

ANDERS RESPONSE BRIEF

VOLUME TWO OF TWO

17779

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Clifton Newman, Circuit Court Judge

ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

ANDERS

V

CORNELL D TYLER,

No Respondent's Brief Filed

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RECORD ON APPEAL

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1 if any?

2 A We talked about this case right here

3 Q About this particular case?

4 A Yes, sir

5 Q All right And what was the -- what, if
6 anything, was discussed about this particular case?

7 A Excuse me, say it again?

8 MR WEEKS Your Honor, I object as to the
9 specifics of a proper foundation for this question

10 THE COURT All right, Mr Gipson.

11 MR GIPSON And, Your Honor, I think the
12 foundation has been laid in the sense that Mr
13 Ware's testimony was that he --

14 THE COURT. That's your legal response, not a
15 factual response

16 MR GIPSON I believe we laid a proper
17 foundation, Your Honor May we approach for a
18 moment?

19 THE COURT All right

20 MR GIPSON Thank you.

21 THE COURT Ladies and gentlemen, we'll have
22 you go to the jury room for a moment Please do not
23 discuss the case

24 (The jury left the

25 courtroom at 3 25 p m)

1 THE COURT All right, you can step down, sir
2 If you'll go back, we'll have you come back in a
3 moment

4 (The witness left the
5 courtroom)

6 THE COURT Yes, sir

7 MR. GIPSON And, Your Honor, I asked Wallow
8 Ware the specific question Once he denied that he
9 ever spoke to anybody about this case, I asked him a
10 specific question, whether or not he spoke to Wallow
11 DeShawn Smith about his particular testimony
12 matters, the events and occurrences of this
13 particular -- for that particular date, matters
14 involving this case

15 He said no I then presented the
16 transcripts to him I believe it was between 111
17 and 112, where we had asked him that specific
18 question in prior testimony, when he testified on
19 another occasion And in that, his answer was that
20 he had spoken to him about the matters in this case
21 and some specifics of the case

22 And I asked him if that was indeed a true
23 answer And that's when he, you know, affirmatively
24 said, "Yes, I talked to him about that," those types
25 of things But I used that part of the record to

1 show that he has on different occasions described
2 that he had spoken to Wallow DeShawn Smith about the
3 specifics of this case

4 And so that's what we're delving into now,
5 because on a prior occasion, he told us that he had
6 spoken to him about the specifics of this case, and
7 tried to deny it, and then came back around and
8 admitted that he did speak to him

9 THE COURT Therefore what?

10 MR GIPSON Therefore, I think Mr Smith
11 should be allowed to talk about exactly what they
12 talked about They talked about the specifics of,
13 you know, the discovery in the case

14 THE COURT Mr Weeks?

15 MR WEEKS I don't think they can argue the
16 point He admitted that he had given an
17 inconsistent -- he's been impeached on the fact that
18 he gave an inconsistent answer to the question that
19 was asked

20 As I remember, Wallow Ware was asked
21 whether or not -- on the stand this time, whether or
22 not the first time he testified he said that he had
23 talked to DeShawn Smith Apparently, the answer was
24 "on a couple of occasions "

25 When he testified this time, he answered

1 originally, "I did not talk to him about the
2 specifics of my case " And I'm doing it from my
3 memory of his testimony this time

4 But he asked Mr Smith on the stand, "Did
5 you talk to him?" "Yes, I did " Well, he just
6 impeached -- used it to impeach the concept of
7 whether he talked to him And where he goes from
8 there is to me kind of a fishing expedition as to
9 impeaching somebody

10 You impeach somebody with specific stuff,
11 not to say, "Well, what all did y'all talk about?"
12 The specific question was, "Did you talk to him?"
13 "Yes, sir, I did " Well, if Wallow Ware tells him
14 that he was driving down the road, he gives him the
15 exact story he's given us in court today, it's not
16 impeachment material

17 He has to ask him specifically, you know,
18 something contradictory to that, not just have this
19 man come from prison and relate some conversation he
20 had in a jail cell

21 THE COURT All right, Mr Gipson?

22 MR. GIPSON And, Your Honor, with the
23 testimony we asked, I asked if he told anybody else
24 the matters that he spoke to about in court today.
25 And he said at first --

1 THE COURT What he said and what you said,
2 we're beyond that point

3 MR GIPSON Yes, sir

4 THE COURT The question is, therefore, what?
5 Therefore, what does it allow you to do? Does it
6 allow you to ask a question, "Well, what did he tell
7 you?" --

8 MR GIPSON Yes, sir

9 THE COURT -- and let him go through two weeks
10 of conversation they had, or two hours of
11 conversation they had Or are you therefore,
12 despite all of that, limited to asking him some
13 specific thing that contradicts what he said in
14 Court?

15 MR GIPSON Yes, sir And I believe that I'm
16 allowed to go in and ask him, you know -- the
17 specific question I believe I can ask him is what
18 did he tell him, you know Did he tell him --

19 THE COURT Well, what did he tell him?

20 MR GIPSON He told him -- there are several
21 things, Your Honor In the prior appearance, he
22 mentioned that he was in the car, he was driving
23 Certain things happened Head Walker was in the
24 car, hanging onto the car and was shooting, things
25 of that nature

1 THE COURT That would not be impeachment,
2 because that's what he testified to, right? Or you
3 want him to -- since he said he didn't talk with him
4 about anything, then you want him to testify as to
5 everything that he told him?

6 MR GIPSON. Well, I'd like him to testify
7 about some of those matters I won't say everything
8 that he told him, but those matters that are
9 specific to this case, especially as it relates to
10 his involvement in his cousin's involvement, Head
11 Walker's involvement, in this matter, which he has
12 denied in Court

13 THE COURT Do you have specific questions to
14 ask him concerning all that as opposed to an open-
15 ended "What did he tell you?"

16 MR GIPSON I do, Your Honor I do I do
17 have some specific questions

18 THE COURT All right What do you say, Mr.
19 Weeks?

20 MR WEEKS Well, Your Honor, we've got a
21 transcript of Mr Smith's testimony from another
22 time And his testimony over my objection was there
23 had been some conversation with Ware

24 The only thing I see different from what's
25 been testified to was that he said Walker jumped in

1 the car with a gun. He said Ware told him this
2 All he knows was that Walker jumped in the car with
3 a gun and told him to follow the truck, a red truck

4 And as he was following the red truck,
5 Walker got out of the window and started shooting at
6 the truck I don't know that that's a part that's
7 different

8 THE COURT Mr Gipson, anything else?

9 MR GIPSON That's the crux of what I'm
10 asking, Your Honor, those matters.

11 THE COURT The crux of what you just --

12 MR GIPSON Yes, sir

13 THE COURT -- were discussing --

14 MR GIPSON Yes, sir

15 THE COURT. -- with Mr Weeks there?

16 MR GIPSON That's correct

17 THE COURT Well, I didn't hear what you were
18 telling him

19 MR GIPSON I just told him that was the crux
20 of what it was, just that Ware testified that his
21 cousin jumped in the car with a gun, told him to
22 follow him the car, and they were riding down
23 shooting at the car

24 THE COURT He's your witness So do you
25 intend to ask him those questions, did he say, did

1 he say that?

2 MR GIPSON I do

3 THE COURT Is there any objection to that by
4 the State?

5 MR WEEKS No, not right now

6 THE COURT All right

7 MR WEEKS I'm sure I will if Mr Gipson is
8 going to testify I really don't want too much
9 leading, you know?

10 MR. GIPSON And, Your Honor, that quite
11 honestly was the reason for asking him what was said
12 -- you know, "What, if anything, was said to you
13 during the meeting?"

14 But if you'll allow me to ask him a
15 specific question like that, I can do that. That's
16 the reason for asking the kind of open-ended
17 question

18 THE COURT Well, you're limited to asking what
19 was contradictory to his testimony as opposed to --

20 MR GIPSON Yes, sir

21 THE COURT -- I believe as opposed to just an
22 open-ended statement.

23 MR GIPSON Yes, sir

24 THE COURT All right, anything else?

25 MR WEEKS The whole issue about whether or

1 not he is properly impeaching Mr Ware's testimony,
2 he never asked Mr Ware, "Did you ever tell DeShawn
3 Smith that Edward Walker jumped in the car with a
4 gun and told him to follow the truck, a red truck?"

5 THE COURT Well, he went through a litany of
6 that with one of those guys And I'm not sure
7 whether it was Ware or Walker

8 MR. GIPSON I went through it with Walker and
9 some of that with Ware as well

10 MR WEEKS And they're all in denial that they
11 -- he asked him, "Did you ever talk? Did you ever
12 talk? Did you ever give him any details of your
13 case?" But he never specifically said, you know --

14 THE COURT Well, I'll allow the specific
15 questioning of him regarding any inconsistent
16 statements

17 MR GIPSON Thank you, Your Honor

18 THE COURT Now, let's bring the jury back.

19 MR GIPSON And may I ask this question, Your
20 Honor?

21 THE COURT Yes, sir

22 MR GIPSON We're going to broach this subject
23 as well with Edward Walker, because Mr. Smith said
24 that he had conversation with Mr Walker as well.
25 And, again, we went through that litany of questions

1 with Walker, and I can read those questions to the
2 Court about the specific things that he asked or --
3 that I asked him whether or not he had conversation
4 with Edward Walker about it So that's going to
5 come up with Edward Walker to impeach the testimony

6 THE COURT All right, I understand

7 (Whereupon, the witness was
8 brought in and placed back on the witness stand)

9 THE COURT All right, bring the jury, please

10 BAILIFF Yes, sir

11 (The jury returned to the
12 courtroom at 3 35 p m)

13 THE COURT You may proceed

14 MR GIPSON Thank you, Your Honor

15 EXAMINATION CONTINUED

16 BY MR GIPSON

17 Q Just to recap very briefly, Mr Smith, you
18 said you were housed in a pod at the Aiken County
19 Detention Center with Wallow Ware, correct?

20 A Yes, sir

21 Q I need you to speak up a little

22 A Yes, sir

23 Q And while there, you had conversations
24 with Wallow Ware about particulars in this case?

25 A Yes, sir

1 Q Okay Now, did he at any point tell you
2 that Edward Walker got into the car with a gun?

3 A Yes, sir

4 Q And will you tell us what he said?

5 A He said that -- from the beginning?

6 Q Just from him getting in the car with a
7 gun

8 A He said that Edward Walker got in the car,
9 him and his partner, and they went out to Mr
10 Cornell's house He said that --

11 MR WEEKS Objection

12 THE COURT The objection is
13 sustained

14 MR GIPSON I'm sorry, Your Honor
15 I apologize I spoke over you

16 THE COURT Okay, next question

17 Q The specifics -- did he tell you that
18 Edward Walker got into the car with a gun?

19 A Yes, sir

20 Q Okay When did he tell you that happened?

21 A When he went out to the truck

22 Q Okay, tell us that portion

23 A He said that Edward Walker got into the
24 car with him and told him to follow that truck
25 They went after the truck He said Edward Walker

1 got out of the car and started shooting at the
2 truck

3 Q And he told you this while you were at the
4 Aiken County Detention Center?

5 A Yes, sir

6 Q Okay Now, did he tell you who else was
7 in the car?

8 A No, sir

9 Q Did he -- and when you said "No, sir," he
10 didn't say anything about anyone else being in that
11 car?

12 A No, sir

13 Q Okay What did he tell you?

14 A He said that when the truck started
15 flipping --

16 MR WEEKS Objection, Your Honor
17 This was just answered

18 THE COURT The objection is
19 sustained

20 Q Now, did he tell you what happened as this
21 -- after the shots were fired?

22 A He said he went back to Cornell's house

23 Q And after the shots were fired, was that
24 all that he told you about this case, the specifics?

25 A Yes, sir

1 Q All right Now, why is that he felt so
2 comfortable coming to talking about this case?

3 MR WEEKS Objection, Your Honor

4 THE COURT The basis for the
5 objection?

6 MR WEEKS He can't speak as to why
7 Wallow Ware felt comfortable or not

8 THE COURT The objection is as to
9 the form of the question Restate the question --
10 rephrase the question

11 Q Did you speak to Mr Ware about issues
12 other than this case?

13 A We was just talking about our cases
14 together.

15 Q So you told him stuff about your case?

16 A Yes, sir

17 Q He told you stuff about his case?

18 A Yes, sir

19 Q Did you have any other interaction with
20 him while he was housed in the same pod with you?

21 A Well, we've been in two pods together

22 Q And this was over a period of how long?

23 A A couple of months

24 Q Did you talk about anything other than
25 cases?

1 A No, sir

2 Q All right Did you have an opportunity
3 while you were back there to meet -- in the Aiken
4 County Detention Center -- to meet with Edward
5 Walker?

6 A Yes, sir

7 Q Did you talk to Edward Walker?

8 A Yes, sir

9 Q How did you come to meet him and speak
10 with him?

11 A We was in A pod together, and we was in C3
12 together

13 Q And when you say A pod and C3, those are
14 just two different areas?

15 A Two different pods, yes

16 Q All right And while you were back there,
17 did you have an opportunity to talk to Edward Walker
18 about things regarding this particular case?

19 A Yes, sir.

20 Q Did you talk to him about things and
21 matters not regarding this case?

22 A Yes, sir

23 Q Did you have an opportunity to talk to him
24 and interact with him in other ways?

25 A Yes, sir

1 Q What other ways did you interact with Mr
2 Walker?

3 A We played cards together We were always
4 on the rock together

5 Q You said you were always --

6 A On the rock That's what you call the
7 rock when you're sitting on there, from outside your
8 cell, looking at TV or whatever

9 Q And that area is known as the rock?

10 A Yes, sir

11 Q Okay And how long total were you housed
12 with Mr Walker?

13 A The first time was in A pod together, was
14 probably for about a month And then we moved to C2
15 -- C3, and we was probably in there for about a
16 month or two

17 Q Now, you said you had an opportunity to
18 speak to him about the case

19 A Yes, sir

20 Q Did Edward Walker ever tell you that he
21 was directly involved in this matter?

22 A Well, yes, sir

23 Q Did he ever tell you that he was in a car
24 driven by Wallow Ware --

25 A Yes, sir

1 Q -- on August 27, 2005?

2 A Yes, sir

3 Q Will you tell us about that?

4 A He said -- from the beginning?

5 MR WEEKS Objection, Your Honor

6 THE COURT The objection is

7 sustained

8 Q Did he tell you that he ever fired a shot
9 in this case?

10 A Yes, sir

11 Q What did he tell you?

12 A He told me that he was on top of the -- he
13 was in the car He was on top of the car shooting
14 at a truck

15 Q And did he tell you who was in the car
16 with him?

17 A He said Wallow Ware Well, really, he
18 didn't call his cousin's name But he just said "my
19 cousin "

20 Q And to your knowledge, who is his cousin?

21 A Wallow Ware

22 Q How often did you speak with Edward Walker
23 about the matters in this case?

24 A Well, we just discussed it, because he
25 asked me -- he was like, "What you think I should

1 do?" I was like, "I don't know what you should do "
2 And he called me -- I forgot his name, Mr Bill
3 Hartman or something like that

4 Q Yes, sir

5 A He tried to get me involved in that case
6 through him

7 Q And Bill Hartman used to be an
8 investigator, is that correct?

9 A Investigator, yes.

10 Q All right Now, did you have an occasion,
11 after you learned about these matters with Mr.
12 Walker and Mr Ware, to do anything in particular
13 with that information?

14 A Yes, sir

15 Q What is it that you did?

16 A Well, when I first got here, when he was
17 telling me about it, just from the wrongdoings of
18 what he told me he did, I wrote Mr Prince about it

19 Q Okay And who is Mr Prince?

20 A That man right there

21 Q Okay So he's an officer with the Aiken
22 County Sheriff's Department?

23 A Yes, sir

24 Q Okay And what happened as a result of
25 you writing Mr Prince?

1 A Nothing

2 Q What happened next?

3 A I wrote Mr Bill Weeks about it

4 Q Okay And what happened as a result of --
5 and tell us what you wrote Mr Weeks

6 A About the proceedings of this case.

7 Q And what happened as a result of you
8 writing Mr Weeks?

9 A Nothing

10 Q Did you have an opportunity to meet with
11 Mr Weeks?

12 A Yes, I met with Mr Weeks, with Ms.
13 Brisbin, and Mr Prince

14 Q Okay So several of the folks sitting on
15 the prosecution side of the courtroom?

16 A Yes, sir

17 Q Okay And as a result of those things,
18 were you -- you were in jail at that time,
19 obviously

20 A Yes, sir

21 Q Were you offered anything?

22 A No, sir

23 Q Did you have pending charges?

24 A Yes, I had my charges that I was on right
25 now

1 Q Okay Were you offered anything as a
2 result of what you -- with the information that you
3 provided to them?

4 A No, sir

5 Q So what happened? After you provided the
6 information, what happened?

7 A Nothing

8 Q All right Now, at this point in time,
9 you've come in this courtroom, and you've promised
10 to tell the truth, the whole truth, and nothing but
11 the truth?

12 A Yes

13 Q Have you done that?

14 A Yes, sir

15 Q What have you gained from your testimony
16 here today?

17 A Nothing

18 Q Is anybody promising you anything?

19 A No, sir

20 Q Is anybody saying "We're going to help you
21 get out of jail"?

22 A No, sir

23 Q Is anybody paying you to testify?

24 A No, sir

25 Q Then why are you here?

1 A Because it was wrong, and, like I say, I'm
2 trying to do better in my life right now I feel
3 like this is a start for me to do better in my life,
4 because, you know what I'm saying, it was senseless

5 Any other time, I wouldn't have stepped up
6 to do nothing like this But I felt like it was
7 wrong, for a man to go around and brag about what he
8 did, you know what I'm saying

9 Q Okay And at any point in time as you
10 learned information from these two individuals --
11 the cousins, Mr Ware and Mr Walker -- did they
12 ever tell that you Cornell Tyler was in that car?

13 A No, sir

14 MR GIPSON All right, Your Honor, that's all
15 my questions

16 THE COURT All right, cross-examination?

17 CROSS-EXAMINATION

18 BY MR WEEKS

19 Q How are you doing, Mr Smith?

20 A Doing all right

21 Q You said nothing happened as a result of
22 your writing a letter to me

23 A Nothing.

24 Q Do you think I just come over there and
25 visit people at the jail every day?

1 A I don't know what you came over there
2 But I know you came over there to hear what I had to
3 say

4 Q I came over there to talk to you along
5 with Ms Brisbin, didn't I?

6 A Yes, sir

7 Q And y'all had pending charges Ms. Brisbin
8 was prosecuting you on?

9 A Yes, sir

10 Q And your lawyer was there?

11 A Yes, sir

12 Q And as we were leaving, you handed me this
13 letter that you had written?

14 A Yes, sir

15 Q Okay And in the letter, don't you tell
16 me that Edward Walker says he told you he grabbed a
17 pistol?

18 A He grabbed a pistol?

19 Q That he pulled out a pistol because he
20 didn't know who it was Did Edward Walker tell you
21 he was shooting a pistol?

22 A He told me he was shooting a pistol.

23 Q A pistol -- you're clear about that?

24 A I think he said a gun

25 Q But in this letter, you say a pistol,

1 don't you?

2 A But, you know what I'm saying, from the
3 street we call it pistol, gun, burners, everything
4 So it all means the same

5 Q A pistol on the street is the same thing
6 as a rifle?

7 A Well, it could be

8 Q Okay And also you said that Edward
9 Walker told you that they were following a red
10 truck, didn't you?

11 A Yes, sir

12 Q Okay And that he was doing the shooting
13 while he was going 90 to 100 miles an hour?

14 A Yes, sir

15 Q And did he tell you Cornell Tyler was in
16 Jamaica?

17 A That's what he told me

18 Q Now, to be straight, you're serving time
19 for strong-arm robbery and burglary second?

20 A Yes, sir.

21 Q But you have a prior history of failure to
22 stop for a blue light, possession of a stolen
23 vehicle in '03, in '94 another strong-arm robbery
24 And to be honest, the day Ms Brisbin and I went
25 over and you handed us all these letters that you

1 had written, you were pretty much trying to convince
2 us that had information on about three or four
3 different murders, weren't you?

4 A Three or four different murders?

5 Q Three different cases that you wanted to
6 snitch people out on in the jail?

7 A I don't think about it as snitching

8 Q Well, you were giving us letters
9 implicating --

10 A Yes, sir

11 Q -- saying they were making admissions to
12 you?

13 A Yes, sir

14 Q And at the same time, you were trying to
15 get help for your strong-arm robbery case, weren't
16 you?

17 A Well, no, not really help

18 Q You were just telling us all this out of
19 the goodness of your heart with your lawyer there?

20 A Well, you could say that

21 Q And Mr Gipson didn't ask you how much you
22 had been rooming with Cornell Tyler while you were
23 at the jail How much is that?

24 A Excuse me?

25 Q How much you stayed with Cornell Tyler

1 while you were at the jail

2 A How long did I stay with him?

3 Q Uh-huh

4 A I stayed in the room for about three --
5 about three or four weeks.

6 Q Okay

7 THE COURT Any redirect?

8 MR GIPSON Court's indulgence.

9 REDIRECT EXAMINATION

10 BY MR GIPSON

11 Q And isn't it true that you wrote these
12 statements prior to ever rooming with Cornell Tyler?

13 A Yes, sir

14 Q And did Cornell Tyler at any point ever
15 ask you to do anything for his case?

16 A No, sir

17 Q I'm sorry?

18 A Excuse me?

19 Q You were answering -- did Cornell Tyler
20 ever ask you to do anything for this case?

21 A No, sir

22 Q And the statements that you wrote and gave
23 to the Solicitor's Office in this case were done
24 prior to you ever being --

25 A Yes, sir

1 Q -- roomed with Mr Tyler, prior to?

2 A Way before we was roommates

3 Q Thank you That's all my questions

4 MR WEEKS Your Honor, may I follow up?

5 THE COURT Yes, sir

6 RE CROSS EXAMINATION

7 BY MR WEEKS

8 Q You never wrote me a statement about
9 Wallow Ware, did you?

10 A No, sir The only reason why I didn't
11 write you a statement about Wallow Ware is because
12 the first time when I wrote you a statement about
13 Edward Walker, you didn't do nothing about it So I
14 figured that it wasn't important to you So I just
15 left it alone.

16 Q The fact of the matter is you never said
17 anything about Wallow Ware?

18 A No, sir

19 Q Okay.

20 THE COURT You may step down, sir

21 MR GIPSON I'd ask that he be excused, Your
22 Honor

23 MR WEEKS No objection

24 THE COURT This witness is excused

25 Your next witness

1 MR GIPSON. I'd like to call Frederick Scott,
2 Your Honor.

3 THE COURT All right, Frederick Scott

4 CLERK OF COURT Mr. Scott, I need you to come
5 forward here, please. Place your left hand on the
6 Bible and raise your right

7 (The witness was sworn)

8 CLERK OF COURT Please have a seat in the jury
9 box, state your full name for the Court, and spell
10 your last.

11 MR SCOTT Frederick Lee Scott -- S-C-O-T-T

12 FREDERICK LEE SCOTT, having first
13 been duly sworn, testified as follows.

14 DIRECT EXAMINATION

15 BY MR GIPSON

16 Q Good afternoon, Mr Scott

17 A Good afternoon

18 Q Now, where are you from, Mr Scott?

19 A Springfield

20 Q And the Orangeburg side of Springfield or
21 the Aiken side of Springfield?

22 A The Orangeburg side

23 Q All right. And were you living in --
24 where were you living in August of 2005?

25 A On the Aiken County side

1 Q And can you tell us exactly where on the
2 Aiken County side of Springfield you were living?

3 A I was living on Highway 394, at 2574

4 Q Twenty-five seventy-four --

5 A That's the highway It's Salley

6 Q Okay

7 A Salley, South Carolina

8 Q Okay, so on the Salley side And is there
9 a particular road or a name for the --

10 A South Dixie Road

11 Q South Dixie Road?

12 A Yes, sir

13 Q All right And tell us -- just kind of
14 orient us to kind of what that's near

15 A It's by a little restaurant, about two
16 miles from Salley.

17 Q Okay Now, I'm going to hand you what's
18 been marked at this point as State's Exhibit Number
19 Sixteen Just take a quick look at that and let me
20 if you can just kind of orient yourself based on
21 looking at that diagram

22 A Yes, sir

23 Q You can orient yourself?

24 A Yes, sir

25 Q And just let ask you this. When you nod

1 your head, it's hard for the Court Reporter to --

2 A Okay

3 Q -- know if it's a "yes" or a "no," so
4 you've got to say "yes" or "no "

5 A Yes, sir

6 Q All right So looking at that exhibit
7 that I just handed you, can you tell the Court what
8 that looks like?

9 A It's the exact spot where I was living out
10 here, right here by the restaurant

11 Q Okay

12 MR GIPSON If I can have the Court's
13 indulgence, may I have that back from you? Court's
14 indulgence, Your Honor. Your Honor, may the witness
15 step down?

16 THE COURT Yes, sir.

17 MR GIPSON Thank you

18 Just come on down here and talk to us for
19 a couple of moments

20 Q If you'll hold this pen Would you show
21 the jury where you lived in August of 2005?

22 A In August of 2005, I would be living up on
23 this end

24 Q You can touch the screen

25 A I would be living up on this end. This is

1 the four-way crossing down by the pecan trees that
2 leads towards the swamp And this is was the road
3 like towards the club I was staying up on this end
4 where there's another four-way crossing

5 Q Okay And if you'll just put a circle
6 about where you were living at that point in time
7 You can write on the screen

8 A Okay, I was living up here -- right up
9 here.

10 Q And show us where that four-way stop is
11 again, please.

12 A The four-way stop is actually right up in
13 here, and there's a restaurant right here

14 Q Okay Do you know the name of that
15 restaurant?

16 A Rudy's Hilltop

17 Q Okay

18 COURT REPORTER Say the name again.

19 Q Would you explain the name again, please?

20 A The name of the restaurant is Rudy's
21 Hilltop

22 COURT REPORTER Rudy?

23 MR SCOTT Yes, ma'am

24 Q If you'll have a seat now, please Now --
25 and, again, you were living at that location you

1 just spoke about in August of 2005, correct?

2 A Yes, sir

3 Q August 27, 2005, you lived in that
4 location?

5 A Yes, sir

6 Q What, if anything, do you remember about
7 August 27, 2005?

8 A Well, that morning, me and my wife was in
9 the bed, and there was a knock on the door So my
10 wife got up, went and answered the door When she
11 answered the door, she hollered back in the room --

12 Q You can't tell me what your wife said

13 A Okay

14 Q But you can tell me what happened as a
15 result of any conversation your wife had

16 A Okay Well, there was a knock on the
17 door So the door was answered, and it was Mr
18 Walker

19 Q Okay When you say Mr Walker, who is it
20 you're referencing?

21 A Mr Edward Walker

22 Q Okay Also known as Head Walker?

23 A As Head Walker

24 Q All right Did you know Head Walker
25 before August 27, 2005?

1 A Yes, sir

2 Q How did you know him?

3 A I used to date one of his relatives, a
4 relative in his family

5 Q All right And did you have any other
6 knowledge of him?

7 A Besides knowing reputation-wise, no other

8 Q Okay When you met with Mr Walker or Mr
9 Walker came to your door that morning, what
10 happened? What's the next thing that happened?
11 Well, first of all, what time was it?

12 A It was between seven and eight

13 Q Okay

14 A It had to be between seven and eight

15 Q All right Well, what happened next?

16 A I told Mr Walker to sit up under the
17 tree, and I would be out in a minute, because I
18 wasn't dressed yet

19 Q Okay

20 A So I got dressed I went out up under the
21 tree, and he was -- you know, he was nervous. So I
22 asked him, I said, "What's wrong?" And he just --
23 he kept his head down, and he said, "Man, I think we
24 done shot somebody "

25 And I kind of looked at him, and I said,

1 "What'd you say?" And by the time I said that, my
2 next-door neighbor, which is my stepfather-in-law,
3 he came out of his trailer and was coming toward me
4 and Mr Walker

5 Q What's his name?

6 A Mr John George Gaines And he was coming
7 toward me and Mr Walker Before he could get to me
8 and Mr Walker, Mr Walker made a low statement
9 saying --

10 MR WEEKS Objection

11 THE COURT Your basis for the
12 objection?

13 MR WEEKS Hearsay.

14 THE COURT All right, Mr Gipson?

15 MR GIPSON Your Honor, these are
16 again -- it's not hearsay based on the fact that
17 these again are direct questions we've asked Mr
18 Walker that he's referring to I can ask just a
19 question if you'd like, Your Honor

20 THE COURT All right, specifically
21 word the question The objection is sustained

22 MR GIPSON Your Honor, may I
23 approach -- I'll just rephrase it, Your Honor --

24 THE COURT All right

25 MR GIPSON -- and ask him another

1 question

2 Q While Mr Walker had that conversation --
3 first of all, why couldn't he come in the house?

4 A Because Mr Walker had never been in my
5 house until then And before that incident, you
6 know, Mr Walker had a run-in with my wife earlier

7 Q All right Now, that particular morning,
8 you said under the tree you all had a conversation
9 Did he ask you to do anything particular?

10 A No, sir, he didn't ask me to do anything
11 particular He just stated in a low voice that --

12 MR WEEKS Objection, Your Honor

13 THE COURT All right, counsel

14 approach

15 MR GIPSON Yes, sir.

16 THE COURT The objection is

17 sustained

18 MR GIPSON: Thank you, Your Honor.

19 Q While you were in the presence of Mr.
20 Walker that morning, did he discuss hiding a gun in
21 your presence?

22 A He made a statement, yes, sir

23 Q What did he say?

24 A He said in a low voice, "I need to hide
25 the gun "

1 Q And what did you do after he said that?

2 A I just -- I looked at him like, "Are you
3 talking to me?" But he never did say anything else

4 Q Okay And so he came to your house at
5 7 00 in the morning and discussed hiding a gun?

6 A Yes, basically that's what it was

7 Q Now, what happened in that area earlier
8 that morning?

9 A There had been a shooting

10 Q Okay How do you know that?

11 A We got a message over the phone --

12 Q Okay

13 A -- that morning.

14 Q That there had been a shooting?

15 A Yes, sir

16 Q Did you recognize anything out of the
17 ordinary that morning?

18 A Besides later on a tow truck came through
19 with the paper truck on the back that had been
20 wrecked and shot up

21 Q Okay How far did you live away from the
22 area where the paper truck -- and I know we saw it
23 on the diagram But how physically far did you live
24 from that location?

