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SC Court of Appeals

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARK ANTHONY FESTUS SCHEIBLER,

APPELLANT

APPELLATE CASE NO. 2025-001268

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS #171-173 (CD - CLIPS OF JAIL CALL)**

1 A So in the unfired rounds, there was 16 of the Federal
2 Cartridges, of the FC nine millimeters. There was four of
3 the Winchester nine millimeter rounds, and then an
4 individual round. That was not found, like, in the crime
5 scene.

6 Q And it was one by itself?

7 A Correct.

8 Q Now, among the evidence from the crime scene, did you
9 observe any FC brass that contained nickel primer?

10 A Correct. There was three of them.

11 Q Do you see that same type of nine millimeter ammunition
12 evidence from the backpack?

13 A I do. As I said, I separated it out. And when I took
14 my photograph, they're represented here.

15 Q With the nickel primer?

16 A Correct.

17 Q And specifically, with the nickel primer in that
18 photograph?

19 A Yes.

20 Q Where is that located?

21 A Right here.

22 Q Now, what, if anything, can you tell us about two of
23 these Winchester rounds or fired shell casings from the
24 crime scene?

25 A They just use a rawer metal in order to make it cheaper

Thomas Smith - Direct by Ms. Mayes

1 ammunition. It's sold like their budget ammo used for
2 range.

3 Q So the outside of this cartridge, is it your
4 traditional brass?

5 A No, it's not your traditional brass.

6 Q Darker in color?

7 A Darker in color and the sides of it aren't as smooth.

8 Q And among the ammunition in the backpack, did you see
9 this same make, manufacturer and outer shell casing?

10 A Yes, there was two of them collected from the scene and
11 then there's four of them inside the backpack.

12 Q Identical ammunition from the crime scene?

13 A Same make and caliber.

14 Q You may return these items to their packaging.

15 A Bear with me, this is going to take a minute.

16 Q You're aware that in that backpack, there was nine
17 millimeter ammunition, but no firearm?

18 A Correct.

19 Q And looking here at the overhead, State's Exhibit No.
20 91, already in evidence, and State's Exhibit No. 93, already
21 in evidence, these photographs reflect those same head
22 stamps you just spoke of?

23 A Correct.

24 Q Nine millimeter FC with nickel primer?

25 A Correct.

1 Q And the Winchester dark coating?

2 A Yes, ma'am.

3 Q Also, nine millimeter?

4 A Yes, ma'am.

5 Q When you're ready, I'd like to discuss the crime scene
6 itself.

7 A All right. I've returned that to the packaging.

8 Q Looking here at State's Exhibit No. 37 and State's
9 Exhibit No. 74, how many areas of distinct blood pooling or
10 saturation were observed?

11 A There was two. There was one near the freezer and one
12 near the door to the camper.

13 Q Do you have your laser pointer with you?

14 A I do.

15 Q Do you see the first area that you spoke of, or one of
16 the areas that you spoke of?

17 A It's right in this area here.

18 Q And State's Exhibit No. 74?

19 A This would be the second location here.

20 Q State's Exhibit No. 36, already in evidence. So this
21 location as well as this location?

22 A Correct.

23 Q This location being towards the front area of the
24 porch?

25 A Correct. Closer to the steps than the second one.

Thomas Smith - Direct by Ms. Mayes

1 Q And this being near what? What two items or points of
2 reference here in this photograph?

3 A So we have the mat for the door right there, and then
4 we have a gas grill here running along the side of the
5 bannister.

6 Q All right. So you noticed and were able to observe a
7 saturation of blood in front of that grill. What, if
8 anything, you can tell us about your observations from that
9 photograph, State's Exhibit No. 74?

10 A So the -- what this tells us is that there is a
11 bloodletting or a source of blood that's been in a position
12 for some period of time. I can't tell you how long that
13 was, but enough for them to be, instead of individual
14 droplets, for it to start to not only bleed from the body,
15 to begin to saturate into the wood itself.

16 Q Can you tell us whether or not that would indicate that
17 the victim was in this area for a sustained period of time?

18 A A section of his body was there for a period of time.

19 Q Right. And, again, that's in relation to that gas
20 grill?

21 A Correct.

22 Q I'm going to show you State's Exhibit No. 161, 132 and
23 162 and ask you whether or not you had an opportunity to
24 review these photographs? State's Exhibit No. 132, a
25 three-part exhibit.

1 A Yes, I had an opportunity to review those.

2 Q State's Exhibit No. 262 and then State's Exhibit No.
3 161?

4 A Yes, I reviewed those photos.

5 Q Based upon your knowledge of crime scenes as well as
6 shooting incident reconstructions, what can you tell us
7 about this observation, Investigator Smith?

8 A So both of those rounds came from off the porch. In
9 other words, someone was standing on the -- not on the
10 porch, but on the other side of the bannister, that the
11 firearm was elevated above the grill in a downward angle.

12 Q Looking here at State's Exhibit No. 132, are you
13 familiar with how many fired shell casings were actually
14 found on the porch itself?

15 A I would have to review my notes. I'm not sure how many
16 exactly were on the porch.

17 Q All right. You want to review your notes?

18 A Yes, please.

19 (Pause.)

20 THE WITNESS: Five cartridge cases were collected from
21 the porch itself.

22 BY MS. MAYES

23 Q And the five fired casings that came from the porch,
24 what can you tell us about a firearm, such as a nine
25 millimeter, ejection patterns that would allow fired casings

1 to end up on the porch if the shooter is outside of the
2 railing?

3 A So in order for it to wind up on the porch --
4 semi-automatics are designed to eject the cartridge out.
5 The majority of all semi-automatic handguns eject to the
6 right side. The guns that I was able to identify as
7 potential contributors to this scene all were right-hand
8 ejection pattern firearms. Which means in order to get up
9 over that railing and everything, we're talking about an
10 individual that is when they are firing, at least, those
11 five cartridges are within about three feet of the railing
12 itself.

13 Q And if an individual is standing outside of the
14 railing, how does it produce the trajectory that is observed
15 in State's Exhibit No. 132 specific to this red rod and its
16 direction of flight travel for that projectile?

17 A Correct. And in my review of the photographs and all,
18 I determined that that round came in a downward angle, from
19 the left side of the grill as demonstrated in the
20 photograph. That gun had to be up above that grill handle
21 and it had to be in a sharp downward angle in order to
22 strike that handle where it did.

23 Q And now looking at the remaining photographs here in
24 State's Exhibit No. 132, the middle photograph, as well as
25 the final photograph. What, if anything, do these

1 photographs tell you about whether or not the shooter may be
2 in movement?

3 A So from where the cartridge -- or from where the bullet
4 went through the handle on the grill, there's no way for the
5 next shot -- and I'm not trying to sequence them, the next
6 shot is just the next photograph. It's impossible for the
7 next shot or the next set of photographs for that gun to
8 have been in the same place. In other words, this depicts
9 that the shooter had to move. It's not depicted very well
10 here, but I think there's actually a tree that the
11 individual would have had to go around in order to shoot
12 down on the grill as depicted in these second photographs.

13 Q Now, was there ever any indication that shots were
14 coming from the porch outward?

15 A No, we don't have any cartridge cases, we don't have a
16 firearm, we have nothing to indicate that a second gun was
17 used during this incident, either by the victim or by the
18 shooter.

19 Q So you have one gun involved?

20 A Yes.

21 Q And based upon all of your review of this crime scene,
22 where would that shooter most likely be located for these
23 shots that we're looking at here?

24 A Had to be located on the opposite side of the bannister
25 or the railing of the porch shooting downward onto the

1 porch.

2 Q Go back to this photograph. And again, State's Exhibit
3 No. 132, if you could tell us again exactly where you think
4 the shooter would be positioned to produce that shot?

5 A So the shooter would have to have been positioned to
6 the left of the stove with the gun elevated shooting down
7 onto the porch.

8 Q Let me go back to this photograph of State's Exhibit
9 No. 74. You mentioned the downward aim was apparent to you
10 from the shots through the grill. What, if any,
11 significance is there in the blood pooling that you see
12 close proximity to that grill?

13 A The blood pooling just shows that there is a bleeding
14 source or a bleed that's set there on the porch on the
15 backside of the grill.

16 Q What, if any, indications do you have, if any at all,
17 that the shooting would have involved a victim who was down?

18 A From the trajectory rods and all that the pathologist
19 did during the autopsy.

20 Q I'm going to ask you to demonstrate that.

21 MS. MAYES: Your Honor, if he may step down?

22 THE COURT: The witness may step down.

23 MS. MAYES: And we would, also, ask for a demonstration
24 involving a mock firearm.

25 THE COURT: Very well.

1 Mr. Smith, just remember when you're off the witness
2 stand to speak so the court reporter can hear you.

3 THE WITNESS: Yes, Your Honor.

4 MS. MAYES: Your Honor, if the jury may stand if
5 needed?

6 THE COURT: Very well.

7 THE WITNESS: So the only way these two and this shot
8 on the opposite side enters and this trajectory is if the
9 deceased is lying on the ground. We know that because if we
10 stand our deceased up, no one's on the ground shooting up at
11 him? If someone was on the ground shooting up, we wouldn't
12 have cartridges landing on the porch because they wouldn't
13 get high enough, they wouldn't be able to land there. So we
14 know that these three shots all took place while the
15 decedent was on the ground?

16 BY MS. MAYES:

17 Q All right. I'm going to ask you if you could return
18 the mannequin to the downward position.

19 A What this would require is an individual -- and
20 understand with the porch that there is one foot difference
21 approximately between the ground, where our shooter is
22 standing, and the top of the porch. But all this indicates
23 is an individual standing with a gun elevated above the
24 decedent shooting in a downward angle towards the decedent.

25 Q And Investigator Smith, is that, also, the same

1 downward angle that we see in State's Exhibit No. 132?

2 A I wouldn't say it's the same angle, but what it is is
3 the same elevated downward, but I wouldn't say it's the same
4 trajectory.

5 Q The same downward position?

6 A Correct.

7 Q Thank you. You may return to the witness stand.

8 A (Witness complies.)

9 Q You're, also, aware of a shot to the back standing?

10 A Correct.

11 Q Can you tell us, based upon your observations, whether
12 or not the victim may have been standing for that shot into
13 the back?

14 A That shot is the one shot in which I can in confidence
15 say the individual was standing up at the time he was shot.
16 I say that due to compared to the other shots, the relative
17 flat trajectory of it. I'm not saying that was the first
18 shot that was fired that night, but I'm saying that this is
19 the first shot that hit him while he was standing. And I
20 can say that because the angle in which I to B is, it's much
21 flatter, very consistent with other shots that penetrated
22 into the camper indicated.

23 Q And finally, let me show you State's Exhibit No. 74.
24 Are you aware of fired projectiles, projectile fragments
25 found in the vicinity of where the shot through the grill

1 and the blood pooling was observed?

2 A Yes. There was one projectile and two fragments that
3 were found.

4 Q What can you tell us about that finding at the scene?

5 A The biggest significance about those bullets being
6 found on the porch the way in which they were is that it
7 proves that there had to be an intermediate target between
8 the gun barrel and the wood. Had the rounds been fired
9 directly into the wood, they would have penetrated into the
10 wood or actually gone through the wood. But instead, we
11 find both fragmentations as well as whole bullets sitting on
12 the wood itself, which means that there had to be an
13 intermediate target, in this case, an individual, in which
14 those bullets went through because there had to be something
15 to slow the bullets down before they hit that wood.
16 Otherwise, they would have gone through. So we know that
17 there's, in this case, the decedent in that area, and the
18 projectiles had gone through.

19 Q Would a human body slow the velocity of those
20 projectiles?

21 A Yes, it would.

22 Q And prevent them from traveling further into the porch
23 surface?

24 A It would.

25 Q You're aware of four exit wounds to the victim?

1 A Correct.

2 MS. MAYES: Nothing further from Investigator Smith at
3 this time?

4 THE COURT: Cross-examination?

5 MR. STORY: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. STORY:

8 Q Inspector Smith, you first became involved in this case
9 in December of 2023, correct?

10 A Yes and no. In -- wait, you said '23?

11 Q Yes.

12 A I'm not sure which year it was. I know -- so we had --
13 I had been approached and I was working on the Columbia Mall
14 shooting reconstruction from 2022. During the -- while
15 working that case, I was, also, asked to take a look at this
16 case, the priority being the mall shooting case because it
17 was coming to trial first. Once that wrapped up and all,
18 then I officially turned my attention to this case.

19 Q So you first became involved in this case in December
20 of 2022, is that your testimony?

21 A No, no, no.

22 Q Is that when you were asked to look at it?

23 A I said the mall shooting was in 2022.

24 Q So okay, if I may recap. You said the mall shooting
25 was in 2022. They asked you to work on that case.

1 A Okay, not immediately. So 2022 -- no, it couldn't be
2 2023. It was 2024 in which I was asked to look at this
3 case.

4 Q Do you have your notes with you there on the witness
5 stand?

6 A I do.

7 Q If you refer to those, did you make a note that you
8 were asked to look at this case December 8th of 2023?

9 A Wait a minute, are you -- which part of my
10 investigation are you referring to specifically? Because I
11 think there's been a miscommunication.

12 Q Okay.

13 A Because I did two different reports and two different
14 bench notes and all that.

15 Q Correct, I understand.

16 A So which investigation part are you talking about?

17 Q Were you asked by the solicitor's office to do a
18 firearms examination in December of 2023?

19 A Okay, here we go. Hold on just a second. Yes.

20 Q And you actually got the evidence and began work in
21 January of 2024, correct?

22 A Correct.

23 Q And you wrote your final report on the firearms exam in
24 September of 2024? It would probably be on your report, not
25 your notes.

1 A Well, there's a difference in writing my report and my
2 report being released. I completed the lab work July 5th of
3 2024. My report was approved and submitted 9/16 of 2024.

4 Q All right. As you stated earlier, that did not
5 conclude your involvement in this case, correct? The
6 firearms report?

7 A Correct.

8 Q You were then asked in March of 2025 to do a scene
9 analysis or a scene reconstruction; isn't that correct?

10 A I was initially asked to do that -- and this is where
11 we got confused earlier. I apologize for that. I was
12 initially asked in 2024 to do that, but we were in the
13 process of doing the scene reconstruction and all for the
14 mall shooting. And so I was asked to do it, but I was,
15 also, told to put this off until after that went to trial
16 and was completed before I put a whole lot of work into it.
17 And that's what I did, sir.

18 Q So you began your work in March of 2025?

19 A Yes, that sounds correct.

20 Q On the scene reconstruction?

21 A Sounds correct, yes sir.

22 Q That's what I'm talking about right now. So to begin
23 work on that, you were sent photos, correct?

24 A Well, I was sent photos, I was sent reports, sketches,
25 drawings.

1 Q Right.

2 A I mean, to say that I only received photographs would
3 be a little --

4 Q I'm not asking you if you only received photographs.
5 You did receive photographs, correct?

6 A Yes.

7 Q And you received photographs by e-mail from the
8 solicitor's office, correct?

9 A No. The photographs that I received were photographs
10 from our evidence.com.

11 Q So you were not e-mailed photographs by the solicitor's
12 paralegal?

13 A I was sent a photograph of the initial head stamps that
14 was done. I found that those photographs were not very well
15 done, and I redid those photographs. That's what the
16 Styrofoam is for.

17 Q Yes. I'm sorry, that's what the Styrofoam is for?

18 A The Styrofoam piece in order to hold the bullets.

19 Q Oh, correct. Okay. So what I'm specifically asking
20 you, apologies if we got confused, but you were sent by the
21 solicitor an autopsy report, correct?

22 A Oh, okay, yes, I did receive those.

23 Q Autopsy diagrams, correct?

24 A I'm trying to remember where I got those from. Because
25 I don't know if I got those from the solicitor's office, or

1 I got them from the investigator.

2 Q Okay. You wouldn't have gotten photos of the mannequin
3 from the investigator, correct?

4 A No, that was from the solicitor's office.

5 Q So that's what I'm asking you about. The mannequin
6 with Dr. Virginia Richards, correct?

7 A Correct.

8 Q And she's rodding that mannequin in the photographs,
9 correct?

10 A Correct.

11 Q Now, you're with the Lexington County Sheriff's
12 Department?

13 A Correct.

14 Q So you could pull photographs from this scene, correct?

15 A Correct.

16 Q That were taken by Patrick Ward, correct?

17 A Correct.

18 Q You looked at photographs that we've seen of the porch,
19 correct?

20 A Correct.

21 Q Those were taken by Patrick Ward?

22 A Correct.

23 Q The photographs that we were shown of the rodding were
24 taken by Patrick Ward?

25 A Correct.

1 Q You looked at photographs -- excuse me, not a
2 photograph, but the sketch that we've seen made by Patrick
3 Ward, correct?

4 A I saw sketches made by him. I don't know which ones
5 were admitted. So I saw sketches that were made by him,
6 yes.

7 Q Okay. I was specifically talking about the one,
8 State's Exhibit No. 69, that was put on the projector
9 earlier. You reviewed that?

