VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DON LEEQUIN BROWN,

APPELLANT

APPELLATE CASE NO. 2023-001336

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Q And have you watched the video?
A Yes, ma'am.
Q And is it accurate?
A To what? What do you mean, is it accurate?
Q Did it show your van?
A Oh, yes, ma'am.
Q Okay. So it showed your van and what happened that night when you were coming to EME Apartments or Cherry Hill Apartments?
A I'm not sure what you mean. It shows my van in the video, yes, ma'am. That's about it.
Q Okay. And, in fact, at some point that night -- well, who was in the van? At that point, who was in the van on the video?
A At which point? At the apartments?
Q Yep.
A Me, Travontae, and Shamontae.
Q And, in fact, at some point on the video, I see Tronahz Whittington go up to your van. Do you remember that?
A Yes, ma'am.
Q Okay. So all that happened that night? What's on the video is what happened?
A Yes, ma'am.
Q Okay. Now, clearly, something happened before then;

correct?

A Yes, ma'am.

Q At this point, it's nighttime; is that right?

A Yes, ma'am.

Q Tell me what unfolds prior to when we see your van at Cherry Hill Apartments.

A What do you mean what happened prior? I was home prior to that.

Q I'm sorry?

A I was home prior to that. What do you mean, what happened prior to that?

Q Okay. Did you see Shamontae Graham that day?

A Yeah. He was living with me at that time.

Q Okay. And where did he live at the time?

A With me in Myrtle Beach.

Q Okay. And did you bring him to Conway?

A Every day, yes, ma'am.

Q Okay. And did you bring him to Conway that day?

A Yes, ma'am, I took him every day.

Q Okay. And where did you drop him off that day?

A At his mother's house.

Q At whose house?

A His mom's.

Q Okay. And where is that?

A Behind Popeye's.

Q Okay. And after you dropped him off, where did you go?
A To get me a fish sandwich.
Q And then where did you go after that?
A Home.
Q Okay. And did you go back out?
A When I got home, yes, ma'am.
Q Okay. And tell me about that.
A I got home. I smoked. I drank a soda. I went back to Conway.
Q Why did you come back to Conway?
A To pick Shamontae up to go back home.
Pick Shamontae up to go back home.
Q Okay. So what happens when you come back to Conway?
A I picked him up and then that's it. We went home.
Q Did you pick anybody else up?
A Yep.
Q Who else did you pick up?
A You want names?
Q Yes.
A Me, Shamontae, Travontae, Che, and -- Don, is his name? Don?
Q And did you give a statement to the police?
A That night? No, ma'am.
Q How about later on?

A Yes, ma'am. My house got busted.
Q Okay. And if I showed it to you, as to who you picked that up night, would it refresh your memory?
A Yeah. Yes, ma'am.
MR. GARDNER: Objection. She hasn't said she has trouble with her memory. She doesn't need it refreshed.
MS. LIVESAY: All we're doing is refreshing her memory. It's her prior statement, Judge.
THE COURT: Well, I mean, she's already said she picked up Don, Travontae, and Che.
BY MS. LIVESAY:
Q Maybe I didn't catch all the names. Who all did you pick up that night?
MR. GARDNER: Asked and answered, Your Honor.
THE COURT: Overruled.
THE WITNESS: What does that mean? Answer?
THE COURT: Yes.
A Oh, me, Shamontae, Travontae, Che, and Don, I believe.
BY MS. LIVESAY:
Q Okay. Did you pick up Mikkie McLeod?
A Yes, ma'am.
Q Okay. So I'm correct, this man over here, Che Ransom, you picked him up?
A Yes.

Q You picked up Travontae Mitchell?
A Yes.
Q You picked up Don Brown?
A Yes.
Q You picked up Shamontae Mitchell or Shamontae Graham?
A Yes.
Q And you picked up Mikkie McLeod?
A Yes.
Q Where did you pick them up from?
A Ray's aunt house in Brown Swamp in Conway.
Q And is that near Hallie Martin Road?
A I'm not sure where Hallie Martin Road is.
Q Okay. If I showed you a map, could you pick it out, you think, that area?
A I can show you the area, but I don't know if I can show you that -- be able to show you the exact house, no, ma'am.
Q Okay. I'm going to show you now State's Evidence No. 16. Take a look at this, and show this jury the -- where you picked those five guys up from.
A I'm not familiar with Conway. Would you be able to tell me what area I'm looking at?
Q Sure. This is Wayside Road right here. This is Rose Moss. And then this is D Street that comes back on

501. And that's Hallie Martin Road there.

A Would you be able to show me the top of Brown Swamp?

Q I can only show you what's on this map.

A I can't see my aunt house on the map. I'm sorry.

Q It's okay.

Do you know what road she lives on?

A I do not. I can describe it for you.

Q Well, tell me this: Is it near -- well, this is Brown Swamp Road right here; right?

A Yes. So wherever the gas station be with the monkey.

Q You mean Henry's gas station?

A Yes, ma'am.

MR. BOUCHETTE: Your Honor, I object. This witness clearly --

THE COURT: Sustained. Sustained. If she knows, she knows. If she doesn't, she doesn't.

BY MS. LIVESAY:

Q I can only show you what's on this map. Can you decipher it from here? That's Brown Swamp Road there.

A I believe it's cut off on that. If that's Brown Swamp Road, if it's -- if the gas station is right here by 501 and cut off, it's at the end of the road.

Q Let me ask you something -- I probably should have asked you this way. I'm terrible with maps too.

A You're fine.
Q When you picked him up, did you hear any sirens?
A No, ma'am. But before I picked them up, the way I originally went, it was blocked off.
Q Do you know why it was blocked off?
A At the time, I did not, but I do now.
Q Okay. Why?
A Someone was murdered.
Q Okay. So on the way to pick them up, the way you normally go was blocked off by the police?
A Yes, ma'am.
Q Because, at that time, they were investigating the murder?
A Yes, ma'am.
Q So, clearly, where you picked them up from was close to that area?
A No. They had Brown Swamp Road blocked off close to the gas station so you couldn't turn down the road at all.
Q Okay. Okay. And so you picked them up from some alternate route?
A Yes, ma'am.
Q Okay. But the route you would normally take was blocked off from police?
A Yes, ma'am.
Q How did you know the alternate route?

A Me and Shamontae was on the phone the whole time.
Q Okay. So did he give you directions to where you were going?
A Yes, ma'am.
Q And did you -- what did you do once you picked up Che, Mikkie, Shamontae, Travontae, and Don Brown? What did you do after you picked these boys up?
A Dropped them off.
Q Where did you drop them off?
A Behind Walmart.
Q And who did you drop off behind Walmart?
A Everyone except for Shamontae, Travontae, and me.
Q Okay. So you picked all of these three up in addition with the other boys?
A Yes.
Q And you dropped off Che Ransom and Don Brown behind the Walmart?
A Yes, ma'am.
Q And Travontae and Shamontae were still with you?
A Yes, ma'am.
Q And when we see your black van on the video -- you have seen that video; correct?
A Yes, ma'am.
Q Who is in the van at that time?
A Me, Travontae, and Shamontae.

Q So at that time, whatever time that is on the video, you have already picked them up, you have already dropped three of them off, and then you are back at that location?
A Yes, ma'am.
Q Okay. And the normal route that you take, you would be more familiar with?
A Meaning?
Q The normal route you would take to get to your aunt's house.
A Yes, ma'am. What about it?
Q But it was blocked off that particular day?
A Yes, ma'am.
Q Okay. Ms. Hemingway, do you still have contact with Mr. Graham?
A Since he's been out of jail, yes, ma'am.
Q And do you have any hard feelings or ill will towards any of these three boys here?
A Not at all.

MS. LIVESAY: No further questions, Your Honor.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: Just very briefly, Your Honor.

CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

BY MR. BOUCHETTE:

Q Good afternoon. When you dropped them off, was there a location called Crabtree Apartments?

A I'm not sure of the name of the apartments. I know it's off of Ninth in Conway.

Q Okay. But you dropped them off near some apartment complex?

A Who?

Q Che and the other boys.

A Okay.

Q I'm asking. Is that what happened?

A Oh, yes, sir.

Q Okay. That's what I'm trying to get at.

A Oh, yes, sir. I dropped them off. I'm sorry.

Q No, no problem at all.

The reason I'm asking is that your direct testimony indicated you dropped them off behind Walmart. Just to be clear, it wasn't literally back behind a Walmart like in an alleyway. You dropped them off at an apartment complex behind Walmart?

A Yes, sir.

Q Okay. All right. Very good.

And other than that, you, obviously, don't have any knowledge for this jury about what transpired in that shooting with Mr. Jamie Johnson?

A No. I didn't find out about the shooting until my house got busted and they were demanding for Shamontae Graham.

Q Okay. All right. And, obviously, you don't know anything about anything that preceded that shooting; right?

A No, not at all.

Q All right. Very good.

MR. BOUCHETTE: No further questions, Your Honor.

THE COURT: All right. Mr. Pinkerton?

MR. PINKERTON: No questions, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir, no questions.

THE COURT: Redirect?

MS. LIVESAY: Nothing, Your Honor.

THE COURT: You may step down.

The State can call your next witness.

MS. LIVESAY: Yes, sir, Your Honor. At this time, the State calls Dennis --

THE COURT: Hold for a second.

THE WITNESS: Am I good to leave or --

THE COURT: Oh, she asked if she could leave.

MS. LIVESAY: None, from the State, Your Honor.

MR. HELMS: No objection from the State.

THE COURT: No objection?

MR. BOUCHETTE: No objection, Your Honor.

MR. PINKERTON: No objection, Your Honor.

MR. GARDNER: No objection, Your Honor.

THE COURT: All right. She's free to go. Thank you very much.

All right. The State can call your next witness.

MS. LIVESAY: Thank you, Your Honor. Dennis Lewis.

THE CLERK: Please raise your right hand. Place your left hand on the Bible.

DENNIS LEWIS,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: Please state your name and spell it for the Court.

THE WITNESS: Dennis McLain Lewis. D-e-n-n-i-s M-c-L-a-i-n L-e-w-i-s.

DIRECT EXAMINATION

BY MS. LIVESAY:

Q Mr. Lewis, are you currently working anywhere?

A (Witness nodding.)

Q What is your current status?

A I'm retired.

Q Congratulations.

A Amen.

Q And how long have you been retired?

A June of last year.

Q And how long did you work at the police department?

A About 18 years.

Q And what were your responsibilities at the police department?
A When I retired, I was a crime scene investigator.
Q And what -- tell these folks what a crime scene investigator does.
A We'll just respond to any major crime. Homicides, murders, shootings, stabbings, bank robberies. Anything that's involving a major crime, what we classify them as. And then we go and just collect evidence, photograph it, documentation.
Q Okay. So you photograph how the scene appears?
A Yes, ma'am.
Q And do you collect any evidence that may be out there?
A I do.
Q Okay.
(State's Exhibit Nos. 65 through 79, Scene Photographs, were marked for identification.)
COURT REPORTER: State's 65 through 79 marked.
MS. LIVESAY: Thank you.
BY MS. LIVESAY:
Q Mr. Lewis, what were your job responsibilities back in September 2020?
A Crime scene investigator.
Q As a crime scene investigator, did you assist on the

murder that happened at the intersection of D Street and Rose Moss?

A I did.

Q Okay. And by the time you -- did you arrive to the scene? Did you get dispatched to the scene?

A I did.

Q And you went that night?

A I did. Yes, ma'am.

Q And by the time you got there, was it daylight or already night?

A It was nighttime.

Q And what did you do when you first got there?

A When I first arrived, I talked with Senior Detective David Dudley just to get abreast of the situation, and he informed me what had happened, and he informed me that a shooting incident occurred and that the victim had been transported to the hospital.

At that time, I walked around the scene myself just to get a sense of what was going on, and then I backed out and started to take photographs -- exterior photographs of the scene.

Q Okay. And did you photograph the items that you felt were of evidentiary value to the case?

A Yes, ma'am, I did.

Q Anything that you marked -- would you mark evidence

that was out there?
A We would. I was advised that there was some little pieces of paper that was on the roadway that the road officers had placed where some spent casings was, and then I went -- also, we have numbers that we put down ourselves to number each individual item of evidence, and then we photograph it.
Q All right. So, in this particular case, did you see the shell casings in the roadway?
A I did, yes.
Q And did you mark it with an evidence marker?
A I did.
Q And did you photograph it?
A I did.
Q And part of your responsibilities, did you also do a crime scene sketch?
A Yes, ma'am.
Q Now, is that sketch to scale?
A No, ma'am.
Q And what is the purpose of the sketch?
A Just a hand sketch to let me know, familiarize me with the scene for documentation purposes.
Q And on the sketch, do you indicate where you collect items of evidence?
A I do, yes, ma'am.

Q Okay. I'm going to show you now 65 through 79. Would you look a look at these photographs and tell me whether or not you can identify them?

A Sure. (Reviewing document.)

Yes, ma'am. I took those.

Q And did you take those photographs?

A Yes, ma'am, I did.

Q Did you initial the back of them?

A I did, yes, ma'am.

Q And does that indicate those are the photographs you took that night from D Street and Rose Moss?

A It is.

Q And is that accurate how everything was when you arrived on the scene?

A It is, yes, ma'am.

MS. LIVESAY: Your Honor, at this time, the State wishes to place 65 through 79 into evidence and publish them to the jury.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: No objection.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No objection, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No objection, Your Honor.

THE COURT: All right. State's Exhibits 65 through

79 are admitted into evidence without objection.

(State's Exhibit Nos. 65 through 79 were received into evidence.)

BY MS. LIVESAY:

Q Before I ask you to step down, Mr. Lewis, I want to show you what's been marked as State's Exhibit 39. Do you recognize what I'm showing you now?

A Yes.

Q And is this your sketch?

A It is.

Q And does this indicate where you collected the evidence from?

A It does.

Q And does this indicate kind of where you saw everything that night?

A That is. That's correct.

MS. LIVESAY: Your Honor, at this time, the State wishes to put 39 into evidence and publish it to the jury.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: Your Honor, I would object to that based on testimony that it was not to scale. I certainly understand why he was taking it during the moment for his own point of reference, but to then put it in to the jury to try to show some precise location, I think, one, that would be very misleading. So we'd object on that basis.

THE COURT: All right. Mr. Pinkerton?

MR. PINKERTON: Your Honor, I would join Mr. Bouchette on his objection.

THE COURT: Mr. Gardner?

MR. GARDNER: The objection is that this document is not to scale. It's not a fair and accurate depiction, which is required by the law and the rules. I don't object to him using it to familiarize himself with the -- his job duties while he was on the crime scene, but this does not comply with the rule, and, therefore, I object.

THE COURT: All right. State's Exhibit 39 is admitted into evidence over the defendants' objection.

MS. LIVESAY: Thank you, Your Honor.

(State's Exhibit No. 39 was received into evidence.)

BY MS. LIVESAY:

Q Now, you collected some shell casings from the scene?

A I did, yes, ma'am.

Q And did you -- this is not exact; correct?

A That's right.

Q It's just an idea of where everything was?

A True.

Q And did you mark on the sketch the approximate area of the shell casings?

A I did.

Q Okay. And then you took photographs to show exactly where they were?
A Yes, ma'am.
Q If you don't mind, I'm going to ask you to step down. We're looking at now and showing the jury State's Exhibit 39. Help everybody kind of get their bearing. This is 501?
A It is, yes, ma'am.
Q And is this D Street in this kind of horseshoe?
A The horseshoe, yes, ma'am. That's D street. It starts at 501 and comes around and ends up back at 501.
Q Okay. And point out Rose Moss.
A Rose Moss is here, which stops here at D Street.
Q Okay. So this is an intersection kind of?
A It is.
Q And is there a stop sign?
A There is. One right at Rose Moss and D Street.
Q And point out to these folks approximately where you collected the shell casings from.
A In this circle, right there at the horseshoe where it starts to turn at Rose Moss Road where it intersects. There's ten items of evidence I collected here in the proximity there.
Q And did you also put on the sketch about where the Tahoe was?

A I did. The Tahoe was here.
Q And is this to show where the relationship from the casings to the Tahoe were?
A That's true.
Q Now, was the Tahoe still on the scene when you arrived?
A It was, yes.
Q Did you see any shell casings around the Tahoe?
A I did not, no.
Q Thank you, Mr. Lewis. If you don't mind, hang right there. We're going to publish these pictures to the jury.
What are we looking at here?
A The intersection of Rose Moss Road and D Street.
Q And is this the stop sign?
A That is.
Q Okay. And what's this; do you know?
A I don't know. It's just something that was on that stop sign.
Q Okay. What are we looking at here?
A That's Item No. 1 in evidence. Spent shell casings in the roadway.
Q Now, help me out because it's hard to get a feel of where I'm at. Is this the sign for D Street and Rose Moss?
A It is.

Q Now, are we looking at D Street right here?
A Yes. D Street is coming from 501 and it's turning and going back to 501. And Rose Moss Road starts here and heads south.
Q Okay. And I see two evidence markers, 1 and 2.
A Yes.
Q Okay. So that's where you started marking off the evidence?
A That is correct, yes, ma'am.
Q And that's where you located it when you arrived on the scene?
A It is.
Q Okay. What am I looking at?
A Item No. 1, spent shell casings.
Q What am I looking at here?
A Item No. 2 of evidence, which is a spent shell casing.
Q Tell me what I'm looking at there.
A You're looking at the photograph down the roadway. I think this is going back towards 501, and it's Item 5, 4, and 3.
Q And, again, is this -- am I still on D Street?
A You are. This is D Street. This is coming closer as we approach this way. This is coming closer to Rose Moss Road.

Q Okay. What am I looking at?
A That's Item 3. Evidence Item 3.
Q And what is it?
A Spent casing.
Q When you say "spent casing," what is --
A It's been fired. A bullet that's been fired. So just the casing. The projectile is gone.
Q Okay. So when I fire a semiautomatic, what pops out the side is the spent casing?
A Spent casing, yes.
Q What am I looking at here?
A Item 4, which is a spent casing.
Q Here?
A Item 5, also a spent casing.
Q What am I looking at here?
A Items of evidence. This is a different angle. It would be 5, 7, 6, 5. Can't quite read them. That's the items of evidence that was on the roadway.
Q And are we still on D Street right here?
A We are. The back would be to 501, and we're heading to D Street and Rose Moss Road where it intersects here. The victim's vehicle would be right over here.
Q Okay. So this is Rose Moss right here?
A It is.
Q Okay.

A That's Item 6, spent casing.
Q Now, that one looks a little different.
A It is.
Item 7, spent casing. And Item 8, also a spent casing.
Q These are all on Rose Moss?
A They are -- no, those are on D Street.
Q I'm sorry. They're all on D Street?
A Yeah.
Two items of evidence, No. 9 and No. 8, also on D Street. Spent casings.
Item 9, spent casing.
Item 10, which is the piece of metal. And I went ahead and collected it just to have it in case it did prove pertinent to the case.
Q So out of an abundance of caution?
A Yes.
Q And, total, how many spent casings did you collect from D Street?
A Nine, I do believe. Nine spent casings.
Q Okay. Thank you.
Now, Mr. Lewis, did you collect all nine spent casings?
A I did.
Q And I'm going to ask you to review what's in this

bag and tell me if you can identify this as being collected from D Street.

A Yes, ma'am.

Q. And those are the spent casings. How are you able to identify those are the ones you collected?

A Because I put the item number on the box. I also put the case number on the box, the time, the date, my name, my signature on the back with tamper-proof evidence tape. So, yes, ma'am. It's my handwriting.

Q So we're looking at --

MS. LIVESAY: Your Honor, at this time, the State asks for State's Exhibit 3, 4, 5, 6, 7, 8, 9, 10, and 11 to be placed in evidence. Mr. Lewis has identified this as the evidence collected from D Street.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: No objection.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No objection, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor. No objection.

THE COURT: All right. State's Exhibits 3 through 11 admitted into evidence without objection.

(State's Exhibit Nos. 3 through 11 were received into evidence.)

MS. LIVESAY: And I don't know if this matters to

this young lady, but the container they were in is marked State's Exhibit 12.

THE COURT: All right. So State's Exhibit 12 is just the envelope that includes -- that holds State's Exhibits 3 through 11. Any objection to State's Exhibit 12?

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, Your Honor.

THE COURT: State's Exhibit 12 admitted into evidence without objection.

(State's Exhibit No. 12 was received into evidence.)

BY MS. LIVESAY:

Q Do you mind stepping down, Mr. Lewis?

These were all collected from D Street?

A Yes, ma'am.

Q If you don't mind, can you look at the casing and determine the caliber?

COURT REPORTER: I'm sorry; I can't hear.

THE COURT: Yeah, you're going to have to get near a microphone and speak loud and clearly into the microphone.

A Okay. It's a 9mm Luger spent casing.

BY MS. LIVESAY:

Q And what evidence is that for?

A That's No. 3.

Q So No. 3 is a 9mm Luger?
A It is.
Q Okay. If you don't mind, tell me what No. 6 -- tell me what No. 3 is.
A It's a .223 Remington FC spent casing.
Q This bullet casing looks different; right?
A It is.
Q The .223 is lot longer casing?
A It is.
Q And tell me about No. 4.
A No. 4 -- this is No. 7. Okay. My item is No. 7. It's a .223 Remington spent casing.
Q So the same casing or the same caliber as this one?
A It is.
Q And this one here is a 9mm?
A It's a short one. Yes, ma'am.
Q How about No. 5?
A It's a 9mm, yes, ma'am.
Q And how about No. 7?
A It's a 9mm.
Q How about No. 8?
A It's a 9mm.
Q No. 9?
A Also a 9mm.
Q How about No. 10?

A It's a 9 also, a spent casing.
Q And how about No. 11?
A A 9, Luger, yes, ma'am.
Q So a total of nine shell casings?
A Yes, ma'am.
Q And two are long casings; correct?
A Yes, ma'am.
Q And then these are what you would normally find in a handgun?
A That's correct, yes.
Q Thank you, Mr. Lewis. If you don't mind, have a seat.
And all those casings were in this area?
A Yep, they were, yes, ma'am.
Q Okay. So you didn't collect any from way down here?
A No, ma'am.
Q You didn't collect any from way over here?
A I did not, no.
Q All were in this circle?
A In that intersection area, yes.
Q And every time a gun fires, the shell casing pops out; is that right?
A Normally, yes, ma'am.
Q So this would indicate at least nine shots were fired?

A That's correct.
Q Now, after you collected the shell casings from the scene, did you collect anything else?
A I did.
Q What did you collect?
A I went to the autopsy.
Q And did you collect any bullets from the autopsy?
A No, ma'am.
Q And when would you collect a bullet from the autopsy?
A At the autopsy.
Q Okay. If it was still lodged in a person?
A That's correct.
Q Okay. But Jamie's wound was in and out? Entry wound, exit wound, no bullet to collect?
A Well, it was an impact wound. It fragmented. The bullet actually fragmented when it come through the windshield. So it wasn't an exit wound on him but it was just an entrance.
Q Okay. But no bullet was able to be collected?
A No, ma'am.
Q If a bullet was able to be collected, could you send that to testing?
A Sure, yes, ma'am.
Q Try to figure out what gun fired that particular

bullet?
A That's correct.
Q But that wasn't an option here?
A It was not, no.
Q Now, after you left the autopsy, did you further investigate?
A Yes, ma'am.
Q And what did you do next?
A We searched a vehicle.
Q Which vehicle?
A I believe it was the Tahoe, the victim's vehicle. I believe it was next.
Q Did you search the victim's Tahoe?
A I did.
Q And when you say search it, did you look everywhere in the Tahoe?
A Yes, ma'am. Everywhere.
Q Did you see any weapons in the Tahoe?
A None, no, ma'am. There was none.
Q And did you see any shell casings in the Tahoe?
A No, ma'am.
Q Did you even see any ammunition in the Tahoe?
A No, ma'am.
Q How about a pocket knife?
A No, ma'am.

Q So no kind of weapon at all in the Tahoe?
A No, ma'am.
Q And no shell casings in the Tahoe?
A None.
Q Okay. Did you process any other vehicles?
A I did.
Q And what was that?
A It was a four-door 1994 bluish-in-color Chevy Caprice.
Q I'm going to show you State's No. 40 through 48. Are those photographs of the Caprice?
A They are.

MS. LIVESAY: Your Honor, at this time, I'd like to introduce 40 through 48.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No objection.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No objection, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor. No objection.

THE COURT: State's Exhibits 40 through 48 admitted into evidence without objection.

(State's Exhibit Nos. 40 and 42 through 48 were received into evidence. State's Exhibit No. 41 previously admitted.)

BY MS. LIVESAY:

Q Do you know who the Caprice belonged to?

A Yes, ma'am. It was registered to a De'Shon Samuel of Conway.

Q And when you photographed the Caprice, did it have any bullet holes in it?

A No, ma'am.

Q Did it have any damage at all? Was there a hole through the windshield of this car?

A No, ma'am.

Q Were any of the tires blown out?

A No.

Q No damage?

A None.

Q And if you don't mind stepping down, Mr. Lewis. We're going to go through these real quick with these folks.

Showing State's Exhibit No. 40?

A Yes.

Q Any damage or bullet holes?

A None.

Q This was the car belonging to De'Shon Samuels; correct?

A Samuel, yes, ma'am. De'Shon.

Q And why did you process this car?

A The detective got a search warrant on it and brought it to the station and said it was involved in the situation of the case, so we searched it.

Q And I'm showing you State's Exhibit No. 42.

A Yes, ma'am.

Q Do you see any bullet holes in the side?

A None, no, ma'am.

Q No cracks in the windows?

A No, ma'am.

Q Showing State's Evidence No. 43.

A Yes, ma'am. View of the trunk.

Q Any damage?

A No damage.

Q You searched the Tahoe as well; correct?

A I did.

Q Do you see any damage to that car?

A There was, yes, ma'am.

Q Did you see a bullet hole in that car?

A There was.

Q Now, here's the Chevy Caprice belonging, again, to De'Shon Samuels, No. 44. Do you see any bullet holes in that?

A No, ma'am.

Q State's Evidence No. 45. That's the inside?

A Yes, ma'am. That's the interior.

Q State's 46, is that the backseat of the car?
A That is the rear seat. No damage.
Q Let me ask you something: Did you swab the inside of the car for DNA?
A Yes, ma'am. We swabbed the exterior door handles and inside door handles.
Q And, ultimately, were those swabs sent to South Carolina Law Enforcement Division?
A They were not.
Q And would it have mattered that De'Shon Samuels wiped down the inside with bleach?
A It would have, yes, ma'am.
Q Especially if it was prior to when police gained access?
A That's correct.
Q And did you have the information, that he wiped the inside down with bleach?
A Through the investigation, it was confirmed that he did wipe it down, yes, ma'am.
Q And that was before you took the swab?
A That was.
Q Now, once the car -- and there's one more. 48?
A Yes, ma'am.
Q Was there any reason to send the swabs off once you found out the car had been wiped down with bleach?

A No, ma'am.

Q Have a seat, Mr. Lewis, please.

If the car had not been wiped down with bleach, what information would you gain from the swabs, or possibly gain?

A We might have gotten a profile of a DNA off some individual.

Q Might could tell you who opened the door handle?

A It could have, yes, ma'am.

MS. LIVESAY: No further questions for this witness, Your Honor.

THE COURT: All right. Mr. Bouchette, cross-examination?

MR. BOUCHETTE: Yes. Court's indulgence.

CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

BY MR. BOUCHETTE:

Q Mr. Lewis, good afternoon, sir.

A Hey.

Q Looking back at your -- okay.

Did I understand you correctly, there were nine total casings recovered; is that correct?

A That's correct, yes, sir.

Q And the breakdown was there were two from the .223, which is the rifle; correct?

A That's correct.

Q And then we had seven from a 9mm; correct?
A Correct.
Q And the -- did I understand you correctly, where were the two rifle casings in relation to the Tahoe?
A They was in front of the Tahoe on the D Street.
Q They were in front of the Tahoe.
About how far approximately?
A Well, I don't know exactly how far. I can look in my notes and we can --
Q Well, I don't need an exact, but do you recall even a rough estimate?
A 30 feet maybe.
Q Okay. The 9mm casings --
A They was scattered from --
Q Were they further away?
A One was. I do believe one of the 9mms, a couple of them, was a little further away than the .223s, and then they gravitated forth.
Q Okay. If I understand you correctly -- well, actually, correct me if I'm wrong, were there any other bullet holes that you observed in the Tahoe other than the shot through the window and the shot to the body of the vehicle?
A That's the only two.
Q That's the only two.

And the non-windshield shot, were you able to recover a bullet on that?

A No, sir.

Q Were you able to confirm for certain that that was as a result of a bullet?

A We did not confirm for sure, no, sir, but, you know, just by eyeballing, looking, you can see the impact on the chassis and the radiator was leaking fluid, so...

Q Okay. Due to the circumstances, you concluded it, but there wasn't a --

A We did not find a projectile, no, sir.

Q Okay. All right. Just a moment. Let me look at your diagram here.

And you found no .45 casings; correct?

A .45?

Q Any shell casings from a .45 caliber weapon?

A No, sir.

MR. BOUCHETTE: No further questions for this witness, Your Honor.

THE COURT: Mr. Pinkerton?

CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

BY MR. PINKERTON:

Q Thank you for being here, sir.

A Yes, sir.

Q Just to reiterate, all of the casings themselves

were found on D Street; correct?
A Correct.
Q Not Rose Moss?
A No, sir.
Q And the two .223 casings were found directly in front of the Tahoe?
A It's -- well, approximate. As I say, it was down D Street, yes, sir.
Q Okay. And there was only one visible bullet hole in the Tahoe when you inspected it?
A That's true, yes, sir. That's correct.
Q Did you do any kind of gunshot residue kit on the Tahoe? Inside? Outside? Anything like that?
A No, sir.
Q Why not?
A Just didn't do one. Not a GSR, gunshot residue.
Q I mean, if it's a shooting, don't you think you'd want to?
A Well, we did one on the victim's hands. We did that one.
Q But not on the inside of the car itself?
A Not on the inside, no, sir.
Q Did you do it on any of the other victims?
A No, sir, I did not.
Q Do you know if it was ever done on any of the other

victims?

A I do not.

Q Okay. So, as far as you know, no one ever did a gunshot residue kit on any other of the victims in this case?

A Not to my knowledge.

Q And not on the Tahoe?

A Not on the Tahoe, no, sir.

Q Was one done on the blue Caprice?

A No, sir, not a gunshot residue kit.

Q Why not?

A Didn't see the need to.

Q Don't you think you'd want to, with a shooting?

A Well, we possibly could, but we just didn't do it.

Q But you didn't do it?

A We did not do it, no, sir.

Q Don't you think that would be helpful, if someone is firing a gun in close proximity to the car?

A It would, but there are timelines to the gunshot residue kit that has to be performed, plus the information that we gleaned that the car was wiped down with bleach.

Q Well, as part of the investigation, wouldn't it have made more sense to try at least to get a gunshot residue kit?

A Well, at that time, no, sir, it didn't, not to us,

so we didn't collect it.
Q And, once again, you said you recovered no bullets from the Tahoe?
A No bullets, no, sir.
Q And you said you found no casings, no bullets, no guns, or anything in the Tahoe?
A None, no, sir.
Q Were you the first person to inspect the Tahoe?
A I wasn't the first person on the scene, no, sir.
Q Okay. So multiple people could have been in the Tahoe looking for evidence before you got there?
A Well, they could have, yes, sir.
Q But, to your knowledge, had anything been moved from the Tahoe?
A No, sir. When I got on the scene, the scene was secured by road officers, and nobody was going in the Tahoe at the time when I arrived.
Q So, to your knowledge, no one, like, street officers or anybody had gone into the Tahoe?
A Not to my knowledge, no, sir.
Q Okay. But they could have; correct?
A Well, could, yes, sir. It's possible.
Q And they could have moved around evidence in the Tahoe?
A They could have, yes, sir.

Q And about how long between the shooting happening and you arriving on the scene?

A I arrived on the scene about 8:15. No, I was notified at about 8:15. I think I arrived on the scene about 8:45 in the evening.

Q At 8:45? Okay.

And it was dark when you got there --

A It was.

Q -- I believe, according to the pictures?

A Yes, sir.

Q Did you go search the woods for any kind of bullet fragments or anything like that?

A We searched the surrounding area, yes, sir. Not off in the woods now, but in proximity. Like I say, three or four or five feet out. We combed the area to try to find any more spent casings, and we did not locate any --

Q Didn't find anymore spent casings either? Okay.

Is it possible those casings had already been there? Some of the casings might have already been there? Is that possible? You don't know exactly when the casings were left there, do you?

A Do I know for certain it was this case? I mean, they looked fresh, just by looking at them. Looked like they had been fired recently. They didn't have rust or anything on the outside of the shell casing, and plus,

they was in the roadway.
Q But you don't know exactly when the casings got there; correct?
A Well, I don't, no, sir.
Q Okay. Thank you.
MR. PINKERTON: No further questions, Your Honor.
THE COURT: Mr. Gardner?
MR. GARDNER: No questions for Mr. Lewis.
THE COURT: All right. Redirect?
MS. LIVESAY: Yes, sir. Just a few.

REDIRECT EXAMINATION

BY MS. LIVESAY:
Q Mr. Lewis, do you recall Mr. Pinkerton, Travontae Mitchell's attorney, asking you about whether or not you tested the Tahoe for GSR?
A Yes, ma'am.
Q Okay. What is GSR?
A Gunshot residue.
Q Okay. And when is there GSR?
A At the firing of a bullet. It expels gunshot residue or gunpowder.
Q Okay. Did you see any shell casings in the Tahoe?
A No, ma'am.
Q Did you see a gun in the Tahoe?
A No, ma'am.

Q Did you see any ammunition in the Tahoe?
A No, ma'am.
Q Did you see anything of any evidence that a gun had by fired from the Tahoe?
A No, ma'am, not at all.
Q And if you had saw such evidence, would you have swabbed it for GSR?
A Yes, ma'am, we would have collected some. We did collect it off of the victim that was in the vehicle, yes, ma'am.
Q And when you first got the vehicle, was there blood in the vehicle?
A Yes, ma'am.
Q And did you tell Mr. Pinkerton that?
A I did not.
Q Okay. Okay. Was there any indication that anybody from the Tahoe fired a gun?
A No, ma'am.
Q Okay. None at all?
A Not at all, no.
Q And while we're asking about the Tahoe, how about the Chevy Caprice? Could you test that for GSR?
A Well, we could have, yes.
Q Would it have done any good if it had been wiped down from bleach?

A It would not, no, ma'am.
Q Do you have any reason to believe anybody wiped the Tahoe down with bleach?
A Yes, ma'am.
Q You think one of the victims wiped the Tahoe down with bleach?
A Well, through the investigation, I was instructed by one of the detectives that was investigating the case, they come to us and said that they had information stating that the Caprice had been wiped down with bleach. And it was clean. By looking at it -- and as we go through vehicle to vehicle, you can tell when one has been wiped down. That one was extra clean. It's been wiped down, yes, ma'am.
Q Do you mean the Tahoe or the Chevy Caprice?
A The Chevy Caprice was wiped down.
Q Okay, I'm sorry. I'm confused.
So the Chevy Caprice, it definitely had been wiped down?
A It had been wiped down, yes.
Q And you even saw the wipe marks?
A Yes, ma'am. You could tell it had been wiped down.
Q Did you see anything in the victim's car that indicated anybody had wiped anything?
A Oh, no. No, ma'am.

Q Now, Mr. Pinkerton asked you another question, and you said that the police or some folks had kind of combed that area. Do you remember that?

A Yes, ma'am.

Q Okay. And what does "comb the area" mean?

A Just like a grid search. They walk the area, looking. It was dark when I got there, and I don't know if it was dark when the road officers got there, but they had marked several spent shell casings, especially the ones off to the side, and they put a little piece of paper to mark it to let me know there was an item of evidence there.

So then they told me they had combed the area, and they were still looking when I arrived. And even during my investigation, they were still looking around in all the areas trying to locate some more shell casings.

Q And did they?

A They did not, no.

Q And in combing the area and when you were out there, did you see residential homes?

A Yes, ma'am.

Q And did you see any bullet holes in the residential homes?

A No, ma'am.

Q So the only thing that had a bullet hole in it was

the victim's Tahoe?

A That's correct.

MS. LIVESAY: No further questions, Your Honor.

THE COURT: All right. You may step down.

MR. HELMS: May Mr. Lewis be released, Your Honor, and return to retirement?

THE COURT: Any objection?

MR. BOUCHETTE: No sir, not at all.

MR. PINKERTON: None, Your Honor.

MR. GARDNER: No objection, Your Honor.

THE COURT: He's free to go.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right. Ladies and gentlemen, we're going to take about a 10- or 15-minute break, give you an opportunity to stretch your legs, get something to drink.

Do not discuss the case even among yourselves. It's too early for deliberations.

We'll take about a 10- or 15-minute break and then come back.

(The jury exited the courtroom at 3:21 p.m.)

THE COURT: Anything from the State before we take a recess?

MS. LIVESAY: No, sir.

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, sir.

THE COURT: All right. Let's take about a 15-minute recess.

(A recess was taken from 3:22 p.m. to 3:37 p.m.)

THE COURT: All right. Anything from the State before we bring the jury back in?

MS. LIVESAY: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, Your Honor.

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

(The jury entered the courtroom at 3:39 p.m.)

THE COURT: All right. Ladies and gentlemen of the jury, welcome back.

The State can call your next witness.

MS. LIVESAY: Thank you, Your Honor. At this time, the State calls Laurie Dudley.

Can you mark that?

COURT REPORTER: State's No. 80 marked.

(State's Exhibit No. 80, was marked for identification.)

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

LAURIE DUDLEY,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: Please state your name and spell it for the Court.

THE WITNESS: Laurie Dudley. D-u-d-l-e-y.

DIRECT EXAMINATION

BY MS. LIVESAY:

Q And, Ms. Dudley, where are you currently employed?

A Horry County Police.

Q And how long have you been employed with the police department?

A I'm working on my 28th year.

Q Okay. And what are your responsibilities?

A Currently, my responsibilities are the care, custody, control of the entire intake of the property and evidence for the Horry County Police Department.

Q And has that been your responsibility as far back as 2020?

A Yes.

Q And how long have you been in that position at the police department?

A 24 years.

Q And tell us a little bit about the evidence custodian and the evidence room. Is it locked off? Is it

kept in a way to keep the evidence protected from any kind of tampering?

A Our evidence facility is a keycard access only environment, which means you have to have a keycard to swipe to walk into the building or to the unit, and only the persons that are assigned to the Evidence Division have access to the room.

Q And how many people have access to the room?

A Currently, three.

Q Okay. And that's to make sure that nothing's tampered with?

A It's to ensure the integrity of the property and the evidence.

Q And the keycard is documenting who comes in and who goes out?

A Yes, it does.

Q And as the evidence custodian, do you take items from evidence to the South Carolina Law Enforcement Division?

A Yes, I do.

Q And is that for further testing that cannot be done by Horry County Police Department?

A Yes, it is.

Q In the particular case that we are here today for, did you take evidence to the South Carolina Law

Enforcement Division?
A Yes, I did.
Q And I'm going to show you now what's been marked as State's Exhibit 80. I already showed defense counsel. Take a look at that and tell me if you recognize it.
A Yes, I do. It's a chain of custody for the transfer of evidence to SLED.
Q And does it show that you're the individual that made that transfer?
A Yes, it does.
Q And is it stamped by South Carolina Law Enforcement Division indicating that they have accepted the evidence?
A Yes, it is.
Q And if you don't mind, tell these folks if these shell casings were taken to SLED for further testing.
A Yes, they were.
Q And while they were in your custody and control, were they ever tampered with in any form or fashion?
A No, they were not.
Q Okay. And how -- does it document on that form a description of the shell casing? Does it tell the caliber?
A There's several. There's 9mm, .223 --
Q Hold on. Hold on.
A I'm sorry.

MS. LIVESAY: Your Honor, at this time, the State wishes to place State's Exhibit No. 80 into evidence.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No objection.

MR. PINKERTON: No objection, Your Honor.

MR. GARDNER: No, Your Honor. No objection.

THE COURT: State's Exhibit 80 admitted into evidence without objection.

(State's Exhibit No. 80 was received into evidence.)

BY MS. LIVESAY:

Q Ms. Dudley, now that that document is in evidence, tell us what shell casings were taken to SLED -- the caliber.

A 9mm, .223. That's all I see.

Q So a total of how many casings were taken?

A Nine casings.

Q Nine casings?

A Mm-hmm.

Q And were two of them .223s?

A Yes, ma'am.

Q And were the other seven 9mms?

A Yes, they are.

Q And what kind of testing was requested for SLED to perform on the casings?

A Firearms analysis.

Q Okay. To figure out how many guns were used to fire these three casings; correct?
A Yes.
Q Even though seven are all 9mms, they could have been fired from two different 9mm guns; is that correct?
A Yes.
Q Okay. And that's what y'all were trying to figure out?
A Yes.
MS. LIVESAY: No further questions for Ms. Dudley.
THE COURT: All right. Mr. Bouchette?
MR. BOUCHETTE: Your Honor, I don't think I have any questions for this witness.
THE COURT: Mr. Pinkerton?
MR. PINKERTON: No, Your Honor.
MR. GARDNER: No, sir, no questions.
THE COURT: All right. You may step down.
MR. HELMS: Your Honor, may Ms. Dudley be excused from her subpoena?
MR. BOUCHETTE: Absolutely.
THE COURT: Any objection to excusing her?
MR. PINKERTON: Oh, no objection, Your Honor.
MR. GARDNER: No objection, Your Honor.
THE COURT: All right. She's free to go.
MR. HELMS: Thank you, Your Honor.

THE COURT: The State can call your next witness.

MR. HELMS: Your Honor, my next witness is en route. She'll be here in 15 minutes, and I apologize for the delay, but we would ask for a short break.

THE COURT: All right, ladies and gentlemen. We'll take about a 15-minute break while we wait for this next witness.

Please do not discuss the case, even among yourselves. Thank you very much.

MR. HELMS: Thank you, Your Honor.

(The jury exited the courtroom at 3:46 p.m.)

THE COURT: All right. Anything from the State before we recess?

MR. HELMS: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir.

THE COURT: All right. Let me know when the witness gets here.

MR. HELMS: Yes, sir.

THE COURT: All right.

(A recess was taken from 3:47 p.m. to 3:47 p.m.)

MR. HELMS: Your Honor?

THE COURT: Yes?

MR. HELMS: The witness is here.

[Courtroom laughter.]

THE COURT: Okay.

MR. HELMS: The break probably doesn't need to be long.

THE COURT: All right.

Anything from the State before we bring the jury in?

MR. HELMS: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

MR. GARDNER: May I have two minutes?

THE COURT: All right. We'll take a short...

(A recess was taken from 3:47 p.m. to 3:48 p.m.)

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

MR. PINKERTON: Your Honor, my client is actually in the restroom in lockup.

THE COURT: Oh, wait a minute. All right. Hold up.

MR. PINKERTON: Thank you, sir.

(Pause in the proceedings.)

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

(The jury entered the courtroom at 3:51 p.m.)

THE COURT: All right. State can call your next witness.

MR. HELMS: Yes, Your Honor. At this time, we call Ms. Patty Bellamy with the coroner's office.

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

PATTY BELLAMY,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: State your name and spell it for the Court.

THE WITNESS: Patty Bellamy. B-e-l-l-a-m-y.

DIRECT EXAMINATION

BY MR. HELMS:

Q Ms. Bellamy, thank you for getting here so fast.

A You're welcome.

Q I let the cat out of the bag already, but who do you work for?

A I work for the coroner's office.

Q Okay. And how long have you been employed with the coroner's office?

A Going on five years.

Q What does the coroner's office do?

A So we respond to death calls that occur within the county. That can include natural death, suicides, accidental, and homicides.

Q The coroner is an elected position; is it not?

A Correct.
Q Okay. So we choose the coroner?
A Correct.
Q Okay. What are your responsibilities personally at the coroner's office, ma'am?
A So I'm a deputy coroner, and I respond to death calls that occur within the county.
Q So you're the deputy coroner, so you work for the elected -- like I worked for the elected DA; you work for the elected coroner.
A Correct.
Q That's fair.
So part of your responsibility -- and correct me if I'm wrong, ma'am -- is to determine cause and manner of death after an investigation?
A That is correct.
Q Okay. Did your office involve itself or was your office involved in the death investigation of Jamie Johnson?
A Yes, we were.
Q Okay. And how do you become involved in something like that? How does the coroner's office get involved in that?
A So if the incident occurs at a residence or, let's say, a roadway and the individual dies on-scene, then

we're usually dispatched through 911. If an individual is transported to a local hospital and they pass at the hospital, then we're notified by the hospital staff.

Q Yes, ma'am. Who does the death certificate?

A We do.

Q And that's after the investigation and COD, or cause of death, is determined?

A Yes. If an autopsy is ordered, then it is after the autopsy and everything is complete.

Q Who orders an autopsy?

A The coroner or deputy coroner orders the autopsy.

Q Was an autopsy ordered in this case?

A Yes, it was.

Q And was a cause of death determined?

A Yes, it was.

Q What was it?

A It was a single gunshot wound to the head.

Q So Jamie Johnson didn't die of alcohol poisoning?

A No, he did not.

Q He didn't die of marijuana inhalation?

A No, he did not.

Q He died from a gunshot wound to his head?

A Correct.

MR. HELMS: Please answer any questions the defense has.

THE COURT: Mr. Bouchette?

CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

BY MR. BOUCHETTE:

Q Ms. Bellamy, the one gunshot wound to the head, that was the only gunshot wound observed on Mr. --

A That is correct.

Q Okay.

MR. BOUCHETTE: No further questions, Your Honor.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No questions, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor. No questions.

THE COURT: Redirect?

MR. HELMS: None.

THE COURT: All right. You may step down.

MR. HELMS: And, Your Honor, may Ms. Bellamy be excused?

THE COURT: Any objection?

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, Your Honor. No objection.

THE COURT: She's free to go.

The State can call your next witness.

MR. HELMS: Your Honor, for the day, that is all the witnesses we have to present to the Court. We would ask

that the Court recess until tomorrow morning.

THE COURT: Let me see the attorneys for a second.

BENCH CONFERENCE

(The following bench conference was held outside the hearing of the jury and others:)

THE COURT: Are we going to be getting this in this week?

MR. HELMS: Yes, sir. We have gone exponentially faster than we did the last time. We have a handful of witnesses tomorrow.

MR. GARDNER: You're further ahead now than you were in the last trial.

THE COURT: Okay. I just didn't know if I needed to contact Court Administration about next week or not.

MR. HELMS: I don't think so.

THE COURT: Okay.

MR. HELMS: I don't, sir. I think we can finish.

THE COURT: All right. Sounds good.

MR. HELMS: Thank you, Judge.

(Open court resumes as follows:)

THE COURT: All right, ladies and gentlemen. We're going to go ahead and break for the day.

Again, I caution you: Do not discuss the case, even among yourselves. Don't conduct any independent investigations.

I hope everybody has a good evening. We'll see you back at 9:00 tomorrow morning. Thank you very much.

Everyone else please remain seated while the jury is excused.

(The jury exited the courtroom at 3:56 p.m.)

THE COURT: All right. Anything from the State before we recess for the evening?

MR. HELMS: No, sir.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, sir. No, Your Honor.

THE COURT: All right. We'll be in recess until 9:15 tomorrow morning. Thank you very much.

(The above matter concluded at 3:57 p.m.)

THURSDAY, MAY 25, 2023

(The trial recommences at 9:19 a.m.)

THE COURT: All right. Anything from the State before we -- hold for a second.

THE DEPUTY: Waiting on Mr. Bouchette.

THE COURT: Oh, we're still waiting on him? Okay.

THE DEPUTY: Just headed to the bathroom.

THE COURT: All right. That's fine. No rush, no rush.

(Pause in the proceedings.)

THE COURT: All right. Anything from the State before we bring the jury in?

MR. HELMS: No, Judge. No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir.

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

(The jury entered the courtroom at 9:22 a.m.)

THE COURT: All right. Ladies and gentlemen, welcome back. I hope everybody had a good evening. Again, I want to thank you for being prompt and returning on time; that's of great assistance to the Court.

We're ready to resume with the trial of this case. The State can call your next witness.

MR. HELMS: Your Honor, at this time, the State would call Mikkie McLeod.

THE COURT: Let me see the attorneys.

BENCH CONFERENCE

(The following bench conference was held outside the hearing of the jury and others:)

THE COURT: This is the other co-defendant?

MR. HELMS: Yes, Your Honor.

THE COURT: Okay. I've got to go over his rights with him. All right.

(Open court resumes as follows:)

THE COURT: I apologize, ladies and gentlemen. There was a scheduling matter I should have addressed before I brought you back in, so I'm going to excuse you back to the jury room for just a few minutes. It will only take a second, but this is just a procedural matter that I need to go over with the attorneys first.

(The jury exited the courtroom at 9:23 a.m.)

THE COURT: All right. Is Mr. McLeod here? All right.

Mr. McLeod, if you'd come forward, please. If you'd just come right here to the podium. And if I could get you to raise your right hand, please.

MIKKIE McLEOD,

after having been duly sworn, was examined and testified to as follows:

THE COURT: Thank you very much. And your name?

MR. McLEOD: Mikkie McLeod.

THE COURT: Al right. Mr. McLeod, at this time, I need to go over some rights with you. You have been called as a witness to testify in this case. I now advise you that, as a witness, you have the right to invoke the

protections given to you by the Fifth Amendment of the United States Constitution. This amendment provides in part that no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to be a witness against yourself. This is a personal right which can only be claimed by you.

You have the right to refuse to answer any question asked of you which you think gives you reasonable cause to believe that the answer to the question, if given, might tend to incriminate you. If you wish to exercise this right, when a question is asked, you will state to this Court that you refuse to answer the question because the answer may tend to incriminate you.

I also advise you that you are not the final decision-maker on this issue of whether an answer to a question will violate the protections afforded to you by the Fifth Amendment to the United States Constitution. It is for this Court to determine if silence on your part is justified.

So you can invoke your right, but then I will make a decision as to whether or not you need to answer that question.

Do you understand what I have explained to you?

MR. McLEOD: Yes, sir.

THE COURT: Do you have any questions about what I

have explained to you?

MR. McLEOD: No, sir.

THE COURT: All right. Is there anything further the State wants on the record with regard to this witness?

MR. HELMS: Yes, Your Honor.

THE COURT: All right.

MR. HELMS: Between -- Mr. McLeod testified at the previous trial pursuant to a proffer agreement signed with the State. The agreement didn't promise anything. The agreement didn't threaten him in any way. It asked him to tell the truth, and we believe he did that at the previous trial.

THE COURT: All right. Mr. Bouchette, anything further you want on the record regarding this witness's right to testify?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir.

THE COURT: All right. I'm going to ask you to have a seat back behind the prosecution, and then, when the jury gets back in here, they'll recall you to the stand and we'll swear you in again before you testify.

All right. Anything from the State before we bring

the jury in?

MR. HELMS: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: All right. We can go ahead and bring the jury in now.

(The jury entered the courtroom at 9:27 a.m.)

THE COURT: All right. Ladies and gentlemen, welcome back. I apologize for that inconvenience, but I think we're set up and ready to go forward now.

The State can call your next witness.

MR. HELMS: Judge, the State would call Mikkie McLeod.

THE COURT: All right.

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

MIKKIE McLEOD,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: State your name and spell it for the Court.

THE WITNESS: Mikkie McLeod. M-i-k-k-i-e M-c-L-e-o-d.

DIRECT EXAMINATION

BY MR. HELMS:

Q Now, Mikkie, you are a soft-spoken young man, and that's a virtue except in a courtroom. I need you, when you answer, to speak into that microphone loud and clear. Okay? Because that lady's got to hear you and so do these folks. And if I don't have to repeat myself, this will go faster. Okay?

Mikkie, you know who I am?

A Yes, sir.

Q Okay.

MR. HELMS: Your Honor, may I approach him and adjust his mic?

THE COURT: Yes, sir.

MR. HELMS: Thank you, sir.

I'm going to just pull it towards you a little bit so you don't have to lean into it. Okay? All right.

BY MR. HELMS:

Q You know I'm the prosecutor?

A Yes, sir.

Q And you testified at a previous trial about this matter?

A Yes, sir.

Q And I asked you the questions?
A Yes, sir.
Q I'm going to ask you similar questions today, Mikkie.
How old are you?
A 19.
Q So you're 19 years old today. So, in 2020, you would have been about 17 -- 16, 17?
A 16.
Q 16?
Where are you from?
A Conway.
Q And where do you live?
A 1028 I Street.
COURT REPORTER: Can you repeat that? I'm sorry.
THE WITNESS: 1028 I Street.
BY MR. HELMS:
Q Have you lived anywhere else? Have you ever -- have you always been from Conway?
A Yes, sir.
Q Okay. Do you know the three defendants sitting at the table?
A Yes, sir.
Q Okay. And how do you know those fellows?
A I grew up with them.

Q Did you go to school together?
A Yes, sir.
Q Hang out together?
A Yes, sir.
Q Is there anyone at that table that you're particularly close friends with?
A All of them.
Q All of them?
What about Tronahz Whittington?
A Somewhat.
Q Did you know him?
A Yes, sir.
Q And how did you know Tronahz Whittington?
A I grew up with him.
Q Now, you got pending charges, Mikkie?
A I do.
Q And tell the jury what your charges are, please.
A A murder and three attempts.
Q And does that murder and three attempted murders stem from the incident that these fellows are charged with?
A Yes, sir.
Q Okay. Were you in the vehicle with those fellows when it happened?
A Yes, sir.

Q Now, I want to go ahead and ask you this right off the bat, Mikkie: Did you murder anyone?

A No, sir.

Q Did you shoot somebody?

A No, sir.

Q But you know somebody has been killed?

A Yes, sir.

Q Okay. And you know shots have been fired?

A Yes, sir.

Q And those shots, they were fired from the car you were in?

A Yes, sir.

Q All right. Now, y'all go by different names than what's on your birth certificate. What's another name for Don Brown?

A Chuck.

Q Chuck? Does he go by Quan?

A Sometimes, yeah.

Q What about Travontae Mitchell?

A Tip.

Q Tip.

Does he got a Facebook, Baby Klutch?

A Yes, sir.

Q And does Che have a street name?

A Nah.

Q Where were you going to school -- were you in school when this happened?
A Yes, sir.
Q Where did you go to school?
A Alternative school.
Q The alternative school?
Did you graduate?
A No, sir.
Q How far did you get?
A 11th grade.
Q Okay. 11th grade.
Now, you have an attorney present in the courtroom today; right?
A Yes, sir.
Q Okay. So you have known these fellows for a long time and you grew up with them?
A Yes, sir.
Q Mikkie, if you had your choice, would you be here today?
A No, sir.
Q Do you want to be here today?
A No, sir.
Q I want to ask you about the day of the murder, September 12th of 2020. Just in your brief words, tell the jury what happened, please. Tell them what happened.

A Somebody got killed.

Q Mm-hmm. Well, let me ask you this: Were you with the three defendants on September 12th?

A Yeah.

Q Whose car were y'all in?

A I don't remember.

Q Do you remember what kind of car it was?

A I remember the color. That's it.

Q Tell the jury what color the car was.

A Like a bluish color.

Q A bluish color?

I'm going to show you what's been entered into evidence as State's 53. But before I do -- I'm showing you what's been entered into evidence as State's 41. Does that look like the car y'all were in?

A Yeah.

Q Okay. Did you borrow the car?

A Nah.

Q Did you get in the car with the three defendants and Tronahz Whittington that day?

A Yeah.

Q And did y'all get in the car at the EME Apartments?

A Mm, yeah.

Q Who was driving the car?

A Quan.

Q Quan. Okay.
That's also Don -- Don Brown?
A Mm-hmm.
Q Is that yes or no?
A Yeah.
Q Were you in the front or the back of the car?
A Back.
MR. HELMS: All right. Go ahead and press play for me, if you don't mind.
And, Your Honor, with permission of the Court, I'm publishing State's 53.
THE COURT: All right.
MR. HELMS: Thank you, sir.
Pause it for second, if you would, ma'am.
Your Honor, I would ask that the witness be allowed to step down and come to the television, if he may.
THE COURT: As long as he's by a microphone so the court reporter can pick up his testimony.
MR. HELMS: Yes, sir.
BY MR. HELMS:
Q Come down here for me for just one second, if you don't mind. We're going to watch this video. And you have seen this video before?
A Yeah.
MR. HELMS: Go ahead and press play.

(Video playing.)

BY MR. HELMS:

Q Now, is this the video of y'all getting into the blue Caprice?

A Yeah.

Q And this is at the EME Apartments in Conway?

A Yeah.

Q Now, it's been established that it's about 6:30 in the evening. Does that sound right?

A Mm, yeah.

(Video continues to play.)

BY MR. HELMS:

Q Do you know who is driving right there?

A I do, but I can't think of his name.

Q Okay. That's fine.

The fellow that's driving that, he didn't stay with y'all, did he?

A Nah.

Q Okay.

(Video continues to play.)

BY MR. HELMS:

Q Who is that walking over?

A Nahz.

Q Nahz. Okay.

And he don't have a shirt on; right?

A Mm-hmm.
Q And he's got black shorts on, it looks like. Who is that right there in the white pants?
A I don't know.
Q You don't know who that is?
A (Witness nodding.)
MR. HELMS: Pause it.
BY MR. HELMS:
Q All right. Now, you testified at the last trial, didn't you, Mikkie?
A Mm-hmm.
Q And you know that was reported and all that was written down, every word of it; right?
A Mm-hmm.
Q Okay. And when I asked you that question at the last trial, did you say that was Tip?
A Nah.
Q Okay. I want you to have a seat for me for one second. We'll go through the last trial. Okay?
MR. HELMS: Court's indulgence, Your Honor.
BY MR. HELMS:
Q All right. Before we get into that, we're going to keep playing the video. And come on back down here.
(Video continues to play.)
MR. HELMS: Back up just a little for me.

BY MR. HELMS:

Q All right. I don't want to get anything wrong so you tell me. You tell me who is coming up as they come up.

A Che.

Q That's Che Ransom?

A Mm-hmm.

Q Who is that right there?

A Tip.

Q That's Tip in the white pants?

A Mm-hmm.

Q Okay. Who is this, Quan?

A That's me and Quan.

Q Which one is Quan?

THE COURT: I apologize; I can't hear him. He's going to have to speak up louder.

MR. HELMS: I got you, Judge.

BY MR. HELMS:

Q So walking up, just tell the jury one more time. Just walking up.

A Che, Tip, me, and Quan.

Q Che, Tip, you, and Quan.

And Tronahz is already up here?

A Yeah.

Q Okay. Okay. And now there's one more person

walking up, picking up the rear. And who is the last person?

A Ray.

Q Ray. Also known as Shamontae Graham?

A Yeah.

Q That's it. Have a seat. Okay.

So we have got Che, Tip, Quan, you, Nahz, and Ray?

A Yes, sir.

Q Okay. And y'all get into that car. Where do you go?

A Tronahz mom house.

Q Where were you heading to?

A Tronahz mom house.

Q Nahz's -- Tronahz's mom's house?

A Mm-hmm.

THE COURT: I'm sorry; you have got to say yes or no. The court reporter can't pick up an uh-huh or uh-uh, so you need to answer yes or no. Okay?

BY MR. HELMS:

Q Were you going to Tronahz's mother's house?

A Yeah.

Q Did you make it to Tronahz's mother's house?

A No.

Q Okay. On the way there, did you happen to see Jamie Johnson?

A Yeah.
Q And did you know Jamie Johnson?
A No.
Q Did anybody in the car know Jamie Johnson?
A Tronahz.
Q Okay. And when you saw Jamie Johnson, what was he driving?
A Tahoe.
Q And it was black?
A Yes, sir.
Q Squatted?
A Yes, sir.
Q Who recognized Jamie Johnson?
A Tronahz.
Q And how do you know he recognized him?
A Because he started talking about him.
Q What did he say?
A Like "There goes Jamie. He owe me money."
Q Speak up. I didn't hear you.
A He's like, "There goes Jamie. He owe me money."
Q "There goes Jamie. He owes me money?"
A Yes, sir.
Q And then what did he do? What did he say?
A He was telling Quan to follow him.
Q Telling Quan to follow him?

A Yeah.
Q Now, when he told Quan to follow him, did he point a gun at Quan's head?
A No.
Q Did Quan follow him?
A Yeah.
Q And was that down Wayside Drive and the back roads and all that?
A Yes, sir.
Q Okay. I'm going to show you what's been entered into evidence as State's Exhibit 32. Have you seen this video too?
A Yeah.
Q Okay.
(Video plays.)
BY MR. HELMS:
Q And, generally speaking, is that a video of y'all on Wayside Drive?
A Yes, sir.
Q It's going to come up real fast so just keep an eye on it. Because it's already in evidence, we'll fast-forward through the slow parts.
And it's been established this is 7:11 in the afternoon, Mr. McLeod.
(Video plays.)

BY MR. HELMS:

Q Is that the car y'all saw Jamie Johnson driving?

A Yes, sir.

Q Now, you see in the video the windows are down?

A Yes, sir.

Q Can you see multiple people in the car?

A Yes, sir.

MR. HELMS: Press play for me. Stop.

BY MR. HELMS:

Q Is that y'all in the car?

A Yes, sir.

MR. HELMS: Okay. Press play.

(Video plays.)

BY MR. HELMS:

Q Now, shortly after that video was taken -- and that's just a Ring doorbell camera, Mikkie -- y'all turn onto D Street -- or Rose Moss, rather; right?

A Yes, sir.

Q Tell the jury what happens then.

A Jamie Johnson get killed.

Q Jamie Johnson gets killed. That's the short way of putting it, yeah.

Let me ask you this question: When Jamie Johnson gets killed -- now, right there in the video, y'all are behind Jamie; right?

A Yes, sir.
Q But when Jamie Johnson is killed, where is the blue car?
A In front of it.
Q In front. So, at some point, the blue car goes in front of the black car?
A Yes, sir.
Q How does that come about?
A The driver drove in front of him.
Q Quan drove in front of him?
A Yeah.
Q And then he stopped the car?
A Yeah.
Q And when Quan drove in front him, that was at the stop sign?
A Yes, sir.
Q Who had a gun? Did Nahz have a gun?
A Yes, sir.
Q And what kind of gun did Nahz have?
A AR.
Q An AR.
Now, he had that gun from the time y'all got in that car; right?
A Yes, sir.
Q Where was he holding that gun at? Did he put it in

the trunk?

A No, sir.

Q He had it in his hands?

A Yes, sir.

Q And you could see it?

A Yes, sir.

Q But he wasn't the only one with a gun, was he?

A No, sir.

Q All right. Who else had a gun? Did Don have a gun?

A No, sir.

Q Because Don was driving?

A Yes, sir.

Q And he was the one that pulled in front of the car and stopped the car?

A Yes, sir.

Q Did Don get out of the car?

A No, sir.

Q Okay. Did Nahz get out of the car?

A Yes, sir.

Q And what did Nahz do when he got out of the car?

A Shoot.

Q And who else got out of the car?

A Tip and Che.

Q Tip and Che.

Now, did Tip and Che get out of the car to run over

and help the victims?
A To help them?
Q Yeah. Did they run over and stop the shooting? What did they do?
A Shoot.
Q They shoot?
What kind of guns did they have?
A Nines.
Q Both of them?
A Yeah.
Q Did you shoot?
A No.
Q Now, Mikkie, you weren't here, but there was a lot of testimony about a lot of bullets there were on the ground. Did you see a lot of bullet casings on the ground?
A Nah, because I didn't get out the car.
Q Okay. Did you put any of those bullet casings on the ground?
A No, sir.
Q Did you see Jamie Johnson die?
A Yes, sir.
Q Who shot Jamie?
A Tronahz.
Q Okay. So you didn't get out of the car. What were

you doing?

A Watching.

Q You were watching. The whole time?

A Yes, sir.

Q Where were they aiming?

A The shooters?

Q Yeah.

A I know one of them was aiming at Jamie.

Q Who was that?

A Tronahz.

Q Where was Travontae and Che aiming?

A I can't tell you where they was aiming.

Q Okay. But they both fired 9mms?

A Yes, sir.

Q When you got back in the car -- when they got back in the car, rather, where did you go?

A Went to Tronahz homeboy's house.

Q Whose idea was that?

A Tronahz.

Q And when you went there, did somebody come pick you up?

A Yes, sir.

Q Who came and picked you up?

A Ray-Ray baby mom.

Q Sarah Hemingway?

A Yes, sir.
Q Was it in a black minivan?
A Yes, sir.
Q Who all got in Sarah Hemingway's vehicle?
A Me, Ray, Tip. I think Che.
Q All right. So you, Ray, Tip, and Che got in Sarah's vehicle?
A Yes, sir.
Q And where did you go from there?
A Crabtree.
Q Crabtree?
A Yes, sir.
Q But before Sarah came and got y'all, y'all were at Tronahz's homeboy's house. Was there any discussion about what just occurred?
A Not that I remember.
Q What about the guns? What did y'all do with the guns when you got to Tronahz's homeboy's house?
A Tronahz started cleaning them.
Q Did anyone else start cleaning the gun?
A I cleaned the one I had.
Q And why were y'all cleaning the guns?
A Because a murder just happened.
Q That's right. I understand. A murder just happened.

Now, you know that what you're testifying to today basically gets you into trouble too; right?

A Yes, sir.

Q And you know there's a price to be paid for that?

A Yes, sir.

Q Do you expect that you're -- well, first of all, are you telling the truth?

A Yes, sir.

Q Do you expect -- have I promised you anything?

A No, sir.

Q Have I ever threatened you?

A No, sir.

Q What do you want from me in exchange for your testimony?

A Let me go.

Q You want to be let go?

A Yes.

Q Okay. So you want leniency from me for your testimony?

A Yes, sir.

Q But I haven't promised to let you go, have I?

A No.

Q Okay. At any time while you were in that car, Mikkie, did you have a gun?

A Yes, sir.

Q What kind of gun did you have?
A A nine.
Q A nine.
Did you fire it?
A No, sir.
Q Was that gun fired though?
A Yes, sir.
Q And who fired that gun?
A Che.
Q Now, Che -- there was testimony he had a .45. Did he have a .45?
A Yes, sir.
Q I'm sorry?
A Yes, sir.
Q Did he fire the .45?
A No, sir.
Q Why not?
A Because he had -- he shot the one I had.
Q Why did he shoot the one you had?
A Because I gave it to him.
Q Why did you give it to him?
A Because he asked for it.
Q Because he asked for it.
Where were you when he asked you for the gun?
A In the car.

Q What was going on when he asked you for the gun?
A Nothing.
Q Had the shooting already started or was it about to begin?
A It was about to begin.
Q So he asked for the gun in preparation for the shooting?
A It weren't for the shooting.
Q Were y'all going hunting? Bird hunting?
A Nah. He just wanted to hold it.
Q I'm sorry?
A He just wanted to hold it.
Q Oh, he just wanted to hold it?
A Yeah.
Q But you just testified to this jury that he didn't just hold it. You said he shot it.
A Yeah. I'm saying, though -- you're trying to make it seem like -- like he got the gun to shoot at Jamie Johnson. Nah, he got -- he asked me to hold the gun. That's it.
Q Okay. I understand. No, I understand what you're saying. But there's no doubt he got out and fired the gun?
A Yeah.
Q Please answer any questions the defense has, Mikkie.

THE COURT: All right. Mr. Bouchette, cross-examination.

MR. BOUCHETTE: Just a moment, Your Honor.

CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

BY MR. BOUCHETTE:

Q All right. Mr. McLeod, good morning, sir.

A Good morning.

Q I gather you have -- don't want to be here; is that safe to say?

A Mm-hmm.

Q Is that a yes?

A Yes, sir.

Q Okay. All right. Well, I'm going to try to make this as brief as I can, but I'm going to have to ask you a few questions. Okay?

A Yes, sir.

Q Now, your testimony has changed a little bit since the incident back in September of 2020, hasn't it?

A I mean, that's three years ago.

Q I know it's three years ago, but what you initially began saying happened versus what you're saying here today has sort of shifted over time, hasn't it?

A Mm-hmm. Yes, sir.

Q That's a yes? Okay.

But when you initially met with law enforcement, you

told them you weren't there; right?
A Yes, sir.
Q All right. You did that in the M.L. Brown building?
A Yes, sir.
Q That's the police station here in Conway?
A Yes, sir.
Q You told them you weren't there; correct?
A Yes, sir.
Q I think you were being interviewed by Detective Dudley. Do you recall that?
A Yes, sir.
Q Okay. And Detective Dudley repeatedly asked you if you were there; correct?
A Yes, sir.
Q And you denied it?
A Yes, sir.
Q For some extended period of time; correct?
A Yes, sir.
Q And, at some point, that changed; correct?
A Yes, sir.
Q At some point, I think you said, "Fuck it. I don't give a fuck. I was there." Is that what you said?
A Yes, sir.
Q Okay. And that change or that shift in your testimony came after Detective Dudley had sort of

indicated to you that perhaps your culpability in this wasn't the same as Tronahz Whittington; would that be fair to say?

A I guess.

Q Okay. Well, do you recall him asking, "I don't think y'all are cold-blooded killers"?

A Nah. No, sir.

Q Okay. You don't recall him saying that.

Do you recall him saying somebody --

MR. HELMS: Objection, Your Honor. He's eliciting hearsay.

MR. BOUCHETTE: No, sir, it's --

THE COURT: Overruled.

MR. BOUCHETTE: -- heard and acted upon --

THE COURT: Overruled. I'll allow it.

Go ahead.

BY MR. BOUCHETTE:

Q Do you recall him saying somebody intentionally missed the car because they "didn't want to get brought down for some bullshit"? Do you recall him saying that to you?

A No, sir.

Q Now, you told him that -- when you were meeting with police, you had told him that Tronahz Whittington bragged to you about the shooting and that wasn't true?

A It wasn't.

Q It wasn't true? Okay.

And you later admitted that in the subsequent trial; correct?

A Yes, sir.

Q So when you told the untruth to law enforcement initially, why did you do that?

A Because I didn't want to talk to them.

Q Didn't want to talk to them.

Didn't you say that -- or let me ask you this: Haven't you said in the past that you wanted to, quote, "pin everything on Tronahz Whittington" so you wouldn't get in trouble?

A No, I don't remember that.

Q You don't remember saying that?

A No, sir.

Q Okay. If I showed you -- give me just a moment.

Okay. I'm going to show you page 595, okay, from the trial testimony. Don't read it out loud. If you look down, the lower part of that page beginning around paragraph No. 20. If you'll just look at that and just read it for me. You can hold it. Just look at the bottom.

A (Reviewing document.)

Q Does that refresh your recollection as to what you

said?

A I guess.

Q Okay. All right. And so you said, at least at that trial, that you wanted to, quote, "pin everything on him" so you wouldn't get in trouble; correct?

MR. HELMS: Objection, Your Honor.

A I guess.

MR. HELMS: Your Honor, I'm objecting. I don't see where Mr. Bouchette is referring to that, and I'm holding the exact same transcript he is.

THE COURT: All right. What lines are you referring to?

MR. BOUCHETTE: Looking at 595, paragraphs 23 through 25.

MR. HELMS: Okay. Thank you, Counsel. Thank you.

THE COURT: All right. Overruled. Go ahead.

BY MR. BOUCHETTE:

Q So, to be clear, that's what you said at the prior trial; correct?

A I mean, it's on the paper, so yeah.

Q Okay. Very good.

But after you had this interview with Detective Dudley, at some point, you get a lawyer; right?

A Yes.

Q All right. And this is the lawyer sitting in the

back of the courtroom; correct?

A Yes.

Q And he's a good lawyer; right?

A Yes, sir.

Q He's one of the best in Georgetown, isn't he?

A I guess.

Q Okay. And so once you got your lawyer -- at some point, you get provided the evidence that the State has; correct?

A Yes, sir.

Q It's what's called discovery; right?

A Yes, sir.

Q And you go there out and people say, "I want my motion [sic]"?

A Yes, sir.

Q The motion [sic] means the evidence that the State has which shows what they're going to introduce at trial.

A Yes, sir.

Q And you get that, so you know what evidence they have and what evidence they don't have against you and your codefendants; correct?

A Yes, sir.

Q Okay. All right. And you reviewed all that; right?

A Yes, sir.

Q All right. So after getting an attorney and

reviewing the discovery, at some point, you had some further meetings and discussions with the law enforcement or these folks here with the prosecution; is that right?

A Yes, sir.

Q Okay. Did you have meetings with the solicitors here?

A Yes, sir.

Q How many meetings did you have with the solicitors here in advance of your testimony?

A Maybe once or twice.

Q A few times. Okay.

Was that here at the courthouse?

A Nah.

Q Okay. That was somewhere else?

A When I was locked up.

Q Okay. All right. You say when you were locked up. Are you incarcerated currently?

A No, sir.

Q You made bond?

A Yes, sir.

Q Were there ever any discussions -- I don't want you to tell me what you told your lawyer.

Were there ever any discussions or communications with the State regarding arrangements for you to make or change your bond after you had these meetings with the

solicitor's office?

A No, sir.

Q No? Okay.

At some point after that, you were able to make bond?

A Yes, sir.

Q Okay. All right. And so after you did all that, you began preparing for your testimony in Mr. Whittington's trial; correct?

A Yes, sir.

Q All right. Now, that's what I want to talk about. You initially told police, when you were meeting with Detective Dudley, that Ray/Shamontae Graham was one of the people that got out of the car that day; correct?

A Yes, sir.

Q All right. You later testified that Ray didn't get out of the car?

A Yes, sir.

Q Okay. Now, Ray is the other testifying codefendant; right?

A Yes, sir.

Q All right. So there with Detective Dudley, Ray didn't [sic] get out of the car, but when you figure out he is cooperating and you begin cooperating, all of a sudden, he didn't [sic] get out of the car. Is that what

happened?
A No, sir.
Q Well, I mean, is that -- is that what you testified to?
A Yes. Ray did not get out the car.
Q All right. So you changed that testimony from when you initially met with Detective Dudley to the time that you took the stand to testify in Mr. Whittington's trial?
A Yes, sir.
Q You did. Okay. All right.
And that was -- that change in your testimony, that shift was after you had viewed the evidence, knew what the State had and what the State didn't have; correct?
A I guess.
Q I mean, I'm not trying to trick you. You knew what evidence the State had and didn't have in advance of your testimony at trial; correct?
A Definitely.
Q And that's when your testimony changed; right?
A Yes, sir.
Q Okay. All right. Now, I want to talk a little bit about what happened after. If I understood your direct testimony, as you have testified in the past that you and Mr. Whittington were cleaning guns after the shooting; is that correct?

A Yes, sir.
Q Okay. Why were you cleaning guns?
A Because a murder just happened.
Q You were trying to get your fingerprints off of it?
A Yeah, off the gun I had, yes, sir.
THE COURT: I'm sorry; say that again.
THE WITNESS: Off the gun I had, yes.
BY MR. BOUCHETTE:
Q Okay. Right. Did you do it for Tronahz Whittington's gun too?
A No, sir.
Q Didn't do that.
If I understand you correctly, you didn't see Che Ransom -- he wasn't there with y'all; right?
A He was there.
Q But you testified before that he wasn't the one cleaning guns; correct?
A Yeah. Yes, sir.
Q All right. Now, afterwards, did you sell your gun?
A No, sir.
Q The gun that was involved in the shooting that you had --
A Oh, yeah, yeah, I did. My fault, yes, I did.
Q Okay. The gun you had, you sold it to somebody. How old were you?

A 16.
Q So you were buying and selling guns at 16?
A I was -- nah. I sold that gun but I went -- that was just a one-time thing.
Q Okay. But, I mean, obviously, you purchased or obtained the gun that you had in the shooting.
A Yeah.
Q Correct? Okay.
So you at least bought and sold that gun?
A Yeah.
Q Okay. But, to be clear, even being 16 and having a gun, when you got in the vehicle that day with Tronahz Whittington, you weren't anticipating or planning to use it; correct?
A No, sir.
Q Okay. Do you have a gun on you frequently?
A No, sir.
Q Well, what's the purpose of having the gun at 16?
A Protection.
Q Okay. All right. If I understood your direct testimony, you only saw Mr. Whittington point and fire at the car; is that correct?
A No, sir.
Q I thought you testified that you saw -- let me ask you this: You did see Tronahz point and fire at the car;

correct?

A Definitely.

Q Okay. Now, what I'm trying to gather, we have heard testimony that Che Ransom had a .45, and if I understand your testimony, you agreed that he had a .45; is that right?

A Yes, sir.

Q Okay. And you get in the vehicle with a 9mm; correct?

A Yes, sir.

Q But your testimony is that, because he wanted to hold it or to see it, Che asked you to give him your 9mm?

A Yes, sir.

Q Okay. And you just handed it over?

A Yes, sir.

Q Okay. And you're aware that, by virtue of your testimony which places that 9mm instead of the .45 out of your hands and into Che's, that changes your potential culpability in this case? You're aware of that; right?

A Yes, sir.

Q You probably talked about that -- well, strike that. I don't want to say what you talked about with your lawyer.

MR. BOUCHETTE: Court's indulgence.

Your Honor, I don't think I have any further

questions for this witness.

THE COURT: Mr. Pinkerton, cross-examination?

CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

BY MR. PINKERTON:

Q Mr. McLeod, thank you for being here.

What color pants are you wearing today?

A White.

Q White pants?

A Yes, sir.

MR. PINKERTON: Can I ask him to stand and show the jury his pants, Your Honor, just briefly?

THE COURT: Just stand up.

BY MR. PINKERTON:

Q And you admit these are white pants; correct?

A Correct.

Q Thank you, sir.

They look very similar to who you pointed out to be Travontae Mitchell, correct, on the video?

A Yes, sir.

Q Are you sure that wasn't you wearing white pants on the video?

A I'm positive.

Q Well, you have already established that you lied to police at least at one point; correct?

A Yes, sir.

Q And you have already said you want to be let go. That's what you expect out of your testimony; correct?
A Yes, sir.
Q So are you lying now?
A No, sir.
Q You sure about that?
A Yes, sir.
Q Okay. All right. And you said you had a 9mm; correct?
A Yes, sir.
Q And you're aware there were multiple 9mm casings found at the scene?
A Yes, sir.
Q And you said Tronahz is the one who was standing -- well, where was Tronahz standing when he got out of the car?
A Front of the vehicle.
Q Right in front of the Tahoe?
A Yes, sir.
Q Directly in front of the Tahoe?
A Yes, sir.
Q What kind of gun did he have?
A AR.
Q He had an AR-15?
A Yes, sir.

Q Long gun? About this big?
A Yes, sir.
Q He's the only person that had the AR-15?
A Yes, sir.
Q And no one else has a long gun; correct?
A No, sir.
Q Okay. The only person that recognized Jamie Johnson was Tronahz; correct?
A Yes, sir.
Q No one else knew Jamie Johnson, to your knowledge?
A Yeah, nobody knew him.
Q Just Tronahz?
A Just Tronahz.
Q And you said you cleaned your fingerprints off your 9mm?
A Yes.
Q And you're saying you didn't shoot; correct?
A I didn't.
Q Why would you clean your fingerprints off a gun you didn't shoot?
A Because I was holding it.
Q So you're saying you did have a 9mm, though; correct?
A Yes, sir.
Q And you testified earlier it was Tronahz that killed

Jamie Johnson; correct?

A Yes, sir.

Q And you saw him fire the shot --

A Yes, sir.

Q -- that killed Jamie Johnson?

A Yes, sir.

Q And, once again, I know the prosecutor. You have not been offered a plea deal; correct?

A No, sir.

Q So you're just testifying out of the goodness of your heart?

A Yes, sir.

Q Tell the jury again what you have been charged with.

A Murder and three attempts.

Q And you stated earlier on direct you expect to be let go for testifying?

A Yes, sir.

Q And it's only after you expect to be let go that you have changed your testimony, correct, to police and the prosecutor?

A It's the truth.

Q Well, you have lied at one point. How do we know you're not lying here today? Why should we believe you?

A You tell me.

Q You're the one trying to save your own skin. You

tell us.

A I mean, I know I ain't have nothing to do with it.

Q But you were in the car that day?

A I was.

Q You had a 9mm?

A I did.

Q And you're wearing pants that are nearly identical to what you point out my client -- you said my client was wearing on the video?

A Yes, sir.

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

BY MR. PINKERTON:

Q Do you have a mole under your left eye?

A Yes, sir.

MR. PINKERTON: Your Honor, may I ask him to show the jury his mole under his left eye.

THE COURT: All right.

MR. PINKERTON: I'll let the Court direct how you want to do it.

THE COURT: Just turn and face the jury.

MR. PINKERTON: A little bit more, so they can all see it.

BY MR. PINKERTON:

Q And that's an absolute distinguishing mark, a mole

under your left eye; correct?

A Yes, sir.

Q Thank you.

MR. PINKERTON: Court's indulgence, Your Honor.

THE COURT: All right.

MR. PINKERTON: No further questions, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: Thank you, Your Honor.

CROSS-EXAMINATION ON BEHALF OF DEFENDANT BROWN

BY MR. GARDNER:

Q Mr. McLeod, I don't really have too many questions. But you weren't earlier -- I told the jury I did have a question for you, and I feel that I'm going to keep my word and ask that question. Okay?

A Yes, sir.

Q The solicitor went into it earlier, "What do you want?" And your answer, I believe, was you want him to let you go; is that right?

A Yes, sir. Yes, sir.

Q Okay. Fair statement.

But you're charged with murder and three attempted murders; correct?

A Yes, sir.

Q And you know that the minimum sentence for those four charges is 30 years day-for-day?

A Yes, sir.
Q Up to life without the possibility of parole?
A Yes, sir.
Q So how does he let you go?
A I mean -- what you mean, how does he let me go?
Q Well, if you're looking at 30 years minimum up to life without parole, there's no letting you go in between that range.
A I guess not.
Q He's going to have to dismiss the charge.
A Yeah.
Q And do you feel justified that -- in getting that dismissed on your testimony today?
A Nah.
Q Okay. All right. Well, why did you ask for it then?
A I mean, that's what I'm shooting for. I know I'm going to get some time out of that.
Q Sir?
A I said, that's what I'm shooting for, but I know I'm going to get some time out of that though.
Q You're going to get some time.
A Yes, sir.
Q But you're not going to get 30 years; right?
A Nah.

Q Okay. Thank you.

THE COURT: All right. Redirect?

MR. GARDNER: No questions, Judge. Sorry.

MR. HELMS: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. HELMS:

Q He just asked you if you think that's justified. So you think it's fair that you would get some kind of punishment for your involvement?

A Yes, sir.

Q Okay. Because you feel like your involvement -- what you have testified to, that was wrong?

A Yes, sir.

Q Okay. But you didn't shoot?

A No, sir.

Q Mr. Bouchette asked you if you were changing your testimony. Do you remember that?

A Yes, sir.

Q He said you were changing your testimony today. But that's not true, is it?

A No, sir.

Q You told law enforcement -- you had a conversation with law enforcement before you ever testified; right?

A Yes, sir.

Q Do you remember that conversation?

A Not really.
Q Okay. Do you remember telling law enforcement that you did, in fact, give your 9mm to Che Ransom?
A Yes, sir.
Q Okay. And that you did hand him a handgun?
A Yes, sir.
Q Do you remember telling law enforcement that Che, Tip, and Nahz got out of the car?
A Yes, sir.
Q Okay. And then when you testified earlier this year -- again, Mr. Bouchette said you changed your testimony --

MR. HELMS: And, gentlemen, I'm on page 36 of the transcript if you'd like to follow along, of the prior testimony.

BY MR. HELMS:
Q I want you to look here with me.

MS. LIVESAY: Court's indulgence. Can I have just one second, Judge?

This is the transcript.

MR. HELMS: Thank you, ma'am.

BY MR. HELMS:
Q You said, "So Jamie got to the stop sign, and we jumped in front of him, and three of my codefendants got out and started shooting."

I asked you, "Who?"

What did you answer when I asked you, "Who?"

A Nahz, Che Ransom, and Travontae.

COURT REPORTER: I'm sorry; can you say that again?

THE WITNESS: Tronahz, Che, and Travontae.

BY MR. HELMS:

Q Tronahz and Che who?

A Ransom.

Q And?

A Travontae.

Q That was your testimony at the prior trial; yes?

A Yes, sir.

Q And that was also what you told law enforcement whenever you initially talked to them; yes?

A Yes, sir.

Q So you haven't changed your testimony, have you?

A No, sir.

Q And you know there's a price to pay for your involvement in this; right?

A Yes, sir.

Q And that's fair; isn't it?

A Yes, sir.

Q Because you were involved?

A Yes, sir.

Q And so were all three of those gentlemen?

MR. BOUCHETTE: Objection to the leading.

THE COURT: Overruled.

Go ahead.

BY MR. HELMS:

Q Everyone was involved in the car, weren't they?

A Yes, sir.

Q Thank you, Mikkie.

THE COURT: All right. You may step down.

MR. HELMS: May he be released from his subpoena?

THE COURT: Any objection?

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No objection, Your Honor.

MR. GARDNER: No objection, Your Honor.

THE COURT: All right. He's free to go.

MR. HELMS: Thank you.

THE COURT: The State can call your next witness.

MS. LIVESAY: Thank you, Judge. At this time, we call Vera Martinez.

MR. HELMS: Your Honor, with respect -- may we have a three-minute break?

THE COURT: All right. Let's go ahead and we'll take about a 10-minute break. I'll excuse you back to the jury room. Please do not discuss the case even among yourselves at this point in time. Thank you very much.

Everyone else please remain seated while the jury is

excused.

(The jury exited the courtroom at 10:13 a.m.)

THE COURT: All right. Anything from the State before we recess?

MR. HELMS: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: All right. We'll take about a 10-minute break and come back.

(A recess was taken from 10:14 a.m. to 10:24 a.m.)

THE COURT: All right. Anything from the State before we bring the jury in?

MS. LIVESAY: No, sir.

THE COURT: Anything, Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, sir.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir.

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

(The jury entered the courtroom at 10:30 a.m.)

THE COURT: All right. Ladies and gentlemen, welcome back. The State can call your next witness.

MS. LIVESAY: At this time, the State calls Vera Martinez.

VERA MARTINEZ,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: Just state your name and spell it for the Court.

THE WITNESS: My name is Vera Martinez. V as in "Victor" e-r-a M-a-r-t-i-n-e-z.

DIRECT EXAMINATION

BY MS. LIVESAY:

Q Ms. Martinez, where are you currently employed?

A I'm currently employed by Burlington Police in North Carolina.

Q And, at some point, were you employed by the South Carolina Law Enforcement Division?

A Yes, I was.

Q And when were you employed for SLED?

A I was there from October 1st of 2019 to October 15th of 2021.

Q Okay. And, if you don't mind, tell these folks what your responsibilities were at SLED.

A While I was at SLED, I was referred to as a forensic

technician. I was in evidence intake. We were responsible in the crime lab for logging in evidence that was brought in by all of the agencies in the state of South Carolina for purposes of lab testing. I logged in the evidence.

Q So it's agencies -- Horry County, whoever, Charleston, Darlington -- brought up evidence for further testing, and you took it in?

A Yes.

Q Now, would SLED -- if something looked like it had been tampered with it, would SLED accept that evidence?

A No.

Q So the fact that you accepted it shows it had not been tampered with up to that point?

A Correct.

Q Now, for this particular case, did you take in to SLED and check in some shell casings?

A Yes, ma'am.

Q And can I show you these shell casings and you tell me whether or not these are the shell casings dropped by Horry County Police Department to SLED?

A Well, when we receive the package, we receive the manilla envelope. We did not, in evidence intake, at any time open the envelopes. So I received the manilla envelope sealed with the contents inside.

Q Okay. So it has been opened, clearly, since you accepted it and has been tested?
A Yes.
Q But when you received it from Horry County Police Department, the envelope would have been sealed and evidence tape would have sealed it?
A Correct.
Q Okay. And if that seal would have been broken, you would not accept it?
A No.
Q Okay. And would you look at these shell casings and tell me whether or not these are the casings accepted into SLED?
A I can't tell you that. I can tell you the envelope with the contents inside was collected.
Q Okay?
A But we logged in, as I said, the contained basis.
Q Okay. Perfect. So all you did was take this evidence in?
A Correct.
Q Okay. You didn't know what was in it?
A Other than what was on the list identifying that there were casings inside.
Q Okay. So you had something showing you shell casings were in the sealed envelope?

A Correct.

Q Okay. And, at that time, you did not unseal the envelope?

A No.

Q And you would not have been accepted it if it had been unsealed when it came in?

A Correct.

MS. LIVESAY: No further questions for this witness, Your Honor.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: Your Honor, I don't have any questions.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, sir.

THE COURT: All right. You may step down.

THE WITNESS: Thank you.

MR. HELMS: May she be released?

THE COURT: Any objection?

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No objection, Your Honor.

THE COURT: She's free to go. Thank you.

The State can call your next witness.

MS. LIVESAY: Thank you, Your Honor. At this time,

the State calls Laurie Shacker.

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

LAURIE SHACKER,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: State your name and spell it for the Court.

THE WITNESS: It's Laurie Shacker. First name is L-a-u-r-i-e. Last name is S-h-a-c-k-e-r.

DIRECT EXAMINATION

BY MS. LIVESAY:

Q Ms. Shacker, where are you currently employed?

A Currently, I'm not employed. I'm retired.

Q Okay. And were you, at one point, employed for the South Carolina Law Enforcement Division?

A Yes, I was.

Q And when were you employed at SLED?

A I was employed at SLED from 1999 until June of 2021.

Q Okay. And what were your responsibilities while you worked for SLED?

A First -- for about the first 15 years, I was in the Toxicology Department as a forensic scientist, and then, for about the last six or six-and-a-half years, I was the Evidence Control supervisor.

Q Okay. And what were your responsibilities the last six years in that spot?

A Well, the Evidence Control Department is the department that logs in the evidence and then distributes the evidence to the various forensic departments. And so, I oversaw that department.

Q Okay. And while you were there, did you handle the shell casings in the case that we're here today for?

A I believe so, yes. Is that Container A?

Q Yes.

A Yes.

Q Now, we just spoke with Vera Martinez. She said she never unsealed the envelope. While it was your custody and control, was the envelope unsealed?

A No, it was not.

Q Okay. And would you have accepted it if it had appeared that it had been tampered with in any form or fashion?

A No. We only handle sealed containers.

Q Okay. And so it would have had to have been sealed with that evidence tape?

A Yes.

Q Okay. And after you handled it, who did you give the shell casings to?

A Jana Weaver.

Q And who is Jana Weaver at South Carolina Law Enforcement Division?
A She was a firearms analyst.
Q Okay. So she's the one that ultimately tests the shell casings?
A That's correct.
Q Okay. And so you and Ms. Martinez are there to ensure that it gets into the agency and to the person testing it without any kind of tampering?
A Correct.
Q Okay. No further questions, Your Honor.
THE COURT: All right. Mr. Bouchette?
MR. BOUCHETTE: No, sir.
THE COURT: Mr. Pinkerton?
MR. PINKERTON: No, Your Honor.
THE COURT: Mr. Gardner?
MR. GARDNER: No, Your Honor.
THE COURT: All right. You may step down.
THE WITNESS: Thank you.
THE COURT: Thank you.
MR. HELMS: May she be released, Your Honor?
THE COURT: Any objection to being her released?
MR. BOUCHETTE: No, sir.
MR. PINKERTON: No, sir.
MR. GARDNER: No, sir.

THE COURT: She's free to go.

All right. The State can call your next witness.

MS. LIVESAY: Thank you, Your Honor. At this time, the State calls Jana Weaver.

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

JANA WEAVER,

after having been duly sworn, was examined and testified to as follows:

THE CLERK: Please state your name and spell it for the Court.

THE WITNESS: Jana Weaver. W-e-a-v-e-r.

DIRECT EXAMINATION

BY MS. LIVESAY:

Q And, Ms. Weaver, where are you currently employed?

A I'm currently out at the Richland County Sheriff's Department Forensics Laboratory in the Firearm and Tool Mark Section.

Q Okay. And before you went to Richland County, were you employed for South Carolina Law Enforcement Division?

A Yes, ma'am, for about eight-and-a-half years.

Q Okay. And what did you do at SLED?

A I was a firearms examiner in the Firearm and Tool Mark Section there as well.

Q Okay. And if you don't mind, tell these folks what

that is.

A Firearms identification is a scientific discipline in which we examine ammunition components and firearms; try to determine if certain ammunition components were fired by specific firearms, the same firearm, different firearms. We do firearm functionality tests. I also did serial number restorations. And then just examined firearms to see if there are any issues with the firearm, if it's requested.

Q And what kind of training have you undergone to do that kind of testing and analysis?

A I have a Bachelor's of Science degree from Austin Peay State University. I went through SLED's internal firearm examiner training program. It was approximately three years. That included extensive reading, research, multiple modules that I had to go through, read countless books. We did thousands of comparisons.

I worked under court-qualified firearms examiners, watched them work cases and do examinations under them. I also went to the Bureau of Alcohol, Tobacco, Firearm, and Explosives, or the ATF's serial number restoration course in Ammendale, Maryland.

I also went to the ATF's NIBIN or the National Integrated Ballistics Information Network training as well. At the end of that training course, we did a

comprehensive exam with multiple competency tests, like mock cases, to make sure I was competent to do the work in the parameters that were needed.

Q And when you look at shell casings or firearms and you do whatever testing is requested, do you produce a report?

A Yes.

Q Okay. And before that report goes out, is it peer reviewed at SLED by some other individual?

A Yes. All of our examinations are 100 percent peer reviewed prior to being released.

Q Okay. And if, for some reason, there was a disagreement in the peer review, would that report be released?

A No. Prior to that report being released, there's policies in place that we would have to cover to either come to an agreement, get our lieutenant involved -- the supervisor -- to where there is an agreement prior to releasing a report.

Q Okay. So before a report is released, the examiner and the peer-review person has to be in agreement on the results?

A Correct. And the peer review is done independently, so without knowing the primary examiner's results.

Q Okay. And that's to keep kind of quality control?

A Correct.
Q And have you been qualified as an expert in South Carolina?
A Yes.
Q How many times?
A 12.
Q And what court?
A Just General Sessions.
Q And what were you qualified as an expert in?
A Firearms identification.
MS. LIVESAY: At this time, the State asks that Ms. Weaver be qualified as an expert in firearms identification.
THE COURT: All right, Mr. Bouchette. Any questions or challenges?
MR. BOUCHETTE: No objection.
THE COURT: Mr. Pinkerton?
MR. PINKERTON: No, Your Honor.
MR. GARDNER: No, Your Honor.
THE COURT: All right. I find this witness to be an expert in the field of firearm identification.
Ladies and gentlemen, I'll give you some instructions on expert testimony when I charge you on the law in the case, but all you need to know at this point in time is that, typically, witnesses can only testify to

their personal knowledge as far as what they observed, what they smelled, what they heard, what they tasted, things of that nature.

There is an exception for witnesses who are qualified as experts which means that, in addition to any personal observation, this witness is allowed to give an opinion in the field in which she's qualified as an expert.

All right. You can continue with your direct examination.

MS. LIVESAY: Thank you, Judge.

BY MS. LIVESAY:

Q Now, did you receive shell casings from the Horry County Police Department regarding the case we're here today for?

A Yes, I did.

Q And did you examine those shell casings?

A Yes.

Q Okay. And just so we're all on the same page, when you look at shell casings, you know, 9mm, five, six, seven, however many shell casings, in the course of your examination, can you determine if all the casings were fired from one gun or more than one gun?

A Yes.

Q Okay. So you can determine, even though they're all

the same make and model, if they were all fired from one gun or multiple guns?

A Typically, yes, we can determine if it's one, multiple, or possibly come up with an inconclusive answer.

Q And, if you don't mind, tell these folks what you are looking at on the casing to make that determination.

A When a firearm is fired, it leaves impressions or striations or scratches on certain areas of the cartridge case and bullet, and those scratches are very microscopic. So we use a comparison microscope to compare those cartridge cases to each other or bullets to each other to look and see if we see any matching areas. It's a pattern matching, if you will.

Q So similar to matching up fingerprints?

A This is correct.

Q Okay. And each gun has the ability to make their own identifying marks on the casing?

A Each gun does have identifiable marks, and that can come from manufacturing tool marks that are made, that can come from wear and tear or different defects on the firearm.

Q Okay. Now, if there was some sort of defect or you couldn't perform the analysis, would you produce a report that said that?

A Yes.

Q Okay. So you would let us know one way or the other, either I can say or I can't say?

A That is correct, yes.

Q Okay. Now, did you look at the nine shell casings submitted by Horry County Police Department in this case?

A Nine, you said?

Q I believe so, yes.

MS. LIVESAY: Can she look at her notes, Your Honor, or the report?

THE COURT: Yes, that would be fine.

A Yes, there were nine.

MS. LIVESAY: Judge, if you don't mind, can she step down?

THE COURT: Yes.

MS. LIVESAY: Do you want to bring your report with you, Ms. Weaver, or whatever you need?

THE WITNESS: Yes.

BY MS. LIVESAY:

Q Now, I'm looking at these boxes. Now, they have, of course, the Horry County number on it. What is that written in red?

A That is the SLED lab number; SLED item number, which can be different from an Horry County item number; and my initials.

Q So that lab number and your initials indicated that

you opened up the box and examined these shell casings?
A Yes.
Q Okay. And did you look at all the shell casings?
A Yes, I looked at all of these.
Q Okay. And out of all these shell casings, were you able to determine how many guns were fired?
A Yes, I was.
Q And tell these folks, out of all these shell casings, how many guns were fired?
A I was able to determine there were three different firearms fired.
Q Now, I'm looking at -- and you tell me -- I think I'm going to have to depend on your item number. Where would that be up here? Right there? Okay. Perfect.

So, if you don't mind, show me -- can you separate out which bullets were fired by one gun, which were fired by a second, and which were fired by a third?
A Okay.
Q Thank you.
A (Witness complies.)
Q Okay. So one, two, three, four, five, six 9mms were fired by the same gun?
A Yes.
Q Okay. And these two long bullets that are 232s; am I correct?

A 223s.

Q 223s. Thank you.

They were both fired by the same gun?

A That's correct.

Q And then there was one 9mm that was fired by a third and separate gun?

A Yes.

Q So a total three guns were fired?

A Correct.

Q Now, do you have any -- was there any doubt -- was there any confusion that three guns were fired?

A No, ma'am.

Q Okay. So all of these shell casings had identifying marks on them?

A Yes, they did.

Q Okay. Thank you. If you don't mind, have a seat, Ms. Weaver.

Now, two of the guns fired were 9mms; correct?

A Yes.

Q Okay. And one of the guns fired was a .223 Remington; is that correct?

A That is correct.

Q And the .223 Remington is a much longer bullet; is that correct?

A The actual length of the cartridge and cartridge

case is longer than the 9mm Luger.

Q And I'm going to show these folks real quick. So this is the -- let me show you first. This is the .223; correct?

A Yes, ma'am.

Q And this is one of the 9mms; correct?

A Yes.

Q And the .223 is visibly a longer shell casing?

A Yes.

Q Okay. Now, let me make sure this one goes here, goes here, and these are together.

And, certainly, a 9mm handgun can fire a 9mm bullet; correct?

A It's designed to fire a 9mm cartridge.

Q So if I buy a 9mm, go in the gun store, they're going to recommend 9mm bullets; correct?

A That is correct.

Q And can a long gun fire the .223? Is that possible?

A Yes. The .223 Remington caliber is typically found in your AR-style long guns. There are pistols in that caliber as well, but they're still a longer receiver.

Q Okay. So, normally, the .223 is going to be a longer gun?

A Correct.

Q Ms. Weaver, I just wanted to make sure I'm clear.

There were two different 9mms that were fired; correct?

A That is correct.

Q Okay. And then one that used the .223, which is traditionally the long gun?

A Correct.

Q Okay.

MS. LIVESAY: No further questions, Your Honor.

THE COURT: All right. Mr. Bouchette, cross-examination?

MR. BOUCHETTE: Very briefly.

CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

BY MR. BOUCHETTE:

Q Ms. Weaver, just to make sure, so we have got -- there were two total rounds that would have come from a rifle; correct?

A Or a -- a rifle or a pistol, but typically, an AR style.

Q All right. We keep using the phrases "long guns," "rifle," but two of the shots that would have been consistent were being fired from an AR-style rifle; is that correct?

A Correct, yes.

Q And the other rounds would have come from handguns, 9mm; correct?

A Typically. Again, there are AR styles that are

chambered for a 9mm Luger.

Q But more typically, it would be from the AR-style 15 -- or, excuse me, the AR-style rifle; correct?

A The .223s, yes.

Q That's right. And there were two of those?

A Correct.

Q No rounds from a .45; correct?

A I did not receive any cartridge cases from a .45.

Q All right. And you weren't on the scene, you aren't here to testify as to where shell casings were located or anything along those lines?

A That is correct. I was in the lab.

Q Okay. All right. Very good.

MR. BOUCHETTE: No further questions for this witness, Your Honor.

THE COURT: All right. Mr. Pinkerton?

MR. PINKERTON: Yes, Your Honor, just very briefly.

CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

BY MR. PINKERTON:

Q To your knowledge, there was no fingerprints found on any of the casings?

A I do not know. I didn't even look at a report, if there was a report for fingerprints.

Q And also, to your knowledge, no DNA was found on any of the casings?

A Again, same thing; I just did the firearms examination.

Q Thank you.

MR. PINKERTON: No further questions, Your Honor.

THE COURT: All right. Mr. Gardner?

MR. GARDNER: No, sir, no questions.

THE COURT: Redirect?

MS. LIVESAY: Just one question.

REDIRECT EXAMINATION

BY MS. LIVESAY:

Q Ms. Weaver, these shell casings, just so I'm clear, this is the portion that pops out of the gun; correct?

A That is correct.

Q Okay. This is when people bang, bang, you see them filing out to the right; right?

A That is correct, yes.

Q Okay. And, in fact, what you're looking at is the tool --

MR. BOUCHETTE: Objection. Beyond the scope of cross.

MS. LIVESAY: I'm going somewhere. I promise, Judge. Give me one more question.

MR. GARDNER: It's still beyond the scope of cross, Your Honor. We join that objection.

MR. PINKERTON: We too, Your Honor.

THE COURT: All right. What is it in response to?

MS. LIVESAY: The fingerprints.

THE COURT: All right. I'll allow it. Go ahead.

BY MS. LIVESAY:

Q And, in fact, what you're looking at on the casing is tool markings where the barrel of the gun or the slide has created scratches, marks, tool markings on the shell casing while it's ejecting; correct?

A Typically, during the whole cycle of firing. So, yeah, ejecting is part of that cycle.

Q Okay. So, typically, when the gun is fired and the shell casing pops out, it's kind of like an explosion that causes the bullet to go out; correct?

A There's combustion, yes.

Q Okay. So a lot is going on?

A Yes.

Q Would you expect to find a fingerprint on a shell casing that's already been popped out of the gun?

A That is a little bit beyond my -- what I'm comfortable speaking on. I don't do fingerprints.

Q Okay. I understand. Let me ask you something: How long have you been doing ballistics?

A Almost -- almost nine years.

Q Okay. And as part of that, they have ever incorporated fingerprints in the shell casings?

A The latent print department takes care of the fingerprints, so that is all done prior to us getting the evidence. And it has gone through that process. The results, I'm not aware of their results.

Q So you don't know if they're really able to obtain them or not?

A Yes. I don't -- I can't speak on that.

MS. LIVESAY: No further questions, Your Honor.

THE COURT: All right. You may step down.

MS. LIVESAY: Your Honor, at this time the State rests.

THE COURT: All right.

MR. BOUCHETTE: No objection to this witness being released, Your Honor.

MR. PINKERTON: No objection, Your Honor.

MR. GARDNER: No, Your Honor, no objection.

THE COURT: She's free to go. Thank you.

MS. LIVESAY: Thank you, Judge.

THE COURT: All right. Ladies and gentlemen, the State has rested their case, so now is the time of the trial where I have to take up some matters of law with the attorneys. So I'm going to excuse you back to the jury room for a few minutes.

Do not discuss the case, even among yourselves. We'll bring you back out in just a second. Thank you very

much.

(The jury exited the courtroom at 10:58 a.m.)

MOTIONS/MATTERS OF LAW

THE COURT: All right. Mr. Bouchette, any motions from you?

MR. BOUCHETTE: Yes, sir. At this time, we'd move for a directed verdict of not guilty. The State's evidence at this point, as it relates to Che Ransom -- I'll begin with the murder change.

Obviously, we're aware of the law regarding "hand of one, hand of all" but even under "hand of one, hand of all," it does have to be some active aiding and abetting that occurred. It is virtually undisputed in this case that there was no aiding or abetting in advance of this shooting. There doesn't appear to be any aiding or abetting following the shooting.

What we have here is a situation where Mr. Ransom was in the vehicle for unrelated purposes. At some point, there is a directive given by Mr. Whittington to pull over the car. At some point, there's testimony that Mr. Ransom got out of the car. There's varying testimony about shots, but the overwhelming of the testimony was very clear that Mr. Whittington fired the fatal bullet. In fact, there is no testimony tending to show Che fired at the vehicle, and even if he had, that would not have been

aiding or abetting and assisting in the actual death.

Moreover, as it relates to the attempted murder charge, the only thing the State's been able to put into the record is that there is, at most, two shots fired in the direction of the vehicle. We have three attempted murder charges which are pending. We'd argue, at a minimum, the fact that you've only got -- at least what they can show -- there's been speculation, but what they can show, no more than two shots fired at the victim's vehicle. That should give rise to at least no more than two counts of attempted murder.

And so, Your Honor, on that basis, we'd ask for a directed verdict both on the murder as well as on the attempted murder charges.

The other thing, with regard to the attempted murders, the State's aware the State has to show a specific intent to kill under that fairly recent change to the statute, and so there's been nothing to evidence an advanced motive or any motive to attempt to have the specific intent to kill Mr. Johnson.

Moreover, the only thing that is in the record is that Mr. Ransom got out, the gun jammed, he got back in the vehicle, drove away from the scene firing the gun in the air as he is leaving. That is what the State -- their witness introduced. That does not -- viewing the evidence

in the light most favorable to the State, that is insufficient to constitute inferred malice or specific intent to kill and is insufficient aiding or abetting for the murder charge.

THE COURT: All right. I note your motion. I'm going to deny it. I think there's enough to get to the jury as to your client.

Anything else?

MR. BOUCHETTE: Nothing from me, Your Honor.

THE COURT: All right. Mr. Pinkerton?

MR. PINKERTON: Yes, Your Honor. At this point, I would also move for a directed verdict on behalf of Travontae Mitchell.

Your Honor, as Mr. Bouchette said, there's nothing that's been shown that my client aided or abetted to murder or attempt to murder, Your Honor. The State has not shown any specific intent that my client intended to kill, shoot, or -- anybody in that Tahoe, Your Honor.

I mean, one of the State's witnesses got up and said my client never had a gun. The only witness that even said my client had a gun was someone who was trying to save his own skin, Your Honor. Nobody in the Tahoe identifies my client.

Your Honor, he did not aid or abet. There was no common scheme or plan. Your Honor, I would move for

directed verdict on the counts of murder and on three counts of attempted murder.

THE COURT: All right. Likewise, I'm going to deny that motion.

Mr. Gardner?

MR. GARDNER: Thank you, Your Honor.

Judge, I represent Don Brown, the driver of the vehicle, and all the testimony that concerns getting in that car was there was no plan, design, or scheme or any of that to -- when they got in that car to commit any crimes. They all agreed they were going to Nahz's mother or grandmother's house.

All the testimony that I have heard is that, on the way there, that Nahz, Tronahz, the fellow who's already been convicted of the murder, he and he alone identified the victim, Jamie's vehicle.

And the best testimony we have of what happened next is from the last fact witness was McLeod, the State's witness McLeod, and his testimony was that Nahz said, "There goes Jamie. He owes me money. Follow him." There's nothing illegal about that. That's the only -- there's no -- he didn't say, "Let's go rob him." He didn't say there's a plan to go rob him. He didn't say anything.

The State -- that is enough, I believe, for a

directed verdict.

The other thing that I wanted to bring to the Court's attention was the State has spent the majority of their time, when it comes to Don Brown, talking about blocking him in and that that would be enough -- the solicitor said that that was referring to the steering wheel and driving, that was Don Brown's weapon.

And I would submit to the Court that the best witness we have about that was the best witness with the cleanest and clearest view from the front passenger seat, Jacob Hill, and the State's witness, on examination by the State, said that they could have taken a right. So they weren't trapped in. So Don, by the State's own witnesses, did not trap anybody in.

By the State's own witnesses, the only direction he got was from the convicted killer, who followed the vehicle, "He owes me money." That is not against the law. That is not part of the crime or plan. I'm afraid that, if you don't grant this motion, that it's going to go to the Court -- I mean, it's going to go to the jury, and they're going to get confused by everything that's going on here, and they might just lump them all together.

I told the jury at the beginning that they have to decide this case individually. And individually, Your Honor, respectfully, I believe that granting a directed

verdict for Don Brown is appropriate at this time, and I'd respectfully ask you to grant that motion.

THE COURT: Likewise, I'm going to deny that motion. I think there is evidence there that makes it a jury issue.

All right.

MR. BOUCHETTE: One last thing, Your Honor. I think I believe we're obligated to renew our prior motions for the mistrial that we made during the course of this case. I think there were three total. We don't need to go back and re-argue them, but I just wanted to make sure the Court has noted that we are renewing those motions at this time, that is, the close of the State's case.

THE COURT: All right. Yeah, I'm going to stick by my prior ruling on all prior motions.

MR. PINKERTON: Your Honor, I would also join in with that. We renew all prior motions and objections for Mr. Mitchell.

MR. GARDNER: If that's what's required, we will protect the record, Your Honor, so we would renew any motions and stand by whatever ruling you have already made.

THE COURT: All right. I'm sticking by my prior rulings. All right?

All right. Anything else? Do you want me to

question your defendants on their rights to testify now?

MR. BOUCHETTE: That's probably a good time to do it, Your Honor.

THE COURT: All right. We'll take them in order.

DEFENDANTS' RIGHTS

THE COURT: If I can get Mr. Ransom to stand, please. If I can get you to raise your right hand, please.

CHE LEON RANSOM, JR.

after having been duly sworn, was examined and testified to as follows:

THE COURT: Thank you. Your name is Don Leequin -- no, you are Che Leon Ransom, Jr.; correct?

DEFENDANT RANSOM: Yes, Your Honor.

THE COURT: All right, Mr. Ransom. You can put your hand down now.

At this time, I'm going to explain to you certain rights that you have. If you do not understand what I'm saying, please let me know. If you want me to explain anything in more detail, please let me know. Do you understand that?

DEFENDANT RANSOM: Yes, Your Honor.

THE COURT: Excuse me?

DEFENDANT RANSOM: Yes, Your Honor.

THE COURT: All right. Now, we have now reached the

stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Fifth Amendment to the United States Constitution, which states in part that no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to testify in this case. You have the right to testify on your own behalf; however, no one can make you testify. This is a personal right, and no one can waive this right except for you.

If you decide to testify, you'll be subject to the same rules that govern other witnesses, and you may be examined and cross-examined on any relevant issue in this case.

In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than one year and this Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record to attack your credibility.

All right. Is there any prior record from Mr. Ransom that the State would use?

MR. HELMS: Nothing we're aware of, no, sir. No.

THE COURT: If you decide to testify, this decision on your part must be freely, voluntarily, and

intelligently made with the knowledge of the protections given to you by the Fifth Amendment and the consequences of your decision to testify. If you decide not to testify, I will instruct the jurors that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you whether or not you testify.

You may talk with your attorney, your family and friends or anyone else, but the final decision will be left entirely up to you.

Now, do you understand what I have explained to you?

DEFENDANT RANSOM: Yes, sir, Your Honor.

THE COURT: All right. Do you have any questions about what I have explained to you?

DEFENDANT RANSOM: No, sir.

THE COURT: All right. I'm going to let you discuss this with your attorney a little bit more, and then I'll be back to you in just a minute to find out if you want to testify. Okay?

DEFENDANT RANSOM: Yes, sir.

THE COURT: All right. Thank you very much.

All right. Let me get Mr. Mitchell to stand, please. If I can get you to raise your right hand, please.

TRAVONTAE MITCHELL,

after having been duly sworn, was examined and testified to as follows:

THE COURT: All right. Sir, your name is Travontae J. Mitchell?

DEFENDANT MITCHELL: Yes, sir.

THE COURT: All right. Mr. Mitchell, you can put your hand down now.

I'm going to go over these same explanations with you. At this time, I'm going to explain to you your rights pursuant to the Fifth Amendment to the United States Constitution. If you do not understand what I'm saying, please let me know, and if you want me to explain anything in more detail, please let me know. Do you understand that?

DEFENDANT MITCHELL: Yes, sir.

THE COURT: All right. Now, as I said, I'm going to explain to you your rights under the Fifth Amendment to the United States Constitution because, at this time, we have reached the stage of the trial where you can present your defense if you choose to.

The Fifth Amendment to the United States Constitution states in part that no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to

testify in this case. You have the right to testify on your own behalf; however, no one can make you testify. This is a personal right, and no one can waive this right except for you. If you decide to testify, you will be subject to the same rules that govern other witnesses, and you may be examined and cross-examined on any relevant issue in this case.

In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than one year and this Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record to attack your credibility.

Now, is there any criminal record against this defendant?

MS. LIVESAY: No, sir, Your Honor. Mr. Mitchell was a juvenile prior to this.

THE COURT: All right. If you decide to testify, this decision on your part must be freely, voluntarily, and intelligently made with the knowledge of the protections given to you by the Fifth Amendment to the United States Constitution and the consequences of your decision to testify.

If you decide not to testify, I will instruct the

jurors that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify.

It is left entirely up to you whether or not you testify. You may talk with your attorney, your family and friends and anyone else, but the final decision will be left entirely up to you.

Now, do you understand what I have explained to you?

DEFENDANT MITCHELL: Yes, sir.

THE COURT: Do you have any questions about what I have explained to you?

DEFENDANT MITCHELL: No, sir.

THE COURT: Have you discussed this matter with your lawyer, whether or not you should testify or not testify?

MR. PINKERTON: Your Honor, he indicates he does not wish to testify.

THE COURT: Well, I'm going to come back to him. I just want to know if he's discussed it with his attorney at this point in time. Have you?

DEFENDANT MITCHELL: Yes, sir.

THE COURT: Okay. Like I did with the other one, I'm going to give you a little while longer to think about it, and I'll come back to you in just a minute to find out whether or not you wish to testify. Okay?

DEFENDANT MITCHELL: Yes, sir.

MR. PINKERTON: Thank you, sir.

THE COURT: Thank you very much.

All right. If we can get Mr. Brown to testify -- excuse me, get him to stand.

Sir, if you would raise your right hand.

DON BROWN,

after having been duly sworn, was examined and testified to as follows:

THE COURT: And your name is Don Leequin Brown?

DEFENDANT BROWN: Yes, sir.

THE COURT: Mr. Brown, at this time, I'm going to explain to you certain rights that you have. If you do not understand what I'm saying, please let me know, and if you want me to explain anything in more detail, please let me know. Do you understand that?

DEFENDANT BROWN: Yes, sir.

THE COURT: Excuse me?

DEFENDANT BROWN: Yes, sir.

THE COURT: All right. We have now reached the stage of the trial where you may present your defense, and you have the right to claim the protections given to you by the Fifth Amendment to the United States Constitution which states in part that no person shall be compelled in any criminal case to be a witness against himself. This

means that you cannot be required to testify in this case.

You have the right to testify on your own behalf, however, no one can make you testify. This is a personal right, and no one can waive this right except for you.

If you decide to testify, you'll be subject to the same rules that govern other witnesses, and you may be examined and cross-examined on any relevant issue in this case.

In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable for imprisonment for more than one year and this Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record to attack your credibility.

Is there any criminal record against this defendant?

MS. LIVESAY: No, sir.

THE COURT: All right. If you decide to testify, this decision on your part must be freely, voluntarily, and intelligently made with the knowledge of the protections given to you by the Fifth Amendment of the United States Constitution and the consequences of your decision to testify.

If you decide not to testify, I will instruct the jurors that they cannot give the fact that you did not

testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify.

It is left entirely up to you whether or not you testify. You may talk with your attorney, your family and friends or anyone else, but the final decision will be left entirely up to you.

Now, do you understand what I have explained to you?

DEFENDANT BROWN: Yes, sir.

THE COURT: Do you have any questions about what I have explained to you?

DEFENDANT BROWN: No, sir.

THE COURT: Have you had an opportunity to discuss this issue with your lawyer?

DEFENDANT BROWN: No, sir.

THE COURT: No?

DEFENDANT BROWN: Mm-mm.

THE COURT: Okay. Well, we're going to stand it down, and I'm going to let you discuss it with your lawyer, and then I'm going to come back and find out if you wish to testify. Okay?

DEFENDANT BROWN: Yes, sir.

THE COURT: All right. Thank you very much.

All right. Let's take about a five-minute break, and then I'm going to come back -- give y'all an

opportunity to talk to your clients, and then I'm going to come back and ask whether or not they wish to testify or if they need anything explained in more detail. Okay?

MR. GARDNER: Your Honor, I feel compelled to put one thing on the record, if I may.

(Mr. Gardner and Defendant Brown conferring off the record.)

MR. GARDNER: Well, tell him that.

THE COURT: Sir?

MR. GARDNER: I believe there may have been some miscommunication on the last question. I believe the question was words to the effect of, "Have you discussed whether or not to testify with your lawyer?" And I believe he said, "No," meaning that no, he's never discussed that with his lawyer.

THE COURT: Have you discussed with your lawyer whether you're going to testify or not testify? Have y'all had that conversation?

DEFENDANT BROWN: Yes, sir.

THE COURT: Okay.

MR. GARDNER: Every day; right?

DEFENDANT BROWN: Yeah.

THE COURT: All right. Then I'm going to come back. I'm going to still give you a little opportunity to talk to your lawyer, and I'll come back and discuss it with

you.

All right. Anything from the State before we take a short break?

MS. LIVESAY: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: Yes, sir.

THE COURT: Anything before we take a break?

MR. GARDNER: No, Your Honor.

THE COURT: All right. Let's take about a 10-minute break.

(A recess was taken from 11:17 a.m. to 11:35 a.m.)

THE COURT: All right. Mr. Ransom, if I could get you to stand, please.

All right. You're still under oath. Now, do you recall your rights as I explained to you earlier?

DEFENDANT RANSOM: Yes, sir.

THE COURT: Do you have any questions about those rights?

DEFENDANT RANSOM: No, sir.

THE COURT: Have you had an ample opportunity to discuss whether or not you're going to testify with your

lawyer?

DEFENDANT RANSOM: Yes, sir.

THE COURT: And do you wish to testify in this case?

DEFENDANT RANSOM: No, sir.

THE COURT: Is that your decision?

DEFENDANT RANSOM: Yes, sir.

THE COURT: Has anybody coerced you into making that decision?

DEFENDANT RANSOM: No, sir.

THE COURT: All right. Thank you very much.

Mr. Mitchell, if I could get you to stand. Now, do you recall your rights as I read to you earlier?

DEFENDANT MITCHELL: Yes, sir.

THE COURT: Do you have any questions about those rights?

DEFENDANT MITCHELL: No, sir.

THE COURT: Have you had an ample opportunity to discuss whether or not you're going to testify with your lawyer?

DEFENDANT MITCHELL: Yes, sir.

THE COURT: Do you wish to testify in this case?

DEFENDANT MITCHELL: No, sir.

THE COURT: Is this your decision?

DEFENDANT MITCHELL: Yes, sir.

THE COURT: Has anybody coerced you or forced you

into making that decision?

DEFENDANT MITCHELL: No, sir.

THE COURT: All right. Thank you very much.

Mr. Brown, if I could get you to stand, please. Now, do you recall your rights as I explained them to you earlier?

DEFENDANT BROWN: Yes, sir.

THE COURT: Do you have any questions?

DEFENDANT BROWN: No, sir.

THE COURT: Have you had an ample opportunity to discuss with your lawyer whether or not you're going to testify?

DEFENDANT BROWN: Yes, sir.

THE COURT: And do you wish to testify in this case?

DEFENDANT BROWN: No, sir.

THE COURT: Is this your decision?

DEFENDANT BROWN: Yes, sir.

THE COURT: Has anybody coerced you into making that decision?

DEFENDANT BROWN: No, sir.

THE COURT: Mr. Bouchette, Mr. Pinkerton, and Mr. Gardner, anything further you want on the record with regard to your clients' decisions not to testify?

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, sir.

THE COURT: All right. Anything further from the State in that regard?

MS. LIVESAY: No, sir.

THE COURT: All right. I guess we'll bring the jury back in. I'll ask -- well, let me ask you this: Mr. Bouchette, your client is not going to testify. Are you going to present any defense?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir, Your Honor.

THE COURT: All right. We'll bring them in. I'll let all defendants rest on the record, and then we're going to have lunch coming for them. It will be a while, but I have been working on some charges up here. That's what I have been doing. So I don't have a whole lot to do after that except bringing up the verdict forms and then discussing with you and going over the charges. So I anticipate we'll be able to do closing arguments and charges soon after lunch?

MS. LIVESAY: Yes, sir.

MR. HELMS: Yes, sir.

THE COURT: Okay. All right. Anything from the

State before we bring the jury in?

MS. LIVESAY: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, sir.

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

(The jury entered the courtroom at 11:39 a.m.)

THE COURT: All right. Ladies and gentlemen, welcome back. Before we recessed, you heard the State rest. Now is the time where the defendants can present a defense if they choose to do so.

Mr. Bouchette, any defense to be presented by your client, Mr. Ransom?

MR. BOUCHETTE: No, sir.

THE COURT: All right. Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor. Defendants rest.

THE COURT: All right. Ladies and gentlemen, all the defendants have rested their case, and so the only thing remaining will be for the attorneys to make their closing arguments, I need to charge you on the law to be applied in this case, and then for you to deliberate. It's still too early for deliberations at this point in

time, but it is going to take a while for these attorneys to get their arguments formulated and me get the charges together to present to you, and we're going to do that after lunch.

So we do have lunch coming for you, but it's going to be a little while before it gets here. So you can do one of two things: You can just wait here. If you want to leave, I'm going to allow you to leave, but I'm going to ask that you please be back at 1:00. Okay? So you can sit here and wait for your lunch to get here, or if you want to leave and just be back at 1:00, you can do that as well.

Again, I caution you: Do not discuss the case even among yourselves. Don't conduct any independent investigations. And we'll bring you back -- I'll probably take the bench a little bit after 1:00, and we'll get started and conclude. Okay? Thank you very much.

(The jury exited the courtroom at 11:41 a.m.)

MOTIONS/MATTERS OF LAW

THE COURT: All right. The State, when it comes time for closing arguments, will close in full.

MS. LIVESAY: Yes, sir.

THE COURT: And then Mr. Bouchette and then Mr. Pinkerton and then Mr. Gardner? Is that the order y'all want to go in?

MR. BOUCHETTE: If it please the Court, Your Honor.

MR. PINKERTON: Yes, Your Honor.

THE COURT: All right. So there will be no replies to any of the closing arguments.

I have been working on some charges. Certainly charge murder, attempted murder. I was also going to charge assault and battery of a high and aggravated nature unless y'all just don't want me to.

MS. LIVESAY: As a lesser included of attempted murder?

THE COURT: Yeah, a lesser included of the attempted murder. Since attempted murder is a specific intent crime I think that there is some evidence in there that it's not specific -- I mean, that's the reason I included assault and battery of a high and aggravated nature is because attempted murder is a specific intent crime, and that's why I include it as a lesser offense of the attempted murder. What's the State's position?

MS. LIVESAY: I'm going to leave that up to the defense, Your Honor, if ABHAN needs to be read or not. I don't have a --

MR. HELMS: Position.

MS. LIVESAY: Yes, I don't have a position on it.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: Trying to think of the statute in my

head, Judge.

THE COURT: I mean, what --

MR. BOUCHETTE: Since we don't have the bodily injury case -- normally, there's a bodily injury that gives rise to the inferred intent for attempted murder, so ABHAN makes sense to be a lesser included. We don't have that in this case. It would seem to be inconsistent. Either they believe that he fired with a specific intent to kill, which didn't hit him, or he didn't, which there would be no specific intent to kill. So I think -- as I think it through, I don't think ABHAN would be appropriate.

THE COURT: Basically it says -- what I had -- and, as I said, I can tell you; if you want it in here or if you don't. "If you find that the State has failed to prove a defendant guilty of attempted murder, you may then decide whether or not the State has proven the defendant guilty of assault and battery of a high and aggravated nature. Included within the offense of attempted murder is the crime of assault and battery of a high and aggravated nature. To convict a defendant of assault and battery of a high and aggravated nature, the State must prove beyond a reasonable doubt that the defendant unlawfully injured another person and great bodily injury to another person results or the act is accomplished by

means likely to produce death or great bodily injury." And then I give the definition of great bodily injury.

Do y'all want to decide among yourselves?

MR. BOUCHETTE: Yeah, if the Court would allow us a few minutes to confer to make sure I'm not missing something that co-counsel --

THE COURT: All right. That will be fine.

(Counsel conferring off the record.)

MR. BOUCHETTE: Your Honor, we would request that the charge not be included.

THE COURT: Okay. And now that I look back at it, it says that the defendant unlawfully injured another person and the act is accomplished by -- there was no other injury except for the primary murder. So I'm thinking that you might be right. There may not be --

MR. BOUCHETTE: You usually see that when there's an injury, and you're inferring the attempt to kill from there and so it makes sense. This one, I don't think would --

THE COURT: Okay. All right. Then I'll just leave the assault and battery of a high and aggravated nature out. So it will just simply be guilty or not guilty on murder and guilty or not guilty on each attempted murder. That's correct?

MS. LIVESAY: Yes, sir.

MR. HELMS: Yes, sir.

MR. BOUCHETTE: Yes, sir.

MR. PINKERTON: Yes, Your Honor.

MR. GARDNER: Yes, Your Honor.

THE COURT: All right. As I said, I'm just about through with this. I'll have it certainly ready by 1:00 if you want to look over it. I'll probably have it ready about 12:30, and I'll get you a copy so y'all can take a look at it.

MR. HELMS: Yes, sir.

THE COURT: Any -- since it's just guilty or not guilty, can we just give them the indictments to write it on the indictment since there's no lesser included, or how do y'all want -- do y'all want a verdict form or just write it on the indictment?

MR. BOUCHETTE: I guess they can just write it on the indictment.

MR. PINKERTON: Yes, Your Honor.

MR. GARDNER: That's fine, Judge.

MS. LIVESAY: No objection.

THE COURT: All right. So I'll just hand them the indictments, and then, for each one, they'll just write guilty or not guilty on it.

MR. HELMS: Okay.

THE COURT: All right?

All right. Anything from the State before we --

MS. LIVESAY: No, sir.

THE COURT: All right. Anything, Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir.

THE COURT: All right. Let's take about an hour break, and I'll get this together, and then we'll get back together before the jury gets back and then we'll be ready to go. Okay?

MR. HELMS: Yes, sir.

MS. LIVESAY: Thank you, Judge.

THE COURT: Thank you very much. We'll be in recess about an hour.

(A lunch recess was taken from 11:48 a.m. to 1:19 p.m.)

THE COURT: All right. Ladies and gentlemen, I'm giving a copy of my proposed charge, and I'll give you an opportunity to raise any objections now and then again after I charge the jury because sometimes it does sound different when you hear it read to the jury versus when you just read it.

Have y'all had an opportunity to go over those

charges?

MR. HELMS: We have, Your Honor.

THE COURT: All right. Anything from the State?

MR. HELMS: I have no objection to the Court's proposed jury charges.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: Yes, Your Honor. I have no objection to what the Court has sent us. I do have a request for one additional charge. It deals with -- you know, throughout this case, we have heard about different people having guns and who shot and what guns were involved. I have a charge here regarding directing the jury to not infer malice from the presence or use of a firearm. That's from State v. Campbell. And I have got a proposal of that, that I can hand up for a Court's exhibit. I have provided a copy to --

THE COURT: Well, I mean, I'm thinking that says that we shouldn't even charge -- or does it say -- as I was of the impression, that case and the other cases that followed that says that we can no longer charge the fact that someone has a gun can be an inferred malice. I don't know that it says the opposite, that we charge, if you don't have a gun, that shows an absence of malice.

I mean, what is it you're asking me to charge? Tell me -- just tell me how you want me to read it.

MR. BOUCHETTE: What I have got here is, "Presence of malice is a necessary element for conviction of the crime of attempted murder. You're not allowed to infer malice merely due to the presence or use of a deadly weapon. Instead, you must find the defendant acted with expressed malice and with the specific intent to kill."

THE COURT: What's the State's position on that?

MR. HELMS: Judge, I have read your charges. They're all-encompassing. They give a complete and clear instruction on attempted murder. I think that this would merely serve to be unduly cumulative and, furthermore, confuse the jury. I don't want to confuse the jury in terms of malice. And my position was going to be exactly what the Court said. Just because there is a gun doesn't mean you can't infer -- but I don't think the Court -- or the higher Court has determined we instruct the jury on the inverse, and I think that's where you're going with that if you do that.

THE COURT: Well, let me ask you this: Is that case -- is that what the Court charged, or did they charge that you could infer malice from the use of a gun and the appellate court said no, you can't?

MR. BOUCHETTE: I believe it was the latter, Your Honor. I should have printed out the case. I did these jury charges prior to the week. I should have --

THE COURT: What's the case?

MR. BOUCHETTE: State v. Campbell, 868 S.E.2d 414. It was Court of Appeals. It's a 2021 case.

THE COURT: Hold for a second.

(Pause in the proceedings while the Court reviews documents.)

THE COURT: C-a-m-p-b-e-l-l?

MR. BOUCHETTE: Correct. That's what I have got. C-a-m-p as in "Paul"-b-e-l-l.

THE COURT: And what year?

MR. BOUCHETTE: I have got 2021.

THE COURT: Give me the cite again.

MR. BOUCHETTE: I have it as 868 S.E.2d 414.

THE COURT: Yeah, that's where the Court charged the jury. Said the trial court erred when it instructed the jury that malice could be inferred with the use of a deadly weapon. It's not that we charge them that they cannot infer that. I think the best thing I'm going to do -- it's going to be confusing; I'm just going to leave it out. Because if they -- they're not going to know that they can infer the use -- infer malice from the use of a weapon unless I tell them, "You can infer malice from the use of a weapon."

MR. BOUCHETTE: Okay. I understand. I imagine the codefendants move for the same --

MR. PINKERTON: Your Honor, we would move with Mr. Bouchette on that for the record.

THE COURT: All right. Anything else, Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton, anything from you?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir, Your Honor.

THE COURT: All right. Anything from the State before we bring the jury in?

MR. HELMS: No, Your Honor.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, sir.

THE COURT: Mr. Gardner?

MR. GARDNER: Could I approach with Mr. Helms?

BENCH CONFERENCE

(The following bench conference was held outside the hearing of the jury and others:)

MR. GARDNER: I don't know how long the arguments will be, but would you be opposed to us taking a break between the arguments and the charge if it goes a long time?

THE COURT: Let's see how long it takes and then we'll make a decision. If you need a break, give me a hi sign. Okay?

MR. GARDNER: Perfect.

(Open court resumes as follows:)

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

MR. HELMS: Your Honor, for the Court's edification, Ms. Livesay will be closing.

THE COURT: Okay. Thank you.

(The jury entered the courtroom at 1:28 p.m.)

THE COURT: All right, ladies and gentlemen. Welcome back. I hope everybody had a good lunch, and I appreciate your patience.

All of the evidence has been presented to you, and now is the time of the trial where the attorneys will make their closing arguments. Just like their opening statements, these closing arguments are not evidence in this case. It is simply the attorneys' contentions as to what they think the evidence has shown and the law to believe applied in this case.

If, at any time, an attorney referencing a factual issue that is different from the facts as you find them to be or references the law that is different from the law as I will instruct you at the end of the closing arguments, then you're to disregard that portion of their closing

arguments because this is not evidence of facts and it's not a charge on the law. It's just their opinion or contention as to what they think the facts are and the law to be applied.

All right. Ms. Livesay?

MS. LIVESAY: Thank you, Your Honor.

CLOSING ARGUMENT ON BEHALF OF THE STATE

MS. LIVESAY: Good afternoon, ladies and gentlemen. I know you have had a long week, and we are finally at closing arguments on Thursday afternoon. Now, I want to go ahead and tell everybody that I am from Tarboro, North Carolina. Now, why is that important? Because I can't talk fast and I can't tell a short story. So I want y'all to bear with me. We have got a lot of evidence to go over.

And just like Judge Culbertson said, we have got to look at the evidence, and we have got to figure out what it tells us. The evidence is what tells us whether or not Che Ransom, Don Brown, and Travontae Mitchell are guilty. That's what we have to look at.

Now, what are they charged with? They're charged with murder and three counts of attempted murder.

Now, why murder? That's an easy one. That's why we start with murder. Why? Because Jamie Johnson was shot in the head, and he died on the streets of Horry County.

That young man laid out there -- you saw him in the video -- and that young man lost his life on September 12th of 2020. So that's why they're charged with murder.

Now, attempted murder. Attempted murder is just what you would think it is. It is not that someone has died, but it is someone has acted in a way to attempt to take the life of another individual.

Now, how did we get to three counts of attempted murder? Just what you would think. Britney Milam was in the car, Jacob Hill was in the car, and so was Orlin Lopez. We are here to tell you shots were fired at that Tahoe. When you shoot into a car that you know is occupied by individuals, there is no other conclusion other than attempted murder.

Now, let me explain it this way: If I walked into a home, and there were three people in the closet hiding, and I opened the door, then I shut the door back and I fired nine shots, is anybody wondering whether or not I have intent to kill the people in that closet? There can be no other answer.

Now, Mr. Helms talked to you in opening about the idea of a team. He talked to you about Tom Brady. He is not a sports fan; I am a tremendous sports fan. Now, why was he talking to you about that idea? Because that idea

of a team is also a legal, recognized, accepted law here in South Carolina. What is it? It is the hand of one is the hand of all.

What does that mean? That means if two people or more than two people join together to commit a crime, they are all equally guilty, whether you fire the fatal shot or not. The judge is going to give you the jury instructions, and he's going to read you "hand of one, hand of all".

So what does that mean? That means if me and Mr. Helms get in a car together and I'm driving and he's got a gun and we ride -- I creep by Lacy Miller's house, I'm riding slow, and Mr. Helms --

MR. GARDNER: Objection. Your Honor, I have an objection.

THE COURT: Hold for a second.

What's your objection?

MR. BOUCHETTE: May I approach?

BENCH CONFERENCE

(The following bench conference was held outside the hearing of the jury and others:)

MR. BOUCHETTE: Okay. So Ms. Livesay is showing on one of the boards, there's a written-out statement of "hand of one, hand of all," at least according to her.

Under it, it has some kind of example that's written

out that's indicative of applying the law to an example that's being shown on the board that seems to be an incorrect way to have written jury charges sent to the jury. We don't send the jury charges back, Your Honor.

THE COURT: I'm going to overrule it. I'll allow it.

MR. BOUCHETTE: Okay. Very good.

(Open court resumes as follows:)

THE COURT: All right. Overruled.

MS. LIVESAY: Now, before I was interrupted, we left off at the hand of one is the hand of all. What does that mean? That means, when I'm driving, creeping by, and Chris rolls down the window and fires nine shots, we are both equally guilty. I am just as guilty as the driver, as Chris is as the one pulling the trigger. Why? Because it takes both of us to accomplish the goal. So the hand of one is the hand of all.

Now, right from the jury instructions, Judge Culbertson is going to tell you if they are acting together, if they are assisting each other in committing the offense, then the act of one is the act of all.

So the question now is, are these six codefendants, particularly the three on trial, are they acting together and are they assisting each other in committing the offense? That is the question. Because if we find that

they are, then there can be no other answer than they are all equally guilty.

I remember one time when Tom Brady lost the Super Bowl. His wife was walking out of the stadium and, of course, everybody, the media is all on him, you know, "Your husband lost." And she fired back and she said, "He can't throw and catch the ball."

That's why this exists, because it takes everyone acting together to accomplish ultimately the crime that occurred.

Now, were they acting together? Were they assisting each other? Let me tell you something, folks. September 12th, 2020, was Saturday night. Now, let's figure out, were the six of them all gathered up on Saturday night? Had they already gathered up? They weren't at the movies with their girlfriend, they weren't over in Myrtle Beach going out to eat. Were the six of them all gathered up right here in Conway? I'm going to tell you they were.

The time is 9 -- of course the date is 9/12, and it's 18:27. So we're looking, 6:27.

(Video plays.)

MS. LIVESAY: Can you hit me just a little forward?

Here's the car of course. Saturday night. Still light outside. See this man walk over? De'Shon Samuel

tells you he's in the car here. Lo and behold, look who else is walking over. One, two, three, four. Tronahz Whittington is over here; he's the young man in the shorts with no shirt.

In a split minute, you're going to see Shamontae Graham walk over from the white car. Saturday night, 6:30.

Is there a question that they're all together? There is no question. All these young men at this time have already gathered together.

This is Mikkie McLeod. They all walk up together and talk to De'Shon. They all walk off together and talk to De'Shon. Already together on Saturday night, walking up, walking back.

Here's Shamontae. He's running a little late. He's going to walk up to the car as well and walk back.

Now, what are they doing? We know what they're doing. It's Saturday night and they're borrowing De'Shon's car.

Now, you're going to hear testimony, "Well, Tronahz was the one that said 'Can I borrower your car?'" Well, look, folks, six people, when somebody borrows your car, a group, all six of them aren't saying, "Can I borrow your car?" But there is no doubt all of them walked up to the car, all of them walked away from the car. It is clear

all of them had a common interest in using this car.

Then you see them walking across the street.

Can you fast forward a little to show the car leaving?

Now, lo and behold, once they talk to De'Shon, they all walk over here, and lo and behold, a car pulls right out and goes over in that direction.

(Video plays.)

Then he gets out a few minutes later. He's heading right over to where the six codefendants are. So they already are together. They're already meeting with the owner of the car. They're already -- there's a plan here when they're all getting in the car.

Now, what does the evidence show as to where the car is next? Where do we see the car next? And I'm going to tell you something, don't just pay attention to where the car is. Pay attention to how quick the car is in that area.

EME Apartments, folks -- I know this area. I used to live in that section of Conway. So State's Evidence 16, this is EME Apartments. Right here in Conway. Some of you may know where it is. Some of you may not, but it's on this part of Conway.

Now, the car leaves out. We just saw the video -- around 6:30. Okay? They haven't even gotten in the car.

That's just showing us that they have talked to De'Shon and the car has left. 6:30.

Now, this is EME Apartments. Now, where is Wayside? Wayside is all the way from this part of Conway -- and if y'all need a reference point. So right here is 701. I don't know how many people are familiar with Conway, but this is 701 here. So they're all the way from this part of town to Wayside Road, all the way across Conway. They leave at 6:30.

(Video play.)

Can you hit me? 1911. 7:11. 7:11. The Tahoe is right here. Okay? Horry County is one of the biggest counties east of the Mississippi. Look how many roads are just on this map for a portion of Conway. Jamie Johnson, the victim, is on Wayside Drive, which is a back road.

Now, it's now 7:11. The windows are down. And look, he's already behind him. Already behind him. They leave, they borrow the car around 6:30. By 7:11 now -- not even 45 minutes later, they are across town, and they are behind Jamie Johnson.

Now, do they know Jamie Johnson? They do. How do you know? Because Che Ransom gave a statement saying, "I saw him on Snapchat and he had weed and money."

Also don't forget, Shamontae Graham and Mikkie McLeod testified that everybody had a gun when they got in

the car. All six of them are in the car armed and behind the victim within 45 minutes.

That is a plan.

Now, Investigator Drew Edwards testified that Che told him there wasn't a plan until in the car. Maybe that's when the plan got more solid, but the evidence shows, if you can make it behind the victim within 45 minutes, everybody's in the car, everybody's armed, that ain't happenstance. There's a plan.

Now, Che says the plan developed. He told Drew Edwards -- you can listen to any of his testimony that you want to -- that the plan came up while they were in the car. Let me tell you something, folks, maybe there's some truth that it got solid in the car, but regardless, there was a plan. Shamontae told you it was a plan. Che Ransom told you it was a plan.

And the plan, they told you, was robbery. They told you they were going to rob him. That's what Che says. That's what Shamontae says. That's what the evidence of them stalking behind him says, with four guns in the car.

Now, one camera -- you hardly ever get this, but now everybody's got a Ring camera. Past the first 7:11. Okay? Now we're down closer to D Street at 7:13, I believe. Here it is right here. 19:13. So two minutes later, he's our victim.

(Video play.)

Right in behind him. Right in behind him. This is on video. Right in behind him, trying to figure out when that opportunity is going to come.

Now, the evidence shows response to the scene was around 7:19. The 911 call was at 7:16. Okay? So what does that mean? It means we just watched the victim drive by at 7:13. Okay? Less than three minutes later -- less than three minutes later, they have gunned down Jamie Johnson. That young man has lost his life. They have already fired at least nine shots into his car. Wrap your mind around, when we just saw that car -- the defendants' car behind the victim's car, it was three minutes later. That quick. And that young man was killed. They had already jumped out of the car and fired nine bullets. Three minutes, folks. Not a very long time.

That tells you there was a plan. That tells you there was a plan.

Now, what happens? What happens at 7:16 for 911 to be called? Shamontae told you, Jacob Hill told you, Britney Milam told you, Orlin told you, and Mikkie McLeod. Now, who are those people? Those are three people from the victim's car and two people from the defendants' car. And they all said the same thing. One boy jumped out of the front -- before that even happens, though, let me back

up.

Their car passes the victim's car and cuts him off. Let me tell you, that is acting together. That is assisting. Don Brown is assisting when he trapped the victim. Make no bones about it. Whether he got out of the car or whether he had a gun, he actively assisted when he trapped the victim, and the victim could not get away.

You can't rob somebody until you trap them. They can get away. This -- Don Brown was instrumental. He was the one that pulled right in front of him. Jamie was shot moving the car, trying to get away, trying to back up. He couldn't go forward and back, and he was shot in the back of the head.

So whether Don Brown got out, the question of whether or not he was assisting is clear. He trapped and blocked those people off.

I don't know if any of you watched "The Godfather," but it's almost something out of a gangster movie. In "The Godfather," one of the characters gets --

MR. GARDNER: Objection to reference to gangster and anything about gangster movies, Your Honor.

THE COURT: Overruled.

Go ahead.

MS. LIVESAY: Thank you, Judge.

Now, before I was interrupted, in that movie, one of

the characters get trapped off. Three guys jump out of the car and kill Sonny. Now, is anybody wondering if the guy that trapped him off was an active participant?

If I try to get out of here and Lacy's got a gun and Chris steps in front of me so I can't get away and she kills me, he is actively assisting her.

And I cannot fathom what it felt like when he was at the stop sign and that car pulled in front of him. And you can't get away. And you're unarmed. And people get out of the car. Specifically at least three fire. And you're trapped, and they are just peppering your car. [Snapping fingers.] I cannot fathom what that must feel like. It's like being trapped in a box. You're in this car. You can't get out because all these people are shooting [snapping fingers]. You can't get out and run. There's nowhere to go. There's no way to get away and there's no way to defend yourself. I cannot imagine. I can only think it feels almost like drowning. There's nothing -- there's no flotation, there's no saviour, there's no way to get away or defend yourself.

So Don Brown, rest your mind at ease, when he trapped them, that was assistance. Not just any assistance, but that was a big part of it.

And you say, "Well, how do you know?" Because nobody got out of the car and did anything -- we saw it.

They were riding right along on Wayside Drive. Nobody did anything until Don trapped the car off. Nobody was firing at him on Wayside Drive. They weren't firing at 7:11. They weren't firing two minutes later. No, they weren't doing that. They weren't because the guns weren't [sic] loaded; right? The guns were [sic] loaded. Nobody did anything until Don had them trapped and they could not get away.

If they pulled those guns out on Wayside Drive and fired, they could have sped off. Nobody did anything until they were trapped.

Now, who else was assisting? Who else was acting together? Well, we know Che Ransom. Detective Edwards told you -- I sat down and talked with him, and when I talked to him at first he said, "I don't know anything." And then his mama went in there and talked to him. And then I talked to him again. What did he say? "I was in the car. I got out. I tried to fire my gun. It jammed. I unjammed it, and I popped two while we were leaving. But I got in there and I unjammed it, and then I popped two off."

Now, Mr. Bouchette is going to argue that, because the two were fired in the air, that he was not assisting, that he was not acting together. Okay?

First of all, when the gun jammed -- okay? -- and he

got back in the car, that was game time decision time. Stay in the car. Keep right there in the car. The gun had jammed. Things happen for a reason. Maybe this ain't the time for you. But he got in there, unjammed the gun, and fired off two shots.

Now, did he fire them up in the air? That's what he says. Does it make him less guilty? Absolutely not. Why?

How do I tell you that he is assisting each other? Here's how. When you watch movies or somebody robs a bank and they walk in, what is the first thing they do? Pow, pow, get on the ground. And people do it. People do it.

I'm telling you, if Chris pulled his gun out and fired up in the air twice, everybody in here would be down on the ground.

So he was assisting. He was playing a part. When he fired up twice, that's it. Everybody's head's down. The victims told you, "We didn't pick our head up until the gunshot stopped." Did it work? You better believe it worked. Nobody got a license plate. Right? Nobody out there -- even Peter Garland -- you see him on the video -- got a description. You know why? Because people hear gunshots; they go down.

So he was doing his part in keeping everybody's head down. Nobody got a license plate. Nobody got an active

description of who was in the car. You know why? Because nobody picked their head up to move until after those gunshots stopped.

And did it work? It did work. Nobody got a license plate. Nobody got any defendant -- kind of descriptions of everybody in the car. It worked, just like when somebody walks in a bank and shoots up twice. You're still keeping these people trapped. Nobody is doing anything until the gun stops. So he was actively participating.

Now, Travontae Mitchell, he's the last one. What did he do? What was his role? He had a gun. He had a gun. His brother said he had a gun. He didn't want to say it. He was in here, his mama was in here, his brother was in here, but lo and behold, he had to come off and say, yeah, he did have a gun. He did have a gun.

And -- and he had to tell you ol' boy hoped out, got out the car, and then got back in.

Let me tell you something: He got out for a reason. He got out for a reason. He either fired and Mikkie McLeod is telling you the absolute truth that it was Tronahz Whittington, that it was Che Ransom, and that it was Travontae, or he was getting out to be a lookout.

But you got people trapped in a Tahoe, you have got three of your friends filing out of car, and you just file

out for no reason? No. You had a gun. You popped out with a purpose. And Travontae Mitchell, I submit to you, fired.

Now, they want to -- the defense wants to tell you only a couple of shots were fired. Only a couple of shots were fired. One, two, three, four, five, six, seven, eight, nine. More than a couple of shots were fired.

If you are looking for specific intent, if you are looking for malice when you kill somebody, if you are looking at attempted murder, this is what it looks like. There was not a hole in any of those mobile homes. There wasn't a hole in any of the houses out there. All the holes were in the Tahoe. One place: where all the victims were.

They were not sprayed wide all over the place. They were not. When you look at the video, there's a house right here, a house behind this. It's a residential area. They were not just out widely spraying bullets here and up in the air and everywhere. No, that's not true. The evidence -- it cannot be true. The evidence is all the holes are in the victim's Tahoe.

If I came in here and told you that somebody walked in that house, that closet we talked about before, there's three or four people in there, and I shut the door and I pow, pow, pow in the closet, and those are the only holes

in the house, is anybody wondering if I have specific intent or if I have malice to kill the people in the closet? Nobody is wondering it. If those are the only holes is in the closet where the three people are crouched down, that can be it. If there's no holes anywhere else in the house, that shows you intent, it shows you malice, it shows you somebody that is trying to end the life of the people in the closet.

Now, there was some questions -- and we are now kind of wrapping the evidence up. There was some questions by Mr. Bouchette about the location of the shell casings. Let me tell you something, folks. Let me get the -- and you can look at the crime scene pictures as well. They are all located in this area right here. You can go back and look at the pictures. Look at whatever you want to. There are not shell casings down the road here or down this road. All the shell casings are in this vicinity right here. That's because they were all standing in this vicinity when the shots were fired. That's it. It's not because they were riding down the road and Che fired two off. That can't be true, because there's no shell casings along in here. Everything they picked up was right here. That's because all the shots were fired right here in front of the Tahoe.

Now, one more thing to look at, but I have already

made Lacy here cue it up, so now I have got to show y'all. Okay. Look at the time: 20:39. I'm terrible with military time. Is that 8? Ms. Miller is better at it than I am. She's questioning it too. I better get my chart out.

Okay. Here we go. So the car rolls back. When did the car actually roll in? 20:39? Okay. 20:39. So 8:39. You know what that means? That means the police -- the actual shooting happened around 7:16. That means that these boys go to a friend of Tronahz Whittington's, have the guns clean, call Shamontae Graham's baby mama to come pick them up, which I think is a great idea because, after a car is involved in a murder, who wants to get back in and ride around town? That would not be smart.

So then they call Shamontae's baby mama, and she comes from Myrtle Beach or eating a fish sandwich or something, and she is back, they are dropped off, and everybody is rolling back to EME Apartments by 8:40. The boy is deceased at 7:16. The guns are cleaned. Don Brown, Mikkie McLeod, and Che Ransom are dropped off behind Walmart, and everybody is back at EME by 8:40, before 9:00.

These boys started off at 6:30. They killed a man, almost killed three other people, and they were back before 9:00. And they want to tell you there's not a

plan. It can only be a plan.

These boys, they're not Navy Seal Team 5. Okay? Not everybody hit the Tahoe. But none of these guys over here are sharp shooters. Let's get real. They are jumping out and in the midst, very quickly, firing off the shots. The Tahoe is moving. There's people firing around them. They are trying to do it as quick as they can because it's broad daylight.

But you don't get extra credit and you don't get anything for missing. You don't. Everybody played a part, and they all played a part. Everyone is equally guilty.

Now, they want to tell you my guy couldn't be shooting at the Tahoe. It cannot be true. It cannot, because there's only two or three shots on the Tahoe; they had to be out there just wildly shooting. But that cannot be true because there's no holes anywhere but in the Tahoe. These guys were just efficient enough.

Now, the three attempted murders -- the murder is for Jamie Johnson. Okay? You're going to get the indictments back there. The attempted murder is for Britney Milam because she was in the car. The attempted murder was Jacob Hill because he was also trapped in the car. And the third one was for Orlin Lopez.

Now, all are very serious charges. Okay? All of

them are. The murder, of course, is the most because a young man has lost his life. And it's very frustrating because I get up here, and there's no seat at the table for Jamie Johnson or his family. You know? Chris and I are there. Sometimes I get worried that people think the story is over. The young man has been killed. Let me tell y'all: the story is not over. And if you ask how do you know or why do you say that, because these people sitting here -- this lady is waiting --

MR. BOUCHETTE: Objection, Your Honor.

MS. LIVESAY: -- for the end of the story.

MR. BOUCHETTE: Objection. Approach.

MS. LIVESAY: That's what she's here waiting for.

THE COURT: Ms. Livesay, there's an objection. You need to quit talking when there's an objection.

BENCH CONFERENCE

(The following bench conference was held outside the hearing of the jury and others:)

MR. BOUCHETTE: Two things, Your Honor. One, I think it's improper Golden Rule argument that she's making to have the jury place themselves in the position of the victim or the victim's family. Moreover, the reference to the parents violates the Court's admonition in opening not to point out and reference the mother that did -- that's not in the record that didn't come in.

THE COURT: Okay. Well, these are closing arguments. I'm going to allow her to do it.

MR. PINKERTON: Your Honor, we would join in Mr. Bouchette's objection to that.

(Open court resumes as follows:)

THE COURT: Overruled. Go ahead.

MS. LIVESAY: This lady and her family are waiting for the end of the story. The 12 of you -- all 12 -- get a vote on how the story ends. I'm telling you, the facts of this case lend only one right ending to this story, and that can only be guilty on all the charges. That can only be the right ending to this story.

So I'm asking you, all 12 of you, to go back there, to look at the evidence, and come back out and give this story the right ending. Thank you.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: Thank you, Your Honor.

CLOSING ARGUMENT ON BEHALF OF DEFENDANT RANSOM

MR. BOUCHETTE: Ladies and gentlemen, good afternoon. You never know exactly when these trials are going to finish up, so we had to prepare our remarks here fairly quickly. So if I take a little while to kind of gather my thoughts, I'd ask that you please bear with me. When I sit down, I don't get a chance to come back and speak to you again. This is the last chance I have to get

any of my thoughts out to you, so like I said, I hope that you bear with me and appreciate this decision that you're about to make. It's a final decision.

Your view on the law of this case can never be overturned. The judge tells you something wrong about the law, he can appeal it. The lawyer does something wrong, he can appeal that. Nobody is going to appeal your view and your finding of how the facts are in this case. And I want to thank you so much for your service.

As you can tell from the statements from the solicitor, it's always difficult here on the defense side to come in and ask a jury like you to put aside any tendency you may have or the fact that we have somebody who has tragically passed away. Obviously, there's a desire to want to do something in response when the solicitor is asking you to take some kind of action. Sometimes the defense side will say that it's like standing against the tide or standing on the shore of the beach to try to brush back the tide.

But I have watched you-all during the course of this case, and I think you have been attentive, and I think you have kept an open mind, and you have watched all the evidence come through, and I want to thank you so much for doing that. I know it's been a long week, and there's been a lot to digest.

I want to first talk about the charges themselves. Again, the judge is going to tell you what the law is, so if I misstate it or I say something that's not correct, you listen to him, don't listen to me.

The defendant, along with the others, has been charged first with murder. Now, what you're going to find is that, to be convicted of murder, you can do one of two things. You can cause the death of the defendant [sic] or you can, under what's been called "hand of one, hand of all," be held liable for a death, but under "hand of one" -- or under aiding or abetting, you can't be merely present. You have to aid, abet, or assist. You have to provide assistance in causing of the death.

Now, usually that will -- getaway driver, bag man, those kinds of circumstances that aid, abet, and assist. I submit to you that the evidence is going to show that Che Ransom, although you may not like the fact that he was there, even though what he was doing afterwards and the conduct and that kind of stuff was just not something we condone, it doesn't rise to the level -- he did not aid and abet and did not assist in the death of Mr. Johnson.

The solicitor pointed out this issue about firing shots as you're leaving after the shoot-out, that somehow that assisted. Well, he's already left by that point. Even if you believe that that's what happened, that did

nothing to assist in the death of Mr. Johnson.

Moreover, when you go back in the jury room and we ask for your verdict, you're going to be handed an indictment. And I'm not going to show you this because this is a copy, and you're going to get the original so I don't want to publish that to you, but look on the indictment. Look on the indictment for murder that the solicitor took to the grand jury to bring these charges. Look very closely. That indictment will not say that -- through aiding or abetting, through providing a distraction or whatever it was that she described, he aided and abetted and assisted in the death of Mr. Johnson. That indictment will tell you or the allegation will be that he willfully, feloniously, and intentionally killed the victim.

So when you get that indictment sheet and the line there is going to be guilty or not guilty, if you put guilty then you have got to be signing off on this allegation. And, folks, there is no evidence -- there's no evidence that he killed Mr. Johnson. The evidence is overwhelming that Tronahz Whittington killed Mr. Johnson. At some point, they're in a position where they're asking you not to believe their own witnesses.

They call Shamontae Graham as their witness. What's the first thing he says? "Yeah, I was sitting right

there. I saw Mr. Whittington get out. I saw him point the rifle. I saw him fire the shot. I looked and it went through the window and I saw blood spatter."

And then they try to come back on cross-examination and try to say, "Well, you couldn't really see it that well. You can't really be sure." I mean, it's their witness. Either we're to believe him or not.

I think you looked at him. I think you know what he was telling you was the truth. It was traumatic. He saw Mr. Whittington get out. He fired the shot, and he killed him. And, again, he's been convicted for that.

This indictment alleges that Mr. Ransom intentionally killed the victim, and that is not what the evidence shows.

We told you in the opening statement that we believe this case was an overreach. When I say "an overreach," I'm not saying that, in the giant stack -- and normally that's sitting right here somewhere -- but this giant stack of the Code of Laws of South Carolina, there could be some crime that Mr. Ransom might be guilty of or that what he was doing and who he was with and where he was to be condoned, because that's not the case.

I said it was an overreach because they didn't charge him with any of those. They charged him with murder. Moreover, they charged him with three counts of

attempted murder. All right?

The judge is going to tell you that for -- to be convicted of attempted murder, you must specifically intend to kill the victim; in this case, three people. Now, again, I submit to you evidence of an overreach. There's no evidence that's been presented that more than two shots were fired at the vehicle, but we have got three counts of attempted murder.

I challenge you to go back through the entire transcript and look through every photograph, look through every piece of paper, go through it, pen through it, do everything you can do and see if there's anything in this record that shows more than two shots being fired in the direction of the vehicle. There's not.

The analogy of -- Ms. Livesay mentions "The Godfather," and I'm glad she mentioned it. That's one of my favorite movies too. That movie is what they want you to think happened. Like in opening statements, Mr. Helms told you that the car was riddled with bullets, the car shot was shot up. A lot of these witnesses have been saying the car was shot up, the car was riddled with bullets.

Well, in that movie, if you haven't seen it, there's a machine gun, and they're literally what you might expect -- and maybe what you perceive whenever you first heard

opening statements that that's what this was: everybody is spraying bullets into the car. That is not what happened.

You heard that there were two shots fired from the rifle closer in range to the vehicle. There are then shots or shell casings at a further distance away from the vehicle.

There was no more shots than the two rifle fires at the vehicle. That was Tronahz Whittington. That's clearly what that shows. There is no intent for any of these boys to have committed murder.

Now, when you go back in the jury room, somebody may bring up -- somebody may say, "Well, listen, I wonder why the defendant didn't take the stand." The judge is going to tell you that you're not to consider that against him because they had no burden. They have no burden in this case at all.

But, you know, more practically -- I mean, just practically, folks -- we're now here on Thursday afternoon, you have been here all week. We could -- we could call four or five, six witnesses, go over the before, the day of, what happened after. I mean, we could do that and bring you here -- keep you here for that long, but we don't need to because their witnesses have confirmed everything that we have said. Their witnesses have confirmed who fired the fatal shot. Their witnesses

have talked about the lack of any plan in advance, the lack of anything happening until Mr. Whittington, that cold-blooded killer, got it in his head and made the decision within -- I think it was about 70 seconds, that Mr. Graham said; that, from the time he identified the vehicle until the shooting occurred, about 70 seconds.

So we could do that, but there's no need. Their witnesses have confirmed everything I'm telling you.

Now, we heard from Mikkie McLeod. You know, folks, the judge is going to tell you that you can believe all or part or none of a jury [sic] says. Just the simplest thing, I'm just going to tell you that I submit that you should disregard pretty much whatever Mr. McLeod says. Again, that's going to be up to you. But I'm pointing out that he got charged with the same thing, and he becomes the State's witness -- because you heard what he was expecting. I mean, we can talk about whatever he's been expressly promised or not. You heard what he's expecting. He's expecting his charge is going to be dismissed, and he's the one out there cleaning guns after the murder is over.

Now, I might have misheard Ms. Livesay. I felt like she said that our client was cleaning -- there's no evidence of that. Him and Tronahz Whittington are together after the murder, and yet, that's the person that

they put on the stand. That's the person that they call as their witness.

You know, you hear some of this testimony, it's kind of like, if you go to a restaurant and you order a salad and there's a roach or two on it. You don't just, like, flick it off; you send it all back. So that's the same way with witnesses in this case. I submit that his testimony, you just send it all back.

Now, in contrast, we heard from Shamontae Graham. I think what he said was largely credible, and yet, the State having called him is now -- they're trying to impeach him, saying he didn't know who fired the shot, he couldn't know. Well, the man told you he did. He came in there, and he wants us to believe him. He was very clear on that.

So, again, this feeling -- this overreach, this desire to convict somebody to have these charges, you know, for this death is just that: it's an overreach.

You know, she mentioned a moment ago that -- or asked you, rather, to infer -- remember what I said earlier in opening statements, because of that burden that you have and that sleep that you want to make sure doesn't get disrupted, that if they're asking you to infer something, make sure you say, "Uh-uh, Solicitor." They're asking you to infer that, when the car is speeding, that

that was when the plan or scheme got together to shoot or rob Mr. Johnson. But that's speculation. They didn't actually do that.

In fact, the testimony was overwhelming that, again, approximately 70 seconds from the time Mr. Whittington identified the vehicle until the time of the shooting. So any plan lasted no longer than that: 70 seconds. It's an overreach. They're asking you to infer and believe too much. It's not there. It's not right.

I want to talk to you too -- and we touched on it a moment ago -- this issue about firing at the vehicle. All right? We have heard a number of these boys having guns. We've heard why they did. Again, you don't have to condone it, you don't have to -- but that's what it is.

Now, Ms. Livesay spends a lot of time pointing out that there are no shots in the houses back behind the vehicle. Well, that's important because all the resources with the State of South Carolina and Horry County, nobody found any other shells in a house, on the concrete, anywhere nearby. Now, what's that tell you? That tells you that, if I'm firing in the direction of the vehicle but I have a miss and I go out here, I probably would hit the house. Right? Or I might have anyway. I might have shot on the other side and hit the other house if I just missed. But I'm pointing in the direction of the vehicle

and I miss, that's where one of those shells are going to be. But they weren't. That's not where any of them were.

Moreover, with only two shots into the vehicle, they still want you to believe that -- again, two shots in the vehicle, none anywhere else behind it, to the side, off to the house, anywhere else -- they're still asking you to believe these guys got out and fired those rounds at the car.

Now, we heard the testimony that it was somewhere around 15 feet, was the initial distance from when the car first stopped and when the shots are fired. Again, using "The Godfather" analogy, I agree these boys weren't sharp-shooters, but listen, if you are to believe that they got out and fired those rounds specifically with the intent to shoot the vehicle, folks, they're either the worst shots in the history of firearms or they weren't shooting at the vehicle. Whatever vehicles -- whatever shells got discharged, it wasn't directed at the vehicle.

In fact, if you look -- Ms. Livesay pointed out -- where am I at? Ms. Livesay pointed out the diagram -- what am I looking at? State's 39. But if you remember, what did the officer say? It's not to scale.

I want you to go back and look at some of the photographs that are going to be in evidence, and I'll specifically mention Exhibit 66, 69, and 73. Look at the

distance, how far those shells are spread out. I submit to you that what that shows is shots being fired as they are leaving the scene.

Should that have happened? No. Is that murder? No. Does it cause the death? No. Does it aid, abet, and assist in causing the death? No. And, again, they're asking you to believe the witness on the one hand and not believe them on the other.

They called the investigator to put in Che Ransom's statement to him, but yet then ask you to believe, "Well, no, that's not really what he was doing, that's not really what happened," because they know that's problematic for what they're asking you to do, to find him guilty of aiding, abetting, and assisting. It's an overreach. It's too much.

I'm getting ready to -- I promise -- getting ready to conclude my statements, but it's somewhat difficult to walk away because, again, for the last, I guess, two years, as his attorney, you know, that young man's largely been in my care. And it's a big responsibility to have.

And as we conclude this portion of the case and conclude the trial, I'm, to a large extent, handing him over to you. He was 18. He's 19 now. I think he was 18 when I first got appointed to represent him. He's an adult legally but barely. He's basically a child.

You know, whatever was happening, he's got the fear of God in him, facing down a murder charge, life in prison. He was thinking he was a tough guy or being with people like that, being in that environment. No matter what happens, I know that this experience has changed all that.

And as I give him over to you and you begin your deliberations, I ask that you go back and look at the evidence, apply the law that the judge gives you, including that burden of proof that we talked about before. And once you do that, I ask that you look at that indictment and mark "not guilty" and give him back to me. I think he can be saved.

I ask that -- as I said earlier, it's kind of like standing at the edge of the beach and trying to brush back the tide. I ask that y'all be that tide that pauses and let Che go home. It's the right thing. It's right under the law. It's right under the facts. And I hope that you have the courage to do that. Thank you so much for your time.

THE COURT: All right. Mr. Pinkerton?

CLOSING ARGUMENT ON BEHALF OF DEFENDANT MITCHELL

MR. PINKERTON: Once again, thank y'all for being here. I know it's been a long week. Y'all have heard a lot of evidence, heard a lot of testimony.

Now, I'm not going to get up here and be long-winded. Like I said in my opening, I like to stick to the straight facts. The fact of this case is my client, Mr. Travontae Mitchell, did not murder Mr. Jamie Johnson. He did not attempt to murder Britney Milam. He did not attempt to murder Orlin Lopez. He did not attempt to murder Jacob Hill. And how do we know that? No one identifies him. Nobody in the Tahoe identifies my client, Mr. Mitchell.

If it was brought daylight and he was so close to them, you would think he'd be identified. As a matter of fact, the person who is identified is Tronahz Whittington. He's the guy that jumped out with no shirt on. He was the guy that, you've heard testimony, knew Mr. Johnson, had beef with Mr. Johnson. And as you've heard testimony, he is the man that ultimately killed Jamie Johnson, not Travontae Mitchell. He is the man that attempted to murder Britney Milam; he is the man that attempted to murder Orlin Lopez; he is the man that attempted to murder Jacob Hill, and not Travontae Mitchell.

Now, let's go back to what Shamontae Graham said. You heard his testimony the other day. He stated my client did not fire a weapon at all. In fact, he stated that, as soon as Tronahz started shooting, my client jumped back in the car. I mean, you have heard reference

to the State's own witness that my client didn't fire a weapon.

As a matter of fact, the only person you heard that even puts my client firing a weapon is Mr. Mikkie McLeod. And you heard from his own statements. He just wants to go home. He expects to get off of this for testifying for the State. He's not testifying from the goodness of his heart. He's not testifying because it's the right thing to do so. He's up there lying to save his own -- save his own butt and going to jail for the rest of his life. He is the only person we've heard of that ever said my client ever fired a shot.

As a matter of fact, when you step back and listen to Ms. Livesay, she stated that one of the shooters had a distinctive mark under his eye. As I pointed out to you, through Mr. McLeod, he has a very distinctive mole under his eye. I would argue, he was the person out there she saw shooting, not my client. Once again, he has every reason to lie. He was trying to save himself, trying to cut a deal with the State and just wants to go home.

You also heard from several detectives. None of them ever stated my client fired a gun, much less, he tried to murder Mr. Johnson or commit three attempted murders.

The State got up here and said the Tahoe was riddled

with bullets. It wasn't. We know that maybe one shot, possibly two. But those came from a shooter who was directly in front of the Tahoe, Tronahz Whittington, who has already been guilty for all of this.

They said, "Oh, they were spraying, they were spraying." Well, only two shots hit that Tahoe. Obviously, the other shooters were not trying to hit the Tahoe, of which my client was not a shooter. You heard from the State's own witnesses that my client never fired a shot. He was merely present. All he was trying to do at the time was get a ride home with his older brother and his older brother's friends. He didn't know this was going down. There was no common scheme he was in on. There was no plan he was a part of. He was a passenger. He didn't know Mr. Johnson.

You have heard from the other people in the Tahoe, they don't know who my client is. Never had any dealings with him. The only person they knew was Tronahz, who was the murderer.

So I would just ask you to keep an open mind when reviewing the evidence and deliberating amongst yourselves. Look at all the evidence, and I believe you will conclude that my client did not fire a shot whatsoever; therefore, he cannot be found guilty of murder or three attempted murders. Thank you.

THE COURT: Mr. Gardner?

MR. GARDNER: Thank you, Judge.

CLOSING ARGUMENT ON BEHALF OF DEFENDANT BROWN

MR. GARDNER: Mr. Chairman, ladies and -- or Mr. -- ladies and gentlemen of the jury, it's been a long day; I apologize.

I was afraid we were going to get to closings today. This trial is a long trial and it had a lot of stuff in it, and we have put stuff together as best we could for our closing argument.

I had breakfast with my mom this morning, and I was telling her the exact same thing. She asked me what kind of case it was. I told her it was a mere presence case, and I don't know what to start with. I said I really believe we're going to get to it, but I don't know if we're going to get to closing arguments or not. I said I might want to start off with the fact that one of the State's witnesses, who had the best view of anybody that testified, said that the Tahoe wasn't trapped, that they could have taken a right turn. Or I didn't know if I should start with one of the State's witnesses who was a co-defendant who testified that three boys were not guilty.

And we talked, and my mom said just start at the beginning. And a bulb came over my eyes, and I said let

me see if I can find my notes from the beginning because I wrote it down. And I think it was three days or four days ago or however long it was before we started. I read the question to you because I wanted to make sure I got it right. The question is whether a driver, merely present, with no preplanning, with no premeditation, should be found guilty, and at the end of this case, there's no only answer: No. Don Brown is not guilty.

So I remember when I first started doing this, a good gauge of what to do at a trial was look at opening and look at closing, and see if whoever made the opening, did they deliver, did they know what the case is about, is this what the case is about. And I think we all agree -- and the judge will tell you what mere presence is -- that this is a mere presence case.

And I'm going to go over a couple of things about that and why I think that's important. But, like most cases, when you hear somebody say something, you pop up and you say, "I don't know about that. Hold on."

So the solicitor -- and I don't know if she misspoke or not. What I heard her say was that all six codefendants got in the car and they were armed. Well, that's not correct. If she said that -- or maybe she didn't say it, but that's what it sounded like she said, but that's not true. There's no evidence in the record or

anywhere else that says that Don Brown was armed.

In fact, what I told you at the beginning of the case was Don Brown did not have a gun, Don Brown did not have any bullets, Don Brown did not shoot anybody, Don Brown didn't have anything to do with shooting anybody.

So there may have been six people in the car. I don't know who had guns, who didn't. That's none of my business. I told y'all at the beginning I wouldn't be asking a lot of questions, you wouldn't hear a lot from me because Don didn't have anything to do with the shooting.

And I told you I wouldn't have any questions for these people that talk about the different calibers, the SLED agents and all those folks. You know? Because Don didn't have anything to do with that and that didn't have anything to do with Don.

I did tell you -- I promised you I was going to talk to the two witnesses who testified, and I feel like I kept my word because I did ask them about the leniency aspect of the case.

But before we get into that, I listened to the solicitor's closing, and she said about the trap thing. And I dispute that and the evidence disputes that, when she talked about the Tahoe being trapped, because her witness, who had the best view -- he was in the first seat -- it's a squatted car but he's in the front seat and he

had the best view -- said that vehicle could have taken a right.

You heard from the 911 operator or the person calling 911, said that the car that they were in took off to Henry's, which would have been off to the left. So it's clearly not trapped in there.

There's a good diagram, but it's not to scale, so it really doesn't help us that much. But you will see that D Street is a big -- and it's a big intersection. I don't want anybody to make light of it. And it goes up, and Henry's is off this direction. That's the direction the car went to, and the Tahoe could have gone to the right. So he's not trapped in.

I told you also -- I think I said something like you have heard enough right now to make a decision, but you have got to hold the solicitor to her burden. You've got to put her to the test. And that right there, you have got to hold her to that. When she says "trapped" and there's evidence that it's not trapped, you can't let her get away with that. Your verdict has to be not guilty on murder and attempted murder on those cases.

But back to the opening. I have never seen such an oversimplification of what I consider one of the most complicated laws that we have: the law "the hand of one is the hand of all." People have a tendency to make it

oversimplified. You ask a barbershop lawyer or a jailhouse lawyer what does it mean, and they'll say, "Well, it means everybody is guilty. Everybody that had anything to do with it is guilty."

Well, that ain't the case, and the judge will tell you that. If we were to adopt that, you could imagine how perverse the results would be. Everybody at a football game would be arrested for one person doing something.

So I'm not getting into sports stuff, I hope so. But the judge will tell you what the law is, and it's a little more complicated than that. The most important thing about the hand -- it's not some -- when I was a kid, there was a cartoon character -- I don't even remember what it was called but he was, like, elastic. And I tried a case one time -- I wish I had made this up, but I give credit where credit is due; it's one of our judges. And he said it's not like this elastic man who wraps his arms around the world and pulls it into him. That's not the "hand of one is the hand of all." You have got to meet certain criteria.

And they didn't meet the criteria in this case because it wasn't there. You have got to have acting in concert. You've got to have a preplan. You've got to have helping and aiding and abetting. There's none of that in this case.

So it's an oversimplification. Listen to what the judge says because he told you at the beginning that he's in charge of the law and y'all are in charge of the facts. Y'all are in charge -- y'all are the ones in charge. Y'all are going to make the decision, and you're going to make it based on the law that gives you what you saw here from that stand.

So I have been doing this for 30 years. To the best of my memory, I have never --

THE COURT: Excuse me for a minute, ladies and gentlemen.

Let's get whatever that noise is and give it to the security.

All right. Go ahead.

MR. GARDNER: Thank you, Judge.

Well, add one more thing; I have never been interrupted by whatever that was.

But, to the best of my memory, I have never interrupted another lawyer in a closing argument, but I did, and I objected to whatever movie it was because I didn't know what the movie was. But I'm glad the judge overruled my objection because we got to hear that it wasn't as the solicitor, once again, said it would be.

If I understood what she said, she was talking about some movie where some car was riddled with bullet holes,

and I heard Jarrett say that ain't what this case is about. And I have looked at this case and y'all have looked at this case; that car is not riddled with bullet holes. So that's another thing that y'all have got to hold them to.

But I do watch movies. I wasn't going to bring this up but since movies were brought up, I used to watch Perry Mason when I was a kid. And the judge already told y'all a bunch of things, but he told you these criminal trials are kind of boring. They're not like you see on TV and the movies and stuff like that.

And you may or may not be familiar with Perry Mason, but -- and his came on every week. And always -- almost always -- somebody from the audience would jump up and confess to the crime. Perry Mason -- Hamilton Burger was the prosecutor, and he never led his witnesses. He was always prosecuting. Perry was always fighting, fighting, fighting, and somebody would jump up and say, "I did it."

Well, that don't happen in real life. Okay? So we don't have that. We don't have a-ha moments in real life, but we did have two a-ha moments in this case. And I have already referenced one. Maybe I referenced both of them. The solicitor spent the vast majority of her time talking about the Tahoe being trapped in. The Tahoe is trapped in, the Tahoe is trapped, the Tahoe couldn't go anywhere.

We finally find out that later, through her own witnesses, that wasn't true. The Tahoe could have gone right. So she spent all that time -- that was an a-ha moment. Y'all were watching her. She wasn't expecting that to be the answer, but that was the truth. That was the witness that she put up there and who was best friends with the decedent, and he had the best view of where they could go because he was in the passenger seat looking up front.

You heard testimony from people in the back. I have never been in a squatted vehicle, but if you're aiming up at the sun when you're driving down the road, I don't think, if you're in the backseat, you've got an unobstructed view through the windshield. I'm not going to call it -- I'm just going to say that's probably inaccurate, that he had an unobstructed view.

But whatever view he had, it was not as good as the person sitting in the front, and that was Jacob Hill, and he said he clearly could have gone to the right. So the vehicle was not trapped. So the solicitor was putting all her eggs in that basket. That basket fell apart. And that's another reason why Don Brown is not guilty.

The other one was, they put up Shanaz [sic] Graham. Shanaz [sic] Graham is working on trying to get a deal; right? So he's going to testify in favor of whatever the solicitor's story is, because if he does a good job and if

these three boys get convicted, then he wants to go home. The other boy that testified actually said that. I mean, I was shocked that he said that. He put it right out there: "I want to go home" or "let me go" or something like that. So that was an a-ha moment when Shanaz [sic] Graham said these three boys are not guilty. I don't think the solicitor was expecting that to be the answer too.

So -- but we have the most important a-ha moment I think of all. It wasn't a surprise to anybody. We did have somebody jump up and said they did it, and they did it in a different court and a different courtroom, but that is Nahz, Tronahz Whittington. He's been found guilty of this murder.

I wasn't going to get into the shooting and all that stuff, but I did listen to the testimony just like y'all did. One rifle was the one that fired the kill shot, not three guys, so they're not aiding or abetting. They're not doing the things that are required under the law for you to have a guilty verdict.

And I'm not just saying the State didn't prove their case. I'm saying they did the best they could. The reason it's not guilty is because they are not guilty. That's it. You know?

And another thing, I'm sorry for the victims, I'm

sorry for the families, I'm sorry for all that. I didn't have anything to do with it. I wasn't there. I don't know any of these people. I didn't even know these people until I got appointed to represent Don Brown, but we cannot substitute our sympathy, we cannot let passion tug at our -- we can't let that do it. We can't convict innocent people because somebody else was killed.

My biggest fear of this case, if y'all had been trying Tronahz with these three, is that the innocent people or not guilty people would get caught up in the crossfire and be found guilty. We cannot lump everybody in the car together and say, well, one guy did it, so they all did it. The law doesn't allow that. The judge is going to read you the law on that, and it's going to be -- you're going to understand it.

I do want to touch base on a couple of things that I thought were important. I talked to you about the car driver and Jacob Hill [sic] and Shamontae Graham. These boys didn't take the stand. That's their decision. They don't have to. I like to explain it to people, if they want to testify, you can't stop them. If they don't want to, you can't make them. But they don't have to in this case. This case was laid out. There's nothing they could add.

You have everything that you need to make the

decision, and because the law says they don't have to prove anything, then they wouldn't add anything to it. I hope I explained that right. You know?

And while I'm talking about that, I have tried a lot of cases where I heard jurors say things like, "You know, I thought that guy was not guilty, but he just didn't prove it to me." Okay? That is completely wrong. That is so wrong, I can't even come up with a better way of explaining it. It stood the burden of proof on its head. He doesn't have to prove anything. And if you have a thought -- if you express your thought like that, then that's what's called reasonable doubt, and that's what you would report back to the judge as not guilty.

Real quick. I don't want to go too long. Mikkie McLeod, another guy trying to work off his -- trying to go home. That's what he said. So he wants to testify whatever the solicitor wants him to. If he does, if he gets the conviction, he gets to go home, etc., etc., etc. One of the things he never said today -- never, ever said anything about -- if I'm wrong, let me know I'm wrong -- we can play it back if we need to -- but he never said anything about a plan. He never said anything about a robbery. I wrote it down.

He said, "Nahz said 'There goes Jamie. He owes me money' and he told Don" -- I think he called him Quan --

"to follow him."

Okay? This business about nicknames and stuff like that, Quan -- this guy's name is Don Leequin Brown. That's his name. That's his legal name. That's not a nickname.

Y'all have heard people -- James may go by Jim or Leequin go by Quan, Johnny/John, things like that. That doesn't have anything to do with guilt or innocence. I don't even know why that came up today.

But hold the State to their burden. Throw all this stuff that's not relevant, not important out the window. What is more important to help you make your decision? You haven't heard one word about conspiracy. You heard little things about maybe there was a plan, but you never heard a plan.

I don't even like to go into it; it's so speculative. Robbing somebody? No. I think the truth of the matter was, what you heard from the last witness put up by the State, it's uncontroverted, "There goes Jamie; he owes me money." That's not illegal. "Follow him." That's not illegal. Nothing is illegal about it.

Pulling over when Tronahz told Don to pull over -- you know, you heard the solicitor and everybody talking about Tronahz had this big rifle. Well, pulling over is still not against the law. And I'm not going to -- we're

not allowed to get into other people's shoes and violate the Golden Rule and things like that, so I can't tell you to do that, but I can tell you, when you're watching somebody or the evidence about somebody who is driving a car and somebody out there with a big gun who is a killer, if you drive away, it would not be a leap of -- too far of a leap of faith to say he could be turning on you and shooting on you. So you can't hold that against him. You can't put him in the penitentiary for the rest of his life because somebody with a gun told him to drive or told him to not drive.

So undisputed things? There's no testimony that contradicts the fact that they said they were going to Nahz's mother's house. There's no testimony that contradicts the fact that Nahz was the only one that knew the victim. Nobody else knew him. Don Brown didn't get out of the car, didn't have a gun, didn't have a weapon of any sort.

And this attempted robbery -- I mean, not attempted robbery -- attempted -- what was it? Murder? I don't see how -- and that's just -- I think Jarrett said it best, that's an overreach. Look at the indictments. There's no intention to shoot. I mean, how can you miss -- I don't think there were -- to do an attempted murder, you have to have a specific intent to try to kill somebody. So I

don't think there's any evidence that that's here.

So the last thing I want to talk about is the burden of proof. Most people have a hard time explaining or understanding that -- and explaining it too. The burden of proof is beyond a reasonable doubt. What is a reasonable doubt? What does that mean? And I know some lawyers that don't know what it means, so I'm going to take a minute to try to explain it to you the best way I can.

The best way to explain it in a criminal case is explain what it's not. In a civil case, most people that come to court, unless they're on jury duty, come to court because of civil cases. They're getting a divorce or they got in a car wreck or somebody owes them money. And the evidence of that, the burden of proof is the preponderance of the evidence. Okay? 50.1 percent. They used to keep the scales of justice in the courtroom, and I would say, if you put all the evidence on one side in one scale and all the evidence on the other side, whichever one titled, that one would win.

You can't really do that in a criminal case because, in a criminal case, the State doesn't -- the defense doesn't put anything up, but it's beyond a reasonable doubt, so it wouldn't work anyway.

What does work is talking about all of them. And

the way you do that is you start with a scintilla of evidence. Scintilla of evidence is one of my favorite things -- one of my favorite United States Supreme Court justices used to use it all the time. And what it means it nothing. It means zero. And he would write, "There is not a scintilla of evidence in this conviction or in this case." So that means zero.

The next step is reasonable suspicion. If you watch cop shows or movies, you probably heard that term, and all that means is that's what a cop can pull you over for. He has a reasonable suspicion, he'll pull you over and try to find out what his suspicion was.

The next one is probable cause. That's still a very low burden. And that's what -- you go down to the magistrate and swear out a warrant against your neighbor by telling the judge you have got probable cause. Okay? Not a very high burden.

And the next one I already talked about is the civil one: preponderance of the evidence. 50.01 percent. That's for civil cases.

The next one above that is clear and convincing. Clear and convincing is what the judge uses in a DSS case when DSS takes your children away from you for the rest of their lives. That's clear and convincing.

Higher than that, though, is in a criminal case

where the State is going to take away your life or your liberty, and that's beyond a reasonable doubt. Not a reasonable doubt; beyond a reasonable doubt.

The reason we don't discuss the case before the judge lets us discuss it -- before the judge lets you deliberate -- I have been practicing 30 years; it took me 20 years to learn this. I always thought it was to protect the defendants or the solicitor. It's to protect the jurors. Because, if I'm deliberating and I only have half the story or part of the story and I make up my mind, and later, I get the whole story or I hear the law from the judge and I go, "What was I thinking?" it might be hard for me to change my mind.

And if I told somebody, I think this but later change my mind, human nature makes it harder for me to go to that person and say, "You know, I was wrong."

So I'm glad that y'all have been paying attention, and I know that y'all have been following the judge's rules, but when he tells you to get in there and deliberate, you'll be able to deliberate. You'll be able to talk about everything we have talked about, but most importantly, it's going to be what the judge tells you, because the most important thing about this case is the definition of "hand of one," which includes mere presence.

Merely being present, even knowing a crime is going

to occur, without more, is not guilty. Y'all are present with me right now. If I pulled out a gun and said I'm going to go over here and do whatever, y'all wouldn't be guilty of that. You're present. You know -- I said I was going to do it. Under the solicitor's theory, y'all would be guilty, but that's not the law.

Listen to what the judge says. You've got to do something to help do it. And Don driving that car is not like the bank robber case. The bank robber case, everybody has an agreement, we're going to go rob the bank, you drive the car, I'll go in, I'll come back out with a bag of money. That's a clearly different case. They have a plan. They know what they're doing. Everybody has a role. That is not the case here.

Don was driving the car, yes, not to go rob somebody, because everybody was in the car. There's no evidence that says that they had a plan before they got in the car. There's no evidence they had a plan.

Somebody said that Nahz wanted to rob the guy, but somebody also said Nahz -- that he owed Nahz money. It doesn't matter what he said, because there's no plan. There's no agreement to do anything. No agreement, he's not guilty. Thank you very much.

MS. LIVESAY: Hey, Judge?

JUROR: Can we have a restroom break?

THE COURT: All right. Let's take about a 10-minute break minute. Do not discuss the case even among yourselves. We'll come back in just a minute. Thank you very much.

(The jury exited the courtroom at 2:56 p.m.)

THE COURT: All right. Anything from the State before we take a break?

MS. LIVESAY: No, sir.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: All right. Let's take about a 10- or 15-minute break, and then we'll come back.

(A recess was taken from 2:57 p.m. to 3:11 p.m.)

THE COURT: All right. Anything from the State before we bring the jury?

MR. HELMS: No, Judge.

THE COURT: Anything from the defense?

MR. BOUCHETTE: No, sir.

MR. PINKERTON: No, Your Honor.

MR. GARDNER: No, Your Honor.

THE COURT: All right. When they get ready, let's

go ahead and bring the jury in.

(The jury entered the courtroom at 3:12 p.m.).

JURY CHARGE

THE COURT: All right. Ladies and gentlemen, welcome back. All of the testimony and evidence in this case has been presented to you. The attorneys have made their closing arguments, and now is the time of the trial when I charge you with the law to be applied in this case.

The indictments in this case charge each defendant with several crimes. The indictments in this case charge each defendant with murder and three separate counts of attempted murder. I remind you that the fact the defendants were arrested, charged, and indicted in this case is not evidence in this case and cannot be considered by you as evidence of guilt in this case, nor does the defendants' arrest, charge, or indictment create any presumption or inference of guilt. These documents are simply the formal written instruments which contain the charges made against the defendants. They are the formal documents by which this case is brought into this court.

Each indictment charges a separate and distinct defense. You must decide each indictment separately on the evidence and the law applicable to it, uninfluenced by your decision as to any other indictment.

A defendant may be convicted or acquitted on any or

all of the offenses charged. You'll be asked to write a separate verdict of guilty or not guilty for each indictment.

Also, I charge you that three defendants are on trial in this case, each of whom is charged with murder and three counts of attempted murder. The case of each defendant and the evidence and the law concerning that defendant should be considered separately and individually from the evidence and law concerning the other defendants. Your verdict does not have to be the same for all defendants. The fact that you may find one defendant guilty or not guilty should not control your verdict as to the other defendants. Where more than one person is charged with a crime, if the evidence warrants it, you may convict one and acquit the other two, or you may convict two and acquit the third, or you may acquit all three or you may convict all three. Your verdict for each charge against each defendant depends upon your view of the testimony and evidence. You must take each defendant and consider the evidence as to that defendant and my instructions to you on the law. You will then write a separate verdict of guilty or not guilty for each charge against each individual defendant.

The defendants in this case have pled not guilty to all indictments. That plea puts the burden on the State

to prove each defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove his innocence. I charge you that an important rule of the law is that the defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial until you reach a verdict of guilt based on the evidence satisfying you of that guilf beyond a reasonable doubt.

The presumption of innocence is like a robe of righteousness placed about the shoulders of the defendant, which remains with the defendant until it has been stripped from the defendant by evidence satisfying you of the defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled unless you, the jury, are satisfied from evidence of the defendant's guilt beyond a reasonable doubt.

Now, what is a reasonable doubt in the law? A

reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. We know very few things in this world with absolute certainty, and in criminal cases, the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find that defendant guilty.

If, on the other hand, you think a real possibility exists that the defendant is not guilty, you must give the defendant the benefit of that doubt and find him not guilty.

I remind you that, during this trial, you and I have certain duties to perform. As the trial judge, my responsibility is to preside over the trial of this case. I also have the duty to rule on the admissibility of the evidence offered during this trial. You are to consider only the competent evidence before you. If any testimony was ordered stricken from the record in this case during this trial, you must disregard that testimony. You are to consider only the testimony which has been presented from the witness stand, any exhibits which have been made a part of the record in this case, and any stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case. Your duty as jurors is to accept and apply the law as I now state it to you. If you have any idea as to what the law is or what the law ought to be and your idea is different from what I now tell you the law is, you must disregard your idea of what the law is or ought to be because you were sworn to accept the law and apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury is the sole and exclusive judge of the facts in a case. A trial judge cannot intimate, state, comment on, or make any statement to a trial jury about the facts in a case. Since you, the jury, are the sole judge of the facts in this case, you're not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence or otherwise or anything that I say now during the course of this instruction to you that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts of this case. This is a matter solely for you, the jury, to determine.

As jurors, your duty is to determine the effect, value, weight, and truth of the evidence presented during this trial. Necessarily, you must determine the

credibility of witnesses who have testified in this case. Credibility simply means believability.

Your duty as jurors is to analyze and to evaluate the evidence and determine which evidence convinces you of its truth. In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in this case. You may also consider the appearance and manner of the witness while on the witness stand.

The rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses we call expert witnesses, a witness who, by education and experience, has become expert in some art, science, profession, or calling may state an opinion as to the relevant and material matter in which the witness claims to be an expert and may also state the reasons for that opinion. You should consider any expert opinion received in evidence in this

case and, like any other evidence, give it the weight you think it deserves.

If you decide that the opinion of an expert witness is not based on sufficient education and experience or conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely.

An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you're not required to accept an expert's opinion even though it is not contradicted.

Now, I instruct you and emphasize that the fact that a defendant did not testify in this case is not a factor to be considered by you in any way in your deliberation and in your consideration on the question of guilt or the innocence of that defendant.

A defendant's decision not to testify must not be considered by you in any manner whatsoever. A defendant has the constitutional right to remain silent, and the assertion of this right must not be considered by you in your deliberations.

I repeat: Under your oath, you are to draw no conclusion whatsoever from the fact that a defendant in this case did not testify. The fact that a defendant did

not testify should not even be discussed in the jury room.

The burden of proof as I have stated to you is on the State to prove a defendant's guilt. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Now, a person who is present at the scene of a crime and intentionally or through a common plan aids, abets, or assists in the commission of that crime through some overt act is guilty as an accomplice. To be liable and, thus, guilty as an accomplice, the defendant must have knowledge of the principal's criminal conduct.

Mere presence at the scene of a crime is not sufficient to establish guilt as an accomplice. "Intentionally" means willfully, intending the result which actually occurs, not accidentally or involuntarily.

If a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the common plan and purpose.

For example, two people can be guilty of bank robbery when only one of the two goes into the bank, pulls

a gun on the teller, and runs out of the bank with a bag full of money, while the other person waits in the car as a lookout and acts as the getaway driver.

If two or more people are together, acting together, assisting each other in committing the offense, the act of one is the act of all, or as it is sometimes said, the hand of one is the hand of all.

Prior knowledge that a crime is going to be committed without more is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime, even if the defendant is present when the crime is committed, is not sufficient to convict the defendant as a principal.

Guilt as a principal is shown by actual or constructive presence at the scene as a result of a prior arrangement; therefore, a finding of a prior arranged plan or common scheme is necessary for a finding of guilt as a principal. The State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all.

A principal in a crime is one who either actually commits the crime or who is present, aiding, abetting, or assisting in committing the crime. When a person doesn't act in the presence of and with the assistance of another, the act is done by both or two or more people acting with

a common plan or intent are present at the commission of a crime, it does not matter who actually commits the crime. All are guilty. The hand of one is the hand of all.

Present at the commission of a crime means to be sufficiently near, to aid and abet and assist in the commission of the crime; however, mere presence at the scene of a crime is not sufficient to convict one as a principal on the theory of aiding and abetting.

Intent is also a necessary element of aiding and abetting where there must have been a common design or intent to commit the crime, and the crime must have been committed pursuant thereto with the person aiding or abetting by some overt act.

"Intent" means intending the result which actually occurs, not accidentally or involuntarily. Intent may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

The State must prove these elements beyond a reasonable doubt. In order to establish criminal liability, criminal intent is required. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. Criminal intent cannot be proven to a mathematical certainty. Medical science cannot dissect a person's

brain and determine what the person had in mind, so the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination of whether or not the element requiring intent was present.

Intent does not have to be established by direct and positive evidence. Intent may be established by inference in the same way as any other fact, by taking into consideration the acts of the parties and all the facts and circumstances of the case.

Criminal intent is a mental state, a conscious wrongdoing. You must determine what a defendant intended to do based on the circumstances shown to have existed. Criminal intent can arise from an action or a failure to act. It may arise from negligence, recklessness, or an indifference to duty, or to consequences that is considered by the law to be an equivalent of criminal intent.

As I had previously instructed you, mere presence at the scene of a crime is not sufficient to prove someone guilty of a crime. A defendant's presence where a crime is being committed or mere association with a person who commits a crime does not make a defendant an accomplice or an aider and abetter of the person committing the crime. The burden is on the State to prove every element of the

crime charged.

If you find, after referring all of the evidence, that the State has proved that a defendant was only present at the scene of a crime and that the State has not proved beyond a reasonable doubt any other participation in the crime, then you must find that defendant not guilty. The law is that proof of a defendant being at the scene of a crime and nothing more is not sufficient to find someone guilty.

Statements alleged to have been made by two of the defendants have been admitted into evidence in this case. While the Court has determined that the statements are admissible, I instruct you that you make the ultimate decision of whether or not the defendants made the statement. If the defendant did make the statement, you must determine whether the statement was made by the defendant voluntarily and of his own free will. This means that the statement was not caused by pressure, force, fear, threats, coercion, or intimidation, or by hope or a promise of leniency or a reward of any kind.

In determining whether the statement was voluntary, you should consider both the characteristics of the defendant and the details of the question. Some of the factors that you must consider are the age of the defendant, the defendant's education or lack of education,

the defendant's mental ability or capacity, the defendant's IQ or intelligence, the defendant's background and environment, the place and length of detention, the nature of the question, and the advice or lack thereof to the defendant of his constitutional rights including, but not limited to, the right to remain silent; that any statement can be used against him in a court of law; the right to have a lawyer present; that, if he could not afford a lawyer, a lawyer would be appointed to represent him without any cost; and that he could stop making a statement at any time.

You must carefully consider all of the surrounding circumstances before you give any weight to an alleged statement.

The State has the burden of proving beyond a reasonable doubt that the alleged statement was voluntary. If you determine it was, you may give the statement any further consideration that you deem proper. You must decide what weight, if any, should be given to the alleged statement. If you determine that an alleged statement was not the free and voluntarily statement of the defendant, you should not consider the statement at all.

Each defendant is charged with murder. To convict a defendant of murder, the State must prove beyond a reasonable doubt that the defendant killed another person

with malice aforethought.

Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under the circumstances that the law will infer an evil intent.

Malice aforethought does not require that malice exists for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed; therefore, a combination of both previous evil intent and the act must exist.

Malice aforethought may be expressed or inferred. These terms "expressed" and "inferred" do not mean different kinds of malice but merely the manner in which the malice may be shown to exist; that is, either by direct evidence or by inference from the facts and circumstances which are proved.

Expressed malice is shown when a person speaks words which express hatred or ill will for another or when the person prepares beforehand to do the act which was later accomplished. For example, lying in wait for a person or any other acts of preparation going to show that the deed was within the defendant's mind would be expressed malice.

Malice may be inferred from conduct showing a total

disregard for human life. If facts are proved beyond a reasonable doubt sufficient to raise an inference of malice to your satisfaction, this inference simply would be an evidentiary fact to be considered by you, along with the other evidence in the case. You may give it the weight you decide it should receive.

Each defendant is also charged with three counts of attempted murder. To convict a defendant of this crime, the State must prove that the defendant attempted to kill another person with malice aforethought. Attempted murder requires a specific intent to kill, not a general intent.

A specific intent to kill is an element of attempted murder. "Intent" means intending the attempted result, not accidentally or involuntarily causing the result. The State must prove beyond a reasonable doubt that the defendant intended to kill a specific person with malice aforethought but failed in that attempt. In other words, to convict a defendant in this case of attempted murder, the State must prove beyond a reasonable doubt that the defendant intended to kill with malice aforethought the alleged victims in this case, Britney Milam, Orlin Lopez, and Jacob Hill, but failed in that attempt.

The State is not required to prove that the defendant knew the victims or the victims' names, only that the victims were the persons that the defendant

intended to kill.

As I previously instructed you, intent may be shown by acts and conduct of the defendants and other circumstances from which you may naturally and reasonable find intent. Evidence of the character of the fact, the character of the instrument used, the manner in which it was used, the purpose to be accomplished, and the resulting wounds or injuries may be considered in determining the intent with which the act was committed.

Intent may also be demonstrated by proving that the defendant was voluntarily and willfully -- excuse me. Intent may also be demonstrated by proving that the defendant voluntarily and willfully commits an act, the natural tendency of which is to take another's life.

You have heard testimony that another person was convicted of these crimes in another trial. That person's conviction is not evidence of guilt of any of these defendants in this case and is not to be considered by you as evidence of guilt in this case.

You have heard testimony considering the penalty a person may serve for the crimes alleged in the indictments in this case. In determining the guilt or innocence of a defendant, you cannot consider any possible penalty for any particular crime. The punishment for the crimes is a matter for me to determine and should never be considered

by you in any way whatsoever in arriving at an impartial verdict as to the guilt or innocence of a defendant.

Now, you must find one of two possible verdicts for each indictment in this case. No significance is to be given to the order in which I state these possible verdicts to you; I simply must state one first and one second. The possible verdicts for each indictment is either guilty or not guilty.

As I previously instructed you, you must decide each indictment against each defendant separately on the evidence and law applicable to that indictment, uninfluenced by your decision as to the other indictments.

Ladies and gentlemen, your verdict for each indictment must be a unanimous one. Mr. Gardiner, as the foreperson, when the jury agrees on a verdict, you will write the verdict under the verdict portion of the indictment and then sign your name and date the indictment.

When the jury has reached a verdict for each indictment and you have completed -- signed the indictment, then knock on the door and tell the bailiff that the jury has reached a verdict on all of the indictments, and we'll bring you back into the courtroom at that time.

Now, I'm going to excuse you to the jury room for

just a few minutes, but please do not begin your deliberations yet. I need to check with the attorneys to see if there are any additional charges I need to make or if there's any corrections I need to make to the charges I have given you.

If there are and I deem them appropriate, I'll bring you back in and make whatever additional charges or corrections are needed. If there are none, we will send the indictments and all of the exhibits back to the jury room, and the bailiff will instruct you to begin your deliberations.

But please do not begin your deliberations until you're instructed to do so by the bailiff. All right? Thank you very much.

(The jury exited the courtroom at 3:38 p.m.)

THE COURT: All right. Any exceptions or additional charges from the State?

MR. HELMS: I'm sorry, Your Honor?

THE COURT: Any exceptions or additional charges from the State?

MR. HELMS: No.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: Your Honor, I would just, for the record purposes, renew my request regarding the earlier inferred malice charge, but nothing further.

MR. PINKERTON: Your Honor, I would renew my request along with Mr. Bouchette for that charge.

THE COURT: All right.

MR. GARDNER: Nothing from the defense, Your Honor.

THE COURT: All right. Let's leave the charges as they are.

Let's make sure we have got all the exhibits. Here are the indictments right here. Put those with the exhibits.

THE COURT: All right. If you could bring Ms. Crosby and Ms. Lewis, the two alternates, bring them out.

COURT REPORTER: Do you want this on the record when you're excusing them? Okay.

(Exhibit collection reviewed with the court reporter and attorneys.)

THE COURT: Is that everything? All right.

Go ahead and take that back to them and tell them they can begin their deliberations.

(Exhibits and indictments submitted to the jury at 3:43 p.m.)

THE COURT: Ms. Lewis and Ms. Crosby, this is part of the trial I hate. As alternates, since we still have our 12 jurors, the law says that you do not get to participate in deliberations. I hate that because we made

you sit through the whole trial, listen to everything, and then we don't let you participate in the decision.

I want to thank you for your service. Now, you can do whatever you want. If you want to stay and see the outcome, you can do that. If you want to wait awhile and then leave, you can do that. Or if you want to go ahead and go now, you can do that as well.

Do you have anything in the jury room?

JUROR: No, sir.

THE COURT: Okay. So you're at liberty to do whatever you want to do. That will conclude your duties as jurors not only for this week -- I mean, not only for today but for this week. You have got a one-year disqualification from serving jury duty, and you've got a three-year exemption. I hope you don't exercise your exemption because we need good jurors. And I want to thank you for your service.

But, as I said, you can do whatever you want. If you want to wait or go, whichever you prefer. And I thank you very much.

JUROR: You're welcome.

JUROR: Thank you.

THE COURT: Thank you.

Anything from the State before we recess?

MR. HELMS: Nothing, Your Honor.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: I would just renew all previous motions and the objections made.

THE COURT: All right. Mr. Gardner?

MR. GARDNER: No, Your Honor, nothing.

THE COURT: All right. We'll be in recess until we hear something from the jury. Thank you very much.

(A recess was taken from 3:44 p.m. to 4:20 p.m. while the jury deliberates.)

JURY QUESTION/NOTE

THE COURT: All right. We have got a question from the jury.

It says, "When did the defendants watch the Snapchat? Date? Time? Charles P. Gardiner. May 25th, 2023."

I just wrote on here, "This is a fact to be determined by the jury, if possible, from the evidence presented at trial," and signed it.

What's the State's position?

MR. HELMS: I think that's the answer.

THE COURT: All right. Mr. Bouchette?

MR. BOUCHETTE: Beg the Court's indulgence, Your Honor.

I know there's a reference to a Snapchat. I don't know that there was -- I don't think the answer to that was ever in the record, so I guess that would be the -- either to direct that it was not introduced or to -- maybe that would be the correct way to respond if you would like to respond to that, that information was not introduced. It wasn't that it was introduced and they just don't recall it. I don't think that was introduced.

MR. PINKERTON: I might be wrong; I believe the Snapchat they're talking about, wouldn't that be between Tronahz and Jacob Hill, not these defendants?

MR. HELMS: The fact that there's so much conversation about what it is, interpretation, I think your answer is the right one.

THE COURT: I mean, if y'all know the date and time, I can give it to them. Or if you -- it sounds like we're not even sure what they're asking about it. It's definitely a fact issue for the jury if it's in dispute.

MR. BOUCHETTE: Correct.

MR. GARDNER: I didn't even understand the question, Your Honor.

THE COURT: "When did the defendants watch the Snapchat?"

MR. BOUCHETTE: I think --

MR. GARDNER: I don't think they did.

MR. BOUCHETTE: I guess the proper way -- and maybe that's what Your Honor said earlier, so I apologize if I'm going back on it -- would be to say that they have all the evidence that's been introduced for their consideration, so, basically, they can go back and sift through it or request the transcript and try to determine that, if that's a factual issue for them.

MR. HELMS: I can tell you this: The question's in reference to Drew Edward's testimony. That is the Snapchat video. He's the one that introduced evidence regarding Snapchat.

So if they would like the answer to the question, if there is an answer, it's in his testimony. However the Court likes to propose, if we replay his testimony, it's up to you.

MR. BOUCHETTE: As we talk through it, the initial response, I think, is probably correct.

THE COURT: All right. Well, everybody has it on the record what they think. I'm just going to leave it, "This is a fact to be determined by the jury, if possible, from the evidence presented at trial." All right?

MR. HELMS: Thank you.

THE COURT: All right. Let's put this in evidence as -- what's this Court's --

COURT REPORTER: No. 1.

THE COURT: Court's Exhibit 1.

(Court's Exhibit No. 1, Jury Question/Note, as marked for identification and received into the record.)

THE COURT: If you want to take this back to the jury.

All right. Anything else from the State before we recess?

MR. HELMS: No, Your Honor.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir.

THE COURT: All right. We'll be in recess until we hear from the jury.

(A recess was taken from 4:23 p.m. to 5:04 p.m. while the jury deliberates.)

THE COURT: All right. I understand the jury has reached a verdict. Anything from the State before we bring the jury in?

MR. HELMS: No, Your Honor.

THE COURT: Mr. Bouchette?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, sir.

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

(The jury entered the courtroom at 5:07 p.m.)

VERDICT

THE COURT: All right, Mr. Gardiner. I understand the jury has reached a unanimous verdict on all indictments; is that correct?

JURY FOREMAN: Yes, sir.

THE COURT: Have you filled out the verdict portion of the indictments and signed them?

JUROR FOREMAN: Yes, sir.

THE COURT: Would you please hand them to the bailiff.

Thank you, sir.

(Pause in the proceedings while the Court reviews documents.)

THE COURT: I'm going to ask the clerk if she would please publish the verdict.

THE CLERK: Indictment No. 2023-GS-26-0266, the State of South Carolina, County of Horry, versus Travonate Jaquan Mitchell. As to the charge of attempted murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2023-GS-26-00277, the State of South Carolina, County of Horry, versus Travontae Jaquan Mitchell, we, the jury, by unanimous consent find this defendant guilty.

Indictment No. 2023-GS-26-00278, the State of South Carolina, County of Horry, versus Travontae Jaquan Mitchell, as to the charge of attempted murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2023-GS-26-00279, the State of South Carolina, County of Horry, versus Travontae Jaquan Mitchell, as to the charge of murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2022-GS-26-02922, the State of South Carolina, County of Horry, versus Don Leequin Brown, as to the charge of attempted murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2022-GS-26-02901, the State of South Carolina, County of Horry, versus Don Leequin Brown, as to the charge of attempted murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2022-GS-26-02898, the State of South Carolina versus Don Leequin Brown, as to the charge of attempted murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2022-GS-26-02891, the State of South

Carolina, County of Horry, versus Don Leequin Brown, as to the charge of murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2021-GS-26-05563, the State of South Carolina, County of Horry, versus Che Leon Ransom, Jr., as to the charge of attempted murder, we, the defendant -- or we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2021-GS-26-05564, the State of South Carolina, County of Horry, versus Che Leon Ransom, Jr., as to the charge of attempted murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2021-GS-26-05561, the State of South Carolina, County of Horry, versus Che Leon Ransom, Jr., as to the charge of attempted murder, we, the jury, by unanimous consent, find this defendant guilty.

Indictment No. 2021-GS-26-05562, the State of South Carolina, County of Horry, versus Che Leon Ransom, Jr., as to the charge of murder, we, the jury, by unanimous consent, find this defendant guilty.

Signed by foreperson Charles Gardiner, dated May 25th, 2023.

Ladies and gentlemen of the jury, if this is your verdict, so signify by raising your right hand.

(All jurors comply.)

THE CLERK: Thank you.

THE COURT: All right. Let the record reflect that all jurors raised their right hand.

Mr. Bouchette, any polling of the jury by your client?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Mr. Pinkerton, any polling of the jury by your client?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner, any polling of the jury by your client?

MR. GARDNER: No, sir.

THE COURT: Ladies and gentlemen, I want to thank you for your service in this case. That will conclude your duty as jurors in this case but also concludes your duty as jurors for the week, so we won't have any court for you tomorrow. You're free to go for the remainder of the week.

I thank you for your service. I know it's not a fun thing to do but it is a necessary thing to do. You have got a one-year disqualification from serving jury duty. You've got a three-year exemption. I hope you don't exercise your exemption because we do need good jurors. And I want to thank you for your service for this week and in this case. You're free to go at this time. Thank you

very much.

(The jury exited the courtroom at 5:13 p.m.)

THE COURT: All right. Mr. Bouchette, any post-trial motions from your client at this time?

MR. BOUCHETTE: None at this time, Your Honor. We do reserve our right under the rule.

THE COURT: Mr. Pinkerton?

MR. PINKERTON: No, Your Honor. We just renew all previous motions and objections.

THE COURT: All right. Mr. Gardner?

MR. GARDNER: I'm with Mr. Bouchette and reserve the right to make post-trial motions according to the rules.

THE COURT: All right. I'll allow you to do that. I'll stick by my prior rulings on all previous motions.

Any reason we can't go ahead and impose sentencing at this time?

MR. BOUCHETTE: Not that I can think of, Your Honor.

THE COURT: Are y'all getting the sentencing sheets?

MR. HELMS: As we speak, Judge.

THE COURT: Okay.

(Pause in the proceedings.)

THE COURT: I guess, while we're waiting on those sentencing sheets, we can go ahead and get started.

Mr. Bouchette, anything in mitigation with regard to your client?

MR. BOUCHETTE: Just one moment, Judge.

(Pause in the proceedings.)

MR. BOUCHETTE: Thank you, Your Honor. May it please the Court? The jury has rendered its verdict. We do wish to point out some mitigating factors, Your Honor.

The co-defendant in this case, Mr. Tronahz Whittington, received -- was convicted back in February and received a sentence of 45 years. Your Honor is aware this carries 30 to life.

Judge, I think it's uncontroverted that the party most culpable in this series of events was Mr. Whittington. He received a sentence of 45 years.

Your Honor, Che is 20 years old. He just turned 18 when this occurred. As you have heard throughout, there's no evidence indicating he set out to, at least in advance, to have any kind of harm done to this victim.

Judge, I would argue that the low end of the range, the 30-year sentence -- given the 45-year sentence for the party that not only actually caused the death but had the motive, had the desire, that put these things in place is an appropriate sentence.

I would submit to the Court that a sentence even commiserate with what Mr. Whittington received but certainly one higher than that would be grossly inequitable and grossly outside the bounds of punishment

for conduct.

Again, the jury has spoken, but even looking as to sentencing, I submit to the Court that 30 years would be an appropriate sentence for this series of events.

And, Your Honor, I know his mother, Crystal Vereen, is present in the courtroom. I don't know if she wishes to address the Court.

THE COURT: I'll hear from Mr. Ransom or anybody that wants to speak on his behalf.

MR. BOUCHETTE: Just a moment, Your Honor.

THE COURT: She'll need to come to this podium over here and give the court reporter her name.

THE COURT: I'll need you to face me, ma'am. Your name?

MS. VEREEN: Felicia Vereen.

THE COURT: All right, Ms. Vereen. And what is your relation to Mr. Ransom?

MS. F. VEREEN: I'm his aunt.

THE COURT: All right. What would you like to say?

MS. F. VEREEN: I would like to send my condolences to the Johnson family, first and foremost.

And I just want you to -- excuse me. I just want you to know, Che, he's not a bad child. I think that this day, he was caught up in the wrong crowd. He's never been in trouble. And I just ask that you be lenient as long as

you can on him because he's not a bad child. He's not a child that's constantly in the streets. He's not a bad kid. I think that he was just with the wrong crowd.

THE COURT: Thank you, ma'am.

MS. F. VEREEN: Thank you.

THE COURT: Ma'am, your name?

MS. C. VEREEN: My name is Crystal Vereen. I can't --

Just please be lenient.

THE COURT: I'm sorry. I didn't get your name?

MS. C. VEREEN: Crystal Vereen. I'm shaking, Your Honor.

THE COURT: How are you related to Mr. Ransom?

MS. C. VEREEN: I'm his mother.

THE COURT: All right. What would you like to say?

MS. C. VEREEN: I apologize for what happened to Mr. Johnson, but my son is not no killer. He was in the wrong place at the wrong time. I just ask for leniency on my son. Give him a second chance. I know it wasn't right, but he really don't deserve to be gone for the rest of his life. And that's all I got to say.

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

Mr. Ransom wish to say anything?

DEFENDANT RANSOM: Yes, Your Honor.

THE COURT: All right.

DEFENDANT RANSOM: I just -- I'd like to apologize to the family for the action I played in this situation. I just want to let my mama know that I love them, and I ask y'all to forgive me for everything that I did and whatnot. And thank y'all for having the time and having me in court. I really don't got nothing else to say, but, I mean, if the judge can have leniency on me or whatever, Your Honor, I really am -- that the crime I played in and this crime or whatever that I'm being sentenced for was not -- I didn't kill nobody. I didn't took -- kill nobody. But, I mean, I understand it's one hands for all, so I accept responsibility for my actions and accept whatever time I'm going to receive. You know, what I'm saying? That's it. That's all I got to say.

THE COURT: Thank you.

Mr. Bouchette, anything else from you or your client?

MR. BOUCHETTE: No, sir.

THE COURT: Mr. Pinkerton, anything?

MR. PINKERTON: Yes, Your Honor. First, I would like to extend my condolences to Mr. Jamie Johnson's family for this.

Your Honor, when this occurred, my client was 16 years old. He was a juvenile. As we know, people's brains aren't fully developed until they're at least 23,

24 years old, Your Honor.

He got wrapped up in a situation that absolutely got out of hand, Your Honor. He was just trying to get home, riding with his brother, and the situation got out of control.

Your Honor, he has been incarcerated now since 2020. He's not seen his family since then, Your Honor.

As you're well aware, the primary shooter, the person that came up with this plan, was sentenced to 45 years just a few months ago, Your Honor.

My client is now 19. And as you know, any sentence you can impose here today, even the mandatory minimum, is longer than my client's even been on this planet, Your Honor.

We'd respectfully ask if you would consider the minimum on this case and show any kind of leniency you can, Your Honor.

My client's mother would like to address the Court if you would hear from her.

THE COURT: All right. She'll need to come forward to the podium and give the court reporter her name.

And your name?

MS. GRAHAM: Kissie Graham.

THE COURT: I'm sorry?

MS. GRAHAM: Kissie Graham.

THE COURT: Can you spell your first name?

MS. GRAHAM: K-i-s-s-i-e.

THE COURT: All right, Ms. Graham. What would like to say?

MS. GRAHAM: I would like to say, first of all -- first of all, I send my condolence to Ms. Johnson, the family. And I'm sorry that I have -- my boy have to go through this right here, but he's not no bad child. He just in the wrong place at the wrong time. I just ask that you forgive him for hanging with the wrong crowd, doing what he did, whatever they did. I ask that you please, Lord, just -- he's 19. He's not no bad boy. He played baseball. He got himself baptized. Like he's not no bad person to be killing nobody. He's not a killer.

I just ask that you be lenient on my boy and give him another chance. Thank you.

THE COURT: Thank you, ma'am.

Mr. Pinkerton, does your client wish to say anything?

MR. PINKERTON: No, Your Honor.

THE COURT: Mr. Gardner, anything in mitigation with regard to your client?

MR. GARDNER: Yes, Your Honor. May Your Honor please?

I have been representing Don for a while now. He

was out on bond, and he came to every appointment that I ever asked him to come to. He cooperated with me.

At the time of this incident, he was 17 years old. He was just a young guy, Judge. The sentence is going to be almost twice his -- if you do 30 years, it will be almost twice as old as -- as long as they have been alive.

It's a very serious incident, but we would respectfully request that you consider the minimum sentence for them based on their age.

Did you want to say anything to the judge?

I have explained everything to him and where we were on this, and I believe that that's all we have at this time, Your Honor.

THE COURT: All right. Does your client wish to say anything or anybody want to speak on his behalf?

MR. GARDNER: Is your mother here?

THE COURT: Yes, ma'am. Your name?

MS. TUCKER: I apologize to the Johnson family.

THE COURT: Your name?

MS. TUCKER: Cathy Tucker.

THE COURT: All right, Ms. Tucker. What you would you like to say?

MS. TUCKER: I want to apologize to the Johnson family. My son was an A/B honor roll student. He's not a killer. Please try to be lenient on him, please.

THE COURT: Thank you, ma'am.

Mr. Gardner, anything further from you or your client?

MR. GARDNER: I don't know if he's in a position. I think that's it, Your Honor.

THE COURT: All right. Does the victim wish to speak or say anything?

MR. HELMS: Yes, Your Honor.

THE COURT: All right. Any victims that wish to speak, you'll need to come forward to a microphone and give the court reporter your name.

Yes, ma'am. Your name?

MS. JOHNSON: Lucinda Johnson.

THE COURT: All right, Ms. Johnson. What would you like to say?

MS. JOHNSON: Jamie wasn't just some 19-year-old boy. He was my first born. He is what made me a mama. He was my whole world. He is a brother -- a big brother to four other siblings. He was a boyfriend, a best friend, a friend. He was a hard worker. He started working at a very young age because he thought, for some reason, that it was his responsibility as the oldest to help me out. Sorry.

He had plans to go back to school and to get his business degree because he had this huge dream that him

and his friends could get together and start their own business. He had plans to marry his girlfriend and to start a family. And the decision that these boys made that day took all of that from us.

Your Honor, I'm asking that you would consider the highest punishment possible that you would agree on without parole. Thank you.

THE COURT: Thank you.

Any other victims wish to speak?

MR. HELMS: No, Your Honor.

THE COURT: All right. Do we have the sentencing sheets?

MR. HELMS: I do.

THE COURT: Thank you.

MR. HELMS: Yes, sir.

THE COURT: All right. Any prior records?

MR. HELMS: No, Your Honor.

THE COURT: Anything further from the State?

MR. HELMS: Your Honor, you have heard the facts. There's nothing else that we can add that you don't already know about, Judge.

THE COURT: All right.

(Pause in the proceedings while the Court reviews documents.)

THE COURT: All right. Gentlemen, I don't see any justifiable reason to sentence you to any more than the other codefendant who was found guilty. Likewise, I don't see any justifiable reason to sentence you to any less than the codefendant.

So, for each of you, the sentence of the Court on the charge of murder is that you be confined to the State Department of Corrections for 45 years. On each of the attempted murder charges, sentence of the Court is that you be confined to the State Department of Corrections for 30 years. All sentences will run concurrently. You'll be given credit for any time served thus far.

[Emotional outburst from audience. Defendants removed to the holding cell.]

THE COURT: All right. Let's have order.

THE BAILIFF: Quiet, please.

THE COURT: Let's have order.

All right. Anything further? It's going to take me a while to get these sentencing sheets filled out.

MR. HELMS: No, sir.

THE COURT: All right. Thank you very much.

MR. HELMS: Thank you, Judge.

THE COURT: Court's adjourned.

MS. LIVESAY: Thank you, Judge.

(The above trial concluded at 5:35 p.m.)

STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**

COUNTY OF HORRY CASE NO.:2022-GS-26-02891, 02898, 02901, 02902

ORIGINAL

August 10, 2023

BEFORE: The Honorable Benjamin Culbertson

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

DON LEEQUIN BROWN,

Defendant.



APPEARANCES:

Christopher Helms, Esq.
Appearing for the State/Plaintiff.

Johnnie Gardner, Esq.
Appearing for the Defendant.

Official Court Reporter
Natalie Dahl, RPR

NOTE: *Pursuant to Rule 607 (H)(1)(B), SCACR "A Court REPORTER SHALL RECEIVE THE FEE OF $1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." All requests for a copy of the enclosed transcript shall be sent to: Natalie Dahl, RPR, P.O. Box 762, Conway, SC 29526*

P R O C E E D I N G S

THE COURT: State versus Don Brown motion for new trial and motion to reconsider sentence regarding 2022-GS-26-02891, 02898, 02901, 02902.

Mr. Gardner, this is your motion.

MR. GARDNER: Thank you, Your Honor. I'll be brief. I understand you have ruled on two co-defendants, one this morning and one yesterday. Those three were tried together before you and found guilty and sentenced to 45 years. The defendant asked in a post-trial motion for a new trial and, in the alternative, reduction of the sentence from 45 to 30 years. We thought 30 years is more appropriate based on his age and criminal record and the involvement in the trial. That would be our case, Your Honor.

THE COURT: And on behalf of the State?

MR. HELMS: I will, Judge. Your Honor, you heard the statement of facts twice this week already. As defense counsel said, you overruled on

this matter as it concerns the other co-defendants.

Mr. Brown was tried as one of the co-defendants in the second trial after Tronahz Whittington was tried. Evidence presented at trial showed that Mr. Don Brown -- and Your Honor will remember this. It is the case where there was an ambush on D Street, it was alleged by the State and proven at trial.

Evidence at trial showed that Mr. Brown, this defendant, was the driver of the vehicle that blocked in the victims in this case, Jamie Johnson and the other three victims in the car, Your Honor. He did so at the behest of Tronahz Whittington. Our presentation at trial is that in that action, he was as culpable as anyone who fired a shot.

Now, it was conceded by the State he did not have a gun. There was no witness that presented evidence that he had a gun, and we didn't present evidence he had a gun. However, in utilizing the vehicle to block the victims in, he did participate fully in the murder in this case.

The jury did deliberate and found him guilty, just like the other co-defendants. We think it was appropriate. We think the sentence was appropriate, and, if necessary, the victims are

here and would like to address the Court.

THE COURT: Mr. Gardner, anything in reply?

MR. GARDNER: I don't want to beat the facts to death, but I would remind Your Honor we had a pretty good directed verdict motion. Although he was the driver, there was zero evidence that there was a plan that involved him to do any criminal act. There was evidence -- not arguing with the injury, but there was evidence in the record that the car was not blocked in and had reasonable access to exit. Not arguing with the jury's verdict, but there is enough evidence that I thought that a directed verdict could have been granted, and it would have been fine.

Based on all of that, I think 30 years is the more appropriate sentence, Your Honor.

THE COURT: I'm going to deny your motion. I remember this trial. It was hand of one is the hand of all, and the jury found that they were all acting together in aiding and abetting one another; so, therefore, the guilt of one is the guilt of all of them, and I'll deny your motion.

MR. GARDNER: Thank you, Your Honor.

(Whereupon, the proceedings concluded.)

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WITNESSES

Kenneth A Marcus Horry County Police Department Kathy Thompson

ARREST WARRANT NUMBER

2020A2610202043
CDR: 0116 16-03-0010, 0020
DOA: 9/22/2020

ACTION OF GRAND JURY

TRUE BILL

Jason Henderson
Foreperson of Grand Jury
Date: JUL 20 2022

VERDICT

Guilty

Charles P Saudenes
Foreperson of Petit Jury
Date:

DOCKET NO. 2022GS2602891

The State of South Carolina

County of Horry

Christopher D. Helms
20H04653

COURT OF GENERAL SESSIONS

July, 2022 TERM

THE STATE

vs.

Don Leequin Brown
[redacted]
DOB: [redacted]
SSN: [redacted]

ATTORNEY: Johnny Gardner

Indictment for

MURDER

Jimmy A. Richardson, II, Solicitor

HORRY COUNTY
2022 JUL 21 A 11:43
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM GRAND JURY

ORIGINAL

RECEIVED
AUG 21 2023
SC Court of Appeals

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on July 20, 2022, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0118 16-03-0010,0020

That Don Leequin Brown did in Horry County, on or about September 12, 2020, willfully, feloniously, and intentionally kill the victim, [redacted] with malice aforethought, either express or implied, by means of shooting the victim, and the victim did die as a proximate result thereof on or about in Horry County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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

JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry)

STATE)

VS.)

Don Leequin Brown)

AKA:)

Race: [redacted] Sex: [redacted] Age: [redacted])

DOB: [redacted] SS#: [redacted])

Address: [redacted])

City, State, Zip: [redacted])

DL#: [redacted] SID#:)

INDICTMENT/CASE#: 2022GS2602891

AW#: 2020A2610202043

Date of Offense: 9/12/2020

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

RECEIVED
AUG 21 2023
SC Court of Appeals

CERTIFIED COPY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Murder / Murder

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☑ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

100116 SCB65097

Helms, Christopher D. SC Bar # Defendant Gardner, Johnny SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☑ **State Department of Correction,** ☐ **County Detention Center,**

for a determinate term of 45 ~~days/months~~/years/~~Time Served~~ ☐ **Youthful Offender Act** not to exceed X years

and/or to pay a fine of $ X ; provided that upon the service of X days/months/years/Time Served and or payment

of $ X ; plus costs and assessments as applicable*; the balance is suspended with **probation** for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/25/2023

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

☐ The Defendant Shall be Released from County Detention Center.

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
2023 MAY 25 P 6:17
HORRY COUNTY

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Don Leequin Brown INDICTMENT/CASE#: 2022GS2602891

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program.

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

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

☐ Other: _____

RENEE N. ELVIS CLERK OF COURT HORRY COUNTY, SC

CERTIFIED COPY

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

2023 MAY 25 P 6:07

HORRY COUNTY

*Fine: $ _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ 25.00 Beginning 6·25·2008

§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$ 128.75

Clerk of Court/ Deputy Clerk: Renee Elvis

Court Reporter: Bobbi Fisher

Presiding Judge: Mary Jane Gilbert

Judge Code: 2148

Sentence Date: May 25, 2023

WITNESSES

Kenneth A Marcus Horry County Police Department Kathy Thompson

ARREST WARRANT NUMBER

2020A2610202044
CDR: 3410 16-03-0029
DOA: 9/22/2020

ACTION OF GRAND JURY

TRUE BILL

Allen Henderson
Foreperson of Grand Jury
Date: JUL 20 2022

VERDICT
Guilty

Charles P Gardener
Foreperson of Petit Jury
Date: May 25, 2023

DOCKET NO. 2022GS2602898

The State of South Carolina

County of Horry

Christopher D. Helms
20H04653

COURT OF GENERAL SESSIONS

July, 2022 TERM

THE STATE

vs.

Don Leequin Brown
B/M
[redacted]
DOB: [redacted]
SSN: [redacted]

ATTORNEY: Johnny Gardner

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

HORRY COUNTY
2022 JUL 21 A 11:44
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM GRAND JURY

ORIGINAL

RECEIVED
AUG 21 2023
SC Court of Appeals

CERTIFIED COPY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on July 20, 2022, the Grand Jurors of Horry County present upon their oath:

ATTEMPTED MURDER
CDR: 3410 16-03-0029

That Don Leequin Brown did in Horry County on or about September 12, 2020 with intent to kill [redacted] attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, S.C. Code of Laws, 1976, as amended.

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

JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

RECEIVED
AUG 21 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry)

STATE)

VS.) INDICTMENT/CASE#: 2022GS2602898

Don Leequin Brown) A/W#: 2020A2610202044

AKA:) Date of Offense: 9/12/2020

Race: [redacted] Sex: [redacted] Age: [redacted]) S.C. Code §: 16-03-0029

DOB: [redacted] SS#: [redacted]) CDR Code #: 3410

Address: [redacted])

City, State, Zip: [redacted])

DL#: [redacted] SID#:)

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
CERTIFIED COPY

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Assault / Attempted Murder

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☑ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Helms, Christopher D.	100116	Defendant		Gardner, Johnny Attorney for Defendant	SCB65097
	SC Bar #				SC Bar#

WHEREFORE, the Defendant is committed to the ☑ **State Department of Correction,** ☐ **County Detention Center,**

for a determinate term of 30 ~~days/months/years/Time Served~~ ☐ **Youthful Offender Act** not to exceed X years

and/or to pay a fine of $ X ; provided that upon the service of X days/months/years/Time Served and or payment

of $ X ; plus costs and assessments as applicable*; the balance is suspended with **probation** for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/25/2023

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
2023 MAY 25 P 1:01
HORRY COUNTY

☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC: _____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Don Leequin Brown INDICTMENT/CASE#: 2022GS2602898

CERTIFIED COPY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

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

☐ Other: _____

HORRY COUNTY
2023 MAY 25 P 6:07
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ 25.00 Beginning 6-25-2018 $ _____

§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
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§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$ 128.75

Clerk of Court/ Deputy Clerk: Renee Elvis
Court Reporter: Bobbi Fisher

Presiding Judge: Michael Pickens
Judge Code: 2148
Sentence Date: May 25, 2023

770

WITNESSES

Kenneth A Marcus Horry County Police Department Kathy Thompson

ARREST WARRANT NUMBER

2020A2610202045
CDR: 3410 16-03-0029
DOA: 9/22/2020

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JUL 20 2022

VERDICT

Guilty

Foreperson of Petit Jury
Date: May 25, 2023

DOCKET NO. 2022GS2602901

The State of South Carolina

County of Horry

Christopher D. Helms
20H04653

COURT OF GENERAL SESSIONS

July, 2022 TERM

THE STATE

vs.

Don Lesquin Brown
[redacted]
DOB: [redacted]
SSN: [redacted]

ATTORNEY: Johnny Gardner

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

HORRY COUNTY
2022 JUL 21 A 11:44
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM GRAND JURY

ORIGINAL

RECEIVED
AUG 21 2023
SC Court of Appeals

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on July 20, 2022, the Grand Jurors of Horry County present upon their oath:

ATTEMPTED MURDER
CDR: 1410 16-03-0029

That Don Leequin Brown did in Horry County on or about September 12, 2020 with intent to kill [redacted] attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

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

JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

RECEIVED
AUG 21 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF Horry

IN THE COURT OF GENERAL SESSIONS

STATE
VS.
Don Leequin Brown

INDICTMENT/CASE#: 2022GS2602901

A/W#: 2020A2610202045
Date of Offense: 9/12/2020
S.C. Code §: 16-03-0029
CDR Code #: 3410

AKA:
Race: [redacted] Sex: [redacted] Age: [redacted]
DOB: [redacted] SS#: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
DL#: [redacted] SID#:

CERTIFIED COPY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, S.C.

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Assault / Attempted Murder

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials).

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Helms, Christopher D. 100116 SC Bar # Defendant

Gardner, Johnny SCB65097 SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☑ **State Department of Correction,** ☐ **County Detention Center,**

for a determinate term of 30 ~~days/months/years/Time Served~~ ☐ **Youthful Offender Act** not to exceed X years

and/or to pay a fine of $ X ; provided that upon the service of X days/months/years/Time Served and or payment of $ X ; plus costs and assessments as applicable*; the balance is suspended with **probation** for X months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/25/2023

RENEE A. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
FILED MAY 25 6:07
HORRY COUNTY

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

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Don Leequin Brown INDICTMENT/CASE#: 2022GS2602901

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 days/hours

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

☐ Other: _____

CERTIFIED COPY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
2023 MAY 25 P 8:07
HORRY COUNTY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ 25.00 Beginning 6-25-2068 $ _____

§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$ 128.75

Clerk of Court/ Deputy Clerk: Renee Elvis
Court Reporter: Bobbi Fisher

Presiding Judge: Benjamin Culbertson
Judge Code: 2148
Sentence Date: May 25, 2023

774

WITNESSES

Kenneth A Marcus Horry County Police Department Kathy Thompson

ARREST WARRANT NUMBER

2020A2610202046
CDR: 3410 16-03-0029
DOA: 9/22/2020

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury
Date: JUL 20 2022

VERDICT
Guilty

Charles P Gardener
Foreperson of Petit Jury
Date: May 25, 2023

DOCKET NO. 2022GS2602902

The State of South Carolina

County of Horry

Christopher D. Helms
20H04853

COURT OF GENERAL SESSIONS

July, 2022 TERM

THE STATE

vs.

Don Leequin Brown
[redacted]
DOB: [redacted]
SSN: [redacted]

ATTORNEY: Johnny Gardner

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

HORRY COUNTY
2022 JUL 21 A 11:44
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM GRAND JURY

ORIGINAL

RECEIVED
AUG 21 2023
SC Court of Appeals

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RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on July 20, 2022, the Grand Jurors of Horry County present upon their oath:

ATTEMPTED MURDER
CDR: 3410 16-03-0029

That Don Leequin Brown did in Horry County on or about September 12, 2020 with intent to kill [redacted] attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

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

JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

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RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

RECEIVED
AUG 21 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF Horry

IN THE COURT OF GENERAL SESSIONS

STATE
VS.
Don Leequin Brown

INDICTMENT/CASE#: 2022GS2602902
SCDC#: 2020A2610202046
Date of Offense: 9/12/2020
S.C. Code §: 16-03-0029
CDR Code #: 3410

AKA:
Race: [redacted] Sex: [redacted] Age: [redacted]
DOB: [redacted] SS#: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
DL#: [redacted] SID#:

SENTENCE SHEET

CERTIFIED COPY
HELEN BERRY ELLIS
CLERK OF COURT
HORRY COUNTY, SC

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Assault / Attempted Murder

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Helms, Christopher D.	100116 SC Bar #	Defendant	Gardner, Johnny Attorney for Defendant	SCB65097 SC Bar#

WHEREFORE, the Defendant is committed to the ☑ **State Department of Correction,** ☐ **County Detention Center,**

for a determinate term of 30 ~~days/months~~/years/~~Time Served~~ ☐ **Youthful Offender Act** not to exceed X years

and/or to pay a fine of $ X ; provided that upon the service of X days/months/years/Time Served and or payment of $ X ; plus costs and assessments as applicable*; the balance is suspended with **probation** for X months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/25/2023

CLERK OF COURT
HORRY COUNTY, S.C.
2023 MAY 25 P 4:07

☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
_____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.
☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Don Leequin Brown INDICTMENT/CASE#: 2022GS2602902

CERTIFIED COPY
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 days/hours

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

☐ Other: _____

HORRY COUNTY
2023 MAY 25 P 6:05
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ 25.00 Beginning 6.29.2068 $ _____

§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
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§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$ 128.75

Clerk of Court/ Deputy Clerk: Renee Elvis
Court Reporter: Bobbi Fisher

Presiding Judge: Margaret Cobb Bessinger
Judge Code: 2148
Sentence Date: May 25, 2023

2022A2610202043 - 2046

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	Indictments: 2022GS260291;
COUNTY OF HORRY	)	2022GS260298; 2022GS2602901-902
	)	
State of South Carolina,	)	**DEFENDANT'S MOTION TO RECONSIDER SENTENCING**
Vs.	)	
Don Brown,	)	
Defendant.	)	

HORRY COUNTY
2023 JUN -1 P 2:06
JANICE N. ELLIS
CLERK OF COURT
HORRY COUNTY, SC

TO: Office of the Solicitor for the 15th Judicial Circuit

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through his undersigned attorney, hereby moves for an order from this Honorable Court amending its sentencing of the Defendant.

The Defendant was tried and convicted of Murder and three (3) counts of Attempted Murder on May 25, 2023. The Court sentenced the Defendant to a term of forty-five (45) years of incarceration. In issuing its ruling, the Court noted "*I don't see any reason to sentence him to more that the co-defendant,*[1] *but I don't see any reason to sentence him to any less.*"

The Defendant respectfully submits that the Court, in failing to note any differences between the Defendant and the co-Defendant, failed to evaluate the presence of mitigating factors relating to this Defendant, in comparison to the aggravating factors that were present with the co-Defendant. Principally, the fact that the evidence at trial established that co-Defendant Whittington fired the only two shots directed at the victim, including the fatal shot, and did so out of an animus that had been brewing for several weeks. These facts are not present in analyzing this Defendant's culpability.

As such, the Defendant submits that failure to consider all relevant conduct, including the absence of pre-planning and deadly conduct in his sentencing, violates his rights to due process under the 14th Amendment to the U.S. Constitution and Article I Section 3 of the South Carolina State Constitution, as well as his right to be free from cruel and unusual punishment pursuant to the 8th Amendment of the U.S. Constitution and Article I Section 15 of the South Carolina State Constitution.

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JANICE N. ELLIS
CLERK OF COURT
HORRY COUNTY, SC

[1] Co-Defendant Tranahz Whittington was tried and convicted in a separate trial in March of 2023.

Respectfully submitted,

JOHNNY GARDNER LAW PA

Johnny Gardner.
S.C. Bar No.: 65097
P.O. Box 1851
Conway, SC 29528
843-248-7135 (phone)
johnny@johnnygardnerlaw.com
Attorney for Defendant

June 1, 2023

HORRY COUNTY
2023 JUN -1 P 2:06
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	Indictments: 2022GS2602901-902;
COUNTY OF HORRY	)	2022GS2602891; 2022GS2602898
	)	
State of South Carolina,	)	**DEFENDANT'S MOTION FOR NEW TRIAL**
vs.	)	
	)	
Don Brown,	)	2020A2610202043 - 2046
Defendant.	)	

TO: Office of the Solicitor for the 15th Judicial Circuit

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through his undersigned Counsel, hereby moves for an order from this Honorable Court granting the Defendant a new trial on the charges of Murder and Attempted Murder. Defendant's Motion is based upon the errors committed during the trial, individually, and cumulatively under the *cumulative error* doctrine.

FILED
HORRY COUNTY
2023 JAN -2 A 9:11
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, S.C.

I. THE DEFENDANT IS ENTITLED TO AN ORDER GRANTING HIM A NEW TRIAL BASED ON THE FOLLOWING:

a) The Court Erred in Allowing the Introduction of the Testimonial Hearsay Statement(s) of Co-Defendant Trevonte Mitchell

Prior to the start of trial, and prior to the introduction of testimony, the Defendant moved for an order suppressing statements made by co-defendants Don Brown and Trevonte Mitchell during a custodial interrogation. Defendants motion was made pursuant to Bruton v. United States, 391 U.S. 123, 126, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968) as well as Crawford v. Washington, 541 U.S. at 54, 124 S.Ct. at 1354. The Court ruled that since the testimony proffered by the State did not facially incriminate the Defendant, it did could not violate the Defendant's rights under the Confrontation Clause.

The Defendant respectfully submits that the Court construed the circumstances which could implicate the Confrontation Clause too narrowly. The statement of a non-testifying co-defendant need not be facially incriminating to trigger the Confrontation Clause, if the Statement(s), under the circumstances, reasonably infers incriminating conduct onto the Defendant. *See* State v. Henson, 407 S.C. 154, 754 S.E.2d 508 (2014) (*citing* Gray v. Maryland, 523 U.S. 185, 118 S.Ct. 1151, 140 L.Ed.2d 294 (1998)).

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, S.C.
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b) **The Court Erred in Failing to Grant Defendant's Motion For Mistrial When the State Elicited Testimony From a Witness Discussing a Second Shooting Incident and the Court Failed to Allow the Defense to Ask a Follow-Up Question to Mitigate its Prejudicial Effect.**

At the outset of the trial, the Court informed Counsel that the Court would only allow the following modes of examination: direct examination, cross-examination, and re-direct examination of those issues raised on cross, which were not raised on re-direct. During the re-direct testimony of Shamonte Graham, the Solicitor asked a question which prompted the witness to refer to a second shooting. At a sidebar, the Court instructed the Solicitor to not elicit testimony referring to a second shooting. Immediately thereafter, the Solicitor asked the exact same question, without modification, which elicited the testimony in the first place. The Defense moved for a mistrial, which the Court denied. Additionally, the Court denied the Defendant's request to be allowed to briefly re-cross the witness to ensure that the jury was aware that the second shooting being referenced by the witness was one in which the witness was a victim, not an active shooter.[1] That request was also denied by the Court.

A trial judge may impose reasonable limits on cross-examination based upon concerns about, among other things, harassment, prejudice, confusion of the issues, witness safety, or interrogation that is repetitive or only marginally relevant. United States v. Heschner, 98 F.3d 155, 157 (4th Cir.1996). Absent the introduction of any new matter on re-direct examination, the rule is that recross-examination is not required. Without something new, a party has the last word with his own witness. However, where new evidence is disclosed on redirect examination, the opposing party should be given the privilege of recross-examination. Am. Jur. 2d. Witnesses § 508.

In this case, the failure to grant the Defendant's mistrial motion allowed prejudicial and misleading testimony to be submitted to the jury in violation of Rule 403, SCRE. Furthermore, the failure to allow the Defendant to re-cross the witness, on such a limited, yet critical issue, violated his right to a fair trial and to confront his accusers under the 6th Amendment of the U.S. Constitution, the Due Process Clause of the 14th Amendment to the U.S. Constitution, the Due

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HORRY COUNTY
2013 JUN 12 A 9:22
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

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CLERK OF COURT
HORRY COUNTY, SC

[1] Attached herein as **EXHIBIT 1** is a portion of the transcript from the trial of co-defendant Whittington regarding this separate shooting incident. (p. 388 beginning at ¶23 - p. 390)

Process Clause contained in Article I, Section 3 of the South Carolina Constitution, and the right to be fully heard in his Defense under Article I, Section 14 of the South Carolina Constitution.

c) **The Court Erred in Failing to Grant Defendant's Motion For Mistrial When the Solicitor Elicited Testimony from a Law Enforcement Witness that Contained Testimonial Hearsay Directly Violating Defendant's Right to Confrontation.**

During the testimony for two of the State's witnesses, the Court granted the Defendant a continuing objection on those issues raised in Paragraph (a) above. During the course of testimony, the witness referred to a statement by a non-testifying co-defendant wherein the non-testifying co-defendant made reference to the fact that he was sitting in the back seat with two other people. Given that the testimony, up to that point, made clear that Defendant Don Brown was the driver of the vehicle, the obvious implication was that Defendant Che Ransom and co-defendant Trevonte Mitchell were the other two individuals sitting in the back seat with the witness. The Court, *sua sponte*, called a recess and expressed concern that the testimony had now triggered incriminating testimony for which the Defendant was unable to cross-examine. The Court cited State v. McDonald, 412 S.C. 133, 771 S.E.2d 840 (2015). Ultimately, however, despite the Court acknowledging that there had been an error in the admission of the testimony, the Court denied the Defendant's motion for a mistrial. The Court indicated that the error was harmless as a basis for denying the mistrial.

Viewing this error as harmless, even in light of the final ruling in McDonald, conflated the basis for the Supreme Court's ruling in that case. The McDonald Court viewed the admission of the improper statement as being harmless in light of the entire record and the "overwhelming evidence of McDonald's guilt." In this trial, there had not been overwhelming evidence of the Defendant's guilt submitted. Moreover, it was the testimony of the various co-defendant's which provided the sole basis for the State's evidence of criminal culpability of the Defendant.

d) **The Court Erred in Failing to Sustain Defendant's Objection to the Solicitor's Closing Argument Which Contained Improper "Golden Rule" Arguments.**

At the start of the Case, pursuant to motion from the Defendant, the Court instructed the State to not make reference to the mother of the victim who was seated in the courtroom. In closing arguments, the State pointed out and identified the victim's mother, who had not testified in the case. The Defendant made a contemporaneous objection based upon both the Court's prior

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HORRY COUNTY
2013 JUN 12 A 11:22
JEREMY ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

ruling, and the fact that the Solicitor's statements constituted improper "Golden Rule" arguments to the jury. The Court overruled the objection.

"A solicitor's closing argument must be carefully tailored so as not to appeal to the personal biases of the jury." Von Dohlen v. State, 360 S.C. 598, 609, 602 S.E.2d 738, 744 (2004). "The argument must not be calculated to arouse the jurors' passions or prejudices, and its content should stay within the record and reasonable inferences that may be drawn therefrom." Id. at 609–10, 602 S.E.2d at 744. "While the solicitor should prosecute vigorously, his duty is not to convict a defendant but to see justice done." State v. Northcutt, 372 S.C. 207, 222, 641 S.E.2d 873, 881 (2007) (quoting State v. Linder, 276 S.C. 304, 312, 278 S.E.2d 335, 339 (1981)). "The solicitor's closing argument must, of course, be based on this principle." Id. "A Golden Rule argument asking the jurors to place themselves in the victim's shoes tends to completely destroy all sense of impartiality of the jurors, and its effect is to arouse passion and prejudice." State v. Reese, 370 S.C. 31, 38, 633 S.E.2d 898, 901 (2006).

II. EVEN IF THE INDIVIDUAL GROUNDS OUTLINED HEREIN ARE INSUFFICIENT TO WARRANT THE GRANTING OF A NEW TRIAL, THE CUMULATIVE EFFECT OF THESE ERRORS CREATED THE EFFECT OF DEPRIVING THE DEFENDANT OF A FAIR TRIAL, AND THUS, A NEW TRIAL IS APPROPRIATE.

"The cumulative error doctrine provides relief to a party when a combination of errors, insignificant by themselves, has the effect of preventing the party from receiving a fair trial, and the cumulative effect of the errors affects the outcome of the trial." State v. Eubanks, 437 S.C. 458, 878 S.E.2d 335 (Ct. App. 2022), reh'g denied (Oct. 20, 2022) *citing* State v. Beekman, 405 S.C. 225, 237, 746 S.E.2d 483, 490 (Ct. App. 2013).

The Defendant respectfully submits that cumulative of the errors recited herein warrant the granting of a new trial.

Respectfully submitted,

Johnny Gardner
S.C. Bar No.: 65097
P.O. Box 1851
Conway, SC 29528
843-248-7135
johnny@johnnygardnerlaw.com

June 1, 2023

FILED
HORRY COUNTY
JUN 2 2023
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

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,

RECEIVED
Jan 30 2025
SC Court of Appeals

Kathrine H. Hudgins
Senior Appellate Defender

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

ATTORNEY FOR APPELLANT

This 30th day of January, 2025.

RECEIVED
Jan 30 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DON LEEQUIN BROWN,

APPELLANT

APPELLATE CASE NO. 2023-001336

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Kaylee C. Kemp, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 30th day of January, 2025.



Kathrine H. Hudgins
Senior Appellate Defender

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

ATTORNEY FOR APPELLANT