25 A Maybe a mile

1 Q Do you work, Mr Scott?

2 A Yes, sir

3 Q Where do you work?

4 A At the time that the incident happened, I
5 was working taking care of the cows that was in the
6 pasture that the truck overturned in

7 Q So you're very familiar with that area?

8 A Yes, sir

9 Q All right Was it out of the ordinary for
10 Mr Walker to come to your house?

11 A Yes, sir

12 Q Let me ask you this In view of the fact
13 that he came to your house to discuss these things
14 and you were aware that a shooting had taken place,
15 why didn't you go to the police?

16 A I didn't want anything to do with it, to
17 tell you the truth

18 Q And you had an opportunity to go to Mr
19 Weeks, to go to law enforcement, because they're all
20 over the place for the next few days, few weeks,
21 quite honestly Why didn't you just go down there
22 and say, "Hey, I know something happened"?

23 A Like I said, I didn't want anything to do
24 with it

25 Q Okay And why are you in here testifying

1 today?

2 A Because I -- you know, I thought about it
3 And it had been somebody in my family that was the
4 victim and I knew somebody else had knew what
5 happened, I would want them to come forward and tell
6 exactly what happened

7 Q At any point in time, did Mr Walker ever
8 mention Cornell Tyler's name?

9 A No, sir

10 Q How did Mr Walker leave your house?

11 A He left in a blue Ford -- a short blue
12 Ford And exactly, he was sitting under the tree,
13 and the car was coming from the direction that the
14 incident happened at He stood up and waved his
15 hand

16 The car came in the yard He went and
17 talked to the person in the car The car left and
18 went back toward the same direction it just had came
19 from. About five or ten minutes later, the car came
20 back

21 Mr Walker went back to the car, said a
22 couple of words to the driver, looked back toward me
23 and said, "Man, I'll see you later " He got in the
24 car They left and went toward Wagener

25 Q Now, did you hide a gun for Mr. Walker?

1 A No, sir

2 Q Did you do anything else regarding this
3 case?

4 A No, sir

5 Q Okay Your only involvement in this case
6 is just the things that you have talked to this
7 Court and this jury about right here today?

8 A Yes, sir

9 MR GIPSON That's all my questions,
10 Your Honor

11 THE COURT Cross-examination?

12 CROSS-EXAMINATION

13 BY MR WEEKS

14 Q Mr Scott, are you sure you know what that
15 diagram is all about?

16 A Yes, sir

17 Q Would you step down here for me, please?
18 If I heard you right, you said if you go this way,
19 where do you get to?

20 A You go that way Okay, I see what you're
21 saying In fact, my house is up here, not right
22 there This is the other direction I'm looking
23 for my house

24 The way it's set up here, this would be
25 the road coming from Salley But if I look at it

1 now, I would have to say this way, and this would be
2 the road coming from Salley So this road here
3 leads out to the pecan trees

4 That road there goes up toward the
5 residence of Mr Cornell Tyler This road here goes
6 back toward -- if you go back down this way, it goes
7 back toward Salley

8 Q Well, where is the restaurant?

9 A The restaurant is over here

10 Q The restaurant is over there That's
11 where your house is, over there?

12 A Yes, sir

13 Q I thought you said that your house was by
14 the restaurant?

15 A That's what I'm explaining I said I
16 didn't realize

17 Q Well, did the restaurant move, or did the
18 diagram move?

19 A Neither one moved It's just I --

20 Q Is your house by the restaurant?

21 A Yes, sir

22 Q And the restaurant you're now convinced is
23 over here somewhere?

24 A Yes, sir

25 Q So we would say -- do you want to mark

1 that now where your house?

2 A It would be somewhere up in here

3 Q Okay Now, do you know Ms Valerie
4 Williams?

5 A Yes, sir

6 Q Is she a neighbor?

7 A She stays right down the road

8 Q Right down the road?

9 A Yes, sir

10 Q And didn't you say your address was South
11 Dixie Road?

12 A South Dixie Road

13 Q South Dixie Road runs down this way, and
14 there's a four-way stop right there, isn't there?

15 A Yes, sir

16 Q Okay But you said your address was South
17 Dixie?

18 A Yes

19 Q And this ain't South Dixie over here, is
20 it?

21 A No, sir.

22 Q What is that?

23 A Three ninety-four

24 Q Highway 394 What's the name of the road?

25 A I don't exactly know the name

1 Q How about is there a road that comes in
2 right here?

3 A I don't know I can't remember.

4 Q Mr Scott, I ain't lived down there
5 before How long have you lived there?

6 A A couple of years

7 Q You don't know whether or not there's a
8 road that comes in right here?

9 A Not unless it's a dirt road

10 Q Now, if you go down this road right here,
11 this way, what do you get to? I ain't trying to
12 trick you, but I'm trying to figure out if you know
13 the scene

14 A You go to Aiken that way, the way to go to
15 Salley from the other road, from Windsor Road,
16 coming that way

17 Q Okay You can have a seat back up there
18 Now, all of this happened, you're convinced, at 7:00
19 -- either at seven or eight in the morning?

20 A Yes, sir

21 Q And this Walker fellow, who doesn't ever
22 come to your house, had some disagreement with your
23 wife, he's going to come up to you and get you to
24 hide some gun?

25 A Yes, sir

1 Q You never saw a gun?

2 A No, sir

3 Q Is a pistol the same thing as a rifle to
4 you?

5 A No, sir

6 Q Did he say what kind of gun?

7 A No, sir

8 Q And while y'all are sitting there -- while
9 he's sitting there with you -- you see the tow truck
10 coming by with the --

11 A No, sir, that was later on

12 Q Later on, okay

13 A Yes, sir

14 Q But all in this area that was depicted up
15 here, law enforcement was all over that area at 7 00
16 or 8 00 that morning, right?

17 A I imagine so

18 Q Well, did you see any police cars?

19 A No, sir, not from the time I was under the
20 tree

21 Q Not for the time you was under the tree
22 Did you go out?

23 A No, sir, I never did left the house that
24 day

25 Q How long have you known Cornell Tyler?

1 A For a while -- couple of years maybe

2 Q Just a couple of years?

3 A Far as I can remember, you know, about as
4 long as I knew Mr Walker

5 Q All right How long is that?

6 A Ten, fifteen years

7 Q Okay That's more than couple, isn't it?

8 A Yes, sir

9 Q All right And you live right -- I guess
10 you live right in the neighborhood of Mr Cornell
11 Tyler, don't you?

12 A Somewhere around up in that area

13 Q Somewhere around up in that area

14 MR WEEKS No further questions

15 THE COURT Anything further?

16 MR GIPSON Yes, sir

17 REDIRECT EXAMINATION

18 BY MR GIPSON

19 Q Did you draw that diagram? This diagram
20 that we showed you as State's Exhibit Number
21 Sixteen, did you draw this?

22 A No, sir

23 Q Okay What is your address?

24 A My address was 2575 South Dixie Road --

25 Q Okay

1 A -- what was on my--

2 Q And that's your address -- wherever it
3 falls on this map, that's your address?

4 A Yes, sir

5 Q And that's where you live?

6 A Yes, sir

7 Q And that's behind the restaurant?

8 A Yes, sir

9 Q Rudy whatever restaurant?

10 A Yes, sir

11 Q And that hasn't changed regardless of how
12 many questions you're asked?

13 A Yes, sir.

14 MR GIPSON That's all my questions

15 MR WEEKS Nothing further.

16 THE COURT You may step down

17 MR GIPSON I'd ask that the witness be
18 excused, Your Honor

19 MR WEEKS No objection

20 THE COURT This witness is excused.

21 Your next witness

22 MR GIPSON May we approach for a moment, Your
23 Honor?

24 THE COURT Ladies and gentlemen, we're going
25 to have you go to the jury room for a while Please

1 do not discuss the case

2 (The jury left the
3 courtroom at 4 08 p m)

4 THE COURT Yes, sir

5 MR GIPSON Your Honor, except for potentially
6 Mr Tyler, that's all my witnesses I'd like, if I
7 could, to have a few moments to discuss the
8 ramifications of testifying with Mr Tyler

9 THE COURT All right, we'll take about -- how
10 much time do you need?

11 MR GIPSON Fifteen or twenty minutes max,
12 Your Honor And may we approach for a moment?

13 THE COURT All right We'll take a recess
14 Mr Tyler has a right to talk with his lawyer and
15 any family members that he wants to And they can
16 come to the railing and talk with him We'll be in
17 recess

18 MR GIPSON Thank you, Your Honor

19 THE COURT Let's take a break

20 (Court in recess while
21 defense counsel confers with the defendant)

22 THE COURT Thank you Please be seated

23 All right, Mr Tyler, if you will stand,
24 please Have you made a decision as to whether or
25 not you're going to testify?

1 MR. TYLER Yes, sir

2 THE COURT And what is your decision?

3 MR TYLER To testify, sir

4 THE COURT All right Are you ready to
5 proceed, Mr Gipson?

6 MR GIPSON We are, Your Honor

7 THE COURT All right, bring the jury in
8 Thank you

9 (The jury returned to the
10 courtroom at 4 40 p m)

11 THE COURT: All right, your next witness

12 MR GIPSON Your Honor, I call the defendant,
13 Cornell Tyler

14 THE COURT Mr Tyler

15 CLERK OF COURT Please place your left hand on
16 the Bible and raise your right

17 (The witness was sworn)

18 CLERK OF COURT· Please have a seat in the
19 witness box, state your full name for the Court, and
20 spell your last

21 MR TYLER My name is Cornell Tyler -- T-Y-L-
22 E-R

23 CORNELL TYLER, JR , having first been
24 duly sworn, testified as follows

25 DIRECT EXAMINATION

1 BY MR. GIPSON

2 Q And, Mr Tyler, I think I'm going to have
3 to treat you a little bit similarly like I have some
4 of the others I'm going to stand farther back to
5 encourage you to raise your voice a little bit more

6 A Yes, sir

7 Q As you know, you're either going to have
8 to speak up or lean into the microphone a little
9 bit

10 A Yes, sir

11 Q All right Now, the truth of the matter
12 is you're Cornell D Tyler, Jr , correct?

13 A Yes, sir

14 Q All right And do you have a nickname?

15 A Yes, sir

16 Q What is that?

17 A Duce

18 Q Why do people call you Duce?

19 A Because I'm a junior of my father, and
20 duce stands for two.

21 Q Okay Now, how old are you, Mr Tyler?

22 A Twenty-five

23 Q And where are you from?

24 A Springfield, South Carolina

25 Q From the Orangeburg side or the Aiken

1 side?

2 A Aiken side

3 Q And were you brought up in Springfield all
4 of your life?

5 A Yes, sir

6 Q Did you go to school here?

7 A In Wagener, South Carolina, yes, sir

8 Q And you graduated from Wagener High
9 School --

10 A Yes, sir.

11 Q -- or Wagener-Salley? When did you
12 graduate?

13 A 2001

14 Q Did you have any extracurricular
15 activities or anything of that nature?

16 A Yes, sir, I played football, and I took
17 building construction in high school

18 Q I'm sorry, the last one?

19 A I took building construction

20 Q You took business construction?

21 A Building construction.

22 Q Building construction?

23 A Yes, sir

24 Q Okay And you did that in hopes of doing
25 what?

1 A To be a framer or a football player,
2 either one

3 Q Okay

4 A Yes, sir

5 Q Obviously, you weren't a football player
6 So did you do some construction, things of that
7 nature?

8 A Yes, sir

9 Q Okay

10 A What happened, I was about to go to
11 college football, too, but I had my son at an early
12 age So that's why I didn't pursue football

13 Q Okay

14 A Yes, sir

15 Q Now, you mentioned a son How many
16 children do you have?

17 A I've got three

18 Q And how old are they?

19 A Six, four, two.

20 Q And do you support them?

21 A Yes, sir

22 Q How so?

23 A The way I support them?

24 Q Yes, sir

25 A By working

1 Q Now, what kind of jobs have you had in the
2 past?

3 A Well, when I first got through with high
4 school, I started at Turf Farms -- that's a grass
5 farm -- cut the grass, stuff like that Then I
6 started carwashing, and I did brick mason work with
7 my cousin, Durrell Padgett And I did mechanic work
8 with my cousin, Ernest Bell. And I did repairing
9 polo fields, too, on the side

10 Q Okay. What are the most recent jobs that
11 you've held?

12 A With Cleckley-McGee Construction, working
13 with my cousin, Ernest Bell

14 Q Okay And where is Cleckley-McGee
15 Construction?

16 A It's in Orangeburg, South Carolina

17 Q Okay What kind of work did you do for
18 them?

19 A I was a laborer I started out as a
20 laborer

21 Q Okay And did you climb the food chain at
22 all? Did you get any promotions, things of that
23 nature?

24 A Well, before I could climb, my grandma had
25 passed, so I kind of fell back from work Then I

1 didn't go back at that time I went back to work
2 with Ernest Bell, mechanic, because more money was
3 coming in to do with mechanic

4 Q All right Did you at any point in time
5 have more than one job?

6 A Yes, sir

7 Q Okay And when was that time period, and
8 what were the jobs?

9 A That was before this incident That was
10 in '05 I did polo grounds during the summertime,
11 too, after I get through mechanic Like if mechanic
12 slowed down early that day, Mr Frank Buckett would
13 call me And I'd get the crew up, and we'd go do
14 the field

15 Q And you keep saying "do polo grounds "
16 What does doing polo grounds entail?

17 A It's after the horses done tore the field
18 up from playing polo When they make turns, they
19 dig a hole in the ground. So we walk around with
20 buckets of dirt and throw dirt in the holes and get
21 our feet and just move it out And we do the whole
22 fields, practice fields, too

23 Q About how large are those polo fields, for
24 all of us who don't know a lot about polo?

25 A Some fields are bigger than others, but

1 most of the time about 150 yards

2 Q So a little bit larger than a football
3 field?

4 A Way larger, yes, sir

5 Q So basically that's a football field and a
6 half?

7 A Yes, sir

8 Q All right And if you have a crew, how
9 long does it take you to do that type of thing, to
10 fix a whole field?

11 A Well, most of the time we'll usually go
12 out there with six to eight people So if it's
13 eight people, it'll take about eight hours, and then
14 depending on how bad the field is, too

15 Q Okay So in August of 2005, is it fair to
16 say you were working with your cousin doing
17 mechanic's work --

18 A Yes, sir

19 Q -- Mr Bell?

20 A Yes, sir

21 Q And you were also working on polo fields?

22 A Yes, sir

23 Q Would that have been the case on or about
24 August 26 and 27, 2005?

25 A Yes, sir

1 Q All right Let's focus a little bit more
2 now

3 A Yes, sir

4 Q First of all, where were you living in
5 August of 2005?

6 A Three forty-four Union Academy Road,
7 Springfield

8 Q Union Academy Road?

9 A Yes, sir

10 Q And quite honestly, that's the address
11 that we've been talking about throughout this entire
12 case?

13 A Yes, sir

14 Q All right Tell us about that particular
15 property Are you the only person in your family
16 who lives there?

17 A Well, my mother lives like a quarter mile
18 behind me

19 Q But it's all one kind of set of property?

20 A Yes, sir, the same land

21 Q Heirs' property kind of thing?

22 A Yes, sir

23 Q All right So you live next to the road?

24 A Yes, sir

25 Q Okay Who was living with you in August

1 of 2005?

2 A My brother and Mr Johnny Miles

3 Q Okay Your brother is who?

4 A Mr Tremaine Tyler

5 Q And how old is your brother?

6 A He's 27 now, I think

7 Q Okay And you said Mr Johnny Miles?

8 A Yes, sir

9 Q And who is Mr Johnny Miles?

10 A He's a friend of the family

11 Q And Mr Miles is how old?

12 A I think Mr Miles is 62, I think, if I'm
13 not mistaken

14 Q And that would have put him around 60 or
15 so when this incident took place?

16 A Yes, sir

17 Q Why was Mr Miles living with you?

18 A Well, he had a falling-out with his boss,
19 and he lived on his boss' property So he had
20 nowhere to live at the time So he came and stayed
21 with me and asked can I give him a job, because he
22 knows I different kind of work And I let him stay
23 with me, and he worked with me to make money to help
24 him get back on his feet, so to speak

25 Q About how long did he live with you?

1 A Before this incident, I'd say about a week
2 and a half, two weeks at the most

3 Q And then this incident took place?

4 A Yes, sir

5 Q All right Now, if we were to focus
6 specifically, we'll start with the 26th of August of
7 2005, what, if anything, happened on the 26th?

8 A The 26th, during the daytime?

9 Q Yes, sir

10 A I had a cookout to my house

11 Q All right

12 A Yes, sir

13 Q And who was at that cookout?

14 A Well, me, and my brother, Johnny Miles,
15 and friends of my family, and family members,
16 because the neighborhood basically involves all
17 family

18 Q And was Edward Walker at that cookout?

19 A No, sir

20 Q How do you know that?

21 A Because I don't let Head Walker come in my
22 house like that

23 Q Why not?

24 A Because he's got a reputation

25 Q When is the last time to your knowledge --

1 when was the last time Edward Walker came to your
2 house prior to -- when was the last time that he
3 came to your house prior to this incident?

4 A I'll just say probably about two weeks, so
5 to speak

6 Q Okay And was that whenever the rift took
7 place?

8 A Sir?

9 Q Was that when the rift or whatever took
10 place? Was that when you told him not to come back
11 to your house?

12 A Yes, sir

13 Q Okay Now, after this barbecue ended,
14 what happened next?

15 A Well, me and my brother was in the house
16 playing PlayStation, like we normally do, sit around
17 with Mr Miles And we joked around, looked at TV,
18 played the PlayStation That was about it

19 Q And just for clarification purposes, just
20 in case, what is PlayStation?

21 A It's a PlayStation 2 It's a video game,
22 with boxing, football, basketball, baseball, so to
23 speak, stuff like that

24 Q And what game did you and your brother
25 play?

1 A Madden '05

2 Q All right Football game?

3 A Yes, sir

4 Q All right Are you any good?

5 A I'm all right My brother, he plays it

6 more than me, so really he's a little better, of

7 course

8 Q Any particular team you play with?

9 A I played the Tampa Bay Buccaneers

10 Q All right Now, who was in the house that

11 evening as it spilled over in the morning time?

12 A Me, and my brother, and Mr. Johnny Miles

13 Q What's the next thing of significance that

14 happened?

15 A Well, later on that night, round about

16 eleven, I had a friend to come by name of Misty

17 She said she was going to go to the club The club

18 is about 15 minutes from my house on 302 going

19 towards Aiken, headed towards Wagener

20 She came by my house, and she wanted to

21 know could she come out after the club I said,

22 "Well, if it isn't too late, just come and knock on

23 the door, and I might wake up If I don't, you'll

24 just know I'm asleep " That's what happened right

25 then

1 Q And did you have a phone at the house?

2 A Yes, sir, a cell phone

3 Q Okay And tell us about cell phones in
4 that area

5 A Well, where I live at, it's a bunch of
6 trees and a bunch of poles So for me to get a good
7 signal, I have to leave out my house and walk up and
8 down the road for me to get all my bars up so I
9 could talk

10 If not, it'll be a lot of static And the
11 LG phone, the kind I had, it'll drop If there's a
12 lot of static coming in, it'll just cut off

13 Q So is it fair to say that cell phone
14 reception is iffy when you get out to that area?

15 A Yes, sir

16 Q Okay And we're not talking about a city
17 area, are we?

18 A No, sir, country

19 Q We're talking about the country?

20 A Yes, sir

21 Q All right What, if anything, happened
22 next?

23 A Well, next I went on to bed and left my
24 brother playing the game after Misty left to go to
25 the club I laid down till about three-something

1 Close to four, I heard a knock at the door

2 So they must have been knocking for a
3 couple of minutes When I got up, I thought it was
4 here When I got up, there's Walker

5 Q And you got up and answered the door?

6 A Yes, sir

7 Q And it's your testimony did you know that
8 it was -- who were you expecting --

9 A I was expecting --

10 Q -- or were you expecting anybody?

11 A I was expecting Misty to come back from
12 the club And that's what made me --

13 Q Made you get up?

14 A Yes, sir

15 Q Okay And when you got to the door, who
16 was it?

17 A Edward Walker

18 Q What happened from there?

19 A Well, when he came to the door, he asked
20 me to let him borrow \$20 First, I asked him, "What
21 you doing at my house this time of night?" Because
22 you know I don't allow people to come to my house
23 this time of night, like that right there, unless
24 they don't call me and let me know earlier that day,
25 just like a friend or something like that

1 Q All right

2 A And I told him, you know, "You need to
3 leave, because you and my brother got in an
4 altercation about this female I don't know nothing
5 about what's going on You know, I don't pick no
6 sides, you know

7 "If you and my brother have got a
8 disagreement, I don't know what's going on, so I'm
9 out of it " So he asked me can he borrow \$20 I
10 gave him the \$20 and told him he needed to leave

11 Q Why did he feel comfortable asking you to
12 borrow money?

13 A Well, when he first got out of prison, I
14 saw him up town, and he had --

15 Q When you're saying "up town," where is up
16 town?

17 A In Wagener, yes, sir

18 Q All right And what happened?

19 A When he first got out of prison, he asked
20 me could he borrow \$20 because he didn't do nothing
21 for his son the whole time He at least wanted to
22 go to him with some diapers and something from
23 Dollar General, toys or something So, you know, me
24 being the person that I am, I let him borrow the
25 \$20.

1 Q Okay And what happened from there?

2 A So after I told him to leave --

3 Q We're focusing back on one night At this
4 point, it's August 27, 2005?

5 A Yes, sir After I told him to leave,
6 right?

7 Q Yes, sir

8 A After I told him to leave, I closed the
9 door, went back in my room, and laid down About
10 that time, I heard shots go off So I paused for a
11 minute like, "What's going on?"

12 The first thing in my mind was hunting,
13 because shots go off in my 'hood all the time -- my
14 neighborhood You know, the first thing I'm going
15 to think is hunting, not nothing serious or nothing
16 like that

17 Q Okay

18 A But I got back up, you know After I laid
19 down for a couple of seconds -- I'd say 30 seconds
20 to a minute -- I got back up And I didn't see
21 nobody, so I just closed the door, went back and
22 laid down

23 Q Okay Now, you said that Johnny Miles was
24 at your house?

25 A Yes, sir

1 Q And your brother, Tremaine, was at the
2 house?

3 A Yes, sir

4 Q Where were they when these shots were
5 fired?

6 A In the living room area

7 Q Okay Now, what happened next?

8 A Next, I laid down for about two or three
9 minutes Walker came back to my house, knocked on
10 the door again

11 Q Okay

12 A I opened the door. He told me, "I believe
13 something happened," which I asked him what
14 happened, and he wouldn't tell me what happened He
15 just said, "You just need to get from around here "

16 So at that point, I closed the door He
17 left I got my brother and Mr Johnny Miles up I
18 said, "Man, Walker said something happened We need
19 to get up and leave I don't know what it is or
20 what happened "

21 Q Why did you feel compelled to get up and
22 tell them they need to leave? Why would you feel
23 that's necessary?

24 A Well, at the time when he came back and
25 said something had done happened, and I heard shots,

1 I kind of put two and two together Like I heard
2 shots, and he told me I needed to leave, something
3 had done happened that I don't know nothing about
4 So I don't know what happened I couldn't
5 pinpoint So he told me to leave, so I felt like I
6 needed to leave

7 Q Okay And did you leave?

8 A Yes, sir

9 Q First, before you left, did you see
10 anybody else at your house?

11 A No, sir

12 Q How did Head Walker get to your house?

13 A I really don't know But after learning
14 the case, he was with his cousin

15 Q Okay.

16 A Yes, sir.

17 Q And his cousin is who?

18 A Mr Wallow Ware

19 Q So you said Head told you that you needed
20 to leave?

21 A Yes, sir.

22 Q You said you woke up your brother,
23 Tremaine?

24 A Yes, sir

25 Q You woke up Mr Miles?

1 A Yes, sir

2 Q What happened --

3 A I was already trying to wake him up,
4 because he heard the same thing I heard

5 Q Okay. And what did you do next?

6 A Well, next I was about to get on my phone
7 and try to call him, go outside, but my friend
8 pulled back up, Misty.

9 Q Okay

10 A And I asked Mr. Miles, you know, "Do you
11 got somewhere you can go?" because my mother, she
12 had a friend that lived in Aiken And I keep my
13 sister sometimes, so I know that my brother was in
14 Aiken I didn't attempt to go to her house At the
15 time Misty came up, Mr Miles said we'd go to his
16 niece's house --

17 Q Okay

18 A -- till we find out what's going

19 Q Okay And don't tell me what anybody --
20 well, don't tell me exactly what he said, but you
21 can tell me what you did

22 A Yes, sir

23 Q That's considered to be hearsay

24 A Yes, sir

25 Q When you heard these shots, Head Walker

1 says, "You better go," why didn't you just call the
2 police?

3 A At first, I didn't know what happened So
4 I didn't want to call the police and get no -- you
5 know, there still could have been -- I'm thinking
6 somebody still could have been hunting I really
7 don't know what happened at the time

8 Q But why did you feel compelled because
9 Head said, "You need to leave"?

10 A Well, I kind of figured maybe he seen
11 something or heard something or was just around when
12 the shots were fired

13 Q Okay

14 A And I believed him when he told me I
15 needed to leave, so I just believed and listened to
16 him

17 Q Has he ever come to your house before and
18 told you, "You need to leave"?

19 A No, sir

20 Q And so what is about that that made you
21 just need to leave? If I came up in the middle of
22 the night and said, "You need to leave your house,"
23 you're going to leave your house?

24 A Well, the only thing that made me leave
25 then is when I heard the shots

1 Q All right

2 A You know, I just kind of figured maybe
3 something wasn't right at that time

4 Q Now, you said that your friend Misty ended
5 up coming to the house?

6 A Yes, sir

7 Q And the next thing you did was what?

8 A Well, we caught a ride with her to Aiken,
9 to Johnny Miles' niece's house

10 Q Okay

11 A Mr Johnny Miles' house

12 Q All right And what happened next, if
13 anything?

14 A Well, we got there, and we went to sleep,
15 you know, because it wasn't -- we got there and went
16 to sleep, laid down. And early that morning, I got
17 a phone call from my mother They said something
18 had done happened

19 Q And what did you learn as a result of that
20 phone call?

21 A I learned somebody was killed, sir

22 Q Okay

23 A Yes, sir

24 Q Did you have anything to do with that?

25 A No, sir

1 Q Let me ask you this question Did you go
2 outside in the road that night?

3 A No, sir

4 Q Did you get in the car with anybody that
5 night --

6 A No, sir

7 Q -- other than Misty?

8 A No, sir

9 Q Did you talk to anybody outside your house
10 other than --

11 A No, sir

12 Q -- Head Walker?

13 A No, sir

14 Q And were you inside the house, outside the
15 house?

16 A I was in like my doorway talking to Mr
17 Walker

18 Q Okay Were you on the side of the road?

19 A No, sir

20 Q Were you up the road?

21 A No, sir.

22 Q Where were you when all of these things
23 happened?

24 A I was in my house

25 Q Now, you said that you went to Johnny

1 Miles' niece's house?

2 A Yes, sir

3 Q In Aiken?

4 A Yes, sir

5 Q Got a phone call, and you learned that
6 somebody had died?

7 A Yes, sir

8 Q What happened next?

9 A Next, after my mother told me that, I
10 started calling my uncle Actually, I was calling
11 my uncle before that time, because I don't know
12 Johnny Miles' -- Mr Miles' niece like that

13 So I wanted to be, you know, so I called
14 my uncle, which lived in North Carolina. I couldn't
15 get in contact with him So after I got my mother -
16 - after I got the phone call from my mother --

17 Q Yes, sir

18 A -- Mr Miles called a friend that said he
19 might could take us to meet my uncle in Rock Hill,
20 South Carolina

21 Q Okay And so you went to Rock Hill?

22 A Yes, sir

23 Q Let me ask you this When you learned
24 that somebody had died, why is it that you didn't
25 just call the police then and just say, "Hey,

1 something funny's going on around here"?

2 A Well, at the time my mother called me, I
3 was being looked for

4 Q Being looked for, for what?

5 A For, I think, the murder

6 Q Why were you being looked for when you
7 never went outside your house?

8 A I guess somebody had done said or put my
9 name in something

10 Q So why not call the police, why not stick
11 around, why not just go on down to Aiken County
12 Sheriff's Department or the Public Safety Department
13 or something -- why not just do that?

14 A Well, at the time my mother told me I was
15 being looked for, for a murder, I got scared, and I
16 got nervous I didn't know what to think or what to
17 do

18 Q What is there to be scared of when you
19 didn't do anything?

20 A Well, I'm not used to going to jail for
21 something serious, not used to going to jail,
22 period I'm not no troublemaker So I was kind of
23 nervous My name was being put into something I had
24 nothing to do with, and I just got very scared

25 Q And what did you do as a result of that?

1 A I called my uncle and let him I was coming
2 up there

3 Q And what happened next?

4 A When I got my uncle, I started back
5 calling my family members, telling them I had
6 nothing to do with this, and we needed to seek help

7 Q And when you say seek help, what are you
8 talking about?

9 A Like attorneys -- you know, counsel And
10 I was telling my father and my girlfriend at the
11 time to call investigators and let them know I
12 wanted to turn myself in But I wanted to turn
13 myself in with a lawyer so I know I'll be safe and
14 nothing will happen to me

15 Q And to your knowledge, did your family and
16 you have contact with investigators?

17 A Yes, sir

18 Q Investigators where?

19 A Aiken County Sheriff's Department

20 Q Now, isn't it true that you didn't come
21 back to Aiken for a little bit of time? Isn't that
22 true?

23 A Sir?

24 Q You did not come back to Aiken for quite
25 some time?

1 A Yes, sir

2 Q Where did you go from Rock Hill?

3 A To Columbia

4 Q Why didn't you just go back to Aiken and
5 deal with the police at that point by yourself?

6 A I was still scared, sir I didn't know --
7 you know, first, I was being wanted for murder, dead
8 or alive. I was armed and dangerous, which I
9 wasn't. And I wanted to have a lawyer present to
10 turn myself in to get stuff in order, letting them
11 know that I didn't have nothing to do with this
12 When I turned myself in, I wanted everything to be,
13 you know, in decent order

14 Q Did you come back to Columbia?

15 A Yes, sir

16 Q What did you do while you were in
17 Columbia?

18 A Well, we just stayed in contact with
19 investigators, found lawyers, called different
20 lawyers. And I just stayed in a hotel room

21 Q You just stayed in a hotel room --

22 A Yes, sir

23 Q -- that entire time you were in Columbia?

24 A Yes, sir

25 Q How many days were you in Columbia, do you

1 know?

