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STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SAMUEL HAYWORTH ROBINSON

APPELLANT

APPELLATE CASE NO. 2014-001555

RECORD ON APPEAL

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4 STATE OF SOUTH CAROLINA)
5) Court of General Sessions
6 COUNTY OF CHARLESTON) Case No. 2014-GS-10-1764
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8 STATE OF SOUTH CAROLINA)
9)
10 VS.) Transcript of Record
11)
12 SAMUEL HAYWORTH ROBINSON,)
13)
14 Defendant.)
15)
16) DATE: June 23, 2014
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B E F O R E:

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1 THE COURT: This is Case No. 2014-GS-10-1764, the
2 State of South Carolina vs. Samuel Hayworth Robinson.
3 Matter is called for trial.

4 What is the charge? Pointing and presenting a
5 firearm; is that correct?

6 MS. ANDREWS: That's correct, Your Honor.

7 THE COURT: Anything from anybody before we bring
8 the jury panel in?

9 MS. ANDREWS: Yes, Your Honor. I would like to
10 just state on the record what my defendant's history of
11 notice has been so that we could just -- so you can make a
12 fully informed decision as to whether or not you think he
13 received proper notice.

14 THE COURT: Okay. Go ahead.

15 MS. ANDREWS: He received a letter from the
16 Solicitor's Office saying that he had trial the week of the
17 16th. So I spoke with my client. He confirmed that he had
18 received the letter. And the letter does not mention that
19 he could be tried in his absence, just says that his case
20 will be called to trial at some point during that week. I
21 notified him, I spoke with him on the phone that he had a
22 status conference that he had to attend that was on the
23 13th.

24 And we scheduled an appointment right after the
25 status conference, in which he was going to come in and we

1 were going to discuss his case further. And he seemed to
2 understand everything that I was saying. He said that he
3 would come to the status conference. He said that he would
4 come to the meeting afterwards.

5 I informed him that if he did not appear at the
6 status conference, that a bench warrant would be issued for
7 his arrest. He did not show up at the status conference,
8 and a bench warrant was issued for his arrest. I called the
9 defendant after the status conference and was able to get in
10 touch with him. He said that he had forgotten about the
11 status conference. I informed him that there was a bench
12 warrant out for his arrest.

13 We then rescheduled another time for him to come to
14 the office so that we could discuss his strategy for trial.
15 That was Monday the 16th, in which he was supposed to come
16 see me. And he did not show up for his appointment.

17 I have not had any meaningful conversations with my
18 client. I have not had any conversations with my client
19 since the day of the status conference when he was informed
20 that a bench warrant was out for his arrest.

21 THE COURT: Okay.

22 MS. ANDREWS: So the bond paperwork states that he
23 could be tried in his absence if he were not to appear for
24 trial; however, I want to make the Court aware that while he
25 had notice, ample notice of the week that his case could be

1 called to trial, being tried in his absence was not
2 something that we had a discussion about. So he would not
3 have received notice about that from me.

4 THE COURT: All right. Unless the State has some
5 reservation, I'm comfortable going forward with the trial in
6 his absence.

7 MR. WARING: That's fine with us, Your Honor.

8 THE COURT: Before we proceed any further, let's
9 have everybody give the court reporter your name and who you
10 represent in the case.

11 MR. WARING: Richard Waring for the State.

12 MS. ANDREWS: Annie Andrews with the Public
13 Defender's Office.

14 MS. PROCTOR: Lorelle Proctor. I'm second chair;
15 probably won't be saying anything.

16 MR. WARING: And Burns Wetmore is my second chair.

17 THE COURT: Anything further we need to put on the
18 record?

19 MS. ANDREWS: No, Your Honor.

20 THE COURT: Anything from the State?

21 MR. WARING: Your Honor, there may be one issue
22 that the State wanted to get into.

23 I'm sorry, Your Honor, that could be reserved for
24 pretrials. We can do that after lunch. I can't remember if
25 you said you wanted to do that then.

1 some additional information that assists them in the jury
2 selection process.

3 So just like jury qualifications and witnesses who
4 testify, jurors are constantly taking oaths. So if I could
5 please get the jury panel to stand and raise their right
6 hand: Do you swear or affirm that you will respond
7 truthfully to questions asked by the Court, with the truth,
8 the whole truth, and nothing but the truth? If so, say I
9 do.

10 (Whereupon, the jury is sworn.)

11 THE COURT: Is there any member of the jury panel
12 that did not respond to the oath by saying I do? If so,
13 please stand.

14 (No response from the prospective jurors.)

15 THE COURT: Very good. Thank you.

16 Ladies and gentlemen, we are getting ready to start
17 the trial of the case of the State of South Carolina vs.
18 Samuel Hayworth Robinson. Mr. Robinson has been charged by
19 the State with pointing and presenting a firearm. This
20 incident allegedly occurred on October 14th, 2013, in the
21 North Charleston area of Charleston County. And
22 Mr. Robinson is alleged to have pointed or presented a
23 firearm at Brittany Brittany. Is there any member of the
24 jury panel who has heard anything, read anything, discussed
25 anything, or knows anything about this case? If so, please

1 has been sworn.

2 THE COURT: Thank you very much. Any member of the
3 jury that did not respond to the oath by saying I do, please
4 stand.

5 (No response from the Jury.)

6 THE COURT: Thank you very much. Let the record
7 reflect that no one stood.

8 Ladies and gentlemen, we are about to begin the
9 trial of the case of the State of South Carolina vs. Samuel
10 Hayworth Robinson. Mr. Robinson has been indicted on the
11 charge of pointing and presenting a firearm. But before we
12 begin this trial, I want to give you some preliminary
13 instructions so you will be more acquainted as to what will
14 happen during the trial of this case.

15 I know from watching movies, TV shows, reading
16 books, things of that nature, trials are often full of a lot
17 of action, a lot of suspense, a lot of anxiety. And while
18 that might be the case in this trial, it probably won't be.
19 The primary function of this trial is a search for the
20 truth, what happened. That is often a slow, deliberate,
21 repetitive process, the exact opposite of what you might be
22 accustomed to when you watch TV or read books or movies or
23 trying to watch trials for entertainment purposes.

24 But I want to thank you from the outset for your
25 services as jurors in this case. I hope you do find this

1 trial educational. And I hope you do find it interesting.

2 The attorneys appearing before you are advocates
3 for the parties they represent. But first and foremost,
4 they are officers of the court. They are sworn to uphold
5 the integrity and the fairness of our judicial system and to
6 help you in a search for the truth. You can expect them to
7 be professional, competent, and ethical in the
8 representation of their client's interest during the trial
9 of this case.

10 Now, what I now say to you is intended to serve as
11 an introduction to the trial of this case. These remarks
12 are not a charge on the law of the case. I will instruct
13 you on the law applicable to this case at the end of the
14 trial before you retire to consider your verdict and begin
15 your deliberations. This is merely an explanation of the
16 procedure that we will follow during the trial of this case
17 so you will be better acquainted as to what is happening
18 during this trial.

19 Now, as I told you earlier, the defendant is
20 charged by an indictment. This is the indictment. And the
21 defendant -- it charges the defendant with pointing and
22 presenting a firearm. The elements of that crime I will
23 explain to you later when I charge you with the law to be
24 applied in this case.

25 Now, the indictment is simply the charge by which

1 this case is brought into this court. And it is not in any
2 sense evidence of any of the allegations contained in it.
3 The defendant has pled not guilty to this indictment. The
4 State, therefore, has the burden of proving each of the
5 elements of the indictment beyond a reasonable doubt. It
6 will be your duty, ladies and gentlemen, to decide whether
7 or not the State has met that burden.

8 Your purpose as jurors is to find and determine the
9 facts of this case. You are the sole judge of the facts of
10 this case. If at any time I make a comment regarding the
11 facts of this case, then you are to disregard my comment.
12 You are to determine the facts from the testimony you hear
13 and the other evidence introduced in court. It is up to you
14 to determine the inferences which you feel may properly be
15 drawn from that evidence. It's especially important that
16 you perform your duty of determining the facts of this case
17 diligently and conscientiously because, ordinarily, there's
18 no way to correct an erroneous determination of the facts by
19 a jury.

20 On the other hand, and with equal emphasis, the
21 same law that makes you the judge of the facts of this case,
22 makes me the judge of the law. The law as given by the
23 Court is the only law that you can consider. You must
24 accept and follow the law as I give it to you, even though
25 you may disagree with it. Just as I cannot tell you what

1 the facts of this case are, you cannot disagree with me
2 about the law to be applied in this case. Your job is to
3 take the law as I give it to you and apply it to the facts
4 as you find those facts to be, from the testimony of
5 witnesses and any other evidence that may be introduced in
6 trial.

7 After doing that, you will then render your
8 verdict, which is a true and just verdict under the solemn
9 oath that you just took as jurors. Until I advise you to
10 begin your deliberations, you must not discuss this case
11 with anyone, including your fellow jurors. Don't discuss it
12 with any friends or family members or anyone involved in the
13 case.

14 After the case is submitted to you, you can then
15 discuss it, but only in the jury room with your fellow
16 jurors. The attorneys and parties to the case have been
17 advised that they are not to talk to you at all. So if you
18 see anyone involved in the case and they don't even speak to
19 you, they are not being rude, they are just following the
20 instructions of the Court.

21 Now, during the trial of this case, you are not to
22 read or listen to or watch any news reports about the case,
23 if there are any. This includes anything that can be in the
24 newspapers or on the Internet, radio or television. You
25 must not consider anything that you may have read or heard

1 about the case outside of the courtroom, whether it is
2 before or during the trial of this case.

3 It is important that you keep an open mind and not
4 decide any issue in this case until all of the evidence has
5 been presented to you, the attorneys have made their closing
6 arguments, and I've instructed you on the law. It is your
7 solemn responsibility to determine the guilt or innocence of
8 the defendant. And your verdict must be based solely on the
9 evidence as it is presented to you in this trial and on the
10 law as I instruct you during and at the close of the trial.

11 Now, in just a moment, the solicitor will make what
12 is called an opening statement in which the solicitor will
13 explain to you the issues in this case, or at least what the
14 solicitor feels the issues in this case are. The attorney
15 for the defendant may also make an opening statement,
16 although she is not required to do so.

17 What the attorneys tell you during these opening
18 statements is not evidence in this case. It is only their
19 contention as to what the issues in this case are.

20 The evidence in this case will be presented to you
21 by testimony of sworn witnesses from the witness stand and
22 any exhibits that may be introduced into evidence. Now, in
23 determining what the true facts of this case are, you must
24 decide whether or not the testimony of a witness is
25 believable. It will be my responsibility to rule as a

1 matter of law as to whether certain testimony is admissible
2 at all or not. But once testimony is admitted into
3 evidence, whether or not you believe it is solely for you to
4 determine.

5 In deciding whether to believe a witness, you have
6 the right to consider the interest of any witness, the bias
7 of any witness, the prejudice of any witness, the
8 opportunity for the witness to have seen the matters and
9 things about which the witness may testify, and the way the
10 witness acts on the witness stand. You have the right to
11 consider anything that is in the record that will help you
12 to evaluate the testimony of that witness. That means that
13 it is your duty to pay close attention to these witnesses,
14 to observe them, to listen to them, and to pay close
15 attention to the attorneys and to the Court.

16 Don't let your thoughts wonder, but give strict
17 attention to the testimony in this case. So at the end of
18 all of the testimony, after the arguments of counsel and the
19 charge on the law by the Court, you will then be in a
20 position to determine what the true facts of this case are,
21 and to apply those facts to the law as I give it to you, and
22 to render a true and just verdict.

23 Now, are there any challenges or additional charges
24 by the State?

25 MR. WARING: No, Your Honor.

1 THE COURT: Anything from the defense?

2 MS. ANDREWS: No, Your Honor.

3 THE COURT: Ladies and gentlemen, we will now begin
4 the trial of the case with the State's opening arguments.

5 MR. WARING: Thank you, Your Honor. May it please
6 the Court.

7 THE COURT: Yes, sir.

8 MR. WARING: Right and wrong, that's what this case
9 is about. It's a simple case of right and wrong. Back on
10 the night of October 14th, 2013, the victim, Brittany
11 Mishoe, and her family, were at her mother's house. They
12 were on the porch night. They were having a nice dinner.
13 They were minding their own business.

14 At one point, the defendant and his girlfriend and
15 a few others pull up across the street and proceed to get
16 out, walk across to the victims' house across the street.
17 The defendant's girlfriend approaches the victim Brittany's
18 vehicle, which was parked in the driveway next to the house.
19 And she proceeds one by one to stab out every tire on that
20 vehicle. Meanwhile, the defendant is holding the victims
21 who were on the porch at gunpoint. Included in those
22 victims that night were two little children.

23 After this, the defendant, his girlfriends, and the
24 others fled the scene. And due to the defendant's act of
25 pointing a handgun at the victims, he was charged with

1 pointing and presenting a firearm.

2 Now, in order to prove that he has committed this
3 crime, the State has to prove beyond a reasonable doubt that
4 he pointed or presented a loaded or unloaded firearm at
5 another.

6 Now, throughout the course of the trial, I
7 challenge you to stay focused on these elements as they
8 apply to the facts of the case. I'm confident if you do
9 that, you will return a verdict of guilty for pointing and
10 presenting.

11 THE COURT: Ms. Andrews.

12 MS. ANDREWS: Thank you, Your Honor.

13 October the 14th, 2013, was a typical day for
14 Samuel Robinson, or at least it started out that way. He
15 had been spending some time with Brittany Mishoe and her
16 husband, Mr. Benjamin. He had been staying at their house
17 for a few days. They had been helping one another out. In
18 exchange for him staying at their house, he purchased two
19 tires for her car so she could get to work.

20 Earlier that day, Brittany Mishoe was involved in a
21 car accident with Samuel's cousin's wife, who actually lived
22 directly across the street from Brittany Mishoe. And it was
23 alleged that Brittany had left the scene of the accident.
24 This caused a lot of hostility between them. This incident
25 that occurred earlier in the day kind of set the stage for

1 what would happen later on that night.

2 That night, Samuel and his girlfriend, Kelsie
3 Ammons, drove to Brittany's house. They parked right across
4 the street at their families' house and got out with two
5 gentlemen. They approached the driveway. Kelsie had a
6 knife in her hand. She stabbed each one of the tires. She
7 ran around the car, stabbing each one. And as soon as they
8 were done, everyone ran away and they got out of the yard.
9 The entire incident was very quick. It did not take long at
10 all, and there was not a gun.

11 This case is ultimately about whether or not Samuel
12 Robinson pointed a gun at the Mishoe family that night. The
13 Mishoes claim that Samuel had a gun; however, the evidence
14 will show that he was later apprehended and no gun was even
15 found.

16 The evidence will also show, through the testimony
17 of the witnesses, that there was an ongoing feud between the
18 Mishoe family and Samuel's family. This had been going on
19 for years. It was extremely tense. I would compare it to
20 maybe the Hatfield and McCoys, if anyone is familiar with
21 that, if anyone cares about historical reference.

22 The families lived in the same neighborhood. So
23 Brittany is directly across the street from Sam's cousin's
24 wife. And to the left of their house is Samuel's mother's
25 house. Everyone is in a very, very close, confined space,

1 and they had been feuding for years.

2 Ladies and gentlemen, I urge you to pay very close
3 attention to the testimony of all of the witnesses. I want
4 you to pay close attention to whether or not they have any
5 sort of bias, whether or not they have any sort of agenda,
6 whether or not they have any stake in the outcome of this
7 trial, and whether or not they are credible witnesses.

8 And I feel confident that at the close of the
9 State's case, you will find they have not proven their case,
10 that the witnesses are not credible, that there is no
11 evidence, and that you will find a verdict of not guilty for
12 my client.

13 THE COURT: Ladies and gentlemen, we will begin the
14 evidentiary portion of the trial now. The State will call
15 their first witness.

16 MR. WARING: Thank you, Your Honor. State calls
17 Brittany Mishoe.

18 BRITNEY MISHOE,
19 having been duly sworn, testifies as follows:

20 THE CLERK: State your name into the microphone and
21 spell your last name for the record.

22 THE DEFENDANT: My name is Brittany Mishoe,
23 M-i-s-h-o-e.

24 DIRECT EXAMINATION :

25 BY MR. WARING:

1 Q. Good afternoon. How are you?

2 A. Good. How are you?

3 Q. Can you tell the jury where you are from?

4 A. I'm from Charleston, South Carolina.

5 Q. And can you tell them how old you are?

6 A. I'm 23 years old.

7 Q. Are you responsible for the well-being of anybody
8 else?

9 A. Yes, sir, I am.

10 Q. And who would that be?

11 A. My nephew, Noah Mishoe.

12 Q. Why are you taking care of your nephew?

13 A. My brother's currently facing 25 years at the
14 penitentiary. And his mother broke his leg at two years
15 old.

16 Q. So do you have custody of that child?

17 A. Yes, I have custody.

18 Q. Where were you on the evening of October 14th,
19 2013?

20 A. I was at [REDACTED], North Charleston,
21 South Carolina, which is my mother's residence.

22 Q. And can you describe kind of the layout of the
23 outside of that house?

24 A. It's kind of small, two-bedroom house. The
25 driveway is like an uphill climb. You have to go up a hill

1 to the top of the house. It has a porch that has like rows
2 like this around it. And it had like one little opening
3 into the porch. And that's where the defendant was standing
4 at.

5 Q. How close to the house is the driveway that you
6 talk about?

7 A. Maybe a foot.

8 Q. And on that night, who were you with?

9 A. I was with Christopher Benjamin, Daisy Mishoe,
10 Skyler Mishoe, Noah Mishoe, and Jermaine Brehon.

11 Q. Can you tell the jury what their relationship is to
12 you?

13 A. Christopher Benjamin is a boyfriend of nine years.
14 Daisy Mishoe is my mother. Skyler Mishoe is my
15 five-year-old sister. And Noah Mishoe is my three-year-old
16 nephew. And Jermaine Brehon is a friend.

17 Q. What were you all doing that night?

18 A. We were eating dinner.

19 Q. Can you tell the jury where everybody was situated?

20 A. Me and Christopher and Jermaine was sitting at a
21 table on the front of the porch. My mother and my little
22 sister was sitting in chairs, kind of like on the row of the
23 porch where she had the food for my little sister, sitting
24 there feeding her.

25 Q. Was everybody on the porch that night?

1 A. Yes, sir, everybody was on the porch.

2 Q. Did anything unusual happen that night?

3 A. Yes, sir.

4 Q. What happened?

5 A. The defendant, Samuel Robinson, and Kelsie Ammons,
6 and two other people approached our porch. Kelsie appeared
7 to be stabbing the tires as Samuel was holding us at
8 gunpoint so nobody could move off the porch.

9 Q. How many people were there total that walked up to
10 the house that night?

11 A. Four.

12 Q. Was the defendant one of them?

13 A. Yes, sir.

14 Q. Do you know the defendant?

15 A. Yes, sir.

16 Q. How do you know him?

17 A. I know him. He is an ex-boyfriend of my cousin's
18 baby mama with three kids.

19 Q. Approximately how long have you known him?

20 A. Three years, going on four.

21 Q. So can you -- just so the jury can understand, can
22 you describe where the defendant and these other folks came
23 from?

24 A. They came from across the street at Samuel
25 Robinson's Aunt Tammy's house.

1 Q. What is that lady's relationship to the defendant
2 and Kelsie?

3 A. She is no relationship to Kelsie, but she's
4 Samuel's aunt.

5 Q. When the defendant walked up, could you see him
6 walking up?

7 A. Yes, sir.

8 Q. At that point, did you expect anything bad to
9 happen?

10 A. No, sir, I did not.

11 Q. Why is that?

12 A. I thought me and Sam was friends.

13 Q. Just so that we can have a better understanding,
14 can you give the time frame about what time this had taken
15 place?

16 A. About quarter to 8, 8:30 maybe, 8:15. It had just
17 gotten dark.

18 Q. So it was dark out?

19 A. Yes, sir, it was dark out.

20 Q. And where did the defendant walk to?

21 A. He walked to the front of the porch, the walkway of
22 the porch.

23 Q. Is that where he was standing?

24 A. Yes, sir.

25 Q. About how far away from the porch and from

1 everybody on the porch was the defendant standing?

2 A. He was maybe about a foot from my mother and my
3 little sister, about a foot and a half from me and my
4 nephew, and maybe three feet from Jermaine and Christopher.
5 Christopher was the farthest from the suspect -- the
6 defendant.

7 Q. While he was standing at the edge of the porch,
8 what was he doing?

9 A. He was holding a gun, pointing it at the five
10 people on the porch, and he was shaking.

11 Q. Did he pull the gun out from on his person?

12 A. Yes, from either his pocket or his waistside. I
13 wasn't -- like I said, the porch sticks up a little bit and
14 you couldn't really see exactly where the gun come from, but
15 he did have a gun in his hand pointing it at us.

16 Q. Could you see the gun?

17 A. Not barely, but I could tell that it was a gun;
18 yes, I could tell.

19 Q. How could you -- if it was dark out, how could you
20 see it?

21 A. We have a porch light that would light up the whole
22 porch. It's a motion light. As soon as somebody walked up
23 that driveway into the yard, that light would automatically
24 kick on in motion that somebody is out there.

25 Q. Where on the house were these lights situated?

1 A. Exactly on the porch.

2 Q. Was the light shining on the defendant?

3 A. Yes, a little bit, yes, sir.

4 Q. Did it shine enough on him for you to see the
5 gun?

6 A. Yes, sir.

7 Q. Do you remember what the gun looked like?

8 A. I want to say it was a black handgun, but I'm not
9 exactly sure. I don't know too much about guns.

10 Q. But you think it may have been black?

11 A. Uh-huh.

12 Q. Could you see the defendant's face while he was
13 holding the gun?

14 A. Yes.

15 Q. How did you know it was the defendant?

16 A. Samuel has two tattoos on each side of his neck
17 that has his twin little girls' names and date of births.
18 He also has a teardrop under his eye.

19 Q. Okay. Now, when the defendant was pointing the
20 gun, or when he was holding the gun, was he holding it kind
21 of pointed towards the ground, or was it pointed --

22 A. No, it was like this, out pointing at us. It was
23 like a wave back and forth to everybody on the porch.

24 Q. Was it in a threatening manner that he was doing
25 this?

1 A. Yes.

2 Q. While the defendant was pointing the gun at you and
3 your family, what else was going on?

4 A. Like I said, Kelsie Ammons was stabbing our tires
5 while he was holding us at gunpoint.

6 Q. And did you see her stab these tires?

7 A. Yes, sir, I did.

8 Q. What did she use to stab those tires?

9 A. A hammer.

10 Q. Earlier you talked about the driveway. Where was
11 the vehicle located compared to the porch?

12 A. As you pull up the driveway, the car would be
13 parked dead in front of the porch.

14 Q. Can you give us a rough estimate of how far away?

15 A. About a foot, half a foot.

16 Q. Did you or anybody else on the porch that night try
17 to stop Kelsie from stabbing these tires?

18 A. We couldn't; not with Sam there with a gun.

19 Q. Did anybody come off the porch?

20 A. Not until they left.

21 Q. Would you have tried to have done something if you
22 weren't being held at gunpoint?

23 A. Yes, I would have.

24 Q. Were you scared for your life?

25 A. Yes.

1 Q. Now, did you know the other folks that were with
2 the defendant and Kelsie that night?

3 A. No, I did not.

4 Q. Did you give a statement to police?

5 A. Yes.

6 Q. In your statement, did you mistake one of the
7 people who was with the defendant that night for somebody
8 else?

9 A. Yes, sir, I did.

10 Q. And who and why were you mistaken about this
11 person?

12 A. I mistaked Rebecca Robinson, which is Samuel's
13 sister. And that's because they pulled up in her vehicle
14 and it was another lady and another gentlemen with Samuel
15 and his girlfriend when they approached our yard. So I
16 assumed that it was Samuel's sister and her husband or
17 boyfriend, because that was the vehicle they showed up in.

18 Q. This woman who you mistook for someone else, where
19 was she standing?

20 A. At the back of my car. She's the one that backed
21 the car out of Sam's aunt's yard into the middle of the
22 street, and they ran downhill and jumped in the car.

23 Q. Was it difficult to see her face?

24 A. Yes, it was a little difficult.

25 Q. Are you positive that person holding the gun at you

1 and your family was the defendant?

2 A. Yes, I am very positive that Samuel Robinson is who
3 held that gun at us.

4 Q. Had you threatened the defendant or Kelsie or any
5 of the other individuals who came that night?

6 A. No, sir, I have not.

7 Q. Had anybody else on your mother's porch threatened
8 them?

9 A. No, sir.

10 Q. Did you or anybody else on the porch that night
11 have a weapon that was threatening them?

12 A. No, sir.

13 Q. After this incident where Kelsie stabbed the tires
14 and the defendant pulled the gun on y'all, what happened
15 next?

16 A. I immediately called the police. I ran off the
17 porch trying to get a tag number off the Jeep Cherokee that
18 belonged to Rebecca. And I couldn't because it sped off too
19 fast. North Charleston approached the yard, and they were
20 looking at the car, see where all the tires were flat. I
21 made a statement. And I went back to the police department
22 the next day when they contacted us and asked us to come in
23 for further questioning.

24 Q. Can you give us -- just to help us understand, can
25 you give us a time frame of about how long the whole

1 incident took place with the gun and the knife?

2 A. Five to six minutes.

3 Q. You mentioned giving a statement and you mentioned
4 going to the police station. Did you do that voluntarily?

5 A. They called and asked, and I voluntarily went in,
6 yes, sir.

7 Q. Had anything happened earlier that sparked this
8 incident?

9 A. There was an accident earlier, previous, earlier
10 that day with Kristin Sommers which is the defendant's
11 cousin's girlfriend. You know, she doesn't like me. We had
12 our little problems back and forth. North Charleston hasn't
13 done nothing about it. Earlier that day, she claimed I hit
14 her vehicle. Police came out. They didn't see no damage on
15 my vehicle; none on hers. I got rendered a ticket for not
16 staying at the scene. And that's just that. It was a
17 confrontation back and forth all that day. Like I said,
18 within five minutes of pulling back into our yard is when
19 Sam and them showed up to our house.

20 Q. You mentioned a person named Kristin who was in the
21 accident?

22 A. That's the lady's car that I supposedly hit.

23 Q. What is her relationship to the defendant or
24 Kelsie?

25 A. She is Sam's cousin by marriage.

1 Q. Were either the defendant or Kelsie involved in
2 that vehicle accident?

3 A. No, sir.

4 Q. Approximately how long after this incident with the
5 the vehicle with this woman named Kristin did the incident
6 with the defendant and Kelsie take place?

7 A. Maybe five, six hours later.

8 Q. Okay. Now, in your interview with police, did you
9 mention at any point wanting to harm the defendant or these
10 other individuals that came to your mother's house that
11 night?

12 A. Yes, sir, I did, but I was very angry and
13 frustrated that they came there with a gun and stabbed all
14 my tires.

15 Q. Did you say that because you were upset?

16 A. Yes, I did.

17 Q. Has the defendant tried contacting you recently
18 about this case?

19 A. Yes, he has; he's contacted me in letter and phone.

20 Q. What has he been saying?

21 A. He tried to tell me the first time that --

22 MS. ANDREWS: Objection. Hearsay.

23 THE COURT: Overruled. Go ahead.

24 BY MR. WARING:

25 Q. You can go ahead.

1 A. He told me the first time that it was Kelsie that
2 had the gun. And then maybe a week ago, he contacted me
3 four or five times through phone and, you know, he wanted to
4 meet me, we were friends, why I kept hanging up on him. And
5 in my mind, friends don't hold friends at gunpoint. So I
6 didn't go meet him. And that's when I contacted y'all and
7 said: He's out of jail. I was not contacted. Why is he
8 out of jail?

9 Q. Have his phone calls caused you to be scared?

10 A. Yes, it has.

11 MR. WARING: Please answer any questions the
12 defense has.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MS. ANDREWS:

16 Q. You said you had had confrontation back and forth
17 with Kristin all day because of the incident?

18 A. Yes.

19 Q. And you said that you've had issues with Samuel's
20 family, I guess primarily with Kristin who lives across the
21 street?

22 A. My problem -- my problem is the lady across the
23 street. I never had any beef or conversion with Samuel
24 Robinson.

25 Q. And you had filed police reports against her in the

1 past for -- I guess it was an assault and battery?

2 A. Yes, yes.

3 Q. She had allegedly hit you in the head?

4 A. Yes.

5 Q. And the police have done nothing about it?

6 A. They've done nothing about it.

7 Q. And you felt like they weren't protecting you and
8 weren't protecting your family?

9 A. I believe there's no justice.

10 Q. You made a recorded statement to the police in your
11 interview that was on camera that you would retaliate if
12 nothing was done; correct?

13 A. I might have said that, yes. I was upset. I
14 believe that for him to come to that porch, he knows us,
15 he's known us for three years, he's known as long as we was
16 on that porch, me and my mother; those two kids was there as
17 well. And he still approached that porch with that gun and
18 allowed his girlfriend to stab my tires. I was highly
19 upset.

20 Q. Right. And you had said to the police that you
21 would hide out in the bushes within your neighborhood and
22 you would shoot them all, correct?

23 A. I might have said that, yeah.

24 Q. Okay. In fact, I believe you said -- if I can get
25 the direct quote: One bullet to the head and all four of

1 them are gone; is that correct? Does that sound familiar?

2 A. No, that doesn't sound familiar to me.

3 Q. Would you like for me to refresh your memory?

4 A. You don't have to refresh my memory.

5 Q. Okay. And you said to the officer: I would have
6 some satisfaction in my heart after killing them; did you
7 say that?

8 A. No, I don't recall saying that as well.

9 Q. Would you like for me to play the tape for the
10 jury?

11 A. No, I'm good.

12 Q. And, in fact, you said to the officer about taking
13 law into your own hands that: The people across the street
14 are crazy and they are going to get what's coming to them;
15 did you say that?

16 A. I could have said that, yes.

17 Q. So the incident occurred around 9:30 at night,
18 correct?

19 A. 9:30, 8:30, somewhere around there. It had just
20 gotten dark. We had just got home and fed our kids.

21 Q. It was dark outside?

22 A. Yes, ma'am, it was.

23 Q. But you said you had difficulty seeing the gun.

24 You said you could barely see the gun. You said that just a
25 moment ago.

1 A. Yes, ma'am.

2 Q. And you gave a statement saying that Rebecca was
3 there that night, didn't you?

4 A. Yes. As I previously said, I believe the victim is
5 me and the defendant appeared in his sister, Rebecca's, car
6 at the residence. Yes, I did say that.

7 Q. So you wrote a written statement to police
8 identifying someone on the scene of the incident as being
9 Rebecca, correct?

10 A. Correct.

11 Q. And you are now aware that she was actually
12 incarcerated at the time?

13 A. I was aware that same night. They told me she was
14 incarcerated in Dorchester or Berkeley County. They
15 informed me the same night.

16 Q. So could not have been her, yet, you said in your
17 statement that it was, in fact, her?

18 A. Yes. Until they informed me, until they informed
19 that she was incarcerated in another county earlier that
20 afternoon.

21 Q. And you say in your written statement that you saw
22 Rebecca Fournier, or maybe it's pronounced Fournier, and
23 Kelsie Ammons get out of the car together that night; isn't
24 that correct?

25 A. No. All four of them got out of that vehicle

1 together and approached our front yard. Kelsie and the
2 other female stood at the back of my vehicle as my tires got
3 slashed. At the back passenger's side is where she started
4 at and worked her way around my vehicle.

5 Q. Okay. The female you identified as Rebecca was
6 incarcerated at the time.

7 You stated to police that you couldn't tell if one
8 person or two were slashing your tires because it was dark,
9 correct?

10 A. I did not say that to the police. I know who
11 stabbed my tires. I seen exactly who was there. I know who
12 stabbed my tires and who held that gun.

13 Q. Okay. Would you agree that when you tell the
14 police that someone supposedly committed a crime, that you
15 have to be certain that they, in fact, did it before you
16 file a police report?

17 A. Say that again.

18 Q. Would you agree that when you tell the police that
19 someone committed a crime, you file a police report, that
20 you should be certain that they actually did that before
21 incriminating them?

22 A. Yeah, at the time, though, I was very frustrated.
23 And that's who appeared to be the vehicle in my yard. So I
24 assumed that that was the other female.

25 Q. Okay. The person you placed at the scene of the

1 crime who could not have been there, Rebecca?

2 A. Yes, Rebecca.

3 MS. ANDREWS: Beg the Court's indulgence. I have
4 no further questions for this witness.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MR. WARING:

8 Q. Thank you, Your Honor. Just a few questions. Now,
9 Brittany, talking about these statements that you made to
10 the police about you would harm the defendant and these
11 other folks, were you upset when you made these statements?

12 A. Yes. I'm upset right now talking about it, to be
13 honest.

14 Q. Can you remind the jury why you were upset?

15 A. I'm very upset due to the fact that I was involved
16 in a DSS case to get custody of my nephew when he decided to
17 pull this gun, and that would not look good for my DSS case.

18 Q. Now, earlier you said that you could barely see the
19 gun. You could see the gun; is that correct?

20 A. I could see the gun, yes.

21 Q. And was the light shining on the gun?

22 A. The light was shining directly on the defendant and
23 the gun.

24 Q. Was it shining enough on the defendant so you could
25 see him pointing a gun at you?

1 A. Yes, sir.

2 Q. What color was the gun, as far as you remember?

3 A. Black handgun.

4 Q. Are you sure it was a gun and not a stick or
5 something else?

6 A. It was a gun.

7 Q. Now, talking about this other woman, this woman
8 that you mistook for someone else, for this Rebecca Fournier
9 person, could you see the woman who you thought was Rebecca?

10 A. No. Like I said, she was standing at the back of
11 the car. And I assumed that it was Rebecca because they
12 pulled up in Rebecca's vehicle. And they approached our
13 driveway with Kelsie Ammons, Samuel Robinson, and two other
14 people. It was a male and a female. It was not three males
15 and a female. It was two males and two females.

16 Q. So this vehicle, did it belong to this Rebecca?

17 A. Yes, it did.

18 Q. And could you see this lady's face that you mistook
19 for --

20 A. Not exactly, no, sir; I couldn't.

21 Q. Did those factors contribute to your mistaken
22 identity of this lady?

23 A. Yes, sir, it did.

24 MR. WARING: Court's indulgence.

25 THE COURT: All right.

1 MR. WARING: No further questions, Your Honor.

2 THE COURT: All right. You may step down.

3 (Whereupon the witness is excused.)

4 THE COURT: State may call their next witness.

5 MR. WARING: Thank you, Your Honor. State calls

6 Christopher Benjamin.

7 CHRISTOPHER BENJAMIN,

8 having been duly sworn, testifies as follows:

9 THE CLERK: State your name into the microphone and
10 spell your last name for the record.

11 THE DEFENDANT: Name is Christopher Benjamin. Last
12 name is B-e-n-j-a-m-i-n.

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Good afternoon, Mr. Benjamin. How are you doing
16 today?

17 A. Good. How are you?

18 Q. Mr. Benjamin, can you tell the jury where you are
19 from?

20 A. Originally or where I'm currently staying?

21 Q. Both.

22 A. I'm originally from Summerville, South Carolina.
23 I'm currently staying in North Charleston.

24 Q. And are you employed?

25 A. Yes, I am.

1 Q. What are you doing?

2 A. I'm an auto technician.

3 Q. Can you tell the jury where you were on the night
4 of October 14th, 2013?

5 A. I was at [REDACTED], North Charleston,
6 South Carolina.

7 Q. Can you tell the jury who you were with that night?

8 A. I was with Brittany Mishoe, Daisy Mishoe, Noah
9 Mishoe, Skyler Mishoe, and fellow named Jermaine. I'm not
10 quite sure of his last name.

11 Q. What are their relations to you?

12 A. Brittany was my girlfriend. So her mother was her
13 mother. I mean, she's my girlfriend. And Jermaine, he was
14 a friend at the time.

15 Q. And the other folks?

16 A. What, the kids?

17 Q. Yes.

18 A. They were no relation to me.

19 Q. How old were these children?

20 A. Noah was two and Skyler was four.

21 Q. Can you explain what y'all were doing that night?

22 A. We were sitting on the front porch of my
23 girlfriend's mother's house, Daisy Mishoe.

24 Q. And where was everybody situated on the porch?

25 A. I was furthest away from the entrance to the porch.

1 We had chairs lined up against the wall of the house on the
2 front porch. We were all sitting in the chairs. And it was
3 me -- it's kind of hard to remember who was -- I know they
4 were closer to the entrance than I was. But we were all
5 sitting on the porch.

6 Q. Was everybody on the porch?

7 A. Yes, sir.

8 Q. That night, did anything unusual happen?

9 A. Yes, sir. A vehicle approached across the street
10 to the neighbor's house. Two people proceeded into Daisy
11 Mishoe's yard. With it being dark, I could not tell who it
12 was until he came up into the light. First person that came
13 up into the light I noticed was Samuel Robinson. I stood up
14 to greet him, and was greeted by a gun. I turned around and
15 instantly sat back down.

16 Q. How many people were there total that came to the
17 house that night?

18 A. Three.

19 Q. Was the defendant one of them?

20 A. The defendant being Samuel Robinson, yes, sir.

21 Q. Do you know the defendant?

22 A. Yes, sir.

23 Q. And how do you know him?

24 A. He was my girlfriend's cousin's boyfriend at one
25 time. I'm not sure how long ago. It's been a while since

1 they were in a relationship.

2 Q. About how long have you known him?

3 A. About four or five years.

4 Q. Where did the defendant and the others come from?

5 A. They came from across the street, the neighbor's
6 house. They pulled their car adjacent, like, to their yard.
7 The third person actually went into the yard and was talking
8 to the neighbors. And two, Samuel Robinson and Kelsie
9 Ammons, came up into the yard.

10 Q. Do you know whose house that was they pulled up
11 into?

12 A. I'm not sure of the name, no, to be honest.

13 Q. When the defendant and the others were walking up,
14 could you see them walking up to the house?

15 A. I seen somebody walking up to the house. I did not
16 realize who it was until he come into the porch light. Like
17 I said, it was dark.

18 Q. Once you noticed that it was the defendant, did you
19 expect anything bad to happen?

20 A. No, sir.

21 Q. Why is that?

22 A. I didn't realize that we were on bad terms. I
23 mean, like I said, I stood up to greet him. Usually every
24 time I seen him, I walk up to him and shake his hand.
25 That's what I was expecting to do this time, but I got it

1 wrong, so ...

2 Q. And you mentioned it was dark out; is that
3 correct?

4 A. Yes, sir.

5 Q. Where did the defendant walk to?

6 A. He walked to the entrance to the porch. There's a
7 banister surrounding the porch.

8 Q. Is that where he was standing?

9 A. Yes, sir.

10 Q. Can you tell the jury approximately how far away he
11 was standing from the porch and from you and the others on
12 the porch?

13 A. Well, he was like a foot away from the actual --
14 maybe a foot from stepping up onto the porch. I would have
15 to say about anywhere from six- to eight-foot away from me,
16 just judging off the top of my head.

17 Q. Was he closer to the other folks on the porch?

18 A. Yes, sir. Yes, sir. I was the furthest one away.

19 Q. While he was standing at the edge of the porch,
20 what was he doing?

21 A. He had a gun. Well, first he pulled in -- when I
22 stood up to greet him, he reached in his pants, pulled out a
23 gun, and pointed it, like, at all of us sitting there.

24 Q. Could you see this gun?

25 A. Yes, sir.

1 Q. If it was dark, how could you see the gun?

2 A. I could see the light reflecting off of the metal.

3 Q. Were there lights on at the house?

4 A. Yes, sir, the porch light was on. It got one of
5 them big spotlight porch light that shines directional down
6 onto the entrance to the porch.

7 Q. Okay. And was this light shining on the defendant?

8 A. Yes, it was. When he was standing in the entrance
9 to the porch, the light was hitting him right in his face.

10 Q. Could you see him and his face?

11 A. Yes, sir.

12 Q. At that point, how did you know it was the
13 defendant?

14 A. How did I know it was the defendant?

15 Q. Yes.

16 A. I mean, recognition. I recognized him. I mean...

17 Q. Was the defendant pointing the gun at y'all or was
18 the gun just pointing down at the ground?

19 A. No, he was pointing it at all of us, back and
20 forth.

21 Q. Was his arm extended?

22 A. Yes, sir.

23 Q. Did you feel that it was being pointed in a
24 threatening manner?

25 A. Yes, sir. The whole time I was worried what

1 happens if he accidentally pulls that trigger.

2 Q. Was there anything else going on that night while
3 the defendant was holding the gun at y'all?

4 A. Yes, sir. As soon as he pulled the gun out, his
5 girlfriend, Kelsie Ammons -- I don't know how to pronounce
6 it correctly -- but she stabbed all four of the tires on my
7 girlfriend's car one at a time while he held us at
8 gunpoint.

9 Q. Did you see her stab these tires?

10 A. I seen her stab not the first one, but the other
11 three I did see her stab. After I heard the first bang from
12 the tires being stabbed, that's when I peaked up over the
13 edge of the banister and I could see. I couldn't actually
14 see the knife going into the tires, but I could hear it. As
15 soon as I stood up, all four tires were flat. She was
16 running around to each one of the tires. And as she got
17 done punching the tires, she said: That's what y'all get.
18 I'm not sure what she meant by that.

19 Q. Just so the jury can understand, approximately how
20 far away was this vehicle?

21 A. Vehicle was about six to seven feet away from the
22 porch, the front of the porch.

23 Q. Did you or anybody else on the porch try to stop
24 the defendant or Kelsie?

25 A. No, sir.

1 Q. And why not?

2 A. I was being held under gunpoint. I'm afraid of
3 guns.

4 Q. Were you scared for your life?

5 A. Yes, sir.

6 Q. Did you know the other individuals who were with
7 the defendant and his girlfriend that night?

8 A. No. I was told, as I wrote in my original report,
9 that a neighbor --- that the one he told us the name of, I
10 think her first name was Rebecca, but I did not see her
11 personally. I did see a third person, but it was dark and
12 it was so far away, I could not tell who it was. I just --
13 like I said, it was her vehicle that they came up in. And
14 the neighborhood, after everything had happened, the
15 police -- after, the neighbor came up there and said that it
16 was her. So I couldn't confirm it.

17 Q. Are you certain, though, that individual that was
18 pointing the gun at you and the family was the defendant?

19 A. Yes, sir.

20 Q. Had you threatened the defendant or anybody else?

21 A. No, sir.

22 Q. Had anybody else on the porch threatened the
23 defendant?

24 A. No, sir, not that I'm aware of.

25 Q. Did you or anybody else have a gun or anything at

1 that time?

2 A. No, sir. No, sir.

3 Q. What happened next?

4 A. After the tires were punctured, I mean, you got --
5 put the gun back in his pants and they both ran across the
6 street. My girlfriend, after they got in the vehicle, my
7 girlfriend went to the edge of the road to try to get their
8 license plate number as they left. I believe she got it.
9 I'm not sure, but she did give them a number. But they
10 left. And the officers arrived on scene after 911 was
11 called.

12 Q. Did police show up soon after the 911 called was
13 made?

14 A. Yes, sir, it was pretty soon.

15 Q. Did you end up giving a statement?

16 A. Yes, sir.

17 Q. Did you voluntarily go to the police station to
18 give that statement?

19 A. Yes, sir.

20 Q. Can you tell the jury about how long this incident
21 lasted?

22 A. No longer than 10, 15 minutes.

23 MR. WARING: Court's indulgence.

24 THE COURT: All right.

25 MR. WARING: Please answer any questions the

1 defense has.

2 CROSS-EXAMINATION

3 BY MS. ANDREWS:

4 Q. Good morning, or good afternoon. Brittany has had
5 ongoing problems with Sam's family across the street for
6 awhile, correct?

7 A. I'm not sure if they are blood related or not, but
8 I guess they had had problems with them across the street.

9 Q. And Brittany or someone in Sam's family has called
10 the police on multiple occasions prior to this incident?

11 A. Yes, I'm pretty sure the police were called, yes.

12 Q. Would you say that this has been a source of stress
13 for you?

14 A. No. It didn't really involve me. I mean, nothing
15 come about it. I didn't have to do anything. I had no
16 problems with them. I mean, whether or not she had problems
17 with them, that's beyond me.

18 Q. Brittany had testified a moment ago that this
19 incident affected a pending DSS action against her. Were
20 you involved in that as well?

21 A. No, ma'am.

22 Q. The incident occurred around 9:15, 9:30, correct?

23 A. I don't remember. It's been so long ago. It was
24 after dark; I know that.

25 Q. It was dark outside?

1 A. Yes, it was dark, but it was daylight savings time
2 then, so I don't think it would have been that dark. I'm
3 thinking more like 7:30, eight o'clock. I have to go back
4 and look at the incident report.

5 Q. The incident report says that it was 9:30.

6 A. Okay. Well, then that's what it was.

7 Q. So this happened in October, correct?

8 A. Yeah.

9 Q. Now, you had said that you could not see the gun
10 only but for the light shining off of the metal, correct?

11 A. That's how I noticed the gun. After he started
12 pointing it, then I could see the gun.

13 THE COURT: Excuse me. Mr. Benjamin, if you can
14 slide up to speak into the microphone. Thank you.

15 BY MS. ANDREWS:

16 Q. Just to reiterate. You said that you could see the
17 gun initially because light was shining off of the metal
18 reflecting?

19 A. Yes, ma'am.

20 Q. You also said that there was a spotlight directly
21 shining --

22 A. On his face.

23 Q. Okay. And you said a few times just now that there
24 were three people there that night, correct?

25 A. Not at the house. There were three people that

1 arrived across the street.

2 Q. That's what I meant, three people that arrived from
3 across the street.

4 A. Yes, ma'am.

5 Q. In the written statement that you gave to the
6 police, you said that: I realized that it was Samuel
7 Robinson and his girlfriend -- which we know as Kelsie --
8 and they were accompanied by another couple. So that would
9 make four people there, correct?

10 A. I'm not sure if it was another guy there or not.
11 Like I said in that statement, that I could not positively
12 identify them. I wrote multiple statements, so ...

13 Q. You wrote multiple statements?

14 A. Yes, ma'am.

15 Q. Why did you think that was necessary to write
16 multiple statements?

17 A. That was not my choice.

18 Q. Are you saying your statements have been
19 inconsistent?

20 A. No. That was not my choice. I was called by --
21 let me see if that gentlemen is here. Actually, he's not in
22 here at the moment. But I was called by a gentleman --
23 that guy right there. (Witness indicates.) He knows his
24 name. He was standing outside talking earlier, but I was
25 called by him.

1 Q. Could it have been the Solicitor's Office's
2 investigator who is prosecuting the case?

3 A. I know I wrote two pieces of paper on what
4 happened. I guess they wanted to confirm that I was telling
5 the truth or not. I'm not sure. Why I wrote two
6 statements, that's beyond me. I didn't realize that I had
7 to write two statements. I questioned it as I was writing
8 the statements.

9 Q. You understand the importance of consistency in
10 statements when you are accusing someone, right?

11 A. Yes, ma'am.

12 Q. At the time of the incident, you and Brittany were
13 married; is that correct?

14 A. No, we were engaged at the time.

15 Q. You were engaged?

16 A. Yes, ma'am.

17 Q. And do you share a child together?

18 A. Share a what?

19 Q. A child together?

20 A. No, hum-um.

21 Q. You do not? So you never had custody of the child
22 she adopted?

23 A. No, sir.

24 Q. That DSS was involved with?

25 A. No, ma'am.

1 MS. ANDREWS: Beg the Court's indulgence. I have
2 nothing further.

3 THE COURT: All right. Redirect?

4 REDIRECT EXAMINATION

5 BY MR. WARING:

6 Q. Just a few questions. Did you voluntarily go to
7 the police to give that statement?

8 A. Yes, sir. The first one I went. The second one I
9 was told that I had to go.

10 Q. But you did it voluntarily?

11 A. But I did voluntarily go, yes, sir.

12 Q. Okay. Have you always maintained that the
13 defendant was the gunman?

14 A. Was what?

15 Q. Was the gunman.

16 A. Yes, sir.

17 Q. And you maintained that you could see him with the
18 gun that night; is that correct?

19 A. Yes, sir.

20 MR. WARING: Court's indulgence. No further
21 questions, Your Honor.

22 THE COURT: All right. You may step down.

23 (Whereupon the witness is excused.)

24 THE COURT: State can call their next witness.

25 MR. WARING: Thank you, Your Honor. State calls

1 Daisy Mishoe.

2 DAISY MISHOE,

3 having been duly sworn, testifies as follows:

4 THE CLERK: State your name into the microphone and
5 spell your last name for the record.

6 THE WITNESS: Daisy Mishoe, M-i-s-h-o-e.

7 DIRECT EXAMINATION

8 BY MR. WARING:

9 Q. Good afternoon. How are you?

10 A. Pretty good.

11 Q. Good. Ms. Mishoe, can you give the jury some
12 background information, just tell them where you are from.

13 A. I'm from Charleston, South Carolina.

14 Q. Okay. And where did you live back on October 14th,
15 2013?

16 A. [REDACTED], North Charleston, South
17 Carolina.

18 Q. And on that evening, where were you?

19 A. On my front porch.

20 Q. Who were you with that night?

21 A. My daughter, her boyfriend, one of their friends,
22 and my daughter and my grandson.

23 Q. Okay. And how old is your grandson?

24 A. He was two at the time. He's almost three now.

25 Q. Was there another child on the porch too?

1 A. Yes, sir, my daughter.

2 Q. And how old was she?

3 A. She's 5.

4 Q. Can you give the jury an indication of where
5 everybody was situated on the porch?

6 A. My daughter and all of them was sitting at a table
7 on the side eating, and I was standing at the opening of the
8 porch with my daughter feeding her.

9 Q. So was everybody on the porch?

10 A. Yes, sir.

11 Q. Okay. And did anything out of the ordinary happen
12 that night?

13 A. Sam and his friends came up there and pulled a gun
14 on us and cut the tires.

15 Q. Who came to your house?

16 A. Sam, his girlfriend, I think her name is Chelsea,
17 and another man I've never seen before, and another lady.

18 Q. So how many were there total?

19 A. Four.

20 Q. Was the defendant one of them?

21 A. Yes, sir.

22 Q. How do you know the defendant?

23 A. I guess I've known Sam about three years. He was
24 dating my nephew's mother's baby -- or whatever, baby mama,
25 whatever.

1 Q. And that night, where did these individuals come
2 from?

3 A. Across the street from his aunt's house.

4 Q. Could you see the defendant walking up to the
5 house?

6 A. I could see Sam walk up to my house with the other
7 man.

8 Q. At that point, were you expecting anything bad to
9 happen?

10 A. No, sir.

11 Q. Why not?

12 A. Because Sam was supposed to be our friend, and he
13 had been to my house before without any incident.

14 Q. Approximately what time at night was this?

15 A. I will say 7:30, eight o'clock, maybe a little
16 after 8.

17 Q. At that point, was it dark out?

18 A. Yes, sir.

19 Q. Could you describe where the defendant walked to?

20 A. He walked to the opening where I was standing with
21 my little girl.

22 Q. Okay. And was he standing there at the edge?

23 A. Yes, sir.

24 Q. Could you give an approximation of how far away
25 from the porch and from you and the other --

1 A. Maybe a foot, maybe foot.

2 Q. A foot?

3 A. About a foot from me. I could reach out and touch
4 him he was so close.

5 Q. While he was at the porch, what was he doing?

6 A. He reached in his waistband and pulled out a gun.

7 Q. Could you see this gun?

8 A. I could see the gun.

9 Q. You mentioned it was dark. How could you see it if
10 it was dark?

11 A. Because my porch light was on on the porch.

12 Q. And where are these porch lights situated on the
13 house?

14 A. It's right there at my front door, right there
15 where the porch comes around at.

16 Q. Was this light shining on the defendant?

17 A. Yes, sir.

18 Q. Do you remember at all what this gun looked like?

19 A. It was -- I know it was a black gun and it was a
20 handgun.

21 Q. But you think it was black?

22 A. Yes, sir.

23 Q. Could you see the defendant's face?

24 A. Yes, sir.

25 Q. At that point, how did you recognize the defendant?

1 A. Because I knew Sam. You know, we were supposed to
2 have been friends for like three years.

3 Q. Was the gun pointed towards the ground or behind
4 him or was it pointed at y'all?

5 A. It was pointed at us on the porch.

6 Q. Was his arm extended out?

7 A. Yes, sir.

8 Q. Did you feel that it was being pointed in a
9 threatening manner?

10 A. Yes, sir.

11 Q. Did you say anything to the defendant?

12 A. I asked him if I could put the two children in the
13 house.

14 Q. Did he say anything back?

15 A. He said no.

16 Q. Why did you want to move the kids inside?

17 A. For the safety of them, I guess fearing for myself
18 and them and everybody that was on the porch.

19 Q. Now, while the defendant was holding everybody at
20 gunpoint, what else was going on?

21 A. His girlfriend was cutting the tires on my oldest
22 daughter's car.

23 Q. And who's your oldest daughter?

24 A. Brittany Mishoe.

25 Q. Did you see somebody stabbing these tires?

1 A. Yes, sir.

2 Q. And where was this vehicle located?

3 A. Parked right in front of my porchway by the --
4 like, the porch is square, and it was parked right there in
5 front of the porch.

6 Q. Was it close to the porch?

7 A. Yes, sir.

8 Q. Did you or anybody else on the porch try or attempt
9 to stop Kelsie from slashing these tires?

10 A. No, sir.

11 Q. What's the reason for that?

12 A. Because Sam was holding a gun on us and I was
13 afraid he was going to shoot somebody.

14 Q. Did anybody come off the porch?

15 A. No, sir.

16 Q. While that gun was being pointed at you, were you
17 scared for your life?

18 A. Yes, sir.

19 Q. Did you give a statement to police?

20 A. I think I made a written statement to them.

21 Q. In that statement, did you mistakenly identify a
22 person that was with the defendant for someone else?

23 A. Yes, sir. They drove up in his sister's van,
24 Rebecca's, so I assumed since the van belonged to her, that
25 she was there too.

1 Q. Could you see this individual?

2 A. No, sir.

3 Q. Do you remember where she was standing?

4 A. She came up the walkway, which is the driveway, and
5 she was standing maybe three feet behind the car.

6 Q. Okay. Are you positive, though, the defendant is
7 the one who had the gun?

8 A. Yes, sir.

9 Q. And are you positive that he pointed it at you and
10 your family?

11 A. Yes, sir.

12 Q. Had you threatened or provoked the defendant into
13 pulling out a gun?

14 A. No, sir.

15 Q. Had anybody else on the porch provoked him?

16 A. No, sir.

17 Q. Once this concluded, what happened next?

18 A. My daughter called the police, and I walked across
19 the street to speak to his aunt.

20 Q. Did the police show up soon after?

21 A. Yes, sir.

22 Q. Can you approximate about how long this incident
23 lasted?

24 A. Five or six minutes at the most.

25 MR. WARING: Court's indulgence.

1 THE COURT: All right.

2 MR. WARING: Please answer any questions the
3 defense has.

4 CROSS-EXAMINATION

5 BY MS. ANDREWS:

6 Q. You just stated that you asked Sam if you could
7 take the children inside when you were on the porch, and he
8 answered you and he said no?

9 A. Yes, 'ma'am.

10 Q. And your primary concern during the incident
11 probably would have been the children?

12 A. Yes, ma'am.

13 Q. Correct? So you probably would remember everything
14 relating to that pretty well, correct?

15 MS. ANDREWS: May I approach, Your Honor?

16 THE COURT: Yes.

17 BY MS. ANDREWS:

18 Q. Does this look familiar?

19 A. Yes, ma'am.

20 Q. Can you tell the Court what that is?

21 A. It's a statement.

22 Q. Okay. Is it a statement written by you?

23 A. Yes, ma'am.

24 Q. Was it taken by the police department?

25 A. Yes, ma'am.

1 Q. And it was taken right after the accident?

2 A. Right after the accident, yes, ma'am.

3 Q. And can you show me where on there you state that
4 you asked Sam if you could take the children inside and he
5 answered no?

6 A. It does not say that.

7 Q. Okay. Can you read to me this blue section right
8 here of your statement to the police?

9 A. "I asked Sam what he was doing and he never
10 answered."

11 Q. Okay. And can then you please read to the Court
12 this blue section?

13 A. When Sam -- I can't see that.

14 Q. I will be glad to read it for you.

15 A. I can't see without my glasses.

16 Q. When Sam had the gun out, did he say anything,
17 asked the police officer. And your response was no. Okay?

18 So you say in your statement twice that he never
19 said a word throughout the encounter. While today your
20 account is that you asked him if you could take the children
21 inside and he said that you could not.

22 You said that the defendant was one foot away from
23 you, correct? You just testified to that. Yet, he was
24 allegedly standing in the driveway directly next to the car
25 while Kelsie was stabbing tires; is that correct?

1 A. That's correct. The car's pulled up to my porch.

2 Q. And he was one foot away, that was your testimony?

3 A. About a foot from me when he pulled out the gun.

4 Q. And you also identify Rebecca as being there that
5 night. You stated to the police that she was one of the
6 suspects, correct?

7 A. Correct.

8 Q. And we have since learned that she could not have
9 possibly been there because she was incarcerated at the
10 time, correct?

11 A. Right.

12 Q. So just to be clear for the Court, you stated to
13 the police that a person was on the scene that could not
14 have possibly been there. That was your testimony?

15 A. Yes, ma'am, because I assumed, because her van was
16 there, she was there.

17 Q. You made the assumption that they were involved in
18 the crime?

19 A. Yes, ma'am.

20 Q. But without being certain of that?

21 A. Without being certain because I didn't see the
22 woman at the back.

23 Q. And can we be certain that today you are certain of
24 what you are alleging, or could this possibly be another
25 mismeory, another uncertainty?

1 A. No, it's not an uncertainty.

2 MS. ANDREWS: Beg the Court's indulgence.

3 THE COURT: All right.

4 MS. ANDREWS: I have no further questions for this
5 witness.

6 THE COURT: Redirect.

7 MR. WARING: Just a few questions, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. WARING:

10 Q. Ms. Mishoe, were you shaken up at all when you gave
11 the statement?

12 A. Yes, sir.

13 Q. And why were you shaken up?

14 A. Just scared and worried if Sam and his friends were
15 going to come back to my house and shoot us or something.

16 Q. Did you, in fact, see the gun?

17 A. Yes, I did.

18 Q. Did you ask the defendant if you could take the
19 kids inside?

20 A. Yes, I did.

21 Q. Did he say that you couldn't?

22 A. He said no.

23 Q. And today you are under oath, correct?

24 A. Yes, sir.

25 MR. WARING: Court's indulgence. No further

1 questions, Your Honor.

2 THE COURT: All right. You may step down.

3 (Whereupon the witness is excused.)

4 THE COURT: State can call their next witness.

5 MR. WARING: Thank you, Your Honor. The State
6 calls Sergeant Hoose.

7 FRED HOOSE,

8 having been duly sworn, testifies as follows:

9 THE CLERK: State your name into the microphone.
10 Spell your last name for the record.

11 THE DEFENDANT: My name is Sergeant Fred, last name
12 H-o-o-s-e.

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Good afternoon. How are you?

16 A. Doing well.

17 Q. Sergeant, can you tell the jury where you work?

18 A. Yes, I work for the City of North Charleston Police
19 Department.

20 Q. And how long have you worked for North Charleston?

21 A. I've been in law enforcement for about 22 years.
22 I've worked for North Charleston for approximately 14 of
23 those years.

24 Q. What was your position back in October of 2013?

25 A. I was a supervisor of evening shift team in our

1 south bureau area.

2 Q. Can you provide a few of the duties and
3 responsibilities that you had back then?

4 A. It's much like I have today. I'm still in the same
5 position. I monitor the teams's activities. I manage them.
6 I manage their calls for service. I answer to complaints.
7 The general supervisor -- just managerial type day-to-day
8 operations of the team is what I'm responsible for. I will
9 go to the calls for service to assist them, if needed. It's
10 pretty much a jack of all trades. It could be anything.
11 Those are the general things that I do.

12 Q. Were you involved with the Samuel Robinson case on
13 October 14th, 2013?

14 A. I was.

15 Q. How did you get involved with this case?

16 A. The call went out, I believe it was approximately
17 about 9:30 at night. It was a vandalism with, I believe, a
18 gun that was involved. So, of course, I would respond to
19 that.

20 When I arrived, there were other officers on the
21 scene. And, basically, I was there to just assist in any
22 way I could and monitor the situation.

23 Q. Where did this incident take place?

24 A. It took place on Barnwell. I'm not sure of the
25 exact address, but it's a little neighborhood that runs off

1 of Rivers Avenue.

2 Q. Was it a house?

3 A. I wouldn't say it's a regular house, but it's a --

4 Q. Was it a dwelling?

5 A. It's a dwelling.

6 Q. Was that dwelling in Charleston County?

7 A. It is.

8 Q. Were you with other officers?

9 A. I was.

10 Q. Okay. And what happened once you got there?

11 A. When I got there, they were already talking to the
12 victim and several potential witnesses that were on the
13 scene. And I was -- you know, the victims were pretty
14 agitated by what occurred. Basically, what I learned is
15 that an individual named Samuel Robinson had arrived with a
16 female. They had parked across the street and walked up to
17 the residence. And while the female that was with Samuel
18 Robinson slashed the tires on the victim's car, I believe it
19 was a black Volkswagen, he held a gun to the -- there were
20 four individuals that were at the scene that said they were
21 on the front porch.

22 Q. About what time did you all get this call?

23 A. It was probably a little bit about 9:30 at night.

24 Q. So it was p.m.; is that correct?

25 A. Yes, sir.

1 Q. And when you got to the incident location, what
2 civilians were there?

3 A. I believe -- I recognize them today. It's Brittany
4 Mishoe, I believe her mother. There was an African American
5 male there. There was a white male there who I believe is
6 the -- was in a relationship with Ms. Mishoe. There were
7 kids there. I didn't see the children, but it was eluded to
8 there were children, but I believe they were in the house.

9 Q. Was the defendant there when you showed up?

10 A. No, sir.

11 Q. Did you speak with him ever?

12 A. No, sir.

13 Q. Was he -- so he wasn't there when you got to the
14 victims' house?

15 A. He was not there.

16 Q. Did you speak with the victims at all?

17 A. I did briefly, not in detail. They were very
18 agitated, so it was kind of chaotic at first. So I was just
19 trying to get them to calm down while they told their story
20 to the officers that had responded to the scene.

21 Q. Did it look like they were genuinely upset?

22 A. They were upset.

23 Q. Did you notice anything about the victim's vehicle?

24 A. Yes. All the tires were flat.

25 Q. Did you see these tires with your own eyes?

1 A. I did.

2 Q. When you arrived, was the porch light on?

3 A. It was.

4 Q. Was it shining on the area where the vehicle was?

5 A. It was.

6 Q. Did a report end up being written on this case?

7 A. Yes.

8 Q. Did you approve that report?

9 A. I did.

10 Q. Other than that, did you have any other involvement
11 with this case?

12 A. No, sir.

13 MR. WARING: Court's indulgence.

14 THE COURT: All right.

15 MR. WARING: Please answer any questions the
16 defense has.

17 CROSS-EXAMINATION

18 BY MS. ANDREWS:

19 Q. Were you the case agent for this particular case?

20 A. No, ma'am.

21 Q. Was there a case agent, to your knowledge?

22 A. I think eventually, but basically what happens is,
23 we go to the scene, we handle the preliminary investigation.
24 The responding officer will do an incident report. I review
25 it. It goes into our RMS system. It's a computer system.

1 And then detectives or supervisors will normally look over
2 all the cases that come up and they will assign them to the
3 detectives. And I believe at some point, it was assigned to
4 a detective.

5 Q. Do you know who that detective was?

6 A. I believe the detective is Rob Bailey.

7 Q. And do you know if any photographs were taken of
8 the scene?

9 A. We didn't take any photographs. We did not call
10 crime scene, so unless they occurred after that night, I
11 don't know of any.

12 Q. Okay. So there wouldn't have been any photographs
13 of, like, the lighting situation at night, where the driver
14 was in proximity to the house on the porch, or the dwelling?

15 A. On the scene, when we initially responded, we did
16 not take photographs.

17 Q. Okay. And how many adult witnesses were there?

18 A. I want to say there were four adults.

19 Q. Can you say the names of those four?

20 A. I know Brittany Mishoe. I don't know her boyfriend
21 or husband. I know that her mother was there. And there
22 was an African American gentleman there. I don't know his
23 name.

24 Q. The African American gentleman, did he write a
25 statement?

1 A. I don't believe -- at the time we responded, we did
2 not take statements. It's -- normally, we don't take
3 statements when we respond to incidents like this.

4 Q. Because your job at the time was probably to try
5 to --

6 A. Well, we are trying to figure out what's going on,
7 write a report, maybe make contact with the suspect if we
8 can.

9 Q. Okay. And you stated in your report: The victim
10 also stated that this had been an ongoing problem with this
11 family and that she was detained earlier; is that correct?

12 A. I did not write the report. I only approved it.
13 However, she relayed that night that there had been some
14 sort of incident going on with the people across the
15 street.

16 Q. Okay. And did you investigate into the family
17 situation?

18 A. No, ma'am. I believe I did walk across the street,
19 because I think that's a residence that he's known to
20 frequent. I don't recall if that's his family's residence,
21 but I spoke to a lady there, just asking about him, where he
22 might have gone and such. But we didn't -- that really
23 wasn't -- that really had no bearing on the situation that
24 night for us.

25 Q. To your knowledge, was a gun ever recovered?

1 A. To my knowledge, no.

2 Q. No? Do you know if it was ever searched for? I
3 know there are databases, for example, you could run to see
4 if someone has a gun registered?

5 A. Not that I'm aware of. We searched for the suspect
6 that night, but we didn't go searching for a gun because,
7 based on the information we had, that he had left with the
8 gun.

9 MS. ANDREWS: Beg the Court's indulgence. I have
10 no further questions for this witness. Thank you.

11 THE COURT: Redirect?

12 MR. WARING: No further questions, Your Honor.

13 THE COURT: You may step down. Thank you.

14 (Whereupon the witness is excused.)

15 THE COURT: State can call their next witness.

16 MR. WARING: Thank you, Your Honor. The State
17 calls Detective Bailey.

18 ROBERT F. BAILEY,
19 having been duly sworn, testifies as follows:

20 THE CLERK: State your name into the microphone and
21 spell your last name for the record.

22 THE DEFENDANT: Detective Robert F. Bailey,
23 B-a-i-l-e-y.

24 DIRECT EXAMINATION

25 BY MR. WARING:

1 Q. Detective, please tell the jury where you work.

2 A. I work for the North Charleston Police Department.

3 Q. About how long have you worked there?

4 A. About eight and a half years.

5 Q. What was your position back in October of 2013?

6 A. Currently was assigned as the master patrol officer
7 of the Persons Crime Unit.

8 Q. Can you provide just a few details on what your
9 duties and responsibilities were back then?

10 A. We investigate violent crimes. That is to include
11 robberies, anything to do with a weapon, and/or homicides.

12 Q. Were you involved in the Samuel Robinson case on
13 October 14th?

14 A. I was.

15 Q. And how did you get brought into that case?

16 A. Case was assigned to me by my supervisor at the
17 time.

18 Q. Can you describe a little bit how it was brought to
19 you? What happened? I mean, what you did?

20 A. Yes, sir. On the date of the incident, October
21 14th, the initial report was written. On October 15th,
22 approximately 14:00 hours, two o'clock in the afternoon, all
23 four victims came into the police department voluntarily on
24 their own and wrote statements to other detectives that were
25 on duty.

1 Upon me arriving at work that day at four o'clock
2 in the afternoon, I was provided those copies of those
3 statements, at which time I read over all of them.

4 Q. Do you recall whose statements those were?

5 A. Yes, it was Brittany Mishoe, Daisy Mishoe,
6 Christopher Benjamin, and Jermaine Brehon.

7 Q. Without going into what exactly the witnesses said
8 in their statements, can you tell the jury what you were
9 looking for in those statements?

10 A. Consistency in each one of them, to include
11 possible names of alleged subjects who were involved.

12 Q. And did, in fact, these witnesses' statements look
13 consistent with one another?

14 A. They did.

15 Q. Would you say there were any major or material
16 differences between the statements?

17 A. There was not.

18 Q. Did you all have to go through a great deal of
19 trouble to get the victims to come in to give statements?

20 A. I did not. They came in voluntarily, according to
21 what my other detectives advised me.

22 Q. Did you end up going over to the crime scene?

23 A. I did.

24 Q. And do you recall when that was?

25 A. It was -- I want to say it was on the 16th of

1 October, that evening.

2 Q. Did you talk with any of the victims when you went
3 out to the scene?

4 A. Yes, I spoke with Brittany Mishoe, Christopher
5 Benjamin, and Daisy Mishoe.

6 Q. And when you spoke with them, did those stories
7 match up with their previous statements that you had been
8 given?

9 A. Yes, it did.

10 Q. What else did you see while you were out at the
11 victim's house?

12 A. I witnessed the victim's, Brittany Mishoe's,
13 vehicle, which was a black Volkswagen, all four tires were
14 slashed on the vehicle. It was still sitting in front of
15 the house. It was also nighttime when I went there, myself
16 and another detective, and I met with them on the front
17 porch of that residence.

18 Q. Did the victims know who the defendant was?

19 A. Yes, they did.

20 Q. So did they already know his name?

21 A. Yes, they had personal knowledge of who he was.

22 Q. Did you show them, when you went out, any kind of
23 photo lineup?

24 A. No. I showed them a single photograph of the
25 defendant.

1 Q. And why did you just show them a single photo
2 lineup?

3 A. Because of their personal knowledge of the
4 defendant.

5 Q. And did they recognize the person?

6 A. Yes, they did.

7 Q. What did you do after speaking with the victims?

8 A. Went back to the office and reviewed the case
9 further, and began investigating a little bit deeper as to
10 who Samuel Robinson was, as well as Kelsie Ammons, because I
11 just handled both cases at the same time.

12 Q. What did you end up charging the defendant with?

13 A. The defendant ended up being charged with pointing
14 and presenting a firearm.

15 Q. And why did you all select that crime for him to be
16 charged with?

17 A. Because he was solely picked out by the witnesses
18 as pointing a firearm at everyone on the porch that
19 evening.

20 Q. Did you all ever find the gun?

21 A. No, we did not.

22 Q. Did the defendant have ample opportunity to get rid
23 of gun?

24 A. Yes, he did.

25 MS. ANDREWS: Objection. Speculation.

1 MR. WARING: Court's indulgence.

2 Please answer any questions the defense has.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MS. ANDREWS:

6 Q. Detective Bailey, you said that all four of the
7 adult witnesses gave a statement.

8 A. Yes, ma'am.

9 Q. Is that correct? And can you give the names of
10 those people real quick?

11 A. Yes, ma'am. Brittany Mishoe, Daisy Mishoe,
12 Christopher Benjamin, and Jermaine Brehon.

13 Q. And you went to the crime scene, correct?

14 A. Yes, ma'am, on the 16th of October.

15 Q. On the 16th. Okay.

16 A. Yes, ma'am.

17 Q. Did you go during the day, or did you go at night?

18 A. It was at nighttime.

19 Q. It was at night?

20 A. Yes, ma'am.

21 Q. Did you take any photographs of the scene?

22 A. I did not, no, ma'am.

23 Q. And you said that a gun was never recovered, to
24 your knowledge?

25 A. No, it was not, to my knowledge.

1 Q. Do you know when the defendant was arrested?

2 A. That same night.

3 Q. That same night?

4 A. Yes, ma'am.

5 Q. Do you know if he was searched?

6 A. I was not the arresting officer. I do not have
7 that report in front of me. It is custom to our policy that
8 everyone be searched upon their arrest.

9 Q. Okay. And a gun was not found?

10 A. No, ma'am.

11 MS. ANDREWS: Beg the Court's indulgence.

12 BY MS. ANDREWS:

13 Q. One last question. You had said that the defendant
14 was arrested a few hours after the incident and that it's
15 custom procedure, standard procedure to search someone upon
16 arrest?

17 A. Yes, ma'am.

18 Q. Search incident to arrest. Isn't it true that he
19 was driving the same vehicle that he had driven to the
20 victim's house that night?

21 A. My recollection of that report, he was not driving
22 that vehicle that night. He was in the same vehicle --

23 Q. Was in the vehicle?

24 A. Yes, ma'am, he was, with Kelsie Ammons, who was
25 also arrested that night as well.

1 Q. Okay. And isn't it also true that that was
2 impounded and would have been searched as well as, as part
3 of standard procedure?

4 A. It's all depending on the officer that night. I do
5 not know whether the car was impounded or whether the car
6 was released to someone else.

7 Q. But I suppose the bottom line is, he was searched a
8 few hours afterwards with the same vehicle he had been in
9 that he drove to the victim's house, and a gun was never
10 recovered?

11 A. He was searched, to my knowledge. Our policy
12 states search incident to arrest, that the person who is
13 being arrested is to be searched. I do not know if the
14 vehicle was searched at that time. I have not been given
15 any information that a firearm was located in that vehicle.
16 And I have spoke with the officer to see if he could located
17 a firearm, and he told me no, not that night.

18 MS. ANDREWS: No further questions. Thank you.

19 THE COURT: Any redirect?

20 REDIRECT EXAMINATION

21 BY MR. WARING:

22 Q. Just a few questions, Detective. So you said no
23 firearm was located; is that correct?

24 A. Not to my knowledge, no, sir.

25 Q. But the defendant was arrested that night?

1 A. Yes, sir, he was.

2 Q. About how long after the incident where he was
3 pointing the gun at the victims was he arrested?

4 A. I want to say approximately two hours, I believe.

5 MR. WARING: Court's indulgence. No further
6 questions, Your Honor.

7 THE COURT: All right. You may step down.

8 THE DEFENDANT: Thank you, Your Honor.

9 (Whereupon the witness is excused.)

10 THE COURT: State can call their next witness.

11 MR. WARING: State rests, Your Honor.

12 THE COURT: All right. Ladies and gentlemen, the
13 State has arrested their case. And now is the time in the
14 trial where I need to take up some matters of law with the
15 attorneys. I will need to excuse you to the jury room while
16 we discuss this.

17 Given the time of day, I think we are going to go
18 ahead and break for the evening and come back tomorrow
19 morning. Is that agreeable?

20 MR. WARING: Yes, Your Honor.

21 MS. ANDREWS: Yes, Your Honor.

22 THE COURT: I'm going to allow you to go ahead and
23 go home for the evening. Please be back in the jury room at
24 ten o'clock tomorrow morning. And we will get started
25 hopefully soon after 10 as we can.

1 I caution you again, do not discuss the case, even
2 among yourselves. Don't conduct any independent
3 investigations into the incident. I hope everybody has a
4 good evening.

5 And before you leave, I do want to tell you while
6 we excuse you, I do have matters of law I need to take up
7 with the attorneys. And it's not that we are trying to hide
8 anything from you. But as I told you in the opening
9 charges, you and you alone decide the facts in this case. I
10 decide the law on the case.

11 Now, when I discuss these matters of law with the
12 attorneys, a lot of times it requires them, as the
13 attorneys, and me, as the judge, to discuss factual issues.
14 What we say is not evidence. So we do not want you to be
15 influenced by anything we say when we discuss these legal
16 matters to influence your decision on the findings of the
17 facts, because you base your decisions exclusively on the
18 witnesses' testimony. And that's why we excuse you when we
19 discuss these matters of law.

20 But I'm going to let you go for the evening.
21 Please be back in the jury room at ten o'clock tomorrow
22 morning. Thank you very much.

23 (Whereupon, the jury leaves open court at 4:33
24 p.m..)

25 THE COURT: All right. Any motions at this time?

1 MR. WARING: None from the State, Your Honor.

2 THE COURT: Anything from the defense?

3 MS. ANDREWS: Yes, Your Honor. At this point we
4 would like to move for a directed verdict. The State has
5 never proven that the defendant on trial today is actually
6 the defendant that was arrested that night. So I think
7 there's an identification issue.

8 THE COURT: All right. I will note your motion.
9 I'm going to deny it. I think there's enough to go to the
10 jury.

11 Anything else?

12 MS. ANDREWS: No, Your Honor.

13 THE COURT: All right. We will stand in recess
14 until ten o'clock tomorrow morning and then we will proceed
15 at that time.

16 All right. Anything from the State before we
17 recess?

18 MR. WARING: No, Your Honor.

19 THE COURT: Anything from the defense?

20 MS. ANDREWS: No, Your Honor.

21 THE COURT: All right. Thank you, all.

22 (A recess transpired.)

23 (Whereupon, the proceedings adjourn for the day.)

24 (Whereupon, the proceedings continue on June 24,

25 2014.)

1 THE COURT: When we broke yesterday, the State had
2 rested their case. I heard motions from the defense. So I
3 guess we can proceed.

4 Ms. Andrews, is there going to be a defense
5 presented in this case?

6 MS. ANDREWS: No, Your Honor.

7 THE COURT: So all we have left, I guess, is
8 closing arguments, charge, and deliberations; is that
9 correct?

10 MS. ANDREWS: Yes, Your Honor.

11 THE COURT: Is that correct?

12 MR. WARING: Yes, Your Honor.

13 THE COURT: I think we are still waiting on one
14 juror to get here, is my understanding. I have printed some
15 preliminary charges, so while we are waiting on that juror,
16 I could give you a copy and let you take a look at it. If
17 you have anything else you want added to it, let me take a
18 look at it. And what will happen is we will come back, I
19 always give you an opportunity to raise any objections
20 before I charge the jury. And then after I charge the jury,
21 I will give you another opportunity, because sometimes it
22 sounds different when you hear it read to a jury versus
23 reading it on a piece of paper. So I will give you an
24 opportunity before I charge them, then after I charge. All
25 right?

1 MR. WARING: Thank you, Your Honor.

2 MS. ANDREWS: Thank you, Your Honor.

3 THE COURT: Let's go ahead. I will let you take a
4 look at that. And we will kind of stand in recess waiting
5 for this other juror to get here, and we will proceed then.
6 Okay?

7 MR. WARING: Yes, Your Honor.

8 THE COURT: Ms. Andrews, I think I pretty much
9 incorporated these in here with your prior inconsistent
10 statements. I don't know -- I will have to look and see if
11 I put in here the failure to appear cannot be construed as
12 an admission of guilt. Let me see here. I said it cannot
13 be considered against the defendant in any manner
14 whatsoever, but take a look at it and see if that's
15 sufficient. All right? Thank you.

16 (Whereupon, recess transpired.)

17 THE COURT: Mr. Waring, have you had an opportunity
18 to go over the charges?

19 MR. WARING: Yes, Your Honor.

20 THE COURT: Do you have any exceptions or
21 challenges?

22 MR. WARING: Your Honor, just to one section of the
23 prior inconsistent statements, the second paragraph.

24 THE COURT: Hold on one second.

25 MR. WARING: Yes, sir. Page 7.

1 THE COURT: Second paragraph. All right. What is
2 it that you object to?

3 MR. WARING: Your Honor, we would just object to
4 that section being included. We think it suggests that the
5 witnesses knowingly testified untruthfully. And I don't
6 think there was any evidence to support that, Your Honor.

7 THE COURT: Well, I think it says if it is shown,
8 and that is straight out of the jury charge book. So I'm
9 going to leave it in there.

10 MR. WARING: Yes, Your Honor.

11 THE COURT: All right. Anything else?

12 MR. WARING: No, Your Honor.

13 THE COURT: All right.

14 Ms. Andrews, any challenge or exceptions to the
15 charge by the defense?

16 MS. ANDREWS: No challenges, Your Honor. I did
17 want to add, if you would be willing, the instruction from
18 State v. Jackson that says: When a defendant is tried in
19 absentia, the trial court should instruct the jury that the
20 defendant's failure to appear may not be construed as an
21 admission of guilt.

22 THE COURT: Have you got a copy of that case?
23 Well, I can go back and look it up. I did not check it on
24 that.

25 MS. ANDREWS: May I approach, Your Honor? It's two

1 sentences long, so I can show it to you rather quickly.

2 THE COURT: Let me take a look at this right quick.

3 All right. On Page 7, at the bottom under absent defendant,

4 I will charge the jury that under the laws of this state,

5 the defendant may be tried even if the defendant does not

6 attend the trial. But the fact that the defendant is not

7 present cannot be construed as an admission of guilt or

8 considered against the defendant in any manner whatsoever.

9 I think that complies with that.

10 MS. ANDREWS: Thank you, Your Honor. May I

11 approach?

12 THE COURT: Yes. You want your computer back?

13 MS. ANDREWS: Thank you, Your Honor.

14 THE COURT: Anything further from the defense?

15 MS. ANDREWS: Your Honor, I did want to ask how you

16 would like to handle me just renewing my motions for

17 directed verdict?

18 THE COURT: Well, I mean, since you didn't put any

19 defense, I think it's preserved after the plaintiff's case,

20 since your motion is based strictly upon the plaintiff's

21 case. You moved for a directed verdict. Nothing has

22 changed since that time. So your motion for directed

23 verdict is preserved in that regard.

24 MS. ANDREWS: Okay, sir.

25 THE COURT: In other words, any motion for directed

1 verdict you would make now would be based upon the same
2 evidence that's been presented to the Court thus far.
3 Nothing new or different has been presented.

4 MS. ANDREWS: Will I have an opportunity to just on
5 the record renew the motion for directed verdict and have
6 you deny it on the record?

7 THE COURT: Well, if you want to go ahead and do
8 that, I mean, there's nothing else that's been presented. I
9 will make note that the defense has moved again for directed
10 verdict. Okay?

11 MS. ANDREWS: Thank you, Your Honor.

12 THE COURT: Now, since there is no defense,
13 Ms. Andrews, you do have the option of arguing last in front
14 of the jury unless you want to waive that.

15 MS. ANDREWS: I would like to accept that, Your
16 Honor.

17 THE COURT: Sounds good.
18 Anything from the State before we bring the jury
19 in?

20 MR. WARING: No, Your Honor.

21 THE COURT: Anything from the defense?

22 MS. ANDREWS: No, Your Honor.

23 THE COURT: Let's go ahead and bring the jury in.
24 When they get in here, do you want to rest on the
25 record in front of the jury, or do you want me to just say

1 that you are not presenting a defense?

2 MS. ANDREWS: I would prefer to rest on the record,
3 Your Honor.

4 THE COURT: When they get in here, you can just say
5 defense rests.

6 MS. ANDREWS: Thank you, Your Honor.

7 (Whereupon, the jury returns to open court at 10:29
8 a.m.)

9 THE COURT: Ladies and gentlemen, welcome back. I
10 hope everyone had a good evening. We are now ready to
11 resume with the trial of this case. The State rested at the
12 close of yesterday's session.

13 Ms. Andrews, is there any defense to be presented?

14 MS. ANDREWS: No, Your Honor. The defense rests.

15 THE COURT: All right. All right. The defense has
16 also rested. So now is the time of the trial where the
17 attorneys will make their closing arguments to you. Now,
18 just like their opening statements, these closing arguments
19 are not evidence in this case. It is simply the attorney's
20 contention as to what they think the facts in this case or
21 the evidence has established and what the law to be applied
22 in this case is.

23 If at any time during their closing arguments an
24 attorney makes reference to a factual matter that is
25 different from the facts as you find them to be, or if the

1 attorney references the law that is different from the law
2 as I will charge you at the end of their arguments, then you
3 are to disregard that portion of their closing arguments
4 because this is not evidence. As I said, this is simply the
5 attorney's contention as to what they think the facts are
6 and the law to be applied.

7 All right. Mr. Waring.

8 MR. WARING: Thank you, Your Honor. May it please
9 the Court.

10 THE COURT: Yes, sir.

11 MR. WARING: At the beginning of the trial, I
12 challenged y'all to focus on the testimony of the victims
13 and the elements of the crime of pointing and presenting as
14 they apply to the facts of this case. Let's go back through
15 some of the evidence that proves the defendant is guilty.

16 First up, you heard from the victim, Brittany
17 Mishoe, who testified that she and her family were sitting
18 on the porch that night that the defendant walked up. The
19 porch light was shining on the driveway. When the defendant
20 walked up to the porch, the light was shining on him and on
21 the gun. She testified that she recognized the defendant.
22 She's known him for years.

23 She also testified that had there not been a gun
24 pointing on her, that she certainly would have come off the
25 porch and tried to stop Kelsie from slashing those tires.

1 This is crucial. She also testified that nobody else on the
2 porch that night came off the porch to try to stop these
3 individuals from doing this.

4 Next you heard from victim Christopher Benjamin,
5 who virtually testified to the same exact things that
6 Brittany did. He also testified that initially when the
7 defendant was walking up, Christopher wanted to walk up and
8 shake hands with him. He wanted to greet him because he
9 didn't think anything was wrong. He didn't expect anything
10 bad to happen. He was abruptly halted because he had a gun
11 pointed at him. He maintained, just like Brittany, that the
12 defendant was the one who pointed the gun at them.

13 You heard testimony from the mother, Daisy Mishoe,
14 who also testified that the defendant was the one who was
15 pointing a gun at them. At one point, she testified that
16 she wanted to take the children inside, but the defendant
17 wouldn't let her. The defendant wouldn't let her because he
18 had a gun pointed on them.

19 Yes, I understand this was not in her initial
20 statement, but under the circumstances, I think it's
21 understandable. She had just experienced a traumatic event.
22 She had somebody pointing a gun at her. Under the
23 circumstances, it's reasonable that she didn't put down
24 every single detail in her statement. Therefore, the
25 victims' testimony is consistent. They all maintain the

1 defendant, who they know, is the one who pointed the gun at
2 them.

3 Now, also you heard testimony from Sergeant Hoose
4 who testified that when he showed up, they seemed agitated,
5 distressed, and upset, that they genuinely seemed upset. I
6 think this is important. I understand that the victims made
7 a misidentification. There was a lady there that night who
8 was with the defendant and the others who they thought was
9 another woman named Rebecca who had ties to the defendant
10 and his girlfriend. I think this could be explained away.

11 All the victims testified that the defendant and
12 these other individuals pulled up across the street in a
13 vehicle that belonged to Rebecca. And the woman who then
14 was mistook for Rebecca was standing in the shadows. She
15 was in the dark. So they didn't get a good look at her
16 face. Under the circumstances, I think it's reasonable that
17 they assumed that it was Rebecca. But, as you heard when
18 they took the stand, they all admitted that they were wrong.
19 So they are not trying to hide anything from you. If they
20 were, they wouldn't have admitted that they were wrong.

21 You heard testimony from Detective Bailey, case
22 agent on the case, who said that when he initially got the
23 case, he looked over all the victims' statements and that
24 partially his reason for charging the defendant was because
25 all of the statements were consistent.

1 He also talked about how it was several hours after
2 the incident before the defendant was arrested. This is
3 huge. That's more than enough time for him to have gotten
4 rid of the gun. He fled the scene. And he was picked up
5 hours later. He could have done anything with it. So what
6 did he do? He got rid of it. The last thing he wants is to
7 be caught with a gun that was used in the incident. Simple
8 answer, he got rid of it.

9 Now, at the beginning of the trial, I mentioned to
10 y'all the elements of the crime of pointing and presenting
11 that the State has to prove beyond a reasonable doubt for
12 y'all to convict him. Just to refresh your memory, those
13 elements are, he had to have pointed a gun at another.
14 You've got three victims that testified, that all say the
15 same thing, that it was the defendant who they know who was
16 standing in the light who pointed a gun at them. By
17 definition, that's pointing and presenting.

18 Now, I challenge you when you go back to the jury
19 room not to get sidetracked by the defense. They are going
20 to make attempts to confuse you. They want to cloud the
21 issue. I challenge you not to get sidetracked. Whether or
22 not you like the victims is irrelevant. Don't let your
23 feelings and judgments for them cloud your ability to find
24 the defendant guilty of pointing and presenting.

25 When you go back in the jury room, I'm asking you

1 to find him guilty.

2 THE COURT: Ms. Andrews.

3 MS. ANDREWS: Thank you, Your Honor. People aren't
4 convicted based on assumptions. People aren't convicted
5 based on evidence. There's no evidence in this case.
6 There's no video of the defendant pointing a gun. There are
7 no photographs of the defendant pointing a gun. The police
8 did not take one photograph of the scene. The State did not
9 present one photograph of the lighting conditions that would
10 enable us to know whether or not their testimony is even
11 credible. We don't know if they could have seen them or
12 not. All we know is it was dark outside. And all the
13 witnesses agree that it was dark. It was very difficult to
14 see.

15 They don't know what kind of gun it allegedly was.
16 There's evidence -- there's not even a record of Samuel
17 Robinson owning a gun. He was stopped a few hours later in
18 the same car that he had driven to the incident location,
19 and he didn't have a gun on him. They searched him and they
20 didn't find a gun. If he had a gun, where is it?

21 The State would have you believe that that's
22 irrelevant, that that's not important. It's incredibly
23 important in a case in which the issue is whether or not the
24 defendant had a gun and used it that night, whether or not
25 he pointed it at people. We want to know whether or not

1 there's a gun. A gun was never found. A gun was never
2 found.

3 And he drove the same car that he had driven to the
4 incident location, and it's not on him. They searched him.
5 It's not on him. That's an undisputed fact that there's no
6 gun in the case.

7 All we have in the case is the testimony of three
8 accusers, three accusers that are not credible, three
9 accusers that all have an agenda. Brittany threatened to
10 the police that she was going to murder them. She said,
11 "One bullet to the head and all four are gone." This is
12 somebody who is enraged. This is somebody who's had an
13 agenda. And she's had one for years. She had it out for
14 this family for a good time.

15 She said that the incident didn't look good to DSS.
16 I don't know why being the victim of an alleged crime would
17 look bad to DSS unless there's something that she's not
18 saying.

19 Officer Hoose testified and included in his report
20 that Brittany stated that this had been going on with the
21 family for a long time. She also stated, "The people across
22 the street are crazy and they are going to get what's coming
23 to them." And here we are today.

24 The accusers admit that it was difficult to see in
25 the dark. They admit that they assumed that he had a gun.

1 Christopher Benjamin testified that he went across the
2 street after the incident with everybody that was there,
3 talked to Sam's family. When everyone is talking about an
4 incident prior to them making statements, it kind of makes
5 sense that all the statements are similar, similar even in
6 their mistakes, even in them placing someone at the scene
7 who could not have been there because they were
8 incarcerated. That matters.

9 Why does that matter? Because it shows that they
10 would accuse someone of a crime without having any certainty
11 that they did it. That shows that they would accuse someone
12 of a crime without having any certainty that they did it.
13 That's huge.

14 The State would have you believe that it makes --
15 it only makes sense that Samuel Robinson had a gun that
16 night because they didn't go onto the driveway. I don't
17 know why anyone would go onto a driveway when there's a
18 crazy lady with a knife stabbing the tires of your car. I
19 would never be doing that, especially if I had children next
20 to me. That doesn't make any sense. They would have you
21 believe that this incident took ten minutes, that it took an
22 exceptionally long time. Ladies and gentlemen, it just
23 takes a second to stab a tire. She was running around the
24 car stabbing the tires. And as soon as she was done, they
25 all left. They all ran away.

1 If it took ten minutes to stab the tires on a car,
2 then no one would ever successfully slash anyone's tires
3 ever. You would get caught. It doesn't make any sense. It
4 doesn't add up. The testimony doesn't add up.

5 There's no evidence in this case, ladies and
6 gentlemen. No gun was found. We only have the testimony of
7 three accusers, one of which wasn't here today. They all
8 have an agenda and they are not credible.

9 And when the only possible evidence you could ever
10 have in a case is the testimony of three people, you have to
11 weigh their credibility before you convict someone based on
12 that when there's no physical evidence in the case.

13 Ladies and gentlemen, people aren't convicted based
14 on assumptions. People are convicted based on evidence.
15 There's no evidence in this case.

16 I feel confident that when you go back to the jury
17 deliberation room, think about the testimony of the
18 witnesses, think about the lack of real evidence in the
19 case, you will find that there's no way that you could
20 believe beyond a reasonable doubt that my client had a gun
21 that night, especially when one was never found. And I will
22 ask you to please render a verdict of not guilty.

23 THE COURT: All right. Ladies and gentlemen, all
24 of the evidence has been presented to you in this case. And
25 now is the time of the trial where I will charge you with

1 the law to be applied in this case.

2 The indictment charges the defendant with pointing
3 and presenting a firearm. I remind you that the fact that
4 the defendant was arrested, charged, and indicted in this
5 case is not evidence in this case, and cannot be considered
6 by you as evidence of guilt in this case, nor does the
7 defendant's arrest, charge, or indictment create any
8 presumption or inference of guilt. The indictment is simply
9 the formal written instrument which contains the charge made
10 against the defendant. It is the formal document by which
11 this case is brought into this court.

12 The defendant has pled not guilty to this
13 indictment. And that plea puts the burden on the State to
14 prove the defendant guilty. A person charged with
15 committing a criminal offense in South Carolina is never
16 required to prove his innocence. I charge you that an
17 important rule of the law is that the defendant in a
18 criminal trial, no matter what the seriousness of the charge
19 may be, will always be presumed to be innocent of the crime
20 for which the indictment was issued unless guilt has been
21 proven by evidence satisfying you of that guilt beyond a
22 reasonable doubt.

23 The presumption of innocence does not end when you
24 begin your deliberations, but it accompanies the defendant
25 throughout the trial until you reach a verdict of guilt

1 based on evidence satisfying you of that guilt beyond a
2 reasonable doubt. The presumption of innocence is like a
3 robe of righteousness placed about the shoulders of the
4 defendant, which remains with the defendant until it has
5 been stripped from the defendant by evidence satisfying you
6 of the defendant's guilt beyond a reasonable doubt.

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

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

20 If based on your consideration of the evidence, you
21 are firmly convinced that the defendant is guilty of the
22 crime with which he is charged, you must find the defendant
23 guilty.

24 If, on the other hand, you think a real possibility
25 exists that the defendant is not guilty, you must give the

1 defendant the benefit of that doubt and find him not guilty.

2 I remind you that during this trial, you and I have
3 certain duties to perform. As the trial judge, my
4 responsibility is to preside over the trial of this case. I
5 also have the duty to rule on the admissibility of evidence
6 offered during this trial. You are to consider only the
7 competent evidence before you. Any testimony that was
8 ordered stricken from the record in this case during this
9 trial, you must disregard that testimony. You are to
10 consider only the testimony which has been presented from
11 the witness stand and the exhibits which have been made a
12 part of the record in this case, and any stipulations of
13 counsel.

14 I have the additional duty to charge you the law
15 applicable to this case. As the presiding judge, I am the
16 sole judge of the law of this case. Your duty as jurors is
17 to accept and apply the law as I now state it to you. If
18 you already have any idea as to what the law is or what the
19 law ought to be, and your idea is different from what I now
20 tell you the law is, you must abandon your idea of what the
21 law is or ought to be because you are sworn to accept the
22 law and apply the law exactly as I state it to you.

23 In every case tried in this court before a jury,
24 the jury is the sole and exclusive judge of the facts in a
25 case. The trial judge cannot intimate, state, comment on,

1 or make any statements to a trial jury about the facts in a
2 case. Since you, the jury, are the sole judge of the facts
3 in this case, you are not to infer from what I have said
4 during the progress of this trial and ruling on the
5 admissibility of evidence or otherwise, or anything that I
6 say now during the course of this instruction to you, that I
7 have any opinion about the facts in this case. The law does
8 not allow me to have an opinion about the facts in this
9 case. This is a matter solely for you, the jury, to
10 determine.

11 As jurors, your duty is to determine the effect,
12 value, weight, and truth of the evidence presented during
13 this trial. Necessarily, you must determine the credibility
14 of witnesses who have testified in this case. Credibility
15 simply means believability. Your duty as jurors is to
16 analyze and to evaluate the evidence and determine which
17 evidence convinces you of its truth.

18 In determining the believability of witnesses who
19 have testified in this case, you may believe one witness
20 over several witnesses, or several witnesses over one
21 witness. You may believe a part of the testimony of a
22 witness and reject the remaining part of the testimony of
23 that same witness. You may believe the testimony of a
24 witness in its entirety or reject the testimony of a witness
25 in its entirety. You may consider whether any witness has

1 exhibited to you any interest, bias, prejudice, or other
2 motive in this case. You may also consider the appearance
3 and manner of the witness while on the witness stand.

4 There has been evidence presented that witnesses
5 have made prior statements which are not consistent with the
6 witness's present testimony. You may use this evidence to
7 decide whether to believe the witness. You may also use the
8 evidence of the earlier contradictory statements to
9 determine the truth of those statements. It is up to you to
10 decide whether to believe the earlier statements or the
11 testimony given at trial.

12 If a witness has shown to have knowingly testified
13 untruthfully concerning any material matter, you may
14 consider this in determining whether to trust the witness's
15 testimony as to other matters. You may reject all testimony
16 of that witness or give all or part of the testimony the
17 weight you think it deserves.

18 Under the laws of this state, a defendant may be
19 tried even if the defendant does not attend the trial. But
20 the fact that the defendant is not present cannot be
21 construed as an admission of guilt or considered against the
22 defendant in any manner whatsoever. I further instruct you
23 and emphasize that the fact that defendant did not testify
24 is not a factor to be considered by you in any way in your
25 deliberation and in your consideration on the question of

1 the guilt or the innocence of the defendant. You must not
2 consider the defendant's failure to testify in any manner
3 whatsoever.

4 A defendant has the constitutional right to remain
5 silent. And the assertion of this right must not be
6 considered by you in your deliberations. I repeat, under
7 your oath, you are to draw no conclusion whatsoever from the
8 fact that the defendant in this case did not testify. The
9 fact that this defendant did not testify should not even be
10 discussed in the jury room.

11 The burden of proof, as I have stated to you, is on
12 the State. The defendant is not required to prove his
13 innocence. The burden of proof remains on the State to
14 prove guilt beyond a reasonable doubt.

15 Now, in order to establish criminal liability,
16 criminal intent is required. For example, the mental state
17 required to be proven by the State for a particular crime
18 might be purpose, intent, knowledge, recklessness, or
19 criminal negligence. Criminal intent must be proven by the
20 State beyond a reasonable doubt. Criminal intent is always
21 a matter that must be determined by the jury from the
22 circumstances surrounding the situation.

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

1 So the law says that criminal intent may be inferred from
2 the circumstances shown to have existed. This is how you
3 make a determination of whether or not the element requiring
4 intent was present.

5 It is not necessary to establish intent by direct
6 and positive evidence, but intent may be established by
7 inference in the same way as any other a fact, by taking
8 into consideration the acts of the parties and all the facts
9 and circumstances of the case.

10 Criminal intent is a mental state, a conscious
11 wrongdoing. It is up to you to determine what the defendant
12 intended to do based on the circumstances shown to have
13 existed. Criminal intent can arise from an action or a
14 failure to act. It may arise from negligence, recklessness,
15 or an indifference to duty, or to consequences that is
16 considered by the law to be the equivalent of criminal
17 intent.

18 The defendant is charged with pointing or
19 presenting a firearm. To convict the defendant of this
20 crime, the State must prove beyond a reasonable doubt that
21 the defendant presented or pointed at another person a
22 loaded or unloaded firearm.

23 You may find one of two possible verdicts in this
24 case. No significance is given to the order in which I
25 state these possible verdicts to you. I simply have to

1 state one possible verdict first and one possible verdict
2 second. The possible verdicts in this case are guilty or
3 not guilty. Ladies and gentlemen, your verdict must be a
4 unanimous one.

5 Mr. Duke, as foreperson, when the jury agrees on
6 the verdict, you will write the verdict on the indictment
7 underneath the verdict space where it says verdict. Then
8 you will sign your name and date it as foreperson.

9 When you finish or when you reach a verdict, if you
10 would then knock on the door and advise the bailiff that the
11 jury has reached a verdict, and we will bring you back into
12 the court at that time.

13 Now, I'm going to excuse you back in the jury room.
14 But please do not begin your deliberations at this time.
15 I've got to check with the attorneys to see if they have any
16 additional charges or corrections to my instructions to you.
17 If they do, and I deem them appropriate, I will bring you
18 back in and make those additional charges or corrections.
19 If there are none, then we will send the indictment back to
20 the jury room and you will be told by the bailiff to begin
21 your deliberations at that time. But please do not begin
22 your deliberations until the bailiff instructs you to do so.
23 Okay? Thank you very much.

24 (Whereupon, the jury leaves open court at 10:54
25 a.m.)

1 THE COURT: All right. Any exceptions or
2 challenges to the charge by the State?

3 MR. WARING: No, Your Honor.

4 THE COURT: Any by the defense?

5 MS. ANDREWS: No, Your Honor.

6 THE COURT: All right. There weren't any exhibits,
7 were there?

8 MR. WARING: No, Your Honor.

9 MS. ANDREWS: No, Your Honor.

10 THE COURT: If you go ahead and carry the
11 indictment back to the jury, tell them that they can begin
12 their deliberations.

13 If I could get you to bring Ms. Regina Ford, the
14 alternate, out. Thank you.

15 (Whereupon, the alternate juror arrives in the
16 courtroom.)

17 THE COURT: Ms. Ford, hi. This is part of the
18 trial that I hate. As the alternate, since all of the
19 jurors remained with us and we still have our 12 jurors, as
20 the alternate, you will not be allowed to participate in the
21 deliberations. I hate to do that to you because we make you
22 sit through the whole trial, but then we don't let you make
23 a decision in this case. But I do want to thank you for
24 your service in this case as the alternate.

25 You are excused to go for the remainder of the day.

1 You should have been given a phone number and you will need
2 to call that number after 6 p.m. today, and that will give
3 you some further instructions as to when you need to return.
4 Do you have anything in the jury room?

5 A JUROR: No, sir.

6 THE COURT: You can stay with us to see what
7 happens in the case, or you are at liberty to go for the
8 remainder of the day, whichever you prefer to do. Okay.
9 Thank you very much.

10 A JUROR: Thanks.

11 (Whereupon, the alternate is excused.)

12 THE COURT: Anything from the State before we
13 recess until the jury reaches a verdict?

14 MR. WARING: No, Your Honor.

15 THE COURT: Anything from the defense?

16 MS. ANDREWS: No, Your Honor.

17 THE COURT: We will stand at ease until the jury
18 makes a decision.

19 (Whereupon, the jury deliberates at 10:57 a.m.)

20 (Back on the record at 11:52 a.m.)

21 THE COURT: We've got a question from the jury. It
22 says: Why was the fourth victim's testimony not presented?

23 All I know to do is just inform them neither the
24 State nor the defendant chose to call the alleged fourth
25 victim as a witness to testify.

1 MS. ANDREWS: Your Honor, I believe he gave a
2 written statement saying he did not want to press charges.

3 THE COURT: Yeah, but that statement is not in the
4 evidence. So all I know to do is say neither the State nor
5 the defendant chose to call the fourth -- the alleged fourth
6 victim to testify. I mean, I don't think --

7 MR. WARING: Your Honor, we would ask, if possible,
8 if you are okay with it, to tell them what you said, that
9 they would only consider the evidence that's been presented,
10 not what hasn't been presented.

11 THE COURT: Okay. How does that suit you?

12 MS. ANDREWS: Yes, Your Honor, I think that's fair.
13 We don't want any sort of answer that would shift the
14 burden.

15 THE COURT: Yeah. How about if I just say that
16 neither the State nor the defendant chose to call that
17 person to testify and, therefore --

18 MS. ANDREWS: I think it could possibly be
19 burden-shifting if it mentions the defense failed to call
20 that witness to testify. I think an answer that the jury
21 can only consider the testimony of the witnesses that
22 testified yesterday and were here --

23 MR. WARING: Your Honor, I'm fine with that, with
24 the last part.

25 THE COURT: So just say the State chose not to

1 call -- I mean, how --

2 MR. WARING: I'm okay with the part that
3 Ms. Andrews talked about, about just considering what's been
4 presented.

5 THE COURT: So you are just going to say, I can't
6 answer this question and you can only consider the evidence
7 which was presented?

8 MR. WARING: I'm fine with that, Your Honor.

9 MS. ANDREWS: Yes, Your Honor. Thank you.

10 THE COURT: Okay. You want me to call the jury in,
11 or can I just write the answer on this sheet of paper and
12 send it back in?

13 MR. WETMORE: I would just write it on there.

14 THE COURT: Now, what did I just say?

15 MS. EHRLICH: Your Honor, I think you said: I
16 can't answer that question; you may only consider the
17 evidence presented.

18 THE COURT: The Court cannot answer this question,
19 but you can only consider the evidence that has been
20 presented.

21 MR. WARING: That sounds fine, Your Honor.

22 THE COURT: Is that agreeable?

23 MS. ANDREWS: Yes, sir.

24 (Court's Exh. 2, Jury's Question and Judge's
25 Response, was marked for identification.)

1 THE COURT: The bailiff said when he carried the
2 last question back, they had another question waiting on us.
3 This one says: Where is the letter written to Brittany by
4 Sam about the incident?

5 MR. WETMORE: I think it's the same exact answer;
6 it's not in evidence.

7 THE COURT: It's not in evidence; you can only
8 consider the evidence presented during trial?

9 MR. WARING: Yes, Your Honor.

10 MS. ANDREWS: I never received a copy of that
11 letter.

12 MR. WARING: I never received a copy of that
13 either.

14 THE COURT: I would just say it's not in evidence;
15 you can only consider the evidence presented during trial.
16 Does that sound agreeable?

17 MR. WARING: Yes, Your Honor.

18 MS. ANDREWS: Yes, Your Honor.

19 (Court's Exh. 3, Jury's Question and Judge's
20 Response, was marked for identification.)

21 (Whereupon, the jury continues to deliberate at
22 12:01 p.m.)

23 (Back on the record at 1:06 p.m.)

24 THE COURT: We've got another question in from the
25 jury. It says: Do we have to be unanimous for a not-guilty

1 verdict?

2 Should I write yes, send it back? Any additional
3 response?

4 MR. WARING: No, Your Honor.

5 THE COURT: Any additional?

6 MS. ANDREWS: No, Your Honor.

7 (Court's Exh. 4, Jury question, was marked for
8 identification.)

9 THE COURT: Is that agreeable?

10 MR. WARING: Yes, sir.

11 (Whereupon, the jury deliberates at 1:07 p.m.)

12 (Back on the record at 1:34 p.m.)

13 THE COURT: All right. We've got a request in.
14 The jury says: We would like to see the testimony of
15 Brittany Mishoe and Christopher Benjamin.

16 Can you set that up on an audio?

17 THE COURT REPORTER: Sure.

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

20 MR. WARING: That's fine, Your Honor.

21 THE COURT: What's the defense's position?

22 MS. ANDREWS: We agree.

23 MR. WETMORE: You are going to play it in the
24 courtroom or play it back in the jury room?

25 THE COURT: I generally bring them into open court

1 and play it for them back here.

2 THE COURT: Courts Exhibit 5.

3 (Court's Exh. 5, Jury Note requesting playback of
4 Brittany Mishoe and Christopher Benjamin's testimony, was
5 marked for identification.)

6 (Whereupon, the jury returns to open court at 1:38
7 p.m.)

8 THE COURT: Thank you very much. Mr. Duke, I
9 received a request from the jury saying: We would like to
10 see the testimony of Brittany Mishoe and Christopher
11 Benjamin. We do not have a transcript to show you, but we
12 do have the audio where we can play back those testimonies
13 for the jury. So we will go ahead and play back those
14 testimonies first.

15 As I recall, the first witness that you will hear
16 testifying will be Brittany Mishoe. And then after her,
17 goes straight into Christopher Benjamin's testimony.

18 (Whereupon, audio is played.)

19 THE COURT: That is the testimony replayed for you
20 of Brittany Mishoe and Christopher Benjamin. I'm going to
21 send you back to the jury room and let you resume your
22 deliberations.

23 We do have lunch coming. If it is not here yet, it
24 will be here shortly. When lunch gets here, you can do one
25 of two things. If you want to continue your deliberations

1 while you eat lunch, you can continue your deliberations and
2 eat lunch. If you want to stop deliberations, eat lunch,
3 and then resume after lunch, you can do that as well. It's
4 whatever you want to do. The only requirement is that
5 everybody must do the same thing. You can't have some
6 jurors deliberate while others take a break and eat lunch.
7 So whatever you decide to do as a group, you can do as a
8 group, whether it be continue your deliberations while you
9 eat or wait until you finish eating and then resume. Okay?

10 All right. I will send you back to the jury room
11 and let you continue with your deliberations. I was just
12 told lunch is here, so it is back there for you. Thank you.

13 (Whereupon, the jury leaves open court at 0 2:18
14 p.m.)

15 THE COURT: All right. Anything from the State?

16 MR. WARING: No, Your Honor.

17 THE COURT: Anything from the defense?

18 MS. ANDREWS: No, Your Honor.

19 THE COURT: All right. We will be in recess until
20 we hear from them.

21 (Whereupon, the jury continues deliberations at
22 2:18 p.m.)

23 (Back on the record at 3:05 p.m.)

24 THE COURT: I understand from the bailiff that the
25 jury has reached a verdict. Anything from the State before

1 we bring the jury in?

2 MR. WARING: No, Your Honor.

3 THE COURT: Anything from the defense?

4 MS. ANDREWS: No, Your Honor.

5 THE COURT: Let's bring the jury in.

6 (Whereupon, the jury returns to open court at 3:07
7 p.m.)

8 THE COURT: Mr. Duke, I understand the jury has
9 reached a verdict; is that correct?

10 THE FOREPERSON: Yes, Your Honor.

11 THE COURT: Have you filled in that verdict on the
12 indictment?

13 THE FOREPERSON: Yes, Your Honor.

14 THE COURT: Hand it to the bailiff. Thank you.
15 Thank you, sir.

16 All right. I will ask the clerk if she will please
17 publish the verdict.

18 THE CLERK: Case No. 2014-GS-10-01764, the State of
19 South Carolina vs. Defendant Samuel Hayworth Robinson,
20 indictment for pointing and presenting a firearm: We, the
21 jury, unanimously find the defendant guilty. Signed
22 Foreperson Geoffrey Duke, June 24th of 2014.

23 Ladies and gentlemen of the jury, if this is your
24 verdict, please raise your right hand. Thank you.

25 THE COURT: Let the record reflect that all jurors

1 circuit court. You've got a three-year exemption. I hope
2 you do not exercise your exemption, because we do need good
3 jurors. And I do want to thank you for your service in this
4 case. You are free to go. Thank you very much.

5 (Whereupon, the jury leaves open court at 3:12
6 p.m.)

7 THE COURT: All right. Any post-trial motions at
8 this time?

9 MR. WARING: None from the State, Your Honor.

10 MS. ANDREWS: Yes, Your Honor. At this time I
11 would just like to ask for a new trial on the basis of all
12 my previous motions.

13 THE COURT: All right. Your motion is noted. I'm
14 going to deny it.

15 MS. ANDREWS: Thank you, Your Honor.

16 THE COURT: Anything further from the defense at
17 this time?

18 MS. ANDREWS: No, Your Honor.

19 THE COURT: All right. Have we got a sentencing
20 sheet?

21 MR. WARING: My co-counsel ran to get it. He
22 should be back momentarily.

23 THE COURT: I will just seal the sentence and let
24 you know when and if Mr. Robinson is picked up and brought
25 back before the Court, the sentence will be imposed at that

1 point in time.

2 Anything you want to say on behalf of the defendant
3 before we impose the sentence?

4 MS. ANDREWS: Yes, Your Honor. My client is 28
5 years old. He has two small children, two twin daughters.
6 He was born and raised in Charleston, South Carolina. His
7 entire family is here. He's a high school graduate. He's
8 had some addictions that he struggled with for many years.
9 And I think that has been the basis for probably a lot of
10 those criminal involvements. He's been incarcerated for 174
11 days. And I would just ask, Your Honor, that you please be
12 lenient on my client.

13 THE COURT: All right. Is there anybody present
14 that wants to speak on his behalf?

15 MS. ANDREWS: No, Your Honor.

16 THE COURT: All right. Are the victims present or
17 wish to say anything?

18 MR. WARING: Your Honor, they are not present.

19 THE COURT: All right. Anything from the State?

20 MR. WARING: Your Honor, just a few things. Given
21 the fact that there were children on the porch that night in
22 addition to the adult victims who could not fend for
23 themselves and were just totally innocent, we think that
24 this was a little more egregious than the standard pointing
25 and presenting. We would ask for the maximum, Your Honor.

1 THE COURT: Any prior record?

2 MR. WARING: Court's indulgence, Your Honor. He's
3 got a burglary from 2000 -- excuse me, burglary second from
4 2003; parole revocations from 2004, 2008, 2009; CDV from
5 2011; false information to police from 2012, in addition to
6 receiving stolen goods, DUS second, and a failure to appear,
7 and a possession of crack in 2013, Your Honor. He was also
8 on probation when he committed this.

9 THE COURT: He was on probation what now?

10 MR. WARING: When he committed this offense, he was
11 on probation.

12 THE COURT: Is he on probation now?

13 MR. WARING: He's no longer on probation?

14 MS. ANDREWS: No, Your Honor.

15 THE COURT: Okay.

16 MR. WARING: And he's not here, Your Honor.

17 THE COURT: All right. Have we got a sentencing
18 sheet yet, or are we still waiting?

19 MR. WARING: Yes, Your Honor.

20 THE COURT: All right. I filled out the sentence
21 sheet. We will put it under seal when he's picked up and
22 bring it back before the Court.

23 MR. WARING: Thank you, Your Honor.

24 MS. ANDREWS: Thank you, Your Honor.

25 (Proceedings are concluded.)

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2014-GS-10-01764

STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
 -VS-)
) July 19, 2014
 SAMUEL ROBINSON,)
) Charleston, South Carolina
 Defendant.)

B E F O R E:

The Honorable Roger M. Young, Sr., Judge.

A P P E A R A N C E S:

Thomas Richard Waring, Assistant Solicitor,
Attorney for the State

Annie Andrews, Esquire
Attorney for the Defendant

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

1 (July 19, 2014.)

2 THE COURT: All right. Are you Samuel
3 Hayworth Robinson?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: We had a trial a couple weeks
6 ago. I had you in for a status conference about a week
7 or so before that, and you said you were ready for trial.
8 You forgot to show up. What was the problem?

9 THE DEFENDANT: My stupidity, sir.

10 THE COURT: Well, that happens. Well, they
11 had a trial anyway, and you got found guilty, I reckon.

12 MS. ANDREWS: Your Honor, if I may, very
13 quickly, even though the verdict was rendered on June the
14 24th, appellate defense requires that in order to
15 preserve all the issues that I renew all my previous
16 motions at this time and make a motion for a new trial at
17 this time just for the record.

18 THE COURT: Any particular grounds?

19 MS. ANDREWS: Just on the grounds of all the
20 motions I've already argued, Your Honor, for appellate
21 purposes.

22 THE COURT: All right. Well, they're denied.

23 MS. ANDREWS: All right.

24 THE COURT: Well, let's see. You had a
25 trial, and Judge Culbertson gave you five years. Any

1 reason why I shouldn't go along with that?

2 MS. ANDREWS: Your Honor, Mr. Robinson has
3 dealt with a lot of addiction issues throughout his life,
4 and I believe that that contributed to him not showing up
5 at the status conference and not showing up for trial.

6 I was hoping for a much lesser sentence. I
7 would ask for the minimum in hopes that we could get
8 something much lower than that. I would like to see
9 Mr. Robinson given an opportunity to get some sort of
10 treatment for his addictions.

11 THE COURT: What would the State like to say?

12 MR. WARING: Your Honor, he was on probation
13 when he committed this offense. Two of the victims
14 included little children, one three years old, one four
15 years old, Downs syndrome. We think the sentence is
16 appropriate, and we would ask that it stay the same, Your
17 Honor.

18 THE COURT: All right. You want to say
19 anything?

20 THE DEFENDANT: No, sir.

21 THE COURT: I'm going to go along with Judge
22 Culbertson and give you the five years, which causes your
23 probation to be violated, and we'll revoke that as well.

24 THE DEFENDANT: I ain't on probation.

25 THE COURT: Maybe not, but it sounded like

1 you were. Is he?

2 THE PROBATION AGENT: No, he's not..

3 MR. WARING: He was at the time he committed
4 it.

5 THE DEFENDANT: I wasn't at the time I was
6 convicted of it.

7 THE COURT: Is he or was he?

8 THE PROBATION AGENT: He's not.

9 THE COURT: Okay. He says you're not.
10 That's all. Goodbye.

11 MR. WARING: Thank you, Your Honor.

12 - - -

13 (Whereupon, the proceedings were concluded.)

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I, the undersigned Amanda K. Haffenden, RPR, CRR, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 19th of July 2014.

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

September 29, 2014



Circuit Court Reporter

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2013A1021001990

CRIMINAL CHARGING DOCUMENT NO.

**BAIL PROCEEDING
FORM II**

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

SAMUEL ROBINSON
NAME OF DEFENDANT

Offense Charged: POINTING & PRESENTING FIREARM

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☒ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☒ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

- That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
- That the above named defendant be released from custody provided as follows (check all that apply):

CASH IN LIEU OF BOND

☐ The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

☐ The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

☒ The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of **\$50,000.00**.

- That the defendant shall appear at (check one):

☒ the term of COURT OF GENERAL SESSIONS beginning on Friday, January 24, 2014
at 2:00 o'clock, P.M. at CHARLESTON COUNTY JUDICIAL CENTER, 100 BROAD STREET, CHARLESTON
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

☐ the session of _____ beginning on _____
at _____ o'clock, _____, at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT SR

- That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

10/18/2013 10:51:08 am
SIGNATURE OF JUDGE: Lombard

October 18, 2013
DATE

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.



ADDRESS

SIGNATURE OF DEFENDANT: SAMUEL ROBINSON

CITY/STATE/ZIP

TELEPHONE

October 18, 2013

DATE

SOCIAL SECURITY NUMBER

DRIVER'S LICENSE OR ID NUMBER

No Attorney on Record

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of:

NAME OF PERSON OR ORGANIZATION

ADDRESS

CITY/STATE

ZIP

TELEPHONE

who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time Release. The defendant will be released from custody from

o'clock,

t

o

o'clock,

TIME

AM/
PM

TIME

AM/
PM

on _____ on condition that he return to the custody of

DATE(S)

NAME OF PERSON OR ORGANIZATION

at _____ as designated.

LOCATION

d. ☐ Other Conditions. The defendant will comply with the following other conditions of release: **You are required to appear for your 2nd Court Appearance on Friday, April 04, 2014 at 9:00 A.M. at the Court of General Sessions located at 100 Broad Street, Charleston.**

APPEARANCE RECOGNIZANCE WITH SURETY

On the _____ day of _____, _____, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of _____, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

NAME OF SURETY BONDSMAN COMPANY

TELEPHONE

SIGNATURE OF SURETY BONDSMAN

ADDRESS OF SURETY BONDSMAN

CITY/STATE/ZIP

SIGNATURE OF JUDGE:

NAME OF INSURANCE COMPANY

DATE

ADDRESS OF INSURANCE COMPANY

CITY/STATE/ZIP

Form Approved by SC Attorney General
Section 17-18-40
March 31, 2012

SCCA-511A (Revised 3/2012)

122
TRW20131008034

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2013035809

ARREST WARRANT NUMBER

2013A1021001990

DATE OF ARREST

October 17, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: *[Signature]*

APR 8 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1001764

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2014

THE STATE

vs.

SAMUEL HAYWORTH ROBINSON

DOB: *[Redacted]*
W/M

Indictment for

Pointing And Presenting A Firearm

FILED

4/17/2014 4:14:51 PM

JULIE J. ARMSTRONG

CLERK OF COURT

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF P. G.S. & F.C.
By *[Signature]*
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

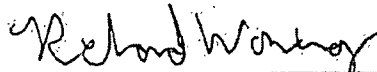
INDICTMENT

At a Court of General Sessions, convened on April 7, 2014 the Grand Jurors of Charleston County present upon their oath:

Pointing And Presenting A Firearm

That in Charleston County, South Carolina, on or about October 14, 2013, the Defendant, SAMUEL HAYWORTH ROBINSON, did point or present a firearm at Brittany Mishoe; in violation of Section 16-23-410 of the Code of Laws of South Carolina, (1976) as amended.

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



RICHARD WARING
ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF G.S. & F.C.
By 
DEPUTY CLERK

124

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.Samuel Hayworth Robinson

AKA:

Race: WHITE Sex: M Age: 28DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City/State/Zip: Summerville, SC 29483-8792DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Pointing or Presenting a Firearm

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1001764A/W#: 2013A1021001990Date of Offense: 10/14/2013S.C. Code § 16-23-0410CDR Code #: 0122

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-23-0410 of the S.C. Code of Laws, hearing CDR Code # 0122☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)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: Richard Waring 100465

Waring, Richard

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed 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 X yearsand/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or paymentof \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by 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 SCPPPS

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(B)(1) (Breath Test Fee) \$50 \$ _____

§ 56-5-2942(I) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.001% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp: _____

May serve W/E beginning _____

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: B/w resented* Judge R. Young opened sealed
sentence envelope on 7/10/14☐ Appointed PD or appointed other counsel. Imposing
§ 47.12 requires \$500 be paid to Clerk sentence
during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

JULIE J. ARMSTRONG (SEAL)

By [Signature]

CLERK OF COURT

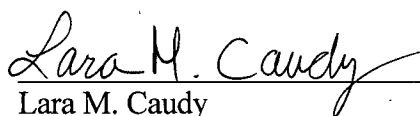
DEPUTY CLERK

Maximum

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."

April 30, 2015


Lara M. Caudy
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

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Benjamin H. Culbertson, Circuit Court Judge

ORIGINAL

RECEIVED

APR 30 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

SAMUEL ROBINSON,

APPELLANT

APPELLATE CASE NO. 2014-001555

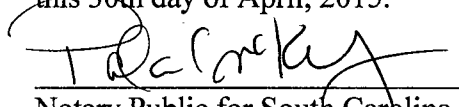
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Mark R. Farthing, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 30th day of April, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 30th day of April, 2015.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.