10 A Yes, I did.

11 Q So your testimony, you left the sheriff's department in
12 2019, correct?

13 A Correct.

14 Q To go to the South Carolina Criminal Justice Academy?

15 A Correct.

16 Q You came back in 2021, right?

17 A 2022.

18 Q You came back in 2022. What month in 2022 did you come
19 back full-time?

20 A September.

21 Q Thank you. September 2022. Now, your testimony is
22 that you don't know the sequence of any of these firings,
23 correct?

24 A Correct.

25 Q You previously testified that you do not know the order

1 in which they were fired?

2 A Correct.

3 Q A nine millimeter -- and you're a firearms expert.

4 Nine millimeter is a common ammunition, correct?

5 A Correct.

6 Q Many manufacturers make that, correct?

7 A Yes.

8 Q Remington, correct?

9 A Correct.

10 Q Winchester, Wolf, Blazer?

11 A Yes.

12 Q There's many others, correct?

13 A Hornady, CCI, correct.

14 Q We could go on for a while, but it's many, right?

15 A Yes.

16 MR. STORY: Beg the Court's brief indulgence.

17 (Pause.)

18 BY MR. STORY:

19 Q Just backtracking a little bit, when we're talking
20 about the crime scene analysis, you actually specifically
21 began work March of '25, correct?

22 A Make sure I got this right. Correct.

23 Q Okay.

24 A March 31st.

25 Q And that's when all the photos and autopsy reports and

1 things I had asked you about, you started pulling those and
2 analyzing them?

3 A Correct.

4 Q You were in frequent contact with the solicitor's
5 office during that time, correct?

6 A Not really.

7 Q Let me ask you this --

8 A So I didn't really start making contact with the
9 solicitor's office and going over my findings till April
10 30th, so about a month.

11 Q Okay. So you spoke with them by telephone April 30th,
12 correct?

13 A Correct.

14 Q And again, you spoke with them May 1st?

15 A Hold on. Sounds right, yes.

16 Q You spoke with him May 16th?

17 A Correct.

18 Q You went to the solicitor's office in person May 28th
19 to review this case, correct?

20 A Correct. I think that's the first time in which we sat
21 down and went over my findings.

22 Q In person?

23 A In person.

24 Q You, also, went back in person May 30th?

25 A Yes, that sounds correct.

1 Q You testified that in your work as a crime scene
2 analysis at the sheriff's department, you often go to crime
3 scenes, correct?

4 A Correct.

5 Q You did not go to this crime scene at any time, did
6 you?

7 A I did not because the crime scene had been so changed,
8 such as the camper's not there anymore. There's significant
9 damage and stuff that was on the porch is no longer there.
10 So this one, I did not go to, just simply because so much of
11 the scene and environment had been changed.

12 Q But you reviewed photographs taken by Patrick Ward,
13 right?

14 A Correct.

15 Q You reviewed the sketches taken by Patrick Ward?

16 A I did.

17 Q You reviewed the report taken by Patrick Ward?

18 Yes, sir.

19 MR. STORY: No further questions.

20 THE COURT: Any redirect?

21 MS. MAYES: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. MAYES:

24 Q Looking here at State's Exhibit No. 37, that camper
25 where Jimmy Johnson was shot and killed on the front porch,

1 is it even still there at that location?

2 A It's not.

3 Q And that porch structure, does it remain in its
4 original condition?

5 A No, it wasn't -- or no, it isn't.

6 Q So that crime scene is not in its original condition?

7 A Correct.

8 Q The photograph that you spoke of creating, I want to
9 ask you about that. You mentioned Styrofoam. I believe
10 that original photograph of the ammunition from the
11 backpack, State's Exhibit No. 48, go like this, State's
12 Exhibit No. 45?

13 A Correct.

14 Q What did you mean by you said needed to be
15 rephotographed?

16 A What I was looking for was the head stamp, how many
17 different manufacturers, what the head stamps were, and the
18 composition of nickel to brass. Do I have nickel cartridge
19 cases with nickel primers and brass on brass, or a
20 combination thereof?

21 Q In order to observe similarities to the fire casings
22 from the crime scene?

23 A Correct, that's one of the things I was asked to look
24 at.

25 Q So looking at State's Exhibit No. 212?

1 A And when I say Styrofoam, all I'm talking about is this
2 block right here with the holes in it. When you buy
3 ammunition, that's what's inside the box. It holds all the
4 cartridges together so that when you open the box, they just
5 don't fall out.

6 Q So you created that photograph which would more
7 accurately depict the evidence than State's Exhibit No. 45?

8 A Correct.

9 Q I believe you, also, got a question about observing a
10 photograph of Dr. Richards with the mannequin, State's
11 Exhibit No. 58, State's Exhibit No. 58?

12 A Correct.

13 Q But in addition to all photographs in this case from
14 the crime scene, did you visually examine that forensic
15 mannequin as it was rodded by Dr. Richards?

16 A So I had the opportunity in one of my face-to-face
17 visits with the solicitor's office to actually review the
18 rodding on the mannequin itself and to be able to come to a
19 conclusion as to how those injuries would have come about on
20 the decedent.

21 Q So you didn't rely just on photographs?

22 A No, I actually saw and looked at the mannequin itself.

23 Q I think you, also, got a question about the timeline of
24 your involvement in this case. What was your first act as
25 an investigator with the sheriff's department regarding this

1 case?

2 A The very first thing that I was asked to do was do the
3 firearm exam. And there was some coordination that had to
4 be done because this case was originally sent to SLED. Once
5 we had our own lab and our own scope and able to do our own
6 work, we actually took this back from SLED, and that's where
7 I got involved doing the examination.

8 Q All right. And so you were able to complete the
9 examination of the firearms evidence what year?

10 A One second. 2024.

11 Q And then following that, what -- you mentioned that you
12 do firearms examinations for the sheriff's department?

13 A Correct.

14 Q Are you the only person currently certified within the
15 sheriff's department to conduct those firearms examinations?

16 A I am.

17 Q And in addition to that case load, do you still go to
18 crime scenes yourself?

19 A I still go to crime scenes myself.

20 Q Process and collect evidence?

21 A I do.

22 Q You remain on call for that?

23 A I do.

24 Q When you're on call, is that 24 hours?

25 A No, we're not on 24 hours. So Monday through Friday,

1 what we are is, like, night call, which I'm on right now.
2 It's, like, from two o'clock in the afternoon to four
3 o'clock in the morning.

4 Q And it can involve getting calls in the middle of the
5 night?

6 A Correct.

7 Q And then in terms of your crime scene reconstruction,
8 did another case have your priority in 2024?

9 A It did, the mall shooting.

10 Q And then following your completion of that case, were
11 you available to take on additional cases for
12 reconstruction?

13 A I was.

14 MS. MAYES: Nothing further.

15 THE COURT: Any recross?

16 MR. STORY: Nothing further, Your Honor.

17 THE COURT: All right. The witness is excused. Thank
18 you.

19 THE WITNESS: Your Honor, am I excused?

20 THE COURT: I think you're excused to leave the
21 courthouse.

22 MR. STORY: No objection.

23 MS. MAYES: No objection.

24 THE COURT: All right.

25 (WHEREUPON, a bench conference was held in the presence

1 stipulation regarding the report of SLED forensic scientist,
2 Adrienne R. Hefney, dated October 4th, 2023. Swabs from
3 cartridge cases were examined and no DNA profile was found.
4 That is the stipulation.

5 Madam Solicitor, the State may call their next witness.

6 MS. MAYES: Your Honor, the State has admitted State's
7 Exhibit No. 213, the Verizon records for the date of
8 November 27th, 2021 for the phone number of interest in this
9 case regarding the last four digits being 1170. Beyond
10 that, Your Honor, at this time, the State will rest.

11 THE COURT: Ladies and gentlemen, the State has rested
12 their case. I now have some matters to take up with the
13 attorneys. So I'm going to send you back to the jury room.
14 And I will get further instructions to you as soon as I can.
15 Please don't discuss the case while you're in the jury room.
16 See you shortly.

17 (WHEREUPON, the jury exits the courtroom at 11:06 a.m.)

18 THE COURT: Any motions at this time?

19 MR. STORY: Yes, Your Honor, we have a motion. At this
20 time, Your Honor, the Defense moves for a directed verdict.
21 Taking the evidence in the light most favorable to the
22 State, they have failed to present competent evidence to
23 prove every element of the offense charged in the
24 indictments.

25 THE COURT: Very well.

1 Any response from the State?

2 MS. MAYES: Yes, Your Honor. There has been testimony
3 from Van Williams, Stacie Fidler and Jeffrey Davidock that
4 the Defendant made statements of express malice prior to the
5 murder of Jimmy Johnson, that he referenced going to J.J.'s
6 to make a crime scene. That he referenced going to J.J.'s
7 house to shoot him when he came out of his house. That
8 statement being made on November 24th.

9 Both Ms. Fidler and Davidock testified that their
10 rental car was subsequently missing from their home. That
11 their last communication with the Defendant, Mark Scheibler,
12 on November 27th at around 8:37 a.m. in the morning onward
13 was a reference to that rental car, that he was in
14 possession of it and that they did not want to get the
15 rental car back. Referencing, I submit, that the vehicle
16 has been used in some incriminating matter. They did not
17 want the vehicle back. It was not returned to them. It was
18 found abandoned in an area on Kyzer Mill Road where the
19 Defendant's cellphone is, also, hitting a nearby tower
20 beginning at 8:42 a.m. that morning. We know Mr. Johnson
21 was killed at 7:14 a.m.

22 Your Honor, in addition to those statements of express
23 malice to other persons, there is, also, a text message
24 retrieved from the phone of the Defendant himself when he
25 was apprehended on December 2nd of 2021. The text message,

1 also, dated 2021 in which he made reference to a
2 confrontation involving the sock and that it may not have
3 been worth it to him and a reference to him paying that
4 debt.

5 Then in addition, Your Honor, a jail call dated the
6 following date, December 3rd, 2021, in which the Defendant
7 makes an outright admission that he confronted that boy over
8 the sock and that I'm sure for sure unloaded on him and they
9 can give me the death penalty in reference to a murder
10 conviction.

11 As to that text message, Your Honor, dude stole some
12 referenced an item, had sentimental value as to the sock she
13 had on when she died, personal things, pictures of me and
14 her, a few tools. But I give him two days to get right. I
15 must howl like a wolf, but I was serious. So he pay me
16 back. Probably not worth it to him, but hey, you only get
17 so many changes to give back what's not ours. That jail
18 call the following day on December 3rd, also, referenced a
19 sock. And in that jail call, Your Honor, there was a
20 specific reference to this crime. Again, Your Honor, an
21 admission that he unloaded on the victim.

22 THE COURT: Any response?

23 MR. STORY: I just renew my motion.

24 THE COURT: Very well.

25 I find after hearing this trial, hearing all the

1 evidence in this case, there's direct and substantial
2 circumstantial evidence which the jury could find the
3 Defendant guilty. I deny the motions for a directed
4 verdict.

5 What other motions or other record would you like to
6 make at this time?

7 MR. STORY: Your Honor, I would renew all our previous
8 objections, pretrial and during the trial. There were many
9 matters taken up, Your Honor, that the Court denied, my
10 double jeopardy motion, of course, the motion to suppress,
11 any alternative to continue because of the late disclosure
12 of discovery. Your Honor, the denial of the Fourth
13 Amendment motion to keep out the jail call. Your Honor, I
14 would, also, bring up the prejudicial res gestae evidence
15 involving the Richland County incident, the larceny as well
16 as the arson, which the Defendant has been acquitted. Your
17 Honor, the limitations on cross based on the expert's
18 testimony and other limitations that were proffered, Your
19 Honor.

20 The cumulative affect of all these motions or denials
21 of our motions and allowing the State to introduce all this
22 objectionable evidence, we would like to renew those
23 objections and ask the Court to dismiss based on the
24 cumulative effect.

25 THE COURT: All right. The record will reflect those

1 motions are renewed, preserved and my rulings stand.

2 Anything else? I think covers everything.

3 I need to speak with the Defendant regarding his
4 rights.

5 Madam Clerk, please place the Defendant under oath.

6 THE CLERK: Raise your right hand.

7 MARK SCHEIBLER,

8 after being duly sworn, testified as follows:

9 THE DEFENDANT: I do.

10 THE CLERK: Thank you.

11 THE COURT: All right. Mr. Scheibler, at this time,
12 I'm going to explain to you some of your rights. If you do
13 not understand anything I say, please let me know. If you
14 want me to explain anything in more detail, please let me
15 know that as well.

16 Do you understand?

17 THE DEFENDANT: I understand.

18 THE COURT: All right. We've now reached the stage of
19 the trial where you may present your defense. You have the
20 right to claim the protections given to you by the Fifth
21 Amendment of the Constitution of the United States.

22 This amendment states in part, no person shall be compelled
23 in any criminal case to be a witness against himself. This
24 means you cannot be required to testify in this case. You
25 have the right to testify on your own behalf. However, no

1 one can make you testify. This is a personal right, and no
2 one can waive this right except you.

3 You understand that?

4 THE DEFENDANT: I understand.

5 THE COURT: Okay. If you decide to testify, you will
6 be subject to the same rules that govern other witnesses and
7 you may be examined and cross-examined on any relevant issue
8 in this case. In addition, if you have any convictions
9 involving dishonesty or false statement, or for crimes
10 punishable by imprisonment for more than one year, and this
11 Court determines that the probative value of admitting this
12 evidence outweighs its prejudicial effect to you, the
13 solicitor will be able to introduce your record to attack
14 your credibility.

15 If you decide to testify, this decision on your part
16 must be freely, voluntarily, and intelligently made with
17 knowledge of the protections given to you by the Fifth
18 Amendment and the consequences of your decision to testify.

19 If you decide not to testify, I will instruct the
20 jurors that they cannot give the fact that you did not
21 testify any consideration whatsoever and that there is to be
22 absolutely no prejudice to you because you did not testify.
23 It is left entirely up to you whether or not you testify.
24 You may talk with your attorneys, your family or friends, or
25 anyone else, but the final decision will be left entirely up

1 to you.

2 Now, do you understand what I've explained to you, sir?

3 THE DEFENDANT: I do.

4 THE COURT: Okay. And do you have any questions about
5 what I've explained to you? Or further, would you like to
6 discuss it with your attorneys?

7 THE DEFENDANT: I think it's detrimental that I do take
8 the stand to get a chance to say -- maybe I need to talk to
9 my lawyers about it and go over it with them, but I'd like
10 to make sure I have a fair opportunity the questions and not
11 be led.

12 THE COURT: Well, I'll tell you what, why don't you
13 take this time to speak with your attorneys about your
14 rights to testify and your decision whether or not to. And
15 after consulting with your attorneys, you can let me know
16 your decision. Okay?

17 THE DEFENDANT: Thank you, sir.

18 MS. MAYES: Your Honor, do I need to address prior
19 record?

20 THE COURT: Sure. Sure, go ahead.

21 MS. MAYES: The State has filed a notice of impeachment
22 evidence in this case pursuant to 609. Convictions, Your
23 Honor, within the last ten years, possession of
24 methamphetamine, 2016, conviction for failure to stop for a
25 blue light, 2016, conviction for shoplifting, 2015,

1 conviction for shoplifting, 2016, conviction for felony
2 property crime enhanced, 2017, conviction for narcotics
3 possession, 2021, conviction for assault and battery of a
4 high and aggravated nature, 2024.

5 In addition, Your Honor, pursuant to Rule 609(a) and
6 (b), the State did provide written notice of an intent to
7 use convictions within greater than ten years from release
8 of confinement, that including lynching in the second
9 degree, released from confinement in 2012, pointing a
10 firearm, released from confinement, 2012, conviction for
11 assault and battery of a high and aggravated, released from
12 confinement 2012, the conviction for grand larceny of a
13 vehicle, released from confinement, 2012. Being that the
14 offense date of this crime, November of 2021, all within ten
15 years from the Defendant release from confinement.

16 THE COURT: Very well.

17 MS. POPOWSKI: Your Honor, I would object to the
18 conviction for lynching, the conviction for pointing a
19 firearm, the conviction for an ABHAN from 2012 and the
20 conviction for grand larceny. All of those, he was released
21 from confinement in 2012. That was 13 years ago, Your
22 Honor.

23 You know, the standard, if it's over 10 years ago, is
24 that the probative value must substantially outweigh the
25 prejudicial value. And we do not believe that's here. We

1 believe that this is incredibly prejudicial to our client.

2 That standard, actually, applies to 5, 6, and 10 on the
3 -- I have an old version of this. So the conviction for
4 possession of methamphetamine, second offense, within the
5 last ten years, conviction for failure to stop for a blue
6 light on April of 2016, and then the conviction for
7 possession of narcotics in August of 2021, the standard on
8 that is that the probative value must substantially outweigh
9 the prejudicial value. So we would object to those as well.

10 THE COURT: So noted.

11 All right. We'll take a short recess.

12 (WHEREUPON, a short break was taken.)

13 THE COURT: All right. Mr. Scheibler, what are your
14 intentions, sir?

15 THE DEFENDANT: After talking with my attorneys, I'm
16 not taking the stand.

17 THE COURT: Very well. And this is your decision not
18 to testify?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Thank you.