2 A About 12 days

3 Q And you just stayed in Columbia?

4 A Yes, sir

5 Q Did you go out anywhere?

6 A No, sir

7 Q You didn't go the zoo, or you didn't go to
8 the park?

9 A No, sir

10 Q And you just stayed in the hotel room?

11 A Yes, sir

12 Q What did you do in that hotel?

13 A I just -- basically, I was stressed out
14 real bad, calling my parents, telling them they need
15 to get help, I don't know what's going on, why
16 people put my name in this Basically, I was
17 stressing my parents out more than anything.

18 Q Did you tell them where you were?

19 A No, sir

20 Q Did you get back in touch with
21 investigators?

22 A Yes, sir

23 Q When you left your house, did you hide
24 anything?

25 A No, sir

1 Q You didn't have guns with you?

2 A No, sir, it wasn't no guns

3 Q So you're telling this Court you didn't
4 have guns with you?

5 A No, sir

6 Q Did you take evidence with you, and run it
7 up to North Carolina, and throw it all up and down
8 I-77?

9 A No, sir

10 Q Why is it that you left Aiken and went to
11 Rock Hill and went to Columbia?

12 A I didn't feel safe in Aiken And I didn't
13 really have nobody in Aiken like family members that
14 I could go to, to feel safe with I felt safe with
15 my uncle, because I know my uncle will try to help
16 me if I ask him to

17 Q Help you do what?

18 A Get lawyers, help me with money issues and
19 stuff like that

20 Q Did you get a lawyer?

21 A Yes, sir

22 Q What happened when you got a lawyer?

23 A Well, after I got my lawyer, we called
24 investigators and met with them at Aiken County
25 Detention Center, and I turned myself in

1 Q Now, let's backtrack for a minute. Who
2 was with you when you went to Columbia?

3 A My brother, and Mr Johnny Miles, and my
4 uncle

5 Q And why was your brother with you?

6 A My brother, he's got like a -- I would say
7 he's mentally incompetent So he's got -- I ain't
8 going to say got to have somebody around him, but he
9 needs somebody around him to help make decisions or
10 as just thinking, because my brother is 27, but I
11 think he's got the mind of like a 12- or 13-year-
12 old, could be younger than that I'm not for sure

13 Q So you took him with you?

14 A Yes, sir

15 Q And while you were there, you packed a
16 bunch of clothes and took all that stuff with you?

17 A No, sir

18 Q What did you do?

19 A I just left While I was at my house, I
20 just left my house

21 Q And so for that entire time, all you had
22 was the clothes on your back?

23 A Yes, sir

24 Q So you stayed in a hotel room with the
25 clothes on your back and nothing else?

- 1 A Yes, sir
- 2 Q Did you go out around Columbia, ride
3 around Columbia?
- 4 A No, sir
- 5 Q You stayed in that hotel room?
- 6 A Yes, sir
- 7 Q And you said you had some contact with
8 police at that point in time, correct?
- 9 A Yes, sir
- 10 Q And you eventually turned yourself in?
- 11 A Yes, sir
- 12 Q What, if anything, happened next?
- 13 A After I turned myself in?
- 14 Q Yes, sir
- 15 A Well, after I turned myself in, you know,
16 I talked to my lawyer and talked to investigators
17 And I've been in jail since that day.
- 18 Q Did you shoot Debra Dorch?
- 19 A No, sir
- 20 Q Did you shoot Mr Brewer?
- 21 A No, sir
- 22 Q Did you fire a gun that day?
- 23 A No, sir
- 24 Q That morning?
- 25 A No, sir

1 Q That evening?

2 A No, sir

3 Q Anywhere around Union Academy Road or
4 Windsor Road, in a pasture, all those areas we
5 talked about?

6 A No, sir

7 Q Were you in Wallow Ware's car that
8 morning?

9 A No, sir.

10 Q That day?

11 A No, sir

12 Q Earlier that day?

13 A No, sir

14 Q Did you try to get into a mail truck --
15 excuse me, the Aiken Standard truck that belonged to
16 Ms Dorch that morning?

17 A No, sir

18 Q Then why are you wrapped up into this
19 thing? Help us -- explain why you're wrapped up
20 into this thing

21 A Well, the way I really feel about this
22 whole thing is you've got people that's trying to
23 put the blame on somebody else The people that do
24 the crime don't want to do the time but go to jail
25 and brag about it to the whole jail, telling them

1 what the Solicitors do, that they're going to put a
2 story together, make me and my brother go to jail
3 for it so they can come home and still do the same
4 thing and brag

5 Q And, again, it's your testimony that you
6 didn't have anything to do with it?

7 A Yes, sir

8 Q Did you plan it?

9 A No, sir

10 Q Did you tell somebody to go do something
11 on your behalf?

12 A No, sir

13 Q Did you get in the car and, like Seawright
14 said, he just all of a sudden get out of the car?

15 A No, sir

16 Q You weren't in that car at all?

17 A No, sir

18 Q What proof do we have that you weren't in
19 that car?

20 A Well, actually, we had forensics to come
21 in there and say they tested the car for
22 fingerprints Mine wasn't in there We had
23 forensics test footprints by the road, and it wasn't
24 mine

25 We've got people that said they ain't even

1 went to the road Well, how did their footprints
2 appear to the road? They said they was still inside
3 the house the whole time

4 Q Are you trying to say there are people
5 lying on you?

6 A Yes, sir

7 Q What's the reason for lying on you?

8 A The reason to lie -- so they won't go to
9 jail for the rest of their life like they're trying
10 to make me

11 Q Let me ask you this You're coming in
12 here, and you're saying that you -- essentially,
13 you're saying you didn't do anything --

14 A Yes, sir

15 Q -- you didn't do anything wrong Did you
16 do something wrong here?

17 A Yes, I did wrong for not calling the
18 officers, for not letting them know what I knew that
19 night That's what I felt like I did wrong I
20 shouldn't have stayed gone as long as I did But at
21 the time, I was nervous But I should have called
22 them I wish I would have

23 But it seems like now, if I still would
24 have called them, I'm still going through the same
25 thing, because the evidence really speaks for

1 itself I wish I would have called them

2 Q Once you actually turned yourself in to
3 police and had an opportunity to tell them at that
4 point that you were not guilty, did you at that
5 point in time try contact Wallow Ware, or Edward
6 Walker, or any of them?

7 A No, sir

8 Q Have you talked to them since this point
9 in time?

10 A No, sir

11 Q Have you passed notes to them?

12 A No, sir

13 Q Have you discussed anything about your
14 case?

15 A No, sir

16 Q Have you discussed anything about your
17 case with anybody?

18 A No, sir

19 Q Why not?

20 A Besides my lawyer

21 Q Why not?

22 A Because when I first got my lawyer, he
23 instructed me not to say nothing to nobody about the
24 case but him

25 Q Okay

1 A And I didn't feel comfortable discussing
2 it, because it wasn't nothing for me to discuss I
3 didn't know nothing I didn't do nothing

4 MR GIPSON Your Honor, I'd ask the
5 Court's indulgence for a moment

6 Q Have you promised anybody in this case
7 anything to come in and testify on your behalf?

8 A No, sir

9 Q Have you talked to any of these people who
10 have come in and testified today?

11 A No, sir

12 Q Have you been promised anything by the
13 Solicitor's Office or by anybody to come in and
14 testify?

15 A No, sir

16 Q Has anybody said, "Well, if you get up
17 here and take the charge, we'll help you either 'x,'
18 'y,' or 'z'?"

19 A No, sir

20 Q And why are you in here testifying today?

21 A Well, from the bottom of heart, I want to
22 apologize to the family for my name being put into a
23 situation like this that I didn't have nothing to do
24 with And I want to basically prove my case,
25 because the law states that you're innocent until

1 proven guilty

2 But I feel like already that I'm guilty
3 and I've got to prove my innocence, because of my
4 name being put all in this situation and I had
5 nothing to do with it And I want to get on the
6 stand to apologize to the family like I did the last
7 time and tell them I'm sorry about what happened,
8 you know, because I've got family, too

9 I've got a daughter I've got a son
10 I've got brothers I've got a sister And if the
11 same thing happened to my family, justice should be
12 served I'm not saying nothing's wrong with that,
13 but the right people justice needs to be served on,
14 not somebody that they ain't got one piece of
15 evidence on, not when you can show the
16 inconsistencies with statements to prove that
17 everybody that takes the stand done said something
18 different a while back.

19 This is my second time, not the first. So
20 I've got to go to trial two times I've got to have
21 24 people on the jury to see the truth. I don't
22 feel like that's right

23 Q But you're saying that you didn't do this?

24 A Yes, sir

25 Q And you didn't shoot anybody?

1 A Yes, sir

2 Q You didn't handle any guns?

3 A Didn't handle none, sir

4 Q And you didn't plan any crime?

5 A No, sir

6 Q You didn't do anything in furtherance of
7 the murder or the injury -- the murder of Debra
8 Dorch or the injury of Mr Brewer?

9 A No, sir, I didn't do none of it

10 Q All right Please answer any questions
11 that Mr Weeks or Mr Kodman may have

12 THE COURT Mr Weeks?

13 MR WEEKS May we approach?

14 THE COURT Yes, sir

15 Ladies and gentlemen, your attention is
16 not to be diverted in any way from any testimony or
17 reference to any other trial You are concerned
18 about this trial, this week, the evidence presented
19 in this trial

20 Cross-examination?

21 MR. WEEKS Thank you, Your Honor

22 CROSS-EXAMINATION

23 BY MR. WEEKS

24 Q Mr Tyler, your best friend is James
25 Gleaton, isn't it?

1 A He's a friend, yes, sir

2 Q Is he a close friend?

3 A He's a friend, I can say that

4 Q Close friend, or just a friend?

5 A Just a friend or associate, sir

6 Q Just a friend or associate He lives down
7 the road from you, around the corner from you?

8 A Yes, sir

9 Q Okay And he lives between where -- you
10 know where Hartwell lives, don't you?

11 A Yes, sir

12 Q He lives on the other side of Hartwell?

13 A Yes, sir, on down the road

14 Q If you went out your house, went down the
15 road to Windsor Road --

16 A Yes, sir.

17 Q -- took a left --

18 A Yes, sir

19 Q -- go down to Hartwell's house, Hartwell's
20 on the left?

21 A Yes, sir

22 Q Go a little further, Gleaton is on the
23 right?

24 A Yes, sir

25 Q All right And Hartwell is a friend of

1 yours, too, isn't he?

2 A Yes, sir

3 Q Okay And Wallow Ware is a friend of
4 yours?

5 A We went to school together

6 Q Well, is he a friend of yours?

7 A No, sir We didn't hang out or nothing

8 Q Okay Played high school football
9 together?

10 A Yes, sir

11 Q But he isn't a friend of yours?

12 A No, sir I mean, he's not nothing but an
13 associate We talked, conversation

14 Q Kendall Seawright?

15 A No, sir

16 Q He's not a friend of yours?

17 A No, sir.

18 Q Did y'all go to school together?

19 A Yes, sir

20 Q Been to your house before?

21 A Like probably like a year or something
22 before this incident

23 Q Ware had been to your house before, too,
24 hadn't he?

25 A Probably like a year You know, they

1 don't come regular

2 Q Walker comes regularly, doesn't he?

3 A No, sir

4 Q Well, he had been there two weeks before
5 this?

6 A Yes, sir

7 Q Is that when he had some altercation with
8 your brother?

9 A No, they had an altercation before that, I
10 think, yes, sir

11 Q When was it you say you loaned him the
12 money?

13 A When he first got out of prison.

14 Q Well, when was that?

15 A That would be three to four months prior
16 to the incident.

17 Q All right So three or four months before
18 the incident, you loaned him some money?

19 A Yes, sir.

20 Q He comes back to your house at some point
21 and gets in some argument with your brother?

22 A No, the argument wasn't at the house

23 Q Wasn't at the house?

24 A No, sir

25 Q How many times have you been back to your

1 house between the incident and the time --

2 A That was --

3 Q -- between the time you loaned him the
4 money and August the 27th?

5 A He came back two weeks with somebody else,
6 but he know he couldn't come in the yard -- been
7 prior to that night, that night of the 27th

8 Q Now, you don't stand on your porch all day
9 and watch him going up and down your road, do you?

10 A No, sir

11 Q So is it possible he could have been close
12 to your house earlier in the day?

13 A Yes -- possible? Well, during the
14 daytime, mostly I stay outside So I ain't seen
15 him You know, I ain't heard of him being around
16 the area Mr Miles and my brother, they'll be
17 outside most of the time of day

18 Q Mr Miles and your brother On a Friday,
19 Mr Miles wasn't working?

20 A No, sir

21 Q You were paying him to do what?

22 A Well, I had pit bulls, and we worked at my
23 cousin's, Ernest's shop, that lived a quarter up the
24 road

25 Q And you were paying Mr Miles to do what?

1 A Just assist us, to help us and help me
2 out
3 Q Doing what -- what kind of assistance?
4 A Feed the dogs
5 Q Feed the pit bulls?
6 A Yes, sir
7 Q Okay Now, you had guns in the house,
8 didn't you?
9 A No, sir
10 Q You didn't have a shotgun?
11 A No, sir Mr Miles could have had one,
12 but I didn't
13 Q Mr Miles who was living in your house
14 could have had a shotgun --
15 A Yes, sir
16 Q -- in there, but you didn't?
17 A Yes, sir
18 Q Okay. But that shotgun that could have
19 been in your house, do you know where it was found?
20 A No, sir Later through the case, it was
21 found in the woods
22 Q In the woods Do you know how it got
23 there?
24 A I think by him.
25 Q And was that part of getting out of town?

1 A No, sir

2 Q Well, there ain't no question you took Mr
3 Miles out of town, is there?

4 A Yes, sir -- well, he took me, actually

5 Q He took you to your uncle's house?

6 A Well, he got his friend to take us

7 Q All right And his friend was who?

8 A I don't know his name

9 Q You don't know who took you to North
10 Carolina?

11 A No, sir

12 Q Your uncle lives in North Carolina,
13 doesn't he?

14 A Yes, sir

15 Q Not Rock Hill, is it?

16 A Well, we met him in Rock Hill -- like I
17 said, Rock Hill

18 Q Did you ever go to North Carolina?

19 A Well, I didn't really see the sign that
20 said North Carolina, but you could call it, because
21 I think they're next-door neighbors

22 Q Well, the reason you were going to North
23 Carolina is it was a different state, wasn't it?

24 A No, sir.

25 Q Okay. Now, you were going up there

1 because your uncle is a closer relative than your
2 mama, who lives a quarter of a mile behind you?

3 A Yes, sir, that's my mama's brother

4 Q Okay, your mama's brother But your mama
5 lives a quarter of a mile behind you?

6 A Yes, sir

7 Q At her house?

8 A Yes, sir

9 Q Been calling lawyers, calling
10 investigators for you, but you didn't go to her
11 house and say, "Mama, somebody's causing me some
12 trouble"?

13 A Yes, she wasn't home that night

14 Q Okay But you called her early that
15 morning, didn't you?

16 A My mother called me

17 Q Okay. She called you because she got word
18 the police were looking for you, didn't she?

19 A Yes, sir

20 Q Okay. Now, this Misty girl --

21 A Yes, sir

22 Q -- she wasn't your girlfriend?

23 A No, she's just a friend

24 Q The girlfriend you called at 5 00 in the
25 morning was who?

1 A Dana

2 Q Dana?

3 A Tried to call -- yes, sir

4 Q Tried to call her at 5 00, she wasn't at
5 home

6 A The phone dropped, so I couldn't really
7 get through

8 Q Called her at her house?

9 A Yes, sir

10 Q You called her on a cell phone?

11 A Yes, sir.

12 Q Did you text her any?

13 A Yes, sir

14 Q How many times?

15 A I'm not really sure

16 Q More than five?

17 A No, sir

18 Q Did you tell her Misty was going to give
19 you a ride somewhere?

20 A No, sir

21 Q All right So let me get this straight.

22 Mr Edward Walker, who hadn't been to your house in

23 two weeks, who none of y'all like, had a fight with

24 your brother or some disagreement with your brother,

25 shows up at your house at 4.00 in the morning?

1 A Yes, sir Well, I ain't going to say I
2 don't like him I ain't going to say I don't like
3 him, you know

4 Q Well, do you like him?

5 A He's all right as far as -- I mean, I
6 don't judge nobody -- say judge or be not judged

7 Q He had been at your house before He
8 shows up at 4 00 You know he lives in Wagener,
9 don't you?

10 A He really didn't have no place to live but
11 at my house

12 Q Well, you know where Wallow Ware lives,
13 don't you?

14 A Yes, sir

15 Q Okay He lives where?

16 A I think he lives up about two miles from
17 where I live at He lives with his girlfriend, I
18 think

19 Q Wallow Ware lives two miles from you?

20 A I think

21 Q You're thinking that You went to high
22 school with Wallow Ware?

23 A Yes, sir

24 Q All right Wagener is not two miles from
25 you, is it?

1 A He didn't live in Wagener

2 Q Salley is not two miles from you?

3 A Yes, sir, Salley is about two miles

4 Q Salley is two miles from you?

5 A I think so

6 Q Well, getting back to that, this Walker
7 you hadn't seen in two weeks --

8 A Yes, sir

9 Q -- who you don't dislike, comes to your
10 door and borrows money from you --

11 A Yes, sir

12 Q -- at 4 00 in the morning?

13 A Yes, sir

14 Q You don't look outside?

15 A No, sir

16 Q Does he come inside?

17 A No, sir.

18 Q Well, how did you talk to him?

19 A In the door

20 Q How did you give him the money?

21 A Right there at the door

22 Q At the door to your place is a porch?

23 A Yes, sir

24 Q And on the other side of that porch is
25 your driveway?

1 A Yes, sir

2 Q And you didn't see nobody out there?

3 A No, sir

4 Q And he just shows up?

5 A Yes, sir

6 Q And you know he don't live nowhere near

7 you.

8 A Yes, sir

9 Q How did he get there?

10 A Well, I kind of figured it was a car,

11 because on my porch I had stuff where if somebody

12 pulled up on my yard, you can't see If you see a

13 car with the lights on, you see a car But there

14 wasn't no lights on, so I ain't just opened the door

15 and looked and asked how he got there, because he

16 could have been walking, because usually he ain't

17 got no car.

18 Q What did you do?

19 A I just asked him what he was doing at my

20 house the time of night

21 Q And he said?

22 A He said he wanted to borrow some money

23 Q And did you loan him money?

24 A Yes, sir

25 Q At 4-00 in the morning?

1 A Yes, sir

2 Q All right After you loan him the money,
3 he leaves?

4 A Yes, sir

5 Q And you go back to sleep?

6 A No, I didn't go back to sleep I laid
7 down

8 Q Laid down And you hear some shots?

9 A Yes, sir

10 Q Okay Did you notice where your brother
11 was at that time?

12 A I'm thinking he was still in the living
13 room, because they was like sound asleep

14 Q To the living room that goes out to the
15 porch --

16 A Yes, sir

17 Q -- that goes out to the yard?

18 A Yes, sir

19 Q There ain't no question you and your
20 brother had been living there for some time?

21 A Well, actually, we just now moved back
22 into my trailer, because we used to live with my
23 uncle on Stonemint Drive, because I remodeled my
24 trailer

25 Q Okay How long was that prior to August

1 the 27th?

2 A About two and a half weeks

3 Q So you had been living there two and a
4 half weeks?

5 A Yes, sir

6 Q And you already said you had been out in
7 the yard all the time watching the road?

8 A Yes, sir

9 Q And they didn't find any footprints in
10 your yard, did they?

11 A No, sir

12 Q Well, could it be because you went and
13 bought new tennis shoes when you went to North
14 Carolina?

15 A Well, I feel it was because I wasn't out
16 there that night.

17 Q Okay Well, you know, you saw where they
18 were taking casts of the footprints, didn't you?

19 A Yes, sir

20 Q And you saw where they were comparing them
21 to shoes that you had on when you turned yourself in
22 18 days after this?

23 A Yes, sir

24 Q And those shoes were new, weren't they?

25 A No, sir

1 Q They had been bought after you left
2 Salley?

3 A No, sir, the same shoes I had on

4 Q The same shoes you had on --

5 A Yes, sir

6 Q -- are the same shoes that you had on 18
7 days later?

8 A Yes, sir

9 Q And your lawyer didn't tell you, "You
10 don't need to be wearing the same shoes or the same
11 clothes"?

12 A My lawyer -- we didn't discuss nothing
13 like that My family was discussing with the
14 lawyer

15 Q I see So you weren't the one being in
16 touch with law enforcement, it was your family?

17 A Yes, sir

18 Q You were hiding in Columbia, weren't you?

19 A No, sir

20 Q You were not hiding?

21 A No, sir

22 Q Okay Well, what do you call staying in a
23 motel room 24 hours a day for 12 days if it's not
24 hiding?

25 A Stressed out and making arrangements to

1 handle when I'm coming out

2 Q And how were you making arrangements to
3 eat?

4 A Well, I had a friend that lived in
5 Columbia that brought me food

6 Q Is this Misty or somebody else?

7 A No, sir

8 Q And they brought you money, too, didn't
9 they?

10 A No, sir

11 Q They brought you clothes, or did you go
12 out and buy clothes?

13 A No, sir, I ain't go out to buy no clothes

14 Q How about Tremaine? He was with you,
15 hiding out, too, in Columbia, wasn't he?

16 A We were staying together, sir.

17 Q Staying together?

18 A Yes, sir

19 Q Was he stressing, too?

20 A Yes, sir

21 Q And how about Johnny Miles?

22 A All of us was in the same predicament.

23 Q Same predicament?

24 A Yes, sir, as far as stress-wise

25 Q Okay. But there ain't no question Johnny

1 Miles left y'all up there, and he came back to
2 Aiken, didn't he?

3 A Yes, sir.

4 Q You and Tremaine continued to stay in that
5 motel until you met up with your lawyer, and he
6 turned you in to the Sheriff's Department?

7 A Yes, sir

8 Q Okay And it's your testimony today that
9 sometime after 4.00, when Walker comes back, you,
10 your brother, and Johnny Miles, a 60-year-old man,
11 bail out, and y'all are in North Carolina before
12 lunchtime, aren't you?

13 A Well, actually, yes, sir -- Rock Hill,
14 yes, sir

15 Q During that period of time, do you have
16 any idea how many times you called Uncle Earl in
17 North Carolina?

18 A No, sir

19 Q Well, give me -- did you call him once?

20 A I can't quite remember, but I know I was
21 calling him

22 Q You were calling him?

23 A Yes, sir.

24 Q Okay Did you ever talk to him?

25 A Yes, sir

1 Q Did you talk to him before you drove all
2 the way to North Carolina?

3 A No, sir

4 Q So you drove all the way to North Carolina
5 in the hopes that you were going to be able to get a
6 hold of Uncle Earl --

7 A Yes, sir

8 Q -- and that he was going to put you up for
9 a while till you could get all this mess straight?

10 A Well, actually, I was going to my uncle
11 for help

12 Q And, obviously, you know we have your
13 phone record, don't you?

14 A Yes, sir

15 Q And that there are hundreds of calls on
16 there?

17 A Yes, sir

18 Q So you know how to call, use a phone to
19 call people, don't you?

20 A Yes, sir

21 Q Could have called the police?

22 A Yes, sir

23 Q Could --

24 A Yes, sir

25 Q -- have got them to come out there and

1 investigate Edward Walker that day, couldn't you?

2 A Yes, sir.

3 Q You could have said, "Hey, if they're
4 looking for somebody for murder, Edward Walker's got
5 to be the one Y'all get him "

6 A Yes, sir

7 Q "Tail him Come on and get him "

8 A Yes, sir.

9 Q You didn't do that that day, did you?

10 A Yes, sir -- because I didn't see Edward
11 Walker do anything, so I couldn't said, "Y'all come
12 get Edward Walker " And at the time, I was being
13 looked for, so that's why I didn't call. I wish I
14 would have I should have

15 Q You know you were being looked for, for
16 murder?

17 A Yes, sir

18 Q And based upon Mr Walker knocking on your
19 door and telling you that "You need to leave,"
20 you're in North Carolina two or three hours later
21 And you still don't think you need to call the law
22 and say, "Edward Walker has got to be involved in
23 it"?

24 A That was actually six hours, sir, I think.

25 Q Okay Still don't think you need to?

1 A No, sir

2 Q Or didn't think you need to at the time?

3 A Sir?

4 Q You didn't think you needed to at the
5 time?

6 A No, sir

7 Q Because you were hiding, weren't you?

8 A No, sir, I went for help

9 Q It's your testimony under oath here today
10 that you were not hiding from the law when you went
11 to North Carolina?

12 A I felt like I wasn't hiding If I was
13 hiding, I wouldn't never turn myself back in, sir

14 Q Well, why didn't you get your mama and
15 daddy to tell them where you were? They could have
16 gave you a ride to Aiken County

17 A Because I wanted to turn myself in with a
18 lawyer I didn't trust to turn myself with just my
19 mama and daddy without a lawyer being present, sir

20 Q A lawyer that told you to keep your mouth
21 shut and don't give any statements to anybody,
22 right?

23 A Yes, sir

24 Q Huh?

25 A Yes, sir

1 Q Okay And there's no question you've been
2 housed with Wallow DeShawn Smith?

3 A Yes, sir -- after I wrote the statement,
4 sir

5 MR GIPSON I didn't hear your last ,
6 statement, sir

7 Q What did you say last?

8 A I said I was housed with Mr Wallow D
9 Smith after he wrote y'all with the statements about
10 the other co-defendants in the case, sir

11 Q How did you know Wallow wrote us those
12 statements?

13 A At the preliminary hearing

14 Q At the preliminary hearing --

15 A Yes, sir

16 Q -- you found out he wrote some statements?

17 A Yes, sir

18 Q Okay But you didn't have anything to do
19 with those statements?

20 A No, sir Actually, I think y'all got the
21 statements the same day I turned myself in

22 Q The same day you turned yourself in?

23 A Yes, sir I think y'all got the
24 statements on the 13th, and I turned myself in on
25 the 13th

1 Q Did you have anything to do with that?
2 A No, sir I wasn't in jail yet He was
3 Q Okay Who is Ronnie Miller?
4 A That's my friend that was in Columbia
5 Q Slugger -- does he go by Slugger?
6 A No, sir
7 Q Who is Slugger?
8 A Slugger is James Robinson
9 Q James Robinson Did he come up to your
10 house that morning of August 27th?
11 A No, sir
12 Q Let me get this straight You didn't even
13 have a car that was operable, did you?
14 A No, sir
15 Q But you had a four-wheeler?
16 A Yes, sir
17 Q Walker tells you to leave, and you don't
18 know where he goes?
19 A No, sir.
20 Q But within a matter of hours, you're in
21 North Carolina --
22 A Yes, sir
23 Q -- by way of Aiken?
24 A Yes, sir
25 Q And it's still your testimony under oath

1 you weren't hiding?

2 A Yes, sir I feel like I wasn't hiding

3 MR WEEKS No further questions

4 THE COURT Any redirect?

5 REDIRECT EXAMINATION

6 BY MR GIPSON

7 Q Between the time that you left Aiken and
8 returned with a lawyer to turn yourself in, you
9 didn't buy any clothes, did you?

10 A No, sir

11 Q What did you buy?

12 A Nothing

13 Q Did you buy food?

14 A No, sir. My friend bought it for me

15 Q Okay So you were in that hotel room, and
16 you didn't buy anything, you didn't go hang out, you
17 didn't do anything?

18 A No, sir

19 Q You said you made phone calls, and you
20 texted?

21 A Yes, sir

22 MR GIPSON That's all my questions, Your
23 Honor

24 MR WEEKS Nothing

25 THE COURT Step down, sir

1 MR TYLER Thank you, sir

2 MR GIPSON The defense rests, Your Honor

3 THE COURT Ladies and gentlemen, you have
4 heard the defense's case

5 Any reply by the State?

6 MR WEEKS. Can we just talk logistics for a
7 second, Your Honor, at a sidebar?

8 THE COURT Ladies and gentlemen, if you'll
9 just stand for a moment Ladies and gentlemen, just
10 stay standing That's it for today as far as the
11 testimony is concerned.

12 Tomorrow morning we'll learn whether or
13 not there will be any reply testimony If not, then
14 we'll move into closing arguments, the jury charge
15 on the law, and then the deliberations to reconcile
16 this case We'll do all that tomorrow

17 We're through for the day So have a good
18 evening Please do not discuss the case, read any
19 news accounts, be exposed to any information other
20 than what you get right here in this courtroom
21 We'll see you tomorrow at 9 30 a m Thank you

22 (The jury left the
23 courtroom at 5 29 p m)

24 THE COURT All right Regarding requests to
25 charge, Mr Gipson.

1 MR. GIPSON Your Honor, I've handed mere
2 presence And I think that's the only thing I'd
3 admit at this point in time Other than that, I
4 think your standard charges cover the rest

5 THE COURT All right, from the State

6 MR WEEKS Your Honor, we handed up one charge
7 we think is appropriate in this case There's been
8 evidence and testimony that's been submitted.

9 THE COURT Are you seeking any charge on the
10 flight issue?

11 MR WEEKS No, Your Honor

12 THE COURT Pardon me?

13 MR WEEKS Not a charge on that.

14 THE COURT. Okay

15 MR. WEEKS I'd like one, but I think the
16 Supreme Court said that it's --

17 THE COURT. It's not appropriate to charge?

18 MR WEEKS Yes, sir

19 THE COURT All right Let's see now, on the
20 hand of one

21 MR GIPSON. And, Your Honor, I would object to
22 a charge of hand of one, hand of all

23 THE COURT. On what theory?

24 MR GIPSON A couple of different things, Your
25 Honor First, there would have to some type of

1 intention of common design that's been hashed out
2 and developed between the cohorts that are doing
3 this thing

4 And I don't -- and the testimony that has
5 come out from all witnessses' statements is that
6 something -- they saw these headlights, and all of a
7 sudden, you know, some things happened, some shots
8 were fired, people jumped in the car and went after
9 the truck

10 And it's my contention at that point there
11 was not -- you know, that there was not a common
12 design or scheme of some sort that was put together
13 in terms of what was going on and what was allegedly
14 supposed to happen at that point in time

15 THE COURT Mr Weeks?

16 MR WEEKS Well, Your Honor, they didn't have
17 to send out a memo It happened very quick based on
18 the testimony The testimony is that Cornell Tyler
19 was instructing Wallow Ware to follow the car, if
20 you believe Wallow Ware

21 Edward Walker's testimony is that he was
22 on the car and that he was hanging on for dear life
23 and just watching everything But Seawright's
24 testimony puts them leaving, going down the road
25 Just the mere fact that he bailed out of the car

1 kind of tells something about he thought something
2 was fixing to happen

3 But him going down the road, taking a
4 left, following and catching up to the car, and
5 driving, Mr Ware arguably has under the law hand of
6 one, hand of all confessed to murder on the witness
7 stand Mr Cornell Tyler, based on Mr Ware's
8 statement, was directing him

9 And Mr Cornell Tyler had the gun that was
10 the murder weapon in this case, according to the
11 testimony So I believe hand of one, hand of all is
12 appropriate And there was conflicting testimony
13 about whether Mr. Walker was shooting or whether
14 both of them were shooting

15 And it wouldn't matter which one of them
16 was shooting They could have both been shooting
17 and both been guilty of murder under the hand of one
18 is hand of all So I believe it's an appropriate
19 charge under the facts of this case.

