

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM MARION COUNTY

D. Craig Brown, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BLATON WAKEEM SMITH,

APPELLANT

APPELLATE CASE NO. 2014-001769

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED AUGUST 6-8, 2014.....	1
OPENING STATEMENT BY MR. CLEMENTS.....	9
OPENING STATEMENT BY MR. DEBERRY	18
OPENING STATEMENT BY MR. BAILEY.....	22
TESTIMONY	
OFFICER GREG PIKE	
Direct examination by Mr. Clements.....	27
Cross examination by Mr. Deberry.....	35
Cross examination by Mr. Bailey	42
Redirect examination by Mr. Clements.....	50
Recross examination by Mr. Deberry.....	52
CORPORAL MARION RICHARDSON	
Direct examination by Mr. Clements.....	53
Cross examination by Mr. Deberry.....	58
Cross examination by Mr. Bailey	65
SERGEANT CLEMSON LEGETTE	
Direct examination by Mr. Clements.....	73
Cross examination by Mr. Deberry.....	81
Cross examination by Mr. Bailey	100
Redirect examination by Mr. Clements.....	106
Recross examination by Mr. Deberry.....	107
INVESTIGATOR SAMANTHA JACKSON	
Direct examination by Mr. Clements.....	108
Cross examination by Mr. Deberry.....	111
Cross examination by Mr. Bailey	112
Redirect examination by Mr. Clements.....	112
Recross examination by Mr. Bailey.....	113
CHARLIE WATSON	
Direct examination by Mr. Clements.....	116
Cross examination by Mr. Deberry.....	163

TESTIMONY (IN CAMERA)

CHARLIE WATSON

Proffered cross examination by Mr. Deberry	189
--	-----

TESTIMONY

CHARLIE WATSON

Cross examination by Mr. Deberry.....	195
Cross examination by Mr. Bailey	212
Redirect examination by Mr. Clements	232
Recross examination by Mr. Deberry	236
Recross examination by Mr. Bailey	238

LIEUTENANT EDDIE SAWYER

Direct examination by Mr. Clements.....	241
Cross examination by Mr. Deberry.....	249
Cross examination by Mr. Bailey	250

AGENT MICHELLE EICHENMILLER

Direct examination by Mr. Clements.....	254
Cross examination by Mr. Deberry.....	265
Cross examination by Mr. Bailey	269
Redirect examination by Mr. Clements	270
Recross examination by Mr. Deberry	273

DR. CYNTHIA SCHANDL

Direct examination by Mr. Clements.....	275
---	-----

GAVIN GRAVES

Direct examination by Mr. Clements.....	284
Cross examination by Mr. Deberry.....	303
Cross examination by Mr. Bailey	313

TESTIMONY (IN CAMERA)

DERRICK WILSON

Proffered direct examination by Mr. Clements	333
Proffered cross examination by Mr. Deberry	337

TESTIMONY

DERRICK WILSON

Direct examination by Mr. Clements.....	352
Cross examination by Mr. Deberry.....	376
Cross examination by Mr. Bailey	381
Redirect examination by Mr. Clements.....	387

JAMIE WILLIAMS

Direct examination by Mr. Clements.....	393
Cross examination by Mr. Deberry.....	416
Cross examination by Mr. Bailey	427
Redirect examination by Mr. Clements.....	451

WILLIE BETHEA

Direct examination by Mr. Clements.....	455
Cross examination by Mr. Deberry.....	486
Cross examination by Mr. Bailey	501

STATE RESTS.....	538
------------------	-----

DEFENSE MOTION FOR A DIRECTED VERDICT.....	538
--	-----

RULING BY THE COURT ON DEFENSE MOTION FOR A DIRECTED VERDICT	541
---	-----

COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	542
--	-----

DEFENSE RESTS	546
---------------------	-----

DEFENSE RENEWAL OF ALL PRIOR MOTIONS AND FOR A DIRECTED VERDICT	547
--	-----

RULING BY THE COURT ON DEFENSE RENEWAL OF ALL PRIOR MOTIONS AND FOR A DIRECTED VERDICT	548
---	-----

CLOSING ARGUMENT BY MR. CLEMENTS	552
--	-----

CLOSING ARGUMENT BY MR. DEBERRY.....	571
--------------------------------------	-----

CLOSING ARGUMENT BY MR. BAILEY	584
--------------------------------------	-----

CHARGE ON THE LAW.....	595
------------------------	-----

VERDICT	617
SENTENCING	621
INDICTMENT	622
CERTIFICATE OF COUNSEL.....	625

WILLIE BETHEA - CROSS BY MR. BAILEY

1 MR. CLEMENTS: Your Honor, I --

2 MR. DEBERRY: I don't have anything further.

3 THE COURT: All right. Thank you. Mr. Bailey, cross
4 examination.

5 CROSS EXAMINATION

6 BY MR. BAILEY:

7 Q: Mr. Bethea?

8 A: Yes, sir.

9 Q: Good morning. You've been in jail for the last 27 months
10 you say?

11 A: Mm-hmm.

12 THE COURT: Is that a yes?

13 THE WITNESS: Yes, sir.

14 THE COURT: Thank you.

15 BY MR. BAILEY:

16 Q: How many times have you met with law enforcement?

17 A: How many times have I met with them?

18 Q: Mm-hmm. About this case.

19 A: I don't know.

20 Q: More than two?

21 A: Yes, sir.

22 Q: More than five?

23 A: No, sir.

24 Q: So somewhere between two and five times over two -- 27
25 months?

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 A: I can't recall. They should have it on record.
- 2 Q: They should have it on record?
- 3 A: Yes, sir.
- 4 Q: Okay. Were you transported to court yesterday?
- 5 A: Sir?
- 6 Q: Were you transported here yesterday?
- 7 A: Yes, sir.
- 8 Q: Did you meet with law enforcement yesterday?
- 9 A: I was -- met with my lawyer.
- 10 Q: But did you meet with law enforcement yesterday?
- 11 A: I was appointed to my -- Mr. Brooker. Yeah, law
- 12 enforcement was up there.
- 13 Q: Okay.
- 14 A: Yes, sir.
- 15 Q: Did you talk with law enforcement yesterday?
- 16 A: No. I was with my lawyer.
- 17 Q: Okay. Did you talk with Mr. Clements yesterday?
- 18 A: Mr. Ed Clements?
- 19 Q: Mm-hmm.
- 20 A: No, sir. I spoke to him one time.
- 21 Q: One time?
- 22 A: Yes, sir.
- 23 Q: When was that?
- 24 A: I don't --
- 25 Q: When did you talk to Mr. Clements?

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 A: Yesterday afternoon.
- 2 Q: Yesterday afternoon?
- 3 A: Yes, sir.
- 4 Q: Okay. What did y'all talk about?
- 5 A: He had told me about my lawyer, Mr. Brooker. They was
- 6 talking to me, asked me a few questions, like, was I nervous
- 7 or something, and I told them no. Let's get on and get this
- 8 over with.
- 9 Q: Okay.
- 10 A: Do we -- do we supposed to have something to talk about?
- 11 THE COURT: Let him ask the questions. Okay, Mr. Bethea?
- 12 THE WITNESS: Yes, sir.
- 13 BY MR. BAILEY:
- 14 Q: So -- so when you met with Mr. Clements yesterday, y'all
- 15 just talked about your lawyer, Mr. Brooker, sitting over
- 16 there.
- 17 A: I need to know directly what you want to -- want me to
- 18 answer you what were we talking about.
- 19 Q: Okay. Here's my question.
- 20 A: Yes, sir.
- 21 Q: What did you and Mr. Clements talk about yesterday
- 22 afternoon? Tell me everything y'all talked about.
- 23 A: I need to know what you want to know. We ain't talked
- 24 about --
- 25 Q: Mr. Bethea --

WILLIE BETHEA - CROSS BY MR. BAILEY

1 A: I mean --

2 Q: I'm going to ask you --

3 THE COURT: Hold on a minute. He wants to know
4 everything that y'all talked about.

5 THE WITNESS: I want to know what you want me to know
6 what he told me to talk about. The only thing I told him that
7 we talked about was them appointing me to my lawyer, Mr.
8 Brooker.

9 THE COURT: Was there anything else you talked about
10 yesterday?

11 THE WITNESS: He just told me to stay calm and -- and --
12 and speak the truth.

13 MR. BAILEY: Okay.

14 THE COURT: Okay. Go ahead, Mr. Bailey.

15 MR. BAILEY: Thank you, Your Honor.

16 BY MR. BAILEY:

17 Q: You testified earlier that you have a child?

18 A: Yes, sir.

19 Q: How old is your child?

20 A: Six years old. Rihanna Reeves.

21 Q: Any other children?

22 A: No, sir.

23 Q: Are you married?

24 A: No, sir.

25 Q: Live in Latta?

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 A: Yes, sir.
- 2 Q: Pretty much grew up in Latta; correct?
- 3 A: Yes, sir.
- 4 Q: Okay. And you testified a little bit ago that everybody
- 5 in -- everybody knows everybody in Latta?
- 6 A: Yes, sir.
- 7 Q: Small community?
- 8 A: Yes, sir.
- 9 Q: You never knew Jamie Williams before?
- 10 A: No, sir.
- 11 Q: Never knew he grew up in Latta?
- 12 A: I know he ain't grow up in Latta.
- 13 Q: Okay. Where did he grow up at?
- 14 A: I think he grew up from Marion or something.
- 15 Q: Okay. Did you ever see him come into Latta?
- 16 A: I met him through my cousin.
- 17 Q: Okay. How many times have you guys met?
- 18 A: Not a lot.
- 19 Q: Two?
- 20 A: Probably two or three before we got in this.
- 21 Q: Okay. Who did you live with in Latta?
- 22 A: I live with my dad, Willie B. McKirk [phonetic].
- 23 Q: Where's your mama stay?
- 24 A: With my dad.
- 25 Q: Okay. You testified for Mr. Clements and Mr. Deberry

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 earlier that you have some convictions; right?
- 2 A: Sir?
- 3 Q: You have some prior convictions; correct?
- 4 A: Yes, sir.
- 5 Q: You went to prison on some of those prior convictions;
- 6 correct?
- 7 A: Yes, sir.
- 8 Q: How long did you have to go to prison for?
- 9 A: What is you talking about going to prison for? Which?
- 10 Q: Well, you pled guilty to accessory after the fact, grand
- 11 larceny, and burglary second degree all together. Do you
- 12 remember that?
- 13 A: It's on file.
- 14 Q: Did you go to prison for those charges?
- 15 A: Yes, sir. It's on the paper. Yes, sir.
- 16 Q: How long did you go to prison for?
- 17 A: Six months.
- 18 Q: Okay. After you got out of prison, did you return to
- 19 Latta?
- 20 A: Yes, sir.
- 21 Q: Excited to see your mama and daddy after six months?
- 22 A: Like everybody would.
- 23 Q: Yeah. Did y'all have a party?
- 24 A: No.
- 25 Q: No? Just excited to see mama and daddy?

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 A: Mm-hmm.
- 2 Q: Okay. Have you had any conversations with anyone about
3 what you're going to do with these pending charges today?
- 4 A: No, sir.
- 5 Q: None? You understand that you could get life in prison
6 for murder?
- 7 A: Yes, sir.
- 8 Q: And you have no deal regarding that murder charge?
- 9 A: No, sir.
- 10 Q: When are you scheduled to plead guilty to murder?
- 11 A: Sir?
- 12 Q: When are you scheduled to plead guilty to murder?
- 13 A: I don't know about that, sir. I just come in here to
14 tell the truth.
- 15 Q: How about the attempted murder? Do you understand you
16 could get up to 30 years on each one of those?
- 17 A: Yes, sir.
- 18 Q: And do you understand that that could be a total of 120
19 years?
- 20 A: If you add them up, yeah, that should be correct.
- 21 Q: Okay. When are you going to plead guilty to those four
22 counts of attempted murder?
- 23 A: I just told you. I don't know, sir.
- 24 Q: Okay. The discharging of a weapon into a dwelling -- you
25 have one of those charges?

WILLIE BETHEA - CROSS BY MR. BAILEY

1 A: Still have a charge with it, yes, sir.

2 Q: Okay. Don't know what's going to happen to that one
3 after today?

4 A: Sent all my -- sent all my charges home.

5 Q: Okay. Your lawyer hasn't had any talks with you about
6 what's going to happen after trial this week?

7 MR. CLEMENTS: I'll object to that, Your Honor. That's
8 attorney/client privilege.

9 MR. BAILEY: I didn't ask any specifics, Judge. I just
10 want to know if they talked about it.

11 THE COURT: Come here.

12 (Whereupon, a bench conference is held in the presence of
13 the jury but out of the hearing of the jury as follows.)

14 THE COURT: I mean I understand you're not asking
15 specifics, but you're walking a fine line there.

16 MR. BAILEY: That's the only question I'm going to ask.

17 THE COURT: Okay. You've asked him whether or not he's
18 got a deal. He's testified he doesn't. Whether he does or
19 not, he's testified he doesn't. Okay? I'm not going to allow
20 you to get into something or even open the door for a
21 possibility of him blurting out something that may be
22 protected by attorney/client privilege. Now, you understand?
23 I mean just be careful in walking that line.

24 MR. BAILEY: That was the only question I was going to
25 ask, if they've talked about any deals.

WILLIE BETHEA - CROSS BY MR. BAILEY

1 MR. CLEMENTS: And if he says --

2 THE COURT: Sure. I mean that's not anything that's
3 protected. He can ask that question, but --

4 MR. BAILEY: And I just want a yes or no.

5 THE COURT: If you get into that next --

6 MR. BAILEY: No.

7 THE COURT: -- or any more of those discussions, now
8 you've got a problem.

9 MR. BAILEY: Just a yes or no is all I'm looking for.

10 THE COURT: Okay. Well, I mean it goes to -- it
11 certainly goes to his bias or prejudice.

12 MR. CLEMENTS: But I don't know what his attorney might
13 have told him.

14 THE COURT: He didn't ask him what they said, but I'll
15 ask him -- I'll allow him to ask him if he talked to him about
16 it, but be careful. It's just a yes or no question.

17 (Whereupon, the bench conference ends.)

18 MR. BAILEY: Are you ready to proceed, Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. BAILEY:

21 Q: Mr. Bethea, my question was have you and any of your
22 lawyers had any discussions about resolving these charges?

23 A: I've only got one lawyer. That's Mr. Brooker. He told
24 me --

25 Q: I don't want to know what he talked about. Just a yes or

WILLIE BETHEA - CROSS BY MR. BAILEY

1 no question. Have you guys had any talks about resolving
2 these charges?

3 A: Resolving is saying what?

4 Q: Any deals on the table -- have you guys talked about
5 that?

6 A: No, sir.

7 Q: Okay. Now, Mr. Bethea --

8 A: Yes, sir.

9 Q: When -- when -- when you're in prison, the guards control
10 everything you do; correct?

11 A: Yes, sir.

12 Q: They can tell you where to go; right?

13 A: Yes, sir.

14 Q: Tell you where not to go?

15 A: Yes, sir.

16 Q: How many people are in a cell with you in prison?

17 A: It isn't a cell. It's a pod.

18 Q: It's a pod?

19 A: Three to a cell.

20 Q: Okay. So you have a cell in a pod?

21 A: Yes, sir.

22 Q: Okay. And there's three individuals in there with you?
23 Not a lot of privacy in prison, is there?

24 A: No, sir.

25 Q: A lot of bad people in prison?

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 A: Pretty much.
- 2 Q: People do bad things in prison?
- 3 A: Pretty much.
- 4 Q: Are you subject to being searched at all times?
- 5 A: Routine. Yeah. Yes, sir.
- 6 Q: Routine searches for you?
- 7 A: Every day.
- 8 Q: It's not a very pleasant experience to be in prison, is
- 9 it?
- 10 A: No, sir.
- 11 Q: You don't want to go back to prison, do you?
- 12 A: Nobody want to go to prison.
- 13 Q: Yeah. Okay. Now, Mr. Bethea, let me ask you have you
- 14 ever received any type of mental health treatment?
- 15 A: Yes, sir.
- 16 Q: Okay. Have you been diagnosed as a schizophrenic?
- 17 A: Yes, sir.
- 18 Q: Have you been diagnosed as having any type of psychosis
- 19 disorders?
- 20 A: What you mean by that?
- 21 Q: Have you been diagnosed -- are you aware of any diagnosis
- 22 for psychosis?
- 23 A: I don't know what psychosis is.
- 24 Q: Okay. Do you know what schizophrenia means?
- 25 A: I was diagnosed with it, but I don't really, really,

WILLIE BETHEA - CROSS BY MR. BAILEY

1 really know what it means.

2 Q: Okay. As a result of your mental health, you've been
3 institutionalized; correct?

4 A: What you mean by institutionalized?

5 Q: You've had to go up to Columbia to a mental health
6 hospital; correct?

7 A: A holding facility?

8 Q: Yeah.

9 A: Yes, sir.

10 Q: Okay. That's not a pleasant experience, is it, either?

11 A: No, sir.

12 Q: Did you get any mental health treatment while you were in
13 prison?

14 A: Yes, sir.

15 Q: Not the best treatment up there, is it?

16 A: No, sir.

17 Q: You can get better treatment out here on the street if
18 you need it?

19 A: Sir?

20 Q: You can get better mental health treatment if you're not
21 in prison; correct?

22 A: I don't know about all that.

23 Q: Okay. Do you recall telling any doctors that people were
24 jealous of your lifestyle?

25 A: I don't know what was going on during that time.

WILLIE BETHEA - CROSS BY MR. BAILEY

1 Q: Okay.

2 MR. CLEMENTS: Your Honor, I object to the relevance of
3 that.

4 THE COURT: Can the lawyers approach?

5 (Whereupon, a bench conference is held in the presence of
6 the jury but out of the hearing of the jury as follows.)

7 THE COURT: First of all, his mental health treatment is
8 absolutely objectionable. I mean there's case law out there.
9 Unless you can tie -- tie that together with his inability to
10 tell the truth, it's not admissible.

11 MR. BAILEY: But, Judge, what I'm doing is I'm tying it
12 to him not getting the treatment in prison. He don't want to
13 go to prison because he can't get the treatment.

14 THE COURT: That's not relevant to this case.

15 MR. BAILEY: Him going to prison is not relevant in this
16 case?

17 THE COURT: That's not what you said.

18 MR. BAILEY: But the aspects of prison -- I mean I'm going
19 to ask him --

20 (Whereupon, the bench conference ends.)

21 THE COURT: Ladies and gentlemen, I'm going to ask you to
22 step to your jury room for just a minute. Do not discuss the
23 case. I'll get you back out here in just a second.

24 (Whereupon, the jury exits the courtroom at 9:55 a.m.)