21 Ms. Popowski, do you intend to put up any evidence?

22 MS. POPOWSKI: No, Your Honor.

23 THE COURT: At this point, I don't think you've put in
24 any exhibits in?

25 MS. POPOWSKI: No, Your Honor.

1 THE COURT: All right.

2 MS. MAYES: Your Honor, we would ask that the Defense
3 rest in front of the jury.

4 THE COURT: Of course.

5 Y'all come up here a minute.

6 (WHEREUPON, a bench conference was held.)

7 THE COURT: Let's bring the jury back in.

8 (WHEREUPON, the jury enters the courtroom at 11:38
9 a.m.)

10 THE COURT: Please be seated. All right, ladies and
11 gentlemen, our last break, the State had rested their case.
12 Now, we'll have the opportunity to hear from the Defense.

13 Ms. Popowski.

14 MS. POPOWSKI: Your Honor, at this time, the Defense
15 rest.

16 THE COURT: Ladies and gentlemen, the Defense has
17 rested their case. I have to take matters up again with the
18 attorneys, but at this time, we'll go ahead and break for
19 lunch for y'all. So I'm going to ask you to be back in your
20 jury room at 12:55. That's an hour and 15 minutes.

21 Please don't discuss the case while you're out at
22 lunch. Don't do any independent research about anything
23 you've heard in this trial. We'll see you back here at
24 12:55. Thank you.

25 (WHEREUPON, the jury exits the courtroom at 11:39 a.m.)

1 THE COURT: Okay. Since you have rested, you renew
2 everything again?

3 MR. STORY: Yes, Your Honor, we would like to renew all
4 our previous motions. Again, cumulative effect has denied
5 our client the right to a fair trial as well as substantive
6 due process.

7 THE COURT: The record reflects you have renewed all
8 your previous motions and objections. My ruling stands.

9 We'll be in recess until one o'clock when we'll begin
10 closing arguments.

11 MS. MAYES: Thank you, Your Honor.

12 MS. POPOWSKI: Thank you, Your Honor.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: All right. During the lunch hour, I did
15 make the additions to the jury charge that we discussed on
16 the record.

17 Counsel, I've got -- you should have -- I sent you
18 copies of the proposed verdict form.

19 Anything else for the record before we bring in the
20 jury?

21 MS. MAYES: One matter, Your Honor.

22 THE COURT: Okay.

23 MS. MAYES: We discussed previously off the record
24 about how to address the reference to the death penalty. I
25 do intend to remind the jury that this is not a death

1 penalty case. But, perhaps, we could reach an agreement
2 that there is an instruction by the Court that although
3 sentencing is entirely a matter for the Court, I advise or
4 instruct you this is not a death penalty.

5 MS. POPOWSKI: And just like I said in our previous
6 discussion, I have no problem with that. I would object to
7 any discussion about potential penalty.

8 THE COURT: So you're proposing that I read something
9 to the jury?

10 (WHEREUPON, an off-the-record discussion ensued.)

11 THE COURT: All right. As I say before closing
12 arguments, obviously, counsel, while making closing
13 arguments will keep their arguments strictly within the
14 record and may only argue inferences fairly deducible from
15 the evidence presented in the case. As discussed already,
16 the State will open and close in full, the Defense would
17 have the last word.

18 Anything else before the jury comes in?

19 MS. MAYES: We just need a couple of moments, Your
20 Honor, to set things up.

21 THE COURT: Okay.

22 (Pause.)

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

24 (WHEREUPON, the jury enters the courtroom at 1:28 p.m.)

25 THE COURT: Ladies and gentlemen, it is now time for

1 the attorneys to make their closing arguments. The
2 arguments are not evidence in this case. Their statements
3 and arguments are meant to help you understand the evidence
4 and apply the law to the evidence. You should disregard any
5 remark, statement, or argument which is not supported by the
6 evidence presented during the trial or the law that I will
7 explain to you after the arguments.

8 At this time, please give your complete and undivided
9 attention to the attorneys as they present closing
10 arguments.

11 MS. MAYES: Your Honor, may it please the Court?

12 THE COURT: Yes, ma'am.

13 CLOSING ARGUMENT BY THE STATE

14 MS. MAYES: It's been a long road to justice since
15 Jimmy Johnson, J.J., was murdered on the front porch of his
16 own home. And yet, justice is not measured by time. In
17 here, time always reveals the truth. Time reveals the
18 truth. No matter what means he took to conceal evidence, to
19 flee that crime scene, to destroy the evidence on his phone,
20 despite all of that, time revealed the truth. And it's the
21 evidence in this case that lights the path. And the
22 evidence is undeniable.

23 Now, Your Honor will charge you in just a little while
24 about the two different types of evidence that are
25 recognized under South Carolina law. One, direct evidence.

1 Second, circumstantial evidence. And when we talk about
2 those two things, direct evidence and circumstantial
3 evidence, both have equal value under the law. And Your
4 Honor will charge you on that momentarily.

5 So what is direct evidence? Direct evidence is
6 something that someone sees or hears in person.
7 In this case, multiple people heard this man say exactly
8 what he was going to do to J.J. out of anger. Not only did
9 they witness his anger, they heard directly from his mouth
10 that direct evidence.

11 Secondly, when we talk about direct evidence, it's not
12 just other people who heard him say it. You've heard direct
13 evidence from his own mouth and from his own written hand in
14 the text message that he sent, in that jail call, where he
15 still, days later, days after he murdered J.J., he is still
16 consumed by malice.

17 Malice. Let's talk about malice. Under South Carolina
18 law, these charges, murder, possession of a weapon during a
19 violent crime, murder requires proof of malice. What is
20 malice? Under South Carolina law, malice is the hatred, ill
21 will, or hostility towards another person.

22 Technology, you gotta love it. So here we are, looking
23 at murder. Under South Carolina law, murder is the killing
24 of another person with malice aforethought. And malice
25 aforethought is just a fancy word for anger, hatred, ill

1 will, and hostility. So when you kill another person, when
2 you take a life because you're acting out of anger, that is
3 malice aforethought.

4 Aforethought. So when we talk about aforethought, it
5 sort of means premeditation, but under South Carolina law,
6 it's different. It doesn't require some advanced planning
7 or premeditation that goes on for hours or days or weeks or
8 anything. Under South Carolina law, malice aforethought
9 means that malice is present in the mind and in the heart at
10 the moment the trigger is pulled.

11 Now, we know in this case there is overwhelming
12 evidence that that man had malice long before he got to
13 Jimmy's house that morning and pulled that trigger. He had
14 malice going back days earlier, back to when he told Van
15 Williams he was going to make a crime scene. He told Van
16 Williams on November 24th that he was going to make a crime
17 scene. That's when he had come back from Three Fountains
18 after J.J. gave him that ride, and came to the conclusion
19 that his stuff was stolen, so Jimmy must have done it.
20 December 1st is the date that Van Williams gave that
21 statement.

22 And I'll talk later about why that is so important that
23 it's December 1st that Van Williams revealed that to law
24 enforcement. Because you know what, that's long before the
25 Defendant himself even sends that message to Herbert Crocker

1 confirming the same motive and the same anger, and before he
2 is ever detained over there on the Thrush Street in Richland
3 County. And it's before he makes that jail call where he
4 confirms all the same information that he's still mad about
5 the stuff that belonged to his former girlfriend, Ashton, he
6 thinks was stolen out of that U-Haul.

7 So let's go back to that first night, November 24th,
8 about three days before the murder. November 24th, that is
9 the day that this man, Mark Scheibler, first appeared
10 outside the residence of J.J. You heard Dee Dee's
11 testimony. Dee Dee was out there when Mark, who she
12 identified in court, approached J.J. and said he needed a
13 ride to Three Fountains. J.J. agreed to give him a ride.
14 He didn't know what he was dealing with. He had no idea
15 what he was getting into.

16 And that U-Haul that Mark Scheibler brought over there,
17 he was bringing it to Mark's friend, Snoop's house. How
18 many times have we heard in this trial about Snoop, Snoop,
19 Snoop? We keep hearing about Snoop. Snoop is Mark
20 Scheibler's friend, and he brought the U-Haul over to
21 Snoop's house. And then at some point, items are stolen out
22 of that U-Haul.

23 And Dee Dee testified about that, that she could hear
24 the U-Haul opening and closing when she was doing laundry,
25 and Jimmy was in the camper, her camper, that it was Snoop's

1 voice over there by the U-Haul. And who really knows what
2 went on with those stolen items in the U-Haul? Who knows?
3 But what we do know is this man didn't call law enforcement
4 to investigate it or report those items stolen. He came to
5 the conclusion that it must have been J.J., and he wouldn't
6 let it go.

7 And so that same night, on the 24th, and you saw the
8 phone mapping, the Verizon phone location data, which showed
9 that on the night of November 24th, the Defendant is moving
10 around, but he's in that area where he's going to go to
11 Three Fountains and come back later that night, around 10
12 o'clock or so. That's when he has that conversation with
13 Van. Van would have been 16 or 17 years old that night.
14 And he's approached by an irate, angry adult who can't let
15 this go. And Van talked about how disturbing it was to see
16 someone in that situation who's angry, who's venting, and
17 tells him he's going to come back and make a crime scene.

18 Van told you that he wished he could have stayed out of
19 all of it. He would have rather not had to talk with the
20 police at all. He testified from that stand, but I did. I
21 didn't want to. I wish I didn't have to. I wish I could
22 have stayed out of all this. I had to tell what I knew. I
23 told the truth then and I'm telling the truth now. That's
24 what that man said and he was angry over the belief that
25 J.J. took his girlfriend's belongings.

1 Well, how is it, how can it be that Van knows that
2 other than it came from his mouth? Because it's the exact
3 same thing that man puts in his written words to Herbert
4 Crocker, his friend, and later, in that jail call? How is
5 it that Van knows that on December 1st before he's ever even
6 arrested in this case. How does Van know that? There's
7 only one way. He heard it straight from his mouth like he
8 told you.

9 Going to make a crime scene. As I said, when we talk
10 about malice aforethought, we're not required, the State is
11 not required to prove that he planned this since November
12 24th. Or even while he's driving to Jimmy's house. Only
13 that malice exists just before that trigger is pulled. We
14 know based on the facts of this case, he's been angry since
15 the night of November 24th. I think I misspoke earlier when
16 I said the 20th. It's the 24th.

17 Now, the 24th is when he's going to make his way over
18 to that apartment complex in Harbison where he's going to
19 say all the same stuff to Jeffrey Davidock and Stacie
20 Fidler, except now, he's got a plan and he knows how he's
21 going to carry it out.

22 When we talk about malice, there is overwhelming
23 evidence of malice simply by the fact that when he made his
24 way to Jimmy's house to carry out this murder on the morning
25 of November 27th, just around sunrise, the first thing he

1 does when he gets there is he slashes the tires. Why does
2 he slash those tires? It's the only car there. Why does he
3 slash the tires? So J.J. can't get away. He cut the back
4 tire, he cut the front tire. He knew what he was going to
5 do. He was acting with anger and acting with malice.

6 You heard this morning from Investigator Tom Smith
7 about the scene itself. You heard from Dr. Richards about
8 the rodding that she conducted. You've seen multiple photos
9 from the crime scene, but nothing I submit more compelling
10 than this, these photos from that grill. That is a downward
11 angle and there's no denying it. That downward angle is
12 occurring because he's off the porch and he has J.J.
13 trapped. J.J.'s unarmed, trapped on a porch. He can't get
14 away, he can't escape. He's standing over that railing,
15 firing down.

16 And why is he firing down? Because J.J.'s already
17 down. Blood that pooled over there by the front door of
18 J.J.'s camper confirmed that he was down when those shots
19 were fired. As Investigator Tom Smith explained that, at
20 least, two of those shots only happened and only makes sense
21 in terms of trajectory if J.J. is already down. You know
22 that, but looking at those shots gave you evidence that
23 lights the path. The evidence leads the way.
24 That is malice. Not only did he shoot this man in his back,
25 he shot him when he was down.

1 What does he do next? Well, we know he flees out of
2 that crime scene rapidly. He's gone so quick that Dee Dee,
3 who has made it there from the time J.J. walked out, because
4 of smoke, from the time J.J. leaves that camper and makes it
5 outside, within two minutes, she's out there and the car's
6 already gone, and J.J.'s already down. He was lying in wait
7 for J.J. at sunrise.

8 What's he doing? So we know that phone was off. It's
9 working fine all the way up until he takes that car from
10 Davidock and Fidler. And on that Friday evening around the
11 time he takes that car, the phone goes off. Can't be
12 traced. He knows that. He knows that phone can't be
13 traced. Why does he cut it off? Because he knows what he's
14 going to do. It's premeditation.

15 By 8:42, he's made his way, heading out of Lexington
16 County. Now, he's headed towards Aiken County. He's left
17 the crime scene. He's looking for a place to dump that car,
18 a place where it can't be found, and it can be hidden.
19 Perfect spot was found. Because you heard from Mr. Miller
20 about the property out there they call the Gantt family
21 property. He said it is thick with pines. There's nothing
22 there. And that car was hidden so deep in those pines, the
23 only way it was found was by the family themselves just
24 scoping their property. And there hidden among the pines
25 and bunch of pine straw was that rental car, the rental car

1 that he took from Fidler and Davidock. That car, he knew he
2 had to hide it. And he did. He hid it well. It took a
3 long time to find it. It took a long time to trace it.

4 But his phone is going to come back on. We know that
5 911 call is made at 7:14 a.m. His phone is going to come
6 back on at 8:37 and that very first call is going to be to
7 Jeffrey Davidock, you don't want this car back, you don't
8 want this car back. He's, also, going to tell Jeffrey
9 Davidock something else, if you were smart, you'd stop
10 calling my family. He knew full well that he could
11 manipulate and control Davidock and Fidler to keep quiet,
12 that's what he wanted to do, and making threats to them. If
13 you're smart, stop calling my family. You don't want this
14 car back. He knew exactly what he was doing when he took
15 that car from them as opposed to taking a car from somebody
16 close to him that could be traced, or a car from a family
17 member. He found the perfect people to manipulate and to
18 control in this case.

19 By 8:42, he's over there at the Kyzer Mill Road cell
20 tower. Kyzer Mill Road cell tower. You heard about that
21 area of Lexington County from Sergeant Hart. Not heavily
22 populated. It's extremely rural. Basically, out in the
23 midst of almost nowhere. Again, just across the county
24 line. Perfect place to hide a car if you want to hide a
25 car. And he's out there from 8:42 a.m. to 9:39 a.m. doing

1 what in the middle of nowhere? Hiding that car in the
2 middle of nowhere. Of all places, Kyzer Mill Road. One of
3 the most rural places out there between Lexington County and
4 Aiken County. The one place he is at immediately after the
5 murder, lo and Behold, the place where that rental car that
6 belonged to Fidler and Davidock is found. A small, white
7 car that you heard about, who saw it leave. 9:39 a.m. is
8 the last time that his phone hits that tower at Kyzer Mill,
9 but he's out there almost an hour, about 57 minutes.

10 What's the next thing he does? 9:39 a.m., now, he's
11 hidden the car, it's in the middle of nowhere. And you know
12 from the text messages that you saw, he's got people around
13 him that he can call for a lift to assist him. He's had
14 people helping him all the way to where he ends up on Thrush
15 Street on December 2nd. You know that from the text
16 messages that you saw.

17 What's the next thing he does with that phone after he
18 finally hides that car and is ready to get out of there at
19 9:39? Well, factory reset the phone. There you go. I had
20 it off during the murder. Nobody could trace me to prove I
21 was ever at Mack Circle committing that murder. Cut it back
22 on because I had to call some people. I had to call
23 Davidock and Fidler and tell them to shut the hell up. And
24 if they're smart, they'd stop calling family and they'd stay
25 quiet because they don't want that car back.

1 Calling family. You can see in the phone records, he
2 makes calls that very day, November 27th, to that niece you
3 heard about, Abby. She's married to his nephew, Justin.
4 Same one he was texting for a lift and for assistance on
5 December 2nd.

6 So I don't get another chance to get back up here, but
7 when the Defense speaks after me, please do not let them
8 confuse the issue about, well, we don't even know who's got
9 that phone. We don't even know who's using that phone.
10 Yes, you do. You know it from the phone records because the
11 last communication he had on Friday before he cuts that
12 phone off is to his niece, Abby. There's no random person
13 using that phone. It's Mark Scheibler communicating with
14 the same people he's always communicating with, with the
15 same person that he's communicating with on December 2nd
16 when he walks out with that phone in his hand that you heard
17 from those officers. That's how you know he has the phone
18 in his hand. So don't let them confuse that issue. The
19 phone tells us who's got possession of that phone and who's
20 using it and who's talking to his closest acquaintances.

21 So he's going to factory reset that phone at 9:45 a.m.
22 just minutes after the car is hidden. Why factory reset a
23 phone? Because it wipes everything. Everything. It's as
24 if the phone had never been used. It's not deleted and law
25 enforcement can still use special software and get in there

1 and recover it. It's gone forever. Gone for good. Texts,
2 call logs, photos, all of it. Gone. Location data. Gone.
3 Wiped from that phone.

4 So six minutes after you saw him hitting that Kyzer
5 Mill tower, that phone is factory reset. Two and a half
6 hours after the murder. What are the odds? Overwhelming
7 evidence. I spoke about circumstantial evidence as well as
8 direct evidence. This is circumstantial evidence. Hitting
9 the cell tower where the suspect's vehicle was dumped.
10 Hitting that cell tower six minutes before you factory reset
11 your phone and wipe all your data and conceal all evidence.
12 Circumstantial evidence. But what it really shows is
13 consciousness of guilt. He knows he's got to get rid of
14 whatever is on that phone.

15 So you only have the information on that phone that was
16 available from December 2nd. Because he factory reset it on
17 the 27th, twice, two and a half hours after the murder, and
18 then he does it again later that night at 9:39. December
19 1st, completely factory resets the phone again, one more
20 time that night before he finally gets detained by law
21 enforcement. So because of that, you only have text
22 messages on that phone from that one day, December 2nd.

23 But even then, you still have the overwhelming proof of
24 that text message to his friend, Herbert Crocker, where he's
25 still talking about that dude stealing stuff that belonged

1 to Ashton, and he must have howled like a wolf, but I was
2 serious, and you only get so many chances.

3 Those call logs with Jeffrey Davidock, the very first
4 call that Mark Scheibler makes after the murder, the very
5 first call is to Davidock to tell him, you don't want this
6 car back. And from there, you saw so many calls, so many
7 texts over and over. They don't know yet what's going on,
8 but they know they need that car back and he won't give it
9 back till it clicks, you don't want this car back and the
10 threats he had made about J.J.

11 And you see Fidler, same thing. Every call she makes
12 before it's the voicemail, sends her two texts. Just like
13 he told Jeffrey Davidock in his own words, you don't want
14 this car back and if you're smart, you'd stop calling my
15 family, he tells Stacie, you don't want this car back.

16 So what he told both Davidock and Stacy is evidence of
17 malice. Go to his house and shoot him when he comes out.
18 They, also, knew that the reason he was angry was because he
19 believed that J.J. had something of Ashton's. They talked
20 about how angry and agitated and almost paranoid he was when
21 he wouldn't let that go. But that plan, going to go to his
22 house and shoot him when he comes out, that's exactly what
23 he did. So he wasn't just boastful and bragging, trying to
24 act tough about what he might do. He already has it in his
25 mind what he's going to do. And yet, they have the means

1 because they have a car. And now he knows how to carry it
2 out without it being linked back directly to him. Same
3 thing with Stacie, I'm going to go to his house, shoot him
4 when he comes out.

5 You know, you heard the Defense cross-examining both
6 Mr. Davidock and Stacie Fidler about all these things, but
7 that don't change the truth. It don't change the truth.
8 Asking Stacie Fidler, well, when you called the police and
9 you told them about your car being stolen, you didn't tell
10 them it was Mark Scheibler that took them. Of course not.
11 Of course, she didn't tell the police it was Mark Scheibler.
12 She had just heard this man sit in her house and say he was
13 going to wait for somebody to come out and shoot him when he
14 came out. And that's what he did. Someone that you heard
15 spoke in a way that scared her.

16 Who out there amongst us would call the police and say,
17 I'm going to tell you who did this murder. And it's okay if
18 my name's on that police report. And it's okay if my name's
19 on that police report about him taking my car to commit that
20 murder. No, she's not going to put her name on a police
21 report after the threats he made and the threats he carried
22 out. She doesn't know if she's next. And that is
23 absolutely reasonable for anybody out there. But there is a
24 way that people can make a report and it not be traced. And
25 that's Crime Stoppers. So what she couldn't say to the

1 police with her name on the report, she can say on a Crime
2 Stoppers report that is anonymous and that's what she did.

3 So no matter what they say about Stacie Fidler, she
4 should have come forward. She should have had her name all
5 over the place. She should have let Mark Scheibler know
6 that she's the one talking, and, well, whatever might happen
7 to Stacie Fidler, I guess that's on her. No. No. She
8 shouldn't. She shouldn't. I submit to you she should have
9 done exactly what she did because that was smart.

10 Mr. Davidock, former Marine, who told you
11 straightforwardly, didn't hesitate a bit, I've got substance
12 abuse issues, I sure have. Yes, he's had alcohol issues,
13 drug issues, whatever you want to call it. You know what
14 that makes him for a man like Mark Scheibler? That makes
15 him simple and easy to manipulate. It doesn't change the
16 truth, not in any way.

17 The truth can easily be seen in the phone records
18 themselves. You can look at those phone records and see
19 what's going on when Davidock and Fidler needed that car
20 back and he won't give it back. So the fact that that man
21 has had issues in his past doesn't change the truth. It
22 just meant Mark Scheibler thought he had the perfect guy to
23 take advantage of. I'll take this car, do whatever I want
24 with it, commit this murder with it. It can't be linked
25 back to me. And I'm, also, going to threaten him that if

1 he's smart, he'll keep his mouth shut and he won't say a
2 word. Plus, he works for me and he needs a job, so he'll
3 keep his mouth shut.

4 Well, it almost worked. So when we talk about that
5 timeline, November 24th is when Davidock and Fidler hear him
6 already expressing malice and what he wants to do, he's
7 going to go to J.J.'s house and shoot him when he comes out.
8 And they can't seem to talk him out of it just like Van
9 couldn't. Van was 16 and 17, tried his best, but he doesn't
10 know what to do with an adult who's standing on his deck
11 raising hell about something. He said it was a very fixed
12 thought in his mind and he wouldn't let it go.

13 November 27th, he takes that car from over there on
14 Harbison. You saw the phone records, also, putting him on
15 the night of the 24th at that cell tower at 405 Harbison
16 exactly where Fidler and Davidock said he was when he was
17 staying with them. Again, those cell phone records don't
18 lie.

19 Murder happens on the 27th, December 1st, Van Williams
20 tells the police what he heard about that crime scene. He
21 was going to make a crime scene and he's mad about Ashton's
22 belongings. Same thing, Davidock and Fidler hear him say.
23 Those statements made well before the Defendant says all the
24 same things on December 2nd in that text to Crocker and
25 December 3rd on that jail call.

1 So let's talk about that text to Herbert Crocker. Who
2 is Herbert Crocker? Herbert Crocker is the man you saw get
3 on the stand and say he's a friend of the Defendant, close
4 friend of the Defendant, and they work together and all
5 this. And when he got the text message, he didn't even know
6 what it was about or what it meant. Do you know why?
7 Because on December 2nd, or days after the murder, he still
8 can't stop his anger and uncontrolled malice over the man
9 he's already killed. He's already killed J.J., and he still
10 can't stop being angry about it and talking about it.

11 So he sends this text message to Herbert Crocker. Yo,
12 man, holler at me. I ain't crazy or nothing. Dude stole
13 some, had sentimental value. Ashton's sock she had on when
14 she died and some personal things, pictures of me and her
15 and a few tools.

16 And then he talks about that deadline that he gave.
17 That same deadline you're going to hear him talking about in
18 the jail call. It's always some kind of deadline that he
19 gave him and he didn't get his stuff back, so he did what he
20 had to. I give him two days to get right.

21 I must have howled like a wolf, but I was serious. So he
22 paid me back. Probably not worth it. Probably wasn't worth
23 it to him. J.J. paid him back with his life. But hey, we
24 only get so many chances to give back what's not ours.

25 The irony here, he wants to talk about somebody robbed

1 him. And there's still no evidence whatsoever that J.J.
2 took those items out of the U-Haul as opposed to Snoop or
3 whoever else might have had access to that. He wants to
4 talk about somebody robbed him, took something from him. He
5 took J.J.'s life. He robbed him of his life. Robbed him of
6 his future. He's the one that has stolen everything from
7 everybody.

8 Malice. That's what this case comes down to. That's
9 what murder is under the law. The killing of another person
10 with malice, that hatred, the hostility. He made express
11 statements of malice, as we said, to Van, to Davidock and
12 Stacie. Cut those tires so he can't get away. Undeniable
13 malice.

14 He took that rental car not connected to him or his
15 family and he left it where he thought it would never be
16 found in the middle of the woods. And when they made all
17 those calls about wants that car back, he says, you don't
18 want the car back. If you're smart, stop calling my family.
19 Malice. Cutting off that phone because you already know
20 you're going to kill him.

21 It worked on the phone because we know that phone can't
22 be traced. The location data on that phone can't be traced
23 at the time of the murder. It would be wiped and he had it
24 off. The Defendant's phone factory reset. Malice, even
25 after the murder where he's still talking and discussing it,

1 I submit, just like that text to Herbert Crocker, except
2 this time, all evidence is wiped, before, during and after
3 the murder.

4 We know Jeffrey Davidock saw him with a firearm that he
5 believed consistent with a nine millimeter. And then we
6 know that firearm is going to disappear and never be found.

7 On the day that he gets detained over there on Thrush
8 Street, that's another witness to his friend, Casey
9 Jeffords, her house. Remember that text message, hey, you
10 home at three o'clock? And she's like, No, hadn't made it
11 back over there yet. And then he just shows up at her
12 house, and he's the only one there when the police arrives.

13 You've got to love that little insinuation that was
14 thrown in there. Oh, maybe, maybe the window is broken and
15 some stranger came in and just happened to leave that
16 backpack on Casey Jeffords' living room couch, the same
17 backpack that has the nine millimeter ammo, just like the
18 ammo used in this crime. Maybe some mystery man came in
19 through that window. Oh, maybe it was Snoop. Maybe Snoop
20 came and left that backpack on the couch. Because, you know
21 what, as she said, I guess Snoop has been in my house. Come
22 on. As soon as she was reminded that she's under oath, she
23 backed off all of that. Never mind. Never mind.

24 You know what? Mark's my friend, but that morning,
25 nobody was at my house, but me, and that ain't my backpack.

1 I didn't put it on the couch and that ain't my ammo. By the
2 time I got back, the police were there. The only one in my
3 house was Mark.

4 He leaves that scene and from there, it's all about
5 destroying the evidence. First, he hides the car, somewhere
6 he gets rid of that weapon. Who knows where? Probably will
7 never be found. Might be in the bottom of the Congaree
8 River, who knows? Might be in some creek somewhere over in
9 Wagener, who knows? But we do know after he hid that car in
10 the woods, he's got people helping him go to and fro. We
11 know that because of the phone records and he's immediately
12 calling his family member, Abby, that same day. We know the
13 phone is in his hand and he's getting assistance. He gets
14 assistance over there at Thrush Street.

15 Then he sends that text to Crocker, then you've got the
16 jail call where it lays it all out. And you can hear the
17 utter malice still in his voice when he talks about what he
18 did. He doesn't have regard at all for the law, for the
19 fact that he's taken a life. I don't give an F, he says.
20 They can give me the death penalty. I don't give an F. Do
21 what you got to do. I unloaded on him. Told him to give me
22 that sock back. He wouldn't give me that sock back and I
23 unloaded on the mo fo, his words. Still malice days later.

24 You get to go in the jury room and hear that call as
25 many times as you want to. But I submit to you that when

1 you hear that jail call, all this other evidence, yes, it's
2 important and it corroborates his own words, but he tells
3 you exactly what he did and why he did it. The motive, the
4 malice, and the means all in that jail call. If he would
5 have given me that sock back, but he didn't, and he got his
6 ass effed up. The malice in his words and in his voice and
7 the means, I unloaded on him.

8 We're going to listen momentarily to that jail call.
9 When we talk about the words set forth, there's no other
10 explanation for what he's talking about here. And the same
11 thing, Davidock, Fidler and Van Williams all told you what
12 he's talking about. Ashton's stuff, Ashton's sock, same
13 sock that he's talking about the day before that text
14 message to Crocker. That boy, he's still got that sock. He
15 didn't give me that sock back, so he got his ass effed up.
16 I mean, they can give me the death penalty, I don't give an
17 F. I submit to you, those are his words and he don't care
18 about what happened. It was all worth it to him.

19 This is not a death penalty case, and Your Honor will
20 charge you, momentarily. In his mind, he didn't care if it
21 was. It was still worth it to him. But it's not. But that
22 is ultimate proof of malice, that he doesn't care either
23 way. He says I'm going to die anyway. Don't make any
24 difference if it's tomorrow, three months from now, or years
25 from now. But he stole something, and I told him he's got

1 four hours to give it back. And he didn't want to give it
2 back, sure I'm sure unloaded on him.

3 Text message, the day he's detained, December 2nd on
4 Thrush Street, to his niece, Abby. I'm still hanging in
5 there, buying as much time as possible. Thank you for
6 everything. You still going to give me a lift? Who do you
7 think got him out of the woods? Well, here's my chance.
8 I'm leaving now, headed to Myrtle Beach. Y'all delete this.
9 Thanks.

10 And then finally, when he's apprehended, there's no
11 other option now. As you heard from Abraham, Short and the
12 other officers there. It's apparent now he's going to be
13 detained. Phone killed me. They got me. Phone killed me.
14 He knows he had that phone on and was using it December 2nd
15 and that's how they found him. That's how you know that he
16 cut that phone off the night, the early morning hours of
17 that murder. He cut that phone off.

18 Just like right here, he knew that phone could be
19 traced. He already knew what he was going to do to J.J. He
20 knew he had to have that phone off, the phone that was
21 working every single day that he had it before he goes to
22 J.J.'s and immediately after he abandons the car, the
23 phone's working fine. But it wasn't working and he had it
24 cut off when he killed J.J.

25 (WHEREUPON, jail call was played in open court.)

1 MS. MAYES: So I'm going to sit down shortly. I have
2 no idea what the Defense may say to you, but all of this
3 about where is Snoop, where is this neighbor, where is that
4 neighbor, where is the people that heard gunshots, where is
5 this, where is that, what you've heard in this case is the
6 direct evidence from his own mouth. It's the unfettered
7 truth because he's talking to his niece and he's still mad.
8 He's going to lay it out to her exactly like it happened.
9 It's going to lay it out for her without his guard up
10 exactly as it happened. And he lays it out for her exactly
11 how it was. He killed J.J. J.J. had Ashton's sock. He
12 gave him a deadline and didn't get his stuff back and he
13 sure for sure unload on him. It's that simple. It's that
14 simple.

15 So all this about where's this, where's that, where's
16 that the DNA, where's the fingerprints, who cares? Because
17 his words tell you what happened. His words corroborate all
18 of the other evidence you heard in this case, which is far
19 greater than fingerprints or somebody's DNA on a fired
20 bullet or any of it. Because his words tell you his
21 thought, his intent, his motive. His words right there in
22 that call corroborate every other witness that you've
23 already heard about, Van, Davidock, Fidler. It corroborates
24 the very text message he sent the day before to Herbert
25 Crocker. That is undeniable evidence, undeniable direct

1 evidence in this case.

2 On November 27th, J.J. was exactly where he should have
3 been. He was with Dee Dee. The sun is rising in the sky at
4 7:09. He had no way of knowing that somebody out there was
5 lying in wait. Waiting on him to come outside so he could
6 shoot him. He had no way of knowing that man had already
7 cut the tires on that car. He had no way of knowing that he
8 was going to get shot in the back. He had no way of knowing
9 that when fell on the porch of his own home, he would be
10 shot when he was down.

11 He should have been living his life to the fullest. He
12 should be here now. As I said, the real thief in this case
13 is that man. He robbed J.J. of his life and his future. A
14 crime of this nature cannot be tolerated in any civil
15 society, cannot be tolerated in any community, and cannot be
16 tolerated in Lexington County. You have been afforded the
17 most noble of opportunities, the chance to strike back
18 against injustice and deliver a verdict that speaks the
19 truth. That is the verdict of guilty, guilty of possession
20 of that weapon during the commission of a violent crime.
21 Thank you.

22 MS. POPOWSKI: Your Honor, may we approach?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference was held in the presence
25 of the jury, but outside the hearing of the jury.)

1 THE COURT: Ladies and gentlemen, let's take a very
2 short break. Refresh yourself in the jury room. We'll get
3 you back in there. Please do not discuss the case while
4 you're in the jury room. Thank you.

5 (WHEREUPON, the jury exits the courtroom at 2:20 p.m.)

6 (WHEREUPON, a short break was taken.)

7 THE COURT: All right. Bring the jury in.

8 (WHEREUPON, the jury enters the courtroom at 2:30 p.m.)

9 THE COURT: Please be seated. Thank you.

10 Ladies and gentlemen, we've heard closing arguments
11 from the State. We will now have the opportunity to hear
12 from the Defense.

13 MS. POPOWSKI: Thank you, Your Honor.

14 CLOSING ARGUMENT BY THE DEFENSE

15 MS. POPOWSKI: On the morning of November 27th of 2021,
16 Jimmy Johnson was shot and killed on his property at 333
17 Mack Circle. That's a fact. We know that happened, and
18 it's a tragedy.

19 But here's what else we know. No one saw what
20 happened. No one saw who shot J.J. No one saw my client,
21 Mark Scheibler, at the scene. No one saw my client, Mark
22 Scheibler, leaving the scene. There's no cellphone evidence
23 putting my client at that scene at that time. There's no
24 fingerprints and there's no DNA and there's no murder
25 weapon. And despite what the prosecutor told you, that does

1 matter. She said, who cares? You should.

2 The State has the burden of proof. They have to prove
3 their case beyond a reasonable doubt. She told you that
4 it's a long road to justice. And I would agree. It's been
5 a long road for Mark. He was arrested for this crime in
6 December of 2021 and here we are in June of 2025.

7 So just like Mr. Mangold told you in his opening
8 statement, this is based on actual events. However, the
9 producers and the directors and the writers and editors have
10 curated the evidence in this case to fit their narrative
11 that my client shot J.J., but they haven't proved that
12 beyond a reasonable doubt. They want you to believe that my
13 client shot and killed somebody over some clothing. Does
14 that make sense?

15 Now, the government has enormous amounts of power and
16 resources and a lot of that power and resources has been on
17 display today -- or this week, I apologize. You've seen
18 witness after witness come in. You've seen a lot of
19 technology. You've seen an extensive investigation. And
20 with this power comes tremendous responsibility. They're
21 supposed to seek justice. They're supposed to show you the
22 good and the bad and the ugly.

23 And when I'm done talking to you all here today, I want
24 you to ask yourself, did you get to see and hear everything
25 in this case that you should have? Did you get to see and

1 hear all the evidence? Or do you think that you saw and
2 heard what they wanted you to see and hear. Because they
3 have the burden of proof. It's not me, it's not Mr. Story,
4 it's not Mr. Mangold, and it, certainly, is not my client,
5 Mark Scheibler. We don't have to prove this case.

6 Despite that, ladies and gentlemen, my client did his
7 best to cooperate with police in November of 2021. You saw
8 testimony that he consented to a search of his phone, and
9 that he gave a lengthy interview that was videotaped, that
10 you didn't see. I'd like you to ask yourself, would you
11 have liked to have seen that video? Do you think that would
12 have helped you make your decision? They kept you here all
13 week showing you exhibit after exhibit, witness after
14 witness, but they didn't show you a lengthy interview with
15 the Defendant, with my client, Mark Scheibler? I want you
16 to ask yourself why that is. I want you to ask yourself,
17 could that be because it didn't fit the narrative, the
18 State's narrative?

19 In their opening statement, the prosecution made some
20 significant promises that they would prove. They would
21 prove that J.J. was ambushed. They would prove that my
22 client shot J.J. They would prove that my client was there.
23 But they failed at that. They've made a lot of conclusory
24 statements, and they stuck to a tight narrative, again,
25 based on actual events. They didn't prove what happened on

1 November 27th of 2021. And they definitely didn't prove
2 that my client shot J.J. They can't even prove that he was
3 there. Witness after witness after witness, 27 witnesses,
4 and the State had them all on a tight leash. I know you all
5 saw that. Leading each witness through their testimony,
6 having them read off of exhibits, keeping them on message,
7 keeping them in line with the narrative.

8 However, there were three witnesses, that were there in
9 2021 that were not here, Sherry Louise Bowers, Joanne
10 Grossman, and Mindy Hess. I know you all remember me
11 harping on Mindy Hess. That's because all three of those
12 women gave descriptions of what they saw at the scene, but
13 none of them were here. Ask yourself why. Is it because
14 they didn't fit with the State's narrative?

15 Instead, the whole first day of testimony, was people
16 that didn't see anything and testified to that. Jason
17 Cooper, Dee Dee, Angela Jeffcoat, and Brian Holliman. None
18 of them saw what happened. Brian Holliman testified that he
19 was at Mindy Hess's house when he heard the gunshots, and
20 that Mindy called 911 twice, that Mindy talked to officers,
21 that she gave a description of what she saw following the
22 gunfire, yet, she wasn't here.

23 She was on scene when the first officer arrived. He
24 testified to that. But they didn't have her come talk to
25 you. She lives right across the street, but they didn't

1 have her come talk to you. She gave oral and written
2 statements, but she wasn't here. Ask yourself why. Ask
3 yourself, is it possible she didn't fit in with the State's
4 narrative.

5 They brought Van Williams in here even though he wasn't
6 on scene that day. Because his testimony set up the
7 background of the State's narrative, that my client was
8 angry about some stolen clothing. And he testified that my
9 client made a comment about making a crime scene. And then
10 I got up here on cross-examination and I asked him and he
11 offered it up, he said, Yeah, that's because law enforcement
12 threatened me and my family. That's straight out of his
13 mouth, folks. The detective in this case who you did not
14 hear from this week told him to be straight with him, that
15 he was trying to keep his daddy out of prison for murder.
16 And who was Van Williams's daddy, Snoop. We'll get back to
17 Snoop in a minute.

18 I want to point out something else that Van Williams
19 told you all. While he was setting up the narrative for the
20 State, she asked him, she said, Well, what was his demeanor?
21 And he said, He was angry. He was real angry. He said,
22 But, you know, I talked to him, and he calmed down. And I
23 quote, he became coherent.

24 So let's get back to Snoop. He was talked about a lot
25 in this case. Despite what Sergeant Hart said, he said that

1 I was the only one talking about Snoop. However, we heard
2 testimony from Casey Jeffords about Snoop. Dee Dee talked
3 about Snoop. Van talked about Snoop. Davidock talked about
4 Snoop. Detective Baum, who was the first investigator on
5 this case, whom you did not hear from, interviewed Snoop at
6 the Lexington County Detention Center. So ask yourself,
7 what was his involvement in this case? Why wasn't he here?
8 Is it possible that he didn't fit into the State's
9 narrative?

10 Detective Short from Richland County came in and went
11 over the consent forms where my client consented to let them
12 have his phone. He even drew out the pass code. They put
13 it up there. He didn't have to. Why would he do that if he
14 thought that was going to tie him to a murder or a theft of
15 a vehicle? That doesn't make sense.

16 Mark didn't have a weapon on him when they arrested
17 him. And they brought up multiple witnesses to tie him to
18 some nine millimeter bullets that were in a backpack at
19 Casey Jeffords' house. They can't prove that it's his
20 backpack. That house was filled with items that weren't
21 tied to my client. Nine millimeter ammunition is very
22 common. It's in someone else's house, it's in Casey
23 Jeffords' house. And the picture of the trailer at Thrush
24 Street that they kept putting up on the screen, that's not
25 his house. That's Casey Jeffords' house. And she did

1 testify that Snoop had been there recently. She clarified
2 that he wasn't there that morning, but she said he'd been
3 there. He'd been there recently.

4 And then Mike Beeler told us there were no fingerprints
5 found on those bullets and he didn't know what happened with
6 the DNA swabs, but we know there's no DNA in this case
7 because if there was, you would have heard about it. There
8 are no fingerprints on the backpack. There are no
9 fingerprints on the bullets. There's no fingerprints on any
10 of the contents in that backpack. They can't prove that
11 that's my client's backpack. They don't know whose backpack
12 that is.

13 Deidre testified that there were no weapons on the
14 property. She, also, testified that she hadn't been in
15 J.J.'s camper for about two or three weeks. Law enforcement
16 didn't search the rest of the property, not Dee Dee's camper
17 and not any of the other buildings on the property.

18 The crime scene photos were taken about two hours after
19 law enforcement arrived on scene, hour and a half. Patrick
20 Ward testified that he didn't arrive until 9:00 a.m. So by
21 the time law enforcement got there at 7:28, Deidre, Brian
22 Holliman, Mindy Hess, who you didn't hear from, Jason Cooper
23 were all on scene. That's 14 minutes after the first 911
24 call. And that is plenty of time for somebody to get rid of
25 a weapon. Yet, they didn't search Dee Dee's camper or any

1 of the other buildings on the property.

2 Ward told you that, you know, it's not necessarily an
3 exact science where the projectiles land, but the State kept
4 suggesting that it was consistent with somebody leaning over
5 the railing, but they don't know. That's why they use
6 wishy-washy language, likely consistent with, not an exact
7 science. If they were sure what happened, they would say
8 so.

9 And then we heard from Investigator Smith, who got all
10 of his information from Investigator Ward, because he never
11 even went to the crime scene.

12 And what about the pathologist? She came in and she
13 testified that based on the mummy that we had out here --
14 the mannequin, I apologize, that there might have been
15 multiple people shooting. The victim may have been spinning
16 while shot. He may have been standing. He may have been on
17 the ground. She made it clear she didn't know where he was
18 shot first or how it went down. And yet, the State has
19 continued to press the narrative that he was shot in the
20 back and then on the ground. But they don't know.

21 Hart talked to a bunch of people, Sergeant Hart talked
22 to a bunch of people in this case that we didn't hear from
23 as well. Namely, Abby Kirby. He went and interviewed her.
24 I asked him about it. He audio recorded that interview with
25 her. Yet, you did not hear from her this week. But she is

1 allegedly the person that's receiving those text messages.
2 But she wasn't here to put them in context. She wasn't here
3 to explain what was going on. Ask yourself, would it have
4 been helpful to have heard from her? Is it because she
5 doesn't fit in the State's narrative?

6 And I think we have to talk about the State's star
7 witnesses, Ms. Fidler, Mr. Davidock. Sergeant Hart tells us
8 that two weeks ago, he shows up at their apartment and says,
9 guess what, y'all are in the phone records of somebody
10 that's on trial for murder. And they knew Mark had been
11 arrested for murder. They both admitted to seeing it in the
12 news. So what do they do? They fall in line. They fall in
13 line with the State's narrative. Ms. Fidler, who admittedly
14 lied to police, under oath she said, I lied to the police.
15 And Mr. Davidock, the convicted felon.

16 Ladies and gentlemen, this case is almost four years
17 old. My client was arrested in December of 2021. And the
18 State wants you to believe that two weeks ago, they cracked
19 the case, that that was a coincidence. Please think
20 critically about that. Think about the motives that those
21 two people had to come in here and lie on that witness
22 stand. They never came and told this story to police.
23 Fidler claims that she reported it to Crime Stoppers, but
24 that's anonymous, right? So we're supposed to take her word
25 for it.

1 We heard from lots of law enforcement, but no one from
2 law enforcement came to talk about the police report that
3 Fidler filed in 2021. That's interesting. Why didn't
4 anybody come and talk about that? Is that because that
5 didn't fit into the State's narrative? That was the police
6 report where she reported the vehicle that she rented stolen
7 from the side of the road after it had a flat tire, which
8 was a lie. Or the truth, which would make her testimony a
9 lie. Who knows?

10 Ask yourself, do you think Ms. Fidler is a trustworthy
11 witness? Do you think she has a motive to lie? How do we
12 know that she and Davidock weren't speeding away from 333
13 Mack Circle in that rental car? Where's their phone
14 location data on that day? We don't have that, do we? I
15 asked Sergeant Hart, did you seize their phones? Did you
16 get their phone records? No. Where are Fidler's phone
17 records showing the text about the rental car? The one
18 where she allegedly -- my client allegedly said, you don't
19 want that car back. Where's that? Where are those records?
20 We saw so many phone records this week. They have the
21 ability to get those records. Why didn't you see them?

22 I asked Sergeant Hart several times how long it took
23 him to get from Fidler's apartment to the storage units,
24 and he couldn't pinpoint a time. But the reason I asked him
25 that was because that drive, 10 minutes, 15 minutes, 20

1 minutes, it's in Harbison, right? With traffic, it's
2 variable. But that drive that he took from the apartment to
3 the storage unit is just enough time for Fidler to make the
4 phone call to say, the cops came to the apartment, and we
5 need to fall in line. I need you to back me up about this
6 rental car.

7 And after almost four years, they probably didn't need
8 to talk long. They'd probably gotten their story straight.
9 When I pressed Fidler about her testimony, all of a sudden,
10 she couldn't remember certain things. Because without the
11 prosecutor up there leading her through the narrative, she
12 buckled. Davidock sat up there and lied, too. He said that
13 law enforcement came out to talk to him two years ago, but
14 Sergeant Hart said they don't have any documentation of
15 that.

16 So ask yourself, why would Davidock insist that this
17 was not the first time that he had told this information to
18 law enforcement? Think of all the motives that he has for
19 lying. He told you Fidler had a car. Fidler told you she
20 had a car. He said it was a Jeep. She said it was a Camry.
21 Maybe it's both. I don't know. I'm really not sure if
22 we'll ever know the truth with those two.

23 I asked Sergeant Hart about the tools that they use to
24 document investigations. And that's important because they
25 have a lot of tools. They have body-worn camera. They have

1 audio recording devices. Sergeant Hart said, I don't have
2 body-worn camera. Okay, but he's got audio recording
3 devices because he audio recorded some of the interviews
4 with the witnesses in this case. He did not audio record
5 the interviews with Fidler and Davidock.

6 So I ask you to ask yourself why. Could those initial
7 interviews have been kind of messy? Is it because they
8 might not quite fit the narrative? Nothing puts my client
9 in that vehicle but the testimony of those two witnesses.
10 My client's not charged with grand larceny. You know why?
11 Because they can't prove that either. No one saw the
12 license tag of the car that left 333 Mack Circle. So I'd
13 ask you to think about how many small white cars you saw on
14 the way here today.

15 Then they paraded in a bunch of people, four or five
16 witnesses, so that they could play a jail call that Mark
17 made the day after he was charged with murder. He was
18 booked into the Alvin S. Glenn Detention Center in Richland
19 County, which is a very dangerous detention facility. Why
20 didn't they just call his niece? She's the one that's on
21 the other end of that phone. Why didn't they just call her
22 to talk about the phone call? Instead, we had to have all
23 these other witnesses come in and talk about business
24 records and this and that, but she wasn't here. Why is
25 that?

1 Kennedy Ring was the expert that clarified the call.
2 She talked about clicking and background noise and all of
3 that. And she was tasked with eliminating the background
4 noise in that call, and for good reason. Because there's a
5 lot of background noise when you're standing in the Alvin S.
6 Glenn Detention Center making a jail call. My client was
7 surrounded by other inmates charged with violent crimes. He
8 has no privacy. And this is his only way that he can
9 communicate with family. He's not under oath. He's not
10 being interrogated by law enforcement. He's scared, and
11 he's talking tough in front of other violent offenders.
12 It's common sense.

13 They simply have not proved their case. They've spent
14 all week bringing up witness after witness after witness,
15 asking the same questions over and over and over again, as
16 if repeating themselves somehow makes their narrative true.
17 There are gaping holes in their story. I told you, they
18 have the power and all the resources to show you the full
19 picture, the good, the bad, and the ugly. Yet, the writers
20 and producers and editors have carefully constructed a story
21 based on actual events to convince you to convict my client.
22 But they failed to meet their burden. They have to prove
23 their case beyond a reasonable doubt.

24 Where are the witnesses that were on scene that day
25 that gave descriptions of what they saw? Where is the video

1 of the lengthy interview given by my client? Why wouldn't
2 they bring his niece in to testify about that jail call?
3 And who is Snoop? And where was he?

4 Ladies and gentlemen, reasonable doubt is not just here
5 to protect my client. Reasonable doubt is here to protect
6 you all as well, the jury. We all have an innate desire to
7 have closure, to feel safe, to not be judged by our family
8 or our peers or our community. And that's why the standard
9 of reasonable doubt is here for you as well. It allows you
10 to go back in the jury room and use logic and reason, not
11 emotion, not a desire for closure to determine if you have
12 hesitations about the State's theory. Because if you do,
13 you have to find our client not guilty. And then you can go
14 home and you can confidently tell your friends and your
15 family that you've fulfilled your duty as a juror.

16 Beyond a reasonable doubt, that means that they, the
17 State, has to leave you firmly convinced that my client
18 committed these crimes. You must be firmly convinced
19 without hesitations. So I'll say this, ladies and
20 gentlemen, if you're going to have hesitations, have them
21 today. You don't want to have them tomorrow. You don't
22 want to have them in a week. Ask yourself, are you firmly
23 convinced? Do you believe that you got to see and hear all
24 the evidence in this case?

25 I ask you to hold the government to its burden and find

1 my client not guilty. Thank you.

2 CHARGE ON THE LAW

3 THE COURT: Members of the jury, it is now my duty as
4 the trial judge to instruct you on the law applicable to
5 this case. And in that regard, it is your duty as jurors to
6 accept and apply the law as I now state it to you.
7 Furthermore, it is your exclusive duty to decide all the
8 issues of fact in this case and to determine the effect,
9 value, weight, and truth of the evidence. All the parties
10 have the right to expect you to carefully consider and
11 evaluate the evidence and apply the law of this case to it
12 so that in the end, all parties will receive a fair and
13 impartial trial.

14 During this trial, you and I have separate duties to
15 perform. As the trial judge, it is my responsibility to
16 preside over this trial and rule upon the admissibility of
17 the evidence offered during the trial. You as members of
18 the jury are to consider only the evidence before you. If
19 you have any preconceived ideas as to what the law is or
20 what you think the law ought to be and it does not agree
21 with what I now tell you the law is, you are obligated under
22 your oath to abandon those preconceptions because you are
23 sworn to accept the law as I now state it to you.

24 In this trial, you are the sole and exclusive judges of
25 the facts. Do not infer that I have an opinion about the

1 facts in this case from anything I have said or done during
2 the course of this trial. The law simply does not permit me
3 to have an opinion about the facts. As jurors, it is your
4 duty and your duty alone to determine the effect, value,
5 weight, and truth of the evidence presented during this
6 trial.

7 Now, the evidence from which you are to decide the
8 facts of this case are one, the sworn testimony of
9 witnesses, both on direct and cross-examination; two, the
10 exhibits which have been admitted into evidence; and three,
11 any facts on which the attorneys have agreed and stipulated.

12 Evidence may be direct or circumstantial. Direct
13 evidence is testimony by a witness about what the witness
14 personally saw, heard, or did. Circumstantial evidence, on
15 the other hand, is indirect evidence. Stated differently,
16 it is proof of one or more facts from which one can find
17 another fact. You may consider both direct and
18 circumstantial evidence equally, and crimes may be proven by
19 circumstantial evidence. The law makes no distinction
20 between the weight or value to be given to either direct or
21 circumstantial evidence.

22 However, to the extent the State relies on
23 circumstantial evidence, all of the circumstances must be
24 consistent with each other, and when taken together, point
25 conclusively to the guilt of the accused beyond a reasonable

1 doubt. If these circumstances merely portray the
2 Defendant's behavior as suspicious, the proof has failed.

3 The State has the burden of proving the Defendant
4 guilty beyond a reasonable doubt. This burden rests with
5 the State regardless of whether the State relies on direct
6 evidence, circumstantial evidence, or some combination
7 thereof.

8 Now, I remind you the following things are not
9 evidence, and you must not consider them as evidence in
10 deciding the facts in a case. One, statements and arguments
11 of the attorneys; two, questions and objections of the
12 attorney; three, testimony I instruct you to disregard;
13 four, questions and answers given during the qualification
14 and selection of the jury; and five, allegations set forth
15 in the indictments.

16 While arguments of counsel are a beneficial part of
17 every trial, you should remember that the statements made by
18 counsel are not evidence. In presenting arguments, counsel
19 often refer to evidence. However, you should base your
20 verdict on the evidence as you remember it. Therefore, if
21 there are any conflicts between the recollection of counsel
22 about the evidence and your own recollection, you should
23 rely upon your own understanding of the evidence.

24 I remind you, the fact that the Defendant was arrested,
25 charged, and indicted in this case is not evidence and

1 cannot be considered by you as evidence of guilt in this
2 case nor does it create any presumption or influence of
3 guilt.

4 Now, furthermore, it is your job as jurors to determine
5 the credibility or believability of the witnesses who have
6 testified in this case. You must evaluate the evidence and
7 determine which evidence convinces you of its true. In
8 determining the believability of witnesses who have
9 testified in this case, you may believe one witness over
10 many or many over one. You may believe a part of the
11 testimony of a witness and reject the remaining part. You
12 may believe the testimony of a witness in its entirety or
13 reject it in full. You may consider whether the witness has
14 an interest in the result of the trial, whether the witness
15 is prejudiced toward either party, the opportunity for the
16 witness to have seen the matters and things about which the
17 witness may testify, and the way the witness acts on the
18 witness stand.

19 Now, you have heard evidence of jail calls, State's
20 Exhibit Nos. 171, 172, and 173 have been redacted in this
21 case. It is my instruction to you that you are to make no
22 inference whatsoever from the fact that this call has been
23 redacted. You are only to accept the evidence from State's
24 Exhibit Nos. 171, 172, and 173 as they are presented to you.

25 Now, the Court has taken judicial notice that in

1 Lexington County on November 27th, 2021, sunrise was at 7:09
2 a.m.

3 Now, in an item of evidence, there was a mention of the
4 death penalty. I direct you as a matter of law, this is not
5 a death penalty case and this should not be discussed in the
6 jury.

7 Now, the rules of evidence ordinarily do not permit
8 witnesses to testify to opinions or conclusions. An
9 exception to this rule exists for witnesses we call expert
10 witnesses. A witness, who by education and experience has
11 become an expert in some art, science, or profession or
12 calling may state an opinion as to relevant and material
13 matter in which the witness claims to be an expert and may,
14 also, state the reasons for the opinion.

15 You should consider any expert testimony received in
16 evidence in this case like any other evidence, give it the
17 weight you think it deserves. If you decide that the
18 opinion of an expert is not based on sufficient education
19 and experience, or if you conclude that the reasons given in
20 support of the opinion are not sound, or that the opinion is
21 outweighed by other evidence, you may disregard the opinion
22 entirely. An expert witness's testimony is to be given no
23 greater weight than that of other witnesses simply because
24 the witness is an expert. Furthermore, you're not required
25 to accept an expert's opinion even though it is not

1 contradictory.

2 Now, the Defendant has pled not guilty to these
3 indictments and that plea puts the burden on the State to
4 prove the Defendant guilty. A person charged with
5 committing a criminal offense in South Carolina is never
6 required to prove his or her innocence.

7 I charge you that is an important rule of the law that
8 a defendant in a criminal trial, no matter what the
9 seriousness of the charge may be will always be presumed to
10 be innocent of the crime for which the indictment was issued
11 unless guilt has been proven by evidence satisfying you of
12 that guilt beyond a reasonable doubt.

13 The presumption of innocence does not end when you
14 begin your deliberations, but it accompanies the Defendant
15 throughout the trial unless you reach a verdict of guilt
16 based on evidence satisfying you of that guilt beyond a
17 reasonable doubt.

18 The presumption of innocence is like a robe of
19 righteousness placed about the shoulders of the Defendant
20 which remains with the Defendant unless it has been stripped
21 from the Defendant by evidence satisfying you of the
22 Defendant's guilt beyond a reasonable doubt.

23 The presumption of innocence is not mere legal theory.
24 It's not just a legal phrase. It is a substantial right to
25 which every Defendant is entitled unless you, the jury, are

1 satisfied from the evidence of the Defendant's guilt beyond
2 a reasonable doubt.

3 The State has the burden of proving the Defendant
4 guilty beyond a reasonable doubt. Some of you may have
5 served as jurors in civil cases where you were told that it
6 is only necessary to prove that a fact is more likely true
7 than not true, such as by the greater weight or
8 preponderance of the evidence. In criminal cases, the
9 State's proof must be more powerful than that. It must be
10 beyond a reasonable doubt as to each element of each offense
11 charged.

12 What is a reasonable doubt in the law? A reasonable
13 doubt is the kind of doubt that would cause a reasonable
14 person to hesitate to act. Proof beyond a reasonable doubt
15 is proof that leaves you firmly convinced of the Defendant's
16 guilt. There are very few things in this world that we know
17 with absolute certainty. In criminal cases, the law does
18 not require proof that overcomes every possible doubt.

19 If based on your consideration of the evidence, you are
20 firmly convinced that the Defendant is guilty of the crime
21 charged, you must find the Defendant guilty. If, on the
22 other hand, you think there is a real possibility that the
23 Defendant is not guilty, you must give the Defendant the
24 benefit of the doubt and find him not guilty. Mere
25 suspicion, however strong, is not enough to sustain a

1 conviction. Suspicion implies a belief or opinion as to
2 guilt based upon facts or circumstances which do not amount
3 to proof.

4 Now, I remind you that the fact that the Defendant
5 elected not to testify is not a factor to be considered by
6 you in any way in your deliberations and in your
7 consideration on whether the Defendant is guilty or not
8 guilty. It must not be considered in any manner whatsoever
9 against him. An accused has the Constitutional right to
10 remain silent and the assertion of that right cannot be
11 considered by you in your deliberations. Under your oath,
12 you are to reach no inference and draw no conclusion
13 whatsoever in the fact that the Defendant elected not to
14 testify. His decision not to testify should not even be
15 discussed in the jury.

16 Now, in order to establish criminal liability, criminal
17 intent is required. The dictionary defines intent as the
18 state of a person's mind that directs his actions towards a
19 specific object. Criminal intent must be proven by the
20 State beyond a reasonable doubt. Criminal intent is always
21 a matter that must be determined by the jury from the
22 circumstances surrounding the situation.

23 There is no way to prove intent to a mathematical
24 certainty. There is no medical science that can dissect the
25 person's brain to determine what the person had in mind. So

1 the law says that criminal intent may be inferred from
2 circumstances shown to have existed. This is how you make a
3 determination whether or not the element requiring intent
4 was present. Criminal intent is a mental state, a conscious
5 wrongdoing. It is up to you to determine what the Defendant
6 intended to do based on the circumstances shown to have
7 existed.

8 I'm going to explain to you the law as it applies to
9 the charges against the Defendant. The Defendant is charged
10 with murder. The State must prove beyond a reasonable doubt
11 that the Defendant killed another person with malice
12 aforethought. Malice is hatred, ill will, or hostility
13 towards another person. It is the intentional doing of a
14 wrongful act without just cause or excuse and with an intent
15 to inflict an injury or under circumstances that the law
16 will infer an evil intent.

17 Malice aforethought does not require that malice exists
18 for a particular time before the act is committed, but
19 malice must exist in the mind of the defendant just before
20 and at the time the act is committed. Therefore, there must
21 be a combination of the previous evil intent and the act.

22 Malice of forethought may be express or inferred.
23 These terms, express and inferred do not mean different
24 kinds of malice, but merely the manner in which the malice
25 may be shown to exist. That is, either by direct evidence

1 or by inference from the facts and circumstances which are
2 proved.

3 Express malice is shown when a person speaks words
4 which express hatred or ill will for another, or when a
5 person prepared beforehand to do the act which is later
6 accomplished. Malice may be inferred from conduct showing a
7 total disregard for human life. If facts are proved beyond
8 a reasonable doubt sufficient to raise an inference of
9 malice to your satisfaction, this inference would be simply
10 an evidentiary fact to be considered by you along with the
11 other evidence in this case, and you may give it the weight
12 you decide it should receive.

13 The Defendant is charged with possession of a weapon
14 during the commission of or attempt to commit a violent
15 crime. The State must prove beyond a reasonable doubt that
16 the Defendant was in possession of a firearm or visibly
17 displayed what appeared to be a firearm during the
18 commission of a violent crime. A firearm means any machine
19 gun, automatic rifle, revolver, pistol, or any weapon which
20 is designed to or may be readily converted to expel a
21 projectile.

22 In order to find the Defendant guilty of possession of
23 a weapon during the commission of a violent crime, you must
24 first find the Defendant guilty of either committing a
25 violent crime or attempting to commit a violent crime.

1 Murder is a violent crime. The State must prove beyond a
2 reasonable doubt that the weapon further advanced or helped
3 in the commission of the crime.

4 Now, a verdict in this case cannot be based upon
5 sympathy, passion, prejudice, or emotion or some other
6 consideration not found in the evidence. I charge you that
7 as jurors, you must decide the issues involved in this
8 proceeding based solely upon the evidence which you hear
9 during the course of the trial. Your verdict must be
10 without bias and without prejudice to any party. You cannot
11 allow yourselves to be governed by sympathy, by prejudice,
12 by passion, by public opinion, or some other consideration
13 not found in the evidence.

14 Now, let me say something about your deliberations.
15 Deliberation is defined as careful consideration weighing up
16 with a view to decision. The genius of our jury system is
17 that it allows 12 good men and women from 12 different
18 backgrounds, life experiences, and perspectives to consider
19 the evidence, talk about it, and, ultimately, reach a
20 verdict. We call them deliberations for a reason. You're
21 to consider the evidence in this case carefully and
22 deliberately and discuss it in a calm, thorough, and
23 courteous manner. Listen to the views of your fellow
24 jurors, consider other people's points of view and talk
25 through and discuss the evidence. And remember, if you're

1 doing something deliberately, you're not in a big hurry.
2 You should not be in a big hurry here. This case is very
3 important to all the parties, and this trial is their only
4 day in court.

5 When you retire to the jury room, you should discuss
6 the case with your fellow jurors to reach agreement, if you
7 can do so. Your verdict must be unanimous. Each of you
8 must decide the case for yourself, but you should do so only
9 after you have impartially considered all the evidence,
10 discussed it fully with other jurors and listen to the
11 views. Do not be afraid to change your opinion if the
12 discussion persuades you that you should, but do not come to
13 a decision simply because the other jurors think it is
14 right. It is important that you attempt to reach a
15 unanimous verdict, but, of course, only if each of you can
16 do so after having made your own decision. Do not change an
17 honest belief about the weight and effect of the evidence
18 simply to reach a verdict. In other words, do not change
19 your opinion solely for the sake of reaching a unanimous
20 verdict.

21 Now, I will give you a copy of these instructions in
22 written form. During your deliberations, you may refer to
23 the instructions to guide your decisionmaking. You must
24 consider the instructions as a whole and not follow some and
25 ignore others. Please return the instructions to the Court

1 at the time your verdict is rendered.

2 There are two possible verdicts you may find in this
3 case, guilty or not guilty. There is no significance
4 whatsoever in the order in which I state the possible
5 verdicts. It's simply one must be stated first.

6 Ladies and gentlemen, your verdict must be a unanimous
7 one.

8 Madam Forelady, when the jury agrees on the verdict,
9 you will write the verdict on the verdict form. Then knock
10 on the jury room door and inform the bailiff that you have
11 reached a verdict. At that time, we will receive you back
12 into the courtroom.

13 I ask that you now return to the jury room, but do not
14 begin your deliberations until you are told to do so by the
15 clerk or bailiff. There are additional matters I need to
16 take up with the attorneys before you can begin your
17 deliberations.

18 So at this time, please return to the jury room. Do
19 not discuss the case.

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

21 THE COURT: Any issues with the jury charge?

22 MS. MAYES: None from the State, Your Honor.

23 MS. POPOWSKI: No, Your Honor.

24 THE COURT: All right. I need to get the alternate.
25 We, also, need to start organizing the evidence.

1 (WHEREUPON, Juror No. 25, alternate juror, enters the
2 courtroom.)

3 THE COURT: Juror No. 25?

4 JUROR #25: Yes.

5 THE COURT: All right. We're about to give the case to
6 the jury. You're our remaining alternate, so it doesn't
7 appear we're going to need you on the jury. You've been
8 here all week with us. We want to thank you for your
9 service and listening intently throughout the entire trial.
10 But it appears we don't need you after all. Thank you for
11 your time. You're free to go.

12 All right. Madam Court Reporter, if you would make
13 this a Court's Exhibit. That's the jury instruction.

14 (WHEREUPON, Court's Exhibit No. 17 was marked for
15 identification.)

16 THE COURT: If y'all would be so kind to make sure the
17 evidence is in order.

18 (Pause.)

19 MS. MAYES: Thank you, Your Honor.

20 (WHEREUPON, the jury began deliberations at 3:23 p.m.)

21 (WHEREUPON, Court was in recess awaiting a verdict.)

22 THE COURT: I'm informed that we have a verdict.
23 Anything before we bring the jury in?

24 MS. MAYES: Nothing from the State, Your Honor.

25 MS. POPOWSKI: No, Your Honor.

1 THE COURT: Just for anyone is present, we don't know
2 what the verdict is, but regardless of what the verdict is,
3 it's important to remember we have to maintain a certain
4 level of decorum in this courtroom. If you feel like you
5 are unable to control your emotions regardless of what the
6 verdict is, you need to excuse yourself at this time.

7 Bring the jury in, please.

8 (WHEREUPON, the jury enters the courtroom at 5:31 p.m.)

9 THE COURT: Madam Forelady, I understand we have a
10 verdict; is that correct?

11 THE FORELADY: Yes, sir.

12 THE COURT: Is your verdict unanimous?

13 THE FORELADY: Yes.

14 THE COURT: Please hand it to the bailiff.

15 Madam Clerk, you may publish the verdict.

16 THE CLERK: Indictment 2023-GS-32-02933, indictment
17 2023-GS-32-02934, the State of South Carolina vs. Mark
18 Anthony F. Scheibler, we, the jury, as to indictment
19 2023-GS-32-02933 for the charge of murder unanimously find
20 beyond a reasonable doubt the Defendant, Mark Anthony F.
21 Scheibler guilty. Count two, we, the jury, for indictment
22 2023-GS-32-02934, for the charge of possession of a weapon
23 during a violent crime unanimously find beyond a reasonable
24 doubt Defendant, Mark Anthony F. Scheibler, guilty. So
25 signed by the Foreperson on this day, June 20th, 2025.

1 Ladies and gentlemen of the jury, was this your verdict
2 and is this still your verdict? Please indicate by raising
3 your hand.

4 (WHEREUPON, all hands were raised.)

5 THE CLERK: Thank you.

6 THE COURT: Anything from the jury before they are
7 discharged?

8 MS. POPOWSKI: Yes, Your Honor, I would ask for the
9 jury to be polled.

10 THE CLERK: Ladies and gentlemen, I'm going to call you
11 by your juror number and ask you if this was your verdict
12 and if it's still your verdict. If you would please raise
13 your right hand and answer out loud.

14 Juror #116, was this your verdict and is it still your
15 verdict?

16 JUROR #116: Yes, it is.

17 THE CLERK: Juror #1, was this verdict and is this
18 still your verdict?

19 JUROR #1: Yes, it is.

20 THE CLERK: Juror #47, was this your verdict and is it
21 still your verdict?

22 JUROR #47: Yes.

23 THE CLERK: Juror #101 --

24 JUROR #101: Yes.

25 THE CLERK: -- was this your verdict and is it still

1 your verdict?

2 JUROR #101: Yes.

3 THE CLERK: Juror #90, was this your verdict and is
4 this still your verdict?

5 JUROR #90: Yes.

6 THE CLERK: Juror #170, was this your verdict and is
7 this still your verdict?

8 JUROR #170: Yes.

9 THE CLERK: Juror #41, was this your verdict and is
10 this still your verdict?

11 JUROR #41: Yes.

12 THE CLERK: Juror #114, was this your verdict and is
13 this still your verdict?

14 JUROR #114: Yes.

15 THE CLERK: Juror #152, was this your verdict and is
16 this still your verdict?

17 JUROR #152: Yes.

18 THE CLERK: Juror #200, was this your verdict and is it
19 still your verdict?

20 JUROR #200: Yes.

21 THE CLERK: Juror #140, was this your verdict and is it
22 still your verdict?

23 JUROR #140: Yes.

24 THE CLERK: Juror #37, was this your verdict and is it
25 still your verdict?

1 JUROR #37: Yes, ma'am.

2 THE CLERK: Your Honor, the jury has been polled.

3 THE COURT: Anything else before they are discharged?

4 MS. POPOWSKI: No, Your Honor.

5 THE COURT: All right. Ladies and gentlemen, when you
6 come in on a Monday morning for jury duty, you never know
7 what's going to befall you. You had a case that went the
8 entire week. We want to thank you for your attention, for
9 your attentiveness throughout the week, your patience as we
10 got through the process with you. There's really no higher
11 calling of public service than serving on a jury. So you
12 have done that this week.

13 Once again, on behalf of everybody at the courthouse,
14 thank you. You're free to go back to the jury room and get
15 your belongings. You're free to leave at this time.
16 You're, certainly, free to stay if you wish to do so after
17 that.

18 Madam Forelady, thank you for your time. I need you to
19 come see the clerk right over here real quick.

20 Everyone else can go back to the jury room.

21 THE CLERK: Your Honor, I'll meet her over there.

22 THE COURT: Oh, she'll meet you on the backside.

23 Thank you all.

24 (WHEREUPON, the jury was excused.)

25 THE COURT: We'll take a few minutes before moving to

1 the next phase.

2 (WHEREUPON, a short break was taken.)

3 THE COURT: The State ready?

4 MS. MAYES: The State is ready, Your Honor.

5 THE COURT: Proceed.

6 MS. MAYES: Your Honor, regarding State vs. Mark
7 Scheibler, I'm going to pass up --

8 MS. POPOWSKI: Your Honor, before they start with
9 sentencing, I'd like to make a motion --

10 THE COURT: Thank you.

11 MS. POPOWSKI: I'd like to make a motion for a new
12 trial. No reasonable jury based on the evidence that was
13 presented would have found him guilty. So at this time,
14 we'd like to make a motion for a new trial and, also, based
15 on all our previous motions and objections.

16 THE COURT: The record will reflect that your previous
17 objections and pretrial motions are preserved. The rulings
18 remain --

19 Madam Solicitor, anything you wish to be heard on for
20 the motion for a new trial?

21 MS. MAYES: No, Your Honor.

22 THE COURT: Okay. I find that there was sufficient
23 evidence to submit to the jury, both circumstantial and
24 direct. I deny your motion for a new trial.

25 MS. POPOWSKI: Thank you, Your Honor.

1 MS. MAYES: Your Honor, regarding indictment number
2 2023-GS-32-2933 and 2934, murder and possession of a weapon
3 during a violent crime, the State did serve in this case
4 notice of mandatory imposition of a sentence, that being a
5 life sentence pursuant to South Carolina Code Section
6 17-25-45. I will pass that up to the Court at this time to
7 be made part of the sentencing record.

8 THE COURT: Very well.

9 MS. MAYES: In addition, Your Honor, we do have various
10 members of the family here, although we do realize that this
11 is a mandatory sentence, I know Ms. Clamp would like to make
12 a statement on their behalf regarding the victim in this
13 case, Jimmy Johnson, Jr., J.J.

14 THE COURT: Very well. Ms. Mayes, do you need to make
15 this a Court Exhibit or the fact that it's filed, is that
16 adequate?

17 MS. MAYES: Your Honor, it has been filed. We would
18 like it attached to the sentencing sheet.

19 THE COURT: Okay. I understand.

20 Your Honor, regarding prior record that led to the
21 mandatory imposition of life sentence, it begins back in --
22 many years ago. Here in Lexington County, the Defendant,
23 Mark Scheibler, was convicted of lynching second degree.
24 His sentence was 20 years, suspended to 15 years. He was
25 released from confinement February 1st, 2012. He, also, had

1 a conviction for pointing a firearm. That sentence was five
2 years consecutive to the 15 years he was sentenced to for
3 lynching second degree. Also, on that charge, released from
4 confinement February of 2012. Also, has a conviction for
5 assault and battery of a high and aggravated nature. He was
6 sentenced to five years consecutive, released from
7 confinement on February 1, 2012. A conviction for grand
8 larceny of a vehicle, sentenced to five years consecutive,
9 released from confinement February 1, 2012.

10 He has a conviction for possession of methamphetamine
11 second offense, dated April 11th, 2016. A conviction for
12 shoplifting April 22nd, 2015, another conviction for
13 shoplifting, February 17th, 2016, a conviction for failure
14 to stop for blue light, April 11th, 2016, a felony
15 conviction for property crime enhancement, June 13th, 2017,
16 a conviction for possession of narcotics schedule I and II,
17 August 9th, 2024.

18 Then, Your Honor, most significantly, the crime, which
19 is a prior strike being a most serious offense -- or serious
20 offense in conjunction with that lynching second degree
21 prior conviction, also, a serious offense, is his conviction
22 last year on the charge of assault and battery of a high and
23 aggravated nature. That is the conviction out of Richland
24 County for the shooting of his girlfriend, Rachel Coe. That
25 victim was shot in the head on November 19th, 2021, just

1 prior to this event that occurred on November 22nd, 2021.

2 THE COURT: Very well.

3 MS. CLAMP: Your Honor, Heather Clamp, victim advocate.
4 I am here to speak on behalf of the family. This week in
5 the courtroom, the family of Jimmy Johnson has been present
6 everyday. His mother, Ms. Jody Johnson, his father, Jimmy
7 Johnson, his sister, Misty, his two nieces, Cheyann and
8 Brooklyn, and other family and, of course, his girlfriend,
9 Deidre.

10 I'm going to read a statement on behalf of the family.

11 THE COURT: Very well.

12 MS. CLAMP: Your Honor, we would like you to know who
13 J.J. was. He was not just some man. He was not a criminal
14 and he was not a thief. He was a son, a father, a brother,
15 a nephew and an uncle. He was an extraordinary artist, a
16 true comedian with endless jokes. He could light up a room
17 with his contagious laugh and bright blue eyes and his
18 smile.

19 J.J. could fix just about anything. He was truly a
20 jack of all trades. He loved his family very much and would
21 do anything for someone in need. I want it to be known and
22 remembered that J.J.'s life was taken from him with no
23 hesitation, no mercy and no remorse. We no longer have the
24 opportunity to see his smile, hear his laugh or hug his neck
25 ever again.

1 My family does not and will not address this man. We
2 pray that his family never has to experience the amount of
3 pain and anger he has caused our family.

4 We ask the Court to hand down the maximum sentence
5 allowed by the law. Therefore, he would never have the
6 opportunity to destroy another family as he has done ours.

7 Lastly, we would like to thank the Judge, the jury, the
8 State and anyone who testified on J.J.'s behalf making it
9 possible for justice to be served today.

10 Thank you.

11 THE COURT: Thank you.

12 MS. MAYES: Your Honor, that is all from the State.

13 THE COURT: All right.

14 Ms. Popowski.

15 MS. POPOWSKI: Your Honor, just briefly. We understand
16 that he was served without the life without the possibility
17 of parole notice. I will tell you that I have very much
18 enjoyed getting to know Mark Scheibler. Mark went to prison
19 early in life and spent a long time there.

20 And when he got out, he told me he was able to
21 compartmentalize the trauma for a while and started his own
22 business. He employed other people and he made a really
23 good living, Your Honor. He became a family man and took
24 tremendous pride in providing for his family.

25 I think that Mark got mixed up with drugs and that is

1 what, ultimately, led to him being here today. But since he
2 has been incarcerated, he has become a Christian and he is
3 one of the most remorseful clients that I have ever had.
4 The person that I have come to know would never take another
5 human life. I just think he cares deeply for other human
6 beings.

7 Thank you, Your Honor.

8 THE COURT: Mr. Scheibler, anything you would like to
9 say, sir?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. You don't have to. You don't have
12 to.

13 THE DEFENDANT: No, sir, Your Honor.

14 THE COURT: Thank you.

15 Ms. Popowski, I always ask about credit. It's a life
16 sentence, I recognize, but do you know what his jail credit
17 is?

18 MS. POPOWSKI: I do not know, Your Honor. He's been
19 locked up since December 2nd, 2021.

20 THE COURT: Okay.

21 MS. MAYES: Your Honor, may we approach?

22 THE COURT: Sure.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: All right. First, let me thank the
25 attorneys in this case. They have both tried their cases

1 very well this week. Obviously, this is not the first time
2 they've come together. I want to thank them for both trying
3 very good cases.

4 Mr. Scheibler, you've had a vigorous defense twice. I
5 know it's not the way you wanted it to work out, but I want
6 you to be aware of that.

7 To the family of Mr. Johnson, this is the second trial
8 y'all have been here for as well. I hope today provides
9 some closure. I know it doesn't repair any wounds and you
10 may not feel any better leaving the courthouse today. The
11 wheels of justice move slow at times, but in the end,
12 justice is always on time. I hope moving forward, this is a
13 step towards closure and gives you some sense of peace
14 moving forward.

15 As we already said, Mr. Scheibler was giving his LWOP
16 notice on -- his life in prison without the possibility of
17 parole notice on -- it was filed with the Clerk of Court on
18 April 17th. It is attached to the sentencing sheet on the
19 murder charge.

20 As to the charge of possession of a weapon during the
21 commission of a violent crime, that's a five-year concurrent
22 sentence, credit for 1296 days. On the charge of murder,
23 you will be committed to the Department of Corrections for
24 life in prison.

25 That is all. Court's adjourned.

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

I, PENNY M. JOHNSON, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Lexington County, South Carolina, on June 18th through 20th, 2025.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 6, 2026

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

WITNESSES

Lexington County Sheriffs Department

Kevin L Baum

Law Enforcement Case #: 21023102

LSM

ARREST WARRANT NUMBER

2021A3210203625

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 7-10-25

VERDICT

Guilty

Foreperson of Petit Jury
Date: 06-20-2025

DOCKET NO. 2023GS3202933

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JULY TERM 2023

THE STATE

vs.

Mark Anthony Scheibler

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

RECEIVED

JUN 25 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Murder
§ 16-03-0010

At a Court of General Sessions, convened on JULY 2023, the Grand Jurors of Lexington County present upon their oath:

That **Mark Anthony Scheibler** did in Lexington County on or about November 27, 2021, commit the offense of murder in that he did unlawfully kill one [REDACTED] with malice aforethought, either express or implied, to wit: by shooting the victim with a firearm, in violation of §16-03-0010, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

COUNTY OF LexingtonINDICTMENT/CASE#: 2023GS3202933

STATE vs.

AW#: 2021A3210203625

Mark Anthony Festus Scheibler

Date of Offense: 11/27/2021

AKA: _____ SSN: _____

S.C. Code §: 16-3-10CDR Code#: 0116RACE: White SEX: Male DOB: _____

Range of Offense: _____

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADSTO: Murder / Murder

Range of Offense Pled _____

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ MANDATORY GPS ☐ § 17-25-45The charge is: ☒ As indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated ☐ Recommendation _____

Suzanne Mayes

64191

Popowski, Jean Marie

74892

Solicitor

SC Bar #

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
 for a determinate term of LIFE days/months/years/Time Served ☐ YOANTE _____ years and/or shall pay a
 fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
 of \$ _____ plus costs and assessments as applicable*; balance is suspended with probation for _____ months/years
 and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.1,296 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing.**SPECIAL CONDITIONS:**☐ PTUP _____☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment☐ Sex Offender Registry pursuant to S.C. Codes § 23-3-430☐ SAC/MHC if necessary☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☐ Other: LWOP NOTICE ATTACHED☐ RESTITUTION See Separate Order

Restitution \$

FINE: \$

§ 14-1-206 (Assessments 107.5%)

§ 14-1-211 (A)(1) (Conv. Surcharge)

§ 14-1-211 (A)(2) (DUI Surcharge)

§ 56-5-1995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 14-1-212 (Law Enforcement Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk☐ § 14-3-45 (B) Unpaid Application Fee to be paid to the Public Defender Fund

Fine/Costs and Assessments are to be paid to the

Clerk of Court within _____ days/months

\$100

\$100

\$12

\$25

\$25

\$150

\$41

\$50

\$40/ea

TBD

\$500

\$40

TOTAL

125

Clerk of Court/Deputy Clerk

Penny Johnson

2765

Judge Code

6/20/2025

Sentence Date

Wah

Presiding Judge

SCCA217B

2025-01-27

WITNESSES	
Lexington County Sheriff	
Joe Hart	
Law Enforcement Case #: 21023102	
SM	
ARREST WARRANT NUMBER	
2021A3210203626	

ACTION OF GRAND JURY	
TRUE BILL	
Foreperson of Grand Jury	
Date: 6-16-25	
VERDICT	
Guilty	
Foreperson of Petit Jury	
Date: 06-20-2025	

DOCKET NO. 2023GS3202934A	
The State of South Carolina	
County of Lexington	
COURT OF GENERAL SESSIONS	
June Term 2025	
THE STATE	
vs.	
Mark Anthony Festus Scheibler	
Amended Indictment For	
Possession of Weapon During Violent Crime	
SC Code: §16-23-490	
CDR Code: 0549	
Class F Felony	
S.R. Hubbard III, Solicitor	

RECEIVED
JUN 25 2025
SC Court of Appeals

Amended
INDICTMENT FOR

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

Possession of Weapon During Violent Crime

§16-23-490

At a Court of General Sessions, convened on June 16, 2025, the Grand Jurors of Lexington County present upon their oath:

Possession of Weapon During Violent Crime

That in Lexington County, South Carolina, on or about **November 27, 2021**, the Defendant, **Mark Anthony Festus Scheibler**, did knowingly and willfully possess a firearm during the commission of a violent crime or attempt to commit a violent crime, to wit: murder, and such weapon being described as a 9 mm handgun, all in violation of Section 16-23-490, *et al.*, of the Code of Laws of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Deputy Solicitor

COUNTY OF Lexington) INDICTMENT/CASE#: 2023GS3202934

STATE vs. Mark Anthony Festus Scheibler) AW#: 2021A3210203626

AKA: _____ SSN: _____) Date of Offense: 11/27/2021

RACE: White SEX: Male DOE _____) S.C. Code §: 16-23-490

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☐ or ☐ PLEADS

TO: Weapons / Possession weapon during violent crime Range of Offense Pled _____

In 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

The charge is: ☒ As indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated _____ ☐ Recommendation _____

Suzanne Mayes 64191 Popowski, Jean Marie 74892

Solicitor SC Bar # Attorney for Defendant SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
for a determinate term of 5 days/months/years/Time Served ☐ YOAN TE _____ years and/or shall pay a
fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
of \$ _____ plus costs and assessments as applicable*; balance is suspended with probation for _____ months/years
and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC.
1,296 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing.

SPECIAL CONDITIONS:

☐ PTUP _____

☐ No Contact with Victim ☐ Domestic Violence Intervention Program ☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Codes § 23-3-430 ☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ RESTITUTION See Separate Order

§ 14-1-206 (Assessments 107.5%)		Restitution	\$
§ 14-1-211 (A)(1) (Conv. Surcharge)		FINE:	\$
§ 14-1-211 (A)(2) (DUI Surcharge)			
§ 56-5-1995 (DUI Assessment)			
§ 56-1-286 (DUI Breath Test)			
§ 14-1-212 (Law Enforcement Funding)			
§ 14-1-213 (Drug Court Surcharge)			
§ 34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)			
§50-21-114 (BUI Breath Test Fee)			
§56-5-2942(J) (Vehicle Assessment)			
3% to County (if paid in installments)			
☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk			
☐ § 14-3-45 (B) Unpaid Application Fee to be paid to the Public Defender Fund			

IsaCamer TOTAL 125

Clerk of Court/Deputy Clerk Penny Johnson 2765 6/20/2025 Walsh SCCA217B

Court Reporter Judge Code Sentence Date Presiding Judge 2025-01-27

FILED
STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

2025 APR 17 PM 4:52
STATE OF SOUTH CAROLINA)

LISA M. COKER
CLERK OF COURT
LEXINGTON SC

#2023-GS-32-02933

vs.)

Notice of Mandatory Imposition of Sentence
Pursuant to S.C. Code 17-25-45

MARK SCHEIBLER,
DEFENDANT)

PLEASE TAKE NOTICE:

Mark Scheibler, Defendant
Jean Popowski, Esquire, Attorney for Defendant

Now comes the State with notice to the defendant, Mark Scheibler, and to counsel of record, that the State will seek mandatory imposition of sentencing for the defendant upon a conviction in the above-referenced case for the crime of Murder and/or Voluntary Manslaughter. Such mandatory imposition of sentence is pursuant to S.C. Code Section 17-25-45, requiring a mandatory sentence of Life without parole upon notice by the Solicitor.

The imposition of the aforementioned mandatory sentence in this case is a result of prior conviction(s) for serious and/or most serious offenses as defined by S.C. Code 17-25-45, including comparable out of state convictions which would be classified as serious or most serious offenses in South Carolina, as follows:

- Assault and Battery of a High and Aggravated Nature, August 29, 2024, Richland County, State of South Carolina, Indictment #2024-GS-40-01176;
- Lynching – 2nd degree, January 5, 1995, Lexington County, State of Carolina, Indictment #1994-GS-32-2592

Respectfully submitted:



Eleventh Circuit Solicitor's Office
Lexington, SC

Date: April 17, 2025

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

JUN 11 PM 4: 29

#2023GS3202933, et al

LISA M. GONER
CLERK OF COURT
LEXINGTON SC

vs.

STATE'S MOTION FOR ADMISSION OF
RES GESTAE EVIDENCE

MARK SCHEIBLER,
DEFENDANT.

Now comes the State with notice to the Defendant, Mark Scheibler, by and through counsel, that the State will offer certain evidence in the above-referenced case. The Defendant is charged in the above-captioned indictments with Murder and Possession of a Weapon during a Violent Crime for the shooting death of Jimmy F. Johnson. The crime occurred on November 27, 2021 at a camper owned by the Victim, Jimmy F. Johnson, at 333 Mac Circle in Lexington County.

I. ADMISSIBILITY OF FIRE AS *RES GESTAE* EVIDENCE

The State seeks to present evidence of a fire which was active at the Victim's camper as civilians and first responders came to his aid immediately after the shooting. The Victim's girlfriend, Deidre Smith, will testify that the Victim left her home and walked to his camper as a result of observing the fire. He was subsequently shot on the porch of his camper after exiting her home.

As a result of the fire, bystanders had to move the Victim's body from its original position on the porch of the camper. The fire is visible in body worn camera (BWC) footage of first responders, while remnants of the fire are visible in crime scene (CSI) photographs. The existence of the fire is an underlying fact and circumstance of the case which is necessary and probative to explain the actions of the parties in this case. Most importantly, the existence of a fire explains the reason that the Victim left his girlfriend's home and walked to his camper where he was subsequently shot. This testimony is relevant and admissible as *res gestae* evidence in this case.

In addition, testimony will establish that prior to the shooting death of the Victim, the Defendant told two witnesses, Jeffrey Davidock and Stacey Fidler, that he planned to set the Victim's camper on fire and shoot him when he came out. The State seeks to present evidence showing that upon arriving to the scene of the crime at 333 Mac Circle, civilians and law enforcement observed the Victim's camper on fire and the Victim had been shot. Generally, evidence of other crimes or bad acts may be admissible as *res gestae* evidence when they are integral part of the charged crime or are necessary to understand the context in which the crimes occurred. *State v. Preslar*, 364 S.C. 466, 613 S.E.2d 381 (Ct. App. 2005). "One of the accepted bases for the admissibility of evidence of other crimes arises when such evidence furnishes part of the context of the crime or is necessary to a full presentation of the case, or is so intimately connected with and explanatory of the crime charged against the defendant and is so much a part of the setting of the case and its environment that its proof is appropriate in order to complete the story of the crime on trial."

State v. McGee, 408 S.C. 278, 287-88, 758 S.E.2d 730, 736 (2013). When a prior crime or bad act is introduced to show motive or intent and it has a direct bearing on the commission of the crime charged such that it may well have been in furtherance of such motive or intent, it is considered part of the *res gestae* and is admissible. *State v. Johnson*, 306 S.C. 119, 410 S.E.2d 547 (1991).

In *Johnson*, the State sought to introduce evidence of a prior murder committed by the defendant as evidence of motive for the murder charged. The defendant was driving around with the body of the victim of a prior murder in his car. He told witnesses he would kill a police officer if they were pulled over to prevent the officer from finding the victim's body. Shortly after, the defendant was pulled over and he shot and killed the law enforcement officer. The court held such evidence was admissible because "evidence of the other crime is admissible on the main issue or where the evidence admitted to show motive or intent is of acts which may well be supposed to have been done in furtherance or [sic] such motive or intent." *State v. Johnson* at 127, quoting *State v. Nix*, 288 S.C. 492, 343 S.E.2d 627 (Ct.App.1986). The court further stated that no limiting instruction that the evidence should only be considered for motive or intent was required because "[e]vidence which has a direct bearing on, or

relation to the commission of, the crime itself, so as to form part of the *res gestae*, is admissible without limiting instructions.” *State v. Johnson* at 127, quoting 23A C.J.S. Criminal Law § 1208 (1989).

In the present case, evidence the defendant stated that he had a plan to kill the Victim by setting fire to his home and shooting the victim is probative of premeditation, malice aforethought, and his intent to kill the Victim. While the act of setting the fire could be considered a separate crime in itself, when viewed simultaneously with the defendant’s statements as part of the story necessary to complete the crime, it is an act taken in furtherance of the defendant’s intent to kill. As a step taken in furtherance of the defendant’s intent to kill, the act of setting the camper on fire had a direct relation to and bearing on the crime charged. Therefore, evidence that the defendant set fire to the Victim’s camper before shooting the Victim should be admissible as *res gestae* evidence of the crime charged. For the forgoing reasons, pursuant to *res gestae* theory, testimony regarding fire being set to the Victim’s camper is necessary and extremely probative to the State’s case.

II. ADMISSIBILITY OF EVIDENCE OF PRIOR CRIMES FOR WHICH THE DEFENDANT HAS BEEN ACQUITTED

The defendant was tried and acquitted for Arson in the Second Degree related to the facts set forth above in December, 2023. The Fifth-Amendment guarantee against Double Jeopardy prohibits the re-litigation of a secondary offense if an essential element of that offense was already adjudicated and an acquittal was reached. *Ashe v. Swenson*, 397 U.S. 436, 90 S. Ct. 1189, 25 L. Ed. 2d 469 (1970). However, even if certain facts are “necessarily determined” in the prior trial, if those facts do not constitute an ultimate issue regarding the secondary count, then the government not only may retry the mistried count but also may introduce evidence relating to the acquitted count that is relevant to the mistried count and otherwise satisfies the Rules of Evidence. *United States v. Yearwood*, 518 F.3d 220 (4th Cir. 2008).

The court in *Yearwood* examined whether the retrial of a mistried crime was barred when certain facts were necessarily determined in the first trial by the defendant’s acquittal of an accompanying charge. At

the first trial, the defendant was charged with both distribution of cocaine and conspiracy to possess cocaine with intent to distribute. He was subsequently acquitted of the distribution charge, however there was a mistrial of the conspiracy charge because the jury was unable to reach a verdict. The case was retried on the conspiracy charge and the defendant was found guilty, from which he appealed. The court held that a general verdict of acquittal indicates that the jury has not been convinced beyond a reasonable doubt of at least one essential element of the substantive offense, but does not "necessarily determine" all factual issues. Because no specific act is an essential element of the crime of conspiracy, the acquittal of the distribution charge did not determine any ultimate issue of the conspiracy charge. Further, even if such issues are necessarily determined, evidence relating to those issues may still be admissible when the guiding evidentiary rule does not require proof beyond a reasonable doubt. Therefore, the court held the re-litigation of the conspiracy charge was proper and allowed the State to introduce evidence related to the acquitted charge.

Similarly, in *Dowling v. United States*, 493 U.S. 342, 110 S. Ct. 668, 107 L. Ed. 2d 708 (1990), the Court held that evidence relating to a prior crime for which the defendant has been acquitted is admissible when presented under an evidentiary standard that requires a lower burden of proof. At trial for bank robbery, armed robbery, and various other crimes, testimony from an alleged prior victim of an attempted robbery for which the defendant was acquitted was admitted. The court allowed the alleged prior victim of this attempted robbery to testify and identify the defendant as one of the men who robbed her, despite the issue of his identity being necessarily determined by his acquittal of the crime. The acquittal established that there was a reasonable doubt as to whether he committed the prior robbery, but to introduce testimony regarding the defendant's identity in the trial at hand did not require proof beyond a reasonable doubt. Because the State sought to introduce evidence under 404(b), the evidentiary standard imposed required a jury to be able to reasonably conclude the act occurred and the defendant was the actor. Double Jeopardy does not prohibit the admission of otherwise admissible relevant and probative evidence simply because it relates to alleged criminal conduct for which there has been an acquittal.

Therefore, because admission of the evidence only required the jury to be able to reasonably conclude the prior bad act occurred rather than requiring proof beyond a reasonable doubt, the evidence was admissible under 404(b) as evidence proving the identity of the defendant.

In this case, the State seeks to introduce evidence relating to the Second-Degree Arson charge for which the defendant was acquitted, under a theory of *res gestae*. Given that the act of setting a fire is not an essential element of either of the charges in the above captioned indictments, the State is not precluded from presenting evidence relating to the acquitted arson charge so long as it is relevant to the crime charged. The State contends that evidence relating to the Arson charge is relevant as part of the *res gestae* of the murder itself, as stated above.

Therefore, as evidence of *res gestae* that is necessary and probative to the State's case, admission of evidence that the defendant set fire to the Victim's camper is not precluded by his previous acquittal of second-degree arson. The State properly seeks admission of such evidence in the prosecution of this case.

III. EVIDENCE OF FLIGHT AS CONSCIOUSNESS OF GUILT

Finally, the State intends to use evidence of flight as evidence of consciousness of guilt. The State seeks to present evidence that the defendant fled the scene of the murder in Lexington County on November 27, 2021 and remained at large until apprehended at a residence in Richland County by law enforcement officers on December 2, 2021.

As a general rule, any guilty act or conduct is admissible as evidence of consciousness of guilt. *State v. McDowell*, 266 S.C. 508, 515, 224 S.E.2d 889, 892 (1976). Flight from prosecution is admissible as evidence of guilt. *State v. Middleton*, 441 S.C. 55, 62, 893 S.E.2d 279, 283 (2023).

The State will present evidence in this case that the Defendant's phone was not interacting with cell tower networks at the time of the murder of Jimmy Johnson around 7:15 am on November 27, 2021 in Lexington County. The Defendant did not call 911 following the shooting and did not remain at the scene to await first responders. The Defendant's phone is once again active at 8:37 am on November 27th,

after fleeing the scene of the crime. The Defendant remained at large following the murder and was ultimately apprehended by law enforcement on December 2nd at a residence in Richland County. While officers were outside of the residence, the Defendant communicated with others via his cell phone. Specifically, the Defendant sent a text message to an acquaintance which referenced the officers waiting outside of the residence and expressly stated "phone got me." This text is probative evidence of the Defendant's knowledge and state of mind regarding law enforcement's ability to trace cell phone locations. This text is further proof of the Defendant's state of mind and intent to deactivate his cell phone during the timeframe of the murder in Lexington County on November 27th. This evidence creates a chain of inferences clearly demonstrating the Defendant deactivated his phone to avoid capture prior to committing the crime and after committing the crime, while continuing to evade apprehension until December 2, 2021. Evidence presented regarding the text sent by the Defendant on the day of his apprehension is necessary and probative evidence of guilt and state of mind. The State properly seeks admission of such evidence in this case.

Respectfully submitted:



Suzanne Mayes
Deputy Solicitor
Eleventh Circuit Solicitor's Office
Lexington, S.C.

June 11, 2025



Extraction Report - Google Android Generic

Chats (1)

Native Messages (1)

#		Deleted
1	<p> Start Time: 12/2/2021 10:30:04 AM(UTC-5) Last Activity: 12/2/2021 10:30:04 AM(UTC-5) Number of attachments: 0 Source: Native Messages Source file: Universal_Android_Access.zip\data\data/com.samsung.android.messaging/databases/message_content.db : 0x8F58 (Table: recipients; Size: 151552 bytes) Source Extraction: File System (1) Body file: chat-1.txt </p> <p>Participants:</p> <div>   <div>8034657576</div> </div>	

(owner)
To: 8034657576

Yo man holler at me i ain't crazy or nothing dude stole some shut had sentimental value to it .ashtens sock she had on when she died and some personal things.pictures of me and her a few tools but I give him 2 days get right I must howled like a wolf but I was serious .so he paid me back probably not worth it to him but hey we get only so many chances to give back what's not ours

To

Participant	Delivered	Read	Played
8034657576			

12/2/2021 10:30:04 AM(UTC-5)

Source Extraction:
 File System (1)
 Source Info:
 Universal_Android_Access.zip\data\data/com.samsung.android.messaging/databases/message_content.db : 0x2290B (Table: messages, parts, recipients; Size: 151552 bytes)





Extraction Report - Google Android Generic

Chats (1)

Native Messages (1)

#		Deleted
1	<p> Start Time: 12/2/2021 5:03:02 AM(UTC-5) Last Activity: 12/2/2021 3:30:49 PM(UTC-5) Number of attachments: 0 Source: Native Messages Source file: Universal_Android_Access.zip\data\data/com.android.providers.telephony/databases/mmssms.db : 0x5FF99 (Table: sms, canonical_addresses; Size: 397312 bytes) Source Extraction: File System (1) Body file: chat-1.txt </p> <p>Participants:</p> <div>   </div> <p>+18035289467</p> <p>Identifier: 3</p>	

(owner)
 To: +18035289467

Well I'm still hanging in there buying much time as possible .thank you for every thing.you still gonna give me a lift

Participant	Delivered	Read	Played
+18035289467			

12/2/2021 10:31:46 AM(UTC-5)

Source Extraction:
 File System (1)
 Source Info:
 Universal_Android_Access.zip\data_mirror\data_ce/null/0/com.samsung.android.messaging/databases/message_content.db : 0x22892 (Table: messages, parts, recipients; Size: 151552 bytes)





Extraction Report - Google Android Generic

Chats (1)

Native Messages (1)

#		Deleted
1	<p> Start Time: 12/2/2021 5:03:02 AM(UTC-5) Last Activity: 12/2/2021 3:30:49 PM(UTC-5) Number of attachments: 0 Source: Native Messages Source file: Universal_Android_Access.zip\data\data/com.android.providers.telephony/databases/mmssms.db : 0x5FF99 (Table: sms, canonical_addresses; Size: 397312 bytes) Source Extraction: File System (1) Body file: chat-1.txt </p> <p>Participants:</p> <div>   <div>+18035289467</div> </div> <p>Identifier: 3</p>	

 (owner)
 To: +18035289467

Well here's my chance I'm leaving now headed to beach myrtle love yall delete this thanks

Participant	Delivered	Read	Played
+18035289467			

12/2/2021 2:51:21 PM(UTC-5)

Source Extraction:
 File System (1)
 Source Info:
 Universal_Android_Access.zip\data_mirror\data_ce/null/0/com.samsung.android.messaging/databases/message_content.db : 0x23D66 (Table: messages, parts, recipients; Size: 151552 bytes)





Extraction Report - Google Android Generic

Chats (1)

Native Messages (1)

#		Deleted
1	<p>Start Time: 12/2/2021 5:03:02 AM(UTC-5) Last Activity: 12/2/2021 3:30:49 PM(UTC-5) Number of attachments: 0 Source: Native Messages Source file: Universal_Android_Access.zip\data\data/com.android.providers.telephony/databases/mmssms.db : 0x5FF99 (Table: sms, canonical_addresses; Size: 397312 bytes) Source Extraction: File System (1) Body file: chat-1.txt</p> <p>Participants:</p> <div>  +18035289467</div> <p>Identifier: 3</p>	

(owner)

To: +18035289467

They got me [REDACTED] phone killed me

Participant

Delivered

Read

Played

+18035289467

12/2/2021 3:30:49 PM(UTC-5)

Source Extraction:

File System (1)

Source Info:

Universal_Android

Access.zip\data_mirror\data_ce/null/0/com.samsung.android.messaging/databases/message_content.db : 0x23992 (Table: messages, parts, recipients; Size: 151552 bytes)



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

HONORABLE WALTON MCLEOD, CIRCUIT COURT JUDGE

Indictment No(s): 2023GS3202933, 2021GS3202934

The State,.....Respondent.

V.

Mark Anthony Festus Scheibler,.....Appellant.

NOTICE OF APPEAL

Mark Anthony Festus Scheibler, appeals his trial and sentence in this case. The Honorable Walton McLeod presided over the trial beginning jury selections June 16, 2025 and concluded on June 20, 2025. The court reporter was Penny Johnson, 1220 Senate St., Suite 200 Columbia, SC 29201

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JUN 25 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

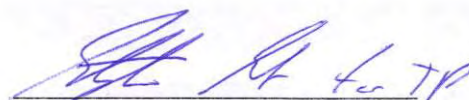
HONORABLE WALTON MCLEOD, CIRCUIT COURT JUDGE

Indictment No(s): 2023GS3202933, 2023GS3202934

The State,.....Respondent.
V.
Mark Anthony Festus Scheibler,.....Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Suzanne Mayes by depositing a copy of it in the United States Mail, postage prepaid, on June 23, 2025, addressed to Suzanne Mayes, Assistant Solicitor, Lexington County Courthouse, Lexington, SC 29072.



Jean M. Popowski
Deputy Public Defender
202 E. Main Street
Lexington, SC 29072

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JUN 25 2025
SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Molly M Keegan
Appellate Defender

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Oct 01 2026

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 1st day of October, 2026.

