

RECEIVED

Sep 25 2026

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Beaufort County

G.D. Morgan, Jr., Circuit Court Judge

DELMAR R. SANDERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2026-001146

APPENDIX

KERSEY A. REYNOLDS
Appellate Defender

ALAN WILSON
Attorney General

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

KYLEE MARCELLA KANEALEY
Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549
(803) 734-4103

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
IMMUNITY HEARING TRANSCRIPT DATED APRIL 22, 2022	1
TRIAL TRANSCRIPT DATED AUGUST 22-25, 2022	
VOLUME I DATED AUGUST 22, 2022	126
VOLUME II DATED AUGUST 23, 2022	231
VOLUME III DATED AUGUST 24, 2022.....	440
VOLUME IV DATED AUGUST 25, 2022	713
APPLICATION FOR POST-CONVICTION RELIEF DATED JANUARY 14, 2025.....	897
RETURN TO APPLICATION FOR POST-CONVICTION RELIEF DATED AUGUST 29, 2025	904
AMENDED POST-CONVICTION RELIEF APPLICATION DATED JANUARY 7, 2026...	909
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JANUARY 7, 2026	911
ORDER OF DISMISSAL DATED MAY 8, 2026.....	945
NOTICE OF APPEAL DATED MAY 15, 2026.....	957
INDICTMENTS	958
SENTENCING SHEETS.....	964
VERDICT FORMS.....	968

1 the -- I was at a stop sign, and a young lady
2 came running up, screaming that she was in
3 trouble or something.

4 Q. Okay. Did you ever get out of your
5 car?

6 A. No, sir.

7 Q. Why didn't you get out of your car?

8 A. She was acting hysterical. She was
9 acting like she was -- I don't know how to say
10 it for you, like she was high on something or
11 just acting real weird.

12 Q. Were you afraid to get out of your car?

13 A. Yes, I was.

14 Q. Were you afraid that you could be
15 robbed?

16 A. That's what I thought that she was
17 gonna try to do something to me.

18 Q. Were there any other odd behaviors that
19 Ms. Randall exhibited, while she was speaking
20 with you?

21 A. No, but I mean I just keep asking her,
22 "What's wrong?" She wouldn't -- she never
23 answered me. You know, she was just screaming
24 -- screaming to help her, help her, and I'm
25 like, "What's wrong," but she never answered.

1 Q. Did you find it odd that she wanted a
2 cigarette?

3 A. Yeah.

4 Q. Why was that odd to you?

5 A. That time of the morning, and she was
6 screaming, "Help me, help me, he's gonna kill
7 me," I wasn't -- I didn't know who she was
8 talking about, or what was going on. I said,
9 "The only thing I can do for you, ma'am, is call
10 911."

11 Q. But you thought it was -- did you think
12 it was odd that she would be focused on getting
13 a cigarette at that time?

14 A. Well, if you're saying someone is
15 trying to kill you, then you ask for a
16 cigarette, that's kind of odd to me.

17 MR. PAULK: No further questions for this
18 witness, Your Honor.

19 THE COURT: Ms. Jones?

20 MS. JONES: I have no questions for Mr.
21 Moultrie.

22 THE COURT: All right, Mr. Moultrie --

23 WITNESS: Thank you.

24 THE COURT: -- I believe your testimony --
25 is he excused -- or released from his subpoena?

1 MR. PAULK: Yes, sir, please release Mr.
2 Moultrie from his subpoena.

3 THE COURT: Then you are excused.

4 WITNESS: Thank you, sir.

5 THE COURT: Thank you.

6 MR. PAULK: Your Honor, the defense next
7 calls Robert Brownfield to the stand.

8 MS. JONES: May we approach, Your Honor?

9 THE COURT: Sure.

10 MS. JONES: Thank you.

11 (Bench conference.)

12 THE COURT: Ladies and gentlemen, we have a
13 matter of law that we need to take up, I
14 apologize. We'll be back with you as soon as we
15 can.

16 (Jury exits the courtroom.)

17 THE BAILIFF: The jury's cleared, Your
18 Honor.

19 THE COURT: All right, let's stay on the
20 record. The State is objecting to the testimony
21 of Mr. Brownfield. I want to make sure we're
22 all on the same page with that, and it's all on
23 the record.

24 We had a bench conference, which wasn't
25 recorded, but I want to make sure everything's

1 fully on the record.

2 So is your intent, Mr. Paulk, to call Mr.
3 Brownfield to elicit a prior inconsistent
4 statement of Ms. Randall; is that my
5 understanding?

6 MR. PAULK: Your Honor, a prior
7 inconsistent statement is the main thrust of
8 this witness. He also knows her reputation,
9 generally, he indicated.

10 THE COURT: And -- well, that's good, and I
11 think he may be able to testify, as to her
12 reputation, eventually, but it's my
13 understanding there was some portion of his
14 testimony would be that she intended -- or she
15 and Mr. McLendon intended to rob Mr. Sanders.

16 MR. PAULK: That's correct.

17 THE COURT: And I don't believe -- I would
18 have to look back at my notes, but I don't
19 believe you ever asked her the specific question
20 during her -- or during your cross, as to
21 whether or not she intended to rob Mr. Sanders.
22 And I believe that would be required, as far as
23 the foundation is concerned to get the
24 statement, as I read 613B.

25 You know, if you -- if there's another --

1 and, certainly, her testimony in that regard
2 would be hearsay. If you have another hearsay
3 exception, or do you want to recall her? I
4 certainly don't want to do anything to hinder
5 your defense, but we've all got to play by the
6 rules.

7 MR. PAULK: Yes, Your Honor.

8 MS. JONES: Your Honor?

9 THE COURT: Yes, ma'am.

10 MS. JONES: If I may, I did put my
11 objection from the sidebar under 613B. I do not
12 think he's laid the foundation, as Your Honor
13 stated, just the plain reading of the rule.
14 Regarding the character evidence, I just want to
15 make sure that if Mr. Brownfield is allowed to
16 testify to Ms. Randall's reputation for
17 truthfulness or untruthfulness, that he can
18 establish that he knows that, based on the
19 community's opinion.

20 He can't just get up there and say his
21 personal opinion. And we have, in this case,
22 very specific State v. Grubbs, it can't just be
23 his opinion, it can't just be what one person
24 told him, it has to be based on the social group
25 opinion, or the business group opinion. And I

1 don't know if he can or can't do that, I just
2 want to make sure that that is satisfied before
3 he testifies in front of the jury.

4 THE COURT: Okay.

5 MR. PAULK: Your Honor, Mr. Brownfield,
6 personally, knows Ms. Randall. He personally
7 knows her character. He personally knows her
8 character for truthfulness.

9 He personally knows about her specific
10 instances of conduct even. Mr. Brownfield would
11 be able to testify, generally, to her
12 reputation. I believe that he would also be
13 able to testify to specific instances of
14 interactions that he has had with Ms. Randall.

15 THE COURT: But he would be -- would he be
16 able to testify, as to her character in the
17 community, as a whole?

18 MR. PAULK: I believe he would, Your Honor.

19 THE COURT: Then I think, based on the case
20 she cited, I think it's proper, just as long as
21 he does it in that manner.

22 MS. JONES: I just --

23 MR. PAULK: Sorry.

24 MS. JONES: I just want to make sure we
25 avoid just his personal opinion, which it sounds

1 like what the crux of his testimony will be.

2 MR. PAULK: Your Honor, the other issue
3 with this witness is, that he is represented
4 currently, and that his attorney is not here at
5 the moment. We're working to get his attorney
6 here to preserve any Fifth Amendment Rights that
7 he may have to the proceedings that are
8 currently against him.

9 THE COURT: Okay. Do we have anybody else
10 we can keep this train moving with?

11 MR. PAULK: Yes, Your Honor, the defense
12 would call Ms. Adrienne Johnson to the stand.

13 THE BAILIFF: The jury's entering the
14 courtroom, Your Honor.

15 THE COURT: Thank you, sir.

16 THE BAILIFF: The jury's seated, Your
17 Honor.

18 THE COURT: All right, call your next
19 witness, Mr. Paulk.

20 MR. PAULK: Your Honor, the State calls --
21 the defense calls Adrienne Johnson.

22 MS. JONES: Your Honor, may we approach?
23 My apologies.

24 THE COURT: Yes, ma'am.

25 (Bench conference.)

1 THE COURT: Go ahead and swear the witness.

2 * * *

3 ADRIANNE JOHNSON

4 * * *

5 being first duly sworn, testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. PAULK:

9 Q. Ms. Johnson, do you mind sitting back
10 down, just so the jury can see you and we're
11 clear?

12 A. Okay.

13 Q. Thank you.

14 A. Uh-huh.

15 Q. How do you know Mr. Delmar Sanders?

16 A. He's my son.

17 Q. Did Mr. Sanders go to your house on the
18 night of July 22nd?

19 A. Yes.

20 Q. Why was he at your house on July 22nd?

21 A. He asked if he could come and take a
22 shower.

23 Q. Was he living with you at this time?

24 A. No, sir.

25 Q. Where was he living?

1 A. I'm not sure.

2 Q. Okay. Did Mr. Sanders come over and
3 take a shower?

4 A. Yes, sir.

5 Q. Do you recall about what time that was?

6 A. Sometime after 6:00 p.m.

7 Q. Do you know where Mr. Sanders had come
8 from?

9 A. I don't recall him saying where he came
10 from, he was at Walterboro here.

11 Q. Okay.

12 A. He may have just gotten off of work.

13 Q. Okay. Do you recall about how long Mr.
14 Sanders stayed at your house?

15 A. Several hours.

16 Q. Do you know if Mr. Sanders slept while
17 he was at your house?

18 A. He probably did take a nap.

19 Q. Okay. And why did Mr. Sanders leave
20 your house?

21 A. He wanted to go get some cigarettes.

22 Q. Okay. Did you give Mr. Sanders any
23 money for cigarettes?

24 A. No, sir.

25 Q. And you told him that you weren't gonna

1 give him any money for cigarettes?

2 A. I didn't have any money to give him.

3 Q. That's okay. Cigarettes are a bad
4 habit, aren't they?

5 A. Yes.

6 Q. Do you recall about what time it was
7 when Delmar left your house?

8 A. Sometime after 10:00 maybe, p.m.

9 Q. Okay.

10 MR. PAULK: Your Honor, that's all the
11 questions that I have.

12 THE COURT: Do you have any questions?

13 MS. JONES: I have no questions for Ms.
14 Johnson.

15 THE COURT: Now, Ms. Johnson, you are
16 excused.

17 WITNESS: Thank you.

18 THE COURT: Is she released from her
19 subpoena?

20 MR. PAULK: Yes, Your Honor, and may she be
21 released from the sequestration order?

22 THE COURT: Yes, sir. Yes, you can stay in
23 the courtroom now.

24 MR. PAULK: Your Honor, may we approach?

25 THE COURT: Okay.

1 (Bench conference.)

2 MR. PAULK: Your Honor, the defense next
3 calls Corporal Garcia from the Beaufort County
4 Sheriff's Office.

5 THE COURT: Not the witness we just
6 discussed?

7 MR. PAULK: Correct. Your Honor, I've been
8 informed that Mr. Garcia is on telephone
9 standby. The defense will next call Mr. Delmar
10 Sanders.

11 * * *

12 DELMAR SANDERS

13 * * *

14 being first duly sworn, testified as
15 follows:

16 DIRECT EXAMINATION

17 Q. Good morning, Mr. Sanders.

18 A. Good morning.

19 Q. How long have you been a resident of
20 Beaufort County?

21 A. For about ten years.

22 Q. Okay. And at the time of this
23 incident, where were you -- were you working?

24 A. I was working.

25 Q. Where were you working at?

1 A. I was working at All Works --
2 LowCountry All Works.

3 Q. What kind of work did you do at
4 LowCountry All Works?

5 A. I climb trees and I cut them down.

6 Q. Okay. How long have you been working
7 at LowCountry All Works?

8 A. Roughly, under a year.

9 Q. Okay. Where did you work before that?

10 A. I worked at a tree company in North
11 Carolina called Monster Tree Service.

12 Q. Okay. Have you always climbed -- how
13 long have you been climbing trees?

14 A. I've been climbing trees for about two
15 years, but I've been doing tree work for about
16 13 years.

17 Q. Okay. On the day of July 22nd did you
18 go to work that day?

19 A. The 23rd?

20 Q. July 22nd would be the day before this
21 incident happened.

22 A. Right, right, and I went to work, yes.

23 Q. Okay. Do you recall where you working
24 at that day?

25 A. Yes. I'm not sure where I was working

1 at, but I was working for All Works.

2 Q. Okay.

3 THE BAILIFF: The jury's having problems
4 hearing.

5 MR. PAULK: Okay.

6 BY MR. PAULK:

7 Q. Hey, Delmar, let's just speak up a
8 little bit, so everybody can hear you. That
9 microphone's not working, man. I'm gonna come
10 this way, so that you're facing them.

11 A. Okay.

12 Q. That way they can hear you a little it
13 better. So you were working for LowCountry All
14 Works on --

15 A. Yes, sir.

16 Q. -- July 22nd?

17 A. Yes, sir.

18 Q. What time did you usually have to get
19 to work in the morning?

20 A. About 5:30, 6 o'clock.

21 Q. And was there a general time that you
22 finished up in the evenings?

23 A. Sometimes we finished late, sometimes
24 we finished early.

25 Q. Do you recall what time you finished on

1 that day?

2 A. I think it was about 5:30. About 5:30,
3 yeah.

4 Q. Okay. And after you finished working,
5 where did you go?

6 A. I called my mom, asked her, "Can I come
7 take a shower?"

8 Q. Why did you call your mom to ask if you
9 could take a shower?

10 A. Well, I didn't have any money at the
11 time to get a hotel, so -- and I was currently
12 staying out of my truck, so I called, you know,
13 the next reasonable person that, you know, my
14 mom, I know she'll let me come in and take a
15 shower.

16 Q. Okay. Did you do anything else while
17 you were at your mom's house?

18 A. Yeah, I showered, grabbed something out
19 of the refrigerator, ate it and I took a nap.

20 Q. Okay. Did you ask your mom if you
21 could have some money for cigarettes?

22 A. I did.

23 Q. And why were you asking her for money
24 for cigarettes?

25 A. Because I -- when -- once I -- when I

1 woke up I wanted a cigarette, and I didn't have
2 any money to buy it, because I was waiting on my
3 direct deposit, which would be at, roughly,
4 maybe 12:00 or -- or that morning. I didn't
5 have any money, so I asked her if she could
6 spare some change to buy me a pack of
7 cigarettes.

8 Q. Okay. And did she give you that money?

9 A. She did not.

10 Q. When she didn't give you the money for
11 cigarettes, what did you do?

12 A. I told her that I was going to
13 bootlegger to get some cigarettes. I had some
14 quarters in my change drawer, and I used those
15 to pick up the cigarettes.

16 Q. Okay. Can you just speak up a little
17 bit. I think the Court Reporter's having a
18 little trouble hearing you, let's --

19 A. Okay.

20 Q. Let's be nice and loud, there's nothing
21 scary about it, okay?

22 A. Yes -- yes, sir.

23 Q. Okay. So the bootlegger, I believe
24 that whenever you were talking with
25 Investigators Tunis and Duncan, you told them it

1 was a family member's house that you --

2 A. Yes.

3 Q. -- went to get cigarettes?

4 A. Yes.

5 Q. Was this bootlegger run by a family
6 member of yours?

7 A. It was.

8 Q. And just for the jury's edification
9 purposes, could you explain what a bootlegger
10 is?

11 A. A bootlegger is a place after hours you
12 can go to get roughly whatever you need that a
13 store sells, and if the store's closed you can
14 go there and, you know, you might want a
15 cigarette, you might want a juice, you might
16 want some water. The bootlegger buys all that
17 for you, if the store's closed, or if you don't
18 have enough money at the store, you know.

19 Q. Sir, you were going to buy like a
20 single cigarette?

21 A. I was gonna buy a couple.

22 Q. Okay.

23 A. They're 50 cent a piece, so if I had a
24 dollar, I could buy two.

25 Q. Okay. What happened while you were at

1 the bootlegger?

2 A. While I was at the bootlegger I was
3 accompanied by a lot of people outside, a meet
4 and greet, hello, how you doing? Saw my cousin
5 there, he asked for a ride.

6 Q. And who is your cousin?

7 A. Donne McLendon.

8 Q. Okay. You can go on, you said he asked
9 for a ride?

10 A. He asked for a ride, I told him, "No, I
11 have to be at work," and, you know, he, you know
12 kept saying, "I need a ride, I need a ride." I
13 ignored everything, I went about my duties and
14 went inside the house to get a cigarette.

15 Q. Okay. After you got your cigarette
16 from inside of the house, what happened?

17 A. I came out of the house, and he was
18 seated in my truck.

19 Q. Okay. What did you do?

20 A. When I told him, I'm like, "Hey, I
21 already told you we're not going anywhere, you
22 know, get out of my truck, you know, let's go."
23 And, you know, that's when my cousin came out,
24 and was like -- he wanted me to go get some
25 stuff from the store.

1 Q. Was this your cousin that owned the
2 bootlegger?

3 A. That's the manager --

4 Q. Who ran the bootlegger?

5 A. Yes.

6 Q. Now, what did your cousin -- what were
7 you supposed to get?

8 A. I was supposed to get two packs of
9 cigarettes for me, and I was supposed to get a
10 case of -- a 24-case of Heineken and some
11 cigars.

12 Q. Okay.

13 A. That he can sell however he wanted to.

14 Q. Okay. And did you do that?

15 A. I did that.

16 Q. Did anybody go with you to do that?

17 A. Yes. So being that I did that, and my
18 cousin wanted to ride, I said, "Okay, well,
19 since you want to ride, this is gonna be your
20 ride." He got in the car with me and we went to
21 the store.

22 Q. What store did you go to?

23 A. I went to -- they call it -- street
24 call it Smokers, but it's the Circle K right
25 next to T. J. Maxx.

1 Q. Okay, but the people that you were
2 hanging out with refer to it as Smokers?

3 A. Yes.

4 Q. Okay. About how long were you at
5 Smokers?

6 A. Maybe ten, 15 minutes, maybe.

7 Q. Okay. After you got these items from
8 Smokers, what did you do?

9 A. I went to the truck, got inside the
10 truck, we was on the phone. Got phones like in
11 the truck, and we left.

12 Q. And where'd you go?

13 A. We went back to -- I had to take the
14 beer and stuff back to the bootleggers, my
15 cousin.

16 Q. Okay. So what happened when you got
17 back to the bootleggers?

18 A. When I got back to the bootleggers I
19 gave him the beer and everything. He was still
20 seated in my truck when I went in, when I came
21 back out him and my cousin, the bootlegger, the
22 actual bootlegger, because when I went in the
23 bootlegger, he wasn't in there, so I just set
24 the stuff down.

25 When I came out he was accompanied with

1 Deonne, and he was at my hood. My hood was
2 popped. And I asked him, you know, I'm thinking
3 to myself, like I don't need no maintenance done
4 on my truck, so why is my hood popped?

5 Q. Can you just speak up just a little
6 bit. I see the Court Reporter looking at you,
7 having a little bit of trouble hearing all that.

8 A. Okay.

9 COURT REPORTER: And speak slower, please.

10 WITNESS: Slower? Yes, ma'am.

11 COURT REPORTER: Yes, sir.

12 BY WITNESS:

13 A. We come out and --

14 Q. So you came out of the bootlegger, and
15 your hood's popped?

16 A. Yes.

17 Q. Why was your hood popped?

18 A. They said that they were placing the
19 gun there, just in case we got pulled over. And
20 then if they got pulled over, the police
21 wouldn't find the gun in the car.

22 Q. Were you planning on going anywhere
23 else?

24 A. I was not going to go anywhere else but
25 home after I got my cigarette.

1 Q. So why were they popping the hood of
2 your car, and putting a gun underneath it?

3 A. I'm not sure. I guess they just
4 figured --

5 MS. JONES: Objection, speculation, Your
6 Honor.

7 THE COURT: Sustained.

8 MR. PAULK: Okay.

9 BY MR. PAULK:

10 Q. What did you do when you saw that your
11 hood was popped, and they were trying to put a
12 gun in there.

13 A. I went and I questioned them, like,
14 "Why is my hood popped? Like my car's fine."
15 So I figured they can't be working on it.

16 Q. Okay. What happened next?

17 A. Well, I looked under the hood, and the
18 bootlegger and my cousin he wanted Deonne to go
19 get him something from another place.

20 Q. Do you know what he wanted --

21 A. Not at the time, but I'm pretty sure --

22 Q. So let's just -- what happened next?

23 A. What happened next? We drove there, we
24 got there, there was a bunch of traffic coming
25 in and out. I went to park --

1 Q. Now, hold on, let's clarify some
2 things. You went somewhere, where did you go?

3 A. Went to Cleveland Drive.

4 Q. Okay, and what did you do when you got
5 to Cleveland Drive?

6 A. We got to Cleveland Drive, I went and I
7 parked. There was a bunch of cars coming in and
8 out Tinsley, and I parked.

9 Q. Okay. Why did you take your cousin to
10 Cleveland Drive?

11 A. Because the bootlegger, my other
12 cousin, he wanted Deonne to purchase something
13 for him.

14 Q. Okay. So you didn't take Deonne to
15 this person's house because you wanted to?

16 A. No.

17 Q. So you get to this person's house and
18 pick up something for Deonne, and let's pick up
19 there. You were describing kind of what was
20 going on.

21 A. When we got there, the first question
22 he asked me was, "Am I strapped?" Meaning, do I
23 have a gun?

24 Q. Can you just speak up a little bit?

25 A. First thing he asked me was, am I

1 strapped, meaning do I have a gun? I told him,
2 "No."

3 As soon as I told him no, he got out of the
4 car, and went for whatever he had to do for him.

5 Q. What did you do?

6 A. Stayed in the car.

7 Q. About how long were you waiting in the
8 car?

9 A. Maybe 30, 45 minutes.

10 Q. Why didn't you just leave then, if you
11 wanted to go home?

12 A. Because I was -- well, the reason why I
13 didn't leave, because I wasn't going, I was
14 blocked in. There was cars coming back and
15 forth. Cars was already parked behind me by
16 then, so I couldn't leave, I wasn't gonna walk
17 away.

18 Q. You weren't gonna leave your car there?

19 A. No, of course not.

20 Q. You were living out of your car?

21 A. Yes.

22 Q. But when you say that you wanted to go
23 home, where were you gonna go?

24 A. I was gonna go somewhere and park, or
25 either go back to my mother's house.

1 Q. So then what happens?

2 A. So then, you know, time went by, 9
3 o'clock, I'm looking at my watch, you know, I
4 got out of the car, and I went to go check on
5 him. I take my phone with me just in case, you
6 never know. Took my phone with me, go over
7 there. There's a lot of people outside, meet
8 and greet, again, I knew a couple people. Then
9 that's when he came out of the house.

10 Q. And then what happened?

11 A. He had something tucked into his pants,
12 and when we left he said he wanted to go pick up
13 two girls. He said one was a white girl and he
14 didn't describe the other girl. So I remember
15 the white girl being -- he was saying -- calling
16 her Lacey.

17 Q. Okay. So did you want to go with him
18 to go pick up these girls?

19 A. I didn't want to go with him, but, you
20 know, we was already out, and I already knew
21 what was gonna happen. He's like one thing
22 after another, one thing after another, one
23 thing after another.

24 Q. What do you mean by that?

25 A. By he's just saying he wants to do

1 this, and I say, "Okay, we'll do that," and
2 that's it, and then he wants to do something
3 else. "So, okay, we'll do that, and that's it,"
4 and he wants to do something else.

5 Q. Why were you driving him around?

6 A. Well, it's my vehicle, he asked me for
7 a ride. I don't give him one, but then my
8 cousin he actually told him to go get something,
9 and I was the ride.

10 And my cousin was actually accompanying him
11 putting something in my hood.

12 Q. Do you know if Deonne had a driver's
13 license?

14 A. I don't think he did.

15 Q. So somebody had to drive?

16 A. Yes.

17 Q. Because he wasn't supposed to drive?

18 A. No.

19 Q. So after he comes out of the house, and
20 asks do you want to go pick up these girls, what
21 happens?

22 A. We left to go. We finally got someone
23 to move one of their cars from behind me and we
24 left, and that's when we got to the downtown
25 area.

1 Q. About where downtown did you go?

2 A. Somewhere by the DSS Office.

3 Q. Okay.

4 COURT REPORTER: I'm sorry, say it again?

5 BY WITNESS:

6 A. Somewhere by the DSS Office.

7 Q. Do you know what street the DSS Office
8 is located on?

9 A. I do not. I know it's between Duke and
10 whatever other street they have.

11 Q. Okay. So what'd you do when you got
12 there?

13 A. We got there, we maybe sat for maybe 30
14 seconds. A girl comes out -- and just one girl,
15 so then she got in the car, you know. I told
16 her to sit on the side, I didn't want her to sit
17 behind me, and I wait for a minute, I wait for a
18 minute, I'm thinking another girl's gonna come
19 out. They're like, "What are you waiting for?"
20 I was like, "Where's the other girl?" She's
21 like, "Oh, it's just me."

22 Q. And let's slow down much a little bit,
23 so the Court Reporter can --

24 A. Yes.

25 Q. -- keep typing. You can continue on

1 though. So you said that you were waiting for
2 the second girl to come out?

3 A. Right. And they said that nobody else
4 was coming out, and I questioned them, I said,
5 "Where's the other girl?"

6 Q. Did you think that was weird?

7 A. I did think it was weird, because I
8 mean two guys, two girls, I figured that would
9 be balanced.

10 Q. So you weren't interested in hanging
11 out with two guys and one girl, were you?

12 A. Not at all.

13 Q. So what happened next?

14 A. We drove -- they said -- she said that
15 she wanted to go to the hotel, Oasis Inn, that's
16 the old Atlantic Inn.

17 COURT REPORTER: The old what?

18 BY WITNESS:

19 A. Atlantic Inn.

20 Q. Did you want to take them there?

21 A. I didn't, but she was already in the
22 car, so I figured just go ahead and go -- to go
23 there, drop her off, whatever he had to do.

24 Q. Were you planning on continuing to hang
25 out with --

1 A. I was not.

2 Q. What did you think was gonna happen,
3 whenever you got to the hotel?

4 A. I thought -- really I thought that they
5 were just gonna go in there and I was gonna,
6 basically, drop them off; but once I got there,
7 they -- he's like, "Wait, wait for it, like, I'm
8 about to go." You know what I mean, it's only
9 one girl, and that's your destination. This is
10 your destination, this is where you wanted to
11 go, so you're here.

12 Q. Did you ever go into the hotel room?

13 A. Never went into the hotel.

14 Q. So what happened next?

15 A. So I was -- the video being shown of
16 what was going on, when we first pulled up and
17 she got out to go, the discussion we was having
18 there was that, you know, like, "Where's the
19 other girl?

20 I'm not about to come in there," and all
21 this stuff here. So that's when he got out, and
22 he went in there. She came back out like two
23 minutes later, and tried to open my door, it was
24 locked. I rolled my window down a little bit,
25 and she's just like, "Hey, open the door," so I

1 opened the door. She standing in the door,
2 "Hey, come on in, hey, do this, we -- you don't
3 have to do this, and come on in." I'm like,
4 "No, no, I'm checking my balance, I'm about to
5 get some cash and gas and cigarettes."

6 Q. Slow down just a little bit, buddy.

7 A. "I need gas, I need cigarettes,
8 checking my balance, and my money should be here
9 shortly."

10 Q. Okay. Delmar, you're referencing the
11 events that happened at the Oasis hotel. Would
12 it be helpful for your testimony, if we played
13 that surveillance video that was --

14 A. That would be helpful, yes.

15 Q. -- was published that was admitted into
16 evidence?

17 A. Yes, that will be helpful.

18 MR. PAULK: Your Honor, permission to
19 publish to the jury the surveillance footage
20 from the Oasis Inn that's been entered into
21 evidence?

22 THE COURT: Yes, sir.

23 MR. PAULK: One moment of the Court's
24 indulgence, Your Honor.

25 THE COURT: Sure.

1 MR. PAULK: My apologies, Your Honor.

2 THE COURT: No problem. While you're
3 working on those technical issues, ladies and
4 gentlemen, there was one of you today I think
5 that needed to leave by 5:00; is that correct?

6 THE JUROR: I'm okay now.

7 THE COURT: Okay, very good. I just wanted
8 to make sure we accommodated you.

9 (Video being played for jury.)

10 BY MR. PAULK:

11 Q. Hey, Delmar, the video that's being
12 shown is the Oasis parking lot. Now, what's
13 that car coming in the parking lot right there?

14 A. That is my truck.

15 Q. Speak up.

16 A. That is my truck.

17 Q. So what's going on right now inside the
18 car, Delmar?

19 A. We're all just talking.

20 Q. What are you'all talking about?

21 A. Well, I'm waiting for her to get out of
22 the car, she's supposed to be getting out of the
23 car, but I was -- we was just talking about just
24 numerous things.

25 Q. Okay. So we just see that back

1 passenger door open. Who is that getting out of
2 the back passenger door?

3 A. That is Rhonda getting out.

4 Q. And real quick, had you ever met Rhonda
5 before this night?

6 A. Never met her.

7 Q. And so now who's this getting out of
8 the car?

9 A. That is Deonne McLendon getting out.

10 Q. And did you'all talk about anything
11 after Rhonda got out of the car?

12 A. Yeah, I was asking him, "What's up with
13 the other girl?" He told me, he was like, "Hey,
14 don't worry about all that."

15 MS. JONES: Objection, that's hearsay, Your
16 Honor.

17 THE COURT: Sustained.

18 BY MR. PAULK:

19 Q. Now, Mr. Sanders, I see that your car
20 door's open right now, but you say that you
21 didn't go into the hotel room, correct?

22 A. I did not.

23 Q. So why did you open your car door?

24 A. To make it seem like I was getting out,
25 because he wanted me to get out, and I just

1 stepped out and just stretched, as if I was
2 going in, but I went back -- as soon as I
3 decided, I went back in and closed my door.

4 Q. Why did you decide to stay in the car?

5 A. I didn't trust what was going on. I
6 didn't understand what was going on. Nothing
7 was making sense.

8 Q. What do you mean?

9 A. Nothing was making sense. There was no
10 other girl, you know, there -- just a bunch of
11 stuff wasn't making sense.

12 Q. So you didn't want to go into a hotel
13 room with two girls and one dude, right?

14 A. I didn't want to go in with one dude
15 and one girl.

16 Q. So what are you doing now, as you're
17 sitting in the car?

18 A. Checking my balance.

19 Q. And how are you checking your balance?

20 A. On my phone.

21 Q. And what are you waiting on to happen
22 for --

23 A. I'm waiting for my account to say that
24 I have money in it, so that way I can go get gas
25 and get cigarettes, and I can return to either

1 my mother's house, or I can just go somewhere to
2 sleep, until I can go to go work the next
3 morning.

4 Q. Okay.

5 MS. JONES: Speak up --

6 BY MR. PAULK:

7 Q. Yeah, can we --

8 MS. JONES: -- I can barely hear him.

9 WITNESS: Yes, ma'am.

10 BY MR. PAULK:

11 Q. So could you repeat that and just speak
12 up a little bit?

13 A. I was waiting -- I was sitting -- I was
14 checking my balance, waiting for money to come
15 in. And while I'm waiting, she's there.

16 Q. So what's happening right now?

17 A. She's coming out of the hotel room.

18 You can see --

19 Q. And --

20 A. You see she tried to pull my door, it
21 was locked, and that's when I opened the door
22 for her.

23 Q. So she first pulls on the door, and you
24 can see that it's --

25 A. Yes.

1 Q. -- locked, but then you unlock it?

2 A. Yes.

3 Q. And was she trying to get you to come
4 into the hotel room?

5 A. She was trying to get me to come in,
6 and I told her, "No," so I'm checking my
7 balance, once I get my money I'm gonna go and
8 I'm gonna go home."

9 Q. So why didn't you just leave?

10 A. I didn't want to leave my cousin there,
11 and he had told me to wait. I didn't want to
12 leave him stranded, but I knew what he told me
13 at first, that he was gonna go, and he was gonna
14 do his thing, and that's it, but I told him,
15 eventually, I was gonna leave.

16 Q. So after Ms. Randall comes out and
17 attempts to get you to come into the hotel room,
18 what are you thinking?

19 A. I'm thinking like what is going on?
20 Like what --

21 Q. Speak up a little bit, Delmar.

22 A. I'm thinking what is going on? Why do
23 I have to be there? It's already -- she's
24 already has her friend, who she claims is her
25 lover. She already has -- like they're already

1 at the hotel, that's a setting for intimacy,
2 when you have a lover.

3 So I'm like, what do you need me for? What
4 do you need me for? I'm the -- I'm just the
5 Uber, or whatever. What do you need me for?
6 I'm here, so I'm gonna check my balance, and I'm
7 gonna get my money, and I'm gonna buy my things
8 and I'm gonna go.

9 Q. So we noted just a second ago that Ms.
10 Randall came out of the hotel room shortly after
11 they went into the hotel room.

12 A. Right, and I don't know her, why would
13 she come out? I don't know her. I guess maybe
14 she thinks she was gonna try to seduce me, it
15 wasn't gonna work. I wasn't going in there.

16 Q. On the night of this incident, did you
17 know that Ms. Randall was a prostitute?

18 A. I did not know.

19 Q. Knowing that, does it seem like she was
20 trying to get her to use her services?

21 A. Yes.

22 Q. Can you speak up?

23 A. Yes.

24 Q. But you weren't interested, were you?

25 A. No, sir.

1 Q. So had you checked your balance at this
2 point?

3 A. I did.

4 Q. And had your direct deposit hit?

5 A. Yes.

6 Q. Why didn't you leave then?

7 A. Waiting to see what my cousin was gonna
8 do. I didn't care nothing about what she had
9 going on. I'll take my cousin back home, let --
10 make sure he's home safe, and that's it. This
11 is her hotel, she stays there, and I made that
12 clear.

13 Q. Was Deonne living at that hotel?

14 A. I don't think so.

15 Q. Where did Deonne live?

16 A. He stayed on Glaze Drive, the same
17 street as the bootlegger.

18 COURT REPORTER: I'm sorry, he lived on
19 which Drive?

20 THE WITNESS: Glaze, as in glazed donut.

21 THE COURT REPORTER: Thank you.

22 BY MR. PAULK:

23 Q. So as you're waiting for them to come
24 out, what's going through your head? What are
25 you thinking?

1 A. I'm thinking I should just run across
2 the street just to Enmarket, which is directly
3 next door. Should I -- let me just go over
4 there and get gas, come back, maybe they'll be
5 done with whatever they're doing.

6 That's what I'm thinking at this time. But
7 I'm also thinking, if I leave, and he's gonna be
8 fricking pissed. Like we went through all of
9 that, so I'm like, okay, might as well wait for
10 him.

11 Q. Did you think it was odd that they
12 wanted you to come into the hotel room?

13 A. Yes, very odd.

14 Q. Why did you think that was odd?

15 A. Because they're already intimate
16 lovers, why do I have to come in? What are we
17 going to do? Like, you know --

18 Q. Okay.

19 A. -- an intimate lover, like do you want
20 another guy to indulge in that? That's kind of
21 weird.

22 Q. So, Delmar, while -- after you picked
23 up Deonne, while we're waiting on the rest of
24 this video, after you picked up Deonne, did
25 you'all use any drugs that night?

1 A. We did.

2 Q. What drugs were you'all using?

3 A. Cocaine.

4 Q. Did you see Deonne use drugs?

5 A. I did.

6 Q. What did you see him do?

7 A. Sniff cocaine out of a dollar bill.

8 Q. Once?

9 A. Uh-uh.

10 Q. More than once?

11 A. More than once.

12 Q. Do you know how many times?

13 A. A pleather of times.

14 Q. Did you have the cocaine when you went
15 to the bootlegger that night?

16 A. I did not have any cocaine.

17 Q. Who had the cocaine?

18 A. He had the cocaine.

19 Q. Did he offer you cocaine?

20 A. He did.

21 Q. And did you accept?

22 A. I did accept.

23 Q. How much cocaine did you use the night
24 of this incident, Delmar?

25 A. Maybe three or four bumps of it.

1 Q. So for the folks -- what's happening
2 right now?

3 A. He came, he beat her to the door, so I
4 opened the door for him. I didn't open the door
5 for her. My doors were locked. You can see
6 that she clearly by pulling the back door, she
7 can't go, so now she goes around. And I'm
8 talking to him, I'm like, "Hey, what's going on?
9 I don't know what's going on? I don't know
10 what's you got going on, but you need to come on
11 and get in the car --

12 COURT REPORTER: Slow down.

13 BY MR. PAULK:

14 Q. Yeah, let's pause the video. We'll
15 pause the video and walk through this real slow.
16 Okay, so here do you see Deonne and Rhonda
17 walking to your car?

18 A. Yes.

19 Q. Do you know why they were both coming
20 to your car?

21 A. I have no idea.

22 Q. So who gets to your car first?

23 A. Deonne gets to my car first.

24 Q. And was his door locked, when he first
25 got there?

1 A. It was, and I unlocked it with my hand,
2 without the automatic mechanism.

3 Q. You didn't use the power lock?

4 A. I did not, because that would have
5 unlocked all the doors.

6 Q. Why did you decide to unlock Deonne's
7 door?

8 A. That way he can -- we can talk. I can
9 talk to him about what's going on. I don't know
10 her. I don't know what's going on.

11 Q. But you did unlock Deonne's door?

12 A. I did unlock Deonne's door with my
13 hand.

14 Q. So now we see Ms. Randall at the back
15 driver's side.

16 A. Yes.

17 Q. And --

18 A. That wasn't even where she was seated
19 the first time.

20 Q. So did she just pull on that door
21 handle?

22 A. She did, and it was locked.

23 Q. And were the rest of your doors locked?

24 A. The rest of them was locked.

25 Q. Okay. And you never used the power

1 lock to let her in the car?

2 A. Never.

3 Q. How did that back door get unlocked for
4 her to get in?

5 A. Deonne unlocked it for her with his
6 hand. He reached in, he grabbed it and unlocked
7 it.

8 Q. Did you want Ms. Randall to get into
9 your car?

10 A. I did not. She just gets in and just
11 sits down like -- right here I'm explaining to
12 them that I'm going to the ATM, and this was my
13 escape route. This was my reason to get away
14 from them, because I noticed that there are some
15 things that are going on.

16 So I'm basically lying to them, saying I'm
17 going to the ATM to get more, I know that what
18 they wanted, so I'm lying to them, telling them
19 I'm going to get more drugs. That was my escape
20 route. I was going to leave them there.

21 Q. Were you all out of drugs at this
22 point, Delmar?

23 A. They were not out of drugs.

24 Q. How do you know they weren't out of
25 drugs?

1 A. Because he's -- he had plenty bags of
2 drugs.

3 Q. He had plenty of bags of drugs?

4 A. Yeah, he had marijuana, he had cocaine,
5 and I don't know what she had.

6 Q. Okay. When did you use the drugs? Was
7 it while you'all were driving around --

8 A. Yes.

9 Q. -- or was it while you'all were at the
10 bootlegger, or was it while you'all were at the
11 family men -- the other person's house?

12 A. I used it when we initially went to --
13 came from the other person's house on the way to
14 the --

15 Q. Slow down just a little bit, buddy.

16 A. I used it when we were initially at the
17 drug dealer's house, the second house that we
18 went to, before we got the girls, I used it on
19 the way there.

20 Q. Okay.

21 A. She'd never seen me doing drugs.

22 Q. You neve did drugs in front of Ms.
23 Randall?

24 A. No. No, sir.

25 Q. Okay. So now they're in the car, the

1 doors are shut, what are you telling them?

2 A. I am letting them know that I don't
3 agree with you guys' decision of disregarding my
4 decision to not let you guys go with me.

5 Q. You didn't want them to go with you to
6 the ATM?

7 A. I did not want them to go with me,
8 yeah.

9 Q. Why didn't you want them to go with you
10 to the ATM?

11 A. Well, I wasn't even going to the ATM,
12 that was just my way of getting away from them,
13 hoping that they was, oh, he's going to get more
14 drugs, let's just stay here and wait for him. I
15 was never gonna come back.

16 Q. Slow down just a little bit buddy.

17 So you had no intention of going to get
18 more drugs that night?

19 A. No intentions.

20 Q. You had no intention of going with them
21 to the ATM?

22 A. No intentions. That's why I never
23 stopped for an ATM.

24 Q. Why didn't -- if you had been going to
25 the ATM, why wouldn't you want them to go with

1 you?

2 A. Well, if I had to go to an ATM, I
3 wouldn't let nobody go with me, because now you
4 have the option to see my PIN number, you have
5 the option to see how much money I want to take
6 out, you have the option to see me get money in
7 my hand, crispy 20s, whatever, 50s, whatever.

8 Q. Why is that a bad thing?

9 A. It's a bad thing, because no one had
10 any money and everybody wanted drugs.

11 Q. Delmar, you're a working man, you climb
12 trees for a living, correct?

13 A. Yes.

14 Q. But are you familiar with the streets?

15 A. I'm a little familiar with them.

16 Q. Do people who are familiar with the
17 streets normally want people to go with them to
18 the ATM?

19 A. Not at all.

20 Q. Why is that?

21 A. It's a security risk.

22 Q. What does that mean?

23 A. It means that anything can happen.

24 Anything can happen. Now, I'll take my brother
25 with me, I'll take my mother with me, and my

1 sister. I wouldn't take my friend, you know
2 what I mean? I'll take my wife. I wouldn't
3 take my homeboy. I wouldn't take his people
4 with me, because that's --

5 Q. Is it because you would be afraid of
6 being robbed?

7 A. Of course.

8 Q. So after you'all get in the car and
9 start driving, what were you thinking?

10 A. I'm thinking everything I can be
11 thinking of when it comes to somebody hurting
12 you, robbing you, you're thinking all types of
13 stuff.

14 Q. Why were you --

15 A. I'm not --

16 Q. -- thinking that? Had they threatened
17 you?

18 A. They didn't threaten me. They didn't
19 threaten me, but they went against my will, what
20 I was trying -- I was like, "No, you can't ride
21 with me, no." They went in the room for three
22 or four minutes, came back out. It's like
23 what --

24 Q. Do you think that it was odd that went
25 in the room and --

1 A. Being intimate lovers in the hotel
2 room, and two of them go in there? Yes, if
3 they're gonna have sex or whatever, that takes a
4 little while. And I mean like --

5 Q. So you thought that it was a little
6 quick for them to go in there --

7 A. It was a little quick.

8 Q. -- and have relations?

9 A. That was a little quick, and it's also,
10 you know, kind of weird that she would come out,
11 try to get me to come in, like go do your thing.
12 Go do your thing, and if you need me to wait,
13 I'll wait and I'll take you guys back home, or
14 you can stay here, I'll take my cousin home,
15 whatever.

16 Q. Were you afraid that they were planning
17 something in the hotel room?

18 A. Yes.

19 Q. What were you afraid that they were
20 planning?

21 A. To hurt me, or rob me and take my
22 money, being that I just told them that I was
23 going to the ATM. And I told my cousin
24 beforehand that I was waiting on a direct
25 deposit.

1 Q. So then what was your plan, when you
2 started driving?

3 A. I didn't really have one. I was
4 thinking of one. I was -- I passed all the ATMs
5 on purpose. I was driving slow, I was thinking
6 I don't know what to do.

7 Q. Delmar, there's been some testimony
8 that you were swerving that night, that they
9 were scared of your driving? Could you explain
10 that?

11 A. Okay. I wasn't swerving. I swerved
12 maybe once or twice and looking back at Ms.
13 Randall, because something definitely dropped,
14 and I didn't know what it was, but it was heavy,
15 something definitely dropped.

16 Q. You just heard -- what did you hear?

17 A. On the floorboard a little hollow
18 sound.

19 Q. Did you ever see what dropped?

20 A. Never seen what dropped.

21 Q. After you heard something drop, what
22 happened?

23 A. Well I was just gonna asking if she'll
24 let -- "Oh, that's my phone, sorry." So I'm
25 like -- I thought about it, I'm like, hm, I

1 didn't even ask you.

2 Q. So you drive past all the ATMs, what
3 are you thinking?

4 A. I'm thinking, how do I get out of this
5 situation? How do I get out of this situation
6 the right way without yelling, screaming,
7 cursing and saying, "I'm gonna drop you off."

8 So I'm thinking about just going straight
9 to where he was at and just stopping. Like,
10 okay, yeah, this is your destination, that's
11 your girl, let's go.

12 Q. So then what happens?

13 A. I start driving, we get to the -- well,
14 as I was passing the ATM, "Hey, you passed all
15 the ATMs, you're passing all the ATMs." I'm
16 ignoring him, because I knew where I was going
17 then. I'm driving, we get up past a mobile home
18 trailer park, and that's actually when I heard
19 the thumb hit the ground. Well, let me get past
20 the mobile home trailer park.

21 Q. And what was the name of that trailer
22 park? Could you just say it a little --

23 A. Independence, sorry, Independence
24 Mobile Home Trailer Park.

25 Q. Okay. After you heard that thud on the

1 ground, what were you thinking?

2 A. That it could possibly be something.

3 It could be something, it was heavy. It could
4 be a hammer, it could be a rock, but it was
5 something.

6 Q. Okay.

7 A. My tools are in the back.

8 Q. What kind of tools did you have in the
9 car?

10 A. I had climbing gear -- I didn't have my
11 climbing gear at that time. I had like a
12 hammer, I had a drill, and stuff like that.

13 Q. Okay. Was pretty much everything you
14 owned in that car?

15 A. Pretty much.

16 Q. Did they ever ask to drive?

17 A. They did.

18 Q. What did you say?

19 A. I told them, "No, no one drives my
20 truck." No one had a license. Even if they did
21 have a license, you're still not driving this.
22 This is, basically, my mobile home. If you
23 wreck this, I have to pay for it.

24 Q. You didn't trust anybody else to drive
25 your car?

1 A. I didn't trust anybody to drive.

2 Q. Were there any other reasons that you
3 didn't want anybody else to drive your car?

4 A. Well, they could go wherever they want
5 to, and they can lead me into an ambush,
6 anything. They can drive --

7 Q. Why did you think that --

8 A. My life was in their hands, if they
9 drive my truck.

10 Q. Why did you think they were going to
11 lead you into an ambush?

12 A. There's a lot of red flags being thrown
13 throughout this time of being with them.

14 Q. Okay. Tell me about some of the red
15 flags.

16 A. Well, something dropping, okay, cool,
17 maybe it's nothing. "Oh, it's my phone," whoa,
18 I didn't ask you anything. I didn't ask you
19 what's going on. Okay, one red flag, you know.
20 You know, a long story short, and getting to the
21 gun part, you know, the gun being on the slat,
22 and --

23 Q. Oh, hold up. Let's --

24 A. Okay.

25 Q. -- slow down.

1 A. No problem.

2 Q. Let's take it --

3 A. Okay --

4 Q. We've got operations here.

5 A. Got you, no problem.

6 Q. We're gonna talk about the events and
7 the way that they happened.

8 A. Okay.

9 Q. Okay? So you passed the Independence
10 Mobile Home Trailer Park, and you hear a thump?

11 A. Yes.

12 Q. And Ms. Randall states that it's her
13 phone?

14 A. Right. A phone wouldn't sound like
15 that.

16 Q. Okay.

17 A. Unless you've got a really big phone,
18 maybe a tablet.

19 Q. When did they start asking to drive?

20 A. Once we got on Stanley Farm.

21 Q. Okay. And did you ever agree to let
22 anybody else drive?

23 A. Never.

24 Q. So what happened? Did you notice
25 anything else that was weird --

1 A. Yes.

2 Q. -- while you were driving?

3 A. Yes. I noticed that he was reaching
4 for something with his left hand like this.

5 Q. So can you kind of step down right here
6 in front of the jury? I just want them to be
7 able to see this.

8 BY MR. PAULK:

9 Q. Take a seat. You're Deonne. Show me
10 what he did. Now, obviously, in a car there's
11 no side on the seat right there.

12 6Well, maybe -- let's turn you around so
13 you can face the jury. In a car there's,
14 obviously, no -- nothing right there on your
15 right-hand side, so what was he doing?

16 A. He was reaching for whatever. I mean I
17 assume you'd just go like this and get whatever
18 but like this. And it's wide, it was weird.

19 Q. So was he reaching towards the
20 backseat?

21 A. Yes. And, if not, reaching towards the
22 backseat, he was still reaching with the
23 opposite hand, which didn't make sense.

24 Q. Did you notice anything else weird?

25 A. Yeah, I noticed that, that she was

1 reaching with hers, so, you know --

2 Q. She was reaching forward with her hand?

3 A. Yes.

4 Q. At the same time that he was reaching
5 backwards with his hand?

6 A. Yes. Yes.

7 Q. And you saw that?

8 A. I saw that.

9 Q. You can go back to the witness stand
10 now.

11 BY MR. PAULK:

12 Q. What were you thinking at that point?

13 A. They're passing something, and I'm
14 thinking they're passing whatever dropped. You
15 don't pass drugs discretely like that. Every --
16 shoot, everybody knows just go like that, hey,
17 and --

18 Q. It was open, you'all were -- you and
19 Deonne were doing drugs in front of each other.

20 A. Yeah.

21 Q. You'all weren't hiding it.

22 A. But not in front of her.

23 Q. He wouldn't have been trying to hide --

24 A. He --

25 Q. He wasn't passing drugs.

1 A. He wasn't trying to hide it.

2 Q. So you thought they were trying to hide
3 something from you?

4 A. Yes.

5 Q. How'd that make you feel?

6 A. Scared as shit. It felt like I was,
7 potentially, in danger. And I tried to overrule
8 it, like, hey, wait, he's my cousin, hey, and
9 let's just see what goes on, let's see what goes
10 on.

11 And, you know, as I said, in the video what
12 put the icing on the cake was, I saw the gun.

13 Q. So after you noticed them trying to
14 discretely pass something from the back to the
15 front, what happened?

16 A. That's when I -- that's when they
17 started asking me for the -- that's when they
18 stared asking to drive. And once they asked to
19 drive, I said, "No." I pulled over. I turned
20 on my dome lights. I can do it myself, I turn
21 it on, that's when I noticed --

22 Q. You turned on what now? I couldn't
23 quite hear you.

24 A. The dome lights.

25 Q. So what are the dome lights?

1 A. The dome lights are the lights in the
2 car.

3 Q. Like the ones up on the --

4 A. Yes.

5 Q. -- top?

6 A. Yes. Yes.

7 Q. Where were you at, whenever you turned
8 on the dome light?

9 A. I was in the driver's seat.

10 Q. Where was the car located?

11 A. The car was located on the shoulder of
12 the road at this time.

13 Q. So you'all had pulled over at this
14 point?

15 A. Yes.

16 Q. Why did you pull over?

17 A. Because they wanted to drive, and I
18 wanted to know what was going on. I wanted to
19 have a talk with them. "You're --

20 Q. So --

21 A. -- not driving my car."

22 Q. You didn't pull over to let anybody
23 drive?

24 A. No.

25 Q. Why'd you pull over?

1 A. I pulled over, so I can see what's
2 going on and talk to him.

3 Q. Okay.

4 A. Since I'm swerving, well, let me just
5 pull over.

6 Q. After you pulled the car over, and you
7 turned the dome lights on, what happens?

8 A. I see that the gun was on the slide,
9 his hand was placed on it, he wasn't pointing it
10 directly at me.

11 Q. Slow down, buddy.

12 A. I see the gun on his lap.

13 Q. Uh-huh, then what?

14 A. He wasn't pointing directly at me, but
15 the barrel was facing my way, and his hand was
16 pointed, and said let him drive.

17 Q. Okay. What did you say?

18 A. I said, "No." I said, "What's going
19 on? I thought that that was under the hood.
20 You said you put that under the hood."

21 Q. You actually saw them put it under the
22 hood? You saw them put a gun under the hood
23 earlier?

24 A. I didn't see them put a gun under the
25 hood, they told me that they were putting a gun

1 under the hood.

2 Q. And your hood was -- you did see your
3 hood popped?

4 A. Yes.

5 Q. So you had reason to believe that if
6 there was a gun, that it was under your hood?

7 A. Yes.

8 Q. Okay.

9 A. He never popped my hood at the -- when
10 he got out at Duke Street he never popped the
11 hood, and when we got to the hotel, he never
12 popped the hood clearly.

13 Q. Okay, we just saw the video though --

14 A. Right, right, right, right.

15 Q. -- so the hood was never popped.

16 What'd the gun look like?

17 A. It was small. Like, as I stated, it
18 would fit in your hand, and hang off maybe a
19 quarter of an inch off your hand, the barrel
20 part.

21 Q. So it'd almost fit in the palm of your
22 hand?

23 A. Yes.

24 Q. A small gun?

25 A. Yes.

1 Q. Small enough to fit inside a purse?

2 A. It should, yes.

3 Q. Small enough to fit inside a pocket?

4 A. Yes.

5 MS. JONES: Your Honor, leading.

6 THE COURT: Sustained.

7 BY MR. PAULK:

8 Q. How small was the gun?

9 A. The gun was the size of your hand,
10 hangs off maybe an inch or quarter inch off your
11 fingers, your middle finger. It wasn't a big
12 gun at all.

13 Q. Okay. Then what happened?

14 A. He got out the car. That made me get
15 out the car, and I was thinking at this time,
16 should I just run, get underneath the car?

17 No, no, I can't leave the car, I'll just
18 stay here. So he comes around, you know, the
19 gun's on the seat. So I'm like, okay, and then
20 she scoops up -- she's --

21 Q. Hold on, hold on, hold on. You said he
22 got out of the car, and then you got out of the
23 car?

24 A. Yes.

25 Q. Where was the gun when you got out of

1 the car?

2 A. The gun was on the seat.

3 Q. Which seat?

4 A. His passenger seat where he was seated.

5 Q. Okay. He gets out of the car, you get
6 out of the car, then what happens?

7 A. He walks around the front of the car.
8 I'm looking back at the gun, and when I -- while
9 looking back at the gun, I noticed that she
10 scooted up to --

11 Q. She who?

12 A. Rhonda. She scooted up, put both her
13 elbows on the seat, and was looking at the gun.

14 Q. Put both her elbows on what seat? I'm
15 a little unclear on what's going on here.

16 A. The driver's front seat and the
17 passenger's front seat, they're only half a foot
18 away from each other.

19 Q. Uh-huh.

20 A. You know, so she's able to rest both
21 her elbows on the seat.

22 Q. Okay. And so you saw her prop up in --

23 A. Yes.

24 Q. -- between the front seat --

25 A. Yes.

1 Q. -- and the backseat?

2 A. Yes. Her buttocks was maybe on the
3 edge of the backseat in the middle.

4 Q. Okay. So she was leaned up towards the
5 front --

6 A. Right.

7 Q. -- while you and Deonne were outside of
8 the car?

9 A. Yes.

10 Q. Was she within arm's each of the gun at
11 that point?

12 A. She was in arm's reach of the gun.

13 Q. Could you tell if she was looking at
14 the gun?

15 A. Yes.

16 Q. So what'd you see?

17 A. I'd seen her look at the gun, and maybe
18 get away. So now I'm -- I've got one foot out
19 while I'm sitting there, and I'm looking in
20 between them, I'm not even -- I'm not looking at
21 where --

22 Q. Hold on.

23 A. -- he's at --

24 Q. Slow down.

25 A. I'm not looking directly at him. I'm

1 not looking directly at her. I'm looking in
2 between them both. They're both in my
3 peripheral with the gun. Her and him are both
4 in my peripheral.

5 Q. Okay.

6 A. I could hear him speaking and demanding
7 that my driver -- that my seat is being changed
8 as the driver, which I'm telling him, "No,
9 you're not driving my car."

10 Q. Okay. Then what happens?

11 A. She says something, whatever, made him
12 come back around. Came back around to the car.

13 Q. Who came back around to the car?

14 A. Deonne.

15 Q. Which side of the car did he come back
16 around to?

17 A. He came back around to the passenger
18 side.

19 Q. What did he do when he came back around
20 the passenger side?

21 A. He was next to the gun placed --
22 basically, placed his hand on it. He didn't
23 grab it fully, he placed his hand on it, and
24 they were talking.

25 Q. Then what happened?

1 A. Whatever she said, and that's when I
2 snatched the gun from out of his grasp.

3 Q. What happened after you snatched the
4 gun?

5 A. He gets outraged and he starts coming
6 around. "Hey, man, you gonna let me drive? You
7 gonna do this, do this, do this," and all this,
8 and starts getting enraged, and just yelling and
9 screaming, cursing.

10 At this time I'm -- I don't know what to
11 think. I don't want -- I didn't want to hurt
12 anybody, but I know by me taking that weapon at
13 that moment, that I'm not gonna do anything with
14 it, but now nobody else is gonna do anything
15 with it. And I could have thrown it maybe,
16 hopefully, whatever, but I felt like my life was
17 in danger.

18 Q. When did you start feeling like your
19 life was in danger?

20 A. At the hotel.

21 Q. Did you feel like your life was in
22 danger when you saw that gun sitting in his lap?

23 A. Most definitely. Most definitely. I
24 wanted to continue to drive, because I was
25 thinking to myself, okay, he's not gonna shoot

1 me while I'm driving, because then we all die.
2 I was thinking all type of things, maybe I
3 should pick up speed. I was thinking of all
4 type of stuff. Maybe I can pick up speed.

5 Q. Were you trying to figure out how to
6 get away?

7 A. Yes, of course. Of course, I don't
8 want to get shot.

9 Q. What happens after you pick up the gun?

10 A. I have the gun in my hand. I'm
11 standing in between my door and the driver's
12 seat, and I'm letting them know, hey, I don't
13 know what you'all got going on, but it's not
14 gonna go down how you'all think it's gonna go
15 down.

16 He came, he was outraged, he was yelling,
17 cursing, screaming, saying, "No, man, you're
18 gonna let me drive, you're gonna let me drive."
19 I knew for a fact if he had taken that gun from
20 me, I probably would have been shot. And it's -
21 - right now it's two on one, female or not, this
22 is a two on one, I'm outnumbered. There was no
23 way I can win, unless I did what I did.

24 Q. And what'd you do?

25 A. As he got closer and he's demanding.

1 And I told him, "No," and he vigorously came at
2 me, that's when I fired.

3 Q. How many times did you fire?

4 A. I fired twice, but I was -- I pointed --
5 -- I was pointing down, hopefully, not to hurt
6 him as much, and I really just wanted to scare
7 him. And once I'd seen him run away, I didn't
8 pursue him. I didn't keep shooting at him. I
9 thought, okay, I missed. Thank God I missed,
10 cool, he's gone. That's one problem eliminated,
11 he's running away.

12 And then I turned to Rhonda, "Hey, you need
13 to get out of my car. You need to get out of my
14 car." She's screaming, yelling, going through
15 her purse.

16 Q. It seems like a pretty tense situation,
17 did you say it that calm?

18 A. No.

19 Q. How'd you say it?

20 A. I was --

21 Q. Did you use some expletives?

22 A. Yes.

23 Q. Man, we're here to tell the truth, tell
24 me what happened.

25 A. Yes, I was screaming, and I was letting

1 her know, "Hey, you need to get out of the car
2 right, now, man, like this is -- I don't know
3 what you'all got going on."

4 Q. Did you tell her to get the fuck out of
5 the car?

6 A. Yes. Yes, I did.

7 Q. And did she?

8 A. She did not. She did not comply. She
9 was going through her purse, saying what she was
10 gonna do, and saying, "Wait, wait, wait."
11 That's when I fired a warning shot at her. She
12 was already hanging out of the car, and as you
13 can see, there was a hole in the middle of the
14 seat.

15 If she was seated fully in the car and that
16 -- with that hole being in the middle of the
17 seat, it would have hit her directly in her
18 chest. So there's to show right there that
19 where she was hanging out. So I guess her arm
20 was right there where that hole was, and so that
21 means that she's hanging out of the car.

22 And I -- definitely, I'm not trying to
23 point it at her until I raised it and I pointed
24 to the right and I shot, hopefully, and scaring
25 her, let her know, hey, this is -- I'm not

1 kidding right now, get out of my car.

2 What else can I do to tell you to get out
3 of my car? I'm not gonna go drag you out,
4 because then --

5 Q. Why did you feel threatened by Ms.
6 Randall?

7 A. Well, I mean she's -- they were both in
8 the hotel. I don't know what they were talking
9 about. I don't know what they was coming up
10 with.

11 Q. You testified just a second ago that
12 she was reaching for something in her purse.

13 A. Yeah, of course, of course.

14 Q. Is that why you felt threatened by Ms.
15 Randall?

16 A. That's another reason why I felt
17 threatened by Ms. Randall.

18 Q. That's one reason why you felt --

19 A. Yes.

20 Q. -- threatened?

21 A. Yes.

22 Q. So then what happens?

23 A. And I shot one shot at her to get out
24 of the car. I immediately knew that this was my
25 time to get away from both people. I didn't

1 pursue anybody. I didn't keep shooting at
2 anybody. I wasn't trying to kill anybody. I
3 wasn't trying to kill anybody, I was trying to
4 protect and preserve my property and my life.
5 And if I wouldn't have acted that way, I would
6 not be here talking to you guys today, I believe
7 that. I would not.

8 Q. What'd you do after that?

9 A. I drove away.

10 Q. Where'd you drive?

11 A. I couldn't find my phone, so I just
12 kept driving. I was discombobulated, I didn't
13 know what to think, where to go, I just kept
14 driving, kept driving. I ended up on 21, and
15 that's when I was like, "Okay, I've got to get
16 rid of this gun, now I can't have no gun."

17 Q. Why'd you have to get rid of the gun?

18 A. 'Because I'm not supposed to have a
19 gun.

20 Q. You're not supposed to have a gun?

21 A. I'm not supposed to have a gun. I
22 don't want to have anything to do with a gun.

23 Q. Have you been convicted of a felony
24 before, Delmar?

25 A. I have been convicted of a felony.

1 Q. And that's why you're not supposed to
2 have a gun?

3 A. Yes. Yes. And I know if I get caught
4 with that gun, that's -- because I've already
5 been told, that's a mandatory five years in
6 prison. I'm not trying to go to prison.

7 I have a good job, a good life. I'm
8 working to get a house. I'm sleeping in my
9 truck, whatever, that's just -- I can handle
10 that, as long as I'm working. I will eventually
11 make it to where I want to -- where I need to
12 be.

13 Q. So you throw the gun out of the car.
14 Where'd you throw the gun?

15 A. Threw it by -- I threw it by the Air
16 Station. There's a gate separating -- or going
17 around the whole Air Station, so it couldn't
18 make it into the -- and so I just threw it. I
19 rolled the passenger window down and flung it as
20 hard as I can.

21 And before doing that, I disarmed it, made
22 sure that whenever it drops it doesn't fire.
23 That's why I disarmed it.

24 Q. What do you mean you disarmed it?

25 A. I disarmed it. I took the clip out.

1 Q. Okay.

2 A. You know, and that way if it drops, it
3 don't go boom --

4 Q. Okay.

5 A. -- accidentally. That's why I took the
6 clip out, hoping that that's what would happen.
7 I don't know how many clips was in it though, I
8 don't know, but I just took it out.

9 Q. Had you ever seen that gun before that
10 night?

11 A. Never seen that gun before.

12 Q. So you're driving, you're driving down
13 21, what are you thinking?

14 A. I don't know what to think. I'm
15 thinking, okay, you know, he's my cousin, what's
16 the family gonna think? Like, you know, you
17 know, I didn't know what to think, I'm just
18 driving. I'm just driving.

19 I'm scared, I didn't know what to do. I'm
20 like, "Hey, I need to turn myself in, and I need
21 to call or go to the police, I need to tell
22 somebody."

23 Q. Okay.

24 A. I couldn't even find my phone at the
25 time. The phone was nowhere to be found.

1 Q. Did you turn yourself in, Delmar?

2 A. I turned myself in.

3 Q. Did you turn yourself in the next day?

4 A. Yes.

5 Q. Were you afraid to turn yourself in?

6 A. I was afraid to turn myself in, because
7 of, you know, what I had to go through, and
8 knowing that my life was --

9 Q. Did you think your life was over?

10 A. Yeah, I thought my life was over, or I
11 thought my life -- everything I worked for down
12 the drain over a freaking ride.

13 Q. Why did you think your life was over?

14 A. I mean I just -- I was just involved in
15 a situation, where I had to defend my life,
16 and --

17 Q. Well, if you were defending yourself,
18 why would you think your life was over?

19 A. Because I'm not supposed to have a gun,
20 and that's --

21 Q. You thought that since you weren't
22 supposed to have a gun, you couldn't defend
23 yourself?

24 A. Yeah, yeah.

25 Q. Because the courts told you that you

1 can't have a gun.

2 A. "You can't have a gun."

3 MS. JONES: Your Honor, he's leading again.

4 THE COURT: Rephrase, please.

5 MR. PAULK: Yes, Your Honor.

6 BY MR. PAULK:

7 Q. Why did you think your life was over?

8 Why did you think you had done the wrong thing?

9 A. Because I had a gun and I just shot
10 somebody. I didn't know that, you know --

11 Q. Did you go to law school, Delmar?

12 A. I didn't go to law school, but my
13 brother went to law school, and I learned a lot
14 from him.

15 Q. At the time of this incident, did you
16 know that you could arm yourself in self-
17 defense?

18 MS. JONES: Your Honor?

19 BY WITNESS:

20 A. I did not know that.

21 MS. JONES: Your Honor, first of all, this
22 is leading, and I think this is outside the
23 scope of this witness' ability to testify.

24 THE COURT: I'll agree that it's leading,
25 so that is sustained.

1 If you can rephrase the question.

2 MR. PAULK: Thank you, Your Honor.

3 THE COURT: And please don't ask him for a
4 legal conclusion, that's my job.

5 MR. PAULK: Yes, Your Honor.

6 BY MR. PAULK:

7 Q. Where'd you drive to?

8 A. I just kept driving. I didn't know
9 where I was going, and I didn't know where I was
10 gonna stop. I'd seen the sign that said,
11 "Welcome to Georgia," after a while, so I knew
12 that I was close to Georgia. And once I got
13 into Georgia, I stopped.

14 Q. When you turned yourself into Camden
15 County, you spoke with an officer there, didn't
16 you?

17 A. I did.

18 Q. And you turned yourself in?

19 A. I did.

20 Q. How long was it before you were brought
21 to Beaufort County?

22 A. Maybe a day or two, maybe. Maybe a day
23 or two, maybe.

24 Q. You're not really -- if you're not
25 sure, you can say you're not sure.

1 A. I'm not sure.

2 Q. Okay. Are you eventually brought back
3 to Beaufort County?

4 A. Yes.

5 Q. Did you agree to be brought back to
6 Beaufort County?

7 A. I did.

8 Q. What happened when you got back to
9 Beaufort County?

10 A. I got back to Beaufort County, met with
11 Investigator Tunis and his partner, Duncan, and
12 we went over the gun event.

13 Q. So during that interview you lied to
14 them at first?

15 A. I did. I did.

16 Q. Why'd you lie to them?

17 A. I was scared, and I knew for the record
18 that it was gonna get out, eventually, and my
19 family would see it, and if they saw that story,
20 they would go, "Oh, okay, it's not him," and I
21 lied, I lied about it. Once they told me what
22 was going on, I confessed and told them the
23 truth.

24 Q. Delmar, you lied, so how are we
25 supposed to believe that you were telling the

1 truth the second time?

2 A. Just -- I don't know, I mean I was, you
3 know, trying to be as truthful as possible. I
4 was trying and I'm trying. The first time I
5 said it I was hoping that it didn't get out,
6 because I knew it was gonna get out. I knew it
7 was gonna get out. The rumors are gonna go
8 around, he did this, he did that, and I wanted
9 the rumor to go around that I didn't shoot him,
10 even though I was protecting myself.

11 I knew I was protecting myself, but I don't
12 know what the law is on this, so I'm thinking
13 I'm -- either way you put it, you're screwed.

14 Q. Why did you think you were screwed?

15 A. Well, for one, a gun was involved that
16 I'm not supposed to have. It wasn't my gun, it
17 was his, but I don't know the law on that, so
18 I'm --

19 Q. You didn't think that you were allowed
20 to defend yourself?

21 A. I didn't know. I didn't know. If I
22 was allowed to defend myself, it'd probably be
23 with my fists, but I know I wasn't supposed to
24 have a gun.

25 Q. Okay. Is that the reason why you lied?

1 Is that one of the reasons why you lied?

2 A. It is.

3 Q. So when you told the truth, had you
4 accepted your fate?

5 A. I did.

6 Q. What were you thinking when you told
7 the truth?

8 A. Well, I was asking, you know, Sergeant
9 Tunis, I'm like, "Am I going to spend life in
10 prison for this?" Like I accepted it, I'm like
11 -- and he was like, "No, you're not gonna spend
12 life in prison, you're good. I just want to
13 make sure, tell us this, and tell us that," and
14 he was just trying to get to the point of who
15 shot. He didn't really care how it happened.

16 Q. Did the investigators -- how much time
17 did they spend talking about what happened
18 before that with you?

19 A. Before the shooting? Huh? Say it
20 again?

21 Q. When you spoke with investigators, how
22 long did they spend asking you questions about
23 what happened prior to the shooting?

24 A. An hour and a half, two hours, maybe.

25 Q. Okay. Did they -- after they -- after

1 you said that you shot Deonne, were they
2 interested in what else you had to say?

3 A. No.

4 MS. JONES: Your Honor, objection.

5 BY WITNESS:

6 A. No.

7 MS. JONES: It calls for speculation. He
8 doesn't know what they were thinking.

9 THE COURT: I'll sustain, but you can
10 rephrase it.

11 BY MR. PAULK:

12 Q. After you told him that you shot
13 Deonne, did the interview last much longer?

14 A. Maybe another 15, 20 minutes, maybe.

15 Q. And we've all watched the video,
16 Delmar, we know how long they talked to you
17 after.

18 A. I know. I know. I tried to be as --

19 Q. At the end of the video they asked you
20 if there was anything else that they needed to
21 know. Why didn't you provide them with more
22 details at that time?

23 A. Because I didn't think it was
24 necessary.

25 Q. Why didn't you feel like it was

1 necessary?

2 A. Well, I guess when they heard me, they
3 heard what they wanted to hear, and then like
4 the whole time you can see in the interview, I
5 can tell them this, and they're like, "Okay,
6 well, what happened next?" And I could tell
7 them that. And they'd go, "Oh, well, what
8 happened next?"

9 And I told them what happened next, and
10 then they go, "Well, what happened next?" And
11 I'm like, "Okay, I see what you guys are trying
12 to do." They're trying to get me to say that I
13 shot him. And I'm sitting there telling them,
14 "Hey, I defended myself. I was under the
15 impression I was defending myself.

16 I was scared, paranoid." And I thought
17 paranoid means scared as shit. I didn't --
18 excuse my language, I thought paranoid means
19 highly scared.

20 Q. Why didn't you tell them about turning
21 on the dome light?

22 A. I didn't go into detail, and I know
23 that details was very important in this
24 situation. I've never been interrogated before.
25 I was -- I just thought that maybe if I just got

1 the truth, that it would just set me free, and I
2 didn't go into details. I didn't go into
3 details until I went in with you. And I should
4 have went into details. It was very important
5 that I went into details, but I didn't, I
6 didn't. They was asking me specific questions,
7 and I knew what they were trying to get at, so
8 -- and then it, you know, sort of like going
9 into details with just they would still go with,
10 "Oh, well, what happened next?

11 Oh, well, oh, bring it back, what happened
12 when he came around the car?" Then I would tell
13 them, and I'd go into details a lot. "Okay,
14 well, I understand that, but what happened when
15 he come around the car?" And it's like, okay,
16 what do you want? What are you trying to get me
17 to say? Oh, I know what you're trying to get me
18 to say. You're trying to get me to say that I
19 shot him, so that can conclude your
20 investigation, and I knew and I was telling them
21 like, "I know what you guys are trying to do.
22 You want me to say it, you're not dumb." Like
23 I'm pretty sure they understood what was going
24 on, so I didn't go into details. I was just
25 giving them what they wanted.

1 Did it help me? I don't know. Did it hurt
2 me? I don't know, but I was just giving them
3 what they wanted. I was trying to be
4 cooperative, you know, I didn't want anybody,
5 you know, I've watched movies. I didn't want
6 anybody to get up and slam my head on the desk
7 or anything.

8 I'm thinking all type of stuff. I'm
9 scared, I've never been in that predicament
10 before. I've never been in that predicament
11 before ever.

12 Q. In an interrogation room for murder?

13 A. In an interrogation room. You've got a
14 camera. I felt like I was on TV. So I'm like,
15 oh, is the world seeing this right now? I was
16 scared. I didn't know what to think, what to
17 do. I've got two guys with guns.

18 Q. There's a lot more -- there's some
19 details that have come out today that did not
20 come out on that interview, Delmar.

21 A. I know. I know. I know. And it's --

22 Q. Why are those details coming out now?

23 A. Because I was comfortable with talking
24 to you about it. I had more time. You asked me
25 specific questions.

1 You asked me questions that would lead to
2 what was going on. They just wanted to know one
3 specific thing. They just wanted to know one
4 specific thing. And I was like, ah, you know,
5 what it is, you just want me to say it. And I
6 was letting them know, "Hey, I was defending
7 myself." They didn't want to hear that. "Oh,
8 well, we're -- we know you were defending
9 yourself, but what happened?" Okay, so you want
10 me to be specific.

11 And instead of going into details, like I
12 should have, I didn't. I didn't go into
13 details.

14 Q. Delmar, do you know if my office
15 investigated this case?

16 MS. JONES: Your Honor, leading and
17 relevance.

18 THE COURT: Sustained as to leading. I'll
19 let you rephrase your question.

20 MR. PAULK: Yes, Your Honor.

21 BY MR. PAULK:

22 Q. Did I ask you questions that the
23 investigators did not ask you?

24 MS. JONES: Your Honor, again, it's a
25 leading question.

1 BY WITNESS:

2 A. Well, basically, because --

3 Q. Don't answer.

4 THE COURT: Sustained, that's leading, as
5 well.

6 MR. PAULK: My apologies, Your Honor, I'm
7 working on it.

8 THE COURT: No problem, you can rephrase.

9 MR. PAULK: Thank you.

10 THE COURT: No rush.

11 BY WITNESS:

12 A. Is it okay if I speak?

13 Q. Hold on there, buddy, you can only
14 answer questions. You can't --

15 A. Okay.

16 Q. -- just get up there and talk. Why did
17 you talk with me about your case?

18 A. Because you was my attorney. Because
19 you was my attorney.

20 Q. There you go.

21 A. And I know that -- go ahead.

22 Q. Do you think I have your best interest
23 in mind?

24 A. Yes.

25 Q. Why did you tell me things that you

1 didn't tell investigators?

2 A. I had more time to do it. I had -- it
3 was less stressful at the time. I wasn't, you
4 know, you don't have a gun on you. You know,
5 you're not grabbing a ball back and forth going
6 like this, this, saying that I have a fidgeting
7 problem, so I made with the faint marks here.

8 Q. Okay.

9 A. You know what I mean, I just had more
10 time to speak. You're not -- I mean you're
11 letting me talk, you're not saying, "Wait, wait,
12 wait, that's not what I heard, go back to
13 where," you're not doing that.

14 Q. Okay.

15 A. Your patient, you know what I mean?

16 MR. PAULK: One more Court's indulgence.

17 THE COURT: Yes, sir.

18 BY MR. PAULK:

19 Q. Delmar, when we discussed your case,
20 were there questions I asked you that were
21 different from the investigators?

22 A. Yes.

23 Q. Did I ask you to provide more detail?

24 MS. JONES: Your Honor, that's two
25 questions. Again, and they're leading

1 questions.

2 THE COURT: I'll let him answer it.

3 MR. PAULK: Thank you, Your Honor.

4 THE COURT: Overruled.

5 BY MR. PAULK:

6 Q. You can answer that, Delmar.

7 A. May you ask the question, again,
8 please?

9 Q. Yeah. Were there questions that I
10 asked you, that investigators did not ask you?

11 A. Yes, sir.

12 Q. Can you talk about that a little bit?
13 Talk about the differences between whenever me
14 and you talked, and when you and the
15 investigators talked.

16 A. I'll try to make it clear as possible.
17 That, you know, you were patient, you were -- I
18 mean I can't really, you know, go into what
19 exactly those questions were at the moment, but,
20 you know, it was just a different demeanor. It
21 was just, you know, it was different.

22 I mean like they were just straightforward,
23 get to the point. You was, "Let me know what's
24 going on, and how did it happen? Where did it
25 happen? And what led to this?" That they

1 didn't want to know that. They did not want to
2 know how it led to that. They just wanted to
3 know, "Did you shoot him?" Because you can see
4 I was talking, and they go, "Okay, wait there,
5 wait there, well, we need to know, so let's
6 circle back." Like you wasn't doing that. You
7 wanted to know specific information of how it
8 led to the shooting, not rather just, you know,
9 you shot him.

10 You didn't say, "Hey, you shot him, I know
11 you did." You said, "Why'd you shoot him? What
12 made you shoot him?" And I told you. I let you
13 know how it happened. I let you know what my
14 mind was thinking. I didn't let them know what
15 my mind was thinking, because they didn't want
16 to know what my mind was thinking. They just
17 wanted to do what they wanted to do.

18 Q. Did they ever ask you what you were
19 thinking at the time of the shooting?

20 A. Never.

21 Q. Did they ever ask you what you were
22 thinking at the hotel?

23 A. Never.

24 Q. Did they ever ask you what you were
25 thinking --

1 MS. JONES: Your Honor --

2 THE COURT: Let me see the lawyers over
3 here.

4 (Bench conference.)

5 THE COURT: All right, next question.

6 BY MR. PAULK:

7 Q. Delmar, you told the investigators that
8 you were paranoid. Why did you tell them that
9 you were paranoid?

10 A. I thought it means scared, and, you
11 know, I thought it meant scared, and I just -- I
12 guess I had the wrong definition for it, the
13 wrong way of interpreting it.

14 Q. Why did you tell the investigators that
15 you had a drug problem?

16 A. Because I've, you know, been, you know,
17 I wouldn't say it's a problem. I know I've said
18 that, but I wouldn't say it's a problem, like
19 I'm a drug addict, because I mean I work and I
20 make sure everything is fine before I ever
21 indulge in drugs; but I've, you know, been doing
22 it for some years, and I know that in my inner
23 self my own, you know, way that I should have
24 stopped a long time ago.

25 And I told them that, because I was under,

1 you know, I took a few bumps that night, and --

2 Q. Did you shoot Rhonda and Deonne because
3 you were on cocaine?

4 A. No. Not at all.

5 Q. When you were talking with
6 investigators, you said it felt like you were in
7 control, but you weren't in control. How do you
8 explain that?

9 A. I was in control because I'm -- my
10 outward self sees and hears everything, you
11 know. My inward self was thinking we're in
12 danger.

13 So my outward self could have over, you
14 know, basically, took over and said, okay, you
15 know this is -- this may be isn't bad, this
16 isn't what it is, you know? My inward self was
17 like, no, this is exactly what it is, because of
18 what I see.

19 Q. Why did you tell the investigators that
20 if you hadn't been on cocaine, that this would
21 never have happened?

22 A. I don't know what I was thinking when I
23 said that. That was a total misunderstanding on
24 my behalf, but I did say that, but I did say
25 that, yeah. I just -- I -- I don't know. I

1 just feel like, at the moment, that was the
2 right thing to say, you know what I mean? I
3 didn't, you know, I was trying to give them what
4 they wanted, even though it probably was gonna
5 screw me over, but I just wanted to be
6 cooperative. They were just, you know, they
7 were just asking questions that they, you know,
8 that they wanted to hear.

9 And I figured, you know, it was stupid, but
10 I mean that they wanted to hear that. I didn't
11 -- I wasn't -- okay, when I do, as I'm gonna
12 explain, when I do that drug, I'm in a total
13 good mood. I'm not in a rage mood, ready to
14 kill everybody, you know what I mean? If
15 anybody ever done cocaine before, they will
16 know, you know, the effects of it. It doesn't
17 make you go out and kill people, you know what I
18 mean? And I didn't do it, and then do it. I
19 was on it, and so I -- like if that was the case
20 --

21 Q. Hold on one second. How long before
22 the shooting occurred -- when was the last time
23 you smoked cocaine before the shooting?

24 A. Was when we were on the way to get her.

25 Q. You didn't use any cocaine waiting in

1 the car at the hotel? Do you have an
2 approximate amount of time? Do you know how
3 long it was in between the last time that you
4 snorted cocaine and the shooting, if you had to
5 guess?

6 A. I don't want to guess.

7 Q. Okay, don't guess, if you don't know,
8 you don't know.

9 A. I want to be accurate. I don't want to
10 get --

11 MR. PAULK: One more of the Court's
12 indulgence.

13 THE COURT: Yes, sir.

14 BY MR. PAULK:

15 Q. Delmar, why did you shoot Rhonda and
16 Deonne?

17 A. I was defending myself. I felt like my
18 life was in danger. I don't want to lose my
19 life, I only have one. I don't even want to be
20 shot, I don't want to be hurt. I saw a gun. I
21 don't -- I didn't have a gun to defend myself,
22 he had a gun.

23 Why do you have a gun, it's supposed to be
24 under the hood.

25 MR. PAULK: No further questions.

1 THE COURT: All right, it looks like now is
2 a good time for a break for lunch. So let's the
3 jury plan on being back here or back in the
4 building at 2:20, and we will try to get started
5 back up about 2:30. We do have a issues we need
6 to take care of, housekeeping-wise, so if
7 you'all can be back at 2:20, and we'll hopefully
8 finish up today.

9 (Jury exits the courtroom.)

10 THE BAILIFF: The jury's clear, Your Honor.

11 THE COURT: And, Mr. Sanders, I believe
12 needs a restroom break?

13 WITNESS: Sure.

14 THE COURT: So we'll be back here at 2:20
15 as well. We still need to take up the issue of
16 those exhibits, right? Make sure we've got all
17 those right?

18 MR. PAULK: Yes, Your Honor.

19 THE COURT: All right, we'll do that, when
20 we get back from lunch. Have you'all got
21 anything else I need to look at over lunch?

22 MR. PAULK: Not that I'm aware of, Your
23 Honor.

24 THE COURT: All right.

25 MS. JONES: No, sir.

1 THE COURT: We'll be at ease.

2 (Luncheon recess.)

3 PROCEEDINGS CONTINUED

4 ***

5 THE BAILIFF: All right, the Court's back
6 in session.

7 THE COURT: Please be seated. All right,
8 anything we need to take up before we get
9 started? I told the jury 2:30, so I think
10 they're all here.

11 MS. JONES: Nothing from the State, Your
12 Honor.

13 MR. PAULK: Your Honor, we would ask to
14 settle the record of the witness, Ernest
15 Williams, again.

16 THE COURT: Okay.

17 MR. PAULK: In speaking with him, he
18 disclosed to us that he was in prison from 1989
19 until 2007, basically, so the original criminal
20 history that we looked at was not for him. He
21 provided us with this Social Security Number,
22 and we were able to get the correct charges.

23 THE COURT: Okay, what is it?

24 MS. JONES: So that would be 1989, safe
25 cracking and grand larceny. I think both of

1 those would be crimes of dishonesty.

2 THE COURT: Uh-huh.

3 MS. JONES: Prior that that, '78, he had a
4 grand larceny, he has a forgery in '87, and
5 those are the only ones that are allowable under
6 the rules.

7 THE COURT: Okay. So grand larceny, safe
8 cracking and forgery, all right. Anything else?
9 You know what, I might need to run and get
10 another pad real quick, let me do that real
11 quick, I'm about out.

12 MS. JONES: Your Honor, I misspoke about
13 his 1987 forgery.

14 THE COURT: Uh-huh.

15 MS. JONES: That was a non-conviction.

16 THE COURT: Non-conviction? So that leaves
17 us with grand larceny and safe cracking?

18 MS. JONES: Yes, sir.

19 THE COURT: All right. Do you think you're
20 gonna be able to finish today, or probably
21 tomorrow?

22 MR. PAULK: Your Honor, I've got two expert
23 witnesses that are going to be testifying.

24 THE COURT: Okay.

25 MR. PAULK: I've Investigator Garcia, of

1 Officer Garcia, excuse me, but I intend to call
2 Investigator Duncan, I intend to call
3 Investigator Byrd.

4 THE COURT: Well, I see Mr. Johnson over
5 there.

6 MR. PAULK: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. PAULK: Ernest Williams --

9 THE COURT: No, that's fine, I mean I'm
10 here all week, so I just --

11 MR. PAULK: Okay, I'm not sure.

12 THE COURT: Okay.

13 MR. PAULK: I don't --

14 THE COURT: That's no problem.

15 MR. PAULK: I don't think so.

16 THE COURT: All right. Well, yeah, that's
17 fine. All right, let's get the jury.

18 (The jury enters the courtroom.)

19 THE BAILIFF: The jury's entering the
20 courtroom, Your Honor. The jury's seated, Your
21 Honor.

22 THE COURT: Thank you. All right, Mr.
23 Sanders, if you'll resume your seat on the
24 witness stand. Ms. Jones?

25 MS. JONES: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. JONES:

Q. Good afternoon, Mr. Sanders.

A. How you doing?

Q. I'm doing well, how about yourself?

A. I'm good.

Q. So we're here today because you killed
Deonne McLendon?

A. You're asking me?

Q. Yeah.

A. We're in trial.

Q. For the murder of Deonne McLeondon?

A. Uh-huh.

Q. Okay, and the attempted murder of
Rhonda Randall?

A. Witness nodding.

THE COURT: Make sure you answer yes or no,
Mr. Sanders.

WITNESS: Yes, sir.

THE COURT: She's -- our Court Reporter's
taking everything down.

WITNESS: Yes, sir.

THE COURT: Yes.

BY MS. JONES:

1 Q. That you turned yourself in?

2 A. Yes.

3 Q. Okay, and then you agreed to speak with
4 the police?

5 A. Yes.

6 Q. And, actually, first you spoke with, as
7 your attorney also said, with a Deputy in Camden
8 County, Georgia?

9 A. Yes, ma'am.

10 Q. And then you also spoke with this woman
11 right here, and another one of our
12 investigators, Investigator Duncan, right?

13 A. Yes, ma'am.

14 Q. Okay. And then you took the stand and
15 gave a whole 'nother story, didn't you?

16 A. Not another story.

17 Q. What you told on that stand today is
18 the same thing we saw on that interview?

19 A. No, no, it's not.

20 Q. Oh.

21 A. It's not.

22 Q. Okay.

23 A. It's not.

24 Q. So you lied? Did you lie?

25 A. It was the truth, I just -- the first

1 statement I told was a lie, yes.

2 Q. You said the first statement.

3 You actually gave, ew, gosh, one, two,
4 three, about four or five -- I guess counting
5 today about four or five different accounts of
6 what happened, different stories of what
7 happened that night?

8 A. Huh. I don't recall that.

9 Q. Okay, but in your interview with Tunis
10 and Duncan, you were not saying the same thing
11 throughout the whole interview, were you?

12 A. I didn't go into details.

13 Q. Oh, but don't you think details are
14 important?

15 A. Very important, yes, ma'am.

16 Q. I think you said that earlier, details
17 are very important. You did go into details
18 though, when you were talking about these two
19 strange men that just shot this gun and fired,
20 and you had to run, you had to hide in the
21 bushes, and you saw your cousin run.

22 You gave some pretty good details there,
23 didn't you?

24 A. I didn't say who was shot, I said shots
25 were fired.

1 Q. Right, right.

2 A. I didn't say two men shot.

3 Q. But you were talking about these two
4 strange men in the back of your car.

5 A. I -- I made a statement that there were
6 two strange men in the car, I didn't say who
7 shot.

8 Q. Right, you just heard the shot.

9 A. Right.

10 Q. And that was a lie.

11 A. Yes, ma'am.

12 Q. But when you're saying that, you gave
13 some details, albeit lies, but you gave some
14 details, didn't you?

15 A. I probably did.

16 Q. And on that interview, when you are
17 talking about these two men, and then you hear
18 the shot, you're real excited, and you're
19 talking real, real fast, aren't you?

20 A. I guess so.

21 Q. But you're lying?

22 A. Yes.

23 Q. How many times did you have to be told
24 to slow down today?

25 A. Maybe two or three times.

1 Q. Because you're lying again today?

2 A. No, ma'am.

3 Q. Okay. So I want to go into some of
4 your lies that you did tell. We'll start with
5 the story you told the Deputy down in Camden
6 County, not the same story you told today, was
7 it?

8 A. No, ma'am.

9 Q. Okay, and then you come July 26th, and
10 you speak with Investigator Tunis and
11 Investigator Duncan?

12 A. Yes, ma'am.

13 Q. And they are nothing but pleasant and
14 nice and kind to you, aren't they?

15 A. Yes, ma'am.

16 Q. And at the end of the interview you
17 even asked Investigator Duncan to give you a
18 hug, didn't you?

19 A. I'm not sure about that.

20 Q. Okay. Well, I guess the interview
21 speaks for itself.

22 A. Right, right.

23 Q. But they never threatened you, they
24 never coerced you, they never tried to bribe you
25 into speaking to them, you couldn't wait to tell

1 them your stories, could you?

2 A. Right.

3 Q. Right, stories, plural, because you
4 told them more than one story, didn't you?

5 A. Yes, ma'am.

6 Q. So let's go into -- so we have the
7 story to Camden County Deputy. Now we have the
8 story to Tunis and Duncan about these two
9 unknown men, and there's a white girl named
10 Lacey?

11 A. Yes, ma'am.

12 Q. Do you remember telling that story?

13 A. Yes, ma'am.

14 Q. There never was a white girl named
15 Lacey, was there?

16 A. There never was, initially.

17 Q. Okay. There never were two men?

18 A. No, ma'am.

19 Q. And all of that was a lie?

20 A. Yes, ma'am.

21 Q. All the details you gave about that,
22 they're all lies?

23 A. Yes, ma'am.

24 Q. Okay, let's go to the third rendition
25 of what happened, the third story. You say,

1 "You know what? There's no mysterious people,
2 there's just three of us," which that's true,
3 the Oasis Inn video showed us that was true,
4 didn't it?

5 A. Yes, ma'am.

6 Q. But then you talk about how Deonne went
7 to get drugs, and Deonne was doing drugs, but
8 not you.

9 A. I never said I wasn't.

10 Q. But Deonne went to buy the drugs, not
11 you, right?

12 A. Right.

13 Q. Okay. That's not true, because you and
14 Deonne both were using cocaine that night both
15 at the drug dealer's house?

16 A. But I didn't buy any of the drugs.

17 Q. Okay. He did the hand-to-hand, but you
18 used some of those drugs that night?

19 A. Yes, ma'am.

20 Q. Okay. But then you go onto say that
21 Deonne left the gun in the passenger seat, he
22 walked around, and you didn't grab the gun, you
23 didn't touch the gun. That's what you say in
24 story number three, isn't it?

25 A. Not at the moment I didn't touch the

1 gun, no.

2 COURT REPORTER: Say it again, please.

3 BY WITNESS:

4 A. Not at the moment, I didn't touch the
5 gun, no, ma'am.

6 Q. But you don't clarify that, not that
7 particular gun, that I didn't touch the gun, but
8 at a later moment I touched the gun, you just
9 say, "No, I didn't touch the gun."

10 A. Correct.

11 Q. Okay. That was a lie?

12 A. Yes, ma'am.

13 Q. Then we go into number four. Let's
14 see, then you say, "Hold up, I was on drugs. I
15 was paranoid, I was on cocaine, I was high,
16 that's why I did it."

17 A. Yes, ma'am.

18 Q. Okay. You say Deonne got out of the
19 car, and he --

20 A. Yes, ma'am.

21 Q. -- walked around the front, and he left
22 his gun on the seat?

23 A. Yes, ma'am.

24 Q. And you were high, and you were
25 paranoid, and you were thinking the wrong

1 things, I think that's exactly what you said in
2 that interview, wasn't it?

3 A. Yes, ma'am.

4 Q. And you grabbed his gun, and you shot
5 him, right?

6 A. Yes, ma'am.

7 Q. Okay.

8 A. Right.

9 Q. But you've already said you've lied.
10 You're the only person that says that gun was
11 Deonne's.

12 A. Oh, okay.

13 Q. You've been here all week. The
14 evidence of the gun was Deonne's came from your
15 mouth, didn't it?

16 A. Yes, ma'am.

17 Q. Okay. So I want to talk a little bit
18 about your drug usage that -- the night where --
19 when you killed Deonne. When you are speaking
20 -- because today you say it wasn't the drug
21 usage that made you kill him, correct?

22 A. Correct.

23 Q. That you were defending yourself?

24 A. Correct.

25 Q. Okay. But when you're talking to Tunis

1 and you're talking to Duncan, and you're now
2 telling the truth, because you say, "I'm telling
3 the truth," I think you say, "I'm doing it for
4 Jesus. Jesus speaks through the truth."

5 A. Yes, ma'am.

6 Q. Do you remember all that?

7 A. Yes, ma'am.

8 Q. Okay. You say, "We both were under the
9 influence," you and Deonne, and that when you're
10 under the influence it makes you look at things
11 differently?

12 A. Yes, ma'am.

13 Q. "But now that I'm sober, I see that I
14 made the wrong choice, a stupid choice, a stupid
15 decision."

16 A. Yes, ma'am.

17 Q. You said that?

18 A. Yes, ma'am.

19 Q. You said that when you're on cocaine,
20 it's like a time-ticking bomb?

21 A. Well, yes -- yes, ma'am.

22 Q. Okay. "And that I know how that shit
23 gets me."

24 A. Yes, ma'am.

25 Q. You said, "I was thinking the wrong

1 thing, man, I wasn't in control." At the same
2 time, "I was thinking the wrong thing, man, I
3 must have been."

4 A. I said I wasn't in control, but I was
5 in control at the same time.

6 Q. Uh-huh, right.

7 A. Right.

8 Q. Because you're thinking the wrong
9 thing.

10 A. Well, I said -- that's not what I said.
11 I was saying I was in control, but I'm not in
12 control at the same time.

13 Q. Okay.

14 A. Those are my words.

15 Q. Okay.

16 A. Right.

17 Q. Absolutely, we saw that on the
18 interview.

19 A. Right.

20 Q. You were in control, but you also were
21 not in control at the same time --

22 A. Yes, ma'am.

23 Q. -- because you were high?

24 A. Yes, ma'am.

25 Q. Okay. And you said, "That if I wasn't

1 under the influence, I would not have made that
2 choice."

3 A. Yes, ma'am.

4 Q. The choice to shoot an unarmed man?

5 A. Yes, ma'am.

6 Q. You said, "I've been in this shit so
7 many times before, but without a gun."

8 A. I've been on -- what do you mean been
9 there this --

10 Q. It's talking -- it's in the part of the
11 interview, where you're talking about your drug
12 usage.

13 A. Could you rephrase it again one more
14 time?

15 Q. "I've been in this shit so many times,
16 but without a gun."

17 A. I guess I said that, yeah.

18 Q. Okay.

19 A. Okay.

20 Q. As in you've been high before, just
21 didn't have access to a weapon?

22 A. That's not what I meant, but I'm pretty
23 sure I said that. Like I said, I didn't go into
24 details.

25 Q. Okay. Why didn't you go into details?

1 A. I'm not sure.

2 Q. Okay. Details are important.

3 A. Very important.

4 Q. You're being charged with murder.

5 They're accusing you of murder --

6 A. Yes, ma'am.

7 Q. -- and you didn't feel the need to tell
8 them your full side of the story?

9 A. I should have.

10 Q. You didn't feel the need to tell them
11 that you were acting in self-defense?

12 A. I should -- I did say I was acting in
13 self-defense.

14 Q. You said you were defending yourself,
15 but what do you say you're defending yourself in
16 that interview?

17 A. I didn't go into details.

18 Q. You never say what you're actually
19 defending yourself from, do you?

20 A. Well, I just made it clear that there
21 was supposed to be a gun under the hood.

22 Q. Uh-huh.

23 A. The gun wasn't under the hood, it was
24 in his possession in the car.

25 Q. But, again, you never say what you're

1 defending yourself from?

2 A. Defending myself from the gun being in
3 the car that's supposed to be under the hood.

4 Q. Okay. I'm glad you brought up that gun
5 under the hood. So it came out on your direct
6 that you're not -- you were not allowed to be
7 around guns, are you?

8 A. Correct.

9 Q. Because you're a convicted felon?

10 A. Yes, ma'am.

11 Q. So you didn't want that gun in your car
12 that night, did you?

13 A. No, ma'am.

14 Q. But you let your cousin put the gun in
15 your car --

16 A. Correct.

17 Q. -- under your hood?

18 A. Correct.

19 Q. And then we saw a video of you at the
20 Oasis Inn for about ten minutes sitting in your
21 car by yourself. Why didn't you take the gun
22 out of your hood at that point?

23 A. I didn't want to touch the gun. I
24 didn't want to look -- that was his gun. I
25 didn't want to do anything with that gun.

1 Q. Why didn't you tell him to take it in
2 the hotel room with him?

3 A. Because he kept it under the hood.

4 Q. But if you're not supposed to be around
5 guns, you are at the hotel, that's their final
6 destination, he could have taken that gun inside
7 the hotel with him, couldn't he have?

8 A. He could have.

9 Q. He didn't take the gun --

10 MR. PAULK: Objection, speculation.

11 THE COURT: I'll allow it.

12 MS. JONES: I'm sorry?

13 THE COURT: I'll allow it.

14 BY THE JONES:

15 Q. He didn't take the gun inside with him,
16 did he?

17 A. No, ma'am.

18 Q. It stayed outside with you?

19 A. It stayed outside under the hood,
20 supposedly.

21 Q. Because that was your gun?

22 A. That wasn't my gun.

23 Q. So you told Tunis and Duncan that you
24 have this drug problem, and it was your paranoia
25 that led you to shoot Deonne, who your own

1 statement, he didn't have a gun on him when you
2 shot him.

3 A. No, ma'am.

4 Q. Rhonda didn't have a gun on her when
5 you shot her?

6 A. I'm not sure.

7 Q. She was actually trying to get out of
8 the back passenger door when you shot her,
9 wasn't she?

10 A. No, she was already sitting there with
11 the door open. She never got out, or tried to
12 get out.

13 Q. And, you know, the bullet hit her left
14 arm, right?

15 A. Correct.

16 Q. And you saw the pictures of the bullet
17 hole right in the passenger seat?

18 A. Right.

19 Q. I mean that's her arm getting out of
20 that passenger seat when you hit her, isn't it?

21 A. It wasn't in that motion. She was
22 standing -- she was sitting still.

23 Q. She's sitting still?

24 A. Yes.

25 Q. Even less of a threat to you.

1 A. She's a threat, she's in my -- I think
2 she's going through her belongings.

3 Q. Okay. Now, you said some things that I
4 want to ask you about. During -- at the
5 beginning of this interview with Duncan and
6 Tunis you say, "Hey, can I ask you a question?
7 How did I end up on America's Most Wanted?"
8 You're kind of like proud about that, aren't
9 you?

10 A. No, I wasn't proud at all.

11 Q. Okay. And they said, "It's not
12 America's Most Wanted, it's our local NIXLE."
13 Okay, you knew you were wanted, you knew Rhonda
14 lived, and you knew they were looking for you
15 and for your car, didn't you?

16 A. I'm pretty sure I did.

17 Q. Well, you say, "You're looking for me
18 because of my vehicle."

19 A. Yeah.

20 Q. Okay. You did not know at that time
21 though, that Deonne was also able to tell them
22 who killed him?

23 A. I wasn't sure of anything.

24 Q. Okay. You had -- on your way from
25 Camden County, Georgia to Beaufort, South

1 Carolina, you had a ten-hour drive to get from
2 Camden County to Beaufort, didn't you?

3 A. A ten-hour ride.

4 Q. Ride. It's only like a two-hour drive,
5 isn't it?

6 A. Normally.

7 Q. Yeah, but they took you around the
8 State you said, because someone couldn't come
9 into South Carolina?

10 A. They did, yes.

11 Q. Yes, okay. They as in Camden County?

12 A. Correct.

13 Q. So over that ten hours you have nothing
14 to do but sit and think, right?

15 A. I guess, you know, I think all the
16 time.

17 Q. Good, okay, good. So you're sitting
18 over these ten hours thinking about what you
19 were gonna tell Beaufort County, because you
20 knew you'd been caught?

21 A. Incorrect.

22 Q. Okay. But it's over those ten hours,
23 where you start thinking of, I'm gonna tell them
24 about the two men, I'm gonna tell them about the
25 two women, I'm gonna tell them I didn't reach

1 for the gun, I'm gonna tell them I did reach for
2 the gun?

3 A. That's not correct.

4 Q. Okay, some other time you came up with
5 the stories?

6 A. Yes.

7 Q. Okay. When they tell you, "Man, we're
8 just here, just tell us the truth, tell us the
9 truth," and do you remember what your response
10 was?

11 A. Enlighten me, please.

12 Q. It said you said, "It's too late."

13 A. Right.

14 Q. Because you knew you had already lied?

15 A. Right.

16 Q. And you knew that you weren't acting in
17 self-defense that day -- that night?

18 A. Not correct.

19 Q. You say, "I'm not saying you guys
20 screwed up, I'm saying I screwed up."

21 A. Correct.

22 Q. If you were justified in shooting
23 somebody to save your own life, that's not
24 screwing up, is it?

25 A. I didn't know that at the time.

1 Q. Okay. You know what you did was wrong.
2 You say, "I know I'm gonna be stuck in here,"
3 you're talking about jail." You say, "I know
4 I'm not getting a bond," do you remember saying
5 that?

6 A. Yes, ma'am.

7 Q. Because you knew you were not acting in
8 self-defense.

9 A. I was acting in self-defense.

10 Q. You said, "Did I throw my life away?"

11 A. Yes.

12 Q. Okay, because you knew what you did was
13 not self-defense.

14 A. No, that is --

15 MR. PAULK: Objection, Your Honor, she's
16 asking him to draw a legal conclusion.

17 MS. JONES: I'll move on, Your Honor.

18 THE COURT: Okay.

19 BY MS. JONES:

20 Q. You wanted to know also, if what you
21 were telling these investigators fit the
22 evidence they had, didn't you?

23 A. I'm not sure what you're trying to say.

24 Q. Okay. You said after you gave a little
25 bit of information, you said, "Does that match

1 what you already knew?"

2 A. Oh, yes.

3 Q. Okay.

4 A. Because they told me that they already
5 had a story.

6 Q. Yes, they already had the truth. So
7 you then also say -- one of them says something
8 to you about, "You did what you had to do." And
9 you go, "Man, that's a good one, that's a good
10 one." Do you remember that?

11 A. Yes.

12 Q. Is that when it starts clicking that,
13 oh, okay, self-defense, I did what I had to do,
14 that's a good one, I'm going with self-defense.

15 A. No, I said that was a good one, because
16 I knew what he'd be trying to trick me into
17 saying.

18 Q. Okay. You also knew that you needed to
19 get out of Beaufort County after you killed
20 Deonne, and tried to kill Rhonda?

21 A. Not correct.

22 Q. You --

23 A. I just drove.

24 Q. Out of the state.

25 A. Right.

1 Q. You drove out of the state?

2 A. Right.

3 Q. Okay. And you had Rhonda's phone in
4 your car, didn't you?

5 A. I don't remember that.

6 Q. In your interview you said she was
7 asking for her phone --

8 A. Correct.

9 Q. -- and I said, "No, I'm not giving it
10 to you, and I drove off.

11 A. I just said I drove off.

12 Q. But you knew she was asking for her
13 phone --

14 A. Correct.

15 Q. -- and you still drove off?

16 A. Correct.

17 Q. Knowing she didn't have her phone,
18 knowing the last place she was, was in your car
19 so her phone was in your car?

20 A. Correct.

21 Q. Okay, so you drove off with her phone,
22 so she couldn't call the police?

23 A. Not that she couldn't call the police,
24 so I can get away.

25 Q. Because you had to get away.

1 A. Had to get away from them, from the
2 threat.

3 Q. From Rhonda, who's been shot, and
4 Deonne who's dying in a ditch, both of which are
5 unarmed?

6 Where's the threat there?

7 A. That's why I left. Do I stay around
8 the threat?

9 Q. You also have the wherewithal, even
10 though there was -- you said there was a lot
11 going on, but you knew that when you were
12 fleeing, that you had to get rid of that murder
13 weapon, didn't you?

14 A. I had to get rid of the gun, yes.

15 Q. And you had the wherewithal to take the
16 magazine out of the gun and throw it one place,
17 and throw the gun somewhere else?

18 A. Yes, so it wouldn't discharge.

19 Q. Or so the police couldn't find it?

20 A. If that was the case, I wouldn't have
21 told the police where I threw it.

22 Q. But they didn't find it where you said
23 you threw it, did they?

24 A. I guess they didn't. They said they
25 didn't.

1 Q. Okay. You also talk about how you
2 called lots of friends and family, you talked
3 about this in your interview, you called lots of
4 friends and family, just asking them, "What to
5 do, what to do?"

6 A. I never said lots of friends.

7 Q. Okay, you called family?

8 A. Yes.

9 Q. My apologies. You call your family
10 asking them, "What to do? What to do?"

11 A. Yes.

12 Q. But then you also said today that you
13 couldn't find your phone.

14 A. Yes, I bought a phone after that. I
15 couldn't find my phone.

16 Q. Okay, so at what point, between the
17 shooting and less than 24 hours later do you buy
18 a phone and start making these phones calls to
19 friends and family -- family, I'm sorry.

20 A. When I was in Georgia.

21 Q. I'm sorry?

22 A. When I was in Georgia.

23 Q. Okay. And your phone wasn't found in
24 your car?

25 A. Nope.

1 Q. Did you throw it with the gun?

2 A. Nope.

3 Q. Did you throw it somewhere else?

4 A. Nope.

5 Q. But we don't have that phone, do we?

6 A. Sure don't.

7 Q. Okay.

8 A. I don't have it.

9 Q. You also say, again, you made a stupid
10 choice?

11 A. Yes. Yes, ma'am.

12 Q. You say, "I failed, I failed at all."

13 A. I don't remember those words.

14 Q. Okay. Well, again, the interview
15 speaks for itself.

16 A. Yes, ma'am.

17 Q. You -- and pardon my language, you say,
18 "I'm a fucking idiot."

19 A. I guess I said that.

20 Q. Okay. You also said, "I mean I've been
21 struggling with this drug thing, man, this has
22 nothing to do with what I did wrong."

23 A. Yes, ma'am. Yes, ma'am.

24 Q. Because what you did was wrong.

25 A. I was acting in self-defense.

1 Q. You also said, "I have no excuses,
2 man."

3 A. I said it.

4 Q. Uh-huh. So you want this jury to
5 believe that you are so scared of being in
6 trouble for having this gun, even though you
7 could have removed it from the hood and got rid
8 of it, but you didn't?

9 A. I did not.

10 Q. And that even though it was Deonne's
11 gun, he did not take it inside with him?

12 A. Correct.

13 Q. Even though that was originally gonna
14 be his final destination?

15 A. Correct.

16 Q. He was gonna leave you with his gun?

17 A. Oh, but it's not.

18 Q. Obviously not.

19 A. Yes, ma'am.

20 MR. PAULK: Objection, Your Honor, it calls
21 for speculation.

22 THE COURT: Overruled.

23 BY MS. JONES:

24 Q. Deonne didn't take his gun inside,
25 because it wasn't his gun, was it?

1 A. It was his gun.

2 Q. Okay.

3 A. I don't own any weapons.

4 Q. That you never left the hotel, because
5 you didn't want to leave your cousin stranded?

6 A. Correct.

7 Q. But you just said that was his final
8 destination.

9 A. I said that was supposed to be his
10 final destination, because he had an intimate
11 lover with him in a hotel.

12 Q. So when you dropped them off, why don't
13 you leave?

14 A. Because for, number one, he's my
15 cousin, and, number two, his gun is in the hood.

16 Q. But if he's going inside to do whatever
17 he's gonna do with Rhonda, you don't need to be
18 sitting outside waiting, do you?

19 A. I'm not sure what you're trying to get
20 at, but I mean if I'm his ride, I don't want to
21 leave him.

22 Q. You came down from the stand and gave
23 this great visual of sitting in the chair, and
24 reaching with your left hand, because today you
25 now say that you saw Deonne reaching with his

1 left hand, didn't --

2 A. Yes.

3 Q. -- you?

4 A. I did.

5 Q. And not something you said in the
6 interview, was it?

7 A. Not at all.

8 MR. PAULK: Objection, Your Honor. May we
9 approach?

10 (Bench conference.)

11 BY MS. JONES:

12 Q. Okay, so, again, you now say that
13 Deonne was reaching over to the left side,
14 right?

15 A. Yes, ma'am.

16 Q. And that through your peripheral that
17 you can see multiple angles from your
18 peripheral, can't you?

19 A. Yes, ma'am.

20 Q. That you see that Rhonda is also doing
21 something in the back, and reaching towards that
22 seat.

23 A. I looked back.

24 Q. I'm sorry?

25 A. I looked back.

1 Q. You looked back? Okay.

2 A. Yes.

3 Q. And you see her reaching. But we saw
4 pictures of your Durango, I mean can Deonne --
5 if his arms are long enough to reach across
6 them, to reach back to Rhonda to whatever she's
7 doing. I mean they can't fit in between the car
8 seat and the door, can they?