20 THE COURT All right, Mr Gipson, anything
21 further?

22 MR GIPSON Yes, Your Honor Also, one of the
23 other elements necessary there is that, of course,
24 the defendant has to be present at the scene And
25 what we're talking about, of course, is a conference

1 trigger, not whether or not these other people --
2 because everybody's saying he did it

3 THE COURT. You have the driver of the car --

4 MR GIPSON Yes, sir

5 THE COURT -- who helped facilitate a defense,
6 according to one interpretation of the testimony, by
7 driving the car while Mr Tyler was shooting,
8 chasing the car, two working together to commit the
9 crime. He wasn't shooting from his porch

10 He was shooting, according to that
11 testimony, from the back of the car So you have
12 two people acting together in committing the crime.
13 And then another interpretation of it, based on the
14 testimony that you extracted from the driver, you
15 had both people shooting at the car

16 So, again, you have more than one person
17 participating in the commission of the crime,
18 assisting each other, acting together And where
19 that's the case, the act of one is the act of all
20 If you have some parties acting together, then the
21 other party who indicate that they have to have some
22 agreement on the commission of the crime, common
23 scheme, prearranged plan Mr Weeks says it
24 appeared that the entire thing happened at the spur
25 of the moment

1 It's the State's theory that not they knew
2 in advance that people would be delivering the mail
3 and plan to ambush and kill the mailman or the paper
4 lady but that it was a spontaneous act and that the
5 common scheme, or agreement, or arrangement
6 including, of course, on the issue of malice And
7 that can be formed in an instant prior to the act
8 So if the common scheme or people acting together
9 has to be over a period of time and there is some
10 law that you have that supports that, then certainly
11 I'll be happy to review it

12 MR GIPSON: Yes, sir

13 THE COURT But clearly the State has charged
14 more than one person with committing the crime The
15 testimony can be interpreted to be more than one
16 committing the crime, though each one of the
17 defendants has their own individual defenses about
18 what they did, what they knew, what they intended

19 It all depends on what the jury believes
20 based on the testimony as to who did what and why,
21 if any reason existed at all But I'll be happy to
22 receive what you have and review it, and then
23 charging takes place in the morning And by that
24 time, I will have reviewed every case you gave me.
25 Of course, my law clerk will have reviewed all of

1 it

2 MR GIPSON. If you'll allow me to make a copy,
3 I didn't expect this to move as quickly or make
4 progress But I'll make copies, and I can hand you
5 the original and one that you can use to write on

6 THE COURT All right

7 MR GIPSON If I could have just a couple of
8 minutes to do that That's all that I have, sir

9 THE COURT All right Now, on the issue of
10 mere presence, under the hand of one charge,
11 contained in that states that mere presence at the
12 scene of a crime is not sufficient to convict one as
13 a principal on the theory of aiding and abetting
14 Intent is also a necessary element, for there must
15 be a common design or intent to commit the crime,
16 and the crime must have been committed pursuant
17 thereto with the person aiding and abetting by some
18 overt act

19 That means intending the result which
20 actually occurs, that it's not accidentally or
21 voluntarily, but intent that's shown by acts and
22 conduct and other circumstances from which the jury
23 would reasonably infer intent. And the State must
24 prove these elements beyond a reasonable doubt As
25 I stated earlier, therefore, mere presence is

1 contained in that definition

2 MR GIPSON. Yes, sir

3 THE COURT. If you request a separate
4 instruction on mere presence in addition to this
5 particular one, I will use the standard mere
6 presence instruction that's typically used I
7 wouldn't use a mere presence instruction that
8 requests like the one you gave me that is
9 specifically stated to this case, because I do not
10 give instructions that reflect some comment by the
11 Court as to the facts and that would make the
12 interpret there to be some comment concerning the
13 facts

14 MR GIPSON And the one that you read in your
15 standard portion I think is adequate So, in that
16 sense, I think I'll withdraw my request, because
17 after hearing it, it's adequate, sir --

18 THE COURT All right

19 MR GIPSON -- in my mind

20 THE COURT. Very well Any other requests to
21 charge -- that seems to be about it?

22 MR GIPSON And if I may, Your Honor, I don't
23 expect to have any others, but if I can review some
24 things I don't think I'll have any others, Your
25 Honor

1 THE COURT All right. Well, I give the jury a
2 copy of the charges Of course, they can be
3 modified at any time But I don't make last-minute
4 changes right at going into closing arguments So
5 as soon as possible, let me know, of course,
6 whatever circumstances dictate

7 MR GIPSON I don't anticipate any others,
8 Your Honor

9 THE COURT All right

10 MR GIPSON I just didn't want to preclude
11 anything

12 THE COURT. I understand

13 MR GIPSON. Thank you, sir

14 THE COURT All right, 9.30 it is.

15 - End of Day -

1 Thursday, January 10, 2008

2 (The defendant, together
3 with counsel, was personally present in the
4 courtroom)

5 THE COURT So we're ready now for Mr Tyler
6 Mr Weeks, do you plan any reply?

7 MR WEEKS No, Your Honor

8 THE COURT All right Anything before we
9 bring the jury, then, for closing arguments?

10 MR WEEKS Not from the State, Your Honor

11 MR GIPSON And, Your Honor, I'd just like to
12 renew my directed verdict motion because on previous
13 argument that I addressed the Court

14 THE COURT All right It's all for the jury
15 to decide, and I believe there are jury issues that
16 the jury has to consider and decide guilt or
17 innocence based on the evidence

18 MR GIPSON Thank you, Your Honor

19 THE COURT Let's bring them in

20 (The jury returned to the
21 courtroom at 9.56 a m)

22 THE COURT All right, all jurors are back
23 Good morning

24 THE JURY Good morning

25 THE COURT Mr Weeks, any reply testimony?

1 MR WEEKS No reply from the State, Your
2 Honor And the State would also waive its opening
3 on the law

4 THE COURT All right Ladies and gentlemen,
5 you have now heard all of the testimony in this
6 case You have now received all of the evidence in
7 this case We'll now move to closing arguments

8 And after that, I will give you the jury
9 charge, and this case will be yours to decide
10 You've been there listening, being focused, paying
11 attention, and after closing arguments and jury
12 charge, it will be your time to deliberate on this
13 matter

14 Now, what the lawyers will now tell you is
15 not evidence, because you have heard all of the
16 evidence And evidence comes from a witness stand
17 or through exhibits, or stipulations, or other
18 things already in evidence

19 You have now heard all of the evidence
20 Certainly, what they tell you is important It's a
21 critical part of the case. I'd ask, then, that you
22 give them your undivided attention at this time

23 Mr Gipson

24 MR GIPSON May it please the Court, Your
25 Honor.

1 THE COURT Yes, sir

2 MR GIPSON May it please the Court, Your
3 Honor

4 THE COURT Yes, sir

5 CLOSING ARGUMENT

6 BY MR. GIPSON

7 MR GIPSON Mr Weeks, Mr Kodman, Ms
8 Brisbin, Mr Foreperson, and ladies and gentlemen of
9 the jury, first and foremost, I just want to thank
10 you for your time And I know you probably sit up
11 here and say that's one of the most disingenuous
12 things you can do and feel like we're just saying
13 these things just to kind of make you feel better
14 about sitting up there

15 But we really and truly -- when I say
16 "we," I want to thank you for your time, I'm sure
17 Mr Weeks wants to thank you, I know Mr Tyler wants
18 to thank you, and I'm sure the Brewers' family and
19 Ms Dorch's family would like to thank you, and also
20 this Court thanks you, because what you have done
21 here in terms of serving on this jury and all of
22 your attentiveness is crucial to the way that our
23 democracy works

24 It's been said that jury duty is one of
25 the most patriotic services that a citizen can

1 perform in times of peace. And I believe it was
2 Winston Churchill that said that And he said that
3 because the right of a person who has been charged
4 with a crime -- the belief that a person is presumed
5 innocent -- innocent until proven guilty beyond a
6 reasonable doubt -- is one of the cornerstones of
7 our democracy.

8 You see people in other countries fighting
9 all the time and people getting arrested without
10 having a right to a trial, having a right to face
11 their accusers, having a right to be heard, having a
12 right to tell their side of the story if they choose
13 to

14 But that's not what our country does I'm
15 not going to stand before you and say that this is a
16 perfect system There are flaws, as there are with
17 all systems But is the best one that's going at
18 this point in time, because it allows people who
19 have been accused of a crime, like Mr Tyler, to
20 have their day in court, and to be heard, and to
21 allow a jury of 12 reasonable people who don't have
22 any stake in this case, who don't have any friends
23 to reward or any enemies to punish -- 12 people who
24 have no stake in this case -- to determine whether
25 or not the State has proven its case beyond a

1 reasonable doubt.

2 Now, at this stage in the case, what we're
3 going to try to do or what I'm going to try to do is
4 to anticipate the questions that the 12 of you may
5 have, and that's no disrespect to y'all And in
6 doing that, I'm going to try to be as efficient as I
7 possibly can as I outline our position of the case,
8 what we feel happened, what we feel didn't happen,
9 what we feel exists in this case, and what we truly
10 feel is lacking in this case

11 We're going to explain all of those
12 things, and I'll try to be as efficient as I
13 possibly can And let me also say that if during my
14 advocacy for Mr Tyler, if I've offended anybody by
15 the way I've conducted myself or some of the things
16 that I've said, hold that out on me as things that I
17 need to work on as a person or a lawyer.

18 If I've been rude or if I've made you mad
19 about the way that I've done things, hold that out
20 on me as some of the things that I have to work on,
21 but don't hold that against Mr Tyler, please Now,
22 we began this case on Tuesday, and one of the things
23 that I told you is we were here to set the record
24 straight

25 I told you that I did not believe that the

1 State, represented by Mr Weeks and Mr Kodman, and
2 other members of the Solicitor's Office, could prove
3 this case beyond a reasonable doubt And I told you
4 a little bit about what that definition is And the
5 Court will instruct you about the law a little bit
6 later

7 And there are two major definitions that I
8 believe this Court will talk about. One is the
9 amount of doubt that causes a reasonable person to
10 hesitate to act, meaning as you have listened to the
11 testimony here over the last couple of days, as you
12 have seen the witnesses, their demeanor, as you have
13 looked at this evidence that you have been
14 introduced to and will at some point in time during
15 your deliberations be able to look at and review, if
16 anything makes you hesitate to believe that Mr
17 Tyler did the things that he's accused of, then
18 that's reasonable doubt

19 If you feel like the people who have
20 testified for the State have had motives to
21 corroborate their stories, if the cousins, Wallow
22 Ware and Mr Walker, were not truthful about things,
23 if you've learned other things about this case, or,
24 quite honestly, if there are things that the
25 prosecution did not bring to you that you need to

1 know in order to make this crucial decision, then
2 the oath that you took as jurors to well and truly
3 try this case, that requires you to find Mr Tyler
4 not guilty

5 And it's not guilty because they have not
6 proven the case beyond a reasonable doubt The
7 first definition I mentioned is the amount of doubt
8 that causes a reasonable person to hesitate Have
9 you hesitated as you've heard this evidence?

10 The second definition is are you firmly
11 convinced of his guilt Are you firmly convinced of
12 his guilt? One of the things that Mr. Weeks said in
13 his opening statement -- and I say hold him to it,
14 because he told you what he was going to prove --
15 has he proven that Cornell Tyler shot Debra Dorch
16 and Joe Brewer?

17 Are you firmly convinced of that after
18 listening to the testimony, listening to the experts
19 in the science in this case? Are you firmly
20 convinced that he was even in that car, or are you
21 convinced that the people who said he was in that
22 car have some kind of stake or some reason to say
23 the things that they said to take the heat off of
24 them?

25 Do you believe science, or do you believe

1 the cousins and their friends and the lies that
2 they've told to cover things up? I say that because
3 after all of this time, after two and a half days of
4 trial, they haven't changed my mind After studying
5 this case for two and a half years, they still
6 haven't changed my mind

7 MR WEEKS Your Honor, I'm going to object at
8 this time

9 THE COURT The objection is sustained
10 Personal opinions must remain outside --

11 MR GIPSON Yes, sir

12 THE COURT -- of the case

13 MR GIPSON Yes, sir Now, one of the things
14 that I try to do in these types of cases is I try to
15 come up with an analogy, something that can you help
16 me wrap my mind around what the evidence shows and
17 can make it a little bit easier to understand how
18 this whole thing works

19 And it reminds me of a time when I went on
20 a family vacation to a place called New Braunfels,
21 Texas We were on our way to San Antonio And New
22 Braunfels is an old kind of German colony, Dutch
23 colony, I believe It's one of the two

24 Don't hold me to it, but it's one of the
25 two And what they do is they do things kind of the

1 old-fashioned way You can there, and they have old
2 breweries and things of that nature And I was too
3 young to go into those, but they make beer the
4 old-fashioned way

5 They make jewelry the old-fashioned way
6 They make horseshoes and all of those types of
7 things, similar to a Fredericksburg, Virginia, type
8 place And one of the things that struck me is they
9 had a jeweler there who made gold bracelets, and
10 silver bracelets, and other types of jewelry

11 And what they do is they'd make the
12 jewelry, and then they'd explain to you a little bit
13 about the process And what they do is they take
14 these nuggets of gold and drop it into a huge urn, a
15 melting pot They call it a crucible, I believe

16 And they heat up the crucible. And the
17 more it heated up, the gold would begin to melt
18 And if you were dealing with gold that you had
19 sifted out and that you had found, it would start to
20 melt, and the impurities would rise to the top And
21 the gold, the finest part of it, the true gold,
22 would separate from the impurities

23 And they'd skim those impurities off so
24 they'd have the purest form of that gold, and then
25 they'd go ahead and start to make the jewelry from

1 there And you're probably sitting here saying, you
2 know, "Well, what does that have to do with this
3 case?"

4 It's an analogy And if you envision this
5 witness chair as that melting pot, as that crucible,
6 and you envision the gold and the nuggets of gold as
7 the witnesses' testimony, hoping you get the purest
8 form of that by putting it in a crucible and heating
9 it, and you envision my role in questioning the
10 witnesses as the heat that's added to the urn or
11 that crucible, then you can start to see that you
12 add that heat, and you start to whisk away the
13 impurities, and separate the impurities from the
14 true gold, from the good stuff, from the things that
15 really matter

16 And that's what our role is in this case
17 As the witnesses testify, we turn the heat up a
18 little bit. And you start to get rid of the junk,
19 you get rid of the impurities, you get rid of the
20 things that don't belong

21 So you end up with the purest form of the
22 testimony that you can, which is the truth And
23 that's what our process has been here today and over
24 the last few days And if you look at the
25 witnesses, you can see how as we turned the heat up,

1 the truth began to come out

2 The first witness -- and I've laid them
3 out chronologically, but I'll take some of them out
4 of order just for organizational purposes The
5 first witness that came before us was Mr Joe
6 Brewer And first and foremost -- and I've said it
7 before, and I will say it again -- the act that took
8 place on August 27, 2005, was cowardly, it was
9 senseless, and it deserves to be punished, without
10 question

11 Mr Brewer said he had just begun working
12 for the Aiken Standard for about approximately two
13 weeks at that point in time And he had gone down
14 the route that he traveled through, went through
15 Wagener and through Windsor and Union Academy Road,
16 three to four times This may have been the fourth
17 or fifth time doing it.

18 And Ms Dorch was very new to the route,
19 and he was supervising her You heard the
20 testimony And when it gets interesting, he says
21 that they pulled up to the area around Cornell
22 Tyler's house And they were a little -- Ms Dorch
23 had potentially missed one of the tubes that you put
24 the paper in

25 And as she passed the tube, she said, "Oh,

1 I missed one," and began to back up to the tube
2 And at that point, somebody approached her car Mr
3 Brewer this time said that someone approached the
4 car, tried to get into the car, and she sped off
5 People jumped in the car and took off
6 after her The interesting thing is that Mr Brewer
7 sat in that witness chair a couple of days ago He
8 said that somebody came to the car, and when I
9 prompted, "Who was it?" he said Cornell Tyler came
10 to the car -- "It was Cornell Tyler I know it was
11 Cornell Tyler "
12 And as I started to turn that heat up a
13 little bit and ask him questions, I said, "Well, Mr
14 Brewer, isn't it true that you gave testimony on a
15 prior occasion, and you said you didn't know who
16 came to your car?" -- confronted him with that
17 testimony
18 And that was the truth He did not know
19 based on what he said before What he said was a
20 different thing two days than he said in prior
21 testimony, and a different thing than he said to law
22 enforcement the same day that this thing happened
23 He didn't know who did it
24 I ask you, do you believe that your memory
25 is going to be more clear the day that something

1 happened or 864 days later? He said he didn't know
2 And when prompted about knowing and prompted with
3 the statements that he gave before, he said, "Well,
4 I just kind of -- it came to me "

5 He had an epiphany one morning and said,
6 "Oh, it was Cornell Tyler " I submit to you the
7 epiphany was the fact that he has sat down with Bill
8 Weeks and the prosecution and talked about this
9 matter over and over again And the power of
10 suggestion is a strong thing

11 If somebody tells you over, and over, and
12 over, and over that something is it, that something
13 happened a certain way, at some point in time you
14 may begin to believe it But the truth of the
15 matter is when he was prompted, when it was freshest
16 in his mind, he had no idea who approached the car

17 Now, remember, I talked to you about
18 pieces of a puzzle and how you can take a piece here
19 and a piece there and start to put these pieces
20 together Remember, I told you that on Tuesday
21 There are pieces of this puzzle that will start to
22 come together if you really think about it

23 And let me ask you to do this, too Just
24 please resist the urge to become emotional about
25 this case It is a heinous case But if you become

1 emotional, you forget to be reasonable And when
2 you become emotional, you're doing exactly what the
3 prosecution wants you to do, and you forget about
4 the reasonable things that are there that show you
5 that this could not have happened the way that they
6 presented it

7 He says that Cornell Tyler came to the
8 car And none of Cornell Tyler's footprints are
9 anywhere near that spot The only footprint -- and
10 we're going to get back to this latter -- that he
11 found on the side of the road by where he said that
12 Cornell Tyler came to that car belonged to Edward
13 Walker

14 Is that making you hesitate for a moment?
15 Are you firmly convinced that things happened the
16 way the prosecution has said that they happened? He
17 said something else 00 Mr Brewer said something
18 else -- that was very crucial in this case

19 And, again, he changed his story around,
20 and when prompted and presented with prior
21 testimony, changed it back to what he said the first
22 time I asked him, I said, "Well, Mr Brewer,
23 didn't you say in prior testimony that a car passed
24 -- that after all of these things happened, you saw
25 a car slow down, looking into the field?" He said,

1 "Yes "

2 "And you said it was very suspicious,
3 didn't you?" And he said, "Yes, it was very
4 suspicious " I said, "Well, how many people were in
5 that car?" "Two -- the forms of two people," not
6 three, not people hanging all over the roof -- two
7 people, two people

8 And that's important because we know for a
9 fact that two people were in that car, because
10 they've told you -- Edward Walker, Wallow Ware. We
11 know that, uncontradicted testimony Nobody has
12 come in here and said that Edward Walker and Wallow
13 Ware weren't down that road

14 The only contradicted testimony about who
15 was in that car is whether or not Cornell Tyler was
16 in that car -- completely uncontradicted, two people
17 in a car Are you firmly convinced? Are you
18 hesitating to act?

19 That's based on Mr Brewer's testimony,
20 who was there -- who was there, who was there -- not
21 somebody who's got charges pending, somebody trying
22 to get something off of them The testimony given
23 almost contemporaneously, almost exactly after this
24 thing took place, 864 or so days ago, that's what
25 was said, not the things that you start to hear in

1 this courtroom

2 That's why I say when you turn the heat
3 up, you start to get a purer form of what really
4 happened This is an uncomfortable proposition for
5 you to sit as jurors as, but there are some tough
6 decisions that have to be made

7 And the prosecution has not presented
8 credible evidence that should get you there beyond a
9 reasonable doubt And that's what their burden of
10 proof is That's what their job is That's what
11 they have to do.

12 And as jurors when you promised to well
13 and truly try the case, those are factors that
14 you've got to get past -- not just skirt around, but
15 you've got to get past those -- past those -- to
16 find a person guilty of murder, a person guilty of
17 assault with intent to kill, a person guilty of
18 possession of a weapon during the commission of a
19 violent crime, when you know that two people who got
20 up here were actually there, two cousins And blood
21 is thicker than water

22 Now, another witness that we heard from
23 was Ms Valerie Williams And she essentially said
24 that Mr Brewer came to her home, and it was right
25 after this thing happened He was covered in blood

1 She called 911 and explained the situation

2 And she said, "You know, I was concerned
3 about him, but I was also concerned, you know, a
4 person came to my door bleeding, so I needed to call
5 911 " And she verified that he came to the door

6 Nobody's contesting that he was shot
7 Nobody's contesting that he was in the car She
8 just reiterated the things that he testified to
9 And as a result of these calls, one of the people
10 who came out as a first responder was Mr Harding

11 And he did exactly what he was supposed to
12 do as an officer He looked around, he secured the
13 scene, and he made sure that people who weren't
14 supposed to be around it didn't come around

15 He made sure that the scene didn't get
16 contaminated. He made sure that nothing got
17 missing He did his job exactly the way that it was
18 supposed to be done.

19 And what he also told you is that he
20 really didn't know any particulars about the case
21 He just secured the area And he also did something
22 else He started a crime log, is what I call it, so
23 that he could note the people who came in to make
24 sure that they had a note of everybody who came in

25 One of the things that's not being said in

1 this case, we're not saying that anybody has
2 tampered with any evidence We're not saying that
3 We're not saying that Because once this thing
4 started, the investigators who came on the scene and
5 the SLED people who analyzed evidence, they did
6 their jobs

7 They collected evidence, and the evidence
8 showed what it should have showed -- that something,
9 first of all, wrong happened, something heinous
10 happened It showed the shooting They showed the
11 bullets, shell casings, all of those things that
12 you'll have an opportunity to take a look at

13 They showed those things But what they
14 didn't show is that Cornell Tyler did those things
15 And as I said, I'm taking them a little bit out of
16 order Bernice Wingard said something that was
17 crucial as well

18 She lived along that stretch of road She
19 said, "I heard shots I was getting ready for work
20 that morning I usually leave somewhere around 4 30
21 or so, because I've got to be at work at 5 00 I
22 heard shots And what did I do when I heard those
23 shots? I called 911. And then I kind of waited for
24 a minute, then I got ready to leave "

25 And what did she say? "I saw a car coming

1 back down the road with headlights on, and I thought
2 that car may be involved So I just kind of froze
3 for a minute and decided to wait a little bit
4 longer, and then I left "

5 I asked her a crucial question I said,
6 "Were you the only one in the car?" She said, "I
7 wished that I wasn't, but I was I wish someone
8 else had been with me, but I was the only one in
9 that car when I went to work "

10 So you know what that says. She was not
11 the person that Mr Brewer saw pass by, because
12 there was one person in her car He saw two
13 That's crucial That's another one of those pieces
14 that I ask that you think about as you start to go
15 through and analyze the matters in this case

16 Now, as we go further in this testimony,
17 we met with Kendall Seawright, we met with Edward
18 Walker, we met with Wallow Ware And I'm going to
19 attempt to take those three together They're
20 almost like, I don't know, three amigos, three
21 compadres

22 The three of them, the three friends,
23 which, of course, we know these two were cousins,
24 and their friend, Kendall Seawright It just seems
25 kind of fortuitous the way this whole meeting thing

1 happened And just ask yourself -- I mean, quite
2 honestly, if you're going to lie about the little
3 things, are you going to be truthful about the big
4 things?

5 Do you honestly believe that Kendall
6 Seawright was just playing pool one day, and just
7 happened to be walking down the street on the
8 corner, and just happened to run into his good
9 friend, Wallow Ware, who had just previously
10 happened to just see his cousin walk up while he was
11 talking to a girl at a set of apartments in Salley,
12 or Wagener, or one of those areas?

13 All of these fortuitous things, these
14 serendipitous things that just happened, and they
15 just happened to get together, and they just
16 happened to decide to go down to John Hartwell's
17 house and hang out You know, they just happened to
18 do these things

19 Do you really believe that's how this
20 happened? Or do you believe that the three of them
21 had plenty of time to sit down and start discussing
22 how they want this testimony to unfold? They say
23 that they went down to Cornell Tyler's house

24 Kendall Seawright says, "Well, you know,
25 we went down there, and I don't know why we were

1 there Head Walker wanted to go down there " Head
2 Walker says, "Well, you know, Kendall wanted to go
3 down there " Suffice it to say they end up there
4 Kendall says he's sitting in the car
5 Head goes up and knocks on the door And at some
6 point in time, Duce comes to the door -- Mr Tyler
7 comes to the door And he says what? "Why are you
8 at my house at this time of morning?" --
9 uncontradicted, "Why are you here?" -- you know,
10 essentially, "You don't belong here You know that
11 you're not supposed to come around here "
12 And at some point in time, Kendall
13 Seawright says that as this thing went further, some
14 headlights came out He claimed that Cornell ran to
15 the side of the road, and went back in the house,
16 and all of this shooting took place
17 He says that Cornell's brother did a bunch
18 of shooting, and they took off after her Now,
19 Kendall does say he got out of the car Probably
20 the smartest thing that anybody could have done who
21 was in that car was what he did, was to get out of
22 the car
23 But I submit to you that he's still
24 covering, if you listen He's covering for his
25 friends who he came down there with And he's

1 covering for them, if you listen to the testimony
2 that you heard after that

3 I asked him a couple of questions I
4 said, "Well, Mr Seawright, you said that Cornell
5 got in the car with a gun?" He said, "Yes, I think
6 it was a gun I'm pretty sure it was one, but I'm
7 not sure Then Head jumped on top of the car and
8 started riding down on top of the car "

9 And we're going to get to that as well
10 But he said that Head Walker jumped on that car.
11 They took off after her But he said two things
12 He said he never saw Cornell Tyler shooting
13 anything He also said -- and this was interesting
14 to me He said, "Well, I can't say that he was in
15 the car the whole time You know, he could have
16 gotten out "

17 That to me sounds like somebody who's
18 beginning to vacillate because they know that the
19 heat is on them, and they don't want to incriminate
20 themselves any more Maybe he knows that he's lying
21 about this thing And he knows the two that did it,
22 but he doesn't want to put Mr Tyler all the way in

23 But he wants to help his friends who he
24 came down there with, who he hangs with all the
25 time He wants to give them a little bit, but he

1 definitely doesn't want to put Mr Tyler all the way
2 in

3 He says, "I never saw him shooting a gun
4 And he could have gotten out of the car, because I
5 didn't see him get out when they came back." Does
6 that stuff kind of seem a little bit inconsistent
7 with somebody who was an eyewitness to these things?

8 Think about those things Those are those
9 nuggets that I'm talking about Those are those
10 things that you've got to consider These are
11 people who are really tight and friends who came
12 down there. And somebody is covering for someone

13 If you listen to the testimony, they are
14 recovering He rode with them He rode back with
15 them, after all of these things happened And just
16 humor me for a moment You've all been to movies
17 You heard that line of questioning.

18 You've been to a football game, or to a
19 movie, or to a play, a ballet, something, with
20 friends You go to the ballet, and you love it, you
21 hate it, you are indifferent towards it, whatever
22 After you've finished and get back in the car,
23 what's the first thing that you do? You talk about
24 it

25 You talk about what you saw, what you

1 liability

2 I think the case that the State has
3 presented essentially says that either Cornell Tyler
4 -- as I listened to it, says that either Cornell
5 Tyler pulled the trigger and fired these shots, or
6 he didn't And so I think that's the question

7 The way that they've presented is that
8 Cornell Tyler was the person who did this and fired
9 the shots That's what -- you know, all the
10 witnesses they've lined up are people who have tried
11 to say that he's the person who fired the shots

12 So I think that the crucial question is
13 whether or not he fired the shots or whether he
14 didn't, not whether or not these other people may
15 have done something Again, it seems not to be a
16 common design, or scheme of any sort, or some
17 intention on common design

18 I have a couple of brief memos I did make
19 copies of where I'm just kind of putting some things
20 together But I can hand that to the Court I've
21 kind of put some case law together I can make
22 copies for Mr Weeks

23 THE COURT. All right

24 MR GIPSON But just to -- it's really a
25 question of whether or not Mr Tyler pulled the

1 liked, what you didn't like "I'll never go see
2 them again." "I hate Will Smith movies." "I love
3 this, I love that " You say something But they
4 didn't say a word Do you really believe that?

5 Do you really believe that? These same
6 three people who rode down together had everything
7 to say to one another, rode back after this
8 occurrence, this heinous occurrence, and had nothing
9 to say to one another, except, "Yes, I'll see y'all
10 later," like it's just something they do every day?

11 Do you believe that, or does that make you
12 hesitate? We know good and well that they talked
13 about what happened They said, "All right, you
14 didn't see this I didn't do this You know, if
15 somebody says something, I didn't have anything to
16 do with it "

17 You know good and well that's what
18 happened And that's the kind of thing that they
19 discussed when they got back in here with Mr Weeks
20 and the Solicitor's Office under this roof,
21 somewhere in this courthouse, and sat down and
22 talked about testimony -- because when I asked Mr
23 Seawright the direct question, "You all sat down
24 together, a couple of y'all had lawyers, you sat
25 down with Mr. Weeks, and you got in there to kind of

1 get your stories straight, didn't you?" And he
2 said, "Yes."

3 To get their stories straight, to make
4 sure that they didn't really point their fingers at
5 one another, to make sure that they protected one
6 another the best they could so that they could all
7 try to point the finger at Mr Tyler Think about
8 those things Think about those things

9 Does it make you wonder when they sit
10 together before a case comes up and corroborate
11 their stories? Proof that they corroborated their
12 stories -- did you hear how they answered the
13 questions when they were confronted, the three of
14 them -- when they were confronted with issues that
15 were contradictory?

