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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

Roger L. Couch, Circuit Court Judge

LOUIE A. CHAPMAN

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE # 2015-001063

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 vs.) TRANSCRIPT OF RECORD
5 Louie Alvoid Chapman,) 2010-GS-42-4831
6 Defendant.) July 13 - 14, 2011
7) Spartanburg, South Carolina

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury

14 A P P E A R A N C E S:

15 MICHAEL DAVID MORIN, ESQUIRE
16 Attorney for the State

17 RICHARD H. WHELCHER, ESQUIRE
18 Attorney for the Defendant

22 Linda D. Moffitt
23 Circuit Court Reporter

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1 (Proceedings July 13, 2011)

2 THE COURT: All right. Are we ready for the jury
3 selection in the case of Louie Alvoid Chapman?

4 MR. MORIN: The state's ready, Your Honor.

5 MR. WHELCHER: Yes, sir.

6 THE COURT: Okay. Where is this event alleged to have
7 occurred?

8 MR. MORIN: At [REDACTED] in Inman -- I believe
9 it's Inman -- in Spartanburg County.

10 THE COURT: [REDACTED]

11 MR. MORIN: [REDACTED]

12 THE COURT: D-E-L-A-N?

13 MR. MORIN: D-U-N-L-A-I-N-E.

14 THE COURT: Mr. Whelchel, do you have any potential
15 witnesses?

16 MR. WHELCHER: No, sir, Your Honor.

17 MR. MORIN: Your Honor, Mr. Whelchel has handed me
18 requests for voir dire, and there's some later in -- I'm
19 looking at 14 and 15 where it seems to be asking the jury
20 if there are specific predisposals to judge the case.

21 I think you have a general charge. I don't know that
22 we need to go into -- I think it is improper officers --
23 No. 16, officer's testimony over that of a private citizen,
24 "Do you think a person is guilty because he was arrested?"

25 These are getting into specific things, asking the

Jury qualification

1 jury if they've prejudged the case. And I think you're
2 already going to ask them that. They seem to be somewhat
3 repetitive and specific. I don't believe they're
4 appropriate.

5 (The following takes place in the presence of the jury
6 venire.)

7 THE COURT: Good morning, ladies and gentlemen. We
8 are ready to begin with jury selection in the next case
9 that will require some of your participation. And the
10 title of that case is the State vs. Louie Alvoid Chapman.

11 Mr. Chapman has been accused by the state through the
12 solicitor of having committed the crime of attempted
13 murder.

14 The state alleges that here in Spartanburg County in
15 the Inman community on or about July the 24th of 2010 that
16 Mr. Chapman did with malice aforethought attempt to kill
17 Justin Thorne by shooting him with a firearm with the
18 intention of killing him.

19 As to those allegations and as to that charge
20 Mr. Chapman has entered a plea of not guilty. And as you
21 know, that plea of not guilty places upon the state the
22 burden of proving the allegations that they have set forth
23 in the indictment, the burden of proving each of the
24 essential elements of the crime as alleged; and therefore
25 the burden is upon the state to establish the defendant's

Jury qualification

1 guilt to the satisfaction of 12 jurors beyond a reasonable
2 doubt before a verdict of guilty could be returned.

3 As you also know, I'm going to be asking you some
4 questions prior to jury selection in order to find out if
5 there's some reason why any member of the jury panel should
6 not be selected to participate in the trial of this
7 particular case.

8 And so as these questions are asked of you should you
9 need to respond to them, I'll ask that you please stand,
10 and we'll make that determination as to whether you have
11 any reason why you could not be fair in this particular
12 case.

13 First of all, I will be introducing some people to
14 you. I'll also recite a witness list. And of course the
15 purpose is to find out if any juror knows anybody involved
16 in the trial of the case.

17 And so as these folks are introduced to you or as the
18 witness list is recited if you know any person by that name
19 or you have any connection with them in any way, I would
20 ask that you please stand. We can determine what that
21 connection is and whether or not it would affect your
22 judgment in the case.

23 First of all, as I told you, the defendant, the person
24 who is accused of having committed this criminal offense,
25 is Louie Alvoid Chapman.

Jury qualification

1 Mr. Chapman, if you will, please stand and face the
2 jury panel.

3 (Whereupon, the defendant stood.)

4 THE COURT: All right. Standing with Mr. Chapman --
5 Mr. Chapman's the gentleman with the shirt, no coat or tie.
6 The gentleman with the coat or tie is Richard Whelchel, and
7 he is Mr. Chapman's lawyer. He'll be assisting him in the
8 trial of the case.

9 Mr. Whelchel is a lawyer employed by the 7th Judicial
10 Circuit Public Defender's Office.

11 The person who is alleged to have been the victim of
12 this incident is Justin Thorne. Mr. Thorne is present.

13 If you will, turn and face the jury so that they may
14 see who you are.

15 (Whereupon, the victim stood.)

16 THE COURT: Thank you. Be seated.

17 The state is being represented in this case by Michael
18 Morin who is an assistant circuit solicitor for the 7th
19 Judicial Circuit.

20 Persons who are potential witnesses that may be called
21 during the course of the trial include the following:
22 Jamie Tate, Spartanburg County Sheriff's Department; Mark
23 Miller, Spartanburg County Sheriff's Department; Darrin
24 Dukes, Spartanburg County Sheriff's Department; Brandon
25 Letterman, Spartanburg County Sheriff's Department; Lorin

Jury qualification

1 Williams, Spartanburg County Sheriff's Department; William
2 Gary, Spartanburg County Sheriff's Department; Sean Nix,
3 Spartanburg County Sheriff's Department; R.L. Shaffer,
4 Spartanburg County Sheriff's Department; Dorothy Geddes;
5 Brandy Thorne; Wayne Chapman; Calvin Lyles; Matt Hampton;
6 Peter Braun who is a medical doctor; and Freddie Thompson
7 with the Spartanburg County 9-1-1.

8 Are there any other potential witnesses on behalf of
9 the state?

10 MR. MORIN: No, sir.

11 THE COURT: The defendant?

12 MR. WHELCHER: No, sir, Your Honor.

13 THE COURT: All right. Does any juror know anybody
14 who's been introduced or their names been recited as a
15 potential witness? If so, please stand.

16 And let me include in that if you know anybody that's
17 employed in the 7th Judicial Circuit Solicitor's Office or
18 the 7th Judicial Circuit Public Defender's Office. I need
19 for you to also stand.

20 All right. I'll start to my right and I'll work my
21 way over. I have two standing.

22 You're 109.

23 JUROR NO. 109: Yes, sir. I'm familiar with or
24 acquainted with deputies Tate and Mark Miller, as well as
25 Sergeant Dukes. Deputy Tate was actually my zone partner

Jury qualification

1 for a time when I was working uniform patrol with the
2 sheriff's office.

3 THE COURT: All right. And would any of those
4 connections have any bearing upon your decision in the
5 case?

6 JUROR NO. 109: No, sir.

7 THE COURT: All right. Thank you. Be seated.
8 Yes, ma'am.

9 JUROR NO. 40: I know Freddie Thompson socially, and I
10 know his family.

11 THE COURT: All right. And tell me what your name and
12 number is, please.

13 JUROR NO. 40: My name Joy Connelly, No. 40.

14 THE COURT: Forty?

15 JUROR NO. 40: Forty, yes, sir.

16 THE COURT: All right. And is there anything about
17 your connection with Mr. Thompson that would affect your
18 judgment in the case?

19 JUROR NO. 40: That has nothing to do with his job. I
20 just know his family.

21 THE COURT: Okay. Thank you, ma'am. You may be
22 seated.

23 Anyone else?

24 (No response.)

25 THE COURT: This is an event that the state alleges

Jury qualification

1 occurred back on or about July the 24th of 2010. It is
2 alleged to have occurred at a residence on [REDACTED] Drive
3 located in the Inman community of Spartanburg. And as I
4 told you, the allegations that are made are that the
5 defendant, Louie Alvoid Chapman, did shoot with an intent
6 to kill Justin Thorne.

7 Is there any member of the jury panel that believes
8 you may have heard, seen or read anything that relates to
9 this particular case? In other words, do you think you've
10 been exposed to any type of information that relates to
11 this case from any source whatsoever? If so, please stand.

12 (No response.)

13 THE COURT: Is there any member of the jury panel, you
14 or an immediate family member, who has ever been the victim
15 of any type of an assault or ever been accused of any type
16 of an assault?

17 And I know I've already asked that question yesterday,
18 but these lawyers weren't involved in that trial, and so
19 I'm going to need for you to respond again.

20 I know that yesterday I believe there were eight
21 jurors that responded to the question. And so if you don't
22 mind, if you'll just please stand and respond again to that
23 question.

24 And I hope these are the seven or eight but we'll --
25 the same eight. We'll start over here to my right, and

Jury qualification

1 I'll work across that aisle and back and then jump -- I

2 mean across that row and back and then jump the aisle.

3 Your name and number, please, ma'am.

4 JUROR NO. 32: Karen Clark, No. 32. Mine was spousal
5 abuse.

6 THE COURT: All right. And would it have any bearing
7 upon your decision in this case?

8 JUROR NO. 32: No, sir.

9 THE COURT: Thank you. Be seated.

10 Yes, ma'am.

11 JUROR NO. 27: Tracy Calvert, Juror No. 27. In '07 I
12 was arrested for a C.D.V. that was dismissed.

13 THE COURT: And would it have any bearing upon your
14 decision in this case if you were selected?

15 JUROR NO. 27: No, sir.

16 THE COURT: Thank you. Be seated.

17 MR. WHELCHER: Excuse me, Your Honor. I didn't hear
18 the juror number.

19 THE COURT: Twenty-seven.

20 MR. WHELCHER: Thank you.

21 THE COURT: Yes, ma'am.

22 JUROR NO. 84: Patrice Jackson, Juror 84. I was the
23 victim of domestic violence.

24 THE COURT: And would it have any bearing upon your
25 decision?

Jury qualification

1 JUROR NO. 84: No, sir.

2 THE COURT: Thank you. Be seated.

3 109.

4 JUROR NO. 109: Yes, sir. Michael McKinney. As I
5 stated yesterday, I was the victim of numerous assaults
6 during my duties as a law enforcement officer, much of
7 which involved resisting arrest. And one of those assaults
8 did involve a firearm.

9 THE COURT: And would any of those experiences have
10 any bearing upon your decision in this case if you were
11 selected?

12 JUROR NO. 109: No, sir.

13 THE COURT: Thank you. Be seated.

14 Do we have anybody on the front row? No.

15 All right. You, sir.

16 JUROR NO. 88: Robert Johnson, Juror No. 88. My
17 mother was a victim of an assault.

18 THE COURT: And would it have any bearing upon your
19 decision in this case?

20 JUROR NO. 88: No, sir.

21 THE COURT: Thank you. Be seated.

22 Next.

23 JUROR NO. 81: Joyce Hutchinson, Juror No. 81. My
24 sister was a victim of domestic violence.

25 THE COURT: And would that have any bearing upon your

Jury qualification

1 decision if selected?

2 JUROR NO. 81: No.

3 THE COURT: Thank you. Be seated.

4 Yes, sir.

5 JUROR NO. 104: 104, Allen Martin. My son was accused
6 of assault.

7 THE COURT: And would that have any bearing upon your
8 decision if selected?

9 JUROR NO. 104: No, sir.

10 THE COURT: Thank you. Be seated.

11 Yes, ma'am.

12 JUROR NO. 39: Juror No. 39. My sister was a victim
13 of an assault.

14 THE COURT: And would that fact have any bearing upon
15 your decision in this case if you were selected?

16 JUROR NO. 39: No, sir.

17 THE COURT: Thank you. You may be seated.

18 MR. WHELCHER: Could I get her number again, Your
19 Honor?

20 THE COURT: Thirty-nine.

21 MR. WHELCHER: Thank you, sir.

22 THE COURT: Has any member of the jury panel ever been
23 employed as a law enforcement officer, or are you now
24 employed as a law enforcement officer, either civilian or
25 military?

Jury qualification

1 And also let's include in that question if you have an
2 immediate family member -- a parent, spouse, child or
3 sibling -- an immediate family member who is now or has
4 ever been employed as a law enforcement officer. So have
5 you or any member of your immediate family ever been, now
6 or in the past, employed as a law enforcement officer of
7 any type? If so, please stand.

8 All right. 109 with the sheriff's department.

9 JUROR NO. 109: Yes, sir. I also served a number of
10 years with the city of Rock Hill and York County Multi
11 Jurisdictional Task Force.

12 THE COURT: Okay. Thank you.

13 Yes, ma'am.

14 JUROR NO. 72: No. 72, Carmen Hall. My son-in-law is
15 a lieutenant in the police department in Rock Hill.

16 THE COURT: Okay. Thank you, ma'am.

17 Yes, sir.

18 JUROR NO. 172: Juror 172. My brother was a
19 detective, Spartanburg County, for 17 years, but he's no
20 longer with them now.

21 THE COURT: Okay. Thank you. You may be seated.

22 Anyone else?

23 JUROR NO. 168: My brother-in-law just got a new job
24 as a corrections officer.

25 THE COURT: All right. Okay. And your name and

Jury qualification

1 number, please.

2 JUROR NO. 168: Kathleen White, No. 168.

3 THE COURT: 168. Okay. Has any member of the jury
4 panel ever been asked to come to court as a witness to
5 testify in the trial of a case either on behalf of the
6 state or on behalf of a defendant? Have you ever been
7 called to testify in the trial of a case for the state or
8 for a defendant? If so, please stand.

9 109. Okay. And 39.

10 JUROR NO. 39: Yes, sir.

11 THE COURT: All right. And let's start with 109. Was
12 it only for the state, or was it for both?

13 JUROR NO. 109: I cannot remember, sir, at the time
14 that I was called as a witness for the defense, but
15 numerous times by the state.

16 THE COURT: Okay. Thank you.

17 And, 39, was it for the state or a defense?

18 JUROR NO. 39: State.

19 THE COURT: Okay. Thank you. You may be seated.

20 Is any member of the jury panel or does any member of
21 the jury panel belong to any type of organization that
22 might be characterized as a law enforcement support
23 organization or victims advocacy organization?

24 And let's include in that category organizations such
25 as Mothers Against Drunk Drivers, Citizens Against Violent

Jury qualification

1 Crime, the South Carolina Troopers Association, the
2 fraternal order of police, the South Carolina Law
3 Enforcement Officers Association, the honorary sheriffs
4 association, a neighborhood watch, a Children's Advocacy
5 Center, a rape crisis center or any type of organization
6 like that.

7 I need to know if you belong to any such
8 organizations, or do you contribute time or money to any of
9 those types of organizations? If so, please stand.

10 All right. I've got two. I'm going to start with
11 either one.

12 JUROR NO. 138: Tayla Shafer, 138. I am a victims'
13 counselor for the rape crisis center, and I worked at the
14 Child's Advocacy Center as well.

15 THE COURT: Okay. Thank you. Be seated.

16 Yes, ma'am.

17 JUROR NO. 44: Lynn Cromer, Juror 44. I have not
18 worked in this place but have given money to several of the
19 organizations you named.

20 THE COURT: Okay. Thank you, ma'am.

21 Anyone else donated time or money?

22 JUROR NO. 168: My business. We donate money to the
23 Spartanburg children -- that helps battered women.

24 THE COURT: All right. And you were Juror 168?

25 JUROR NO. 168: I am sorry. 168, Kathleen White.

Jury qualification

1 THE COURT: Okay. Thank you.

2 Anyone else?

3 (No response.)

4 THE COURT: All right. I've told you who the parties
5 are, who the lawyers are, who the potential witnesses are.
6 I told you, you know, some basic facts about what the case
7 is about.

8 Does any juror know of any reason at all why you think
9 you could not be fair and impartial if you were called upon
10 to serve as a juror in this particular case? If so, please
11 stand.

12 (No response.)

13 THE COURT: Has any juror -- or does any juror think
14 you've already made up your mind as to the outcome based
15 upon what you've heard or based upon any other
16 consideration? If you already think you know how the case
17 ought to be decided I would ask that you please stand.

18 (No response.)

19 THE COURT: All right. None is standing.

20 Any other questions requested by the state?

21 MR. MORIN: No, sir.

22 THE COURT: By the defendant?

23 MR. WHELCHER: None, Your Honor.

24 THE COURT: All right. As you know, you'll be called
25 in the order that your names are selected by the computer.

Jury qualification

1 So as your name is called, please come forward. And
2 you'll be instructed if you're to be excused from service
3 in the case or seated for service in the case.

4 THE CLERK: Juror 143, Sherri Skelton.

5 What says the state?

6 MR. MORIN: Please present Ms. Skelton.

7 THE CLERK: What says the defense?

8 MR. WHELCHER: Please seat Ms. Skelton.

9 THE CLERK: Juror 47, Loyd Dennis.

10 What says the state?

11 MR. MORIN: Please present Ms. Dennis.

12 THE CLERK: What says the defense?

13 MR. WHELCHER: Please seat Ms. Dennis.

14 THE CLERK: Juror 99, Jo Ann Laster.

15 What says the state?

16 MR. MORIN: Please present Ms. Laster.

17 THE CLERK: What say the defense?

18 MR. WHELCHER: Please excuse Ms. Laster from the trial
19 of this case.

20 THE CLERK: Juror 88, Robert Johnson.

21 What says the state?

22 MR. MORIN: Please excuse Mr. Johnson from serving in
23 this case.

24 THE CLERK: Juror 97, Christopher Lancaster.

25 What says the state?

Jury qualification

1 MR. MORIN: Please present Mr. Lancaster.

2 THE CLERK: What say the defense?

3 MR. WHELCHER: Please seat Mr. Lancaster.

4 THE CLERK: Juror 138, Tayla Shafer.

5 What say the state?

6 MR. MORIN: Please present Ms. Shafer.

7 THE CLERK: What say the defense?

8 MR. WHELCHER: What's that number?

9 THE CLERK: 138.

10 MR. WHELCHER: Please excuse the lady from the trial

11 of this case.

12 THE CLERK: Juror 72, Carmen Hall.

13 What says the state?

14 MR. MORIN: Please present Ms. Hall.

15 THE CLERK: What says the defense?

16 MR. WHELCHER: Please seat Ms. Hall.

17 THE CLERK: Juror 109, Michael McKinney.

18 What say the state?

19 MR. MORIN: Please present Mr. McKinney.

20 THE CLERK: What says the defense?

21 MR. WHELCHER: Please excuse Mr. McKinney from the

22 trial of this case.

23 THE CLERK: Juror 40, Joy Connelly.

24 What says the state?

25 MR. MORIN: Please present Ms. Connelly.

Jury qualification

1 THE CLERK: What say the defense?

2 MR. WHELCHER: Please seat Ms. Connelly.

3 THE CLERK: Juror 39, Caroline Compton.

4 What say the state?

5 MR. MORIN: Please present Ms. Compton.

6 THE CLERK: What says the defense?

7 MR. WHELCHER: Please excuse Ms. Compton from the
8 trial of this case.

9 THE CLERK: Juror 157, Jeffrey Tisdale.

10 What say the state?

11 MR. MORIN: Please excuse Mr. Tisdale.

12 THE CLERK: Juror 66, Alexis Gilliam.

13 What say the state?

14 MR. MORIN: Please present Ms. Gilliam.

15 THE CLERK: What say the defense?

16 MR. WHELCHER: Please seat Ms. Gilliam.

17 THE CLERK: Juror 124, Richard Pearson.

18 What say the state?

19 MR. MORIN: Please excuse Mr. Pearson from service in
20 this case.

21 THE CLERK: Juror 169, Mattie White.

22 What say the state?

23 MR. MORIN: Please present Ms. White.

24 THE CLERK: What says the defense?

25 MR. WHELCHER: Please excuse Ms. White from the trial

Jury qualification

1 of this case.

2 THE CLERK: Juror 31, Gloria Chiles.

3 What says the state?

4 MR. MORIN: Please present Ms. Chiles.

5 THE CLERK: What says the defense?

6 MR. WHELCHER: Please seat Ms. Chiles.

7 THE CLERK: Juror 26, Amber Calvert.

8 What say the state?

9 MR. MORIN: Please present Ms. Calvert.

10 THE CLERK: What say the defense?

11 MR. WHELCHER: Please seat Ms. Calvert.

12 THE CLERK: Juror 147, Thomas Smith.

13 What say the state?

14 MR. MORIN: Please present Mr. Smith.

15 THE CLERK: What says the defense?

16 MR. WHELCHER: Please seat Mr. Smith.

17 THE CLERK: Juror 172, Michael Williams.

18 What say the state?

19 MR. MORIN: Please present Mr. Williams.

20 MR. WHELCHER: Please excuse Mr. Williams from the

21 trial of this case.

22 THE COURT: Let me see y'all just a minute.

23 (Bench conference held off the record.)

24 THE COURT: Mr. Williams, come back around and have a

25 seat in the jury box.

Jury qualification

1 THE CLERK: Juror 81, Joyce Hutchinson.
2 What say the state?
3 MR. MORIN: Please present Ms. Hutchinson.
4 THE CLERK: What say the defense?
5 MR. WHELCHER: Please seat Ms. Hutchinson.
6 THE CLERK: Juror 54, Patsy Ennis.
7 What say the state?
8 MR. MORIN: Please present Ms. Ennis.
9 THE CLERK: What say the defense?
10 MR. WHELCHER: Please seat Ms. Ennis.
11 THE CLERK: And for the alternate, Juror 100, Samuel
12 Latimer.
13 What say the state?
14 MR. MORIN: Please present Mr. Latimer.
15 THE CLERK: What say the defense?
16 MR. WHELCHER: Please seat Mr. Latimer.
17 THE CLERK: Jury selection is completed.
18 (Whereupon, a jury was impaneled.)
19 THE COURT: All right. Those who have been selected,
20 I'll ask you to please go with a bailiff to a jury room,
21 and I'll bring you back in just a few minutes to begin.
22 (The following takes place outside the presence of the
23 jury.)
24 THE COURT: All right. Any other matters that need to
25 be addressed regarding jury selection?

Jury qualification

1 MR. MORIN: None from the state.

2 MR. WHELCHER: No, sir.

3 (Whereupon, the remaining members of the jury venire
4 were excused.)

5 (Whereupon, a recess was taken.)

6 THE COURT: Are there any matters that need to be
7 addressed prior to the jury being sworn?

8 MR. MORIN: None from the state.

9 MR. WHELCHER: No, sir.

10 THE COURT: Bring them in.

11 Ask Ms. Dennis to take the foreperson's seat.

12 (The following takes place in the presence of the
13 jury.)

14 THE COURT: All right. Ladies and gentlemen, we are
15 ready to begin with the trial of the case for which each of
16 you have been selected.

17 And, Ms. Dennis, I'm going to ask you to serve as the
18 foreperson of the jury. And as the foreperson you've got
19 three specific duties that none of the other jurors will
20 have.

21 No. 1, you'll be asked to serve as the spokesperson
22 for the jury. And so if during the trial something
23 arises -- you or a fellow juror has some difficulty or
24 problem or question -- if you'll let me know either
25 directly or through the bailiff I'll address those issues

1 or answer those questions.

2 Secondly, you'll be asked to preside over jury
3 deliberations when the time comes. That of course won't be
4 until the end of the trial after all of the evidence has
5 been received and I've instructed you as to the law in the
6 case.

7 But when the time does come for jury deliberations
8 you're going to be called upon to preside over that process
9 in the jury room simply to ensure that those deliberations
10 are carried out in some orderly fashion.

11 And, thirdly, you'll be the person who will actually
12 write the verdict of the jury. You write that decision on
13 a verdict form that I'll provide you at the trial's
14 conclusion on which you will indicate the jury's unanimous
15 decision.

16 Now, the foreperson has those duties that I've just
17 indicated. That does not however mean that she is any more
18 important than any of you other jurors, and that's because
19 the decision of a jury is the unanimous consensus opinion
20 of all 12 jurors. And so all of you are going to have an
21 equal say and equal vote in what the ultimate decision will
22 be in the case.

23 Someone simply has to be delegated those
24 responsibilities that I have just indicated, and I have
25 delegated those in appointing Ms. Dennis as the foreperson.

1 But each of you jurors are equally important so far as the
2 decision is concerned, because, as I've stated, the verdict
3 has to be unanimous. All of you must be in agreement.

4 Mr. Latimer, you've been selected as an alternate
5 juror. And the function of an alternate is to take the
6 place of one of the original 12 jurors if during the trial
7 one of these 12 cannot continue to serve for some reason.

8 And so if one is called away and cannot participate
9 further you take that person's place. In that event you
10 become the 12th juror. And if that should occur, then you
11 would participate throughout the trial including the jury
12 deliberations at the trial's conclusion.

13 If however when the time does come for jury
14 deliberations the original 12 are able to participate your
15 service would end, and you would not participate any
16 further. And that's because the decision of a jury is that
17 of 12. No more than 12 can participate in that
18 deliberation process.

19 But it is important that you pay just as careful
20 attention as we ask of all of the jurors because it does
21 occur from time to time for one reason or another one of
22 these original jurors may be called away. In that event
23 you become the 12th.

24 So we do appreciate your participation as an alternate
25 juror, just as we appreciate the participation of each of

Jury sworn

1 you jurors who have been selected for the purpose of
2 deciding the verdict in this particular case.

3 You may swear the panel.

4 (Whereupon, the jury was duly sworn.)

5 THE COURT: Ladies and gentlemen, as you know, you've
6 been selected to decide the verdict in the case of the
7 State vs. Louie Alvoid Chapman.

8 As you also know, Mr. Chapman has been accused by the
9 state through the solicitor of having committed the crime
10 of attempted murder.

11 The state alleges by way of the indictment -- that's
12 just the charging paper -- that the defendant, Louie Alvoid
13 Chapman, did here in Spartanburg County on or about
14 July the 24th of 2010 with malice aforethought attempt to
15 kill Justin Thorne by shooting him with the intent to kill
16 him.

17 As you know, as to those allegations and as to that
18 charge the defendant has entered a plea of not guilty. And
19 a plea of not guilty places upon the state the burden of
20 proving the allegations that they have set forth in the
21 indictment, the burden of proving each of the essential
22 elements that make up the crime alleged against the
23 defendant; and therefore the burden is upon the state to
24 establish the defendant's guilt to the satisfaction of you
25 12 jurors beyond a reasonable doubt before a verdict of

1 guilty could be returned.

2 Every person accused of a crime -- and it doesn't
3 matter how serious the crime might be -- every person
4 accused of a crime is presumed to be innocent. That
5 presumption of innocence remains with any defendant, as it
6 does with this defendant, from the time that he is placed
7 under arrest and throughout the course of the criminal
8 process and even throughout the course of the actual trial
9 in the case.

10 That presumption of innocence will be with the
11 defendant even as you go back into your jury room to begin
12 your deliberations at this trial's conclusion. And that
13 presumption of innocence will be with the defendant in that
14 jury room, and it'll be with him forever unless you 12
15 jurors determine that he's no longer entitled to the
16 presumption of innocence.

17 In other words, after you've carefully considered all
18 the evidence in the case, and from that evidence you have
19 decided what you believe to be the true facts as they
20 relate to these allegations, and after deciding those facts
21 you apply the law that I will have provided you, if you 12
22 jurors unanimously determine that his guilt has been proven
23 beyond a reasonable doubt, then he would no longer be
24 entitled to the presumption of innocence. But it's only
25 if, unless and until you are satisfied of his guilt beyond

1 a reasonable doubt that the presumption of innocence would
2 no longer be applicable.

3 Now, the way the trial will proceed is that in a
4 moment the lawyers are going to address you in what are
5 called opening statements.

6 There are two occasions in the trial of a case where
7 lawyers are permitted to address the jury directly, and
8 that is at the beginning of the trial before any evidence
9 has been introduced and then again at the conclusion of the
10 trial after all of the evidence has been received.

11 But keep in mind that the evidence upon which you will
12 base your decision comes in between the opening and the
13 closing statements of the lawyers. And therefore anything
14 the lawyers tell you in their statements is not to be
15 considered by you as evidence.

16 Nothing that they say is -- is evidence, and you can't
17 consider it as such, and that's because the lawyers don't
18 really know anything about this case of their own personal
19 knowledge or perception like witnesses will be testifying
20 to.

21 The lawyers aren't going to be placed under oath and
22 they're not going to be examined by opposing lawyers in
23 order to question the credibility and believability of a
24 statement like witnesses will be. And of course the
25 lawyers, as I say, don't know anything about this case of

1 their own personal knowledge or experience. And so what
2 they will tell you is not to be considered by you as
3 evidence, but you should listen to what they have to say
4 because the statements do serve a purpose.

5 The opening statements will serve to provide you with
6 a basic understanding as to what this case is about from
7 the perspective of the state as well as the defense so that
8 you'll have some context in which to place the evidence
9 that we're going to be receiving shortly thereafter.

10 The closing statements afford the lawyers an
11 opportunity to discuss with you the evidence that you have
12 seen and heard during the trial of the case. And through
13 that discussion each will have an opportunity to try to
14 persuade you or to convince you that the evidence in the
15 case does or does not support a particular decision.

16 And, as I say, it's between those opening and closing
17 statements that we actually receive the evidence upon which
18 you will base your decision.

19 The state has the burden of proof. The state will go
20 forward first in its presentation of evidence because they
21 have to establish the defendant's guilt beyond a reasonable
22 doubt.

23 After the state has concluded with its presentation a
24 defendant has the same opportunity to take the witness
25 stand and testify or call witnesses to the stand and

1 testify or to introduce other evidence, but a defendant in
2 a trial is never under any obligation to testify or to call
3 any witness or to produce any evidence. And that's
4 because, as I have stated, the burden is not upon a
5 defendant to prove that he or she is not guilty or to prove
6 that he or she is innocent because there might be some
7 cases where that would not even be possible.

8 The burden is on the state to establish the
9 defendant's guilt beyond a reasonable doubt, so they must
10 produce evidence. The defendant has no burden and
11 therefore does not have to testify or produce evidence. He
12 or she simply has that opportunity should they wish to do
13 so.

14 After all of the evidence has been received and you
15 hear the final summations of the lawyers, I will then
16 instruct you fully on the law as it relates to the criminal
17 law generally and as it relates to this specific crime
18 particularly.

19 After that you'll be asked to go back and begin with
20 your deliberations. And through that process you'll be
21 called upon through the exercise of good judgment and
22 common sense conscientiously applied to the testimony and
23 the evidence in the case to decide what you believe to be
24 the true facts as they relate to these allegations.

25 Once you decide the facts, you'll then apply the law

1 that I will have provided you, and you will determine
2 whether or not the defendant has been proven guilty beyond
3 a reasonable doubt. If he has, then your verdict would be
4 guilty. And if he has not, then your verdict would be not
5 guilty.

6 Now, all that we're going to ask for you to do is to
7 pay careful attention throughout the course of the trial.
8 Give every witness the same degree of attention as they
9 testify, because sometimes during the course of a trial you
10 have witnesses testifying to facts that are in conflict or
11 one witness' testimony is contrary to another.

12 If those conflicts in testimony relate to a material
13 fact that you have to decide in order to arrive at a
14 decision, you've got to resolve the conflict. You've got
15 to decide what is the most believable and credible
16 evidence.

17 And therefore you must oftentimes evaluate the
18 credibility and the believability of witness testimony.
19 And in your assessment as to a witness' credibility you can
20 believe everything that they testify to. You can choose to
21 believe none of it.

22 You can believe some portion of it and reject some
23 other portion of that same witness' testimony. You can
24 believe one witness against several, or several as against
25 one.

1 But in order for you to be able to properly evaluate
2 and assess a witness' credibility it's important that you
3 give every witness the same degree of attention so that
4 when you go back to begin deliberations you'll be in a
5 proper position to evaluate a witness credibility not in
6 light of just that witness' testimony but in light of all
7 of the testimony and all of the evidence received during
8 the trial.

9 And of course it's important that you keep an open
10 mind throughout the course of the trial. And that just
11 means that you are not to begin making up your minds or
12 formulating your opinions as to what you think the ultimate
13 decision in this case ought to be until all of the evidence
14 has been received, until I have instructed you on the law
15 that's applicable in the case and until you've been asked
16 to begin with your deliberations.

17 That is the process that has been designed over 200
18 plus years to insure that you arrive at a fair and just
19 decision in the case.

20 So thank you in advance for your participation, as
21 well as for your careful attention. Please give the
22 lawyers your attention now as they gave you their opening
23 statements.

24 Mr. Morin.

25 MR. MORIN: Good afternoon, ladies and gentlemen.

Opening statements

1 In July of 2010, last year at this time, the
2 defendant, Mr. Louie Chapman, was living with Dorothy
3 Geddes.

4 On July 24th, Saturday, around 9:00 o'clock in the
5 morning her grandson, Justin Thorne, came by the house. He
6 was to get married that day.

7 Mr. Chapman was across the street when he arrived. At
8 some point Mr. Chapman came in the house.

9 Mr. Thorne was sitting at the kitchen table with his
10 grandmother when Mr. Thorne (sic) walked up behind him and
11 fired a shot into his head probably closer to him than I am
12 to you. He fell out of the chair bleeding. Mr. Chapman
13 got into Ms. Geddes' Kia Rio and drove away.

14 That's what this case is about. You're going to hear
15 that that's what happened. Unfortunately, the gun in this
16 case wasn't recovered, but fortunately Mr. Thorne, the
17 victim in the case, has.

18 The state believes that when you -- when a person does
19 that to another, fires a shot, acts on the head, that
20 they've done so with the intent to kill. And as the judge
21 told you at the initial introduction when you first came in
22 here, that he's charged with attempted murder, the
23 intentional attempt to inflict bodily injury or kill
24 someone else.

25 And that's what this case is going to be about, and

Opening statements

1 that's where I believe the evidence is going to take us.
2 And I appreciate your patience and your attention in this
3 case. Thank you.

4 THE COURT: Mr. Whelchel.

5 MR. WHELCHER: Thank you, Your Honor.

6 Madam forelady, ladies and gentlemen of the jury, Mr.
7 Morin is right. That may be the facts that they're
8 alleging that happened. But I don't know if that's what
9 the case is about, because today the case is about this.
10 And to be honest with you, the case is always about this.

11 They always allege certain facts. If they didn't
12 allege those facts, they wouldn't be here, or what they
13 call facts. We wouldn't be here. Obviously, you wouldn't
14 be picked as jurors.

15 But what you need to back up and understand is what
16 the judge has already told you -- and I'm going to repeat
17 some of it, and I apologize -- but that's what he's
18 supposed to do, and for me to have you to understand just
19 how important this is I'm going to be a little bit
20 repetitive.

21 Now, what is crucial in this matter is this. Seated
22 at the table beside me is Louie Alvoid Chapman. Louie is
23 not guilty. Louie Chapman is not guilty. You need to
24 understand that. The fact that -- do you have the
25 indictment, Your Honor?

Opening statements

1 (Whereupon, Mr. Whelchel obtained the indictment.)

2 MR. WHELCHER: Thank you, sir.

3 The fact that there's an indictment is mox
4 nix that we used to say when I was in the Army. It means
5 nothing. That's exactly what it means. Nothing. All this
6 is is the paper to let Louie know and anybody else who is
7 called into one of these courtrooms, to inform them on what
8 the charges are that the state is alleging that they did,
9 and is to let you know also. But it's not evidence at all.
10 That's why the judge told you that earlier.

11 The fact that he's indicted means nothing, and the
12 burden of proof for this case and any criminal case brought
13 by the state of South Carolina lies with the prosecution.

14 Louie Chapman has no duty whatsoever to provide any
15 evidence here today. None. And the judge will tell you --
16 I think he already has -- that he doesn't even have to
17 testify. There's no burden on Louie or anybody else
18 charged with a criminal offense in this state.

19 And here's why. The one presumption -- and I will
20 talk to you about this later -- the one presumption that
21 exists in the law of South Carolina is the presumption of
22 innocence.

23 And as the judge has already told you, that
24 presumption of innocence is in force right now all
25 throughout the trial and when you go back into the jury

Opening statements

1 room -- and not unless and until the state proves to you
2 beyond a reasonable doubt that this happened the way they
3 say it happened and for the reasons they say it happened.

4 You need to understand that fundamental basic tenets
5 of our law my client is not guilty. Everybody who sits at
6 a defense table is presumed innocent, and that's the way it
7 is, it's always been and it should be.

8 There's a burden of proof. The burden of going
9 forward with this rests with the state. So you're going to
10 hear a lot of evidence, a lot of testimony from them.

11 Remember, while you're listening to this all the time
12 you're hearing this testimony, whatever it may be, Louie
13 Chapman is innocent, presumed innocent, by the law in the
14 State of South Carolina.

15 It's not that way in other countries. This one -- one
16 of the reasons we fought that war 200 years ago. But you
17 need to understand how very important it is that a person
18 charged, the accused, doesn't have a burden to prove
19 anything to you, doesn't have a burden to prove anything
20 whatsoever under the law of this land. What must be proven
21 to you must be proven to you by the prosecution.

22 And if you have a reasonable doubt -- and the judge
23 will talk to you about a reasonable doubt later on in this
24 trial -- but if you have a reasonable doubt that reasonable
25 doubt must be resolved in favor of Louie Chapman or whoever

Opening statements

1 the defendant might be, must be resolved in their favor --
2 the law of the land, the law of this state.

3 So the prosecution has the burden of proof of proving
4 whatever they say beyond a reasonable doubt with evidence
5 so strong and so convincing as to remove the cloak of
6 innocence, the presumption of innocence, that exists.

7 Listen to this evidence, whatever is going to be
8 prosecuted -- whatever is going to be proffered here, and
9 you decide do I have a doubt, is there something that
10 doesn't make sense here. It's not is this bad, did
11 something bad happen. But is there something that doesn't
12 make sense here? Are there dots that have not and cannot
13 be connected? That's your job.

14 And let me do what you use to exercise that
15 decision-making ability, is what we used to call or some of
16 us used to call common sense. Sometimes it's not that
17 common. If it was common a lot of people would have it.

18 But what we want you to do is use that ability that
19 you all have as individuals and as a collective body to
20 determine what you believe and who you believe and whether
21 or not you believe this happened the way they say it
22 happened. Thank you.

23 THE COURT: All right. We're going to break for
24 lunch, and let me caution you before you go that during the
25 course of a trial you can't talk about the case, can't

1 discuss it with anybody whatsoever in any way whatsoever.

2 You can't discuss it even among yourselves, that is
3 with your fellow jurors, until and unless you're involved
4 in jury deliberations, and I'll tell you when that time
5 comes. So until you're instructed by me to begin
6 deliberations, no discussions about the case whatsoever in
7 any fashion whatsoever.

8 Also, you're never permitted to conduct any research
9 or do your own independent investigation into any issue
10 that might arise during the trial. You have to base your
11 decision upon what's presented during the trial. You can't
12 try to supplement your knowledge by conducting outside
13 sources. So no discussions, no research, no investigation.

14 Do have a good lunch, and please report to your jury
15 room at 2:30 this afternoon, 2:30 this afternoon. Have a
16 good lunch.

17 The bailiff will show you. I think -- he's going to
18 show you what -- you're not going to come back to that room
19 you were first shown to. There's a different room. So be
20 sure you see where that is. It's on the way out. And just
21 be sure you know how to get back there. If you're not
22 sure, talk with the bailiff. They'll provide you with
23 those directions.

24 Have a good lunch. I'll see you at 2:30.

25 (The following takes place outside the presence of the

Dorothy Geddes
Direct examination by Mr. Morin

1 jury.)

2 THE COURT: Court's in recess until 2:30.

3 (Whereupon, a recess was taken.)

4 THE COURT: Are we ready for the jury?

5 MR. MORIN: The state is ready.

6 MR. WHELCHER: Yes, sir.

7 THE COURT: Bring them in.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good afternoon, ladies and gentlemen.

11 We are going to begin with the state's presentation of
12 evidence.

13 Mr. Morin.

14 MR. MORIN: Dorothy Geddes.

15 DOROTHY GEDDES, having been
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. MORIN

18 Q Ms. Geddes, would you state your name for the jury,
19 please?

20 A Dorothy Geddes.

21 THE COURT: Ms. Geddes, if you don't mind --

22 Ms. Geddes, if you don't mind, let me ask you to pull your
23 chair up close to that black microphone, please.

24 THE WITNESS: Okay, okay. Is that good enough?

25 THE COURT: It should be. Be careful.

Dorothy Geddes
Direct examination by Mr. Morin

- 1 THE WITNESS: That's okay.
- 2 Q Okay. Ms. Geddes, where do you live?
- 3 A I live at [REDACTED] Inman.
- 4 Q Is that here in Spartanburg County, ma'am?
- 5 A Yes, it is.
- 6 Q Now, [REDACTED] Drive, what road does it intersect with?
- 7 A Clark Road.
- 8 Q Okay. And your house, is it on the corner?
- 9 A Yes, it is.
- 10 Q On the corner of Clark and [REDACTED]
- 11 A Right.
- 12 Q Okay. How long have you lived there?
- 13 A I've lived there probably nine years.
- 14 Q Okay. Now, during the course of the time -- do you
- 15 know who Louie Chapman is?
- 16 A I do.
- 17 Q Who is Louie Chapman?
- 18 A Louie Chapman is sitting over here.
- 19 Q All right. He's sitting over there. What's he
- 20 wearing, the white shirt or the suit?
- 21 A The white shirt.
- 22 Q Okay. How long -- have you known him for a while?
- 23 A I -- I knowed him since '06.
- 24 Q Okay. And last July of 2010 was he staying with you?
- 25 A He was.

Dorothy Geddes
Direct examination by Mr. Morin

- 1 Q Okay. Now, Justin Thorne -- who is Justin Thorne?
- 2 A That's my grandson.
- 3 Q Okay. Do you recall July 24th of 2010?
- 4 A I do.
- 5 Q Can you tell the jury what you recall happened on that
- 6 day?
- 7 A Okay. On that day my grandson was to be married.
- 8 Q Okay.
- 9 A And he was -- and Louie was using my car to go to yard
- 10 sales.
- 11 Q All right. . Well, what kind of car did you have?
- 12 A I had a Kia.
- 13 Q What kind of Kia?
- 14 A Rio.
- 15 Q A Rio? A what?
- 16 A Ria -- Rio, Rio.
- 17 Q And what color was it?
- 18 A Gray.
- 19 Q Okay. You were home that day?
- 20 A I was.
- 21 Q Is this the morning or afternoon when you --
- 22 A It was morning.
- 23 Q All right. Would you say -- okay. So it's in the
- 24 morning.
- 25 A Probably around nine.

Dorothy Geddes
Direct examination by Mr. Morin

1 Q Okay. What happened? Did you see your grandson
2 around nine?

3 A Sir?

4 Q Did you see your grandson around nine?

5 A I did. He come to my door and knocked.

6 Q Okay. Tell me what happened. Did he come in? What
7 happened then?

8 A He come in, and I let him in the back door. And he
9 come in. And I said did Louie speak to you, and he said
10 no, he didn't. But my neighbor did. He was -- my neighbor
11 was with Louie.

12 Q Do you know your neighbor's name?

13 A Calvin.

14 Q Okay. And where was Louie? Was he in the house when
15 Justin got there?

16 A No, uh-uh. He was in the yard. And I went out and
17 told Louie that I didn't know Justin was coming.

18 Q Why did you tell Louie?

19 A I did because Louie didn't want him there.

20 Q Okay. When you come in the back door, what room of
21 your house are you in?

22 A The kitchen.

23 Q Okay.

24 A And Justin was sitting at the table with his back
25 towards the door. And I was sitting on the other side

Dorothy Geddes
Direct examination by Mr. Morin

1 putting on some makeup and everything. And Louie come in
2 real quiet, but he stepped into the bedroom.

3 Q Came into which door?

4 A The back door.

5 Q All right. When you say he stepped in the bedroom,
6 did he have to go through the kitchen to get there or was
7 that different from --

8 A Yeah. Just a step like that. It's a mobile home.

9 Q Okay. And he goes -- so that bedroom is right off of
10 the --

11 A For just a minute.

12 Q Okay. Then what?

13 A And then the next thing I knowed Justin's head was
14 down on the table faced towards the bedroom. And I -- it
15 seemed like that he had a gun, I mean, a glove on his hand.
16 I don't know. I mean, it seems like it.

17 Q All right. Well, let's -- let's back up a minute.
18 You said that Louie had gone into the bedroom.

19 A But he come back.

20 Q I see. When was -- when you were sitting at the table
21 did you have your back to the bedroom, or could you see the
22 bedroom door?

23 A I could see the bedroom door.

24 Q All right. And was Justin facing away from that
25 bedroom door, or could you see the bedroom door?

Dorothy Geddes
Direct examination by Mr. Morin

- 1 A He could look around and see it.
- 2 Q All right. But what was Justin doing when Louie came
3 out of the bedroom?
- 4 A Just sitting there with me.
- 5 Q Talking to you like we're talking now?
- 6 A Uh-huh.
- 7 Q All right.
- 8 A And I said, "Louie, speak to Justin."
- 9 Q All right. Now, what did Louie do after you said
10 that?
- 11 A He stuck the gun to his head.
- 12 Q I see. What did you think when you saw that?
- 13 A I thought I was going crazy.
- 14 Q All right. Do you remember if you heard any shots?
- 15 A I did not.
- 16 Q All right. Well, what did you see next?
- 17 A I just saw that fist, and jabbed in his neck and in
18 the back of his head. And blood started running out, which
19 Louie run out the door.
- 20 Q All right. Wait.
- 21 A Okay.
- 22 Q So Justin was at the table. Louie had his fist to his
23 back with a gun.
- 24 A Uh-huh.
- 25 Q Blood came out. Did Justin stay there in the seat?

Dorothy Geddes
Direct examination by Mr. Morin

- 1 A For a minute, he did.
- 2 Q And then what?
- 3 A With his head on the table leaned this way.
- 4 Q Uh-huh.
- 5 A And then he fell in the floor.
- 6 Q All right. And Louie did what?
- 7 A He went out the back door.
- 8 Q Okay. Did you see where he went?
- 9 A I did not.
- 10 Q Okay. After that happened what did you do next?
- 11 A I about went crazy, but I hollered for my neighbor. I
- 12 run to the door, the front door, and started hollering for
- 13 my neighbor. Boy, he didn't come because he said --
- 14 Q Well, don't tell me what he said.
- 15 A Okay. He don't come. He just --
- 16 Q And then what did you do next after you did that?
- 17 A Really, I just called 9-1-1, you know.
- 18 Q Okay.
- 19 A First I did before I hollered at my neighbor.
- 20 Q Okay. So 9-1-1 is the first thing you did.
- 21 A Yes.
- 22 Q All right. Did you tell them what had happened?
- 23 A I did.
- 24 Q All right. And tell me about Justin. Now, Justin had
- 25 fallen out of the chair and he was bleeding.

Dorothy Geddes
Cross-examination by Mr. Whelchel

1 A Uh-huh.

2 Q Was he awake?

3 A He was.

4 Q Was he talking?

5 A He was.

6 Q Okay.

7 A He was --

8 Q And did 9-1-1 ask you where Mr. Chapman had gone?

9 MR. WHELCHER: Objection, Your Honor.

10 Q All right. Do you -- do you recall where Mr. Chapman
11 went?

12 A I had no idea.

13 Q Okay. Now, did the police come?

14 A Oh, yeah.

15 Q When the police came did you go outside?

16 A I did.

17 Q When you went outside did you see your Kia Rio?

18 A No. It was gone.

19 Q Okay. Please answer any questions Mr. Whelchel may
20 have.

21 CROSS-EXAMINATION

22 BY MR. WHELCHER

23 Q Is it -- ma'am, that's okay. Is it Dorothy or Dot?

24 A Dorothy.

25 Q Okay.

Dorothy Geddes
Cross-examination by Mr. Whelchel

- 1 A Which they call me Dot.
- 2 Q I understand. Ms. Geddes, you're going to have to
- 3 forgive me. How old are you, ma'am?
- 4 A Me? I'm 74.
- 5 Q Okay. Do you wear glasses, ma'am?
- 6 A No. I just had contacts took out, and I got implants.
- 7 Q When was that?
- 8 A Like last month.
- 9 Q Summer of last year you wore glasses?
- 10 A No. I wore contacts.
- 11 Q Contacts. But you had that.
- 12 A Right.
- 13 Q Okay. Were they in it that Saturday morning?
- 14 A Yes. My contacts were in.
- 15 Q How long had you been living with Louie?
- 16 A He with me about --
- 17 Q How long had y'all been living together?
- 18 A About four years.
- 19 Q Okay.
- 20 A Maybe.
- 21 Q Before this happened.
- 22 A Yes.
- 23 Q Okay. How many times had your grandson been over to
- 24 your house in that four years?
- 25 A In the first two years he did come, you know, kind of

Dorothy Geddes
Cross-examination by Mr. Whelchel

- 1 regular.
- 2 Q So tell us what kind of regular means. Once a week?
- 3 A No. I doubt that.
- 4 Q Once every two weeks?
- 5 A And then --
- 6 Q Is that yes, ma'am?
- 7 A That's.
- 8 Q Your grandson --
- 9 A About every two weeks or every month or something he'd
- 10 drop by.
- 11 Q About every two weeks your grandson --
- 12 A Which he lived with us a little while, my grandson
- 13 did, just a little while.
- 14 Q Your grandson lived with you?
- 15 A Just, just a while.
- 16 Q And Louie.
- 17 A Uh-huh.
- 18 Q Okay. How long is just a while, ma'am?
- 19 A Just maybe a month or so.
- 20 Q Okay. Did he have a job when he was living with you?
- 21 A Louie?
- 22 Q No. Your grandson.
- 23 A No, not at that time, he did not.
- 24 Q Okay. What did he do for money while he was living
- 25 with you and Louie?

Dorothy Geddes
Cross-examination by Mr. Whelchel

- 1 A Well, I gave him money sometimes but --
- 2 Q Louie give him money?
- 3 A I did, I did.
- 4 Q Do you know if Louie gave him any money?
- 5 A No.
- 6 Q No, you don't know, or, no, Louie didn't give him any?
- 7 A I know Louie didn't.
- 8 Q Okay. Your grandson, did he get a job after he moved
- 9 out or before he moved out, ma'am?
- 10 A Yes, he did.
- 11 Q Where was that?
- 12 A He worked for Burger King for a while.
- 13 Q Okay. The one up at Inman?
- 14 A Boiling Springs.
- 15 Q Okay. Now, correct me if I'm wrong. You just stated
- 16 a moment ago that for the first couple of years that you
- 17 and Louie lived together your grandson came to see you
- 18 about every two weeks or at least once a month.
- 19 A Something like that.
- 20 Q And lived with you for at least a month.
- 21 A He did.
- 22 Q Okay. And then after that he quit coming so
- 23 regularly -- or what happened the last two years y'all were
- 24 living together?
- 25 A He wasn't allowed to come to my house.

Dorothy Geddes
Cross-examination by Mr. Whelchel

1 Q Why?

2 A Louie wouldn't allow him there or -- he didn't want
3 anybody there of my family. Maybe some other
4 grandchildren, he didn't mind, but --

5 Q Your grandchildren?

6 A No. They're all grown.

7 Q That's what I'm trying to find out. Some of these
8 grandchildren that were allowed to visit, they would be
9 your grandson. How old was he when this happened, ma'am,
10 your grandson?

11 A He was 27.

12 Q Okay. About to get married, right?

13 A Yes, that day.

14 Q The other grandchildren that Louie would allow to come
15 to your house were the same age, or younger, older or what?

16 A They were younger.

17 Q Okay.

18 A And one of -- and one younger.

19 Q They were grown children.

20 A Right.

21 Q All right. Louie tell you why he didn't want your
22 grandson coming -- Justin?

23 A That --

24 MR. MORIN: Objection. It's calling for hearsay.

25 THE COURT: Sustained.

Dorothy Geddes
Cross-examination by Mr. Whelchel

- 1 A Not -- not really. I mean, he just didn't --
- 2 THE COURT: Ma'am, don't answer the question. Excuse
- 3 me, ma'am. Don't answer the question.
- 4 THE WITNESS: Don't answer the question.
- 5 Q Ma'am, did he tell you why he didn't want to come?
- 6 Wait a minute. I don't want you to tell me what he said.
- 7 Did he tell you why he didn't want him to come?
- 8 A Not really, he did not.
- 9 Q So you had no idea.
- 10 A He didn't -- I loved him. That's my, my grandson.
- 11 Q Okay. You loved the other grandchildren too, didn't
- 12 you?
- 13 A Oh, yes.
- 14 Q Okay. All right. Ma'am, the day this happened you
- 15 say that you were at your home, which is a mobile home,
- 16 correct?
- 17 A Right.
- 18 Q And Justin showed up?
- 19 A Yes.
- 20 Q Did you know he was coming that morning?
- 21 A I did because I was going to ride with them to the
- 22 wedding.
- 23 Q Okay. All right. And he came in the back door, is
- 24 that correct?
- 25 A Uh-huh.

Dorothy Geddes
Cross-examination by Mr. Whelchel

1 Q Is that the door y'all always used?

2 A Always. My front door --

3 Q Okay. Might be the back door on the trailer, but it's
4 the door everybody used.

5 A Right.

6 Q It's just on the back side and easier to get in and
7 out of the kitchen.

8 A Yeah.

9 Q Is that right?

10 A Right.

11 Q Okay.

12 A And he was gone to the yard sales, and I told him he
13 didn't have to come back early, you know.

14 Q Okay. On the back side -- or the back side of the
15 trailer where what you call the back door is, is that where
16 y'all parked too?

17 A Beside, beside.

18 Q Beside.

19 A And then come.

20 Q And then you come in, the back door.

21 A Uh-huh.

22 Q All right, ma'am. How long had Justin been there that
23 day?

24 A Probably 20 minutes, or a little maybe more or a
25 little less.

Dorothy Geddes
Cross-examination by Mr. Whelchel

- 1 Q And correct me if I'm wrong, ma'am. When Justin got
2 there Louie was already back from the yard sales?
- 3 A Oh, yeah.
- 4 Q And he was outside talking to one of your neighbors.
- 5 A Uh-huh.
- 6 Q That would be Calvin, right?
- 7 A Calvin.
- 8 Q Selling him a flag pole, do you remember?
- 9 A A flag pole, yes.
- 10 Q Okay. Do you remember what you and your grandson
11 Justin talked about for that 20 minutes?
- 12 A No. We just talked about, you know, him getting
13 married. And I told him he looked good. And then when
14 Louie come in I said, "Louie, speak to Justin."
- 15 Q Okay. Before all of that happened, ma'am, did you see
16 your grandson drive up? Were you looking out the window?
- 17 A I did. I was looking out the window.
- 18 Q Okay. And that's when you saw your grand -- your
19 grandson drive up -- Justin.
- 20 A Uh-huh.
- 21 Q And Louie and Calvin out there talking about a flag
22 pole.
- 23 A Right.
- 24 Q All right. Did you hear any words passed between
25 Louie and Justin and Calvin?

Dorothy Geddes
Cross-examination by Mr. Whelchel

1 A No, no. There wasn't any.

2 Q Okay.

3 A He come straight on in the house.

4 Q Were they also on the back side of the trailer?

5 A Uh-huh.

6 Q All right.

7 A Right at my back steps.

8 Q Okay. So you don't know if Louie had already spoke to
9 Justin when they were outside, do you?

10 A (No response.)

11 Q When Louie came in the house you said he went to the
12 bedroom.

13 A Yeah, just a step right there from the back door, but
14 he come straight back out.

15 Q Okay. Do you remember telling the prosecutor, Mr.
16 Morin, in your direct examination a moment ago that he had
17 what looked like a glove on?

18 A I thought so, but that's just -- you know, his hand
19 was down like that and --

20 Q Down like what?

21 A Like that on his neck, right on his --

22 Q Okay. But before.

23 A Right back there.

24 Q When he came out of the bedroom and before he got to
25 where Justin was --

Calvin Curtis Lyles
Direct examination by Mr. Morin

- 1 A He just walked to him, just walked over there to him.
- 2 Q Okay. Say anything to you?
- 3 A Not a word.
- 4 Q Justin?
- 5 A Not a word. Not one word did he speak.
- 6 Q Okay. And did you or did you not see a gun, ma'am?
- 7 A I did not.
- 8 Q Okay. So you assumed that your grandson got shot, is
- 9 that correct?
- 10 A Yes.
- 11 Q Okay.
- 12 A Because he started bleeding bad.
- 13 Q All right. Thank you, ma'am.
- 14 MR. MORIN: I have no further questions, Your Honor.
- 15 THE COURT: Thank you. You may step down. You can
- 16 step down.
- 17 MR. MORIN: Call Calvin Lyles.
- 18 CALVIN CURTIS LYLES, having
- 19 been first duly sworn, testified as follows:
- 20 DIRECT EXAMINATION BY MR. MORIN
- 21 Q Are you all right, Mr. Lyles?
- 22 A Sir?
- 23 Q Are you all right?
- 24 A Yeah, I'm all right.
- 25 Q All right. Would you state your name for the jury,

Calvin Curtis Lyles
Direct examination by Mr. Morin

1 sir?

2 A Calvin Curtis Lyles.

3 Q Mr. Lyles, back in July of 2010, about this time last
4 year or around this time last year, can you tell the jury
5 where you were living?

6 A [REDACTED] Drive.

7 Q [REDACTED] Drive intersects with Clark, is that right?

8 A Yes, sir.

9 Q And right across the street from your house is whose
10 house?

11 A Dot's.

12 Q That will be Ms. Geddes that just testified?

13 A Sir?

14 Q The lady that just testified?

15 A Yes, sir.

16 Q All right. And, sir, do you know Louie Chapman?

17 A Yes, sir.

18 Q Is this him here in the white shirt?

19 A Yes, sir.

20 Q All right. Did you happen to buy things from time to
21 time from Mr. Chapman?

22 A No, sir.

23 Q Did you ever buy something from him?

24 A Yes, sir.

25 Q What did you buy from him?

Calvin Curtis Lyles
Direct examination by Mr. Morin

1 A I bought a flag pole.

2 Q Do you remember the day that you bought that flag
3 pole?

4 A It was on a Saturday. I don't remember what day it
5 was.

6 Q Okay. It was on a Saturday though.

7 A Yes, sir.

8 Q All right. Morning or afternoon?

9 A Morning.

10 Q All right. Can you tell me what you remember about
11 that day when you went to -- when you saw him?

12 A I got up that morning about 7:00 o'clock and messed
13 around the house a little bit. I come outside about 15
14 a'ter 8:00, somewhere around there.

15 And I saw Louie backed up to the back of the corner of
16 the trailer, and he was getting some stuff out. So I
17 decided to walk over there and speak, and like we normally
18 do.

19 Q Uh-huh.

20 A And he had a flag pole in a box. And I said, "Louie,
21 I've always been wanting a flag pole." And I asked him
22 what he'd take for it, and he said he got it off a lady for
23 about 15 bucks. And we talked for, for a little bit, and
24 Justin pulled up. I didn't know his name.

25 Q You knew then or you know it now?

Calvin Curtis Lyles
Direct examination by Mr. Morin

- 1 A Well, I heard -- I heard of his name before and --
- 2 Q Okay. Had you seen -- had you seen him before?
- 3 A Yes, I've see him a time or two.
- 4 Q Okay. So you knew who he was.
- 5 A Yes, sir.
- 6 Q All right. Now when you were talking to, to Louie
- 7 about this flag pole, where were you, in the back of their
- 8 house, on the side?
- 9 A Well, right there, it's kinda like in a little corner,
- 10 right there where the back steps and the corner --
- 11 Q Uh-huh.
- 12 A We was standing there fooling with it.
- 13 Q Okay.
- 14 A And when he pulled up, and he got out to come around
- 15 there -- and I spoke to him.
- 16 Q You spoke to who?
- 17 A Justin.
- 18 Q What did you say?
- 19 A I asked him what's going on, and he said nothing much.
- 20 And he went on in the house.
- 21 Q Louie speak to him?
- 22 A No, sir.
- 23 Q Did he speak to Louie?
- 24 A No, sir.
- 25 Q Okay. All right. So he went on in the house --

Calvin Curtis Lyles
Direct examination by Mr. Morin

1 Justin did.

2 A Yes, sir.

3 Q And then what?

4 A And me and Louie fooled with that flag pole a little
5 bit. And I told him that I'd give him 15 bucks for it.

6 But I didn't have but 12 bucks in my pocket. So I gave him
7 \$12 and he said don't worry about it. And I said, well,
8 I'm going to take it over there to the house. And I messed
9 with it, and I put it up myself.

10 Q Okay.

11 A And-but I didn't have a flag. So he said I think I
12 gotta flag in my truck. So he went down there and got a
13 flag and brought the flag up there. We put it in the box.
14 And I walked it back over there to my house.

15 Q Okay. You walked it to your house probably -- would
16 you say it's farther than that back wall across the street
17 to your house?

18 A It was probably about that far, maybe a -- maybe a
19 couple -- yeah. It was probably about that far.

20 Q All right. Now, when you walked off did you see where
21 Louie went?

22 A No, sir.

23 Q Did, did Ms. Geddes ever talk to Louie while you were
24 over there?

25 A Do what, now?

Calvin Curtis Lyles
Direct examination by Mr. Morin

1 Q Did, did Dot ever talk to Louie while you were there?

2 A Well, she come out on the porch. And she said,
3 "Louie, I didn't know Justin was coming."

4 Q Uh-huh.

5 A And he was supposed to been getting married today.
6 So, and then she turned and went back in the house.

7 Q Okay. Now, you walked back over on to your house with
8 the flag pole.

9 A Yes, sir.

10 Q Did you see where Louie went at that point?

11 A No, sir.

12 Q Okay. What did you do with the flag pole?

13 A I took it over there and I laid it on my porch. And
14 by the time I laid it on my porch -- I got two steps on my
15 front porch. And I turned around and stepped off the
16 second step. And I seen Louie get in the car and leave.
17 And usually we speak whenever we see each other, but at
18 that moment he did not speak.

19 Q Which -- do you know what car he was driving?

20 A He was drive -- I call it a gray, but it's silver.

21 Q The one -- do you remember that kind of car?

22 A It is a Kia.

23 Q Okay. Now, what was your plan for the rest of that
24 day? What were you going to do?

25 A What was I going to do?

Calvin Curtis Lyles
Direct examination by Mr. Morin

- 1 Q Yes.
- 2 A Well, I walked, walked back in the house. I had to go
3 around to the back, because I come out of the back because
4 I had the front door locked.
- 5 Q Okay.
- 6 A And I went in the house and I stood around in there
7 for about, I guess, a minute or so. Mighta been two or
8 three minutes.
- 9 Q Uh-huh.
- 10 A And I had a set of mattresses on the back of my truck
11 I was taking up to my mother's, which don't live but about
12 a mile from where I live.
- 13 Q A set of --
- 14 A Mattress.
- 15 Q Okay.
- 16 A And to put in my building.
- 17 Q Uh-huh.
- 18 A And when I come back outta the house I heard a lot of
19 screaming and a lotta -- a lotta like hollering like.
- 20 Q Where was it coming from?
- 21 A From, from 103.
- 22 Q Dot's house.
- 23 A Yes, ma'am -- yes, sir.
- 24 Q Okay.
- 25 A I'm sorry about that.

Calvin Curtis Lyles
Direct examination by Mr. Morin

1 Q That's okay. And so what happened? What did you do?

2 A Well, I stood there for about two or three seconds.

3 And the first thing came to my mind -- I don't know what

4 was going on over there, but I wasn't about to go over

5 there and get in the middle of it.

6 And so I went on up to my mama's and took the mattress

7 off and heard a lot of sirens going on. I said I better go

8 back to my house and see what happened.

9 So as soon as I got just a few yards to my house I seen

10 I guess five or six county cars.

11 Q Okay. Now, when you were over there and you saw

12 Justin pull up -- you saw him when he drove up, right?

13 A Yes, sir.

14 Q Did you see anybody else drive up then?

15 A No, sir.

16 Q And when Louie left was there anybody else that had

17 driven up?

18 A No, sir.

19 Q You said nobody drove up?

20 A No, sir.

21 Q Okay. And then of course you went in the house and

22 came back to leave. And you heard that hollering.

23 A Yes, sir.

24 Q Did you see anybody at that time leave the house?

25 A No, sir.

Calvin Curtis Lyles
Cross-examination by Mr. Whelchel

1 Q Come to the house? You didn't see anything.

2 A Not no one.

3 Q Please answer any questions Mr. Whelchel may have.

4 CROSS-EXAMINATION

5 BY MR. WHELCHER

6 Q Mr. Lyles, my name is Dick Whelchel. We talked on the
7 phone the other day. Do you remember?

8 A Yes, sir.

9 Q All right. Let me ask you something, sir.

10 I know you are waiting to have some surgery. Were you
11 using this crutch last, last year too?

12 A No, sir.

13 Q Okay. So you were walking without the crutch last
14 year.

15 A Yes, sir.

16 Q All right. When you were out in the yard with Louie
17 and y'all were talking about this flag pole --

18 A Pole.

19 Q -- y'all were on the back side of the trailer, is that
20 right, or at the corner?

21 A Or right there at the corner.

22 Q Okay. Is your trailer across the street from the back
23 of their trailer --

24 A No, sir.

25 Q -- or the front of their trailer?

Calvin Curtis Lyles
Cross-examination by Mr. Whelchel

- 1 A The front of their trailer.
- 2 Q So if this is the trailer where you're sitting --
- 3 A Yes, sir.
- 4 Q -- y'all would be -- I want you to stop me if I'm
- 5 wrong. And the kitchen end is on this end of the trailer.
- 6 A Yes, sir. But let me ask you a question. You talking
- 7 about this is the front?
- 8 Q Yeah. That's the front of the trailer.
- 9 A All right.
- 10 Q Is the kitchen on this end?
- 11 A Yes, sir.
- 12 Q Okay. And y'all would be somewhere either around
- 13 behind it or beside it looking at the flag pole, is that
- 14 right?
- 15 A Okay. Well, we use this -- well, okay. This is the
- 16 corner.
- 17 Q That would be the corner of the trailer.
- 18 A Right.
- 19 Q Okay. Where would y'all be standing looking at the
- 20 flag pole?
- 21 A Right in the corner of the trailer, just about a
- 22 couple of feet away from it.
- 23 Q Okay. And the steps would be from where y'all were
- 24 where?
- 25 A About right along in here. We using this as the front

Calvin Curtis Lyles
Cross-examination by Mr. Whelchel

1 of the trailer?

2 Q Yeah.

3 A Okay. Well, I'm using that as the corner.

4 Q All right. And the kitchen door, the back side of the
5 trailer, is it over here or back where you were?

6 A Back where I was, back in the back of the trailer.

7 Q Okay. Now, after you -- this flag pole you're talking
8 about, is it one of those flag poles that you screw into a
9 column or something like that on your house, or is it a
10 flag pole you, you mount in the ground?

11 A A flag pole you mount in the ground.

12 Q Okay. All right. After you bought the flag pole you
13 walked from your place -- I mean, excuse me -- from Louie's
14 place over to your house, is that right?

15 A Yes, sir.

16 Q And did you have your back turned to the house all of
17 that time?

18 A Long as nothing get to my front porch.

19 Q Okay. And it was at least this far away, is that
20 right?

21 A It might be a little bit -- a few steps than that.

22 Q Farther?

23 (Whereupon, Mr. Whelchel walked from the witness.)

24 A Yeah. You might have to go out them double doors.

25 Q Stop me.

Calvin Curtis Lyles
Cross-examination by Mr. Whelchel

- 1 A I'm sorry.
- 2 (Whereupon, Mr. Whelchel left the courtroom.)
- 3 Q Can you see me, sir?
- 4 A Yes, sir. That about good enough.
- 5 Q Another five paces past the door, is that right?
- 6 A Yes, sir.
- 7 Q Okay. Now, when you walked from Louie's house and
- 8 Dot's house over to your house did you go ahead and put the
- 9 flag pole up? Or I thought you said you were messing with
- 10 it or something like that.
- 11 A No, sir. I, I took it over there. We had it in a
- 12 box. I took it over there and --
- 13 Q Did Louie go with you?
- 14 A No, sir.
- 15 Q Okay. You took it over. And what did you do with it
- 16 when you got to your place?
- 17 A I laid it on the porch.
- 18 Q Okay.
- 19 A I was going to put it up later, so I laid it on the
- 20 porch.
- 21 Q Is your porch on the front side of your trailer?
- 22 A Yes, sir.
- 23 Q Okay. So you could stand on your porch and see Louie
- 24 and Dot's trailer.
- 25 A I can stand on my porch and see 'em where?

Calvin Curtis Lyles
Cross-examination by Mr. Whelchel

- 1 Q Louie and Dot's trailer.
- 2 A Yes, sir.
- 3 Q Okay. All right. After you got to your trailer, you
- 4 put the flag pole on the porch. I think you said you, you
- 5 went inside of your trailer.
- 6 A Yes, sir.
- 7 Q And you might have been in that -- inside of that
- 8 trailer for two or three minutes.
- 9 A Something like that.
- 10 Q Okay. I'm assuming there are windows on your trailer.
- 11 A Yes, sir.
- 12 Q Okay. Were you looking out the window looking for
- 13 anybody?
- 14 A No, sir.
- 15 Q Okay. While you were in your trailer did you go to
- 16 the refrigerator and get something to drink, anything like
- 17 that?
- 18 A I think I went in the back door because I know I had
- 19 mattresses on the truck that I was gonna to take over to my
- 20 mama's and put in the building. And I went in there to
- 21 lock it, and come right back out.
- 22 Q Okay. When you say you went into the back door, you
- 23 mean the back door of your trailer, is that right?
- 24 A Yes, sir.
- 25 Q Now, I want you to correct me if I'm wrong, sir.

Calvin Curtis Lyles
Cross-examination by Mr. Whelchel

- 1 Forget the distance apart for a moment. Let's say this
2 is your trailer and this is the front. The back door would
3 be over here, would it not?
- 4 A Yes, sir.
- 5 Q On the back side of the trailer.
- 6 A On the back side of mine.
- 7 Q And the mattresses were back here.
- 8 A No. The mattress on the right side.
- 9 Q Over here?
- 10 A Right.
- 11 Q Okay.
- 12 A That's where my truck was parked.
- 13 Q But when you went in, you went in for two or three
14 minutes at least.
- 15 A Somewhere like that, yeah.
- 16 Q Okay. And then you went to the trailer, excuse me,
17 the mattress out the back door.
- 18 A Yes. I went back out the back door.
- 19 Q So when you went out the back door you would be
20 walking this way away from the trailer across the street.
- 21 A Right, yes, sir.
- 22 Q Okay.. How long -- did you have to put the mattresses
23 in your truck or on a car, or what did you do with them?
- 24 A I already had them on the truck.
- 25 Q Already had them on the truck?

Calvin Curtis Lyles
Redirect examination by Mr. Morin

1 A Yes, sir.

2 Q Okay. So did you get in the truck and leave or --

3 A I got back to my truck and I stood there for a few
4 seconds, three or four seconds, because I heard a lot of
5 hollering and going on.

6 Q Uh-huh.

7 A And I heard a man's voice like, like he's hollering,
8 and then I heard her voice. And two or three seconds I
9 felt like, hey, I'm not just going to go over there and get
10 in the middle of that.

11 Q Okay.

12 A So I got on in my truck, and I left.

13 Q Okay. Thank you, sir.

14 REDIRECT EXAMINATION

15 BY MR. MORIN

16 Q Mr. Lyles, just one quick question.

17 When you got up that morning were you already planning
18 on taking them mattresses to your mom's?

19 A Yes, sir.

20 Q The mattresses were already on the truck?

21 A Yes, sir.

22 Q The truck was already on the side of the house?

23 A Yes, sir.

24 Q Is it my understanding -- that morning you went out
25 the back door, right?

Calvin Curtis Lyles
Redirect examination by Mr. Morin

1 A Yes, sir.

2 Q Because we've heard testimony from Ms. -- from Dot
3 saying that she used her back door all of the time, they
4 didn't use the front door. That true for you too?

5 A Well, mosta the time, yes, sir.

6 Q Okay. So when you put that flag pole down in the
7 front, your plan was the next thing you were going to do
8 was go to your mother's, is that right?

9 A Yes, sir.

10 Q So the reason to go to the back door was to --

11 A Because I had it unlocked. I just walked outside.
12 And, like I said, when I saw Louie I just walked over there
13 to speak to him because I seen him get some stuff outta the
14 car.

15 Q Right. But the point being that after you put down
16 the flag pole -- and you tell me if I'm wrong -- was to
17 just go lock the door, get in your truck and go to mom's.
18 That was your plan.

19 A Pretty much, yes, sir.

20 Q And you pretty much did that. There was a pause there
21 when you heard the yelling.

22 A Yes.

23 Q Okay.

24 MR. MORIN: That's all I have, Your Honor.

25

Calvin Curtis Lyles
Recross-examination by Mr. Whelchel

1 RECROSS-EXAMINATION

2 BY MR. WHELCHER

3 Q Do you remember if you got anything to drink or went
4 to the bathroom or anything like that while you were in the
5 house, sir?

6 A I don't think so.

7 Q But you were in the house two to three minutes.

8 A Yeah. Something like that.

9 THE COURT: You may step down.

10 MR. MORIN: Your Honor, I ask that this witness be
11 excused.

12 THE COURT: He may be.

13 (Whereupon, the witness was excused.)

14 MR. MORIN: The state calls -- do you want me to call
15 the next witness? Justin Thorne.

16 JUSTIN THORNE, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. MORIN

19 Q Sir, would you state your name for the jury?

20 A Justin Thorne.

21 Q Mr. Thorne --

22 THE COURT: Get a little bit closer to that
23 microphone, please.

24 A Justin Thorne.

25 Q Mr. Thorne, Dorothy Geddes -- how are you related to

Justin Thorne
Direct examination by Mr. Morin

1 her?

2 A I'm her grandson.

3 Q Okay. July 24th of 2010, can you tell me if you
4 remember that day?

5 A Yes, sir. I do.

6 Q All right. Was there anything supposed to happen that
7 day?

8 A I was supposed to get married.

9 Q Okay. And who were you going to marry?

10 A Brandy Frady.

11 Q Okay. Did you go to your grandmama's that day?

12 A Yes, sir, I did.

13 Q What car were you driving?

14 A I was driving my wife's car.

15 Q When you say your wife --

16 A Well, my soon-to-be wife.

17 Q Okay. You and Ms. --

18 A Frady.

19 Q Have been married since then?

20 A Yes, sir.

21 Q Okay. Do you remember what you were wearing?

22 A Yes, sir, I do.

23 Q What were you wearing?

24 A I was wearing a white button-down shirt and black
25 dress slacks.

Justin Thorne
Direct examination by Mr. Morin

- 1 Q Okay. So a shirt --
- 2 A About like the one I have on.
- 3 Q Or the one --
- 4 A Yeah.
- 5 Q -- similar to what he's wearing -- Mr. Chapman.
- 6 A Yes, sir.
- 7 Q Okay. Can you tell us why you went to your
- 8 grandmother's house that day?
- 9 A Because I was going to pick her up and carry her to my
- 10 wedding.
- 11 Q Okay. Your mom -- and your grandma had her own car,
- 12 right?
- 13 A Yes, sir.
- 14 Q What was that?
- 15 A It was a 2007 Kia Rio.
- 16 Q What color?
- 17 A Silver.
- 18 Q Okay. When you got to your grandmother's house was
- 19 that car there?
- 20 A Yes, sir, it was.
- 21 Q Okay. Tell us what happened when you got there.
- 22 What -- who did you see and what'd you do?
- 23 A I talked to her neighbor. He was out in the yard
- 24 speaking with Louie.
- 25 Q Mr. Lyles?

Justin Thorne
Direct examination by Mr. Morin

- 1 A Yes, sir.
- 2 Q Okay. Did you speak to Louie?
- 3 A No, sir.
- 4 Q Did he speak to you?
- 5 A No, sir.
- 6 Q Is it fair to say that you and Louie don't get along?
- 7 A Yes, sir.
- 8 Q Weren't getting along then and don't get along now.
- 9 A I guess not.
- 10 Q Okay. Where did you go when you got there? Did you
- 11 go right into the house?
- 12 A I knocked on the back door and let my grandmother know
- 13 I was there.
- 14 Q All right. Did she come out? Well, tell me what
- 15 happened.
- 16 A She answered the door and I come in. She was still
- 17 getting dressed.
- 18 Q Okay. Where did you go?
- 19 A Straight to the kitchen.
- 20 Q Which room were you in when you came in?
- 21 A The kitchen.
- 22 Q All right. Did you stay standing or did you sit down?
- 23 A No, sir. I went straight and sat down.
- 24 Q Okay. Did she sit down?
- 25 A Yes, sir.

Justin Thorne
Direct examination by Mr. Morin

- 1 Q Y'all were talking about -- don't tell me what was
2 said. But generally what were y'all talking about?
3 A Me getting married.
4 Q Weren't talking anything about Louie, were you?
5 A No.
6 Q Okay. Did you see Louie again?
7 A Yes, sir, I did.
8 Q Tell us. Tell me where you saw Louie again.
9 A Whenever my head hit the table I seen him leaving the
10 house.
11 Q Okay. Did you see him come in the house?
12 A No, sir, I didn't.
13 Q Why did -- tell us why your head hit the table.
14 A To be honest, at first I thought I'd got hit with
15 something. I didn't know I was shot.
16 Q Okay.
17 A But it hit the table because I was shot.
18 Q Okay. Well, how do you know you were shot?
19 A When I saw the blood.
20 Q Okay. You saw some blood. Then what did you do?
21 A Started screaming.
22 Q Okay. So you didn't -- you weren't unconscious.
23 A No, sir.
24 Q Where, where were you bleeding from, do you know, or
25 did you know then or do you know now?

Justin Thorne
Direct examination by Mr. Morin

1 A I didn't know exactly where. I just knowed it was
2 coming from the back of my head somewhere.

3 Q Okay. Did you ever lose consciousness that you
4 recall?

5 A No, sir. I did not.

6 Q Okay. You were seated in the chair, your head hit
7 the -- hit the table, right?

8 A Yes, sir.

9 Q Did you stay seated in the chair, or what happened?

10 A At first I was still in the chair. And then I tried
11 to get up and I fell in the floor.

12 Q Okay. So what did you do? Could you do anything?

13 A I couldn't move my legs or my left arm. All I could
14 do was pull my phone out and dial my wife's number so I
15 could talk to her.

16 Q Okay. What did you tell her when you called her?

17 A That Louie had shot me.

18 Q Okay. Did you receive medical treatment?

19 A Yes, sir, I did.

20 Q How?

21 A My grandmother called 9-1-1.

22 Q Okay. Did someone drive you to the hospital?

23 A Ambulance.

24 Q Did you stay in the hospital?

25 A Yes, sir.

Justin Thorne
Direct examination by Mr. Morin

- 1 Q During the course of your stay in the hospital -- how
2 long were you in the hospital?
- 3 A Two days.
- 4 Q Okay. And while you were in the hospital and you were
5 being treated, what did the doctors find?
- 6 A A bullet in the back of my head and a cracked -- my
7 second vertebra was broken.
- 8 Q Okay. Where is that bullet now?
- 9 A Still in my head.
- 10 Q Did anything else happen while you were in the
11 hospital?
- 12 A Not that I remember.
- 13 Q All right. You and Brandy get married any time after
14 that?
- 15 A Well, yes, sir.
- 16 Q I'm sorry.
- 17 A Yes, sir. We got married the same day.
- 18 Q While you were in the hospital.
- 19 A Yes, sir.
- 20 Q Now, you say that when your head hit the table, that's
21 when you first saw Louie.
- 22 A Yes, sir.
- 23 Q And do you remember hearing the shot or anything of
24 that nature?
- 25 A No, sir.

Justin Thorne
Direct examination by Mr. Morin

1 Q And you caught a glimpse I guess of Louie.

2 A I could see him perfect going out the back door.

3 That's exactly what I was looking at.

4 Q Okay. Now, today I see that you can walk. Tell us,
5 tell me, a little bit about how -- what your recovery has
6 been since then.

7 A For the first three months after I got shot I was
8 unable to use my left arm, and it was hard for me to walk.
9 I couldn't turn my head for maybe six to eight months.

10 Q Okay. And it's gotten better since then?

11 A Over time, yes, sir.

12 Q Are you working now?

13 A Yes, sir.

14 Q Where do you work now?

15 A I work at Johnson Fence Company.

16 Q What do you do for them?

17 A I put up fence.

18 Q Okay. So you recovered enough to be able to do fence
19 work which is fairly --

20 A Some.

21 Q Some. But it's --

22 A Still hard.

23 Q Okay. Back last year where were you working?

24 A Same place.

25 Q You were working at Johnson Fence back when this

Justin Thorne
Cross-examination by Mr. Whelchel

1 happened?

2 A Yes, yes, sir.

3 Q So after you recovered they hired you back?

4 A My uncle owns the company.

5 Q I see. Please answer any questions Mr. Whelchel may
6 have.

7 CROSS-EXAMINATION

8 BY MR. WHELCHER

9 Q Last name is Thorne, is that right, sir?

10 A Yes, sir.

11 Q Okay. Do you remember talking to the officers and
12 giving them statements, sir?

13 A Yes, sir, I do.

14 Q Okay. You never told them in the statement that you
15 saw who shot you.

16 A No, sir.

17 Q Is that correct?

18 A No.

19 Q Okay. When you got to the house -- you'd been to the
20 house before obviously, is that right?

21 A Yes, sir.

22 Q And we've already heard that you lived with them for a
23 month. Do you know -- is it a month or longer?

24 A It was maybe two months when I was on parole and I
25 lived there. And then he moved in.

Justin Thorne
Cross-examination by Mr. Whelchel

- 1 Q Okay. You have a conviction for grand larceny, is
2 that correct, sir?
- 3 A Yes, sir.
- 4 Q And about ten counts of auto breaking and petty
5 larceny, is that correct?
- 6 A Yes, sir.
- 7 Q Okay. Louie didn't want you living there because he
8 didn't trust you, is that right?
- 9 A Yes, sir.
- 10 Q Okay. You went in, and you were seated at the kitchen
11 table, correct --
- 12 A Yes, sir.
- 13 Q -- with your back to the back door?
- 14 A Yes, sir.
- 15 Q Okay. And your grandmother was across the table?
- 16 A No, sir. She was to my left staring straight towards
17 the back door.
- 18 Q Okay. Are we the same distance that you were from
19 your grandmother, or do I need to get closer?
- 20 A You need to get a lot closer --
- 21 Q Okay.
- 22 A -- and over here.
- 23 Q Okay. I understand. So your grandmother was over
24 here.
- 25 A Yes, sir.

Justin Thorne
Cross-examination by Mr. Whelchel

- 1 Q And the back door is where?
- 2 A About where she's sitting.
- 3 Q Okay. And you couldn't see who came in the back door.
- 4 A No, sir.
- 5 Q You never saw who came in the back door.
- 6 A No, sir.
- 7 Q You never saw a gun.
- 8 A No, sir.
- 9 Q Okay. How many times since -- let me back up. When
- 10 you left living with Dot and Louie were you kicked out or
- 11 did you find another place to stay? What was it?
- 12 A I moved in with my fiance.
- 13 Q Okay. Were you working at that time?
- 14 A Yes, sir.
- 15 Q Okay. So you had found work.
- 16 A Yes, sir.
- 17 Q Okay. And that's when you moved in with your fiance.
- 18 A Yes, sir.
- 19 Q Okay. Is that the same job you have now?
- 20 A No, sir.
- 21 Q Where were you working then?
- 22 A I worked at Burger King.
- 23 Q Oh, I'm sorry. I forgot about that. You worked at
- 24 Burger King. And then you got a job with your uncle --
- 25 A Yes, sir.

Justin Thorne
Cross-examination by Mr. Whelchel

- 1 Q -- at Johnson Fencing.
- 2 A Yes, sir.
- 3 Q All right. I understand.
- 4 How many times did you visit your grandmother in the
- 5 two years after you left living with them, sir?
- 6 A Not very many.
- 7 Q Okay. More or less than ten?
- 8 A Somewhere around there.
- 9 Q Okay. And Louie was still living with her, correct?
- 10 A Yes, sir.
- 11 Q They were still living together.
- 12 A Yes, sir.
- 13 Q Okay. And did your grandmother work anywhere, or what
- 14 did she do for income?
- 15 A I believe she was working sitting for an old woman.
- 16 Q Okay. Was Louie there all the other times you'd been
- 17 there?
- 18 A No, sir, never.
- 19 Q Okay. When you talked to the officers that day at the
- 20 hospital, I think, is when you gave a statement. Do you
- 21 remember that?
- 22 A Yes, sir.
- 23 Q Okay. You didn't see him leave, did you?
- 24 A Yes, sir, I did.
- 25 Q Do you remember saying, "I guess I saw him leave, I

Justin Thorne
Redirect examination by Mr. Morin

1 don't know"?

2 A Well, I kinda had a bullet burning the back of my
3 skull at the time --

4 Q Okay.

5 A -- but I did the best I could with them.

6 Q All right. Where was he when you first saw him inside
7 the trailer?

8 A When he was leaving.

9 Q Okay. When he was leaving, correct?

10 A Yes, sir.

11 Q So you didn't see who or what shot you.

12 A No, sir.

13 Q Okay. And didn't see a gun. You've already told us
14 that.

15 A That's true.

16 Q Thank you, sir.

17 REDIRECT EXAMINATION

18 BY MR. MORIN

19 Q If I understand correctly, that day you and your
20 grandmother were going to drive to your wedding.

21 A Yes, sir.

22 Q Which was going to be where?

23 A Pine Forest Road at my wife's mother's house.

24 Q Okay. And as I asked you -- well, Mr. Whelchel asked
25 you about what you told the police. But, now, when you're

Justin Thorne
Recross-examination by Mr. Whelchel

1 laying on the kitchen floor and you can move your right
2 hand and you call her, do you remember what you say?

3 A I told her that Louie had shot me and that I didn't
4 know if I was going to live.

5 Q Okay. Thank you, sir.

6 THE COURT: You may step down.

7 MR. WHELCHER: Your Honor, I was going to cross.

8 RECROSS-EXAMINATION

9 BY MR. WHELCHER

10 Q Is that based on what you saw or what you heard?

11 A On what I saw.

12 Q Well, you just told me a minute ago that you didn't
13 see him with a gun, correct?

14 A No, I didn't see him with a gun.

15 Q You didn't see him with a gun.

16 A No, sir.

17 Q Okay. And you didn't see him shoot you.

18 A No, sir.

19 Q Okay.

20 THE COURT: Mr. Morin, do you have anything else?

21 MR. MORIN: I'm sorry. No, sir, I do not.

22 THE COURT: You may step down.
23
24
25

Murray Brandon Letterman
Direct examination by Mr. Morin

- 1 MURRAY BRANDON LETTERMAN,
2 having been first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. MORIN
4 Q Sir, can you state your name for the jury, please?
5 A Murray Brandon Letterman.
6 Q And where do you work?
7 A Spartanburg County Sheriff's Office.
8 Q And what is your job? What's your duties there?
9 A Currently I'm a sergeant on uniform patrol.
10 Q Okay. And in July of 2010 what were you doing?
11 A Investigator.
12 Q All right. Did you have the occasion to go to 103
13 [REDACTED] Drive?
14 A Yes, sir.
15 Q Can you tell us what day that was?
16 A It was on a Saturday.
17 Q Okay. And when you got there what did you see?
18 A Whenever I got there there were uniform patrol units
19 there. The ambulance was about to leave.
20 Ms. Geddes was there. She was crying and upset, and
21 been advised uniform patrol deputies -- the subject was
22 being transported to the hospital who'd been shot.
23 Q Did you see Mr. Thorne at that time?
24 A I did not.
25 Q All right. Did you enter the house and look around?

Murray Brandon Letterman
Direct examination by Mr. Morin

- 1 A After a search warrant was secured.
- 2 Q Okay. Was Mr. Chapman there?
- 3 A No.
- 4 Q Do you recall the date that this was?
- 5 A July 24th.
- 6 Q Okay. Of 2010?
- 7 A Correct.
- 8 Q After you were there at the house did you start to
- 9 look for Mr. Chapman?
- 10 A Yes.
- 11 Q Did you find him on the 24th?
- 12 A No.
- 13 Q Did you find him on the 25th?
- 14 A No.
- 15 Q Now, Mr. Chapman lived at [REDACTED] Drive.
- 16 A Yes.
- 17 Q Were you checking there to see if he was home?
- 18 A Yes.
- 19 Q But he wasn't.
- 20 A Correct.
- 21 Q So Saturday, the 24th, he never came home, and Sunday,
- 22 the 25th, still not there.
- 23 A Correct.
- 24 Q How about on the 26th? Did you see him on the 26th?
- 25 A Saw him on the 26th.

Murray Brandon Letterman
Direct examination by Mr. Morin

- 1 Q At [REDACTED] Drive?
- 2 A No.
- 3 Q Where?
- 4 A Anderson City Jail.
- 5 Q In Anderson City Jail. Did you go to Anderson?
- 6 A Yes.
- 7 Q Did you find the Kia Rio, the silver one?
- 8 A I did not lay eyes on it at the Anderson city police
- 9 department but was advised that it was there.
- 10 Q Okay. You were the lead investigator, is that right?
- 11 A Yes, correct.
- 12 Q And during the course of your investigation do you
- 13 know if a gun was ever recovered?
- 14 A No gun was ever recovered.
- 15 Q Do you know if any bullets were recovered?
- 16 A Yes. A bullet was recovered.
- 17 Q How about shell casings?
- 18 A Two shell casings were recovered.
- 19 Q Do you know where they were recovered from?
- 20 A Inside the residence at [REDACTED]
- 21 Q Okay. There in Anderson did you take Mr. Chapman into
- 22 custody?
- 23 A Correct, yes. Well, he was taken into custody by
- 24 Anderson city. Yes, he was in custody.
- 25 Q And you were with -- did you go by yourself or with

Murray Brandon Letterman
Cross-examination by Mr. Whelchel

1 another officer?

2 A I went with Investigator William Gary.

3 Q Okay. While you were in Anderson did you do anything
4 to see if you could locate a firearm?

5 A Yes.

6 Q What did you do?

7 A Myself and Investigator William Gary went to the
8 location in McCormick County that Mr. Chapman advised that
9 he had been at the two days prior in an attempt to locate
10 the handgun.

11 Q Did you?

12 A No, we didn't. We went there, but we did not locate
13 the handgun.

14 Q Now, you didn't collect any of the evidence, did you?

15 A That's correct. Did not.

16 Q Was somebody else responsible for that?

17 A Yes, sir. Investigator Sean Nix.

18 Q Okay. Please answer any questions Mr. Whelchel may
19 have.

20 CROSS-EXAMINATION

21 BY MR. WHELCHER

22 Q Investigator -- detective -- which one is?

23 A Investigator will be fine.

24 Q Okay. Do you fish?

25 A No, sir.

Murray Brandon Letterman
Cross-examination by Mr. Whelchel

1 Q Okay. Hunt?

2 A No, sir.

3 Q You do know that when people fish they sometimes stay
4 overnight where they fish.

5 A I can -- yes, sir.

6 Q Okay. You didn't find any of the cane poles or
7 fishing poles. Or did you conduct that search?

8 A Yes. We searched but did not find any fishing poles,
9 no, sir.

10 Q That would be on Lake Russell.

11 A I can't recall the name of the lake, but down in
12 McCormick County, yes, sir.

13 Q Okay. Do you know how big Lake Russell is?

14 A I have no idea.

15 Q Have any idea how many miles of shore line there is on
16 Lake Russell?

17 A I'm not -- no, sir.

18 Q Okay. Thank you, sir.

19 MR. MORIN: I have no further questions, Your Honor.

20 THE COURT: You may step down.

21 We'll take a short break before we go further.

22 Let me ask the jury to please go to your jury room.

23 Don't -- do not yet discuss the case. It's not concluded.

24 I'll bring you back after a short break.

25 (The following takes place outside the presence of the

Michael Sean Nix
Direct examination by Mr. Morin

1 jury.)

2 THE COURT: We will be at ease for 15 minutes.

3 (Whereupon, a recess was taken.)

4 THE COURT: All right. Mr. Morin.

5 MR. MORIN: The state calls Sean Nix.

6 MICHAEL SEAN NIX, having been
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. MORIN

9 Q Sir, will you state your name for the jury?

10 A Michael Sean Nix.

11 Q Where do you work, sir?

12 A Spartanburg County Sheriff's Office.

13 Q And what are your duties there?

14 A I'm a crime scene investigator.

15 Q And were you so employed on July 24th of 2010?

16 A Yes, sir.

17 Q Did you have the occasion to go to [REDACTED] [REDACTED]

18 A Yes, sir.

19 Q Is that here in Spartanburg County?

20 A It is.

21 Q When you arrived there, can you tell us some of the
22 things that you did?

23 A When I arrived on the scene I talked to the deputies
24 on the scene and got their version of events, what they
25 said had occurred.

Michael Sean Nix
Direct examination by Mr. Morin

1 If I may refer to my report, the residence was a gray
2 and blue trailer. There was a blue Honda in the front yard.
3 There was also a Ford truck behind the residence.

4 I was advised that the suspect in this case had -- was
5 living at 130 [REDACTED] And so I had to wait for a search
6 warrant to be drawn up and arrive.

7 Q When you got there did you take any photographs?

8 A Yes, sir. I took exterior photographs before the
9 search warrant arrived.

10 Q And after the search warrant arrived did you take any?

11 A Yes, I did.

12 Q I'm going to show you what's been marked as State's
13 Exhibits 1, 2, 3, 4 and 5 for Identification. Can you tell
14 me if you recognize these photographs?

15 A Hold on one second.

16 (Pause.)

17 A Yes, sir.

18 Q And did you take these photographs?

19 A I did.

20 Q What are they photographs of for the most part in
21 general?

22 A For the most part they're photographs of the scene.

23 Q Okay.

24 A And items at the scene.

25 MR. MORIN: Your Honor, I move State's 1 through 5.

Michael Sean Nix
Direct examination by Mr. Morin

1 MR. WHELCHEL: No objection.

2 THE COURT: They're admitted.

3 (Photographs marked State's Exhibits Nos. 1 through 5.)

4 MR. MORIN: May I publish them to the jury, Your
5 Honor?

6 THE COURT: You may.

7 Q Officer...

8 MR. MORIN: May the witness step down so he can see?

9 THE COURT: Yes. I hope he doesn't mess up that
10 microphone.

11 (Whereupon, the witness left the stand.)

12 Q All right. This is State's Exhibit No. 1. And why
13 don't we just start here? Can you tell me what this is?

14 A That is a kitchen table.

15 Q All right. And the same kitchen table is in this
16 photograph. And can you tell me what this is right here?

17 A Appears to be a door looking like it's going back to a
18 bedroom.

19 Q Okay. And the same thing here. Can you tell me what
20 this is here in the lower left-hand corner?

21 A I believe it's the white shirt.

22 Q Okay. And this -- finally, this is a picture of the
23 table, is that right --

24 A Yes, sir.

25 Q -- from back a little bit?

Michael Sean Nix
Direct examination by Mr. Morin

- 1 A Uh-huh.
- 2 Q Okay. Now, when you were at this scene did you find
- 3 any bullets or shell casings?
- 4 A Yes, sir.
- 5 Q Can you show us where you found a bullet?
- 6 A Found a fired bullet -- it's kind of hard to see in
- 7 the picture, but I believe it's right there if I remember
- 8 correctly.
- 9 Q All right. Kitchen table.
- 10 A Yes, sir.
- 11 Q All right. Can you see from these pictures where you
- 12 found the shell casings?
- 13 A They were --
- 14 Q They were in the upper left?
- 15 A They were -- yeah. They were somewhere along this
- 16 wall underneath the kitchen table.
- 17 Q All right. So let me show you State's Exhibit No. 3.
- 18 All right. In the upper left-hand corner we have a tube.
- 19 How did that get that?
- 20 A I put it there.
- 21 Q All right. And what's it showing?
- 22 A It's showing a fired cartridge case or a shell casing.
- 23 Q Right there?
- 24 A Uh-huh.
- 25 Q All right. And then in the lower left-hand corner we

Michael Sean Nix
Direct examination by Mr. Morin

1 have a three, is that right?

2 A Yes, sir.

3 Q And what is it showing?

4 A It is also fired -- it is showing a fired cartridge
5 case.

6 Q All right. And of course here on the lower right-hand
7 corner we have two and three. That's indicating from back,
8 is that correct, where those three shell casing were?

9 A Yes, sir.

10 Q Did you find any other shell casings during your
11 investigation?

12 A I do not believe we did, sir.

13 Q Okay. So you found two shell casings and one bullet.

14 A Yes, sir.

15 Q If you will have a seat back.

16 (Whereupon, the witness returned to the stand.)

17 Q I'm now showing you what's been marked for
18 identification as State's 6, 7 and 8. If you could, tell
19 me -- first of all, these envelopes that are marked
20 evidence, did you do that?

21 A Yes, sir.

22 Q Okay. Can you tell me what's inside? Can you go
23 ahead and open them?

24 A Sure. The first one marked as item No. 1 says on the
25 outside is a fired bullet, and there is a fired bullet.

Michael Sean Nix
Direct examination by Mr. Morin

1 Q All right. And now the envelope is marked on the red
2 number. So we know what we're talking about, that's
3 state's what?

4 A State's Exhibit 7.

5 Q So it's a fired bullet.

6 A Uh-huh.

7 Q And that's the one that we saw you recovered from the
8 table?

9 A Yes, sir.

10 Q Okay. Now, state's exhibit --

11 A Six.

12 Q -- for identification.

13 A And on the front it has a fired cartridge case marked
14 GFL 6.35, which it is indeed a cartridge case marked.

15 Q And that's the one that's recovered from the floor.

16 A Yes, sir.

17 Q Okay.

18 A And state's exhibit -- marked as State's Exhibit 8 is
19 a fired cartridge case marked GFL 63.5, and it's a
20 cartridge case.

21 Q Okay.

22 MR. MORIN: Your Honor, at this time the state would
23 move six, seven and eight into evidence.

24 THE COURT: They're admitted.

25 (Bullet and two shell casings marked State's Exhibit

Michael Sean Nix
Direct examination by Mr. Morin

1 No. 6; fired bullet marked State's Exhibit No. 7; fired
2 cartridge case marked State's Exhibit No. 8.)

3 Q Now, during the course of your investigation did you
4 find any firearms in the house?

5 A No, sir.

6 Q During your involvement with this case have you ever
7 recovered a firearm?

8 A No, sir, I have not.

9 Q Now, there are three more pictures I'm going to need
10 to ask you about if you can step down again.

11 (Whereupon, the witness left the stand.)

12 Q All right. This is State's Exhibit No. 2. And I
13 believe that here in the upper right-hand corner where we
14 have this No. 1, that's marking this item.

15 A Yes, sir.

16 Q And then down here in the lower left we see that this
17 is a bullet, is that correct?

18 A Yes, sir.

19 Q And is this how you found it, laying on this rag?

20 A Yes, sir, if I remember correctly that's how I found
21 it, laying on the rag.

22 Q All right. This is State's Exhibit No. 5. Can you
23 tell me what this is a picture of?

24 A It is a picture of a white button-up shirt with what
25 appears to be blood on it.

Michael Sean Nix
Cross-examination by Mr. Whelchel

1 Q Okay. And of course State's Exhibit No. 4 is
2 different angles of the same shirt, is that correct?

3 A Yes, sir.

4 Q And this is a shirt that you found lying on the floor
5 there in the kitchen?

6 A Yes, sir.

7 Q All right. If you'll have a seat I just have a couple
8 more questions.

9 (Whereupon, the witness returned to the stand.)

10 Q Now, the two shell casings that you found were both
11 marked similarly, is that correct?

12 A Yes, sir.

13 Q G --

14 A I have in my report, GFL 6.35.

15 Q And how long have you been doing the evidence, your
16 job that you presently have? How long have you been doing
17 that?

18 A I have been doing it -- it'll be five years this
19 coming November.

20 Q All right. Please answer any questions Mr. Whelchel
21 may have.

22 A Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. WHELCHER

25 Q Mr. Nix --

Michael Sean Nix
Cross-examination by Mr. Whelchel

- 1 A Uh-huh.
- 2 Q -- I'm showing you what's been marked as State's
3 Exhibits 4 and 5 -- excuse me --
- 4 A That's all right.
- 5 Q -- that you previously identified. It has a white
6 shirt and what appears to be blood on it, correct?
- 7 A Yes, sir.
- 8 Q Has that substance on the shirt ever been tested?
- 9 A I have not tested it, no, sir.
- 10 Q Do you have any knowledge of it being tested?
- 11 A I don't have any knowledge of it being tested, no,
12 sir.
- 13 Q I'm showing you the envelope which holds State's
14 Exhibits 6 and 8.
- 15 A Uh-huh.
- 16 Q Those are the -- what you have described as fired
17 cartridge cases, correct?
- 18 A Yes, sir.
- 19 Q And in between those State's Exhibit No. 7, fired
20 bullet.
- 21 A Yes, sir.
- 22 Q Okay. Any testing on those items done by you?
- 23 A No, not by me, sir.
- 24 Q To your knowledge has any ballistics testing been done
25 on those items?

Michael Sean Nix
Redirect examination by Mr. Morin

1 A No, sir, not to my knowledge.

2 MR. WHELCHER: Beg the Court's indulgence, Your Honor.

3 (Pause.)

4 Q You don't know from what you've investigated as the
5 crime scene investigator --

6 A Uh-huh.

7 Q -- you can't tell us who fired these.

8 A No, sir.

9 Q Okay. Thank you, sir.

10 REDIRECT EXAMINATION

11 BY MR. MORIN

12 Q Officer Nix, if you had the firearm, a gun, and these
13 items, what would you do with those?

14 A At the request of the investigating detective we would
15 send them off for a comparison.

16 Q Right. But you'd need the firearm to do that,
17 wouldn't you?

18 A Yes, we would need the firearm to do that.

19 Q That's all the questions I have.

20 THE COURT: You may step down.

21 MR. MORIN: Ask this witness be excused, Your Honor.

22 THE COURT: He may be.

23 MR. MORIN: Your Honor, the state's going to rest at
24 this time.

25 THE COURT: All right. Ladies and gentlemen, that's

1 all of the evidence to be offered by the state, at least in
2 their case in chief.

3 Before we go further I've a couple of matters I'll
4 need to address with the lawyers. It should take just a
5 few minutes.

6 So I'll ask you to please go to your jury room. Don't
7 talk about the case. I'll bring you back after that few
8 minutes.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Any motions or other matters to address?

12 MR. WHELCHER: Yes, sir, Your Honor.

13 Do you have the indictment?

14 THE COURT: Yes.

15 MR. WHELCHER: Thank you, sir.

16 Your Honor, at this time I would make a motion for a
17 directed verdict of not guilty on behalf of Mr. Chapman
18 based on the insufficiency of the evidence as presented by
19 the state to this point.

20 I would point out to the Court that the only two
21 people inside the mobile home at that time have testified,
22 first Ms. Geddes that she did not see a gun and assumed her
23 grandson was shot, and subsequently Justin Thorne said he
24 didn't see him come in and didn't see the gun and didn't
25 see him shoot "me".

1 The indictment says that, alleges that, my client with
2 malice aforethought attempted to kill Justin Thorne by
3 shooting the victim in the head with the intent to kill the
4 said victim.

5 There has been no testimony or evidence to that fact,
6 Your Honor. Based on that I would like to make a motion
7 for a directed verdict.

8 THE COURT: Mr. Morin.

9 MR. MORIN: Your Honor, I believe in the light most
10 favorable to the state Ms. Geddes says that Mr. Chapman was
11 in the home and held his fist to the back of her grandson's
12 head. Blood came out.

13 Mr. Thorne has testified that he has a bullet in his
14 next approximately to where she described that he was shot.

15 He says he saw blood. We have his shirt with blood,
16 photographs of the shirt with blood on it.

17 There are two shell casings and one bullet. The other
18 bullet we believe is in Mr. Thorne's head as he's testified
19 to, and we believe that there's certainly enough evidence
20 for the jury to find that Mr. Chapman did, in fact, have a
21 firearm and shoot Mr. Thorne.

22 THE COURT: What was the last thing?

23 MR. MORIN: I'm sorry.

24 We believe that the evidence would support that
25 Mr. Chapman actually fired a gun causing the bullet to

1 lodge in Mr. Thorne's neck.

2 There's only three people in the -- in the trailer by
3 all testimony. Ms. Geddes says that he held his hand right
4 up to the back of her grandson's neck. She saw blood come
5 out.

6 He testified he has a bullet lodged in his neck. We
7 have two shell casings and one bullet on the table. And he
8 accounts for the other one. We believe that that's enough
9 for the jury to find he did, in fact, have a firearm.

10 MR. WHELCHER: I don't want to belabor the point, Your
11 Honor, but I would correct the prosecutor. We do not have
12 a shirt with blood on it. We have a shirt with what they
13 believe might be blood on it. There's no testimony
14 whatsoever that there's blood on that shirt.

15 MR. MORIN: I tried to correct myself. I certainly
16 defer --

17 MR. WHELCHER: I'm sorry.

18 MR. MORIN: But I certainly defer to his --

19 THE COURT: All right. Well, there's certainly
20 evidence that would support the verdict if the jury found
21 it to be credible and believable. So the motion for a
22 directed verdict is denied.

23 Any others?

24 MR. WHELCHER: Your Honor, do you want to go forward
25 at this time, or are we in a break?

1 THE COURT: Well, that depends.

2 Is he going to testify?

3 MR. WHELCHER: He is going to testify, Your Honor.

4 THE COURT: He is?

5 MR. WHELCHER: Yes, sir.

6 THE COURT: Okay. Well, then we're going forward.

7 MR. WHELCHER: Yes, sir.

8 THE COURT: All right. Mr. Chapman --

9 THE DEFENDANT: Yes, sir.

10 THE COURT: -- your lawyer tells me that you want to
11 testify.

12 Do you understand that's your right? You've got a
13 right to testify or not testify. Nobody can make you
14 testify. You have an absolute right to remain silent,
15 which means you don't have to take the witness stand and
16 answer any questions that relate to this charge brought
17 against you.

18 However, if you choose to testify -- and it's your
19 decision to do so -- then when you take the witness stand
20 you'll have to answer all of the questions asked of you,
21 not just your lawyer's questions. But you'll have to also
22 answer the state's lawyer's questions to the extent they're
23 relevant even if the answers to those questions might tend
24 to prove you guilty.

25 Now, do you understand your right to testify or not?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand it's your choice?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Has Mr. Whelchel explained to you the
5 advantages and disadvantages of testifying, as well as not
6 testifying?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you appreciate what those advantages
9 and disadvantages are?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you had plenty of time to reflect
12 upon your decision?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you've made a decision?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: What is it?

17 THE DEFENDANT: I want to testify, sir.

18 THE COURT: And is that a decision that you've made of
19 your own free will and accord?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Has anybody forced you into it?

22 THE DEFENDANT: No, sir.

23 THE COURT: Anybody suggested that's what you ought to
24 do?

25 THE DEFENDANT: No, sir.

1 THE COURT: You made that decision on your own?

2 THE DEFENDANT: Yes, sir. Mr. Whelchel told me to
3 tell the truth if I got up there, and that's what I'm going
4 to do.

5 THE COURT: Well, you'll be obligated to tell the
6 truth, now, if you're going to take the witness stand.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: No doubt about that.

9 My question is is it your decision to testify.
10 It's -- Mr. Whelchel didn't tell you to get up there, did
11 he?

12 THE DEFENDANT: No, sir.

13 THE COURT: You made that decision on your own?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you're satisfied with it?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. All right. Anything else?

18 MR. WHELCHER: Just a moment.

19 (Pause.)

20 MR. WHELCHER: Thank you, Your Honor.

21 THE COURT: All right. Bring the jury in, please,
22 sir.

23 (The following takes place in the presence of the
24 jury.)

25 THE COURT: All right. As you know, the state has

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

1 concluded in their presentation, at least their case in
2 chief.

3 So we'll now proceed with any to be offered by the
4 defense.

5 Mr. Whelchel.

6 MR. WHELCHER: Thank you, Your Honor. The defense
7 calls Louie Chapman.

8 LOUIE ALVOID CHAPMAN, having
9 been first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. MORIN

11 Q You are Louie or Lewis --

12 A Louie.

13 Q -- Alvoid Chapman?

14 A Yes, sir.

15 Q Speak up, Mr. Chapman. I want to make sure that
16 everybody in that jury box can hear you.

17 A Yes.

18 Q Okay. And me too because I got -- I got the helpers.
19 All right?

20 A Yes.

21 Q You're a little soft-spoken, Louie. We talked about
22 that when we talked before. So speak up so everybody can
23 hear you.

24 A Yes, sir. I will.

25 Q There you go.

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 How old are you, Louie?
- 2 A Fifty-eight.
- 3 Q What kind of work have you done, Louie, during your
- 4 life?
- 5 A Mostly textile mills, and the last ten years flea
- 6 market work.
- 7 Q Okay. Textile mills kind, kinda left.
- 8 A Yes. I figured I couldn't do no worse than they did.
- 9 Q Yes, sir. Are you from Spartanburg, this area?
- 10 A Greenville.
- 11 Q Okay. Have any children, Louie?
- 12 A Yes, sir, yes, sir.
- 13 Q How many?
- 14 A Five.
- 15 Q Five?
- 16 A Yes, sir.
- 17 Q How old are they?
- 18 A Thirty-six, 33, 25, 23 and maybe 18. I'm not a
- 19 hundred percent sure.
- 20 Q They're all grown.
- 21 A Yes, sir.
- 22 Q All right. Now, Louie, let's go back to this July,
- 23 this Saturday in July, of last year. You were living with
- 24 Dot, right?
- 25 A Yes, sir.

Louie Alvoid Chapman
Direct examination by Mr. Whelchel.

1 Q You and Dot been living together for about four years
2 at that time, is that right?

3 A Yes, sir.

4 Q Okay. How did you and Dot meet?

5 A First went up there to do repair work at her home.

6 Q Uh-huh.

7 A She had wires hanging out of the ceiling and the, the
8 porch, holes in the floor, doors that wasn't on in the
9 bathroom and stuff like that that had been tore up. I
10 fixed them and replaced them.

11 Q She paid you.

12 A Yeah, she -- she cooked us a big supper.

13 Q All right, Louie. Cooked a big supper.

14 A Yes, sir. It was good.

15 Q I guess it's true that a man's -- way to a man's heart
16 is through his stomach.

17 A Yes, mine especially.

18 Q Okay. Tell us how you and Dot -- what happened after
19 you first met, how you developed this relationship.

20 Did you just keep going back there and fixing stuff for
21 her?

22 A Yes, sir, basically. And then she asked me if I would
23 move in with her and take care of things. And that's
24 mostly what I done.

25 Q Okay. And you did that.

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 A Yes, sir.
- 2 Q Y'all had a man-woman relationship, correct?
- 3 A Well, yes.
- 4 Q Okay. Now, at some point during that four-year time
- 5 span Justin moved in, is that correct?
- 6 A Yes, sir.
- 7 Q Was he there already when you met Dot, or did he come
- 8 later?
- 9 A No, sir. He just got out of prison and come and
- 10 stayed with us.
- 11 Q Okay. So you didn't answer my question.
- 12 Was he there already when y'all started living
- 13 together?
- 14 A No, sir.
- 15 Q That's what I need to know, trying to understand.
- 16 How long if you remember did Justin stay with you and
- 17 Dot before he left?
- 18 A Two months. The law come and got him. They come to
- 19 the house and picked him up.
- 20 Q Okay. And after that he would visit with you and Dot,
- 21 is that correct?
- 22 A Yes, sir. He's been there at times.
- 23 Q Okay. Do you have any -- do you know how many times
- 24 he visited, or did you bother to count?
- 25 A No, sir, I didn't bother to count. But just a few

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

1 weeks before this happened I came home and him and his lady
2 friend was on the back porch talking to Dot.

3 Q Okay.

4 A Just a couple of weeks before.

5 Q Wasn't unusual for him to be there, is that correct?

6 A No, sir.

7 Q Okay. July 24th of last year, Saturday morning, tell
8 us what you did, sir..

9 A Well, I went to a flea market, a yard sale. Started
10 about 5:30 that morning.

11 Q 5:30?

12 A You got to be early. If you ain't early, there ain't
13 no use going.

14 Q Okay.

15 A And I hit a bunch of yard sales and bought a car load
16 of stuff. About 8:30 I took it home. The car was full.

17 Q Was that -- is that what you did every day or every
18 week? How often would you do that?

19 A Every time I could find stuff to buy, I'd buy it and
20 resell it.

21 Q Okay.

22 A Saturday's always a good day. Saturday's a good day
23 for me.

24 Q Saturday's a good day.

25 A And I had bought. The car was full of stuff when

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 Calvin come over -- when Calvin came over to talk.
- 2 Q Wait a minute. Let me back up. Whose car were you
3 in?
- 4 A The Kia Rio.
- 5 Q Okay.
- 6 A Dot's car.
- 7 Q Dot's car.
- 8 A Yes, sir.
- 9 Q Why weren't you in your car?
- 10 A The truck was tore up.
- 11 Q What was wrong with the truck?
- 12 A Transmission.
- 13 Q Okay. How long had it been tore up?
- 14 A About three weeks.
- 15 Q Okay. While you were living with Dot was she working?
- 16 A Yes, sir. She worked some for Ben Goodwin and Mozell
17 Goodwin, but she got fired the first of 2010.
- 18 Q Okay. Were you the source of income for the two of
19 you?
- 20 A Beside her social security check.
- 21 Q Okay. So that morning -- correct me if I'm wrong --
22 started out like any other Saturday morning.
- 23 A Yes, sir.
- 24 Q Did you get up at 5:30?
- 25 A Get up about 4:00 and get ready and get my maps up so

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

1 I'll know where I'm going.

2 Q Louie, did you get the paper out and map all of these
3 different locations?

4 A Yes sir. I had a map. I had to hunt them up and know
5 where I was going.

6 Q Okay. So this particular Saturday morning when you
7 got back, tell us what happened.

8 A Well, I unloaded the car. And Calvin -- he came right
9 over, and he wanted a flag pole kit. It was in a box.

10 Q Uh-huh.

11 A I unloaded the car, and we was standing there talking.

12 Q Let me ask you a question, Louie, while you're talking
13 about Calvin.

14 A Yes, sir.

15 Q Calvin's mobile home is across the yard or street or
16 whatever from the one you and Dot lived in, correct?

17 A Yes, sir.

18 Q Okay. Now that's her mobile home, right?

19 A Yes, sir.

20 Q And you moved in with her --

21 A Yes, sir.

22 Q -- after she asked you to.

23 A Yes.

24 Q All right. I want you to stop me when I am the
25 distance between the mobile home you were living in with

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 Dot and Calvin's mobile home. Do you understand what I'm
2 asking you to do?
- 3 A Yes.
- 4 Q Would it be farther than the confines of this
5 courtroom?
- 6 A No, sir.
- 7 Q All right.
- 8 A No, sir.
- 9 (Whereupon, Mr. Whelchel walked from the witness.)
- 10 Q You can see me, right?
- 11 A Yes, sir.
- 12 Q Okay. You don't have any vision problems, right?
- 13 A No, sir.
- 14 Q Okay. Far enough?
- 15 A No, sir.
- 16 (Whereupon, Mr. Whelchel left the courtroom.)
- 17 Q How about now?
- 18 A That may be two-thirds of the way.
- 19 Q Across the lobby into the courtroom is about
20 two-thirds of the way?
- 21 A Yes, sir.
- 22 Q All right. How come you shot him that day?
- 23 A I didn't shoot him, sir.
- 24 Q You didn't shoot him.
- 25 A No, sir.

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 Q Okay. Did you see who did shoot him?
- 2 A No, sir.
- 3 Q Did you see anybody else there that day?
- 4 A Yes, sir.
- 5 Q Who did you see?
- 6 A A young white male probably 20 or 28 or 30.
- 7 Q Okay. Where did you see this young white male?
- 8 A He pulled up -- when I was pulling out of our
- 9 driveway --
- 10 Q Uh-huh.
- 11 A -- he was pulling up at the end of the road on into
- 12 the yard --
- 13 Q Okay.
- 14 A -- next to Clark Road.
- 15 Q All right. Now, let's back up.
- 16 You're out in the yard talking to Calvin talking about
- 17 flag poles, correct?
- 18 A Yes, sir.
- 19 Q You negotiate a deal with Calvin to sell him a flag
- 20 pole. Stop me.
- 21 A Yes, sir.
- 22 Q Stop if I'm wrong. Okay?
- 23 A Yes, sir.
- 24 Q Calvin takes the flag pole and heads for home. Was
- 25 Calvin walking toward me back then too?

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 A No, sir.
- 2 Q Okay. Calvin has to cover that distance that you just
3 testified to.
- 4 A Yes, sir.
- 5 Q Well, what you just testified to was two-thirds of the
6 way from your trailer, yours and Dot's trailer, to Calvin's
7 trailer, right?
- 8 A Yes, sir.
- 9 Q When Calvin was walking away did he walk backwards
10 like I did?
- 11 A No, sir.
- 12 Q So Calvin turned his back and walked away.
- 13 A Yes, sir.
- 14 Q So Calvin cannot see anybody who might pull into the
15 yard and park or come into Dot's trailer while he's walking
16 away, is that correct?
- 17 A No, sir. He couldn't.
- 18 Q But the guy didn't pull in while Calvin was walking
19 away, right?
- 20 A No, sir. He just got across the street, Calvin had,
21 and was getting ready to -- I was pulling out when he
22 pulled in.
- 23 Q Okay. So is Calvin already in his trailer?
- 24 A No, sir. He's --
- 25 Q Where was he?

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

1 A He's standing over the steps.

2 Q Okay. Calvin is at the front side of his trailer.

3 A Yes, sir.

4 Q Still with his back turned.

5 A Yes, sir.

6 Q Okay. Did you see this fellow that -- what kind of
7 car was he driving, or was he driving a car at all?

8 A Yes, sir. He was driving a car, one of those newer
9 model Hondas.

10 Q Okay.

11 A I'm not sure what year.

12 Q Do you remember speaking to Justin at all when he came
13 in that day?

14 A No, sir.

15 Q Okay. He didn't speak to you.

16 A No, sir.

17 Q Okay. Y'all didn't like each other.

18 A It's not I don't particularly like him. I mean, I
19 like everybody, but they's some people --

20 Q You didn't trust him.

21 A I don't trust.

22 Q All right, sir. And after Calvin walked away or while
23 he's walking away did you go into the house, sir?

24 A No, sir.

25 Q Never went into the house.

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 A No, sir. I left. I was pulling out when Calvin was
2 on his front porch.
- 3 Q Okay. Still had his back to you?
- 4 A Yes, sir.
- 5 Q Okay.
- 6 A Well, he --
- 7 Q Did you wave at Calvin or anything like that?
- 8 A Yes, sir. But I didn't stop.
- 9 Q Okay. Did he turn and see you? Do you remember that?
- 10 A Yes, sir. I'm sure he saw me.
- 11 Q Okay. Do you remember if Calvin had gone around or
12 inside his trailer, or do you know?
- 13 A No, sir.
- 14 Q No, you don't remember, or, no, you don't know?
- 15 A No, sir. He was stepping up on the front porch.
- 16 Q Okay.
- 17 A And he went to his front door.
- 18 Q Uh-huh.
- 19 A And he reached for the front door when I turned and
20 left.
- 21 Q Okay. Still had the flag pole.
- 22 A Yes, he still had his flag pole.
- 23 Q All right. Had you been driving the -- is it a Kia --
24 is it a Kia Rio?
- 25 A Kia Rio.

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 Q Kia Ria?
- 2 A Rio.
- 3 Q Okay. Had you been driving it for that past three
- 4 weeks?
- 5 A The last years.
- 6 Q Well, since your truck had broken down --
- 7 A Oh, yes, sir.
- 8 Q -- you had been driving the Kia, is that correct?
- 9 A Yes, sir.
- 10 Q It wasn't anything usual about you driving the Kia.
- 11 A I been driving it.
- 12 Q How many sets of keys were there to the Kia?
- 13 A Three.
- 14 Q Did you have a set?
- 15 A Yes.
- 16 Q Okay. Where did you go when you left?
- 17 A I was hunting more yard sales.
- 18 Q Okay. Did you find any?
- 19 A A couple in Inman.
- 20 Q Okay. And you went to them?
- 21 A Yes.
- 22 Q Did you go anywhere else that weekend?
- 23 A Yes, sir. I went fishing.
- 24 Q Where did you go fishing?
- 25 A Richard Russell.

Louie Alvoid Chapman
Direct examination by Mr. Whelchel

- 1 Q Richard Russell?
- 2 A Yes, sir, and the Cargill (sic) Dam.
- 3 Q Where is that?
- 4 A It's about 20 miles out of Calhoun Falls down below
- 5 Anderson.
- 6 Q In Anderson County?
- 7 A Right out of Anderson County.
- 8 Q Okay. You go down 85 to get there.
- 9 A Yes, sir, and hit 81.
- 10 Q All right. And how long did you stay at the place you
- 11 went fishing?
- 12 A Saturday night and Sunday.
- 13 Q Okay. And eventually you were arrested by the
- 14 Anderson County Police Department for the warrant that was
- 15 issued for you, is that correct?
- 16 A Yes, sir.
- 17 Q Okay. And you talked to that investigator that was
- 18 here earlier?
- 19 A I'm not sure that's the man I talked to or not, sir.
- 20 Q Okay. You talked to the investigators.
- 21 A Yes, sir.
- 22 Q And told them what you've told me.
- 23 A Yes, sir.
- 24 Q Okay. Do you have any idea how many times in the four
- 25 years that you lived with Dot that Justin came over?

Louie Alvoid Chapman
Cross-examination by Mr. Morin

1 A No, sir. A lot. He stayed in jail most of the last
2 four years.

3 Q You never took the opportunity on any of those other
4 occasions to shoot him, did you?

5 A No, sir, no, sir.

6 Q And you didn't shoot him on July the 24th of last
7 year.

8 A No, sir.

9 Q Answer any questions Mr. Morin might have.

10 A Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. MORIN

13 Q Mr. Chapman, you went fishing for two days.

14 A Yes, sir.

15 Q Tell the jury where you put your fishing poles when
16 you came home.

17 A I didn't go home, sir.

18 Q When you left the fishing area.

19 A I hid them.

20 Q You hid them.

21 A Yes, sir.

22 Q You didn't put them in the car and drive home?

23 A They were nasty with chicken livers, and I was
24 planning on coming back.

25 Q Dorothy is in her 70's, and I guess when you met her

Louie Alvoid Chapman
Cross-examination by Mr. Morin

- 1 she was 68 or 67. Is that fair?
- 2 A Yes, sir.
- 3 Q And she was already receiving a social security check.
- 4 Is that fair?
- 5 A Yes, sir.
- 6 Q And she already owned the trailer to which you moved
- 7 into, is that right?
- 8 A Yes, sir.
- 9 Q And she owned the Kia Rio that you were driving, is
- 10 that right?
- 11 A Yes, sir.
- 12 Q Did you tell her that you were going to take the only
- 13 functioning vehicle, the Rio, and be gone all weekend?
- 14 A Yes, sir.
- 15 Q You told her that.
- 16 A Yes, sir. She told me it would be all right too, sir.
- 17 Q Well, and how about Wayne Chapman? Do you know Wayne?
- 18 A Yes, sir.
- 19 Q In fact, you spoke to Wayne that weekend, didn't you?
- 20 A Yes, sir.
- 21 Q And Wayne told you that they were looking for you,
- 22 didn't he?
- 23 A No, sir.
- 24 Q He didn't?
- 25 A No, sir.

Louie Alvoid Chapman
Cross-examination by Mr. Morin

1 Q So let me see if I understand. And of course have you
2 ever -- you kept a journal of the places you went so that
3 you would know where the best places -- flea markets, yard
4 sales, stuff like that, right?

5 A Yes, sir.

6 Q And you also kept a record of things that you had to
7 do with the truck and the car, right?

8 A Yes sir.

9 Q And you were keeping up with the mileage on the Rio so
10 you knew when Dorothy went somewhere. You wanted to make
11 sure you knew how far she went, didn't you?

12 A No, sir.

13 Q Are you certain? You kept a record of that, right?

14 A I'm positive.

15 Q All right. Have you ever referred to -- well, let me
16 ask you this.

17 So before you moved in with Dorothy where were you
18 staying?

19 A With my daughter.

20 Q So you didn't have a place to live then.

21 A Yes, sir.

22 Q You were living with your daughter.

23 A Yes.

24 Q You didn't have a place of your own, did you?

25 A Well, if I lived with my daughter, it's mine too, sir.

Louie Alvoid Chapman
Cross-examination by Mr. Morin

- 1 Q Did you -- was it an apartment or a mobile home --
2 mobile home or a house?
- 3 A Mobile home, sir.
- 4 Q Okay. And is the mobile home titled in your name, her
5 name or her son's -- her husband's name?
- 6 A Rental.
- 7 Q Rental. Were you working then?
- 8 A Yes, sir.
- 9 Q Where were you working then?
- 10 A Kapasi Glass.
- 11 Q Okay. And when did you quit working at Kapasi glass?
- 12 A Before I moved in with Dot.
- 13 Q So you stopped working, and you were living with your
14 daughter, and you didn't have a job for a certain amount of
15 time, right? You are with your daughter, and you stopped
16 working at Kapasi, because that would have been before you
17 moved in with Dot.
- 18 A Well, I sold at the flea markets.
- 19 Q Right. I understand that. I am going to get to that,
20 but I mean as a regular job --
- 21 A Oh, no, sir.
- 22 Q -- that was the end of that.
- 23 A Yes, sir.
- 24 Q You stopped working at Kapasi and you were living with
25 your daughter who was renting a mobile home. Is she still

Louie Alvoid Chapman
Cross-examination by Mr. Morin

- 1 renting that mobile home?
- 2 A No, sir.
- 3 Q She's moved out of there.
- 4 A Yes, sir.
- 5 Q Okay. And then you moved in with Dot, right?
- 6 A Yes, sir.
- 7 Q And she'd already owned that mobile home. Didn't she?
- 8 A Yes, sir.
- 9 Q And she already owned the Rio, right?
- 10 A Just had bought it.
- 11 Q Just had bought it. But it was hers and it was paid.
- 12 A Yes, sir.
- 13 Q And she was receiving a social security check.
- 14 A Yes, sir.
- 15 Q And your contribution was you were going to different
- 16 flea markets and things and buying and selling like flags,
- 17 poles, right?
- 18 A A lot of things, yes, sir.
- 19 Q A lot of different things. Yeah. You were going all
- 20 over -- up to Chesnee, down to Anderson, all over -- not
- 21 counting the yard sales in between. But that's how you
- 22 were getting money, is that right?
- 23 A Yes, sir.
- 24 Q Now, I think you will agree that you didn't care for
- 25 Justin. Is that fair to say?

Louie Alvoid Chapman
Cross-examination by Mr. Morin

- 1 A I don't care for him, but I don't dislike him either.
- 2 Q I understand. And of course he's her grandson, isn't
- 3 that right?
- 4 A Yes, sir.
- 5 Q And as her grandson she tries to help him when she
- 6 can, doesn't she?
- 7 A Yes, sir.
- 8 Q And helping him sometimes means giving him money,
- 9 doesn't it?
- 10 A Yes, sir.
- 11 Q And it means letting him stay there with y'all,
- 12 doesn't it?
- 13 A Yes.
- 14 Q And of course if he's not there, living there, and
- 15 he's not coming by there, then she's not giving him money,
- 16 is she?
- 17 A She could be taking it to him. I don't know about
- 18 that.
- 19 Q But you wouldn't want her to, would you?
- 20 A She gives him money. I didn't say a thing. When she
- 21 was working for Mozell Goodwin, I never said a word about
- 22 her giving him money.
- 23 Q Well, what about when she wasn't working for Mozell?
- 24 What about when she was staying in her mobile home with her
- 25 car and receiving her social security check?

Louie Alvoid Chapman
Cross-examination by Mr. Morin

- 1 A She didn't have any money to give away then.
- 2 Q She didn't?
- 3 A No, sir.
- 4 Q But if she -- if she had -- if she did have something
- 5 and she wanted to give it away, she could, couldn't she?
- 6 A Yes.
- 7 Q And of course that would be taking off of what you
- 8 could get from her, wouldn't it?
- 9 A I didn't take no money off of Dot.
- 10 Q But you were living there.
- 11 A I paid bills too.
- 12 Q Is it my understanding that the only income you had
- 13 was what you were buying and selling at flea markets?
- 14 A Averaged about five fifty a week.
- 15 Q And of course that doesn't count the gas and the
- 16 transmission fluid that you were putting into the truck
- 17 before it quit on you.
- 18 A Averaged about five fifty profit per week.
- 19 Q You're saying that you're including your expenses of
- 20 driving her car or your broke-down truck around.
- 21 A Well, I drove the truck and the car.
- 22 Q The last three weeks you couldn't drive the car at
- 23 all.
- 24 A No, sir. The truck.
- 25 Q Well, why didn't you get another vehicle?

Louie Alvoid Chapman
Cross-examination by Mr. Morin

- 1 A Because I was fixing that one.
- 2 Q It'd been broke for three weeks.
- 3 A Well, I was fixing it.
- 4 Q You two were having to share the Rio. And if we
- 5 believe that she said go ahead and go fishing, which she
- 6 would have been without a vehicle the whole time you were
- 7 gone, right?
- 8 A Yes.
- 9 Q No way to go anywhere. And if you are on Clark Road
- 10 and [REDACTED] Drive, you're not walking to the store from
- 11 there, especially if you're 72, are you?
- 12 A She's got a daughter that lives less than a mile up
- 13 the street.
- 14 Q Officer Letterman spoke to you there in Anderson. Do
- 15 you remember that?
- 16 A I'm not for sure that's the same one I talked to, no,
- 17 sir. It's been a little over a year.
- 18 Q Mr. Whelchel asked Officer Letterman. There's a lot
- 19 of forest and all kinds of places out there by Lake
- 20 Russell, isn't that right?
- 21 A Yes, sir.
- 22 Q And if I understand you correctly you slept in your
- 23 car, in the Kia, out there in the woods for two days
- 24 fishing, right?
- 25 A Slept in lounge chair one night fishing.

Louie Alvoid Chapman
Cross-examination by Mr. Morin

1 Q Did you bring a lounge chair too?

2 A No, sir.

3 Q Well, how did it get there?

4 A Oh, I brought the lounge chair to the lake, but I
5 didn't take it back to Anderson that morning.

6 Q So you left the lounge chair and all of your fishing
7 stuff down there in the woods.

8 A Yes, sir.

9 Q Right?

10 A Yes.

11 Q And when you went back to Anderson where did you go?
12 At some point you left from this fishing excursion where
13 you left everything. And you ended up at the Anderson
14 county or city jail.

15 A I went to the county first.

16 Q All right.

17 A And I asked them to run a warrant and see if I had a
18 warrant.

19 Q Why did you do that?

20 A Because my brother said that the law had been to his
21 house. He didn't know who the law was looking for. And I
22 figured right then when he didn't say they might have been
23 looking for me.

24 MR. MORIN: One moment, Your Honor.

25 (Pause.)

Louie Alvoid Chapman
Redirect examination by Mr. Whelchel

1 Q Just so I understand -- and Mr. Whelchel will correct
2 me if I'm wrong -- you got out of the driveway of 103
3 [REDACTED] -- it's a short drive to Clark. You drove out.
4 And if I understand you correctly you said, "When I drove
5 out this white man, who I don't know who it was, driving a
6 similar car to Justin's drove in." Is that correct?

7 A Yes, sir.

8 MR. MORIN: I have no further questions.

9 REDIRECT EXAMINATION

10 BY MR. WHELCHER

11 Q Did you always ask permission when you took the Rio
12 Kia, whatever?

13 A No, sir.

14 Q As a matter of fact, he was there to pick her up to
15 take her to the wedding, is that right?

16 A Yes, sir.

17 Q You already knew that from the night before.

18 A Yes, sir.

19 Q Prior to your truck breaking down did you use both
20 vehicles --

21 A Yes.

22 Q -- to do this Saturday morning yard-sale thing?

23 A Yes, sir.

24 Q Thank you, sir.

25 A Yes.

1 MR. MORIN: I have nothing further.

2 THE COURT: You may step down.

3 MR. WHELCHER: The defense rests.

4 THE COURT: Any reply?

5 MR. MORIN: No, sir.

6 THE COURT: All right. Ladies and gentlemen, that is
7 all of the testimony or evidence to be offered in the trial
8 of the case.

9 What remains to be done are the lawyers' final
10 summations, after which I'll instruct you on the law that's
11 applicable. And then you can begin with your
12 deliberations. We'll begin with the lawyers' summations in
13 the morning at 9:30.

14 Keep in mind the caution I've already provided you.
15 Don't discuss the case with anyone during the overnight
16 recess. Don't conduct any research or do your own
17 investigation into any issue that might have arisen.

18 Do have a good evening, and please report to your jury
19 room at 9:30 in the morning, 9:30 in the morning, at which
20 time we will conclude. Have a good evening.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: All right. Motions or other matters?

24 MR. WHELCHER: I renew my earlier motion for a
25 directed verdict, Your Honor.

1 THE COURT: That motion is denied.

2 Do y'all have any jury instruction requests?

3 MR. WHELCHER: Is Your Honor going to charge the
4 lesser included offenses from the attempted murder?

5 THE COURT: I hadn't planned to.

6 MR. WHELCHER: The statute enumerates aggravated
7 assault and battery. All of the assault and battery levels
8 are lesser included offenses according to the statute.

9 THE COURT: If there's evidence to support them, they
10 are.

11 MR. WHELCHER: I understand, Your Honor.

12 THE COURT: Is there any evidence to support them?

13 MR. WHELCHER: I would ask that you charge aggravated
14 assault and battery in this instance.

15 THE COURT: What's the state's position?

16 MR. MORIN: I, I think that there is that one. I
17 don't know that you would have to go much farther than that
18 one, but I think the evidence could be seen to support an
19 ABHAN under the new statute.

20 THE COURT: Well, is there -- I would assume that
21 common sense would dictate that a gunshot wound to the head
22 would be at least great bodily injury. Would it not?

23 MR. MORIN: Yes, sir.

24 THE COURT: And as opposed to moderate injury?

25 MR. MORIN: Yes, sir. And, and the statute, the ABHAN

1 being great bodily injury to another person results, which
2 I think there's testimony that there was.

3 THE COURT: I don't think there's any doubt about
4 that.

5 MR. MORIN: And the act if accomplished means that
6 it's likely to produce death or great bodily injury, which
7 I think there was testimony to do so. I have to say that I
8 think actually assault and battery of a high and aggravated
9 nature would be applicable.

10 THE COURT: All right. I'll instruct it since y'all
11 agree with it.

12 MR. WHELCHER: Thank you, Your Honor.

13 THE COURT: Is that it?

14 MR. WHELCHER: Yes, sir.

15 THE COURT: All right. Court's in recess until
16 9:30 in the morning.

17 END OF PROCEEDINGS JULY 13, 2011

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Closing arguments

1 (Proceedings July 14, 2011)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Are we ready for the jury?

5 MR. MORIN: The state's ready.

6 MR. WHELCHER: Yes, sir.

7 THE COURT: Okay. Bring them in.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good morning, ladies and gentlemen.

11 As you know, when we recessed yesterday all of the
12 evidence had been received. And so what remains to be done
13 are the lawyers' final summations, after which I will
14 instruct you on the law that's applicable in the case. And
15 then you can begin with your deliberations.

16 So please give the lawyers your attention now as they
17 give their final summations.

18 Mr. Whelcher.

19 MR. WHELCHER: Thank you, Your Honor.

20 Madam forelady, ladies and gentlemen of the jury,
21 we're here today because the state has charged, as we all
22 know, Louie Chapman with attempted murder. You're going to
23 have this indictment back in the jury room with you.

24 They charged Louie Alvoid Chapman with a crime
25 committed, as they say, on July the 24th here in

Closing arguments

1 Spartanburg County -- with attempted murder, that he did
2 with malice aforethought attempt to kill Justin Thorne by
3 shooting the victim in the head with the intent to kill the
4 said victim in violation of the Code of Laws of South
5 Carolina.

6 Now, I'm talking to you first because the burden of
7 proving to you that that happened lies there at the state
8 table. There is no burden of proof whatsoever at this
9 table. I think the judge has already told you that. He's
10 going to tell you again. I want you to pay close
11 attention. You've been doing that throughout the trial.

12 But what happens now is this: This closing statement
13 by me and Mr. Morin is our summation of how we see the
14 case. And I'm going to tell you now that if I say
15 something that you differ with, it's your interpretation of
16 what was heard that matters. It's just my attempt to sum
17 up what you've heard and what you haven't heard, because
18 you will hear from the judge that you can decide the case
19 based upon what you haven't heard also.

20 So it's very important that you take the facts that
21 are there or not there and the judge's charge, put them
22 together. Once you do that then you begin the process of
23 determining whether or not the state has proven Louie
24 Chapman guilty beyond a reasonable doubt with evidence so
25 strong and so convincing as to remove the presumption of

Closing arguments

1 innocence that Louie Chapman has and everybody has in this
2 state.

3 So let's talk about that a little bit. Dot told you
4 about their living arrangements that didn't seem to be a
5 problem. They'd been living together for four years.
6 Justin stayed with them for a couple of months when they
7 first were living together.

8 I asked her specifically about her eye sight. My eye
9 sight's good. You heard her talking about the contacts she
10 got and everything like that. And yet when I asked her
11 about it she said she did not see a gun. She and Justin
12 both said did not see a gun, did not see him with a gun.
13 Assumed he was shot. Did not hear a gunshot.

14 You will see the pictures. You saw them. They're in
15 evidence -- how close everything is. And, oh, by the way,
16 the man they're accused of shooting -- they have accused of
17 shooting Justin Thorne -- nobody can put a gun in his hand.

18 And when Sean Nix came and testified, the scene
19 photographer, no firearms in the house, none ever
20 recovered. And she testified Dot never knowed him to have
21 a gun, never seen him with a gun.

22 The evidence must be so strong and so convincing as to
23 convince you individually and as a collective body, as the
24 judge will charge you -- he will instruct you and inform
25 you of this -- your decision has to be unanimous. Every

Closing arguments

1 one of you have to agree. Now, this is not a case where
2 you say, or can say, he got shot. Yeah, he got shot.

3 You remember when you were in I think it's junior
4 high, maybe high school. They teach you how to write a
5 story and tell a story. You got to know who, what, where
6 and how and what. Why?

7 Well, if you get the drift from the cross-examination
8 of Louie Chapman, he's a gold digger. He's there to get
9 all of that money from Dot so he can go live large.

10 Where does he go? Fishing. Sleeping in the car
11 outside. Or he's a gigolo? I don't know. My
12 understanding is usually they're a lot younger than Louie
13 and a lot better looking. But you don't know. We don't
14 know, because there's nobody that's testified here in this
15 courtroom that tells you emphatically I saw a gun in his
16 hand.

17 Now, I'm sure you are going to hear how did he got
18 shot if he didn't shoot him. Excellent question. However,
19 the burden of proof here is not on you to figure out how
20 did he get shot if he never had a gun. The burden of proof
21 is on them to prove to you beyond a reasonable doubt that
22 Louie Chapman shot Justin Thorne, period, did it intending
23 to kill him. Attempted murder.

24 That burden of proof, ladies and gentlemen, lies
25 squarely at this table for the state of South Carolina.

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1 That's why they get the final argument, because they have
2 the burden of proving to you that it happened the way they
3 say it happened, when it happened, how it happened.

4 How did it happen? Do you know? Has it been proven
5 to you how this happened beyond a reasonable doubt? We
6 pretty much know when and where. Do you have any questions
7 about how? Do you have any doubt? Because if you have
8 questions that's the doubt.

9 And it's a reasonable doubt. The judge will tell you
10 it's not fanciful or whimsical doubt. But I submit to you
11 that if nobody can say that man, the people that were
12 there, I saw him with a gun, well, I don't know, looked
13 like he had something on his hand, a glove. I was just
14 trying to find out what they saw. And she has excellent
15 eyesight. She told you that. I asked her about her
16 eyesight.

17 And you remember when I was asking you got to get a
18 lot closer than that. But everybody's right here. Nobody
19 sees a gun. There is no magic formula here. There is no
20 equation. You have to determine who and what you believe
21 based on your common sense.

22 Throughout the entire trial, first with Dot Geddes and
23 then with Justin Thorne and Investigator Letterman, never
24 found a gun. I think they searched the car and the house
25 and never found one. Came back again to Dot's testimony.

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1 Never seen him with a gun, never known him to have a gun.

2 And in the four years that he'd been coming over there
3 all of these times, ever how many they were, nothing said
4 or done. Just out of the blue, no reason whatsoever, on
5 this day. Ask yourselves do you believe that, is it
6 reasonable, because that's what you have to do.

7 Is it reasonable to believe that this man of 58 years
8 who you saw on the stand, answered my questions, answered
9 Mr. Morin's questions to the best he could -- Mr. Morin
10 wanted to make -- wanted to find out why he left the
11 fishing gear and why he didn't put it in the car -- and
12 sometimes you get evidence of truth in these situations.

13 I thought it was kind of humorous. My client said
14 they were nasty with chicken livers. Some of you fish, I'm
15 assuming. And I've been told by my fishermen advisory that
16 they make excellent bait.

17 It is so fundamentally important for each and every
18 one of you to understand this. When you're going about
19 your business on a normal daily routine going to the yard
20 sales like you do all of the time, and after you go to the
21 yard sale you go fishing, and your brother calls you and
22 tells you the police are looking for you, and you go to the
23 police and say are you looking for me -- notice he was
24 arrested down in Anderson close to the lake he was fishing
25 on.

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1 You go to the police and say are you looking for me,
2 and you get arrested, and you find out that you're charged
3 with attempted murder. And if you didn't do it, today and
4 yesterday is what you have. And the judge has already told
5 you I believe and will tell you again Louie Chapman is not
6 required to prove his innocence because Louie Chapman is
7 innocent.

8 Remember, remember? Louie Chapman is innocent. He
9 was innocent the day this happened, all throughout the time
10 he's been waiting to go to trial, throughout this trial.
11 And when you get back in that deliberation room, the jury
12 room, he's innocent.

13 He's innocent unless and until you are presented with
14 evidence so strong and so convincing as to remove that
15 presumption of innocence, that cloak of innocence that
16 Louie Chapman and everybody under these -- constitution of
17 this state and country is afforded unless and until they
18 bring you evidence so strong and so convincing as to prove
19 to you beyond a reasonable doubt that this happened when,
20 where, why, who.

21 Do you have a doubt? Does the inability of Justin
22 Thorne and Dot, Dorothy Geddes, the fact that they never
23 saw a weapon and that no gun was ever recovered, and never
24 seen him to have a gun, never known him to have a gun --
25 but today -- well, he might have had one, he might have had

Closing arguments

1 one. We don't know because the people who were there can't
2 tell you that they saw one.

3 You took a solemn oath when you started this, and you
4 have to determine whether or not this case has been proven
5 to your satisfaction so that you can reach a verdict that
6 speaks the truth. That's what verdict means, to speak the
7 truth.

8 And the truth I submit to you is this. While that
9 gentleman may have been shot, Louie told you he saw people
10 leaving.

11 The fellow who was there buying the flag pole turns
12 and leaves and has his back to everything that's going on.
13 Sounds like it's a quick one, two, three, deal. But then
14 when I get him on cross-examination he says, you know,
15 everything everybody else says, no words ever passed
16 between the two of them.

17 Yet they want you to believe that he just walked in
18 and got a gun that nobody ever saw, for no reason shot that
19 gentleman. And, you know, Louie has already testified, and
20 Justin testified too that Louie didn't trust him -- for
21 good reason.

22 And Calvin Lyles has got his back turned walking
23 across back to his trailer, and in his trailer for several
24 minutes. He's testified two to three minutes. Car could
25 have been there and gone in that time.

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1 If you have a doubt -- the question before you today
2 is not this. The question is not did Justin Thorne get
3 shot. Is somebody shooting somebody a bad thing? Yeah.
4 Those are obvious.

5 The question is have you been proven to your
6 satisfaction beyond a reasonable doubt by the evidence
7 that's been presented during this trial that Louie Chapman
8 did it, did it with malice aforethought, did it with the
9 intent to kill.

10 Ask yourself that question. Has it been proven to me
11 with sufficient evidence, evidence so strong and so
12 convincing as to convince you to act? Not if it's a
13 stranger sitting there, but if it's your brother, son,
14 loved one, whatever -- evidence so strong to convince you
15 that this happened the way they say it happened. I submit
16 to you that the question why in and of itself is a
17 reasonable doubt.

18 Then you throw in I never saw a gun, I never saw a
19 gun, I never saw him shoot me. Justin Thorne didn't see
20 him come in, didn't see a gun, didn't see him shoot him.
21 Let me say that again. Didn't see him come in, didn't see
22 a gun, didn't see him shoot me.

23 Dorothy Geddes didn't see a gun, assumed there was a
24 gunshot, and never known him to have a gun, never seen him
25 with a gun.

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1 People getting shot is against the law unless there's
2 reasons for it, self-defense things of that nature.
3 There's no question about that. The question again as I
4 said a moment ago is this. Are you all convinced?

5 This isn't he might have done it and this guy got
6 shot. No. They want you to remove that doubt. That ain't
7 this case. Standard of proof in a criminal case is beyond
8 a reasonable doubt. It is the highest standard of proof in
9 any judicial system we have, because we're talking about
10 somebody's life.

11 Simply put, are you convinced beyond a reasonable
12 doubt, ladies and gentlemen, that this happened when I tell
13 you, when, who, how, why, yeah, because you must be
14 convinced beyond a reasonable doubt that it happened the
15 way they're required, the way they're telling you it
16 happened, the way they want you to believe it happened with
17 evidence so strong and so convincing that this innocent
18 man, this innocent man can be found guilty by you because
19 their evidence is so good. That is what has to be proven
20 to you during this trial.

21 I submit to you that the answer is in this case, and
22 the verdict is in this case, not guilty. Thank you.

23 THE COURT: Mr. Morin.

24 MR. MORIN: Someone takes his fist and holds it to the
25 back of his head and blood came out. He slumped over on

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1 the chair and fell onto the floor.

2 You know, a great man once said that every man is
3 entitled to his own opinion but he's not entitled to his
4 own facts. Mr. Whelchel concedes that the facts, and
5 conceded it before you heard the first testimony, the first
6 word of evidence, conceded, yes, Justin Thorne was shot;
7 yes, it happened at [REDACTED] yes, it happened on
8 July 24th of 2010. Those are facts. They're not my facts,
9 they're not his facts.

10 The judge is going to tell you you're the decider of
11 the facts. And I submit that the only facts, the facts
12 that are in this case, is that man got shot in the back of
13 the head.

14 How do we know? Nobody saw a gun. You know, when
15 Mr. Whelchel first stood before you I counted. He said the
16 word common sense five times. That's how many I counted.

17 He didn't say it at all just a minute ago, because
18 common sense tells you that if a man walks in and puts his
19 hand to the back of somebody's head and a bullet gets
20 lodged in there and blood comes out and he falls to the
21 floor paralyzed, and a woman who had lived with him for
22 four years and knew who he was, and says I called 9-1-1 and
23 said Louie shot him, common sense tells you Louie shot him.

24 If you believe the common-sense argument, then you
25 believe, as Mr. Whelchel's now using his opinion of the

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1 case, no one can be shot unless someone sees a gun. I'll
2 leave that to your common sense as to whether or not that
3 makes sense, because the facts are there are two bullets.
4 One of them's over there, and you'll have it back in the
5 jury room, that they found at the scene. The other one is
6 in Justin Thorne.

7 There are two shell casings. You'll have those back
8 in the jury room. So I have two empty shell casings and
9 two bullets.

10 Ms. Geddes says I saw the blood come out. And you
11 have pictures of the shirt that he was wearing with what
12 appears to be blood.

13 I was wondering if he was going to get to Calvin
14 Lyles, because Calvin -- we have Dorothy who, as
15 Mr. Whelchel pointed out, no problems between them. So in
16 the kitchen you have Dorothy, Mr. Thorne and Louie.

17 And there's no doubt. You got to see Ms. Geddes.
18 There's no doubt in her mind that she saw the man she lived
19 with for four years walk in there and put his fist to the
20 back of Mr. Thorne's head. She didn't say -- she said I
21 didn't see a gun. Fair enough.

22 Here's the thing though. After the flag pole, after
23 Calvin walks home, puts the flag pole on his front porch,
24 which he can see, I asked him, Mr. Lyles, did you see
25 Louie. I did. Where did you see him? He was driving. He

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1 got in his car and drove to the end of the road and left.

2 He didn't wave or say anything. He usually did. When
3 people usually do something and then they change, it's for
4 a reason.

5 But, more importantly, I asked him did you see anybody
6 else driving down that road at that time. No. Mr. Chapman
7 wants you to believe another man driving a similar car must
8 have come over there and shot him when he wasn't there.

9 The last question I asked Mr. Chapman, when did you
10 see this car drive up. I was in my car driving away when
11 he drove in.

12 And it's true enough that Mr. Lyles then got off the
13 porch and walked to the back. But that's not what's
14 important at this point, because the fact is if you believe
15 Mr. Chapman that occurred when Mr. Lyles saw him drive
16 away. So that brings into question what else Mr. Chapman
17 had to say.

18 And it's not his job to prove he's not guilty. That's
19 fair enough. However, he did testify. And I find it
20 extremely curious and some -- I'm not a fisherman, and some
21 people say that makes me -- that's a character flow of
22 mine. But I do know something about fishermen, and that is
23 they don't leave their equipment in the wilderness.

24 Mr. Whelchel asked Officer Letterman did you go down
25 there and look for the gun. Yeah. Well, isn't this is a

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1 gray wilderness with a huge lake. Do you know what else
2 can get lost out in a huge lake? A gun.

3 Now, imagine, common sense. You just left your house
4 and you are somewhere else in the state, and your brother
5 or sister calls you and says the police are looking for
6 you.

7 Now, do you call your house and say, hey, what's going
8 on? Do you go home? No. If he's been in a wilderness for
9 two days why does he go to the Anderson police? Does he
10 call Dorothy and say, hey, why are the police looking for
11 me? Call his house? No. Leaves all of his stuff.

12 And, by the way, I don't know if y'all noticed, but
13 it's highlighted. He wants you to believe that he, because
14 this was July 24th, ten days from today will be a year,
15 that he was sleeping in his car for two days.

16 Where did the fishing poles comes from? He testified
17 and Mr. Lyles testified he had a whole bunch of stuff in
18 the car. If you believe him he never went in the house.

19 So he went fishing without putting any poles or
20 anything in there, without putting his recliner that he
21 also left out there. He didn't bring any food with him.
22 He didn't bring anything with him because it was full of
23 that stuff he had gotten at those other places; that he
24 left all of that stuff out in the woods. Now, I'll ask
25 y'all. Does your common sense tell you that that makes

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1 sense? It does not.

2 Why did he do it? I'd like to know why he did it. I
3 have my own opinion about why he did it. And
4 Mr. Whelchel's correct in that my feel, thought, opinion of
5 it is that he didn't like Justin because he cut in on the
6 money that he could get for the place and he infringed on
7 his little place where he was.

8 But the problem with the opinion of mine or the lack
9 of opinion as to what happened -- and Mr. Whelchel full
10 knows I am not responsible. The state does not have to
11 prove his motive for doing it. I have to show that he did
12 it. Why he did it is between him and the Lord.

13 The judge may tell you -- I am not positive -- but
14 elements of the crime I'm talking about he is did it with
15 malice aforethought, committed an act on Mr. Thorne that a
16 reasonable person could expect someone would die from.

17 That is the burden I have. And it's not a burden
18 beyond any doubt. There are many doubts you could have
19 about something. But are they reasonable doubts or are
20 they sort of, well, you know, I suppose in the perfect
21 world this could happen or that could happen. We're not
22 there.

23 My opinion about his motive that I don't have to
24 prove, but I did try to get to find out why it was he would
25 do this, is that he just didn't like Justin coming around

Closing arguments

1 and cutting in on his place there at the house that was
2 owned by Dorothy, a place there to get the money.

3 I don't know. Obviously, they're not rich people.
4 But yet Justin was working then, and Mr. Chapman was not,
5 and Dorothy was working and was getting a social security
6 check, and Mr. Chapman was not.

7 And Mr. Chapman was living with his daughter before he
8 moved in with Ms. Geddes. So that kind of starts to create
9 a situation where I can see somebody might resent somebody.
10 It's not, motive is not, an element of this crime. And
11 that's where I'm going to leave that.

12 Your common sense and good judgment tells you that
13 when Dorothy sat right here and said he just came up behind
14 him and he put his hand down on the back of his neck and I
15 saw blood come out, we know now what the blood was. It was
16 the bullet that was in his head. And it's a serious
17 injury.

18 I can't imagine what it was like to lay on that floor
19 and only be able to move your right arm. What did you do?
20 I called my fiance and said Louie shot me. What did you
21 do, Ms. Geddes? I called 9-1-1 and said Louie had shot my
22 grandson. What did you do next? I yelled for the
23 neighbor.

24 What did Mr. Lyles say? I came back out and I heard
25 some screaming over there. But he didn't want to get

Closing arguments

1 involved. So first he drives off. Comes back. There's
2 police everywhere.

3 I have no doubt that Mr. Chapman went to some
4 wilderness area probably with water when he left out of
5 Spartanburg, and I have no doubt he left something there.
6 But it wasn't fishing equipment.

7 And Mr. Whelchel can ask all he wants about why the
8 gun and why the bullets weren't tested. And Officer Nix
9 said, well, if we had a gun we could check them. But there
10 is no gun.

11 We know there was a gun because we know there's
12 bullets and shell casings and blood and a paralyzed man.
13 And he certainly could have died that day.

14 As I told you at the beginning of the trial, we didn't
15 recover the gun, and fortunately Mr. Thorne has recovered.
16 But that doesn't change the fact that Louie Chapman shot
17 and left the bullet in Justin Thorne. And those are the
18 facts that I have to prove beyond a reasonable doubt, not
19 why Louie did it.

20 As I said at the beginning, every man is entitled to
21 his own opinion, but they're not entitled to their own
22 facts. And the facts in this case, the bullets in the head
23 and the one found, the witnesses who saw Louie do it make
24 him guilty. And the fact that nobody saw a gun doesn't
25 mean you can't be shot. It'd be great if it was. Imagine

Jury charge

1 if you could only be shot if you only saw a gun. But
2 that's not how common sense in the real world works.

3 And he can say a mysterious car that he saw drive up
4 when he was driving out must have been the guy, but Calvin
5 Lyles -- if you believe anything Calvin said, because I was
6 careful and asked him. You were standing on that porch.
7 What did you see? I saw Louie drive off. Did you see any
8 other cars? No. Last question of Louie. When did you see
9 this car drive up? As I was driving off.

10 He was driving off. He didn't see anybody. And he
11 got rid of something in the woods. Common sense tells you
12 don't leave fishing equipment. You leave guns. And he's
13 guilty. Thank you.

14 THE COURT: Madam forelady, ladies and gentlemen of
15 the jury, you of course have heard and seen all the
16 evidence, and now the final summations of the lawyers.

17 And so it now becomes my obligation and duty to
18 instruct you on the law that's applicable in the case. And
19 then you'll be asked to go back and begin with your
20 deliberations. And through that process you will examine
21 the evidence, decide the facts, apply the law and arrive at
22 a fair and just decision.

23 It is your exclusive duty to determine what the facts
24 are. You do that through your own common-sense examination
25 and evaluation of all of the testimony and the other

Jury charge

1 evidence received during the trial of this case.

2 You 12 jurors alone will decide what weight, value and
3 effect to give to any particular testimony or other
4 evidence in the case. Again, your sole objective is to
5 simply reach the truth in the matter. And by doing that
6 you will have fulfilled your obligations as jurors, and
7 that is to simply give both the state and the defendant a
8 fair and impartial trial.

9 Now, in this case, as you know, the state through the
10 solicitor has charged the defendant with the crime of
11 attempted murder. And the allegations setting forth that
12 charge are contained in the indictment. The indictment is
13 that document that Mr. Whelchel took from me a few minutes
14 ago and failed to give back.

15 (Whereupon, the indictment was returned to the Court.)

16 THE COURT: Thank you.

17 The indictment alleges that Louie Alvoid Chapman did
18 here in Spartanburg County on or about July the 24th of
19 2010 with malice aforethought attempt to kill Justin Thorne
20 by shooting him with the intent to kill Justin Thorne.

21 As you know, as to those allegations and as to that
22 charge the defendant has entered a plea of not guilty, and
23 a plea of not guilty has placed upon the state the burden
24 of proving the allegations set forth in that indictment,
25 the burden of proving each of the essential elements that

Jury charge

1 constitute the crime of attempted murder; and therefore the
2 burden is upon the state to establish the defendant's guilt
3 to the satisfaction of you 12 jurors beyond a reasonable
4 doubt before a verdict of guilty could be returned.

5 A person charged with a crime is never required to
6 prove that he or she is not guilty or to prove that he or
7 she is innocent because in many cases that might not be
8 possible. The burden is always upon the state because
9 they've brought the charge against the defendant to
10 establish his guilt to your satisfaction beyond a
11 reasonable doubt.

12 You are instructed that it is a vital, important and
13 cardinal rule of law that every defendant in a criminal
14 trial -- and it does not matter how serious the offense
15 might be for which that person stands charged -- that
16 person shall always be presumed innocent of the charge.

17 That presumption of innocence remains with any
18 defendant, as it does with this defendant, from the time
19 that he is placed under arrest, throughout the course of
20 the criminal process and even throughout the course of the
21 trial.

22 And as I told you, that presumption of innocence will
23 be with Mr. Chapman even as you go back to begin with your
24 deliberations in the case. And that presumption of
25 innocence will be with him in that jury room, and it'll be

Jury charge

1 with him forever unless you 12 jurors determine that he's
2 no longer entitled to that presumption of innocence.

3 In other words, after you've carefully considered all
4 the evidence in the case, and after considering that
5 evidence you decide what you believe to be the true facts
6 as they relate to these allegations, and after deciding
7 those facts you apply the law that I will have provided
8 you, if you 12 jurors unanimously determine that his guilt
9 has been proven beyond a reasonable doubt, then he would no
10 longer be entitled to that presumption of innocence. But
11 it's only if, unless and until you are satisfied of his
12 guilt beyond a reasonable doubt that the presumption of
13 innocence would no longer be applicable.

14 (Pause for sneezing.)

15 THE COURT: Ma'am, could we get you a Kleenex?

16 UNIDENTIFIED JUROR: I have one.

17 THE COURT: Now, while the state does have the burden
18 of proving the defendant's guilt to your satisfaction
19 beyond a reasonable doubt, that does not mean it has to
20 prove his guilt beyond all doubt or beyond any possible
21 doubt, but it does require the state to prove his guilt to
22 your satisfaction beyond a reasonable doubt.

23 The term reasonable doubt should be given its plain
24 and ordinary meaning. A reasonable doubt is the kind of
25 doubt that would cause a reasonable person to hesitate to

Jury charge

1 act upon the information provided.

2 A defendant in a criminal trial is entitled to any
3 reasonable doubt that arises from the evidence or lack of
4 evidence in a case. And if upon any factual issue
5 essential to a finding of a verdict of guilty you have some
6 reasonable doubt as to how that issue should be resolved,
7 it will be your duty to resolve that reasonable doubt in
8 favor of the defendant. And therefore if upon your
9 consideration of the whole case you have a reasonable doubt
10 as to his guilt, it is your obligation and duty to find him
11 not guilty.

12 And, on the other hand, after considering all of the
13 evidence and applying the law if you have no reasonable
14 doubt as to his guilt, it would be your corresponding duty
15 to find him guilty of any crime that has been established
16 to your satisfaction beyond a reasonable doubt.

17 The same law that provides that you are the judges of
18 the facts also provides that I am the judge of the law.
19 And that simply means that nobody is going to tell you how
20 to arrive at your determination of facts in this case.

21 You do, that as I've already stated, through the
22 exercise of good judgment and common sense conscientiously
23 applied to the testimony and the evidence received during
24 the trial.

25 You must however under your oath as a juror accept the

Jury charge

1 law as I provide it to you as being the law that you are to
2 apply in the case.

3 In other words, you're never to concern yourself with
4 what you thought the law was before you came to serve as a
5 juror this week or what you think the law ought to be.

6 Under your oath as a juror you must simply accept the
7 law as I provide it to you. And then you take that law and
8 you apply it to the facts as you 12 jurors determine those
9 facts to be based upon your common sense examination and
10 evaluation of the evidence in the case.

11 Now, because you are the sole judges of the facts in
12 the case you are also therefore necessarily the sole judges
13 of the credibility, which means the believability, of each
14 of the witnesses that have testified during the course of
15 the trial.

16 You 12 jurors alone will decide what weight, value and
17 effect to give to any particular witness' testimony or
18 other evidence in the case. But in your assessment as to a
19 particular witness' credibility there are several factors
20 which you should take into consideration. I'm going to
21 list those factors for you.

22 But they include the demeanor of the witness. That is
23 how the witness appeared to you as the witness testified
24 from the witness stand. Was the witness straight forward
25 in responding to the questions, or was the witness hesitant

Jury charge

1 or evasive in responding to questions that were asked of
2 the witness.

3 Simply put, did the witness appear to you to be
4 telling the truth and to have knowledge of the facts to
5 which that witness has testified.

6 You should also consider whether or not the testimony
7 of a witness is consistent, or is it inconsistent with that
8 witness' own testimony or with other testimony or other
9 evidence received during the course of the trial.

10 You should also consider how the witness came to know
11 the facts to which a witness has testified. In other
12 words, what was that particular witness' opportunity and
13 ability to perceive the existence of those facts to which
14 that witness has testified by having previously used his or
15 her senses, and then what is that witness' ability to be
16 able to come into court and to accurately recollect to you
17 as to what they have previously perceived.

18 You should also consider any bias or prejudice or
19 interest that a witness might have with respect to a case.
20 In other words, do you find some reason that a particular
21 witness would come into court and would testify one way or
22 another to help or to hurt one side or the other.

23 And you may consider any interest that a witness might
24 have in the outcome of the case if you determine that a
25 witness does have such an interest and you find that that

Jury charge

1 interest would bear upon that particular witness'
2 credibility.

3 And you should also consider whether or not the
4 testimony of a witness is strengthened, or is it weakened
5 by other testimony or other evidence received during the
6 course of the trial.

7 Now, because you are the finders of the facts and
8 because you are the judges of the credibility of each
9 witness that has testified you are permitted to believe as
10 much or as little of what a witness has testified to as you
11 deem is appropriate.

12 And therefore you may believe everything that a
13 witness testified to; you may choose to believe none of it.
14 You may believe one portion of a witness' testimony and
15 reject some other portion of that same witness' testimony.

16 You may believe one witness as opposed to several, or
17 several as opposed to one. But whatever your good judgment
18 and common sense tells you is the most believable and
19 credible testimony is the testimony you should accept. And
20 you should reject any testimony that you find not to be
21 credible or believable.

22 Again, your sole objective is to simply reach the
23 truth in the matter, and by doing that you will have
24 fulfilled your obligations as jurors, which is to give both
25 the state and this defendant a fair and impartial trial.

Jury charge

1 While there are various forms of evidence such as
2 testimony, documents, charts, photographs and other types
3 of physical exhibits, there are really only two types of
4 evidence. And either or both of those -- either or both of
5 those types of evidence may be used to prove any fact which
6 is in issue.

7 A fact may be proven by direct evidence, it might be
8 proven by circumstantial evidence, or it might be proved by
9 a combination of both direct evidence and circumstantial
10 evidence. But the two types of evidence are direct
11 evidence and circumstantial evidence.

12 Now, direct evidence is the testimony of a person who
13 testifies from actual knowledge of the fact. It is
14 testimony by a person who has perceived the existence of
15 some fact by means of his or her senses. And then they
16 come into court and they testify as to what they have
17 previously perceived.

18 Circumstantial evidence, on the other hand, is the
19 proof of some other fact or a set of facts which taken
20 either singly or collectively may prove the existence of a
21 fact in question as a necessary consequence, that is by an
22 inference.

23 And an inference is simply a deduction of fact that
24 may logically and reasonably be drawn from the proof of
25 some other fact or set of facts. In other words, it's not

Jury charge

1 a fact proven by the direct testimony of a witness based
2 upon their personal perception, but it is a conclusion
3 which might reasonably be drawn from the proof of other
4 facts.

5 In other words, you may infer that a particular event
6 occurred or that a particular fact exists based upon the
7 proof of sufficient factual circumstances which would
8 reasonably warrant your arriving at a particular
9 conclusion.

10 Please understand that the law makes no distinction
11 between the weight or the value to be given to direct
12 evidence as opposed to circumstantial evidence, nor is a
13 greater degree of certainty required of circumstantial
14 evidence as opposed to direct evidence.

15 Whatever the type of evidence used to prove any fact
16 in issue, you should consider all of the evidence presented
17 in the trial of the case. And after carefully considering
18 all of that evidence and weighing it in your minds if you
19 are not convinced of the guilt of the defendant beyond a
20 reasonable doubt, then you must resolve that doubt in his
21 favor and return a verdict of not guilty.

22 Now, in this case, as you know, the defendant is
23 charged with the crime of attempted murder. And there are
24 elements that make up criminal offenses.

25 Attempted murder is a statutory offense, and it's

Jury charge

1 defined in the statute. The legislature meets every year
2 from January to June. During the course of that meeting
3 they pass a number of laws and rules and regulations that
4 govern our conduct in a variety of ways. But some of the
5 statutes that they pass are criminal statutes. And that
6 just means that the legislature prohibits us as citizens
7 from engaging in particular types of conduct.

8 They define what that conduct is. Where a person is
9 found to have engaged in that prohibited conduct, then it
10 subjects that person to some form of punishment or penalty
11 as a result.

12 Please however understand that you are never in your
13 deliberations to be concerned with any punishment or
14 penalty that could result from any finding that you make.
15 Punishment or penalty is not something for a jury to
16 consider.

17 The jury's function and obligation is solely to
18 determine whether or not a person has been proven guilty of
19 a particular crime beyond a reasonable doubt. And you are
20 to make that determination without any consideration being
21 given to the consequence of that decision.

22 In this particular case, as you know, the defendant is
23 accused of having committed the crime of attempted murder.
24 Attempted murder is a statutory offense, and the statute
25 defining that crime is set forth in 16-3-29.

Jury charge

1 Also included as a lesser included offense of the
2 crime of attempted murder is the crime of assault and
3 battery of a high and aggravated nature.

4 In other words, you may consider the charge contained
5 in the indictment. But if you were to find that the state
6 has failed to prove any one or more of the essential
7 elements that constitutes that particular crime, then you
8 would be permitted to consider the lesser included offense
9 of assault and battery of a high and aggravated nature.

10 And of course if the state has failed to prove any one
11 or more of those essential elements of that crime beyond a
12 reasonable doubt, then your verdict in that event would
13 have to be not guilty.

14 So in this case you're going to have some choices to
15 make. You will be able to -- you will determine whether or
16 not the defendant has been proven guilty of attempted
17 murder. If that has not been proven you will be able to
18 consider the lesser included offense of assault and battery
19 of a high and aggravated nature. And if the defendant has
20 not been proven guilty of the lesser offense, then your
21 third choice would be not guilty.

22 So first I'll define for you the crime of attempted
23 murder. After I have instructed you on the law as it
24 relates to that crime I'll instruct you on the law as it
25 relates to the lesser included offense being aggravated

Jury charge

1 assault and battery.

2 With respect to the crime of attempted murder, murder
3 is defined in section 16-3-10 as the killing of any person
4 with malice aforethought either expressed or implied -- the
5 killing of any person with malice aforethought either
6 expressed or implied.

7 Section 16-3-29 defines attempted murder as where a
8 person who with intent to kill attempts to kill another
9 person with malice aforethought either expressed or
10 implied, commits the offense of attempted murder.

11 Again, attempted murder, the attempted murder statute,
12 provides that a person who with intent to kill attempts to
13 kill another person with malice aforethought either
14 expressed or implied commits the offense of attempted
15 murder.

16 Therefore in order for you to find the defendant
17 guilty of the crime of attempted murder it would be
18 necessary that the evidence in this case has established to
19 your satisfaction beyond a reasonable doubt that the
20 defendant, Louie Alvoid Chapman, did with malice
21 aforethought and an intent to kill commit some act or acts
22 in an attempt to kill Justin Thorne.

23 An attempt is the commission of an overt act or acts
24 done in furtherance of an intent to do a specific thing
25 which tends toward the accomplishment of an intended goal.

Jury charge

1 but which falls short of completion. An attempt to commit
2 a crime means an effort towards or the doing of an act or
3 acts which directly move toward the completion of the
4 commission of the crime intended.

5 Malice as an essential element of the crime of
6 attempted murder is a state of mind connoting an ill will
7 and having the intent to do harm, intent meaning the state
8 of a person's mind which directs his actions towards a
9 specific object or goal.

10 The term malice is a technical term importing
11 wickedness and excluding just cause or legal excuse. It is
12 something which springs from depravity, from a heart devoid
13 of social duty and fatally bent on mischief. It is a state
14 of mind indicating an extreme disregard for or an extreme
15 indifference to human life.

16 Malice may be likewise defined as a state of mind
17 which indicates a formed purpose and design to do a
18 wrongful act under circumstances that exclude any legal
19 right to do so.

20 The words expressed and implied malice do not mean
21 different kinds of malice but merely the manner in which
22 malice may be shown to have existed. That is to say either
23 by direct evidence or by circumstantial evidence implying
24 or inferring the existence of malice.

25 Malice may be expressed as where there is an expressed

Jury charge

1 threat to kill or a lying in wait or where the
2 circumstances show directly that the intent to kill was
3 entertained by the person committing the acts likely to
4 result in the death of another individual.

5 Malice may be inferred, though no expressed intent to
6 kill is proven by direct evidence, where the facts and the
7 circumstances which have been proven by the evidence in the
8 case satisfy you beyond a reasonable doubt that malice was
9 present in the mind of the perpetrator at the time any
10 attempt to kill took place.

11 The existence of malice may be inferred from acts,
12 declarations and conduct of the perpetrator, as well as
13 from any other circumstances to have existed at the time of
14 the event from which you might reasonably infer the
15 existence of malice as often the state of a person's mind
16 can only be proven by circumstantial evidence.

17 Malice as an essential element of the crime of
18 attempted murder does not necessarily require proof of an
19 actual or a specific intent to take human life, but rather
20 it means a state of mind accompanying conduct signifying a
21 general malignant recklessness and an extreme disregard for
22 or an extreme indifference to human life. And therefore
23 proof of an actual intent to take human life without
24 justification or legal excuse or proof of the intentional
25 commission of acts which naturally tend to cause death and

Jury charge

1 exhibiting an extreme indifference to human life without
2 legal excuse or justification constitutes the mental state
3 of malice required under the law to establish that element
4 of the crime of attempted murder.

5 The state is required to prove malice, just as it must
6 prove any other essential element of the crime, and it is
7 for you 12 jurors to determine whether or not the evidence
8 in this case establishes malice beyond a reasonable doubt.

9 As I have told you by reading the statute, it is also
10 essential that there exist not only malice but that it be
11 malice aforethought.

12 The law does not require that malice must exist for
13 any appreciable length of time before the commission of an
14 act or acts likely to produce death. Indeed, it may be
15 conceived at the very moment that the act or acts are
16 committed.

17 It is sufficient in the law so long as the state does
18 prove beyond a reasonable doubt by direct and/or
19 circumstantial evidence both the existence of malice and
20 the commission of an act or acts by the defendant likely to
21 produce death.

22 You must determine whether or not malice aforethought
23 existed based upon your consideration of all of the
24 evidence introduced during the course of the trial and any
25 reasonable inferences that might be drawn from that

Jury charge

1 evidence.

2 You are further instructed that while the state must
3 prove beyond a reasonable doubt that a killing did occur
4 and that it was -- excuse me -- that an attempted killing
5 did occur and that it was accompanied by the element of
6 malice aforethought, in order that the crime of attempted
7 murder be established it is not necessary that the state
8 prove any motive for such conduct on the part of the
9 defendant.

10 Motive is not an essential element of the crime of
11 attempted murder, which must be proven, although there
12 might be evidence relating to that fact introduced during
13 the course of the trial.

14 Now, as I have indicated to you, in the event that the
15 state has failed to establish one or more of the essential
16 elements of the crime of attempted murder to your
17 satisfaction beyond a reasonable doubt, then you would be
18 able to consider the lesser included offense of assault and
19 battery of a high and aggravated nature.

20 So that you'll understand that criminal offense I'm
21 going to first define for you the term assault, and then
22 battery. And then I'll read the statute setting forth
23 assault and battery of a high and aggravated nature and a
24 definition of one of those terms.

25 An assault is the unlawful attempt to do violence or

Jury charge

1 injury to the person of another where there is the present
2 ability to complete that attempt by way of a battery.

3 A battery is the unlawful and intentional touching or
4 the striking of the person of another. It is the
5 completion of an act doing violence or injury to the person
6 of another.

7 A battery may be further defined as the carrying into
8 effect of an assault by using or applying force to the
9 person of another, no matter how slight, in a rude, angry
10 or resentful manner and without just cause or legal excuse.

11 Section 16-3-600(b) (1) of the South Carolina Code of
12 Laws provides that a person commits the offense of assault
13 and battery of a high and aggravated nature if the person
14 unlawfully injures another person and great bodily injury
15 results, or the act is accomplished by means likely to
16 produce death or great bodily injury.

17 Great bodily injury is defined as bodily injury which
18 creates a substantial risk of death or which causes serious
19 permanent disfigurement or protracted loss or impairment of
20 the function of a bodily member or organ.

21 Now, Mr. Foreman and ladies and gentlemen of the jury,
22 I am not in any way concerned with what your decision is,
23 but your decision, as I've told you, must be unanimous.
24 All 12 of you must be in agreement before any verdict can
25 be returned.

Jury charge

1 Madam Forelady, as you know, you're going to be called
2 upon to preside over jury deliberations in the jury room
3 simply to ensure that those deliberations are carried out
4 in some orderly fashion.

5 It will also be you who will actually write the
6 verdict or the decision of the jury. You'll do that on the
7 back of the indictment.

8 You'll see in the lower left-hand corner of the
9 indictment the word verdict. It's beneath that word that
10 you'll indicate the jury's unanimous decision.

11 You'll also sign your name as the foreperson and place
12 the appropriate date. You are the only juror that needs to
13 sign the verdict form.

14 In this case you have three potential or possible
15 verdict forms.

16 If the state has proven to your satisfaction beyond a
17 reasonable doubt that the defendant, Louie Chapman,
18 committed the crime of attempted murder, then the verdict
19 form would be that one word, guilty, which means guilty of
20 the charge actually set forth in the indictment.

21 If you are not convinced beyond a reasonable doubt by
22 the evidence in the case that the defendant committed the
23 crime of attempted murder and you have considered the
24 lesser included offense of assault and battery of a high
25 and aggravated nature, and if you find the defendant to

Jury charge

1 have been proven guilty of the lesser included offense,
2 then under that circumstance the verdict form would be
3 guilty of assault and battery of a high and aggravated
4 nature. You'd have to write that out because that's not
5 actually set forth in the indictment.

6 And if the state has failed to prove the defendant to
7 be guilty of either attempted murder or aggravated assault
8 and battery, then the verdict form would be not guilty.

9 So, again, the three verdict forms are guilty, or
10 guilty of assault and battery of a high and aggravated
11 nature, or not guilty.

12 Now, during your deliberations there may come a time
13 where the jurors have a question about the facts or the
14 evidence or testimony of a witness.

15 I'm never permitted to comment upon the evidence in
16 the case. I'm never permitted to comment upon the facts of
17 the case. So if you have a question about the evidence or
18 testimony, I cannot answer those questions.

19 If you have a question about testimony of a witness
20 and you think the question can be answered by having that
21 witness' testimony replayed in whole or in part, we can
22 bring you back into the courtroom to have that testimony
23 replayed if that becomes necessary.

24 I don't have transcripts of the witnesses' testimony,
25 but we can bring you back into the courtroom. And the

Jury charge

1 court reporter will replay a witness' testimony in whole or
2 in part should the jury desire or need that assistance.

3 No additional evidence may be introduced now that
4 you're going back to begin your deliberations. So if you
5 wonder if there's something else out there or you have
6 something in mind and you wonder if it exists and if you
7 could have it, that it might help you, you can't have it.

8 Even if some other evidence does exist that might
9 benefit you in resolving the case, you can't have it
10 because the evidence -- all the evidence that's going to be
11 introduced has been introduced, and no additional evidence
12 can be received now that you are going back to begin with
13 your deliberations.

14 If you ever have a question about the law that you are
15 to apply, I am permitted to answer those questions relating
16 to the applicable law.

17 So if you need a reinstruction or if you need an
18 additional explanation or a clarification of what I have
19 provided you, I am permitted to answer those questions and
20 provide you with that additional instruction, explanation
21 or clarification.

22 Madam forelady, if at that time during the course of
23 your deliberations you need to direct some comment to me if
24 you'll write it on a piece of paper, give it to the
25 bailiff, he'll provide it to me. And I'll respond

Jury charge

1 accordingly in addressing the issue or answering the
2 question.

3 Once you have arrived at a decision I'm going to ask
4 the forelady to indicate that decision on the indictment in
5 the space provided. Again, sign your name and date it.
6 Knock on the door. Tell the bailiff you've reached a
7 unanimous verdict. But you maintain possession of the
8 verdict form. Just keep it with you, Madam Forelady, until
9 I bring you back into the courtroom, at which time we'll
10 receive it when you arrive in the courtroom.

11 If we have smokers on the jury, you can smoke, but you
12 can't smoke in the jury room. You have to go outside for
13 that. So if anybody needs to smoke let the bailiff know,
14 and he'll take you outside to accomplish that purpose. But
15 you are instructed that deliberations may only be engaged
16 in when all 12 jurors are present in the jury room.

17 So if at any time a juror is absent for any authorized
18 purpose the deliberations have to stop. They may only
19 resume when all 12 jurors are present so that all may
20 participate.

21 I have no way of knowing how long your deliberations
22 will take, nor do you at this moment. And so I simply tell
23 you that if there comes a time where you believe it's
24 necessary to order lunch, if you'll let the clerk know,
25 then we can take your lunch orders and order it and have it

Jury charge

1 prepared and brought to the jury room. That usually takes
2 about an hour or so.

3 So as you go back to begin deliberations if you get to
4 a point where you think, well, we're going to need to have
5 lunch, knock on the door and let the bailiff know. The
6 clerk will come in and take your lunch orders.

7 Just understand that it takes about -- we don't
8 usually go to lunch until 1:00 o'clock. But, you know,
9 I'll leave that up to you. But it ordinarily takes about
10 an hour, maybe a little more than that, to have it ordered,
11 prepared and brought to the jury room. So keep that in
12 mind as you begin your deliberations.

13 Now, with the exception of Mr. Latimer, I'm going to
14 ask the 12 primary jurors to please retire to your jury
15 room. But do not begin deliberations yet. I've got some
16 matters I'll need to address with the lawyers.

17 If I don't need to bring you back for any reason I'll
18 send word by way of the bailiff that you can begin your
19 deliberations. And that event he'll bring to the jury room
20 the exhibits which have been introduced.

21 And to you, Madam Forelady, he'll also bring the
22 indictment which will serve as the verdict form.

23 So please retire to your jury room but await my
24 instruction as to when to begin deliberations.

25 (Whereupon, the jury retired to deliberate at

Verdict

1 11:18 a.m.)

2 THE COURT: Are there any exceptions taken to the
3 instruction or requests for additions to the instruction by
4 the state?

5 MR. MORIN: No, sir.

6 THE COURT: By the defendant?

7 MR. WHELCHER: None, Your Honor.

8 THE COURT: And let me ask y'all to verify the
9 exhibits, please.

10 (Pause.)

11 (Whereupon, the alternate juror was excused.)

12 THE COURT: All of the exhibits are accounted for?

13 MR. MORIN: Yes, sir.

14 MR. WHELCHER: Yes, sir.

15 THE COURT: Send them back and tell the jury to begin
16 deliberations and notify us when they have concluded.

17 We will be at ease for ten minutes.

18 (Whereupon, a recess was taken.)

19 THE COURT: All right. I understand the jury has
20 reached a decision in the Chapman case.

21 Are we ready to hear it?

22 MR. MORIN: Yes, sir. The state is ready.

23 THE COURT: All right. Bring them in.

24 (Whereupon, the jury returned to the courtroom at
25 12:30 p.m. to report its verdict.)

Verdict

1 THE COURT: Madam Forelady, have you and your fellow
2 jurors reached a unanimous decision?

3 THE FOREPERSON: Yes, sir, we have.

4 THE COURT: And did you indicate that decision on the
5 verdict form as requested?

6 THE FOREPERSON: Yes, Your Honor, we did.

7 THE COURT: Did you sign your name and date it?

8 THE FOREPERSON: Yes, sir, I did.

9 THE COURT: If you would, please hand that up by way
10 of the bailiff.

11 You may publish the verdict.

12 THE CLERK: Case No. 2010-GS-42-4831, State vs. Louie
13 Chapman, the verdict is guilty. Signed by the foreperson.
14 Dated 7/14 of 2011.

15 Ladies and gentlemen of the jury, is this your verdict
16 and still your verdict? If so, please raise your right
17 hand.

18 (Whereupon, all jurors responded in the affirmative.)

19 THE CLERK: So say you all.

20 THE COURT: Are there any other matters we need to
21 address with the jury present?

22 MR. MORIN: None from the state.

23 MR. WHELCHER: No, sir.

24 THE COURT: Does the defendant wish to have the jury
25 polled?

Verdict

1 MR. WHELCHER: Yes, sir.

2 THE COURT: Okay.

3 THE CLERK: Ladies and gentlemen of the jury, I will
4 pose a question to you, after which I will ask you to stand
5 individually and respond to my question, the question being
6 is this your verdict and still your verdict.

7 Juror 123, Sherri Skelton.

8 THE JUROR: Yes.

9 THE CLERK: Juror 47, Loyd Dennis.

10 THE JUROR: Yes.

11 THE CLERK: Juror 97, Christopher Lancaster.

12 THE JUROR: Yes.

13 THE CLERK: Juror 72, Carmen Hall.

14 THE JUROR: Yes.

15 THE CLERK: Juror 40, Joy Connelly.

16 THE JUROR: Yes.

17 THE CLERK: Juror 66, Alexis Gilliam.

18 THE JUROR: Yes.

19 THE CLERK: Juror 31, Gloria Chiles.

20 THE JUROR: Yes.

21 THE CLERK: Juror 147, Thomas Smith.

22 THE JUROR: Yes.

23 THE CLERK: Juror 172, Michael Williams.

24 THE JUROR: Yes.

25 THE CLERK: Juror 81, Joyce Hutchinson.

Sentence

1 THE JUROR: Yes.

2 THE CLERK: Juror 54, Patsy Ennis.

3 THE JUROR: Yes.

4 THE CLERK: And Juror 26, Star Calvert.

5 THE JUROR: Yes.

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

7 THE COURT: All right. Any other matters we need to
8 address with the jury?

9 MR. MORIN: None from the state.

10 MR. WHELCHER: No, Your Honor.

11 (Whereupon, the trial jury was excused.)

12 THE COURT: All right. Mr. Whelchel.

13 MR. WHELCHER: Your Honor, at this time I would make a
14 motion for a new trial based on all the renewal of the
15 previous motions I had made, Your Honor, in this case.

16 THE COURT: All right. Motion for a new trial is
17 denied.

18 Anything further on behalf of the state?

19 MR. MORIN: Your Honor, Mr. Chapman had some
20 convictions, but the last one was in 1988.

21 THE COURT: All right. Mr. Whelchel, I'll be glad to
22 hear from you and Mr. Chapman.

23 MR. WHELCHER: Your Honor, as you already know, he is
24 58.

25 He was born in Greenville, grew up in Pickens, quit

Sentence

1 school in the 6th grade but obtained a G.E.D. in 1982.

2 He's been separated since 1998 from Ms. Chapman. He
3 has children that range in age from 36 to 23. The children
4 are grown, Your Honor.

5 And as you've been told, he has no prior record or no
6 record since 1988. He had been incarcerated since two days
7 after this incident occurred up until and throughout today.

8 THE COURT: All right. Mr. Chapman, anything you want
9 to add to what your lawyer has told me?

10 THE DEFENDANT: No, sir.

11 THE COURT: On Indictment 2010-4831, an indictment for
12 attempted murder, wherein you have been found guilty by the
13 jury, the Sentence of the Court is you, Louie Alvoid
14 Chapman, be confined to the South Carolina Department of
15 Corrections for a period of 20 years.

16 Give him credit for any time he's entitled to.

17 Mr. Chapman, you have a right to appeal the verdict of
18 the jury and the Sentence of the Court. You must file any
19 notice of your intention to appeal those decisions within
20 ten days of today's date.

21 END OF REQUESTED TRANSCRIPT OF RECORD

22

23

24

25

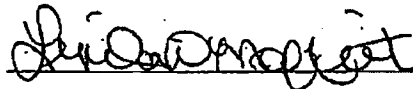
Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 13th and 14th days of July 2011.

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

October 5, 2011



Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Spartanburg)Louie Alvoid Chapman #98290)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

2013-CP-42-0532

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall ~~make clear~~ to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution F4B-241-386 Redemption Way - McCormick, S.C. 29899
2. Name and location of Court which imposed sentence Spartanburg County
3. Name(s) of co-defendant(s) (if any) none
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2010-GS-42-4831

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) July 13, 2011
- (b) Twenty (20) years
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. December 28, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) _____

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M. J. D. S. J. S. J. S.

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) see attached sheets
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) see attached sheets
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Ineffective assistance of trial counsel PCR issue
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? _____
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Mr. Richard Welchel Public Defender - 366 N. Church St.
Suite 3000, Spartanburg, S.C. 29303
- ii. Kathrine Hudgins - South Carolina Commission on
indigent defense, PO Box 11589 Columbia S.C. 29211
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. jury trial - sentencing
- ii. direct appeal
- iii. _____

19. State clearly the relief you seek in filing this application:

vacation of conviction and sentencing Challenged herein
Dismissal of all charges with prejudice
release from custody

20. Are you now under sentence from any other court that you have not challenged?

no

Revised 3/2003

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Spartanburg)

I, Louie Alvin Chapman, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Louie A. Chapman

SWORN to and subscribed before me this 01
 day of February, 2013.

[Signature] (L.S.)
 Notary Public

My Commission Expires: 12/16/2019

2013 FEB - 6 AM 11:45
 Louie A. Chapman

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Louie Alvord Chapman, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Louie A. Chapman
Applicant

SWORN or affirmed to and subscribed before me this

01 day of Feb., 2013.

[Signature]
Notary Public

My Commission Expires: 12-16-2019

2013 FEB -6 AM 11:45
K. H. ELLIOTT

Opening Statement

The applicant hereby sets forth and alleges that he is being unlawfully held in custody and in violation of the 8th and 14th amendment of the United States Constitution and their counterparts in the constitution of the State of South Carolina.

Applicant further asserts the herein alleged violations of his constitutional and statutory rights, so infected the trial with unfairness, as to call into question the reliability and the legality of the verdict reached and sentence imposed and further amounted to fundamental miscarriage of justice and a denial of fundamental fairness which in the setting constituted a denial shocking to the universal sense of justice.

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Reasonable doubt

A

Trial counsel failed to object or otherwise preserve for appellate review the issue where the trial courts charge to the jury unconstitutionally lowered the standard of guilt by defining a reasonable doubt as a doubt which may arise from the evidence or lack of evidence. Record on Appeal page 156 Lines 2,3,4.

Instruction is defective if reasonable juror could interpret it to allow finding of guilt based on a degree of proof below that required by due process clause. U.S.C.A. Const. Amend. 5, 14 State v. Manning 409 S.E. 2d 372 (1991)

In an abundance of caution, we suggest the trial bench give no further definition than that approved by the U.S.S.C. in Holland: A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.

U.S. v. Moss 756 F.2d 329 (4th cir. 1985)

Reasonable doubt instructions, defining reasonable doubt as a "doubt arising from the evidence presented or lack of evidence," violated defendants due process rights as it could cause a reasonable juror to interpret the charge to allow a finding of guilt based on a degree of proof below that required by the due process clause. U.S.C.A. Const. Amends 5, 14

State v. Thomas Baker 424 S.E.2d 492

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CLERK OF COURT

Incorrect jury charge

B

Defense counsel failed to object or otherwise preserve for appellate review the issue of the trial judge's incorrect jury charge which amounted to a fundamental miscarriage of justice and a denial of fundamental fairness.

Record on Appeal page 164 Lines 2,3,4,5,6 Honorable Judge Cole stated the following: "With respect to the crime of attempted murder, murder is defined in section 16-3-10 as the killing of any person with malice aforethought either expressed or implied. (again Judge Cole stated section 16-3-10) the killing of any person with malice aforethought either expressed or implied."

Also on page 168, line 2,3 Judge Cole made this statement to the jury, "You are further instructed that while the state must prove beyond a reasonable doubt that a killing did occur."

The evidence presented at trial determines the charged jury instructions.

Instructions that do not fit the facts of the case may serve only to confuse the jury.

State v. Blanton 573 S.E. 2d 802 (2002)

When incorrect jury charge is given, court must withdraw it: merely superimposing correct statement of law over erroneous charge only fosters confusion and prejudice.

State v. Robinson 412 SE 2d 411

2013 FEB -6 AM 11:35

Violation of Constitutional Rights

C

U.S. Constitution protects against both the denial of bond (bail) and the setting of excessive bail. The right to bail, no less than the right to a speedy trial and the right not to suffer an excessive sentence, are the fundamental rights which the states must protect in respect to the extent provided by the Eighth Amendment.

USCA Const. Amend. 8

The appellant Louie Chapman was denied his constitutional right to a bond hearing during the time he was incarcerated in the Spartanburg County jail prior to his trial. He requested bond hearings from his attorney at the public defenders office on these dates listed below and these dates can be verified.

Enclosed is a copy of one request that was made June 27, 2011.

He was denied effective assistance of counsel.

① August 23, 2010

② October 3, 2010

③ September 16, 2010

④ December 5, 2010

⑤ January 5, 2011

⑥ June 27, 2011

Public Defenders office C

INMATE GRIEVANCE / REQUEST FORM

JUN 28 2011

INMATE'S NAME (PRINT) Louie ChapmanYOUR CELL # 6.38.4 TODAY'S DATE 6.27.11PUBLIC DEFENDERS
OFFICE

IN KEEPING WITH THE DIRECTOR'S POLICY OF OPEN COMMUNICATIONS BETWEEN THE STAFF AND INMATES, THIS FORM IS TO BE USED BY ANY INMATE WHO WISHES TO CONVEY A COMPLAINT, GRIEVANCE, OR SPECIAL REQUEST. IF THE SITUATION CAN BE RESOLVED IMMEDIATELY BY AN OFFICER, A REPLY WILL BE MADE ON THIS FORM, AND RETURNED TO THE INMATE AS SOON AS POSSIBLE. IF THE OFFICER CANNOT RESOLVE THE SITUATION, THE INMATE COMPLAINT, GRIEVANCE, OR REQUEST WILL BE FORWARDED TO THE SUPERVISOR AND/OR THE DIRECTOR FOR HIS REVIEW.

DESCRIBE THE COMPLAINT, GRIEVANCE, REQUEST, ECT. (NOTE: USE BACK IF MORE ROOM IS NEEDED.)

Could you please tell me when my next court
date is, also if this is a court date or a bond
hearing. I have been here 11 months without
a bond hearing. Do i get a bond hearing.
Thank you.

INMATE'S SIGNATURE Louie ChapmanRECEIVED BY OFFICER J. Che DATE 6-27-11 TIME 2:20

INMATE SHOULD NOT WRITE BELOW THIS LINE

TO BE COMPLETED BY JAIL STAFF MEMBER (ONLY CHECK IN APPROPRIATE BOX AT
BOTTOM OF PAGE WHEN FORWARDING TO ANOTHER PERSON AND/OR AGENCY.)

ACTION/RESPONSE

JUN 28 2011

DIRECTOR/ STAFF MEMBER'S SIGNATURE _____

DISTRIBUTION:

() INMATE

() INMATE'S FILE

() DIRECTOR

() OTHER DEPT/INDIVIDUAL

D

Pursuant to *Ard v. Catoe*, a criminal defense attorney at a minimum has a duty to perform a reasonable investigation to interview potential witnesses, to make an independent investigation of the facts and circumstances.

Ard v. Catoe 642 SE2d 597

A. Defense counsel failed to investigate the chain of custody of the physical evidence that was introduced by the prosecution.

B. Defense counsel failed to discuss with appellant issues that concerned appellant's defense at trial. Defense counsel visited defendant three times in the Spartanburg County jail and discussed offers (plea) that Solicitor had made. I refused all offers for a plea and defense attorney never discussed my defense to be used at trial.

C. Mr. Wheelchel failed to investigate for defense the substance that was on the shirt or to investigate the fired cartridge cases or exhibit No. 7. Defense counsel failed to have independent examination of these exhibits, performed since the state failed to do so,

D. Defense counsel failed to object to Exhibits 1, 2, 3, 4 and 5 being admitted into evidence knowing that the exhibits were obtained by a search warrant, that search warrant was obtained by

2013 FEB -6 AM 11:45
CLERK OF COURT
JAMES E. WHEELCHEL

D

2.

false information given by Ms. Geddes. The search warrants and the arrest warrants were obtained by false statements and the exhibits gathered by the detectives should not have been allowed as evidence after the discovery of the false statements by Ms. Geddes. The defense attorney should have investigated these statements and evidence, pretrial.

FILED
CLERK OF COURT
2013 FEB -6 AM 11:45
CLERK OF COURT

E

1. Ineffective assistance of counsel

Defense counsel failed to object or otherwise preserve for appellate review the issue of the perjured testimony of prosecution witness and prosecutorial misconduct by using the perjured testimony. A conviction acquired through the knowing use of a perjured testimony by the prosecution violates due process, regardless of whether the prosecution solicited testimony it knew to be false or simply allowed such testimony to go uncorrected. Constitutional Amendment 14. the fourteenth amendment cannot tolerate a criminal conviction obtained by knowing use of false evidence. *U.S. v. Agurs* 427 U.S. 97, 103 96 S.Ct. 2392. The knowing use of perjured testimony constitutes a due process violation, when there is any likelihood that the false testimony could have affected the judgment of the jury. Constitutional Amendment 14.

Direct examination by solicitor of Ms. Geddes: prosecution witness

Record on Appeal: Line 11, 14, 15 page 46 — Line 22, 23 page 46

Ms. Geddes Line 11. A. He stuck the gun to his head.

Line 14. q. All right. Do you remember if you heard any gunshots?

Line 15. A. I did not.

Line 22, 23. q. So Justin was at the table, Louie had his fist to his back with a gun?

Line 24. A. Uh-huh.

Cross examination by defense counsel of Ms. Geddes.

page 57, line 6, 7.

Q. Okay did you or did you not see a gun, ma'am

A. I did not.

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CLERK

E

2.

Cross examination of Mrs. Geddes by defense counsel, Mr. Whelchel

page 57. Line. 8, 9, 10

Line 8. Okay, so you assumed that your grandson got shot, is

Line 9. that correct?

Line 10. Yes

Closing arguments by Solicitor Mr. Morin

page 146. Lines. 10, 11, 12, 20, 21. R.O.N.

Line 10. Mrs. Geddes says i saw blood come out. And you

line 11. have pictures of the shirt that he was wearing with what

line 12. appears to be blood.

line 20. back of Mr. Thorne's head. She didn't say -- she said i

line 21. didn't see a gun. Fair enough.

Mr. Morin, the solicitor made material misstatements of facts and false statements in his closing arguments, defense attorney Mr. Whelchel failed to object or otherwise preserve for appellate review these false statements by Mr. Morin. Mr. Morin continued to use the perjured testimony of Mrs. Geddes. Defense counsel failed to object to solicitor's use of perjured testimony. See attached deputies report.

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FILED

09/15/2010 Page 5

E

Deputy Report for Incident 10071336

Page 5 of 17

Supplement**Supplemental Report:**

On 07/24/2010, Corn. Center advised me that there was a shooting at 103 Dulaine Dr. Inman, SC. They advised that a subject had been shot in the head and that the victims grandmothers, boyfriend. Upon arrival in scene, I spoke with a Dorothy Geddes, who lives at the residence and she identified herself as the girlfriend of a Louie Alvoid Chapman. She stated that Chapman lives with her at the residence and that he had left earlier that morning to go to some yard sales. She said he came home around 0900 hrs and was in the yard talking to her neighbor Calvin Lyles. She stated that Thorne pulled up and got out of the car and said hey to Lyles and Chapman and walked into the trailer. Geddes said Thorne was there because he was suppose to get married later that day and she had a gift for him. She said that Thorne went inside and got a drink out of the Refrigerator and that while she was talking to him that Chapman came into the kitchen and put a gun to the back of Thorne's head and pulled the trigger. Geddes said that Chapman then left the residence and drove away in her 2007 Kia Rio. Geddes stated that Chapman didn't say anything or give any indication that he was going to shoot Thorne.

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08/16/10

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2013-CP-42-0532
Louie Alvoid Chapman, #98290,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed February 6, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the August 2010 term of the Spartanburg County Grand Jury for attempted murder (2010-GS-42-4831). The Applicant was represented by Richard Whelchel, Esquire. On July 14, 2011, the Applicant was convicted of the charge by a jury. The Honorable J. Derham Cole sentenced Applicant to twenty years.

A timely notice of appeal and Anders brief were filed on Applicant's behalf. The South Carolina Court of Appeals dismissed Applicant's appeal. State v. Chapman, Op. No. 2012-UP-682 (filed December 28, 2012). The Remittitur was returned on January 22, 2013.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina

Department of Corrections, Applicant's appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

- a. Ineffective assistance of counsel, in that;
 - i. Counsel failed to object to and properly preserve for appellate review the issue of the incorrect jury charge;
 - ii. Counsel failed to seek a bond hearing on Applicant's behalf after several requests;
 - iii. Counsel failed to investigate the chain of custody regarding the physical evidence introduced by the State;
 - iv. Counsel failed to spend enough time with Applicant discussing trial and possible defenses with only three visits in which offers were discussed;
 - v. Counsel failed to investigate or have an independent examination of the substance on the shirt or the fired cartridge cases;
 - vi. Counsel failed to object to introduction of evidence based upon false information provided to obtain a search warrant;
 - vii. Counsel failed to object to the perjured testimony by State's witnesses and the State's use of that perjured testimony.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668,

(1984); Butler, 334 S.E.2d 813. Respondent notes that it appears the Applicant appeared and pled guilty voluntarily without the assistance of counsel.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
	)	2013-CP-42-0532
	)	
LOUIE ALVOID CHAPMAN, #98290	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

J. Brandt Rucker, Esquire
Brandt Rucker Attorney At Law
522 North Church Street
Greenville, South Carolina 29601

DATED this 27th day of March, 2014.


 Kelly Oppenheimer, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF COMMON PLEAS NONJURY

3
4 LOUIE ALVOID CHAPMAN,)
5 APPLICANT,)
6 VS.)
7 STATE OF SOUTH CAROLINA,)
8 RESPONDENT.)

TRANSCRIPT
OF
RECORD
2013-CP-42-532

9
10 September 16th, 2014
11 Spartanburg, South Carolina

12
13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge.

15
16 A P P E A R A N C E S:

17 J. BRANDT RUCKER
18 ESQ.
Attorney for the Applicant

19 SUZANNE WHITE
20 ASSISTANT ATTORNEY GENERAL
Attorney for the Respondent

21
22
23 PAMELA E. GREEN
24 Circuit Court Reporter
Seventh Judicial Circuit

25

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Certificate 41

P R O C E E D I N G S

THE COURT: All right. State may call the next case.

MS. WHITE: Thank you, Your Honor.

This is the case of Louie Chapman versus the State.
It's Case Number 2013-CP-42-0532. He's represented today by
Mr. Brandt Rucker.

Mr. Chapman was indicted August of 2010 for attempted
murder. Proceeded to trial and he was represented by
Mr. Richard Whelchel. He was found guilty July 14th,
2011, and was sentenced by Judge Cole to the sentence of 20
years. There was an appeal filed and an Anders brief was
filed on his behalf. The conviction and sentence were
affirmed.

He filed this application February 6th, 2013. Has
alleged several different allegations of ineffective
assistance of counsel alleging that counsel failed to object
and properly preserve, for appellate review, the issues of
incorrect jury charge, failed to seek a bond hearing, failed
to investigate chain of custody, failed to spend enough time
with him, failed to investigate or have independent
examination of a substance on the shirt of fired cartridge
cases, failed to object to the introduction of evidence
based on false information provided for a search warrant,
and failed to object to perjured testimony.

Louie Chapman - Direct examination
by Mr. Rucker

1 So at this time I'll turn it over to Mr. Rucker.

2 THE COURT: Mr. Rucker---

3 MR. RUCKER: Your Honor?

4 THE COURT: ---are you proceeding on all those grounds?

5 MR. RUCKER: Yes, sir, at this point.

6 THE COURT: All right.

7 MR. RUCKER: I'm calling my client, Louie Chapman, to
8 the stand.

9 THE COURT: Sir, if you'll come around to my left here
10 to be sworn.

11 Sir, if you need -- do you need that package with
12 your -- up here?

13 MR. RUCKER: If you want to take it.

14 THE COURT: You can take it if you like.

15 Place your left-hand on the Bible. Raise your right to
16 the best of your ability.

17 (Witness complies.)

18 LOUIE CHAPMAN, being first duly
19 sworn, testified as follows:

20 THE COURT: Have a seat please.

21 (Witness complies.)

22 THE COURT: State your name, sir.

23 THE WITNESS: Louie Chapman.

24 THE COURT: Thank you.

25 Counselor, your witness.

Louie Chapman - Direct examination
by Mr. Rucker

1 MR. RUCKER: May it please the Court?

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION

4 BY MR. RUCKER:

5 Q Mr. Chapman, what's your current sentence that you're
6 serving?

7 How much time and what's the charge -- what were you
8 convicted of?

9 A Attempted murder and 20 years.

10 Q Okay. And make sure you speak loudly. I'm having a
11 little hard time hearing you. So I just want to make sure I
12 can hear you as well.

13 A Yes.

14 Q Okay. Specifically -- and we're working through your
15 application and the things we've talked about.

16 Mr. -- how many times did you actually meet with Mr.
17 whelchel in this case?

18 A Three times.

19 Q Okay. And each meeting, how long would y'all actually
20 meet?

21 A Just a few minutes.

22 Q Okay. Did you have time to talk to him about what you
23 were charged with?

24 A He just talked about guilty pleas.

25 Q Okay. And did -- do you believe he investigated your

Louie Chapman - Direct examination
by Mr. Rucker

1 case thoroughly and properly?

2 A No, sir.

3 Q All right. What do you think he did wrong in the
4 investigation?

5 A He never checked the shirts---

6 Q All right.

7 A ---to see if that was the substance was blood.

8 Q Okay. And what do you, what do you believe was
9 actually on the shirt?

10 A Transmission fluid.

11 Q Okay. And why do you believe it to be transmission
12 fluid?

13 A Well, I had been working on the -- my truck for several
14 weeks and I had a bunch of old shirts. I used those.

15 Q Okay. And who was the alleged victim in this case?

16 A Justin Thornton.

17 Q Okay. Did you talk to Mr. Welchel about that issue as
18 far as the shirts?

19 A No, sir.

20 Q All right. Did he ask you questions though that may
21 have helped your defense?

22 A No, sir.

23 Q Okay. As far as the chain of custody issue, what
24 was -- what's your issue with chain of custody?

25 A Well, I don't know who touched those shirts, where

Louie Chapman - Direct examination
by Mr. Rucker

1 they -- you know, they supposedly come out of my house.

2 Q Okay. Do you know -- was that -- did they get those
3 shirts as a result of a search warrant?

4 A Yes, sir.

5 Q All right. And are you arguing that that search
6 warrant was invalid?

7 A Yes, sir.

8 Q Why do you believe it was invalid?

9 A Well, it was false testimony on -- by Ms. Gettis.

10 Q All right. And who was that?

11 I'm sorry. I didn't hear you.

12 A By Dorothy Gettis.

13 Q All right. And what was that false testimony?

14 A She swore in several statements that she saw me pull
15 the trigger when she testified. She made it several times.
16 In court she said it. Then finally Mr. Whelchel asked her,
17 he said well, no, I didn't see no gun.

18 Q All right. Was that during the trial?

19 A Yes, sir.

20 Q Okay. So you believe there was insufficient probable
21 cause to execute the search warrants?

22 A Yes, sir.

23 Q Okay. All right. Now, let's go back to the meetings
24 with -- at the Spartanburg County Jail.

25 Were you ever bonded out on this case?

Louie Chapman - Direct examination
by Mr. Rucker

1 A No, sir.

2 Q Okay. When you met with Mr. Welchel, did y'all go
3 over discovery?

4 A No, sir.

5 Q All right. Do you know what discovery is?

6 A Yes, sir.

7 Q What is discovery?

8 A Well, the package of what the State's got against me.

9 Q Okay. Well, did you believe he was trying to convince
10 you to plead guilty?

11 A Yes, sir.

12 Q And why did he tell you he thought you should plead
13 guilty?

14 A Well, he told me the whole story of the man that's on
15 the roof during a flood. The helicopter comes, the boat
16 comes, and he related that to my situation and his.

17 Q So he compared it to -- a parable to your situation?

18 A Yes, sir.

19 Q All right. Did you want to plead guilty?

20 A No, sir, I wasn't guilty. I ain't, I ain't guilty.

21 Q Okay. And, again, I'm having a hard time hearing you.
22 So, if you don't mind, speak up a little. Make sure you're
23 speaking into the microphone.

24 A Yeah.

25 Q Okay. Did you -- do you recall testifying in your

Louie Chapman - Direct examination
by Mr. Rucker

1 case?

2 A Yes, sir.

3 Q All right. Did you talk to Mr. Welchel about whether
4 you were gonna testify or not?

5 A Yes, sir, that's the only question he asked me.

6 Q Okay. Did he prepare -- help prepare you for that
7 testimony?

8 A No, sir.

9 Q All right. Did he ever give you -- tell you what kind
10 of questions would be asked?

11 A No, sir.

12 Q Did he tell you they would cross-examine you based on
13 your testimony?

14 A No, sir.

15 Q All right. You didn't have a prior record, did you?

16 A Way back.

17 Q All right. And what was that prior record?

18 A I had escape and two grand theft autos.

19 Q Okay. Did he tell you that could be used against you?

20 A No, sir.

21 Q Okay.

22 A That was 35 years ago.

23 Q Okay. Did you tell him that those cases were 35 years
24 ago?

25 A No, sir.

Louie Chapman - Direct examination
by Mr. Rucker

1 Q Okay. To your knowledge, did they ever -- did the
2 State ever give you a plea offer?

3 A Yes, sir, three of them.

4 Q All right. What was the -- and you say three of them?

5 A Yes, sir.

6 Q All right. What was the first plea offer?

7 A Starting out at 20 years.

8 Q Okay. What was the second plea offer?

9 A Twelve.

10 Q All right. And what was the third plea offer?

11 A I believe it was just a negotiated plea, that one---

12 Q All right.

13 A ---for 12 years.

14 Q All right. For -- so, it was a recommendation?

15 The second one was a recommendation?

16 A Yes, sir.

17 Q All right. And the third one was a negotiated---

18 A Yes, sir.

19 Q All right. Why do you think you were treated poorly at
20 trial?

21 Why, why -- what I mean by that is how did your
22 attorney not act effectively at trial?

23 A Well, he had never asked me for -- who I thought should
24 be witnesses.

25 Q Okay.

Louie Chapman - Direct examination
by Mr. Rucker

- 1 A My brother should of been a witness.
- 2 Q And what's your brother's name?
- 3 A Wayne Chapman.
- 4 Q And what would he have testified to?
- 5 A well, he could of told a lot of things about Dorothy's
- 6 eyesight and---
- 7 Q Okay.
- 8 A ---her condition and, you know, I wasn't even driving
- 9 fast. I wouldn't break the law at all much less---
- 10 Q Did you get a---
- 11 A ---shoot somebody.
- 12 Q I'm sorry. Go ahead.
- 13 A Yes, sir, much less shoot somebody.
- 14 Q All right.
- 15 A I wouldn't even drive -- traffic tickets.
- 16 Q Did you give a statement in this case to law
- 17 enforcement?
- 18 A Yes, sir.
- 19 Q Okay. And what did you say in that statement?
- 20 A what did -- I told them I wasn't guilty and I'd been
- 21 fishing.
- 22 Q Okay. And did you, did you tell -- obviously you went
- 23 over discovery with Mr. Welchel?
- 24 A No, sir.
- 25 Q Okay. So you don't know if he knew about that

Louie Chapman - Direct examination
by Mr. Rucker

1 statement or not, do you?

2 A No, sir.

3 Q All right. Are there any other issues you want to make
4 clear to the judge that you believe -- issues that were --
5 that you want him to understand and how your trial counsel
6 was ineffective?

7 A Yes, sir, the prosecutor misconduct---

8 Q All right.

9 A ---by the prosecutor.

10 Q And what was that prosecutorial misconduct?

11 A Well, he kept using perjured information to, to get a
12 conviction. He kept saying blood. Brought that out in
13 front of the, the jury and there was no proof of blood.

14 Q Did you---

15 A Nobody had proved anything.

16 Q All right. Was there testimony -- did your attorney
17 cross-examine the experts on the blood?

18 A They never checked it.

19 Q Okay. And -- but I'm asking did your attorney actually
20 cross-examine regarding the blood issue?

21 A Yes, sir.

22 Q Okay. All right. And were there other issues of
23 prosecutorial misconduct that you're alleging?

24 A Well, the -- just the misstatements of facts.

25 Q All right. And what facts were misstated?

Louie Chapman - Direct examination
by Mr. Rucker

1 A well, I could -- if you could get this envelope here I
2 got, I got quite a few of them wrote down.

3 Q Okay.

4 THE COURT: You can approach.

5 THE WITNESS: I got a bad cold there.

6 Q All right. This one?

7 A Yes, sir. That's just State's attorney. See that
8 makes State---

9 Q Well, I can't talk to you about it right now.

10 All right. Now you're referring to a document.

11 What -- are those notes that you've taken?

12 A Yes, sir.

13 Q All right. Does that help you refresh your memory as
14 to the issues we're talking about?

15 A Yes, sir.

16 Q Okay. What other issues are you wanting to raise?

17 A These handcuffs make it very difficult.

18 THE COURT: Yes, sir, they do, but they're necessary.

19 THE WITNESS: Yes, sir.

20 THE COURT: Thank you.

21 A Mr. -- Mr. Morin, he said -- he kept saying that, that
22 we -- I didn't unload the car. He said you took off in a
23 car.

24 Q All right. Who, who was that witness?

25 What's his full name?

Louie Chapman - Direct examination
by Mr. Rucker

1 A No, that's Mr. Morin.

2 Q I---

3 A The prosecutor.

4 Q Okay. I couldn't hear you. I'm sorry.

5 And you believe that was, that was an improper
6 statement by the prosecution?

7 A Yes, sir, cause I said -- I told him twice I done
8 unloaded the car and then Calvin Lyles told him I was
9 uploaded the car.

10 Q Okay. Was that during the opening statement that Mr.
11 Morin said that?

12 A That was the closing statement.

13 Q Closing argument?

14 A Yes, sir.

15 Q Okay. Did your attorney object to that statement?

16 A No, sir.

17 Q You believe there was any evidence that was presented
18 at trial showing that you, in fact, did what Mr. Morin said?

19 A No, sir.

20 Q Okay.

21 A That was just a misstatement. He just -- they wasn't
22 nothing there.

23 Q Okay. And as to your second issue?

24 A And they -- Mr. Morin, he said, he said Mr. Welchel
25 asked Officer Leadmin did you go look for a gun at this

Louie Chapman - Direct examination
by Mr. Rucker

1 take. well, Mr. Welchel never said that.

2 Q Okay. Was that in closing argument as well?

3 A Yes, sir.

4 Q You believe that should of been objected to?

5 A Yes, sir.

6 Q All right. What else did Mr. Morin say you object
7 to -- should of been objected to?

8 A well, he said -- Mr. Welchel said common sense five
9 times, and I've looked through there. Mr. Welchel said
10 common sense one time.

11 Q And you believe that should of been objected to?

12 A Yes, sir.

13 Q Okay. Were there other statements that Mr. Morin said
14 you believe should of been objected or should of --?

15 A Yes, sir, we have pictures of -- Mr. Morin said we have
16 pictures of the shirt he was wearing with what appears to be
17 blood.

18 Q Okay. Was that in closing argument or opening
19 statement?

20 A No, that was during Court.

21 Q During trial?

22 A Yes, sir.

23 Q Okay. And---

24 A No, I'm sorry. That's closing argument.

25 Q Okay. And you believe that should of been objected to?

Louie Chapman - Direct examination
by Mr. Rucker

1 A Yes, sir.

2 Q And---

3 A There wasn't no proof of it. No proof of any blood.

4 Q Was there any evidence entered into the trial that
5 would of supported Mr. Morin's statement?

6 A No, sir.

7 Q Okay.

8 A No blood.

9 Q Were there other statements Mr. Morin gave during
10 closing argument that you disagree with there that should of
11 been objected to?

12 I apologize.

13 A Yes.

14 (Pause.)

15 A I believe we've covered everything.

16 Q Okay. Have we covered everything you want to -- you
17 cover so that the judge can, in reviewing the transcript,
18 that everything we covered then?

19 A Yes, sir, except -- I believe it's also Brady
20 violations.

21 Q All right. What were the specific Brady violations by
22 the solicitor's office?

23 A They kept bringing pictures of shirts and they hadn't
24 proved nothing. They hadn't tested them, the substance that
25 was on the shirts.

Louie Chapman - Direct examination
by Mr. Rucker

1 Q Okay. Do you believe that evidence was actually
2 exculpatory and wasn't revealed to Mr. whelchel, whelchel?

3 A That -- may have, yes, sir.

4 Q Okay.

5 A And that was necessary too in the -- they found some
6 shell casings and a bullet. They found a bullet laying on
7 the table. Nobody checked that bullet to see if it had been
8 fired from a gun.

9 Q Do you believe Mr. whelchel should of investigated
10 that?

11 A Yes, sir.

12 Q Okay. Did you discuss that with him?

13 A No, sir.

14 Q Okay. Why wouldn't you bring that up to him?

15 A Well, we never did discuss my case.

16 Q Okay. So, again, how times did you meet?

17 A Three times.

18 Q Okay. And those were brief meetings?

19 A Yes, sir.

20 Q All right. Is there any other issue regarding the
21 trial or Mr. whelchel's representation of you at the trial?

22 A Well, just that he brought a young lady with him the
23 second time, and they talked about the guilty plea. He
24 talked about the guilty plea, and he said well, everybody at
25 the office thinks you're guilty, and he said -- he turned to

Louie Chapman - Direct examination
by Mr. Rucker

1 her and said ain't that right, and she just nodded her head.

2 Q And you don't know who that was?

3 A No.

4 Q And you---

5 A She worked with the Public Defender's Office.

6 Q Okay. Are there, are there any other issues for PCR,
7 the PCR judge?

8 A Yes, sir, reasonable doubt. The -- Judge Cole said
9 reasonable doubt is defined as a, as a doubt that would --
10 which may arise from the evidence or lack of evidence.

11 Q Okay. You disagree with that jury charge?

12 A Yes, sir.

13 Q Do you believe your attorney should of objected to that
14 jury charge?

15 A Yes, sir.

16 Q Okay. And why is that?

17 A well, when you, you say lack of evidence, you can --
18 we're not -- you're not suppose to judge nobody on the lack
19 of evidence in a charge. You're suppose to try them by
20 evidence. Not lack of evidence.

21 Q Okay. Were there other issues with the jury charge
22 that you want Judge Couch to know about?

23 A And Judge Cole said he read the murder twice instead of
24 attempted murder.

25 Q Okay. Did your attorney try to correct that issue?

Louie Chapman - Direct examination
by Mr. Rucker

1 A No, sir.

2 Q All right. Was there a curative -- do you know what a
3 curative instruction is?

4 A Yes, sir.

5 Q ---or -- what is that?

6 A Yes, sir. Well, that removes that from the jury's
7 presence.

8 Q Okay. So, do you---

9 A Tries to.

10 Q Do you believe your attorney should of asked for that
11 to be clear -- that issue to be clarified?

12 A Yes, sir.

13 Q Okay. And he failed to do that?

14 A Yes, sir.

15 Q And you believe that affected the outcome of your
16 trial?

17 A Yes, sir.

18 Q Okay. Are there any other jury charge issues?

19 A No, except the -- Judge Cole said that the killing did
20 occur and then he said a -- he did try to correct that, but
21 he done made the impression that, you know, there's murder
22 and killing and it's an attempted murder trial.

23 Q Okay. Are those all the issues you want presented
24 today?

25 A I believe, at this point, yeah. Oh, I got one more I

Louie Chapman - Direct examination
by Mr. Rucker

1 think, and it's a Brady violation and I believe that I would
2 like to talk about this.

3 Q Okay. What is the Brady violation?

4 What exculpatory evidence was there that you don't
5 believe was given over to your attorney?

6 A I found out the discovery that they checked the car
7 seat. They got a search warrant. They checked the car seat
8 for, I think, about a stain on that car seat.

9 Q Okay. Whose -- let's just clarify.
10 Whose car was that?

11 A Well, I was driving it. Dorothy Gettis.

12 Q Okay. And what was the stain?

13 A Well, it wasn't blood.

14 Q Okay.

15 A They thought that was blood.

16 Q All right. So did the Sheriff's Department or SLED or
17 whoever check that and, and run it through the lab?

18 A Yes, sir, they quick checked it and it wasn't blood.

19 Q Okay. Did your, your attorney and you, you reviewed
20 that in discovery.

21 Did your attorney ever go over any of that with you?

22 A No, sir.

23 Q Okay. Do you remember that being argued by your
24 attorney to the jury?

25 A No, sir.

Louie Chapman - Direct examination
by Mr. Rucker

1 Q Okay. Is that all, all your issues?

2 A Yes, sir.

3 Q Okay. Answer any questions that the State has for you.
4 Okay?

5 A Yes, sir.

6 THE COURT: You may proceed, Ms. White.

7 MS. WHITE: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. WHITE:

10 Q Mr. Chapman, there were several witnesses that
11 testified that you had been at the home right before the
12 victim was shot and that you left almost immediately after
13 he was shot or around that time.

14 Is that right?

15 A Before he was shot.

16 Q And that's your testimony, that you left, that you left
17 before?

18 A Before something happened. I don't know that he was
19 shot or not.

20 Q All right. But you don't have any question -- you
21 understand that the victim was shot in the neck and they --
22 that's where they recovered the bullet?

23 A No, ma'am, they didn't recover the bullet in his neck.

24 Q Right.

25 But he had a gunshot through his neck that they

Louie Chapman - Cross-examination
by Ms. White

1 recovered the bullet from the table?

2 A No, ma'am, the bullet was just laying on the table.

3 They still one in the -- his head --

4 Q Okay.

5 A -- from what I understand.

6 Q And that's what I'm saying.

7 You wasn't -- you don't contest the fact that the
8 victim was shot?

9 A You couldn't prove it by me that he was.

10 Q Okay.

11 A I mean I can't -- I couldn't say he was.

12 Q Okay. But that's what the evidence, medical evidence,
13 and the testimony was, is that right?

14 A There was no medical evidence at that trial.

15 Q Okay. Was the victim taken to the hospital to your
16 knowledge?

17 A I couldn't swear to it.

18 Q Okay. Now, you -- the relationship you had with Ms.
19 Gettis was you were simply girlfriend and boyfriend, is that
20 right?

21 A Well, that's true. I, I thought the world of Dot, but
22 not boyfriend and girlfriend.

23 Q You had lived together for at least four years, had you
24 not?

25 A Yes, ma'am.

Louie Chapman - Cross-examination
by Ms. White

1 Q Okay. The victim was her grandson, is that right?

2 A Yes, ma'am.

3 Q Okay. And the victim had come to Ms. Gettis' home that
4 day, is that right?

5 A Yes, ma'am.

6 Q Okay. And he testified that he was shot. He felt
7 something hit his neck, found blood, and he was taken to the
8 hospital.

9 Is that right?

10 Is that what he testified to?

11 A Yes, ma'am, that's what he testified to.

12 Q Okay. And Ms. Gettis testified that she heard a noise,
13 she had talked to you, she knew you were there, and then the
14 next thing she knew, her grandson was holding his neck and
15 he had been shot.

16 Is that right?

17 A Well, she didn't talk to me. I never went back in the
18 house.

19 Q Did she testify to that?

20 A I would have to go back and check that.

21 Q Okay. The neighbor of the house across the street
22 testified he saw you at the house and he talked with you
23 about a flag pole and some other things outside.

24 Is that right?

25 A Yes, ma'am.

Louie Chapman - Cross-examination
by Ms. White

1 Q Okay. And your defense, you're saying it never
2 happened.

3 You actually testified that you saw another car pull up
4 and you believe some stranger had come into the home and
5 shot Mr. Thornton?

6 A I didn't say that. I said I seen a car pull up. I
7 didn't say about the other part.

8 Q Okay. But that -- you were testifying that you weren't
9 there, you didn't do it, and the only thing that you knew
10 was that some other car pulled up, random car?

11 A And in her statement, Dorothy, she testified she was
12 gonna ride with them -- to the wedding with them.

13 Q Okay.

14 A So I figured the other car was part of them.

15 Q In the transcript, when Ms. Gettis testified that you
16 had come in the home right before the shooting, did she not
17 testify that she saw you come into the home?

18 A Yes, ma'am, but --.

19 Q Okay.

20 A I didn't -- you know, she said she saw me with a gun
21 too, but she perjured herself there. She, in Court, she
22 said she didn't see a gun.

23 Q Your attorney cross-examined the officer about the fact
24 that the shirt that he found was never tested and they could
25 not prove that there was blood on it.

Louie Chapman - Cross-examination
by Ms. White

1 Isn't that right?

2 A Yes, ma'am.

3 Q Okay. He also -- well, you talked about a shell casing
4 and bullet that was never tested.

5 There was never a gun found to test it with, is that
6 right?

7 A Yes, ma'am.

8 Q Okay.

9 A But you can, you can send a bullet to FBI for
10 comparison to see if it's been used in other crimes. You
11 can tell that bullet was laying on the table has been fired.

12 Q Your brother, Wayne Chapman, was not, was not there the
13 day of this incident, was he?

14 A No. No, ma'am.

15 Q Okay. So he could not have testified to anything that
16 happened within the time period of the shooting?

17 A No, ma'am.

18 Q Okay. In regards to the statements by the judge in the
19 jury charge, you said he defined murder. He defined murder
20 and then defined attempt.

21 A Yes, ma'am.

22 Q Didn't he?

23 A Yes, ma'am.

24 Q Okay. And then he also, at your attorney's request,
25 gave the jury charge of assault and battery of a high and

Louie Chapman - Cross-examination
by Ms. White

1 aggravated nature?

2 A Yes, ma'am.

3 Q Okay. He also gave them and told them that if they had
4 reasonable doubt, because the State had not provided any
5 evidence, that they could find you innocent of one or both
6 of those charges?

7 A Yes, but a murder is not a part of attempted murder.
8 That's a -- the attempt -- the assault and battery is a
9 lesser included offense, but murder is not.

10 Q Okay. And do you understand he had to define murder to
11 determine whether or not you had attempted that crime?

12 A No, ma'am.

13 Q Okay. Your testimony is that you never received -- saw
14 any of the discovery. So you never saw any witness
15 statements.

16 How did you know that, that Ms. Gettis had made
17 statements before saying that she saw a gun?

18 A I read it right here in my discovery.

19 Q So you did receive discovery?

20 A From the Attorney General's Office.

21 Q So you're saying that what you got from us contained a
22 statement from Ms. Gettis?

23 A In the jury trial. The record on appeal.

24 Q Okay. You were testifying, and let me clarify, you
25 testified earlier that Ms. Gettis gave false testimony

Louie Chapman - Cross-examination
by Ms. White

1 because she had previously stated she saw a gun, then she
2 stated she didn't.

3 You're referencing purely the testimony at trial?

4 A And her statement is what got me locked up.

5 Q Her statement at trial?

6 A Search warrants. No, ma'am, she was -- filed a
7 statement with the cops.

8 Q And that's what I---

9 A That got---

10 Q I'm sorry.

11 A That's what got me locked up.

12 Q So you did see a statement that she had given police?

13 A After I got this.

14 Q Okay. So your claim is that you didn't see it, but you
15 saw it purely once you filed the PCR?

16 A No, ma'am, when I got my direct appeal.

17 Q Okay. All right. Thank you.

18 That's all I have at this time, Your Honor.

19 THE COURT: Mr. Rucker.

20 MR. RUCKER: I have no redirect, Your Honor.

21 THE COURT: You may step down, sir.

22 Applicant may call its next witness.

23 MR. RUCKER: We don't have -- that's our only witness.

24 THE COURT: All right. State may call its witness.

25 MS. WHITE: Thank you, Your Honor.

Richard Whelchel - Direct examination
by Ms. White

1 we'd ask Richard Whelchel to come to the stand.

2 THE COURT: Come forward, Mr. Whelchel, and be sworn.

3 RICHARD WHELCHER, being first duly
4 sworn, testified as follows:

5 THE COURT: Have a seat.

6 (Witness complies.)

7 THE COURT: State your name.

8 THE WITNESS: Richard Whelchel.

9 THE COURT: Thank you.

10 Counselor, your witness.

11 MS. WHITE: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. WHITE:

14 Q Mr. Whelchel, do you recall representing Mr. Chapman on
15 this charge?

16 A Yes, ma'am.

17 Q And in the -- what capacity did you represent him?
18 Were you retained or appointed?

19 A I was appointed. I was and still am a member of the
20 Spartanburg County Public Defender's Office when I was
21 representing him.

22 Q This was in 2011.

23 About how long had you been practicing law?

24 A In 2011, just under 30 years.

25 Q And had you represented people before on serious

Richard whelchel - Direct examination
by Ms. white

1 charges such as attempted murder or murder?

2 A Yes, ma'am.

3 Q In your recollection, how many times did you meet with
4 Mr. Chapman?

5 A Five or---

6 Q Just give me---

7 A Five or six and I can't tell you if -- that may be low.
8 It may be high. I just don't know. I mean that would be
9 the norm.

10 Q And did you have a chance to review with him the
11 discovery in the case?

12 A Yes, ma'am.

13 Q Tell us a little bit about what the evidence was or
14 what materials there were in discovery.

15 A There was all of the statements that the State had and
16 the investigation concerning the scene. Whenever I have a
17 case such as this that's going to trial, there is a review
18 process that I do and then there's a review process that I
19 do with the client and that would of been done at the jail.
20 Excuse me.

21 Q And so you have a chance to talk with Mr. Chapman to
22 hear his side of the story?

23 A Yes, ma'am.

24 Q And the defense of the fact that he wasn't there, he
25 had gone fishing, is that what he told you back then as

Richard whelchel - Direct examination
by Ms. White

1 well?

2 A Yes, ma'am.

3 Q And that stayed consistent?

4 A Yes, ma'am.

5 Q In regards to the guilty plea offers, was that
6 something that you thought possibly could be in his best
7 interest?

8 A Yes, ma'am.

9 Q And is he correct in stating that there were
10 approximately three offers of 20 years, 12 years, and then
11 12 years negotiated?

12 A I believe so.

13 Q what discussions did you have with him about presenting
14 a defense or a trial strategy and how that was gonna be?
15 was that gonna involve his testimony or --?

16 A Whenever there's a trial that's going to happen, such
17 as this case, I inform my client, whoever he might be, that
18 the State has the burden of proving their charges, and they
19 have the burden of proving that beyond a reasonable doubt,
20 that the client does not have the obligation or
21 responsibility to put up any testimony whatsoever.

22 The client does not have to call witnesses. The client
23 can not be compelled to testify and that the judge will
24 instruct the jury that he can not be compelled to testify,
25 and that the fact that he doesn't testify can't be held

Richard Whelchel - Direct examination
by Ms. White

1 against him.

2 And I also tell them that they have the right to
3 testify, they have the right to present witnesses, and it is
4 their choice. Once the State has concluded, it's his case,
5 whether or not they want to testify. Some of them tell me
6 immediately they want to testify and I say well, I
7 understand that, but you need to wait until the State's case
8 is presented, and sometimes they change their mind. But
9 there's no question that when I go to trial, that my client
10 has been informed that he has the right to testify and the
11 right not to testify.

12 Q Do you have a chance to review with your clients, or in
13 this case do you recall, specifically if you reviewed with
14 him the possibility of what questions they might ask and how
15 the testimony might proceed?

16 A Yes, I mean I go over their potential testimony with
17 them whenever they tell me what they're going to testify to.

18 Q And do you recall the judge actually talking with Mr.
19 Chapman about his right to testify and Mr. Chapman telling
20 the court that you have reviewed all of that with him?

21 A Yes, ma'am.

22 Q Okay. In regards to the shirt with the substance on it
23 which the State alleged may of been blood, were there any
24 additional things you thought you could of done,
25 investigation wise, about that since Mr. Chapman believes

Richard Whelchel - Direct examination
by Ms. White

1 it's, it's possible it was transmission fluid?

2 A No, ma'am, I don't. If I thought that that would of
3 been something that we could testify about I would of done
4 that. I just don't, don't remember at this point.

5 Q And you did cross-examine the police about the fact
6 that they had not tested this and could not prove it was
7 blood, didn't you?

8 A (Witness nods affirmatively.)

9 Q About the gun---

10 THE COURT: Was that a yes answer?

11 THE WITNESS: Yes.

12 MS. WHITE: I'm sorry.

13 THE WITNESS: Yes.

14 Q In regards to the, the shell casings and the bullet,
15 was there a gun ever found that those could be tested
16 against?

17 A No, ma'am.

18 Q And was there any discussion about the facts of the
19 case and questions to whether or not the victim was actually
20 shot?

21 A No, ma'am.

22 Q Did you have any medical records or, or anything to
23 show, I guess, in the discovery that he had been shot or
24 reports or was it merely the statements?

25 A I believe it's in the, it's in the discovery that that,

Richard whelchel - Direct examination
by Ms. white

1 that he had gone to the hospital in those, those records
2 there.

3 Q Okay. Did Mr. Chapman ever provide you with a name of
4 any witnesses he wanted you to contact that he thought would
5 help his case?

6 A He did mention, if I remember correctly, something
7 about his brother, but his brother wasn't a witness --
8 wasn't there at the time, and I, I don't remember if I
9 couldn't find his brother or his brother was out of town. I
10 just do not remember.

11 Q So he was not present at the time and could not testify
12 as to what actually happened at this---

13 A No, ma'am, I don't think so.

14 Q Okay. Did you see any concerns with what the Court
15 gave as the jury instructions in regards to reasonable doubt
16 or attempted murder?

17 A No, ma'am.

18 Q If you had seen something that you thought was
19 improper, would you of objected to it?

20 A Yes, ma'am.

21 Q Okay. The same thing in regards to closing.
22 with Mr. Morin testifying as to what he believed had
23 been presented, did you find anything that you thought
24 should of been objected to in the closing arguments?

25 A No, ma'am, if I'd of found -- if there had been

Richard Whelchel - Direct examination
by Ms. White

1 something that I believed to be objectionable, I would of
2 objected to it. I'm --.

3 Q Okay.

4 A -- not shy about that.

5 Q And was there anything that concerns you in regards to
6 any Brady violations?

7 Did you feel that -- he, he testified, Mr. Chapman,
8 testified that there was some substance that was tested on
9 the car seat that was not blood, but he never knew about
10 that until later.

11 Did you -- do you recall that at all?

12 A No, ma'am.

13 MS. WHITE: Okay. I think that's all I have at this
14 time, Your Honor.

15 THE COURT: You may cross-examine.

16 MR. RUCKER: Your Honor, may it please the Court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. RUCKER:

20 Q Mr. Whelchel, how many times did you meet with my
21 client, Mr. Chapman?

22 A Five or six.

23 Q All right. Was he ever bonded out during this time?

24 A No, sir.

25 Q Okay. So you met with him at the jail?

Richard whelchel - Cross-examination
by Mr. Rucker

- 1 A Yes, sir.
- 2 Q Did you take the discovery down with him -- I mean to
- 3 him---
- 4 A Yes, sir.
- 5 Q ---so that y'all could discuss it with you?
- 6 A Yes.
- 7 Q All right. Go ahead.
- 8 A He may of had a copy. I don't know.
- 9 Q Okay.
- 10 A Sometimes I will make a copy and give it to the client
- 11 if they ask for a copy. Sometimes they ask for a copy and
- 12 I'll mail it to them if I, if I get a letter or something
- 13 like that. If they said they wanted a copy of their
- 14 discovery, then I'll do that.
- 15 Q Okay.
- 16 A I'll just give it to him the next time I'm there.
- 17 Q All right. Is it true that you discussed with him the
- 18 plea offers each -- all three of the plea offers?
- 19 A whenever I get a plea offer I discuss it with the
- 20 client.
- 21 Q Okay. Did he adamantly disagree with having a plea?
- 22 A He didn't want to plead.
- 23 Q Okay. Did he assert that he was actually innocent?
- 24 A Oh, yeah.
- 25 Q Okay. What was the -- and obviously the, the judge

Richard Whelchel - Cross-examination
by Mr. Rucker

1 will have the transcript.

2 what was the actual damning evidence against him you
3 believe?

4 A The damning evidence against him was that the shooting
5 took place and the only two people in the room and the wife
6 or girlfriend, Doris I think was her name or Dot, something
7 like that, came immediately into the room.

8 Q Okay. And was there ever any gunshot residue test done
9 on Mr. Chapman?

10 A Not that I'm aware of, no.

11 Q And, and nothing in the discovery revealed anything
12 like that I assume?

13 A No, I don't -- if it does I don't remember it.

14 Q All right. Did you talk to Mr. Chapman about
15 cooperating at some point?

16 Did you -- did y'all ever -- I mean I know you had plea
17 negotiations.

18 Did he ever talk to you about going back to the State
19 and giving a different statement?

20 A Oh, about him giving a statement?

21 Q Yes, sir, I'm, I'm---

22 A No, I don't -- no.

23 Q Do you agree with Mr. Chapman's assertion that Mr.
24 Morin, if not mislead the jury, at least misstated facts
25 that were presented?

Richard Whelchel - Cross-examination
by Mr. Rucker

1 A I think Mr. Morin was making an argument.

2 Q Okay.

3 A And I didn't see him misstating anything. I think he
4 was arguing his case.

5 Q So -- but you didn't -- you just thought, since it was
6 the argument, that you weren't gonna object because
7 normally, in closing argument, you don't object?

8 A I didn't -- excuse me?

9 Q Normally -- I'm sorry.
10 Many lawyers don't object in closing arguments.
11 would you agree with that?

12 A Many lawyers do not object in closing arguments.

13 Q Okay. And what -- I'm assuming you're saying you do if
14 necessary?

15 A I do.

16 Q You've -- you did not object at this point because of
17 misstated facts?

18 A Yeah, I didn't hear anything objectionable in my
19 opinion.

20 Q Okay. So if the judge reviews the transcript -- when
21 the judge reviews the transcript and sees factual errors
22 between the closing argument and what was actually
23 presented, would that be an issue for you?

24 A It could be, but, you know, I didn't hear anything at
25 that time.

Richard Wheelchel -- Redirect examination
by Ms. White

1 MR. RUCKER: Okay. No further questions.

2 THE COURT: Redirect?

3 MS. WHITE: I just got one, one brief redirect, Your
4 Honor.

5 REDIRECT EXAMINATION

6 BY MS. WHITE:

7 Q In regards to a gunshot residue test, Mr. Chapman left
8 immediately following the shooting or he says before the
9 shooting and was discovered or found somewhere several
10 counties away or turned himself in, did he not?

11 A Yes, ma'am.

12 Q And that was days later?

13 A Yes, ma'am.

14 Q So, from your experiences, could a gunshot residue test
15 have even been performed---

16 A They wouldn't---

17 Q ---at that period?

18 A They wouldn't do -- they won't do -- what they've told
19 me is, after four hours, they don't bother with them.

20 Q Okay. All right. Thank you.

21 That's all I have, Your Honor.

22 THE COURT: Anything else?

23 MR. RUCKER: Nothing further, Your Honor.

24 THE COURT: You may step down.

25 I'll hear from counsel.

1 MR. RUCKER: Your Honor, we're not calling a rebuttal
2 witness --

3 THE COURT: All right.

4 MR. RUCKER: -- any rebuttal witness.

5 THE COURT: Thank you.

6 MR. RUCKER: As we've argued, we've laid out the
7 arguments he made in his application. We believe that Mr.
8 Wheelchel was deficient in his, his assistance of my client
9 for the reasons stated by my client on the record.

10 THE COURT: All right. Thank you.

11 MS. WHITE: Your Honor, the State would argue that this
12 is a case of overwhelming evidence. The only people in the
13 home were Ms. Gettis, Mr. Chapman, and the victim. The
14 victim was shot in the neck, and Mr. Chapman left
15 immediately after, and both of the witnesses, the victim and
16 his grandmother, were able to testify Mr. Chapman had been
17 there and there had been some bad blood I guess at
18 previously.

19 So we would argue that this is an overwhelming evidence
20 case. That even in the event that it's -- the Court decides
21 not, he failed to meet his burden of proof if there's
22 anything that would of changed the outcome, counsel would of
23 done anything differently.

24 THE COURT: All right. Thank you.

25 I'll take a look at it and issue an order.

1 MS. WHITE: Thank you, Your Honor.

2 MR. RUCKER: Thank you, Your Honor.

3 THE COURT: Thank you very much.

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6 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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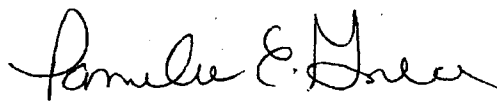
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I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 16th day of September, 2014.

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

July 9th, 2015



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Louie Alvoid Chapman, #98290,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2013-CP-42-0532

MAY 14 2015

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ORDER OF DISMISSAL

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M. HOPE BLACKLEY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed February 6, 2013. The Respondent made its Return on or about March 27, 2014. An evidentiary hearing into the matter was convened on September 16, 2014, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by J. Brandt Rucker, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Richard Whelchel, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the Appellate Court records, and the trial transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the August 2010 term of the Spartanburg County Grand Jury for attempted murder (2010-GS-42-4831). The Applicant was represented by Richard Whelchel, Esquire. On July 14, 2011, the

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Applicant was convicted of the charge by a jury. The Honorable J. Derham Cole sentenced Applicant to twenty years.

A timely notice of appeal and Anders brief were filed on Applicant's behalf. The South Carolina Court of Appeals dismissed Applicant's appeal. State v. Chapman, Op. No. 2012-UP-682 (filed December 28, 2012). The Remittitur was returned on January 22, 2013.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel, in that;
 - i. Counsel failed to object to and properly preserve for appellate review the issue of the incorrect jury charge;
 - ii. Counsel failed to seek a bond hearing on Applicant's behalf after several requests;
 - iii. Counsel failed to investigate the chain of custody regarding the physical evidence introduced by the State;
 - iv. Counsel failed to spend enough time with Applicant discussing trial and possible defenses with only three visits in which offers were discussed;
 - v. Counsel failed to investigate or have an independent examination of the substance on the shirt or the fired cartridge cases;
 - vi. Counsel failed to object to introduction of evidence based upon false information provided to obtain a search warrant;
 - vii. Counsel failed to object to the perjured testimony by State's witnesses and the State's use of that perjured testimony.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the

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opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. This Court found the testimony of Counsel to be more credible than the testimony of Applicant as to all allegations raised at the hearing.

In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that,

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but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Applicant testified that he met with Counsel three times, but only met for a few minutes each time. Applicant testified that he was never able to bond out prior to trial. Applicant testified that Counsel only wanted to talk with Applicant about possible pleas. Counsel never reviewed discovery materials with the Applicant and did not complete a thorough investigation prior to trial. Applicant testified that he provided Counsel with the names of witnesses specifically Applicant's brother, but Counsel did not call any witnesses at trial other than Applicant. However, Applicant did acknowledge that his brother was not present at the scene of the shooting, so he could not have testified as to what occurred.

Counsel testified that he recalled representing the Applicant in 2011. Counsel testified that at the time, he had practiced law in South Carolina for almost thirty years and handled numerous other serious cases. Counsel testified that he believed he met with Applicant five or six times; however, Counsel could not recall. Counsel testified that it would be his normal practice to meet with a client five or six times before trial. Counsel testified that he met with the Applicant each time at the detention center because the Applicant never bonded out. Counsel testified that he did speak with the Applicant about entering a plea because he believed a plea was in Applicant's best interest. Counsel testified that the State made three offers: 1) twenty years, 2) twelve years, and 3) twelve years negotiated.

Counsel testified that he did review all discovery materials with the Applicant, including witness statements and investigative reports. Counsel testified that Applicant did explain his side

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of the story and provided the defense that he was fishing and not at the scene. Counsel testified that he saw no issues with the chain of custody as to any of the physical evidence introduced by the State.

Applicant testified that the State alleged that the shirt he was wearing at the time of his arrest had dark spots on it, which could have been blood. However, Applicant testified that the spots were from motor oil. Applicant testified that Counsel failed to have the shirt tested to show that the spots were not blood. Applicant also testified that spots on his car seat were tested to see if they were blood and the substance did not come back as blood, but Counsel did not present that evidence to the jury.

Applicant also testified that the alleged eyewitness to the shooting, although she claimed she had seen Applicant shoot the victim, stated that she never saw a gun. Applicant testified that he believed that there was insufficient cause to execute a search warrant and Counsel failed to object to the illegal search. Applicant also testified that he believed that there was no medical evidence to prove that the victim had even been shot.

Counsel testified that he would have presented that evidence to the jury had he believed the dark spots on the Applicant's shirt was transmission fluid or motor oil instead of blood. Counsel testified that he was able to cross-examine the State's experts as to the fact that they could not affirmatively state that the substance was blood. Counsel testified that there was no legal basis to object to the search of the home or the victim's grandmother's car. Counsel also testified that the most damning evidence against the Applicant was the fact that there were only two people in the room at the time of the shooting (Applicant and victim) and the victim's grandmother saw Applicant place his fist up to the victim's neck immediately before the victim began bleeding. The Sheriff's office also found spent cartridge casings around the kitchen table

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where the victim was shot. Both the victim and his grandmother testified against Applicant at trial, in addition to the neighbor who saw Applicant at the home at the time of the shooting. Counsel testified that he did not request a gunshot residue test of Applicant because the Applicant was arrested days after the shooting and the test would have been useless.

Applicant testified that Counsel failed to request a curative instruction following the incorrect statement by the trial judge that a killing occurred. Applicant testified that the trial judge corrected himself by stating that it was a trial on attempted murder, but Applicant testified that Counsel should have requested a curative instruction.

Counsel testified that had he believed the jury instructions were improper or that a curative instruction was needed, he would have objected or made the request. Additionally, Counsel testified that he did not feel there was any legal basis to object during the State's closing arguments.

This Court finds that the Applicant's allegations that Counsel did not conduct an adequate pre-trial investigation or prepare enough for trial are without merit. The "brevity of the pre-trial consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). To establish counsel was inadequately prepared, Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

When claims of ineffective assistance of counsel are based on lack of preparation time, an Applicant challenging his conviction must also show specific prejudice resulting from

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counsel's alleged lack of time to prepare. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984); U. S. v. LaRouche, 896 F.2d 815 (4th Cir. 1990). As an initial matter, this Court finds that whether or not the Applicant had a bond hearing or was released on bond is completely irrelevant as to his attorney's performance at trial. This Court notes that Counsel has years of experience representing clients on similar charges and remains updated on case law through research. The Applicant failed to point to any specific matters Counsel failed to discover, or any defenses that could have been pursued had Counsel been more fully prepared or had completed additional investigation prior to the case being called to trial. Although he alleged that Counsel was ineffective for failing to investigate the alleged spots on Applicant's shirt and in the car, Applicant failed to produce any evidence that would have supported his defense. There was also no evidence or testimony that the chain of custody as to the cartridge cases was faulty or had been tainted. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate preparation or lack of investigation.

In regards to the Applicant's allegation that Counsel was deficient in his cross examination of the State's witnesses, this Court finds that the Applicant has failed to meet his burden of proof. The nature and scope of cross-examination is inherently a matter of trial tactics. United States v. Nersesian, 824 F.2d 1294, 1321 (2nd Cir. 1987). "[A] defendant has a 'burden of supplying sufficiently precise information,' of the evidence that would have been obtained had his counsel undertaken the desired investigation and of showing 'whether such information . . . would have produced a different result.'" United States v. Rodriguez, 53 F.3d 1439, 1449 (7th Cir. 1995). The Applicant did not proffer any questions counsel allegedly failed to ask, and did not present any testimony showing the witnesses' answers at trial would have been different. Applicant alleged that the witnesses presented perjured testimony; however, the Applicant has

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not shown that a different approach to cross-examination would have been beneficial to the defense. Furthermore, this Court finds no legal basis for Counsel to object to the jury charges or the search warrant and cannot find any deficiency as to Counsel's performance overall.

In making a fair assessment of attorney performance, a court must make every effort to "eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time."

Strickland v. Washington, 466 U.S. 668, 689, 104 S. Ct. 2052, 2065, 80 L. Ed. 2d 674 (1984).

There is a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance and the "defendant must overcome the presumption that, under the circumstances, the challenged action might be considered sound trial strategy." *Id.* This Court

finds that the Applicant has failed to meet his burden of proof as to all claims that Counsel was ineffective.

Overwhelming Evidence

Finally, this Court finds that the Applicant was not prejudiced by any alleged deficient representation because there was overwhelming evidence of the Applicant's guilt. Applicant was identified as the shooter by the victim and the only other eyewitness, the Applicant's girlfriend at the time of the shooting. Where there is overwhelming evidence of guilt, a trial counsel's deficient representation will not be prejudicial. Ford v. State, 314 S.C. 245, 442 S.E.2d 604 (1994); See also Humbert v. State, 345 S.C. 332, 548 S.E.2d 862 (2001); Geter v. State, 305 S.C. 365, 409 S.E.2d 344 (1991). In Ford, trial counsel failed to request an alibi instruction and his representation was found deficient as a result. However, the evidence of the Applicant's guilt in Ford was overwhelming and this Court held that the Applicant failed to prove the second prong of Strickland, which requires that an Applicant show prejudice by the

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deficient representation. Likewise, the Applicant here has shown no prejudice resulting from any alleged deficient representation.

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, Applicant's testimony as a whole was not credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See *transcript supra*. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the

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appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 26th day of March 2015, ~~2014~~.



Roger L. Couch
Presiding Judge

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WITNESSES

Spartanburg County Sheriff

CR Tulliver

1. SENTENCE MADE ☒

2. REPORTED ☒

3. CARD PULLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

ARREST, WARRANT NUMBER ☒

7. ASSESSMENT ☒

MA24319

8. TRAFFIC VIOLATION COPY ☒

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 8-19-10

VERDICT

guilty

Foreperson of Petit Jury

Date:

7/14/11

DOCKET NO.

10-GS-42-4831

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 23 2010 TERM

THE STATE

VS.

Louie Alvord Chapman

Indictment for

ATTEMPTED MURDER

SC Code: 16-3-0029

CDR Code: 3410

Class FEL-A

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SPARTANBURG COUNTY

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

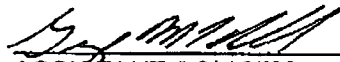
At a Court of General Sessions, convened on AUG 19 2010 the

Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED MURDER

That Louie Alvoid Chapman, did in Spartanburg County on or about July 24, 2010, with malice aforethought attempt to kill Justin Thorne, by shooting the victim in the head, with the intent to kill the said victim, in violation of §16-03-0029, 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.


ASSISTANT SOLICITOR

ARREST WARRANT

M-424319

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

Spartanburg

THE STATE

judicial

Louie Alvoid Chapman

Address:

Phone:

Sex: M

Race: W

Height: 8

Weight: 210

DOB: 11-11-1964

Agency: Spartanburg County Sheriff

Agency ORI #: SC0420000

Processing Officer: Brandon M Lettman - 0064

Offense: Murder / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the

☐ County ☐ Municipality ofis to be arrested and brought before me to be
dealt with according to the law. The accused

(L.S.)

Signature of Judge

Date: 7/24/2010

RETURN

A copy of this arrest warrant was delivered to
defendant on

Signature of Court/Clerk/Judge with Official

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304
ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

Spartanburg

Personally appeared before me the affiant Brandon M Lettman

being duly sworn depose and says that defendant Louie Alvoid Chapman

did within this county and state on or about 07/24/2010

State of South Carolina (or ordinance of)

in the following particulars

☒ County ☐ Municipality of

Spartanburg

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:that on July 24, 2010, in the county of Spartanburg, the defendant Louie Alvoid Chapman, with intent to kill, attempted to kill
Justin Thorne with malice aforethought. The defendant used a firearm and attempted to kill the defendant by shooting him in the
head. Affiant's belief is based on victim and witness statement.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

Spartanburg

Affiant's Address: 8045 Howard Street
Spartanburg, SC 29303

Affiant's Telephone:

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/24/2010

defendant Louie Alvoid Chapman

did violate the criminal laws of the State of South Carolina (or ordinance of)
☒ County ☐ Municipality of Spartanburg) as set forth below.

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me (or to be dealt with according to law). A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me on 07/24/2010Judge's Address: Spartanburg County Judicial Center
Spartanburg, SC 29306-2335

Judge's Telephone: (864) 596-3424

Judge's Signature: [Signature]

Judge Code: 5012

Issuing Court: [X] Magistrate [] Municipal [] Circuit

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Form Approved by
U.S. Attorney General
March 1980
SCA 116

7-13-2011

2010-GS-42-4831

STATE

(Michael Morin)

-VS-

LOUIE ALVOID CHAPMAN

(Richard Whelchel)

OPENING: 7-13-11 12:40 pm

CLOSING: 7-14-11 10:03 am

VERDICT: Guilty

MOTION FOR DIRECTED VERDICT BY DEFENDANTS' ATTORNEY: Denied

STATE'S WITNESSESDEFENSE'S WITNESSES

Dorothy Geddes

Louie A. Chapman

Calvin Lyles

Justin Thorne

Brandon Letterman (SCSO)

Sean Nix (SCSO)

Defendant's Motion for a New Trial: Denied

SENTENCING: 20 years/ cfts

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Louie Alvoid Chapman, Appellant.

Appellate Case No. 2011-195808

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge

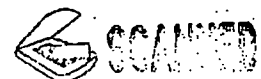
Unpublished Opinion No. 2012-UP-682
Submitted November 1, 2012 – Filed December 28, 2012

APPEAL DISMISSED

Appellate Defender Kathrine H. Hudgins, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, and Senior
Assistant Deputy Attorney General Salley W. Elliott, all
of Columbia; and Solicitor Barry Barnette, of
Spartanburg, for Respondent.

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PER CURIAM: Dismissed after consideration of appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.¹

FEW, C.J., and WILLIAMS and PIEPER, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



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The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1639
www.sccourts.org

January 22, 2013

The Honorable M. Hope Blackley
PO Box 3483
Spartanburg SC 29304-3483

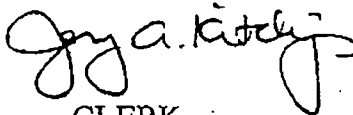
REMITTITUR

Re: The State v. Chapman, Louie Alvold
Lower Court Case No. 2010GS4204831
Appellate Case No. 2011-195808

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,


CLERK

cc: Richard H. Whelchel
Salley W. Elliott
Michael David Morin
Kathrine Haggard Hudgins

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M. HOPE BLACKLEY



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