25 THE COURT: All right. Yes, sir, Mr. Bailey?

WILLIE BETHEA - CROSS BY MR. BAILEY

1 MR. BAILEY: Your Honor, I believe Mr. Clements had the
2 objection.

3 THE COURT: Well, he objected on the grounds of
4 relevancy. I want to hear your argument on the other side of
5 it.

6 MR. BAILEY: Your Honor, this -- his treatment for mental
7 health goes to his credibility as a witness first. Number
8 two, it goes towards his bias and his motive to testify
9 because he's already testified without objection that he
10 didn't get good mental health treatment in prison. He's
11 already testified he doesn't want to go back to prison. So I
12 should be allowed to cross examine those issues in front of
13 the jury.

14 THE COURT: When was the mental health treatment? What
15 does it have anything to do with his ability to get on this
16 witness stand and tell the truth or not tell the truth? Do
17 you have any case law that you can provide to me that would
18 say that the cross examination of a witness concerning their
19 mental health is admissible when it's not -- when you can't
20 tie it at least -- and I haven't heard it yet -- tie it to his
21 ability to tell the truth or not tell the truth.

22 MR. BAILEY: I'm not -- I do not have a case, Judge.

23 THE COURT: Okay.

24 MR. BAILEY: I just --

25 THE COURT: Well, I've researched that issue before

WILLIE BETHEA - CROSS BY MR. BAILEY

1 because I had it in a case not too long ago over in Florence
2 County wherein a witness had been diagnosed with schizophrenia
3 or some issues relating to it, and the case law that I recall
4 did not allow you to go into that because it's not relevant to
5 their ability to tell the truth. All right?

6 Now, I understand what you're saying that it is your
7 intention to put out there that he doesn't want to go to
8 prison because he can't get the mental health treatment that
9 he needs. I've heard nothing that would indicate -- and maybe
10 you have it. I just want to hear it and I'll allow you to
11 proffer it, but nothing that he had ongoing mental health
12 treatment and that there is a need for ongoing mental health
13 treatment that would tie it in.

14 You've established through your cross examination that
15 jail ain't a good place. I've allowed you to do that and that
16 certainly goes to bias or whatever you want to call it as to
17 his testimony for that jury to make a decision on, but as far
18 as this mental health stuff, I mean it's just -- it's not
19 relevant at this point unless you can give me some more
20 information as to its relevancy.

21 MR. BAILEY: Judge, I would just note my exception to
22 that.

23 THE COURT: Well -- and I want you to proffer whatever
24 you want. If you want to proffer something --

25 MR. BAILEY: I just have one question for him.

WILLIE BETHEA - CROSS BY MR. BAILEY

1 THE COURT: Okay.

2 MR. BAILEY: He has made statements in his past to two
3 doctors about visual hallucinations when he smokes marijuana.

4 THE COURT: Well, I --

5 MR. BAILEY: And number two, Judge, if you just let me
6 put this on the record.

7 THE COURT: Yes, sir.

8 MR. BAILEY: And number two, Judge, when he went for his
9 psychiatric evaluation in connection with this case, he told
10 that physician that he smoked marijuana 30 minutes before he
11 got arrested.

12 THE COURT: Okay.

13 MR. BAILEY: Am I allowed to bring those up?

14 THE COURT: Mr. Clements?

15 MR. CLEMENTS: Your Honor, he hadn't smoked marijuana 30
16 minutes prior to taking this witness stand. I can tell you
17 that and that's what he's testified to. Any statement he made
18 back then if he was delusional, that statement's not before
19 the -- the Court. There's a video of it that if Mr. Bailey
20 wants to put into evidence, then the jury can watch it and see
21 if they thought he was delusional at that time, but I think
22 he's gone far afield and what he's attempting to do is not
23 admissible at all.

24 THE COURT: Okay. Well, you've brought out what you
25 wanted to get out outside the presence of the jury, but

WILLIE BETHEA - CROSS BY MR. BAILEY

1 there's no evidence that every time he smoked marijuana that
2 he was delusional, is it? Or is it?

3 MR. BAILEY: Judge, it's just he gets delusional. He has
4 visual hallucinations when he smokes marijuana is what he told
5 the doctor.

6 THE COURT: Well, is there evidence within that report
7 that he was delusional or hallucinating that night that he
8 conveyed to his doctor?

9 MR. BAILEY: Well, Judge, the --

10 THE COURT: I mean first go back to my first question.
11 Is there evidence in there that he was delusional every time
12 he smokes marijuana? And if so -- do you understand what I'm
13 getting at?

14 MR. BAILEY: Well, I understand, Judge, and -- and no.
15 His statement to the doctor does not say specifically every
16 time I smoke marijuana it's visual hallucinations. It's just
17 I see visual hallucinations when I smoke marijuana.

18 THE COURT: Okay. I understand. Your objection is so
19 noted for the record, but I'm not going to allow you to go
20 there. I don't think the case law allows it. It doesn't go
21 to his ability to tell the truth. So I'm not going to allow
22 it. Anything else?

23 MR. DEBERRY: Your Honor, just for the record, I'd like
24 to join in that objection.

25 THE COURT: So noted for the record. All right. We're

WILLIE BETHEA - CROSS BY MR. BAILEY

1 going to stand down for just a minute before I bring the jury
2 back out. Sir, you can step down and have a seat right over
3 there, but you can't -- listen to me. Okay? You can't
4 discuss your testimony. Okay? You can't discuss your
5 testimony with anybody.

6 THE WITNESS: Yes, sir.

7 (Whereupon, there is a break in the proceedings from
8 10:02 a.m. until 10:17 a.m.)

9 THE COURT: Mr. Bethea, if you would, come back up and
10 take the stand, please, sir. All right. Let me ask this
11 question before we go any further. Mr. Bailey has questioned
12 this witness about mental -- some mental health issues and we
13 discussed this back in chambers, but I want to ask these
14 questions on the record. Has this witness been declared
15 incompetent?

16 MR. CLEMENTS: No, Your Honor.

17 THE COURT: All right. Has through his evaluation it
18 indicated that he has an inability to know right from wrong?

19 MR. CLEMENTS: No, Your Honor.

20 THE COURT: Has it been declared in his evaluation that
21 he does not know the difference between a truth and a lie?

22 MR. CLEMENTS: No, Your Honor.

23 THE COURT: All right. Again, that is the basis of my
24 ruling here and I've heard nothing to the contrary. And while
25 Mr. Clements has responded to my questions, the questions were

WILLIE BETHEA - CROSS BY MR. BAILEY

1 directed at Mr. Bailey because it was his effort to try -- I
2 mean whoever answered the questions, whether it Mr. Bailey or
3 Mr. Clements, I needed to know those answers to determine to
4 what extent where we go from here. All right? Anything else?

5 MR. BAILEY: Nothing from me, Your Honor.

6 THE COURT: All right. Anything else? And it's noted
7 that Mr. Deberry has joined in that objection. All right.
8 Bring me the jury, please, sir.

9 (Whereupon, the jury enters the courtroom at 10:19 a.m.)

10 THE COURT: Thank you for your patience. Please note
11 that all jurors are back in the courtroom. Mr. Bailey, you
12 may continue.

13 MR. BAILEY: Thank you, Your Honor. May it please the
14 Court.

15 THE COURT: Yes, sir.

16 BY MR. BAILEY:

17 Q: Mr. Bethea, you had testified earlier that you
18 voluntarily submitted yourself to the Marion County Sheriff's
19 Office on April the 30th; is that correct?

20 A: Yes, sir.

21 Q: Okay. And this incident happened on April the 13th;
22 correct?

23 A: I don't know. It been a minute ago.

24 Q: Okay. Would you disagree with me that it was April the
25 13th?

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 A: Sir?
- 2 Q: Would you disagree with me that it was April the 13th was
- 3 the night this --
- 4 A: I don't disagree. I would like for you to tell me what's
- 5 on the paper because it's been a minute -- a minute ago.
- 6 Q: You testified earlier that for one day you spent out in
- 7 Clio; correct?
- 8 A: Yes, sir.
- 9 Q: One day you spent out in Lakeview, maybe two days out in
- 10 Lakeview?
- 11 A: No. I said I put my little girl on a bus.
- 12 Q: And did you stay the night in Lakeview?
- 13 A: I came and stayed one night, yeah.
- 14 Q: Okay.
- 15 A: And I put her on the bus that morning.
- 16 Q: So that's two nights you stayed away from Latta?
- 17 A: Yes, sir.
- 18 Q: Were you in Latta for the other 17 nights?
- 19 A: Sir?
- 20 Q: Were you in Latta --
- 21 A: Yes, sir.
- 22 Q: -- for the other 17 nights?
- 23 A: Yes, sir.
- 24 Q: Did you tell your daddy about what happened that night?
- 25 A: Did I tell him? No, sir.

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 Q: Did you tell your mama?
- 2 A: No, sir.
- 3 Q: Did you go to the Latta Police Department and tell them
- 4 what happened that night?
- 5 A: To the police department?
- 6 Q: Yeah. In Latta. Did you go there and tell them what
- 7 took place on April the 13th? Did you tell them about this
- 8 shooting?
- 9 A: I was in Dillon.
- 10 Q: Okay.
- 11 A: I was in Dillon.
- 12 Q: Did you go to the Dillon Police Department and tell them
- 13 what happened on the --
- 14 A: No, sir.
- 15 Q: -- night of the shooting? So you told nobody until you
- 16 showed up in Marion County at the Sheriff's Department?
- 17 A: Yes, sir.
- 18 Q: Okay. Now, they interviewed you that day; correct?
- 19 A: Yes, sir.
- 20 Q: They told you that that interview was going to be video
- 21 recorded; correct?
- 22 A: Yes, sir.
- 23 Q: You had an opportunity to talk to them before they put
- 24 you on video; correct?
- 25 A: I turned my -- my mama brought me up.

WILLIE BETHEA - CROSS BY MR. BAILEY

1 Q: Okay. Did Detective Bell and Detective Watson interview
2 you prior to them placing you on a video recording?
3 A: Did they interview me?
4 Q: Yes.
5 A: That's saying as what?
6 Q: Did they ask you any questions before they told you we're
7 going to video record your statement?
8 A: Questions like what?
9 Q: My question --
10 A: Pertains to the case?
11 Q: In regards to this case before you went on video, did
12 they ask you any questions?
13 A: They asked me what I want -- what -- my mama had told me
14 the police was coming -- kept coming to our house. That's how
15 I came up.
16 Q: Okay. And when you went there, did you sit down in a
17 room and talk with them?
18 A: Me and my mama went in the waiting -- in the waiting area
19 at the Marion County Detention Center.
20 Q: Okay. Where did you go after that?
21 A: Where I go?
22 Q: Mm-hmm.
23 A: In a room.
24 Q: Okay. And who was in that room with you?
25 A: Mr. Martin Bell.

WILLIE BETHEA - CROSS BY MR. BAILEY

1 Q: Okay. Was Detective Watson there with you? He's a real
2 big detective.

3 A: Yes, sir.

4 Q: Real muscular guy?

5 A: Yes, sir.

6 Q: Okay. Did they immediately tell you that you were going
7 to be on video?

8 A: No. I told them what happened.

9 Q: Okay. And then they said, well, let's video record this?
10 Is that what happened?

11 A: Sir?

12 Q: After you told them what happened, did they want your
13 story on video?

14 A: Did they want it on video?

15 Q: Yes.

16 A: I wanted -- I could have wrote it, but I -- I demanded
17 video.

18 Q: How many times did you drive by the trailer that night?

19 A: I told you we went only one time, sir.

20 Q: Okay. Do you recall telling the detectives that you
21 passed in front of that trailer a number of times?

22 A: Did I recall telling them that?

23 Q: Yeah. Do you recall telling them that?

24 A: No, sir. If I did, I was kind of nervous..

25 Q: Okay. So it's possible that you told them that?

WILLIE BETHEA - CROSS BY MR. BAILEY

1 A: Is it --

2 Q: Do you recall telling the detectives that there were a
3 lot of cars outside the trailer that night?

4 A: Yes, sir.

5 Q: Okay. Were there a lot of cars outside the trailer that
6 night?

7 A: Yes, sir.

8 Q: There was? A lot of people coming and going at that
9 trailer?

10 A: I told you we just stopped.

11 Q: Okay. But did you see people coming and going to the
12 trailer?

13 A: Yes, sir.

14 Q: You did?

15 A: I ain't see it. We just stopped. There was cars in the
16 back yard like I told them.

17 Q: Okay. Do you recall telling the police that you saw no
18 guns that night?

19 A: I seen some guns that night when they got -- when the
20 shooting started.

21 Q: When Mr. Clements asked you a question earlier, you first
22 testified that Blaton Smith handed no one a gun that night.
23 Do you remember that?

24 A: Yes, sir.

25 Q: Okay. Then he asked you another question and you changed

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 your story and said yes, Blaton Smith handed somebody one gun.
- 2 Do you remember that?
- 3 A: I said that. Yes, sir.
- 4 Q: Okay. So what is it, Mr. Bethea? Did he hand a gun to
- 5 somebody or did he not?
- 6 A: Yes, sir. The guns was in the car, yes.
- 7 Q: The guns were in the car?
- 8 A: Yes, sir.
- 9 Q: Were they in the front seat or the back seat?
- 10 A: It was on the floor.
- 11 Q: On the floor of the front seat or the back?
- 12 A: I just know they was on the floor in the car.
- 13 Q: Okay. But were they in the front of the car or were they
- 14 in the back of the car with where you say Shaheed and Jamie
- 15 were sitting?
- 16 A: There was guns in the car, sir.
- 17 Q: Okay. Do you recall telling the detectives that there
- 18 were no guns in the car when you picked up Shaheed Hayes?
- 19 A: No, sir.
- 20 Q: You don't recall that? If I showed you your statement,
- 21 do you think it would help refresh your memory as to what you
- 22 told them about that?
- 23 A: Yes, sir.
- 24 Q: Okay. Mr. Bethea, here's a copy --
- 25 MR. CLEMENTS: Your Honor, may we approach?

WILLIE BETHEA - CROSS BY MR. BAILEY

1 THE COURT: Yes.

2 (Whereupon, a bench conference is held in the presence of
3 the jury but out of the hearing of the jury as follows.)

4 THE COURT: Yes?

5 MR. CLEMENTS: We got a video. I don't know what that is
6 he's got right there. I assume it's something somebody typed
7 up, but I haven't seen it and I don't know if it's accurate or
8 not. Do you want to play the video? If he wants to play the
9 video, we can put the video into evidence. I mean I don't
10 know what he's getting ready to show him. I haven't seen it.

11 MR. BAILEY: Here. Do you want to look at it?

12 MR. CLEMENTS: I mean I don't know if it's accurate.

13 MR. BAILEY: It was transcribed by Q&A Court Reporting
14 from the disk that you gave me.

15 MR. CLEMENTS: But that is not the best evidence.

16 THE COURT: You've got to look at the video and look at
17 this to insure that it's accurate.

18 MR. CLEMENTS: The best evidence is the video.

19 MR. BAILEY: Well, I'm --

20 THE COURT: Do you want to take a break and let's play
21 the video?

22 MR. BAILEY: Judge, because here's the problem. I mean
23 he made -- he's made a ton of inconsistent statements between
24 his testimony today and what he said at this interview. I
25 mean he's already --

WILLIE BETHEA - CROSS BY MR. BAILEY

1 THE COURT: I understand. I understand, but for you to
2 pull out a transcript that they haven't -- the State hasn't
3 even had an opportunity to review it and compare it to what
4 the video is.

5 MR. BAILEY: Well, he -- I mean he's had the disk. He
6 could have had it transcribed himself.

7 MR. CLEMENTS: The best evidence rule is the disk.

8 THE COURT: How long is the video?

9 MR. BAILEY: Probably an hour.

10 MR. CLEMENTS: An hour and 30 minutes or so.

11 MR. BAILEY: No. It's like an hour.

12 THE COURT: Okay. Well, do you want to stop and let me
13 listen to it and watch it?

14 MR. CLEMENTS: I object to that because it's not the best
15 evidence. I mean however you choose to deal with it.

16 THE COURT: I mean it's not --

17 MR. BAILEY: I mean I'm not introducing it. I just want
18 to refresh his recollection. I can use any document to
19 refresh his recollection.

20 MR. CLEMENTS: If it's accurate. What are you talking
21 about? Where do you say there's an inconsistency?

22 MR. BAILEY: Here he's talking about -- so you went and
23 picked up Shaheed. Yeah, I picked him up and the other little
24 dude. No guns or nothing in the car? No. So he had to have
25 the guns.

WILLIE BETHEA - CROSS BY MR. BAILEY

1 THE COURT: Well --

2 MR. CLEMENTS: He didn't say that. He said there was no
3 guns in the car.

4 MR. BAILEY: I can -- I need to clarify that. I mean at
5 the time he picked him up --

6 THE COURT: Here's the way you do it. All right? You
7 can pull out his statement and you can cross examine -- you
8 can use this in questioning. Do you recall saying this? You
9 told them this? Then do you -- are you saying this now?
10 What's the -- what's the truth in this? I mean --

11 MR. BAILEY: Okay.

12 THE COURT: -- you can cross examine him on that just
13 like you're holding a copy of this statement. You were
14 talking to the police on such and such a day.

15 MR. BAILEY: Okay. I'll do it that way.

16 THE COURT: Yes, sir. Do you remember telling them such
17 and such? Do you understand what I'm saying?

18 MR. BAILEY: Yeah. I'll do it that way.

19 THE COURT: Hey. Can y'all come back here a minute? One
20 of the best cross examinations I saw one time was by Judge
21 Nicholson when he was prosecuting a rape case down in
22 Kingstree. Audiotape recording of the defendant's statement
23 wherein he made statements concerning what happened and they
24 played it back to that jury and every time he would give an
25 inconsistency, he'd stop the tape. Do you remember saying

WILLIE BETHEA - CROSS BY MR. BAILEY

1 that?

2 But anyway, I'm not going to allow -- I'm not going to
3 allow you to put that -- and you're assuming he can read.

4 MR. BAILEY: Well, I was going to ask him if can read it.

5 THE COURT: Well, anyway, I believe the best avenue is to
6 --

7 MR. BAILEY: Well, I'll just question him.

8 THE COURT: Question him the way I told you to.

9 MR. BAILEY: Okay.

10 (Whereupon, the bench conference ends.)