9 A. My point exactly of why I was wondering
10 that.

11 COURT REPORTER: Say that again.

12 BY WITNESS:

13 A. My point exactly of why I was wondering
14 that.

15 Q. You wondered that too, because no way
16 they can be passing a weapon through that small
17 space, could they?

18 A. I don't know what they were passing.

19 Q. Well, you seem just as confused as I
20 do. Let's see, you talk about how while you're
21 waiting there in the Oasis parking lot, how you
22 needed to go to the Enmarket to get gas. Do you
23 remember that?

24 A. I was thinking it, yes.

25 Q. But then you had enough gas to drive

1 all the way to Georgia?

2 A. Yes.

3 Q. So you didn't need gas?

4 A. I needed gas.

5 Q. Okay.

6 A. I needed gas to fill up my truck.

7 Q. Uh-huh. And you felt that these two
8 were setting you up, or set up, and they were
9 gonna rob you?

10 A. Correct.

11 Q. What kind of armed robber leaves his
12 gun on the seat when he's going to rob somebody?

13 A. Someone who has another companion with
14 him.

15 Q. Who also is unarmed?

16 A. At the moment they're not unarmed.

17 Q. At the moment they were unarmed, is
18 that what you said?

19 A. At the moment they wasn't unarmed.

20 Q. But there was one gun in that car that
21 night?

22 A. Correct.

23 Q. And it was on the front passenger seat?

24 A. And they could have armed theirsself
25 (sic) with it.

1 Q. Okay, but they're gonna leave it, and
2 then come back for it?

3 A. I was wondering that.

4 Q. It just doesn't make sense, does it?

5 A. Right, it doesn't.

6 Q. Uh-huh. And to get to safety, because
7 you're in fear for your life, right?

8 A. Correct.

9 Q. You're in fear for your life.

10 A. Yes, ma'am.

11 Q. You drive through town, you pass
12 multiple areas with cars around. I think you
13 even say the police are following you'all at
14 some point. There's plenty opportunity for you
15 to seek help, isn't there?

16 A. Yes, ma'am.

17 Q. You could have done the emergency dial
18 on your phone, couldn't you?

19 A. I didn't have a phone.

20 Q. How are you scrolling looking at your
21 direct deposit, if you didn't have a phone?

22 A. That's when I had a phone then, yes.

23 Q. So you lost your phone somewhere
24 between the Oasis Inn and stopping on Stanley
25 Farm Road?

1 A. No, I lost my phone somewhere when the
2 scene was going on before I left, which is
3 like --

4 Q. Before you left what?

5 A. Before I left Stanley Farm Road. I
6 didn't see my phone after that.

7 Q. Okay, so -- but from Oasis Inn to
8 Stanley Farm, when that fear is building up,
9 that fear for your life, you had your phone?

10 A. And -- yeah, I'm pretty sure I had it
11 somewhere, but it wasn't in my hand.

12 Q. You didn't call the police?

13 A. I did not.

14 Q. You didn't do the emergency dial, and
15 it was a Smart phone? I assume, you were
16 scrolling --

17 A. Yes, yes.

18 Q. -- a Smart phone?

19 A. Yes.

20 Q. You can do the emergency dial, you
21 didn't do that.

22 A. I mean --

23 Q. You didn't send somebody your location?

24 A. No.

25 Q. Because you weren't actually in fear.

1 A. I was in fear.

2 Q. So you pass through town, you pass
3 through open businesses, you pass through cars,
4 and you decide to stop on a rural dirt road with
5 no lights, with no traffic, because you're
6 scared for your life?

7 A. I was not on a dirt road. Stanley Farm
8 is not a dirt road.

9 Q. Okay, well, I'm sorry, Stanley Farm is
10 not a dirt road, but --

11 MS. JONES: Where are those pictures? Can
12 I see pictures, please?

13 COURT REPORTER: Over here.

14 MS. JONES: Thank you.

15 BY MS. JONES:

16 Q. Okay, you're right, Stanley Farm is not
17 a dirt road, but if you're in such fear, who's
18 gonna save you here?

19 A. It's my point exactly.

20 Q. So why did you stop? If you were in
21 fear for your life, they are going to rob you,
22 they are going to kill you, you were in control
23 of the car, correct?

24 A. Correct.

25 Q. You stop where there's no help around?

1 A. I had to stop immediately. They wanted
2 to drive. They were demanding to drive. I
3 stopped the car.

4 Q. You said, "I felt like my life was in
5 danger."

6 A. Correct.

7 Q. This was -- so the end of your direct
8 with your attorney, you said, "I felt like my
9 life was in danger, I didn't have a gun to
10 defend myself."

11 A. Correct.

12 Q. You were the only person in possession
13 of a gun that night, weren't you?

14 A. After I grabbed it, yes.

15 Q. After you grabbed it?

16 A. Yes.

17 Q. Deonne had no weapon on him, did he?

18 A. It was in his grasp.

19 Q. No, no, no. After you had the gun in
20 your hand, Deonne did not have a gun near him,
21 accessible to him, on him, anywhere, did he?

22 A. Of course not, if I took it from him.

23 Q. Rhonda did not either, she was trying
24 to flee.

25 MR. PAULK: Objection, calls for

1 speculation.

2 THE COURT: Overruled.

3 BY MS. JONES:

4 Q. Rhonda didn't have a gun on her either,
5 did she?

6 A. I'm not sure.

7 Q. And she was trying to flee, when you
8 tried to kill her?

9 A. I wasn't trying to kill her.

10 Q. Okay. You fired a warning shot at her
11 from about this far away?

12 A. Uh-huh.

13 Q. And you made contact, you hit her,
14 didn't you?

15 A. I'm sure I did, that's what they're
16 saying.

17 Q. Okay. You're shooting a gun at
18 somebody from a mere three feet away? What
19 other intent did you have than to kill her?

20 A. Well, the lights was on, I saw her. If
21 I wanted to kill her, I could have killed her.
22 Like you said, three feet away.

23 Q. Three feet away when you shot her?

24 A. Three feet away, I could have killed
25 her, if I wanted to, easily.

1 Q. And Deonne was unarmed when you killed
2 him, wasn't he?

3 A. He was.

4 Q. Thank you. No further questions.

5 THE COURT: Any redirect?

6 MR. PAULK: A very brief redirect, Your
7 Honor.

8 THE COURT: Yes, sir.

9 ***

10 REDIRECT EXAMINATION

11 BY MR. PAULK:

12 Q. Mr. Sanders, Ms. Jones just asked you
13 why you didn't call the police whenever you were
14 afraid of them shooting?

15 A. She did.

16 Q. Somebody's got on you, or you think
17 somebody's has a gun on you, would you call the
18 police in front of those people?

19 A. Of course not, that's how you die.

20 MR. PAULK: No further questions, Your
21 Honor.

22 THE COURT: Any recross?

23 MS. JONES: No, sir.

24 THE COURT: All right.

25 Mr. Sanders, you can step down.

1 MR. PAULK: Your Honor, the defense now
2 calls Ms. Demetra Garvin to the stand.

3 MS. JONES: Your Honor, may we approach?

4 THE COURT: Yes, ma'am.

5 (Bench conference.)

6 * * *

7 DEMETRA BLACKLEY GARVIN, M.D.,

8 * * *

9 being first duly sworn, testified as
10 follows:

11 ***

12 DIRECT EXAMINATION

13 BY MR. PAULK:

14 Q. Good afternoon, Dr. Garvin, how are you
15 doing today?

16 A. Very well, thank you.

17 Q. How was your drive down from Columbia
18 this morning?

19 A. Good. It was early in the morning so
20 it was good --

21 Q. Yes, ma'am.

22 A. -- but thank you.

23 Q. Yes, ma'am. Ms. Garvin -- or Dr.
24 Garvin, where do you work at?

25 A. I work for -- as Director of Forensic

1 Services for Forensic Science Network, which is
2 a consulting concern in Columbia, South
3 Carolina.

4 Q. Okay. And how long have you worked
5 there?

6 A. Well, full-time since 2016.

7 Q. Okay, and what did you do before that?

8 A. So after obtaining an undergraduate and
9 a graduate degree, I went to work for the South
10 Carolina Law Enforcement Division in --

11 Q. What --

12 A. -- Columbia, better known as SLED.

13 Q. And what was your undergraduate and
14 graduate degrees in?

15 A. Undergraduate degree in biology from
16 Furman University, and a graduate degree in
17 clinical pharmacy from the University of South
18 Carolina College of Pharmacy, I'm a registered
19 pharmacist, as well.

20 Q. Thank you, ma'am. And you were saying
21 that you used to work for SLED?

22 A. Yes, I was at SLED, South Carolina Law
23 Enforcement Division in Columbia in the Forensic
24 Laboratory for 16 years, as a staff
25 toxicologist, and also as a drug chemist. And

1 in 2000 -- so I was there from 1984 until 2000,
2 and then in 2000 I moved over to direct the
3 Forensic Services Laboratory for Sheriff Lott at
4 the Richland County Sheriff's Department in
5 Columbia.

6 Q. All right, Dr. Garvin, do you have any
7 licenses or certifications that would aid you in
8 reviewing toxicology results?

9 A. So I have -- I'm a registered
10 pharmacist in South Carolina. I'm also Board
11 certified in forensic toxicology with the
12 American Board of Forensic Toxicology.

13 Q. And about how long have you been
14 reviewing toxicology reports?

15 A. Oh, my entire career, almost 30 years.

16 Q. Have you ever been qualified as an
17 expert before in a case?

18 A. Yes, sir.

19 Q. About how many times?

20 A. I've testified over 250 times. I
21 really don't keep track anymore --

22 Q. Yes, ma'am.

23 A. -- but over 250.

24 MR. PAULK: Your Honor, at this time the
25 defense would move to qualify Dr. Garvin as an

1 expert witness in toxicology.

2 THE COURT: Forensic toxicology?

3 MR. PAULK: Yes, Your Honor.

4 THE COURT: Ms. Jones?

5 MS. JONES: No objection.

6 THE COURT: All right, I find that Ms. --
7 or, sorry, Dr. Garvin's testimony is necessary
8 to assist the jury in resolving facts or
9 questions. I find that she is qualified in the
10 area of forensic toxicology, and the substance
11 or science behind her testimony is reliable.
12 Ladies and gentlemen, the same as before, this
13 is expert opinion testimony.

14 We don't -- every witness can't do that,
15 but based upon her qualifications, I find that
16 she is an expert in this field, and that, you
17 know, the same instructions I gave you earlier
18 apply.

19 BY MR. PAULK:

20 Q. Dr. Garvin, do you know Dr. Presnell?

21 A. Yes.

22 Q. And did Dr. Presnell ask you to review
23 the toxicology report in this case?

24 A. Actually, the Coroner, the Beaufort
25 County Coroner did, by virtue of the

1 relationship that Forensic Science Network has
2 with the Coroner's Office in death
3 investigations and toxicology.

4 Q. Okay.

5 MR. PAULK: Your Honor, may I approach?

6 THE COURT: Sure.

7 BY MR. PAULK:

8 Q. Dr. Garvin, do you recognize the
9 document that I've just handed you, the EMS
10 report?

11 MS. JONES: Your Honor, I would object to
12 the admission of this document.

13 (Bench conference.)

14 BY MR. PAULK:

15 Q. Dr. Garvin, do you recognize the
16 document that I've just handed you?

17 A. Yes.

18 Q. Did you author this report?

19 A. Did I author it?

20 Q. Yes.

21 A. The requisition form, which is the
22 first document that you presented to me, I did
23 not author, but I use it in the course of my
24 work. And the report I did author the summary
25 and interpretation, yes.

1 Q. Can you direct me to the summary and
2 interpretation, Dr. Garvin?

3 A. Yes, that would be on page five of five
4 of the toxicology report, and it bears my
5 digital signature.

6 Q. Thank you, Dr. Garvin.

7 MR. PAULK: Your Honor, at this time, the
8 defense would move into evidence the analysis
9 summary and reporting minutes and the opinion
10 that was offered by Dr. Garvin, on page five of
11 the EMS report.

12 MS. JONES: No objection to page five.

13 THE COURT: All right, page five of the
14 summary and interpretation that was offered by
15 Dr. Garvin is turned into evidence as defense 3.

16 BY MR. PAULK:

17 Q. And, Dr. Garvin, in offering your
18 report, did you review the remainder --

19 COURT REPORTER: Hold on one second.

20 MR. PAULK: My apologies, Madam Court
21 Reporter.

22 BY MR. PAULK:

23 Q. Dr. Garvin, did you rely on the
24 remainder of this report for your opinion and
25 summary?

1 A. Not just the remainder of the report,
2 but the information that was obtained from the
3 requisition form, which is a part of our process
4 at Forensic Science Network, in addition to
5 ensuring that the appropriate testing was
6 instituted within the laboratory, and as well as
7 the data.

8 Q. Okay, so in this report can you talk a
9 little bit about the requisition form, and what
10 all this entails?

11 A. Yes. So the Beaufort County Coroner
12 uses Forensic Science Network to assist his
13 office with the -- at the time of this case, and
14 still today.

15 The Beaufort County Coroner uses Forensic
16 Science Network to assist him with toxicology-
17 related aspects of his death -- his office's
18 death investigations. And what that means is,
19 whether or not he authorizes an autopsy, and in
20 this case an autopsy was authorized. Specimens
21 are collected, the -- some preliminary
22 information is provided to us about the nature
23 of the death, demographic information, the types
24 of specimens, so that we can assist and oversee
25 proper testing, whether the test panel is

1 properly ordered for a particular specimen,
2 whether supplemental or additional testing is
3 warranted, and we follow that process throughout
4 the testing to the report, when a report, it
5 might not be final report, but when a report is
6 issued.

7 And then we evaluate the data, the
8 resulting toxicology data in the context of our
9 understanding of the case, that may reflects to
10 conversations with Pathology, if an autopsy is
11 authorized, additional conversations with the
12 Coroner or Deputy Coroner, very case specific.
13 And then, at that point, we then -- and in this
14 case I would then set out to develop a summary,
15 based on the knowledge at that time, that I have
16 at that time, and issue the report.

17 Q. Okay. And to be clear, the autopsy
18 that you reviewed, and the information that you
19 reviewed was for the decedent, Mr. Deonne
20 McLendon?

21 A. So I did not review the autopsy report
22 in this case, but it was for Deonne McLendon,
23 that's correct.

24 Q. Did you review the toxicology report?

25 A. Oh, yes.

1 Q. Okay. And after reviewing the
2 toxicology, what conclusions did you come to?

3 A. Well, I developed a summary about the
4 findings, and presented those on page five of
5 the report, and signed the summary, based on the
6 information that I had at the time. Would you
7 like me to read that into the record?

8 Q. Yes, sir. Yes, ma'am.

9 A. So the specimen that was drawn in this
10 case was cardiac blood, which is blood taken
11 from the heart at autopsy, and an analysis for
12 therapeutic and abused drugs and alcohols was
13 performed in this case, on one of the two
14 cardiac blood specimens that were submitted to
15 the laboratory.

16 Based on testing, and at the completion of
17 testing, the results were reported as follows:
18 "The cardiac blood sample was found to contain
19 0.01 percent blood ethanol or drinking alcohol,
20 that is alcohol that is contained in beer or
21 wine, whiskey, distilled spirits, by example.
22 The specimen also contained cocaine,
23 benzoylecgonine, which is an inactive metabolite
24 and hydrolysis product of cocaine.
25 Cocaethylene, which is an active metabolite of

1 cocaine, as well as Delta 9
2 tetrahydrocannabinol, or Delta 9 THC, which is
3 the primary psychoactive constituent in
4 marijuana, by example. It's two primary
5 metabolites, 11 hydroxy Delta 9 THC, which is an
6 active metabolite or breakdown product, as well
7 as Delta 9 Carboxy THC, which is inactive.

8 And there was the presumptive presence of
9 Naloxone. Naloxone is otherwise known as
10 Narcan. It is an opioid antagonist, competitive
11 antagonist that is used to reverse opioid
12 toxicity, if it is suspected, as well as the
13 presumptive presence of both caffeine and
14 codeine.

15 Caffeine is, as we all know, it's a
16 stimulant. Pretty ubiquitous in everybody from
17 Coca-Cola to coffee, by example. And cotinine
18 is the metabolite of nicotine."

19 Q. How long does cocaine survive in
20 someone's system, when it's tested?

21 A. So the presence of cocaine is dictated
22 by in blood, and my comments are specific to
23 blood, since we don't have any other body fluids
24 or tissues that were tested in this particular
25 instance. The presence of cocaine in the blood

1 is driven by a number of factors, to include the
2 dose, the route of administration, the
3 individual's period of survival, and the methods
4 of specimen collection and storage.

5 Q. So you mentioned dosage and route of
6 administration. What do those two things mean?

7 A. So dose, as we say in forensic
8 toxicology, the dose mix, the poison.

9 Anything can be poisonous, anything can be
10 toxic, if enough of it is consumed. So dose
11 refers to the amount of substance that an
12 individual would administer or be administered.
13 The route of administration speaks to how the
14 substance, in this case cocaine, would be
15 introduced into the body.

16 And specific to cocaine, cocaine can be
17 administered by a number of routes, virtually,
18 any route that you could name, topical and
19 intravenous administration into muscular,
20 ocular, rectal, oral, just about, again, any
21 route of administration you could imagine.

22 Q. What are two of the most common routes
23 of administration for cocaine use that you
24 generally see?

25 A. I would say, based on my experience --

1 MS. JONES: Objection.

2 BY WITNESS:

3 A. -- in --

4 THE COURT: Hold on a second, we have an
5 objection, Doctor.

6 WITNESS: Pardon me.

7 MS. JONES: I don't see the relevance here.

8 THE COURT: I'll overrule it. Answer the
9 question.

10 BY WITNESS:

11 A. Well, cocaine has a medicinal
12 indication. It can be used in clinical
13 medicine, as a local anesthetic in a
14 vasoconstrictor.

15 So the routes of administration there are
16 most often topically; but if we're talking about
17 recreational use, in other words, use that is
18 not associated with a legitimate patient-
19 physician, or patient-prescriber relationship,
20 as it were, the most common routes that we see
21 forensically are intravenous, smoking, and
22 insufflation or snorting.

23 Q. But you can't tell if a toxicology
24 report, from looking at the presence of cocaine,
25 whether or not -- the route of administration?

1 You don't know the route of administration?

2 A. I can't tell the route of
3 administration.

4 Q. Okay.

5 A. We can't tell the dose.

6 Q. Okay. What are some of the differences
7 between the route of administration, when you're
8 snorting it, versus when you're smoking cocaine?

9 A. Could you be more specific? I'm not
10 sure I understand the question.

11 Q. Sure. Does the user achieve the same
12 effect as quickly, if cocaine is snorted versus
13 if it is smoked?

14 A. So cocaine undergoes a rapid
15 absorption, when it is administered by any
16 route, but there are some nuances. There are
17 some slight differences. Typically, when a user
18 smokes the drug, otherwise known as crack-
19 cocaine, that has the fastest onset of action,
20 because it reaches the brain in the fastest
21 period of time.

22 That is quickly followed by intravenous
23 administration, a few seconds, which is actually
24 a few seconds, literally, behind smoking, and
25 then that would be followed by snorting or

1 insufflation, which would then be followed by
2 oral administration, which is not commonly used.

3 Q. If effects are felt faster, would you
4 say that they are more reinforcing.

5 A. Yes, that's true.

6 Q. Could you explain that to the jury,
7 please?

8 A. So the speed with which the user
9 attains the desired effect, which with cocaine
10 is euphoria, and a sense of wellbeing, increased
11 energy, there could be increased sexual arousal,
12 all of the effects, the so-called good effects
13 or benefits of using the drug recreationally, if
14 you will.

15 The faster those effects can be attained,
16 the more reinforcing the drug is for the user,
17 and the more likely the user will want to use
18 again.

19 Q. Could you describe for the jury some of
20 the physical -- I guess the word I'm looking for
21 is the physical effects that a person who has
22 been smoking crack for multiple days would be
23 feeling, or would undergo, if someone had been
24 on a crack binge?

25 A. So use of cocaine produces

1 physiological, so physical effects, as well as
2 psychological effects, and those two types of
3 effects, if you will, are driven by the dose,
4 the route of administration, how long the
5 individual -- what their relationship with the
6 drug is.

7 Are they a first time user, had they been
8 using for hours, days, months, weeks, years?
9 And, typically, with -- and when we use the term
10 binge, that, in my experience and understanding
11 and training, refers to an individual who can
12 use larger doses over a short period of time, or
13 many doses over a longer period of time; and by
14 longer period, that might means hours, it might
15 mean days. That each of those scenarios can be
16 described as binge use.

17 Q. What are some of the physical effects
18 that would manifest themselves in someone who
19 has been binge using cocaine?

20 A. Well, certainly, you know --

21 Q. I'm sorry to cut you off, specifically,
22 crack cocaine.

23 A. Which would be the smokable form of the
24 drug. So, initially, of course, the user's
25 going to feel that sense of wellbeing,

1 heightened energy, euphoria.

2 They may have difficulty sleeping, because
3 they are charged up, the cocaine is a central
4 nervous stimulant. They may be restless, they
5 may be talkative, they may have heightened
6 sexual arousal. And then with increasing use,
7 whether that's with a dose over a short period
8 of time, or multiple doses over a longer period
9 of time, they can develop anti-sexual behavior,
10 they can become irritable, they're not going to
11 be able to sleep, they have -- they can develop
12 paranoia, delusions, aggression.

13 Q. Okay. Some of those last few physical
14 manifestations that you referenced, can those
15 physical manifestations still be present in
16 powdered cocaine use?

17 A. Yes, because it's all about the dose,
18 yes.

19 Q. Okay. If someone were to, for example,
20 have three to four bumps of powdered cocaine and
21 snort it, what physical manifestations, if any,
22 would you expect them to exhibit?

23 A. Well, without knowing more about the
24 person's usage pattern before, that's difficult
25 to say. It's possible they would exhibit

1 similar effects, again, because it's dose
2 driven, but it's also possible that not everyone
3 exhibits all of those effects.

4 Q. Okay. What does the presence of
5 cocaine in a blood sample tell you about how
6 long before death the drug was ingested?

7 A. So we typically say that -- and I
8 indicated this in my narrative, in my summary,
9 that the average -- when we talk about -- pardon
10 me, when we talk about how long a particular
11 drug remains in the systemic circulation, in the
12 blood, we often use the term half-life, which
13 refers to how long it takes for that drug to
14 remain in the circulation before 50 percent of
15 it is removed.

16 And, generally, it takes about five half-
17 lives for a drug to remain in the systemic
18 circulation before it is no longer there, before
19 it has disappeared, and that half-life is
20 specific to the drug. With cocaine, and I
21 indicated this in my summary, the average half-
22 life, to make it easy, is about an hour. It
23 could be a little bit more, it could be a little
24 bit less.

25 So if we take five half-lives, and we

1 multiply it by one, we come up with five hours.
2 And so being able to see parent cocaine in the
3 blood is suggestive to me, that the individual
4 was using the drug within five hours before
5 death, and it could be less, certainly.

6 Q. Does the amount of cocaine that is
7 present in the toxicology report, does it give
8 any indication of recency or primacy of drug
9 use?

10 A. So I would say that the concentration
11 of cocaine that was reported in the blood
12 collected from Mr. McLendon, was reported at 300
13 nanograms per mil, and that is, again, based on
14 my education, training and experience,
15 indicative of what we would refer to as
16 concentrations that we see with recreational use
17 of the drug.

18 And to put that into perspective,
19 individuals who overdose on cocaine, who die
20 from a direct -- as a direct result of
21 administering or being administered too much of
22 the drug. Usually, we see concentrations north
23 of or higher than 1,000 nanograms per mil.
24 There are some exceptions, but 1,000 nanograms
25 per mil is generally what I would communicate to

1 a Pathologist, or to a Coroner, if they were
2 concerned about overdose.

3 And then to put that into perspective,
4 again, we have instances, where individuals
5 insert large amounts of cocaine, either by
6 swallowing, body packing, body stuffing,
7 inserting the drug rectally; and if the
8 container breaks and that individual dies of a
9 massive intoxication, we can develop -- that
10 individual can develop concentrations of higher
11 than 20,000 nanograms per mil and above. So
12 just to kind of provide some comparative values,
13 if you will, some comparative concentrations,
14 but the concentration here, to me, is indicative
15 of what we tend to see with recreational use,
16 which is anywhere from, you know, less than ten
17 nanograms per mil to close to 1,000 nanograms
18 per mil.

19 Q. Okay. You also noted that there was
20 cocaethylene present in your summary. Could you
21 tell the jury a little bit about cocaethylene,
22 and what that tells us?

23 A. So cocaethylene is a metabolite, or a
24 breakdown product that is formed, when cocaine
25 and alcohol ethanol, drinking alcohol are

1 present together in the body. We refer to it as
2 a transesterification product.

3 So the two compounds come together, if you
4 will, and this new compound cocaethylene is
5 formed. What's interesting about cocaethylene
6 is -- there's several things, number one, it
7 tell us that at some point prior to death, that
8 individual consumed alcohol with cocaine, in
9 close proximity to cocaine. And it also tells
10 us it's actually an active metabolite, so it --
11 and it's equally active to cocaine, so it
12 contributes pharmacologically, just like cocaine
13 would, in terms of its effects. And then,
14 thirdly, it actually has a longer half-life than
15 cocaine, so it tends to hang around in the
16 circulation longer than parent cocaine would.

17 And sometimes we see it in the absence of
18 cocaine, but we will see cocaethylene instead of
19 cocaine.

20 Q. So from reviewing this report, you can
21 confidently say that the decedent was using
22 cocaine within at least three to five hours of
23 his death; would you agree with that statement?

24 A. I would say it's some point less than
25 five hours, yes, sir.

1 MR. PAULK: A moment of the Court's
2 indulgence, Your Honor. Your Honor, I have no
3 further questions for this witness.

4 THE COURT: All right.

5 MR. PAULK: Thank you Dr. Garvin.

6 THE COURT: Ms. Jones?

7 MS. JONES: Thank you, Your Honor, briefly.

8 ***

9 CROSS-EXAMINATION

10 BY MS. JONES:

11 Q. Dr. Garvin, so based on what you just
12 said, the effects that one feels from ingesting
13 cocaine is person-specific? It depends on the
14 person, doesn't it?

15 A. I'm sorry, could you ask the question
16 again?

17 Q. Absolutely.

18 A. I apologize.

19 Q. Cocaine affects every individual person
20 differently?

21 A. Not exactly. So cocaine's a central
22 nervous system stimulant. It's never going to
23 be a depressant. There are aspects of the drug,
24 like with any drug, that are going to be the
25 same with everyone. So, again, by example,

1 cocaine's a central nervous system stimulant,
2 it's going to increase heart rate, increase
3 respiration, increase body temperature,
4 vasoconstrict, be a local anesthetic, those
5 kinds of things are going to be the same with
6 everyone. Produce a euphoria when it's
7 administered recreationally, by whatever route
8 of administration that is. When it comes to
9 other effects, specifically, psychological
10 effects, there are -- there's a laundry list, if
11 you will, of -- and I mentioned many of them
12 earlier in my testimony, of effects that cocaine
13 use can cause in an individual, but it doesn't
14 mean that every individual will exhibit those.

15 Q. Okay, thank you. So not everyone will
16 exhibit all of the same effects?

17 A. Correct.

18 Q. Okay. So you have no way to tell me
19 exactly what effects Deonne McLendon exhibited?

20 A. Not without being provided that
21 information.

22 Q. Or Delmar Sanders?

23 A. Correct.

24 Q. Or Rhonda Randall?

25 A. Correct.

1 Q. Thank you.

2 THE COURT: Any recross -- or redirect?

3 Sorry.

4 MR. PAULK: No redirect, Your Honor. May
5 Dr. Garvin be released from her subpoena?

6 THE COURT: Yes, ma'am, you are excused.

7 WITNESS: Thank you, sir.

8 THE COURT: Have a safe trip back.

9 WITNESS: Oh, thank you.

10 MR. PAULK: Your Honor, the defense next
11 calls Ernest Williams to the stand.

12 THE COURT: I think we've got a request for
13 a short break.

14 MR. PAULK: Sure.

15 THE COURT: So let's take about -- we've
16 been going about an hour, let's take about ten
17 minutes. Everybody just getting back from
18 lunch.

19 MR. PAULK: Yes, Your Honor.

20 THE COURT: All right, ladies and
21 gentlemen, we're gonna take about a ten-minute
22 break. Please do not discuss the case.

23 (Jury exits the courtroom.)

24 THE BAILIFF: The jury's cleared, Your
25 Honor.

1 THE COURT: All right, we'll be in recess
2 until -- let's just say until 3:45.

3 MS. JONES: Thank you.

4 MR. PAULK: Thank you, Your Honor.

5 (Recess.)

6 THE BAILIFF: All rise, the Court's back in
7 session.

8 THE COURT: Please be seated. Do you'all
9 have anything for me, or we need the jury?

10 MS. JONES: No, Your Honor, I would ask
11 that we proffer the testimony of Mr. Williams,
12 who is his next witness. I think some of it may
13 be irrelevant, may be inadmissible.

14 THE COURT: All right.

15 MR. PAULK: I'm certainly fine with
16 proffering it, Your Honor. Another thing that I
17 wanted to bring up to the Court's attention,
18 during the lunchbreak I had my investigator,
19 with the permission of the Sheriff's Office, go
20 to the Beaufort County impound lot and take
21 photos of the Dodge Durango, along with a tape
22 measure to show how tall the hood is.

23 How would Your Honor like me to proceed in
24 getting these pictures in front of the jury, or
25 getting these pictures, specifically, in front

1 of Investigator Tunis?

2 I'm happy to recall him. Do I need -- the
3 issue is, my investigator, due to my fault, was
4 not listed on my witness list. He wasn't my
5 lead investigator, he wouldn't have been subject
6 to the sequestration motion, since he was not
7 the lead investigator for this case, but he has
8 been here during this case.

9 I understand the jury was not voir dired
10 about whether not they know him, and to that it
11 may be an issue. I'm not sure how to proceed,
12 and I'm asking for Your Honor's guidance.

13 THE COURT: Well, I can't tell you how to
14 try your case. What's your position, Ms. Jones?

15 MS. JONES: Now, he's been in the
16 courtroom. I think somebody would have said if
17 they knew him or not. I'm not concerned about
18 that. Put him up to enter the pictures.

19 THE COURT: Okay.

20 MR. PAULK: Okay.

21 THE COURT: You know, whatever you need to
22 do to try your case.

23 MR. PAULK: Okay, thank you, Your Honor.

24 THE COURT: All right.

25 MR. PAULK: The defense next calls Ernest

1 Williams.

2 THE COURT: Okay. Well, do you'all --

3 MR. PAULK: We've got to proffer it.

4 THE COURT: Yeah, no, he's going to proffer
5 it.

6 Do you want to give me -- can you'all give
7 me a two-minute skinny and we'll see?

8 MR. PAULK: Your Honor, Mr. Williams --
9 we're going to go through his whole testimony
10 for sure. I think that what Ms. Jones is
11 concerned about is, there's community
12 reputations versus his personal knowledge or
13 reputation. Mr. Williams is married to Ms.
14 Randall, has been for quite some time. Common
15 law marriage, it was a religious marriage.

16 I don't believe that there was ever any
17 formal marriage certificate. They lived
18 together for some amount of time. He has full
19 custody of their joint child that they have
20 together, and I believe that he would testify to
21 her character.

22 THE COURT: In the community?

23 MR. PAULK: Well, I mean if he knows her,
24 then he knows this community, then it would be
25 her reputation in that community of it.

1 THE COURT: All right, what's your position
2 on that, Ms. Jones?

3 MS. JONES: I think he's gonna just say his
4 personal opinion of her. I also think that
5 anything regarding their relationship, his
6 having custody of the children is irrelevant.

7 MR. PAULK: I think it goes to show that
8 there's a relationship that is like a marriage.

9 MS. JONES: No, no, that's highly
10 inappropriate, Your Honor.

11 THE COURT: Yeah, I'm not sure that comes
12 in. All right, I guess let's see what he's got
13 to say.

14 MR. BAILIFF: Your Honor, I think you're
15 ready for the witness?

16 THE COURT: Yes, sir.

17 * * *

18 ERNEST J. WILLIAMS

19 * * *

20 being first duly sworn, testified as
21 follows:

22 ***

23 DIRECT EXAMINATION

24 BY MR. PAULK:

25 Q. Good afternoon, Mr. Williams.

1 A. Good afternoon.

2 Q. My name is Seth Paulk, and I represent
3 Mr. Delmar Sanders. Do you know Ms. Rhonda
4 Randall?

5 A. Yes.

6 Q. How do you know Ms. Rhonda Randall?

7 A. We've got a kid together. I was
8 married to her for maybe a year, a little
9 better.

10 Q. And who has custody of that child?

11 A. I do, technically.

12 Q. Do you know Ms. Randall's reputation in
13 the community?

14 A. As far as I know between me and her,
15 yes. In the community, yes, I do.

16 Q. And as to her reputation in the
17 community, what is it?

18 A. Well, she's a drug addict, and you know
19 a drug addict's reputation. You know, I know
20 most people who've got drug addicts in their
21 family, or they know drug addicts, they know
22 what they do.

23 They're main cause -- their main objective
24 is to stay high, and anything -- whatever comes
25 with that. All -- everything -- all kind of

1 stuff comes with that.

2 Q. Do you know Ms. Randall to have a
3 reputation for prostitution?

4 A. Yes.

5 Q. And is that reputation generally known
6 in the community?

7 A. Yes.

8 Q. Do you know Ms. Randall to have a
9 reputation to rob people?

10 A. That goes with the territory of being a
11 drug addict, but I've never -- I cannot say that
12 I've ever seen her rob anybody, or have any
13 knowledge of her robbing anybody; but that goes
14 with the territory of being a drug addict.

15 Q. Okay.

16 MR. PAULK: A moment of the Court's
17 indulgence?

18 BY MR. PAULK:

19 Q. Mr. Williams, has Ms. Randall ever done
20 anything to harm you?

21 A. Physically, yes.

22 Q. And what was that?

23 A. She stole my car, and when I came to
24 the point of calling the police to get -- to
25 bring the car back, she came back with the car,

1 and ended up calling the police, telling the
2 police I attacked her, and she actually attacked
3 me.

4 Q. So she filed a false police report?

5 A. Yes. And she has stolen from me before
6 too, so it's not like she's not a thief.

7 Q. Does Ms. Randall have a reputation in
8 the community for telling the truth?

9 A. No. The average person I know would
10 tell you that she's a liar, she'll lie.

11 Q. And that's her reputation in the
12 community?

13 A. That's the reputation, she will lie.
14 She's a liar.

15 MR. PAULK: Your Honor, I understand that I
16 touched on a couple of things that were probably
17 gonna be objected to for specific instances of
18 conduct, but I believe that the rest of his
19 testimony would be proper in front of the jury.

20 THE COURT: Ms. Jones?

21 MS. JONES: Well, can I ask a question of
22 this witness?

23 THE COURT: Sure.

24 ***

25 CROSS-EXAMINATION

1 BY MS. JONES:

2 Q. When you say reputation in the
3 community, what community are you talking about?

4 A. My understanding from his question is
5 reputation in the community meaning where she
6 live at, her surroundings.

7 Q. Would that just be you and your
8 household?

9 A. No.

10 Q. Okay, so --

11 A. That would be just about any place
12 she'll go at.

13 Q. Anyplace she goes, so everybody in your
14 community?

15 A. Everybody in her -- in the community
16 where she resides at, they know that she will
17 steal, she will lie, and she will do all kind of
18 stuff.

19 Q. Okay, and what community is that?

20 A. That's my community, and any community
21 that she lives in. That'll be --

22 Q. Okay.

23 A. -- Beaufort, Savannah, Ridgeland,
24 Hilton Head, Bluffton.

25 Q. Okay, what is --

1 A. All those communities.

2 Q. What is your community?

3 A. My community is Savannah, Bluffton,
4 Hilton Head, Hardeeville, Beaufort, all that's
5 my community.

6 Q. Okay.

7 A. I live in Ridgeland. I'm from Hilton
8 Head.

9 Q. Okay.

10 MS. JONES: Your Honor, I have no other
11 questions for him. I certainly --

12 BY WITNESS:

13 A. But we lived in Savannah before also.

14 Q. Okay. Perfect, thank you, Mr.
15 Williams.

16 A. Uh-huh.

17 MS. JONES: I don't have any more questions
18 for him. I certainly think that a lot of what
19 he just said is objectionable.

20 THE COURT: All right, I am looking at Rule
21 608, and as I see it, it has -- it's fairly
22 limited to character for truthfulness or
23 untruthfulness. He went into several and
24 specific instances of conduct that are or appear
25 to be prohibited under 608B.

1 So I believe about the only testimony that
2 is admissible is the last thing he said, that in
3 their community she does not have a very good
4 character for truthfulness. As far as the other
5 stuff, I think we need to stay away from it
6 under Rule 608.

7 MR. PAULK: Thank you, Your Honor. To
8 establish how Mr. Williams knows Ms. Randall, am
9 I allowed to ask background questions, how he
10 knows her, how long they've been involved?

11 THE COURT: How he knows her, all that
12 stuff, but I don't want to hear anything about
13 prostitution, robbing, drug addict, thief,
14 harmed him, stole his car, anything like that.
15 He can tell how he knows her, and under --

16 MR. PAULK: Her character.

17 THE COURT: -- as I read Rule 608 that's
18 all that is supposed to come in.

19 MR. PAULK: Thank you.

20 MS. JONES: Or the custody issue.

21 THE COURT: Or the custody, yeah. I didn't
22 make a note of that.

23 MS. JONES: I mean I would ask, Your Honor,
24 that it just be limited to that they were
25 married at some time, and I think that prevents

1 any issues that -- because as we saw, Mr.
2 Williams likes to talk.

3 THE COURT: Yeah, I mean he was called here
4 to testify, so --

5 MS. JONES: And I'm happy for Mr. Paulk to
6 lead him, if that would prevent those issues
7 coming up.

8 THE COURT: Okay.

9 MR. PAULK: Your Honor, just to make sure
10 that we don't do anything improper to cause a
11 mistrial at this late stage, are there specific
12 questions that you want me to ask this witness?

13 THE COURT: I think you can ask him about
14 the background, how he knows her, and then,
15 specifically, ask about her reputation for
16 truthfulness.

17 MR. PAULK: Yes, Your Honor.

18 THE COURT: And, Mr. Williams, we have -- I
19 know you're not a lawyer, but we have specific
20 rules that we have to follow for evidence coming
21 in.

22 So I'm gonna ask you to limit your
23 testimony, based on our rules, to how you know
24 Ms. Randall, and the questions he asks you only
25 about her truthfulness. Don't go into any

1 specific bad or even good things that she's
2 done, okay?

3 Do you understand that?

4 WITNESS: I understand.

5 THE COURT: All right.

6 MR. PAULK: Thank you, Your Honor.

7 MS. JONES: And, again, so we don't mess
8 anything up, since we're going into 608A, I'm
9 then gonna go into 608A too. I think I have
10 free rein to ask him.

11 THE COURT: About truthfulness?

12 MS. JONES: Does he know that she gave the
13 statement multiple times in this case?

14 THE COURT: Okay. Yeah, I mean I think you
15 can do that.

16 MS. JONES: Thank you.

17 THE COURT: As long as his testimony is
18 limited solely to the background, and then the
19 evidence of truthfulness, either way.

20 MR. PAULK: Thank you, Your Honor.

21 THE COURT: All right. All right, yeah,
22 get them, sorry.

23 THE BAILIFF: The jury's entering the
24 courtroom, Your Honor.

25 (The jury enters the courtroom.)

PROCEEDINGS CONTINUED

THE COURT: Thank you. Welcome back, ladies and gentlemen. We have a witness on the stand, and just so you know, it may look a little different, he's already been sworn in. And rather than repeating the process, once you guys got in, I was just gonna let you know he's already been sworn by the Clerk, just like any other witness.

You just aren't gonna see it, because we're trying to save a little time for you.

DIRECT EXAMINATION

BY MR. PAULK:

Q. Good afternoon, could you state your name for the jury, please, sir?

A. Ernest J. Williams.

Q. Mr. Williams, do you know Ms. Rhonda Randall?

A. Yes.

Q. How do you know Ms. Rhonda Randall?

A. We was married for several years.

Q. Do you know her general reputation?

A. We have a son together also, a five-

1 year-old son together.

2 Q. Do you know her general reputation for
3 truthfulness in your community?

4 A. Yes.

5 Q. And what is that reputation?

6 A. Not truthful.

7 Q. Not truthful, as in --

8 MS. JONES: Your Honor, I believe he's
9 asked the question.

10 THE COURT: Uh-huh.

11 MR. PAULK: Okay.

12 MS. JONES: He's asked and answered the
13 question.

14 BY MR. PAULK:

15 Q. What community is that?

16 A. The community of Hilton Head, Beaufort,
17 Savannah, Ridgeland, all those communities,
18 surrounding communities.

19 MR. PAULK: Thank you, Your Honor, I have
20 no further questions for this witness.

21 THE COURT: Yes, sir.

22 Cross-examination?

23 MS. JONES: Thank you, Your Honor.

24 ***

25 CROSS-EXAMINATION

1 BY MS. JONES:

2 Q. Mr. Williams, you've been convicted of
3 some theft crimes, haven't you?

4 A. No.

5 Q. You didn't --

6 A. No, burglary.

7 Q. Oh, I'm sorry.

8 A. Yeah, theft.

9 Q. Okay, so you were convicted of
10 burglary?

11 A. Well, you have something up there
12 earlier said I was shoplifting, I never
13 shoplift.

14 Q. Okay.

15 A. Maybe 30 years ago burglary.

16 Q. Okay.

17 A. Which I was innocent anyway, but they
18 found me guilty.

19 Q. Touche, Mr. Williams.

20 So you just testified to Ms. Randall's
21 character. Do you know that she told the same
22 story to three different Beaufort County
23 Deputies?

24 MR. PAULK: Objection, Your Honor. May we
25 approach?

1 (Bench conference.)

2 BY MS. JONES:

3 Q. Mr. Williams, do you know Ms. Randall
4 gave the same story to three separate Beaufort
5 County Deputies?

6 A. What story?

7 Q. About why we're here today.

8 A. Which story --

9 Q. Did you know?

10 A. Which story you mean? I don't
11 understand.

12 Q. No, I'm just asking you, did you know
13 that she had done that?

14 A. Done what?

15 Q. That --

16 A. Give the same story -- what you mean
17 same story?

18 Q. Okay.

19 A. Explain to me.

20 Q. Did you know that she -- I get to ask
21 the questions, Mr. Williams. Did you also know
22 that she gave that same story two times, under
23 oath, in this courtroom?

24 A. I'm asking you what story are you
25 talking about? I wasn't here.

1 MS. JONES: I have no further questions,
2 thank you, Your Honor.

3 THE COURT: Anything on redirect?

4 MR. PAULK: No, Your Honor. Please excuse
5 this witness --

6 THE COURT: All right, Mr. Williams --

7 MR. PAULK: -- from his subpoena.

8 THE COURT: You are excused, and you are
9 released from your subpoena.

10 WITNESS: Thank you.

11 THE COURT: Enjoy the rest of your day.

12 WITNESS: Thank you.

13 THE COURT: Call your next witness, please.

14 MR. PAULK: Your Honor, defense would call
15 Investigator Tim Ball with the Beaufort County
16 Public Defender's Office.

17 * * *

18 TIMOTHY BALL

19 * * *

20 being first duly sworn, testified as
21 follows:

22 ***

23 DIRECT EXAMINATION

24 BY MR. PAULK:

25 Q. Good morning, Mr. Ball, how are you

1 today?

2 A. I'm well.

3 Q. Afternoon, excuse me.

4 A. Yeah.

5 MR. PAULK: Your Honor, may I approach the
6 witness?

7 THE COURT: Absolutely.

8 (Court Reporter marks Defendant's Exhibit
9 Number 4, DVD, as attached hereto.)

10 BY MR. PAULK:

11 Q. Mr. Ball, do you recognize what I've
12 just handed you?

13 A. I do.

14 Q. And what have I just handed you?

15 A. It's a CD with photographs on it.

16 Q. And is that a fair and accurate
17 representation of that disk?

18 A. It is.

19 Q. Did you put the photographs on that
20 disk?

21 A. I did.

22 MR. PAULK: Your Honor, defense at this
23 time would move this disk into evidence, and
24 would request to publish these images to the
25 jury?

1 MS. JONES: Your Honor, I've never seen
2 these images.

3 MR. PAULK: I, of course, am happy to show
4 them to the Solicitor before they're admitted.

5 THE COURT: I certainly think she's
6 entitled to see them before --

7 MR. PAULK: Yes, Your Honor.

8 THE COURT: -- they're published.

9 MS. JONES: I have no objection, Your
10 Honor.

11 THE COURT: Thank you. Photos, or CD, or
12 DVD, whatever it is, will be admitted as
13 Defendant's 4.

14 (Defendant's Exhibit 4 was entered into
15 evidence.)

16 MR. PAULK: And request to publish to the
17 jury, Your Honor?

18 THE COURT: Sure.

19 BY MR. PAULK:

20 Q. Ladies and gentlemen, I'm gonna show
21 you what these pictures are, and then I'm gonna
22 bring this laptop back over here, and let Mr.
23 Sanders -- Mr. Ball explain these pictures and
24 show.

25 Mr. Ball, could you explain to the jury the

1 photos that I just showed them?

2 A. Yeah, I took a series of seven
3 photographs of Mr. Sanders' Dodge Durango at the
4 impound lot, approximately, two hours ago. And
5 we used a tape measure to show the heights of
6 the hood and the grill from the ground up.

7 Q. Thank you, Mr. Ball. Mr. Ball, could
8 you tell the Court how tall you are?

9 A. Approximately, 5'6".

10 Q. And while you were looking at the Dodge
11 Durango -- oh, do you mind stepping down from
12 the witness stand for a moment? About where did
13 the hood of the Dodge Durango come to you?

14 A. Come right here.

15 MR. PAULK: No further questions, Your
16 Honor.

17 THE COURT: Ms. Jones?

18 MS. JONES: I have nothing for this
19 witness. Thank you, Your Honor.

20 THE COURT: All right, Mr. Ball, you're
21 excused back to the back of the courtroom.

22 MR. PAULK: Thank you, Your Honor. Your
23 Honor, the defense next calls Corporal Garcia.

24 * * *

25 CRAIG GARCIA

* * *

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PAULK:

Q. Good afternoon, Corporal Garcia.

How you doing today?

A. I'm doing well, sir.

Q. Did you complete a crime scene sketch in conjunction with this incident?

A. I did.

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

THE COURT: You may.

(Court Reporter marks Defendant's Exhibit Number 5, Crime Scene Sketch, as attached hereto.)

(Court Reporter marks Defendant's Exhibit Number 6, Crime Scene Sketch, as attached hereto.)

BY MR. PAULK:

Q. Corporal Garcia, I'm handing you two separate sketches, or I'm handing you a document. Would you mind taking a look at it?

1 A. Yes, sir.

2 Q. Could you tell the jury what I've just
3 handed you?

4 A. So these are the crime scene sketches.
5 One is a key, it tells you what everything is,
6 with measurements. That is a small sketch of
7 the crime scene. This is a larger sketch, with
8 measurements to where the body was, and then it
9 has the placard markings on it, and then this is
10 the key of the draft of the placards, what was
11 at each placard.

12 And this is another drawing of the crime
13 scene used -- I used Think Map to use this one,
14 because it had roads and features. And then
15 this is the key, it has my name, the date, case
16 number, what the call was. It also has the
17 placards, and then the three reference points
18 and their distances.

19 Q. Are those a fair and accurate
20 representation of the sketches that you created
21 in conjunction with this case?

22 A. Yes, sir.

23 MR. PAULK: Your Honor, at this time
24 defense would move crime scene sketches 1 and 2
25 into evidence.

1 THE COURT: Would be Defendant's 5 and 6.

2 COURT REPORTER: Yes, sir.

3 THE COURT: Any objection, Ms. Jones?

4 MS. JONES: No objection.

5 THE COURT: All right, the crime scene
6 sketches will be admitted as defense Exhibits 5
7 and 6.

8 MR. PAULK: Thank you, Madam Court
9 Reporter.

10 (Defendant's Exhibits 5 and 6 admitted into
11 evidence.)

12 BY MR. PAULK:

13 Q. Corporal Garcia, could you, I guess,
14 explain these sketches to the jury?

15 Could you explain the distances and how
16 they -- what the distances are -- between the
17 distance of each item from your fixed locations?

18 MR. PAULK: And if we can -- Your Honor,
19 permission to publish to the jury, if we can put
20 this up on the overhead, if that would be
21 permissible.

22 THE COURT: However you want to do it.

23 MR. PAULK: That way the jury can see
24 what's going on.

25 BY MR. PAULK:

1 Q. I'm going to pull them up over here,
2 and look at it over here, and tell them what's
3 going on.

4 A. Okay.

5 Q. And you just direct me how you need to,
6 because I'm not exactly sure what I'm looking
7 at.

8 A. All right. Can you move it up? There
9 you go.

10 Q. Yes, sir, and we're working on figuring
11 out the zoom and everything else.

12 MR. PAULK: You might need to zoom out a
13 little bit. Okay.

14 BY MR. SMTH:

15 Q. Can I --

16 Q. Yes, sir, I'm --

17 THE COURT: If you want to rotate it.

18 BY WITNESS:

19 A. Yeah, so I can see - no, no, no, just
20 so I can see the bottom.

21 Q. Okay.

22 A. And you can flip it back the other way,
23 but I need to see the bottom. I don't
24 necessarily -- there you go.

25 Q. Okay. So, Corporal Garcia, what are we

1 looking at?

2 A. So what we're looking at is, 19 Stanley
3 Farm Road is the house. Stanley Farm Road is
4 the road that connects from Roseida Road to
5 Laurel Bay Road, and then the dirt road is
6 called Deloach Ave. It's actually the access
7 point to the houses, there's houses on that
8 frontage road, so it's Deloach Road, or, excuse
9 me, Deloach Avenue is the dirt road. And then
10 there was a ditch, it was a 14-foot buffer, from
11 the edge of the road to the fence line, and you
12 can see that, where it says 14 feet, four
13 inches, it goes to the edge of the road.

14 So my points, yes, so my measuring points,
15 when we draw a crime scene sketch, the house
16 isn't gonna move, so we can use the corner of
17 the house, which is C. There -- A is a
18 telephone pole, and B is a telephone pole.
19 Those aren't gonna move unless they're broken or
20 cut in half.

21 So we use those as reference points. Then
22 we measure from C, to where the body lay, and
23 got that distance, A to the body, and got that
24 distance, and then B to the body, and got that
25 distance, so you can triangulate it.

1 So if they wanted to recreate this crime
2 scene, they could go to this location, go to C,
3 measure 69 feet, nine inches, off the corner of
4 the house, go to A, which is in the corner of
5 where the two roads meet, go 96.8 inches, and go
6 to B, and go 60 feet, one inch, triangulate
7 those, and that would be where the body laid.
8 The numbers one, two, three, four, five, six,
9 seven and eight, those were the evidence
10 placards with the evidence. One -- placard one
11 -- when I draw my crime scene sketches, I always
12 use placard one, would be the body, and then we
13 would go out from that. And then whatever the
14 evidence was, then we would mark those, and then
15 we photograph everything; but you can take that
16 -- the triangulation, and you can go and set
17 that crime scene up on that road, X amount of
18 feet off that fence, because I want to say,
19 excuse me, because my glasses are old, three
20 feet, six inches off of the fence. The fence
21 isn't gonna move, so you can go to that fence,
22 and come three feet, six inches off that fence,
23 and that's where the body was.

24 And then I measured, like I said at the
25 very beginning, from the fence line to the road,

1 to give you that distance. Because there's like
2 a little bitty ditch there, and then on the
3 other side of the road, it's called easement,
4 the -- from where your property line is in the
5 road, we call that easement, and it was in the
6 easement.

7 And then there was some bushes and stuff
8 and where he rested, and I just didn't put the
9 bushes up there.

10 Q. Thank you, Corporal Garcia. And this
11 would --

12 A. Uh-huh.

13 Q. -- be the --

14 A. That would be the key.

15 Q. Okay.

16 A. Once again, number one was the victim,
17 and then two, three, four, five, six, seven and
18 eight were the different objects that were
19 around it.

20 Q. Are there any substantial differences
21 between the two?

22 A. One is a rough draft --

23 Q. Okay.

24 A. -- and then one is a final copy.

25 Q. Okay.

1 A. So that one would be the final copy,
2 because it's got the distances, where it says
3 measurement points, you've got the body's number
4 one, and then from marker A is 96 feet, eight
5 inches, from B, which is the other pole, is 60
6 feet, one inch, and from the corner of the
7 house, C, is 69 feet, and you can triangulate
8 that.

9 And then up at the top it says A, power
10 pole, it's got the pole number, B, power pole,
11 it's got that pole number, and then C is the
12 house with the address, and then each of the
13 placards it has its name, and what exactly it
14 was in detail.

15 So you can go and say, "I need power pole
16 A, pole 57250, and you can -- you could find
17 that pole, because it's got a big 'ole -- it's
18 got a placard on it that says, you know, the
19 older ones say SE&G, the new ones may say
20 Dominion, but it's got that stamped on it.

21 So when you triangulate your crime scene,
22 you're gonna use three fixed points, that we
23 know aren't gonna move.

24 Q. Corporal Garcia, did you note any of
25 the distances of the placards from the body, as

1 a fixed point?

2 A. I did not, because I drew this after-
3 the-fact, so I did not measure those items like
4 I did the body.

5 Q. Okay.

6 MR. PAULK: No further questions for this
7 witness, Your Honor.

8 MS. JONES: No cross-examination.

9 THE COURT: Thank you. Corporal Garcia, I
10 think you are excused.

11 MR. PAULK: May this witness be released
12 from subpoena, Your Honor?

13 THE COURT: Absolutely.

14 MR. PAULK: Your Honor, defense next calls
15 Mr. Keith Johnson.

16 MS. JONES: And, Your Honor, if we could
17 approach prior to this witness?

18 (Bench conference.)

19 THE COURT: Ladies and gentlemen, we've got
20 a matter of law we need to take up outside of
21 your presence, so we'll get back with you as
22 soon as we can. Please don't discuss the case.

23 (Jury exits the courtroom.)

24 THE COURT: Ms. Jones, do you have a copy
25 of that case you referenced for me?

1 MS. JONES: I do, Your Honor.

2 THE BAILIFF: The jury's cleared, Your
3 Honor.

4 THE COURT: Thank you.

5 * * *

6 DONALD K. JOHNSON

7 * * *

8 being first duly sworn, testified as
9 follows:

10 ***

11 DIRECT EXAMINATION

12 BY MR. PAULK:

13 Q. Good afternoon, Mr. Johnson, how are
14 you doing today?

15 A. I'm good, sir.

16 Q. Mr. Johnson, where do you currently
17 work?

18 A. I'm self-employed.

19 Q. And what are you self-employed doing?

20 A. I'm a private investigator, consultant,
21 doing business as K. Johnson Consultant.

22 Q. Prior to venturing out and starting
23 your own business, what kind of work did you do?

24 A. I was a Police Officer, I was a SLED
25 agent.

1 Q. What did you do at SLED?

2 A. I was at SLED 37 years. The first 22
3 years I worked Narcotics. The last 15 years I
4 worked Fugitives.

5 Q. In your 22 years of narcotics
6 investigation, did you have the opportunity to
7 observe persons under the influence of drugs?

8 A. Many times.

9 Q. Did you have occasion to observe
10 persons under the influence of crack cocaine?

11 A. I did, many times.

12 Q. Did you have occasion to observe
13 persons under the influence of powdered cocaine?

14 A. I have, yes.

15 Q. Do you have an estimate of the number
16 of times that you have observed the actions of
17 persons under the influence of either powdered
18 or crack cocaine?

19 A. I couldn't begin to guess -- I guess
20 thousands.

21 Q. Do you believe that your observations
22 and experience, as a Narcotics Officer, would
23 allow you to testify, as to the general habits
24 and practices of abusers of crack cocaine and
25 powdered cocaine?

1 A. I do, sir.

2 Q. Do you have any special certifications
3 or skills that would qualify you as an expert,
4 to testify as to the habits of persons who use
5 cracked or powdered cocaine?

6 A. I do not.

7 Q. Were you certified by the South
8 Carolina Criminal Justice Academy, as a basic in
9 firearms instructor?

10 A. I was.

11 Q. Do you maintain that certification?

12 A. I have not. I have not maintained that
13 firearm certification.

14 Q. When was the last time that you were
15 certified?

16 A. It would have been 2016.

17 Q. Is there any other relevant work
18 experience that you wish to reference, as to
19 drugs, specifically, crack cocaine and powdered
20 cocaine?

21 A. Other than as in my CV?

22 Q. Other than -- or in addition to your
23 CV, it says here that you were a supervisor for
24 the Narcotics Division for SLED; isn't that
25 correct?

1 A. I was.

2 Q. And how long were you in that
3 supervisory position?

4 A. From '93 until 2002.

5 Q. I'm showing here that you also received
6 two FBI Directors commendations. Could you talk
7 about those a little bit?

8 A. Yes, sir. The first one was for -- I
9 was assigned to the FBI Violent Crime Task
10 Force. We worked a bank robbery crew for 22
11 months, from early 2000 to 2002. We cleared --
12 it was a six-man bank robbery crew.

13 We cleared six bank robberies, 44 robberies
14 of businesses, I think 12 or 15 robberies of
15 individuals, and eight kidnappings, all done by
16 that same six-man bank robbery crew. The second
17 one was a -- it was the kidnapping abduction of
18 a young Hispanic male, that was over a narcotics
19 deal.

20 It was drug traffickers; they were all
21 Hispanic. I think it was a cartel-related crime
22 out of Mexico. I was able to develop a
23 confidential informant, who provided the
24 information of where the young man had been --
25 was being held. He was held in North Carolina.

1 We provided that information to the FBI, to the
2 HRT Team, and they did an entry, and they were
3 able to get him back.

4 Q. Speaking of confidential informants, in
5 your experience and training as a Narcotics
6 Officer, did you have the occasion to work with
7 confidential informants?

8 A. Daily.

9 Q. Were the confidential informants
10 persons who used illicit drugs?

11 A. Usually always.

12 Q. Did some of the confidential informants
13 use crack cocaine, or powdered cocaine?

14 A. Yes.

15 Q. Did you have occasion to observe their
16 habits and mannerisms?

17 A. I did.

18 Q. Do you believe that you can make
19 generalizations about the habits and mannerisms
20 of other crack and powdered cocaine users, based
21 on your training and experience?

22 A. Generally, sir, I think I can.

23 MR. PAULK: Your Honor, at this time I'd
24 move to qualify Mr. Keith Johnson, as an expert
25 in drugs and vice, as well as firearms.

1 THE COURT: I'm not prepared to qualify him
2 yet. We'll do that in front of the jury. Let's
3 just see what you got, but I'm well aware of his
4 qualifications.

5 BY MR. PAULK:

6 Q. Mr. Johnson, did you have the occasion
7 to review some of the evidence in the case of
8 Mr. Delmar Sanders?

9 A. I did.

10 Q. And based on your review of that
11 evidence, did you form some opinions?

12 A. I did.

13 Q. Let's talk generally a little bit about
14 the habits and practices of persons who use
15 crack cocaine and powdered cocaine.

16 What are some of the generalizations that
17 you would attribute to crack and powdered
18 cocaine users?

19 A. To give some context, let me explain
20 this. When I first started working Narcotics in
21 the early '80s, we were still being taught that
22 cocaine was not psychologically addictive.
23 While it was you could develop a psychological
24 dependency on cocaine, or powdered cocaine, it
25 was not physiologically addictive, only

1 psychologically so.

2 We now know that was incorrect. With the
3 advent of crack cocaine, when heated, still to
4 this day, cocaine's still the most powerful
5 stimulant known to man, when heated. There's
6 certain demographic that uses powdered cocaine,
7 and there's a different demographic that uses
8 crack cocaine, it's two different animals, for
9 want of a better description. Use of crack
10 cocaine is all consuming.

11 It's -- they're either using crack cocaine,
12 thinking about using crack cocaine, figuring out
13 how to use crack cocaine, it's completely all
14 consuming. That was the basic difference
15 between powdered cocaine and crack cocaine.

16 Q. Did you also have occasion to observe
17 instances of solicitation and prostitution
18 during your experience as a SLED Narcotics
19 Officer?

20 A. Absolutely.

21 Q. Would you comment on your opinion about
22 the relationship between crack cocaine, powdered
23 cocaine, and solicitation?

24 A. I have never seen anyone addicted to
25 powdered cocaine that would prostitute

1 themselves. Crack cocaine was different, it was
2 almost -- it was the go to, whether it be men or
3 women. Prostitution by crack cocaine users was
4 a common theme. And homeless invariably led to
5 that, if you stayed on it long enough.

6 Q. And along with the practices of
7 solicitation to feed crack addiction, is it also
8 a common practice of persons who are addicted to
9 crack cocaine who do solicit themselves, is it a
10 common practice for them to rob people?

11 A. Yes. Either through armed robbery, or
12 just taking a wallet, but robbery was a common
13 theme also. It's just an opportunity. And the
14 reason being is, in that demographic, in that
15 world, the customer, the John, for more of a
16 better description, can't report it.

17 He's already involved in an illicit crime,
18 so if he gets robbed, he's not gonna report it,
19 so it was common.

20 Q. Would you comment about the opinions
21 that you formed after reviewing the evidence in
22 this case?

23 A. In my opinion, Mr. Sanders' rendition
24 of the events to that and what happened that
25 night was plausible as ones, that the lady the

1 eyewitness put out. It was as plausible that he
2 was gonna be robbed by the gentleman with her
3 and her, as it was that he just randomly shot
4 these people. To me, in my mind, it was more
5 so.

6 Q. And why is that?

7 A. He had no motive. What was his motive?

8 MR. PAULK: Your Honor, that's basically
9 the extent of my questions.

10 THE COURT: Okay, Ms. Jones?

11 MS. JONES: Your Honor, I have no questions
12 for Mr. Johnson, but I certainly object to his
13 testimony.

14 THE COURT: Mr. Paulk, first, I don't --
15 like I said, I know Mr. Johnson well, and have
16 no question, as to his qualifications in the
17 areas; however, can you point me to any case,
18 where we've allowed an expert to, essentially,
19 as I'm hearing, come in and, essentially, vouch
20 for either witness? Because that's what it
21 sounds like he's doing.

22 I know this other case deals more with
23 profiling, that was Agent -- I think it was Paul
24 Larosa, who I'm sure Mr. Johnson knows well, but
25 he didn't -- he seemed to be getting close to

1 the profiling line, but didn't go there. Never
2 offered any opinion on any of the defendants, or
3 the victim, or anybody, and our court was very
4 clear that -- or the Supreme Court, and this is
5 recent, this is 2020, Justice James was pretty
6 clear that we weren't gonna be -- or South
7 Carolina was in no way approving criminal
8 profiling, and this sort of seems to me just to
9 be the same as profiling, just from the other
10 side.

11 That he is, Mr. Johnson -- you've asked Mr.
12 Johnson to give his opinion, as to how all these
13 dynamics work, and it's almost a reverse
14 profiling. Do you see what I'm saying?

15 MR. PAULK: Yes, Your Honor.

16 THE COURT: It would be the same, and I
17 know you would be objecting, if Ms. Jones had
18 called somebody from SLED, to come in and say,
19 "I know all about drug dealers, and I know about
20 people that use cocaine, and I don't believe a
21 thing that Mr. Sanders says."

22 MR. PAULK: Your Honor, if we can restrain
23 Mr. Johnson's opinions, as to generalizations,
24 would that be appropriate and would please the
25 Court?

1 THE COURT: I just -- I don't -- do you
2 have any authority you can provide me? Because
3 as I've told you from day one, I do not in any
4 manner want to inhibit this man's right to a
5 defense, but we've got to do it within the
6 bounds of evidence.

7 MR. PAULK: Yes, Your Honor.

8 BY THE COURT:

9 Q. Mr. Johnson, have you been qualified as
10 an expert in this specific area in any court in
11 South Carolina?

12 A. No, sir.

13 THE COURT: Because I think we are,
14 essentially, inviting him into -- and, again, I
15 know Mr. Johnson well, and I know his
16 qualifications, and he's good at what he does,
17 but I don't think we have any specific authority
18 that allows any expert.

19 Because, you know, we have the CSC experts
20 in the chrome cases, that said that the State
21 can't bring somebody in to vouch for the
22 credibility of victims.

23 So I think, you know, we've got to play it
24 even-handed, it's got to work both ways. And it
25 seems like what you're trying to illicit from

1 Mr. Johnson is, basically, vouching for Mr.
2 Sanders' credibility.

3 MR. PAULK: Your Honor, I'm happy to stay
4 away from any line of questioning that touches
5 on Mr. Johnson's opinions in this specific case.
6 I'm happy to stick to his observations and
7 experiences and training as a SLED operative and
8 a Narcotics Officer for over 37 years.

9 I think that what Mr. Johnson can
10 illustrate to the jury, and what I'm asking him
11 to illustrate to the jury is, not that
12 necessarily these are the actions that happened,
13 but, Your Honor, the people that are sitting on
14 that jury are 9:00 to 5:00 working folks, they
15 don't know anything about this world.

16 This is completely foreign to them, and I'm
17 trying to illustrate to them things that occur
18 every day in the world of criminal justice that
19 we work in. I think that we take it for
20 granted, and assume that everybody knows that
21 this kind of stuff happens. If everybody knew
22 that this kind of stuff happened, they'd be
23 hiding under the bed with an arsenal full of
24 firearms.

25 I think that what Mr. Johnson's testimony

1 goes to show is, not that it's more, and I'll
2 stay away, I will not ask him if he thinks it's
3 more probable that Mr. Sanders did this, or Ms.
4 Randall did this, or Mr. McLendon did this, I
5 want the jury to know the facts of the dirty
6 underbelly of what goes on with drug addicts and
7 prostitutes.

8 THE COURT: Ms. Jones?

9 MS. JONES: Your Honor, I still just don't
10 think that's appropriate. I think that that is
11 invading the province of the jury, they should
12 be able to draw their own conclusions from the
13 evidence. He, essentially, is a blind expert,
14 who has read a report, and I don't know even by
15 limiting those questions, it's going to be
16 implied, what he's saying is going to be implied
17 that he believes Delmar Sanders over he believes
18 Rhonda Randall, and that's wholly inappropriate.

19 THE COURT: Do you have any authority for
20 me, where similar type evidence has been --
21 because, again, I know Mr. Johnson's
22 qualifications, and he's seen it all twice, or
23 three times probably, but I don't know that
24 admitting evidence, that we don't know for sure
25 is in the record, or that's not in the record,

1 is appropriate under these circumstances.
2 Because you'll be eliciting testimony from him
3 that may or may not -- if you had laid -- if you
4 were able to lay a foundation, that, yeah,
5 Rhonda Randall, you know, was trying to steal
6 his wallet, and maybe he was testifying that his
7 actions, based on that -- based on her trying to
8 steal the wallet, there was some sort of
9 foundation for it, but I don't think a trial is
10 just for, as you're saying, educating the jurors
11 on all the underbellies of our criminal world.
12 If you have some specific evidence for him, as
13 far as the firearm is concerned --

14 MR. PAULK: I do, Your Honor.

15 THE COURT: -- I'm happy to entertain that,
16 but I just -- unless absence some authority,
17 that it's okay just to, you know, try to educate
18 the jury on how bad the world it is, I just
19 don't think that's what a trial's for. We're
20 here about what he did or did not do --

21 MR. PAULK: Yes, Your Honor.

22 THE COURT: -- not about all the crazy, and
23 I've sat down with him and heard the stories,
24 about all the crazy stuff he's seen in 30 plus
25 years as a SLED agent.

1 MR. PAULK: Yes, Your Honor.

2 THE COURT: But if you have specific
3 factual things, that he can testify to, or even
4 opinion testimony on things that are in the
5 record, and in evidence, and that are gonna be
6 material to your defense, I'm definitely not
7 gonna stop that.

8 I mean you have a -- or he has a
9 constitutional right to present a defense, and I
10 don't want to impede that --

11 MR. PAULK: Yes, Your Honor.

12 THE COURT: -- in the least, but it's got
13 to be admissible.

14 MR. PAULK: Yes, Your Honor.

15 THE COURT: I can't just open the door,
16 just because he has a constitutional right to a
17 defense.

18 MR. PAULK: Yes, Your Honor. When I
19 initially contacted Mr. Johnson, I was seeking
20 an expert that could illustrate to the jury the
21 differences between powdered cocaine and crack
22 cocaine. That is the purpose with which I would
23 ask that his testimony be presented.

24 Your Honor, I believe that we have -- it's
25 4:45, I can call a different witness, if you

1 give me tonight to research, and we can address
2 this issue tomorrow, and if there's no
3 authority, then I concede.

4 THE COURT: Is that okay with you?

5 MS. JONES: Your Honor, that's fine with
6 me, but I think --

7 THE COURT: I don't want Mr. Johnson to be
8 stranded down here in Beaufort overnight, unless
9 he just wants to be, but --

10 WITNESS: I've got a little house right
11 down the road, Your Honor.

12 MS. JONES: Your Honor, I think that
13 testimony would be cumulative, if it's gonna be
14 limited to crack versus powder. Dr. Garvin went
15 into great detail about the differences between
16 crack and powdered and the effects that it has
17 on people, and it's addiction.

18 THE COURT: Well, I'm -- I'll allow it.
19 I'll listen to that, and you do some research on
20 that, but I'll -- again, I'm not trying to tell
21 him how to try his case. I do agree it could be
22 somewhat cumulative, but it's not my job to tell
23 him how to do it.

24 MR. PAULK: And, Your Honor, just in
25 response to that, the testimony that I would

1 attempt to illicit from Mr. Johnson is not
2 psychological or pharmacological in nature, it
3 is necessarily anecdotal in nature, and
4 generalizations about his observations of crack
5 cocaine users and powdered cocaine users,
6 generally.

7 MS. JONES: And, Your Honor, I think that
8 goes to --

9 THE COURT: I think it goes back to what we
10 initially discussed. I mean we're not here,
11 again, as an educational session, we're here to
12 let those 12 folks over there decide what
13 happened that night.

14 MR. PAULK: Yes, Your Honor.

15 THE COURT: And if there are specific
16 things in evidence, that he is qualified to
17 opine on, I'm happy to listen to him all day.
18 We've got -- I'm here until Friday, so -- but I
19 think it's got to be something that is specific
20 in the case.

21 MR. PAULK: Yes, Your Honor.

22 THE COURT: Because, again, we can't create
23 hypothetical scenarios that may or may not
24 exist. Everything Mr. Johnson might testify to
25 in his experience, may have been present here,

1 but we don't have any kind of foundation for it.
2 I mean --

3 MR. PAULK: Your Honor --

4 THE COURT: And I say this in trying to be
5 fair, again, you wouldn't want the State putting
6 up somebody like that, saying, "Here's all the
7 ugly things that happen in drug dealing,"
8 because it would severely prejudice him, if they
9 put up somebody like Mr. Johnson that says,
10 "Here's," or bring in some of these
11 investigators to say, "Here's all the dirty
12 things that go on downtown after 2:00 a.m. in
13 downtown Beaufort that you don't know about, and
14 it's all -- it could be related, it could have
15 been what he was doing, we're not sure."

16 So I think that goes both ways. I mean --

17 MR. PAULK: Yes, Your Honor.

18 THE COURT: -- I know you certainly
19 wouldn't want them to be testifying to that --

20 MR. PAULK: I understand.

21 THE COURT: -- in their case in chief --

22 MR. PAULK: Yes, Your Honor.

23 THE COURT: -- as to hypotheticals, and I
24 think we just got to stay away from
25 hypotheticals. If there anything you have,

1 again, that Mr. Johnson can offer expert opinion
2 on that's in the record, I'm more than happy to
3 hear it, because I know his qualifications, and
4 he's been around. Like I said, he knows the
5 business.

6 MR. PAULK: Yes, Your Honor.

7 THE COURT: So if there's anything you have
8 that he can offer an opinion, that can help the
9 jury decide this case --

10 MR. PAULK: Yes, Your Honor.

11 THE COURT: -- then I'm happy to let it in.

12 MR. PAULK: Your Honor, I'm happy to work
13 on that tonight, and I'll report back to you in
14 the morning. At this time, the defense would
15 call Investigator Byrd.

16 THE COURT: Okay.

17 MS. JONES: I did have on more thing about
18 Mr. Johnson.

19 THE COURT: Okay.

20 MS. JONES: Mr. Paulk mentioned that he
21 would like to, sorry, he would like to qualify
22 him as an expert in firearms. I would object to
23 that qualification. I believe he testified that
24 he hadn't been certified since 2016.

25 He didn't analyze anything in this case,

1 and I don't know if somebody that hasn't been
2 qualified in six years has the requisite
3 expertise. Again, I don't know what he would
4 testify to.

5 MR. PAULK: Your Honor if you want me to go
6 ahead and proffer that testimony?

7 THE COURT: Yeah, go ahead.

8 BY MR. PAULK:

9 Q. Mr. Johnson, are you familiar with
10 different calibers of weapons?

11 A. I am.

12 Q. Are you familiar with the 380 caliber?

13 A. I am.

14 Q. Could you describe what 380 caliber is?

15 A. 380 has got the same diameter as a .9
16 millimeter. It's shorter, but the same
17 diameter.

18 You can usually distinguish between the
19 two, where a 380 will generally weigh 90 to 100
20 grains, where a .9 millimeter projectile
21 generally will start at 115 grains. So it's a
22 .9 millimeter short.

23 Q. Okay. And in this case there was a
24 projectile recovered, correct?

25 A. There weas.

1 Q. There was a projectile? Okay.

2 A. Yeah.

3 Q. Did you have an opportunity to examine
4 pictures of that projectile?

5 A. I read a report, and I saw photographs
6 of it.

7 Q. Okay. Based on your review of that
8 report, was that projectile a 380, or a .9
9 millimeter?

10 A. In my opinion, it was a 380, but the
11 report doesn't show the weight of the
12 projectile. That would be the only way I'd know
13 for certain.

14 Q. If you were provided a digital scale
15 and the bullet, which has been entered into
16 evidence, would it be able to be weighed?

17 A. That would be -- yeah.

18 Q. You think --

19 A. That would be simple. If it weighs 90
20 to 100 grains, you can -- it's gonna be a 380.

21 Q. Is a 380 smaller than a .9 millimeter?

22 A. It is, it moves slower and with less
23 mass.

24 Q. And, certainly, different caliber
25 handguns can be different sizes, but generally

1 speaking, is the 380 caliber handgun a smaller
2 handgun physically than a .9 millimeter?

3 A. Much so. It's generally described as a
4 micro-compact.

5 Q. And is a micro-compact something that
6 could fit inside of a pocket easily?

7 A. Easily.

8 MR. PAULK: That would be my questions for
9 Mr. Johnson.

10 THE COURT: Do you have any questions?

11 MS. JONES: No, I don't have any questions.

12 THE COURT: Okay, based upon what defense
13 he's trying to raise, I think, assuming, I would
14 find him qualified. I think that testimony will
15 be admissible, based upon --

16 COURT REPORTER: I'm sorry, I didn't hear
17 you, Your Honor.

18 THE COURT: I think that testimony would be
19 admissible, based upon his defense that he's
20 setting forth thus far. That's, you know,
21 they've raised issues about the size of the gun,
22 and how the gun could be concealed, and he
23 didn't see it, and there's a question of whether
24 or not it could fit in her purse, so I'll allow
25 that testimony.

1 MS. JONES: Okay.

2 MR. PAULK: Your Honor, the only thing,
3 just going back to our prior issue, when I said
4 I was going to research it tonight, there is
5 testimony from Ms. Randall, that she did take
6 Deonne's wallet off of his body.

7 THE COURT: At his request, to get all the
8 drugs and everything off of him. I don't think
9 that was --

10 MR. PAULK: Okay.

11 THE COURT: So if you'all want to work on
12 that tonight, again, I'm all ears tomorrow
13 morning on it.

14 MR. PAULK: Yes, Your Honor.

15 THE COURT: But I think his testimony about
16 the gun is material to your defense, as far as
17 someone being able to identify and describe the
18 type of firearm that you claim it is, so I do
19 think that's material and relevant to your
20 defense.

21 MR. PAULK: Thank you, Your Honor.

22 THE COURT: All right, we're gonna call one
23 more. You've got one more quick one?

24 MR. PAULK: Yes, sir.

25 THE COURT: I don't want to -- since we've

1 got to be here tomorrow anyway, there's no need
2 to keep them too late.

3 MR. PAULK: No, sir, five minutes.

4 THE COURT: Okay. Who do you have now, Mr.
5 Paulk?

6 MR. PAULK: Investigator Robert Byrd from
7 the Beaufort County Sheriff's Office.

8 THE COURT: Are they getting the jury?

9 THE BAILIFF: Yes, sir.

10 (Court Reporter marks Defendant's Exhibit
11 Number 7, Photograph, as attached hereto.)

12 (Court Reporter marks Defendant's Exhibit
13 Number 8, Photograph, as attached hereto.)

14 THE BAILIFF: The jury's entering the
15 courtroom, Your Honor.

16 (The jury enters the courtroom.)

17 ***

18 PROCEEDINGS CONTINUED

19 THE COURT: Thank you, sir. All right,
20 ladies and gentlemen, welcome back. They tell
21 me we have one more short witness, and then
22 we're gonna go ahead and adjourn for the day,
23 since we're gonna need to be here tomorrow.

24 MR. PAULK: Your Honor, the defense calls
25 Investigator Robert Byrd.

1 * * *

2 ROBERT BYRD

3 * * *

4 being first duly sworn, testified as
5 follows:

6 ***

7 DIRECT EXAMINATION

8 BY MR. PAULK:

9 Q. Good afternoon, Investigator Byrd, how
10 are you?

11 A. Good afternoon.

12 Q. Did you take some pictures at the
13 Beaufort Memorial Hospital in the incident of
14 Mr. Deonne McLendon and Ms. Rhonda Randall?

15 A. I did.

16 MR. PAULK: Your Honor, permission to
17 approach?

18 THE COURT: Sure.

19 BY MR. PAULK:

20 Q. Investigator Byrd, I've pre-marked two
21 photographs.

22 Do you recognize these pictures?

23 A. I do.

24 Q. Are they a fair and accurate
25 representation of the pictures that you took?

1 A. They are.

2 Q. And could you tell the jury what these
3 two pictures are?

4 A. Picture labeled as Exhibit 9, that's
5 Ms. Randall's purse. It was at Beaufort
6 Memorial Hospital. And the picture labeled as
7 Exhibit 8 is an image of Mr. Deonne McLendon's
8 driver's license.

9 Q. And is that a driver's license or --

10 A. Or identification card.

11 Q. -- is that an identification card?
12 Okay.

13 Now, what's the difference between a
14 driver's license and identification card,
15 Investigator Byrd?

16 A. One permits someone to drive legally
17 upon the highways in the State of South
18 Carolina, and an identification card is to
19 identify someone. It has a DL number, which is
20 short for driver's license number.

21 Q. Okay.

22 MR. PAULK: Your Honor, permission to
23 publish to the jury?

24 THE COURT: Do you have any objections of
25 them being admitted into evidence?

1 MS. JONES: No objection.

2 THE COURT: Those are the --

3 COURT REPORTER: 7 and 8.

4 THE COURT: -- 7 and 8 --

5 WITNESS: 8 and 9.

6 MR. PAULK: That's a seven?

7 COURT REPORTER: Yes, sir.

8 THE COURT: 7 and 8?

9 COURT REPORTER: That's a 7.

10 THE COURT: Okay, so 7 is the ID?

11 MR. PAULK: 7 is the purse, Your Honor.

12 THE COURT: Oh, okay. And then 8 is the
13 ID, very good.

14 MR. PAULK: Yes, Your Honor.

15 THE COURT: Admitted without objection.

16 (Defendant's Exhibit 9 was admitted into
17 evidence.)

18 BY MR. PAULK:

19 Q. Investigator Byrd, could you identify
20 for the jury which portion of this
21 identification card is such, and not a driver's
22 license? Can you point out the difference
23 between a driver's license and an ID card?

24 A. Okay, at the top, ID, Identification
25 Card.

1 Q. Okay. And you stated this was a fair
2 and accurate representation of Ms. Randall's
3 purse on the night of the incident?

4 A. Yes, sir.

5 MR. PAULK: No further questions, Your
6 Honor.

7 MS. JONES: I have no questions for
8 Investigator Byrd.

9 MR. PAULK: Your Honor, may Mr. Byrd be
10 released from his subpoena?

11 THE COURT: Absolutely.

12 WITNESS: Thank you, Your Honor.

13 THE COURT: Thank you for being here.
14 Well, that was really quick. Do you have
15 another short one?

16 MR. PAULK: I don't believe so, Your Honor.

17 THE COURT: Okay. All right, well, ladies
18 and gentlemen, we're gonna adjourn for the day.
19 I'm trying to figure out tomorrow's schedule.
20 We're gonna have another witness.

21 We're gonna have to have some discussions
22 about it, so why don't we do 9:45 again
23 tomorrow. You'all are released for the day.

24 Again, don't discuss anything about the
25 case with your family, friends, anybody, or

1 amongst yourselves. Don't do any research. No
2 Googling, anything like that about any of these
3 issues, or the specific facts in this case, and
4 we'll see you all back here at 9:45.

5 (The jury exits the courtroom.)

6 THE BAILIFF: The jury's cleared, Your
7 Honor.

8 THE COURT: Thank you. Anybody got
9 anything before we adjourn today?

10 MS. JONES: I just have some scheduling
11 questions, because I do have other matters
12 tomorrow afternoon and Friday morning.

13 Do you think we'll close tomorrow?

14 THE COURT: I don't believe you're gonna
15 have other matters tomorrow afternoon.

16 MS. JONES: I don't think I am either.

17 MR. PAULK: I believe we can close
18 tomorrow.

19 MS. JONES: Okay.

20 THE COURT: You think you can get wrapped
21 up before lunch?

22 MR. PAULK: Maybe.

23 THE COURT: And then we can look at the
24 charge over lunch, then you guys could argue,
25 and then we'd charge, and give them the case

1 tomorrow afternoon? Does that sound reasonable?

2 Because we pretty much have the charge
3 prepared. Are you gonna be asking for a
4 manslaughter charge?

5 MR. PAULK: Yes, Your Honor.

6 THE COURT: You guys --

7 MS. JONES: I'm objecting to a manslaughter
8 charge.

9 THE COURT: Well, because he took the
10 stand, I think he probably has enough in to get
11 the charge, but I'd be happy to be heard on it.

12 MS. JONES: I can argue now, or do you want
13 me to --

14 THE COURT: Yeah, go ahead.

15 MS. JONES: Yeah, okay, absolutely, Your
16 Honor.

17 MR. PAULK: Your Honor, I'm not sure if I'm
18 prepared at this time to argue.

19 THE COURT: Okay, well, let's address it in
20 the morning then.

21 MS. JONES: Okay.

22 THE COURT: That way everybody's prepared.

23 MS. JONES: Thank you.

24 THE COURT: And we'll be a little more
25 prepared too.

1 MR. PAULK: Thank you, Your Honor.

2 THE COURT: And I know you're gonna be
3 wanting a self-defense charge.

4 MR. PAULK: Yes, Your Honor.

5 MS. JONES: I'm objecting to a self-defense
6 charge.

7 THE COURT: I figured as much. Anything
8 else?

9 MS. JONES: Voluntary intoxication charge.

10 THE COURT: Yep, I think we have that in
11 there, don't we?

12 MS. JONES: Yes.

13 THE COURT: And anything else --

14 MR. PAULK: Your Honor, --

15 THE COURT: -- outside of the normal?

16 MR. PAULK: on appearances, but that goes
17 along with self-defense, if we can get him a
18 self-defense, I think that we'd get that.

19 THE COURT: Yeah, you had those things you
20 emailed me would all be in the self-defense
21 charge.

22 MR. PAULK: Okay. Unless I just find
23 something tonight, and if I do, I'll be sure to
24 send it to your Clerk as soon as I --

25 THE COURT: Okay.

1 MR. PAULK: -- come up with it.

2 THE COURT: Just if there's anything
3 different that you'all want, let me know.

4 MR. PAULK: Yes, Your Honor.

5 THE COURT: Because we'll have -- I mean
6 I'll say we'll have it pretty well done. And I
7 will tell you, I mean based upon his testimony,
8 I'm inclined to at least charge the jury on
9 manslaughter and self-defense.

10 Certainly, we'll hear from everybody in the
11 morning. All right?

12 MS. JONES: I'm planning to argue that
13 tomorrow, Your Honor.

14 THE COURT: Okay, thank you.

15 MR. PAULK: Thank you, Your Honor.

16 (At 5:14 p.m. the proceedings were
17 continued to be resumed the following day
18 without interruption.)

19 ***

20 END OF VOLUME III

21

22

.....

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOR THE 14th JUDICIAL CIRCUIT
2021-GS-07-01219 - 01221

State of South Carolina,

Plaintiff,

vs.

Delmar R. Sanders,

TRANSCRIPT OF JURY TRIAL
VOLUME IV
PAGES 588 - 771

Defendant.

August 25, 2022
Beaufort, South Carolina

B E F O R E:

The Honorable Heath P. Taylor, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P P E A R A N C E S

Appearing for The State of South Carolina:

Mary Jones, Esq.
Samantha Molina, Esq.
14th Circuit Solicitor's Office
P.O. Box 11449
Beaufort, South Carolina 29211

Appearing For the Defendant:

Seth Paulk, Esquire
Deputy Public Defender
Fourteenth Circuit Public Defender's Office
P.O. Box 545
Beaufort, South Carolina 29901

INDEX

PROCEEDINGS	592
WITNESS: LESLIE JARRELL	
Direct Examination	619
Cross-Examination	624
WITNESS: DONALD K. JOHNSON	
Direct Examination	626
Cross-Examination	630
CHARGE CONFERENCE	596
CLOSING ARGUMENT BY MS. JONES	643
CLOSING ARGUMENT BY MR. PAULK	668
FINAL CLOSING ARGUMENT BY MS. JONES	704
JURY CHARGE	706
READING OF THE VERDICT	741
SENTENCING HEARING	746
PROCEEDINGS CONCLUDED	770
CERTIFICATE OF REPORTER	771

INDEX (CONTINUED)

EXHIBIT LIST

ITEM NO.	DESCRIPTION	PAGE
C-7	Transcript	612
C-8	Immunity motion	618
C-9	Opposition to Immunity motion	618
D-9	Payroll record	622
C-10	Jury note	730

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

THURSDAY, AUGUST 25, 2022

BEAUFORT, SOUTH CAROLINA

(The following proceedings were heard in open court. All parties were present.)

THE COURT: Good morning.

MS. JONES: Good morning.

COURT REPORTER: Good morning.

THE BAILIFF: Judge, we don't have the Defendant here yet.

THE COURT: All right.

THE BAILIFF: They're getting him right now.

THE COURT: Well, we will wait until he's up here. All right, everybody ready?

MR. PAULK: Yes, Your Honor.

MS. JONES: Yes, sir.

THE COURT: Just I guess some housekeeping. I have already heard from one of the jurors that needs to be out of here, I think has a child with an athletic event, or something at 6 o'clock.

How -- do you think you're gonna finish by lunch?

1 MR. PAULK: I think we'll finish before
2 lunch, Your Honor.

3 THE COURT: All right, well, then how do
4 you'all feel about when we should argue and
5 charge? If we've got somebody that's already
6 got one foot out the door, needing to be
7 somewhere at 6 o'clock, I don't want to give
8 them the case at 4 o'clock.

9 MR. PAULK: No, Your Honor.

10 THE COURT: I would prefer, if you'all are
11 onboard, that if that's the case, let them go
12 after lunch, and tell them to be here early, you
13 know, be ready to go at 9 o'clock in the
14 morning, and we'll argue and charge then, and
15 then just give them the case, and they've got
16 the whole day, nobody's rushed, nobody's
17 thinking about being somewhere else, when they
18 need to be thinking about this case.

19 Does that suit you'all for scheduling
20 purposes?

21 MR. PAULK: And, Your Honor, in full candor
22 to the Court, after reviewing my case last
23 night, and after preparing for different
24 witnesses I was gonna put up this morning, I've
25 released Investigator Duncan from subpoena. I

1 have Ms. Leslie Gerald that's gonna testify to a
2 few facts, she'll be very brief. Mr. Keith
3 Johnson, we're gonna try to get him qualified as
4 a firearms expert, and talk about that for a
5 moment, but those are gonna be my two witnesses
6 for this morning, depending on what time we
7 finish up with that, I don't think it's gonna
8 take very long to finish that up.

9 THE COURT: Okay.

10 MR. PAULK: It's in Your Honor's discretion
11 on when you want to argue and charge those.

12 THE COURT: Well, I mean if you're gonna be
13 that quick, and we can give it to them, then I'd
14 prefer to do that.

15 MR. PAULK: I think we can do that, Your
16 Honor.

17 THE COURT: You know, I'd rather not spend
18 the afternoon spinning our wheels.

19 MR. PAULK: Yes, Your Honor.

20 THE COURT: You know, if you're gonna -- if
21 you think you're gonna be done in an hour or so.

22 MR. PAULK: It could even be less than
23 that.

24 THE COURT: Okay. No, then that's good. I
25 was -- I thought you had about five witnesses

1 left, so --

2 MR. PAULK: I thought I did as well. I
3 reviewed what we were going through and --

4 THE COURT: Because if it was gonna be we
5 were gonna go until 12:30 or 1 o'clock, and then
6 come back at 2:30, I didn't want to --

7 MR. PAULK: No, Your Honor.

8 THE COURT: I think -- I'm anticipating,
9 and I've been wrong a hundred times in trial,
10 but I'm anticipating a lengthy deliberation, but
11 you never know.

12 MR. PAULK: Yes, Your Honor.

13 THE COURT: So I didn't want to give them,
14 like I say, give them the case at 3:00 or 4
15 o'clock --

16 MR. PAULK: No, Your Honor.

17 THE COURT: -- knowing one wanted to be
18 somewhere else.

19 MR. PAULK: I anticipate -- I would ask for
20 a short stretch of time just to finalize our
21 closing.

22 THE COURT: Yeah, no, I will give you'all a
23 half an hour or so to --

24 MR. PAULK: Okay.

25 THE COURT: -- sit down with your notes,

1 and get your thoughts together. I'm fine with
2 that, and --

3 MR. PAULK: I think we can get it to the
4 jury before lunch.

5 THE COURT: Okay. All right, then that
6 brings us to the charge.

7 ***

8 CHARGE CONFERENCE

9 THE COURT: I know you said you wanted a
10 manslaughter charge --

11 MR. PAULK: Yes, Your Honor.

12 THE COURT: -- and a self-defense charge.

13 MR. PAULK: Yes, Your Honor.

14 THE COURT: I know the State is opposed to
15 that.

16 MR. PAULK: Yes, Your Honor.

17 THE COURT: I did some homework on that
18 last night myself, and the cases on that are
19 about as clear as mud, as far as when --
20 especially with manslaughter.

21 As I understand the standard, it is to view
22 the light -- or view the evidence in the light
23 most favorable to the defendant, and if there's
24 any evidence whatsoever, then I need to give him
25 the manslaughter charge. After looking at it, I

1 mean I think -- I mean I definitely am inclined
2 to give it -- give him the manslaughter charged,
3 based upon his testimony. Had he not testified,
4 I don't think he would be entitled to one. The
5 same with self-defense.

6 Now, I'll be happy to allow the State to
7 put anything on the record you need to. I know
8 you'all are opposed to that, but I think there
9 is some evidence in the record that supports it.

10 MS. JONES: Your Honor, I would be opposed
11 to both. And when we say manslaughter, we're
12 talking voluntary not involuntary?

13 THE COURT: Yes. Yes.

14 MS. JONES: Okay.

15 THE COURT: I -- yeah, voluntary.

16 MS. JONES: Okay.

17 THE COURT: I apologize.

18 MS. JONES: As Your Honor knows, voluntary
19 requires heat of passion, upon sufficient legal
20 provocation, we have to have both, and words
21 alone are not enough to mitigate it from murder
22 down to manslaughter.

23 The direct quote from Mr. Sanders, when he
24 took the stand yesterday was, "They did not
25 threaten me, they went against my will." He did

1 not want them to drive his car. There was never
2 any threat. There was -- he'd never even said
3 that Deonne pointed the gun at him, he said it
4 was in his lap.

5 I don't see how any of that rises to the
6 level of heat of passion. There's nothing in
7 the record to substantiate that he did not have
8 a cooling off period. That he was so enraged,
9 as to not have the ability to control his
10 actions. There's just nothing to that.

11 If this was a scorned lover situation,
12 which seems to be all in the manslaughter cases
13 seem to rise around that, I think we would
14 absolutely could say that manslaughter would be
15 appropriate; but here I just -- I don't know
16 what evidence is the heat of passion.

17 THE COURT: Again, in taking the evidence
18 in a light most favorable to him, I think there
19 was testimony, at least the way I understood it,
20 is that he saw Mr. McLendon coming around the
21 vehicle, I think his words were something to the
22 effect of sort of freaked out, something like
23 that, and reached in and grabbed the gun, and
24 then it all happened really fast.

25 So I think, again, taking the evidence in a

1 light most favorable to him, that entitles him
2 to the charge, and that -- that's my reasoning,
3 just based on how fast he says it all happened.
4 And, again, if he doesn't testify, I don't think
5 he's entitled to the charge at all.

6 MS. JONES: Okay.

7 THE COURT: But based upon his testimony, I
8 find that there is at least some evidence that
9 entitled him to it.

10 MS. JONES: I am now going to move onto
11 self-defense. I do have some cases I want to
12 provide the defense, as well as Your Honor,
13 regarding the self-defense charge.

14 I do not think self-defense is appropriate
15 here. I do know Your Honor duly finds a matter
16 of law for self-defense was not met. And I just
17 want to go through the factors of self-defense.
18 The Defendant must be without fault in bringing
19 on the difficulty. As you know, 23-31-400, it's
20 unlawful for a person under the influence to use
21 a firearm.

22 In every statement he made he was under the
23 influence. He never denied using cocaine that
24 night. That was the real consistency, I think
25 that was the one thing consistent in all of his

1 statements was, that he was high on cocaine that
2 night, and by law, he is not allowed to have a
3 gun, use a gun, be around a gun when he's high
4 on cocaine.

5 He makes many, many guilty statements that
6 says -- giving rise that he did bring on the
7 difficulty. "I shouldn't have done it. I'm not
8 saying you screwed up, I screwed up. I was
9 thinking the wrong thing, man, if I hadn't have
10 been -- it was a stupid decision. I was under
11 the influence of cocaine. If I wasn't under the
12 influence, this never would have happened. I'm
13 a ticking timebomb."

14 Just over and over and over, it's the
15 ingestion of the cocaine that led to his
16 reaction, that led to him in killing Deonne, I
17 mean but for that. Now, I know he gave
18 different renditions, but in every single
19 statement he's high on cocaine. The varying
20 degrees of how he was, of course, changed, but
21 he admits he was high on cocaine every single
22 time.

23 Secondly, without fault -- my apologies,
24 have actually believed he was in imminent
25 danger. Even if you believe his last statement

1 that he testified to, at the time he gained
2 control of that gun, there's no danger, there's
3 no imminent danger, he has control of that gun,
4 and then he has the wherewithal to raise it and
5 pull the trigger at least twice on Deonne, and
6 then turn it and pull it at least one time on
7 Rhonda.

8 He admitted on the stand that at that time
9 he was the only person in possession of the gun.
10 If he's the only person in possession of the
11 gun, how is there any imminent threat, any
12 danger to -- for death or seriously bodily
13 injury, there just isn't.

14 And that moves into the third prong of
15 reasonableness, would a reasonable man have
16 viewed that he was in imminent danger? No.
17 Because if you are the only person in possession
18 of a weapon in front of two other people, that
19 do not have weapons, how are they a threat to
20 you?

21 How are they going to kill you? How are
22 they going to cause serious bodily injury?
23 They're not, and it's not reasonable to think
24 that they could, because, at the time, as he
25 admitted, he knew he was the only one in

1 possession of a weapon that night. No probable
2 means to escape. He said that his fear started
3 in the parking lot of the Oasis Inn. He could
4 have left, he could have left then. He passed
5 multiple businesses driving out of town, he
6 could have pulled over there.

7 He could have stopped there and asked for
8 help. He had a cell phone there. He was
9 scrolling, looking at his direct deposit. He
10 could have called 911. He could have sent his
11 location to somebody. He could have sent a SOS,
12 you can do that on cell phones these days, but
13 he didn't do any of that, because he never was
14 in fear.

15 He never had the requisite fear necessary
16 for self-defense, and that's why he didn't
17 leave, even though he could have. And the
18 moment that Dionne got out of that front seat,
19 and started to walk around the car, drive off.
20 He could have easily done that, but he didn't,
21 'cause he didn't want to leave his cousin. So
22 what is it?

23 Are you scared, or you don't want to leave
24 your cousin? I don't think he gets to have it
25 both ways. I also want to refer to the Santiago

1 case, Your Honor. That actually is a Court of
2 Appeals case from 2006. I did hand up a copy to
3 Your Honor, as well as Mr. Paulk. The defendant
4 in that case dated the victim's daughter. They
5 broke up, essentially, the parents forced her to
6 break up with him.

7 He went over to collect some of his
8 belongings, and him and the victim, who was the
9 girlfriend's father, start looking for this belt
10 that he's looking for. They argue, the father
11 then takes some of his stuff to the defendant's
12 car. When they open the trunk, the victim sees
13 the defendant's shotgun in the trunk. The
14 defendant then grabs it and shoots the victim
15 multiple times.

16 The defendant claimed self-defense, because
17 he said that because it was in the proximity of
18 both of them, and the victim looked at it, that
19 gave him the fear. That's exactly what we have
20 here. They never -- he never says that Deonne
21 had reached for the gun. He never says that
22 Rhonda reached for the gun. He can see that
23 there's no way the two of them could have -- be
24 passing the gun between the seat and the door.
25 He said, "Yeah, I thought that was weird too,

1 that a gun wouldn't be able to fit through
2 there. And then Deonne comes back the second
3 time, again, believing his final story he said,
4 he never says Deonne reached for the gun, and
5 that's the same thing that we have in Santiago,
6 is that just looking at it is not enough. They
7 did not charge self-defense.

8 The Court of Appeals affirmed that the
9 Court did not need to charge self-defense in
10 that case. It said that the evidence did not
11 support a finding that Santiago was without
12 fault bringing on the difficulty. He had gone
13 with a loaded gun in his car that was observed
14 by the victim.

15 I do still say that that gun was not
16 Deonne's gun that night. I know that the
17 Defendant says it was Deonne's gun, but, again,
18 he's been pretty inconsistent, and that's the
19 only evidence that that was Deonne's gun.
20 Santiago argued that the hostile act occurred
21 when the victim looked at the gun, looked at
22 Santiago, and looked at the gun again. This
23 fair assertion is insufficient to establish a
24 hostile act by the victim. Santiago never
25 claimed that he made a move for the gun before

1 the -- before Santiago took it. That's exactly
2 what we have here. Sanders never says that
3 Deonne reached for the gun, or that Rhonda
4 reached for the gun.

5 He said that Rhonda was propped up with her
6 elbows up in between the two backseats. If her
7 elbows are up, and he even gave us a visual, her
8 elbows are up, and she's propped like this,
9 she's not reaching for a gun. And he just said
10 that Deonne looked at it, and he grabbed it
11 before Deonne could, but according to the
12 Santiago that's not enough for self-defense.
13 That there's no hostile act there, that looking
14 at the gun is not enough, and that's exactly
15 what we have here.

16 It goes onto say that Santiago asserts that
17 he was -- he actually believed he was in
18 imminent danger, but that was not met, because a
19 reasonable prudent person of ordinary fitness
20 and courage would not have feared for his life
21 in that situation, because, at that time,
22 Santiago was the only person in possession of a
23 gun. That's exactly what we have here.

24 At the time that Delmar gained control of
25 that gun, he's the only person in possession of

1 that gun. He's not in actual danger, and no
2 reasonable person could have believed that they
3 were in danger. I don't think he meets any of
4 the self-defense prongs, but, specifically, two
5 and three, I think he falls short on, and I
6 think that because of the Santiago case, the
7 Court does not need to charge self-defense, it's
8 not appropriate, and I would ask that you not
9 charge it.

10 THE COURT: Well, I think much like Mr.
11 Paulk's directed verdict motion, you make a very
12 excellent -- or closing argument, but I believe
13 there is some evidence in the record, that would
14 support a self-defense charge.

15 And it may be that, you know, a jury finds
16 there's appropriate self-defense, with regard to
17 Mr. McLendon, and not with Ms. Randall, because
18 just what you said about her just sitting there.
19 He did testify that -- at least that he felt
20 there was some aggression when he was coming
21 around the front of the car, so I mean I think
22 that gets him there, as far as the charge. You
23 know, the reasonable person is certainly very
24 subjective. He testified that he was afraid.

25 So, again, on -- I find that on all four

1 elements, there is at least some evidence to
2 support a charge on self-defense.

3 MR. PAULK: And, Your Honor, I would just
4 like to correct a small misstatement of fact.
5 Mr. Sanders did testify on direct, that Mr.
6 McLendon came back around to the passenger side
7 of the vehicle, and that he was reaching for the
8 gun, whenever Mr. Sanders reached for the gun.

9 I just want to make sure that we're clear
10 about that, there was direct testimony of that
11 fact.

12 THE COURT: Okay. So at this point we're
13 gonna charge him on voluntary manslaughter. We
14 will charge on self-defense, because there is
15 case law that says they are not mutually
16 exclusive, and you can charge on both of them.
17 Anything else? We do have your voluntary
18 intoxication charge in there.

19 MR. PAULK: And, Your Honor, we would be
20 opposing that voluntary intoxication charge.
21 Mr. Sanders does talk quite a bit during his
22 initial interview with Duncan and Tunis about
23 voluntary intoxication.

24 We have never raised voluntary intoxication
25 as a defense. We have never claimed once that

1 it's okay that he did this, because he was on
2 cocaine, and that he was paranoid. That's not
3 what the argument is.

4 Our argument is, that he was placed in this
5 situation - as he was using cocaine, he was
6 hanging out with these individuals. He was
7 placed in this situation, because of the actions
8 that he was taking, but, certainly, these
9 actions did not occur solely because of the use
10 of cocaine. The actions that he described, the
11 actions that he saw were things that he
12 perceived. They were things that happened.

13 His judgment of how those things happened
14 may have been clouded by the use of drugs, yes,
15 but we're not claiming that the use of drugs was
16 the reason that he pulled the trigger. We are
17 claiming that the reason that he pulled the
18 trigger was, he thought he was being robbed.

19 THE COURT: Well, I certainly appreciate
20 that argument, but at least in his recorded
21 statement, he at least implies that cocaine was
22 a big factor in why he did it, so I think the
23 State is entitled to the voluntary intoxication
24 charge.

25 MR. PAULK: Yes, Your Honor. I would just

1 ask the Court that -- I'm sure that Your Honor
2 is aware of this, but it is improper to charge
3 on flight as evidence of guilt.

4 THE COURT: We are not including flight.

5 MR. PAULK: Okay.

6 THE COURT: We've researched that
7 yesterday, Jessica found the case, and --

8 MR. PAULK: Okay.

9 THE COURT: -- we're not charging that.

10 MR. PAULK: I would ask that --

11 THE COURT: I think now she can certainly
12 argue that --

13 MR. PAULK: Of course, of course.

14 THE COURT: -- but --

15 MR. PAULK: She's entitled to argue it, but
16 it's just not a charge.

17 THE COURT: Yeah, but no charge, you're
18 right.

19 MR. PAULK: We would ask that the
20 protection of the Persons and Property Act be
21 charged. During the stand your ground hearing
22 the Judge is the trier of fact, at the trial the
23 jury is the trier of fact.

24 They've certainly heard testimony that
25 could allow them to believe that Mr. Sanders

1 falls within the qualifications of the
2 protection of the Persons and Property Act
3 to --

4 THE COURT: Well, let me say, I believe
5 there's a case on point that says you're not
6 supposed to --

7 MR. PAULK: Okay.

8 THE COURT: -- charge that.

9 MR. PAULK: That's fine, Your Honor. Isn't
10 that right, Jessica?

11 THE LAW CLERK: I don't know, I would have
12 to research that.

13 THE COURT: I think there was one that
14 Judge Hayes actually charged the act, and they
15 reversed saying, you were not supposed to charge
16 the act.

17 MR. PAULK: Okay.

18 THE LAW CLERK: It's statutory.

19 THE COURT: Yeah.

20 MR. PAULK: That's fine. I would like to
21 bring up State v. Revon (phonetic), I'll hand it
22 up to the Court and Madam Solicitor.

23 State v. Andre (phonetic), basically, goes
24 through the procedures of what we're supposed to
25 do whenever a defendant puts up evidence in his

1 case, and how closings are supposed to go. In
2 their conclusion, the Court says that while they
3 understand that they're not allowed to make
4 rules of procedure, that that's a legislative
5 process, that in this --

6 THE COURT: I know, and I read it last
7 week. What's the argument? I don't -- just --

8 MR. PAULK: I want --

9 THE COURT: -- tell me what your argument
10 is.

11 MR. PAULK: I'm requesting that the State
12 be required to fully close on the facts and the
13 law, that I be allowed to fully close on the
14 facts and the law, and that they be only allowed
15 to rebut things that come up.

16 THE COURT: And that's the way I understand
17 the procedure is, as set forth.

18 Do you have any --

19 MS. JONES: I'm happy to go twice, Your
20 Honor.

21 THE COURT: Okay. Yeah, and you -- the
22 State would fully open on the facts and the law,
23 and then be entitled to a rebuttal after he
24 fully closes on the facts and the law, so we're
25 all clear on that, yeah.

1 MR. PAULK: Yes, sir.

2 THE COURT: I'm familiar with it.

3 MR. PAULK: And that rebuttal is limited to
4 things that I bring up --

5 THE COURT: Right.

6 MR. PAULK: -- in my closing.

7 THE COURT: Not -- basically as Mr. Wise,
8 who I know very well argued, not sandbagging
9 you, so, yeah.

10 MR. PAULK: Your Honor, the only other
11 thing that I would like to just make sure that
12 we have sort of -- I would like to include a
13 copy of the transcript for the stand your ground
14 hearing, as well as the motions that were made
15 as a Court's exhibit, so they can be considered
16 for appeal.

17 THE COURT: Absolutely. If it wasn't
18 already part of the record, definitely will make
19 them Court exhibits, so the folks in Columbia
20 will have it.

21 (Court's Exhibit 7 was entered into
22 evidence.)

23 MS. JONES: And I recall we were talking
24 about the jury charges. I did want to touch on
25 a couple that Mr. Paulk has before trial even

1 started.

2 He asked for the prior difficulties charge.
3 I don't think there is any testimony of any
4 prior difficulties between Mr. McLendon and Mr.
5 Sanders, aside from what happened that night.
6 There was some at the immunity hearing, but
7 nothing came out in testimony with Mr. Sanders
8 yesterday. Same for the victim's propensity for
9 violence.

10 Of course, well, I don't think that the two
11 witnesses that are coming this morning are gonna
12 testify to that. Same for reputation for
13 violence and turbulence, I don't think there was
14 any testimony in the record to any of those.

15 THE COURT: I tend to agree. Mr. Paulk,
16 any position on that?

17 MR. PAULK: Your Honor, Rhonda Randall
18 stated, under cross-examination, that, "Yeah,
19 Deonne was in trouble all the time, he was a bad
20 boy." I think that that goes towards his
21 reputation for violence. That could be
22 construed in many different ways.

23 I certainly understand that we did not
24 elicit testimony about prior difficulties
25 between Mr. Sanders and Mr. McLendon. I would

1 respectfully agree to the Court's decision on
2 that, but I do believe that we should get into
3 the --

4 THE COURT: Well, you know, he was a bad
5 boy could mean a million different things. It
6 was -- the question -- there was never any
7 testimony specific, as to what that meant. I
8 mean bad boy can mean he does drugs every day,
9 or it could mean that he, you know, carries a
10 gun around.

11 I don't think there was any specific
12 evidence as to what bad boy meant, as far as
13 whether it was violence, or drugs, or what, you
14 know, what that meant, so I think I agree with
15 the State on that, those probably need to be
16 removed from the charge.

17 Anything else?

18 MS. JONES: Just regarding the testimony of
19 Mr. Johnson, again, I wanted to clear up his
20 testimony, before he took the stand. I know
21 that we left with Mr. Paulk would be researching
22 that issue.

23 THE COURT: Well, I'll stop you there. I
24 researched that last night too, and off-the-cuff
25 I guess I just got lucky when I cited Cromer

1 yesterday, but I think that does apply, that an
2 expert can't vouch --

3 MS. JONES: Right.

4 THE COURT: -- for a witness.

5 MS. JONES: Thank you, that is my opinion
6 as well, Your Honor.

7 THE COURT: And, you know, like I said
8 yesterday, that cuts both ways. I mean, you
9 know, as a defense lawyer, he would certainly be
10 - in those CSC cases he'd be saying that that
11 forensic expert can't say the kid was credible,
12 and I think that works both ways.

13 MS. JONES: I agree, but I did want to
14 touch on Mr. Johnson being able to be qualified
15 as an expert in firearms, I guess is what he
16 would be qualified in as.

17 MR. PAULK: Your Honor, I did a poor job
18 yesterday of eliciting Mr. Johnson's prior
19 experience, and training experience with
20 firearms.

21 I simply asked him if he was a firearms
22 instructor. I've since learned that being a
23 firearms instructor in South Carolina just means
24 that you go for a week and shoot a thousand
25 rounds and that's about it.

1 I think that the fact that he does not
2 currently have his firearms instructor license
3 should not prevent him from being an expert
4 witness, as to firearms. I can certainly
5 elucidate more testimony during voir dire Mr.
6 Johnson about his training and experience he
7 received in firearms. I believe that the
8 testimony that he proffered yesterday certainly
9 shows his expertise with firearms.

10 He knows the specific grainages (sic) of
11 different calibers of weapons and different
12 projectiles, and I'm happy to elucidate any more
13 testimony that Your Honor needs, as to Mr.
14 Johnson's expertise in firearms.

15 THE COURT: Yeah, I would agree. I mean I
16 don't think to be an expert, you just -- you're
17 qualified as an expert just because you sat
18 through a class. I mean I think the rule
19 envisions, you know, experts being qualified,
20 based upon their experience, in addition to, you
21 know, training and things of that nature.

22 So, you know, if he can demonstrate his
23 breath of experience over 30 plus years as a
24 SLED agent, then I think it's probably
25 appropriate to qualify him in that specific

1 area. Again, we're not --

2 MR. PAULK: In that specific area.

3 THE COURT: -- getting into --

4 MR. PAULK: The only testimony that I will
5 be getting out of Mr. Johnson is strictly what I
6 proffered.

7 THE COURT: We're not getting into drugs
8 and --

9 MR. PAULK: No.

10 THE COURT: -- prostitution and all that
11 stuff. I mean --

12 MR. PAULK: Right.

13 THE COURT: -- but I will -- because you
14 have raised that as a defense, I will -- I
15 believe -- I will allow the testimony related to
16 the gun, and his description of a 380, and what
17 it looks like, and how small it is, and that's
18 as far as we're going.

19 MR. PAULK: Yes, Your Honor.

20 MS. JONES: Okay. Respectfully, I
21 disagree, but thank you, Your Honor, that's all
22 I have.

23 THE COURT: I suspected that, but that's
24 okay.

25 MS. JONES: That's all I have.

1 (Court's Exhibits 8 - 9 admitted into
2 evidence.)

3 MR. PAULK: Nothing further.

4 THE COURT: Anything else?

5 MR. PAULK: No, Your Honor.

6 THE COURT: Want to get the jury?

7 THE BAILIFF: Sure.

8 (The jury's enters the courtroom.)

9 THE BAILIFF: The jury's in the courtroom,
10 Your Honor.

11 THE COURT: Thank you, sir. Good morning,
12 ladies and gentlemen. All right, I understand
13 someone may need to be out of here today. What
14 time?

15 THE JUROR: If I could leave about 5:00,
16 that would be great. We have a game at 6:00.

17 THE COURT: Okay, your children?

18 THE JUROR: I'm a head coach of a middle
19 school team.

20 THE COURT: Okay, a football game?

21 THE JUROR: Yes, sir.

22 THE COURT: All right. Well, we will make
23 sure -- you said 5:30, right, or 5:00?

24 THE JUROR: 5:00 would be great, 5:30 would
25 be pushing it.

1 THE COURT: Okay.

2 Well, we will make sure that happens,
3 because I have boys that play football too, and
4 that's important to me as well, so I want to
5 make sure you spend the time you need to with
6 your family, and all of you. We are going to do
7 our best to get this case to you folks today.

8 If we need to adjourn deliberations at 5:00
9 for, you know, to take care of your personal
10 matters, we will do that; but, again, we're
11 gonna do our best to get this case in your hands
12 today, but we will keep in mind that you need to
13 get out of her for personal reasons at 5:00, and
14 if we have to adjourn and come back tomorrow
15 morning, that's what we want to do, because,
16 again, we want you all to take your job
17 seriously, but don't want you to be worried
18 about being somewhere else.

19 So, again if we need to stop to accommodate
20 that, we will, but like I said we're gonna do
21 our best to have this in your hands today. Mr.
22 Paulk, you ready?

23 MR. PAULK: Yes, Your Honor. The defense
24 calls Leslie Jarrell.

25 * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LESLIE JARRELL

* * *

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PAULK:

Q. Good morning, Ms. Jarrell.

A. Good morning.

Q. Could you tell the jury where you work?

A. Low Country All Works.

Q. And what is Low Country All Works?

A. We are a site prep company. We used to do tree work, however, we decided to venture more into the site work and preparation for building houses and septic tanks.

Q. Okay. And how long -- do you own that business?

A. My husband does.

Q. How long have you worked for that business?

A. Since day one, so 2016.

Q. Okay. Was Delmar Sanders employed at Low County All Works?

A. Yes, sir.

1 Q. Are you the record custodian for Low
2 Country All Works?

3 A. Yes, sir.

4 Q. Do you process payroll?

5 A. I do, every week.

6 Q. Is there a calendar of -- do you'all
7 keep up with what jobs you do?

8 A. For the most part, yes, sir. I try my
9 best, but between weather and having to
10 reschedule things, because with supplies
11 sometimes it may differ, but I try to keep up
12 with it the best I can.

13 Q. Sure. Do you recall last July on the
14 22nd, do you know what job they were working?

15 A. Not specifically.

16 Q. Okay.

17 A. They were hauling in a bunch of dirt
18 for a house patch.

19 Q. Okay. And was Mr. Sanders at work that
20 day?

21 A. Yes, sir.

22 Q. About what time did they finish up the
23 job that day?

24 A. The dirt pit closes at 4:00, to grade
25 the pad, everything, they should have been back

1 at the yard between 5:00 and 6 o'clock.

2 Q. Okay. And, generally, what time do
3 you'all have your employees show up for work?

4 A. Anywhere between 6:30 and 7:00.

5 Q. Okay, and where do they show up to most
6 of the time?

7 A. Most of the time our yard.

8 Q. Where is you'all's yard?

9 A. My house.

10 Q. Where's your house?

11 A. [REDACTED] Colleton Drive in Greys Hill.

12 Q. Greys Hill, okay.

13 MR. PAULK: Your Honor, may I approach the
14 witness?

15 THE COURT: Yes, sir.

16 (Court Reporter marks Defendant's Exhibit
17 Number 9, Payroll Record, as attached hereto.)

18 ***

19 BY MR. PAULK:

20 Q. Mr. Jarrell, could you tell the jury
21 what I just handed you a copy of?

22 A. This is his pay record.

23 Q. Whose pay record?

24 A. Delmar Sanders.

25 Q. And what does that pay record reflect?

1 What was his last paycheck?

2 A. His last paycheck was direct deposit on
3 July 23rd.

4 Q. And you process payroll, how does that
5 work?

6 A. So, basically, our payroll, our
7 schedule is Friday to Thursday, so at the end of
8 the day on Thursday, I go ahead, hop online,
9 process it, and that way when the guys wake up
10 on Friday morning, it's already in their bank
11 account.

12 I don't have to worry about writing checks,
13 them holding checks, because I had a couple
14 people do that, or them asking to come in late,
15 or leave early to go to the bank to deposit
16 their check.

17 Q. And, of course, you're not the bank, so
18 you can't tell us what time the paycheck goes
19 in, but, generally --

20 A. Anytime after midnight.

21 Q. Okay. That document that I've handed
22 you, is that a fair and accurate representation
23 of Mr. Sanders' payroll record?

24 A. Yes, sir, I printed it directly out of
25 our system.

1 Q. Has it been altered in any way?

2 A. No, sir.

3 MR. PAULK: Your Honor, at this time,
4 defense would move Mr. Sanders' payroll evidence
5 in -- or payroll record into evidence.

6 THE COURT: Any objection?

7 MS. JONES: No objection.

8 THE COURT: All right, Mr. Sanders' payroll
9 record will be Defendant's 9 --

10 THE LAW CLERK: Yes, sir.

11 THE COURT: -- and it is admitted.

12 MR. PAUK: Your Honor, I have no further
13 questions for this witness. I ask that --
14 obviously, after the Solicitor finishes, that
15 she be released from the subpoena.

16 THE COURT: Ms. Jones?

17 ***

18 CROSS-EXAMINATION

19 BY MS. JONES:

20 Q. Good morning, Ms. Jarrell.

21 A. Good morning.

22 Q. How long did Delmar Sanders work for
23 you?

24 A. Maybe two months. Without looking at
25 the thing, I couldn't give you the exact dates.

1 I know he started in -- or ended in -- July 22nd
2 was his last check. I want to say he started
3 the beginning of June, mid of June.

4 Q. So not a year?

5 A. No, ma'am.

6 Q. Okay.

7 A. Oh, no, ma'am.

8 Q. Thank you.

9 THE COURT: Any redirect?

10 MR. PAULK: No, Your Honor.

11 THE COURT: All right, Ms. Jarrell, you are
12 excused.

13 WITNESS: All right, thank you.

14 THE COURT: And she can be released from
15 her subpoena, correct?

16 MR. PAULK: Yes, Your Honor.

17 THE COURT: All right, Mr. Paulk, call your
18 next witness.

19 MR. PAULK: Your Honor, defense calls Keith
20 Johnson. Your Honor, I'm gonna go get the
21 witness.

22 THE COURT: All right.

23 MR. PAULK: He's in the bathroom, Your
24 Honor, he told me he'd be right out.

25 THE COURT: No problem. Counsel, can

1 you'all approach?

2 (Bench conference.)

3 * * *

4 DONALD K. JOHNSON

5 * * *

6 being first duly sworn, testified as
7 follows:

8 ***

9 DIRECT EXAMINATION

10 BY MR. PAULK:

11 Q. Good morning, Mr. Johnson, how are you
12 today?

13 A. Hey, good morning.

14 Q. Where do you work?

15 A. I'm self-employed. I do private
16 investigation consulting.

17 Q. And --

18 MS. JONES: Without objection, I'll
19 stipulate that Mr. Johnson is an expert.

20 THE COURT: Okay.

21 BY MR. PAULK:

22 Q. Mr. Johnson --

23 THE COURT: All right, let me explain what
24 that means. Ladies and gentlemen, you've heard
25 us talk about experts throughout the course of

1 the trial, and I charged you on the purpose of
2 an expert, and how that is to be factored into
3 your deliberations.

4 What just happened here is, the State has
5 stipulated that Mr. Johnson, by virtue of his
6 training and experience, at which I'm sure Mr.
7 Paulk may elaborate on a little bit, but the
8 State has stipulated that is an expert in the
9 field of firearms.

10 So he is gonna give you some testimony on
11 that, and if you want to go into a little bit
12 more, just to give them a little background, but
13 the State agrees that he is an expert in
14 firearms, based upon his training and
15 experience.

16 BY MR. PAULK:

17 Q. Mr. Johnson, before you did private
18 investigations, where did you work?

19 A. The State Law Enforcement Division.

20 Q. And how long were you employed with
21 SLED?

22 A. 37 years.

23 Q. And at your time at SLED, did you
24 receive training in firearms?

25 A. I did.

1 Q. Could you tell us the difference
2 between a 380 caliber bullet and .9 millimeter
3 bullet?

4 A. I can. A 380 bullet is sometimes
5 referred to as a 380 browning, or a 380 ACP, or
6 -- for automatic Colt pistol, and .9 millimeter
7 is a .9 millimeter -- is the diameter. What's
8 the same about them are the diameter, which is
9 .355, as a caliber, to make it a little simpler.
10 The length of the projectile will be shorter
11 than a .9 millimeter. It's a shorter case.
12 It's sometimes referred to as a .9 millimeter
13 short, as opposed to a .9 millimeter. It's less
14 power, it doesn't have the velocity, and it's a
15 winder bullet.

16 Q. Mr. Johnson, did you have an
17 opportunity to review a report, which gave you
18 the dimensions of the projectile in this case?

19 A. I did.

20 Q. And after reviewing that report, did
21 you come to a conclusion about what kind of
22 projectile it was?

23 A. I did.

24 Q. And what was your conclusion?

25 A. In my opinion, it's a 380.

1 Q. Now, could you explain the difference
2 to the jury in the size of the physical handguns
3 that fired these projectiles?

4 A. Sure. Generally speaking, the 380
5 today, what they will refer to as a micro-
6 compact, they're very small, sometimes the size
7 of your hand. As * have progressed, they've
8 become wider and smaller.

9 A 380, because it doesn't generate the case
10 pressure that a .9 millimeter does, can be put
11 on a smaller frame, so they literally shrink it,
12 they're very small. Usually, your hand could
13 cover it.

14 Q. Is, generally, one of these micro-
15 compacts, is that something that could fit
16 inside of a pocket?

17 A. Oh, absolutely.

18 Q. Is it something that could fit inside
19 of a purse?

20 A. Oh, very easily.

21 Q. Mr. Johnson, I'm gonna show you what's
22 been marked, if I can find it, as defense
23 Exhibit 7.

24 A. Yes, sir.

25 Q. Would a micro-compact be able to fit

1 inside of that --

2 MS. JONES: Your Honor, I'm gonna object to
3 that, there's no dimensions on that, there's no
4 size on that. We don't know how big that purse
5 is. That calls for speculation on the part of
6 this witness.

7 THE COURT: I'll sustain that.

8 MR. PAULK: No further questions, Your
9 Honor.

10 THE COURT: Do you have any questions, Ms.
11 Jones?

12 MS. JONES: Briefly.

13 ***

14 CROSS-EXAMINATION

15 BY MS. JONES:

16 Q. Are you Mr. Johnson now, or former
17 Agent Johnson?

18 A. No, ma'am, just Keith Johnson.

19 Q. Thank you. I never know what to call
20 you'll, when you'll retire. To really be able
21 to tell what a bullet is, you need to weigh it,
22 don't you?

23 A. That's correct.

24 Q. Yeah, and you never weighed this one,
25 did you?

1 A. No, ma'am, and it's not in the report.

2 Q. And 380s, while some of them may be
3 what you referred to as micro-compact, they
4 actually do come in different sizes, don't they?

5 A. That's correct.

6 Q. So they're not all these teeny, teeny,
7 tiny little micro-compact guns?

8 A. Not all.

9 Q. And wouldn't you agree that we'd know a
10 whole lot more about that bullet, and about the
11 gun that fired it, if the Defendant didn't
12 dispose of the gun?

13 A. That'd be speculation on my part, Ms.
14 Jones.

15 Q. Thank you very much.

16 THE COURT: Any redirect?

17 MR. PAULK: No, Your Honor.

18 THE COURT: All right, Mr. Johnson.

19 WITNESS: Yes, Your Honor?

20 THE COURT: You're excused. And he is
21 released from his subpoena?

22 MR. PAULK: Yes, Your Honor.

23 THE COURT: Have a safe trip back to
24 Columbia.

25 WITNESS: Thank you.

1 THE COURT: Mr. Paulk?

2 MR. PAULK: Your Honor, at this time the
3 defense rests.

4 ***

5 DEFENSE RESTS

6 THE COURT: All right, ladies and
7 gentlemen, both sides have now rested their
8 case. We've got a little bit of work to do, to
9 get ready to present the case to you. I have
10 some work, as far as the law is concerned.

11 I'm gonna give them a little time to get
12 their thoughts together, as far as their closing
13 arguments are concerned, so we're gonna take
14 about a half an hour break, so you can check in
15 with work, or home, or whatever you need to do,
16 and we'll try to be back out here and ready to
17 do closing arguments, and charge you folks on
18 the law at let's say 10:45.

19 In the meantime, I think Rick is getting
20 some menus together for you guys to order lunch,
21 so we're gonna all work through lunch, and so
22 you'll take care of all that, and we will see
23 you back about 10:45.

24 Actually, let's say 11:00, because I know
25 you've got some -- a motion, as well.

1 (The jury exits the courtroom.)

2 THE BAILIFF: The jury's cleared, Your
3 Honor.

4 THE COURT: Thank you, sir.

5 MR. PAULK: Your Honor, at this time
6 defense would renew our motion for a directed
7 verdict. As I said yesterday, the State has got
8 the responsibility of proving their case.
9 They've got the responsibility of disproving our
10 case. The State has got to prove to the jury
11 beyond a reasonable doubt, that Mr. Sanders did
12 not act in self-defense.

13 So the first element of self-defense, the
14 Defendant be without fault in bringing on the
15 difficulty. The fault has got to be the
16 approximate cause of the guilt. The unlawful
17 activity which occurs, must be the approximate
18 cause of the shooting, and I don't believe that
19 we have that here.

20 I believe that there's conflicting
21 testimony, as to what the cause of the shooting
22 is. I believe that Mr. Sanders' testimony and
23 the testimony that the jury is entitled to lend
24 their credibility to is, that Mr. Sanders fired
25 that weapon that night, because he was in fear

1 of his life.

2 He fired that weapon -- he fired Mr.
3 McLendon's weapon that night, because Mr.
4 McLendon introduced a firearm into the
5 situation. Mr. Sanders has to believe that he
6 was in imminent danger, that he was actually in
7 imminent danger, that there was a reasonable
8 belief for imminent danger. We've got testimony
9 from Mr. Sanders now. Mr. Sanders clearly, on
10 the stand, under direct testimony, told the jury
11 that he was in fear for his life.

12 That he was in fear of his life, from the
13 time that he started noticing what he called red
14 flags. He started noticing things that weren't
15 quite right. There was supposed to be two
16 girls, there's one girl. They're trying to lure
17 him into the hotel room. He doesn't want to go
18 to the hotel room.

19 They continue to try to get him in there.
20 That seems odd to him, that perks him up. He
21 notices that things aren't quite what they're
22 supposed to be. Mr. Sanders didn't believe that
23 there was a gun in the car that night, until Mr.
24 McLendon presented one, until it was laying on
25 Mr. McLendon's lap, pointed at Mr. Sanders.

1 Mr. Sanders didn't want anybody to go with
2 him to the ATM that night. He explained, while
3 we were watching the Oasis surveillance footage,
4 that he had the doors locked. That he unlocked
5 the door for his cousin, and that then you can
6 see on the video, his cousin reaches back around
7 and unlocks for Rhonda. We can see that she's
8 pulling on the door, she's yanking on the door,
9 it's locked.

10 He didn't want these guests going with him.
11 He didn't want them going with him to the ATM.
12 Your Honor, Mr. Sanders' testimony was that he
13 was coming up with an excuse to get out of
14 there. He was trying to get away.

15 Whenever his unwanted companions joined
16 him, and introduced a firearm into the
17 situation, that is when Mr. Sanders had to take
18 actions into his own hands to protect his own
19 life.

20 Had Mr. Sanders not acted the way that he
21 did that night, he firmly believes that he would
22 not be here today to give his testimony.
23 Perhaps would be representing Mr. McLendon.

24 Your Honor, I think it's fully plausible
25 that is fully plausible that a reasonable person

1 would believe that their life was in imminent
2 danger at this time.

3 I believe that we have shown the four
4 elements necessary to prove self-defense, and
5 it's not our burden to prove self-defense, it's
6 the State's burden to disprove self-defense.
7 Your Honor, Investigator Tunis testified that he
8 was aware that they're all -- when Rhonda
9 testified on direct -- on cross-examination that
10 all of their messages that night they were all
11 on Facebook.

12 She said, "If you want to know what
13 happened, go get the Facebook records." Your
14 Honor, that duty's on the State. They've got to
15 bring those records into court.

16 If they wanted to know what happened that
17 night, they would have got those Facebook
18 records, they would have shown them to the jury,
19 and there would be no question about what
20 happened. They didn't do that. That is a
21 failure of this investigation, Your Honor.

22 Your Honor, Investigator Tunis also
23 testified yesterday that he believed that the
24 cell phone ping happened in Georgia. Your
25 Honor, that cell phone ping came back from that

1 CAD record at 1:49 a.m., a mere 20 minutes after
2 this incident happened.

3 There's no way that Mr. Sanders made it all
4 the way to Georgia in that Dodge Durango.
5 There's no way that that cell phone was in
6 Georgia, just based on the amount of time.
7 Further than that, the address [REDACTED] Longstaff
8 Avenue, we can pull it up right here, and I'm
9 requesting that the Court take judicial notice
10 of the fact, [REDACTED] Longstaff Avenue, that's on the
11 MCAST Airbase, that's at the Marine Corps.

12 Air Station. That CAD record said that
13 that phone was .63 miles away from that cell
14 phone tower at the time. Your Honor, Beaufort,
15 South Carolina is not .63 miles away from
16 Georgia.

17 Your Honor, it's the State's burden to
18 prove what happened that night, and they have
19 not done that. The facts in this case are as
20 clear as mud. We've got an eyewitness who's
21 told every single officer a different story,
22 who's told the Court a different story every
23 time that she's opened her mouth.

24 And Your Honor can see it. We have Mr.
25 Sanders, who has also told a couple of different

1 stories, but Mr. Sanders' story has been
2 consistent since he spoke with Mr. Duncan and
3 Mr. Tunis in that interview room, that he was
4 afraid for his life, that there was no gun in
5 the car, that when he saw the gun in the car,
6 that's when he knew that things were about to
7 get really serious, when Mr. McLendon had that
8 gun pointed toward him, laying in his lap. Your
9 Honor, the reasonable person standard is a
10 subjective test, not an objective test.

11 A reasonable person is required to put
12 themselves in Mr. Sanders' shoes and view the
13 facts as they were available to him at the time.
14 I believe that a reasonable person, under the
15 influence of cocaine or not, noticing that
16 someone passing something back and forth,
17 hearing something heavy drop in the back, that
18 tried to be lured into a hotel room, would have
19 had the same concerns, and would have had the
20 same apprehension and reasonable belief of
21 imminent danger, an actual belief of imminent
22 danger.

23 Your Honor, I don't believe that the State
24 has proven their case, beyond a reasonable
25 doubt, and I believe that they're required to.

1 And for all those foregoing reasons I would
2 renew my motion for a directed verdict, and that
3 Mr. Sanders be found not guilty.

4 THE COURT: Thank you, Mr. Paulk.

5 For the same reasons I think that I denied
6 the State's request not to charge on self-
7 defense, I think that requires me to deny your
8 motion for a directed verdict. I think there
9 are sufficient facts in this record, the need to
10 be determined by a jury, and that's what we're
11 gonna do.

12 So I have -- you guys should have the
13 charge now, and I'm gonna go back and review it,
14 and let's, you know, plan to be ready at 11:00.
15 I'll give you'all time to get your thoughts
16 together for closings, and we'll get this in the
17 hands of the jury.

18 MR. PAULK: Thank you, Your Honor. As to
19 the matter of judicial notice of the address
20 that was listed in the CAD record --

21 THE COURT: I --

22 MR. PAULK: -- is there any issue with
23 that?

24 THE COURT: -- don't think I can do that
25 now, that everybody's rested.

1 MR. PAULK: Correct, Your Honor.

2 THE COURT: All right, anything else?

3 MS. JONES: Not from the State.

4 THE COURT: All right, we will be at ease
5 until 11:00.

6 (Recess.)

7 THE BAILIFF: All rise, this Court's now
8 back in session.

9 THE COURT: Thank you, please be seated.
10 Counsel, do we have any issues with the charge?

11 MR. PAULK: Your Honor, I believe that I
12 argued that Mr. Sanders was living out of his
13 car at the time. We asked for a castle doctrine
14 charge. I understand if you're not inclined to
15 do that, that's the only thing I didn't see in
16 there.

17 THE COURT: Yeah, I'm not going to
18 charge --

19 MR. PAULK: Okay.

20 THE COURT: -- on the actual statute.

21 MR. PAULK: Yes, Your Honor?

22 THE COURT: Anything, Ms. Jones?

23 MS. JONES: Nothing from the State.

24 THE COURT: All right, one thing we didn't
25 do at the close of evidence was publish the

1 stipulation.

2 I'm going to publish that before I read the
3 charge, if that's okay with you'all. We did
4 change the verdict form. Did you send that to
5 them? Just saw where we had taken something off
6 the bottom. It had to knock on the door, or let
7 us know once you've reached a verdict, and I
8 thought it might confuse them, if we had it on
9 each form. They might reach one verdict, then
10 come knock on the door, before they started
11 deliberating on the other one, so we just took
12 that off altogether, and then I will advise them
13 of that in the charge.

14 I just didn't want them to get one verdict,
15 and come back out, and then go back, you know.
16 So if there's a way to confuse people, it seems
17 to happen sometimes. Those are the verdict
18 form.

19 All right, let's get them in. Or do
20 you'all want me to publish that stipulation,
21 before you do your closings? I think I'll do
22 that as soon as they come back in, because I'll
23 charge, obviously, after closing.

24 THE BAILIFF: The jury's entering the
25 courtroom, Your Honor.

1 THE COURT: Thank you, sir.

2 THE BAILIFF: The jury's seated, Your
3 Honor.

4 THE COURT: Thank you.

5 ***

6 PROCEEDINGS CONTINUED

7 ***

8 THE COURT: All right, ladies and
9 gentlemen, it's almost your turn to get to work.
10 I need to read you what's called a stipulation
11 to DNA evidence. What happened, as you saw
12 throughout the course of the trial, the parties
13 don't always agree on how evidence comes in, but
14 they did agree on this piece of evidence; and in
15 order to save some of your time, they didn't
16 call an extra witness, but I'm gonna read the
17 stipulation to you, and you'll be able to
18 consider it, as you wish, in your deliberations.

19 It says, "The State and Defendant, Delmar
20 Sanders, by and through counsel, M. Seth Paulk,
21 hereby stipulate to the fact that Ms. Rhonda
22 Randall's DNA was present on the mouthpiece of
23 two crack pipes that were found at the crime
24 scene."

25 And that is signed by Mr. Paulk, on behalf

1 of Mr. Sanders, and it is signed by Ms. Jones,
2 on behalf of the State. M

3 Madam Court Reporter, do you want to take
4 that back?

5 COURT REPROTER: Yes, sir, thank you.

6 THE COURT: Thank you. All right, ladies
7 and gentlemen, the parties have presented their
8 evidence in this case. It is now time for the
9 attorneys to make their closing arguments. Just
10 like the opening statements, the arguments of
11 the attorneys are not evidence in this case.
12 Their statements and arguments are meant to help
13 you understand the evidence and apply the law to
14 the evidence.

15 You should disregard any remark, statement
16 or argument which is not supported by the
17 evidence presented during the trial, or the law
18 that I will explain to you after their
19 arguments. Ms. Jones?

20 ***

21 CLOSING ARGUMENT BY MS. JONES

22 MS. JONES: I came before you Tuesday
23 morning, and I told you this was never a case of
24 alibi, because as I said, Deonne McLendon,
25 before he took his last breath, he told us.

1 (Video being played for the jury.)

2 MS. JONES: Delmar, Delmar. We later learn
3 that Delmar is Delmar Sanders, the Defendant
4 seated over there.

5 We learned throughout this trial that July
6 23rd, 2021 is a night that changes the lives of
7 a lot of people. Deonne loses his, Rhonda
8 almost loses hers, and the Defendant is on trial
9 for both.

10 We hear from him, but you also hear from
11 Rhonda. You hear from Rhonda at the very
12 beginning, right before you hear from Deonne.

13 (Video being played for the jury.)

14 MS. JONES: They got out to switch drivers,
15 and the guy just started shooting. That's what
16 she said from day one, and that is what she has
17 consistently said, up until she testified in
18 front of you'all this week.

19 Now, the defense put her ex-husband on the
20 witness stand to try to tell you'all Rhonda's a
21 liar, Rhonda has this reputation in the community
22 for being a liar. He ex-husband, who, when I
23 asked, "Well, did you know that Rhonda gave the
24 same story to three different Beaufort County
25 Deputies? That Rhonda then gave the same story

1 two different times under oath?" He said, "What
2 story? What statement? What are you talking
3 about? What statement?"

4 He had questions for me, because he didn't
5 know a thing about the case. He didn't know
6 about what happened on July 23rd of 2021. Do
7 you know who does? Rhonda, and she told you.

8 Now, the defense is gonna want you to think
9 that she's flawed, because she's a crack addict.
10 I think her addiction is what makes her the most
11 open book that we saw on this witness stand the
12 whole week. She got up on that witness stand,
13 and she told you all of her embarrassing, dirty
14 secrets. She told you, "That, yes, I'm addicted
15 to crack cocaine," she says, "because my child
16 passed, and I relapse some times, and this night
17 was a relapse." She told you that, "Yeah, I
18 would also prostitute myself, because I had to
19 pay my bills.

20 She also talked about her husband, and the
21 history of domestic violence with him. She told
22 you all of the embarrassing details of her most
23 personal life, she had nothing to hide from you.
24 So what did she say about what happened on July
25 23rd? She said that the three of them are

1 together, Deonne, who she called Scooter, the
2 Defendant, who she had just met that night, and
3 her, and they're riding around town and they're
4 all high, every single one of them.

5 She had been up for a couple days. She
6 smokes crack cocaine. Her DNA is on the crack
7 pipes. The two crack pipes that we keep hearing
8 about, she said their hers. She never tried to
9 lie about that. She never tried to her
10 addiction, she is addicted to crack cocaine, and
11 she told you that.

12 No qualms about it, no hiding, no secrets,
13 no deception, nothing, she told you that. She
14 said that Delmar was swerving, and reasonably
15 so, they didn't want to get pulled over by the
16 police, so they want to switch drivers. And you
17 saw Delmar driving, you saw him pull into the
18 Oasis.

19 Look how he pulls into the Oasis Inn. And
20 watch how he pulls into this parking spot.

21 (Video being played for the jury.)

22 MS. JONES: He's thinking about it. No, I
23 don't want to park there, so I'm gonna go
24 forward a little bit. And then when he leaves
25 he goes the wrong way down on that road, down

1 that part of the parking lot.

2 He's already high, he's already under the
3 influence, he's already driving bad, and he's a
4 target for the cops, and they don't want that.
5 They don't want to go to jail that night.

6 So they leave the Oasis Inn, and they need
7 more cocaine. That's what Rhonda tells you,
8 they need more drugs, but to get these drugs
9 they need cash. Well, Delmar had just got his
10 direct deposit, so he's gonna go to the ATM.
11 And he tells you, he gets up on the stand, and
12 he talks about why I won't take anybody to the
13 ATM with me, I'll take my brother, my mama, but
14 I ain't taking my cousin to the ATM, I don't
15 know what he means by all that.

16 He could have gone to the ATM while they
17 were in the hotel. He could have left. He
18 could have gone on with his night, while they
19 were at the hotel, and he didn't, because he
20 wanted to continue to party, continue to get
21 plastered, as he says in his interview, to
22 continue the night. But he passes all the ATM
23 machines, he passes all the businesses, he
24 passes all the gas stations, and he stops at a
25 rural dirt road in Beaufort County, and stops at

1 Stanley Farm and Laurel Bay, where there's
2 nothing around?

3 There's a couple homes, but not anywhere
4 near where he stops. But then he also wanted to
5 stop, because he's so scared of them, they're
6 gonna rob him, he's so scared, so he's gonna
7 pull over here, where he is now alone, with what
8 he wants you to think are his would be robbers,
9 and we'll get to that in a minute, but she says,
10 "Yeah, he pulled over, because they were gonna
11 switch drivers."

12 What is it she said immediately when the
13 police get there, that's what she said on-scene,
14 that's what she said in the hospital, that's
15 what she said on the witness stand, they pulled
16 over to switch drivers. She says there were no
17 threats, there's no danger, the only argument
18 was over who was going to drive. And that is
19 the argument that cost Deonne his life.

20 Deonne gets out of the car, and by the time
21 he gets around in front of the car, she hears
22 shots. It's dark, I mean you see there's no
23 lights there. He shoots Deonne, and then he
24 turns the gun on her. She doesn't even have
25 time to realize that she's being shot until

1 after she's already shot, she told you that.

2 She said, "I hear the shots," and they want
3 to confuse you by saying, "Well," to her, "did
4 you hear a pow, pow, or did you hear a pow, pow,
5 pow? How many did you hear?"

6 Delmar, himself, couldn't tell you how many
7 times he pulled that trigger. He says that he
8 shot Deonne one time, when we know that's a lie,
9 because Deonne was shot twice, one, two.
10 Rhonda's terrified when she realizes that she's
11 been shot. She jumps out of that car, she asks
12 for her cell phone. Delmar says, "No, I'm not
13 giving it to you," and he flees.

14 He takes off and he leaves the State of
15 South Carolina. She's alone, she's in shock,
16 she's hysterical. She has no way to call for
17 help, so she flags down Gerald Moultrie, and he
18 calls 911 for her. And he took the stand,
19 defense brought him to testify. You heard his
20 911 call, and you hear that he doesn't really
21 know what's going on, he just happened upon this
22 hysterical woman in the street.

23 She's saying her friend's been shot, she's
24 asking for help, so he does what he can do, he
25 calls 911. He says, "I don't know what's going

1 on, I'm not getting out of my car, but here's my
2 name, here's my number, you'all can call me, if
3 you need me." They brought him in on the stand
4 to say that she was acting weird, she was acting
5 odd.

6 He doesn't know her. He doesn't know
7 anything about what happened. He wasn't there,
8 but you saw her and right after it happened,
9 right when she's talking to the police, they
10 were switching seats and he started shooting.

11 he told you there was no threats, there was
12 no danger, there was no other gun. She told you
13 there was no other weapon, and she even went so
14 far as to tell you, and this is probably
15 embarrassing for her to tell you, she saw Deonne
16 naked that night in the hotel room, he didn't
17 have anything on him, he was not armed, he had
18 nothing. That was Deonne's gun, that was the
19 Defendant's gun.

20 The defense also brought in this picture of
21 Rhonda's purse, and he tried to get their expert
22 to tell you that a 380 couldn't fit inside this
23 purse. Well, what did their expert tell you?
24 That 380s come in all different sizes, and
25 Delmar, when he took the stand, he wanted you to

1 think that part of his fear was because he
2 thought they were passing something between the
3 seat, from Deonne in the front and Rhonda in the
4 back. But then Delmar even said -- he agreed
5 that a gun couldn't have fit in between the
6 seat, that there's no way they could have been
7 passing a gun back and forth.

8 So what is it? Were you scared? Were they
9 passing a gun? It just doesn't make sense. And
10 then he wants to tell you that he -- the shots
11 he fired were warning shots, that he never
12 intended to kill anybody that night. Well, if
13 you don't intend to kill somebody, why are you
14 going to aim a gun at them and pull the trigger
15 at least two times from mere feet away?

16 What other intent do you have than to kill?
17 And what did he do? He did kill him. If he
18 wants to fire a warning shot, fire a warning
19 shot in the air. You don't fire directly at
20 somebody from a couple feet away. And then the
21 defense brought in this -- I mean they have
22 their investigator come up, and show these
23 pictures of the measurements of the hood. I
24 don't know, was Delmar too short to fire over
25 the hood? Did he not do it, or what? What is

1 that?

2 Smoke and mirrors is what it is. But back
3 to the warning shots, he fired twice at Deonne.
4 He hit him two times. And then he took the gun
5 and he pointed it from just a couple feet away
6 at Rhonda, and that's not a warning shot, ladies
7 and gentlemen, that's a kill shot, it just
8 happened to hit her in the arm; but because he's
9 just a bad shot, that doesn't mean he gets away
10 with attempted murder.

11 You're gonna hear about murder, and what is
12 murder, and what is attempted murder, and you're
13 gonna hear the word malice, and all of that is
14 gonna come from the Judge. So I don't want to
15 talk to you too much about the law, because I
16 don't want to misstate what you're gonna be
17 charged on the law.

18 The Judge is gonna be charging you on the
19 law, but malice can be inferred from all the
20 circumstances that night. And it doesn't have
21 to exist for a significant period of time, you
22 don't have to wait for somebody to kill for it
23 to be murder, a malice can happen in a second.
24 And the moment Delmar grabbed that gun, all he
25 had on his mind and his hear and his hand was

1 malice.

2 This is murder, this is attempted murder,
3 no question. Delmar, Delmar Sanders took that
4 stand, and he gave you a whole new story about
5 what happened that night. Delmar and his list
6 of lies. He has not been consistent about one
7 thing from the moment this happened.

8 The only thing that maybe he's been
9 consistent about is, that he was high on
10 cocaine; but even then he wavered on how much he
11 did, and how high he was. He wasn't swerving
12 because he was high, he was swerving because he
13 was looking in the back. You cannot believe
14 anything he tells you. At best, Delmar, the
15 Defendant, gave you a multiple choice test, and
16 which one is it?

17 And, ladies and gentlemen, the truth is not
18 multiple choice. Let's talk about the
19 Defendant's stories, or the Defendant's lies.
20 At first he tells you about these two guys, they
21 get in the car at the hotel, and that's when he
22 starts to be afraid.

23 We're having some difficulties, of course.
24 But we know from the Oasis Inn video, and we
25 were gonna show it, but we appear to be having

1 some problems, there's no two guys, there's just
2 the three of them. It's always just the three
3 of them.

4 And what I wanted you also to hear with
5 that, when he's telling a story, his lie, about
6 the two men that come into the car, his
7 demeanor. He talks fast, he's ready to go, he's
8 ready to tell you every detail he can possibly
9 tell you, ready to get it out, ready to tell you
10 every lie he can think of for this.

11 And how many times from the witness stand
12 yesterday, he had to be told to slow down?
13 Because that was just another story, another lie
14 coming from the Defendant. He's a liar, who
15 before this interview with Tunis and Duncan, had
16 ten plus hours to come up with this story, to
17 rehearse that first story with the two men.

18 And when that didn't work, he tried to sell
19 another one, and when that didn't work, he tried
20 to sell another one, and when that didn't work,
21 he came up here and gave a totally different
22 story. Delmar Sanders is a liar. He lied to
23 you, he lied to the police, he lied about
24 everything that happened that night, and you
25 cannot trust a liar.

1 Again, at best, he gave you a multiple-
2 choice test, and this is a true or false test.
3 The truth is he's embellished the lies so much
4 that even he doesn't know.

5 So some of these lies, were they passing a
6 gun back and forth, or was it too big to fit
7 through the side? Was he high, or was he in
8 fear? Did he lose his phone that night, or did
9 he call his friends and family after he killed
10 Deonne? Did he need gas, or did have enough to
11 get to Georgia? Did he disarm the gun so a kid
12 wouldn't find it, or did he disarm it and
13 dismantle it, as he said, so it wouldn't go when
14 he threw it out the window.

15 Why throw it out the window anyways? If
16 you're acting in self-defense, if you're
17 justified in killing this man, you're justified
18 in killing -- in trying to kill this woman, why
19 get rid of the evidence? You get rid of the
20 evidence because you're guilty, because you did
21 something wrong. Did he grab the gun on the
22 seat, or did he not grab the gun on the seat?
23 Was he waiting on his direct deposit, or was he
24 gonna have to overdraft his card?

25 Delmar cannot keep up with his lies,

1 because they are so many, that he is just losing
2 track. Was the Oasis Inn the final destination,
3 or did he know he was gonna wait for them?
4 Because if you remember from the video, what
5 does he do when he pulls into the parking lot?
6 He turns his car off. If he was just dropping
7 them off for their rendezvous, why is he gonna
8 stop his car and wait? And whose gun was that,
9 that killed Deonne?

10 The only evidence that says that it was
11 Deonne's gun comes from the Defendant's mouth,
12 and don't believe a thing he says. I mean I can
13 keep going. His story from yesterday, a story
14 he had over a year to practice, to rehearse, to
15 get right for his big debut. Just another one
16 of his list of lies. He first mentions the
17 bootlegger for the first time yesterday.

18 He talks about hearing a loud object drop
19 on the floor. He talks about not knowing if it
20 was a gun maybe, or if it was maybe some of the
21 tools in the back of his car. He talked about
22 them passing something, but knew that it
23 couldn't have been a gun they were passing back
24 and forth, because the gun wouldn't fit. He
25 can't keep his own story straight, but who kept

1 the story straight? Rhonda. He talks about how
2 he pulled over to talk to them on this rural
3 road, where there's nobody around, but then he
4 also says he pulled over, because he was so
5 afraid.

6 So, again, which is it? Truth isn't
7 multiple choice. Did he pull over because he
8 knew it was a rural road, because he knew they
9 were alone? Because he didn't get that girl he
10 thought he was getting that night. He thought
11 he was getting Lacey, and there was no Lacey at
12 the Oasis Inn for him.

13 There's a gun, was he mad? What's his
14 plan? Nothing makes sense, or nothing makes
15 sense that comes from the mouth of that man over
16 there. That man an admitted liar, who tried to
17 sell you story after story after story. He
18 talks about, when he got on the stand that
19 Deonne had the gun, and he's sitting in the
20 passenger seat, and he had it on his lap, but it
21 wasn't pointed at him, it was pointed towards
22 his direction, and Deonne had his hand on it,
23 and that made him scared.

24 He thought he was being set up. He thought
25 he was being robbed. Well, what does he then

1 say? He then says that Deonne gets out of the
2 passenger seat, walks around and leaves the gun
3 on the seat. Now, if Deonne was gonna rob him,
4 Deonne would have to have been the worst armed
5 robber in history, if he was gonna leave the
6 only weapon that night in that passenger seat.
7 That's not how it happened, because that one
8 also does not make sense.

9 He talks about the gun being under the hood
10 of the car, and he says he didn't want the gun
11 there, because he can't be around guns, 'cause
12 you heard he's a convicted felon, he's not
13 allowed to have a gun in his possession. So he
14 was real concerned about this gun being under
15 the hood, but then he gets to Oasis Inn and
16 allegedly that's their final destination, so if
17 it's Deonne's gun, why doesn't Deonne get it
18 from under the hood of the car?

19 If he's so concerned about the gun being in
20 his car, tell Deonne to get it. He's not
21 concerned about the gun being in his car,
22 because it's his gun. He talks, again,
23 yesterday and I'm trying to keep up with
24 everything he said. He talks about how Deonne
25 leaves the gun in the seat, comes around to

1 confront him.

2 They argue about who's driving, and then he
3 goes back to get the gun. That just doesn't
4 make sense. And what really doesn't make sense
5 about all of that is, why wait until we're in
6 here? He told the police what happened that
7 night. Wouldn't it be real important that, if
8 you are being questioned and interrogated by two
9 investigators for murder, to tell them that,
10 "No, no, no, no, no, this was self-defense
11 you'all. He was gonna shoot me, so it was me or
12 him."

13 Wouldn't that be an important detail to
14 tell them? He didn't say that. He never said
15 that, because that's not what happened. And he
16 just goes on and on and on, a different story
17 after different story after different story. He
18 can't keep up, I'm struggling to keep up, but at
19 the end of the day, the truth isn't multiple
20 choice.

21 The truth remains the same. And if you
22 remember the last thing I asked the Defendant,
23 when he was on that witness stand, I said,
24 "Okay, Mr. Sanders, you shot and killed an
25 unarmed man." And what did he say? He said,

1 "Yes." The moment he has that gun in his hand,
2 any perceived fear, although I don't think he
3 really had fear, I don't think there's any
4 evidence of fear, except for his lies, is gone.

5 He's now in control. He has the weapon.
6 He has the gun. He has the threat, the danger.
7 So what does he do? He shoots and kills an
8 unarmed man. And then he tries to kill Rhonda,
9 as she's fleeing, the only living witness.

10 He didn't expect Deonne to live. He didn't
11 expect Rhonda to live, but they did, and they've
12 both told you what happened that night. The
13 Judge is gonna instruct you on a charge called
14 voluntary manslaughter.

15 This is not voluntary manslaughter. The
16 Judge is gonna tell you that voluntary
17 manslaughter is a killing of another in the heat
18 of passion, with sufficient legal provocation.
19 When we hear heat of passion, we think walking
20 in on your spouse with somebody else. You don't
21 think of an argument over who's going to be
22 driving the car that night. When you think of
23 sufficient legal provocation is somebody
24 pointing a gun at you.

25 You don't think of you snatching the gun

1 and pointing it at them. Where's the heat of
2 passion? Where's the provocation? It's not
3 there, because this is not voluntary
4 manslaughter. The Defendant told you what
5 happened according to him, "They did not
6 threaten me, they went against my will." His
7 manhood had been challenged. He didn't have his
8 girl, Lacey, there for him, and now they're
9 trying to take his car over?

10 Oh, no, no, no, no, he's not having that.
11 And, again, if this was a killing that he could
12 not control, why not tell the police, tell the
13 investigators. He couldn't wait to talk to
14 them. He couldn't wait to tell them his side of
15 the story. Why leave out the most important
16 part? I was defending myself, where I had to do
17 it. It was uncontrollable, and I had to do it.
18 He didn't say any of that.

19 He talks about his high on cocaine, and
20 that's why he did it. You're also gonna be
21 charged with self-defense. And this is not
22 self-defense. In no way, shape or form was
23 Delmar Sanders defending his life that night.
24 And the Judge is going to instruct you on
25 specifically what South Carolina says the law of

1 self-defense is, but, briefly, self-defense is
2 an all-inclusive and law.

3 All four of these have to be met for him to
4 get off on self-defense, all four, without fault
5 in bringing the difficulty. Well, the
6 difficulty is the argument over the swerving
7 from his driving high. He's the one that's
8 causing that difficulty. The whole reason
9 Rhonda's in the car is because she has the
10 driver's license, and she's supposed to be
11 driving. But, nope, he insisted on driving, and
12 you saw him swerve, and you saw him driving in
13 that parking lot. He has to be in imminent,
14 immediate danger of losing his life, or sustain
15 serious bodily injury.

16 Once that gun is in his hand, what danger
17 exists? Once that gun is pointed at Deonne,
18 where's the threat to Delmar? Once that gun is
19 pointed at Rhonda, where's the threat to Delmar?
20 There is no threat, there never was a threat,
21 there never was any danger, much less imminent,
22 immediate death. The only threat that night,
23 the only danger that night, the only guilty
24 person that night is the Defendant.

25 If he wasn't in actual imminent danger,

1 then it had to be one that a reasonable person
2 would have felt the danger. And, again, what
3 reasonable person would fear death or serious
4 bodily injury face-to-face with an unarmed man?
5 Face-to-face with someone you call your friend
6 or cousin. There's no danger there, there's no
7 threat, there's no danger, nothing. This is not
8 self-defense.

9 He wasn't defending anything. He was not
10 defending his life. He was not defending
11 anybody else. He was defending nothing, but
12 maybe his pride. No other means to escape.
13 Leave the Oasis Inn. You were there with your
14 car by yourself, leave. You say that you
15 started getting paranoid and get scared, at that
16 point, because you think they're trying to set
17 you up by her coming in the car, and trying to
18 get you to go inside, leave.

19 Why didn't he leave? He was in control, he
20 was the driver, why not leave? Because he never
21 was in fear. How about when Deonne gets out of
22 the passenger seat, drive off then, why doesn't
23 he do that? Again, because there was no danger,
24 there was no threat, there was no fear. The
25 Judge is also going to instruct you on the law

1 of voluntary intoxication.

2 You saw the interview, and I think we're
3 still having some technical difficulties, but
4 Delmar goes on and on and on about his drug
5 problem. And an addiction is a sad thing. I
6 mean Rhonda told you the horror stories that
7 she's had to live with, with her addiction.
8 Addiction is a sad thing.

9 And he told you, he said, "If it wasn't for
10 the cocaine, I wouldn't be here. If I was just
11 on marijuana, I wouldn't be here." He blames it
12 on the cocaine, but that is not a defense. In
13 South Carolina, if you voluntarily ingest a
14 drug, or drink too much alcohol and you commit a
15 crime, you're just as responsible as if you did
16 it when you were sober.

17 Some of the things the Defendant says, when
18 he's talking to Tunis and Duncan, that shows
19 that he knows what he did was murder. That he
20 knows what he did was not justified. That he
21 knows that what he did was not self-defense.
22 They said, "Just tell us the truth, man." He
23 says, "It's too late. It's too late." He knows
24 he's already lied. He says, "I'm not saying you
25 guys screwed up, I screwed up."

1 If he screwed up, how is it not self-
2 defense? If he's acting in self-defense that's
3 not a mistake. He says -- talking about how it
4 all happened. They said, "Man, just tell us
5 what happened next. Tell us what happened
6 next." He says, "It's going down by making a
7 stupid choice, going down by making a stupid
8 choice, a stupid decision, meaning if I wasn't
9 under the influence, I wouldn't have made that
10 choice. I would have thought rationally.

11 I would not have made that choice." That
12 might have been the truest thing the Defendant
13 said throughout this whole investigation,
14 throughout this whole trial; but, again,
15 voluntary intoxication is not a defense.
16 They're talking about the gun, and they asked
17 him, "Where is it?" He says, "Threw it.

18 I disarmed it, I dismantled it, and I threw
19 it." Why is he throwing a gun, evidence? Why
20 is he hiding evidence, if what he did was
21 justified? He's hiding evidence, because he
22 doesn't expect Deonne to live, he doesn't expect
23 Rhonda to live, and he doesn't want anybody to
24 know that he's the one that did it.

25 He says, "I'm so stupid." He says, "I've

1 been struggling with this drug thing. This has
2 nothing to do with what I did wrong." Again, if
3 you're acting in self-defense, you didn't do
4 anything wrong.

5 He said, "I have no excuses, man. I'm an
6 idiot, and I was doing good, I failed. I failed
7 my Lord, I failed myself, I failed my family, I
8 failed it all. I can tell you one thing though,
9 if it wasn't for that cocaine, man, I wouldn't
10 be here."

11 Yet again, if it wasn't for the cocaine he
12 would not have made the choices he made that
13 night. You heard all about drugs, paranoia, and
14 how when you bring in weapons with that
15 equation, it is a deadly, deadly combination.
16 We don't know the Defendant's true motive here,
17 and we may never know his true motive here,
18 because he gave you a story after story, lie
19 after lie.

20 Was he angry? Was he fed up? Was he
21 jealous? But what we do know is that the moment
22 the Defendant raised that gun and pulled the
23 trigger, not once, but at least twice on Deonne,
24 he had the intent to kill, he had the malice.
25 Malice followed every pull of that trigger, and

1 then it went to Rhonda, and then malice followed
2 and it was pulled to her as well. "I was trying
3 to scare them."

4 You don't try to scare somebody by shooting
5 a gun directly at them, that's how you try to
6 kill somebody, and that's what he did. The
7 truth is not multiple choice. Did he do it?
8 Was he scared? Was he in fear? Was he high on
9 drugs? The truth is easy here, you don't have
10 to come up with lies, when the truth is easy to
11 remember. The truth is that the Defendant was
12 never in any danger that night.

13 There was never a threat to his life. He
14 drove Deonne and Rhonda to a remote area of
15 town, he stopped his car, he got out, armed, and
16 he gunned down Deonne. And then he turns the
17 gun on Rhonda, as she's trying to get out of the
18 backseat, as she's trying to flee. The truth is
19 not multiple choice, as the Defendant has given
20 you multiple, multiple, multiple excuses,
21 multiple stories.

22 The truth is easy to uncover. This isn't
23 self-defense. This isn't voluntary
24 manslaughter. This is murder. This is a drug-
25 fueled murder.

1 Sanders on the night of July 22nd into the early
2 morning hours of July 23rd, that was Deonne's
3 frog.

4 There are a couple of differences between
5 the story that I told you in my opening and this
6 one. There wasn't just one scorpion on Mr.
7 Sanders' back, there was two. One of those
8 scorpions had been up from -- depending on which
9 story you believe, she told one, three days,
10 smoking crack, turning tricks, doing whatever
11 she could to get her next fix, crack cocaine.
12 What else would Ms. Randall had done to get her
13 next fix of crack cocaine?

14 Was she setting up somebody to be robbed?
15 Maybe. That's what we're alleging. Ms. Randall
16 told you on that witness stand the first time
17 that she contacted Deonne was at about 10:30
18 that night, and that they talked for two hours
19 on Facebook. She sat up there on that stand,
20 told you and the Court and everybody else, she
21 told officers, she told investigators, all their
22 communications were through Facebook.

23 If we want to know what happened that
24 night, we need to see those conversations. That
25 will prove it right there. We don't have that.

1 That's the State's burden to bring that evidence
2 into this courtroom, and to show it to you, and
3 we don't have it.

4 You heard from Ms. Allyson Moreira, that
5 there were over 30 calls for service to ■■■ Place
6 Drive. And you heard from Investigator Byrd
7 that he photographed Mr. McLendon's
8 identification card. And that identification --
9 the picture on that identification card has been
10 submitted into evidence.

11 And all the evidence that's been submitted
12 in this case is gonna go back with you'all to
13 your jury room. You'all are gonna be able to
14 look at it. You're gonna be able to consider
15 it. And I want you to look at it, and I want
16 you to consider it. I want you to look at it
17 all very closely.

18 Let's talk a little bit about Ms. Rhonda
19 Randall, the State's star witness. The person
20 that you're supposed to trust is telling you the
21 truth about what happened on the night of July
22 22nd into the hours -- early morning hours of
23 July 23rd. Every time Ms. Randall opened her
24 mouth and talked to a different officer, or a
25 different person, her story changed.

1 Now, the State wants to tell you that, "Oh,
2 Mr. Sanders' story changed, he lied." He did,
3 he was scared. He thought, I'm not supposed to
4 have a gun, I can't use it, I can't defend
5 myself, if I'm not allowed to have a gun. I
6 can't protect myself, I'm not allowed to have
7 this gun. He thought that he was in the wrong.

8 Ladies and gentlemen, Mr. Sanders isn't a
9 lawyer, he's not the one that gets to decide who
10 was in the wrong. You, the jury, decide who's
11 in the wrong, after the Judge instructs you on
12 the law, and after you hear the facts in this
13 courtroom.

14 Ms. Randall spoke with five different
15 officers in less than 24 hours after this
16 incident occurred; and each time she opened her
17 mouth, different facts came out. Let's go
18 through some of them. She told a couple
19 officers that she got picked up at the hotel, at
20 the Oasis Inn, and that Deonne and Delmar came
21 and picked her up from there. Well, that wasn't
22 true. You watched the video, you saw her get
23 out of the car at the hotel with Mr. Sanders and
24 Mr. McLendon.

25 She told the officers in the hospital that

1 she heard pop, pop, pop, three quick shots in
2 rapid succession. Now, she also tried to tell
3 us a little bit about where Mr. McLendon might
4 have been when this shooting happened. She
5 says, "Well, he was over on the passenger side
6 of the car whenever he got shot." He's over on
7 the passenger side of the car, pop, pop, pop.
8 Mr. Sanders has to do a 90-degree turn, get in
9 between the open car door, the threshold of the
10 -- where the two doors come together.

11 He's got to shoot right in between that
12 little area right there, rapid succession, pop,
13 pop, pop. "Next thing I knew I was hit." Well,
14 then she goes on to tell us, "Well, I didn't
15 actually see where Deonne was at, I was in the
16 process of getting out of the car, and getting
17 my things together. I wasn't paying attention
18 to where he was at. I don't actually know where
19 he was at."

20 You heard Mr. Sanders say that Deonne came
21 around the front of the car, that he was
22 standing in front of him. Ladies and gentlemen,
23 we've got the truth right here. If you shoot
24 somebody right there, they're facing, they're
25 standing in front of you. The car's right here,

1 just imagine this is the driver door.

2 Mr. McLendon's up here in front of it.

3 Pop, pop, pop. Is he gonna turn around 180-
4 degrees with that third successive pop, and just
5 miraculously -- you've heard Ms. Jones say, "He
6 was a bad shot." A bad shot with a twist 180,
7 and fired it off, pop, right between that car,
8 is that plausible? Well, that's not the story
9 she stuck with.

10 She got up her on the stand, and she told
11 you'all, "He only fired twice." That's not
12 true. Ms. Randall also told you that they left
13 the hotel that night to get some more drugs.
14 They were gonna keep partying, that's what she
15 thought was happening.

16 And then she also told you, "I had to get
17 Deonne's wallet off of him and get that dollar
18 bill full of cocaine out of it before the cops
19 get there." Why are they going to get more
20 drugs, if he's got a dollar bill full of cocaine
21 in his wallet? You saw the pictures of it, it's
22 in evidence. There's a crumpled up dollar bill
23 on the side of the road, and you heard from
24 Investigator Tunis that they never test it for
25 cocaine residue.

1 Let's talk about the scene a little bit
2 more. Corporal Garcia came in, talked about a
3 crime scene sketch, you're gonna be able to look
4 at the placards. You're gonna see where
5 everything was, and about how far it was spread
6 around. As Ms. Randall's taking her bag of
7 goodies and throwing them around the crime
8 scene. There's a bag of weed at the head of Mr.
9 McLendon. As he's laying there dying, she throw
10 that bag of weed up there. She throws her crack
11 pipes around the scene. She throws her empty
12 cigarette packs around the scene. The cigarette
13 packs have got steel wool that Mr. Tunis told
14 you, that's what people use to smoke crack.

15 Ms. Rhonda tried to say, "I don't know what
16 steel wool is." They didn't need to leave the
17 hotel room to get more drugs. They left the
18 hotel room, because she couldn't lure Mr.
19 Sanders inside. You saw on the video, where she
20 came back out and Mr. Sanders had his door
21 locked, he didn't want to talk to her. He
22 didn't want to go in the hotel room.

23 She tried to get him into that hotel room,
24 the purposes for which we don't know. It seems
25 to me that if you're gonna rob somebody, you're

1 gonna do it in a pretty safe location. Maybe
2 she was trying to lure him into the hotel room
3 to rob him, that's what Delmar thought.

4 He didn't think it was safe to go to into
5 that hotel room, so he didn't. They decide to
6 leave that hotel room that night, when Mr.
7 Sanders said, "Hey, my direct deposit's hit, I'm
8 gonna go to the ATM. I'll get some cash for us,
9 and we'll go get some more drugs." He was
10 trying to get out of there. He was telling them
11 whatever they wanted to hear, so that he could
12 go home, so that he could get away from the
13 situation, so that he could get up and get ready
14 for work at 6:30 in the morning.

15 And we brought in the boss, "Yeah, that's
16 what time they're supposed to be there." We
17 brought in the boss and showed you his direct
18 deposit, that's in evidence. You're gonna get
19 to look at it. He had a direct deposit July
20 23rd sometime after midnight. He wasn't lying
21 about that. But as soon as they thought that
22 they could get a little bit of cash from him, or
23 maybe they could steal his car, they could hit a
24 lick on it. Deonne hops in the car, and you see
25 Rhonda pulling on that back door on that

1 surveillance video, the door's locked.

2 Delmar told you he didn't hit the power
3 lock, he didn't want her getting in that car,
4 but Deonne reached back, let her in the car,
5 more than companions. Rhonda told us where to
6 look, if we want to know what happened, "Go to
7 Facebook, that's where we talked the whole
8 time." They've got to show you that. They knew
9 about it, they didn't show it to you. They're
10 not trying to show you what actually happened
11 that night.

12 They're trying to show you what they want
13 you to believe happened that night. The State
14 wants to convict Mr. Sanders. Their
15 investigation wasn't meant to prove his
16 innocence, their investigation wasn't for his
17 benefit, it was for his demise.

18 You heard the Judge read the in the
19 stipulation, Rhonda's DNA was on the mouthpiece
20 of both of those crack pipes that were found on
21 the scene. If she's getting rid of evidence, so
22 that she doesn't get in trouble, what else is
23 she gonna rid of?

24 What else was in that purse? What didn't
25 the officers find? How long was he there

1 manipulating that crime scene before those
2 officers showed up?

3 Ladies and gentlemen, that's reasonable
4 doubt. That's the first piece of reasonable
5 doubt. Rhonda's different statements, all the
6 different stories she told, that's another piece
7 of reasonable doubt. "If you want to know what
8 happened, go look at the Facebook records. They
9 didn't show it to you, that's reasonable doubt.

10 Let's keep talking. Rhonda got on that
11 stand, and she told you out of her own mouth, "I
12 always tell the truth, especially to the
13 police." You heard her say it. But every time
14 she opened her mouth to talk to a different
15 officer, there was different facts coming out,
16 that's reasonable doubt. Yesterday you'all
17 heard from Ms. Tiffany Lovett, the EMT that
18 drove Rhonda to the hospital. She told you that
19 Rhonda told her, "Yeah, I was up for over 24
20 hours on a cocaine binge, and I don't remember
21 what happened."

22 That might have been the one time in this
23 case that Ms. Randall told the truth, that's
24 reasonable doubt. The law says that any
25 reasonable doubt has to be resolved in the favor

1 of Mr. Sanders. Now, I'm not the Judge, I'm not
2 instructing you on what the law is, the Judge is
3 gonna tell you what the law is, but that any
4 reasonable doubt has got to be resolved in favor
5 of Mr. Sanders. And when you're in that jury
6 room, and you're having conversations about,
7 "Well, I'm not sure what happened," or "I'm not
8 sure who's telling the truth," if you find
9 yourself saying that, might, should, could,
10 maybe, those are all words that mean that
11 there's reasonable doubt, and you must find Mr.
12 Sanders not guilty, if there is any reasonable
13 doubt.

14 Let's talk about the State's investigation
15 of the case, we've already talked about it a
16 little bit. No gun, no shell casings. They
17 didn't go look for more drugs on the side of the
18 road, they didn't take a dog, they didn't have a
19 crime scene unit come out and process it,
20 because Investigator Tunis told you it wasn't a
21 complex crime scene.

22 They don't even know where the shooting
23 actually happened. It happened somewhere around
24 Stanley Farm Road and Roseida Road, but they
25 didn't find shell casings on the road, they

1 didn't find a blood spot, they don't even know
2 where this happened, that's reasonable doubt.

3 They blocked off a whole road where it
4 could have happened, never narrowed it down,
5 that's reasonable doubt. And I know I've hit on
6 it a couple of times, but, man, if we had those
7 Facebook records, we could point right to it,
8 and show you who did what. We could show you in
9 the two hours of conversation between Rhonda and
10 Deonne, if Deonne said, "Man, there's a sucker
11 with me, and I think we can hit a lick," it
12 could be right there on Facebook.

13 And now if you'all don't know what a lick
14 is, that's robbing somebody, that's getting
15 yours, getting your money for crack. As the
16 defense, I don't have any burden, I could have
17 laid down and gone to sleep at my table, and if
18 at the end of this case you'all decided that the
19 State did not prove their case, I would have
20 done my job, because it's not my job to prove
21 Mr. Sanders innocent, it's their job to prove
22 his guilt.

23 It is their job to prove beyond a
24 reasonable doubt that Mr. Sanders did not act in
25 self-defense. They haven't done that, because

1 they haven't provided you with all the evidence.
2 I had to show you the evidence. I had to bring
3 in Ms. Tiffany Lovett and the EMS records to
4 show you that Rhonda didn't know what happened
5 after the shooting, because she'd been awake
6 somewhere between one and three days on a crack
7 binge. They didn't show you that, I did, Mr.
8 Sanders did.

9 I walked you through Mr. McLendon's
10 toxicology with Dr. Garvin. I explained that
11 science to you. I explained to you that he had
12 active cocaine in his system. That the
13 metabolite cocaethylene shows that at some point
14 in that night, before he passed away, he was
15 drinking and doing cocaine at the same time.
16 Now, the State wants you to believe, and their
17 whole theory of the case is, that Mr. Sanders
18 was so whacked out of his mind on cocaine from
19 those three to four bumps he did, that he just
20 shot two people. There wasn't an argument,
21 there's no other motive.

22 Ms. Jones just stood up there and told you
23 they don't know what the motive is, that's
24 reasonable doubt. Ms. Rhonda Randall got on the
25 stand, and told you that she'd been awake

1 somewhere between one and three days smoking
2 crack. She told officers that she didn't --
3 "The last time that I smoked crack was sometime
4 this morning on 7/22." Well, then she got up
5 there this week, she told you'all that she
6 smoked crack at the hotel room that night. You
7 can't trust a word that comes out of her mouth.
8 And the State's right, Mr. Williams didn't know
9 a darn thing about this case, because it's not
10 for me to disclose the facts of this case to
11 him.

12 I'm not asking him anything about the facts
13 of this case. I'm asking him whether Ms. Rhonda
14 Randall tells the truth. He was married to her.
15 He knew her. And what did he tell you, "She's
16 not truthful." I don't think we needed him to
17 tell us that anymore. Investigator Tunis told
18 you that the ping on Ms. Rhonda Randall's cell
19 phone happened at 1:49 a.m. in the morning.

20 He read that off a piece of paper that I
21 showed him. This shooting happened somewhere
22 15, 20 minutes before that. How is Mr. Sanders
23 supposed to make it to Georgia in a 2017 Dodge
24 Durango in 20 minutes? You'all know how long it
25 takes to get to Savannah. You'all know how long

1 it takes to get to Georgia from here. That cell
2 phone wasn't in Georgia. The address of that
3 cell phone pinged up, it was [REDACTED] Long Street
4 Avenue.

5 Mr. Tunis also told you that, "There's no
6 evidence of self-defense in this case." That's
7 just because he didn't believe Mr. Sanders.
8 Well, it doesn't matter what he believes.

9 Ladies and gentlemen of the jury, it
10 matters what you believe. You heard Mr.
11 Sanders' testimony, you watched him testify.
12 And the State wants you to believe that every
13 time Mr. Sanders opened his mouth it was a
14 different story, and he lied the first time, he
15 did, he lied to him. But that second story that
16 he told Duncan and Tunis has been the same since
17 that day. Sure, there's some more details now,
18 because we investigated this case. We got down
19 in the nitty gritty, we wanted to know
20 everything that happened. We didn't just want
21 to know the things that proved him guilty,
22 that's what they're looking for.

23 We brought you the details, that's not a
24 different story, that's painting the whole
25 picture. Investigator Tunis told you that when

1 he went to America's Best Inn to go talk to
2 Rhonda again, where she had been at just a
3 couple days prior, she wasn't there. And
4 whenever he asked the manager, "Who rented that
5 room?" It wasn't her brother, it wasn't a Mr.
6 Randall, it wasn't the friends, *Taneisha Jones
7 -- Taneisha John, excuse me. No, the person
8 that rented that room was a Ms. Rosieda Jones.
9 Who in the world is Rosieda Jones? When
10 Detective Ireland went up to that room, he
11 didn't speak with a Rosieda Jones, Tunis told
12 you that he spoke with Taneisha John and Tony
13 Randall, more lies.

14 And Dr. Presnell from MUSC came and talked
15 with you. She told you that, "Yeah, this is
16 where Mr. McLendon got shot, that's one of the
17 spots, and he got shot right here." And Mr.
18 Ball came and told you that, "He's about 5'6",
19 and you're gonna have a copy of that autopsy
20 report back there with you, and you're gonna see
21 on that autopsy report that Mr. McLendon is 66
22 and one-half inches tall. Now, by my math
23 that's 5'6 ½", so he's a half inch taller than
24 Mr. Ball. But when Mr. Ball went and stood up
25 against the hood of that car, and you'all are

1 gonna have these pictures, you can look at them
2 again, he said the hood of that car came up to
3 about here on him.

4 Came up to about right there. Ms. Randall
5 first testified that Mr. McLendon was on the
6 passenger side of the car, whenever Delmar shot.
7 If he's on the passenger side of the car, and
8 the hood of the car comes up past right there,
9 how did those bullet holes get there? She's not
10 telling the truth.

11 Dr. Presnell also told you that since Mr.
12 McLendon was wearing a shirt, there's no way of
13 knowing how close or how far away he was, based
14 on looking at that photo. She even told you,
15 "That even if he had a shirt off, if he was more
16 than 36 inches away, there still wouldn't be any
17 stippling, or any gun soot, anything that would
18 show that Mr. Sanders was close to it.

19 The State wants you to believe that Mr.
20 McLendon was a ways off, and that Mr. Sanders
21 shot him unarmed, and there was nothing bad
22 going on. No, they were just standing out there
23 having a talk. We don't know how close he was,
24 that's reasonable doubt.

25 You'all heard from the Defendant in this

1 case, Mr. Sanders decided to talk to you'all and
2 tell you what happened. He also decided to talk
3 with investigators, and tell them what happened.
4 What did he tell investigators? He told them a
5 lie the first time, but when they confronted him
6 with the fact that, "Deonne told us you shot
7 him," he says, "Yeah, I did." He tells them the
8 truth.

9 He tells them, "That the night of this
10 incident I got off of work and I went to my
11 mama's house to take a shower, because I was
12 living out of my car, it's embarrassing, man."
13 He says, "I took a shower and I snuck a little
14 nap in, and when I woke up I asked her for some
15 money for cigarettes, because my direct deposit
16 wasn't hitting until the next day.

17 She wouldn't give me money for cigarettes,
18 she didn't have it." So he took the loose
19 change that he had in his car, and he goes -- he
20 tells Investigators Duncan and Tunis he went to
21 a family member's house, that wasn't a lie. He
22 told you'all today that he -- he told you'all
23 this week that he went to the bootlegger's
24 house, and the bootlegger is run by a family
25 member.

1 He says he went up there with the quarters
2 he had to get a couple loose cigarettes. That's
3 where he ran into Mr. McLendon, and that's when
4 Mr. McLendon asked him for a ride. He said,
5 "No, man, I'm just here to get some cigarettes,
6 I've got to go back, I've got to go sleep
7 somewhere. I've got to get ready for work the
8 next morning." Mr. McLendon kept bugging him
9 for a ride, and, eventually, the bootlegger
10 asked Mr. Sanders to run an errand for him, go
11 get some beers, some cigarettes, some cigars
12 from the smokers.

13 We all call it smokers, you'all don't call
14 it smokers, smokers is the gas station up there
15 by the Circle K and the T. J. Maxx and all that,
16 but people in this world they call it smokers.
17 People in this world, they use nicknames.
18 People in this world sometimes you don't know
19 their last name.

20 You heard Rhonda testify, "Yeah, I was
21 hanging out with this girl named, Sierra, for
22 three days, smoking crack, I don't know her last
23 name. It's the world they live in. Mr.
24 McLendon and Mr. Sanders ride up to the store,
25 get the stuff for the bootlegger and come back,

1 and when Delmar takes the stuff inside, he comes
2 back out and his hood's popped.

3 He's goes, "What in the world is the hood
4 popped for?" They were putting a gun under his
5 car, that's what they told him. Maybe they did
6 put a gun under there, maybe they didn't. The
7 gun was never presented to you in evidence. But
8 just like the scorpion, Mr. McLendon said, "Nah,
9 man, there's nothing to worry about, the gun's
10 under the hood. There's no gun in the car."
11 That's what Delmar believed.

12 The frog then had to take the scorpion to
13 run another errand, had to go take him to get
14 some drugs. He doesn't have a license, he
15 doesn't want to get pulled over with drugs in
16 the car. If Mr. Sanders' gets pulled over, he's
17 got a license. "Have a good evening, sir, go on
18 about your day."

19 He needed a frog, and he got one. Mr.
20 Sanders testified that after they got the drugs
21 at the drug dealer's house, that that's when he
22 started sniffing cocaine, and they went straight
23 from the drug dealer's house to go pick up Ms.
24 Randall. Actually, they didn't just go pick up
25 Ms. Randall, you heard Mr. Sanders testify that

1 they went to pick up two girls.

2 Deonne said, "Yeah, man, we're gonna get
3 some girls. We've got one for you, this girl
4 named Lacey." Where is she at? She didn't get
5 in the car. She didn't get out of the car at
6 the Oasis Inn. Mr. Sanders starts thinking to
7 himself, why are we just picking up one girl,
8 that's kind of weird, but I just trust the
9 scorpion. He'll be all right. But he doesn't
10 want any part of the threesome. He didn't want
11 to go in that hotel room. He didn't want to be
12 involved in that, so he sat in the car, and he
13 waited for his cousin, like his cousin asked him
14 to.

15 I just want to touch on something real
16 quick. Ms. Jones wants you to believe that Mr.
17 Sanders was driving crazy when he pulled up in
18 that parking lot. He didn't know where he was
19 going, well, no doubt he didn't know where he
20 was going, it wasn't his hotel room. He hadn't
21 been there before, how's he supposed to know
22 which part of the hotel her room is at? He
23 pulled into a parking spot, and I wasn't there,
24 so I don't know what happened, but what probably
25 happened is she said, "No, it's over there."

1 "Okay, I'll pull up a little closer."

2 He didn't come in on two wheels. He wasn't
3 swerving all over the place whenever he came in,
4 but he drove the wrong way down a one-way, how
5 can he be safe to drive? It's probably not the
6 most courteous thing to do, but, ladies and
7 gentlemen, who among us has not driven the wrong
8 way down the parking lot aisle in Publix? It's
9 not a crime. That doesn't show that you're
10 under the influence and too messed up to drive.
11 So Delmar's waiting in the car, he wasn't
12 waiting long.

13 You'all watched the whole video, from the
14 time they pulled up to the time they left.
15 Right after they got there, just a couple
16 minutes later Ms. Randall comes down to the car.
17 She wants you to believe that, "Oh, I'm a good
18 Samaritan, I was making sure that this gentleman
19 was gonna have some water, but what I was really
20 doing was making sure that he wasn't acting
21 crazy, and that he wasn't gonna get the cops
22 called on us." For sitting in the car?

23 What Mr. Sanders told you is, that Ms.
24 Randall came out to get him into that hotel
25 room. "Don't you want to come inside? Let's

1 have some fun, let's party, come on in." Ms.
2 Randall was a prostitute, she's always trying to
3 make a dollar. She's a crack addict. She told
4 you herself she's trying to figure out where
5 here next buck's coming from, so she can get
6 that next hit. You think she went out there out
7 of the goodness of her heart, to make sure that
8 he was okay, and that he had some water, or that
9 she was trying to get him into that hotel room
10 for some other purpose?

11 She goes back in, and then Deonne comes
12 out. "Man, why don't you come inside, let's
13 party." "No, man, I -- I'll take you'all where
14 you need to go, but I've got work in the
15 morning, I'm waiting on my direct deposit to
16 hit. I'm gonna go get some cigarettes, and I'm
17 gonna go to sleep somewhere."

18 Deonne goes back into that hotel room. And
19 some matter of minutes later they both return.
20 Now, Rhonda wants you to believe that they went
21 in that hotel room and they had sex. Like,
22 wait, I'm not saying it couldn't happen.
23 You'all saw how long they were in there, now you
24 make up your own mind. We do see when they
25 reappear though the door's locked on that car.

1 You see Deonne pull on it, he can't get in.

2 Delmar reached over and unlocked.

3 You see Rhonda Randall in the back driver's
4 side can't get in. She goes around to the other
5 side, can't get in. Deonne unlocks her door
6 too. "You going to the ATM? We'll come with
7 you. We're happy to come with you. I know
8 where my next hit's coming from." They get in
9 the car and Delmar doesn't want to go to the ATM
10 with them, so he keeps driving. He doesn't know
11 where he's gonna drive, he's trying to figure it
12 out, and something weird's going on, so I don't
13 exactly know what, but something weird's going
14 on.

15 He tells you that's why he was swerving,
16 keeping one eye on her and keeping one eye on
17 him, because something just doesn't feel right.
18 When you live in a world that these events
19 happened in, you learn to trust your gut. When
20 things don't feel right, you listen. That's how
21 you survive, that's how you keep breathing. So
22 he's trying to keep an eye on everything that's
23 going on, and, yeah, he swerves a little bit.
24 He was driving slow, he said, "Man, I was
25 honestly hoping kind of hoping I got pulled over

1 to get out of this situation."

2 He wasn't driving that way because he was
3 too messed up. There's been no testimony that
4 he was drinking alcohol. The only testimony was
5 that he did three or four bumps of powdered
6 cocaine. He says, "Rhonda and Deonne they want
7 to drive." "Man, pull over, let me drive, let
8 me drive, pull over." So Mr. Sanders stops the
9 car, he stops the car and he turns the light on,
10 and he says, "All right, we're gonna figure out
11 what's going on." Excuse me, let me back up.
12 Before he stops the car, he says they're going
13 by Shanklin Road, the pumps out that way.

14 That's when he hears something drop. He
15 doesn't know what it was, but he didn't ask. He
16 never asked, but Ms. Randall volunteered, "Oh,
17 that's just my phone, don't worry about it." He
18 said, "That didn't sound like a phone." A red
19 flag. Yeah, you know, something's weird. He
20 says that during that drive he sees Deonne
21 reaching over with his left hand.

22 And, ladies and gentlemen, that's what he
23 said was weird, that's what he said he didn't
24 understand. He never said that a gun could not
25 fit between the side of the passenger seat.

1 You heard it, you'all trust your memory,
2 you trust what you heard that man say. Don't
3 let them tell you what he said, you trust what
4 he said with your own ears. He never said a gun
5 couldn't fit between the passenger side of a
6 car. You'all have got cars, you'all drive.
7 Think about it.

8 Can a gun fit between the passenger side of
9 a car? Sure. Mr. Sanders said it was weird,
10 and it didn't make sense to him why Mr. McLendon
11 would be reaching around like this, and I agree
12 with him. If he's gonna lie and say that he saw
13 him passing something back and forth, why is he
14 gonna tell that? That doesn't make any sense.

15 He told it to you because that's what he
16 saw. And maybe one of those times that he
17 swerved, he looked back when that was happening,
18 and he saw Ms. Randall moving just a little bit,
19 possibly passing that object, and it just
20 dropped on the floor. Mr. Sanders told you how
21 big the gun was. He said it hung about a
22 quarter inch off my hand.

23 Now, ladies and gentlemen, you can look for
24 yourself and judge how big that purse is, it's
25 sitting in the chair. You know how big chairs

1 are. You've got something to compare it to.
2 You decide for yourself, if you think a gun
3 about that big would fit in that purse or not,
4 that's not something -- that's something for
5 you'all to decide.

6 Now we get back to my prior point, the
7 car's stopped, Delmar said he's seen enough red
8 flags, he's gonna figure out what's going on.
9 He didn't pull over to let them drive. Ms.
10 Randall might have said that he pulled over to
11 let them drive, but what didn't she say?

12 The truth of the matter is, she does not
13 know why the car was pulled over, because she
14 was not driving the car. She can assume why the
15 car was pulled over, but she did not pull the
16 car over. Mr. Sanders pulled the car over, and
17 he told you why he pulled the car over. He'd
18 seen enough red flags, he was gonna figure out
19 what in the world are you'all up to?

20 He was gonna talk to his cousin. He
21 flipped the dome light on, and that's when he
22 sees it, the gun sitting in the scorpion's lap.
23 Well, he didn't point it at him, it was pointed
24 at -- he said it was like this. He said, "There
25 was a gun sitting in the scorpion's lap, pointed

1 in my direction."

2 So the scorpion gets out of the car, leaves
3 the gun on the seat, and he gets out of the car,
4 because they're gonna talk about this, and
5 they're gonna figure out what in the world is
6 going on, but then he sees Ms. Randall lean on
7 up inching closer to that gun. He didn't know
8 what she was gonna do.

9 He didn't know what Mr. McLendon was gonna
10 do. He says when he saw her doing that he sat
11 back down in the seat, and that's when Deonne
12 comes back around to that side, and Deonne goes
13 to reach for the gun, and Mr. Sanders grabs the
14 gun first, and they get out. And he said, "Man,
15 what's going on? What are you doing? You need
16 to chill out, you need to chill out."

17 Mr. McLendon keeps walking towards him and
18 he gets closer and closer, that's when he pulls
19 the gun up, bang. He kept coming, bang. "He
20 started running away, so I stopped shooting. I
21 thought that I had scared him, I hoped that I
22 had just scared him. But then I go to get back
23 in my car and this crack addict is still sitting
24 back there, and she's fidgeting, and she's
25 reaching in her purse, and she's reaching for

1 stuff.

2 I didn't know what she was gonna do, so I
3 fired a warning shot at her. I had to get her
4 out of the car." She wasn't getting out, and he
5 said, "Get the F out of my car." And then he
6 fled for his life. He drove safely. He knew
7 that he wasn't supposed to have a gun, and he
8 was terrified, "I can't defend myself with a
9 gun, I'm not supposed to have it. I'm just
10 gonna drive, I'll figure it out, I'm just gonna
11 drive."

12 And he drove to Georgia, and he tells you
13 that at some point he had to get some gas, at
14 some point during all this, he lost his phone,
15 so he stopped and got another one. And he drove
16 to the Sheriff's Office, and he turned himself
17 in. They didn't catch him. They didn't find
18 him in an airport. They didn't find him at the
19 border. They didn't find him heading to Mexico.
20 They never found him, he turned himself in.

21 And he did try to get out of it, he lied,
22 and he told them a different story at first, to
23 make himself not seem responsible, but he told
24 them what happened. And he turned himself in
25 fully thinking, man, I'm done for, I'm cooked.

1 I can't have a gun, there's no way I'm allowed
2 to protect myself.

3 That's why he was saying sorry. Because he
4 didn't know that in the State of South Carolina,
5 the Judge is gonna tell him, it doesn't matter
6 if you can't own a gun, if you have the right to
7 arm yourself in self-defense --

8 MS. JONES: Your Honor, I'm gonna object to
9 that. I do not believe that's part of the
10 charge.

11 THE COURT: Sustained, that's not in the
12 charge.

13 MR. PAULK: He turned himself in, and they
14 want you to believe that every time that he
15 opened his mouth he told a different story. I
16 mean there's no reason they show you. The
17 Solicitor counted five -- counting today,
18 counting this week, you saw one interview, the
19 true story. Now, she made mention that he told
20 that same story to somebody in Camden County.
21 We didn't hear from anybody in Camden County.
22 He tells that same story.

23 He told the same lie once; he told the same
24 lie twice. Since that time, he has told the
25 same story. We've got more details now because

1 we did more investigation.

2 The State also just said during their
3 close, "You get rid of evidence, because you're
4 guilty, because you did something wrong." What
5 did Ms. Rhonda Randall do? She got rid of
6 evidence, because if the police believed Mr.
7 Sanders' story, she could have been found guilty
8 of attempted armed robbery, because she did
9 something wrong. That's why you have evidence,
10 right?

11 That's what the State just said. Look at
12 all the evidence Ms. Randall did, are you gonna
13 believe her story? That's reasonable doubt.
14 The State also just told you, "Nothing makes
15 sense." I agree with that. They want you to
16 believe that this man's gonna shoot two people
17 just because he had used a little bit of
18 powdered cocaine.

19 That's his only motive, that's what their
20 theory is, do you'all buy that? The only person
21 that told you that Ms. Rhonda Randall was
22 supposed to drive that night was Ms. Rhonda
23 Randall. Delmar never told you she was supposed
24 to drive. And we've already established what
25 her credibility is like. Now, that's for

1 you'all to decide. That's a question for
2 you'all to determine, don't let me tell you
3 where the credibility is, you saw her.

4 The only person arguing to Mr. Sanders'
5 action were the sole result of his drug use, the
6 State are the only people arguing that. We're
7 arguing that his actions were driven by fear.
8 We're arguing that this actions resulted,
9 because he saw, after all the red flags, a gun
10 sitting on the lap of the scorpion.

11 And he saw the scorpion had been awake
12 somewhere between one and three days smoking
13 crack, getting closer to the gun. He didn't
14 know what their intentions were. He didn't grab
15 that gun until Deonne came back and around and
16 reached for it himself, that's what he told you.
17 The State wants you to believe that if Mr.
18 Sanders hadn't been using that cocaine that
19 night, that this wouldn't have happened, and Mr.
20 Sanders said it himself in an interview. It's
21 an oversimplification, that if Mr. Sanders
22 hadn't been hanging out with two scorpions that
23 night, he wouldn't have been using cocaine.

24 If he hadn't been hanging out with two
25 scorpions that night, he wouldn't have been a

1 frog driving people around. If he hadn't been
2 using cocaine that night, he wouldn't have ever
3 been put in this situation. This situation
4 didn't happen because of the drugs, the
5 situation happened because this man reasonably
6 believed that he was gonna be robbed or shot or
7 killed. When these actions took place, Mr.
8 Sanders was in fear of his life. There wasn't
9 supposed to be a gun in the car. Deonne wasn't
10 supposed to have a gun.

11 The State a minute ago, the Solicitor said
12 they don't know what the motive is.

13 MS. JONES: Your Honor, I'm gonna object to
14 what he's about to do. As you know --

15 THE COURT: I'll allow him to argue.

16 MR. PAULK: Ladies and gentlemen, that's
17 reasonable doubt. Ladies and gentlemen, you'all
18 heard from Debbie Garvin about the toxicology
19 report. She talked to you about motive,
20 ingestion and dosage, and about how those are
21 the two things that make the physical
22 manifestations happen, route of administration
23 and dosage.

24 She told you that other than intravenous
25 usage, injecting cocaine straight into you, the

1 next most powerful one is smoking it, because it
2 hits the brain like that. It instills in people
3 that they've got to get that next hit. She told
4 you that Mr. McLendon was also using cocaine
5 that night, we've got the toxic report to show
6 it.

7 You've got it all back there with you, and
8 you can read her opinion on that, it's in
9 evidence. It's in evidence, because I showed it
10 to you. They want to say that Delmar did this,
11 because he was on cocaine. Well, guess what?
12 Everybody that was in that car was on drugs.
13 There's no difference between Mr. Sanders or Ms.
14 Randall, or any of the scorpions, and that's
15 reasonable doubt.

16 Mr. Johnson came and told you that he did
17 not weight the bullet that was fired and that
18 was collected from Mr. McLendon, but that he did
19 review the measurements of that bullet, and that
20 in his expert opinion that bullet was a 380
21 caliber. He told you that most of the 380
22 calibers that you see nowadays are micro-
23 compact, they're real small, it'll fit just
24 about anywhere.

25 Now, he didn't say that they were only

1 micro-compacts, I'll admit that I'm sure there
2 could be some varying; but, generally, when you
3 see a 380, he told you that it's gonna be a
4 small pistol, easily concealed. Think about
5 that.

6 Ladies and gentlemen, if the State wanted
7 to show you what happened that night, they would
8 have put all the evidence in front of you, but
9 they didn't, and that's reasonable doubt. When
10 you're back in that jury room, and you're trying
11 to figure yourselves out what happened, because
12 you'all are the finders of fact, if you don't
13 know what happened, if you have any question
14 about what happened, if you've got any
15 reasonable doubts about what happened, you've
16 got to find Mr. Sanders not guilty.

17 It's not my job to prove that he was acting
18 in self-defense, it's their job to prove that he
19 wasn't. It's not my job to prove that the two
20 scorpions were trying to rob them. It's their
21 job to prove that they weren't. We don't have
22 that. This is a failed investigation, ladies
23 and gentlemen, we don't know what happened.

24 They can't look at you in the eyes and tell
25 you what happened. Their star witness tried to

1 tell you what happened, but she changed her
2 story six times within 24 hours of the incident,
3 and then two more since then, that's eight. If
4 you've got any reasonable doubts about what
5 happened, those doubts must be resolved in favor
6 of Mr. Sanders, the frog that got stung. Ladies
7 and gentlemen, I want you to go back in that
8 jury room, and I want you to look at every piece
9 of evidence.

10 I want you to think about all the testimony
11 that you've heard, and I want to know what
12 you'all think. The Court wants to know what
13 you'all think. Ladies and gentlemen, I believe
14 that after reviewing all the evidence in this
15 case, that you're gonna come back, and I'm gonna
16 ask you to deliver of verdict of not guilty for
17 Mr. Sanders, because we don't know exactly what
18 happened that night, because the State has not
19 proved to you what happened that night.

20 And when you look at the State's case, and
21 you think about all the reasonable doubt that's
22 in that box, just imagine this box is the
23 State's case. That box could probably hold all
24 that, but when you go to pick up this case, and
25 you take it back to the jury room with you,

1 you're gonna see that it can't support the
2 weight of the reasonable doubt.

3 Ladies and gentlemen, I'm asking you to
4 find Mr. Sanders not guilty. Thank you.

5 THE COURT: Ms. Jones, a reply?

6 MS. JONES: Thank you, Your Honor.

7 ***

8 FINAL CLOSING ARGUMENT BY MS. JONES

9 MS JONES: The only scorpion that night is
10 right here. The only danger that night is right
11 here. The only threat that night is this man.
12 Rhonda Randall and Deonne McLendon never were
13 gonna rob Delmar Sanders. As far as they knew,
14 he had no money.

15 He went to the bootlegger to buy
16 cigarettes, who's homeless, why are they gonna
17 rob this homeless guy with no money? They're
18 not gonna do that. The only scorpion that night
19 is seated right there. And everything that I
20 said to you in my closing came from that
21 scorpion's mouth.

22 Ten hours after his trip, it was a ten-hour
23 trip to Camden County after he fled, after he
24 threw away the gun, after he got a new phone for
25 some reason, he tells his first story, didn't

1 work. So then he had a full year, a little over
2 a year and he gave that one, "You'all this is
3 self-defense."

4 If this really was self-defense, if he
5 really met all four of the prongs of self-
6 defense, all four. Actually in imminent danger
7 of sustaining death or serious bodily injury, or
8 a reasonable person in his own shoes would think
9 he was gonna sustain death, or serious bodily
10 injury, or no other means to escape, if he was
11 forced to gun down his cousin, his loving
12 cousin, or an unwanted companion, why not say
13 it? Why not tell the police? "I know my cousin
14 said it was me, you got me. Rhonda Randall said
15 it was me, you got me, but guess what, I had to
16 defend myself."

17 He never said that, because that's not what
18 happened. He got caught and he came up with
19 this story, and then came up with another story.
20 The only story that night, the only person
21 that's guilty, the only person that committed
22 murder and attempted murder is the Defendant.

23 THE COURT: All right, we've been going
24 about an hour and a half, and the charge takes a
25 little time, so let's take a ten-minute break,

1 to give everybody a chance to refresh
2 themselves, and we'll come back and I'll charge
3 you on the law. Be back at 12:55.

4 (The jury exits the courtroom.)

5 THE BAILIFF: The jury's cleared, Your
6 Honor.

7 THE COURT: All right, be back in ten
8 minutes.

9 (Recess.)

10 (The jury enters the courtroom.)

11 ***

12 PROCEEDINGS CONTINUED

13 THE BAILIFF: The jury's seated, your
14 Honor.

15 ***

16 JURY CHARGE

17 THE COURT: Madam Forelady, ladies and gentlemen
18 of the jury, you've heard all the evidence, and the
19 arguments of counsel. I will now explain the law,
20 which you will apply in this case. As we discussed
21 earlier, you and I have specific duties to perform.
22 As the trial judge, it is my responsibility to preside
23 over this trial.

24 I also have the duty to rule on the admissibility
25 of evidence offered. You are to consider only the

1 evidence before you. If there was any testimony
2 ordered stricken from the record during this trial,
3 you must disregard that testimony. You are to
4 consider only the testimony presented from this
5 witness stand, any exhibits which have been made a
6 part of the record in this case, and any stipulations
7 of counsel. I have the duty to charge law applicable
8 in this case.

9 As the presiding Judge, I am the sole judge of
10 the law, and it is your duty, as jurors, to accept and
11 apply the law as I now state it to you. If you
12 already have any idea, as to what the law is, or what
13 the law ought to be, and it does not agree with what I
14 now tell you, you must abandon your idea, because you
15 are sworn to accept the law and apply the law exactly
16 as I state it to you. Your duty is to determine
17 facts. In every case the jury is the sole and
18 exclusive judge of the facts. A trial judge cannot
19 suggest, state, comment on, or make any statement to a
20 trial jury about the facts in a case. Since you, the
21 jury, are the sole judge of the facts, you are not to
22 infer from what I have said during the progress of
23 this trial, and the ruling upon the admissibility of
24 evidence, or otherwise, or anything that I say now or
25 during the course of this instruction to you, that I

1 have any opinion about the facts in this case.

2 The law does not allow me to have an opinion
3 about the facts. This is a matter solely for you, the
4 jury, to determine, as juror. It is your duty to
5 determine the effect, value and weight of the evidence
6 presented during this trial.

7 **CHARGE, ARREST AND INDICTMENT ARE NOT EVIDENCE**

8 The indictments in this case charge Delmar
9 Sanders with murder, attempted murder and possession
10 of a weapon during the commission of a violent crime.
11 Each indictment charges a separate and distinct
12 offense. You must decide each indictment separate on
13 the evidence and the law that's applicable to it,
14 uninfluenced by your decision as to any other
15 indictment.

16 The fact that the Defendant was arrested, charged
17 and indicted is not evidence in this case and cannot
18 be considered by you as evidence of guilt, nor does it
19 create any presumption or inference of guilt. These
20 indictments are simply the formal written instruments
21 which containing the charge made against the
22 Defendant. They are the formal document by which this
23 case is brought into Court. You will be asked to
24 write a separate verdict of guilty or not guilty for
25 each indictment.

PRESUMPTION OF INNOCENCE

The Defendant has pled not guilty to these indictments, and that puts the burden on the State to prove the Defendant guilty beyond a reasonable doubt. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent.

I charge you that it is a guiding rule of law that a Defendant in a criminal trial, no matter what the serious the charge is always be presumed innocent of the crime for which an indictment was issued unless guilt is proven by evidence satisfying you, the jury, of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the Defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is like a robe of righteousness placed around the shoulders of the Defendant, which remains with the Defendant until it has been stripped away by evidence satisfying you of the Defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not mere legal theory. It is not just a legal phrase. It is a real

1 and substantial right to which every Defendant is
2 entitled unless you, the jury, are satisfied, from the
3 evidence of the Defendant's guilt beyond a reasonable
4 doubt.

5
6 **REASONABLE DOUBT**

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

11 The State has the burden of establishing every
12 fact necessary to prove the Defendant guilty beyond a
13 reasonable doubt. The law presumes every person
14 charged with a crime to be innocent, and the burden of
15 establishing guilt is placed solely on the State.
16 Some of you may have served as jurors in civil cases,
17 where you were told that it is only necessary to prove
18 that a fact is more likely true than not true, such as
19 by the greater weight or preponderance of the
20 evidence. Other civil cases, use the clear and
21 convincing evidence standard.

22 In those cases it is necessary to prove that a
23 fact is highly probable, but this is a criminal trial,
24 and the State's proof must be more powerful than those
25 burdens of proof. In criminal cases the State's proof

1 must be beyond a reasonable doubt.

2 Proof beyond a reasonable doubt is prove that
3 leaves you firmly convinced of the Defendant's guilt.
4 There are very few things in this world that we know
5 with absolute certainty, and in criminal cases the law
6 does not require proof that overcomes every possible
7 doubt. If based on your consideration of the
8 evidence, you are firmly convinced that the Defendant
9 is guilty of the crime charged, you must find the
10 Defendant guilty.

11 The Defendant is not required to prove his
12 innocence. If, on the other hand, you think there's a
13 real possibility that the Defendant is not guilty, you
14 must give the Defendant the benefit of every
15 reasonable doubt and find him not guilty.

16 **DUTIES OF JURY AND TRIAL JUDGE**

17 Necessarily, you must determine the credibility
18 of witnesses who have testified. Credibility simply
19 means believability. It is your duty, as jurors, to
20 analyze and evaluate the evidence, and determine which
21 evidence convinces you of its truth. In determining
22 the believability of witnesses, who have testified in
23 this case, you may believe one witness over several
24 witnesses, or several witnesses over one witness.

25 You may believe a part of the testimony of a

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

9 Ladies and gentlemen, this Court has admitted
10 evidence of statements allegedly made by Deonne
11 McLendon. I have determined that these statements
12 should be admitted into evidence in this case;
13 however, it is for you to determine the believability
14 of these statements.

15 In deciding this question, you may consider
16 whether Mr. McLendon was dying, and knew he was dying,
17 and whether Mr. McLendon had lost all hope of recovery
18 at the time the statements were made.

19 The rules of evidence, ordinarily, do not permit
20 witnesses to testify to opinions or conclusions. An
21 exception to this rule exists for witnesses we call
22 expert witnesses. A witness, who by education and
23 experience has become an expert in some art, science,
24 profession or calling, may state an opinion about a
25 relevant and material matter, in which the witness

1 claims to be an expert, and may also state the reasons
2 for the opinion. You should consider any expert
3 opinion received in evidence, like any other evidence,
4 and give it the weight you think it deserves. If you
5 decide that the opinion of an expert witness is not
6 based on sufficient education and experience in
7 support of the opinion are not sound, or that the
8 opinion is outweighed by other evidence, you may
9 disregard the opinion entirely. An expert witness'
10 testimony is to be given no greater weight than that
11 of other witnesses, simply because the witness is an
12 expert.

13 Further, you are not required to accept an
14 expert's opinion, even though it is not contradicted.

15 A person who has a past criminal record is
16 competent to testify during a trial. A past record
17 does not affect the ability of that witness to
18 testify. The past record may only be considered by
19 you, if at all, in determining the witnesses
20 believability. Remember, you are the sole judges of
21 the facts in the case, and of the believability of any
22 and all of the witnesses.

23 In order to establish criminal liability,
24 criminal intent is required. For example, the mental
25 state required to be proven by the State for a

1 particular crime might be purpose, intent, knowledge,
2 recklessness, or criminal negligence. Criminal intent
3 must be proven by the State beyond a reasonable doubt.
4 Criminal intent is always a matter that must be
5 determined by the jury from the circumstances
6 surrounding the situation at that time. There is no
7 way to prove intent to a mathematical certainty.
8 There is no way medical science can dissect a person's
9 brain, and determine what the person had in mind. So
10 the law says that criminal intent may be inferred from
11 the circumstances shown to have existed at the time.
12 This is how you make a determination of whether not
13 the element requiring intent was present.

14 It is not necessary to establish intent by direct
15 and positive evidence, but intent may be established
16 by inference, in the same way as any other fact, by
17 taking into consideration the acts of the parties, and
18 all the facts and circumstances of the case. Criminal
19 intent is a mental state of conscious wrongdoing. It
20 can arise from an action, or a failure to act. You
21 must determine what the Defendant intended to do,
22 based on the circumstances existing at the time.

23 DIRECT AND CIRCUMSTANTIAL EVIDENCE

24 There are two types of evidence which are
25 generally presented during a trial: direct evidence

1 and circumstantial evidence. Direct evidence directly
2 proves the existence of a fact, and does not require a
3 deduction. Circumstantial evidence is proof of a
4 chain of facts and circumstances indicating the
5 existence of a fact.

6 Crimes may be proven by circumstantial evidence.
7 The law makes no distinction between the weight or
8 value to be given to either direct or circumstantial
9 evidence.

10 However, to the extent the State relies on
11 circumstantial evidence, the circumstances must be
12 consistent with each other, and when taken together
13 point conclusively to the guilt of the accused beyond
14 a reasonable doubt.

15 If these circumstances merely portray the
16 Defendant's behavior as suspicious, the proof has
17 failed.

18 The State has the burden of proving the Defendant
19 guilty beyond a reasonable doubt. This burden rests
20 with the State, regardless of whether the State relies
21 on direct evidence, circumstantial evidence, or some
22 combination of the two.

23 The Defendant is charged with murder. The State
24 must prove beyond a reasonable doubt that the
25 Defendant killed another person with malice a

1 forethought. Malice is hatred, ill-will, or hostility
2 towards another person. It is the intentional doing
3 of a wrongful act without just cause or excuse, and
4 with an intent to inflict an injury or under
5 circumstances that the law will infer an evil intent.
6 Malice of forethought does not require that malice
7 exists for any particular time before the act is
8 committed, but malice must exist in the mind of the
9 Defendant just before and at the time the act is
10 committed.

11 Therefore, there must be a combination of the
12 previous evil intent and the act. Malice of
13 forethought may be expressed or inferred. These terms
14 expressed and inferred do not mean different kinds of
15 malice, but merely the manner in which malice may be
16 shown to exist. That is either by direct evidence or
17 by inference from the facts and circumstances which
18 are proved.

19 Express malice is shown when a person speaks
20 words, which express hatred or ill-will for another,
21 or when the person prepared beforehand to do the act,
22 which was later accomplished. For example, lying in
23 wait for a person, or any other acts of preparation
24 going to show that the deed was within the defendant's
25 mind would be expressed malice. Malice may be

1 inferred from conduct showing a total disregard for
2 human life. If the facts are proven beyond a
3 reasonable doubt, sufficient to raise an inference of
4 malice to your satisfaction, this inference would
5 simply be an evidentiary fact to be considered by you,
6 along with the other evidence in the case, and you may
7 give it the weight you decide it should receive.

8 If you find that the State has failed to prove
9 beyond a reasonable doubt, that the Defendant
10 committed murder, you may consider whether the State
11 has proved beyond a reasonable doubt that the
12 Defendant committed voluntary manslaughter.

13 To prove voluntary manslaughter, the State must
14 prove beyond a reasonable doubt that Defendant took
15 the life of another in the sudden heat of passion,
16 based on sufficient legal provocation. Both heat of
17 passion and sufficient legal provocation must be
18 present at the time of the killing to constitute
19 voluntary manslaughter. Sudden heat of passion may,
20 for a time, affect a person's self-control, and
21 temporarily disturb a person's reason. The sudden
22 heat of passion must be the type that would make an
23 ordinary person unable to coolly reflect on his
24 actions, and would produce an uncontrollable impulse
25 to do violence.

1 Sufficient legal provocation must be the type
2 that would make a person of ordinary reason and
3 caution become enraged, and lose control temporarily.
4 The provocation needed for voluntary manslaughter must
5 come from some act of, or related to the alleged
6 victim. Words alone, however vulgar or insulting are
7 not enough to be legal provocation. Where death is
8 caused by the use of a deadly weapon, the words must
9 be accompanied by some overt threatening act, which
10 could have produced the heat of passion.

11 The exercise of a legal right, no matter how
12 offensive it is to another, is never sufficient legal
13 provocation for voluntary manslaughter. If the heat
14 of passion had cooled, or if there was enough time
15 between the provocation, if any, and the killing, for
16 the passion of a reasonable person to cool, the
17 killing would not be voluntary manslaughter.

18 In deciding whether a reasonable person could
19 have had enough time to cool off, you should consider
20 all the circumstances surrounding the killing. You
21 may consider the nature of the provocation, if any,
22 the Defendant's mental and physical state, and the
23 circumstances and relationships between the parties.

24 The Defendant is also charged with attempted
25 murder. In order to prove this crime, the State must

1 prove the Defendant, with specific intent to kill,
2 attempted to kill another person with malice of
3 forethought, either expressed or implied. Again,
4 malice is hatred, ill-will, or hostility towards
5 another person. It is the intentional doing of a
6 wrongful act without just cause or excuse, and with an
7 intent to inflict an injury, or under circumstances
8 from which the law will infer an evil intent.

9 Malice of forethought does not require that
10 malice exists for any particular time before the act
11 is committed, but malice must exist in the mind of the
12 Defendant just before and at the time the act is
13 committed. Therefore, there must be a combination of
14 the previous evil intent and the act.

15 Malice of forethought may be expressed or
16 inferred. These terms expressed and inferred do not
17 mean different kinds of malice, but merely the manner,
18 in which malice may be shown to exist. That is either
19 by direct evidence or by inference from the facts and
20 circumstances which are proved.

21 Express malice is shown when a person speaks
22 words which express hatred or ill-will for another, or
23 when the person prepared beforehand to do the act
24 which was later accomplished, as I said earlier, for
25 example, lying in wait for a person or any other acts

1 of preparation going to show that the deed was within
2 the Defendant's mind would expressed malice. Malice
3 may be inferred from conduct showing a total disregard
4 for human life, if facts prove beyond a reasonable
5 doubt, sufficient to raise an inference of malice to
6 your satisfaction, this inference would simply be an
7 evidentiary fact to be considered by you, along with
8 the other evidence in the case, and you may give it
9 the weight you decide it should receive.

10 Specific intent to kill is an element of
11 attempted murder. Intent means intending the result
12 which actually occurs not accidentally or involuntary.
13 Intent may be shown by acts and conduct of the
14 Defendant and other circumstances from which you may
15 naturally and reasonably infer intent. Evidence of
16 the character of the act, the charact of the act, the
17 character of the instrument used, the manner in which
18 it was used, and the purpose to be accomplished, and
19 the resulting wounds or injuries may be considered in
20 determining the intent with which the act was
21 committed.

22 Intent may also be inferred when it is
23 demonstrated that the Defendant voluntarily and
24 willfully commits an act, the natural tendency of
25 which is to destroy another's life. The Defendant is

1 also charged with possession of a weapon during the
2 commission of a violent crime -- I'm sorry, or
3 attempt to commit a violent crime. The statute must -
4 - sorry, let me slow down. The State must prove
5 beyond a reasonable doubt that the Defendant was in
6 possession of a firearm, or visibly displayed what
7 appeared to be a firearm during the commission of a
8 violent crime. A firearm means any machine gun,
9 automatic rifle, revolver, pistol, or any weapon which
10 will, is designed to, or may be readily converted to
11 expel a projectile.

12 In order to find the Defendant guilty of
13 possession of a weapon during the commission of a
14 violent crime, you must first find the Defendant is
15 guilty of either committing a violent crime or
16 attempting to commit a violent crime. Murder and
17 attempted murder are violent crimes. The State must
18 prove beyond a reasonable doubt that the weapon
19 furthered, advanced, or helped in the commission of
20 the crime.

21 The Defendant has raised the defense of self-
22 defense. Self-defense is a complete defense, and if
23 it is established, you must find the Defendant not
24 guilty. The State has the burden of disproving self-
25 defense by proof beyond a reasonable doubt. If you

1 have a reasonable doubt of the Defendant's guilt,
2 after considering all the evidence, including the
3 evidence of self-defense, then you must find the
4 Defendant not guilty.

5 On the other hand, if you have no reasonable
6 doubt of the Defendant's guilt after considering all
7 the evidence, including the evidence of self-defense,
8 then you must find the Defendant guilty. The
9 following elements are required to establish self-
10 defense.

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

18 The second element of self-defense is, that the
19 Defendant was actually in imminent danger of death or
20 serious bodily injury, or that the Defendant actually
21 believed he was in imminent danger of death or serious
22 bodily injury. If the Defendant was actually in
23 imminent danger, it must be shown that the
24 circumstances would have warranted a person of
25 ordinary firmness and courage to strike the fatal

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

6 In deciding whether the Defendant actually was or
7 believed he was in imminent danger of death or serious
8 bodily injury, you should consider all the facts and
9 circumstances surrounding the crime, including the
10 physical condition and characteristics of the
11 Defendant and the victim. The Defendant does not have
12 to show that he was actually in danger. It is enough
13 if the Defendant believed he was in imminent danger,
14 and a reasonably prudent person of ordinary firmness
15 and courage would have had the same belief. The
16 Defendant has the right to act on appearances, even
17 though the Defendant's beliefs may have been mistaken.
18 It is for you to decide whether the Defendant's fear
19 of immediate danger, or death, or serious bodily
20 injury was reasonable, and would have been felt by an
21 ordinary person in the same situation. Words
22 accompanied by hostile acts may, depending on the
23 circumstances, establish self-defense.

24 The final element of self-defense is that the
25 Defendant had no other probable way to avoid the

1 danger of death, or serious bodily injury than to act
2 as the Defendant did in this particular instance. If
3 the Defendant was on his own premises, the Defendant
4 had no duty to retreat before acting in self-defense.

5 A person cannot be required to make an exact
6 calculation, as to the degree or amount of force which
7 may be needed to avoid death or serious bodily harm.
8 Therefore, in self-defense, the Defendant has the
9 right to use the force needed to avoid death or
10 serious bodily harm. The force used in self-defense
11 does not have to be limited to the degree or amount of
12 force used by the victim.

13 The Defendant has the right to use so much force,
14 as appeared to be necessary, for complete self-
15 protection, in which a person of ordinary reason and
16 firmness would have believed to be needed to prevent
17 death or serious bodily harm. If the Defendant is
18 justified in defending himself in firing the first
19 shot, then the Defendant is also justified in
20 continuing to shoot until it is apparent the danger of
21 death or serious bodily injury has completely ended.

22 Voluntary intoxication is not an excuse or a
23 defense to a crime, regardless of whether the crime is
24 one involving general or specific intent. This rule
25 also extends to voluntary ingestion of drugs.

1 A person who voluntarily ingests alcohol or drugs
2 and thereby becomes intoxicated, is not less
3 responsible for his acts while in such condition. If
4 one voluntarily drinks intoxicating liquors, wine, or
5 beer, or ingests drugs and becomes intoxicated, to
6 whatever degree, and if while in that condition,
7 commits an act which will be a crime, if it had been
8 committed by a sober person, the fact of intoxication
9 would not relieve the intoxicated person from
10 responsibility.

11 Ladies and gentlemen, I have declared the law to
12 you through these instructions to help guide you to a
13 verdict. Whether some of these instructions apply
14 depends on what you find to be the facts.

15 The fact that I have instructed you on various
16 subjects in this case should not be taken as
17 indicating an opinion of this Court, as to what you
18 should find to be the facts. Your verdict must
19 represent the considered judgment of each jurors. In
20 order to return a verdict, it is necessary that each
21 juror agree. Your verdict must be unanimous. All 12
22 of you must agree on the verdict. Your verdict cannot
23 be based on sympathy, passion, prejudice, or any other
24 consideration not in evidence in this case.

25 Remember at all times you are not partisans

1 favoring one party over another, you are the judges of
2 the facts. Your sole interest is to determine whether
3 the State has proven the Defendant's guilt to each of
4 his charges beyond a reasonable doubt from the
5 evidence presented to you in this case.

6 There are three possible verdicts which you may
7 find in this case, murder, attempted murder, and
8 possession of a weapon during the commission of a
9 violent crime. There is no significance whatsoever in
10 the order in which I state I state these possible
11 verdict, it's simply that one must be stated first.
12 Ladies and gentlemen, your verdict must be a unanimous
13 one.

14 Madam Forelady, when the jury agrees on the
15 verdict, you will circle the verdict on the verdict
16 form and sign your name as Foreperson. Then knock on
17 the jury room door and inform the Bailiff that you
18 have reached a verdict. At that time, we will receive
19 you back in the courtroom. I ask that you now return
20 to your jury room, but do not begin deliberations
21 until you are told by the Clerk or the Bailiff to do
22 so. There are some matters which must be discussed
23 with the attorneys before you begin your
24 deliberations. And my alternate jurors, you'all can
25 stay with us.

1 (The jury exits the courtroom.)

2 THE COURT: Any exceptions to the charge?

3 MS. JONES: Just one, Your Honor.

4 THE COURT: Okay.

5 THE BAILIFF: The jury's cleared, Your Honor.

6 THE COURT: Okay. Do you have somewhere you can
7 put the --

8 THE BAILIFF: Absolutely.

9 THE COURT: -- alternates.

10 THE BAILIFF: We usually separate them back here.

11 THE COURT: Okay.

12 THE BAILIFF: Come on back, folks. The jury's
13 cleared, Your Honor.

14 THE COURT: Thank you, sir.

15 MS. JONES: When you went through the charge for
16 possession of a weapon, voluntary manslaughter was not
17 listed as a violent crime.

18 THE COURT: Okay. Okay, we'll get them back in,
19 and I'll charge them on that. Anything from you, Mr.
20 Paulk?

21 MR. PAULK: No, Your Honor.

22 THE COURT: All right, let's go ahead and get all
23 the exhibits together, make sure -- have you'all been
24 through the exhibits with the Court Reporter, to make
25 sure we have everything that's going back?

1 MR. PAULK: I think, we're good, Your Honor.

2 COURT REPOTER: I think we do, yes, sir.

3 THE COURT: All right. And I have -- make sure
4 my list is right, I had the State had one through 51,
5 and then 54 through 56; is that correct?

6 MS. JONES: Yes.

7 THE COURT: And the defense had 1 through 9?

8 COURT REPORTER: Yes, sir.

9 MR. PAULK: Yes, Your Honor.

10 THE COURT: All right, let me get back to that
11 spot in the charge. We're gonna have to bring them
12 back for one thing. You can go ahead and get them,
13 Rick?

14 THE BAILIFF: Yes?

15 THE COURT: Yes, sir. And I'm gonna, if you'all
16 are okay with cautioning them again, not to rush, that
17 we've got tomorrow, if we need it, since one of them
18 has got to leave, because I don't want them to feel
19 rushed to make their decision.

20 MR. PAULK: Thank you, Your Honor.

21 THE BAILIFF: The jury's entering the courtroom,
22 Your Honor.

23 (The jury enters the courtroom.)

24 ***

25 PROCEEDINGS CONTINUED

1 THE COURT: All right, ladies and gentlemen, very
2 briefly, I have one thing to add when I was charging
3 you on possession of a weapon during the commission of
4 a violent crime. I'm gonna just re-read one of these
5 paragraphs, and I had to add something, based on the
6 verdicts you may consider. I'm just gonna, again,
7 give you the entire paragraph again.

8 In order to find the Defendant guilty of
9 possession of a weapon during the commission of a
10 violent crime, you must first find the Defendant
11 guilty of either committing a violent crime, or
12 attempting to commit a violent crime. Murder,
13 voluntary manslaughter and attempted murder are
14 violent crimes.

15 In the original charge I had left out voluntary
16 manslaughter, but that will be a possible verdict that
17 you can arrive at. Also, and we are really close to
18 giving this case to you, do not rush. I know at least
19 one of you needs to leave today by 5:00, and that's
20 fine. I'm here all week, I don't want any of you to
21 feel rushed to get out of here, or any pressure in
22 that regard. You'all have to make your own decision,
23 based on the evidence here, and, again, the State and
24 the Defendant are entitled to fair deliberations, so
25 don't let us having to leave and come back tomorrow in

1 any way factor into your deliberations.

2 All right, we'll be with you shortly, thank you.

3 (The jury exits the courtroom.)

4 THE BAILIFF: The jury is cleared.

5 THE COURT: All right. Any other exceptions
6 before the jury gets the case?

7 MS. JONES: No, sir.

8 MR. PAULK: None, Your Honor.

9 THE COURT: All right, let's get the exhibits,
10 and here are the verdict forms. And, again, all I did
11 on that, if you'all want to look at those one more
12 time, all we did was remove that phrase on the bottom
13 about them to knock after they had arrived at a
14 verdict.

15 MR. BAILIFF: Do you mind if I staple these?

16 THE COURT: That'll be fine. Okay, I'll guess
17 we'll be at ease until further notice.

18 MR. PAULK: Your Honor, are we gonna let the
19 alternates get lunch, before we release them?

20 THE COURT: Do you want to release them or keep
21 them around for a little while?

22 MS. JONES: I have no position on that.

23 MR. PAULK: Your Honor, I'm fine with going ahead
24 and releasing them.

25 THE COURT: All right, well, when Rick comes

1 back, we can go ahead and release them. Yeah, just
2 bring them back in.

3 THE BAILIFF: Yes, sir. Judge, here's the three
4 alternates, if you will just stand right up here.

5 THE COURT: Hey, folks, the parties have agreed
6 to release you'all, since everybody appeared to
7 survive the trial, so we appreciate your service very
8 much. You are free to discuss the case now with
9 anyone. Sometimes lawyers like to talk to you. You
10 don't have to discuss the case with anybody.

11 You are free to hang around and see what the
12 verdict is, or go on about your life, but we very much
13 appreciate your service. I always tell jurors, you
14 don't realize how important you are to our system.
15 This case ended up going to trial, but a lot of cases
16 don't, just by virtue of you folks showing up. Cases
17 a lot of times don't get -- either civil or criminal
18 cases don't really get real, until you folks are out
19 there, and the parties are looking at, you know, okay,
20 this is real, and then a lot of cases get resolved by,
21 you know, the parties working it out, just because
22 folks like you are willing to show up, and we really
23 appreciate it.

24 And I hope this was somewhat educational for you,
25 and that you are -- again, you're welcome to hang

1 around, or you're free to leave, either way. But,
2 again, thank you very much for your service. All
3 right. They've got it?

4 THE BAILIFF: Yes, sir.

5 THE COURT: All right, very good.

6 (Recess.)

7 (Court's Exhibit 10 marked for identification.)

8 ***

9 PROCEEDINGS CONTINUED

10 THE COURT: All right, we're back on the record
11 in State v. Sanders. We have gotten a question from
12 the jury. It has been marked as Court's Exhibit 10.
13 I'll just go ahead and read it. It says, "May we have
14 a copy of the Judge's instructions that were read to
15 us at the close of the trial, specifically including
16 the definitions of the charges of this case."

17 I don't know what you'all's position on that.
18 Some Judges -- like I was with Judge Addy last week,
19 he routinely sends the charge back to begin with. I
20 personally don't like it as much, because I think they
21 try to interpret things that is beyond, not their
22 intelligence, but their expertise. That's trying to
23 interpret things that we use every day.

24 What I would be inclined to do is ask them for
25 specific areas, where they have questions, and then

1 recharge them, unless you'all have any brighter ideas?

2 MS. JONES: I don't have any issue with sending
3 the charge back to them, Judge. I think since they've
4 asked for it, I'm comfortable with that.

5 MR. PAULK: And, Your Honor, I would prefer that
6 you re-read the portions that they require.

7 THE COURT: Okay. I think that's what I'll do.
8 We'll just -- I'll ask them to let us know what
9 particular areas they want to be recharged on, and
10 we'll recharge.

11 MS. JONES: Okay.

12 THE COURT: How do we want to do that, Rick?

13 THE BAILIFF: Well, I don't even know, Judge,
14 I've never heard that one. I'd have to bring them
15 back in, and you'd have to ask the question directly
16 to them.

17 COURT REPORTER: Or you can write it on the back.

18 THE COURT: Okay.

19 MS. JONES: "Please list the charges you're
20 requesting."

21 THE COURT: Okay.

22 THE BAILIFF: Be very clear though, because
23 they're gonna be just confused over that note, if
24 you're not.

25 THE COURT: Right. All right, here's what I put.

1 I said, "The jury charge cannot be sent to the jury
2 room. Please let us know which charges you would like
3 to hear, and the Court will read the applicable law to
4 the jury again." That's signed --

5 MR. PAULK: No objection for the defense.

6 THE COURT: -- by me. Okay, they have asked that
7 we please read the charge of murder, voluntary
8 manslaughter and attempted murder. So we will bring
9 them in, and I will recharge them on those three
10 specific issues. Anybody have any objection with
11 that?

12 MS. JONES: No, Your Honor.

13 MR. PAULK: Without objection.

14 THE COURT: All right, bring them in?

15 THE BAILIFF: Bring them in?

16 THE COURT: Yep.

17 (The jury enters the courtroom.)

18 THE BAILIFF: The jury's entering the courtroom,
19 Your Honor.

20 THE COURT: Thank you, sir. Okay, Madam
21 Forelady, I understand that you'all would like to be
22 charged again on the definitions of murder, attempted
23 murder and voluntary manslaughter; is that correct?

24 MADAM FORELADY: Yes, sir.

25 THE COURT: Okay. And we'll go through all those

1 again. I appreciate all of your work back there, and
2 your diligence, and that means a lot to the State and
3 Defendant, so we understand you'all are back there
4 working hard, so we appreciate it.

5 All right. This is murder, the Defendant is
6 charged with murder. The State must prove beyond a
7 reasonable doubt the Defendant killed another person
8 with malice of forethought. Malice is hatred, ill-
9 will or hostility towards another person. It is the
10 intentional doing of a wrongful act without just cause
11 or excuse, and with an intent to inflict an injury, or
12 under circumstances that the law will infer an evil
13 intent.

14 Malice of forethought does not require that
15 malice exists for any particular time before the act
16 is committed, but malice must exist in the mind of the
17 Defendant just before and at the time the act is
18 committed. Therefore, there must be a combination of
19 the previous evil intent and the act.

20 Malice aforethought may be expressed or inferred.
21 These terms expressed and inferred do not mean
22 different kinds of malice, but merely the manner in
23 which malice may be shown to exist. That is either by
24 direct evidence, or by an inference from the facts and
25 circumstances which are provided.

1 Express malice is shown when a person speaks
2 words, which express hatred or ill-will for another,
3 or when the person prepared beforehand to do the act,
4 which was later accomplished. For example, lying in
5 wait for a person, or any other acts of preparation
6 going to show that the deed was within the Defendant's
7 mind would be expressed malice. Malice may be
8 inferred from conduct showing a total disregard for
9 human life. If facts are proven beyond a reasonable
10 doubt sufficient to raise an inference of malice to
11 your satisfaction, this inference would simply be an
12 evidentiary fact to be considered by you, along with
13 the other evidence in the case, and you may give it
14 the weight you decide it should received.

15 Now, voluntary manslaughter. If you find that
16 the State has failed to prove beyond a reasonable
17 doubt, that the Defendant committed murder, you may
18 consider whether the State has proved beyond a
19 reasonable doubt that the Defendant committed
20 voluntary manslaughter. To prove voluntary
21 manslaughter, the State must prove beyond a reasonable
22 doubt that the Defendant took the life of another in
23 the sudden heat of passion, based on sufficient legal
24 provocation.

25 Both heat of passion and sufficient legal

1 provocation must be present at the time of the killing
2 to constitute voluntary manslaughter. Sudden heat of
3 passion may, for a time, affect a person's self-
4 control, and temporarily disturb a person's reason.
5 The sudden heat of passion must be the type that would
6 make an ordinary person unable to coolly reflect on his
7 actions, and would produce an uncontrollable impulse
8 to do violence. Sufficient legal provocation must be
9 the type that would make a person of ordinary reason
10 and caution become enraged, and lose control
11 temporarily. The provocation needed for voluntary
12 manslaughter must come from some act of, or related to
13 the victim. Words alone, however vulgar or insulting.
14 are not enough to be legal provocation.

15 Where death is caused by the use of a deadly
16 weapon, the words must be accompanied by some overt
17 threatening act, which could have produced the heat of
18 passion. The exercise of a legal right, no matter how
19 offensive it is to another, is never sufficient legal
20 provocation for voluntary manslaughter. If the heat
21 of passion had cooled, or if there was enough time
22 between the provocation, if any, and the killing, for
23 the passion of a reasonable person to cool, the
24 killing would not be voluntary manslaughter.

25 In deciding whether a reasonable person would

1 have had enough time to cool off, you should consider
2 all the circumstances surrounding the killing. You
3 may consider the nature of the provocation, if any,
4 the Defendant's mental and physical state, and the
5 circumstances and relationships between the parties.

6 Now, this is attempted murder. The Defendant is
7 also charged with attempted murder. In order to prove
8 this crime, the State must prove the Defendant, with
9 specific intent to kill, attempted to kill another
10 person with malice of forethought, either expressed or
11 implied.

12 And I'll go through malice again. Malice is
13 hatred, ill-will, or hostility towards another person.
14 It is the intentional doing of a wrongful act without
15 just cause or excuse, and with an intent to inflict an
16 injury, or under circumstances from which the law will
17 infer an evil intent. Malice of forethought does not
18 require that malice exists for any particular time
19 before the act is committed, but malice must exist in
20 the mind of the Defendant just before and at the time
21 the act is committed. Therefore, there must be a
22 combination of the previous evil intent and the act.

23 Malice aforethought may be expressed or inferred.
24 These terms expressed and inferred do not mean
25 different kinds of malice, but merely the manner, in

1 which malice may be shown to exist. That is either by
2 direct evidence or by inference from the facts and
3 circumstances which are proved. Express malice is
4 shown when a person speaks words which express hatred
5 or ill-will for another, or when the person prepared
6 beforehand to do the act which was later accomplished,
7 for example, lying in wait for a person or any other
8 acts of preparation going to show that the deed was
9 within the Defendant's mind would constitute expressed
10 malice.

11 Malice may be inferred from conduct showing a
12 total disregard for human life, if facts prove beyond
13 a reasonable doubt, sufficient to raise an inference
14 of malice to your satisfaction, this inference would
15 simply be an evidentiary fact to be considered by you,
16 along with the other evidence in the case, and you may
17 give it the weight you decide it should receive.
18 Specific intent to kill is an element of attempted
19 murder. Intent means intending the result which
20 actually occurs not accidentally or involuntary.
21 Intent may be shown by acts and conduct of the
22 Defendant and other circumstances from which you may
23 naturally and reasonably infer intent.

24 Evidence of the character of the act, the charact
25 of the act, the character of the instrument used, the

1 manner in which it was used, and the purpose to be
2 accomplished, and the resulting wounds or injuries may
3 be considered in determining the intent with which the
4 act was committed. Intent may also be inferred when
5 it is demonstrated that the Defendant voluntarily and
6 willfully commits an act, the natural tendency of
7 which is to destroy another's life. That's those
8 three offenses. If you have any other questions, just
9 let us know.

10 (Jury exits courtroom.)

11 THE BAILIFF: The jury's clear, Your Honor.

12 THE COURT: Any exceptions to what we just did?

13 MS. JONES: No, Your Honor.

14 THE COURT: All right, Sanders will be at ease.

15 (Recess.)

16 ***

17 PROCEEDINGS CONTINUED

18 THE BAILIFF: All rise, the Court's back in
19 session.

20 THE COURT: Please be seated. Have we got
21 everybody?

22 THE BAILIFF: Yes.

23 MR. PAULK: Your Honor, I've looked around for
24 Mr. Sanders' family right now. Their stuff is still
25 in the pews, so they're not far.

1 THE COURT: Okay, all right.

2 MR. PAULK: I just want to let you know.

3 THE COURT: Yeah, we'll make sure they're there.
4 Do we have everybody, or are we still waiting on one
5 more.

6 THE BAILIFF: One more is coming.

7 THE COURT: Okay. All right, ladies and
8 gentlemen, we have a verdict, and as I mentioned
9 before the trial started, nobody's gonna get out of
10 hand, regardless of what happens. We're all gonna be
11 respectful. We're not gonna have any outburst,
12 nothing of that nature, or one of these guys will get
13 you out of here. I mean this is a serious place, this
14 is a serious charge for everybody involved.
15 Everybody's gonna be nice, and everybody's gonna be
16 respectful, regardless of who is disappointed. All
17 right, bring them in.

18 THE BAILIFF: The jury's entering the courtroom,
19 Your Honor.

20 (The jury enters the courtroom.)

21 ***

22 READING OF THE VERDICT

23 THE COURT: Thank you, sir.

24 THE BAILIFF: The jury's seated, Your Honor.

25 THE COURT: Madam Forelady, I understand we have

1 a verdict?

2 MADAM FORELADY: Yes, Your Honor.

3 THE COURT: Can you provide that to the Bailiff,
4 please?

5 MADAM FORELADY: Yes, sir.

6 THE COURT: Thank you. All right, Madam Clerk?

7 CLERK: Thank you.

8 THE COURT: If you will publish the verdict?

9 CLERK: All right. "In the Court of General
10 Sessions, Fourteenth Judicial Circuit, the State of
11 South Carolina v. Delmar Sanders, Indictment Numbers
12 2021-GS-07-01220, 1219 and 1221, we the jury
13 unanimously find the Defendant, Delmar Sanders, as to
14 the charge of murder, not guilty.

15 We, the jury, unanimously find the Defendant,
16 Delmar Sanders, as to the charge of voluntary
17 manslaughter, guilty.

18 We, the jury unanimously find the Defendant,
19 Delmar Sanders, as to the charge of attempted murder,
20 not guilty.

21 We, the jury, unanimously find the Defendant,
22 Delmar Sanders, as to the charge of possession of
23 weapon during the commission of a violent crime,
24 guilty.

25 THE COURT: All right. Would anyone like to poll

1 the jury?

2 MS. JONES: No, Your Honor.

3 MR. PAULK: Yes, your Honor

4 THE COURT: All right, Madam Clerk?

5 CLERK: Please look down at your number on your
6 jury badge. Juror 195.

7 JUROR 195: Yes.

8 CLERK: Go ahead and stand, please. Is this your
9 verdict?

10 JUROR 195: Yes.

11 CLERK: Is this still your verdict?

12 JUROR 195: Yes.

13 CLERK: Juror number 147. Is this your verdict?

14 JUROR 147: Yes.

15 CLERK: Is this your verdict?

16 JUROR 147: Yes.

17 CLERK: Number 146. Is this still your verdict?

18 JUROR 146: Yes, ma'am.

19 CLERK: Is it still your verdict?

20 JUROR 146: Yes, ma'am.

21 CLERK: Number 62. Is this your verdict?

22 JUROR 62: Yes.

23 CLERK: Is this still your verdict?

24 JUROR 62: Yes.

25 CLERK: Number 304. Is it still your verdict?

1 JUROR 304: Yes, ma'am.

2 CLERK: Is it still your verdict?

3 JUROR 304: Yes, ma'am.

4 CLERK: 314. Is this your verdict?

5 JUROR 314: Yes, ma'am.

6 CLERK: Is it still your verdict?

7 JUROR 314: Yes, ma'am.

8 CLERK: 167. Is this your verdict?

9 JUROR 1676: Yes.

10 CLERK: Is it still your verdict?

11 JUROR 167: Yes.

12 CLERK: 282. Is this your verdict?

13 JUROR 282: Yes.

14 CLERK: Is it still your verdict?

15 JUROR 282: Yes, ma'am.

16 CLERK: 208: Is this your verdict?

17 JUROR 208: Yes.

18 CLERK: Is it still your verdict?

19 JUROR 208: Yes.

20 CLERK: 319. Is this your verdict?

21 JUROR 319: Yes.

22 CLERK: Is it still your verdict?

23 JUROR 319: Yes.

24 CLERK: Number 95? Is this your verdict?

25 JUROR 95: Yes.

1 CLERK: Is it still your verdict?

2 JUROR 95: Yes.

3 CLERK: And number 221. Is this your verdict?

4 JUROR 221: Yes.

5 CLERK: Is it still your verdict?

6 JUROR 221: Yes.

7 CLERK: Okay.

8 THE COURT: Any objection to me excusing the
9 jury?

10 MS. JONES: Not from the State, Your Honor.

11 MR. PAULK: None, Your Honor.

12 THE COURT: All right, ladies and gentlemen, your
13 service has ended. We appreciate everything you've
14 done. You are welcome to hang around.

15 There will be some post-trial matters that we'll
16 have to take care of, but you don't have to. You are
17 welcome to discuss the case with anyone you'd like to,
18 you don't have to.

19 Sometimes the lawyers love to hear your thoughts,
20 and sometimes they don't, and some jurors like to talk
21 about it, and some don't, so however you want to
22 handle it is fine with me, but, again, we appreciate
23 your service. You don't know how important your job
24 is to making our system of justice function, just by
25 virtue of the fact that folks like you are willing to

1 show up our cases move along.

2 I was just on the phone with my assistant from
3 Orangeburg, and we had a jury coming in Monday, and
4 just about every civil case is settled, because folks
5 don't like having to, you know, put their business in
6 front of 12 folks they don't know, and if they can
7 resolve it on their own, they do. So just by virtue
8 of you folks willing to do your civic duty, you make
9 our system move forward, and we appreciate it very
10 much.

11 I know all the parties appreciate your hard work.
12 This wasn't the easiest of cases to handle, but you
13 were all very professional and diligent in your work,
14 and, again, we appreciate it very much, and thank you
15 for your service.

16 (Jury exits courtroom.)

17 ***

18 SENTENCING HEARING

19 THE BAILIFF: The jury's clear and the doors are
20 closed, Your Honor.

21 THE COURT: All right. Do you'all want to do
22 sentencing this afternoon?

23 MS. JONES: The State's ready, Your Honor.

24 THE COURT: Okay. We're gonna need to get a
25 sentencing sheet prepared.

1 MS. JONES: Your Honor, we're printing the
2 sentencing sheets now.

3 THE COURT: Okay.

4 MS. JONES: But while we're running downstairs to
5 get those, I'm happy to go into the State's position.

6 THE COURT: Let me make sure they don't have any
7 post-trial matters too.

8 Mr. Paulk, do you'all have any post-trial
9 matters?

10 MR. PAULK: Just renew all matters that were
11 brought up during the trial, Your Honor.

12 THE COURT: All right, I will respectfully deny
13 that motion for the reasons set forth below. And
14 they're getting us sentencing sheet.

15 MS. JONES: Someone from our office ran
16 downstairs to get it off the printer.

17 THE COURT: Okay, yeah.

18 MS. JONES: Your Honor, I can certainly go into
19 -- are we ready?

20 THE COURT: Let's let Ms. Gibbes get back.
21 You'all ready to get started?

22 MR. PAULK: Yes, Your Honor.

23 THE COURT: We'll wait on the sentencing sheet.
24 Ms. Jones, I'll hear from you.

25 MS. JONES: Thank you, Your Honor. Your Honor,

1 before we start, I'm gonna hand up a certified copy of
2 some convictions of Mr. Sanders.

3 As Your Honor heard pretrial, this is not Mr.
4 Sanders first time with the criminal justice system.
5 He actually is a frequent flyer in this very
6 courtroom. Those convictions I handed up were for
7 criminal domestic violence, unlawful carrying,
8 possession of cocaine, and a criminal domestic
9 violence of a high and aggravated nature.

10 The most recent was in 2015 for that CDV hand.
11 Your Honor, Mr. Sanders never once had any remorse for
12 what he did to Deonne McLendon that night. If they
13 were such good, close, best friend, cousins, he didn't
14 shed one tear for Deonne after he killed him. Any
15 remorse that we saw, any apology, any I'm sorry, or I
16 did wrong, that was remorse for Delmar Sanders, that
17 was not remorse for Deonne McLendon.

18 If you look at Mr. Sanders' prior record, he's
19 just continued to get in trouble. His criminal
20 behavior has escalated, its drugs, its assault, the
21 CDVs. And now it's the drugs that coupled with the
22 gun, you already had that unlawful hearing, now he's
23 killed somebody. Your Honor, the jury has spoken. I
24 believe that the system has tried to rehabilitate Mr.
25 Sanders in the past, and he clearly is someone who

1 cannot be rehabilitated.

2 He has had his chance, he's had multiple chances,
3 and it's a slap in the criminal justice system's face
4 that he's in this very courtroom again. He doesn't
5 take our law seriously, and this time it cost Mr.
6 McLeondon his life. Your Honor, I think that 35 years
7 is appropriate here. That's the most you can give
8 under his convictions as it stands today, and I think
9 that without a shadow of a doubt, he deserves every
10 single day of 35 years.

11 I do believe that his father and his aunt would
12 like to address Your Honor.

13 THE COURT: Yes, I'll hear from anybody.

14 MS. YOUNG-RILEY: My name is Yolanda Yvette
15 Young-Riley.

16 COURT REPORTER: Yolanda Yvette Young-Riley.

17 THE COURT: Young-Riley?

18 MS. YOUNG-RILEY: Yvette Young-Riley, yes, sir.

19 THE COURT: Riley, okay, we've got it now. Yes,
20 ma'am.

21 MS. YOUNG-RILEY: For 48 years I've been having
22 what we called, or what we have called self-drive.
23 For 48 years I felt the comfort of self-drive. So
24 that when my nephew, Deonne, arrive here from Western
25 Kentucky University, having been a part of a military

1 mom, who was a life specialist supervisor, and a
2 military father have dealt with him coming here, we
3 could re-establish him with the realms of comfort
4 being governed within the New Hope Christian Church.

5 Well, Delmar's Uncle is my elder. We were born
6 and raised under the fact that truth matters, fairness
7 matters, and my husband and I took Deonne to church
8 every Sunday.

9 Deonne was on payroll at our church as a drummer.
10 We constantly mentored to not the weak side of him,
11 but the man in him to re-establish him, before it got
12 to a point where he was lying in a ditch murdered.
13 Speaking on the fact of Deonne, life for months after
14 Deonne was murdered, his mom was murdered, as well, so
15 we've taken in double jeopardy, as a family, as a
16 whole, which is heart-wrenching, because within the
17 realm of what we established in our criminal justice
18 system, again, fairness, life, liberty and the pursuit
19 of happiness for all individuals is what I see.

20 I stepped into this courtroom after Deonne's mom
21 died, and I had to take the forefront, because she was
22 not -- no longer able to speak towards establishing a
23 bond for Delmar. Delmar came before the Court for a
24 bond hearing, and at the time, the Judge established
25 that he was, in fact, a threat to society.

1 Delmar does not know my name. With Delmar, I
2 admit, never even Delmar in my life. What I know of
3 Delmar, I've been raised in Beaufort County, and I
4 know of his mom being a very prolific speaker, okay?
5 A very prolific speaker, but for me I've never met
6 Delmar, and I've been raised in Beaufort County 48
7 years.

8 I know he graduated from Battery Creek High
9 School, stayed here, and graduated from the University
10 of South Carolina-Beaufort. But as we sat back there
11 during the bond hearing he glared at all of us sitting
12 on that cube right there, and the Judge then
13 substantiated that he was a threat to his community.
14 I stand here today, as I mourn, I was then in fear of
15 my life, and knew that I had to continue the feat.

16 This has been an efficacious feat that I never
17 thought I would have to take on in Beaufort County,
18 because as I said, South Drive, and the people in
19 realm of South Drive, we do call family.

20 I don't know what happened during the course of
21 that day, but I know for a fact that Deonne arrived
22 from work on that very day, and something happened on
23 that road during that day that had never happened
24 before.

25 So I stand before you, Judge, as I speak for my

1 two girls, who are in fear, as well who have been in
2 fear to this very day. One who of which just started
3 her profession, after leaving the College of
4 Charleston, as a foreigner, has then quit that job in
5 fear for herself, and moved into the realm of
6 laboratory sciences at MUSC in Charleston. So Deonne
7 did not come from a family that just off-the-cuff does
8 violent things. We were raised in and immersed in the
9 fact, again, that if justice is served, we need it
10 badly. And we will live, because I believe in fate,
11 and I'm just -- we ladies are sitting here, and I
12 don't know if Delmar knows any of my other family,
13 but, again, I will re-establish I have never met a
14 Delmar Sanders in all of my days. And I sat there, he
15 glared at us, and the Judge then said again, "He is a
16 threat to this community," and I do agree that he will
17 do this again, and he was denied bond.

18 I'm not one to pass judgment. I know that Deonne
19 coming here eight years ago, and, again, left here
20 eight years ago. He arrived here eight, and he left
21 dying eight, okay? He left -- he came here eight, and
22 left eight. Speaking of Deonne, I know how Deonne was
23 in character. If Deonne had \$20, and I took him to
24 the store -- even I am well off with my husband and I,
25 if he had \$20 on him, he was going to split it between

1 me and my girls, "Go get what you all want. Go get
2 what you all want, I've got \$20." So I'm not here --
3 I'm -- I sit on juries.

4 The jury has made its decision.

5 So I just beg of you, as we sit here today, I
6 have none of my nephews here today, I have none of my
7 uncles, none of them here today, only because we're
8 the ones who would sit and listen to, calmly, what the
9 facts are.

10 Once the facts are in, we're willing to deal with
11 that, but I don't think giving him less than 35 years
12 would be enough for what he has decided to do.
13 Because after all, if I got into a car, if I drove a
14 car and agreed to something beforehand, I sat in a
15 yard and waited for whatever was to come out, we don't
16 know what he did while he was waiting for Deonne to
17 come out of that house, if a gun was even under the
18 hood.

19 We don't know that, but I beg of you today, I beg
20 of you today, as I've had to again, stand in the gap
21 for my deceased sister who died in December -- was
22 shot and killed in December after her son, that if you
23 think he will not do it again, if you give him as less
24 as possible, I'll pick up my bags and I'll leave. And
25 that's an educator of 20 years, who's dealt with

1 numerous amount of characters.

2 I will pick up my bags and leave the community
3 that I have served, I have lived in, I go to church
4 in, I mentor people in, I will pick up my bags and
5 leave, because character speaks volumes when it comes
6 to the life of someone you care about, this would be
7 it. I am his aunt. I thank you.

8 THE COURT: Thank you, ma'am.

9 MR. MCLENDON: My name is Damien McLendon,
10 Dannion is spelled D-A-N-N-I-O-N. First of all, Your
11 Honor, let me thank you for this opportunity to
12 address the Court. On June 27th, 1992, Deonne
13 McLendon indoctrinated me into fatherhood, and on July
14 23rd, 2022, my only son, my first child was taken away
15 from me. And as I stand before you'all today, this is
16 probably one of the hardest and probably, as I try to
17 hold back tears, probably one of the first times I've
18 really let tears out. You know, there's a movie
19 called, "Waiting Hell." It's about a bunch of women
20 who couldn't wait to finally breathe. The day of my
21 son's funeral I read the scripture, and as I walking
22 back to my seat, I couldn't sit down, I had to throw
23 my iPad, and I walked out of the sanctuary, and I
24 wanted to scream, and today I still haven't been able
25 to scream.

1 I'm angry and I thought I could stand here as a
2 tough guy, but as a father it hurts. I listened to
3 the defense attorney talk about the frog and the
4 scorpion, what I heard in that story was totally wrong
5 about my son. Yeah, my son was the scorpion, Delmar
6 was the frog.

7 The problem though is if you knew my son, he
8 would sting you with love, kindness, and that's why
9 Delmar liked my son because he was stung with his
10 affection and his charm. Those who knew my son,
11 whether here in Beaufort, or in Texas, where I
12 presently reside, people loved being around Deonne.
13 My family, because we weren't around him as much, but
14 when my family found out he was coming to town,
15 everybody got excited.

16 I live in the DFW area, I have siblings all
17 around Texas, and they would drive three hours or more
18 to get to come see Deonne. So, again, as I listened
19 to the story of the frog and the scorpion, the
20 scorpion was nothing but love. As a veteran of the
21 Armed Forces, U.S. Navy and U.S Air Force, a lot of my
22 young airmen would come to me, young ladies, would
23 always ask me, "Sarge, hook me up with your son." And
24 I would always tell them, "No." And I would always
25 tell them no, because they were entrusted to me by

1 their parents to protect them, but the problem is,
2 that that scorpion, I knew his DNA.

3 His grandmother would tell you right now, that
4 Deonne took on my personality, of a person who had a
5 kind heart, who always wanted to do right by people.
6 And for that reason I told these young ladies they
7 could not hook up with my son, because I did not want
8 them coming and telling me that he broke their hearts.
9 That's just the type of kid he was.

10 He could sing, play drums, had a little goofy
11 laugh, but everybody loved him. But as I heard the
12 story, the frog is trying to take the scorpion along
13 to allegedly sting, again, that story's wrong. What I
14 saw was the frog decided to go deep down into the pond
15 and drown the scorpion. So when I look at me being
16 the big scorpion, I no longer have my baby scorpion.
17 I'll never get to here, "Pops," I'll never get to
18 hear, "I love you," from him again.

19 And what hurts me more about this whole
20 situation, that I've got two granddaughters, the baby
21 scorpions. I had my granddaughters for the summer,
22 and the youngest one would always want to sit and just
23 look at the pictures of her dad. And she would make
24 me sit there about 45 minutes or more just kissing
25 them. "Want to see another picture G-man, come on, I

1 want to see another picture."

2 So I had to show her my iPhone, I had to show her
3 my iPad pictures, and she would always kiss it. And
4 she has a little pillow with my son's image on it, and
5 every night before she would go to bed, she had to
6 kiss him, but she'll always ask, "I want to talk to my
7 daddy."

8 As a father, it is my job to protect my son, and
9 I wasn't able to do that. As a minister, I'm always
10 taught that I'm supposed to pray for others, forgive,
11 and I can't lie to you today, if I was able to see him
12 in the streets, maybe the defense attorney would
13 probably be trying to defend me right now, that was my
14 child, and I am tired of our world right now. I am
15 tired of politicians playing these games about gun
16 control.

17 I'm a licensed carrier, but that does not give me
18 the right to take a life. And nobody in here should
19 be sitting around here thinking that they are God. He
20 did not give my son life, nor was he given the
21 responsibility to take his life. He is not the death
22 angel. Was one of my dreams that I was hoping I would
23 see before my son left this world, to step up in the
24 pulpit and be the fourth generation of preachers in my
25 family, but nothing, now all I have is hearing my

1 granddaughter sit there and tell me, "I want to talk
2 to my daddy."

3 The hardest thing on July 23rd of this year, when
4 I talked to her mother, and she said that my youngest
5 one would just scream throughout the house, she wants
6 to see her daddy, she wants to talk to her daddy. I
7 know you have a job to do, sir, and I know you can't
8 add to the law, but I ask you right now that you give
9 him everything that he can get, the max of what he can
10 get, which I heard is 35 years.

11 Maybe today I might be able to scream, because
12 all of this is over, but even with me screaming and
13 screaming, I still can't get my son back. Every day
14 I'm reminded because I have an urn sitting over my
15 fireplace that reminds me of my son. Every day I go
16 into my mancave, there my son's drumsticks are. A
17 man's only son, and I want the Court to know, if I
18 talk to his mother, and I told her, I have no ill-will
19 towards the family, but I want him to get the max.

20 I want him to get the max. He might one day get
21 out at 60, 70-years-old, he might get out, and still
22 be able to grow up -- or have a chance to start over
23 with his kids, I don't, my granddaughters don't, the
24 rest of the family don't. And as we go around, our
25 gun violence is getting higher and higher, we have to

1 start making an example out of the criminals, the
2 murderers, the killers, who are using these weapons.
3 Sir, I just want to say, again, thank you for your
4 time. Thank you.

5 THE COURT: Thank you, sir.

6 MS. JONES: Your Honor, I believe that's all from
7 the State.

8 THE COURT: Mr. Paulk?

9 MR. PAULK: Your Honor, this is certainly a
10 serious situation, and these are serious charges, and
11 there's a lot of passion on both sides, Your Honor.
12 I'm not gonna diminish any of that, or take any of
13 that away from anybody, but Your Honor is intimately
14 familiar with the facts of this case, you've sat here
15 and listened to them for four days, for pretrial on
16 it, you know what happened in this case. You know
17 that there's not a person who was involved in this
18 case that was without fault.

19 Your Honor, prior to this incident occurring, Mr.
20 Sanders had gainful employment, and was working
21 towards getting back into his own home. Your Honor,
22 Mr. Sanders as well has children. There's a very good
23 chance that he's not gonna be a part of their lives
24 for a very long time. And I understand that the Court
25 has a job to do, we all have jobs to do in the

1 criminal justice system, and my job is defending Mr.
2 Delmar Sanders, and my job is to advocate for him, and
3 I'd advocate for the lowest sentence that you can give
4 him, Your Honor.

5 Your Honor, Mr. Sanders is not a gang member.
6 Mr. Sanders is not somebody who is out committing
7 violent crimes wantonly. I don't believe that Mr.
8 Sanders is the menace that he is made out to be. I
9 believe that Mr. Sanders was put in a difficult
10 situation, where he had to make a decision, a decision
11 that could have ended his life.

12 Your Honor, I understand that Mr. Sanders has
13 been found guilty by a jury of his peers, and I
14 understand that he has to serve judgment for that
15 guilt, but Your Honor is intimately familiar with the
16 facts in this case. And I trust that there will be no
17 bias and no example made of Mr. Sanders, but that you
18 will do your duty as the Judge to give a fair and
19 impartial sentence to Mr. Sanders that accurately
20 reflects the actions that were committed on the day,
21 the eve of July 22nd and 23rd. Your Honor, with as
22 much time as I've spent with Mr. Sanders, it's my
23 personal belief that he does have a good heart.

24 It's my personal belief that -- I've always
25 enjoyed going to see Mr. Sanders at the jail, he

1 always has a smile on his face, he's always happy to
2 see me. He's never disgruntled as some of my clients
3 may be. Your Honor, I do believe that the family of
4 Mr. Sanders would like to speak at the appropriate
5 time. I don't believe that I have anything further
6 for you.

7 THE COURT: I'll be happy to hear from them.

8 MS. JOHNSON: Your Honor --

9 THE COURT: Hello, what is your name?

10 MS. JOHNSON: Alexis Johnson.

11 COURT REPORTER: I'm sorry?

12 THE COURT: Alexis Johnson? Okay, Ms. Johnson,
13 I'll be happy to hear from you.

14 MS. JOHNSON: I love my brother so much. My
15 brother has a heart of gold, and I'm not just saying
16 that because he's my brother. He's my mom's first
17 boy, I'm the oldest girl. I don't have any children,
18 I look at him like my son as well. My brother would
19 give you the suit off his body right now, if anybody
20 needed it. He's not what they're trying to make him
21 seem to be. Bad things happen, and my brother don't
22 deserve no 35 years. From deep down in my heart and
23 my soul I apologize for what happened to Deonne, and I
24 understand that they can't bring him back, but drugs
25 was a part of all of this, they both were on drugs.

1 My brother don't deserve all that time. He may
2 deserve some time to think, which I don't even -- he
3 does need to think. And I just pray that whenever my
4 brother does get out, because we have a very close
5 relationship, he's just -- like I told him, life is
6 not that hard where you have to do drugs, it's not.
7 He doesn't have to do that, he is too smart for that,
8 he is too intelligent.

9 My brother is a people's person. He loves
10 people. And since me and my brothers was -- came into
11 the world, my mom always told us to love everybody,
12 hate no one, but most of all trust no one. And you
13 can just -- he just have to -- I just -- he can't get
14 35 years. He's -- my brother will do whatever he has
15 to do. This is like -- this will be an eyeopener for
16 him.

17 Again, I'm sorry for what happened to Deonne.
18 When it first happened I not only prayed for my side,
19 but I prayed for their side as well. I'm not judging
20 anybody at all, but I know my brother more than
21 anybody in here, other than my mom knows my brother.
22 My brother's not that type of person. He has children
23 as well. He had a wife. Thank God he's divorced now,
24 but he don't deserve that. He doesn't deserve that.

25 My brother deserves another chance. There's two

1 sides to every story, and my brother deserves another
2 chance. My brother is my heart. My brother is sweet,
3 and my brother is loving, my brother is kind. And
4 about the scorpion and the frog, if that's the case,
5 my brother was set up. I know he was set up.

6 It is not fair. My brother's loving and he
7 trusts too much. And I told him before this happened
8 I had a dream, because I feel things and I see things,
9 and if I don't know nobody, I know Jesus. And I
10 called my brother and I said, "Delmar, whatever you're
11 doing, Delmar, stop. Whoever you're hanging around,
12 Delmar, leave them alone, something's not right."
13 Something wasn't right, I knew it, I felt it.

14 Your Honor, please give me brother the least time
15 you can, and I promise you he will -- when he gets out
16 he will never do anything like this again, because he
17 will not -- he will learn from this. I will be 37 in
18 October, I just got married last April. I want to
19 have children too. I don't want to have to take my
20 children to no prison and tell them about their uncle.
21 I don't want to have to do that, so I just ask you
22 please give my brother the least time, he's not what
23 they make him out to be. I promise you he's not, I
24 promise.

25 I love my brother so much, I just with I could

1 hug him right -- kiss him right now. I'm sorry for
2 what happened to them, I apologize. God knows my
3 heart, God knows his heart. My brother didn't mean to
4 do that. He would not have done that, just because
5 he's not no bad person, so please whatever you can do,
6 just give him the least time possible. Thank you so
7 much.

8 THE COURT: Yes, ma'am.

9 MS. JOHNSON: Hello, my name is Adrienne Johnson,
10 Your Honor.

11 THE COURT: Yes, ma'am.

12 MS. JOHNSON: A-D-R-I-A-N-N-E Johnson, J-O-H-N-S-
13 O-N.

14 THE COURT: Yes, ma'am, I remember you from your
15 testimony.

16 MS. JOHNSON: Yes, sir. I'd just like to say
17 that from the beginning, when Delmar had been getting
18 into trouble and stuff, I always warned him to have
19 rehabilitation. That was never granted him while he
20 was in jail.

21 Also I'd like to say that I am so sorry that this
22 happened to the family, because Delmar and Deonne was
23 close. I remember maybe six months or eight months
24 before everything happened, I saw Deonne's
25 grandmother, where is she? Oh she's not here. Well,

1 they -- I saw his grandmother and Deonne for the first
2 time, and Yoli -- Yolanda and her daughter, and I was
3 calling them out. I said, "You must be Yoli's
4 daughter, 'cause you look just like her." And I told
5 them that it must have been Kevin's son, because he
6 looks just like his mama, that's Deonne. But the
7 grandmother said to Deonne and them that, "When I was
8 a little girl I used to be their baby." And Deonne
9 came to me and said, "Delmar and Deondra is -- they're
10 my babies."

11 So I'm just saying this is something good that
12 just went bad, and my son would never commit a crime
13 of murder, unless his life was in danger. And I
14 believe with all my heart that he did not mean to kill
15 Deonne, and I don't think that he deserves 35 years,
16 and I'm just asking that you find leniency.

17 And if he does have to go for any amount of time,
18 I wish that you could have an order for him to be
19 rehabilitated from the drugs. That was what I wanted
20 from the beginning.

21 THE COURT: Yes, ma'am, is that all?

22 MS. JOHNSON: That's all for now.

23 THE COURT: Okay, thank you.

24 MS. JOHNSON: Thank you.

25 MR. PAULK: Your Honor, the only thing that I

1 would personally add to the record is, that Mr.
2 Sanders has 394 days of credit in the Beaufort County
3 Jail. I believe at the appropriate time Mr. Sanders
4 would like to address the Court.

5 THE COURT: I'll be happy to hear from anybody.

6 MR. SANDERS: Is it okay if I speak from here?

7 THE COURT: Yes.

8 MR. SANDERS: You'all --

9 MR. PAULK: It's okay.

10 THE COURT: No, I don't mind him addressing them,
11 that's --

12 MR. SANDERS: Okay.

13 THE COURT: That's appropriate.

14 MR. SANDERS: You guys, my family as well, I
15 truly apologize that this happened. I am not a
16 killer. I am not a murderer. Me and Deonne, we were
17 family, we were cousins, we were like the best of
18 friends. I don't know how all this came about, okay?

19 I understand you guys are made because you'all
20 can't get him back, but I'm upset too that this had to
21 happen. I had to protect myself. I'm sorry that
22 you'all don't understand that, but I had to protect
23 myself. Myself comes first before anything. Just
24 like you'all, I don't care what you'all -- you ought
25 to not let anybody hurt you'all. You'all aren't gonna

1 let nobody come to you'all and do nothing, I don't
2 care who it is, it could be your sister, you'all are
3 not gonna let him do that.

4 Just like I don't let nobody hurt me and --

5 THE COURT: All right, that's enough. I thought
6 you were gonna apologize to them.

7 MR. SANDERS: Oh, no, I'm apologizing.

8 THE COURT: That's --

9 MR. SANDERS: -- right now.

10 THE COURT: That's enough.

11 MR. SANDERS: That's it?

12 THE COURT: Yeah. Yeah, I mean you can talk --
13 if you've got anything you need to tell me.

14 MR. SANDERS: Okay, well, I didn't mean to get
15 like that, I was just apologizing, and being sincere,
16 letting them know that it wasn't like how people think
17 it is, and I -- once again, I apologize for that, I'm
18 sorry. It's -- I apologize, okay, to the family,
19 that's my family too, and that's why I came -- that's
20 why I was talking to them like that directly, just to
21 let them know my sincere -- that, you know, I
22 apologize, I wasn't trying to get out of anything, and
23 I apologize to you as well --

24 THE COURT: I understand.

25 MR. SANDERS: -- Your Honor.

1 THE COURT: It's a tough day.

2 MR. SANDERS: And I thank you for all of your
3 time as well, and to God be the glory.

4 THE COURT: All right, do you'all have anything
5 further?

6 MR. PAULK: Not from the defense, Your Honor.

7 THE COURT: Do we have the sentencing sheets?

8 All right, Mr. Sanders, you don't know me. I'm a
9 new Judge. I've been on the bench about almost 60
10 days. For 24 years I did what your lawyers have done
11 all week, tried to help people, tried to keep them out
12 of jail.

13 And I'll be honest with you, when they told me I
14 had this murder trial, I've had an uneasy feeling all
15 week, knowing I might have to sentence somebody to
16 life in prison, but your -- and I've had a bad feeling
17 about even what I was gonna do with this sentence, but
18 looking at your record, it appears you don't get it.
19 It started out with just domestic violence, then it
20 was domestic high and aggravated, then carrying a
21 pistol.

22 Apparently, there's a drug, you know, your mom
23 mentioned rehabilitation. During my career in private
24 practice, the Senate Judiciary Committee Chairman
25 appointed me to our Sentencing Reform Oversight

1 Committee. I sat a year and a half on there, and
2 learned about all the rehabilitation programs we have,
3 and what we do for inmates.

4 We're not great, but they have a chance. You
5 haven't taken the opportunities, or learned any
6 lessons from any of this stuff over the years. I
7 still don't know what happened that night, and I've
8 sat here for four days. And the way you just talked
9 to those folks, it didn't even feel like you have any
10 remorse.

11 I wrote down you still had to protect yourself.
12 Like there's no -- you know, you don't get it.
13 There's a man that's dead, he's not coming back. I
14 mean the State has given you opportunity after
15 opportunity to get it right, and you haven't, and it
16 now culminated and somebody's losing their life.

17 I know something funky was going on out there
18 that night. Like I said, I've been on that side of
19 the courtroom enough, I know something was up. There
20 was something going on, and I still don't know what.
21 My Clerk and I were talking about that while the jury
22 was out. I don't know what was going on, but
23 something was going on, and nobody's told the truth
24 about that yet.

25 And maybe that would have changed things, if we

1 knew, but I am quite certain whatever was going on
2 wasn't worth taking somebody's life. So the sentence
3 of the Court on voluntary manslaughter is you get
4 committed to the State Department of Corrections for a
5 determined period of 30 years. You'll be given credit
6 for 390 days' time served. That will be consecutive
7 to the possession of a weapon, where you are committed
8 to the Department of Corrections for a determined term
9 of five years.

10 You'll be -- that is consecutive, like I said,
11 with the voluntary manslaughter, and you will be given
12 credit for 394 days time served. Good luck to you.

13 (At 4:11 p.m. the proceedings were concluded.)

14 ***

15 END OF TRANSCRIPT
16
17
18
19
20
21
22
23
24
25

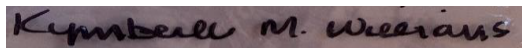
.....

CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the Court of General Sessions for Beaufort County, South Carolina on the 22nd to 25th days of August, 2022.

I do further certify that I am neither of kin, counsel, or interest to any party hereto.

This, the 24th day of March, 2023.



Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA

County of BeaufortDelmar R. Sanders 364856

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2025CP0700079APPLICATION FOR
POST-CONVICTION RELIEF2025 JAN 14 AM 11:49
JERRIE ANN ROSENEAU
CLERK OF COURT
BEAUFORT COUNTY, S.C.INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Turbeville Correction
2. Name and location of Court which imposed sentence Beaufort SC
Beaufort county Gen. Session
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2021 GS0701219
 - (b) 2021 GS0701220

(c) 2021 GSB 701221

5. The date upon which sentence was imposed and the terms of the sentence:

(a) August 22, 2022

(b) _____

(c) 35 yrs consecutive

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ☒

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Dismissed

ii. _____

iii. _____

(c) ~~the date of each such result:~~i. Nov 20, 2024

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. unp. op. 2024- up-00388

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Trial counsel / violation of 6th Am. Right
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel should have objected to trial
- (b) Judge's erroneous instruction on voluntary
- (c) manslaughter which was a comment on the facts of case
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
- ~~13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:~~
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) (10)(a) first collateral Attack

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Mr. Seth Paulk

ii. Mr. David Alexander

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Trial and Sentencing

ii. South Carolina Court of Appeals

iii. _____

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

Convictions and Sentences vacated or
reverse and remand for a New
trial

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

NO

STATE OF SOUTH CAROLINA)

County of Beaufort)

VERIFICATION

I, Sanders, Delmar, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Delmar Sanders

SWORN to and subscribed before me this 8th
 day of January, 2025.

[Signature]
 Notary Public

(L.S.)

My Commission Expires: 8-16-2034

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

I, Sanders, Delmar, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Delmar Sanders
Applicant

SWORN or affirmed to and subscribed before me this

8th day of January, 2025.

[Signature]
Notary Public

My Commission Expires: 1-16-2031

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT

Delmar R. Sanders, #364856,) CASE NO. 2025-CP-07-00079

Applicant,

v.

State of South Carolina,

Respondent.

**RETURN TO APPLICATION FOR
POST-CONVICTION RELIEF**
(Counsel Already Appointed)

In response to the application for post-conviction relief (PCR) filed by Delmar R. Sanders (Applicant). on January 14, 2025, Respondent makes the following return:

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an aggregate thirty-five year sentence. In April 2022, the Beaufort County Grand Jury indicted Applicant for murder (2021-GS-07-01220), attempted murder (-01219), and possession of a weapon during the commission of a violent crime (-01221). Following a pretrial immunity hearing that was denied, Applicant proceeded to a jury trial August 22-25, 2022, before the Honorable Heath P. Taylor. Deputy Public Defender Seth Paul represented Applicant. Assistant Solicitors Mary Jones and Samantha Milina represented the State. The jury acquitted Applicant of attempted murder but convicted him of the weapon charge and, as to the murder indictment, the lesser-included offense of voluntary manslaughter. Judge Taylor sentenced Applicant to consecutive terms of thirty years for voluntary manslaughter and five years for the weapon charge.

Applicant filed a timely notice of appeal, which was perfected by Appellate Defender David Alexander through the filing of a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The Court of Appeals dismissed the appeal pursuant to Anders, and the remittitur was sent

December 12, 2024.

CURRENT APPLICATION

On January 14, 2025, Applicant filed this PCR action alleging:

Ineffective assistance of counsel / Violation of Sixth Amendment: counsel should have objected to trial court's erroneous instruction on voluntary manslaughter, which was a comment on the facts.

On April 21, 2025, Applicant filed an amended application alleging:

Ineffective assistance of counsel for failing to bring to the Court's attention or objection the judge did not charge criminal intent to the jury upon his recharge.

As relief, Applicant requests "convictions and sentences vacated or reverse and remand for a new trial." Attached to this return and incorporated by reference are the Beaufort County Clerk of Court records for the underlying convictions, Applicant's records from the Department of Corrections, and Applicant's appellate records. Respondent reserves the right to file an amended return upon receipt of any additional information.

INEFFECTIVE ASSISTANCE OF COUNSEL

Respondent requests an evidentiary hearing on Applicant's allegation of ineffective assistance of counsel. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To establish ineffective assistance of counsel, Applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) Applicant sustained prejudice from counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Under the first prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625. "Counsel is strongly presumed to have rendered adequate assistance and made

all significant decisions in the exercise of reasonable professional judgment,” and the applicant must overcome this presumption to receive relief. Id. at 117-18, 386 S.E.2d at 625. Second, the applicant must show “a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Id.

Here, the record likely does not refute or disprove Applicant's claims; therefore, Respondent requests an evidentiary hearing. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record").

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Respondent requests Applicant specify any claims he intends to raise in advance of the hearing. Respondent reserves the right to request a continuance based upon any amendments withheld until the last minute. Respondent further requests all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent before the hearing. Likewise, Respondent requests all potential evidence and a witness list be sent to Respondent before the hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that result in undue prejudice to the State.

ALL OTHER ALLEGATIONS

Any allegation not expressly admitted, qualified, or explained is hereby denied.

[Conclusion and signature page follows]

CONCLUSION

WHEREFORE, Respondent respectfully requests an evidentiary on Applicant's claims of ineffective assistance of counsel.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

D. RUSSELL BARLOW, II
Senior Assistant Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

KYLEE KANEALEY
Assistant Attorney General

By:



Danielle Dixon, 73999

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
803-734-3737

August 27, 2025

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
IN THE FOURTEENTH JUDICIAL CIRCUIT

Delmar R. Sanders, #364856,

CASE NO. 2025-CP-07-00079

Applicant,

V.

CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

Respondent,

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Chelsey Faith Marto, Esquire
The Law Office of Chelsey F. Marto
PO Box 8795
Columbia, SC 29201

DATED this 27th day of August, 2025.

Vickie Hall
Vickie Hall, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) FOR THE FOURTEENTH JUDICIAL CIRCUIT

2026 JAN -7 PM 4:10

Delmar Sanders, #364856) Case No.: 2025-CP-07-00079

Applicant)
CLERK OF COURT)

v.)

State of South Carolina,)

Respondent.)

APPLICANT'S AMENDED APPLICATION

NOW COMES Applicant, Delmar Sanders, amending his application filed January 14, 2025. In addition to the allegations raised in his initial application, Mr. Sanders, through PCR Counsel, submits the following:

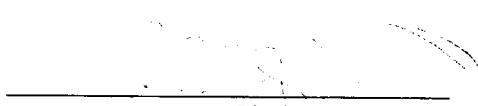
1. Ineffective assistance of counsel for:

- a. Failure to object to erroneous jury instructions.
 - i. Failure to object to charging voluntary manslaughter.
 - ii. Failure to object to malice to instruction that malice can be inferred from use of a deadly weapon.
- b. Failure to request jury instructions on criminal intent both initially and during the recharge.
- c. Failure to request a jury charge telling the jury that malice is not an element of voluntary manslaughter.
- d. Failure to properly communicate.
- e. Failure to prepare applicant for trial and to explain the trial process to Applicant.
- f. Failure to gather evidence and obtain a full copy of the discovery.
- g. Failure to request a continuance.
- h. Failure to discuss trial strategy with Applicant.

- i. Failure to properly investigate the case.
- j. Failure to mitigate the sentence.

Conclusion

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


Chelsey F. Marto
Attorney at Law
S.C. Bar No. #104191

The Law Office of Chelsey F. Marto, LLC
P.O. Box 8795
Columbia, SC, 29201

(864)-404-5583
info@chelseymarto.com

For Applicant Delmar Sanders

January 7, 2026

State of South Carolina	)	In the Court of Common Pleas
	)	Fourteenth Judicial Circuit
County of Beaufort	)	Case No. 2025-CP-07-00079
	)	
Delmar R. Sanders,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

January 7, 2026
Beaufort, South Carolina

B E F O R E:

The Honorable G.D. Morgan, Jr., Judge

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

Chelsey Marto, Esquire
Attorney for the Applicant

Kylee Kanealey, Esquire
Attorney for the Respondent

Krystal J. Smith
Official Circuit Court Reporter III

I N D E X

WITNESS/DESCRIPTION	PAGE NUMBER
Case History.....	4
Delmar Sanders	
Direct Examination by Ms. Marto.....	6
Cross-Examination by Ms. Kanealey.....	19
Herbert Glaze	
Direct Examination by Ms. Marto.....	21
Matthew Seth Paulk	
Direct Examination by Ms. Marto.....	25
Cross-Examination by Ms. Kanealey.....	29
Applicant Rests.....	31
State Rests.....	31
Arguments of Counsel	
Ms. Marto.....	31
Ms. Kanealey.....	32
Under Advisement.....	32
Court Reporter Certification.....	34

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
------------	--------------------	------------	------------

(No Exhibits Presented)

COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption

or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 JANUARY 6, 2026

2 (WHEREUPON, the proceedings began at 1:53 PM.)

3 THE COURT: All right. Our next matter is Delmar Sanders
4 versus State, 2025-CP-07-00079.

5 All right. Are the parties ready to proceed? Is the
6 State ready to proceed?

7 MS. KANEALEY: Yes, Your Honor.

8 THE COURT: The applicant?

9 MS. KANEALEY: May it please the Court.

10 THE COURT: Is the applicant ready to proceed?

11 MS. MARTO: Yes, Your Honor.

12 THE COURT: All right.

13 MS. KANEALEY: Kylee Kanealey on behalf of the State.

14 Applicant is presently confined in the South Carolina
15 Department of Corrections, serving an aggregate 35-year
16 sentence. In April of 2022, the Beaufort County Grand Jury
17 indicted applicant for murder, that's 2021-GS-07-1220;
18 attempted murder, 1219; and possession of a weapon during the
19 commission of a violent crime, 1221.

20 Following a pretrial immunity hearing that was denied,
21 Applicant proceeded to a jury trial August 22nd through 25th,
22 2022, before the Honorable Heath P. Taylor. Public Defender
23 Matthew Paulk represented Applicant, and Assistant Solicitors
24 Mary Jones and Samantha Molina represented the State.

25 The jury acquitted Applicant of attempted murder but

1 convicted him of the weapons charge and, as to the murder
2 indictment, the lesser-included offense of voluntary
3 manslaughter. Judge Taylor sentenced Applicant to consecutive
4 terms of 35 years for voluntary manslaughter and 5 years for
5 the weapons charge.

6 Applicant filed a timely notice of appeal, which was
7 perfected by Appellate Defender David Alexander through the
8 filing of a brief pursuant to *Anders*, and the Court of Appeals
9 dismissed the appeal pursuant to *Anders*. A remittitur was
10 sent December 12th, 2024, and on January 14th, 2025, Applicant
11 filed this PCR application. On April 21st, 2025, Applicant
12 filed his first amended PCR application. And yesterday,
13 January 6th, Applicant filed a second amendment.

14 At this time, I'll turn it over to opposing counsel to
15 state what she's going forward on.

16 THE COURT: All right. And I recognize Ms. Marto.

17 MS. MARTO: Thank you, Judge. I do have a copy of the
18 amended application. And with that, we'd call Mr. Sanders.

19 THE APPLICANT: How are you doing?

20 THE CLERK: Hey. Thank you. Do you solemnly swear that
21 the testimony you provide to this Court shall be the truth, so
22 help you God?

23 THE APPLICANT: Yes, ma'am.

24 All right. Thank you so much. And if you would, watch
25 your step coming up.

DELMAR SANDERS - DIRECT BY MS. MARTO

1 THE APPLICANT: Yes, ma'am. Thank you.

2 THE CLERK: And then, if you would, just state your first
3 and last name and spell both for the record, please.

4 THE APPLICANT: Yes, ma'am. My name is Delmar Sanders,
5 D-e-l-m-a-r S-a-n-d-e-r-s.

6 DELMAR SANDERS, being first duly
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MARTO:

10 Q: Good afternoon, sir. So who were you represented by at
11 trial?

12 A: Seth Paulk.

13 Q: And roughly how long were you represented by him for?

14 A: Some months. Some months maybe, a few months.

15 Q: What were you charged with?

16 A: I was charged with alleged murder, alleged attempted
17 murder, and possession of a weapon during a violent crime.

18 Q: And you took this case to trial; correct?

19 A: That's correct.

20 Q: And what was the outcome at trial?

21 A: The outcome at trial was they acquitted me for the
22 alleged murder and acquitted me for the alleged attempted
23 murder and convicted me of voluntary manslaughter with
24 possession of a weapon during a violent crime.

25 Q: How do you feel like counsel did representing you?

DELMAR SANDERS - DIRECT BY MS. MARTO

1 A: Counsel was very unorganized, very poor.

2 Q: Do you recall roughly how many times you talked to him?

3 A: Maybe in person, twice.

4 Q: Did you talk to him on the phone more times?

5 A: I never talked to him on the phone.

6 Q: Okay. So how else did you all communicate besides
7 meeting? Or was that it?

8 A: I believe he came and we had -- we spoke. We spoke with
9 the glass in front of us, and then we spoke without a glass in
10 front of us. That was the only two times.

11 Q: And what did you discuss during those two meetings?

12 A: I was just letting him know everything that went on and
13 just giving him my side of the story of what happened and, you
14 know, what occurred.

15 Q: Does that, I guess, correctly summarize what your
16 testimony at trial was?

17 A: I don't understand the question.

18 Q: Is what happened the same as what you told the jury
19 happened at your trial?

20 A: That's correct.

21 Q: And you're raising a claim that you think counsel should
22 have moved for a continuance; is that correct?

23 A: Moved for a --

24 Q: A continuance?

25 A: -- continuance? I -- I -- okay. Move for a continuance?

DELMAR SANDERS - DIRECT BY MS. MARTO

1 Q: Do you feel like he had enough time to properly prepare
2 for trial?

3 A: He did not. He -- he actually did a -- a speedy trial,
4 which I did not agree to. And the speedy trial came like six
5 months later. You know, for certain high-profile cases like
6 that, people sit three, four years. They have enough time to,
7 you know, review their case, go over the case, and prepare for
8 it. Six months is not enough time to prepare for a murder
9 trial.

10 Q: And what do you feel like could have happened had you had
11 enough time to prepare?

12 A: I would have been, you know, relieved.

13 Q: Do you feel like it would have changed the outcome at
14 trial?

15 A: I do.

16 Q: And how so?

17 A: Well, with my situation, you know, I made a statement
18 saying that, you know, I was defending myself. And with that
19 being said, I let the people know that -- I let investigators
20 know that the -- they were communicating via Facebook. You
21 know, a proper investigation, they will go research those
22 records and bring those records up, see what really was going
23 on. They didn't do that.

24 Q: Did you get a full copy of the discovery in this case or
25 no?

DELMAR SANDERS - DIRECT BY MS. MARTO

1 A: I'm not sure if I got a full copy 100 percent. I may
2 have got 80 percent, 90. I'm not sure if I got a hundred.

3 Q: Did you get some evidence from your attorney that the
4 State gave him?

5 A: I have a transcript.

6 Q: Then that's it? Just the transcript?

7 A: That's it.

8 Q: You're also alleging that you didn't feel like you
9 understood the trial proceedings or trial process; is that
10 correct?

11 A: That's correct.

12 Q: And what -- what didn't you know going into trial that
13 you wish counsel had explained to you?

14 A: There is a plethora of things that I can speak upon based
15 on that question. Just it was tough. A lot of things he
16 could have done differently, you know. You know, this is --
17 that was my first time. That's not my first time in the
18 courtroom. That's my first time being in that type of
19 predicament with alleged murder, alleged attempted murder
20 situation. So I didn't know what I was to do or what was to
21 go on. He had to let me know. It's not for me to let him
22 know. That's the best way I can answer that question.

23 Q: Do you feel like you discussed trial strategy with
24 counsel?

25 A: Not -- not as good as he could have. We didn't have

DELMAR SANDERS - DIRECT BY MS. MARTO

1 enough time. There definitely could have been some things
2 discussed that could have, you know, been pertinent to the
3 case that wasn't discussed.

4 Q: And do you have any ideas on what those things might be
5 that you wished to be discussed?

6 A: Off the top of my head, I don't. I'm not sure off the
7 top of my head, but we're here for a constitutional violation;
8 correct?

9 Q: Yes, sir.

10 A: Okay. Because -- and I'm here for the ineffective
11 assistance of counsel; correct?

12 Q: Yes, sir.

13 A: Okay. Well, just for the record, I just, you know, want
14 to --

15 Q: Yeah.

16 A: -- bring up, you know, I am prejudiced by counsel's
17 unprofessional error, that but for counsel was ineffective
18 during trial when he didn't -- you know, by his failure to
19 object or bring to the Court's attention that the judge didn't
20 charge criminal intent during his recharge to the jury on
21 voluntary manslaughter, which infringed on my presumption of
22 innocence, there is a reasonable probability that the result
23 of the proceeding would have been different.

24 Q: Okay. So, yeah, let's move into jury instructions. I
25 think you're alleging that you wish counsel hadn't requested a

DELMAR SANDERS - DIRECT BY MS. MARTO

1 voluntary manslaughter charge at all; is that correct?

2 A: I'm sorry?

3 Q: Did you want counsel to request the jury to be charged on
4 voluntary manslaughter?

5 A: I wanted counsel to object to the erroneous comment made.

6 Q: And what was that comment?

7 A: Give me one second. There was a -- let's see. Well, the
8 one that I amended -- the one that I amended, he -- he didn't
9 object to the judge's jury instructions that malice may be
10 inferred from the use of a deadly weapon. However, it's an
11 improper court-sponsored emphasis of a fact in evidence that
12 the deed was done with a deadly weapon, and it should no
13 longer be permitted.

14 That also infringed on my presumption of innocence. That
15 that made -- that basically gave -- it confused the jury. It
16 confused the jury, but it -- by them thinking that it inferred
17 malice, it made the jury, you know, feel like that voluntary
18 manslaughter carried malice.

19 Q: So when the jury was charged on voluntary manslaughter,
20 did you want them to be charged that malice is not an element?

21 A: That's correct. That's correct because malice is not an
22 element of voluntary manslaughter.

23 Q: And you're also -- you also wanted counsel to request
24 jury instructions on criminal intent; is that correct?

25 A: That's correct. That's correct.

DELMAR SANDERS - DIRECT BY MS. MARTO

1 Q: Yeah. Can you explain a little bit why you feel like
2 that was needed?

3 A: Okay. Well, the judge gave his definition of criminal
4 intent but didn't say what criminal intent applies to. And
5 during his recharge, he never -- he never -- he never
6 explained to the jury that you have to charge criminal intent
7 to convict on voluntary manslaughter. They just convicted me
8 of voluntary manslaughter, give me the lesser-included
9 offense. They never said whether anything else should applies
10 to in order to convict for voluntary manslaughter.

11 You know, this jury, this is a 9-to-5 jury. They're --
12 they're not law scholars. So they can be confused very
13 easily.

14 So, that being said, in trial transcript page 734, lines
15 2 through 4, the judge said he will read the applicable law to
16 the jury again and, you know, of course, counsel didn't object
17 to that. And by the judge making that statement, he opens the
18 door that the rule of law is that you have to charge criminal
19 intent to convict of voluntary manslaughter.

20 You know, *State v. Jackson* says, you know, the State is
21 required to prove every element of a charged offense to obtain
22 a conviction. You know, *State v. Ferguson* says, you know, the
23 defendant may not be convicted of a criminal offense unless
24 the State proves beyond a reasonable doubt that the defendant
25 acted with criminal intent or mental state required for a

DELMAR SANDERS - DIRECT BY MS. MARTO

1 particular offense. And it is a fundamental concept of
2 criminal -- of criminal law the State must prove beyond a
3 reasonable doubt all the essential elements of guilt.

4 Counsel failed to object, not reading the applicable law
5 of voluntary manslaughter. You know, that, but for not
6 charging criminal intent, which applies to voluntary
7 manslaughter for a conviction, this also infringed on my
8 presumption of innocence and led the jury to believe that --
9 you know, that what he was saying was true, you know.

10 Jury instructions have potential to cause a jury to be
11 confused. You know, criminal intent is always a matter that
12 must be determined by the jury from the circumstances
13 surrounding the situation. It is now accepted in common law
14 jurisdictions as a measure of persuasion by which the
15 prosecution must convince the trier of all essential elements
16 of guilt. Not some elements, not a little bit of elements,
17 all essential elements of guilt.

18 Q: Is there anything you wish counsel had investigated prior
19 to trial?

20 A: Yes, yes. I wish -- I wish that he had -- I wish that
21 they brought up those Facebook records because when we was in
22 the vehicle, my vehicle, which I had no right to -- to retreat
23 from because it's my vehicle, it's my property, they were
24 texting back and forth on Facebook. His phone lights up, her
25 phone goes dark. Her phone -- his phone goes dark, her phone

DELMAR SANDERS - DIRECT BY MS. MARTO

1 lights up, and I gave a testimony stating that they were on
2 Facebook.

3 Now, look, they look up -- they looked up some other
4 stuff that they had going on with their phone. They never
5 looked on Facebook to see what they were talking about. They
6 would have most definitely saw that, hey, we're going to get
7 this guy. He got money, he's doing this, he's doing that.
8 They would have saw that, and maybe they did, but they didn't
9 present it at court.

10 Q: And you also wanted counsel to do a better job mitigating
11 the sentence; is that correct?

12 A: Please define mitigating, please?

13 Q: Presenting factors about you that would have led to a
14 lesser sentence.

15 A: Yes.

16 Q: And what did you want counsel to bring up in terms of
17 that?

18 A: Well, involuntary manslaughter is also a lesser-included
19 offense of murder. So voluntary manslaughter, you know, that
20 was a lesser-included offense as well, but there was -- there
21 was evidence presented at trial that gave -- you know, that
22 basically could have led them to give me an involuntary
23 manslaughter conviction.

24 Excuse me. Let me see.

25 Q: And so what -- what evidence about you did you want

DELMAR SANDERS - DIRECT BY MS. MARTO

1 counsel to present to the judge to get you a lesser sentence?

2 A: Could you repeat the question, please?

3 Q: Are there any good things that counsel could have said
4 about you that he didn't that would have caused the judge to
5 give you a better sentence? Because you got consecutive time;
6 right?

7 A: Yeah, I got consecutive. I got consecutive from a judge
8 who was only on the bench for 60 days and stated that he don't
9 -- he still don't know what happened that day, and I still got
10 a consecutive sentence charge. Let's see.

11 Q: Do you think that that sentence was proper?

12 A: I do not.

13 Q: And what do you -- what do you think the judge should
14 have taken into account that would have gotten you less time?

15 A: I don't know how to answer that question because that's
16 -- that would be in the mind of the judge, and it's not
17 something that's written in law. You know what I mean? So
18 that definitely would have been the -- in the mind of the
19 judge. So to -- to speak on behalf of what would have been
20 going on in his mind to give me lesser time because it's up to
21 him, I'm not sure how to answer that.

22 Q: Are there any other issues that we haven't presented yet
23 today that you want this Court to take into consideration?

24 A: Yes, ma'am.

25 Q: And what issues?

DELMAR SANDERS - DIRECT BY MS. MARTO

1 A: Well, the prejudice stemming from the erroneous and
2 confusing instructions was compounded when during
3 deliberations the jury requested the trial court to provide a
4 better understanding of the charges of murder, attempted
5 murder, and voluntary manslaughter. The trial court repeated
6 its original instructions, which, one, included the erroneous
7 -- erroneous inferred malice instruction and, two, did not
8 include an instruction that malice is not an element of
9 voluntary manslaughter.

10 Now, the same thing occurred in *State v. Burdette*, where
11 the charge as a whole necessarily resulted in confusion that
12 contributed to the verdict that Burdette was guilty of
13 voluntary manslaughter. Therefore, they conclude the trial
14 court's erroneous instruction was harmless beyond a reasonable
15 doubt.

16 So I argue that a reading of the jury charge as a whole
17 compelled the conclusion that the trial court error was not
18 harmless. You know, counsel just should have objected to
19 trial court's erroneous jury instruction, involuntary
20 manslaughter, which was a comment on the facts of the case.

21 You know, even, you know, *Belcher* held -- held the trial
22 court could no longer give the inferred malice from the use of
23 a deadly weapon charge in cases in which evidence was
24 presented that would reduce, mitigate, excuse, or justify a
25 homicide or an assault and battery with intent to kill.

DELMAR SANDERS - DIRECT BY MS. MARTO

1 And I understand that you have questions about what could
2 have been done differently, but there are constitutional --
3 constitutional violations that we have here. And I just -- I
4 don't mean -- I'm sorry if I cut you off.

5 Q: No. You're good.

6 A: I didn't? Go ahead.

7 Q: So you feel like if counsel had ensured that the jury
8 instructions were proper, communicated with you and got you
9 prepared for trial, investigated what you wanted investigated,
10 then you would have won at trial; is that correct?

11 A: That is correct.

12 Q: Is there any other issues beyond what you've already
13 testified to that you want this Court to consider?

14 A: Yes.

15 Q: Okay. What would those be?

16 A: I just basically just want to put things out there on the
17 record.

18 Q: Is it something that you've already testified to, sir?

19 A: As of?

20 Q: As of the issues that we've already gone through?

21 A: Let me see. I apologize.

22 Q: Okay.

23 A: I'm sorry. Give me one second.

24 Just for the record, you know, in *State v. Burdette*, the
25 Court has held in other settings that it is improper to give

DELMAR SANDERS - DIRECT BY MS. MARTO

1 examples of conduct the jury may consider when determining
2 whether the State has proven an element of a crime or when
3 determining whether certain other facts have been proven or
4 disproven.

5 Let's see here. I argue that jury instructions should be
6 considered as a whole and if as a whole free from error.

7 And you know, like -- like I said before, we're here for
8 a constitutional violation. There are errors. There is
9 evidence presented at trial that would reduce, mitigate,
10 excuse, or justify the alleged homicide.

11 I'm sorry. Excuse me.

12 By counsel -- by counsel not objecting to the erroneous
13 jury instruction made by the judge, there are grounds that the
14 prosecution failed to prove criminal intent required for
15 voluntary manslaughter.

16 Jury instructions by the Court of irrelevant and
17 inapplicable principles may be confusing to the jury and can
18 be reversible error.

19 Let's see here. I'm trying to be as brief as I can. I
20 apologize.

21 You know, basically, in *State v. Fennell*, you know, it
22 basically speaks on how criminal liability is normally -- it's
23 normally based upon the concurrence of two factors, the
24 defendant's criminal intent and the actual physical act
25 constituting the offense. So that's just, you know, the basis

DELMAR SANDERS - DIRECT BY MS. MARTO

1 of everything with the whole criminal intent part, like you
2 just -- criminal intent wasn't charged and, you know, maybe if
3 it was charged to the jury that knew the law, maybe they would
4 have said something. I'm not -- not -- not sure.

5 I'm sorry. Whenever you want, you can ask a question. I
6 apologize. I was just looking over my notes.

7 MS. MARTO: I have no further questions, Judge.

8 THE COURT: All right. Cross?

9 MS. KANEALEY: Just briefly, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. KANEALEY:

12 Q: For your failure to object to malice -- the malice
13 instruction, that malice can be inferred from the use of a
14 deadly weapon, can you tell me what page that's on from your
15 trial, if the judge allegedly said that?

16 A: When the judge said?

17 Q: That malice can be inferred from the use of a deadly
18 weapon.

19 A: Okay. I believe -- oh, I should have brought my trial
20 transcript. I believe that is on page -- let me see. The
21 judge stated in the trial transcript line with the applicable
22 law for the jury able to -- rule of law that you have to judge
23 criminal on? Let's see. I believe that's on page 7 -- 734 is
24 the recharge. That is the recharge. Because now before the
25 recharge, he, you know, charged some things, but during the

DELMAR SANDERS - CROSS BY MS. KANEALEY

1 recharge, after they came out wanting to know more about it
2 and wanted the judge to elaborate on those, you know, charges,
3 he didn't charge them. He didn't charge it again.

4 Q: Okay. I understand. My question for you is, what page
5 did the judge say that malice can be inferred from the use of
6 a deadly weapon?

7 A: Okay. He gave the jury instructions, and I believe that
8 is on page 734. I don't have it right here in front of me.
9 If you can bring that up here, I can definitely find it for
10 you.

11 Q: Would you say this is the most accurate representation of
12 what happened? If it's not in there, they didn't give it?

13 A: I don't understand your question.

14 MS. KANEALEY: Nothing further, Your Honor.

15 THE COURT: All right. Any redirect?

16 MS. MARTO: No redirect, Your Honor.

17 THE COURT: All right. You may step down.

18 THE APPLICANT: Thanks, Your Honor.

19 THE COURT: All right. Next witness?

20 MS. MARTO: One moment, Your Honor. Judge, we'd call Mr.
21 Herbert Glaze.

22 THE COURT: What's the last name?

23 MS. MARTO: Glaze.

24 THE COURT: All right. If you would, step forward,
25 whoever that is.

HERBERT GLAZE - DIRECT BY MS. MARTO

1 THE CLERK: If you would, please place your left hand on
2 the Bible and raise your right hand. Do you solemnly swear
3 that the information that you give to this Court shall be the
4 truth, so help you God?

5 THE WITNESS: Oh, yeah.

6 THE CLERK: Okay. Step up here and, if you would, please
7 just state your first and last name and spell both for the
8 record, please.

9 THE WITNESS: My name is Herbert Glaze, H-e-r-b-e-r-t,
10 Glaze, G-l-a-z-e.

11 HERBERT GLAZE, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MARTO:

15 Q: Good afternoon, sir. Sir, are you related to Mr.
16 Sanders?

17 A: That's my deceased sister's daughter's son.

18 Q: And were you present at his trial?

19 A: I was there partially. I'm in the school administration
20 system. A lot of stuff was going on. We just got started.
21 So I had to leave at that time, as I have to go and pick my
22 granddaughter up in a few minutes.

23 Q: Okay. And did you -- were you asked to speak on his
24 behalf at sentencing?

25 A: No, I wasn't asked. I asked to speak. Normally, you

HERBERT GLAZE - DIRECT BY MS. MARTO

1 know, in such cases as this, you know, I was not there. I can
2 only speak as to what I know about him in his lifetime, but by
3 virtue of not me being there, I cannot speak. I can only say
4 as to what I know.

5 I'm the youngest of twelve siblings, the only one that is
6 surviving. His mother has undergone a whole lot. She's had
7 five nervous breakdowns. I mainly helped her raise her two
8 kids, one who is doing an excellent job. He's the police in
9 Chatham County. And, you know, there have been -- his
10 grandmother always been giving to the community.

11 Like I tell them, trouble is easy to get into, but it's
12 hard to get out. I'm 75 years old, never been in any type of
13 situation, any type of trouble, because I know how it is. And
14 I tell them I'm always here to help them when they are right
15 or when they are wrong because, you know, when the incident
16 happened, I was not there.

17 But he called and he said he was in Florida or Georgia,
18 way out in the way out there, and he was afraid. He was
19 afraid. I said where are you? Where are you at? He said I
20 don't even know. I said are you in a community? Are you in
21 an area? He said I'm scared, Unk, I'm scared. He said I'm
22 passing by a church. There's some white folks there. I said,
23 well, turn back around and go to them. When he got back, he
24 said they had left.

25 I said, well, keep riding, keep riding, keep riding. I

HERBERT GLAZE - DIRECT BY MS. MARTO

1 said do you see any houses, any cars, and he said I saw -- I
2 passed by the police station. I said, well, go back to the
3 police station and turn yourself in. I will contact Sheriff
4 Tanner and the Sheriff's Department and have them to call from
5 there, and that's what we did. And that's how he more or less
6 turned himself in at that particular time.

7 But like I said, I was not there. I'm only speaking as a
8 -- you know, to his character because I know they've always
9 had a struggle, but I'm always there. There's always one in
10 the family. Out of twelve, I'm the only one that's living.
11 All my brothers and sisters are gone.

12 But I try to tell them to always do the right things when
13 wrong things are happening. I tell them always work on your
14 obituary and not your resume. That would allow you to do what
15 is necessary, because if you don't, things will happen, and
16 some things we can't change. You know, some things we can
17 control and some things we cannot control.

18 But I know a man who can control the uncontrollable, and
19 that's Jesus Christ. Like I was telling them and I tell them
20 religiously, there was this young man. I've been in the
21 school system for 53 years at one school, and you can Google
22 Herbert Glaze and it will tell you who I am. Herbert Glaze,
23 Google that.

24 But I tell my kids all the time when they come in
25 trouble, there was a smart man and this wise old man. And

HERBERT GLAZE - DIRECT BY MS. MARTO

1 see, the younger kids now think the older people are
2 prehistoric and, you know, don't understand anything, but I'd
3 rather wiseness over smartness.

4 And these two young boys said, look here, this old man
5 got all the answers. He knows everything. So we're going to
6 -- we're going to show him that he don't know it all, and they
7 concocted an idea. They said what we are going to do, we're
8 going to take him this bird, put the bird in the palm of our
9 hand, and we're going to ask him if the bird living or the
10 bird dead. And if he say the bird is living, we'll crush him
11 to death and let him see the bird is dead. If he say the bird
12 is dead, we'll open our hands out and let him fly away.

13 It's a good idea. We're going to do this. So they went
14 to the old man. They said, Mister, there's a bird in our
15 hand. You know it all. Tell us whether the bird -- whether
16 the bird is living or the bird is dead. The old man said
17 this. The life of the bird lies in your hand.

18 The life of my cousin Delmar lives in this hand. All we
19 can do is what's necessary. Pray. Live.

20 My parents always telling me love everybody, hit nobody,
21 trust nobody, but I always tell my kids help those along the
22 way. Always be benevolent. Do what you can do, and that's
23 all we can do and that's all I can say.

24 MS. MARTO: Nothing further, Judge.

25 THE COURT: All right. Any cross?

MATTHEW SETH PAULK - DIRECT BY MS. MARTO

1 MS. KANEALEY: Nothing from the State, Your Honor.

2 THE COURT: Mr. Glaze, you can step down. Thank you,
3 sir.

4 THE WITNESS: Thank you, and I have to leave. I pick my
5 granddaughter up from school. My wife is ill. Thank you very
6 much.

7 THE COURT: I gotcha.

8 Okay. All right. Any additional witnesses from the
9 applicant? The next witness? Who's your next witness?

10 MR. MARTO: Seth Paulk.

11 THE CLERK: Good morning. If you would, place your left
12 hand on the Bible and raise your right hand. Do you solemnly
13 swear that the testimony you're providing to this Court shall
14 be the truth, so help you God?

15 THE WITNESS: Yes.

16 THE CLERK: And if you would, just state your first and
17 last name and spell both for the record, please.

18 THE WITNESS: Matthew Seth Paulk, M-a-t-t-h-e-w S-e-t-h
19 P-a-u-l-k.

20 MATTHEW SETH PAULK, being first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MARTO:

24 Q: Good afternoon, sir.

25 A: Good morning or afternoon.

1 Q: So you represented Mr. Sanders?

2 A: I did.

3 Q: Okay. And roughly how long did you have the case for?

4 A: The aggravated assault, attempted murder -- or the
5 murder, attempted murder, and the weapons charge I had from
6 the time that he was arrested in July of 2021 until the trial
7 in August of 2022. I believe I represented him prior to that
8 on some other charges, but I don't believe that we had had any
9 contact at that point.

10 Q: Do you recall roughly how many times y'all met?

11 A: I'd say more than ten.

12 Q: Did you feel like you had enough time to prepare the
13 case?

14 A: Yes.

15 Q: And did you discuss with Mr. Sanders the trial process?

16 A: Yes.

17 Q: Did he seem to fully understand everything --

18 A: Yes.

19 Q: -- during those conversations? Did you get a full copy
20 of the discovery?

21 A: Yes.

22 Q: Did you give Mr. Sanders a full copy of the discovery?

23 A: Yes.

24 Q: Did you feel like you needed more time to try the case
25 properly?

1 A: No.

2 Q: And what was the trial strategy in this case?

3 A: The trial strategy was essentially that Ms. Randall and
4 Mr. McClendon were attempting to rob Mr. Sanders, that he was
5 in fear for his life, that this was a self-defense case. We
6 did a stand your ground hearing, a *Duncan* motion, pre-trial,
7 and Mr. Sanders also testified to that effect at his trial.

8 Q: Is there anything that you feel like you needed to
9 investigate in the case that you did not?

10 A: No. I think we did a fairly thorough job of
11 investigating the case.

12 Q: Mr. Sanders mentioned Facebook messages between the two
13 alleged victims. Were you able to find any of those?

14 A: We did not have any of those, no.

15 Q: Were you given their cell records?

16 A: We were given cell records for the phones that were in
17 the vehicle and we reviewed those, but I don't recall there
18 being any pertinent information in there.

19 Q: Did you consider requesting an involuntary manslaughter
20 charge?

21 A: I don't recall.

22 Q: Do you agree that the transcript is the best reflection
23 of what happened at trial?

24 A: I do.

25 Q: And Mr. Sanders obtained consecutive time; is that

1 correct?

2 A: That's correct.

3 Q: Is there anything that you feel like you could have done
4 to lessen that substantial sentence?

5 A: If I remember correctly, his mother and sister both
6 testified in mitigation during sentencing. I know that Mr.
7 Sanders and I had a conversation after the verdict was
8 rendered but before sentencing about whether or not he was
9 going to speak during sentencing. Ultimately, it's the
10 decision of the client if they want to speak or not. So . . .

11 Q: Mr. Sanders has several issues concerning the jury
12 instructions. He's alleging that you should have requested an
13 instruction that malice is specifically not an element of
14 voluntary manslaughter. Did you consider doing that?

15 A: No. The elements of manslaughter are, you know, read
16 during the jury charge on manslaughter, and malice is not
17 included in that element -- in those elements.

18 Q: Did you consider requesting a specific criminal intent
19 charge?

20 A: I don't recall. I'm fairly certain that criminal intent
21 is a standard jury charge.

22 Q: Did you ever consider kind of going all or nothing and
23 not requesting voluntary manslaughter?

24 A: I believe that I recall having those discussions during
25 trial with Delmar about whether or not voluntary was going to

MATTHEW SETH PAULK - DIRECT BY MS. MARTO

1 be included. In fact, I think I remember bringing it up to
2 the judge. You know, it would be reflected most accurately in
3 the transcript, but I do remember those conversations
4 happening. And I believe that the -- I don't recall if the
5 State was asking for voluntary or not, but I recall having the
6 discussion and the conversation about whether or not we should
7 oppose it or consent to it.

8 Q: And then looking on page, I believe, 737, there was a
9 charge given starting with line 15, where death is caused by
10 the use of a deadly weapon, the words must be accompanied by
11 some overt threatening act. Did you think that that was
12 objectionable or not?

13 A: I don't recall.

14 Q: Did you think that that was too akin to *Burdette*, or did
15 you find a distinction in between that?

16 A: I don't recall specifically.

17 Q: Okay. But the transcript is, again, the best reflection
18 of what happened; correct?

19 A: Certainly.

20 MS. MARTO: Nothing further, Your Honor.

21 THE COURT: All right. Cross?

22 MS. KANEALEY: May it please the Court.

23 CROSS-EXAMINATION

24 BY MS. KANEALEY:

25 Q: I'm just filling in some holes. Did you have adequate

1 time to meet with him before trial?

2 A: Yes.

3 Q: Okay. And did you discuss the discovery with Applicant?

4 A: Yes.

5 Q: Okay. And do you recall the judge did thoroughly charge
6 the jury on criminal intent?

7 A: I recall the standard jury charges being read.

8 Q: Okay. And then do you recall the judge did then, again,
9 charge intent to the jury on recharge?

10 A: To the best of my recollection, yes.

11 Q: Okay. And did Applicant ask you to gather any specific
12 evidence?

13 A: I know that there were several people that he wanted us
14 to make phone calls to, that there was a lot of additional
15 evidence that we gathered since we did put up a case.

16 Q: Okay. And did Applicant ask you to request a
17 continuance?

18 A: I don't recall.

19 Q: Okay. Did you see any need to?

20 A: No.

21 Q: And isn't it true his sister and mother both spoke at his
22 sentencing in mitigation?

23 A: That's correct.

24 Q: Okay.

25 MS. KANEALEY: Nothing further, Your Honor.

1 THE COURT: All right. Any redirect?

2 MS. MARTO: No redirect, Your Honor.

3 THE COURT: All right. You may step down.

4 THE WITNESS: Thank you, Your Honor.

5 MS. MARTO: And no further witnesses.

6 THE COURT: All right. The State is recognized.

7 MS. KANEALEY: Nothing from the State, Your Honor.

8 THE COURT: All right. I'll give you all an opportunity
9 to give me a summation, starting with the applicant, since
10 you've got the burden of proof.

11 All right, Ms. Marto.

12 MS. MARTO: Thank you, Judge.

13 We would request you find Mr. Sanders credible and
14 consider granting relief so that he can get a new clear trial
15 in General Sessions Court. We stand by all of our allegations
16 with the highlight if you believe my client's biggest concern
17 is the jury instructions, and he feels like they weren't
18 specifically clear enough for a layperson to fully understand
19 and rule correctly on the decision, especially in light of the
20 case at hand where the jury didn't just convict on all
21 charges, they really took into consideration, granted on some,
22 acquitted on some, and then was he was found -- he was found
23 guilty of a lesser-included offense on one.

24 Specifically, I believe on pages 718 and 737, there is
25 *Burdette*-like language. There is a little bit of a

1 distinction between that and *Burdette*, but my client's
2 position is that that is sufficiently similar for it to be
3 improper jury instructions that could have led the jury to
4 reach a different decision than they did, especially in light
5 of the fact that the voluntary is the main charge that he was
6 found guilty on.

7 And specifically, when it comes to criminal intent, he
8 believes that that should have been made more specifically
9 clear, and the fact that malice is not an element of voluntary
10 manslaughter and those distinctions between murder and
11 voluntary manslaughter should have been made more clear than
12 they were.

13 He believes that in light of that issue, he would have
14 been acquitted on all charges. And so we just request again
15 that you consider Mr. Sanders' issues and grant relief in this
16 case. Thank you.

17 THE COURT: All right. I'll hear from the State.

18 MS. KANEALEY: May it please the Court.

19 Your Honor, again, he has to prove deficiency and
20 prejudice pursuant to *Strickland*. And I think here the
21 transcript is the best reflection of what happened as far as
22 all of his jury issues. There are no improper instructions
23 that were given, and we would just rely on the record.

24 THE COURT: All right. Thank you.

25 All right. I'll re-review the file again based on the

1 testimony and evidence submitted here today, and I will let
2 you know of my decision. Thank you both for your attention.

3 MS. MARTO: Thank you, Judge.

4 MS. KANEALEY: Thank you, Judge.

5 THE APPLICANT: Thank you, Judge.

6 (WHEREUPON, the proceedings ended at 2:35 PM.)

7

8 --- END REQUESTED TRANSCRIPT ---

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Delmar R. Sanders, #364856,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
)

) CASE NO. 2025-CP-07-00079
)

ORDER OF DISMISSAL

2026 MAY - 8 AM 11:44
JERRI ANNE ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

This matter comes before the Court by way of Applicant Delmar R. Sanders application for post-conviction relief (PCR) filed on January 14, 2025. Respondent filed its Return requesting an evidentiary hearing. On January 7, 2026, an evidentiary hearing was held at the Beaufort County Courthouse before the Honorable G.D. Morgan Jr. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant proceeded forward on the allegations in his amended application. In support of these claims, Applicant testified on his own behalf and presented the testimony of Matthew S. Paulk (Trial Counsel).

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving an aggregate forty-year sentence. In April 2022, the Beaufort County Grand Jury indicted Applicant for murder (2021-GS-07-01220), attempted murder (-01219), and possession of a

weapon during the commission of a violent crime (-01221). Following a pretrial immunity hearing that was denied, Applicant proceeded to a jury trial August 22-25, 2022, before the Honorable Heath P. Taylor. Deputy Public Defender Seth Paulk represented Applicant. Assistant Solicitors Mary Jones and Samantha Milina represented the State. The jury acquitted Applicant of attempted murder but convicted him of the weapon charge and, as to the murder indictment, the lesser-included offense of voluntary manslaughter. Judge Taylor sentenced Applicant to consecutive terms of thirty years for voluntary manslaughter and five years for the weapon charge.

Applicant filed a timely notice of appeal, which was perfected by Appellate Defender David Alexander through the filing of a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The Court of Appeals dismissed the appeal pursuant to Anders, and the remittitur was sent December 12, 2024.

CURRENT APPLICATION

On January 14, 2025, Applicant filed this PCR action alleging:

Ineffective assistance of counsel / Violation of Sixth Amendment: counsel should have objected to trial court's erroneous instruction on voluntary manslaughter, which was a comment on the facts.

On April 21, 2025, Applicant filed his first amended application alleging:

Ineffective assistance of counsel for failing to bring to the Court's attention or objection the judge did not charge criminal intent to the jury upon his recharge.

On January 7, 2026, Applicant filed his second amended application alleging:

Ineffective assistance of counsel for:

- a. Failure to object to charging voluntary manslaughter
- b. Failure to object to the instruction that malice can be inferred from the use of a deadly weapon
- c. Failure to request a jury charge telling the jury that malice is not an element of voluntary manslaughter
- d. Failure to properly communicate

- e. Failure to prepare applicant for trial and to explain the trial process to Applicant
- f. Failure to gather evidence and obtain a full copy of discovery
- g. Failure to request a continuance
- h. Failure to discuss trial strategy with applicant
- i. Failure to properly investigate the case
- j. Failure to mitigate the sentence.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act¹ (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

- 1) That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
- 2) That the court was without jurisdiction to impose sentence;
- 3) That the sentence exceeds the maximum authorized by law;
- 4) That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
- 5) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
- 6) That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a

¹ S.C. Code Ann. §§ 17-27-10 to -160.

question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct “was so [ineffective] as to require reversal” of the applicant’s conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. When analyzing counsel’s performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption “by proving that his attorney’s representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy.” Kimmelman v. Morrison, 477 U.S. 365, 384 (1986);

cf. Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate that "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To meet this burden, counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry, 300 S.C. at 117–18, 386 S.E.2d at 625; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different."). Importantly, "[t]he likelihood of a different result must be

substantial, not just conceivable.” Richter, 562 U.S. at 112.

Finally, the Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel’s trial tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant’s burden of proving both Strickland components is heavy in light of the strong presumption that counsel’s conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. Id. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the “benchmark” of the right to counsel is the “fairness of the adversary proceeding”); cf. United States v. Morrow, 977 F.2d 222, 229 (6th Cir. 1992) (“[T]he threshold issue is not whether [the applicant’s] attorney was inadequate; rather, it is whether he was so *manifestly* ineffective that defeat was snatched from the hands of probable victory.”)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Beaufort County Clerk of Court records of the underlying conviction, Applicant’s records from the South Carolina Department of Corrections, the trial transcript, Applicant’s appellate records, and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth above, this Court finds Applicant has failed to carry his burden of proof. Below are the Court’s findings of fact and conclusions of

law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudice applicant. Strickland v. Washington, 466 U.S. 668 (1984). When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E. 2d at 635 (quoting Strickland, 366 U.S. at 690). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to received relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. To prove prejudice, an applicant must prove counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. at 117-18, 386 S.E.2d at 625.

Failure to Object to Charging Voluntary Manslaughter

Applicant alleged Counsel was ineffective for failing to object to the voluntary manslaughter charge. This Court finds this allegation is without merit. Applicant testified that Counsel failed to object to "not reading the applicable law of voluntary manslaughter" because the judge did not charge criminal intent. (PCR Tr. p. 12, 23).

Counsel testified that he recalls having the discussion and conversation with Applicant about whether or not they should oppose or consent to the voluntary manslaughter charge. (PCR Tr. p. 29). Applicant did not provide any legal basis to which the voluntary manslaughter charge

could have been objected to. Applicant testified that Counsel should have objected because the applicable law of voluntary manslaughter was not read, however the record refutes this. Further, the record reflects a jury charge on criminal intent was given in the initial charge and again in the recharge. (Trial Tr. pp. 720, 721, 739, 740). This Court finds the standard charges were given for voluntary manslaughter and criminal intent and therefore any objection would have been non-meritorious. See Miller v. Keeney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence). Applicant has failed to prove deficiency and prejudice and therefore, this claim is denied.

Failure to Object to the Instruction that Malice can be Inferred

Applicant alleged Counsel was ineffective for failing to object to the instruction that malice can be inferred from the use of a deadly weapon. This Court finds this allegation is without merit. The trial transcript directly refutes this allegation and reflects that this instruction was never given. Therefore, this claim is denied.

Failure to Request a Jury Charge that Malice is not an Element of Voluntary Manslaughter

Applicant alleged Counsel was ineffective for failing to request a jury charge that malice is not an element of voluntary manslaughter. Counsel testified that he did not consider requesting this charge because the elements of manslaughter are read during the charge on manslaughter and malice is not included in those elements. (PCR Tr. p. 28). There is no caselaw requiring an attorney to request a judge list off all the elements that are not included in a charge in addition to the charge. This would not be reasonable under prevailing professional norms to do so. This Court finds Counsel was not deficient for not requesting a specific jury charge that malice is not an element of

voluntary manslaughter. Further, Applicant failed to prove that had Counsel requested this, that there is a reasonable probability the outcome of his trial would have been different. Applicant has failed to prove deficiency and prejudice and therefore, this claim is denied.

Failure to Properly Communicate, Failure to Gather Evidence and Obtain a Full Copy of Discovery, Failure to Properly Investigate²

Applicant alleged counsel was ineffective for failing to properly communicate, failing to gather evidence and obtain a full copy of discovery, and failing to properly investigate. This Court finds these allegations are without merit.

An applicant who alleges his or her defense attorney was ineffective in failing to spend more time preparing or providing a copy of the discovery materials must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls, 422 S.C. 174, 810 S.E.2d 836. Furthermore, an applicant must also show how the new evidence or defenses would have resulted in a different outcome. Id. (citing David v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Counsel testified that he met with Applicant more than ten times. (PCR Tr. p. 26). Counsel testified that he had adequate time to meet with Applicant before trial. (PCR Tr. p. 28, 29). Counsel testified that he gave Applicant a full copy of the discovery. (PCR Tr. p. 26). Counsel testified that there were several people that Applicant wanted his counsel to make phone calls to, and that there

² This section addresses allegations (d), (f) and (i).

was a lot of additional evidence that was gathered since they did put up a case. (PCR Tr. p. 30). Counsel testified that he does not feel like there was anything he need to investigate that he did not and he did a fairly thorough job of investigating the case. (PCR Tr. p. 27). This Court finds Counsel's testimony *credible*.

This Court finds Counsel's investigation and communication to be reasonable under prevailing professional norms and not deficient. Applicant failed to produce what evidence or defenses should have been investigated further and thus failed to prove prejudice. See Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial; Moorehead v. State, 329, 496 S.E.2d 415 (1998) (failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result). Applicant has failed to prove deficiency and prejudice and therefore, this claim is denied.

Failure to Prepare Applicant for Trial, Explain the Trial Process and Discuss Trial Strategy³

Applicant alleged the Counsel was ineffective for failing to prepare Applicant for trial, explain the trial process, and discuss trial strategy with Applicant. This Court finds these allegations are without merit.

Counsel testified that he discussed the trial process with Applicant, and he seemed to fully understand everything. (PCR Tr. p. 26). Counsel testified that his strategy was that Applicant was being robbed and this was a self-defense case. Counsel testified that they did a stand your ground hearing, a Duncan motion pre-trial, and Applicant testified to this effect at his trial. (PCR Tr. p. 27). This Court finds Counsel's testimony *credible*.

³ This section addresses allegations (e) and (h).

Applicant failed to provide what more Counsel should have done to prepare Applicant for trial, and what more of the trial process and trial strategy should have been discussed, resulting in mere speculation. This Court finds Counsel articulated a valid trial strategy, explained the strategy and process with Applicant and was reasonable under prevailing professional norms. Applicant has failed to prove deficiency and prejudice, and this claim is denied.

Failure to Request a Continuance

Applicant alleged Counsel was ineffective for failing to request a continuance. This Court finds this allegation is without merit.

Counsel testified that he did not feel like he needed more time to try the case properly. (PCR Tr. pp. 25-26). Counsel testified that he did not see any need to request a continuance. (PCR Tr. p. 30). This Court finds Counsel's testimony *credible*. Applicant did not testify to what basis there was for a continuance granted what more Counsel should have done had a continuance been granted. Further, Applicant failed to prove that had counsel been granted a continuance, that there is a reasonable probability that the outcome of his trial would have been different. Applicant has failed to prove deficiency and prejudice, and this claim is denied.

Failure to Mitigate the Sentence

Applicant alleged Counsel was ineffective for failing to mitigate the sentence. This Court finds this allegation is without merit. Counsel testified that his sister and mother both spoke at his sentencing in mitigation. (PCR Tr. p. 30). Counsel testified that he and Applicant "had a conversation after the verdict was rendered but before sentenced about whether or not he was going to speak during sentencing" and that "ultimately, it's the decision of the client if they want to speak or not." (PCR Tr. p. 28). This Court finds Counsel's testimony *credible*. Applicant did not testify

to what more he wished Counsel had presented in mitigation. Applicant has failed to prove deficiency and prejudice, and this claim is denied.

CONCLUSION

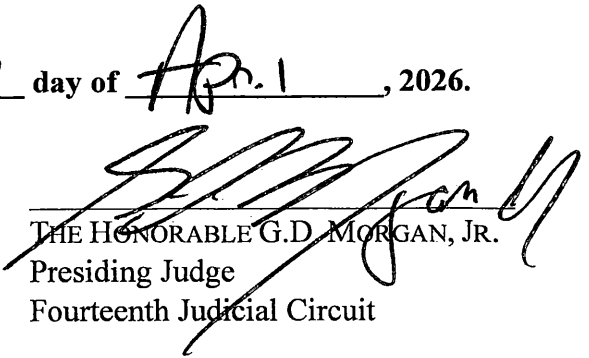
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 30 day of Apr. 1, 2026.


THE HONORABLE G.D. MORGAN, JR.
Presiding Judge
Fourteenth Judicial Circuit

Greenville, South Carolina

957
RECEIVED

May 15 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
The Honorable G.D. Morgan Jr., PCR Action Judge
2025-CP-07-00079

DELMAR SANDERS #364856,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Delmar Sanders appeals the denial of his post-conviction relief application. The post-conviction relief action was heard and denied by the Honorable G.D. Morgan, circuit court judge, on January 7, 2026, and was denied by written order issued filed on May 8, 2026.

Applicant received notice of the judgement on May 15, 2026.

/s Chelsey F. Marto
Chelsey F. Marto, Esquire
Attorney for the Applicant
The Law Office of Chelsey F. Marto, LLC
P.O. Box 8795
Columbia, SC, 29201
(864)-404-5583

Other Counsel of Record:
Kylee Kanealey, Esquire
Office of the Attorney General, State of SC
P.O. Box 11549
Columbia, SC, 29211-1549

958

WITNESSES

BCSO Todo M. Calhoun

ARREST WARRANT NUMBER

2021A0710400221

ACTION OF GRAND JURY

True Bill

Melinda Haggis

Foreperson of Grand Jury

Date: APR 07 2022

VERDICT

murder -
~~was found~~ NOT guilty
voluntary manslaughter -
guilty

[Signature]

Foreperson of Petit Jury

Date: 8/25/22
INDICT

DOCKET NO. 2021GS0701220

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2022

THE STATE

vs.

DELMAR RACORY SANDERS

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

)
)
)

INDICTMENT

2021GS0701220

At a Court of General Sessions, convened on April 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

Murder

That in Beaufort County, South Carolina, on or about July 23, 2021, the Defendant, DELMAR RACORY SANDERS, did, with malice aforethought, kill Deonne McLendon and Deonne McLendon did die as a proximate result of DELMAR RACORY SANDERS's actions, to wit: by shooting him, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

960

WITNESSES

BCSO TOAD R. CULLEN

DOCKET NO. 2021GS0701219

The State of South Carolina

County of Beaufort

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

April Term 2022

I
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2021A0710400220

THE STATE

vs.

DELMAR RACORY SANDERS

ACTION OF GRAND JURY

True Bill

Indictment For

Attempted Murder

SC Code: 16-3-29

CDR Code: 3410

Melinda Hagen

Foreperson of Grand Jury

Date:

APR 07 2022

Defendant

VERDICT

Not guilty

Witness:

[Signature]
Foreperson of Petit Jury

Date:

INDICT

8/25/22

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2021GS0701219

At a Court of General Sessions, convened on April 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

Attempted Murder

That in Beaufort County, South Carolina, on or about July 23, 2021, the Defendant, DELMAR RACORY SANDERS, did, with intent to kill and with malice aforethought, attempt to willfully kill Rhonda Randall, to wit: by shooting her, all in violation of Section 16-3-29, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

962

WITNESSES

BCSO TOM M. CALHOUN

ARREST WARRANT NUMBER

2021A0710400222

ACTION OF GRAND JURY

True Bill

Melinda Hargis
Foreperson of Grand Jury
Date: APR 07 2022

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: 8/25/22
INDICT

DOCKET NO. 2021GS0701221

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2022

THE STATE

vs.

DELMAR RACORY SANDERS

Indictment For

**Possession of Weapon During
Violent Crime**

SC Code: 16-23-490

CDR Code: 0549

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2021GS0701221

At a Court of General Sessions, convened on April 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about July 23, 2021, the Defendant, DELMAR RACORY SANDERS, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: Murder and/or Attempted Murder and DELMAR RACORY SANDERS was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: Murder and/or Attempted Murder, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

STATE

DELMAR RACORY SANDERS

INDICTMENT/CASE#: 2021GS0701220

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

VS.

INDICTMENT/CASE#: 2021GS0701220

DELMAR RACORY SANDERS

A/W#: 2021A0710400221

AKA:

Date of Offense: 07/23/2021

Race: Black Sex: Male Age: 29

S.C. Code §: 16-3-10

DOB: 1992 SS#: [REDACTED]

CDR Code #: 0116

Address: BEAUREGARD CT, BEAUFORT, SC 29902

City, State, Zip:

DL#* SID#

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Voluntary Manslaughter

In violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

May C Jones 100353 Delmar Racory Sanders 104725
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 30 days/months/years Time Served, ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years Time Served and/or paymentof \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: August 25, 2022 (Possession of Weapon)☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.394 (days/months)☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center

STATE

DELMAR RACORY SANDERS

INDICTMENT/CASE#: 2021GS0701220

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 128.75

 Clerk of Court/Deputy Clerk: _____
 Court Reporter: _____

Presiding Judge: _____

Judge Code: 2775

Sentence Date: August 25, 2022

STATE DELMAR RACORY SANDERSINDICTMENT/CASE#: 2021GS0701221

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS)

COUNTY OF BEAUFORT)

STATE)

INDICTMENT/CASE#: 2021GS0701221)

VS.)

DELMAR RACORY SANDERS)A/W#: 2021A0710400222)

AKA:)

Date of Offense: 07/23/2021)Race: Black Sex: Male Age: 29)S.C. Code §: 16-23-490)DOB: 1992 SS#: [REDACTED])CDR Code #: 0549)Address: BEAUREGARD CT, BEAUFORT, SC 29902)

City, State, Zip:)

DL#* SID#)

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession of a weapon during a violent crimeIn violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mex C. Joy
Solicitor100353
SC Bar #[Signature]
Defendant[Signature]
Attorney for Defendant104725
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years ~~Time Served~~, ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*, the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: August 25, 2022 (Voluntary Hearing)☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.
394 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE DELMAR RACORY SANDERS INDICTMENT/CASE#: 2021GS0701221

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
TOTAL			\$ 128.75

 Clerk of Court/Deputy Clerk: _____
 Court Reporter: _____

 Presiding Judge: _____
 Judge Code: _____
 Sentence Date: _____

.7

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment #s: 2021GS0701220; 2021GS0701219;
2021GS0701221

vs.

DELMAR SANDERS,

DEFENDANT.

VERDICT FORM

PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW AND FOLLOW THE
ACCOMPANYING INSTRUCTIONS CAREFULLY.

1. We the jury unanimously find the Defendant, Delmar Sanders, as to the charge of **MURDER**:

GUILTY

NOT GUILTY

INSTRUCTIONS: If you found the Defendant NOT GUILTY of Murder, continue to question 2.
If you found the Defendant GUILTY of Murder, you are finished. Please stop and end your
deliberations.

2. We the jury unanimously find the Defendant, Delmar Sanders, as to the charge of
VOLUNTARY MANSLAUGHTER:

GUILTY

NOT GUILTY

Please sign and date.


Jury Foreperson

8/25/22
Date

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment #s: 2021GS0701220; 2021GS0701219;
2021GS0701221

vs.

DELMAR SANDERS,

DEFENDANT.

VERDICT FORM

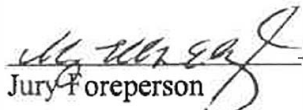
PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW AND FOLLOW THE
ACCOMPANYING INSTRUCTIONS CAREFULLY.

1. We the jury unanimously find the Defendant, Delmar Sanders, as to the charge of
ATTEMPTED MURDER.

GUILTY

NOT GUILTY

Please sign and date.


Jury Foreperson

8/25/22
Date

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment #s: 2021GS0701220; 2021GS0701219;
2021GS0701221

vs.

DELMAR SANDERS,

DEFENDANT.

VERDICT FORM

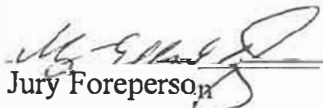
PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW AND FOLLOW THE
ACCOMPANYING INSTRUCTIONS CAREFULLY.

1. We the jury unanimously find the Defendant, Delmar Sanders, as to the charge of
**POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
CRIME:**

GUILTY

NOT GUILTY

Please sign and date.


Jury Foreperson

Date

8/25/22