VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL

APPEAL FROM COLLETON COUNTY

Perry M. Buckner, Circuit Court Judge

RECEIVED
JUN 09 2015
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

QUOTEAS SYLVESTER NESBITT,

APPELLANT

APPELLATE CASE NO. 2014-001851

RECORD ON APPEAL

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STATE'S EXHIBIT # 45 (DVD VIDEO SURVEILLANCE AT CHASE)

IS PLACED ON THE RECORD.)

THE COURT: Is the State ready to proceed?

ASST. SOL. LEGETTE: State's ready, Your Honor.

THE COURT: Is the defendant ready?

MR. WALKER: We are, Your Honor.

THE COURT: Bring us the jury, please.

(WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. Ladies and gentlemen of the jury, we will now continue with the testimony in the trial of this case. Solicitor, call your next witness.

ASST. SOL. LEGETTE: Thank you, Your Honor. The State calls Dr. Ellen Riemer.

(WHEREUPON, DR. ELLEN RIEMER ENTERS THE COURTROOM AND IS DULY SWORN BY THE CLERK OF COURT.)

THE COURT: Hello, Doctor. Have a seat, make yourself comfortable. Adjust the microphone; it's going to amplify your voice. Would you begin by stating your full name and spelling your last name for the court reporter.

WITNESS: Okay. My name is Dr. Ellen Riemer and last name is R-I-E-M-E-R.

THE COURT: Very good. Your witness, counsel.

ASST. SOL. LEGETTE: Thank you, Your Honor.

DIRECT EXAMINATION

BY ASST. SOL. LEGETTE:

Q Dr. Riemer, where do you work?
A I work at Medical University of South Carolina as a forensic pathologist.
Q And what does a forensic pathologist do?
A A forensic pathologist performs complete autopsy examinations in order to determine the case and manner of death of an individual.
Q And are you also a licensed medical doctor?
A Yes.
Q And how long have you been a licensed medical doctor?
A I've been licensed to practice medicine since 1997.
Q And how long have you been in pathology?
A I have been a forensic pathologist since 2002 when I completed my training in forensic pathology.
Q Okay. Now, please tell us about your education, training and experience as it relates to forensic pathology.
A Well, after completing medical school, I did my training in pathology at Columbia Presbyterian Medical Center in New York City. And after completing successfully my residency in pathology, just in general pathology, I did subspecialty training in forensic pathology which was at the Office of the Chief Medical Examiner in the state of Maryland. And after completing that, I did an additional Fellowship in cardiovascular and pulmonary pathology at Johns Hopkins Hospital, and after completing that I started

as an attending pathologist and faculty member where I initially worked in North Carolina at Wake Forest School of Medicine and I stayed there for six years before moving to Charleston, South Carolina.

Q Thank you. Now, you told us earlier that a forensic pathologist performs autopsies?

A Yes.

Q Now, can you tell us how many autopsies you have performed?

A Well, I haven't kept track exactly; but it's in the range of 3,000.

Q Now, Dr. Riemer, what is the American Board of Pathology?

A The American Board of Pathology is the certifying authority that determines whether a person is entitled to and has earned Board Certification, so that's the American Board of Pathology that issues Board Certifications for specialty of pathology. It's the most authoritative certifying authority in the U.S.

Q And are you certified by that Board?

A Yes, I am.

Q Now, Dr. Riemer, in your years of practice as being a forensic pathologist, have you ever had occasion to perform autopsies where the cause of death was gunshot wound to the back?

A Yes.

ASST. SOL. LEGETTE: Your Honor, at this time, I would offer Dr. Ellen Riemer as an expert in the field of Forensic Pathology.

THE COURT: As to qualifications?

MR. WALKER: No objection.

THE COURT: Ladies and gentlemen of the jury, recalling my earlier instruction to you concerning expert testimony. The witness is qualified in the field of forensic pathology without objection. You may proceed, counsel.

ASST. SOL. LEGETTE: Thank you, Your Honor.

Q Dr. Riemer, please educate us. How many manners of death are there?

A There's homicide, so the manner of death is how -- it's not the exact cause of somebody's death, but it's the manner. So there's a homicide, there's suicide, there's natural, there's accident, and there's undetermined. There's five total manners of death.

Q And during the month of September 2012, did you have an occasion to perform an autopsy?

A Yes, many autopsies.

Q Yes, ma'am. Were you working as a forensic pathologist in September of 2012?

A Yes.

Q I want to turn your attention specifically to September

7th, 2012. Did you have an occasion to perform an autopsy on a decedent known as Moray Holmes?
A Yes, I did.
Q Dr. Riemer, I will hand you in a moment what has been marked for identification as State's 56. Please tell me if you recognize State's 56.
ASST. SOL. LEGETTE: May I approach the witness, Your Honor?
THE COURT: You may.
A Yes, I recognize this photo.
Q And what is State's 56 a photo of?
A It's an identification photo that we took of the deceased individual before we began the autopsy.
Q And is State's Exhibit 56 a fair and accurate representation of the deceased individual who you autopsied on September 7th, 2012?
A Yes.
ASST. SOL. LEGETTE: Your Honor, at this time, I would offer State's Exhibit 56 into evidence.
THE COURT: As to State's 56?
MR. WALKER: No objection.
THE COURT: Ladies and gentlemen of the jury, State's Exhibit Number 56 will be admitted into evidence in the trial of this case without objection.
(WHEREUPON, STATE EXHIBIT NUMBER 56, PHOTO, IS RECEIVED

INTO EVIDENCE.)

THE COURT: State's 56 is in evidence. You may publish to the jury.

Q Dr. Riemer, you performed an autopsy on Moray Holmes on September 7th, 2012. Was that the first time that you had ever seen Moray Holmes?

A That was the first time I had ever seen him.

Q Can you tell us approximately how long the autopsy lasted?

A I don't know -- remember exactly, but it was approximately four hours.

Q Okay. And based on that particular autopsy, within the bounds of reasonable medical certainty, did you form an expert opinion as to the cause of death?

A Yes.

Q And before we go any further, what is causes of death?

A Well, there's just many possible causes of death in an individual. Somebody could die of a stroke or somebody could die of blunt force injuries, a car accident, there's any number of medical diseases. People have coronary artery disease. Some can die of gunshot wound or a stab wound. There's any number of ways that an individual can die, but the cause of death is how this particular individual died.

Q Okay. So based thereon, did you form an opinion as to the cause of death or how the decedent, Moray Holmes, died?

A Yes.
Q And what is that opinion?
A Mr. Holmes died of gunshot wounds to the back.
Q And Dr. Riemer, when you performed the autopsy, were you able to collect any -- you said gunshot wounds. Were there any projectiles located in the body?
A No, because the bullets went in the body and exited the body, so I was able to, by performing the autopsy, track the wound paths of each of the bullets, but because they exited the body, I did not recover those bullets at the autopsy.
Q Okay. Was there any other evidence recovered, like clothing or anything of that matter?
A Well, I received Mr. Holmes body when he was unclad. And he did have a ring on him, so that was the only personal effect.
Q And any fingernail clippings were sent back, too?
A Oh, yes. Fingernail clippings are a procedure that I perform when I determine somebody died from gunshot wounds.
Q Okay. And also any hair?
A And hair samples.
Q And is that just standard procedure?
A Standard procedure.
Q Okay. And that was turned over to the detective who attended the autopsy?
A I have to recall my notes who it was handed over to.

(REVIEWS NOTES BRIEFLY.) Yes, the ring and the fingernail clippings and the scalp hair were turned over to Dorothea Gathers of the Colleton County Sheriff's Office.

Q And Dr. Riemer, during the autopsy, were you able to document the injuries of Mr. Holmes during that autopsy?

A Yes, that's my job.

Q And you document those how, by pictures?

A By photographs and also I make a diagram so I'm able to compose an autopsy report that accurately reflects the injuries and other abnormalities in the deceased individual.

Q Dr. Riemer, I'm going to hand you in a moment what has been previously marked for identification as State's 58, State's 59, State's 61, State's 62, State's 63, State's 64, State's 65, State's 66, State's 67, and State's 68. Please take a moment and tell me if you recognize these items. Let me show them to counsel.

MR. WALKER: Your Honor, the defense would stipulate as to foundation. I have no objection to them being entered into evidence.

THE COURT: To any of these exhibits?

MR. WALKER: That's correct.

THE COURT: All right. Hand them to her and ask them to identify them and give me the numbers again for the record.

ASST. SOL. LEGETTE: Yes, Your Honor.

THE COURT: You may approach.

Q Doctor, I'm handing you State's 58, 59, 61, 62, 63, 64, 65, 65, 66, 67, and 68. Do you recognize each of the State's exhibits?

A Yes. Each of these photographs are photographs that I took of injuries to Mr. Holmes at the time of the autopsy.

Q All right. And are they a fair and accurate photographs that you took to document his injuries?

A Yes.

Q All right.

ASST. SOL. LEGETTE: Your Honor, at this time I offer State's 58, 59, 61, 62, 63, 64, 65, 66, 67 and 68 into evidence.

THE COURT: That would be a total of an additional 10 beyond State's 56, Solicitor?

ASST. SOL. LEGETTE: That's correct, Your Honor.

THE COURT: Counsel, as to State's 58, 59, 61, 62, 63, 64, 65, 66, 67 and 68?

MR. WALKER: No objection.

THE COURT: Ladies and gentlemen of the jury, State's 58, 59, 61, 62, 63, 64, 65, 66, 67 and 68 will be admitted into evidence in the trial of this case without objection.

(WHEREUPON, STATE EXHIBIT NUMBER 58, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 59, PHOTO, IS RECEIVED

INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 61, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 62, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 63, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 64, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 65, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 66, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 67, PHOTO, IS RECEIVED INTO EVIDENCE.)

(WHEREUPON, STATE EXHIBIT NUMBER 68, PHOTO, IS RECEIVED INTO EVIDENCE.)

ASST. SOL. LEGETTE: Thank you, Your Honor. May I approach the witness?

THE COURT: You may.

ASST. SOL. LEGETTE: Your Honor, may she come down, if we can get a microphone, please.

THE COURT: Madame Clerk, Doctor, my lawyers like to do this. I'm going to give you a portable microphone, because when you turn your back to my court reporter, it becomes

difficult for her. I will have them hold the microphone for you, but I want you to use it, because my court reporter needs to be able to hear. Mr. Walker, you may come around by my bailiff outside my jury box so you can also view.

Q Dr. Riemer, I will hold the microphone. You can stand whichever way is easier for you. I will hold the photograph. In State's 58, what are we seeing in State's 58?

A Well, you can recognize that this is the belly button of the deceased individual. Here are two holes on the right side of the abdomen and those were the exit wounds. That's were the bullets exited by.

Q Okay. State's 59, what are we seeing in State's 59?

A That's a photo of one of the exit wounds.

Q State's 61?

A That's a photo of the other exit wound.

Q State's 62?

A So now we have a photo of the deceased individual's back and we can see -- I don't know if you can see it from here, but there are two holes on the left side of the back. And those are the entrance wounds. Those are the two locations where the bullets entered the body.

Q State's 63?

A That's another photo of the two entrance wounds.

Q State's 64?

A That's a close-up of one of the entrance wounds on the back.
Q State's 65?
A And that's a photo of both of the entrance wounds on the left side of the back.
Q And State's 68?
A That's a closer up picture of one of the entrance wounds on the back.
Q Okay. Thank you, Dr. Riemer, I think we can dispense with photographs. You can take a seat, please.

(DR. RIEMER RESUMES THE WITNESS STAND.)

Dr. Riemer, using a human representation, are you also able to document the injuries and tell us what direction? Or were you able to determine a direction of the actual entrance wounds and exit wounds?
A Yes.
Q Can you tell us about the actual injuries themselves?
A Well, I'll describe each one individually.
Q Okay.
A So there were a total of two gunshot wounds to Mr. Holmes' body. One of the gunshot wounds -- both of them entered on the left side of the back as we saw. And one of the gunshot wounds after it entered the left side of the back; this is the one closest to the middle of the body. It went over toward the right side of the back and while it was

in the body, it went through the right kidney, as well as loops of small bowels, so the intestines as well, before exiting on the right side of the abdomen. So we saw the two entrances on the left side of the back and the two exits on the right side of the abdomen; so that was one of the gunshot wounds. Then there was the second gunshot wound. I don't know which one came first or second. But there was another gunshot wound also on the left side of the back and that gunshot wound went into the abdomen and went through the abdominal aorta, which is a major blood vessel of the body. The aorta is a major blood vessel that leaves the heart and supplies the rest of the body with blood. So the aorta goes -- after it leaves the heart, it goes down into the abdomen and is kind of in the middle down there, and this bullet pierced the aorta and after doing so, it also went through some of the intestines before exiting the right side of the abdomen.

Q And Dr. Riemer, you talked about the abdominal aorta, as a result of the gunshot wounds, what was the condition of the actual decedent's body as far as the aorta is concerned and the actual injuries?

A Well, the bullet pierced and went through the aorta and because this is a very large blood vessel with a lot of blood flowing through it, all of that blood ended up leaving that aorta and collecting in his abdominal cavity, so he had

a lot of internal bleeding as a result of both of these gunshot wounds.

Q And so were you able to document how much blood there was inside his abdomen?

A Yes, I was able to document it, because I was actually scooping it out and putting it in jars to measure how much there was and there was -- I was able to measure 2,650 milliliters of blood. So that's between two and three liters of blood. That was just sitting loose in his abdominal cavity.

Q And that's as a result of the piercing of the aorta?

A The aorta and the kidney. They're both, you know, it's going through the aorta and the kidney and those are very vascular structures which means there is a lot of blood flowing through it and so when they were damaged, all of that blood ended up pooling in his abdomen.

Q Dr. Riemer, are you able to demonstrate or document the injuries of Mr. Moray Holmes on a human representation?

A I can point that out, yes.

ASST. SOL. LEGETTE: Your Honor, at this time, I would ask that she come down and document the injuries using a human representation.

THE COURT: Madame clerk, microphone please. Mr. Walker, let me know if you can't see. Ladies and gentlemen of the jury, hold your hand up if anyone blocks your view.

(WHEREUPON, DR. RIEMER COMES DOWN FROM WITNESS STAND AND INDICATES VICTIM'S INJURIES ON A REPRESENTATION OF HUMAN MODEL.)

Q Dr. Riemer, this is the human representation that we have.

THE COURT: State for the record what you are doing, counsel.

ASST. SOL. LEGETTE: Yes, Your Honor, I am.

Q Dr. Riemer, this is a human representation of a human body or a representation of a human body, and you indicated earlier that you're able to explain to us the injuries of Moray Holmes on the autopsy you performed?

A Yes.

Q Will you take these rods and demonstrate for us the actual injuries. I will hold the mic for you.

A Thank you. So each one of these rods is going to be used to represent each one of the bullet paths through the body. So one of the wounds entered the back about there and exited the right side of the tummy. So that's the wound path direction. It's going from back to front and from left to right. Along the wound path, this bullet went through the right kidney, which caused a lot of bleeding into the abdomen.

Q Okay. Now, as to the second gunshot wound you documented.

A This is the other gunshot wound that was to the back. This was further to the left side of the back. It exited -- I'm trying to get this to come out of the right side.

Q Do you need me to hold it?

A Well, it's just kind of difficult to poke through. Yeah, this is about right. So that's the exit wound from the other bullet. So this bullet -- and you can see that they're both kind of going in the same direction; both going from left to right and back to front. And so this gunshot wound that I just put this rod in, that exited the right side of the belly button, went through the aorta, along the wound path. The aorta, being the major blood vessel of the body, was responsible for lots of internal bleeding.

Q And Dr. Riemer, we also have another human representation. I can roll this out for you.

A So in this model, a person's body, you just see the skin, but we obviously we can't see the internal organs and structures that are inside, like even we know there's stuff in there, we can't see it on this particular model. But this model has the skin and muscle of the abdominal cavity exposed, and this is a bunch of intestines, which is, you know, lower part of the abdomen. But if I take that out just to demonstrate, we can see this red -- big red blood vessel, we can see it leaves the heart up in the chest and that's where the blood leaving the heart is going to supply

the rest of the body. And it's going down through this red blood vessel, which is the aorta. So this is the abdominal aorta because it's in the abdominal cavity. It's the same blood vessel that started up here and it's like a big conduit that carries blood and then it sort of branches off to supply the legs. But the bullet on the left side of the back, as it went through the left side of the back, actually went right through that abdominal aorta before exiting the right side of the abdomen. So that caused a lot of blood to pour into this open area space in the abdominal cavity. And the other bullet that entered the back didn't go through the aorta but it made its way through the body. It went through this right kidney, which also there is a lot of blood in the kidney and blood is going to leak out of the kidney as well. So between the two gunshot wounds, there was 2,615 milliliters of blood that was accumulated in the abdominal cavity.

Q Okay. Thank you, Dr. Riemer. If you can have a seat back on the witness stand, I will take the microphone from you.

(WITNESS RESUMES STAND.)

Q Dr. Riemer, just briefly, would you consider the aorta a super highway of blood vessels?

A Yes. It's the major highway that all the blood goes through and then it sort of, you know, it's sort of like

exits along little smaller roads off of the main highway. That's to supply the arms and the legs, but the aorta, you can see as I demonstrated, this is the major blood vessel of the body that everything else comes from.

Q Okay. And the cause of death for Moray Holmes was what?

A Two gunshot wounds to the back.

Q Thank you, Doctor. I have no further questions. Please answer any questions from the defense.

THE COURT: Cross-examination?

MR. WALKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WALKER:

Q Good afternoon, Doctor.

A Good afternoon.

Q During the course of your autopsy, did you conduct a test entitled comprehensive drug scan?

A Well, I drew blood and sent it to a toxicology lab which performed a drug testing.

Q Can you explain more fully what that entails, what you're testing for?

A Well, I take a blood sample and the toxicology laboratory tests for any alcohol or drugs.

Q And what were the results of that comprehensive drug scan?

A The results were that there was 0.07 percent weaker volume of ethanol, which is alcohol. And 15.3 anagrams per milliliters of THC, as well as a metabolite of THC, which is marijuana.
Q And also, along with that THC, a measured amount, there was also a positive test for cannabinoids; or is that just a subset, the cannabinoids?
A No, that's just like a screening. It is the exact amount of cannabinoids. So they got a positive test of cannabinoids and then they ---
Q They break it down like that?
A That's exactly right.
Q And .070 translates into what as a percentage?
A Well, it's .07, so we like BAC, this is how we're familiar with it. BAC of 0.08 would be the legal driving limit and he was 0.07, which is less than that.
Q You say the legal driving limit, is that the amount we say someone is drunk?
A Yes, driving while intoxicated; but this was lower than that.
Q It's a tenth of the percent ---
A Yes, correct.
Q I don't have any further questions. Thank you.
A Okay.
THE COURT: Redirect?

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ASST. SOL. LEGETTE: None, Your Honor.

THE COURT: As to this witness?

ASST. SOL. LEGETTE: We ask that she be excused, Your Honor.

THE COURT: Any objection, Mr. Walker?

MR. WALKER: None, Your Honor.

THE COURT: Doctor, you may step down and you are excused from the trial of this case. Leave my exhibits and take your file.

DR. RIEMER: Thank you very much.

THE COURT: Call your next witness.

ASST. SOL. LEGETTE: Your Honor, the State rests.

THE COURT: Are there any matters of law that you need for me to take up?

MR. WALKER: Yes, Your Honor.

THE COURT: Madame Foreperson, ladies and gentlemen of the jury, I'm going to ask you to step to your jury room. I need to take up a matter of law. We won't be long. Please do not discuss the case. I will be right back with you.

(12:00 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Let the record reflect that the jury is not present. Yes, sir, Mr. Walker.

MR. WALKER: Thank you, Your Honor. At this time, the defense would make a motion for directed verdict on the

charge of murder. The evidence taken in the light most favorable to the State, which in this case we have a videotape where we can see the actual crime occurring. That videotape view shows again, in the light most favorable to the State, Quoteas Nesbitt and the deceased in a consensual encounter in which the time the video shows a brief conversation and shows some sort of touching, grabbing, something of the arms, and then they break apart, and the deceased begins to walk away. The deceased is much larger than Mr. Nesbitt. The State elicited numerous witnesses that there was no prior disorder or problem between the two, so as to the element of premeditation, we believe that had nothing to do with it.

THE COURT: Very well. Solicitor?

ASST. SOL. LEGETTE: Thank you, Your Honor. I would respectfully ask the Court to deny the defense's motion for directed verdict on the offense of murder. There has been numerous testimony about the actual shooting itself regarding the identification of Quoteas Nesbitt as the shooter. Additionally, there were statements made by Quoteas Nesbitt two days prior to the actual shooting itself where Quoteas Nesbitt is quoted as saying, "One of these days someone is going to take care of Bobo," or "I wouldn't have handled mine like that," which goes toward motive and premeditation, Your Honor. In addition, we watched the

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video and Mr. Nesbitt is walking around with his hands on his hips, perhaps on a gun. Additionally, all of the witnesses testified that there was no argument. There was not a fight between Mr. Nesbitt and the decedent, Mr. Moray Holmes. In addition, you have additional witnesses testify that Mr. Nesbitt had a towel wrapped around his hand where he pulled out the gun and he shot Mr. Holmes twice in the back. All witnesses testified that Mr. Holmes walked away from Mr. Nesbitt, in which Mr. Nesbitt pulled out the gun and shot him in the back which requires forethought, Your Honor. The Court is aware that forethought can be done in an instant. So Your Honor, we would submit to the Court, in the light most favorable to the State, this is a jury issue, as far as the evidence and weight. Your Honor, at this time, we would submit that the case is -- we have proved the case at least beyond the stage at directed verdict. We would ask the Court to deny defense's motion for directed verdict on the charge of murder. Thank you.

THE COURT: Very well. Mr. Walker, I've listened carefully to the evidence in this case and the standard in the light most favorable to the State, your motion for directed verdict is respectfully denied. Would you and your client please come forward to the microphone. Madame Clerk, please swear the defendant.

MADAME CLERK: Please raise your right hand.

(WHEREUPON, THE DEFENDANT, MR. QUOTEAS NESBITT IS DULY SWORN.)

THE COURT: Put your hand down and speak into the microphone for me and speak up so everybody in the courtroom can hear you.

MR. NESBITT: Quoteas Nesbitt.

THE COURT: Mr. Nesbitt, at this time, I'm going to advise you or explain to you certain of your rights. If you do not understand anything that I say, please let me know. If you want me to explain anything in further detail, please let me know. Do you understand?

MR. NESBITT: Yes, sir.

THE COURT: We've now reached the state of the trial where you may present your defense. You have the right to testify on your own behalf. However, no one, not this Court, not anyone, not your lawyer, not anyone, can make you testify. In the event you have a record for any conviction involving dishonesty or false statement or for a crime punishable by imprisonment of more than one year and this Court determines as a matter of law that the probative value of admitting this evidence of prior crimes outweighs its prejudicial effect to you, the Solicitor would be able to introduce your record for impeachment purposes to attack your credibility or your believability with the jury. If you elect not to take the witness stand, I will charge the

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jury that they are not to give the fact that you did not testify any consideration whatsoever. And there is to be absolutely no prejudice to you because you did not testify. You have the constitutional right to remain silent. The burden of proof remains in a criminal case on the State of South Carolina. The decision as to whether or not you testify in this case will be left entirely up to you as to whether or not you testify. You certainly can talk with your attorney, but the ultimate decision is yours and no one else's. So the matter will be left entirely up to you as to whether or not you wish to testify in the trial of this case. Solicitor, does the defendant have a prior criminal record?

ASST. SOL. LEGETTE: Yes, he does, Your Honor.

THE COURT: Mr. Walker, I assume you have a copy?

MR. WALKER: Yes, Your Honor.

THE COURT: Do you agree there are crimes which potentially, depending on the Court's ruling, could subject him to impeachment?

MR. WALKER: Yes, sir.

THE COURT: Solicitor, do you agree there are such crimes of prior convictions?

ASST. SOL. LEGETTE: Yes, Your Honor.

THE COURT: Are you aware of your prior record, Mr. Nesbitt?

MR. NESBITT: Yes, sir.

THE COURT: I don't need the solicitor to go over it with you and your attorney, because your attorney tells me he already has a copy; is that correct?

MR. NESBITT: Yes, sir.

THE COURT: You've been over it with your attorney?

MR. NESBITT: Yes, sir.

THE COURT: All right. Would you like additional time to talk to your attorney?

MR. NESBITT: No, sir.

THE COURT: Have you made a decision about whether or not you wish to testify in the trial of this case?

MR. NESBITT: Yes, sir.

THE COURT: And what is your decision?

MR. NESBITT: Not to testify.

THE COURT: And that is your decision and nobody else's?

MR. NESBITT: Yes, sir.

THE COURT: No one forced you into that decision?

MR. NESBITT: No, sir.

THE COURT: You made that decision of your own free will?

MR. NESBITT: Yes, sir.

THE COURT: No one promised you anything not to testify?

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MR. NESBITT: No, sir.

THE COURT: No one threatened you if you decided not to testify?

MR. NESBITT: No, sir.

THE COURT: It is your decision and not your attorney's or anyone else's?

MR. NESBITT: Yes, sir.

THE COURT: And it is your decision not to testify in the trial of this case?

MR. NESBITT: Very well.

THE COURT: You and your attorney may return to your seats.

MR. WALKER: Your Honor, before the jury returns, can we do some housekeeping here?

THE COURT: Turn to your seat, Matt. One thing at a time. All right. Counsel, so that you all know -- now, Mr. Nesbitt, I've got to talk to your lawyer now. I'll let you talk to him, but you can't talk to him when I'm talking to him.

WITNESS: I apologize.

THE COURT: All right. I have been over every topic in my charge with the lawyers. Does anyone want me -- before we go to argument, does anyone want me to read any portion of my charge to them in order to prepare their argument; from the State?

ASST. SOL. LEGETTE: No, Your Honor.

THE COURT: From the defendant?

MR. WALKER: No, Your Honor.

THE COURT: All right. My law clerk has shown you the verdict form. It is my understanding that there is no objection to the verdict form which I have prepared. Is that correct, from the State?

ASST. SOL. LEGETTE: That's correct, Your Honor.

THE COURT: Is that correct, from the defendant?

MR. WALKER: Yes, Your Honor.

THE COURT: Obviously, I will not be sending the indictments into the jury. I will have my law clerk have the foreperson of the jury write whatever is written on the verdict from on the indictments after the jury finishes its deliberations.

Now, as to order of argument. Solicitor, as you know, Mr. Walker tells me -- Mr. Walker, is it still the defendant's decision not to present any evidence?

MR. WALKER: Yes, Your Honor.

THE COURT: In that case, you will rest when I bring the jury back in the presence of the jury. However, Solicitor, that gives counsel for the defendant the final argument in this case. Therefore, the State will open and the defendant will close. Solicitor, how long do you request for closing argument in this case?

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ASST. SOL. LEGETTE: Your Honor, I believe I need about 40 minutes.

THE COURT: How long?

ASST. SOL. LEGETTE: About 40, Your Honor. I won't take the entire thing, but just to be on the safe side, Your Honor, I know you give us the familiar tapping.

THE COURT: Very well. Mr. Walker, how long do you need? I'm certainly going to give you whatever the State has, although I have a rule, which Ms. Legette's forgotten, and that's that jury's don't normally listen after 20 minutes, however, lawyers seem to think they are fascinated by their words.

MR. WALKER: I was going to say in the neighborhood of 30 minutes, depending on what the Solicitor said.

THE COURT: I'm going to give you 40 if you need it. Ms. Legette, since you want 40 minutes, after 35 minutes if you're still talking, you will hear the familiar tapping. That means you have five more minutes; do you understand?

ASST. SOL. LEGETTE: Yes, Your Honor.

THE COURT: Do you understand that, Mr. Walker?

MR. WALKER: Yes, sir.

THE COURT: The State will argue first, followed by the defendant. Now, Mr. Walker's concerned about housekeeping, do you intend to use your demonstrative exhibits and for the record since nobody asked the witness to explain, one

demonstrative exhibit is a human body showing just the skin that has two wire rods running through it, based on the testimony of the pathologist. The other is just the inside anatomy of the stomach portion of the body in which the intestines have been removed so the jury can visualize the internal organs of the body behind the intestines.

Now, Mr. Walker is concerned about these exhibits. Do you intend to use the exhibits in your argument, Solicitor?

ASST. SOL. LEGETTE: Well, Your Honor ---

THE COURT: You can, but I want to know what we're going to do with them after you've finished so that Mr. Walker has his request complied with.

ASST. SOL. LEGETTE: Your Honor, if I use them in the argument, which at this point, I don't see myself doing so, we will remove them.

THE COURT: Ms. Stallings, it will be your job, along with Mr. Davis, to take the demonstrative exhibits, okay? And move them out of the jury's sight before Mr. Walker comes to my podium. Now, counsel, despite my best efforts, y'all still insist -- although, Mr. Walker has gotten pretty good about trying to use the microphone. Adjust the rostrum however you want, but I would urge you to use the microphone. You don't realize when you're walking up and down and pacing how difficult it is sometimes for the court reporter to pick you up, so please remember that. If you

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need to move the rostrum, you may do so.

Mr. Walker, do you understand they will be moving the exhibits out of the jury's view to decide. The reason I have to keep them is even though they are not in evidence and won't be going to the jury room, if there is a question, obviously, I need them here, because they were shown to the jury during the trial of the case?

MR. WALKER: I would like the rostrum moved over by the court reporter.

THE COURT: It has wheels and you can do so. I'm going to let the solicitor move it wherever she wants it, but I just ask you to use it. Any other questions, Mr. Walker?

MR. WALKER: No, sir.

THE COURT: Solicitor?

ASST. SOL. LEGETTE: We will go ahead and move the exhibits -- I'm not going to use the ---

THE COURT: You're not going to use the demonstrative exhibits?

ASST. SOL. LEGETTE: No, Your Honor.

THE COURT: Rusty, if you will move them out of the way of the jury, because they are going to be coming in and out.

THE COURT: Is the State ready to proceed?

ASST. SOL. LEGETTE: Yes, Your Honor.

THE COURT: Is the defendant ready?

MR. WALKER: Yes, Your Honor.

THE COURT: All right. Ladies and gentlemen, I'm happy for people to remain. Once again, I caution you that there will be no type of emotional showing, favorable or disfavorable in the presence of the jury. I will enforce that condition with the contempt powers of this Court. If you feel you can't control your emotions, now is the time to get up and leave this courtroom. Bring us the jury, Coach.

(12:25 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. Ladies and gentlemen of the jury, you've heard the evidence from the State of South Carolina. We will now hear from the defendant. Mr. Walker, you may call your first witness.

MR. WALKER: Your Honor, the defense rests.

THE COURT: Ladies and gentlemen, you have now heard all of the evidence in the case. You will now hear the closing arguments of the attorneys, followed by my charge to you on the law of this case. I ask that you give the attorneys your careful consideration. Ms. Legette?

ASST. SOL. LEGETTE: Thank you, Your Honor. May it please the Court?

CLOSING ARGUMENT

BY ASST. SOL. LEGETTE:

Good morning. When we first met, I told you this was a case about respect. And it is about respect; respect and

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Quoteas Nesbitt wanting the respect that Quoteas Nesbitt seemed to want from Cornelius White and from Bobo. But this is also a case about choices. Choices.

The Road Not Taken. *The Road Not Taken* is a poem about choices. And choices, two roads diverged in a wood and sorry I could not travel both. And being one traveler alone, I looked down one as far as I could see until where it bent in the other road. And basically, the writer, Robert Frost, goes on to say that I shall be telling this with a sigh, days and days hence; two roads diverged in a wood, and I, I took the one less traveled by. And that has made all the difference. Choices.

September 6th, 2012, Quoteas Nesbitt made a choice. A choice that brought us all here this week. That choice was, that road was, murder, to kill Moray "Bobo" Holmes. That night, Quoteas Nesbitt took away Moray Holmes' choice, because Moray Holmes, as you heard from all the witnesses, chose to walk away. He chose to walk away. He chose life. Quoteas Nesbitt was having you turn your back on Quoteas, Quoteas pulled out his gun and shoots Bobo in his back. A choice. And that choice, Quoteas Nesbitt's choice to end Moray "Bobo" Holmes' life is why we're here today. His choice left the State of South Carolina no choice. No choice but to pursue and to prosecute. And that choice, ladies and gentlemen, leaves you here listening, and at the

end of this case, you'll be faced with a choice.

And once you have reviewed the evidence, the State believes you will have no choice but to find Quoteas Nesbitt guilty of murder and of possession of a weapon during the commission of a violent crime of the murder of Moray "Bobo" Holmes.

But now, ladies and gentlemen, before we tried this case, before the learned trial judge tells you what the law in this case is, let me lead you down the road of the facts in this case. Now, I wasn't really a math scholar, but I have found in my later years that the facts of these cases, and the law of these cases, form an equation. The law is what it is. And then you take the facts and you apply them to the law, kind of like an equation. Like I said, I wasn't really good at algebra, none of that stuff, trigonometry, I can barely spell trigonometry; however, I have figured it out. So let's take the facts and apply them to the law and you will come out with your one choice, guilty.

Let us discuss the actual law of this case, because see, it is not the State's contention to convict an innocent man, just a guilty one. So should you find that once you are done reviewing the facts of this case that perhaps the State has not met its burden, if it doesn't fit, then quite frankly, ladies and gentlemen, you will have to acquit him. But the State submits that once you are done reviewing the

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facts, reviewing the law, that you will be left with that one choice. That one choice that Quoteas Nesbitt took from each and every one of us that night he shot Bobo in the back.

So let's go through this. Now, we're going to talk about murder, and while we're doing murder, we're going to talk about a few things to help you understand what murder is. We're going to talk about why Quoteas Nesbitt is a killer.

Now, let's discuss who said Quoteas Nesbitt is a killer. But before we do, let's talk about what murder is. Murder is the unlawful killing of another with malice aforethought, either expressed or implied. Now, what does that tell us? Murder is an unlawful killing. Unlawful meaning not lawful. You don't have the right to do it. Quoteas Nesbitt had no right to kill Bobo Holmes. There was no altercation. There was no fight. There was no argument. Bobo Holmes was not even trying to defend himself; he was just walking away. Quoteas simply had nothing to do, but just turn and walk away, but instead, what did Quoteas Nesbitt do? Let's talk about identification.

What did Renatta Ellison say? See, identification, you're going to hear about identification. Who can identify Quoteas Nesbitt? Who is Quoteas Nesbitt? Who saw Quoteas Nesbitt? Renatta Holmes. She said she knew Quoteas Nesbitt

since he was a child. Went to the Chase with her husband, sitting in the car at perfect angle, and is one hundred percent positive. She grew up around the corner from him. You heard he would come over to her moma's house. That's what Renatta Ellison Holmes told you.

Brian Manigo told you he knew Quoteas Nesbitt. He knew him for a long time. Quoteas came up to the car talking to him and Kevy. He even went through the video with you. Here's the thing, you will have that video. Watch that video. You'll have ample time to watch and rewatch and watch again. Brian Manigo said he knew Quoteas. Quoteas comes over asking, "Bobo got a problem with me." He asks Kelvin Mitchell who was sitting in the car with Brian Manigo. Now, I told y'all that the witnesses in this case were from the pool hall; I told you that. I told you. Brian, he's got a record. Kelvin's got a record. Everybody's got a record. Coot's got a record. They've all got records. They go to the pool hall. And for what? They smoke a little weed. Yeah, you heard the pathologist say Bobo had some THC in his system. What did Coot tell you? "Man, we were going to smoke a blunt. He was coming back to smoke with me." Yeah, I told you from the beginning, these are who the people are.

So Brian said, "I know Quoteas Nesbitt." All these things, Brian's on his own. Bobo: "I ain't got time for

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that. I'm walking away." Walking away. Quoteas pulls out a gun, shot Bobo in the back. Shot Bobo in the back, and that's the recurring thing -- recurring thing -- recurring thing, Bobo walked away. He turned and walked away. He turned and walked away. The unlawful killing of another. A man turns and walks away, you shoot him in the back, unlawful killing.

Now, ladies and gentlemen, I'm a movie buff. When I was a little girl, my parents used to always watch westerns on Saturday afternoon. They were good times. And we watched westerns, and there was a thing about westerns. You know, you're going to see that video. Who was it? Captain Chapman talked about how he had his hands on his hips and I got to thinking about it and you know, with those westerns, it seemed like the bad guys walked around with their hands on their hips. And in the video, if you watch it, and watch it again, that's kind of how Quoteas was standing; hands on his hips the whole time. Moving side to side, just walking. Then, Bobo walks away. In westerns, you know, they didn't shoot people in the back. There was a code. There was a code, ladies and gentlemen. There was a code. I wonder what happened to the code. A man walks away, he's big. He's a big fellow, 300 pounds, six-something, worked in the woods. He turns and walks away, "Man, I ain't got time for that. I ain't got time for that." So ladies and gentlemen,

let's talk about malice. We've got all these witnesses: Kelvin Mitchell. He's known him for a long time. Bobo was like a brother. Quoteas want to know, "Man, why Bobo ain't speak to me?" Remember, Quoteas asked Cornelius, "Bo, you ain't going to speak?" Quoteas wanted respect. When Bobo turned his back on him, he turned his back on him.

Malice, ladies and gentlemen, let's talk about malice. I told you this was a case about respect, and it is a case about respect. Quoteas Nesbitt's demand for respect. But Quoteas Nesbitt's lack of respect for others, his lack of respect for Moray Holmes, and his lack of respect for the law. This is also a case about evil, because malice, ladies and gentlemen, malice means wicked, wicked, wicked heart, evil intent. Oh, yeah, you see that evil intent in the video. You might not be able to see his eyes, but you can sure enough see that evil intent while he's walking around. Oh, yeah, there goes Bobo. He going to holler at me. He ain't been speaking to me. "Bo, why you been disrespecting me, man?" Remember Coot? "Bobo, you be disrespecting me." Oh, yeah, let's go back to malice. Two days before, remember those two days before. What did the witness's tell you? Man, I wouldn't have handled mine like that." I can see him now standing there with his hands on his hips. Quoteas Nesbitt telling his own brother, telling Bobo's brother, "One of these days somebody gonna take care of

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Bobo." Who else hears that? Somebody was Nicholas Williams. "One of these days somebody gonna put a stop to Bobo." That is malice. That is evil. That is wicked. That is malice aforethought. Aforethought, meaning it has to be formed sometime before. It can be a short period before or it can be a long period before, but you know what in this case, seems like it was a long time before. They said they used to ride around together. You reckon Quoteas was looking at him while he was riding in his car, Bobo was bouncing to the music, boom-boom, boom-boom, Quoteas sitting there thinking about it, wanting respect from Bobo. Then, Bobo doesn't speak to him. Oh, yes, malice. And two days prior, "somebody gonna take care of Bobo." "I wouldn't have handled mine like that." And you know what, he didn't handle his like that. You know how he handled his? Six shots, ladies and gentlemen. Six shots. There are six shell casings. He hit him twice in the back. Ladies and gentlemen, malice, evil, without excuse, without cause. That man was walking away. Just leave that man alone. Just leave that man alone. Let that man go. That man came out there -- if you watch that video, the light of his car were still on. He didn't come for nothing. Coot said he came to smoke. If a man wanna come smoke, a man wanna come drink, let the man come smoke and drink. You ain't the police. Let that man go. But, no, Quoteas had other things on his

mind. He had a wicked spirit, he had an evil intent. This case is about respect, choices, evil and justice.

Ladies and gentlemen, malice. Now, malice has to be either expressed or implied. What do I mean by express or implied? Express, meaning you say it. Did he say it? Oh, yeah, remember two days prior, "I wouldn't have handled mine like that." "One of these days, somebody gonna put a stop to Bobo." "Somebody gonna take care of Bobo." Somebody was Quoteas Nesbitt. He said it two days prior, but nobody thought Quoteas, man. Y'all been riding in the same car. Why, Quoteas, why? Hate. Evil. Wicked. Just hating on a man.

Malice aforethought, express or implied, it can be either one. Implied: malice can be implied through use or inferred meaning the use of a deadly weapon. A deadly weapon is a gun or anything else that can cause death. In this case, it was a gun. That's implied.

Ladies and gentlemen, that's your murder. And I know that we haven't talked about everything that everybody's said. But look at this, Quoteas went on to say what we've already heard, "Why you ain't speak to me?" Quoteas, Bobo walked away, he pulled out a gun, kept shooting. Nicholas Williams, the same thing. The same story is consistent over and over and over and over. And then there was Coot. He walks away.

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Ladies and gentlemen, we also need to talk about everybody puts him there. Everybody puts Quoteas Nesbitt at the Chase Lounge. They all put him there. They all put him there. Kenya Kelly, she puts him there. Malachi, he puts him there. Who says he was there? Let's talk about who says he was there. Who says? They all say. Renatta Holmes, he was there. Cornelius White, he was there. Kenya Kelly, he was there. Malachi, he was there. Brian Manigo, he was there. Kelvin Mitchell, he was there. Nicholas Williams, he was there. Donald Odom, he was there. Jason Chapman, "I know him. He turned himself in to me." "That's him in the video." How can nine people be wrong? How can nine people be wrong? They're not wrong. They are not wrong. Quoteas was at The Chase the night of the murder and Quoteas had to kill Moray Holmes. That's your answer. He killed Moray Holmes.

But now ladies and gentlemen, there is another charge: possession of a firearm during the commission of a violent crime. Let's talk about this. This is real simple, because if you find him not guilty of murder, then there's no need to even consider this charge. But if you find that the State has met its burden, that you cannot write off nine people who put him at the Chase Lounge and nine people who all, one, by one, by one, by one, all walk in here and sit on the stand under the scrutiny of the entire courtroom and

Mr. Walker, and told you the same consistent story over and over and over and over again, then you can talk about this. Let's discuss it.

Possession of a firearm during the commission of a violent crime. A person, meaning Quoteas Nesbitt, is in possession of or visibly displays -- you see it on the video: boom, boom, boom, boom, boom, boom. You see it on the video. Watch the video. I didn't want to insult you by keeping you here watching it over, and over, and over again, but you'll have time; watch it. Watch it for yourself and you will see the gun is in his hand.

During the commission of a violent crime. And a violent crime is murder. The judge himself will charge you that murder is a violent crime. So ladies and gentlemen, that's your case: Murder and possession of a weapon during the commission of a violent crime. But now, we want to add up the facts. Let's just add it up. We talked about the facts, so now we're going to just add up the facts. And let us add, because I do know how to add, subtract, multiply and divide. I told you I wasn't real good at the rest of that stuff, but we're going to add right now.

Adding up the facts, Quoteas Nesbitt is guilty. Number one, "Quoteas shot and killed my husband," Renatta Ellison Holmes said that. Plus, "Quoteas shot Bobo." Brian Manigo said that. Kelvin Mitchell told you, "Quoteas killed Bobo."

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Kelvin Mitchell's been shot before; carries a gun. He was scared. I reckon he might have been scared, he said he was scared at the hospital. Not only that, Nicholas Williams, "Quoteas killed Bobo." Donald "Coot" Odom, "Quoteas killed Bobo." Jason Chapman, "Quoteas Nesbitt is the man in the video." It's simple. Add it up, ladies and gentlemen. Quoteas Nesbitt is a murderer. Quoteas Nesbitt is a killer. Quoteas Nesbitt is guilty.

Ladies and gentlemen, let's talk about a guilty man and what a guilty man does. He's guilty. You've already decided. The State submits to you he's guilty. But what does a guilty man do? A guilty man knows in his heart when he knows his wicked, evil heart has made a choice for him. What does a guilty man do? A guilty man runs after he commits murder. Watch the video. Some said he hopped -- he hopped. And when you watch the video, watch the video, after he pulled out the gun and shot, he hops away. He hops away. He runs away. A guilty man stays on the run after he commits murder. How long was he gone? Not one day, not two days, a whole week went by; seven full days. He was nowhere he normally was. Any other time he would be readily found. Nobody knew. They went to his mom's house that night, couldn't find him. He ran. Then, he stayed in hiding. A guilty man does that. Waited seven days before he turned himself in. And guess what he did? Remember we didn't have

a gun to compare shell casings to? Remember that? He turned himself in, but he didn't bring the gun with him. Oh, yeah, that's what a guilty man does.

Now, ladies and gentlemen, let's talk about the red herring. The red herring. I call them Sirens, because see, I told you earlier that I was a movie buff. I love movies. *Pirates of the Caribbean* is one of my favorites. I notice about *Pirate of the Caribbean's*, there's a part in there about Sirens. And the Sirens, they warn the pirates about the Sirens. The Sirens sing this song and they will lull men out of the ship and they will lull people to sleep, cause you to miss the ball. The ball we're going by, the chance goes by, and you miss it, and you never get it back again. But I want you to keep your eye on the ball, ladies and gentlemen. Do not be lulled by the Sirens. Do not let the Sirens put you to sleep. What are the Sirens? Do not be misled, the cigarette butt. There was a big production made about that cigarette butt. Oh, there was DNA on that cigarette butt. Uh-huh, there was DNA on that cigarette butt. Yep, sho 'nuf. Guess whose it wasn't? It wasn't Quoteas's DNA. So guess what else? Quoteas was not smoking the night he shot and killed Moray Holmes. Oh yeah, he was not smoking, and when you watch that video, you notice there were people out there after the thing is over, after the shooting is over, and they could have put it there. We

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don't know whose DNA it is. But we know one thing, witness after witness after witness told you that Quoteas wasn't smoking. One witness said he couldn't have been. He had a towel wrapped around one hand and he had one hand on his hip. Look at the video; Quoteas wasn't smoking. That's a red herring. Do not be lulled to sleep by that. He could not have been smoking. He was not smoking. But I tell you what he was doing. He was laying in wait to ambush Moray "Bobo" Holmes. Because that's what it is, an ambush and a bushwhack. That's what they call it in the old west. But a man's gonna have some respect, and a man that shoots another man in the back ain't got none for the law.

Ladies and gentlemen, how about these other guns you've heard about? Let's talk about the other gun that came into play in this case. The other guns, they mean nothing; they mean nothing. The 380, Paris Williams, nephew of Bobo was shooting the gun, he was upset that his uncle was killed. The .40 caliber in Kelvin Mitchell's car? It was turned over to SLED. It was analyzed and came back not to be the murder weapon. Brian Manigo, if he could have found that gun, would have helped Bobo that night. He would have taken care of the situation, but he could not get his hands on it to finish or fix it.

Coot was looking for it, couldn't get his hands on it. That gun was not the murder weapon; we know this. We talked

to Mr. Smith yesterday and what did Mr. Smith tell you? I never got the gun. Why didn't you get the gun? Guess why? Because when Quoteas turned himself in after being on the run for seven days, a guilty man, he didn't bring the gun with him. And why would a guilty man bring a gun with him? Why? I know why. The gun we haven't recovered. The gun you didn't hear about? Guess what, the gun that wasn't mentioned? That's Quoteas Nesbitt's gun. The gun that wasn't compared? That's Quoteas Nesbitt's gun. The gun that wasn't turned over? That's Quoteas Nesbitt's gun. The murder weapon? That's Quoteas Nesbitt's gun.

Oh, yeah, the other red herring, the GSR kit. GSR: Gunshot residue. Ms. Berry said something about chromium, sounded like something off of X-men; I don't know, you see, proper names, but she said three elements, but she also said one important thing. You expect to find GSR on a person that's been shot. She said another important thing, you don't take GSR kit after six hours, but guess what? You don't do a GSR kit after a man has been on the run for seven days and then turns himself in. Because guess what? It absorbs into the skin. It gets on your clothes. It's no longer there. Guess what Quoteas Nesbitt didn't have when he turned himself in? He didn't have GSR. He didn't have the murder weapon; he didn't bring none of that. Do not be misled, ladies and gentlemen.

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So ladies and gentlemen, where we are is simply this, we're at a point now where it's time to make a choice. It's time to decide. When you enter your deliberation room, you'll be faced with two questions. Is Quoteas Nesbitt guilty of murder and possession of a weapon during the commission of a violent crime? Is Quoteas simply not guilty of murder and possession of a weapon during the commission of a violent crime? Those are your two questions. You have a choice. The State believes -- the State submits that there is only one choice. Quoteas Nesbitt is guilty of murder and possession of a weapon during the commission of a violent crime. All the reasons why he's guilty have been laid out before you. Do not be misled by the sirens, the red herrings. I want to leave you with the pool hall -- the pool hall. I told you in the beginning that the witnesses I brought before you would be not perfect. They would be akin to something that would happen on a pirate ship. I mentioned to you my favorite movie, *Pirates of the Caribbean*. Whatever happens there at the pool hall, the pool hall witnesses keep at the pool hall, and the things that happen at the pool hall, hey, they have a good time. They drink, they hang out. And whoever wants to, whosoever will, let him come. But something I've noticed about Pirates of the Caribbean, even though they were pirates, there was a point in time where when they had to become a

bigger force that would not be stopped, they formed an alliance, and all the pirates, people who were of not so the best: they smoke a little bit, have a prior record, they came together, and they convened and they told the truth, and they stood against thieves. That's what you have here: Donald Odom, Kelvin Mitchell, Brian Manigo, Nicholas Williams, Malachi Sanders, Renatta Holmes, Cornelius White, Kenya Kelly. They all came here to tell you their story, naked and unashamed. Telling you what they saw.

Ladies and gentlemen, because they came in here and stood up and told you what happened, when on September 6th, 2012, Quoteas Nesbitt and now we know him as the man who did it. The judge will tell you that he wears a robe of righteousness. Well, ladies and gentlemen, let me take off his robe of righteousness, because right now, ladies and gentlemen, the robe of righteousness is tattered shreds, and I cast it down among you. I cast it down. There is no robe of righteousness for Quoteas Nesbitt, because Quoteas Nesbitt no longer has that robe. Because Quoteas Nesbitt, when the doctor told you that there was three liters of blood -- not one liter, not two liters, almost three liters of blood in Moray Holmes's body, ladies and gentlemen, that robe is gone -- that robe is gone. Quoteas Nesbitt is a guilty man -- a guilty man. And it's time for you to decide: evil or justice. A just verdict requires the truth.

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Speak the truth, that's why we're here. A just verdict is that Quoteas Nesbitt is guilty of shooting Moray Holmes in the back twice, killing him, while his body filled up with blood, three liters of blood in his body. A just verdict requires that. There is no more righteousness. There is no more robe of righteousness for Quoteas Nesbitt, because right now Quoteas Nesbitt is a guilty man and ladies and gentlemen, it is time to speak. What side are you on? Justice, he's guilty. Evil is what Quoteas Nesbitt is. Wicked, evil intent, that's what he is. Finding such, because ladies and gentlemen, when you find him, Quoteas Nesbitt with his wickedness will seek each other and justice, your just verdict will seek the truth, Moray Holmes murdered by Quoteas Nesbitt. Thank you.

MR. WALKER: May it please the Court?

THE COURT: Proceed.

CLOSING ARGUMENT

BY MR. WALKER:

First, this was a case about respect, then it became a case about choices. But what it's really a case about is identification. That's the issue. In the video, who was the person doing the shooting?

In the elements charge the solicitor put up for you a moment ago, was actually a little bit short of a couple of things, because in addition to the things she put up there -

- actually, unlawful killing is two elements: you have to kill and you have to prove it's unlawful. But there's also two elements that she didn't put up there. One, that it occurred in Colleton County, that the crime occurred in Colleton County. And the second one is the one that this case is about: the identity of the person. The element is that you would have to find that identity of the person who did the crime was the defendant in order to sustain a guilty verdict.

So this case is about identity. The only choice is for you. After listening to the evidence, you're going to call someone a murderer on the testimony of people that have such a lack of respect that they will sit on this witness stand and tell you bold-faced untruths.

They were caught doing it. Before we go into each of the individual witnesses, I want to talk about some concepts. We talked earlier and you've heard about every TV show on crime you've heard about beyond a reasonable doubt. Well, what does that mean? That's kind of legal mumbo-jumbo. Some of you might have served on a jury before; you have criminal or civil. And those are the suspenders that we have jurors hold themselves to when making a decision.

In a civil court, where the issue is money, pretty much the standard is more probable than not. There is a little more evidence for one side than the other. You picture

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often in courthouses, you see the scales of justice weighing out. If one scale is just a little bit higher than the other, that's that standard of more probable than not.

Then, we move into criminal court and we have a much higher standard that you must test your decision-making by, which is beyond a reasonable doubt, and that's where that comes from. Because if the stakes are so high because of your function, standing between the power of an accused citizen. Well, between an accused citizen and the power of the State and all the resources they bring to bear in the prosecution, and because as the Solicitor said, we want to be sure, very, very sure that the person we're labeling as a criminal after a trial is an actual criminal that did the actual crime.

They talk about justice and of course, there's an injustice when someone is killed and we hope that we catch the right person. But if we pick the wrong person, we've doubled that injustice, because not only is an innocent person and the actual culprit not being punished, that innocent person is. That's why we have that standard so high.

Now, the judge will tell you that a reasonable doubt is the sort of doubt that will cause a reasonable person to hesitate to act when making an important life decision. This is certainly an important life decision for Quoteas,

and I submit it's an important life decision for you as well. Of course, you have to live with this decision.

The judge talked to you earlier in the trial before we began that you shouldn't worry about his decisions on the law; that was his function. He's the judge of the law and you are the judge of the facts. He said don't worry about my decisions on the law. There are people in place to review those decisions, and if I make an error, that can be corrected. You are the final judges of the facts. There is no reviewing authority of your decision on the facts. So the decision you make is very serious, because you're ultimate judges of those issues.

The judge told you at the beginning of the trial, and we discussed earlier that when you're sitting there, every piece of evidence, you're clinging to that robe of righteousness or innocence that we say everyone accused of a crime has. And because of the high standard, you should be dragged. You should be very clear. You should not have any reasonable doubt about your decision at the end of the trial and when you've returned in your verdict form.

So it's the State's job, the State of South Carolina, to help you make your decision. They provide you with the evidence. They provide you with the witnesses. It's their job to make sure you feel comfortable beyond a reasonable doubt in making that decision. Don't do their job for them.

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Imagine you're at the Grand Canyon. A guilty verdict is on the other side, and that's where the State wants you to go. Think of it as the witnesses and evidence you hear and are presented. The State is building you a bridge that you feel comfortable, that you would not be worried about your safety or the perils of a failure to get to where the State leads you to go. But if they don't build you that bridge, they haven't gotten you there.

Now, after I speak to you, the judge will speak to you, and then the case will be given to you, and then you will go back and you will deliberate and discuss your recollection of the evidence. You'll be able to view the evidence and exhibits that were entered in evidence and discussed. It's important that you have, as I said earlier, a critical mindset of all the evidence and look at it carefully and how each piece relates to the other.

And as you deliberating, listen to not only each other, but yourself. Watch out for what I call "not guilty" words. You start to think to yourself in your own mind or you're having a discussion with another juror about an outcome, or you're thinking about how something should be, and you're thinking about it in terms of maybe, probably, could have, might; these are words of supposition. These are words of probability. They're not words of certainty beyond a reasonable doubt.

I want to talk briefly, honestly, we had a lot of evidence in this trial, and some of it I know can be kind of boring, and the State has to do their job because they have to prove it's in Colleton County. So you hear a lot of things that maybe aren't related to the primary issue in this case which is identification. I'm not going to waste time going over each and everything. I'm going to focus in on the issues. As to the two charges, the first is murder and the second is possession of a weapon during the commission of a violent crime. Don't worry about the possession of a weapon during the commission of a violent crime. If, after you deliberate, you find Quoteas guilty of murder, you can go ahead and find him guilty of that. If you find him not guilty, then you should find him not guilty of possession of a weapon during the commission of a violent crime. I'm not going to say anything else about it, because again, the issue is who on the screen is pulling that trigger? We can see an unlawful killing. We can all see it happen. We all know it happened at Chase Lounge in Colleton County from the testimony. Identity is the main issue and that's what you have to focus on. You didn't hear from Quoteas, and the judge will tell you when he addresses you in a moment that that is not something you can consider at all in your deliberations. In fact, you did kind of hear from him because he said he's not guilty and that's why

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we're having this trial; that's what he'd say.

Another thing about that, something I encourage, the judge told you earlier, we have a lot of little rules in Court that people aren't aware of. One of our rules is that if the defense in a case puts up any evidence or any witnesses, then the State gets to talk to you last, and I covet the opportunity to have the last argument and speak to a jury. So from my prospective, it has to be a payoff to lose that chance to speak to you.

Now, the State seems to confuse presence with identification. They say, well, he was there. Well, there were lots of people there at the Chase Lounge. Being present doesn't mean you're the person on the screen shooting the gun, or we would have a room full of people that were at the Chase Lounge that night. We have to focus in narrowly on the identification. So how do we do that? I submit there are three ways that y'all will do that in your deliberations.

First, you will look at the video. And that is a unique -- well, not unique, but it's certainly not common that you have a full record of the actual crime. So you don't have to worry about what somebody said happened, you can see it. We also ask you to look at that in the idea that looking carefully that you reach the same conclusion that some of the people who spoke to you do.

The other identification would be through statements of witnesses who said, "I was there and I saw Quoteas do it." The statements would be how you would evaluate identification issues. And finally, you can evaluate the physical evidence that was recovered and the testing that was done. And again, it's really the State's job to put all that together for you so that it is easy to make that evaluation. And if you're finding that difficult and you're saying maybe and probably and could have, then they didn't do their job.

So how could the State have helped you make this decision more easily? Philosophically, if a crime is committed, we would like for a detective or a police agency to say everyone is a suspect. We're going to gather all the evidence we can find. We're going to follow every lead up to the fullest extent we can, and let the massive amount of evidence that we have eliminate everybody until we've narrowed it down to one. Unfortunately, we've had the problem, and we've had it in this case, that early on law enforcement decided who it was. So it wasn't necessary to follow every lead or do a full thorough investigation. Leaving you to do their job for them.

Basically, people didn't want to talk to us, so we just walked away. They could have asked the CID and written down names and addresses and contacted them later, followed up,

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spoken to them when there wasn't a crowd of people around, checked into other witnesses. And let's talk about, just briefly, and I'll mention it again later, I'm sure; but think about the category of witnesses that you have seen. If Mr. Holmes had been killed at his home, these are the witnesses you would expect to see, close friends and family. But he was killed in the middle of a public parking lot in a public place and you haven't heard from any disinterested witnesses. Everybody in that family has got their story straight.

What else could the police have done? They could have attempted to ask Inv. Bazzle, did you ask the owner for his credit card receipts that night, maybe get some names that way. No, I didn't do that. Maybe in that club or in that parking lot was someone who did have a beef with Moray Holmes. You heard a lot of evidence that Quoteas never had a beef with Moray. A lot of sloppy investigating. Det Gathers couldn't even remember when she took statements from arguably the State's most important witness, Renatta Holmes. She can't remember if it was 10 days apart, two days apart, what order they were in. It's important because those statements were inconsistent.

What else could they have done besides gather more evidence they decided they didn't need. They could have investigated further the evidence they did have. Could have

been more thorough. We don't dust shell casings; it's way too expensive. We don't have any money. There's a lot of Tahoe's and Ford Crown Vic's driving around out there. I think they could afford a little fingerprint powder. How hard is it to check? Why not eliminate it. Maybe you would get a fingerprint. Maybe you would get a solid ID of someone that you know touched that gun. But we're not gonna check and we're gonna ask the jury to do our job for us. I mean, that would have been the perfect piece of evidence: a thumbprint off of a round that was fired into Mr. Holmes.

How easy would your decision be at that point if you had it? That's part of their burden is to provide you with that evidence or at least try to. You should hold that against them. You shouldn't give them a pass on it. When they make deliberate decisions to deny a jury information, you shouldn't fill in the gaps for them.

So let's talk about that first category of evidence we seen that was the videotape of the Chase Lounge. You see what happens. You have no question in your mind as to what happened. You don't have to worry about whose version is this or who was where, who's giving self-interested statements. The video is independent. It's not lying to you. It has no agenda.

On that video, you cannot see anyone's face. You sat in the courtroom with Quoteas for three days. Watch that

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video. Did you identify anybody on that screen? If you couldn't, you shouldn't necessarily think that anybody else could. It would be a shame to call someone a murderer because they have their hands on their hips or on their belt or in their pocket, depending on the testimony you heard. It would be a shame because somebody has a gait that's not a limp, it's maybe a hop. But when you watch that video, the shooting happens, and I'm sure you will watch it many times. The person seems to kind of back away, and then he doesn't seem to me to have any problems running.

Does the person walk funny to you when you're watching it? The video is fantastic evidence for the elements of murder that have to do with what happened. It is terrible evidence for the deciding factor in this case which is identification; deciding who did it. Without facial features or some dramatic physical feature, like one leg, or someone that's six foot, eight inches tall. Somebody that's dramatically different, a rare distinguishing feature, you're just guessing, and guilt's not something you want to guess at.

The State say the person in that video was Quoteas and that there was premeditation and that he somehow ambushed Mr. Holmes in the parking lot and all this bad blood going on. The video doesn't show that. The video shows two people walking up, having a conversation, a brief

conversation, there's some little movement around the arms, and one person walks away and is shot. But the two people are walking towards each other. One is not trying to get to the other and one is not trying to get away from the other.

So let's look at the statements that we have. Because the Solicitor puts a huge amount of stock in these people that come up here and say that Quoteas did it. That's Quoteas, I saw him do it. I want you to do the math. Look, I've got one, two, three, four, five people that say it. I can fill this courtroom with people that say the moon landing was fake. It doesn't mean it happened. If everybody's got their story straight, the mere numbers doesn't signify anything. It's whether you believe it or should believe it. Generally, the State kept asking witnesses, do you know of any problems between Quoteas and Mr. Holmes? No. No. They hang out, they talk, never had any problems. Do people that never had any problems just all of a sudden have a shooting in the middle of the parking lot? Quoteas had no problems. Quoteas was cool. Ms. Holmes we pulled up, saw Quoteas, didn't think anything of it. The State is working backwards in light of what happened. They're trying to make some kind of big things out of statements that happened a couple of days earlier that they say Quoteas made.

Even if you take what their witnesses say on face value

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that Quoteas made these statements two days earlier, you would have to put them in context. Mr. Holmes had just had an encounter with two young men who had accosted him about a gun. Sounds like Mr. Holmes has no problem running into problems on his own without Mr. Nesbitt around.

He's gonna get his. Somebody's gonna get him. Keep running around with those kind of people, it could happen; and it did. One of Renatta Holmes's statements said, the one that she describes the shooter as a young man in his 20's wearing a white shirt would fit perfectly with someone like that. But how could you know that their ambiguous, that those statements don't show any kind of premeditation or bad attempt. And you can know that because of what the reaction of the people was to them. If they were bad statements, if they were mean statements, they would have been worried about it, but everybody said he started the air, he's mouthing off, didn't feel threatened; that's all they were, they were statements. Because the people that were with him and knew him didn't think anything of it. They don't show any kind of beef or intent. There's no reason for him to have a beef or intent. We haven't heard that from anybody.

Mr. Holmes' brother said Quoteas was just talking in the air. Now, some of those statements, people say, I was there. Quoteas was the shooter. In order to find that, you

would have to find those statements to be reliable, and they aren't. If they aren't reliable, how are you going to determine that? Some factors you can look into are when were those statements given? Are there any inconsistencies in the statements? Either internally or with each other? Is there a reason for the person giving this statement to be partial or biased? The demeanor of the witness that you observed on the stand. We have a reason to be untruthful. That's how you would evaluate to see whether or not you should believe them. And use those as a basis in the finding of guilt. Now, when we're talking about the witnesses you've heard of, the witnesses that do an ID, one of these things is not like the other. We have Jason Chapman from the police department and that's an interesting identification for a couple reasons. One is the timing. This incident happened, we're a couple weeks shy of two years ago, and he testified three weeks ago in a pretrial meeting for this case, and they say, "Hey, we need to see if you can identify somebody." So he goes into a pretrial meeting which he knows is for this case, where he knows Quoteas Nesbitt is the person they think did it. Where he's shown a video and he expects Quoteas to be on it. You've experienced in your life, you've heard, we see what we want to see. If you're expecting to see something, that's what you're going to see. I've heard it said that to a

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carpenter, everything looks like a nail, and that's what happened. It's completely unreliable. That's not how you would identify anything if you were truly trying to get a fresh identification on something. If you really were curious about getting an identification, they would have shown that video to Det. Chapman two years ago. So you shouldn't use Det. Chapman's identification in your determination of this case for identification purposes.

However, Det. Chapman said that testimony and identification is useful for another purpose. It tells you, the jury, that the State has no confidence in their other identification witnesses. They know they're horrible, so we need somebody that isn't partial, isn't biased, isn't related, isn't a close friend. Where is the badge that has that aura of respectability? Is it a pirate? Is it a pool hall guy to come in and say that it's the defendant?

The fact that a week and a half before trial and a two-year old case need him to come in and identify tells you volumes about their opinion of their other witnesses. Let's look at those other witnesses, the pool hall people, or as the Solicitor accurately called them the pirates in her opening statement and then again. What did she say? All the pirates come together.

Kelvin Mitchell got up and testified to you. He's related, a family member to Mr. Holmes. First time anybody

in law enforcement ever heard from him was August the 19th of this year. Nicholas Williams, close friends with Mr. Holmes, also Mr. Odom that we heard from. He said, "I never called the police; just got a subpoena. Got that subpoena August 15th of this year. He's been keeping in touch with the status of the case through his good friend, Mr. Odom.

Mr. Odom, that was a great performance. What did he tell you when I asked him about his inconsistent prior statements? Well, this is my statement now. Got any reason to name Quoteas Nesbitt and maybe say something that wasn't true. "You don't have any problem with Quoteas Nesbitt do you, Mr. Odom?" "No." Seemed to have a little problem when I brought up the fact that his wife was living with Quoteas. Seemed that all of a sudden he developed a problem pretty quick. What better way to get rid of your wife's lover than get him locked up?

And we recall Mr. Odom and all these other witnesses, and they come in here and they tell you what happened, I was there. I got my facts down. They've all watched this video that you're gonna watch. They all know exactly what happened, regardless of where they were, if they were looking, or if they were actually there. They've seen that video and they can compare it back to you what's on that video with whatever embellishments they feel necessary.

Mr. Odom said I was there. I was five feet from him

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when it happened. I heard everything. The video doesn't show anybody within five feet of that happening. He said he'd been working on his story for 23 months. And you got to hear it and experience it. Brian Manigo came in, also related to Mr. Holmes. Didn't care -- the police didn't hear from him until the end of November of 2012 where he gave his statement. Went on the stand and admitted, "Well, I gave you false information in that statement about what I heard." Look at the timeline of the events that were brought on in Mr. Manigo's life that may have caused him to come forward and be helpful to police.

Mr. Manigo had been arrested on two counts of attempted murder. Those charges were pending. I'm not sitting here telling you that the Solicitor's Office offered him anything in exchange for his testimony. But if one was accused of those things, one might be interested in doing whatever they could to help themselves out. And perhaps showing yourself to be cooperative in a murder investigation would work out alright for him.

We heard that in February of this year, it went from two counts of attempted murder and he ended up with probation; whether or not done there, he's still got to be helpful because if he gets in trouble again, he could go to jail for 10 years and he's got pending charges. So he's got to continue to be helpful. Because if he makes them mad, he

could violated on his probation, which he does not want.

Which brings us -- well, let me talk about this first. If you had a close friend or a family member that was the victim of an awful crime, wouldn't it seem like the natural reaction to be if you had information that could be helpful to beat down the door at the police station and give it to them. But we're seeing statements months and years later. For people that are so distraught and overwhelmed, it's not the behavior you would expect. It should be raising huge red flags. Renatta Holmes, the person you would think be most motivated to be honest and helpful, yet she's untruthful. She told you she didn't tell the truth to Det. Chapman when she was on the stand; I asked her. She said, "No, I didn't do that." She said she didn't have a gun in the car. What did Det. Chapman say? Yeah, she came and got her gun. She said it was taken out of her car. The day after the shooting. Her husband isn't even dead a day, and her priority is to go retrieve a gun from the police station. Said Mr. Holmes didn't handle guns. Didn't have a gun in the car. The car, it was his car, that he washed twice a day, maybe that's where he got that gunshot residue. She gave two statements. The only witness that you've heard from that gave anything close to a contemporary statement -- her two conflicting statements are what get us on the Quoteas Nesbitt train. Two different dates on them. What

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are they given a day apart? Ten days apart? The important thing, which raises a giant red flag around, one statement said it's Quoteas. The other said I saw a medium build man, probably in his twenties, wearing a white shirt firing a gun. Later in that same statement, she said that she failed to mention initially that "when we first pulled in, I saw Quoteas Nesbitt standing near the car that Kelvin Mitchell was driving." Now why is that important? The State asked her why would you do that and not actually name Quoteas as the person shooting. She said, "Oh, I was frustrated, flustered, I just forgot." We know that can't be true because it might be believable if we already didn't know that she didn't tell the truth. It might be believable if it had just given a description: a medium built man in a white shirt. She came in then and said, "Oh, I forgot to say it was Quoteas." But we know that's not true because that's what they're trying to say happened. But we know it's not true because she mentioned Quoteas in that same report and the internal logic of those statements doesn't fit. It doesn't make sense to, one, describe a person when you know who they are and can just say their name. And two, in the same statement give a description of a person in one context and then use their name in another without at some point saying, "The person I described is person X." Remember her direct testimony, she stated Quoteas was lit up

and stood out. If that were true again, she wouldn't have had to give a description of the shooter, if she knew Quoteas and she could have just said it was Quoteas. So we got pirates. We got a case built on pirates. All these people are friends and family. There is no independent -- you can treat them all as one witness, frankly. Where are the other people that were there that night? Nobody. No one you've heard from.

Physical evidence in this case doesn't have any bias. The solicitor said in her opening statement that this isn't a CSI case, and that isn't true. They just want you to ignore the CSI evidence. So watch out of the red herrings, the red flags. 380 means nothing. Well, it means Ms. Holmes wasn't telling the truth, because she said, "I didn't have a gun." and then she went and told Mr. Chapman, "Yeah, I did. Paris took it out of my car." "GSR means nothing." Well, yes, it does. It shows, again, she's not telling the truth. There's a gun in her car and that's where we could have gotten the gunshot residue from. The investigator said in his affidavit for the application of the DNA sample, we want it because it's material to guilt or innocence. And what the State wants you to do is apply that evidence when it shows guilt. And all we're asking for is to be fed out of that same spoon. It didn't show guilt. It shows innocence. Jeff Scott, why don't you send the food cups and

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containers to be tested? He said they have a backlog and they want us to send our best stuff. So he sent the sunglasses and the cigarette. Jeff Scott said the cigarette -- what did he say about that cigarette? He said it was very valuable evidence. He said they hold DNA well and it did in this case. He said it was very fresh, located close to three shell casings, and we don't know whose DNA is on that cigarette. WE know it wasn't Quoteas.

The State is tasked with building you a bridge and that bridge is rickety and unsafe and it's still under construction. Their workers in orange vests are Renatta Holmes, Brian Manigo, Mr. Odom. The State wants you to do their job for them. They want you to ignore unreliable building materials, gaps in the span. A reasonable person would hesitate to act in crossing the bridge they were building. The State of South Carolina is sending you onto a structure built by pirates, but you're not crossing a bridge. You're walking the plank. I ask you to return a verdict of not guilty. Thank you.

THE COURT: Madame Foreperson, my charge is probably going to take about 15 to 20 minutes. Would you like a break or would you like to go ahead and take the charge at this time? Look at the other jurors and see if anybody needs a break.

MADAME FOREPERSON: Take a break.

THE COURT: Please do not discuss the case. Please retire to your jury room. I'm ready to go within five minutes after you have a break.

(1:25 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Since the jury wanted a break, you can take five minutes. I'm not taking any longer. Coach, find out when they're ready. I'm ready to go.

(1:26 P.M., WHEREUPON, THE TRIAL IN THIS CASE IS IN A BRIEF RECESS. THEREAFTER, THE TRIAL RESUMES IN THIS CASE AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Is the State ready to proceed?

ASST. SOL. LEGETTE: We are, Your Honor.

THE COURT: Is the defendant ready to proceed?

MR. WALKER: Yes, Your Honor.

THE COURT: Bring us the jury, please.

(1:35 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

JURY CHARGE

BY THE COURT:

All right. Ladies and gentlemen of the jury, Madame Foreperson, it is now my duty to charge you the law of this case. The State of South Carolina has charged the defendant, as I told you in the beginning, with these documents -- the defendant being Quoteas Nesbitt, which we

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call indictments. One indictment charges the defendant with murder. One indictment charges the defendant with the offense of possession of a weapon during the commission of a violent crime.

I remind you, first of all, that the fact that the defendant was arrested, the fact that the defendant was charged, the fact that the defendant was indicted in this case is not evidence in this case, nor does it create any presumption or inference of guilt.

These indictments, these documents, are simply the formal written instruments which contain the charges made against the defendant. They are the formal documents by which the case is brought into this Court. To these indictments, the defendant has entered a plea of not guilty. This plea of not guilty places the burden of proof on the State of South Carolina to prove the guilt of the defendant to you, the jury, beyond a reasonable doubt.

A person charged with committing a criminal offense in South Carolina is never required to prove himself or herself innocent. I charge you, ladies and gentlemen, that it is an important rule of the law that the defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictments were issued, unless guilt has been proven by evidence satisfying you of that guilt beyond a

reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies every defendant throughout a trial until you, the jury, reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It's not just a legal phrase. It is a substantial right to which every defendant is entitled, unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

What is a "reasonable doubt" in the law? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil court, where in civil court, unlike a criminal case, you were told that it is only necessary to prove that a fact is more likely true than not true. We call that in civil court by the greater weight or the preponderance of the evidence in a civil case.

In a criminal case, ladies and gentlemen of the jury, the State's proof must be more than that. It must be beyond a reasonable doubt. Now, proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's

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guilt.

There are very few things in this world that we know with absolute certainty, and in criminal cases, ladies and gentlemen, the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. On the other hand, if you think there's a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find the defendant not guilty.

I remind you, ladies and gentlemen, that during this trial, you and I have had certain duties to perform. As a trial judge, it's been my responsibility to preside over the trial of the case, and I also have the duty to rule on the admissibility of evidence offered during the trial of this case.

You, as a jury, are only to consider the competent evidence before you. If there was any testimony ordered stricken from the record in this case during this trial, you should disregard that testimony. You are to consider only the testimony which has been presented from the witness stand, any exhibits which have been made a part of the record in this case, which in part, I'll have in your jury room; some I'll have to keep here, ladies and gentlemen,

because you have to have equipment in order to use it. And if there were any stipulations between the parties that a fact is true.

I, also, as the presiding judge have the additional duty to charge you the law that applies to this case. As the presiding judge, I am the sole judge of the law, and it is your duty as jurors to accept and apply the law exactly as I now state it to you. If any of you walked into this courtroom, and you already had any idea as to what you think the law is or what the law ought to be, and it does not agree with what I'm now telling you what the law is, you must as a juror abandon any of your preconceived ideas, because you are sworn in that oath which each of you took, to accept and apply the law exactly as I state it to you now.

In every case tried in this Courtroom before a jury, the jury becomes the sole and exclusive judges of the facts in the case. A trial judge, such as myself, cannot intimate, state, comment on, or make any statement whatsoever, to a trial jury, such as yourself, about the facts in a case.

You are not to infer from what I have said during the progress of this trial, and ruling upon the admissibility of evidence, or otherwise, or anything that I now say during this instruction to you on the law, that I have any opinion,

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whatsoever, about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you, ladies and gentlemen of the jury, to determine.

As jurors, then, you remember that it is your duty under your oath, to determine the effect, the value, the weight and the truth of the evidence presented during the trial of this case.

Now, I instruct you and I charge you, ladies and gentlemen, that the fact that the defendant did not testify in this case is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of the guilt or the innocence of the defendant. It must not be considered, Madame Foreperson, ladies and gentlemen of the jury, in any manner whatsoever. A defendant has the constitutional right to remain silent and the assertion of one's constitutional right must not be considered by you in your deliberations as a jury.

You're to draw no conclusion whatsoever from the fact the defendant did not, in this case, did not testify. The fact that the defendant did not testify should not even be discussed in your jury room. The burden of proof is on the State of South Carolina. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Now, in a trial, ladies and gentlemen, there are two types of evidence that are generally presented during a trial, and like many things in the law, ladies and gentlemen of the jury, we have names for those types of evidence. We call the two types of evidence, direct evidence and circumstantial evidence.

Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness to an event. It is evidence which immediately establishes the main fact to be proved.

Circumstantial evidence, as contrasted with direct evidence, is proof of a chain of facts and circumstances indicating the existence of a fact. Circumstantial evidence is evidence which establishes collateral facts, from which the main fact may or may not be inferred. Circumstantial evidence is based on inference and not on personal knowledge or personal observation.

The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You, as a jury, should weigh all of the evidence in this case, both direct and circumstantial. After weighing all of the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you

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must find the defendant not guilty.

On the other hand, after weighing all of the evidence in this case, both direct and circumstantial, if you are convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant guilty.

Now, ladies and gentlemen, I remind you that the burden of proof in the trial of this case, and as I told you, is on the State of South Carolina. This burden of proof which I have described as beyond a reasonable doubt extends to every element of the crimes charged and it specifically includes the burden of proving beyond a reasonable doubt the identity of the defendant as the person who committed the crime. Identification testimony, ladies and gentlemen, is an expression of belief or impression by a witness. You as a jury must determine the accuracy of the identification of the defendant. You must determine the believability, which I told you we call the credibility of each identification witness in the same way as you would any other witness. You must be satisfied, ladies and gentlemen of the jury, beyond a reasonable doubt of the accuracy of the identification of the defendant before you may find the defendant guilty.

On the other hand, if after examining the testimony, you have a reasonable doubt as to the accuracy of the identification, you must find the defendant not guilty.

Necessarily, ladies and gentlemen, as I've told you in the beginning and I'll repeat again, you're going to have to determine the credibility or the believability of the witnesses who have testified from that witness stand during this trial.

It becomes your duty by listening to analyze, it becomes your duty to evaluate the evidence and decide and determine which evidence convinces you of its truth. In determining the believability of the witnesses who have testified during this trial, you may believe one witness over several, or several witnesses over one. You may believe part of a testimony of a witness and reject the remaining part of a testimony of that same witness. You may believe the testimony of a witness in its entirety, or you may reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice or any other motive in the case, and as I told you at the outset of the trial, you may even consider what we call the demeanor of the witness, the appearance and manner of the witness while the witness is on the witness stand. Anything that is in evidence, ladies and gentlemen of the jury, you , as a jury, have the right to consider in determining the credibility or the believability of the witnesses who have testified during the trial of this case.

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Now, I charged you during the trial, and I repeat, the rules of evidence ordinarily do not allow a witness to get on the witness stand and take the oath and say, "Let me tell you my opinion." Because opinion testimony is normally inadmissible, or conclusions. An exception to our opinion rule in the rules of evidence exist for witnesses who I told you we call expert witnesses. A witness who claims by education, training, or experience, to become an expert in some art, science, or profession may, if qualified, by the Court as a matter of law, give an opinion as to the subject a witness claims to be an expert in and may also give the reasons for his or her opinion. You should consider any expert opinion given by any witness, and like any other evidence in this case, you give it the weight you think it deserves as a jury. If you decide that an expert witness's opinion is not based on sufficient education and experience, or if you decide that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of any other witness simply because the witness is an expert.

Now, ladies and gentlemen, in order to establish criminal liability in the law, criminal intent is required. Now, let me explain to you a little bit about criminal

intent. I'm going to give you some examples; it's the mental state that may be required for any crime, and let me show you some examples of criminal intent. It may be purpose, intent, knowledge, recklessness, criminal negligence; those are examples of criminal intent. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation based on evidence introduced during the trial of the case.

Now, ladies and gentlemen, there is no way to prove intent to a mathematical certainty. There is no way that medical science can dissect a person's brain and tell you what that person had in mind. So the law says, ladies and gentlemen, that criminal intent may be inferred from the circumstances shown to have existed based on evidence introduced during the trial of the case. This, ladies and gentlemen, is how you as a jury make a determination of whether or not any element in any crime requiring intent was present. It is not necessary to establish criminal intent by direct evidence, but intent may be established by inference in the same way as any other fact taking into consideration the acts of the parties and the facts and circumstances of the case based on evidence introduced during the trial of this case.

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Criminal intent is a mental state. It is a conscious wrongdoing. It is up to you, as a jury, to determine what the defendant intended to do, based on the circumstances shown to have existed, from evidence introduced during the trial of the case.

I charge you, ladies and gentlemen in this case, the defendant is charged with murder. For the offense of murder, the State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought. Malice is hatred, ill-will, hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse, and with an intent to inflict harm or injury. Malice aforethought does not require that malice exist for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent or hostility towards another and the act itself.

Malice aforethought may be expressed or inferred. These terms, express or inferred, do not mean different kinds of malice. Malice is still hatred, ill-will, or hostility toward another person. These terms, express or inferred are simply the manner in which malice may be shown to exist from evidence introduced during the trial of the case. That is either by direct evidence or by inference

from the facts or circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill-will or hostility for another. Or when a person prepared beforehand to do the act, which was later accomplished. For example, lying in wait for a person or any other act of preparation going to show that the deed was within the defendant's mind would be examples of express malice. Malice may also be inferred from conduct which shows a total disregard for human life.

I charge you, ladies and gentlemen, the defendant is also charged in this case with the offense of possession of a weapon during the commission of a violent crime or attempt to commit a violent crime is the way the statute is worded. The State for this offense must prove beyond a reasonable doubt that the defendant used a weapon during the commission or attempted commission of a violent crime. The statute actually says a firearm. A firearm means any machine gun, automatic rifle, revolver, pistol, or any weapon which will, or is designed to or may be converted to expel a projectile.

In order to find a defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of committing a violent crime or attempting to commit a violent crime. I charge you, ladies and gentlemen, that under the laws of the State of South Carolina, the offense of murder is a violent crime.

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Now, ladies and gentlemen, if you find the defendant in this case not guilty of murder, you must find the defendant not guilty of possession of a weapon during the commission of a violent crime, because you must be guilty of a violent crime in order to be guilty of the offense of possession of a weapon during the commission of a violent crime. The State must prove beyond a reasonable doubt that the weapon furthered, advanced, or helped in the commission of the violent crime.

Now, Madame Foreperson, I told you I would prepare a verdict form for you and I have done so. The first thing I want to tell everyone on the jury: pay absolutely no attention to the order in which I wrote the forms of verdict. The order has no significance whatsoever. I obviously had to write one before the other. I've placed the title of the case on the first page of your verdict form; it's two pages. It says State of South Carolina v. Quoteas Nesbitt, defendant. It has the indictment numbers and it has the word verdict. Question one is we, the jury, by unanimous consent, find the defendant, Quoteas Nesbitt, in indictment 2012-GS-15-00663, and the first verdict form under Question One is guilty of murder.

Madame Foreperson, if that be the jury's verdict, you would check on the line beside that form of verdict. The second form of verdict under Question One is not guilty of

murder. If that be the form of verdict for the entire jury, you would check on the line beside not guilty of murder. You must find one form of verdict or the other under Question One, you cannot find both.

If you find the defendant not guilty of murder, you must find the defendant not guilty in Question Two, which is possession of a weapon during the commission of a violent crime. If you find the defendant guilty in Question One, then you must decide Question Two.

Question Two says, we, the jury, by unanimous consent, find the defendant, Quoteas Nesbitt, in indictment 2012-GS-15-00664, and the first form of verdict under Question Two is guilty of possession of a weapon during the commission of a violent crime. If that be your form of verdict, you would check on the line beside that form of verdict. Second form of verdict under Question Two is not guilty of possession of a weapon during the commission of a violent crime. If that be your form of verdict, you would check on the line beside that form of verdict; consistent with my instructions concerning the relationship of Question One and Question Two.

When you have completed your verdict form, Madame Foreperson, you will sign your name as foreperson. I've already put in today's date for you. Of course, you'll have the verdict form with you. Now, Madame Foreperson, you

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can't go anywhere because you know I'm handing these indictments to Thomas and he's going to be looking for you, because whatever you write on the verdict form, he's going to want you to write the exact same words on the indictments before you leave the courtroom today. He will come to you.

Ladies and gentlemen of the jury, you verdict must be unanimous. That is, it must be the verdict of each and every one of you. All twelve of you must agree on a verdict. Now, ladies and gentlemen of the jury, I've now charged you on the law. In order to help guide you to a fair and a just result in this case. You're the judges of the facts in this case, and based on your determination of the facts in this case and the law as I've explained it to you, you will soon begin your deliberations.

You have been selected as fair and impartial jurors. You took an oath to fairly and impartially try and determine the facts in this case. And when you comply with that oath, no one can criticize your verdict. You are to decide this case based solely on the testimony from the witness stand, any exhibits which have been introduced into evidence in this case, and if there were any stipulations between counsel of the parties in this case. You must decide the issues in this case, ladies and gentlemen, without any bias or prejudice, for or against either party. You cannot allow yourself to be governed by prejudice for or against any

person. You can't allow yourself to be governed by public opinion, what you think others might do, or by any other arbitrary factor such as emotion. You must base your decision only and solely on the evidence which has been presented during the trial of this case. Both the defendant and the State of South Carolina have the absolute right to expect that each of you on the jury will carefully and each of you will impartially consider all of the evidence in this case and that you will follow the law as I have instructed you to be in reaching your verdict in this case.

Now, ladies and gentlemen of the jury, I'm going to send you to your jury room. I want you to understand that when it's time for you to begin your deliberations, I will send your verdict form in, along with most of the exhibits. The ones that you cannot view without equipment out here -- and we have one exhibit that you have only video and not audio; so I will keep those out here. If the jury wants to see them, we will bring you out here and show you anything; there's just no reason for you to take it back in your jury room because you don't have the equipment to utilize it.

Please do not begin your deliberations until I send the verdict form in, along with all of the other exhibits which do not require equipment, and I will have the bailiff instruct you that you may then commence your deliberations. When you have reached the verdict, you've filled out the

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verdict form, knock on the jury room door and inform the bailiff that you've reached a verdict. We will then bring you back into the courtroom to publish your verdict when the time comes.

Please retire to your jury room, now. My alternate jurors, please remain with me in the courtroom.

(2:16 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: First of all, on behalf of Colleton County and this Court, all a judge can ask is that you listen. I watched both of you and you did. Thank you for that. This completes your service. Not only for this case, but for the week. You are now exempt from jury duty if you choose to claim your exemption for three years. If either one of you need a work excuse from serving on the jury, all you need to do is go down stairs to General Sessions. We will be happy to provide you one. We will be sending you that exorbitant check that we pay jurors, $20 a day. We realize it's inadequate, but we appreciate so much your service. Thank you for taking the time to serve on the jury. The Coach will see to it that you get served your lunch in either to-go plates or you can have it here, but I can't let you go back into the jury room. You're welcome to come back and have a seat in the courtroom if you would like to stay and see what happens in the case. I realize you've listened to

all of the evidence. I thank you for your service, or you're excused for the balance of the week.

Now, one last thing, sometimes people want to talk to you about how you felt, what you thought, that's entirely up to you. If you want to talk to a person about that, you can. If you don't, you say no. If a person persists in wanting to talk to you, you give me their name and I will handle that problem for you. You are now excused.

(WHEREUPON, 2:20, THE ALTERNATE JURORS ARE RELEASED FROM THE COURTROOM.)

THE COURT: Any exceptions or additions to the Court's charge, from the State?

ASST. SOL. LEGETTE: None from the State.

THE COURT: From the defendant?

MR. WALKER: No, Your Honor.

THE COURT: I'd ask that counsel come forward with Becky and certify to me that you're satisfied with the exception of Exhibit's One, Two, Three, forty-five and Seventy-one. That she has all of the exhibits and you're willing to keep those five in the courtroom and that you have no objection to me sending the exhibits and the verdict form into the jury by the bailiff and telling the bailiff to inform the jury that they may now commence their deliberations. Counsel, please come forward.

THE COURT: Is the State satisfied the court reporter

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has all the exhibits?

ASST. SOL. LEGETTE: The State is satisfied.

THE COURT: Does the State agree that exhibits one, two, three, forty-five, and seventy-one should remain in the courtroom?

ASST. SOL. LEGETTE: That's correct.

THE COURT: Do you have any objection to the bailiff taking the verdict form and the remaining exhibits other than the ones we are leaving in the courtroom into the jury and the bailiff informing the jury they may now commence their deliberations?

ASST. SOL. LEGETTE: No objection from the State.

THE COURT: Is the defendant satisfied that the court reporter has all the exhibits?

MR. WALKER: Yes, sir.

THE COURT: Does the defendant agree that exhibits one, two, three, forty-five and seventy-one should remain in the courtroom?

MR. WALKER: Yes, sir.

THE COURT: Does the defendant have any objections to the bailiff taking the verdict form and the remaining exhibits other than the ones you agree will remain in the courtroom into the jury and having the bailiff tell the jury they may now commence their deliberation?

MR. WALKER: No objection.

THE COURT: Very well. We will be at ease while we await the jury's verdict.

(WHEREUPON, AT 2:25 P.M., THE EXHBITS AND VERDICT FORM ARE TAKEN INTO THE JURY.)

THE COURT: Counsel, I have received a note that the jury would like to see the video and listen to the 9-1-1 calls; signed by the foreperson. Any objection from the State to making the jury's note a court exhibit?

ASST. SOL. LEGETTE: No, Your Honor.

THE COURT: From the defendant?

MR. WALKER: No, Your Honor.

THE COURT: This will be Court's Exhibit Number Three, without exception.

(WHEREUPON, COURT EXHIBIT NUMBER THREE, JURY NOTE REQUESTING TO VIEW VIDEO EXHIBITS, IS RECEIVED INTO EVIDENCE.)

THE COURT: This is my practice, counsel, I assume that Exhibit 45 is longer than the 9-1-1?

ASST. SOL. LEGETTE: That's correct. That exhibit has three parts.

THE COURT: All right. I'm going to tell the foreperson that when she feels that the jury has seen enough to raise her hand for me, so if they don't want to watch the entire thing, it's entirely up to them and not us. If they want to see the whole thing, that's fine. Anything else

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before I bring the jury, Mr. Walker?

MR. WALKER: No, sir.

THE COURT: Solicitor?

ASST. SOL. LEGETTE: No, Your Honor.

THE COURT: Bring us the jury.

(3:22 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Ladies and gentlemen of the jury, I've received your note that you would like to see the video and listen to the 9-1-1 calls. Just so I'm clear, I'm assuming the video you're referring to is State's Exhibit 45, the Chase Lounge?

FORELADY: Yes, sir.

THE COURT: All right. Listen to me carefully. I'm going to begin playing the 9-1-1, Exhibit One, and at the point you feel the jury has seen enough, if you want you can see the whole thing, but if you want to stop, you raise your hand, because I'll be watching you. You're the spokesperson for the jury. All right, let's play State's Exhibit Number One, please.

(WHEREUPON, STATE'S EXHIBIT NUMBER ONE BEGINS PLAYING AND IS PLAYED IN ITS ENTIRETY. THEREAFTER, THE FORELADY ASKS THE COURT FOR IT TO REPLAYED.)

THE COURT: Replay the CD that you just played one more time, please, at the request of the foreperson.

(WHEREUPON, STATE EXHBIT NUMBER ONE IS REPLAYED FROM BEGINNING TO END OF FIRST CALL.)

THE COURT: The forelady says they jury is satisfied.

FORELADY: Yes, sir.

THE COURT: You also wanted to watch Exhibit 45?

FORELADY: Yes, sir.

THE COURT: All right. Now, we will play Exhibit 45 at the request of the Foreperson.

FORELADY: Judge, we were wondering if we could move closer to the screen?

THE COURT: Absolutely. We would have to put up chairs for you.

FORELADY: We can stand.

THE COURT: You absolutely can stand up, but if you stand up, I don't want you to block somebody's view. Try standing up closer to the screen; we're going to dim the lights. Exhibit 45, please.

(WHEREUPON, STATE'S EXHIBIT NUMBER 45, VIDEO ONLY - NO AUDIO, BEGINS PLAYING TO THE END.)

FORELADY: Your Honor, can we see it from the beginning one more time?

THE COURT: Yes. Angela, back it up to the beginning.

(VIDEO IS REPLAYED FOR THE JURY TO THE END.)

FORELADY: Your Honor, could you back it up to the 19:50 mark. We would like to see it from the 19:50

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mark again.

THE COURT: Angela?

MS. STALLINGS: Yes, Your Honor. I can back it up.

(VIDEO IS BACKED UP TO THE 19:50 MARK AND PLAYED FOR THREE MINUTES WHEN THE FORELADY SIGNALS TO CUT IT OFF.)

FORELADY: Okay, Your Honor. We've seen enough.

THE COURT: All right. Stop the tape. You've seen all that you want to see?

FORELADY: Yes, sir.

THE COURT: The forelady has indicated they have seen enough. There are two more 9-1-1 discs in evidence. Would you like to hear those as well?

FORELADY: No, Your Honor.

THE COURT: Very well. Have we answered all of the jury's questions?

FORELADY: Thank you very much. You may retire to your jury room and continue your deliberations.

(3:30 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Any exceptions or additions to the Court's comments to the jury, from the State?

ASST. SOL. LEGETTE: None from the State.

THE COURT: From the defendant?

MR. WALKER: No, Your Honor.

THE COURT: All right. Court's Exhibit Number Three is

part of the record without objection. We will continue to be at ease while we await the jury's verdict.

(WHEREUPON, THE COURT IS IN RECESS WHILE AWAITING THE JURY'S VERDICT. THEREAFTER, AT 4:28 P.M., THE COURT RECEIVES WORD THAT THE JURY HAS REACHED A VERDICT IN THIS CASE AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: All right. Ladies and gentlemen, I understand that the jury has reached a verdict. If you can't control your emotions, you need to leave, because I'm going to deal with you if there is any emotional outburst. I don't want one word spoken in this courtroom in the presence of the jury. They are not interested in your opinion, which they shouldn't be, as to whether you favor or disfavor the verdict. If you can't control your emotions, I'm going to ask you to please step out at this time. I can assure you I will enforce that. Anybody wish to leave?

(NO RESPONSE.)

THE COURT: All right. Is the State ready?

ASST. SOL. LEGETTE: Yes, Your Honor.

THE COURT: Is the defendant ready?

MR. WALKER: Yes, Your Honor.

BAILIFF: Judge, we have some people waiting to come in.

THE COURT: All right. Let the people in that are on your side.

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(SEVERAL PEOPLE ENTER THE GALLERY.)

THE COURT: All right. For those of you who just came in, I realize there are feelings and emotions about any case. I will not tolerate any type of emotional outburst. If you cannot control your emotions, you need to leave now. If I hear any kind of noise of any kind, I'm directing my security, you will be held in contempt of Court. So now is the time for you, if you can't control yourself, to leave the courtroom. Do I have anyone who wishes to leave?

(NO RESPONSE.)

THE COURT: Then, I'll expect you to act with some decorum and behave. Bring us the jury.

(4:30 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: Will the defendant and counsel please rise? Madame Clerk, you may publish the verdict.

MADAME CLERK: Indictment number 2012-GS-15-663 and 2012-644, the State of South Carolina v. Quoteas Nesbitt. We, the jury, by unanimous consent find the defendant Quoteas Nesbitt in indictment number 2012-GS-15-663, guilty of murder. We, the jury, by unanimous consent find the defendant, Quoteas Nesbitt, in indictment number 2012-GS-15-664, guilty of possession of a weapon during the commission of a violent crime, signed by Jeniece F. Massalon. If this is your verdict, please raise your right hand.

THE COURT: Let the record reflect, 12 hands were raised.

Mr. Walker, anything concerning the jury by the defendant before I excuse the jury?

MR. WALKER: No, Your Honor.

THE COURT: Madame Foreperson, ladies and gentlemen of the jury, please be seated. Ladies and gentlemen of the jury, on behalf of Colleton County and this Court, I want to thank you for your service on the jury this week. This concludes your service for the week and if you listened to me, you know you're exempt from jury service for three years as a result of your service. All a judge can do is ask for jurors to listen, and I watched you during this trial and that's exactly what you did. I want to thank you for that service.

Now, if anyone needs a work excuse for serving on the jury, all you have to do is walk downstairs and there is a door that is marked General Sessions. If you walk in that door, we'll provide you with a work excuse to show your employer that you've been on the jury this week. We will be mailing you that exorbitant $20 fee per day that we pay for our jurors. That will come to the address that we sent your subpoena to. Sometimes, people like to talk to jurors. They want to find out how you felt, what impressed you. It's entirely up to you if you want to talk to anybody. If

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somebody comes up to you and wants to discuss anything, if you don't want to talk to them, just tell them no. If they persist, you get their name, give it to me, and I'll handle that problem for you.

Now, I want you to be aware that sentencing in this case is going to occur in just a moment. I invite you if you would like to, you can stay right in your jury box and watch the sentencing proceedings. However, if you would like to leave, you may do so. Those of you who would like to leave, you can stand up and leave at this time. Everyone else remain seated while those that are leaving leave.

(WHEREUPON, A FEW JURORS LEAVE.)

THE COURT: Are there any post-verdict motions from the defendant?

MR. WALKER: At this time, we would move for a new -- based on the identification testimony ---

THE COURT: On the same grounds that you moved for a directed verdict; is that correct, Mr. Walker?

MR. WALKER: As well as the identification objections that we had.

THE COURT: And for the reasons I enunciated at trial at the close of the State's case, your motion for directed verdict is respectfully denied. Both on the grounds you stated at the close of the State's case, and on the issue that you raised in the Neil v. Biggers hearing prior to

trial in which I denied your asking me to exclude the testimony of the officer. That motion is denied. You and your client come around. Solicitor, please come around for sentencing.

All right, Solicitor, I'm having my law clerk get the foreperson to sign the indictments consistent with the verdict form that was published by the Clerk of Court. Solicitor, I've heard all the evidence in this case. But what the jury hasn't heard, nor have I, other than the fact that I was made aware by you and Mr. Walker, because you have his criminal history, I do not have the criminal history of the defendant. I would ask you to publish that at this time so that I'll have some idea of his prior record.

ASST. SOL. LEGETTE: Yes, Your Honor. Your Honor, in preparation for this particular hearing, we had his juvenile records released by Judge Smoak and we have a signed Order. Your Honor, in 2000, he was an incorrigible juvenile and he went to R&E and he was quoted as having said that he would secretly love to kill his father. He also indicated that he hated his father.

Thereafter, an adult record, in 2001, breach of peace in Colleton County, he got a 30-day sentence. In 2003, he got an assault and battery in Colleton County at the Colleton County Detention Center where he grabbed a

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correctional officer by the waist and tried to throw him to the floor without his consent and got a time served sentence for that. In 2004, he was driving without a license. In '04, also, he was hindering officers.

In 2004, he again had a public disorderly conduct. He got a 30-day sentence. In 2004, he again had a public disorderly conduct. He got a 30 day sentence. In 2004, he had a possession of beer by a minor and in 2005, he had a public disorderly conduct. He got a time served sentence. In 2008, he had a driving under suspension. In 2011, he had an unlawful carrying of a pistol. He was in unlawful possession of a .45 caliber American Classic Government model. He received a one-year sentence of credit for 319 days jail time. Along with that sentence, he got a possession with intent to distribute cocaine base, or crack cocaine; that also occurred in Colleton County. He got a one-year sentence with credit for 319 days jail time. In 2011, he got assault and battery in the second degree where he committed a moderate bodily injury upon a victim, Daqwan Lawton, while at the Colleton County Detention Center. He got a one-year sentence for that, as well, to run concurrent with the pistol and crack cocaine charge.

In 2012, in connection with the State Grand Jury case that was here in Colleton County, part of a triple homicide, he got assault and battery of a high and aggravated nature

conviction for which he received time served, sentence of 22 months. Additionally, Your Honor, he is known by law enforcement -- law enforcement knows him to be an alleged criminal gang member of the Dooley Hill Gang.

Additionally, Your Honor, the victim's wife, Ms. Renatta Holmes, would like to address the Court at the appropriate time, along with Mr. Holmes's brother, I believe his name is Stephen Sanders.

THE COURT: Be happy to hear from them. Ask them to come forward and identify themselves, and use the microphone.

MR. SANDERS: How you doing, Judge. I'm Steve Sanders.

THE COURT: And that's S-A-N-D-E-R-S?

MR. SANDERS: Yes, sir.

THE COURT: Mr. Sanders, what is your relationship to the victim in this case?

MR. SANDERS: My brother.

THE COURT: Happy to hear from you.

Yes, sir. I'm not gonna waste too much time. I just want to say, you know, the Sanders family, all my brothers, they help me run this company and we have 18 employees, you know, so I look at that as 18 families and Bobo helped provide for those 18 families, and when we lost him, we kind of lost the strength of the company. That's what I want to say, you know. You know, I don't feel any malice in my

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heart towards 'Teas, but you know, I just want to be here and see that justice is done.

THE COURT: Thank you for taking the time to be here.

ASST. SOL. LEGETTE: I believe his wife, Ms. Renatta Holmes, wants to speak, Your Honor.

THE COURT: Ms. Holmes, if you'll come forward to the microphone for me, please, ma'am. State your name for the record so the court reporter knows.

MS. HOLMES: Renatta Holmes. I just want to thank everybody for their time. And taking the time out to do this, but I prepared a statement I would like to read.

THE COURT: Yes, ma'am. Happy to hear from you.

MS. HOLMES: I've known Quoteas my entire life. I can still remember playing him when we were both children. Walking down McDaniel Street to Ms. Earline's house. I can recall thinking that he was the cutest little curly-haired little boy. I never thought 25 years later we would be in this scenario.

As follows, from McDaniel Street to Mincey Street, I consider him to be almost like family, to where your children were my family and I were on a first name basis. I recall the time where I was informed of Ms. Earline's passing and I was thinking, "I know 'Teas is hurting. I know how much he loved her. I even embraced him and told him that everything was going to be alright. At that moment, I

knew his heart just left him. Subsequently, never thinking that years to come, you would make feel the same emptiness that you felt years prior when you lost your heart. You took my heart from me on September 6th, 2012, as well as a father, a son, a brother, et cetera. That's just to name a few of my husband's attributes. So I don't hate you, Quoteas, because I was taught not to hate; but Moray's entire family, including friends, as well as myself, are deeply saddened and hurt by our loss.

THE COURT: Thank you for being here, Ms. Holmes.

MS. HOLMES: Thank you. You're welcome.

THE COURT: Solicitor, anything else from the State?

ASST. SOL. LEGETTE: No, Your Honor.

THE COURT: Mr. Walker, I'll be happy to hear from you.

MR. WALKER: Thank you, Your Honor. Quoteas is 30 years of age. He completed the 9th grade -- went through school to the 9th grade. He's a carpenter. He's a good worker; his boss is here showing support. Also here with him are cousins, brothers, his mother was here the first two days of the trial, but she was unable to be here with him today because she had to work, but he certainly has a supportive, loving family. He has four children, three boys and a girl. Their ages are 13, 11, 9 and 6. The Solicitor went through Quoteas's prior record, and really the only serious things are three pleas that went together in 2011.

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And the Solicitor mentioned the State Grand Jury and alluded to a connection of triple homicide. And as I represented one of the people who actually did that, there's no allegation that he was involved in that triple homicide.

THE COURT: I understand he has not been convicted of any prior murder.

MR. WALKER: There is no allegation that he was involved in that at all. Again, I represented one of the people who was.

THE COURT: I understand; however, he was tried previously involving violence; is that correct?

MR. WALKER: That is correct; one time.

THE COURT: And that was for the offense of?

MR. WALKER: I believe murder.

THE COURT: And that was a hung jury?

MR. WALKER: It was a not guilty on self-defense, Your Honor.

THE COURT: All right.

MR. WALKER: Someone came to his home and he defended himself. During the break, while the jury's been deliberating, I looked up the life expectancy of a black male, 71.8 years. If the Court were to give Quoteas a 30-year sentence, that would, perhaps, give Quoteas a decade of life left, although we can expect less than that of an inmate. So Your Honor, we would ask the Court to impose a

30-year sentence with the other sentence concurrent. I have advised Quoteas not to make any statements in light of pending Appellate appeals.

THE COURT: Mr. Nesbitt, I understand what your lawyer has told me, is there anything that you want to tell me prior to sentencing?

MR. WALKER: No, sir.

THE COURT: Solicitor, is there anything else you want to tell me?

ASST. SOL. LEGETTE: Your Honor, I just want to, in light of the life expectancy of a black man, Moray Holmes was a black man and he was 34 years old when he was killed by Quoteas Nesbitt. And Your Honor, I don't take this lightly, but it's time to stop Quoteas Nesbitt. I would ask you to sentence him accordingly and I don't think 30 years is enough. I think we need to send a message that the life expectancy of a black man should be more than 34 years. I would ask you to sentence Quoteas Nesbitt for the balance of his life in prison. And send a message to this community, send a message to Quoteas Nesbitt, that a black man's life should be more than 34 years.

THE COURT: Mr. Walker, I've listened to you carefully, asking me to impose the minimum sentence for murder, which is 30 years. Solicitor, I've listened to you carefully and I've listened to the evidence in this case. I, first of

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all, want to tell my jurors that I certainly think there was ample evidence to support your verdict in this case on the issue of guilt. Sentencing however, is the Court's province. Sentencing for murder ranges from 30 years to life in prison. I take into consideration, Mr. Nesbitt, your prior record. I take into consideration the facts and circumstances that the evidence show me that I listened to during this trial in reaching my decision on your sentence.

On Indictment 2012-GS-15-00663, the State v. Quoteas Nesbitt, indictment for murder, the sentence of the Court is defendant is committed to the State Department of Corrections for a term of 45 years. On Indictment 2012-GS-15-00664, possession of a weapon during the commission of a violent crime, the sentence of the Court is defendant is committed to the State Department of Corrections for a term of five years. Those sentenced will run consecutive to each other for a total of 50 years. The defendant is to be given credit for time served, pursuant to South Carolina Code Section 24.13.40. That is to be calculated and applied by the State Department of Corrections. Thank you, Solicitor, and thank you, Mr. Walker. The defendant is in custody. Take him out. Ladies and gentlemen, stay right where you are.

I want to thank you again for your service. On behalf of Colleton County and this Court, justice can't be done

unless I have people in the community willing to give of their time to serve on the jury. I tell jurors this all the time, ladies and gentlemen, if you had a case pending in this court, wouldn't you want someone like yourself to have been willing to give of their time if you were a party to a case in Court? so I very much appreciate your service. This concludes your service, not only for today and this trial, but for this week. This also means you're exempt for three years. I thank you very much for that service. I hope this has been an educational experience for you and I hope you've learned something from him. We appreciate you leaving your family, leaving your jobs and taking the time to be with us. Thank you very much. You are now excused from the courtroom.

(5:05 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

THE COURT: I want to say before I adjourn the record that I appreciate the courtesies that the lawyers have shown each other during the trial of this case, as well as the preparation that each of the lawyers showed as advocates for the State and for the defendant. I appreciate hard work. This Court now stands adjourned.

606

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the trial of the captioned case, in the Court of General Sessions for Colleton County, South Carolina, on the 25th - 28th day of August 2014.

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

December 11, 2014

Rebecca H. Hill

Rebecca H. Hill,
Official Court Reporter

COURT'S
EXHIBIT NO. 3
IDENTIFICATION/EVIDENCE
DKT.#
DATE:
PENGAD 800-631-6989

We would like to see the Video and listen to the 911 calls.

Jamie Mascola
8/28/14

WITNESSES

Jodi Taylor, CCSO

ARREST WARRANT NUMBER

2012A1510100207

Arrest Date: September 14, 2012

ACTION OF GRAND JURY

TRUE BILL

Christopher West

Foreperson of Grand Jury
Date: 3/28/13

VERDICT

Foreperson of Petit Jury
Date:

INDICT

608

DOCKET NO. 2012-GS15-00663

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

March Term 2013

THE STATE

vs.

Quoteas Nesbitt

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020
CDR Code:0116

COLLETON COUNTY
GENERAL SESSIONS COURT
2013 MAR 28 PM 12:32

STATE OF SOUTH CAROLINA)
)
COUNTY OF Colleton)

INDICTMENT

2012-GS15-00663

At a Court of General Sessions, convened on March 28, 2013, the Grand Jurors of Colleton County present upon their oath:

Murder / Murder

That in Colleton County, South Carolina, on or about September 6, 2012, with malice aforethought, Quoteas Nesbitt did kill and murder Moray Dupree Holmes by means of shooting him with a gun, and that Moray Dupree Holmes did die in Colleton County as a proximate result thereof on September 6, 2012; 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.

TRUE BILL

Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

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STATE OF SOUTH CAROLINA)
COUNTY OF Colleton) IN THE COURT OF GENERAL SESSIONS
STATE VS.) 30 - Life
Quoteas Nesbitt)
AKA:) INDICTMENT/CASE#: 2012GS1500663
Race: AFRICAN AME Sex: M Age: 28) A/W#: 2012A1510100207
DOB: [redacted] SS#: [redacted]) Date of Offense: 9/6/2012
Address:) S.C. Code § : 16-03-0010; 16-03-0020
City,State,Zip:) CDR Code #: 0116
DL#: SID#:)

SENTENCE SHEET

*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS TO: Murder / Murder

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Tameaka Leyttle 70550 _____ _____ _____
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**

for a determinate term of 45 ~~days/months~~/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 2012 GS 15 00664

☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E begining _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ ~~Deputy Clerk~~ Patricia C. Grant

Court Reporter: M. Rebecca Hill

Presiding Judge _____

Judge Code: 2122

Sentence Date: 8/28/2014

SCCA/217 (03/2011)

WITNESSES

Jedi Taylor, CCSO

61

ARREST WARRANT NUMBER

2012A1510100208

Arrest Date: September 14, 2012

ACTION OF GRAND JURY

TRUE BILL

Christopher West

Foreperson of Grand Jury
Date: 3/28/13

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2012-GS15-00664

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

March Term 2013

THE STATE

vs.

Quoteas Nesbitt

Indictment for

Weapons / Poss. weapon during violent crime, if not also sen

SC Code: 16-23-0490
CDR Code:0549

COLLETON COUNTY
GENERAL SESSIONS COURT
2013 MAR 28 PM 12:32

STATE OF SOUTH CAROLINA)
)
COUNTY OF Colleton)

INDICTMENT
2012-GS15-00864

At a Court of General Sessions, convened on March 28, 2013, the Grand Jurors of Colleton County present upon their oath:

Weapons / Poss. weapon during violent crime, if not also sen

That in Colleton County, South Carolina, on or about September 6, 2012, the Defendant, Quoteas Nesbitt, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: murder, a violent crime for which he is convicted of committing or attempting to commit; 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.

TRUE BILL

Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF Colleton)
STATE VS.)
Quoteas Nesbitt)
AKA:)
Race: AFRICAN AME Sex: M Age: 28)
DOB: [redacted] SS#: [redacted])
Address:)
City,State,Zip:)
DL#: SID#:)

IN THE COURT OF GENERAL SESSIONS

5yrs Consecutive

INDICTMENT/CASE#: 2012GS1500664
A/W#: 2012A1510100208
Date of Offense: 9/6/2012
S.C. Code § : 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Tamika Legette 70550 _____ _____ _____
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**

for a determinate term of 5 ~~days/months~~/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 2012-GS-15-00663

☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
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3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E begining _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ ~~Deputy Clerk~~ Patricia C. Grant

Court Reporter: M. Rebecca Hill

Presiding Judge

Judge Code: 2122

Sentence Date: 8/28/2014

SCCA/217 (03/2011)

CERTIFICATE OF COUNSEL FOR APPELLANT

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

This 9th day of June, 2015

Susan B. Hackett

Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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

This 9th day of June, 2015

Susan B. Hackett

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED
JUN 09 2015
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

ORIGINAL

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

RECEIVED
JUN 09 2015
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

QUOTEAS SYLVESTER NESBITT,

APPELLANT

APPELLATE CASE NO. 2014-001851

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and Mr. Quoteas Nesbitt #361169 at Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010 this 9th day of June, 2015.

Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 9th day of June, 2015.

(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.