11 MR. BAILEY: Ready to proceed, Your Honor?

12 THE COURT: Yes, sir.

13 BY MR. BAILEY:

14 Q: Mr. Bethea --

15 A: Yes, sir.

16 Q: You testified earlier that the -- that you believe the
17 white Cadillac was owned by Adrian Smith; correct?

18 A: I don't know who owned it.

19 Q: Okay. So you don't know who owns that Cadillac?

20 A: No. My cousin was driving it.

21 Q: Okay. Have you ever driven that Cadillac?

22 A: Yes, sir.

23 Q: You have? On how many occasions have you driven that
24 Cadillac?

25 A: Not a lot.

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 Q: No? Have you ever driven that Cadillac down to Georgia?
- 2 A: No, sir.
- 3 Q: No? You testified earlier that you were hanging out with
- 4 Blaton Smith pretty much all day on the 13th? Or on the 12th I
- 5 guess it is?
- 6 A: I guess.
- 7 Q: Okay. The day before the shooting, you and Blaton Smith
- 8 were hanging together?
- 9 A: You say the day before?
- 10 Q: Yeah.
- 11 A: I told you I was dealing with one of his -- I was dealing
- 12 with Adrian's sister.
- 13 Q: Okay. And you guys went into Dillon and went to an
- 14 AutoZone?
- 15 A: Yes, sir.
- 16 Q: And got some spark plugs? Did you tell that to Detective
- 17 Bell?
- 18 A: Sir?
- 19 Q: Did you tell that to Detective Bell?
- 20 A: I just told him I went to J&J to fix the car.
- 21 Q: Okay. Do you remember telling Detective Bell during your
- 22 interview that you also got the windows tinted on the car?
- 23 A: I never said I got the windows tinted. I said we got
- 24 tint for the windows.
- 25 Q: Oh, so you got -- so you got tint for the windows, but

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 you didn't put it on the windows?
- 2 A: That ain't my car.
- 3 Q: Okay. Do you remember telling Detective Bell that Blaton
- 4 Smith dropped you off at home and you went to sleep that
- 5 afternoon?
- 6 A: Sir?
- 7 Q: Do you remember telling Detective Bell in your statement
- 8 that Blaton Smith dropped you off at home that afternoon and
- 9 you went to sleep?
- 10 A: No, sir.
- 11 Q: You don't remember telling him that?
- 12 A: No, sir.
- 13 Q: Did you go home that day and go to sleep?
- 14 A: That day of what?
- 15 Q: The day before the shooting.
- 16 A: The day before the shooting?
- 17 Q: Mm-hmm. Yes, sir. The day before the shooting, did you
- 18 go home and go to sleep?
- 19 A: I can't really recall 27 months ago.
- 20 Q: Okay.
- 21 A: Unless you got it down.
- 22 Q: Okay. Did Detective Bell tell you he could help you out
- 23 in these charges if you cooperate?
- 24 A: No, sir. I told you that earlier.
- 25 Q: He never told you that?

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 A: No, sir.
- 2 Q: What time did you pick up Shaheed that night?
- 3 A: It was around getting dark. I don't know the exact time.
- 4 Q: Okay. Did you see Shaheed get in the car with a gun?
- 5 A: I don't know what he had on him then.
- 6 Q: Okay. Then y'all went and picked up Jamie?
- 7 A: No. I told you --
- 8 Q: You picked up Jamie first?
- 9 A: -- we picked up Jamie first.
- 10 Q: Okay. Did you see him get in the car with a gun?
- 11 A: It was dark. He got in. He came and ran to the car.
- 12 Q: Okay. Did he take out a gun when he got in the car?
- 13 A: No, sir.
- 14 Q: Did Shaheed take out a gun when he got in the car?
- 15 A: Later on.
- 16 Q: You saw him take out the gun?
- 17 A: Yes, sir.
- 18 Q: You were sitting in front of Shaheed; correct?
- 19 A: Yes, sir.
- 20 Q: When Martin Bell asked you what kind of guns were used
- 21 that night, you told him that you thought they were .40
- 22 calibers; correct?
- 23 A: Yes, sir.
- 24 Q: You didn't know for sure; correct?
- 25 A: No, sir.

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 Q: He also asked you if they were black or chrome. Do you
2 remember that?
- 3 A: Sir, I said -- like I told you, it was dark.
- 4 Q: Okay. Do you recall telling the detectives that you
5 thought they were black .40s?
- 6 A: It was real dark, sir.
- 7 Q: Do you recall making that statement?
- 8 A: No. No, sir.
- 9 Q: Did you see any other guns in the car besides a .40
10 caliber?
- 11 A: An automatic weapon.
- 12 Q: You saw an automatic weapon?
- 13 A: It was something in the blanket.
- 14 Q: Okay. And where was that?
- 15 A: In the back.
- 16 Q: In the back? Did you tell Detective Bell when he
17 interviewed you that there was an assault rifle in the back
18 seat of that car?
- 19 A: I said there was guns in the car.
- 20 Q: Okay. How did you get to court today?
- 21 A: Sir?
- 22 Q: How did you get to court today?
- 23 A: How did I get to court today?
- 24 Q: Mm-hmm. Yes, sir.
- 25 A: I'm not trying to be funny, but how -- how do you -- by

WILLIE BETHEA - CROSS BY MR. BAILEY

1 assistance from Marion County Detention Center.

2 Q: Okay. So they drove you over here?

3 A: Yes, sir.

4 Q: Were you shackled?

5 A: Yes, sir.

6 Q: They took the shackles off before you came up here in the
7 courtroom?

8 A: Sir?

9 Q: They took the shackles off of you right before you came
10 into the courtroom?

11 A: Yes, sir.

12 Q: Do you recall telling Detective Bell that you got dropped
13 off in Dillon after the shooting?

14 A: Sir?

15 Q: Do you recall telling Detective Bell that you got dropped
16 off in Dillon after the shooting?

17 A: Sir, like I told you in the past, if it's on the
18 statement, that's what I said, sir.

19 Q: Okay. Did you tell Detective Bell about this abandoned
20 house that y'all ended up at that night?

21 A: I stated my aunt from Alabama owned that house.

22 Q: Okay. And you told that to Detective Bell that night?

23 A: Anything that's on the paper I said.

24 Q: When you pulled up and you stopped in front of the house
25 for the shooting, you were sitting closest to the house;

WILLIE BETHEA - CROSS BY MR. BAILEY

- 1 correct?
- 2 A: Yes, sir.
- 3 Q: Okay. It would have made a lot of sense for you to shoot
- 4 out your window; right?
- 5 A: It would have, but like I told you, I didn't have no gun.
- 6 Q: Everybody else in the back seat had guns shooting; right?
- 7 A: Sir?
- 8 Q: Everybody else had a gun in the back seat and they were
- 9 shooting?
- 10 A: Everybody else? What you mean by everybody else?
- 11 Q: Well, your testimony was Shaheed and Jamie were in the
- 12 back seat shooting?
- 13 A: Yes, sir.
- 14 Q: And it would have been easier for you to shoot out of the
- 15 car than Jamie. You would agree with that; right?
- 16 A: Well, it probably would have been easier, but I told you
- 17 I ain't had nothing to do with it.
- 18 Q: You could have just rolled down your window and shot
- 19 right out of the car; correct?
- 20 A: I just told you I ain't had no business shooting so I
- 21 ain't -- why would I roll down my window and shoot a gun?
- 22 Q: My question is -- is it would have been easier for you to
- 23 roll down your window and shoot directly out of --
- 24 A: It would have been easier for me to do --
- 25 THE COURT: Hold on a minute. Hold on a minute. Mr.

WILLIE BETHEA - CROSS BY MR. BAILEY

1 Bethea, let him finish asking his question. Okay? And then
2 you answer. Okay?

3 Q: It's just a yes or no question, Mr. Bethea. Okay? Would
4 you agree with me that it would have been easier for you to
5 roll down your window and shoot than it would be for Jamie to
6 shoot over the top of the car?

7 A: Why would I shoot? Shoot --

8 MR. BAILEY: Judge, he won't answer --

9 THE WITNESS: Yes, sir.

10 THE COURT: Answer the question, Mr. Bethea.

11 THE WITNESS: Yes, sir.

12 THE COURT: Okay?

13 THE WITNESS: Yes, sir.

14 BY MR. BAILEY:

15 Q: Do you know Fred Frye?

16 A: Yes, sir.

17 Q: Do you hang out with Fred Frye?

18 A: I told you everybody from Latta know each other. I don't
19 hang out with nobody, just my associate.

20 Q: He's your associate?

21 A: I know him from the Latta area.

22 Q: Do you do drugs with Fred Frye?

23 A: No. I don't do drugs with Fred Frye.

24 Q: Okay. I know you testified earlier that you know Charlie

25 B. Are you friends with Charlie B?

WILLIE BETHEA - CROSS BY MR. BAILEY

1 A: I told you everybody from Latta.

2 Q: Okay. My question is is are you friends with Charlie B?

3 A: I said he's -- he's just a person that's around the Latta
4 area.

5 Q: Mr. Bethea, my question is just a simple yes or no.

6 A: I just told you. You said -- asked me is he my friend
7 and I said he just be in Latta.

8 Q: Is that yes, he's your friend or no, he's not your
9 friend?

10 A: I consider that as a friend, yes.

11 Q: Okay. Do you know Gino Upton?

12 A: No, sir.

13 Q: Okay. You ever buy drugs from Derrick Wilson?

14 A: No, sir.

15 Q: How about Gavin Graves? You ever buy drugs from him?

16 A: I don't even know him.

17 Q: Okay. Do you smoke marijuana, Mr. Bethea?

18 A: Yes, sir.

19 Q: And do you recall telling Detective Bell that you snort
20 cocaine?

21 A: I did a couple times.

22 Q: Okay.

23 MR. BAILEY: The Court's indulgence for one moment, Your
24 Honor.

25 THE COURT: Yes, sir.

1 MR. BAILEY: I have no further questions, Your Honor.

2 THE COURT: Any redirect?

3 MR. CLEMENTS: No, Your Honor.

4 THE COURT: All right. Sir, you may step down. Call
5 your next witness.

6 MR. CLEMENTS: Your Honor, at this time the State would
7 rest.

8 THE COURT: All right. All right. Ladies and gentlemen,
9 the State has presented its case and they have rested. What I
10 am going to do right now if I am going to ask you -- I have to
11 ask you to step to the jury room. There's some matters of law
12 that we need to take up at this time outside of your presence.
13 I'm going to ask you to step to the jury room. Do not -- do
14 not discuss the case at all. I'll get you back out here as
15 quickly as possible. Please step to the jury room.

16 (Whereupon, the jury exits the courtroom at 10:42 a.m.)

17 THE COURT: Hold it down, please. All right. Any -- the
18 State has rested. Any motions from you, Mr. Deberry,
19 concerning your client?

20 MR. DEBERRY: Your Honor, at this time we would like to
21 renew all of our prior objections up to this point in time and
22 make a motion for a directed verdict. We believe that any
23 evidence that's been produced against my client, Shaheed
24 Hayes, is completely inconsistent and non-existent to the fact
25 that he committed these crimes.

1 THE COURT: Thank you, sir. Mr. -- I'm going to hear
2 from both of you and then I'm going to hear from the State and
3 then I'll make my ruling. Go ahead, Mr. Bailey.

4 MR. BAILEY: Thank you, Your Honor. May it please the
5 Court.

6 THE COURT: Yes, sir.

7 MR. BAILEY: Judge, likewise we would renew all of our
8 pre-trial motions and our objections to any of the Court's
9 rulings. We would also move for a directed verdict of not
10 guilty in this case. Two of the alleged victims of the
11 attempted murder did not take the stand. Additionally, Judge,
12 we believe that the inconsistent nature of the statements
13 established that there is no evidence linking Blaton Smith to
14 this shooting and that this matter should not proceed further
15 and go to the jury.

16 THE COURT: All right. Mr. Clements, anything in
17 response?

18 MR. CLEMENTS: Your Honor, I think there's sufficient
19 evidence to go to the jury on all counts. It doesn't matter
20 that the two victims of the attempted murder were not here.
21 The other two victims of the attempted murder testified to
22 them hitting the ground squirming around and they were all
23 scrambling for their life as the bullets went flying through
24 the trailer.

25 And I certainly believe we have established by competent

1 evidence that both Blaton Smith and Shaheed Hayes were there
2 and that Blaton Smith was in control, he was the man in
3 charge, and he was driving the car. He put them there on the
4 scene, provided the weapons, and Shaheed Hayes was the first
5 to shoot and by testimony emptied his clip, and I believe
6 there's sufficient evidence for both these gentlemen to have
7 to answer to the jury.

8 THE COURT: All right. Mr. Deberry didn't say this, but
9 -- and Mr. Bailey did, but I want to put it on the record as
10 Mr. Deberry making this motion as well. Mr. Deberry simply
11 said renew all prior objections. Mr. Bailey said prior
12 objections and motions. For the record, I assume you're
13 joining in all prior motions too, Mr. Deberry?

14 MR. DEBERRY: Yes, Your Honor.

15 THE COURT: I want to make sure the record is protected
16 for your client on that. Okay?

17 With regards to the prior objections and prior motions of
18 each defense counsel, the Court's rulings remain the same on
19 all prior motions and objections.

20 With regards to each of the defendant's motion for
21 directed verdict, under the law the trial court is concerned
22 with the existence -- with the existence or non-existence of
23 evidence, not its weight. If there is any direct evidence or
24 any substantial circumstantial evidence reasonably --
25 reasonably tending to prove the guilt of the accused, then the

1 case should be submitted to the jury.

2 In this particular case, based upon the testimony of Mr.
3 Williams, Jamie Williams, and Willie Bethea as to the
4 involvement of Shaheed Hayes and Blaton Smith, the Court
5 believes that there is sufficient evidence for this case to go
6 to the jury on all charges -- on all charges. Therefore, the
7 Court is respectfully denying the defendants' motion for a
8 directed verdict.

9 Now, at this time what I am going to do is advise each of
10 the defendants of their rights. Mr. Blaton Smith, if you
11 would, stand, please, sir. Mr. Hayes, if you would, stand,
12 please, sir.

13 (Whereupon, the defendant comply.)

14 THE COURT: If each of you would, raise your right hand
15 to be sworn. Do you swear to tell the truth, the whole truth,
16 and nothing but the truth, so help you God, Mr. Smith?

17 THE DEFENDANT SMITH: Yes, sir.

18 THE COURT: Mr. Hayes?

19 THE DEFENDANT HAYES: Yes, sir.

20 THE COURT: All right. You can put your hands down. All
21 right. At this time, gentlemen, I am going to explain to you
22 certain of your rights. If you do not understand anything
23 that I say, please let me know. If you want me to explain
24 anything in more detail, please let me know as well. Do each
25 of you understand, Mr. Smith?

1 THE DEFENDANT SMITH: Yes, sir.

2 THE COURT: Mr. Hayes?

3 THE DEFENDANT HAYES: Yes, sir.

4 THE COURT: All right. We have now reached the stage of
5 the trial where you may present your defense. You have the
6 right to claim the protections given to you by the Fifth
7 Amendment to the Constitution of the United States and that
8 amendment states in part that no person -- no person shall be
9 compelled in any criminal case to be a witness against
10 himself. This means that you cannot -- you cannot be required
11 to testify in this case.

12 You have the right to testify on your own behalf.
13 However, no one -- and I repeat no one can make you testify.
14 This is a personal right and no one can waive this right
15 except you.

16 If you decide to testify, you will be subject to the same
17 rules that govern other witnesses and you may be examined and
18 cross examined on any relevant issue in this case. In
19 addition, if you have any convictions involving dishonesty or
20 false statement or for crimes punishable by imprisonment for
21 more than one year and this Court determines that the
22 probative value of admitting this evidence outweighs its
23 prejudicial effect to you, the solicitor will be able to
24 introduce your record to attack your credibility.

25 If you decide to testify, this decision on your part must

1 be freely, voluntarily, and intelligently made with knowledge
2 of the protections given to you by the Fifth Amendment and the
3 consequences of your decision to testify. If you decide not
4 to testify, I will instruct the jurors that they cannot --
5 that they cannot give the fact that you did not testify any
6 consideration whatsoever and that there is to be absolutely no
7 prejudice to you because you did not testify.

8 Now, it is left entirely up to you whether or not you
9 testify. You may talk with your attorney, your family,
10 friends, or anyone else, but the final decision is left
11 entirely up to you. Do you understand what I have explained
12 to you, Mr. Smith?

13 THE DEFENDANT SMITH: Yes, sir.

14 THE COURT: Mr. Hayes?

15 THE DEFENDANT HAYES: Yes, sir.

16 THE COURT: Do you have any questions about what I have
17 explained to you, Mr. Smith?

18 THE DEFENDANT SMITH: No, sir.

19 THE COURT: Mr. Hayes?

20 THE DEFENDANT HAYES: No, sir.

21 THE COURT: Have you discussed with your attorney whether
22 or not you should testify, Mr. Smith?

23 THE DEFENDANT SMITH: Yes, sir.

24 THE COURT: Mr. Hayes?

25 THE DEFENDANT HAYES: Yes, sir.

1 THE COURT: Do you need any more time to talk to your
2 attorney, Mr. Smith?

3 THE DEFENDANT SMITH: No, sir.

4 THE COURT: Mr. Hayes?

5 THE DEFENDANT HAYES: Yes, sir.

6 THE COURT: All right.

7 MR. BAILEY: I was going to request a few minutes to
8 talk.

9 THE COURT: Well, I'm going to stand down for just a
10 minute and allow you two to -- or allow each of you to talk
11 with your respective attorneys. Let me know when you all are
12 finished talking to your clients. At that time, I want to
13 talk with all the lawyers in chambers concerning the charge
14 and et cetera. All right?

15 All right. We'll stand down for just a few minutes. You
16 all may be seated, Mr. Hayes and Mr. Smith.

17 (Whereupon, there is a break in the proceedings from
18 10:52 a.m until 11:16 a.m.)

19 THE COURT: All right. We stood down for a minute for
20 the defendants, Mr. Smith and Mr. Hayes, to speak with their
21 respective attorney. Mr. Smith, if you would, please stand.
22 Mr. Hayes, would you please stand? Have each of you had
23 sufficient time -- enough time to talk with your lawyer
24 concerning whether or not you will testify, Mr. Smith?

25 THE DEFENDANT SMITH: Yes, sir.

1 THE COURT: Mr. Hayes?

2 THE DEFENDANT HAYES: Yes, sir.

3 THE COURT: Do you wish to testify in this case, Mr.
4 Smith?

5 THE DEFENDANT SMITH: No, sir.

6 THE COURT: Mr. Hayes?

7 THE DEFENDANT HAYES: No, sir.

8 THE COURT: All right. I'm going to ask that you be
9 seated at this time. Thank you, gentlemen, very much. What I
10 am going to do now is I'm going to bring the jury back out and
11 I'm going to recognize Mr. Deberry, followed by my recognition
12 of Mr. Bailey. Is there any other testimony or any --
13 anything you all are going to put up, Mr. Deberry?

14 MR. DEBERRY: No, Your Honor.

15 THE COURT: Mr. Bailey?

16 MR. BAILEY: Nothing, Judge.

17 THE COURT: All right. You all can rest in front of the
18 jury and then what we are going to do is I'm going to let the
19 jury go and tell them to be back here like we discussed in
20 chambers at 12:45 and we will move forward at that time with
21 arguments and my charge on the law. Okay? Anything before I
22 bring the jury in?

23 MR. CLEMENTS: No, Your Honor.

24 THE COURT: Mr. Deberry?

25 MR. DEBERRY: No, Your Honor.

1 THE COURT: Mr. Bailey?

2 MR. BAILEY: No, Judge.

3 THE COURT: All right. Bring me the jury, please, sir.

4 (Whereupon, the jury enters the courtroom at 11:17 a.m.)

5 THE COURT: All right. Mr. Foreman and ladies and
6 gentlemen of the jury, thank you for your patience. At this
7 time, I am going to recognize Mr. Deberry. Mr. Deberry, you
8 are so recognized.

9 MR. DEBERRY: Thank you, Your Honor. The defense for
10 Shaheed Hayes rests.

11 THE COURT: All right. Mr. Bailey, I recognize you, sir.

12 MR. BAILEY: Thank you, Your Honor. May it please the
13 Court. On behalf of my client, Blaton Smith, the defense
14 rests.

15 THE COURT: All right. All right. Ladies and gentlemen,
16 you all have heard all of the testimony that you're going to
17 hear in this case. What we're going to do now is I am -- I
18 told you I was going to keep you here today, but we changed up
19 here. I'm going to let you go to lunch. Okay? I'm going to
20 let you go to lunch and I'm going to ask that you be back here
21 at 12:45. It's a little bit early, but please be back at
22 12:45.

23 The only thing that remains in the trial of this case
24 before it's submitted to you all for your decision is
25 arguments of counsel, the State and the defendants, and my

1 charge on the law to you -- and my charge on the law. During
2 your break, don't discuss the case with anybody. Don't do any
3 independent investigation. You're to decide this case, as
4 I've told you from the outset, based upon the testimony from
5 this witness stand and/or exhibits that have been admitted
6 during the course of this trial.

7 Anything before I release this jury and have them back
8 here at 12:45, Mr. Clements?

9 MR. CLEMENTS: Nothing from the State, Your Honor.

10 THE COURT: Mr. Deberry?

11 MR. DEBERRY: No, Your Honor.

12 THE COURT: Mr. Bailey?

13 MR. BAILEY: Nothing, Your Honor.

14 THE COURT: All right. Please be back at 12:45 and we
15 will resume and conclude the trial of this case. Thank you.

16 (Whereupon, the jury exits the courtroom at 11:19 a.m.)

17 THE COURT: Are all jurors clear? Are all jurors clear?

18 THE DEPUTY: Yes.

19 THE COURT: All right. Close that door, please. Thank
20 you very much.

21 All right. At this time, I'm going to recognize you, Mr.
22 Deberry. I assume you want to renew all prior motions, as
23 well as objections?

24 MR. DEBERRY: Yes, Your Honor. At this time, we would
25 renew all prior motions and objections and our motion for

1 directed verdict.

2 THE COURT: Very well. Mr. Bailey?

3 MR. BAILEY: Your Honor, I would also renew all prior
4 objections, prior motions, rulings by this Court adverse to
5 Mr. Smith, and our motion for directed verdict.

6 THE COURT: Very well. I wanted to make sure you all's
7 client's rights were protected with regards to those
8 particular motions. This Court so notes those objections and
9 motions for the record, but the Court's rulings remain the
10 same. The Court's rulings remain the same.

11 All right. Now, what we are going to do is we are going
12 to stand down right now. I do want to see the lawyers back in
13 my chambers real -- for a few minutes. We started -- started
14 -- started to review the charge and after making some
15 decisions came out here to let the jury go. Just come back in
16 my chambers just for a few minutes so we can try to finalize
17 that so once the jury comes back at 12:45 we can move right
18 into closing arguments and my charge on the law. Okay? We'll
19 stand at ease until 12:45.

20 (Whereupon, there is a break in the proceedings from
21 11:21 a.m. until 12:47 p.m.)

22 THE COURT: For the record, myself, Mr. Clements, Mr.
23 Deberry, and Mr. Bailey went over the jury charge prior to us
24 coming back in here. I will note in going over the jury
25 charge I initially had in there identification as being part

1 of a charge. Mr. Deberry indicated he wanted that in there.
2 However, I have taken it out and I want to note for the record
3 his objection to that. I want to note for the record his
4 objection to that.

5 Now, in reviewing the charge over lunch -- let me ask
6 this question. In reviewing my charge specifically as it
7 relates to possession of a weapon during the commission of a
8 violent crime, the charge reads as follows:

9 The defendants are charged with possession of a weapon
10 during the commission of a violent -- excuse me -- during the
11 commission of or attempt to commit a violent crime. The State
12 must prove beyond a reasonable doubt that the defendants were
13 in possession of a firearm or visibly displayed what appeared
14 to be a firearm during the commission of a violent crime.

15 It goes on and defines a firearm. One thing what it does
16 not include is the definition of possession, and possession
17 can be actual or constructive. It can be actual or
18 constructive, which I believe needs to be added in there
19 simply saying that actual possession is possession and
20 constructive possession includes dominion and control. Mr.
21 Clements?

22 MR. CLEMENTS: I have no objection to that, Your Honor.

23 THE COURT: Mr. Deberry?

24 MR. DEBERRY: No, Your Honor.

25 THE COURT: Mr. Bailey?

1 MR. BAILEY: No, Your Honor.

2 THE COURT: Okay. Let me ask you all this before I bring
3 the jury out and you start closing arguments and then my
4 charge on the law.

5 (Whereupon, there is a pause in the proceedings as the
6 Court and the law clerk confer.)

7 THE COURT: As I go through my charge -- and I told and
8 instructed the jury at the outset of this trial that they are
9 to decide this case based solely upon the testimony from this
10 stand and the evidence -- that which is introduced into
11 evidence during the course of this trial.

12 There's been testimony throughout this trial of video
13 statements, handwritten statements, incident reports, et
14 cetera. Do either -- and inevitably -- inevitably, it seems
15 like every time a jury comes back with a question. We want to
16 see the video statement or we want to see the police incident
17 report. Does anybody as I charge this jury have any objection
18 to me saying something to the effect of video statements,
19 incident reports, written statements aren't admitted into
20 evidence and you can't consider it? Does anybody have any
21 objection to that, Mr. Clements?

22 MR. CLEMENTS: No objection, Your Honor.

23 THE COURT: Mr. Deberry?

24 MR. DEBERRY: No, Your Honor.

25 THE COURT: Mr. Bailey?

1 MR. BAILEY: No, Your Honor.

2 THE COURT: Okay. All right. Anything else before I
3 bring the jury in, Mr. Clements?

4 MR. CLEMENTS: No, sir, Your Honor.

5 THE COURT: Mr. Deberry?

6 MR. DEBERRY: No, Your Honor.

7 THE COURT: Mr. Bailey?

8 MR. BAILEY: Nothing, Your Honor.

9 THE COURT: All right. Bring me the jury, please, sir.

10 (Whereupon, the jury enters the courtroom at 12:50 p.m.)

11 THE COURT: All right. Mr. Foreman and ladies and
12 gentlemen of the jury, I hope you had a good lunch and are
13 ready to proceed in the trial of this case.

14 What we are going to do at this time is have closing
15 arguments by counsel. Under our rules, Mr. Clements will go
16 first, followed by Mr. Deberry and then Mr. Bailey. And at
17 the conclusion of their arguments to you, I will charge you on
18 the applicable law in this case.

19 Prior to them making their arguments, ladies and
20 gentlemen, I want to remind you that arguments of counsel --
21 arguments of counsel are not evidence in this case. It is not
22 evidence in this case.

23 Mr. Clements, you're so recognized for closing argument.

24 MR. CLEMENTS: Thank you, Your Honor. If it please the
25 Court.

CLOSING ARGUMENT ON BEHALF OF THE STATE

MR. CLEMENTS: Good afternoon. I want to thank you for your attention and your patience and your consideration on behalf of the State of South Carolina and on behalf of Christian Drawhorn and on behalf of the other four young men that were with him that night and also on behalf of the defendants.

My job is to represent the State of South Carolina and my job is to present this matter to you beyond a reasonable doubt and to do it in a fashion where the rights of the accused are always protected and that they get a fair trial. We have a wonderful, wonderful system of justice. I think Mr. Deberry rightly so -- and I agree with him on this matter wholeheartedly is he said it was the greatest nation that has ever been on the face of this earth. Part of that reason is because of our judicial system.

And the reason why this judicial system is so good -- it's not perfect because it's made out of people, but it's so good because it's made out of people like you, citizens that come in and listen and weigh the facts and weigh the evidence and listen to the law as the judge gives it to them and apply that law to the facts to bring about a verdict as I told you earlier in our opening, veredicto, a verdict that speaks the truth.

Now, remember -- it seems like many, many days ago, but

1 it was just a couple days ago. Remember when I stood before
2 you and these gentlemen stood before you and we made our
3 opening statements and there were promises made to you. We
4 made promises to you and I want to tell you at the end of this
5 I think and believe firmly that you will see that my promises
6 were kept.

7 So I asked you to hold my feet to the fire and make sure
8 the promises that were made to you on opening statements were
9 kept. And that is to present a case against these two
10 defendants, Shaheed Hayes and Blaton Smith, and find them
11 guilty beyond a reasonable doubt.

12 Now, the judge is going to tell you that the only
13 evidence is what came from this witness stand, sworn
14 testimony, and the exhibits that have been presented into
15 evidence, and every bit of that is right here. These pictures
16 -- and y'all probably got tired of looking at so many pictures
17 of holes in the wall, but, you know, there was a lot of holes.
18 That trailer was like Swiss cheese. So trying to document,
19 there was a lot of pictures taken and we chose these to
20 present to you. So you saw a lot and if you thought it was
21 redundant, we're just trying to be thorough.

22 We had a projectile here that was testified to by Agent
23 Eichenmiller and we had shell casings that were presented to
24 her. She tested them and came back to Marion County and, as
25 Lieutenant Sawyer said, took them back to attempt to have

1 fingerprints done. Maybe that should have been done first,
2 but it wasn't done first. The ballistics test was done first.
3 And so when it was submitted for fingerprint analysis, it was
4 futile because of what had already been done, but they came
5 back to you and that was why it was in packaging and she said
6 it wasn't her packaging because it had gone that second time,
7 as Lieutenant Sawyer testified to.

8 So this is all the evidence right here: these two charts,
9 the trailer, a very rough not-to-scale drawing, and then this
10 map that shows you the area, these items of ballistic nature,
11 and these pictures, and then this testimony. Nothing else.

12 You probably heard all kind of things referred to. We
13 talked about statements and that were recorded. Well, you got
14 people that testified so you don't need those. They're not in
15 evidence. You've got incident reports that the officers wrote
16 up. Well, they testified so that's not -- those incident
17 reports aren't in evidence. But what you heard and what you
18 saw right here and right here and I'm going to ask you to
19 weigh every bit of it and to bring your common sense and your
20 wisdom to it.

21 And the judge is going to tell you when he charges you on
22 the law that the credibility of the witnesses and the facts,
23 that's what you're the judge of. He's the judge of the law.

24 So you've heard from witnesses up here. Look at their
25 demeanor. Look at how they presented themselves. Look at

1 whether they had some reason to try to protect theirself or
2 not and what gave them motivation to testify as you weigh out
3 what they had to say.

4 And I'm going to tell you the first day started a little
5 rough for us. We called up patrol officers that came up and
6 they got barraged with a lot of questions about all these
7 things they didn't do which were things that the investigators
8 did that came on later, but you remember Officer Pike did a
9 good job. He was the first one there. He didn't see anybody
10 else on the scene, but the victims.

11 Then we had Marion Richardson come up and I guess he just
12 flat forgot he went up there and moved those shell casings out
13 of the highway so they wouldn't get run over, but they were
14 still all there. They were still close to the scene, but he
15 moved them. He said he didn't. He said he didn't remember
16 going out there. He didn't remember a lot of things. Mr.
17 Deberry and Mr. Bailey kept asking him if he had notes I guess
18 you'd remember better. Well, I guess that's now why he's in
19 codes enforcement instead of the Sheriff's Office.

20 But he came up and he testified. Clemson Legette came up
21 and he explained to y'all what happened when he came on scene
22 and how he called the investigators and the investigators came
23 and they began to go over that trailer and go over that
24 landscaping there with a fine-toothed comb.

25 And, you know, this isn't one of these cases where it's

1 heavy with forensic evidence like you see on TV with CSI and
2 all these -- all these different kinds of TV shows. Well, I
3 want to tell you that's Hollywood. In every case you don't
4 have a lot of forensic evidence. You don't have a lot of
5 forensic evidence here because the perpetrators of this crime
6 drove by, slowed up, came to a stop, fired a bunch of bullets
7 into this trailer, and then they were gone.

8 So there's not a lot of forensic evidence. So don't be
9 confused by that. And don't let that worry you about whether
10 -- well, you don't have fingerprints, you don't have this.
11 You got testimony and you got what we have.

12 Now, Charlie Watson came to start off the next day. He
13 testified about the investigation and what it led to and how
14 they followed it up, what they found, and who they talked to
15 and what charges were made. He and Martin Bell.

16 And then we brought in Dr. Schandl who told you what
17 killed Christian Drawhorn, what kind of wound he had. You
18 heard from two of the young men that were in the trailer and I
19 don't know if I'll ever forget Gavin Graves explaining what
20 happened and how scared he was. He stood about right here
21 before you and he said they heard two shots and said what is
22 that and then it just went ping, ping, ping, ping, ping, ping,
23 and it all chaos broke loose and he hit the ground.

24 As a matter of fact, Derrick grabbed him and pulled him
25 down to the ground and how he -- I think he's the one who used

1 the term about they squirmed around for their life when all
2 these bullets came flying through. And they were consistent
3 the entire time. They talked about all these bullets came
4 through the front and they came from the highway in the front.

5 And Mr. Bailey and Mr. Deberry did a good job, a real
6 good job, of trying their best to confuse them and talk about
7 things in the back yard and all this like there was some kind
8 of shooting or something going on in the back yard. Nothing
9 went on there. You heard the testimony. Every one of those
10 came through the front wall and some went out the back wall.
11 Some stopped inside the trailer, but how all of them fell and
12 cowered there for their lives as bullets were flying over
13 their heads..

14 And then they realized Christian was hit and they took
15 him out and had him outside here when EMS came and when law
16 enforcement came. And don't be confused about, you know, if
17 there was a knock on the door or not or whatever. All that
18 wasn't relevant. Nobody was there at the door, you know.
19 Bullets didn't come from the back. Nobody was shot in the
20 back.

21 And there was a lot made by Mr. Deberry particularly and
22 Mr. Bailey about, well, it was all in the back. You couldn't
23 see anything. Well, we had all the testimony from the
24 different people and we got the map right here. As it curves
25 -- and you saw the pictures and the picture is in there. When

1 you are approaching that trailer of Gavin Graves where he and
2 Derrick were living and you're approaching it from the north,
3 you can see clean into that back yard, everything that's back
4 there, and then you curve and there you are right in front of
5 it. There it is down the slope right where that white
6 Cadillac stopped that Blaton Smith drove it and they riddled
7 that trailer with bullets.

8 So don't be confused by any of that. You know, I'm
9 reminded of when I was in law school way back in the day and
10 my third year when I took a course called Trial Advocacy, and
11 it was taught by not just law professors but guys that were
12 practicing attorneys that were in court all the time trying
13 cases and they also worked with the university as an adjunct
14 law professor.

15 And one of them told me -- he said, "Ed, when you get to
16 court and you become a lawyer and you're trying a case, if
17 you've got the facts, argue the facts. And if you have the
18 law, you argue the law."

19 And I said, "Professor, what do I do if I don't have
20 either one of them?" He says, "Well, in that case you just
21 blow smoke."

22 Well, there's been a lot of smoke blown here today and
23 yesterday and the day before, but clear that smoke out the way
24 and look at the facts and apply the law Judge Brown is going
25 to give you, and the facts boil down to something that's not

1 complex at all. Basically, that's Jamie Christopher Williams
2 and Willie O'Brian "Boo Boo" Bethea.

3 What did they do? What did they testify to? What did
4 they say they did? Were they consistent? Were they
5 inconsistent? What was their demeanor on the stand? Those
6 are the things you've got to judge. And does what they say
7 get supported by all the other evidence that we know about?

8 But it boils down to those two young men and I'll admit
9 to you right now if you don't believe them, the State doesn't
10 have that much of a case, but I'm going to tell you they're
11 believable. They're credible. Just as I know that y'all know
12 they were credible. You heard it on the stand. They could
13 not be shaken from what they said.

14 Jamie Williams -- when he came he was -- he said he was
15 17 years old. He was following after these older fellows,
16 following after Duke -- Adrian Smith. And he got -- well, he
17 got picked up by Blaton and they went and he said there they
18 are, there's the trailer, there they are, that's his truck,
19 shoot, shoot. What did he tell y'all? He felt like if he
20 didn't shoot that there was going to be some trouble.

21 So he shot. He said he shot a few times and he kind of
22 froze up. He said he shot three to five times the best he can
23 remember. Willie said he thought he shot seven -- eight
24 times. He wasn't sure, but both of them were consistent in
25 one thing and that is that Shaheed Hayes emptied his clip.

1 Well, can you believe what Jamie was saying? The defense
2 attorneys asked him about his inconsistent statements. They
3 asked him when you first talked to law enforcement, what did
4 you tell him? He told them he wasn't doing anything, that
5 Willie was driving and that Blaton was shooting and Shaheed
6 was shooting. He put himself out of it. He wasn't shooting.
7 He wasn't doing it. He was just there, you know, and he said,
8 yeah, that was a lie. That was a lie.

9 And then later he told law enforcement, man, I wasn't
10 even there. I wasn't even there. And that was a lie. He was
11 trying to protect himself. But he gets up here under oath and
12 he says he decided he wanted to get it off his chest and he
13 had to tell the truth regardless and hopefully it's going to
14 help him out, but he's just got to go with what the truth is
15 because what's right is right and what's wrong is wrong.
16 Remember him saying that several times when they questioned
17 him? I just got to tell the truth.

18 He told me I'm a different man now. I'm 19. He was 17
19 years old when this happened. I imagine he's had a lot of
20 time to think this over and think, man, how can I live with
21 myself? I imagine every day he's got to look in the mirror
22 and go, you know, what have I been a part of?

23 Well, I asked him on this stand right here and I said why
24 in the world would you put yourself as being a shooter in a
25 murder case if it wasn't the truth? And I submit that same

1 question to y'all, ladies and gentlemen of the jury. Why in
2 the world would he say, yeah, I'm the shooter? I shot over
3 the top of the car. I'm a shooter. Under oath, why would you
4 claim that action if he didn't do it? The reason he claimed
5 that action, ladies and gentlemen, is because he's telling the
6 truth. He did it. He shot.

7 And was -- his statement about what he did, what is
8 corroborated by anything else? Well, he said he shot three to
9 five times and Shaheed emptied his clip. I think a clip on a
10 .40 is sixteen -- fifteen and one in the chamber. You got 16.
11 If he shot five times, how many is that? Twenty-one. How
12 many shell cases were found out there? Twenty-one.

13 Well, maybe they missed a few shell casings might be
14 argued by Mr. Deberry and Mr. Bailey. We don't know if that
15 was the number of shots. We don't know. We know there's 21
16 shell casings found. And if there was a few more, Willie said
17 he thought he might have shot seven to eight times. Well,
18 what did Jamie say? He said I kind of froze up. I kind of
19 froze up.

20 And Mr. Deberry kept trying to trick him and get him to
21 say they were driving back towards Latta and he kept saying,
22 man, I ain't good on roads. He's 17 years old. He's sitting
23 in the back seat. He don't -- he ain't going to know where
24 they're going. He's not familiar with that area.

25 He kept saying -- he kept coming back to Mr. Deberry and

1 Mr. Deberry was trying to put those words in his mouth that he
2 was driving back towards Latta and he says all I can tell you
3 is I was shooting over the top of the car. If he's shooting
4 over the top of the car, the car is going towards Marion, just
5 like Willie "Boo Boo" Bethea told you it was. He's shooting
6 over the top of the car and Shaheed is shooting out of the
7 window.

8 They're parked right out here on this Highway 501,
9 stopped right there. You heard both of them testify when they
10 saw Derrick's car, the white Yukon with rims -- you've seen
11 the picture of it where it got shot where the bullets passed
12 through and hit it. Derrick told you about it. It was parked
13 there -- parked around here in the back. I don't know if it
14 was here, here, somewhere in this area around this concrete
15 pad, and this is not to scale, but it was back here in the
16 back and when they were coming down 501 headed towards Marion,
17 they could see it and Blaton got excited. There it is. There
18 it is. That's the truck. That's him. And then stopped the
19 car and bang, bang, bang, bang, bang, bang.

20 I submit to you, ladies and gentlemen, Jamie was telling
21 the truth. He told about how they got rid of the guns. He
22 told you that Blaton was in charge. Blaton was driving the
23 car. You know, whoever is driving the car is going to
24 determine where they go; right? Whoever is driving the car is
25 going to determine whether that car stops in front of that

1 trailer or keeps going. Am I not right?

2 So whoever is driving that car, he's in control of that
3 situation, and I'm telling you Blaton was in control. He was
4 Adrian's number two man. Blaton was the number one man in
5 that car. He was in control. He was calling the shots and he
6 gave them the guns so he made sure the shots were fired. And
7 Blaton was in control.

8 And you might say, well, you know, Blaton didn't pull the
9 trigger. He didn't. He didn't. There's no evidence Blaton
10 pulled a trigger except in that first statement that Jamie
11 gave law enforcement which he says he lied. Blaton didn't
12 shoot. He was shooting.

13 So Blaton is in control of the situation and the judge is
14 going to tell you about the law and he's going to tell you
15 that the hand of one is the hand of all. So Blaton is just as
16 responsible for those shots being fired as Shaheed is and
17 Jamie is. He was in control and he gave them the guns. The
18 hand of one is the hand of all.

19 So if you've got any questions about murder or attempted
20 murder or even shooting a firearm into a dwelling, you look at
21 it under the hand of one is the hand of all. What were they
22 planning to do? What did they have in their minds? Blaton
23 had in his mind as soon as he saw Derrick's car, he stopped
24 and said there it is, y'all shoot. So that's what he intended
25 to happen.

1 The only thing that didn't happen the way they wanted to
2 happen -- you heard about that. Jamie said we went back to
3 Adrian and he was mad that the wrong fellow got hit. You
4 know, poor Christian Drawhorn. We heard from what Derrick
5 said when they started interviewing him -- he said, hey, who
6 you got problems with? Who are your enemies? Who you got a
7 beef with? He told them about the Smiths, but he put them
8 straight when he was asked about it. Didn't you write this
9 down for law enforcement? That Christian Drawhorn didn't have
10 any problems with the Smiths. He didn't have a problem with
11 anybody. He was there. He catches a bullet just because of
12 where he is.

13 Well, the judge is going to tell you about transferred
14 intent. They might not have intended to kill Christian. They
15 might have intended to kill Derrick. Well, that intent got
16 transferred to Christian and Christian is dead. So that means
17 murder. That's what happened.

18 Now, Jamie -- I think he told the truth absolutely clear,
19 you know, getting it off his conscience and putting himself
20 there and putting himself in and owning up to what he did.
21 And Boo Boo -- Willie -- nobody ever said Willie fired
22 anything and Willie told you that when this happened, he was
23 scared and he was like let's go, let's go. He thought they
24 were going to Mike Mike's club, which is right there on Old
25 Ebenezer Road right before you hit 501, and they drove by it.

1 And then he went, oh, where we going? Are we going to Fusion
2 in Marion? Fusion's Club here in Marion?

3 But then they stopped because they saw Derrick's truck
4 and Willie said guns came out. Shaheed was shooting out the
5 window. Jamie was shooting over the top of the car. Did they
6 ever turn around? No, they never turned around. They came
7 up, they saw it as they approached, and then they stopped.
8 And when they left, what did Willie say? They left going back
9 towards Marion and then they took that first left by the old
10 church and went the back way back to Latta.

11 And when they went to Latta, they went to someone's house
12 there on Session Street and they dropped off the guns.
13 Shaheed got -- Shaheed stayed in the car. Blaton had them
14 wrapped up in a blanket with some weapons that weren't used.
15 They said an assault rifle was in there. They didn't use
16 that. He took it in that house on Session Street and that's
17 the house law enforcement testified to. They executed a
18 search warrant and they got a gun there and they thought maybe
19 this was the gun and they submitted it, but it was tested and
20 it wasn't the gun that was used in these -- with these shell
21 casings and these projectiles.

22 And they took Derrick's gun and they tested it. It was
23 not used to shoot anything on that scene that night where
24 these shells were found and these bullets were collected.
25 Neither one of those guns matched.

1 But what did Agent Eichenmiller tell us that makes
2 everything consistent with what Boo Boo said and what Jamie
3 said? She said there were two guns. All these that were
4 fired comes back to two guns. What was testified to by Boo
5 Boo and what was testified to by Jamie? Two guns. Two .40
6 calibers, one shot by Shaheed and one by shot by Jamie across
7 the top of the car.

8 And the numbers of the shots that they think they fired
9 emptying a clip and the number that Jamie shot very close to
10 the number of shell casings that were found. All that's what
11 you call circumstantial evidence. Well, it backs up and it
12 matches. It does not contradict what Boo Boo said. It does
13 not contradict what Jamie said.

14 And then Boo Boo said he went back when he got home and
15 he was real nervous. He was staying away from it. And Blaton
16 kept coming by. Don't say nothing. Don't say nothing. Don't
17 say nothing. And he was scared and he went out of town and
18 went to Clio and stayed with a relative, went to Lakeview, and
19 then his daddy said, man, come on, and his mom and he came and
20 he turned himself in to be interviewed by law enforcement.

21 And they didn't have an arrest warrant for him yet. They
22 were investigating. Once they talked to him and they found
23 out, they arrested him right then and they arrested Blaton,
24 who he knew all his life, his cousin. They arrested Shaheed,
25 who he knew for years. And all he knew about Jamie was that

1 he's Lil Boosie. So what did he say? They showed him a photo
2 line-up and he picked him out and who was Lil Boosie? That
3 was Jamie Williams.

4 Does Willie's statement contradict Jamie's? No. Does
5 Jamie's statement contradict Willie's when he finally said I'm
6 telling the truth and I'm putting myself where I was and what
7 I did and being a man? His statement backs up everything
8 Willie said.

9 And all the circumstantial evidence -- and I don't need
10 to go over all of it because y'all have heard it. Y'all
11 listened very carefully. Every bit of the circumstantial
12 evidence matches up and corroborates what they tell you
13 happened. It corroborates what Derrick told you happened,
14 what Gavin told you happened, what law enforcement told you
15 happened. It all matches up.

16 And, you know, we could sit here and we could say there's
17 a million other things you could have done. You could have
18 gone to the lumber company and got twenty-foot dowels and run
19 them through the holes in the trailer and seen where the
20 bullets went. I mean use your common sense. That's not
21 necessary.

22 You know, you could use a string and run through to see.
23 You know, it doesn't matter to me and I don't think it matters
24 to you which -- which hole in the wall on the front wall did
25 the bullet go through that went through the back wall and hit

1 Derrick's car. Is that critical to who did this? Absolutely
2 not.

3 You know, what is critical is where did all the bullets
4 come from and they were testified to by the people that were
5 there when the bullets were being fired that all of them came
6 from the front, and they were testified to by Charlie Watson
7 when he followed my man right here. My mind's gone blank.
8 When he followed him around as he helped them as he took
9 pictures, all the bullet holes were in the front.

10 So don't get caught up on all this trivial stuff about
11 whether you use dowels or ran string or anything else and
12 whether you tested the blood. You know, they want to make a
13 big deal out of the blood. Well, the pathologist told you
14 that he bled and he had a tremendous amount of blood on the
15 inside and some of it had already been drawn off from the
16 resuscitation efforts.

17 So he bled out on the inside, not on the outside, and so
18 what Gavin told you and what Derrick told you about how much
19 blood was on him, that's corroborated. The fact that there's
20 not blood all up and down on the floor and on the steps and
21 the walkway, that's corroborated. He bled out on the inside.
22 The bullet went in his back shoulder -- right shoulder, went
23 through a couple of arteries, and they're constantly under
24 pressure Dr. Schandl said and that blood would have been
25 pumped out on the inside and he died.

1 A little bit of blood on the dryer. No need to test
2 that. We know only one person was shot and one person was
3 bleeding. Use your common sense. Why bog down SLED's lab
4 even more so for stuff like that?

5 So don't get caught up in that smoke. Weigh it. Compare
6 it. All these pieces of the puzzle fit together and you can
7 believe Jamie and you can believe Boo Boo. I'm sure they're
8 hoping -- you know, we've all been told all our lives the
9 truth will set you free. The truth is your friend. You've
10 got to be truthful. And if you're truthful, good things can
11 happen to you. You know, no deals have been made. They
12 testified to that. Nothing has been offered, but they know.
13 They're not stupid. They know the best thing they can do is
14 tell the truth and hope for the best, and they told the truth.
15 They told the truth.

16 And there was no evidence of anybody else being there.
17 There was no evidence of anybody else being the shooter.
18 There's no evidence of anybody else out there with a gun.
19 Perhaps there maybe was a knock on the door, but nobody was
20 there. There -- there's other things that were -- people that
21 were talked to. Charlie said he followed up on those. We
22 followed all those leads and we talked to Charlie B. He gave
23 us a statement and later recanted. It was a bunch of lies.

24 The evidence is what you heard from that witness stand.
25 The evidence is what's in these exhibits and in these

1 pictures. The evidence is not what I say. It's not what
2 Deberry says. It's not what Bailey says. Take the evidence,
3 weigh it, apply the law the judge is going to give to you.
4 The hand of one is the hand of all. That's the law in South
5 Carolina. And return a verdict that tells the truth.

6 Now, I'm going to sit down and I don't get to get back
7 up. I'm the last person that gets to speak for Christian
8 Drawhorn and he needs justice. His family needs justice.
9 These other young men -- you know, beat them up if you want to
10 for selling some pot. Beat them up if you want to for that.
11 Well, law enforcement was out there. That wasn't the drug
12 unit. The drug unit is going to take care of the others.
13 They were there to investigate a murder. It doesn't matter,
14 you know, if they had marijuana there. It doesn't make them
15 not be a victim. They were victims and they're lucky to be
16 alive. And I'm the last person that gets to speak for them
17 too, you know.

18 There's always what we have to answer to that we do and
19 it might be another time or another place, but that is not
20 this time and that is not this place about the marijuana and
21 the cocaine that was found there that all we know is Christian
22 Drawhorn had that in his system. Maybe it was his. I don't
23 know.

24 But that's for another time and another place. Today is
25 the day that is Shaheed Hayes' day in court and Blanton Smith's

1 day in court. So hold them accountable.

2 Murder -- this is the last thing I'm going to tell you.
3 Murder is when you kill somebody with malice aforethought.
4 How much more malice, which is an evil intent of the heart --
5 how much more malice can there be than to pull up in front of
6 a trailer not caring who's in there, who's behind there,
7 whether there's somebody's child in there -- and Gavin's six-
8 year-old son was there 30 minutes earlier -- and just blow
9 that trailer up with bullets not caring who you're going to
10 hit? If that's not malice, nothing is, and that's murder and
11 that's attempted murder, and these two young men are guilty.

12 THE COURT: Mr. Deberry?

13 MR. DEBERRY: Thank you, Your Honor. Mr. Bailey. Mr.
14 Clements.

15 CLOSING ARGUMENT ON BEHALF OF DEFENDANT HAYES

16 MR. DEBERRY: One nation, under God, with liberty and
17 justice for all. That's why we're here is for justice. Mr.
18 Clements just forgot to mention that everybody that's a
19 citizen of this country deserves justice.

20 Did the crime happen? Absolutely. Did somebody get
21 murdered? Absolutely. Were there four counts of attempted
22 murder? Absolutely. Is somebody guilty of those crimes?
23 Absolutely. Has the State proved beyond a reasonable doubt
24 that Shaheed Hayes is guilty of those crimes? Absolutely not.
25 Absolutely not.

1 And that's where the word justice comes into this
2 equation. Do the victims deserve justice? Absolutely. Does
3 my client deserve justice? Absolutely. And the reason we
4 live in the greatest nation there ever was is because the
5 twelve of you are going to decide what justice is.

6 Mr. Clements -- he told you, you know, he believes that
7 you believe. Well, let me tell you something. We selected
8 you -- or at least I did. We went through a jury selection a
9 couple days ago and I contemplated every person that stood
10 before us and my main objective, my only objective, during
11 that entire process was to find twelve people who I believed
12 would give us a fair trial. And I appreciate that because you
13 paid attention. I watched you the whole time.

14 Mr. Clements says that we're blowing smoke. He's hanging
15 his hat on Hollywood and TV. We live in the real world. It's
16 not that hard to do your job. Do some investigation. For the
17 love of God, you're trying to put people in prison for the
18 rest of their life plus 135 years, but they want you to
19 believe just because you watched TV for the past ten or 15
20 years and you've seen some unbelievable crime scene stuff
21 going on that Marion County Sheriff's Office doesn't have to
22 do their job anymore.

23 When I was back in law school, I graduated and just like
24 you see the judge's clerk up there, I did a clerkship for a
25 judge down in Manning, South Carolina, and I learned more

1 during that year than I probably ever have in my entire life.
2 The man that I did that clerkship with, the Honorable -- his
3 name is Judge Ferrell Cothran and he's still on the bench.
4 He's a great person. He was a prosecutor for 35 years. He
5 went on the bench the same day that I graduated law school or
6 we started the job the same day together. He hadn't been a
7 judge for long, but he had been a minister of justice as a
8 prosecutor for 35 years.

9 And I'll be honest with you. I figured when I sat and
10 watched him take guilty pleas day after day and preside over
11 trials, I figured that, he being a prosecutor, he would
12 probably limit himself to being kind of hard on crime, you
13 know, to being sided with the prosecution. And the greatest
14 thing I learned from that man was that we can have belief in
15 our individuals and our citizens that people can be fair.

16 And he would tell people -- and I don't know how many
17 times I heard him tell this story, but it makes so much sense
18 and I think about it all the time and I've been thinking about
19 it ever since we learned that they just kicked these shells
20 out of the roadway. He would say there's two types of people
21 in this world that break the law. There's criminals and
22 there's police officers. There's a major difference in those
23 two types of people.

24 I submit to you, ladies and gentlemen, that the way you
25 become a criminal is that you get charged and you go through

1 the justice system. You either plead guilty or you go to
2 trial and you're found by a jury of your peers that you're
3 guilty beyond a reasonable doubt and then you're a criminal.
4 The judge has told you and he'll tell you again Shaheed Hayes
5 and Blaton Smith are innocent until the State proves them
6 guilty beyond a reasonable doubt. So they're not criminals.

7 The difference is they're on trial for their lives and
8 the police officers get to go home after they break the law.
9 Charlie Watson told you it's against the law to tamper with
10 evidence. I don't know if it's against the law or not to do
11 an investigation or not, but it sure seems like that would be
12 a fair thing to do.

13 You heard that there was more than a dozen cars parked
14 out there on General Road that night. And you also heard that
15 Charlie Watson had information to believe that there was a
16 Cadillac -- a white Cadillac that parked on the end of General
17 Road that night. And he also said all those shell casings --
18 they were kind of found a little ways down from General Road,
19 but we don't know where they were found and, if we had, then
20 we might could determine that there were shooters from
21 different places. And if there were shooters from different
22 places, then the two individuals that came in here trying to
23 save their life aren't telling the truth.

24 And if so far anything I've said has raised a reasonable
25 doubt in your mind, you can't convict these guys. You cannot

1 convict Shaheed Hayes. They haven't been proven guilty beyond
2 a reasonable doubt.

3 If we knew where those shell casings were -- but we don't
4 because Marion Richardson -- he lied about even moving them.
5 What if they were from here to the other wall over there
6 apart? How are they coming out of the same car? And the
7 reason I asked so many questions about trajectory or the way
8 bullets are traveling is because it makes a big difference.
9 They just want you to believe I'm blowing smoke and that they
10 don't have CSI technology like you see on TV and that you
11 can't find a 14-foot dowel rod.

12 I'm not talking about a 14-foot dowel rod. I'm talking
13 about a six-inch wall. All I want to know is if this is a
14 wall and it's riddled with bullet holes, which way did they
15 come through the wall? That's all I want to know because it
16 supports the theory that maybe they weren't in the car. It
17 supports the theory that Gavin Graves hears the knock on the
18 door. It supports the theory that maybe there was a robbery.

19 And by the way, Gavin Graves knew what kind of shoes
20 Willie Bethea had on. Thank about it. What else does he
21 know?

22 MR. CLEMENTS: Your Honor, I object to that. I think
23 he's arguing facts not in evidence.

24 THE COURT: Can y'all approach?

25 (Whereupon, a bench conference is held in the presence of

1 the jury but out of the hearing of the jury as follows.)

2 MR. CLEMENTS: I don't think Gavin Graves even knew
3 Willie Bethea.

4 MR. DEBERRY: I meant Charlie B -- Graves.

5 THE COURT: All right.

6 MR. CLEMENTS: And Charlie B wasn't here testifying.
7 That's not in evidence.

8 MR. DEBERRY: It is in evidence.

9 THE COURT: What's in evidence?

10 MR. DEBERRY: That Charlie Watson had information that
11 Boo Boo was there standing on the sidewalk with red shoes on.

12 MR. CLEMENTS: I don't recall that coming into evidence.
13 I can recall them asking about that outside the presence of
14 the jury.

15 MR.. DEBERRY: No.

16 MR. CLEMENTS: And it was hearsay.

17 MR. DEBERRY: I can recall that coming in.

18 MR. CLEMENTS: And it wasn't -- it wasn't red. He said
19 it was orange and burgundy or something, Virginia Tech colors,
20 is what the statement said that I read that Charlie B gave to
21 them. And he also said Charlie B came back later and said
22 that was all a lie.

23 MR. DEBERRY: That doesn't mean I can't argue it.

24 THE COURT: The facts as I recall them is that there were
25 inconsistent statements given by Charlie B, which turned out

1 to be untrue.

2 MR. DEBERRY: Well, we don't know that. That's for the
3 jury to decide.

4 THE COURT: That was what the testimony was, was it not?

5 MR. DEBERRY: That they were untrue? Yeah, but the jury
6 can decide whether to believe them or not.

7 THE COURT: You cannot -- I mean Charlie B's statements
8 are hearsay.

9 MR. CLEMENTS: They're not in evidence.

10 MR. DEBERRY: Judge --

11 THE COURT: They're not.

12 MR. DEBERRY: There was one -- there was two parts of it
13 that came in, the part that Boo Boo was on the sidewalk with
14 the shoes and the part that the Cadillac was parked on General
15 Road. The rest of it you kept out.

16 THE COURT: Say that again?

17 MR. DEBERRY: There's two parts of it that came in, the
18 part that Boo Boo was outside the car on the sidewalk with
19 what he was wearing and the fact that the white Cadillac was
20 parked on General Road. After that, we did the proffer and
21 then you kept the rest of it out.

22 THE COURT: All right.

23 MR. DEBERRY: It's in the record.

24 MR. CLEMENTS: The only thing I remember is he asked him
25 did you have information there was a white Cadillac out in the

1 road and he said yes. I don't remember anything about shoes
2 coming into evidence.

3 THE COURT: I don't remember the specifics of it. I'm
4 going to tell this jury that your arguments aren't evidence.
5 That they're to decide what is evidence in this case.

6 (Whereupon, the bench conference ends.)

7 MR. DEBERRY: Continue?

8 THE COURT: Ladies and gentlemen, I'm going to allow him
9 to continue his arguments. I'll remind you again that
10 arguments of counsel are not evidence in this case. They're
11 not evidence in this case.

12 Mr. Deberry, I'll remind all lawyers that your arguments
13 need to be confined to that -- that which is in the record and
14 reasonable inferences to be drawn therefrom. You may
15 continue.

16 MR. DEBERRY: Thank you. Ladies and gentlemen, I may
17 have said Gavin Graves, but I meant David Graves, also known
18 as Charlie B. Okay?

19 Charlie B, if you'll remember, was the individual that
20 came by selling underwear and socks sometime that night before
21 the murder. And then, if you'll recall, Mr. Gavin Graves
22 testified -- he testified that he came by and sold the
23 underwear and the socks. He also testified that Charlie B
24 told him I got a room, fellows. I'm gone for the rest of the
25 night. Then later, you hear from Eyebrows that he got a call

1 from Charlie B after the shooting. They needed to know what
2 happened. They needed to know what happened.

3 There's so much reasonable doubt here. It's not smoke.
4 It's not smoke. Charlie Watson was on this stand and every
5 now and then it kind of really bothered me because if you
6 don't believe anything I say, please believe that I believe in
7 this system and that I believe in fair trials and that law
8 enforcement act fairly. He grinned and he chuckled several
9 times and it really bothered me. He wasn't truthful a hundred
10 percent and he told you SLED was never involved, but later you
11 found out that he and Martin Bell went and did some
12 investigating with Stephen Hough, a SLED agent.

13 I mean why is it so hard for them just to do their job?
14 Don't hide in the budget for a dowel rod. All it is is a
15 piece of wood about the size of your little finger. You stick
16 it right through a bullet hole and it will tell you which way
17 some bullets were coming from.

18 And all those pictures -- he decided to make one of them
19 an exit hole out of the back of the trailer. I don't have any
20 doubt that bullets went through and through everywhere. It
21 was a terrible situation, you know, and it was a tragedy. The
22 State hasn't proved that Shaheed Hayes did it..

23 Derrick Wilson, Eyebrows -- he got up here and the
24 solicitor corrected him, but he first told you that a bullet
25 went out of the back of the front window. I mean I give the

1 solicitor credit. He said, no, I think you meant came this
2 way and then he -- then he conformed.

3 Jamie Williams and Boo Boo -- Boo Boo told you nobody
4 wants to go to prison and the solicitor told you the truth
5 will set you free. Now, you think and you believe what you
6 want to believe about what those boys have coming, that
7 they've got a deal or not.

8 We know Gavin Graves had a deal. He got charged from
9 that -- from those drugs in his house that night, but two-and-
10 a-half years later, it comes rolling around to trial time and
11 he's going to take a PTI, pre-trial intervention, so he can
12 keep his job.

13 Something stinks. Something stinks. And they want you
14 to convict. He's asked you and told you that he believes that
15 justice requires conviction. Nothing could be further from
16 justice in my opinion. Absolutely nothing.

17 Do I believe that the people who did this should be held
18 accountable? Absolutely. Do I believe it was a terrible
19 crime that occurred? Absolutely. Do I believe that Christian
20 Drawhorn's family deserves closure? Absolutely.

21 But I'm a minister of justice and that's what I'm seeking
22 here today. I'm just going to ask you. You know, if you've
23 got a reasonable doubt, you can't convict. The judge is going
24 to tell you you have to find them not guilty. And I explained
25 to you when we first -- at the very outset of this trial that

1 doesn't mean that you believe in your heart that they may have
2 done it or they may not have done it. It just means that
3 you're not firmly convinced that they did it. That means that
4 you have a hesitation to act.

5 And hesitation whatsoever to convict Shaheed Hayes of
6 these crimes, you have to find him not guilty. That's the
7 law. That's the law. So please think about it. Think about
8 all the inconsistencies. The two that are coming up here that
9 don't want to go to prison, that are speaking the truth
10 because it will set them free, their stories are inconsistent.
11 They have been from day one.

12 Tell -- if you tell somebody a story about how something
13 happened one time and then you change later and you say no, I
14 wasn't there, and then you change later and all of a sudden a
15 week before you're looking at 135 years plus whatever time you
16 live on this earth and then everything lines up because the
17 truth will set you free.

18 Is that right or wrong? That's up for y'all. That's a
19 -- that's a question for you to answer. Is that right or
20 wrong?

21 There was a robbery that was planned to take place that
22 night. I believe they got out of that car. I believe that
23 Jamie Williams and Boo Boo were there. I believe that Charlie
24 B was there. I believe that somebody ran around the back of
25 that house and knocked on the door. And there's something

1 that really worries me and concerns me about what to believe
2 when it comes to Christopher Kollock. Why did he run out of
3 that house? Or was he in that house?

4 I know probably y'all are from around here and you've
5 experienced hurricanes on one point or another in our lives.
6 I can remember Hurricane Hugo. It was probably the worst that
7 I can remember. And my mother always told me and my father,
8 you know, that there's an eye in the hurricane and that it's
9 real calm and that, you know, you can get the worst of the
10 hurricane on the tail end, you know.

11 And Hurricane Hugo came through at nighttime and all I
12 can remember is sitting up, you know, in a safe place in the
13 house with my family, my sisters, and talking about what
14 hurricanes were and hearing the trees crash and the lights go
15 out and everything. And then it became daylight. We weren't
16 sure if it was the eye of the storm or if it was over. Mom
17 and Dad didn't let us go outside.

18 It might have been the eye of the storm and then we might
19 have got stuck outside for the rest of it, number one, and,
20 number two, that storm created some dangerous conditions.
21 They wouldn't let me ride my bicycle anywhere. I couldn't do
22 any of that kind of stuff because a tree might fall on me and
23 there might be some electric lines down. There's all kind of
24 hazards out there.

25 Let me tell you, ladies and gentlemen, if you're in a

1 house and it gets shot full of holes and everybody is on the
2 floor, you don't just get up and run outside. You don't just
3 do that. You already know Charlie B came over earlier. Were
4 there other informants? Were there other people that were on
5 the inside on the inside?

6 All these are questions that I don't have an answer to,
7 but I'd submit to you that all of them are questions that
8 raise a reasonable doubt. They all are.

9 They don't even have the car driving down the road in the
10 same direction. And if the car is traveling in different
11 directions, then there might have been bullet holes according
12 to their story -- I mean bullet shells according to their
13 story way across Highway 501 North. We've all gone Highway
14 501 North. You got four lanes of traffic and a -- and a
15 median. But we don't know because they didn't even include
16 where they did find the shell casings in the crime scene area.

17 And then, you know, it was later I guess that Charlie
18 Watson and Mr. Bell heard about a car that was parked -- the
19 while Cadillac was parked on the end of General Road. The
20 trouble was there was over a dozen vehicles from law
21 enforcement and all -- everybody that responded to the scene
22 that night that parked on General Road. So all that evidence
23 was destroyed, if there was any. So that's the only place
24 they found anything, but I'm -- you know, they didn't look
25 really where they needed to. All their cars were parked out

1 there.

2 There's just a lot here, ladies and gentlemen, and
3 there's a lot on the line for my client. If you believe he
4 did it, then find him guilty. If that's what justice calls
5 for in this case, find him guilty. But I'm a believer in this
6 system. I'm a believer in this nation. I'm a citizen of this
7 nation and I'm so proud to be one, and one of the main reasons
8 is because I believe you can get a fair trial in this -- in
9 this country and I know you can get a fair trial in Marion
10 County and that's why I know that we've already received it.

11 The smoke? That's from the Solicitor's Office. The
12 smoke is all around Martin Bell and the investigation they
13 didn't do. I ask you to find him not guilty. Thank you.

14 THE COURT: Mr. Bailey?

15 MR. BAILEY: Thank you, Your Honor. May it please the
16 Court. Solicitor Clements. Mr. Deberry.

17 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT SMITH

18 MR. BAILEY: Ladies and gentlemen, I've been waiting over
19 two years to stand up here and talk to you about this case.
20 I've had it sitting in my office for over two years.

21 When I stood up here two days ago, I told you about two
22 things you were going to hear in testimony. You were going to
23 hear lies and that was true. You heard lies. And I told you
24 there wasn't even one piece of physical evidence in this case
25 that says Blaton Smith had anything to do with this. Why is

1 there no physical evidence? The short answer? Martin Bell.

2 How many times in the first four witnesses -- Deputy
3 Pike, Marion Richardson, Clemson Legette, and Charlie Watson.
4 How many times did we hear from them about notes? I didn't
5 take any notes. All that responsibility is on that man right
6 there.

7 (Whereupon, counsel points at Detective Martin Bell.)

8 MR. BAILEY: He sat here for three days. He heard every
9 single thing that came out of this stand. His responsibility.
10 He took the pictures. He collected the evidence, interviewed
11 witnesses. His responsibility. Why didn't he testify?

12 I submit to you that's the million dollar question. Why
13 didn't he get up here and tell us? I can answer the question
14 for you. He didn't do an investigation. He did not do an
15 investigation.

16 My esteemed Mr. Deberry came up here and was talking to
17 you about the crime scene, shell casings, tampering with
18 evidence. I would assume if it was an ordinary citizen who
19 tampered with evidence, they'd have got arrested. And
20 Solicitor Clements even put Marion Richardson on the stand to
21 try to get him to talk about that, to explain why he did it.
22 And what did he do? He lied to you. His testimony was I
23 didn't have anything to do with the crime scene. I was called
24 and I showed up. I stood back by my car. I waited for the
25 EMS to come and then I followed them down to the hospital.

1 But then when his supervisor testified next, what did he
2 tell you? Yes, he had something to do with that crime scene.
3 We sent him out looking for evidence. And then it came to
4 light. The light bulb turned on. He tampered with the
5 evidence. You heard him. We could have got fingerprints off
6 those shell casings. DNA is pretty solid evidence in a
7 criminal case. Marion Richardson touched them. That could
8 have damaged those fingerprints right there.

9 You heard from Eddie Sawyer. Who makes the decisions on
10 what evidence gets submitted to SLED and for what testing
11 purposes? The lead detective. Martin Bell. He called the
12 shots. He submitted it to the firearms department first. I
13 can't imagine this is his first rodeo in a murder case. Any
14 person knows submit it for DNA and latent print analysis
15 first. That might tell us who the real killers are.

16 Imagine that. The evidence sat in his office for over
17 two years that could have put the real killers in this
18 courtroom, but because he made the wrong decisions and had
19 incompetent deputies working for him coming out to the scene,
20 we don't -- we don't get to hear any of that.

21 I agree with Mr. Deberry. We got shell casings that were
22 all bunched up into a gutter. Where did they come from?
23 Where did they come from? Twenty-five feet that way? Fifteen
24 feet this way? Maybe five or ten feet back that way? We
25 don't know.

1 Solicitor Clements stands up here and he's got a theory
2 and his theory was that this was a drive-by. And I told you
3 at the beginning two days ago this case was going to boil down
4 to two witnesses, Willie Bethea and Jamie Williams. Nobody
5 else puts a car out there. Nobody but those two guys. Is it
6 so far unreasonable, ladies and gentlemen, that those two guys
7 could have been in the car by themselves? That's possible.

8 One witness, Jamie Williams -- he got up here and told
9 you the car never stopped. They just kept rolling. Willie
10 Bethea comes in. He testifies no, we stopped for a minute.
11 We stopped for a minute and shot. Was that enough time for a
12 driver and a passenger to shoot a gun? I submit to you,
13 ladies and gentlemen, Willie Bethea and Jamie Williams in a
14 car by themselves. It's a possibility. It causes you to
15 think a little bit. That's reasonable doubt.

16 How about this car? How about this car? A white
17 Cadillac. Sure they say my client drives a white Cadillac on
18 occasion. You heard Willie Bethea. He drives a white
19 Cadillac on occasion. Did they go find the white Cadillac?
20 Did they seize it, put it into evidence, and examine the car
21 for any evidence? They could have, but they didn't do it.

22 Do we know if they even went to look for the car? That's
23 a question I would have asked Detective Bell if he got on that
24 stand. What investigation did you do into this white
25 Cadillac? The name of a possible owner came up. Adrian

1 Smith. Did you go to his house? Execute a search warrant?
2 Pull DMV records? All of these things I would have asked
3 Detective Bell if he would have got on the stand for us.

4 It didn't happen. I submit to you why. Because he
5 didn't do it. Okay? We asked Detective Watson did y'all
6 execute a search warrant at Adrian Smith's house. It wasn't
7 done. Why not? You went and executed a search warrant at
8 another house. They found a gun. They probably thought it
9 was the smoking gun. Submitted it to SLED. Not connected.

10 Why didn't they go interview Adrian Smith? Why? Why
11 didn't Solicitor Clements bring Adrian Smith and put him on
12 this stand? He could have brought him in here just like he's
13 brought every other witness he's got. He could have put him
14 on that stand right there and said did you order this hit?
15 Did you tell these boys what to do? Who did you tell to go do
16 it?

17 We don't have that testimony, and it's not my job to do
18 it and it's not Mr. Deberry's job to do it. The government,
19 ladies and gentlemen, has to prove their case. I would have
20 loved to have the opportunity to cross examine Adrian Smith.
21 I would have loved it. We might have been here until next
22 week, but I'd have enjoyed it.

23 I wish I could have asked Detective Bell questions. You
24 heard me ask names about -- did you associate with these
25 random people throughout the night? You heard about Charlie

1 B. Out of left field, he -- they're talking about him selling
2 drawers and socks. Do y'all really believe he went to this
3 house to sell these grown men drawers and socks? That's what
4 Gavin wants you to believe. Really?

5 This is coming from a man who claims he only sells
6 marijuana. Okay? His house gets blown up with bullet holes
7 and what was his first instinct? Dadgum, I better throw my
8 marijuana in the bedroom. The cops are coming. Not is
9 Derrick shot? Darrell -- is he shot? Christopher Kollock --
10 is he shot? Christian Drawhorn -- is he shot? No. This was
11 a man who was worried about a little bit of marijuana and he
12 stayed calm enough during this shooting to throw it in his
13 bedroom before he does anything else.

14 And you heard him because I asked him. Is dealing drugs
15 a dangerous business? Yeah. Sure it is. We probably hear on
16 the news a lot about drug dealers getting robbed. Reasonable
17 doubt? A possibility in this case? Absolutely. Absolutely.

18 Now, we heard from Jamie Williams first, and I told you
19 that you're going to hear from people who have to tell a lie
20 to cover another lie to cover another lie. At what point is
21 the truth? What point is the truth? I asked that question.
22 The very first words out of my mouth on Wednesday -- in a
23 world of lies, there is nothing more dangerous than the truth.
24 And we don't know where it is.

25 Solicitor Clements comes up here and he wants you to

1 believe that, oh yeah, he told a lie the first three times he
2 talked to law enforcement, but last week when his mama and
3 daddy brought him a suit nicer than anybody wearing in this
4 courtroom because he's getting ready to come to trial this
5 week looking at life in prison, going to die if he's found
6 guilty, put 135 years on top of that, he says no, I'm going to
7 tell the truth. He's had 27 months to tell the truth and he
8 ain't done it yet, but last week he's going to tell the truth
9 or at least that's what Solicitor Clements is going to have
10 you believe.

11 And let me ask you, ladies and gentlemen, is it a
12 coincidence that after 27 months waiting to come to court that
13 Jamie Williams gets up here and corroborates the first witness
14 that law enforcement based this case on? Is it a coincidence?
15 Their stories were too much identical to be a coincidence.
16 Too much. Too much alike to be the truth.

17 They talked to Willie Bethea and he told a story. Okay?
18 He told a story about what happened. Detective Bell I'm
19 assuming ran with it because it wasn't until Willie Bethea
20 came in and talked to them that he got warrants issued for
21 everybody's arrest. Nineteen days passed by. They have no
22 physical evidence and they get this guy who walks in off the
23 street and says let me tell you about a crime I committed.
24 Y'all been out at my house looking for me, but I better come
25 tell you what I did. And let me take you down this road.

1 Okay.

2 What happened to all the other people that Detective Bell
3 interviewed? The other evidence? You heard Mr. Deberry talk
4 about shoes. We hear a knock at the back door. Did they
5 investigate that? There's a knock at the back door and
6 shortly thereafter -- and I'm talking I think the testimony
7 was a minute or two -- bullets start ringing out. Where's
8 that guy? Because I can tell you this. That guy would have
9 seen whoever was outside shooting. There ain't no doubt about
10 that. There ain't no doubt about that.

11 Guns -- .40 calibers. We hear for the first time in two-
12 and-a-half years that there's an AK assault rifle in the back.
13 If you really wanted to do damage or you really wanted to kill
14 somebody, wouldn't you have used an automatic assault rifle if
15 it was in the car? But it glorifies the case. It glorifies
16 it. Jamie Williams sounded real good talking about these
17 guns. He says my guy hands out the guns as they're
18 approaching the house. He gets one from Blaton Smith.
19 Shaheed gets one from Blaton Smith. They start shooting. My
20 guy tells them shoot, shoot, shoot. Really?

21 Willie Bethea testified that the guns -- he never saw
22 them. Then he changes it when Solicitor Clements questions
23 him on it a little bit more and he says, oh, yeah, yeah,
24 Blaton did hand one gun to the back. Just one? It's the
25 inconsistencies. Okay?

1 Now, we heard a lot of testimony from people who say I
2 know Eyebrows' truck. I saw Eyebrows' truck. Blaton saw
3 Eyebrows' truck. Solicitor Clements asked Eyebrows, "Have you
4 got a unique truck?" It's a white Tahoe Suburban, rims and
5 tires. I see a lot of those.

6 That's what started this whole thing -- seeing a truck
7 parked behind a trailer. You've heard different testimony.
8 It's over here. It's over there. Coming in from Latta.
9 Maybe they're coming in from the Marion side. You're looking
10 behind it and this was after midnight in April.

11 Thankfully, somebody took some photographs. I've been
12 waiting to stand up here and talk to y'all about these
13 photographs. Okay? These were taken the night of the
14 shooting with a camera by law enforcement. You're going to
15 have these photos when y'all go back to begin your
16 deliberations here in a little bit. Okay?

17 Take a close look at these. If you can remember State's
18 Exhibit 19, 18, and 20 -- 18, 19, and 20. Okay? There was
19 testimony the top picture is the intersection where the dirt
20 road is at 501 and General. You can see the street sign. Do
21 you see anything else? No. It's not light out. Look how
22 dark it is in this bottom picture. That's showing you 501.
23 Okay? Do you see anything? You see some lights, but they're
24 not illuminating anything.

25 The testimony was this top picture here showed a picture

1 of the trailer that night on 501. And this was taken standing
2 I'm assuming right here on the sidewalk looking at that house.
3 What do you see? You don't see hardly anything. It's pitch
4 black out there. If it's pitch black and you can't see
5 anything, tell me how any of these people saw a truck as
6 they're driving down the road? You're on 501. The speed
7 limit is not 15 miles an hour.

8 You heard about bent shell cases. Cars were driving.
9 You're going to have to be driving on 501. But here's the
10 best picture of them all. Okay? Here's the best picture --
11 20, this bottom picture. Y'all remember? This was a close-up
12 picture on the night of the shooting of Eyebrows' truck. That
13 picture was probably taken two feet away from that truck.
14 Y'all can hardly see that truck.

15 So if you can't see the truck from two feet away, how are
16 you going to see it from down the road? Consider this. This
17 is question. This is doubt. Okay?

18 The State put forth a theory, but that's it. They're
19 going to -- Solicitor Clements claimed Mr. Deberry and I were
20 going to come up here just to blow some smoke up here to try
21 to fog your vision on what it was. References to CSI and TV.
22 No. We're not going to have any fancy forensic examinations.
23 It typically doesn't happen in real life trials.

24 But, ladies and gentlemen, shouldn't we have some
25 evidence? Some evidence instead of two guys who do not want

1 to risk going to prison for the rest of their life to come in
2 here and say yeah, Blaton told me what to do and Shaheed --
3 yeah, he just shot. That's tough to believe.

4 Is our system built to allow law enforcement to build
5 cases without physical evidence and base it solely on the
6 testimony of people who have everything to gain and everything
7 to lose? It isn't. That's why we selected you two -- you
8 twelve two days ago.

9 Willie Bethea and Jamie Williams -- they're liars.
10 They're snitches. They're rats. Whatever you want to call
11 them, that's what they are. The person who comes to mind as
12 the most famous snitch, so to speak, that I could think of as
13 I heard this testimony here over the last two days is Judas.

14 Y'all remember what happened with Judas. He snitched and
15 then he tried to take it back. He got paid 30 pieces of
16 silver and he tried to take it back, but it was too late.
17 Well, we don't have 30 pieces of silver in this -- this
18 courtroom.

19 This isn't about testimony and money. No. Jamie
20 Williams and Willie Bethea -- they don't have money. They
21 can't buy their way out of this, but they have time. They
22 have time hanging over their head. I'll give you whatever you
23 want. Just cut me a deal. It's going to happen. We know it.
24 They can sit up there and say it's not. Jamie Williams, you
25 know, he says I'm not going to -- I'm not going to prison for

1 murder. How do we know if we take his word at it?

2 But we have the chance with this system we have put in
3 place. We can prevent two convictions based on the testimony
4 of two Judases from that stand. We can. And I'm confident
5 that once y'all get back there and you start talking and you
6 look at these pictures, you're going to say there's no way
7 that night that these boys were driving down the road and see
8 that truck parked behind a trailer. No. Ain't going to
9 happen. Reasonable doubt. Not guilty.

10 Consider the evidence. Solicitor Clements asked you to
11 do it. Consider those pictures. Find Blaton Smith not guilty
12 because he is not guilty. Thank you.

13 THE COURT: All right. Ladies and gentlemen, everybody
14 okay? Anybody need a break? If you want to stand up and
15 stretch your legs before I give you the charge on the law,
16 please do so at this time. All right. Do you need a break?
17 Okay.

18 (Whereupon, there is a pause in the proceedings.)

19 CHARGE ON THE LAW BY THE COURT

20 THE COURT: All right. Ladies and gentlemen, it is now
21 my duty as the trial judge under the constitution of this
22 state to charge and instruct you on the law applicable to this
23 case. It is your duty as jurors to accept and apply the law
24 as I will now state it to you.

25 Furthermore, it is your exclusive duty to decide all the

1 issues of fact in this case, and to determine the effect,
2 value, weight, and truth of the evidence. Both the State and
3 the defendants have a right to expect that you will carefully
4 consider and evaluate the evidence and apply the law of this
5 case to it so that in the end both the State of South Carolina
6 and the defendants will receive a fair and impartial trial. I
7 want you to understand that when I use the word defendants, I
8 refer to Mr. Blaton Smith and Mr. Shaheed Hayes.

9 The charges alleged in the indictment are murder,
10 discharging a firearm into a dwelling, possession of a weapon
11 during the commission of a violent crime, and four counts of
12 attempted murder.

13 Now, to these charges, the defendants have entered pleas
14 of not guilty. These pleas of not guilty places the burden of
15 proof on the State to prove the guilt of the defendants to
16 you, the jury, beyond a reasonable doubt.

17 I charge you that there are two defendants in this case,
18 ladies and gentlemen, each of whom is charged with the
19 offenses as previously stated. The case of each defendant and
20 the evidence and the law concerning that defendant should be
21 considered separately and individually. Your verdict does not
22 have to be the same for both defendants. The fact that you
23 may find one defendant guilty or not guilty should not control
24 your verdict as to the other defendant.

25 Where more than one person is charged with a crime, if

1 the evidence warrants it, you may convict one and acquit the
2 other, or you may acquit both, or you may convict both. It
3 will depend upon your view of the testimony and evidence. You
4 must take each defendant and consider the evidence as to that
5 defendant and my instructions to you on the law. You will
6 then write a separate verdict of guilty or not guilty for each
7 individual defendant as to each charge.

8 Now, as I mentioned above, the indictments in this case
9 allege seven separate and distinct offenses against each
10 defendant. You must decide each charge separately on the
11 evidence and the law applicable to it, uninfluenced by your
12 decision as to any other charge. The defendants may be
13 convicted or acquitted on any or all of these offenses. As
14 stated previously, you will be asked to write a separate
15 verdict of guilty or not guilty for each charge alleged in the
16 indictment as to each defendant.

17 Now, I remind you, ladies and gentlemen, that the fact
18 that the defendants were arrested, charged, and indicted in
19 this case is not evidence in this case and cannot be
20 considered by you as evidence of guilt in this case, nor does
21 it create any presumption or inference of guilt. The
22 indictment is simply the formal written instrument which
23 contains the charges made against the defendants. It is the
24 formal document by which this case is brought into this court.

25 It is vital to understand, ladies and gentlemen, that the

1 defendants are presumed under the law to be innocent of these
2 charges. The defendants have no obligation to prove their
3 innocence. It is a fundamental rule of our law that a
4 defendant, irrespective of the seriousness of the charges
5 against him, is always presumed innocent of the crimes for
6 which he is charged, unless and until his guilt has been
7 proven by evidence that satisfies you, the jury, beyond a
8 reasonable doubt.

9 The presumption of innocence is not a mere legal theory
10 or a legal phrase. The presumption of innocence is very
11 important and you need to understand that this presumption
12 accompanies the defendants from the time of their arrest and
13 appearances in this court and continues with them even after
14 you retire to the jury room to deliberate. In other words,
15 the defendants receive the benefit of the presumption of
16 innocence until the very end of this trial when you, the jury,
17 will deliberate upon the evidence and decide whether the State
18 has proven their guilt beyond a reasonable doubt.

19 Now, what is a reasonable doubt in the law? A reasonable
20 doubt is the kind of doubt that would cause a reasonable
21 person to hesitate to act. Proof beyond a reasonable doubt is
22 proof that leaves you firmly convinced of the defendants'
23 guilt.

24 Now, there are very few things in this world, ladies and
25 gentlemen, that we know with absolute certainty; so even in

1 criminal cases the law does not require proof that overcomes
2 every possible doubt. However, if, based on your
3 consideration of the evidence, you are firmly convinced that
4 the defendant is guilty of the crime charged, you must find
5 him guilty. If, on the other hand, you think there is a real
6 possibility that he is not guilty, you must give him the
7 benefit of the doubt and find him not guilty.

8 Please understand that reasonable doubt may arise from
9 evidence which has been presented in the case or from the lack
10 of evidence in the case. It is your responsibility to
11 determine whether or not reasonable doubt exists as to the
12 guilt of the defendants.

13 I charge you that the defendants are entitled to every
14 reasonable doubt arising in the whole case. If, upon any
15 issues of fact essential to conviction and a verdict of
16 guilty, you have a reasonable doubt as to how that issue
17 should be resolved, it would be your duty to resolve that
18 reasonable doubt in favor of the defendant.

19 Now, during this trial, ladies and gentlemen, you and I
20 have had separate duties to perform. As the trial judge, it
21 is my responsibility to preside over this trial, and I also
22 have the duty to rule upon the admissibility of evidence
23 offered during the process of this trial. In that regard, you
24 are to consider only the competent evidence before you, and
25 you are all -- you are to disregard from your mind any

1 testimony that was ordered stricken from the record of this
2 case during the progress of the trial, if there was any. And
3 you are to consider only the testimony which has been
4 presented from this witness stand, together with any exhibits
5 admitted into the record of this case and any stipulations of
6 counsel made into the record.

7 Furthermore, I have the additional duty to charge you on
8 the applicable law of this case and, in that regard, I am the
9 sole judge of the law of this case. It is your duty to accept
10 and apply the law as I state it to you. If you have any
11 preconceived ideas as to what the law is, or what the law
12 ought to be, and it does not agree with what I tell you the
13 law is, you are obligated under your oath to abandon these
14 preconceptions, because you are sworn to accept the law
15 precisely as I state it to you.

16 In this trial, you are the sole and exclusive judge of
17 the facts, and I am the judge of the law. Do not infer that I
18 have any opinion about the facts in this case from anything I
19 have said during the course of this trial in ruling upon the
20 admissibility of evidence or otherwise, or from anything that
21 I say during the course of this charge to you. In this
22 regard, the law simply does not permit me to have an opinion
23 about the facts. As jurors, it is your duty alone to
24 determine the effect, value, weight, and truth of the evidence
25 presented during the course of this trial.

1 In determining what the facts in this case are, you must
2 judge the credibility, which simply means the believability,
3 of the witnesses and the value of weight to be given to their
4 testimony. You alone must decide the force, effect, and truth
5 of the testimony. Now, in making this decision there are many
6 things that you may, and should, take into consideration, such
7 as the appearance and manner of the witness on the stand, a
8 characteristic often referred to as the demeanor of the
9 witness.

10 Was the witness forthright or hesitant? Was the
11 witness's testimony consistent or did it contain
12 discrepancies? What was the ability of the witness to know
13 the facts about which he or she testified? Did the witness
14 have a cause or reason to be biased and prejudiced in favor of
15 the testimony he or she gave? Was the testimony of the
16 witness corroborated or made stronger by other testimony and
17 evidence or was it made weaker or impeached by such other
18 testimony and evidence?

19 As jurors, please understand you have the right to
20 believe a small portion of a witness's testimony and discard
21 the larger portion or vice versa. You may believe all of a
22 witness's testimony or none. You may believe the testimony of
23 a single witness against that of many witnesses or the other
24 way around.

25 In exercising your mental processes and attempting to

1 decide the truth, the law simply requires that you exercise
2 your good judgment, your common sense, your sense of logic and
3 reason, and your experiences in life. You then apply these
4 attributes to the evidence and apply the law as I state it to
5 you, and thus arrive at a verdict.

6 Now, there are two types of evidence which are generally
7 presented during a trial: direct evidence and circumstantial
8 evidence.

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

13 Circumstantial evidence is proof of a chain of facts and
14 circumstances indicating the existence of a fact. It is
15 evidence which immediately establishes collateral facts from
16 which the main fact may be inferred. Circumstantial evidence
17 is based on inference and not on personal knowledge or
18 observation.

19 The law makes absolutely no distinction between the
20 weight or value to be given to either direct or circumstantial
21 evidence. Nor is a greater degree of certainty required of
22 circumstantial evidence than of direct evidence. You should
23 weigh all of the evidence in the case. If, after weighing all
24 the evidence, you are not convinced of the guilt of the
25 defendants beyond a reasonable doubt, you must find the

1 defendants not guilty.

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

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

16 Is there a problem?

17 AUDIENCE MEMBER: No, sir.

18 THE COURT: Please sit down.

19 A person who has a past criminal record, ladies and
20 gentlemen, is competent to testify during a trial. A past
21 record does not affect the ability of that witness to testify.
22 The past record may only be considered by you, if at all, in
23 determining the witness' believability. Remember, you are the
24 sole judges of the facts in the case and of the believability
25 of any and all of the witnesses.

1 Ladies and gentlemen, now during the course of the trial,
2 you heard the testimony of police officers. Please understand
3 that the testimony of a police officer is not entitled to more
4 weight than that of any other witness. You are the sole judge
5 of the credibility of a witness, and you are not to give more
6 weight to a police officer's testimony solely because he or
7 she is a police officer. Rather, you should judge an
8 officer's testimony by the same standard that you apply to all
9 other witnesses.

10 In this case, you also heard the testimony of individuals
11 who were qualified as experts. The rules of evidence
12 ordinarily do not permit witnesses to testify to opinions or
13 conclusions. An exception to this rule exists for witnesses
14 we call expert witnesses. A witness who, by education and
15 experience, has become an expert in some art, science,
16 profession, or calling may state an opinion as to a relevant
17 and material matter in which the witness claims to be an
18 expert and may also state the reasons for the opinion.

19 You should consider any expert opinion received in
20 evidence in this case and, like any other evidence, give it
21 the weight you think it deserves. If you decide that the
22 opinion of an expert witness is not based on sufficient
23 education and experience, or if you conclude that the reasons
24 given in support of the opinion are not sound, or that the
25 opinion is outweighed by other evidence, you may disregard the

1 opinion entirely.

2 Furthermore, an expert witness's testimony is to be given
3 no greater weight than that of other witnesses simply because
4 the witness is an expert. Further, you are not required to
5 accept an expert's opinion, even though it is not
6 contradicted.

7 Now, ladies and gentlemen, I instruct you and I emphasize
8 to you that the fact that the defendants did not testify is
9 not a factor to be considered by you in any way in your
10 deliberation and in your consideration on the question of
11 their guilt or innocence. It must not be considered by you in
12 any manner whatsoever.

13 A defendant has the constitutional right to remain
14 silent, and the assertion of this right must not be considered
15 by you in your deliberations. I repeat, under your oath, you
16 are to draw no conclusion whatsoever from the fact that the
17 defendants in this case did not testify. The fact that the
18 defendants did not testify should not even be discussed in the
19 jury room.

20 The burden of proof, as I have stated to you, is on the
21 State. The defendants are not required to prove their
22 innocence. The burden of proof remains on the State to prove
23 guilt beyond a reasonable doubt.

24 Now, in order to establish criminal liability, criminal
25 intent is required. For example, the mental state required to

1 be proven by the State for a particular crime might be
2 purpose, intent, knowledge, recklessness, or criminal
3 negligence. Criminal intent must be proven by the State
4 beyond a reasonable doubt. Criminal intent is always a matter
5 that must be determined by the jury from the circumstances
6 surrounding the situation.

7 There is no way to prove intent to a mathematical
8 certainty. There is no way that medical science can dissect a
9 person's brain and determine what the person had in mind; so
10 the law says that criminal intent may be inferred from the
11 circumstances shown to have existed. This is how you make a
12 determination of whether or not the element requiring intent
13 was present.

14 It is not necessary to establish intent by direct and
15 positive evidence, but intent may be established by inference
16 in the same way as any other fact by taking into consideration
17 the acts of the parties and all the facts and circumstances of
18 the case. Criminal intent is a mental state, a conscious
19 wrongdoing. It is up to you to determine what each defendant
20 intended to do based on the circumstances shown to have
21 existed.

22 Criminal intent can arise from action or a failure to
23 act. It may arise from negligence, recklessness, or an
24 indifference to duty or to consequences that is considered by
25 the law to be the equivalent of criminal intent.

1 I will tell you that if the defendant, ladies and
2 gentlemen, with malice aforethought, attempts to kill another
3 person, but by mistake injures or kills a different person,
4 the defendant still has the intent to kill. The intent to
5 kill is merely transferred from the original person the
6 defendant attempted to kill to the actual person killed or
7 injured.

8 Now, if a crime is committed by two or more people who
9 are acting together in committing a crime, the act of one is
10 the act of all. A person who joins with another to commit an
11 unlawful act is criminally responsible for everything done by
12 the other person which happens as a probable or natural
13 consequence of the acts done in carrying out the common plan
14 or purpose.

15 For example, two people can be guilty of a larceny or
16 stealing of farm equipment valued at more than \$2,000 when two
17 go to the scene and only one drives the equipment away. If
18 two or more people are together, acting together, assisting
19 each other in committing the offense, the act of one is the
20 act of all or, as it is sometimes said, the hand of one is the
21 hand of all.

22 Prior knowledge that a crime is going to be committed
23 without more is not sufficient to make a person guilty of that
24 crime. Mere knowledge that another person is going to commit
25 a crime, even if the defendant is present when the crime is

1 committed, is not sufficient to convict the defendant as a
2 principal.

3 Guilt as a principal is shown by actual or constructive
4 presence at the scene as a result of prior arrangement.
5 Therefore, a finding of a prior arranged plan or a common
6 scheme is necessary for a finding of guilt as a principal.
7 The State must prove beyond a reasonable doubt by competent
8 evidence that the theory of the hand of one is the hand of
9 all.

10 A principal in a crime is one who either actually commits
11 the crime or who is present aiding, abetting, or assisting in
12 committing the crime. When a person does an act in the
13 presence of and with the assistance of another, the act is
14 done by both. Where two or more, acting with a common plan or
15 intent, are present at the commission of a crime, it does not
16 matter who actually commits the crime. All are guilty. The
17 hand of one is the hand of all.

18 Present at the commission of a crime means to be
19 sufficiently near to aid and abet and assist in the commission
20 of the crime. However, mere presence at the scene of a crime
21 is not sufficient to convict one as a principal on the theory
22 of aiding and abetting. Intent is also necessary as a
23 necessary element, for there must have been a common design or
24 intent to commit the crime and the crime must have been
25 committed pursuant thereto with the person aiding and abetting

1 by some overt act.

2 Intent means intending the result which actually occurs;
3 not accidentally or involuntary. Intent may be shown by acts
4 and conduct of the defendant and other circumstances from
5 which you may naturally and reasonably infer intent. The
6 State must prove these elements beyond a reasonable doubt.