16 "Well, I left some details out this time
17 that I kind of remembered this time that I didn't
18 remember the first time " Folks, they read from a
19 script That was the mantra of this case for those
20 three guys "There were some details I kind of left
21 out "

22 Well, what kind of details did Wallow
23 Ware, the cousin, leave out? He says -- when we get
24 to the crux of the matter, he says that "Well, while
25 Cornell Tyler was doing all this shooting, my cousin

1 jumped on top of the car, and he didn't have a gun "

2 I said, "Well, Mr Ware, didn't you say in
3 prior statements, prior testimony, with police and
4 under oath that your cousin was doing some shooting
5 and he had a gun?" "No, I didn't say that I
6 didn't say that "

7 Presented it to him, read it to him, and
8 he sat there, eyes going in every different
9 direction. He was caught And what did he say?
10 "There were some details that" -- he went right back
11 to the script.

12 "There were some details that I didn't
13 remember from the last, you know, situation, but I
14 remember them better now " Eight hundred and
15 sixty-four days later, you're remembering details
16 that you didn't remember a couple of days when you
17 were arrested and interviewed by the police -- that
18 you didn't remember, that you didn't remember, that
19 you did not remember -- when you were under oath and
20 placed your hand on this Bible and promised to tell
21 the truth, the whole truth, and nothing but the
22 truth -- those details

23 He's lying to you. He's lying to you
24 And can you convict a person of murder based on
25 those lies -- lies that you know he would not even

1 acknowledge when presented with them? What kind of
2 liar do you have to be to keep lying when you're
3 presented with the lie, after promising to tell the
4 truth?

5 You're the kind of liar who is covering
6 for your cousin Blood is thicker than water Are
7 you firmly convinced that Mr. Tyler is a murderer?
8 Are you firmly convinced, or are you hesitating to
9 act?

10 Mr Ware spoke about the fact that his
11 cousin jumped on top of the car And it was
12 interesting to me that he also said that he didn't
13 notice that he was on top of the car until he got a
14 little ways down the road Come on, now Have you
15 ever left a cup of coffee on top of the car?

16 You pull off The coffee spills over the
17 car You know, you say a couple of words that you
18 shouldn't say in Court There goes your coffee that
19 you paid for, and you hope it wasn't Starbucks,
20 because then you'd have to go back and pay for it
21 again

22 Have you ever left you wallet on top of
23 the car? You pull off "Oh, man, I forgot my
24 wallet," or "I left my briefcase, and it fell off
25 the car and fell into the street" -- or your glasses

1 or your camera That's the kind of stuff you
2 forget It's stuff that, you know, you do it
3 inadvertently

4 You just put it up there, and you have 30
5 or 40 things in your mind You jump in the car,
6 pull off Bam, it falls off You realize it fell
7 off And sometimes you don't even realize it fell
8 off, because it's so light that you may not hear it

9 But a grown, 25-year-old man at 4 30 in
10 the morning, jumping on top of your car while you're
11 pulling off to chase somebody, I would think that
12 you would hear that Does that leave you firmly
13 convinced that he's lying to protect somebody?

14 Let's take that a little bit further He
15 says that the sun roof just happened to be open just
16 a little bit And you'll have a chance to look at
17 those pictures He said that the sun roof was open
18 And as they drove down the road -- when I talk about
19 this road, you'll see it It's State's Exhibit
20 Number Fifteen, and State's Exhibit Number Thirteen,
21 and State's Exhibit Number Twelve, pictures of Mr
22 Ware's car that was involved in this

23 He says the sun roof just happened to be
24 open just a little bit And that was what enabled
25 his cousin, the stunt man, to jump on the car while

1 it was pulling off and hold onto to just a little
2 bit while it was riding And he said it was just
3 open a little bit, now You know, it was open a
4 little bit

5 So he says his cousin is holding onto the
6 sun roof, 160-or-some-odd pound man, grown man,
7 holding onto the sun roof, going down a dirt road
8 chasing somebody Let me ask you this as an aside
9 Have you ever been riding in the car with or without
10 a seat on for a minute, and you look down and just
11 have to throw on brakes real quick, say, five miles
12 an hour?

13 What happens? Ten miles an hour, 15 miles
14 an hour, same thing. If you have books in the back,
15 briefcase in the back, anything else in the back,
16 groceries in the back, somebody pulls in front of
17 you, throw on brakes, everything flies That's
18 inertia

19 An object in motion is going to stay in
20 motion until some other object stops it That's
21 what happens That's the science That's the real
22 world That's not how it works with Mr Ware and
23 Mr Walker

24 He gets on this car, holding onto a sun
25 roof two inches, driving down a dirt road, weaving

1 back and forth And, oh, Mr Walker is just holding
2 on Then he comes to the end of the road and takes
3 a left, which means he has to slow down

4 And he's going -- he's got to be going --
5 he said he got up to speeds of 75 miles an hour
6 And Mr Brewer said he looked down, and it was
7 somewhere down between 95 and 100 he's driving So
8 when he turns to the left, Mr Walker doesn't fly
9 off the car then -- doesn't tear his hands up,
10 doesn't break a finger, break a nail, nothing

11 He doesn't even tell you that Is that
12 even reasonable? Is it plausible? Does it make you
13 hesitate? And that's why I said when we started
14 this case common sense is the key in this case You
15 don't park your common sense outside in the car when
16 you come in here You bring it in here

17 That's the common-sense stuff in this case
18 that matters If a person will get up here and put
19 their hand on the Bible and tell you that story,
20 come on, people, what are they really hiding?
21 They're hiding the fact that the two of them -- like
22 Mr Brewer said, two persons -- the two of them were
23 in that car, and they did this deed

24 That's what's being hidden from you.
25 That's what's being hidden. But more so the fact

1 that he says -- Ware says they got to going 75 miles
2 -- or 70 miles an hour down the road, and his cousin
3 is just holding on

4 Has anybody in here ever water-skied
5 before? You may get up to about 35, and if you're
6 doing that, you're doing really well And that is
7 one of the hardest things to try to do, to hold on
8 And you're bumping up and down, water-skiing.

9 And you mean to tell me this man held on
10 70 miles an hour, shots being fired all around him
11 It's summertime in Aiken In most of South
12 Carolina, you're driving at night and have lights
13 on, moths are hitting the car, stuff flying in front
14 of the car, getting hit by moths, everything else
15 out there

16 Come on, people, you know that didn't
17 happen It's not reasonable It's not logical
18 Then they go to a four-way stop, and he said that
19 they stopped at some point and turned around.
20 That's when Mr Brewer saw them, when they stopped
21 and turned around

22 But if you stop and turn around, why not
23 get in the car then? He says he rode back, and
24 that's about 2 2 miles He rode a total of 4 4
25 miles on top of a car with his hands in the sun

1 roof, and no effects of it When you look at this
2 sun roof, there's nothing wrong with this sun roof,
3 nothing broken

4 Come on, people, it's not reasonable
5 It's not reasonable Are you firmly convinced after
6 hearing that, or does it help you a little bit more
7 when you learn that he's got a past -- grand
8 larceny, strong-arm robbery, burglary third, been to
9 jail for a while, career criminal, been in these
10 types of situations or criminal situations a good
11 bit

12 This isn't new to him This isn't his
13 first time around the block It's not his first
14 rodeo He's used to this You saw how he sat up
15 there, wasn't flinching -- "No," "No," "Huh-huh,"
16 "No " Somebody died -- "No," "Huh-uh," "I didn't do
17 it," "I didn't do anything wrong."

18 Is that the demeanor of somebody who cares
19 about a situation? He sat up there like he was just
20 being asked questions about whether or not he likes
21 football, basketball, and golf -- not about the
22 death of somebody that you have been directly linked
23 to It's not plausible.

24 And even in his testimony, when he was
25 confronted with things that he did say or didn't say

1 on prior occasions, what does he say? "All the
2 details You know, there's some details I just
3 happened to leave out."

4 Detail number one, he says, "Oh, yes, I've
5 seen guns all around Cornell Tyler's house, and
6 there are always scopes and all kinds of guns " He
7 never said that to police at any point in time.
8 It's not in any statements of any sort

9 I said, "Well, where is it?" "Oh, you
10 know, one of those details I just remembered 864
11 days later " When I asked, "Well, Mr Walker, what
12 kind of shoes were you wearing?" "Oh, some red
13 Timberlands Oops, I didn't mean to say that,"
14 because now we remember based on what Mr Leatherman
15 and some of the other SLED people who come up, and
16 Aiken County Sheriff's Department people, that the
17 footprint that is clear that we know was his
18 footprint from a red Timberland -- a red Timberland
19 boot -- not Cornell Tyler, not Wallow Ware, not
20 Kendall Seawright -- Head Walker

21 And then the story he comes up with was,
22 "Well, you know, I was down at Cornell's earlier
23 that day, and he wasn't home So, you know, I
24 walked down the road to see some people" -- another
25 detail that nobody heard anything about until he got

1 on this stand 864 days later

2 And we've come to learn from Cornell's
3 testimony that he had a barbecue that day He was
4 home Johnny Miles was home His brother was home
5 Family was there And he said Edward Walker didn't
6 come He wasn't welcome. He wasn't there

7 These are those types of details that I'm
8 talking about Are you firmly convinced? And all
9 of these things, these new stories, start to surface
10 after the powwow happened with the Solicitor's
11 Office, the meeting with those three

12 And they started coming up with new
13 stories and new, innovative ways to try to pin this
14 thing on Cornell Tyler I submit to you that they
15 are protecting one another They're protecting one
16 another It's clear

17 And the Solicitor's Office should be going
18 after them We know they were in the car And
19 circumstantial evidence tells you that Mr Brewer
20 saw them driving away, the two people -- the two
21 people

22 Now, one of the things that you're told
23 when people are dealing -- well, at least I remember
24 being told as I go back to that crucible situation,
25 talking about getting the purest testimony is

1 there's this old saying garbage in, garbage out If
2 you put garbage into that crucible and heat it up,
3 you're not going to get gold, because you didn't
4 start with anything

5 And that's what happened You have gotten
6 garbage type testimony, testimony that makes no
7 sense, self-serving in every way, shape, or form
8 And that's what you've gotten back That's what
9 you've gotten back in this situation That's
10 exactly what you've gotten back

11 Now, you may remember when you first came
12 in on Tuesday -- and I'm sure you remember -- this
13 list, this roll The Clerk's Office actually called
14 the roll And they called, and they wanted to know
15 who was here, who was present, who was not present,
16 so that they could determine who was going to be
17 able to serve and who was going to be available to
18 serve on jury duty

19 And I ask you to do that same type of roll
20 call, you know, in terms of who's absent, who's
21 present, what's absent, what's present in this case
22 And if you look at the things that aren't present,
23 the things that are absent in this case, those are
24 crucial matters that should have been brought to you
25 by the Solicitor's Office, who has the burden of

1 proof in this case

2 Lt Fleury, at the end of the State's case
3 yesterday, talked about coming to the scene at a
4 certain time And what did he say? He mentioned
5 the name of Johnny Miles And that name was
6 mentioned by Cornell Tyler

7 This was an older man who Cornell Tyler
8 allowed to stay at his house while he was -- he had
9 gotten -- basically, he got thrown out, something
10 happened with his boss, and he didn't have a place
11 to stay Cornell Tyler let him stay there and
12 allowed him to work with him

13 Johnny Miles was there Where is he?
14 Absent That's somebody who could come in and tell
15 you something about this case. They tried to
16 bootstrap that information because there was a
17 shotgun that was found that belonged to Johnny
18 Miles, a 60-year-old gentlemen He's 62 now, has
19 nothing to do with this case

20 But they saw his shotgun, and, oh, they
21 didn't bring it Johnny Miles had a shotgun there
22 There was nothing else said about it But you asked
23 Fleury, turned that heat up on him, and he said that
24 had nothing to do with this case That was his
25 shotgun

1 But where is he? Maybe he could shed some
2 light on this thing Maybe he could tell you what
3 really happened out there He's not here He
4 didn't testify But remember something -- and Judge
5 Newman explained this to you at the beginning -- the
6 State has the burden of proof

7 We don't have to do a thing We don't
8 have to call witnesses We don't have to
9 cross-examine witnesses I don't even have to do
10 this right now Some of you are probably saying "I
11 wish he wouldn't I wish he'd sit down."

12 But we don't have anything to prove They
13 do They do You don't have any footprints of
14 Cornell Tyler exactly where they should have been on
15 the side of the road The only footprints you have
16 is Johnny Miles

17 You have no fingerprints of Cornell Tyler
18 in that car, nothing For somebody who was supposed
19 to be crawling all around in the car and sticking
20 through the windows and shooting, you'd expect to
21 see something You don't have any of that

22 There is no trace evidence You had a CSI
23 person come in here and testify about how they
24 collect evidence, what they look for, how they make
25 latent fingerprints, how they -- not how they make

1 them, but how they collect latent prints You heard
2 all that testimony

3 And through all the expertise, all those
4 15 years of classes that he's been to, and all the
5 training he's been through, and all the places he's
6 worked, he could not find any trace that Mr Tyler
7 was in that car

8 And you want to know why he couldn't find
9 a trace of it? Because he wasn't He wasn't The
10 science doesn't lie The science says no
11 footprints, no fingerprints, no trace evidence, and
12 no motive

13 What's the motive? Nothing There is
14 nothing that's been introduced to say that Cornell
15 Tyler had any reason to be in that car doing any of
16 those things There is an absence of unbiased
17 witnesses The only people who have said are people
18 who are directly related to one another and friends
19 in this case

20 But all of these people who came in and
21 who had all of this extensive learning, extensive
22 training, law enforcement and otherwise, have not
23 been able to find one scintilla of evidence that
24 says Cornell Tyler was in that car -- none of them,
25 none of them And there is absence of proof beyond

1 a reasonable doubt by either definition, whether
2 it's firmly convinced or whether it's causing a
3 reasonable person to hesitate to act

4 You heard from Ira Parnell, the gun
5 expert He told you about how guns work, all of
6 those types of thing And he said the gun could
7 have been as small as 30 inches, as large as much
8 larger -- 45 inches, maybe more But he couldn't
9 tell you that Cornell Tyler had anything to do with
10 any of those things, none of them.

11 You heard from Joe Powell, trace evidence
12 expert We just talked about it -- couldn't find
13 fingerprints of Mr. Tyler, couldn't find footprints
14 of Mr Tyler, no fibers, no nothing like that,
15 nothing saying that he was there -- nothing,
16 nothing, nothing.

17 And, incidentally, the only thing that
18 they talked about, about gunshot residue, was they
19 said they found some on Mr Brewer And they said
20 that maybe it was because a bullet exploded and it
21 got on him while he was being shot They're saying
22 maybe he could have shot a gun -- I don't know

23 And that's not why we're here But we're
24 here to say that the evidence does not say that
25 Cornell Tyler did any of those things The science

1 doesn't say any of that stuff. Dr Sexton went
2 through the autopsy Nothing that he showed us can
3 tell us anything to do with Cornell Tyler

4 We talked about the reason why we can't
5 find any of these things is because they don't
6 exist The only thing that exists is three people
7 lying and covering for one another

8 You know, we brought in three witnesses
9 and Mr. Tyler, and you're aware who those people
10 were Those were James Gleaton, Wallow Smith, and
11 Frederick Scott Mr Gleaton, who knows these
12 folks, and they said -- the three friends said, "You
13 know, we saw Mr Gleaton at a friend's house He
14 wanted some beer. I had some in the trunk and gave
15 it to him, went inside."

16 He said they pulled up He confirmed a
17 couple of things He confirmed the fact that Wallow
18 Ware was driving that car He said, "The car was
19 like mine, and I know it because, you know, they're
20 very similar When I saw a car coming down, I was
21 walking towards the house, actually going down there
22 to see what they were up to.

23 "And the car passed me by I heard some
24 shooting " We asked, "Well, who was in the car?"
25 He said, "I'm not really sure." He said on the way

1 back, he saw them pass by again And he said one
2 thing He said he heard Walker yelling

3 He didn't say he heard Cornell Tyler
4 yelling. He didn't say that. He said he heard
5 Walker yelling And he knows Wallow Ware's car
6 because it's a lot like his That's what he said

7 He doesn't have any enemies to reward -- I
8 mean, enemies to punish or friends to reward in this
9 case Wallow D Smith, in Manning Correctional
10 Institution over in Columbia, pled guilty to what he
11 did, taking responsibility for what he did, in jail
12 for it He tells you that he had an opportunity to
13 meet Kendall Seawright

14 He met Wallow Ware He also met Cornell
15 Tyler And he met them in jail And one of the
16 things people do in jail is sometimes they talk
17 about their cases -- you know, "What's your opinion
18 on this?" "This is what happened What do you
19 think? What do you think?"

20 And he said that James -- excuse me, that
21 Wallow Ware told him that his cousin, Edward Walker,
22 had shot, had fired a gun, and was in that car
23 That's what he told you He also told you that he
24 wrote a letter, wrote to the Solicitor's Office

25 They came and talked to him. They didn't

1 act on it. So at a later date, when Head Walker and
2 he were housed and they started talking about
3 things, he said, "I didn't write them again because
4 they didn't act on the first one. They didn't seem
5 interested," is what he said

6 He said, "Head Walker said something very
7 similar to me as well. He said that he was -- that
8 he was in a car and that he fired shots. And he
9 never mentioned Cornell Tyler's name in any of this
10 He never said Cornell was in the car."

11 And Mr Smith never made any overtures,
12 never said that Ware said that Mr Tyler was in that
13 car. When they talked to people about their case
14 directly, they never mentioned Mr Tyler They only
15 mentioned him when they started being prompted by
16 law enforcement and started putting their stories
17 together

18 That's when Mr Tyler's name started
19 coming up, and that's when they started trying to
20 assign blame to him, because they knew that they
21 were in trouble, they knew that they were in the
22 car, and they knew that everybody else knew that the
23 two of them were involved -- the two people in the
24 car, the two people in the car

25 Freddie Scott said that, you know, "That

1 morning somewhere around seven or so, he came to my
2 door And, yes, I know I mean, he had some
3 problems with my wife at one point in time I know
4 him.

5 "And he knocked on my door I came to the
6 door We went outside and talked for a little bit "
7 And what did he say? He said, you know, "I think we
8 shot somebody " That's what he said

9 And he also said that Head Walker said
10 something to him about hiding a gun And then a car
11 came, and he waved to the people They picked him
12 up because they were coming from down in that area,
13 and left

14 I asked him that, and he told you those
15 things. He doesn't have any stake in this case
16 And Mr Weeks tried to cross-examine him -- he
17 didn't try, he cross-examined him And he tried to
18 cross him up a little bit and say, "Well, did you
19 live on this side, or this side, or this side?"

20 And he didn't draw the map His address
21 is what it is It's behind the restaurant, which is
22 diagonal from the field He knows Ms Williams, and
23 he knows that he tends to the cows in the pasture.
24 That's his job

25 What reason does he have to come in here

1 and start lying about stuff? None, none These are
2 people who have been in contact They're not just
3 sitting here, and they come in for a few minutes in
4 Court, and they put on a good face

5 They've been in contact with them for some
6 period of time They know them They know their
7 reputation They know the kind of people they are
8 And they can come in here and tell you a little bit
9 more about them and their character than we can
10 establish in a few minutes through a
11 cross-examination

12 And that's one of the crucial things here
13 It's interesting that Cornell decided to testify as
14 well, Mr Tyler He didn't have to do that But he
15 told me he wanted to get up here and explain to you
16 all that really happened that day

17 And what did he tell happened? You heard
18 him It was just a few hours ago He told you, "I
19 was at my house, a knock on the door -- you know,
20 knocked a few times And quite honestly, I thought
21 it was Misty "

22 He said he went to the door, and there was
23 Head Walker And he said, you know, "Why are you
24 here this time of morning?" Head asked him to
25 borrow some money And what did he tell you?

1 He said Head had been in prison for a
2 while, and he'd been, you know, on hard times,
3 hadn't done anything for his kids, and he asked him
4 to borrow \$20 before "I gave it to him " And he
5 came back, he said, and said, "Can I borrow some
6 money?" He said, "Yes, I gave it to him and said
7 "You've got to go " He said, "I went back to bed "

8 A few minutes later, he starts hearing
9 gunshots Head Walker comes back and says, "Y'all
10 need to leave " Now, the problem is that he left
11 He left That is a problem in this case You
12 cannot get around that

13 He left You can't get around it And
14 you have little rhymes that people will tell you
15 You know, if a person flees, they're guilty, stuff
16 like that. If they flee, they say if a person runs,
17 there are all kind of things and mantras that people
18 will tell you, "Well, you know, if he's not guilty,
19 why did he go?"

20 And I really can't tell you You know,
21 until you walk a mile in a man's shoes, you don't
22 quite know what decisions they'll make at what
23 particular time and why they do it But I can say
24 this reasonably There are people that are afraid
25 to get married

1 There are people that are afraid of water.
2 There are people that are afraid of dogs There are
3 people that are afraid of a lot of things But
4 something of this magnitude, if your name -- well,
5 if you get stopped by the police, maybe you're
6 speeding, maybe you're not, you get a little
7 nervous, a little bit of trepidation there, you
8 know

9 Those are the things that make people
10 nervous But if your name is called in a murder and
11 somebody said -- and you know that somebody with a
12 bad reputation, who's been in jail a bunch of times,
13 was around your house and some shooting took place,
14 the man says, "You know what, you may need to leave"
15 -- you know that -- don't you think you're going to
16 be a little bit nervous?

17 Do you think that maybe you may make a
18 decision on the spot that may not be a good one? He
19 left He said, "I tried to get in touch with my
20 uncle because I just needed to talk to somebody "
21 And he got in touch with his uncle

22 And he said, "And then I came down to
23 Columbia, and I got in touch with my family and got
24 in touch with the Aiken County Sheriff's
25 Department " He tried to put some money together to

1 get a lawyer 00 he did that -- "And I turned myself
2 in "

3 That's what he said Should he have left?
4 No, he shouldn't have left He should have stayed
5 there and should have faced the music from day one.
6 He should have called 911 and should have gone down
7 to the Sheriff's Department and said, "You know
8 what, this stuff was going on outside, and I didn't
9 have anything to do with it But, you know, y'all
10 just need to know there were some people around my
11 house."

12 That's what he should have done There's
13 no question about that That's what he should have
14 done. But he says, "When my name was called, you
15 know, and they said they were looking for me to do
16 with a murder, I got scared And I didn't know what
17 to do I hadn't been in this kind of situation
18 before, and I left "

19 But, folks, there is absolutely no
20 evidence in this record that says that he went up
21 the road, and took guns with him, and hid guns, and
22 hid evidence, none of that stuff You didn't hear
23 that Quite honestly, when Mr. Fleury came and
24 checked the house, he didn't find anything

25 He made a bad decision But he turned

1 himself in once he hired an attorney And they
2 walked up to Aiken County Detention Center, walked
3 in, and he turned himself in And that's what he
4 did

5 And the evidence still does not connect
6 him, the science doesn't connect him, to the things
7 that Mr Weeks is trying to say happened out there
8 Now, as we start to wrap this thing up a little bit,
9 Bill Weeks didn't bring in the uncle and say, "What
10 did y'all talk about?"

11 He could have done that He didn't bring
12 him in here He didn't bring in anybody from any
13 hotel in Columbia where he stayed and say, "Was he
14 there? Was he here? Did he do this? Did he do
15 that?" No, he didn't

16 And you know what Cornell said? He said,
17 "You know what, I got in that hotel, and I stayed
18 there I didn't go anywhere I just sat there, and
19 I was scared I just talked to my family, and I
20 just wanted to make sure that I had somebody to walk
21 in there with me, because I didn't do it "

22 That part is reasonable But he shouldn't
23 have stayed gone He shouldn't have gone. There's
24 no question about that And an interesting thing,
25 too, is with this Head Walker thing. You know,

1 Cornell lent him money, gave him money on a couple
2 of occasions to help get him out of a situation

3 And he turned around and bit him There's
4 an old proverb where a man walks into the woods, and
5 he sees a snake that's frozen It's cold outside
6 It's snowing The snake's frozen He picks the
7 snake up, brings him in the house, lights a fire,
8 and puts a blanket over the snake

9 And the snake begins little by little, as
10 reptiles will do, they start to thaw out, and he's
11 still alive. And he brings the snake back to
12 health. The snake thaws out, and he's okay And
13 then the man goes over to touch the snake The
14 snake bites him on the hand, and he's dying It's a
15 poisonous snake

16 He said, "Why did you bite me? I brought
17 you back to health I helped you out I did
18 everything I could to get you back to where you
19 needed to be " And the snake said, "You knew I was
20 a snake "

21 And that's kind of what we're left with
22 here Edward Walker is the logical person who did
23 all of these things, who has covered, who has lied,
24 who has weaved this web of lies, who sits up in here
25 unshaken, unmoved, and tells this story like he's

1 telling you about something -- no emotion, nothing
2 He just talks to you like he's just talking to
3 somebody on the side of the road

4 One other thing I want you to think about
5 as you look at these pictures They said that
6 Cornell Tyler hung out of that window shooting a
7 gun Did you look at Cornell Tyler? Do you see his
8 size?

9 Do you think that he could fit out of that
10 back window to shoot a rifle, fit through a sun roof
11 to shoot a rifle? Look at him Again, that's
12 reasonable doubt And this car, the back windows
13 don't even go all the way down They go halfway
14 down Do you think he could do that, or do you
15 think the thin man who sat up here was the person
16 who was doing that kind of stuff?

17 Let's just be reasonable for a minute, cut
18 all that other stuff out Could he have even fit in
19 that window? Think about it And as I said, when
20 this thing boils down, they just want you to be
21 emotional about it They're going to come in here
22 in a couple of minutes, and I expect Mr Weeks to
23 say, you know, "Well, the bottom line is we think
24 Cornell did the shooting But you know what, it
25 really doesn't matter, because, you know, since his

1 friends were around him and the stuff happened at
2 his house, it doesn't matter if he shot them or not,
3 because there's a doctrine called hand of one is the
4 hand of all

5 "And if you or one of your cohorts does
6 something, and you're around them, and you knew that
7 they're about to do it, or you had something to do
8 with it, you're just as guilty as they are So it
9 doesn't matter if he shot them or not " But, folks,
10 I tell you that that's offensive, because that's not
11 what he told you

12 He told you Cornell Tyler shot those two
13 people -- killed Ms Dorch and injured Mr. Brewer
14 That's what he told you. Don't let him start
15 wiggling off the hook and changing things around now
16 that he knows that the evidence doesn't show what he
17 promised you that it was going to show

18 Cornell Tyler didn't shoot anybody He
19 wasn't in the car He didn't plan anything He
20 didn't have any scheme or anything like that to put
21 these things together There's no proof of that --
22 no credible proof, no believable proof of that

23 Don't let Mr. Weeks start wiggling off the
24 hook with that kind of stuff, because beyond a
25 reasonable doubt is the standard here And they

1 have not met it If you choose to vote not guilty
2 here, it doesn't mean that you condone what happened
3 out on the side of the road that day

4 You're saying that in this instance, in
5 this case, in this courtroom, they have not proven
6 beyond a reasonable doubt that Cornell Tyler did
7 these things That's what you're saying There is
8 another day for them to bring justice to Wallow
9 Ware, to bring justice to Head Walker

10 But in this situation, they haven't
11 handled what needs to be handled They haven't
12 gotten you firmly convinced If you believe that
13 Cornell Tyler may have done something or he could
14 have been involved, that's reasonable doubt

15 If you say he may have, or maybe he knew
16 something about it at some point in time, or
17 possibly, all of those things are reasonable doubt
18 And you have to get past the speculation, and the
19 suppositions, and the what-ifs and the maybes
20 You've got to get past all of that in order to vote
21 guilty based on the oath that you took

22 You've got to get past those things Have
23 they proven? Don't get emotional, get reasonable
24 Yes, what happened was wrong and bad But did that
25 man, Mr Tyler, do it? That's the question that you

1 are left with

2 Verdict is from the word verdicto You'll
3 hear that It comes from a Latin word meaning to
4 speak the truth, a Latin verb, I guess that is And
5 that's what is supposed to happen You have to
6 speak the truth as to whether or not they've proven
7 this case beyond a reasonable doubt.

8 Mark Twain said that a lie can travel the
9 world around while the truth is putting on its
10 shoes This lie has been traveling around here for
11 two and a half years. To tell the truth about what
12 happened, the truth is that they know who did the
13 shooting, and it wasn't this man.

14 They know who was involved, and it wasn't
15 this man Let your verdict speak the truth, because
16 they have not proven this case beyond a reasonable
17 doubt Let's end this thing and get the people in
18 this courtroom and in jail who were involved in it
19 Thank you for your time

20 THE COURT Ladies and gentlemen, let's stand
21 for a moment Ladies and gentlemen, I'll have you
22 go to the jury room for just a few minutes, maybe
23 five minutes Please do not discuss the case

24 (The jury left the
25 courtroom at 11 00 a.m)

1 THE COURT We'll take five minutes

2 (Court in brief recess.)

3 THE COURT All right, thank you Please be
4 seated You may bring the jury

5 (The jury returned to the
6 courtroom at 11 16 a m)

7 THE COURT Mr Weeks?

8 MR WEEKS Thank you, Your Honor

9 CLOSING ARGUMENT

10 BY MR WEEKS

11 I know it's difficult sitting in here,
12 watching lawyers parade around, make arguments, but
13 I hope the first thing you thought when I stood up
14 is, "Well, he just needs to sit down, because the
15 State has shown us beyond a reasonable doubt that
16 this man is guilty "

17 But I'm going to go through and do my job
18 once again and show you why Cornell Tyler is guilty
19 of murder We have brought in pictures We brought
20 in forensics And I never could figure out from the
21 argument that Byron was making whether or not he
22 agreed with the forensics or disagreed with the
23 forensics

24 But they were uncontradicted throughout
25 the trial of this case, the forensics that were

1 brought in, one of which was this photograph. And
2 this senseless killing -- and I mean senseless --
3 started right here. You saw Mr Brewer come up
4 here, and he talked about Debra Dorch missing the
5 tube

6 And you're going to see a picture in a
7 minute of the tube It's at the top right there
8 She backs up, catches the tube -- or she hits the
9 tube, backs up, catches the tube, and comes back
10 past it, right in here -- right in here When she
11 does, a man approaches the car

12 Mr Brewer doesn't know him at that time,
13 but he comes up And where he's come from is right
14 out of this porch. Comes out to the road there,
15 goes up to the car Ms Dorch, reasonably so --
16 because we know now that that man had a rifle in one
17 hand and an arm to grab at the door -- guns it,
18 goes down this dirt road

19 This is at 4.00 in the morning. Ain't
20 nobody hunting at 4 00 in the morning, okay? So
21 they're proceeding down this way. We brought up
22 this nice screen. This disaster, merciless killing,
23 ends right in that field. It starts right here

24 And you've heard lots of testimony about
25 Bo Duke and the Dukes of Hazzard in this case, which

1 admittedly just sounds ludicrous, sounds ridiculous
2 Sometimes the truth is the truth But this chase
3 took place along this stretch of road right here

4 Now, I know lawyers are advocates, and
5 they hear what they want to hear sometimes But
6 there was never a witness from the State that
7 testified that those boys -- men, murderers -- went
8 past that four-way stop sign right there The truck
9 is in the field over here

10 You've got pictures of it that we'll show
11 in a minute They never went past here This is
12 where they turned around and went back down this
13 road and back to Cornell Tyler's house to clean up

14 But this, as you will see, is where the
15 four-way stop sign is One fact's for certain
16 Y'all won't ever be able to see through me This is
17 where the four-way is, okay? This is where the
18 truck is Now, that's uncontradicted in the
19 evidence

20 They want to make a big thing out of a car
21 coming up down this road, and turning around, and
22 going back and looking slow. Well, ladies and
23 gentlemen, we don't know who that was We're not
24 trying to say that was the bad guys in this case.

25 That's a rubbernecker, as we all know what

1 they are They see something They ride up and
2 down the road and go back He wants to make a big
3 deal out of it. He wants to call Joe Brewer a liar
4 so bad he can't stand it -- just wants to do it

5 And Joe Brewer has told the truth from day
6 one If this is not trauma, ladies and gentlemen, I
7 don't know what trauma is Being shot at going over
8 a two-mile stretch of road, in a truck, being hit,
9 watching the driver of the car get hit, tell you
10 she's hit, then watching the driver of the car get
11 hit again and dying right there, and you're sitting
12 there with a double stack of newspapers in your lap,
13 and the car is going 100 miles an hour, and her
14 foot's pressed down on the accelerator

15 Now, if that ain't trauma, it's just
16 starting really good, because that car goes down
17 here. And you'll see the pictures. It goes off the
18 road, comes back on the road, and loses it, and just
19 starts flipping a number of times, ends up there
20 He don't know how many times it flipped.

21 Debra Dorch, bless her heart, was flipped
22 out of it, was dead already But he's in the middle
23 of this field in the middle of nowhere. I grew up
24 in the middle of nowhere, so I'm allowed to say
25 where the middle of nowhere is That's the middle

1 of nowhere

2 Now, this car that comes up and down, he's
3 not saying it was the bad guys There wasn't any
4 testimony about that -- just want to make Joe Brewer
5 a liar Let's make a man who just is the luckiest
6 man I know a liar, because, you know, the respondent
7 is not a liar.

8 Now, this is an aerial photograph of what
9 I'll show you in a little while Mr Leatherman
10 brought up there with a sketch That's all it is,
11 you know They've all seen it The witnesses had a
12 right to see it

13 So the witness comes up, and he says, "I
14 live down here." He lives down here And I point
15 out to him that "You probably don't know where you
16 live, do you?" He's living somewhere up this way
17 And the reason that was important and the reason I
18 had to call him on it was (a) he's lying, and (b) he
19 don't know what direction is up or down, and (c) it
20 makes no sense at all what his story was

21 But we go further This is where it
22 really began See the blue tube over there on the
23 right. We all see the blue tube The truck's there
24 for just decoration, because that's where -- that's
25 the next-to-last mailbox that Debra Dorch filled

1 She backs up, and she comes back up the
2 road Now, ladies and gentlemen, somebody gave me a
3 poem one time about dirt roads Dirt roads are, you
4 know, soon to be a thing of the past probably They
5 pass some one-cent sales tax to pave the world

6 But dirt roads are really good sources of
7 evidence if it don't rain But if it rains, a dirt
8 road ain't worth a flip And a dirt road ain't any
9 good when cars are going up and down it going to
10 work A dirt road ain't worth a flip if the police
11 don't find it right away as to find forensic
12 evidence

13 But in spite of that, Billy Fleury and his
14 men are canvassing this whole area, trying to find
15 leads. They don't know yet Mr Brewer's in the
16 hospital Debra Dorch is dead All they have is
17 these 911 things, and they don't know where they're
18 at They're disoriented

19 So they're talking to a man that's living
20 right here, and he says, "I heard shots down that
21 way " As a result of what he said, they go down
22 there, and they find a pile of shell casings. Well,
23 I'll tell you why all that gets important, because
24 that pile of shell casings is right here -- right
25 there

1 Well, this is Cornell Tyler's house right
2 here This is Tremaine Tyler's house right here
3 This is where Johnny Miles is being paid to feed the
4 pit bulls, right there Now, they see a pile of
5 shell casings They know there's been gunshots.

6 So they start bird-dogging this particular
7 spot They start marking it off But by then,
8 quite honestly, it's (a) rained, and (b) cars have
9 gone up and down the road And even with Cornell
10 Tyler's unbelievable testimony, you can probably
11 assume that they've at least walked in the area
12 They've had to get out of Dodge

13 But this pile of shell casings starts
14 really some incredible police work A little closer
15 view, you see how close the front door is to his
16 house? And he hears seven shots out here or there's
17 shots fired in his driveway, and he thinks it's deer
18 hunters

19 That's unbelievable But, anyway, the
20 people are right there He don't even see the car
21 in the front yard The pile of shell casings is
22 right here If you're shooting at a car going down
23 the road, unless the car is going here or unless the
24 car is going there, common sense will tell you that
25 you're going to fall out in generally this same

1 area

2 Well, that's what they found, and it was
3 just good police work, right in that area This is
4 the area, and you can see tracks all in there
5 We're not trying to cover up tracks These dirt
6 roads make tracks, but they also erase tracks, too,
7 with rain Wallow Ware says he pulls up right here,
8 right in here

9 You know, what is that? You can see the
10 road You can see the house Is it 30 feet, 35
11 feet? Well, he sees, he goes around to the side to
12 use the bathroom One goes around to the other side
13 to use the bathroom

14 But, anyway, Cornell Tyler and his
15 brother, Tremaine Tyler, ultimately both come out of
16 this door right here When they come, Cornell goes
17 to check on who's shining those headlights at his
18 house at 4 00 in the morning

19 And those headlights for some reason are
20 concerning him Now, I can't cut his head open and
21 find out why they were concerning him I don't know
22 -- don't know But they were concerning him So he
23 goes out with his rifle to check on them

24 And then his younger brother -- or
25 Tremaine -- Tremaine follows out with his

1 9-millimeter pistol Walker has seen him with a
2 9-millimeter pistol Both of these witnesses saw
3 him shooting in the roadway

4 Well, there's a reason, I suggest to you,
5 why Tremaine Tyler, after shooting these rounds of
6 bullets, why Cornell Tyler left out in such a rush
7 These young men that have gone down there that night
8 were fixing to have their lives changed

9 And sometimes it's impossible to explain
10 why people do the most idiotic stuff in the world.
11 But they do People commit horrible, violent crimes
12 every day in this country Well, they committed one
13 that night.

14 This is where the end was starting to
15 come You see the tracks in the road What's
16 important with this shot, the reason I put it in
17 here, is Wallow Ware testified that he was down
18 here, and he saw the car go off the right side of
19 the road -- you can see the things there -- come
20 back on, go left, and start to flip

21 You can see that That's very reasonable
22 He don't know that we're going to have a picture of
23 that two and a half years later to show you But
24 that's what he tells us when we first talk to him a
25 day and a half after this incident -- that he turned

1 around in that road and went back the way he came

2 But it's within eyesight They're not on
3 the bumper at that point, even according to Mr
4 Brewer, who's not looking at that point Debra
5 Dorch has been hit He's trying to gain control of
6 the vehicle It ends up there

7 If it's not trauma to step over the
8 lifeless body of the woman that was just driving the
9 truck you're in, I don't know what is But he gets
10 out of that car He's disoriented It's flipped
11 from this road to here He don't know how many
12 times It's not important how many times, but it's
13 a bunch, high rate of speed

14 The wire from the fence is just completely
15 encircling the truck He don't know where's he at
16 He's literally hiding out here trying to talk to
17 them when he sees cars going by He's just been
18 shot at by people he don't know He's traumatized
19 -- and lucky, extremely lucky

20 This is what the police found when they
21 get there. They take the truck back, and they start
22 to look at the forensics They don't know who's
23 involved still at this point

24 They go back there and start looking at
25 these bullet holes -- bullet holes that not only go

1 through the bed of the truck, the back bed there,
2 and I would suggest to you there's at least one
3 piece of metal there, they go through the tailgate.

4 And I would suggest to you there's at
5 least one piece of metal there And I don't know
6 how many of you own trucks, but there's a separate
7 cab to these puppies, and that cab is metal also

8 And then you've got two big thick seats
9 there, and these bullets have gone through on a
10 trajectory about like this, just about like this --
11 not like this, about like this Those dowels are
12 eerie, because those dowels show just how lucky a
13 man Joe Brewer is and how tragically unlucky Debra
14 Dorch was

15 Where Debra Dorch was sitting, the shot
16 that killed her came through this seat -- the two
17 shots that killed her Three shots come through on
18 this side Three shots go through on the other

19 Joe Brewer's seat was dissected with a
20 7 62 high-powered rifle round dead center mass, and
21 he got missed by it -- living right, doing something
22 right The other shell comes through the other side
23 over there, and he told you he indicated he thought
24 he was hit on the arm

25 Well, I can understand I think it's very

1 reasonable that he didn't know how bad he was hit
2 after being flipped through the air and all of that
3 The reason all of that is significant -- Wallow Ware
4 don't know this, Edward Walker don't know this,
5 Kendall Seawright don't know this -- is that he gets
6 a bullet lodged in him, and the rest of the bullet
7 down here on the -- down here at the seat -- that
8 SLED is going to take back and say are the same
9 bullets from -- that killed Debra Dorch -- identical
10 type bullets, NATO ammunition, Russian ammunition,
11 whatever

12 There is a bullet, and part of it probably
13 is still lodged in Joe Brewer Now, the police did
14 the forensic work and go to that truck, have that
15 truck, still trying to figure out where it all
16 emanated at and why these news carriers are being
17 cut down

18 Well, this mark here is significant This
19 is the four-way stop sign This is where they find
20 one -- they just find one -- shell casing But, you
21 know, it is a 7 62-by-39-millimeter shell casing in
22 the middle of nowhere And two bullets are going to
23 be taken from the dead body of Debra Dorch, and one
24 is going to be taken from the truck right beside Joe
25 Brewer that are fired from that caliber of weapon

1 So Wallow Ware, Edward Walker, and even
2 the police don't know that at that time. They know
3 that they've got a shell casing here in the roadway
4 Well, they go back, and they do the work They
5 start working

6 They're canvassing While this is being
7 done, while that's being picked up, they're
8 canvassing They're back here at the scene They
9 start trying to find footprints with some definition
10 to it

11 Well, they got a cast up here, number
12 three They got a cast down here, and I think
13 there's another cast in one of the other photographs
14 you'll have back there They go to other footwear
15 indentations. You'll see the paint everywhere
16 They're just trying to piece together what they can
17 get from the scene

18 Now, the defense makes a big deal out of
19 -- you know, the defense is -- you can't have your
20 cake and eat it, too If I had 14 prints of Cornell
21 Tyler out here in the road that the testimony of the
22 SLED agent was, "They're just consistent in out-sole
23 design I can't say that he wore these Timberland
24 boots But, you know, these Timberland boots are
25 sold by the truckload," he'd be yelling out, "Well,

1 those ain't Cornell's boots He ain't proving those
2 are Cornell's boots "

3 Well, we ain't proving they're Edward
4 Walker's boot print We're just giving you what we
5 found Credibility goes to both sides of the aisle
6 We're giving you what we found There's a similar
7 track to Edward Walker there

8 And he explained that And there's a
9 difference from what Cornell says about his
10 relationship with Edward Walker, but I think that
11 relationship's kind of ludicrous that he explained
12 But they're to find that people have walked to
13 identify. At this point in time, keep in mind, this
14 is still in the early morning hours of August the
15 27th

16 Debra Dorch goes to autopsy on the early
17 morning hours of August the 27th At autopsy, they
18 pull these bullets and clean them up You've heard
19 testimony about that being the lead core, and this
20 being the jacket

21 You've heard testimony, uncontradicted,
22 that these bullets were all fired from the same
23 weapon, a high-powered rifle You've got the lands
24 -- or you've got the grooves if you've got the
25 lands. And you've got a microscopic comparison in

1 addition on there, in addition to the measurements
2 of the grooves and lands

3 You've got this bullet busting apart,
4 which nobody knows at the time is relevant to
5 anything, that these bullets were shattering as they
6 were impacting through the bed of that pickup truck
7 But forensics -- yes, forensics are good

8 Forensics will corroborate and show you
9 why Cornell Tyler is guilty Of the car, sometimes
10 it's amazing how lucky police can be in an
11 investigation And sometimes it's extremely
12 excruciating

13 They get to that car a day or two later,
14 and the way they get to it is from James Gleaton
15 saying his car has, you know, lights across it, but
16 it looked kind of like Wallow Ware's car So they
17 talked to Wallow Ware

18 This is August the 27th -- still ain't
19 found the Tylers, still ain't found anybody that
20 knows anything about it except Mr Brewer, who don't
21 know of any of the people He's never met Cornell
22 Tyler at that point in time, never seen him except
23 that night at that time He's seen him since

24 But, lo and behold, this car that they're
25 describing has a sun roof, and, lo and behold, it

1 has a front and back seat And, lo and behold, it
2 is described to a "T" by Kendall Seawright as well
3 as Wallow Ware's car, Edward Walker as Wallow Ware's
4 car

5 It is the car that was housing the bad
6 guys at that time, all the bad guys But they don't
7 this till two days later, okay? And they do the
8 forensic stuff They find Wallow Ware's
9 fingerprints on it

10 They don't find Seawright's fingerprints
11 They don't find Edward Walker's fingerprints. They
12 don't find Cornell Tyler's fingerprints in it Is
13 it unusual? No But we're going to bring it in
14 here anyway, because if we don't bring it in here,
15 they'll be bringing it in here and say, "Well, you
16 didn't find my client's fingerprints on it "

17 We didn't find anybody's but the owner's
18 fingerprints on it And we had them all to compare
19 But they explained to you the elements, the time,
20 all of that's important with fingerprints And just
21 keep -- every time I keep saying something about
22 evidence is not here, I want you to think clean-up,
23 because clean-up was what was done

24 Clean-up, maybe not the car as thoroughly
25 as it could, but Cornell Tyler had the whole time

1 back to make sure his fingerprints weren't on
2 anything, if there's anything in there a fingerprint
3 can take It looks like a cloth interior

4 He didn't know enough about gunshot
5 residue at the time He's probably an expert in it
6 now, but he didn't know about it at the time But
7 the gunshot residue was taken from the headliner of
8 this car a year after it had been sitting in police
9 impound

10 And the gunshot residue just confirms
11 what's pretty obvious, that guns were fired from
12 that car It's really uncontradicted that guns were
13 fired from the right side of this year Their own
14 witness, Gleaton, says some weapons were being fired
15 from the right side of the car going down the road

16 Kendall Seawright says that's where
17 Cornell Tyler was sitting Wallow Ware says that's
18 where he was sitting Edward Walker says that's
19 where he was sitting

20 So it's not unusual that gunshot residue
21 was found on the headliner of that car from somebody
22 shooting a rifle out of an open window, wind blowing
23 back Gunshot residue is particles -- microscopic,
24 tiny little particles -- that he don't have a clue
25 is there

1 That's why I asked the question, "Were
2 y'all shooting out the back window going down the
3 road, hunting rabbits or anything like that? Have
4 you ever shot in that car?" "No "

5 Well, the car had been sitting in police
6 impound Clay Adams testified that they towed it
7 that day So that gunshot residue corroborates that
8 the shooting was coming from that point in time or
9 that point in the car

10 Well, it's uncontradicted that there were
11 shots coming from the back right corner of that car
12 Now, Dr Sexton -- I don't know how anybody does
13 10,000 autopsies, but he has And he comes, and he
14 has to testify in front of this girl's mother that
15 the wound that killed this girl came from a high-
16 powered rifle

17 And he takes those pictures that go to
18 SLED, come back in here, and ends up in front of
19 you Forensics -- you know, it's a fast-paced
20 world Young people on the jury, older people on
21 the jury, but sometimes police work is just old-
22 fashioned leather

23 It's not a situation in lower Springfield
24 or upper Springfield, either one --
25 Orangeburg/Springfield or Aiken/Springfield -- where

1 we're going to be able to videotape crimes on the
2 road The only thing we're going to be able to do
3 is bring you some of the people that were there

4 People that are charged with crimes don't
5 have to testify We bring to you Joe Brewer out of
6 the grace of God Without Joe Brewer, both of them
7 are dead But with him, it led us along with good
8 police work, to find people to pinpoint where it was
9 at

10 But, lo and behold, the Tylers ain't home
11 They're not hiding, but they ain't home It is
12 ludicrous, absolutely ludicrous, the story of
13 Cornell Tyler Now, you might think that Wallow
14 Ware, Kendall Seawright, Edward Walker ain't the
15 best people in the world There are some issues
16 along those lines, I'm sure

17 Just because the State calls them as
18 witnesses doesn't mean that we think they were born
19 at the foot of the cross The best story I ever
20 heard -- if you're going to convict the devil,
21 you've got to go to hell to get your witnesses -- is
22 pretty typical in most crimes

23 The reason it's typical in most crimes is
24 because people don't do crimes in the First Baptist
25 Church very often. They do them at 4 00 in the

1 morning in the middle of the street or in a house
2 somewhere. And you're just so fortunate sometimes
3 that you can get to the people before they get to
4 their lawyers and the lawyers tell them to shut up,
5 don't talk.

6 Wallow Ware didn't have that luxury When
7 he got to us, he didn't have a lawyer He was
8 advised he could get one -- "I'll tell you what
9 happened "

10 August 29, 2005, Wallow Ware tells us what
11 happened, who was there, who was with him If he
12 wanted to protect his cuz, as they want to make out,
13 he didn't have to have him on that car He didn't
14 have to have him on that car, in that car, anywhere
15 near that car

16 He knew he was driving He knew it was
17 his car But he didn't have to put his cousin into
18 the mix. And Wallow Ware under interrogation was
19 saying that he heard shots coming, could have been
20 both, could have been multiple He's trying to tell
21 you that on the stand, and he's just having all
22 these papers waved in front of him

23 From the minute we approached these
24 people, I think it's reasonable for you to assume
25 everything they've ever read, said, or done is typed

1 or videotaped Well, somebody go back there in the
2 jury room and try to repeat one paragraph of what I
3 tell you in closing arguments verbatim I bet you
4 can't do it

5 And if you can do it and tell the person
6 next to you, I'll bet you they won't be able to do
7 it It's just human nature You can't remember all
8 of the nuances in something when you've given
9 multiple statements through the years

10 But if, by the grace of God, we can come
11 in here and every witness that comes in there and
12 testifies for the State says exactly the same thing
13 every time, well, y'all would cry foul real quick,
14 because people can't do that, unless they've just
15 rehearsed and trained and rehearsed and trained
16 And then professional actresses and actors can't do
17 it

18 These are real people These are real
19 eyewitnesses to real crimes And in spite of not
20 knowing that we're going to come in here with
21 forensics and corroborate what they're telling us on
22 August the 29th, they don't know all this has been
23 found.

24 We don't go in there and tell them, you
25 know, "Look, we've got you You've got to give it

1 up because we've got all this evidence on you " We
2 don't know a lot of the evidence we've got on them
3 right at that point in time

4 It's still being analyzed It's still
5 being sifted through So they're telling the story
6 on August the 29th Cornell Tyler's telling the
7 story yesterday, two and a half years with his
8 lawyers, and investigators, and his mama, and his
9 daddy

10 Now, who can make up a story? Who is
11 meeting with the witnesses? You know, it's
12 malpractice for a lawyer not to meet with witnesses
13 he's going to call. So don't say that Bill Weeks is
14 up here dancing around because he met with his
15 witnesses That's just not fair, not fair, because
16 he's met with his witnesses and will continue to
17 meet with witnesses, because it's malpractice not
18 to

19 Now, I want to go a little bit to the
20 eyewitnesses' testimony Wallow Ware sat on the
21 stand and essentially testified to being a murderer
22 He don't want me to argue the hand of one, the hand
23 of all that you'll hear the Judge explain the law

24 But it is the law, and it's the law
25 according to the Court Debra Dorch wouldn't be

1 dead if it wasn't for Wallow Ware Cornell Tyler
2 pulled the trigger But they weren't shot on this
3 stretch of road here They weren't shot by Tremaine
4 Tyler

5 They were on this stretch of road here
6 before 911 is being called But Cornell Tyler don't
7 know that So Wallow Ware, who testified the very
8 first time or gave a statement the very time, was
9 implicating himself in a murder He told that same
10 story for two and a half years

11 They were trying to beat him to death
12 yesterday with some transcript about some words,
13 about whether or not he had said that Edward Walker
14 had something Their witnesses come up here and
15 said that Edward Walker said he had a pistol

16 But, ladies and gentlemen, a pistol didn't
17 kill Debra Dorch It didn't wound Joe Brewer. A
18 high-powered rifle did that, and it wasn't but one
19 person that had that in that car

20 Now, if you believe Edward Walker had a
21 pistol, there's nothing we can do to prove that
22 Edward Walker had a pistol It don't make sense for
23 the defense to argue He's down there to borrow
24 \$20, and he's got a pistol

25 Don't know how he got there You know, he

1 don't have a car He don't have a window to throw
2 anything out of But he's supposedly got a pistol
3 "Oh, it could be 30 inches It could be" -- well,
4 he didn't

5 But Wallow Ware tells what he's observing,
6 tells what he did, and implicates himself, and he
7 goes to jail He's charged with murder Well, he
8 ain't looking out after cuz, because he implicates
9 cuz as being in the car, he's jumping on the back

10 Now, if you're going to make up a story,
11 make a whopper Just make a whopper If you're
12 going to lie, lie about a lot The business about
13 Edward Walker being on the back of the car is
14 incredible, stupid Well, it would seem incredibly
15 stupid to go down the road shooting a newspaper
16 carrier through the back of the truck

17 Now, is it reasonable to believe that he
18 was on the back of the car? All of these witnesses
19 testified to the same thing except Cornell, who
20 wasn't there at all He was on the back of the car
21 Well, you can't shoot going down the road at 75
22 miles an hour on the back of a car with the accuracy
23 that these holes were plugged into the back of that
24 truck -- can't do it

25 Is it physically possible for him to hang

1 on? Yes. Was it physically possible for him to
2 bail out on the dirt road when he figures
3 something's going on? Well, on the dirt road, he
4 didn't know that Cornell was going to start cutting
5 loose on these people with a rifle

6 He's getting the hell out of Dodge because
7 he's just heard shots His ride is leaving He
8 knows it's the only car there He's getting out of
9 Dodge It's his ride

10 Well, his cousin don't stop at the stop
11 sign, because his cousin is being instructed by
12 Cornell to catch up with that truck He's hanging
13 on, but he's hearing and he's watching, and he's
14 charged with murder, too He don't have to come up
15 here and testify either

16 His testimony was the same when he first
17 gave it It's been brought up that they turned
18 around at the four-way stop sign They don't know
19 the significance of that at that point in time, so
20 that's not something they could really make up that
21 they can get together and team up, and "We're going
22 to say that we stopped at the four-way stop sign "

23 What difference does it make? Well, you
24 know they stopped at the four-way stop sign because
25 they saw the wreck, or at least they were at the

1 four-way stop sign at some time But there's been
2 no testimony from either one of those guys that they
3 followed the car on down the road

4 You know, I think it was probably very
5 poignant when Wallow Ware was testifying about
6 seeing the flashers on the back of the car Wallow
7 Ware knew at that point in time something bad was
8 happening

9 When that car wrecked in front of him, he
10 knew that this guy wasn't just firing warning shots
11 out of his car He was dead on He was dead on
12 So he stopped and slowed down, turned around, and
13 drove back

14 But at one point in time, they're within a
15 car and a half length, 15 foot, depending on And
16 if Edward Walker was the one doing the shooting, the
17 trajectory of those bullets into the bed of that
18 truck would have not been what they were

19 They would have gone down into the bed of
20 the truck They wouldn't have gone slam through the
21 tailgate, slam through the wheel well, into the
22 passenger compartment of that car or truck on a dead
23 line The angles at that distance wouldn't do it

24 If the top of his car is here, and the
25 window's here, do the math That's what it is

1 It's just that simple Common sense is what we
2 talked about throughout the trial

3 Both sides seem to talk about it, but they
4 want different results from it And common sense is
5 just that Common sense is the school of hard
6 knocks Common sense is calling the State's
7 witnesses liars and then expect them to believe that
8 story of Cornell Tyler

9 You know, Cornell Tyler says he wasn't
10 running, but I thought I heard Byron say he was He
11 was hiding It was awful He shouldn't have He's
12 hiding out He's hiding out, and he's cleaned up

13 You know, the ballistics in anything in a
14 lot of cases aren't important The ballistics here
15 are somewhat important because they show a couple of
16 things They show that what killed Debra Dorch and
17 wounded Joe Brewer was a high-powered rifle, most
18 probably a long rifle, most probably a similar rifle
19 to the one Ira Parnell, with his 35 years of
20 firearms experience, had up there

21 And the significance of the shells was
22 important The shells are important to show that
23 these bullet holes in this car, through the bed of
24 this truck, on a dead line into the body of Debra
25 Dorch and Joe Brewer weren't little 22 hollow

1 points They were high-powered steel-jacketed 7 62
2 military ammunition

3 Well, it wasn't a shotgun, it wasn't a
4 pistol So that takes away some of the stories,
5 some of the red herrings that the defense could say,
6 "Well, you know, Johnny Miles shot them with a
7 shotgun." The dog feeder's shotgun they said was
8 found right back in here, in the woods

9 The shotgun is just part of the clean-up,
10 and that's very logical. It's part of the clean-up
11 The real clean-up was done when they loaded up the
12 high-powered rifle, the 9-millimeter, and put the
13 pile of bullets on the side of the road right there
14 where the witnesses say, where Joe Brewer drove by,
15 where even the next-door neighbor pointed down the
16 road

17 But the significance of the forensics, the
18 significance of Ira, is none of those things killed
19 Debra Dorch but a high-powered rifle Now, is it
20 significant that we can't find that rifle? No We
21 prosecute murder cases without a body

22 The significance of the rifle not being
23 found is not important when you consider that they
24 had 18 days, as I count it, to get rid of that
25 rifle Do you think that Cornell Tyler, after

1 you've watched him, is dumb enough to throw the
2 rifle in the road in front of his house? No

3 Do you think he's going to take the rifle
4 to one of his girlfriends' house? He's calling his
5 girlfriend, and Joe Brewer's probably not even out
6 of the field yet He's got another girlfriend
7 coming to meet him at the house at the same time

8 He's calling Uncle Earl Uncle Earl, I
9 guess, is supposed to be my witness now He's
10 calling Uncle Earl at 5 00 in the morning to get out
11 of Dodge, to get out of town

12 The thing the forensics do is tell you
13 about the weapons that were used, and they cut out
14 all of the red herrings What's his name -- Wallow
15 Ware, Edward Walker do not know that the caliber of
16 weapon that was being used when they're talking to
17 the police on August the 29th is 7 62-by-39
18 millimeters

19 They do not know that the police have
20 found a shell casing in the middle of the road
21 matching the bullets that are going to be ultimately
22 examined by Ira Parnell and be determined to be a
23 7 62-by 39 They don't know that, but they tell --
24 what forensics do is corroborate exactly what they
25 told them.

1 Now, what hiding out in North Carolina
2 does is keeps us from getting to other evidence that
3 may be in front of him It keeps us from getting
4 gunshot residue for test off the hands of Cornell
5 Tyler. It keeps us from getting Cornell Tyler's
6 shoes to match up against footprints that were taken
7 or footprints that might have been there

8 Cornell Tyler's testimony that he spent 18
9 days in a motel room without changing clothes is
10 ludicrous He's hired lawyers and investigators,
11 but he ain't changed clothes? You kind of know that
12 Wallow Ware and Edward Walker were at the wreck
13 They saw the wreck, because they described it in
14 detail perfectly

15 Those two were there So they want you to
16 blame just Edward Walker and just Wallow Ware
17 Well, there is no reason in the world for Wallow
18 Ware to put Cornell Tyler in the mix if his cousin
19 was the one doing it There's no reason for him to
20 tell on his cousin

21 There is no reason for him to put Kendall
22 Seawright down there, because Kendall Seawright, I
23 agree with Byron on that, the smartest fellow there
24 that night, he bailed out He got out of that car
25 But Walker and Ware don't know that Seawright's

1 going to say the identical, same thing he said when
2 the police got to him, found him, that Cornell Tyler
3 went out in the road, that Cornell Tyler got in the
4 car

5 Seawright was there, bailed out of the
6 car, but some deal's got to be made out of him being
7 honest and saying "I don't know what happened down
8 the road I wasn't there I don't know if Cornell
9 got out in the road and danced around I don't
10 know But he was in the car when he left, with what
11 looked like a gun "

12 It just don't make sense anywhere in this
13 case that Edward Walker and Wallow Ware would decide
14 to all of a sudden gun down this paper carrier
15 What did they hope to get out of it? What's the
16 deal? Do you think they were just going to rob her?

17 I like to read the Aiken Standard, but I
18 sure ain't going to rob nobody to get it It just
19 didn't make sense The people that were being
20 protected that night and was protecting their house
21 in their minds, for whatever reason, was Cornell
22 Tyler and Tremaine Tyler

23 Now, Cornell may have been protecting
24 Tremaine But we know from the forensics that the
25 9-millimeter bullets didn't hit anybody We know

1 from Joe Brewer that Debra wasn't hit until she got
2 on down the road He wasn't hit until they got on
3 down the paved road We know all that

4 We know from Ms Wingard about where the
5 shooting started, where they caught up to the car
6 We know all that And they've been down there and
7 canvassed that road in the heat of August days
8 looking for shell casings and more shell casings

9 But it wouldn't add anything more They
10 can't identify that to the bullets in the car But
11 it goes to the extent of what police do to
12 corroborate what somebody has told them They were
13 in essence corroborating Ms Wingard

14 They were in essence corroborating James
15 Gleaton. And the people are telling the story
16 before they know that the police can corroborate
17 that They're telling the story about Maine going
18 out in the road and shooting a 9-millimeter pistol
19 before they know that we've got a pile of 9-
20 millimeter shell casings

21 So all of that is going to show that they
22 are believable How do you know anybody is going to
23 tell the truth? How do you know? Your children,
24 your wife, your husband, minister, how do you know
25 they're telling the truth? Well, you use your

1 everyday experiences to sift through the story

2 It doesn't mean that you ignore your
3 common sense It doesn't mean you ignore your gut
4 feelings It doesn't mean that you have to have
5 rock-solid proof I would venture to say y'all all
6 make decisions every day of your life that are made
7 beyond a reasonable doubt

8 I'll tell you a funny story about beyond
9 reasonable doubt that they talk about I mean, I
10 knew Byron would get up here and talk about it,
11 because that's what defense lawyers do But when I
12 was trying to explain to my young partner over
13 there, when I first met him, that, you know, "I used
14 to play basketball " He said, "Okay. Well, come
15 on, let's play basketball "

16 So we go out and play basketball, and I've
17 got to admit it was pretty hard It was pretty
18 humiliating He's younger He's quicker. He
19 shoots better. So I've just gotten humiliated

20 So I'm trying to beef myself up a little
21 bit -- "Well, you know, I played in college, and I
22 used to could dunk the basketball " And he was like
23 rolling on the ground by that point There was
24 reasonable doubt there

25 He's hesitating to believe me, and

1 reasonably so I mean, y'all look at me, and you
2 think, "He can't hardly get out of that chair over
3 there I'm sure he used to couldn't dunk a
4 basketball "

5 So then I started telling him, you know,
6 "I could run back in my day, Steve," and he's still
7 like rolling on the ground "No, I could run, and I
8 could score I scored 2,000 and something points "
9 And he's like passing out by now, because he's just
10 watched me play

11 So how do I dispel his hesitation to
12 believe me? Well, over the course of a year, I've
13 hauled in law enforcement officers People in the
14 community have come by to see me. And they want to
15 talk about how fat I've gotten and how I used to
16 could play basketball

17 So after a few witnesses come by who saw
18 me play basketball, and after you get a few honors
19 for doing it, then I think I proved to him beyond a
20 reasonable doubt that I used to could do it. And
21 that's essentially what you do when Wallow Ware is
22 apprehended and when Edward Walker is questioned

23 The police go about helping me prove
24 beyond a reasonable doubt that Cornell Tyler
25 committed this murder. And until we're invaded by

1 outer space or Russians take over, the criminal
2 justice system in this country has worked on that
3 same premise

4 Eyewitness testimony is good Eyewitness
5 testimony is not infallible But you have to look
6 to all of the nuances in a case You have to give
7 witnesses some credibility, when they come forward
8 early, when they tell you details that you can later
9 prove scientifically

10 And you have to realize that clean-up
11 means clean-up Clean-up means getting to North
12 Carolina, getting rid of your clothes, getting rid
13 of your shoes, getting rid of your guns. And Wallow
14 Ware and Edward Walker didn't clean up, because they
15 didn't think they had committed any crimes

16 Cornell Tyler knew he had. He knew he
17 had. I'm sure that Edward Walker had somebody he
18 could go visit somewhere else But I am reasonably
19 sure, based upon what I heard up there on that
20 witness stand for the first time, that it probably
21 wouldn't be Mr Scott

22 I suggest to you the evidence that Mr
23 Scott came forward and testified to is equally
24 unbelievable as Cornell Tyler's, that the man had
25 had an altercation with his wife And for some

1 reason, right around the area where this murder is,
2 where there's police officers crawling down every
3 dirt road, he's going to come there and say, "Hey,
4 man, I need you to get rid of a gun."

5 Now, why is Mr Scott doing this? Well,
6 Mr Scott lives in the same community with Cornell
7 Tyler Edward Walker doesn't I say Mr Scott
8 lives there I'm not sure he knows where he lives
9 at

10 And another thing that's important, too,
11 Wallow Ware, Edward Walker, Kendall Seawright, on
12 August the 29th or relatively close thereon, told
13 all they know about the case Freddie Scott came up
14 here yesterday and wanted to say something. Now,
15 what he's getting out of it? I don't have a clue.

16 Shawn Smith is another one, you know
17 Sometimes you're just darned if you do and darned if
18 you don't. You have some guys writing you letters
19 from the jail, and you go see him Well, if you
20 don't believe him, or don't do what he says, or
21 don't give him a deal on his case, then you don't
22 act on it

23 So where do you find him the next time you
24 see him? Up there testifying for the defendant
25 And, you know, if you're going to lie, get it right

1 You know, if he's going to make up a story -- you
2 know, I tell you this I suggest to you there's
3 probably more lawyers in the Aiken County Detention
4 Center than there are in the City of Aiken, because
5 they all sit over there, and they go through their
6 discovery, and they trade the cases back and forth,
7 and they try to see who can help out each other the
8 most

9 They pass notes They do all of that
10 stuff. And it's all designed to "Hey, maybe I can
11 come in there and testify Maybe I can come in
12 there and get somebody confused Maybe I can come
13 in there and throw a red herring in the mix "

14 Shawn Smith, red truck I ain't seen
15 anything red in this case but Debra Dorch's blood
16 Pistol -- "You know, a pistol is the same thing as a
17 rifle On the street, it's the same thing " It's
18 not believable If you're going to lie, get it
19 right

20 The first name on the list, Johnny Miles
21 Now, where was Johnny Miles living? Where did
22 Johnny Miles vacate to? Where did Johnny Miles stay
23 while he was hiding from the law? He stayed with
24 Cornell Tyler and Tremaine Tyler

25 And don't worry for one second why Johnny

1 Miles ain't here I think it's obvious as the nose
2 on my big head Byron didn't talk about it very
3 much, but he did mention Cornell's testimony

4 I can't sit down without talking about
5 that ridiculous story -- that Edward Walker, who he
6 hadn't seen in two weeks, comes up to him, borrows
7 \$20, goes outside. He hears all these gunshots,
8 thinking it's hunters at four or five in the
9 morning

10 This is a country boy over here, too
11 He's grown up in the country He knows people ain't
12 hunting at 4 00 in the morning Why tell that
13 ridiculous story? But in spite of that, Edward
14 Walker comes back and said, "Man, you need to get
15 out of here" -- don't say why, don't say hello,
16 don't say anything but "You need to get out of
17 here "

18 So with just that minute piece of
19 information and being innocent as he is, he decides
20 to pack up his whole house and move to North
21 Carolina in the space of six hours Now, is he more
22 believable than Wallow Ware, who says that he came
23 back and said, "You ain't seen nothing You ain't
24 done anything"?

25 Is he more believable than Kendall

1 Seawright saying he heard say or Walker heard
2 somebody say, "Clean up " I don't believe you can
3 say that I don't believe the evidence suggests
4 that That's the most ludicrous story I've ever
5 heard

6 A man he don't like, don't want around his
7 house, comes and says that, and he decides to move
8 to North Carolina and don't even take a change of
9 underwear That's not believable I can stand up
10 here and talk about that all day

11 He went to see Uncle Earl, because it
12 wasn't good enough to call the police, which is what
13 you should do If you don't want to call them from
14 your house, go down the street and call them Go to
15 your girlfriend's house and call them, but don't not
16 call them

17 You know, the police in this case and
18 really every case, take a bashing You know, the
19 police don't want to say the police ain't done
20 something, they should have done this, they should
21 have done that But it's really an amazing case, it
22 really is, that they were able to solve this case
23 and solve it very quickly

24 It took them a little while to get Cornell
25 Tyler in jail, like 18 days, because he was on the

1 run They solved it quickly but didn't stop at that
2 point They didn't just issue arrest warrants and
3 put them in jail They kept working on it, sending
4 stuff to forensics, sending stuff to trace, as we
5 developed it, as we got into it and kept
6 corroborating these guys' story, because they don't
7 want to put a liar on the stand

8 They don't want to put somebody up there
9 to convict Cornell Tyler There has been no reason
10 in the world brought up in this trial why they would
11 have some vendetta against Cornell Tyler. Joe
12 Brewer doesn't have a vendetta against Cornell

13 He says on the stand, "I don't know if
14 he's the one that shot me." If he wanted to lie, he
15 could say, "Yes, I could see this little guy, little
16 short guy, hanging out of the window shooting a
17 high-powered rifle at us " And the police, if they
18 wanted to lie, my God, they could have fingerprints
19 on top of fingerprints

20 They could have footprints, boot prints,
21 DNA They could just pile it in here if they wanted
22 to lie If we wanted to lie, if Bill Weeks wanted
23 to dance around up here with a story that he's made
24 up, I promise you, after 25 years of doing this, I
25 could come up with a good one.

1 I could cross all the "T"s and dot all the
2 "I"s But I'm standing up here telling you that the
3 police did what police do They did their job.
4 They worked hard They found the killer They
5 found other people that are just as guilty of murder
6 as Cornell Tyler

7 Now, our criminal justice system is unique
8 in the world I can't make people get up there and
9

10 testify I can't twist their arms to get them to
11 twist. And I can't try most of the time but one at
12 a time Cornell Tyler is guilty of murder He's
13 guilty of assault and battery with intent to kill

14 This is Cornell Tyler's residence here
15 This is where it all started You know, Byron is
16 absolutely right I was not going to get up here
17 and play on your emotions, even though he thought I
18 might

19 If I would, I'd play that 911 tape But
20 y'all have the right to go listen to that 911 tape
21 again It is eery that you hear her last words
22 But it is eery But it's important to tell that
23 story the way we told it, because that's what Joe
24 Brewer was experiencing

25 He almost laughed at him when he said he

1 was traumatized If that's not the most traumatic
2 incident that a person has lived from, I just don't
3 know of another one Maybe somebody out of the
4 World Trade that survived, that would be trauma

5 But do you remember other things after you
6 see people, after you watch them? You saw all those
7 people up there testifying yesterday Do any of
8 them look like Cornell Tyler? I don't think so

9 But he wanted to make a big deal out of
10 that, wants to call Joe Brewer a liar Call Joe
11 Brewer a legend Don't call him a liar

12 Now, like every time I've ever stood up
13 here in 25 years, I'm going to forget to have told
14 you something, just to remind you of something that
15 I wished I'd have said But I'm going to leave you
16 with this thought

17 It don't matter what we do in this. It
18 don't matter what kind of evidence people bring
19 before you in a criminal case When you've got the
20 eyewitnesses to the murder, when you've got the
21 victim witness to the murder, when you've got
22 scientific proof that this person was committed with
23 a high-powered rifle, when you've got uncontradicted
24 proof that it began in the front yard of Cornell
25 Tyler's residence, when you've got uncontradicted

1 proof that Cornell Tyler was burning your funds up
2 and hiding in North Carolina and then Columbia for
3 18 days while he hired a lawyer, and the first thing
4 the lawyer said was don't talk to anybody, after you
5 get up there -- and I'm not saying Byron did that

6 I don't think it was Byron -- "You get up
7 there and tell the jury some hocus-pocus story,"
8 you're entitled to use all that. But use your
9 common sense when you get back in that jury room --
10 do that

11 THE COURT Ladies and gentlemen, let's stand
12 for a moment

13 (The jury complied)

14 THE COURT All right, we'll proceed with
15 the charge on the law

16 CHARGE OF THE COURT

17 Mr Foreman, members of the jury, you have
18 heard the testimony, and the evidence, and the
19 arguments of the State and the defendant I will
20 now explain to you the law that applies to this
21 case

22 Under the Constitution and laws of South
23 Carolina, you are the finders of the facts in this
24 case I do not have the right to pass upon the
25 facts or even express any opinion that I may have as

1 to them.

2 You are the sole judges of the
3 credibility, the believability, of the witnesses who
4 have testified in this case And in passing upon
5 their credibility, you may take into consideration
6 many things, such as the demeanor or manner of
7 testifying, whether the witness had a reason to be
8 biased or prejudiced, whether a witness' testimony
9 was contradicted on the hand or supported and
10 corroborated on the other hand

11 You certainly do not determine the
12 credibility or believability by counting the number
13 of witnesses who have testified for either side
14 You may believe a small portion of a witness'
15 testimony and disregard the larger, or vice versa

16 You may believe one witness against many
17 or many against one All of these things you will
18 consider, bearing in mind that you should give the
19 defendant the benefit of any reasonable doubt.

20 There has been evidence presented that a
21 witness or witnesses may have made prior statements
22 which are not consistent with the witness' present
23 testimony You may use this evidence to decide
24 whether to believe the witness

25 You may also use evidence of any earlier

1 contradictory statement to determine the truth of
2 those statements It is up to you to decide whether
3 to believe the earlier statements or the testimony
4 given at trial

5 If a witness is shown to have knowingly
6 testified untruthfully concerning any material
7 matter, you may consider this in determining whether
8 to trust the witness' testimony as to other matters
9 You may reject all testimony of that witness or give
10 all or part of the testimony you think it deserves

11 Now, the rules of evidence normally do not
12 permit witnesses to testify as to their opinion or
13 conclusions An exception, however, to this rule
14 exists as to those whom we call expert witnesses

15 Expert witnesses are witnesses who by
16 education and experience have become expert in some
17 art, science, profession, or calling These
18 witnesses may state their opinions as to relevant
19 matters and material matters in which they profess
20 to be an expert and may also state the reasons for
21 the opinion

22 You should consider expert opinion
23 received in evidence in this case and give it such
24 weight as you think it deserves If you decide that
25 the opinion of an expert is not based upon

1 sufficient education and experience, or if you
2 should conclude that the reasons given in support of
3 the opinion are not sound, or if you feel that it is
4 outweighed by other evidence, you may disregard the
5 opinion entirely

6 There have been some stipulations entered
7 into in this case. A stipulation is an agreement as
8 to a fact. Once a fact is stipulated to, that fact
9 becomes established for purposes of this case and
10 cannot be questioned or contradicted

11 Now, the same Constitution and law which
12 makes you the finders of the facts and the evidence,
13 as I have discussed with you, I am as the Judge made
14 the sole and only instructor in the law. You must
15 accept as correct the law which I charge you and
16 apply it to the evidence as you find it and then
17 reach your verdict

18 And, finally, I charge you in this regard
19 that you should not be concerned about what you
20 think the law ought to be but rather what I charge
21 you the law to be. There are two types of evidence
22 which are generally presented during a trial, direct
23 evidence and circumstantial evidence

24 Direct evidence is the testimony of a
25 person who asserts or claims to have actual

1 knowledge of a fact, such as an eyewitness
2 Circumstantial evidence is proof of a chain of facts
3 and circumstances indicating the existence of a
4 fact.

5 But the law makes absolutely no
6 distinction between the weight or the value to be
7 given either direct or circumstantial evidence, nor
8 is a greater degree of certainty required of
9 circumstantial evidence than of direct evidence

10 You should weigh all of the evidence in
11 this case After weighing all the evidence, if
12 you're not convinced of the guilt of the defendant
13 beyond a reasonable doubt, you must find the
14 defendant not guilty On the other hand, if you are
15 convinced of the guilt of the defendant beyond a
16 reasonable doubt, you must find him guilty

17 Now, the fact that the defendant was
18 arrested, charged, and indicted in this case is not
19 evidence in this case, nor does it create any
20 presumption or inference of guilt. The indictments
21 are simply the formal written instruments which
22 contain the charge or charges made against the
23 defendant

24 They serve as the formal documents by
25 which the case is processed and brought into Court

1 The defendant has pled not guilty to the
2 indictments, and that plea puts the burden on the
3 State to prove the defendant guilty. A person
4 charged with committing a crime or criminal offense
5 in South Carolina is never required to prove himself
6 innocent.

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

14 This presumption of innocence does not end
15 when you begin your deliberations, but it
16 accompanies the defendant throughout the trial until
17 you reach a verdict of guilt based on evidence
18 satisfying you of that guilt beyond a reasonable
19 doubt.

20 The presumption of innocence is like a
21 robe of righteousness placed about the shoulders of
22 the defendant which remains with the defendant until
23 it has been stripped from the defendant by evidence
24 satisfying you of the defendant's guilt beyond a
25 reasonable doubt.

1 Presumption of innocence is not a mere
2 legal theory It's not just a legal phrase It is
3 a substantial right to which every defendant is
4 entitled, unless you, the jury, are satisfied from
5 the evidence of the defendant's guilt beyond a
6 reasonable doubt

7 The State must prove the defendant guilty
8 beyond a reasonable doubt So what is a reasonable
9 doubt in the law? A reasonable doubt is a doubt
10 which makes an honest, sincere, conscientious juror
11 in search of the truth to hesitate to act

12 Proof beyond a reasonable doubt must
13 therefore be proof of such a convincing character
14 that a reasonable person would not hesitate to rely
15 and act upon it in the most important of his or her
16 own affairs Proof beyond a reasonable doubt can
17 also be described as proof that leaves you firmly
18 convinced of the defendant's guilt

19 Now, there are very few things in this
20 world that we know with absolute certainty And in
21 criminal cases, the law does not require proof that
22 overcomes every possible doubt If, based on your
23 consideration of the evidence, you are firmly
24 convinced that the defendant is guilty of the crime
25 charged, you must find him guilty

1 If, on the other hand, you think there is
2 a real possibility that he is not guilty, you must
3 give him, then, the benefit of the doubt and find
4 him not guilty Now, ladies and gentlemen, in this
5 case the State of South Carolina by these
6 indictments has charged the defendant with the
7 following offenses murder, assault and battery
8 with intent to kill, and possession of a firearm or
9 knife during the commission or attempt to commit a
10 violent crime

11 There are three separate indictments, and
12 you must determine separately as to each indictment
13 whether or not the State has proven the elements of
14 that particular crime Your verdict does not have
15 to be the same for each indictment

16 As to murder, the defendant is charged
17 with murder The State must prove beyond a
18 reasonable doubt that the defendant killed another
19 person with malice aforethought Malice is hatred,
20 ill will, or hostility towards another person It
21 is the intentional doing of a wrongful act without
22 just cause or excuse and with an intent to inflict
23 an injury or in the circumstances that the law will
24 infer an evil intent

25 Malice aforethought does not require that

1 malice exist for any particular time before the act
2 is committed But malice must exist in the mind of
3 the defendant just before and at the time that the
4 act is committed Therefore, there must be a
5 combination of a previous evil intent and the act

6 Malice may be expressed or inferred
7 These terms "expressed" or "inferred" do not mean
8 different kinds of malice but merely the manner in
9 which malice may be shown to exist That is either
10 by direct evidence or by inference from the facts
11 and circumstances which are proved

12 Expressed malice is shown when a person
13 speaks words or expresses hatred or ill will for
14 another person or when the person prepared
15 beforehand to do an act that was later accomplished
16 For example, lying in wait for a person or other
17 acts of preparation going to show that the deed was
18 within the defendant's mind would be expressed
19 malice

20 Malice may be inferred from conduct
21 showing a total disregard for human life. Inferred
22 malice may also arise when a deed is done with a
23 deadly weapon And a deadly weapon is any article,
24 instrument, or substance which is likely to cause
25 death or great bodily harm Whether an instrument

1 has been used as a deadly weapon depends on the
2 facts and circumstances of each case

3 As to assault and battery with intent to
4 kill, the defendant has also been charged with
5 assault and battery with intent to kill. In order
6 to prove assault and battery with intent to kill,
7 the State must prove beyond a reasonable doubt that
8 the defendant committed an unlawful act of a violent
9 nature to the person or persons of another with
10 malice aforethought

11 An assault occurs when a person unlawfully
12 attempts or offers to commit a violent injury upon
13 another person and have the present ability to
14 complete the attempted injury An assault is the
15 intentional creation of a reasonable fear of
16 immediate bodily harm It is not necessary that the
17 intended injury or harm actually take place

18 For example, if I were to draw back as if
19 to hit you, that would be an assault if you were
20 within arm's reach A battery is an unlawful
21 touching of another person by a person who has
22 committed an assault An unlawful touching can be
23 caused by a part of the accused's body or by any
24 object the accused puts in motion

25 Battery is the completion of the assault

1 by using or applying force to another person,
2 however slight, in a rude, angry, or resentful
3 manner without legal justification for doing so
4 Using my earlier example, if I carry through the
5 assault by hitting you, then that is battery

6 Malice aforethought has the same meaning
7 that I explained to you earlier when I gave you the
8 law regarding the crime of murder Finally, the
9 defendant is charged with possession of a weapon
10 during the commission or attempt to commit a violent
11 crime The State must prove beyond a reasonable
12 doubt that the defendant was in possession of a
13 firearm or visibly displayed what appeared to be a
14 firearm during the commission of a violent crime

15 A firearm means any weapon which is
16 designed to or may readily be converted to expel a
17 projectile. In order to find the defendant guilty
18 of possession of a weapon during a violent crime,
19 you must first find the defendant guilty of either
20 committing or attempting to commit a violent crime
21 Murder and assault and battery with intent to kill
22 are violent crimes

23 Now, ladies and gentlemen, if a crime is
24 committed by two or more people who are acting
25 together in committing a crime, the act of one is

1 the act of all A person who joins with another to
2 commit an unlawful act is criminally responsible for
3 everything done by the other person which happens as
4 a probable or natural consequence of the acts done
5 in carrying out a common plan and purpose

6 For example, two people can be guilty of
7 killing another person when only one of the two had
8 a gun There is only one bullet, and only one of
9 the two fired the shot that caused the death If
10 two or more people are together, acting together,
11 assisting one another in committing the offense, the
12 act of one is the act of all, or, as it is sometimes
13 said, the hand of one is the hand of all

14 Prior knowledge that a crime is going to
15 be committed without more is not sufficient to make
16 a person guilty of that crime Mere knowledge that
17 another person is going to commit a crime, even if
18 the defendant is present when the crime is
19 committed, is not sufficient to convict the
20 defendant as a principal

21 Guilt as a principal is shown by actual or
22 constructive presence at a scene as a result of
23 prior arrangement Therefore, a finding of a prior
24 arranged plan or common scheme is necessary for a
25 finding of guilt as a principal The State must

1 prove beyond a reasonable doubt by competent
2 evidence the theory of the hand of one is the hand
3 of all

4 A principal in a crime is one who either
5 actually commits the crime or who is present aiding,
6 abetting, or assisting in committing the crime
7 When a person doesn't act in the presence of or with
8 the assistance of another, the act is done by both
9 where two or more acting with a common plan or
10 intent are present at the commission of a crime

11 It does not matter who actually commits
12 the crime All are guilty The hand of one is the
13 hand of all Present at the commission of a crime
14 means to be sufficiently near to aid, and abet, and
15 assist in the commission of the crime However,
16 mere presence at the scene of a crime is not
17 sufficient to convict one as a principal on the
18 theory of aiding and abetting

19 Intent is also a necessary element, for
20 there must have been a common design or intent to
21 commit the crime, and the crime must have been
22 committed pursuant thereto with the person aiding
23 and abetting by some overt act Intent means
24 intending the result which actually occurs, that is
25 not accidentally or involuntary

1 Intent may be shown by acts and conduct of
2 the defendant and other circumstances from which you
3 may naturally and reasonably infer intent The
4 State must prove these elements beyond a reasonable
5 doubt

6 Mr. Foreman and members of the jury, you
7 have been selected by the State and the defendant to
8 be fair and impartial jurors It is your duty,
9 then, by your joint deliberations to determine the
10 truth in this case, giving the defendant the benefit
11 of every reasonable doubt on each and every issue

12 And from the facts which you determine to
13 be true, you take and apply the law which I have
14 just given you and thus arrive at a verdict which
15 speaks the truth in this case I've told you the
16 standards you have to apply to each of those
17 particular charges and each indictment

18 You've heard the evidence. You have now
19 heard the law Whatever your verdict as to each of
20 these particular charges, Mr Foreman will indicate
21 by writing "guilty" or "not guilty" on the back of
22 each indictment under the section marked "verdict "

23 These are the indictments you will have,
24 and there's a place here for verdict And as to
25 each charge, you will write the verdict, either

1 guilty or not guilty, and then sign the verdict
2 forms There is no significance in the order in
3 which I state these possible verdicts Simply, one
4 must be stated first And you'll sign at the bottom
5 of the verdict section and date it

6 Now, remember that although the foreman is
7 the only juror who signs the verdict, it will not be
8 his alone The verdict has to be a unanimous
9 verdict as to each charge. Now, Mr Foreman, you're
10 not authorized to write nor sign that verdict until
11 all of you have agreed as to what the verdict should
12 be

13 Now, ladies and gentlemen, I'm going to
14 send you to the jury room, but do not begin to
15 discuss the case until you have received a copy of
16 this jury charge that I have read to you, the
17 exhibits, and the indictments Once you receive
18 these things, that will be your signal to begin your
19 deliberations

20 And once you begin your deliberations, you
21 will deliberate until you have reached a verdict, at
22 which time you will knock on the door, advise the
23 Bailiff, and we will bring you out to receive your
24 verdict We've ordered lunch for you, and it's
25 probably here or soon will be here

1 Whether you want to stop deliberating and
2 eat, wait till you eat to deliberate, eat while
3 deliberating, that's all up to you But I'll ask
4 that you go to the jury room and wait to receive the
5 verdict forms, the jury charge, and all the
6 exhibits And that will be your signal to begin
7 your deliberation

8 We'll need all of you to go to the jury
9 room except for the last two jurors selected, the
10 two alternates, who will stay in Court while you go
11 to the jury room Please go to the jury room at
12 this time

13 (The jury left the
14 courtroom at at 12 41 p m to deliberate their
15 verdicts)

16 THE COURT Are there any additions or
17 exceptions to the jury charge from the State?

18 MR WEEKS No, Your Honor.

19 THE COURT From the defense?

20 MR GIPSON Only, Your Honor, as I mentioned
21 yesterday, it's my request

22 THE COURT All right, very good If you all
23 will check with the Court Reporter that you agree on
24 all exhibits going to the jury, then the Bailiff can
25 take them They can begin their deliberations

1 While you all are doing that, I'll speak
2 to the last two jurors who were selected We pick
3 14 jurors because something might happen to some of
4 the first 12. And in that event, then, you all
5 would move up and become a member of the regular
6 deliberating panel

7 Since all the other jurors made it
8 through, you will not need to deliberate with them
9 Certainly, I want to thank you for your patience,
10 and understanding, and participation in this case
11 Today is Thursday, so we won't be hearing any other
12 cases this week with a jury trial So, in effect,
13 you all are through with jury duty

14 Anything you would like to tell them,
15 Madam Clerk?

16 CLERK OF COURT They're to go over to see Lee
17 Ann Sanders and see about getting their checks

18 THE COURT. Where can they find her?

19 CLERK OF COURT You'll have to go over to the
20 Clerk's Office part, which is straight across --

21 BAILIFF I'll show them where it's at.

22 CLERK OF COURT Okay, thank you, sir

23 THE COURT All right And you ordered lunch
24 for them as well?

25 BAILIFF Yes, sir

1 THE COURT And is it here yet?

2 BAILIFF Yes, sir

3 THE COURT You're welcome to stick around if
4 you want to, to find out what the verdict is, or
5 listen and hear it later on Thank you all for your
6 services

7 COURT REPORTER Your Honor, we're sending back
8 State's One through Fifty-Two and Defense Number
9 One.

10 THE COURT Do the parties agree as to those
11 exhibits?

12 MR GIPSON Yes, sir, we do

13 THE COURT All right All right, while the
14 jury is out, we will take a break at least until
15 2 00 on this case If we do not receive any
16 questions or anything in that span of time, we'll
17 say 2 00 All right, we will be in recess till
18 2.00

19 (Court in recess)

20 THE COURT All right, we have a question --
21 one of two or three questions -- from the jury
22 Number one, "Can we be able to watch the video part
23 of Ware video confession that was shown to us?"
24 Second, "Read some transcript of Walker, Ware, and
25 Seawright " Third, "Send device to play CDs "

1 We'll start with the third one What
2 about that?

3 MR. WEEKS We do

4 THE COURT What do you have?

5 MR WEEKS We have a laptop to take back
6 there

7 THE COURT A laptop that can play the CDs
8 What do you say about that, Mr Gipson?

9 MR GIPSON Your Honor, are we playing the
10 actual portion, or is that the entire thing?

11 MR WEEKS The portion we're going to have to
12 bring them out to do

13 THE COURT The question says "Some device to
14 play CDs " You have a CD player? What's on the
15 CDs, the entire statement?

16 MR GIPSON. Yes, sir

17 MR WEEKS That's what's on that one with the
18 portion, so we would have to bring that one out

19 THE COURT What's on the other CDs that we
20 have?

21 MR WEEKS The 911 tapes

22 MR GIPSON And those are unobjected to, sir
23 And I'm sure those can go I don't have a problem
24 with those going back

25 MR WEEKS It was just one tape with all three

1 of them on there

2 THE COURT The Ware tape, then, will need to
3 be taken off the list of exhibits and played in open
4 Court

5 MR GIPSON Yes, sir

6 THE COURT And then kept out

7 MR WEEKS Sir?

8 THE COURT And then kept out, because
9 otherwise there would be no control in playing it to
10 include stuff not in evidence

11 MR GIPSON Yes, sir

12 MR WEEKS Good point

13 THE COURT And "Read some transcript of
14 Walker, Ware, and Seawright," there are no written
15 transcripts So they would need to be able to hear
16 whatever testimony of those folks that they want to
17 hear

18 You don't have a transcript available, do
19 you, Madam Court Reporter?

20 COURT REPORTER No

21 MR WEEKS I think what they're talking about
22 is the previous transcripts

23 THE COURT Well, they're not in evidence, so
24 they don't get that But any testimony that they
25 would like to hear regarding Walker, Ware, and

1 Seawright they'll need to hear it and tell us what
2 they want to hear, and then bring them in and play
3 it for them Can you all cue the video part of the
4 Ware video confession that was shown to them? Can
5 you cue that --

6 MR GIPSON Yes, sir

7 THE COURT -- so we can show them that?

8 MR GIPSON We need to black those specific
9 areas out so we can -- that we played actually
10 during the trial. I have those ticker numbers
11 actually written down so we can start and stop it,
12 and nothing else

13 THE COURT Say that again?

14 MR GIPSON We've actually blocked out the
15 areas that were actually played at trial It's
16 written down, 6:20 to 6:45, and then those two
17 are --

18 THE COURT Can you all cue that up?

19 MR GIPSON Yes, sir

20 THE COURT Do you have one of those CDs in
21 here?

22 MR. GIPSON I think they have the one back
23 there that has got the actual ticker numbers on
24 there on the exhibit, I believe

25 THE COURT Well, we'll need to get that

1 particular -- which exhibit is that?

2 MR GIPSON Defense one

3 THE COURT Defense one?

4 MR. GIPSON Yes, sir

5 THE COURT. Any objection to the Bailiff going
6 to the jury room and retrieving Exhibit Number One
7 so we can cue it prior to them coming in?

8 MR GIPSON No, sir

9 THE COURT All right, sir We need Defense
10 Exhibit Number One sent back out here How many
11 exhibits did you put in?

12 MR GIPSON Just one, Your Honor

13 THE COURT Just one, so Defense Exhibit Number
14 One Any other thoughts on what the jury has
15 requested?

16 MR GIPSON No, sir

17 MR WEEKS No, sir

18 THE COURT All right So we'll send back a
19 laptop to play the CD What else is on the laptop?

20 MR. WEEKS: I've got a star board back there

21 THE COURT Give it to them and let them cue it
22 up, whatever it is that they want to hear While
23 they're cueing that up, we're going to take the next
24 probation violation

25 (Whereupon, other matters

1 were heard before the Court)

2 THE COURT Are we all cued up here? All
3 right, who's running the machine for this display?
4 All right, let's bring the jury.

5 (The jury returned to the courtroom at
6 2 52 p m for playback of DVD)

7 THE COURT All right, ladies and gentlemen, I
8 have your note, which has three parts to it, the
9 first part being, "Can we be able to watch the video
10 part of Ware video confession that was shown to us?"
11 And we're going to play that for you in just a
12 second.

13 The second one, part of this is "Read some
14 transcript of Walker, Ware, and Seawright " There
15 are no printed transcripts of the testimony The
16 Court Reporter takes down the testimony There is
17 no instant transcription of the testimony

18 Any testimony that you would like to
19 listen to, you'll have to let me know what you want
20 to listen to, and we'll bring you back in and play
21 that testimony over the sound system, be it Walker,
22 Ware, and Seawright If you want to listen to their
23 entire testimony, one, two, or the three of them,
24 just send a note and we'll deal with that where I'll
25 have you come out and listen to it

1 The third thing is "Some device to play
2 CDs " We'll send a laptop back there We will have
3 a device to play CDs The Ware video will not be
4 included because there are other things on there
5 that's not in evidence

6 Are we set up?

7 THE COURT All right So you can play
8 that one

9 (Whereupon, the DVD was played for
10 the jury)

11 THE COURT That's the portion of the video
12 that's in evidence, Mr Weeks and Mr Gipson?

13 MR WEEKS Yes, sir

14 MR GIPSON. Yes, sir, that's correct

15 THE COURT All right So that has been played
16 for you Regarding any transcripts you'd like to
17 listen to, let me know And we'll send that laptop,
18 but that particular CD will stay in the courtroom
19 All right

20 (The jury left the courtroom at 2 55
21 p.m to continue deliberations.)

22 THE COURT Any exceptions to the Court's
23 instruction to the jury?

24 MR. WEEKS. Not from the State, Your Honor

25 MR GIPSON. Nothing from the defense, Your

1 Honor.

2 THE COURT All right Here is the note that
3 can be made part of the record

4 (Court's Exhibit Number One, Jury
5 Question, was entered in the record)

6 (Whereupon, other matters were heard
7 before the Court)

8 THE COURT All right, Mr Bailiff, the
9 Solicitor, defense counsel, and an officer are going
10 in the jury room to set up that laptop and let them
11 know how it works, I imagine So if you'll go in
12 there ahead of them to stop their deliberation while
13 the others go in, and you'll go in there with them
14 as well, just to be sure there's no conversation or
15 deliberation by the jury while they're in the room

16 (Whereupon, other matters were heard
17 before the Court)

18 THE COURT All right, we need Mr Tyler We
19 need the defendant, Mr. Tyler Can you cue that up,
20 Madam Court Reporter?

21 COURT REPORTER. He wants to take them in the
22 way they were presented, is that correct?

23 THE COURT. Yes, Ware, Walker, then Seawright
24 -- or the way they testified It doesn't matter
25 Which one is first?

1 COURT REPORTER Seawright

2 THE COURT Okay The testimony of Ware,
3 Walker, and Seawright And what I propose to tell
4 jury approximately the length of the three hours of
5 testimony And addressing the foreperson, I will
6 say to him that if at any point in the testimony of
7 these three people, they've heard enough of the
8 testimony that they're interested in hearing and he
9 lets me know, then we'll stop the testimony for that
10 particular witness

11 What says the State about that?

12 MR WEEKS. The State doesn't have any
13 objection to that

14 THE COURT And the defense?

15 MR GIPSON I do not have an objection to
16 that

17 THE COURT All right So that's what we'll
18 do So we'll need to have the jury come on in.

19 (The jury returned to the courtroom
20 at 4:26 p m. for playback of videotaped testimony)

21 THE COURT. All right, the jury is in. The
22 note is, "Can we hear all three testimony of Ware,
23 Walker, and Seawright?" and we're going to play that
24 testimony

25 Mr Foreman, at any point in time that you

1 have heard as much of any of the testimony that you
2 are satisfied that you want to hear, then you let me
3 know and we'll stop that testimony The three
4 testimonies all total I think is about three hours'
5 testimony But if have heard a sufficient amount of
6 any particular one, you let me know Of course,
7 you'll have to get the sense of the jury in letting
8 me know

9 MR TAEGAR Yes, sir

10 THE COURT All right

11 MR TAEGAR Could we possibly get from the
12 part of the house, or do we have to hear the whole
13 thing?

14 THE COURT Say it again?

15 MR TAEGAR Could we possibly hear from just
16 the house and onward, or do we have to hear the
17 whole thing?

18 THE COURT Well, we'll start it, and then when
19 you've heard enough of any particular one, then let
20 me know

21 MR TAEGAR All right

22 THE COURT All right But I don't know where
23 it starts We'll just have to listen and see

24 MR TAEGAR: Yes, sir, thank you

25 (Whereupon, a portion of the

1 videotaped testimony of Kendall Seawright to the
2 beginning of the testimony of Wallow Ware was played
3 back for the jury)

4 THE COURT Does that conclude all that the
5 jury would like to listen to?

6 MR TAEGAR Yes, Your Honor.

7 THE COURT All right, very good I'll have
8 you go back to the jury room Thank you very much.

9 (The jury left the courtroom at 5 15
10 p m)

11 THE COURT Any exception from any of the
12 parties?

13 MR GIPSON Nothing, Your Honor

14 MR WEEKS None from the State, Your Honor

15 THE COURT All right We'll be at ease
16 waiting for the jury

17 (Court in recess while jury
18 deliberations continue)

19 THE COURT Thank you Please be seated I
20 understand that there is a verdict, and I want to
21 admonish everyone that order must be maintained in
22 Court at all times

23 MR WEEKS Your Honor, if we could just have a
24 minute The victim's family is downstairs

25 THE COURT All right All right, bring the

1 jury

2 (The jury returned to the courtroom
3 at 7 48 p.m with their verdicts)

4 THE COURT Mr Foreman, if you'll stand,
5 please Have you reached a verdict?

6 MR TAEGAR Yes, sir, we have

7 THE COURT Is it a unanimous verdict?

8 MR TAEGAR Yes, sir, it is.

9 THE COURT Okay, if you'll pass it up
10 All rise, please

11 You may publish the verdict

12 VERDICT OF THE JURY

13 CLERK OF COURT Yes, sir Your Honor, the
14 State of South Carolina versus Cornell Devon Tyler,
15 Docket Number 2006-GS-02-550, with the indictment
16 for possession of firearm or knife during the
17 commission of attempt to commit a violent crime,
18 verdict, guilty, Foreperson Martin Taegar.

19 Your Honor, Indictment 2006-GS-02-551, the
20 State of South Carolina versus Cornell Devon Tyler,
21 with indictment for assault and battery with intent
22 to kill, verdict, guilty, Martin Taegar, Foreperson

23 Your Honor, we have 2006-GS-02-552, the
24 State of South Carolina versus Cornell Devon Tyler,
25 with indictment of murder, the verdict is guilty,

1 Foreperson Martin Taegar

2 Ladies and gentlemen of the jury, if this
3 is your verdict, please indicate by raising of your
4 right hand All hands are raised

5 THE COURT Okay Any additional polling of
6 the jury requested by the State or the defense?

7 MR WEEKS Not by the State, Your Honor

8 MR GIPSON No, sir.

9 THE COURT All right, you may be seated

10 Ladies and gentlemen, you were called upon
11 to come and serve on jury duty You didn't
12 volunteer, but providence has brought you here for
13 this time, for this purpose, and you have responded
14 by serving And you have rendered a unanimous
15 verdict finding the defendant guilty of each of
16 these charges And I want to thank you for your
17 jury service.

18 Any post-trial motions by the defense?

19 MR. GIPSON Yes, sir I respectfully request
20 that the Court consider at this point setting aside
21 the verdict and potentially granting a new trial
22 that based on the fact there was obviously -- first
23 of all, we believe there was ample evidence in the
24 record that showed based on the credibility of what
25 was said by witnesses, things of that nature, that

1 these acts were not conducted by Mr Tyler

2 Your Honor, I believe that with the
3 co-defendants who testified, the information that we
4 have learned about credibility, and the things that
5 they were involved in as well should weigh heavily
6 on this case, Your Honor And I'd ask that you
7 consider granting a new trial just based on the fact
8 that I think there was evidence that the jury may
9 not have considered that they should have considered
10 in order to render a verdict

11 THE COURT There was obviously conflicting
12 testimony, one version by the State, another version
13 by the defense There were matters that
14 necessitated the jury to view the evidence and to
15 evaluate the credibility of the witnesses who have
16 testified I find that there is ample evidence to
17 support the guilty verdict I deny the motion, and
18 the jury verdict stands

19 Ladies and gentlemen, you have found a
20 person guilty, and it becomes my duty to impose a
21 sentence Are you ready to proceed for sentencing,
22 Mr. Weeks?

23 MR. WEEKS. Your Honor, just a couple of
24 minutes We've got to fill out the aggravating
25 sentence sheet

1 THE COURT Ladies and gentlemen, though you
2 have no role in the sentencing, certainly with the
3 time and energy that you have invested in this case,
4 in most instances I find that the jury is interested
5 in that part of the proceeding as well So during
6 the sentencing phase, you revert to being
7 spectators But we'll proceed with the sentencing
8 at this time The defendant will come forward

9 Mr Weeks, is there anyone you would like
10 to present on behalf of the victim the victims'
11 families?

12 MR WEEKS Yes, sir, Your Honor

13 MS KEYS My name is Ms Queen Esther Keys
14 Your Honor, Mr Weeks, and your colleagues, Ms
15 Brisbin, and the jury, now I can let go and let God,
16 because now I feel peace And I want to thank the
17 Court for giving him guilty

18 I am just so relieved now But, you know,
19 I also thought about I must forgive him for what he
20 did. I can forgive him because I know I need to
21 make it into heaven, and I am

22 I forgive him what he did For the act
23 that he did, I cannot, because it was vicious, and
24 he was a coward for what he did And another thing
25 is that my daughter's not here anymore She is

1 buried She is dead

2 But, see, he's still alive He might have
3 to make some time, but he's still here He has a
4 family. He also has a future My daughter doesn't
5 have a future And also she had to go from our
6 lives and our arms

7 But today the victory was God's, and the
8 victory was to the Keys, to the Adams, the Smiths,
9 and also the -- also the other victim's family The
10 victory is ours today, and it belongs to God And I
11 just want to say thank you so much for what has
12 happened -- the law, justice has been done Thank
13 you

14 THE COURT Yes, ma'am

15 MR BREWER Again, I would like to thank the
16 Court very much for what's -- and I'd like to thank
17 the jury very much. Cornell, I do forgive you,
18 because I am Christian It's hard for me, but one
19 thing I can say, this is a closure

20 It's been hard over the years, because
21 I've had flashbacks, and it's really bad I'm in
22 therapy. I've been in therapy for a month and a
23 half

24 But I thank you, I thank this Court for
25 what they've done and for all the hard work that the

1 Sheriff's Department, and the Solicitor, and all
2 And I just want to thank you for being the Judge
3 that you have been Thank you very much

4 THE COURT Yes, sir, thank you

5 Mr Weeks?

6 MR WEEKS Your Honor, this is -- as I told
7 the jury, 26 years in Aiken County, practicing law
8 and prosecuting, I don't think I've ever seen a more
9 senseless murder -- absolutely senseless All
10 murders are senseless, but this is one where -- you
11 know, just beyond description

12 And recognizing that the jury deliberated
13 hard and thoroughly, recognizing that in all cases
14 we have issues with witnesses, issues with evidence,
15 I'd like to thank the Aiken County Sheriff's
16 Department for working very hard to bring Mr Tyler
17 to justice

18 The family of the Brewers and the Keys
19 have been very patient throughout this process And
20 we certainly ask that you sentence him to the
21 maximum penalty allowed by law Now, he has some
22 prior criminal history But, quite honestly, I
23 think it's just arrests that have never come to
24 fruition in court

25 There are pending charges on him now that

1 because of the mandatory sentences involved in this
2 case I'm pretty certain will go away But that's
3 not to say that Cornell Tyler has been pure as the
4 driven snow in Aiken County But this is a
5 horrible, horrendous murder that will be
6 appropriately punished Thank you

7 THE COURT Mr Gipson?

8 MR GIPSON· May it please the Court, Your
9 Honor, Mr Weeks, and to the Adams family, the Keys,
10 the Dorches, the Brewers as well, I agree -- and as
11 well as the jury Again, I agree, and this is
12 something I've said from day one I will never come
13 in here and say that this was not a senseless act, a
14 cowardly act, all of those things, because they're
15 true

16 And the fact that Ms Dorch passed away
17 and shouldn't have, you know, that is something that
18 I respect absolutely what her mother said. That is
19 something that she can never be brought back Mr
20 Brewer was injured, and there are parts of his life
21 that will be changed forever, Your Honor And I
22 respect those things as well

23 I'll say, Your Honor, in knowing Mr Tyler
24 -- and I've known him some two and a half years,
25 Your Honor -- he has been forthright with me, and

1 he's spoken with me about the occurrence of that
2 evening And he's told me quite honestly that he
3 feels for the family in terms of everything that's
4 taken place

5 But he has always maintained that he was
6 not the person who did the shooting, and he wasn't
7 involved And I respect completely what the jury's
8 decision is, Your Honor I respect that He's told
9 me he feels like this is more of a guilt by
10 association, a hand of one/hand of all issue, and I
11 respect that, and I know what the law is

12 I say those things to say he's been
13 contrite about what's happened and taken place, and
14 he really and truly -- and I believe he'll express
15 this himself He wants to convey to the Court that
16 any portion that he played in this thing in terms of
17 not coming to justice immediately, calling police,
18 all of the things that he could have done, he
19 apologizes for those things, Your Honor, and wishes
20 he could do those things absolutely different, if he
21 could have an opportunity to do those things, Your
22 Honor

23 I'd ask that you -- understanding the
24 sentencing ranges, Your Honor, that you'd consider
25 the fact that he has no violent past, Your Honor

1 And I know that doesn't change the fact that Ms
2 Dorch is not here But he has no violent past, Your
3 Honor.

4 He's worked most of his life, Your Honor
5 He has a family as well He's got family in the
6 courtroom, mother and father are here, Your Honor
7 And he has not been a Boy Scout necessarily I'm
8 not going to stand here and tell you that

9 But, Your Honor, he's not been in this
10 courtroom multiple times This incident is really
11 his first real stepping through the system, through
12 the criminal justice system Your Honor, in
13 sentencing for murder, I understand your range could
14 be 30 years to life And then there's assault and
15 battery with intent to kill, it could be up to 20
16 years

17 All of those things, Your Honor, at his
18 age he's now 25 years old, Your Honor. And I'd ask
19 that you consider a sentence that would allow him to
20 pay his debt to society, Your Honor, and maybe at
21 some point in time, when he's an older man, to be
22 able to have an opportunity to set foot back on soil
23 other than prison soil

24 I'd ask that you not give him a life
25 sentence, Your Honor, but to consider the fact that

1 his past has not been one of a lot of criminal
2 activity and convictions and things of that nature
3 and that he has worked and been a contributor to the
4 economy here He's not done a lot of the things
5 that you see as a Judge in people coming before this
6 Court

7 These are absolutely serious matters, and
8 I know that the jury deliberated hard, and they came
9 back with a unanimous verdict against him But I
10 consider -- I'd ask that you consider being
11 merciful, as merciful as you can in this matter by
12 not sentencing him to the maximum, Your Honor I
13 believe that his parents may, if you would allow,
14 like to speak on his behalf

15 THE COURT All right

16 MR GIPSON Okay, thank you, sir And then I
17 think he'd like to address you as well

18 MR TYLER Mr Brewer --

19 THE COURT. Sir, speak to me

20 MR TYLER Okay Well, Judge, the only thing
21 I can say is that I ain't never thought my son would
22 do anything like this, and I still don't think he
23 did it And the only thing I'm asking you is to be
24 lenient on him And, you know -- I appreciate the
25 good job you've done

1 And, Judge, the only thing I can say, I
2 did all I could to bring him up right through
3 church, through everything And like I say, and
4 maybe it ain't going to help none, but me and his
5 mom was going through some problems And I happened
6 not to be down in the neighborhood when this started
7 to happen

8 If I'd of been there, maybe Ms Dorch
9 would have still been living But I'm just asking
10 you, you know, that you have mercy on him, as he's
11 being a young man, 25 years old, two kids And
12 matter of fact, I'm helping take care of his kids,
13 because I just got them out of a shelter

14 So I'm asking that you be lenient on him
15 with your sentence And from the bottom of my
16 heart, I'm just really sorry this happened. I --

17 THE COURT There is no lenient sentence for
18 murder

19 MR TYLER Well, I know he deserves some
20 punishment I don't know your system. I don't know
21 if it's 30 years to life But, you know, I know
22 that's your call And I can't say what lenient
23 means Lenient to me means not giving him life in
24 prison and give him time.

25 He's going to think about what he did, and

1 he knows, and God knows whether he did it or not
2 Whether the jury convicted him as guilty or not, we
3 all know God knows We may not know We're going
4 by what the jury said

5 But God knows, and God is going to punish
6 him for what he did So my thing as being lenient
7 is not giving him life in prison and respect that he
8 does have three kids, a little daughter, two sons
9 And that's all I've got to say, just be lenient on
10 him.

11 THE COURT All right, thank you, sir

12 MR GIPSON And I believe he'd like to address
13 you as well, Your Honor

14 THE COURT Yes, sir

15 MR TYLER Well, Your Honor, I understand the
16 family I understand that what happened is tragic
17 And like I said again on the stand, I'm sorry for
18 what happened And I had nothing to do with that
19 I understand the jury has got to do what they feel
20 like is by the law

21 THE COURT Well, if you want to rehash the
22 testimony, you can save your breath

23 MR TYLER But I just want to tell them I am
24 sorry, and I'm not guilty of the crime You know,
25 my mother and father --

1 THE COURT: You're guilty as far as I'm
2 concerned I'm going to sentence you because you've
3 been found guilty

4 MR. TYLER Yes, sir

5 THE COURT: And I fully support the jury's
6 verdict

7 MR TYLER Yes, sir

8 THE COURT And I agree with the jury's
9 verdict

10 MR. TYLER Yes, sir

11 THE COURT And that's the basis for my
12 sentence So we're not here to recount guilt or
13 innocence

14 MR TYLER Yes, sir

15 THE COURT That has been determined And that
16 I support

17 MR TYLER Yes, sir

18 THE COURT But go ahead

19 MR TYLER I just want to let them know I'm
20 sorry for what happened And, God, you know what
21 happened And His will will be done And I believe
22 in God I believe His Son did die on the cross for
23 our sins

24 And I can't say -- you know, I'm not mad
25 at nobody, because just like Ms Dorch's mother

1 said, you've got to forgive So I even forgive the
2 jury and what happened But I just want to tell the
3 family I'm sorry and I didn't do it And I feel --

4 THE COURT Anything else?

5 MR TYLER And I just pray that if -- I
6 understand the sentences, I understand -- you know,
7 I respect what you're saying, sir And I just pray
8 that you give me another chance

9 THE COURT Another chance for what?

10 MR TYLER To get out and -- well, they'll be
11 gone, but to get out and live my life again

12 THE COURT All right, thank you, sir

13 Mr Gipson?

14 MR GIPSON Your Honor, just in summation, I
15 just ask that -- again, I understand -- you know, I
16 will say this I respect the jury's providence, and
17 I understand and respect the sentencing ranges that
18 you have to contend with, Your Honor. And I would
19 ask that you consider not sentencing him to the
20 maximum, Your Honor

21 Because of the verdict, there is
22 punishment that is deserved, without question And
23 I'd ask that you consider some of his prior history
24 in here in Aiken County and on this earth and not
25 judge him only by the acts that --

1 THE COURT What prior history is that?

2 MR GIPSON Your Honor, the fact that he
3 worked for a living He's been out -- he'd been in
4 Aiken County, Your Honor He'd held several jobs,
5 back and forth held jobs here

6 THE COURT Where was he working at the time of
7 the killing?

8 MR GIPSON He was working at the polo
9 grounds, Your Honor, and he was also working with
10 Ernest Bell, who is a mechanic, Your Honor, back in
11 2005

12 THE COURT All right Anything else, Mr
13 Gipson?

14 MR GIPSON No, sir

15 THE COURT All right, Mr Weeks?

16 MR WEEKS No, Your Honor

17 THE COURT I believe fully in our judicial
18 system and support for the jury's verdict The best
19 thing or the closest thing we have to perfection is
20 to have the matters thoroughly litigated and to have
21 the matter tested through the advocacy system.

22 Mr Gipson, you've done an excellent job
23 in defending him, one of the most thorough and
24 vigorous defense representations that I have
25 witnessed over the past couple of years, for sure

1 But in the end, the truth surfaces through the
2 venting of the process

3 And I must say I fully agree with the
4 jury's verdict I say that despite the fact that
5 the law does not permit me to have an opinion and to
6 express an opinion to the jury prior to their
7 deliberating and deciding the case But the jury
8 has spoken, and that's the truth as far as this case
9 is concerned

10 These issues of credibility were issues
11 for the jury to decide They are to be commended
12 for the long time that they took to deliberate and
13 to decide this case And I am always very
14 appreciative, most appreciative, of any jury that
15 takes its time to sift through the evidence, to
16 weigh it, and to decide the case

17 And they've decided this case, and I'm not
18 sentencing a person who is standing before me
19 claiming innocence I'm sentencing a person who is
20 guilty And that's the basis for my sentence

21 And certainly it's one of the most heinous
22 and horrific crimes that anyone could imagine for
23 someone to take a job delivering the newspaper, and
24 to be in training, and to be traveling at what would
25 otherwise be the most peaceful time, right before

1 the day, at a dawn when you certainly would not
2 expect out in the country to be encountered by a
3 hail of gunfire, and bullets, and shooting

4 I don't know what was going on at your
5 house at that time One witness said, "I know a
6 spot we can go to," and the spot that they testified
7 they could go to ended up being your house For
8 whatever reason, they decided the spot was your
9 house. And whatever you had in your house that made
10 them interested in going to your house that morning,
11 I don't know

12 Whatever rage that you had in your mind
13 and your brother's mind that you didn't want anyone
14 coming to your house or was leery or suspicious of
15 someone coming to your house that time of morning,
16 and what they might be coming to your house for that
17 morning, I don't know

18 The fact that there's one car at your
19 house and then another car at your house, and you
20 wanted to know who it was and what they wanted, and
21 to retaliate against a car that you had no clue was
22 there, I don't know Those are the unknowns Of
23 course, you know

24 They're unknowns as far as I'm concerned
25 But they certainly speak volumes of what eventually

1 occurred in this case And that is that an innocent
2 life was killed and another life shattered And the
3 fact that you're being sentenced almost is
4 insignificant.

5 And the fact that you have children and
6 placing a minimum sentence of 30 years, there is no
7 role that you can effectively play in their lives
8 It's likely that there is none

9 In many instances, I see in court an array
10 of people who testify, all of whom say they have --
11 you know, they're 20 or 25 years old, they have
12 four, they have five children You have two
13 children What role they can play in those
14 children's lives of any significance is not very
15 likely to be anything of benefit

16 And time and time again, I've seen it
17 where those children as years pass end up standing
18 right in that same spot that you're standing in
19 right now But that's another issue for another
20 day

21 But it's tragic, Mr Tyler, and the reason
22 why you would find it necessary after this event to
23 pick up, to immediately flee the scene, had a job, I
24 guess the job was not as important as your leaving
25 It was not important.

1 And to abandon town, that's indicative of
2 something significant All of that I'm sure bore on
3 the fact of your standing right there, right now,
4 about to be sentenced for these crimes. The statute
5 says that a person who is convicted of murder must
6 be punished by death, by imprisonment for life, or
7 by a mandatory minimum term of imprisonment for 30
8 years

9 One lived, one died The State is not
10 seeking the death penalty because it does not
11 qualify for the death penalty in this instance
12 because of lack of aggravating circumstances So
13 it's mandatory it must be punished by imprisonment
14 for life or by a mandatory minimum sentence of 30
15 years

16 No person sentenced to a mandatory minimum
17 term of 30 years is eligible for parole or any early
18 release program, nor is the person eligible to
19 receive any work credits, education credits, good
20 conduct credits, or any other credits that would
21 reduce the mandatory minimum term in prison of 30
22 years

23 For assault and battery with intent to
24 kill, you're facing a sentence of up to 20 years
25 That's likewise a no parole offense And you're

1 facing five years for possession of a weapon during
2 the commission of a violent crime

3 SENTENCE OF THE COURT

4 The sentence that I'm going to give you is
5 this For murder, the sentence is 30 years For
6 assault and battery with intent to kill, the
7 sentence is 20 years, to run consecutive to the 30
8 years For possession of a weapon during the
9 commission of a violent crime, the sentence is five
10 years, to run consecutive to the first two
11 sentences Good luck to you

12 MR GIPSON Thank you, Your Honor

13 THE COURT All right, ladies and gentlemen,
14 Madam Clerk, do you have anything for the jurors?

15 CLERK OF COURT They're being informed that
16 you can come back tomorrow The Jury Clerk has your
17 check You can get it between nine and five, or she
18 will be mailing them out, along with your
19 statements

20 THE COURT All right, ladies and gentlemen, I
21 certainly want to thank you for your hard work
22 It's not easy, but no one said it would be

23 --End of Transcript of Record--

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

COURT REPORTER'S CERTIFICATION

I, REMA K. GANTT THOMAS, OFFICIAL COURT
REPORTER, AND NOTARY PUBLIC IN AND FOR THE STATE OF
SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF
RECORD OF THE PROCEEDINGS HAD AND EVIDENCE
INTRODUCED IN THE ABOVE-CAPTIONED CASE ON JANUARY 7,
8, 9, AND 10, 2008, IN AIKEN, SOUTH CAROLINA

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL
NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF
ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS
OUTCOME

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND
AND SEAL AT CHAPIN, SOUTH CAROLINA, THIS THE
EIGHTEENTH DAY OF AUGUST, 2008

Reema K. G. Thomas
REMA K GANTT THOMAS
OFFICIAL COURT REPORTER
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 11/21/2013

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Nov 03 08 01:27p Aiken County Clerk Of Cou 8036421718

WITNESSES

S. J. Prince, A.C.S.O

Denny Clerk

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date April 13, 2006

VERDICT

GUILTY

Foreperson of Petit Jury

Date

01-10-07

DOCKET NO. 2006-GS-02 -

550

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL 17, TERM 2006

THE STATE

vs.

CORNELL DEVON TYLER

Indictment for
POSSESSION OF FIREARM OR KNIFE
DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT
CRIME

SC Code 16-23-490

CDR Code. 549

Class FEL-F

Nov 03 08 01:27p

Aiken County Clerk Of Cou 8036421718

p 4

759

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on April 17, 2006, the Grand Jurors of Aiken County present upon their oath.

POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
ATTEMPT TO COMMIT A VIOLENT CRIME

That CORNELL DEVON TYLER did in Aiken County on or about August 27, 2005, possess or visibly display a firearm or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Murder, all in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended

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


BARBARA R. MORGAN, SOLICITOR

WITNESSES

S J Prince, A.C.S.O.

July 23 2002

J. H. Haddad

Deputy Clerk

ARREST WARRANT NUMBER

H-874288

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date April 13, 2006

VERDICT

GUILTY

Foreperson of Petit Jury

Date

01-10-07

DOCKET NO. 2006-GS-02 - 551

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

APRIL 17, TERM 2006

THE STATE

vs.

CORNELL DEVON TYLER

Indictment for

ASSAULT AND BATTERY WITH
INTENT TO KILL

SC Code 16-3-620

QDR Code 014

Class FEL-C(V)

Nov 03 08 01:28p Aiken County Clerk Of Cou 8036421718

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761

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on April 17, 2006, the Grand Jurors of Aiken County present upon their oath

ASSAULT AND BATTERY WITH INTENT TO KILL

That CORNELL DEVON TYLER did in Aiken County on or about August 27, 2005, with malice aforethought commit an assault and battery upon one Joe Brewer with intent to kill the said victim. All in violation of §16-3-620 of the Code of Laws of South Carolina (1976), as amended

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


BARBARA R MORGAN, SOLICITOR

CPO

WITNESSES

S. J. Prince, A.C.S.O.

FILED

July 23 2006
J. S. Anderson
Deputy Clerk

ARREST WARRANT NUMBER

H-874278

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date April 13, 2006

VERDICT

GUILTY

Foreperson of Petit Jury
Date

01-10-07

DOCKET NO. 2006-GS-02 - 552

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

April 17, Term 2006

THE STATE

vs.

CORNELL DEVON TYLER

Indictment for

MURDER

SC Code 16-3-10
CDR Code 116
Class FEL-EXM

Nov 03 08 01:29p

Aiken County Clerk Of Cou 8036421718

p.10

763

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on April 17, 2006, the Grand Jurors of Aiken County present upon their oath:

MURDER

That CORNELL DEVON TYLER did in Aiken County on or about August 27, 2005, feloniously, wilfully and with malice aforethought, then and there kill and murder Debra Dorch by means of shooting Debra Dorch in the back with a rifle and that the victim did die in Aiken County on Windsor Road, Springfield, South Carolina as a proximate result thereof on the 27th day of August, 2005 All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended

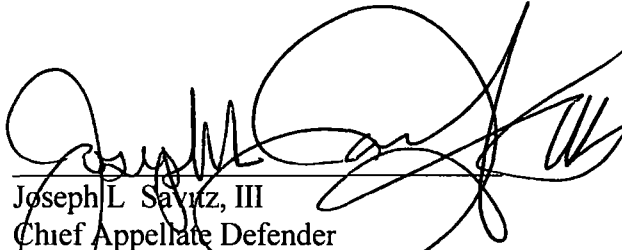
Against the peace and dignity of the State, and contrary to the statute in such case made and provided


BARBARA R. MORGAN, SOLICITOR

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings"

June 8th, 2009



Joseph L. Savitz, III
Chief Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT