  
4 chance to talk to you again, and I'm going to ask you to  
5 find him guilty of the murder of Jennifer Youngblood and of  
6 possession of a weapon during a violent crime. Before you  
7 can do that, each and every one of you must be firmly  
8 convinced by proof beyond a reasonable doubt that he is  
9 guilty of each element of each offense. You must be firmly  
10 convinced that he is the one who murdered Jennifer  
11 Youngblood. You must be convinced that his actions were  
12 intentional. You must be convinced that he acted with  
13 malice aforethought and that he had no just cause or  
14 excuse. You must be convinced that he possessed a weapon,  
15 in this case a knife, during a violent crime.

16 Now, I just said a whole bunch of funny words that  
17 might sound unfamiliar to you, but at the close of the  
18 case, His Honor is going to tell you what those things  
19 mean. You might have some idea in your head right now what  
20 you think murder is. You might have an idea what you think  
21 malice is or malice aforethought. But when you took that  
22 oath, you rearranged your brain a little bit to accept the  
23 law as the judge gives it to you, not as you think it might  
24 be.

25 Another word that he's going to explain to you at the

1 close of the trial is circumstantial evidence. Now, that  
2 usually sends lay people thinking circumstantial evidence,  
3 no case. But, again, the definition of circumstantial  
4 evidence that matters in this courtroom is the one that the  
5 judge is going to give you, and he's going to tell you that  
6 circumstantial evidence is no weaker than direct evidence.  
7 I tell you that because we're not going to have an  
8 eyewitness come in here and tell you from the stand, "I saw  
9 Lamar Thompson kill Jennifer Youngblood." You're not going  
10 to have that. You're not going to have anybody come in  
11 here and say, "I got this knife off of him. This is the  
12 knife he used to kill her." You're not going to have that.  
13 What you are going to have is a string of facts that taken  
14 together form a powerful, powerful rope that is going to be  
15 sufficient and strong enough to carry the State's burden of  
16 proof beyond a reasonable doubt.

17 My name is Judy Munson, and I'm one of the assistant  
18 solicitors or prosecutors for the 13th Circuit. It's my  
19 duty and it's my great privilege to represent the people of  
20 Greenville County in this matter. And at the close of the  
21 case, I will ask you, on behalf of the people of Greenville  
22 County, to find the defendant guilty of the murder of  
23 Jennifer Youngblood and of possessing a weapon during a  
24 violent crime.

25 I thank you for your time.

1 THE COURT: Mr. Sarratt.

2 MR. SARRATT: Jennifer Youngblood had a tattoo on her  
3 back. It was of two faces, two masks entwined, embraced in  
4 a kiss. And tattooed under that was the word "pain." That  
5 is symbolic of the relationship that Lamar Thompson and  
6 Jennifer Youngblood had. It was not a normal relationship,  
7 it was not a healthy relationship. The solicitor said it  
8 was stormy, it was troubled. Now, it had its highs and it  
9 had its lows. They were together six years, sometimes on,  
10 sometimes off. But what you're going to hear is that Lamar  
11 Thompson, when he did something, he did it to excess, and  
12 that carried over to his relationship. The highs were very  
13 high and the lows, they got low.

14 Back in May of 2014, things were low. Things were not  
15 good. You're going to hear evidence of some prior  
16 altercations that they got into. I'll get into more detail  
17 as the case progresses. But you're going to hear that they  
18 were fighting, they were arguing the day that he went over  
19 there. And it ended with David Thompson killing Jennifer  
20 Youngblood.

21 Now, this is not some trick. I'm not trying to pull  
22 one over on you. We are admitting it. David Thompson is  
23 responsible for killing Jennifer Youngblood, but he did not  
24 murder Jennifer Youngblood.

25 Before we talk about how that can be, I want to touch

1 on a few things. First is the presumption of innocence.  
2 When you walk in this courtroom, you must view this  
3 defendant as being innocent until the State proves each and  
4 every element of murder beyond a reasonable doubt.

5 Now, I've just told you that David did kill Jennifer,  
6 and so they will have -- we have conceded all but one  
7 element of murder, and that one element is malice. That is  
8 what I want you to focus on throughout this case. As you  
9 hear evidence from all sides, the State will not be able to  
10 prove that David Thompson killed Jennifer with malice.  
11 The solicitor said it herself. Malice requires that there  
12 be no just cause or excuse, and I submit to you that there  
13 was just cause and excuse in this case. And at the end of  
14 this trial, I'm going to ask you to find David Thompson not  
15 guilty of murder.

16 THE COURT: All right. Ladies and gentlemen, I forgot  
17 to do this. Before I turn it over to the State, I forgot  
18 to introduce you to some of the people that are involved in  
19 this trial as well, and I meant to. This is Evan Poole,  
20 who's my law clerk sitting up here with us. And the young  
21 lady in front of me is our court reporter. You heard me  
22 talk about a court of record this morning, and that's  
23 because a record of everything that's said in this  
24 courtroom is being made. And this is Ms. Smith. Our clerk  
25 is Ms. Troup. And the folks that you're going to have the

1       most contact with are Ms. Walker and Mr. Anderson, and  
2       they're your bailiffs, and you've probably already met them  
3       and had some conversation with them. Any problems come up,  
4       bring it to their attention and they'll get it to the right  
5       person.

6               Okay. Sorry, Ms. Munson. If you would proceed,  
7       please.

8               MS. MUNSON: Yes, Your Honor. The State calls Maria  
9       Usma.

10              THE CLERK: Your Honor, we have an interpreter, so I  
11       need to put the interpreter under oath, please.

12              Who is the interpreter? All right ma'am.

13                      (WHEREUPON, the interpreter is duly sworn.)

14              THE CLERK: And would you please state your name?

15              THE INTERPRETER: Janet Chavez.

16              THE CLERK: Janet Chavez. Okay.

17              Now I'll put her under oath.

18       WHEREUPON,

19                              MARIA USMA,

20       After first having been duly sworn, testified as follows:

21       (WHEREUPON, all answers given by Ms. Usma were through the  
22                      interpreter unless otherwise noted.)

23              THE CLERK: Please be seated.

24              THE COURT: All right. Ladies and gentlemen,  
25       obviously, English is a second language of this defendant,

1 or maybe not even a second language, so we have a  
2 translator who is going to translate the questions and the  
3 responses between the solicitor and the witness.

4 DIRECT EXAMINATION

5 BY MS. MUNSON:

6 Q Could you state your name, please.

7 A (Witness in English) Maria A. Usma.

8 Q And where do you live?

9 A (Witness in English) In Greenville, South Carolina.

10 214 Nix Circle, Greenville, South Carolina.

11 Q Okay. How long have you lived there?

12 A (Witness in English) 20 years.

13 Q Who lives there with you?

14 A (Witness in English) My daughter Jackeline, my  
15 husband and me.

16 Q How long have you been married?

17 A (Witness in English) I've been married twice, and my  
18 second marriage, 11 years.

19 Q Do you work outside the home?

20 A (Witness in English) Yes, ma'am.

21 Q Where do you work?

22 A (Witness in English) By that time I'm working on  
23 place where they make carpets for cars. Carpets.

24 Q You say "at that time." Do you mean in May of 2014?

25 A (Witness in English) Yes, ma'am.

1 Q And you work somewhere different now?

2 A (Witness in English) Yes, ma'am.

3 Q All right. So you had another daughter, correct?

4 A Yes, ma'am.

5 Q What's her name?

6 A (Witness in English) Jacqueline Zuniga.

7 Q And your other daughter's name?

8 A (Witness in English) Oh, my daughter. Daughter is  
9 Jennifer Jill Youngblood.

10 Q How old was she when she died?

11 A (Witness in English) 25.

12 Q Do you remember that day?

13 A (Witness in English) Yes, ma'am.

14 Q Do you remember what day of the week it was?

15 A (Witness in English) A Friday.

16 Q So what time did you leave for work?

17 A (Witness in English) I leave work 3:00.

18 Q You left work at 3:00?

19 A (Witness in English) Yes, ma'am.

20 Q And where did you go on that Friday after you left  
21 work?

22 A (Witness in English) I left work, and I went to the  
23 bank, and I went to home.

24 Q Okay. And about what time would you say that you got  
25 home?

1 A (Witness in English) Okay. I leave my job like 3:00,  
2 went to the bank. There was line. 3:00, 3:40, 3:40  
3 something like that. Uh-huh.

4 Q Okay. Now, when you left to go to work that morning,  
5 about what time was that?

6 A (Witness in English) 6:30 in the morning.

7 Q Was Jennifer home?

8 A (Witness in English) No.

9 Q Was she working during that time?

10 A (Witness in English) Yes. She was working at that  
11 time.

12 Q What hours did she normally work?

13 A (Witness in English) 12:00 to 7:00, like the third  
14 shift.

15 Q 12 midnight?

16 A (Witness in English) Yeah.

17 Q Till 7:00 in the morning?

18 A (Witness in English) Yes, ma'am.

19 Q Okay. All right. So when you got home after work on  
20 the day your daughter died, what door of your house did you  
21 go in?

22 A (Witness in English) The kitchen door.

23 Q And how often do you use the kitchen door?

24 A (Witness in English) Every day.

25 Q Now, Ms. Usma, I need for you to tell the jury what



1       you saw when you went in the kitchen door.

2       A       I'll speak in Spanish now.

3               When I got home, I opened the door. I saw my daughter  
4       lying on the floor. I started screaming, and I was saying,  
5       "Jennifer, Jennifer, get up, get up." And I touched her.  
6       "Don't play with me. Get up. Get up, daughter." She  
7       couldn't hear me. She wasn't moving. I started screaming,  
8       and a neighbor heard my screams and yells.

9               I called 9-1-1, and I couldn't speak. I was  
10       terrorized with what I saw or what I was seeing. I saw a  
11       lot of blood in my daughter's head. My daughter's hands  
12       were bruised and like this (demonstrating). But I was  
13       still screaming and yelling, "Get up, daughter. Get up.  
14       Don't play with me."

15              And I was on the phone with my sister, and she said,  
16       "What -- what have they done to Jennifer?"

17       Q       Don't say what anybody else said. Thank you.

18       A       (Witness in English) Okay.

19       Q       Now, during this time before your daughter died, was  
20       she dating anyone?

21       A       That I know of, no.

22       Q       Had she ever dated anyone?

23       A       That I knew of, no.

24       Q       So your daughter never had a boyfriend?

25       A       Well, the only boyfriend that she brought home and

1       that she introduced me to and said that it was her  
2       boyfriend, (indicating) Mr. David Lamar Thompson.

3       Q     Let's back up a little bit. The only boyfriend that  
4       you knew of was Lamar Thompson?

5       A     (Witness in English) Yes, ma'am.

6       Q     All right. And because we're making a record, I have  
7       to ask you this. Do you see him in the courtroom?

8       A     Yes, ma'am.

9       Q     Where is he?

10      A     (Indicating.)

11      Q     And can you state something that he's wearing?

12      A     He's wearing a black shirt.

13           MS. MUNSON: Okay. Thank you.

14           THE COURT: Where is he seated, ma'am?

15           THE WITNESS: He's sitting on that side where I'm  
16       putting my hand that way (indicating).

17           THE COURT: All right. Let the record reflect she's  
18       identified the defendant.

19           MS. MUNSON: Thank you, Your Honor.

20       BY MS. MUNSON:

21      Q     Now, how long did Jennifer date Lamar Thompson?

22      A     At least six years.

23      Q     And did he ever come over to your house?

24      A     Many times.

25      Q     And you had met him?

1 A Yes, ma'am.

2 Q Were there any other -- were there any other males  
3 that Jennifer was bringing around the house? Boyfriends?

4 A No, ma'am.

5 MS. MUNSON: May I approach the witness, Your Honor?

6 THE COURT: You may.

7 BY MS. MUNSON:

8 Q Mrs. Usma, I'm showing you State's Exhibit Nos. 1 and  
9 2. Can you take a look at those?

10 A Yes, ma'am.

11 Q Do you recognize them?

12 A It's my home.

13 MS. MUNSON: Okay. Your Honor, I'd move State's 1 and  
14 2 into evidence.

15 MR. SARRATT: No objection.

16 THE COURT: So admitted.

17 (WHEREUPON, State's Exhibit Nos. 1 and 2 were admitted into  
18 evidence.)

19 BY MS. MUNSON:

20 Q We're going to put these on that screen, so you might  
21 want to scoot over a little bit.

22 All right. Mrs. Usma, this is State's Exhibit No. 1.  
23 What part of your house is this?

24 A This is the main entrance, this side is.

25 Q Okay. And now I'm showing you State's Exhibit No. 2.

1 Can you take a look at that?

2 A Yes. That's the kitchen door. It's the main -- well,  
3 it's another entrance. Everyone that goes to my house uses  
4 that door.

5 Q Okay. And is that what it looked like on May the 23rd  
6 of 2014?

7 A Yes, ma'am.

8 Q Now, Mrs. Usma, around the time that your daughter  
9 died in May of 2014, were you asking her to stop seeing the  
10 defendant?

11 A Yes, ma'am.

12 MS. MUNSON: I don't have anything further at this  
13 point, Your Honor.

14 THE COURT: Mr. Sarratt, anything?

15 CROSS EXAMINATION

16 BY MR. SARRATT:

17 Q Mrs. Usma, back in 2014, Lamar was not welcome in your  
18 home, was he?

19 A (Witness in English) No.

20 Q But previously, he had been?

21 A No.

22 Q Did he not live with you in 2008 and 2009?

23 A No.

24 Q Would he frequent your house often back in 2008?  
25 2009?

1 A Yes.

2 Q Would you say that he was a regular guest in your  
3 home?

4 A Every now and then.

5 Q You say that your daughter was not dating Lamar in  
6 2014?

7 A I didn't say that.

8 Q You said that you encouraged her not to be with him?

9 A Yes. I told my daughter to not have any type of  
10 relationship with him.

11 Q And that's because they were bad for each other?

12 A They weren't bad for each other. He was the bad one  
13 towards my daughter.

14 Q That week, Jennifer was not coming home after work,  
15 was she?

16 A I can't say that exactly because I get off of work at  
17 6:30, so she might have been there or not. I can't answer  
18 that.

19 Q But you were under the impression that she was staying  
20 with a friend named Ali or Mo?

21 A I don't understand your question, sir.

22 Q Do you recall Jennifer telling you that she had been  
23 staying with a friend?

24 A I don't remember that call.

25 MR. SARRATT: No further questions.

1 THE COURT: Anything, Ms. Munson?

2 MS. MUNSON: No, sir.

3 THE COURT: Thank you, ma'am. You may step down.

4 MS. MUNSON: The State calls Jackeline Zuniga.

5 WHEREUPON,

6 JACKELINE ZUNIGA,

7 After first having been duly sworn, testified as follows:

8 THE CLERK: Would you please state your name for the  
9 record.

10 THE WITNESS: Jackeline Zuniga.

11 DIRECT EXAMINATION

12 BY MS. MUNSON:

13 Q Okay. Jackeline, where do you live?

14 A 214 Nix Circle.

15 Q With your mother?

16 A Yes, ma'am.

17 Q And who else lives there now?

18 A My stepdad and my mom and I.

19 Q Okay. Who was living there back in May of 2014?

20 A My mom, my stepdad and Jennifer.

21 Q And Jennifer was how old?

22 A 25.

23 Q How old are you?

24 A 19 right now.

25 Q Was Jennifer ever married to anybody?

1 A No.

2 Q Did she have any kids?

3 A No, ma'am.

4 Q What type of relationship did you have with her?

5 A We were close. Just like that regular sister bond.

6 Q Okay. So what sort of things would y'all discuss?

7 Without saying anything you talked about, what sort of  
8 things would y'all talk about?

9 A Relationships, school, going out. We'd go shopping  
10 together. Just normal stuff like that.

11 Q Okay. Now, in May of 2014 right before Jennifer died,  
12 what was the state of the relationship between her and the  
13 defendant?

14 A Complete 360. She would be -- before she was with  
15 him, she was happy, we would hang out. I mean, it was prom  
16 season. She took me out to get my nails done. And then  
17 once she went back to the defendant, she wouldn't talk to  
18 me as much, she wouldn't come home as much. It's just her  
19 attitude completely changed.

20 Q Okay. Did you think she was doing drugs or something  
21 like that?

22 A No, no.

23 Q Okay. Now, 2008 or 2009, was there a period of time  
24 where you think the defendant was sort of living in your  
25 house?

1       A     Yeah. He stayed there for a while.

2       Q     Okay. Explain that.

3       A     He stayed there for a while. I remember -- I mean,  
4       they shared a room together. We fed him. Well, my mom fed  
5       him. He'd clean his clothes there. He had a rise with my  
6       sister. I mean, they were just like a couple, I guess,  
7       living at home.

8       Q     Okay. And how long did that last?

9       A     I can't exactly remember. Probably like a month or  
10      two.

11      Q     Okay. And was there a time when you and your mom and  
12      your stepdad were gone but Jennifer stayed home?

13      A     Yeah.

14      Q     And when was that?

15      A     We went on vacation to Colombia, South America, and  
16      she -- we left the house with her. And that's when he was  
17      with her, too.

18      Q     Okay. Now, I want to ask you to think back to the  
19      short period of time before your sister was killed. How  
20      was she acting?

21      A     I remember the day before, Thursday, she called me  
22      crying. She needed to talk to me or talk to somebody. And  
23      I was in Bi-Lo buying some food. And I told her I can't  
24      talk to her. I'd be home.

25            So I went home, and she just started crying. I told



1 her, I was like, "You just need to let him go. He's too  
2 dangerous for you, like he's no good for you."

3 And she just started crying. She's like, "I'm just  
4 scared" ---

5 MR. SARRATT: Can't say who said ---

6 THE COURT: I don't know, "she's like," what that  
7 means. If she's getting ready to say something that he  
8 said, then can't testify.

9 MS. MUNSON: She was getting ready to -- yes, she was,  
10 Your Honor.

11 BY MS. MUNSON:

12 Q Without saying anything that Jennifer said, just how  
13 was she acting that Thursday before she was killed?

14 A She was chain smoking. She really doesn't smoke  
15 cigarettes. She -- her nerves were messed up. She would  
16 go outside through the kitchen door and she would smoke. I  
17 knew something was up. She was just -- she was shaking the  
18 whole time, and she would be crying. She was just scared,  
19 and she told me she was scared.

20 Q Had you ever seen her act like that before?

21 A Not that bad. Not that bad.

22 Q Well, did you ever know her to date anyone other than  
23 the defendant?

24 A Did I know anyone else that she dated?

25 Q Uh-huh.

1 A A few, yeah.

2 Q Anybody that was long term?

3 A No. Not as -- not like their relationship.

4 Q So when did they meet?

5 A The defendant?

6 Q Yeah. When did the defendant and your sister meet or  
7 get together?

8 A I was in middle school. I was probably like 13. It  
9 was a few years back.

10 Q Okay. Now, it wasn't unusual for your sister -- do  
11 you know when she was working?

12 A Yes. I'd be home whenever she'd come -- whenever she  
13 got home.

14 Q Okay. And what would she normally do when she got  
15 home?

16 A Pass out. She'd -- she'd be tired from work, and  
17 she'd just go straight to sleep.

18 Q Now, did there come a time where you had a  
19 conversation with the defendant about leaving Jennifer  
20 alone?

21 A Yes.

22 Q And what kind of conversation was it? Like talking?  
23 Facebook? telephone?

24 A Facebook.

25 Q All right. And when was that?

1       A     There was one in 2013, and the day before she got  
2       killed.

3       Q     The day before she ---

4       A     I mean that morning.

5       Q     The morning she got killed?

6       A     Yes.

7       Q     All right. And why were you trying to reach out to  
8       the defendant?

9       A     Because I just wanted him to leave her alone.

10      Q     Okay. And did he respond?

11      A     Yes.

12      Q     And how did he respond?

13      A     With a bad attitude.

14      Q     Okay. Bad language?

15      A     No. Just -- just being -- just saying that you can't  
16      stop us or it's between us, get -- don't get in our  
17      business.

18            MS. MUNSON: Things of that nature.

19            All right. I have nothing further at this time, Your  
20      Honor.

21                                   CROSS EXAMINATION

22      BY MR. SARRATT:

23      Q     It's fair to say that you did not want your sister to  
24      be with Lamar?

25      A     Yes.

1 Q But you're aware that they were back together?

2 A I was because her attitude changed. So yeah. Well,  
3 she didn't say they were together. They -- she mentioned  
4 that they were talking back, yeah.

5 Q So they had sort of reconnected ---

6 A Yes.

7 Q --- in the time before this?

8 A Uh-huh.

9 Q Was your mom aware of that, do you know?

10 A I told my mom.

11 Q Okay. And you were aware of that?

12 A I was.

13 Q And that was her decision?

14 A Yeah. A bad one, but yeah.

15 MR. SARRATT: All right. No further questions.

16 MS. MUNSON: Your Honor, may we approach very briefly.  
17 You don't even have to send the jury out. I have no  
18 further questions for this witness.

19 THE COURT: All right. You can step down.

20 (WHEREUPON, a bench conference was held off the record.)

21 MS. MUNSON: Thank you, Your Honor.

22 The State calls Jonathan Horne.

23 WHEREUPON,

24 JONATHAN HORNE,

25 After first having been duly sworn, testified as follows:

CROSS EXAMINATION

BY MR. SARRATT:

Q When you entered through the garage door, did you see any sign of forced entry?

A I don't recall seeing any forced entry, no.

MR. SARRATT: No further questions.

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

MS. MUNSON: Your Honor, may this witness be excused?

THE COURT: Any objection?

MR. SARRATT: No.

THE COURT: Yes, sir. You're free to leave.

THE WITNESS: Thank you.

MS. MUNSON: Your Honor, the State calls Amber Singleton.

WHEREUPON,

AMBER SINGLETON,

After first having been duly sworn, testified as follows:

THE CLERK: Would you please state your name for the record.

THE WITNESS: Amber Singleton.

DIRECT EXAMINATION

BY MS. MUNSON:

Q Okay. Amber, where do you live?

A 19 Hoptree Drive.

Q Does anybody live there with you?

1 A My dad and my stepmom.

2 Q Do you have any kids?

3 A No, ma'am.

4 Q Do you work?

5 A Yes, ma'am.

6 Q Where do you work?

7 A At Belk's.

8 Q What do you do?

9 A I'm a cashier.

10 Q How long have you been there?

11 A A couple months now. I still work at Gap. I worked  
12 there for three years.

13 Q All right. Well, do you know Lamar Thompson?

14 A Yes, ma'am.

15 Q How do you know him?

16 A We are on-again/off-again together. I considered him  
17 a boyfriend.

18 Q During what time period?

19 A The time that Jennifer was murdered.

20 Q So even in May of 2014, you felt like Lamar was your  
21 boyfriend?

22 A Yes, ma'am.

23 Q Now, how did you find out that Jennifer was killed?

24 A I think I got a phone call from his mom.

25 Q Okay. And where were you when you got that call?

1       A     I was just leaving work.

2       Q     So do you remember what day of the week it was?

3       A     Friday.

4       Q     Did you get a call from anybody else on that Friday  
5 while you were at work?

6       A     Yeah. David called me.

7       Q     He called you. When you say "David," who do you refer  
8 to?

9       A     Lamar.

10      Q     Okay. So David called you. Where were you?

11      A     I was at work.

12      Q     And what did he say?

13      A     He said, "I've done something. I need you to come get  
14 me."

15      Q     And what did you tell him?

16      A     I told him I couldn't, I was working, and that I could  
17 get him when I was done.

18      Q     Okay. You didn't go into a conversation with him  
19 about what had happened or what he did?

20      A     I tried to ask him what happened, and he's like, "I  
21 just need you to come get me right now." And I heard  
22 somebody in the background. I don't know who it was.

23      Q     Did he tell you where he was?

24      A     No.

25      Q     All right. Did you eventually go and get him?

1       A     I -- that's when I got the phone call. I left work  
2       and I couldn't get ahold of him, so I called his mom. And  
3       his mom told me that he had been taken down to the police  
4       station.

5       Q     Okay. So when you were speaking with his mom, do you  
6       know about what time of the day or night that was?

7       A     It had to have been probably 6:00 or 7:00 when I got  
8       off.

9       Q     Okay. And did you go -- where did you go when you got  
10      off work?

11      A     I went to my house, and then I just waited to hear  
12      from him.

13      Q     Okay. Did you ever go over to his place on that  
14      Friday?

15      A     Yeah. I picked him up.

16      Q     And where was he living?

17      A     In that apartment complex. I don't know. Or I don't  
18      know the name.

19      Q     So when you got over there to pick him up, about what  
20      time was it?

21      A     It was late. I think it was like, I don't know,  
22      10:00, 11:00 maybe. Whenever. It was just when he got  
23      back.

24      Q     Okay. And when you first got there, where was he?

25      A     I'm not sure.



1 Q Okay. Did you eventually find him there?

2 A Yeah, yeah.

3 Q And where did y'all go?

4 A Back to my friend's apartment. I was taking care of  
5 her dogs.

6 Q And how long did you stay there?

7 A We stayed there for a little, and then we went to go  
8 get something to eat.

9 Q And how was he acting during this time?

10 A He was kind of irate. He kept saying, "I didn't do  
11 anything. I didn't do anything. I don't know what they're  
12 talking about." When we went to eat, he didn't -- when I  
13 picked him up, he didn't have a shirt on. And when we went  
14 to eat, we went to the Coliseum to get some wings, and they  
15 wouldn't let him in because he didn't have his shirt on, so  
16 he got really mad.

17 Q Okay. And then after you left the Coliseum, where did  
18 you go?

19 A Back to the apartment.

20 Q And did you stay there all night?

21 A Yes.

22 Q So the next day, Saturday, did you have to work that  
23 day?

24 A I don't think so.

25 Q And how long did Lamar stay with you that Saturday?

1       A     I dropped him off sometime in the morning.  He went  
2       back to his place.

3       Q     And then did you ever go back to his place?

4       A     Maybe.  Probably.

5       Q     Okay.

6       A     I don't know.

7            MS. MUNSON:  That's all right.

8            May I approach this witness, Your Honor?

9            THE COURT:  You may.

10       BY MS. MUNSON:

11       Q     Ms. Singleton, I'm showing you State's Exhibit No. 58.  
12       Can you take a look at that?

13       A     Yes, ma'am.

14       Q     Do you recognize that?

15       A     Yes, ma'am.

16       Q     What is that?

17       A     It's my signature and the date.

18       Q     And what -- who put that signature and date on there?

19       A     I did.

20       Q     And when did you do that?

21       A     A couple hours ago.

22       Q     All right.  And did you listen to what's on that disk?

23       A     Yes, ma'am.

24       Q     And on that disk, is that a true and accurate  
25       conversation that you had with the defendant?

1 A Yes, ma'am.

2 MS. MUNSON: Your Honor, for the record, this has been  
3 provided to the defense in discovery, so we would request  
4 permission to play it for the jury right now.

5 MR. SARRATT: No objection.

6 THE COURT: All right.

7 (WHEREUPON, State's Exhibit No. 58, an audio recording, was  
8 played.)

9 BY MS. MUNSON:

10 Q So, Amber, when you're having this conversation with  
11 the defendant, where was he?

12 A In jail.

13 Q After Jennifer was dead?

14 A Yeah.

15 Q Did you go visit him in jail?

16 A Yes.

17 Q How soon after he got arrested?

18 A I don't remember. Probably soon.

19 Q Days? weeks?

20 A Probably a couple of days.

21 Q Did he show you slashes across his chest? Did he show  
22 you where he'd been cut and attacked by Jennifer?

23 A He never mentioned it.

24 MS. MUNSON: I have nothing further at this time, Your  
25 Honor.

CROSS EXAMINATION

BY MR. SARRATT:

Q Okay. So you just heard a conversation you had where Lamar told you that Jennifer was going to pay him to go to jail for her, correct?

A Yes.

Q Okay. And so we need to "untack" some of that. You're aware that in August of 2013, Jennifer was charged with criminal domestic violence of a high and aggravated nature?

A Yes.

Q And in that case, Lamar was the victim?

A Yes.

Q And after she was charged with domestic violence of a high and aggravated nature, they reconciled?

A Not sure.

Q Well, he did not want to pursue those charges anymore; is that your understanding?

A Not sure. He says that, but I don't know if that's true or not.

Q Okay. But he said that. That's what this conversation was about, is what I'm getting at. Would you agree?

A Yes.

Q Okay. So do you understand the arrangement was that

1 Lamar was going to not testify against Jennifer?

2 A Yeah.

3 Q And in doing so, there was a fear that he would be  
4 charged. Did he share that with you?

5 A I don't think so.

6 Q So did you understand what he meant when he told you  
7 that she was going to pay him not to go to jail?

8 A Not at first, no.

9 Q Okay. Do you understand it now?

10 A Yeah.

11 Q Okay. And is that because the perception was that he  
12 would be put in prison and charged for filing a false  
13 police report?

14 A Oh, right. Yeah.

15 Q Okay. And he didn't -- he was willing to do that, but  
16 the arrangement was that Jennifer was going to pay him to  
17 compensate him for dropping the charge; is that your  
18 understanding?

19 A He never told me that until on that phone right there,  
20 until after the fact.

21 Q Okay. All right. So when he says that she was going  
22 to pay him for him not to go to jail, he means that he was  
23 going to not testify against her in this domestic violence  
24 case. That's your understanding?

25 A Uh-huh.

1 Q All right. Now, you knew Jennifer, not well, but you  
2 knew who she was?

3 A Yeah.

4 Q Okay. And this is before everything happened. This  
5 is in early 2014. I mean, you didn't find out who she was  
6 after all this happened, right?

7 A No.

8 Q Okay. And you knew that she had a relationship,  
9 on-again/off-again, with Lamar, right?

10 A Yeah.

11 Q And you knew that that relationship happened at the  
12 same time that you had a relationship with Lamar?

13 A Yeah. After the fact.

14 Q Okay. Well, and you spent a lot of time with Lamar in  
15 the weeks before May 2014, didn't you?

16 A Yes.

17 Q And you had a fairly normal relationship, would you  
18 say?

19 A Not really.

20 Q Well, you know that he was doing drugs at that time?

21 A Not until after.

22 Q You weren't aware that he had been doing heroin?

23 A Not until after.

24 Q You didn't know that the people he hung around with  
25 did drugs?

1       A     Just because I hang around them didn't mean I did  
2       drugs.

3       Q     I didn't say you did drugs. I said were you not aware  
4       that the people in that community were doing drugs?

5       A     Yeah.

6       Q     And that Lamar was a part of that crowd?

7       A     Again, just because you're around them doesn't mean  
8       you're doing drugs.

9       Q     All right. But you know that he drank a lot?

10      A     Yeah.

11      Q     And you know that when he drank, he drank to excess?

12      A     Yeah.

13      Q     And you know that he wasn't himself when he was  
14      drinking. He became different.

15      A     Not really.

16      Q     Now, in the week before -- you said that you hung out  
17      with Lamar a good bit in the weeks before, but in the one  
18      week before, you were sick; isn't that right?

19      A     Yes.

20      Q     Okay. And so you didn't hang out with Lamar during  
21      that week, did you?

22      A     Nope.

23      Q     But you're aware that it was during that week that Jen  
24      got back together, got back in touch with Lamar?

25      A     Uh-huh.

1 Q And that they had been talking again?

2 A Yes.

3 MR. SARRATT: No further questions.

4 THE COURT: Anything?

5 MS. MUNSON: Nothing else, Your Honor.

6 THE COURT: All right. I'm going to let you step  
7 down.

8 Ladies and gentlemen, we're going to take a little bit  
9 of a break. I'm going to give you about a 15 minute break,  
10 send you back to the jury room, relax. Please do not  
11 discuss the case while you're back there. And we'll bring  
12 you right back in about 15 minutes.

13 (WHEREUPON, the jury exits the courtroom at 3:41 p.m.)

14 THE COURT: We'll take a break.

15 (WHEREUPON, a recess was taken.)

16 THE COURT: All right. Let's bring the jury in.

17 (WHEREUPON, the jury entered the courtroom at 4:00 p.m.)

18 THE COURT: All right. Madam Solicitor, are you ready  
19 to proceed?

20 MS. MUNSON: If it pleases the Court, Your Honor, the  
21 State calls Dr. Michael Ward.

22 WHEREUPON,

23 MICHAEL WARD,

24 After first having been duly sworn, testified as follows:

25 THE CLERK: Would you please state your name for the



1 record.

2 THE WITNESS: Michael Eugene Ward.

3 DIRECT EXAMINATION

4 BY MS. MUNSON:

5 Q Who do you work for, sir?

6 A I'm employed by Pathology Associates of Greenville  
7 which is a pathology group in town, and I'm also employed  
8 by Greenville County as the chief medical examiner.

9 Q Tell the jury about your educational background.

10 A I received my -- I have a bachelor's degree in biology  
11 from the University of Alabama, a master's degree in  
12 forensic science from the University of Alabama at  
13 Birmingham. I received my medical degree from the  
14 University of South Alabama in Mobile. I did a four-year  
15 anatomic pathology residency at the Medical University of  
16 South Carolina which is in Charleston. I had a one-year  
17 fellowship in forensics at the University of New Mexico in  
18 Albuquerque. I'm board certified by the American Board of  
19 Pathology in both anatomic and forensic pathology.

20 Q Are you currently licensed in South Carolina?

21 A I am, yes.

22 Q What is forensic pathology?

23 A Well, pathology is the study of disease and disease  
24 processes. Forensic pathology takes that one step further  
25 looking at diseases as well as trauma or injuries,

1 interpretation of those injuries, and determining cause and  
2 manner of death.

3 Q Okay. And how do you do that? How do you go about  
4 determining these things?

5 A By the autopsy.

6 Q And what is an autopsy?

7 A An autopsy is a detailed physical examination  
8 performed on a person who is deceased.

9 Q Okay. About how many autopsies have you performed?

10 A Well over 5,000.

11 MS. MUNSON: Your Honor, at this time, I offer  
12 Dr. Ward as an expert in the field of forensic pathology.

13 MR. SARRATT: No objection.

14 THE COURT: All right. Ladies and gentlemen, if  
15 scientific, technical or other specialized knowledge will  
16 assist you, the trier of the fact, in understanding any  
17 evidence or determining any issue that may be in  
18 controversy, a witness may be qualified as an expert by  
19 virtue of his or her knowledge, skill, experience, training  
20 or education, and as such, may offer an opinion in his or  
21 her area of expertise. I find this doctor to be qualified  
22 as an expert in forensic pathology, and as such, he can  
23 offer opinions in that area. I tell you that you should  
24 give his testimony such weight and credibility as you deem  
25 appropriate as you will with any and all witnesses who

1       testify in this trial.

2               MS. MUNSON:   Thank you, Your Honor.

3       BY MS. MUNSON:

4       Q     Did you perform an autopsy in reference to this case,  
5       Dr. Ward?

6       A     Yes, I did.

7       Q     And on whom did you perform that autopsy?

8       A     Jennifer Youngblood.

9       Q     And what date did you perform that autopsy?

10      A     It was performed on May 24, 2014.

11      Q     All right.  What was the first part of the autopsy  
12      process that you took part in?

13      A     Well, the initial portion of the autopsy is once the  
14      body is at the autopsy facility, we perform an external  
15      examination looking at the clothing, the external surface  
16      of the body for any natural disease that may be present or  
17      for the presence of trauma.

18      Q     And did you do that in this case?

19      A     Yes, I did.

20      Q     And what did you find in your external examination of  
21      Jennifer Youngblood?

22      A     Initially, Ms. Youngblood was covered with a great  
23      deal of blood, her clothes were bloody, there was blood on  
24      the external surface of her body, and there were 17  
25      separate and distinct stab wounds present to various

1 portions of the body centered around the head and neck and  
2 the chest area.

3 Q Was there anything else other than blood and stab  
4 wounds perhaps around her face? her nose?

5 A There were some superficial abrasions or superficial  
6 cuts to the skin around -- of the face and neck, yes.

7 Q Okay. And then after you've done this brief external  
8 examination, what's the next part?

9 A Well, then we wash the body. We'll remove the  
10 clothing, and so that's recovered by forensics. We wash  
11 the body to remove the blood, and then, in a very detailed  
12 fashion, examine, measure and then follow each stab wound  
13 to say what trauma there was to underlying organs.

14 Q Okay. And you did that in this case?

15 A Yes, I did.

16 Q Now, Dr. Ward, do you have an opinion as to the cause  
17 of death of Jennifer Youngblood?

18 A Yes, I do.

19 Q What is that opinion?

20 A It would be multiple stab wounds.

21 Q Do you have an opinion as to the manner of death?

22 A Yes, ma'am.

23 Q And what is that?

24 A The manner of death would be homicide.

25 MS. MUNSON: Your Honor, may I approach this

1 witness?

2 THE COURT: You may.

3 BY MS. MUNSON:

4 Q Now, Dr. Ward, I'm showing you State's Exhibits 27, 28  
5 -- 27, 28, 29 and 30. If you could, just take a look at  
6 these.

7 A (Witness complies) Yes.

8 Q Do you recognize those documents?

9 A I do.

10 Q And who prepared those?

11 A I did.

12 Q And are those documents going to be helpful in  
13 further explaining to the jury the wounds of Jennifer  
14 Youngblood?

15 A Yes, they would.

16 MS. MUNSON: Your Honor, I offer State's 27, 28, 29  
17 and 30 into evidence. And these have also been provided to  
18 the defense during the discovery process, Your Honor.

19 MR. SARRATT: No objection.

20 THE COURT: So admitted.

21 (WHEREUPON, State's Exhibit Nos. 27, 28, 29 and 30 were  
22 admitted into evidence.)

23 BY MS. MUNSON:

24 Q Now, Dr. Ward, if you would like to come down, I'm  
25 going to project these on that screen.

1 THE WITNESS: Your Honor?

2 THE COURT: You may step down.

3 BY MS. MUNSON:

4 Q This is State's Exhibit No. 27. Now, if you could,  
5 just explain for the jury, just go through the wound  
6 numbers that are State's Exhibit No. 27, please.

7 A Exhibit No. 27 is a four-view example of a head. So  
8 we have from the front and the back and the right and left  
9 side. And you can see that there are four true stab  
10 wounds: two to the right side and two to the left side.  
11 The one here is a superficial incise wound. This is more  
12 of a cut as opposed to a stab wound.

13 Stab Wound No. 1 goes into the soft tissue and  
14 musculature of the right side of the head but does not  
15 extend into -- does not extend into the underlying brain.  
16 No. 2 is into the right portion of the neck. It goes into  
17 the midline structures of the neck as does Stab Wound  
18 No. 4. Stab Wound No. 3 penetrates through the earlobe on  
19 the left side. So Stab Wound No. 1 is fairly superficial,  
20 Stab Wound No. 3 is superficial, but 2 and 4 go into the  
21 deep structures of the neck (indicating throughout).

22 Q And when you say "go into the deep structures of the  
23 neck," what does that mean?

24 A Well, it penetrates through the skin, through the  
25 underlying muscle and down to what we would consider to be

1 vital structures. So they are large blood vessels that  
2 take blood to the brain and away from the brain. There's  
3 the trachea which carries air to the lungs. All of those  
4 structures were involved.

5 Q In those wounds?

6 A Well, in the grouping of stab wounds to the neck.

7 Q And were these potentially fatal?

8 A One of them was certainly fatal. There are -- if --  
9 you might want to go to another slide.

10 Q Okay. We're going to look at ---

11 A There were five separate stab wounds to the neck  
12 region. All of them go from either the right or the left  
13 towards the midline such that the structures that are here  
14 beneath the skin, the great vessels of the neck, the  
15 trachea, are traumatized by these stab wounds.

16 One of the complications with the neck is that once  
17 you get inside, it's very difficult to determine if the  
18 injury that we have to the left internal jugular vein,  
19 which caused a great deal of blood loss, came from this  
20 side or from this side because their paths are crossing.  
21 It's fairly short, and so they cross. So to say that it  
22 was this one as opposed to this one, I cannot do, but I can  
23 tell you that from the stab wounds to the neck, there was a  
24 cut through the left internal jugular vein which caused a  
25 great deal of blood loss because that's the blood coming

1 back from the brain to the heart.

2 There was also trauma in the region of the trachea  
3 resulting in Ms. Youngblood aspirating or breathing in a  
4 great deal of blood, indicating that she was alive at the  
5 time she received these stab wounds (indicating  
6 throughout).

7 Q All right. Dr. Ward, now this is State's Exhibit  
8 No. 28. Explain for the jury what we're seeing here.

9 A So this is a separate view of the head. So before, we  
10 saw the right and left sides. Now we're looking at  
11 underneath the chin.

12 So here's the mandible or the lower jawbone would run  
13 in this region here. So here's a stab wound to the  
14 undersurface of the chin, a separate stab wound to the  
15 undersurface of the chin, and then one just to the right  
16 side of the neck.

17 This line here is a superficial incised wound or a  
18 superficial cut of the skin.

19 So we had stab wound here, here, and now we have three  
20 here, a total of five stab wounds to the vital region of  
21 the neck. One of them was fatal as it transected or cut  
22 the left internal jugular vein (indicating throughout).

23 Q All right. Dr. Ward, this is State's Exhibit No. 29.  
24 What do we have here?

25 A So this view shows the right and left sides of the



1 body. There are three stab wounds that are indicated: 8,  
2 9 and 10. Stab Wound No. 10 goes only into the  
3 subcutaneous tissues. It misses the chest cavity, goes  
4 into the soft tissues of the back.

5 8 and 9 go through the chest wall and into the  
6 underlying right lung (indicating throughout).

7 Q Now, Doctor, while we're talking about Wounds 8, 9,  
8 10, do you have any way of knowing that this is the order  
9 in which they were received by Jennifer?

10 A No, I do not. These are -- I try to number them from  
11 top to bottom and from one side to the other side, so as I  
12 come to them. And I basically number them sequentially,  
13 the first one I come to as I'm going down the body. They  
14 are in no way to indicate an order of occurrence.

15 Q And the wounds that are shown in State's Exhibit  
16 No. 29, I believe you said one just went into the tissue of  
17 the back?

18 A That's correct. This one goes into the tissues of the  
19 back. These two penetrate through the chest wall into the  
20 underlying lung (indicating throughout).

21 Q And what sort of damage does a puncture wound into the  
22 lung do? Two of them, actually, on the right side.

23 A Well, two things happen. You lose the ability to  
24 inspire air. We use -- when we breathe, our diaphragm  
25 moves down, it creates a vacuum inside our chest and it

1 basically sucks air in through our mouth. When you make a  
2 hole through there, so now instead of forcing the air to be  
3 sucked down through our mouth, now it comes in through the  
4 chest wall, so basically, you lose this right lung. So as  
5 you're breathing in, some may be going down through your  
6 mouth, but some is going in this way so you develop what we  
7 call a pneumothorax, which is air around the lung.

8 The second thing that happens is that the lung and the  
9 chest wall bleed so you start to develop blood around that  
10 lung as well. So she's got air and blood around the lung  
11 limiting how much she can breathe on that side.

12 Q And State's Exhibit No. 30.

13 A Okay. State's Exhibit 30 shows various stab wounds to  
14 the anterior, or the front and back portion of the body, as  
15 well as the upper extremities. Stab wounds -- this is 11,  
16 12 and 13, 14. 11 goes basically through the right -- the  
17 portion of the left breast into the chest wall and into the  
18 underlying heart. So this was the deepest stab wound that  
19 we were able to measure at 5.7 inches. So from the skin to  
20 the tip or to the termination of the wound was  
21 approximately five and a half inches. It goes through the  
22 skin, the chest wall and into the underlying heart cutting  
23 the wall of the heart, allowing blood outside the vascular  
24 system around the heart and into the left chest cavity.

25 Stab Wounds 12 and 13 and 14 go this way into the

1       underlying chest. These two traumatized the left lung, and  
2       this one traumatizes the stomach.

3               So the same factors on the left side that we had on  
4       the right side, loss of the ability to inspire air and the  
5       accumulation of air and blood around the lungs. So now  
6       she's unable to breathe as efficiently as she should be  
7       able to, and she's losing blood from her neck wound, from  
8       the wound to her heart and then around her lungs.

9               The other stab wounds listed are what we would call  
10       superficial wounds. This one goes into the musculature of  
11       the arm. Again, the musculature of the arm. This is an  
12       incised wound, this is a cut, and this is a superficial  
13       stab wound to the left arm.

14              There are certain types of wounds that we characterize  
15       as defensive wounds. So basically, what happens when  
16       you're being assaulted, you put your hands up to protect  
17       yourself in a defensive type posture. And Ms. Youngblood  
18       has a stab wound to the left hand. It goes all the way  
19       through from one side to the other. So I don't know if  
20       it's from this side to this side, or from this side to this  
21       side. But basically, it's a stab wound all the way through  
22       the left hand which very -- very nearly amputated the left  
23       fifth finger.

24              And then there are various superficial wounds to the  
25       back of the hand. There's a bruise right here on the left

1 upper chest and then abrasion or a scratch right on the  
2 upper portion of the right upper arm (indicating  
3 throughout).

4 Q Thank you, sir. As part of the autopsy, do you  
5 perform toxicology tests?

6 A Yes, we do.

7 Q And what did you find in Jennifer Youngblood's system?

8 A A toxicological analysis of Ms. Youngblood's femoral  
9 blood was negative. There were no drugs or alcohol  
10 discovered.

11 Q Okay. Now, the one wound that you talked about which  
12 was 5.7 inches, can you give the jury information about  
13 what type of weapon would do this?

14 A Okay. From examination of all of the wounds, we were  
15 able to determine that the wounds have a -- one side of the  
16 wound is sharp and one side of the wound is blunt. So that  
17 indicates that this knife has one cutting surface. As  
18 opposed to a double-edged knife, this is a single-edged  
19 knife. It's roughly -- the maximum wound depth we measured  
20 was 5.7 inches, so it has to be able to penetrate through  
21 the skin in underlying musculature at least that far. So  
22 to say it's exactly 5.7 inches, I can't say that, but it  
23 could have been anywhere from 4 1/2 to 5 inches to even 6  
24 or 7 inches. It doesn't mean it went all the way in, but  
25 it has to be able to penetrate into the chest at least

1       5.7 inches.

2       Q       Would the weapon have had to be sturdy?

3       A       I would think so because it's passing through the  
4       ribs, so it's got to have at least some sturdiness to be  
5       able to penetrate through skin, which is fairly difficult  
6       to penetrate through, the underlying musculature, and  
7       through the ribs.

8       Q       What about a little box cutter?

9       A       A box cutter type knife, which is -- as you know, it  
10       has a razor blade on it, would not do this. It would not  
11       penetrate into -- to that depth. It may have caused some  
12       superficial cuts, but would not have been an effective  
13       stabbing instrument.

14               MS. MUNSON: Thank you, sir.

15               I have nothing further, Your Honor.

16                               CROSS EXAMINATION

17       BY MR. SARRATT:

18       Q       Dr. Ward, as part of your autopsy, you take  
19       measurements and record the physical features of the  
20       decedent, correct?

21       A       Yes, I do.

22       Q       All right. And you did record the physical features  
23       of Jennifer Youngblood?

24       A       Yes.

25       Q       And from your notes, you recall that she was 5'11"?

1       A       I have her at 70 inches, which is 5'10".

2       Q       Oh, my math was wrong. 5'10" and 240 pounds?

3       A       That's correct.

4       Q       And also, in addition to her physical features, you  
5 would take note of any scars or tattoos?

6       A       That is correct.

7       Q       And you did note that she had a tattoo -- well, she  
8 had multiple tattoos?

9       A       That's correct, yes.

10      Q       One of those tattoos was of two masks entwined in an  
11 embrace --

12      A       Yes.

13      Q       -- with the word -- I'm sorry.

14      A       Yes, there were.

15      Q       With the word "pain" written below it?

16      A       That's correct.

17      Q       Okay. Now, you talked about in addition to that, you  
18 recorded and took measurements of each wound on the body?

19      A       Yes.

20      Q       Okay. You would record the width?

21      A       Yes.

22      Q       And the depth?

23      A       That's correct.

24      Q       And the direction?

25      A       Yes.

1 Q The shape?

2 A That's correct.

3 Q And as you testified, one of those wounds was 5.7  
4 inches deep?

5 A That's correct.

6 Q So, again, that -- and it had one sharp edge?

7 A Yes.

8 Q All right. And one blunt edge?

9 A That's correct.

10 Q Okay. So not consistent with a box cutter?

11 A Inconsistent with a box cutter, that's correct.

12 Q Right. None of the wounds on Jennifer Youngblood's  
13 body were made by a box cutter.

14 A I did not say that.

15 Q Well, can you conclude that none of the wounds were  
16 made by a box cutter?

17 A No, I cannot.

18 Q Could you conclude that they would not have been made  
19 by a blade that was less than 5.7 inches long?

20 A The stab wounds to Ms. Youngblood were not made with a  
21 box cutter. There are superficial incised wounds which are  
22 basically cuts of the skin. There are some that are  
23 relatively superficial, some that are slightly deeper.  
24 Those could have been created with a box cutter. I can't  
25 rule that out.

1 Q Okay. But the ones that do penetrate, you cannot --  
2 those cannot have been made by a box cutter?

3 A That's correct. The stab wounds were not created with  
4 a box cutter. I cannot, from the autopsy, conclusively say  
5 that there were not two separate weapons: one a box cutter  
6 that may have been used to create incised wounds or cuts,  
7 and then a separate wound [sic] for the stab wounds.

8 Q Okay. You were thorough in your examination?

9 A I try to be, yes.

10 Q And you didn't find any other injuries outside of your  
11 report?

12 A Only the ones listed in my autopsy report.

13 Q Great. Okay. So there were no broken bones or  
14 gunshot wounds, nothing like that?

15 A No, there were not.

16 Q Okay. Now, you testified that you can only record the  
17 description of the wounds, but you can't tell anything  
18 about the order of the wounds?

19 A That is correct. I cannot.

20 Q Okay. Nor can you tell anything about the  
21 circumstances leading up to those wounds.

22 A That's correct.

23 Q Okay. Now, you indicated that the cause of death was  
24 multiple stab wounds.

25 A Yes.



1 Q And you said that the manner of death was homicide?

2 A That is correct.

3 Q Would you define "homicide"?

4 A Homicide is the death of an individual at the hands of  
5 another.

6 Q So it's fair to say that just because something is a  
7 homicide does not mean that it is a murder?

8 A That's correct.

9 MS. MUNSON: Objection, Your Honor. That's outside  
10 the doctor's ---

11 THE COURT: Sustained.

12 BY MR. SARRATT:

13 Q Can you draw any conclusion from your assessment that  
14 the manner of death was homicide about whether this was  
15 justified or not, given that you don't know the  
16 circumstances leading up to the wounds?

17 A I would not do that, no.

18 Q Okay. So you have no opinion -- medical opinion as to  
19 whether this was a murder or a justified ---

20 MS. MUNSON: Objection, Your Honor. Same objection.

21 THE COURT: Sustained.

22 BY MR. SARRATT:

23 Q Okay. You testified that one of the wounds to  
24 Jennifer's hand was a defensive wound?

25 A That is correct.

1 Q You're not able to draw any medical conclusion that  
2 because she had a defensive wound, that she would have been  
3 the aggressor?

4 A I'm sorry. I don't understand that.

5 Q The fact that she has a defense wound, it is  
6 consistent. She could have a defensive wound and also be  
7 the aggressor in an altercation, correct?

8 A I -- I don't know the circumstances surrounding this.  
9 Interpretation of these wounds is -- is that  
10 Ms. Youngblood is alive when she receives these stab  
11 wounds. They are vital wounds. None of them appear to be  
12 postmortem. There are multiple stab wounds to various body  
13 surfaces both front, back, right and left, and that there  
14 is an injury to one hand which is consistent with an  
15 attempt to ward off a blow or a strike, and we consider  
16 those to be defensive wounds. What else Ms. Youngblood was  
17 doing, I cannot say.

18 MR. SARRATT: No further questions.

19 MS. MUNSON: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. MUNSON:

22 Q The order of wounds is something that Mr. Sarratt  
23 asked you, we both talked about. But what's going on in  
24 her body? Whoever was stabbing her, she receives the stabs  
25 to the lungs. What's going on? Is she able to stand? able

1 to talk?

2 A We often have misconceptions about stab wounds, and it  
3 may be media-based. But individuals who receive a stab  
4 wound do not immediately die. They may eventually die as  
5 in Ms. Youngblood, but they do not immediately die. We  
6 bleed out. We bleed to death. And that takes some time.  
7 So the stab wounds that Ms. Youngblood received, she would  
8 be able to still be standing up, she would be potentially  
9 fighting back, she would be trying to run, she may be  
10 trying to avoid her attacker. Who knows. But she is not  
11 going to receive a single stab wound, any of these single  
12 stab wounds is not going to make her drop immediately. She  
13 is eventually going to bleed to death.

14 Q Okay. And would she be making any particular sounds  
15 with the wounds to her trachea and esophagus?

16 A She -- certainly from the trauma to the neck, the stab  
17 wounds to the neck, there is now blood basically  
18 accumulating in the back of her throat. So she's going to  
19 be breathing this in, potentially coughing it up, making a  
20 gurgling type noise. You can hear instead of air passing  
21 through fairly quietly, now there's liquid that's moving  
22 back and forth, and you would certainly be able to hear  
23 that as she breathed.

24 MS. MUNSON: Thank you, Doctor. Nothing further.

25 MR. SARRATT: Nothing.

1 MS. MUNSON: Your Honor, may this witness be excused?

2 THE COURT: You may. Thank you, sir.

3 MS. MUNSON: The State calls Ashia Jones.

4 WHEREUPON,

5 ASHIA JONES,

6 After having been duly sworn, testified as follows:

7 THE CLERK: And would you please state your name for  
8 the record.

9 THE WITNESS: Ashia Monique Jones.

10 DIRECT EXAMINATION

11 BY MS. MUNSON:

12 Q Ms. Jones, what do your friends call you? What do  
13 people call you?

14 A Mo.

15 Q Mo. Okay. And where do you live?

16 A 100 Buttercup, Taylors, South Carolina.

17 Q Do you work outside the home?

18 A Uh-huh.

19 Q Where do you work?

20 A Span Packing.

21 Q Span Packing. How long have you been there?

22 A I've been there almost two years.

23 Q And did you know Jennifer Youngblood?

24 A Yes.

25 Q How did you meet her?

1 A We met in 2011 at Virginia College.

2 Q And what were y'all studying at Virginia College?

3 A Cosmetology.

4 Q Did you finish the course?

5 A Yes.

6 Q Both of you?

7 A Yes. I graduated before she did, but we both  
8 finished.

9 Q Okay. So when you were at Virginia College, did you  
10 hang out outside of the college?

11 A Not really.

12 Q Okay. So when was the next time you saw her at the  
13 college?

14 A When I started working at Span Packing.

15 Q When was that?

16 A 2014, like late January, early February.

17 Q And does she have sort of the same job as you?

18 A Yes.

19 Q So what exactly were y'all doing there?

20 A We were machine operators. She was my trainer.

21 Q Okay. And what shift would you work?

22 A Third shift.

23 Q The whole time you knew her?

24 A Uh-huh.

25 Q Did you ever meet her boyfriend?

1 A One time.

2 Q And when was that?

3 A A few months after I started working at Span.

4 Q And I'm sorry. Tell me again when you started.

5 A I started in January.

6 Q January of two thousand ---

7 A '14.

8 Q -- fourteen?

9 A Uh-huh.

10 Q Okay. And Jennifer was already there?

11 A Uh-huh.

12 Q All right. So you met him once. Where was that?

13 A At my house.

14 Q Okay. And how did that happen?

15 A Me and Jennifer planned to go out that night, and when  
16 she came to the house, there was a knock at the door. And  
17 when I pulled the curtain back, I saw him. I didn't see  
18 Jennifer. And I automatically knew who he was.

19 Q Okay. How did you know who he was?

20 A From her describing him to me.

21 Q Okay. And how did she describe him?

22 A Tall, dark skin. And that's what was at my door.

23 Q Okay. Did you get a good look at him?

24 A Yeah.

25 Q Would you see him -- would you recognize him if you

1 saw him again?

2 A Oh, yeah.

3 Q Is he in the courtroom?

4 A Yep.

5 Q Would you please point him out?

6 A Sitting right there (indicating).

7 Q Right there where?

8 A Right there. Black shirt.

9 Q Okay. And what table is he sitting at?

10 A The only table. The end of the table. The left.

11 Q Anybody else at the table with him?

12 A Yeah. Two other guys.

13 MS. MUNSON: Your Honor, may the record show that  
14 she's identified the defendant.

15 BY MS. MUNSON:

16 Q Okay. So when he came to your house that night,  
17 Jennifer was not with him?

18 A Yeah. She was.

19 Q Okay. But you were going out with just her?

20 A Well, when he came, then all three of us were going to  
21 go out.

22 Q Okay. And you did go out with him?

23 A No. We ended up not going out.

24 Q Okay. Stayed in?

25 A Yeah.

1 Q Okay. And that was the only time you ever saw him?

2 A I saw him a couple times at the job. She would let  
3 him keep her car.

4 Q Okay. While y'all were working?

5 A Uh-huh.

6 Q Now let's move a little closer into May of 2014. Were  
7 you friendly enough with Jennifer where you would have  
8 conversations about her relationship?

9 A Uh-huh.

10 THE COURT: Ma'am, you need to say "yes" or "no."

11 THE WITNESS: Oh, yes.

12 BY MS. MUNSON:

13 Q Would she talk to you about other things besides her  
14 relationship?

15 A Yes.

16 Q Family? school?

17 A Family.

18 Q Okay. Now, in May of 2014, how would you -- at what  
19 stage would you say the relationship was with Mr. Thompson?  
20 On again or off again?

21 A Apparently it was on again, because when I met  
22 Jennifer, they were not together. Jennifer did not have a  
23 cell phone. If you wanted to contact Jennifer, you had to  
24 have her mother's number. That's how I got in contact with  
25 Jennifer.



1           And around May, she got a cell phone, and that's when  
2 she began to let me know, you know, that he was trying to  
3 get back in touch with her on Facebook. And I would tell  
4 her, you know, from the stories that she told me, you know,  
5 "You might not want to deal with this goon, you know. Cut  
6 off all ties." And eventually, she accepted a friend  
7 request, and that's when they began to start talking again.

8       Q     And do you know about when that was?

9       A     I can't say the exact month or day, but it wasn't long  
10 after all this happened. It wasn't long at all.

11      Q     It wasn't long after they started talking again that  
12 she was killed?

13      A     Yeah.

14      Q     Okay. Now, do you remember the day that she died?

15      A     I don't know the exact date. Apparently it was that  
16 Friday. I didn't get the phone call until that Saturday.

17      Q     Okay. You remember when you got the call?

18      A     Yeah.

19      Q     And did you work? You got the call on a Saturday. So  
20 did you work Thursday night?

21      A     Yeah. We worked Thursday, and we would get off Friday  
22 morning. So that entire Friday, you know, get off at 6:30,  
23 7:00 in the morning. I'm asleep. I sleep the whole day.  
24 And I remember telling Jennifer, you know, "Call me when  
25 you get home, you know. Let me know when you get home." I

1        didn't hear from her, but it was normal. So, you know, I  
2        didn't think anything of it.

3        Q        All right. Now, the Thursday before she died when  
4        y'all are at work, the normal hours?

5        A        Uh-huh.

6        THE COURT: Is that a "yes"?

7        THE WITNESS: Oh, yes.

8        BY MS. MUNSON:

9        Q        Now, did she leave work at all?

10       A        No.

11       Q        Do y'all get like a lunch break ---

12       A        Yes.

13       Q        --- in the middle of the night like that?

14       A        Yes.

15       Q        And what did you do on your lunch break?

16       A        We left work together in my car on our lunch break.

17       Q        Okay. When you say "we," who do you mean?

18       A        Me and Jennifer.

19       Q        And you went where?

20       A        We went to my house.

21       Q        And about how far away is it from where you were  
22       working?

23       A        About a 15 minute drive.

24       Q        So after your lunch break, you go back to work?

25       A        Yes.

1 Q Did she have any contact? Like physically, did you  
2 see anybody else around her the whole time at work?

3 A No.

4 Q Now, what happened after you got off work?

5 A When we got off work, we had to go back to my house  
6 because she left her keys at my house. So we drove back to  
7 my house, we got her car keys, and I drove her back to  
8 Span. And I told her to go straight home, to let me know  
9 when she got home. She got in her car and she left.

10 Q Okay. Now, during the course of while y'all were  
11 working, was she getting any phone calls?

12 A Yes.

13 Q A lot?

14 A Yes.

15 Q How would you -- how many would you say? Or can you  
16 say?

17 A I can't actually say how many she got because we were  
18 on separate lines, but the line that I was on, I could see  
19 her line. And I knew when Jen was on her phone because her  
20 phone was pretty big and she would keep it on her shoulder.  
21 So the majority of the night, she was like this  
22 (demonstrating).

23 Q Okay. When you say you were on different lines, what  
24 do you mean by that?

25 A We were operating different machines.

1 Q Okay. But you could see her from ---

2 A Yes. I could see her.

3 Q Did you ever get close enough to her to hear what was  
4 going on?

5 A Yes. When we was in the car.

6 Q When you were in the car?

7 A Yes. I could hear the entire conversation through the  
8 phone.

9 Q Okay. Between her and who?

10 A Lamar.

11 Q And how do you know it was Lamar?

12 A I could hear him through the phone.

13 Q You recognized his voice?

14 A Uh-huh.

15 Q Okay. And what was the tone of that conversation?

16 A His tone was low-key. It was chilled. He wasn't  
17 yelling at her or anything, and that's what made it very  
18 eerie. And he kept trying to get her, you know, "Let's  
19 meet up when you get off of work, just me and you so we  
20 could talk."

21 And I would tell her, "That doesn't sound right.

22 Don't meet up with him. Go straight home."

23 Q And how did she respond?

24 A I mean, they were pretty much arguing back and forth.  
25 She was like, "Lamar, pretty much I just want you to leave

1 me alone. You're jeopardizing our relationship between me  
2 and my family. We're not supposed to be around each other.  
3 You're jeopardizing my freedom. You must not care about me  
4 enough for me to be free." It was more of her saying, "We  
5 need to end this. We don't need to be together." That was  
6 pretty much what the conversation was.

7 Q And you were in favor of that?

8 A Yeah.

9 Q Okay. How long was the conversation?

10 A It lasted the entire time from the house back to work,  
11 so I could say like 15 minutes.

12 Q Okay. And that week at work, so you worked Thursday  
13 night into Friday morning?

14 A Uh-huh.

15 Q Did you work Wednesday night into Thursday morning?

16 A Yes.

17 Q And how was she at work that day?

18 A I'll say Monday, Tuesday and Wednesday Jennifer was  
19 fine. She was fine. When Jennifer came in Thursday, it  
20 was -- she was different. She looked almost like a ghost.  
21 And she came to me and she told me that she was scared, and  
22 she looked like she was scared.

23 MS. MUNSON: I have nothing further, Your Honor.

24 MR. SARRATT: I have no questions.

25 THE COURT: All right. Thank you, ma'am. You may

1 A That's correct.

2 MR. SARRATT: No further questions.

3 MS. MUNSON: Nothing further, Your Honor. We ask that  
4 this witness be excused.

5 THE COURT: Thank you, sir. You may step down. And  
6 you're free to leave.

7 MS. MUNSON: Your Honor, the State calls Dar Shaw.

8 Sorry about that, Your Honor.

9 WHEREUPON,

10 DAR SHAW

11 After having been duly sworn, testified as follows:

12 THE CLERK: And would you please state your name for  
13 the record.

14 THE WITNESS: Darwin Shaw, S-H-A-W.

15 DIRECT EXAMINATION

16 BY MS. MUNSON:

17 Q Who do you work for, sir?

18 A The Forensic Division, Department of Public Safety,  
19 Greenville County.

20 Q And what are your duties?

21 A I'm a sergeant, which is I do supervisory roles as far  
22 as correcting reports and so on. I also respond to crime  
23 scenes at the request of agencies for Greenville County.

24 Q All right. How long have you been with the Forensics  
25 Division?

1       A     In December it will be 17 years.

2       Q     All right. Can you estimate how many crime scenes  
3       you've been to?

4       A     In excess of 7,000.

5       Q     All right. Do you have any specialized training as  
6       far as the field of forensics?

7       A     Prior to getting into forensics, I was an investigator  
8       for 14 years, so I've attended many death investigations,  
9       schools, various types of crimes. I've had online  
10      training, but most of it is on-the-job training and  
11      experience.

12      Q     Okay. Now, when you go to a scene, a crime scene,  
13      first thing you do -- how do you go through that process?  
14      That's what I'm asking.

15      A     The first thing we do is -- I do is I'll meet with the  
16      officer who is working the scene, and I will get some type  
17      of an assessment as far as what has happened, what has  
18      transpired. I get victim information, basic information  
19      for my report prior to actually going in and making an  
20      assessment as far as what actions I'm going to take.

21      Q     Okay. And were you with the Forensics Division in May  
22      of 2014?

23      A     I was.

24      Q     And did you get called out to this case?

25      A     I did.

1 Q And where did you go?

2 A It was on Ashe Drive. I'd have to look at my -- I'm  
3 sorry. Can I get my report?

4 Q Oh, absolutely.

5 A I'm sorry. It was 214 Nix Circle, Greenville.

6 Q So when you got there to process this scene, what is  
7 the first thing you did?

8 A I met with Investigator Rivera to get an idea from him  
9 as to what had happened, and it was at that point that he  
10 had said that a search warrant was being drawn up, was not  
11 there at that time, so I'd need to wait until a search  
12 warrant was done before I proceeded.

13 Q Into the Nix Circle house?

14 A That's correct.

15 Q So when you got the search warrant and you went in,  
16 which door did you go in?

17 A I went in the side door next to the driveway. It went  
18 into the kitchen.

19 Q Okay. And what did you see in the kitchen?

20 A Observed a lot of blood on the floor and a female  
21 victim lying facedown on the kitchen floor with her head  
22 near the stove -- bottom of the stove and her feet towards  
23 the kitchen -- or towards the kitchen table.

24 Q Okay. And obviously took photographs?

25 A I did.



1 Q What else did you do in there?

2 A The first thing I did was went in and just walked  
3 around, made an assessment trying to identify items of  
4 potential evidence that I would be collecting. I saw like  
5 X-Acto blades or the small snap-off blades from an X-Acto  
6 knife. I saw some of those on the kitchen counter, as well  
7 as on the floor. There was a paring knife on the floor.  
8 The door to one of the cupboards had been pulled off and  
9 was laying on the floor. So as I said, I was just making  
10 an assessment of those things before taking the  
11 photographs. Once I did the observations, then I took  
12 photographs inside the kitchen.

13 Q Did you go through the rest of the house?

14 A After the victim was transported from the scene, I did  
15 go in and photograph the rest of the rooms.

16 Q Okay. And did you find any evidence that you  
17 collected in any other part of the house other than the  
18 kitchen?

19 A No, I didn't.

20 Q All right. After Jennifer's body was removed, did you  
21 do any sort of chemical testing?

22 A I did. In looking on the floor, there were -- you  
23 could tell that the blood had been stepped in, and a couple  
24 of the -- the bloody impressions you could see the word  
25 "Adidas" and you could also see -- it's a logo or an emblem

1       that's on the bottom of Adidas shoes. Those were  
2       photographed with and without scale. And I called one of  
3       our other technicians to bring some LCV. It's Leucocrystal  
4       Violet. It's a chemical that is used to spray on blood to  
5       enhance or to bring up clearer any type of impressions,  
6       like footwear impressions.

7       Q     Okay. Now, the footwear impressions that you saw, did  
8       you see any barefoot feet walking around the kitchen?

9       A     I did not.

10      Q     Okay. And when you observed the victim lying on the  
11     kitchen floor, did you notice anything about her feet?

12      A     She was -- didn't have anything -- no socks, no shoes,  
13     and also had blood on the bottom of her feet.

14      Q     On the bottom of her feet?

15      A     That's correct.

16      Q     So after photographing, collecting evidence at Nix  
17     Circle, did you go anywhere else?

18      A     After Nix Circle?

19      Q     Yes, sir.

20      A     After I cleared that scene, later on I was contacted  
21     by Investigator Rivera to go to the Law Enforcement Center.  
22     He had a person of interest that he wanted evidence  
23     collected from.

24      Q     Okay. And did you take anything from that person?

25      A     I did.

1 Q What did you take?

2 A A buccal swab, which is a swab for DNA, from inside  
3 the mouth. I also took nail clippings from the left hand  
4 and the right hand.

5 Q Okay. And the person that we're talking about, who  
6 was that?

7 A It was identified as David Lamar Thompson.

8 Q Okay. When you were photographing him, what injuries  
9 did you see on him?

10 A The only injury I saw was on the right hand, the right  
11 index finger. The pad between -- next to the knuckle, the  
12 skin, there was a chunk of skin missing from that part of  
13 the finger.

14 Q Was it bleeding?

15 A No, it was not.

16 Q And did he complain of any other injuries?

17 A No, he didn't.

18 Q Now, after photographing him, what was the next thing  
19 you did in reference to this case?

20 A I was contacted about two vehicles that search  
21 warrants were going to be obtained for, and I was asked to  
22 process both of those vehicles, as well.

23 MS. MUNSON: May I approach, Your Honor?

24 THE COURT: You may.

25 ///

1 BY MS. MUNSON:

2 Q All right. Sergeant Shaw, I'm going to show you a  
3 group of photographs here. What I'm showing you right now  
4 is State's Exhibits 33, 49, 50, 51, 52, 53 and 45. If  
5 you'll just take a look at those.

6 A (Reviews documents.)

7 Q Do you recognize those?

8 A I do.

9 Q Are these true and accurate depictions of the scene on  
10 Nix Circle when you got there on May the 23rd?

11 A Yes, they are.

12 MS. MUNSON: Your Honor, I'm going to move into  
13 evidence State's 33, 49, 50, 51, 52, 53 and 45.

14 MR. SARRATT: No objection.

15 THE COURT: So admitted.

16 (WHEREUPON, State's Exhibit Nos. 33, 45, 49, 50, 51, 52 and  
17 53 were admitted into evidence.)

18 BY MS. MUNSON:

19 Q Now, Investigator, I'd like you to take a look at  
20 State's 39, 40, 42, 43, 44 and 41.

21 A (Reviews documents.)

22 Q Do you recognize those?

23 A I did.

24 Q And are these as well true and accurate depictions of  
25 the scene on Nix Circle on May the 23rd?

1 A Yes, they are.

2 MS. MUNSON: Your Honor, I'm moving into evidence  
3 State's 39, 40, 42, 43, 44 and 41.

4 MR. SARRATT: No objection.

5 THE COURT: So admitted.

6 (WHEREUPON, State's Exhibit Nos. 39, 40, 41, 42, 43 and 44  
7 were admitted into evidence.)

8 BY MS. MUNSON:

9 Q Now, Investigator Shaw, I'd like you to take a look at  
10 State's 55, 56 and 57.

11 A (Reviews documents.)

12 Q Do you recognize those?

13 A Yes, I do.

14 Q Are they true and accurate depictions of the scene on  
15 Nix Circle on May 23rd?

16 A Yes, they are.

17 MS. MUNSON: Thank you, sir.

18 Your Honor, I'm moving into evidence State's 55, 56  
19 and 57.

20 MR. SARRATT: No objection.

21 THE COURT: So admitted.

22 (WHEREUPON, State's Exhibit Nos. 55, 56 and 57 were  
23 admitted into evidence.)

24 BY MS. MUNSON:

25 Q Now I'd like for you to take a look at State's 46, 47.

1 A (Reviews documents.)

2 Q Do you recognizes those, as well?

3 A Yes, I do.

4 Q And they are true and accurate depictions of the scene  
5 on Nix Circle?

6 A Yes, they are.

7 MS. MUNSON: Your Honor, I'm moving into evidence 46  
8 and 47.

9 MR. SARRATT: No objection.

10 THE COURT: So admitted.

11 (WHEREUPON, State's Exhibit Nos. 46 and 47 were admitted  
12 into evidence.)

13 BY MS. MUNSON:

14 Q Now I'm going to show you State's 5, 36, 37, 38 and  
15 48.

16 A (Reviews documents) Those two I did not take.

17 Q You didn't take them, but do you recognize the  
18 vehicle?

19 A The vehicle is the same description as that I  
20 processed on the 27th, I believe.

21 Q Okay. And is it an accurate depiction of the vehicle?

22 A Of the vehicle, yes, it is.

23 Q Okay.

24 A And these photographs I did take.

25 Q And are they true and accurate depictions of the

1 vehicle that you processed?

2 A Yes, they are.

3 Q All right. Now let me show you State's 19 and 20.

4 A (Reviews documents.)

5 Q Do you recognize them?

6 A Yes, I do.

7 Q Are they true and accurate depictions of processing  
8 that vehicle?

9 A Yes, they are.

10 Q And State's Exhibit No. 16.

11 A (Reviews document.)

12 Q Do you recognize it?

13 A I do.

14 Q Okay. I'm showing you State's 13, 14 and 15. Do you  
15 recognize those, as well?

16 A Yes, I do.

17 Q Now I'm showing you States 10, 11 and 12.

18 A (Reviews documents.)

19 Q Do you recognize them?

20 A Yes, I do.

21 Q And I'm showing you State's 7, 8 and 9. Do you  
22 recognize those, as well?

23 A Yes, I do.

24 Q And, finally, State's 17 and 18.

25 A (Reviews documents.)

1 Q And you recognize those, as well?

2 A Yes, I do.

3 Q And are these all true and accurate depictions of the  
4 vehicle you processed and photographs you took while  
5 processing?

6 A They are.

7 MS. MUNSON: Okay. Your Honor, I'd like to move into  
8 evidence, Your Honor, State's 5, 36, 37, 38, and 48.

9 MR. SARRATT: Without objection.

10 THE COURT: So admitted.

11 (WHEREUPON, State's Exhibit Nos. 5, 36, 37, 38 and 48 were  
12 admitted into evidence.)

13 MS. MUNSON: I'd like to move into evidence, Your  
14 Honor, Exhibits -- State's Exhibits 19 and 20.

15 MR. SARRATT: Without objection.

16 THE COURT: So admitted.

17 (WHEREUPON, State's Exhibit Nos. 19 and 20 were admitted  
18 into evidence.)

19 MS. MUNSON: I'd like to move into evidence State's  
20 Exhibit No. 16.

21 MR. SARRATT: Without objection.

22 THE COURT: So admitted.

23 (WHEREUPON, State's Exhibit No. 16 was admitted into  
24 evidence.)

25 MS. MUNSON: Your Honor, I'd like to move into



1 evidence State's Exhibit 13, 14 and 15.

2 MR. SARRATT: Without objection.

3 THE COURT: So admitted.

4 (WHEREUPON, State's Exhibit Nos. 13, 14 and 15 were  
5 admitted into evidence.)

6 MS. MUNSON: Your Honor, I'd like to move into  
7 evidence State's Exhibits 10, 11 and 12.

8 MR. SARRATT: Without objection.

9 THE COURT: So admitted.

10 (WHEREUPON, State's Exhibit Nos. 10, 11 and 12 were  
11 admitted into evidence.)

12 MS. MUNSON: I'd like to move into evidence State's  
13 Exhibit 7, 8 and 9.

14 MR. SARRATT: Without objection.

15 THE COURT: So admitted.

16 (WHEREUPON, State's Exhibit Nos. 7, 8 and 9 were admitted  
17 into evidence.)

18 MS. MUNSON: And I move into evidence State's  
19 Exhibits 17 and 18.

20 MR. SARRATT: No objection.

21 THE COURT: So admitted.

22 (WHEREUPON, State's Exhibit Nos. 17 and 18 were admitted  
23 into evidence.)

24 BY MS. MUNSON:

25 Q All right. Now, Sergeant, I'm going to ask you to --

1       you can either sit there and use the pointer or come down  
2       here. We need to go through these exhibits. Just remember  
3       to keep your voice up so the jury can hear you.

4               Now, this is State's Exhibit No. 33. Explain for the  
5       jury what we're looking at here.

6       A     This is a photograph of blood on the kitchen floor and  
7       showing areas of footwear impressions in blood on the  
8       kitchen floor.

9       Q     Now, when you took State's Exhibit No. 33, was  
10      Jennifer's body -- had her body been removed?

11      A     Yes, it had.

12      Q     Now we're going to look at State's No. 49. And what  
13      does this show?

14                       (Pause in proceedings.)

15               All right. Now, we're looking at State's Exhibit  
16      No. 49. If you could, explain to the jury what's mostly in  
17      the center of the photograph there.

18      A     There is also a footwear impression in blood in part  
19      of the photograph. There are also smaller areas throughout  
20      this on the floor that was -- it had the appearance of  
21      footwear impressions, but they had not been developed yet  
22      because of not using the LCV.

23      Q     Okay. So this particular footprint right here  
24      (indicating) with this dark spot at the top there?

25      A     Yes.

1 Q All right. Now I'm going to show you State's Exhibit  
2 No. 50. And what is State's Exhibit No. 50?

3 A This is just a closer photograph showing the entirety  
4 of the footwear in blood.

5 Q And this particular footwear impression, did you use  
6 the LCV on this particular impression?

7 A I did.

8 Q All right. So let's look at State's 51. There.

9 A This is a photograph of the same footwear impression  
10 that was taken. And in this case, you can see the Adidas  
11 little logos on the bottom, and, actually, in the middle of  
12 the shoe, it says "Adidas" on it.

13 Q Now, this LCV that you apply, how, if at all, does it  
14 change the impression?

15 A It doesn't change the impression. All it does is  
16 enhances it to make it more visible.

17 Q All right. And now let's look at State's 52. What is  
18 this?

19 A All right. This is a scaled photograph. When we have  
20 footwear impressions, we want to try to determine the  
21 length of the footwear as well as the width, so we put a  
22 scale in to obtain those -- to obtain that measurement. So  
23 it's just the same photograph; however, it has the scale  
24 included.

25 Q So how would you characterize the size of that

1 footwear impression?

2 A From where the base is at, it's larger -- it appears  
3 to be larger than a size 12. It's larger than that.

4 Q Okay. And then, finally, State's Exhibit No. 53.

5 A This is just a close-up photograph showing the Adidas  
6 logo in the middle of the shoe.

7 Q All right. Now, Sergeant Shaw, what is State's  
8 Exhibit No. 45?

9 A There is a scale here. There was one drop of blood on  
10 the floor just inside the door. There are times if -- when  
11 leaving a scene, there are times when you find blood  
12 droplets that are separate from the entire -- from the  
13 other area where it could possibly be a suspect -- could be  
14 suspect blood or may have been blood that was dropped from  
15 an object, but because of its location towards the door, it  
16 had to have occurred after the incident, and it was like on  
17 the way out. So I photographed and took a swab of that  
18 drop of blood.

19 Q Did you find any other drops like that anywhere else  
20 in the house?

21 A No, I did not.

22 Q All right. Now let's look at -- this is State's  
23 Exhibit No. 39 in evidence. If you can, take a look at  
24 this, please, and explain what you were photographing here.

25 A Photographing here, I was photographing this -- not

1       only the area of blood on the floor, but also the area of  
2       blood on the front of the counter. In this area here just  
3       below that area is where the victim's head was at resting  
4       on the floor (indicating throughout).

5       Q     Okay. And what is shown in State's Exhibit No. 40?  
6       You can't really see it too good.

7       A     You can't really see it, but there are drops of blood.  
8       There's one here, one above the handle. And it's showing  
9       the height that the drops of blood were at, which would be  
10      above the range on the stove. They were actually clear up  
11      on top of the cupboard door above the range (indicating  
12      throughout).

13      Q     And how do blood drops get up there?

14      A     It can be projected blood from an object. If there  
15      was some type of arterial spurting, it could happen that  
16      way. Usually not. It's going to be lower. It's from an  
17      object that has blood on it, has been transferred or it's  
18      been thrown to that location.

19      Q     Okay. Now we've got State's Exhibit 42. As you're  
20      coming in the kitchen, give the jury the kind of  
21      perspective where this photograph is taken as you're coming  
22      in the kitchen.

23      A     All right. The door -- the door coming into the  
24      kitchen is over here. As soon as you walk in the door,  
25      this counter is immediately to your left. There was like a

1 lunch bag here, sunglasses. The photograph was taken to  
2 show the amount of blood on not only on top of the counter,  
3 but also in front of the cupboards here (indicating  
4 throughout).

5 Q Okay. And this object right here (indicating), what  
6 is that?

7 A That appears to be an antenna for the radio.

8 Q Okay. And let us look at State's 43.

9 A Again, this is just a photograph showing the areas of  
10 blood on top of the counter. The window -- kitchen window  
11 is in this (indicating) area.

12 Q Okay. And this is State's 44.

13 A Okay. This is the antenna for the radio. The  
14 photograph was to show areas of blood on the papers and as  
15 well as one drop that was on top of the blind on the  
16 kitchen window.

17 Q Okay. And then we have State's 41.

18 A This photo is showing not only the blood on the front  
19 of the counters, but it also is showing where the door had  
20 been pulled off of this cupboard. And there's the paring  
21 knife that I collected at the scene, but it's to show the  
22 areas of the concentration of blood here as well as the  
23 damage to this door, which is on the floor (indicating  
24 throughout).

25 Q Okay. Now let's look at State's 55. Now, what is

1 State's 55?

2 A Again, once the -- once the victim was removed from  
3 the scene, I sprayed the LCV trying to locate footwear  
4 impressions, either one type or one style or multiple  
5 styles, and also to show where they were at in relationship  
6 to the body. The victim's body was here, her head would  
7 have been up by the bottom of the stove. And these  
8 impressions were all between the door, which is over in  
9 this area between the door and where the victim was found  
10 (indicating throughout).

11 Q Now let's take a look at State's 56.

12 A All right. This, again, is a photograph showing a  
13 footwear impression that is similar to an Adidas.

14 Q Okay. Similar to?

15 A That's what it -- it's similar. I can't say it's the  
16 same shoe, but it is an Adidas logo.

17 Q Okay. And then, finally, State's 57. Is this the  
18 same footwear impression you were just looking at?

19 A It's not the same as the first one we had looked at  
20 with the blood on the top. It's a different footwear  
21 impression, but it's the same pattern.

22 Q Okay. Now, you said earlier that you looked for  
23 different styles, different sizes of footwear. Did you  
24 find anything else other than this particular footwear  
25 impression that's shown in the exhibits?

1 A No, I did not.

2 Q Now let's go to State's Exhibit No. 46.

3 A This is the door that the -- from the cupboard that  
4 had been pulled off onto the floor, and this is an X-Acto  
5 blade that was laying on the floor next to the -- next to  
6 that door. I wanted to photograph the -- not only the  
7 blade, but it's showing that there is blood on the blade,  
8 which means that the blood occurred after that blade was on  
9 the -- on the floor. And I say then these drops were also  
10 on top of this door, so the door was down prior to any  
11 blood being transferred (indicating throughout).

12 Q Now, Sergeant Shaw, the paring knife that you  
13 described in one of the exhibits, did you notice anything  
14 about it in particular?

15 A No, I didn't.

16 Q Was there anything on it, any blood?

17 A I would have to look at the photograph to recall.

18 Q Okay. We'll go back to that.

19 Let's look at State's Exhibit 47.

20 A There are two -- this is where the drawer was pulled  
21 off -- or the door to the counter. There's also an X-Acto  
22 blade here as well as a section of one on the counter there  
23 (indicating throughout).

24 Q We're going back then to State's Exhibit No. 41. And  
25 show the jury on State's Exhibit No. 41 where the knife



1 was.

2 A The paring knife was -- is here (indicating) on the  
3 floor.

4 Q Okay. Does that help you recall whether or not there  
5 was any blood on it?

6 A I can't recall from -- again, from looking at this, I  
7 can't recall if there was any blood on it.

8 Q Okay.

9 A It wasn't documented in my report.

10 Q It wasn't documented in your report.

11 A Right.

12 Q Had there been blood on that ---

13 A Had there been blood on it, it would have been swabbed  
14 later on, yes.

15 Q Okay. Well, you did swab that knife, didn't you, for  
16 DNA?

17 A I believe I did, yes. It should be in my report.

18 Q I'm going to show you State's Exhibit 37. And what is  
19 this?

20 A This is an exterior photograph of a Pacifica --  
21 Chrysler Pacifica that was processed at our crime scene  
22 office. You can see that the tape on here, when the  
23 vehicle -- before it was towed to our office, our  
24 technicians will secure the doors with evidence tape to  
25 show there's been no tampering from the time it gets towed

1       until it gets to our office.

2       Q     Okay. And which side of the car is that?

3       A     It's the driver's side.

4       Q     All right. Now State's 38.

5       A     Again, this is a same photograph -- or same vehicle,  
6       but it's on the passenger's side, again, showing the  
7       evidence tape on the doors.

8       Q     Okay. Now going backwards a little bit, Sergeant, and  
9       I apologize for that, but I want you to look at State's  
10      Exhibit 48. And what does this show?

11      A     After the victim was gone, I was looking for any  
12      potential evidence. Inside of this -- it looked like a  
13      lunch bag -- there was an X-Acto knife, a yellow X-Acto  
14      knife, similar -- it's the same type as what the blades  
15      that were found on the counter. I looked at this blade to  
16      see -- or the knife, looked to see if it had been used, if  
17      there might be any blood on it. Very -- at the very end,  
18      there's a piece of tape on the end of the blade indicating  
19      it's a new blade, it hadn't been used. But I sprayed LCV  
20      on that to see if there's any reaction to the blood, and  
21      there was none.

22      Q     Okay. Let's look at State's Exhibit No. 19. What is  
23      this?

24      A     This is the interior door panel of the driver's door  
25      of the Pacifica.

1 Q Okay. And what is this black and white looking stuff?

2 A There is -- there was a stain on this door panel  
3 within this area. What I do is I put the scale on it.  
4 These are one-inch measuring scales. I put a scale on it,  
5 photographed it, and then it was later tested.

6 Q Okay. And what is shown in State's Exhibit No. 20?

7 A You can't see it on the photograph. You can see it  
8 there, but not up on the screen.

9 This is a phenolphthalein test, which is a presumptive  
10 test for blood. We do a phenolphthalein just to possibly  
11 rule out the presence of blood. What happens is is the --  
12 you take a swab, take distilled water and take a swab of  
13 what you believe might be blood. You put a drop of  
14 alcohol, a drop a phenolphthalein, and then a drop of  
15 hydrogen peroxide. Once you put the hydrogen peroxide on,  
16 if it is blood, the swab will turn pink, which it did;  
17 however, you just can't see it in this photograph.

18 MS. MUNSON: Your Honor, may I have the witness show  
19 the pink to the jury since they can't see it on the  
20 presenter?

21 THE COURT: You may.

22 THE WITNESS: Turning pink, that is a presumptive  
23 positive reaction to.

24 BY MS. MUNSON:

25 Q And this is State's Exhibit No. 16.

1       A     This is the driver's seat and the center console. I  
2       found what looked like a stain of suspected blood on the  
3       top of the console. I -- again, I had photographed it  
4       first. I did a phenolphthalein test with the Q-tip. And  
5       this is a little bit better, but you can see that it turned  
6       pink, which is a positive reaction.

7       Q     Now let's look at State's Exhibit No. 13. It's a  
8       little hard to kind of orient, but could you explain to the  
9       jury what's going on here?

10      A     You open up the driver's door, and if you lay on the  
11      ground or on the floor, this is the bottom edge of the  
12      door, and this would be the edge of the door panel. The  
13      door handle is up here, and this -- there should be a light  
14      that goes in here, but the lens is gone. What I am  
15      referring to is this area under here on this door panel  
16      that was also stained and in which a test was performed on  
17      (indicating throughout).

18      Q     And this is State's Exhibit No. 14.

19      A     Again, using the measuring tape, I taped off the area  
20      on the door where the stain was at.

21      Q     Okay. And then State's 15.

22      A     And, again, this is -- it's not visible on here, but  
23      doing the phenolphthalein test, the swab, the Q-tip did  
24      turn pink, which was positive.

25      Q     Sergeant Shaw, can you let the jury have a look at the

1       pink thing on State's 15?

2       A       (Witness complies.)

3       Q       Thank you, Sergeant.

4               Now we're looking at State's Exhibit No. 10. Can you  
5 explain to the jury what this photograph is for?

6       A       While looking for additional areas of suspected blood,  
7 this, of course, is the steering wheel, and this is the --  
8 under the steering wheel on a piece of plastic, there was a  
9 spot under this side here that also was stained and a test  
10 was done on (indicating throughout).

11      Q       And what is shown in State's 11?

12      A       This is a photograph using the scale in photographing  
13 the area where the -- where the stain was located.

14      Q       Okay. And State's No. 12?

15      A       Again, this is a phenolphthalein test, which was the  
16 presumptive test that was done on the area -- on this same  
17 area. And, of course, again, you can't see it in this  
18 photo, but it did turn pink. It was a positive reaction.

19      Q       Okay. Sergeant, when you say you can't see it on the  
20 photo, are you talking about ---

21      A       You can't see it on the screen. It's on the  
22 photograph. It is not on the screen.

23      Q       Show the exhibit to the jury.

24      A       (Witness complies.)

25      Q       Thank you, Sergeant.

1           Now we've got State's Exhibit No. 7. Could you orient  
2 the jury for where this photograph is?

3       A     This is the driver's seat, the seat back, this is the  
4 seat cushion, and this is the center console. Of course,  
5 there was a cup in the cup holder. And what I was  
6 photographing was this area here, which was another area of  
7 suspected blood (indicating throughout).

8       Q     State's Exhibit No. 8?

9       A     Photograph of the same stain that was on the side of  
10 the console which was on the driver's side. But I put the  
11 tape measure on there to indicate its location.

12      Q     And then State's No. 9?

13      A     This is a phenolphthalein test that I did. It's not  
14 very good. There's a little bit of pink right on the  
15 bottom, but the reaction was positive for blood.

16      Q     Let's look at State's No. 17.

17      A     This is washed out in -- up here on the screen. But  
18 on the side of the driver's seat is the driver's seat back  
19 and the seat cushion. But on the side of the driver's seat  
20 was also a stain where I did a phenolphthalein test, and it  
21 also tested positive.

22      Q     And is that what's depicted in State's 18?

23      A     It is. I put the scale up there to reference it where  
24 it was at on the seat, and then I did a phenolphthalein  
25 swab.

1 Q Thank you, Sergeant. You can return to the stand.

2 All right, Sergeant. Now I'm going to -- inside of  
3 this envelope I have State's Exhibit Nos. 21, 22, 23, 24,  
4 25 and 26. Could you take a look at those?

5 A (Witness complies.)

6 Q Do you recognize them?

7 A I do.

8 Q How do you recognize them?

9 A They have my initials on the evidence tape. Once the  
10 swabs are done, I put an evidence label on for the barcode  
11 system, put a piece of evidence tape across the tape, and  
12 then put my initials to indicate that I was the one that  
13 collected it.

14 Q Okay. Do these appear to be in substantially the same  
15 condition as when you collected them?

16 A Yes, they do.

17 MS. MUNSON: Your Honor, I'm going to move into  
18 evidence State's Exhibits 21, 22, 23, 24, 25 and 26.

19 MR. SARRATT: Without objection.

20 THE COURT: So admitted.

21 (WHEREUPON, State's Exhibit Nos. 21, 22, 23, 24, 25 and 26  
22 were admitted into evidence.)

23 BY MS. MUNSON:

24 Q So, Sergeant Shaw, when you -- the stains that we were  
25 looking at on the photographs, the Q-tip that turned pink,

1 now, what would you do with the Q-tip?

2 A That's disposed of. The only thing that the  
3 phenolphthalein test is for, it's a presumptive test, so  
4 there would be no -- because of the chemicals used, I would  
5 not send it in to have it analyzed for DNA. So the area  
6 where I do a phenolphthalein test first and get -- if I get  
7 a positive reaction, it's photographed. Then I go back on  
8 that same area and take a swab from the same area where the  
9 phenolphthalein test was obtained from.

10 Q Okay. Now, the swab that you use after the  
11 phenolphthalein, what do you do with that swab? First of  
12 all, where do you get it?

13 A They're -- we buy them from a company. They're  
14 premade. That's what those swabs are there.

15 Q Okay.

16 A Once the phenolphthalein is done, when we do a swab,  
17 we do -- they're self-contained. You unscrew the cap, the  
18 Q-tip is attached, put distilled water on it, take a swab  
19 of that area, put it back in, screw it down, and then the  
20 barcode label is put on, and then the evidence tape is  
21 placed on.

22 Q All right. And you do these one at a time or all  
23 together?

24 A We do them one at a time.

25 Q All right. After you take a swab -- put the distilled



1 water, take a swab, do you like lay them down somewhere?

2 Or ---

3 A What happens is when I -- when you take a swab, I  
4 assign it -- what I do is I put the time on it, and then  
5 I'll also make a notation as to where the swab was obtained  
6 from.

7 MS. MUNSON: Thank you, Sergeant.

8 I have nothing at this time, Your Honor. Nothing  
9 else.

10 MR. SARRATT: May we approach?

11 (WHEREUPON, a bench conference was held off the record.)

12 THE COURT: Mr. Anderson, I don't want anybody coming  
13 in or out of this courtroom while I've got a witness on the  
14 stand.

15 THE BAILIFF: Yes, sir.

16 THE COURT: Ma'am, have a seat.

17 We're going to take a break, ladies and gentlemen, and  
18 let you step back to the jury room for about 15 minutes.  
19 Please don't discuss the case while you're there. We'll  
20 bring you back in just a minute.

21 (WHEREUPON, the jury exits the courtroom at 10:52 a.m.)

22 THE COURT: Sergeant, you can step down. I'm going to  
23 ask that you not discuss any testimony or anything while  
24 we're on break.

25 THE WITNESS: Yes, Your Honor.

1 THE COURT: All right. We'll take about a 15 minute  
2 break.

3 (WHEREUPON, a recess is taken at 10:53 a.m.)

4 (WHEREUPON, Defense Exhibit Nos. 1 and 2 were marked for  
5 identification.)

6 THE COURT: All right. Let's bring the jury in, if we  
7 could, please.

8 (WHEREUPON, the jury entered the courtroom at 11:11 a.m.)

9 THE COURT: All right. Mr. Sarratt, are you ready to  
10 proceed, please.

11 MR. SARRATT: I am, Your Honor.

12 CROSS EXAMINATION

13 BY MR. SARRATT:

14 Q Sergeant Shaw, I'm showing you what's been premarked  
15 as Defense Exhibit 1. Do you recognize that?

16 A Yes, sir. I do.

17 Q And is that something that you prepared?

18 A It is.

19 Q Is that a true and accurate representation of the  
20 crime scene?

21 A Yes, it is, sir.

22 MS. MUNSON: Your Honor, Mr. Sarratt showed me these  
23 things. I have no objection to them coming in.

24 MR. SARRATT: I'd move them into evidence at this  
25 time.

1 THE COURT: All right. So admitted.

2 (WHEREUPON, Defense Exhibit No. 1 was admitted into  
3 evidence.)

4 THE COURT: You've got two things that you have?

5 MR. SARRATT: I do. I'll go ahead and move the  
6 second.

7 BY MR. SARRATT:

8 Q Now I'm showing you what's been premarked as Defense  
9 Exhibit 2. Do you recognize that?

10 A Yes, I do.

11 Q And is that also a true and accurate representation of  
12 the crime scene?

13 A Yes, it is.

14 MR. SARRATT: All right. I'd move that into evidence  
15 at this time.

16 THE COURT: All right. So admitted without objection.  
17 Both, what is it, 1 and 2?

18 MR. SARRATT: 1 and 2.

19 (WHEREUPON, Defense Exhibit No. 2 was admitted into  
20 evidence.)

21 MR. SARRATT: And permission to publish them to the  
22 jury.

23 THE COURT: Yes, sir.

24 BY MR. SARRATT:

25 Q Sergeant Shaw, you had testified -- and I'll ask you,

1 if you don't mind, turning around -- the blood that you  
2 said was on the stove and on the cabinets, that's this wall  
3 (indicating), correct? This is the stove in your  
4 representation?

5 A That is the stove. And, yes, that is the kitchen  
6 sink.

7 Q Okay. And then, also, this wall here as you walk in  
8 the door, you said you would turn left, there was blood on  
9 these (indicating) cabinets?

10 A There was blood on top of the cupboard here, and this  
11 -- the window was actually in this area, and there was  
12 blood on the blind on the kitchen window there (indicating  
13 throughout).

14 Q Okay. And this little rectangle here, that's the face  
15 of the drawer?

16 A It is.

17 Q Okay. And this (indicating) would be that paring  
18 knife?

19 A Yes, sir. It is.

20 Q Okay. Now I'm showing you at this point Defense  
21 Exhibit 2. When you walk in -- this is a photograph of you  
22 as you would walk in the door?

23 A Yes, sir. It is.

24 Q And you see that this dog cage is right here. And  
25 this is a pool of blood in the bottom left corner?

1 A Yes, it is.

2 Q All right. Now, would you agree with me that all of  
3 the blood or the vast majority of the blood in this scene  
4 occurred from here (indicating) forward? That is to say  
5 that there was not blood on this (indicating) back wall.

6 A Not that I found, no, sir.

7 Q Okay.

8 A I think my report said that there was -- there might  
9 have been some on the cage, but I don't recall. I'd have  
10 to look at my report. But everything was like on the back  
11 of the chairs, a little on top of the kitchen table. I  
12 found none on this (indicating) wall, none on this  
13 (indicating) wall.

14 Q Okay. And now we've seen the photos. There was blood  
15 sprayed -- you said there was castoff on some of the walls.

16 A It appeared to be, yes, sir.

17 Q And in addition to that, blood had pooled on the floor  
18 as well; is that correct?

19 A That's correct.

20 Q Okay. And you've represented that in your diagram of  
21 these three dark spots; is that correct?

22 A That's correct.

23 Q Okay. So would you say that it's accurate that there  
24 is one pool of blood here in front of the dog cage, and  
25 then a separate pool of blood here that sort of spills in,

1       this is sort of one big pool of blood by the stove  
2       (indicating throughout)?

3       A     Right.  There were three separate -- with the  
4       photographs and even -- and, again, this is not to scale,  
5       but it's to show that there were three separate areas with  
6       a volume of blood to indicate that the victim had been at  
7       least in three different areas prior to not moving any  
8       further.

9           MR. SARRATT:  All right.  No further questions.

10          THE COURT:  Anything, Solicitor?

11          MS. MUNSON:  No, sir.

12          THE COURT:  All right.  Thank you, Sergeant.  You may  
13       step down.

14          MS. MUNSON:  Your Honor, the State calls Ramon Rivera.  
15       Oh, Your Honor, may this witness be excused?

16          THE COURT:  Yes, sir.

17       WHEREUPON,

18                               RAMON RIVERA

19       After having been duly sworn, testified as follows:

20       THE CLERK:  Would you please state your name for the  
21       record.

22       THE WITNESS:  My name is Sergeant Ramon L. Rivera, and  
23       I work for the Greenville County Sheriff's Office.

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DIRECT EXAMINATION

BY MS. MUNSON:

Q How long have you been with the Sheriff's Office,  
Sergeant Rivera?

A This March coming up will be 12 years.

Q And what's your current position?

A My current position right now is a sergeant in Uniform  
Patrol.

Q And what are your duties?

A My duties are supervisory duties as well as  
administrative and responding to some of the nonroutine  
calls for felonies in progress, emergency calls, that  
type.

Q Okay. What were your duties with the Sheriff's Office  
back in May of 2014?

A I was a violent crimes investigator, homicide  
investigator with the Sheriff's Office.

Q And what was your title then?

A I was an investigator. Master deputy was my rank.

Q Okay. And is sergeant higher or lower than master  
deputy?

A Sergeant is higher.

Q So did you get a call in reference to this case?

A I did.

Q On what date?

1 A It was May, I believe it was, 23rd of 2014.

2 Q And at what point did you become involved?

3 A I was in a separate part of the county doing another  
4 investigation, following up on another investigation, when  
5 Investigator Fortner called me and advised me that he was  
6 headed to 214 Nix Circle in reference to a death  
7 investigation, an apparent murder or homicide. So we went  
8 -- I responded to that since I was the on-call sergeant.  
9 It was later on in the day. It was more than likely going  
10 to carry on after hours, so I went ahead and went, and I  
11 became the lead investigator in the case.

12 Q And what are your duties as the lead investigator?

13 A Lead investigator is to make sure that we dot our I's  
14 and cross our T's, make sure that we follow up on what we  
15 need to follow up, any leads that may come up during the  
16 course of the investigation.

17 Q And do you have help from other investigators as  
18 you're doing a death investigation?

19 A Yes. We have multiple investigators as well as  
20 Uniform Patrol that we can pull from if we need any  
21 assistance.

22 Q Okay. Now, can you give the jury a general idea of  
23 where Ashe Drive is in Greenville County?

24 A Sure. Ashe Drive, for most people, would be off of  
25 Cedar Lane Road near Orchid near the Civic Center on Cedar



1 Lane Road. I believe the road next that intersects with  
2 Nix Circle is Haynesworth.

3 Q And where generally is Nix Circle?

4 A It's in the Berea community in West Greenville.

5 MS. MUNSON: May I approach him, Your Honor?

6 THE COURT: You may.

7 MS. MUNSON: Thank you.

8 BY MS. MUNSON:

9 Q All right. Sergeant Rivera, I'm going to show you  
10 State's Exhibit No. 34. If you could, just take a look at  
11 this.

12 A Yes.

13 Q Do you recognize this?

14 A Yes, I do.

15 Q Okay. And State's Exhibit, I believe, 35. Yes. Do  
16 you recognize State's Exhibit 35?

17 A Yes, I do.

18 Q And are State's Exhibits 34 and 35 true and accurate  
19 depictions of the general area that we've been talking  
20 about during the trial?

21 A Yes, it is.

22 MS. MUNSON: All right. Your Honor, I move State's  
23 Exhibits 34 and 35 into evidence.

24 MR. SARRATT: Without objection.

25 THE COURT: So admitted.

1 (WHEREUPON, State's Exhibit Nos. 34 and 35 were admitted  
2 into evidence.)

3 BY MS. MUNSON:

4 Q I'm not sure the best way to do this, Sergeant. You  
5 might have to step down.

6 This is State's Exhibit 34.

7 THE COURT: Can the jury see that?

8 BY MS. MUNSON:

9 Q Turn it a little so the jury can see it.

10 Now, on State's Exhibit No. 34, Sergeant, which  
11 locations are pointed out in yellow?

12 A Okay. What we have here is the incident location,  
13 which is 214 Nix Circle, sits here (indicating) just down  
14 from Haynesworth Road right here (indicating) where the  
15 witness saw the black gentleman leaving the residence. 200  
16 Ashe Drive is the apartment complex where the defendant  
17 lives as well as most of the witnesses that were testifying  
18 to the defendant's behavior.

19 Q Okay. Thank you. Now I want to show you State's  
20 Exhibit 35. And what does State's Exhibit No. 35 depict  
21 for the jury?

22 A Okay. This is an overhead picture or a satellite  
23 picture of the incident location at 214 Nix as well as the  
24 residence just up the road from -- or 1507 Haynesworth,  
25 which is where the witness described seeing the black

1 gentleman leaving.

2 Q Okay. You can return to your seat.

3 Now, Sergeant Rivera, when you were at the scene at  
4 Nix Circle, what is one of the first things you start  
5 trying to do as the lead investigator on the case?

6 A By the time we get on scene, Uniform Patrol normally  
7 has started finding witnesses and separating witnesses so  
8 that they don't commingle their stories, and when we do get  
9 to those witnesses and interview them, it's their own  
10 words, it's not something somebody told them. So at that  
11 point, we start asking, you know, where are the witnesses,  
12 where's the complainant, the person who called in the call,  
13 and I also take a look at the residence. We do not go into  
14 the residence until forensics gets on scene and a search  
15 warrant is obtained.

16 Q Okay. And did you speak with the complainant?

17 A I tried to talk to the complainant. I was directed  
18 over to a tree that was directly across the street. I was  
19 advised that the complainant was the victim's mother, and  
20 when I tried to talk to her, I understood that she only  
21 spoke Spanish. I also speak Spanish, so I went up to her,  
22 introduced myself, tried to tell her what my role was going  
23 to be, and just try to get a quick, you know, what  
24 happened.

25 And she was -- she was unconsolable [sic]. She just

1       could not -- I could not talk to her, so I ended up  
2       excusing myself, told her that I would come back and --  
3       give her some time and try to come back and talk to her.

4       Q     Okay. So when you say "the complainant," what does  
5       that mean in our translation?

6       A     For the purpose of this case, it's Ms. Maria Usma.  
7       She is the mother. She's the person who called in the  
8       call.

9       Q     The person who called is the complainant?

10      A     Correct.

11      Q     Okay. So after you tried to speak with the  
12      complainant, did you speak with anybody else like right in  
13      the area?

14      A     By that time, I also asked if we had any witnesses,  
15      and I was pointed to a patrol car where -- and I apologize.  
16      I can't remember her name. The lady who lives out on  
17      Haynesworth.

18      Q     Can you describe her?

19      A     It was the lady that was up here talking, blond  
20      headed, a white female.

21      Q     Okay. So did you speak with her?

22      A     I did speak to her briefly in the back of the patrol  
23      car. I reassured her she was not in trouble. We were just  
24      trying to keep her separate from everybody else. Asked her  
25      what she saw. She said that she ---

1 Q And, Sergeant, you don't have to say what anybody  
2 said.

3 A Okay.

4 Q I appreciate that.

5 But after you talked with her, did you talk with  
6 anybody else on the scene?

7 A By that time, Jackeline, the victim's sister, had also  
8 arrived on scene, and they advised that a possible person  
9 of interest was the ex-boyfriend.

10 Q Okay. Was Ms. Usma able to give you that information?

11 A Yes, she did.

12 Q So how long did you stay right there at Nix Circle?

13 A I was there for the duration, from the time I arrived  
14 till we were ready to release the residence back to the  
15 family. Two, three hours, three and a half hours.

16 Q What has to happen before you can release the  
17 residence back to the family?

18 A The residence has to be totally processed. We ensure  
19 that anything of evidentiary value that could be obtained  
20 from the residence is obtained, and then we turn the  
21 residence over to the family to secure it, or if we can  
22 lock it up for them, then we'll go ahead and do that if  
23 they're not present.

24 Q All right. And after Nix Circle, where did you go?

25 A While I was at Nix Circle, I got word that Sergeant

1 Epps was at 200 Ashe Drive. At that point, Investigator  
2 Fortner went up there to kind of follow up. And I was  
3 advised that there were going to be some people being  
4 brought over to the Law Enforcement Center, so I went to  
5 the Law Enforcement Center.

6 Q Okay. Is one of the people that you talked to at the  
7 Law Enforcement Center that night on May 23rd, is one of  
8 them the defendant?

9 A Yes, it is.

10 Q Describe his appearance.

11 A He was dressed in sports clothes, a T-shirt,  
12 basketball shorts, had some tennis shoes on.

13 Q Okay. Was he injured in any way?

14 A He did not appear to be injured to me. He did have  
15 some -- you can see old scars on his arm. While we were  
16 waiting on for forensics to show up, we -- we obtained a  
17 search warrant for his person. While we were waiting on  
18 forensics to show up, we were just making small talk about  
19 sports and whatnot, and I asked him how he got those old  
20 scars. And he said it was from cleaning out the fryer at  
21 his old place of employment. I'm not sure where that is.

22 Q Did he complain of any medical condition?

23 A No medical conditions.

24 Q Did he ask you for anything?

25 A No, ma'am.

1 Q Okay. Was he bleeding anywhere?

2 A No, ma'am.

3 Q All right. Now, after you talked with him and some  
4 other witnesses, about how long did you stay at the Law  
5 Enforcement Center?

6 A It was several hours. I don't know that I can  
7 quantify that.

8 Q Okay. And so how long did you say you worked on the  
9 case in its entirety?

10 A The case, including follow-ups, it probably took about  
11 two months.

12 Q Okay. And in that two months, since you got on the  
13 scene and the victim's family is saying he's the guy who  
14 did it, how did that affect your investigation?

15 A The family has more information on the background of  
16 what's going on than we do. Obviously, we're just coming  
17 onto the scene knowing limited information, so we try to  
18 focus more on the family and see what the family knows as  
19 far as any violent history, drug abuse, anything like that.

20 Q If the family is telling you that and they say this is  
21 the suspect, how does that affect -- how does that affect  
22 whether or not you look for other suspects, is what I'm  
23 getting at.

24 A Well, we continue to talk to witnesses, and we try to  
25 talk to the defendant or the possible suspect, the person

1 of interest to either exclude him or include him into the  
2 investigation.

3 Q Okay. And in that two, two and a half months you said  
4 that you were working on the case, did you -- any other  
5 name come up?

6 A No. His name was the only one to come up.

7 Q All right. Now, the autopsy on Jennifer's body, were  
8 you there?

9 A I was.

10 Q And did you take something from that autopsy?

11 A I took a blood spot.

12 MS. MUNSON: May I approach, Your Honor?

13 BY MS. MUNSON:

14 Q All right. Investigator, I'm showing you State's  
15 Exhibit No. 59. If you could, take a look at that.

16 A (Witness complies.)

17 Q Do you recognize that?

18 A I do.

19 Q And how do you recognize it?

20 A It has my initials on there for the item number.

21 Q Okay. And does it appear to be in substantially the  
22 same condition as when you got it?

23 A When I turned it in, yes.

24 Q Okay. And what is this?

25 A That is a blood spot that is basically a drop of blood



that the medical examiner obtains from the victim and puts it on a piece of paper, a little small square. It dries, and then we obtain it from them through the Coroner's Office, and we can use that as a DNA sample from the victim.

MS. MUNSON: Okay. Your Honor, I'd like to move State's 59 into evidence.

MR. SARRATT: Without objection.

THE COURT: So admitted.

(WHEREUPON, State's Exhibit No. 59 was admitted into  
evidence.)

MS. MUNSON: Your Honor, beg the Court's indulgence.  
Actually, I have no further questions at this time,  
Your Honor.

THE COURT: All right. Mr. Sarratt?

CROSS EXAMINATION

BY MR. SARRATT:

Q Investigator Rivera, shortly after Mr. Thompson was arrested, you started monitoring the telephone calls that he was making from the jail; is that correct?

A      Correct.

Q And one of those calls was made to Amber Singleton?

A     There were multiple calls.

Q Well, one in particular was made on June 2nd at 22:45 hours.

1 A I'm sure. I mean, there were -- there were many.

2 Q Well, do you recall in one of those conversations,  
3 specifically this one, Mr. Thompson telling her that he  
4 felt like he was going to have to go down the road for  
5 this?

6 A Yes.

7 Q And is it your understanding that "going down the  
8 road" means going to prison?

9 A That is common slang for going down the road, yes.

10 MR. SARRATT: No further questions.

11 THE COURT: Anything?

12 MS. MUNSON: No, sir, Your Honor. We just ask this  
13 witness be excused.

14 THE COURT: All right. Thank you, Sergeant.

15 THE WITNESS: Thank you.

16 MS. MUNSON: May we approach, Your Honor?

17 (WHEREUPON, a bench conference was held off the record.)

18 THE COURT: All right. Ladies and gentlemen,  
19 apparently the next witness is coming from the Sheriff's  
20 Department, is not here, so we're going to have to wait  
21 just a minute and see if we can round up that witness. So  
22 I'm going to let you step back to the jury room. Please  
23 don't discuss the case while you're back there, and as soon  
24 as we can find this witness, we'll bring you back in and  
25 get started again.

1       now.

2               MR. SARRATT:  No objection.

3               THE COURT:  So admitted.

4               (WHEREUPON, State's Exhibit No. 58 was admitted into  
5                                               evidence.)

6               MS. MUNSON:  And with that, Your Honor, the State  
7       rests.

8               THE COURT:  All okay.  Ladies and gentlemen, the State  
9       has rested, which means the State has now completed the  
10      presentation of the State's evidence and its case in chief,  
11      and the next phase of the trial will not be able to take  
12      place at this time because we're going to break for the day  
13      because I have to be in Columbia this afternoon.

14              So what I'm going to do is, again, ask you not to  
15      discuss this case with each other or with anyone else while  
16      you're gone.  I'm going to ask you not to do any  
17      investigation, don't get on the computer, don't do anything  
18      like that.  Don't read any media reports, if there are any  
19      media reports, or watch anything on television.

20              We're going to start tomorrow morning at 10:00, so I'm  
21      going to ask you to be back here at that time so that we  
22      can go forward with the rest of the trial.  And we will go  
23      until -- no more breaks.  We'll go until -- other than we  
24      have to go in the evening.

25              So y'all have a nice afternoon.  Again, don't discuss

1 the case with each other or anybody else when you're gone,  
2 and I'll see you in the morning at 10:00.

3 (WHEREUPON, the jury exits the courtroom at 12:20 p.m.)

4 THE COURT: All right. My understanding, y'all got  
5 some witnesses that have been subpoenaed to come in the  
6 morning.

7 MR. SARRATT: Yes, Your Honor.

8 THE COURT: Is there anything that we need to take up  
9 at this time?

10 MR. SARRATT: Yes, Your Honor. At this time, I would  
11 move, Your Honor, for a directed verdict as to each charge,  
12 the first being murder in the second and possession of a  
13 weapon in the commission of a violent crime.

14 As to murder, I believe the State has failed to  
15 introduce evidence on an element of malice. They have  
16 shown no direct evidence that my client went up there with  
17 any intent or plan to kill Jennifer Youngblood, and there  
18 has been no evidence that he committed this intentionally  
19 and with malice aforethought.

20 In addition, I move for a directed verdict of not  
21 guilty on the charge of possession of a weapon during the  
22 commission of a violent crime. That charge requires the  
23 State to show that he displayed a knife or possessed or  
24 displayed a firearm. There's no allegation a firearm was  
25 used in this case, and so, as the statute requires, the

1       defendant must display a knife. And I feel they have not  
2       shown that he did that in this case; therefore, I move for  
3       a directed verdict.

4               MS. MUNSON: Your Honor, we believe that taking the  
5       evidence in the light most favorable to the State, there is  
6       sufficient evidence, circumstantial and direct, to indicate  
7       that the defendant did commit this act with malice. The  
8       inferred malice is the use of a knife, the number of stab  
9       wounds, and the fact that he drove over there but hid the  
10      car.

11             As to the possession of a weapon during a violent  
12      crime, I'm not arguing with Mr. Sarratt about what the  
13      particulars of the written statute are, but it makes no  
14      sense to me that if he displays -- if he has to display a  
15      knife, not just -- using it doesn't count, you have to  
16      display it, I don't -- I don't quite understand that. But  
17      it's the State's position that there is sufficient evidence  
18      at this point to send the case to the jury both for murder  
19      and for possession of a weapon during a violent crime.

20             THE COURT: All right. Anything further?

21             MR. SARRATT: Nothing.

22             THE COURT: All right. I'm going to deny your motion.  
23      I'm going to find that there is both direct evidence and  
24      substantial circumstantial evidence that your client did  
25      commit this offense. I think y'all admitted that he, in

1 fact, killed her, and that the 17 stab wounds, malice is a  
2 mental thing, and it's a state of mind, and 17 stab wounds  
3 could certainly be construed to be ill will or hatred.

4 And I think with respect to the weapon, I'm not sure  
5 about the display. I'm sure the weapon was displayed at  
6 the time it was used in the commission of the crime. So  
7 I'm going to find that there is some evidence to support  
8 the State's position that it can go forward with the  
9 matter. I'm not, obviously, speaking to the weight of the  
10 evidence, but just that there's any evidence at this time.

11 All right. Anything further?

12 MS. MUNSON: Not from the State, Your Honor.

13 THE COURT: All right. We will come back and start at  
14 10:00 tomorrow. I'm going to meet with Mr. Marchant to see  
15 about what's after this in just a few minutes.

16 So is there a chance that we could finish this thing  
17 and argue and charge by 2:00 tomorrow? 2:30?

18 MR. SARRATT: I think so.

19 MS. MUNSON: I believe so, Your Honor.

20 THE COURT: What I think I'll do is have the jury --  
21 well, I'll talk to Mr. Marchant.

22 All right. Y'all have a nice evening, and we'll see  
23 you starting at 10:00.

24 (WHEREUPON, the proceedings were concluded at 12:24 p.m.,  
25 to be reconvened on Wednesday, September 16, 2015.)

1                                    WEDNESDAY, SEPTEMBER 16, 2016

2            (WHEREUPON, State's Exhibit Nos. 54 and 60 were marked for  
3                                    identification.)

4            THE COURT:    Yes, ma'am, Ms. Munson.

5            MS. MUNSON:    The thing is, Your Honor, I had not  
6            anticipated the defendant taking the stand.    If he does,  
7            and we won't know if he does until he does, but if he does,  
8            he gave two interviews to law enforcement that I would like  
9            to use to impeach him.    And as I understand the law, if you  
10           find that those statements were involuntary, I cannot even  
11           use them for impeachment purposes.    So I think we do need  
12           to have a Jackson v. Denno on those two interviews.

13           THE COURT:    Would he be your first witness?

14           MR. SARRATT:    No.

15           THE COURT:    How many witnesses do you anticipate  
16           having before him?

17           MR. SARRATT:    Three.

18           THE COURT:    Three before him?

19           MR. SARRATT:    Yes.

20           THE COURT:    Do you have your officers here for the  
21           Jackson v. Denno?

22           MS. MUNSON:    I do.    Yes, sir.

23           THE COURT:    All right.    Okay.    We'll do that.

24           Mr. Thompson, let me get you to stand and raise your  
25           right hand, if you would, please.

1 WHEREUPON,

2 DAVID LAMAR THOMPSON

3 After having been duly sworn, the following proceedings  
4 were had:

5 THE COURT: I've talked to your attorney this morning,  
6 and he's indicated that at this time, you are inclined to  
7 testify in this trial; is that right?

8 DEFENDANT THOMPSON: Yes, sir.

9 THE COURT: All right. Do you understand that you  
10 have a constitutional right not to testify, that you don't  
11 have to say anything, wouldn't have to testify, and if you  
12 elected not to testify, I would instruct the jury in my  
13 charges that they couldn't even talk about the fact that  
14 you didn't testify during the course of this trial? Do you  
15 understand that?

16 DEFENDANT THOMPSON: Yes, sir.

17 THE COURT: And, of course, you have a right to  
18 testify, to tell your side of the story, whatever you want  
19 to tell them. You understand that as well?

20 DEFENDANT THOMPSON: Yes, sir.

21 THE COURT: Of course, if you testify, you're subject  
22 to being cross-examined by the solicitor. You understand  
23 that?

24 DEFENDANT THOMPSON: Yes, sir.

25 THE COURT: And there may be some things that they can



1 attempt to impeach your testimony about. One may be any  
2 prior record that you might have. And I'm not sure whether  
3 you have one or not, but if it falls within our rules of  
4 evidence, they may be able to ask you about that in order  
5 to show that your testimony is not to be credible. You  
6 understand that?

7 DEFENDANT THOMPSON: Yes, sir.

8 THE COURT: And, of course, if you've given prior  
9 statements which are inconsistent with what you testify to,  
10 they may be able to attempt to impeach you with those prior  
11 statements, inconsistent statements. You understand that?

12 DEFENDANT THOMPSON: Yes, sir.

13 THE COURT: All right. Now, this decision to testify,  
14 is this your decision?

15 DEFENDANT THOMPSON: Yes, it is.

16 THE COURT: And you've talked to your attorney about  
17 it?

18 DEFENDANT THOMPSON: Yes, sir.

19 THE COURT: And you've had whatever counsel that you  
20 felt like you needed from him about whether you would  
21 testify or not?

22 DEFENDANT THOMPSON: Yes, sir.

23 THE COURT: All right. Has anybody threatened you,  
24 coerced you, forced you or pressured you into making this  
25 decision?

1 DEFENDANT THOMPSON: No, sir.

2 THE COURT: You're making this decision freely and  
3 voluntarily?

4 DEFENDANT THOMPSON: Yes.

5 THE COURT: All right. Now, what's your educational  
6 level?

7 DEFENDANT THOMPSON: Diploma, high school.

8 THE COURT: You finished high school?

9 DEFENDANT THOMPSON: Yes, sir.

10 THE COURT: So you believe you understand your  
11 constitutional rights about testifying or not testifying?

12 DEFENDANT THOMPSON: Yes, sir.

13 THE COURT: And this is what you want to do as of  
14 right now? I'm not saying that you can't change your mind  
15 before you testify, but that's the decision you're making  
16 as of right now; is that correct?

17 DEFENDANT THOMPSON: Yes, sir.

18 THE COURT: All right. Anything further you want me  
19 to inquire of your client, Mr. Sarratt?

20 MR. SARRATT: No, Your Honor.

21 THE COURT: Anything you want to ask of your client  
22 with respect to his testifying or not testifying?

23 MR. SARRATT: No, Your Honor.

24 THE COURT: All right. Mr. Thompson, if you change  
25 your mind, let us know. Let your lawyer let me know, and

1 we'll address that at that time, all right? All right.

2 Thank you.

3 Okay. Are your witnesses here?

4 MR. SARRATT: Yes.

5 THE COURT: All right. Let's bring the jury in.

6 When we finish, before you put him up, let me know so  
7 I can take a break and we can do what we need to do, all  
8 right?

9 MR. SARRATT: All right.

10 THE COURT: Can y'all bring the jury in, please.

11 (WHEREUPON, the jury entered the courtroom at 10:04 a.m.)

12 THE COURT: All right. Good morning to you, ladies  
13 and gentlemen. I hope y'all had a nice evening and  
14 afternoon yesterday. I need to ask you a couple of  
15 questions as I did yesterday before we begin. First of  
16 all, has anybody had any conversation with each other or  
17 with anyone else since we left yesterday about this case?

18 (WHEREUPON, the jury indicated a negative response.)

19 THE COURT: Were you approached by anybody to discuss  
20 this case at all?

21 (WHEREUPON, the jury indicated a negative response.)

22 THE COURT: Anybody do any investigation, do any  
23 computer inquiry about anything involving this case?

24 (WHEREUPON, the jury indicated a negative response.)

25 THE COURT: Or anybody check any media? Again, I

1 don't know if there is any media. No media review or  
2 anything like that since we left?

3 (WHEREUPON, the jury indicated a negative response.)

4 THE COURT: Good. All right. Ladies and gentlemen,  
5 as you recall, when we finished yesterday afternoon, the  
6 State had rested, which means they had put up their case --  
7 their evidence and their case in chief, and the defense now  
8 has an opportunity to put forth what evidence the defense  
9 wishes to do.

10 So, Mr. Sarratt, are you ready to proceed?

11 MR. SARRATT: I am, Your Honor.

12 THE COURT: All right. If you would, call your first  
13 witness, please, sir.

14 MR. SARRATT: The defense calls Investigator Ramon  
15 Rivera.

16 WHEREUPON,

17 RAMON RIVERA

18 After having been duly sworn, testified as follows:

19 THE CLERK: Please state your name for the record.

20 THE WITNESS: Sergeant Ramon L. Rivera.

21 DIRECT EXAMINATION

22 BY MR. SARRATT:

23 Q Sergeant Rivera, you've been here throughout the  
24 duration of this trial?

25 A That's correct.

1 Q And you were here when Mandy Morales testified?

2 A Yes.

3 Q Would you remind the jury who that witness was and the  
4 role she played?

5 A She is a resident who witnessed the black gentleman  
6 who she'd seen at the incident location of Nix Circle  
7 several times. She observed him leaving the day of the  
8 incident.

9 Q Now, as lead investigator in this case, you reviewed  
10 all the police reports?

11 A Yes.

12 Q You're familiar with all the pertinent facts to it?

13 A Yes.

14 Q Do you recall Mandy Morales's description of how tall  
15 the person coming out of the house was that she gave at the  
16 time?

17 A At the time of her statement, she said he was  
18 approximately 5'11".

19 Q Okay. And do you know, was she shown a photo ID --  
20 I'm sorry -- a photo lineup to try to identify the person?

21 A Yes, she was.

22 Q And in that lineup -- was a picture of David Lamar  
23 Thompson included in that lineup?

24 A Yes, it was.

25 Q Was she able to positively identify him?

1 A No. She chose two, one of which was Mr. Thompson.

2 Q Okay. All right. In addition, in any conversations  
3 you may have had with my client, did he pretty much deny  
4 any involvement in this?

5 A He denied having any knowledge of it and any  
6 involvement, yes.

7 MR. SARRATT: Okay. No further questions.

8 THE COURT: Anything?

9 MS. MUNSON: No, sir, Your Honor.

10 THE COURT: All right. Thank you, sir. You may step  
11 down. I just need to remind you that you were under oath  
12 previously, so I'm not sure you knew that. All right.  
13 Thank you.

14 All right. Do you want to call your next witness,  
15 please.

16 MR. SARRATT: Defense calls Stan Overby.

17 WHEREUPON,

18 STAN OVERBY

19 After having been duly sworn, testified as follows:

20 THE CLERK: Would you please state your name for the  
21 record.

22 THE WITNESS: Stan Overby.

23 DIRECT EXAMINATION

24 BY MR. SARRATT:

25 Q Mr. Overby, would you please tell the jury where

1       you're employed.

2       A     I am an assistant solicitor with the 13th Circuit  
3       Solicitor's Office.

4       Q     And would you tell them what you do in that capacity?

5       A     I am a prosecutor for the Solicitor's Office.

6       Q     Are you assigned to any specific unit?

7       A     Presently, I'm in the Vehicular Crimes Unit.

8       Q     Okay. Are you familiar with my client sitting at that  
9       table, David Thompson?

10      A     I am.

11      Q     And how do you know him?

12      A     He was a victim -- I previously was a member of the  
13      Criminal Domestic Violence Unit at the Solicitor's Office,  
14      and Mr. Thompson was a victim in a case.

15      Q     Okay. And who was the defendant in that case?

16      A     Jennifer Youngblood.

17      Q     And what was the charge that she was charged with?

18      A     Criminal domestic violence of a high and aggravated  
19      nature.

20      Q     Do you remember when she was charged with that?

21      A     I believe that the warrant was served on her, based  
22      off my review, on 8/21/2013.

23      Q     And at the time that she was killed, was that charge  
24      still pending?

25      A     It was.

1 MR. SARRATT: One moment.

2 (WHEREUPON, Defense Exhibit Nos. 3 and 4 were marked for  
3 identification.)

4 BY MR. SARRATT:

5 Q I'm showing you what's been marked as Defendant's  
6 Exhibit 3. Do you recognize that?

7 A I do.

8 Q Is that a true and accurate depiction of -- a photo  
9 that was taken from the file from the domestic violence  
10 high and aggravated nature?

11 A It is.

12 Q I'm showing you what's been marked Defense Exhibit 4.  
13 Do you recognize that?

14 A I do.

15 Q And is that a true and accurate depiction of the photo  
16 of my client taken from your file?

17 A It is.

18 MR. SARRATT: Your Honor, at this time, I'd like to  
19 move Defense Exhibit 3 and 4 into evidence.

20 MS. MUNSON: No objection, Your Honor.

21 THE COURT: So admitted.

22 (WHEREUPON, Defendant's Exhibit Nos. 3 and 4 were admitted  
23 into evidence.)

24 MR. SARRATT: No further questions.

25 THE COURT: All right. Anything?



1 MS. MUNSON: Yes, sir.

2 CROSS EXAMINATION

3 BY MS. MUNSON:

4 Q Hi, Stan. We work together, don't we?

5 A We do.

6 Q Did Mr. Thompson come and have a conversation with you  
7 about this case?

8 A He did.

9 Q And what did he tell you?

10 A He told me that Ms. Youngblood actually did not cut  
11 him.

12 MS. MUNSON: Thank you, Your Honor. Nothing further.

13 THE COURT: Anything further?

14 MR. SARRATT: Nothing.

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

17 MR. SARRATT: May he be excused?

18 THE COURT: He may.

19 All right. Call your next witness.

20 MR. SARRATT: The defense calls Pat Nix.

21 WHEREUPON,

22 PATRICIA NIX

23 After having been duly sworn, testified as follows:

24 THE CLERK: And would you please state your name for  
25 the record.

1 THE WITNESS: Patricia Nix.

2 DIRECT EXAMINATION

3 BY MR. SARRATT:

4 Q Mrs. Nix, where are you employed?

5 A I work for attorney Larry H. Cooke.

6 Q And how long have you worked there?

7 A Approximately four years.

8 Q All right. And in your employment with Mr. Cooke, did  
9 you have an occasion to know Jennifer Youngblood?

10 A Yes, I did.

11 Q And how did you know her?

12 A She was my client -- or Mr. Cooke's client.

13 Q Okay. So in working with Mr. Cooke, were you involved  
14 in the domestic violence of a high and aggravated nature  
15 case?

16 A Yes, I was.

17 Q And did you ever speak to her about that case?

18 A Yes, I did. Several times.

19 Q Specifically, on May 23, 2014, did you have a chance  
20 to speak with Jennifer Youngblood?

21 A Yes, I did.

22 Q And can you tell us about that?

23 A Yes, I can. Jennifer called me. Her demeanor or her  
24 voice was quite different than it normally was. She was  
25 advising me that her boyfriend, David Lamar Thompson, was

1       trying to get her to marry him. He had advised her that if  
2       she married him, that the case against her would go away.  
3       I told her that was not necessarily true, that as a  
4       condition of her bond, she needed to stay away from  
5       Mr. Thompson. I also told her that Mr. Cooke, as she  
6       already knew, had a -- had worked out a plea agreement with  
7       the solicitor wherein she would not do any jail time. She  
8       would just basically pay a fine to a lesser included  
9       charge.

10      Q     And what was the condition of the bond that you  
11      mentioned?

12      A     That she was to have no contact with Mr. Thompson.

13      Q     Okay. Now, that day that she called, did you also  
14      have an occasion to speak to Mr. Thompson?

15      A     Yes, I did.

16      Q     Can you describe that?

17      A     It was maybe approximately five minutes or less after  
18      I spoke with Jennifer. A gentleman called me identifying  
19      himself as David Lamar Thompson. Mr. Thompson advised me  
20      that he did not want Ms. Youngblood to go to jail, that it  
21      was all a misunderstanding and that he did not want her to  
22      do any jail time.

23            I again told Mr. Thompson that her attorney had a plea  
24      offer worked out for her which did not involve any jail  
25      time. And once again, I told him the same thing I told

1 her. As a condition of the bond, she's not to have any  
2 contact with you.

3 MR. SARRATT: All right. No further questions.

4 THE COURT: Anything, Ms. Munson?

5 MS. MUNSON: No, sir, Your Honor.

6 THE COURT: All right. Thank you, ma'am. You may  
7 step down.

8 MR. SARRATT: May this witness be excused?

9 THE COURT: She may.

10 You are free to leave.

11 THE COURT: All right. Ladies and gentlemen of the  
12 jury, it is my understanding that before the next witness  
13 testifies, I need to take up a matter with these attorneys,  
14 so I'm going to ask that y'all step back to the jury room  
15 for a few minutes, please. Do not discuss the case with  
16 each other while you're back there, and I'll bring you back  
17 just as soon as I possibly can.

18 (WHEREUPON, the jury exits the courtroom at 10:17 a.m.)

19 THE COURT: All right. It's my understanding that  
20 your client is going to testify, and there's a possibility  
21 that some statements that he gave may be needed by the  
22 Solicitor's Office; is that right, Mr. Sarratt?

23 MR. SARRATT: That's correct, Your Honor. At this  
24 time, I feel it may be appropriate to have a Jackson v.  
25 Denno hearing.



1 Q And both times you spoke with him, were you alone with  
2 him?

3 A No. I had someone with me.

4 Q Okay. Let's just take them one at a time.

5 A Okay.

6 Q And let me just show you State's Exhibit 54 and 60.  
7 If you could, just take a look at those.

8 A (Reviews documents) Okay.

9 Q Do you recognize those?

10 A I do.

11 Q How do you recognize them?

12 A They are the Waiver of Rights Form that the Sheriff's  
13 Office uses.

14 Q Okay. But how do you recognize those particular  
15 exhibits, 54 and 60?

16 A Sure. It has David Lamar Thompson's information on  
17 the top right corner.

18 Q And what else at the bottom?

19 A And his signature as well as my signature and a  
20 witness.

21 Q Okay. And where have these been since they were  
22 executed on the 23rd and on the 27th?

23 A They have been in the case file.

24 MS. MUNSON: Your Honor, at this time, I move State's  
25 Exhibit 54 and 60 into evidence.

1 MR. SARRATT: No objection.

2 THE COURT: Let me ask a question, Mr. Sarratt. Do  
3 y'all deny that the statements were made?

4 MR. SARRATT: No.

5 THE COURT: You don't deny that they were voluntary?

6 MR. SARRATT: No, we do not.

7 THE COURT: All right. So you admit they're made and  
8 voluntary?

9 MR. SARRATT: I do, Your Honor.

10 THE COURT: And that he was administered any Advice of  
11 Rights information that needed to be made to him?

12 MR. SARRATT: I agree.

13 THE COURT: All right. Go ahead.

14 MS. MUNSON: That's pretty much all I was going to ask  
15 him, Your Honor.

16 BY MS. MUNSON:

17 Q Well, they're in the record so I don't think you need  
18 to read them.

19 During the time that you were with Mr. Thompson, did  
20 he ask you for anything?

21 A No.

22 Q Did you threaten him in any way?

23 A No.

24 Q Did you tell him he'd better talk or you're going to  
25 go arrest his mama or anything like that?

1 A No, ma'am.

2 Q Did you check to see whether or not he was under the  
3 influence?

4 A We did.

5 Q And how did you do that?

6 A We asked him -- he -- during the course of the  
7 interview, he mentioned he'd been drinking during that day  
8 on the first interview, and he advised the last time was  
9 like at 4:00.

10 Q Well, you've been a deputy for how many years?

11 A Going on 12 years.

12 Q Can you tell when somebody is under the influence?

13 A Yes, sir. Or yes, ma'am. I'm sorry.

14 Q Did he appear under the influence?

15 A No.

16 Q Was he able to answer your questions?

17 A Yes.

18 Q Did he like fall asleep during the interview?

19 A No.

20 Q Get sick?

21 A No.

22 Q Okay. The specific rights that are on State's  
23 Exhibits 54 and 60, did you read them to him or did you let  
24 him read them?

25 A I read them to him, and I asked him to read them again



1 before he initialed. And initials were to show that I had  
2 read them to him and that he understood them.

3 Q Okay. But he could read and write as well?

4 A Yes.

5 MS. MUNSON: Your Honor, I have no further questions.

6 THE COURT: All right. Anything, Mr. Sarratt?

7 MR. SARRATT: No, Your Honor.

8 THE COURT: All right. You didn't deny him any  
9 comforts that he may have requested?

10 THE WITNESS: No, sir. We even offered him water or  
11 whatever he needed.

12 THE COURT: Restroom?

13 THE WITNESS: He never asked for anything.

14 THE COURT: You believe he understood his rights and  
15 exercised his right to proceed?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right. Thank you.

18 MS. MUNSON: That's all the witnesses the State has,  
19 Your Honor. It's our position that the Miranda warnings  
20 were given, that the defendant understood them, and that he  
21 voluntarily gave up his rights and agreed to speak.

22 THE COURT: All right. Anything you want to say?

23 MR. SARRATT: No, Your Honor.

24 THE COURT: All right. One of the things that the  
25 Court has to do is to -- I'm sorry. You can step down --

1 determine whether the statement was made, and with the  
2 defendant, through the attorney, Mr. Sarratt, he  
3 acknowledges the statement was made. The sergeant said the  
4 statement was made -- I guess two different statements were  
5 made on two different occasions, one on the 23rd and one on  
6 the 26th, I think he said. In addition, the sergeant  
7 advised that he -- testified that he advised the defendant  
8 of all his rights and that he had a right to an attorney,  
9 that if he wanted an attorney, that they would appoint one  
10 if he couldn't afford one, that anything he said would be  
11 used against him, he could stop the questioning at any  
12 time. The witness testified that he believed the defendant  
13 fully understood that and voluntarily waived his rights to  
14 not go forward. The State -- I mean the defendant also  
15 admits that the statement was made in a voluntary manner,  
16 and that the defendant understood all his rights.

17 The Court is going to find that the statements were  
18 made and that they were voluntary and that they should be  
19 admissible in this court; however, I will give an  
20 instruction that ultimately, that decision will be made by  
21 the jury.

22 All right. Anything further?

23 MS. MUNSON: Nothing from the State, Your Honor.

24 THE COURT: Anything, Mr. Sarratt, with respect to the  
25 Jackson v. Denno matter?

1 MR. SARRATT: Not to that issue, no.

2 THE COURT: All right. Okay. Mr. Thompson, you still  
3 plan to go forward, is that correct, and testify?

4 DEFENDANT THOMPSON: Yes, sir.

5 THE COURT: All right. You didn't change your mind in  
6 the last 30 minutes or so?

7 DEFENDANT THOMPSON: No, sir.

8 THE COURT: I need you to answer because the court  
9 reporter has to take down what you said.

10 All right. Are you ready to proceed?

11 MR. SARRATT: I am.

12 THE COURT: All right. Let's bring the jury in, if  
13 you could, Ms. Walker.

14 Y'all admitted 54 and 60, those two statements?

15 MS. MUNSON: If I didn't, Your Honor, at this time, I  
16 move ---

17 THE COURT: Only for the Neil v. Biggers hearing -- I  
18 mean the Jackson v. Denno hearing.

19 MS. MUNSON: At this time, the State moves Exhibits 54  
20 and 60 into evidence.

21 THE COURT: For the purpose of the Jackson v. Denno.

22 MR. SARRATT: Sure.

23 THE COURT: Are these them up here?

24 MS. MUNSON: They're on the table.

25 THE COURT: Let's take them away from there. They're

1 not into evidence for purpose of the trial.

2 (WHEREUPON, State's Exhibit Nos. 54 and 60 were admitted  
3 into evidence for hearing purposes only.)

4 MS. MUNSON: Okay.

5 (WHEREUPON, the jury entered the courtroom at 10:24 a.m.)

6 THE COURT: All right. Mr. Sarratt, are you ready to  
7 call your next witness?

8 MR. SARRATT: I am, Your Honor. The defense calls  
9 David Lamar Thompson.

10 WHEREUPON,

11 DAVID LAMAR THOMPSON,

12 After first having been duly sworn, testified as follows:

13 THE CLERK: And would you please state your name for  
14 the record.

15 THE WITNESS: David Lamar Thompson.

16 DIRECT EXAMINATION

17 BY MR. SARRATT:

18 Q Mr. Thompson, I want to ask you directly, did you  
19 murder Jennifer Youngblood?

20 A No, sir.

21 Q Did she die at your hands?

22 A Yes, sir.

23 Q Did she come at you?

24 A Yes, she did.

25 Q As a result, did you turn that weapon on her?

1 A Yes, sir.

2 Q Did you kill her?

3 A Yes, sir.

4 Q All right. I want to back up, and I just want you to  
5 tell the jury, how old are you?

6 A 26.

7 Q And where are you from?

8 A Greenville, South Carolina.

9 Q You've lived here your whole life?

10 A Yes, sir.

11 Q Tell us about any -- where did you go to school?

12 A Eastside High School.

13 Q Have you worked?

14 A Yes. I've had a lot of restaurant jobs and auto jobs,  
15 cars.

16 Q Let's talk about Jennifer. When did y'all meet?

17 A Summer 2008.

18 Q And just tell us the circumstances of it. How did you  
19 meet her?

20 A Well, actually, I was at a job working with her  
21 cousin, and she let me know that she had a single cousin,  
22 and we actually met up through her. And after that, you  
23 know, we just kind of hit it off, and we was just on and  
24 off for about six years.

25 Q Okay. So would you say like any other relationship,

1 this one had its ups and downs?

2 A Yes, it did.

3 Q Okay. So specifically, when I say "ups and downs," I  
4 mean, had you broken up before?

5 A Yes. We -- we'd broken up a few times and dated other  
6 people and, you know, tried to make things work out, you  
7 know, afterwards.

8 Q So would you then sometimes get back together after a  
9 breakup?

10 A Yes.

11 Q Okay. So you described it -- yeah. It was  
12 on-again/off-again. And over how long of a period, did you  
13 say?

14 A Six years.

15 Q Okay. Now, was there any one particular breakup or  
16 incident that caused your relationship to change?

17 A Yes.

18 Q Tell the jury about that.

19 A It was summer of 2009, I want to say. We split up. I  
20 met a girl, and she got pregnant.

21 Q Who was that?

22 A Stephanie Albrecht [phonetic].

23 And she got pregnant, and that kind of set Jennifer  
24 off because she liked kids. She loved kids, actually, and  
25 she just couldn't have any. And that actually turned her,

1       you know, kind of cold a little bit to the situation. But  
2       it definitely changed things.

3       Q     All right. Did the relationship ever recover from  
4       that? Did you ever get back together?

5       A     We tried a few times.

6       Q     Was it ever the same?

7       A     Never.

8       Q     After things got bad, did you argue?

9       A     We did.

10      Q     Did you fight?

11      A     Yes.

12      Q     Did it ever get physical?

13      A     None other than the previous CDV case and the day of  
14      the incident.

15      Q     Okay. Well, let's start with that previous CDV case.  
16      When was that?

17      A     It was in 2013, I think. Maybe August.

18      Q     Okay. And just describe how did that happen. How did  
19      that go down?

20      A     Well, we were hanging out, you know, drinking,  
21      partying as usual. Went to get more drinks. We had a  
22      little small argument. I wasn't speaking with her at the  
23      time. She didn't want anybody at the apartment. I had my  
24      friend there. I told him he had to leave. So she wanted  
25      to argue. I didn't -- I didn't argue with her. So we got

1 in the car, went to go get drinks. On the way back when  
2 she got in the car, it was just she started talking about  
3 just everything, my baby mom, me being childish and  
4 everything like that. So she got mad.

5 Q And was that comment, was that something y'all would  
6 argue about during this time?

7 A Yeah, yeah. All the time.

8 Q Okay. And then what happened?

9 A So she started striking me in the face, and I was  
10 like, you know, "Go ahead, you know. I'm driving. You're  
11 going to make us wreck."

12 Q Now, when you say striking you, what do you mean by  
13 that?

14 A Closed hand, fist to the face.

15 Q Punching?

16 A Right.

17 Q And then what happened?

18 A I told her, "Just go ahead. I'm driving. You're  
19 going to make us wreck the car, you know. You need to  
20 stop." But she didn't listen.

21 And, you know, my friend in the backseat was telling  
22 her, "Look, just calm down, just stop, you know. You just  
23 need to chill."

24 So she didn't listen to him either, of course. So he  
25 just gave up, and I just continued to drive, and she



1 started striking me on my right side. My main thing was  
2 just to get the car back to the apartment and get out.

3 Q Okay. Because you were driving, were you able to stop  
4 her from doing that?

5 A No.

6 Q Okay. Now, describe -- she's striking you on the  
7 side. What happened as a result of that?

8 A Well, I didn't realize until afterwards, when I got  
9 out of the car and finally got away from her, I realized I  
10 had lacerations on my right side and that I had a pretty  
11 deep cut across my arm.

12 Q Now, you say that at the time, you didn't realize it.  
13 Is there any reason why you wouldn't have realized?

14 A Probably the drinking and the drugs and just  
15 adrenaline or something, I guess. I don't know. But I  
16 didn't notice it at the time.

17 Q All right. I want to show you briefly ---

18 MR. SARRATT: Beg the Court's indulgence. This has to  
19 warm up.

20 BY MR. SARRATT:

21 Q Tell the jury about when this picture was taken.

22 A It was taken that same day.

23 Q Where are you in this picture?

24 A The officers on the scene took pictures. I may have  
25 been with Stan Overby at the time or the officer. Because

1 I know it was two separate occasions that we did take  
2 pictures of it.

3 Q Okay. Did you receive any medical treatment from  
4 this?

5 A No.

6 Q Okay. But that is -- when you talk about the injuries  
7 to your right side --

8 A Right.

9 Q -- this is what you're talking about?

10 A Right.

11 MR. SARRATT: All right. Permission to pass this  
12 around to the jury.

13 (Pause in proceedings.)

14 BY MR. SARRATT:

15 Q All right. Now I'm showing you -- and that was  
16 Defendant's Exhibit 3 that we were looking at earlier. Now  
17 I'm showing you what's been marked as Defendant's Exhibit  
18 No. 4. Do you recognize that?

19 A Yes.

20 Q All right. I had it upside down.

21 Can you tell the jury what that is?

22 A That's the cut that I had after -- you know, after I  
23 was driving in the car that day.

24 Q Okay. Now, you said that she was striking you with a  
25 closed fist and also in the side.

1       A     Right.

2       Q     This wasn't done by a fist, was it?

3       A     No.

4       Q     Okay. Do you know -- can you describe how you got  
5 cut?

6       A     Well, as I was saying, I was loaded, drinking and  
7 everything, and I didn't realize if she had anything or  
8 open hand. I just know it felt like punches coming from my  
9 angle in driving.

10      Q     So you can't say that you saw any kind of weapon?

11      A     No.

12      Q     What did you do when you realized you had those  
13 injuries?

14      A     Well, the cops are already on their way because the  
15 incident started at a Bi-Lo on Brushy Creek Road, so I just  
16 stood by and waited on them.

17      Q     Now, who called the police?

18      A     I'm not sure if it was the people in the store or  
19 what. It could have been my friend. But they did call me  
20 and ask where I was.

21      Q     Okay. So you didn't call the police?

22      A     No.

23      Q     Did you give a statement to the police when they came?

24      A     Yes.

25      Q     And did you tell them what happened?

1 A Yes, I did.

2 Q Did you tell them how you got the injuries?

3 A Yes.

4 Q All right. Now, after that, she's charged with  
5 domestic violence high and aggravated. Did you get back  
6 together after that?

7 A Yes, we did.

8 Q Okay. Was that the only time your arguments got  
9 physical?

10 A No.

11 Q All right. Tell us about any other time.

12 A Well, on this one particular day, I had got a call  
13 about a job interview that I was waiting on, and she was --  
14 actually, I had to do some things for her mom, and she was  
15 like, "Well, she decided to go with us."

16 I'm like, "That's cool, as long as I get there." But  
17 I had to go to a Goodwill to actually get attire for the  
18 job. And in the process of all of that, she was arguing,  
19 you know, back and forth with her mom about something. And  
20 I was letting her know I don't think you should be talking  
21 to your mom like that regardless, you know. It was  
22 disrespectful. So she turned on me once again, and she  
23 swung on me in the parking lot of the Goodwill.

24 Q And what did you do?

25 A I just let her get her rocks off. I mean, there

1       wasn't nothing I could do, you know. I just let it go.  
2       And after she was done, I did contact the cops on that  
3       particular day.

4       Q     All right. So that time you did contact the police?

5       A     Right.

6       Q     All right. And were there any charges filed against  
7       her as a result of that incident?

8       A     Yes.

9       Q     What was that?

10      A     A CDV.

11      Q     Not high and aggravated?

12      A     First. Just like a regular CDV.

13      Q     Okay. Now, you were here a second ago when Stan  
14      Overby came and testified?

15      A     Right.

16      Q     And you heard him say that you told him she didn't  
17      stab you, this didn't happen. Can you explain that?

18      A     Yes. I have some other cuts on my arm from jobs. I  
19      did a lot of bouncing, working in restaurants, stuff like  
20      that. He asked me did she do all of those other scars and  
21      I'm not just telling him about it.

22             I said, "No, she did not." And I let him know that I  
23      wasn't going to lie to him about anything like that. I'm  
24      just here for the certain situation.

25      Q     Now, when you say you had these other scars -- hang

1 on. Let me show you, again, briefly -- you're talking  
2 about these scars here, here, here (indicating)?

3 A Right. And I also had burns on the inside of my arm.  
4 I guess they bubbled and busted. And he asked about that.

5 Q Okay. How did you get those scars?

6 A The other ones?

7 Q Yes.

8 A Working.

9 Q Working where?

10 A Restaurants, and I did a lot of bouncing around  
11 Greenville in the nightclubs.

12 Q And specifically, what caused those?

13 A Cuts, bottles, like broken bottles, a lot of fights.  
14 It's -- you know.

15 Q Did you ever have an occasion to work around any  
16 cooking equipment?

17 A Oh, yeah. All the time.

18 Q Okay. Any scars as a result of that?

19 A Yes.

20 Q Describe that.

21 A Meat cutters, knives, hot wells. Just typical  
22 restaurant ---

23 Q What's a hot well?

24 A It's a thing that you keep food hot with when you're  
25 serving off of a buffet.

1 Q And you worked around one of those?

2 A Right.

3 Q Did you ever get any burns or anything from that?

4 A Yes.

5 Q On your arms?

6 A Yes.

7 Q All right. So aside from those two, there are no  
8 other physical altercations that you got into with  
9 Jennifer?

10 A Other than the 23rd.

11 Q Okay. And that's what I want to get to. Take us to  
12 the day that we're all here to talk about.

13 Just before we get into what actually happened, talk  
14 to me about your relationship around that time. Were you  
15 on? Were you off? What was going on?

16 A The only reason we're even around each other was to  
17 try to negotiate something as far as her not going to jail  
18 for, I think, a year or something like that for that high  
19 and aggravated.

20 Q Okay. Go ahead.

21 A So we went to court for the regular CDV, and I saw her  
22 that day.

23 Q And when you say "regular CDV," you mean the CDV  
24 first?

25 A Right.

1 Q After the high and aggravated?

2 A Right.

3 Q Okay. And what happened there?

4 A I seen her at court. I let the judge know I was okay  
5 with him just giving her classes. I didn't like really  
6 want her to have to go to jail, but I was okay with anger  
7 management classes because I just thought that she had an  
8 anger problem.

9 So after that, we left, and after about, I think it  
10 was, like 2:00 or 3:00, we met up downtown, had a talk, and  
11 we rode out to her friends Mo -- Mo's house, and we hung  
12 out. And we were together pretty much the rest of the time  
13 after that up until that day.

14 Q When you say "Mo," you mean the young woman that came  
15 and testified earlier?

16 A Right. I don't know her name. All I know is Mo.

17 Q Okay. But the coworker that Jen worked with?

18 A Right.

19 Q All right. So around that time, the reason y'all were  
20 back in touch is to talk about the CDV high and aggravated?

21 A Right.

22 Q And specifically that day, why were you going over to  
23 her house?

24 A She said that she didn't believe I spoke with her  
25 attorney or whatever.



1 Q What were you supposed to say to her attorney?

2 A Basically, tell her that I was willing to do whatever  
3 I had to do for her not to have the charges.

4 Q Okay. Did you call her attorney?

5 A Yes.

6 Q What did she say?

7 A I was like -- I told her, I said, This is David. I  
8 wanted to talk to you about maybe working something out,  
9 because like I didn't want her to go to jail. I was like I  
10 don't want her to go to jail. Maybe she just -- we can  
11 work something out with some anger management or something  
12 because I don't -- I don't think she needs to be in jail.  
13 I just think she needs to work on her attitude, you know.

14 Q Now, when you say you spoke to her, referring to the  
15 attorney, are you referring to the Pat Nix?

16 A Right.

17 Q You're aware that Pat Nix is Larry Cooke's -- Larry  
18 Cooke's the attorney and Pat's his paralegal?

19 A Oh, I -- I didn't know that.

20 Q But the person you were talking to was the  
21 paralegal ---

22 A Right.

23 Q --- that just came in, Pat Nix. I just wanted to  
24 clarify that.

25 Okay. So tell us about -- did you do -- did you go

1 over to her house on your own? Did she call you and tell  
2 you to come over?

3 A She wanted me to come over to prove to her that I had  
4 talked to the lady.

5 Q Okay. How did you get there?

6 A I went to my neighbor's house, and I told her, I was  
7 like, "Kim, let me see your car real quick. I need to go  
8 and grab some pills for my mama real quick."

9 She's like, "All right."

10 She handed me the keys, and I just shot over there.  
11 And when I got there, I knocked on the door.

12 Q Let me stop you real quick. Where did you park that  
13 car?

14 A In the driveway.

15 Q You're positive about that?

16 A Positive.

17 Q You didn't park it down the road?

18 A Nowhere else.

19 Q Okay. All right. So you get out of the car. Then  
20 what?

21 A I knocked on her door. She came to the door, and  
22 she's like, "Hey, what's up? This is the dog I was telling  
23 you about," and showing me -- she said like the dog -- the  
24 dog had chewed up the floor or something, so she was  
25 showing me that. And, you know, we was kind of talking a

1       little bit about how mad her mom would probably be about  
2       the dog and everything.

3       Q     Now, when you say she was showing you where the dog  
4       chewed up the floor, that's inside?

5       A     Right. On the inside.

6       Q     She invited you in?

7       A     Right.

8       Q     Okay. And what happened once you went in?

9       A     Well, after -- after that, we talked and we started  
10      talking about, you know, what are we going to do. She was  
11      like, you know, time is moving on, are you going to take  
12      this money and do this or what? Because I don't want to  
13      lose my car and everything like that going to jail behind  
14      all this when we can do something else.

15      Q     All right. Hang on. I want to stop you right there,  
16      too.

17            You said, "Are you going to take this money?" You  
18      were here earlier when there was some testimony about you  
19      being paid and dropping charges. Explain to the jury what  
20      that's about.

21      A     Well, at the time, I didn't have a job. She did. She  
22      had a lot of stuff going on, and I didn't. So we agreed  
23      upon that it would be all right for me to take a little bit  
24      of money to leave with my mom to handle bills and stuff  
25      like that, go on, say I lied about the whole situation, go

1 to jail and ---

2 Q Now, why would you go to jail?

3 A I mean, I guess that's the penalty for lying for  
4 saying the charges were bogus or whatever.

5 Q Filing a false police report?

6 A Right.

7 Q All right. Go ahead.

8 A So -- and we agreed upon within three weeks she would  
9 have the bail money I needed to get me out if I had to stay  
10 longer than 30 days or something like that.

11 Q Okay. So the money that she's paying you is bail  
12 money to get you out of jail?

13 A Right.

14 Q All right. And what did you say about that agreement,  
15 if anything?

16 A I told her days before that I would think about it.  
17 But I spoke with my mom, and she was like, you know,  
18 "That's pretty stupid. I don't think you should do it."

19 So, you know, I was over there. I let her know I  
20 wasn't going to be doing that and, you know, my mom had a  
21 valid point, you know. You need to just wake up, get a  
22 job, take care of your child and just -- just let her go,  
23 you know. Y'all are not meant for each other. Just stop,  
24 you know. Just ---

25 Q Now, did she have a conversation with anybody about

1        what you just talked about, a telephone conversation?

2        A        Well, she -- I mean, she -- she had a couple calls  
3        about this. She spoke to my mom, and ---

4        Q        Do you remember what she talked to your mom about?

5        A        My mom asked her was I over there. And she's like,  
6        "No." And they -- they talked for a while, and then it was  
7        like, okay, and then she hung up.

8        Q        Okay. Anything else?

9        A        No. I mean, not that I know of in the conversation on  
10       the phone, no.

11       Q        I got it. So walk us through it. Then what?

12       A        So, okay, we were talking. And then ---

13       Q        And let me set the scene. Where is she when y'all are  
14       talking?

15       A        She was leaning against the stove.

16       Q        All right. And where were you?

17       A        Like not all the way to the wall, but like by the dog  
18       pen, dog cage.

19       Q        The dog cage?

20       A        Right.

21       Q        Okay. And what happened?

22       A        Well, we talked for a while. And, you know, she --  
23       you know, she got mad. She's like, "Are you serious?  
24       You're really not going to do it?" You know, so she lit  
25       her little cigarette up and was sitting there talking and

1       whatever.

2               And, you know I was just like I can't do it. I mean,  
3       everybody was right. I mean, we don't need to be with each  
4       other. But I'm not going to take this money and do that  
5       when I just need to wake up like everybody's been telling  
6       me. Just do what you need to do and take care of your  
7       child. I was like, all right. But she wasn't hearing it,  
8       you know. She wasn't going for it, you know. So it was  
9       like a little argument or whatever like that, and she -- I  
10      mean, I didn't -- I wasn't really just on like that because  
11      I'd been drinking and, you know, doing drugs all day.

12      Q       Well, let's talk about that a little bit. What kind  
13      of drinking were you doing?

14      A       Just my normal and plus a little heroine and opiates.

15      Q       Well, what's normal? Normal is different for  
16      different people.

17      A       Maybe a half gallon.

18      Q       Of?

19      A       Vodka. 24 beers plus the pills and the heroin.

20      Q       What kind of pills?

21      A       Roxies, opiates.

22      Q       Are those, what, uppers? downers?

23      A       All of them are downers.

24      Q       Okay. That's some heavy stuff. What's going on in  
25      your life? Why are you doing all that?

1       A     I don't know, really, you know. I guess is I had, you  
2       know, everything going on, and then I slacked off. I guess  
3       people go through depression times in their life, and I  
4       can't really give an answer to that. I was just down, and  
5       that's what I was doing to try to cope with it all, I  
6       guess.

7       Q     Did it help?

8       A     No, it did not help.

9       Q     Okay. All right. So go on. You're arguing and  
10      you've been all messed up drinking, taking pills.

11      A     Yeah. So we were talking. And like I said, I wasn't  
12      really just watching her, watching her. So, you know, when  
13      she came, when she got to me, you know, I didn't know  
14      nothing. I just ---

15      Q     What do you mean when she got to you?

16      A     Like when she walked across the floor.

17      Q     Yeah.

18      A     Or, you know, when she walked across the floor, I  
19      wasn't just really on her like that. But next thing you  
20      know, she's on -- she's on top of me. She's pushing me  
21      over the back, and I just fell on top of the dog cage.  
22      But, see, at the time when she did it, you know, I had my  
23      hand like this (demonstrating), and I didn't realize she  
24      [sic] had a knife in my hand until I looked at it.

25      Q     All right.

1       A     And then after that -- at that moment, I just -- it's  
2       just like I just blacked out, you know. And I can't really  
3       say what happened, how the knife got exchanged or anything  
4       like that, you know, because I would never do anything like  
5       that to her.

6       Yeah, we weren't meant for each other, you know.  
7       Everybody -- everybody knows that, we knew that, you know.  
8       But when people are telling you more and more stay away  
9       from each other, you're going to be there more, you know.

10       But I never wanted to hurt her or her family. They  
11       were more family to me just like my own family, you know.  
12       But to say I can just tell you exactly what happened, I  
13       can't, because at that moment, I just blacked out. But had  
14       I been sober in the right state of mind, she would be here  
15       today.

16       Q     Now, you said that she came at you. Did you see a  
17       knife?

18       A     I didn't see it until I looked in my hand.

19       Q     When you say you looked at your hand, what are you  
20       looking at?

21       A     I'm like this (demonstrating), you know, on the cage.

22       Q     What are you looking at specifically at your hand?

23       A     Oh, my finger where the knife point was.

24       Q     Did she stick you?

25       A     Yeah.



1 Q Okay. You heard another officer testify that they  
2 photographed you, and you had a chunk of skin missing from  
3 your finger.

4 A Right.

5 Q Is that from her coming at you with a knife?

6 A Right.

7 Q Okay. Or whatever it was.

8 Did you eventually see what the weapon was?

9 A I just knew it was -- I just know it was a knife from  
10 living there and knowing what kind of stuff it was. I -- I  
11 mean, that's the only reason I know what kind of knife it  
12 was.

13 Q Okay. So you're backed up over the dog cage?

14 A Right. Well, at this point, I'm like almost sitting  
15 on top of it.

16 Q Okay. She hits you with the knife. And then what's  
17 going through your mind?

18 A I can't tell you. I mean, at that point, it was just  
19 I blacked out. I mean, it could have been -- I'm  
20 100 percent sure it was the drugs because I never blacked  
21 out, you know. But I just -- like I said, I just kind of  
22 started doing a new drug, which is heroin, mixed with the  
23 pills and the drinking. And, you know, the result of that  
24 was her losing her life.

25 But did I go plan and try to hurt her? No, I didn't.

1 I never tried to hurt her on purpose or anybody, her family  
2 or my family in this situation. I -- I just didn't. I  
3 wouldn't, you know. Like I said, I know we were bad for  
4 each other, but I never hurt her physically.

5 Q Until that day.

6 A Until that day.

7 Q Now, you're not disputing you stabbed her?

8 A Right.

9 Q You don't remember exactly how, but you got the knife  
10 away from her?

11 A Right.

12 Q The same knife that she used?

13 A Yes, sir.

14 Q You didn't have your own knife?

15 A No.

16 Q You didn't come arming yourself with a knife from your  
17 house or anything like that?

18 A No, I didn't.

19 Q Now, there's been some testimony about a box cutter?

20 A Right.

21 Q Did you have a box cutter?

22 A I did.

23 Q Okay. Describe what kind of box cutter that was.

24 A It was an industrial sized. I think it was a Husky.

25 Q Describe the blade.

1       A     It came out of the box cutter probably maybe an inch,  
2       maybe. It didn't -- it was just like the regular  
3       industrial sized box cutter.

4       Q     All right. You've seen the photographs ---

5       A     Right.

6       Q     --- of State's exhibits, the little X-Acto blade ---

7       A     Right.

8       Q     --- fragments that are in the kitchen. Is that from  
9       your knife?

10      A     No.

11      Q     Your box cutter?

12      A     No.

13      Q     Okay. Is that a different type of blade from the box  
14      cutter you ---

15      A     Right. It's a totally different box cutter.

16      Q     Okay. But, again, you're not disputing that you  
17      stabbed her 17 times?

18      A     Not at all.

19      Q     You don't remember it.

20      A     Right.

21      Q     But you did it.

22      A     Yes, sir.

23      Q     Did you ever mean for that to happen?

24      A     No, I did not.

25           MR. SARRATT: All right. No further questions.

CROSS EXAMINATION

BY MS. MUNSON:

Q That CDV event where you got cut by Jennifer, you remember that?

A Yes, ma'am.

Q You said you had some other incidents with her, and you just let her get her rocks off; is that what you said?

A Yes, ma'am.

Q Like she enjoyed hitting you?

A I mean, I -- I can't say she enjoyed hitting me. I just let her do what she had to do until she was done.

Q All right. While we're still talking about that . . .

(WHEREUPON, State's Exhibit Nos. 61 and 62 were marked for identification.)

Q All right. Mr. Thompson, I'm showing you State's Exhibit No. 62. Take a look at those five photographs, if you don't mind, please, sir.

A (Reviews documents.)

Q Those are all you, right?

A Yes, ma'am.

Q And these photographs were taken as a result of the domestic violence incident that you testified about earlier; isn't that correct?

A Yes, ma'am.

MS. MUNSON: Your Honor, I move this group of

1       photographs into evidence, State's 62.

2               MR. SARRATT: Without objection.

3               THE COURT: So admitted.

4               (WHEREUPON, State's Exhibit No. 62 was admitted into  
5                                               evidence.)

6       BY MS. MUNSON:

7       Q       Now, where are you in these photographs?

8       A       With Stan Overby.

9       Q       Really? What's this? That's a hospital band, isn't  
10           it?

11      A       Oh, yeah. It is.

12      Q       You were at the hospital when these were taken?

13      A       Yeah. I told you the officer also took photos ---

14      Q       You went to the hospital to get treatment.

15      A       I did not get treatment. The only thing they looked  
16           at -- just looked at it. That's all they did.

17      Q       But you went to the hospital?

18      A       Yes, ma'am.

19      Q       Now, this group of photographs, this is State's 61.  
20           If you take a look at these five photographs, please.

21      A       (Reviews documents.)

22      Q       Are these accurate photos of when you were at the  
23           Sheriff's Department on 5/23, the day that you killed  
24           Jennifer?

25      A       Yes, ma'am.

1 MS. MUNSON: I'm going to move State's 61 into  
2 evidence, Your Honor.

3 MR. SARRATT: Without objection.

4 THE COURT: So admitted.

5 (WHEREUPON, State's Exhibit No. 61 was admitted into  
6 evidence.)

7 BY MS. MUNSON:

8 Q Now, when you went to the Sheriff's Department, you  
9 went twice, didn't you?

10 A In which situation?

11 Q Well, you went -- isn't it true you went once  
12 voluntarily with the officers on the night that Jennifer  
13 died?

14 A Oh, yes, yes.

15 Q And then they arrested you on May 27th, and they  
16 talked to you again; is that right?

17 A Right.

18 Q All right. Now I'm going to show you two exhibits  
19 here. This is State's Exhibit No. 54. Is that your  
20 signature at the bottom?

21 A Yes, ma'am. It is.

22 Q And you wrote that?

23 A Yes, ma'am.

24 Q Okay. And now State's Exhibit No. 60, can you take a  
25 look at that?

1 A Uh-huh.

2 Q Is this your signature on here?

3 A Yes. Yes, ma'am.

4 Q And you signed that?

5 A Yes, ma'am.

6 Q Now, when the officers were talking with you, did they  
7 threaten you in any way?

8 A No, they did not.

9 Q Did they treat you well?

10 A I mean, I guess, for the situation.

11 Q Did you ask them for anything?

12 A No. I -- I just told them, basically, I was so high I  
13 didn't really care. I was just laying like my head down on  
14 the table just like nonchalant to the whole situation.

15 Q You were laying your head on the table?

16 A Yes, I was. There's video of it.

17 Q Okay. Well, back to this. Did the officers do  
18 anything to threaten you at all?

19 A No.

20 Q All right. Did they tell you what your rights were?

21 A Yes, they did.

22 Q And how did they go about that on these exhibits?

23 A Well, he asked me, "Do you want to hear your Miranda  
24 rights?" I was like, man, I'm just -- I don't even care,  
25 I'm so out of it. No. I don't -- it doesn't matter at

1       this point.

2       Q     Okay. Well, let me ask you this, Mr. Thompson. On  
3       both Exhibits 54 and 60, there are some initials right by  
4       the rights.

5       A     All right.

6       Q     Are those yours?

7       A     Yes, it is.

8       Q     And why did you put your initials there?

9       A     Because I told him I would because I really didn't  
10      hear or talk to anybody.

11      Q     Okay. But you understood what your rights were?

12      A     Yes.

13      Q     Did you understand you didn't have to talk to them?

14      A     Right.

15      Q     And you could stop at any time?

16      A     Yes.

17      Q     And you could have a lawyer?

18      A     Right.

19      Q     Okay. But you understood all these things, and then  
20      the next part of this, they asked you if you wanted to give  
21      up these important rights and go ahead and talk to them  
22      without a lawyer. Did they ask you that?

23      A     Well, he asked me would I do some tests for him, and  
24      he said -- I told him I would. And he said, "If anytime  
25      you want to stop, let me know."



1 Q Okay.

2 A "And if you feel like you need a lawyer at that  
3 point" ---

4 Q Okay.

5 A --- "then you can have one."

6 Q All right.

7 A And I did that.

8 Q Well, let me ask you this. At any time, did you tell  
9 those deputies, "Stop. I don't want to talk to you  
10 anymore"?

11 A Yes, I did.

12 Q Oh, you did?

13 A Right.

14 Q And they kept talking anyway?

15 A Well, they took my fingernails and stuff after that  
16 and sprayed me down. And then after they did a test, they  
17 stopped talking to me.

18 Q They stopped talking to you?

19 A Afterwards.

20 Q Okay. Well, let me -- I'm not doing a very good job  
21 of asking the question, obviously.

22 When they -- did they read this part of the statement  
23 out loud to you, "I have read this statement, and I  
24 understand what my rights are. I am willing to make a  
25 statement and answer questions. I do not want a lawyer at

1       this time. I understand and know what I am doing. No  
2       promises or threats have been made to me, and no pressure  
3       or coercion of any kind has been used against me"?

4       A     Right.

5       Q     And what I'm talking about now is the very beginning  
6       of the talk with them. This is when this was done, right,  
7       at the very beginning?

8       A     The only time we actually talked was the first time.  
9       And, yes, this was in that situation.

10      Q     Okay. And ---

11      A     I mean, if you want to know, I got this here, but I  
12      can't just, you know, let you know what you're asking me.

13      Q     I understand.

14      A     I'll just let you know ---

15      Q     I understand, sir. But what I'm getting at is did you  
16      -- you knew what your rights were?

17      A     Right.

18      Q     And you agreed to talk to the ---

19      A     Up until the point where I felt like I needed an  
20      attorney, yes.

21            MS. MUNSON: Okay. Good.

22            Your Honor, at this point I offer State's 54 and 60  
23      into evidence.

24            MR. SARRATT: Without objection.

25            THE COURT: So admitted.

1 (WHEREUPON, State's Exhibit Nos. 54 and 60 were admitted  
2 into evidence.)

3 BY MS. MUNSON:

4 Q All right. Now, when you did talk to them, they took  
5 these photographs of you, right?

6 A Right.

7 Q And they asked you about what's with these lines on  
8 your arm, what's with these scars, what's up with that?

9 A Yeah.

10 Q And there's a little -- there's a mark on your finger,  
11 right? Is that what that is?

12 A Uh-huh.

13 Q That Jennifer did to you?

14 A Right.

15 Q Okay. And there's a closer-up shot of it.

16 A Okay.

17 Q That's the only thing Jennifer did to you?

18 A Yes.

19 Q Okay. But when you talked to the deputies on May the  
20 23rd and they asked you about the marks and cuts on you,  
21 you told them that you got them at Southern Fried Green  
22 Tomatoes?

23 A Right.

24 Q Okay. And then when they talked to you on May the  
25 27th, you said you got these marks on your arms from

1 bouncing?

2 A I said working all together. I didn't say which. I  
3 said working.

4 Q You didn't say you were bouncing?

5 A I said working.

6 Q Okay. So ---

7 A Together.

8 Q And what I'm asking you, I'm not trying to be  
9 difficult ---

10 A Right.

11 Q --- I'm just asking you, do you deny telling the  
12 deputies in the second interview that you got the marks on  
13 your arms from bouncing?

14 A No. I do not deny that at all.

15 Q You do not deny it?

16 A No.

17 Q Okay. Good. That's what I was getting at.

18 And did you not, in fact, in that second interview  
19 lift up your shirt and show it to Investigator Rivera and  
20 Investigator Fortner and say that the marks on your side  
21 were from bouncing?

22 A No. I have a cut on my stomach, and that's what I was  
23 pointing out to him. You can see it in the other photo.  
24 That's the one I was letting him know it came from  
25 bouncing.

1 Q From bouncing?

2 A Right.

3 Q Not from Jennifer?

4 A Not the scratches. The cut. I have a ---

5 Q A scar?

6 A --- a big scar, and then the lacerations. That's what  
7 I told him. I never said that, you know, Jennifer did that  
8 when I got that from work.

9 Q Okay. Now, you've already acknowledged that these --  
10 this is State's Exhibit No. 62 -- that these marks on your  
11 side right here ---

12 A Okay. Yeah.

13 Q --- you say Jennifer did these scratches ---

14 A Right.

15 Q --- but not that scar?

16 A Not that. And that's what I was letting him know that  
17 she did not do.

18 Q Okay. Did you also tell Investigator Rivera and  
19 Detective Fortner in your second interview that Jennifer  
20 never pulled a knife on you?

21 A She never pulled a knife on me.

22 Q Yes. Did you say that?

23 A I'm not sure.

24 Q Do you deny telling the deputies that Jennifer never  
25 pulled a knife on you?

1       A     It's video. I'm not sure. I was wasted at the time  
2       of both. I'm not sure.

3           MS. MUNSON: Your Honor, I'd like just to play the  
4       video of the second interview.

5           THE WITNESS: I'm just not sure.

6           THE COURT: He says he does not know.

7           MS. MUNSON: I understand, Your Honor. And it's my  
8       understanding of the rules is once I have made the  
9       defendant aware of the statement and he either denies it or  
10      says he doesn't remember, I'm entitled to use extrinsic  
11      evidence.

12          THE COURT: That's correct.

13          MS. MUNSON: So that's what I'm asking to do.

14          THE COURT: Do you have a copy of the statement?

15          MS. MUNSON: It's a video, Your Honor.

16          THE COURT: Nothing in writing?

17          MS. MUNSON: No, sir. Everything was in video. I  
18      mean, we don't have to do it right now, but we will get to  
19      that.

20      BY MS. MUNSON:

21      Q     Now, back to this incident with Jennifer. You said  
22      you never called the cops, right? You didn't call the cops  
23      on Jennifer?

24      A     I spoke with the cops.

25      Q     You spoke with them, but do you deny telling Deputy

1 Sarah Huber that you called the police and the city police  
2 responded to Raqueem's [phonetic] residence?

3 A If you look at the report, it clearly says at the top  
4 it started at Bi-Lo. I'm not sure who called the cops. I  
5 just -- when they contacted me, I did speak with them.

6 Q You spoke with them?

7 A Right.

8 Q Right. But what I'm asking you is, did you tell  
9 Deputy Sarah Huber that you called the police? Did you  
10 tell the deputy that?

11 A I'm not sure. I mean, it was a while ago. I mean,  
12 I'm not sure.

13 Q All right. So all this business about the shoes and  
14 stuff like that, those are your footprints?

15 A Yes.

16 Q Those are your Adidas, right?

17 A Yes, ma'am.

18 Q Even though both times you were interviewed by the  
19 deputies, you said you were never there. You lied.

20 A Yes, I did.

21 Q Okay. Both times you said you didn't get rid of your  
22 clothes or change your clothes in any way.

23 A Right.

24 Q And that wasn't true either, was it?

25 A No, it was not.

1 Q Okay. Now let's talk about this box cutter you say  
2 you had. Where did you get that?

3 A I have tools. I just had it.

4 Q So what you were doing earlier that day was just  
5 hanging out, drinking with friends and all that?

6 A Right. And it was on me all day in my pocket. Yes,  
7 it was.

8 Q You just walk around with a box cutter?

9 A I did. Yeah. I had one in my pocket. Yes, I did.

10 Q You got that box cutter out of Kim's car, didn't you?

11 A No, I did not.

12 Q Okay. Now, you say that you were driving in the car  
13 and Jennifer's hitting you in some way, and then you didn't  
14 notice that you were cut?

15 A Right.

16 Q Okay. You didn't notice this cut on your arm?

17 A No, I didn't. I mean, I don't know if you've ever  
18 been on heroin and pills and drinking at the same time, but  
19 it definitely numbs your mind.

20 Q I don't think it matters. It doesn't matter whether  
21 I've ---

22 A It does. Because if you hadn't been intoxicated like  
23 that before ---

24 THE COURT: That is not an issue in this case. Answer  
25 the question about you, Mr. Thompson.



1 BY MS. MUNSON:

2 Q I'm asking you, was it bleeding?

3 A I did not notice.

4 Q You didn't notice if it was bleeding?

5 A No, I did not.

6 Q Okay. Would you say that's a pretty good cut?

7 A Yeah. Pretty good cut.

8 Q Now, the bouncing and, you know, however you got these  
9 marks on your arm -- and I'm showing you, again, 61,  
10 State's Exhibit 61 -- would you agree with me that all  
11 these lines kind of seem to be together like that?

12 A Yeah.

13 Q Okay. Initially, when you spoke to officers, you told  
14 them you didn't leave the court all day, right, when you  
15 spoke with them on 5/23, the day that you killed Jennifer?

16 A I may have said that, yes.

17 Q Okay. You didn't leave the court all day?

18 A I may have said that.

19 Q You may have said that?

20 A Right.

21 Q So you're not denying it?

22 A I may have said that. I told you I was intoxicated.

23 I may have said that.

24 Q Okay. And then you admitted -- once the deputies told  
25 you we have you on video at the BP station at like 10

1 minutes after 4:00 after you killed Jennifer, do you  
2 remember them talking to you about that?

3 A Can you say that one more time, please, so I can  
4 understand?

5 Q Yes. I'm sorry. The day that you killed Jennifer and  
6 you were being interviewed, you were not under arrest.

7 A Right.

8 Q Do you remember what I'm talking about?

9 A Right. I got you.

10 Q Okay. They asked you if you left the court all day,  
11 and you said, "No." You went early in the morning to get  
12 some beer, came back to the court; is that correct?

13 A Right.

14 Q All right. And then during the interview, you were  
15 confronted with the deputies telling you that they had you  
16 on video.

17 MR. SARRATT: Objection, Your Honor. It's not in  
18 evidence.

19 THE COURT: What's the question again?

20 MS. MUNSON: It's a credibility issue, Your Honor.  
21 I'm impeaching him on a ---

22 THE COURT: What is the question?

23 MS. MUNSON: The question is, when the deputies  
24 confronted him about having him on video at the BP, he lied  
25 about that, as well.

1 THE COURT: Well, ask him if he lied.

2 MS. MUNSON: Okay.

3 BY MS. MUNSON:

4 Q You did leave the court at least twice, correct? You  
5 left early in the morning to get beer; is that right?

6 A Right.

7 Q You left again in Kim's car and went over to  
8 Jennifer's house; is that right?

9 A Right.

10 Q And you left a third time at about 4:00 in the  
11 afternoon, again, to get some beer?

12 A No, I did not.

13 Q You did not leave?

14 A No.

15 Q Okay. So do you deny telling the deputies that you  
16 did go to get some Fortunes?

17 A Some Fortunes?

18 Q Yes.

19 A I don't know what that is, and I deny that because I  
20 don't -- I don't -- I don't even know what that is.

21 Q All right. That's fine.

22 So you did have different clothes on when you got  
23 back?

24 A I'm not denying it.

25 Q Okay. So what did you do with your shoes?

1       A     I have no idea. I don't -- just let you know, after  
2       that point of me blacking out, I do not remember anything.

3       Q     So when you spoke with Amber and told her how about I  
4       remember, and you told her that you know exactly where the  
5       stuff is.

6       A     Right.

7       Q     You told Amber that.

8       A     I -- I remember that, yes.

9       Q     So did you tell Amber the truth?

10      A     Apparently, where I thought the stuff was, it was  
11      nothing there. It was just an open area, and nothing was  
12      there.

13      Q     How do you know nothing was there?

14      A     Because I asked somebody about it.

15      Q     You asked somebody to go look for it?

16      A     No. I just know I asked was it anything over there,  
17      and there was nothing there.

18      Q     When did you ask somebody to go look?

19      A     To see if anything I was thinking of doing or had did,  
20      it wasn't there. It was no bushes. It was nothing. So,  
21      apparently, I had things mixed up. But I do not deny  
22      telling her that.

23      Q     So why did you tell her that if you don't remember?

24      A     I have no idea. I mean, it could be denial being in a  
25      situation, relief to not wanting to accept that something

1       like this took place and I had a hand in it.

2       Q       Well, when you say "something like this took place,"

3       we're not talking about knocking over somebody's beer.

4       We're talking about killing a woman.

5       A       Right.

6       Q       And you did that.

7       A       Yes, ma'am.

8       Q       And the wounds -- we're looking at State's Exhibit

9       No. 27 here, Mr. Thompson. This wound right here on

10       Jennifer's head ---

11       A       Yes, ma'am.

12       Q       --- you did that?

13       A       I did.

14       Q       On her head.

15       A       Uh-huh.

16       Q       Okay. This wound here on her neck that cut her

17       jugular vein, let me ask you, what was she was doing after

18       you did that?

19       A       I don't know. I told you I don't remember after

20       falling on the dog cage.

21       Q       Okay.

22       A       I just don't remember. I have no idea.

23       Q       So this Wound No. 3 that cut her earlobe and went into

24       her neck, you did that?

25       A       Yes, ma'am.

1 Q And Wound No. 4, these wounds that cut her trachea and  
2 her esophagus, you did that?

3 A Yes, ma'am.

4 Q Did you accidentally stab her?

5 A I don't know.

6 Q You don't know. Well, you would agree with me,  
7 wouldn't you, that it's kind of hard to accidentally stab  
8 somebody 17 times?

9 A I agree.

10 Q Yeah. So it probably wasn't an accident, was it? It  
11 wasn't an accident, was it?

12 A I told you, I don't remember. I -- I just don't know  
13 what else you want me to tell you about the situation.

14 Q I'd like for you to tell me the truth about the  
15 situation.

16 A And that's what I swore to do when I got up here.

17 Q All right. Let's look at Wound No. 5 under her chin.  
18 You saw these autopsy photos, didn't you?

19 A I -- I've seen it.

20 Q How about No. 6 and No. 7 right there in the throat?

21 A I see 1 through 17. Yes, I have.

22 Q And these are all in her head?

23 A No.

24 Q Head and neck?

25 A I mean, those are, yes.

1 Q Head and neck.

2 A Yes.

3 Q How about Wounds No. 8, 9 and 10 on her right side?

4 A I've seen 1 through 17.

5 MR. SARRATT: Objection, Your Honor. Asked and  
6 answered.

7 THE WITNESS: 1 through 17, I've seen them.

8 THE COURT: Overruled.

9 BY MS. MUNSON:

10 Q I'm asking about 8, 9 and 10 on her right side. You  
11 did those, too?

12 A Yes, ma'am.

13 Q These wounds that went into her lungs and penetrated  
14 her heart 5.7 inches, you did that?

15 A Yes, ma'am.

16 Q And the rest of these, let's look at these wounds here  
17 on her breast, on her side. And let me ask you this,  
18 Mr. Thompson, since you're admitting you did all these  
19 wounds. The wound on Jennifer's hand that almost cut off  
20 her finger, was she going like this (demonstrating)?

21 A I have no idea.

22 Q You don't know.

23 A I don't.

24 Q Wow. Do you deny telling people on the court that you  
25 found out Jennifer was dead from your baby's mama?

1 A No. I do not deny that.

2 Q Okay. So -- but you can't -- and the information  
3 about her gurgling and gushing blood, you didn't tell  
4 anybody that; is that right?

5 A No. LaShawn said I said something about her bleeding,  
6 not gurgling, and eyes may have popping out or something  
7 like that. I do remember her saying that. But she never  
8 said anything about gurgling, so I don't -- I don't know  
9 where that came from at all.

10 Q And that's what I'm asking is you didn't say any of  
11 that stuff.

12 A I may have said some things, and I don't -- I don't --  
13 I'm not saying these people were lying, because, like I  
14 said, I was on drugs, drinking. They even let you know  
15 they got from what I usually do to way worse. I may have  
16 been saying things. I'm not denying anything.

17 Q Did you tell Stephanie -- I'm sorry. You told Amber  
18 in that call that we all listened to that she came at you  
19 and she cut you on the stomach and she cut you on the  
20 chest.

21 A It's a possibility. I don't know. Like I told you,  
22 from that conversation when I had from her, the things in  
23 the conversation, it was just a bunch of I don't really  
24 know. So ---

25 Q Okay. So you don't remember the phone call?



1       A     I heard it. I heard it. I heard it.

2       Q     Okay. And that was your voice ---

3       A     Yeah.

4       Q     --- telling Amber, "And she came at me, and she cut me  
5     on the chest, and she cut my shirt, and she tore it off."

6       A     Right.

7       Q     You told her that.

8       A     That's what -- that's what I heard on the phone call.  
9     Yes, I did.

10      Q     Okay. So do you remember that or not?

11      A     It was said. I don't remember it. It was said. I  
12     don't remember.

13      Q     So you told Amber all this stuff, but you don't really  
14     know that it was true?

15      A     Right.

16      Q     Right. Okay. That's good.

17            You also told Amber that you were bleeding. You also  
18     told Amber that she came at you with a knife, and she  
19     pushed you out the door, and you left, and that she might  
20     have nicked herself on the neck. You told that to Amber,  
21     correct?

22      A     Yeah. I said all of that might be, right.

23      Q     Did you say that might have happened or did you say  
24     that did happen?

25      A     It might have happened. And that might have explained

1       why my hand prints or fingerprints were not on anything in  
2       the area at the time, or the house or door or anything.

3       Q     But you were there?

4       A     I was there, yeah. But -- you know.

5       Q     And you deny, so you don't remember this life-altering  
6       event ---

7       A     I do not.

8       Q     --- at all?

9       A     No, ma'am.

10      Q     So when did you go blank?

11      A     Well, like I said, the only thing I remember is being  
12      stuck in the finger, going on top of the dog cage and  
13      that's it. That's all I can truly remember. That's it.

14      Q     And when you -- so you were there when Jennifer was  
15      talking to her lawyer's office?

16      A     Right. That was beforehand.

17      Q     Okay. And you deny telling Jennifer, "If you marry  
18      me, this will all go away"?

19      A     I never said anything like that.

20      Q     Okay. But do you admit that you were standing right  
21      there when Jennifer was talking to the lawyer's office?

22      A     She did not say that when I was in there.

23      Q     So she didn't say that?

24      A     No, she did not.

25      Q     Okay. And you did not tell Stan Overby that Jennifer

1 did not stab you?

2 A I told Stan Overby that she did not create the other  
3 cuts on my arms.

4 Q Okay. When you talked to Amber and you said, "So how  
5 about I remember," was that true?

6 A I mean, apparently not. I mean, I don't . . .

7 Q You're the one who made the statement, Mr. Thompson.

8 A I know that.

9 Q Only you can say.

10 A Well, I mean, I know. But as I was saying, you know,  
11 doing all that stuff, doing all them drugs and coming off  
12 of a detoxing, denial, not -- not really wanting to accept  
13 the mess that I put myself in, it could have been a number  
14 of things as to why I don't remember it all.

15 Q Okay. But what I'm asking you is this. When you said  
16 to Amber on that phone call that we all heard, you said the  
17 words to her "how about I remember."

18 A I heard that. Yes, I did.

19 Q Good. Was that the truth?

20 A No.

21 Q So when you told Amber -- Amber was mad that you went  
22 over there, right?

23 A Yeah, yeah.

24 Q Because y'all were sort of . . .

25 A You can say that.

1 Q Yeah. I'm not sure what to call it. You weren't  
2 serious. You weren't married.

3 A No.

4 Q But Amber took it that way, right?

5 A Yes. She took it that way.

6 Q Okay. So when you were talking to Amber, she said,  
7 "Why did you go over there?" she said it like that, didn't  
8 she? She was mad. Didn't she?

9 A Right. She ---

10 Q And what was your answer? "I went to get my shit."

11 A Yeah. That's what the phone call said, yes. I heard  
12 that on the phone call.

13 Q What did you say? What did you ---

14 A I can't tell you that. The phone -- we played the  
15 phone call. That's all I can say.

16 Q Okay.

17 A I'm not denying any of it.

18 Q Okay. So what you're telling the jury now is that  
19 that's not true. You didn't go over there to get your  
20 shit. You went over there because Jennifer said, "Please  
21 come over here." Is that what you're telling us?

22 A I told you why I went there. The phone call stuff,  
23 things after that, I don't really know, and I'm letting you  
24 know that. That's what I'm letting everybody in this  
25 courtroom know. I'm not denying that anything that anybody

1       that got up here on the stand said or anything. The only  
2       thing I'm -- is denying is I did not have a plan to hurt  
3       Jennifer or kill her in any kind of way.

4       Q     Okay.

5       A     That's what I'm saying.

6       Q     Okay. You didn't have a plan.

7             All right. And you don't deny that when you spoke  
8       with the deputies on May the 23rd and on May the 27th, you  
9       told them you were nowhere around?

10      A     I do not deny that.

11      Q     You told them that you did not take Kim's car. You  
12      told them that on the 23rd. You said you didn't leave the  
13      court.

14      A     Right.

15      Q     But you did.

16             Why did you feel like you had to lie to Kim about  
17      taking her car? You've taken her car before, hadn't you?

18      A     Right. To be honest with you, I -- I don't know.  
19      I'll say again, I'm not really sure why.

20      Q     Okay.

21      A     I just did.

22             MS. MUNSON: Okay. Beg the Court's indulgence.

23      BY MS. MUNSON:

24      Q     And it's your testimony that Jennifer offered to pay  
25      you money to say that -- to recant your statement?

1 A Right.

2 MS. MUNSON: Okay. I have nothing further at this  
3 time, Your Honor.

4 THE COURT: Anything?

5 MR. SARRATT: Briefly.

6 REDIRECT EXAMINATION

7 BY MR. SARRATT:

8 Q After Jennifer came at you, did you snap?

9 A Apparently, I did.

10 MS. MUNSON: Objection, Your Honor. He's testifying  
11 for the defendant now.

12 THE COURT: Don't lead.

13 THE WITNESS: Yes, sir.

14 BY MR. SARRATT:

15 Q Did any kind of thought enter your mind "I'm going to  
16 kill her"?

17 THE COURT: Don't lead.

18 MR. SARRATT: Nothing.

19 THE COURT: Anything?

20 MS. MUNSON: No, sir, Your Honor,

21 THE COURT: All right. Thank you. You may step down.

22 MR. SARRATT: The defense rests.

23 THE COURT: All right. Anything in reply? Need a  
24 minute?

25 MS. MUNSON: Yes, sir.

1           THE COURT: Ladies and gentlemen, the defendant has  
2 rested, which means the defendant has put forth the  
3 evidence the defense wishes to offer in this case. The  
4 State has the opportunity to offer reply evidence, if the  
5 State wishes to do so. I'm going to give the State a few  
6 minutes to determine what they're going to do in this  
7 regard.

8           I'm going to ask you to go back to the jury room and  
9 we're going to do two things while you're back there. So  
10 y'all don't get too anxious to get out of here. I'm going  
11 to send some -- how do y'all do it, Madam Clerk? Menus?

12          THE CLERK: Yes, sir.

13          THE COURT: I'm going to send some menus back so that  
14 you can decide what you want to have for lunch. We're  
15 going to order lunch in because we're going to go from here  
16 to -- if there's nothing in reply, we'll go, in just a few  
17 minutes, to closing arguments and the charge. And it will  
18 take an hour or so to get lunch. And by the time that gets  
19 back, we might be in a position to let you begin your  
20 deliberations and eat lunch.

21          The other thing I'm going to ask you to do is if y'all  
22 will select a foreperson for me while you're back there.  
23 You will determine who will be the foreperson of the jury.  
24 If you'll write it on a sheet of paper -- Madam Bailiff,  
25 can we give them a pencil and paper so that they can write

1       whoever's going to be the foreperson? And I'll be happy to  
2       give you some instructions a little later as to what your  
3       responsibilities are as the foreperson.

4               So y'all step back to the jury room. Do not begin any  
5       discussions about the case other than selection of your  
6       foreperson and ordering food. Thank you, all.

7       (WHEREUPON, the jury exits the courtroom at 11:23 a.m.)

8               THE COURT: All right. Decide what you're going to  
9       do, and then if y'all can come back to the office and let's  
10      figure out what we're going to do on the charge and the  
11      verdict form.

12              MS. MUNSON: I need maybe three minutes, Your Honor.

13              THE COURT: You take what you need.

14              (WHEREUPON, a recess is taken at 11:24 a.m.)

15              THE COURT: Just for your information, Mr. Lindsey has  
16      been selected as foreperson. I'm not sure who Mr. Lindsey  
17      is. I hope he's on the jury. He is. Juror No. 130.

18              All right. Are your witnesses here?

19              MS. MUNSON: Yes, sir, Your Honor.

20              THE COURT: All right. Let's bring the jury in.

21              Let me ask you something. Any of y'all have  
22      telephones on? I find any telephones on, they're going to  
23      be mine forever.

24              MS. MUNSON: May we approach, Your Honor?

25              THE COURT: Certainly. Are you bringing your phone?



1 MS. MUNSON: No. I learned. I left it in my office.

2 (WHEREUPON, a bench conference was held off the record.)

3 (WHEREUPON, the jury entered the courtroom at 11:53 a.m.)

4 THE COURT: All right. Mr. Lindsey, thank you very  
5 much for agreeing to serve as foreperson of the jury, and  
6 I'll give you some instructions regarding your  
7 responsibilities when I instruct the jury.

8 Ladies and gentlemen, as I told you, the State has the  
9 opportunity to offer witnesses in reply to the defendant's  
10 case, and I've been told that they have a couple of  
11 witnesses they want to call. I don't think they're going  
12 to be extremely long, but they certainly have that right.

13 So, Madam Solicitor, if you would.

14 MS. MUNSON: Thank you, Your Honor. May it please the  
15 Court. The State calls Sarah Napolitano.

16 WHEREUPON,

17 SARAH NAPOLITANO

18 After having been duly sworn, testified as follows:

19 THE CLERK: Would you please state your name for the  
20 record.

21 THE WITNESS: Sarah Napolitano.

22 DIRECT EXAMINATION

23 BY MS. MUNSON:

24 Q You work for the Sheriff's Office?

25 A Yes, ma'am.

1 Q How long have you been with them?

2 A Three years.

3 Q And back in August of 2013, were you with the  
4 Sheriff's Office?

5 A Yes, ma'am.

6 Q And your name was different then, right?

7 A Yes, ma'am.

8 Q Okay. What was it then?

9 A Sarah Huber.

10 Q What were your duties back in August of 2013?

11 A I was Uniform Patrol on Adam Platoon.

12 Q And what does that mean?

13 A We answer every single 9-1-1 call.

14 Q When you go out to a 9-1-1 call, what are some of your  
15 responsibilities?

16 A Just to secure the scene if needed, take care of  
17 victims, hopefully find and apprehend suspects. If it's a  
18 thing like a larceny, we get all the details we can so we  
19 can figure out who stole the items.

20 Q Okay. And once you do those sorts of things, is there  
21 any sort of paperwork that you are required to generate?

22 A Every time.

23 Q And where do you get the information that you put in  
24 these reports?

25 A Most of it is from our computer. If we don't have

1 everything in the computer and we've got a complainant on  
2 scene or victim on scene, we get it from them.

3 Q Okay. And what about what certain people tell you?  
4 What do you do with that information?

5 A That goes in hopefully directly quoted as what the  
6 person said. If we can't remember exactly what they said,  
7 it just goes in of how we recalled the information.

8 Q Okay. Now, Deputy Napolitano, you have an incident  
9 report before you, don't you?

10 A Yes, ma'am.

11 Q And have you had a chance to look at it?

12 A Yes, ma'am.

13 Q And that's from when?

14 A It was 2013. Let me get the exact date. From  
15 August 20th of 2013.

16 Q Okay. And who is the complainant on that case?

17 A I have the complainant as David Lamar Thompson.

18 Q And, if you could, look at page 4 -- I'm sorry -- 2 of  
19 your report.

20 A Yes, ma'am.

21 Q What information did the complainant give you about  
22 how law enforcement was notified?

23 A On our way to the scene, we were actually advised that  
24 the complainant had now moved himself to St. Francis  
25 Hospital on the eastside. So myself and another unit went

1 over to the hospital. And it says when I met with him, he  
2 was observed to be distressed and had bandages covering his  
3 left forearm and the right side of his abdomen. He stated  
4 to me that he -- his friend Raqueem Williams, who I have in  
5 parenthesis as a witness ---

6 Q Okay. Excuse me, Deputy.

7 A Yes, ma'am.

8 Q I'm so sorry.

9 A You're fine.

10 Q Just could you get to the part about who -- what he  
11 told you in regards to how law enforcement was notified  
12 about that incident?

13 THE COURT: And let me ask you to slow down a little  
14 bit.

15 THE WITNESS: Okay. I'm a fast talker.

16 BY MS. MUNSON:

17 Q It's the next to the last paragraph on page 2.

18 A The only thing I'm seeing is it stated that the victim  
19 -- oh, the assault was at his apartment which was in  
20 Greenville City, and a city officer arrived on scene.

21 MS. MUNSON: May I approach the witness, Your Honor?

22 THE COURT: You may.

23 BY MS. MUNSON:

24 Q I'm sorry. If you could, right -- this is what I was  
25 looking for.

1 A Okay.

2 Q Okay. That's all right.

3 A You're fine.

4 To me, David stated that, at the time, he called the  
5 police, and city police responded to Raqueem's residence.

6 Q Okay. Now, I'm sure you don't remember that incident,  
7 do you?

8 A No, ma'am.

9 Q What you put in those reports, is it important ---

10 A Yes, ma'am.

11 Q --- for accuracy?

12 A Yes, ma'am.

13 MS. MUNSON: That's all I have, Your Honor. Nothing  
14 further.

15 THE COURT: Anything?

16 MR. SARRATT: Nothing for this witness, Your Honor.

17 THE COURT: All right. Thank you, Deputy. You may  
18 step down. You're free to leave.

19 MS. MUNSON: Your Honor, may this witness be excused?  
20 May this witness be excused, Your Honor?

21 THE COURT: Yes, ma'am. I told her she could leave.

22 MS. MUNSON: I'm sorry.

23 Your Honor, the State recalls Sergeant Ramon Rivera.

24 THE COURT: Again, Sergeant, I remind you you're under  
25 oath.

1 WHEREUPON,

2 RAMON RIVERA

3 After having been previously duly sworn, testified as  
4 follows:

5 DIRECT EXAMINATION

6 BY MS. MUNSON:

7 Q All right. Sergeant Riviera, how many times did you  
8 speak with the defendant in this case?

9 A I had the opportunity to speak to him twice.

10 Q And the first time was on what date?

11 A On the Friday, the day of the death investigation,  
12 which was May 23rd.

13 Q And what was his custody status at that point?

14 A He was not in custody. He was given a Dunaway  
15 warning, which basically means we just want to talk to you,  
16 you're not in any trouble, we just want to get information  
17 from you.

18 Q Okay.

19 A And he was not handcuffed or anything.

20 Q All right. What was his level of intoxication?

21 A He was not.

22 Q How did he -- all right. I'm just going to leave it  
23 at that.

24 What if he had been messed up in any way?

25 A If he had been under the influence of any alcohol or

1 drugs that we would have deemed that he was impaired to the  
2 point where he couldn't talk to us, then we would have  
3 never talked to him.

4 Q All right. During that conversation with him, did he  
5 give you any information about whether or not during the  
6 day -- first of all, Thursday night and then Friday during  
7 the day that he killed Jennifer, did he give you any  
8 information about whether or not he was calling her?

9 MR. SARRATT: Objection, Your Honor. I object to any  
10 extrinsic evidence of prior consistent statements as my  
11 client did not deny making any of the statements.

12 THE COURT: Well, I'm going overrule it. It's unclear  
13 what position he was taking from time to time.

14 BY MS. MUNSON:

15 Q So what information, if any, did he give you about his  
16 attempts to get in touch with Jennifer?

17 A Overnight Thursday into Friday he said that he talked  
18 to her a couple of different times, and later on in the  
19 afternoon on Friday, he began texting her.

20 Q When in the afternoon on Friday?

21 A I don't recall the time specifically, but I believe it  
22 was after 3:00.

23 Q Before or after he killed her?

24 A After.

25 Q What information did he give you about what he did

1       that day? I'm talking about on the 23rd.

2       A     On the 23rd. On Friday?

3       Q     Yes.

4       A     He said he got up around 8:45, cleaned up the house a  
5       little, took the trash out, hung out outside, talked to his  
6       friend Devin, they went to the store, got some beer, I  
7       believe he said Ice House, came back, and he says that he  
8       stayed in the court the rest of the day.

9       Q     All right. At any point, did he give you information  
10      about maybe he did leave the court at some point on Friday?

11      A     When he was questioned about the vehicle that he  
12      borrowed on the pretext that he was going to take his mom  
13      to Rite Aid, he stated that was -- that was incorrect, that  
14      he borrowed the vehicle to go to Mama J's.

15      Q     Okay. Did you have any conversation with him about  
16      the BP station?

17      A     We did. We talked to him about the BP station when we  
18      started questioning him that when he told us that he stayed  
19      in the court all day. By that time, we had already gotten  
20      deputies to -- or investigators to the BP station, and they  
21      had him on video approximately 4:10, 4:15, somewhere in  
22      there, buying alcohol with Devin.

23      Q     Okay. What information did he give you about whether  
24      or not he lost his shoes or came back clothed differently?

25      A     He claims that his shoes were tied together and hung



1       around his neck and that he took them off because it was  
2       hot.

3       Q       How long did he tell you it had been -- and we're  
4       talking about your conversation with him on the 23rd, the  
5       day that he killed Jennifer. How long did he tell you it  
6       had been since he'd even been over to Jennifer's?

7       A       It had been months. I believe it was three or four  
8       that he said.

9       Q       And where did he tell you he was when his mother  
10      called Jennifer looking for him?

11     A       I can't recall specifically.

12     Q       Okay. Would it be ---

13     A       I'm sorry. I do remember.

14     Q       Oh, okay. Go ahead.

15     A       He told us that he was in an apartment at first when  
16     his mom called Jennifer to check on him, see where he was  
17     at, and then he changed his story and said that he was  
18     actually standing in front of his mother and doesn't  
19     understand why she's calling to check where he's at when  
20     he's standing in front of her. She must have not seen him.

21     Q       What information, if any, did he give you about  
22     leaving the court to go get a Fortune?

23     A       He said he loved those Fortunes. And that was during  
24     the time that we questioned him about going to the BP  
25     around that 4:00, 4:15 time.

1 Q All right. Now, you spoke with him again on the 27th?

2 A Correct.

3 Q And at that point, he was under arrest?

4 A Correct.

5 Q All right. How did he tell you -- well, it was  
6 brought up, was it not, these cuts on his arm, the way they  
7 are?

8 A Yes.

9 Q And what information did he give you about how he got  
10 these things?

11 A On the 23rd, he said that he had gotten them bouncing  
12 at different bars or clubs.

13 Q Okay. And then what did he say on the 27th?

14 A That was the 27th. On the 23rd, he told us that he  
15 got them from Fried Green Tomatoes.

16 Q And what's Fried Green Tomatoes?

17 A That's a restaurant.

18 And the day that he was arrested, he actually told us  
19 he got them from bouncing.

20 Q On either day, the 23rd or the 27th, did he ever admit  
21 that he went over to Jennifer's?

22 A No.

23 Q Did he ever admit that he lied about taking Kim's car?

24 A Yes. He admitted that he didn't tell her what he was  
25 wanting the car for.

1 Q Okay. Did he ever admit coming back with different  
2 clothing on?

3 A No.

4 Q Did he ever admit killing Jennifer?

5 A Not during that time. Not until the phone call later  
6 on.

7 Q And in particular on the interview on the 27th, what  
8 did he tell you about whether or not Jennifer has ever  
9 pulled a knife out on him?

10 A I believe he said she had never pulled a knife out on  
11 him.

12 MS. MUNSON: Okay. I have nothing further, Your  
13 Honor.

14 THE COURT: Anything?

15 CROSS EXAMINATION

16 BY MR. SARRATT:

17 Q Is it fair to say that everything he told you was a  
18 lie and none of it made any sense?

19 A Yes.

20 MR. SARRATT: No further questions.

21 REDIRECT EXAMINATION

22 BY MS. MUNSON:

23 Q Some of it was true, wasn't it?

24 A Some of it was true, but it was constantly changing  
25 throughout the course of the interview.

1 MS. MUNSON: Nothing further, Your Honor.

2 THE COURT: All right. Thank you, sir. You may step  
3 down.

4 MS. MUNSON: And, finally, Your Honor, the State calls  
5 Jackeline Zuniga.

6 THE COURT: Ma'am, you testified previously. You were  
7 put under oath at that time, so you're still under oath for  
8 this trial.

9 WHEREUPON,

10 JACKELINE ZUNIGA

11 After having been previously duly sworn, testified as  
12 follows:

13 DIRECT EXAMINATION

14 BY MS. MUNSON:

15 Q Hey, Jackeline.

16 A Hey.

17 Q Did you know about your sister's legal troubles with  
18 the defendant?

19 A I did.

20 Q And did you know about some kind of arrangement that  
21 the defendant wanted to have made?

22 A I did.

23 Q What was the arrangement?

24 A She told me that if she didn't marry him ---

25 MR. SARRATT: Objection, Your Honor. Hearsay.

1 THE COURT: Sustained.

2 MS. MUNSON: Impeachment. I'm not offering it for the  
3 truth of the matter, Your Honor. I'm offering it to show  
4 that he is telling different stories.

5 THE COURT: Sustained.

6 MS. MUNSON: Okay. I have nothing further, then, Your  
7 Honor.

8 THE COURT: All right. Thank you, ma'am. You may  
9 step down.

10 MS. MUNSON: Nothing further, Your Honor.

11 THE COURT: All right. Ladies and gentlemen, that  
12 means that the parties have now concluded the presentation  
13 of their evidence. I need to take up one matter with the  
14 attorneys, a matter of law, before we go to our closing  
15 arguments.

16 I'm going to let you step back in the jury room. Do  
17 not get comfortable because we'll bring you back in just a  
18 couple of minutes where we will go directly to our closing  
19 arguments and our instructions. So if y'all step back to  
20 the jury room. Don't discuss the case while you're back  
21 there, please.

22 (WHEREUPON, the jury exits the courtroom at 12:08 p.m.)

23 THE COURT: All right.

24 MR. SARRATT: Your Honor, at this time I would like to  
25 renew all previous objections up to and including my motion

1       for a directed verdict.

2           THE COURT:  You want to renew all previous objections  
3       or all previous motions?

4           MR. SARRATT:  Motions and objections, and renew my  
5       motion for a directed verdict.

6           THE COURT:  All right.  Did you want to say anything?

7           MS. MUNSON:  No, sir, Your Honor.

8           THE COURT:  All right.  I'm going to deny your motion.  
9       Again, I find that -- you know, I'm not here to weigh the  
10      evidence.  I'm here to determine whether there's any  
11      evidence.  And taking everything in the light most  
12      favorable to the nonmoving party, which is the State, is  
13      there any direct evidence or any substantial circumstantial  
14      evidence, and clearly, in my mind, there is.  Your client  
15      has admitted having committed this act.  So ---

16          MR. SARRATT:  I understand.

17          THE COURT:  --- motion denied.

18          All right.  Are y'all ready to go?  Do you need a  
19      minute to collect your thoughts, Ms. Munson, or are you  
20      just ---

21          MS. MUNSON:  Chomping at the bit, Your Honor.

22          THE COURT:  You're full of energy, ready to roll.

23          MS. MUNSON:  I could -- I could use a couple of  
24      minutes, if you don't mind.

25          THE COURT:  All right.  Let me ask you, from time to

1       time in different locations, the State will waive opening  
2       on the law. Do you want to open on the law?

3             MS. MUNSON: I do, Your Honor. I'll be brief.

4             THE COURT: I just didn't want to cut y'all off if  
5       that's something y'all had talked about.

6             All right. We'll take a minute or so and take a few  
7       deep breaths.

8             (WHEREUPON, a recess is taken at 12:10 p.m.)

9             THE COURT: All right. Let's bring the jury in.

10            Oh, I know. Before we do that -- hold them out there  
11       for just a minute.

12            Mr. Sarratt, we talked about the charge is  
13       self-defense.

14            MR. SARRATT: We did.

15            THE COURT: And I indicated that it may be one that I  
16       would consider charging, and you indicated that you did not  
17       want that charge, that you wanted a charge of murder, but  
18       you didn't want that charge, but that charge would be given  
19       and the charge of voluntary manslaughter.

20            MR. SARRATT: That's correct. And I made the  
21       strategic decision not to ask for a charge of self-defense.  
22       After speaking with my client, I understand he's in  
23       agreement, but if you would like to ask him directly.

24            THE COURT: Mr. Thompson, you understand what we just  
25       said?

1           DEFENDANT THOMPSON: Yes, sir.

2           THE COURT: And your lawyer indicated that he thought  
3 it was strategy-wise in the best interest of you and the  
4 defense that the charge of self-defense not be given, it  
5 just be given -- is that -- are you in agreement with that?

6           DEFENDANT THOMPSON: Yes, sir.

7           THE COURT: All right. We will not give it, at your  
8 request.

9           MR. SARRATT: Thank you.

10          THE COURT: You've had a chance to talk to your client  
11 about that, isn't that right, Mr. Sarratt?

12          MR. SARRATT: I did, Your Honor.

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

14          (WHEREUPON, the jury enters the courtroom at 12:22 p.m.)

15          THE COURT: Okay. Ladies and gentlemen, as I told  
16 you, we are now at the phase of the trial where the lawyers  
17 have another opportunity to speak to you. In fact, the  
18 State has two opportunities to speak to you because they  
19 get to open on the law, then the defendant, Mr. Sarratt,  
20 will have an opportunity to speak on behalf of the  
21 defendant, then Ms. Munson will then have a final argument  
22 that she can make in this matter.

23          So, Ms. Munson, are you ready to proceed?

24          MS. MUNSON: The State's ready, Your Honor.

25          THE COURT: If you would, please.



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OPENING ON THE LAW

MS. MUNSON: May it please the Court, Mr. Sarratt,  
Mr. Erwin.

Opening on the law sounds kind of funny, and a lot of  
lawyers won't do it. But here I am, and I'll be brief  
because y'all have been sitting here a long time. There's  
been a lot of stuff, and we both appreciate it.

You know, Mr. Sarratt, Mr. Erwin and I don't agree on  
a lot in this courtroom, but we all agreed on you. We all  
agreed on you. And we know that what you're going to do,  
as carefully as you've been listening, you're going to go  
back in that jury room, you're going to talk, and you're  
going to carefully consider and deliberate. And when you  
come back out here, you're going to render a verdict that  
speaks the truth. That's what "verdict" means.

The judge is about to give you the charge on the law,  
and he's going to tell you a bunch of things, some of them  
that sound real legalese and all that kind of stuff. If I  
say something now that is different than what he says, you  
pay attention to him, because the only definitions that  
matter in here are the ones the judge gives you.

One thing you're going to have to do is weigh each  
witness's credibility, believability. Are they telling the  
truth or are they not? Are they confused or they just  
don't know? And how do you do that? Well, ladies and

1 gentlemen, this is something you do every day. It's just  
2 kind of weird doing it here in a jury box. If somebody  
3 tells you something and you have to decide whether or not  
4 to believe it, you consider, well, where were they when  
5 they heard it, where were they when they saw it, you know,  
6 have I dealt with this person before, could they have seen  
7 what they say they said, do they have something to gain or  
8 lose. And then after careful deliberation, you make a  
9 decision as to whether or not you believe them. You do it  
10 every day. And that's all you're doing. There's nothing  
11 special about it. It seems a lot more pressure-filled  
12 because we're all looking at you, but it's something you do  
13 all the time.

14 Presumption of innocence is another thing that His  
15 Honor is going to tell you about. As he's sitting over  
16 there right now, he's innocent. He's not not guilty. He's  
17 innocent. Anyone who is charged with a crime is presumed  
18 innocent. That's the way our system works, and it's the  
19 best one in the world.

20 It's often said that the presumption of innocence is  
21 like a robe of righteousness that sits about the shoulders  
22 of the defendant, and it stays with him unless and until  
23 you remove it by finding a guilty verdict. And I'm going  
24 to tell you something, ladies and gentlemen, the evidence  
25 in this case has snipped, snipped, snipped, cut away every

1 thread that binds that man's robe of righteousness  
2 together.

3 Another thing he's going to talk to you about is  
4 circumstantial evidence. And we see this on TV all the  
5 time. Oh, that's just circumstantial. That's no good.  
6 That's on TV. This is real. All of this is real. That  
7 dead woman is real. His Honor is going to tell you that  
8 circumstantial evidence is no less worthy of your  
9 consideration than direct evidence, so keep that in mind.

10 One thing, sometimes people get messed up by comparing  
11 circumstantial evidence to a chain. Each fact is a link in  
12 the chain, right? But the problem with that is that if one  
13 link breaks, you lose the entire chain. That's not what  
14 circumstantial evidence is. Circumstantial evidence is  
15 more like a rope, and a rope is made up of several  
16 different threads or strings. When you decide -- all of  
17 you decide that a fact is true, that's one piece of  
18 evidence. For example, if you decide that he killed  
19 Jennifer Youngblood, that's one piece of the string. If  
20 you decide that he did so with malice, that's another piece  
21 of the string. If you decide he did go over there and then  
22 threw away his clothes and all that kind of stuff, that's  
23 another string.

24 The fact that he went over there and then left and  
25 threw away his Adidas or whatever, that doesn't make him

1 guilty. The fact that he says he killed her doesn't  
2 necessarily make him guilty of murder. So what I'm saying  
3 is, each fact that you find to be true beyond a reasonable  
4 doubt is a thread, and when you put them together, they  
5 form a rope. And in this case, ladies and gentlemen, that  
6 rope is going to be mightily strong enough to carry the  
7 State's substantial burden of proof. And it is a high  
8 burden, but that's how this system works.

9 Beyond a reasonable doubt, that sounds kind of  
10 strange, as well. And, ladies and gentlemen, we can know  
11 few things in this life to an absolute certainty, but the  
12 law does not require that in a criminal case. You must be  
13 firmly convinced of his guilt. And once you are, without  
14 hesitation, you act by finding him guilty.

15 One thing that's going to be, I submit, kind of a  
16 topic of conversation in the jury room is malice, because  
17 he's charged with murder, which means the unlawful killing  
18 of another -- intentional unlawful killing of another with  
19 malice aforethought. Now, what does "malice" mean? You  
20 might have an idea in your head what it means: hatred, ill  
21 will. The only definition that matters is the one that His  
22 Honor is going to give you.

23 There's express malice and inferred malice. In other  
24 words, if we put a witness on the stand who said, "I heard  
25 the defendant tell Jennifer, 'I'm going to kill you,'"

1       that's express malice, I'm going to kill you. We don't  
2       have that in this case, so we're talking about inferred  
3       malice. And that is a mental thing, is it not, what was in  
4       his head when he did what he did? And how do you know  
5       what's in someone's head? By what they do.

6               One thing that you can use to infer malice is the  
7       intent to do serious bodily harm. Malice is called  
8       sometimes a depraved malignant heart, doing a wrongful act  
9       intentionally and without just cause or excuse. And His  
10      Honor, I'm sure, will go into that more deeply with you.

11             The term is "malice aforethought." Aforethought does  
12      not mean plotting, planning, scheming. The State does not  
13      have to prove that he said, "Hmm, I think I'm going to go  
14      over there and kill her, and here's the plan I'm going to  
15      take." Aforethought, His Honor will tell you what it  
16      refers to is at the time I'm doing this act, I'm meaning to  
17      do it. It doesn't have to be in your head for ten minutes.  
18      It can be in your head for ten seconds. So don't let that  
19      frighten you either.

20             Another thing that you're going to have to deal with  
21      is sufficient legal provocation and sudden heat and  
22      passion. Sufficient legal provocation. Because,  
23      obviously, what the defendant is saying to you here is,  
24      "Jennifer asked for it." That's what he's saying to you.  
25      Is there sufficient legal provocation here? That is

1 entirely up to you.

2 So I know that you will pay close attention to these  
3 definitions. Thank you.

4 THE COURT: All right. Mr. Sarratt, are you ready?

5 MR. SARRATT: I am, Your Honor.

6 THE COURT: Yes, sir.

7 CLOSING ARGUMENTS

8 MR. SARRATT: When I first stood in front of you on  
9 Monday, I told you very plainly that David Thompson killed  
10 Jennifer Youngblood. She died at his hands. But he did  
11 not murder her. I told you this is no trick, and it  
12 wasn't. There have been no smoking mirrors in this case.

13 If you think that I've been telling you that Lamar  
14 didn't do anything wrong, you misunderstand. If you think  
15 that I've been telling you that he doesn't deserve to be  
16 punished, you misunderstand. If you think that I've been  
17 telling you that he did this in self-defense, you  
18 misunderstand.

19 For three days now, the prosecutor has been trying to  
20 convince each and every one of you that this is a murder  
21 case, and for three days now, Lamar and I have been coming  
22 in here and telling you he's guilty of manslaughter.  
23 That's what this case is about. The prosecutor has not  
24 been able to prove to you that killing Jennifer Youngblood  
25 was something Lamar ever planned to do.

1           The facts of this case and the evidence that's been  
2           presented at trial will not leave you firmly convinced that  
3           he committed murder. Lamar Thompson is not guilty of  
4           murder. He's guilty of manslaughter. It's really that  
5           simple. There's nothing complicated about it. There's  
6           certainly been no fancy lawyering on my part.

7           The testimony that you've heard from each of the  
8           witnesses I've hardly challenged, because the witnesses  
9           that you heard from that have gotten up on the stand, by  
10          and large, they're telling the truth. We don't dispute  
11          what they've said with few exceptions, and I'll talk about  
12          them briefly.

13          Amber Singleton lied about not knowing anything about  
14          Lamar's drug use. But I don't care about that. Maria Usma  
15          could not bring herself to acknowledge that she ever let  
16          him live under her roof, but I don't blame her for that.  
17          Mandy Morales is mistaken when she says that he parked his  
18          car down the road in an attempt to hide it, but I don't  
19          expect her memory to be perfect. And aside from that, we  
20          don't really dispute what they're saying. He was there.  
21          He killed her. He didn't murder her. That's not something  
22          he planned to do or that he wanted to do.

23          As bizarre as it is for me to say as a defense  
24          attorney, you know, the solicitor said that we agree on a  
25          lot of things. I agree that you should find him guilty of

1       manslaughter.

2               Now, again, we disagree about whether you should find  
3       him guilty of murder or manslaughter, but I want to make  
4       one thing very clear. The purpose of this trial is not for  
5       you to take the State's case on one side and the  
6       defendant's and compare those two side to side and try to  
7       figure out which one comes closer to the truth. If you  
8       think that's the nature of jury deliberation in a criminal  
9       trial, you misunderstand the oath that you raised your hand  
10      and that you swore to uphold, because when you raised your  
11      hand and swore that oath, you bound yourself to the task of  
12      holding the State's case up to it's burden. And the State  
13      has to prove to you beyond a reasonable doubt each and  
14      every element, first, possession of a weapon during the  
15      commission of a violent crime, and, second, of murder. If,  
16      after weighing all the evidence in the case and judging the  
17      credibility of each of the witnesses, as you are required  
18      to do, you are not firmly convinced that the defendant  
19      killed Jennifer Youngblood with malice, then you must find  
20      him not guilty of murder, and you may therefore only  
21      convict him, and we ask you to convict him of manslaughter.

22              You've just heard from the prosecutor, and, again,  
23      you're going to hear from the judge that murder is the  
24      unlawful killing of another human being with malice  
25      aforethought. What does that mean? It means you killed



1        someone deliberately with ill will or hatred in your heart.

2                Voluntary manslaughter is the unlawful killing of a  
3        human being upon sufficient legal provocation. What does  
4        that mean? It means the victim does something to make you  
5        lose control that reasonable minds would agree could make  
6        you lose control. Something -- I'm sorry. When you lose  
7        your senses, you do something tragic, you do something  
8        terrible, and you kill.

9                Society condemns both of these acts, these crimes.  
10       That's what they are. But the law treats these two  
11       differently. Let's talk about what the evidence shows.

12               First, Lamar did not have hatred or ill will in his  
13       heart against Jennifer. You heard that they were in a  
14       relationship. It's a six-year relationship. Out of the  
15       gates, I told you it was not a healthy relationship, but he  
16       did not hate her, he did not want to see her die. That  
17       thought never entered his mind. I don't believe that.  
18       There's no motive.

19               Why would he kill her? What does he gain by that? I  
20       really can only guess what the State's motive is, if they  
21       even offer one. I assume it's going to be that if he  
22       couldn't have her, then nobody else could, but that's not  
23       what the evidence has shown. I don't want to dismiss the  
24       relationship they had, but you've heard that he had a child  
25       by another woman, that he was dating another girl, Amber.

1 I don't think that was it. Again, I don't know if they're  
2 going to put up a motive, but I have not been able to  
3 discern any motive in this case. I don't think he ever  
4 planned to do this or had a reason to.

5 Now, maybe they're going to try to say that this is  
6 all just part of his manipulation to control her. You  
7 heard that a condition of her bond was that they were not  
8 to have any contact. I mean, if he wanted control, all  
9 he's got to do is pick up the phone and say, "Talk to my  
10 neighbor. See, she's over here. Lock her up." He could  
11 have done it like that. He never did that. He wasn't  
12 trying to manipulate or control her.

13 I'm going to talk about evidence of a plan. Now,  
14 again, the prosecutor's correct and the judge will instruct  
15 you, you don't have to find that he planned to do this. I  
16 mean, it could be something that he decided he was going to  
17 do in the moment. But there's certainly no evidence that  
18 this was something that he had planned to do beforehand.  
19 If it was planned, I mean, gosh, it's the worse plan  
20 anybody's ever come up with to murder somebody. I mean, he  
21 borrows this car from a woman who's got to be at work in  
22 20 minutes. And he's going to go over there and kill her  
23 with, what, a pocketknife? I don't know. He doesn't bring  
24 a murder weapon. It's in the middle of the day.  
25 Jennifer's mom came home just moments after she was killed.

1       He didn't plan to do this. It doesn't make any sense.

2               Here's the other reason you know that this wasn't  
3 planned. You heard testimony that when he went over there,  
4 she called -- Jennifer called her attorney and spoke to the  
5 investigator, Pat Nix, and that immediately after, my  
6 client called. Now, he didn't take the phone from her and  
7 directly put himself at the scene. But if he's planning to  
8 go over there and kill her, why on earth is he telling her  
9 to call her lawyer to talk about him wanting to drop the  
10 charge and them getting married? There was no plan to do  
11 this.

12              The only real evidence that the prosecutor can show to  
13 try to prove malice was Mandy Morales's claim that he  
14 parked Kimberly Leamon's blue Chrysler Pacifica down the  
15 road in an attempt to hide it. On that she's just plain  
16 mistaken. You heard Officer Rivera get up and say that  
17 when she first reported that she saw the killer come out of  
18 the apartment, she described him as being 5'11". 5'11".  
19 He's 6'7". She was shown a picture of him in a photo  
20 lineup, and she didn't pick him out.

21              And if you look at State's Exhibit 4, this is the view  
22 from her house. And you can see this row of bushes and  
23 just barely up over the top is a car. He parked his car in  
24 the driveway. He wasn't trying to hide anything. And  
25 she's got no reason to take notice of it.

1           When she's telling the police all this of how he hid  
2 his car, she's saying that knowing that he's the suspect,  
3 knowing that her neighbor's been murdered. And so, yeah,  
4 she's going to say that he hid his car. He didn't hide his  
5 car. She just didn't see it. And, again, why would she  
6 take notice? When she was leaving, I believe she testified  
7 she was going to get a birthday cake for her son. She's  
8 not paying attention.

9           Now, the other evidence that the solicitor is going to  
10 try to show, and the more compelling evidence, in my  
11 opinion, is everything that Lamar did to try to cover this  
12 up. We're not running from that. He certainly tried to  
13 cover this up. But, boy, did he do a pathetic job of doing  
14 it.

15           Now, I want to speak to you very plainly about  
16 something else. While he's not hesitated to walk into this  
17 courtroom and confess his guilt today, that's not always  
18 been the case. And I made that clear in my questioning of  
19 Investigator Rivera. He pretty much lied about everything.  
20 And his lies were so bad, they didn't make any sense.  
21 Ms. Munson is going to hammer the absolutely pathetic  
22 attempts that he made -- that he first made to avoid taking  
23 responsibility for what he did, so let's talk about a few  
24 of those.

25           After he killed Jennifer, just hours later, he

1 described in gruesome detail what Jennifer's face looked  
2 like when that knife went in. Why would you do that if  
3 you're trying to get away from it? Why would you do that  
4 if you're trying to avoid responsibility? Now, I don't  
5 know. I don't know what made him say that, but I think  
6 deep down in the middle of the haze, the drug-induced haze  
7 that he was in and the shock that he was in from what he  
8 had done, he just wanted to get it off his chest.  
9 Somewhere in the back of his mind he said what he did. And  
10 when he realized what he had said, what did he say? "Oh,  
11 at least that's what I heard from the mother of my child."  
12 The mother of your child knows the details of how she was  
13 killed? That doesn't make any sense. He tried to cover it  
14 up. That doesn't mean that he murdered her.

15 Now, I also want to talk briefly about this  
16 drug-induced haze, and I've asked several witnesses wasn't  
17 he drinking, wasn't he doing drugs, heroine, downers, all  
18 of that. I do not offer that evidence for you to say that  
19 he's not guilty because he was high. That is not a defense  
20 in this state, nor should it be. I only offer that  
21 evidence to show he just wasn't thinking right. I'm not  
22 saying that he's not guilty because he was high. I'm  
23 saying maybe this wouldn't have happened had he not been  
24 high. That's the only reason I bring that up.

25 Let's talk about Lamar's credibility since we're on

1 the topic. He's hurt himself. He did a lot of damage in  
2 those days after this killing, all the lies he told. If he  
3 just would have come out and said, "She came at me. I lost  
4 control," we wouldn't be here today. But he lied. And he  
5 got up on the stand, and he told you what you heard, and  
6 you've got to decide if that's the truth. Now, that's  
7 tough. That's a tough sell to come back from that. But if  
8 he's just up here making stuff up, just telling more lies,  
9 trying to get out of it, why in the world was he not up  
10 here talking to y'all about self-defense? Because he's not  
11 running from it, because he admits what he did. He  
12 deserves to be punished. That's all I can tell you about  
13 that.

14 Let's talk about the physical evidence and what it  
15 shows. Lamar told you that when Jennifer came at him, she  
16 hit him with the knife in the hand. And you've seen the  
17 picture of the chunk of skin that's missing, and you heard  
18 him say that he was backed up on the dog cage and he sort  
19 of fell backwards. And if you look at the Defense  
20 Exhibit 1, you can see this rectangle with the dog cage.  
21 This is where he says that he was backed up. Here is where  
22 he says Jennifer was by the stove, and she came at him.  
23 Here Sergeant Dar Shaw indicated there's one big pile of  
24 blood, and I'm sure there are photos in evidence that show  
25 it, but I'm going to refer to the diagram (indicating

1       throughout).

2           It's hard to talk about this, but I think -- and I  
3       don't know, and Lamar can't remember, but I think that pile  
4       of blood is -- puddle of blood is is that when they  
5       struggled over this knife, this kitchen knife, that it went  
6       up, and those three are the first ones, and I think that  
7       that puddle is from the initial stabbing. And all the  
8       other blood in this case is from the dog cage down in this  
9       direction, because that's where the struggle went from that  
10      point. And there's a puddle here where there must have  
11      been some pause where she bled enough for it to puddle, and  
12      then this pool of blood is where she died. And that's  
13      where that pooled (indicating throughout).

14           But Sergeant Dar Shaw testified that there's castoff  
15      and splatter all over the walls. That's consistent with  
16      him snapping and losing control. But here, there's no  
17      castoff at the dog cage, because, again, I think that's  
18      where the struggle started. That's where he says the  
19      struggle started, and the physical evidence matches that.

20           The chunk of skin missing from his finger, I mean, we  
21      admit, it's not -- he pretty much came out without much of  
22      a scratch on him. But you heard Medical Examiner Ward talk  
23      about defensive wounds. It's not much of one, but it's to  
24      some degree a defense wound.

25           And, you know, while we're talking to that, he did --

1 he pretty much came out unscathed, and that's why we're not  
2 talking about self-defense. I mean, when he got the knife  
3 away from her, there's no more danger. What's she going to  
4 do? He's 6'7". But he snapped.

5 Let's talk about the history of domestic violence to  
6 indicate who was the aggressor in this case. You heard him  
7 testify that there had been two prior incidents of domestic  
8 violence where she was charged as defendant, he was the  
9 victim. And I don't say that to impugn her character, but  
10 it shows with the slash marks that he had that she had come  
11 at him before with a knife, and it shows her intent when  
12 she came at him again. He doesn't think that this is a  
13 game. He thinks that she's coming at him. And, again,  
14 we're not saying this is self-defense, but that's why he  
15 snapped.

16 The last piece of evidence that I want to talk about  
17 is the worst. It's the 17 stab wounds. 17. And they are  
18 -- they're to the face, and the neck, and the chest, and  
19 sides. But if he's going there to kill her, why isn't  
20 there just one? I mean, why 17? For there to be 17,  
21 either he snapped and lost control and did this in the heat  
22 of passion after he lost control, or he's just a brutal  
23 stone-cold killer who stabbed her 17 times because he  
24 wanted her dead that bad. And the evidence doesn't show  
25 that. There was no hatred. They didn't hate each other.



1       They didn't have a good relationship, but I think on some  
2       level, they must have loved each other to stay with each  
3       other throughout all this.

4               Everyone in this room today wants justice. Justice.  
5       Justice means more than simply doing right by Jennifer.  
6       Justice simply means doing what's right. Justice means  
7       finding him guilty of manslaughter.

8               At the end of this trial, I'm going to get up, I'm  
9       going to walk out that door. Lamar isn't. He doesn't  
10      deserve to, but nor does he deserve to be convicted of  
11      murder. And make no mistake, Jennifer Youngblood did not  
12      deserve what happened to her. Nobody does. Her mother  
13      didn't deserve to see that. But nothing can ever bring  
14      Jennifer back, and no verdict that you can render can make  
15      things all right. All you can do, what the law requires  
16      you to do is render a verdict that you can have confidence  
17      in. The only verdict that delivers justice and that you  
18      can deliver with confidence is guilty of manslaughter, not  
19      guilty of murder.

20              THE COURT: Ms. Munson?

21              MS. MUNSON: Thank you, sir.

22              I don't know if any of y'all know who Jennifer Nettles  
23      is. She sings a song that says, "I thought he was all I  
24      ever wanted. He should have come with a warning." I think  
25      that's pretty appropriate here.

1           You know, there's a lot of emotion floating around  
2           here. I admit that. But His Honor is going to tell you,  
3           and I don't want you to -- I don't want you to make a  
4           decision because you're mad at David or because you feel  
5           bad for Jennifer's mother. That's not what this is about.  
6           And you're not judging him as a human being. You're  
7           looking at his actions. And when you take all the emotion  
8           out and just get at it at hard facts, you're going to see  
9           there was plenty and plenty of malice.

10           You know, one thing in the call that he made to Amber  
11           that you'll have in evidence, and you can listen to it if  
12           you want to, he's talking to Amber and he says, you know,  
13           "I didn't get on top of her and start stabbing her or  
14           nothing like that." Now, why would he say that? Because  
15           he did it.

16           The defense wants you to believe that those 17 stab  
17           wounds were just this poor heartbroken man all full of  
18           liquor, out of control. Kind of funny, though, how all the  
19           wounds were like right here (indicating) and in this side  
20           and in this side. Oh, except for the defensive wound.

21           When it gets right down to it, I can stand up here for  
22           hours and talk about the evidence, credibility and all that  
23           other stuff, and I'm sure y'all don't want that. But when  
24           it gets right down to it, what he's telling you is that she  
25           asked for it. He's telling you she asked for it. She

1        didn't deserve it and all that kind of stuff, but she asked  
2        for it. So what did she do? He tells you -- he tells you  
3        that she came at him with a knife. Can you believe  
4        anything that man said? And how convenient. "I remember  
5        going over there, I remember going to get beer. I got to  
6        Jennifer's. Oh, I did park in the driveway. And I walked  
7        in, and she was standing by the stove, and we started  
8        talking. And we talked about the dog, and we talked about  
9        the lawyer, and we talked about this, and we talked about  
10       that, and, boom, I'm blank." That makes no sense, and it's  
11       not the truth.

12           Jennifer didn't want to be with him anymore. Jennifer  
13       told him that Thursday night. He's going to deny that, as  
14       well. Do you remember Mo testifying about she was sitting  
15       right there hearing this conversation between them, and  
16       Jennifer says, "That's it. I'm done. I can't do it  
17       anymore"?

18           And there's talk of planning, planning. Don't get  
19       confused. Follow the law. And I know you're going to do  
20       that. I know that once you hear the charge of law about  
21       malice aforethought, you're going to understand that the  
22       State does not have to prove that he sat over there at the  
23       apartments drinking beer and doing whatever else he did and  
24       formed the idea in his head, you know what, I'm going over  
25       there to kill her. That's not what we have to prove. What

1 we do have to prove is that he's the one who killed her,  
2 and that when he did it, he had malice aforethought. He  
3 meant to do what he was doing while he was doing it.  
4 Don't have to prove that he hated her. Listen to the  
5 judge's instruction on malice and you will know and you  
6 will see.

7 But the only thing that Jennifer did, according to  
8 him, is come at him with a knife. Well, what's going on?  
9 What's going on in the house with that drawer pulled out,  
10 knives on the floor? He came at her when she wouldn't do  
11 what he wanted her to do, and she'd done it in the past.

12 You know what's really funny about one of  
13 Mr. Thompson's fables? In State's Exhibit No. 62, he tells  
14 you he's driving down the road and Jennifer started hitting  
15 him, and he was just going to let her get her rocks off.  
16 She's on the right side. She's on my right side. We'll,  
17 how come he's cut on the left arm? Because he's not  
18 telling you the truth.

19 Jennifer did not deserve it. He would agree with  
20 that. And she did not ask for this. She did not ask to be  
21 stabbed 17 times, puncturing her lungs, cutting her trachea  
22 and esophagus, penetrating her heart. And what's the  
23 defense's answer? She asked for it. No.

24 And you know what? Sometimes things are too traumatic  
25 and too awful and you just can't -- I'm sure that you've

1       said to yourself in the past, "Man, I can't believe I did  
2       that." He can't believe he did it. And that's okay. He  
3       needs for y'all to tell him, and he needs for y'all to tell  
4       him with a verdict of guilty.

5               Now, when you were handed your badges and you took  
6       your oath, you were given more than just a place to be for  
7       the next couple days. You were handed the sword of  
8       justice. And when you bring it down one way, you cut away  
9       the ties that bind innocent people to this courtroom. And  
10      when you bring it down another, you righteously strike down  
11      the guilty. Strike him down, ladies and gentlemen. He's  
12      guilty of murder.

13             Thank you.

14                             CHARGE ON THE LAW

15             THE COURT: All right. Mr. Foreman, ladies and  
16      gentlemen of the jury, the indictments charge the defendant  
17      with murder and possession of a weapon during the  
18      commission of a violent crime. I remind you that the fact  
19      that the defendant was arrested, charged and indicted in  
20      this case is not evidence and cannot be considered by you  
21      as evidence of guilt, nor does it create any presumption or  
22      inference of guilt. The indictment is simply the formal  
23      written instrument which contains the charges made against  
24      the defendant. It is the formal document by which this  
25      case is brought into this court.

1           The indictments in this case allege several different  
2 offenses from which -- against the defendant. The charges  
3 are Count 1, murder, and Count 2, possession of a weapon  
4 during the commission of a violent crime. Each indictment  
5 charges a separate and distinct offense. You must decide  
6 each indictment separately on the evidence and the law  
7 applicable to it, uninfluenced by your decision as to any  
8 other indictment. The defendant can be convicted on the  
9 charge of murder and the charge of possession of a weapon  
10 during the commission of a violent offense. The defendant  
11 can be convicted of a charge of murder and not be convicted  
12 of the charge of possession of a weapon during the  
13 commission of a violent offense. The defendant cannot --  
14 if you find him not guilty of the murder or a lesser  
15 included offense, he cannot be convicted of possession of a  
16 weapon during the commission of a violent offense.

17           Now, ladies and gentlemen, to the indictments, the  
18 defendant has entered pleas of not guilty which places upon  
19 the State the burden of proving the defendant guilty. The  
20 person charged with committing a criminal offense in South  
21 Carolina is never required to prove himself innocent. I  
22 charge you that it is a vital important rule of the law of  
23 evidence that the defendant in a criminal trial, no matter  
24 how great and serious may be the offense for which he may  
25 be charged, must always be presumed innocent until his

1       guilt has been proven beyond a reasonable doubt. This  
2       presumption of innocence remains with the defendant at all  
3       times, from the moment of his appearance in the court,  
4       throughout the trial, and until you the jury have, upon the  
5       testimony and the evidence presented, reached a verdict of  
6       guilty beyond a reasonable doubt, or it is the solemn duty  
7       of this jury, if not clearly convinced of the defendant's  
8       guilt beyond a reasonable doubt, to acquit the defendant.  
9       So the burden of proof is upon the State to establish by  
10      evidence to your satisfaction the guilt beyond a reasonable  
11      doubt that this defendant here on trial for the charge of  
12      murder and possession of a weapon during the commission of  
13      a violent offense.

14           Now, what is a reasonable doubt? A reasonable doubt  
15      is the kind of doubt that would cause a reasonable person  
16      to hesitate to act. If you have such a doubt as to the  
17      guilt of the defendant, then he would be entitled to a  
18      verdict of not guilty. Proof beyond a reasonable doubt is  
19      proof that leaves you firmly convinced of the defendant's  
20      guilt. Reasonable doubt may arise from evidence which is  
21      in the case or from the absence or lack of evidence in the  
22      case. To think that the defendant is probably guilty or  
23      the circumstances are suspicious is not enough. You alone  
24      must make the determination of whether or not reasonable  
25      doubt exists as to the guilt of the defendant.

1           Now, Mr. Foreman, ladies and gentlemen, there are two  
2 types of evidence which are generally presented during a  
3 trial: direct evidence and circumstantial evidence.

4 Direct evidence directly proves the existence of a fact  
5 that does not require deduction. Circumstantial evidence  
6 is proof of a chain of facts and circumstances indicating  
7 the existence of a fact.

8           Crimes may be proven by circumstantial evidence. The  
9 law makes no distinction between the weight or value to be  
10 given either direct or circumstantial evidence. However,  
11 to the extent the State relies on circumstantial evidence,  
12 all the circumstances must be consistent with each other,  
13 and when taken together, point conclusively to the guilt of  
14 the accused beyond a reasonable doubt. If these  
15 circumstances merely portray the defendant's behavior as  
16 suspicious, the proof has failed.

17           The State has the burden of proving the defendant  
18 guilty beyond a reasonable doubt. This burden rests with  
19 the State regardless of whether the State relies on the  
20 direct evidence, circumstantial evidence or some  
21 combination of the two.

22           Mr. Foreman and members of the jury, under the  
23 Constitution and laws of South Carolina, you are the  
24 finders of the facts in this case. I do not have the right  
25 to pass upon the facts or even to express any opinion I



1        might have as to those facts, nor may I intimate in any way  
2        what I may think about the guilt or the innocence of the  
3        defendant. You are the judges, the sole judges of the  
4        credibility, and by that, I mean the believability of the  
5        witnesses who have testified in this trial. In passing  
6        upon their credibility, you may take into consideration  
7        many things such as the demeanor or the manner of  
8        testifying of the witness, whether the witness had reason  
9        to be biased or prejudiced, whether a witness's testimony  
10       was contradicted on the one hand or supported and  
11       corroborated on the other hand.

12            You certainly do not determine credibility or  
13       believability by counting the number of witnesses for  
14       either side. You may believe a small portion of a  
15       witness's testimony and disregard the larger or vice versa.  
16       You may believe one witness against many, or many against  
17       one.

18            You've heard the testimony of witnesses who have  
19       special knowledge, skill, experience, training or education  
20       in particular professions or occupations who have given  
21       their opinions as an expert as to matters in which they are  
22       skilled. In determining the weight to be given such  
23       opinions, you should consider the qualifications and the  
24       credibility of the expert and the reasons given for their  
25       opinions. You are not bound by such opinion. Give it the

1 weight, if any, to which you deem it entitled. All of  
2 these things you will consider, bearing in mind that you  
3 should give the defendant the benefit of a reasonable  
4 doubt.

5 Now, a statement or statements alleged to have been  
6 made by the defendant have been admitted into evidence in  
7 this case. While the Court has determined that the  
8 statement is admissible, I instruct you that you make the  
9 ultimate decision of whether or not the defendant made the  
10 statement. If the defendant did make the statement, you  
11 must determine whether the statement or statements were  
12 made by the defendant voluntarily and of his own free will.  
13 This means that the statements were not caused by pressure,  
14 by force, fear, threats, coercion or intimidation, or by  
15 hope or a promise of leniency or a reward of any kind.

16 In determining whether a statement or statements were  
17 voluntary, you should consider both the characteristics of  
18 the defendant and the details of the questioning. Some of  
19 the factors that you must consider are the age of the  
20 defendant, the defendant's education or lack of education,  
21 the defendant's mental ability or capacity, the defendant's  
22 IQ or intelligence, the defendant's background and  
23 environment, the place and length of the detention, the  
24 nature of the questioning, and the advice or lack thereof  
25 to the defendant of his constitutional rights, including,

1 but not limited to, the right to remain silent, that any  
2 statement could be used against him in a court of law, the  
3 right to have a lawyer present, that if he could not afford  
4 a lawyer, a lawyer would be appointed to represent him  
5 without any cost, and that he could stop making a statement  
6 at any time.

7       You must carefully consider all of the surrounding  
8 circumstances before you give any weight to an alleged  
9 statement. The State has the burden of proving beyond a  
10 reasonable doubt that the alleged statement was voluntary.  
11 If you determine it was, you may give the statement any  
12 further consideration you deem proper. You must decide  
13 what weight, if any, should be given to the alleged  
14 statement or statements. In determining the alleged  
15 statement -- determine whether the alleged statement was  
16 free and voluntarily of the defendant, you should consider  
17 -- if you consider it's not free and voluntarily, you  
18 should not consider the statement at all.

19       Now, there's been evidence presented that the witness  
20 -- or defendant may have presented statements which are not  
21 consistent with the testimony in the trial. You may use  
22 this evidence to decide whether you believe the witness.  
23 You may also use evidence of the earlier contradictory  
24 statement to determine the truth of those statements. It  
25 is up to you to decide whether you believe the earlier

1 statement or statements or the testimony given in trial.  
2 If a witness is shown to have knowingly testified  
3 untruthfully concerning any material matter, you may  
4 consider this in determining whether to trust the witness's  
5 testimony as to all other matters. You may reject all  
6 testimony of that witness or give all or part of the  
7 testimony the weight you think it deserves.

8 Now, the same constitution and laws which make you the  
9 finders of facts make me the sole and only instructor of  
10 the law. You must accept as correct the law which I charge  
11 and apply it to the evidence as you find it and reach your  
12 verdict. And I charge you in this regard that you should  
13 not be concerned about what you think the law ought to be  
14 or what you wish the law were, but only what I charge you  
15 the law to be.

16 Now, the defendant is charged with murder. The State  
17 must prove beyond a reasonable doubt that the defendant  
18 killed another person with malice aforethought. Now, what  
19 is malice? Malice is defined in the law of homicide as a  
20 term of art. It is a technical term importing wickedness  
21 and excluding just cause or legal excuse. It is something  
22 which springs from wickedness, from depravity, from the  
23 depraved spirit, from a heart void of social duty and  
24 fatally bent on mischief.

25 Malice is hatred, ill will or hostility towards

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

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

10 Malice aforethought may be expressed or inferred.  
11 These terms "expressed" and "inferred" do not mean  
12 different kinds of malice, but merely the manner in which  
13 malice may be shown to exist. This is either by direct  
14 evidence or by inference from the facts and circumstances  
15 which are proved.

16 Express malice is shown when a person speaks words  
17 which express hatred or ill will from another, or when the  
18 person prepared beforehand to do the act which was later  
19 accomplished. For example, lying in wait for a person or  
20 any other acts or preparation going to show that the deed  
21 was within the defendant's mind would be express malice.

22 Malice may be inferred from the conduct showing a  
23 total disregard for human life. Malice may be inferred  
24 from the willful, deliberate and intentional doing of an  
25 unlawful act without just cause or legal excuse. But even

1 if facts are proven that are sufficient to raise an  
2 inference of malice, this inference should simply be an  
3 evidentiary fact to be taken into consideration by you  
4 along with all other evidence in the case, and you may give  
5 it such weight as you determine it should receive as to  
6 whether or not malice has been proven beyond a reasonable  
7 doubt.

8 Malice does not necessarily impart ill will towards  
9 the individual injured, but signifies rather a general  
10 malignant recklessness of the lives and safety of others or  
11 a condition of mind which shows a heart regardless of  
12 social duty and fatally bent on mischief.

13 Now, ladies and gentlemen, if you find that the State  
14 has failed to prove beyond a reasonable doubt that the  
15 defendant committed murder, you may consider whether the  
16 State has proven beyond a reasonable doubt that the  
17 defendant committed voluntary manslaughter. To prove  
18 voluntary manslaughter, the State must prove beyond a  
19 reasonable doubt that the defendant took the life of  
20 another in the sudden heat of passion based on sufficient  
21 legal provocation. Both heat of passion and sufficient  
22 legal provocation must be present at the time of the  
23 killing to constitute voluntary manslaughter. Sudden heat  
24 of passion may, for a time, affect a person's self-control  
25 and temporarily disturb a person's reason. The sudden heat

1 of passion must be the type that would make an ordinary  
2 person unable to coolly reflect on his actions and would  
3 produce an uncontrollable impulse to do violence.

4 Sufficient legal provocation must be the type that would  
5 make a person of ordinary reason and caution become enraged  
6 and to lose control temporarily.

7 The provocation needed for voluntary manslaughter must  
8 come from some act of or related to the victim. Words  
9 alone, however vulgar or insulting, are not enough to be  
10 legal provocation. Where death is caused by the use of a  
11 deadly weapon, the words must be accompanied by some overt  
12 threatening act which could have produced the heat of  
13 passion.

14 The exercise of a legal right, no matter how offensive  
15 it is to another, is never sufficient legal provocation for  
16 voluntary manslaughter. If the heat of passion had cooled  
17 or if there was enough time between the provocation, if  
18 any, and the killing for the passion of a reasonable person  
19 to cool was there -- time was there, the killing would not  
20 be voluntary manslaughter.

21 In deciding whether a reasonable person would have had  
22 enough time to cool off, you should consider all the  
23 circumstances surrounding the killing. You may consider  
24 the nature of the provocation, if any, the defendant's  
25 mental and physical state, and the circumstances in

1 relationship between the parties.

2 Now, ladies and gentlemen, when voluntary intoxication  
3 has not proved permanent insanity, it is not a defense to a  
4 crime. A person who voluntarily becomes intoxicated by  
5 drugs and/or alcohol is just as responsible for the acts  
6 committed while intoxicated as when the person is not  
7 intoxicated.

8 Mr. Foreman, ladies and gentlemen, you have been  
9 selected as fair and impartial jurors, sworn to impartially  
10 try and determine the facts of this case, and when you  
11 comply with your oath to do so, then no one will have a  
12 right to criticize your verdict, and you will have fully  
13 discharged your duty as jurors. You are to decide this  
14 case according to the testimony that you've heard from the  
15 lips of the sworn witnesses, along with other evidence  
16 introduced.

17 I charge you that as jurors, you must decide the  
18 issues in this proceeding without bias, without prejudice  
19 to any party. You cannot allow yourself to be governed by  
20 sympathy, by prejudice, by passion, by public opinion or  
21 any other arbitrary factor. Both the State and the  
22 defendant have the right to expect that each of you will  
23 carefully and impartially consider all of the evidence in  
24 this case, and that you will follow the law as I have  
25 explained it to you.



1           Now, Mr. Foreman, ladies and gentlemen of the jury, I  
2     have prepared a verdict form, and there are several  
3     possible verdicts that you can reach in this case. With  
4     respect to the charge of murder, there are three possible  
5     verdicts. One, is we the jury unanimously find the  
6     defendant guilty of murder; or, two, we the jury  
7     unanimously find the defendant guilty of voluntary  
8     manslaughter; or, three, we the jury unanimously find the  
9     defendant not guilty.

10           As this verdict forms says, your verdict has to be the  
11    unanimous verdict of all 12 jurors. It cannot be 11-1 or  
12    7-5 or 9-3. It has to be the unanimous verdict of all 12  
13    jurors.

14           You should not infer anything by what goes first, what  
15    goes second or what goes third on the verdict form, because  
16    something has to go first, something has to go second, and  
17    something has to go third.

18           The second -- Count 2 is we the jury unanimously find  
19    the defendant guilty of possession of a weapon during the  
20    commission of a violent crime, or we the jury unanimously  
21    find the defendant -- we've got the charge on the  
22    commission of a violent crime.

23           The defendant is also charged with possession of a  
24    weapon during the commission of a violent crime or attempt  
25    to commit a violent crime. The State must prove beyond a

1 reasonable doubt that the defendant was in possession or  
2 visibly displayed what appeared to be a knife during the  
3 commission of a violent crime. A knife means an instrument  
4 or tool with a sharp cutting blade, whether or not fastened  
5 to a handle, which can be used to inflict a cut, slash or  
6 wound. In order to find the defendant guilty of possession  
7 of a weapon during the commission of a violent crime, you  
8 must find the defendant guilty of either committing a  
9 violent crime or attempting to commit a violent crime.  
10 Murder is a violent crime.

11 So, ladies and gentlemen, the second verdict form is  
12 we the jury unanimously find the defendant guilty of  
13 possession of a weapon during the commission of a violent  
14 crime, or we the jury unanimously find the defendant not  
15 guilty. Again, this verdict requires it be the unanimous  
16 verdict of all 12 jurors.

17 In just a moment, Mr. Foreman, ladies and gentlemen,  
18 I'm going to let y'all step back to the jury room, but I'm  
19 going to ask that you do not begin your deliberations. All  
20 but the alternate. Madam Alternate, if you would, remain  
21 with me.

22 I ask you not to begin deliberations because I have to  
23 review with the attorneys the charges I've just given you  
24 to see whether they believe I failed to instruct you in  
25 some way or I incorrectly instructed you in some way. If

1 additional instructions are necessary, I will bring you  
2 immediately back in the courtroom and give you those  
3 instructions. If no instructions -- additional  
4 instructions are necessary, I will have this verdict form  
5 as to each count along with all of the exhibits that have  
6 been introduced brought to the jury room, and you can begin  
7 your deliberations.

8 Now, as you know, we are ordering lunch. When the  
9 lunch comes, if it's not here, you can begin your  
10 deliberations. You can deliberate over lunch. If you  
11 don't want to deliberate while you're eating, you don't  
12 have to do that. But make sure all 12 people are in accord  
13 as to what you do.

14 Now, Mr. Foreman, when you have reached a verdict as  
15 to whatever the respective charge is, I'm going to ask you  
16 to circle that whole verdict. Whatever it may be, circle.  
17 I'm going to ask you to sign the verdict form as foreperson  
18 and date the verdict form. And you have two counts here  
19 that you're going to have to deal with.

20 When you have reached a verdict and your verdict form  
21 has been completed, if you will, knock on the door. There  
22 will be a bailiff seated outside your door. Advise the  
23 bailiff that you have reached a verdict as to each of the  
24 counts, and we will bring you back so that your verdicts  
25 can be published at that time.

1           Okay. If y'all will, step back to the jury room. Do  
2 not begin your deliberations. I'll be with you  
3 momentarily.

4           Madam Alternate, if you will, remain with me.

5           (WHEREUPON, the jury exits the courtroom at 1:20 p.m.)

6           THE COURT: All right. Madam Alternate, apparently,  
7 your 12 colleagues survived the three-day process, so we're  
8 going to be able to turn you loose. I'm not sure how you  
9 feel about that after sitting here for three days, if  
10 you're glad you don't have to participate or if you would  
11 like to be here after listening to it and participate in  
12 the discussions. But, unfortunately, they all survived, if  
13 you want to participate. If you don't, then you're happy.

14           So we're going to be able to turn you loose. What I  
15 am going to ask you to do is -- we're going to turn you  
16 loose. So we bought you a lunch. I assume it came in a  
17 box of some sort, and you can take the box and leave or you  
18 can -- we'll find you a place to eat up here if you want to  
19 eat up here, but it's up to you. But I do thank you very  
20 much for your service and hope you found the experience to  
21 be informative, and if you get the opportunity to do this  
22 again in the future, you'll make yourself available. So  
23 you have a nice remaining course of the week, and you are  
24 free to leave at this time.

25           Thank you, ma'am.

1 Ma'am, do you need a statement for work?

2 JUROR NO. 129: Yes.

3 THE CLERK: Judy will get that for you downstairs.

4 THE COURT: And you'll get a check for lots of money  
5 in the not-too-distant future.

6 All right. Anything from the State with respect to  
7 the instruction?

8 MS. MUNSON: Yes, Your Honor. Respectfully, I didn't  
9 hear you say that voluntary manslaughter is a violent  
10 crime. I heard you say that murder was, but not voluntary.

11 THE COURT: Is voluntary manslaughter violent?

12 MS. MUNSON: Yes, sir.

13 THE COURT: All right. Well, we'll bring them back in  
14 to tell them that.

15 Anything else?

16 MR. SARRATT: Nothing.

17 THE COURT: All right. Let's bring the jury in just a  
18 minute.

19 (WHEREUPON, the jury entered the courtroom at 1:23 p.m.)

20 THE COURT: All right. Ladies and gentlemen, this  
21 won't take but a second. Apparently, when I told you that  
22 murder is considered a violent crime under the statutes of  
23 the State of South Carolina, voluntary manslaughter is also  
24 considered to be a violent crime in the State of South  
25 Carolina. So if you find that voluntary manslaughter was

1 committed, then you'll have to determine whether -- that  
2 possession of a weapon during the commission of a violent  
3 crime, that being a knife, he would be guilty of that.  
4 And, of course, the State must prove beyond a reasonable  
5 doubt that the weapon further advanced or helped in the  
6 commission of the crime itself.

7 So with that said, I'm going to let you go back to the  
8 jury room. We'll bring all this stuff to you in just a  
9 moment, and you can begin your lunch and your deliberations  
10 as soon as you like.

11 All right. Thank y'all.

12 (WHEREUPON, the jury exits the courtroom at 1:24 p.m.)

13 THE COURT: All right. Anything further?

14 MS. MUNSON: No, sir, Your Honor. Thank you.

15 MR. SARRATT: Nothing from the defense.

16 THE COURT: All right. We will wait and see what the  
17 jury does. If y'all will get with our court reporter, make  
18 sure we've got all the exhibits that need to go back to the  
19 jury room.

20 (WHEREUPON, a recess is taken at 1:25 p.m.)

21 THE COURT: While we were eating lunch, I got a note  
22 from Mr. Lindsey, who is the foreperson, and he asked that  
23 they be given a copy of the CD player -- I mean given a CD  
24 player. And I advised the attorneys, asked them to come up  
25 here and advised them, and while I was waiting for them to

1       come up, I got another note from Mr. Lindsey in which he  
2       asked for a -- that we could give a definition -- redefine  
3       murder, manslaughter and reasonable doubt.

4               With the permission of counsel, I went into the jury  
5       room and delivered the CD player, advised them that if they  
6       could not figure out how to operate it, we would make  
7       somebody available that would do so. And they indicated  
8       that they would like a written copy of these particular  
9       charges. And I told them we did not have a written copy  
10      that we could give them, but if they would like to either  
11      listen to the charge that I gave to them earlier or we  
12      would redefine -- just read it to them again. And they  
13      said, well, let us listen to the CD and then we'll decide  
14      what we want to do about any further definition of those  
15      particular -- murder, manslaughter or reasonable doubt.

16             So we'll wait and see. I'm going to make these Court  
17      Exhibits No. 2 and 3. And if y'all can, wait just a few  
18      minutes, lawyers, without disappearing. And, Mr. Thompson,  
19      we'll put you back here in case -- if we need you. He's  
20      right here, so he's very close. If y'all don't go anywhere  
21      for a few minutes, we'll see what this jury is going to do,  
22      if anything.

23             All right. Anything with respect to the notes that we  
24      got, Madam Solicitor?

25             MS. MUNSON: No, sir.

1 THE COURT: Mr. Sarratt?

2 MR. SARRATT: No, Your Honor.

3 THE COURT: All right. Thank y'all.

4 (WHEREUPON, a recess is taken at 2:15 p.m.)

5 (WHEREUPON, Court's Exhibit Nos. 2 and 3 were marked for  
6 identification.)

7 (WHEREUPON, at 3:15 p.m., per the jury's request, State's  
8 Exhibit No. 58 was replayed for the jury in open court; the  
9 testimony of Ashida Jones was replayed for the jury; and  
10 the Court recharged the jury on reasonable doubt, murder  
11 and manslaughter.)

12 THE COURT: All right. It's been reported that the  
13 jury has reached a verdict. Is the State ready to see the  
14 verdict?

15 MS. MUNSON: Yes, sir, Your Honor.

16 THE COURT: Is the defendant ready to receive the  
17 verdict?

18 MR. SARRATT: Yes, Your Honor.

19 THE COURT: All right. I want to caution everybody in  
20 the gallery that I do not want any kind of outburst, any  
21 kind of inappropriate behavior whatsoever when this verdict  
22 comes in. If you do, it will not be a happy day for you, I  
23 promise you.

24 All right. Mr. Bailiff, Ms. Bailiff, can y'all bring  
25 the jury in, please.



1 (WHEREUPON, the jury entered the courtroom at 4:30 p.m.)

2 THE COURT: All right. Mr. Foreman, it's been  
3 reported that the jury has reached a verdict.

4 JUROR NO. 130: Yes.

5 THE COURT: Is this the unanimous verdict of all  
6 12 jurors?

7 JUROR NO. 130: Yes, sir.

8 THE COURT: With respect to both counts?

9 JUROR NO. 130: Yes, sir.

10 THE COURT: All right. If you would, hand the verdict  
11 form to one of the bailiffs, please, sir.

12 VERDICT

13 THE CLERK: Your Honor, in the case of  
14 2015-GS-23-4584, the State vs. David Lamar Thompson,  
15 Count 1, murder, we the jury unanimously find the  
16 defendant, David Lamar Thompson, guilty of voluntary  
17 manslaughter; No. 2, possession of a weapon during the  
18 commission of a violent crime, we the jury unanimously find  
19 the defendant, David Lamar Thompson, guilty of possession  
20 of a weapon during the commission of a violent crime. This  
21 is signed by foreperson, Mr. Lindsey.

22 Ladies and gentlemen, if you agree these are the  
23 verdicts you reached in your deliberation room, would you  
24 please raise your right hand.

25 (WHEREUPON, the jury raised their right hands.)

1 THE CLERK: Thank you.

2 THE COURT: All right. Anything from the State with  
3 respect to the jury?

4 MS. MUNSON: No, sir, Your Honor.

5 THE COURT: Anything from the defendant?

6 MR. SARRATT: No, Your Honor.

7 THE COURT: All right. Ladies and gentlemen, I thank  
8 you very much for your service in this matter, your  
9 attention and your patience. These are tough cases, and it  
10 certainly takes committed people to come in and do the work  
11 that you've done in order to allow us to bring these things  
12 to a conclusion.

13 We're going to turn you loose for the rest of the  
14 week. We've got a trial we're going to start tomorrow, but  
15 we already have a panel selected, so your service will be  
16 concluded.

17 If you need an excuse for work, Madam Clerk, what do  
18 they need to do?

19 THE CLERK: If you'll please see Judy down in the jury  
20 assembly room.

21 THE COURT: She'll be happy to provide that.

22 You will get a small token of appreciation from the  
23 County of Greenville in the not-too-distant future. Don't  
24 plan any trips or anything like that. But I hope you do  
25 realize how important you are to the whole process and how

1 we absolutely can't function either on the civil side or  
2 the criminal side without your efforts.

3 So, again, I thank you, and we'll turn you loose.

4 Mr. Bailiff, Ms. Bailiff, if y'all would assist the  
5 jury in getting out.

6 Y'all have a nice remaining portion of the week, and  
7 thank you very much.

8 (WHEREUPON, the jury exits the courtroom at 4:33 p.m.)

9 THE COURT: All right. Do we have a sentence sheet?

10 MS. MUNSON: Yes, sir, Your Honor,

11 THE COURT: Mr. Sarratt.

12 All right. I failed to ask you, does anybody have  
13 anything outside the jury that you wanted to tell me?

14 MR. SARRATT: No, Your Honor.

15 THE COURT: All right. Madam Solicitor, anything you  
16 want to tell me?

17 MS. MUNSON: I just want to give you his prior record,  
18 and I do believe that the family would like to address the  
19 Court.

20 He has a conviction for simple assault and battery on  
21 June 29, 2007.

22 THE COURT: I'm sorry? Conviction?

23 MS. MUNSON: Simple assault and battery. January 10th  
24 of 2008, assault with intent to kill, discharging a firearm  
25 into a dwelling, possession of a pistol by an underage

1 person. That was all on January the 10th of 2008, and he  
2 got a youthful offender sentence for that.

3 As to sentence, Your Honor, I'm disappointed, but I  
4 totally respect the jury's verdict. Based on his record  
5 and based on what he did, I strongly urge the Court to give  
6 him 30 years for the voluntary manslaughter and 5 years  
7 consecutive for the weapon.

8 And whenever the judge is ready to hear, the family  
9 would like to address the Court.

10 THE COURT: Are we going to hear from the mom?

11 MS. MUNSON: It's one of -- it's ---

12 THE COURT: Do we need a translator?

13 MS. MUNSON: No. This is her sister, Jackeline  
14 Zuniga.

15 MS. ZUNIGA: He changed our lives forever. In memory  
16 of my sister Jennifer Youngblood ---

17 THE COURT: Miss, I need you to talk to me. If you're  
18 talking down -- I know you've got your notes, but I have a  
19 hard time understanding you if you're talking, your voice  
20 going down.

21 MS. ZUNIGA: Sorry.

22 In memory of my sister, me and my family, we ask that  
23 you please sentence him the maximum years allowed by the  
24 law so that we can never -- so that he can never hurt a  
25 women or an innocent person. That's it.

1 THE COURT: Thank you.

2 MS. MUNSON: Nothing further, Your Honor.

3 THE COURT: Anything further, Ms. Munson?

4 MS. MUNSON: No, sir. Thank you.

5 THE COURT: Anything you want to tell me?

6 MR. SARRATT: Yes, your Honor.

7 Throughout the time I've represented Mr. Thompson, I  
8 feel I've gotten to know him. Not as well as others, but  
9 we spent time together. We had a difficult time, but,  
10 eventually, I feel like he was genuine in our discussions  
11 at the end. I certainly don't want you to hold anything  
12 against him in terms of some delay tactics or anything, and  
13 I don't fault him for any of that.

14 I think he made a terrible, terrible decision on that  
15 day, and it has destroyed two lives. When we walked in,  
16 again, we're asking you to punish him because he does  
17 deserve to be punished. I don't think he deserves the  
18 maximum, given the history. I'd ask you to consider a  
19 sentence of 15 years and 5 concurrent, possession of a  
20 weapon.

21 THE COURT: Anything you want to say, Mr. Thompson?

22 DEFENDANT THOMPSON: I'm terribly sorry about the  
23 whole situation. I should have never even been involved  
24 with all this completely all mine or not. I should have  
25 just listened to everybody and just backed off. And I do

1 understand that I hurt two -- two lives and two families.  
2 And, like I say, I'm terribly sorry for what I did.

3 MR. SARRATT: In addition, Your Honor, I would move  
4 this court to consider under Section 16-25-90 if you find  
5 that there is a history of domestic violence -- and history  
6 is not defined ---

7 MS. MUNSON: I'm going to object to that, Your Honor.  
8 I think that would have to be a whole other hearing.  
9 There's evidence that he completely lied about the domestic  
10 violence, and that has no place in this hearing.

11 Thank you, sir.

12 MR. SARRATT: I defer to you, whether we ---

13 THE COURT: Anything else you want to say?

14 MR. SARRATT: No.

15 SENTENCE

16 THE COURT: All right. Well, Mr. Thompson, you did a  
17 terrible thing, and it affected more than two people. It  
18 affected the decedent, it affected her family, it affected  
19 you, and it affected your family. I saw your mother here  
20 and how much this has had a terrible impact on her. You  
21 did something crazy and stupid and mean, and,  
22 unfortunately, because of that, you've got consequences.

23 The sentence of this court on your voluntary  
24 manslaughter, 2015-GS-23-4584, you be committed to the  
25 Department of Corrections for a term of 30 years plus costs

1       and assessments as applicable, giving you credit for time  
2       served.

3               How long have you been in?

4               MS. MUNSON:   Since May the 27th of 2014.   I'm not sure  
5       how many days that is.

6               THE COURT:   You told me you were the math wizard in  
7       the Solicitor's Office.

8               MS. MUNSON:   Somebody's going to find out.

9               THE COURT:   Well, all right.   On the 2015-GS-23-4584,  
10      possession of a weapon during the commission of a violent  
11      crime, the sentence of this court, you be committed to the  
12      Department of Corrections for a term of 5 years plus costs  
13      and assessments as applicable.   That will run consecutive  
14      to your voluntary manslaughter charge.

15              MS. MUNSON:   Thank you, Your Honor.

16              THE COURT:   Good luck to you.

17              MR. SARRATT:   Thank you.

18                      (WHEREUPON, Court's Exhibit No. 4 was marked for  
19                                      identification.)

20                      \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*

21

22

23

24

25

## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF SOUTH CAROLINA )4 COUNTY OF GREENVILLE )  
5  
6

7 I, CHERYL A. SMITH, Official Court Reporter for the  
8 Thirteenth Judicial Circuit of the State of South Carolina,  
9 do hereby certify that the foregoing is a true, accurate  
10 and complete Transcript of Record of the proceedings had  
11 and evidence introduced in the trial of the captioned case,  
12 relative to appeal, in the Court of General Sessions for  
13 Greenville County, South Carolina, on the 14th, 15th and  
14 16th day of September, 2015.

15 I do further certify that I am neither of kin,  
16 counsel, nor interest to any party hereto.

17  
18  
19  
20  
21

22 February 23, 2016

23 Cheryl A. Smith

24 Cheryl A. Smith, CVR-M

25 Court Reporter



DOCKET NO. 2015-GS-23-  
JMM 004501  
The State of South Carolina  
County of Greenville

COURT OF GENERAL SESSIONS  
June TERM 2015

THE STATE  
vs.  
DAVID LAMAR THOMPSON

WITNESSES

Ramon L Rivera  
Greenville County Sheriffs Office

5/28/2014

ARREST WARRANT NUMBER  
2014A2330204658

2014A2330204659

ACTION OF GRAND JURY

TRUE BILL

*Wayne Chapman*  
FOREPERSON OF GRAND JURY  
person of Grand Jury

VERDICT

Indictment for

0116  
0549

MURDER  
VIOLATION § 16-03-0010, 0020  
POSSESSION OF A WEAPON DURING THE  
COMMISSION OF A VIOLENT CRIME  
§ 16-23-0490

Foreperson of Petit Jury  
Date:

ENTERED  
ACCT  
*[Signature]*

|                         |   |                                                                    |
|-------------------------|---|--------------------------------------------------------------------|
| STATE OF SOUTH CAROLINA | ) | INDICTMENT FOR                                                     |
|                         | ) | MURDER                                                             |
| COUNTY OF GREENVILLE    | ) | POSSESSION OF A WEAPON DURING THE COMMISSION OF A<br>VIOLENT CRIME |

JUN 30 2015

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

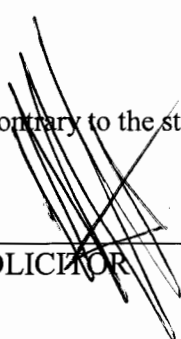
## COUNT ONE - MURDER

That DAVID LAMAR THOMPSON did in Greenville County, on or about the 23rd day of May 2014, unlawfully and with malice aforethought kill JENNIFER YOUNGBLOOD by means of stabbing her multiple times, and that JENNIFER YOUNGBLOOD died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

## COUNT TWO – POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That DAVID LAMAR THOMPSON did in Greenville County, on or about the 23<sup>rd</sup> day of May, 2014, possess or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of § 16-23-0490 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.


  
SOLICITOR

BAR # 64040

15-4584  
15-4584

THE STATE OF SOUTH CAROLINA )  
 COUNTY OF GREENVILLE )  
 THE STATE )  
 v. )  
 DAVID LAMAR THOMPSON, )  
 DEFENDANT. )

IN THE COURT OF GENERAL SESSIONS  
 THIRTEENTH JUDICIAL CIRCUIT  
 Warrant/Indictment Nos.: 2014A2330204658;  
 2014A2330204659

**MOTION TO RECONSIDER  
 SENTENCE**

FILED-CLERK OF COURT  
 GREENVILLE CO. S.C.  
 PAUL B. WICKENS  
 2015 SEP 28 8 43 AM

COMES NOW the defendant, **David Lamar Thompson**, by and through his undersigned counsel, and, pursuant to Rule 29 of the S.C. Rules of Criminal Procedure, respectfully moves this Honorable Court to reconsider the order imposing the following sentence on Mr. Thompson: thirty years for manslaughter plus five consecutive years for possession of a weapon during the commission of a violent crime. Mr. Thompson and I had discussed certain arguments in mitigation that I failed to raise at sentencing, and I neglected to give members of Mr. Thompson's family an opportunity to speak on his behalf.

Additionally, the defendant respectfully moves this Honorable Court to rule upon the defendant's request for an evidentiary hearing to determine whether the defendant qualifies for early parole eligibility under S.C. Code. Ann. § 16-25-90 (Supp. 2013). When counsel for the defendant moved this Honorable Court at sentencing to consider early parole eligibility, the Solicitor demurred that a full evidentiary hearing would be required. Counsel for the defendant indicated that he would defer to Your Honor on the issue, but there was never an explicit ruling on the record.

Respectfully submitted,

## GREENVILLE COUNTY PUBLIC DEFENDER

By: Stuart B. Sarratt

Stuart B. Sarratt, Esq.

Bar No. 100228

Attorney for Defendant

305 E. North Street, Suite 123

Greenville, SC 29601

(864) 467-8522

Greenville, SC

Date: September 28, 2015

RECEIVED  
USDC CLERK, COLUMBIA, SC

2023 MAY 11 AM 10:49

Clerk's Office  
U.S. District Court  
901 Richland Street  
Columbia, SC 29221

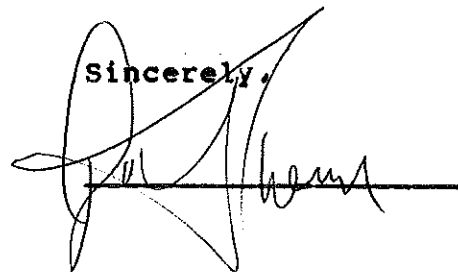
RECEIVED USDC  
CLERK, CHARLESTON, SC  
2023 MAY 12 AM 11:56

RE. Habeas Corous for filing

Dear Clerk:

Please find the foregoing Habeas Corpus for filing that is served upon you.

Sincerely,

A handwritten signature in black ink, appearing to be "J. L. [unclear]", written over a horizontal line.

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(Rev. 01/15)

Page 2

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

|                                                                                          |                                                                                      |                                              |
|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|----------------------------------------------|
| United States District Court                                                             |                                                                                      | District: <b>SOUTH CAROLINA</b>              |
| Name (under which you were convicted):<br><b>David Lamar Thompson</b>                    |                                                                                      | Docket or Case No.:<br>9:23-cv-01961-DCN-MHC |
| Place of Confinement: <b>Tyger River C.I.</b>                                            | Prisoner No.:<br><b>326036</b>                                                       |                                              |
| Petitioner (include the name under which you were convicted)<br><b>Davis L. Thompson</b> | Respondent (authorized person having custody of petitioner)<br><b>Warden J Nance</b> |                                              |
| The Attorney General of the State of: <b>Allen Wilson</b>                                |                                                                                      |                                              |

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

**Greenville County General Sessions Court**

**13 th Judicial Circuit, 305 East North Street, Greenville  
SC 29601**

- (b) Criminal docket or case number (if you know):

**2015-GS-23-04584**

2. (a) Date of the judgment of conviction (if you know):

**9/14-16/2015**

- (b) Date of sentencing:

**9/16/ 2015**

3. Length of sentence: **30 years for manslaughter**

4. In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☐ No

5. Identify all crimes of which you were convicted and sentenced in this case:

**five years for possession of a weapon during a violent crime  
thirty years for manslaughter**

6. (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)  
☐ (2) Guilty ☐ (4) Insanity plea

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CLERK, CHARLESTON, SC  
2023 MAY 12 AM 11:56

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? **N/A**

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(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☐ Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of court: **N/A**

(b) Docket or case number (if you know):

(c) Result:

(d) Date of result (if you know):

(e) Citation to the case (if you know):

(f) Grounds raised:

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(g) Did you seek further review by a higher state court? ☐ Yes ☐ No

If yes, answer the following:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Result:

(4) Date of result (if you know):

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(5) Citation to the case (if you know): \_\_\_\_\_

(6) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☐ No

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_  
\_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: **Greenville County General Sessions Court**(2) Docket or case number (if you know): **2015-GS-23-04584**(3) Date of filing (if you know): **within ten days after judgment**(4) Nature of the proceeding: **motion for reconsideration**(5) Grounds raised: **unknown**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No(7) Result: **N/A**(8) Date of result (if you know): **N/A**



(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: **N/A**

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: **N/A**

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No

(2) Second petition: ☐ Yes ☒ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

**Have not heard from the state on the motion for  
Reconsideration**

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE: Inordinate delay in adjudicating motion for reconsideration since it was filed in violation of my due process**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

**Petitioner filed PCR application and it was dismissed and I  
have not heard from the court since.**

(b) If you did not exhaust your state remedies on Ground One, explain why: **case is still pending**

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(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

\_\_\_\_\_  
\_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

**case is still pending**

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: N/A

**GROUND TWO:** N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : \_\_\_\_\_

**GROUND THREE:** \_\_\_\_\_

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

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**GROUND FOUR:**

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(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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(b) If you did not exhaust your state remedies on Ground Four, explain why:

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(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

---

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(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

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Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_



13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

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- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

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14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

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15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Steward Bradley Sarratt, Esquire

(b) At arraignment and plea: Same as above

(c) At trial: same as above

(d) At sentencing: same as above

(e) On appeal: N/A

(f) In any post-conviction proceeding: N/A

(g) On appeal from any ruling against you in a post-conviction proceeding: dismissed without prejudice

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

N/A

[illegible]

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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(Rev. 01/15)

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

**vacate my conviction and**

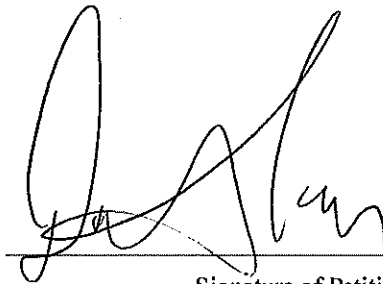
**sentence within 30 days**

or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 5-8-23 (month, date, year).

Executed (signed) on 5-8-23 (date).



\_\_\_\_\_  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**

The undersigned hereby certify that he mail the foregoing habeas corpus to the Clerk's office, 901 Richland Stret, Columbia, SC 29221 this \_\_\_\_ day of May 2023 by depositing the same in the U.S. mail.

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David Lamar Thompson 3260026 011-223  
TYRRE 200 Prison Rd.  
Enorce SC 29335

US POSTAGE  
ZIP 29335 \$001.32<sup>0</sup>  
02 4W  
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Clerks Office  
U.S. District Court  
901 Richland Street  
Columbia, SC 29221



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LEGAL MAIL



The Department of Corrections HAS NOT  
INSPECTED OR CENSORED this item.  
Therefore, The Department does not  
assume responsibility for it's content.  
Tyger River Correctional Institution.  
S.C. Department of Corrections



UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

|                                           |   |                                  |
|-------------------------------------------|---|----------------------------------|
| David Lamar Thompson <i>also known as</i> | ) | CA No. 9:23-cv-01961-DCN-MHC     |
| David Lemar Thompson,                     | ) |                                  |
|                                           | ) |                                  |
| Petitioner,                               | ) | <b>REPORT AND RECOMMENDATION</b> |
|                                           | ) |                                  |
| v.                                        | ) |                                  |
|                                           | ) |                                  |
| Warden J. Nance,                          | ) |                                  |
|                                           | ) |                                  |
| Respondent.                               | ) |                                  |
|                                           | ) |                                  |

Petitioner David Lamar Thompson (“Petitioner”), a state prisoner proceeding pro se, seeks habeas relief pursuant to 28 U.S.C. § 2254. Respondent Warden J. Nance (“Respondent”) filed a Motion to Dismiss, along with a Return and Memorandum (“Motion”). ECF Nos. 14, 15. Petitioner filed a Response in Opposition. ECF No. 18. The matter is ripe for review.

Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c) (D.S.C.), the assigned district judge referred the Motion to the undersigned for a report and recommendation. For the reasons that follow, the undersigned recommends that Respondent’s Motion be granted and the Petition be dismissed without prejudice.

**I. BACKGROUND**

The procedural history as described by Respondent has not been disputed by Petitioner in his Response and is set forth as follows. Petitioner is currently confined in Tyger River Correctional Institution pursuant to an order of commitment from the Clerk of Court for Greenville County. Petitioner was indicted in June 2015 by a Greenville County Grand Jury for the murder of Jennifer Youngblood and possession of a weapon during the commission of a violent crime. ECF No. 14-1.



A jury trial was held on the charges September 14–16, 2015, before the Honorable James R. Barber, III (“Trial Judge”). ECF No. 14-2. Stuart B. Sarratt, Esq. (“Trial Counsel”), represented Petitioner on the charges; Jake Erwin, Esq., assisted Trial Counsel at trial. ECF No. 14-2 at 1, 36–37. The jury convicted Petitioner of the lesser included offense of voluntary manslaughter and the weapon charge. ECF No. 14-2 at 364. The Trial Judge sentenced Petitioner to 30 years for voluntary manslaughter and 5 years, consecutive, for the weapon conviction. ECF No. 14-2 at 369–70; *see also* ECF No. 14-4.

On September 28, 2015, Trial Counsel filed a timely post-trial motion to reconsider Petitioner’s sentence. ECF No. 14-4. In the motion to reconsider, Trial Counsel alleged:

[1.] Mr. Thompson and I had discussed certain arguments in mitigation that I failed to raise at sentencing, and I neglected to give members of Mr. Thompson’s family an opportunity to speak on his behalf.

[2.] Additionally, the defendant respectfully moves this Honorable Court to rule upon the defendant’s request for an evidentiary hearing to determine whether the defendant qualifies for early parole eligibility under S.C. Code. Ann. § 16-25-90 (Supp. 2013). When counsel for the defendant moved this Honorable Court at sentencing to consider early parole eligibility, the Solicitor demurred that a full evidentiary hearing would be required. Counsel for the defendant indicated that he would defer to Your Honor on the issue, but there was never an explicit ruling on the record.

ECF No. 14-4 at 1. This post-trial motion—discussed further below—is still pending in the state circuit court nearly nine years later. *See* Greenville County Thirteenth Judicial Circuit Public Index, <https://www2.greenvillecounty.org/scjd/publicindex/> (search case number 2014A2330204659) (last visited May 29, 2024).

On December 29, 2015, Petitioner filed an application for postconviction relief (“PCR”), and made the following allegations of error:

1. Ineffective assistance of counsel:

- a. failure to appeal conviction and sentence, “did not freely, knowingly voluntarily or intelligently waive my right to appeal ... I am entitled to a belated appeal”;
- b. “failed to properly research and investigate”
- c. “failed to hire our own Dr. and crime scene expert ... to rebut the State’s allegations and evidence that I murdered my girlfriend or that the crime was voluntary manslaughter”

ECF No. 14-5 at 3, 8–12.

The State made its return to the PCR application on August 16, 2016. ECF No. 14-6. Rodney Wade Richey, Esq. (“PCR Counsel”), was appointed to represent Petitioner in the PCR action. ECF No. 14-7. PCR Counsel filed an amended application on October 13, 2014, raising various allegations of ineffective assistance of counsel:

1. My defense attorney failed to conscientiously discharge his professional responsibilities while he was handling my case.
2. My defense attorney failed to effectively challenge the arrest and seizure of Applicant.
3. My defense attorney failed to act as my diligent, conscientious advocate.
4. My defense attorney failed to give me his complete loyalty.
5. My defense attorney did not have my best interest in mind while he was supposed to be investigating and preparing my case.
6. My defense attorney failed to serve my cause in good faith.
7. My defense attorney neglected the necessary investigations and the preparation of my case.
8. My defense attorney dd not do the necessary factual investigations on my behalf.
9. My defense attorney did not do the necessary legal research.
10. My defense attorney did not conscientiously gather any information to protect my rights.
11. My defense attorney did not try to have my case settled in a matter that would have been to my best advantage.
12. My defense attorney did not advise me of all my rights or take any of the actions that were necessary to protect preserve them; knowing that I was not versed in the law.
13. My defense attorney, knowing I was illiterate in the law, never properly ascertained whether or not I actually understood or comprehended all of the issues that were involved in my case.
14. My defense attorney never properly consulted with me or kept me informed with what was going on as far as my case was concerned
15. My defense attorney never explained to me or discussed with me any of the elements of the crime charged.

16. My defense attorney never made any attempt to ascertain whether or not I actually knew what the elements fo the crime charged were or whether or not I understood exactly what the term “criminal” element” actually meant.
17. My defense attorney never explained to me or discussed with me how the elements of the crime charge and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State V. Bovd.
18. My defense attorney never informed me of any of the defenses that were available to me.
19. My defense attorney never intended to offer any defense to the court on my behalf.
20. My defense attorney never explained to me or discussed with me any kind of defense strategy.
21. My defense attorney never explained to me or discussed with me any of the tactical choices that they either made or were planning to make.
22. My defense attorney dictated to me exactly how my case was going to be handled and offered no alternative options.
23. My defense attorney failed to properly acquaint themselves with the law and the facts surrounding my case and as a direct result of their intentional negligence, there was a very serious error in their assessment of both the law and the facts.
24. Because of my defense attorney’s gross neglect and his many legal errors no defense at all was put in issue for me during the Court proceedings.
25. My defense attorney did not subject the prosecution's case to any adversarial testing.
26. My defense attorney failed to oppose the prosecution’s case with any adversarial litigation.
27. My defense attorney failed to function as the government’s adversary in any sense of the word.
28. My defense attorney failed to pursue any of the legal recourse that were available to him.
29. The attorney that represented me on this charge in Court failed to function as the counsel that the Constitution's Sixth Amendment Guarantees.
30. My defense attorney failed to call alibi witnesses on my behalf which would have proven my innocence.
31. My defense attorney failed to appeal my case after I was convicted when I wanted to appeal.

ECF No. 14-8 at 2–4 (errors in original).

According to the later Order of Dismissal, “[a] hearing was convened on Wednesday, October 26, 2016, at which time the Applicant and Respondent discovered the existence of an outstanding motion to reconsider the Applicant’s sentence.” ECF No. 14-9 at 2. The Honorable

John C. Hayes, III, presided (“PCR Judge”). In light of the pending trial court motion, the PCR Judge determined summary dismissal was warranted:

In accordance with Rule 71.1(b), SCRPC, this Court finds that at the present time PCR is not available to the Applicant because the time in which an appeal may be perfected has not yet expired. Therefore, this Court finds that this Application for PCR must be summarily dismissed without prejudice until such time the time for filing an appeal has expired.

ECF No. 14-9 at 2. The Order dismissing Petitioner’s PCR action without prejudice was issued on November 9, 2017, and filed on November 14, 2017. ECF No. 14-9. Petitioner did not appeal.

Petitioner filed this federal habeas petition on May 11, 2023. ECF No. 1. In his petition, Petitioner makes the following claims of error:

**Ground One:** Inordinate delay in adjudicating motion for reconsider action since it was filed in violation of my due process

Supporting facts: Petitioner filed PCR application and it was dismissed and I have not heard from the court since.

ECF No. 1-1 at 6. Petitioner seeks to have this Court vacate Petitioner’s “conviction and sentence within 30 days.” ECF No. 1-1 at 16.

On September 25, 2023, the Honorable Alex Kinlaw, Jr., Circuit Court Judge, issued an order that set the post-trial motion to reconsider Petitioner’s sentence—which was filed on September 28, 2015—for a hearing to be held December 18, 2023. ECF No. 14-10. It is unclear whether this hearing was actually held on December 18, 2023, and no order ruling on the motion for consideration has been issued. The Greenville County Public Index does not indicate any further activity has occurred. *See* Greenville County Thirteenth Judicial Circuit Public Index, <https://www2.greenvillecounty.org/scjd/publicindex/> (search case number 2014A2330204659) (last visited May 22, 2024).

## II. STANDARDS OF REVIEW

### A. Summary Judgment Standard

Summary judgment is appropriate if a party “shows there is no genuine dispute as to any issue of material fact” and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). Under the framework established in *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), the party seeking summary judgment shoulders the initial burden of demonstrating to the court that there is no genuine issue of material fact. *Id.* at 323. Once the movant has made this threshold demonstration, the non-moving party, to survive the motion for summary judgment, must demonstrate that specific, material facts exist which give rise to a genuine issue. *Id.* at 324.

Under this standard, the evidence of the non-moving party is to be believed and all justifiable inferences must be drawn in favor of the non-moving party. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). However, the existence of a mere scintilla of evidence in support of the plaintiff's position is insufficient to withstand the summary judgment motion. *Id.* at 252. Likewise, conclusory or speculative allegations or denials, without more, are insufficient to preclude the granting of the summary judgment motion. *Thompson v. Potomac Elec. Power Co.*, 312 F.3d 645, 649 (4th Cir. 2002). “Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.” *Anderson*, 477 U.S. at 248. To survive summary judgment, the non-movant must provide evidence of every element essential to his action on which he will bear the burden of proving at a trial on the merits. *Celotex Corp.*, 477 U.S. at 322.

**B. Federal Habeas Review under 28 U.S.C. § 2254**

Petitioner filed his Petition after the effective date of the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”). Therefore, in considering Petitioner’s claims, the Court’s review is limited by the deferential standard of review set forth in 28 U.S.C. § 2254(d). *See Breard v. Pruett*, 134 F.3d 615, 618 (4th Cir. 1998). Under § 2254(d),

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in the State court proceedings unless the adjudication of the claim--

- (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
- (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the State court proceeding.

28 U.S.C. § 2254(d); *see also Evans v. Smith*, 220 F.3d 306, 312 (4th Cir. 2000) (explaining federal habeas relief will not be granted on a claim adjudicated on the merits by the state court unless it “resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law,” or “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding”). A state court’s decision is contrary to clearly established federal law if that court “arrives at a conclusion opposite to that reached by [the Supreme] Court on a question of law” or “decides a case differently than [the Supreme] Court has on a set of materially indistinguishable facts.” *Evans*, 220 F.3d at 312 (quoting *Williams v. Taylor*, 529 U.S. 362, 413 (2000)). A state court decision unreasonably applies clearly established federal law if the state court “identifies the correct governing legal principle from [the Supreme] Court’s decisions but unreasonably applies that principle to the facts of the prisoner’s case.” *Id.* (quoting *Williams*, 529 U.S. at 413).

Because “review under § 2254(d)(1) focuses on what a state court knew and did,” this Court measures the reasonableness of the state court’s decision based on the information in the record before the state court. *Valentino v. Clarke*, 972 F.3d 560, 575 (4th Cir. 2020) (quoting *Cullen v. Pinholster*, 563 U.S. 170, 182 (2011)). “Likewise, § 2254(d)(2) provides for a limited review of factual determinations in light of the evidence presented in the State court proceeding[;] [thus,] [t]his backward-looking language similarly requires an examination of the state-court decision at the time it was made.” *Id.* (citation and internal quotation marks omitted).

Accordingly, “a federal habeas court may not issue the writ simply because that court concludes in its independent judgment that the relevant state-court decision applied clearly established federal law erroneously or incorrectly. Rather, that application must also be unreasonable.” *Williams*, 529 U.S. at 410. Further, factual findings “made by a State court shall be presumed to be correct,” and Petitioner has “the burden of rebutting the presumption of correctness by clear and convincing evidence.” 28 U.S.C. § 2254(e)(1).

### III. DISCUSSION

Respondent argues the Petition should be dismissed, without prejudice, for three main reasons. First, as a general matter, Respondent argues that Petitioner’s claim is barred under the *Younger* abstention doctrine. Second, Respondent argues the claim raised is not cognizable, as it appears to present an issue of state law. Third, Respondent argues that, because Petitioner’s case is still pending in state court, he has not exhausted his state law remedies. For the reasons that follow, the undersigned agrees with Respondent.

#### A. *Younger* Abstention

To the extent Plaintiff seeks for this Court to interfere in the state court proceedings, he has failed to show extraordinary circumstances that justify this Court’s interference.

Federalism requires federal courts to respect the sovereignty of their state court counterparts. *Air Evac EMS, Inc. v. McVey*, 37 F.4th 89, 93 (4th Cir. 2022). In *Younger v. Harris*, 401 U.S. 37 (1971), the Supreme Court articulated the strong policy against federal court interference with any pending state court judicial proceeding unless extraordinary circumstances warranted interference. “In *Younger* and its progeny, the Supreme Court generally has found abstention appropriate if the following three-pronged test has been met: [1] there are ongoing state judicial proceedings; [2] the proceedings implicate important state interests; and [3] there is an adequate opportunity to raise federal claims in the state proceedings.” *Martin Marietta Corp. v. Maryland Comm’n on Hum. Rels.*, 38 F.3d 1392, 1396 (4th Cir. 1994) (citing *Middlesex County Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432 (1982)).

Even so, there remains “room for federal equitable intervention in a state criminal trial” but only upon a showing of “extraordinary circumstances” which is essentially a set of circumstances shown “that might create a sufficient threat of such great, immediate, and irreparable injury as to warrant intervention in state criminal proceedings.” *Kugler v. Helfant*, 421 U.S. 117, 124–25 (1975) (citation omitted); *see also Gilliam v. Foster*, 75 F.3d 881, 903 (4th Cir. 1996) (“[T]he Supreme Court plainly declared that federal court equitable interference with state criminal proceedings should not be undertaken except in the most narrow and extraordinary of circumstances.”).

Here, all the elements indicating *Younger* abstention is appropriate are met. The documents attached to Respondent’s Return demonstrate that the state court action is proceeding, and Petitioner has the assistance of counsel. The proceedings implicate an important state interest, and Plaintiff has the opportunity to raise federal claims in the state proceedings. Notably, the delay is occasioned by his Trial Counsel’s filing of a timely post-trial motion; yet, Petitioner makes no



claim that he has diligently monitored the action and checked with Trial Counsel at any time, or that counsel in anyway checked the status of the filed motion.

Further, Petitioner has shown nothing extraordinary which would result in “irreparable injury.” Indeed, the motion is for *reconsideration of sentence* and *possible parole eligibility*. It is not for a new trial. Thus, he will be serving a sentence regardless of the outcome. Notably, the 35-year sentence Petitioner is currently serving, imposed in September of 2015, will not be completed before he has a chance to continue in the ordinary review process offered in established state procedures. Consequently, Petitioner has not shown a basis for intervention or the possibility of “irreparable harm” if this Court fails to intervene. *See Younger*, 401 U.S. at 43–44 (noting courts “should not act to restrain a criminal prosecution, when the moving party has an adequate remedy at law and will not suffer irreparable injury if denied equitable relief”).

#### **B. Not a cognizable claim**

The pending motion in state court pertains to resentencing. Sentencing issues are generally considered purely matters of state law and are not cognizable in federal habeas corpus review in a § 2254 action. *See Dennis v. Poppel*, 222 F.3d 1245, 1258 (10th Cir. 2000) (“We afford wide discretion to the state trial court’s sentencing decision, and challenges to that decision are not generally constitutionally cognizable, unless it is shown the sentence imposed is outside the statutory limits or unauthorized by law.”); *see also Estelle v. McGuire*, 502 U.S. 62, 67–68 (1991) (noting “federal habeas corpus relief does not lie for errors of state law” and emphasizing “that it is not the province of a federal habeas court to reexamine state-court determinations on state-law questions” (citation omitted)).

Here, Petitioner has only complained in his habeas petition about the pending state court motion pertaining to sentencing and potential parole eligibility. The remedy he seeks in this Court

is for his conviction to be vacated. ECF No. 1-1 at 16. To the extent Petitioner seeks federal habeas relief based on any issues with his sentencing, such relief is unavailable. *See Blackwell v. Warden Leath Corr. Inst.*, No. 8:16-CV-03947-JMC-JDA, 2017 WL 5157252, at \*8 (D.S.C. Sept. 8, 2017) (“The federal courts have no supervisory authority over state judicial proceedings and may intervene only to correct wrongs of constitutional dimension.” (quoting *Geschwendt v. Ryan*, 967 F.2d 877, 888–89 (3d Cir. 1992))), *report and recommendation adopted*, No. 8:16-CV-03947-JMC, 2017 WL 5128944 (D.S.C. Nov. 6, 2017).

### C. Procedural Requirements for Habeas Petitions

Finally, Respondent argues that Plaintiff has not exhausted his state remedies before bringing his § 2254 petition.

A federal court considering a § 2254 petition “generally may consider a state prisoner’s federal claim *only if* he has *first* presented that claim to the state court in accordance with state procedures.” *Shinn v. Ramirez*, 142 S. Ct. 1718, 1727 (2022) (emphasis added). That is, before seeking habeas relief in federal court, a petitioner must first exhaust his state court remedies. 28 U.S.C. § 2254(b)(1)(A). Thus, when presented with an application for habeas relief, the federal court’s first inquiry is determining whether the claim raised in the petition was “adjudicated on the merits” by the state court. 28 U.S.C. § 2254(d). If a prisoner has *properly* raised his claims before the state court in accordance with state procedures, he has met the exhaustion requirement and a federal court may hear those claims.<sup>1</sup>

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<sup>1</sup> In South Carolina, a person in custody has two primary means of attacking the validity of his conviction: (1) through a direct appeal, or (2) by filing an application for PCR. State law requires that all grounds be stated in the direct appeal or PCR application. Rule 203 SCACR; S.C. Code Ann. § 17-27-10, *et seq.*; S.C. Code Ann. § 17-27-90; *Blakeley v. Rabon*, 221 S.E.2d 767, 770 (S.C. 1976). If the PCR court fails to address a claim as is required by S.C. Code Ann. § 17-27-80, counsel for the applicant must make a motion to alter or amend the judgment pursuant to Rule 59(e), SCRCF. Failure to do so will generally result in the application of a procedural bar by the South Carolina Supreme Court. *See Bostick v. Stevenson*, 589 F.3d 160, 162–65 (4th Cir. 2009)

In other words, in the interest of giving state courts the first opportunity to consider alleged constitutional errors in state proceedings, a § 2254 petitioner is required to “exhaust” all state remedies before a federal district court can entertain his claims. If a petitioner fails to exhaust his claims prior to seeking habeas relief, his federal habeas corpus petition generally must be dismissed. *See Coleman v. Thompson*, 501 U.S. 722, 731 (1991) (“This Court has long held that a state prisoner’s federal habeas petition should be dismissed if the prisoner has not exhausted available state remedies as to any of his federal claims.”).

However, under § 2254, exhaustion is not required if “there is an absence of available State corrective process” or “circumstances exist that render such process ineffective to protect the rights of the applicant.” 28 U.S.C. § 2254(b)(1)(B). Because the requirement of exhaustion is not jurisdictional, this Court may consider claims that have not been presented to the state courts in such limited circumstances.

Relevant here, “State remedies may be rendered ineffective by inordinate delay or inaction in state proceedings.” *Ward v. Freeman*, 46 F.3d 1129, 1995 WL 48002, at \*1 (4th Cir. Feb. 8, 1995) (unpublished table opinion). In *Ward*, the Fourth Circuit found a habeas petitioner’s state remedies were ineffective and remanded the habeas petition for consideration on the merits where there was a fifteen-year-delay in his appeal in state court. *Id.* In so finding, the Fourth Circuit applied the four-factor speedy trial analysis from *Barker v. Wingo*, 407 U.S. 514 (1972), which

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(discussing procedural bar and noting the “general rule” in South Carolina is that where a party fails to file a Rule 59(e) motion, the argument is forfeited). Furthermore, strict time deadlines govern direct appeal and the filing of a PCR application in the South Carolina courts. A PCR application must be filed within one year of judgment, or if there is an appeal, within one year of the appellate court decision. S.C. Code Ann. § 17-27-45. In South Carolina, a claim is not procedurally barred from review in this Court for failure to pursue review in the South Carolina Supreme Court after an adverse decision in the Court of Appeals. *See In re Exhaustion of State Remedies in Crim. & Post-Conviction Relief Cases*, 321 S.C. 563, 564, 471 S.E.2d 454 (S.C. 1990) (“[W]hen the claim has been presented to the Court of Appeals or the Supreme Court, and relief has been denied, the litigant shall be deemed to have exhausted all available state remedies.”).

includes the following considerations: “(1) the length of the delay; (2) the reason for the delay; (3) the defendant’s assertion of his rights; and (4) prejudice to the defendant.” *Id.* Courts in this district have similarly considered the *Ward* factors in assessing whether habeas petitioners’ failure to exhaust should be excused. *See, e.g., Goss v. Williams*, Case No. 2:18-cv-2938-BHH-MGB, 2019 WL 7900173 (D.S.C. June 19, 2019), *report and recommendation adopted*, No. CV 2:18-2938-BHH, 2020 WL 502635 (D.S.C. Jan. 31, 2020)

Here, as an initial matter, there is no question that Petitioner has not exhausted his state court remedies as required by 28 U.S.C. § 2254. As detailed above, a post-trial motion to reconsider Petitioner’s sentence is currently pending before the state court. Indeed, the habeas petition itself notes that Petitioner’s case is still pending. ECF No. 1 at 6. Accordingly, his federal habeas petition should be dismissed without prejudice unless he can demonstrate that his failure to exhaust should be excused.

Petitioner argues that his failure to exhaust should be excused because there has been an inordinate delay in adjudicating the motion for reconsideration. He argues that this pending motion for reconsideration has delayed his direct appeal and has already prevented him from moving forward with a PCR application. *See* ECF No. 18 at 3–5; ECF No. 1-1 at 6. The Court considers “(1) the length of the delay; (2) the reason for the delay; (3) [Petitioner’s] assertion of his rights; and (4) prejudice to [Petitioner].” *See Ward*, 46 F.3d 1129, 1995 WL 48002, at \*1.

As detailed above, Petitioner went to trial in September 2015, was found guilty, and was sentenced to an aggregate term of 35 years. On September 28, 2015, Trial Counsel filed a timely post-trial motion to reconsider Petitioner’s sentence. ECF No. 14-4. This post-trial motion is, somehow, still pending nearly *nine years* later. The length of this delay is troubling to the undersigned, and Petitioner has certainly shown he satisfies this factor. *See Ward*, 46 F.3d 1129,

1995 WL 48002, at \*1 (noting, in determining whether a delay amounts to a due process violation, courts consider “the length of the delay”).

The reason for the delay is unclear. Respondent does not offer any reason why this post-trial motion to reconsider Petitioner’s sentence has been left dangling in state court. Respondent asserts, upon information and belief, that Petitioner’s Trial Counsel who filed the motion is no longer with the Greenville County Public Defender’s Office. ECF No. 14 at 8 n.5. Petitioner appears to agree with this contention, arguing that “my court appointed public defender is no longer with that office and he did not pas[s] my file to another lawyer in the public defender[’s] office. ECF No. 18 at 4 (citing ECF No. 14 at 8 n.5). Setting aside the apparent failed transition of Petitioner’s case file at some point to another public defender, the post-trial motion was filed on September 28, 2015, and an order that set a December 2023 hearing date on this motion was not entered on the docket until September 25, 2023. ECF No. 14-10. It is unclear why a hearing was not scheduled on the post-trial motion until eight years later (and only *after* Petitioner filed this federal habeas petition), and there still does not appear to be a ruling on the motion many months later. There appears to be no legitimate reason for this delay. *See Ward*, 46 F.3d 1129, 1995 WL 48002, at \*1 (noting, in determining whether a delay amounts to a due process violation, courts consider “the reason for the delay”).

Despite the inordinate delay and the apparent lack of justification for the delay, however, Petitioner has not shown he asserted any delay-based claim in the state courts. *See Schandelmeier v. Cunningham*, 819 F.2d 52, 53 (3d Cir. 1986) (“It is significant that Schandelmeier has not filed any motion in a state court asserting a claim based on the state court’s delay in deciding his post-trial motions or in sentencing him.”). Indeed, Petitioner has made no showing that he communicated with Trial Counsel—or attempted to communicate with Trial Counsel—in the years

this motion has been pending, much less directed Trial Counsel to ask the state court to rule, or even to ask for a status conference.<sup>2</sup> Further, though Petitioner filed a PCR action, he did not complain of the delay, nor has he shown that he filed in any state appellate court seeking to address the delay. It is unclear why, in the wake of the PCR Judge dismissing Petitioner's PCR action, Petitioner apparently did not attempt to resolve the pending motion.<sup>3</sup> There is nothing before this Court to indicate that Petitioner did anything to bring this pending motion to the attention of the state court. *See Ward*, 46 F.3d 1129, 1995 WL 48002, at \*1 (noting, in determining whether a delay amounts to a due process violation, courts consider Petitioner's "assertion of his rights"). Indeed, it appears the first actionable thing Petitioner did was to come to federal court to complain of the state court's apparent inability to manage its motions docket. Thus, it cannot be said that the state courts were given an opportunity to consider his delay-based claim. *See Schandelmeier*, 819 F.2d at 55 ("Schandelmeier did not file any motion in any state court asserting a speedy trial deprivation based on the delay in sentencing. Had the record indicated some tangible evidence of such action, a new gloss would have been put on this case."); *Cobarruvias v. Cartledge*, No. CA 4:12-3096-DCN-TER, 2012 WL 6772231, at \*2 (D.S.C. Nov. 29, 2012) ("Additionally, Petitioner does not allege that he has sought review of his inordinate delay claim, the sole issue in his federal habeas petition, to a higher state court in an attempt to exhaust state remedies."), *report and recommendation adopted*, No. CA 4:12-3096 DCN, 2013 WL 66233 (D.S.C. Jan. 4, 2013).

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<sup>2</sup> Although Trial Counsel is evidently no longer with the Greenville County Public Defender's Office, there is nothing before the Court that indicates when Trial Counsel left or otherwise stopped representing Petitioner. Moreover, Petitioner offers nothing showing any attempts to contact Trial Counsel or the Greenville County Public Defender's Office.

<sup>3</sup> Notably, Petitioner was represented by counsel in his PCR action. *See* ECF No. 14-8. Though it is not PCR Counsel's duty to resolve pending criminal matters, it is significant that Petitioner was not a pro se PCR applicant attempting to navigate the PCR process by himself.

As to prejudice, Petitioner has not shown he has been prejudiced by this delay. Petitioner will be serving a sentence and has not shown that there is any danger in completing the sentence before the motion is heard or its disposition contested. At best, this post-trial motion prevented Petitioner from pursuing his PCR action. ECF No. 14-9 at 2. However, Petitioner's PCR action was dismissed without prejudice. Thus, as practical matter, once the post-trial motion to reconsider Petitioner's sentence is addressed, Petitioner can avail himself of his state court remedy of PCR to collaterally attack his convictions and sentence. If he is unsuccessful with his state PCR action, he may still bring his substantive challenges to his state court convictions to this Court by way of a § 2254 petition. *See Ward*, 46 F.3d 1129, 1995 WL 48002, at \*1 (noting, in determining whether a delay amounts to a due process violation, courts consider "prejudice to the [petitioner]").

Finally, even setting aside the speedy trial factors used in *Ward*, Petitioner's habeas petition presents another problem: it is entirely based upon the state court's delay in ruling on the post-trial motion. That is, as already discussed above, it does not present any cognizable grounds for habeas relief, such as a claim for ineffective assistance of counsel. Critically, Petitioner has presented *no* issue on the underlying conviction at all. Rather, he notes that there has been an inordinate delay by the state court in hearing the motion for reconsideration, and asserts, ipso facto, that he is entitled to have his conviction and sentence vacated. But, the relief ordered in *Ward* was to have the issues raised in the federal habeas petition to be considered on the merits, not to vacate the conviction. *See Ward*, 46 F.3d 1129, 1995 WL 48002, at \*2 (remanding the case to the district court for consideration of the merits of the habeas petition). Thus, even if this Court were to agree that the factors under *Ward* warranted relief, the relief this Court would grant is consideration of the grounds Petitioner presents in his habeas petition. *See id.* ("The remedy for the violation of *Ward*'s due process is to remand the case to the district court with instructions to consider the

petition on its merits.”). As Petitioner presents no viable grounds to consider, *Ward* relief—even were it warranted—is a hollow victory.

In fact, considering Petitioner’s habeas petition on the merits runs the risk of making it more difficult for Petitioner to challenge his state convictions in federal court. Although § 2254 allows for the filing of successive petitions, leave to file such petitions must be granted by the Court of Appeals. In addition, leave to file a successive petition is available only in certain limited circumstances. *See* 28 U.S.C. § 2244(b)(2). Although dismissal of the present action, without prejudice, results in Petitioner having to continue the wait for state court review of his motion for reconsideration, an alternative ruling may “effectively foreclose Petitioner’s ability to challenge his state court convictions in a future successive habeas action.” *See Cobarruvias*, No. CA 4:12-3096-DCN-TER, 2012 WL 6772231, at \*3 (denying habeas petition without prejudice such that it would “allow Petitioner to bring substantive challenges to his state convictions when state remedies are exhausted”), *adopted*, No. CA 4:12-3096 DCN, 2013 WL 66233.

For the foregoing reasons, the undersigned recommends denying, without prejudice, the petition.<sup>4</sup>

#### IV. CONCLUSION

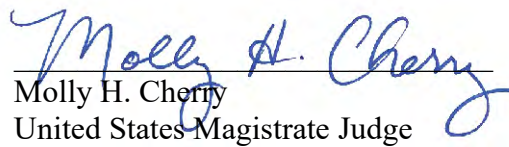
For the reasons set forth above, it is **RECOMMENDED** that Respondent’s Motion to Dismiss (ECF No. 15) be **GRANTED** and that the Petition be **DISMISSED without prejudice**.

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<sup>4</sup> Had this been a situation where Petitioner’s PCR action was on the tail end of being resolved, the undersigned may have recommended staying the action. *See Norris v. Williams*, No. CV 8:21-3353-MGL-JDA, 2023 WL 5509355, at \*2 (D.S.C. Aug. 25, 2023) (staying habeas action where the petitioner established there had been an inordinate delay in the state court’s final decision on the petitioner’s PCR action and ordering the respondent to file monthly status updates regarding the progress in state court). However, as Petitioner potentially has his direct appeal and his PCR rights (both initial and appellate review) still intact, staying the action pending resolution in state court could render this action dormant for many years.



The undersigned also recommends that Respondent be ordered to inform the Chief Administrative Judge of the Thirteenth Judicial Circuit, which includes Greenville County, of this R&R and this Court's concerns over the delay in ruling on Petitioner's motion to reconsider, as set forth above. *See Norris*, 2023 WL 5509355, at \*3 (ordering respondent to immediately inform the South Carolina Court of Appeals of the Court's concerns over the extensive delay in ruling on petitioner's PCR action).

  
Molly H. Cherry  
United States Magistrate Judge

May 30, 2024  
Charleston, South Carolina

**The parties are directed to the next page for their rights to file objections to this recommendation.**

### Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk  
United States District Court  
Post Office Box 835  
Charleston, South Carolina 29402

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

|                                   |   |                          |
|-----------------------------------|---|--------------------------|
| David Lamar Thompson, a/k/a David | ) | C/A No. 9:23-cv-1961 DCN |
| Lemar Thompson,                   | ) |                          |
|                                   | ) |                          |
| Petitioner,                       | ) | <b><u>ORDER</u></b>      |
|                                   | ) |                          |
| vs.                               | ) |                          |
|                                   | ) |                          |
| Warden J. Nance,                  | ) |                          |
|                                   | ) |                          |
| Respondent.                       | ) |                          |
| _____                             | ) |                          |

The above referenced case is before this court upon the magistrate judge's recommendation that respondent's motion to dismiss be granted and the petition be dismissed without prejudice.

This court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. Thomas v Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984 ).<sup>1</sup> **As of the date of this order, no objections have been filed.**

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<sup>1</sup> In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, respondent's motion to dismiss is **GRANTED**, and the petition is **DISMISSED** without prejudice.

**IT IS FURTHER ORDERED** that a certificate of appealability is denied because petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(b)(2).

**AND IT IS SO ORDERED.**



David C. Norton  
United States District Judge

July 23, 2024  
Charleston, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.

his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.

1 STATE OF SOUTH CAROLINA  
2 COUNTY OF GREENVILLE

IN GENERAL SESSIONS  
13th JUDICIAL CIRCUIT

3 STATE OF SOUTH CAROLINA,  
4  
5 Plaintiff,

6 vs.

CASE NO. 2015-GS-23-04584

7 DAVID LAMAR THOMPSON,  
8  
9 Defendant.

10 HEARING BEFORE: HONORABLE PERRY H. GRAVELY

11 DATE: August 23, 2024

12 TIME: 11:52 AM

13 LOCATION: Greenville County Courthouse  
14 305 E. North Street  
15 Greenville, SC 29601

16 REPORTED BY: LORA L. McDANIEL,  
17 Registered Professional Reporter

18  
19 APPEARANCES:

20 ATTORNEYS FOR THE PLAINTIFF  
21 RICK FISHER, ASSISTANT SOLICITOR

22 ATTORNEYS FOR THE DEFENDANT  
23 JONATHAN A. NEAL, ESQ.  
24  
25

STATE vs. DAVID L. THOMPSON

1 THE CLERK: David Thompson.

2 THE COURT: State versus David Thompson. How are  
3 you this morning? It's still morning.

4 I believe we had briefly discussed with attorney  
5 Mr. Neal. Glad to hear from you on this.

6 MR. NEAL: Thank you. May it please The Court.  
7 Your Honor, this is -- I don't think I've ever found myself in  
8 before. This is Defendant's motion to reconsider a sentence  
9 following a guilty verdict at a trial.

10 Mr. Thompson was tried back in 2015. At trial,  
11 prior to trial, he was indicted for one count of murder and one  
12 count of possession of a weapon during the commission of a  
13 violent crime. After a jury trial, he was found guilty of  
14 voluntary manslaughter and accompanying weapons charge. Judge  
15 Barber, who was the trial judge at that time, sentenced him to  
16 30 years on the manslaughter charge, five years on the weapons  
17 to run consecutive.

18 During the course of the trial, his trial  
19 attorney -- Stuart Sarratt, who's no longer with the public  
20 defender's office -- raised the possible defense or the  
21 affirmative defense of being a battered person. He provided no  
22 testimony, no scientific evidence of such.

23 He did call Stan Oversby, who was with the Anderson  
24 County Solicitor's Office at the time, to proffer some  
25 evidence. I believe that was testified to at trial. There's

1 no scientific evidence to support that.

2 After the trial, after the jury rendered its  
3 verdict, as the defense's motion states, Mr. Sarratt failed to  
4 provide any evidence to The Court of a battered person. He  
5 hadn't retained any expert to that effect and he did not, at  
6 sentencing, allow Mr. Thompson's family to address The Court by  
7 way of mitigation.

8 After the sentencing and after the ruling,  
9 Mr. Sarratt timely drafted and filed a motion to reconsider  
10 sentence. I don't believe it was ever served on Judge Barber  
11 or on the 13th Circuit Solicitor's Office; therefore, that  
12 motion was never heard by The Court.

13 Nine years has passed. I believe in the interim  
14 Mr. Thompson has filed a PCR and that hearing was dismissed as  
15 not ripe at the time because the motion to reconsider had never  
16 been ruled on. As of this date, he's filed a habeas petition  
17 in the federal court but the federal court has dismissed that  
18 petition due to Mr. Thompson not exhausting all potential state  
19 remedies.

20 We haven't even exhausted the first potential  
21 remedy at this point. Again, this is a unique situation where  
22 the prosecutor who tried the case is retired from the  
23 Solicitor's Office. The Public Defender who was trial counsel  
24 no longer works for the Public Defender's office, and the trial  
25 judge is retired.

STATE vs. DAVID L. THOMPSON

1                   Judge Barber doesn't have active retired status  
2 anymore; he is just retired. He no longer has the ability to  
3 hold court.

4                   We find ourselves in a position where the motion  
5 needs to be ruled on so that Mr. Thompson can explore other  
6 potential remedies afforded to him. None of the parties exist.

7                   By way of offering evidence of a battered person,  
8 Your Honor, I submitted an ex parte order to The Court at the  
9 beginning of August requesting funding for an expert on  
10 battered person syndrome.

11                  We have retained Dr. Whitney Danso to do an  
12 evaluation and submit a report to The Court. She is the only  
13 expert --

14                  THE COURT: Before we get -- I think before we get  
15 into the substance there, as you said, this is a very unique  
16 situation. Normally I would note that -- when was the actual  
17 date of the conviction? I don't think it shows in the motion.

18                  MR. NEAL: It would've been in September 2015. I  
19 don't have the exact date, Your Honor.

20                  THE COURT: Do you have the date of that?

21                  MR. FISHER: Yes, Your Honor. September 16th of  
22 2015.

23                  THE COURT: That's the date of the conviction?

24                  MR. FISHER: Yes, Your Honor.

25                  THE COURT: There's a couple things that I think



1 This Court needs to do before they can consider the substance;  
2 one is to determine whether it was timely filed. If it was  
3 September 16th, I know the Rules require it to be filed within  
4 ten days.

5 Second thing I think The Court -- prior to  
6 receiving this motion and discussing it briefly with Counsel  
7 before this motion, I, as chief administrative judge, was  
8 not -- had not seen this motion before. I think it raises some  
9 interesting jurisdictional questions; one is normally a motion  
10 to reconsider would have to be heard by, as you indicated, the  
11 judge that did the sentencing. Now that judge is no longer on  
12 the bench.

13 I need to determine, first of all, what  
14 jurisdiction I have or what steps that we need to take  
15 before -- to determine how or what the process is for  
16 reconsidering a sentence when a judge has been retired.

17 I know there's lots of folks here. And it's a very  
18 important matter, not only for any victim or victim's family  
19 that are here, also for the rights of Mr. Thompson, so I think  
20 that before we get into any substance, The Court is going to  
21 have to make a ruling, one, to determine on the timeliness of  
22 the motion and how we need to proceed since the judge is  
23 retired.

24 I am going to take this under advisement, those  
25 issues. And then I will issue an order that addresses those

STATE vs. DAVID L. THOMPSON

1 and whether we need to go forward. If we need to go forward, I  
2 will set out the procedure for that and let everyone know. Any  
3 issues from that from the defense side?

4 MR. NEAL: None whatsoever. I do believe that's  
5 appropriate, Your Honor.

6 Just so The Court is aware, as far as timing goes,  
7 Dr. Danso is not available to get to the Department of  
8 Corrections to meet with Mr. Thompson until September 26th.  
9 Depending on how The Court rules, if The Court does find the  
10 motion was timely filed, two, The Court does still have  
11 jurisdiction to hear that motion, I would ask that no motion be  
12 scheduled until after September 26th when she has time to meet  
13 with him.

14 THE COURT: I would guess for your purposes, let's  
15 do this ruling before the evaluation.

16 MR. NEAL: Let's do -- if you find that either one,  
17 there is no court that has jurisdiction over this matter  
18 anymore, and the matter should be dismissed as a matter of law  
19 or, two, that it's not timely filed and, therefore, the motion  
20 should be dismissed, there's no point in indigent defense  
21 spending the funds for Dr. Danso. That's a PCR issue later.

22 THE COURT: I'm sure there's some procedure,  
23 Mr. Thompson, for this to be considered. This is kind of a  
24 unique situation. I want to make sure we go through the proper  
25 steps, not only for you but also the victim.

STATE vs. DAVID L. THOMPSON

1 I've not ignored the State. I don't mean to ignore  
2 you. I'll be glad to hear anything from your side.

3 MR. FISHER: The state is ready to proceed. I  
4 understand the issues before The Court. I'm not opposed to  
5 Your Honor taking it under advisement.

6 THE COURT: I will address those issues, and I will  
7 issue an order.

8 MR. NEAL: There is one other issue. If we do move  
9 forward, I believe we might need to get a copy of the trial  
10 transcript since the three of us were not a party to the actual  
11 trial itself.

12 THE COURT: You may know this, I guess probably.  
13 Was this on appeal? Did this get appealed?

14 THE DEFENDANT: This was before.

15 MR. NEAL: No appeal has been filed.

16 THE COURT: Was it tracked in connection to the  
17 PCR?

18 MR. NEAL: There was that. The Attorney General's  
19 Office might have a copy.

20 THE COURT: The court reporter is only allowed to  
21 keep -- how long are y'all required to keep stuff?

22 THE COURT REPORTER: Five or seven years.

23 THE COURT: If there's a PCR file, there's probably  
24 a transcript.

25 MR. NEAL: We'll see if we can make copies, if we

STATE vs. DAVID L. THOMPSON

1 go forward.

2 THE COURT: I'll take that under advisement, let  
3 y'all know what I come up with. Thank y'all for being here.  
4 Sorry we can't go forward with it.

5 (The hearing was concluded at 12:01 p.m.)

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STATE vs. DAVID L. THOMPSON

## CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 27th day of August, 2025 at Spartanburg, Spartanburg County, South Carolina.



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Lora L. McDaniel,  
Registered Professional Reporter  
My Commission expires:  
August 9, 2026

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

State of South Carolina

Plaintiff,

v.

David Lamar Thompson

Defendant.

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

Warrant Nos: 2014A2330204658/59

**ORDER DENYING MOTION  
TO RECONSIDER**

24 OCT 4 PM 4:54  
Erice Garrett COC 6VL SC

The Defendant filed a Motion to Reconsider his sentence from September 16, 2015. This case is in an interesting posture. The Motion was filed on September 28, 2015 but was never scheduled or heard and the trial judge has since retired. Further, the attorney for the State and Defendant have since left their respective offices. So, it has now been presented to me as the Chief Administrative Judge for General Sessions to address. A hearing was held on August 23, 2024 to determine how to proceed in light of the delay in the matter being scheduled. At the hearing, the State was represented by Rick Fisher, Assistant 13<sup>th</sup> Circuit Solicitor and Defendant was represented by Paul Neely of the 13<sup>th</sup> Circuit Public Defender's office.

A brief summary of the relevant history of the case is as follows. On September 16, 2015, a jury found the Defendant guilty of manslaughter and possession of a weapon during the commission of a violent crime. On September 16, 2015, Judge James R. Barber, III, the presiding Judge sentenced the Defendant to 30 years on the manslaughter and 5 years on the possession of a weapon during commission of a violent crime, to be served consecutively. The Defendant filed a Motion to Reconsider Sentence on September 28, 2015 requesting a reduction based on S.C. Code §16-25-90. Even though the Motion was filed back in 2015, it was never set

*Pat*

**RECEIVED**

**Jul 01 2025**

**SC Court of Appeals**

nor addressed prior to Judge Barber's retirement. Now, the Motion has been resurrected and is before me as Chief Administrative Judge. As a threshold question, the Court must determine who has the authority to address the Motion in light of the retirement of Judge Barber. There is not much direction on the criminal side, but there is case law and rules on the civil side for persuasive authority. Rule 63, South Carolina Rules of Civil Procedure provides for the assignment of a "successor judge" in certain circumstances. The cases addressing disability of a judge relate to the interpretation of Civil Rule 63 and may not be applicable to a criminal proceeding. In review of this matter, the Court has determined that as Chief Administrative Judge for General Sessions, I have the authority to address the procedural posture of this case without the necessity of addressing the actual merits of the Defendant's Motion.

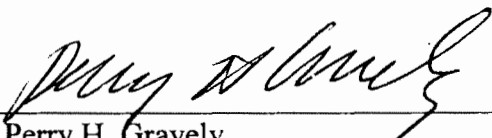
First, the Court must determine if Defendant's Motion is properly before the Court. Rule 29, South Carolina Rules of Civil Procedure provides "[e]xcept for motions for new trials based on after-discovered evidence, post-trial motions shall be made within ten (10) days after the imposition of the sentence." The deadline imposed by Rule 29 must be strictly followed to grant the Court jurisdiction to hear such post-trial motions. "The court does not retain authority to entertain a motion which is not made within ten days of sentencing." *State v. Warren*, 392 S.C. 235, 236 (Ct App 2011). In this case, the "imposition of the sentence" was on September 16, 2015. (See Sentencing sheets attached Ex A-1 and A-2). The motion was not filed until September 28, 2015, 12 days later and past the deadline set forth in Rule 29. Therefore, this Court finds it has no authority to hear the Motion.

Based on Defendant's failure to timely file the Motion to Reconsider, it is not necessary to address the merits of Defendant's Motion and thus Defendant's Motion is respectfully denied.

It is so Ordered.

October 2, 2024

Greenville, S.C.

  
\_\_\_\_\_  
Perry H. Gravely  
Chief Administrative Judge-General Session  
13<sup>th</sup> Judicial Circuit



STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

State of South Carolina

Plaintiff,

v.

David Lamar Thompson

Defendant.

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

Warrant Nos: 2014A2330204658/59

**ORDER RESCINDING ORDER**

**OF OCTOBER 4, 2024**

2024 OCT 11 AM 9:06  
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**RECEIVED**

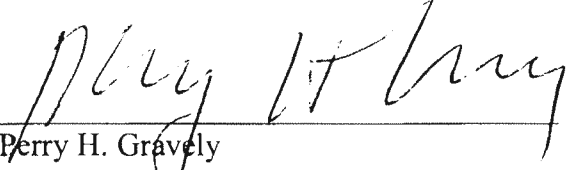
**Jul 01 2025**

**SC Court of Appeals**

Upon further review of this matter, the Court, *sua sponte*, rescinds its Order issued on October 4, 2024 Denying Defendant's Motion to Reconsider. The Court has determined that the Defendant's Motion needs further consideration before a final determination can be made.

It is so Ordered.

October 12, 2024  
Greenville, S.C.

  
Perry H. Gravely  
Chief Administrative Judge-General Session  
13<sup>th</sup> Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

State of South Carolina

v.

David Lamar Thompson

Defendant.

IN THE COURT OF GENERAL SESSIONS

THIRTEENTH JUDICIAL CIRCUIT

Warrant Nos: 2014A2330204658/59

**2<sup>nd</sup> AMENDED  
ORDER REGARDING DEFENDANT'S  
MOTION TO RECONSIDER**

**RECEIVED**

**Jul 01 2025**

The Defendant filed a Motion to Reconsider his sentence on September 16, 2015. This Motion was filed on September 28, 2015 but was never scheduled or heard by the trial judge who has since retired. Further, the attorney for the State and Defendant have since left their respective offices. A hearing was held on August 23, 2024 to determine how to proceed in light of the delay in the matter being scheduled. At the hearing, the State was represented by Rick Fisher, Assistant 13<sup>th</sup> Circuit Solicitor and Defendant was represented by Paul Neely of the 13<sup>th</sup> Circuit Public Defender's office. The Court has also held a conference with Counsel before making a preliminary ruling on this matter.

On September 16, 2015, a jury found the Defendant guilty of manslaughter and possession of a weapon during the commission of a violent crime. On September 16, 2015, Judge James R. Barber, III, sentenced the Defendant to 30 years on the manslaughter and 5 years on the possession of a weapon during commission of a violent crime, to be served consecutively. The Defendant filed a Motion to Reconsider Sentence on September 28, 2015, but the Motion was never addressed by the trial judge and "fell through the cracks" until it was resurrected in connection with a federal action filed by the Defendant.

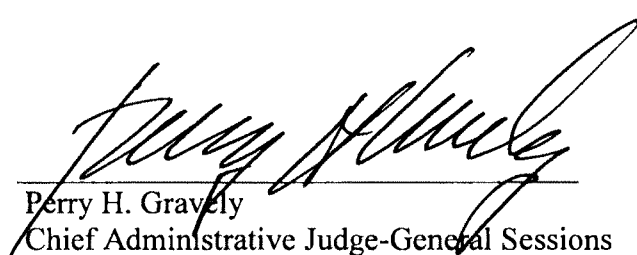
As a threshold question, the Court must determine who has the authority to address the Motion in light of the retirement of Judge Barber. The Court was unable to find any authority on the criminal side, but there is case law and rules on the civil side. Rule 63, South Carolina Rules of Civil Procedure provides for the assignment of a "successor judge" in certain circumstances. The cases addressing disability of a judge relate to

the interpretation of Civil Rule 63 and may not be applicable to a criminal proceeding. Further, the second part of the Defendant's Motion addresses parole eligibility and may be asserted in a post-conviction proceeding. After consideration of the Motion and since a final judgment was entered with the sentence, this Court finds that the Chief Administrative Judge for General Sessions has authority to address Defendant's Motion in light of the retirement of the Trial Judge.

The Motion presents 2 distinct issues. The first one requests the Court to consider additional information for mitigation that counsel "failed to raise at sentencing, and ...neglected to give members of Mr. Thompson's family an opportunity to speak on his behalf." In addition to the time lapse, the Court does not find that this is an appropriate basis for a new hearing or reconsideration of the sentence. Therefore, the Defendant's Motion to present additional mitigation information and reconsider the sentence is denied.

The second issue raised by Defendant's Motion relates to his eligibility for early parole pursuant to S.C. Code §16-25-90. This statute provides that an "inmate" may be eligible for early parole if he presents "credible evidence of a history of criminal violence...suffered at the hands of the household member". The statute also provides that this can be addressed at the time "he was convicted of an offense against a household member, or in post-conviction proceedings pertaining to the ...conviction." Therefore, the Court finds that it has the authority to address the Defendant's Motion for early parole eligibility under §16-25-90 and the Court order that a hearing be scheduled for the presentation of evidence pursuant to the statute and this Court will retain jurisdiction to hear this matter.

It is so Ordered.



Perry H. Gravely  
Chief Administrative Judge-General Sessions  
13<sup>th</sup> Judicial Circuit

November 16, 2024  
Greenville, S.C.

|                              |   |                                                |
|------------------------------|---|------------------------------------------------|
| STATE OF SOUTH CAROLINA      | ) | IN THE COURT OF GENERAL SESSIONS               |
|                              | ) | THIRTEENTH JUDICIAL CIRCUIT                    |
| COUNTY OF GREENVILLE         | ) |                                                |
|                              | ) | <b>MEMORANDUM IN SUPPORT OF</b>                |
| The State of South Carolina, | ) | <b>MOTION FOR DEFENDANT'S</b>                  |
|                              | ) | <b>PAROLE ELIGIBILITY PER</b>                  |
| vs.                          | ) | <b>S.C. Code Ann. § 16-25-90</b>               |
|                              | ) |                                                |
| David Lamar Thompson,        | ) | Warrant nos.: 2014A2330204658 and -4659        |
| Defendant.                   | ) | Indictment no.: 2015GS2304584 (Counts 1 and 2) |

1725 MAR 31 PM 4:43  
 JAY GRESHAM COC CIVL SC

**THIS MATTER COMES** before this Court on Defendant David Lamar Thompson's (hereinafter "Defendant") Motion to Reconsider Sentence pursuant to Rule 29, SCRCrimP. This motion was timely filed subsequent to trial regarding the above-captioned matters. Defendant, by and through undersigned counsel, now submits this memorandum in support of the aforementioned motion requesting an order granting early parole eligibility as governed by S.C. Code Ann. § 16-25-90 (2024).

### PROCEDURAL BACKGROUND

On May 28, 2014, Defendant was arrested and later indicted for the offenses of Murder (warrant no. 2014A2330204658) and Possession of a weapon during a violent crime (warrant no. 2014A2330204659) regarding his on-and-off again girlfriend, Jennifer Youngblood. Defendant pleaded not guilty to the charges, and a jury trial began in the Court of General Sessions for Greenville County on September 14, 2015. Defendant was represented at trial by Assistant Public Defenders Stuart Sarratt and Jake Erwin. The State was represented by Assistant Solicitor Judith Munson of the 13<sup>th</sup> Circuit Solicitor's Office. On September 16, 2015, the jury returned a verdict of not guilty of Murder, but guilty for both the lesser-included offense of Voluntary manslaughter and Possession of a weapon during a violent crime (as indicted).

Immediately following the verdict, the presiding judge, The Honorable James R. Barber, III, sentenced Defendant to thirty (30) years for Voluntary manslaughter and a consecutive five (5) years for Possession of a weapon during a violent crime for an aggregate prison term of thirty-five (35) years at the South Carolina Department of Corrections. Because of the special circumstances of Defendant's case and verdict, Attorney Sarratt filed Defendant's Motion to Reconsider Sentence on September 28, 2015 (see Attachment 1). In relevant part, this post-trial motion requested that Defendant be granted early parole eligibility after serving one-fourth of the

incarceration sentence pursuant to § 16-25-90. This Court previously denied reconsideration of Defendant's sentence regarding other bases not addressed in this memorandum (see Attachment 2).

Through no intentional delay by any party, the motion has been pending since its filing in 2015. Since that time, Judge Barber has retired from the circuit court bench, both attorneys that served as trial counsel have since left the 13<sup>th</sup> Circuit Public Defender's Office, and the Assistant Solicitor has moved on from prosecution and is now in private practice. Defendant's file has since been reassigned to Deputy Public Defender Paul Neely, and prosecution has been taken over for this case by Assistant Solicitor Rick Fisher. The Honorable Perry H. Gravely has retained jurisdiction over this matter as Chief Administrative Judge for General Sessions during the 2024 term.

### LEGAL BASIS

Section 16-25-90 of the South Carolina Code of Laws grants parole eligibility to a subset of defendants convicted of certain offenses when the following requirements are met: (1) The offense was committed against a "household member" as defined by S.C. Code Ann. § 16-25-10(3) (2024); (2) Credible evidence is presented showing Defendant's history as a victim of domestic violence; and (3) Defendant's victimization was perpetrated by the same household member at issue for Defendant's conviction.

The line of cases addressing § 16-25-90 is somewhat cursory but provides valuable guidance. When determining the credibility of a mitigating factor in sentencing, such as a defendant's victimization at the hands of a household member, the United States Supreme Court has approved trial courts to apply a by a preponderance of the evidence burden of proof. *McMillan v. Pennsylvania*, 477 U.S. 49, 91 (1986). *State v. Grooms*, 343 S.C. 248, 254, 540 S.E.2d 99, 102 (2000), defines "credible evidence" as evidence that is trustworthy and more than just plausible. Mere production of evidence is insufficient as the evidence must persuade the finder of fact that the existence of the evidence is more probable than not. *State v. Blackwell-Selim*, 392 S.C. 1, 4, 707 S.E.2d 426, 428 (2011). Determinations of credibility are given great deference by the appellate courts and will be upheld provided the finding is supported by any evidence contained within the trial record. *State v. Johnson*, 413 S.C. 458, 775 S.E.2d 367 (2015). The determination of credibility is solely within the purview of the finder of fact. *State v. Dasher*, 278 S.C. 395, 297 S.E.2d 414 (1982).

## ARGUMENT

As supported by the record at trial, Defendant has met the requirements of § 16-25-90 by a preponderance of the evidence. First and foremost, it is without question that the offense for which Defendant was convicted was against Jennifer Youngblood, who at the time of the offense met the definition of “household member” to Defendant. Multiple witnesses testified that Defendant and Ms. Youngblood met in 2008 and engaged in an on-and-off again romantic relationship for about six (6) years. Trial Tr. 140:7-9, September 14, 2015. Per State’s witness and Ms. Youngblood’s sister, Jackeline Zuniga, Defendant and Ms. Youngblood lived together in the home she shared with her mother and sister for some period of time in 2008 or 2009. Trial Tr. 59:23-25, 60:1-7. Per § 16-25-10(3)(d), a “household member” includes “a male and female who...formerly have cohabitated.”

Second, the trial record contains credible evidence that Defendant was a victim of domestic violence during the six (6) years Defendant and Ms. Youngblood were dating. Not only did Defendant take the stand in his own defense at trial and testify to two (2) specific instances of domestic violence (Trial Tr. 258-263, 263:8-264:12), but evidence was also presented to corroborate these instances. Stan Overby, former Assistant Solicitor with the 13<sup>th</sup> Circuit Solicitor’s Office, testified that he prosecuted Ms. Youngblood for a Criminal domestic violence of a high and aggravated nature (hereinafter “CDVHAN”) warrant from August 2013 where Defendant was named as the victim. Trial Tr. 242:8-22. The charge against Ms. Youngblood was still pending at the time of her death. Trial Tr. 242:23-25. Attorney Overby also corroborated photographs of Defendant’s injuries provided by law enforcement in support of the charge against Ms. Youngblood. Trial Tr. 243:5-21.

Finally, it is undisputed as set forth above that Ms. Youngblood was the alleged perpetrator of the same instances of domestic violence where Defendant was named as the victim. Patricia Nix, legal assistant to Attorney Larry Cooke, also testified that Attorney Cooke represented Ms. Youngblood for the aforementioned CDVHAN case and had worked out a plea agreement on Ms. Youngblood’s behalf. Trial Tr. 245:8-246:9. Ms. Zuniga also testified on rebuttal that she was aware of the pending case against her sister. Trial Tr. 319:17-19.

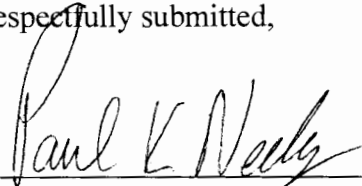
The weight of the evidence supporting the factors of § 16-25-90 is certainly more than its mere production. As Ms. Youngblood was arrested for a CDVHAN warrant, a magistrate judge found probable cause existed to swear out the warrant for Ms. Youngblood’s arrest for this

offense. Defendant asserts the presentation and corroboration of the domestic violence evidence at trial is a clear indication the evidence is more probable than not.

### CONCLUSION

For the aforementioned reasons, Defendant asserts he has met the requirements of S.C. Code Ann. § 16-25-90 (2024) and requests this Court to deem him parole eligible in one-fourth of his aggregate prison term of 35 (thirty-five) years.

Respectfully submitted,



Paul K. Neely, Bar no. 101474  
Attorney for Defendant

13<sup>th</sup> CIRCUIT PUBLIC DEFENDER'S OFFICE  
305 East North Street, Suite 123  
Greenville, South Carolina 29601  
Phone: (864) 467-8522  
Fax: (864) 467-8521  
[pneely@greenvillecounty.org](mailto:pneely@greenvillecounty.org)

March 31, 2025.  
Greenville, South Carolina.

# ATTACHMENT 1



15-4584  
15-4584

THE STATE OF SOUTH CAROLINA )  
 COUNTY OF GREENVILLE )  
 THE STATE )  
 v. )  
 DAVID LAMAR THOMPSON, )  
 DEFENDANT. )

IN THE COURT OF GENERAL SESSIONS  
 THIRTEENTH JUDICIAL CIRCUIT  
 Warrant/Indictment Nos.: 2014A2330204658;  
 2014A2330204659

**MOTION TO RECONSIDER  
 SENTENCE**

FILED-CLERK OF COURT  
 GREENVILLE CO. S.C.  
 PAUL B. WICKENS, CLERK  
 2015 SEP 28 PM 4:35

COMES NOW the defendant, **David Lamar Thompson**, by and through his undersigned counsel, and, pursuant to Rule 29 of the S.C. Rules of Criminal Procedure, respectfully moves this Honorable Court to reconsider the order imposing the following sentence on Mr. Thompson: thirty years for manslaughter plus five consecutive years for possession of a weapon during the commission of a violent crime. Mr. Thompson and I had discussed certain arguments in mitigation that I failed to raise at sentencing, and I neglected to give members of Mr. Thompson's family an opportunity to speak on his behalf.

Additionally, the defendant respectfully moves this Honorable Court to rule upon the defendant's request for an evidentiary hearing to determine whether the defendant qualifies for early parole eligibility under S.C. Code. Ann. § 16-25-90 (Supp. 2013). When counsel for the defendant moved this Honorable Court at sentencing to consider early parole eligibility, the Solicitor demurred that a full evidentiary hearing would be required. Counsel for the defendant indicated that he would defer to Your Honor on the issue, but there was never an explicit ruling on the record.

Respectfully submitted,

## GREENVILLE COUNTY PUBLIC DEFENDER

By: Stuart B. Sarratt

Stuart B. Sarratt, Esq.

Bar No. 100228

Attorney for Defendant

305 E. North Street, Suite 123

Greenville, SC 29601

(864) 467-8522

Greenville, SC

Date: September 28, 2015

# ATTACHMENT 2

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
State of South Carolina

IN THE COURT OF GENERAL SESSIONS  
THIRTEENTH JUDICIAL CIRCUIT

Warrant Nos: 2014A2330204658/59

v.

David Lamar Thompson

Defendant.

**2<sup>nd</sup> AMENDED  
ORDER REGARDING DEFENDANT'S  
MOTION TO RECONSIDER**

24 NOV 18 PM 4:53  
Erice Barrett DCC BUL SC

The Defendant filed a Motion to Reconsider his sentence on September 16, 2015. This Motion was filed on September 28, 2015 but was never scheduled or heard by the trial judge who has since retired. Further, the attorney for the State and Defendant have since left their respective offices. A hearing was held on August 23, 2024 to determine how to proceed in light of the delay in the matter being scheduled. At the hearing, the State was represented by Rick Fisher, Assistant 13<sup>th</sup> Circuit Solicitor and Defendant was represented by Paul Neely of the 13<sup>th</sup> Circuit Public Defender's office. The Court has also held a conference with Counsel before making a preliminary ruling on this matter.

On September 16, 2015, a jury found the Defendant guilty of manslaughter and possession of a weapon during the commission of a violent crime. On September 16, 2015, Judge James R. Barber, III, sentenced the Defendant to 30 years on the manslaughter and 5 years on the possession of a weapon during commission of a violent crime, to be served consecutively. The Defendant filed a Motion to Reconsider Sentence on September 28, 2015, but the Motion was never addressed by the trial judge and "fell through the cracks" until it was resurrected in connection with a federal action filed by the Defendant.

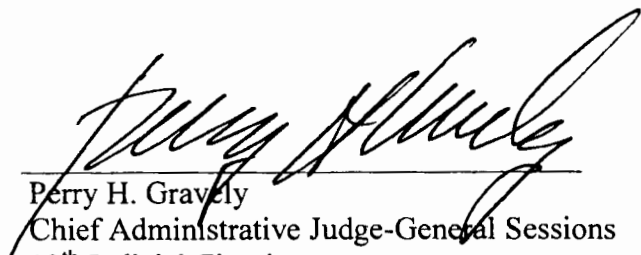
As a threshold question, the Court must determine who has the authority to address the Motion in light of the retirement of Judge Barber. The Court was unable to find any authority on the criminal side, but there is case law and rules on the civil side. Rule 63, South Carolina Rules of Civil Procedure provides for the assignment of a "successor judge" in certain circumstances. The cases addressing disability of a judge relate to

326  
the interpretation of Civil Rule 63 and may not be applicable to a criminal proceeding. Further, the second part of the Defendant's Motion addresses parole eligibility and may be asserted in a post-conviction proceeding. After consideration of the Motion and since a final judgment was entered with the sentence, this Court finds that the Chief Administrative Judge for General Sessions has authority to address Defendant's Motion in light of the retirement of the Trial Judge.

The Motion presents 2 distinct issues. The first one requests the Court to consider additional information for mitigation that counsel "failed to raise at sentencing, and ...neglected to give members of Mr. Thompson's family an opportunity to speak on his behalf." In addition to the time lapse, the Court does not find that this is an appropriate basis for a new hearing or reconsideration of the sentence. Therefore, the Defendant's Motion to present additional mitigation information and reconsider the sentence is denied.

The second issue raised by Defendant's Motion relates to his eligibility for early parole pursuant to S.C. Code §16-25-90. This statute provides that an "inmate" may be eligible for early parole if he presents "credible evidence of a history of criminal violence...suffered at the hands of the household member". The statute also provides that this can be addressed at the time "he was convicted of an offense against a household member, or in post-conviction proceedings pertaining to the ...conviction." Therefore, the Court finds that it has the authority to address the Defendant's Motion for early parole eligibility under §16-25-90 and the Court order that a hearing be scheduled for the presentation of evidence pursuant to the statute and this Court will retain jurisdiction to hear this matter.

It is so Ordered.

  
Perry H. Gravely  
Chief Administrative Judge-General Sessions  
13<sup>th</sup> Judicial Circuit

November 16, 2024  
Greenville, S.C.

|                          |   |                                     |
|--------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF GENERAL SESSIONS    |
|                          | ) | THIRTEENTH JUDICIAL CIRCUIT         |
| COUNTY OF GREENVILLE     | ) |                                     |
|                          | ) |                                     |
| STATE OF SOUTH CAROLINA, | ) | 2015-GS-23-04584                    |
|                          | ) |                                     |
|                          | ) |                                     |
| vs.                      | ) |                                     |
|                          | ) | <b>MEMORANDUM IN OPPOSITION</b>     |
|                          | ) | <b>TO DEFENDANT'S MOTION</b>        |
| DAVID LAMAR THOMPSON     | ) | <b>FOR EARLY PAROLE ELIGIBILITY</b> |
| Defendant.               | ) |                                     |

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25 APR 11 AM 11:19  
JMY GREENHAM CDC CIVIL SC

COMES NOW THE STATE OF SOUTH CAROLINA submitting this Memorandum in Opposition to Defendant's Motion For Early Parole Eligibility Pursuant to S.C. Code Section 16-25-90.

On May 23, 2014, Defendant went to the home of the victim, Jennifer Youngblood, and stabbed her seventeen times, resulting in her death. Defendant stabbed Ms. Youngblood in the temple and in the jugular. He stabbed her in the throat, causing Ms. Youngblood to aspirate her own blood. Defendant also stabbed Ms. Youngblood in her chest and abdomen, penetrating both of her lungs, her heart, her liver, and stomach. One of the stab wounds was 5.7 inches deep. Ms. Youngblood also had defensive wounds to her arms and hand. Ms. Youngblood's mother, Maria Usma, arrived home that day to find Ms. Youngblood dead in a pool of her own blood.

Defendant was charged with murder and possession of a weapon during the commission of a violent crime. At trial, Defendant admitted to killing Ms. Youngblood, but denied doing so with malice aforethought. On September 16, 2015, the jury returned a verdict finding Defendant guilty of voluntary manslaughter and possession of a weapon during the commission of a violent crime. Defendant was sentenced to thirty (30) years for voluntary manslaughter and a consecutive five (5) years for possession of a weapon during the commission of a violent crime. Defendant

filed a post-trial Motion to Reconsider Sentence on September 28, 2015. Inexplicably, Defendant's motion was not served upon the State nor heard by the trial judge. The motion was two-pronged: a motion to reconsider the sentence, and a motion for early parole eligibility under S.C. Code section 16-25-90. The first prong of Defendant's motion was disposed of by the Court's 2<sup>nd</sup> Amended Order Regarding Defendant's Motion to Reconsider dated November 16, 2024. The remaining issue before the Court is whether Defendant is eligible for early parole under S.C. Code section 16-25-90. The State contends that he is not.

For purposes of Defendant's motion, S.C. Code section 15-25-90 states, "[A]n inmate who was convicted of . . . an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate . . . presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member." The burden is on the Defendant to prove a history of criminal domestic violence by a preponderance of the evidence. *State v. Blackwell-Selim*, 392 S.C. 1, 707 S.E.2d 426 (2011) (citing *State v. Grooms*, 343 S.C. 248, 540 S.E.2d 99 (2000)). The "use of the term 'credible evidence' indicates the legislature intended the defendant's evidence to be, in fact, trustworthy, not simply plausible." *Id.* at 4, 707 S.E.2d at 428.

Under S.C. Code Section 16-25-20, applicable at the relevant time period as it is today, it was and is unlawful to "(1) cause physical harm or injury to a person's own household member; or (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril." Ms. Youngblood was arrested and charged with criminal domestic violence of a high and aggravated nature under S.C. Code Section 16-25-65 on or about August 20, 2013, under warrant number 2013A2330207061. Defendant was the alleged victim. Ms. Youngblood was never indicted or

convicted on that charge. She never entered a guilty plea, nor made any admission or confession regarding that charge. The charge was still pending at the time Ms. Youngblood was killed by Defendant on May 23, 2014. At his September 14 through 16, 2015, trial for murder and possession of a weapon during the commission of a violent crime, Defendant attempted to offer evidence regarding the allegations of criminal domestic violence against Ms. Youngblood. Ms. Youngblood, of course, did not have an opportunity to defend herself. In order to determine whether or not Defendant is eligible for early parole under Section 16-25-90, the court is left to rely, in large part, on the transcript of Defendant's trial.

As an initial matter, in order to prove a history of criminal domestic violence, Defendant must prove that he and Ms. Youngblood were "household members" as defined under S.C. Code Section 16-25-10(3). Defendant and Ms. Youngblood were not and had never been married. They had no children in common. Thus, the only possible manner in which Defendant and Ms. Youngblood could be deemed as household members was if they were "cohabiting or formerly have cohabited." S.C. Code Section 16-25-10(3)(d). Maria Usma, Ms. Youngblood's mother and in whose home she resided, testified that Defendant never lived with them. Transcript of Trial, p. 56, ll. 22-23. Jackeline Zuniga, Ms. Youngblood's sister who also resided in the home, testified that Defendant stayed with them for "[p]robably like a month or two" in 2008 or 2009, when Zuniga would have been ten or eleven years old. Transcript of Trial, p. 59, l. 23 – p. 60, l. 10. There was no evidence that Defendant formally resided in Usma's home, such as receiving mail at the home, a change of address with the Department of Motor Vehicles, or a lease. The State contends that Defendant has not established cohabitation by a preponderance of the evidence.

Aside from Defendant's self-serving testimony on his own behalf, there is scant evidence of a history of criminal domestic violence by Ms. Youngblood against the 6-foot 7-inch Defendant.



Defendant's own statements to third persons involved in the 2013 case against Ms. Youngblood contradict his subsequent testimony at trial. Stan Overby was an assistant solicitor with Thirteenth Circuit's Solicitor's Office at the time, and was assigned to prosecute the case against Ms. Youngblood. At Defendant's trial, Overby testified that Defendant had told him Ms. Youngblood actually did not cut the Defendant. Transcript of Trial, p. 244, ll. 6-12. On May 23, 2014, the very day that he killed Ms. Youngblood, Defendant called her attorney's office and spoke to Pat Nix, an employee at the office. Nix testified that the Defendant "advised [her] that he did not want Ms. Youngblood to go to jail, that it was all a misunderstanding and that he did not want her to do any jail time." Transcript of Trial, p. 246, ll. 13-22.

During his case-in-chief, Defendant testified that, during his six-year on-again off-again relationship with Ms. Youngblood, their relationship only ever got physical on the date of the alleged criminal domestic violence and the day he killed her. Transcript of Trial, p. 258, ll. 12-14. Defendant alleged that Ms. Youngblood struck him while he was driving in August 2013. Transcript of Trial, p. 259, ll. 9-16. Defendant denied calling the police to report this alleged incident. Transcript of Trial, p. 262, ll. 17-22. During the State's reply, Sarah Napolitano, the officer who obtained the warrant for Ms. Youngblood, testified that Defendant called the police, and that the alleged assault had occurred at an apartment. Transcript of Trial, p. 311, l. 18 – p. 312, l. 5. At the time of the alleged criminal domestic violence, Defendant was "loaded, drinking and everything" and, at trial, was unable to describe how he got cut. Transcript of Trial, p. 262, ll. 4-11. Defendant testified that he had been in possession of a box cutter that day. Transcript of Trial, p. 291, ll. 8-9. Sergeant Ramon Rivera testified that the Defendant told him that he, the Defendant, got the scars on his arm from cleaning out a fryer at an old job, only to later say he got them from his work as a bouncer. Transcript of Trial, p. 317, ll. 9-19. No other witness to the

alleged incident Defendant relies on testified at trial. Contrary to his prior testimony, Defendant then testified that there was one other occasion of physical altercation with Ms. Youngblood for which Ms. Youngblood was charged with criminal domestic violence. Transcript of Trial, p. 263, l. 12 – p. 264, l. 10. However, he previously omitted this allegation, and there is no court record of any other criminal domestic violence charge filed against Ms. Youngblood. Defendant also testified that he considered dropping Ms. Youngblood’s pending charges if she paid him, and that they discussed this potential arrangement on the day that he killed her, after he had consumed a half gallon of vodka, twenty-four beers, heroin and opiates. Transcript of Trial, p. 271, l.8 – p. 273, l. 21. Sergeant Rivera, however, did not observe any level of intoxication while interviewing Defendant on that date. Transcript of Trial, p. 313, ll. 20-21.

Defendant’s testimony in his own defense was wildly inconsistent, and was often contradicted by his own prior statements. On cross-examination, Sergeant Rivera was asked, “Is it fair to say that everything [the Defendant] told you was a lie and didn’t make any sense?” Sergeant Rivera answered, “Yes.” Transcript of Trial, p. 318, ll. 17-19. On redirect, Sergeant Rivera acknowledged, “Some of it was true, but it was constantly changing throughout the course of the interview.” Transcript of Trial, p. 318, ll. 24-25. Throughout his testimony, Defendant blamed his intoxication for his failure to recall the details of his killing of Ms. Youngblood, and for his lying to investigators thereafter. With respect to the criminal domestic violence allegation against Ms. Youngblood, Defendant testified that he was “loaded” at the time, and was unable to explain how he had been injured. Although the jury found that the State did not meet its burden of proving Defendant killed Ms. Youngblood with malice aforethought, it should not be inferred that the jury found Defendant credible.

Even should the court find that Defendant and Ms. Youngblood were “household members” under S.C. Code Section 16-25-10, there is not sufficient credible evidence proving a history of Ms. Youngblood causing “physical harm or injury” to Defendant. Merriam-Webster defines history, as applicable in the present case, as “an established record.” One flimsy, unsubstantiated allegation is not sufficient to prove an established record of criminal domestic violence. Therefore, Defendant has failed to present credible, trustworthy evidence of a history of criminal domestic violence suffered at the hands of Ms. Youngblood, and should not be eligible for parole after serving one-fourth of his thirty-five (35) year prison term pursuant to S.C. Code Section 16-25-90. On May 23, 2014, Defendant brutally killed Jennifer Youngblood, stabbing her seventeen times with a knife. He was convicted of voluntary manslaughter and possession of a weapon during the commission of a violent crime and sentenced to a total of thirty-five (35) years. Defendant should serve the entirety of his sentence.

For the foregoing reasons, Defendant’s Motion For Early Parole Eligibility Pursuant to S.C. Code Section 16-25-90 should be denied.

Respectfully submitted,



Frederick F. Fisher, S.C. Bar # 71670  
Assistant Solicitor  
Office of the Thirteenth Circuit Solicitor  
305 E. North Street, Suite 325  
Greenville, SC 29601

April 11, 2025

|                          |   |                                     |
|--------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF GENERAL SESSIONS    |
|                          | ) | THIRTEENTH JUDICIAL CIRCUIT         |
| COUNTY OF GREENVILLE     | ) |                                     |
|                          | ) |                                     |
| STATE OF SOUTH CAROLINA, | ) | 2015-GS-23-04584                    |
|                          | ) |                                     |
| vs.                      | ) |                                     |
|                          | ) | <b>ORDER DENYING</b>                |
|                          | ) | <b>DEFENDANT'S MOTION</b>           |
| DAVID LAMAR THOMPSON     | ) | <b>FOR EARLY PAROLE ELIGIBILITY</b> |
| Defendant.               | ) |                                     |

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JAY GRESHAM CJC GVL SC

On May 23, 2014, the Defendant went to the home of the victim, Jennifer Youngblood, and stabbed her seventeen times, resulting in her death. The Defendant was charged with murder and possession of a weapon during the commission of a violent crime. At trial, the Defendant admitted to killing Ms. Youngblood, but denied doing so with malice aforethought. On September 16, 2015, the jury returned a verdict finding the Defendant guilty of voluntary manslaughter and possession of a weapon during the commission of a violent crime. The trial judge, Judge James R. Barber, III, sentenced the Defendant to thirty (30) years for voluntary manslaughter and a consecutive five (5) years for possession of a weapon during the commission of a violent crime. The Defendant filed a post-trial Motion to Reconsider Sentence on September 28, 2015. Inexplicably, the Defendant's Motion to Reconsider Sentence was never heard or otherwise addressed by the trial judge. The Motion was two-pronged: a motion to reconsider the sentence, and a motion for early parole eligibility under S.C. Code section 16-25-90. The first prong of the Defendant's Motion was disposed of by this Court's 2<sup>nd</sup> Amended Order Regarding Defendant's Motion to Reconsider dated November 16, 2024. The remaining issue before the Court is whether the Defendant is eligible for early parole under S.C. Code section 16-25-90.

For purposes of the Defendant's Motion, S.C. Code section 15-25-90 states, "[A]n inmate who was convicted of . . . an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate . . . presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member." The burden is on the Defendant to prove a history of criminal domestic violence by a preponderance of the evidence. *State v. Blackwell-Selim*, 392 S.C. 1, 707 S.E.2d 426 (2011) (citing *State v. Grooms*, 343 S.C. 248, 540 S.E.2d 99 (2000)). The "use of the term 'credible evidence' indicates the legislature intended the defendant's evidence to be, in fact, trustworthy, not simply plausible." *Id.* at 4, 707 S.E.2d at 428.

Under S.C. Code Section 16-25-20, applicable at the relevant time period as it is today, it was and is unlawful to "(1) cause physical harm or injury to a person's own household member; or (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril." Ms. Youngblood was arrested and charged with criminal domestic violence of a high and aggravated nature under S.C. Code Section 16-25-65 on or about August 20, 2013, under warrant number 2013A2330207061. The Defendant was the alleged victim. Ms. Youngblood was never indicted or convicted on that charge. She never entered a guilty plea, nor made any admission or confession regarding that charge. The charge was still pending at the time Ms. Youngblood was killed by the Defendant on May 23, 2014. At his September 14 through 16, 2015, trial for murder and possession of a weapon during the commission of a violent crime, the Defendant attempted to offer evidence regarding the allegations of criminal domestic violence against Ms. Youngblood. Ms. Youngblood, of course, did not have an opportunity to defend herself. In order to determine

whether or not the Defendant is eligible for early parole under Section 16-25-90, the Court is left to rely, in large part, on the transcript of the Defendant's trial.

In order to prove a history of criminal domestic violence, the Defendant must prove that he and Ms. Youngblood were "household members" as defined under S.C. Code Section 16-25-10(3). The Defendant and Ms. Youngblood were not and had never been married. They had no children in common. Thus, the only possible manner in which the Defendant and Ms. Youngblood could be deemed as household members was if they were "cohabiting or formerly have cohabited." S.C. Code Section 16-25-10(3)(d). Maria Usma, Ms. Youngblood's mother and in whose home she resided, testified that the Defendant never lived with them. Transcript of Trial, p. 56, ll. 22-23. Jackeline Zuniga, Ms. Youngblood's sister who also resided in the home, testified that the Defendant stayed with them for "[p]robably like a month or two" in 2008 or 2009, when Zuniga would have been ten or eleven years old. Transcript of Trial, p. 59, l. 23 – p. 60, l. 10. There was no evidence that the Defendant formally resided in Usma's home, such as receiving mail at the home, a change of address with the Department of Motor Vehicles, or a lease. The Court finds that the Defendant has not established cohabitation by a preponderance of the evidence.

Moreover, aside from the Defendant's testimony on his own behalf, there is scant evidence of a history of criminal domestic violence by Ms. Youngblood against the 6-foot 7-inch Defendant. The Defendant's own statements to third persons involved in the 2013 case against Ms. Youngblood contradict his subsequent testimony at trial. Stan Overby was an assistant solicitor with Thirteenth Circuit's Solicitor's Office at the time, and was assigned to prosecute the case against Ms. Youngblood. At the Defendant's trial, Overby testified that the Defendant had told him Ms. Youngblood actually did not cut the Defendant as initially alleged. Transcript of Trial, p. 244, ll. 6-12. On May 23, 2014, the very day that he killed Ms. Youngblood, the Defendant

called her attorney's office and spoke to Pat Nix, an employee at the office. Nix testified that the Defendant "advised [her] that he did not want Ms. Youngblood to go to jail, that it was all a misunderstanding and that he did not want her to do any jail time." Transcript of Trial, p. 246, ll. 13-22.

During his case-in-chief, the Defendant testified that, during his six-year on-again off-again relationship with Ms. Youngblood, their relationship only ever got physical on the date of the alleged criminal domestic violence and the day he killed her. Transcript of Trial, p. 258, ll. 12-14. The Defendant alleged that Ms. Youngblood struck him while he was driving in August 2013. Transcript of Trial, p. 259, ll. 9-16. The Defendant denied calling the police to report this alleged incident. Transcript of Trial, p. 262, ll. 17-22. During the State's reply, Sarah Napolitano, the officer who obtained the warrant for Ms. Youngblood, testified that Defendant called the police, and that the alleged assault had occurred at an apartment. Transcript of Trial, p. 311, l. 18 – p. 312, l. 5. At the time of the alleged criminal domestic violence, the Defendant was "loaded, drinking and everything" and, at trial, was unable to describe how he got cut. Transcript of Trial, p. 262, ll. 4-11. The Defendant testified that he had actually been in possession of a box cutter that day. Transcript of Trial, p. 291, ll. 8-9. Sergeant Ramon Rivera testified that the Defendant told him that he, the Defendant, got the scars on his arm from cleaning out a fryer at an old job, only to later say he got them from his work as a bouncer. Transcript of Trial, p. 317, ll. 9-19. No other witness to the alleged incident the Defendant relies on testified at trial. Contrary to his prior testimony, the Defendant then testified that there was one other occasion of physical altercation with Ms. Youngblood for which Ms. Youngblood was charged with criminal domestic violence. Transcript of Trial, p. 263, l. 12 – p. 264, l. 10. However, he previously omitted this allegation, and there is no court record of any other criminal domestic violence charge filed against Ms.

Youngblood. The Defendant also testified that he considered dropping Ms. Youngblood's pending charges if she paid him, and that they discussed this potential arrangement on the day that he killed her, after he had consumed a half gallon of vodka, twenty-four beers, heroin and opiates. Transcript of Trial, p. 271, l.8 – p. 273, l. 21. Sergeant Rivera, however, did not observe any level of intoxication while interviewing the Defendant on that date. Transcript of Trial, p. 313, ll. 20-21.

The Defendant's testimony in his own defense was inconsistent, and was often contradicted by his own prior statements. On cross-examination, Sergeant Rivera was asked, "Is it fair to say that everything [the Defendant] told you was a lie and didn't make any sense?" Sergeant Rivera answered, "Yes." Transcript of Trial, p. 318, ll. 17-19. On redirect, Sergeant Rivera acknowledged, "Some of it was true, but it was constantly changing throughout the course of the interview." Transcript of Trial, p. 318, ll. 24-25. Throughout his testimony, the Defendant blamed his intoxication for his failure to recall the details of his killing of Ms. Youngblood, and for his lying to investigators thereafter. With respect to the criminal domestic violence allegation against Ms. Youngblood, the Defendant testified that he was "loaded" at the time, and was unable to explain how he had been injured. Although the jury found that the State did not meet its burden of proving the Defendant killed Ms. Youngblood with malice aforethought, it should not be inferred that the jury found the Defendant credible.

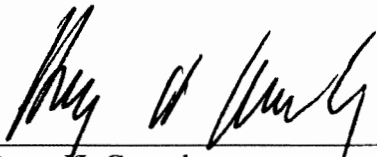
In addition to finding that the Defendant and Ms. Youngblood were not "household members" under S.C. Code Section 16-25-10, the Court also finds that there is not sufficient credible evidence proving a history of Ms. Youngblood causing "physical harm or injury" to the Defendant. Merriam-Webster defines history, as applicable in the present case, as "an established record." The Defendant's one unsubstantiated allegation is not sufficient to prove an established



record of criminal domestic violence. Therefore, the Court finds that the Defendant has failed to present credible, trustworthy evidence of a history of criminal domestic violence suffered at the hands of Ms. Youngblood. Therefore, the Defendant is not be eligible for early parole under S.C. Code Section 16-25-90.

For the foregoing reasons, the Defendant's Motion For Early Parole Eligibility Pursuant to S.C. Code Section 16-25-90 is hereby DENIED.

It is so Ordered.



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Perry H. Gravely  
Circuit Court Judge  
Thirteenth Judicial Circuit

June 9, 2025  
Greenville, South Carolina

**THE STATE OF SOUTH CAROLINA  
In the Appellate Court**

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**APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions**

**James R. Barber, III, Circuit Court Judge  
Perry H. Gravely, Circuit Court Judge**

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**Indictment No.     2015-GS-23-04584  
Warrant No(s).:   2014A2330204658, 2014A2330204659**

**RECEIVED**  
JUN 24 2025  
SC Court of Appeals  
GREENVILLE COUNTY SC

The State,

Respondent.

v.

David Lamar Thompson,

Appellant.

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**NOTICE OF APPEAL**

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David Lamar Thompson appeals his conviction and sentence in this case. The sentence was imposed by the Honorable James R. Barber, III on September 16, 2015 which became final upon the denial of the Appellant's Motion to Reconsider Sentence which was denied by the Honorable Perry H. Gravely on June 10, 2025.

Date: June 16, 2025

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**THE STATE OF SOUTH CAROLINA  
In the Appellate Court**

**APPEAL FROM GREENVILLE COUNTY  
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**James R. Barber, III, Circuit Court Judge  
Perry H. Gravely, Circuit Court Judge**

**RECEIVED**

JUN 24 2025

SC Court of Appeals

**Indictment No. 2015-GS-23-04584  
Case No(s).: 2014A2330204658, 2014A2330204659**

The State,

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v.

David Lamar Thompson,

Appellant.

**PROOF OF SERVICE**

I certify that I have served the Notice of Appeal on the below listed respondents by depositing a copy of it in the United States Mail, postage prepaid, on June 16, 2025, addressed to:

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Date: June 16, 2025

  
\_\_\_\_\_  
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**CERTIFICATE OF COUNSEL FOR APPELLANT**

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



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Molly M Keegan  
Appellate Defender

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**Sep 21 2026**

**SC Court of Appeals**

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 21st day of September, 2026.