7 Now, the defendants, ladies and gentlemen, are charged
8 with the murder of Christian Drawhorn. The State -- the State
9 -- the State must prove beyond a reasonable doubt that the
10 defendants killed Mr. Christian Drawhorn with malice
11 aforethought.

12 Malice is hatred, ill will, or hostility toward another
13 person. It is the intentional doing of a wrongful act without
14 just cause or excuse and with an intent to inflict an injury
15 or under circumstances that the law will infer an evil intent.

16 Malice aforethought does not require that malice exists
17 for any particular time before the act is committed, but
18 malice must exist in the mind of the defendant just before and
19 at the time the act is committed. Therefore, there must be a
20 combination of the previous evil intent and the act.

21 Malice aforethought may be express or inferred. These
22 terms, "express" and "inferred", do not mean different kinds
23 of malice but merely the manner in which malice may be shown
24 to exist, that is either by direct evidence or by inference
25 from the facts and circumstances which are proved.

1 Express malice is shown when a person speaks words which
2 express hatred or ill will for another or when the person
3 prepared beforehand to do the act which was later
4 accomplished; for example, lying in wait for a person or any
5 other act of preparation going to show that the deed was
6 within the defendant's mind would be express malice. Malice
7 may be inferred from conduct showing a total disregard for
8 human life.

9 The defendants are also charged with discharging a
10 firearm at or into a dwelling. The State must prove beyond a
11 reasonable doubt that the defendants discharged or caused to
12 be discharged unlawfully a firearm at or into a dwelling.

13 A dwelling, ladies and gentlemen, is any building or
14 portion of a building in which a person ordinarily sleeps. A
15 building constructed as a dwelling that has never been
16 occupied cannot be considered a dwelling. However, a building
17 is a dwelling even if the residents are temporarily absent
18 from the building.

19 Now, the defendants are also charged with possession of a
20 weapon during the commission of a violent crime. The State
21 must prove beyond a reasonable doubt that the defendants were
22 in possession of a firearm or visibly displayed what appeared
23 to be a firearm during the commission of a violent crime.

24 Now, there are two types of possession, ladies and
25 gentlemen, actual possession and constructive possession.

1 Actual possession means that the weapon was in the actual
2 physical custody of the defendant, while constructive
3 possession means that the defendant had dominion and control
4 or the right to exercise dominion and control over the weapon.

5 A firearm means any machine gun, automatic -- automatic
6 rifle, revolver, pistol, or any weapon which will, is designed
7 to, or may be readily converted to expel a projectile.

8 In order to find the defendants guilty of possession of a
9 weapon during the commission of a violent crime, you must
10 first find the defendants guilty of either committing a
11 violent crime or attempting to commit a violent crime. I will
12 tell you that murder and attempted murder are violent crimes.
13 The State must prove beyond a reasonable doubt that the weapon
14 furthered, advanced, or helped in the commission of the crime.

15 The defendants are also charged with four counts of
16 attempted murder: one count of attempted murder of Derrick
17 Lamont Wilson, one count of attempted murder of Darrell
18 Antonio Davis, one count of attempted murder of Gavin Graves,
19 and one count of attempted murder of Christopher Kollock.

20 In order to prove this crime, the State must prove beyond
21 a reasonable doubt that the defendants attempted to kill
22 Derrick Lamont Wilson, Darrell Antonio Davis, Gavin Graves,
23 and Christopher Kollock with malice aforethought, either
24 express or implied.

25 Now, as I stated to you previously and I will say again,

1 while the defendants are charged with four counts of attempted
2 murder, in addition to murder, discharging a firearm into a
3 dwelling, and possession of a weapon during the commission of
4 a violent crime, you must decide each charge separately on the
5 evidence and the law applicable to it, uninfluenced by your
6 decision as to any other charge. The defendants may be
7 convicted or acquitted on any or all of the offenses charged.

8 Now, malice as I explained to you earlier, ladies and
9 gentlemen -- malice is as I have explained to you earlier.
10 Furthermore, malice aforethought again may be express or
11 inferred.

12 If facts are proved beyond a reasonable doubt sufficient
13 to raise an inference of malice to your satisfaction, this
14 inference would be simply an evidentiary fact to be considered
15 by you, the jury, along with the other evidence in the case,
16 and you may give it the weight you decide it should receive.

17 A specific intent to kill is not an element of attempted
18 murder, but there must be a general intent to commit serious
19 bodily injury. Intent means intending the result which
20 actually occurs; not accidentally or involuntary. Intent may
21 be shown by acts and conduct of the defendants and other
22 circumstances from which you may naturally and reasonably
23 infer intent.

24 Evidence of the character of the act, the character of
25 the instrument used, the manner in which it was used, the

1 purpose to be accomplished, and the resulting wounds or
2 injuries, if any, may be considered in determining the intent
3 with which the act was committed. Intent may also be inferred
4 when it is demonstrated that the defendants voluntarily and
5 willfully commit an act, the natural tendency of which is to
6 destroy another's life.

7 Now, ladies and gentlemen, I am now drawing near the end
8 of my charge and I want you to clearly understand that you are
9 not partisans or advocates for the State of South Carolina or
10 the defendants. It is your duty by your joint deliberations
11 to determine the truth in this case, giving to the defendants
12 the benefit of every reasonable doubt on each and every issue.

13 Then, to the facts which you determine to be true, you
14 should take and apply the law which has been given to you by
15 this Court and thus arrive at a verdict which speaks the truth
16 in this case. In fact, the word verdict, which has a Latin
17 derivative, means a true saying. Thus, when you have
18 accomplished these responsibilities, you will have satisfied
19 your oath as jurors and you will have discharged your duty to
20 this Court.

21 Now, once you retire to the jury room, the bailiff will
22 give the verdict form to the foreman. When you, the jury,
23 arrive at a verdict as to the offenses charged in this case,
24 the foreman will select the verdict as to the charge on the
25 verdict form.

1 If the State has failed to prove the guilt of the
2 defendant beyond a reasonable doubt, your verdict will be "not
3 guilty." Likewise, if the State has proven the guilt of the
4 defendant beyond a reasonable doubt, your verdict will be
5 "guilty." Now, once a decision has been made as to each
6 charge, the foreman will check whichever choice is the verdict
7 of the jury -- which is the verdict of the jury as to the
8 charge.

9 The verdict that you render, ladies and gentlemen, must
10 be the verdict of each and every juror. It must be your
11 unanimous verdict. All twelve jurors must agree on the
12 verdict which you authorize the foreman to write for the jury.

13 Ladies and gentlemen, I want you to further understand
14 that the order in which the choices of verdict appear on the
15 verdict form are not suggestive of any verdict on the part of
16 the Court. The verdict in this case is to be determined by
17 you, the jury, not the Court.

18 Furthermore, please understand that even though I will
19 give the verdict form to the foreman, it is not his verdict
20 alone. It is the verdict of all twelve of you and I emphasize
21 again that it must be unanimous.

22 I will now ask you to retire to the jury room, but do not
23 begin your deliberations until you are told to do so. The law
24 requires that I consult with the attorneys to make sure that I
25 have not left anything out of these instructions.

1 Now, after I have checked with the attorneys, the bailiff
2 will bring in the items which have been introduced into
3 evidence along with the verdict form and instruct you to begin
4 your deliberations. Now, during your deliberations should you
5 have any questions, you, Mr. Foreman, must reduce them to
6 writing, knock on the door and let my bailiff know and he'll
7 get the question to me and I'll answer it however the Court
8 deems appropriate.

9 Once you have reached a verdict, please knock on the door
10 again and let the bailiff know that you all have reached a
11 unanimous verdict as to each charge and I will get you back
12 into the courtroom as quickly as possible.

13 You all may -- let me ask you this before I have you step
14 to the jury room. Does everybody feel okay on the jury?
15 Anybody not feeling well? All right. If you all will, step
16 to the jury room, but do not begin deliberations until you're
17 told to do so.

18 (Whereupon, the jury exits the courtroom at 2:49 p.m.)

19 THE COURT: While the jury is exiting the courtroom, can
20 the lawyers come up and look at the items of evidence and make
21 sure everything is there?

22 (Whereupon, there is a pause in the proceedings.)

23 THE COURT: All right. Hold on a second. Any exception
24 -- before we go any further, any exception or objection to the
25 charge by the State?

1 MR. CLEMENTS: No, Your Honor.

2 THE COURT: Mr. Deberry?

3 MR. DEBERRY: No, Your Honor.

4 MR. BAILEY: No, Your Honor.

5 THE COURT: Okay.

6 (Whereupon, there is a pause in the proceedings as the
7 evidence is checked by counsel and the alternate jurors
8 are released by the Court.)

9 THE COURT: Please take in the items of evidence, Mr.
10 Lewis, along with the verdict forms. Where are the verdict
11 forms? The verdict forms are over here. Take those items of
12 evidence in and tell them they can begin their deliberations,
13 please, sir.

14 (Whereupon, jury deliberations begin at 2:50 p.m.)

15 THE COURT: All right. We'll stand at ease. We'll stand
16 at ease.

17 (Whereupon, there is a break in the proceedings from 2:50
18 p.m. until 4:10 p.m.)

19 THE COURT: All right. It is my understanding that the
20 jury has reached a verdict on the charges. And I will remind
21 everybody in the courtroom to keep your emotions in check
22 whatever the verdict may be. Your failure to do so could
23 result in you being held in contempt of court and sentenced to
24 a period of incarceration. If you do not believe that you can
25 keep your emotions in check, now is your time to leave this

1 courtroom. Anything from the State before I bring the jury
2 out, Mr. Clements?

3 MR. CLEMENTS: No, Your Honor.

4 THE COURT: Mr. Deberry?

5 MR. DEBERRY: No, Your Honor.

6 THE COURT: Mr. Bailey?

7 MR. BAILEY: Nothing, Your Honor.

8 THE COURT: Bring me the jury, please.

9 (Whereupon, the jury enters the courtroom at 4:11 p.m.)

10 THE COURT: Madam Clerk?

11 THE CLERK: Ladies and gentlemen of the jury, have you
12 reached a verdict?

13 THE FOREMAN: We have.

14 THE CLERK: Thank you, sir.

15 (Whereupon, the verdict forms are delivered to the
16 Court.)

17 THE COURT: The verdicts appear to be in order. Madam
18 Clerk, you may --

19 THE CLERK: Thank you, Your Honor.

20 THE COURT: -- publish the verdicts. If the defendants
21 will stand for the verdicts.

22 VERDICTS OF THE JURY

23 THE CLERK: The State of South Carolina, County of
24 Marion, versus Shaheed Hayes. Verdict Form. Indictment
25 Number 2013-GS-33-0097.

1 As to the -- as to the charge of the murder of Christian
2 James Drawhorn, we, the jury, unanimously find the defendant,
3 Shaheed Hayes, guilty.

4 As to the charge of attempted murder of Derrick L. --
5 Derrick Lamont Wilson, we, the jury, unanimously find the
6 defendant, Shaheed Hayes, guilty.

7 As to the charge of attempted murder of Darrell Antonio
8 Davis, we, the jury, unanimously find the defendant, Shaheed
9 Hayes, guilty.

10 As to the charge of attempted murder of Gavin Graves, we,
11 the jury, unanimously find the defendant, Shaheed Hayes,
12 guilty.

13 As to the charge of attempted murder of Christopher
14 Kollock, we, the jury, unanimously find the defendant, Shaheed
15 Hayes, guilty.

16 Is this your verdict, say you one, say you all?

17 (Whereupon, the jury indicates in the affirmative.)

18 THE CLERK: Thank you.

19 MR. CLEMENTS: There's a second page.

20 THE CLERK: I'm sorry. As to the charge of discharging a
21 firearm into a dwelling, we, the jury, unanimously find the
22 defendant, Shaheed Hayes, guilty.

23 As to the charge of possession of a weapon during the
24 commission of a violent crime, we, the jury, unanimously find
25 the defendant, Shaheed Hayes, guilty.

1 Signed, James Michael Cullipher, Foreperson. Dated
2 8/8/2014.

3 Now, is this your verdict, say you one, say you all?

4 (Whereupon, the jury indicates in the affirmative.)

5 THE CLERK: State of South Carolina, County of Marion,
6 versus Blaton Smith. Indictment Number 2013-GS-33-0097.
7 Verdict Form.

8 As to the charge of the murder of Christian James
9 Drawhorn, we, the jury, unanimously find the defendant, Blaton
10 Smith, guilty.

11 As to the charge of the attempted murder of Derrick
12 Lamont Wilson, we, the jury, unanimously find the defendant,
13 Blaton Smith, guilty.

14 As to the charge of the attempted murder of Darrell
15 Antonio Davis, we, the jury, unanimously find the defendant,
16 Blaton Smith, guilty.

17 As to the charge of the attempted murder of Gavin Graves,
18 we, the jury, unanimously find the defendant, Blaton Smith,
19 guilty.

20 As to the charge of the attempted murder of Christopher
21 Kollock, we, the jury, unanimously find the defendant, Blaton
22 Smith, guilty.

23 As to the charge of discharging a firearm into a
24 dwelling, we, they jury, unanimously find the defendant,
25 Blaton Smith, guilty.

1 As to the charge of possession of a weapon during the
2 commission of a violent crime, we, the jury, unanimously find
3 the defendant, Blaton Smith, guilty.

4 Signed, James Michael Cullipher, Foreperson. Dated
5 8/8/2014.

6 THE COURT: Madam --

7 THE CLERK: Is this your verdict, say you one, say you
8 all?

9 THE COURT: Madam, let me see the verdict form? You said
10 -- as to the charge of discharging a firearm into a dwelling
11 the jury found him unanimously not guilty.

12 THE CLERK: I'm sorry.

13 THE COURT: Found him not guilty -- not guilty on that
14 charge. Okay. Now you can ask the question of them about the
15 verdict.

16 THE CLERK: Is this your verdict, say you one, say you
17 all as to Blaton Smith?

18 (Whereupon, the jury responds in the affirmative.)

19 THE CLERK: Thank you.

20 THE COURT: All right. All right. Anything from the
21 State at this time?

22 MR. CLEMENTS: Sir?

23 THE COURT: Anything from the State at this time?

24 MR. CLEMENTS: No, sir, Your Honor.

25 THE COURT: Mr. Deberry?

1 And as my grandfather used to tell me when I was a child,
2 everybody makes mistakes. It's whether or not you learn from
3 those mistakes. Unfortunately, the mistake involved here cost
4 somebody their life. It could have cost more lives.
5 Thankfully, it didn't cost more lives.

6 SENTENCE BY THE COURT

7 THE COURT: On Indictment 2013-GS-33-97, possession of a
8 weapon during the commission of a violent crime, each of the
9 defendants are hereby committed to the State Department of
10 Corrections for a period of five years.

11 As to each -- as to -- excuse me. As to Mr. Hayes,
12 discharging a firearm into a dwelling, the defendant is hereby
13 committed to the State Department of Corrections for a period
14 of ten years.

15 As to Defendant Hayes and Defendant Smith on the four
16 counts of attempted murder, each of the defendants are hereby
17 committed to the State Department of Corrections as to each
18 count of attempted murder for 30 years.

19 On the final charge of murder, each of the defendants are
20 hereby committed to the State Department of Corrections for
21 the balance of their natural life.

22 Each of these sentences are to run consecutive.

23 Anything else from the State?

24 MR. CLEMENTS: No, Your Honor.

25 THE COURT: Mr. Deberry?

STATE OF SOUTH CAROLINA)
)
 COUNTY OF MARION)

INDICTMENT FOR
 MURDER
 DISCHARGING FIREARM INTO DWELLING
 POSSESSION OF WEAPON DURING COURSE OF
 VIOLENT CRIME
 ATTEMPTED MURDER
 (FOUR COUNTS)

At a Court of General Sessions, convened on JANUARY 31, 2013 the Grand Jurors of MARION County present upon their oath:

COUNT ONE- MURDER

That BLATON W. SMITH, WILLIE O. BETHEA, SHAEED HAYES AND JAMIE WILLIAMS did in Marion County, on or about April 13, 2012, willfully, feloniously, and intentionally kill the victim, Christian James Drawhorn, with malice aforethought, either express or implied, by means of shooting, and the victim did die as a proximate result thereof on or about April 13, 2012 in Marion County, in violation of Section 16-03-0010, 20 S. C. Code of Laws, 1976, as amended.

COUNT TWO- DISCHARGING FIREARM INTO DWELLING

That BLATON W. SMITH, WILLIE O. BETHEA, SHAHEED HAYES, AND JAMIE WILLIAMS did in Marion County on or about April 13, 2012, discharge or cause to be discharged unlawfully, firearms at or into a dwelling house or other building or enclosure regularly occupied by persons; located at , in violation of Section 16-23-0440, S. C. Code of Laws, 1976, as amended.

COUNT THREE - POSSESSION OF WEAPON DURING COMMISSION OF VIOLENT CRIME

That BLATON W. SMITH, WILLIE O. BETHEA, SHAHEED HAYES, AND JAMIE WILLIAMS did in Marion County, on or about April 13, 2012, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR MURDER, ATTEMPTED MURDER, DISCHARGING A FIREARM INTO A DWELLING, POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME AND FOUR COUNTS OF ATTEMPTED MURDER WITH THE AFORESAID NAMES(S) OF BLATON SMITH, WILLIE O. BETHEA, SHAHEED HAYES AND JAMIE WILLIAMS SHOWN THEREON

COUNT FOUR- ATTEMPTED MURDER

That BLATON W. SMITH, WILLIE O. BETHEA, SHAHEED HAYES, AND JAMIE WILLIAMS did in Marion County, on or about April 13, 2012, with malice aforethought attempt to murder one, Derrick Lamont Wilson, by shooting into dwelling causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

COUNT FIVE- ATTEMPTED MURDER

That BLATON W. SMITH, WILLIE O. BETHEA, SHAHEED HAYES, AND JAMIE WILLIAMS did in Marion County, on or about April 13, 2012, with malice aforethought attempt to murder one, Darrell Antonio Davis, by shooting into dwelling causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

COUNT SIX- ATTEMPTED MURDER

That BLATON W. SMITH, WILLIE O. BETHEA, SHAHEED HAYES, AND JAMIE WILLIAMS did in Marion County, on or about April 13, 2012, with malice aforethought attempt to murder one, Gavin Graves, by shooting into dwelling causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

COUNT SEVEN- ATTEMPTED MURDER

That BLATON W. SMITH, WILLIE O. BETHEA, SHAHEED HAYES, AND JAMIE WILLIAMS did in Marion County, on or about April 13, 2012, with malice aforethought attempt to murder one, Christopher Kollock, by shooting into dwelling causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

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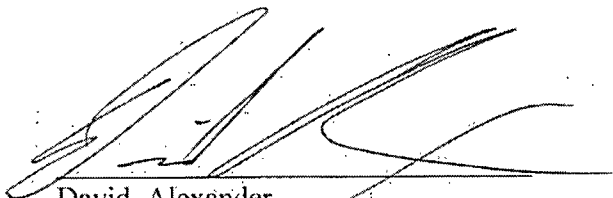
NOV 23 2015

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

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

November 12th, 2015



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT